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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: 47-4177E

STANDARD FORM 2
RESPONSE TO OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Tim Smalley and Karen Smalley

Address: 4579 A Road Buhl Idaho 83316

Buhl, Idaho 83316

Daytime Phone: (208) 539-0681

Name & Address of Attorney, if any:

C. Thomas Arkoosh/Daniel A. Nevala

Arkoosh Law Office, Chtd.

Post Office Box 32

301 Main Street

Gooding, Idaho 83330

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

Name: Bruce L. Walden

Address: 2660 Dalton Lane

Boise, Idaho 83704

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: _____

4. ☐ **Priority Date**

Should be: _____

5. ☐ **Point of Diversion**

Should be: _____

6. ☐ **Instream Flow Beginning and Ending Point**

Should be: _____

7. ☐ **Purpose(s) of Use**

Should be: _____

8. ☐ **Period of Year**

Should be: _____

9. ☐ **Place of Use**

Should be: _____

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):

Please see attachment 1 hereto.

F. VERIFICATION (must be completed)

State of Idaho)
)ss.
County of Ada)

Daniel A. Nevala, 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.

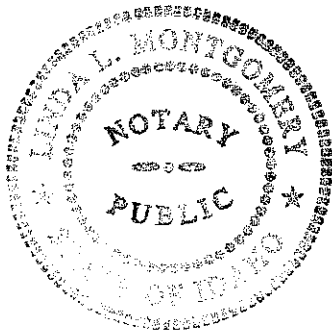
(Signature of person filing objection)



Daniel A. Nevala
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: _____

October 10, 2007
Linda Montee
Notary Public for Idaho
Residing at: Boise, Idaho
My Commission Expires: 11-15-08



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 the 17th of October, 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: Bruce L. Walden

Address: 2660 Dalton Lane
Boise Idaho 83704

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



Daniel A. Nevala

ATTACHMENT 1 TO STANDARD FORM 2 – RESPONSE TO OBJECTION

SUBCASE 47-4177E

Objections:

This water right has been forfeited and abandoned. Further, the historic wrongful diversion of this water constitutes waste.

Reasons for Objection:

Water right 47-04177E has not been applied to beneficial use since in or about June of 1985. The non-use of the water represented by water right 47-04177E constitutes forfeiture and abandonment pursuant to Idaho Code. Further, the historic wrongful diversion of the water described in water right 47-04177E, without application of the same to beneficial use constitutes waste, and injury to objector, under objector's water rights.