

Arkoosh Law Offices
Chartered

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GOODING, IDAHO 83330

C. TOM ARKOOSH, ESQ.

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MAY 05 2006

DEPARTMENT OF
WATER RESOURCES

TELEPHONE: (208) 934-8872
FACSIMILE: (208) 934-8873
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May 4, 2006

Clerk of the District Court
Snake River Basin Adjudication
Post Office Box 2707
Twin Falls, ID 83303-2707

Re: SRBA Case #39576

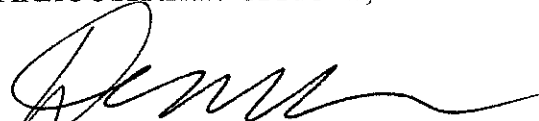
Dear Clerk:

The purpose of this letter is clarify that our office mistakenly listed Twin Fall Canal Company, North Side Canal Company and Milner Irrigation District on our *Standard Form 2 Response to Objection* pleadings which we are submitting for filing with this letter. Please disregard our error and file the enclosed documents.

If you have any questions, please call. Thank you.

Sincerely,

ARKOOSH LAW OFFICES, CHTD.



David Heida

DH/cp
Enclosure

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MAY 05 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	)	A. Subcase No. 29-271
	)	
Case No. 39576	)	STANDARD FORM 2
	)	RESPONSE TO OBJECTION
_____	)	

B. NAME AND ADDRESS OF PERSON RESPONDING:

Name:	Twin Falls Canal Company	Milner Irrigation District
Address:	P.O. Box 326	5294 E 3610 N
	Twin Falls, Idaho 83303-0326	Murtaugh, Idaho 83344
	North Side Canal Company	American Falls Reservoir Dist. #2
	921 N. Lincoln Ave.	112 South Apple St.
	Jerome, Idaho 83338	Shoshone, ID 83352

Name and Address of Attorney:

Attorney Name:	C. Tom Arkoosh/David Heida
Attorney Address	Arkoosh Law Offices, Chtd.
	301 Main St.
	P.O. Box 32
	Gooding, ID 83330
Attorney Phone:	(208) 934-8872

**C. NAME AND ADDRESS OF PERSON WHO FILED OBJECTION TO WHICH YOU
ARE RESPONDING:**

Name:	City of Pocatello
Address:	P.O. Box 4169
	Pocatello, ID 83205

D. I am responding to the objection(s) to the following elements:

1. ☐ Name and Address
2. ☒ Source
3. ☒ Quantity
4. ☒ Priority Date
5. ☒ Point(s) of Diversion
6. ☐ Instream Flow Description
7. ☒ Purpose(s) of Use
8. ☐ Period of Year
9. ☒ Place of Use
10. ☒ Claimant's Proposed General Provisions
11. Recommendation:

☐ This water right should not exist

☐ This water right was not recommended, but should be recommended with the elements described above.

BRIEF EXPLANATION FOR RESPONSE.

In its Amended Objection filed on or about November 19, 2003, claimant City of Pocatello alleged that "all ground water points of diversion" should be included in this surface water right. Respondent is unaware of any basis for including Pocatello's ground water points of diversion as an element for this surface water right, or for including such a remark stating the same, and therefore opposes the same.

In its Amended Objection filed on or about November 19, 2003, claimant City of Pocatello alleged that the "place of uses is within the service area of the City of Pocatello municipal water supply system as provided for under Idaho law, including all lands necessary to complete the beneficial use of this municipal water right." Respondent is unaware of any basis for changing the place of use under this surface water right to the vague and undescribed place of use alleged by Pocatello, or for including such a remark stating the same, and therefore Respondent opposes the same.

In its Amended Objection filed on or about November 19, 2003, claimant City of Pocatello requested the inclusion of a general provisions regarding "source, quantity, priority date and purpose of use" that relates to Pocatello's reservoir and tank storage facilities. Respondent is unaware of any basis for the inclusion of such general provision and therefore opposes it as unnecessary to define or administer the water right.

In its Amended Objection filed on or about November 19, 2003, claimant City of Pocatello requested the inclusion of a general provisions regarding "source, quantity, priority date and purpose of use" that relate to "separate streams" and "separate administration". Respondent is unaware of any basis for the inclusion of such general provisions and therefore opposes them as unnecessary to define or administer the water right. In addition, Respondent opposes Pocatello's definition of the source for the point of diversion under this right, including the allegation that the right is "legally and physically available" from ground water sources in Basin 29.

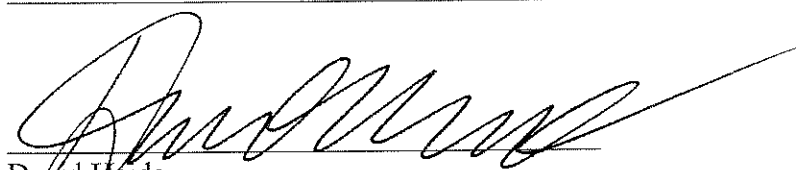
With respect to Pocatello's objection regarding a "Swan Falls" general provision, Respondent understands that this objection has been separated from Basin 29 and consolidated with similar objections as Consolidated Subcase 92-37. Accordingly, Respondent understands that this issue will not be addressed in this subcase and hereby reserves the right to participate in Consolidated Subcase 92-37.

VERIFICATION

State of IDAHO)
) ss.
County of Gooding)

DAVID HEIDA, duly sworn, upon oath, deposes and says:

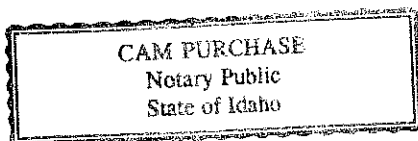
That I am the party/claimant filing this response, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant responding, and that I have read this response, know its contents and believe that the statements are true to the best of my knowledge.



David Heida
Arkoosh Law Offices, Chtd.

Attorneys for Respondents

Subscribed and sworn to before me on: May 3, 2006



Notary Public for: Idaho
Residing at: Bliss
My Commission Expires: 7/16/10

(seal)

CERTIFICATE OF MAILING

I certify that on May 3, 2006, I mailed the original and copies of this response, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, ID 83303-2707

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

City of Pocatello
P.O. Box 4169
Pocatello, ID 83205

3. One copy to the party who filed the objection at the following address:

Josephine P. Beeman
409 W. Jefferson St.
Boise, ID 83702

4. Copies to:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

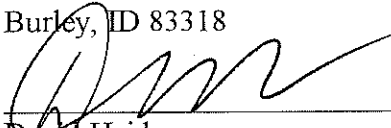
United States Department of Justice
Environment & Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724

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

John K. Simpson
Travis Thompson
P.O. Box 485
Twin Falls, ID 83303

Roger D. Ling
P.O. Box 396
Rupert, ID 83350

W. Kent Fletcher
P.O. Box 248
Burley, ID 83318



David Heida