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JAN 28 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

A Subcase 63-15372
(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B

NAME AND ADDRESS OF PERSON OBJECTING

Name: Allan E. Cafferty

Address: 2121 S. Eagleson
Boise, ID 83705

Daytime Phone: 375-7924

Name & Address of Attorney, if any:

John Cafferty
603 W. 7th
Coeur D'Alene, Id
83814

C

CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Bare Backers Inc.

Address: PO Box 5781
Boise, ID 83705

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: _____
4. ☒ **Priority Date** 5/17/1989
Should be: _____
5. ☐ **Point(s) of Diversion**
Should be: _____
6. ☐ **Instream Flow Description**
Should be: _____
7. ☒ **Purpose(s) of Use** Recreational
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):** See Attached

F

VERIFICATION (Must be Completed)

State of Idaho)
) ss.

County of Ada)

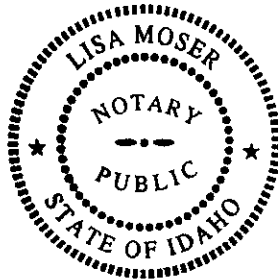
Allan E Cafferty, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

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.

Allan E Cafferty
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: January 27, 2003



L Moser
Notary Public for _____
Residing at: Boise, ID
My Commission Expires: 5-9-08

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 January 27, ~~199~~²⁰⁰³, 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:

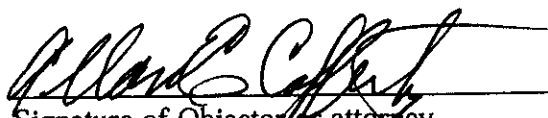
Name: Bare Backers Inc
Address: PO Box 5781
Boise, ID 83705

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

**INSTRUCTIONS FOR FILING
OBJECTIONS TO WATER RIGHTS IN THE
SNAKE RIVER BASIN ADJUDICATION**

The attached form is for your use if you file an objection to a water right. You may copy or reproduce this blank form.

To object to more than one water right, you must use a **separate form for each objection** and there must be **only one objector** for each form.

Your objection must be **received** by the court on or before the deadline specified in the notice that the Idaho Department of Water Resources mailed to you. If you are filing 25 or more objections you must contact the Clerk of the SRBA court at least 14 days before the filing deadline and arrange an appointment for filing.

You may attach any explanation or documentation that you feel is necessary to support your objection.

INSTRUCTIONS FOR COMPLETING THE OBJECTION FORM

- A. **Subcase.** Fill in the water right number to which you are objecting at the top of the form in the blank following "Subcase." The water right number will become the Subcase Number.
- B. **Name and Address of Person Objecting.** Enter your name, address and daytime telephone in the blanks provided.
- C. **Claimant of Water Right As Listed in Director's Report.** Fill in the claimant/owner blank of the water right to which you are objecting as it is listed in the Director's Report.
- D. **Elements of the Water Right.** If you disagree with one or more of the elements in the Director's Report, check the appropriate box(es) and write in the space provided what you think the element "should be." If you are objecting because you do not think a water right should exist or because a water right was not recommended and should be recommended, mark the appropriate box under No. 11 and explain your reason in paragraph E.
- E. **Reasons supporting objection.** State the reason supporting your objection(s).
- F. **Verification.** You must sign the Objection form in front of a notary. By filing this objection form, you are certifying that the objection is well-grounded in fact; that it is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and that it is not filed for any improper purpose, such as to harass, cause unnecessary delay or needlessly increase the cost of litigation.
- G. **Certificate of Mailing.** Fill in the appropriate blanks for the date and the owner of the water right, and sign the form. Remember that the original copy of this Objection must be mailed to the Clerk of the SRBA District Court with copies mailed to the parties listed in this section.

The Boise Ridge Mining and Milling Corp. filed a claim for beneficial domestic use of surface water on May seventeenth, 1989. They were assigned water right #63-15369 for this claim. May 17, 1989 should be their priority date. Water right #63-15369 was then transferred to the Bare Backers Inc. in 1991. Since 1991, when the Bare Backers Inc. began diverting water, my supply has been short. As a direct result of this diversion I am able to irrigate only half of the fifteen acres which water license #63-3422 gives me the right to. The lack of water has caused my apple crop to fail, and I have been unable to plant a garden in an area where there had been one for over sixty years.

The use of water by the Bare Backers is not domestic; rather, it is recreational. The purpose for which they were organized, as stated in their articles of incorporation on April Sixteenth, 1994, is, "To organize a membership corporation whose members believe and support the cultivation and development of physical, moral and social health and well being through exercise, ecological preservation, naturalist research and social activities, under natural conditions, by both sexes of all ages." They have organized to recreate together.

I have had limited success with contacting the Bare Backers Inc. when my stream flows have been low in the past. In August of 2001 I contacted the president of the Bare Backers Inc., and informed him that I had run out of

water, and that I would appreciate it if they would discontinue diversion of water for all but basic domestic use. The Bare Backer President said that he would be glad to do so, but there wasn't any water to let go. Their supplies had gone completely dry. I found this hard to believe, since it had never happened in the past, and asked if I could come and see for myself. He obliged, and we set up a meeting time and agreed to meet at the entrance to the Bare Backer Compound. When the time came, my grandfather went in my place, along with Jan Blum. The appointment was broken by the Bare Backers that day when no one showed up. Magically, a day later, there was water in the stream. There had been no precipitation of any kind in the interim. This year, when I contacted the Bare Backers, I was told by their leader that they didn't have to return any water to me, and that their right entitled them to the water they were diverting, regardless of the diversions effect on my flow. This statement was made prior to a visit by a representative of the Department of Water Resources. During his visit, on or about the 25th of September, the gentleman from the Department of Water Resources found the Bare Backers Inc. to be diverting illegally.

The present diversions are a problem because there simply is not enough water left over for me to irrigate the fifteen acres to which I have a right to irrigate. In my past dealings with the Bare Backers I have tried to cooperate as

much as possible. I have had little to no success with this approach. The very nature of their organization is recreational, and they did not use any water or file a claim for it until 1989.