

RECEIVED
JUN 21 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. 35976

A. Subcase 25-4032

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: OW Ranches, Inc. c/o Kenneth F. O'Brien, President

Address: 364 Judd Lane
Coalville, UT 84017

Daytime Phone: 208-574-2745 or 801-336-2282

Name & Address of Attorney, if any:

Kent W. Foster

PO Box 50130

Idaho Falls, ID 83405

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

Name: United States of America acting through USDI Fish & Wildlife Service,
Division of Engineering

Address: 911 NE 11th Ave.
Portland, OR 97232-4181

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: Waste water off objector's ranch from Eagle Creek and Bridge Creek
3. ☐ **Quantity**
Should be: _____
4. ☒ **Priority Date**
Should be: Although waste water from objector's ranch may have reached claimant's land, it has never been applied to a beneficial use.
5. ☒ **Points of Diversion**
Should be: NWSW Section 25, T4S., R43E., since 1991
6. ☐ **Instream Flow Description**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: _____
10. **I object because:**
 - ☒ This water right should not exist as recommended; should only be a waster water right, if any use has ever been made.
 - ☐ This water right was not recommended, but should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTION(S):** See attached affidavits. Any right to divert and use water from Bridge Creek that may have once been appropriated by claimant's predecessors in interest was lost and forfeited for non-use decades ago. Objector believes the only water that ever

reached claimant's land was waste water from the irrigation of objector's ranch under rights from Eagle Creek and Bridge Creek. Even that water has never been applied by claimant to any beneficial use.

VERIFICATION (Must be Completed)

State of Idaho)
County of Bonneville) ss.

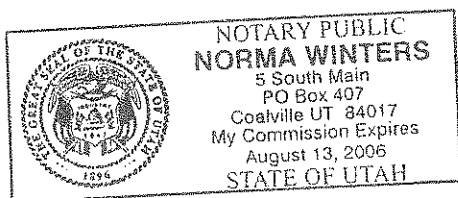
O W Ranch Two Kenneth R. Bunker duly sworn, upon oath, deposes and says:
(Name of person filing objection)

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.

Kenneth R. Bunker
Signature of person filing objection

Attorney signing in representative capacity

Subscribed and sworn to before me on: June 10th 2005



Norma Winters
Notary Public for Utah
Residing at: Summit County
My Commission Expires: 8-13-06

Affidavit of OW Ranch, Inc. Ken O'Brien

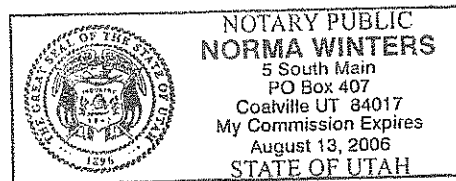
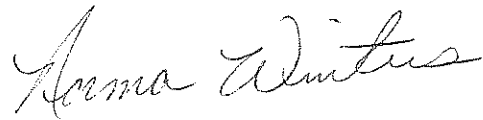
I am writing this letter for the reasons I am protesting the claim for water from Bridge Creek of the USDI Fish and Wildlife Service.

When our family purchased the ranch in 1982, I checked with Idaho Department of Water resources and they told me we were the only ranch that had water rights on Bridge Creek. They told me that Ray Ostler had put in a claim in 1978, but it was never followed up on.

I will provide facts of proof and witnesses that USDI Fish & Wildlife Services, or Ray Ostler never has had a point of Diversion before 1987. (The only way water could get to them was through the natural flow of gravity from our waste water from Bridge Creek, and Eagle Creek.

More affidavits may follow, if so they will be sent appropriately.

OW Ranch, Inc.
Ken O'Brien



Affidavit of Luella Muir and Brian Muir

We are writing this letter in regards to the history of Bridge Creek that runs east to west through our ranch and the OW Ranch in Section 25, T. 4S., R. 43E.

We are the wife and son of the late Ewart Muir.

The Ditch that goes from south to north on the property line of our ranch and the OW Ranch (essentially along the line separating the W $\frac{1}{2}$ W $\frac{1}{2}$ of said Section 25 from the E $\frac{1}{2}$ W $\frac{1}{2}$ of said Section) was built about 1965. It was built to collect waste water from OW Ranch (which was then the Charles Tingey Ranch) and to divert water from Bridge Creek to a large stock pond that was built on the Muir land just west of the described line about 400-500 feet north of the point of diversion at the same time. Before that, the water from Bridge Creek was diverted about 50-100 yards further west from this newer point of diversion. The water did not run to the north it went to the west and could not reach the land of the Bird Refuge now irrigated with waste water from OW Ranch.

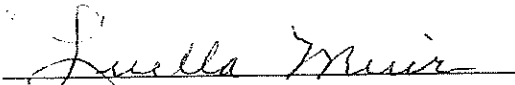
The only persons that ever diverted water in those two places were our immediate family (I Bryan Muir, my father Ewart Muir, and his father).

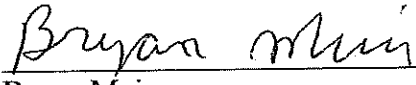
The only way anyone got water to the North West as far as the Bird Refuge land would be from waste water from OW Ranch (from a combination of Eagle Creek and Bridge Creek rights for the OW Ranch).

In the year 1991, the Bird Refuge put a used head gate and culvert in the same location. (On the Muir and OW property line near the southeast corner of the southwest southwest, Section 25, T. 4S., R. 43E.) Our father and husband were working part-time for the Bird Refuge at that time. We don't know if it was a favor for our dad and husband, or if it was a favor for the Bird Refuge. We are quite sure of the date as my husband, and father only worked for the Bird Refuge part-time for two summers and died while taking a stress test for them the following spring 1992.

If it was a favor for the Bird Refuge they have not maintained it at all since 1991 and do not have any kind of right of way on our property.

Bryan Muir would be willing to testify if needed.


Luella Muir


Bryan Muir

NOTARY

STATE OF IDAHO

County of Caribou

Subscribed and sworn to (or affirmed) before me this 6th
day of June, 192005. Laella Muir and Bryan Muir personally
appeared before me and proved to me on the basis of satisfactory
evidence to be the person(s) whose name(s) is/are subscribed to
this instrument and acknowledged that he/she/they executed the
same.

LEOTA CARVER
NOTARY PUBLIC
STATE OF IDAHO

Leota Carver
NOTARY PUBLIC

Residence Soda Springs Id.

My Commission Expires: 01/14/07

CERTIFICATE OF MAILING

I hereby certify that on 17th day of June, 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
P.O. Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:
Name: Barbara Scott-Brier, US Wildfire Service
Address: 911 NE 11th Ave.
Portland, OR 97232

3. Copies to:

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

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environmental and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724



Signature of Objector or attorney mailing on
Objector's behalf