

RECEIVED

APR 21 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)

Case No. 39576)

A. Subcase

21-12854

(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 59725

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 59725

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: T13N R41E S6 NWSESW
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
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

21-12854

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 Notice of Claim 31-11808 received on 4/3/03 and re-numbered to 21-12854 on 5/2/2003.) This water flows from a spring that is tributary to Sheridan Creek. The priority date of **11/10/1893** is the date this water is being claimed and I object to the recommended priority date because absolute proof has been presented that documents the first use of this water at the claimed priority date and continuous beneficial use of this water to the present day.

POINT OF DIVERSION

The preliminary recommendation used a POD described as T13N R41E S6 SWSESW. On the original claim I identified the POD as being in the NWSESW. On the notice of error I did not object to the adjudication agent's relocation of the POD. After further analysis I have decided that the claimed POD of the NWSESW is the correct location and object to the recommended POD. The correct description of the POD is **T13N R41E S6 NWSESW**.

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)

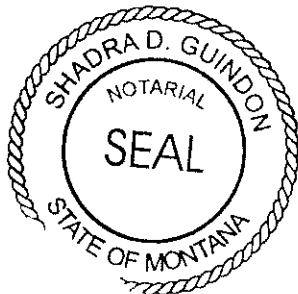
James F. Hagenbarth, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

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:

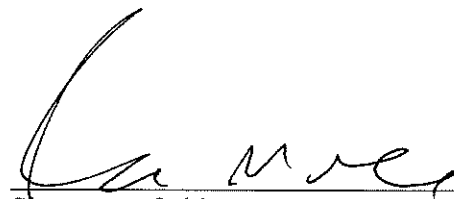
Name: N/A
Address: _____

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