

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

73-12036

(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
Should be:

2. ☐ Source
Should be:

3. ☒ Quantity
Should be: 0.51 CFS

4. ☒ Priority Date
Should be: 06/01/1920

5. ☒ Point of Diversion

Should be:

T16N R20E S36 NE SE NE LEMHI COUNTY

6. ☐ Instream Flow Beginning and Ending Point

Should be:

7. ☒ Purpose(s) of Use IRRIGATION 0.48 CFS

Should be:

STOCKWATER 0.03 CFS

8. ☐ Period of Year

STOCKWATER 01/01 TO 12/31

Should be:

IRRIGATION 04/01 TO 10/31

9. ☒ Place of Use

IRRIGATION & STOCKWATER

Should be:

T16N R20E S36 NE NE

12.0 ACRES TOTAL

Should be:

T16N R20E S36 NE SE NE

LEMHI COUNTY

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):

SEE ATTACHMENTS 1, 2, 3, 4, 5, 6

F. VERIFICATION (must be completed)

State of Idaho)
)ss.
County of Custer)

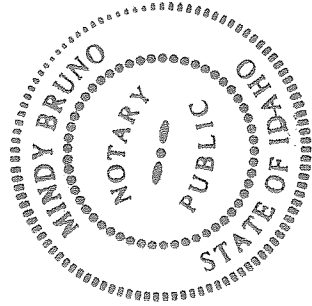
Robert W. Chewning
(Name of person filing objection)

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. Chewning
(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: Chalus 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 _____, 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:

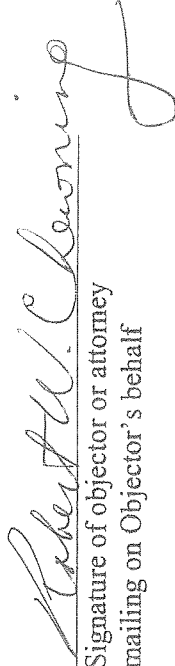
Name: VIRGINIA H. CHEWNING & ROBERT W. CHEWNING
Address: 139 PAHSIMEN RDR
ELLIS, IDAHO 83235

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 6, 2007

ATTACHMENT No. 1 TO SUBCASE 73 - 12036

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

Claim 73 - 11960 was recommended to be included in Subcase 73 - 12036 when IDWR submitted their report on Basin 73 to the SRBA Court. We object to this inclusion and believe that Subcase 73 - 11960 and original Subcase 73 - 12036 should be two separate claims. The original Claim 73 - 12036 originated from a change in water right ownership involving Claim A73 - 04105. The point of diversion for Claim 73 - 11960 are warm springs over 1/3 of a mile from the point of diversion for the original Claim 73 - 12036, a pond being fed by springs. Therefore, we object to T16N R20E S36 NENENE as a point of diversion listed in new Subcase 73 - 12036. Mr. Starr Coleman also uses water from the warm springs in Claim 73 - 11960 but not water from the pond/point of diversion in the original Claim 73 - 12036. Mr. Starr Coleman and his wife, Gloria, gave up all claim to the water from the point of diversion for original Claim 73 - 12036, the pond, in a Purchase Agreement they signed when we purchased property from them in 1996, see ATTACHMENT No. 2. There is a barrier in the ditch to keep these two distinct water sources from mingling. I perform sole maintenance on the ditch associated with original Claim 73 - 12036, and cut it in/out during the irrigation season. Mr. Starr Coleman performs maintenance on the ditch that travels north toward his property from the point of diversion for Claim 73 - 11960, and I perform maintenance on the ditch that travels south from that point. It is important to keep these two claims separated and not provide an opportunity for disagreement over water rights. The water from the pond, original Claim 73 - 12036, irrigates a specific 12 acres parcel we own, and they do not water the specific 3 acres watered from the warm springs in Claim 73 - 11960. Therefore, we object to the place of use which lists Section 25 and have added a small parcel closer to the point of diversion as being irrigated. We object to the quantity which should be 0.48 CFS for 12 acres. The soil is very sandy and historically requires 2 inches per acre for proper irrigation. We object to the priority date assigned and believe 06/01/1920 is much closer to the truth than the 04/01/1945 being recommended. The IDWR representative assigned the 1945 date based on an Affidavit signed by a long time resident of the Pahsimeroi Valley that he recalled seeing the pond and irrigation ditch associated with Claim A73 - 0415 on that date. The IDWR did not take into consideration that the pond and ditch had been in existence prior to this sighting. I reported in a letter to the IDWR representative that Starr Coleman, the claimant of A73 - 0415 at that time, said in the court proceedings in Court Case No. CV - 94 - 229 that the pond and ditch predated his grandfather, Boise H. Ellis. Boise H. Ellis purchased property being watered by the subsequent Claim A73 - 0415 on 4/8/24

from Janie Steele, deed book 27, page 89, Lemhi Court House. IDWR's action causes me to file objections with the SRBA Court in Subcases 73 - 11960, 73 - 12036 and 73 - 12305. To help in understanding this objection and the details of this Subcase 73 - 12036, I am including our IDWR Notice Of Change In Water Right Ownership dated Nov. 21, 2001 (see ATTACHMENT No. 3), my letter to IDWR dated 02/09/05 (see ATTACHMENT No. 4), IDWR letter to me dated Feb. 16, 2005 (see ATTACHMENT No. 5) and my letter of concern to IDWR dated March 2, 2005 (see ATTACHMENT No. 6).

RECEIVED

NOV 21 2007

DEPARTMENT OF
WATER RESOURCES

ATTACHMENT NO. 2 TO SUBCASE 73 - 12036

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

1. Buyer agrees to transfer of 30" (270 gpm) of water from pond fed by Walker Springs to Coleman's property north of Fish Hatchery. Seller agrees to transfer the remaining claim to the water from the pond to the property being sold as described in paragraph 1 above. Seller to perform transfer prior to closing. Seller to transfer the 30 inches from the pond to the river and change point of diversion downstream.
2. Seller agrees to transfer 3" (27 GPM) from spring on property described in paragraph 1 above with property being sold. Buyer agrees to transfer of remaining water from this spring to seller's property north of Fish Hatchery.
3. Buyer & Seller agree the above statements lack legal descriptions & precise detail. Both agree that oral commitments have been made and both buyers & sellers acknowledge understanding the above commitments.

2004-05
 2003-04
 2002-03

200405
200200

BEFORE SIGNING, IF YOU HAVE ANY QUESTIONS, CONSULT YOUR ATTORNEY BEFORE SIGNING.

This is an APPENDIX to the Book of the

Amount Earned Money:

Earnest Money Dated: 20 Aug 76 ID # 319168
ADDRESS: Ellis Trapp

BUYER (S) Robert & Virginia Chermening

SELLER (S) 3121 Art & Glass Company

The undersigned Parties hereby agree as follows:

1- Buyer agrees to transfer of 30" (276 gal) of water from pond fed by the old springs to Cabana property north of Fall Station. Seller agrees to turn the necessary claim to the water from the pond to the property being sold as described in paragraph 1 above. Seller to perform transfer prior to closing. Seller to transfer the claim from the pond to the new + change Point of Interest document.

2- Seller agrees to transfer 3" (276 gal) from spring on property described in paragraph 1 above with property being sold. Buyer agrees to transfer a claim with from this spring to seller property north of Fall Station.

3. Byer, & Selby agree the above statements
have legal description of piece of timber. Both agree
that said agreements paper were made and both
agree & seal the acknowledgment including the above
commitments.

STATE OF IDAHO, COUNTY OF LEMHI

On this 11th day of October, 1996, before me a Notary Public in and for said State, personally appeared STARR W. COLEMAN, GLORIA J. COLEMAN, ROBERT W. CHEWNING AND VIRGINIA H. CHEWNING, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same, upon its execution by both parties, is made an integral part of the aforementioned Agreement.

To Bert W. Leonard BUYER

Virginia H. Channing

DATED: 8-25-96

DATED: 8/25/96

TIME: 1300

TIME: 3:10 ☐ A.M. ☒ P.M.

876-4291

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Order County Reg. of,

Robert H. Chertney
Time 3:13 PM Date 3/27/84

PROOF'S COPY

Hubert M. Peck, Clerk
Deputy
9.00

ATTACHMENT NO. 3 TO SUBCASE 73 - 12036

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

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form. Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided, if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
<u>A73-04105</u>	<u>✓</u>				
<u>A73-04106</u>					

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

If your water right(s) and/or adjudication claim(s) are for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s)

STARR W. COLEMAN
PAHSIMEROL RD., ELLIS, IDAHO 83235
ROBERT W. and/or VIRGINIA H. CHEWNING-

Name Connector (Check one): ☐ and, ☐ or, ☐ and/or

4. New Owner/Claimant(s)

New Mailing Address

139 PAHSIMEROL RD.

City, State and ZIP Code

ELLIS, IDAHO 83235

New Telephone Number

(208) 876-4291

Date you acquired the property

10/10/1996

$$50'' = 4506 \text{ PM} = 1 \text{ CFS}$$

$$1'' = 96 \text{ PM}$$

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT

(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number A73-04105 SEE ATTACHED STATEMENT

Water Use AND DOCUMENTS RELATING TO THIS CLAIM

Diversion Rate or Volume

(cubic feet per second or acre-feet per annum)

Description

(acres, number and type of stock, homes, etc)

Irrigation

1.70 CFS (765 GPM) 15.52 acres

Stock

0.03 CFS (13.5 GPM) HORSES & CATTLE

Domestic

Other

Total

1.73 CFS (778.5 GPM)

DESCRIPTION OF YOUR PORTION OF WATER RIGHT

(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number

Water Use

Diversion Rate or Volume

(cubic feet per second or acre-feet per annum)

Description

(acres, number and type of stock, homes, etc)

Irrigation

Stock

Domestic

Other

Total

7. Signature of New Owner(s) or Claimant(s)
(include title if applicable)

Robert H. Clawing

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by

Date

Fee

Received by

Date

Receipt No.

Processed by

AJ

Date

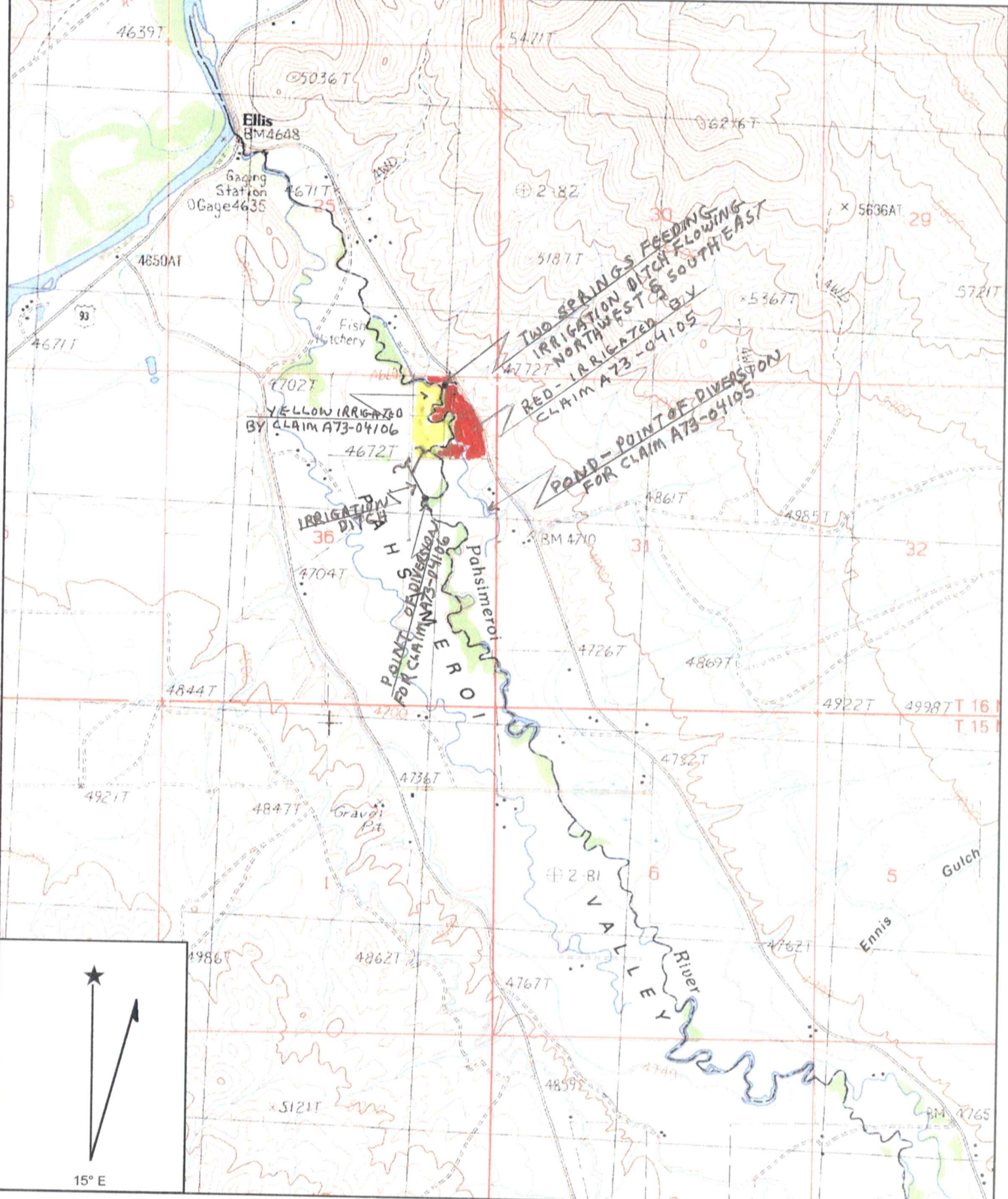
WR

Date

STATEMENT ON STATE OF IDAHO DEPARTMENT OF WATER
RESOURCES NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP
CONCERNING WATER RIGHT CLAIM NO. A73-04105

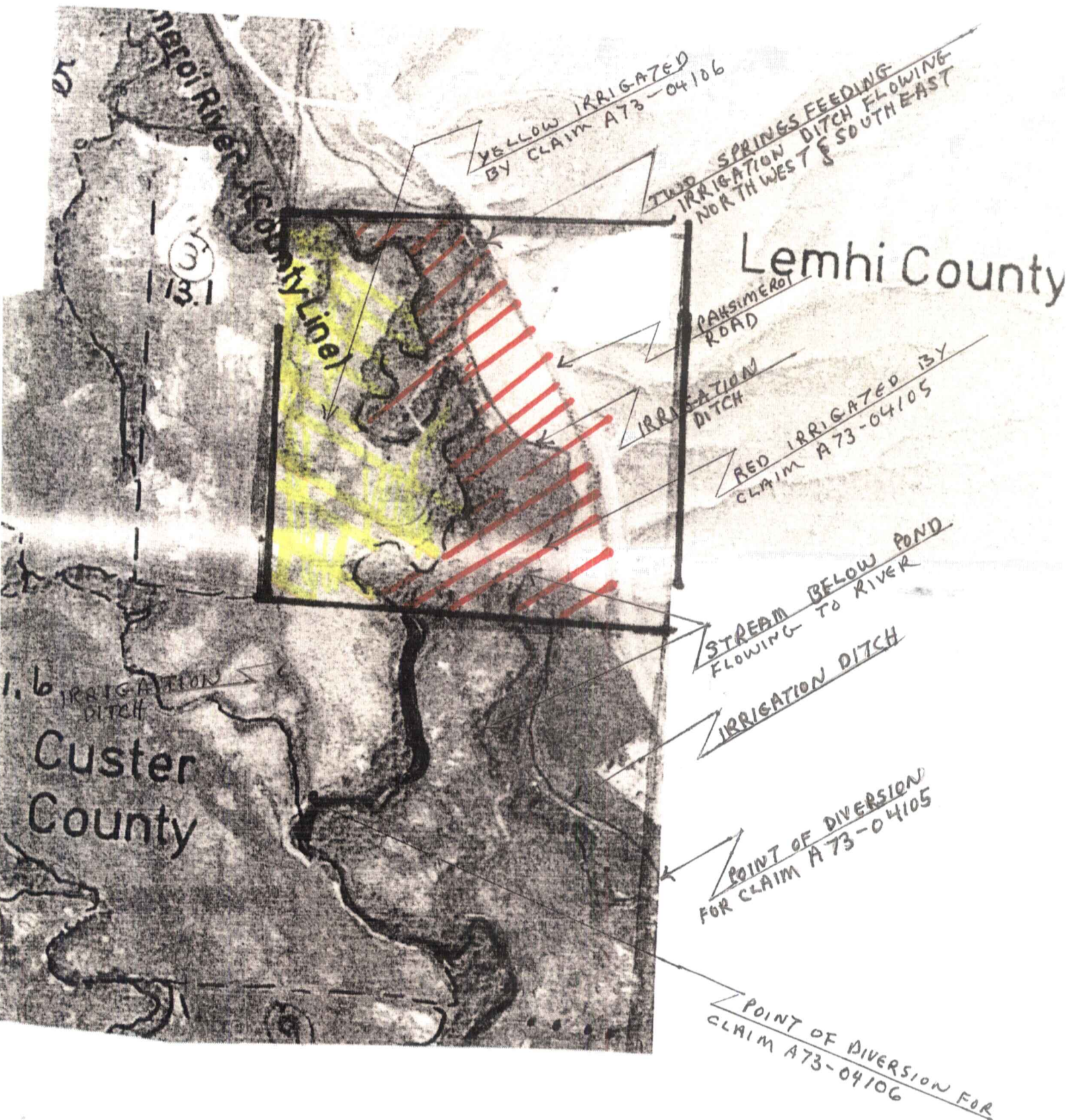
1. Before purchasing the property described in Warranty Deeds 231459 and 212224 the buyers (Robert W. and Virginia H. Chewning) agreed to the transfer of 30" (270 GPM) of water from pond fed by Walker Spring (point of diversion claimed in A73-04105) to Coleman's property north of Fish Hatchery. Sellers (Starr W. and Gloria J. Coleman) agreed to transfer the remaining claim to the water from the pond (point of diversion claimed in A73-04105) to the property being sold (described in Warranty Deeds 231459 and 212224). The sellers agreed to perform the transfer prior to closing. The sellers further agreed to transfer the 30" from the pond to the river and change the point of diversion downstream. The sellers signed this condition of the sale of the property identified above before a Notary Public 10/10/1996. See the attached copy of the Real Estate Purchase and Sale Agreement And Receipt For Earnest Money recorded by the Clerk of Custer County as document 0222438. This document should establish that Starr W. Coleman no longer has a claim to water from the point of diversion identified in A73-04105. In fact, since 10/10/1996 Mr. Coleman has made no attempt to obtain water from this point of diversion.
2. On June 24, 1997 Mr. Greg Taylor and Mr. Robert Foster from Idaho Department of Water Resources made a field trip in connection with Water Right Claim A73-04105 . At that time it was established that all water from the point of diversion in A73-04105 (the pond) was going to irrigation on the property described in Warranty Deed 231459. It was further established that two strong springs located to Township 16N, Range 20E, Section 36, 1/4 NW, of 1/4 NE, of 1/4 NE were feeding the irrigation ditch originating at the point of diversion in A73-04105 and extending north into T 16N, R 20E, Section 25. The water in the irrigation ditch from these springs was flowing northwest and southeast from its point of entry into the ditch and contributing to the irrigation of the property described in Warranty Deed 231459 and supplying all irrigation north of the point where they fed the irrigation ditch. To the best of my knowledge, these two springs have not been filed on as a claim for water rights. We continue to use this spring water to supplement water from the pond in irrigating our property and Mr. Coleman uses the water to irrigate a pasture of approximately 8 acres in T 16N, R 25E, Section 25, NW, SE only .

Robert W. Chewning
November 26, 2001



Name: ELLIS
Date: 10/17/2001
Scale: 1 inch equals 2000 feet

Location: 044° 40' 20.0" N 114° 01' 52.2" W



YELLOW IRRIGATED
BY CLAIM A73-04106

TWO SPRINGS FEEDING
IRRIGATION DITCH FLOWING
NORTH WEST & SOUTHEAST

Lemhi County

PAKIMEROT
ROAD

IRRIGATION
DITCH

RED IRRIGATED BY
CLAIM A73-04105

STREAM BELOW POND
FLOWING TO RIVER

IRRIGATION DITCH

POINT OF DIVERSION
FOR CLAIM A73-04105

POINT OF DIVERSION FOR
CLAIM A73-04106

3
13.1

Custer
County

1.6 IRRIGATION
DITCH

SNAKE RIVER

County Line

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: A73-04105
Date Received: 11/17/1989
Receipt No: M005245
Received By: SCC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: DICK H. COLEMAN
Address: BOX 5
ELLIS, ID 83235

OR

Name: STARR W. COLEMAN
Address: HC 62 BOX 1002
ELLIS, ID 83235

208-876-4244

2. Date of Priority: JUN 01, 1882

3. Source: SPRINGS

Trib. to: PAHSIMEROI RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
16N	20E	36	NE SE NE		LEMHI

5. Description of diverting works:
COLLECTION DITCH FOR FLOOD IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	2.000		
STOCKWATER	01/01	12/31	0.030		

7. Total Quantity Appropriated is:
2.000 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 75.0 Acre Feet Per Annum.

9. Non-irrigation uses:
S/100 RANGE

A73-04105

Page

89

MICROFILMED

DEC 14 1992

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
16N	20E	25	SE	NW		IRR	14.0
			NW	SE		IRR	6.0
			SE	SE		IRR	2.0
			Section Acres				22.0
		36	NE	NE		IRR	8.0
			NE	NE		STOCK	
			SE	NW		STOCK	
			NW	SE		STOCK	
			SE	SE		STOCK	
			Section Acres				8.0
			Total Acres				30.0

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:
A73-04104, A73-04106

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 not wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1

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): Star W. Adams Date: 11/17/89

Date: _____

State of Idaho)
County of Custer) SS.

Subscribed and sworn (or affirmed) before me this 17th day
of November 19 89

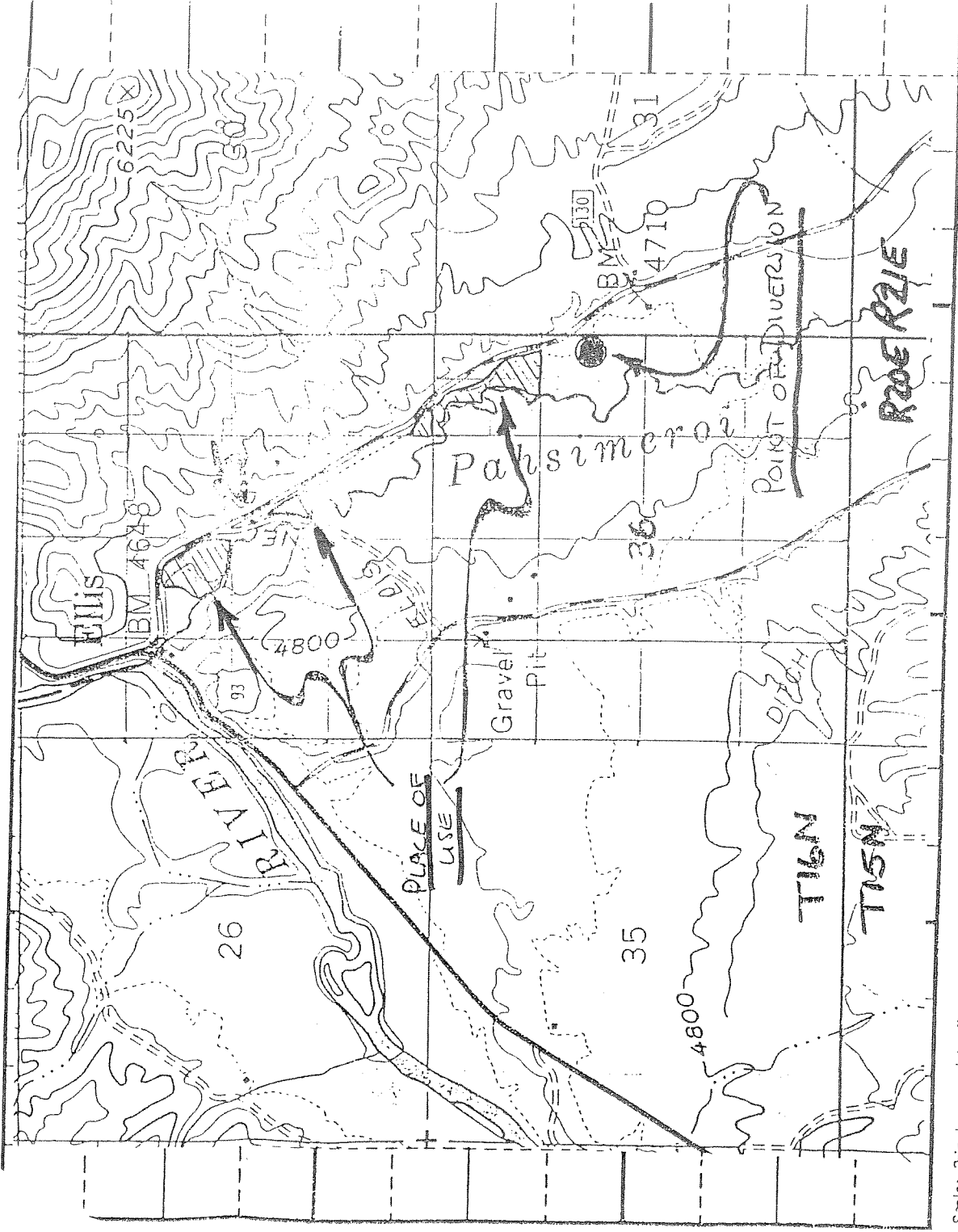
Star W. Adams
Notary Public

Seal

Residing at Twin Falls, Idaho

My Commission Expires December 7, 1994

Remarks



Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)

County of CUSTER) ss.

Be it known that the undersigned, being duly sworn, depose to a water right, together with all attached information, and that the matters and things herein stated are true to the best of the affiant's knowledge.

A73-04105

Sworn to before me this 28 day of June

ribed the foregoing claim : true to the best of the

UNRECORDED

Shirley L. Custer

(Claimant)

19 85

Page 3 of 3

DATE: 11/27/00
PAGE: 3

Water Source:	PAHSIMEROI RIVER	Tributary to:	SALMON RIVER	Stage:	STATUTORY CLAIM
a) of Diversion:	T16N R20E S36	NWSENE			CUSTER County

			NE				NW				SW				SE				
T	R	S	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	
16N	20E	36		15															
																			TOTAL ACRES
																			15.0
																			15.0

				NE				NW				SW				SE																			
				NENE		NWNE		SWNE		SENE		NENW		NWNW		SWNW		SENW		NESW		NWSW		SWSW		SESW		NESE		NWSE		SWSSE		SESE	
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	:
16N	20E	36	:	S								:									:							:							:

Non-Irrigation Uses: S/100 RANGE

Dates:	Exam Made Date:	Verified Date:	Objection Filed Date:
Misc:	Water District Number: 73	Field Inspection Flag: Presumption Flag:	
Audit:	11/17/89 MOBILE4	03/30/95 POST-STD	

A COPY OF THE LETTER OF AGREEMENT,
ATTACHMENT 2 TO SUBCASE 73-12036,
AND A COPY OF TWO WARRANTY DEEDS,
CUSTER & LEMITH, WERE ALSO PART OF
THE PACKET SUBMITTED TO IDWR FOR
THE NOTICE OF CHANGE IN WATER RIGHT
OWNERSHIP.

ATTACHMENT NO. 4 TO SUBCASE 73 - 12036

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

02-09-05

Robert W. Chewning
139 Pahsimeroi Road
Ellis, Idaho 83235

ref: Water Right Claims

A 73 - 04105

A 73 - 04106

Telephone call 02-08-05

Roxanne Brown
Sr. Water Resources Agent
State of Idaho Department
of Water Resources
322 East Front Street
P.O. Box 83720
Boise, Idaho 83720 - 0098

Dear Ms. Brown,

Not long after my wife and I purchased the property irrigated by the above two claims from Starr and Gloria Coleman, I contacted Robert E. Foster, Sr. Water Resources Agent Water Distribution in Salmon, concerning changing Water Right Claim A 73-04105. He told me that I should file a "New Property Owner Notice of Change of Water Right Ownership" with him. This I did on 11-16-1996 and a copy of the correspondance is included as Enclosure One to this letter. Please note that the spring referred to in my letter to Mr. Foster in paragraph 2 of Addendum #1 to the Agreement to Purchase is the springs we subsequently filed upon as 73-11960. These springs, from the point where they enter the irrigation ditch, flow south toward the pond, point of origin, referenced in Water Right Claim A 73-04105 (increasing the water available in that claim), and flow north toward the Coleman's property north of the fish hatchery (this is the entire source of water in the irrigation ditch going to Coleman's property). From the time of purchase of the property from the Coleman's, Mr. Coleman has not tried to use the water originating from our pond, but he does use water from these springs. I do not know if he has every filed a claim on these springs.

Several years passed and we had not heard anything about our "Notoce of Change of Water Right Ownership" concerning A 73-04105. We were told that it had been forwarded to Idaho Falls, but could not find anyone there who had seen it. I eventually made telephone contact with Allen B. Ruberry, Sr. Water Resource Agent Adjudication Bureau. He was helpful and sent me a letter dated 30 March 2001 with several attachments. A copy is included as Enclosure Two to this letter.

Needless to say, I was disappointed that no record of our attempt to change ownership was included in our file.

Before I could meet with Mr. Ruberry, my neighbor across the river, Sydney Downton, opened up a diversion to the Pahsimeroi River that had been collapsed for some years. The Department of Fish and Game was preparing to install a fish screen that was going to involve our property purchased from the Colemans. See Enclosure Three. I decided it was time to also file a "Notice of Change in Water Right Ownership" for the water right claim A 73-04106 that the Coleman's had made on this diversion.

I met with Mr. Ruberry in his office in Idaho Falls on 27 November 2001. I gave him a "State of Idaho Department of Water Resources Notice of Change of Water Right Ownership" for A 73-04105 and A 73 - 04106 with supporting attachments at that time. See Enclosure Four ("The Real Estate Purchase and Sale Agreement and Receipt of Earnest Money" attached to the "Notice of Change of Water Right Ownership" can be seen in Enclosure One). While meeting with Mr. Ruberry Water Right Claim A 73-11960 was drawn up and submitted. See Enclosure Five.

When I left Mr. Ruberry I had agreed to research and forward records which would support the Dates of Priority on claims A 73-04105, A 73-04106 and A 73-11960. He had also requested a copy of the Court Order is Case No. CV-94-229 which relates to Claim A 73-04105. I subsequently sent him a letter dated 22 December 2001 with Affidavits signed by Jack B. Furey, a long time resident of the Pahsimeroi Valley, concerning claims Nos. A 73-0415 and A 73-0416. I also sent him a copy of page 289, "Book A. of Water Rights" found in the Lemhi Courthouse with a signature of Boise Ellis in 1886 claiming water from a stream and irrigation ditch in the Pahsimeroi Valley. At that time I believed it related to waters and ditch in claim A 73-0415. I have subsequently found that it actually relates to my claims 73-4080 and 73-4079. The Boise Ellis who signed the "Book A. of Water Rights" in 1886 was the father of Boise H. Ellis, who with his wife Mary H, first purchased property in 1924 that would have been irrigated by the ditch in A 73-0415. He was the father of Dick H. Coleman and grandfather of Starr Coleman who first filed A 73-0415. Boise H. Ellis purchased the property in 1934 that was irrigated by the water in both claims A 73-0415 and A 73-0416. Starr Coleman had said in the court proceedings in Court Case No. CV-94-229 that the pond and ditch in A 73-0415 predated his grandfather. See Enclosure Six.

We do appreciate your assistance in this matter. It seems that the "Change of Water Right Ownership" for claims A 73-04105 and A 73-04106 have been in the process far too long. If there are additional supporting records needed, please let me know.

Sincerely,

Robert W. Chewning



ATTACHMENT NO. 5 TO SUBCASE 73 - 12036

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



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 16, 2005

Mr. Robert W. Chewning
139 Pahsimeroi Rd.
Ellis, ID 83235

RE: Snake River Basin Adjudication (SRBA)
Notice of Claim to Water Right Nos. 73-4105, 73-4106
Change of Ownership

Dear Mr. Chewning:

First, let me apologize for the confusion surrounding this matter and thank you for your very thorough record keeping. It has been very helpful. We have finally processed the change in ownership of the Claim to a Water Right referenced above.

Enclosed are copies of your water right claims. Please note that 73-4105 was split between you and Mr. Coleman; your portion of that claim is enclosed as 73-12036. Please retain these copies for your file, and refer to these claim numbers in any future inquiries or correspondence.

Sincerely,

Roxanne Brown
Sr. Water Resource Agent
Adjudication Bureau
Idaho Dept. of Water Resources

Enclosures

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

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

CIVIL CASE NUMBER: 39576

Ident. Number 73-12036
Date Received: 11/17/1989
Receipt No: M005245
Received By: SCC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

VIRGINIA H CHEWNING Phone: (208)876-4291
139 PAHSIMEROI RD
ELLIS ID USA 83235

ROBERT W CHEWNING Phone: (208)876-4291
139 PAHSIMEROI RD
ELLIS ID USA 83235

2. Date of Priority: 06/01/1882

3. Source: SPRINGS Trib. to: PAHSIMEROI RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
16N	20E	36	NE SE NE	LEMHI	

5. Description of diverting works:

COLLECTION DITCH FOR FLOOD IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.
IRRIGATION	04/01	11/01	0.67
STOCKWATER	01/01	12/31	0.03

(or) A.F.A

7. Total Quantity Appropriated is:
0.67 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
16N	20E	25	SE	SE	IRRIGATION	2
			SE	SE	STOCKWATER	
16N	20E	36	NE	NE	STOCKWATER	8
			NE	NE	IRRIGATION	
			Section Acres			
Section Acres					8	
Total Acres					10	

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:

14. Remarks:

15. Basis of Claim: Statutory Claim

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

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

CIVIL CASE NUMBER: 39576

Ident. Number 73-4106
Date Received: 11/17/1989
Receipt No: M005245
Received By: SCC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

ROBERT W CHEWNING Phone: (208)876-4291
139 PAHSIMEROI RD
ELLIS ID USA 83235

VIRGINIA H CHEWNING Phone: (208)876-4291
139 PAHSIMEROI RD
ELLIS ID USA 83235

2. Date of Priority: 06/01/1882

3. Source: PAHSIMEROI RIVER Trib. to: SALMON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
16N	20E	36	NW SE NE	CUSTER	

5. Description of diverting works:

HEADBOX TO DITCH FOR FLOOD IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/01	11/01	0.5	
STOCKWATER	1/01	12/31	0.03	

7. Total Quantity Appropriated is:
0.5 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
16N	20E	36	NE	NE	STOCKWATER	
			NE	NE	IRRIGATION	15
					Section Acres	15
					Total Acres	15

11. Place of use in counties: CUSTER

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

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: Statutory Claim

ATTACHMENT NO. 6 TO SUBCASE 73 - 12036

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

March 2, 2005

Robert W. Chewning
139 Pahsimeroi Road
Ellis, Idaho 83235
(208) 876-4291

Roxanne Brown
Sr. Water Resources Agent
Adjudication Bureau
Idaho Dept. of Water Resources
322 East Front Street
P.O. Box 83720
Boise, Idaho 83720 - 0098

Ref: (a) Snake River Adjudication (SRBA)
Claim to Water Right No. 73-4105

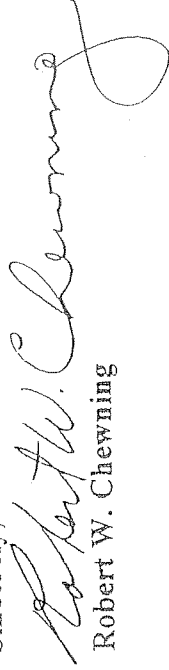
(b) Your letter dated February 16, 2005,
same subject

Dear Ms. Brown,

We thank you for your help with claims to Water Right Nos. 73-4105 & 73-4106. In your letter, reference (b), you stated that 73-4105 was split between us and Mr. Coleman. I assume that is the proper 1st step in changing this Water Right Claim, but we are greatly concerned that Mr. Coleman may be granted a legal right to the water from the point of diversion in original claim 73-4105 and now identified in claim 73-12036. We paid the Colemans a premium price for the property being irrigated by the springs/pond being diverted at Township 16 N, Range 20 E, Section 36, NE 1/4 of SE 1/4 of NE 1/4 for the purpose of eliminating any claim they had to this water. They made a written agreement to transfer 30" of the water being claimed from these springs/pond to the Pahsimeroi River and change the point of diversion downstream. The remaining water being diverted from this point of diversion was to be transferred with the property being sold. I would assume there will be an investigation of all claims prior to adjudication and expect that all claims the Coleman's may currently have on paper for this point of diversion will be made null and void. If not, expect the issue to move to a court of law immediately. As further support for our claim, Mr. Coleman has not used or attempted to use any water from the above point of diversion since the time we bought the property on 10-10-1996.

Again, I thank you for your help in this matter, It has been a long and frustrating process. We would appreciate hearing from you after you have had an opportunity to look into our concerns relative to any claim the Coleman's may have on paper relative to this sensitive point of diversion.

Sincerely,

A handwritten signature in cursive script, reading "Robert W. Chewning". The signature is fluid and elegant, with a large, sweeping "R" and a long, horizontal flourish at the end.

Robert W. Chewning