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Department of Water Resources

December 10, 2003

Presiding Judge
Snake River Basin Adjudication

Your Honor:

Greetings! This letter is for a correction on subcase water right number 29-12527.
The correct irrigation water right number is: # 29-11300

Barton & Jeri Armstrong
9021 Gibson Jack
Pocatello, ID 83204

Phone: 208-233-0404

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)

Case No. 39576)

A. Subcase ~~28-12527~~ 29-11300
(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Barton & Jeri Armstrong

Address: 9021 Gibson Jack

Pocatello, Idaho 83204

Daytime Phone: 208-233-0404

Name & Address of Attorney, if any:

Jack Robison

203 S. Garfield

Pocatello, Idaho 83204

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Barton & Jeri Armstrong

Address: 9021 Gibson Jack

Pocatello, Idaho 83204

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☒ **Quantity**
Should be: 8.9 Acres
4. ☒ **Priority Date**
Should be: February 26, 1869
5. ☐ **Point(s) of Diversion**
Should be: _____
6. ☐ **Instream Flow Description**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: _____

11. I object because:

- ☐ This water right should not exist.
- ☐ This water right was not recommended, but should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTION(S):** I have documented original February 26, 1869 water right from Smith and Elkhorn Livestock to myself. Smith useage originally came from Gibson Jack for my property. I have hired an engineer to calculate the amount of acreage watered at my property. (Ernest Caflsen holds all of this documentation.)

F.

VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Bannock)

Darton Armstrong
(Name of person filing objection)

, duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Darton Armstrong
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

7-18-03

STEVE VIGLIATURO
Notary Public
State of Idaho

Steve Vigliaturo
Notary Public for

Residing at:

My Commission Expires:

Idaho

Pocatello, Idaho

6-10-2004

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on July 18th, ²⁰⁰³~~199~~, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

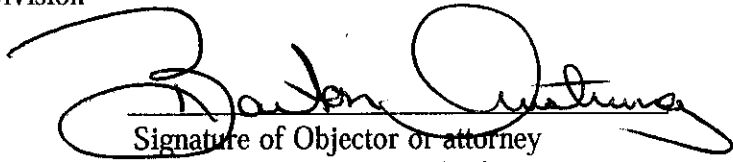
Name: Barton & Jeri Armstrong
Address: 9021 Gibson Jack
Pocatello, Idaho 83204

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724


Signature of Objector or attorney
mailing on Objector's behalf

An aerial photograph showing a rural landscape. A large, dark, irregularly shaped area in the lower-left quadrant is outlined with a thick black line. This area contains several small, light-colored rectangular structures, possibly farm buildings. To the right of this area is a large, dense forest. In the upper-right corner, there is a residential or commercial development with several buildings and a parking lot. A road or path runs diagonally from the top center towards the bottom right. The overall terrain appears to be a mix of agricultural land, forest, and developed areas.

ARMSTRONG
IRRIGATED AREA
8.9 ACRES

July 8, 2003

Ernest Carlsen
Water Rights Supervisor

Dear Ernest,

Greetings! If you look at the original source of water for Smith and Elkhorn Livestock right, it originally came from Gibson Jack and Mink Creek. After the city put the weir in, all of Smith's water came from Mink Creek. Then the canal that serviced Smith was filled in for Mink Creek Road and Smith's source went back to Gibson Jack. In 1990, Nan Ingram (AC Ingram's wife) stated to me that Smith promised to deed them the February 26, 1869 water right to their property when it was paid for. In May of 1950, the property was paid off but Mr. Smith had already died and his widow, Dorothy Smith, refused to deed this water right over to the Ingrams. The Ingrams filed beneficial usage right of 1939. Nan Ingram was quite clear that this property, plus the current Worth and Farrington property, were all watered by Gibson Jack Creek before and after they had purchased from Smith. I have waited since the early 90's for adjudication to resolve this matter. I hired Rocky Mountain Engineering to calculate my irrigated acreage. I have enclosed this plat so you can see what they have come up with. I do not try to water what Ingrams watered, yet my true irrigated land at present is more than 5.5 acres. The Worths and I have fought the City of Pocatello for many years to receive water for our ground. Since the 1993 Federal mandate on above ground culinary treatment and the city's abandonment of the creek for the Riverside Golf Course, things are getting better. Please call if you have any questions.

Barton Armstrong
9021 Gibson Jack
Pocatello, ID 83204
(208) 233-0404

**NOTICE OF ERROR
REPLY**

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: APRIL 21, 2003

Water right number: 29-11300

JERI ARMSTRONG
9021 GIBSON JACK
POCATELLO, ID 83204
Telephone Number: (208) 233-0404

BART ARMSTRONG
9021 GIBSON JACK
POCATELLO, ID 83204
Telephone Number: (208) 233-0404

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

My priority date at present is 4/01/1939. I believe it should be 2/26/1869.

2. Describe the changes you wish to make in the proposed recommendation:

See attached memo Item A – 2/26/1869 priority.

3. Give a brief explanation as to why you disagree with these portions:

See attached memo Item A

_____ I AGREE with this proposed recommendation: No changes need to be made.

DATE: 3-3-03

SIGNATURE: _____

Please print your name: _____

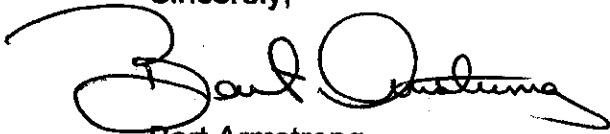
Bart Armstrong

Item A

I have shown evidence of use and priority with deeds from Smith to myself for February 26, 1869 water right. My current priority date April 1, 1939 beneficial use right is of record. You now send proposed date of April 1, 1945 and reduce irrigation to 4.6 acres. I irrigate the original amount of land that the previous owner irrigated and it is approximately four times the 4.6 acres you propose. I do not believe your goal is to accurately determine the historical water right. Enclosed is aerial of Farrington, Worth and my property with irrigation areas highlighted in green. My property has been farmed and watered from when Elkhorn Livestock owned it to the present. The use of water on my property has never changed, only the deeded owners. My property is the largest irrigated piece within Worth, Farrington and Armstrong claims and I believe you should establish the historical use and right. All water rights for my property were not transferred with the deed, thus Farrington and Worth end up with all the water rights and no land which to use the right for.

I ask for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Bart Armstrong", with a large, stylized initial "B" and a long, sweeping underline.

Bart Armstrong

AJ5809NP
No. A29-11300

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 12/28/94
PAGE: 6

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	BARTON ARMSTRONG	04/01/1939	IRRIGATION	04-01 11-01	0.14 CFS	
C	JERI ARMSTRONG		STOCKWATER	01-01 12-31	0.02 CFS	
	9021 GIBSON JACK					
	POCATELLO ID 83204					
	(208) 233-0404					
				TOTAL DIVERSION:	0.16 CFS	
				CONSUMPTIVE USE:		17.50 AFA

Water Source: GIBSON JACK CREEK

Tributary to: PORTNEUF RIVER

Point(s) of Diversion: T07S R35E S17 SWSW

Stage: BENEFICIAL USE
BANNOCK County

Place of use Legal Description for: IRRIGATION

NE				NW				SW				SE												
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:	SUM
---	---	---	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	---
07S	35E	17	:					:					:					:					:	7.0
																							TOTAL ACRES	7.0

Place of use Legal Description for: STOCKWATER

NE				NW				SW				SE												
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:	
---	---	---	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	
07S	35E	17	:					:					:					:					:	

POU County: BANNOCK

Non-Irrigation Uses: S/ STOCKWATER

Other Rights: NONE

Dates: Exam Made Date:

Verified Date:

Misc: Water District Number:

Field Inspection Flag:
Presumption Flag: