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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 63-00314

(Insert water right number)

**STANDARD FORM 1
OBJECTION**

Please fill in the following information:

B.

NAME AND ADDRESS OF PERSON OBJECTING

Name: United States of America acting through the Department of Interior, Bureau of
Land Management, Idaho State Office

Address: 1387 South Vinnell Way
Boise, Idaho 83709-1657

Daytime Phone: see below

Name & Address of Attorney, if any:

Larry A. Brown (202) 305-0435 phone, (202) 305-0274 fax

United States Department of Justice; Environment and Natural Resource Division; General Litigation Section
550 West Fort Street, MSC 033; Boise, Idaho 83724

C.

CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Claudette S. Osler

Address: 418 W. Maple St.; Caldwell, Idaho 83605

Name: John G. Poncia

Address: 2266 Tawny Woods Place; Boise, Idaho 83706

Name: Marsha A. Johnson

Address: 1811 E. Spring Meadow Lane; Boise, Idaho 83706

Name: Dale J. Dunn

Address: 988 E. Riverpark Lane; Boise, Idaho 83706

Name: Joan M. Kearby

Address: 20 S. Rolling Green St.; Nampa, Idaho 83687-1891

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**
Should be: See attached
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: See attached
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):

The legal description for element nine (POU) above may include Federal land. The description should be specific enough to exclude Federal land.

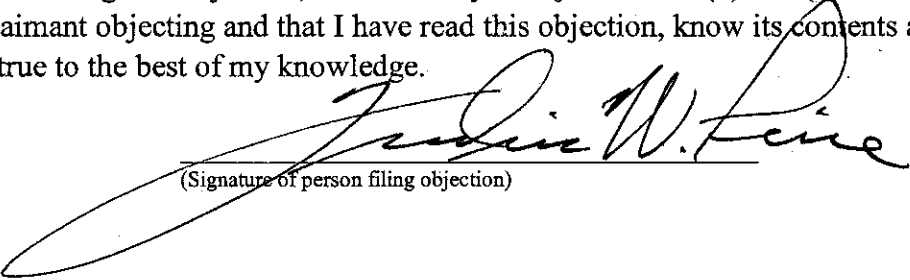


VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

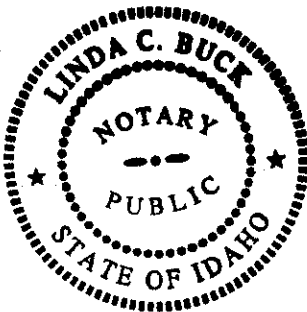
Fredric W. Price, Water Rights Specialist, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

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.


(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: January 30, 2003




Linda C. Buck

Notary Public for Idaho

Residing at: Mountain Home

My Commission Expires: 12-21-2005

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.



CERTIFICATE OF MAILING

I certify that on January 30, 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
P.O. Box 2707
Twin Falls, ID 83303-2707

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

Name: Claudette S. Osler

Address: 418 W. Maple St.; Caldwell, Idaho 83605

Name: John G. Poncia

Address: 2266 Tawny Woods Place; Boise, Idaho 83706

Name: Marsha A. Johnson

Address: 1811 E. Spring Meadow Lane; Boise, Idaho 83706

Name: Dale J. Dunn

Address: 988 E. Riverpark Lane; Boise, Idaho 83706

Name: Joan M. Kearby

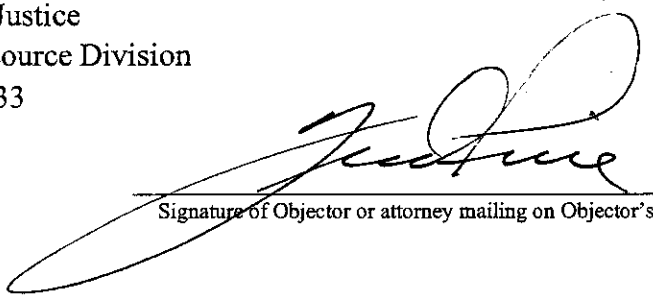
Address: 20 S. Rolling Green St.; Nampa, Idaho 83687-1891

3. Copies to:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. 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

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-314

NAME AND ADDRESS: CLAUDETTE S OSLER
418 W MAPLE ST
CALDWELL ID 83605

JOHN G PONCIA
2266 TAWNY WOODS PL
BOISE ID 83706

MARSHA A JOHNSON - NO MINING CLAIMS ON BLM
1811 E SPRING MEADOW LN
BOISE ID 83706

DALE J DUNN - NO MINING CLAIMS ON BLM
988 E RIVERPARK LN
BOISE ID 83706

JOAN M KEARBY
20 S ROLLING GREEN ST
NAMPA ID 83687-1891

MIXED OWNERSHIP

-THE POUS IDENTIFIED BELOW CONTAIN
BOTH PRIVATE AND PUBLIC LANDS.

FOR: SWSE AND SESE

-CLARIFY THE POUS SUCH THAT IT IS CLEAR
THAT ONLY PRIVATE LAND IS INTENDED.

- Remove Pous in NESE AND NWSE.

SOURCE: CLEAR CREEK

TRIBUTARY: GRIMES CREEK

QUANTITY: 9.000 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC USE SHALL NOT
EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 06/01/1864

THE "74 PLACER" WAS NOT LOCATED UNTIL 10-9-1907.
see attachment #4

POINT OF
DIVERSION:

T07N R05E S2 SENESW Within BOISE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
DOMESTIC	01/01 12/31	0.200 CFS
MINING	01/01 12/31	9.000 CFS

PLACE OF USE: DOMESTIC Within BOISE County

T07N R05E S03

SWSE

THE DOMESTIC USE IS LIMITED TO PRIVATE LAND
AND IS NOT AN ISSUE.

MINING Within BOISE County

T07N R05E S03

NESE BLM

T07N R05E S03

NWSE BLM

T07N R05E S03

SWSE BLM/PVT

T07N R05E S03

SESE BLM/PVT

THE 1-8-1929 C.R. PONCIA VS UNKNOWN DEFENDANTS DEFINED THE WATER USE
AS BEING LIMITED TO THE "74" MINING CLAIM. SEE ATTACHMENT #2

THE "74" MINING CLAIM WENT TO PATENT ON 8-14-1981 UNDER PATENT #11-81-0071.
SEE ATTACHMENT #3.

THE MINING PURPOSE OF USE SHOULD BE LIMITED TO PRIVATE LAND ("74 MINING CLAIM")
WITHIN THE SWSE AND SESE.

PLACES OF USE IN THE NESE AND NWSE DO NOT DESCRIBE LANDS WITHIN THE
PATENT FOR THE "74" MINING CLAIM AND SHOULD BE REMOVED.

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DOMESTIC PLACE OF USE DESCRIBED ABOVE DOES NOT INCLUDE
FEDERAL PUBLIC LAND.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE
EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE
ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO
LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION
42-1412(6), IDAHO CODE.

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
DOMESTIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
USE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed
DOMESTIC USE IS FOR 5 HOMES

ATTACHMENT #1
63-00314

BLM
Master Title Plat (MTP)

T07N R05E

ATTACHMENT #2

63-00314

DECREE

C.R. Poncia vs Unknown
Defendants

01-08-1929

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with summons in this cause in the manner and form by law provided and as ordered by this court, more than twenty days before the entry of their default herein; that the defendants and each of them have wholly failed to appear or in anywise plead to plaintiff's complaint in this cause; that the default of the defendants and each and every of them has been duly entered herein; and testimony in support of plaintiff's complaint being thereupon given in evidence herein, and the court having duly considered the same, it is, in accordance therewith, and by virtue of these premises and of the law, ORDERED, ADJUDGED, AND DECREED:

I.

That plaintiff is a citizen of the United States and of the State of Idaho, and is the owner of the following described mining property and ditch and water right incident thereto, to-wit:

That certain placer mining claim known as the "74", situate in section three, in township seven north, range five east of the Boise Meridian, in the county of Boise, state of Idaho, more particularly described as follows: beginning at a point about six hundred feet southerly from the northeast corner of the Midnight patented placer mining claim, at the point where the easterly line thereof intersects with the south line of said section three, and running thence east six hundred feet; thence northeasterly fifteen hundred feet; thence westerly six hundred feet; thence southwesterly fifteen hundred feet to the place of beginning, situate about three hundred feet easterly of Grimes creek, as the said claim is there marked and staked upon the ground; together with that certain ditch commonly known as the Slaughter house ditch, beginning at a point at or near the center of the northeast quarter of the southwest quarter of section two, in said township and range, and running thence in a general southwesterly direction a distance of about three-fourths mile and ending at and upon said placer claim known as the "74"; and the right to the use of nine second feet of the waters of Clear Creek, with priority as of 1864, to be diverted through said ditch from its said point of beginning and conveyed to said mining claim for use thereupon through such ditch;

JUL 24 1996

And that title to said real property and the whole thereof, and in and to the right to the use of said quantity of such waters, be and the same hereby is quieted in plaintiff as against the claims, demands, and pretensions of defendants and each and every of them; that defendants and each and every of them, their servants, agents, attorneys, successors and assigns be and they hereby are forever enjoined and restrained from asserting any right, title, interest or estate of kind whatsoever therein or thereto adverse to the rights and interests of plaintiff and those claiming under him; that the defendants and each and every of them are wholly without right, title, interest or estate of kind whatsoever in or to said real property or said water right, or any part thereof.

This the 7th day of January, 1929.

Clinton H. Hartson,

District Judge.

State of Idaho)
County of Boise) ss.

I, Katherine M. Brogan, Clerk of the District Court of the Third Judicial District of the State of Idaho, in and for the county of Boise, do hereby certify and declare that the foregoing is a true, correct and complete copy of the Decree in the above entitled cause filed and entered in my office upon the 24 day of January, 1929.

seal

Katherine M. Brogan
Clerk

JUL 24 1926

ATTACHMENT #3
63-00314

PATENT #11-81-0071

for 74 and Slaughter House
Placer Mining Claims

08-14-1981

The United States of America

To all to whom these presents shall come, Greeting:

WHEREAS

Paul C. Poncia
Opal L. Poncia
John C. Poncia
Dorothy Poncia

are entitled to a patent pursuant to the General Mining Laws R. S. 2329, 2231, as amended; 30 U.S.C. 35, for Seventy Four and Slaughter House placer mining claims, more particularly described as follows:

Boise Meridian, Idaho

T. 7 N., R. 5 E.,
Sec. 3, E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$

Containing 30 acres

NOW KNOW YE, that there is, therefore, pursuant to the laws aforesaid hereby granted by the United States unto the said Paul C. Poncia, Opal L. Poncia, John C. Poncia and Dorothy Poncia said mining premises hereinbefore described; TO HAVE AND TO HOLD said mining premises, together with all the rights, privileges, immunities and appurtenances of whatsoever nature thereunto belonging unto the said grantees above named and to their successors and assigns forever:

EXCEPTING AND RESERVING TO THE UNITED STATES from the land so granted, a right-of-way thereon for ditches or canals constructed by the authority of the United States pursuant to the Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

SUBJECT TO the following conditions and stipulations:

FIRST. That the grant hereby made is restricted in its exterior limits to the boundaries of the said mining premises, and to any veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits which may have been discovered within said limits subsequent to and which were not known to exist on June 26, 1963.

SECOND. That should any vein or lode of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, be claimed or known to exist within the above-described premises at said last-named date, the same is expressly excepted and excluded from these presents.

THIRD. That the premises hereby conveyed shall be held subject to any vested and accrued water rights for mining, agricultural, manufacturing or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local laws, customs, and decisions of the courts. And there is reserved from the lands hereby granted a right-of-way thereon for ditches or canals constructed by the authority of the United States.

FOURTH. That in the absence of necessary legislation by Congress the Legislature of Idaho may provide rules for working the mining claims or premises hereby granted, involving easements, drainage, and other necessary means to the complete development thereof.

FIFTH. That the premises hereby conveyed shall be held subject to a right-of-way for transmission line of Grimes Pass Power and Light Company, and other existing easements or rights-of-way where no notice thereof appears of record.

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat. 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

[SEAL]

GIVEN under my hand, in **Boise, Idaho**
the **FOURTEENTH** day of **AUGUST** in the year
of our Lord one thousand nine hundred and **EIGHTY-ONE**
and of the Independence of the United States the two hundred
and **SIXTH**

By *Charles B. Bell*

Chief, Division of Technical Services

Patent Number 11-81-6-71

ATTACHMENT #4
63-00314

Placer Mining Location Notice

74 Mining Claim

Discovered: 10-09-1907

Recorded: 10-18-1907

PLACER MINING LOCATION NOTICE

323

INC 027769

Instrument No. 8024

SEE 21 PLACER MINING, IDAHO

Notice is hereby Given That the undersigned citizens of the United States, having complied with the requirements of Chapter Six of Title Thirty-two, of the Revised Statutes of the United States, and the local customs, law and regulations, ha located 1500 by 600 ft acres of Placer Mining ground, situate, lying and being in Pionersville (unorganized) Mining District, in the County of Boise, and State of Idaho, particularly described as follows, to-wit:

Commencing at N E Corner of Michelson Ranch
Running East 250 feet thence North 1500 feet to
N E Corner thence West 600 feet to N E Corner
thence South 1500 feet to S E Corner thence East
250 feet to place of beginning all in Sec 8 Town
7 R 5 East T 3 N.

This Claim shall be known as the 7th
Security Four

Discovered on the 9 day of October A. D. 1907

Located on the 9 day of Oct A. D. 1907

C. R. Pencia
Richard Stokes } Locators
and
Claim-
ants.

STATE OF IDAHO,

County of Boise

ss.

I, C. R. Pencia

do solemnly swear that I am a citizen of the United States of America (or have

declared my intention to become such) and that I am acquainted with the mining ground described in this notice of location and herewith called the Security Four ledge, hole or claim; that the ground and claim

therein described or any part thereof has not to the best of my knowledge and belief been located according to the laws of the United States and of this State, or if so located that the same has been abandoned or forfeited by reason of the failure of such former locators to comply in respect thereto with the requirements of said laws, and that I have made an excavation exposing a claim of not less than one hundred cubic feet for the purpose of prospecting the same, as required by the laws of Idaho

(Signature)

C. R. Pencia

Subscribed and sworn to before me this 18 day of October A. D. 1907

Seal

(Signature)

James M. Stewart
Notary Public

STATE OF IDAHO,

COUNTY OF BOISE,

ss.

I hereby certify that this instrument was filed for record at the request

of James M. Stewart at 12

minutes past 10 o'clock A. M., this 18 day of Oct A. D. 1907

C. R. Pencia

Ex Officio Recorder.

By _____ Deputy.

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DEPT. OF THE INTERIOR
BUREAU OF LANDS
OCT 11 3 36 PM 1907

CERTIFICATE

STATE OF IDAHO,
COUNTY OF BOISE, } S.S.

Ruth M. Shanahan, Auditor and Recorder in and for said County, do hereby
certify the foregoing to be a full, true and correct copy of the Instr. No. 8024
as the same appears in my office in Book 6 of Placer Locations
Page 323, and of the whole thereof.

WITNESS My hand and seal of office at Idaho City, this 10th
day of October, A.D., 1979.

Ruth M. Shanahan
Auditor & Recorder

By C. Dean Robinson
Deputy.