

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 37-21114
Date Received: 6/9/2003
Receipt No:
Received By:

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

*Amended Per
Permit 37-21177*

1. Name of Claimant(s)

BLAINE COUNTY SCHOOL DISTRICT #61 Phone: (208)5788-5000
118 W BULLION ST
HAILEY ID USA 83333

2. Date of Priority: 03/24/1883

3. Source: BIG WOOD RIVER Trib. to: MALAD RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
03N	18E	20	SE SW NW	BLAINE	

5. Description of diverting works:

VIA HEADGATE #22 & HIAWATHA CANAL

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	11/01	0.98	
MITIGATION	04/01	11/01	0.08	

7. Total Quantity Appropriated is:

1.06 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
02N	18E	10	SE NW	IRRIGATION	22
			NE SW	IRRIGATION	16
			SE NW	MITIGATION	
				Section Acres	38
				Total Acres	38

11. Place of use in counties: BLAINE

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used:

14. Remarks:

RIGHT 37-21114 IS A PORTION OF 37-12818A WHICH IS CLAIMED TO BE A PORTION OF 37-577. OTHER PORTIONS OF 37-12818A ARE 37-21112 THRU 37-21116.

6/9/2003: WATER RIGHT 37-21114 REPRESENTS SURFACE WATER IN BIG WOOD RIVER USED TO MITIGATE GROUND WATER LICENSE 37-8821. THE AMOUNT OF WATER DESCRIBED IN THIS RIGHT IS TO REMAIN NON-DIVERTED FROM THE BIG WOOD RIVER AND THE PLACE OF USE DESCRIBED IN THIS RIGHT DRIED UP. THE USE REMAINS LISTED AS IRRIGATION, AS A TRANSFER OF NATURE OF USE HAS NOT BEEN FILED AS OF THIS DATE. - VH

The claim was modified based upon the mitigation plan approved for permit 37-21177.

15. Basis of Claim: Decreed

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 37-21114
Date Received: 6/9/2003
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

BLAINE COUNTY SCHOOL DISTRICT #61 Phone: (208)788-2296

118 W BULLION ST
HAILEY ID USA 83333

2. Date of Priority: 03/24/1883

3. Source: BIG WOOD RIVER Trib. to: MALAD RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot			County	Type
03N	18E	20	SE	SW	NW	BLAINE	

5. Description of diverting works:

VIA HEADGATE #22 & HIAWATHA CANAL

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	11/01	1.06	

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
02N	18E	10	NE	SW	IRRIGATION	16
			SE	NW	IRRIGATION	24
					Section Acres	40
					Total Acres	40

11. Place of use in counties: BLAINE

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used:

14. Remarks:

6/9/2003: WATER RIGHT 37-21114 REPRESENTS SURFACE WATER IN BIG WOOD RIVER USED TO MITIGATE GROUND WATER LICENSE 37-8821. THE AMOUNT OF WATER DESCRIBED IN THIS RIGHT IS TO REMAIN NON-DIVERTED FROM THE BIG WOOD RIVER AND THE PLACE OF USE DESCRIBED IN THIS RIGHT DRIED UP. THE USE REMAINS LISTED AS IRRIGATION, AS A TRANSFER OF NATURE OF USE HAS NOT BEEN FILED AS OF THIS DATE. - VH

SPECK & AANESTAD

A PROFESSIONAL CORPORATION

ATTORNEYS

120 EAST AVENUE

POST OFFICE BOX 987

KETCHUM, IDAHO 83340

May 21, 2003

TELEPHONE
(208) 726-4421
FACSIMILE
(208) 726-0752

JAMES P. SPECK
jimspeck@cox-internet.com
DOUGLAS J. AANESTAD
aanestad@cox-internet.com

RECEIVED

MAY 27 2003

Department of Water Resources
Southern Region

Ms. Vicki Hancock
Idaho Department of Water Resources
1341 Fillmore, Suite 200
Twin Falls ID 83301

**Re: Marathon Partners - Rod Thornton -
Notice of Change in Water Right Ownership**

Dear Vicki:

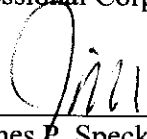
Pursuant to my discussions with Shelley Keen, Marathon Partners has executed a Correction Gift Deed to correct the legal description of the lands irrigated by a portion of Water Right No. 37-577 (claimed in the SRBA as 37-12818A) originally conveyed to the Blaine County School District in 1995. The District has now signed and I am enclosing the original and one copy of a Notice of Change in Water Right Ownership based on this Correction Gift Deed. For your easy reference, I am also enclosing a copy of the Notice of Change in Water Right Ownership based upon the original Gift Deed filed with the Department March 7, 2001.

We are requesting that the original Notice of Change in Water Right Ownership be withdrawn as it was never properly processed into a split of the base water right. Instead, we ask that the water right be split on the basis of the Correction Gift Deed so that the remaining portion owned by Marathon Partners remains appurtenant to the lands it continues to irrigate within what is commonly referred to as the Hidden Meadows Subdivision parcel. Please call me right away if you have any questions or concerns about this request.

Thank you.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By: 
James P. Speck

JPS:jef

Enclosures

cc: Ed Dumke (w/encls.)
Jim Lewis (w/encls.)
John Gaeddhert (w/encls.)
Shelly Keen (w/encls.)

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

RECEIVED**MAY 27 2003**Department of Water Resources
Southern Region

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
 Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
37-577	37-12818A	☒			☐
		☐			☐
		☐			☐
		☐			☐
		☐			☐

2. The following **REQUIRED** information must be submitted with this form:

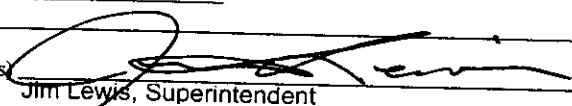
- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).
OR
 If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) Marathon Partners
c/o Ed Dumke, P.O. Box 3118, Ketchum, ID 83340
4. New Owner/Claimant(s) Blaine County School District
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
- New Mailing Address 118 West Bullion Street
- City, State and ZIP Code Hailey, ID 83333
- New Telephone Number (208) 788-2296
5. Date you acquired the property April 5, 1995

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number <u>37-577</u>		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	<u>1.06 cfs</u>	<u>40 acres</u>
Stock	_____	_____
Domestic	_____	_____
Other	_____	_____
Total	<u>1.06 cfs</u>	

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number <u>37-12818A</u>		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	<u>1.06 cfs</u>	<u>40 acres</u>
Stock	_____	_____
Domestic	_____	_____
Other	_____	_____
Total	<u>1.06 cfs</u>	

7. Signature of New Owner(s) or Claimant(s)
(include title if applicable)
- 
Jim Lewis, Superintendent

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by _____ Date _____ Fee _____
 Received by _____ Date _____ Receipt No. _____
 Processed by _____ AJ Date _____ WR _____ Date _____

RECEIVED

MAY 27 2003

Department of Water Resources
Southern Region

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

James P. Speck, Esq.
SPECK & AANESTAD
P. O. Box 987
Ketchum, Idaho 83340

(Space above line for Recorder's use)

CORRECTION GIFT DEED

MARATHON PARTNERS, an Idaho general partnership, whose address is c/o Edmund E. Dumke, P. O. Box 3118, Ketchum, Idaho 83340 (the "Donor"), does hereby give, transfer and convey unto BLAINE COUNTY SCHOOL DISTRICT, an Idaho school district, whose address is 118 West Bullion Street, Hailey, Idaho 83333-8425 (the "Donee"), any and all interest it may now have or hereafter acquire in the following described water right

1.06 cfs of the Big Wood River with a March 24, 1883 priority date pursuant to Idaho Water Right No. 37-00577 and Claim No. A37-12818 in In Re the General Adjudication of Rights to the Use of Water From the Snake River Basin Water System, Twin Falls District Court Case No. 39576, used for the irrigation 16 acres within the NE 1/4 SW 1/4 and 24 acres within the SE 1/4 NW 1/4, both in S.10, T.2N, R.18 E., B.M., Blaine County, Idaho, within lands commonly referred to as the Deerfield Subdivision.

THIS CORRECTION GIFT DEED IS RECORDED TO CORRECT THE LEGAL DESCRIPTION OF THE LANDS IRRIGATED BY THE WATER RIGHT DESCRIBED ABOVE IN THAT CERTAIN GIFT DEED RECORDED APRIL 5, 1995 AS INSTRUMENT NO. 377149, RECORDS OF BLAINE COUNTY, IDAHO.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD, all and singular the said water right, together with the appurtenances, unto the Donee, and to Donee's successors and assigns forever.

Date this 13 day of May, 2003.

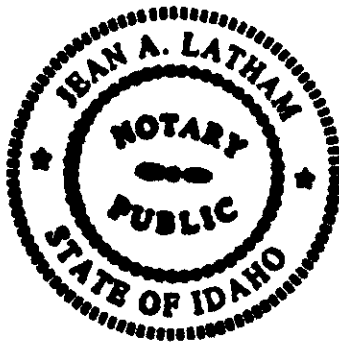
MARATHON PARTNERS, an Idaho
general partnership


Edmund E. Dumke, managing
General partner

STATE OF IDAHO)
County of Blaine) ss.

On this 13 day of May, 2003, before me, the undersigned notary public in and for said state, personally appeared Edmund E. Samke, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Janet L. Rathman
Notary Public for Idaho
Residing at: Blaine Co
Comm. Expires 1-25-07

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 37-12818A
Date Received: 2/3/1989
Receipt No: X999999
Received By:

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

1. Name of Claimant(s)

MARATHON PARTNERS Phone: (208)726-2600
C/O EDMUND E DUMKE
PO BOX 3118
KETCHUM ID USA 83340

GREGG STURTEVANT Phone: (208)726-3250
PO BOX 2924
KETCHUM ID USA 83340-2924

ROD THORNTON Phone: (208)788-2113
PO BOX 246
KETCHUM ID USA 83340

BLAINE COUNTY SCHOOL DIST NO 61 Phone: (208)788-2296
118 W BULLION ST
HAILEY ID USA 83333

JOHN MILEY AND CYNTHIA MILEY Phone: (208)578-7882
PO BOX 3010
HAILEY ID USA 83333

2. Date of Priority: 03/24/1883

3. Source: BIG WOOD RIVER Trib. to: MALAD RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
03N	18E	20	SE SW NW	BLAINE	

5. Description of diverting works:

VIA HEADGATE #22 & HIAWATHA CANAL

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/01	11/01	2.61	

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

8. Total consumptive use:

9. Non-irrigation uses:

SEE REMARKS

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
02N	18E	9	NE	NE	IRRIGATION	2
					Section Acres	2
02N	18E	10	SW	NW	IRRIGATION	17
			SE	NW	IRRIGATION	27
			NE	SW	IRRIGATION	16
			NW	NW	IRRIGATION	37
					Section Acres	97
					Total Acres	99

11. Place of use in counties: BLAINE

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used:

14. Remarks:

THE CURRENT JOINT OWNERS OF CLAIM 37-12818A AND THEIR RESPECTIVE PORTIONS ARE: MARATHON PARTNERS, 54 ACRES AND 1.419 CFS FOR IRRIGATION. GREGG STURTEVANT, 3 AC. AND 0.079 CFS FOR USE AS MITIGATION FOR GROUND WATER RIGHT 37-8587. JOHN AND CYNTHIA MILEY 1 AC AND 0.026 CFS FOR USE AS MITIGATION FOR GW RIGHT 37-8819. ROD THORNTON, 1 AC AND 0.026 CFS FOR USE AS MITIGATION FOR GW RIGHT 37-8820. BLAINE COUNTY SCHOOL DIST, 40 AC AND 1.06 CFS FOR USE AS MITIGATION FOR GW RIGHT 37-8821. SEE DEEDS IN FILE. - VH 8-23-2002.

THIS CLAIM IS FOR A PORTION OF 37-0577 ORIGINALLY DECREED TO W. T. RILEY.
CONFORMED ATTORNEY MAILING ADDRESS DMS
***** THIS RIGHT WAS SPLIT FROM A37-12818 PURSUANT TO APPROVED TRANSFER 4205.
***** OWNERSHIP CHANGE MADE 2-22-92 BY TLB.
| CORRECTED DATA ENTRY BY DELETING SPECK AS ORIG ATTORNEY FOR FORMER OWNER.

15. Basis of Claim: Decreed

RECEIVED

MAY 27 2003

RECEIVED

MAR 07 2001

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Department of Water Resources
Southern Region

Department of Water Resources
Southern Region

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided, if the change in ownership is limited to a portion of water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
<u>37-00577</u>		<u>X</u>			
	<u>A37-12818A</u>	<u>X</u>			

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See Instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions): **PLAT OF PROPERTY** or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) are for ten or more acres of irrigation, you must submit USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) Marathon Partners
4. New Owner/Claimant(s) c/o Edmund E. Dumke, P Box 3118, Ketchum, ID 83340
- Name Connector (Check one): ☐ and, ☐ or ☐ and/or
- New Mailing Address 118 West Bullion Street
- City, State and Zip Code Hailey, ID 83333
- New Telephone Number (208) 788-2296
5. Date you acquired the property April 5, 1995

6.

IF THE CHANGE IN OWNERSHIP AFFECTS THE ENTIRE WATER RIGHTS FOR EACH WATER RIGHT OR ADJUDICATION CLAIM NUMBER LISTED IN ITEM 1, THEN SKIP THIS ITEM AND GO TO ITEM 7.
If the change of ownership divides the water right(s) among multiple owners, you must:

If the change of ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number A37-12818A

Water Use	Diversion Rate or Volume (Cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc.)
Irrigation	1.06 cfs	40 acres
Stock		
Domestic		
Other		
Total	1.06 cfs	

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number 37-00577

Water Use	Diversion Rate or Volume (Cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc.)
Irrigation	1.06 cfs	40 acres
Stock		
Domestic		
Other		
Total	1.06 cfs	

7. Signature of New owner(s) or Claimant(s)
(include title if applicable)

Jim Lewis, Superintendent

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use only

Received by _____ Date _____ Fee _____
 Received by _____ Date _____ Receipt No. _____
 Processed by _____ AJ Date _____ WR _____ Date _____

377149

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

James P. Speck, Esq.
HOGUE, SPECK & AANESTAD
P. O. Box 987
Ketchum, Idaho 83340

RECEIVED
MAY 27 2003
Department of Water Resources
Southern Region

BLAINE CO. REQUEST

OF: Hogue & Speck

'95 APR 5 PM 4 03

(space above line for Recorder's use)

MARY GREEN CLERK *ympp*

GIFT DEED

FEES \$ 6.00

MARATHON PARTNERS, an Idaho general partnership, whose address is c/o Edmund E. Dumke, P. O. Box 3118, Ketchum, ID 83340 (the "Donor"), does hereby donate, give, transfer and convey unto BLAINE COUNTY SCHOOL DISTRICT, an Idaho school district, whose address is _____, (the "Donee"), any and all interest it may now have or hereafter acquire in the following described water right:

1.06 cfs of the Big Wood River with a March 24, 1883 priority date pursuant to Idaho Water Right No. 37-00577 and Claim No. A37-12818 in In Re the General Adjudication of Rights to the Use of Water From the Snake River Basin Water System, Twin Falls District Court Case No. 39576, used for the irrigation of 40 acres within lands commonly referred to as the Hidden Meadows Subdivision parcel in the W1/2NW1/4, S.10, T.2N., R.18E., B.M., Blaine County, Idaho.

TOGETHER WITH all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD, all and singular the said water right, together with the appurtenances, unto the Donee, and to Donee's successors and assigns forever.

DATED this 15th day of March, 1993.

DONOR:

MARATHON PARTNERS, an Idaho
general partnership

GIFT DEED - 1
j\wrhsbsa\h2ogift.ded
3/15/93

*See
Corrected
DEED
date d
5-13-2003*

RECEIVED

APR 07 1995

Hogue, Speck & Aanestad

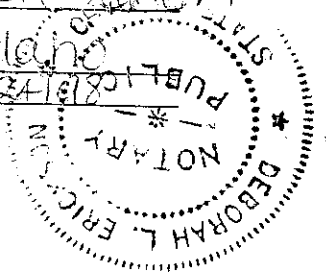
By: Edmund E. Dumke
Edmund E. Dumke, managing
general partner

STATE OF IDAHO)
)
County of Blaine) ss.

On this 15th day of March, 1993, before me,
the undersigned notary public in and for said state, personally
appeared EDMUND E. DUMKE, known or identified to me to be the
managing general partner of MARATHON PARTNERS, an Idaho general
partnership, and the person who executed the foregoing instrument
on behalf of said partnership and acknowledged to me that said
partnership executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and
seal the day and year in this certificate first above written.

Deborah L. Erickson
Notary Public for Idaho
Residing at: Hailey, Idaho
Commission expires: 9/24/98



Stanton, Jim

From: Stanton, Jim
Sent: Tuesday, December 07, 2004 10:58 AM
To: Keen, Shelley
Cc: Stanton, Jim
Subject: Claim 37-21114, Blaine County School District

Shelley - I have reviewed this file in an attempt to answer your question regarding the possible recommendation on this right. Portions of the Riley right owned by Marathon partners under Claim 37-12818 have been deeded to various parties. Several transfers and apps for permit were filed in the early 1990's based on the ability of the applicants to use their portions of this claim as mitigation for new groundwater diversions in the area around Hailey.

Claim File 37-21112 has a large number of documents relating to all of this, including discussions of the legal issues between Nick Spencer & Jim Speck. There are affidavits from land owners and others involved in the use of this water detailing its use for irrigation during this period. On 10-15-1993, Steve Clelland signed a recommendation of disallowal for 37-12818; the legal discussions occurred after this, as the claimants disagreed with the recommendation. The original claim was filed in 1989, and Steve Clelland concluded that the subject property had not been irrigated since 1974 or earlier. One affidavit claimed that the land was irrigated for two weeks in 1991, but Steve questioned whether or not this would constitute a beneficial use. Another affidavit claimed use for 30 days in 1991. Jim Speck argued that these uses could constitute a resumption of use and therefore a defense to forfeiture. During this period, IDWR did not recognize the Hurlbutt decision holding forfeiture in abeyance during the period when a claim was on file as binding on the allocations process, so Steve would not have been able to take this into account when making his recommendation of forfeiture.

On 2-6-1995, Glen Saxton concluded that we should approve the pending transfer and 4 apps for permit because the available information did not clearly show that the mitigation right had been forfeited for non-use. The 4 permits have since been licensed. There was language about the rights still being subject to SRBA review, but it appears that nothing has happened recently except for a slight name change for the holder of 21112 (and apparently a change to a new and unknown address).

Even though we had covered ourselves by keeping these claims subject to SRBA review, it seems to me that we have really accepted their validity by approving the transfer and licensing the 4 other uses. Although Steve made a good case for forfeiture before the claim was filed, the idea of resumption of use has been accepted in other cases. The license for the Hailey High School (37-8821) was issued with a portion of this right as mitigation, so it might be hard to disallow the application for the new school because the mitigation right is suddenly no longer valid. If my math is correct, there are still 17 acres and 0.46 cfs of Claim 37-21114 available for mitigation at the new school. The high school irrigates with a well as long as their part of the Riley right is valid, and the watermaster recognizes their right to do so. Hope this helps.

NOTE TO FILE

From: Vikie Hancock

6/9/03

Regarding: Claim numbers 37-21112 for irrigation use
and 37-21113, 37-21114, 37-21115, & 37-21116 for mitigation use
All portions of 37-12818A which was claimed as a portion of 37-577.

Deeds were submitted to show 37-12818A was owned by five different entities in 2001. After some deliberation, the right was not split because the use of four of the portions was *mitigation*, but in September 2002 all five owners were added to the right, instead. See notes and documents in file 37-21112 renumbered from 37-12818.

In May 2003 attorney Jim Speck requested that the right be split into five portions as one of the owners wished to place his portion in the water bank. At this time it was determined that the right could be split by ownership. Although water identified in the rights used for mitigation was to remain in the Big Wood River and therefore have no actual place of use nor point of diversion, the POU and POD for the mitigation rights was to be identified as originally claimed by 37-12818A. The use listed on these rights must be changed from irrigation to mitigation by a transfer, which has not yet been filed.

To complicate this scenario, the original deeds submitted in 2001 which identified the acres to be dried up in order to facilitate the use of water for mitigation purposes were in error. At this writing, two correction deeds have been submitted by Speck – one for Blaine County School District 37-21114 and one for Thornton 37-21113. Those rights are now correctly described.

The POUs of three of the portions are most probably incorrect. Until the corrected deeds are received, 37-21115 and 37-21116 as well as the remaining irrigation portion represented by 37-21112 will reflect the POUs per the only deeds submitted for those parties.

PLEASE SEE CLAIM FILE 37-12818 AND CLAIM FILE 37-21112
(RENUMBERED FROM 37-12818A) FOR CORRESPONDENCE AND
DOCUMENTS REGARDING SOME HISTORY OF THE ABOVE RIGHTS.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 9, 2003

James P. Speck
Speck and Aanestad
PO Box 987
Ketchum, Idaho 83340

RE: Snake River Basin Adjudication (SRBA)
Claim No.: 37-12818A split

Dear Mr. Speck:

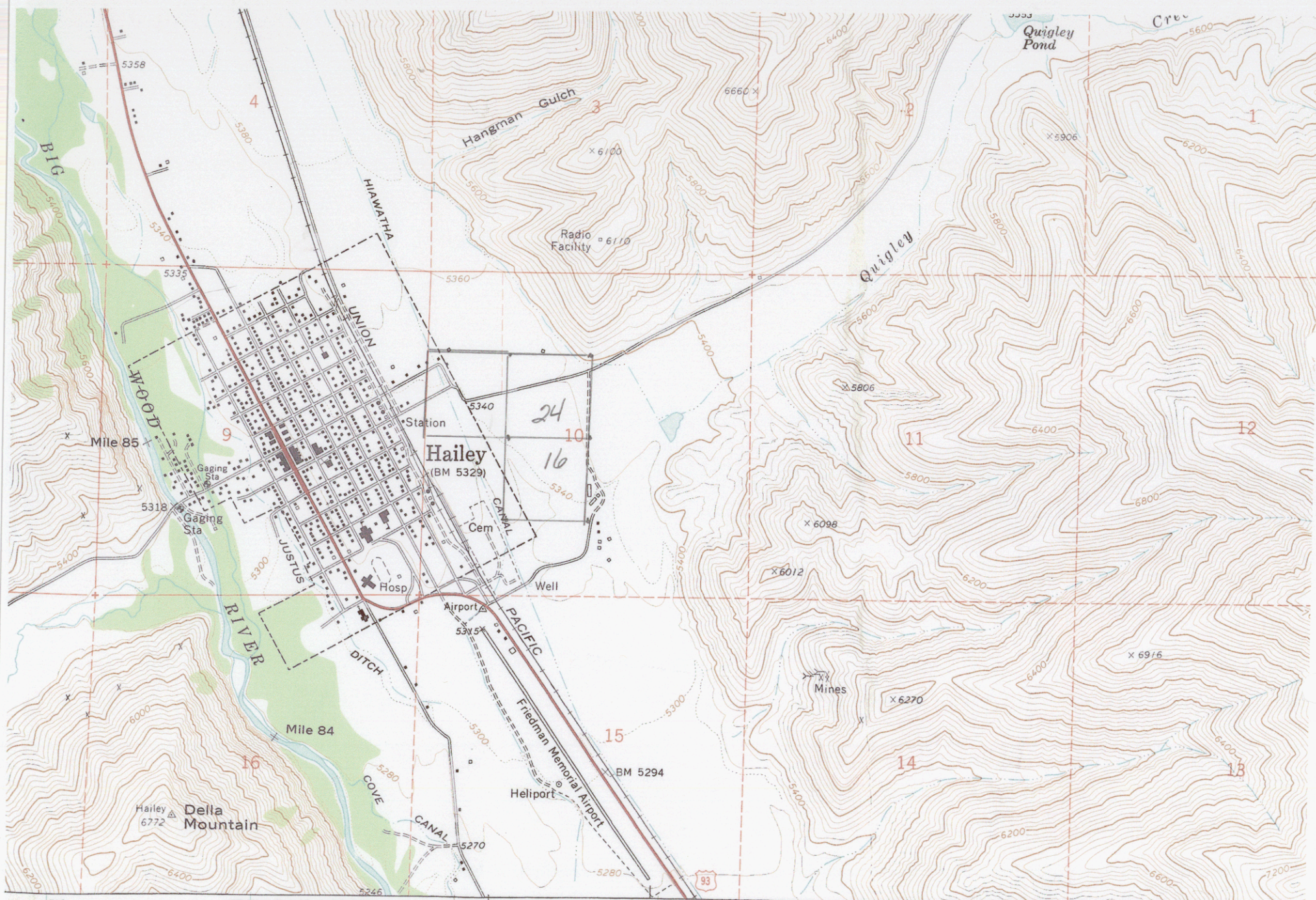
Claim 37-12818A has been split into five portions. Please find enclosed copies of SRBA Claim 37-21113 in the name of Thornton and 37-21114 in the name of Blaine County School District, and 37-21112 in the name of Marathon Partners.

Please be aware that although the places of use for 37-21113 and 37-21114 are correct according to the latest deeds submitted by you for those parties, the remaining portion represented by 37-21112 reflects the latest deeds submitted, including the correction deeds to Thornton and Blaine County School District as well as the original deeds to Miley and Sturtevant. The recorded place of use for 37-21112 therefore, may not be correct.

Also find enclosed for your convenience, claims 37-21115 and 37-21116 as they are currently recorded in our files, and which you have informed me are based upon deeds which incorrectly described the place of use to be dried up.

Sincerely,

Vikie Hancock
Sr. Water Resource Agent
Southern Adjudication Unit, Twin Falls
email: vhancock@idwr.state.id.us



716

(BELLEVUE 1:62 500)
3170 IV

718

17'30"

721

722000m.E.

1

2

0

1000

2000

3000

4000

5000

6000

7000

1 MILE

1

5

0

1 KILOMETER

SCALE 1:24 000

ROAD CLASSIFICATION

Heavy-duty.....

Light-duty.....

INTERIOR—GEOLOGICAL SURVEY, WASHINGTON, D. C.—1971-84

BELLEVUE (IDAHO 23) 21.8 MI.
TWIN FALLS 63 MI.