

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

~~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: _____ Please remit to the above address.

SENDER: Steve Clelland

COMMENTS: _____

DATE, TIME	05/02 10:19
FAX NO. / NAME	912083888400-540044
DURATION	00:00:33
PAGE(S)	02
RESULT	OK
MODE	STANDARD
ECM	

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

TRANSMISSION VERIFICATION REPORT

A 36-10283 A

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

RECEIVED

FEB 09 1999

Department of Water Resources
Eastern Region

1999 FEB 01 PM 03:23
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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	)	NOTICE SETTING SUBCASE
	)	FOR SCHEDULING CONFERENCE
Case No. 39576	)	
_____	)	SUBCASE NO: 36-10283A

The Scheduling Conference for this subcase will be
held as follows:

WEDNESDAY, MARCH 10, 1999 at 03:30 PM
SRBA
DISTRICT COURT
253 3RD AVENUE NORTH
TWIN FALLS, ID

Parties and their attorneys, if any, shall attend the
Scheduling Conference and shall be prepared to discuss the
following matters:

1. Claimant representation and alignment of the parties;
2. Identification of the issues;
3. Admissions of facts and documents;
4. Amendment of pleadings, if required;
5. Discovery and discovery cut-off dates;
6. Expert witnesses, if planned;
7. Pre-trial conference dates;
8. Motions;
9. Settlement/alternative dispute resolution; and
10. Firm trial date.

MAIL



23298

CLIVE STRONG
NATURAL RESOURCES
DEP AG OFFICE OF ATTY GEN
STATEHOUSE MAIL
BOISE, ID 83720-0010

(continued)

The date for the scheduling conference will not be changed unless a Stipulation to Reset is received by the court fourteen (14) days before the date of the scheduling conference. Parties who wish to change the date of the scheduling conference must do the following:

1. Contact the clerk of the SRBA Court and obtain alternative dates and times (208-736-3011).
2. Contact each party to the subcase(s) or their attorney, if any, and reach an agreement on the alternative date(s) and time(s) provided by the clerk.
3. Prepare a Stipulation to Reset the hearing. The hearing must be reset on one of the dates and times provided by the clerk. The stipulation must specify the date(s) and time(s) agreed to and must contain a statement that you have contacted each party or their attorney and that all have agreed on the alternative date(s) and time(s). The court will send a notice resetting the hearing.
4. If the parties cannot agree on one of the alternative dates and times provided by the clerk, the party wishing to change the date and time must file an Expedited Motion to Reset with the court at least 21 days prior to the scheduled hearing.

Dated: FEBRUARY 01, 1999

/S/ TERI HRANAC
Deputy Clerk
Snake River Basin Adjudication

(continued)

The date for the scheduling conference will not be changed unless a Stipulation to Reset is received by the court fourteen (14) days before the date of the scheduling conference. Parties who wish to change the date of the scheduling conference must do the following:

1. Contact the clerk of the SRBA Court and obtain alternative dates and times (208-736-3011).
2. Contact each party to the subcase(s) or their attorney, if any, and reach an agreement on the alternative date(s) and time(s) provided by the clerk.
3. Prepare a Stipulation to Reset the hearing. The hearing must be reset on one of the dates and times provided by the clerk. The stipulation must specify the date(s) and time(s) agreed to and must contain a statement that you have contacted each party or their attorney and that all have agreed on the alternative date(s) and time(s). The court will send a notice resetting the hearing.
4. If the parties cannot agree on one of the alternative dates and times provided by the clerk, the party wishing to change the date and time must file an Expedited Motion to Reset with the court at least 21 days prior to the scheduled hearing.

Dated: FEBRUARY 01, 1999

/S/ TERI HRANAC
Deputy Clerk
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I Certify that a true and correct copy of the NOTICE SETTING SUBCASE FOR SCHEDULING CONFERENCE was mailed on FEBRUARY 01, 1999, with sufficient first-class postage to the following:

STATE OF IDAHO

Represented by:

CLIVE STRONG

NATURAL RESOURCES

DEP AG OFFICE OF ATTY GEN

STATEHOUSE MAIL

BOISE, ID 83720-0010

Phone: 208-334-2400

MAY FARMS, LTD

Represented by:

JOSEPHINE P. BEEMAN

PO BOX 1427

BOISE, ID 83701-1427

Phone: 208-388-8900

YA-TA-HAY INVESTMENTS, INC.

Represented by:

PATRICK D. BROWN

812 SHOSHONE ST E

TWIN FALLS, ID 83301

Phone: 208-735-8812

YA-TA-HAY INVESTMENTS, INC.

BARRETT, MARY RUTH

813 W. KIOWA

HOBBS, NM 88240

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

RECEIVED

FEB 09 1999

Department of Water Resources
Southern Region

RECEIVED

FEB 03 1999

Department of Water Resources

1999 FEB 01 PM 03:23
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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) NOTICE SETTING SUBCASE
Case No. 39576) FOR SCHEDULING CONFERENCE
_____) SUBCASE NO: 36-10283A

The Scheduling Conference for this subcase will be
held as follows:

WEDNESDAY, MARCH 10, 1999 at 03:30 PM
SRBA
DISTRICT COURT
253 3RD AVENUE NORTH
TWIN FALLS, ID

Parties and their attorneys, if any, shall attend the
Scheduling Conference and shall be prepared to discuss the
following matters:

1. Claimant representation and alignment of the parties;
2. Identification of the issues;
3. Admissions of facts and documents;
4. Amendment of pleadings, if required;
5. Discovery and discovery cut-off dates;
6. Expert witnesses, if planned;
7. Pre-trial conference dates;
8. Motions;
9. Settlement/alternative dispute resolution; and
10. Firm trial date.

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

Page 1 2/01/99

(continued)

The date for the scheduling conference will not be changed unless a Stipulation to Reset is received by the court fourteen (14) days before the date of the scheduling conference. Parties who wish to change the date of the scheduling conference must do the following:

1. Contact the clerk of the SRBA Court and obtain alternative dates and times (208-736-3011).
2. Contact each party to the subcase(s) or their attorney, if any, and reach an agreement on the alternative date(s) and time(s) provided by the clerk.
3. Prepare a Stipulation to Reset the hearing. The hearing must be reset on one of the dates and times provided by the clerk. The stipulation must specify the date(s) and time(s) agreed to and must contain a statement that you have contacted each party or their attorney and that all have agreed on the alternative date(s) and time(s). The court will send a notice resetting the hearing.
4. If the parties cannot agree on one of the alternative dates and times provided by the clerk, the party wishing to change the date and time must file an Expedited Motion to Reset with the court at least 21 days prior to the scheduled hearing.

Dated: FEBRUARY 01, 1999

/S/ TERI HRANAC

Deputy Clerk

Snake River Basin Adjudication

CERTIFICATE OF MAILING

I Certify that a true and correct copy of the NOTICE SETTING
SUBCASE FOR SCHEDULING CONFERENCE was mailed on FEBRUARY 01, 1999,
with sufficient first-class postage to the following:

STATE OF IDAHO

Represented by:
CLIVE STRONG
NATURAL RESOURCES
DEP AG OFFICE OF ATTY GEN
STATEHOUSE MAIL
BOISE, ID 83720-0010
Phone: 208-334-2400

MAY FARMS, LTD

Represented by:
JOSEPHINE P. BEEMAN
PO BOX 1427
BOISE, ID 83701-1427
Phone: 208-388-8900

YA-TA-HAY INVESTMENTS, INC.

Represented by:
PATRICK D. BROWN
812 SHOSHONE ST E
TWIN FALLS, ID 83301
Phone: 208-735-8812

YA-TA-HAY INVESTMENTS, INC.

BARRETT, MARY RUTH
813 W. KIOWA
HOBBS, NM 88240

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

SRBA

PARTIAL DECREE 36-10283A

Issued on 11-27-2000.

This is not an official copy.

Contact IDWR or the Court for a Certified Copy.

Choose Landscape Orientation when printing.

NAME AND ADDRESS: YA-TA-HAY INVESTMENTS, INC.

MARY RUTH BARRETT

813 W. KIOWA

HOBBS, NM 88240

SOURCE:

BILLINGSLEY CREEK

TRIBUTARY: SNAKE RIVER

QUANTITY:

2.38 CFS

THE PORTION OF THIS RIGHT IN EXCESS OF 1.30 CFS IS
SUBORDINATED TO ALL GROUND WATER AND SURFACE WATER RIGHTS WITH
PRIORITY DATES OF DECEMBER 31, 1999 OR EARLIER.

PRIORITY DATE:

06/26/1881

POINT OF DIVERSION:

T07S R13E S11

NESENE

Within Gooding County

NWSENE

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

Irrigation

02-15 TO 11-30

2.38 CFS

Stockwater

02-15 TO 11-30

0.12 CFS

Stockwater

12-01 TO 02-14

0.34 CFS

THE IRRIGATION USE UNDER THIS RIGHT IN EXCESS OF 1.30 CFS IS
SUBORDINATED TO ALL WATER RIGHTS WITH PRIORITY DATES OF
DECEMBER 31, 1999 OR EARLIER.

PLACE OF USE:

Irrigation

Within Gooding County

T07S R13E S02 LOT 02 (SWNE) 2.0

NWSE 17.0

SWSE 25.0

S11

NWNE 10.0

54.0 Acres Total

Stockwater

Within Gooding County

T07S R13E S02 LOT 02 (SWNE)

NWSE

SWSE

S11 NWNE

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

THE QUANTITY OF WATER DECREED UNDER THIS RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

0.22 CFS OF THE UNSUBORDINATED PORTION OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY OF THIS RIGHT.

THE SUBORDINATED PORTION OF THIS WATER RIGHT SHALL NOT BE ASSERTED, DELIVERED, HONORED, USED, ENFORCED, EFFECTIVE, OR OTHERWISE RECOGNIZED IF IT WOULD CAUSE OR REQUIRE, EITHER DIRECTLY OR INDIRECTLY, CURTAILMENT OF, INJURY TO, OR MITIGATION FROM ANY SURFACE WATER OR GROUND WATER RIGHTS WITH PRIORITY DATES OF DECEMBER 31, 1999 OR EARLIER. THE SUBORDINATION SHALL RUN WITH AND BE A PERPETUAL SERVITUDE UPON THIS WATER RIGHT AND THE ASSOCIATED LANDS, INCLUDING ANY NEW LANDS TO WHICH ALL OR ANY PORTION OF THIS WATER RIGHT IS TRANSFERRED.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

[Return to SRBA Home Page](#)

PATRICK D. BROWN, P.C.
LAW OFFICES

RECEIVED

OCT 13 1999

Department of Water Resources
Southern Region

October 11, 1999

Mr. David Tuthill
Idaho Department of Water Resources
1341 Fillmore Street, suite 200
Twin Falls, ID 83301-3380

RE: SUBCASES NO. 36-10283A, YA-TA-HAY INVESTMENTS, INC.

Dear Mr. Tuthill:

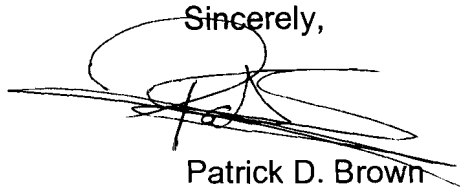
According to testimony you gave at the August 11, 1999 trial in subcase No. 36-00039D it is, and has been since 1998, IDWR's statewide policy to recommend quantities based on gravity irrigation, not on sprinkler irrigation, if the right was established by gravity irrigation.

My understanding is the recommendation in this subcase was based on a sprinkler analysis. I ask that you amend the Director's Report to reflect the quantity of water IDWR believes reasonable and necessary for flood irrigation, as of the time the right was established.

Please let me know immediately if you will amend the Director's Report accordingly or if you need any information from my client in order to do so.

Also, if for some reason you cannot or will not amend the Director's Report, please let me know, including any reasons. I look forward to hearing from you.

Sincerely,



Patrick D. Brown
Attorney at Law

pdb/tf

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. see below

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 Steve Clelland

5/20/99 3:20 PM

NAME:

RE:

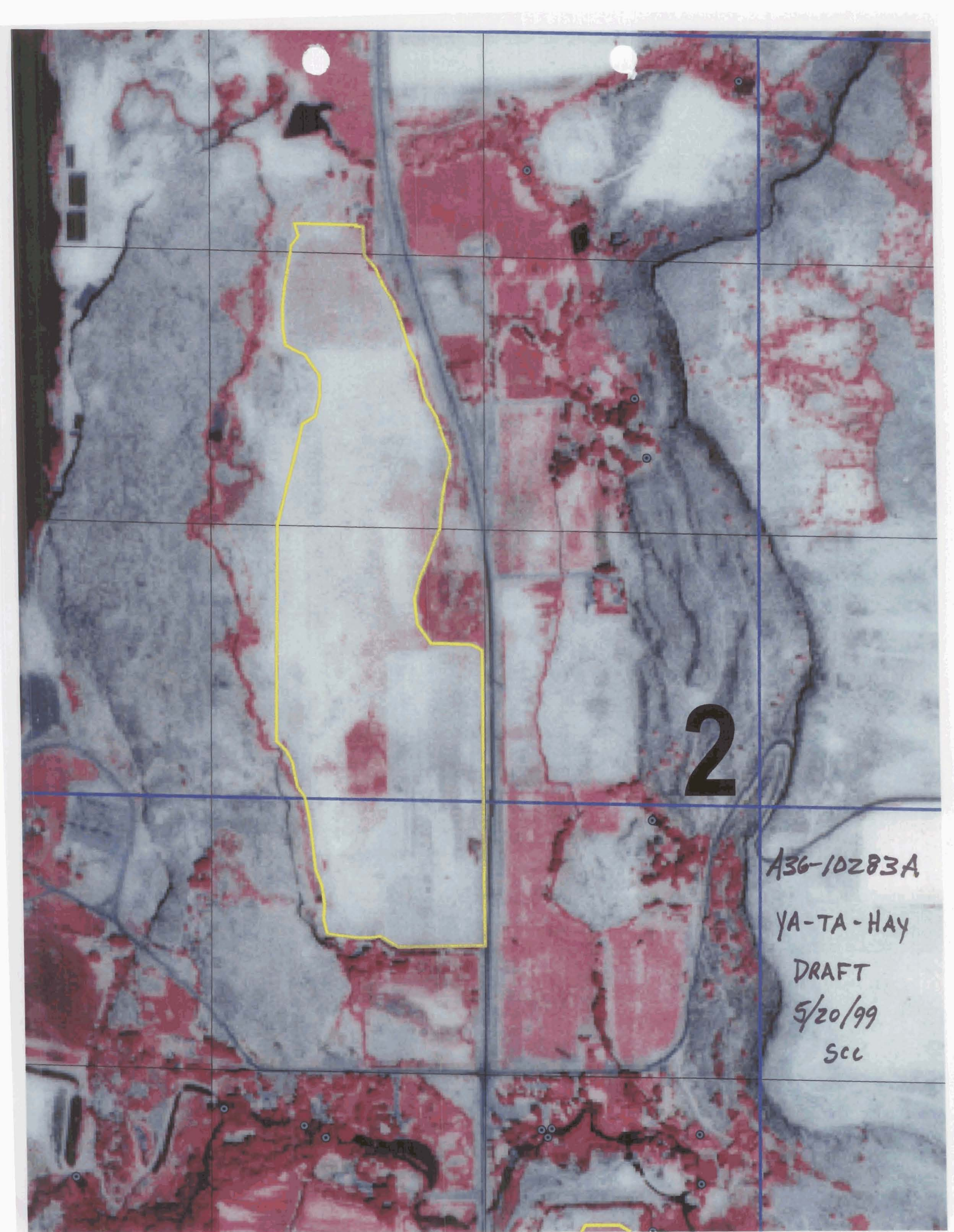
HARRY GISLER

CAMEIN

GIS REQUEST OF POU

He came in at the request of Pat Brown, his attorney, to get copies of the GIS prints. I provided a full page print of the POU area one page with IDWR's POU outline shown and one with only the GCDB and section lines. I also gave him a copy of the AA69 OPQ for the same area for comparison. (36-00021B)

I also gave him similar copies of the Ya-Ta-Hay POU for Pat's use in another case. (36-10283A)

An aerial photograph of a landscape, possibly a coastal or wetland area, with a grid overlay. A large, irregular yellow outline is drawn on the left side of the image. The number '2' is printed in a large, bold, black font in the lower right quadrant. The background is a mix of light and dark gray areas, with some red and black markings. There are two white circular marks at the top of the page, likely punch holes.

2

A36-10283A

YA-TA-HAY

DRAFT

5/20/99

SCC

36-10283A
23

RECEIVED

FEB 04 1998

Ya-Ta-Hay Investments, Inc.

Department of Water Resources

HEPWORTH, LEZAMIZ & HOHNHORST.

CHARTERED

133 Shoshone St. North

P.O. Box 389

Twin Falls, ID 83303-0389

Telephone: (208)734-7510

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO. IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

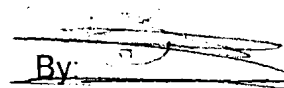
Case No. 39576

*added to blank pte fix.
K. Leard still had him.*
) Subcase No. 36-10283A - *no*
) *02-04-98*
) **NOTICE OF APPEARANCE**
)

COMES NOW the firm of Hepworth, Lezamiz & Hohnhorst, Chartered, and
appears on behalf of claimant for the water right number listed above.

Dated this ____ day of February, 1998.

HEPWORTH, LEZAMIZ & HOHNHORST,
CHARTERED

By: 
Patrick D. Brown

CERTIFICATE OF SERVICE

The undersigned, a resident attorney of the State of Idaho, with offices at 133 Shoshone St. North, P. O. Box 389, Twin Falls, Idaho 83303, and one of the attorneys for the claimant in this matter, certifies that on the 3 day of February, 1998, he served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

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

☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)

U.S. Department of Justice
Environment & Natural Resources
550 West Fort Street, MSC 033
Boise, ID 83724

☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)

IDWR Document Depository
P. O. Box 83720
Boise, ID 83720-0098

☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)

Jeffrey C. Fereday
Givens, Pursley & Huntley
P. O. Box 2720
Boise, ID 83701-2720

☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)

Josephine P. Beeman
Beeman & Hofstetter, PC
608 W. Franklin St.
Boise, ID 83702

☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)



Patrick D. Brown

(water\61158.noa)\lm

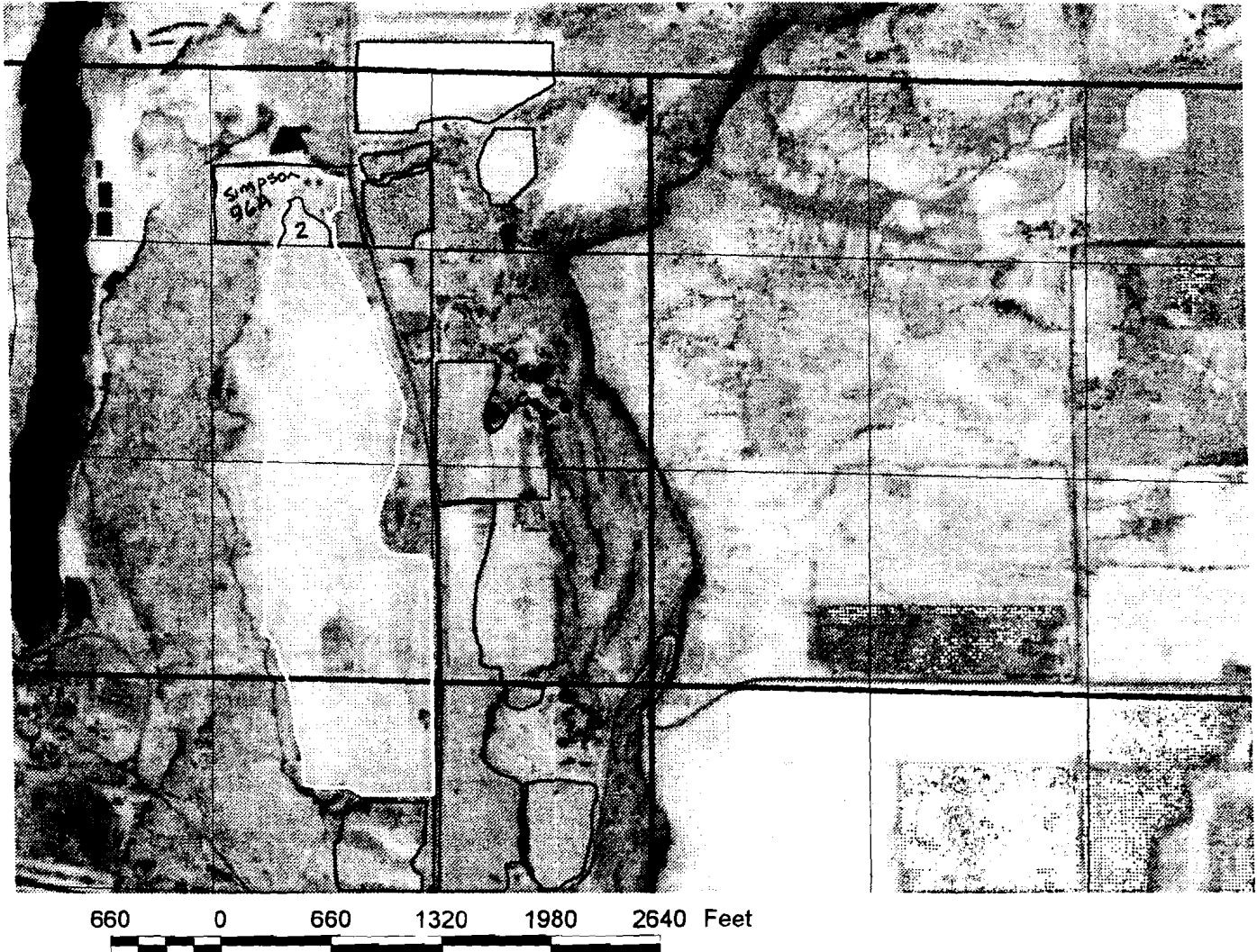
SUBCASE NO. 36-10283A

	CLAIM (7/28/88)	AMENDED CLAIM	RECOMMENDATION	OBJECTION
NAME	YA-TA-HAY Investments or Mary Barrett	N/A	YA-TA-HAY Investments Inc.	
BASIS OF CLAIM	Decree		Decree	
SOURCE	Billingsley Creek		Billingsley Creek	
QUANTITY	7.500 cfs		1.3 cfs	XX IDWR recommends an amount less than decreed &/or beneficially used.
PRIORITY DATE	06/26/1881		06/26/1881	
PURPOSE OF USE	Irrigation Stockwater		Irrigation Stockwater	XX Beneficially used for purposes set forth in notice of claim
PERIOD OF USE	Irr.: 3/15 - 11/15 S.W.: 1/1 - 12/31		Irr.: 3/15 - 11/15 S.W.: 3/15 - 11/15 .12 cfs S.W.: 11/16 - 3/14 .34 cfs	XX IDWR recommends a period of use less than decreed &/or beneficially used.
POINT OF DIVERSION	T07S R13E S11		T07S R13E S11	
PLACE OF USE	T07S R13E S02 T07S R13E S11 135.5 acres		T07S R13E S02 T07S R13E S11 54 acres	XX Director's Report fails to accurately state place of use.
REMARKS			+ see below	XX Beyond statutory authority vested in the Director.

- + Water is delivered through the Padgett Ditch and 0.19 cfs of this right is limited to use for conveyance losses in delivery of this right.
Water is delivered through the John Bell Ditch and 0.03 cfs of this right is limited to use for conveyance losses in delivery of this right.
A diversion rate of 1.08 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.

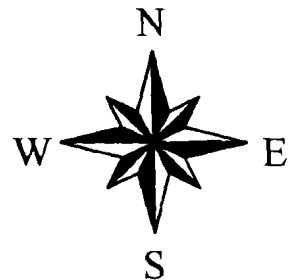
IDAHO DEPARTMENT OF WATER RESOURCES

36-10283A
YA-TA-HAY INVESTMENTS



*Revised
boundary in SWNE
SW
10/17/97*

TNS 7S, RNG 13E,
SEC 2, SW1/4NE1/4, W1/2SE1/4
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 9, 1997
BY KELLY K CHRISTENSEN

CLAIM NUMBERS 36-10283ADATE 10-10-97

TRANSFER NUMBER _____

OBJECTION FILED _____

AGENT KKCTOTAL ACRES FROM RECOMMENDATION 54GEOGRAPHIC INFO SYSTEM 60

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	75	13E	2			2											17	25	
GIS						3.4											18.1	25.9	
RECOM	75	13E	11		10														
GIS					12.7														
RECOM																			
GIS																			
RECOM																			
GIS																			

UPDATED

POLYGON #

UPDATED

B36-DBPOU.DBF 10/B36-DBPOD.DBF 10

POLYGON CREATED ON 604 ()

ATTRIBUTES OF B36-POU.SHP (568) 10-10-97

ATTRIBUTES OF B36-POD.SHP () "

water delivered through Padgett ditch & P/DS S&H

John Bell ditch — NESENE 45.8

Padgett ditch → NWSENE 46.5

P/U CONFLICT yes () no ()

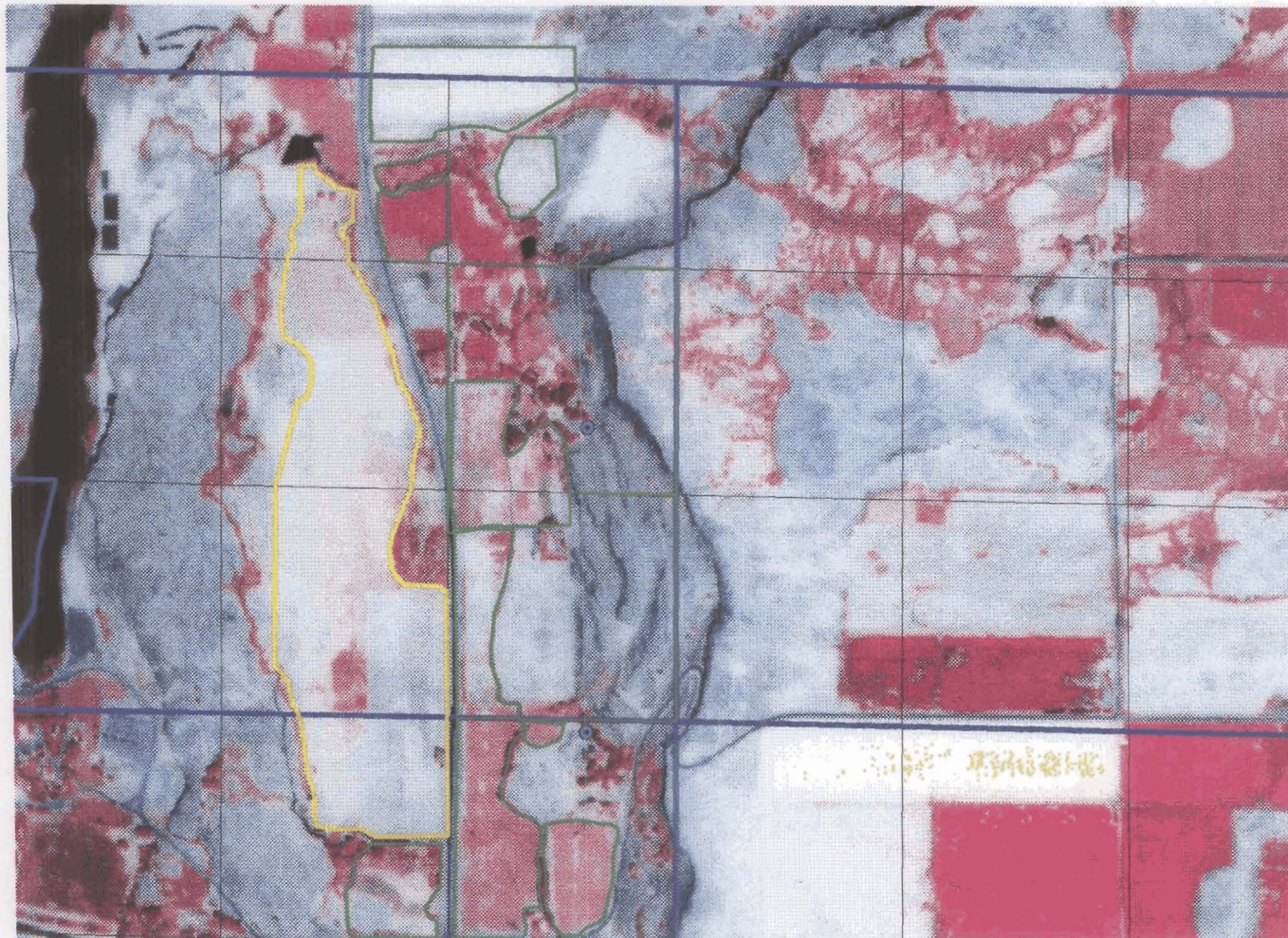
P/D CONFLICT yes () no ()

READY FOR DECREE yes () no ()

SENT FOR DECREE yes () no ()

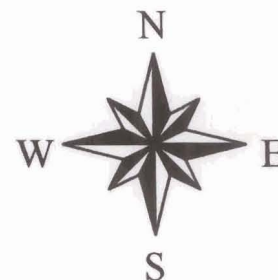
IDAHO DEPARTMENT OF WATER RESOURCES

36-10283A
YA-TA-HAY INVESTMENTS



660 0 660 1320 1980 2640 Feet

**TNS 7S, RNG 13E,
SEC 2, SW1/4NE1/4, W1/2SE1/4
SEC 11, NW1/4NE1/4**



● Recommended Point of Diversion

□ Recommended Place of use

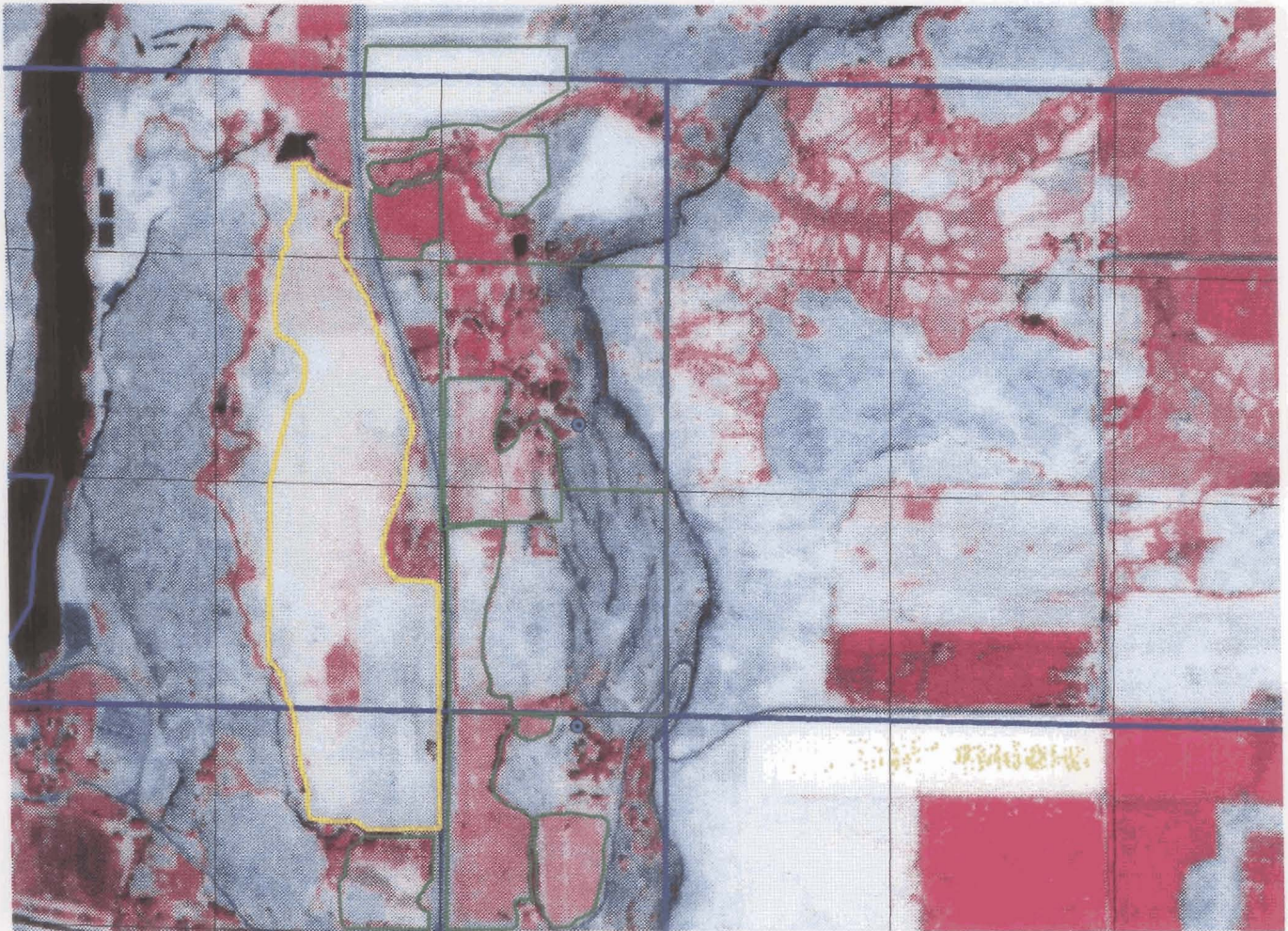
— Section lines

□ Quarter/Quarter Lines

GIS PLACE OF USE PRESENTATION
1987 and/or 1988 NAPP PHOTOGRAPHY
DATA ENTRY OCTOBER 9, 1997
BY KELLY K CHRISTENSEN

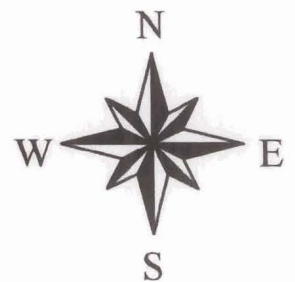
IDAHO DEPARTMENT OF WATER RESOURCES

36-10283A
YA-TA-HAY INVESTMENTS



660 0 660 1320 1980 2640 Feet

TNS 7S, RNG 13E,
SEC 2, SW1/4NE1/4, W1/2SE1/4
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 9, 1997
BY KELLY K CHRISTENSEN

RECEIVED

DEC 26 1995

Department of Water Resources
Adjudication Bureau

RECEIVED

DEC 22 1995

OFFICE OF THE
ATTORNEY GENERAL

DEC 21 PM 1:55

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED

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

RECEIVED

In Re SRBA

JAN 10 1996

Department of Water Resources
Southern Region

Case No. 39576

Subcase Nos.: 36-00021B (36-00021)
36-00039D, 36-00048A, 36-00049,
36-00051A, 36-02169, 36-04260B,
~~36-10283A~~ and 36-15168

AMENDED ORDER DENYING
MOTIONS TO STRIKE AFFIDAVITS
and ORDER GRANTING MOTIONS TO
FILE LATE RESPONSES

On August 18, 1995, Cranney Bros. filed its *Motion to File Late Responses* (Cranney *Motion*) in five of the above subcases: 36-00039D, 36-00048A, 36-00049, 36-02169 and 36-04260B.¹ Attached to the Cranney *Motion* was its *Brief in Support of Motion to File Late Responses*. The same date, Cranney Bros. lodged responses to objections in each of the five subcases.

On August 18, 1995, May Farms, Ltd. (May Farms), Sand Springs Ranch Partnership (Sand Springs) and Faulkner Land & Livestock Company (Faulkner) filed their *Motions to File Late Responses*² (May Farms, Sand Springs and Faulkner *Motions*) in six of the above

¹ The claimants/objectors in these five subcases are: Fred and Susan Walmsley (36-00039D); Dan and Irma McFaddan (36-00048A, 36-00049 and 36-02169); and Robert H. Brailsford (36-04260B).

² Amended May Farms *Motions* in Subcase Nos. 36-00021B and 36-10283A were filed on September 12, 1995.

subcases: 36-00021B, 36-00048A, 36-00049, 36-00051A, 36-10283A and 3615168.³ Attached to the May Farms, Sand Springs and Faulkner *Motions* were six separate but similar *Memoranda in Support of Motions to File Late Responses*.⁴ The same date, May Farms, Sand Springs and Faulkner lodged responses to objections in each of the six subcases.

Cranney Bros., May Farms, Sand Springs and Faulkner will sometimes be referred to collectively as Movants.

On November 21, 1995, the claimants in all nine of the above subcases (Claimants) filed their *Consolidated Memorandum Opposing Intervention*. The Claimants also filed their *Motion to Strike* the affidavit of attorney Michael C. Creamer and the attached portion of Mike Cranney's deposition (Subcase Nos. 36-00039D, 36-00048A, 36-00049, 36-02169 and 36-04260B). Finally, the Claimants filed six *Objections and Motions to Strike Affidavits* of Ralph L. May (36-00021B and 36-10283A), Mike Faulkner (36-00048A and 36-00049) and Tom Ambrose (36-00051A and 36-15168). Attached was the Claimants' *Memorandum in Support of Objection and Motion to Strike Affidavits and Preclude Intervention*.

On November 21, 1995, Cranney Bros. lodged its *Pre-Hearing Memorandum*.

A hearing was held on November 22, 1995, at the SRBA Courthouse in Twin Falls, Idaho. Jeffrey C. Fereday appeared for Cranney Bros.; Dana L. Hofstetter and Josephine P. Beeman for May Farms, Sand Springs and Faulkner; Patrick D. Brown for the Claimants; and Brent R. King for IDWR. The Cranney *Motion* was set for hearing the same day as the May Farms, Sand Springs and Faulkner *Motions*. However, because of similarities of the *Motions* and the Claimants' consolidated opposition, the hearings were combined. All counsel were present and participated throughout the hearing.

After the hearing, on December 1, 1995, Cranney Bros. filed its *Response to Motion to Strike*. The same day, the Claimants wrote to the Special Master asking that the pleading be disregarded and Cranney Bros.' counsel be admonished for submitting post-hearing briefs and

³ The claimants/objectors in four of the subcases are: Harry R. Gisler (36-00021B); Walten and Marjorie Mildren (36-00051A); Ya-Ta-Hay Investments, Inc. (36-10283A); and Hagerman Water Users Association (36-15168).

⁴ Amended Faulkner and Sand Springs *Memoranda* in Subcase Nos. 36-00049 and 36-00051A were filed on September 12, 1995.

evidence.

Motions to Strike

The Claimants moved to strike certain affidavits because the affidavits were not served with the *Motions* or they contain hearsay testimony, lack foundation and the affiants are not qualified as experts. While these criticisms are well taken for purposes of summary judgment or trial, they are less compelling in the context of these motions to file late pleadings -- particularly in these subcases. The Claimants and Movants have followed a particularly contentious motion practice and the court has been required to fashion its responses accordingly. On top of that, these are "test" subcases where fundamental and unique issues are being explored. Sweeping legislative changes in the midst of ongoing litigation only added to the challenges. The result has been a certain "flexible" application of *SRBA Administrative Order 1* and the Idaho Rules of Civil Procedure to accomplish the ends of justice.

Judge Daniel C. Hurlbutt's July 28, 1995 *Order*⁵ concerning late filings clearly intended to provide "special consideration" to some parties to the adjudication. The *Order* was made because of legislative changes in the party status of IDWR and its Director. Even now, over a year after the amendments to the SRBA statutes went into effect, the court and the partes continue to discover new implications.

Even though the affidavits complained of by the Claimants are flawed in certain respects, the timing of their filing and their contents are sufficient for purposes of these motions to file late pleadings. It must be remembered that the motions were filed by SRBA parties seeking to participate in subcases. The Movants have not had the opportunity to conduct discovery. It may reasonably be expected that their responses will be substantially refined and amended as they gather more information. The suggestion that the Movants will step into the shoes of the Director and defend the whole Director's Report is not reasonable. At this point, their burden is not to *prove* a case but to *plead* sufficient facts to support their motions. The affidavits meet that minimal burden and will not be stricken.

⁵ The full title of the Order is Order Granting in Part, and Denying in Part, Joint Motions for Amendment of Administrative Order 1.

Motions to File Late Responses

The Movants argue that they meet the criteria of Judge Hurlbutt's July 28, 1995 Order: (1) they filed their pending motions in a timely manner and attached completed responses; (2) they have shown good cause for not filing responses in a timely manner; (3) they have demonstrated the existence of a meritorious position; and (4) they do not seek to enlarge or add to existing issues. In support of their allegation of "good cause," all three Movants suggest that they chose not to file responses in a timely manner because they relied upon IDWR to "defend" the Director's Report. Now that the Director's Report is no longer a pleading and IDWR and the Director are no longer parties, they seek to file late responses in all nine subcases.

There is no question that the pending motions were filed in a timely manner and completed responses were attached. It is also clear that the Movants do not seek to enlarge nor add to existing issues. Almost any element they might have chosen to respond to was objected to by the Claimants. So, the issues are whether good cause and a meritorious position have been shown.

The court is satisfied that the Movants have shown both good cause for untimeliness and the existence of a meritorious position. It was reasonable for them to rely upon the Director to investigate all SRBA water claims and defend his findings in strict accord with Idaho water laws. When IDWR and its Director were removed as parties by the Legislature, it was also reasonable for the Movants to suspect that some claims might result in excessive rights. After all, at the time the *Motions* were filed, no subcase had proceeded to a full hearing before the Special Master.

The fact that the Movants chose these particular subcases to intervene is no accident. These subcases concern water claims in the Hagerman Valley where the *Musser*⁶ case arose. Right or wrong, the Movants were concerned that future "calls," as happened in that case, *might* impact their farm operations. Given the information generally available to water users, their concern was understandable. It made no difference that none of the Movants knew details in the Director's Report or specific facts about the Claimants' water uses.

Having said that, the court feels compelled to remind the Movants and Claimants of Rule 11(a)(1), Idaho Rules of Civil Procedure:

⁶ *Musser v. Higginson*, 125 Idaho 392, 871 P.2d 809 (1994).

The signature of an attorney or party constitutes a certificate that the attorney or party has read the pleading, motion or other paper; that to the best of the signer's knowledge, information, and belief after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, **and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation** [emphasis added].

Therefore, IT IS ORDERED that the Claimants' *Motions to Strike Affidavits* are denied. It is further ordered that the Cranney *Motion to File Late Responses* and the May Farms, Sand Springs and Faulkner *Motions and Amended Motions to File Late Responses* are granted. However, participation of Cranney Bros., May Farms, Sand Springs and Faulkner shall be limited to litigation of those elements in the Director's Report to which the Claimants have objected and to which IDWR has responded. They may not enlarge or add to existing issues. Responses previously lodged with the court by Cranney Bros., May Farms, Sand Springs and Faulkner are deemed filed as of December 12, 1995.

DATED December 21, 1995.



Terrence A. Dolan
Special Master, Reporting Area 3
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the (AMENDED) ORDER DENYING MOTIONS TO STRIKE AFFIDAVITS and ORDER GRANTING MOTIONS TO FILE LATE RESPONSES was mailed December 21, 1995, with sufficient first-class postage to the following:

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

Patrick D. Brown
Hepworth, Lezamiz & Hohnhorst
P.O. Box 389
Twin Falls, ID 83303-0389

Josephine P. Beeman
Dana L. Hofstetter
Dillon, Bosch, Daw & Bock, Chartered
Suite 200
242 North 8th Street
Boise, ID 83720

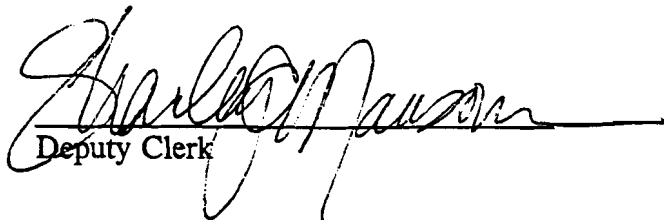
Jeffrey C. Fereday
Givens, Purlsey & Huntley
P.O. Box 2720
Boise, ID 83701

Brent R. King
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Courtesy copies to:

Daria J. Zane
R. Lee Leininger
William M. Ferry
The United States Department of Justice
Environment & Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724-0663

Cheri C. Jacobus
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449


Deputy Clerk

Party's Name: May Farm, Ltd.

Attorney's Name and Address

Josephine P. Beeman
DILLION BOSCH DAW & BOCK Chtd.
Fidelity Building
242 N. 8th Street, Suite 200
Boise, Idaho 83702

RECEIVED

AUG 24 1995

Department of Water Resources
Adjudication Bureau

RECEIVED

AUG 23 1995

OFFICE OF THE
ATTORNEY GENERAL

RECEIVED

JAN 10 1996

Department of Water Resources
Southern Region

**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. 36-10283A
	)	
Case No. 39576	)	MOTION TO FILE LATE RESPONSE
	)	TO YA-TA-HAY OBJECTION
_____	)	

DESCRIPTIVE SUMMARY

May Farms, Ltd. seeks to file a late response to the Ya-Ta-Hay objection to water right 36-10283A as recommended in the Director's Report Part I for reporting area 3 (basin 36).

MOTION TO FILE LATE RESPONSE

May Farms, Ltd. seeks to participate as a full party in subcase 36-10283A and files this motion and the attached Response to Ya-Ta-Hay Objection pursuant to the July 28, 1995 order of Judge Hurlbutt. The July 28 order states, "it is necessary to provide a mechanism for parties to participate in subcases where participation is required due to the removal of the Director and IDWR as a party and the change in the status of the Director's Report as a pleading."

The Motion is supported by a Memorandum in Support of Late Response (Ya-Ta-Yay) and affidavits which accompany the Memorandum and Response.

MICROFILMED
DEC 5 1995

DATED this 15 day of August, 1995.

151
JOSEPHINE P. BEEMAN

CERTIFICATE OF MAILING

I hereby certify that on the 18th day of August, 1995, I mailed the original and copies of the foregoing motion, 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. Copies to:

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

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

Patrick D. Brown
HEPWORTH LEZAMIZ & HOHNHORST, Chtd.
P.O. Box 389
Twin Falls, ID 83303-0389

151
JOSEPHINE P. BEEMAN

MICROFILMED

DEC 5 1996

Party's Name: May Farms, Ltd.

Attorney's Name and Address

Josephine P. Beeman
DILLION BOSCH DAW & BOCK Chtd.
Fidelity Building
242 N. 8th Street, Suite 200
Boise, Idaho 83702

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

In Re: SRBA	)	
	)	Case No. 36-10283A
Case No. 39576	)	
	)	RESPONSE TO YA-TA-HAY INVESTMENTS, INC.
_____	)	OBJECTION

I. GENERAL INFORMATION

1. Person responding to objection:

Name: May Farms, Ltd.

Address: 3509 South 2400 East
Jerome, Idaho 83338

Briefly describe your interest in this water right:

Ya-Ta-Hay Investments, Inc. is a water claimant in reporting area 3 (Basin 36) who diverts from a common aquifer with May Farms.

2. Person who filed objection:

Name: Ya-Ta-Hay Investments, Inc.

Address: 813 West Kiowa
Hobbs, New Mexico 88240

3. If this response is filed by an attorney:

Attorney Name: Josephine P. Beeman

MICROFILMED

DEC 5 1996

Attorney Address: DILLION BOSCH DAW & BOCK Chtd.
Fidelity Building
242 N. 8th Street, Suite 200
BOISE, ID 83702

Attorney Phone No.: (208) 344-8990

II. STATEMENT OF THE RESPONSE

3. ☒ Quantity: I respond to the objection concerning:
- a. ☒ the total quantity of water used in cubic feet per second; or
 - c. ☒ the total quantity of water reserved for each and every purpose, including all present and future use.
7. ☒ Purpose of Use: I respond to the objection concerning the purpose(s) of use.
8. ☒ Period of Year: I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.
9. ☒ Place of Use: I respond to the objection concerning:
- a. ☒ the legal description of the place of use; or
10. ☒ Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.
11. ☒ Remarks: I respond to the objection concerning the "remarks" listed with the water right.
14. ☒ Other: I respond to the objection concerning:

All matters raised in the claimant's answer, affirmative defenses, and prayer for relief.

REASONS SUPPORTING EACH BOX CHECKED

A. Statement of Objections 3 and 3a. In response to Statement of Objections 3 and 3.a., and all allegations of the objection regarding those items, Ya-Ta-Hay Investments, Inc. responds as

follows: (1) it recommends 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.

B. Statement of Objection 3c. In response to Statement of the Objection item 3c., and all allegations of the objection regarding that item, May Farms, Ltd. Responds as follows: Since this water right is not a federal reserved water right, this objection item is inapplicable and the claimant's assertion of it is in error. May Farms, Ltd. Further responds that under Idaho law water cannot be reserved for future use, but must be appropriated and put to beneficial use before the user can acquire a water right.

C. Statement of Objection 7. In response to Statement of the Objection item 7, and all allegations of the objection regarding that item, May Farms, Ltd. Responds that it recommended the same purpose or purposes of use that were identified on the notice of claim and that were found when the claim was investigated. By identifying in the objection as additional use or uses that the claimant did not list on the 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 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, May Farms, Ltd. Can investigate the amended claim and make an appropriate recommendation to the court.

D. Statement of Objection 8. In response to Statement of the Objection item 8, and all allegations of the objection regarding this item, Ya-Ta-Hay Investments, Inc. responds as follows: Idaho Code 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. Ya-Ta-Hay Investments, Inc. 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. The irrigation season of use cannot exceed the period in which water may be beneficially used. 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. . . . located. 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. In further response to this objection item, May Farms, Ltd. Responds that it recommended stockwater use year-round, and that is recommended the period of use for irrigation as claimed. By now asserting a year-round season of use for irrigation, the claimant improperly seeks to use the objection process to amend the notice of claim. A claimant must obtain leave of court to amend a notice of claim just as a party must obtain leave of court to file a late claim after the Director's report is filed. Once leave of court is granted, May Farms, Ltd. can investigate the amended claim and make appropriate recommendation to the court.

E. Statement of Objections 9 and 9.a. In response to Statement of the Objection 9 and 9.a., and all allegations of the objection regarding those items, Ya-Ta-Hay Investments, Inc. responds that the recommended water right accurately describes the place of use of the right.

F. Statement of Objection 10. In response to Statement of the Objection item 10 and all allegations of the objection regarding this item, Ya-Ta-Hay Investments, Inc. 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 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 the right is limited to that amount beneficially used.

G. Statement of Objection 11. In response to Statement of the Objection item 11, and all allegations of the objection regarding that item, Ya-Ta-Hay Investments, Inc. responds as follows: There is an error in the remarks in description 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". In further response to this objection item, Ya-Ta-Hay Investments, Inc. responds as follows: As to the remaining remarks, 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.

H. Statement of Objection 14. In response to Statement of the Objection item 14, and all allegations of the objection regarding that item, see attached "Ya-Ta-Hay Investments, Inc.'s Response to Answer Affirmative Defenses and Prayer for Relief of Claimant".

I. General Objection. 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," Ya-Ta-Hay Investments, Inc. 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. A claimant must obtain leave of the court to amend a claim just as a party must obtain leave of the court to file a late claim after the Director's report is filed.

CHANGES TO THE DIRECTOR'S REPORT

Ya-Ta-Hay Investments, Inc. proposes no changes to the description of this claim in the Director's report.

- ☒ 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:

Affidavit of Josephine P. Beeman	2 pages
May Farms, Ltd.'s Response to Answer	4 pages
Affirmative Defenses and Prayer for	
Relief of Claimant	

VERIFICATION

State of IDAHO)
 : SS
County of ADA)

Mary Ruth Barrett being first duly sworn, upon oath, deposes and says:

I am a principal in Ya-Ta-Hay Investments, Inc., a party to this proceeding, as defined by I.C. § 42-1401A(1) and (7); that Josephine P. Beeman is my attorney in fact for these matters and is authorized to verify this response; and 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.

YA-TA-HAY INVESTMENTS, INC.

By: / S /

DILLION BOSCH DAW & BOCK, Chtd.

By: / S /
Josephine P. Beeman, Attorney signing in
Representative capacity

Subscribed and sworn to before me this 18th day of August, 1995 .

 / S /
Notary Public for _____
Residing at: _____
My Commission expires: _____

CERTIFICATE OF MAILING

I hereby certify that on the 18th day of August, 1995, 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 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. Copies to:

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

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

Patrick D. Brown
HEPWORTH LEZAMIZ & HONHORST, Chtd.
P.O. Box 389
Twin Falls, ID 83303-0389

151
JOSEPHINE P. BEEMAN

Movant's Name
May Farms, Ltd.

Attorney's Name & Addresses
JOSEPHINE P. BEEMAN
C. A. DAW
Dillion, Bosch, Daw & Bock
Chartered
Fidelity Building
242 N. 8th St., Suite 200
Boise, ID 83702
Tel. (208) 344-8990
Fax. (208) 344-9140

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

In Re SRBA	)	Case No. 36-10283A
	)	
Case No. 39576	)	AFFIDAVIT OF JOSEPHINE
	)	BEEMAN
	)	
_____	)	

Josephine Beeman, duly sworn on oath, states as follows:

1. I am the attorney for May Farms, Ltd., the Movant in this matter.
2. Attached are true and correct copies of documents maintained by the Idaho Department of Water Resources with respect to SRBA claim 36-10283A.

DATED: August 18, 1995

151

Josephine Beeman

AFFIDAVIT OF JOSEPHINE BEEMAN - 1

MICROFILMED
DEC 5 1996

STATE OF IDAHO)
) ss
County of Ada)

Subscribed and sworn before me on August 18, 1995.

151

Notary Public for Idaho
Residing at Boise, Idaho
Commission Expires: _____

**MOVANT'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)

MOVANT'S RESPONSE TO ANSWER, AFFIRMATIVE DEFENSES AND PRAYER FOR
RELIEF OF CLAIMANT - 1

MICROFILMED

DEC 5 1995

- (16) VI. General Provision 7. **MEASURING DEVICES AND CONTROL 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).

MOVANT'S RESPONSE TO ANSWER, AFFIRMATIVE DEFENSES AND PRAYER FOR RELIEF OF CLAIMANT - 2

MICROFILMED

DEC 5 1996

In response to each of the items enumerated above Movant responds that pursuant to Section 4 a.(2)(c) of SRBA Administrative Order 1, Rules of Procedure, Movant generally denies each and every allegation, if any, contained in each enumerated portion of the attachment. Movant affirmatively responds that neither SRBA Administrative Order 1, Rules of Procedure, nor Title 42, Chapter 14, Idaho Code, make provision for Movant to affirm, amplify, or otherwise respond to the claimant's admissions, or to deny the claimant's denials, and that Movant 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, Movant further responds as follows:

Movant 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 Movant 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, Movant responds that such claims or agreements are not brought before this court by this objection.

Responding to the 27 affirmative defenses asserted in the attachment, Movant generally denies each and every affirmative defense asserted. Movant further responds that affirmative

MOVANT'S RESPONSE TO ANSWER, AFFIRMATIVE DEFENSES AND PRAYER FOR
RELIEF OF CLAIMANT - 3

MICROFILMED

DEC 5 1996

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, Movant 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, Movant responds as follows:

1. Movant 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. Movant 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. Movant denies that any acts upon its part constitute the taking of private property for which just compensation should be allowed and awarded.
4. Movant denies that the claimant is entitled to recover court costs and reasonable attorney fees.
5. Movant denies that the claimant by this objection has raised any claims 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.

Movant's Name
May Farms Limited

Attorney's Name & Address
JOSEPHINE P. BEEMAN
C. A. DAW
Dillion, Bosch, Daw & Bock
Chartered
Fidelity Building
242 N. 8th St., Suite 200
Boise, ID 83702
Tel. (208) 344-8990
Fax. (208) 344-9140

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

In Re SRBA	)	Case No. 36-10283A
	)	
Case No. 39576	)	MEMORANDUM IN SUPPORT
	)	OF MOTION TO FILE LATE
	)	RESPONSE (YA-TA-HAY)
_____	)	

INTRODUCTION

May Farms Limited, an Idaho corporation, (May Farms) submits this memorandum in support of its Motion to File Late Response. The Motion seeks the Court's permission to enter a late response on the objection of Ya-Ta-Hay Investments, Inc., a foreign corporation ("Ya-Ta-Hay") to the Director's Report regarding WR # 36-10283A. The Court's Order of July 28, 1995, ("July 28th Order") regarding the Joint Motions for Amending Administrative Order 1 and for Expedited Hearing indicates that such motions may be made within 21 days of the July 28th Order. May Farms' motion is made within the 21 days and is accordingly timely.

MEMORANDUM IN SUPPORT
OF MOTION TO SUBMIT A LATE RESPONSE - 1

MICROFILMED
DEC 5 1996

The Court's July 28th Order also indicates that such motions will be granted or not according to criteria similar to those prevailing under I.R.C.P. 55(c) for setting aside a default (i.e. showing both good cause for untimeliness and the existence of a meritorious position.).

FACTUAL SITUATION

The Court's July 28th Order states the factual situation with respect to the basis for entry of the late response to objection by May Farms:

The removal of IDWR and the Director as a party to the SRBA and all subcases necessitates special considerations for some parties to the adjudication. . . Based on the pleadings and party status of IDWR prior to the 1994 amendments to the SRBA statutes, some parties decided not to participate in certain subcases, choosing instead to rely on the Director's report and IDWR's defense of its pleading. . . Those parties who opted to rely on IDWR to litigate and advocate in favor of the Director's Report are unable to do so. Therefore it is necessary to provide a mechanism for parties to participate in subcases where participation is required due to the removal of the Director and IDWR as a party and the change in the status of the Director's Report as a pleading.

Movant is a party who relied on the IDWR to defend the Director's Report. See Affidavit of Ralph May, Secretary Treasurer of May Farms Limited.

There has been no effort by any party to bring the Ya-Ta-Hay objection to trial. There is no discovery in the file and no indication that any progress has been made on the case by either Ya-Ta-Hay or the Department (prior to the 1994 statutory amendments removing the Department as a party.)

Ya-Ta-Hay has objected to the Director's Report with respect to its water right number 36-10283A in Basin 36. The source of the water is Billingsley Creek. The water right has a claimed priority date of June 26, 1881. The IDWR file for SRBA claim 36-10283A shows that Ya-Ta-Hay

claimed 7.5 cfs (375 inches) for the irrigation of 147 acres from Billingsley Creek, tributary to the Snake River. This is equivalent to 2.55 inches to the acre. Following a field examination of the Ya-Ta-Hay property and diversion and delivery system, the Director recommended 1.3 cfs for the irrigation of 54 acres. Since .22 cfs were recommended for conveyance losses from the Padgett ditch and the John Bell Ditch, the Director actually recommended 1.08 cfs for irrigation at the field headgate. This is equivalent to one inch to the acre. The Ya-Ta-Hay objection seeks the full decree right as stated in the claim -- 7.5 cfs -- for 63 acres. This is equivalent to 5.95 inches to the acre. The objection also seeks to add aesthetic, wildlife habitat and subdivision development as uses, with year round season of use. These additional uses were part of the Ya-Ta-Hay SRBA claim but may have significantly later priority dates and constitute, in some instances, change of use. The differences between the Director's Report and Ya-Ta-Hay's objection are significant and Ya-Ta-Hay claims water greatly in excess of all conceivable beneficial use. Cf. IDAHO CODE § 42-220. Reputable studies, including the Department's, indicate that the statutory standard of one inch per acre is sufficient, on average, to irrigate property such as Ya-Ta-Hay's. These facts, if established, would constitute a meritorious defense to the Ya-Ta-Hay objection.

LEGAL BASIS FOR PERMITTING MAY FARMS' LATE RESPONSE

I. CRITERIA FOR PERMITTING LATE RESPONSE.

The Court's July 28th Order indicates that the criteria for determining whether to permit the late response will be similar to those under which motions under I.R.C.P. 55(c) to set aside a default will be determined. Such motions are within the sound discretion of the trial court and will not be

reversed on appeal unless an abuse of discretion clearly appears. *Clear Springs Trout Company v. Anthony*, 123 Idaho 141, 845 P.2d 559 (1992). Judgments by default are not favored and there is a preference for setting them aside so that cases can be decided on the merits. *Baldwin v. Baldwin*, 114 Idaho 525, 757 P.2d 1244 (Ct. App. 1988) ("*Baldwin*"); *Gro-Mor, Inc. v. Butts*, 109 Idaho 1020, 712 P.2d 721 (Ct. App. 1985). Even in doubtful cases, relief from a default is favored. *Baldwin*. Since this response comes early in the history of this case, indeed, before any default has been entered, the motion should be granted.

II. NECESSARY ELEMENTS OF MOTION.

In order to set aside a default under rule 55(c), there must be a showing of reasonable cause for the late pleading and a factual showing that if granted, a meritorious basis supporting the pleading exists. See, e.g., *McFarland v. Curtis*, 123 Idaho 931, 854 P.2d 274 (Ct. App. 1988). Cf., Court's Order of July 28th, p. 2. However, this is not to say that the existence of the meritorious basis for the pleadings should be subject to trial at this point. It is only necessary to plead facts which, if established at trial, would support the motion. *Baldwin*. A final determination of the validity of the facts is not appropriate at this stage and the general rule, even in doubtful cases, is to grant relief in order to reach a judgment on the merits. *Johnson v. Pioneer Title Co.*, 104 Idaho 727, 626 P.2d 1171.

A. Reasonable Cause Exists to Support the Late Filing of the Response.

The affidavit submitted in favor of the motion shows that May Farms reasonably relied on the IDWR to defend the Director's report. The facts of this subcase indicate that the Department's

defense of the Report would be successful or would significantly reduce the rate of diversion from that claimed in the objection, without outside intervention.

B. The Facts in the Supporting Affidavit, the Department's File and in the Proposed Response Provide a Meritorious Basis for Opposing the Objection. The Affidavit of Ralph May establishes the factual basis for the proposed response to the Ya-Ta-Hay objection. This affidavit incorporates the Department's file on the objection. The facts outlined above, if established at trial, demonstrate good cause for the granting a water right according to the diversion rate recommended in the Director's Report and for rejecting the diversion rate claimed in the objection. There is a significant discrepancy between the Director's Report and Ya-Ta-Hay's objection in the acreage subject to irrigation and the amount of water necessary to irrigate the claimed acreage. Ya-Ta-Hay's objection claim exceeds three inches of water per acre of ground. Reputable studies indicate that the statutory standard of one inch per acre is sufficient, on average, to irrigate property such as Ya-Ta-Hay's. Cf. IDAHO CODE § 42-220.

III. GRANTING THE MOTION WILL NOT PREJUDICE YA-TA-HAY.

The issue of whether to grant leave to file a late response involves a consideration of the prejudice to Ya-Ta-Hay if the motion is granted. *Traguth v. Zuck*, 710 F.2d 90 (2d Cir. 1983); *Meehan v. Snow*, 652 F.2d 1074 (2d Cir. 1981); *Cribb v. Matlock Communications, Inc.*, 236 Montana 27, 768 P.2d 337 (1989). However, the prejudice to be considered must be based on some other ground than the mere allowance of the late response and the direct consequences flowing therefrom. See, *In re: General Determination of Rights to the Use of Surface and Ground Waters*

of the Payette River Drainage Basin, 107 Idaho 221, 687 P.2d 1348 (1984); *Johnson v. Noland*, 78 Idaho 642, 308 P.2d 588 (1957); Otherwise no later response would ever be allowed.

Since no progress has been made in this subcase, there is no prejudice uniquely attributable to permitting the late response vis' a vis' a timely response of identical dimensions. Accordingly, the May Farms motion for leave to enter a late response should be granted.

CONCLUSION

May Farms motion should be granted and the May Farms Response to Ya-Ta-Hay's objection should be entered as a pleading in this matter.

Respectfully submitted.

Dillion, Bosch, Daw & Bock
Chartered

by: /s/
Josephine P. Beeman, of the firm

by: /s/
C. A. Daw, of the firm

Movant's Name
May Farms Limited

Attorney's Name & Addresses

JOSEPHINE P. BEEMAN

C. A. DAW

Dillion, Bosch, Daw & Bock
Chartered

Fidelity Building

242 N. 8th St., Suite 200

Boise, ID 83702

Tel. (208) 344-8990

Fax. (208) 344-9140

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

In Re SRBA

Case No. 39576

)
)
)
)
)
)

Case No. 36-10283A

**AFFIDAVIT OF RALPH
MAY IN SUPPORT
OF MEMORANDUM**

Ralph May, duly sworn on oath, states as follows:

1. I am an officer of May Farms Limited, the Movant in this matter.

2. May Farms Limited is the owner of water rights located in Basin 36 of the Snake River Basin Adjudication ("SRBA").

3. Ya-Ta-Hay Investments, Inc., a foreign corporation ("Ya-Ta-Hay") has objected to the Director's Report with respect to its water right number 36- 10283A in Basin 36. The source of the water is Billingsley Creek. The water right has a claimed priority date of June 26, 1881. The IDWR file for SRBA claim 36-10283A shows that Ya-Ta-Hay claimed 7.5 cfs (375 inches) for the

AFFIDAVIT OF RALPH MAY - 1

MICROFILMED

DEC 5 1996

irrigation of 147 acres from Billingsley Creek, tributary to the Snake River. This is equivalent to 2.55 inches to the acre. Following a field examination of the Ya-Ta-Hay property and diversion and delivery system, the Director recommended 1.3 cfs for the irrigation of 54 acres. Since .22 cfs were recommended for conveyance losses from the Padgett ditch and the John Bell Ditch, the Director actually recommended 1.08 cfs for irrigation at the field headgate. This is equivalent to one inch to the acre. The Ya-Ta-Hay objection seeks the full decree right as stated in the claim -- 7.5 cfs -- for 63 acres. This is equivalent to 5.95 inches to the acre. The objection also seeks to add aesthetic, wildlife habitat and subdivision development as uses, with year round season of use. These additional uses were part of the Ya-Ta-Hay SRBA claim but may have significantly later priority dates and constitute, in some instances, change of use. The differences between the Director's Report and Ya-Ta-Hay's objection are significant and Ya-Ta-Hay claims water greatly in excess of all conceivable beneficial use. Cf. IDAHO CODE § 42-220. Reputable studies, including the Department's, indicate that the statutory standard of one inch per acre is sufficient, on average, to irrigate property such as Ya-Ta-Hay's. These facts, if established, would constitute a meritorious defense to the Ya-Ta-Hay objection.

4. Based on the pleadings and party status of IDWR prior to the 1994 amendments to the SRBA statutes, May Farms Limited decided not to participate in this subcase, choosing instead to rely on the Director's report and IDWR's defense of its pleading. The facts of this situation show that the IDWR, had it remained a party to this subcase, would have been, without substantial outside assistance, able to defend its report and significantly reduce the claimed diversion rate by Gisler.

5. With the removal of IDWR and the Director as a party to the SRBA and all subcases, parties such as May Farms Limited who opted to rely on IDWR to litigate and advocate in favor of the Director's Report are unable to do so.

DATED: August 18, 1995

/s/

Ralph May, partner

AFFIDAVIT OF RALPH MAY - 2

MICROFILMED

DEC 5 1996

STATE OF IDAHO)
) ss
County of Ada)

Subscribed and sworn before me on August 18, 1995.

 /s/
Notary Public for Idaho
Residing at Boise, Idaho
Commission Expires: _____

R PROOF

CVR

MAPS

PHOTOS

MISC

UNCLASSIFIED

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)
from the Snake River Basin)
Water System)
_____)

Case No. 36-10283A -0001

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

RESPONSE TO OBJECTION

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: YA TA HAY INVESTMENTS
Address: MARY RUTH BARRETT
813 W KIOWA
HOBBS NM 88240

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. |☒| Quantity: I respond to the objection concerning:
- 3a. |☒| The total quantity of water used in cubic feet per second.
- 3c. |☒| The total quantity of water reserved for each and every purpose, including all present and future uses.
7. |☒| Purposes of Use: I respond to the objection concerning the purpose(s) of use.
8. |☒| Period of Year: I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.
9. |☒| Place of Use: I respond to the objection concerning:
- 9a. |☒| The legal description of the place of use.
10. |☒| 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 IN THE CLAIMANT'S 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: (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 3c., and all allegations of the objection regarding that item, IDWR responds as follows: Since this water right is not a federal reserved water right, this objection item is inapplicable and the claimant's assertion of it is in error. IDWR further responds that under Idaho law water cannot be reserved for future use, but must be appropriated and put to beneficial use before the user can acquire a water right.

In response to Statement of the Objection item 7, and all allegations of the objection regarding that item, IDWR responds that it recommended the same purpose or purposes of use that were identified on the notice of claim and that were found when the claim was investigated. By identifying in the objection an additional use or uses that the claimant did not list on the 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 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.

(Over)

In response to Statement of the Objection item 8, and all allegations of the objection regarding this item, IDWR responds as follows: 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. 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. 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. 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. In further response to this objection item, IDWR responds that it recommended stockwater use year-round, and that is recommended the period of use for irrigation as claimed. By now asserting a year-round season of use for irrigation, the claimant improperly seeks to use the objection process to amend the notice of claim. A claimant must obtain leave of court to amend a notice of claim just as a party must obtain leave of court to file a late claim after the director's report is filed. Once leave of court is granted, IDWR can investigate the amended claim and make an appropriate recommendation to the court.

In response to Statement of the Objection 9 and 9.a, and all allegations of the objection regarding those items, IDWR responds that the recommended water right accurately describes the place of use of the right.

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 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 the 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 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 that 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 the court to file a late claim after the director's report is filed.

CHANGES TO THE DIRECTOR'S REPORT

The director proposes no changes to the description of this claim in the Director's Report.

☒ 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:

(Over)

No. of
Pages

Notice of Claim No. A36-10283A

6

IDWR's Response to Answer, Affirmative Defenses and Prayer
For Relief of Claimant

4

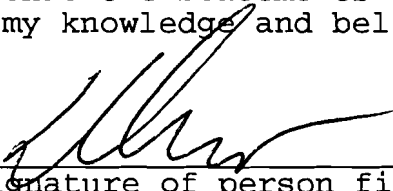
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

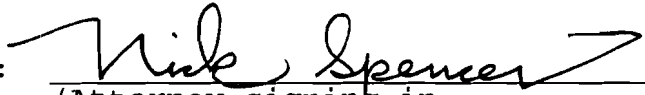
David B. Shaw, being first duly sworn, upon oath, deposes and says:

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 10th day of September
1993.



Notary Public for Idaho

Residing at: _____

My Commission expires: _____

Danni Smith, Notary Public
Residing at Boise, Idaho
My Commission Expires December 5, 1994

(Over)

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

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

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

CIVIL CASE NUMBER: R36-10283A & BIdent. Number 39356Date Received 7-22-88 gReceipt Number 5001162 SCC

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) YA-TA-HAY INVESTMENTS, INC., A TEXAS CORP. Phone (505) 392-1132
MARY RUTH BARRETT

Mailing Address 813 West Kiowa, Hobbs, New Mexico Zip 88240

2. Date of Priority (Only one (1) per claim) June 26, 1881

3. Source of water supply (a) John Bell Ditch, Pipe Ditch & Padgett Ditch
which is tributary to (b) Billingsley Creek

4. a. Location of existing point of diversion is: Township 7 South Range 13 East Section 11,

NW 1/4 of SE 1/4 of NE 1/4, Govt. Lot, B.M., County of Gooding

The point of diversion of the John Bell Ditch is: Township 7 South
Additional points of diversion if any: Range 13 East, B.M., Section 11, NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of NE $\frac{1}{4}$. The Pipe Ditch
is diverted out of the John Bell Ditch.

b. If instream flow, beginning point of claimed instream flow is:

Township Range Section , 1/4 of 1/4 of 1/4,

Govt. Lot B.M., County of

ending point is: Township Range Section , 1/4 of 1/4 of

 1/4, Govt. Lot B.M., County of

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. Water is diverted from Billingsley Creek to the
property by open ditches. Some of the property is irrigated by use of corrugates from
open ditches and some of the property is irrigated by the use of a sprinkler system
consisting of a 40 H.P. pump and motor, mainline, handlines and wheellines. The diversions
are concrete and the Pipe Ditch, which is diverted from the John Bell Ditch, delivers the
water to the property through a pipeline.

MICROFILMED
MICROFILMED
FEB 8 1993

OCT 20 1994

Copies: White-State, Yellow-Claimant

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from Mar. 15 to Nov. 15 amount 7.50 or _____

For Stockwater purposes from Jan. 1 to Dec. 31 amount 0.12 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 7.50 (cfs) and/or (b) 588 (acre feet)

8. Total consumptive use claimed is 420 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) At times, we have had 200 to 250 pairs of cattle on the property.

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
7 S	13 E	11		S 40															40
7 S	13 E	2			Lot 2 S-6					Lot 3 S-2	Lot 6 S-20			Lot 7 S-8		S 30	S 40		107

Total number of acres irrigated 147 acres

11. In which county (ies) are lands listed above as place of use located? Gooding County

12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
_____ or None (X)

14. Remarks:

MICROFILMED

FEB 07 1993

MICROFILMED

Last Name BARRETT

Ident No.

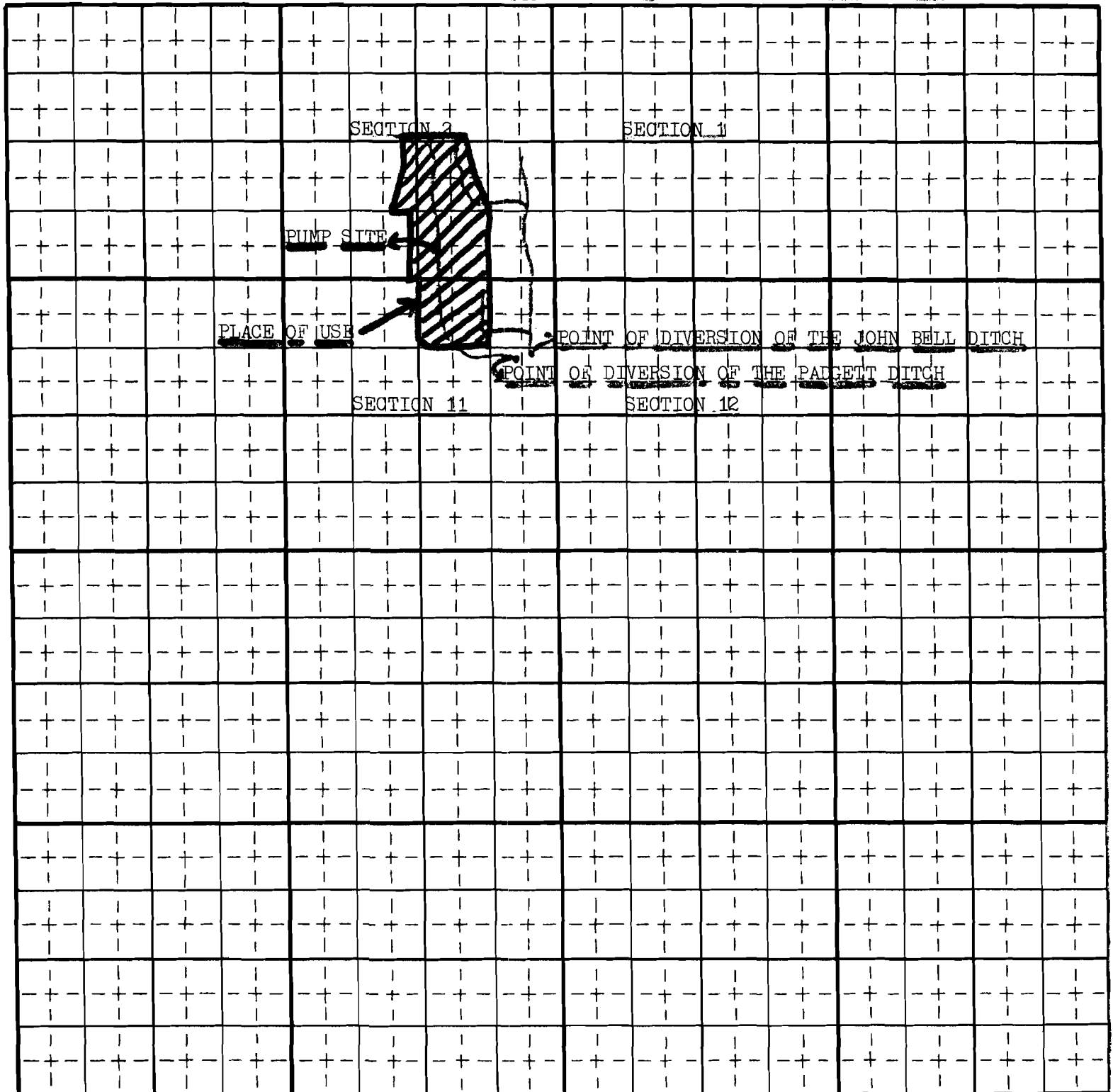
436-10283

Copy to Water State Allow-Claimant
OCT 20 1994

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

TOWNSHIP 7 SOUTH, RANGE 13 EAST OF THE BOISE MERIDIAN



MICROFILMED
MICROFILMED

Last Name BARRETT

Ident No. A36-10283

Copies: White-State, Yellow-Clark and 1994

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____
Decree X

If applicable provide IDWR Water Right Number 36-0094, 36-0095 & 36-0096

Court U.S. District Court Case Number 1602 Decree Date March 22, 1932

Plaintiff vs Defendant New International Mortgage Bank vs Idaho Power Company

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled
"How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not X

wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments two (2)

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true
and correct.

Signature of Claimant (s)

Mary Keith Barrett

Date

7-22-88

Date

For Organizations: I do solemnly swear or affirm that I am _____

Title

of _____, that I have signed the foregoing

Organization

document in the space below as _____

Title

of _____

Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____

Date _____

State of Idaho/or _____)

) SS.

County of _____)

Gooding

Subscribed and sworn (or affirmed) before me this 22nd day of July 19 88

SEAL

Notary Public

[Signature]

Residing at Hagerman, Idaho

My Commission Expires 5-10-91

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf
of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above
should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

Last Name BARRETT

Ident. Number

436-10283

MICROFILMED
MICROFILMED

OCT 20 1994

Copies White-State, Yellow-Claimant

rest, thence west 1100 links, thence north 230 links, containing 7.575 acres,
more or less.

Shuborn,
and Jessie
M. Hancock

Billingsley Creek
Billingsley Creek
Billingsley Creek

June 26, 1881
June 26, 1881
June 26, 1881

John Bell Ditch,
Pipe Line,
Padgett Ditch.

(The diversion point of said pipe line is on Billingsley Creek at the diversion
point of the John Bell Ditch; the diversion point of the Padgett Ditch is 30 yards
below the diversion point of the John Bell Ditch;)

Lots 2, 3, 5 and the NW 1/4 of the SE 1/4 and the SW 1/4 of the SW 1/4 of Sec. 2, Twp 7 S. R.
1 E. B. Also beginning at the northeast corner of Lot 7 said Section 2 and
running thence west 4 chains, thence south 20 chains, thence east 4 chains; thence
north 2 chains to beginning; also the NW 1/4 of the NW 1/4 of Sec. 11, Twp. 7 S. R. 13

Excepting from the above described land the following described tracts:
Beginning at a point on the first standard parallel south 2000 links west from the
northeast corner Sec. 2, Twp. 7 S. R. 13 E. B. and thence west along said
standard parallel 750 links, thence south parallel to eastern boundary of said Sec.
2, 1040 links, thence east parallel to first corner 750 links, thence north along
the eastern boundary of Lot 2 of the above mentioned Sec. 2 1040 links to the point
of beginning, containing 12.40 acres all in Lot 2, Sec. 2, Twp. 7 S. R. 13 E. B.
Also beginning at a point on the first standard parallel south 2932 links west from
the northeast corner of Sec. 2, Twp. 7 S. R. 13 E. B., thence west along said
standard parallel 1163 links; thence south along the western boundary of Lot 2,

and section, township and range, 1052 links, thence east parallel to the first

POOR ORIGINAL

MICROFILMED
FEMICROFILMED
OCT 20 1994

A. F. JAMES
ATTORNEY AT LAW
GOODING, IDAHO

POOR ORIGINAL

March 25, 1932.

Mr. John Sanborn,
Hagerman, Idaho.

Dear Mr. Sanborn:

After spending several months corresponding and meeting with the attorneys for the other parties in the Hagerman Valley water suit and making a number of trips to Boise, we have finally been able to work out the details of a decree in that matter, without the necessity of you and your witnesses making a trip to Boise and submitting proof, and on Tuesday of this week, Judge Cavanaugh, the United States District Judge, at Boise, Idaho, signed the Findings of Fact, Conclusions of Law, and Decree and the entire matter is fully adjusted. The water right decreed to you is as follows:

- 30 inches of Billingsley Creek diverted through the John Bell Ditch, with a priority of June 26, 1881;
- 60 inches of Billingsley Creek, diverted through the Pipe line, with a priority of June 26, 1881;
- 285 inches of Billingsley Creek, diverted through the Padgett Ditch, with a priority of June 26, 1881;

As you will remember, the fee which you were to pay me was \$40.00, on which you have paid \$20.00, leaving a balance of \$20.00. Will you therefore kindly forward me your check to cover this balance?

Very truly yours,

AFJ:BW



MICROFILMED
MICROFILMED
FEB 07 1993
OCT 20 1994

A36-10283

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

- 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).

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.

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.

RECEIPT
For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES

~~31-10283A~~

Receipt No:

5015349

Date:

Time:

2/ 2/1993

11:33:02

Received
From:

JENSEN, ET AL.

Type of Payment

Program Acct Class

Amount

COPIES/GISLER \$8.00; JENSEN \$9.80

64100

229 21 1760

17.80

COPIES/SIMPSON \$16.00; DEVRIES \$8.00

64100

229 21 1760

~~24.00~~

COPIES/YA-TA-HAY \$8.00; JOHNSON \$8.00

64100

229 21 1760

16.00

Total

\$57.80

CHECK

SIX

Region: SOUTHERN

Signature:

Jamie Robertson

*The combined
total of these
checks will pay
for the 6
statements
enclosed.*

*Thanks
CHH*

MICROFILMED

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
Director

29-Jan-1993

JENSEN REAL ESTATE
PO BOX 201
HAGERMAN ID 83332

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

Dear Mr. Jensen:

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:

\$7.19

Sincerely,

A handwritten signature in cursive script, appearing to read 'Jeanie', is written over the typed name and title.

Jeanie Robertson
Records Clerk

Encl:

cc: MARY RUTH BARRETT
813 W KIOWA
HOBBS NM 88240

MICROFILMED

OCT 20 1994

RECEIVED

JAN 20 1993

Department of Water Resources
Southern Region Office

1-12-93
(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 A36-10283A.

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.

NOTE: Please send the requested information Sincerely,
to: Jensen Real Estate
P. O. Box #201
Hagerman, Idaho 83332

Mary Ruth Barrett
(Name)

813 West Kiowa
(Address)

Hobbs, New Mexico 88240
(City, State, Zip Code)

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

MICROFILMED

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
Director

29-Jan-1993

JENSEN REAL ESTATE
PO BOX 201
HAGERMAN ID 83332

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

Dear Mr. Jensen:

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:

\$7.19

Sincerely,



Jeanie Robertson
Records Clerk

Encl:

cc: MARY RUTH BARRETT
813 W KIOWA
HOBBS NM 88240

MICROFILMED

OCT 20 1994

RECEIVED

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. A36-10283A
(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,)

36-10283A -0001/
93-04-0389

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)

MICROFILMED

OCT 20 1994

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: Ya-Ta-Hay Investments, Inc.

Address: Mary Ruth Barrett

813 W. Kiowa, Hobbs, NM 88240

Briefly describe your interest in this water right:

Decreed water right pursuant to New

International Mortgage Bank v. Idaho Power

Company, with a priority date of 6/26/1881;

2. Owner of the water right:

Name: Ya-Ta-Hay Investments, Inc.

Address: Mary Ruth Barrett

813 W. Kiowa, Hobbs, NM 88240

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)

MICROFILMED

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.

See page 7.

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 Owner's, Inc.'s Compendium "A"

VERIFICATION (Must be Completed)

State of New Mexico

County of San

Mary Ruth Barrett, 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.

Mary Ruth Barrett
Signature of person filing objection

By: [Signature]

(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 27 day of April,
1993.

Emiliano S. Ruffino
Notary Public for New Mexico
Residing at: 1001 N. Guadalupe, Albuquerque, NM
My Commission Expires: 3-24-94

(Over)

MICROFILMED

OCT 20 1994

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:

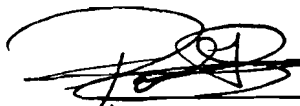
Owner name: Ya-Ta-Hay Investments, Inc.
Owner's address: Mary Ruth Barrett
813 W. Kiowa, Hobbs, NM 88240

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 7 - Beneficially used for purposes set forth in notice of claim.

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 9 - Director's Report fails to accurately state the place of use.

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

CHANGES TO DIRECTOR'S REPORT, page 4

Maximum Quantity- as decreed and/or beneficially used; Purpose of Use- add aesthetic, wildlife habitat and subdivision development; Period of Use- 1/1 to 12/31; Place of Use- 63 acres; Remarks- strike all remarks after "water is delivered through the Padgett Ditch" and "water is delivered through John Bell Ditch".

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

MICROFILMED

OCT 20 1994

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

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.

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.

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

MICROFILMED

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,

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.

MICROFILMED

OCT 20 1994

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.

MICROFILMED

OCT 20 1994

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.

MICROFILMED
OCT 20 1994

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.

MICROFILMED

OCT 20 1994

(WATER\21530ANS)

10. Place of Use:

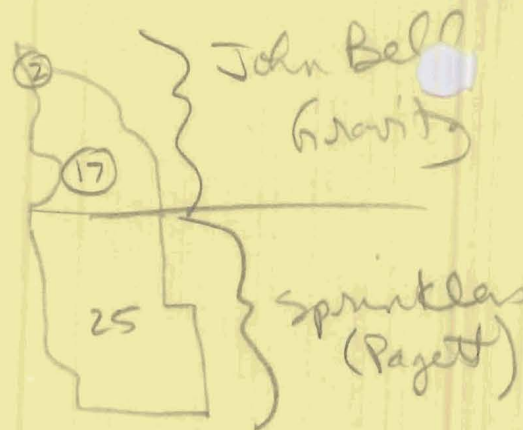
Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	13E	2	SW	NE	2	IRR	~~6.0~~ 2.0
			SW	NE	2	STOCK	
			SE	NW	3	STOCK	
			SE	NW	3	IRR	2.0
			NE	SW	6	IRR	21.0
			NE	SW	6	STOCK	
			SE	SW	7	IRR	8.0
			SE	SW	7	STOCK	
			NW	SE		IRR	~~30.0~~ 17.0
			NW	SE		STOCK	
			SW	SE		IRR	~~40.0~~ 25.0
			SW	SE		STOCK	
			Section Acres				~~107.0~~
		11	NW	NE		IRR	~~28.5~~ 10.0
			NW	NE		STOCK	
			Section Acres				~~28.5~~
			Total Acres				~~135.5~~ 54

Recommended

DELETE

MICROFILMED

FEB 07 1993



- ① Location of pump in Pagett
 ② Gravity on north 19 ac.?

MICROFILMED
FEB 07 1993

NOTICE OF ERROR FORM

Please type or print clearly, fill out completely, and return to:

Idaho Department of Water Resources

Statehouse Mail

Boise, Idaho 83720-9000

RECEIVED

SEP 23 1992

Department of Water Resources

The notice of error must be received at IDWR by the **deadline date** printed below with your proposed recommendation.

YOUR DEADLINE FOR FILING A NOTICE OF ERROR IS:

1. Water right number: 36-10283A

2. Name: Ya-Ta-Hay Investments, Inc.
MARY RUTH BARRETT

Address: 813 West Kiowa, Hobbs, New Mexico 88240

Weekday Telephone Number: 505-392-1132

MICROFILMED

FEB 07 1993

TEAR AT PERFORATIONS AND COMPLETE FORM ON OTHER SIDE

(Instead of filling in items 3 and 4 below you may include a copy of your proposed recommendation with the changes marked on the copy.)

3. Describe the portion of proposed recommendation with which you disagree:
I disagree with the amount of water and the period of use that has been recommended.
4. Describe the changes you wish to have made in the proposed recommendation:
I wish to have the amount of water that was decreed under the 1932 Federal Court Decree, which will increase the amount of water allowed per irrigated acre, and the period of use as per Decree, which was from March 15th to November 15th of each year.
5. Describe why you disagree with the proposed recommendation:
The amount of water that was originally decreed is needed because of the sandy soil, the terrain and the flexibility of using different methods of irrigation. The additional period of use is needed because of the climate, growing season, crops grown, the practice of double cropping & etc. in the Hagerman Valley area.
6. Date: September 22, 1992

SIGNATURE

Mary Ruth Barrett



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

OCTOBER 14, 1992

R. KEITH HIGGINSON
Director

- MARY RUTH BARRETT
- YA-TA-HAY INVESTMENTS, INC.
- 813 W. KIOWA
HOBBS, NEW MEXICO 88240

RE: NOTICE OF ERROR FOR SEASON OF USE AND DIVERSION AMOUNTS
WATER RIGHT NO(S): 36-10283A

DEAR Ms BARRETT:

THIS LETTER IS IN RESPONSE TO THE NOTICE OF ERROR (NOE) YOU RECENTLY FILED WITH IDWR REGARDING THE DIRECTOR'S PROPOSED RECOMMENDATION OF THE CLAIM LISTED ABOVE. YOUR NOE QUESTIONS TWO POINTS; 1) YOUR NOE INDICATES THAT YOU WOULD LIKE THE RECOMMENDATION TO SHOW A LONGER SEASON OF USE FOR IRRIGATION. AND 2) THE BASIS FOR RECOMMENDATION OF AN AMOUNT THAT IS LESS THAN THE AMOUNT SHOWN IN A PREVIOUS DECREE.

- 1) THE DIRECTOR HAS APPROVED EXTENDING THE PERIOD OF USE FOR THE HAGERMAN VALLEY TO 3/15 TO 11/15.

THE PROPOSED RECOMMENDATION IS BASED ON IRRIGATION SEASON OF USE STANDARDS ADOPTED BY THE DIRECTOR FOR THE VARIOUS REGIONS THROUGH THE STATE. THESE STANDARDS ARE BASED ON THE PERIOD OF THE YEAR IN WHICH THERE IS LESS THAN A 75% CHANCE OF A 24 DEGREE F. FROST.

IN ADDITION, SINCE THERE ARE SOME YEARS IN WHICH WATER CAN BE BENEFICIALLY USED FOR IRRIGATION OUTSIDE THE IRRIGATION SEASON, THE PROPOSED DIRECTOR'S REPORT INCLUDES A GENERAL PROVISION WHICH PROVIDES FOR IRRIGATION OUTSIDE THE IRRIGATION SEASON UNDER CERTAIN CONDITIONS. THE CONDITIONS ARE THAT THE WATER IS BENEFICIALLY USED, AS DETERMINED BY THE DIRECTOR; THAT ALL WATER RIGHTS WITH A PERIOD OF USE OUTSIDE THE IRRIGATION SEASON REGARDLESS OF PRIORITY, ARE SATISFIED; AND THAT THE USE DOES NOT CONFLICT WITH THE PUBLIC INTEREST AS DETERMINED BY THE DIRECTOR. THIS PROPOSED GENERAL PROVISION WILL BE INCLUDED IN THE DIRECTOR'S REPORT.

- 2) UNDER IDAHO LAW, A WATER RIGHT IS LIMITED TO THE AMOUNT OF WATER BENEFICIALLY USED FOR THE PURPOSES FOR WHICH THE WATER RIGHT WAS ESTABLISHED. THE AMOUNT OF WATER BENEFICIALLY USED IS LIMITED TO THE AMOUNT THAT IS ACTUALLY USED AND IS REASONABLY REQUIRED. FOR IRRIGATION PURPOSES, A REASONABLE AMOUNT IS THE

MICROFILMED

FEB 07 1993

PAGE 2

AMOUNT REQUIRED USING IRRIGATION METHODS THAT ARE REASONABLY EFFICIENT UNDER CURRENT CIRCUMSTANCES. IF THE AMOUNT OF A WATER RIGHT SHOWN IN A DECREE IS GREATER THAN THE AMOUNT THAT IS BENEFICIALLY USED, THEN THE PORTION THAT IS NOT BENEFICIALLY USED IS FORFEITED.

THE AMOUNT PROPOSED TO BE RECOMMENDED FOR YOUR CLAIM IS BASED ON THE AMOUNT OF WATER DETERMINED TO BE BENEFICIALLY USED FOR THE RECOMMENDED USES, BASED ON AVAILABLE DATA AND CURRENT METHODS OF ANALYSIS.

IF YOU STILL DISAGREE WITH IDWR'S RECOMMENDATIONS YOU WILL AN OPPORTUNITY TO FILE AN OBJECTION TO THE DIRECTOR'S REPORT WITH THE COURT. WHEN THE DIRECTOR'S REPORT IS FILED WITH THE COURT, YOU WILL BE MAILED A NOTICE THAT WILL CONTAIN MORE INFORMATION ABOUT THE OBJECTION PROCESS.

SINCERELY,

A handwritten signature in cursive script, reading "Robert V. Horstall".

SENIOR WATER AGENT

MICROFILMED

FEB 07 1993

Water Right Number - R36-10283A

Prefix Translation:

RESEARCH

Old (D) Number -

+ - - - - Last Name - - - - +

+ - First Name - - +

+ - - - - Address - - - - - +

*** C - CURRENT OWNER ***

YA-TA-HAY INVESTMENTS INC

1 - 813 W KIOWA

2 -

3 -

City- HOBBS

State- NM Zip- 88240

Phone - 505-392-1132

1 - 813 W KIOWA

2 -

3 -

City- HOBBS

State- NM Zip- 88240

Phone - 505-392-1132

BARRETT

MARY RUTH

+ - - Priority Date - - +

06/26/1881

+ - - Region - - - +

ERROR IN REGION

+ - - Stage - - - +

D - DECREED

+ - - Status - - - +

+ - - Source - - - - - +

BILLINGSLEY CREEK

+ - - Tributary - - - - - +

SNAKE RIVER

+ - - Point of Diversion - - - - - +

Twn Rng Sec Tract Lot RFlg County

07S	13E	11	NE SE NE	(47)	GOODING
			NW SE NE	(47)	GOODING

Code	Description	Period From	Period To	Diversion Rate	Diversion Volume
------	-------------	-------------	-----------	----------------	------------------

01 - IRRIGATION		03/15	11/15	1.300	
04 - STOCKWATER		04/01	10/31	0.120	
04 - STOCKWATER		11/01	03/31	0.340	

+ - Total Div. Rate - +	+ - Total Div. Volume - +
1.300	

+ - Total Consumptive Use - +	+ - KW Usage - +
162.0	

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
-----	-----	-----	-------	-----	-------	------	-------------	--------

07S	13E	2	SW NE	2	2.0	01	IRRIGATION	(47) GOODING
07S	13E	2	NW SE		17.0	01	IRRIGATION	(47) GOODING
07S	13E	2	SW SE		25.0	01	IRRIGATION	(47) GOODING
07S	13E	11	NW NE		10.0	01	IRRIGATION	(47) GOODING
07S	13E	2	SW NE	2		04	STOCKWATER	(47) GOODING
07S	13E	2	NW SE			04	STOCKWATER	(47) GOODING
07S	13E	2	SW SE			04	STOCKWATER	(47) GOODING
07S	13E	11	NW NE			04	STOCKWATER	(47) GOODING

Total Acres: 54.0

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

MICROFILMED

FEB 07 1993

Change Season of use
for Stock water to
again with in season
12 KC
10-21-92

Water right number - R36-10283A Prefix Translation: RESEARCH

+ - - Non-Irrigation Use - STOCKWATER, 500 CATTLE

+ - - Other Rights for Same Use - NONE

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

WATER IS DELIVERED THROUGH THE PADGETT DITCH AND 0.19 CFS OF
THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY
OF THIS RIGHT.

WATER IS DELIVERED THROUGH THE JOHN BELL DITCH AND 0.03 CFS
OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE LOSSES IN
DELIVERY OF THIS RIGHT.

A DIVERSION RATE OF 1.08 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.

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

3600094
3600095
3600096
3610283

+ - - - - - Conditions of Approval - - - - - +
No Conditions of Approval found.

+ - - - - 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 36-10283.

Date: 09/24/1992 User Id: SCHULTZ Subject: NOTICE OF ERROR (NOE)

NOE RECEIVED 9/23/92. CHANGED NOE FLAG FROM BLANK TO A.

CLAIM VERIFIED 8/17/92. DID NOT REVERIFY ANY PART OF CLAIM.

Date: 10/14/1992 User Id: WORSTELL Subject: NOTICE OF ERROR RECORD

PERIOD OF USE CHANGED TO 3/15 TO 11/15

+ - - Audit Fields - - +

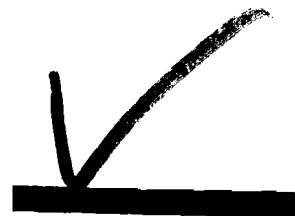
10/14/92 WORSTELL

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

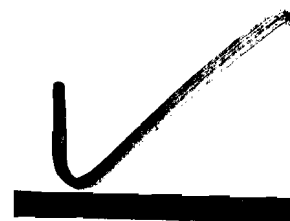
Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	- 1602
Response Filed Date	- 00/00/0000	Verified Date	- 10/14/1992	Old Judicial District	-
Claim Received Date	- 07/28/1988	Last Amended 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	- C

MICROFILMED
FEB 07 1993

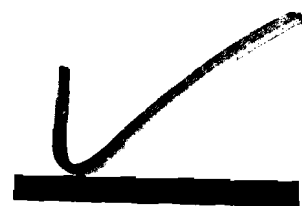
R PROOF



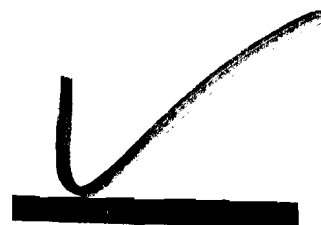
CVR



MAPS



PHOTOS



MISC



MICROFILMED
FEB 07 1993

Water Right Number - R36-10283A

Prefix Translation:

RESEARCH

Old (D) Number -

*** C - CURRENT OWNER ***
YA-TA-HAY INVESTMENTS INC

BARRETT

MARY RUTH

1 - 813 W KIOWA
2 -
3 -
City- HOBBS
Phone - 505-392-1132
1 - 813 W KIOWA
2 -
3 -
City- HOBBS
Phone - 505-392-1132

State- NM Zip- 88240

+ - - 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	NE SE NE NW SE NE	(47) (47)		GOODING	

Code	Description	Period From	Water Use Period To	Diversion Rate	Diversion Volume
01 - IRRIGATION		04/01	10/31	1.300	
04 - STOCKWATER		04/01	10/31	0.120	
04 - STOCKWATER		11/01	03/31	0.340	

+ - Total Div. Rate - + - Total Div. Volume - +
1.300

+ - Total Consumptive Use - + - KW Usage - +
162.0

Twn	Rng	Sec	Tract	Lot	Acres	Place of Use Code	Description	County
07S	13E	2	SW NE	2	2.0	01	IRRIGATION	(47) GOODING
07S	13E	2	NW SE		17.0	01	IRRIGATION	(47) GOODING
07S	13E	2	SW SE		25.0	01	IRRIGATION	(47) GOODING
07S	13E	11	NW NE		10.0	01	IRRIGATION	(47) GOODING
07S	13E	2	SW NE	2		04	STOCKWATER	(47) GOODING
07S	13E	2	NW SE			04	STOCKWATER	(47) GOODING
07S	13E	2	SW SE			04	STOCKWATER	(47) GOODING
07S	13E	11	NW NE			04	STOCKWATER	(47) GOODING

Total Acres: 54.0

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

MICROFILMED
FEB 07 1993

MICROFILMED
FEB 07 1993

SPLIT

CLAIM NUMBER: A36-10283 A

02:05:29
07/03/99

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		HNT 7/30/92	DB	
POINT OF DIV	Y			N	1/5			
SOURCE	Y			N	1/4, 5			
PLACE OF USE	Y		7-24-90 SEC/HHT	N	6. Decree			
DIV. AMOUNT CFS/VOLUME	Y			Y				
CONSUMPTIVE USE	-			Y				
PURPOSES	Y			N				
PERIOD OF USE	Y			N				
BASIS OF CLAIM	Y			N				
REMARKS	Y							

"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 GR196

MICROFILMED

FEB 07 1993

PAGE: 1
GENERAL INFORMATION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

CLAIM NUMBER: A36-10283

02:05:29
07/03/90

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

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

OWNER CODE: C

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

DATABASE
Y

FIELD
EXAMINER

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

MICROFILMED
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:

MICROFILMED
FEB 07 1993

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)

REMARKS:

Matches Deere's Pto.

MICROFILMED

FEB 07 1993

RECOMMENDED PRIORITY DATE

01c

REVIEWED BY

SCC

DATE

1-4-91

36-U/534
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

SOURCE:

SCC

TRIB:

DATE: 1-4-91

VIA JOHN BELL DITCH

PADGETT DITCH

A36-10283A

MICROFILMED
FEB 07 1993

ROOT WATER RIGHT NUMBERS: A36-10283

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM ACRES
07S	13E	2	SW	NE	2	YA-TA-HAY INVESTMENTS, INC.	A36-10283 / 6.0	-			
						GOSSE, PHILLIP C.	A36-04033 /	-			
						GOSSE, PHILLIP C.	A36-10260 /	-			
						ELGAN, DOUGLAS L.	A37-04366 / 7.0	37-04366 / 7.0			
						GOSSE, MARILYN L.	A36-00076A / 6.0	-			
						GLAUNER, JOHN		36-00052 /			
						GLAUNER, JOHN		36-00053 /			
						LEWELLEN, ROY		36-00076 /			
						SANBORN, JOHN C.		36-00094 /			
						SANBORN, JOHN C.		36-00095 /			
						SANBORN, JOHN C.		36-00096 /			
07S	13E	2	SW	NE	2	YA-TA-HAY INVESTMENTS, INC.	A36-10283 /	-			
						GOSSE, PHILLIP C.	A36-04033 /	-			
						GOSSE, PHILLIP C.	A36-10260 /	-			
						ELGAN, DOUGLAS L.	A37-04366 / 7.0	37-04366 / 7.0			
						GOSSE, MARILYN L.	A36-00076A / 6.0	-			
						GLAUNER, JOHN		36-00052 /			
						GLAUNER, JOHN		36-00053 /			
						LEWELLEN, ROY		36-00076 /			
						SANBORN, JOHN C.		36-00094 /			
						SANBORN, JOHN C.		36-00095 /			
						SANBORN, JOHN C.		36-00096 /			
07S	13E	2	SE	NW	3	YA-TA-HAY INVESTMENTS, INC.	A36-10283 /	-			
						SANBORN, JOHN C.		36-00094 /			
						SANBORN, JOHN C.		36-00095 /			
						SANBORN, JOHN C.		36-00096 /			
						HARDY, EARL M.		36-08319 /			
07S	13E	2	NE	SW	6	YA-TA-HAY INVESTMENTS, INC.	A36-10283 / 21.0	-			
						SANBORN, JOHN C.		36-00094 /			
						SANBORN, JOHN C.		36-00095 /			
						SANBORN, JOHN C.		36-00096 /			
						HARDY, EARL M.		36-07176 /			
						HARDY, EARL M.		36-08319 /			
07S	13E	2	NE	SW	6	YA-TA-HAY INVESTMENTS, INC.	A36-10283 /	-			
						SANBORN, JOHN C.		36-00094 /			
						SANBORN, JOHN C.		36-00095 /			
						SANBORN, JOHN C.		36-00096 /			
						HARDY, EARL M.		36-07176 /			
						HARDY, EARL M.		36-08319 /			
07S	13E	2	SE	SW	7	YA-TA-HAY INVESTMENTS, INC.	A36-10283 / 8.0	-			
						IDAHO POWER CO.	A02-02001A /	-			
						IDAHO POWER CO.	A02-02001B /	-			
						IDAHO POWER CO.	A02-020060 /	-			
						SANBORN, JOHN C.		36-00094 /			

MICROFILMED
FEB 07 1993

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.
 IDAHO POWER CO.
 IDAHO POWER CO.

A36-10283 /
 A02-02001A /
 A02-02001B /
 A02-02060 /
 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.
 SANBORN, JOHN C.
 YA TA HAY INVESTMENTS INC

A36-10283 /30.0
 A36-10312 / 1.0
 A36-08320 /
 A36-10314 /
 A36-00051C / 4.0
 36-00051 /
 36-00054 /
 36-00094 /
 36-00095 /
 36-00096 /
 36-07875 /

- /
 - /
 - /
 - /
 - /
 - /
 - /
 - /
 - /
 - /
 - /

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.
 SANBORN, JOHN C.
 YA TA HAY INVESTMENTS INC

A36-10283 /
 A36-10312 / 1.0
 A36-08320 /
 A36-10314 /
 A36-00051C / 4.0
 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
 36-00094 /
 36-00095 /
 36-00096 /
 36-07875 /

- /
 - /
 - /
 - /
 - /

07S 13E 11 NW NE

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

A36-10283 /40.0
 A36-10282 /

- /
 - /

MICROFILMED
 FEB 07 1993

SPLIT TRACT

Part A = 10 Ac.
 Part B = 5 Ac.

15 15

25 25

17 17

stock.

stock.

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 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)

59

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

PRESUMPTION FLAG:

REMARKS:

Field exam photos taken 7-24-90

59.0 34

RECOMMENDATIONS:

TOTAL ACRES:

59.0 34

REVIEWED BY:

SCC

DATE:

14-91

SPLIT part 'A' = 54.0 Acres

MICROFILMED
FEB 07 1993

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?

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

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?
RECOMMEND TO WR STANDARDS OR OTHER?

Y (X) N ()
Y () N (X) Explain in remarks, below.

REMARKS:

Calc for flood in indicates slightly less than 1" flow @ 68% eff.
" recommended 1" flow for flood
1" flow for flood
the entire P/U = 54 acres
* 0.8
1.08 CFS Recommended Div rate
see formal analysis sheet dated 7-28-92

KKC
7-28-92

MICROFILMED
FEB 07 1993

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

AT 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

MICROFILMED
FEB 07 1993

B.

MEASUREMENT METHOD _____, SEE ATTACHED CALCULATIONS.

C. ARE OTHER WATER RIGHTS USED? Y() N(X) 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	YA-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	STURTEVANT, 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	YA-TA-HAY INVESTMENTS, INC.	FROM 01-01 TO 12-31	.120 CFS	
A36-04033	STOCKWATER	GOSSI, PHILIP C.	FROM 01-01 TO 12-31	.020 CFS	
A36-04033	DOMESTIC	GOSSI, PHILIP C.	FROM 01-01 TO 12-31	.040 CFS	
A36-10260	DOMESTIC	GOSSI, PHILIP C.	FROM 01-01 TO 12-31	.040 CFS	
A36-10260	STOCKWATER	GOSSI, PHILIP 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	YA-TA-HAY INVESTMENTS, INC.	FROM 01-01 TO 12-31	.080 CFS	

D.

1a. IRRIGATION RATE RATE/VOLUME CALCULATIONS: (IRRIGATION)
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?

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

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 DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

ACRES 59 x DIVERSION VOL. AF/A FOR AREA 4 =TOTAL DIVERSION VOLUME 236 AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y(☐) N(☐)

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

MICROFILMED
FEB 07 1993

RECOMMENDATIONS:

REC.
PURPOSES

REC. PERIOD
FROM TO

REC. DIV
RATE CFS

REC. DIV
VOL. AF/A

REC. CONS
USE

IRRIGATION
STOCKWATER

3-15 11-15
1-1 12-31

2.36
0.12
2.36

236
236

177
177

TOTAL FOR THIS RIGHT

REVIEWED BY:

See

DATE: 1-4-91

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

(allowed this rate)

PART -10283A:

(0.04 x 54 Ac. = 2.16 cfs)

2.16
1.08

216

162

NOT FILMED
FEB 07 1993

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

DATABASE

EXAMINER

TOTAL DIVERSION RATE OF WR SPLITS

7.500

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

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)

DATABASE
N

FIELD
EXAMINER

[Signature]

REMARKS:

AUTHENTICATION:

SIGNATURE:

[Signature]

DATE:

1-4-91

NAME OF FIELD EXAMINER:

TITLE:

MICROFILMED
FEB 07 1993

SPLIT

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				
POINT OF DIV	Y			N	1/5			
SOURCE	Y			N	1/4/5			
PLACE OF USE	Y		7-24-90 5cc/HH	N	6. Decree			
DIV. AMOUNT CFS/VOLUME	Y			Y				
CONSUMPTIVE USE	-			Y				
PURPOSES	Y			Y				
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 GRIGG

MICROFILMED
FEB 07 1993

PAGE: 1
GENERAL INFORMATION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

CLAIM NUMBER: A36-10283

02:05:29
07/03/90

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

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

OWNER CODE: C

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

DATABASE FIELD
Y EXAMINER

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

MICROFILMED
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:

MICROFILMED
FEB 07 1993

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 EXAMINER
Y N

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

REMARKS:

Matches Deceased Pto.

MICROFILMED
FEB 07 1993

RECOMMENDED PRIORITY DATE

OK

REVIEWED BY

SCC

DATE

1-4-91

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A36-10283	07S	13E	11	NW	SE	NE		GOODING
A36-10283	07S	13E	11	NE	SE	NE		GOODING
OTHER AJ CLAIMS WITH SAME AJ POD								
A PREFIX				WR RECORDS IN SAME 40 ACRE TRACT				
A36-04115				36-00003				
A36-04261				36-00005				
A36-00113B				36-00019				
A36-10316				36-00021				
A36-10588				36-00024				
A36-00039J				36-00025				
A36-00096A				36-00026				
A36-00113F				36-00027				
A36-00113G				36-00034				
A36-00051D				36-00035A				
A36-10119				36-00035B				
A36-10120				36-00039A				
A36-10751				36-00039B				
A36-10752				36-00040				
A36-10755				36-00051				
A36-10061				36-00052				
A36-00103B				36-00064				
A36-00108A				36-00065				
A36-00003G				36-00067				
A36-00027				36-00071				
A36-00039C				36-00076				
A36-00090E				36-00077				
A36-00051B				36-00082				
A36-00076A				36-00083				
A36-00089B				36-00085				
A36-00089D				36-00087				
A36-10312				36-00088				
A36-00090A				36-00089				
A36-00003D				36-00090				
A36-00090B				36-00091				
A36-00090C				36-00094				
A36-00090D				36-00095				
A36-00090F				36-00096				
A36-00108F				36-00103				
A36-00125A				36-00108				
A36-00026				36-00112A				
A36-00051C				36-00112B				
A36-00071A				36-00113B				
A36-00089A				36-00113C				
A36-00108C				36-00113D				
A36-00108D				36-00125				
A36-00108E				36-04008				
A36-00108H				36-04115				
A36-04008				36-04261				
				36-07271				

MICROFILMED
FEB 07 1993

36-07658
36-07739
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

SOURCE:

SEE

TRIB:

DATE:

1-4-91

VIA JOHN BELL DITCH

PADGETT DITCH

MICROFILMED
FEB 07 1993

A. ROOT WATER RIGHT NUMBERS: A36-10283

B. POU LISTING

TWP RING SEC 1/4 1/4 LOT NAME

AJ
#/ACRES

WR
#/ACRES

LANDSAT
DATA

FIELD
EXAM.

RECOMM.
ACRES

07S 13E	2	SW	NE	2	YA-TA-HAY INVESTMENTS, INC.	A36-10283	/	6.0	-	/					
					GOSI, PHILLIP C.	A36-04033	/		-	/					
					GOSI, PHILLIP C.	A36-10260	/		-	/					
					ELGAN, DOUGLAS L.	A37-04366	/	7.0	37-04366	/	7.0				
					GOSI, MARILYN L.	A36-00076A	/	6.0	-	/					
					GLAUNER, JOHN				36-00052	/					
					GLAUNER, JOHN				36-00053	/					
					LEWELLEN, ROY				36-00076	/					
					SANBORN, JOHN C.				36-00094	/					
					SANBORN, JOHN C.				36-00095	/					
					SANBORN, JOHN C.				36-00096	/					

07S 13E	2	SW	NE	2	YA-TA-HAY INVESTMENTS, INC.	A36-10283	/		-	/					
					GOSI, PHILLIP C.	A36-04033	/		-	/					
					GOSI, PHILLIP C.	A36-10260	/		-	/					
					ELGAN, DOUGLAS L.	A37-04366	/	7.0	37-04366	/	7.0				
					GOSI, MARILYN L.	A36-00076A	/	6.0	-	/					
					GLAUNER, JOHN				36-00052	/					
					GLAUNER, JOHN				36-00053	/					
					LEWELLEN, ROY				36-00076	/					
					SANBORN, JOHN C.				36-00094	/					
					SANBORN, JOHN C.				36-00095	/					
					SANBORN, JOHN C.				36-00096	/					

Stockwater

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

07S 13E	2	NE	SW	6	YA-TA-HAY INVESTMENTS, INC.	A36-10283	/	21.0	-	/					
					SANBORN, JOHN C.				36-00094	/					
					SANBORN, JOHN C.				36-00095	/					
					SANBORN, JOHN C.				36-00096	/					
					HARDY, EARL M.				36-07176	/					
					HARDY, EARL M.				36-08319	/					

07S 13E	2	NE	SW	6	YA-TA-HAY INVESTMENTS, INC.	A36-10283	/		-	/					
					SANBORN, JOHN C.				36-00094	/					
					SANBORN, JOHN C.				36-00095	/					
					SANBORN, JOHN C.				36-00096	/					
					HARDY, EARL M.				36-07176	/					
					HARDY, EARL M.				36-08319	/					

07S 13E	2	SE	SW	7	YA-TA-HAY INVESTMENTS, INC.	A36-10283	/	8.0	-	/					
					IDAHO POWER CO.	A02-02001A	/		-	/					
					IDAHO POWER CO.	A02-02001B	/		-	/					
					IDAHO POWER CO.	A02-02060	/		-	/					
					SANBORN, JOHN C.				36-00094	/					

MICROFILMED
FEB 07 1993

SANBORN, JOHN C. 36-00095 /
SANBORN, JOHN C. 36-00096 /
IDAHO POWER CO. 36-02082 /
IDAHO POWER CO. A02-02001A /
IDAHO POWER CO. A02-02001B /
IDAHO POWER CO. A02-02059 /
IDAHO POWER CO. A02-02060 /

7
YA-TA-HAY INVESTMENTS, INC. A36-10283 /
IDAHO POWER CO. A02-02001A /
IDAHO POWER CO. A02-02001B /
IDAHO POWER CO. A02-02060 /
SANBORN, JOHN C. 36-00094 /
SANBORN, JOHN C. 36-00095 /
SANBORN, JOHN C. 36-00096 /
IDAHO POWER CO. 36-02082 /
IDAHO POWER CO. A02-02001A /
IDAHO POWER CO. A02-02001B /
IDAHO POWER CO. A02-02059 /
IDAHO POWER CO. A02-02060 /

Decker

07S 13E 2 NW SE 39.0

YA-TA-HAY INVESTMENTS, INC. A36-10283 /30.0
ZABALA, CARMEN M. A36-10312 / 1.0
ZABALA, CARMEN M. A36-08320 /
ZABALA, IGNACIO NICK A36-10314 /
ZABALA, CARMEN M. A36-00051C / 4.0
GLAUNER, JOHN 36-00051 /
GLAUNER, JOHN 36-00054 /
SANBORN, JOHN C. 36-00094 /
SANBORN, JOHN C. 36-00095 /
SANBORN, JOHN C. 36-00096 /
YA TA HAY INVESTMENTS INC 36-07875 /

17

17

07S 13E 2 NW SE 39.0

YA-TA-HAY INVESTMENTS, INC. A36-10283 /
ZABALA, CARMEN M. A36-10312 / 1.0
ZABALA, CARMEN M. A36-08320 /
ZABALA, IGNACIO NICK A36-10314 /
ZABALA, CARMEN M. A36-00051C / 4.0
GLAUNER, JOHN 36-00051 /
GLAUNER, JOHN 36-00054 /
SANBORN, JOHN C. 36-00094 /
SANBORN, JOHN C. 36-00095 /
SANBORN, JOHN C. 36-00096 /
YA TA HAY INVESTMENTS INC 36-07875 /

Stock Co.

25

25

07S 13E 2 SW SE 42.0

YA-TA-HAY INVESTMENTS, INC. A36-10283 /40.0
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 SW SE 42.0

YA-TA-HAY INVESTMENTS, INC. A36-10283 /
SANBORN, JOHN C. 36-00094 /
SANBORN, JOHN C. 36-00095 /
SANBORN, JOHN C. 36-00096 /
YA TA HAY INVESTMENTS INC 36-07875 /

Stock Co.

07S 13E 11 NW NE 35.0

YA-TA-HAY INVESTMENTS, INC. A36-10283 /40.0
YA-TA-HAY INVESTMENTS, INC. A36-10282 /

15

15

MICROFILMED
FEB 07 1993

STURTERVANT, 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 /
STURTERVANT, 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)

IF YES SEE ATTACHED SHEET:

C. FIELD EXAM REQUIRED?

DUE TO POU DISCREPANCY? (Y/N)

DATABASE FIELD EXAMINER
Y X

PRESUMPTION FLAG:

REMARKS:

Field exam photos taken 7-24-90

RECOMMENDATIONS:

TOTAL ACRES:

59.0

REVIEWED BY:

SCC

DATE:

14-91

MICROFILMED
FEB 07 1993

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?

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

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

RECOMMEND TO WR STANDARDS OR OTHER?

REMARKS:

Y(☒) N(☐)
Y(☐) N(☒)

Explain in remarks, below.

MICROFILMED
FEB 07 1993

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

AT 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
5.70
7.5

B.

MEASUREMENT METHOD

FLOW MEASUREMENT

SEE ATTACHED CALCULATIONS.

C. ARE OTHER WATER RIGHTS USED? Y() N(X) 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. VOLUME
A36-10283	BILLINGSLEY CREEK	YA-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	STURTEVANT, 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	YA-TA-HAY INVESTMENTS, INC.	FROM 01-01 TO 12-31	.120 CFS	
A36-04033	STOCKWATER	GOSST, PHILLIP C.	FROM 01-01 TO 12-31	.020 CFS	
A36-04033	DOMESTIC	GOSST, PHILLIP C.	FROM 01-01 TO 12-31	.040 CFS	
A36-10260	DOMESTIC	GOSST, PHILLIP C.	FROM 01-01 TO 12-31	.040 CFS	
A36-10260	STOCKWATER	GOSST, 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	YA-TA-HAY INVESTMENTS, INC.	FROM 01-01 TO 12-31	.080 CFS	

MICROFILMED
FEB 07 1993

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?

Y(☒) N(☐)

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

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 DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

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

TOTAL DIVERSION VOLUME 236 AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y(☐) N(☐)

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

MICROFILMED
FEB 07 1993

RECOMMENDATIONS:

REC.
PURPOSES

REC. PERIOD
FROM TO

REC. DIV
RATE CFS

REC. DIV
VOL. AF/A

REC. CONS.
USE

DATABASE EXAMINER

DATABASE EXAMINER

DATABASE EXAMINER

IRRIGATION

3-15 11-15

2.36

236

177

STOCKWATER

1-1 12-31

0.12

-

-

TOTAL FOR THIS RIGHT

2.36

236

177

REVIEWED BY:

See

DATE:

1-4-91

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

(allowed this rate)

SPLITS

'A'

216

216

162

"B"

0.20

20

15

2.36

236

177

MICROFILMED
FEB 07 1993

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

DATABASE
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

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)

DATABASE
N

REMARKS:

FIELD EXAMINER
OK

AUTHENTICATION:

SIGNATURE: *Steve Doo*

DATE: 1-4-91

NAME OF FIELD EXAMINER:

TITLE:

HAGERMAN ORTHOPHOTOQ
IDAHO

260 000 FEET

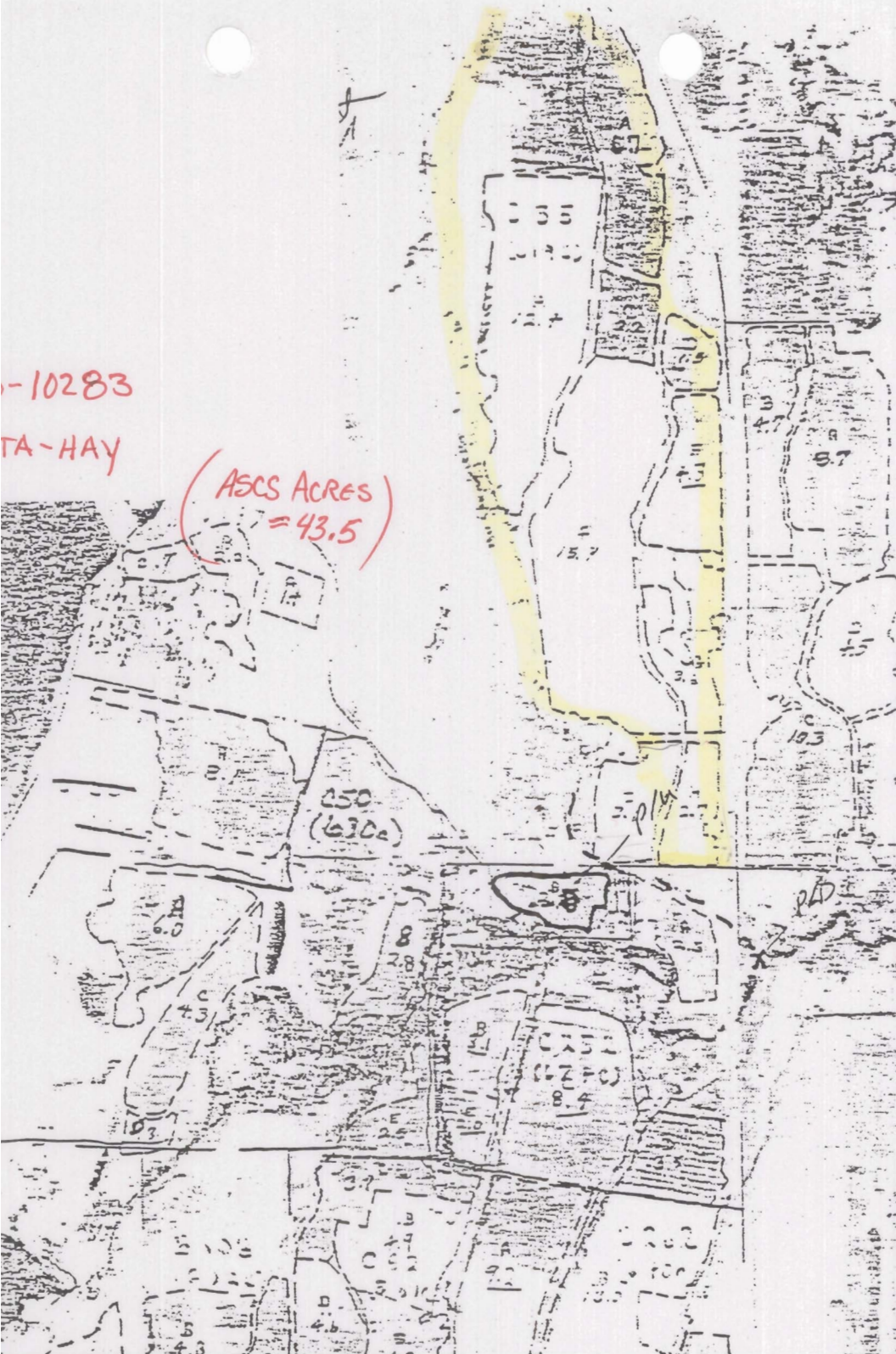
1



-10283

TA-HAY

(ASCS ACRES)
= 43.5



136-10283

YA-TA-HAY

3

per field Exam

7-24-90

SCH/HR

TOTAL ACRES - 58

9C175A
DEGREE
TRACTS

Gaging

Lower, S

Falls

Power Plant

Substation

BM 2936

BM 2993

Ringerman

33

12 Flood 124
 42 Sprinkler 112
 54 Acres

34

136-10283

YA-TA-HAY

3

per field Exam
 7-24-90
 SA/HAT

10

TOTAL ACRES = 58

Lower Salmon
 Falls
 Power Plant
 Substation

BM
 2936

3176

2872

BM 2908

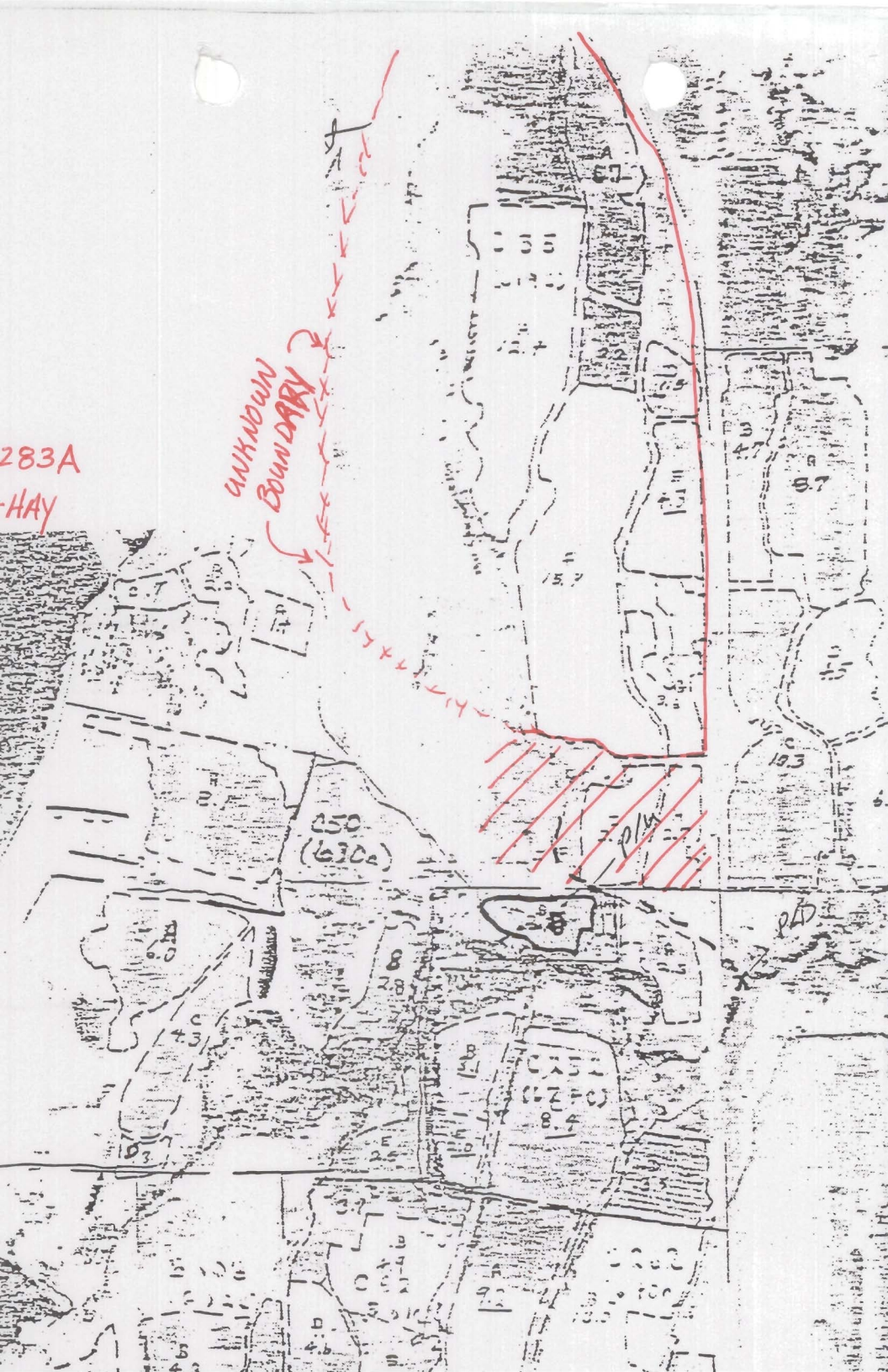
Cem

15

Hagerman

283A
-HAY

UNKNOWN
BOUNDARY



ГА-НАУ

ASCS ACRES
= 43.5



STURTERVANT, 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 /
STURTERVANT, 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 /

Stock W.

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)

IF YES SEE ATTACHED SHEET:

C. FIELD EXAM REQUIRED? DATABASE EXAMINER

DUE TO POU DISCREPANCY? (Y/N)

PRESUMPTION FLAG:

REMARKS:

Field exam photos taken 7-24-90

RECOMMENDATIONS:

TOTAL ACRES:

59.0

REVIEWED BY:

SCC

DATE:

14-91

MICROFILMED
FEB 07 1993

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

DIVERSION QUANTITY
7.500 CFS
.120 CFS

TOTAL DIVERSION RATE/VOLUME CLAIMED

7.500 CFS

B. WR RECORDED USES:

PURPOSES

MONTH/DAY

DIVERSION QUANTITY

TOTAL DIVERSION RATE/VOLUME CLAIMED

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

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

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

RECOMMEND TO WR STANDARDS OR OTHER?

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

Explain in remarks, below.

REMARKS:

MICROFILMED
FEB 07 1993

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

AS TOTAL CLAIMED DIVERSION RATE:
WR ROOT RIGHT TOTAL DIVERSION RATE:

7.500 CFS
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(X) 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	YA-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	YA-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	14000.000 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	YA-TA-HAY INVESTMENTS, INC.	FROM 01-01 TO 12-31	.080 CFS	

MICROFILMED
FEB 07 1993

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?

Y(☒) N(☐)

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

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 DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

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

TOTAL DIVERSION VOLUME 236 AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y(☐) N(☐)

REMARKS: (Include limitations on consumptive use for combined rights.)

MICROFILMED
FEB U 7 1993

RECOMMENDATIONS:

REC.
PURPOSES

REC. PERIOD
FROM TO

REC. DIV
RATE CFS

REC. DIV
VOL. AF/A

REC. CONS.
USE

IRIGATION
STOCKWATER

3-15 11-15
1-1 12-31

DATABASE EXAMINER
2.36
0.12

DATABASE EXAMINER
236
—

DATABASE EXAMINER
177
—

TOTAL FOR THIS RIGHT

2.36

236

177

REVIEWED BY:

See

DATE: 1-4-91

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

(allowed this rate)

SPLITS

'A'

216

216

162

"B"

0.20

20

15

2.36

236

177

MICROFILMED
FEB 07 1993

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

DATABASE
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

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)

DATABASE
N

FIELD
EXAMINER

REMARKS:

AUTHENTICATION:

SIGNATURE:

Steve Doo

DATE:

1-4-91

NAME OF FIELD EXAMINER:

TITLE:

MICROFILMED
FEB 07 1993

R 36-10283A

AGENT

INITIALS

DATE _____

HHH

KKC

7/29/92

[illegible]

SCANNED
MICROFILMED
APR 23 2008
FEB 07 1993

DECREED RIGHT SPLIT ANALYSIS

PARENT RIGHT NO.

36-00094
36-00095
36-00096

Continued
A36-10283

$$\begin{array}{r} 0.60 \\ 1.20 \\ 5.70 \end{array} = 7.50$$

TOTAL DIVERSION RATE

PREPARATION DATE 7-29-92 HHS

CLAIM PORTION	CLAIMED RATE	RECOMMENDED RATE	IS CLAIMED RATE EXCEEDED BY ANALYSIS	CONVEYANCE LOSS	DOES DIV RATE + CALC. C.L. EXCEED CLAIMED RATE	TOTAL RECOMMENDED DIV. RATE
A	7.5	1.08	N	0.19	N	1.27
B	0.30	0.26	N	0.01	N	0.27
Total		1.32				1.58

MICROFILMED
FEB 07 1993

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
0.55	2.89	.020	2.50	435	5	12	36.9	5.31	3.38	1.85	0.57	54.42
0.55	2.89	.020	2.50	435	4	12	45.2	4.25	3.24	0.91	0.44	68.03
0.55	2.89	.020	2.50	435	3	12	63.3	3.19	3.04	0.00	0.29	90.71
0.55	2.89	.020	2.50	435	2	12	124.1	2.12	3.04	0.00	0.29	90.71

Recommend @ 68% efficiency; 70% not realistic

$$FIR = 4.2 \frac{0.4}{0.6}$$

$$= 4.2 \frac{1.27}{68\%}$$

$$= 0.0167 \text{ CFS/Acre}$$

Recommend .02 CFS/Acre for flood ir
and sprinkler.

KKC 7-28-92

$$12 \times 0.02 = 0.24 \text{ CFS}$$

Less CIR - for total

MICROFILMED

FEB 07 1993

IRRIGATION ANALYSIS WORKSHEET

CLAIM NO. A36-10222ADATE 7/14/12AGENT HHTCLAIMANT/SYSTEM DESCRIPTION Ya-Ta Hay InvestmentsIRRIGATION SYSTEM ----- FloodANALYSIS METHOD ----- BORDER / FURROWTYPE OF CROP ----- SoybeanMAXIMUM PROFILE DEPTH ----- 60" INCHESINTAKE FAMILY ----- .55

SOIL TYPE KOB ----- SYSTEM TOTALACRES PER TYPE 12 ----- 12 ACRESSOIL PROFILE WHC 5.78 -----DESIGN IRR $\frac{1}{2}$ WHC 2.89 -----

CROP REQUIREMENT:

REPORT AREA & FIGURE NO. ----- Bliss 10-3

DAILY CROP REQUIREMENT:

79 (MM/DAY) / 25.4 (FACTOR IN MM/IN) ----- 1267 IN/DAY ^{1.27}

ACTUAL ROTATION PRACTICED ----- DAYS

DRY DAY ROTATION ----- IRR DAY ROTATION -----

THEORETICAL ROTATION:

2.89 DESIGN IRR / 1.27 CROP REQ = 10.7 ¹¹ DAYS

DESCRIPTION OF FIELD:

AVERAGE LENGTH RUN ----- 435TOTAL WIDTH OF FIELD ----- 211CHECK 435 L * 1200 W / 43,560 = 12 ACRES% SLOPE ----- 2.5

BORDER WIDTH -----

----- WIDTH OF FIELD / ----- DAYS OF ROTATION

FURROW / CORRUGATION WIDTH ----- 2.5'

SET TIME -----

MICROFILMED

FEB 07 1993