

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 SRBA)
Case No. 39576)
_____)

A. Subcase 37-11989

**STANDARD FORM 1
OBJECTION**

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Black Butte Hills LLC
Address: c/o Gregory Vik
P.O. Box 1607
Bellevue, WA 98009
Daytime Phone: (425) 460-2542

Name & Address of Attorney, if any:
James P. Speck
SPECK & AANESTAD
A Professional Corporation
PO Box 987
Ketchum, ID 83340

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

Name: Black Butte Hills LLC
Address: PO Box 1607
Bellevue, WA 98009

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: Black Butte Hills LLC, c/o Gregory Vik, P.O. Box 1607, Bellevue, WA 98009
2. ☒ **Source**
Should be: springs tributary to Big Wood River
3. ☒ **Quantity**
Should be: 4.08 cfs/30AF
4. ☒ **Priority Date**
Should be: 05/09/1911
5. ☒ **Point(s) of Diversion**
Should be: NWNWSE and NWSESE, S.11, T.2S., R.17E., B.M., Camas County, Idaho
6. ☐ **Instream Flow Description**
Should be:
7. ☐ **Purpose(s) of Use**
Should be: irrigation and irrigation storage
8. ☒ **Period of Year**
Should be: irrigation - 4/15 to 10/31; irrigation storage - 1/1 to 12/31
9. ☒ **Place of Use**
Should be: 204.1 acres in locations specified in notice of claim
10. **I object because:**
☐ This water should not exist.
☒ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S): see Exhibits A and B

F.

VERIFICATION (Must be completed)

State of Idaho)
) ss.
County of Blaine)

James P. Speck, being first duly sworn, upon oath, deposes and says:

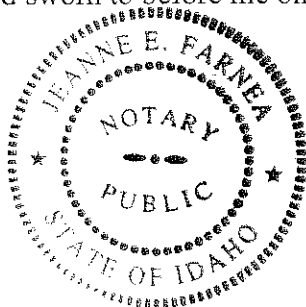
That I am the party/claimant filing this objection, as defined by I.C. § 42-1401A(1) and (6), or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)

J. P. Speck
(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

April 16, 2007



Jeanne Farnea
Notary Public for Idaho
Residing at *Shoshone, Idaho*
My Commission expires *05/05/09*

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 of the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on April ~~17~~ 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
P. O. Box 2707
Twin Falls, Idaho 83303-2707

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

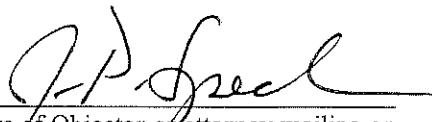
Name: Black Butte Hills LLC
Address: c/o Gregory Vik
P.O. Box 1607
Bellevue, WA 98009

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
P. O. Box 44449
Boise, Idaho 83711-4449

United States Department of Justice
Environment and Natural Resource
Division
550 West Fort Street, Box 33
Boise, Idaho 83734



Signature of Objector or attorney mailing on
Objector's behalf

Right No. 37-11989
Black Butte Hills, LLC

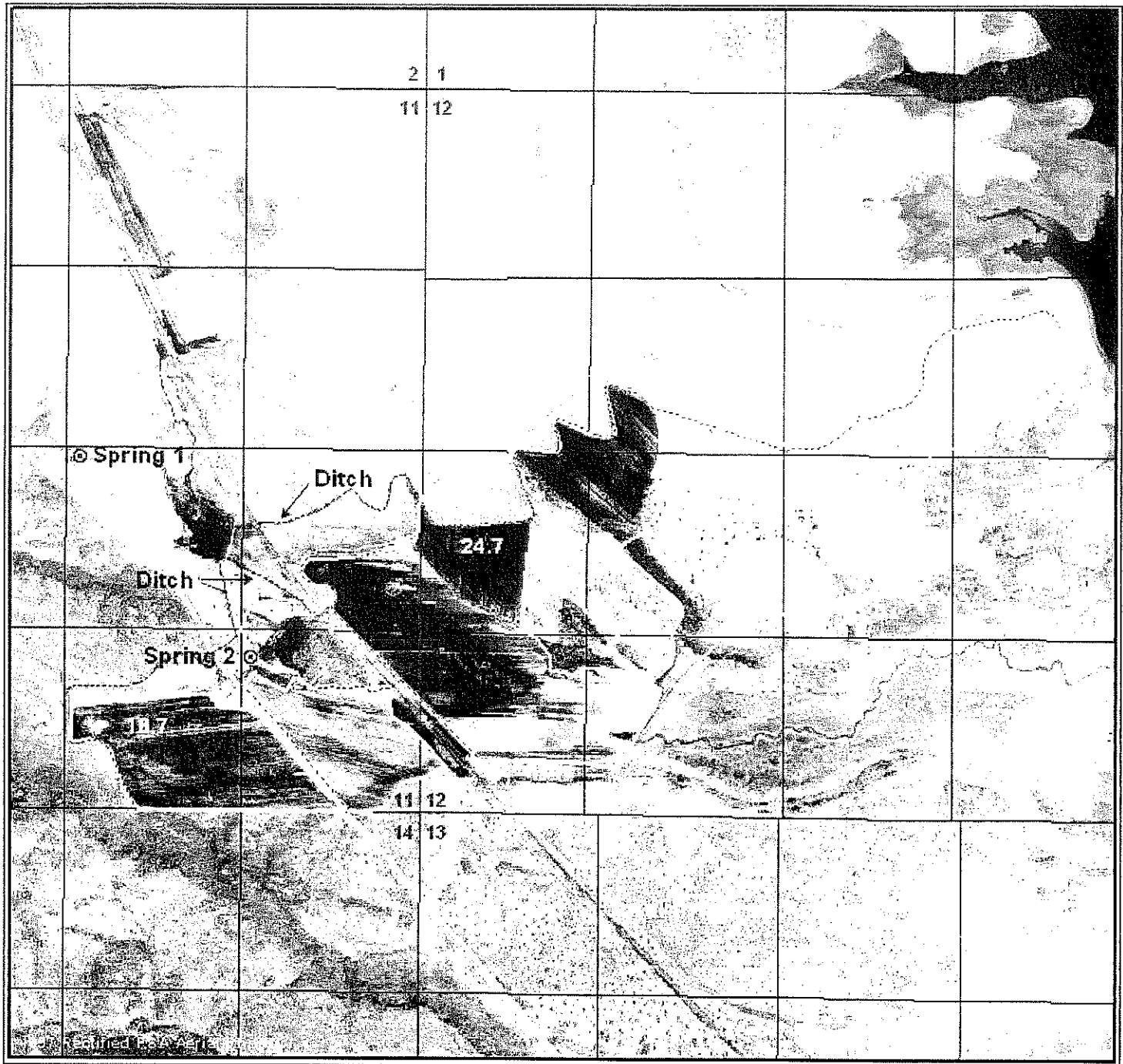
This is an enlargement claim based on license 37-2211. Zachariah Spellman acquired permit No. 7419 to appropriate 6.4 cfs of water for 320 acres. Spellman transferred the land and the permit to George Starcher in 1915. Certificate of Completion of Works was made by the State Engineer on January 22, 1915, who also identified two points of diversion (Spring Nos. 1 and 2) and stated the diversion capacity to be 3.2 cfs. The State Engineer's field report was conducted on August 18, 1915, and indicated two points of diversion, 3.2 cfs capacity, and 105 acres irrigated. For an unknown reason, the license was issued on September 8, 1915 for a single point of diversion (Spring No. 1), 85 acres of irrigation, and 1.7 cfs. The State Engineer's field report map seems to indicate significantly more than 85 acres and also denotes the two points of diversion. It appears that the license was in error both in omitting one point of diversion and in allowing only 85 acres. In fact, most of the licensed land cannot be reached from Spring No. 1 by gravity.

The 1957 aerial photo is the earliest known photo covering the property. It clearly indicates 204 acres irrigated from both springs. The ditch configuration in 1957 appears to be the same as indicated on the State Engineer's map from 1915, with the possible exception of the SWSE11 and SENE12 areas comprising about 44 acres, which may have been the result of expanding the ditch system westward and eastward. The inference could be made that the actual development of the original permit was close to the development shown on the 1957 photo. At least, the 44 acres described above should have a later priority date (maybe 1957 since that's the earliest we can document), but $204 - 44 = 160$ acres should have the 1911 date.

Any known party who could document pre-1957 activities is deceased.

EXHIBIT A

LEAVELL - MAGIC RANCH IRRIGATION 1957 AND EARLIER T02S, R17E



800 0 800 1600 2400 3200 Feet

Irrigated Acres (1957)

Ditch

Section Lines

Quarter Section Lines

