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Attorney for Batruels

RECEIVED
SEP 23 2002

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	)	
	)	Subcase Nos. 61-293B, 61-293D, 61-
	)	299, 61-303A, 61-303B, 61-304A, 61-304B,
Case No. 39576	)	61-370, 61-2000B, 61-4038, 61-4113, 61-
	)	11921
	)	
	)	CLARIFICATION RE: STIPULATION TO
	)	RESOLVE OBJECTIONS
	)	

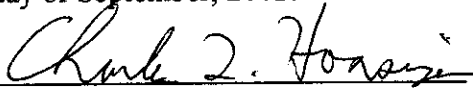
COMES NOW, Carlene Smith ("Smith"), and Paul Batruel, Mary Batruel and Batruel Dairy ("Batruels"), parties to the above-captioned subcases (herein jointly referred to as "the parties"), by and through their attorneys of record, and hereby clarify the Stipulation to Resolve Objections filed concurrently herewith as follows:

1. The parties agree that paragraphs 4 and 5 in the Stipulation to Resolve Objections, which refer respectively to the dismissal of Smith's objections, and Batruels' objections and responses, are intended to refer only to the dismissal of Smith's objections to Batruels' water right nos. 61-293B, 61-303B, 61-304B and 61-11921, and the dismissal of Batruels' objections and responses to Smith's water right nos. 61-293D, 61-299, 61-303A, 61-

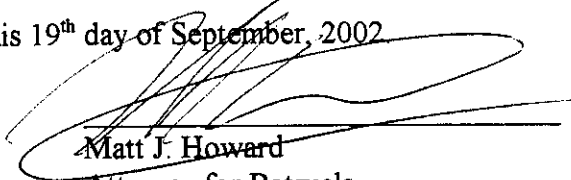
304A, 61-370, 61-2000B, 61-4113, and 61-04038.

2. The intent of the parties with respect to the Stipulation to Resolve Objections is to maintain the objections and/or responses that they have filed to the recommendations of their own water rights as set forth in paragraph 1 above.

Dated this 19th day of September, 2002.


Charles L. Honsinger
Attorney for Carlene Smith

Dated this 19th day of September, 2002.


Matt J. Howard
Attorney for Batruels

CERTIFICATE OF SERVICE

I certify that on the 20th day of September,
2002, I served copies of this document, including all attachments by U.S.
Mail to the following:

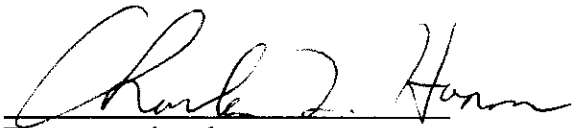
Larry Brown
U. S. Department of Justice
550 W. Fort Street, MSC 033
Boise, ID 83724
Of Attorneys for U. S. BLM

Charles L. Honsinger
Ringert Clark, Chtd
P. O. Box 2773
Boise, ID 83701
Of Attorneys for Carlene Smith

Norman M. Semanko / Amy D. Chestnut
Barker, Rosholt, Simpson, LLP
P. O. Box 2139
Boise, ID 83709
Of Attorneys for Roger L. Jones and Fresh-Pak, Inc.

Matt J. Howard
Attorney at Law
P. O. Box 190012
Boise, ID 83719
Attorney for Mary Batruel, Paul Batruel, and Batruel Dairy

Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098


Person serving documents

Charles L. Honsinger (ISB # 5240)
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RECEIVED
SEP 23 2002
Department of Water Resources

Attorneys for Claimant Carlene Smith

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

Subcase 61-04038

Case 38576

STANDARD FORM 4

MOTION TO FILE AMENDED NOTICE OF CLAIM

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in **SRBA Administrative Order 1, Rules of Procedure** (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

I have read **SRBA Administrative Order 1, Rules of Procedure** (amended Sept. 30, 1996).
I am an attorney representing Carlene Smith.

COPY

POB, CS MB

My address is: RINGERT CLARK, CHARTERED, P.O. Box 2773, Boise, Idaho 83701
My phone number is: 208/342-4591

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A Motion to File a Late Notice of Claim may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

Ms. Smith must amend her Amended Notice of Claim to the use of water in the SRBA because the original amended claim to this water right did not specify the correct priority date and source, and improperly listed points of diversion and other places and purposes of use. After negotiations with IDWR and the other Party to this subcase, it has been determined that the original amended claim to this water right does not reflect its historical use.

I have attached:

A fully completed amended Notice of Claim (available from IDWR).

VERIFICATION (Must be completed)

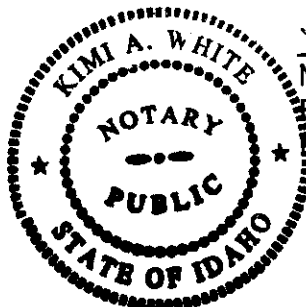
State of Idaho)
)
County of Ada)

Charles L. Honsinger, being first duly sworn, upon oath, deposes and says:

That I am the attorney for the party/claimant filing this motion for amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Charles L. Honsinger
Attorney signing in representative capacity

Subscribed and sworn to before me on September 19, 2002.



Kimi A. White
Notary Public for Idaho
Residing at: Boise, Idaho
My Commission expires: 04/01/04

RB CS MB

CERTIFICATE OF MAILING

I certify that on September 20, 2002, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

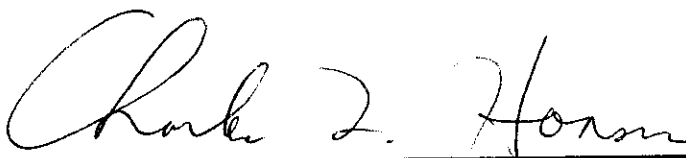
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

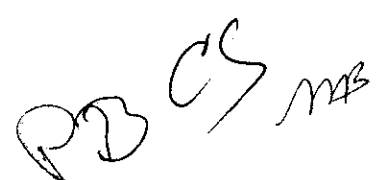
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that subcase.

Matt J. Howard
Attorney at Law
P.O. Box 190012
Boise, ID 83719



Signature of person or attorney mailing form



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IE GENERAL ADJUDICATION
ITS TO THE USE OF WATER FROM
AKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576
Ident. Number _____
Date Received _____
Receipt Number _____

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

type or print clearly

Name of Claimant (a) Carlene R. Smith Phone (208) 366-2711

Address Route 1, Box 420, Glens Ferry, ID Zip 83623

Date of Priority (Only one (1) per claim) January 2, 1898

Source of water supply (a) Sand Springs Gulch and/or Sand Springs
which is tributary to (b) Little Canyon Creek and/or Sand Springs Gulch

Location of existing point of diversion is: Township 05S Range 10E Section 18

1/4 of SW 1/4 of SE 1/4, Govt. Lot, B.M., County of Elmore
Additional points of diversion if any: TOSS, RICE, S.18 NESW; TOSS, RICE, S.18, NWSE (Injection & Rediversion)

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____ 1/4 of _____ 1/4 of _____ 1/4

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____ 1/4 of _____ 1/4 of _____

1/4, Govt. Lot B.M., County of _____

3. 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. Diversion in Section 18, SWSE is

Gravity pipeline from Sand Springs Gulch to diversion pond with
10 hp pump. Diversion in Section 18, NESW is 1/2 hp pump diverting
water to stockyard.

EXHIBIT A

PD CS MB

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from 3/15 to 11/15 amount .18cfs or _____

For Stockwater purposes from 1/1 to 12/31 amount .04cfs or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) .18 cfs (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is N/A acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) Stockwater use for 400 head of cattle

10. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- 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 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
05S	10E	18									3			12			2		17
05S	10E	19					†												1

Total number of acres irrigated 18

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

12. Do you own the property listed above as place of use? Yes _____ 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.
Water right no. 61-0293D or None ()

14. Remarks:

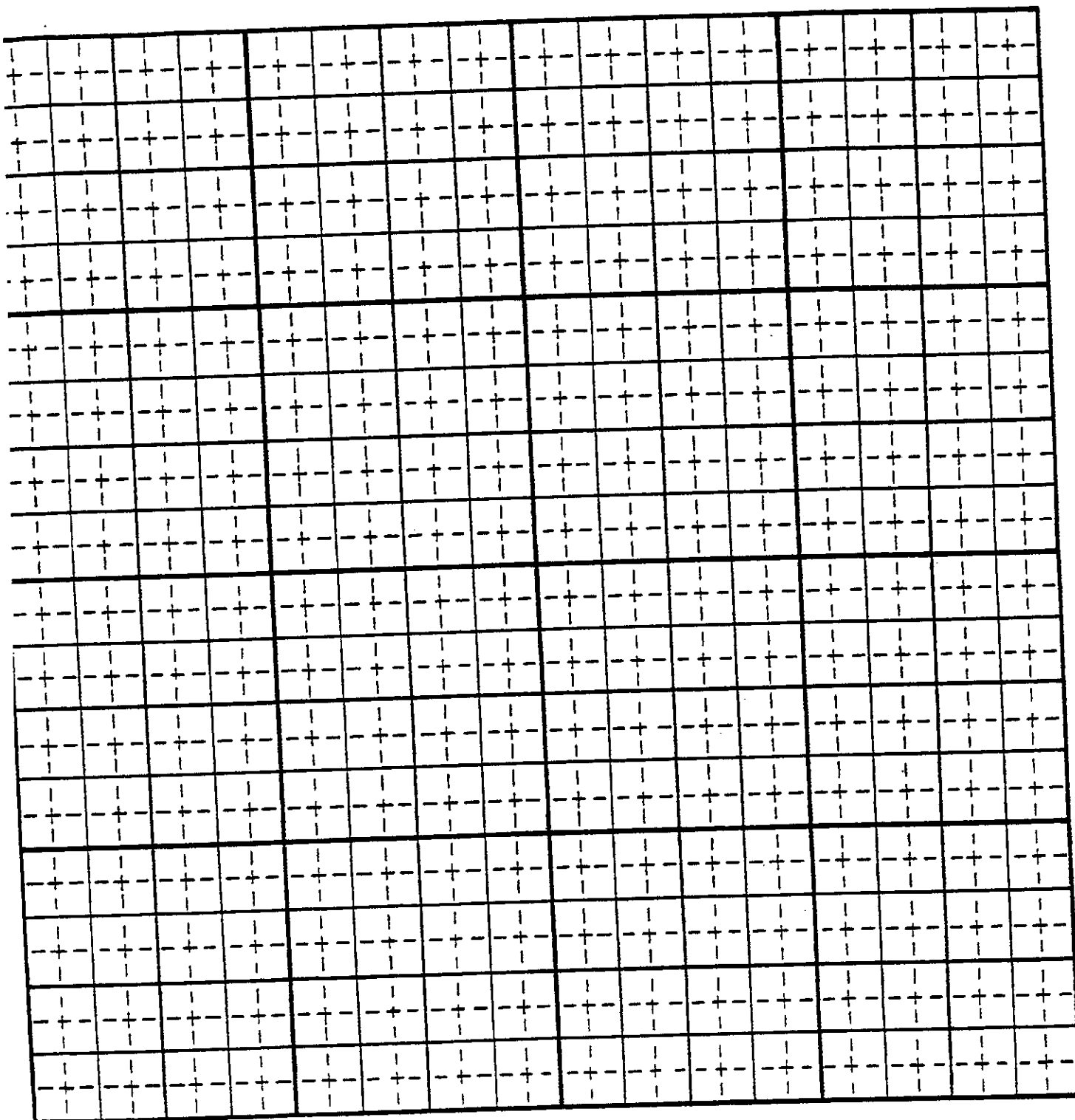
Last Name _____ Ident No. _____

EXHIBIT A

PO CS MB

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile



Last Name _____

Ident No. _____

HIBIT A

DB CS MB

15. Basis of Claim (check one) Beneficial Use X Posted Notice _____ License _____ Permit _____
Decree _____
If applicable provide IDWR Water Right Number 61-4038
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled
"How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____
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) _____

Date 09/19/02

Date _____

For Organizations: I do solemnly swear or affirm that I am _____ Title _____

of _____, that I have signed the foregoing

Organization

document in the space below as _____ of _____

Title

Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____ Date _____

State of Idaho/or Idaho) SS.

County of Ada)

Subscribed and sworn to before me this

19th

day of

September

19 2002

Notary Public

Kimi C. White

Residing at

Poise, Idaho

My Commission Expires

04/01/04

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf
of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above
should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

Last Name _____ Ident. Number _____

EXHIBIT A

POC MB