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MAR 12 2007

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 22-468  
(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: Robert J. Wilson and Sharman Wilson

Address: P.O. Box 332  
Driggs, Idaho 83422

Daytime Phone: \_\_\_\_\_

Name and Address of Attorney, if any:

Ray W. Rigby

P.O. Box 250

Rexburg, Idaho 83440

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

Name: \_\_\_\_\_ Robert J. Wilson and Sharman Wilson \_\_\_\_\_

Address: \_\_\_\_\_ P.O. Box 332 \_\_\_\_\_

\_\_\_\_\_ Driggs, Idaho 83422 \_\_\_\_\_

**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: as claimed
2.     ☐     **Source**  
                    Should be: as claimed
3.     ☐     **Quantity**  
                    Should be: as claimed
4.     ☐     **Priority Date**  
                    Should be: as claimed
5.     ☐     **Point of Diversion**  
                    Should be: as claimed
6.     ☐     **Instream Flow Beginning and Ending Point**  
                    Should be: as claimed
7.     ☐     **Purpose(s) of Use**  
                    Should be: as claimed
8.     ☐     **Period of Year**  
                    Should be: as claimed
9.     ☐     **Place of Use**  
                    Should be: as claimed
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 OBJECTION(S):** Notes of the investigator in the file of IDWR indicate that the claim should be disallowed because the ditches delivering the water from Badger Creek to the applicants lands had been "plowed in." Attached hereto are the Affidavits of Shane W. Ure and Jim H. Wilson, in which the deponents state under oath that pursuant to the agreement of all of the claimants to the waters of Badger Creek in that area, the ditches could be abandoned and the claimants of this water right would thereafter use a water pump mounted on a tractor to pump the water from the drainage downstream from Badger Creek and other water users lands and systems to irrigate claimants lands through a system of "five 1/4 mile lines of irrigation laterals." Copies of the conveyance of the property were included in a previous "Note of Error," and filed with IDWR, state that the water right is included, as well as the tractor pump

and lines referred to above. Deponents also stated that they irrigated the lands which are the places of use claimed in this water right. Therefore there was no abandonment of the water right.

F. VERIFICATION (must be completed)

STATE OF IDAHO,                    )  
                                          ss  
County of Madison.                )

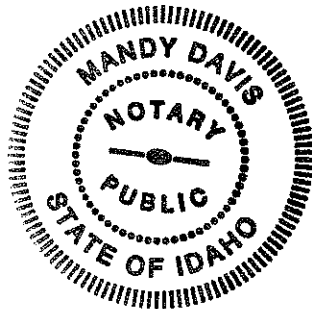
Ray W. Rigby, duly sworn, upon oath, deposes and says:  
(Name of person filing objection)

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 objections, know its contents and believe that the statements are true to the best of my knowledge.

\_\_\_\_\_  
(Signature of person filing objection)

*Ray W. Rigby*  
\_\_\_\_\_  
(Attorney Signing in representative capacity)

Subscribed and sworn before me on: March 9, 2007



*Mandy Davis*  
\_\_\_\_\_  
Notary Public for Idaho  
Residing at St. Anthony  
My Commission Expires: 6/24/2011

## INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the court. **FAX filing 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 March 9, 2007, 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:

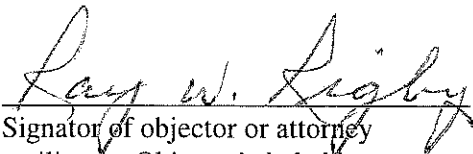
Name: Robert J. Wilson and Sharman Wilson  
Address: P.O. Box 332  
Driggs, Idaho 83422

3. Copies to:

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

United States Department of Justice  
Environment and Nat'l Resources Div  
550 W. Fort Street, MSC 033  
Boise, ID 83724

Chief, Natural Resources Division  
Office of the Attorney General  
PO Box 44449  
Boise, ID 83711-4449

  
Signator of objector or attorney  
mailing on Objector's behalf

AFFIDAVIT

State of IDAHO )  
County of Bingham )  
ss.

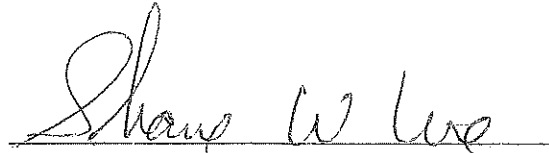
RE: SRBA Water Right Claims 22-466, 22-467, 22-468, 22-57

Shane W. Ure, being first duly sworn, deposes and says:

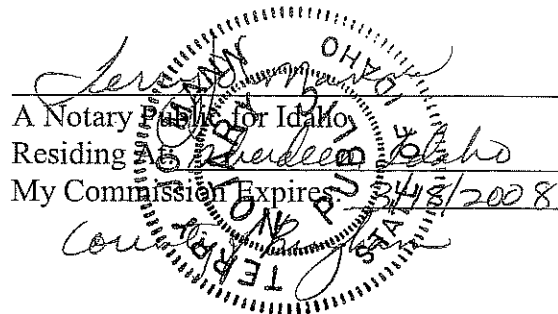
1. That he makes this affidavit in support of the above numbered claims to water rights.
2. That he resides with his wife, Kaylin Ure, at 617 W. Central Ave., Aberdeen, ID 83210, and his telephone number is (208) 397-4018.
3. On January 3, 2005, the Idaho Department of Water Resources submitted to Robert Wilson and Sharman Wilson the preliminary recommendations of the said Department to disallow each of the above numbered claims on the belief of the Department that all of said water rights had been forfeited/abandoned due to non-use from 1975 to present.
4. On or about December 15, 1965, Ralph W. Ure and Goldie L. Ure, his wife, acquired the real property to which all of the above water rights are appurtenant, from Adrian H. and Martha W. Cook, his wife. That Warranty Deed conveyed said land, together with "all water and water rights, ditches and ditch rights, used thereon or appurtenant thereto, including, but not limited to, decreed waters of Badger Creek in the amounts and having priorities as follows: 20 inches- June 1, 1893; 40 inches- June 1, 1900; and 40 inches- June 1, 1902", and a copy of said deed is attached hereto as Exhibit A and by reference made a part hereof.
5. On November 24, 1980 the said Ralph and Goldie Ure gift deeded a half interest in the land and water rights to your affiant and his wife Kaylin, a copy of said gift deed is attached hereto as Exhibit B and by reference made a part hereof.
6. Ralph W. Ure and Goldie L. Ure, and your affiant and his said wife, on November 25, 1980, sold said land to Jim H Wilson. That Warranty Deed conveyed said land together with said water rights and "five quarter-mile lines of irrigation laterals and the tractor pump used for irrigation", and a copy of said Deed is attached hereto as Exhibit C and by reference made a part hereof.
7. During all the time that Ralph and Goldie Ure, and your affiant and his said wife

owned the property, they irrigated the entire lands described in said deed and produced crops thereon, consisting of grain, hay and pasture, first by the use of ditches which were all through the farm and then through said irrigation laterals and said tractor pump, pursuant to the water rights they acquired from the said Cooks, identified above, and most completely during the last 10 years of their ownership.

8. Your affiant and his said wife and your affiant's parents, Ralph and Goldie Ure, used the water on the entire farm consistently and regularly and never intended in any way to forfeit or abandon any of the above listed water rights and sold the same with those water rights.

  
Shane W. Ure

Subscribed and Sworn to before me this 14 day of March, 2005.

  
A Notary Public for Idaho  
Residing at Blaine, Idaho  
My Commission Expires 8/24/2008

AFFIDAVIT

State of IDAHO        )  
                                  ss.  
County of Teton        )

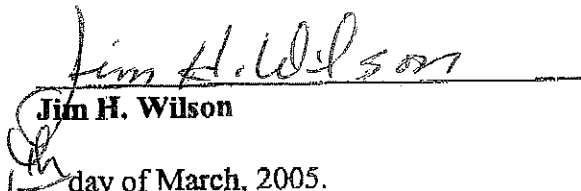
**RE: SRBA Water Right Claims 22-466, 220467, 22-468, 22-57**

**Jim H. Wilson**, being first duly sworn, deposes and says:

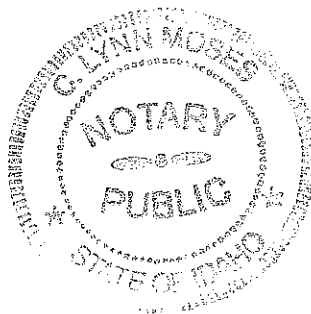
1.     That he makes this affidavit in support of the above numbered claims to water rights.
2.     That he resides with his wife, Harriet L. Wilson, at 537 W. Hwy 33, Tetonia, ID 83452, and his telephone number is (208) 456-2815.
3.     On January 3, 2005, the Idaho Department of Water Resources submitted to Robert Wilson and Sharman Wilson the preliminary recommendations of the said Department to disallow each of the above numbered claims on the belief of the Department that all of said water rights had been forfeited/abandoned due to non-use from 1975 to present.
4.     On or about November 25<sup>th</sup>, 1980, your affiant and his said wife acquired the real property to which all of the above water rights are appurtenant from Ralph W. Ure and Goldie L. Ure, husband and wife, and Shane W. Ure and Kaylin Ure, husband and wife. That Warranty Deed conveyed said land "together with all appurtenant water rights" and "together with five quarter-mile lines of irrigation laterals and the tractor pump used for irrigation", and a copy of said Deed is attached hereto as Exhibit A and by reference made a part hereof.
5.     Your affiant and his said wife, on October 26, 1995, sold said land to Bob Wilson A Professional Law Corporation, Target Benefit Pension Plan. That Warranty Deed conveyed said land "together with all water rights applicable to said property" and a copy of said Deed is attached hereto as Exhibit B and by reference made a part hereof.
6.     During the time that your affiant and his said wife owned the property, they irrigated the same and produced crops thereon, consisting of grain, hay and pasture, first by the use of said irrigation laterals and said tractor pump, pursuant to the water rights they acquired from the said Ures, identified above, for at least 10 years. During that time (In the month of February 1981) your affiant had Eugene Richards of St. Anthony Idaho drill a 16 inch well near the Northwest

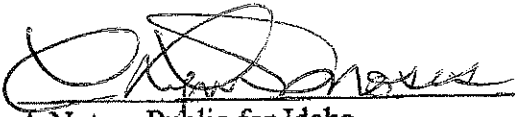
corner of the premises which was used for domestic and stockwatering purposes (claim number 22-57) and water from said well also irrigated a portion of the premises. Your affiant used that said well for said purposes until shortly before he sold the premises to Bob Wilson, A Professional Law Corporation, Target Benefit Pension Plan on October 26, 1995.

7. There came a time when others claiming interests in the waters of Badger Creek and the lateral ditch leading from Badger Creek, suggested that it would be for the best interests of all concerned that your affiant use those peoples water in exchange for his water coming down the swale from Badger Creek. This seemed to be a workable program for all involved and your affiant continued to irrigate the premises in this manner. Because of his age and infirmities, Jim Wilson, in the last few years of his ownership of the premises irrigated what he could and used the well to pump water for his livestock, and that water also irrigated the low areas of the premises.
8. Your affiant and his said wife never intended in any way to forfeit or abandon any of the above listed water rights and sold the same with those water rights.

  
Jim H. Wilson

Subscribed and Sworn to before me this 11 day of March, 2005.



  
A Notary Public for Idaho  
Residing At: Driggs  
My Commission Expires: 9-3-08