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May 6, 2004

Transmitted Via Fax: 208-327-7866

Candice McHugh
Deputy Attorney General
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Re: Subcase Nos. 29-320, 321, 322
Treasure, Jenkins, Vaughan

Dear Candice:

On these subcases we read into the record a settlement agreement and Al Ruberry is in the process of preparing an SF5 accordingly. This will result in our client, the Treasure Ranch family withdrawing their Objection to Claim No. 29-10462 of Lazy VZ Trust (Bloxham) and the Treasures' Claims No. 29-320, 29-321, and 29-322 amended to add to the place of use 20 acres and increase the quantity by 0.40 cfs.

My notes reflected that the Treasures may also need to file an Amendment to their Claims to reflect the additional 20 acres and 0.40 cfs additional quantity. Since the quantity and place of use are the same under all three of these rights, and since leave of Court was granted at the initial hearing April 22, 2004, it appears to me that this can be handled the easiest by simply filing an Amended Notice of Claim to cover the amendments to all three together. I am attaching a proposed Amended Notice of Claim for this purpose for your review and approval in advance of filing and serving the same. You will note I have attached the IDWR Recommendations, rather than the initial Claim, because there was considerable difference between them. Further, there will be additional changes to the Recommendation based on the SF5 Al Ruberry is working on.

June 25 for on
July 16 10:00
2004
R 37E
NOT
R 36E
Ave 12

1. Quantity	The amount of water diverted under this water right may not exceed 4/24 of the stream flow of Birch Creek at the point of diversion described below at any given time. This water right shall not provide more than .02 cubic feet per second per acre at any time.
2. Quantity	USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.91 CFS. COMBINED RIGHT NOS.: 29-320, 29-321, 29-322.
3. Place of Use - Irrigation	USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 195.3 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 29-320, 29-321, 29-322.
4. Explanatory	WATER IS DELIVERED THROUGH BIRCH CREEK CANAL (DITCH).

Dates:

Other Information:

State or Federal: S

Owner Name Connector: OR

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

IRRIGATION	04/01	10/31	3.91 CFS	
Total Diversion			3.91 CFS	

Location of Point(s) of Diversion:

BIRCH CREEK Rediversion	NENWNW	Sec. 36	Township 11S	Range 36E	BANNOCK County
BIRCH CREEK Rediversion	SESENE	Sec. 23	Township 12S	Range 36E	BANNOCK County
BIRCH CREEK Injection	SWNWSW	Sec. 27	Township 12S	Range 36E	BANNOCK County
BIRCH CREEK	SWNWSW	Sec. 27	Township 12S	Range 36E	BANNOCK County
BIRCH CREEK Injection	SENWSW	Sec. 27	Township 12S	Range 36E	BANNOCK County
BIRCH CREEK	SENWSW	Sec. 27	Township 12S	Range 36E	BANNOCK County

Place(s) of use:

Place of Use Legal Description: IRRIGATION BANNOCK County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Ac
11S	36E	25		NESW	10		NWSW	17		SWSW	14		SESW	28
				SWSE	30		SESE	9.9						
		26		NESE	11		NWSE	2.2		SWSE	18		SESE	34
		35		NENE	1.1									
		36		NENE	12		NWNE	8.1						

Total Acres: 195.3

Conditions of Approval:

1.	C03	RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
2.	C05	RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
3.	C18	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.

Remarks:

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommended Right Report

05/06/2004

WATER RIGHT NO. 29-322

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	BONNIE JENKINS 368 S MAIN MALAD, ID 83252
Current Owner	ELIZABETH VAUGHAN 100 E 12TH ST MC CAMMON, ID 83250 (208)254-3389
Current Owner	DEBBIE TREASURE 218 S 100 W LOGAN, UT 84321
Current Owner	DAVID MARK TREASURE 2615 N 800 E LOGAN, UT 84321
Original Owner	DAVE TREASURE 22703 S MARSH CREEK RD DOWNEY, ID 83234 (208)897-5630

Priority Date: 10/10/1878

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
BIRCH CREEK	MARSH CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
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<http://www.idwr.state.id.us/apps/ExtSearch/RightReportAJ.asp?BasinNumber=29&Sequenc...> 5/6/2004

P. 12/14

FAX NO. 208 232 6109

MAY-06-2004 THU 02:28 PM RACINE LAW OFFICE

2. Quantity	USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.91 CFS. COMBINED RIGHT NOS.: 29-320, 29-321, 29-322.
3. Place of Use - Irrigation	USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 195.3 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 29-320, 29-321, 29-322.
4. Explanatory	WATER IS DELIVERED THROUGH BIRCH CREEK CANAL (DITCH).

Dates:

Other Information:

State or Federal: S

Owner Name Connector: OR

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

Water Right Report

Page 2 of 3

IRRIGATION	04/01	10/31	3.91 CFS	
Total Diversion			3.91 CFS	

Location of Point(s) of Diversion:

STATION CREEK	SESESE	Sec. 03	Township 12S	Range 36E	BANNOCK County
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Place(s) of use:

Place of Use Legal Description: IRRIGATION BANNOCK County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
11S	36E	25		NESW	10		NWSW	17		SWSW	14		SESW	28
				SWSE	30		SESE	9.9						
		26		NESE	11		NWSE	2.2		SWSE	18		SESE	34
		35		NENE	1.1									
		36		NENE	12		NWNE	8.1						

Total Acres: 195.3

Conditions of Approval:

1.	C03	RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
2.	C05	RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
3.	C18	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.

Remarks:

1.	Quantity	The amount of water diverted under this water right may not exceed 1/5 of the stream flow of Station Creek at the point of diversion described below at any given time. This water right shall not provide more than .02 cubic feet per second per acre at any time.
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<http://www.idwr.state.id.us/apps/ExtSearch/RightReportAJ.asp?BasinNumber=29&Sequenc...> 5/6/2004

P. 10/14

FAX NO. 208 232 6109

MAY-06-2004 THU 02:28 PM RACINE LAW OFFICE

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommended Right Report

05/06/2004

WATER RIGHT NO. 29-321

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	BONNIE JENKINS 368 S MAIN MALAD, ID 83252
Current Owner	ELIZABETH VAUGHAN 100 E 12TH ST MC CAMMON, ID 83250 (208)254-3389
Current Owner	DEBBIE TREASURE 218 S 100 W LOGAN, UT 84321
Current Owner	DAVID MARK TREASURE 2615 N 800 E LOGAN, UT 84321
Original Owner	DAVE TREASURE 22703 S MARSH CREEK RD DOWNEY, ID 83234 (208)897-5630

Priority Date: 06/09/1904

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
STATION CREEK	BIRCH CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
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<http://www.idwr.state.id.us/apps/ExtSearch/RightReportAJ.asp?BasinNumber=29&Sequenc...> 5/6/2004

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FAX NO. 208 232 6109

MAY-06-2004 THU 02:28 PM RACINE LAW OFFICE

1.	Explanatory	UNNAMED STREAM IS ALSO KNOWN AS MAPLE CREEK.
2.	Quantity	The amount of water diverted under this water right may not exceed 1/4 of the stream flow of Big Creek and Maple Creek at the point of diversion described below at any given time. This water right shall not provide more than .02 cubic feet per second per acre at any time.
3.	Quantity	USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.91 CFS. COMBINED RIGHT NOS.: 29-320, 29-321, 29-322.
4.	Place of Use - Irrigation	USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 195.3 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 29-320, 29-321, 29-322.
5.	Explanatory	WATERS OF BIG CREEK ARE DELIVERED THROUGH BIRCH CREEK CANAL (DITCH).

Dates:

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	04/01	10/31	3.91 CFS	
Total Diversion			3.91 CFS	

Location of Point(s) of Diversion:

MAPLE CREEK	NWNWNE	Sec. 35	Township 11S	Range 36E	BANNOCK County
BIG CREEK	SWNENW	Sec. 02	Township 12S	Range 36E	BANNOCK County

Place(s) of use:

Place of Use Legal Description: IRRIGATION BANNOCK County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
11S	36E	25		NESW	10		NWSW	17		SWSW	14		SESW	28
				SWSE	30		SESE	9.9						
		26		NESE	11		NWSE	2.2		SWSE	18		SESE	34
		35		NENE	1.1									
		36		NENE	12		NWNE	8.1						

Total Acres: 195.3

Conditions of Approval:

1.	C02	RIGHT INCLUDES ACCOMPLISHED CHANGE IN SOURCE PURSUANT TO SECTION 42-1425, IDAHO CODE.
2.	C03	RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
3.	C05	RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
4.	C18	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.

Remarks:

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommended Right Report

05/06/2004

WATER RIGHT NO. 29-320

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	BONNIE JENKINS 368 S MAIN MALAD, ID 83252
Current Owner	ELIZABETH VAUGHAN 100 E 12TH ST MC CAMMON, ID 83250 (208)254-3389
Current Owner	DEBBIE TREASURE 218 S 100 W LOGAN, UT 84321
Current Owner	DAVID MARK TREASURE 2615 N 800 E LOGAN, UT 84321
Original Owner	DAVE TREASURE
Original Owner	WILLIAM W WOODLAND 22703 S MARSH CREEK RD DOWNEY, ID 83234 (208)897-5630

Priority Date: 06/09/1904

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
BIG CREEK	BIRCH CREEK
MAPLE CREEK	BIRCH CREEK

CERTIFICATE OF MAILING

I certify that on May ____, 2004, I mailed the original and copies of this form, 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
P.O. Box 2707
253 Third Avenue North
Twin Falls, ID 83303-2707

2. Copies to:

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

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

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

Lazy VZ Trust Land & Water
c/o Louis Bloxham
P.O. Box 41
Downey, Idaho 83234

RANDALL C. BUDGE

AMENDED NOTICE OF CLAIM - 3

by 0.40 cfs based on the additional 20 acres added to the place of use. Based on this amendment, the totally quantity recommended by IDWR is increased from 3.910 cfs to 4.310 cfs.

3. In support of this amendment, claimants presented at the initial hearing to the satisfaction of IDWR proof that claimants own the property added to the place of use and that it has always been irrigated from these rights as reflected by the Department's maps and investigation of these rights.

4. Attached is IDWR's Recommended Water Rights for each of these claims.

5. Attached is payment of the following additional fees required by IDWR:

\$ NO FEE.

VERIFICATION

STATE OF IDAHO)
 : ss
County of Bannock)

RANDALL C. BUDGE, being first duly sworn, upon oath, deposes and says:

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

RANDALL C. BUDGE, Attorney for Claimants

SUBSCRIBED AND SWORN TO before me this ____ day of May, 2004.

NOTARY PUBLIC FOR IDAHO,
Residing at Pocatello.
My Commission Expires 8/18/2006.

AMENDED NOTICE OF CLAIM - 2

Randall C. Budge, ISB No. 1949
RACINE, OLSON, NYE, BUDGE &
BAILEY, CHARTERED
P.O. Box 1391; 201 E. Center Street
Pocatello, Idaho 83204-1391
Telephone: 208-232-6101
Facsimile: 208-232-6109

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

In Re SRBA

Case No. 39576

Subcase Nos. 29-320, 29-321, 29-322

STANDARD FORM 4

AMENDED NOTICE OF CLAIM

COME NOW Claimants, Bonnie Jenkins, David Mark Treasure, Debbie Treasure and Elizabeth Vaughan, by and through their attorney of record, Randall C. Budge, of the firm Racine, Olson, Nye, Budge & Bailey, Chartered, 201 E. Center Street, Pocatello, Idaho, and hereby amend their Notices of Claim in the above-referenced subcases, pursuant to leave of Court granted by Special Master Brigitte Bilyeu at the initial hearing on April 22, 2004, as follows:

1. PLACE OF USE: The following described property is added to the place of use:

T11S R36E S30 W1/2 SW1/4 SW1/4 20.0 acres

By reason of this amendment the total acres at the place of use is increased from 195.3 acres recommended by IDWR to 215.3 acres.

2. QUANTITY: The amount of water diverted under these water rights is increased

AMENDED NOTICE OF CLAIM - 1

Candice McHugh
May 6, 2004
Page 2

Please call and advise if proceeding in this manner meets with your approval or if you have other suggestions. Thanks for your help.

Sincerely,

RANDALL C. BUDGE

RCB:rr
Attachments
cc: Al Ruberry (w/attachments) (Fax: 525-7177)