

# Moffatt Thomas

MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

Eugene C. Thomas  
John W. Barrett  
R. B. Rock  
Richard C. Fields  
John S. Simko  
John C. Ward  
D. James Manning  
Gary T. Dance  
Larry C. Hunter  
Randall A. Peterman  
Mark S. Prusynski  
Stephen R. Thomas  
Glenna M. Christensen  
Gerald T. Husch  
Scott I. Campbell  
Robert B. Burns

Michael E. Thomas  
Patricia M. Olsson  
Bradley J. Williams  
Lee Radford  
Michael O. Roe  
David S. Jensen  
James L. Martin  
C. Clayton Gill  
David P. Gardner  
John O. Fitzgerald, II  
Julian E. Gabiola  
Angela Schaer Kaufmann  
Michael W. McGreaham  
Paul D. McFarlane  
Kimberly D. Evans Ross  
Jon A. Stenquist

Tyler J. Henderson  
Jason G. Murray  
Mark C. Peterson  
Andrew J. Waldera  
Tyler J. Anderson  
Dylan B. Lawrence  
Russell G. Mercalf  
Benjamin C. Ritchie

Robert E. Bakes, *of counsel*  
Morgan W. Richards, *of counsel*

*Willis C. Moffatt, 1907-1980*  
*Kirk R. Helvie, 1956-2003*

RECEIVED

AUG 30 2006

DEPARTMENT OF  
WATER RESOURCES

August 28, 2006

Boise  
Idaho Falls  
Pocatello  
Twin Falls

US Bank Plaza Building  
101 S Capitol Blvd 10th Fl  
PO Box 829  
Boise Idaho 83701 0829

208 345 2000  
800 422 2889  
208 385 5384 Fax  
www.moffatt.com

Sally Sherman  
Technical Records Specialist  
Idaho Department of Water Resources  
P.O. Box 83720  
Boise, ID 83720-0098

**Re: Childress Water Right Claims Pleadings**  
MTBR&F File No 22-4940

Dear Sally:

In accordance with our telephone conversation of August 25, 2006, I am enclosing four documents that were file-stamped by the SRBA District Court. Those documents are:

1. Standard Form 4 – Motion to File Late Notice of Claim;
2. Notice of Claim to a Water Right (No. 65-22967);
3. Notice of Claim to a Water Right (No. 65-22969); and
4. Affidavit of Jack E. Childress.

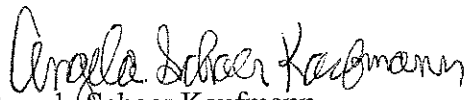
I also am enclosing a copy of our Amended Notices of Claim, although the Amended Notices of Claim have not been file stamped.

As I indicated during our conversation, the court granted our order to file late notices of claim in January 2006, and the Director's Reports have been filed with the SRBA District Court. No objections were received and the court has sent a hearing for the unobjected to motions for January 17, 2007.

Sally Sherman  
August 28, 2006  
Page 2

If you have any questions, please do not hesitate to contact me.

Very truly yours,

  
Angela Schaer Kaufmann

ASK/jrj

Enclosures

cc: Jack Childress  
Scott Findlay

RECEIVED

AUG 30 2006

|                                                                                         |                       |
|-----------------------------------------------------------------------------------------|-----------------------|
| DISTRICT COURT-SRBA<br>Fifth Judicial District<br>County of Twin Falls - State of Idaho |                       |
| OCT 26 2005                                                                             |                       |
| By _____                                                                                | Clerk<br>Deputy Clerk |

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 39576

**COPY**

Subcase 65-22967 and 65-22969

(Insert water right number)

STANDARD FORM 4

MOTION TO FILE:

☒ LATE NOTICE OF CLAIM

☐ AMENDED NOTICE OF CLAIM

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

**FILE**

COPY

☒ I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

My name is \_\_\_\_\_

My address is \_\_\_\_\_

My phone number is: Work \_\_\_\_\_ Home \_\_\_\_\_

I am an attorney representing Jack Childress

My name is Scott L. Campbell

My address is Moffatt Thomas Barrett Rock & Fields, Chtd., P.O. Box 829, Boise ID 83701

My phone number is (208) 345-2000

### MOTION TO FILE A LATE NOTICE OF CLAIM

*A Motion to File a Late Notice of Claim* will require a hearing before the Presiding Judge.

☒ I did not file a Notice of claim to the use of water in the SRBA because:

Please see attached Affidavit of Jack Childress.

☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

☒ I am providing legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

Please see attached Affidavit of Jack Childress.

**COPY**

I have attached:

- ☒ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ \_\_\_\_\_.
- ☐ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ \_\_\_\_\_.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on December 20, 2005, at 1:30 pm

(Insert Date and Time)

at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

### **MOTION TO FILE AN AMENDED NOTICE OF CLAIM**

A *Motion to File an Amended Notice of Claim* may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

- ☐ I must amend my Notice of Claim to the use of water in the SRBA because:

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COPY

- ☐ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.

---

---

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I have attached:

- ☐ An amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

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---

---

COPY

VERIFICATION (Must be completed)

State of Idaho

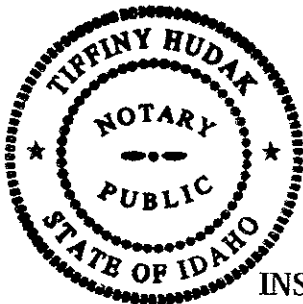
County of Ada

Scott L. Campbell, being first duly sworn, upon oath, deposes and says:  
(Insert name of person filing form)

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Scott L. Campbell  
Scott L. Campbell

Subscribed and sworn to before me on October 24<sup>th</sup>, 2005  
(Insert Date)



Tiffany Hudak  
Notary Public for Idaho  
Residing at: Boise  
My Commission expires: 9/16/09

INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court. **FAX filings will not be accepted by the SRBA Clerk of the Court.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

COPY

CERTIFICATE OF MAILING

I certify that on October 24, <sup>2005</sup>~~1999~~, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

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. Copies to:

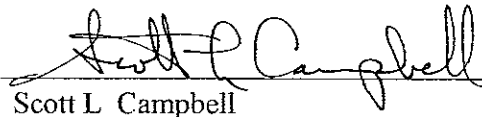
IDWR Document Depository  
PO Box 83720  
Boise, ID 83720-0098

Chief, Natural Resources Division  
Office of the Attorney General  
State of Idaho  
PO 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

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that subcase.

(Insert Names/address of parties)

  
\_\_\_\_\_  
Scott L. Campbell

RECEIVED

AUG 30 2006

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

DEPARTMENT OF  
WATER RESOURCES

**IN RE THE GENERAL ADJUDICATION  
OF RIGHTS TO THE USE OF WATER FROM  
THE SNAKE RIVER BASIN WATER SYSTEM**

CIVIL CASE NUMBER: 39576

Ident. Number 65-22967

Date Received

Receipt Number

DISTRICT COURT-SRBA  
Fifth Judicial District  
County of Twin Falls - State of Idaho

OCT 26 2005

# NOTICE OF CLAIM TO A WATER RIGHT

**Attorney: Scott L. Campbell**  
**Moffatt, Thomas, Barrett,**  
**Rock & Fields, Chartered**  
**P. O. Box 829**  
**Boise, Idaho 83706**  
**(208) 345-2000**

By \_\_\_\_\_ ACC  
Clerk  
Deputy Clerk

ACQUIRED UNDER STATE LAW

**Please type or print clearly**

1. Name of Claimant (s) Jack E. Childress Phone ( 208 ) 634-8746  
Mailing Address PO Box 609, Lake Fork Zip 83635
2. Date of Priority (Only one (1) per claim) December 12, 1903
3. Source of water supply (a) Lake Fork Creek  
which is tributary to (b) Payette River, North Fork
4. a. Location of existing point of diversion is: Township 17N Range 3E Section 3,  
SE 1/4 of NE 1/4 of \_\_\_\_\_ 1/4, Govt. Lot, \_\_\_\_\_ B.M., County of \_\_\_\_\_ Valley
- Additional points of diversion if any: \_\_\_\_\_
- b. If instream flow, beginning point of claimed instream flow is:  
Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_, \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4,  
Govt. Lot \_\_\_\_\_ B.M., County of \_\_\_\_\_
- ending point is: Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_, \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4 of \_\_\_\_\_  
\_\_\_\_\_ 1/4, Govt. Lot \_\_\_\_\_ B.M., County of \_\_\_\_\_
5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),  
including the dates of any changes or enlargements in use, the dimensions of the diversion works as  
constructed and as enlarged and the depth of each well.

**A series of headgates in the Lake Fork Creek diverts water to the Westside Lake Fork Ditch, an earthen irrigation ditch, which is operated and maintained by the Westside Lake Fork Ditch Company. The water travels approximately 3 miles in the Westside Lake Fork Ditch where it is then diverted into a system of users ditches, which eventually delivers water to the place of use identified herein.**

# FILE

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For irrigation purposes from 3/15 to 11/15 amount 1.0 or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

7. Total quantity claimed (a) 1.0 (cfs) and/or (b) \_\_\_\_\_ (acre feet)

8. Total consumptive use claimed is \_\_\_\_\_ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc ) \_\_\_\_\_

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

COPY

| TWP | RNG | SEC | NE 1/4 |       |       |       | NW 1/4 |       |       |       | SW 1/4 |       |       |       | SE 1/4 |       |       |       | Totals |
|-----|-----|-----|--------|-------|-------|-------|--------|-------|-------|-------|--------|-------|-------|-------|--------|-------|-------|-------|--------|
|     |     |     | NE1/4  | NW1/4 | SW1/4 | SE1/4 | NE1/4  | NW1/4 | SW1/4 | SE1/4 | NE1/4  | NW1/4 | SW1/4 | SE1/4 | NE1/4  | NW1/4 | SW1/4 | SE1/4 |        |
| 17N | 3E  | 14  |        |       |       |       |        |       |       |       |        | 20    | 30    |       |        |       |       |       | 50     |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |

Total number of acres irrigated 50

11. In which county (ies) are lands listed above as place of use located? Valley

12. Do you own the property listed above as place of use? Yes X No \_\_\_\_\_  
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above \_\_\_\_\_ or None (☒)

14. Remarks:

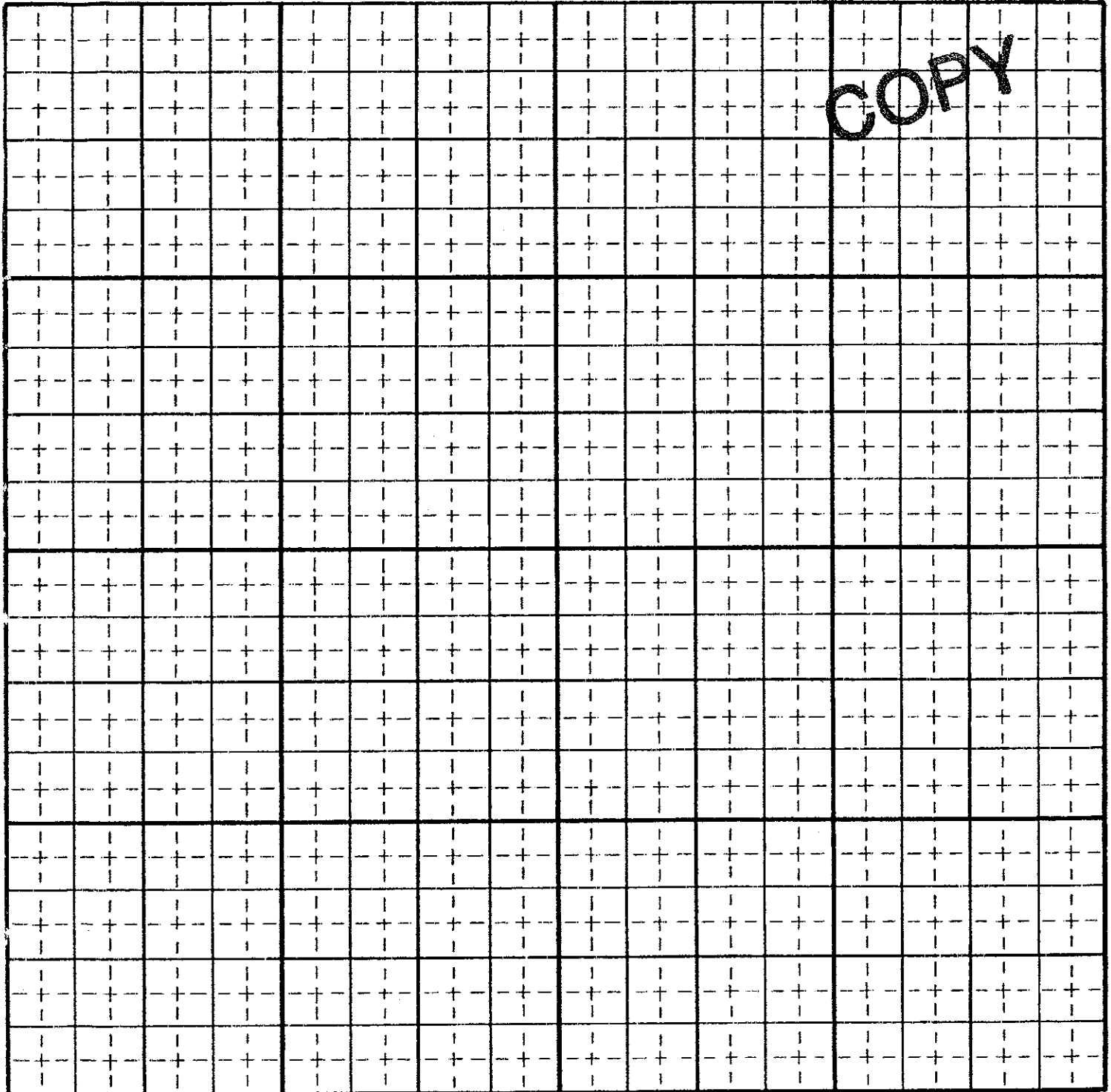
This water right is derived from the unclaimed portion of 65-3194.

Last Name Jack E. Childress Ident No. 65-22967

BOI MT1:595896 1

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile Please see maps attached hereto as Attachment 1



Last Name Jack E. Childress

Ident No. 65-22967

BOI MI1:595896 1

15 Basis of Claim (check one) Beneficial Use \_\_\_\_\_ Posted Notice \_\_\_\_\_ License \_\_\_\_\_ Permit \_\_\_\_\_  
Decree ☒  
If applicable provide IDWR Water Right Number \_\_\_\_\_  
Court \_\_\_\_\_ Case Number \_\_\_\_\_ Decree Date 4/7/1986  
Plaintiff vs Defendant State of Idaho v. A & C Corp., et al.

16 Signature (s)  
(a) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled  
"How you will receive notice in the Snake River Basin Adjudication." (b) I/We do \_\_\_\_\_ do not ☒  
wish to receive and pay a small annual fee for monthly copies of the docket sheet.  
Number of attachments 1

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true  
and correct.

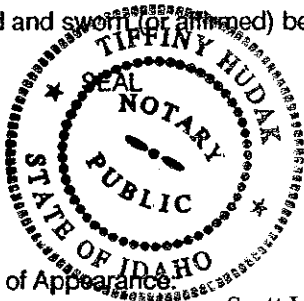
Signature of Claimant (s) Jack E Childress Date 10-18-05  
Date \_\_\_\_\_

For Organizations: I do solemnly swear or affirm that I am \_\_\_\_\_ Title \_\_\_\_\_  
of \_\_\_\_\_, that I have signed the foregoing  
Organization  
document in the space below as \_\_\_\_\_ of \_\_\_\_\_  
Title Organization  
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent \_\_\_\_\_  
Title and Organization \_\_\_\_\_ Date \_\_\_\_\_

State of Idaho or \_\_\_\_\_ )  
County of Ada ) SS.

Subscribed and sworn (or affirmed) before me this 18<sup>th</sup> day of October, 2005  
Notary Public Tiffany Hudak  
Residing at Boise  
My Commission Expires 9/16/09



17. Notice of Appearance

Notice is hereby given that I, Scott L. Campbell will be acting as attorney at law on behalf  
of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above  
should be mailed to me at the address listed below.

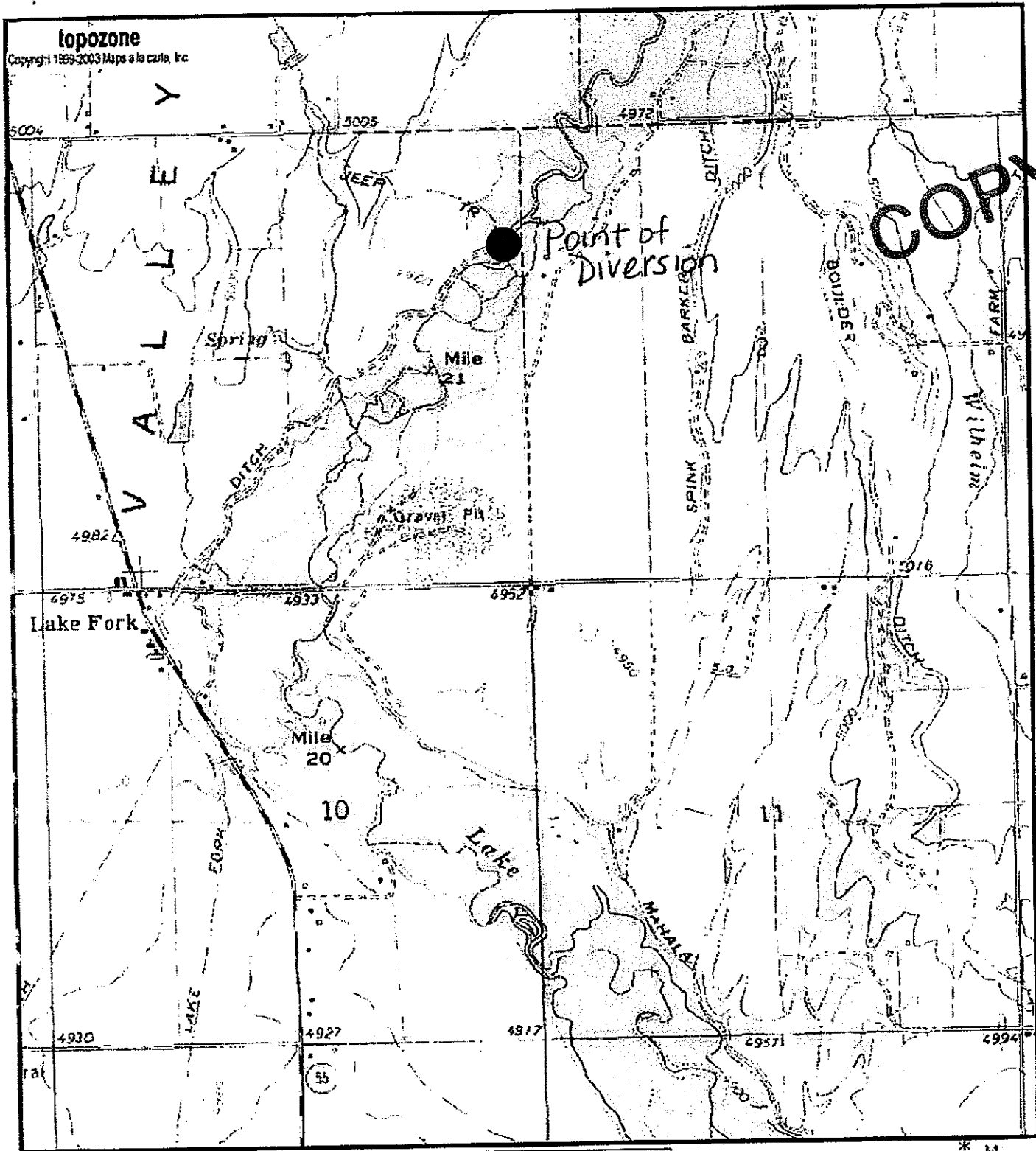
Signature Scott L Campbell  
Address Moffatt Thomas, PO Box 829, Boise, Idaho 83701

Date 10/24/05

Last Name Jack E. Childress Ident. Number 65-22967

T17N R3E Valley County

65-2294



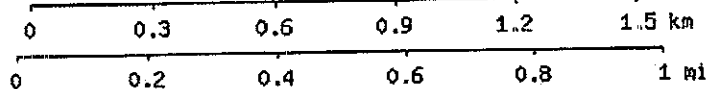
Map center is UTM 11 573667E 4964778N (WGS84/NAD83)  
Lake Fork quadrangle  
Projection is UTM Zone 11 NAD83 Datum

\* M  
G  
M=15.728  
G=0.657

65-22967



## Place of Use



**Lake Fork quadrangle**

Projection is UTM Zone 11 NAD83 Datum



M=15.722  
G=0.657

RECEIVED

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

AUG 30 2006

DEPARTMENT OF  
WATER RESOURCESIN RE THE GENERAL ADJUDICATION  
OF RIGHTS TO THE USE OF WATER FROM  
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER:

39576

Ident. Number

65-22969

Date Received

Receipt Number

COPY

DISTRICT COURT-SRBA  
Fifth Judicial District  
County of Twin Falls - State of Idaho

OCT 26 2005

By \_\_\_\_\_  
Clerk  
Deputy Clerk

NOTICE OF CLAIM  
TO A  
WATER RIGHT

ACQUIRED UNDER STATE LAW

Attorney: Scott L. Campbell  
Moffatt, Thomas, Barrett,  
Rock & Fields, Chartered  
P. O. Box 829  
Boise, Idaho 83706  
(208) 345-2000

Please type or print clearly

1. Name of Claimant (s) Jack E. Childress Phone ( 208 ) 634-8746Mailing Address PO Box 609, Lake Fork Zip 836352. Date of Priority (Only one (1) per claim) December 12, 19033. Source of water supply (a) Lake Fork Creek  
which is tributary to (b) Payette River, North Fork4. a. Location of existing point of diversion is: Township 17N Range 3E Section 3,  
SE 1/4 of NE 1/4 of \_\_\_\_\_ 1/4, Govt. Lot, \_\_\_\_\_ B.M., County of \_\_\_\_\_ Valley

Additional points of diversion if any: \_\_\_\_\_

b. If instream flow, beginning point of claimed instream flow is:

Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_, \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4,

Govt. Lot \_\_\_\_\_ B.M., County of \_\_\_\_\_

ending point is: Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_, \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4 of

\_\_\_\_\_ 1/4, Govt. Lot \_\_\_\_\_ B.M., County of \_\_\_\_\_

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),  
including the dates of any changes or enlargements in use, the dimensions of the diversion works as  
constructed and as enlarged and the depth of each well.

A series of headgates in the Lake Fork Creek diverts water to the Westside Lake Fork Ditch, an earthen irrigation ditch,  
which is operated and maintained by the Westside Lake Fork Ditch Company. The water travels approximately 3 miles in  
the Westside Lake Fork Ditch where it is then diverted into a system of users ditches, which eventually delivers water to  
the place of use identified herein.

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For irrigation purposes from 3/15 to 11/15 amount 1.6 or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

7. Total quantity claimed (a) 1.6 (cfs) and/or (b) \_\_\_\_\_ (acre feet)

8. Total consumptive use claimed is \_\_\_\_\_ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) \_\_\_\_\_

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

| TWP | RNG | SEC | NE 1/4 |       |       |       | NW 1/4 |       |       |       | SW 1/4 |       |       |       | SE 1/4 |       |       |       | Totals |
|-----|-----|-----|--------|-------|-------|-------|--------|-------|-------|-------|--------|-------|-------|-------|--------|-------|-------|-------|--------|
|     |     |     | NE1/4  | NW1/4 | SW1/4 | SE1/4 | NE1/4  | NW1/4 | SW1/4 | SE1/4 | NE1/4  | NW1/4 | SW1/4 | SE1/4 | NE1/4  | NW1/4 | SW1/4 | SE1/4 |        |
| 17N | 3E  | 15  |        |       |       |       |        |       |       |       |        |       |       |       | 20     | 20    | 20    | 20    | 80     |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |

Total number of acres irrigated 80

11. In which county (ies) are lands listed above as place of use located? Valley

12. Do you own the property listed above as place of use? Yes x No \_\_\_\_\_  
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above \_\_\_\_\_ or None (☒)

14. Remarks:

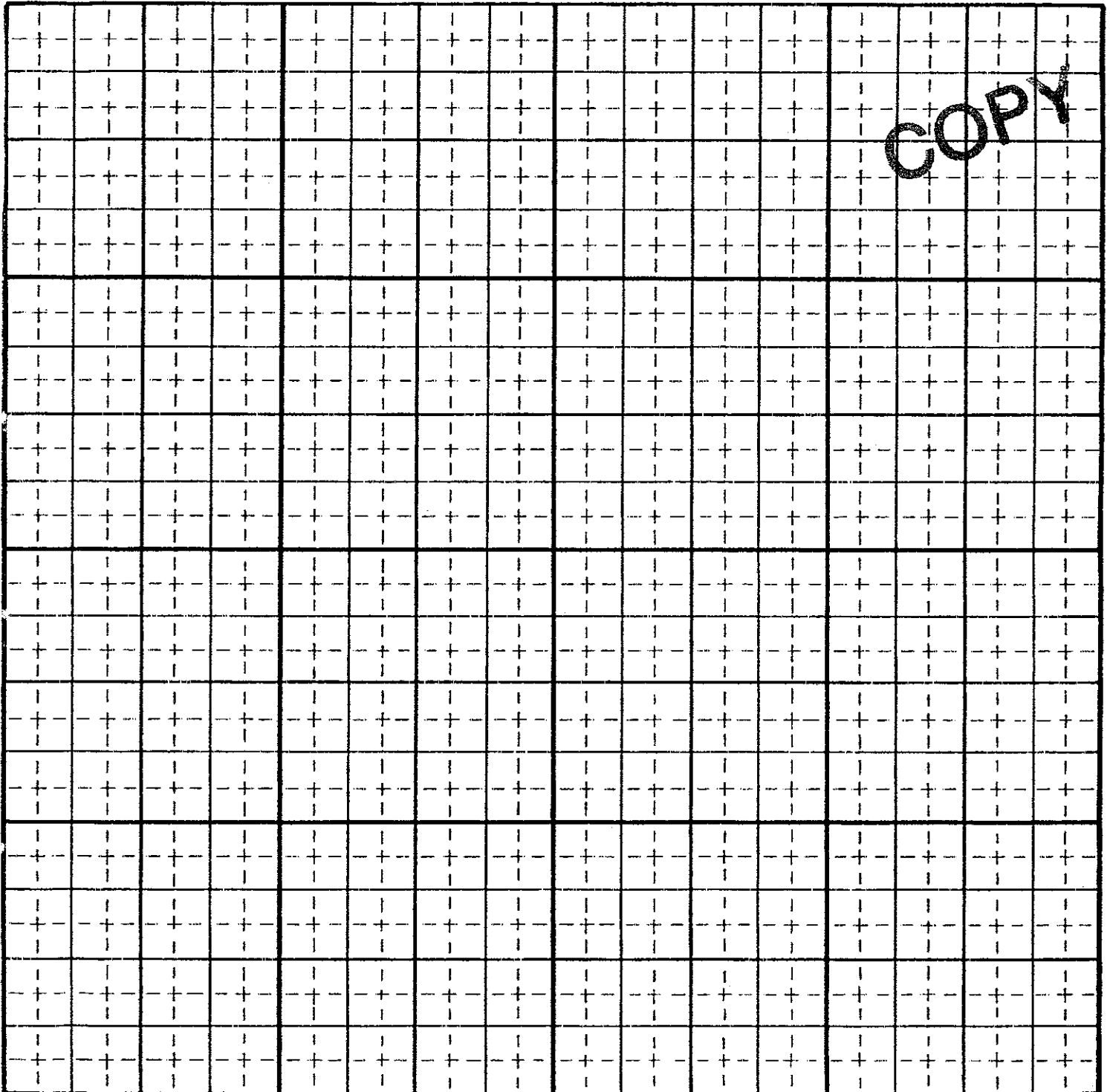
This water right is derived from the unclaimed portion of 65-3201.

Last Name Jack E. Childress Ident No. 65-22969

BOI\_MI1:595896 1

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile Please see maps attached hereto as Attachment 1



Last Name Jack E. Childress

Ident No. 65-22969

BOI\_MT1:593896.1

15 Basis of Claim (check one) Beneficial Use \_\_\_\_\_ Posted Notice \_\_\_\_\_ License \_\_\_\_\_ Permit \_\_\_\_\_  
Decree ☒   
If applicable provide IDWR Water Right Number \_\_\_\_\_  
Court \_\_\_\_\_ Case Number \_\_\_\_\_ Decree Date 4/7/1986  
Plaintiff vs Defendant State of Idaho v. A & C Corp., et al

16 Signature (s)  
(a) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled  
"How you will receive notice in the Snake River Basin Adjudication." (b) I/We do \_\_\_\_\_ do not ☒  
wish to receive and pay a small annual fee for monthly copies of the docket sheet.  
Number of attachments 1

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true  
and correct

Signature of Claimant (s) Jack E Childress Date 10-18-05  
Date \_\_\_\_\_

For Organizations: I do solemnly swear or affirm that I am \_\_\_\_\_ Title \_\_\_\_\_  
of \_\_\_\_\_, that I have signed the foregoing  
Organization  
document in the space below as \_\_\_\_\_ of \_\_\_\_\_  
Title Organization  
and that the statements contained in the foregoing document are true and correct

Signature of Authorized Agent \_\_\_\_\_

Title and Organization \_\_\_\_\_ Date \_\_\_\_\_

State of Idaho/or \_\_\_\_\_ )  
County of Ada ) SS.

Subscribed and sworn (or affirmed) before me this 18<sup>th</sup>

day of October, 2005

Notary Public Tiffany Hudak

Residing at Boise

My Commission Expires 9/16/09

Please Print Name

17. Notice of Appearance

Notice is hereby given that Scott L. Campbell will be acting as attorney at law on behalf  
of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above  
should be mailed to me at the address listed below.

Signature Scott L Campbell

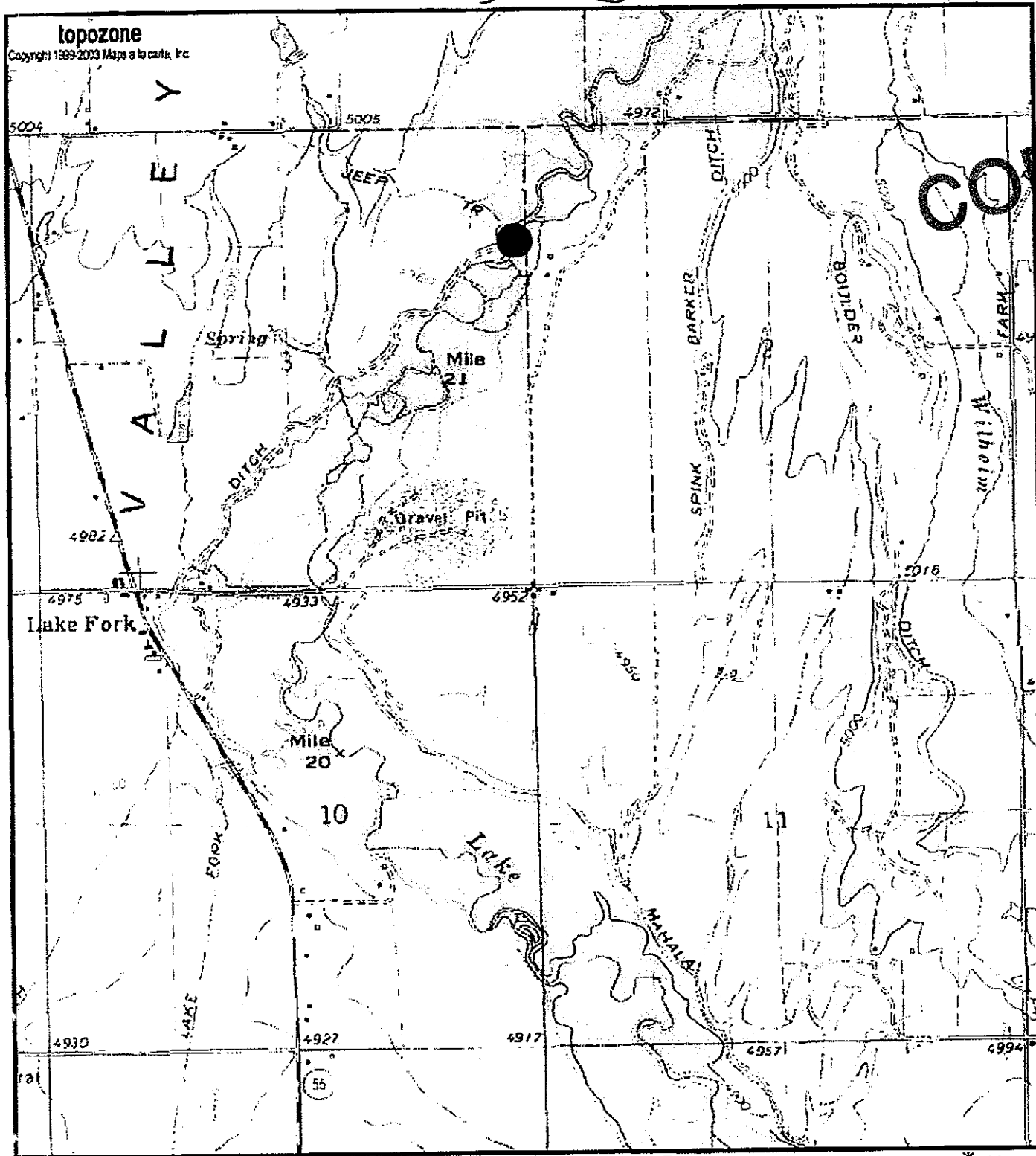
Address Moffatt Thomas, PO Box 829, Boise, Idaho 83701

Date 10/24/05

Last Name Jack E. Childress Ident Number 65-22969

T17N R3E Valley County

65-22969



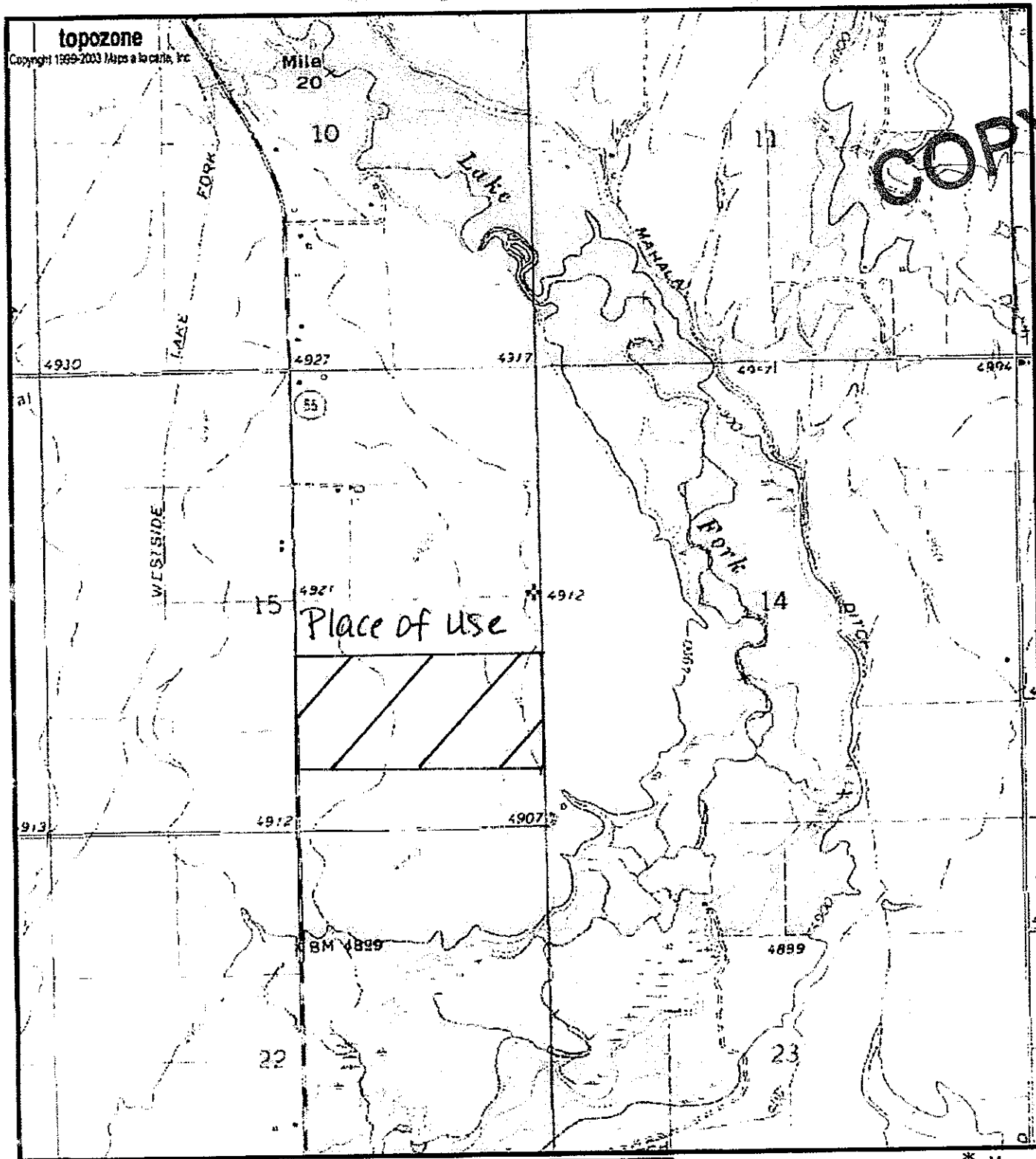
0 0.3 0.6 0.9 1.2 1.5 km  
0 0.2 0.4 0.6 0.8 1 mi

Map center is UTM 11 573667E 4964778N (WGS84/NAD83)  
**Lake Fork quadrangle**  
Projection is UTM Zone 11 NAD83 Datum

\* M  
6  
M=15.728  
G=0.657

T17N R3E Valley County

65-22969



COPY

0 0.3 0.6 0.9 1.2 1.5 km  
0 0.2 0.4 0.6 0.8 1 mi

Map center is UTM 11 573679E 4962393N (WGS84/NAD83)

**Lake Fork quadrangle**

Projection is UTM Zone 11 NAD83 Datum

\* M  
G  
M=15.722  
G=0.657

DEPARTMENT OF  
WATER RESOURCES

OCT 26 2005

By \_\_\_\_\_

Clerk

Deputy Clerk

**COPY**

Scott L. Campbell, ISB No. 2251  
MOFFATT, THOMAS, BARRETT, ROCK &  
FIELDS, CHARTERED  
101 S. Capitol Blvd., 10th Floor  
Post Office Box 829  
Boise, Idaho 83701  
Telephone (208) 345-2000  
Facsimile (208) 385-5384  
22494 0

**AFFIDAVIT OF JACK E. CHILDRESS**

BOI MT2:596144.1

FILE

17 North, Range 3 East, Boise Meridian, Lake Fork, Valley County, Idaho, comprising approximately 130 acres (the "Property"). A true and correct copy of a Warranty Deed, recorded January 19, 1999 with the Valley County Recorder as Instrument No. 237871, is attached hereto as Exhibit A.

4. In October 2000, I transferred title of the Property into the Jack E. Childress 1999 Trust. A true and correct copy of a Warranty Deed, recorded October 17, 2000 with the Valley County Recorder as Instrument No. 250473 is attached hereto as Exhibit B.

5. In September 2003, the Jack E. Childress 1999 Trust quitclaimed the Property to me, a married person and my sole and separate property. A true and correct copy of the Quitclaim Deed, recorded September 26, 2003 with the Valley County Recorder as Instrument No. 276239 is attached hereto as Exhibit C.

6. In August of this year, I became aware of the Snake River Basin Adjudication ("SRBA") and its adjudication of most of the water rights in the State of Idaho, including water rights in Valley County.

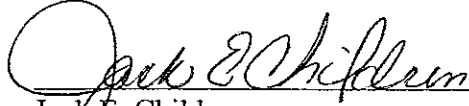
7. Concerned about the water rights appurtenant to the Property, I immediately began researching whether or not such water rights had been claimed in the SRBA by my predecessors in interest to the Property.

8. Upon my discovery that the water rights had not been claimed in the SRBA, I hired an attorney to assist me with preparation of the notices of claim and to bring before the SRBA Court a motion to permit the late filing of the claims.

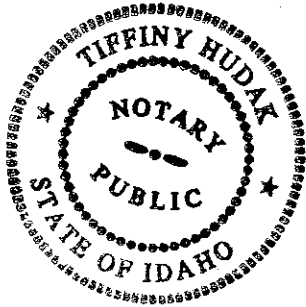
9. I have not received any notification from the Idaho Department of Water Resources advising me of the opportunity to file a claim in the SRBA for my water rights.

Further your affiant sayeth naught.

COPY

  
\_\_\_\_\_  
Jack E. Childress

SUBSCRIBED AND SWORN to before me this 18<sup>th</sup> day of October, 2005.



  
\_\_\_\_\_  
NOTARY PUBLIC FOR IDAHO  
Residing at Boise  
My Commission Expires 9/16/09

COPY

WARRANTY DEED

For Value Received, FRANKLIN & FLORENCE DAILEY TRUST  
DATED MAY 24, 1988  
the Grantors, do hereby grant, bargain, sell and convey unto  
JACK CHILDRESS, A SINGLE MAN  
whose address is: 13685 HIGHWAY 8 BUSINESS, EL CAJON, CA. 92021  
the Grantee, the following described premises, to-wit:  
S1/2 NW1/4SW1/4; N1/2S1/2SW1/4SW1/4; N1/2SW1/4SW1/4, SECTION 14,  
TOWNSHIP 17 NORTH, RANGE 3 EAST, BOISE MERIDIAN,  
&  
S1/2N1/2SE1/4; N1/2S1/2SE1/4, SAVE AND EXCEPT THE STATE HIGHWAY  
RIGHT-OF-WAY, SECTION 15, TOWNSHIP 17 NORTH, RANGE 3 EAST, BOISE  
MERIDIAN,

ALL IN VALLEY COUNTY, IDAHO.

TOGETHER WITH ANY AND ALL MINERAL AND WATER RIGHTS APPERTAINING  
THERETO.

TO HAVE AND TO HOLD the premises with their appurtenances unto the  
said Grantees, their heirs and assigns forever. And the said  
Grantors do hereby covenant to and with the said Grantees, that  
they are the owners in fee simple of said premises that said  
premises are free from all encumbrances except the 1999 taxes and  
assessments and that they will warrant and defend the same from all  
lawful claims whatsoever.

Dated: 1/13/99

FRANKLIN & FLORENCE DAILEY TRUST DATED MAY 24, 1988

BY: Franklin & Florence Dailey Trust

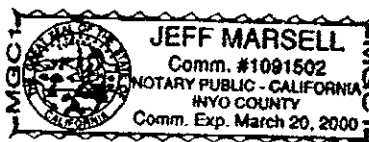
State of California )  
County of Inyo ) ss

On the 13<sup>TH</sup> day of January, 1999 before me,

JEFF MARSELL  
a notary public in and for said State, personally appeared

FRANKLIN DAILEY AND FLORENCE R. DAILEY by me first duly sworn,  
declared that they are Trustees of the Franklin & Florence Dailey  
Trust dated May 24, 1988 that they signed the foregoing document as  
the Trustees and that statements therein contained are true.

Jeff Marsell  
Notary Public  
Residing at:  
Commission Expires:



COPY

## WARRANTY DEED

FOR VALUE RECEIVED, JACK CHILDRESS aka JACK E. CHILDRESS, an unmarried man, Grantor, does hereby grant, bargain, sell, and convey unto JACK CHILDRESS aka JACK E. CHILDRESS (or his successors), as Trustee of the Jack E. Childress 1999 Trust, dated April 30, 1999 (as it may be amended from time to time), Grantee, whose current address is 13685 Highway 8 Business, El Cajon, California 92021, the following described real property situated in Valley County, Idaho, to-wit:

Parcel A:

All that certain lot, piece or parcel of land situate in Valley County, Idaho and shown as Lot 11, Elk Haven Subdivision, a plat which is recorded in the office of the Recorder of Valley County, Idaho.

Parcel B:

S1/2 NW1/4 SW1/4; N1/2 S1/2 SW1/4 SW1/4; N1/2 SW1/4 SW1/4, Section 14, Township 17 North, Range 3 East, Boise Meridian, and S1/2 N1/2 SE1/4; N1/2 S1/2 SE1/4, save and except the State Highway right-of-way, Section 15, Township 17 North, Range 3 East, Boise Meridian, all in Valley County, Idaho, together with any and all mineral and water rights appertaining thereto.

To have and to hold the said premises, together with improvements and appurtenances, unto the said Grantee, its heirs and assigns forever. And the said Grantor hereby covenants to and with said Grantee, that he is the owner in fee simple of said premises; that the said premises are free from all encumbrances except current year's taxes and assessments; and, that he will warrant and defend the same from all lawful claims whatsoever

DATED this 12 day of October, 2000.

  
JACK CHILDRESS aka JACK E. CHILDRESS

Instrument # 250473

VALLEY COUNTY, CASCADE, IDAHO

2000-10-17

04:04:54 No. of Pages: 2

Recorded for: STEVEN MILLEMAN

LELAND G. HEINRICH

Fee: 6.00

Ex-Officio Recorder Deputy

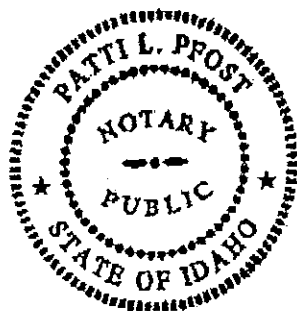
Index to: DEEDS

**COPY**

STATE OF IDAHO, )  
 ) ss.  
 County of Valley. )

On this 12 day of October, 2000, before me, Patti L. Post, a  
 Notary Public in and for said State, personally appeared JACK CHILDRESS aka JACK E.  
 CHILDRESS, known or identified to me to be the person whose name is subscribed to the within  
 instrument and acknowledged that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the  
 day and year in this certificate first above written.



Patti L. Post  
 NOTARY PUBLIC FOR IDAHO  
 Residing at: McCall, Idaho  
 My Commission Expires: 5/22/2006

COPY

## QUITCLAIM DEED

For Value Received, Jack Childress, aka Jack E. Childress (or his successors), as Trustee of the Jack E. Childress 1999 Trust, dated April 30, 1999

hereby conveys, releases, remises and forever quits claim unto

Jack E. Childress

A married person as his sole and separate property

whose address is : PO Box 448, Pine Valley, CA 91962

the following premises, to wit:

See attached 'Exhibit A'

Dated: 9-5-03

Jack E. Childress 1999 Trust

By: Jack Childress

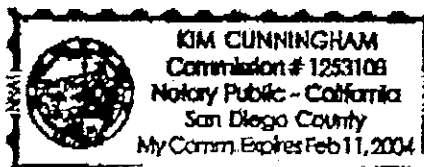
Jack Childress, aka Jack E. Childress

State of California )

County of San Diego ) ss

On the 5<sup>th</sup> day of September, 2003 before me,  
Kim Cunningham, a notary public in and for said State,  
personally appeared Jack Childress, aka Jack E. Childress, being by me  
first duly sworn, declared that he is Trustee of the Jack E. Childress  
1999 Trust, and that he signed the foregoing document as the Trustee and  
that statements therein contained are true.

Kim Cunningham  
Notary Public  
Residing at: San Diego, California  
Commission Expires: 2-11-04



Instrument # 276239

VALLEY COUNTY, CASCADE, IDAHO

2003-09-26 01:47:15 No. of Pages: 2

Recorded for: AMERITITLE

LELAND G. HEINRICH

Ex-Officio Recorder Deputy

Index to: QUITCLAIM DEED

Fee: 5.00

## EXHIBIT A

COPY

A parcel of land situate in the SE¼ of the SW¼ of Section 14, T. 17 N., R. 3 E., B.M., being a portion of Lot 11 of Elk Haven Subdivision, as shown on the official plat thereof on file in Book 9 of Plats in the office of the Recorder of Valley County, Idaho, more particularly described as follows:

Commencing at a brass cap marking the 1/4 corner common to Sections 14 and 23, T. 17 N., R. 3 E., B.M., Valley County, Idaho; thence, N. 89° 23' 21" W., 1,328.69 feet along the south boundary of Lot 11, Elk Haven Subdivision, as shown on the official plat thereof on file in Book 9 of Plats, in the office of the Recorder of Valley County, Idaho, to a ½ inch rebar making the West 1/16 corner common to said Sections 14 and 23; thence, N. 00° 17' 44" E., 822.29 feet along the west boundary of said Lot 11 to the REAL POINT OF BEGINNING:

Thence, continuing N. 00° 17' 44" E., 500.00 feet to a ½ inch rebar marking the north west corner of said Lot 11,  
Thence, S. 89° 28' 06" E., 300.00 feet along the north boundary of said Lot 11,  
Thence, S. 00° 17' 44" W., 500.00 feet,  
Thence, N. 89° 28' 06" W., 300.00 feet to the Point of Beginning, containing 3.443 acres, more or less.

Along with and subject to a 20.00 foot wide ingress, egress and utility easement lying along and adjacent to the west boundary of the above described parcel, more particularly described as follows:

Commencing at a brass cap marking the 1/4 corner common to Sections 14 and 23, T. 17 N., R. 3 E., B.M., Valley County, Idaho; thence, N. 89° 23' 21" W., 1,328.69 feet along the south boundary of Lot 11, Elk Haven Subdivision, as shown on the official plat thereof on file in Book 9 of Plats, in the office of the Recorder of Valley County, Idaho, to a ½ inch rebar making the West 1/16 corner common to said Sections 14 and 23; thence, N. 00° 17' 44" E., 822.29 feet along the west boundary of said Lot 11 to the REAL POINT OF BEGINNING:

Thence, continuing N. 00° 17' 44" E., 500.00 feet to a ½ inch rebar marking the north west corner of said Lot 11,  
Thence, S. 89° 28' 06" E., 20.00 feet along the north boundary of said Lot 11,  
Thence, S. 00° 17' 44" W., 500.00 feet,  
Thence, N. 89° 28' 06" W., 20.00 feet to the Point of Beginning.

Bearings are based on the Elk Haven plat

RECEIVED

AUG 30 2006

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE DEPARTMENT OF  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS WATER RESOURCES

IN RE THE GENERAL ADJUDICATION  
OF RIGHTS TO THE USE OF WATER FROM  
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 65-22967

Date Received

Receipt Number

AMENDED  
NOTICE OF CLAIM  
TO A  
WATER RIGHT  
ACQUIRED UNDER STATE LAW

Attorney: Scott L. Campbell  
Moffatt, Thomas, Barrett,  
Rock & Fields, Chartered  
P. O. Box 829  
Boise, Idaho 83706  
(208) 345-2000

COPY

Please type or print clearly

1. Name of Claimant (s) Jack E. Childress Phone ( 208 ) 634-8746

Mailing Address PO Box 609, Lake Fork Zip 83635

2. Date of Priority (Only one (1) per claim) December 12, 1903

3. Source of water supply (a) Lake Fork Creek  
which is tributary to (b) Payette River, North Fork

4. a. Location of existing point of diversion is: Township 17N Range 3E Section 3,  
SE 1/4 of NE 1/4 of 1/4, Govt. Lot, B.M., County of Valley

Additional points of diversion if any:

b. If instream flow, beginning point of claimed instream flow is:

Township Range Section , 1/4 of 1/4 of 1/4,

Govt. Lot B.M., County of

ending point is: Township Range Section , 1/4 of 1/4 of

1/4, Govt. Lot B.M., County of

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well.

A series of headgates in the Lake Fork Creek diverts water to the Westside Lake Fork Ditch, an earthen irrigation ditch, which is operated and maintained by the Westside Lake Fork Ditch Company. The water travels approximately 3 miles in the Westside Lake Fork Ditch where it is then diverted into a system of users ditches, which eventually delivers water to the place of use identified herein.

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For irrigation purposes from 3/15 to 11/15 amount .80 or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

7. Total quantity claimed (a) .80 (cfs) and/or (b) \_\_\_\_\_ (acre feet)

8. Total consumptive use claimed is \_\_\_\_\_ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) \_\_\_\_\_

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

COPY

| IWP | RNG | SEC | NE 1/4 |       |       |       | NW 1/4 |       |       |       | SW 1/4 |       |       |       | SE 1/4 |       |       |       | Totals |
|-----|-----|-----|--------|-------|-------|-------|--------|-------|-------|-------|--------|-------|-------|-------|--------|-------|-------|-------|--------|
|     |     |     | NE1/4  | NW1/4 | SW1/4 | SE1/4 | NE1/4  | NW1/4 | SW1/4 | SE1/4 | NE1/4  | NW1/4 | SW1/4 | SE1/4 | NE1/4  | NW1/4 | SW1/4 | SE1/4 |        |
| 17N | 3E  | 14  |        |       |       |       |        |       |       |       | 20     | 19    |       |       |        |       |       |       | 39     |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |

Total number of acres irrigated 39

11. In which county (ies) are lands listed above as place of use located? Valley

12. Do you own the property listed above as place of use? Yes x No \_\_\_\_\_

If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.

or None (☒)

14. Remarks:

This water right is derived from the unclaimed portion of 65-3194.

Last Name Jack E. Childress Ident No. 65-22967

BOI\_M12:6043031

**Scale: 2 inches equals 1 mile    Please see maps attached hereto as Attachment 1**

COPI

15. Basis of Claim (check one) Beneficial Use \_\_\_\_\_ Posted Notice \_\_\_\_\_ License \_\_\_\_\_ Permit \_\_\_\_\_  
Decree ☒

If applicable provide IDWR Water Right Number \_\_\_\_\_  
Court \_\_\_\_\_ Case Number \_\_\_\_\_ Decree Date 4/7/1986  
Plaintiff vs Defendant State of Idaho v. A & C Corp., et al.

16. Signature (s)

(a) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled  
"How you will receive notice in the Snake River Basin Adjudication." (b) I/We do \_\_\_\_\_ do not ☒  
wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments 1

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true  
and correct.

Signature of Claimant (s) Jack E Childress Date 1-13-06

Date \_\_\_\_\_

For Organizations: I do solemnly swear or affirm that I am \_\_\_\_\_

Title

of \_\_\_\_\_, that I have signed the foregoing

Organization

document in the space below as \_\_\_\_\_ of \_\_\_\_\_

Title

Organization

and that the statements contained in the foregoing document are true and correct

Signature of Authorized Agent \_\_\_\_\_

Title and Organization \_\_\_\_\_ Date \_\_\_\_\_

State of Idaho/or \_\_\_\_\_ )

County of Ada ) SS.

Subscribed and sworn (or affirmed) before me this 13<sup>th</sup> day of January 2006

Notary Public Tiffany Hudak

Residing at Boise

My Commission Expires 9/16/09

Please Print Name

17. Notice of Appearance:

Notice is hereby given that Scott L. Campbell will be acting as attorney at law on behalf  
of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above  
should be mailed to me at the address listed below.

Signature Angela Schen Kaufmann for Scott L. Campbell

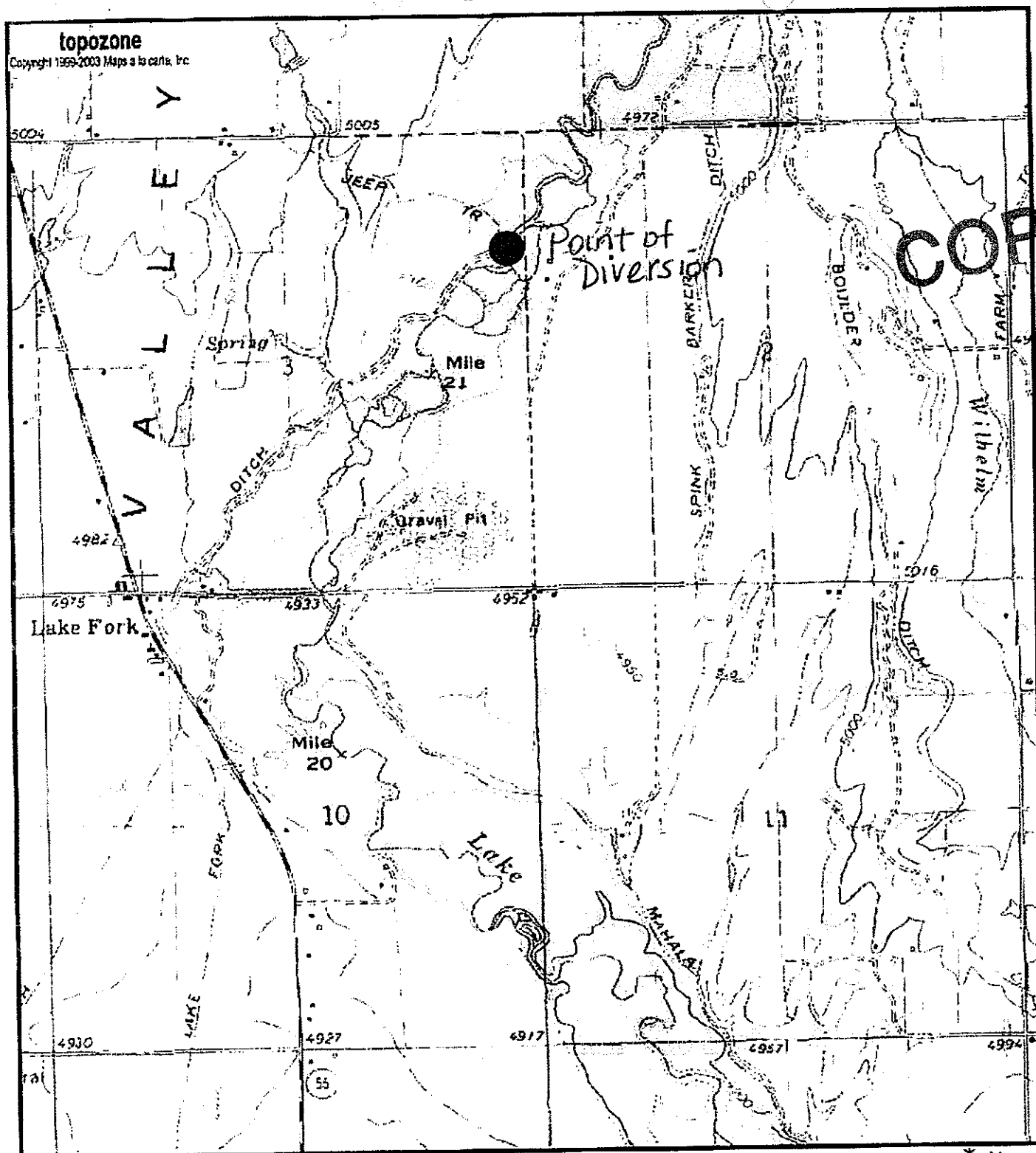
Address Moffatt Thomas, PO Box 829, Boise, Idaho 83701

Date 1-13-06

Last Name Jack E. Childress Ident. Number 65-22967

T17N K05E Mining Claim

65-2296

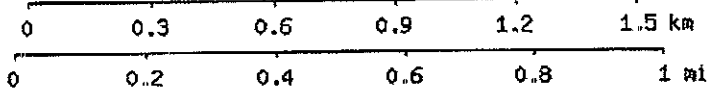
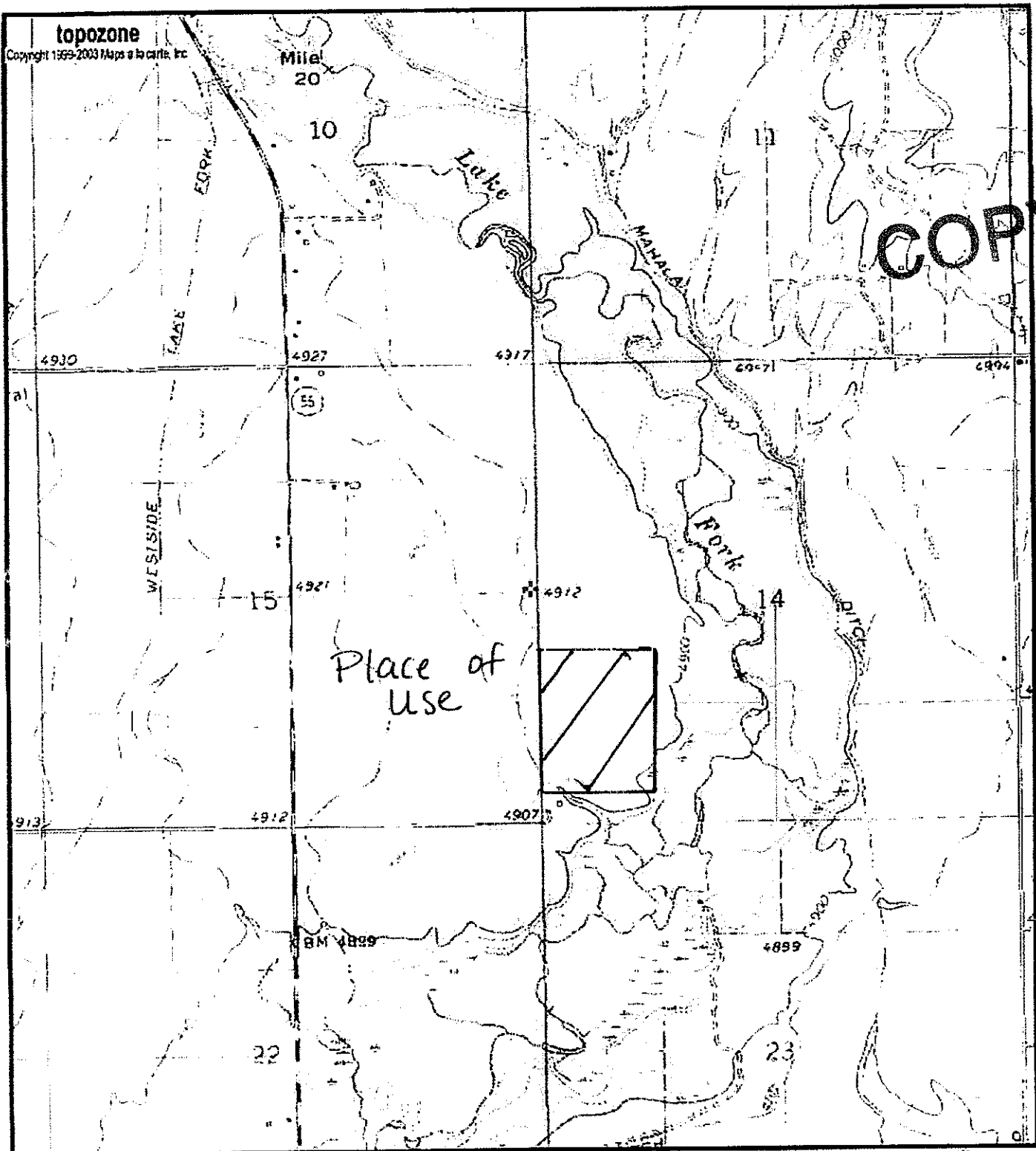


Map center is UTM 11 573667E 4964778N (WGS84/NAD83)  
**Lake Fork quadrangle**  
Projection is UTM Zone 11 NAD83 Datum

M=15.728  
G=0.657

T17N R3E Valley County

65-22967



Map center is UTM 11 573679E 4962393N (WGS84/NAD83)

Lake Fork quadrangle

Projection is UTM Zone 11 NAD83 Datum



M=15.722

G=0.657

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

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ST. TIME 01/13 15:32  
TIME USE 06'29  
PAGES SENT 18  
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**COPY**

*Moffatt Thomas*

MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

US Bank Plaza Building  
101 S Capitol Blvd 10th Fl  
PO Box 829  
Boise Idaho 83701 0829

208 345 2000  
208 385 5384 Fax  
208 385 5323 Direct

## FACSIMILE

**From:** Angela Schaer Kaufmann

**Date:** January 13, 2006

**Re:** In Re SRBA  
Case No. 39576  
Subcase Nos. 65-22967; 65-22969

**File No.:** 22-494.0000

Number of pages being transmitted including the cover page: **18**  
Please call fax operator at (208) 345-2000 if all pages are not received.

|            | Name          | Organization | Fax No.        | Voice No.      |
|------------|---------------|--------------|----------------|----------------|
| <b>To:</b> | SRBA          |              | (208) 736-2121 | (208) 736-3011 |
|            | ATTN: Diana   |              |                |                |
| <b>CC:</b> | Chris Bromley |              | 287-6700       |                |

**Message:**

See attached correspondence dated January 13, 2006, along with documents for fax filing.

PLEASE DELIVER IMMEDIATELY

The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If you have received this communication in error, please immediately notify us by telephone to arrange for return of the original document to us. Thank you.

# Moffatt Thomas

MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

Boise  
Idaho Falls  
Pocatello  
Twin Falls

Eugene C. Thomas  
John W. Barrett  
R. B. Rock  
Richard C. Fields  
John S. Simko  
John C. Ward  
D. James Manning  
Gary T. Dance  
Larry C. Hunter  
Randall A. Peterman  
Mark S. Prusynski  
Stephen R. Thomas  
Glenna M. Christensen  
Gerald T. Husch  
Scott I. Campbell  
Robert B. Burns

Michael E. Thomas  
Patricia M. Olsson  
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Bradley J. Williams  
Lee Radford  
Michael O. Roe  
David S. Jensen  
James L. Martin  
C. Clayton Gill  
David P. Gardner  
John O. Fitzgerald, II  
Julian E. Gabiola  
Angela Schaer Kaufmann  
Michael W. McGraham  
Paul D. McFarlane  
Kimberly D. Evans Ross

Jon A. Stenquist  
Valerie N. Charles  
Tyler J. Henderson  
Jason G. Murray  
Mark C. Peterson  
Andrew J. Waldera  
Tyler J. Anderson  
Joel A. Flake, Jr.  
Russell G. Metcalf  
Robert E. Bakes, *of counsel*  
Morgan W. Richards, *of counsel*  
Willis C. Moffatt, 1907-1980  
Kirk R. Helvie, 1956-2003

January 13, 2006  
*via Facsimile*

US Bank Plaza Building  
101 S Capitol Blvd 10th Fl  
PO Box 829  
Boise Idaho 83701 0829

208 345 2000  
800 422 2889  
208 385 5384 Fax  
www.moffatt.com

SRBA  
253 3rd Avenue North  
PO Box 2707  
Twin Falls, ID 83303-2707

Re: **In Re SRBA**  
**Case No. 39576**  
**Subcase Nos. 65-22967; 65-22939**  
MTBR&F File No. 22-494.0000

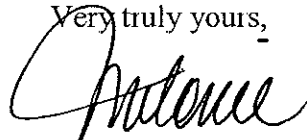
Dear Clerk:

Enclosed for fax filing in the above-referenced matter are the following original documents:

1. Affidavit of William Maki
2. Amended Notice of Claim to a Water Right 65-22967
3. Amended Notice of Claim to a Water Right 65-22969

Thank you for your assistance.

Very truly yours,



Melonie D. Robinson  
Administrative Assistant to  
Angela Schaer Kaufmann  
mdr@moffatt.com

/mdr

Enclosures

cc: Idaho Department of Water Resources  
United States Department of Justice  
Chief, Office of the Attorney General  
Chris Bromley

COPY

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION  
OF RIGHTS TO THE USE OF WATER FROM  
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 65-22969

Date Received

Receipt Number

AMENDED  
NOTICE OF CLAIM  
TO A  
WATER RIGHT  
ACQUIRED UNDER STATE LAW

Attorney: Scott L. Campbell  
Moffatt, Thomas, Barrett,  
Rock & Fields, Chartered  
P. O. Box 829  
Boise, Idaho 83706  
(208) 345-2000

COPY

Please type or print clearly

1. Name of Claimant (s) Jack E. Childress Phone ( 208 ) 634-8746

Mailing Address PO Box 609, Lake Fork Zip 83635

2. Date of Priority (Only one (1) per claim) December 12, 1903

3. Source of water supply (a) Lake Fork Creek  
which is tributary to (b) Payette River, North Fork

4. a. Location of existing point of diversion is: Township 17N Range 3E Section 3,  
SE 1/4 of NE 1/4 of 1/4, Govt. Lot, B.M., County of Valley

Additional points of diversion if any:

b. If instream flow, beginning point of claimed instream flow is:

Township Range Section, 1/4 of 1/4 of 1/4,

Govt. Lot B.M., County of

ending point is: Township Range Section, 1/4 of 1/4 of

1/4, Govt. Lot B.M., County of

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),  
including the dates of any changes or enlargements in use, the dimensions of the diversion works as  
constructed and as enlarged and the depth of each well.

A series of headgates in the Lake Fork Creek diverts water to the Westside Lake Fork Ditch, an earthen irrigation ditch,  
which is operated and maintained by the Westside Lake Fork Ditch Company. The water travels approximately 3 miles in  
the Westside Lake Fork Ditch where it is then diverted into a system of users ditches, which eventually delivers water to  
the place of use identified herein.

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For irrigation purposes from 3/15 to 11/15 amount 1.13 or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

7. Total quantity claimed (a) 1.13 (cfs) and/or (b) \_\_\_\_\_ (acre feet)

8. Total consumptive use claimed is \_\_\_\_\_ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) \_\_\_\_\_

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols

**COPY**

| TWP | RNG | SEC | NE 1/4 |       |       |       | NW 1/4 |       |       |       | SW 1/4 |       |       |       | SE 1/4 |       |       |       | Totals |
|-----|-----|-----|--------|-------|-------|-------|--------|-------|-------|-------|--------|-------|-------|-------|--------|-------|-------|-------|--------|
|     |     |     | NE1/4  | NW1/4 | SW1/4 | SE1/4 | NE1/4  | NW1/4 | SW1/4 | SE1/4 | NE1/4  | NW1/4 | SW1/4 | SE1/4 | NE1/4  | NW1/4 | SW1/4 | SE1/4 |        |
| 17N | 3E  | 15  |        |       |       |       |        |       |       |       |        |       |       |       | 20     | 19    | 19.5  | 16    | 74.5   |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |       |        |

Total number of acres irrigated 74.5

11. In which county (ies) are lands listed above as place of use located? Valley

12. Do you own the property listed above as place of use? Yes X No \_\_\_\_\_

If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.

or None (☒)

14. Remarks:

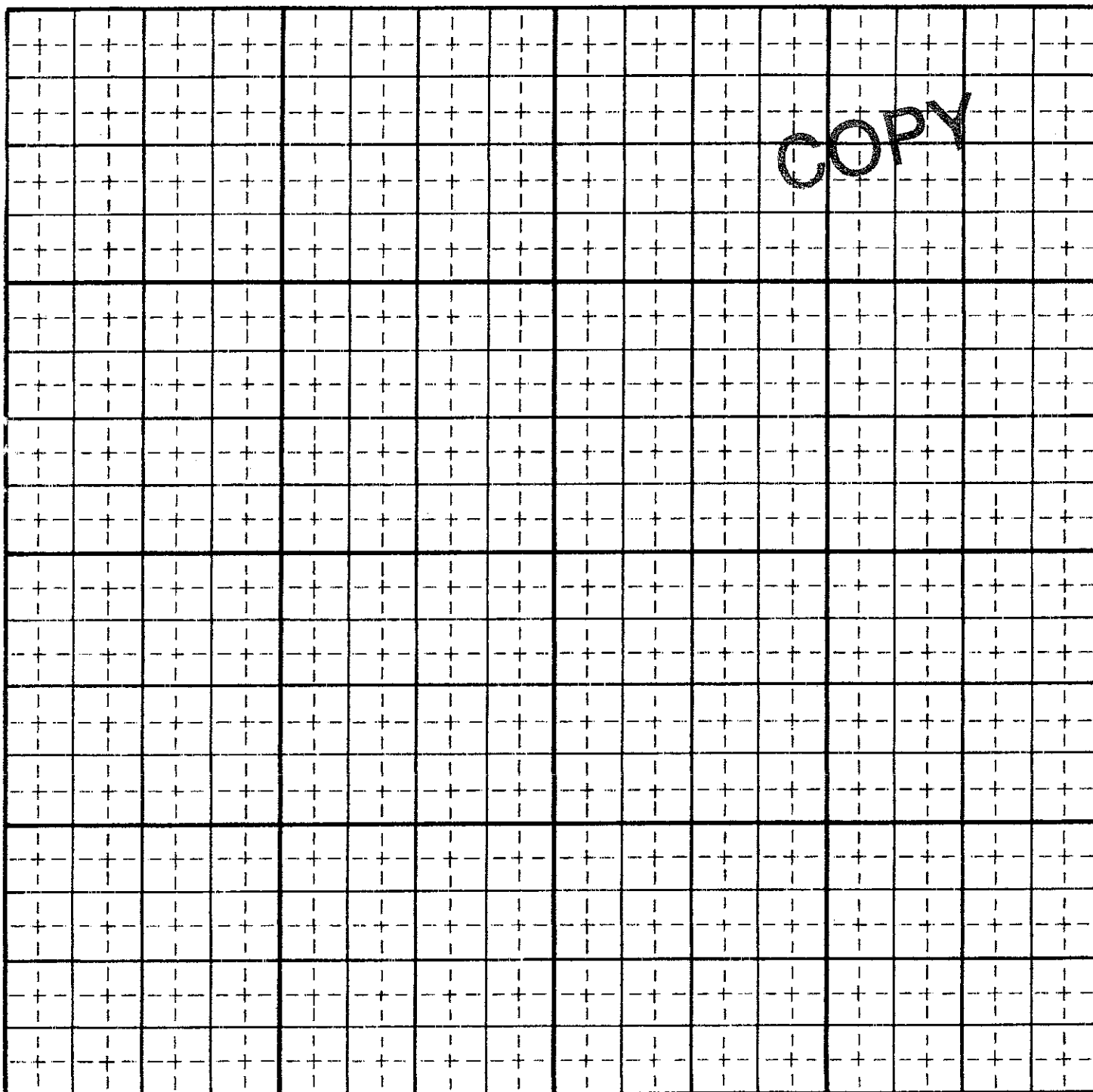
This water right is derived from the unclaimed portion of 65-3201.

Last Name Jack E. Childress Ident No 65-22969

BOI\_MT2:604302.1

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile Please see maps attached hereto as Attachment 1



Last Name Jack E. Childress

Ident No. 65-22969

BOI\_MT2:604302.1

15 Basis of Claim (check one) Beneficial Use \_\_\_\_\_ Posted Notice \_\_\_\_\_ License \_\_\_\_\_ Permit \_\_\_\_\_  
Decree ☒

If applicable provide IDWR Water Right Number \_\_\_\_\_

Court \_\_\_\_\_ Case Number \_\_\_\_\_ Decree Date 4/7/1986

Plaintiff vs Defendant State of Idaho v. A & C Corp., et al.

16 Signature (s)

(a) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b) I/We do \_\_\_\_\_ do not ☒ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments 1

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) Jack E Childress Date 1-13-06

Date \_\_\_\_\_

For Organizations: I do solemnly swear or affirm that I am \_\_\_\_\_

Title

of \_\_\_\_\_, that I have signed the foregoing

Organization

document in the space below as \_\_\_\_\_ of \_\_\_\_\_

Title

Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent \_\_\_\_\_

Title and Organization \_\_\_\_\_ Date \_\_\_\_\_

**COPY**

State of Idaho/or \_\_\_\_\_ )  
County of Ada ) SS.

Subscribed and sworn (or affirmed) before me this 13<sup>th</sup> day of January 2006

Notary Public Tiffany Hudak

Residing at Boise

My Commission Expires 9/16/09

Please Print Name

17. Notice of Appeal. Notice is hereby given that Scott L. Campbell will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature Angela Schen Kaufmann for Scott L. Campbell

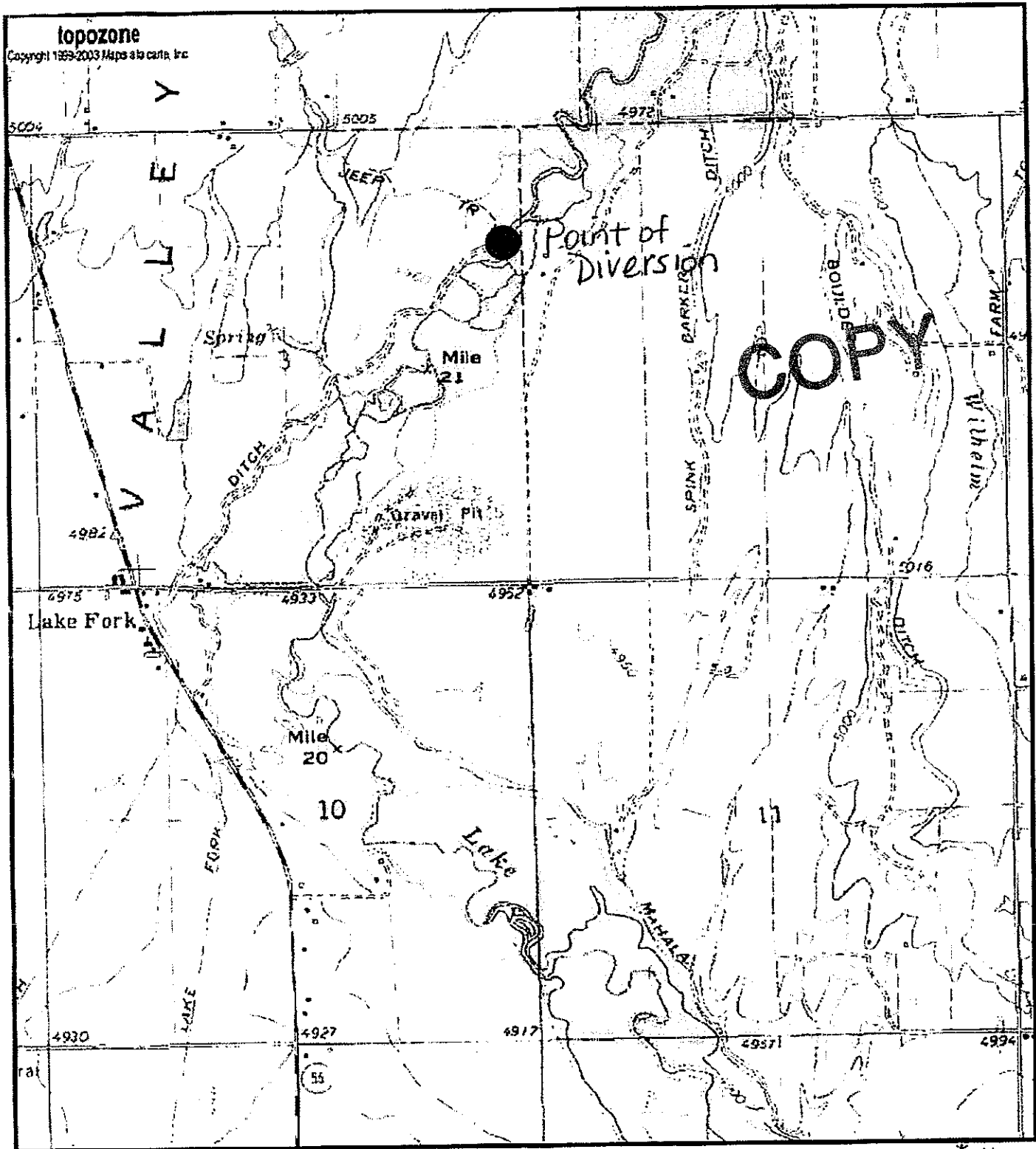
Address Moffatt Thomas, PO Box 829, Boise, Idaho 83701

Date 1-13-06

Last Name Jack E. Childress Ident. Number 65-22969

T17N R3E valley county

65-2296



0 0.3 0.6 0.9 1.2 1.5 km  
0 0.2 0.4 0.6 0.8 1 mi

Map center is UTM 11 573667E 4964778N (WGS84/NAD83)

Lake Fork quadrangle

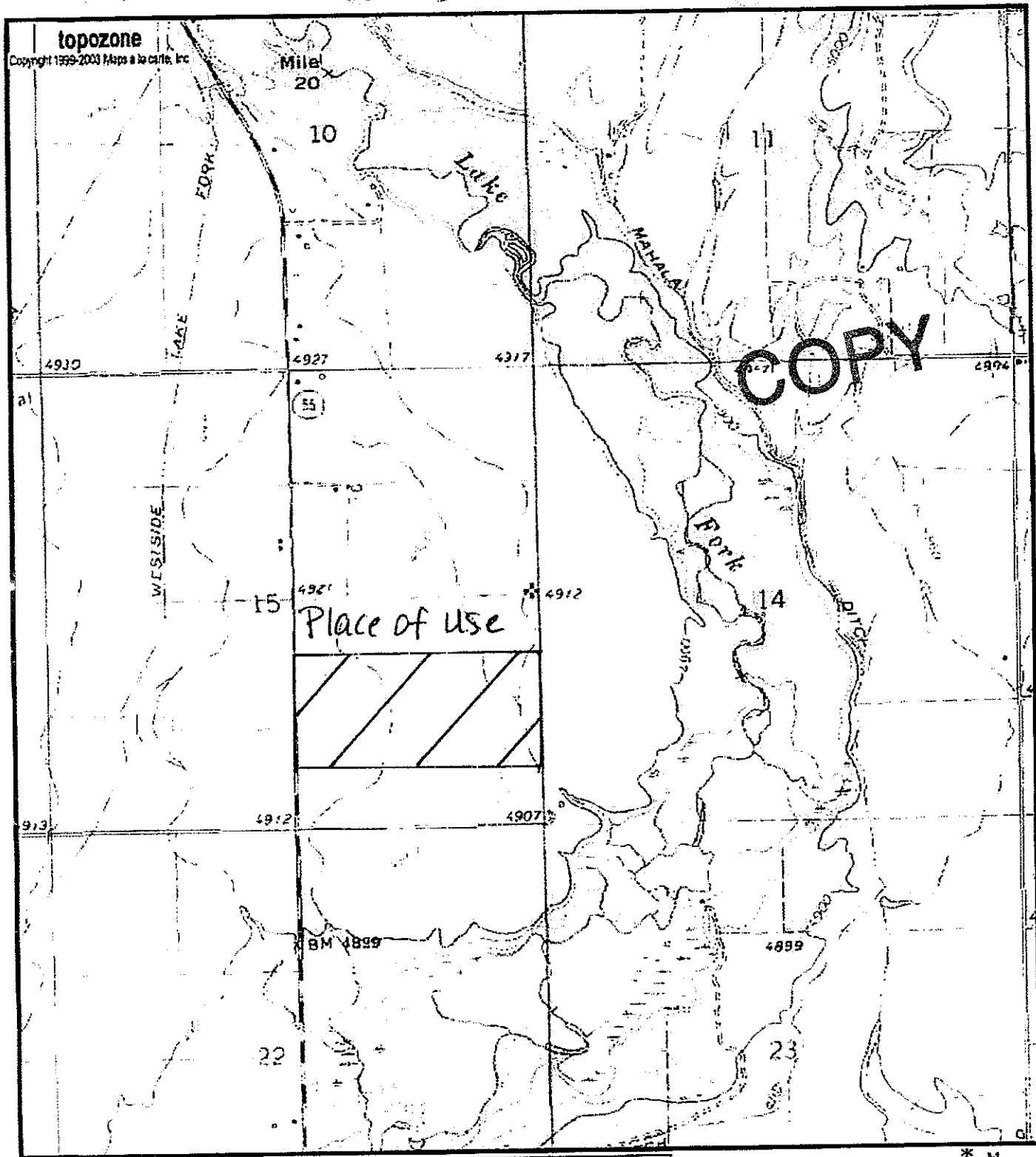
Projection is UTM Zone 11 NAD83 Datum



M=15.728  
G=0.657

T17N R3E Valley County

65-22969



0 0.3 0.6 0.9 1.2 1.5 km  
0 0.2 0.4 0.6 0.8 1 mi

Map center is UTM 11 573679E 4962393N (WGS84/NAD83)

Lake Fork quadrangle

Projection is UTM Zone 11 NAD83 Datum



M=15.722  
G=0.657

\*\*\*\*\*  
 \*\*\* TX REPORT \*\*\*  
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 208 385 5384 Fax  
 208 385 5323 Direct

## FACSIMILE

**From:** Angela Schaer Kaufmann

**Date:** January 13, 2006

**Re:** In Re SRBA  
 Case No. 39576  
 Subcase Nos. 65-22967; 65-22969

**File No.:** 22-494 0000

Number of pages being transmitted including the cover page: **18**  
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| <b>To:</b> | SRBA<br>ATTN: Diana |              | (208) 736-2121 | (208) 736-3011 |
| <b>CC:</b> | Chris Bromley       |              | 287-6700       |                |

**Message:**

See attached correspondence dated January 13, 2006, along with documents for fax filing.

PLEASE DELIVER IMMEDIATELY

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# Moffatt Thomas

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Robert E. Bakes, *of counsel*  
Morgan W. Richards, *of counsel*  
Willis C. Moffatt, 1907-1980  
Kirk R. Helvie 1956-2003

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January 13, 2006  
*via Facsimile*

SRBA  
253 3rd Avenue North  
PO Box 2707  
Twin Falls, ID 83303-2707

**COPY**

**Re: In Re SRBA**  
**Case No. 39576**  
**Subcase Nos. 65-22967; 65-22939**  
MTBR&F File No. 22-494.0000

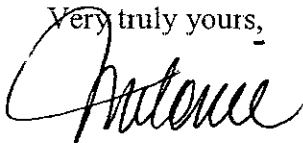
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- 1 Affidavit of William Maki
- 2 Amended Notice of Claim to a Water Right 65-22967
- 3 Amended Notice of Claim to a Water Right 65-22969

Thank you for your assistance.

Very truly yours,



Melonie D. Robinson  
Administrative Assistant to  
Angela Schaefer Kaufmann  
mdr@moffatt.com

/mdr

Enclosures

cc: Idaho Department of Water Resources  
United States Department of Justice  
Chief, Office of the Attorney General  
Chris Bromley

RECEIVED

AUG 30 2006

DEPARTMENT OF  
WATER RESOURCES

Attorneys for Jack E. Childress

Scott L. Campbell, ISB No. 2251  
MOFFATT, THOMAS, BARRETT, ROCK &  
FIELDS, CHARTERED  
101 S. Capitol Blvd., 10th Floor  
Post Office Box 829  
Boise, Idaho 83701  
Telephone (208) 345-2000  
Facsimile (208) 385-5384  
22494.0

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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

Subcase Nos. 65-22967 and 65-22939

AFFIDAVIT OF WILLIAM MAKI

STATE OF IDAHO     )  
                              ) ss.  
County of Valley     )

WILLIAM MAKI, having been duly sworn upon oath, deposes and states as  
follows:

1. I am over the age of 18 years and make this affidavit based upon personal  
information.
2. I currently reside in Valley County, Idaho.
3. I currently serve as the sole Ditchrider of Westside Lake Fork Ditch  
Company, and have held this position since approximately 1986.

4. Westside Lake Fork Ditch Company operates and maintains the Westside Lake Fork Ditch, also known as the Cruzen Ditch, and which actually comprises two (2) separate and distinct forks. As the Ditchrider for Westside Lake Fork Ditch Company, I have a comprehensive understanding of the workings of the Westside Lake Fork Ditch irrigation system, including the Westside Lake Fork Ditch diversion from Lake Fork Creek, which is tributary to the North Fork of the Payette River.

**COPY**

5. Lake Fork Creek is the source of the water appurtenant to the real property owned by Jack Childress and located in a portion of the Southwest Quarter of Section 14 and a portion of the Southeast Quarter of Section 15, Township 17 North, Range 3 East, Boise Meridian, Lake Fork, Valley County, Idaho, comprising approximately 130 acres (the "Childress Property").

6. Pursuant to the records of the Westside Lake Fork Ditch Company that I have maintained during my tenure as Ditchrider, water has been continuously delivered to the Childress Property via the Westside Lake Fork Ditch for approximately twenty (20) years.

7. Part of my duties as Ditchrider is to deliver water appurtenant to the Childress Property to two separate private diversion points off of the Westside Lake Fork Ditch.

8. Since my tenure as Ditchrider, I have continuously delivered water appurtenant to the Childress Property diverted from Lake Fork Creek to the Westside Lake Fork Ditch, for further distribution via private delivery ditches.

9. In addition, from and after approximately 1990, my family or I have leased the Childress Property from Jack Childress, for purposes of livestock grazing. During this time period, I have personally irrigated the Childress Property via water from private irrigation ditches following diversion of the water from the Westside Lake Fork Ditch.

Further your affiant sayeth naught.

William Maki  
William Maki

SUBSCRIBED AND SWORN to before me this 13 day of January, 2006.



Marilyn Knighton  
NOTARY PUBLIC FOR IDAHO  
Residing at Mrsett  
My Commission Expires 4-4-2011

**COPY**

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of January, 2006, I caused a true and correct copy of the foregoing **AFFIDAVIT OF WILLIAM MAKI** to be served by the method indicated below, and addressed to the following:

IDAHO DEPARTMENT OF WATER RESOURCES  
DOCUMENT DEPOSITORY  
PO Box 83720  
Boise, ID 83720-0098

☒ U.S. Mail, Postage Prepaid  
☐ Hand Delivered  
☐ Overnight Mail  
☐ Facsimile

Chief  
Natural Resources Division  
OFFICE OF THE ATTORNEY GENERAL  
State of Idaho  
PO Box 44449  
Boise, ID 83711-4449

☒ U.S. Mail, Postage Prepaid  
☐ Hand Delivered  
☐ Overnight Mail  
☐ Facsimile

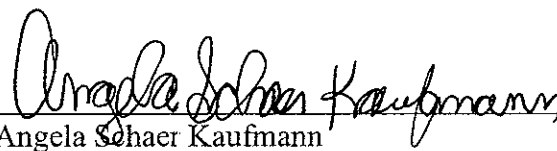
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THE UNITED STATES DEPARTMENT OF JUSTICE  
Environment and Natural Resources Division  
550 West Fort Street, MSC 033  
Boise, ID 83724

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☐ Overnight Mail  
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*Courtesy Copy to:*  
Chris Bromley  
Facsimile: 208/287-6700

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Angela Schaer Kaufmann

\*\*\*\*\*  
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**FACSIMILE****From:** Angela Schaer Kaufmann**Date:** January 13, 2006

**Re:** In Re SRBA  
Case No. 39576  
Subcase Nos. 65-22967; 65-22969

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*Moffatt Thomas*

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**Date:** January 13, 2006

**Re:** In Re SRBA  
Case No. 39576  
Subcase Nos. 65-22967; 65-22939

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Morgan W. Richards, *of counsel*  
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January 13, 2006  
*via Facsimile*

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/mdr

Enclosures

cc: Idaho Department of Water Resources  
United States Department of Justice  
Chief, Office of the Attorney General  
Chris Bromley