

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 37-20638
 (Insert water right number)

**STANDARD FORM 1
 OBJECTION**

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Thomas M. O'Gara
Address: 112 Price Lane
Bellevue, Idaho 83313
Daytime Phone: (208) 788-3098

Name & Address of Attorney, if any:

Paul L. Arrington
Barker Rosholt & Simpson, LLP
P.O. Box 485
Twin Falls, Idaho 83303-0485

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

Name: Thomas M. O'Gara Family Trust c/o Brian Barsotti
Address: PO Box 370
Ketchum, Idaho 83340

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: See attached description of water right
3. ☒ **Quantity**
Should be: See attached description of water right
4. ☒ **Priority Date**
Should be: See attached description of water right
5. ☒ **Point of Diversion**
Should be: See attached description of water right
6. ☐ **Instream Flow Beginning and Ending Point**
Should be: _____
7. ☒ **Purpose(s) of Use**
Should be: See attached description of water right
8. ☒ **Period of Year**
Should be: See attached description of water right
9. ☒ **Place of Use**
Should be: See attached description of water right
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.

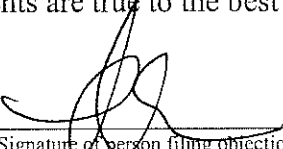
E. REASONS SUPPORTING OBJECTIONS(S): This water right was disallowed in the director's report, stating that it was recommended as right no. 37-20640. However, transfer (#69756) approved on 12/28/2006 identifies water right 37-2476 as the parent WR for WR# 37-20637 and 37-20638. In contrast, WR# 37-803 is the parent WR for WR# 37-20639 and 37-20640. WR# 37-2476 was a licensed WR with a priority date of 2/12/1947 (see attached license). WR# 37-803 was a decreed WR with a priority date of 6/15/1946 (see attached decree). The original WR# 37-2476 and 37-803 are not the same water rights, therefore, the resulting water rights following the transfer (#69756) are also individual and separate water rights.

F. VERIFICATION (must be completed)

State of Idaho)
)ss.
County of Blaine)

Thomas M. O'Gara, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

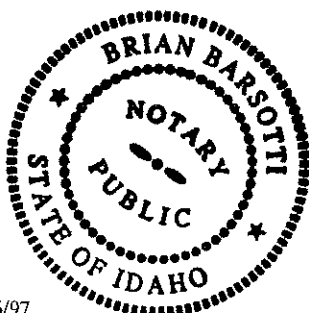
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.


(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

August 26, 2007
Brian Barsotti
Notary Public for Idaho
Residing at: Ketchikan
My Commission Expires: 7/26/12



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 Sept. 5, 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:

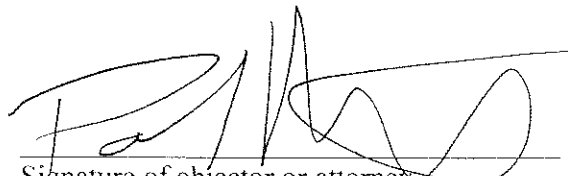
Name: Thomas O'Gara Family Trust c/o Brian Barsotti
Address: P.O. Box 370
Ketchum, Idaho 83340

3. Copies to:

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

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

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



Signature of objector or attorney
mailing on Objector's behalf

WATER RIGHT NO. 37-20638

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	THOMAS M O GARA FAMILY TRUST
	C/O BRIAN BARSOTTI
	PO BOX 370
	KETCHUM, ID 83340
	(208)726-3030
Original Owner	KERR PACIFIC CORP
	C/O ANDREW P KERR
	GILBERTSON ET AL
	1200 SW MAIN BLDG
	PORTLAND, OR 92705
	(503)221-1772

Priority Date: 02/12/1947

Basis: Licensed

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
WILDLIFE STORAGE	01/01	12/31		7.3 AFA
DIVERSION TO STORAGE	04/15	10/31	0.06 CFS	
Total Diversion			0.06 CFS	

Location of Point(s) of Diversion:

GROUND WATER	SWNW Lt 4	Sec. 04	Township 01S	Range 19E	BLAINE County
GROUND WATER	NWNWSW	Sec. 04	Township 01S	Range 19E	BLAINE County

Place(s) of use:

Place of Use Legal Description: WILDLIFE STORAGE BLAINE County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
01S	19E	8		NENE			SENE							
		9		NESW										
				NESE			NWSE			SWSE			SESE	
		10		NESW			NWSW			SWSW				
		15		NENW			NWNW							

Conditions of Approval:

1.	01M	After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
2.	C18	This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
3.	T08	Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
4.		Water authorized for wildlife storage under Transfer 69756 in the amount of 81.0 af shall be used to mitigate for evaporation losses associated with wildlife storage ponds authorized under rights 37-20653 and 37-20654.
5.	E60	Rights 37-20638 and 37-20640 when combined shall not exceed a total annual maximum diversion volume of 7.3 af at the field headgate.
6.	T07	The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
7.	E60	Rights 37-20638, 37-20640, 37-20642, and 37-20644 when combined shall not exceed a total annual maximum diversion volume of 7.3 af at the field headgate.

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 20049/37-2476 Priority Feb. 12, 1947 Amount 1.64 cfs

THIS IS TO CERTIFY, that CLARENCE E. ALLRED
of Gannett, Idaho, has complied with the terms and conditions of Permit
No. 20049/37-2476 issued pursuant to Application for Permit dated February 12, 1947,
and has submitted proof to the Department of Water Resources on February 15, 1950,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 1.64 cfs of water from a ground water source,
tributary to _____, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
<u>Irrigation</u>	from <u>April 1</u> to <u>Nov. 1</u>	at <u>1.64</u> cfs and	<u>247 acre feet or</u> <u>3.0 af per acre</u>
	from _____ to _____	at _____ cfs and	
	from _____ to _____	at _____ cfs and	

(both dates inclusive)

Subject, however, to the condition that no more than 1.64 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
247 acre feet per year, said waters to be diverted within Lot 4 of Sec. 4,

Twp. 1 S, Rge. 19 E, B. M. in the County of Blaine

Description and location of place of use:

Twp.	Range	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
1 S	19 E	3					15.52												15.52
							(lot 4)												
1 S	19 E	4	15.96	16.41			16.85	17.30											66.52
			(lot 1)	(lot 2)			(lot 3)	(lot 4)											

Total number of acres irrigated 82.04

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 25 day of
November, 19 75.

Director

128-5
37-A5-2
✓

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE.

CLOVER LAND AND LIVESTOCK COMPANY,
a corporation,

Plaintiff,

-VS-

C. E. ALLRED and JENNIE ALLRED,
husband and wife; MRS. WALTER BROWN,
a widow; ALVA RHODES and IDA RHODES,
husband and wife,

Defendants.

DECREE

The above entitled case came on for hearing before D. H. Sutphen, Judge of the District Court of the Fourth Judicial District, in chambers at Gooding, Idaho, the 23rd day of February, 1951, upon the complaint of plaintiff and the cross-complaint of the defendants, plaintiff appearing by C. W. Gardner, its manager, and John H. Daly of the firm of Parry, Keenan, Robertson & Daly, its attorneys, and the defendants appearing in person and by Chas. C. Shaw of the firm of James, Shaw & James, their attorneys, and evidence having been offered and received on behalf of plaintiff and support of its complaint, and on behalf of defendants and in support of their cross-complaint and a stipulation of facts executed by all parties having been introduced in evidence, and the cause having been taken under advisement by the Court, and then by the Court set for further hearing April 30, 1951, and at which latter time before said Judge in chambers at Gooding, Idaho, the same parties appearing, excepting that the defendants Allred and Brown appeared by counsel only, and additional testimony having been taken and documentary evidence introduced and admitted, and all the evidence being by the Court understood and duly considered, and the Court having made and filed its findings of fact and conclusions of law constituting its decision herein, it is by the Court;

MICROFILMED

FEB 26 1988

Parry, Keenan, Robertson & Daly
Attorneys at Law
Gooding, Idaho

Lot 2 of Section 7, Township 1 South, Range 20 East, Boise Meridian.

(2) Cont.

NE $\frac{1}{4}$ of the NW $\frac{1}{4}$, NW $\frac{1}{4}$ of the NW $\frac{1}{4}$, SW $\frac{1}{4}$ of the NW $\frac{1}{4}$, SE $\frac{1}{4}$ of the NW $\frac{1}{4}$, NE $\frac{1}{4}$ of the SW $\frac{1}{4}$, of Section 18, Township 1 South, Range 20 East, Boise Meridian.

the use of 5 cubic feet per second of time of underground waters diverted on:

A parcel of land in square form in the Northwest corner of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 3, Township 1 South, Range 19 East, Boise Meridian, containing one-fourth (1/4) acre,

with priority of April 1, 1935; that the use of said quantity of water is necessary for the production of agricultural crops on said lands and for domestic purposes thereon.

37 0803

(3)

(4). That there is hereby adjudged and decreed to defendants and cross-complainants C. E. Allred and Jennie Allred, husband and wife, for the irrigation of and domestic purposes on those lands in Blaine County, Idaho, described as follows:

Lots 1, 2, 3 and 4, Section 4, and Lot 4, Section 3, all in Township 1 South, Range 19 E.B.M.

the use of 2.54 cubic feet per second of time of underground water diverted on Lot 4, Section 4, Township 1 South, Range 19 E.B.M. with priority of June 15, 1946; that the use of said quantity of water is necessary for the production of agricultural crops on said lands and for domestic purposes thereon.

37 0804

(5). That there is hereby adjudged and decreed to defendant and cross-complainant Mrs. Walter Brown for the irrigation of and domestic purposes on those lands in Blaine County, Idaho, described as follows:

Fr. Lot 2 being Tax No. 198; Fr. NW $\frac{1}{4}$ SE $\frac{1}{4}$ being Tax No. 2261; Lot 3; and NE $\frac{1}{4}$ SW $\frac{1}{4}$, all in Section 3, Township 1 South, Range 19, E.B.M.

4

the use of 2.61 cubic feet per second of time of underground water diverted on Lot 3, Section 3, Township 1 South, Range 19 E.B.M. with priority of April 1, 1947; that the use of said quantity of water is necessary for the production of agricultural crops on said lands and for domestic purposes thereon.