



the movants the Court found good cause pursuant to I.R.C.P. 55(c) to grant both the late claims and late objections for the reasons set forth on the record.

THEREFORE, IT IS ORDERED that the *Motion to File Late Notice of Claim* for water right claims **65-22877, 65-22878, & 65-22879** is **GRANTED**.

The original Notice of Claim, as well as any filing fee submitted, and a copy of this *Order* will be forwarded to the Idaho Department of Water Resources for further action consistent with this *Order*.

IT IS FURTHER ORDERED that the *Motion to File Late Objections* to **65-04213A & 65-04214** are **GRANTED**.

IT IS FURTHER ORDERED that all of the above-captioned water right claims are referred to Special Master Theodore R. Booth for further proceedings acknowledging that all matters may need to be stayed pending investigation and reporting of late claims by IDWR. The special master shall preside over subcases and issue reports as set forth in ***SRBA Administrative Order 1*** and shall have the authority to: fix the time and conditions for the filing of supplemental pleadings and amendments to pleadings; schedule and hear dispositive and non-dispositive motions of any party; schedule and conduct all pretrial matters, including pretrial, status and scheduling conferences; issue pretrial orders; schedule and limit the scope of discovery; order the discovery of facts known and opinions held by experts; issue protective orders; issue orders compelling discovery; sanction failure to comply with pretrial, trial-related or post-trial orders; summon witnesses and issue subpoenas; take such evidence as may be introduced or deemed necessary by her; rule on the admissibility of evidence; call witnesses on behalf of the court; and appoint expert witnesses for the court.

Special Master Booth shall set proceedings in conformity with ***SRBA Administrative Order 1***, section 9, notwithstanding the provisions of I.R.C.P. 53(d)(1), and exercise the power to regulate all proceedings in every hearing and to do all acts and take all measures necessary or proper for the efficient performance of his duties under this *Order*.

DATED: September 23, 2004

  
\_\_\_\_\_  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING LATE NOTICE OF CLAIM; ORDER GRANTING MOTION TO FILE LATE OBJECTIONS; AND ORDER OF REFERENCE TO SM BOOTH was mailed on September 23, 2004, with sufficient first-class postage to the following:

DARYL & MARCHELLE HART  
VERLA WITT

Represented by:  
JOSEPHINE P. BEEMAN  
409 WEST JEFFERSON STREET  
BOISE, ID 83702  
Phone: 208-331-0950

STATE OF IDAHO  
Represented by:  
NATURAL RESOURCES DIV CHIEF  
STATE OF IDAHO  
ATTORNEY GENERAL'S OFFICE  
PO BOX 44449  
BOISE, ID 83711-4449

USDI BUREAU OF RECLAMATION  
Represented by:  
US DEPARTMENT OF JUSTICE  
ENVIRONMENT & NATL' RESOURCES  
550 WEST FORT STREET, MSC 033  
BOISE, ID 83724

FAUSTINO RAMOS  
PO BOX 1543  
MC CALL, ID 83638

DOROTHY A BOWKER  
JOHN S BOWKER  
PO BOX 68  
MC CALL, ID 83638  
Phone: 208-634-5179

DIRECTOR OF IDWR  
PO BOX 83720  
BOISE, ID 83720-0098



Should questions arise during the processing of this application please contact:  
\_\_\_\_\_ - ERO Resources Corp. (208) 373-7983

RECEIVED  
SEP 24 2004  
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 THE GENERAL ADJUDICATION  
OF RIGHTS TO THE USE OF WATER FROM  
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number A 65-04214A  
Date Received 9-24-04  
Receipt Number C075262

NOTICE OF CLAIM  
TO A  
WATER RIGHT  
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant(s) Daryl Hart or Marchelle D. Hart or Verla Witt Phone (208 ) 634-5179  
Mailing Address Box 1311, McCall, Idaho Zip 83638
2. Date of Priority (Only one (1) per claim) April 15, 1928
3. Source of water supply (a) Unnamed stream  
Which is tributary to (b) Lake Fork Creek
4. a. Location of point of diversion is: Township 18 N Range 03 E Section 34  
\_\_\_\_\_ -  $\frac{1}{4}$  of SE  $\frac{1}{4}$  of SW  $\frac{1}{4}$ , Govt. Lot \_\_\_\_\_, B.M., County of Valley  
Additional points of diversion if any:  
b. If instream flow, beginning point of claimed instream flow is: N/A  
Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_, \_\_\_\_\_  $\frac{1}{4}$  of \_\_\_\_\_  $\frac{1}{4}$  of \_\_\_\_\_  
\_\_\_\_\_  $\frac{1}{4}$ , Govt. Lot \_\_\_\_\_ B.M., County of \_\_\_\_\_
5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc.), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. On and before November 19, 1987 the following diversion facilities existed allowing the claimants to divert and use water from the unnamed stream:  
In the SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  Sec 34: A dike constructed across the unnamed stream impounding the waters thereof in a reservoir/pond covering approximately 3 surface acres when full and holding 8 a-f of water.
6. Water is claimed for the following purposes:  
(both dates are inclusive) (cfs) (acre feet)  
For Diversion to storage purposes from 1/1 to 12/31 amount 0.06 or \_\_\_\_\_  
For Recreation/aesthetic storage purposes from 1/1 to 12/31 amount \_\_\_\_\_ or 8 A-F  
For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_
7. Total quantity claimed (a) 0.06 (cfs) and/or (b) \_\_\_\_\_ (acre feet)
8. Total consumptive use claimed is - acre feet per annum.
9. Non-irrigation uses; describe fully. (Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) Recreational/aesthetic storage purposes includes boating, canoeing, bird watching, water for wildlife (ducks, geese, fur bearers, deer, elk, etc).

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

| TWP  | RNG  | SEC | NE ¼    |         |         |         | NW ¼    |         |         |         | SW ¼    |         |         |         | SE ¼    |         |         |         | Totals |
|------|------|-----|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|--------|
|      |      |     | NE<br>¼ | NW<br>¼ | SW<br>¼ | SE<br>¼ | NE<br>¼ | NW<br>¼ | SW<br>¼ | SE<br>¼ | NE<br>¼ | NW<br>¼ | SW<br>¼ | SE<br>¼ | NE<br>¼ | NW<br>¼ | SW<br>¼ | SE<br>¼ |        |
| 18 N | 03 E | 34  |         |         |         |         |         |         |         |         |         |         |         | J/R     |         |         |         |         |        |
|      |      |     |         |         |         |         |         |         |         |         |         |         |         |         |         |         |         |         |        |
|      |      |     |         |         |         |         |         |         |         |         |         |         |         |         |         |         |         |         |        |
|      |      |     |         |         |         |         |         |         |         |         |         |         |         |         |         |         |         |         |        |

Total number of acres irrigated \_\_\_\_\_

11. In which county (ies) are lands listed above as place of use located? Valley

12. Do you own the property listed above as place of use? Yes X No     
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.

65-4213B for the pond

14. Remarks:

a. The dike for the pond is about 5 feet high and 150 ft. long. A concrete spillway on the east end has check boards allowing lake level/stream discharge to be controlled. The recreational/aesthetic storage use is based upon an accomplished transfer pursuant to section 42-1425, Idaho Code. The claim is based upon an acre for acre change from irrigation to use in the pond because (1) the irrigation use was for hay, pasture and other high water use crops, (2) the reservoir is located in an area having a high water table and (3) the reservoir level is allowed to recede reducing the surface area of the pond as the stream flow curtails in late summer, fall and winter.

b. The pond occupies property which is in three separate ownerships: (1) John S. Bowker or Dorothy A. Bowker; (2) Daryl Hart or Marchelle D. Hart; (3) Verla Witt.

c. The change in season of use for storage purposes does not enlarge use of water under the right because the annual diverted volume and consumptive use are not increased.

d. The pond capacity is 8 a-f.

e. The water supply for the pond is provided from the unnamed stream under a combination of use under 65-4213B and 65-4214A. Right No. 65-4214A provides the water for evaporation from the surface of the pond. Right No. 65-4213B provides the water to initially fill the pond each year.

Last Name \_\_\_\_\_ Ident. Number \_\_\_\_\_

15. Basis of Claim (Check One) Beneficial Use \_\_\_\_\_ Posted Notice \_\_\_\_\_ License \_\_\_\_\_ Permit \_\_\_\_\_  
Decree X  
If applicable provide IDWR Water Right Number 65-4214  
Court \_\_\_\_\_ Case Number 3667 Decree Date 1/21/1986  
Plaintiff vs Defendant State of Idaho vs A & C Corp. et al (Payette River Basin Adjudication)

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will received notice in the Snake River Basin Adjudication." I/We do \_\_\_\_\_ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of Attachments \_\_\_\_\_

**For Individuals:** I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) [Signature] Date 4-9-04  
Marshall Robert Date 4-9-04

State of Idaho/or Idaho )  
County of Valley ) SS.

Subscribed and sworn (or affirmed) before me this 9th day of April 2004



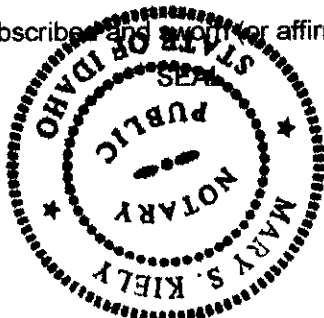
Notary Public Mary Kiely  
Residing at Micah  
My Commission Expires 11-21-06

**For Individuals:** I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) [Signature] Date 4/9/04  
Date \_\_\_\_\_

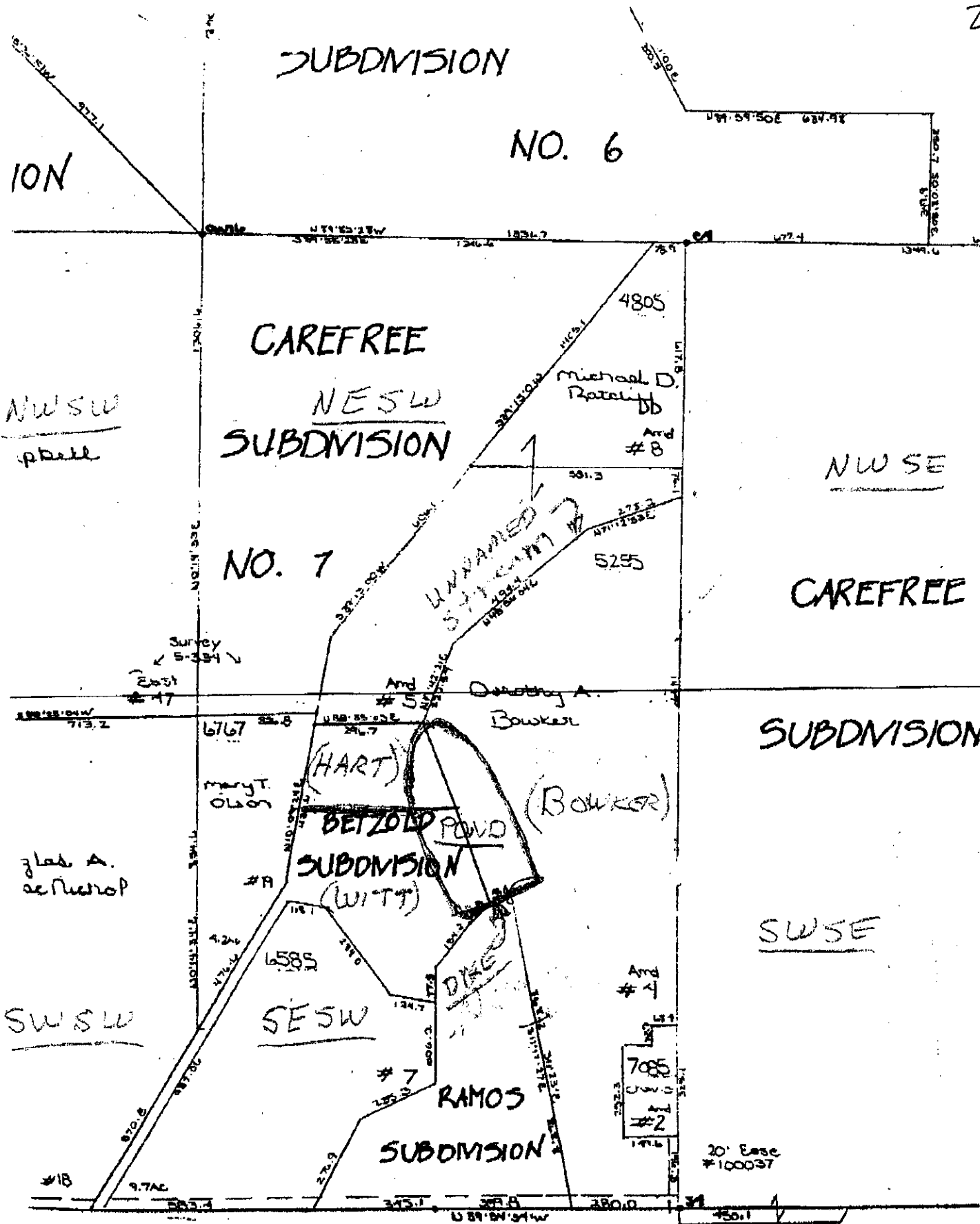
State of Idaho/or Idaho )  
County of Valley ) SS.

Subscribed and sworn (or affirmed) before me this 9th day of April 2004



Notary Public Mary Kiely  
Residing at Micah  
My Commission Expires 11-21-06

Last Name \_\_\_\_\_ Ident. Number \_\_\_\_\_



SECTION 10, T18N R3E  
CLAIM GS-4214A

## Idaho Department of Water Resources Receipt

Receipt ID C075262

Payment Amount **\$106.00** Date Received **9/24/2004 1:24:30 PM** Region **State** Status   
Payment Type **Check** Check Number **6385**

Payer **BEEMAN & ASSOCIATES, P.C**  
Comment **CLAIM TO A WATER RIGHT ID# A 65-04214A**

## Fee Detail

| Amount   | Description             | Fund | FD    | PCA  | SO |
|----------|-------------------------|------|-------|------|----|
| \$106.00 | ADJUDICATION FILING FEE | 0337 | 41503 | 1155 |    |

  
\_\_\_\_\_  
Signature Line (Dept. Representative)