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APR - 4 2003

Department of Water Resources

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

Subcase 63-97
(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: L. G. Navison & Sons, Inc.
Address: 1969 Prairie Rd.
Prairie, Id. 83647
Daytime Phone: (208) 868-3243

Name & Address of Attorney, if any:

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

Name: Boise Project Board of Control
Address: 2465 Overland Rd.
Boise, Id. 83705

D I am responding to the objections to the following elements. (Please check the appropriate box(es)).

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
9. ☐ Place of Use

11. **Recommendation**

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

E

VERIFICATION (Must be Completed)

State of Idaho)
County of Canyon)ss.

R E Davison, 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.

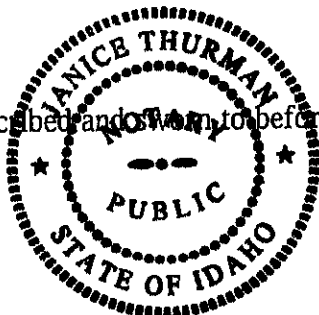
R E Davison

(Signature of person filing response)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

April 3, 2003



Notary Public for

Residing at:

My Commission Expires:

Janice Thurman
Caldwell ID
3/06

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 April 3, 2003, 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: L.G. Davison & Sons, INC.
Address: 1969 Prairie Rd.
Prairie, Id. 83644

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

Name: Boise Project Board of Control
Address: 2465 Overland Rd.
Boise, Id. 83705

4. Copies to:

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

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

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

R.E. Davison
Your signature or signature of attorney
mailing on your behalf

we feel that The period of use from
March 15 To November 15, reflects The historical
use of this water right # 63-97. It was
granted continuous flow in the court
decree dated May 25, 1907. The water was
used ON this land early in the season
before any of the dams were built ON
The Boise River. Priority date of Aug 8, 1898.

Yours truly
R. E. Davison

R. E. DAVISON
L. G. DAVISON & SONS, INC
1969 Prairie Rd.
Prairie, Id. 83647

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, WITHIN AND FOR ELMORE COUNTY.

Theodore Pierce,
Plaintiff,
vs
William Pierce, George W.Goble,
Julius P.Nauerth, John Krall, A.E.
Brown, Minnie J.Nauerth, Robert
Sandlin, Martha B.Loving,
Sarah C.Smith, E.M.Wolfe,
successor in interest to William
Pierce, et al.,
Defendants.

DECREE
Dated May 25-1907
Edward A.Walters,
Judge.

This cause came regularly on for trial on the 12th day of December A.D.1906, being the 7th Judicial day of the December Special term 1906 of said Court; E.J.Dockery, Esq. appearing as counsel for the plaintiff Theodore Pierce, and E.M.Wolfe, Esq., as counsel for defendant William Pierce and for defendant and cross-complainant E.M.Wolfe, as successor in interest to William Pierce; Edgar Wilson, Esq., as counsel for defendants and cross-complainants John Krall, Robert Sandlin and Martha B.Loving; Carl A.Davis, esq., as counsel for defendants and cross-complainants Julius P. Nauerth and Minnie J.Nauerth; and Messrs Morrison & Pence as counsel for defendants and cross-complainants A.E.Brown and George W.Goble. A trial by jury was waived by express agreement of counsel, and it appearing to the Court that the matter would involve the taking of a large amount of testimony and consume a great amount of time, it was ordered by the court that a referee be appointed herein to take the testimony and report the same to the Court, H.M. Branin was appointed to take such testimony, which was afterwards taken and documentary evidence introduced before said referee, all parties being present and represented by their respective counsel. Said testimony and documentary evidence having been reported to and filed in this Court in this action, and the same having been examined by the Court, and arguments made by the counsel for all the respective parties herein;

Now, on the 25th day of May A.D.1907 findings of fact and conclusions of law having been expressly waived by the counsel for the respective parties, the Court orders that judgment be entered herein in accordance with a stipulation on file in said cause, signed by the counsel for all the said respective parties.

Book-3-
Judgment
Records
Page-200-

May 27th
1907

EXPLANATION
References in left hand margin show book and page where document is recorded, also date of filing same.
In the caption of the document the grantors' names are given as they appear in the heading (as regards spelling, etc.). If there is any discrepancy in these names in the three vital parts of the document (name, body of instrument, and acknowledgment) the discrepancy will be shown in explanation appended at the end of document, and the same will be indicated in the caption by a reference mark corresponding to the explanation below.
When acknowledgment shows no discrepancy, only the date of the same is given. If discrepancy, such discrepancy is noted, as are also any discrepancies of a miscellaneous nature.

3-200

WHEREFORE, by reason of the law and the premises and the stipulation aforesaid, findings of fact and conclusions of law having been expressly waived by the respective parties to this action, it is ordered, adjudged and decreed by this Court that the respective parties hereto are entitled to take from, and use, for irrigating and domestic purposes, the waters flowing in Smith Creek, in Elmore County, State of Idaho, in dates of priorities and in the following amounts respectively, to-wit:-

That the plaintiff Theodore Pierce be, and he is hereby awarded the use of the amount of water hereinafter stated from the waters of Smith Creek, in Elmore County, Idaho, in each year, said use to date from the 10th day of August A.D. 1897 for use upon (property described) 235- $\frac{1}{2}$ inches continuous flow and that he pay his costs in this action, taxed at the sum of \$2.75.

That E.M.Wolfe, successor in interest to the rights of defendant William Pierce, be and he is hereby awarded the use of the amount of water hereinafter stated from the waters of said Smith Creek in each year, said use to date from Aug. 10-1897, for use upon (property described) 210 inches continuous flow, and that he pay his costs in this action taxed at \$2.75.

That the defendant and cross-complainant John Krall be, and he is hereby awarded the use of the amount of water hereinafter stated from the waters of said Smith Creek, in each year, said use to date from Aug. 8-1898, for use upon the (property described) containing 240 acres, (The Cove) 436 inches continuous flow, and that he pay his costs etc.

That defendant and Cross-complainant Robert Sandlin be, and he is hereby awarded the use of the amount of water hereinafter stated from the waters of said Smith Creek in each year, said use to date from Feb. 28-1900, for use upon (property described) 137- $\frac{1}{2}$ inches continuous flow etc.

That the defendant and cross-complainant Martha B. Loving be, and she is hereby awarded the use of the amount of water hereinafter stated from the waters of said Smith Creek, in each year, said use to date from March 30-1900, (property described) 116- $\frac{1}{2}$ inches continuous flow etc.

That the defendant and cross-complainant A.E.Brown be and he is hereby awarded the use of the amount of water etc. of Smith Creek in each year, said use to date from Oct. 7-1899, (property described) 175 inches continuous flow and that he pay his costs etc.

EXPLANATION

References in left hand margin show book and page where document is recorded, also date of filing same.

In the caption of the document the grantor's names are given as they appear in the heading (as regards spelling, etc.). If there is any discrepancy in these names in the three vital parts of the document (signature, body of instrument, etc.), the discrepancy will be shown in explanation appended at the end of document, and the same will be acknowledged in the caption by a reference mark corresponding to the one below.

When an acknowledgment is given, only the date of the same is given. If discrepancy, such discrepancy noted as one of the several discrepancies of a miscellaneous nature.