

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

A. Subcase Number: 37-01160

Case No. 39576

STANDARD FORM 1 OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: State of Idaho, Department of Parks and Recreation

Address: 5657 Warm Springs Avenue

Boise, Idaho 83716

Daytime Phone: (208) 334-2400

Name and Address of Attorney, if any:

Attorney Name: LAWRENCE G. WASDEN

Attorney General

CLIVE J. STRONG

Deputy Attorney General

Chief, Natural Resources Division

DAVID J. BARBER (ISB # 2597)

Deputy Attorney General

Attorney Address: Office of the Attorney General

700 W. Jefferson, Room 210

P.O. Box 44449

Boise, ID 83711-4449

Attorney Phone No. (208) 334-2400

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

Name: JUSTICE DITCH COMPANY
Address: c/o Frank Erwin
2628 S 975 E
Hagerman, ID 83332

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: PART I of Attachment I describes the correct quantity.
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Points of Diversion**
Should be: _____
6. ☐ **Instream Flow Description**
Should be: Not applicable.
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☒ **Place of Use**
Should be: PART II of Attachment I lists the correct place of use.

11. **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 OBJECTION(S):

The State of Idaho, Department of Parks and Recreation, (hereinafter "IDP&R"), began acquiring the lands that are part of Malad Gorge State Park in about 1970. The total acreage of the Malad Gorge State Park is about 650 acres. Most of the land that was arable had been farmed prior to the acquisition by IDP&R. The total irrigated acreage in 1969 was in excess of two hundred and twenty acres. After this acquisition, the IDP&R has converted some of the irrigated farmland into irrigated parkland. The IDP&R has converted other parts of the irrigated farmland into native grasslands that continue to be irrigated. Native grass seed is harvested from the native grasslands. In addition, the IDP&R continues to graze these native grasslands under contract with adjacent landowners.

The Justice Ditch Company is an unincorporated association of the users from the Justice Ditch. The Justice Ditch provides water to the Malad Gorge State Park. The recommendation by the Idaho Department of Water Resources deleted all lands within Malad Gorge State Park from the authorized place of use for the Justice Ditch.

A diversion in excess of the standard 0.02 c.f.s per acre is needed to deliver the water diverted to the designated place of use. The appropriation described in notice of claim 37-4091 had provided some of this carriage water in the past. In the event that the recommendation of the Idaho Department of Water Resources is sustained by the district court to disallow notice of claim no. 37-4091, then some additional water needs to be added to the quantity term for this water right to provide this carriage water.

F.

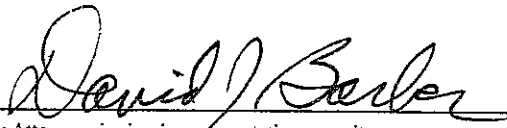
VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

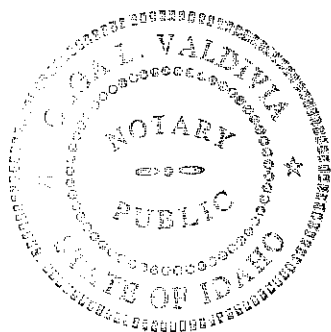
DAVID J. BARBER, Deputy Attorney General, duly sworn, upon oath, deposes and says:

That the State of Idaho, Department of Parks & Recreation, in its proprietary capacity is filing this objection and that I am a Deputy Attorney General authorized to represent the State of Idaho, Department of Parks & Recreation which is a party/claimant in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

LAWRENCE G. WASDEN
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
DAVID J. BARBER
Deputy Attorney General


By Attorney signing in representative capacity

Subscribed and sworn to before me on: March 8, 2006
(Insert Date)




Notary Public for IDAHO
Residing at: BOISE, ID
My commission expires: 2/8/12

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 March 8, 2006, I caused the original and the copies of this objection, including all attachments, to be served on the following persons by the method designated:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

HAND DELIVERED

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

JUSTICE DITCH COMPANY
c/o Frank Erwin
2628 S 975 E
Hagerman, ID 83332

U S. MAIL

3. Copies to:

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

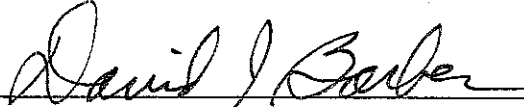
STATEHOUSE MAIL

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

U.S. MAIL

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

(not applicable)



Signature of Objector or attorney
Mailing on Objector's behalf

ATTACHMENT I

PART I

QUANTITY: 4.000 CFS and an additional amount for carriage water.

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

The appropriator is entitled to the quantity of water described for stockwater purposes at a point of measurement where the delivery ditch enters the place of use described.

PART II

PLACE OF USE:

IRRIGATION Within GOODING COUNTY

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
06S	13E	35		NENE	19		NWNE	5.1		SWNE	24.8		SENE	26.7
				SENE	14.2									
				NESW	23									
				NESE	37.3		NWSE	40		SWSE	33.5		SESE	37.9
		36		NENE	11.3		NWNE	20.9						
				NENW	19.2		NWNW	39.6						
				SWSW	11.3									
07S	13E	1	2	SWNE	34.7	1	SENE	31.3						

STOCKWATER same as IRRIGATION

429.8 ACRES TOTAL

Right nos. 37-1160, 37-1175, 37-4091, and 37-10089 are limited to the irrigation of a combined total of 429.8 acres in a single irrigation season.