

TRANSMITTAL COVER SHEET

TO: DANA HOFSTETTER

TOTAL PAGES SENT: 2
(including cover sheet)

DOCUMENT DESCRIPTION: SPLIT REVIEW OF
36-10283 & 36-00021

FROM:

IDAHO DEPARTMENT OF WATER RESOURCES
1341 FILLMORE ST, STE 200
TWIN FALLS ID 83301-3380

PHONE: 736-3033

FAX: 736-3037

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RESULT	OK
MODE	STANDARD
ECM	

TIME : 05/02/2000 10:19
NAME : IDWR SOUTHERN REGION
FAX : 2087363037
TEL : 2087363033

TRANSMISSION VERIFICATION REPORT

A36-10283 B

SPLIT REVIEW:

IDWR
"R"

Orig.
Decree

36-00021 B

renumbered -00021

4.82 cfs

14.4 cfs

("A" portion was Renumbered
to 36-00077 C)

36-10283 A (94,95,96)

1.30 cfs

7.5

36-10283 B

0.30 cfs

36-00094 A (WARD)

0.08 cfs

36-00096 A (SIMPSON)

0.10 cfs

5/2/00
SCC

These rates reflect the current
flow rates listed in IDWR database.
Actual SRBA rates as decreed may
award different flow rates.

FAX TO: DANA HOFSTETTER

388-8400

Form 42-248/42-1409(6) February 3, 1997

JAN 14 1998

STATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCESDepartment of Water Resources - Southern Region - **NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP**Please print or type. Attach pages with additional information. Instructions are on the back of this page.
Incomplete forms will be returned.

1. Water Right No(s).: 36-10283B
Adjudication Claim No(s).: 36-10283B
2. The following REQUIRED information must be submitted with this form:
 - A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.
AND
 - B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually attached to your deed or on file with the county.)
OR
 - C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.
3. Name and Address of Former Owner/Claimant: Mattie P. Briggs
100 Quail Creek RD
4. New Owner/Claimant(s): Jerome, ID 83338
Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
New Mailing Address: Right Lane Trust, Elaine Taylor
City, State and ZIP Code: 643 N. Perry's Hollow RD Trustee
New Telephone Number: (801) 5316764 SLC, UT 84103
5. Date you acquired the property: July 8 - 1997
6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.
Number of acres you irrigate: 9.2 Number and type of stock: 3 Horses 3 Lambs
Diversion rate in CFS: _____ Number of homes: 2 Other uses: Farm & pasture
If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.
7. Signature of New Owner or Claimant(s): Right Lane Trust
Elaine Taylor Trustee
(Corporations or other organizations must submit a list of directors and/or officers demonstrating authority to sign form.)
8. For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him or her for all matters related to your claims..

STATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

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OR
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3. Name and Address of Former Owner/Claimant: Mattie P. 57199
100 Quail Creek RD
4. New Owner/Claimant(s): Jerome, Ed 83338
Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
New Mailing Address: Right Lane Trust, Blaine Taylor
City, State and ZIP Code: 643 W. Perry's Hollow RD Truste
New Telephone Number: (801) 5316764 SLC UT 84103
5. Date you acquired the property: July 8-1997
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Blaine Taylor
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JAN 07 1998

DEED OF TRUST

#G-25157

Department of Water Resources

Southern Region

Made this 8th day of July, 1997, BETWEEN RIGHT LANE TRUST, dated May 1, 1997, Blaine C. Taylor, Trustee, ("GRANTOR"), whose address is . . . LAND TITLE AND ESCROW, INC. an Idaho Corporation, ("TRUSTEE"), P O Box 349, Jerome, Idaho 83338 and MATTIE P. GRIGG, ("BENEFICIARY"), WITNESSETH: Grantor does hereby irrevocably GRANT, BARGAIN, SELL AND CONVEY TO TRUSTEE IN TRUST, WITH POWER OF SALE, that property in the County of JEROME, State of Idaho described as follows:

SEE EXHIBIT "A" ATTACHED HERETO:

THIS IS A PURCHASE MONEY DEED OF TRUST

For the Purpose of Securing payment of the indebtedness owed by Grantor in the sum of **Two Hundred Fifty Thousand and 00/100 Dollars, (\$250,000.00)**, with the final payment due on **JULY 8, 2004** and to secure payment of all such further sums as may hereafter be loaned or advanced by the Beneficiary herein to the Grantor herein, or any or either of them, while record owner of present interest, for any purpose, and of any notes, drafts or other instruments representing such further loans, advances or expenditures together with interest on all such sums at the rate therein provided. Provided, however, that the making of such further loans advances or expenditures shall be optional with the Beneficiary, and provided, further, that it is the express intention of the parties to this Deed of Trust that it shall stand as continuing security until paid for all such advances together with interest thereon.

1. GRANTOR AGREES:

1.1 To keep said property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.

1.2 To provide, maintain and deliver to Beneficiary fire insurance satisfactory to and with loss payable to Beneficiary. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part thereof may be released to Grantor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

1.3 To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including costs of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear.

1.4 To pay: at least ten days before delinquency all taxes and assessments affecting said property, when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Trust. In addition to the payments due in accordance with the terms of the note hereby secured the Grantor shall at the option, and on demand of the Beneficiary, pay each month 1/12 of the estimated annual taxes, assessments, insurance premiums, maintenance and other charges upon the property, nevertheless in trust for Grantor's use and benefit and for the payment by Beneficiary and any such items when due. Grantor's failure so to pay shall constitute a default under this trust.

1.5 To pay immediately and without demand all sums expended by Beneficiary or Trustee pursuant to the provisions hereof, with interest from date of expenditure at the rate authorized by Idaho Code 28-22-104(1).

1.6 Should Grantor fail to make any payment or to do any acts as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Grantor and without releasing Grantor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay purchase, contest or compromise any encumbrance, charge or lien which in the judgement of either appears to be prior or superior hereto; and, in exercising any such powers, or in enforcing this Deed of Trust by judicial foreclosure, pay necessary expenses, employ counsel and pay his reasonable fees.

1.7 The property does not contain more than forty acres.

2. IT IS MUTUALLY AGREED:

2.1 Any award of damages in connection with any condemnation for public use of or injury to said property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply or release such moneys received by him in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

2.2 By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

2.3 At any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed and said note for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may: reconvey all or any part of said property; consent to the making of any map or plat thereof; join in granting any easement thereon; or join in any extension agreement or any agreement subordinating the lien or charge hereof.

2.4 Upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed and said note to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in any reconveyance executed under this deed of trust of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto."

2.5 As additional security, Grantor hereby gives to and confers upon Beneficiary the right, power and authority, during

CLOSING INSTRUCTIONS TO LAND TITLE AND ESCROW, INC.

Closing No. G-25157

Date: July 8, 1997

We, the undersigned, hereby instruct LAND TITLE AND ESCROW, INC., hereinafter referred to as "Closing Agent", when in receipt of all documents and monies as set out herein, to close this transaction according to the following instructions and information: The parties have entered into an Agreement for the purchase and sale of subject property entitled **REAL ESTATE PURCHASE AND SALES AGREEMENT** and dated **MAY 7, 1997**, hereinafter referred to as the Agreement. The closing agent is hereby instructed to close the transaction in accordance with the terms of the Agreement as well as these instructions. **HOWEVER**, in the event the terms of the Agreement and the terms of these Instructions shall conflict, the terms of these instructions shall control.

PROPERTY: 17927-A HWY 30 HAGERMAN, IDAHO

BUYER: RIGHT LANE TRUST, BLAINE C. TAYLOR, TRUSTEE,

SELLER: MATTIE P. GRIGG a widow,

TERMS: Sale Price \$ 350,000.00

Payable as follows:

Earnest Money Deposit:	\$ 5,000.00	held by THREE M REALTY
New Loan	\$ from	
Purchase Money Deed of Trust	\$250,000.00	from THE SELLER HEREIN
Cash Required at Closing	\$95,304.44	

(All assumption balances set out above shall be adjusted if necessary to the actual balances upon written verification from lender. If this transaction involves a new loan, these instructions must conform with the instructions from said lender.)

PRORATION DATE: July 8, 1997 CLOSING DATE: July 8, 1997 The closing agent is instructed to prorate all items to be prorated as of the proration date with the Seller being responsible for all such items up to but not including the date of proration and the Buyer being responsible for such items from and including the date of proration.

The property taxes for 1997 shall be prorated on the basis of 1996 tax assessed in the amount of \$312.00. The parties hereto acknowledge that there may be a difference between the amount of taxes prorated and the actual tax assessment ultimately levied. The parties further acknowledge that under Idaho Code Sections 63-403, 63-2203, and Title 63, Chapter 39 "New and Additional Assessments", "Adjustments of Taxes by the Board of Commissioners", and "Tax on Newly Constructed and Occupied Residential and Commercial Structures", additional taxes may be levied. The parties hereto agree to hold the closing agent harmless for any proration difference or additional taxes and agree to promptly adjust any such difference between themselves. The closing agent shall not prorate any utility charges, unless specifically instructed to do so.

COSTS: The following items shall be paid by BUYER (B), SELLER (S), DIVIDED BETWEEN BUYER AND SELLER EVENLY UNLESS OTHERWISE STATED (D), or PAID OUTSIDE CLOSING (POC).

N/A Attorney's Fees	Title Insurance, Owners Policy
D Closing Fee	N/A Title Insurance, Loan Policy
N/A Assumption Fee	D Initial Escrow Fee
D Escrow Collection Fee	B Hazard Insurance

S Real Estate Commission 4.5000% (\$15,750.00) to THREE M REALTY

TITLE INSURANCE: Insurer LAND TITLE AND ESCROW, INC. Order No. G-25157

(X) Standard () Extended coverage owners policy Amt. \$350,000.00

() Standard () Extended coverage loan policy Amt. \$

When the closing agent has received all properly executed documents and all funds necessary for the completion of this transaction and the title insurer is in a position to issue the type of policy(s) set out above, subject only to the General Exceptions on Schedule B-Section I and Special Exceptions No.'s 9 THROUGH 18 AND 21 as set out in their commitment dated MAY 29, 1997, and any documents recorded in connection with this transaction, the closing agent is hereby authorized and instructed to record or file all necessary documents and disburse funds deposited in accordance with the amounts shown on the closing statement. Minor adjustments may be made for additional interest due to delay in disbursing or other minor items beyond the control of the closing agent, for which the respective party shall be given an accounting.

the continuance of these Trusts, to collect the rents, issues and profits of said property, reserving unto Grantor the right, prior to any default by Grantor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect, and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in his own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default hereunder or invalidate any act done pursuant to such notice.

2.6 Upon default by Grantor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, all sums secured hereby shall immediately become due and payable at the option of the Beneficiary. In the event of default, Beneficiary shall execute or cause the Trustee to execute a written notice of such default and of his election to cause to be sold the herein described property to satisfy the obligations hereof, and shall cause such notice to be recorded in the office of the recorder of each county wherein said real property or some part thereof is situated.

2.7 Notice of sale having been given as then required by law, and not less than the time then required by law having elapsed, Trustee, without demand on Grantor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee shall deliver to the purchaser its deed conveying the property so sold, but without any covenant or warranty express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Grantor, Trustee, or Beneficiary, may purchase at such sale.

2.8 After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title and reasonable counsel fees in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest; all other sums then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto. The Beneficiary shall also have all rights provided by law whether stated here or not.

2.9 This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their successors and assigns. The term Beneficiary shall mean the holder and owner of the debt secured hereby. In this Deed of Trust whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

2.10 Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Grantor, Beneficiary or Trustee shall be a party unless brought by Trustee.

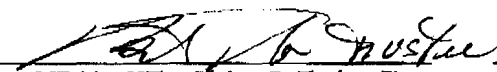
2.11 In the event of dissolution or resignation of the Trustee, the Beneficiary may substitute a trustee or trustees to execute the trust hereby created, and when any such substitution has been filed for record in the office of the Recorder of the county in which new trustee or trustees shall succeed to all of the powers and duties of the trustee named herein.

2.12 Request is hereby made that a copy of any Notice of Default and a copy of any Notice of Sale hereunder be mailed to the Grantor at his address hereinbefore set forth.

2.13 The interest and payment terms on the note secured hereby may be indexed, renewed, renegotiated or adjusted during the term of the note and which may affect the term of the note. The amount of the debt secured may be increased because of a deferment of all or portions of the interest of a deferment of all or portions of the interest if added to the principal balance of the note.

3. ADDITIONAL AGREEMENTS:

DATED the 8th day of July, 1997


RIGHT LANE TRUST, Blaine C. Taylor, Trustee

STATE OF IDAHO)
) ss.
COUNTY OF JEROME)

On this ___ day of July, 1997, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, known or identified to me to be the person whose name IS subscribed to the within instrument, and acknowledged to me that HE executed the same on behalf of said Trust.

Notary Public
Residing at:
My Commission expires:

In the event this transaction does not close for any reason, the closing agent shall be entitled to reimbursement for any and all cost expended by it and shall be further entitled to an escrow cancellation fee and the parties thereto agree to be jointly and severally liable for same. Further, any earnest money deposited with the closing agent shall be refunded only upon written instructions from the parties hereto, EXCEPT that, in the event the earnest money has been deposited by the Broker, the closing agent is hereby authorized to refund same to the broker's trust account for his disposition to the parties and in the event the closing agent has incurred expenses in connection herewith, the closing agent shall be entitled to retain so much of the earnest money as it is entitled to hereunder for the reimbursement of said expenses.

The closing agent shall have no responsibility for compliance with any truth-in-lending, usury or consumer protection laws of the United States or The State of Idaho, nor any governmental regulations including but not limited to zoning or subdivision ordinances.

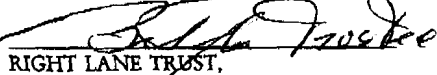
The closing agent is directed to comply with the instructions contained in these instructions and the parties hereto agree to indemnify and hold harmless the closing agent from any and all actions or losses related hereto other than failure to comply herewith, including but not limited to any attorney's fees or costs incurred by the closing agent in defending itself in any such action.

BY THEIR EXECUTION OF THESE INSTRUCTIONS, THE BUYER AND SELLER ACKNOWLEDGE THE FOLLOWING:

- 1) The closing agent is not acting as a representative of either party,
- 2) The documents prepared in connection with this transaction will affect the legal rights of the parties, and the parties rights or interests in those documents may differ,
- 3) Any documents typed by the closing agent have been done so at our direction or the direction of our counsel,
- 4) The closing agent is not licensed to practice law and no legal advice, advice as to the content of the documents, nor advice as to the merits of the transaction has been offered by the closing agent,
- 5) Copies of the Subdivision Plat and Restrictive Covenants where applicable,
- 6) There is currently pending in the District Court, Fifth Judicial District, State of Idaho in and for the County of Twin Falls in Civil Case No. 39576 (the general adjudication of rights to the use of water from the Snake River Basin Water system). The parties may have claims to water rights that are affected in this case. The parties need to make an independent investigation of the claims, because they are matters outside the closing and for which Land Title and Escrow, Inc. is unable to perform services in regards to the water claims,
- 7) Land Title and Escrow, Inc. shall not be responsible for any penalties, or loss of principal or interest or any delays in the withdrawal of the funds which may be imposed by the Depository as a result of the making or redeeming of the investment pursuant to our instructions, nor shall Land Title and Escrow, Inc. be liable for any loss or impairment of funds while those funds are on deposit in a financial institution if such loss or impairment results from the failure, insolvency or suspension of financial institution.
- 8) Idaho Code 55-2501, et seq. is known as the "Idaho Property Condition Disclosure Act" and this transaction may be affected by the Act. Land Title has advised you to seek separate advice regarding the law and Land Title has not given you any advice about the law that is not contained in these Closing Instructions. With the execution of these Closing Instructions you are certifying that compliance with the law, if applicable, has been accomplished outside of closing.
- 9) THE CLOSING AGENT HAS ADVISED THE PARTIES HERETO TO SEEK THE ADVICE OF INDEPENDENT COUNSEL IF ANY PART OF THIS TRANSACTION IS NOT FULLY UNDERSTOOD.

ADDITIONAL INSTRUCTIONS:

BUYER:


RIGHT LANE TRUST,

Blaine C. Taylor, Trustee

LAND TITLE AND ESCROW, INC.

BY: 

SELLER:


MATTIE P. GRIGG

#G-25157~

WARRANTY DEED

For Value Received

MATTIE P. GRIGG a widow,

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

RIGHT LANE TRUST, dated May 1, 1997, Blaine C. Taylor, Trustee

Address: 643 N. Perry's Hollow Rd. Salt Lake City, Utah 84103

Hereinafter called the Grantee, the following described premises situated in Jerome County, Idaho, to-wit:

See Exhibit "A" Attached Hereto:

SUBJECT TO:

All reservations in patents or deeds in the chain of title.

Subject To's Continued on Exhibit "B" Attached Hereto:

TO HAVE AND TO HOLD, the said premises, with their appurtenances unto the said Grantee and to the successors heirs and assigns of the Grantee forever. The Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that they are free from all incumbrances except as above described and that Grantor will warrant and defend the same from all lawful claims whatsoever.

Dated: July 8, 1997

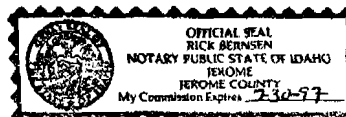
Mattie P. Grigg
MATTIE P. GRIGG

RB

STATE OF IDAHO)
) ss.
COUNTY OF Jerome)

On this 7th day of July, 1997, before me, the undersigned, a Notary Public in and for said State, personally appeared MATTIE P. GRIGG, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

Rick Bernsen
Notary Public
Residing at:
My Commission expires:



171533

STATE OF IDAHO COUNTY OF GOODING
Filed for record at the request of Land Title & Escrow Inc.
15 min. past 11 o'clock A.m. this 8th
of July 19 97 9:00
By Denny Watson Deputy

EXHIBIT "A"**Order Number: G-25157****PARCEL NO. 1****TOWNSHIP 7 SOUTH, RANGE 13 EAST OF THE BOISE MERIDIAN,
GOODING COUNTY, IDAHO****Section 11: Part of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section, described as follows:**

Commencing at the Northwest corner of said NW $\frac{1}{4}$ NE $\frac{1}{4}$;
Thence South 0°04'31" West 994.90 feet along the Westerly boundary of said NW $\frac{1}{4}$ NE $\frac{1}{4}$;
Thence South 36°08'20" East 372.4 feet;
Thence South 89°49'00" East 257.17 feet to THE TRUE POINT OF BEGINNING;
Thence South 89°49'00" East 581.54 feet;
Thence North 0°11'00" East 419.75 feet;
Thence East 215.41 feet to the Westerly right of way boundary of U.S. Highway 30;
Thence North 2°24'05" East 8.79 feet along said Westerly right of way boundary to a point 50.00 feet right of Station 266+71.33;
Thence Northerly along said Westerly right of way boundary 150.08 feet on the arc of a curve to the left with a radius of 22,868.32 feet, a central angle of 0°22'34", and a chord which bears North 2°14'54" East 150.08 feet;
Thence West 361.20 feet;
Thence North 1°09'28" East 84.76 feet;
Thence West 444.19 feet;
Thence South 0°04'31" West 661.38 feet to THE TRUE POINT OF BEGINNING.

PARCEL NO. 2**TOWNSHIP 7 SOUTH, RANGE 13 EAST OF THE BOISE MERIDIAN,
GOODING COUNTY, IDAHO****Section 11: Part of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section, described as follows:**

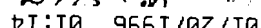
Commencing at the Northwest corner of said NW $\frac{1}{4}$ NE $\frac{1}{4}$;
Thence South 0°04'31" West 994.90 feet along the Westerly boundary of said NW $\frac{1}{4}$ NE $\frac{1}{4}$;
Thence South 36°08'20" East 372.4 feet;
Thence South 89°49'00" East 838.71 feet to THE TRUE POINT OF BEGINNING;
Thence South 89°49'00" East 200.00 feet to the Westerly right of way boundary of U.S. Highway 30;
Thence Northerly along said Westerly right of way boundary 183.63 feet on the arc of a non-tangent curve to the right with a radius of 17,238.74 feet, a central angle of 0°36'37" and a chord which bears North 2°07'44" East 183.63 feet to a point of curvature 50.00 feet right of Station 269+17.62;
Thence North 2°24'05" East 237.09 feet along said Westerly right of way boundary;
Thence West 215.41 feet;
Thence South 0°11'00" West 419.75 feet to THE TRUE POINT OF BEGINNING.
TOGETHER WITH ALL WATER AND WATER RIGHT APPURTENANT THERETO:

Exhibit "B"

SUBJECT TO CONTINUED:

1. Taxes for 1997 and subsequent years, which are a lien, but not yet due and payable.
2. Assessments of The Bell Irrigation District
3. Easement given by A. C. Kitching to the Great Shoshone and Twin Falls Water Power Company, its successors and assigns, dated November 10, 1909, recorded December 16, 1911 in Book 20 Page 487 as Instrument Number 24926, Gooding County records, affecting the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 11, Township 7 South, Range 13 East, Boise Meridian.
4. Pole Line Easement given by John C. Sanborn and Jessie M. Sanborn, husband and wife, to Idaho Power Company, a corporation, dated May 23, 1930, recorded July 1, 1930 in Book 3 Page 338 as Instrument Number 50652, Gooding County records, affecting the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 11, Township 7 South, Range 13 East, Boise Meridian.
5. Power Line Easement given by John C. Sanborn and Jessie M. Sanborn, husband and wife, to Idaho Power Company, a corporation, dated December 7, 1948, recorded March 8, 1950 in Book 5 Page 510, as Instrument Number 111131, Gooding County records, affecting the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 11 and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and Tax #1 of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 12, Township 7 South, Range 13 East, Boise Meridian.
6. Power Line Easement given by John C. Sanborn and Jessie M. Sanborn, husband and wife, to Idaho Power Company, a corporation, dated April 3, 1953, recorded May 29, 1953 in Book 7 Page 254 as Instrument Number 121500, Gooding County records, affecting NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 11 and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 12, Township 7 South, Range 13 East, Boise Meridian.
7. Power Line Easement given by John C. Sanborn, a widower, to Idaho Power Company, a corporation, dated September 12, 1962, recorded October 24, 1962 as Instrument Number 5944, Gooding County records, affecting the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 11 and the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 2, all Township 7 South, Range 13 East, Boise Meridian.
8. Easements for constructing approaches and ditches with right of ingress and egress as contained in Second Judgment and Decree of Condemnation, dated March 20, 1964, recorded April 17, 1964 as Instrument Number 11164, Gooding County records, affecting the W $\frac{1}{2}$ SE $\frac{1}{4}$; Lot 2 of Section 2, and NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 11, all Township 7 South, Range 13 East, Boise Meridian.
9. Access and Public Utility Easements recorded March 17, 1980 as Instrument Number 82084, Gooding County records.
10. Easement reserved in Deed of Distribution between Mattie P. Grigg, Personal Representative of the Estate of Golden T. Grigg, deceased, Grantor, and Mattie P. Grigg, a widow, Grantee, dated June 30, 1993, recorded July 6, 1993 as Instrument Number 153253, Gooding County records. (Parcel No. 2)

11-7-13



Water Right Number - R36-10283B

Prefix Translation: RESEARCH

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** A - ATTORNEY ***
BROWN

PATRICK D

1 - HEPWORTH NUNGESTER LEZAMIZ
2 - 133 SHOSHONE ST N
3 - PO BOX 389
City- TWIN FALLS State- ID Zip- 833030389
Phone - 208-734-7510*** C - CURRENT OWNER ***
GRIGG

MATTIE P

1 - PO BOX 278-A
2 -
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-837-6237

GRIGG

GOLDEN T

1 - PO BOX 278-A
2 -
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-837-6237+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
06/26/1881 ERROR IN REGION D - DECREED+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
BILLINGSLEY CREEK SNAKE RIVER+ - - - - Point of Diversion - - - - - +
TwN Rng Sec Tract Lot RFlg County
07S 13E 11 NW SE NE (47) GOODING+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 03/15 11/15 0.300
04 - STOCKWATER 01/01 12/31 0.020+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.300 0.0+ - - - - Place of Use - - - - - +
TwN Rng Sec Tract Lot Acres Code Description County
07S 13E 11 NW NE 9.2 01 IRRIGATION (47) GOODING
07S 13E 11 NW NE 04 STOCKWATER (47) GOODING

Total Acres: 9.2

+ - - Diversion Means - VIA JOHN BELL, PIPE, AND PADGETT DITCHES.

+ - - Non-Irrigation Use - STOCKWATER

Water right number - R36-10283B

Prefix Translation: RESEARCH

+ - - Other Rights for Same Use - NONE

+ - - - - - Remarks - - - - - +

QNT THE APPROPRIATOR IS ENTITLED TO THE AMOUNT OF WATER DESCRIBED
ABOVE FOR STOCKWATER PURPOSES AT A POINT OF MEASUREMENT WHERE THE
DELIVERY DITCH ENTERS THE PLACE OF USE DESCRIBED BELOW.
THE PORTION OF THIS RIGHT FOR STOCKWATER PURPOSES MAY BE
DIVERTED SO LONG AS THE AMOUNT OF WATER DIVERTED AT THE POINT OF
DIVERSION FOR STOCKWATER PURPOSES DOES NOT CONSTITUTE
UNREASONABLE WASTE AND DOES NOT CONFLICT WITH THE PUBLIC
INTEREST, AS DETERMINED BY THE DIRECTOR.

EXP WATER IS DELIVERED THROUGH THE PADGETT DITCH.
STOCKWATER, 20 CATTLE
.01 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE LOSSES
IN DELIVERY OF THIS RIGHT DURING THE IRRIGATION SEASON.
.02 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE LOSSES
IN DELIVERY OF THIS RIGHT DURING THE NO-IRRIGATION SEASON.
THIS RIGHT IS A COMBINATION OF OLD RIGHT NOS. 36-00094,
36-00095 AND 36-00096.

+ - - - - - Old Water Right Numbers - - - - - +

3600094
3600095
3600096
3610283

+ - - - - - Conditions of Approval - - - - - +

N05 - THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE
- SHALL NOT EXCEED 13,000 GALLONS PER DAY.
N08 - THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
- STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
- USE.

+ - - - Decree Plaintiff - - - +

+ - - - Decree Defendant - - - +

+ - Decree Date - +
00/00/0000

+ - - - - - Comments - - - - - +

Date: 07/31/1992 User Id: WORSTELL Subject: COPIED FROM REMARKS
THIS CLAIM IS A SPLIT FROM CLAIM 36-10283.
Date: 10/21/1992 User Id: CHRISTEN Subject: CHANGE IN CLAIM 10-21-92
CHANGED STOCKWATER SEASON OF USE TO MATCH IRR SEASON. KKC
Date: 02/22/1993 User Id: SCHULTZ Subject: ADDED NEW ATTORNEY
RECEIVED NOTICE OF APPEARANCE FROM HEPWORTH NUNGESTER LEZAMIZ 2/10/93.
CLAIM VERIFIED 10/21/92--DIDN'T REVERIFY CLAIM.
Date: 06/30/1996 User Id: DTUTHILL Subject: COPIED FROM REMARKS
0.01 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY OF THIS RIGHT.
A DIVERSION RATE OF .22 CFS AT THE FIELD HEADGATE IS RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.
Date: 01/06/1998 User Id: DJONES Subject: RECOMMENDATION UPDATE
DATA ENTERED FLOW RATE AND ACREAGE SETTLEMENT INFORMATION. OWNER NOW BLAINE TAYLOR, BUT OWNERSHIP CHANGE NOT PROVIDED PER REQUEST
AT 11/97 INITIAL HEARING. TRIAL SET FOR 1/121/98.

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT
(REGIONAL)

Prefix Translation: RESEARCH

01/06/98 DJONES

+ - - - - - Adjudication Rights Dates and Flags Area - - - - - +

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	- 1602
Response Filed Date	- 00/00/0000	Verified Date	- 00/00/0000	Old Judicial District	-
Claim Received Date	- 07/28/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- X999999	Water District	- 36A
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- OR	Presumption Flag	-
				Notice of Error Flag	- D

RECEIVED

JAN 05 1998

Department of Water Resources
Southern Region

36-10283B

AGREEMENT ON WR AS CLAIMED; BUT
CLAIMANT ~~SEE~~ WISHES TO CONSULT PDB
AS TO PROPRIETY/UTILITY OF SEEKING LEAVE
TO AMEND CLAIM TO ASSERT ADD'L USES
(RECREATION, AESTHETICS, WILDLIFE, DIVERSION SYSTEM MAINTENANCE.
1-12-97 @ 10:30 A. TRIAL DATE.

AGREED ON .30 CFS (CLAIMED QUANTITY) AND
9.2 ACRES (PER 9-96 SETTLEMENT CONF.

6/9/94

COMMUNICATION DOCUMENTATION

This form is to be used to document public record information requests regarding any SRBA claim or claims. The form may also be used to document IDWR communications requesting information regarding any SRBA claim or claims when the request is not made in writing or the claim verification report is not readily available to document the request. This form is to be filed in all relevant claim files or a central office file.

IDWR Employee/Agent Kelly K Christensen

CUSTOMER:
MELINDA BUNN
MAGIC VALLEY REALTY

DATE: October 30, 1997 2:24 pm

SUBJECT: STATUS OF 36-10283B
phone (X) walk-in()

She thought that the claim had been settled as related by Mattie Griggs. She has a copy of what sounds like a report to the court indicating agreement on some elements of the right but not all.

I informed her that the new trial date is Nov 19 @ 11:30.

I also informed her that the claimant and/or their representative could review the file in the office and meet with the legal staff to possibly resolve the issues concerning the objection. This could be reported to the court as settled prior to the trial date. I responded to her query about representation and stated that an individual from Hagerman could not represent the Trust unless he was a lawyer. She indicated that she might contact Pat Brown.

SUBCASE NO. 36-10283B

	CLAIM (7/28/88)	AMENDED CLAIM	RECOMMENDATION	OBJECTION
NAME	Golden or Mattie Grigg	N/A	Mattie Grigg Golden Grigg	
BASIS OF CLAIM	Decree		Decree	
SOURCE	Billingsley Creek		Billingsley Creek	
QUANTITY	0.300 cfs		<i>0.290 cfs</i> (see notes below)	XX IDWR recommends an amount less than decreed &/or beneficially used. MSJ .30 cfs
PRIORITY DATE	06/26/1881		06/26/1881	
PURPOSE OF USE	Irrigation / Stockwater		Irrigation / Stockwater	MSJ irrigation/stock- water/ wildlife/ recreation/ aesthetics & "diversion system maintenance"
PERIOD OF USE	Irr.: 3/15 - 11/15 S.W.: 1/1 - 12/31		Irr.: 3/15 - 11/15 <i>.27 cfs</i> S.W.: 11/16 - 3/14 <i>.03 cfs</i> S.W.: 3/15 - 11/15 <i>.02 cfs</i>	XX irrigation & stock- water 1/1 - 12/31 as decreed MSJ irrigation season as the period of year for which water is used for irrigation. All other purposes, entire year as the period of year for which water is used.
POINT OF DIVERSION	T07S R13E S11		T07S R13E S11	
PLACE OF USE	T07S R13E S11 11.5 acres		T07S R13E S11 5 acres	MSJ 11.5 acres
REMARKS			+ see below	XX this is beyond the statutory authority vested in the Director MSJ delete all

Notes: IDWR, in its response, stated there was an error in the remarks and recommended the changes shown below in italics. Other changes to the recommendation are shown above in italics.

+ Water is delivered through the Padgett Ditch.

0.01 cfs of this right is limited to use for conveyance losses in delivery of this right *during the irrigation season*.

0.02 cfs of this right is limited to use for conveyance losses in delivery of this right during the non irrigation season.

A diversion rate of .26 cfs at the field headgate is recommended for the place of use described above.

This right is a combination of old right nos. 36-00094, 36-00095 & 36-00096.

CLAIM NUMBERS 36-10283B DATE 10-8-97 TRANSFER NUMBER _____
 AGENT KKC OBJECTION FILED _____
 TOTAL ACRES FROM RECOMMENDATION 5
 GEOGRAPHIC INFO SYSTEM 5

RIGHT NO				NE				NW				SW				SE			
	TNS	RNG	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
RECOM	73	13E	11		5														5
GIS					~~5~~														~~5~~
					6														6
RECOM																			
GIS																			
RECOM																			
GIS																			
RECOM																			
GIS																			

UPDATED POLYGON # UPDATED
 B36-DBPOU.DBF 10-8 POLYGON CREATED ON 604 ()
 B36-DBPOD.DBF 10-8 ATTRIBUTES OF B36-POU.SHP (548) 10/8
 ATTRIBUTES OF B36-POD.SHP (458)

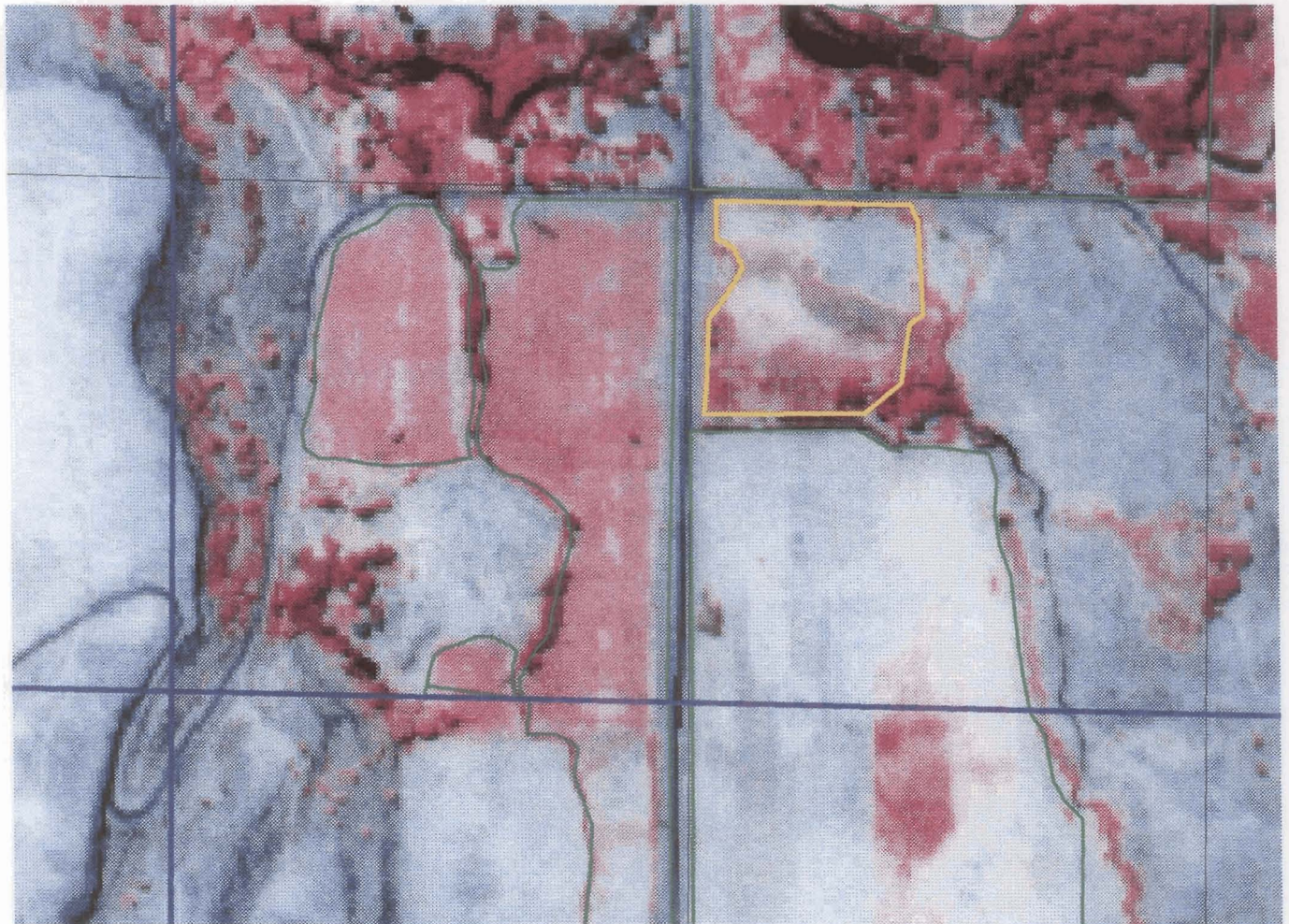
Delivery System John Bell, Pipe, & Padgett Ditch
 only the John Bell division is recommended
 as the P/D.

P/U CONFLICT yes () no ()
 P/D CONFLICT yes () no ()
 READY FOR DECREE yes () no ()
 SENT FOR DECREE yes () no ()

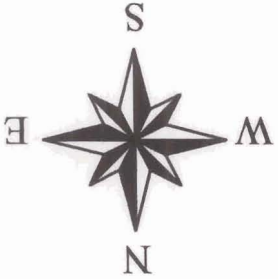
IDAHO DEPARTMENT OF WATER RESOURCES

36-10283B

YA-TA-HAY INVESTMENTS



660 0 660 1320 Feet



TNS 7S, RNG 13E,
SEC 11, NW1/4NE1/4

- Recommended Point of Diversion
- Recommended Place of use
- Section lines
- Quarter/Quarter Lines

GIS PLACE OF USE PRESENTATION
1987 and/or 1988 NAPP PHOTOGRAPHY
DATA ENTRY OCTOBER 8, 1997
BY KELLY K CHRISTENSEN

TRANSMITTAL COVER SHEET

OMNIFAX G66

TO: RACHEL

@ LAND TITLE & ESCROW

IN GOODING

TOTAL PAGES SENT: 4

DOCUMENT DESCRIPTION: PROFILE REPORTS OF RECOMMENDED
CLAIMS 36-10282 AND 36-10283B.

FROM: **IDAHO DEPARTMENT OF WATER RESOURCES**

1341 FILLMORE ST, STE 200

TWIN FALLS ID 83301-3380

PHONE: **736-3033**

FAX: **736-3037**

SENDER: 

CHARGES:

One (1) free copy per request, cover sheet not counted. Two (2) or more copies per request will cost \$0.25 per page. (\$0.50 minimum)

Please consider this document as a billing statement.

The charge for your fax copies is: NINE

Please remit to the above address.

COMMENTS: * NOTE 36-10283B HAS BEEN OBJECTED
TO, I AM UNSURE OF ITS EXACT STATUS.

MEMORANDUM

TO: Claim Files, see below
FROM: Douglas Jones, Water Rights Supervisor, Adjudication Bureau
DATE: July 12, 1996
RE: "706" reports submitted to court

In response to an order from the court, resulting from the Motions for Summary Judgement filed on the subcases, IDWR has prepared the following documents:

- 1) DIRECTOR'S SUPPLEMENTAL REPORT
- 2) REPORT REGARDING QUANTIFICATION OF SMALL DOMESTIC AND STOCKWATER USES
- 3) REPORT REGARDING CONSUMPTIVE USE IN THE HAGERMAN AREA
- 4) REPORT REGARDING EVALUATION OF IRRIGATION DIVERSION RATES
- 5) HAZEN, W; GIBSON, G; NEIBLING, H; CROP WATER REQUIREMENTS IN THE HAGERMAN VALLEY; IN A REPORT TO HAGERMAN WATER RIGHT OWNERS ASSOCIATION
- 6) GUIDELINES FOR THE EVALUATION OF IRRIGATION DIVERSION RATES ("HUBBLE REPORT") IN A REPORT TO IDWR
- 7) EVALUATION WORKBOOK FOR IRRIGATION DIVERSION RATES
- 8) AFFIDAVITS FROM:
 - a. David B. Shaw
 - b. Steve Clelland: As to investigation of claims in the Hagerman area
 - c. Helen Harrington-Thornton: Regarding investigation of claims in the Hagerman area
 - d. Marci Sterling
 - e. Jeff Peppersack
 - f. David R. Tuthill, Jr
 - g. Carter Fritschle: Regarding planimeter measurements of claims 36-00064B and 36-00079
- 9) REPORTS REGARDING ... (each specific claim, 24 in all)

Submittals 1-8 can be referenced in the file cabinet section titled "SPECIAL REPORTS" which follows the irrigation claims within Basin 36. The reports regarding specific rights can found in the file jacket for that right.

CLAIMS

36-00003A	36-00003C	36-00003E	36-00003F	36-100034B
36-00035J	36-00039C	36-00039E	36-00039J	36-00039N
36-00047	36-00061	36-00062	36-00063	36-00064B
36-00079	36-00085A	36-00086C	36-00092	36-00103F
36-00106	36-00108B	36-10283B	36-10409	

MICROFILMED

DEC 5 1996

DEC 1 1996

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

REPORT REGARDING CLAIM TO WATER RIGHT NO. 36-10283B

In Re SRBA

Twin Falls County Civil Case No. 39576

Sub-Case No. 36-10283B

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources

Karl J. Dreher, Director

David B. Shaw, Adjudication Bureau Chief

David R. Tuthill Jr., Acting Adjudication Bureau Chief

July 1, 1996

COPY

MICROFILMED

DEC 5 1996

REPORT REGARDING CLAIM TO WATER RIGHT NO. 36-10283B

The Director of the Idaho Department of Water Resources (IDWR) submits this report regarding claim to water right no. 36-10283B in response to the request of Special Master Haemmerle, pursuant to Idaho Code §42-1412(4) and the court's Order Re: Contested Claims for Amounts Claimed in Excess of .02 CFS. This report was prepared under the supervision of Karl J. Dreher, Director, David B. Shaw, Adjudication Bureau Chief, and David R. Tuthill Jr., Acting Adjudication Bureau Chief for IDWR. The following persons assisted in the preparation of the following portions of this report:

David B. Shaw, Adjudication Bureau Chief, reviewed and verified this Report Regarding Claim to Water Right No. 36-10283B. Mr. Shaw reviewed and verified IDWR's Report Regarding Quantification of Small Domestic and Stockwater Rights. The Affidavit of David B. Shaw describes Mr. Shaw's education and work experience, and is incorporated by reference herein. Mr. Shaw also reviewed IDWR's Report Regarding Evaluation of Irrigation Diversion Rates, described below.

Jeff Peppersack, Adjudication Engineer, prepared and verified IDWR's Report Regarding Evaluation of Irrigation Diversion Rates, which is incorporated by reference herein. The Affidavit of Jeff Peppersack describes Mr. Peppersack's education and work experience, and is incorporated by reference herein. Mr. Peppersack also reviewed IDWR's Report Regarding Consumptive Use for Irrigation in the Hagerman Area, described below.

David R. Tuthill Jr., Acting Adjudication Bureau Chief, prepared IDWR's Report Regarding Consumptive Use for Irrigation in the Hagerman Area, which is incorporated by reference herein. Mr. Tuthill also reviewed this Report Regarding Claim To Water Right No. 36-10283B. The Affidavit of David R. Tuthill Jr. describes Mr. Tuthill's education and work experience, and is incorporated by reference herein.

Marci S. Sterling, Adjudication Engineer, prepared and verified Appendix B, which describes the application of IDWR's methodology for evaluation of irrigation diversion rates to claim no. 36-10283B. Appendix B is attached hereto and incorporated by reference herein. The Affidavit of Marci S. Sterling describes Ms. Sterling's education and work experience, and is incorporated by reference herein.

Steven C. Clelland, Senior Water Resource Agent, investigated and prepared the preliminary recommendation for claim no. 36-10283B, and prepared Appendix C, which is attached hereto and incorporated by reference herein. The Affidavit of Steven C. Clelland describes Mr. Clelland's education and work experience, and is incorporated by reference herein. The affidavit also includes a general description of his investigation of claims in the Hagerman area. The Affidavit of Steven C. Clelland

REPORT REGARDING CLAIM TO WATER RIGHT NO. 36-10283B

Regarding Claim No. 36-10283B describes Mr. Clelland's investigation of the quantity and place of use of this water right; it is attached hereto and incorporated by reference herein.

Helen L. Harrington-Thornton, formerly Senior Water Resource Agent and currently Hydrogeologist, participated in the field examination for claim no. 36-10283B. The Affidavit of Helen L. Harrington-Thornton describes Ms. Thornton's education and work experience, and is incorporated by reference herein. The Affidavit of Helen L. Harrington-Thornton Regarding Claim No. 36-10283B describes her investigation of the quantity and place of use of this water right, and is attached hereto and incorporated by reference herein.

Kelly Christensen, Senior Water Agent, obtained information from the claimant for purposes of applying IDWR's methodology for evaluation of irrigation diversion rates, which is described in the Affidavit of Kelly Christensen; the affidavit is attached hereto and incorporated by reference herein.

I. INVESTIGATION AND RECOMMENDATION OF CLAIMS GENERALLY

IDWR's general methodology for the investigation and recommendation of claims is described in Appendix A, which is incorporated herein by reference.

II. WATER RIGHT NO. 36-10283B

A. Basis of Claim

Claim no. 36-10283 was filed with IDWR by Ya-Ta-Hay Investments, Inc and Mary Ruth Barrett on July 28, 1988. A notice of change in ownership signed September 17, 1990 was filed with IDWR informing IDWR of a change in ownership of a portion of the claim to Golden T. Grigg and Mattie P. Grigg. The claim is to a portion of three rights decreed to Jessie M. and John P. Sanborn in the *New International Mortgage* decree, entered in 1932.¹ The water rights decreed to the bank are numbered in IDWR's files as water right nos. 36-00094, 36-00095, and 36-00096. All were decreed with the same priority date, June 26, 1881. All three are rights to water from Billingsley Creek; two were decreed for delivery through 2 different ditches while the third was decreed for delivery through a pipeline. All were decreed for use on the same lands, and all were decreed for "irrigation, domestic, power and other purposes." All three were consolidated and renumbered as water

¹ New International Mortgage Bank v. Idaho Power Co., et al., Equity No. 1602 (D.S.Id. 1932), at pp. 3-4.

REPORT REGARDING CLAIM TO WATER RIGHT NO. 36-10283B

right no. 36-10283. Portions of right no. 36-10283 were claimed by and recommended to various claimants and are further described below.

B. Name and Address of Claimant

The address of the claimant set forth in the claimant's motion for summary judgment is the same as recommended in the director's report. The director's report lists Golden T. and Mattie P. Grigg as the claimants; the motion for summary judgment lists Mattie P. Grigg.

C. Source of Water

The source of water set forth in the claimant's motion for summary judgment is Billingsley Creek. The source of water is described in the director's report as Billingsley Creek tributary to Snake River.

The director's report includes the body of water to which the source of the right is tributary for each water right in the director's report, except for rights to ground water. IDWR adopted this standard for the description of the source of water rights because there are so many instances, sometimes in the same administrative basin, where different surface water sources bear the same name.²

D. Date of Priority

The priority date set forth in the claimant's motion for summary judgment is the same as recommended in the director's report.

E. Point of Diversion

The point of diversion set forth in the claimant's motion for summary judgment is the same as recommended in the director's report. (As noted above, right no. 36-10283 is a combination of old right nos. 36-00094, 36-00095, and 36-00096, each of which were decreed with a source of Billingsley Creek, but with different points of diversion. This right is delivered through the Padgett ditch, which is the original point of diversion for right no. 36-00096. Delivery of right nos. 36-00094 and 36-00095 through the Padgett ditch therefore constitutes an accomplished transfer.)

² IDWR relied upon the following in reaching its conclusion: Idaho Code §42-1411(2) (which provides that the director shall determine the source of the right to the extent the director deems appropriate and proper to define and administer water rights acquired under state law.)

F. Purpose of Use

The purposes of use stated on the notice of claim were irrigation and stockwater. The purposes of use recommended in the director's report include both of the claimed purposes of use. The objection did not contest the purpose of use. The claimant's motion for summary judgment now seeks to add wildlife, recreation, aesthetics, and "diversion system maintenance."³

The description of the purposes of use of this right in the decree is ambiguous in that it describes the purposes of use for the three Sanborn rights and others in the same list collectively as "irrigation, domestic, power and other purposes," rather than specifically identifying each purpose of use for each right.⁴ IDWR's investigation confirmed the use of water for irrigation and stockwater purposes, as further described below in the sections addressing quantity and place of use. Neither the claimant nor IDWR's investigation has yielded information that would confirm the beneficial use of water for the other purposes listed in the motion, either pursuant to the right as originally appropriated or as currently used.⁵ Such information is necessary not only to confirm the use but to quantify the amount of water beneficially used for that purpose.

³ The filing fee for claims other than small domestic and stockwater claims consists of a flat \$50.00 fee, plus a variable fee of \$1.00 per acre for any claimed irrigation use, plus a per cfs variable fee for other claimed purposes of use. The filing fee for small domestic and stockwater claims is \$25.00; no filing fee is required for portions of rights for small domestic and stockwater uses. The filing fee paid for this claim was limited to the purposes of use claimed on the notice of claim, and no filing fee was paid for the stockwater portion. Filing fees are set forth in Idaho Code §42-1414 and IDWR's Adjudication Rules, IDAPA 37.03.01 *et seq.*

⁴ IDWR relied upon the following in reaching its conclusion: *Morgan v. Udy*, 58 Idaho 670, 79 P.2d 295 (1938) (a water right decree that omitted the description of the point of diversion necessarily determined the point of diversion but was ambiguous as to its location).

⁵ IDWR relies upon the following in reaching this conclusion: Idaho Code §42-1427 (which allows an ambiguity in a prior decree or license to be resolved based on current beneficial use); the statement of the Presiding Judge that this section "cannot change or exceed the previously decreed or recorded element of the decreed or licensed right" nor "be used to claim an expansion of use beyond the beneficial use existing at the time the right was originally memorialized in a decree or license," Revised Memorandum Decision and Order on Basin-Wide Issue 4, dated May 17, 1995, at page 9; and the statement of the Presiding Judge that, "the purpose of use is defined by the intentional application of water to an intended beneficial use of water," Memorandum Decision and Order Re: Basin-Wide Issue 5, dated April 26, 1996, at page 8.

G. Quantity of Water Used

The notice of claim states a quantity of 0.30 cfs for irrigation, 0.02 cfs for stockwater, and a total quantity of 0.30 cfs. IDWR filed a revised recommendation of this right, which is attached to its response to the objection. IDWR recommended 0.27 cfs for irrigation, 0.02 cfs for stockwater during the irrigation season and 0.03 cfs for stockwater outside the irrigation season, and a total quantity of 0.29 cfs. The objection does not state the quantity claimed. The claimant's motion for summary judgment states a total quantity of 0.30 cfs, but does not state a quantity for each purpose of use.

1. Splits of Water Right No. 36-10283

As noted above, various portions of right no. 36-10283 were claimed by and recommended to various claimants. The splits are listed below. The first column shows the quantity claimed; the second column shows the quantity recommended in the director's report. Both portions of right no. 36-10283 are contested.

<u>Right no.</u>	<u>Claim</u>	<u>Report</u>
36-10283A	7.20	1.3
36-10283B	0.30	0.29
Total	7.50	1.59

This subcase is part of the group for which a 706 report is due 09/01/1996.

The quantity decreed for right no. 36-10283 in the *New International Mortgage* decree is 7.5 cfs. The total quantity of water claimed in all claims based on the decree does not exceed the decreed amount. IDWR recommended a total of 1.59 cfs pursuant to claims to portions of right no. 36-10283; that amount has not changed as a result of further proceedings in the subcases.

2. Necessity for quantity for each purpose of use

The director's report includes a quantity for each purpose of use in addition to the total quantity. This information is necessary to indicate whether and to what extent the total quantity or any portion of the total quantity is used for multiple purposes, or whether and to what extent the total quantity is allocated among the listed purposes of use. For example, if a claimant diverted one cfs through a hydropower facility and then used that same water for irrigation, the amount for each purpose of use would be 1 cfs, with a total diversion rate of 1 cfs. If a claimant diverted one cfs, but used one-half in a hydropower facility and the other half for irrigation, the amount for each purpose of use would be 0.5 cfs, with a total diversion rate of 1 cfs.

Omission of a quantity for each purpose of use would result in ambiguities in the definition of the right that could result in enlargements in use that would result in expansion of the right and injury to other water users. In the example above, assume the claimant who used one-half of a 1 cfs right in a hydropower facility and the other half for irrigation decided to start using the full cfs in a hydropower facility, followed by use of the full cfs for irrigation. If the hydropower use were a year-round use, then the use of the irrigation half outside the irrigation season for hydropower use would result in injury to junior water users outside the irrigation season who were previously subject to a prior use of one-half cfs who are now subject to a prior use of 1 cfs. In addition, if the half cfs formerly used only for hydropower were also used for irrigation, junior water users during the irrigation season would be injured by the use of this half cfs for a more consumptive purpose.⁶

3. Quantity for irrigation

As noted above, the revised recommendation attached to IDWR's response to the objection states a quantity of 0.27 cfs for irrigation. This includes 0.26 cfs (0.052 cfs per acre) for the on-farm diversion requirement (the amount of water needed at the place of use), and 0.01 cfs for conveyance losses (an additional amount of water needed at the point of diversion to deliver the amount needed at the place of use). IDWR has conducted further analysis of the quantity for irrigation due to further information IDWR received subsequent to its original analysis. Based on this further analysis, IDWR recommends a quantity of 0.22 cfs for irrigation. This includes 0.21 cfs for the on-farm diversion requirement (0.042 cfs per acre) and 0.01 cfs for conveyance losses.

IDWR's methodology for investigating and recommending claims to water for irrigation in excess of 0.02 cfs per acre is described in IDWR's Report Re: [Jeff's report], which is incorporated by reference herein.⁷ The application of that methodology to this claim is described in Appendix B. Neither the claimant nor IDWR's investigation has yielded information which would confirm beneficial use of a greater quantity for irrigation.

⁶ This further quantification is provided pursuant to Idaho Code §42-1411(2) (which provides for IDWR to determine the quantity of water used to the extent the director deems appropriate to define and administer the water right).

⁷ IDWR relied upon the following in reaching its conclusions: Idaho Code §42-220 (which provides that no license or decree will be issued confirming a right to more than 0.02 cfs per acre for irrigation unless it can be shown that a greater amount is necessary) and Idaho Code §42-1402 (which limits the amount of water allotted by a decree to the amount of water beneficially used).

As noted in Appendix B, the quantity recommended for conveyance losses is partially dependent on the total quantity recommended for all rights delivered through the same ditch. Further information as to other rights delivered through the same ditch is provided in subsection 5 below.

4. Quantity for stockwater

As noted above, IDWR recommended 0.02 cfs for stockwater during the irrigation season, and 0.03 cfs for stockwater outside the irrigation season. The 0.03 cfs for stockwater use outside the irrigation season includes 0.02 cfs for stockwater use (the same quantity recommended during the irrigation season) and an additional 0.01 cfs for conveyance losses (which is included in the quantity recommended for irrigation during the irrigation season). In addition, the recommendation includes a further description of non-irrigation uses, which states: STOCKWATER, 20 CATTLE.

This right was claimed for 0.02 cfs for stockwater for 20 head of range cattle. IDWR recommended 0.02 cfs based on its guidelines for quantity for stockwater use. 0.02 cfs is the standard for 0-50 head of range cattle. The guidelines for quantity for stockwater use are described in IDWR's Report Regarding Quantification of Domestic and Stockwater Rights. The basis for the additional amount recommended for conveyance losses is described in Appendix B. Neither the claimant nor IDWR's investigation has yielded information which would confirm beneficial use of a greater quantity for stockwater.

The director recommends the following as an alternative method to describe the quantity of water used for stockwater purposes, which has been used in the recommendation of other claims to water rights in the test basins. First, the diversion rate for stockwater would be described as 0.02 cfs, based on the IDWR's standard for 0-50 head of range cattle (omitting the additional 0.01 cfs for conveyance losses). The quantity element would also include the following language:

THE APPROPRIATOR IS ENTITLED TO THE AMOUNT OF WATER DESCRIBED HEREIN FOR STOCKWATER PURPOSES AT A POINT OF MEASUREMENT WHERE THE DELIVERY DITCH ENTERS THE PLACE OF USE DESCRIBED HEREIN.

THE PORTION OF THIS RIGHT FOR STOCKWATER PURPOSES MAY BE DIVERTED SO LONG AS THE AMOUNT OF WATER DIVERTED AT THE POINT OF DIVERSION FOR STOCKWATER PURPOSES DOES NOT CONSTITUTE UNREASONABLE WASTE AND DOES NOT CONFLICT WITH THE PUBLIC INTEREST, AS DETERMINED BY THE DIRECTOR.

Generally, a water right is measured at the point of diversion. The first sentence above provides for measurement at the place of use. Pursuant to this language, the claimant may divert at the point of diversion whatever quantity is necessary to provide 0.02 cfs at the place of use, subject to the total quantity of 0.22 cfs.

Although a water right is generally measured at the point of diversion, there are some exceptional circumstances where quantification at the point of diversion is so difficult that a decree or license will expressly provide for measurement of the right at another location. Where a decree or license provides for measurement of the right at another location, the claimant may divert at the point of diversion the amount necessary to deliver the decreed or licensed quantity at the point of measurement.

IDWR has used this alternative method to describe quantity for stockwater use where an irrigation ditch with substantial conveyance losses that carries a relatively large amount of water for irrigation pursuant to numerous water rights during the irrigation season is used to deliver a relatively small amount of water for a number of small stockwater rights outside the irrigation season.

In such circumstances, determining a reasonable efficiency for the delivery of stockwater outside the irrigation system is difficult, because the relative efficiencies of the conveyance loss during the irrigation season and outside the irrigation season are markedly different. For example, in the present case, where the on-farm requirement for irrigation is 0.21 cfs, and the total amount recommended for irrigation is 0.22, then the additional amount recommended for conveyance losses (0.01 cfs) is approximately one-twentieth of the amount actually needed at the place of use. Outside the irrigation season, where the amount of water needed for stock at the place of use is 0.02 cfs, and the total amount recommended for stockwater is 0.03 cfs, then the additional amount recommended for conveyance losses (0.01 cfs) is one-half the amount actually needed at the place of use. Determination of an appropriate allocation of the total conveyance loss on the ditch among the various water rights on the ditch is also more difficult outside the irrigation season, because not all rights on the ditch include stockwater outside the irrigation season, and those claimants who do have such rights do not necessarily have stock every winter or divert water for stock throughout the winter. When the total amount of water needed at the places of use for all stockwater uses on the ditch is then compared to the total conveyance loss on the ditch, the conveyance loss may be tens of times the amount of water needed at the places of use.

Using this alternative method of quantification in these circumstances, the amount of water reasonably needed for irrigation becomes the outside limit of the

amount of water reasonably needed for stockwater. This allows the water users on the ditch to continue to use a large irrigation ditch for the delivery of small stockwater rights outside the irrigation season. At the same time, however, it leaves a great deal of opportunity for waste. Therefore, if the exceptional step is taken to quantify the right at the place of use, then exceptional steps must also be taken to prevent unreasonable waste in the exercise of those rights. For this reason, where the recommendation provides for quantification of the stockwater portion of the right at the place of use, the second sentence in the language stated above is also included, which expressly notes the authority of the director to administer distribution of water for stockwater uses so as to prevent unreasonable waste. Although this additional language is a statement of existing law, it is appropriate and necessary to define and administer the water rights so that the quantification of stockwater at the place of use is not later construed to be a conclusive determination of the reasonableness of the amount of water diverted at the point of diversion under any and all circumstances.⁸

Finally, as previously noted above, the director's report includes a further description of non-irrigation uses by number and type of head which is not included in the claimant's motion for summary judgment. This language is necessary regardless of whether the quantity for stock is described as originally recommended in the director's report or whether the quantity is described using the alternative method described above. The further description of non-irrigation uses is based in part on the notice of claim. Additional information as to the basis for the further description of non-irrigation uses is described in IDWR's Report Regarding Quantification of Small Domestic and Stockwater Rights. As part of Basin Wide Issue 12, however, IDWR has proposed that the further description of non-irrigation uses be rephrased as: THE QUANTITY FOR NON-IRRIGATION USE IS LIMITED TO THE AMOUNT OF WATER BENEFICIALLY USED FOR: STOCKWATER, 20 CATTLE. The basis for this rephrasing is also described in IDWR's Report Regarding Quantification of Small Domestic and Stockwater Rights.⁹

⁸ IDWR relies upon the following in reaching its conclusion: Idaho Code §42-1411(2), which provides that IDWR shall determine the quantity of water used to the extent the director deems *appropriate and proper* to define and administer water rights acquired under state law, and Idaho Code §42-1412(6), which provides that the decree shall contain or incorporate a statement of each element of a water right as stated in section 42-1411, as contrasted with language later in section 42-1412 providing for the inclusion of general provisions to the extent *necessary* to define and administer water rights.

⁹ Special Master Haemmerle has issued his recommendation regarding Basin Wide Issue 12; a motion by the United States for reconsideration is pending.

5. Quantity for other purposes

As to the quantity for other purposes of use stated in the claimant's motion for summary judgment, neither the claimant nor IDWR's investigation has yielded information that would confirm the beneficial use of water for other purposes, as noted in section F above. Therefore, IDWR does not have information that would confirm the quantity used for the other purposes.

6. Other rights delivered through same ditch

As noted in Appendix B, the quantity recommended for conveyance losses for this right was partially dependent on the total quantity recommended for all rights delivered through the same ditch. For this reason, IDWR previously proposed that contested water rights in the Hagerman area be grouped by ditch for scheduling purposes to facilitate resolution of quantity issues for those rights. Water right 36-10283B is delivered through the Padgett ditch. Appendix C is a schematic which shows the water rights delivered through the Padgett ditch, and which includes a variety of information as to the water rights listed.

7. Total quantity

The director's report recommended 0.20 cfs for irrigation, 0.02 cfs for stockwater within the irrigation season and 0.03 cfs for stockwater outside the irrigation season, for a total quantity of 0.20 cfs. As noted above, this report recommends 0.22 cfs for irrigation, and 0.02 cfs for stockwater to be measured at the place of use, resulting in a total quantity of 0.22 cfs. As these numbers demonstrate, the quantity for irrigation and the quantity for stockwater is not additive; in other words, of the total amount recommended, all may be used for irrigation, or a portion may be used for irrigation and a portion for stockwater. This is consistent with the manner in which rights for irrigation and stockwater are used, where livestock water from the irrigation system; it is also the manner in which this water right was claimed.

H. Period of Year Water is Used for Each Purpose of Use

1. Irrigation

Both the notice of claim and director's report state a period of use of 3/15 to 11/15 for irrigation. The claimant's objection states a period of use of 1/1 to 12/31. The claimant's motion for summary judgment states the period of use as "the

irrigation season." The *New International Mortgage* decree does not state a period of use for irrigation.

The recommended season of use is consistent with season of use standards for irrigation developed by IDWR for various climatic regions throughout the state, which are based on a 75% chance of a 24 degree Fahrenheit frost. In addition, the director's report included general provision 12b, which allowed use of water for irrigation outside the season of use stated in the description of the individual right subject to certain conditions. In the Memorandum Decision and Order Re: Basin-Wide Issue 5, the Presiding Judge concluded that general provision 12 is not necessary and would not be decreed. This decision further provided that "all decrees for irrigation in the SRBA shall set the period of use as the "irrigation season." Order, pp. 15-16. The district court denied a subsequent motion for permission to appeal the decision. Pending any further proceedings on the decision, any further statement of the basis for IDWR's recommendation as to the season of use for irrigation appears to be unnecessary.

2. Stockwater

The notice of claim states a period of use 1/1 to 12/31 for stockwater. The claimant's motion for summary judgment states the period of use as year-round, which is for all intents and purposes the same as recommended in the director's report, which included quantity for stockwater both within and outside the irrigation season.

3. Other purposes

As to the season of use for other purposes of use stated in the claimant's motion for summary judgment, neither the claimant nor IDWR's investigation has yielded information that would confirm the beneficial use of water for other purposes, as noted in section F above. Therefore, IDWR does not have information that would confirm the season of use for the other purposes.

I. Legal Description of the Place of Use

1. Irrigation

The legal description under item 8 in the claimant's motion for summary judgment is the same as the legal description of the place of use for irrigation recommended in the director's report. The number of acres following the legal description is different than the number of irrigated acres per 40-acre subdivision

recommended in the director's report. The claim listed 11.5 acres. The director's report recommended 5, and the objection does not contest the place of use. The claimant's motion for summary judgment now asserts 11.5.

IDWR Senior Water Agents Steve Clelland and Helen Thornton confirmed the irrigation of no more than 5 acres within the claimed and recommended quarter-quarter section by personal observation and aerial photography. The claimant's lands consist of parcels east and west of Padgett ditch; the irrigated acres are a portion of the land to the east of the ditch. The lands to the west of the ditch, and a portion of the lands to the east of the ditch, were unirrigated, and not susceptible of irrigation from the claimant's gravity irrigation system because they are uphill. The examination of the place of use for this claim is described in the Affidavit of Steven C. Clelland Regarding Claim No. 36-10283B and the Affidavit of Helen L. Harrington-Thornton Regarding Claim No. 36-10283B.

2. Stockwater

The legal description of the place of use for stockwater recommended in the director's report is the same quarter-quarter section as the place of use for irrigation. The recommended place of use for stockwater is the same as the claimed place of use, and the claimant did not object to the recommended place of use for stockwater. In the claimant's motion for summary judgment, the claimant asserts that stockwater is used in the same quarter section where there are irrigated acres. Neither the claimant nor IDWR's investigation has yielded information that would confirm the beneficial use of water for stockwater purposes pursuant to this right on these additional lands.

3. Other purposes

As to the legal description of the place of use for other purposes of use stated in the claimant's motion for summary judgment, neither the claimant nor IDWR's investigation has yielded information that would confirm the beneficial use of water for other purposes, as noted in section F above. Therefore, IDWR does not have information that would confirm the place of use for the other purposes.

J. Annual Volume of Consumptive Use

The notice of claim states an annual volume of consumptive use of 34.5 AFY, or 3.0 AFY per acre. The annual volume of consumptive use recommended in the director's report is 15 AFY, or 3.0 AFY per irrigated acre. The claimant's objection contests the recommended consumptive use, but does not state an amount. The

claimant's motion for summary judgment states an amount of 51.75 AFY, or 4.5 AFY per acre. The Affidavit of Charles E. Brockway, submitted by the claimant in support of the motion for summary judgment, states "that 3.75 acre feet per acre per annum is the amount of consumptive use that is reasonable [in the Hagerman area] based upon a yield of ten tons [of alfalfa] per acre." Applying this standard, the total annual consumptive use volume would be 18.75 for the five recommended and uncontested acres, or 43.125 for the 11.5 acres stated in the claimant's motion for summary judgment.

IDWR developed standards for annual volume of consumptive use for the various climatic areas throughout the state. The standard for the area in which the claimant's place of use is located is 3.0 AFY. IDWR's recommendation is based on this standard. The development of IDWR's standards for annual volume of consumptive use is described in IDWR's Report Regarding Evaluation of Irrigation Diversion Rates. IDWR has conducted further analysis of the annual volume of consumptive use based on further information IDWR received subsequent to its original analysis. The further analysis is described in IDWR's Report Regarding Consumptive Use for Irrigation in the Hagerman Area. Based on this further analysis, IDWR recommends an annual volume of consumptive use of 3.5 AFY per acre, for a total of 17.5 AFY for the 5 recommended and uncontested acres.

In response to the request of the Presiding Judge, the director filed an Amended Director's Report for Reporting Area 3 (Basin 36), which substantially reduced the number of general provisions in the director's report. Attachment 2 to the amended report explains the changes made to the general provisions, and further explains the changes to the list of recommended rights necessitated by the changes to the general provisions. The amended report deleted General Provision 14, which established that the recommended consumptive use is for the irrigation portion of the right only. As a result, the description of the annual volume of consumptive use for this right should contain the following language:

THE CONSUMPTIVE USE VOLUME IS ONLY FOR THE IRRIGATION PORTION OF THIS RIGHT. ¹⁰

¹⁰ IDWR relied upon the following in reaching its conclusion: Idaho Code §42-1401A (Supp. 1996) (which provides that the determination of the annual volume of consumptive use for all uses of water other than irrigation need not be decreed unless reported in the director's report).

K. Conditions on the Exercise of the Right and Other Necessary Matters

The revised recommendation of this right attached to the response to the objection includes the following remarks:

WATER IS DELIVERED THROUGH THE PADGETT DITCH.
0.01 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY OF THIS RIGHT.
A DIVERSION RATE OF .26 CFS AT THE FIELD HEADGATE IS RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.
THIS RIGHT IS A COMBINATION OF OLD RIGHT NOS. 36-00094, 36-00095 AND 36-00096.

The claimant's objection contests the remarks. The claimant's motion for summary judgment seeks deletion of all the remarks.

In response to the request of the Presiding Judge, the director filed an Amended Director's Report for Reporting Area 3 (Basin 36), which substantially reduced the number of general provisions in the director's report. Attachment 2 to the amended report explains the changes made to the general provisions, and further explains changes to the list of recommended rights necessitated by the changes to the general provisions. The amended report deleted General Provision 16, which set forth certain provisions as to conveyance losses. The conveyance loss remark in the description of the individual right was a corollary to the general provision. As a result, the remark in the description of this right as to conveyance losses is no longer necessary. (Deletion of the remark does not change IDWR's recommendation as to the quantity for this right.)

In response to the request of the Presiding Judge, IDWR submitted IDWR's Report for September 19, 1995 Status Conference. In this report, IDWR indicated that it had reviewed its use of remarks in the description of the individual water right, both to address concerns identified by the court, and to separate explanatory material from material the Director recommends be included in the decree of water rights pursuant to the 1994 amendments to the adjudication statute.¹¹ The other three remarks are explanatory material.

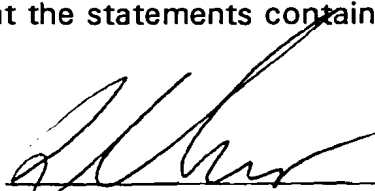
¹¹ See Idaho Code §42-1411 (which addresses the form and content of director's reports).

REPORT REGARDING CLAIM TO WATER RIGHT NO. 36-10283B

State of Idaho)
) ss.
County of Ada)

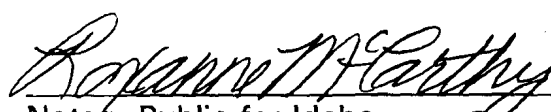
David B. Shaw, being first duly sworn, upon oath, deposes and says:

That I am the Adjudication Bureau Chief for IDWR, that I have read the foregoing report, know its contents, and that the statements contained therein are true to the best of my knowledge and belief.



David B. Shaw

Subscribed and sworn to before me this 15th day of July, 1996.

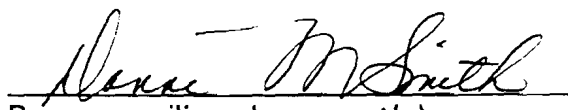


Notary Public for Idaho
Residing at: Base ID
My commission expires: 5-16-2007

Certificate of Service

I certify that on the 1st day of July, I hand-delivered copies of the foregoing document, including all attachments, to the following:

Patrick D. Brown
133 Shoshone St North
Twin Falls, ID 83303



Person mailing document(s)

APPENDIX A

A. INVESTIGATION AND RECOMMENDATION OF CLAIMS GENERALLY

To promote the accuracy and consistency of water right decrees, and to minimize the burden on the court and the claimants in a water right adjudication, the state has made the specialized expertise of IDWR available through IDWR's investigation and reporting function.¹

The resources the state has made available for this function, however, are limited. IDWR has the duty to conduct a reasonable investigation within the spending authority granted by legislative appropriation. Those resources are not sufficient for IDWR to exhaustively investigate each and every potentially relevant fact regarding each and every claim and to make a conclusive determination of the water right. Rather, IDWR reviews the claim and the information already available to IDWR, and conducts such further investigation as is reasonable to determine whether there is sufficient information to support recommendation of the water right to be decreed.

To make the most efficient use of the available resources, IDWR must make determinations as to what is a reasonable level of investigation for various classes of claims prior to making a recommendation to the court regarding any particular claim. IDWR has employed two primary mechanisms to identify a reasonable level of investigation. First, the statutes set criteria and IDWR has developed standards for various types of uses, requiring less information to support a claim to water within those standards and more information to support a claim outside those standards. Second, IDWR has adopted a "tier" approach, identifying classes of claims which for various reasons merit further investigation.

Generally, with claims based on beneficial use², IDWR conducts a "licensing type" field exam, which includes confirmation of the source, point(s) of diversion, purpose(s) of use, place(s) of use, and an examination of the water delivery system and the quantity of water beneficially used. IDWR also contacts the claimant to obtain information supporting the priority date claimed. This level of examination is conducted because there has been no prior administrative or judicial

¹ Idaho Code §§ 42-1410 and 42-1411.

² Water rights based on beneficial use are sometimes referred to as constitutional rights or grandfather rights.

confirmation of the existence and extent of a water right based on beneficial use.³

Generally, for water rights that have been previously confirmed by license or decree, IDWR begins its examination by comparing the claim to information already available to IDWR. Other information includes, for example, IDWR's decree files; license, permit and transfer files; remotely sensed data, including Landsat imagery of irrigated acres and aerial photography; watermaster reports; applicable laws and IDWR's interpretation of those laws in light of the water resource policies of the state; etc. If there are discrepancies between the claim and information already available to IDWR, IDWR conducts further investigation to resolve the discrepancy, which generally includes a field exam and/or contacting the claimant for further information. Thus, where there has been a prior judicial or administrative confirmation of the existence and extent of a water right, IDWR uses information already available to IDWR to limit its review to issues identified by its discrepancy analysis.

Finally, IDWR uses both the court-ordered notice of error process⁴ and the statutory objection process to identify claims which merit further review. If this further review yields new information that supports a different description of the water right, then IDWR will revise its recommendation (in the case of a notice of error) or submit a supplemental director's report or offer a standard form 5 (in the case of an objection), consistent with the new information.⁵

Further information as to IDWR's standards and procedures for the investigation and recommendation is set forth in IDWR's Claim Investigation Manual, Field Examiner's Handbook, Administrative Memorandums, and

³ IDWR conducts a more summary investigation of beneficial use claims limited to domestic and/or stockwater use up to 0.24 cfs.

⁴ The notice of error process, as originally conceived and implemented, was limited to disagreements between the claimant and IDWR as to fairly straight-forward "errors", such as clerical errors or other readily verifiable matters. Based on its experience in the test basins, IDWR has subsequently recommended that the notice of error process be expanded to address any type of perceived error, as well as to address disagreements between claimants.

⁵ This "tiered" approach to determining a reasonable level of investigation is embodied in the statutory framework for water right adjudications. See §42-1410 (which provides for the discretion of the director in determining the level of IDWR's investigation, and allows but does not require the agency to conduct hearings), and §42-1412 (which authorizes IDWR to submit supplemental reports, and authorizes the court or the parties to request further investigation by IDWR in contested subcases). The tiered approach embodied in the statutory framework promotes efficiency and minimizes the burden on the court and the claimants by providing a report/objection process to identify disputed matters, and reserving the highest level of investigation for disputed matters.

B. METHODOLOGY TO DETERMINE IRRIGATED ACREAGE

The area of irrigated acreage can be determined by information obtained from scaled and non-scaled photographs of the place of use supplied by one of several U.S. government agencies. The use of aerial photography by the U.S. government dates back to 1937, when the U.S. Department of Agriculture, Agricultural Stabilization and Conservation Service (ASCS, now known as the Farm Service Agency, or FSA) began photographing selected counties of the United States on a repetitive basis. This coverage continues today and aerial photos are used by the ASCS (FSA) to figure acreage planted on farms for purposes of managing farm programs. Photos used by IDWR typically include: ASCS photos and 35 mm color slides⁷; NAPP photos⁸; ortho-photoquads⁹; and U2

⁶ These documents set forth general standards and procedures and do not address all possible exceptions to the general standards and procedures. In addition, as a result of its experience in the test basins, statutory changes, judicial decisions, etc., IDWR has identified refinements and revisions to its standards and procedures for the investigation and recommendation of claims that have not yet been included in these documents.

⁷ Both the photos and slides are high oblique and vertical aerial photography. The ASCS photos are scaled and have selected features, such as roads, section lines, ditches, and field acreage superimposed on them by the ASCS. The color slides are simply color slides frequently taken with hand-held 35mm equipment. IDWR staff typically obtain copies (which are not scaled) of maps for lands claimed as the place of use during the investigation of the claims, either from the claimant or from the local ASCS office. Color slides may also be checked-out from the local ASCS office as needed; IDWR sometimes obtains the color slides as they are discarded by the local ASCS office.

⁸ NAPP (National Aerial Photography Program) photos are all color-infrared aerial photography. IDWR obtained coverage for most of the Snake River Basin, including all of the test basins; the photos are primarily from flights during 1987 and 1988, though some are from 1986 or 1989. The date of the flight is shown on the photo. NAPP photography is available from the U.S. Geological Survey Earth Resources Observation Systems (EROS) data center in Sioux Falls, South Dakota.

⁹ The full name for an ortho-photoquad is "orthographic photograph quadrangle." These are black and white photoimages prepared from aerial photographs that have been rectified to eliminate image displacement due to terrain relief that cover a systematically subdivided area of latitude and longitude. IDWR obtained coverage for most of the Snake River Basin, including all the test basins; the photos are primarily from flights during the 1970's. The date of the flight is shown on the quad sheet. Most of the orthophotos were obtained from the U.S. Geological Survey National Cartographic Information Center (NCIC) in Menlo Park, California. In some areas, maps were not available from U.S.G.S. but were available from other agencies, such as the United States Department of Agriculture, Forest Service.

aerial photos¹⁰.

A photographic "scale," like a map scale, is an expression that states that one unit of distance on a photograph represents a specific number of units of actual ground distance.

$$S = \text{Photo scale} = \frac{\text{Photo distance}}{\text{Ground distance}} = \frac{d}{D}$$

The scale may be expressed as unit equivalents, representative fractions, or ratios. For example, if 1 mm on a photo represents 25 m on the ground, the scale of the photo can be expressed as 1 mm = 25 m (unit equivalents), or 1/25,000 (representative fraction), or 1:25,000 (ratio).

The photo(s) used by IDWR personnel have varying scales. The ASCS photographs have map features drawn in by the ASCS. These photos are stated to be "not to scale," but do include the field acreage as determined by ASCS written on the places of use. NAPP photography is at a nominal scale of 1:40,000; U2 aerial photography is at a nominal scale of 1:120,000; and ortho-photoquads have a scale of 1:24,000.

To determine the area used, IDWR staff employed various transparent overlays, known as grid templates. These templates are available at most blueprint supply stores. One type consists of lines forming rectangles or squares of known area in the same scale that is utilized in the scaled photograph. The grid is placed over a scaled photograph and the area of a ground unit is estimated by counting grid units that fall within the unit to be measured.

Another commonly used grid is the dot grid, which is composed of uniformly spaced dots on a transparent overlay. The grid is placed over the photograph and the dots falling within the region to be measured are counted. The value assigned to each dot is dependent on the scale of the photograph. First, the number of acres per centimeter (or other measuring unit) is computed. This figure is then divided by the number of dots per measuring unit on the grid to obtain the acreage represented by each dot. For instance, a square 3.4 cm on each side containing 640 dots will cover 160 acres on a photo with a nominal

¹⁰ These photos are color-infrared aerial photography obtained by the National Aeronautics and Space Administration (NASA) Airborne Instrumentation Research Project, and available from EROS. IDWR obtained coverage of most of the southern portion of the Snake River Basin, most of which was flown in 1977. In addition, because the State of Idaho was part of an ongoing project with NASA to photograph selected areas, photography from various areas in various years is also available. The date of the flight is shown on the photo.

scale of 1:24000; 640 dots divided by 160 acres equals 4 dots to the acre, thus 1 dot equals 0.25 acres.

Because of its simplicity, the grid system is a practical method to determine the size of irrigated areas; it nonetheless requires some training and experience to be used effectively.

For non-scaled photos, such as the ASCS 35 mm photos, IDWR did not directly make acreage determinations. Instead, these photos were used to confirm whether the place of use and amount of irrigated acreage had changed for that year according to common landmarks visible in the photographs.

APPENDIX B

EVALUATION OF IRRIGATION DIVERSION RATE

WATER RIGHT NUMBER: 36-10283B

INTRODUCTION

This water right was recommended in the Director's Report with a diversion rate of 0.20 cfs. The total amount was recognized as the on-farm diversion requirement, including an amount used for conveyance loss. Based on IDWR's methodology to evaluate irrigation diversion rates, the quantity required on-farm was recommended as 0.20 cfs, or 0.04 cfs per acre for 5 acres, with 0.01 cfs for conveyance loss.

Because IDWR has received new information and has revised the methodology since the time of the original analysis of irrigation diversion requirement, a revised analysis has been completed. The revised analysis is based upon information already contained in the claim file and the new information detailed in this report. An expanded explanation of the methodology used is contained in the report entitled Report Regarding Evaluation of Irrigation Diversion Rates, dated July, 1996. Hereinafter, that report will be referred to as IDWR's Methodology Report.

Several factors must be considered when determining the necessity of an irrigation diversion rate greater than 0.02 cfs per acre. Those factors are crop types, irrigated acres, types of irrigation systems used, evapotranspiration estimates, field application efficiencies, and conveyance loss. These items are discussed in the following paragraphs, along with the results of the analysis.

IRRIGATED ACRES/CROPS

The property described on the claim as the place of use was found to have 5 acres of irrigated land. The 5 irrigated acres are planted in pasture. As shown in Figure 1 of the Attachments, the 5 acres of pasture is an irregularly shaped field, bounded on the north and south sides by roads. U.S. Highway 30 runs along the east side of the property. Information in the Notice of Claim and the available aerial photography¹ indicates that the irrigation history involves the use of a flood and/or

¹Photos used are all color-infrared aerial photography. They were obtained through projects coordinated by the federal government, including the National Aerial Photography Program (NAPP) and the National Aeronautics and Space Administration (NASA) Airborne Instrumentation Research Project.

NAPP photo used is: Photo No. 419-61, dated 6/25/1987.

NASA photos used are: Photo No. 6134, Flight No. 75-131, FSR 706, dated 6/8/1975; Photo

corrugation system.² In general, IDWR does not consider irrigation by wild flooding method to be an acceptable irrigation practice. For cases such as those, analysis of systems is based on the use of furrow irrigation (corrugations) as a standard to determine the necessity of a diversion rate greater than 0.02 cfs per acre. Therefore, this right was analyzed based on the use of a corrugation system.

The property is divided, roughly in half, by a ditch which runs north-south. This feature is clearly seen on aerial photography and topographic maps and defines two separate fields. For purposes of this analysis, the eastern field is known as Field 1, while the western field is referred to as Field 2.

EVAPOTRANSPIRATION

Evapotranspiration is the amount of water evaporated from the soil plus the amount used by a crop during crop growth. IDWR's estimate used for evapotranspiration (ET) for the Hagerman area has been refined since the original analysis of required diversion rate was completed. Originally, the monthly consumptive irrigation requirements for the Bliss weather station were used, based on consumptive irrigation data estimated by Allen and Brockway³. IDWR has since obtained information allowing adjustments to the values that more accurately represent conditions in the Hagerman area. This process is outlined in the section of IDWR's Methodology Report titled EVAPOTRANSPIRATION (CROP CONSUMPTIVE USE) and the resulting ET values are summarized in Table 1 of the Attachments.

The ET values used in calculations for pasture are shown under the column titled PAST. in the table. For each month of the irrigation season, the values in the row titled 80PCT ET are used. This represents the 80th percentile value for ET. The reasoning behind the use of these particular ET numbers is further explained in the EVAPOTRANSPIRATION section of IDWR's Methodology Report.

FIELD APPLICATION EFFICIENCY

In order to calculate the field application efficiency, several elements must first be considered. Among these elements are the slope, approximate furrow lengths, furrow spacings, and set time for each field. Additionally, the soil information described below is necessary.

No. 2471, Flight No. 77-134, FSR 1049, dated 10/8/1977; and Photo No. 3472, Flight No. 80-152, FSR 1462, dated 9/17/1980.

²Additional information concerning crop type and irrigation method was verbally provided by Mrs. Mattie Grigg, the claimant, to IDWR Senior Agent Kelly Christensen on July 28, 1992.

³Allen, R.G. and C.E. Brockway, Appendix E (unpublished)

Soil Information

Some data unique to each soil type are required for the analysis, including the management allowed deficit (MAD) and intake family. The MAD is based on the maximum soil moisture deficit which will not cause the crop to exceed its stress point. Intake family is a classification of soils with similar water intake rate characteristics. The Natural Resources Conservation Service (NRCS), formerly Soil Conservation Service (SCS), compiles soil surveys describing the various soil types within the state and the locations where those soils may be found. The procedure used to determine the value of MAD and intake family using SCS data is described in the sections of IDWR's Methodology Report titled NET IRRIGATION APPLICATION and IRRIGATION APPLICATION SYSTEMS. In order to use the correct values for MAD and intake family, it is necessary to determine the worst-case significant soil for each field if more than one soil type is present in that field.

There are two different soil types on Field 1 for this water right: Starbuck-Lava Flows Complex (394) and Kecko Fine Sandy Loam (KOB). The boundary between the different soil types runs somewhat perpendicular to the direction of the furrows. For cases in which the soil types in a field are somewhat different and the boundary does run perpendicular to the furrows, the field may be analyzed as two separate fields. However, this is not done if splitting the field would result in impractical furrow lengths. Because the furrow lengths would become too small if Field 1 was split, it was analyzed as one field, and the worst-case significant soil for that field was chosen for the purposes of this analysis. That worst-case soil is Starbuck-Lava Flows Complex (394). Field 2 consists entirely of one soil type, 394. The MAD value for soil type 394 and pasture is 0.94 inches. The MAD values are provided in Tables 2 and 3 of the Attachments. These tables were created using a spreadsheet developed by IDWR to simplify calculations to determine MAD and intake family. Figure 1 shows the layout of the soil types as they relate to the location of the fields described by this claim.

There are two procedures described in the section of IDWR's Methodology Report entitled IRRIGATION APPLICATION SYSTEMS for determining intake family. The alternative procedure is considered a refinement for some soil conditions and is used where available. The furrow intake family for 394 was found by one procedure to be 0.40 and by the alternative procedure to be 0.55. Because the alternative procedure provided a more representative value, 0.55 was chosen for analysis. These intake families are also shown in Tables 2 and 3.

Field Slope

Field slopes were determined based on USGS topographic maps. An estimate of the average slope from top end to bottom end of furrows was calculated for each field. To calculate these slopes, it was necessary to make a determination as to the direction of furrows. Those determinations were based on the available aerial photography and information in the claim file, where available. The field slope of Field

1 was estimated to be approximately 3.0 percent; the slope of Field 2 was estimated to be approximately 2.0 percent.

Furrow Lengths

The furrow lengths were determined using the same topographic maps and aerial photos. If fields appeared to have a rectangular shape, an average length was used. If fields did not appear to have consistent furrow lengths throughout, several furrow lengths were evaluated for that field. Furrow lengths for Field 1 were scaled from the map to vary from approximately 200 feet to 250 feet. The furrow lengths for Field 2 were scaled to be approximately 340 feet. Some furrows in Field 2 are shorter than 340 feet, but those shorter furrows are only present on a small portion of the field, so 340 feet is a good representation of the furrow lengths for that field.

Use of cross-ditches or gated pipe to reduce the furrow length is an alternative irrigation practice which will improve the efficiencies of fields with high intake rate soils if set times and inflow rates are adjusted appropriately. This alternative is not considered reasonable if it would result in furrow lengths less than 300 feet. A length of 300 feet is considered by IDWR to be a minimum practical length for farm cultivation practices.

Furrow Spacing/Set Times

When the system efficiencies were calculated, 30 inch furrow spacings were used. Information as to actual furrow spacings was not available, but 30 inches is a common spacing and is a standard used by IDWR for consistency. In addition, both 8 hour and 12 hour set times were analyzed and compared. Eight hour and 12 hour set times are considered acceptable irrigation practices which can be used during the peak water use period to improve application efficiencies.

Results

Field application efficiencies are estimated using a computer program developed by SCS for use with furrow irrigation and provided with the Hubble Report⁴. Efficiencies less than 15 percent or greater than 70 percent are outside the practical limits of the program. In cases where efficiency is estimated to be greater than 70 percent, an efficiency of 70 percent is used. In addition, the program does not recognize erosive flows or furrow carrying capacities. The limiting erosive flow is dependent on the slope of a particular field and must be calculated for each field. In this case, the limiting erosive flow for Field 1 would be 13 gpm and the limiting erosive flow for Field 2 would be 20 gpm. The practical carrying capacity of corrugations is 10 gpm. The term identified in the program as design application is equivalent to the MAD, as determined above. Refer to the section FIELD

⁴The Hubble Report is a common name given to a pair of reports developed for IDWR in July, 1990 by Hubble Engineering, Inc. and Associated Earth Sciences, Inc. entitled "Guidelines for the Evaluation of Irrigation Diversion Rates" and "Evaluation Workbook for Irrigation Diversion Rates".

APPLICATION EFFICIENCY in IDWR's Methodology Report for more information regarding the methodology used in determining field application efficiency.

Field 1 has a somewhat irregular shape, with furrow lengths varying from 200 feet on one end of the field to 250 feet on the other. For this reason, a furrow length of 225 feet was evaluated in order to develop an overall efficiency for the field. An analysis based on splitting the field to create shorter furrow lengths was not necessary, since it would result in furrows shorter than 300 feet throughout the field, which are below the limits set by IDWR. Set times of 8 and 12 hours were considered, and an irrigation method using 8 hour set times using appropriate inflow rates resulted in an optimum efficiency overall. The overall efficiency was found to be 34 percent using 8 hour set times and 31 percent using 12 hour set times. An efficiency of 34 percent was used in the analysis. The results of these calculations are shown in Table 4 of the Attachments, which depicts the computer output generated by the SCS program.

The furrows for Field 2 are less than 600 feet in length. Splitting that pasture for analysis purposes would result in furrow lengths less than 300 feet. Therefore, the full furrow length of 340 feet was considered for that field. Set times of 8 and 12 hours were considered, and an irrigation method using 8 hour set times and appropriate inflow rates provided an optimum efficiency. For this pasture, the SCS program computed an efficiency of 35 percent for the 8 hour set time and 28 percent for the 12 hour set time. Therefore, an efficiency of 35 percent was used.

ON-FARM IRRIGATION DIVERSION REQUIREMENT

The on-farm irrigation diversion requirement is the amount of water needed on the farm itself to provide adequate water to the crop(s) being grown. The procedure used to determine that amount is described in detail in the section of IDWR's Methodology Report titled ON-FARM IRRIGATION REQUIREMENT. The results of that procedure are provided in Table 5 of the Attachments. Table 5 was created using a spreadsheet developed by IDWR which utilizes the information detailed above and calculates the irrigation diversion requirement. The resulting maximum diversion rate requirement for the entire 5 acres was determined to be 0.21 cfs, or 0.042 cfs per acre.

CONVEYANCE LOSS

When water is conveyed through an earthen delivery ditch, a certain portion of the total flow is lost through seepage into the ground. The method used to estimate seepage losses is referred to as the Worstell method, which is further explained in the CONVEYANCE LOSS section of IDWR's Methodology Report. The Worstell method relies on the characteristics of the soil, the ditch width, and the ditch length to estimate the actual seepage losses of the ditch. IDWR has developed a spreadsheet

which calculates the total conveyance loss estimate on a ditch and prorates that loss among the reaches of the ditch based on the total amount of water removed from each reach of the ditch and the location of each reach.

In the original analysis of conveyance loss for the Padgett Ditch, delivery locations were identified along the entire ditch. In some cases, more than one right is supplied from a single reach of the ditch. The total conveyance loss estimate for all water use from that reach of the ditch was calculated using the spreadsheet based upon the Worstall method. If there were found to be multiple users removing water from the same reach of the ditch, the conveyance loss estimate for that reach was divided equally among those users. This approach was used along the entire length of the Padgett Ditch.

It would not be practical or meaningful for IDWR to re-evaluate the conveyance loss attributable to this right for two primary reasons. First, because the Worstall method does not depend on total flow in a ditch, but rather the top width of the water surface and the ditch length, the total conveyance loss estimate for the ditch would not change even if the determinations of individual water rights were to vary from IDWR's recommendations. The only change might be the allocation of the total conveyance loss among the individual water rights. However, not all of the water rights on the ditch are contested, and of those that are contested, not all are presently before the special master. In addition, no historical method for allocation of conveyance loss exists to use as a basis for distribution of conveyance losses for water rights along this ditch. For all these reasons, the recommended conveyance loss amount remains at 0.01 cfs.

IRRIGATION DIVERSION REQUIREMENT

The total irrigation diversion requirement is the sum of the on-farm irrigation diversion requirement and the conveyance loss. For this right, the total amount is 0.21 cfs + 0.01 cfs, or 0.22 cfs.

REFERENCES

- Allen, R.G., and C.E. Brockway, 1983, Estimating Consumptive Irrigation Requirements for Crops in Idaho, Idaho Water and Energy Resources Research Institute, University of Idaho, Appendix E (unpublished).
- Hubble Engineering, Inc. and Associated Earth Sciences, Inc., 1991, Guidelines for the Evaluation of Irrigation Diversion Rates, Idaho Department of Water Resources.
- Hubble Engineering, Inc. and Associated Earth Sciences, Inc., 1991, Evaluation Workbook for Irrigation Diversion Rates, Idaho Department of Water Resources.
- Idaho Department of Water Resources, 1996, Report Regarding Evaluation of Irrigation Diversion Rates, also referred to as IDWR's Methodology Report.
- National Aerial Photography Program, Color-infrared aerial photography, Flight dates June 25, 1987, August 1, 1988.
- Soil Conservation Service (now Natural Resources Conservation Service) - Gooding, Idaho office, 1992, Unpublished soil survey data.

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ATTACHMENTS

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T. 7 S., R. 13 E.
 Section 11
 Gooding County

FIGURE 1

1/4 MILE

Legend:

⇐ Furrow Direction

KOB Soil Type

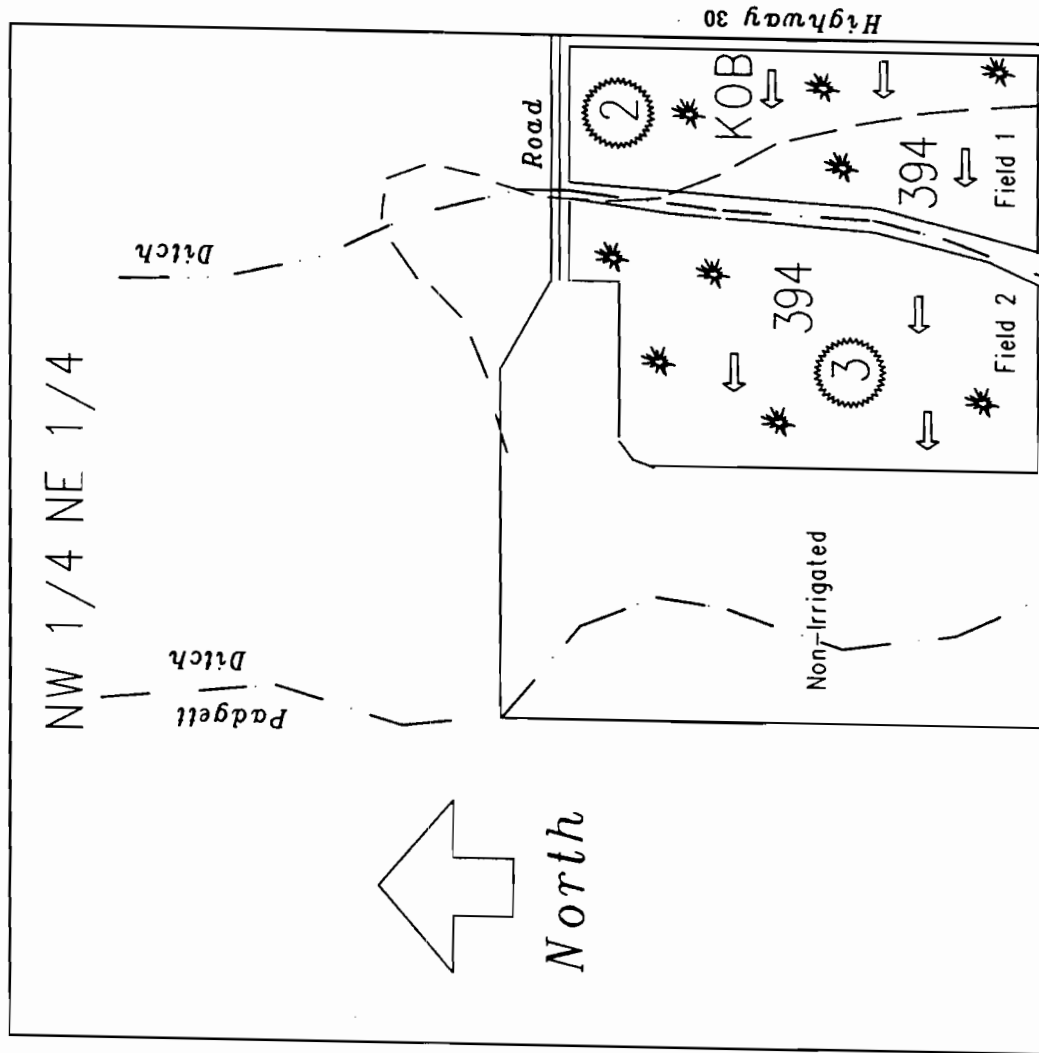
- - - Soil Type Division Line

- - - Ditch

— 1/4 1/4 Line

② Irrigated Acres

* Pasture



Water Right No. 36-10283B

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WR QUAD AA-69

RDH 6/96

Table 1

80th Percentile values of monthly ET estimated for
the Hagerman Valley adjusted from the Bliss Station
(mm/day)

	MO	ETR	ALFH.	BEANS	F.CRN	SILGE	S.CRN	PEAS	POTAT	SBEET	SGRAN	WGRAN	PAST.	VEGES
AVE ET	4	5.28	3.30					1.60	1.58	1.58	1.65	4.82	3.27	
TMP ADJ	4	5.68	3.55					1.72	1.70	1.70	1.77	5.18	3.52	
ALT ADJ	4	5.75	3.59					1.74	1.72	1.72	1.80	5.25	3.56	
STDD ET	4	0.47	0.29					0.14	0.14	0.14	0.15	0.43	0.29	
ADJ STDD	4	0.80	0.49					0.24	0.24	0.24	0.26	0.73	0.49	
80PCT ET	4	6.42	4.01					1.94	1.92	1.92	2.01	5.86	3.97	
AVE ET	5	6.79	6.29	2.04	2.04	2.04	2.04	3.85	2.19	2.04	5.11	6.79	5.23	2.07
TMP ADJ	5	7.18	6.65	2.16	2.16	2.16	2.16	4.07	2.31	2.16	5.40	7.18	5.53	2.19
ALT ADJ	5	7.27	6.73	2.18	2.18	2.18	2.18	4.12	2.34	2.18	5.47	7.27	5.60	2.21
STDD ET	5	0.49	0.46	0.15	0.15	0.15	0.15	0.28	0.16	0.15	0.37	0.49	0.38	0.15
ADJ STDD	5	0.80	0.75	0.25	0.25	0.25	0.25	0.46	0.26	0.25	0.61	0.80	0.62	0.25
80PCT ET	5	7.94	7.37	2.39	2.39	2.39	2.39	4.51	2.56	2.39	5.98	7.94	6.12	2.42
AVE ET	6	8.41	7.32	3.26	3.66	3.66	3.53	6.82	5.77	3.91	8.39	8.41	6.47	4.40
TMP ADJ	6	8.82	7.68	3.42	3.84	3.84	3.70	7.15	6.05	4.10	8.80	8.82	6.79	4.62
ALT ADJ	6	8.93	7.77	3.46	3.89	3.89	3.75	7.24	6.13	4.15	8.91	8.93	6.87	4.67
STDD ET	6	0.47	0.41	0.18	0.21	0.21	0.20	0.38	0.32	0.22	0.47	0.47	0.36	0.25
ADJ STDD	6	1.27	1.11	0.49	0.57	0.57	0.54	1.03	0.86	0.59	1.27	1.27	0.97	0.68
80PCT ET	6	10.00	8.71	3.87	4.36	4.36	4.20	8.11	6.85	4.65	9.98	10.00	7.69	5.24
AVE ET	7	8.54	6.94	7.37	7.68	7.68	7.47	2.99	7.17	8.14	7.05	6.80	6.57	6.57
TMP ADJ	7	8.89	7.22	7.67	7.99	7.99	7.78	3.11	7.46	8.47	7.34	7.08	6.84	6.84
ALT ADJ	7	9.00	7.31	7.77	8.09	8.09	7.87	3.15	7.56	8.58	7.43	7.17	6.92	6.92
STDD ET	7	0.26	0.21	0.23	0.24	0.24	0.23	0.09	0.22	0.25	0.22	0.21	0.20	0.20
ADJ STDD	7	0.58	0.47	0.51	0.53	0.53	0.51	0.20	0.49	0.56	0.49	0.47	0.44	0.44
80PCT ET	7	9.49	7.71	8.20	8.54	8.54	8.30	3.32	7.97	9.05	7.84	7.56	7.30	7.30
AVE ET	8	7.18	5.41	4.97	6.63	6.63	6.38		5.57	7.06	1.47	1.32	5.53	5.72
TMP ADJ	8	7.50	5.65	5.19	6.92	6.92	6.66		5.82	7.37	1.53	1.38	5.77	5.97
ALT ADJ	8	7.59	5.72	5.25	7.01	7.01	6.74		5.89	7.46	1.55	1.40	5.84	6.05
STDD ET	8	0.33	0.25	0.23	0.30	0.30	0.29		0.26	0.32	0.07	0.06	0.25	0.26
ADJ STDD	8	0.70	0.53	0.49	0.64	0.64	0.62		0.55	0.68	0.15	0.13	0.53	0.55
80PCT ET	8	8.18	6.17	5.66	7.54	7.54	7.26		6.35	8.04	1.68	1.50	6.29	6.51
AVE ET	9	5.60	3.67	0.77	4.19	4.19			3.29	4.86			4.32	3.83
TMP ADJ	9	5.90	3.87	0.81	4.42	4.42			3.47	5.12			4.55	4.04
ALT ADJ	9	5.97	3.92	0.82	4.47	4.47			3.51	5.19			4.61	4.09
STDD ET	9	0.41	0.27	0.06	0.31	0.31			0.24	0.36			0.32	0.28
ADJ STDD	9	0.66	0.43	0.10	0.50	0.50			0.39	0.58			0.52	0.45
80PCT ET	9	6.53	4.28	0.90	4.89	4.89			3.84	5.67			5.04	4.47
AVE ET	10	3.73	1.26		1.04					2.48			2.88	
TMP ADJ	10	4.02	1.36		1.12					2.67			3.10	
ALT ADJ	10	4.07	1.37		1.13					2.70			3.14	
STDD ET	10	0.35	0.12		0.10					0.24			0.27	
ADJ STDD	10	0.47	0.16		0.14					0.32			0.36	
80PCT ET	10	4.46	1.51		1.25					2.98			3.45	

ET and standard deviation data (AVE ET and STDD ET) for Bliss weather station taken from Appendix E (unpublished) of Brockway, C.E., and R.G. Allen, 1983, Estimating Consumptive Irrigation Requirements for Crops in Idaho, Idaho Water and Energy Resources Research Institute.

Adjustments to standard deviation (ADJ STDD) based on Allen & Brockway Report, pp. 18, and Allen, R.G., and J.L. Wright, 1983, Variation Within Measured and Estimated Consumptive Use Requirements, Proceedings of the Irrigation and Drainage Specialty Conference of the American Society of Agricultural Engineers, Jackson Hole, Wyoming, July 20-22, 1983, pp. 1-12.

Temperature adjustment (TMP ADJ) based on temperature differences between Bliss and Hagerman and temperature sensitivity of ET estimates given in Brockway, C.E., G.S. Johnson, J.L. Wright, and A.L. Coiner, 1985, Remote Sensing for Irrigated Crop Water Use - Phase 1, Water Resources Research Institute, pp. 101-107.

Altitude adjustment (ALT ADJ) based on Doorenbos, J., and W.O. Pruitt, 1977, Crop Water Requirements, Food and Agriculture Organization of the United Nations, p. 59.

80th percentile ET values (80PCT ET) calculated based on Walpole, R.E., and R.H. Meyers, 1985, third edition, PROBABILITY AND STATISTICS FOR ENGINEERS AND SCIENTISTS, New York: Macmillan Publishing Company, pp. 132-144 and 574.

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Table 2

SOIL CHARACTERISTICS

initials: JP

date: 11/23/92

Soil Type = 394

Source of Soils Data = SCS - GOODING

SIL

soil depth (inches)		AWC (in/in)		PH		organic (%)		soil depth (ft)	AWC (inches)	intake family	
lower	upper	lower	upper	lower	upper	lower	upper			flood	furrow
0	3	0.1	0.13	6.6	7.3	0.7	2	1	1.88	1	0.4
3	12	0.16	0.18					2	1.88		
12	16	0	0					3	1.88		
								4	1.88	alternate	
								5	1.88	method	
										2	0.55

VERY COBBLY

Management Allowed Deficit (MAD)

crop	root depth (ft)	stress point	MAD (inches)
alfalfa (hay or seed)	5	0.5	0.94
corn (field or silage)	4	0.5	0.94
grain (winter or spring)	4	0.5	0.94
pasture (or grass hay)	3	0.5	0.94
other (enter below)			
beets	5	0.5	0.94
mint	3	0.5	0.94
beans	2	0.4	0.75
potatoes	3	0.35	0.66

For definition of terms, refer to the sections called NET IRRIGATION APPLICATION and IRRIGATION APPLICATION SYSTEMS of the IDWR report titled Report Regarding Evaluation of Irrigation Diversion Rates, dated July, 1996.

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Table 3

SOIL CHARACTERISTICS initials: JP date: 11/23/92
 Soil Type = K08 → K0C FSL
 Source of Soils Data = SCS - GOODING

soil depth (inches)		AWC (in/in)		PH		organic (%)		soil depth (ft)	AWC (inches)	intake family	
lower	upper	lower	upper	lower	upper	lower	upper			flood	furrow
0	9	0.12	0.14	7.4	8.4	1	2	1	1.59	2	0.55
9	21	0.13	0.15					2	3.08		
21	60	0.03	0.12					3	3.98		
								4	4.88	alternate	
								5	5.77	method	
										2	0.55

Management Allowed Deficit (MAD)

crop	root depth (ft)	stress point	MAD (inches)
alfalfa (hay or seed)	5	0.5	2.89
corn (field or silage)	4	0.5	2.44
grain (winter or spring)	4	0.5	2.44
pasture (or grass hay)	3	0.5	1.99
other (enter below)			
beets	5	0.5	2.89
mint	3	0.5	1.99
beans	2	0.4	1.23
potatoes	3	0.35	1.39

For definition of terms, refer to the sections called NET IRRIGATION APPLICATION and IRRIGATION APPLICATION SYSTEMS of the IDWR report titled Report Regarding Evaluation of Irrigation Diversion Rates, dated July, 1996.

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Table 4

	INTAKE FAMILY	DESIGN APPLIC. Inches	FURROW SLOPE Ft/Ft	FURROW SPACING Feet	FURROW LENGTH Feet	INFLOW RATE Gpm	APPROXIMATE INFLOW TIME Hours	ADVANCE TIME Minutes	GROSS	NET	DEEP PERC. In.	IRRIGATION EFFICIENCY %	
									IRRIGATION	IRRIGATION			
									APPLICATION	APPLICATION			RUNOFF Inches
Field 1	0.55	0.94	.030	2.50	225	1.5	12	26.5	3.08	2.83	0.20	1.94	30.52
	0.55	0.94	.030	2.50	225	2.0	8	20.0	2.74	2.18	0.52	1.28	34.34 *
Field 2	0.55	0.94	.020	2.50	340	2.5	12	45.5	3.40	3.02	0.28	2.18	27.67
	0.55	0.94	.020	2.50	340	3.0	8	36.9	2.72	2.29	0.34	1.44	34.59 *

Use of this program and input requirements are described in the FIELD APPLICATION EFFICIENCY section of the IDWR report titled Report Regarding Evaluation of Irrigation Diversion Rates, dated July, 1996.

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FIELD IRRIGATION REQUIREMENT

initials: MS Claimant = Grigg
 date: 06/25/96 Weather Station = Bliss/Hagerman

crop	acres	irrig. system	irrig. eff. (%)	Monthly ET (mm/day)												AVE IR season (mm/yr)	net irrig. app. (in)	ET ratio	irrig. freq. (days)	Gross Irrigation Application (peak period ET/eff. in mm/day)												season (mm/yr)
				mar	apr	may	jun	jul	aug	sep	oct	nov	dec	jan	feb					mar	apr	may	jun	jul	aug	sep	oct	nov	dec			
past	2	cor	34		3.97	6.12	7.69	7.3	6.29	5.04	3.45					0.94	1.14	2.7		13.31	20.52	25.78	24.48	21.09	16.90	11.57					12.93	
past	3	cor	35		3.97	6.12	7.69	7.3	6.29	5.04	3.45					0.94	1.14	2.7		12.93	19.93	25.05	23.78	20.49	16.42	11.24					12.93	

Summary 5

Peak Gross Irrigation Application (mm/day) = 25.34
 On-Farm Irrigation Requirement (cfs/acre) = 0.042
 Total On-Farm Irrigation Requirement (cfs) = 0.21
 Irrigation Diversion Volume (ft/yr) = 0.00
 Total Irrigation Diversion Volume (ac-ft/yr) = 0

Table 5

13.08 20.17 25.34 24.06 20.73 16.61 11.37

State of Idaho)
) ss.
County of Ada)

Marci S. Sterling, being first duly sworn, upon oath, deposes and says:

That I am an Engineer for the Adjudication Bureau of IDWR, that I prepared the foregoing appendix, know its contents, and that the statements contained therein are true to the best of my knowledge and belief.

Marci S. Sterling
Marci S. Sterling

Subscribed and sworn to before me this 1st day of July, 1996.

L. Sherman
Notary Public for Idaho
Residing at: Boise ID
My commission expires: 11-14-1998

MICROFILMED
DEC 5 1996

PADGETT DITCH

JOHN BELL DITCH

POOR ORIGINAL

*

1. Ya Ta Investments- 6/26/1981

W. BEESEMAN, atty

claimed- irr- 7.20 for 133.3 ac. (combined)
stock-0.12 (combined right)
rec'd- irr- 1.3 for 34 ac.
stock-0.12 (summer)
0.34 (winter)
e.l. = 0.19
d.r. = 1.08

(none: no Hubble: 0.02 x 34 ac. + e.l.)

HUBBLE

10203- Griggs- 6/26/1981

(Brown, atty)

claimed- irr- 3.0 for 11.3 ac.
rec'd- irr- 0.2 for 3 ac.
stock-0.03 (summer)
0.02 (winter)
e.l. = 0.01 (summer)
0.02 (winter)

77A- no obj. (Burke)- 3/30/1984

claimed- irr- 0.10 for 3 ac.

rec'd- irr- 0.10 for 2 ac.

(none: no Hubble: 0.03 x 2 ac. + 0.04 e.l.)

HUBBLE

77B- no obj. (Child Living Trust)- 3/30/1984

PRESUMPTION- claimed- irr- 0.70 for 8 ac.

stock-0.04 (25 cattle).

rec'd- irr- 0.70 for 8 ac.

stock-0.02 (summer)

0.21 (winter)

e.l. = 0.016 (summer)

0.19 (winter)

d.r. = 0.54

77C- Gilson- 3/30/1984

(Brown, atty)

PRESUMPTION- claimed- irr- 4.00 for 69 ac.

stock-0.05 (100-130 calves).

rec'd- irr- 1.15 for 48 ac.

stock-0.05 (summer) (150 range)

0.34 (winter) (150 range)

e.l. = 0.19

113B- no obj. (Brown)- 6/26/1981

claimed- irr- 0.038 for 1 ac.

rec'd- irr- 0.038 for 1 ac.

(0.03 for 1 ac. + 0.008 e.l.).

e.l. = 0.008

HUBBLE

113D- no obj. (Uppeno)- 6/26/1981

claimed- irr- 0.04 for 1 ac.

stock-0.02 (10 stock)

rec'd- irr- 0.04 for 1 ac.

stock-0.02 (10 head).

d.r. = 0.04

HUBBLE

113C- no obj. (Reed)- 6/26/1981

claimed- irr- 0.12 for 2.2 ac.

stock-0.02 (5 sheep- 1 horse).

cool house- 0.12

best house- 0.12 (new use 1979; 142-1416)

REC'D- irr- 0.12 for 1.1 ac.

d.r. = "0.12 as field bondgate"

HUBBLE

113J- no obj. (Crandlemire)- 6/26/1981

(Brown, atty)

CLAIMED- irr- 0.18 for 3.3 ac.

REC'D- irr- 0.18 for 3.0 ac.

d.r. = 0.18

113H- no obj. (Crandlemire)- 6/26/1981

(Brown, atty)

CLAIMED- irr- 0.34 for 36.3 ac.

incidental stockwater for 100 head

(notes other rights- 110; 11; 112B)

REC'D- irr- 0.03 for 1 ac.

BARLOGI DITCH

7123- no obj. (Boyer)- 5/22/1970

claimed- Feb- 11.57

rec'd- Feb- 11.57

104- obj- Watkins- 4/1/1980

(Brown, atty)

claimed- irr- 2.0 for 30 ac.

rec'd- irr- 0.44 for 10 ac.

e.l. = 0.24 (for this and 8099)

8099- obj- Watkins- 7/12/1982

(Brown, atty)

claimed- power- 2.0

rec'd- power- 1.92

e.l. = 0.24 (for this and 106)

HUBBLE

8- obj- Strang- 4/1/1980

(Brown, atty)

claimed- irr- 2.0 for 36 ac.

stock-0.03 (75 range).

rec'd- irr- 0.64 for 13 ac.

stock-0.03 (75 range).

e.l. = 0.08

d.r. = 0.36

HUBBLE

76A- no obj. (Coad)- 6/26/1981

claimed- irr- 0.48 for 10 ac.

rec'd- irr- 0.69 for 10 ac.

e.l. = 0.21

d.r. = 0.48

71C- obj- Zabala- 6/26/1981

(Brown, atty)

claimed- irr- 0.15 for 4 ac.

stock-0.02 (4 calves)

rec'd- irr- 0.15 for 4 ac.

stock-0.02 (summer)

0.03 (winter)

e.l. = 0.03

71E- obj- Zabala- 6/26/1981

(Brown, atty)

claimed- irr- 0.05 for 1 ac.

stock-0.02 (3 calves).

rec'd- irr- 0.05 for 1 ac.

stock-0.01 (summer)

0.04 (winter)

e.l. = 0.02 (summer)

0.03 (winter)

71D- obj- Laughlin- 6/26/1981

(Brown, atty)

claimed- irr- 0.60 for 15 ac.

rec'd- irr- 0.19 for 5 ac.

e.l. = 0.04

(combined with 7089).

71A- obj- Milder- 6/26/1981

(BROWN/BEESEMAN)-

claimed- irr- 1.2 for 4 ac.

rec'd- irr- 0.12 for 3 ac.

e.l. = 0.03

(combined with 54A)

71B- no obj. (Dahlstrom)- 6/26/1981

claimed- irr- 0.15 for 4 ac.

stock-0.02 (incidental; 18 stock)

rec'd- irr- 0.15 for 4 ac.

stock-0.02 (incidental; 18 stock)

e.l. = 0.03

(combined with 54B)

71A- obj- Zabala- 6/26/1981

(Brown, atty)

claimed- irr- 0.56 for 14 ac.

stock-0.02 (seven head)

rec'd- irr- 0.44 for 8 ac.

stock (incidental; no winter flows to John)

e.l. = 0.06

d.r. = 0.38

HUBBLE

* HUBBLE

1023A- Ya Ta Investments- 6/26/1981

(BROWN/BEESEMAN, atty)- see Padgett Ditch

15184- obj- Osborne- 6/26/1981

(Brown, atty)

claimed- irr- 2.22 for 22 ac.

rec'd- irr- 0.35 for 17 ac.

e.l. = 0.01

89A- obj- Clouser- 6/26/1981

(Brown, atty)

claimed- irr- 0.04 for 2 ac.

rec'd- irr- 0.04 for 2 ac.

(pump in Billingsly Cr. also)

89B- no obj. (Ward)- 6/26/1981

claimed- irr- 0.03 for 1 ac.

rec'd- irr- 0.03 for 1 ac.

(combination with 4008)

PRESUMPTION/ 89C- obj- Meckler- 6/26/1981

(Brown, atty)

claimed- irr- 0.06 for 2 ac.

rec'd- irr- 0.03 for 1 ac.

(pump in Billingsly Cr. also)

89D- no obj. (Steele)- 6/26/1981

claimed- irr- 0.04 for 1 ac.

rec'd- irr- 0.03 for 1 ac.

ALAN G. LANCE
Attorney General
State of Idaho

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

BRENT KING
CHARLES L. HONSINGER
Deputy Attorneys General
Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098
Telephone: (208)327-5458
Fax: (208)327-5400

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	)	Subcase No. 36-10283B
	)	
Case No. 39576	)	AFFIDAVIT OF STEVE CLELLAND
	)	REGARDING CLAIM NO. 36-10283B
_____	)	

STATE OF IDAHO)
) ss.
County of Twin Falls)

I, STEVE CLELLAND, being first duly sworn on oath, depose and state as follows:

1. I am a Senior Water Resource Agent with the Idaho Department of Water Resources (IDWR).
2. My work address is Idaho Department of Water Resources (IDWR), Southern

Regional Office, 222 Shoshone St. East, Twin Falls, ID 83301-6105. I reside in Twin Falls, Idaho.

3. My educational background and work history both outside and within IDWR are detailed in my Affidavit of Steve Clelland as to the Investigation of Claims in the Hagerman Area.

4. As part of my duties as a senior water agent, I investigated the acreage claimed as irrigated pursuant to claim no. 36-10283B. The pertinent details of that investigation are as follows:

A. On July 24, 1990, IDWR water agent Helen Thornton and I conducted a field examination for the purpose of determining the irrigated acreage claimed pursuant to claim no. 36-10283B.

B. During that field examination, I observed that water pursuant to this claim was applied to the place of use solely by means of flood irrigation.

C. During the field examination, I observed that there were two parcels of land within the area claimed as irrigated. I observed that the parcel above and west of the Padgett ditch was not irrigated as no system was in place that could deliver water to the parcel. I observed that the parcel below and east of the ditch was irrigated. However, I also observed that a hill within the parcel below and east of the ditch was not irrigated and was unirrigable as no system was in place to deliver water to the hill.

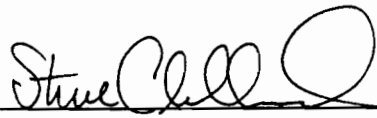
D. I later observed that the ASCS map from 1977 showed no irrigation of the

westernmost parcel and did show irrigation of the easternmost parcel. I observed that the ASCS map showed the irrigated acreage of the easternmost parcel to be slightly more than five acres.

E. I later observed that the pertinent NAPP photograph was consistent with my observations that only the easternmost of the two parcels was irrigated.

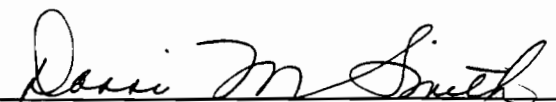
F. Using an ortho photo quad from 1974 and the grid system described in Appendix A to IDWR's Report Regarding Claim to Water Right No. 36-10283B, I estimated that five acres were irrigated with water delivered pursuant to this claim.

DATED this 1st day of July, 1996.



STEVE CLELLAND

SUBSCRIBED AND SWORN to before me this 1st day of July, 1996.



Notary Public for the State of Idaho
Residing at: Borise
My commission expires: 12-5-2000

ALAN G. LANCE
Attorney General
State of Idaho

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

BRENT KING
CHARLES L. HONSINGER
Deputy Attorneys General
Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098
Telephone: (208)327-5458
Fax: (208)327-5400

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	)	Subcase No. 36-10283B
	)	
Case No. 39576	)	AFFIDAVIT OF HELEN
	)	THORNTON REGARDING
_____	)	CLAIM NO. 36-10283B

STATE OF IDAHO)
) ss.
County of Ada)

I, HELEN L. HARRINGTON-THORNTON, being first duly sworn on oath, depose
and state as follows:

1. I am currently a Hydrogeologist with the Idaho Department of Water
Resources (IDWR). At the relevant time for purposes of this affidavit, I was employed as a
Senior Water Resource Agent with IDWR.
2. My work address is Idaho Department of Water Resources (IDWR), 1301 N.

AFFIDAVIT OF HELEN THORNTON REGARDING CLAIM NO 36-10283b, Page 1

MICROFILMED
DEC 5 1996

Orchard, Boise, ID 83706. I reside in Boise, Idaho.

3. My educational background and work history both outside and within IDWR are detailed in my Affidavit of Helen Thornton as to the Investigation of Claims in the Hagerman Area.

4. As part of my duties as a senior water agent, I investigated the acreage claimed as irrigated pursuant to claim no. 36-10283B. The pertinent details of that investigation are as follows:

A. On July 24, 1990, IDWR water agent Steve Clelland and I conducted a field examination for the purpose of determining the irrigated acreage claimed pursuant to claim no. 36-10283B.

B. During that field examination, I observed that water pursuant to this claim was applied to the place of use solely by means of flood irrigation.

C. During the field examination, I observed that there were two parcels of land within the area claimed as irrigated. I observed that the parcel above and west of the Padgett ditch was not irrigated as no system was in place that could deliver water to the parcel. I observed that the parcel below and east of the ditch was irrigated. However, I also observed that a hill within the parcel below and east of the ditch was not irrigated and was unirrigable as no system was in place to deliver water to the hill.

DATED this 4 day of June, 1996.

Helen L. Harrington-Thornton
HELEN L. HARRINGTON-THORNTON

SUBSCRIBED AND SWORN to before me this 15th day of July, 1996.

Reynolds D. Lantry
Notary Public for the State of Idaho
Residing at: Boise ID
My commission expires: 5-16-2007

ALAN G. LANCE
Attorney General
State of Idaho

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

BRENT KING
CHARLES L. HONSINGER
Deputy Attorneys General
Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098
Telephone: (208)327-5458
Fax: (208)327-5400

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	)	Subcase No. 36-10283B
	)	
Case No. 39576	)	AFFIDAVIT OF KELLY CHRISTENSEN
	)	REGARDING CLAIM NO. 36-10283B
_____	)	

STATE OF IDAHO)
) ss.
County of Twin Falls)

KKC
I, Kelly Christensen, being first duly sworn on oath, depose and state as follows:

1. I am a Senior Water Resource Agent with the Idaho Department of Water Resources (IDWR).

2. My work address is Idaho Department of Water Resources (IDWR), Southern Regional Office, 222 Shoshone St. East, Twin Falls, ID 83301-6105. I reside in Twin Falls, Idaho.

3. As part of my duties as a senior water agent, I investigated the quantity claimed pursuant to claim no. 36-10283B. The pertinent details of that investigation are as follows:

A. On July 28, 1992, I spoke with the claimant, Mattie Grigg by telephone to discuss irrigation practices on the property claimed as irrigated pursuant to this claim. Ms. Grigg indicated to me that the property was planted in pasture and that the pasture was formerly irrigated with the flood method, but that in 1992, the irrigator irrigated with corrugations.

R PROOF

CVR

MAPS

PHOTOS

MISC

OCT 20 1994

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 the Rights to the Use of Water	)	Case No. 36-10283B -0001
from the Snake River Basin	)	
Water System	)	
The State of Idaho, <u>ex rel.</u>	)	
R. Keith Higginson in his	)	
official capacity as Director	)	
of the Idaho Department of	)	RESPONSE TO OBJECTION
Water Resources,	)	
	)	
Petitioner,	)	
	)	
vs.	)	
	)	
The United States; the State	)	
of Idaho; and all Claimants to	)	
the use of water from the Snake	)	
River Basin Water System,	)	
	)	
Respondents.	)	

I. GENERAL INFORMATION

1. Person responding to objection:

Name: R. KEITH HIGGINSON, DIRECTOR

Address: IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449

Briefly describe your interest in this water right:

IDWR is required to file a response to an objection to part
I of the director's report pursuant to I.C. section 42-1412(2).

(Over)

2. Person who filed objection:

Name: MATTIE P & GOLDEN T GRIGG
Address: PO BOX 278 A
HAGERMAN ID 83332

3. If this response is filed by an attorney:

Attorney Name(s): NICHOLAS B. SPENCER
Attorney Address: DEPUTY ATTORNEY GENERAL(S)
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449
Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

3. |X| Quantity: I respond to the objection concerning:
- 3a. |X| The total quantity of water used in cubic feet per second.
8. |X| Period of Year: I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.
10. |X| Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.
11. |X| Remarks: I respond to the objection concerning the "remarks" listed with the water right.
14. |X| Other: I respond to the objection concerning:

ALL MATTERS RAISED BY THE CLAIMANTS' ANSWER,
AFFIRMATIVE DEFENSES AND PRAYER FOR RELIEF.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection items 3 and 3.a, and all allegations of the objection regarding those items, IDWR responds as follows: there is an error in the description of the amount of this right in the director's report. The recommendation should be corrected as shown in the attachment entitled "Recommended Water Rights Acquired under State Law."

IDWR further responds as follows: (1) it recommended the amount of water it determined was being beneficially used; (2) the claimant is not entitled to any amount greater than that which is beneficially used (Idaho Code Secs. 42-104 and 42-1402); (3) the recommendation of the director to the SRBA Court as to how the right should be decreed does not constitute a taking because it is simply a recommendation and not a final determination of the right; and (4) the eventual decree by the SRBA Court of the amount of water beneficially used, even if less than the amount previously decreed, will not constitute a taking because the right is limited to that amount beneficially used.

In response to Statement of the Objection item 8, and all allegations of the objection regarding that item, IDWR responds as follows: (1) The decree asserted by the claimant does not contain a period of use decreed for this water right. (2) Idaho Code Sec. 42-1411(2)(g) requires the director to determine the period of use of each water right acquired under state law that is recommended in the director's report. (3) IDWR has developed irrigation season of use standards for various climatic areas throughout the state based on a 75% chance of a 24 degree fahrenheit frost. (4) The irrigation season of use cannot exceed the period in which water may be beneficially used. (5) The period of the year during which this water right may be used is consistent with the standard irrigation season of use for the area in which the place of use of this water right is located. (6) Water may be used for irrigation outside the standard season of use, subject to the conditions set forth in general provision 12b of the director's report. (7) The recommendation of the director to the SRBA Court as to how the right should be decreed does not constitute a taking because it is simply a recommendation and not a final determination of the right. (8) The eventual decree by the SRBA Court of the irrigation season of use will not constitute a taking because the right is limited to the period in which water may be beneficially used. In further response to this objection item, IDWR responds that it recommended the irrigation portion of the water right as claimed.

(Over)

By now seeking a year round season of use for irrigation, the claimant improperly seeks to use the objection process to amend the claim. A claimant must obtain leave of the court to amend a claim after a director's report is filed, just as a party must obtain leave of the court to file a late claim after the director's report is filed. Once leave of the court is granted, IDWR can investigate the amended claim and make an appropriate recommendation to the court.

In response to Statement of the Objection item 10 and all allegations of the objection regarding that item, IDWR responds as follows: (1) The decree asserted by the claimant did not set an annual volume of consumptive use for this water right. (2) Idaho Code Sec. 42-1411(2)(i) requires the director to determine the annual volume of consumptive use for each water right acquired under state law and recommended in the director's report. (3) Idaho Code Sec. 42-1401A(2) provides that the quantification of consumptive use "is included as a rebuttable presumption in a decree only for the purpose of transfers pursuant to section 42-222, Idaho Code"; therefore, the consumptive use recommended for this water right is included solely for use in future transfer proceedings. (4) The annual volume of consumptive use claimed and recommended for this right is 3 acre feet per acre. This is the maximum volume of water consumed by the most water consumptive crop (pasture) that can be grown in the area during the period of year when water is used for irrigation, as provided for by Idaho Code Sec. 42-1401A(2). (5) The recommendation of the director to the SRBA Court as to how the right should be decreed does not constitute a taking because it is simply a recommendation and not a final determination of the right. (6) The eventual decree by the SRBA Court of the amount of water beneficially used, even if less than the amount previously decreed, will not constitute a taking because then right is limited to that amount beneficially used.

In response to Statement of the Objection item 11, and all allegations of the objection regarding that item, IDWR responds that there is an error in the remarks in the description of this water right in the director's report. The recommendation should be corrected as shown in the attachment entitled "Recommended Water Rights Acquired Under State Law."

In further response to this item 11, IDWR states that it has authority pursuant to Idaho Code Sec. 42-1411(2)(j) to include in its recommendations of water rights acquired under state law and recommended in the director's report "such other matters as are necessary to define the right." The remark or remarks objected

to are necessary to adequately describe and define this water right.

In response to Statement of the Objection item 14, and all allegations of the objection regarding this item, see attached "IDWR's Response to Answer, Affirmative Defenses and Prayer for Relief of Claimant."

In response to the sentence listed in Changes to the Director's Report, whereby the claimant attempts to "reserve the right to claim all purposes of use and quantities of use as shown by the evidence at trial," IDWR responds as follows: Insofar as this purported reservation of rights may constitute an attempt to reserve the right to amend at trial the claimant's notice of claim, the claimant improperly seeks to use the objection process to amend the claim. A claimant must obtain leave of the court to amend a claim just as a party must obtain leave of court to file a late claim after the director's report is filed.

CHANGES TO THE DIRECTOR'S REPORT

See attached List of Recommended Water Rights Acquired under State Law.

☒ Check here if you are submitting documents. Please list each document by the title and number of pages. You may use additional pages if necessary:

No. of
Pages

The notice of claim is attached to IDWR's response
to Objection No. 36-10283A-0001

Recommended Water Rights Acquired under State Law	1
IDWR's Response to Answer, Affirmative Defenses and Prayer for Relief of Claimant	4

(Over)

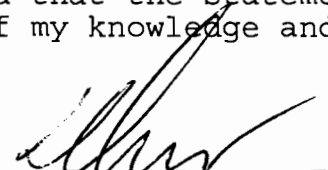
VERIFICATION (Must be Completed)

State of IDAHO

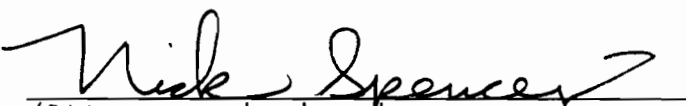
County of ADA

David B. Shaw, being first duly sworn, upon oath, deposes and says:

That R. Keith Higginson, in his official capacity as director of the Idaho Department of Water Resources, is a party to this proceeding, as defined by I.C. 42-1401A(1) and (7); that I am the Adjudication Bureau Chief for IDWR and am authorized by R. Keith Higginson, in his official capacity as director of IDWR, to verify this response; and that I have read the foregoing response, know its contents and that the statements contained therein are true to the best of my knowledge and belief.



Signature of person filing response

By: 

(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 9th day of September,
1993.





Notary Public for Idaho
Residing at: Boise, Idaho
My Commission expires: 6/25/1999

CERTIFICATE OF MAILING

I hereby certify that on the 10th day of SEPTEMBER, 1993, I mailed the original and copies of the foregoing response, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepared and addressed as follows:

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 owner of the water right, and you must fill in the following information:

See No. 3

3. One copy to the party who filed the objection, or if represented by an attorney, to their attorney; and you must fill in the following information:

Name: HEPWORTH NUNGESTER & LEZAMIZ
Address: PATRICK D BROWN
& PENELOPE PARKER
PO BOX 389
TWIN FALLS ID 83303

4. One copy to:

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, Idaho 83734



Signature of Respondent or attorney
mailing on Respondent's behalf

- WORKS (page 11 of Part I of the director's report)
- (17) VI. General Provision 8. FIRE FIGHTING PURPOSES (page 11 of Part I of the director's report)
 - (18) VI. General Provision 9. CONSUMPTIVE USE (page 12 of Part I of the director's report)
 - (19) VI. GENERAL PROVISION 10 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH DOMESTIC USE AS A PURPOSE OF USE (page 12 of Part I of the director's report)
 - (20) VI. General Provision 10. DOMESTIC USE (page 12 of Part I of the director's report)
 - (21) VI. GENERAL PROVISION 11 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH STOCK WATER USE AS A PURPOSE OF USE (page 13 of Part I of the director's report)
 - (22) VI. General Provision 11. STOCK WATER USE (page 13 of Part I of the director's report)
 - (23) VI. GENERAL PROVISIONS 12-16 APPLY TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH IRRIGATION AS A PURPOSE OF USE (page 13 of Part I of the director's report)
 - (24) VI. General Provision 12. IRRIGATION USE (pages 13-14 of Part I of the director's report)
 - (25) VI. General Provision 13. DIVERSION VOLUME FOR IRRIGATION (page 14 of Part I of the director's report)
 - (26) VI. General Provision 14. CONSUMPTIVE USE FOR IRRIGATION (pages 14-15 of Part I of the director's report)
 - (27) VI. General Provision 15. AMOUNT OF COMBINED WATER RIGHTS FOR IRRIGATION (page 15 of Part I of the director's report)
 - (28) VI. General Provision 16. DIVERSION RATES IN EXCESS OF .02 CFS PER ACRE (pages 15-16 of Part I of the director's report)
 - (30) VI. 17. INSTRUCTIONS FOR USE OF LIST OF RECOMMENDED WATER RIGHTS (pages A-i through A-iii of Part I of the director's report)
 - (31) VI. 18. IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW (pages A-1 through B-25 of Part I of the director's report)
 - (32) DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36), (DIRECTOR'S REPORT PART II)
 - (33) DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36), (DIRECTOR'S REPORT PART III)

The attachment also contains part VIII, AFFIRMATIVE DEFENSES (pp. 20 through 28) and a PRAYER FOR RELIEF (untitled, p. 28).

IDWR'S RESPONSE TO ANSWER, AFFIRMATIVE DEFENSES AND PRAYER FOR
RELIEF OF CLAIMANT

This portion of the response addresses the multi-page attachment to the objection (hereinafter "the attachment"), wherein the claimant admits or denies all sections of Parts I, II, and III of the director's report, asserts 27 affirmative defenses, and alleges a prayer for relief. The attachment contains the following sections, corresponding to the various sections of the director's report:

- (1) I. GENERAL RESPONSE
- (2) II. DESCRIPTIVE SUMMARY, (first unnumbered page of Part I of the director's report)
- (3) III. TABLE OF CONTENTS (second and third unnumbered pages of Part I of the director's report)
- (4) IV. 1. INSTRUCTIONS FOR USING THIS REPORT PART I (page 1 of Part I of the director's report)
- (5) IV. 2. SCOPE OF THE ADJUDICATION (pages 1-3 of Part I of the director's report)
- (6) IV. 3. PURPOSE OF THIS REPORT PART I (pages 3-4 of Part I of the director's report)
- (7) V. 1. BOUNDARIES OF BASIN (pages 4-6 of Part I of the director's report)
- (8) V. 2. WATER SOURCES (page 6 of Part I of the director's report)
- (9) V. 3. DEVELOPMENT OF WATER USE (pages 6-9 of Part I of the director's report)
- (10) VI. GENERAL PROVISIONS 1-8 APPLY TO ALL WATER RIGHTS IN BASIN 36 (page 9 of Part I of the director's report)
- (11) VI. General Provision 1. EFFECT OF ADJUDICATION (page 9 of Part I of the director's report)
- (12) VI. General Provision 2. GENERAL ADMINISTRATIVE PROVISIONS (pages 9-10 of Part I of the director's report)
- (13) VI. General Provision 3. CONJUNCTIVE ADMINISTRATION (page 10 of Part I of the director's report)
- (13) VI. General Provision 4. ADMINISTRATION OF GROUND WATER RIGHTS (page 10 of Part I of the director's report)
- (14) VI. General Provision 5. ADMINISTRATION OF BASIN 36 RELATIVE TO THE SNAKE RIVER (page 10 of Part I of the director's report)
- (15) VI. General Provision 6. ADMINISTRATION OF SMALL DOMESTIC AND STOCK WATER RIGHTS (page 11 of Part I of the director's report)
- (16) VI. General Provision 7. MEASURING DEVICES AND CONTROL

Responding to the 27 affirmative defenses asserted in the attachment, IDWR generally denies each and every affirmative defense asserted. IDWR further responds that affirmative defense numbers 1, 2, 4, 5, 10, 11, 12, 18, and 22, asserting various violations of civil or constitutional rights, fail to comply with the requirements I.R.C.P. 9(b) providing that in all averments of violation of civil or constitutional rights the factual circumstances constituting such violation must be stated with particularity. Accordingly, IDWR asserts that those affirmative defenses should be stricken.

In response to that portion of the multi-page attachment to the objection wherein the claimant asserts a prayer for relief, IDWR responds as follows:

1. IDWR denies that the director's report asserts any claims against the claimant; rather, the director's report contains only the recommendation of the director as to how the claimant's water right should be decreed and administered.
2. IDWR denies that the claimant is entitled to have the water right decreed as claimed unless in the director's report the water right has been recommended as claimed.
3. IDWR denies that any acts upon its part constitute the taking of private property for which just compensation should be allowed and awarded.
4. IDWR denies that the claimant is entitled to recover court costs and reasonable attorney fees.
5. IDWR denies that the claimant by this objection has raised any claims against IDWR entitling such claimant to any relief other than the eventual judicial determination and decree of the various elements of the claimant's water right, if any, and of those related matters necessary to describe and administer that water right.

In response to each of the items enumerated above IDWR responds that pursuant to Section 4 a.(2)(c) of SRBA Administrative Order 1, Rules of Procedure, IDWR generally denies each and every allegation, if any, contained in each enumerated portion of the attachment. IDWR affirmatively responds that neither SRBA Administrative Order 1, Rules of Procedure, nor Title 42, Chapter 14, Idaho Code, make provision for IDWR to affirm, amplify, or otherwise respond to the claimant's admissions, or to deny the claimant's denials, and that IDWR therefore does not believe that it is required to do so. Title 42, Chapter 14, Idaho Code solely defines the content and scope of the director's report. It is to contain a description of the water system and is to provide a recommendation as to each water right claimed and as to those matters necessary for administration of those water rights. Therefore, the content and scope of the objection is limited to those same matters. The attachment to the present objection asserts or otherwise raises matters not directly addressing the elements of the water right as recommended, the description of the water system, or the general provisions. Rather, the attachment raises broad issues as to the constitutional, statutory and administrative efficacy of the entire adjudication process. All such issues should be raised by means of motions to designate basinwide issues and similar procedural vehicles specifically designed to provide for basinwide notice and participation. They should not be permitted to divert the focus of any individual subcase away from the issues directly connected to the elements of the water right and the administration thereof. Therefore, because the attachment to the present objection is not within the scope of the statutory purpose of an objection it should be stricken.

However, in the event that the court should determine that all or part of the attachment is properly within the scope of the objection, IDWR further responds as follows:

IDWR affirmatively responds that all statements within the director's report are properly included therein pursuant to Title 42, Chapter 14, Idaho Code, and in particular pursuant to Idaho Code §§ 42-1411 and 42-1412(8); and that the provisions of the Idaho Rules of Civil Procedure regarding pleadings are inapplicable to the extent that they are in conflict with the statutory requirements. Therefore IDWR denies all allegations directed at the contents of the director's report.

As to the enumerated portions of the attachment addressing the listings of recommended water rights, abstracts of federal reserved water right claims, or negotiated agreements, other than the individual recommendation that is the subject of this objection, IDWR responds that such claims or agreements are not brought before this court by this objection.

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: SEP-5-1993
PAGE: A-1

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER						
36-10283B	MATTIE P GRIGG GOLDEN T GRIGG PO BOX 278-A HAGERMAN ID 83332	06/26/1881	IRRIGATION	03-15 11-15	~~2~~ 27	CFS DECREED
			STOCKWATER	11-16 03-14	.03	CFS
			STOCKWATER	03-15 11-15	.02	CFS
					TOTAL QUANTITY:	~~2~~ 29 CFS
					CONSUMPTIVE USE:	15.0 AFY

NON-IRRIGATION-USES:

STOCKWATER, 20 CATTLE

POINT OF DIVERSION:

T07S R13E S11

PLACE OF USE: IRRIGATION

NWSENE

T07S R13E S11

5.0 ACRES TOTAL

PLACE OF USE: STOCKWATER

NWNE 5.0

T07S R13E S11

PLACE OF USE: STOCKWATER

NWNE

SAME AS OTHER USE

REMARKS:

WATER IS DELIVERED THROUGH THE PADGETT DITCH.

0.01 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF THIS RIGHT DURING THE IRRIGATION SEASON.~~0.02 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF THIS RIGHT DURING THE NON-IRRIGATION
SEASON.~~A DIVERSION RATE OF ~~20~~ 26 CFS AT THE FIELD HEADGATE IS
RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.THIS RIGHT IS A COMBINATION OF OLD RIGHT NOS. 36-00094,
36-00095 AND 36-00096.

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RECEIPT
For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES

36-102838

Receipt No:

0015346

Date:
Time:

2/ 2/1993
11:15:07

Received
From:

GRIGG, MATTIE

Type of Payment

Program Acct Class

Amount

COPIES/ADJ FILE

64100

229 21 1760

4.19

Total

\$4.19

CHECK

0682

Region: SOUTHERN

Signature:

Janie Robertson

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OCT 20 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

R. KEITH HIGGINS
Director
RECEIVED

29-Jan-1993

FEB 02 1993

Department of Water Resources
Southern Region Office

MATTIE P GRIGG
PO BOX 278-A
HAGERMAN ID 83332

RE: Copy of SRBA File(s): 36-10283B

Dear Ms. Grigg:

Please find enclosed the copies of documents you recently requested contained in the above referenced SRBA file(s) as of this date. Please note that copies of orthophoto quad maps or NAPP photography or aerial slides which may have been used in the review of your claim(s) have not been included since they are not easily reproduced. These items are however available for your review at our office. Please also note that in some situations some water rights may have other associated files which contain privileged information between IDWR staff and our legal council which has not been copied.

Please remit the following for the cost of the copies and postage:

\$4.19

Sincerely,

Jeanie Robertson
Records Clerk

Encl:

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OCT 20 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
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Please remit the following for the cost of the copies and postage:

\$4.19

Sincerely,

Jeanie Robertson
Records Clerk

Encl:

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RECEIVED

JAN 27 1993

Department of Water Resources
Southern Region Office

January 21, 1993
(Date)

IDAHO DEPARTMENT OF WATER RESOURCES
222 SHOSHONE ST. EAST
TWIN FALLS, IDAHO 83301

Dear Idaho Department of Water Resources:

Please provide me with a copy of all information included in
my file as it relates to water right number A36-10283B.

Please advise me of any documents in my file which you are not
releasing to me and why they are not being released.

Please bill me for the copy charge.

Sincerely,

Mattie P. Ligg
(Name)

P. O. Box #278-A
(Address)

Hagerman, Idaho 83332
(City, State, Zip Code)

cc: David B. Shaw, Adjudication Bureau Chief
Idaho Department of Water Resources
1301 North Orchard Street
Statenhouse Mail
Boise, Idaho 83720-9000

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RE EIVED

APR 30 1993

Department of Water Resources
Adjudication Bureau

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)
_____)

Case No. A36-10283B
(You must insert the
water right number you
are objecting to)

The State of Idaho, ex rel.)
R. Keith Higginson in his)
official capacity as Director)
of the Idaho Department of)
Water Resources,)

OBJECTION

Petitioner,)

36-10283B -0001/
93-04-0390

vs.)

The United States; the State)
of Idaho; and all Claimants to)
the use of water from the Snake)
River Basin Water System,)

Respondents.)
_____)

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in the Director's Report. You may object to one water right per objection form. The water right number you are objecting to must be indicated above in the blank space following "Case No." To object to more than one water right, you must file a separate objection form for each. Forms may be obtained from the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form, as long as it is identical to the court's form. You must file your objection by the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

Any party physically filing 25 (twenty-five) or more objections must make an appointment with the Clerk of the Adjudication Court and arrange for an appointment to file multiple objections.

(Over)

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By filing an objection form, you are certifying that the objection is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and that it is not filed for any improper purpose, such as to harass, cause unnecessary delay or needless increase in the cost of litigation.

I. GENERAL INFORMATION

Please fill in the following information:

1. Person objecting:

Name: Mattie P. Grigg or Golden T. Grigg

Address: P. O. Box 278-A

Hagerman, Idaho 83332

Briefly describe your interest in this water right:

Priority date 6/26/1881

Water right decreed 3/22/32 in New

International Mortgage Bank v. Idaho Power

Company with a priority date of 06/26/1881

2. Owner of the water right:

Name: Mattie P. Grigg or Golden T. Grigg

Address: P. O. Box 278-A

Hagerman, Idaho 83332

3. If this objection is filed by an attorney:

Attorney Name: Patrick D. Brown & Penelope Parker

Attorney Address: Hepworth, Nungester & Lezamiz

P.O. Box 389, Twin Falls, ID 83303

Attorney Phone No.: (208) 734-7510

If filed by an attorney, notice of pending court proceedings will be sent to the attorney only.

II. STATEMENT OF THE OBJECTION

Please check each "box" which states your objection to the recommendation in the Director's Report.

1. ☐ Name and Address: I object to the name and/or address of the owner of the water right.
2. ☐ Source: I object to the source of water.
3. ☒ Quantity: I object to:
 - a. ☒ the total quantity of water used in cubic feet per second; or
 - b. ☐ the total quantity of water stored in acre-feet per year; or
 - c. ☐ the total quantity of water reserved for each and every purpose, including all present and future uses.
4. ☐ Priority Date: I object to the priority date.
5. ☐ Points of Diversion: I object to the legal description of the point(s) of diversion.
6. ☐ Instream Flow: I object to the legal description of the beginning and ending points of the instream flow.
7. ☐ Purpose(s) of Use: I object to the purpose(s) of use.
8. ☒ Period of Year: I object to the period of year when water is used or is necessary for the purpose stated.
9. ☐ Place of Use: I object to:
 - a. ☐ the legal description of the place of use; or
 - b. ☐ the number of irrigated acres within each forty (40) acre subdivision.
10. ☒ Consumptive Use: I object to the annual volume of consumptive use.
11. ☒ Remarks: I object to the "remarks" listed with the water right.

(Over)

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12. ☐ Water Right Recommendation: I object to:
- a. ☐ this water right being recommended at all; or
- b. ☐ this water right not being recommended.
13. ☐ Description of Reservation: I object to the legal description of the reservation.
14. ☒ Other: I object to: See attached
-
-
-
-

REASONS SUPPORTING EACH BOX CHECKED

In the space following, you must state the reason(s) by number for each box checked. You may use additional pages if necessary.

See Page 7

CHANGES TO THE DIRECTOR'S REPORT

Specifically describe how you want the Director's Report to be changed. You may use additional pages if necessary.

Irrigation and stockwater 01/01 through 12/31 as decreed

Please note: You should attach copies of documents which support your objection. Note on each document the "box number" it supports.

☒ Check here if you are submitting documents. Please list each document by the title and number of pages. You may use additional pages if necessary. _____

See Hagerman Water Right Owners, Inc.'s

Compendium "A"

VERIFICATION (Must be Completed)

State of Idaho

County of ~~Twin Falls~~ Gooding

Mattie P. Grigg/Golden T. Grigg, being first duly
(Name of person filing objection)
sworn, upon oath, deposes and says:

That I am the person or entity filing this objection, that I am a water claimant or party in this proceeding, as defined by I.C. Sec 42-1401A(1) and (7), and that I have read the foregoing objection, know its contents and that the statements contained therein are true to the best of my knowledge and belief.

Mattie P. Grigg
Signature of person filing objection

By: [Signature]
(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 19th day of April,
1993.

[Signature]
Notary Public for Idaho
Residing at: Hagerman, Idaho
My Commission Expires: 5-10-97

(Over)

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INSTRUCTIONS FOR MAILING

You must mail the objection, including all attachments, to the Clerk of the Court. **FAX filings will not be accepted by the Clerk of the Court.** You must also send a copy to the owner of the water right, if other than yourself; to the Office of the Attorney General, State of Idaho; and to the United States Department of Justice, as set out below in the Certificate of Mailing. Finally, you must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I hereby certify that on the 28 day of April, 1993, I mailed the original and copies of the foregoing objection, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepaid and addressed as follows:

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 owner of the water right, and you must fill in the following information:

Owner name: Mattie P. Grigg or Golden T. Grigg

Owner's address: P. O. Box 278-A

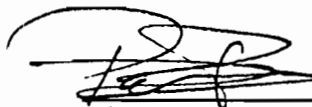
Hagerman, Idaho 83332

3. One copy to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

4. One copy to:

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, ID 83724



Signature of Objector or attorney
mailing on Objector's behalf

REASONS SUPPORTING EACH BOX CHECKED, page 4

Box 3, 3a and 10 - IDWR recommends an amount less than decreed and/or beneficially used. A reduction in water right would constitute a taking.

Box 8 - IDWR recommends a period of use less than decreed and/or beneficially used. A reduction in water right would constitute a taking.

Box 11 - This is beyond the statutory authority vested in the Director.

CHANGES TO DIRECTOR'S REPORT, page 4

Objectors reserve the right to claim all purposes of use and quantities of use as shown by the evidence at trial.

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Question 14., page 4, Other

I.

GENERAL RESPONSE

Except as specifically admitted herein, objectors deny each and every allegation contained in the Director's Report, any related or subsidiary pleadings, and/or any attachments thereto.

II.

DESCRIPTIVE SUMMARY

(DIRECTOR'S REPORT PART I)

(hereinafter DRP-I)

(DRP-I at first unnumbered page)

The objectors admit that Part I of the Director's recommendation contains some claims to water rights appropriated under state law from Reporting Area 3. The objectors deny all other averments because the objectors lack sufficient knowledge or information upon which to form a belief as to the truth of the averments.

III.

TABLE OF CONTENTS

(DRP-I at 2nd and 3rd unnumbered pages)

The objectors admit that the Table of Contents reflects the page numbers of the referenced sections and deny all other averments based upon the objectors' lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments and because any averment, expressed or implied, is so

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indefinite that it prevents the objectors from knowing what would be admitted or denied.

IV.

INTRODUCTION

1. INSTRUCTIONS FOR USING THIS REPORT PART I. (DRP-I at page 1)

The objectors admit that Part I consists of seven sections; that the description of the water system includes a brief description of Reporting Area 3 and an illustration of the boundaries of the reporting area; that the water rights and the list of the recommended rights are grouped alphabetically by source and listed chronologically by priority date; that the rights or claims in the list of claims/rights not recommended are listed numerically by water right number; and that brief instructions are found at the beginning of the applicable sections. The objectors deny that any description or any implication that the description of the water system or the illustrations are true and accurate due to lack of knowledge or information regarding the truth of the averment; deny that the general provisions apply to all water rights or define or limit classes of water rights; and deny that the general provisions "will affect your water right," based upon insufficient knowledge or information upon which to form a belief as to the truth of the averments.

2. SCOPE OF THE ADJUDICATION. (DRP-I at page 1 - 3)

The objectors deny all averments in paragraph a., due to lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments.

Regarding paragraph b., the objectors lack sufficient information or knowledge upon which to form a belief as to whether water rights which are not claimed in the adjudication will or will not exist upon entry of the court's decree and, therefore, deny such averment. The objectors admit that the court entered an order dated January 17, 1989, but presently lack sufficient knowledge to know whether any of the other averments concerning the court's order are true or accurate and, therefore, deny the same. The objectors deny that a right must be adjudicated before water may be distributed by the director. The objectors deny all other averments in paragraph b.

3. PURPOSE OF THIS REPORT PART I. (DRP-I at page 3 - 4)

The objectors admit that portion of the first sentence which states "This report contains the Director's recommendations to the SRBA District Court as to the nature and extent of water rights," but deny that such recommendations "are necessary for administration of water rights in Reporting Area 3," and further deny the Director has authority to "administer" such rights.

Regarding the second paragraph, the objectors admit that all water rights remain subject to the applicable law generally, but deny the remainder of the second paragraph.

Regarding the third paragraph of this section, the objectors deny all averments therein based upon lack of knowledge or information upon which to form a belief as to the truthfulness of the averments.

V.

DESCRIPTION OF THE WATER SYSTEM: BASIN 36

1. BOUNDARIES OF BASIN. (DRP-I at pages 4 - 6)

Regarding the first paragraph of this section, the objectors deny all averments due to a lack of knowledge or information upon which to admit or deny.

Regarding the second, third and fourth paragraphs of this section, the objectors admit that as broad statements, those paragraphs are generally accurate but the statements are so broad and attenuated from any matter relevant to the objectors' water right that the objectors are unable to know what would be implicitly admitted or denied and therefore, deny the same.

With respect to the fifth paragraph of this section, the objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred and, therefore, deny the averments.

2. WATER SOURCES. (DRP-I at page 6)

The objectors admit that the Snake River Plain Aquifer is the source of outflows of springs located along the Snake River Canyon Wall in the Hagerman Valley. The objectors presently lack sufficient knowledge or information upon which to form an opinion as to the truth of the other averments set out in this section and, therefore, deny the same.

3. DEVELOPMENT OF WATER USE. (DRP-I at pages 6 - 9)

The objectors admit that numerous factual and historical averments are set out in this section, which may be accurate, but

these objectors have no basis for knowing whether some or all of the averments are intended to relate to the objectors' claims and, thus, are prevented from knowing what would be admitted or denied. Therefore, the averments are denied.

VI.

GENERAL PROVISIONS

GENERAL PROVISIONS 1 - 8 APPLY TO ALL WATER RIGHTS IN BASIN 36.
(DRP-I at page 9)

The objectors deny that "General Provisions 1 - 8" apply to all water rights in Basin 36 as the statements are so broad and attenuated from any matter relevant to the objectors' water rights, that the objectors are unable to know what would be explicitly admitted or denied. The objectors also specifically deny that general provisions 1-8 apply to the objectors' right.

1. EFFECT OF ADJUDICATION. (DRP-I at page 9)

With respect to paragraph a., the objectors presently have no knowledge or information upon which to form a belief as to the truth of whether a future decree would supersede prior decrees, or whether unclaimed rights would cease to exist and, therefore, deny the same.

Regarding paragraph b., the objectors deny that the Director has any powers to administer water rights other than those specifically delegated by the Legislature of the State of Idaho, and which do not violate the objectors' state and federal constitutional rights, and therefore the averments are denied.

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2. GENERAL ADMINISTRATIVE PROVISIONS. (DRP-I at pages 9 - 10)

The objectors admit paragraphs a. and b.

3. CONJUNCTIVE ADMINISTRATION (DRP-I at page 10)

The objectors deny the conjunctive administration provisions based upon the objectors' lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments and because any averment expressed or implied is so indefinite that it prevents the objectors from fairly understanding what would be admitted or denied. Additionally, the objectors deny that the Department of Water Resources has any statutory or regulatory authority for the "conjunctive administration" as therein described.

4. ADMINISTRATION OF GROUND WATER RIGHTS (DRP-I at page 10)

The objectors deny the averments within this section.

5. ADMINISTRATION OF BASIN 36 RELATIVE TO THE SNAKE RIVER (DRP-I at page 10)

The objectors admit that the springs are hydrologically interconnected with the Snake River Aquifer, but deny all other averments based upon the objectors' lack of sufficient information or knowledge upon which to form a belief as to the averments herein. The objectors additionally deny any said averments expressed or implied because the averments are so indefinite and generalized as to prevent the objectors from fairly understanding what would be admitted or denied.

6. ADMINISTRATION OF SMALL DOMESTIC AND STOCK WATER RIGHTS (DRP-I at page 11)

The objectors admit that part of the first sentence of subparagraph a. to the effect that "small domestic and stock water rights from surface water are not subject to administration," but deny the balance of said sentence and said paragraph.

The objectors admit the first sentence of paragraph b., and deny the balance of that paragraph because the criteria set forth therein ("if the director determines that administration is necessary") is so ambiguous, indefinite and uncertain that it prevents the objectors from knowing what would be admitted or denied, and by further reason of the fact that no statutory or regulatory authority exists conferring such sweeping and unlimited authority upon the Director or the Department.

The objectors deny the averments in paragraph c. as the averments are inaccurate and because the objectors lack sufficient knowledge or information upon which to form a belief as to the truth of the matters averred.

7. MEASURING DEVICES AND CONTROL WORKS (DRP-I at page 11)

The objectors deny all averments contained herein as such averments are based upon an indeterminate subjective standards which are so ambiguous and indefinite as to prevent the objectors from fairly knowing what would be admitted or denied. Additionally, no statutory or regulatory authority exists conferring such sweeping and unlimited authority upon the Director or the Department as is alleged in this paragraph.

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8. FIRE FIGHTING PURPOSES (DRP-I at page 11)

The objectors admit that subparagraph a. and subparagraph b. are generally accurate statements of present law, but deny the averments are in any way relevant to defining the objectors' right.

9. CONSUMPTIVE USE (DRP-I at page 12)

The objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred and, therefore, deny the same.

GENERAL PROVISION 10 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH DOMESTIC USE AS A PURPOSE OF USE (DRP-I at page 12)

The objectors deny that "General Provision 10" applies to all water rights in Basin 36 shown with domestic use as a purpose of use as the statements are so broad and attenuated from any matter relevant to the objectors' water rights, that the objectors are unable to fairly understand what would be explicitly admitted or denied and, therefore, deny the same.

10. DOMESTIC USE (DRP-I at page 12)

The objectors deny that the definition of "domestic use" contained in paragraphs a., b., and c. is consistent or in conformity with the definition of such term for purposes of the Idaho Constitution, or statutory definition contained in I.C. Section 42-111 as now, or as heretofore in effect at relevant times. The objectors further deny that the limitations set forth therein exist, are in force, or apply or serve in any way to limit objectors' rights.

GENERAL PROVISION 11 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH STOCK WATER USE AS A PURPOSE OF USE. (DRP-I at page 13)

The objectors deny that "General Provision 11" applies to all water rights in Basin 36 shown with stock water use as a purpose of use as the statements are so broad and attenuated from any matter relevant to the objectors' water right, that the objectors are unable to fairly understand what would be admitted or denied and, therefore, deny the same.

11. STOCK WATER USE (DRP-I at page 13)

The objectors deny the averments herein as beyond the scope and applicability of the definition as provided by Idaho law as now, or as heretofore in effect at relevant times. The objectors further deny that the limitations set forth therein limit the objectors' right or are relevant to the right.

GENERAL PROVISIONS 12 - 16 APPLY TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH IRRIGATION AS A PURPOSE OF USE (DRP-I at page 13)

The objectors deny that "General Provisions 12 - 16" apply to all water rights in Basin 36 shown with irrigation as a purpose of use as the statements are so broad and attenuated from any matter relevant to the objectors' water right that the objectors are unable to fairly understand what would be admitted or denied.

12. IRRIGATION USE. (DRP-I at pages 13 - 14)

The objectors deny all averments based upon the objectors' lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments and because

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prevent the objectors from fairly knowing what would be admitted or denied; because the standard utilized ("as determined by the director") is ambiguous, subjective and indefinite so as to prevent objectors from knowing what would be admitted or denied; and because it is both expressly and implicitly in excess of the power and authority conferred upon the State of Idaho, the Director or the Department by the Constitutions of the United States and State of Idaho, pertinent provisions of the Idaho Code or valid applicable regulations, if any, adopted by the Department in conformity with law. Therefore, the objectors deny the same.

13. DIVERSION VOLUME FOR IRRIGATION. (DRP-I at page 14)

The objectors admit that Figure 1 generally depicts certain lands in Basin 36; however, the objectors deny all other averments including that the amounts set forth are the maximum annual volume of water reasonably required at the field headgate for irrigation, either within Basin 36 in general, or upon objectors' real property in particular. The objectors additionally deny that the maximum annual volumes per acre set forth is that which is "reasonably required for irrigation unless a higher annual diversion volume is reasonably required due to conveyance losses, method of irrigation or field conditions;" because the standard utilized ("as determined by the director") is ambiguous, subjective and indefinite so as to prevent objectors from knowing what would be admitted or denied; and because it is both expressly and implicitly in excess of the power and authority conferred upon the State of Idaho, the Director or the Department

by the Constitutions of the United States and State of Idaho, pertinent provisions of the Idaho Code or valid applicable regulations, if any, adopted by the Department in conformity with law. Therefore, the objectors deny the same.

14. CONSUMPTIVE USE FOR IRRIGATION. (DRP-I at page 14 and 15)

The objectors admit that the recommended water rights contained within the Director's Report show only the irrigation use listed unless otherwise indicated in "Remarks." The objectors deny all other averments contained within this section, including the amount of maximum annual volume of consumptive use per acre in the northern and southern portions of the basin, all of which is beyond the scope of any power or authority vested in the Director or the Department, and contrary to fact; historical use; established, vested, decreed, licensed or permitted rights.

15. AMOUNT OF COMBINED WATER RIGHTS FOR IRRIGATION. (DRP-I at page 15)

The specific averments have no relationship to or basis in fact relating to the individual needs or rights of the objectors, and accordingly, objectors deny this section in its entirety. In addition, no statutory or regulatory authority exists conferring upon the Director, or the Department, the power to limit use and ownership of objectors' private property rights as alleged.

16. DIVERSION RATES IN EXCESS OF .02 CFS PER ACRE. (DRP-I at page 15 - 16)

The objectors deny the averments contained in this section in its entirety.

17. INSTRUCTIONS FOR USE OF LIST OF RECOMMENDED WATER RIGHTS. (DRP-I at page A-i, A-ii and A-iii)

The objectors admit that each water right in the list of recommended water rights includes a description including right number, name and address, source, maximum quantity, consumptive use, priority date, point of diversion, purpose of use, period of use, place of use, basis of right and others. The objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred in said descriptions other than that the descriptions allegedly include the Director's or Department's version of the facts as they relate to the matters identified. Objectors deny the accuracy of the substantive allegations or information set forth with regard to the objectors' right.

18. IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW. (DRP-I, pages A-1 - B-25)

The objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred in said recommended water rights other than those specific admissions contained in Questions 1 - 12 of the attached individual objection, and therefore deny the same.

DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36)

(DIRECTOR'S REPORT PART II)

I.

Objectors do not understand the allegations, averments or contents of Part II of the Director's Report for Reporting Area 3 (Basin 36) to pertain or relate to objectors or their claims, and do not believe any response is required. To the extent a response is required, objectors deny the same in its entirety.

DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36)

(DIRECTOR'S REPORT PART III)

I.

No report denominated as Part III of the Director's Report for Reporting Area 3 (Basin 36) has been filed, and accordingly objectors are unable to admit, deny or otherwise response to the same. Objectors do not understand that the contemplated subject matter of such Part III will relate or pertain to objectors or their claims, and no response is required in any case. To the extent any response is required, objectors deny the same in its entirety.

VIII.

AFFIRMATIVE DEFENSES

Pursuant to I.R.C.P. 8(c), objectors herewith state the following matters of affirmative defense or avoidance:

AFFIRMATIVE DEFENSE NO. 1

The objectors' water right is an incorporeal form of real property (as defined by Idaho Code Sections 7-703, 73-114, 55-101,

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and like statutes) protected by Section 14, Article 1, of the Idaho Constitution, and the Fifth Amendment to the United States Constitution, and allege that the actions of the Director in recommending, limiting and/or regulating said rights is an unconstitutional infringement upon and a taking of private property, without just compensation and violation thereof.

AFFIRMATIVE DEFENSE NO. 2

The adjudication authorization legislation, I.C. Section 42-1401, et seq., on its face and as applied by the Director and the Department constitutes an improper delegation of constitutional power and authority conferred upon the executive, legislative and/or judicial branches of government and as such violate the provisions governing separation of powers set forth in Article 2, Section 1, Idaho Constitution.

AFFIRMATIVE DEFENSE NO. 3

The procedure set forth in the adjudication authorization legislation, statutes, I.C. Section 42-1401, et seq., and any rules, regulations, procedures, policies or standards promulgated by the Director and/or the Department, if any, are vague and so lacking in reasonable specificity so as to render them impossible of reasonable comprehension, or consistent and meaningful application.

AFFIRMATIVE DEFENSE NO. 4

The procedures, rules, regulations, policies or standards, if any, adopted, implemented and applied by the Department and/or the Director violate the equal protection and due

process clauses of the Fourteenth Amendment, United States Constitution, and Article 1, Sections 2 and 13, Idaho Constitution.

AFFIRMATIVE DEFENSE NO. 5

The adjudication authorization legislation, Idaho Code Section 42-1401, et seq., and the actions of the Director and Department in recommending, limiting and/or regulating the objectors' water right constitutes a violation of 42 U.S.C. Section 1983.

AFFIRMATIVE DEFENSE NO. 6

The water right owned by the objectors is the subject of valid existing decrees issued by the Director and Department, which decrees are binding upon the State of Idaho, the Department and the Director. As a result, the State of Idaho, the Department and the Director are precluded by the doctrines of res judicata, collateral estoppel, judicial estoppel and the like from relitigating or questioning the validity, existence or priority of such right, and/or from taking any position in the Director's Report, or otherwise, which is inconsistent with such decrees.

AFFIRMATIVE DEFENSE NO. 7

The Director's recommendations are contrary to decreed rights, historical use and extent licenses and permits issued by the Department. There has been no forfeiture nor abandonment of the objectors' water rights, nor have the objectors' water rights been prescriptively or adversely possessed, nor have such decrees been vacated or such licenses and permits revoked.

AFFIRMATIVE DEFENSE NO. 8

The Directors' Report fails to state a claim to the extent the same asserts a forfeiture, abandonment, prescriptive or adverse acquisition or loss, or loss resulting from estoppel, of the objectors' water right in the absence of any fact upon which forfeiture, abandonment, prescriptive or adverse acquisition for loss, or loss resulting from estoppel, may be based or asserted.

AFFIRMATIVE DEFENSE NO. 9

The objectors' water right is an incorporeal form of real property, as defined by Idaho Code Sections 7-703, 73-114, 55-101, and like statutes, and, as such, pursuant to Idaho Code Section 7-904, et. seq., the actions of the Director in attempting to limit, reduce and/or regulate such rights, and the assertion of some inconsistent proprietary ownership or right to use or control by the State of Idaho, constitutes an unauthorized and invalid taking of private property without the payment of just compensation, or compliance with statutory requirements, all in violation of Title 7, Chapter 7, Idaho Code.

AFFIRMATIVE DEFENSE NO. 10

The actions of the Director, the Department and their agents, servants and employees in recommending, limiting, reducing and/or regulating objector's water rights, either as alleged in the Director's Report or as in fact applied, violates objectors' rights as secured by Art. 1, Section 1; Art. 15, Sections 3, 4 and/or 5; and/or as otherwise provided in the Constitution of the State of Idaho.

AFFIRMATIVE DEFENSE NO. 11

The various allegations, statements and assertions contained in the Director's Report concerning the Department and/or the Director's position or intentions with regard to the adjudication, as well as the implementation of statutes and/or regulations, as well as the administration of water or management of water rights or claims to the beneficial uses of water, if implemented, constitute a violation of various provisions the United States and Idaho constitutions, and/or a violation of the letter, spirit and/or intent of various statutes enacted by the legislature, and/or constitute an exercise of purported authority or powers either in excess of those conferred by law, or in a manner inconsistent with those conferred by law, or both.

AFFIRMATIVE DEFENSE NO. 12

The individual recommendations relating to the specific water right of the objectors as set forth in the Director's Report are (1) not based upon substantial evidence and/or are not, in fact, the product of any reasonable, complete or accurate investigation as required by law; (2) are the product of arbitrary and capricious action on the part of the Department or the Director; (3) have been made in excess of the constitutional and statutory authority of the Department and the Director; (4) have been made upon an unlawful and invalid procedure; (5) are affected by various and sundry errors of law; and/or (6) are clearly erroneous in view of the reliable, probative and substantial evidence.

AFFIRMATIVE DEFENSE NO. 13

The Director's Report is a pleading subject to the provisions of the Idaho Rules of Civil Procedure, including, but not limited to the requirement of I.R.C.P. 8(a)(1) that such pleadings contain a clear and plain statement of the facts, demonstrating an entitlement to relief. The Director's Report violates such provision.

AFFIRMATIVE DEFENSE NO. 14

The Director's Report fails to state a claim upon which relief may be granted.

AFFIRMATIVE DEFENSE NO. 15

The Director's Report is subject to, and must comply with, the requirements of Idaho Code Section 42-1411. The Director's Report does not comply with the requirements of the statute.

AFFIRMATIVE DEFENSE NO. 16

In conducting the investigation and compiling the Director's Report, the Department and the Director have not complied with the requirements of Idaho Code Section 42-1410.

AFFIRMATIVE DEFENSE NO. 17

In conducting the investigation and compiling the Director's Report, the Department and the Director have not complied with the requirements of Idaho Code Section 42-1416.

AFFIRMATIVE DEFENSE NO. 18

The procedures specified in the authorizing legislation and procedural rules promulgated in accordance therewith serve to

deny objectors due process of law in violation of Amendment Fourteen to the Constitution of the United States and Art. 1, Section 13, Idaho Constitution.

AFFIRMATIVE DEFENSE NO. 19

The "General Provisions" and "Other Statements" contained in the Director's Report, along with the Claims Investigation Manual, Adjudication Memoranda and other materials of a similar nature used or employed by the Department, the Director and/or their agents, servants and/or employees constitute rules and regulations which were required to be proposed, promulgated, adopted and approved in conformity with the Administrative Procedures Act and other applicable statutory provisions. The Department, Director and their agents, servants and employees have failed to comply with such requirements, and accordingly, the "General Provisions," "Other Statements", Claims Investigation Manual and the like are invalid, void and of no force or effect.

AFFIRMATIVE DEFENSE NO. 20

Neither the "General Conditions," the Claims Adjudication Manual, Adjudication Memoranda or other promulgations, adoptions, policies, or the like have been submitted to or approved by the Legislature as required by Idaho Code Section 67-5217.

AFFIRMATIVE DEFENSE NO. 21

The relief requested by the Department and the Director in the Director's Report are beyond and in excess of the subject matter jurisdiction of the Court.

AFFIRMATIVE DEFENSE NO. 22

The actions of the Legislature, or the Department and the Director to enact, adopt, implement or enforce statutes, regulations, rules or policies subsequent to November 19, 1987, and to apply or enforce the same for the purpose of, or with the effect of recommending, diminishing or altering objectors' water rights, constitute a violation of Amendment Fourteen, United States Constitution; Art. 1, Section 13, Idaho Constitution; the SRBA authorization legislation; and Idaho Code Sections 73-101 and 73-106.

AFFIRMATIVE DEFENSE NO. 23

These proceedings are subject to the requirements and provisions of Idaho Code Sections 12-117, 12-121, 12-123 and I.R.C.P. 11, and the provisions of the private attorney general doctrine, and other related doctrines, and the Department, Director and State of Idaho are obligated to objectors for the payment and reimbursement of any and all reasonable costs or attorney fees incurred herein.

AFFIRMATIVE DEFENSE NO. 24

The Director's Report asserts what amounts to be a taking of private property by power of eminent domain as governed by Idaho Code Section 7-701 et seq., and as such, venue is therefore improper.

AFFIRMATIVE DEFENSE NO. 25

The Department and the Director are equitably estopped from seeking any reduction in the quantity, quality or priority of

objectors' water rights by virtue of prior statements, representations and actions of the Department, Director or their agents, servants and employees.

AFFIRMATIVE DEFENSE NO. 26

The Department and the Director are barred by laches and the applicable statutes of limitation, including, but not limited to, Idaho Code Sections 5-202, 5-203, 5-204, 5-206, 5-207, 5-208, 5-215, 5-218, 5-219(2), 5-224 and/or 5-241.

AFFIRMATIVE DEFENSE NO. 27

Objectors hereby reserve the right to assert any further affirmative defenses not expressly stated herein, but which subsequently become apparent.

WHEREFORE, the objectors pray for judgment as follows:

1. That the State of Idaho take nothing by reason of its Directors' Report, and that this action, and any claims asserted against objectors, be dismissed.
2. That a decree be entered adjudicating the existence, validity, amount and priority of objectors' water rights in accordance with objectors' claims.
3. That to the extent the acts of the Department or Director constitute a taking of objectors' property for public use, that objectors be allowed and awarded just compensation therefor.
4. That the objectors be allowed all costs of suit and reasonable attorney fees incurred herein.
5. For such further relief to which the Court finds objectors justly entitled.

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(WATER\21530ANS)

R PROOF



CVR



MAPS



PHOTOS



MISC



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FEB 07 1993

Water Right Number - R36-10283B Prefix Translation: RESEARCH Old (D) Number -

*** C - CURRENT OWNER ***
GRIGG MATTIE P
1 - PO BOX 278-A
2 -
3 -
City- HAGERMAN
Phone - 208-837-6237
State- ID Zip- 83332
1 - PO BOX 278-A
2 -
3 -
City- HAGERMAN
Phone - 208-837-6237
State- ID Zip- 83332

GRIGG GOLDEN T

Priority Date - 06/26/1881 Region - ERROR IN REGION Stage - D - DECREED Status -

Source - BILLINGSLEY CREEK
Tributary - SNAKE RIVER
Twn - Rng - Sec - Tract - Lot - RFlg - County - Point of Diversion -
07S 13E 11 NW SE NE (47) GOODING

Code	Description	Period From	Water Use	Period To	Diversion Rate	Diversion Volume
01 - IRRIGATION		04/01	10/31		0.200	
04 - STOCKWATER		11/01	03/31		0.030	
04 - STOCKWATER		04/01	10/31		0.020	

Total Div. Rate - 0.200 Total Div. Volume - Total Consumptive Use - 15.0 KW Usage -

Twn	Rng	Sec	Tract	Lot	Acres	Place of Use	Description	County
07S	13E	11	NW NE		5.0	01 IRRIGATION		(47) GOODING
07S	13E	11	NW NE			04 STOCKWATER		(47) GOODING

Total Acres: 5.0

- - - Diversion Means - VIA JOHN BELL, PIPE, AND PADGETT DITCHES.
- - - Non-Irrigation Use - STOCKWATER, 20 CATTLE
- - - Other Rights for Same Use - NONE

Changed season of use
for stockwater to agree
with use season
K KC
10-21-92

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FEB 07 1993

Prefix Translation: RESEARCH

WATER I DELIVERED THROUGH THE PADGETT DITCH.
0.01 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF THIS RIGHT DURING THE IRRIGATION SEASON.
0.02 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF THIS RIGHT DURING THE NON-IRRIGATION
SEASON.
A DIVERSION RATE OF .20 CFS AT THE FIELD HEADGATE IS
RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.
THIS RIGHT IS A COMBINATION OF OLD RIGHT NOS. 36-00094,
36-00095 AND 36-00096.

MICROFILMED
+ FEB 07 1993 +

-	-	-
+ - - Decree Plaintiff - - +	+ - - Decree Defendant - - +	+ - Decree Date - + 00/00/0000

08/18/92 THORNTON

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	- 1602
Response Filed Date	- 00/00/0000	Verified Date	- 08/18/1992	Old Judicial District	-
Claim Received Date	- 07/28/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- X999999	Water District	- 36A
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- OR	Presumption Flag	-
				Notice of Error Flag	-

SPLIT

CLAIM NUMBER: A36-10283 B

02:05:29
07/03/90

WR ELEMENT	FIELD EXAM Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	VERIFIED BY CODE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE	Y			N		447 7/30/92	OP	
POINT OF DIV	Y			N	1/5			
SOURCE	Y			N				
PLACE OF USE	Y		7-24-90 SCC/HHT	Y	1/4/5			
DIV. AMOUNT CFS/VOLUME	Y			Y	C. Details			
CONSUMPTIVE USE	-			Y				
PURPOSES	Y			N				
PERIOD OF USE	Y			N				
BASIS OF CLAIM	Y			N				
REMARKS	Y			N				

"VERIFIED BY" CODES

TOPO MAP/ORTHO-PQ = 1
 ASCS MAP = 2
 WATERMASTER RECORDS = 3
 NAPP PHOTOS = 4
 FIELD EXAM = 5
 OTHER (SEE REMARKS) = 6

THESE CODES ARE USED TO INDICATE HOW THE FIELD EXAMINER VERIFIED THE INFORMATION USED FOR THIS FIELD EXAMINATION. INDICATED ARE ALL CODES WHICH APPLY.

SPLIT:

A36-10283A YA-TA-HAY

A36-10283B

GR166 - See A portion for photos

A portion also contains original claim

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FEB 07 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-10283

02:05:29
07/03/90

LAST: YA-TA-HAY INVESTMENTS, INC.
ADDRESS: 813 W. KIOWA
CITY: HOBBS
PHONE NUMBER: 505-392-1132
OWNER CODE: C
FIRST: NM
STATE: NM
ZIP: 88240

LAST: BARRETT
ADDRESS: 813 W. KIOWA
CITY: HOBBS
PHONE NUMBER: 505-392-1132
OWNER CODE: C
FIRST: MARY RUTH
STATE: NM
ZIP: 88240

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

CLAIM REMARKS: THIS CLAIM COMBINES THESE LICENSES: 36-0094, 36-0095, & 36-0096.

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FEB 07 1993

CONTACT PERSON: _____

PHONE NUMBER: (____) ____-____

DATE OF FIELD EXAM: ____/____/____

APPOINTMENT MADE: Y(____) N(____)

TIME: ____:____ A(____) P(____)

ACCOMPANIED BY: _____

PHONE NUMBER: (____) ____-____

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / REMARKS:

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FEB 07 1993

B

A. AJ CLAIM: # A36-10283 PRIORITY DATE: 06-26-1881 STAGE: D

B. WR RECORD: NO WATER RIGHT RECORD TO MATCH THIS AJ CLAIM

C. FIELD EXAM REQUIRED?

DUE TO PRIORITY DATE DISCREPANCY? (Y/N)

DATABASE Y FIELD EXAMINER N

ARE THERE OBVIOUS REASONS TO QUESTION THE PRIORITY DATE CLAIMED? Y() N(X)
IF YES EXPLAIN.

REMARKS:

Matches Diverse Pto.

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RECOMMENDED PRIORITY DATE

DL

REVIEWED BY

SCC

DATE

1-4-91

36-07834
36-07840
36-07853
36-07875
36-07957
36-08058
36-08319
36-08335

SOURCE: BILLINGSLEY CREEK

TRIB: SNAKE RIVER

B. WR POINT OF DIVERSION AND SOURCE:

THERE IS NO WATER RIGHT RECORD WITH THE SAME CLAIM NUMBER

SOURCE: NO SOURCE FOR RECORD

TRIB: NO TRIBUTARY FOR RECORD

C. FIELD EXAM REQUIRED?

DUE TO POD DISCREPANCY?	(Y/N)	DATABASE	FIELD EXAMINER
DUE TO SOURCE DISCREPANCY?	(Y/N)	Y	

REMARKS:

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	COUNTY
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SOURCE:

REVIEWED BY:

SEC

TRIB:

DATE:

1-9-91

VIA JOHN BELL DITCH

PADGETT DITCH

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FEB 07 1993

A. ROOT WATER RIGHT NUMBERS: A36-10283

B. POU LISTING

TWP RING SEC 1/4 1/4 LOT NAME

AJ
#/ACRESWR
#/ACRESLANDSAT
DATAFIELD
EXAM.RECOMM.
ACRES

07S 13E 2 SW NE 2

YA-TA-HAY INVESTMENTS, INC.

A36-10283 / 6.0

-

-

2.0

2.0

07S 13E 2 SW NE 2

GOSI, PHILLIP C.

A36-04033 /

-

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-

-

07S 13E 2 SW NE 2

GOSI, PHILLIP C.

A36-10260 /

-

-

-

-

07S 13E 2 SW NE 2

ELGAN, DOUGLAS L.

A37-04366 / 7.0

37-04366

7.0

-

-

07S 13E 2 SW NE 2

GOSI, MARILYN L.

A36-00076A / 6.0

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-

-

-

07S 13E 2 SW NE 2

GLAUNER, JOHN

A36-00052 /

36-00052

-

-

-

07S 13E 2 SW NE 2

LEWELLEN, ROY

A36-00076 /

36-00076

-

-

-

07S 13E 2 SW NE 2

SANBORN, JOHN C.

A36-00094 /

36-00094

-

-

-

07S 13E 2 SW NE 2

SANBORN, JOHN C.

A36-00096 /

36-00096

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-

07S 13E 2 SW NE 2

YA-TA-HAY INVESTMENTS, INC.

A36-10283 /

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-

07S 13E 2 SW NE 2

GOSI, PHILLIP C.

A36-04033 /

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07S 13E 2 SW NE 2

GOSI, PHILLIP C.

A36-10260 /

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-

07S 13E 2 SW NE 2

ELGAN, DOUGLAS L.

A37-04366 / 7.0

37-04366

7.0

-

-

07S 13E 2 SW NE 2

GOSI, MARILYN L.

A36-00076A / 6.0

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-

-

07S 13E 2 SW NE 2

GLAUNER, JOHN

A36-00052 /

36-00052

-

-

-

07S 13E 2 SW NE 2

LEWELLEN, ROY

A36-00076 /

36-00076

-

-

-

07S 13E 2 SW NE 2

SANBORN, JOHN C.

A36-00094 /

36-00094

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-

-

07S 13E 2 SW NE 2

SANBORN, JOHN C.

A36-00096 /

36-00096

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07S 13E 2 SW NE 2

YA-TA-HAY INVESTMENTS, INC.

A36-10283 / 21.0

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07S 13E 2 SW NE 2

SANBORN, JOHN C.

A36-00094 /

36-00094

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07S 13E 2 SW NE 2

SANBORN, JOHN C.

A36-00095 /

36-00095

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07S 13E 2 SW NE 2

SANBORN, JOHN C.

A36-00096 /

36-00096

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-

07S 13E 2 SW NE 2

HARDY, EARL M.

A36-08319 /

36-08319

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07S 13E 2 SW NE 2

YA-TA-HAY INVESTMENTS, INC.

A36-10283 /

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07S 13E 2 SW NE 2

SANBORN, JOHN C.

A36-00094 /

36-00094

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07S 13E 2 SW NE 2

SANBORN, JOHN C.

A36-00095 /

36-00095

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07S 13E 2 SW NE 2

SANBORN, JOHN C.

A36-00096 /

36-00096

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-

07S 13E 2 SW NE 2

HARDY, EARL M.

A36-08319 /

36-08319

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-

07S 13E 2 SW NE 2

HARDY, EARL M.

A36-08319 /

36-08319

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07S 13E 2 SW NE 2

YA-TA-HAY INVESTMENTS, INC.

A36-10283 / 8.0

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07S 13E 2 SW NE 2

IDAHO POWER CO.

A02-02001A /

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07S 13E 2 SW NE 2

IDAHO POWER CO.

A02-02001B /

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07S 13E 2 SW NE 2

IDAHO POWER CO.

A02-020060 /

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-

-

07S 13E 2 SW NE 2

SANBORN, JOHN C.

A36-00094 /

36-00094

-

-

-

SANBORN, JOHN C.
 SANBORN, JOHN C.
 IDAHO POWER CO.
 IDAHO POWER CO.
 IDAHO POWER CO.
 IDAHO POWER CO.
 IDAHO POWER CO.
 IDAHO POWER CO.

36-00095
 36-00096
 36-02082
 A02-02001A
 A02-02001B
 A02-02059
 A02-02060

07S 13E 2 SE SW 7

YA-TA-HAY INVESTMENTS, INC.
 IDAHO POWER CO.
 IDAHO POWER CO.
 IDAHO POWER CO.
 IDAHO POWER CO.
 IDAHO POWER CO.
 IDAHO POWER CO.

A36-10283 /
 A02-02001A /
 A02-02001B /
 A02-02060 /

Section

SANBORN, JOHN C.
 SANBORN, JOHN C.
 IDAHO POWER CO.
 IDAHO POWER CO.
 IDAHO POWER CO.
 IDAHO POWER CO.
 IDAHO POWER CO.

36-00094
 36-00095
 36-00096
 36-02082
 A02-02001A
 A02-02001B
 A02-02059
 A02-02060

07S 13E 2 NW SE

YA-TA-HAY INVESTMENTS, INC.
 ZABALA, CARMEN M.
 ZABALA, CARMEN M.
 ZABALA, IGNACIO NICK
 ZABALA, CARMEN M.
 GLAUNER, JOHN
 GLAUNER, JOHN
 SANBORN, JOHN C.
 SANBORN, JOHN C.
 SANBORN, JOHN C.
 YA TA HAY INVESTMENTS INC

A36-10283 /30.0
 A36-10312 / 1.0
 A36-08320 /
 A36-10314 /
 A36-00051C / 4.0

39.0

17

17

07S 13E 2 NW SE

YA-TA-HAY INVESTMENTS, INC.
 ZABALA, CARMEN M.
 ZABALA, CARMEN M.
 ZABALA, IGNACIO NICK
 ZABALA, CARMEN M.
 GLAUNER, JOHN
 GLAUNER, JOHN
 SANBORN, JOHN C.
 SANBORN, JOHN C.
 SANBORN, JOHN C.
 YA TA HAY INVESTMENTS INC

A36-10283 /
 A36-10312 / 1.0
 A36-08320 /
 A36-10314 /
 A36-00051C / 4.0

39.0

Section

SANBORN, JOHN C.
 SANBORN, JOHN C.
 IDAHO POWER CO.
 IDAHO POWER CO.
 IDAHO POWER CO.
 IDAHO POWER CO.
 IDAHO POWER CO.

36-00051
 36-00054
 36-00094
 36-00095
 36-00096
 36-07875

07S 13E 2 SW SE

YA-TA-HAY INVESTMENTS, INC.
 SANBORN, JOHN C.
 SANBORN, JOHN C.
 SANBORN, JOHN C.
 SANBORN, JOHN C.
 YA TA HAY INVESTMENTS INC

A36-10283 /40.0
 A36-10312 /
 A36-08320 /
 A36-10314 /
 A36-00051C / 4.0

42.0

25

25

07S 13E 2 SW SE

YA-TA-HAY INVESTMENTS, INC.
 SANBORN, JOHN C.
 SANBORN, JOHN C.
 SANBORN, JOHN C.
 SANBORN, JOHN C.
 YA TA HAY INVESTMENTS INC

A36-10283 /
 A36-10312 /
 A36-08320 /
 A36-10314 /
 A36-00051C / 4.0

42.0

Stock

07S 13E 11 NW NE

YA-TA-HAY INVESTMENTS, INC.
 YA-TA-HAY INVESTMENTS, INC.

A36-10283 /40.0
 A36-10282 /

35.0

15

15

THIS TRACT IS SPLIT

A 10 Ac.
 B 5 Ac.

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 FEB 07 1993

STURTEVANT, JOYCE A36-00035B /13.0 36-00035B /13.0
SANBORN, JOHN C. 36-00094 /
SANBORN, JOHN C. 36-00095 /
SANBORN, JOHN C. 36-00096 /
YA TA HAY INVESTMENTS INC 36-07875 /

07S 13E 11 NW NE
YA-TA-HAY INVESTMENTS, INC. A36-10283 / 35.0
YA-TA-HAY INVESTMENTS, INC. A36-10282 /
STURTEVANT, JOYCE A36-00035B /13.0
SANBORN, JOHN C. 36-00094 /
SANBORN, JOHN C. 36-00095 /
SANBORN, JOHN C. 36-00096 /
YA TA HAY INVESTMENTS INC 36-07875 /

07S 13E 2 SE NW 3
YA-TA-HAY INVESTMENTS, INC. A36-10283 / 2.0
SANBORN, JOHN C. 36-00094 /
SANBORN, JOHN C. 36-00095 /
SANBORN, JOHN C. 36-00096 /
HARDY, EARL M. 36-08319 /

TOTAL ACRES A36-10283 147.00 232.00

ARE IRRIGATED ACRES FOUND IN TRACTS OTHER THAN INDICATED ABOVE, Y () N (X)

C. FIELD EXAM REQUIRED?
DUE TO POU DISCREPANCY? (Y/N) Y
PRESUMPTION FLAG: X
FIELD EXAMINER

REMARKS:

Field exam photos taken 7-24-90

RECOMMENDATIONS:

TOTAL ACRES: 59.0
REVIEWED BY: SCU DATE: 14-91

Split ⑧ 5.0 Acres

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59

A. AJ CLAIMED USES:

PURPOSES
A36-10283 IRRIGATION
A36-10283 STOCKWATER

MONTH/DAY
FROM 03-15 TO 11-15
FROM 01-01 TO 12-31

TOTAL DIVERSION RATE/VOLUME CLAIMED

DIVERSION QUANTITY
7.500 CFS
.120 CFS
7.500 CFS

B. WR RECORDED USES:

PURPOSES

MONTH/DAY

TOTAL DIVERSION RATE/VOLUME CLAIMED

DIVERSION QUANTITY

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

	Y/N	Y	N	FIELD EXAMINER
DUE TO WATER-USE DISCREPANCY?	(Y/N)	Y	N	
DUE TO DIVERSION RATE DISCREPANCY?	(Y/N)	Y	N	
DUE TO PERIOD FROM/TO DISCREPANCY?	(Y/N)	Y	N	

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

RECOMMEND TO WR STANDARDS OR OTHER?

REMARKS:

Y (X) N ()
Y () N (X)

Explain in remarks, below.

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A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

AF TOTAL CLAIMED DIVERSION RATE: 7.500 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: CFS

*** IF NO or IF STATUTORY CLAIM or BENEFICIAL USE then flow measurement required. ***
** If an amount smaller than the original diversion rate is **
** claimed and an exam is NOT required, explain in remarks. **

FLOW MEASUREMENT REQUIRED?

DUE TO STAGE OR DIVERSION RATE DISCREPANCY? (Y/N) Y

FIELD DATABASE EXAMINER

0.60
1.20
5.170
7.5

B.

MEASUREMENT METHOD _____, SEE ATTACHED CALCULATIONS.

FLOW MEASUREMENT

C. ARE OTHER WATER RIGHTS USED? Y() N() IF YES COMPLETE OVERLAP REVIEW.

OTHER RIGHTS LISTED IN CLAIM: NONE

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

CLAIM	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A36-10283	BILLINGSLEY CREEK	VA-TA-HAY INVESTMENTS, INC.	7.500	0.051		
A37-04366	UNNAMED STREAM	ELGAN, DOUGLAS L.	0.500	0.071		
A36-10312	BILLINGSLEY CREEK	ZABALA, CARMEN M.	0.050	0.050		
A36-00051C	BILLINGSLEY CREEK	ZABALA, CARMEN M.	0.150	0.037		
A36-00035B	BILLINGSLEY CREEK	STURTERVANT, JOYCE	0.600	0.046		

LIST ALL RIGHTS WITH SAME POU BUT NOT USED FOR IRRIGATION.

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A36-10283	STOCKWATER	VA-TA-HAY INVESTMENTS, INC.	FROM 01-01 TO 12-31	.120 CFS	
A36-04033	STOCKWATER	GOSSI, PHILLIP C.	FROM 01-01 TO 12-31	.020 CFS	
A36-04033	DOMESTIC	GOSSI, PHILLIP C.	FROM 01-01 TO 12-31	.040 CFS	
A36-10260	DOMESTIC	GOSSI, PHILLIP C.	FROM 01-01 TO 12-31	.040 CFS	
A36-10260	STOCKWATER	GOSSI, PHILLIP C.	FROM 01-01 TO 12-31	.020 CFS	
A02-02001A	POWER	IDAHO POWER CO.	FROM 01-01 TO 12-31	1700.000 CFS	
A02-02001B	POWER	IDAHO POWER CO.	FROM 01-01 TO 12-31	1300.000 CFS	
A02-02060	POWER	IDAHO POWER CO.	FROM 01-01 TO 12-31	1400.000 CFS	
A36-08320	DOMESTIC	ZABALA, CARMEN M.	FROM 01-01 TO 12-31	.040 CFS	
A36-10314	DOMESTIC	ZABALA, IGNACIO NICK	FROM 01-01 TO 12-31	.040 CFS	
A36-00051C	STOCKWATER	ZABALA, CARMEN M.	FROM 01-01 TO 12-31	.020 CFS	
A36-10282	DOMESTIC	VA-TA-HAY INVESTMENTS, INC.	FROM 01-01 TO 12-31	.080 CFS	

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D.

RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE

ACRES 59 x 0.02 CFS/ACRE = 1.18 CFS
(Taken from p/u review)

1b. CALCULATIONS

DOES AMOUNT CLAIMED EXCEED 0.02 CFS/ACRE?

☒ () ☐ ()

*** IF YES ADDITIONAL WATER USE FORM FILED AND ATTACHED? ☐ () ☒ () ***

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 420.0 AF/A

ACRES 59 x CONSUMPTIVE VOL. AF/A FOR AREA 3 =

TOTAL CONSUMPTIVE USE 177 AF/A

3. IRRIGATION DIVERSTION VOLUME

CLAIMED DIVERSTION VOLUME = AF/A

ACRES 59 x DIVERSTION VOL. AF/A FOR AREA 4 =

TOTAL DIVERSTION VOLUME 236 AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? ☐ () ☐ ()

REMARKS: (Include limitations on CONSUMPTIVE USE for combined rights.)

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RECOMMENDATIONS:

REC. PERIOD
PURPOSES FROM TO

REC. DIV
RATE CFS

REC. DIV
VOL. AF/A

REC. CONS.
USE

IRIGATION 3-15 11-15
STOCKWATER 1-1 12-31

TOTAL FOR THIS RIGHT

REVIEWED BY: See

DATE: 1-4-91

DATABASE EXAMINER	DATABASE EXAMINER	DATABASE EXAMINER
236	236	177
0.12	+	177
236	236	177

$$WR \text{ Proportional Rate} = \frac{7.5 \text{ cfs}}{175 \text{ Ac.}} = 0.0428 \text{ cfs/Ac.}$$

SPLIT

A36-10283 B

0.20

20

15

(allowed this rate)

split right in rate = .30 cfs for div.

calc based upon 8 day rotation is 8/24 =

.26 cfs

Recommend

KKC

7-28-92

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A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP _____
FORFEIT/ABANDON _____
ADDITIONAL DIV. AMOUNT _____

ACCEPTED AS CLAIMED ()
NEEDS REVIEW ()
() ()
() ()

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-10283
TOTAL DIVERSION RATE OF WR SPLITS 7.500
EXAMINER _____ CFS

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
A36-00094	A36-10283	7.500	-		36-00094	0.600
A36-00095	A36-10283	7.500	-		36-00095	1.200
A36-00096	A36-10283	7.500	-		36-00096	5.700

TOTAL CFS 22.500
TOTAL CFS 7.500

DIVERSION RATE REVIEW

DO THE SUM CFS RATE OF THE SPLITS EQUAL THE ROOT RIGHT CFS RATE? (Y/N)
If NO, is the written review sheet attached? (Y/N)

REMARKS:

FIELD EXAMINER
(Signature)

AUTHENTICATION:

SIGNATURE: (Signature)

NAME OF FIELD EXAMINER: _____

DATE: 1-4-91
TITLE: _____

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FEB 07 1993

AA6

10733E

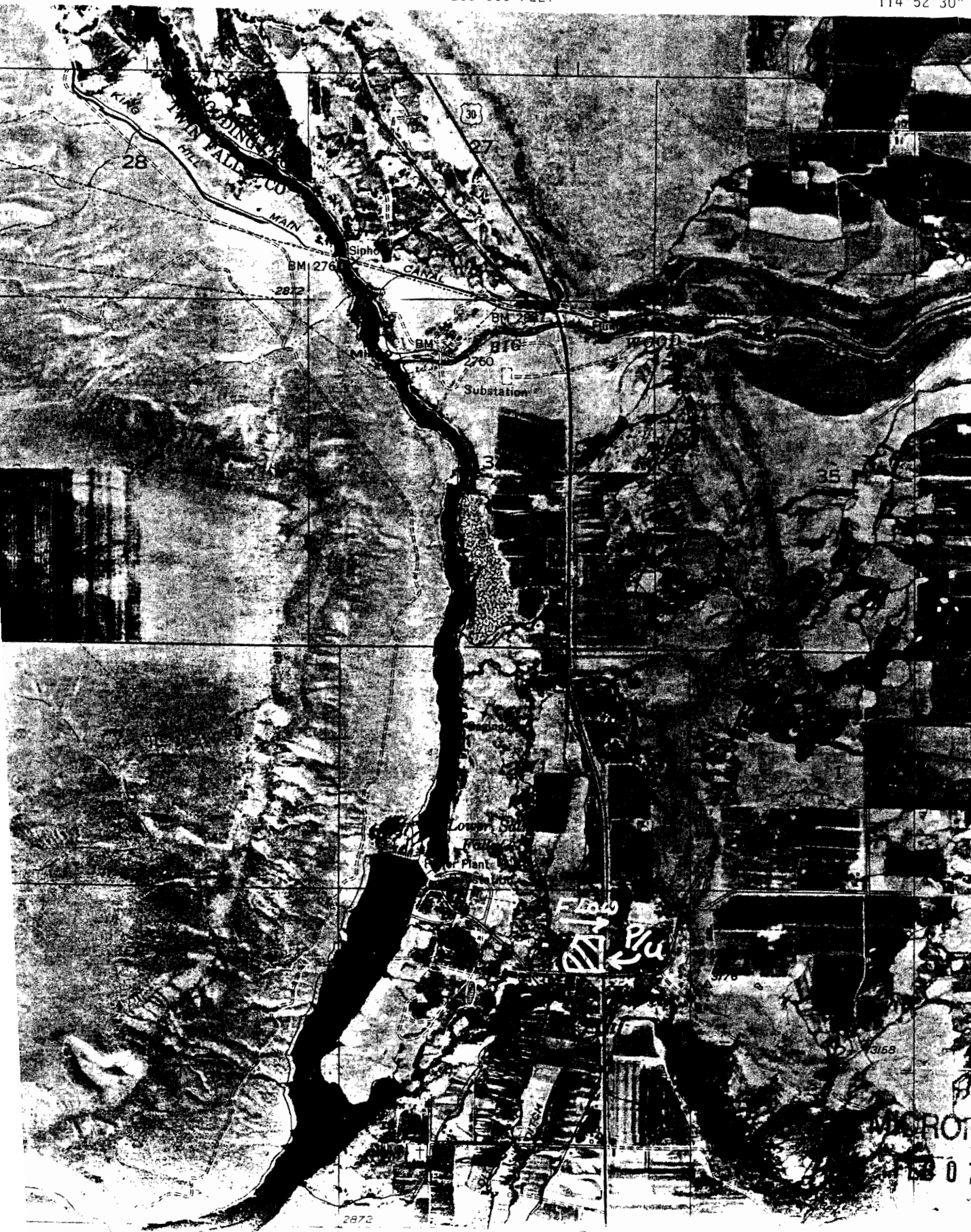
HAGERMAN ORTHOPHOTOQUAD
IDAHO

260 000 FEET

114°52'30"

42°52'30"

440 000
FEET



T
T

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FEB 07 1993

A36-10283 B

GRIGG

PARCEL I

PARCEL II

450
(630c)



PAD

MICHOI LINES

FEB 17 1993

"NOT TO SCALE"

P
a
api
71

GRADED BORDER EVALUATION

Job name: GRIGG
By: KKC

Location: A36-10283B
Date: Jul 28, 1992

Roughness coefficient (n)= 0.250 Intake family (If)=2.00
Slope (S)= 0.0300 ft/ft Border width (W)= 15 ft
Net application (Fn)= 1.99 inches Border length (L)= 363 ft
Inflow time (Ti)= 8 hours, 0 minutes

Flow per Border (cfs)	Unit Flow (cfs/ft)	Gross Application (in)	Deep Percolation (in)	Runoff (in)	Application Efficiency (percent)	Notes
0.06	Gross depth is less than required	gross application depth				
0.08	Gross depth is less than required	gross application depth				
0.10	Gross depth is less than required	gross application depth				
0.12	Gross depth is less than required	gross application depth				
0.14	Gross depth is less than required	gross application depth				
0.16	Gross depth is less than required	gross application depth				
0.18	Gross depth is less than required	gross application depth				
0.20	Gross depth is less than required	gross application depth				
0.22	Gross depth is less than required	gross application depth				
0.24	Gross depth is less than required	gross application depth				
0.26	0.017	16.50	14.30	0.22	12.1	
0.28	0.019	17.77	14.30	1.49	11.2	
0.30	0.020	19.04	14.30	2.76	10.5	

*Analysis based upon 8 pressure sets and an
approximate notation of 5.*

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FEB 07 1993

IRRIGATION ANALYSIS WORKSHEET

CLAIM NO. A36-10283B

DATE _____

AGENT _____

CLAIMANT/SYSTEM DESCRIPTION Gregg - 837-6237

IRRIGATION SYSTEM -----

ANALYSIS METHOD -----

Flood
BORDER / FURROW

TYPE OF CROP -----

MAXIMUM PROFILE DEPTH -----

INTAKE FAMILY -----

Pasture
36 INCHES2

SOIL TYPE

KOB

SYSTEM TOTAL

ACRES PER TYPE

5

ACRES

SOIL PROFILE WHC

3.98

DESIGN IRR " WHC

1.99

CROP REQUIREMENT:

REPORT AREA & FIGURE NO. -----

DAILY CROP REQUIREMENT:

1.99 (MM/DAY) / 25.4 (FACTOR IN MM/IN) ----- .08 IN/DAY

THEORETICAL ROTATION:

1.99 DESIGN IRR / .08 CROP REQ = 1.25 DAYS

ACTUAL ROTATION PRACTICED:

DRY DAYS _____ + IRR DAYS _____ = _____ DAYS

DESCRIPTION OF FIELD:

AVERAGE LENGTH RUN -----

TOTAL WIDTH OF FIELD -----

CHECK 363 L * 600 W / 43,560 = 5 ACRES

% SLOPE -----

SET TIME:

24 HOUR/DAY / 3 SET HOURS/DAY ----- TIME FACTOR 3

BORDER WIDTH:

363 WIDTH / 8 ROTATION DAYS / 3 TIME FACTOR 15.1'

FURROW / CORRUGATION WIDTH -----

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FEB 07 1993

CONVERSATION MEMORANDUM

EMPLOYEE: KKC

FILE A36-10283B

RE: irr practice

DATE 7-28-92

NAME OF PARTY Mattie Grigg

Tod Triggles irrigates place 837-6487
only home on weekends

Prop irrigate east to west. the center ripped pasture
this year but formerly no corrugations existed.
She does not know rotation days.

MICROFILMED

FEB 07 1993

