

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

RECEIVED

NOV 29 2007

DEPARTMENT OF
WATER RESOURCES

In Re SRBA

)

A. Subcase: 74-741

(Insert water right number)

)

Case No. 39576

)

STANDARD FORM 1

)

OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Lynn A. & Robin R. Herbst
Address: P.O Box 21
Tendoy, ID 83468
Daytime Phone: (208) 756-3107

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: Lynn A. & Robin R. Herbst
Address: P.O Box 21
Tendoy, ID 83468

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: May 26, 1873
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): Claimant have found evidence indicating that the priority date should be May 26, 1873. On May 26, 1873, JB Pattee claimed all water that could run or be carried in his ditch from Agency Creek. A subsequent agreement with the Indian Department resulted in a trade of water from the ditch to diversion from the Lemhi River. Although this water right was decreed in the Lemhi adjudication, the court failed to recognize the earlier priority date and, instead, decreed a date of January 1, 1908. Claimant does not know why prior owners failed to bring this information to the court's attention.

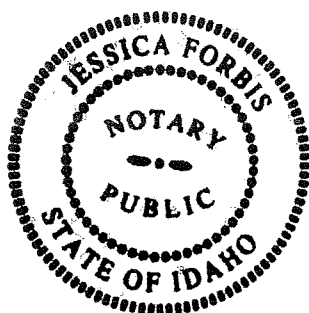
State of Idaho)
)ss.
County of Twin Falls)

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: November 27, 2007




Notary Public for Idaho
Residing at: Twin Falls
My Commission Expires: 4/3/12

G. CERTIFICATE OF MAILING

I certify that on November 27, 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:

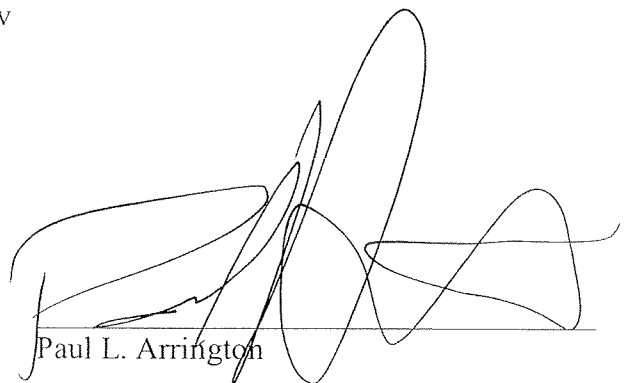
Name: Lynn A. & Robin R. Herbst
Address: P.O Box 21
Tendoy, ID 83468

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



Paul L. Arrington