

# BEEMAN & ASSOCIATES, P.C.

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Boise, Idaho 83702-6049

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RECEIVED

MAR 13 2006

DEPARTMENT OF  
WATER RESOURCES

Phone (208) 331-0950  
Fax (208) 331-0954  
[office@beemanlaw.com](mailto: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  
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| <b>WATER<br/>RIGHT</b> | <b>PRIORITY<br/>DATE</b> | <b>NAME</b>                                                     | <b>SOURCE</b>                                              |
|------------------------|--------------------------|-----------------------------------------------------------------|------------------------------------------------------------|
| 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, Mekenzie, &<br>Howard Morris                    | Malad River tributary to Snake River                       |
| 37-507                 | 6-15-1890                | North Side Canal Co                                             | Malad River & Big Wood River a<br>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<br>River               |
| 37-859A                | 3-1-1914                 | Patrick & Juanita OMaley                                        | Dry Creek tributary to the Big Wood<br>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 &<br>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<br>Malad River     |
| 37-2471                | 5-14-1946                | Idaho Power                                                     | Malad River & Cove Creek a tributary to<br>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<br>River               |
| 37-2780                | 4-13-1954                | DeMoss                                                          | Dry Creek tributary to the Big Wood<br>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<br>Wood River      |
| 37-7754                | 12-14-1978               | DeMoss                                                          | Dry Creek tributary to the Big Wood<br>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<br>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                       |

RECEIVED  
MAR 13 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

Subcase No 37-7944

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

Mollie B. Dalton  
Richard H. Dalton  
1071A East 2250 South  
Bliss, ID 83314  
(208) 837-4825

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 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

VERIFICATION

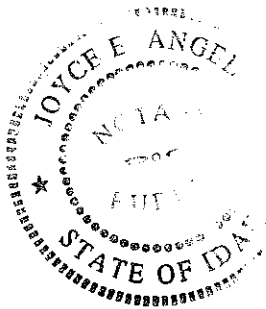
State of Idaho                     )  
                                              )ss  
County of Ada                    )

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  
Josephine P. Beeman, Attorney

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



Joyce E. Angel  
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:

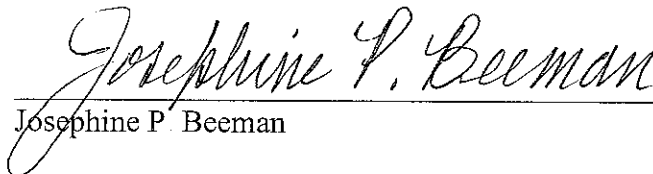
Mollie B. Dalton  
Richard H. Dalton  
1071A East 2250 South  
Bliss, ID 83314  
(208) 837-4825

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