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PS FORM 3547

First Class Mail
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RECEIVED
MAR 21 2001
WATER RESOURCES
WESTERN REGION

DEPARTMENT OF WATER RESOURCES
WESTERN REGIONAL OFFICE
55 AIRPORT WAY
BOISE, IDAHO 83705

REQUESTED

RUMSEY

D R & J INVESTMENTS LIMITED
PARTNERSHIP
1197 MAIN ST
BOISE ID 83702

RUMS197 837022016 1300 07 03/15/01
FORM 3547

RUMSEY
8973 W STATE ST
BOISE ID 83703-1729



65-10746

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: A65-10746
Date Received: 5/23/1989
Receipt No: X999999
Received By: _____

COPY FOR
YOUR FILES

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

COPY FOR
YOUR FILES

1. Name: D R & J INVESTMENTS LIMITED PARTNERSHIP 208-345-2137
Address: 1197 MAIN ST
BOISE ID 83702

2. Date of Priority: APR 1, 1960

3. Source: PORTER CREEK Trib. to: PAYETTE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07N	02E	12	NW	SE			BOISE

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.440		

7. Total Quantity Appropriated is:
0.440 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07N	02E	23	NE	SE	4	IRR	2.0
						Section Acres	2.0
		26	NE	NE		IRR	11.0

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07N	02E	26	NE	SW	3	IRR	9.0
Section Acres							20.0
Total Acres							22.0

11. Place of use in counties: BOISE

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

13. Other Water Rights Used:

14. Remarks:

ADDRESS CHANGED PER CLAIMANT LETTER. LH
THIS RIGHT WHEN COMBINED WITH RIGHTS 65-2540, 65-10747 &
65-10749 SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.
NAME CHANGED PER CLAIMANT REQUEST. DB 6/21/2000.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 1/21/1986

STATE OF IDAHO

Decree Plaintiff

A & C CORP., ET AL.

vs Decree Defendant

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 65-10746

NAME AND ADDRESS: D R & J INVESTMENTS LIMITED PA
8973 W STATE ST
BOISE, ID 83703-1729

SOURCE: PORTER CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 0.44 CFS
99.00 AFY

PRIORITY DATE: 04/01/1960

POINT OF DIVERSION: T07N R02E S12 NWSE Within Boise County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Diversion to Storage	04-01 TO 11-01	0.44 CFS
	Recreation Storage	04-01 TO 11-01	99.00 AFY
	Recreation	04-01 TO 11-01	0.44 CFS
			99.00 AFY

PLACE OF USE: Recreation Within Boise County
T07N R02E S26 NWNE SWNE
LOT 1 (NENW) LOT 2 (SENW)
Recreation Storage Within Boise County
Same as Other use
Diversion to Storage Within Boise County
Same as Other use

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT.

Basin 65 General Provisions No. 3, the Separate Streams General Provision, does not apply to appropriations of water after October 18, 1977.

This water right shall be administered as being from a separate source pursuant to Basin 65 General Provision No. 3. If the holder of this right seeks to change the right pursuant to Idaho Code Section 42-222 or successor statute, nothing in this general provision shall preclude any other person or entity from demonstrating that such change in use would cause injury to its water right or from receiving any relief provided by law in the event of injury.

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. I.C. SECTION 42-1412(6).

RECEIVED

JAN 24 2002

WATER RESOURCES
WESTERN REGION

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)

A. Subcase 65-10746

(Insert water right number)

Case No. 39576)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: United States of America acting through the Department of Interior,
Bureau of Reclamation, Regional Director PN Code-3100
Address: 1150 N. Curtis Rd. Suite 100
Boise, Idaho 83706-1234
Daytime Phone: (208) 678-0461 (Dala Walton)

Name & Address of Attorney, if any:
David W. Gehlert (303 312-7352)
Trial Attorney, General Litigation Section
Environment and Natural Resource Division
U.S. Department of Justice
999 18th Street, Suite N 945
Denver, CO 80202

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

Name: D R & J Investments Limited Partnership
Address: 1197 Main St.
Boise, ID 83702

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

- ☒ **General Provision Basin 65 Irrigation & Other Part III (3) Separate Streams**
1. ☐ **Name and Address**
Should be:
 2. ☐ **Source**
Should be:
 3. ☐ **Quantity**
Should be:
 4. ☐ **Priority Date**
Should be:
 5. ☐ **Point(s) of Diversion**
Should be:
 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:
11. **I object because:**
- ☐ This water right should not exist.
 - ☐ This water right was not recommended, but should be recommended with the elements described.

E. REASONS SUPPORTING EACH OBJECTION(S):

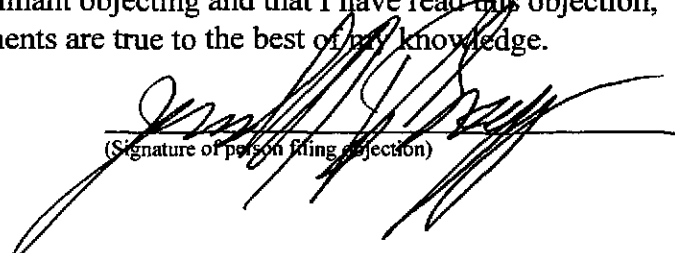
The Bureau of Reclamation objects to the separate stream provision of the Director's Report for Basin 65, Part III. These streams should be administered as part of the Payette River System in order to adequately protect water rights in the Payette River subbasin.

F. VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

Jerrold D. Gregg, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

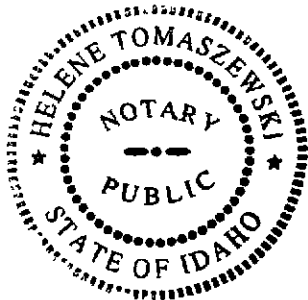
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

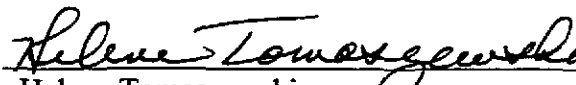

(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

January 9, 2002




Helene Tomaszewski
Notary Public for: Idaho
Residing at: Meridian
My Commission Expires: 01-16-2002

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 January 17, 2002, 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
P.O. Box 2707
Twin Falls, ID. 83303-2707

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

Name: D R & J Investments Limited Partnership

Address: 1197 Main St.
Boise, ID 83702

3. Copies to:

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

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

United States Department of Justice
Environment and Natural Resource Division
General Litigation Section
550 West Fort Street, MSC 033
Boise, Idaho 83724



Signature of Objector or attorney mailing on Objector's behalf

12/27/2001

EXPLANATORY MATERIAL: 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 SRBA	)	SUBCASE NO. 65-1151, 65-1317,
	)	65-2138, 65-2532A, 65-2540, 65-2869,
	)	65-3103, 65-3803B, 65-7833, 65-10746,
	)	65-10747, 65-10748, 65-10749, 65-11393A
	)	and 65-12751
Case No. 39576	)	
	)	NOTICE OF COMPLETED
_____	)	ADMINISTRATIVE PROCEEDING

IDWR has completed the following Administrative proceeding: CHANGE OF ADDRESS

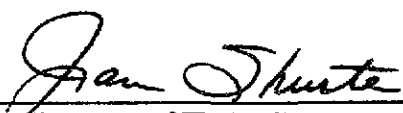
Name and New Address of Claimant:

D R & J INVESMENTS LIMITED PARTNERSHIP
8973 W STATE ST
BOISE ID 83703-1729

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Reports* for said water rights. No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

Dated: December 28, 2001

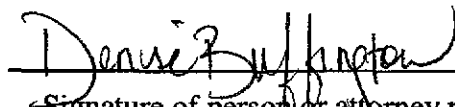


Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on December 28, 2001, I mailed the original and copies of this form to the following persons, postage prepaid and addressed as follows:

1. Original to:
Clerk of the District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls ID 83303-2707
2. One Copy to:
Claimant or attorney of record:
D R & J Investments Limited Partnership
8973 W State St
Boise ID 83703-1729
3. One Copy to:
Each party in the subcase or attorney of record:
N / A
4. One Copy to:
Chief Natural Resources Division
Office of the Attorney General
PO Box 44449
Boise ID 83711-4449
5. One Copy to:
United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724



Signature of person or attorney mailing the form



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 28, 2001

D R & J INVESTMENTS LIMITED PARTNERSHIP
8973 W STATE ST
BOISE ID 83703-1729

RE: Water Right No. 65-1151, 65-1317, 65-2138, 65-2532A, 65-2540, 65-2869, 65-3103,
65-3803B, 65-7833, 65-10746, 65-10747, 65-10748, 65-10749, 65-11393A & 65-12751

Dear Property Owners:

Enclosed is a copy of the above referenced water right, which reflects your change in address. Also enclosed is a copy of the Notice of Completed Administrative Proceedings, which has been sent to the Snake River Basin Court as notification of the change.

Thank you for your patience and cooperation, as we have had several water right changes to process. If you have any questions concerning the enclosed water rights, please feel free to contact this office.

Sincerely,

A handwritten signature in cursive script that reads "Denise Buffington".

Denise Buffington
Office Specialist 1
Adjudication Section
Western Region

DB: db

Enclosures



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
 Phone: (208) 327-7900 FAX: (208) 327-7866

RECEIVED

OCT 31 2001

Department of Water Resources

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

RECEIVED

DEC 10 2001

WATER RESOURCES
WESTERN REGION

September 27, 2001

D R & J INVESTMENTS LIMITED PARTNERSHIP
~~C/O DOUBLE DIAMOND RANCH~~
 8973 W STATE ST
 BOISE ID 83703-1729

RE: Snake River Basin Adjudication (SRBA)
 Water Rights #65-1150, 65-1151, 65-1152, 65-1317, 65-2138, 65-2532A,
 65-2540, 65-2869, 65-3103, 65-3803, 65-7833, 65-10746, 65-10747,
 65-10748, 65-10749, 65-11393A and 65-12751

Dear Water Right Holders:

Mail we sent you was returned to us by the Postal Service. The Postal Service advised us your address has changed to the above address. We have enclosed the returned mail.

Although we have reached you at the address above, we need your written confirmation this is your correct mailing address before we can change our records.

Please sign your name at the bottom of this letter and return it to this office. Make corrections to your name and address if necessary before returning this letter, list any other water rights you have, and return this letter by October 12, 2001. Thank you for your help.

If your mail delivery address changes in any form, please contact us in writing so we can update our records. Be sure to list your water right numbers.

If there has been a change in ownership of the property connected with the water rights referenced above, please call this office toll-free at 1/800-451-4129 to obtain a form to make this required change to the water right records.

Sincerely,

Sally Sherman
 Sally Sherman
 Technical Records Specialist
 Adjudication Bureau

SS:region
 Enclosure:
 Returned Mail

Donald Rummy

#####

ok - original claimant
 on Double Diamond Ranch.
SS

The address is correct as shown above or as otherwise changed.

Water Right Holder's Signature

Telephone No

ADDRESS SERVICE
REQUESTED



RECEIVED
SEP 24 2001
Department of Water Resources

65-3805B
65-10746
0-change?

IDAHO DEPARTMENT OF WATER RESOURCES

1301 North Orchard St
PO Box 83720
Boise, ID 83720-0098
(208) 327-7900

TO

DD...
837022008 1300 04 09/22/01
DOUB197 FORWARD TIME EXP RTN TO SEND
DOUBLE DIAMOND RANCH
8973 W STATE ST
BOISE ID 83703-1729
RETURN TO SENDER

65-1151 rec'd
-1311.
-2138.
-2532A.
-2540.
-2869.
-3103.
-7833.
-10746
-10741.
-10748.
-10749.
-11393A
-12751
-1150 w/c.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

May 4, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

Dear Basin 65 water user:

This letter is to inform you that you may be eligible to file a stockwater claim with the Idaho Department of Water Resources (IDWR) in connection with the Snake River Basin Adjudication (SRBA). IDWR is sending this letter to water users in Basin 65 who might have relied upon the non-irrigation season stockwater provision in the Payette Adjudication. This provision states:

"When stockwater is not a specifically mentioned use for a right that includes irrigation, a reasonable flow is implied and included for the watering of livestock during the non-irrigation season."

In another basin, the Idaho Supreme Court struck down general provisions that contained similar language. The non-irrigation season stockwater language quoted above was not included in the General Provisions for Basin 65 because of the Idaho Supreme Court's ruling.

IDWR recognizes that in reliance on the non-irrigation season stockwater language in the Payette Adjudication, water users might not have filed stockwater claims in the SRBA to cover the non-irrigation season period. Individuals who historically watered livestock during the non-irrigation season without a separate stockwater claim might desire to file a new stockwater claim with IDWR

To be eligible for a new non-irrigation season stockwater claim:

1. You must have actually and historically watered livestock during the non-irrigation season without a separate stockwater right.
2. You must have filed a surface water irrigation claim in both the Payette Adjudication and the SRBA.
3. You must not have filed a stockwater claim with the surface water irrigation claim.

If you meet these three requirements, you may file a Notice of Claim form for stockwater with IDWR. **To have a timely filing you must file this claim with IDWR by May 25, 2001.** IDWR will waive filing fees for these stockwater claims if filed before this deadline. Failure to file your claim in a timely manner may prevent you from claiming it in the future. Notice of Claim forms are available on IDWR's website at www.idwr.state.id.us/info/water/srba/forms.htm or from any IDWR office. Claimants can call IDWR, Western Region at (208) 334-2190 to make an appointment if they need assistance filling out a Notice of Claim form.

Sincerely,

David R. Tuthill, Jr., P.E.
Adjudication Bureau Chief

03/07/2001

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: April 13, 2001

Water right number: 65-10746

D R & J INVESTMENTS LIMITED PARTNERSHIP
1197 MAIN ST
BOISE ID 83702

RECEIVED

APR 05 2001

Department of Water Resources

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:

RECEIVED

APR 06 2001

WATER RESOURCES
WESTERN REGION

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

DATE: 4-2-01 SIGNATURE: Donald Runsey

Please print your name: DONALD RUNSEY

IDWR Regional Office, 2735 Airport Way, Boise, ID 83705, (208) 334-2190

65-

First Class Mail
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USPS
Permit No G-10

RETURN TO SENDER

fee due 600

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PS FORM 3547

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Postage & Fees Paid
USPS
Permit No G-10

RETURN TO SENDER

fee due 600

US POSTAL SERVICE
PS FORM 3547

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MAR 21 2001

WATER RESOURCES
WESTERN REGION

5/10/01-509

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

01/22/2001

RIGHT NUMBER: 65-10746

NAME AND ADDRESS: D R & J INVESTMENTS LIMITED PARTNERSHIP
1197 MAIN ST
BOISE, ID 83702

SOURCE: PORTER CREEK TRIBUTARY: PAYETTE RIVER

QUANTITY: 0.44 CFS
99 AFY

PRIORITY DATE: 04/01/1960

POINT OF DIVERSION: T07N R02E S12 NWSE Within BOISE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
RECREATION	04-01 11-01	0.44 CFS
		99.00 AFY
RECREATION STORAGE	04-01 11-01	99.00 AFY
DIVERSION TO STORAGE	04-01 11-01	0.44 CFS

PLACE OF USE:

RECREATION Within BOISE County			
T07N R02E S26	NWNE	T07N R02E S26	SWNE
T07N R02E S26 LOT 1	NENW	T07N R02E S26 LOT 2	SENW

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

00:40:29
06/10/00
1209

PAGE: 18
PROFILE REPORT

CLAIM NUMBER: A65-10746

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME																																																																																								
C	DOUBLE DIAMOND RANCHES	04/01/1960	IRRIGATION	04-01 11-01	0.440 CFS																																																																																									
Water Source: PORTER CREEK					TOTAL DIVERSION: 0.440 CFS																																																																																									
Tributary to: PAYETTE RIVER					Stage: DECREED																																																																																									
Point(s) of Diversion: T07N R02E S12 NWSE					BOISE County																																																																																									
Place of use Legal Description for: IRRIGATION																																																																																														
<table border="1"> <thead> <tr> <th colspan="4">NE</th> <th colspan="4">NW</th> <th colspan="4">SW</th> <th colspan="4">SE</th> <th></th> </tr> <tr> <th>T</th><th>R</th><th>S</th><th>: Lt Ac</th> <th>Lt Ac</th><th>Lt Ac</th><th>Lt Ac</th><th>: Lt Ac</th> <th>Lt Ac</th><th>Lt Ac</th><th>Lt Ac</th><th>Lt Ac</th><th>: Lt Ac</th> <th>Lt Ac</th><th>Lt Ac</th><th>Lt Ac</th><th>: Lt Ac</th> <th>SUM</th> </tr> </thead> <tbody> <tr> <td>07N</td><td>02E</td><td>23</td><td>:</td><td></td><td></td><td></td><td></td> <td></td><td></td><td></td><td></td><td>:</td><td></td><td></td><td></td><td></td> <td></td> </tr> <tr> <td>07N</td><td>02E</td><td>26</td><td>:</td><td></td><td></td><td></td><td></td> <td></td><td></td><td></td><td></td><td>:</td><td></td><td></td><td></td><td></td> <td></td> </tr> <tr> <td colspan="16"></td> <td>TOTAL ACRES</td> </tr> </tbody> </table>							NE				NW				SW				SE					T	R	S	: Lt Ac	Lt Ac	Lt Ac	Lt Ac	: Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	: Lt Ac	Lt Ac	Lt Ac	Lt Ac	: Lt Ac	SUM	07N	02E	23	:									:						07N	02E	26	:									:																						TOTAL ACRES
NE				NW				SW				SE																																																																																		
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POU County: BOISE

Remarks: NAM ADDRESS CHANGED PER CLAIMANT LETTER. LH *COMM*
GEN THIS RIGHT WHEN COMBINED WITH RIGHTS 65-2540, 65-10747 & 65-10749 SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.

Dates: Exam Made Date: Verified Date: Objection Filed Date:
Misc: Water District Number: 65 Field Inspection Flag: Presumption Flag:

Ree .44 99.0
Ree .44 99.0
Div 0.44
.44 99.0

Ree use on WR

C18
Recommend as per W.R.
Seal + Final order
Signed 1/30/95

Checked by [Signature]

WR5809NP
No. 65-10746

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 06/10/00
PAGE: 71

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	DOUBLE DIAMOND INC	04/01/1960	RECREATION	04/01 11/01	0.440 CFS	99.00 AFA
	C/O DON RUMSEY		RECREATION STORAGE	04/01 11/01		99.00 AFA
	200 SUNRISE RIM		DIVERSION TO STORAGE	04/01 11/01	0.440 CFS	
	BOISE ID 83705					
	(208) 336-4801					
TOTAL DIVERSION:					0.440 CFS	99.00 AFA

Water Source: PORTER CREEK

Tributary to: PAYETTE RIVER

Stage: DECREED

Point(s) of Diversion Capacity: 0.440 CFS

Point(s) of Diversion: T07N R02E S12 NWSE

BOISE County

Place of use Legal Description for: RECREATION

				NE				NW				SW				SE				
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:
07N	02E	26	:			R		R		:	01-R		02-R	:						:

Pou County: BOISE

Conditions of Approval:

- R04 - Use of water under this water right will be regulated by the watermaster of State Water District No. 65B.
- T07 - The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
- T08 - Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
- R43 - The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
- T04 - Approval of this transfer in no way grants any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.
- R32 - This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre for irrigation of the lands above.

Remarks: GEN Water shall be used only on the place of use described by the transfer approval document, incorporated and made a part of this decision.
The validity of the portion of the water rights not transferred was not determined and may be questioned in a subsequent proceeding, including the Snake River Basin Adjudication.
The owner of this right, or his tenant, shall inform the

WR5809NP
No. 65-10746

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 06/10/00
PAGE: 72

Remarks: watermaster on a day to day basis of the flow needed to operate his sprinkler system whenever the use changes significantly. Spill of a substantial quantity of water into Jackass Creek is a waste of water, and is an illegal use of water pursuant to Idaho Code 42-351. Determination of "substantial quantity" is left to the future determination of the Department and the watermaster.

Dates:	App. Received:	Priority Date:	04/01/1960
	Proof Due Date:	Proof Made Date:	
	Exam Made Date:	Exam Sent to S.O.:	
	Licensed Date:		

Misc:	Water District Number: 65B	Field Exam Fee:
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BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION	)	
FOR TRANSFER OF WATER RIGHTS	)	
NOS. 65-03103, 65-10746, 65-10747	)	FINAL
AND 65-02540 IN THE NAME OF	)	ORDER
DOUBLE DIAMOND, INC.	)	
	)	

A recommended order was issued on July 30, 1993, attempting to resolve protests against an application for transfer filed by Double Diamond, Inc. Because of unresolved questions of fact, the hearing officer ordered that additional evidence be taken. On March 9, 1994, a supplemental hearing was conducted for the taking of additional evidence. The supplemental hearing was conducted prior to the 1994 irrigation season, and the parties stipulated to measure the flow in the Porter Creek system according to fixed criteria established prior to the measurement at the beginning of the 1994 irrigation season. The flow capacity of the system was measured on May 11th and 12th, 1994.

On July 8, 1994, an amended recommended order was issued. In response to the amended recommended order, the protestant, George Dovel (Dovel), through his attorney, Richard B. Eismann, filed exceptions to the amended recommended order, and requested oral arguments.

EXCEPTION ANALYSIS

Exceptions to Findings of Fact

The exceptions are detailed and lengthy, and prevent a full recitation here. They will be addressed in subject groups.

Dovel alleges that Double Diamond's early priority right may not have been deliverable, or at least not fully deliverable during some years. The allegation does not change the statement in finding of fact number eleven that George Dovel's number six and seven rights were only deliverable in the early part of the irrigation season during low water years.

Dovel argues that when a full supply of Porter Creek water could not be diverted to the Double Diamond properties, Double Diamond diverted its full water supply from the Payette River, and he was able to divert water later in the season. This statement is

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disputed by later testimony by Donald Rumsey, who testified regarding the operation of the system, including when the river pump was turned on, and when the booster pump was operating prior to excavation by the Idaho Department of Transportation. Furthermore, the Department will not hold that a portion of the water right is lost during a part of the year because at times Double Diamond had decided to use its water supply from the Payette River rather than from Porter Creek.

Dovel alleges that excavation of the gravel pit began in 1987, not 1988. Furthermore, Dovel alleges that gravel pit land had not been irrigated with Porter Creek water. The records show that the contract for the Idaho Department of Transportation was signed in 1987, but significant excavation did not begin until 1988. Furthermore, there is testimony in the record that the gravel pit lands were irrigated with Porter Creek water up through 1987. Dovel bore the burden of establishing nonuse on the gravel pit lands for the period he alleges. He did not clearly establish nonuse for any period earlier than 1988 through 1992.

Dovel alleges that the estimate of the total gravel pit excavation, and the finished gravel pit are inaccurate and not supported by the record. The estimates of 56 acres total excavation during the peak of construction, and the area of 22 acres remaining in the gravel pit are supported by the record. Rumsey was the only witness who physically measured the area of the Double Diamond property remaining as the gravel pit.

Nottingham, an employee of the Department of Transportation, testified that reclamation was not complete because a portion of the gravel pit was left as an excavation. He also testified that other partially reclaimed portions, were not completely restored, but gave no testimony whether there was any topsoil or not. In fact, Nottingham testified he lacked knowledge as to whether the topsoil was placed on the land.

At the second hearing held in the spring of 1994, Donald Rumsey testified that all of the land except for the 22 acres within the gravel pit had been irrigated with Porter Creek water during 1993.

Dovel alleges a portion of finding of fact number 17 states that there is sufficient head to operate sprinklers is a misrepresentation. Dovel then seeks to have the decision recite information about the number of sprinkler heads that can operate, and that there were changes made in the system which will increase the flow above his measurements.

Pressure may drop in the system as more sprinklers are added, until the pressure (or more accurately, velocity exiting the nozzles of the sprinklers) will no longer operate the impact sprinklers. Dovel agrees, however, there is sufficient pressure to

operate some sprinklers, which is all the statement intends to establish.

Dovel states the Department misquotes his testimony in finding of fact number 20. The decision states: "Dovel alleges the system can be managed correctly" by adjusting valves in the Payette River line until there is no overflow. The record reveals Dovel's exception is correct. The misquote is stricken from finding of fact number 20.

Dovel objects to a statement that watermaster records show Double Diamond diverted the full amount of its reduced entitlement of 2.79 cfs. Dovel established at the time that there was water wasted into Jackass Creek when 2.79 cfs was diverted. Therefore the following statement will be added to finding of fact number 25: "Dovel established that water was wasted through the overflow flow pipe into Jackass Creek when 2.79 cfs was diverted."

Dovel alleges that finding of fact number 28 misrepresents the method Dovel used to measure Double Diamond's water diversion. Dovel may have, at times, measured all of the sprinklers in a particular line. The finding of fact, however, tracks Dovel's testimony that he did not always measure every sprinkler, and that at times, he would measure representative sprinkler heads, average the discharge, and multiply by the number of sprinklers. The distinction is not significant.

Dovel alleges that finding of fact number 29 misrepresents his testimony. Dovel clearly testified, however, that he estimated a discharge of 60 inches from the Double Diamond sprinklers.

Dovel also estimated that Double Diamond could divert approximately 2.0 cfs before there was significant waste in Jackass Creek. His estimate of discharge through the system of 1.2 cfs (60 miners inches) is significantly more than 15% of the total output alleged in the exceptions.

Dovel testified once that up to 1.4 cfs could be diverted without any waste to Jackass Creek. Testimony regarding diversion of 2.0 cfs is the testimony that the hearing officer relied upon, however.

Dovel objects to portions of finding of fact number 29 and 30, which discuss a restricted ability of Double Diamond to divert its full water entitlement. Finding of fact number 30 states that "the decrease in irrigated acreage as a result of gravel pit excavation," decreased "the ability of Double Diamond to divert its full water right." Dovel alleges that this statement ignores hydrologic principles, and Dovel's measurements established that any increase in the number of sprinkler heads beyond 148 sprinklers substantially reduced the pressure to where the system would not operate properly.

Dovel's measurements may or may not be correct. The later measurement of the system capacity by Scott King suggests a higher system capacity than alleged by Dovel.

Dovel alleges that the measurement by Scott King was not conducted according to criteria agreed upon by the parties. At the second hearing, the parties discussed mutually agreeing to measure the capacity of the system. The hearing officer expressed reservation about allowing a post hearing measurement because of fears that the dissatisfied party would object, and, as a result, perhaps raise the specter of a third hearing. Based on assurances from the parties that acceptable criteria could be established for measurement, the Department assigned Scott King, a person who was not familiar with any of the Porter Creek controversy, to establish the criteria with the parties, and measure the water flow. In addition, Dovel hired Sherl Chapman, a professional geologist, to attend and oversee the measurements. The date was prearranged, and the criteria was agreed to by the parties. Mr. Chapman had to leave midway through the measurement.

If the focus of this decision is limited to the gravel pit impact area, as suggested by the amended recommended decision, and is not expanded to a review of the entire flow rate diverted and the total number of acres irrigated, the measurement of total system diversion, and total acreage irrigated is irrelevant. The question of whether the further discussion of the total diversion and place of use measurements should be considered is dependent upon a discussion about the conclusions of law. This discussion is contained in the following analysis of exceptions to conclusions of law.

Dovel argued that certain lands lying between the airstrip and the Payette River had never been irrigated. Again this issue relates to the physical boundaries within which the Department will consider the issue of forfeiture, which is discussed below.

Exceptions to Conclusions of Law

The exceptions to the conclusions of law are better discussed in a narrative form without following the order of the exceptions.

First, I agree with the hearing officer that the scope of the review should be limited to the gravel pit impact area. It is only within the gravel pit impact area that the excavation for the gravel pit took place, and it is to and from the 22 acres remaining as a gravel pit Double Diamond is attempting to transfer water. The status of the entire diversion rate was not brought into question by this application for transfer. Furthermore, the status of the entire place of use described by the right is not brought into question by this application for transfer. The larger issues of forfeiture of the total system flow rate and forfeiture of portions of the entire place of use are now pending before the

adjudication court, and should be resolved there. Conclusion of law number 13 in the amended proposed order, which refers to an interim order by the adjudication judge prohibiting communication with claimants, should not be quoted because the order has been lifted. The conclusion of law should be stricken.

A more difficult question of law is whether a portion of the Double Diamond right within the gravel pit area has been forfeited. I hold that the right originally applied to the gravel pit impact area is not forfeited, and the right sought to be transferred into the gravel pit is not forfeited. There are at least two defenses to forfeiture which could be applied in this case, together with equitable reasons why the rights diverted from Porter Creek should not be forfeited.

Double Diamond filed an application for transfer in March of 1991, two irrigation seasons before a forfeiture could have occurred. The application for transfer was protested by Dovel. Because of a change in the reclamation plan, Double Diamond filed an amended application for transfer in April of 1992, before the fifth irrigation season. Double Diamond was anticipating the change in the place of use. Were it not for protests against the application, the application may have been approved prior to the expiration of the five years. I am not proposing that the filing of a protest tolls the running of the forfeiture period. Double Diamond could have protected itself by seeking an application for extension of time to avoid forfeiture pursuant to Idaho Code § 42-204. Nevertheless, Double Diamond pursued the application for transfer in good faith long before the fifth irrigation season expired.

The first hearing was conducted after the expiration of the fifth irrigation season, but prior to the beginning of the sixth irrigation season. For Double Diamond to have avoided the technical forfeiture provisions of Idaho Code § 42-222, it must have irrigated prior to the expiration of the fifth irrigation season. In other words, to beneficially use the water, Double Diamond must have irrigated a growing crop or planted early enough in 1992 that the water could be beneficially used. At the very least, he must have irrigated sometime in September or October of 1992, before the full five years had expired.

Idaho Courts have recognized a defense to forfeiture when failure to use water is caused by circumstances beyond the control of the waterusers. Hedges v. Trail Creek Irrigation, 78 Idaho 10, 297 P.2d 524 (1956). In this case, the Department of Transportation was reclaiming the land in 1992, a protest to the application for transfer had been filed, impeding quick approval. The irrigation season ended without the legal or physical ability to plant a crop and beneficially use the water before the total five years of nonuse expired. These are cumulative circumstances beyond the control of the wateruser which prevented use before

completion of the forfeiture period.

Shortly before the expiration of the fifth irrigation season, it was impossible for the wateruser to beneficially apply the water because to begin at the end of October or first of November would not have been a beneficial use. Double Diamond's first opportunity to beneficially apply the water was in the spring of 1993. Double Diamond diverted the water from Porter Creek in 1993 for irrigation purposes, and used the water as approved by the original recommended order.

Finally, the defense of resumption of use may apply in this case. I hesitate to apply the resumption of use defense, however, because, if it does apply, it should be applied very narrowly. The early cases which established the resumption of use defense were based on facts where there were no later in time appropriations from a stream which would interfere with the resumption, Zezi v. Lightfoot, 57 Idaho 707, 68 P.2d 50 (1937), or the person alleging forfeiture had no subsequent claim to the water which was alleged to be forfeited, Wagoner v. Jeffery, 66 Idaho 455, 162 P.2d 400 (1945). For streams with appropriations of water junior to the right for which forfeiture is alleged, when the right is forfeited, the junior priority rights advance in their order of priorities.

In this case, Double Diamond could be said to have resumed its right because it had never been forfeited unless the junior users stepped into place following expiration of the fifth irrigation season. Because Double Diamond began using its right in the sixth year, junior users couldn't have relied on the nonuse to move up the ladder of priority.

Having addressed the protestants' exceptions, the following is the final order:

FINDINGS OF FACT

1. Double Diamond, Inc. (Double Diamond) filed an application for transfer on March 9, 1991, and amended the application for transfer on April 22, 1992. The amended application proposes to change the place of use and/or nature of use of two water rights which authorize diversion of water from Porter Creek, and two water rights which authorize diversion from the Payette River.

2. The application for transfer proposes to change the place of use for water right no. 65-03103 (Porter Creek), which bears an 1872 priority, from lands which are not now irrigable because of the construction of a gravel pit, to lands which have been irrigated by water diverted pursuant to right no. 65-10746 (Porter Creek), a 1960 priority water right. The application seeks to transfer right 65-10746 to the gravel pit to sustain a pond in the gravel pit for recreational uses. The application also proposes to

change the nature of use of the Payette River water rights (65-02540 and 65-10747) by reducing existing irrigation use and adding a use of recreation storage. Correspondence in the files states water will be stored for a fish pond and a wetland area.

3. The rights are described in the Payette River decree as follows:

65-03103

Source: Porter Creek

Flow Rate: 3.82 cfs

Priority: January 1, 1872

Point of Diversion: NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 12, T7N, R2E, B.M.

Place of Use:

T w p	R g e	S e c	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				ACRES
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
7N	2E	23															39		39
7N	2E	26	13	40	39	3	23			22						14			154
TOTAL ACRES																			193

65-10746

Source: Porter Creek

Flow Rate: .44 cfs

Priority: April 1, 1960

Point of Diversion: NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 12, T7N, R2E, B.M.

Place of Use:

T w p	R g e	S e c	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				ACRES
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
7N	2E	23													2				2
7N	2E	26	11								9								20
TOTAL ACRES																			22

65-02540

11/28/95

Source: Payette River
Flow Rate: 3.20 cfs
Priority: April 26, 1951
Point of Diversion: Sec. 23, T7N, R2E, B.M.
Place of Use:

T w p	R g c	S e c	NE¼				NW¼				SW¼				SE¼				ACRES
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
7N	2E	23													2		39	1	42
7N	2E	26	13	40	39	3	23			22	9					14			163
TOTAL ACRES																			205

65-10747

Source: Payette River
Flow Rate: .90 cfs
Priority: April 1, 1960
Point of Diversion: Sec. 23, T7N, R2E, B.M.
Place of Use:

T w p	R g c	S e c	NE¼				NW¼				SW¼				SE¼				ACRES
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
7N	2E	23													2		39	1	42
7N	2E	26	13	40	39	3	23			22	9					14			163
TOTAL ACRES																			205

4. The application for transfer proposed a change in the place of use as follows for each of the rights:

65-03103

T w p	R g c	S e c	NE¼				NW¼				SW¼				SE¼				ACRES
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
7N	2E	23												8		2	31		41
7N	2E	26	24	35	32	3				16	9					14			152
TOTAL ACRES																			193

65-10746 (R is an abbreviation for recreation and recreation

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storage)

T w p	R g e	S e c	NE¼				NW¼				SW¼				SE¼				ACRES
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
7N	2E	26		R	R		L1 R			L2 R									
				5	7		4			6									
TOTAL ACRES																			

5-02540 (R is an abbreviation for recreation and recreation storage)

T w p	R g e	S e c	NE¼				NW¼				SW¼				SE¼				ACRES
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
7N	2E	23												8		2	31	1	42
7N	2E	26	13	35	32	3	19		16	9						14			141
7N	2E	26		R	R		R		R										
TOTAL ACRES																			183

65-10747

T w p	R g e	S e c	NE¼				NW¼				SW¼				SE¼				ACRES
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
7N	2E	23												8		2	31	1	42
7N	2E	26	13	35 R	32 R	3	19 R			16 R	9					14			141
TOTAL ACRES																			183

5. George Dovel and Horseshoe Bend Hydroelectric Company filed protests against the application for transfer.

6. At hearings conducted on March 8 and 11, 1993, and on March 9, 1994, Double Diamond, Inc. appeared and was represented by Jack Riddlemoser, Attorney at Law. Dovel appeared and was represented by Richard Eismann, Attorney at Law. Horseshoe Bend Hydroelectric Company failed to appear.

7. George Dovel owns the following water rights diverted from

Porter Creek:

<u>Right no.</u>	<u>Priority</u>	<u>Flow rate (cfs)</u>	<u>Use</u>
65-10950	6/1/1908	1.61	Irrigation
65-10951	6/1/1912	0.84	Irrigation
65-10953	6/1/1946	0.04	Domestic

8. Water District no. 65-B was formed to administer delivery of water to users of Porter Creek according to the priority of the water rights. The district refers to the water rights in descending numerical order according to priority. Right no. 65-03103, owned by Double Diamond, is the earliest priority right, and is locally referred to as the number one right. Right no. 65-10746, also owned by Double Diamond, is locally referred to as the number 12 right.

9. Right nos. 65-10950 and 65-10951, both owned by Dovel, are locally referred to as the number 6 and number 7 rights, respectively.

10. Dovel's point of diversion is located upstream of the Double Diamond diversion. The watermaster closes Dovel's headgate when necessary during low water periods to satisfy Double Diamond's calls for water downstream.

11. During low water years, George Dovel's no. 6 and no. 7 rights are only deliverable during the early part of the irrigation season. The number 12 right, owned by Double Diamond, is only deliverable during high flow periods.

12. The Idaho Department of Transportation contracted with Double Diamond to excavate a gravel pit on a portion of the Double Diamond property to which water right no. 65-03103 is appurtenant and a small portion of the Double Diamond property to which water right no. 65-10746 is appurtenant, for the construction of a section of Highway 55 between Boise and Horseshoe Bend.

13. The Department of Transportation began excavating the gravel pit on the Double Diamond property during 1988. Prior to excavation, the land was irrigated with water diverted from Porter Creek pursuant to the first priority right.

14. Dovel testified that 43 acres were not irrigated in 1988. Dovel did not measure or walk the gravel pit boundaries, but observed the work from the other side of the river. His estimate of nonirrigated acreage was not contested by Double Diamond.

15. During the peak of construction, approximately 56 acres could not be farmed because of the gravel pit excavation. Approximately 52 acres of the 56 acres was land irrigated by water diverted pursuant to the number one priority Porter Creek right.

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16. As construction was ending in 1991 and in 1992, the Idaho Department of Transportation reclaimed a portion of the gravel pit, but did not fully complete the reclamation. Approximately 22 acres are still excavated as a gravel pit or not irrigable as a result of the gravel pit construction. Double Diamond does not intend to reclaim any more of the 22 acres.

17. Porter Creek water is deliverable to the Double Diamond property through a combination open channel and closed pressurized system. The diversion from Porter Creek delivers water into approximately two miles of open ditch. The water then enters a headbox at the top of a hill. A pipeline inlet is located in the headbox. The pipeline is constructed from the top of the hill to the bottom, and then extends to the Double Diamond property. Pressure develops in the pipeline because of the change in elevation, and there is sufficient head between the top of the pipe and the bottom to operate sprinklers.

18. A second pipeline is installed in the headbox where the main pipeline begins. The second pipe is an overflow pipe. An overflow spillway in the headbox separates the inlets to the pipes. Presumably, no water flows into the overflow pipe until the elevation of the water rises in the headbox because of increased flow or decreased usage at the end of the mainline, which causes water to spill into the overflow compartment of the headbox, and finally, into the overflow pipe.

19. The overflow pipe parallels the main delivery pipe downhill toward the Double Diamond property. At the base of the hill, the main pipeline crosses Jackass Creek, and the overflow pipe ends with an open orifice which discharges into Jackass Creek. The main pipeline continues onto the Double Diamond property.

20. A second mainline junctions with the Porter Creek pressurized line. The second mainline delivers water pumped from the Payette River. George Dovel testified at the first hearing, that when the Payette River pump is operating, the flow from Porter Creek is more manageable. He explained his earlier testimony at the March 9, 1994 hearing, by stating that when the Payette River pump is pumping, the Porter Creek line will overflow. A valve located in the Payette River pipeline can be closed until pressure in the Payette river line reduces pressure and equalizes with the pressure in the Porter Creek line, and the Porter Creek line no longer overflows.

21. A 40 horsepower booster pump is located in the mainline downstream of the Payette River line - Porter Creek line junction.

22. George Dovel testified that the booster pump was not operated during 1986 through 1992. He does not know whether the booster pump was operated in 1993. Dovel also testified the meter base was removed in 1986, but was replaced in 1993.

23. In 1990, the Department determined 52 acres were not irrigable because of the gravel pit excavation. The authorized rate of flow was reduced 1.03 cfs from 3.82 cfs to 2.79 cfs.

24. In 1991, Double Diamond was again only allowed to divert 2.79 cfs because 52 acres were not irrigable.

25. Watermaster records show Double Diamond diverted the full amount of reduced entitlement of 2.79 cfs at least once during both the 1990 and 1991 irrigation seasons. Dovel established that water was wasted into Jackass Creek when 2.79 cfs was diverted.

26. In 1992, the authorized rate of diversion was only reduced 0.43 cfs, from 3.82 cfs to 3.39 cfs, because of the anticipated reclamation of the gravel pit.

27. Dovel and his employees have carefully monitored and observed Double Diamond's use of water. In 1991, Christy Shirley, one of Dovel's employees observed and recorded the use of water on the Double Diamond property, and also observed and recorded water being discharged into Jackass Creek through the overflow pipe.

28. In addition to the monitoring by Ms. Shirley in 1991, Dovel measured the water diverted, measured or observed the overflow to Jackass Creek, and also estimated the water applied to the Double Diamond property by measuring pressures in rainbird sprinklers with a pitot gage, averaging the pressures measured, and multiplying the average discharge of a single sprinkler head by the number of sprinklers operating.

29. The maximum discharge from sprinklers estimated by Dovel in 1991 is approximately 60 inches, or 1.2 cfs. His measurements do not account, however, for delivery losses, particularly in the open ditch. The measurements also do not account for the reduction in the authorized diversion rate because approximately 52 acres were not being irrigated.

30. Protestant's Exhibit I summarizes Shirley's and Dovel's observations. Dovel testified that any diversion over 1.4 cfs results in a waste of water into Jackass Creek, but later stated that water significantly wasted only when the diversion rate exceeded 2.0 cfs into Jackass Creek. These estimates do not account for the decrease in irrigated acreage as a result of gravel pit excavation, and the corresponding decrease in the ability of Double Diamond to divert its full water right.

31. On May 11 and 12, 1994, Donald Rumsey, a principal owner of Double Diamond, George Dovel, Sherl Chapman, a consultant hired by Dovel, and Scott King, a Department employee, met at the Double Diamond ranch. Flows, discharges, and pressures were measured according to criteria agreed upon by the parties.

32. The parties measured 3.57 cfs entering the Double Diamond ditch at the Porter Creek diversion.

33. The discharge of the system was first measured with the booster pump on and then with the booster pump off. The river pumps were off, and the gate valve in the Payette River line was closed, isolating it from the Porter Creek gravity pressure system.

34. One short hand line, was shut off because the average pressure was less than 20 psi. All other lines were operating with sufficient pressure.

35. With the booster pump off, the flow in the Porter Creek pipeline was measured in two ways. Double Diamond installed an inline McCrometer meter which measured 2.58 cfs. The mainline was tapped and a Collins meter was inserted into the line by Mr. King. The Collins meter measured 2.39 cfs.

36. The flow in the pipeline with the booster pump operating could not be measured with a Collins meter or an inline McCrometer meter because the booster pump entrained air in the water. Mr. King measured a flow of 3.12 cfs in the Porter Creek line by measuring the inflow to the collection box, and by subtracting the overflow at Jackass Creek.

37. After the measurements agreed to and observed by Dovel and his consultant, Dovel objected to the results, alleging the Porter Creek line was repaired and lines were added which were never used. These objections were not raised at the time of the test.

38. Several individuals have diverted water from the Double Diamond ditch referred to locally as "courtesy water." The quantity of water diverted is only approximately two inches per user. These diversions are represented by adjudication claims. "Courtesy water" was not delivered in 1993 to the individuals who diverted it in previous years.

39. An engineer, Don Watts, hired by Dovel, computer digitized the boundaries of irrigated fields depicted on Protestant's Exhibit A, and superimposed public survey information on top of the irrigated fields, dividing the fields into segments within each 40 acre tract. Protestant's Exhibit A is a 1992 aerial photograph of the Double Diamond property.

40. Watts plotted each segment and compared his calculations to an ASCS aerial photograph predating the gravel excavations. His calculations were comparable to the acreage shown on an ASCS map predating the gravel pit excavation. Protestant's Exhibit V-1 depicts segment boundaries, and summarizes segment acreage.

41. Attachments to protestant's Exhibit V conclude the number one priority right irrigates approximately 164.5 acres and the number 12 priority right irrigates approximately 18 acres.

42. The application for transfer proposes use of the no. 12 Porter Creek right (65-10746) when deliverable early in the year, and use of a portion of the Payette River rights (65-02540 and 65-10747) to maintain pond water levels for the remainder of the irrigation season.

43. At the hearing for additional evidence, the parties testified regarding the extent of irrigation in 1993. Except for the 22 acres which was not reclaimed, and remains as a gravel pit and pond, all of the acres which were a part of the original gravel excavation were irrigated with Porter Creek water.

CONCLUSIONS OF LAW

1. Section 42-222, Idaho Code, sets forth the criteria that the Department can consider in determining whether an application for transfer should be approved:

The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, and the change is consistent with the conservation of water resources within the state of Idaho and is in the local public interest as defined in Section 42-203A(5), Idaho Code;

2. The applicant carries the burden of coming forward with evidence that his proposed transfer will not result in an enlargement in use, will not injure other water rights, and that it is consistent with conservation of Idaho's water.

3. All parties carry the burden of coming forward with the evidence regarding matters of local public interest of which each is most cognizant, but the applicant bears the burden to show that his proposal is in the local public interest, or that public interest factors which favor the proposal are of greater worth than the public interest considerations with which it conflicts.

4. The applicant carries the burden of proof for all the criteria of Idaho Code § 42-222.

5. The Department may determine the issue of forfeiture when considering an application for transfer. Jenkins v. State of Idaho, 103 Idaho 384, 647 P.2d 1256 (1982).

6. Forfeiture is not favored and must be established by clear and convincing evidence.

7. Idaho Code § 42-222 is the statute which defines forfeiture:

All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated and when any right to the use of water shall be lost through nonuse or forfeiture such rights to such water shall revert to the state and be again subject to appropriation under this chapter; . . .

8. Dovel argues Porter Creek water has not been delivered to the gravel pit area (approximately 43-56 acres) for a period of at least five years. Dovel also argues the filing of the application for transfer subjects each of the rights to full forfeiture scrutiny by the Department, and the Department cannot narrowly focus only on the gravel pit, but must review the use of the whole right, including the entire place of use, and the total quantity of water diverted. Evidence presented by Dovel questions the total number of acres described as a place of use, and the total quantity of water capable of being diverted by Double Diamond.

9. Double Diamond contests the expansive review requested by Dovel. Double Diamond argues the application for transfer only seeks a change for the 22 acres within the gravel pit, and argues the Department is not authorized to scrutinize other portions of the place of use or the quantity of water diverted.

10. Jenkins does not state whether the Department may review the entire water right when an application for transfer is filed which seeks to change only a portion of the right.

11. The Department's review of the validity of the right when considering an application for transfer is limited by an initial determination of whether a narrow focus on the portion sought to be transferred, without looking at the entire right, will result in an enlargement, injury to other users, a conflict with the public interest, or is inconsistent with principles of conservation of water. In this case, the Department must review more than the 22 acres identified as the gravel pit because 56 acres were part of the gravel pit during peak construction in 1990 and 1991. The Department cannot rule regarding the forfeiture issue for a portion of the gravel pit area (22 acres) and ignore the rest of the gravel pit, because the excavation of the entire gravel pit was, for the most part, simultaneous, and cannot be separated into a 22 acre parcel and a 34 acre parcel because the ruling will apply to all the gravel pit lands.

12. The review of the Department should be limited to the gravel pit impact area, however, and should not extend to all other elements of the water right. A consideration of the total flow rate authorized, the use of the booster pump and the total acreage irrigated should be reserved for the ongoing Snake River Basin Adjudication.

13. The May 11 and 12, 1994 measurements by Scott King exceeded the flow estimates by Dovel. Both the flow measurement by Dovel, and the flow measurement by Scott King will not be used in this decision for determining the water right of Double Diamond, however. A final determination of the total diversion authorized will be reserved for the adjudication.

14. There is uncontroverted evidence in the record that at least 43 acres were not irrigated during the five irrigation seasons in 1988 through 1992. However, Double Diamond indicated its intent to use the water by filing applications for transfer prior to the end of the fifth irrigation season. Notice of these applications was published.

15. Filing of a protest to the proposed transfer by Dovel, reclamation during 1992, and the difficulty of beneficially using water at the end of the irrigation season prevented Double Diamond from irrigating prior to the expiration of the fifth irrigation season. These circumstances qualify as a defense to forfeiture because Double Diamond was prevented from using water by circumstances beyond its control. Irrigation in 1993 after the transfer was approved, prevented the forfeiture.

16. Dovel should not be allowed to benefit by delays caused by the filing of a protest to an application for transfer.

17. "[F]orfeiture is not effective, if after the five-year period, the original owner or appropriator resumed the use of the water prior to the claim of right by a third party." Carrington v. Crandall, 65 Idaho 525, 147 P.2d 1009 (1944); Application of Boyer, 73 Idaho 152, 248 P.2d 540 (1952).

18. The first hearing for this application was conducted on March 8 and 11, 1993, before the commencement of the 1993 irrigation season. The second hearing was conducted on March 9, 1994, after the 1993 irrigation season.

19. Other users could not establish a legal claim of right to the forfeited water until after forfeiture. If Double Diamond resumed its use during the 1993 irrigation season, the other users would not have established a reliance on the water, and the forfeiture is not effective.

20. In 1993, Double Diamond resumed irrigation of all lands in the gravel pit impact area and the lands originally irrigated by

the no. 12 right with Porter Creek water, except the 22 acres which remained as a gravel pit and pond.

21. Most of the testimony established the area of unrestored gravel pit at approximately 20-22 acres. The measurement and calculation of 22 acres by Donald Rumsey is accepted as the area of the unrestored gravel pit.

22. The protestant established that Double Diamond (or its tenant) does not cautiously use only the water it needs. Substantial waste of valuable Porter Creek water into Jackass Creek has been occurring and is not acceptable, except when Porter Creek fluctuations or other unforeseeable occurrences cause waste.

23. The protestant raised a substantial question about the total number of acres irrigated. These issues should be addressed by the Snake River Basin Adjudication.

24. Double Diamond should know how much water is necessary to operate various sprinkler line combinations. Double Diamond should call for the quantity of water needed.

25. Double Diamond is obligated to operate its irrigation system in a manner that will not result in the waste of a substantial quantity of water during times when sprinkler lines are being moved or modified. Double Diamond is further obligated to inform the watermaster when its reduced diversion rate requirement is such that later priority right holders could make beneficial use of the water.

26. Use of the water for recreational fish rearing and wetlands is a beneficial use.

27. "Courtesy water" should not be delivered to water users who do not hold a valid water right.

28. Failure to appear at a hearing is cause for dismissal of a protest. Horseshoe Bend Hydroelectric Company's protest should be dismissed.

29. Request for oral argument by Dovel should be denied.

ORDER

IT IS HEREBY ORDERED that application for transfer of water right nos. 65-03103, 65-10746, 65-02540, and 65-10747 is APPROVED subject to the following conditions:

1. Use of water under these water rights shall be regulated by the watermaster of State Water District no. 65B.

2. The right holder under this transfer shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

3. Approval of this transfer in no way grants any right-of-way or easement for use of a delivery system owned by person (s) other than the right owner.

4. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.

5. Water shall be used only on the place of use described by the transfer approval document, incorporated and made a part of this decision.

6. The validity of the portion of the water rights not transferred was not determined and may be questioned in a subsequent proceeding, including the Snake River Basin Adjudication.

7. The owner of this right, or his tenant, shall inform the watermaster on a day to day basis of the flow needed to operate his sprinkler system whenever the use changes significantly.

8. Failure to comply with the conditions of this transfer is cause for the director to issue an order to cease and desist pursuant to Idaho Code § 42-352.

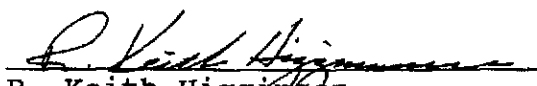
9. This right when combined with all other rights shall provide no more than 0.02 cfs per acre no more than 4.5 afa per acre for the lands above.

10. Spill of a substantial quantity of water into Jackass Creek is a waste of water, and is an illegal use of water pursuant to Idaho Code § 42-351. Determination of "substantial quantity" is left to the future determination of the Department and the watermaster.

IT IS FURTHER ORDERED that Horseshoe Bend Hydroelectric Company's protest is dismissed.

IT IS FURTHER ORDERED that Dovel's request for oral argument is DENIED.

Dated this 30TH day of January, 1995.


R. Keith Higginson
Director, Department of Water Resources



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

June 21, 2000

D R & J INVESTMENTS LIMITED PARTNERSHIP
1197 MAIN ST
BOISE ID 83702

Re: Notice of Claim to a Water Right No. A65-01151, A65-01317, A65-02138, A65-02532A, A65-02540, A65-02869, A65-03103, A65-03803B, A65-10746, A65-10747, A65-10748, A65-10749, A65-11393A, A65-12751 and A65-07833

Dear Claimant:

This letter is to inform you that the name has been changed on the above referenced claims, for the land and appurtenant water right(s) covered under the original filing.

The Department will contact you in the future concerning any requirements that may be needed in order to process these claims for final court decree. The final recommendation for these claims will be mailed in September, at which time you will receive copies.

Please note, the name has also been changed on water right numbers 65-01150, 65-01152 and 65-03800, which have been decreed by the SRBA Court.

Thank you for your patience and cooperation, as we have had several ownership changes to process. If you have any questions concerning this letter, please contact Sue Bock at this office.

Sincerely,

A handwritten signature in cursive script that reads "Denise Buffington".

Denise Buffington
Office Specialist I
Adjudication Section
Western Region Office

DB:db



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

*This should have
been Don. my
golf. ss*

February 16, 1996

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

DOUBLE DIAMOND RANCHES
RON & DALE RUMSEY
311 4TH ST N EXT
NAMPA ID 83687-3247

Records not Modified.

02-27-96

RECEIVED

FEB 26 1996

Department of Water Resources

Re: Snake River Basin Adjudication (SRBA)
Notice(s) of Claim No. - Please see attached list
Change of Address

Dear Claimant,

IDWR has been notified the address presently in our claim records is incorrect. Although we have reached you at the address above, we need you to confirm this is your correct mailing address. Future notices related to your SRBA claim(s) can be sent only to the address on your claim or as otherwise changed by you. The staff of this agency must avoid relying upon the word of others about your mailing address.

If the address above is correct, please sign your name at the bottom of this letter, and return it to this office. Otherwise, please make the proper corrections, sign, and return this letter. Thank you for your help. We hope to assure that you receive future notices about SRBA matters.

If the ownership of the property to which the water right(s) referenced above apply has changed, please call this office toll-free at 1-800/451-4129 to obtain a form to make this required change to the claim record.

Sincerely,

Adjudication Bureau Staff

SO:ss:region

#####

The address is correct as shown above or as otherwise changed.

Donald Rumsey
Claimant

RECEIVED

FEB 27 1996

WATER RESOURCES
WESTERN REGION

MICROFILMED

FEB 21 1996

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

In Re Snake River Basin Adjudication Case)
No. 39576)

Notice of Filing Director's Report and Supplemental
Director's Report Part II & III, United States' and Tribal
Non-consumptive Claims.

TO: ALL CLAIMANTS OF RIGHTS TO THE USE OF WATER IN THE SNAKE RIVER BASIN
YOU ARE HEREBY NOTIFIED OF THE FOLLOWING:

THE DIRECTOR'S REPORT PART II & III FOR THE UNITED STATES' AND TRIBAL NON-CONSUMPTIVE CLAIMS HAS BEEN FILED WITH
THE DISTRICT COURT. A SUPPLEMENTAL DIRECTOR'S REPORT PART II & III HAS ALSO BEEN FILED WITH THE DISTRICT COURT.
THIS NOTICE CONTAINS IMPORTANT INFORMATION ABOUT THE DIRECTOR'S REPORTS, AND DEADLINES AND FURTHER PRO-
CEEDINGS ON THESE WATER RIGHT CLAIMS.

IMPORTANT NOTICE REGARDING YOUR WATER RIGHT

**THIS CONTAINS YOUR LEGAL NOTICE OF THE DIRECTOR'S REPORTS OF U.S. AND
TRIBAL NON-CONSUMPTIVE CLAIMS IN THE SNAKE RIVER BASIN ADJUDICATION
THESE CLAIMS COULD AFFECT YOUR WATER RIGHT**

63257
Idaho Department of water Resources
Statehouse Mail
Boise, Idaho 83720

*Not attached
Claims List*

RECEIVED

FEB 16 1996

WATER RESOURCES
WESTERN REGION

Presorted
First Class Mail
U.S. Postage Paid
Boise, Idaho
Permit No. 1

RECEIVED

APR 21 1995

Department of

DOUBLE DIAMOND RANCHES
DON & DALE RUMSEY
200 SUNRISE RIM ROAD
BOISE ID

RUMSEY 837052012 1893 04/19/95
58/6140 EP51 21025078
FORWARDING TIME EXPIRED
RUMSEY
311 4TH ST N EXT
Nampa ID 83687-3247
RETURN TO SENDER

|||||

MICROFILMED
OCT 21 1996

1.16.1.25 - 1.16.1.26

08/08/78 F.E.L.

* MACALLISTER'S MODIFICATION OF MORITZ *
* LOSS CALCULATION FOR *
* THE DOUBLE DIAMOND PORTER-PERKINS DITCH *
* WATER RIGHT NO. 65-10746 *

Q DIVERTED: ~~89~~ ^{.88}
Q DELIVERED: .44
PERCENTAGE LOSS: ~~401.8~~ 100

MAX REASONABLE BY 50% RULE

TYPE OF SOIL: SANDY LOAM
SOIL CONSTANT= 1.50 (FEET/DAY)
LENGTH OF HEAD OF DITCH: 1.88
LENGTH OF DELIVERY SECTION: .00

LOSS TABLE FOR HEAD OF DITCH

MILE	Q (CFS)	LOSS (CFS)
1.00	.63	.26
1.88	.44	.19

$$77 \text{ AFA } (1+1) = 154 \text{ AFA}$$

01 WATER RIGHT NUMBER - 65-10746

02 CLD (D) NUMBER -

LAST NAME
03001 - DOUBLE DIAMOND INC. ✓FIRST NAME
04001 -ORIG. OWNER
05001 - C

06 ADD LINE 1 - C/C DON RUMSEY ✓

07 ADD LINE 2 -

08 ADD LINE 3 -

09 CITY - HORSESHOE BEND ✓

10 STATE - ID ✓ 11 ZIP - 83629 ✓

12 STAGE - D DECREE ✓

13 STATUS -

SOURCE
14001 - PORTER CREEK ✓TRIBUTARY OF
15001 - PAYETTE RIVER ✓

16 DIVERSION MEANS -

17 CCUNTY - 15 BOISE

18 DIVERSION CAPACITY - .000

19 TOTAL DIVERSION RATE - .440 ✓

20 TOTAL DIVERSION VOLUME - .00

21 WATER DISTRICT - 65

----- DIVERSION POINTS -----													
TRACT	SEC	TWN	RNG	LOT	RFLG	S T R E A M I N D E X F I E L D S							
22001 - NWSE	23001 - 12	24001 - 07N	25001 - 02E	26001 - 28001 - 0	27001 - 0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

29 NON-IRRIGATION USE -

----- PLACE OF USE -----							
USE CODE / USE	TWN	RNG	SEC	TRACT	ACRES	LOT	
30001 - 01 IRRIGATION ✓	31001 - 07N	32001 - 02E	33001 - 26	34001 - NENE	35001 - 11	36001 -	
30002 - 01 IRRIGATION ✓	31002 - 07N	32002 - 02E	33002 - 26	34002 - NESW	35002 - 09	36002 - 03 ✓	
30003 - 01 IRRIGATION ✓	31003 - 07N	32003 - 02E	33003 - 23	34003 - NESE	35003 - 02	36003 - 04 ✓	TOTAL ACRES: 22 ✓

----- WATER USE -----				
PERIOD FROM	PERIOD TO	USE CODE / USE	DIVERSION RATE	DIVERSION VOLUME
37001 - 0401 ✓	38001 - 1101 ✓	39001 - 01 IRRIGATION ✓	40001 - 0.440 ✓	41001 - 0.00

42 DECREE PLAINTIFF NAME -

43 DECREE DEFENDANT NAME -

REMARKS
44001 - THIS RIGHT WHEN COMBINED WITH RIGHTS 65-2540, 65-10747 &
44002 - 65-10749 SHALL PROVIDE NO MORE THAN .02 CFS/ACRE. ✓

APPROVAL CONDITIONS: 45001 -

46 OTHER RIGHTS FOR SAME USE -

----- D A T E S -----			----- D A T E S -----			----- F L A G S -----		
47 PRIORITY	-	1-APR-1960 ✓	55 LICENSE	-		63 TRANSFER/AMENDED	-	
48 PROOF DUE	-		56 APPL RECEIVED	-		64 DLE/CAREY ACT	-	
49 PROOF MADE	-		57 FIELD EXAM MADE	-		65 FLAG_1	-	
50 APPROVE/DENIED	-		58 DECREE	-		66 FLAG_2	-	
51 PROTESTED	-		59 START WORK	-		67 FLAG_3	-	

WRR100
65-10746

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHTS PROOF READING REPORT

PAGE 2
24-FEB-1986 17:16:32

----- D A T E S ----- D A T E S ----- F L A G S -----

52 HEARING -
53 VERIFIED -
54 LAST UPDATE - 23-JAN-1978

60 ORDER SHOW CAUSE -
61 DATE_1 -
62 DATE_2 -

2/25/86
VERIFIED JKN

RECEIVED

JUN 1 - 2000

RECEIVED

JUN 09 2000

Department of Water Resources

WATER RESOURCES
WESTERN REGION

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

Please print or type. Attach pages with additional information. Instructions are on the back of this page.

Incomplete forms will be returned.

1. Water Right No(s): 65-01151, 65-01154, 65-01317, 65-02138, 65-02532A, 65-02540, 65-03103, 65-10746, 65-10747, 65-10748, 65-10749, 65-11393, 65-12751, 65-12754
- Adjudication Claim No(s): 65-01150, 65-01152, 65-03800, A65-01151, A65-01317, A65-02138, A65-02532A, A65-02540, A65-03103, A65-03803B, A65-10746, A65-10747, A65-10748, A65-10749, A65-11393A
2. The following **REQUIRED** information must be submitted with this form:

A. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water rights or claims in question, **WITH ATTACHED LEGAL DESCRIPTION.**

AND

B. **PLAT OF PROPERTY** or **SURVEY MAP** showing the location of the place of use of the water right(s) or claim(s). (These are usually attached to your deed or on file with the county.)

OR

C. If your water right or adjudication claim 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**.

Double Diamond, Inc. or Double Diamond Ranch
or Double Diamond Ranches

3. Name and Address of Former Owner/Claimant
1197 Main Street
Boise, ID 83702
4. New Owner/Claimant(s)
DR & J Investments Limited Partnership
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
1197 Main Street
Boise, ID 83702
 City, State and ZIP Code
 New Telephone Number (208) 345-2137
5. Date you acquired the property 1/1/00

6. **Did you acquire all of the former owner's property? If you did, skip this item and go to item 7. If you acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). Describe in detail your portion of each water right or adjudication claim in the spaces in the box below only if the water right(s) or claim(s) need to be split between owners. If necessary, attach additional pages. If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.**

Number of acres you irrigate with this water right _____	Number and type of stock _____
Diversion rate in CFS _____	Number of homes you acquired _____ Other uses _____

7. Signature of New Owner(s) or Claimant(s)
DR & J Investments Limited Partnership
DR Holdings, Inc., General Partner
 By: Donald J. Rumsey Donald J. Rumsey, President
 Corporations or other organizations must submit a list of directors and/or officers demonstrating authority to sign form.
8. For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him or her for all matters related to your claims.

LAW OFFICE

D. JOHN THORNTON & ASSOCIATES, P.A.

TAX • BUSINESS • ESTATE PLANNING • WEALTH PRESERVATION

THE GOLDEN EAGLE AT FOREST RIVER
1101 WEST RIVER STREET, SUITE 340
BOISE, IDAHO 83702-7067

POST OFFICE BOX 7156
BOISE, IDAHO 83707-1156

TELEPHONE (208) 344-8600
FACSIMILE (208) 344-8720

RECEIVED

JUN 09 2000

D. JOHN THORNTON
GREGORY A. BYRON, LL.M. **WATER RESOURCES
WESTERN REGION**

NICHOLAS S. MARSHALL, LL.M.
AMBER R. MYRICK, LL.M.
MARK P. THOMAS, LL.M.

KATHLEEN A. ROCKNE
LEGAL ASSISTANT

LICENSED TO PRACTICE IN
IDAHO, OREGON, WASHINGTON, CALIFORNIA

STRATEGIC LEGAL ALLIANCES
ARIZONA, NEVADA, UTAH

May 31, 2000

Ms. KariLynn Townsend
State of Idaho
Department of Water Resources
1301 N. Orchard
Boise, ID 83706-2237

RECEIVED

JUN 1 - 2000

Department of Water Resources

Re: Donald J. Rumsey

Dear KariLynn:

As we discussed earlier today, enclosed are Assignments of Permits and Notices of Change of Water Right Ownership to the following named limited partnerships:

To DR & J INVESTMENTS L.P.:

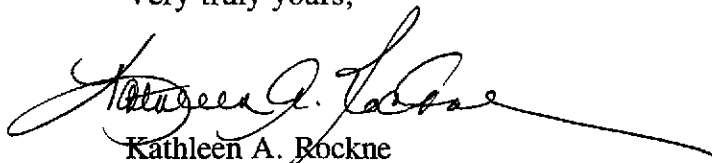
1. Five Assignments of Permit ##65-02869, 65-07833, A65-02869, A65-12751 and A65-07833, together with our check for assignment fees in the amount of \$125; and
2. Notice of Change of Water Right Ownership for various water rights and adjudication claims in Boise County.

To DR & T PROPERTIES L.P.:

3. Notice of Change of Water Right Ownership for one water right and two adjudication claims in Elmore County.

If you have any questions or need additional information, please call. Thank you in advance for your assistance.

Very truly yours,


Kathleen A. Rockne
Legal Assistant

/K
Enclosures

COPY

RECEIVED

JUN 09 2000

CONSENT TO ACTION OF SOLE DIRECTOR IN LIEU OF
ORGANIZATIONAL MEETING

WATER RESOURCES
WESTERN REGION

OF
DR HOLDINGS, INC.

RECEIVED

JUN 1 - 2000

* * * * *

Department of Water Resources

THE UNDERSIGNED sole director of DR HOLDINGS, INC., a Nevada corporation, hereby consents to, adopts, ratifies and approves in writing the following corporate actions, without a meeting, pursuant to the provisions of Title 7, Chapter 78, Nevada Revised Statutes:

INITIAL FORMATION OF CORPORATION:

BE IT HEREBY RESOLVED, that the Articles of Incorporation of the Corporation, as filed, are approved and adopted and shall be inserted in the minute book of the Corporation, together with the Certificate of Incorporation issued by the Secretary of State of Nevada on December 31, 1998.

BE IT FURTHER RESOLVED, that the form of Bylaws for the regulation of the affairs of the Corporation, approved and adopted this date, shall be filed in the corporate minute book.

CONFIRMATION OF SOLE DIRECTOR:

BE IT FURTHER RESOLVED, that the following person, who is named as the initial sole director in the Articles of Incorporation, is hereby ratified and confirmed as the sole director of this Corporation, to serve for the ensuing year or until his successor shall have been elected and qualified:

DONALD J. RUMSEY

ELECTION OF OFFICERS:

BE IT FURTHER RESOLVED, that the following persons are elected as officers of the Corporation, to serve for the ensuing year or until their successors shall have been elected and qualified:

President:	DONALD J. RUMSEY
Vice President:	DONALD J. RUMSEY
Secretary:	LEECHA R. HERNANDEZ
Treasurer:	DONALD J. RUMSEY

CONDUCT OF CORPORATE BUSINESS:

BE IT FURTHER RESOLVED, that the secretary of this corporation shall procure all such record books, transfer books, books of account, stationery, and other office supplies as may be necessary, for the proper conduct of this corporation's business; that the form of stock certificate attached to this Consent is adopted as the stock certificate of the Corporation; and that the form of corporate seal that is impressed hereon, or an impression of which is attached to this Consent, is adopted as the corporate seal of the Corporation.

BE IT FURTHER RESOLVED, that the secretary be, and hereby is authorized and directed to pay out of any funds belonging to this corporation the expenses incurred in connection with its incorporation and for the supplies ordered or to be purchased in connection with the organization of the corporation and the establishment of its business, and such other obligations, if any, as the corporation has incurred incidental to its organization.

BE IT FURTHER RESOLVED, that this corporation shall open a bank account for the general banking business of this corporation with a banking institution in the State of Nevada or in any other state, as the officers of this corporation may deem appropriate, and the standard banking resolution used by said bank for a corporate account is hereby adopted as if said resolution had been set forth herein in full; and that the officers of this Corporation are hereby authorized and directed to execute all necessary forms of corporate resolution of authority for bank accounts and borrowings with said banking institution.

ORIGINAL STOCK ISSUE:

BE IT FURTHER RESOLVED, that, for good and valuable consideration, the receipt of which is hereby acknowledged, the Corporation shall issue shares of common stock pursuant to that certain Subscription and Investment Agreement dated December 31, 1998, as set forth below:

SUBSCRIBER	VOTING SHARES:	NONVOTING SHARES:
DONALD J. RUMSEY	100	900

DR & J PROPERTIES L.P.:

WHEREAS, this Corporation and Donald J. Rumsey have agreed to enter into and execute that certain Agreement of Limited Partnership dated January 1, 1999 (the "Agreement"), wherein this Corporation will contribute certain assets to DR & J Properties L.P., a Nevada limited partnership (the "Partnership") in exchange for a one percent (1.0%) general partner interest in said Partnership; and

WHEREAS, pursuant to such Agreement, this Corporation will become the sole General Partner of said Partnership and as such, will assume all of the rights, duties and obligations of a General Partner as set forth in said Agreement;

NOW, THEREFORE, BE IT HEREBY RESOLVED, that, effective January 1, 1999, the officers of this Corporation be, and they hereby are authorized and empowered to enter into and execute the Agreement wherein this Corporation will become the sole General Partner of said Partnership and shall assume all of the rights, duties and obligations of a General Partner as set forth in said Agreement.

BE IT FURTHER RESOLVED, that thereafter the officers of this Corporation be, and they hereby are authorized and empowered to conduct the business of said Partnership as its General Partner, consistent with all the rights and powers granted to a General Partner under the Agreement and acting in the fiduciary capacity as described therein.

DR & T PROPERTIES L.P.:

WHEREAS, this Corporation and Donald J. Rumsey have also agreed to enter into and execute that certain Agreement of Limited Partnership dated January 1, 1999 (the "Agreement"), wherein this Corporation will contribute certain assets to DR & T Properties L.P., a Nevada limited partnership (the "Partnership") in exchange for a one percent (1.0%) general partner interest in said Partnership; and

WHEREAS, pursuant to such Agreement, this Corporation will become the sole General Partner of said Partnership and as such, will assume all of the rights, duties and obligations of a General Partner as set forth in said Agreement;

NOW, THEREFORE, BE IT HEREBY RESOLVED, that, effective January 1, 1999, the officers of this Corporation be, and they hereby are authorized and empowered to enter into and execute the Agreement wherein this Corporation will become the sole General Partner of said Partnership and shall assume all of the rights, duties and obligations of a General Partner as set forth in said Agreement.

BE IT FURTHER RESOLVED, that thereafter the officers of this Corporation be, and they hereby are authorized and empowered to conduct the business of said Partnership as its General Partner, consistent with all the rights and powers granted to a General Partner under the Agreement and acting in the fiduciary capacity as described therein.

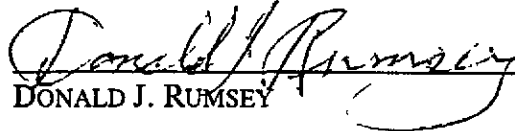
FURTHER ACTIONS:

BE IT FURTHER RESOLVED, that the officers of this Corporation be, and they hereby are, authorized and empowered to enter into and execute contracts, leases,

agreements and other legal documents of whatever kind or nature, specifically including agreements of limited partnership, as may be agreed to be necessary in the course of business, and that thereafter the Corporation shall be authorized to perform according to the same.

DATED this 31st day of December, 1998.

SOLE DIRECTOR:


DONALD J. RUMSEY

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: **A65-10746**
Date Received: 5/23/1989
Receipt No: X999999
Received By: _____

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

1. Name: DOUBLE DIAMOND RANCHES 208-336-4801
Address: DON & DALE RUMSEY
311 4TH ST N EXT
NAMPA ID 83687-3247

2. Date of Priority: APR 1, 1960

3. Source: PORTER CREEK Trib. to: PAYETTE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07N	02E	12	NW	SE			BOISE

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.440		

7. Total Quantity Appropriated is:
0.440 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07N	02E	23	NE	SE	4	IRR	2.0

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	2.0
		26	NE	NE	IRR	11.0
			NE	SW	3 IRR	9.0
					Section Acres	20.0
					Total Acres	22.0

11. Place of use in counties: BOISE

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

13. Other Water Rights Used:

14. Remarks:

ADDRESS CHANGED PER CLAIMANT LETTER. LH
THIS RIGHT WHEN COMBINED WITH RIGHTS 65-2540, 65-10747 &
65-10749 SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 1/21/1986

STATE OF IDAHO

Decree Plaintiff

A & C CORP., ET AL.

vs Decree Defendant

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/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)
) SS.
County of _____)

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____
My Commission Expires _____

MICROFILMED
OCT 21 1996

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: A65-10746
Date Received: 5/23/1989
Receipt No: X999999
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: DOUBLE DIAMOND RANCHES 208-336-4801
Address: DON & DALE RUMSEY
200 SUNRISE RIM ROAD
BOISE, ID 83705

2. Date of Priority: APR 01, 1960

3. Source: PORTER CREEK Trib. to: PAYETTE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07N	02E	12	NW	SE			BOISE

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.440		

7. Total Quantity Appropriated is:
0.440 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07N	02E	23	NE	SE	4	IRR	2.0
Section Acres							2.0

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07N	02E	26	NE	NE		IRR	11.0
			NE	SW	3	IRR	9.0
Section Acres							20.0
Total Acres							22.0

11. Place of use in counties: BOISE

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

13. Other Water Rights Used:

14. Remarks:

THIS RIGHT WHEN COMBINED WITH RIGHTS 65-2540, 65-10747 &
65-10749 SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 1/21/1986

STATE OF IDAHO

Decree Plaintiff

vs

A & C CORP., ET AL.

Decree Defendant

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/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 _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____

My Commission Expires _____

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. No.

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

Please type or print clearly:

Name of Claimant(s) DOUBLE DIAMOND RANCHES
DON & DALE RUMSEY

Mailing Address 200 SUNRISE RIM ROAD
(include Zip Code) BOISE, ID 83705

Phone Number (208) 336-4801

MICROFILMED
SEP 24 1992

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.

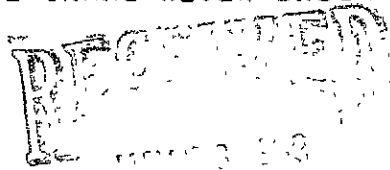
CIVIL CASE NUMBER: 39576

IDENT. NUMBER: 65-10746

DATE RECEIVED: 5/23/89

RECEIPT NO: 7589899

RECEIVED BY: [Signature]



Department of Water Resources
Western Regional Office

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. NAME: DOUBLE DIAMOND INC.

ADDRESS: C/O DON RUMSEY

HORSESHOE BEND, ID 83629

2. DATE OF PRIORITY: APR 01, 1960

3. SOURCE: PORTER CREEK

TRIB. TO: PAYETTE RIVER

4. POINT OF DIVERSION:

TOWNSHIP	RANGE	SECTION	1/4 OF	1/4 OF	1/4	LOT	COUNTY
07N	02E	12	NW	SE			BOISE

5. DESCRIPTION OF DIVERTING WORKS:

6. WATER IS USED FOR THE FOLLOWING PURPOSES:

PURPOSE	FROM	TO	C.F.S.	(OR)	A.F.A.
IRRIGATION	04/01	11/01	0.440		

7. TOTAL QUANTITY APPROPRIATED IS:

0.440 C.F.S. (AND/OR) A.F.A.

8. TOTAL CONSUMPTIVE USE IS

ACRE FEET PER ANNUM.

9. NON-IRRIGATION USES:

10. PLACE OF USE:

TOWNSHIP	RANGE	SECTION	1/4 OF	1/4	LOT	USE	ACRES
07N	02E	23	NE	SE	4	IRR	2.0
						SECTION ACRES	2.0
		26	NE	NE		IRR	11.0

65-10746

PAGE

1

DATE: 03/04/89

1420

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SEP 24 1992

10. PLACE OF USE: CONTINUED

TOWNSHIP	RANGE	SECTION	1/4 OF 1/4	LOT	USE	ACRES
07N	02E	26	NE SW	3	IRR	9.0
SECTION ACRES						20.0
TOTAL ACRES						22.0

11. PLACE OF USE IN COUNTIES: BOISE, BOISE

12. DO YOU OWN THE PROPERTY LISTED ABOVE AS PLACE OF USE? YES

13. OTHER WATER RIGHTS USED:

14. REMARKS:

THIS RIGHT WHEN COMBINED WITH RIGHTS 65-2540, 65-10747 &
65-10749 SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.

15. BASIS OF CLAIM: DECREED

CASE NUMBER:

COURT :

DECREE DATE: 1/21/1986

STATE OF IDAHO
DECREE PLAINTIFF

A & C CORP., ET AL.
VS
DECREE DEFENDANT

16. SIGNATURE(S)

(A.) BY SIGNING BELOW, I/WE ACKNOWLEDGE THAT I/WE HAVE RECEIVED, READ AND UNDERSTAND THE FORM ENTITLED "HOW YOU WILL RECEIVE NOTICE IN THE SNAKE RIVER BASIN ADJUDICATION." (B.) I/WE DO ____ DO NOT ____ WISH TO RECEIVE AND PAY A SMALL ANNUAL FEE FOR MONTHLY COPIES OF THE DOCKET SHEET.

NUMBER OF ATTACHMENTS: _____

FOR INDIVIDUALS:

I/WE DO SOLEMNLY SWEAR OR AFFIRM THAT THE STATEMENTS CONTAINED IN THE FOREGOING DOCUMENT ARE TRUE AND CORRECT.

SIGNATURE OF CLAIMANT(S): _____ DATE: _____

DATE: _____

FOR ORGANIZATIONS:

I DO SOLEMNLY SWEAR OR AFFIRM THAT I AM PRESIDENT OF
TITLE

Double Diamond Ranches, THAT I HAVE SIGNED THE FOREGOING
ORGANIZATION

DOCUMENT IN THE SPACE BELOW AS PRESIDENT OF
TITLE

Double Diamond Ranches AND THAT THE STATEMENTS CONTAINED IN THE
ORGANIZATION
FOREGOING DOCUMENT ARE TRUE AND CORRECT.

Donald Ramsey
SIGNATURE OF AUTHORIZED AGENT

PRESIDENT
TITLE AND ORGANIZATION

5-17-89
DATE

STATE OF IDAHO)
COUNTY OF Ada) SS.
)

SUBSCRIBED AND SWORN (OR AFFIRMED) BEFORE ME THIS 17 DAY

OF May 19 89

Theresa McArthur
NOTARY PUBLIC

SEAL

RESIDING AT Bain, Idaho

MY COMMISSION EXPIRES 6-30-1989

1/30/1989

SRBA CLAIMS RECEIVING CHECKLIST #2

CLAIMANT'S NAME Double Diamond Ranches CLAIM IDENT. NO. AL65-10746
DATE RECEIVED 5/23/89 CK # exempt AMOUNT \$ exempt

	YES	NO	Required Info?
1. Is the name and address complete with zip code?	☒	☐	*
2. Is a priority date entered?	☒	☐	*
Is the priority date acceptable in view of mandatory filing dates? See Adjudication Memos #1 and #4 to determine if a Permit is required.			
3. (a) Is a source entered?	☒	☐	*
(b) Is a tributary to entered? (if required)	☒	☐	
4. Is the legal description of the p.d. sufficient?	☒	☐	*
5. Is there a description of the diverting works?	☐	☒	
6. Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form.	☒	☐	*
Is the period of use included?	☒	☐	
Is a quantity claimed for each use?	☒	☐	*
7. Is a total quantity claimed entered?	☒	☐	
8. If required is a consumptive use entered?	☐	☒	
Is the consumptive use correct?	☐	☒	
9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, see Adjudication Memo # 4.	☐	☒	*
10. Is (are) the place(s) of use and purpose(s) indicated?	☒	☐	*
11. Is (are) the county(ies) entered?	☒	☐	
12. Is the ownership of p.u. checked?	☒	☐	
13. Are other water rights listed or "none" indicated?	☒	☐	
14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.)	☒	☐	
15. Is the basis of the claim indicated?	☒	☐	
16. If the claimant requested a monthly docket sheet, is payment enclosed? (If yes, describe payment status in "Comments" below.)	☐	☒	
17. Is the claim signed by the claimant, and is the signature appropriate? Organizations must complete the organization block.	☒	☐	*
18. Has the claim been signed, sealed, and dated by a notary?	☒	☐	*
19. Was this claim filed on time, or was an extension granted?	☒	☐	*
20. Is the fee enclosed correct?	☒	☐	*
21. If this claim is based on an existing water right, has the identification number been entered?	☐	☒	
22. Should this claim be receipted and data entered?	☒	☐	

Claim checked by: [Signature] Date: 8-15-89
Claim must be returned to claimant: (Yes) (No)
Claimant must be notified of modifications: (Yes) (No)

Receipt Prepared by: _____ Date: _____
Claim data entered by: _____ Date: _____
Sent to claimant by: _____ Date: _____
Checked by: _____ Date: _____

Comments: _____

MICROFILMED

SEP 24 1992