

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 29-11773

(Insert water right number
From the Objection Form)

STANDARD FORM 2
RESPONSE TO OBJECTION

Please print or type the following information:

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: Topaz Irrigation Co. - GENE FAGNANT, Sec.

Address: P.O. Box 293
Lava Hot Springs, Idaho 83246

Daytime Phone: 208 776-5289

Name & Address of Attorney, if any:

C. NAME AND ADDRESS OF PERSON WHO FILED THE OBJECTION TO
WHICH YOU ARE RESPONDING

Name: Marsh Valley Development, Inc.

Address: 5203 South 11th East
Idaho Falls, Idaho 83406

1. ☐ **Name and Address**
2. ☐ **Source**
3. ☐ **Quantity**
4. ☐ **Priority Date**
5. ☐ **Point(s) of Diversion**
6. ☐ **Instream Flow Description**
7. ☐ **Purpose(s) of Use**
8. ☒ **Period of Year** *See attachment*
9. ☐ **Place of Use**
11. **Recommendation**
 - ☐ This water right should not exist.
 - ☐ This water right was not recommended, but should elements described above.

E. VERIFICATION (Must be Completed)

State of Idaho)
County of Bannock) ss.

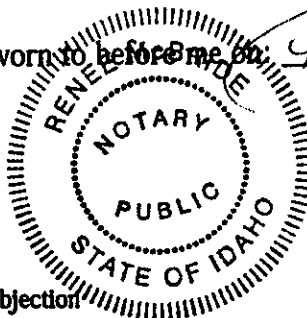
Gene Fagnant, duly sworn, upon oath, deposes and says:
(Name of person filing response)

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

Gene Fagnant
(Signature of person filing response)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on,



Notary Public for State of Idaho
Residing at: hale Hot Springs, Idaho
My Commission Expires: May 31, 2006

Item #8 Attachment

We have used the water from April 1st to October 31st from the beginning of our water rights #29-36 dated 4-18-1898.

In August 1932, the season of use was changed to April 15th to Sept. 15th. After that time we continued to use the water for beneficial use from April 1st to April 15th and Sept 15th to Oct. 31st. In low water years those with earlier rights for the regular water year shut us off as early as June 1st. We have always used the water after Sept. 15th for beneficial use and have several notarized affidavits to this use by water users. Our water right #29-11773 dated 8-7-1932 was granted on this beneficial use.

We also have a stipulation from March Valley Hydroelectric Company allowing our use of this water if we would withdraw our Intervention to their Power Plant use; which we did.

We would be adversely affected and our livelihood would be compromised if this use was not granted.

Signed, *Gene Fagnant, Sec. Treas.*
Topaz Irrigation Co.

INSTRUCTIONS FOR MAILING

You must mail the response, including all attachments, 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.

F.

CERTIFICATE OF MAILING

I certify that on March 24 2004, 199 , I mailed the original and copies of this response, 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: Terra Irrigation Co.
Address: Box 293 Lava Hot Springs, Id. 83246

3. One copy to the party who filed the objection at the following address:

Name: Marsh Valley Development, Inc.
Address: 5203 So. 11th East Idaho Falls, Idaho 83404

4. 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 & Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724


Your signature or signature of attorney
mailing on your behalf