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JAN 31 2003

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

Case No. 39576

A. Subcase 63-03618

(Insert water right number)

STANDARD FORM 1
OBJECTION

AMENDED

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Settlers Irrigation District

Address: P.O. Box 7571

Boise, ID 83707

Daytime Phone: 208-344-2471

Name & Address of Attorney, if any:

Scott Campbell & Angela Schaer Kaufmann

Moffatt Thomas Barrett Rock & Fields Chtd.

P.O. Box 829, Boise, ID 83701-0829

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

Name: Settlers Irrigation District

Address: P.O. Box 7571

Boise, ID 83707

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: See Attachment A
2. ☐ **Source**
Should be: _____
3. ☒ **Quantity**
Should be: See Attachment A
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: See Attachment A
8. ☐ **Period of Year**
Should be: _____
9. ☒ **Place of Use**
Should be: See Attachment A

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): See Attachment A

F.

VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

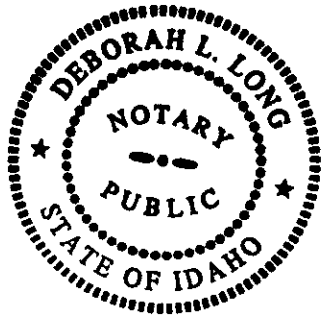
Angela Schaer Kaufmann, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

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

(Signature of person filing objection)

Angela Schaer Kaufmann
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: January 30, 2003



Deborah L. Long
Notary Public for Idaho
Residing at: Boise, Idaho
My Commission Expires: 10/10/07

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.



CERTIFICATE OF MAILING

I certify that on January 30, 2003, 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:

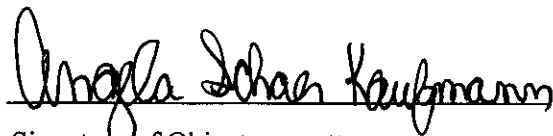
Name: Settlers Irrigation District
Address: P.O. Box 7571
Boise, ID 83707

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


Signature of Objector or attorney
mailing on Objector's behalf

ATTACHMENT A
63-3618

Settlers Irrigation District ("Settlers") has a contract with the Bureau of Reclamation for irrigation storage water from Lucky Peak Reservoir. Settlers has a right to use 10,000 acre feet of water from Lucky Peak Reservoir to irrigate 12,322 acres owned by landholders within Settlers's service area. The Idaho Department of Water Resources has recommended that Settlers' water right claim for that amount of water, 63-3618B, be disallowed.

Settlers has filed or will file an objection to that recommendation, and further objects to the recommendation for SRBA Claim Number 63-3618, because the Idaho Department of Water Resources has indicated that claim number 63-3618B has been recommended as 63-3618. Settlers asserts an ownership interest in 63-03618 to the extent that water right, as recommended, includes 63-3618B. This ownership interest is a full ownership interest, in accordance with Idaho law, the Reclamation Act of 1902, 43 U.S.C. § 372, and the United States Supreme Court decision in *Ickes v. Fox*, 300 U.S. 82, 57 S.Ct. 412, 416-17 (1937). In the alternative, Settlers asserts a beneficial ownership interest, with the United States holding only nominal legal title.

If the right is decreed, the claimed purposes of use for streamflow maintenance storage or streamflow maintenance from storage should not be decreed. Those uses are not beneficial uses of water under Idaho law, particularly if held by any individual or entity other than the Idaho Water Resource Board. Those quantities should be decreed for irrigation purposes, as reflected in the water permit before the Idaho Department of Water Resources erroneously approved the amendment of the permit.

Moreover, allowing wintertime releases and releases for fish and game purposes is contrary to the purposes for which Lucky Peak Dam and Reservoir were constructed. The only allowable uses under the pertinent authorizations are irrigation and flood control.

Relatedly, the claimed purpose of use for recreation storage (inactive storage) is subordinate and subject to use of water for irrigation purposes. If this water right is decreed, it should contain a remark that "the quantity of water decreed for recreation storage shall be subordinate and subject to the use of water for irrigation purposes."

In order to properly define and administer this right, at a minimum, a remark should be included which provides that any change to any element of this right must be undertaken in accordance with the transfer proceedings of Idaho law, with the approval of Settlers Irrigation District as to that portion owned by the District, and with a remark that uncontracted space be made available for irrigation.