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FEB 11 2008

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 73-12036

(Insert water right number
From the Objection Form)

STANDARD FORM 2
RESPONSE TO OBJECTION

Please **print or type** the following information:

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: ROBERT W. CHEWNING
Address: 139 PAHSIMEROI RD
ELLIS, IDAHO 83235
Daytime Phone: (208) 876-4291

Name & Address of Attorney, if any:

**C. NAME AND ADDRESS OF PERSON WHO FILED THE OBJECTION TO
WHICH YOU ARE RESPONDING**

Name: United States of America Acting Through The Dept.
Of Interior, Bureau of Land Management, ID State Office
Address: 1387 SOUTH VINNELL WAY
BOISE, IDAHO 83709-1657

D. I am responding to the objections to the following elements. (Please check the appropriate box(es)).

1. ☐ Name and Address
2. ☐ Source
3. ☐ Quantity
4. ☐ Priority Date
5. ☐ Point(s) of Diversion
6. ☐ Instream Flow Description
7. ☐ Purpose(s) of Use
8. ☐ Period of Year
9. ☒ Place of Use SEE ATTACHMENTS No. 1, No. 2, No. 3 & No. 4
11. Recommendation

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

E. VERIFICATION (Must be Completed)

State of IDAHO)
County of CUSTER)ss.

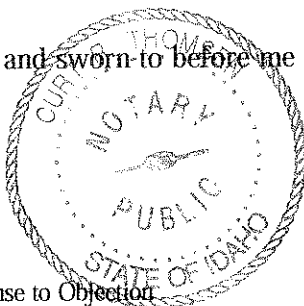
ROBERT W. CHEWNING, duly sworn, upon oath, deposes and says:
(Name of person filing response)

That I am the party/claimant filing this response as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant responding and that I have read this response, know its contents and believe that the statements are true to the best of my knowledge.

Robert W. Chewning
(Signature of person filing response)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on:



FEBRUARY 6, 2008
Notary Public for IDAHO
Residing at: CHALLIS
My Commission Expires: 12-13-13

INSTRUCTIONS FOR MAILING

You must mail the response, including all attachments, 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.

F. CERTIFICATE OF MAILING

I certify that on February 7, ~~199~~²⁰⁰⁸, I mailed the original and copies of this response, 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: ROBERT W. CHEWNING & VIRGINIA H. CHEWNING
Address: 139 PAHSIMEROI RD., ELLIS, IDAHO 83235

3. One copy to the party who filed the objection at the following address:

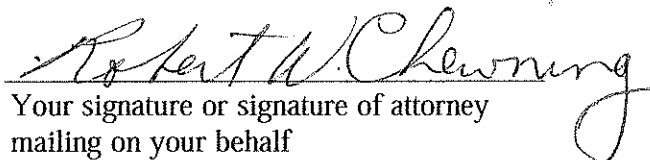
UNITED STATES OF AMERICA ACTING THROUGH THE DEPT. OF INTERIOR,
Name: BUREAU OF LAND MANAGEMENT, IDAHO STATE OFFICE
Address: 1387 SOUTH VINNELL WAY, BOISE, IDAHO 83709-1657

4. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment & Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724


Your signature or signature of attorney
mailing on your behalf

ATTACHMENT NO. 1 TO SUBCASE 73 - 12036 RESPONSE TO OBJECTION

**VIRGINIA H. CHEWNING & ROBERT W. CHEWNING
139 PAHSIMEROI ROAD, ELLIS, IDAHO 83235**

We also objected to SUBCASE 73 - 12036 as submitted to the SRBA Court by IDWR. ATTACHMENT NO. 2 is our STANDARD FORM 1 OBJECTION with ATTACHMENT NO. 1 only to SUBCASE 73 - 12036, which explains the confusion resulting from the initiative by IDWR to combine original Claim 73 - 1160 and Claim 73 - 12036. It also shows that the place of use for SUBCASE - 12036 should not list T16N R20E S25 SESE. ATTACHMENT NO. 3 is our STANDARD FORM 1 OBJECTION with ATTACHMENT 1 only to SUBCASE - 11960, which was recommended as disallowed by IDWR. It should be noted that SUBCASE - 11960, as submitted as an objection, does list T16N R20E S25 SESE as one place of use. This is not correct and should be removed, with only T16N R20E S36 NENE listed as the place of use. This is what was claimed on the original Claim 73 - 11960 filed with IDWR on 11-27-2001 (SEE ATTACHMENT NO. 4) and recommended as disallowed by IDWR.

In summary, we agree with the BLM that T16N R20E S25 SESE should not be claimed as a place of use by us. We do not water nor use any portion of Section 25. The ditch running north from the point of diversion in SUBCASE 73 - 11960 does enter BLM land enroute to Mr. Starr Coleman's property, and Mr. Coleman maintains that portion of the ditch.

ATTACHMENT NO. 2 TO SUBCASE 73 - 12036 RESPONSE TO OBJECTION

VIRGINIA H. CHEWNING & ROBERT W. CHEWNING
139 PAHSIMEROI ROAD, ELLIS, IDAHO 83235

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 NENE 12.0 ACRES TOTAL
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. Chewing duly sworn, upon oath, deposes and says:
(Name of person filing objection)

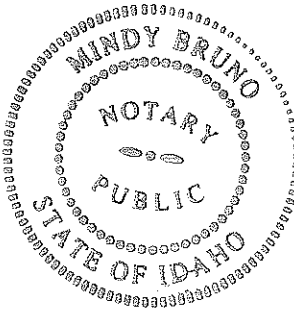
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

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, 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:

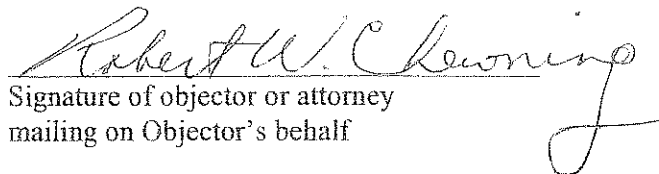
Name: VIRGINIA H. CHEWNING & ROBERT W. CHEWNING
Address: 139 PAHSIMEROI RD
ELLIS, IDAHO 83235

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 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).

ATTACHMENT NO. 3 TO SUBCASE 73 - 12036 RESPONSE TO OBJECTION

VIRGINIA H. CHEWNING & ROBERT W. CHEWNING
139 PAHSIMEROI ROAD, ELLIS, IDAHO 83235

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 73-11760
(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: SPRINGS TRIBUTARY; PAHSIMEROI RIVER
3. ☐ Quantity
Should be: 0.10 CFS
4. ☐ Priority Date
Should be: 06/01/1920
5. ☐ Point of Diversion
Should be: T16N R20E S36 NE NENE
6. ☐ Instream Flow Beginning and Ending Point
Should be: _____
7. ☐ Purpose(s) of Use
Should be: IRRIGATION 0.10 CFS; STOCKWATER 0.03 CFS
8. ☐ Period of Year
Should be: IRRIGATION 04/01 to 10/31; STOCKWATER 01/01 to 12/31
9. ☐ Place of Use T16N R20E S25 SESE
Should be: T16N R20E S36 NENE 3 ACRES TOTAL
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

F.

VERIFICATION (must be completed)

State of Idaho)

County of Custer) ss.

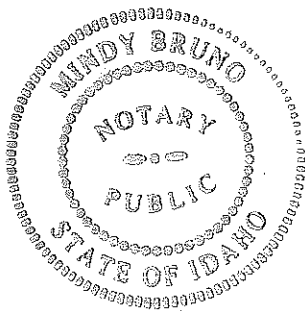
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(Name of person filing objection)

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 Thomas Stephens Law
Residing at: Challis
My Commission Expires: 2-9-13

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Clerk of the District court
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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:

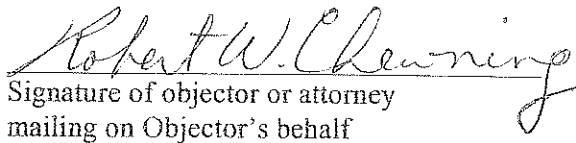
Name: VIRGINIA H. CHEWNING & ROBERT W. CHEWNING
Address: 139 PAHSIMEROI RD
ELLIS, ID 83235

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

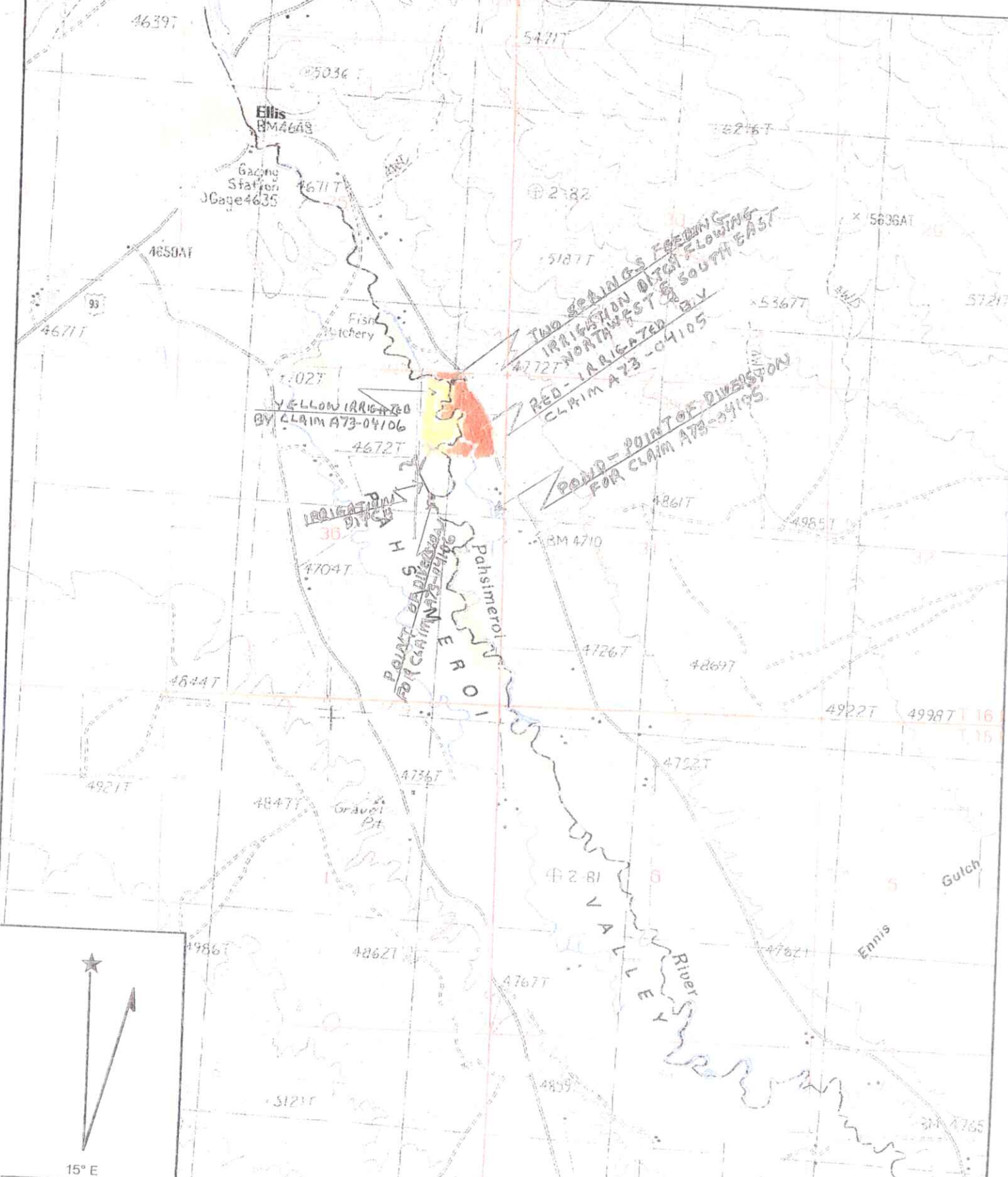

Signature of objector or attorney
mailing on Objector's behalf

November 3, 2007

ATTACHMENT No. 1 TO SUBCASE 73 - 11960

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

This claim was recommended as disallowed by IDWR and incorporated into Subcase 73 - 12036. This was a wrong course of action as I explained to the IDWR representative shortly before they filed the report for Basin 73 with the SRBA Court. The original Claim 73 - 12036 originated from a change in water right ownership involving Claim A73 - 04105. The problem is that the point of diversion for Claim 73 - 11960 are distinct warm springs over 1/3 of a mile from the point of diversion for the original claim 73 - 12036, a pond. Mr. Starr Coleman also uses water from these warm springs but not water from the original claim 73 - 12036. The water from claim 73 - 11960 irrigates a specific 3 acres parcel we own that is not watered from the original claim 73 - 12036. Mr. Starr Coleman and his wife gave up all claim to the water from the point of diversion for the original claim 73 - 12036 in a Purchase Agreement they signed when we purchased property from them in 1996, see ATTACHMENT No. 2. The water associated with the original claim 73 - 12036 irrigates 12 acres of this property purchased in 1996. 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. IDWR's action in this matter causes me to also file an objection with the SRBA Court in Subcase 73 - 12036. To assist in understanding this objection to Subcase 73 - 11960 I have included copies of our initial filing with IDWR on 11/27/2001 concerning this claim, see ATTACHMENT No. 3, and our objection filed with IDWR on 9/21/2006 over their proposed action on this claim, see ATTACHMENT No. 4.



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

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

08/31/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 73-11960

NAME AND ADDRESS: VIRGINIA H CHEWNING
139 PAHSIMEROI RD
ELLIS ID 83235

ROBERT W CHEWNING
139 PAHSIMEROI RD
ELLIS ID 83235

SOURCE: SPRINGS

TRIBUTARY: PAHSIMEROI RIVER

QUANTITY: 0.060 CFS

PRIORITY DATE: 06/01/1882

POINT OF DIVERSION:

T16N R20E S36 NENE Within LEMHI County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	0.060 CFS
STOCKWATER	01/01 12/31	0.030 CFS

PLACE OF USE: IRRIGATION Within LEMHI County

T16N R20E S36 NENE 3.00

STOCKWATER Within LEMHI County

T16N R20E S36 NENE

3 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

Recommended as Right No. 73-12036.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Recommended as Right No. _____: This is included for a claim that is proposed to be disallowed because the right claimed is recommended pursuant to another right. The remark indicates the water right number of the other right that is proposed to be recommended. If you are not mailed a notice of the recommendation of the other right, then the other right is recommended in another claimants name.

ATTACHMENT NO. 4 TO SUBCASE 73 - 12036 RESPONSE TO OBJECTION

**VIRGINIA H. CHEWNING & ROBERT W. CHEWNING
139 PAHSIMEROI ROAD, ELLIS, IDAHO 83235**