

BEEMAN & ASSOCIATES, P.C.

Counselors and Attorneys at Law
409 West Jefferson Street
Boise, Idaho 83702-6049

Josephine P. Beeman
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RECEIVED

MAR 13 2006

DEPARTMENT OF
WATER RESOURCES

Phone (208) 331-0950
Fax (208) 331-0954
office@beemanlaw.com

March 10, 2006

Re: *Objection(s) to Your Basin 37 Water Right(s)*

The objection or objections which accompany this letter were filed today at the SRBA court on behalf of Gary and Helen DeMoss to address historic diversions to storage from Dry Creek, a tributary to the Big Wood River, under water rights 37-856, 37-2780, 37-7754, and 37-2778. This letter and the attached chart identify the affected water user community in order to facilitate resolution of this issue with neighboring water rights on Dry Creek and downstream water rights on the Big Wood River and the Malad River.

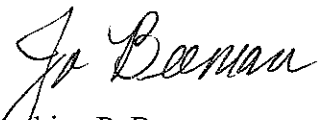
Historically the diversions to storage for 37-856, 37-2780, 37-7754, and 37-2778 have not been subject to curtailment as a result of priority calls from downstream senior direct flow irrigation water rights before April 1 or by downstream senior direct flow stockwater rights at any time of the year, or as a result of priority calls from any other downstream water rights. These downstream rights on Dry Creek, the Big Wood River, and the Malad River are listed in the chart attached to this letter. Additional downstream water rights may be identified as subsequent Director's Reports are filed at the SRBA court.

The objections to these downstream water rights seek language to preserve the historic delivery practices for 37-856, 37-2780, 37-7754, and 37-2778, explaining that the practices are based upon court decree and local water master delivery.

You are welcome to call. We look forward to working with you.

Sincerely,

BEEMAN & ASSOCIATES, P.C.



Josephine P. Beeman

JPB:ja
Enclosures
Z:\3029\7098

WATER RIGHT	PRIORITY DATE	NAME	SOURCE
37-238A	4-15-1883	Oppio Family Limited Partnership	Malad River tributary to Snake River
37-239A	8-29-1884	Oppio Family Limited Partnership	Malad River tributary to Snake River
37-240A	6-1-1895	Oppio Family Limited Partnership	Malad River tributary to Snake River
37-240D	8-29-1895	Robert & Linda Joy McCabe	Malad River tributary to Snake River
37-329D	8-29-1884	Robert & Linda Joy McCabe	Malad River tributary to Snake River
37-447C	7-1-1889	Howard & Rhonda Morris	Malad River tributary to Snake River
37-447D	7-1-1889	Rhonda, Jeremy, Mckenzie, & Howard Morris	Malad River tributary to Snake River
37-507	6-15-1890	North Side Canal Co	Malad River & Big Wood River a tributary to Malad River
37-607D	8-15-1886	Robert & Linda Joy McCabe	Malad River tributary to Snake River
37-608D	4-15-1887	Robert & Linda Joy McCabe	Malad River tributary to Snake River
37-856	2-1-1917	DeMoss	Dry Creek tributary to the Big Wood River
37-859A	3-1-1914	Patrick & Juanita O'Maley	Dry Creek tributary to the Big Wood River
37-1160	5-31-1900	Justice Ditch Co	Malad River tributary to Snake River
37-1175	4-1-1906	Justice Ditch Co	Malad River tributary to Snake River
37-1175A	4-1-1906	Simms Credit Shelter Trust & Clifford Simms Jr. Family Trust	Malad River tributary to Snake River
37-2128	11-25-1908	Idaho Power	Malad River & Cove Creek a tributary to Malad River
37-2471	5-14-1946	Idaho Power	Malad River & Cove Creek a tributary to Malad River
37-2472	5-14-1946	Idaho Power	Malad River tributary to Snake River
37-2778	2-26-1957	DeMoss	Dry Creek tributary to the Big Wood River
37-2780	4-13-1954	DeMoss	Dry Creek tributary to the Big Wood River
37-4112	3-26-1902	King Hill Irr Dist	Malad River tributary to Snake River
37-4241	10-1-1910	North Side Canal Co	Malad River tributary to Snake River
37-7108	7-12-1971	State of Idaho	Malad Canyon Springs a tributary to Big Wood River
37-7754	12-14-1978	DeMoss	Dry Creek tributary to the Big Wood River
37-7857	9-25-1980	Vernon & Harriett Ravenscroft	Malad River tributary to Snake River
37-7865	11-5-1980	Vernon & Harriett Ravenscroft	Malad River tributary to Snake River
37-7920	6-19-1981	State of Idaho	Malad River tributary to Snake River
37-7922	7-10-1981	Vernon & Harriett Ravenscroft	Malad River tributary to Snake River
37-7944	12-30-1981	Mollie & Richard Dalton	Malad River tributary to Snake River
37-11131	7-1-1889	Mollie & Richard Dalton	Malad River tributary to Snake River
37-19294	1-1-1879	United States	Malad River tributary to Snake River
37-19550	1-1-1879	United States	Malad River tributary to Snake River
37-19551	1-1-1879	United States	Malad River tributary to Snake River
37-19553	1-1-1879	United States	Malad River tributary to Snake River
37-20709	6-14-1948	Idaho Power	Malad River & Cove Creek a tributary to Malad River
37-20710	5-24-1950	Idaho Power	Malad River tributary to Snake River
37-21595	4-1-1909	King Hill Irr Dist	Malad River tributary to Snake River

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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)

Subcase No 37-859A

Case No. 39576)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

NAME AND ADDRESS OF PERSONS OBJECTING

Name: Gary and Helen DeMoss

Address: P O. Box 61
Bliss, ID 83314

Daytime Phone: 208-352-4385

Name & Address of Attorney, if any:

Josephine P Beeman
Beeman & Associates, P C
409 West Jefferson Street
Boise, Idaho 83702
(208) 331-0950

CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Patrick J. O'Maley
Juanita M. O'Maley
1413 South 1600 East
Gooding, ID 83330
(208) 934-0939

I object to the following elements as recommended in the Director's Report.

1. ☐ **Name and Address**
Should be: _____
2. ☒ **Source**
Should be: See reasons below.
3. ☐ **Quantity**
Should be: _____
4. ☒ **Priority Date**
Should be: See reasons below
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: See reasons below
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 above.

REASONS SUPPORTING OBJECTION(S): With historical practice pursuant to decree and water master delivery, diversions to storage under water rights 37-856, 37-2780, 37-7754, and 37-2778 have not been subject to curtailment as a result of priority calls from downstream senior direct flow irrigation water rights before April 1 or by downstream senior direct flow stockwater rights at any time of the year, or by downstream senior direct flow hydropower water rights, recreation or aesthetics water rights, or instream flow water rights at any time of the year. In accordance with the historical practice, these four water rights should

not be subject to curtailment as a result of priority calls from downstream senior direct flow water rights.

This water right should be decreed with the following general provisions.

Separate Streams:

For purposes of water distribution in the Big Wood River drainage basin (including the Malad River to which the Big Wood River is a tributary in Basin 37), water rights from the following sources to the extent recommended herein, are not considered junior to water rights from the Big Wood River, and the Malad River, and will be administered separately from all other water rights in Basin 37:

Dry Creek tributary to Big Wood River in T05S, R14E, Section 22

Separate Administration:

The following water rights from the Dry Creek drainage tributary to Big Wood River in T05S, R14E, Section 22 shall be administered separately from all other water rights in the same Dry Creek drainage:

diversions to storage under water rights 37-856, 37-2780, 37-7754, and 37-2778

The following water rights from the following sources of water in Basin 37 shall be administered separately from all other water rights in Basin 37 in accordance with the prior appropriation doctrine as established by Idaho law:

Dry Creek tributary to Big Wood River in T05S, R14E, Section 22

The following water rights from the following sources of water in Basin 37 shall be administered separately from all other water rights in the Snake River basin in accordance with the prior appropriation doctrine as established by Idaho law:

Dry Creek tributary to Big Wood River in T05S, R14E, Section 22

Period of Use:

The remark in the Director's Report reads:

The use of water for irrigation under this right may begin as early as March 15 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before April 1 and after October 31 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right

The second sentence should read:

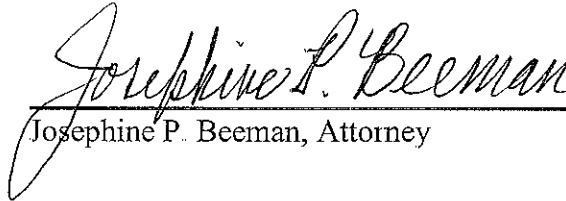
The use of water before April 1 and after October 31 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and/or a priority date earlier than the date a partial decree is entered for this right.

VERIFICATION

State of Idaho)
)ss.
County of Ada)

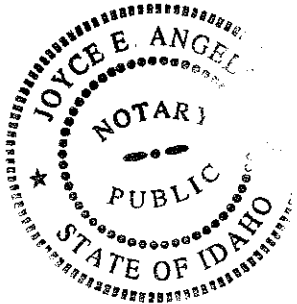
_____Josephine P. Beeman_____, duly sworn, upon oath, deposes and says:

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



Josephine P. Beeman, Attorney

Subscribed and sworn to before me on: March 10, 2006





Notary Public for the State of Idaho
Residing at: Boise, Idaho
My Commission Expires: July 29, 2008

CERTIFICATE OF MAILING

I certify that on March 10, 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:

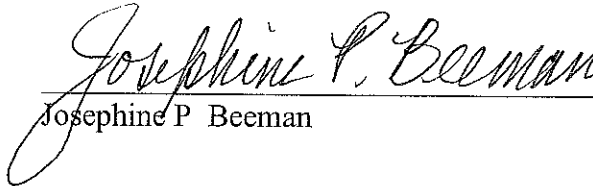
Patrick J. O'Maley
Juanita M. O'Maley
1413 South 1600 East
Gooding, ID 83330

3. Copies to:

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

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

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



Josephine P Beeman