

RECEIVED

FEB 02 2006

DEPARTMENT OF
WATER RESOURCES

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

In Re SRBA)

A.)

Subcase)

63-22904

(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:

Richard E. O'Hara

Address:

167 FALL DRIVE

BOISE, ID 83706

Daytime Phone:

331-8400

Name & Address of Attorney, if any:

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

Name:

LAKEWOOD HOMEOWNERS ASSN NO. 6 & NO. 7

Address:

2611 STONEY FORK WAY

BOISE, ID 83706

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

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☒ **Quantity**
Should be: 174.7 AFY For Aesthetic Use
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Point of Diversion**
Should be: _____
6. ☐ **Instream Flow Beginning and Ending Point**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☒ **Period of Year**
Should be: 01/01 to 12/31 for Aesthetic
9. ☐ **Place of Use**
Should be: _____
10. ☐ **I object because:**
 - ☐ This water right Should not exist.
 - ☐ This water right was not recommended, but Should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTIONS(S): Historic use has been continuous. Aesthetic use requires continuous water source for habitat for wild fowl & aquatic resources. Without continuous flow, ponds would dry out & the Association would lose its prime asset. See AMENDED CLAIM of 12/14/05

F.

VERIFICATION (must be completed)

State of Idaho)
)ss.
County of Ada)

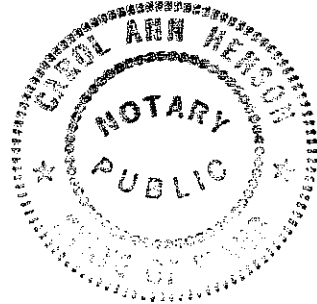
Richard E. O'Hara, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

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.

Richard E. O'Hara
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: February 1, 2006



Carol Ann Henson
Notary Public for State of Idaho
Residing at: Basis, Idaho
My Commission Expires: 7-29-2011

Lakewood Homeowner's Association #6 and #7
2611 Stoney Fork Way
Boise, ID 83706

December 14, 2005

Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705-5082

RE: Amended Claim for Water Right #63-22904

An amended claim to water rights for the Lakewood Homeowner's Association #6 and #7 is attached, along with associated records.

In addition, a check is included for \$86, as calculated below. If a fee is not required for review of an amended claim, please return the check to the address on this letterhead:

1. Filing Fee:	\$50.00
2. Irrigation Fee @ \$1/ac. For 3 ac. MOL	\$ 3.00
3. CFS Fee @\$100/cfs for 0.33 cfs	<u>\$33.00</u>

TOTAL	\$86.00
-------	---------

This claim is being amended to emphasize that the beneficial use for aesthetic purposes is based on a continuous use of 0.26 cubic feet per second (cfs), and that the annual quantity used for aesthetic purposes is 174.7 acre feet per year (AFY). The preliminary recommendation (dated 11/14/05) miscalculates the acre feet per year for aesthetic purposes, and recommends an annual total of 3.78 acre feet. This is the approximate volume of water held by the Lakewood Ponds. Limiting annual use to this amount would be inconsistent with state law. These ponds have never been operated in this way. The ponds would stagnate and evaporate early each year without continuous replenishment. The ponds are the primary asset of Lakewood Homeowner's Association #6 and #7, they sustain habitat for wildfowl and aquatic life, and they have consistently been maintained through continuous flow.

The two field inspectors sent by the IDWR to verify the location and pumping rate of this diversion were fully briefed on the use of diverted water and explicitly understood that the ponds are and have been sustained through continuous flow. No information has been provided by IDWR to explain how the annual amount for aesthetic purposes was calculated.

The preliminary recommendation correctly identifies a consumptive use for irrigation of 3 acres of common grounds from 03/01 to 11/15 of each year and amounting to 13.50 acre feet annually. The amended claim does not change this amount.

Adding together the amounts incorporated in the amended claim, the total annual quantity should be expressed as:

QUANTITY: 0.330 CFS (seasonally adjusted; 0.26 cfs for aesthetic purposes, and $(0.090 \text{ cfs} \times 0.75 = 0.07 \text{ cfs})$ for irrigation purposes

188.2 AFY .

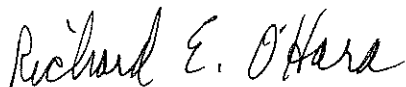
PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
AESTHETIC	01/01 12/31	0.260 CFS 174.7 AFY
IRRIGATION	03/01 11/15	0.090 CFS 13.50 AFY

The attached documents are provided to facilitate review of the amended claim:

1. A copy of the original claim from 1989. Note that the remarks clearly state that "flow is continuous." Also note that fees were paid and the claim was made on the basis of 0.33 cfs total use.
2. A copy of the envelope and note received from IDWR on approximately December 1, 2005, which contained the preliminary recommendation. This was the first notice received from IDWR concerning the preliminary recommendation of water rights acquired under state law.
3. A copy of the preliminary recommendation dated 11/14/2005.
4. A copy of the "Notice of Error Reply" faxed and mailed to IDWR on 12/1/05. Note that this request identifies a total aesthetic use quantity of 174.7 acre feet and a total overall use of 188.2 acre feet based on a sustained pumping rate of 0.26 cfs.
5. The amended claim containing the changes noted above.

Please let me know if you have any questions.



Richard E. O'Hara, President
Lakewood Homeowner's Association #6 and #7
167 Fall Drive
Boise, ID 83706
208 331 8400 (W)
208 424 8594 (H)

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 February 1, 2006, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

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

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

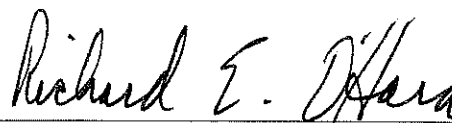
Name: LAKEWOOD HOMEOWNERS ASSN. NO. 6 & NO. 7
Address: 2611 STONEY FORK WAY
BOISE, ID 83706

3. Copies to:

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

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

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



Signature of objector or attorney
mailing on Objector's behalf

Hooded Mergansers Are Here!

Two pairs of Hooded Mergansers arrived last week, and are paddling around the Lakewood ponds. These spectacular, rare ducks are not often seen in this area, according to long-time residents.

The ponds are supplying them with the fresh fish and quiet surroundings that they need to flourish. They are sharing the pond with American Widgeons, Wood Ducks, Mallards, and Geese. Bring your binoculars!



The Hooded Merganser is 16" to 19" long with a slender pointed bill. The male has a white, fan-shaped, black-bordered crest, blackish body with dull rusty flanks, and white breast with 2 black stripes down the side. Female is dull gray-brown, with warmer brown head and crest.

The smallest of our mergansers, Hoodeds are most often seen along rivers and in estuaries during the fall and winter. They are usually found in pairs or in flocks of up to a dozen. They are among the fastest flying of our ducks. Hoodeds feed chiefly on small fish, which they pursue in long, rapid, underwater dives, but also take small frogs, newts, tadpoles, and aquatic insects.

**Rich O'Hara
167 Fall Drive**