

SPECK & AANESTAD

A PROFESSIONAL CORPORATION

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October 29, 2007

RECEIVED

OCT 30 2007

DEPARTMENT OF
WATER RESOURCES

Clerk of the District Court
Snake River Basin Adjudication
P. O. Box 2707
Twin Falls, Idaho 83303-2707

*Re: Subcases 37-21180;
Edward A. Cutter, Trustee of the Edward A Cutter 1973 Trust;
Standard Form 1 Objections*

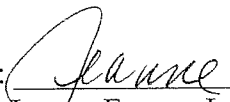
Dear Madam Clerk:

Enclosed is an original Standard Form 1 Objection for the above-referenced water right, along with one copy. Please return a receipt date-stamped copy to my office in the postage prepaid, self-addressed envelope provided.

Please call if you have any questions. Thank you.

Sincerely,

SPECK & AANESTAD
A Professional Corporation

By: 
Jeanne Farnea, Legal Assistant

Enclosures

cc: Client w/encl.

RECEIVED

OCT 30 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

Case No. 39576

A. Subcase 37-21180

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Edward A. Cutter 1973 Trust, Edward A. Cutter, Trustee
Address: P.O. Box 7330
Ketchum, ID 83340
Daytime Phone: (208) 622-9213

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: Edward A. Cutter 1973 Trust, Edward A. Cutter, Trustee
Address: P.O. Box 7330
Ketchum, ID 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:

3. ☐ **Quantity**

Should be:

4. ☒ **Priority Date**

Should be: The remark to the priority date should be identical to the language of the *Brett v. Chapman* Decree. See below.

5. ☐ **Point(s) of Diversion**

Should be:

6. ☐ **Instream Flow Description**

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 should not exist.

☐ This water right was not recommended, but should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTION(S):** See attached copy of Decree from *Brett v. Chapman* which states that this right shall have "a priority date prior to the earliest priority on Silver Creek and Little Wood River as established by the decree in the case of S.C. Frost et al v. Alturas Water Company et al, or any other decree . . ." and also states that this right and others in

the *Brett Decree* “are hereby decreed to be absolute, independent, perpetual rights and independent of and prior to all other rights on Silver Creek and Little Wood River.”

F.

VERIFICATION (Must be completed)

State of Idaho)
) ss.
County of Blaine)

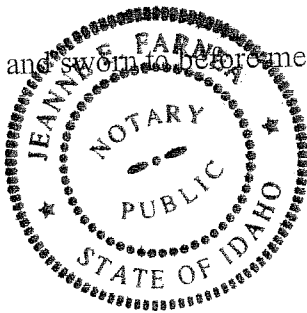
James P. Speck, being first duly sworn, upon oath, deposes and says:

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: October 26, 2007



Jeannie 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 October 29, 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:

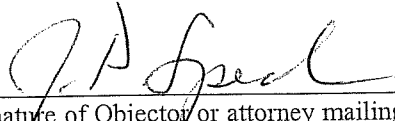
Name: Edward A. Cutter 1973 Trust, Edward A. Cutter, Trustee
Address: P.O. Box 7330
Ketchum, ID 83340

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

5

37-1224

notice, and the defendant is entitled to file her answer and cross-complaint.

Dated this 12th day of October, 1933.

D. H. Sutphen

District Judge.

Filed October 14, 1933,
B. P. Thamm, Clerk District Court,
Blaine County, Idaho.

RECORDED

JUN 25 1996

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

C. F. BRETT and FRANK A. CLARK,

Plaintiffs,

vs.

SEWELL H. CHAPMAN, Watermaster
of Water District No. 11-AB,
Silver Creek and Lower Little
Wood River,

Defendant,

and

JOHN HUNTER, W. H. BAUGH, and
CHARLES MYERS,

Intervenors.

DECREE

File 37-L

This cause came on regularly for trial on the 28th day of November, 1930,
before J. I. Downing, Presiding Judge, the plaintiffs appearing by their counsel A. F.
James, the defendant Sewell H. Chapman appearing not at all, and the intervenors

appearing by their attorney Paul S. Haddock, the court having heretofore rendered his Findings of Fact and Conclusions of Law:

NOW THEREFORE, By reason of the premises, and of said Findings of Fact and Conclusions of Law:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1

37-1223

That the plaintiff C. F. Brett be and he is hereby decreed to be the owner of the right to the use of 1.6 cubic feet per second of time of the waters of Silver Creek for the irrigation of the lands hereinafter in this paragraph described, and for domestic purposes thereon, with a date of priority prior to the earliest priority on Silver Creek and Little Wood River as established by the decree in the case of S. C. Frost et al. vs. Alturas Water Company et al, or any other decree, and said water right is hereby made appurtenant to said land, more particularly described as follows:

"The NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Sec. 36, Twp. 1 S. R. 20 E. B. M.; that portion of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Sec. 36 lying west of Silver Creek; all that portion of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Sec. 36, save and except the five acre tract in the southeast corner thereof belonging to Frank A. Clark situate east of Silver Creek and south of Clark's irrigation ditch; all that portion of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 36, save and except a strip off the east end thereof belonging to Frank A. Clark said strip being 150 feet wide and containing 4.7 acres and save and except another strip off the south end of said NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Sec. 36, save and except the

JUN 05 1996

South line of said forty and said Clark's irrigation ditch, situate in Blaine County, State of Idaho."

2

T.# 2492

37-1224 That the plaintiff Frank A. Clark be and he is hereby decreed to be the owner of the right to the use of 1.6 cubic feet per second of time of the waters of Silver Creek for the irrigation of the lands hereinafter in this paragraph described, and for domestic purposes thereon, with a date of priority prior to the earliest priority on Silver Creek and Little Wood River as established by the decree in the case of S. C. Frost et al. vs. Arturo's Water Company et al., or any other decree, and said water right is hereby made appurtenant to said land, more particularly described as follows:

"Lot 1 and all that part of Lots 2 and 3 and the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, all in Sec. 1, Twp. 2 S. R. 20 E. E. M.; lying north and east of Silver Creek; all that portion of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Sec. 36, Twp. 1 S. R. 20 E. E. M. lying east of Silver Creek; the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 36, Twp. 1 S. R. 20 E. E. M.; a strip of land 150 feet wide extending north and south off the east end of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Sec. 36 containing 4.7 acres; a strip of land extending east and west off the south end of the said NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Sec. 36, lying between the south boundary line of said forty and the irrigation ditch belonging to Frank A. Clark containing 6.5 acres; a tract of land in the southeast corner of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Sec. 36 lying south of the said Frank A. Clark irrigation ditch and east of said Silver Creek containing 5 acres, situate

JUN 05 1996

3.

That the above mentioned water rights of the plaintiffs, and of each of them, be and they are hereby decreed to be absolute, independent, perpetual rights and independent of and prior to all other rights on Silver Creek and Little Wood River.

4.

That neither of said defendants shall use at any time on their respective lands an amount of water from all sources in excess of one inch per acre on the basis of the acreage of their respective lands.

Given under my hand this 28 day of December, 1932.

Jay L. Downing

Presiding District Judge.

STATE OF IDAHO,

Lincoln County.

ss.

I, Venetta Albert, the duly elected, qualified, and acting Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Lincoln, do hereby certify that the above and foregoing is a true, complete and correct copy of Decree in the case of C. F. Erett and Frank A. Clark, Plaintiffs, vs. Sewell H. Chapman, Watermaster of Water District No. 11-AB, Silver Creek and Lower Little Wood River, defendant, and John Hunter, W. H. Baughn, and Charles Myers, Intervenor, the original of which Decree is on file in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court this 27th day of January, 1933.

Venetta Albert

Clerk of the District Court of

JUN 05 1996