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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

Case No. 39576

A.

Subcase

21-4173

(Insert water right number)

STANDARD FORM 1  
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: James F. Hagenbarth  
Address: P.O. Box 1128  
Dillon, MT 59125  
Daytime Phone: 406 683-2163

Name & Address of Attorney, if any:

John M. Marshall, Esq.  
Givens Pursley LLP  
601 W. Bannock Street  
Boise, ID 83702

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

Name: James F. Hagenbarth & David J. Hagenbarth  
Address: P.O. Box 1128  
Dillon, MT 59125

**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: \_\_\_\_\_
4. ☒ **Priority Date**  
Should be: 11/10/1893
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: \_\_\_\_\_
9. ☒ **Place of Use**  
Should be: SAME EXCEPT delete: S12 SWNW & S15 SENE  
CHANGE TOTAL TO 668.9
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):** SEE ATTACHMENT

# **OBJECTIONS**

**BASIN 21  
Hagenbarth  
21-4173**

## **PRIORITY DATE**

Claimed: 11/10/1893

Preliminary Recommendation: 4/15/1911

Recommended: 6/02/1906

I have submitted proof that this water was beneficially used at and before the claimed priority date. (See letter and proof sent to Allen Ruberry on 9/29/2004.) This water is diverted from a small stream that is a tributary to a sink. The flows of this stream never reach Sheridan Creek. The adjudication agent contends that these flows are tributary to Sheridan Creek and are included in the respective decrees. These flows could not have been included in the decrees on Sheridan Creek because they are not tributary to Sheridan. The priority date of **11/10/1893** is the date this water is being claimed and I object to the recommended priority date because this water use lies outside any previous decree and proof has been presented that it has been put to beneficial use since the claimed date and has been used continuously.

## **PLACE OF USE**

In this area we use one irrigation system to pool several water sources together for more practical use. I originally filed separate places of use for each source. The adjudication agent chose to use a combined place of use for these rights in the preliminary recommendation, but the correct acreage based on all the rights was not properly calculated and the attached map was in error. In the notice of errors I accepted the combined place of use method and provided what I felt was the proper acreage. The adjudication agent used a map depicting the acreage I described and came up with a new combined place of use and total acreage figure. The adjudication agent did an excellent job and caught several errors I had made. The agent included two parcels of state land that are not claimed in this filing and should be excluded. Their description and acreage is as follows: T13 R40E S12 SWNW .20 acres and S15 SENE .10 acres. This land should be excluded from the place of use and this will change the total acres from 669.2 to **668.9**. All the other descriptions are correct. The total acreage should also be changed in the text following the place of use descriptions that places limitations on the use of this water right.

F.

**VERIFICATION** (must be completed)

State of Montana )  
 )ss.  
County of Beaverhead )

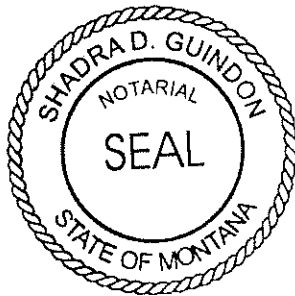
James F. Hagenbarth, duly sworn, upon oath, deposes and says:  
(Name of person filing objection)

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.

*James F. Hagenbarth*  
(Signature of person filing objection)

\_\_\_\_\_  
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: February 20, 2006



Shadra D. Guindon  
Notary Public for State of Montana  
Residing at: Dillon, Montana  
My Commission Expires: April 22, 2007

## 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 April 20, 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: \_\_\_\_\_

Address: \_\_\_\_\_

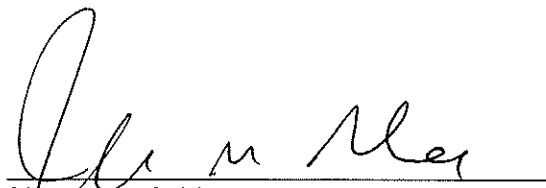
N/A

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