

01/11/2001

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 31-55C RECOMMENDED PER TX 4372

NAME AND ADDRESS: MAX SIDDOWAY
2568 E100N
TETON, ID 83451

SOURCE: EAST CAMAS CREEK TRIBUTARY: CAMAS CREEK

QUANTITY: 1 CFS

~~THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE
SHALL NOT EXCEED 13,000 GALLONS PER DAY.~~ *Decreed 01/11/01 ABL*
USE OF THIS RIGHT WITH RIGHT NO. 31-00053A IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 1.3 CFS.

PRIORITY DATE: 05/01/1896

POINT OF DIVERSION: T13N R39E S32 SENWNW Within CLARK County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	05-01 10-31	1.00 CFS
STOCKWATER	05-01 10-31	0.07 CFS

PLACE OF USE:

IRRIGATION Within CLARK County				
T13N R39E S32	NESW	39	T13N R39E S32	NWSE 5
T13N R39E S32	SWSE	11		

STOCKWATER Use same as IRRIGATION

55 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 31-00053A IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 55 ACRES IN A SINGLE
IRRIGATION SEASON.

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
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
USE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

STOCKWATER 240 CATTLE SAME POU AS IRRIGATION

Water Right 31-55C

A3100055C



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 31-55C
Date Received: 1/11/01
Receipt No:
Received By:

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s)

MAX SIDDOWAY Phone:
2568 E100N
TETON ID USA 83451

2. Date of Priority: 05/01/1896

3. Source: EAST CAMAS CREEK Trib. to: CAMAS CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County
13N	39E	32	SE NW NW	CLARK

5. Description of diverting works:

CHECK IN MAIN CREEK CHANNEL WITH GATED DIVERSION.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	05/01	10/31	1	
STOCKWATER	05/01	10/31	0.07	

7. Total Quantity Appropriated is:
1 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:
Number of other uses: 240

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
13N	39E	32	NE SW	IRRIGATION	39

SW SE
NW SE

IRRIGATION 11
IRRIGATION 5

Section Acres 55

Total Acres 55

11. Place of use in counties: CLARK

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

THIS CLAIM IS A SPLIT OFF PART OF 31-00055A BY TX 4372. USED WITH 31-00053.
STOCKWATER 240 CATTLE SAME POU AS IRRIGATION.

15. Basis of Claim: Decreed

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/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____

_____ Date:

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this

of _____ 20__

Notary Public

Residing at _____

My commission Expires _____



STATE OF IDAHO

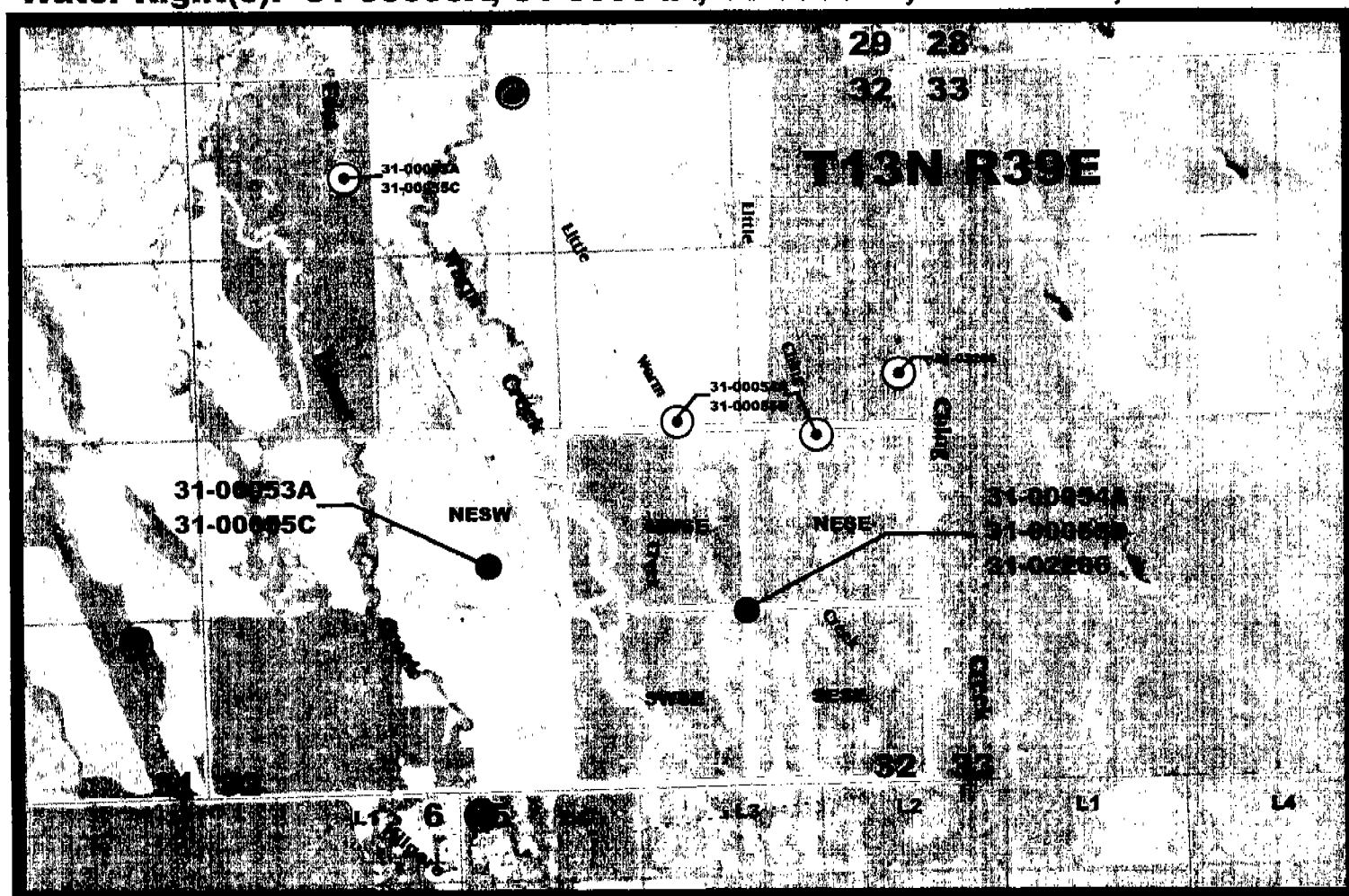
Department of Water Resources

Eastern Region

*Original
claims sent
to court*

Claimant: Max Siddoway

Water Right(s): 31-00053A, 31-00054A, 31-00055C, 31-00055D, 31-02286



750 0 750 1500 2250 3000 3750 4500 5250 6000 6750 7500 Feet

LEGEND

○ Point of Diversion

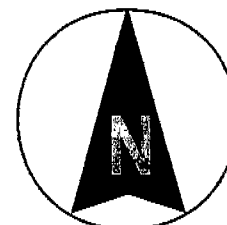
SESE Place of Use

Section Line

Quarter-section line

Legal Description: T13N, R39E
Sec. 32 SE, NESW

Point(s) of Diversion: T13N, R39E Sec. 32
SENWNW (E. Camas Ck),
SESENE (Ching Creek),
SESWNE (Little Warm Ck),
SWSENE (Little Ching Ck)



GIS Place of Use illustration
1987/1988 NAPP photography
Prepared by: A. Ruberry
Date: Jan. 2001

Ruberry, Allen

From: Tuthill, Dave
Sent: Thursday, January 02, 2003 1:55 PM
To: Ruberry, Allen; McHugh, Candice; Music, Vicky
Cc: Carlsen, Ernie; Hamlin Nygard, Susan
Subject: FW: Dept. Affirmed in Siddoway/Hamilton Trial

WRH's

31-53A

53B

54B

55B

55c

Al, Candice and Vicky;

Congratulations for a job well done.

Dave

-----Original Message-----

From: McHugh, Candice
Sent: Thursday, January 02, 2003 10:24 AM
To: Ruberry, Allen; Carlsen, Ernie; Tuthill, Dave
Cc: Adjudication Attorneys; Young, Norm
Subject: Dept. Affirmed in Siddoway/Hamilton Trial

SM Bilyeu's findings support the recommendations made by Allen Ruberry for the Siddoway and Hamilton water rights. The SM weighed the evidence produced by both sides and the Department and concluded that the objector's assertion of forfeiture was not clear and convincing nor was their argument that the source was incorrect. The SM in several places in her findings reached the same conclusion as the Department with regards to conflicting evidence. I'll keep you updated on any future happenings on this matter.

Allen did a great job developing the facts on this highly complicated matter and both he and Dave did a wonderful job presenting that at trial. Thank you both. Witnesses like you make my job much easier.



31-53A+ SMR.tif

Candice

Confidentiality Notice: This e-mail may contain confidential and privileged information exempt from disclosure under applicable law. This message is intended only for the use of the individual or individuals identified above. If you have received this message by mistake, please notify the sender immediately by replying to this message. Please delete the message from your system and do not review, disclose, copy, or distribute any information contained or attached to the message. Thank You

2002 DEC 24 AM 10:36

FILED
CLERK OF DISTRICT COURT
TWIN FALLS, IDAHO
Jc

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	)	SPECIAL MASTER'S REPORT AND
	)	RECOMMENDATION; FINDINGS OF
Case No. 39576	)	FACT AND CONCLUSIONS OF LAW
	)	
	)	WATER RIGHT NOS.: 31-00053A,
	)	31-00053B, 31-00054B, 31-00055B and
	)	31-00055C

I. INTRODUCTION AND PROCEDURAL BACKGROUND

Notices of claim were filed for these subcases by claimants Max Siddoway and Jack Hamilton. Mr. Siddoway claimed water right nos. 31-00053A and 31-00055C. Mr. Hamilton claimed water right nos. 31-00053B, 31-00054B and 31-00055B. IDWR investigated the claims, and *Director's Reports* were filed. Neighboring water users David Hirschi, Joe Knotwell, Horace Frederiksen, Howard Frederiksen, and the Rocking Question LLC (hereafter "Objectors") filed *Objections*. The Objectors assert that these rights were forfeited or abandoned. If these rights were not abandoned or forfeited, the Objectors dispute the *Director's Report* recommendation that East Camas Creek is the source of these water rights.

A settlement conference was held June 11, 2002. The parties did not settle. A trial was held in Rexburg, Idaho on September 24 through September 25, 2002. The parties filed *Closing Arguments* on November 6, 2002.

II. STANDARD OF REVIEW

The *Director's Report* has *prima facie* weight as set forth in I.C. § 42-1411(4)-(5). The term *prima facie* evidence is an alternative label for a rebuttable presumption. *McCray v.*

Rosenkrance, 135 Idaho 509, 514 (2001); *State v. Hagerman Water Right Owners*, 130 Idaho 736, 947 P.2d 409, 418 (1997); *State v. Hebner*, 108 Idaho 196, 97 P.2d 1210 (Ct. App. 1985). Thus, giving evidence *prima facie* status confers a presumption that sufficient proof has been made to prevail on an issue absent competent evidence to the contrary. *Prima facie* proof shifts only the burden of production, not the burden of persuasion on an issue. *McCray*, 135 Idaho at 514. When rebutted, the presumption disappears and the party with the benefit of the presumption retains the burden of persuasion on the issue. The facts on which the presumption is based are then weighed with other relevant facts. *McCray* at 514.

The *Director's Report* as *prima facie* evidence draws a conclusion as to particular elements of a water right. A presumption exists until the objector presents "substantial evidence" that the element is other than as recommended. If the objector presents such evidence, the presumption disappears. Nevertheless, the facts upon which the presumption is based are to be weighed with all other facts that may be relevant. *Id.* at 419.

III. FINDINGS OF FACT

A. Background

The place of use on which these water rights are claimed is located in Clark County, Idaho and was previously owned by Sherman Halverson. Mr. Halverson owned water right nos. 31-00053, 31-00054 and 31-00055 which were originally decreed in *Suave v. Abbott*, Case No. 635, Decree (Dist. Idaho Nov. 1, 1930). In the early 1980s, Max Siddoway and Jack Hamilton purchased the property previously owned by Mr. Halverson. Max Siddoway purchased approximately 240 acres from Mr. Halverson. Jack Hamilton purchased approximately 80 acres from Mr. Halverson. Mr. Siddoway irrigated the land he purchased from 1982 to 2002. Mr. Hamilton irrigated the property he purchased from 1983 to the present, except for one year. (Testimony of Max Siddoway and Jack Hamilton)

Irrigation in the Clark County area is accomplished by the "high mountain meadows" practice of watering. The area is irrigated from streams that have high flood flows during the early season and low, late summer flows. The irrigation systems in the area are difficult to maintain due to occasional flooding. As a result, diversion works in the area are crude by some standards. The efficiency of this type of system is lower than with furrow irrigated, sprinkler, or laser-leveled, border irrigation systems. (Testimony of Dr. Charles Brockway)

The ditch structure on the Siddoway and Hamilton properties is typical of irrigation structures in the area. It is an old structure that follows the slope of the land. The land on the west side of the ditch has been leveled and is easier to irrigate than land on the east side of the property. The seepage rates in the area are moderately high. (Testimony of Dr. Charles Brockway)

B. Forfeiture/Abandonment

The Objectors assert that these water rights were forfeited or abandoned by Sherman Halverson before he sold to Siddoway and Hamilton. Objectors assert Mr. Halverson failed to irrigate the property for many years. Objectors also claim Halverson failed to contribute money to improve the head gate on the "Knotwell-Hirschi-Bennett" ditch, showing he had abandoned these rights.

In the early 1970s, Joe Knotwell, David Hirschi, Sr. (the predecessor to Objector David Hirschi Jr.) and Kenneth Bennett (the predecessor to Objector Rocking Question, LLC) constructed a new diversion works for their water rights from East Camas Creek at T13 N, R39E, Section 32, SENWNW. The point of diversion for this new diversion works from East Camas Creek was near Mr. Halverson's property. Mr. Halverson was asked to share in the cost of building the new diversion; however, he declined to make a financial contribution. (Testimony of David Tuthill, Exhibit 6)

In 1982 and 1983, claimants diverted East Camas Creek water from the point of diversion located in T13N, R39E, Section 32, SENWNW. Water from this point of diversion flows into the "Knotwell-Hirschi-Bennett" ditch. Joe Knotwell gave Claimants permission in 1981 or 1982 to divert from the point of diversion and to use the ditch. (Testimony of David Tuthill, Testimony of Joe Knotwell, Exhibit 6)

In 1989, Knotwell, Hirschi and Bennett withdrew permission to use the East Camas Creek diversion or the "Knotwell-Hirschi-Bennett" ditch. IDWR directed the Watermaster for Water District 31 to allow Siddoway and Hamilton to divert water from East Camas Creek pending final resolution by the SRBA Court.¹ (Testimony of David Tuthill, Exhibit 6)

The Objectors presented evidence regarding forfeiture. David Hirschi worked on the

¹ The parties stipulated that the claimants' use of water from 1990 to the present will not impact the assertion of forfeiture/abandonment or source. See, Stipulation of the Parties (Sept. 24, 2002)

Halverson property mowing hay for a time. His observations of the property led him to believe it had not been irrigated because of its rough condition. (Testimony of David Hirschi) Larry Singleton worked on the McCormick place next to Mr. Halverson's property. He did not see Mr. Halverson irrigate. (Testimony of Larry Singleton) Joe Knotwell did not see Mr. Halverson irrigate. He did not observe headgates on the Halverson property until after Hamilton and Siddoway purchased the property. (Testimony of Joe Knotwell) Horace Frederiksen did not see Mr. Halverson irrigate the property. He did not observe any crop planted on the Halverson property. (Testimony of Horace Frederiksen) Howard Frederiksen helped Mr. Halverson with his sheep and cows and helped him haul hay. He observed the Halverson property and believes it was dry farmed, not irrigated. (Testimony of Howard Frederiksen) Eileen Bennett and her husband helped Mr. Halverson work on his fence in 1965 when he was hospitalized. She observed no water on his property. She did not see Mr. Halverson irrigate the property from 1948 on. (Testimony of Eileen Bennett)

The Claimants presented testimony regarding nonforfeiture. Blaine Kyle Downs, a retired federal employee with the U.S. Soil Conservation Service, was assigned to work in Clark County two days per week. Mr. Downs visited the Halverson property on many occasions and observed the ditch. He observed irrigation on the property. He worked on diversion points out of the "Knotwell-Hirschi-Bennett" ditch. He worked on contour ditches across the field. Mr. Downs observed that Mr. Halverson's irrigation practices were much like those of Mr. Bennett, the Frederiksens, and Mr. Hirschi. Mr. Halverson participated in a federal program that allowed a farmer to obtain financial assistance from the U.S. government to level farm ground. (Testimony of Blake Kyle Downs) In order to qualify for government assistance, the farmer had to have a water right and had to use that water right consistently. (Testimony of Boyd Yancey, Testimony of Blaine Kyle Downs) The Halverson property qualified as irrigated crop land for federal programs including a cost-sharing leveling program. (Testimony of Blaine Kyle Downs)

The water delivery records prepared by the Water Master in Basin 31 show these water rights were used from 1955 to 1991, with no period of nonuse for the requisite five years. (Exhibit 27) Aerial photographs of the Halverson property were taken in 1951, 1960, 1966, 1971, and 1978. (Exhibits 17, 18, 19, 20, & 21) The aerial photographs do not, by themselves, prove the Halverson property was irrigated during the years the photographs were

taken. The photographs are, however, consistent with irrigation having taken place.
(Testimony of Dr. Charles Brockway)

C. Source

The Objectors assert that if these water rights were not forfeited, the source is from Camas Creek, Warm Creek, Little Warm Creek, Little Ching Creek or Ching Creek, not East Camas Creek as reported in the *Director's Report*. These water rights were derived from the *Suave v. Abbott* decree which lists the source as Camas Creek.

The *Director's Report* recommended the source as East Camas Creek. During its investigation of these rights in the SRBA, IDWR conducted a review of the water rights decreed in *Suave v. Abbott*. IDWR determined that the *Suave v. Abbott* court frequently decreed "Camas Creek" as the source for water rights actually located on a tributary to Camas Creek. IDWR therefore recommended rights in the SRBA with the tributary source historically used. The rights at issue were recommended on East Camas Creek as was one right recommended to objector Joe Knotwell. Both the rights at issue here and one of Mr. Knotwell's rights were described in *Suave v. Abbott* with the source as Camas Creek. (Exhibits 1-6, 9, Testimony of David Tuthill)

The alternative sources suggested by Objectors for these water rights are implausible. The main stem of Camas Creek is implausible, because it was nearly impossible to irrigate from Camas Creek in the 1800s. (Testimony of David Tuthill). Ching Creek is an improbable source for these rights. Without fluming, it is impossible to bring Ching Creek water to the places of use since Warm Creek is located in between. (Testimony of David Tuthill, Al Ruberry, Greg Shenton, Dr. Charles Brockway) Little Ching Creek is an improbable source for these rights because it is impossible to bring Little Ching Creek water to the west side of the property without fluming. (Testimony of Greg Shenton) Warm Creek could not have been a source for the Halverson land to the west of the ditch without fluming, and there is no evidence that such a flume ever existed. (Testimony of David Tuthill, Al Ruberry, Greg Shenton, Dr. Charles Brockway) Objectors suggested that Cottonwood Creek is another potential source, however, there was little evidence supporting Cottonwood Creek as the source. The most likely source of these water rights is East Camas Creek. (Testimony of David Tuthill, Greg Shenton, Dr. Brockway)

D. Over Appropriation

Objectors argue that these water rights should not exist on East Camas Creek because that source is overappropriated. There was insufficient proof at trial that East Camas Creek is overappropriated. IDWR did not compare the total flow rates to the diversions recommended prior to issuing the *Director's Reports* for these rights. Although IDWR did not estimate the flow rate on East Camas Creek, it is not more than 10 cfs. (Testimony of Dr. Brockway). Water rights totaling 23 cfs have been recommended on East Camas Creek. It is common for the total water rights on a source to exceed the flow records since water rights are not in use all the time. (Testimony of David Tuthill)

If the Hamilton and Siddoway water rights were removed from East Camas Creek, the remaining water users would receive less of their authorized diversions due to seepage rates and ditch conditions. (Testimony of Dr. Charles Brockway)

IV. ANALYSIS

A. Forfeiture/Abandonment

1. **Abandonment.** Abandonment of a water right is a common law concept. Both nonuse and actual relinquishment with intent to abandon must be shown. *Gilbert v. Smith*, 97 Idaho 735, 552 P.2d 1220 (1976). The party seeking to show abandonment has the burden of proving all elements by clear and convincing evidence. *Id.* Intent to abandon a water right must be shown by clear, unequivocal and decisive acts. *Sears v. Berrymore*, 101 Idaho 843, 623 P.2d 455 (1981). Objectors argue that Mr. Halverson's failure to make a financial contribution to improve the diversion and the "Knotwell-Hirschi-Bennett" ditch or long time failure to irrigate shows abandonment. This Special Master holds otherwise. It is not uncommon for land owners to contribute a right-of-way in lieu of a financial contribution or to make contributions other than money. Furthermore, there was conflicting evidence regarding Mr. Halverson's irrigation. This Special Master is not convinced by "clear and convincing" evidence that these rights were abandoned. This Special Master holds that these water rights were not abandoned.

2. **Forfeiture.** Statutory forfeiture is based on the legislative declaration in I.C. § 42-222(2) that water rights may be lost if they are not applied to a beneficial use for five continuous years. *McCray*, 135 Idaho at 515; *Jenkins v. State, Dept. of Water Resources*, 103 Idaho 384, 647 P.2d 1256 (1982). Forfeiture is disfavored under Idaho law, and the Idaho

Supreme Court has consistently held that forfeiture must be proven by "clear and convincing" evidence. *McCray*, 135 Idaho at 515. IDWR determined that these water rights were not forfeited. IDWR's conclusion of nonforfeiture receives *prima facie* weight, but the presumption can be rebutted. I.C. § 42-1411(4), *McCray*, 135 Idaho at 514; *State v. Hagerman Water Right Owners*, 130 Idaho 736 (1997)

Objectors presented enough evidence to rebut the *Director's Report* as to forfeiture. But after considering the facts underlying the *Director's Report* and the other relevant evidence, this Special Master finds that forfeiture did not occur. Although Objectors did not observe Mr. Halverson irrigating over a period of many years, other individuals observed evidence of irrigation. Halverson qualified for federal programs that required consistent irrigation. The records of irrigation kept by the Water Master indicate that Mr. Halverson's rights were used during most years and show there was no five-year period of nonuse. The facts at trial failed to show by "clear and convincing" evidence that these water rights were forfeited. This Special Master holds that these water rights were **not forfeited**.

B. Source

The Objectors presented evidence that source should be other than East Camas Creek.²

² This Special Master did not admit one exhibit offered to prove that source was not East Camas Creek. Objectors offered Exhibit 26, a letter to Mrs. Eileen Bennett from Watermaster Donald W. Shenton. The letter states:

First, I have no knowledge of ever delivering water to Mr. Halverson from East Camas Creek sources at the mentioned Knotwell, Hirschi, Bennett Diversion.

...after a search of the records that water right #29 which is the water right of contention, the water has been delivered every year except 1978 as far back as I reviewed the records to 1955.

However this water delivery was made to Mr. Halverson through one or the other three of Mr. Halverson's Ching Creek Points of Diversion. Up until 1982 I did not know that Right #29 was claimed to be an East Camas Creek Source until Mr. Siddoway made request for delivery at the point of diversion of contention. Mr. Halverson had on occasion told me he had the right to use water from East Camas or Ching Creek at any point of diversion that he so wished, however he did not have evidence to confirm his statements.

(Exhibit 26)

At the time of trial, Donald W. Shenton was unavailable to testify because he had passed away in 1998. Exhibit 26 is hearsay pursuant to I.R.E. 802. The exceptions to the hearsay rule, such as the business records exception pursuant to I.R.E. 803(6) or 803(24) or 804(5) do not appear to apply. However, even if this Special Master admitted Exhibit 26, this *Master's Report and Recommendation* would not change. Exhibit 26 has limited evidentiary weight. Mr. Shenton is not able to clarify any of the statements in his letter. Furthermore, the letter does not establish that Mr. Halverson had no rights to use East Camas Creek water. The letter merely states that when water was delivered, it was delivered to a point of diversion from Ching Creek.

Special Master's Report and Recommendation
G:/31MRR/53Aetal siddoway
12/23/02

This Special Masters holds that Objectors presented sufficient evidence to rebut the presumption afforded the *Director's Report*. After considering the facts underlying the *Director's Report* and other relevant evidence, this Special Master finds the source of these water rights is East Camas Creek. The source decreed in *Suave v. Abbott* was Camas Creek. The decreed source, however, must be analyzed in context. Since the *Suave v. Abbott* court listed Camas Creek for rights on the main stem of Camas Creek and its tributaries, the prior decree does not prevent the SRBA from correctly identifying the source as a tributary of Camas Creek. Objectors offered testimony that these rights had a source other than East Camas Creek. However, testimony showing East Camas Creek as the source was more persuasive. The investigating water agent Al Ruberry, IDWR's Adjudication Bureau Chief David Tuthill and Claimants' expert Dr. Charles Brockway testified that the alternative sources suggested by Objectors are improbable. This Special Master holds that source is East Camas Creek.

C. Over Appropriation

Objectors argued that Siddoway's and Hamilton's water rights should not be decreed with a source of East Camas Creek because East Camas Creek is overappropriated. In reviewing the facts at trial, there is insufficient evidence to prove that East Camas Creek is overappropriated. Even if East Camas Creek were overappropriated, Idaho water law does not allow a court to strip a water user of a vested water right because the source becomes overappropriated.³ In times of shortage, the prior appropriation doctrine applies and junior priority rights are not diverted.

V. CONCLUSION

The *Director's Reports* for these subcases conclude that these water rights were not forfeited or abandoned. The *Director's Reports* further conclude that the source for each of these water rights is East Camas Creek. The Objectors provided evidence to rebut the presumption afforded the *Director's Report*. This Special Master weighed the evidence presented at trial and is persuaded that the recommendations contained in the *Director's Reports* are correct. First, the evidence fails to persuade this Special Master by "clear and convincing" evidence that these rights were forfeited or abandoned. Second, this Special Master is persuaded that the source for these water rights is East Camas Creek.

³ Overappropriation may have different ramifications in cases of new water rights or transfers.
Special Master's Report and Recommendation
G/31MRR/53Aetal siddoway
12/23/02

Therefore, based on the file and record herein, IT IS RECOMMENDED that these water rights be decreed with the elements set forth in the attached *Special Master's Recommendations for Partial Decree*.

DATED: December 24, 2002.



BRIGETTE BILYEU
Special Master
Snake River Basin Adjudication

2002 DEC 24 AM 10:37

FILED
SRBA
TWIN FALLS, IDAHO

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)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

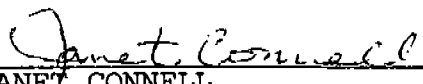
Water Right(s): 31-00053A
31-00053B 31-00054B 31-00055B
31-00055C

On December 24, 2002, Special Master BRIGETTE BILYEU issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION shall constitute a waiver of the right to challenge it before the Presiding Judge.

DATED December 24, 2002.



JANET CONNELL
Deputy Clerk

2002 DEC 24 AM 10:37

FILED
TWIN FALLS, IDAHO
31-00053A

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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 31-00053A
31-00053B 31-00054B 31-00055B
31-00055C

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on December 24, 2002, with sufficient first-class postage prepaid to the following:

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

DAVID J HIRSCHI
HORACE FREDERIKSEN
HOWARD FREDERIKSEN
JOE KNOTWELL
THE ROCKING QUESTION LLC
THE ROCKING QUESTIONS LLC
Represented by:
BLAIR J. GROVER
215 FARNSWORTH WAY
PO BOX 36
RIGBY, ID 83442-0036
Phone: 208-745-6653

CERTIFICATE OF MAILING

PAGE 1
12/24/02

JACK R HAMILTON
LELA M HAMILTON
MAX SIDDOWAY

Represented by:
JERRY R. RIGBY
PO BOX 250
REXBURG, ID 83440-0250
Phone: 208-356-3633

KEVIN C TIMKEN
COURTESY COPY
P O BOX 44561
SALT LAKE CITY, UT 84145-0561

MAX SIDDOWAY
2568 E 100 N
TETON, ID 83451
Phone: 208-458-4275

JACK R HAMILTON
LELA M HAMILTON
4969 N 5 E
IDAHO FALLS, ID 83401
Phone: 208-522-5020


JANET CONNELL
Deputy Clerk

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Department of Water Resources
Eastern Region

**SUPPLEMENTAL DIRECTOR'S REPORT REGARDING
SUBCASE NOS. 31-53A, 31-55C, 31-53B, 31-54B, 31-55B**

In Re SRBA
Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources
Karl J. Dreher, Director
David R. Tuthill Jr., Adjudication Bureau Chief

August 30, 2002

I. INTRODUCTION

The Director of the Idaho Department of Water Resources ("IDWR" or "the Department") submits this Supplemental Director's Report regarding subcase numbers 31-53A, 31-55C, 31-53B, 31-54B, 31-55B in accordance with Idaho Code § 42-1412(4) and Administrative Order I. This report is also submitted in response to Special Master Bilyeu's *Trial Scheduling Order* dated April 26, 2002, setting forth the deadline for a 706 Report from IDWR of August 30, 2002. This report sets forth the basis of the Department's recommendation for the above-listed water rights and was prepared under the supervision of Karl J. Dreher, Director, and David R. Tuthill, Jr., Adjudication Bureau Chief for IDWR.

The following employees from the Department of Water Resources have knowledge of the information contained in this report: David R. Tuthill, Jr., IDWR Adjudication Bureau Chief and Allen Ruberry, Senior Water Resource Agent, IDWR, Eastern Region Office in Idaho Falls.

II. SUMMARY OF THE ISSUES

There are several parties involved in these subcases. Max Siddoway owns water right nos. 31- 53A and 55C; Jack and Lela Hamilton own water right nos. 31-53B, 31-54B and 31-55B. These water rights will be collectively referred to as the Claimants' water rights. David Hirschi, Jr., Joe Knotwell, Horace Fredrickson, The Rocking Question LLC, and Howard Fredrickson (collectively referred to as Objectors) have all objected to all of the Claimants' water rights. The objectors allege the following:

- 1) that the Claimants' water rights have been forfeited because the prior owner of these water rights, Mr. Halverson, never used the decreed water rights or irrigated the acres in question;

- 2) that if the water rights are not found to be forfeited that they are at the very least not water rights from East Camas Creek but are from other surface water sources, such as Warm Creek, Little Warm Creek, Little Ching Creek and Ching Creek; and
- 3) that any use of East Camas Creek was developed in trespass, and thus is invalid.¹

The Department determined that these water rights are valid water rights from East Camas Creek and thus recommended these water rights with a source of East Camas Creek for irrigation on various lands located near the creek. The Department made its recommendations after extensive investigation and after conducting a fact-finding hearing pursuant to Idaho Code § 42-1410(1). Given the Department's extensive efforts to investigate these water rights, it has many related documents in its public record files. The Department is attaching to this report only the exhibits that it believes are the most notable.

III. BACKGROUND

Water Right Nos. 31-53, 31-54, and 31-55, were originally decreed in the *Sauve v. Abbott* Decree.² *Sauve v. Abbott*, Case No. 635, Decree (Dist. Idaho Nov. 1, 1930). The water rights were decreed with the source of Camas Creek. Attached hereto are Figures 1 and 2 that help illustrate the following discussion. Prior to 1933, Cottonwood Creek flowed in a southeasterly direction contributing water to Warm Creek, Little Warm Creek, Little Ching Creek, and Ching Creek. See Figure 1. Around 1933, the channel of Cottonwood Creek was changed to directly flow into East Camas Creek. See Figure 1.

In the early 1970s, Joe Knotwell, David Hirschi, Sr.³ and Kenneth Bennett⁴ began building a new diversion for their water rights from East Camas Creek at T13N, R39E, Section

¹ The Objectors contend that the Claimants' use of the Knotwell-Hirschi-Bennett ditch was in trespass. The Department has not determined however, whether there is any authority to use the ditch. The Department, among other things, reviewed whether there was a water right historically used from the point of diversion claimed.

² These water rights have subsequently been split into the A and B portions.

³ Objector, David Hirschi, Jr. is the successor to David Hirschi, Sr.

32, SENWNW. The point of diversion from East Camas Creek was near Mr. Halverson's property. See Point of Diversion on Figure 2. Mr. Halverson was invited to join in sharing the cost of building the new diversion. However, Mr. Halverson declined. The construction of the point of diversion was completed in 1974.

In the early 1980s, Max Siddoway and Jack Hamilton purchased the property that Mr. Halverson previously owned. In 1982 and 1983, the Claimants began diverting East Camas Creek water from the point of diversion on East Camas Creek located in T13N, R39E, Section 32, SENWNW (the point of diversion currently recommended). This point of diversion diverts water into what is commonly referred to as the "Knotwell-Hirschi-Bennett" ditch which is shown on Figure 2. Joe Knotwell, an owner on the ditch, gave the Claimants permission around 1981-1982 to divert from the point of diversion and use the ditch.

In 1989, the Claimants were informed by Mr. Knotwell, Mr. Hirschi and Mr. Bennett that they no longer had permission to use the East Camas Creek diversion or the "Knotwell-Hirschi-Bennett" ditch that runs from the point of diversion across the Claimants' properties. In 1990, the Department met with the water users and the Water District 31 Watermaster, Mr. Donald Shenton,⁵ concerning delivery of the Claimants' water rights. The Department directed the Watermaster to continue to allow the Claimants to divert water from the East Camas Creek diversion as a temporary solution pending final resolution by the SRBA Court. The claims for water right nos. 31-53A and 31-55C were filed by Max Siddoway on June 7, 1988 and January 11, 2001 respectively. The claims for water right nos. 31-53B, 31-54B and 31-55B were filed by the Hamiltons on June 10, 1988.

⁴ Objector, Rocking Question, LLC, is the successor to Kenneth Bennett.

⁵ Mr. Donald Shenton died in 1998 and his successor in this elected position since that time has been his son, Mr. Greg Shenton.

IV. DISCUSSION

After extensive investigation and review, the Department determined that the Claimants have valid water rights from East Camas Creek.⁶ The Department concluded that the Claimants had been diverting the water and applying East Camas Creek water to the lands recommended since they owned the property in the early 1980s. The Department based its recommendations primarily on the following information.

First, Mr. Halverson owned decreed water rights, 31-53, 31-54, and 31-55 from Camas Creek to irrigate 230 acres. These rights were decreed in the *Sauve v. Abbott* decree to the Federal Land Bank of Spokane. A review of the *Sauve v. Abbott* decree shows that it was not uncommon for the decree to list "Camas Creek"⁷ as the source when in fact the water right was for a tributary to Camas Creek. Thus, the Department reviewed the water rights with this in mind and recommended the source to comply with what source was historically used. There was no clear and convincing evidence that Halverson ever forfeited these water rights. In fact, Watermaster records show that Halverson was delivered water nearly every year. Exhibit A is a summary dated 11-7-2000 of these records prepared by the Water District 31 Water Master, Mr. Greg Shenton.

⁶ The Department conducted several on the ground field investigations for these water rights. In addition, the Department met with the Claimants and the Objectors separately to determine the facts and legal issues involved in these subcases. Finally, the Department conducted a fact-finding hearing on October 26, 2000, with David R. Tuthill, Jr. presiding as the hearing officer to record testimony and to examine evidence concerning these water rights. The Claimants and the Objectors were all present at the fact-finding hearing as were the Watermaster and other interested citizens.

⁷ The Department discovered that the *Sauve v. Abbott* decree contained ambiguities for some water rights with regard to the source. In this case, the Department concluded that the decreed source of Camas Creek is a mistake because the land described in the decree would have been over two miles upstream from Camas Creek thus making delivery to those lands impossible with Camas Creek as the source. Thus, the Department concluded that the source was likely East Camas Creek. There are several water rights within the decree that contain such discrepancies. For instance, objector Knotwell's water right no. 31-115 is decreed with the source of Camas Creek as well; however, it has historically been diverted from East Camas Creek and thus that is the source recommended by the Department. Also, Knotwell's water right no. 31-116 was decreed in the *Sauve v. Abbott* decree with a source of "Little Spring Creek," but water is actually diverted from Kelson Creek and thus, this source is what the Department recommended.

Second, Cottonwood Creek as depicted on Figure 1 originally contributed water to Warm Creek, Little Warm Creek, Little Ching Creek and Ching Creek. However, when Cottonwood Creek was re-routed circa 1933, it no longer contributed water to these three creeks. Thus, if Halverson had been using water from Warm Creek and Little Warm Creek as contended by the Objectors, then these sources were nearly dried up due to Cottonwood Creek's channel being re-routed. Thus, it is reasonable to believe that Mr. Halverson began using water primarily from East Camas Creek starting in the mid-1930s. This use of East Camas Creek would not have resulted in injury given the fact that Cottonwood Creek was now contributing new water to East Camas Creek that the decreed users on that creek had never historically enjoyed.

Third, when Knotwell, Hirschi and Bennett began constructing the new point of diversion on East Camas Creek, they asked Mr. Halverson whether he wanted to share in the cost. This fact was testified to by Mrs. Bennett at the Fact-Finding Hearing when she referred to her written narrative of the "Water Problems in Kilgore." Part of that document says that "At the time the new headgate was put in, Sherman did not wish to have anything to do with it." A portion of this document containing this statement is attached hereto as Exhibit B. Max Siddoway also testified to this fact. (IDWR Fact Finding Hearing, October 26, 2000)⁸ During the Department's discussions with the Objectors, the Objectors mentioned the fact that Mr. Halverson would not pay for the diversion, thus he was not allowed to use it. Mr. Halverson was invited to share in the cost of building the diversion structure to divert East Camas Creek water so must have had a right to divert East Camas Creek water.

In addition, a letter written by Blaine Kyle Downs, dated November 9, 2000, states that when he worked for the Soil Conservation Service in 1959, Mr. Halverson contacted the office

⁸ A copy of the Fact Finding Hearing tape is available to parties at their request.

the property and saw that Mr. Halverson had been irrigating from the ditch that came from East Camas Creek and was irrigating the land adjacent to the ditch. This letter is attached hereto as Exhibit C. Thus, Mr. Halverson was using East Camas Creek water at the time the diversion structure was being built and before. Given this information, the Department concluded that Halverson had diverted and beneficially used East Camas Creek water prior to the building of the new diversion structure.

Fourth, Joe Knotwell gave the Claimants permission around 1981 or 1982 to use the diversion point and the ditch, if only for a temporary time period, when they first purchased Halverson's property. This fact was asserted by Claimants and by Mr. Knotwell in discussions with the Department. Attached hereto as Exhibit D are notes dated May, 1990, from Department employee Ron Carlson, who attended a meeting with area water users to discuss delivery of Claimants' water rights. The notes state: "Joe Knotwell originally allowed Hamilton and Siddoway to use ditch FOR PURPOSE OF GETTING ALONG . . ." (emphasis in original). Above that entry, there is a note that says, "Existing ditch owned by Hirshhi, [sic] Knotwell. Watermaster has delivered water for past 9 years." These entries establish that Claimants had been using the diversion and the ditch with Mr. Knotwell's permission since around 1981. In addition, the fact that Mr. Knotwell gave Claimants permission to use the diversion and ditch is corroborated by a letter dated October 19, 1989 to Claimants from K.L. Bennett, Joe S. Knotwell and David J. Hirschi that states:

As of this notice you are informed that you *can no longer use* our water diversion located in Section 32 on East Camas.

Watermaster, Don Shenton, has been notified to not deliver any water to you from said diversion located on the Mc Cormick [sic] property in the NW1/4 of Section 32, Township 13N, Range 39E, Clark County, Idaho.

(emphasis added). This letter is attached hereto as Exhibit E. From the statement "can no longer use" one can infer that there was an acknowledged use prior to this notice.

Furthermore, Mrs. Bennett also testified that she understood that Mr. Knotwell had given the Claimants permission to use the diversion structure and ditch until they were able to build their own structure and ditch. (IDWR Fact Finding Hearing, October 26, 2000) This coupled with the fact that both the Claimants and Mr. Knotwell acknowledged that Mr. Knotwell gave them permission in the early 1980s to use the diversion and the ditch demonstrates that the Claimants did in fact use the diversion and the ditch. It also shows that Mr. Knotwell, at least, believed that the Claimants had a water right from East Camas Creek. This also lends credibility to the Claimants' argument that Halverson used East Camas Creek water prior to their purchasing his property. If Halverson never used East Camas Creek water, then the Claimants would have had no right to use East Camas Creek water, the point of diversion or the ditch. However, Mr. Knotwell clearly thought otherwise as he granted them permission to use the diversion structure and the ditch.

The Objectors supplied some evidence from the Watermaster that states that Halverson was never delivered water from East Camas Creek. A letter is attached hereto as Exhibit F. This letter was written to Mrs. Bennett on July 23, 1992 from Donald W. Shenton, Watermaster for Water District #31. In that letter, the Watermaster states:

First, I have no knowledge of ever delivering water to Mr. Halverson from East Camas Creek sources at the mentioned Knotwell, Hirschi, Bennett Diversion.

... after a search of the records that water right #29⁸ which is the water right of contention, the water has been delivered every year except 1978 as far back as I reviewed the records to 1955.

⁸ This is the number collectively assigned to water rights nos. 31-53, 31-54 and 31-55 in the *Sauve v. Abbott* decree.

However this water delivery was made to Mr. Halverson through one or the other three of Mr. Halverson's Ching Creek Points of Diversion. Up until 1982 I did not know that Right #29 was claimed to be an East Camas Creek Source until Mr. Siddoway made request for delivery at the point of diversion of contention. Mr. Halverson had on occasion told me he had the right to use water from East Camas or Ching Creek at any point of diversion that he so wished, however he did not have evidence to confirm his statements.

Don Shenton passed away in 1998 and thus, he is not able to clarify any of the statements in his letter. However, the Department reviewed this letter but concluded, given the other evidence, that this letter did not establish that Mr. Halverson had no right to use East Camas Creek water. This letter merely states that when water was delivered to Mr. Halverson, that it was delivered to a point of diversion for Ching Creek. Whether or not Mr. Halverson used East Camas Creek water prior to making a call for water is unclear. Mr. Halverson likely used more than one source.⁹

Fifth, aerial photos reviewed and discussed during the hearing show that circa the 1960s Halverson leveled some of the acres claimed by Siddoway and Hamilton. These photos are attached hereto as Exhibit G. In fact, there is no dispute that Halverson leveled the ground and that in order to receive monetary and engineering assistance from the ACSC office and the Soil Conservation Service for such leveling the property had to be irrigated. There was testimony by Howard Fredrickson, Max Siddoway and Eileen Bennett that Halverson worked with the ASCS office and the Soil Conservation Service to seek financial assistance for the leveling project. (IDWR Fact Finding Hearing, October 26, 2000) According to Howard Fredrickson, a prerequisite for obtaining funding was to demonstrate that the land to be leveled had a valid water right and was irrigated. (IDWR Fact Finding Hearing, October 26, 2000) Furthermore, the Department's field examinations confirmed that this portion of the property had in fact been

⁹ Siddoway and Hamilton have water rights from other sources in addition to the rights from East Camas Creek. Siddoway has water rights for Little Ching (31-54A, 31-55D), Ching Creek (31-2286), and East Camas Creek (31-10037). Hamilton has water rights from Ching Creek (31-24, 31-245, 31-10072).

leveled. One reason property is leveled is to improve the ability to irrigate the property. In addition, Mrs. Bennett testified that her husband and brother-in-law seeded Halverson's ground with barley and helped him "gather up" the sprinkler pipe. (IDWR Fact Finding Hearing, October 26, 2000) Mr. Hirschi supplied an affidavit after the fact-finding hearing that states the source of this water came from "Warm Creek at a location near the current residence of Max Siddoway, where there was a deep hole in the creek that provided an adequate supply of water for the high-volume pump that he used." This affidavit is attached hereto as Exhibit H. Yet, there was testimony that the pump was placed in the ditch that ran from East Camas Creek from Mr. Hirschi and Mr. Fredrickson. (IDWR Fact Finding Hearing, October 26, 2000) The Department concluded that this affidavit, in light of the other evidence that Halverson used East Camas Creek water, did not establish that there was no right to use East Camas Creek water but only that Halverson may have used some Warm Creek water the year in 1977. The fact that the land was leveled and that the property was irrigated is further evidence that Halverson historically irrigated the property adjacent to the ditch and that the water rights were not forfeited.

Finally, satellite imagery shows that in 1987 the property recommended to the Claimants appeared to be irrigated.

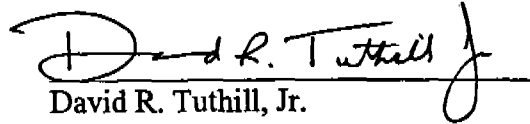
Based on the above information, the Department concluded that the Claimants' water rights were valid from East Camas Creek on the land recommended.

V. CONCLUSION

The Department's recommendation of these water rights is based on historical evidence

and reasonable conclusions. Thus, the Special Master should recommend that the SRBA District Court partially decree these water rights as they are described in the Director's Report.

Submitted this 30th day of August, 2002.


David R. Tuthill, Jr.

CERTIFICATE OF MAILING

I certify that on August 30 2002, I mailed and/or delivered the original and copies of this form, including all attachments, to the following interested parties, by placing them in sealed envelopes, addressed as follows:

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

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☒ Facsimile

2. Copies to:

Chief, Natural Resources Division
Office of the Attorney General
Box 83720
Boise, ID 83720-0010

☐ Overnight Mail
☐ Regular Mail
☒ Hand-Delivered
☐ Facsimile

IDWR Repository
Adjudication Bureau
PO Box 83720
Boise, ID 83720

☐ Overnight Mail
☐ Regular Mail
☒ Hand-Delivered
☐ Facsimile

United States Department of Justice
Environment & Natural Resources Div.
550 West Fort Street MSC 033
Boise, ID 83724

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Blair Grover
Grover & Arichibald
P.O. Box 36
P.O. Box 70
Rigby, ID 83442

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

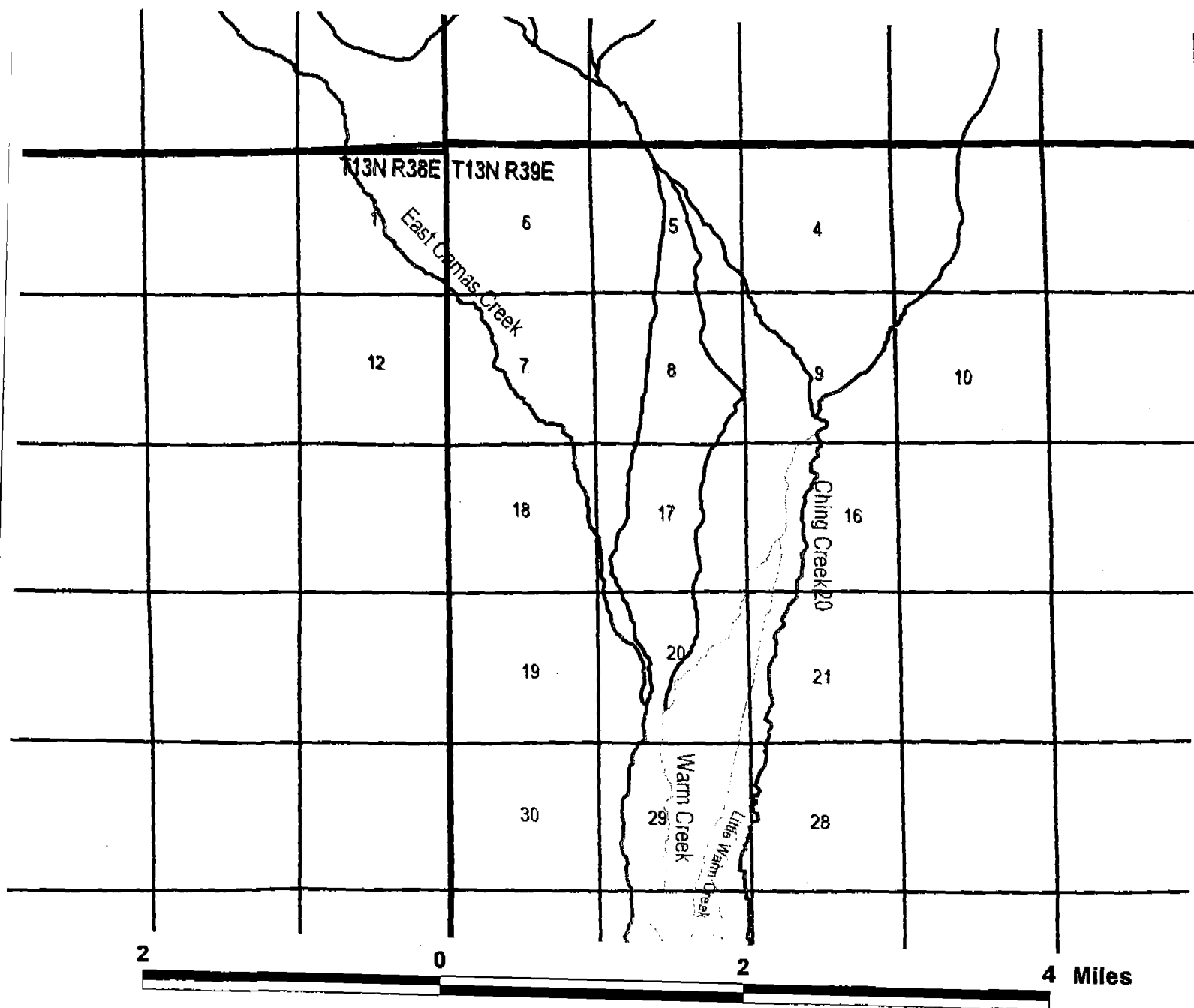
Kevin C. Timken
Kruse, Landa & Maycock, LLC
P.O. Box 45561
Salt Lake City, UT 84145-0561

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile



Signature of person delivering form

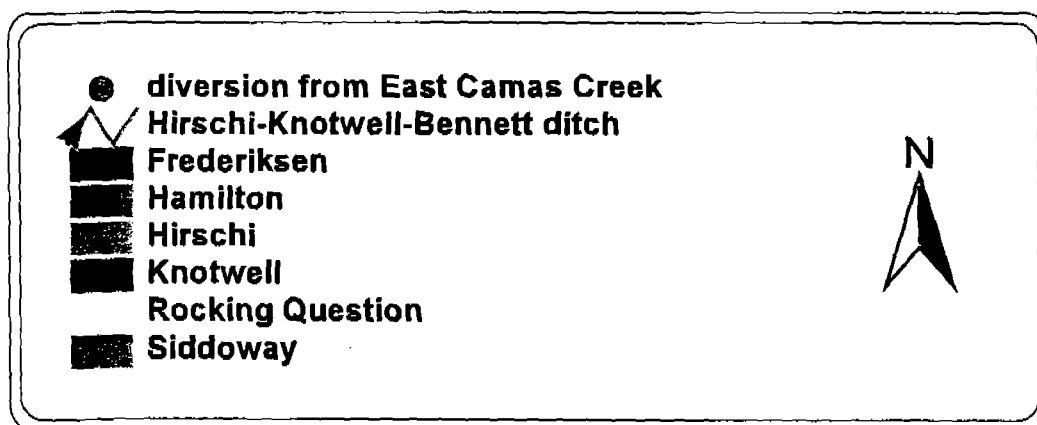
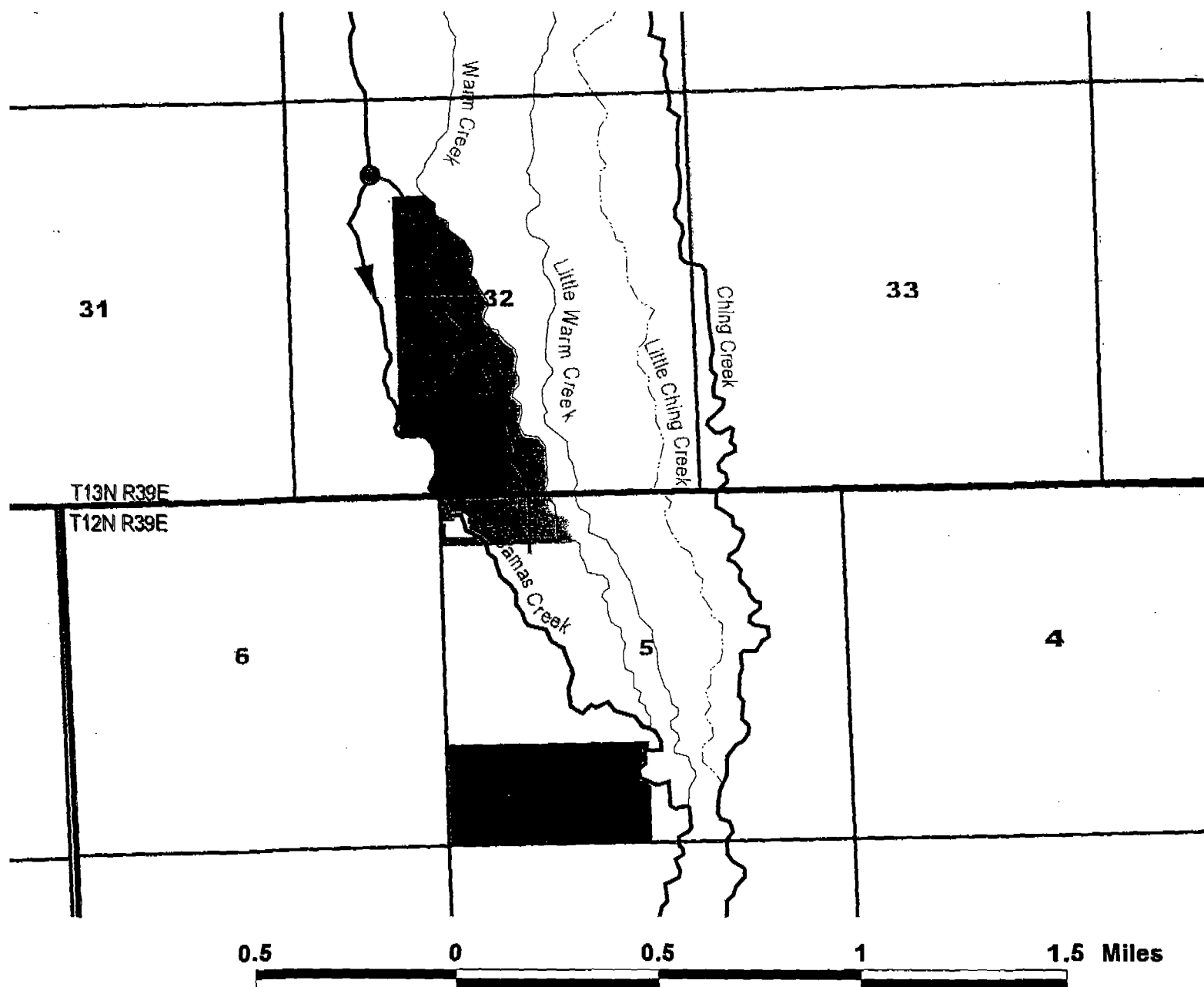
Figure 1



 Cottonwood Creek
 Cottonwood Creek - new channel



Figure 2



NOV 13 2000

Department of Water Resources
Eastern Region

			WATER DISTRICT #31		Eastern Region	
			P.O. BOX 33			
			DUBOIS, IDAHO 83423			
			GREGORY A. SHENTON - WATER MASTER			
			BART A. MAY - DEPUTY WATER MASTER			
			208-374-5274 office 208-374-5696 fax			
INDIVIDUAL USAGE REPORT FROM 1955 TO 1991 REQUESTED BY MAX SIDDOWAY						
YEAR	BENNETT	HIRSCHI	KNOTWELL	SIDDOWAY Right #29		Right #131
1955	107	43	37	115	Halverson	86
1956	99	40	15	116	Halverson	66
1957	130	46	13	124	Halverson	60
1958	107	53	15	134	Halverson	73
1959	99	50	21	100	Halverson	69
1960	99	43	42	138	Halverson	50
1961	0	0	0	411	Halverson	43
1962	0	12	0	237	Halverson	0
1963	0	25	0	76	Halverson	15
1964	0	0	0	40	Halverson	0
1965	0	0	0	111	Halverson	0
1966	0	0	0	79	Halverson	0
1967	8	6	0	151	Halverson	61
1968	16	0	0	80	Halverson	0
1969	6	0	0	68	Halverson	0
1970	11	12	0	30	Halverson	75
1971	10	21	0	19	Halverson	0
1972	12	10	0	42	Halverson	0
1973	13	16	0	32	Halverson	0
1974	0	8	30	61	Halverson	30
1975	128	15	136	166	Halverson	45
1976	46	0	47	53	Halverson	111
1977	0	0	24	32	Halverson	0
1978	0	3	20	0	Halverson	30
1979	10	8	28	48	Halverson	0
1980	0	15	20	231	Halverson	sold to hamilton
1981	0	0	15	192	Halverson	
1982	0	0	17	239	Max siddoway	
1983	36	7	41	91	Max siddoway	
1984	94	26	29	195	Max siddoway	
1985	28	0	48	194	Max siddoway	
1986	36	0	30	264	Max siddoway	
1987	40	6	38	150	Max siddoway	
1988	16	0	30	50	Max siddoway	
1989	40	0	18	107	Max siddoway	
1990	46	29	24	33	Max siddoway	
1991	56	44	0	54	Max siddoway	
11-7-2000						
DATE SIGNED			Gregory A. Shenton - Water Master			

The foregoing is a true and certified copy of the document on file at the department of Water Resources.

Signed this 30th day of Aug 2002
D. de Tullio

Signed this 30th day of Aug, 2002

D. de Tilly

Water Problem in Kilgore

A 1893 water decree is causing the problem, together with its related or implied Targeste.

This water right first belonged to Jensen, then passed on to Sherman Halverson with the sale of that property. In turn the property was sold to Harold and May Siddaway in 1981.

A parcel of land of this property also has a 1895 water right.

During Sherman Halverson's tenure of ownership in a new headgate was installed in East Caman Creek, for the delivery of water to Joe Kretwell, David Nirschi, and K. L. Bennett whose point of diversion it was for their decrees.

Joe Kretwell - May 1, 1896 .6

David Nirschi - June 1, 1891 .7

K. L. Bennett - June 1, 1891 1.1

June 1, 1895 1.5

This point of diversion is up in the McCormick Estate property. At the time the new headgate was put in Sherman did not wish to have anything to do with it. The project was cost shared by Kretwell, Nirschi, Bennett and the ASCS.

November 9, 2000

To Whom It May Concern:

My name is Kyle Downs and I live in Terreton, Idaho. It has been brought to my attention that on the property owned by Max Siddoway in Kilgore the existing water right and point of diversion have been brought into question.

For your information, in 1959 I was employed by the Soil Conservation Service as a conservation technician. At that time the owner of the property was Sherman Halverson. He had contacted our office to assist him in installing structures on a ditch north of his house. He had been irrigating from the ditch that came from East Camas through the McCormick place. I noticed at that time that he had checked-up the low spots along the ditch and had been irrigating the land adjacent to it out of both sides. This piece of land had been irrigated for many years from this ditch. If there are any questions concerning this matter please feel free to call me. Thank you.

Blaine Kyle Downs

Blaine Kyle Downs

The foregoing is a true and certified copy of the document on file at the department of Water Resources.

Signed this 30th day of Aug 2002

[Signature]

*Janisha Smith
Burley Idaho
Notary
02-02-02*

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Department of Water Resources
Eastern Region

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11/27/2000

~~PREPARE BUDGET & PREPARE LEGISLATION
LEGISLATION DATE JULY
BUDGET CAREY, AUG
68,000 replacement capital outlay
Employee salary increased
Pay for performance July 1.
July - well drilled positions to
Southern and Western
We are going to have to have
better job on public education
water right belonged to Sherm
Hufnagel - land bought by Siddaway
& Hamilton 320 total Max 240
Hamilton 80.
Legal pd not identified. Water
right split, Cakes creek
Water to be transferred. Existing
ditch owned by Hirschling, Hamilton
waterway for has included water
for past 9 years.~~

Concern came when water was to be
used on west side of Warm Creek.

ISSUES:

1. WAS RIGHT FORFEITED?
2. WHAT IS SOURCE
3. WHAT IS PD
4. CAN NEW GROUND BE IRRIGATED UNDER

THESE PROBABLY NEED TO BE FIELD
REVIEW

WHAT IS THE SOLUTION UNTIL
ADJUDICATION IS COMPLETED?
Concern of Hufnagel & Frederickson
is flowing water to new land.

Is water right valid?
WHERE DO WE DELIVER IT?
WHAT SOURCE DOES IT COME FROM?

See Knutson originally alluded
Hamilton & Siddaway to use ditch
FOR PURPOSE OF GETTING ALONG FLOW
Siddaway will not flow water
across to new ground
Preserved everybody's rights
to objection at adjudication.
With a flow use of diversion
Knutson would agree if 1893
is not considered.
Proposals:

1. Stay w/ 60 ACRES
2. TURN OVER TO IDWR TO MAKE
DECISION.

3. RATION?

53 1893
31-00053, 00054, 00055

~~KNUTSON DITCH ISSUES.~~
NOTES FROM Ron Carlson's
Denny - Peterson Nov. 27, 00
JHR

The foregoing is a true and certified copy of
the document on file at the department of
Water Resources
Signed this 30th day of Aug 2002
Denny Peterson

Kilgore, Idaho
October 19, 1989

The foregoing is a true and certified copy of
the document ~~file~~ at the department of
Water Resources.

Signed this 30th day of Aug 2002

Dee T. Tully

TO: Jack Hamilton
Harold Siddoway

As of this notice you are informed that you can no longer use our
water diversion located in Section 32 on East Camas.

Watermaster, Don Shenton, has been notified to not deliver any
water to you from said diversion located on the Mc Cormick
property in the NW1/4 of Section 32, Township 13N, Range 39E,
Clark County, Idaho.

M. L. Bennett
Joe S. Knutwell
David Horzchi

Water District #31

Box 33
Dubois, Idaho 83423
(208) 374-5230

Donald W. Shenton
Watermaster

July 23, 1992

Mrs. K.L. Bennett
Dubois, ID 83423

RE: East Camas Water Right

Dear Mrs. Bennett,

In answer to your letter dated July 9, I will try to explain the happenings as I have found in my records and by my best recollection as to why the record indicates what it does.

First, I have no knowledge of ever delivering water to Mr. Sherman Halverson from East Camas Creek sources at the mentioned Knotwell, Hirshi, Bennett Diversion.

I must inform you however, that after a search of the records that water right #29 which is the water right of contention, the water has been delivered every year except 1978 as far back as I reviewed the records to 1955.

However this water delivery was made to Mr. Halverson through one or the other three of Mr. Halverson's Ching Creek Points of Diversion. Up until 1982 I did not know that Right #29 was claimed to be an East Camas Creek Source until Mr. Siddoway made request for delivery at the point of diversion of contention. Mr. Halverson had on occasion told me he had the right to use water from East Camas or Ching Creek at any point of diversion that he so wished, however he did not have evidence to confirm his statements.

The biggest problem with defining the source is that the decree states the source to be Camas Creek but the water had been delivered by my predecessors from Ching Creek. Mr. Halverson told me on occasion that the original source was Warm Creek. I made the deliveries through Ching Creek mostly because that is the way it was historically done and was accepted as such by the users on Ching Creek. The decree is very vague on source of water and the point of diversion as you will note.

There were no deliveries of water from Right #29 in 1981, but since that time deliveries have been made from East Camas Creek from Right #29 to Siddoway and Hamilton.

Hoping this will answer your request.

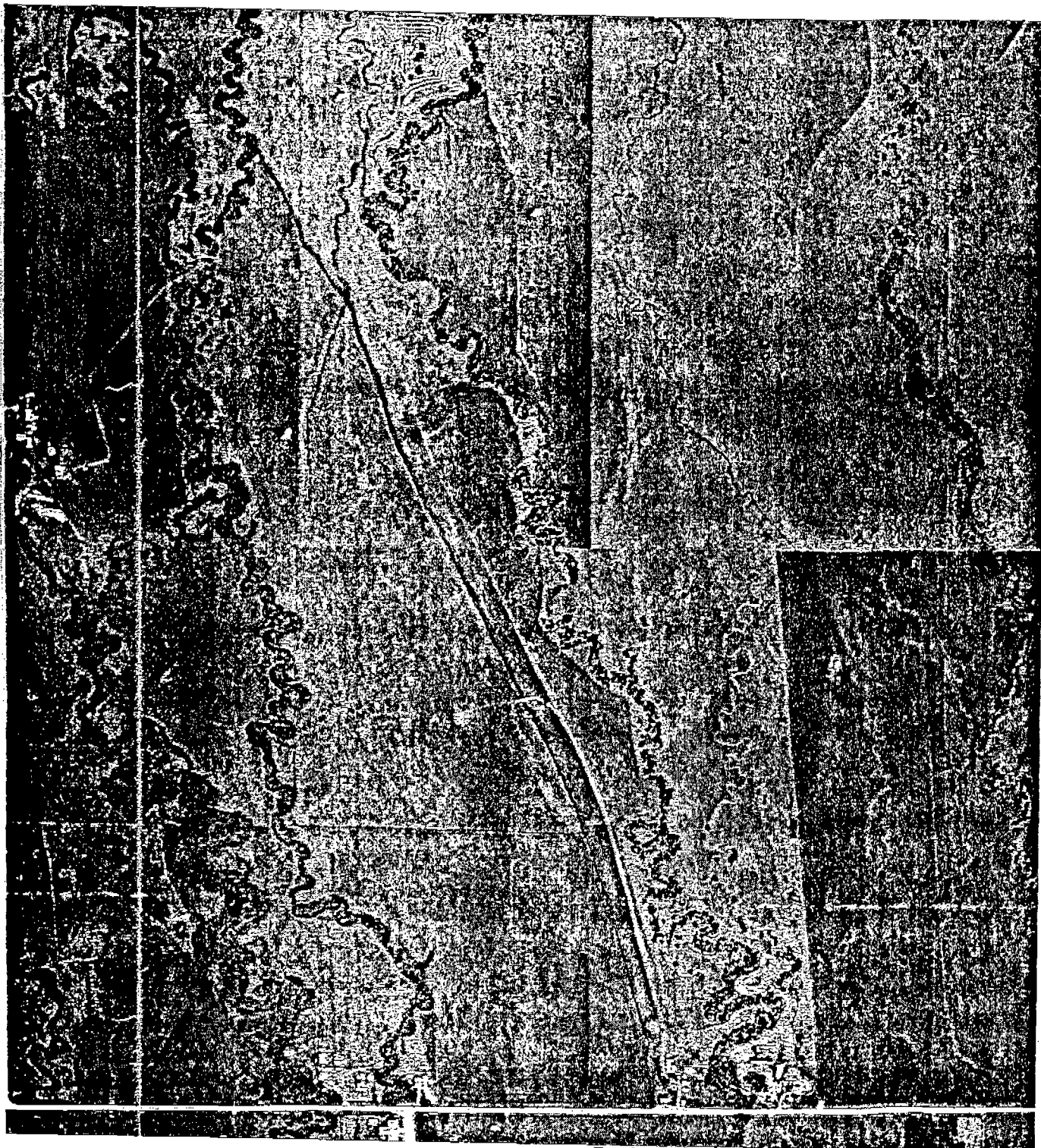
Sincerely,

Donald W. Shenton
Donald W. Shenton
Watermaster

The foregoing is a true and certified copy of the document on file at the department of Water Resources.

Signed this 30th day of Aug 2002
[Signature]

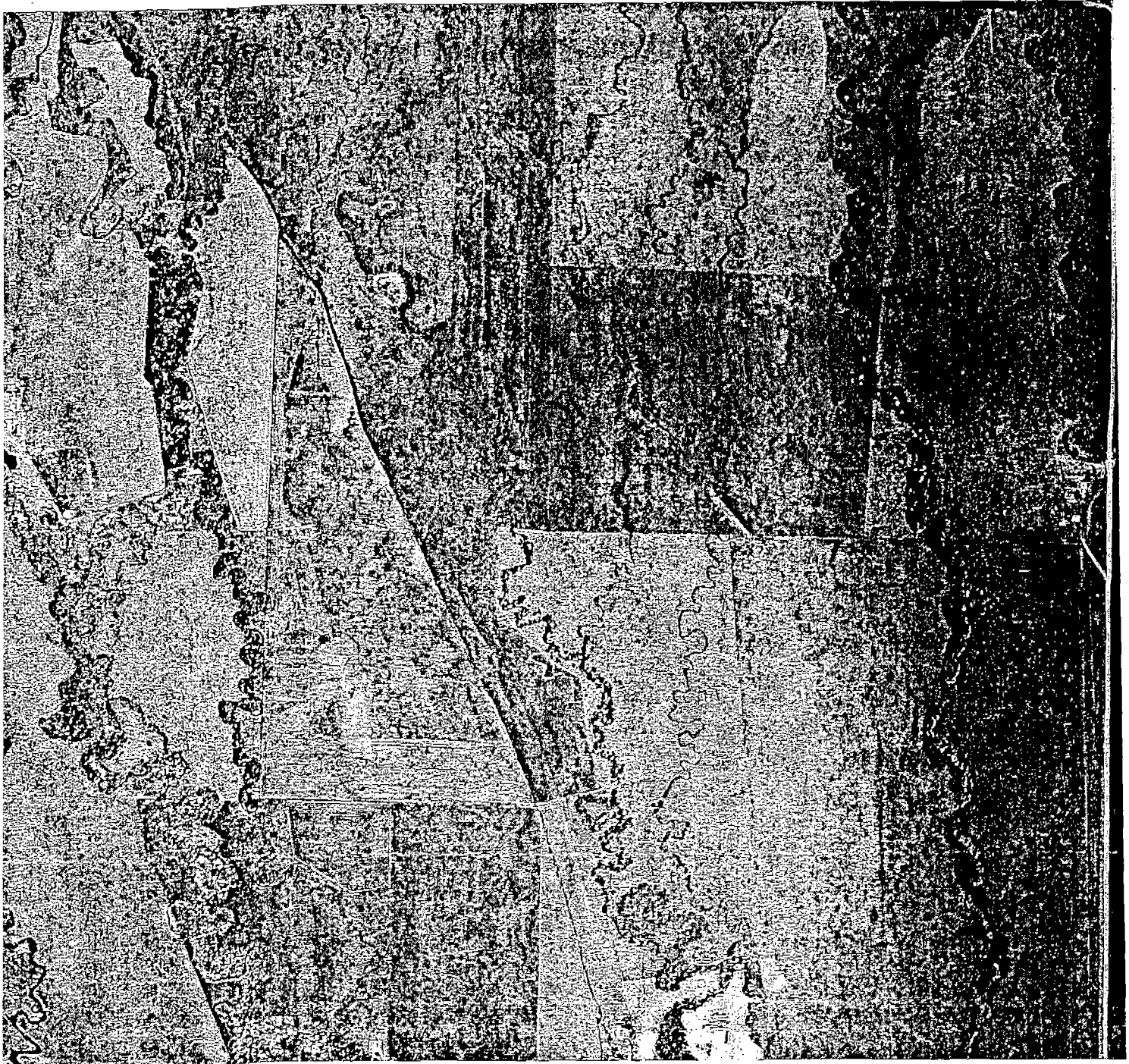
1951



The foregoing is a true and correct copy of
the document on file at the department of
Water Resources.

Signed by 30th day of Aug 2002
J. E. Tuttle

1960



The foregoing is a true and certified copy of
the document on file at the department of
Water Resources.

Signed this 30th day of Aug, 2002
D. R. T. Hall

the document on file at the department of
Water Resources.

Signed this 30th day of April, 2002

1966

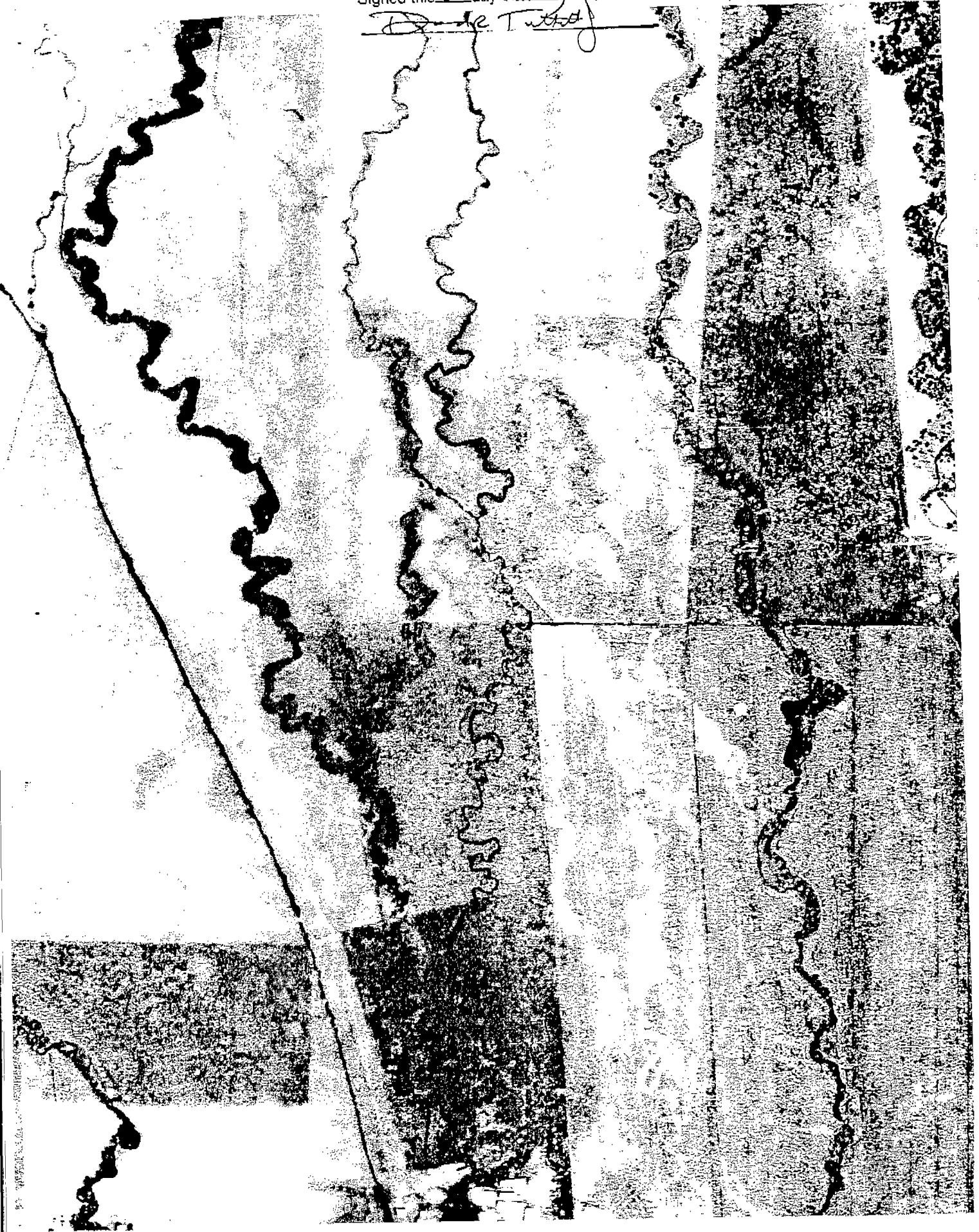


the foregoing is a true and correct copy of
the document on file at the department of
Water Resources.

Signed this 30th day of Aug 20 02

De T...

1971

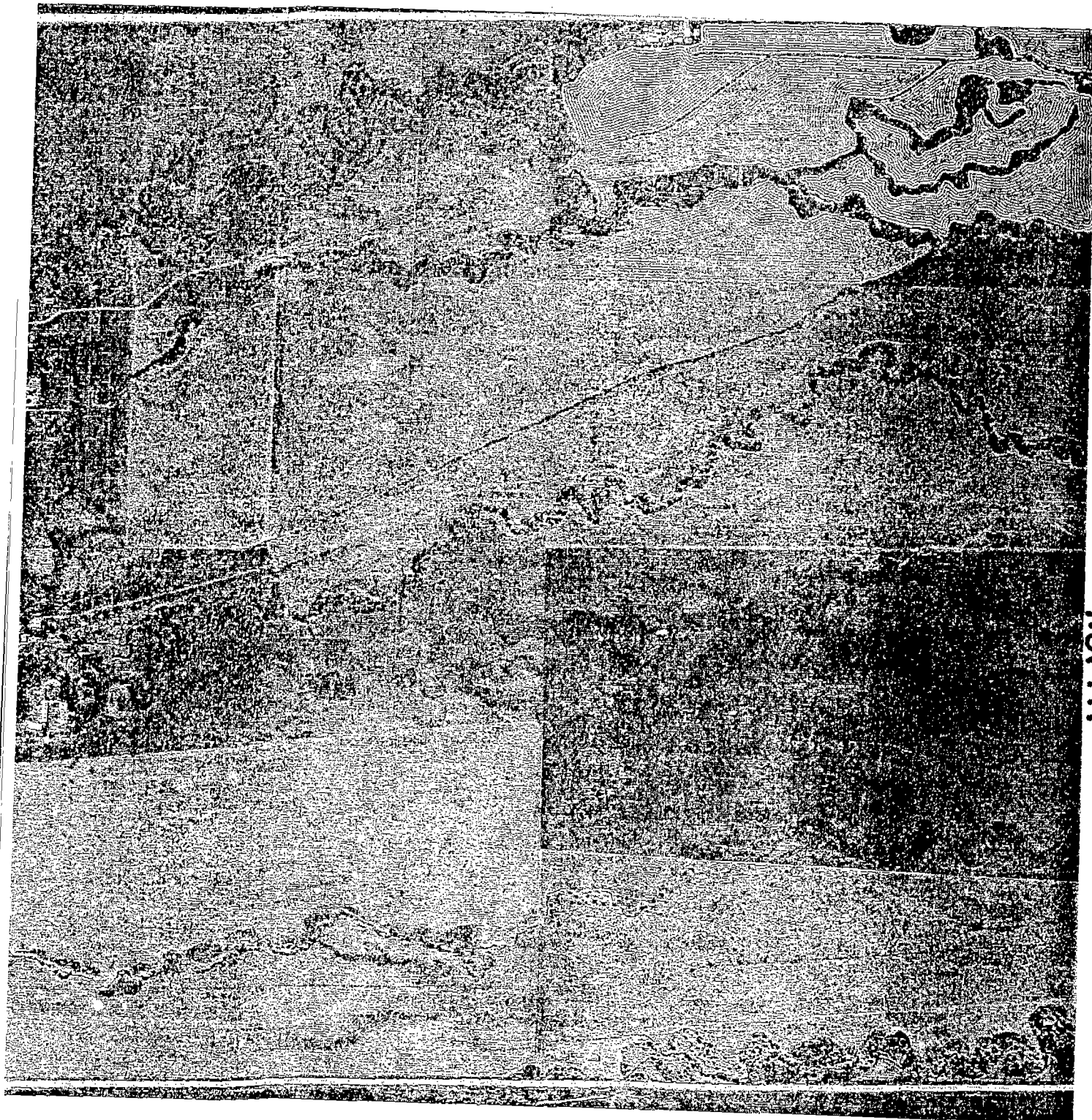


The foregoing is a true and certified copy of
the document on file at the department of
Water Resources.

1978

Signed this 30th day of Aug, 2002

D. R. Tucker



North

The foregoing is a true and correct copy of
the document on file at the department of
Water Resources.

Signed this 30 day of Aug 2002
[Signature]

1987

29/28
32/33

532
177

32/33

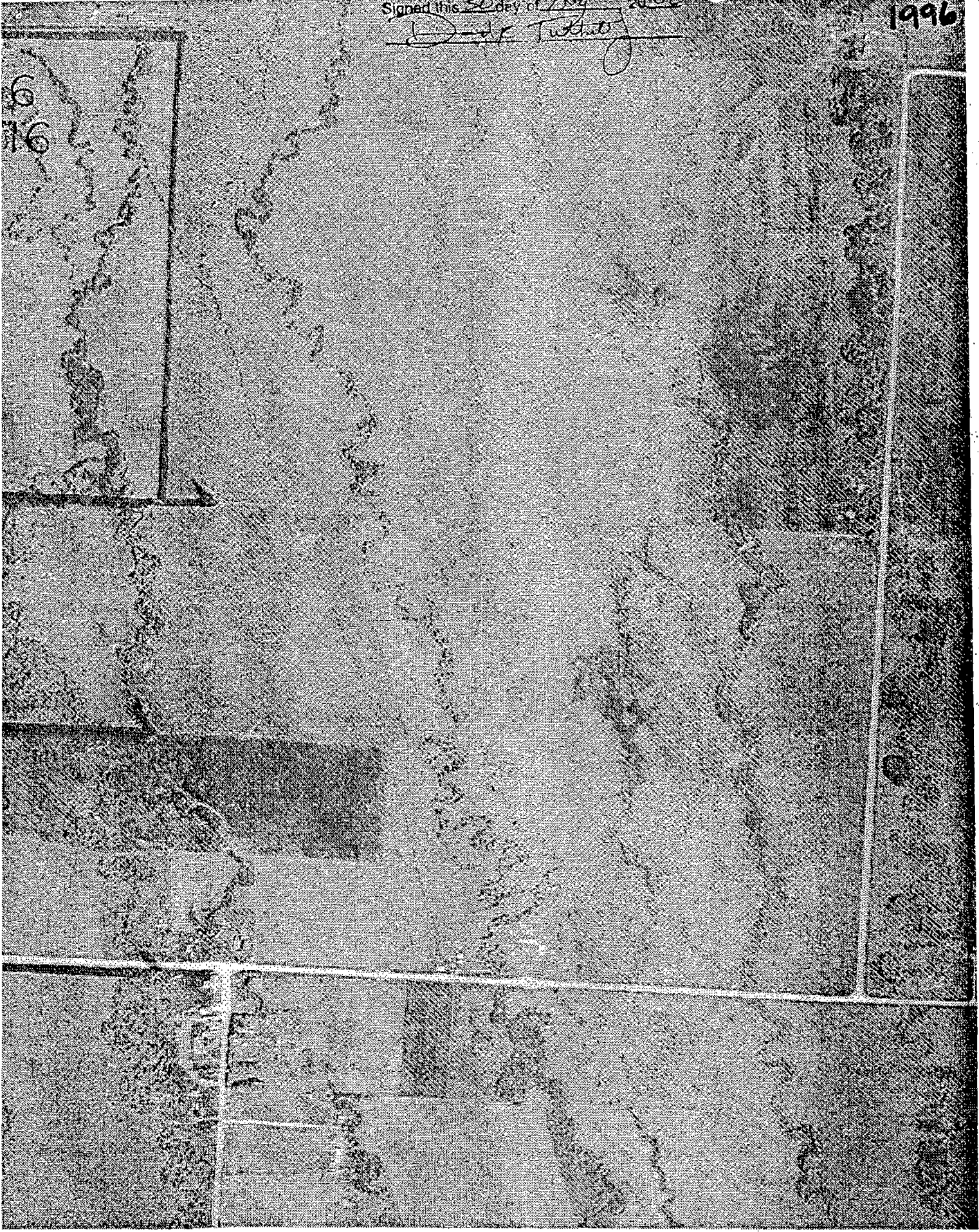
65
32

The foregoing is a true and correct copy of
the document on file at the department of
Water Resources.

Signed this 30 day of Aug 20 02

J. D. Tuttle

1996



6
16

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF SNAKE RIVER
BASIN ADJUDICATION CLAIM NOS.
31-00022, 31-00023, 31-00053A,
31-00053B, 31-00054A, 31-00054B,
31-00055A, 31-00055B, 31-00088,
31-00115,

AFFIDAVIT OF
DAVID JUNIOR HIRSCHI

STATE OF IDAHO

COUNTY OF JEFFERSON

)
:
ss.
)

DAVID JUNIOR HIRSCHI, being first duly sworn, deposes and says:

1. I am an individual over the age of 21 years and I reside at 1749 East 100 North, Rexburg, Idaho 83440. I have personal knowledge of the information set forth in this affidavit.
2. I am familiar with the land leveled in approximately 1977, by Sherman Halverson, who then owned the parcel in section 32, township 13 north, range 39 east, through which the Knotwell/Hirschi/Bennett ditch runs after leaving the point of diversion of East Carnas Creek.
3. After the land was leveled, Mr. Halverson acquired a sprinkler irrigation system to sprinkle the newly-leveled parcel. He obtained water for the sprinkling system by pumping from Warm Creek at a location near the current residence of Max Siddoway, where there was a deep hole in the creek that provided an adequate supply of water for the high-volume pump that he used. I particularly remember this hole in Warm Creek, because for several years, Mr. Halverson, as well as my father and others in the neighborhood, backed our wooden wheeled wagons into the hole, which was deep enough to cover the wagon wheels, in order to soak the wheels to swell the wood and tighten the spokes and rim.

The foregoing is a true and certified copy of
the document on file at the department of
Water Resources.

Signed this 30th day of Aug, 2002
David T. Hirsch

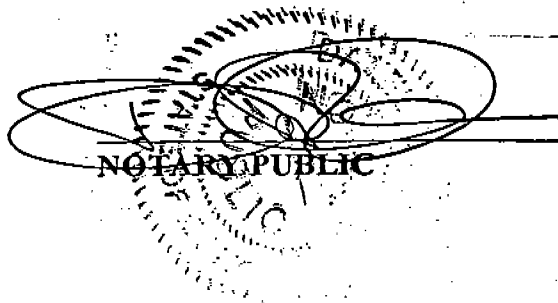
4. At no time was any excavation made in the Knotwell/Hirschi/Bennett ditch that would have been adequate to supply the volume of water required for the pump to sprinkle irrigate.

DATED this 1 day of Nov, 2000.

David Junior Hirschi
DAVID JUNIOR HIRSCHI

SUBSCRIBED AND SWORN to before me this 1 day of Nov,

2000.



9/5/2005

RECEIVED

NOV 16 2001

Department of Water Resources
Eastern Region

RECEIVED

NOV 13 2001

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 31-00055C

(Insert water right number
From the Objection Form)

**STANDARD FORM 2
RESPONSE TO OBJECTION**

Please print or type the following information:

NAME AND ADDRESS OF PERSON RESPONDING

Name: MAX SIDDOWAY

Address: 2568 East 100 North

Teton, ID 83451

Daytime Phone: (208) 458-4275

Name & Address of Attorney, if any:

Jerry R. Rigby

Rigby, Thatcher, Andrus, Rigby, Kam & Moeller
P.O. Box 250

Rexburg, ID 83440-0250

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

Name: David J. Hirschi

Address: 1749 East 100 North

Rexburg, ID 83440

*Additional Objectors Attached

☒ I am responding to the objections to the following elements. (Please check the appropriate box(es)). * See Summary Explanation to Response

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.

VERIFICATION (Must be Completed)

State of Idaho)
)ss.
County of Madison)

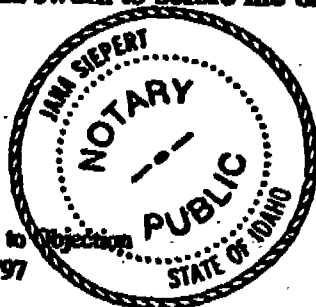
Jerry R. Rigby, duly sworn, upon oath, deposes and says:
(Name of person filing response)

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.

(Signature of person filing response)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: November 7, 2001



Jana Siepert
Notary Public for Idaho

Residing at: Rexburg, ID

My Commission Expires: 03-15-2007

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.

CERTIFICATE OF MAILING

I certify that on November 8, 2001, 199X, 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: Max Siddoway
Address: 2568 East 100 North, Teton, ID 83451

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

Name: See Paragraph C.
Address: Together with Additional Objectors Attached

4. 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 & Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724


Your signature or signature of attorney
mailing on your behalf

Additional Objectors

**The Rocking Question, LLC
c/o 50 West 300 South, Suite 800
Salt Lake City, UT. 84101**

**Joe Knotwell
Dubois, ID. 83423**

**Horace Fredericksen
Kilgore Route
Kilgore, ID. 83423**

**Howard Fredericksen
Kilgore Route
Kilgore, ID. 83423**

Summary Explanation to Response

Claimant's water right, as recommended by the Director's Report, is a valid decreed water right which is fully entitled to its rights in East Camas Creek under the doctrine of the prior appropriation laws of the State of Idaho. Claimant shall present all evidence necessary to refute the Objectors' objections, including, but not limited to, the decrees, historical testimony, Water Master records, historical maps, documents submitted to IDWR at Dubois, Idaho, at the hearing held on October 26, 2000 and finally statutory and case law of the State of Idaho.

RECEIVED

SEP - 5 2001

COPY

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 31-55C

(Insert water right number)

Case 39576

STANDARD FORM 1

OBJECTION

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in a Director's Report. 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 you are objecting to must be indicated above in the blank space following "Subcase." To object to multiple water right recommendations, you must use a separate form for each objection and there must be only one objector for each form.

You must file your objection by the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

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.

Any party physically filing 25 or more objections must contact the Clerk of the SRBA Court no later than 14 days before the filing deadline and arrange an appointment to file multiple objections.

By filing an 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 in the cost of litigation.

I. GENERAL INFORMATION

Please fill in the following information:

1. *Party/Claimant objecting:*

Name: Horace Frederiksen

Address: Kilgore Route

Kilgore ID 83423

Phone: Work: _____ Home: (208) 778-5340

Briefly describe your interest in this water right:

Hold valid prior water right, interest in point of diversion,
and canal to exclusion of any purported right or claim of the
referenced subcase right.

2. *If this objection is filed by an attorney:*

Attorney Name: n/a

Attorney Address: _____

Attorney Phone No.: _____

If filed by an attorney, notice of pending court proceedings will be sent to the attorney only.

II. STATEMENT OF THE OBJECTION

Please check each box which states your objection to the recommendation in the Director's Report.

1. ☐ Name and Address: I object to the name and/or address of the owner of the water right.
2. ☒ Source: I object to the source of water.
3. Quantity: I object to:
 - ☐ a. the total quantity of water used in cubic feet per second; or
 - ☐ b. the total quantity of water stored in acre feet per year; or
 - ☐ c. the total quantity of water reserved for each and every purpose, including all present and future uses.
4. ☐ Priority Date: I object to the priority date.
5. ☒ Point(s) of Diversion: I object to the legal description of the point(s) of diversion.
6. ☐ Instream Flow: I object to the legal description of the beginning and ending points of the instream flow.
7. ☐ Purpose(s) of Use: I object to the purpose(s) of use.
8. ☐ Period of Year: I object to the period of year when water is used or is necessary for the purpose stated.
9. Place of Use: I object to:
 - ☒ a. the legal description of the place of use; or
 - ☐ b. the number of irrigated acres within each 40-acre subdivision.
10. ☐ Consumptive Use: I object to the annual volume of consumptive use.
11. Water Right Recommendation: I object to:
 - ☒ a. this water right being recommended at all; or
 - ☐ b. this water right not being recommended.
12. ☐ Description of Reservation: I object to the legal description of the reservation.

13. ☐ Other: I object to: _____

REASONS SUPPORTING EACH BOX CHECKED

You must state the reason(s), by number, for each box checked. You may use additional pages if necessary.

2 -- See attached.

5 -- See attached.

9a - See attached.

11a- See attached.

CHANGES TO THE DIRECTOR'S REPORT

Specifically describe how you want the Director's Report to be changed. You may use additional pages if necessary.

Void water right in referenced subcase.

Note: You should attach copies of documents which support your objection. Note on each document the box number it supports.

☒ Check here if you are submitting documents. Please list each document by the title and number of pages. You may use additional pages if necessary.

Incorporate by reference all documents previously submitted

to Director at Dubois, Idaho hearing on October 26, 2000.

Will submit additional documents and testimony at hearing.

F.

VERIFICATION (Must be Completed)

State of Idaho)

County of Clark)ss.

Horace D. Frederiksen, 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.

Horace D. Frederiksen
(Signature of person filing objection)

(Attorney signing in representative capacity)

3. Copies to:

Subscribed and sworn to before me on:

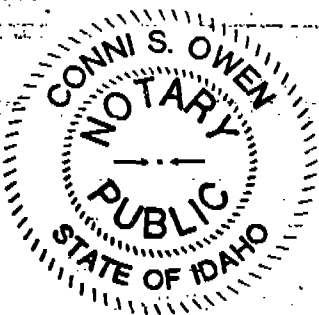
Idaho

Connie A. Owen

Notary Public for Idaho

Residing at: Dubois, ID

My Commission Expires: 1-25-05



- (a) The owner of the Right and his predecessors in interest have not historically used East Camas Creek as the source of irrigation water.
- (b) Any use of water from East Camas Creek by the owner of the Right and his predecessors in interest constituted trespass in which no rights were obtained.
- (c) Any use of water from East Camas Creek was obtained under the action and instructions of the watermaster and did not vest any rights in the owner of the Right by adverse possession or otherwise.
- (d) Any use of water from East Camas Creek was obtained under the action and instructions of the Idaho Department of Water Resources ("IDWR") as an expressly temporary measure pending completion of the Snake River Basin Adjudication based on the representation of the IDWR that such use was temporary and would merely preserve the status quo and not vest any right in the owner of the Rights or impair, prejudice, or otherwise adversely affect the rights of the Party/Claimant. The Party/Claimant reasonably relied on such representations in forbearing from taking unilateral actions to protect its rights.
- (e) Any authorization, consent, or acquiescence to the use of water from East Camas Creek was limited, temporary, and conditional for a single, relatively wet season and did not vest any rights for subsequent seasons in the owner of the Right or his predecessors in interest.
- (f) Any authorization, consent, or acquiescence to the use of water from East Camas Creek by only one of three joint tenant owners of the point of diversion, diversion structure, and distribution ditch was not authorized by, was not on behalf of, and did not bind the other two joint tenants.
- (g) The owner of the Right and his predecessors in interest expressly and repeatedly rejected any participation in costs for the maintenance and improvement of the point of diversion, diversion structure, and distribution ditch necessary for the use of water from East Camas Creek.
- (h) Any beneficial use of water from East Camas Creek by the predecessors in interest of the owners of the Rights has been fully forfeited and abandoned.

- (i) Each and every other reason supported by the evidence to be provided at the hearing or trial.

5. **Point of Diversion:** Party/Claimant objects to the point of diversion for the following reasons:

- (a) The owner of the Right and his predecessors in interest have not historically used this point of diversion as the source of irrigation water.
- (b) Any use or access to the point of diversion and the related distribution ditch by the owner of the Right and his predecessors in interest constituted trespass in which no rights were obtained.
- (c) Any use or access to the point of diversion and the related distribution ditch were obtained under the action and instructions of the watermaster and did not vest any rights in the owner of the Right.
- (d) Any use or access to the point of diversion and the related distribution ditch were obtained under the action and instructions of the Idaho Department of Water Resources ("IDWR") as an expressly temporary measure pending completion of the Snake River Basin Adjudication based on the representation of the IDWR that such use was temporary and would merely preserve the status quo and not vest any right in the owner of the Rights or impair, prejudice, or otherwise adversely affect the rights of the Party/Claimant. The Party/Claimant reasonably relied on such representations in forbearing from taking unilateral actions to protect its rights.
- (e) Any authorization, consent, or acquiescence to the use of or access to the point of diversion and the related distribution ditch were limited, temporary, and conditional for a single, relatively wet season and did not vest any rights for any subsequent season in the owner of the Right or his predecessors in interest.
- (f) Any authorization, consent, or acquiescence to the use of or access to the point of diversion and the related distribution ditch by only one of three joint tenant owners of the point of diversion, diversion structure, and distribution ditch was not authorized by, was not on behalf of, and did not bind the other two joint tenants.
- (g) The owner of the Right and his predecessors in interest expressly and repeatedly rejected any participation in costs for the maintenance and improvement of the point of diversion, diversion structure, and distribution ditch.
- (h) Any claim or right in the point of diversion, diversion structure, and distribution ditch by the predecessors in interest of the owners of the Rights has been fully forfeited and abandoned.
- (i) Each and every other reason supported by the evidence to be provided at the hearing or trial.

9. **Place of Use:** Party/Claimant objects to the legal description of the place of use for the following reasons:

- (a) The foregoing reasons are incorporated herein by reference to the extent that the place of use is dependent on the source and point of diversion specified in the right.

11.a. **Water Right Recommendation:** Party/Claimant objects to this water right being recommended for all of the reasons set forth above, which are incorporated herein by reference.

RECEIVED

SEP - 5 2001

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	31-55C
	)		(Insert water right number)
Case 39576	)		
	)	STANDARD FORM 1	
	)		
_____	)	OBJECTION	

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in a Director's Report. 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 you are objecting to must be indicated above in the blank space following "Subcase." To object to multiple water right recommendations, you must use a separate form for each objection and there must be only one objector for each form.

You must file your objection by the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

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.

Any party physically filing 25 or more objections must contact the Clerk of the SRBA Court no later than 14 days before the filing deadline and arrange an appointment to file multiple objections.

By filing an 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 in the cost of litigation.

I. GENERAL INFORMATION

Please fill in the following information:

1. *Party/Claimant objecting:*

Name: Howard Frederiksen

Address: Kilgore Route
Kilgore, ID 83423

Phone: Work: _____ Home: (208) 778-5332

Briefly describe your interest in this water right:

Hold valid prior water right, interest in point of diversion,
and canal to exclusion of any purported right or claim of the
referenced subcase right.

2. *If this objection is filed by an attorney:*

Attorney Name: n/a

Attorney Address: _____

Attorney Phone No.: _____

If filed by an attorney, notice of pending court proceedings will be sent to the attorney only.

II. STATEMENT OF THE OBJECTION

Please check each box which states your objection to the recommendation in the Director's Report.

1. ☐ Name and Address: I object to the name and/or address of the owner of the water right.
2. ☒ Source: I object to the source of water.
3. Quantity: I object to:
 - ☐ a. the total quantity of water used in cubic feet per second; or
 - ☐ b. the total quantity of water stored in acre feet per year; or
 - ☐ c. the total quantity of water reserved for each and every purpose, including all present and future uses.
4. ☐ Priority Date: I object to the priority date.
5. ☒ Point(s) of Diversion: I object to the legal description of the point(s) of diversion.
6. ☐ Instream Flow: I object to the legal description of the beginning and ending points of the instream flow.
7. ☐ Purpose(s) of Use: I object to the purpose(s) of use.
8. ☐ Period of Year: I object to the period of year when water is used or is necessary for the purpose stated.
9. Place of Use: I object to:
 - ☒ a. the legal description of the place of use; or
 - ☐ b. the number of irrigated acres within each 40-acre subdivision.
10. ☐ Consumptive Use: I object to the annual volume of consumptive use.
11. Water Right Recommendation: I object to:
 - ☒ a. this water right being recommended at all; or
 - ☐ b. this water right not being recommended.
12. ☐ Description of Reservation: I object to the legal description of the reservation.

13. ☐ Other: I object to: _____

REASONS SUPPORTING EACH BOX CHECKED

You must state the reason(s), by number, for each box checked. You may use additional pages if necessary.

2 -- See attached.
5 -- See attached.
9a - See attached.
11a- See attached.

CHANGES TO THE DIRECTOR'S REPORT

Specifically describe how you want the Director's Report to be changed. You may use additional pages if necessary.

Void water right in referenced subcase.

Note: You should attach copies of documents which support your objection. Note on each document the box number it supports.

☒ Check here if you are submitting documents. Please list each document by the title and number of pages. You may use additional pages if necessary.

Incorporate by reference all documents previously submitted
to Director at Dubois, Idaho hearing on October 26, 2000.
Will submit additional documents and testimony at hearing.

F.

VERIFICATION (Must be Completed)

State of Idaho)
County of Clack)ss.

HOWARD E. FREDERIKSEN, 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.

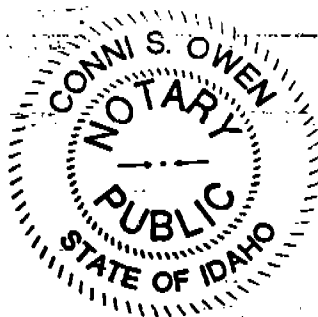
Howard E. Frederiksen
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

August 28, 2001

Conni S. Owen
Notary Public for Idaho
Residing at: Dubois, ID
My Commission Expires: 1-25-2005



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 39576

Subcase no. _____

STANDARD FORM 1

OBJECTION

REASONS SUPPORTING EACH BOX CHECKED

The Party/Claimant sets forth the following reasons supporting the objection to the recommendation of the Director's Report respecting the water right referenced by the referenced subcase right number (the "Right"):

2. **Source:** Party/Claimant objects to the source of the water on the following reasons:
- (a) The owner of the Right and his predecessors in interest have not historically used East Camas Creek as the source of irrigation water.
 - (b) Any use of water from East Camas Creek by the owner of the Right and his predecessors in interest constituted trespass in which no rights were obtained.
 - (c) Any use of water from East Camas Creek was obtained under the action and instructions of the watermaster and did not vest any rights in the owner of the Right by adverse possession or otherwise.
 - (d) Any use of water from East Camas Creek was obtained under the action and instructions of the Idaho Department of Water Resources ("IDWR") as an expressly temporary measure pending completion of the Snake River Basin Adjudication based on the representation of the IDWR that such use was temporary and would merely preserve the status quo and not vest any right in the owner of the Rights or impair, prejudice, or otherwise adversely affect the rights of the Party/Claimant. The Party/Claimant reasonably relied on such representations in forbearing from taking unilateral actions to protect its rights.
 - (e) Any authorization, consent, or acquiescence to the use of water from East Camas Creek was limited, temporary, and conditional for a single, relatively wet season and did not vest any rights for subsequent seasons in the owner of the Right or his predecessors in interest.
 - (f) Any authorization, consent, or acquiescence to the use of water from East Camas Creek by only one of three joint tenant owners of the point of diversion, diversion structure, and distribution ditch was not authorized by, was not on behalf of, and did not bind the other two joint tenants.
 - (g) The owner of the Right and his predecessors in interest expressly and repeatedly rejected any participation in costs for the maintenance and improvement of the point of diversion, diversion structure, and distribution ditch necessary for the use of water from East Camas Creek.
 - (h) Any beneficial use of water from East Camas Creek by the predecessors in interest of the owners of the Rights has been fully forfeited and abandoned.

- (i) Each and every other reason supported by the evidence to be provided at the hearing or trial.

5. **Point of Diversion:** Party/Claimant objects to the point of diversion for the following reasons:

- (a) The owner of the Right and his predecessors in interest have not historically used this point of diversion as the source of irrigation water.
- (b) Any use or access to the point of diversion and the related distribution ditch by the owner of the Right and his predecessors in interest constituted trespass in which no rights were obtained.
- (c) Any use or access to the point of diversion and the related distribution ditch were obtained under the action and instructions of the watermaster and did not vest any rights in the owner of the Right.
- (d) Any use or access to the point of diversion and the related distribution ditch were obtained under the action and instructions of the Idaho Department of Water Resources ("IDWR") as an expressly temporary measure pending completion of the Snake River Basin Adjudication based on the representation of the IDWR that such use was temporary and would merely preserve the status quo and not vest any right in the owner of the Rights or impair, prejudice, or otherwise adversely affect the rights of the Party/Claimant. The Party/Claimant reasonably relied on such representations in forbearing from taking unilateral actions to protect its rights.
- (e) Any authorization, consent, or acquiescence to the use of or access to the point of diversion and the related distribution ditch were limited, temporary, and conditional for a single, relatively wet season and did not vest any rights for any subsequent season in the owner of the Right or his predecessors in interest.
- (f) Any authorization, consent, or acquiescence to the use of or access to the point of diversion and the related distribution ditch by only one of three joint tenant owners of the point of diversion, diversion structure, and distribution ditch was not authorized by, was not on behalf of, and did not bind the other two joint tenants.
- (g) The owner of the Right and his predecessors in interest expressly and repeatedly rejected any participation in costs for the maintenance and improvement of the point of diversion, diversion structure, and distribution ditch.
- (h) Any claim or right in the point of diversion, diversion structure, and distribution ditch by the predecessors in interest of the owners of the Rights has been fully forfeited and abandoned.
- (i) Each and every other reason supported by the evidence to be provided at the hearing or trial.

9. **Place of Use:** Party/Claimant objects to the legal description of the place of use for the following reasons:

- (a) The foregoing reasons are incorporated herein by reference to the extent that the place of use is dependent on the source and point of diversion specified in the right.

11.a. **Water Right Recommendation:** Party/Claimant objects to this water right being recommended for all of the reasons set forth above, which are incorporated herein by reference.

RECEIVED

SEP - 5 2001

Department of Water Resources

COPY

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 39576

Subcase 31-55C

(Insert water right number)

STANDARD FORM 1

OBJECTION

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in a Director's Report. 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 you are objecting to must be indicated above in the blank space following "Subcase." To object to multiple water right recommendations, you must use a separate form for each objection and there must be only one objector for each form.

You must file your objection by the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

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.

Any party physically filing 25 or more objections must contact the Clerk of the SRBA Court no later than 14 days before the filing deadline and arrange an appointment to file multiple objections.

By filing an 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 in the cost of litigation.

I. GENERAL INFORMATION

Please fill in the following information:

1. *Party/Claimant objecting:*

Name: Joe Knotwell

Address: Dubois ID 83423

Phone: Work: _____ Home: (208) 374-5218

Briefly describe your interest in this water right:

Hold valid prior water right, interest in point of diversion,

and canal to exclusion of any purported right or claim of the

referenced subcase right.

2. *If this objection is filed by an attorney:*

Attorney Name: n/a

Attorney Address: _____

Attorney Phone No.: _____

If filed by an attorney, notice of pending court proceedings will be sent to the attorney only.

II. STATEMENT OF THE OBJECTION

Please check each box which states your objection to the recommendation in the Director's Report.

1. ☐ Name and Address: I object to the name and/or address of the owner of the water right.
2. ☒ Source: I object to the source of water.
3. Quantity: I object to:
 - ☐ a. the total quantity of water used in cubic feet per second; or
 - ☐ b. the total quantity of water stored in acre feet per year; or
 - ☐ c. the total quantity of water reserved for each and every purpose, including all present and future uses.
4. ☐ Priority Date: I object to the priority date.
5. ☒ Point(s) of Diversion: I object to the legal description of the point(s) of diversion.
6. ☐ Instream Flow: I object to the legal description of the beginning and ending points of the instream flow.
7. ☐ Purpose(s) of Use: I object to the purpose(s) of use.
8. ☐ Period of Year: I object to the period of year when water is used or is necessary for the purpose stated.
9. Place of Use: I object to:
 - ☒ a. the legal description of the place of use; or
 - ☐ b. the number of irrigated acres within each 40-acre subdivision.
10. ☐ Consumptive Use: I object to the annual volume of consumptive use.
11. Water Right Recommendation: I object to:
 - ☒ a. this water right being recommended at all; or
 - ☐ b. this water right not being recommended.
12. ☐ Description of Reservation: I object to the legal description of the reservation.

13. ☐ Other: I object to: _____

REASONS SUPPORTING EACH BOX CHECKED

You must state the reason(s), by number, for each box checked. You may use additional pages if necessary.

2 -- See attached.

5 -- See attached.

9a - See attached.

11a- See attached.

CHANGES TO THE DIRECTOR'S REPORT

Specifically describe how you want the Director's Report to be changed. You may use additional pages if necessary.

Void water right in referenced subcase.

Note: You should attach copies of documents which support your objection. Note on each document the box number it supports.

☒ Check here if you are submitting documents. Please list each document by the title and number of pages. You may use additional pages if necessary.

Incorporate by reference all documents previously submitted

to Director at Dubois, Idaho hearing on October 26, 2000.

Will submit additional documents and testimony at hearing.

F:

VERIFICATION (Must be Completed)

State of Idaho)
County of Clark)ss.

Joe S Knotwell , 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.

Joe S Knotwell
(Signature of person filing objection)

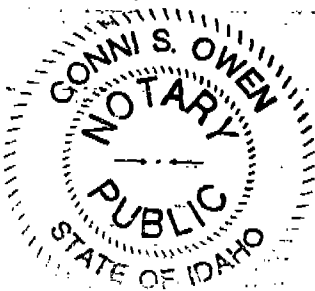
(Attorney signing in representative capacity)

3. Copies to:

Subscribed and sworn to before me on:

August 29, 2001

Conni A. Owen
Notary Public for Idaho
Residing at: Bozoi, ID
My Commission Expires: 1-25-05



INSTRUCTIONS FOR MAILING

You must mail the objection, 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.

CERTIFICATE OF MAILING

I certify that on September 4, ²⁰⁰¹~~2000~~, I mailed the original and copies of this objection, 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. One copy to the claimant of the water right at the following address:

Name: Max Siddoway
Address: 2568 E 100 N
Teton ID 83451

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

Victor Stevens

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 39576

Subcase no. _____

STANDARD FORM 1

OBJECTION

REASONS SUPPORTING EACH BOX CHECKED

The Party/Claimant sets forth the following reasons supporting the objection to the recommendation of the Director's Report respecting the water right referenced by the referenced subcase right number (the "Right"):

2. **Source:** Party/Claimant objects to the source of the water on the following reasons:
- (a) The owner of the Right and his predecessors in interest have not historically used East Camas Creek as the source of irrigation water.
 - (b) Any use of water from East Camas Creek by the owner of the Right and his predecessors in interest constituted trespass in which no rights were obtained.
 - (c) Any use of water from East Camas Creek was obtained under the action and instructions of the watermaster and did not vest any rights in the owner of the Right by adverse possession or otherwise.
 - (d) Any use of water from East Camas Creek was obtained under the action and instructions of the Idaho Department of Water Resources ("IDWR") as an expressly temporary measure pending completion of the Snake River Basin Adjudication based on the representation of the IDWR that such use was temporary and would merely preserve the status quo and not vest any right in the owner of the Rights or impair, prejudice, or otherwise adversely affect the rights of the Party/Claimant. The Party/Claimant reasonably relied on such representations in forbearing from taking unilateral actions to protect its rights.
 - (e) Any authorization, consent, or acquiescence to the use of water from East Camas Creek was limited, temporary, and conditional for a single, relatively wet season and did not vest any rights for subsequent seasons in the owner of the Right or his predecessors in interest.
 - (f) Any authorization, consent, or acquiescence to the use of water from East Camas Creek by only one of three joint tenant owners of the point of diversion, diversion structure, and distribution ditch was not authorized by, was not on behalf of, and did not bind the other two joint tenants.
 - (g) The owner of the Right and his predecessors in interest expressly and repeatedly rejected any participation in costs for the maintenance and improvement of the point of diversion, diversion structure, and distribution ditch necessary for the use of water from East Camas Creek.
 - (h) Any beneficial use of water from East Camas Creek by the predecessors in interest of the owners of the Rights has been fully forfeited and abandoned.

- (i) Each and every other reason supported by the evidence to be provided at the hearing or trial.

5. **Point of Diversion:** Party/Claimant objects to the point of diversion for the following reasons:

- (a) The owner of the Right and his predecessors in interest have not historically used this point of diversion as the source of irrigation water.
- (b) Any use or access to the point of diversion and the related distribution ditch by the owner of the Right and his predecessors in interest constituted trespass in which no rights were obtained.
- (c) Any use or access to the point of diversion and the related distribution ditch were obtained under the action and instructions of the watermaster and did not vest any rights in the owner of the Right.
- (d) Any use or access to the point of diversion and the related distribution ditch were obtained under the action and instructions of the Idaho Department of Water Resources ("IDWR") as an expressly temporary measure pending completion of the Snake River Basin Adjudication based on the representation of the IDWR that such use was temporary and would merely preserve the status quo and not vest any right in the owner of the Rights or impair, prejudice, or otherwise adversely affect the rights of the Party/Claimant. The Party/Claimant reasonably relied on such representations in forbearing from taking unilateral actions to protect its rights.
- (e) Any authorization, consent, or acquiescence to the use of or access to the point of diversion and the related distribution ditch were limited, temporary, and conditional for a single, relatively wet season and did not vest any rights for any subsequent season in the owner of the Right or his predecessors in interest.
- (f) Any authorization, consent, or acquiescence to the use of or access to the point of diversion and the related distribution ditch by only one of three joint tenant owners of the point of diversion, diversion structure, and distribution ditch was not authorized by, was not on behalf of, and did not bind the other two joint tenants.
- (g) The owner of the Right and his predecessors in interest expressly and repeatedly rejected any participation in costs for the maintenance and improvement of the point of diversion, diversion structure, and distribution ditch.
- (h) Any claim or right in the point of diversion, diversion structure, and distribution ditch by the predecessors in interest of the owners of the Rights has been fully forfeited and abandoned.
- (i) Each and every other reason supported by the evidence to be provided at the hearing or trial.

9. **Place of Use:** Party/Claimant objects to the legal description of the place of use for the following reasons:

- (a) The foregoing reasons are incorporated herein by reference to the extent that the place of use is dependent on the source and point of diversion specified in the right.

11.a. **Water Right Recommendation:** Party/Claimant objects to this water right being recommended for all of the reasons set forth above, which are incorporated herein by reference.

RECEIVED

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Department of Water Resources

COPY

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	31-55C
	)		(Insert water right number)
Case 39576	)		
	)	STANDARD FORM 1	
	)		
	)	OBJECTION	

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in a Director's Report. 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 you are objecting to must be indicated above in the blank space following "Subcase." To object to multiple water right recommendations, you must use a separate form for each objection and there must be only one objector for each form.

You must file your objection by the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

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.

Any party physically filing 25 or more objections must contact the Clerk of the SRBA Court no later than 14 days before the filing deadline and arrange an appointment to file multiple objections.

By filing an 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 in the cost of litigation.

I. GENERAL INFORMATION

Please fill in the following information:

1. *Party/Claimant objecting:*

Name: David J. Hirschi

Address: 1749 East 100 North

Rexburg ID 83440

Phone: Work: _____ Home: 356-5279

Briefly describe your interest in this water right:

Hold valid prior water right, interest in point of diversion,

and canal to exclusion of any purported right or claim of the

referenced subcase right.

2. *If this objection is filed by an attorney:*

Attorney Name: n/a

Attorney Address: _____

Attorney Phone No.: _____

If filed by an attorney, notice of pending court proceedings will be sent to the attorney only.

II. STATEMENT OF THE OBJECTION

Please check each box which states your objection to the recommendation in the Director's Report.

1. ☐ Name and Address: I object to the name and/or address of the owner of the water right.
2. ☒ Source: I object to the source of water.
3. Quantity: I object to:
 - ☐ a. the total quantity of water used in cubic feet per second; or
 - ☐ b. the total quantity of water stored in acre feet per year; or
 - ☐ c. the total quantity of water reserved for each and every purpose, including all present and future uses.
4. ☐ Priority Date: I object to the priority date.
5. ☒ Point(s) of Diversion: I object to the legal description of the point(s) of diversion.
6. ☐ Instream Flow: I object to the legal description of the beginning and ending points of the instream flow.
7. ☐ Purpose(s) of Use: I object to the purpose(s) of use.
8. ☐ Period of Year: I object to the period of year when water is used or is necessary for the purpose stated.
9. Place of Use: I object to:
 - ☒ a. the legal description of the place of use; or
 - ☐ b. the number of irrigated acres within each 40-acre subdivision.
10. ☐ Consumptive Use: I object to the annual volume of consumptive use.
11. Water Right Recommendation: I object to:
 - ☒ a. this water right being recommended at all; or
 - ☐ b. this water right not being recommended.
12. ☐ Description of Reservation: I object to the legal description of the reservation.

13. ☐ Other: I object to: _____

REASONS SUPPORTING EACH BOX CHECKED

You must state the reason(s), by number, for each box checked. You may use additional pages if necessary.

2 -- See attached.
5 -- See attached.
9a - See attached.
11a- See attached.

CHANGES TO THE DIRECTOR'S REPORT

Specifically describe how you want the Director's Report to be changed. You may use additional pages if necessary.

Void water right in referenced subcase.

Note: You should attach copies of documents which support your objection. Note on each document the box number it supports.

☒ Check here if you are submitting documents. Please list each document by the title and number of pages. You may use additional pages if necessary.

Incorporate by reference all documents previously submitted
to Director at Dubois, Idaho hearing on October 26, 2000.
Will submit additional documents and testimony at hearing.

VERIFICATION (Must be Completed)

State of Idaho

County of Clark

David J. Hirschi, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection (as listed on Page 2, Section 1, "Party/Claimant objecting") as defined by I.C. §§ 42-1401A(1) and (7) 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.

David J. Hirschi
Signature of person filing objection

Attorney signing in representative capacity

Subscribed and sworn to before me on: _____

Notary Public for _____
Residing at: _____
My Commission expires: _____

INSTRUCTIONS FOR MAILING

You must mail the objection, 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.

CERTIFICATE OF MAILING

I certify that on 9-4, ²⁰⁰¹~~1999~~, I mailed the original and copies of this objection, 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. One copy to the claimant of the water right at the following address:

Name:	<u>Max Siddoway</u>
Address:	<u>2568 E 100 N</u>
	<u>Teton ID 83451</u>

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

- (a) The owner of the Right and his predecessors in interest have not historically used East Camas Creek as the source of irrigation water.
- (b) Any use of water from East Camas Creek by the owner of the Right and his predecessors in interest constituted trespass in which no rights were obtained.
- (c) Any use of water from East Camas Creek was obtained under the action and instructions of the watermaster and did not vest any rights in the owner of the Right by adverse possession or otherwise.
- (d) Any use of water from East Camas Creek was obtained under the action and instructions of the Idaho Department of Water Resources ("IDWR") as an expressly temporary measure pending completion of the Snake River Basin Adjudication based on the representation of the IDWR that such use was temporary and would merely preserve the status quo and not vest any right in the owner of the Rights or impair, prejudice, or otherwise adversely affect the rights of the Party/Claimant. The Party/Claimant reasonably relied on such representations in forbearing from taking unilateral actions to protect its rights.
- (e) Any authorization, consent, or acquiescence to the use of water from East Camas Creek was limited, temporary, and conditional for a single, relatively wet season and did not vest any rights for subsequent seasons in the owner of the Right or his predecessors in interest.
- (f) Any authorization, consent, or acquiescence to the use of water from East Camas Creek by only one of three joint tenant owners of the point of diversion, diversion structure, and distribution ditch was not authorized by, was not on behalf of, and did not bind the other two joint tenants.
- (g) The owner of the Right and his predecessors in interest expressly and repeatedly rejected any participation in costs for the maintenance and improvement of the point of diversion, diversion structure, and distribution ditch necessary for the use of water from East Camas Creek.
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5. **Point of Diversion:** Party/Claimant objects to the point of diversion for the following reasons:

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- (c) Any use or access to the point of diversion and the related distribution ditch were obtained under the action and instructions of the watermaster and did not vest any rights in the owner of the Right.
- (d) Any use or access to the point of diversion and the related distribution ditch were obtained under the action and instructions of the Idaho Department of Water Resources ("IDWR") as an expressly temporary measure pending completion of the Snake River Basin Adjudication based on the representation of the IDWR that such use was temporary and would merely preserve the status quo and not vest any right in the owner of the Rights or impair, prejudice, or otherwise adversely affect the rights of the Party/Claimant. The Party/Claimant reasonably relied on such representations in forbearing from taking unilateral actions to protect its rights.
- (e) Any authorization, consent, or acquiescence to the use of or access to the point of diversion and the related distribution ditch were limited, temporary, and conditional for a single, relatively wet season and did not vest any rights for any subsequent season in the owner of the Right or his predecessors in interest.
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- (g) The owner of the Right and his predecessors in interest expressly and repeatedly rejected any participation in costs for the maintenance and improvement of the point of diversion, diversion structure, and distribution ditch.
- (h) Any claim or right in the point of diversion, diversion structure, and distribution ditch by the predecessors in interest of the owners of the Rights has been fully forfeited and abandoned.
- (i) Each and every other reason supported by the evidence to be provided at the hearing or trial.

9. **Place of Use:** Party/Claimant objects to the legal description of the place of use for the following reasons:

- (a) The foregoing reasons are incorporated herein by reference to the extent that the place of use is dependent on the source and point of diversion specified in the right.

11.a. **Water Right Recommendation:** Party/Claimant objects to this water right being recommended for all of the reasons set forth above, which are incorporated herein by reference.

RECEIVED

SEP - 5 2001

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	31-55C
	)		(Insert water right number)
Case 39576	)		
	)	STANDARD FORM 1	
	)		
	)	OBJECTION	

INSTRUCTIONS

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By filing an 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 in the cost of litigation.

I. GENERAL INFORMATION

Please fill in the following information:

1. *Party/Claimant objecting:*

Name: The Rocking Question LLC

Address: c/o 50 West 300 South, Suite 800

Salt Lake City UT 84101

Phone: Work: (801) 531-7090 Home: (801) 521-5917

Briefly describe your interest in this water right:

Hold valid prior water right, interest in point of diversion,

and canal to exclusion of any purported right or claim of the

referenced subcase right.

2. *If this objection is filed by an attorney:*

Attorney Name: n/a

Attorney Address: _____

Attorney Phone No.: _____

If filed by an attorney, notice of pending court proceedings will be sent to the attorney only.

II. STATEMENT OF THE OBJECTION

Please check each box which states your objection to the recommendation in the Director's Report.

1. ☐ Name and Address: I object to the name and/or address of the owner of the water right.
2. ☒ Source: I object to the source of water.
3. Quantity: I object to:
 - ☐ a. the total quantity of water used in cubic feet per second; or
 - ☐ b. the total quantity of water stored in acre feet per year; or
 - ☐ c. the total quantity of water reserved for each and every purpose, including all present and future uses.
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8. ☐ Period of Year: I object to the period of year when water is used or is necessary for the purpose stated.
9. Place of Use: I object to:
 - ☒ a. the legal description of the place of use; or
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12. ☐ Description of Reservation: I object to the legal description of the reservation.

13. ☐ Other: I object to: _____

REASONS SUPPORTING EACH BOX CHECKED

You must state the reason(s), by number, for each box checked. You may use additional pages if necessary.

2 -- See attached. _____

5 -- See attached. _____

9a - See attached. _____

11a- See attached. _____

CHANGES TO THE DIRECTOR'S REPORT

Specifically describe how you want the Director's Report to be changed. You may use additional pages if necessary.

Void water right in referenced subcase. _____

Note: You should attach copies of documents which support your objection. Note on each document the box number it supports.

- ☒ Check here if you are submitting documents. Please list each document by the title and number of pages. You may use additional pages if necessary.

Incorporate by reference all documents previously submitted

to Director at Dubois, Idaho hearing on October 26, 2000.

Will submit additional documents and testimony at hearing.

VERIFICATION (Must be Completed)

State of Idaho

County of Clark

The Rocking Question L.L.C.

James R. Kruse, Managing Member

, duly sworn, upon oath, deposes and says:

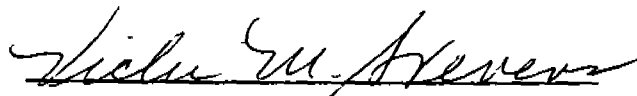
(Name of person filing objection)

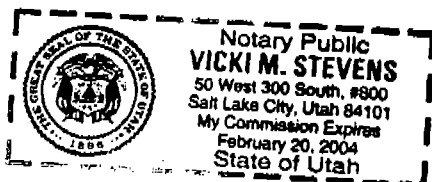
That I am the party/claimant filing this objection (as listed on Page 2, Section 1, "Party/Claimant objecting") as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.


Signature of person filing objection

Attorney signing in representative capacity

Subscribed and sworn to before me on: September 4, 2001





Notary Public for Salt Lake County, UT
Residing at: 5108 W 5360 S
My Commission expires: 02/20/04

INSTRUCTIONS FOR MAILING

You must mail the objection, 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.

CERTIFICATE OF MAILING

I certify that on Sept 4, ²⁰⁰¹~~1999~~, I mailed the original and copies of this objection, 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. One copy to the claimant of the water right at the following address:

Name: Max Siddoway
Address: 2568 E 100 N
Teton ID 83451

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



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 39576

Subcase no. _____

STANDARD FORM 1

OBJECTION

REASONS SUPPORTING EACH BOX CHECKED

The Party/Claimant sets forth the following reasons supporting the objection to the recommendation of the Director's Report respecting the water right referenced by the referenced subcase right number (the "Right"):

2. **Source:** Party/Claimant objects to the source of the water on the following reasons:

- (a) The owner of the Right and his predecessors in interest have not historically used East Camas Creek as the source of irrigation water.
- (b) Any use of water from East Camas Creek by the owner of the Right and his predecessors in interest constituted trespass in which no rights were obtained.
- (c) Any use of water from East Camas Creek was obtained under the action and instructions of the watermaster and did not vest any rights in the owner of the Right by adverse possession or otherwise.
- (d) Any use of water from East Camas Creek was obtained under the action and instructions of the Idaho Department of Water Resources ("IDWR") as an expressly temporary measure pending completion of the Snake River Basin Adjudication based on the representation of the IDWR that such use was temporary and would merely preserve the status quo and not vest any right in the owner of the Rights or impair, prejudice, or otherwise adversely affect the rights of the Party/Claimant. The Party/Claimant reasonably relied on such representations in forbearing from taking unilateral actions to protect its rights.
- (e) Any authorization, consent, or acquiescence to the use of water from East Camas Creek was limited, temporary, and conditional for a single, relatively wet season and did not vest any rights for subsequent seasons in the owner of the Right or his predecessors in interest.
- (f) Any authorization, consent, or acquiescence to the use of water from East Camas Creek by only one of three joint tenant owners of the point of diversion, diversion structure, and distribution ditch was not authorized by, was not on behalf of, and did not bind the other two joint tenants.
- (g) The owner of the Right and his predecessors in interest expressly and repeatedly rejected any participation in costs for the maintenance and improvement of the point of diversion, diversion structure, and distribution ditch necessary for the use of water from East Camas Creek.
- (h) Any beneficial use of water from East Camas Creek by the predecessors in interest of the owners of the Rights has been fully forfeited and abandoned.

- (i) Each and every other reason supported by the evidence to be provided at the hearing or trial.

5. **Point of Diversion:** Party/Claimant objects to the point of diversion for the following reasons:

- (a) The owner of the Right and his predecessors in interest have not historically used this point of diversion as the source of irrigation water.
- (b) Any use or access to the point of diversion and the related distribution ditch by the owner of the Right and his predecessors in interest constituted trespass in which no rights were obtained.
- (c) Any use or access to the point of diversion and the related distribution ditch were obtained under the action and instructions of the watermaster and did not vest any rights in the owner of the Right.
- (d) Any use or access to the point of diversion and the related distribution ditch were obtained under the action and instructions of the Idaho Department of Water Resources ("IDWR") as an expressly temporary measure pending completion of the Snake River Basin Adjudication based on the representation of the IDWR that such use was temporary and would merely preserve the status quo and not vest any right in the owner of the Rights or impair, prejudice, or otherwise adversely affect the rights of the Party/Claimant. The Party/Claimant reasonably relied on such representations in forbearing from taking unilateral actions to protect its rights.
- (e) Any authorization, consent, or acquiescence to the use of or access to the point of diversion and the related distribution ditch were limited, temporary, and conditional for a single, relatively wet season and did not vest any rights for any subsequent season in the owner of the Right or his predecessors in interest.
- (f) Any authorization, consent, or acquiescence to the use of or access to the point of diversion and the related distribution ditch by only one of three joint tenant owners of the point of diversion, diversion structure, and distribution ditch was not authorized by, was not on behalf of, and did not bind the other two joint tenants.
- (g) The owner of the Right and his predecessors in interest expressly and repeatedly rejected any participation in costs for the maintenance and improvement of the point of diversion, diversion structure, and distribution ditch.
- (h) Any claim or right in the point of diversion, diversion structure, and distribution ditch by the predecessors in interest of the owners of the Rights has been fully forfeited and abandoned.
- (i) Each and every other reason supported by the evidence to be provided at the hearing or trial.

9. **Place of Use:** Party/Claimant objects to the legal description of the place of use for the following reasons:

- (a) The foregoing reasons are incorporated herein by reference to the extent that the place of use is dependent on the source and point of diversion specified in the right.

11.a. **Water Right Recommendation:** Party/Claimant objects to this water right being recommended for all of the reasons set forth above, which are incorporated herein by reference.

01/25/2001

**NOTICE OF ERROR
REPLY**

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: March 9, 2001

Water right number: 31-55C

MAX SIDDOWAY
2568 E100N
TETON ID 83451

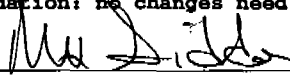
1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

2. Describe the changes you wish to make in the proposed recommendation:

3. Give a brief explanation as to why you disagree with these portions:

X I AGREE with this proposed recommendation: no changes need to be made.

DATE: 2/6/01

SIGNATURE: 

Please print your name: _____

IDWR Regional Office, 900 N Skyline, Idaho Falls, ID 83402, 2085257161

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

22:45:51
03/13/93

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A51-90055 A

LAST: SIDOWAY
ADDRESS: H.C. 60 BOX 1245
CITY: IDAHO FALLS
PHONE NUMBER: 208-000-0000

FIRST: MAX

STATE: ID ZIP: 83401

OWNER CODE: C

FIELD EXAM REQUIRED?

DATABASE
Y

FIELD
EXAMINER

VERIFICATION REQUIRED DUE TO REMARKS?

CLAIM REMARKS: THE ORIGINAL RIGHT WAS SPLIT BETWEEN MAX SIDOWAY (75%) AND
JACK HAMILTON (25%).

RECOMMENDED FOR
TV'S 4372 AND/OR 5308

FIELD EXAMINATION INFORMATION

CONTACT PERSON: _____

PHONE NUMBER: () - -

RECOMMENDED PRIORITY DATE:
08-08-1893

IT SHALL BE SO

REVIEWED BY

DATE

SBS SPLIT HISTORY

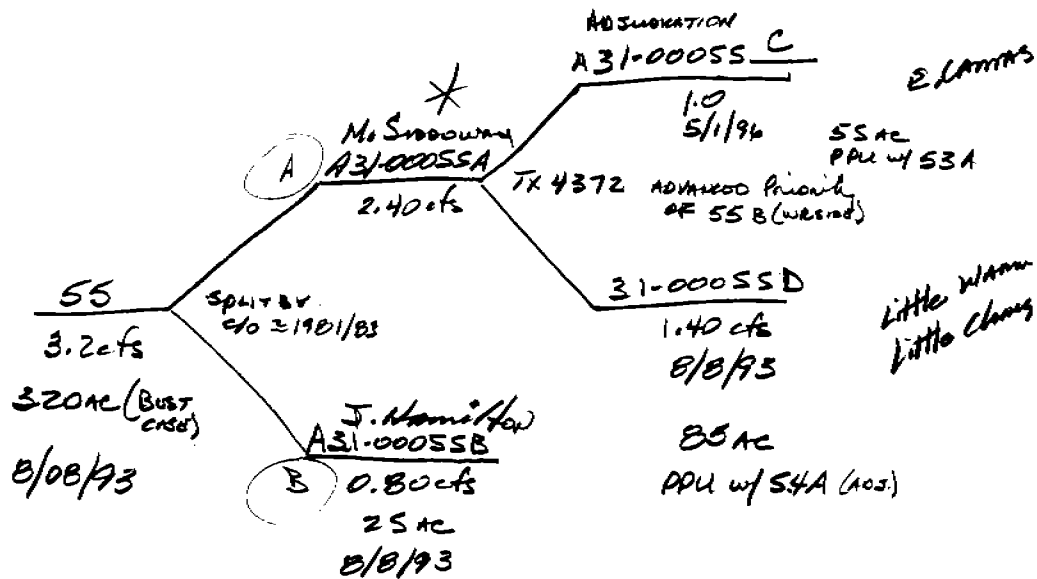
A 5/1/1893

08/08/1893

SIDOWAY
PRIORITY DATE
ADVANCED TO 5/1/1896

DIFFERENT POD, SOURCE, POI

SIDOWAY
PRIORITY ADVANCED



SSA IS SPLIT BY
TXS 4372 & S308
ADJUNCTION PLAN
SSA — C
D
AS SHOWN ABOVE
w/ AOS. #'s.
EAST OF WARM CR
w/ 54A,
WEST OF WARM CR w/ 53A.

Federal Land Bank of
Spokane, a corporation

31 0053 ✓
1896 - May 1 0.4 c.f.s.
31 0054 ✓
1897 - June 1 1.0 c.f.s.
31 0055 ✓
1898 - August 8 3.2 c.f.s.

Source: Camas Creek, a tributary
of Mud Lake.

Point of Diversion: The existing
point or points of diversion on or
near the land to be irrigated.

E²NW, N²SW, SE⁴ Sec. 32
T. 13N., R. 39E.

For use on the following described
land, to-wit: The East Half of
the Northwest Quarter, the North
Half of the Southwest Quarter,
and the Southeast Quarter of Sec-
tion 32, Township 13 North, Range
39 East, B. M.

31-00053 CLAIMED AS: BY TX 4372

31-00053 A, SIDDOWAY, 0.30 cfs, 240 AC. W/54A, SSA, 10036

31-00053 B, HAMILTON, 0.10 cfs, 25 AC. W/54B, SSB

No. 29

0.40 cfs

31-00053 CLAIMED IN-REU, BUT,
SPLIT AS SHOWN.

52

ADJ.

53 A HAMILTON

53 B SIDDOWAY