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DEPARTMENT OF
WATER RESOURCES

July 25, 2008

Mr. Carter Fritschle
IDWR State Office
322 East Front Street
Sixth Floor
P.O. Box 83720
Boise, Idaho 83720-0098

Re: SRBA Case No. 39576, Subcase Nos. 78-12173 and 78-12174

Dear Mr. Fritschle:

This letter is in response to the status conference call on July 1, 2008 between the SRBA District Court, Idaho Department of Water Resources, Idaho Department of Lands, Earl Baumgarten and Butch Abbott of the Fall Creek Mtn. Ranch. As a result of that conference call, IDWR claimed that they had no knowledge or application for water under claim 78-12173 from Earl and Jan Baumgarten or the Fall Creek Mtn. Ranch. It appears to me that the complications of the adjudication process are compounded by the fact that IDWR has either improperly filed or totally lost the correspondence with me regarding this claim.

I would like to attempt to shed some light on the history of the claim and who the current claimants are. This water right originated with Water Right Number **78-255**. The water under this claim was used by a group of adjoining home owners for domestic irrigation purposes. I purchased one of those properties in 1988 from Louise Clausen. In 1997 I purchased a second piece of property from another claimant, Wayne and Georgia Canon. In 2001, I purchased a third piece of this property from Howard and Colleen Wallace. As a result of these land purchases and at the request of IDWR, I submitted a change of ownership form to the IDWR for claim **78-255** in 2002. Included with that form was a detailed description of the water right, including point of diversion and points of use, warranty deeds for all of the property I had purchased, a chart showing ownership changes on the property associated with the water right as well as a map.

Once my application was received and approved by IDWR (see enclosure), the original **78-255** Water Right was split into two new numbers. These were **78-12173** and **78-12174**. Water Right **78-12174** is in the name of Earl and Jan Baumgarten and reflects the property we purchased in 1988, 1997 and 2001. Water Right **78-12173** should have been the remnant of the original water right.. One of the main problems that I see is that the names of the owners of the properties that I purchased are still shown on Water Right **78-12173**. They should have been removed when that portion of the water right was assigned to my wife and I. At that point in time, apparently Fall Creek Mtn Ranch had not filed for a change of ownership, therefore the only valid name under 78-12173 would have been Doug and Colleen Wallace. I know that Fall Creek Mtn Ranch has since submitted a Change in Ownership form showing their purchase of the Wallace property.

Specifically, here is what has happened to the ownership:

Louise Clausen (deceased) - purchased in 1988 by Earl and Jan Baumgarten

Wilbur M. Roberts (deceased)— Purchased by Colleen and Howard Wallace in approximately 1989.

Colleen and Howard Wallace – Main Parcel and residence purchased by Fall Creek Mtn Ranch in Approximately 1997.

Colleen and Howard Wallace – Secondary lot purchased in split purchase by Earl and Jan Baumgarten and Fall Creek Mtn Ranch in 2001.

Gerogia and Wayne Cannon (both deceased) – Purchased by Earl and Jan Baumgarten in 1997.

Originally, approximately 7 acres was irrigated under water right #78-255. The purchases I made from the Clausen, Wallace and Canon properties resulted in my new Water Right number 78-12174 and includes the irrigation of approximately 6 acres. The one acre that is left under 78-12173 should be allocated to Fall Creek Mountain Ranch with what I assume would be a new number.

The final result would be that water right number 78-255 has now become a Water Right for Baumgarten (78-12174) and a Water Right for Fall Creek Mtn Ranch (some new number). All of the other names are no longer players and most are deceased. Water Right 78-12173 would cease to exist, as did Water Right 78-255.

I am enclosing a copy of the letter from IDWR to me dated June 25, 2002, which validates my points referenced above.

I am prepared to forward you yet more copies of my warranty deeds for the properties I have purchased, but I would first hope that you would be able to find the originals that I sent you in 2002 in the 78-255 file or possibly the 78-12174 file. Why else would I have been assigned Water Right 78-12174?

Please feel free to contact me if you have additional questions or if you would like to further discuss these Water Rights.

Sincerely,

A handwritten signature in black ink, appearing to read "Earl A. Baumgarten". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

EARL A. BAUMGARTEN
5497 Hwy 95
New Meadows, Id 836564
(208) 628-3947

Cc; Butch Abbott, Fall Creek Mtn Ranch

SRBA District Court, 253 3rd Ave North, Twin Falls, Idaho

Enclosure



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 25, 2002

Irrigation

EARL A BAUMGARTEN
JANET A BAUMGARTEN
5497 HWY 95
NEW MEADOWS ID 83654

Re: Original Notice of Claim to a Water Right No. 78-255

Renumbered Notice of Claim to a Water Right No. 78-12174

Dear Claimants:

We have received and processed a Change of Ownership for a portion of the original Claim to a Water Right Number as referenced above. This Change of Ownership required a split of the original claim resulting in renumbering this claim, using a new water right number to represent each split. The new Notice of Claim to a Water Right number for your portion is referenced above and a copy is enclosed.

Your portion of this claim has a specified point of diversion, nature of use and place of use. If you plan on changing the nature of use, place of use, or point of diversion under this right, including adding a new point of diversion, then an Application for Transfer on your portion of this right is required. Please contact this office for further information on the Application for Transfer form. If you do not plan on changing any items on your claim, then no further action is required at this time. You will be notified of any future action taken on this claim.

Please feel free to contact this office if you have any questions concerning your claim or this letter.

Sincerely,

Denise Hatfield

Denise Hatfield
Office Specialist 1
Adjudication Section
Western Region

DH: dh

Enclosure

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

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

CIVIL CASE NUMBER: 39576

Ident. Number 78-12174
Date Received: 5/19/1988
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

EARL A BAUMGARTEN
5497 HWY 95
NEW MEADOWS ID USA 83654

Phone: (208) 628-3947

JANET A BAUMGARTEN
5497 HWY 95
NEW MEADOWS ID USA 83654

Phone: (208) 628-3947

2. Date of Priority: 05/01/1904

3. Source: UNNAMED STREAM Trib. to: LITTLE SALMON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot			County	Type
22N	01E	16	SE	SE	SE	ADAMS	
22N	01E	16	NW	SE	SE	ADAMS	

5. Description of diverting works:

SEE REMARKS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/15	10/15	0.525	

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
22N	01E	15	SW	SW	IRRIGATION	1 <i>EaD</i>
					Section Acres	1
22N	01E	16	SE	SE	IRRIGATION	1 <i>EaD</i>
					Section Acres	1
22N	01E	21	NE	NE	IRRIGATION	1 <i>ea</i>
					Section Acres	1
22N	01E	22	NW	NW	IRRIGATION	4 <i>EaD</i>
					Section Acres	4
					Total Acres	7

11. Place of use in counties: ADAMS

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

13. Other Water Rights Used:

14. Remarks:

This claim is the result of a split due to change in ownership for a portion of 78-255. DH 6/24/2002

15. Basis of Claim: Decreed