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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)

A. Subcase 73-4079

(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: ROBERT W. CHEWNING

Address: 139 PAHSIMEROI RD
ELLIS, IDAHO 83235

Daytime Phone: (208) 876-4291

Name & Address of Attorney, if any:

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

Name: VIRGINIA H. CHEWNING & ROBERT W. CHEWNING

Address: 139 PAHSIMEROI RD
ELLIS, IDAHO 83235

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ Name and Address VIRGINIA H. CHEWNING & ROBERT W. CHEWNING
Should be: 139 PAHSIMEROI RD, ELLIS, IDAHO 83235
2. ☐ Source
Should be: SPRING TRIB. to: PAHSIMEROI RIVER
3. ☐ Quantity
Should be: 0.200 C.F.S.
4. ☐ Priority Date
Should be: 04/01/1870
5. ☐ Point of Diversion
Should be: T15N R21E S8 SW 1/4 of SW 1/4 of NE 1/4 Lemhi Co.
6. ☐ Instream Flow Beginning and Ending Point
Should be:
7. ☐ Purpose(s) of Use
Should be: IRRIGATION
8. ☐ Period of Year
Should be: 04/01 to 10/31
9. ☐ Place of Use T15N R21E S6 NE 1/4 of NW 1/4 1.0 ACRES
Should be: T16N R21E S31 SW 1/4 of SW 1/4 1.0 ACRES
SE 1/4 of SW 1/4 1.0 ACRES
10. ☐ I object because:
☐ This water right Should not exist.

TOTAL ACRES 3.0

☒ This water right was not recommended, but Should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTIONS(S): SEE ATTACHMENTS
Nos. 1, 2, 3, 4, 5

F.

VERIFICATION (must be completed)

State of Idaho)
County of Custer)ss.

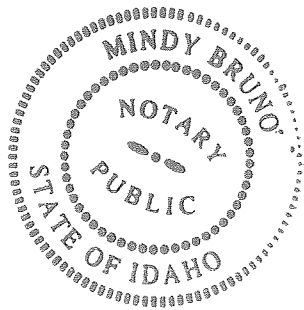
Robert W. Chewing, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

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.

Robert W. Chewing
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: November 19, 2007



Mindy Bruno
Notary Public for Thomson Stephens Law
Residing at: Challis, Idaho
My Commission Expires: 2-9-13

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 November 28, 200 , 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:

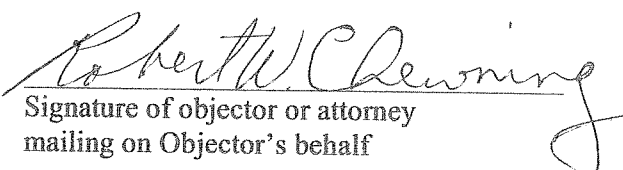
Name: VIRGINIA H. CHEWNING & ROBERT W. CHEWNING
Address: 139 PAHSIMEROL RD.
ELLIS, IDAHO 83235

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

November 3, 2007

ATTACHMENT NO. 1 TO SUBCASE 73 - 4079

**VIRGINIA H. & ROBERT W. CHEWNING
139 PAHSIMEROI RD, ELLIS, ID 83235**

When we purchased this parcel on May 15, 1968 it represented 3 acres of the 20 acres being acquired at the time. Alfalfa was being grown on these three acres and irrigated by a ditch fed by springs, the same water claimed in this subcase. After our purchase these 3 acres, along with other land owned by us, has been leased for the use of grazing cattle. These 3 acres continued to be irrigated by this same source of water. We filed a claim with the IDWR in 1983 and again in 1989 on this specific irrigation water, ss ATTACHMENT No. 2. In support of our continued, active use of this claim, we received a bill for \$218.00 for backhoe works on this ditch in 2000 and 2001 plus de-mossing in 2001. In June 2002 I wrote a letter to our upstream neighbor on this ditch concerning his interference in the delivery of water, see ATTACHMENT No. 3. I sought the assistance of the IDWR representative in Salmon, and a copy of his letter to this neighbor concerning his interference with the delivery of water is ATTACHMENT No. 4. In June 2006 we paid \$120.00 for backhoe work on this ditch, see ATTACHMENT No. 5.

In summary, our bases of this claim is beneficial use and we disagree with the IDWR position of disallowed for no beneficial use found. We were never approached on the IDWR's investigation of this claim although we had frequent correspondence and met with their representative as late as September 20, 2006 on other claims. At this last meeting all the representative would say about subcase 73- 4079 was that they had not completed their review.

Post-It™ brand fax transmittal memo 7671 # of pages 10	
To: John McKinney	From: [Signature]
Co:	Co. IDWR
Dept.	Phone #
Fax # 756-4287	Fax # 525-7177

IN THE

DISTRICT OF THE STATE OF IDAHO,
FALLS

CIVIL CASE NUMBER: 39576

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

Ident. Number: A73-04079
Date Received: 5/25/1990
Receipt No: E014146
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

- Name: ROBERT W. CHEWNING 804-580-2705
Address: RT. 2, BOX 185-H
HEATHSVILLE, VA 22473

OR

Name: VIRGINIA H. CHEWNING 804-580-2705
Address: RT. 2, BOX 185-H
HEATHSVILLE, VA 22473.
 - Date of Priority: APR 01, 1870
 - Source: SPRING Trib. to: PAHSIMEROI RIVER
 - Point of Diversion:
- | Township | Range | Section | 1/4 of | 1/4 of | 1/4 of | Lot | County |
|----------|-------|---------|--------|--------|--------|-----|--------|
| 15N | 21E | 8 | SW | SW | NE | | LEMHI |
- Description of diverting works:
DITCH & HEADGATE
 - Water is used for the following purposes:
- | Purpose | From | To | C.F.S. | (or) | A.F.A. |
|------------|-------|-------|--------|------|--------|
| IRRIGATION | 04/15 | 10/15 | 0.200 | | |
- Total Quantity Appropriated is:
0.200 C.F.S. (and/or) A.F.A.
 - Total consumptive use is 5.0 Acre Feet Per Annum.
 - Non-irrigation uses:
S/

A73-04079

Page

1/2

Date: 05/25/90

ATTACHMENT No 2 TO SUBCASE 73-4079

VIRGINIA H. & ROBERT W. CHEWNING, 139 PAHSIMEROI RD.

ELLIS, ID 83235

MICROFILM

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
15N	21E	6	NE	NW	IRR	0.5
Section Acres						0.5
16N	21E	31	SW	SW	IRR	1.0
			SE	SW	IRR	0.5
Section Acres						1.5
Total Acres						2.0

11. Place of use in counties: LEMHI

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
73-04080

14. Remarks:

15. Basis of Claim: STATUTORY CLAIM

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____
 _____ Date: _____

Robert W. Chewning
139 Pahsimeroi Road
Ellis, Idaho 83235

June 21, 2002

Gary Madsen
Box 25
Ellis, Idaho 83235

Mr. Madsen:

I have asked the State of Idaho, Department of Water Resources, to advise you concerning your denial of water to my property via the top ditch. I have received a copy of their letter to you mailed June 19 stating that interference in the delivery of a water right is a misdemeanor. That, while you many have a monetary dispute with me, you have no authority to interfere with the delivery of the water.

I have talked with a number of other persons who deal with irrigation matters, and they all agree that any bill for work on a ditch should include the following:

- 1) Prior notification that work is to be done.
- 2) A description of the work done, the hours involved in the work and the charge per hour for that work. Also, the cost of chemicals or other materials purchased.
- 3) How the bill is being prorated among all the users. Usually this is done by charging according to the acres being watered by the ditch involved. Where one of the water users is the one doing the work, their prorated share should be subtracted from the total bill and shown on the invoice.

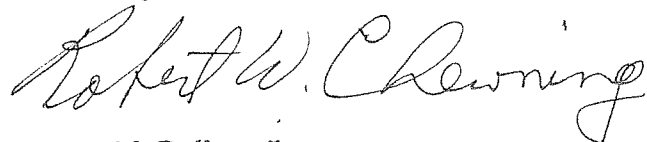
As I wrote you in my letter of September 18, 2001, I did receive some water in the top ditch in 2001 and was willing to consider your charges; provided I could see your charge per hour and how you prorated. To date, the only thing I have heard concerning the charges on your unsigned note of last year was Roy Ellis telling me a few weeks ago, that you had told him, you prorated the charges.

Roy Ellis leases the land with the water right to the top ditch in question. As part of the lease he is required to keep the property irrigated. By denying him this water he is unable to properly exercise his part of the lease and grass is being denied his cattle. This involves monetary damages. If this condition is not corrected immediately, you leave me very few options.

I believe my reputation for expeditiously paying valid bills within the community speaks for itself. If you would rather meet the conditions of 1, 2 and 3 above by dealing only with Roy Ellis that would be satisfactory with me. If you still believe I am denying you money rightfully owed, then there are legal means to pursue the issue - it is clearly against the law to deny water to try and force payment.

Sincerely,

Robert W. Chewning



Copy of Idaho Statute pertaining to "Interference with Delivery"

cc: Roy Ellis with copy of Department of Water Resources, letter mailed to Gary Madsen 6-19-02

ATTACHMENT No 3 TO SUBCASE 73-4079

VIRGINIA H. & ROBERT W. CHEWNING, 139 PAHSIMEROI RD, ELLIS, ID 83235



State of Idaho

DEPARTMENT OF WATER RESOURCES

206 Van Dreff, Suite B, Salmon, Idaho 83467-4117

Phone: (208) 756-6644 FAX: (208) 756-6644

Gary Madsen
PO Box 25
Ellis Idaho 83235

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

Mr. Madsen:

This office has received a complaint alleging interference by you in the delivery of a water right held by Robert Chewning.

Mr. Chewning alleges you are not allowing his water right(s) to reach his property through a ditch that is on your property. Mr. Chewning also stated you were denying the delivery of this water due to a monetary dispute involving ditch maintenance you had performed on the ditch.

Please be advised that the interference in the delivery of a water right is a misdemeanor. While you may have a monetary dispute with Mr. Chewning, you have no authority to interfere with the delivery of the water right (s). I suggest you allow the delivery of Mr. Chewning's water right(s) and resolve your monetary dispute in an appropriate manner.

If you have questions concerning this matter feel free to contact me at the above number or Harold W. Jones, Water Rights Supervisor, in our Idaho Falls office at (208) 525-7161.

Cordially,

Robert E. Foster
Sr. Water Rights Agent

Cc:

Harold W. Jones, Eastern Region
Robert Chewning, Ellis Idaho

ATTACHMENT No 4 TO SUBCASE 73-4079
VIRGINIA H. & ROBERT W. CHEWNING, 139 PAHSIMEROI RD, ELLIS, ID 83235

DOWTON RANCH

JIMMIE & DENISE DOWTON
5500 CUSTER ROAD
ELLIS, IDAHO 83253

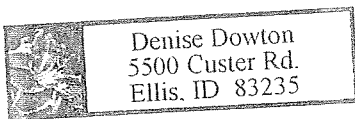
Invoice

DATE	5/29/2006
INVOICE #	567
TERMS	

BILL TO
ROBERT CHEWNING PAHSIMEROI RD ELLIS, ID 83235

*paid
5/29/2006*

ITEM	QUANTITY	DESCRIPTION	RATE	AMOUNT
BACKHOE WORK	2	BACKHOE WORK	60.00	120.00



*Robert Chewning
Pahsimeroi Rd
Ellis, Id. 83235*

*2006 Tax
Backhoe
upper dited
area*

	Total	\$120.00
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ATTACHMENT No 5 TO SUBCASE 73-4079
VIRGINIA H. & ROBERT W. CHEWNING, 139 PAHSIMEROI RD,
ELLIS, ID 83235