

RECEIVED

JUN 16 2005

Department of Water Resources

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

In Re SRBA

Case No. 39576

A.

Subcase

29-13406

(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name:

Bret + CAS person

Address:

8893 E Maughan

LAVA Hot Springs Id 83248

Daytime Phone:

276-5498

Name & Address of Attorney, if any:

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name:

Bret + CAS person

Address:

8893 E Maughan

LAVA Hot Springs Id 83248

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☐ **Quantity**
Should be: _____
4. ☒ **Priority Date**
Should be: 1932 not 1942
5. ☒ **Point of Diversion**
Should be: _____
6. ☐ **Instream Flow Beginning and Ending Point**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: _____
10. ☐ **I object because:**
 - ☐ This water right Should not exist.
 - ☐ This water right was not recommended, but Should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTIONS(S):** Both Water Rights

29-13406 (in question) + 29-13407 have always had same diversion points, & delivered to land above topaz canal through the "high ditch" as described in supporting documents "Exhibit A" - has been used that way for many years including from the time Nathan Casperson purchased the farm (my father) & I (Brett) have been farming with him.

F.

VERIFICATION (must be completed)

State of Idaho)
)ss.
County of Blaine)

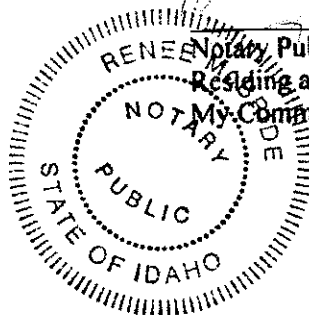
_____, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

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.

Brett Casperson
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: June 13 2005



Notary Public for Renee M. Bode

Residing at: 1111 N. 1st St.

My Commission Expires: May 31, 2006

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G.**CERTIFICATE OF MAILING**

I certify that on June 13, 2005, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

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

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

Name:

Brett Casperson

Address:

8873 E. Hughes
LAUREL HOT SPRINGS ID 83246

3. Copies to:

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

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of Attorney General
PO Box 44449
Boise, ID 83711-4449

Brett Casperson
Signature of objector or attorney
mailing on Objector's behalf

Exhibit A

RECEIVED

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Department of Water Resources

Erith Maughan

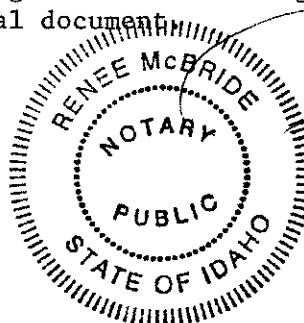
The ~~following~~ following 5 pages are taken
from a "Personal History of John Raymond
Maughan" and is in
reference to proving the early
water rights to #2913406
2913407

Both of which should
date back to 1932 - these papers
are personal notes from someone who
owned and operated the farm in
question.

State of Idaho

County of Bannock

I, Renee McBride a notary public, do certify that on this 13th day of
June 2005, I carefully compared the attached copy of "Personal History
of John Raymond Maughan" with the original. It is a complete and true
copy of the original document.



Renee McBride
Notary Public

My Commission Expires On May 31 2006

FOREWARD

The following events told in this story are personally written from events remembered or recorded over a period of over seventy years of remembered history. The first thirty-two years, or until we moved to Lava Hot Springs in the fall of 1917, are written almost entirely from memory. The following events covering over thirty years are largely verified from a diary that I kept of operations while farming at Lava Hot Springs, Idaho, from 1917 to 1950. To this will be added other years since 1950 as they have been and may be allotted to me.

If those last thirty-three years seem humdrum to you, remember that they were any thing but that to those of us who lived them. I am speaking for mother and me. We were so intensely concerned in growing crops, harvesting, and marketing them; so vitally interested in saving our soils, conserving water, raising livestock and preserving their lives that we had no time to think of the mundaneness of the work. But it is true that the tasks were often exceedingly tiresome and discouraging. At times the losses were frightening and staggering.

Through it all I failed to play with you children as I should have done or to have watched you in your games as I should. Is it a good excuse to say that probably I was too tired to play or that water, wind, rain, hail, frost, snow, or crops and livestock demanded so much attention that you children were relegated to second place? But it is true that while small, I often told you bedtime stories and that you were permitted to participate in school activities. You were allowed to go on band, park, and canyon trips, to participate in 4-H clubwork; and all of you had opportunity to attend college. Four of you boys because of need and demand served in the Armed Forces. All of you would have done so if Uncle Sam had been given his way.

This story is appreciatively dedicated to you, our children, who helped so materially and willingly in making it so satisfying and so successful--and also to Iera, your mother, who has done as much as I have to make it a success during our long, tiring but satisfying--life.

Appreciation is freely given to Harrison and Howard, my brothers, and their families for the part they rendered in sustaining us through the long, tedious, and strenuous undertaking.

of our life at Lava Hot Springs, Idaho.

Without their persuasion, we never would have gone to Lava. Without their land holdings, equipment, and livestock, we never could have gotten started; without their willingness to forego any interest and principal payment on their side in the undertaking, for many years, and with Howard's coming to our assistance in helping to meet interest payments when they were most excessive, we never could have held on when they did and we did.

With our, the brothers', ability to easily borrow money at 10% interest payable semi-annually--we were able to acquire the Merrick farm at \$10,000, Vernon Brescoe's home at \$1,500, and 30 acres of Mr. E. J. Fagnant for \$1,350 for a ditch rightaway. Add these sums to the \$5 to 6 thousand already owed against the McClelland place, and the effect of the loss of all our work horses except one. In all, you have a sizeable debt. It was all brought on the payments. It would all have to be paid off with cream, butter at 18-30c per pound, butter fat, eggs at 12 to 30c per dozen, pigs at 8 to 12c per pound, cattle at a similar price, and sheep mostly at a loss, and grain at \$1.25 to \$1.50 per bushel. Potatoes and beets were all too often grown at a total loss or at best for a little profit. But we were able to survive the Depression of the 1930's.

To Bp
CANY

These combined factors set the stage for an undertaking that we told ourselves would last three to four years in which time we would go back to school teaching. But it lasted thirty-three years, at which time we moved to Salt Lake City and later to Bountiful after we built our home. These many years of this story are based on a diary that I kept of a day by day entry of those constantly moving years.

We do not have any regrets for having gone to Lava. It proved a good place at which to rear our large family. None of them ever caused us any great anxiety or sorrow. They were at all times obedient, respectful, and helpful. They were all intelligent, apt, and resourceful. They were all exceptionally free of injury or sickness. We feel that we were greatly blessed and that we did some good to the ward, community, and to ourselves for having lived at Lava Hot Springs.

If you be interested in what follows, read on. Otherwise close this book and miss, to me, an interesting story.

J. R. MAUGHAN

al. But the they would as be that evening that he was thru, I could look for ready for the some place to take his place. He was in no frame of mind ll matched to talk to then, and I let him go with out much said. Next ere easy to print. I could see his family loading their household effects ses would into his wagon, and they soon pulled out and off down the road. er forty years I am sure that I was sorry to see the Campbells go and especially a story ("And feeling as he did. But I had hired too many men and boys, and ost of my had seen them come and go to feel that I could not do without goes to print.) any one individual. Yet I never liked to have any of them leave with that attitude. Of course I had not had time or in-

great we lost full of work from that things. How ough to re- o not know. particular. ged to get t help. He wish that he children today with / what he own family.

November 22, 1921

I settled up with Jed Campbell. He was very angry and hard to talk with but after a few minutes of talking he quieted down. And when I paid him the balance that I owed him, he thanked me kindly and shook my hand with a pressure the like of which I have seldom felt. His emotions were keen and not hostile. I felt it and responded. Reason had gained mastery of the situation. We parted as friends, I hoped. Later events proved what we so remained. Jared Campbell certainly did not impart any ill feelings toward me to his family, for when he died years later his family asked me to speak at his funeral. Later when the services for his son Tez were held, I spoke there also. Tez had given his life in defense of his country in World War II. And finally when sister Lydia Campbell, wife and mother of the family died, I was asked to speak at her services.

at
in
[-

Today I know of no home outside of our immediate families that we feel more at home in than we do in Edwards, Jeds oldest son's home. Ed and Leland (Kilpack) have a story to tell that must be included in this life sketch. It tells of a runaway that they had one Sunday night after having taken two of the (Joeses Mary Kofeod's) girls home after a beautiful Sunday night large enough five

December 12, 1921

s much during out of this uff. I was as blowing f you boys . The wind t. This wind. I e south e better s were no

I made another payment on the Fagnaut land. This land was bought in order to have a ditch right of way for our high and late water right for our land above the canal. It was not hard to make the purchase, but very hard to make the payments. I could not meet them on time, (according to contract agreement.) Many times I have crossed the street or gone another way to avoid meeting Mr. Fagnaut, for fear he would ask me for a payment. He was patient and tolerant. My diary shows that I

paid him off in full in 1929, at least ten years after we bought the land.

(1919)

We could have bought a ditch right of way for \$300.00, or the 30 acres at \$60.00 per acre. We decided that the latter was the better offer. I alone felt the stress of this extra financial load. I am thinking of the brothers of us, J.H., J.R. and G.R. It had other drawbacks. The ditch was already made and used to Art Fagnauts pasture west of his corral. But it required enlarging and maintaining, cleaning spring and fall. The only user of the ditch that we could depend on at all times was Art Fagnaut. He was usually ready and always willing to help. Most of the time the other users were not ready or too willing. All held earlier filings than we. They figured that the ditch was large enough to hold what water they needed and that there was plenty of water in the creek to satisfy their needs. We always started water down the ditch as soon as the ice and snow had thawed out sufficiently to let water thru.

But all too often early thaws and heavy run off in the spring filled the ditch full of mud, heavy soft silt that could scarcely be shoveled out at all for it was so heavy and sticky when wet. But it would wash out easily if a little stream of water were started thru it. This is what we did just as early as we could get water to the filled in sections. This, of course was slow and took valuable time. But it was easier, faster and cheaper to get the mud out of the ditch, if we watched the ditch closely and kept turning in extra water to move the mud faster.

This ditch and water helped us to grow good crops of hay and grain. But, the time, effort and patience it has taken! If it had not been for the Fagnauts and their willingness to be as fair as we probably were it is doubtful if it would have been worth the effort. We have never had a quarrel over the division of the water with these good people. We each have left our feelings at times unexpressed. We never needed to think that any one of us could or would do more work in an hour or day than would Art.

Harrison filed on water for the high ditch shortly after he moved to Dempsey, now L.H.S. in 1911. He took his water down Arts present ditch east of his house, across the road and then west and dropped it into the hollow. Down this it ran to where the hollow turns decidedly east. At this point Harrison took it out of the hollow and ran it west at water grade level to the road. The ditch was high enough by making a 2 - 3 foot cut thru the ridge to go south with it along Arts fence. Then it crossed the road west and ran across the field

to where the water from the side rail to the ter

This description will you who read it who are Hot Springs property. I one knows as well as I. of the first high ditch stand pretty much alone all the varied perplexities wonderment as to whether was on the place a few this alone. I am only what this high ditch and money and all the description ditch and water as I do I accepted the response Hopefully? Yes. With Yes. With surety now a be a success? Yes, to as it will be a success irrigates were fairly different. But when you along a ridge and then straw, thick grain or down the slope or hill, gullies, I don't know.

Add to all these users on this high ditch and late irrigation and that we used to have p Art Fagnaut. On top of very cooperative the L January of 1962. Water and of not very long difficult to get suffi

Melvin now has th doing this job. As hi about it.

December 25 Sun
December 26 - Cho
or desired
December 27 - Fat
in posts.

to where the water from the gully or wash runs north along the side hill to the ten acre field above the canal.

This description will be of little interest to those of you who read it who are not familiar with the lay of the land at Hot Springs property. But it does record information that no one knows as well as I. Harrison can tell more of the details of the first high ditch onto the land. But from there on, I stand pretty much alone over a period of thirty years, with all the varied perplexities, difficulties, vexations, work and wonderment as to whether it was really worth while. Howard was on the place a few years. I am not saying that I had all this alone. I am only saying that no one else knew or knows what this high ditch and water has cost in time, effort, work, money and all the descriptive adjectives that go with this ditch and water as I do. I was a party to the undertaking and I accepted the responsibility. Gracefully? I don't know. Hopefully? Yes. With certainty that it would be a success? Yes. With surety now after 40 years that it has been and will be a success? Yes, to the has been. But I am not sure as far as it will be a success is concerned. If the land that it irrigates were fairly level, smooth land the story would be different. But when you have to lead little streamlets out along a ridge and then literally have to hold it back with straw, thick grain or alfalfa growth to keep it from dashing down the slope or hill, and washing the land full of little gullies, I don't know.

Add to all these past difficulties this fact that other users on this high ditch have discovered the value of early and late irrigation and want to share in early and late water that we used to have pretty much to ourselves along with Art Fagnaut. On top of this the weather man has not been very cooperative the last two or three years. It is now January of 1962. Water has been low in the creek in the fall and of not very long duration in the spring. This makes it difficult to get sufficient water to do effective watering.

Melvin now has the work, worry and responsibility of doing this job. As him twenty years hence what he thinks about it.

1921

December 25 Sunday, Christmas

December 26 - Chores and spent balance of time as we desired because of Christmas. Day off.

December 27 - Father went to canyon to break road to posts. I chored and attended to

Greystone Manor

187 S. 2nd West
P.O. Box 419
Lava Hot Springs, ID 83246
208-776-5959

June 13, 2005

SRBA

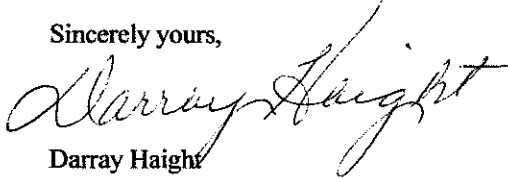
To Whom it May Concern:

I was contacted by Brett and Nancy Casperson regarding information in my possession pertaining to their water rights. The information they received from me was taken from a personal history booklet of John Raymond Maughan that was sent to us by Mr. Maughan's family at the time we purchased the old LDS Church, Lava Hot Springs, Idaho, in April 1997 (now known as Greystone Manor).

Brett and Nancy Casperson have copied information from John Raymond Maughan's history (in my possession) pertaining to the water rights, the high ditch, and water usage on the farm now owned by them.

If you have any questions regarding this history, you may contact myself or Andy Haight.

Sincerely yours,

A handwritten signature in cursive script that reads "Darray Haigh". The signature is written in dark ink and is positioned above the printed name and title.

Darray Haigh
Owner, Greystone Manor

Lava Hot Springs, Id. 83246
6-13-05

To Whom it may concern.

This letter concerns extended use of irrigation water out of Dempsey Creek — water rights # 2913406 and 29-13407 for Orrett & Nancy Casperson. Why one right dates back to 1932 and the other to 1962 is unknown.

I was born in 1929 and accompanied my father Arthur J. Fagnant at an early age as he irrigated out of the ditch that at that time left our property and continued around to what is now the Casperson property. Their wish is to have both rights date from 1932.

This information may or may not shed any light on the situation.

Sincerely

Att

208776-5289

Gene Fagnant

P.O. Box 593 Lava Hot Springs, Id.