

Attorneys for Jerry L. Tlucek and Mary Lou Tlucek

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
22377.1

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JAN 22 2007	
By _____	Clerk
_____	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 No. 39576

Subcase No. 63-03174

**AFFIDAVIT OF TIFFINY HUDAK IN
SUPPORT OF MOTION TO VACATE AND
RESCHEDULE INITIAL HEARING**

STATE OF IDAHO)
) ss.
County of Ada)

I, TIFFINY HUDAK, being first duly sworn upon oath, depose and say as follows:

1. I am a paralegal currently employed with the law firm of Moffatt, Thomas, Barrett, Rock & Fields, Chartered. I have personal knowledge of the matters stated herein and make this Affidavit based upon my personal knowledge.

**AFFIDAVIT OF TIFFINY HUDAK IN SUPPORT OF
MOTION TO VACATE AND RESCHEDULE INITIAL HEARING - 1**

BOI_MT2:639104.1

2. On or about April 20, 2006, our office filed, on behalf of Jerry L. Tlucek and Mary Lou Tlucek, a Standard Form 1 – Objection in Subcase 63-03174. Attached hereto as Exhibit A is a true and correct copy of the Standard Form 1 – Objection.

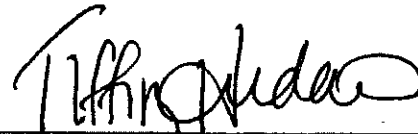
3. On January 22, 2007, I received a telephone call from Jerry L. Tlucek, one of the claimants in the above-captioned subcase proceeding, regarding the initial subcase hearing scheduled for January 23, 2007, before the above-referenced Court.

4. After a review our files pertaining to this matter, I could not locate a copy of the notice of initial hearing.

5. On January 22, 2007, I contacted Diana Delaney, the Snake River Basin Adjudication Case Administrator, via telephone, to inquire about the initial hearing scheduled for January 23, 2007.

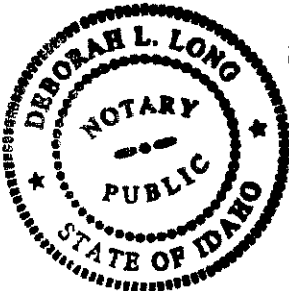
6. At my request, Mrs. Delaney faxed me a copy of the Notice Setting Subcase(s) for Initial Hearing concerning Subcase 63-03174. Attached hereto as Exhibit B is a true and correct copy of such Notice Setting Subcase(s) for Initial Hearing.

7. It appears that Moffatt, Thomas, Barrett, Rock & Fields, Chartered, was not listed on the certificate of mailing and, therefore, not served with a copy of the Notice Setting Subcase(s) for Initial Hearing.



Tiffany Hudak

SUBSCRIBED AND SWORN to before me this 22nd day of January, 2007.



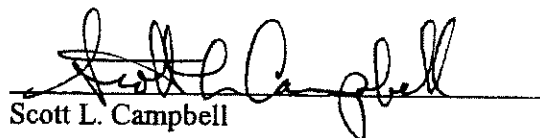
NOTARY PUBLIC FOR IDAHO
Residing at 1414 E. 1st St., Id.
My Commission Expires 10/10/07

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of January, 2007, I caused a true and correct copy of the foregoing **AFFIDAVIT OF TIFFINY HUDAK IN SUPPORT OF MOTION TO VACATE AND RESCHEDULE INITIAL HEARING** to be served by the method indicated below, and addressed to the following:

Director
IDAHO DEPARTMENT OF WATER RESOURCES
PO Box 83720
Boise, Idaho 83720-0095
Fax: (208) 287-6700

() U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
(*) Facsimile


Scott L. Campbell

COPY

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
APR 20 2006	
By _____	Clerk
_____	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

A. Subcase 63-03174

(Insert water right number)

Case No. 39576

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Jerry L. Tlucek and Mary Lou Tlucek

Address: 15188 S. Can-Ada Road

Melba, Idaho 83641

Daytime Phone: (208) 495-2034

Name & Address of Attorney, if any:

Scott L. Campbell

Moffatt Thomas Barrett Rock & Fields

PO Box 829, Boise, Idaho 83701

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

Name: Jerry L. Tlucek and Mary Lou Tlucek

Address: 15188 S. Can-Ada Road

Melba, Idaho 83641

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: 1.850 cfs without any afa limitation
4. ☐ **Priority Date**
Should be: _____
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: _____
9. ☒ **Place of Use**
Should be: Please see Attachment A attached hereto.

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.

E. REASONS SUPPORTING OBJECTION(S):

Concerning quantity, there is no basis for inclusion of the acre feet per year volumetric limitation. This is a licensed water right and the license did not contain the acre feet per year volumetric limitation.

Concerning place of use, claimant has claimed an additional 86 irrigated acres to increase the permissible place of use from 114 acres to 200 acres, as such 200 acre place of use is set forth in Attachment A. This expansion in the amount of irrigated acres is made pursuant to Idaho Code § 42-1416B.

F.

VERIFICATION (Must be Completed)

State of Idaho)
 County of Ada) ss.

Scott L. Campbell

(Name of person filing objection)

, duly sworn, upon oath, deposes and says:

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.

(Signature of person filing objection)

Scott L. Campbell
 (Attorney signing in representative capacity)

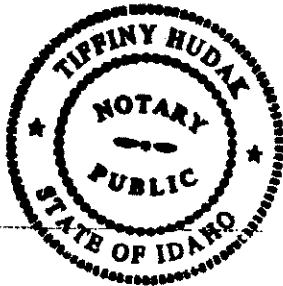
Subscribed and sworn to before me on:

April 18th
Tiffany Hudak

Notary Public for Idaho

Residing at: Boise

My Commission Expires: 9/16/09



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 18th, 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: Jerry L. Tlucek and Mary Lou Tlucek

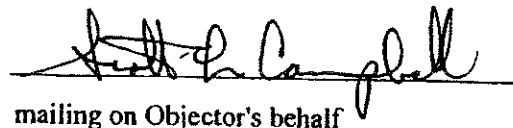
Address: 15188 S. Can-Ada Road
Melba, Idaho 83641

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
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


mailing on Objector's behalf

**ATTACHMENT A TO
STANDARD FORM 1 - OBJECTION FOR SUBCASE 63-03174**

Jerry L. Tlucek and Mary Lou Tlucek are objecting to the place of use of 114 irrigated acres for the reason set forth in the Objection. The correct place of use is as follows:

1N	1W	22	SE	SW	40
			NE	SE	40
			NW	SE	40
			SW	SE	40
			SE	SE	40
TOTAL ACRES					200

JAN-22-07 MON 12:58 PM JRBA

FAX NO. 3

P. 01

2006 SEP 26 AM 10:15
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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

) NOTICE SETTING SUBCASE(S)
) FOR INITIAL HEARING

) SUBCASE NO: 63-03174

The Initial Hearing for this subcase will be held before
Special Master THEODORE R. BOOTH

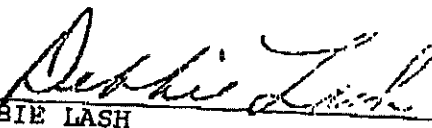
TUESDAY, JANUARY 23, 2007 at 02:30 PM (MT)
IDAHO SUPREME COURT BUILDING
451 WEST STATE STREET
BOISE, ID

ATTENDANCE IS MANDATORY. All parties are required to
attend and must have full settlement authority.

At the Initial Hearing you will have an opportunity
to meet with a representative of the Idaho Department of
Water Resources (IDWR) and/or the objector in an attempt
to reconcile any difference between the claim and the
Director's Report. Bring any and all information you
believe is relevant to your claim and/or objection. If
the claim cannot be reconciled at the Initial Hearing,
the court will set the subcase(s) for trial within 45
days of the Initial Hearing. IF YOU INTEND TO AMEND YOUR
CLAIM, YOU MUST DO SO AT OR BEFORE THE INITIAL HEARING.

Settlement documents must be filed with the court by
JANUARY 15, 2007 or hearing will not be vacated.

Dated: SEPTEMBER 26, 2006


DEBBIE LASH
Deputy Clerk
Snake River Basin Adjudication

FILE COPY FOR 01177
FILE COPY FOR 01177

EXHIBIT B

Page 1 9/26/06

JAN-22-07 MON 12:58 PM RBA

FAX NO. 3.

P. 02

CERTIFICATE OF MAILING

I Certify that a true and correct copy of the NOTICE SETTING SUBCASE(S) FOR INITIAL HEARING was mailed on SEPTEMBER 26, 2006, with sufficient first-class postage to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

JERRY L & MARY LOU TLUCKEK
JERRY L TLUCEK
MARY LOU TLUCEK
15188 S CAN-ADA RD
MELBA, ID 83641
Phone: 208-495-2034

(Notice Setting Initial Hearing)
Page 2 9/26/06 ORIGINAL COPY


Deputy Clerk

EXHIBIT B