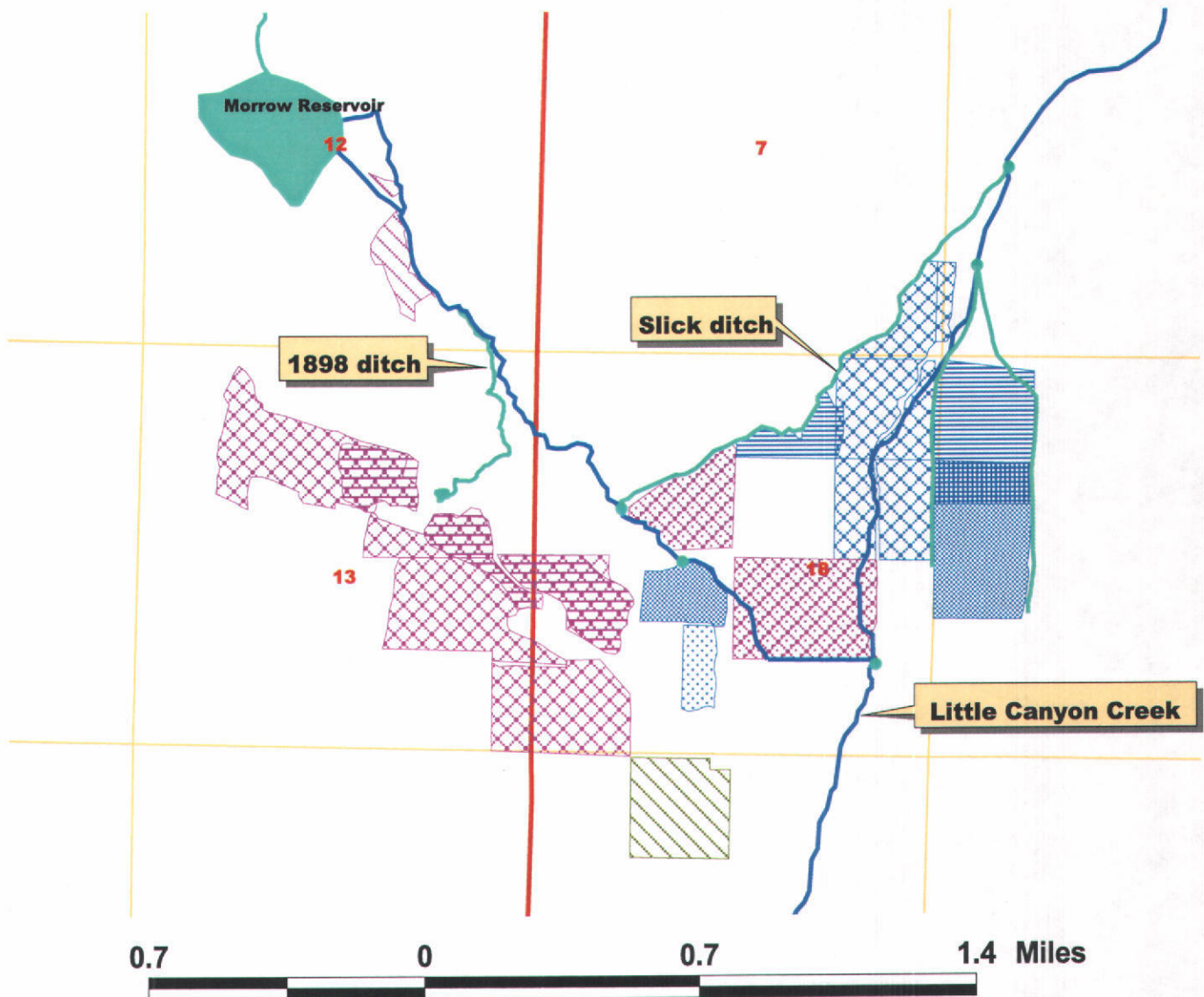


# Smith v Batruel - An Overview



-  61-00293B
-  61-00293C
-  61-00293D
-  61-00299
-  61-00303/4A
-  61-00303/4B
-  61-00308.shp
-  61-00370 pou.shp
-  61-02000B
-  61-11921
-  B61 roads.shp



ELMORE COUNTY039  
BOISE DISTRICT SEC 3

STATUS OF PUBLIC DOMAIN  
LAND AND MINERAL TITLES

MT PLAT

[illegible]

EO 104/201/1913 Bel Per 5 and RUB Trans 1 line, all  
land lying within 50' center line  
Sec 19: Lot 4, SE 1/4, 31 Sec 1  
Sec 20: 31 Sec 1  
Sec 21: 31 Sec 1  
Sec 22: 31 Sec 1  
Sec 23: 31 Sec 1  
Sec 24: 31 Sec 1  
Sec 25: 31 Sec 1  
Sec 26: 31 Sec 1  
Sec 27: 31 Sec 1  
Sec 28: 31 Sec 1  
Sec 29: 31 Sec 1  
Sec 30: Lot 1, NW 1/4, 31 Sec 1

EO 2/11/1915 Mod Per S Reg 406 EO 10/29/1913  
Re permit R/B Trans line

No. 042230 King Mill Irrigation. Dist. Act of Cong  
 1/11/1916) affects land in  
 Secs 22, 23, 25, 26  
 Secs 27 to 35 incl.

4207 Limit to '5 (Carriage road)  
Sec 6: Part F

2334 Sigsbee Pl. #100  
San Francisco, CA 94116

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[illegible]

Historical information only, does not denote  
public access

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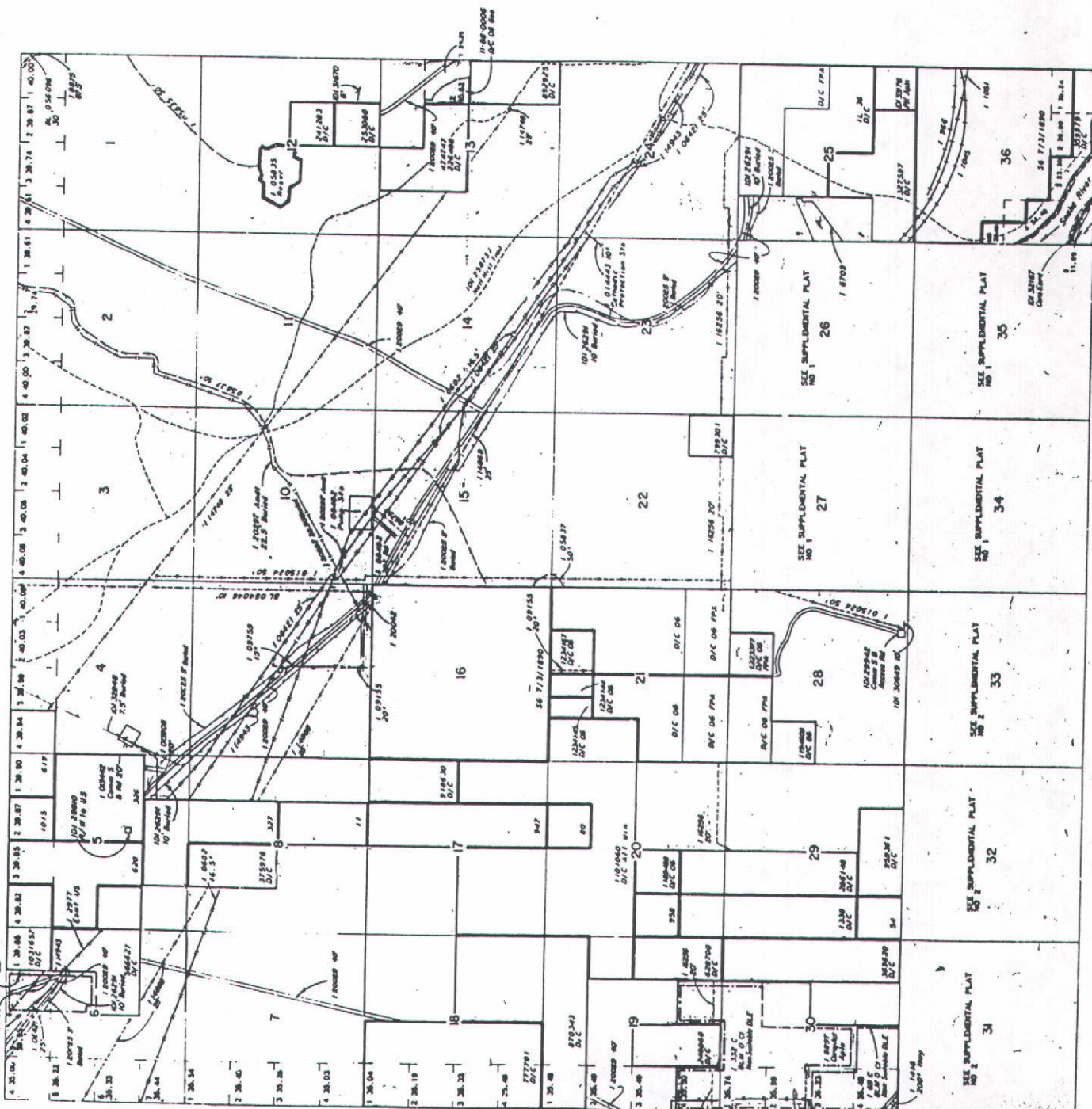
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FOR ORDERS EFFECTING DISPOSAL OR USE OF:

UNIDENTIFIED LANDS REFER TO INDEX OF  
SCCELLANEOUS DOCUMENTS.

| CURRENT TO | CURRENT TO |
|------------|------------|
|            |            |

|          |          |
|----------|----------|
| DATE     | 10/10/10 |
| TIME     | 10:10    |
| LOCATION | 10:10    |
| REMARKS  | 10:10    |



SCALE IN CHAINS

**WARNING STATEMENT**  
This plot is the Bureau's Record of Title and should be used

THE NOTATION SHOWN ON WITHDRAWS REPRESENT THE LAST

Bones Man

ELMORE COUNTY 039

MT PLAT[illegible]

EO 10/29/1913 bel Per 5 Reg 406 RW Trans line  
all land lying within 50' of center line  
N 010°17' E 219.200  
See 12: Lots 3  
See 14: Lots 3 to 5 incl. 5 1/2<sup>th</sup> 1/2  
See 25: 3 1/2<sup>th</sup> 1/2  
See 26: 3 1/2<sup>th</sup> 1/2  
See 27: 3 1/2<sup>th</sup> 1/2  
See 28: Lots 1-7  
See 30: Lots 1, 2, 3 1/2<sup>th</sup> 1/2, 4 1/2<sup>th</sup> 1/2  
EO 2/11/1913 bel Per 5 Reg 406 to Parcel 1 RW  
Trans line

1 3160 Grant to US  
See 27: Porto NE 100, SW 1/4, SW 1/4

Soc 27: Partis NE|MOJ, SU|SEI, SU|MEI

PL 042220 King Hill Irrigation Dist (Act of 8/11/1916) affects lands in

8/17/1967 8116513 10093 10  
 Seta: 1, 12, 13, 14, 20, 22, 23, 24, 25, 27, 28, 29.

101 25873 New Mist Trail

STANDARD INFORMATION ONLY, DOES NOT DENOTE

IDI 25n73J Non Hist Trait

public access

Sec 27: NNNNNNNE

[illegible]

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FOR ORDERS EFFECTING DISPOSAL OR USE OF UNIDENTIFIED LANDS REFER TO INDEX OF

100-443886-100

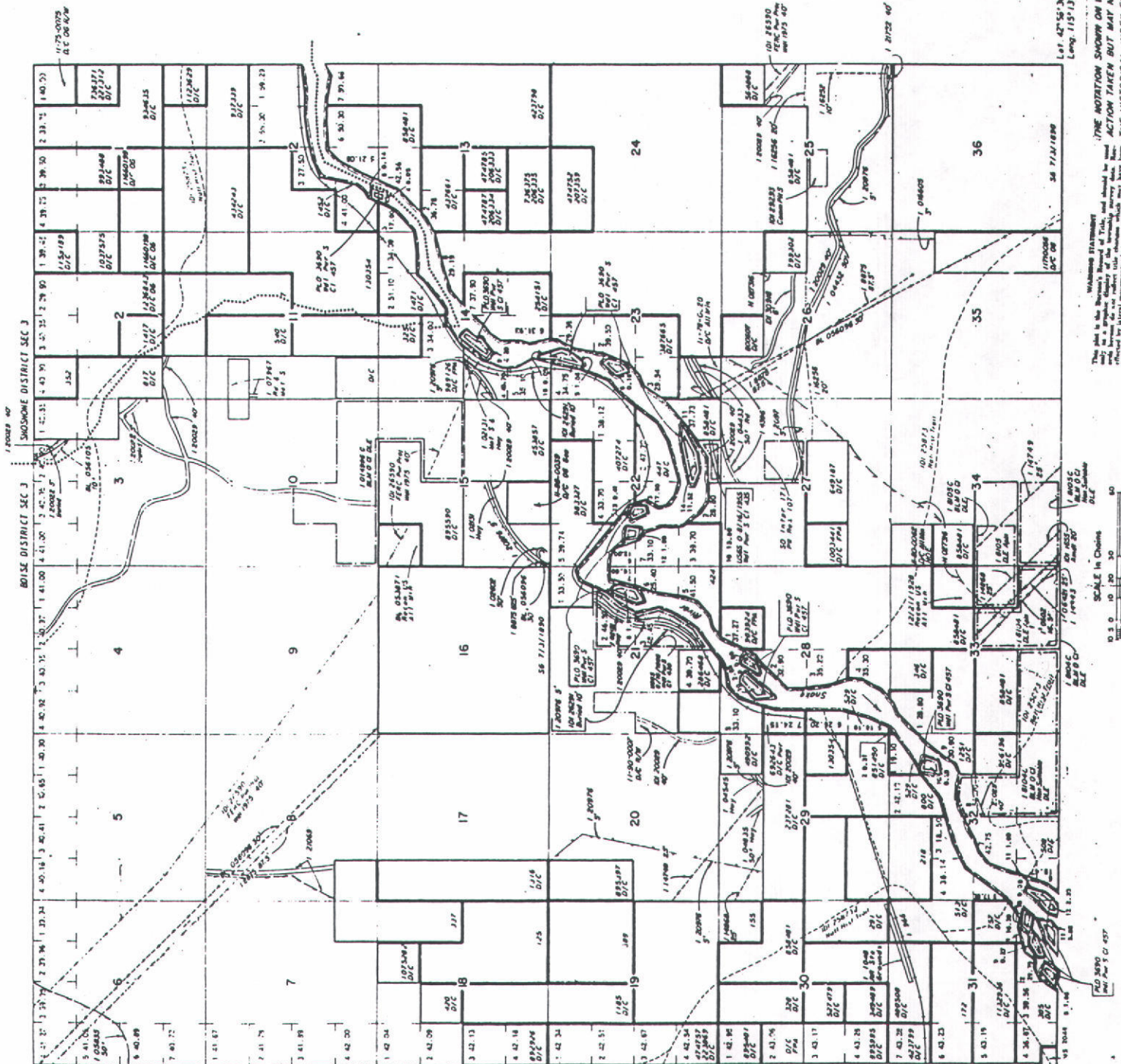
| CURRENT TO | CURRENT TO |
|------------|------------|
| DEC 21     |            |

|  |  |
|--|--|
|  |  |
|--|--|

Source: *Journal of the American Statistical Association*, 90, 1995, p. 1030.

RAWALS REPRESENT THE LAST  
OF THE EFFECTIVE DATE. SEE

DATE OF THE ORIGINAL WITH-



**WARNING: STATISTICAL**

This plot is the Bureau's Record of Ticks, and should be used only as a graphic display of the monthly survey data. Repetitive ticks are not shown, and the ticks are not affected by lateral movements or rivers or other bodies of water. The ticks are the redaction marks.

THE NOTATION SHOWN ON WITHDRAWS REPRESENT THE LAST ACTION TAKEN BUT MAY NOT BE THE EFFECTIVE DATE. SEE THE HISTORICAL INDEX FOR THE DATE OF THE ORIGINAL WITHDRAWAL.

### WALSH'S STATEMENT

in a popular display of the

... and lateral movements of rivers or other

Table 20  
continued

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: A61-11921  
Date Received: 11/21/1989  
Receipt No: \_\_\_\_\_  
Received By: \_\_\_\_\_

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name: MARY N BATRUEL 208-366-2375  
Address: RT 1 BOX 426  
GLENN'S FERRY ID 83623  
OR  
Name: PAUL BATRUEL 208-366-7272  
Address: RT 1 BOX 428  
GLENN'S FERRY ID 83623  
OR  
Name: BATRUELS DAIRY 208-366-7272  
Address: RT 1 BOX 426  
GLENN'S FERRY ID 83623
2. Date of Priority: ~~JAN~~<sup>April</sup> 1, 1895
3. Source: SAND SPRING GULCH Trib. to: LITTLE CANYON CREEK
4. Point of Diversion:  

|          |       |         |        |        |     |     |        |
|----------|-------|---------|--------|--------|-----|-----|--------|
| Township | Range | Section | 1/4 of | 1/4 of | 1/4 | Lot | County |
| 05S      | 09E   | 12      | SE     | SE     |     |     | ELMORE |
5. Description of diverting works:  
GRAVITY DIVERSION TO POND OR DIRECT DIVERSION TO IRRIG. GROUND.
6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S | (or) | A.F.A. |
|------------|-------|-------|-------|------|--------|
| IRRIGATION | 03/15 | 11/15 | 6.000 |      |        |
| STOCKWATER | 01/01 | 12/31 | 0.020 |      |        |
| DOMESTIC   | 01/01 | 12/31 | 0.060 |      |        |
| WILDLIFE   | 01/01 | 12/31 | 0.020 |      |        |
| AESTHETIC  | 01/01 | 12/31 | 0.020 |      |        |
7. Total Quantity Appropriated is:  
6.000 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

STOCKWATER, 300 DAIRY COWS; DOMESTIC, 4 HOMES LAWN IRRIGATION

10. Place of Use:

| Township      | Range | Section | 1/4 of        | 1/4 | Lot    | Use    | Acres |     |       |
|---------------|-------|---------|---------------|-----|--------|--------|-------|-----|-------|
| 05S           | 09E   | 13      | NW            | NE  |        | IRR    | 3.0   |     |       |
|               |       |         | SW            | NE  |        | IRR    | 24.0  |     |       |
|               |       |         | SW            | NE  |        | DOMEST |       |     |       |
|               |       |         | SW            | NE  |        | WILDLF |       |     |       |
|               |       |         | SW            | NE  |        | AES    |       |     |       |
|               |       |         | SE            | NE  |        | IRR    | 16.0  |     |       |
|               |       |         | SE            | NE  |        | DOMEST |       |     |       |
|               |       |         | SE            | NE  |        | WILDLF |       |     |       |
|               |       |         | SE            | NE  |        | AES    |       |     |       |
|               |       |         | NE            | NW  |        | IRR    | 16.0  |     |       |
|               |       |         | NW            | NW  |        | IRR    | 5.0   |     |       |
|               |       |         | SW            | NW  |        | IRR    | 4.0   |     |       |
|               |       |         | SE            | NW  |        | IRR    | 16.0  |     |       |
|               |       |         | NE            | SE  |        | IRR    | 40.0  |     |       |
|               |       |         | NW            | SE  |        | IRR    | 16.0  |     |       |
|               |       |         | SE            | SE  |        | IRR    | 13.0  |     |       |
|               |       |         | Section Acres |     |        |        |       |     | 153.0 |
|               |       |         | 10E           | 18  | SE     | NW     |       | IRR | 37.0  |
|               |       |         |               |     | NW     | SW     |       | IRR | 39.0  |
| NW            | SW    |         |               |     | DOMEST |        |       |     |       |
| SW            | SW    |         |               |     | IRR    | 38.0   |       |     |       |
| NE            | SE    |         |               |     | IRR    | 17.0   |       |     |       |
| NW            | SE    |         |               |     | IRR    | 40.0   |       |     |       |
| Section Acres |       |         |               |     |        | 171.0  |       |     |       |
| Total Acres   |       |         |               |     |        | 324.0  |       |     |       |

11. Place of use in counties: ELMORE

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

13. Other Water Rights Used:

CLAIM NO.'S A61-04132, 00303B, 00304B, 02055, 00308, 10834

14. Remarks:

THIS CLAIM IS FOR THE WATER RIGHT DECREED TO ISAAC A. HERRON IN HERRON V. MORROW AND VAN FLEET. THIS RIGHT WAS NEVER GIVEN AN IDENTIFICATION NUMBER BY IDWR. THE DECREE STATES THAT PLAINTIFF

FROM : PENNER &amp; FINK INSURY

PHONE NO. : 2083667487

Mar. 15 2000 01:56PM F1

Mar-16-00 10:30A

P.03

## 14. Remarks: Continued

HERRON IS ENTITLED TO ALL OF THE WATER FLOWING IN SAND SPRINGS  
GULCH AT THE POINT WHERE THE DAM OR DIKE WAS CONSTRUCTED, LIMITED  
ONLY BY THE CAPACITY OF THE DITCH. THE DEFENDENT'S RIGHT IS  
IDENTIFIED BY IDWR AS 61-00293 AND IS LIMITED TO 37.5 INCHES.

PLACE OF USE FOR STOCK IS IN THE SAME AREA AS THE IRRIGATION  
QUANTITY CLAIMED STOCKWATER, WILDLIFE AND AESTHETICS IS AT THE  
POINT THE DITCH ENTERS THE POND.

## 15. Basis of Claim: DECREEED

Case Number:

Court :

Decree date: 2/26/1904

ISAAC A. HERRON  
Decree Plaintiff

JAMES MORROW & JOSEPH VAN FLE  
vs Decree Defendant

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

Number of attachments: \_\_\_\_\_

## For Individuals:

I/We do solemnly swear or affirm that the statements contained in the  
foregoing document are true and correct.

Signature of Claimant(s): Paul W. Batten Date: 03-16-00

Date: \_\_\_\_\_

FROM : FENNER & FINK INSURANC

PHONE NO. : 3283667427

Mar. 15 2000 01:56PM FZ

Mar-16-00 10:30A

P.04

**For Organizations:**

I do solemnly swear or affirm that I am \_\_\_\_\_ of  
 \_\_\_\_\_, that I have signed the foregoing  
 \_\_\_\_\_  
 document in the space below as \_\_\_\_\_ of  
 \_\_\_\_\_ and that the statements contained in the  
 \_\_\_\_\_  
 foregoing document are true and correct.

\_\_\_\_\_  
 Signature of Authorized Agent

\_\_\_\_\_  
 Title and Organization

\_\_\_\_\_  
 Date

State of Idaho

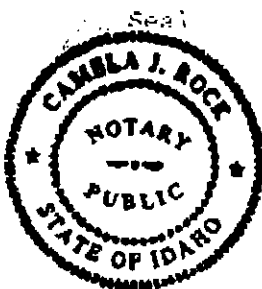
County of Elmore

) SS.

Subscribed and sworn (or affirmed) before me this 16<sup>th</sup> day

of March 20 00

Camela J. Rock  
 Notary Public



Residing at Glenns Ferry, Idaho

My Commission Expires 04-26-05

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: A61-00293B  
Date Received: 11/21/1989  
Receipt No: W006762  
Received By: \_\_\_\_\_

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: MARY N BATRUEL 208-366-2375  
Address: RT 1 BOX 426  
GLENNS FERRY ID 83623-0000  
OR  
Name: PAUL BATRUEL 208-366-7272  
Address: RT 1 BOX 428  
GLENNS FERRY ID 83623  
OR  
Name: BATRUELS DAIRY 208-366-7272  
Address: RT 1 BOX 426  
GLENNS FERRY ID 83623

2. Date of Priority: JAN 1, 1898

3. Source: SAND SPRING GULCH Trib. to: LITTLE CANYON CREEK

4. Point of Diversion:

| Township       | Range          | Section       | 1/4 of        | 1/4 of        | 1/4           | Lot               | County            |
|----------------|----------------|---------------|---------------|---------------|---------------|-------------------|-------------------|
| <del>65S</del> | <del>09E</del> | <del>12</del> | <del>SE</del> | <del>SE</del> | <del>SE</del> | <del>ELMORE</del> | <del>ELMORE</del> |
| 65S            | 10E            | 18            | SW            | NW            |               | ELMORE            | ELMORE            |

5. Description of diverting works:

GRAVITY DIVERSION TO POND OR DIRECT DIVERSION TO IRRIG. GROUND.

6. Water is used for the following purposes:

| Purpose              | From             | To               | C.F.S            | (or) | A.F.A. |
|----------------------|------------------|------------------|------------------|------|--------|
| IRRIGATION           | 03/15            | 11/15            | 0.575            |      |        |
| STOCKWATER           | 01/01            | 12/31            | 0.020            |      |        |
| <del>DOMESTIC</del>  | <del>01/01</del> | <del>12/31</del> | <del>0.060</del> |      |        |
| <del>WILDLIFE</del>  | <del>01/01</del> | <del>12/31</del> | <del>0.020</del> |      |        |
| <del>AESTHETIC</del> | <del>01/01</del> | <del>12/31</del> | <del>0.020</del> |      |        |

7. Total Quantity Appropriated is:

0.575 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

~~DOMESTIC USE FOR LAWN IRRIGATION FOR 4 HOMES~~ *stock water*

10. Place of Use:

| Township | Range | Section | 1/4 of 1/4 | Lot | Use    | Acres |
|----------|-------|---------|------------|-----|--------|-------|
| 055      | 09E   | 12      | NW         | NE  | IRR    | 3.0   |
|          |       |         | SW         | NE  | IRR    | 24.0  |
|          |       |         | SW         | NE  | DOMEST |       |
|          |       |         | SW         | NE  | WILDLF |       |
|          |       |         | SW         | NE  | AES    |       |
|          |       |         | SE         | NE  | IRR    | 16.0  |
|          |       |         | SE         | NE  | DOMEST |       |
|          |       |         | SE         | NE  | WILDLF |       |
|          |       |         | SE         | NE  | AES    |       |
|          |       |         | NE         | NW  | IRR    | 16.0  |
|          |       |         | NW         | NW  | IRR    | 5.0   |
|          |       |         | SW         | NW  | IRR    | 4.0   |
|          |       |         | SE         | NW  | IRR    | 16.0  |
|          |       |         | NE         | SE  | IRR    | 40.0  |
|          |       |         | NW         | SE  | IRR    | 16.0  |
|          |       |         | SE         | SE  | IRR    | 13.0  |

Section Acres 153.0

|     |     |    |    |    |        |      |
|-----|-----|----|----|----|--------|------|
| 055 | 10E | 18 | SE | NW | IRR    | 37.0 |
|     |     |    | NW | SW | IRR    | 39.0 |
|     |     |    | NW | SW | DOMEST |      |
|     |     |    | SW | SW | IRR    | 38.0 |
|     |     |    | NE | SE | IRR    | 17.0 |
|     |     |    | NW | SE | IRR    | 40.0 |

Section Acres 171.0 94

Total Acres 324.0 94

11. Place of use in counties: ELMORE

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

13. Other Water Rights Used:

CLAIM NO.'S A61-04132, 00303B, 00304B, 02055, 00308, 11921, 10834

14. Remarks:

PLACE OF USE FOR STOCK IS IN THE SAME AREA AS THE IRRIGATION ONLY BY DIFFERENT METHOD OF CONVEYANCE. QUANTITY FOR STOCKWATER IS AT THE FIELD HEADGATE. ~~WILDLIFE AND AESTHETIC USE AT THE POND.~~

Apr-18-00 13:32

FROM : FENNER & FINK INSURANCE

PHONE NO. : 2083667467

Mar. 16 2000 01:57PM P3

P.03

Mar-16-00 10:31A

P.07

15. Basis of Claim: DECEED

Case Number:

Court:

Decree date: 2/26/1904

ISAAC A. HERRON  
Decree Plaintiff

JAMES MORROW & JOSEPH VAN FLE  
vs Decree Defendant

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

Number of attachments: \_\_\_\_\_

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Paul W. B. [Signature] Date: 03-16-2000

\_\_\_\_\_  
Date: \_\_\_\_\_

For Organizations:

I do solemnly swear or affirm that I am \_\_\_\_\_ of \_\_\_\_\_ Title

\_\_\_\_\_, that I have signed the foregoing

Organization \_\_\_\_\_ document in the space below as \_\_\_\_\_ of

\_\_\_\_\_, Title \_\_\_\_\_ and that the statements contained in the

Organization \_\_\_\_\_ foregoing document are true and correct.

\_\_\_\_\_  
Signature of Authorized Agent

\_\_\_\_\_  
Title and Organization

\_\_\_\_\_  
Date

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: A61-00303B  
Date Received: 11/21/1989  
Receipt No: W006762  
Received By: \_\_\_\_\_

## AMENDED

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

## AMENDED

|          |                                 |              |
|----------|---------------------------------|--------------|
| 1. Name: | MARY BATRUEL                    | 208-366-2375 |
| Address: | RT 1 BOX 426<br>GLENNS FERRY ID | 83623        |
| OR       |                                 |              |
| Name:    | PAUL BATRUEL                    | 208-366 7272 |
| Address: | RT 1 BOX 428<br>GLENNS FERRY ID | 83623        |
| OR       |                                 |              |
| Name:    | BATRUELS DAIRY                  | 208 366-7272 |
| Address: | RT 1 BOX 426<br>GLENNS FERRY ID | 83623        |

2. Date of Priority: MAY 2, 1892

3. Source: LITTLE CANYON CREEK Trib. to: SNAKE RIVER

4. Point of Diversion:

|          |       |         |        |        |     |     |        |
|----------|-------|---------|--------|--------|-----|-----|--------|
| Township | Range | Section | 1/4 of | 1/4 of | 1/4 | Lot | County |
| 05S      | 10E   | 8       | NE     | NW     | SW  |     | ELMORE |

5. Description of diverting works:  
GRAVITY DIVERSION VIA SLICK DITCH FOR FLOOD IRRIGATION.

6. Water is used for the following purposes:

|            |       |       |        |      |        |
|------------|-------|-------|--------|------|--------|
| Purpose    | From  | To    | C.F.S. | (or) | A.F.A. |
| IRRIGATION | 03/15 | 11/15 | 0.200  |      |        |
| STOCKWATER | 01/01 | 12/31 | 0.020  |      |        |

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:  
STOCKWATER, 300 DAIRY COWS

## 10. Place of Use:

| Township      | Range | Section | 1/4 of | 1/4 | Lot | Use | Acres |
|---------------|-------|---------|--------|-----|-----|-----|-------|
| 05S           | 10E   | 18      | SE     | NW  |     | IRR | 37.0  |
|               |       |         | NE     | SE  |     | IRR | 17.0  |
|               |       |         | NW     | SE  |     | IRR | 40.0  |
| Section Acres |       |         |        |     |     |     | 94.0  |
| Total Acres   |       |         |        |     |     |     | 94.0  |

11. Place of use in counties: ELMORE

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

13. Other Water Rights Used:

CLAIM NO.'S A61-00304B, A61-04132, &amp; APP. NO. 61-07581, 308, 2438, 10634

14. Remarks:

THIS CLAIM REFLECTS A SPLIT OF THE ORIGINAL DECREED RIGHT BASED ON A PRO-RATED AMOUNT USING THE INFORMATION IN THE DECREE (200 ACRES FOR 25 INCHES OF WHICH CLAIMANT OWNS 80 ACRES WHICH EQUALS 10" OF THIS RIGHT.)

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

CHARLES E. CORKER

Decree Plaintiff

T. H. ANTHONY ET. AL.

vs Decree Defendant

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

Number of attachments: \_\_\_\_\_

05/02/2001

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

RIGHT NUMBER: 61-293B

NAME AND ADDRESS: MARY BATRUEL  
PAUL BATRUEL  
PETER BATRUEL  
RT 1 BOX 426  
GLENN'S FERRY, ID 836239756

SOURCE: SAND SPRINGS GULCH      TRIBUTARY: LITTLE CANYON CREEK

QUANTITY: 0.575 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE  
SHALL NOT EXCEED 13,000 GALLONS PER DAY.

VERIFIED BY *RBrown*  
5/4/01

PRIORITY DATE: 08/01/1898

POINT OF DIVERSION: T05S R09E S12      SESE      Within ELMORE County  
T05S R10E S18      LOT 2      SWNW      Within ELMORE County

PURPOSE AND  
PERIOD OF USE:

| PURPOSE OF USE | PERIOD OF USE | QUANTITY |
|----------------|---------------|----------|
| IRRIGATION     | 01-01 12-31   | 0.58 CFS |
| STOCKWATER     | 01-01 12-31   | 0.58 CFS |

PLACE OF USE:

| IRRIGATION Within ELMORE County |      |    |                                            |
|---------------------------------|------|----|--------------------------------------------|
| T05S R09E S13                   | NWNE | 3  | T05S R09E S13      SWNE      24            |
| T05S R09E S13      LOT 1        | SENE | 9  | T05S R09E S13      NENW      16            |
| T05S R09E S13                   | NWNW | 5  | T05S R09E S13      SWNW      4             |
| T05S R09E S13                   | SENE | 16 | T05S R09E S13      NESE      36            |
| T05S R09E S13                   | NWSE | 16 | T05S R09E S13      SESE      13            |
| T05S R10E S18                   | SENE | 28 | T05S R10E S18      LOT 3      NWSW      30 |
| T05S R10E S18      LOT 4        | SWSW | 38 | T05S R10E S18      NESE      17            |
| T05S R10E S18                   | NWSE | 40 |                                            |

STOCKWATER Use same as IRRIGATION

295 ACRES TOTAL

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

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

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. SECTION 42-1412(6), IDAHO CODE.

THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER IN BASIN 61 SHALL BE ADMINISTERED SEPARATELY FROM ALL

OTHER WATER RIGHTS IN BASIN 61: WATER RIGHT NO. SOURCE  
NONE NONE THE FOLLOWING WATER RIGHTS FROM THE  
FOLLOWING SOURCES OF WATER IN BASIN 61 SHALL BE ADMINISTERED  
SEPARATELY FROM ALL OTHER WATER RIGHTS IN THE SNAKE RIVER  
BASIN: WATER RIGHT NO. SOURCE NONE NONE ALL  
WATER RIGHTS WITHIN BASIN 61 ARE FROM CONNECTED SOURCES OF  
WATER IN THE SNAKE RIVER BASIN AND SHALL BE ADMINISTERED  
CONJUNCTIVELY.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

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: A61-00293B  
Date Received: 11/21/1989  
Receipt No: W006762  
Received By: \_\_\_\_\_

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: PETER BATRUEL 208-366-2375  
Address: RT. 1 BOX 426  
GLENNS FERRY, ID 83623-0000  
OR  
Name: MARY N. BATRUEL 208-366-2375  
Address: RT. 1 BOX 426  
GLENNS FERRY, ID 83623-0000  
OR  
Name: PAUL BATRUEL 208-366-2375  
Address: RT. 1, BOX 426  
GLENNS FERRY, ID 83623
2. Date of Priority: JAN 01, 1898
3. Source: SAND SPRING GULCH Trib. to: LITTLE CANYON CREEK
4. Point of Diversion:  

| Township | Range | Section | 1/4 of | 1/4 of | 1/4 | Lot | County |
|----------|-------|---------|--------|--------|-----|-----|--------|
| 05S      | 09E   | 12      | SE     | SE     |     |     | ELMORE |
|          | 10E   | 18      | SW     | NW     |     |     | ELMORE |
5. Description of diverting works:  
GRAVITY DIVERSION TO POND OR DIRECT DIVERSION TO IRRIG. GROUND.
6. Water is used for the following purposes:  

| Purpose    | From  | To    | C.F.S | (or) | A.F.A. |
|------------|-------|-------|-------|------|--------|
| IRRIGATION | 04/01 | 11/01 | 1.150 |      |        |
| STOCKWATER | 01/01 | 12/31 | 1.150 |      |        |
7. Total Quantity Appropriated is:  
1.150 C.F.S. (and/or) A.F.A.
8. Total consumptive use is Acre Feet Per Annum.

RECORDED  
NOV 11 1990

9. Non-irrigation uses:  
NONE.

10. Place of Use:

| Township | Range | Section | 1/4 of | 1/4 | Lot | Use           | Acres |
|----------|-------|---------|--------|-----|-----|---------------|-------|
| 05S      | 09E   | 13      | SW     | NE  |     | IRR           | 25.0  |
|          |       |         | SE     | NE  |     | IRR           | 12.0  |
|          |       |         | NE     | SE  |     | IRR           | 37.0  |
|          |       |         | NW     | SE  |     | IRR           | 16.0  |
|          |       |         | SE     | SE  |     | IRR           | 10.0  |
|          |       |         |        |     |     | Section Acres | 100.0 |
|          | 10E   | 18      | SE     | NW  |     | IRR           | 26.0  |
|          |       |         | NW     | SW  |     | IRR           | 30.0  |
|          |       |         | SW     | SW  |     | IRR           | 38.0  |
|          |       |         | NE     | SE  |     | IRR           | 12.0  |
|          |       |         | NW     | SE  |     | IRR           | 35.0  |
|          |       |         |        |     |     | Section Acres | 141.0 |
|          |       |         |        |     |     | Total Acres   | 241.0 |

11. Place of use in counties: ELMORE

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

13. Other Water Rights Used:

CLAIM NO.'S A61-04132, 00303B, 00304B, 02055, 00308.

14. Remarks:

PLACE OF USE FOR STOCK IS IN THE SAME AREA AS THE IRRIGATION ONLY  
BY DIFFERENT METHOD OF CONVEYANCE.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 2/26/1904

ISAAC A. HERRON

Decree Plaintiff

vs

JAMES MORROW & JOSEPH VAN FLEE

Decree Defendant

RECORDED  
AUG 11 1990

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

Number of attachments: \_\_\_\_\_

**For Individuals:**

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_ Date: \_\_\_\_\_

State of Idaho )  
County of \_\_\_\_\_ ) SS.

Subscribed and sworn (or affirmed) before me this \_\_\_\_\_ day  
of \_\_\_\_\_ 19 \_\_\_\_\_

\_\_\_\_\_  
Notary Public

Seal

Residing at \_\_\_\_\_

My Commission Expires \_\_\_\_\_

RECORDED  
JUN 11 1990

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: A61-00293B  
Date Received: 11/21/1989  
Receipt No: W0019762  
Received By: [Signature]

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name: PETER BATRUEL 208-366-2375  
Address: RT. 1 BOX 426  
GLENN'S FERRY, ID 83623-0000  
OR  
Name: MARY N. BATRUEL 208-366-2375  
Address: RT. 1 BOX 426  
GLENN'S FERRY, ID 83623-0000  
OR  
Name: PAUL BATRUEL 208-366-2375  
Address: RT. 1, BOX 426  
GLENN'S FERRY, ID 83623

2. Date of Priority: JAN 01, 1898

3. Source: SAND SPRING GULCH Trib. to: LITTLE CANYON CREEK

4. Point of Diversion:

| Township | Range | Section | 1/4 of | 1/4 of | 1/4 of | Lot | County |
|----------|-------|---------|--------|--------|--------|-----|--------|
| 05S      | 09L   | 12      | SE     | SE     |        |     | ELMORE |
|          | 10E   | 18      | SW     | NW     |        |     | ELMORE |

5. Description of diverting works:  
GRAVITY DIVERSION TO POND OR DIRECT DIVERSION TO IRRIG. GROUND.

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S. | (or) | A.F.A. |
|------------|-------|-------|--------|------|--------|
| IRRIGATION | 04/01 | 11/01 | 1.150  |      |        |

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:  
NONE.

A61-00293B

Page 1

Date: 11/21/89

MICROFILMED  
AUG 11 1992

10. Place of Use:

| Township | Range | Section | 1/4 of        | 1/4 | Lot | Use | Acres |
|----------|-------|---------|---------------|-----|-----|-----|-------|
| 05S      | 09E   | 13      | SW            | NE  |     | IRR | 25.0  |
|          |       |         | SE            | NE  |     | IRR | 12.0  |
|          |       |         | NE            | SE  |     | IRR | 37.0  |
|          |       |         | NW            | SE  |     | IRR | 16.0  |
|          |       |         | SE            | SE  |     | IRR | 10.0  |
|          |       |         | Section Acres |     |     |     | 100.0 |
|          | 10E   | 18      | SE            | NW  |     | IRR | 26.0  |
|          |       |         | NW            | SW  |     | IRR | 30.0  |
|          |       |         | SW            | SW  |     | IRR | 38.0  |
|          |       |         | NE            | SE  |     | IRR | 12.0  |
|          |       |         | NW            | SE  |     | IRR | 35.0  |
|          |       |         | Section Acres |     |     |     | 141.0 |
|          |       |         | Total Acres   |     |     |     | 241.0 |

11. Place of use in counties: ELMORE

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

13. Other Water Rights Used:

CLAIM NO.'S A61-04132, 00303B, 00304B, 02055, 00308.

14. Remarks:

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 2/26/1904

ISAAC A. HERRON

Decree Plaintiff

vs

JAMES MORROW & JOSEPH VAN FLEE

Decree Defendant

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: 0

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Shay v. Batrule Date: Nov. 21-89  
Date: \_\_\_\_\_

State of Idaho )  
County of ADA ) SS.

Subscribed and sworn (or affirmed) before me this 21<sup>ST</sup> day

of November 19 89

Seal

Jan Spunt  
Notary Public

Residing at Meridian ID  
My Commission Expires 9-14-94

DISTRICT COURT - SRBA  
TWIN FALLS CO., IDAHO  
FILED MA

2003 NOV 12 PM 3 47

RECEIVED  
NOV 14 2003  
Department of Water Resources

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

In Re SRBA )

Case No. 39576 )

ORDER OF PARTIAL DECREE

Water Right 61-00293B

On July 28, 2003, a *Special Master's Report and Recommendation* was filed for the above water right. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 61-00293B be decreed as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED November 12, 2003.

  
JOHN M. MELANSON  
Presiding Judge  
Snake River Basin Adjudication

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

DISTRICT COURT - SRBA  
TWIN FALLS CO., IDAHO

FILED

2003 NOV 12 PM 3 47

In Re SRBA )  
 ) PARTIAL DECREE PURSUANT TO  
 ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
 )  
 ) Water Right 61-00293B

NAME AND ADDRESS: BATRUEL DAIRY  
MARY BATRUEL  
PAUL BATRUEL  
RT 1 BOX 428  
GLENN'S FERRY, ID 83623

SOURCE: SAND SPRINGS GULCH TRIBUTARY: LITTLE CANYON CREEK

QUANTITY: 0.575 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE  
SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 08/01/1898

POINT OF DIVERSION: T05S R09E S12 SESE Within Elmore County  
R10E S18 LOT 2 (SWNW)

| PURPOSE AND PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE  | QUANTITY  |
|----------------------------|----------------|----------------|-----------|
|                            | Irrigation     | 03-15 TO 11-15 | 0.575 CFS |
|                            | Stockwater     | 01-01 TO 12-31 | 0.575 CFS |

| PLACE OF USE: | Irrigation        | Within Elmore County |
|---------------|-------------------|----------------------|
| T05S R09E S13 | NWNE 3.0          | SWNE 24.0            |
| LOT 2         | (SENE) 9.0        | NENW 19.5            |
|               | NWNW 1.5          | SWNW 1.0             |
|               | SENW 19.0         | NESE 36.0            |
|               | NWSE 16.0         | SESE 13.0            |
| R10E S18      | SENW 28.0         | LOT 3 (NWSW) 30.0    |
| LOT 4         | (SWSW) 38.0       | NESE 17.0            |
|               | NWSE 40.0         |                      |
|               | 295.0 Acres Total |                      |

Stockwater Within Elmore County  
Same as Irrigation

USE OF THIS RIGHT WITH RIGHT NOS. 61-00303B, 61-00304B, 61-00308  
61-04132, 61-10834 AND 61-11921 IS LIMITED TO THE IRRIGATION OF  
A COMBINED TOTAL OF 328 ACRES IN A SINGLE IRRIGATION SEASON.

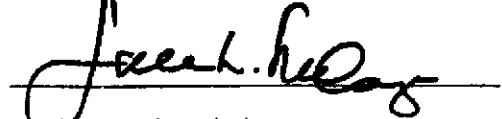
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

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).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

A handwritten signature in black ink, appearing to read "James L. Hickey", is written over a horizontal line.

Presiding Judge of the  
Snake River Basin Adjudication

2003 NOV 12 PM 02:00  
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 )

Case No. 39576 )  
\_\_\_\_\_ )

CERTIFICATE OF MAILING

Water Right(s): 61-00293B

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE  
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 61-00293B was mailed  
on November 12, 2003, with sufficient first-class postage prepaid  
to the following:

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

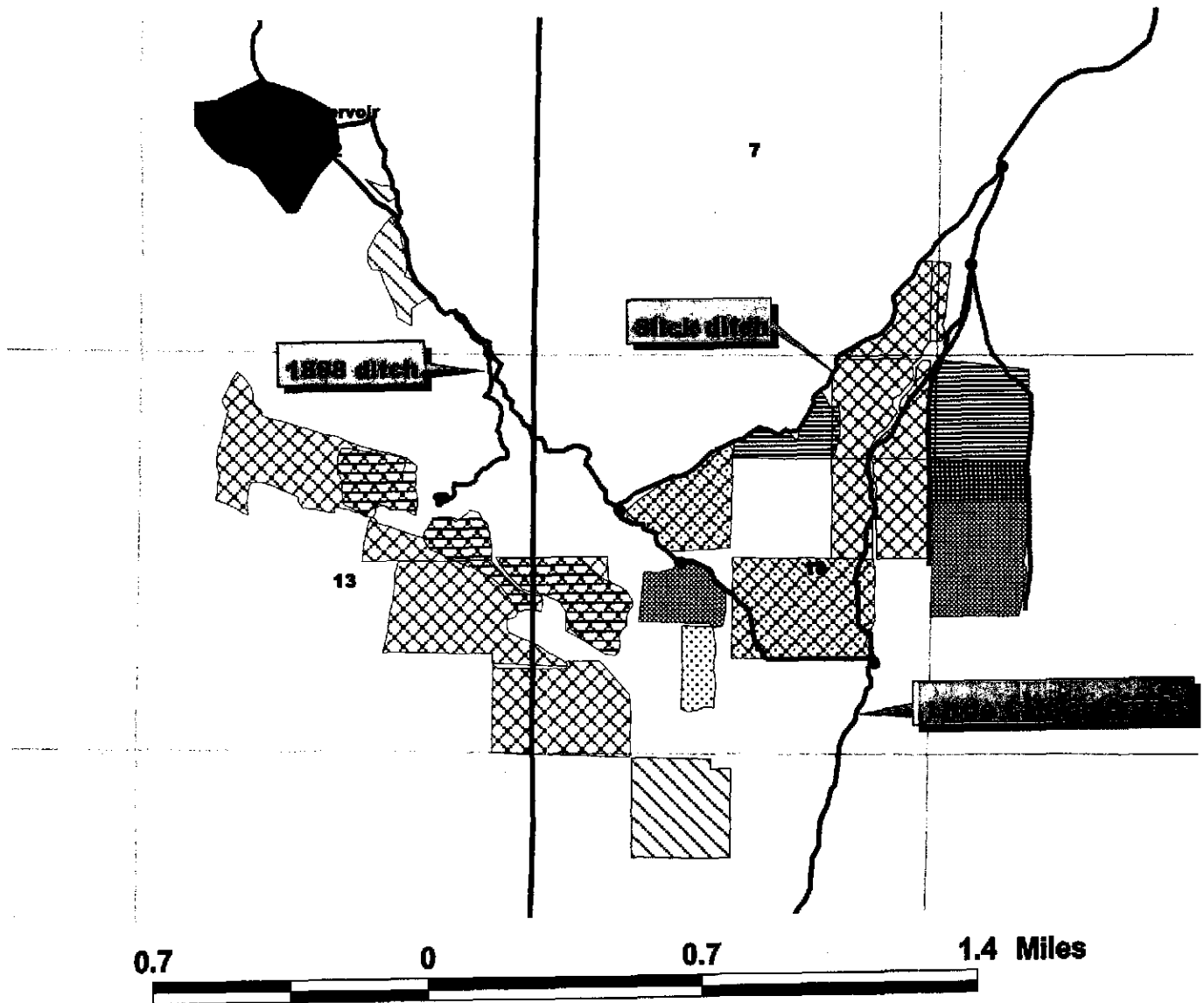
CARLENE SMITH  
Represented by:  
CHARLES L. HONSINGER  
PO BOX 2773  
BOISE, ID 83701-2773  
Phone: 208-342-4591

BATRUEL DAIRY  
MARY BATRUEL  
PAUL BATRUEL  
Represented by:  
MATT J. HOWARD  
ATTORNEY AT LAW  
PO BOX 190012  
BOISE, ID 83719  
Phone: 208-333-0622

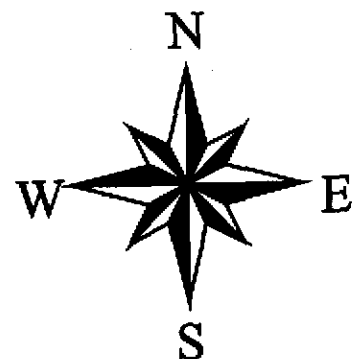
CERTIFICATE OF MAILING

PAGE 1  
11/12/03

# Smith v Batruel - An Overview



-  61-00293B
-  61-00293C
-  61-00293D
-  61-00299
-  61-00303/4A
-  61-00303/4B
-  61-00308.shp
-  61-00370 pou.shp
-  61-02000B
-  61-11921
-  B61 roads.shp



To whom it may concern,

I, Mary Batruel, have lived, worked on, and owned the property known as Batruel Dairy from 1972 until present. From the beginning of our dairy operations, the rate of stock water and dairy water use has not exceeded and does not exceed 13,000 gallons per day.

Furthermore, we have practiced the application of dairy waste water on our irrigated land since 1975, the same year our dairy barn was built.

In regards to the Herron and Morrow irrigation practices, all the land capable of being irrigated with the Morrow water right (61-293B) has always been capable of being irrigated with the Herron water right (61-11921) as well. This practice was made possible initially through the use of a wooden flume in place until the 1960s, when it was rebuilt by our predecessor, Joe Pachner, and subsequently replaced with a steel flume by my son, Paul Batruel, in 1976. The steel flume is still in place, conveying Herron irrigation water to acreage irrigated by the Morrow right.

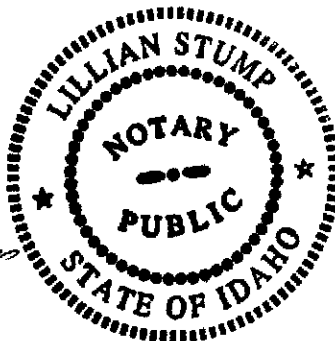
Mary R. Batruel  
(Signature)

2-25-03  
(Date)

subscribed to and sworn before me  
this 25 day of February 19 2003

Lillian Stump  
Notary Public

Lillian Stump



To whom it may concern,

I, Paul Batruel, have lived and worked on the property owned by my parents, Peter and Mary Batruel, from 1972 until present. I have been the primary employee since the dairy's inception and can state that the rate of stock water and dairy water use has not and does not exceed 13,000 gallons per day.

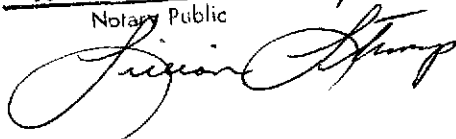
Furthermore, we have practiced the application of dairy waste water on our irrigated land since 1975, the same year our dairy barn was built.

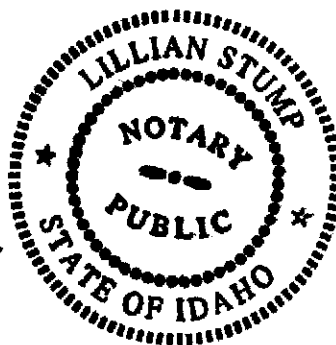
In regards to the Herron and Morrow irrigation practices, all the land capable of being irrigated with the Morrow water right (61-293B) has always been capable of being irrigated with the Herron water right (61-11921) as well. This practice was made possible initially through the use of a wooden flume in place until the 1960s, when it was rebuilt by our predecessor, Joe Pachner, and subsequently replaced with a steel flume by myself in 1976. The steel flume is still in place, conveying Herron irrigation water to acreage irrigated by the Morrow right.

  
(Signature)

02-24-03  
(Date)

Subscribed to and sworn before me  
this 25 day of February 19 2003  
Lillian Stump  
Notary Public





RECEIVED

OCT 29 2001

Department of Water Resources

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

In Re SRBA )

Case No. 39576 )

A. Subcase 61-00293B

(Insert water right number)

STANDARD FORM 1  
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: United States of America, acting through the Department of Interior,  
Bureau of Land Management, Idaho State Office

Address: 1387 South Vinnell Way  
Boise, Idaho 83709-1657

Daytime Phone: see below

Name & Address of Attorney, if any:

Larry A. Brown (202) 305-0435 phone, (202) 305-0274 fax

United States Department of Justice; Environment and Natural Resource Division; General Litigation Section  
550 West Fort Street, MSC 033; Boise, Idaho 83724

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Mary Batruel and Batruel Dairy  
Address: Rt. 1 Box 426  
Glenns Ferry, Idaho 83623

Paul Batruel  
Rt. 1 Box 428  
Glenns Ferry, Idaho 83623

**D. I object to the following elements as recommended in the Director's Report.**  
(Please check the appropriate box(es)).

1. ☐ **Name and Address**  
Should be: \_\_\_\_\_
2. ☐ **Source**  
Should be: \_\_\_\_\_
3. ☐ **Quantity**  
Should be: \_\_\_\_\_
4. ☐ **Priority Date**  
Should be: \_\_\_\_\_
5. ☐ **Point(s) of Diversion**  
Should be: \_\_\_\_\_
6. ☐ **Instream Flow Description**  
Should be: \_\_\_\_\_
7. ☐ **Purpose(s) of Use**  
Should be: \_\_\_\_\_
8. ☐ **Period of Year**  
Should be: \_\_\_\_\_
9. ☒ **Place of Use**  
Should be: See attached.

11. **I object because:**

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

**E. REASONS SUPPORTING OBJECTION(S):**

The United States of America, through the Bureau of Land Management, is the owner of the land upon which some of the use is claimed. The claimant's use of Federal land is unauthorized. Claimant's water claim should not include federal public land.

F.

**VERIFICATION (Must be Completed)**

State of Idaho )

) ss.

County of Ada)

Fredric W. Price, Water Rights Specialist, duly sworn, upon oath, deposes and says:

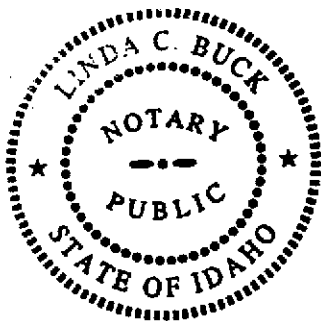
(Name of person filing objection)

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

Fredric W. Price  
(Signature of person filing objection)

\_\_\_\_\_  
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: October 26, 2001



Linda C. Buck

Notary Public for State of Idaho

Residing at: Mountain Home, Idaho

My Commission Expires: 12/21/2005

F.

**VERIFICATION (Must be Completed)**

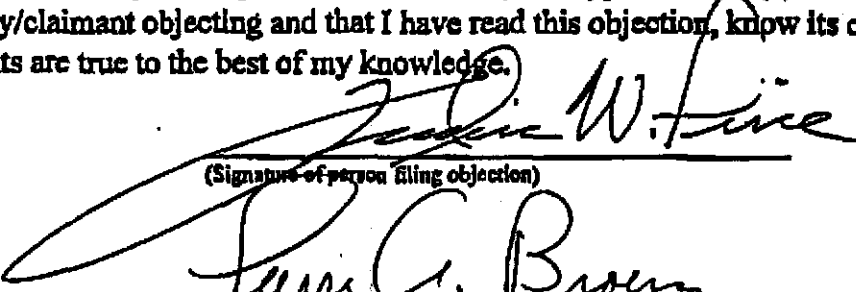
State of Idaho )

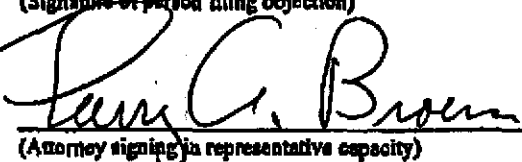
) ss.

County of Ada)

Fredric W. Price, Water Rights Specialist, duly sworn, upon oath, deposes and says:  
(Name of person filing objection)

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

  
(Signature of person filing objection)

  
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: October 26, 2001

Linda C. Buck

Notary Public for State of Idaho

Residing at: Mountain Home, Idaho

My Commission Expires: 12/21/2005

## INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

### G. CERTIFICATE OF MAILING

I certify that on Oct. 26, 2001, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court  
Snake River Basin Adjudication  
253 Third Avenue North  
P.O. Box 2707  
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Mary N. Batruel  
Batruel Dairy  
Rt. 1 Box 426  
Glenns Ferry, Idaho 83623  
Claimants

Matt J. Howard  
Attorney at Law  
2402 W. Jefferson  
Boise, Idaho 83702  
Of Attorneys for Claimants

Paul Batruel  
Rt. 1 Box 428  
Glenns Ferry, Idaho 83623  
Claimant

Carlene Smith  
Rt. 1 Box 420  
Glenns Ferry, Idaho 83623  
Previous objector

Charles L. Honsinger  
Ringert, Clark, Chartered  
P.O. Box 2773  
Boise, Idaho 83701  
Of Attorneys for previous objector (Smith)

Roger Jones  
dba RJT Farming, Inc.  
P.O. Box 475  
Rupert, Idaho 83350

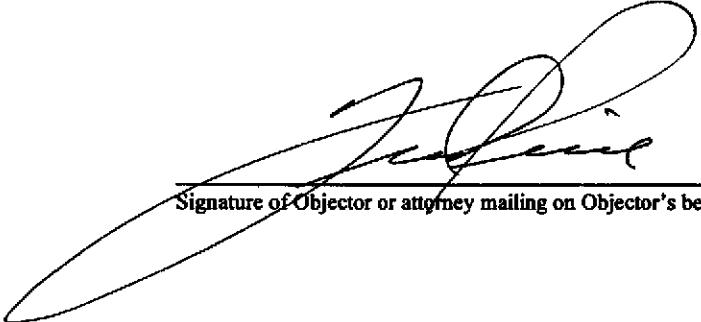
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1221 W. Idaho, Suite 600  
Boise, Idaho 83701-2139  
Of Attorneys for previous respondent

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



Signature of Objector or attorney mailing on Objector's behalf

# Supplemental DIR Rpt. AS AMENDED 9-14-2001

King H.71

AJ5856NP

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

DATE: FEB-12-1999  
PAGE: A-915

|                                                                                                               |  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |  |                                              |  |
|---------------------------------------------------------------------------------------------------------------|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|----------------------------------------------|--|
| RIGHTS FROM:                                                                                                  |  | SOURCE: SAND SPRINGS GULCH                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |  | TRIBUTARY: LITTLE CANYON CREEK               |  |
| RIGHT NUMBER:                                                                                                 |  | 61-00293B                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |  |                                              |  |
| NAME & ADDRESS:                                                                                               |  | <p>MARY BATRUEL<br/>RT 1 BOX 426<br/>GLENN'S FERRY ID 836230000</p> <p>PAUL BATRUEL<br/>RT 1 BOX 426<br/>GLENN'S FERRY ID 83623</p> <p>PETER BATRUEL<br/>RT 1 BOX 426<br/>GLENN'S FERRY ID 836230000</p>                                                                                                                                                                                                                                                                                                                                                                                     |  |                                              |  |
| SOURCE:                                                                                                       |  | SAND SPRINGS GULCH                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |  | TRIBUTARY: LITTLE CANYON CREEK               |  |
| QUANTITY:                                                                                                     |  | 0.575 CFS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |  |                                              |  |
| <p>THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE<br/>SHALL NOT EXCEED 13,000 GALLONS PER DAY.</p> |  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |  |                                              |  |
| PRIORITY DATE:                                                                                                |  | 01/01/1898 MAY BE 8/1/1898                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |  |                                              |  |
| POINT OF DIVERSION:                                                                                           |  | T05S R09E S12<br>R10E S18                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |  | SESE BLM<br>SENE BLM<br>Within ELMORE County |  |
| PURPOSE AND PERIOD OF USE:                                                                                    |  | PURPOSE OF USE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |  | PERIOD OF USE                                |  |
|                                                                                                               |  | IRRIGATION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |  | 03-15 11-15                                  |  |
|                                                                                                               |  | STOCKWATER                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |  | 01-01 12-31                                  |  |
|                                                                                                               |  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |  | QUANTITY<br>0.575 CFS<br>0.575 CFS           |  |
| PLACE OF USE:                                                                                                 |  | <p>IRRIGATION</p> <p>T05S R09E S13<br/>T05S<br/>6 miles apart<br/>R10E S13<br/>adjacent S18</p> <p>295 ACRES TOTAL</p> <p>Within ELMORE County</p> <p>SENE 3 BLM<br/>SENE 5 BLM<br/>SENE 13 BLM<br/>SENE 16 BLM<br/>SENE 28 BLM<br/>SENE 40 BLM</p> <p>SENE 24 BLM<br/>SENE 1 BLM</p> <p>LOT 1<br/>SENE 9 BLM/PVT<br/>NESE 36 BLM</p> <p>LOT 2<br/>SENE 16 BLM<br/>SENE 16 BLM</p> <p>LOT 3<br/>SENE 30 BLM</p> <p>LOT 4<br/>SENE 38 BLM</p> <p>NESE 17 BLM</p> <p>CLAIM WAS ONLY FOR 241 acres, an amendment may be necessary.</p> <p>Place of use for STOCKWATER is same as IRRIGATION</p> |  |                                              |  |

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

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

- This is how I think IDWR's REPORT HAS changed the elements of the water claim?  
original

- Changing the township from T04S to T05S corrected a typo, however the new descriptions (some) also describe BLM Land.

- These new PDUs on BLM will NEED TO BE REMOVED.

- ALSO, I BELIEVE T05S R09E S13 SE1/4 16 ACRES is a typographical error in range this time, as this is 6 miles from the other PDUs. Should this PDU be described on private in R09E?

IDAHO DEPARTMENT OF WATER RESOURCES  
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: FEB-12-1999  
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-----  
RIGHTS FROM: SOURCE: SAND SPRINGS GULCH TRIBUTARY: LITTLE CANYON CREEK  
-----  
RIGHT NUMBER: 61-002938 (CONT)

## OTHER PROVISIONS: (CONT)

THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER  
IN BASIN 61 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER  
RIGHTS IN BASIN 61:

| WATER RIGHT NO. | SOURCE |
|-----------------|--------|
| NONE            | NONE   |

THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER  
IN BASIN 61 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER  
RIGHTS IN THE SNAKE RIVER BASIN:

| WATER RIGHT NO. | SOURCE |
|-----------------|--------|
| NONE            | NONE   |

ALL WATER RIGHTS WITHIN BASIN 61 ARE FROM CONNECTED SOURCES  
OF WATER IN THE SNAKE RIVER BASIN AND SHALL BE ADMINISTERED  
CONJUNCTIVELY.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE



MT PLAT

| INDEX TO SEGREGATED TRACTS |   |    |      |
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| TRACT NO.                  | T | R  | SEC. |
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**Supplemental Director's Report**

**For Subcase Nos:**

**61-00293B, 61-00293D, 61-00299, 61-00303A, 61-00303B,  
61-00304A, 61-00304B, 61-00308, 61-00370, 61-02000B,  
61-04038, 61-04113, 61-04132, 61-10834, 61-11877, 61-11921**

**In Re SRBA**

**Twin Falls County Civil Case No. 39576**

*61-00293B  
see pages 8 through 10*

|                   |             |         |         |            |   |
|-------------------|-------------|---------|---------|------------|---|
| Post-It* Fax Note | 7671        | Date    | 9/17/01 | # of pages | 1 |
| To:               | Janet Arnel | From:   | Vicki   |            |   |
| City/Dept.        |             | Co.     |         |            |   |
| Phone #           |             | Phone # |         |            |   |
| Fax #             | 373-3839    | Fax #   |         |            |   |

*1st Copy sent to CACI today -v*

**Prepared by the Idaho Department of Water Resources**

**Karl J. Dreher, Director**

**David R. Tuthill Jr., Adjudication Bureau Chief**

**September 14, 2001**

## I. INTRODUCTION

The Director of the Idaho Department of Water Resources ("IDWR" or "the Department") submits this Supplemental Director's Report Regarding Subcase Nos. 61-00293B, 61-00293D, 61-00299, 61-00303A, 61-00303B, 61-00304A, 61-00304B, 61-00308, 61-00370, 61-02000B, 61-04038, 61-04113k 61-04132, 61-10834, 61-11877, 61-11921 and uncontested overlapping water right 61-00293C<sup>1</sup> in accordance with *Idaho Code* § 42-1412(4), Administrative Order 1 and *Order Amending Deadline for 706 Report* issued on July 30, 2001.

This report was prepared under the supervision of Karl J. Dreher, Director, and David R. Tuthill Jr., Adjudication bureau Chief for Idaho Department of Water Resources. Roxanne Brown was the investigating agency for these subcases and has knowledge of the contents of this report.

## II. BACKGROUND

There are two separate streams involved in these subcases: Sand Spring Gulch and Little Canyon Creek. (See Diagram A). Sand Spring Gulch, as depicted in Diagram A, is west of Little Canyon Creek. Both of these sources were subject to prior private adjudications. Little Canyon Creek was adjudicated in 1903 in *Corker v. Anthony*, Decree, (4<sup>th</sup> Jud. Dist., Elmore County Mar. 28, 1903). This Decree will be referred to in this report as the Little Canyon Creek Decree. Sand Spring Gulch was adjudicated in 1904 in *Herron v. Morrow*, Decree, (4<sup>th</sup> Jud. Dist., Elmore County Feb. 26, 1904). This Decree will be referred to in this report as the Sand Spring Gulch Decree.

In 1982 the parties were involved in a lawsuit in Elmore County in *Viner v. Batruel*, Case No. 8224 (4<sup>th</sup> Jud. Dist., Elmore County 1982). The Elmore County Court entered Second Amending Findings of Fact, Conclusions of Law and Judgment on July 13, 1987. Then, on June 30, 1995, the Elmore County Court entered a Supplemental Judgment. Although some water right issues were part of this lawsuit, it was not an adjudication of water rights pursuant to *Idaho Code* § 42-1404.

Carlene Smith and Mary and Paul Batruel and Batruel Dairy (the Batruels) are the main parties in all of these subcases.<sup>2</sup> Both parties in these subcases own water rights and have water right claims to both sources. (See Diagram A). This report will discuss the investigation of the claims on the two sources separately; first discussing the basis of IDWR's recommendations for the claims on Little Canyon Creek and then discussing the basis of IDWR's recommendations for the claims on Sand Spring Gulch. The last item to be discussed is the Department's recommendation of disallow for all four of the beneficial use rights from various sources.

<sup>1</sup> Recommended water right 61-00293C is owned by Roger L. Jones and is an uncontested overlapping water right in this case. Batruels filed a Motion to Participate and/or Motion to File Late Objection in April, 2000; however, Batruels' Motion was denied and thus, this water right remains uncontested.

<sup>2</sup> Roger Jones d/b/a RJT Farms is a respondent to subcase numbers 61-00293B, 61-00293D, and 61-11921. The United States Bureau of Land Management is an objector to subcase numbers 61-00293D, and 61-11921. The United States Bureau of Land Management is an objector to subcase numbers 61-00293B, 61-00303B, 61-00304B, 61-00308 and 61-10834; however, this report does not discuss those objections. Supplemental Director's Report for Subcase Nos: 61-00293B, 61-00293D, 61-00299, 61-00303A, 61-00303B, 61-00304A, 61-00304B, 61-00308, 61-00370, 61-02000B, 61-04038, 61-04113, 61-04132, 61-10834, 61-11877, 61-11921 - p. 1

(See Table B attached hereto for a summary of what was claimed and what the Department recommended.)

There are eleven decreed rights discussed in this report based on the two prior decrees: the Little Canyon Creek Decree and the Sand Spring Gulch Decree. There are also two licensed rights and four beneficial use claims discussed in this report.

**TABLE A**

| Claim No. | Owner       | Basis Source                       | Recommended Priority Date | Claim Status |
|-----------|-------------|------------------------------------|---------------------------|--------------|
| 61-00293B | Batrueis    | Decreed Sand Spring Gulch          | 1/1/1898                  | Recommended  |
| 61-00293C | Roger Jones | Decreed Sand Spring Gulch          | 1/1/1898                  | Recommended  |
| 61-00293D | Smith       | Decreed Sand Spring Gulch          | 1/1/1898                  | Recommended  |
| 61-00299  | Smith       | Decreed Little Canyon Creek        | 5/1/1871                  | Recommended  |
| 61-00303A | Smith       | Decreed Little Canyon Creek        | 5/2/1892                  | Recommended  |
| 61-00303B | Batrueis    | Decreed Little Canyon Creek        | 5/2/1892                  | Recommended  |
| 61-00304A | Smith       | Decreed Little Canyon Creek        | 5/2/1892                  | Recommended  |
| 61-00304B | Batrueis    | Decreed Little Canyon Creek        | 5/2/1892                  | Recommended  |
| 61-00308  | Batrueis    | Decreed Little Canyon Creek        | 8/7/1895                  | Recommended  |
| 61-00370  | Smith       | Decreed Little Canyon Creek        | 5/5/1892                  | Recommended  |
| 61-02000B | Smith       | Licensed Little Canyon Creek       | 12/7/1903                 | Recommended  |
| 61-04038  | Smith       | Beneficial Use Spring              | 3/3/1923                  | Disallowed   |
| 61-04113  | Smith       | Beneficial Use Little Canyon Creek | 6/5/1928                  | Disallowed   |
| 61-04132  | Batrueis    | Beneficial Use Little Canyon Creek | 4/1/1896                  | Disallowed   |
| 61-10834  | Batrueis    | License Little Canyon Creek        | 12/28/1918                | Recommended  |
| 61-11877  | Batrueis    | Beneficial Use Groundwater         | 7/1/1954                  | Disallowed   |
| 61-11921  | Batrueis    | Decreed Sand Spring Gulch          | 3/15/1898                 | Recommended  |

There are several issues involved in each of the subcases. In many instances, the claimant has objected to his/her own water right recommendation, as have the other parties. There are also responses from the parties to certain objections. IDWR has been involved with the parties over several years concerning administration of the water rights to both Little Canyon Creek and Sand Spring Gulch. This involved several field exams.

Supplemental Director's Report for Subcase Nos: 61-00293B, 61-00293D, 61-00299, 61-00303A, 61-00303B, 61-00304A, 61-00304B, 61-00308, 61-00370, 61-02000B, 61-04038, 61-04113, 61-04132, 61-10834, 61-11877, 61-11921 - p. 2

## II. INVESTIGATION OF CLAIMS TO LICENSED AND DECREED RIGHTS ON LITTLE CANYON CREEK

The following is a brief summary of the issues raised by the parties to each water right. Following the summary is the basis of IDWR's recommendations for those elements that are objected to for each water right claim or those elements that are necessarily implicated by objections to other elements. In this section, discussions of the claims are grouped numerically by claimant for claims to water from Little Canyon Creek.

### Smith Claim No. 61-00299

Ms. Smith's objection seeks to combine of all of her Little Canyon Creek water rights into a permissible place of use of 341 acres. The Batruels responded to Ms. Smith's objection asserting that the right should reflect historical beneficial use of the water, not a permissible place of use. IDWR recommended specific acres to each water right and not a permissible place of use.

- Point of Diversion: Six points of diversion were claimed in Township 5 South, Range 10 East: one in Section 5, two in Section 8, and three in Section 18. The two points of diversion in Section 8, and the associated ditches, can clearly be seen on the 1987 National Aerial Photograph Program (NAPP) photo for this area and could easily irrigate both the land under the original decree and the land as recommended in the SRBA. These two points of diversion were recommended (the "Slick diversion" and "Smith diversion" on Diagram A). The point of diversion in Section 5 could not be located on the NAPP photo, indicating to IDWR that it was perhaps an abandoned use or a use too new to appear on the 1987 photo. Thus, this point of diversion in Section 5 was not recommended. IDWR found that the three points of diversion claimed in Section 18 could not service the land recommended under 61-00299 and hence were not recommended. No points of diversion are described for this right in the Little Canyon Creek decree, hence the Department's recommendation is made pursuant to *Idaho Code* § 42-1427.<sup>3</sup>
- Purpose: The claim was made for irrigation, domestic, and stockwater purposes. IDWR recommended irrigation use only because there is no known use of this water for domestic purposes. In addition, IDWR found that any stockwatering is incidental to the primary use of this right, which is for irrigation. Further, IDWR found that there was no diversion for stock water outside the irrigation season. Thus, stock watering was not recommended for this right.
- Place of Use: The duty of water set in the Little Canyon Creek Decree is "...one inch and one inch only, per acre, except the tract of land known as the Corker Desert claim, which

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<sup>3</sup> Idaho Code § 42-1427 authorizes IDWR to recommend elements not defined by the prior license or decree as of the date of the commencement of the adjudication.

requires one and one fourth inch to the acre...."<sup>4</sup> *Corker v. Anthony*, Decree 2<sup>nd</sup> Paragraph, (4<sup>th</sup> Jud. Dist., Elmore County mar. 28, 1903). The place of use recommended for this claim was limited to a total of 30 acres within 100 acres, based on the decreed quantity of 30 inches of water. The precise location and legal description of the irrigated acres were determined using aerial photograph and GIS technology as of the date of commencement of the SRBA pursuant to *Idaho Code* § 42-1427.

#### Smith Claim No. 61-00303A

Again, Ms. Smith seeks in her objection to water right number 61-00303A to combine all of her Little Canyon Creek water rights into a permissible place of use of 341 acres. The Batruels responded to Ms. Smith's objection asserting that the right should reflect historical use of the water, not a permissible place of use.

- Point of Diversion: As with claim number 61-00299, discussed above, the two points of diversion in Section 8, Township 5 South, Range 10 East could be verified and were recommended. However, the claimed points of diversion in Sections 5 and 18 could not be verified and were therefore not recommended.
- Purpose: Like claim number 61-00299, this water right is not used for domestic purposes and thus that use was not recommended. In addition, stock watering was found to be incidental to the irrigation use and was not recommended.
- Place of use: This claim is based on a portion of the original decreed right 61-00303 from the Little Canyon Creek Decree which clearly limited the quantity of water to one inch per acre (see discussion for 61-00299 above), the place of use recommendation for this claim was limited to a total of 15 acres, based on the claimed quantity of 15 inches (0.30 cfs). The precise location and legal description of the irrigated acres was determined using aerial photograph and GIS technology as of the date of the commencement of the SRBA.

#### Smith Claim No. 61-00304A

Like her objections to water right numbers 61-00299 and 61-00303A discussed above, Ms. Smith seeks to combine all of her Little Canyon Creek water rights into a permissible place of use of 341 acres. The Batruels responded to Ms. Smith's objection asserting that the right should reflect historical beneficial use of the water, not a permissible place of use.

- Point of Diversion: As with the claim number 61-00299, discussed above, the two points of diversion in Section 8, Township 5 South, Range 10 East could be verified and were

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<sup>4</sup> According to IDWR records the "Corker Desert Claim" is covered by water right 61-00296 and is not discussed in this report.

recommended. However, the claimed points of diversion in Sections 5 and 18 could not be verified and were therefore not recommended.

- **Purpose:** The claim was made for irrigation, domestic, and stock water purposes. Irrigation use was the only use recommended for the same reasons as stated under claim number 61-00299 discussed above.
- **Place of Use:** Since the Little Canyon Creek Decree limited the quantity of water to one inch per acre, the place of use recommendation for this claim was limited to a total of 60 acres, based on the decree quantity of 60 inches (1.20 cfs). (See discussion for 61-0299 above). The precise location and legal description of the irrigated acres was again determined using aerial photograph and GIS technology as of the date of the commencement of the SRBA.

#### **Smith Claim No. 61-00370**

Again, Ms. Smith seeks to combine all of her Little Canyon Creek water rights into a permissible place of use of 341 acres. The Batruels responded to Ms. Smith's objection asserting that the right should reflect historical beneficial use of the water, not a permissible place of use.

- **Point of Diversion:** As with claim number 61-00299, discussed above, the two points of diversion in Section 8, Township 5 South, Range 10 East could be verified and were recommended. However, the claimed points of diversion in Sections 5 and 18 could not be verified and were therefore not recommended.
- **Purpose:** The claim was made for irrigation, domestic, and stockwater purposes. The Department recommended irrigation and stockwater use. There is no known use of this water for domestic purposes thus, no domestic use was recommended.
- **Place of Use:** The place of use recommendation for this claim was limited to a total of 70 acres based on the decreed quantity of 70 inches. The 70 acres is within a permissible place of use of 100 acres. (See discussion above for claim number 61-00299 about the duty of water set forth in the Little Canyon Creek Decree). The precise location and legal description of the irrigated acres was determined using aerial photograph and GIS technology as of the date of commencement of the SRBA.

#### **Smith Claim No. 61-02000B**

This is the last water right that Ms. Smith seeks combine with her other Little Canyon Creek water rights into a permissible place of use of 341 acres. The Batruels responded to Ms. Smith's objection asserting that the right should reflect historical beneficial use of the water, not a permissible place of use.

- **Point of Diversion:** Six points of diversion were claimed in Township 5 South, Range 10 East: one in Section 5, two in Section 8, and three in Section 18. The two points of diversion in Section 8, and the associated ditches, can clearly be seen on the 1987 NAPP and could

easily irrigate the land as recommended in the SRBA. These two points of diversion were recommended (the "Slick diversion" and "Smith diversion") on Diagram A), pursuant to *Idaho Code* § 42-1425. The point of diversion in Section 5 could not be located on the NAPP photo, indicating to IDWR that it was perhaps an abandoned use or a use too new to appear on the 1987 photo. Thus, this point of diversion in Section 5 was not recommended. One of the three points of diversion claimed in Section 18 (in the SESE) could service the land recommended via a pump and associated pipeline and was recommended consistent with an administrative transfer (IDWR Transfer #2599) approved September 3, 1982. The other two points of diversion claimed in Section 18 could not be confirmed to deliver water to the lands under this right and hence were not recommended.

- **Purpose of Use:** This right was originally licensed in 1908 by the Department for irrigation and domestic uses. The Department recommended irrigation and stockwater uses under this right pursuant to *Idaho Code* § 42-1425.
- **Place of Use:** The Department recommendation for this claim was 63 acres within a permissible place of use of 79 acres. The precise location and legal description of the irrigated acres was determined using aerial photograph and GIS technology.

#### **Batrue's Claim Nos. 61-00303B and 61-00304B**

The Batrue's objected to their water rights numbered 61-00303B<sup>5</sup> and 61-00304B seeking to use the accomplished transfer statute, *Idaho Code* § 42-1425 to recognize a permissible place of use of 94 acres. The Department only found 87 total acres and recommended rights 61-00303B and 61-00304B within a permissible place of use of 87 acres. Ms. Smith objected to 61-00303B and 61-00304B stating that the acres should include only those acres which were historically irrigated, which should not include a permissible place of use as recommended. IDWR's basis of its recommendations is as follows:

- **Place of Use:** The place of use was the only element at issue for 61-00303B. This claim is based on a portion of the original decreed right 61-00303 and is a claim for 0.20 cfs. Because the quantity of water was set in the Little Canyon Creek Decree to one inch per acre, the place of use recommendation for this claim was limited to a total of 10 acres, based on the claimed quantity of 10 inches (0.20 cfs). The precise location and legal description of the irrigated acres was again determined using aerial photograph and GIS technology as of the date of the commencement of the SRBA.
- **Place of Use:** The place of use is the only element at issue in 61-00304B. The place of use recommendation for this claim was limited to a total of 40 acres, based on the decree quantity of 40 inches (0.80 cfs) because the Little Canyon Creek Decree limited the quantity of water to one inch per acre. (See discussion above for 61-00299). The Department verified the

<sup>5</sup> The United States Bureau of Land Management (BLM) also objected to Batrue's Little Canyon Creek water rights because of trespass concerns. This report does not address any of BLM's objections to any of the subcases as it is IDWR's understanding that the Batrue's and BLM are negotiating a resolution to that matter.

precise location and legal description of the irrigated acres by using aerial photography and GIS technology as of the date of the commencement of the SRBA.

#### **Batruels Claim No. 61-00308**

Claim number 61-00308 is a decreed storage right. The Batruels objected to this water right seeking to use the accomplished transfer statute, *Idaho Code* § 42-1425 to recognize a permissible place of use of 342 acres that includes the place of use for water rights 61-00303B and 61-00304B and the place of use under water right 61-10834. In addition, the Batruels seek more volume for their storage right, 61-00308, as well as additional purposes of use and a year-round diversion to storage.

- **Quantity:** This right was originally decreed for 10,000 inches (200 cfs) of water from Little Canyon Creek in the little Canyon Creek decree "... for the purpose of storing the same in a reservoir or reservoirs heretofore partially constructed and now in course of construction or hereafter to be constructed . . ." The Department is aware of only one reservoir historically used for storage of this water: Morrow Reservoir as shown on Diagram A. The Department has recommended the entire decreed diversion rate but found the storage volume should be limited to the historical size and volume of Morrow Reservoir, which the Department determined to be 700 acre-feet. This volume was calculated using aerial photography to gauge the surface area of the reservoir and local topography to estimate its depth.
- **Purpose:** The Department is unaware of any use of this water for domestic storage purposes or for live flow use for irrigation, stock water or domestic purposes. The Department recommended irrigation storage, stock water storage and full uses based on its understanding of the historical beneficial use developed.
- **Season of Use:** The period of use for diversion to storage for this water right was recommended as November 16<sup>th</sup> to March 14<sup>th</sup> (the non-irrigation season). Storage for irrigation is allowed year-round and irrigation from storage is allowed within the Department's standard irrigation period for the local area: March 15<sup>th</sup> to November 15<sup>th</sup>. The Department believes these recommendations to be consistent with historical local water delivery practice.
- **Place of Use:** The precise location and legal description of the irrigated acres was determined using aerial photography and GIS technology as of the date of the commencement of the SRBA.

#### **Batruels Claim No. 61-10834**

Water right claim number 61-10834 is a combination of two prior licenses, 61-02055 and 61-02224. The Batruels seek to increase the storage volume under this right, they want to

add additional irrigated land to total 342 acres instead of the 307 acres that the Department recommended, they want to add purposes of use and they want to divert into storage year-round.

- **Quantity:** The flow-rate of this claim was recommended as it was licensed under 61-02055 and 61-02224 with 0.60 cfs as diversion to storage. The licensed water rights were licensed for 30 acres and thus IDWR recommended 61-10834 for 30 acres within a permissible place of use of 307 acres pursuant to an accomplished transfer in the place of use under *Idaho Code* § 42-1425. The prior licenses did not provide the required volume element to the storage component of the right, therefore, the Department recommended the storage volume of water right 61-10834 pursuant to *Idaho Code* § 42-1427 by calculating the 30 acre place of use x 5.0 acre-feet per acre (as required by *Idaho Code* § 42-202(3)) for a total of 150 acre-feet per year.
- **Purpose:** Although the claim was for storage for irrigation, stock water and domestic purposes, only irrigation storage was found and recommended by IDWR.
- **Season of Use:** No period of use was given on the original licenses, thus the Department recommended the Department's standard irrigation period of use for the surrounding area which is March 15 to November 15. Furthermore, the Department found that diversion to storage occurred historically from November 16 until March 14 and recommended 61-10834 to reflect that historical practice
- **Place of Use:** The Department recommended 30 acres as licensed in a permissible place of use of 307 acres. The precise location and legal description of the irrigated acres was determined using aerial photography and GIS technology.

#### IV. INVESTIGATION OF CLAIMS TO DECREEED RIGHTS ON SAND SPRING GULCH

The water rights from Sands Spring Gulch consist of claim numbers 61-00293B, 61-00293C, 61-00293D and 61-11921. Water right 61-00293 was originally decreed in the Sand Spring Gulch decree and subsequently split into three parts: 61-00293B owned by Batruels, 61-00293C owned by Roger Jones and 61-00293D owned by Ms. Smith. Water right 61-11921 was also originally decreed in the Sand Spring Gulch decree and is now owned by Batruels.

Like the discussion above, the following is a brief summary of the issues raised by the parties to each water right and then the basis of IDWR's recommendations for those elements objected to or other elements necessarily implicated by objections to other elements. In this section, discussion of the claims is in numerical order.

##### Batruels Claim No. 61-00293B

Ms. Smith objected to the Department's recommendation of 61-00293B for several reasons. She believes the stock water recommendation is excessive and should be reduced. She

also states that a point of diversion should be removed (the Pond Diversion on Diagram A) and the number of irrigated acres limited to 28.75. Roger Jones responded to Ms. Smith's objection stating that the place of use was an issue. The Batruels did not object to the recommendation for this water right. IDWR's recommendations are based on the Department's understanding of the historical beneficial use by the Batruels.

- Priority Date: Although here is no specific objection to priority date for this recommendation, the Batruels did object to the priority dates to the D portion of 293 owned by Smith and tried to object to the C portion owned by Roger Jones but were denied participation in the C subcase. The Department recommended the priority date as January 1, 1898; however, this appears to be inconsistent with the Sand Spring Gulch Decree. The Sand Spring Gulch Decree states that "in August" these rights were developed so a more appropriate date would be August 1, 1898. Not changing the priority to this water right would adversely affect the Batruels' water right number 61-11921 discussed below which the Department believes should be senior to this right, but as the current recommendations stand is actually recommended with a junior priority date of March 15, 1898. The Department would concur with a change to the priority date from January 1, 1898, to August 1, 1898.
- Quantity: Water right 61-00293 was originally decreed in the Sand Spring Gulch decree for a total of 57.5 inches (1.15 cfs) to the defendants in that action, Morrow and Van Fleet. Water right claim number 61-00293B represents one-half of the original parent right. Thus, IDWR recommended 0.575 cfs for this right for irrigation of 295 acres. IDWR also recommended 0.575 cfs for stock water use because the water is diverted at that rate from the natural channel of Sand Spring Gulch into a ditch and then conveyed to the Batruels' land for irrigation before being used for stock water. The total quantity recommended under 61-00293B is 0.575 cfs, the amount claimed.
- Point of Diversion: The Sand Spring Gulch decree describes the water appropriated by Morrow and Van Fleet under the parent right, 61-00293, as follows: "...all the water that rises and flows in said Sand Spring Gulch between the dam known as plaintiff Heron's 1898 dam, and a dam constructed by the defendants further down in said gulch, to the extent of 57 1/2 (sic) inches."<sup>6</sup> There is no legal description in the Sand Spring Gulch Decree for either dam or any other point of diversion. The points of diversion recommended are the points of diversion known by the claimants and IDWR as the "pond diversion" and the "50-50 diversion." (See Diagram A). These are the points of diversion that are claimed and are known by IDWR to have been historically used by the Batruels or their predecessors.
- Place of Use: The Sand Spring Gulch decree is silent as to the place of use for irrigation and other uses for the parent right, 61-00293. Furthermore, the Sand Spring Gulch Decree does not set an amount of water per acre to help define the number of acres that were irrigated historically. Thus, IDWR determined the number of acres, precise location and legal description of the irrigated acres using aerial photography

<sup>6</sup> The Sand Spring Gulch Decree should have read 57 1/2 inches.

and GIS technology as of the date of the commencement of the SRBA. A typographical error occurred at the time the Director's Report was completed for claim number 61-00293B: each place of use lies in T05S not T04S as recommended. In addition, the department recommended 295 acres, but the claim was only for 241. An amended claim may be necessary.

#### Jones Claim No. 61-00293C

This is an uncontested overlapping water right. However, IDWR believes the recommended priority date of January 1, 1898, should be August 1, 1898. (See discussion for 61-00293B above).

#### Smith Claim No. 61-00293D

Batrueles objected to Smith's claim, 61-00293D because they believe that the priority date should be junior to the priority date on their claim number 61-11921. Roger Jones d/b/a RJT Farms responded to Batrueles objection to priority date, presumably because he does not believe that water right 61-11921 is senior to water right 61-00293C. Ms. Smith objected to her own water right 61-00293D, stating that the right is no longer used for irrigation, as originally claimed, but rather for stock water in a feed lot near her home. IDWR recommended water right 61-00293D for irrigation because to the Department's knowledge, any change in the purpose of use occurred after 1987 and thus a formal transfer is necessary to change the use from irrigation to stock water. This water right represents the nine inches (0.18 cfs) of water that Ms. Smith retained when she sold the property to Roger Jones who now owns the uncontested overlapping water right 61-00293C.

- Priority Dates: The Batrueles objected to the recommended priority date of January 1, 1898 for this right because they believe it is junior to their water right, 61-11921. The Sand Spring Gulch decree states that:

In the month of August, 1898, and subsequent to plaintiffs construction of what is known as his 1898 ditch, defendants jointly at a point on said Sand Spring Gulch below the dams and ditches of plaintiff, appropriated, and by means of a dam and ditch and flume, diverted to and upon their lands all of said seepage water rising in said Sand Spring Gulch below the said 1898 dam and ditch of plaintiff to the mount of fifty-seven and one-half inches and have ever since used said water for the reclamation and irrigation (sic) of their said lands and for domestic purposes and for watering stock.

Thus, a more appropriate priority date for this water right is August 1, 1898. See Discussion for claim number 61-00293B above.

- Point of Diversion: The Sand Spring Gulch decree describes the water appropriated by Morrow and Van Fleet under 61-00293 as follows: "...all the water that rises and flows in said Sand Spring Gulch between the dam known as plaintiff Herrom's 1898 dam, and a dam constructed by the defendants further down in said gulch, to the extent of 571½ (sic) inches." There is no legal description in the decree for either dam or any other point of diversion. The points of diversion recommended are the points originally claimed in Section 18 which represent a system known by IDWR to historically inject Sand Spring Gulch water into Little Canyon Creek and then redirect it through the same pumping system that delivers Little Canyon Creek water under 61-07236A and 61-07236B. IDWR determined that any use of Sand Spring Gulch water under 61-00293D for the feedlot would require a transfer pursuant to *Idaho Code* § 42-222 because the change in use occurred after 1987 and cannot be treated as an accomplished transfer under *Idaho Code* § 41-1425.
- Purpose of Use: Irrigation, domestic and stock water uses for this right were listed in the Sand Spring Gulch Decree. The Department is unaware of any use of the water under this right for any other use than irrigation purposes, thus irrigation use the only purpose recommended.
- Place of Use: The Sand Spring Gulch Decree does not indicate the location of the irrigated lands under this right. The precise location and legal description of the irrigated acres was determined using aerial photography and GIS technology as of the date of the commencement of the SRBA.

#### **Batrueis Claim No. 61-11921**

The Department recommended claim number 61-11921 to Batrueis based on the Sand Spring Gulch Decree. The Batrueis objected to the Department's recommendation because they believe more irrigated acres and a higher diversion rate were historically developed. The Batrueis also seek to have the purposes of use to include domestic use in addition to irrigation and stock water uses. Ms. Smith objected to this water right and believes it should not exist. RJT Farms filed a general response to the objections.

- Quantity: The Sand Spring Gulch decree states:

The plaintiff is entitled...to divert, and appropriate and use all of the water flowing in said Sand Spring Gulch...*to the extent of the capacity of the ditch then in 1898 constructed* . . . (emphasis added)

Because the capacity of the 1898 ditch is unknown, the Department recommended the capacity of the ditch as IDWR found it to exist as of the date of the commencement of the SRBA pursuant to *Idaho Code* § 41-1427.

- **Priority Date:** IDWR recommended the priority date of March 15, 1898 for this water right based on language in the Sand Spring Gulch decree which states:

*In the month of August, 1898, and subsequent to plaintiffs construction of what is known as his 1898 ditch, defendants jointly at a point on said Sand Spring Gulch below the dams and ditches of plaintiff, appropriated, and by means of a dam and ditch and flume, diverted to and upon their lands all of said seepage water rising in said Sand Spring Gulch below the said 1898 dam and ditch of plaintiff to the amount of fifty-seven and one-half inches, and have ever since used said water for the reclamation and irrigation (sic) of their said lands and for domestic purposes and for watering stock. (emphasis added)*

The Department determined that this water right was to the "1898 ditch" referred to in the Sand Spring Gulch decree. Thus, the priority date of water right 61-11921 must be prior to August, 1898, based on the quoted language above from the Sand Spring Gulch Decree. IDWR recommended March 15, 1898, because that is the beginning of the standard irrigation season for that area.

- **Purpose of Use:** Irrigation, domestic and stock water uses for this right were listed in the Sand Spring Gulch decree. The Department is unaware of any use of the water under this right for domestic purposes, thus irrigation and stock water use were the only purposes recommended.
- **Season of Use:** No period of use was given in the Sand Spring Gulch decree. The Department recommended IDWR's standard irrigation period of use for the surrounding area which is March 15 to November 15.
- **Place of Use:** The number of acres, precise location and legal description of the irrigated acres was determined using aerial photography and GIS technology as of the date of the commencement of the SRBA.

#### IV. INVESTIGATION OF BENEFICIAL USE CLAIMS TO RIGHTS ON VARIOUS SOURCES

Ms. Smith claimed a beneficial use right based on a statutory claim to a spring tributary to Sand Spring Gulch under claim number 61-04038. She also claimed a beneficial use right based on a statutory claim without source Little Canyon Creek under claim number 61-04113. The Batruels filed two beneficial use rights: one for water from Little Canyon Creek under claim number 61-04132 (based on a statutory claim) and one for groundwater under claim number 61-11877. All of the beneficial use claims filed by Ms. Smith and the Batruels were recommended disallowed for the following reasons.

Ms. Smith's claim number 61-04038 is a claim to a spring for irrigation, stock water, and domestic use. IDWR's investigation found no development at the spring site. The claim was recommended disallowed because no beneficial use was found.

Ms. Smith's claim number 61-04113, was a claim to 0.8 cfs from Little Canyon Creek for irrigation, stock water, and domestic uses dating back to 1928. IDWR was unable to confirm the use of this flow dating back to 1928 or any other precise priority date. Since there was no evidence of priority the Department recommended that the claim be disallowed because no lawful use was found.

The Batruel's claimed 61-04132 for 10 cfs from Little Canyon Creek for irrigation, stock water, and domestic uses dating back to 1896. No supporting evidence was offered by the claimant and the claim appears to duplicate 61-00308, which was recognized in the Little Canyon Creek decree and recommended in the SRBA by the Department. Thus, this claim was recommended disallowed.

Batrue's claim number 61-11877 shows a source of an artesian well for domestic, irrigation and stock water purposes. Although a well was drilled, no power supply to the well site, pump or diversion works exists. There is no evidence that a water right was ever developed from the well; thus, the claim was recommended to be disallowed.

## VI. CONCLUSION

The Department's recommendations for the rights involved in these subcases were based on IDWR's understanding of the historical beneficial use developed and used under each water right.

Dated this 14<sup>th</sup> day of September, 2001.

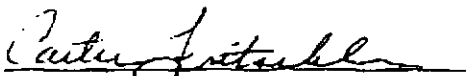
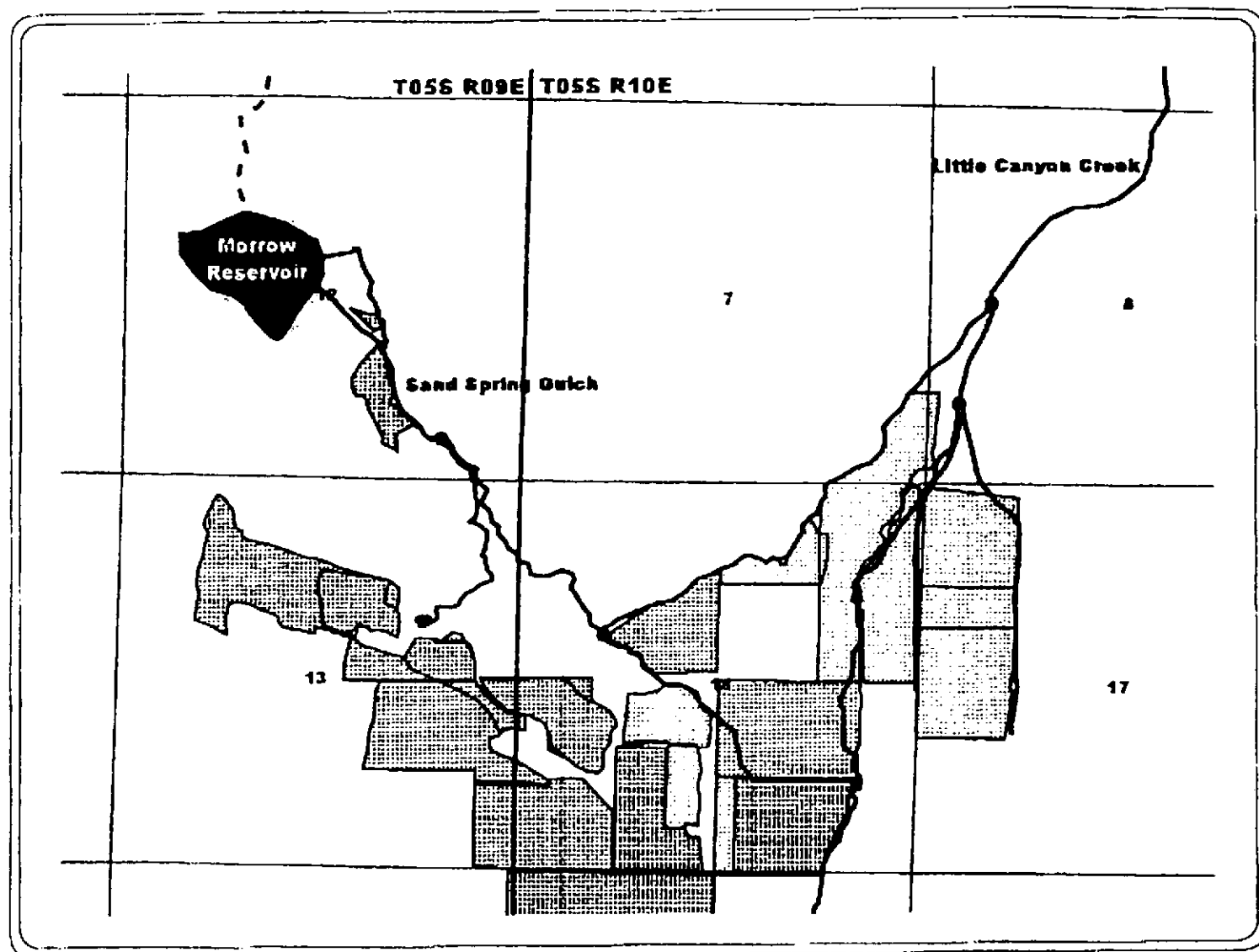
for   
Roxanne Brown  
Senior Water Rights Agent, IDWR

Diagram A



- 50-50 diversion
- pond diversion
- Section 18 diversion
- Slick diversion
- Smith diversion
- "1898" ditch
- Slick ditch
- Smith ditches
- ditch from L. Canyon Creek
- Batruels' Irrigated Lands
- Jones' Irrigated Lands
- Smith's Irrigated Lands



**TABLE B**

**ATTACHMENT TO SUPPLEMENTAL DIRECTOR'S REPORT  
SUMMARY OF AMENDED CLAIMS & AMENDED RECOMMENDATIONS**

| <b>CLAIM NUMBER</b>  | <b>AMENDED CLAIM</b>                                                                                                                                                                                                                                                                                                                              | <b>AMENDED DIRECTOR'S REPORT</b>                                                                                                                                                                                                                                   |
|----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 61-00299<br>Smith    | POINT OF DIVERSION: T05S, R10E, S05, 08 & 18<br>PURPOSE OF USE: Irrigation, Stockwater, Domestic (4 homes)<br>QUANTITY: 0.60 cfs<br>PLACE OF USE: 341.0 acres <sup>1</sup>                                                                                                                                                                        | POINT OF DIVERSION: T05S, R10E, S08<br>PURPOSE OF USE: Irrigation<br>QUANTITY: 0.60 cfs<br>PLACE OF USE: 30 acres within 100 acres                                                                                                                                 |
| 61-00303A<br>Smith   | POINT OF DIVERSION: T05S, S10E, S05, 08 & 18<br>PURPOSE OF USE: Irrigation, Stockwater & Domestic<br>QUANTITY: 0.30 cfs<br>PLACE OF USE: 341.0 acres                                                                                                                                                                                              | POINT OF DIVERSION: T05, R10E, S08<br>PURPOSE OF USE: Irrigation<br>QUANTITY: 0.30 cfs<br>PLACE OF USE: 15 acres                                                                                                                                                   |
| 61-00304A<br>Smith   | POINT OF DIVERSION: T05S, R10E, S05, 08 & 18<br>PURPOSE OF USE: Irrigation, Stockwater, Domestic (4 homes)<br>QUANTITY: 1.20 cfs<br>PLACE OF USE: 341.0 acres                                                                                                                                                                                     | POINT OF DIVERSION: T05S, R10E, S08<br>PURPOSE OF USE: Irrigation<br>QUANTITY: 1.20 cfs<br>PLACE OF USE: 60 acres                                                                                                                                                  |
| 61-00370<br>Smith    | POINT OF DIVERSION: T05S, R10E, S05, 08 & 18<br>PURPOSE OF USE: Irrigation, Stockwater, Domestic<br>QUANTITY: 1.40 cfs<br>PLACE OF USE: 341.0 acres                                                                                                                                                                                               | POINT OF DIVERSION: T05S, R10E, S08<br>PURPOSE OF USE: Irrigation, Stockwater<br>QUANTITY: 1.40 cfs<br>PLACE OF USE: 70 acres within 100 acres                                                                                                                     |
| 61-02000B<br>Smith   | POINT OF DIVERSION: T05S, R10E, S05, 08 & 18<br>PURPOSE OF USE: Irrigation, Stockwater & Domestic<br>QUANTITY: 2.056 cfs<br>PLACE OF USE: 341.0 acres                                                                                                                                                                                             | POINT OF DIVERSION: T05S, R10E, S08 & 18<br>PURPOSE OF USE: Irrigation & Stockwater<br>QUANTITY: 2.056 CFS<br>PLACE OF USE: 63 acres within 79 acres                                                                                                               |
| 61-00303B<br>Batruel | POINT OF DIVERSION: T05S, R10E, S08<br>PURPOSE OF USE: Irrigation & Stockwater<br>QUANTITY: 0.20 cfs<br>PLACE OF USE: 94.0 acres                                                                                                                                                                                                                  | POINT OF DIVERSION: T05S, R10E, S08<br>PURPOSE OF USE: Irrigation & Stockwater<br>QUANTITY: 0.20 CFS<br>PLACE OF USE: 10 acres within 87 acres                                                                                                                     |
| 61-00304B<br>Batruel | POINT OF DIVERSION: T05S, R10E, S08<br>PURPOSE OF USE: Irrigation & Stockwater<br>QUANTITY: 0.80 cfs<br>PLACE OF USE: 94.0 acres                                                                                                                                                                                                                  | POINT OF DIVERSION: T05S, R10E, S08<br>PURPOSE OF USE: Irrigation & Stockwater<br>QUANTITY: 0.80 cfs<br>PLACE OF USE: 40 acres within 87 acres                                                                                                                     |
| 61-00308<br>Batruel  | POINT OF DIVERSION: T04S, R10E, S09<br>PURPOSE OF USE: Diversion to Storage, Irrigation Storage, Irrigation from Storage, Stockwater, Stockwater Storage, Stockwater from Storage, Domestic, Domestic Storage, Domestic from Storage<br>QUANTITY: 200.00 cfs<br>PLACE OF USE: 342.0 acres<br>SEASON OF USE: 1/1 to 12/31 for diversion to storage | POINT OF DIVERSION: T04S, R10E, S09<br>PURPOSE OF USE: Irrigation Storage, Irrigation from Storage, Stockwater Storage, Stockwater from Storage, Diversion to Storage<br>QUANTITY: 200.00 cfs/700 AFY<br>PLACE OF USE: 307.0 acres<br>SEASON OF USE: 11/16 to 3/14 |
| 61-10834<br>Batruel  | POINT OF DIVERSION: T04S, R10E, S09<br>PURPOSE OF USE: Irrigation, Irrigation Storage, Irrigation from Storage, Stockwater, Stockwater Storage, Stockwater from Storage, Domestic, Domestic Storage, Domestic from Storage<br>QUANTITY: 0.60 cfs/150 AFY                                                                                          | POINT OF DIVERSION: T04S, R10E, S09<br>PURPOSE OF USE: Irrigation Storage, Irrigation from Storage<br>QUANTITY: 0.60 cfs/150 AFY                                                                                                                                   |

<sup>1</sup> Smith acknowledged in her claims that "decree states that quantity of water necessary to Irr. Said lands is 1.0 inches/ac, therefore ac. Irr. = 30

|                      |                                                                                                                                                                                                                      |                                                                                                                                                                                                          |
|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                      | from Storage, Diversion to Storage<br>QUANTITY: 0.60 cfs/750 AFY<br>PLACE OF USE: 342.0 acres                                                                                                                        | PLACE OF USE: 30 acres within 307 acres                                                                                                                                                                  |
| 61-00293B<br>Batruel | <b>ORIGINAL CLAIM<sup>2</sup></b><br>POINT OF DIVERSION: T05S, R09E, S12, T05S, R10E, S18<br>PURPOSE OF USE: Irrigation & Stockwater<br>QUANTITY: 1.150 cfs <sup>3</sup><br>PLACE OF USE: 241 acres                  | <b>ORIGINAL DIRECTOR'S REPORT</b><br>POINT OF DIVERSION: T05S, R09E, S12, T05S, R10E, S18<br>PURPOSE OF USE: Irrigation & Stockwater<br>QUANTITY: 0.575 cfs<br>PLACE OF USE: 295 acres <sup>4</sup>      |
| 61-00293D<br>Smith   | POINT OF DIVERSION: T05S, R10E, S18<br>PURPOSE OF USE: Irrigation, Stockwater, Domestic<br>QUANTITY: 0.18 cfs<br>PLACE OF USE: 74.0 acres                                                                            | POINT OF DIVERSION: T05S, R10E, S18<br>PURPOSE OF USE: Irrigation & Stockwater<br>QUANTITY: 0.18 cfs<br>PLACE OF USE: 40 acres                                                                           |
| 61-11921<br>Batruel  | <b>LATE CLAIM:</b><br>PRIORITY DATE: 4/01/1895<br>POINT OF DIVERSION: T05S, R09E, S12<br>PURPOSE OF USE: Irrigation, Stockwater, Domestic, Wildlife, Aesthetic<br>QUANTITY: 6.0 cfs<br>PLACE OF USE: 324.0 acres     | <b>DIRECTOR'S REPORT:</b><br>PRIORITY DATE: 3/15/1898<br>POINT OF DIVERSION: T05S, R09E, S12<br>PURPOSE OF USE: Irrigation & Stockwater<br>QUANTITY: 1.16 cfs<br>PLACE OF USE: 58 acres within 208 acres |
| 61-04038<br>Smith    | POINT OF DIVERSION: T05S, R10E, S18<br>PURPOSE OF USE: Irrigation, Stockwater, & Domestic<br>QUANTITY: 0.20 CFS<br>PLACE OF USE: 74.0 acres                                                                          | DISALLOWED                                                                                                                                                                                               |
| 61-04113<br>Smith    | POINT OF DIVERSION: T05S, R10E, S05, 08 & 18<br>PURPOSE OF USE: Irrigation, Stockwater, & Domestic<br>QUANTITY: 0.80 cfs<br>PLACE OF USE: 341.0 acres                                                                | DISALLOWED                                                                                                                                                                                               |
| 61-04132<br>Batruels | POINT OF DIVERSION: T04S, R10E, S09<br>PURPOSE OF USE: Irrigation, Stockwater, & Domestic<br>QUANTITY: 10.080 cfs<br>PLACE OF USE: 342.0 acres                                                                       | DISALLOWED                                                                                                                                                                                               |
| 61-11877<br>Batruel  | <b>LATE CLAIM:</b><br>PRIORITY DATE: 7/01/1954<br>SOURCE: Groundwater<br>POINT OF DIVERSION: T05S, R09E, S13<br>PURPOSE OF USE: Domestic, Irrigation & Stockwater<br>QUANTITY: 0.635 cfs<br>PLACE OF USE: 28.2 acres | <b>DIRECTOR'S REPORT:</b><br>DISALLOWED                                                                                                                                                                  |

<sup>2</sup> See letter dated January 3, 2001 from Candice M. McHugh on behalf of IDWR to Special Master Cushman explaining that no amended claim or amended director's report was necessary for this water right.

<sup>3</sup> Although Batruels only own a portion of the original decreed right 61-00293, they claimed the entire quantity decreed under 61-00293.

<sup>4</sup> The Department recommended 295 acres but the claim was for only 241 acres. An amended claim may be necessary.

CERTIFICATE OF SERVICE

I certify that on 9-17, 2001, I served the original and/or copies of this form, including all attachments, to the following persons by delivering the original and/or copies, as follows:

U.S.D.J. BLM  
U.S. Dept of Justice  
550 West Fort Street, MSC 033  
Boise, ID 83724

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

Charles Honsinger  
P.O. Box 2773  
Boise, ID 83701-2773

Matt J. Howard  
2402 W. Jefferson  
Boise, ID 83702

Norman Semanko  
410 S. Orchard, Suite 144  
Boise, ID 83705

IDWR - Adjudication Bureau  
P.O. Box 83720  
Boise, ID 83720-0098

Sandy Egbert

rec'd as

61-11921 in Amended  
D.R.

See notes  
on that #.

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

Comparison to 2/12/1999 report:

RIGHT NUMBER: 61-293B

NAME AND ADDRESS: BATRUEL DAIRY  
MARY N BATRUEL  
PAUL BATRUEL  
RT 1 BOX 428  
GLENNS FERRY, ID 83623

SOURCE: SAND SPRINGS GULCH ✓ TRIBUTARY: LITTLE CANYON CREEK

QUANTITY: 0.575 CFS ✓

THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT  
EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 01/01/1898 ✓

POINT OF DIVERSION:

T05S R09E S12 SESE Within ELMORE County  
T05S R10E S18 SWNW Lot 2 Within ELMORE County

PURPOSE AND  
PERIOD OF USE:

| PURPOSE OF USE | PERIOD OF USE | QUANTITY  |
|----------------|---------------|-----------|
| IRRIGATION     | 03/15 11/15   | 0.575 CFS |
| STOCKWATER     | 01/01 12/31   | 0.575 CFS |

PLACE OF USE:

| IRRIGATION Within ELMORE County |      |         |                   |      |         |
|---------------------------------|------|---------|-------------------|------|---------|
| 4 T05S R09E S13                 | NWNE | 3.0 ✓   | T05S R09E S13     | SWNE | 24.0 ✓  |
| T05S R09E S13 LT2               | SENE | 9.0 ✓   | T05S R09E S13     | NENW | 19.5 16 |
| T05S R09E S13                   | NWNW | 1.5 5   | T05S R09E S13     | SWNW | 1.0 4   |
| T05S R09E S13                   | SENE | 19.0 16 | T05S R09E S13     | NESE | 36.0 ✓  |
| T05S R09E S13                   | NWSE | 16.0 ✓  | T05S R09E S13     | SESE | 13.0 ✓  |
| T05S R10E S18                   | SENE | 28.0 ✓  | T05S R10E S18 LT3 | NWSW | 30.0 ✓  |
| T05S R10E S18 LT4               | SWSW | 38.0 ✓  | T05S R10E S18     | NESE | 17.0 ✓  |
| T05S R10E S18                   | NWSE | 40.0 ✓  |                   |      |         |

295 ACRES TOTAL - acres. same total - 1/4, 1/4's different totals -  
see above.

STOCKWATER Use same as IRRIGATION

USE OF THIS RIGHT WITH RIGHT NOS. 61-00303B, 61-00304B, 61-00308,  
61-04132, 61-10834, 61-11921 IS LIMITED TO THE IRRIGATION OF A  
COMBINED TOTAL OF 307 ACRES IN A SINGLE IRRIGATION SEASON.

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

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. SECTION 42-1412(6), IDAHO CODE.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

STOCKWATER USE INCLUDES USE FOR SMALL DAIRY AND LAND APPLICATION  
OF WASTE WATER WITHIN FOU.

## Adjudication Recommendation Report 61-293B V1

| <u>Owner Type</u> | <u>Name and Address</u>                                                      |
|-------------------|------------------------------------------------------------------------------|
| Current Owner     | PAUL BATRUEL<br>RT 1 BOX 426<br>GLENN'S FERRY, ID 83623<br>(208)366-2375     |
| Original Owner    | JAMES MORROW<br><br>, ID                                                     |
| Current Owner     | PETER BATRUEL<br>RT 1 BOX 426<br>GLENN'S FERRY, ID 83623<br>(208)366-2375    |
| Original Owner    | JOSEPH VAN FLEET<br><br>, ID                                                 |
| Current Owner     | MARY BATRUEL<br>RT 1 BOX 426<br>GLENN'S FERRY, ID 836239756<br>(208)366-2375 |

Status: Active

| <u>Beneficial Use</u> | <u>From</u> <u>To</u> | <u>Diversion Rate</u> | <u>Annual Volume</u> |
|-----------------------|-----------------------|-----------------------|----------------------|
| IRRIGATION            | 01/01 to 12/31        | 0.575 CFS             |                      |
| STOCKWATER            | 01/01 to 12/31        | 0.575 CFS             |                      |
|                       | Total Diversion:      | 0.575 CFS             |                      |

|                                     |               |                                 |
|-------------------------------------|---------------|---------------------------------|
| SAND SPRINGS GULCH<br>ELMORE County | L2 SW1/4NW1/4 | Sec. 18, Twp 05S, Rge 10E, B.M. |
| SAND SPRINGS GULCH<br>ELMORE County | SE1/4SE1/4    | Sec. 12, Twp 05S, Rge 09E, B.M. |

## IRRIGATION

| Twp | Rge | Sec | NE |     |      |     | NW   |     |     |      | SW |    |      |      | SE   |      |      |      | Totals |
|-----|-----|-----|----|-----|------|-----|------|-----|-----|------|----|----|------|------|------|------|------|------|--------|
|     |     |     | NE | NW  | SW   | SE  | NE   | NW  | SW  | SE   | NE | NW | SW   | SE   | NE   | NW   | SW   | SE   |        |
| 05S | 09E | 13  |    | 3.0 | 24.0 | 9.0 | 16.0 | 5.0 | 4.0 | 16.0 |    |    |      |      | 36.0 | 16.0 |      | 13.0 | 142.0  |
|     |     |     |    |     | L 1  |     |      |     |     |      |    |    |      |      |      |      |      |      |        |
| 05S | 10E | 18  |    |     |      |     |      |     |     | 28.0 |    |    | 30.0 | 38.0 |      | 17.0 | 40.0 |      | 153.0  |
|     |     |     |    |     |      |     |      |     |     |      |    |    | L 3  | L 4  |      |      |      |      |        |

## IDAHO DEPARTMENT OF WATER RESOURCES

## Adjudication Recommendation Report 61-293B V1

Total Acres: 295

STOCKWATER same as IRRIGATIONConditions of Approval:

1. C15 THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER IN BASIN 61 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER RIGHTS IN BASIN 61: WATER RIGHT NO. SOURCE NONE NONE THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER IN BASIN 61 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER RIGHTS IN THE SNAKE RIVER BASIN: WATER RIGHT NO. SOURCE NONE NONE ALL WATER RIGHTS WITHIN BASIN 61 ARE FROM CONNECTED SOURCES OF WATER IN THE SNAKE RIVER BASIN AND SHALL BE ADMINISTERED CONJUNCTIVELY.
2. C18 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. SECTION 42-1412(6), IDAHO CODE.
3. N05 THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.
4. N08 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

Remarks:Comments:

1. RBROWN 11/23/1998 COPIED FROM REMARKS  
Comment: PLACE OF USE FOR STOCK IS IN THE SAME AREA AS THE IRRIGATION ONLY BY DIFFERENT METHOD OF CONVEYANCE.

Dates and Other Information:

Decreed Date:  
 Enlargement Use Priority Date:  
 Enlargement Statute Priority Date:  
 Defendant:  
 Plaintiff:  
 Civil Case Number:  
 Judicial District:  
 Notice of Error Flag: NONE RECEIVED  
 State or Federal:  
 Owner Name Connector: 0  
 Water District Number: 61D  
 Generic Max Rate Per Acre:  
 Generic Max Volume Per Acre:  
 Swan Falls Trust or Nontrust: False  
 Swan Falls Dismissed:  
 DLE Act Number:  
 Carey Act Number:  
 Mitigation Plan: OR

Element Reviewed/Verified Dates:

| <u>Element</u> | <u>Last Reviewed Date</u> | <u>Reviewer</u> | <u>Last Verified Date</u> | <u>Verifier</u> | <u>Status</u> |
|----------------|---------------------------|-----------------|---------------------------|-----------------|---------------|
| Contacts       | 5/2/2001 2:35:44 PM       | rbrown          |                           |                 | Active        |
| Priority Date  | 5/2/2001 2:36:16 PM       | rbrown          |                           |                 | Active        |
| POD            | 5/2/2001 2:46:49 PM       | rbrown          |                           |                 | Active        |

## IDAHO DEPARTMENT OF WATER RESOURCES

## Adjudication Recommendation Report 61-293B V1

|          |                     |        |        |
|----------|---------------------|--------|--------|
| Source   | 5/2/2001 3:32:47 PM | rbrown | Active |
| POU      | 5/2/2001 3:35:03 PM | rbrown | Active |
| Use      | 5/2/2001 3:57:28 PM | rbrown | Active |
| Season   | 5/2/2001 3:58:10 PM | rbrown | Active |
| Quantity | 5/2/2001 4:00:39 PM | rbrown | Active |
| Summary  | 05/04/2001          | rbrown | Active |

Verification Log:

| <u>Element</u> | <u>Date Time Stamp</u> | <u>Reviewer</u> | <u>Log text</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|----------------|------------------------|-----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Contacts       | 5/2/2001 2:35:26 PM    | rbrown          | 1. Appointment has not been scheduled.<br>Comment for 1: in-office review                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Priority Date  | 5/2/2001 2:36:14 PM    | rbrown          | 1. (NO) There has not been a later court decree of the water right(s) from the water source.<br>4. (NO) The basis of claim is not beneficial use.<br>5. (NO) The basis of claim is not a posted notice.<br>6. (YES) Parent right has a priority date.<br>7. (NO) The basis of claim is not an application or permit.<br>12. (YES) The claim is recommended.<br>13. (YES) The claim is coded correctly.<br>14. (NO) Priority remark was not required.<br>15. (NO) Priority condition was not required. |
| POD            | 5/2/2001 2:46:47 PM    | rbrown          | 1. (NO) The basis is not beneficial use.<br>2. (NO) Parent right does not have a Point of Diversion.<br>4. (NO) There is not evidence that there has been a change in the Point of Diversion.<br>6. (YES) The file contains all the necessary information to verify the POD.<br>Comment for 6: NAPP review; field exam                                                                                                                                                                                |
| POD            | 5/2/2001 2:49:52 PM    | rbrown          | Edited point location                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| POD            | 5/2/2001 3:27:37 PM    | rbrown          | Edited PLS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| POD            | 5/2/2001 3:29:57 PM    | rbrown          | Edited point location                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| POD            | 5/2/2001 3:30:24 PM    | rbrown          | Edited PLS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Source         | 5/2/2001 3:32:45 PM    | rbrown          | 1. (NO) The basis is not beneficial use.<br>2. (YES) Parent right has a source.<br>3. (YES) The claimed source can be verified using the water right file.<br>8. (YES) The source is surface water.<br>9. (NO) The source is not a standard source.<br>10. (NO) Source remark was not required.<br>11. (NO) Source condition was not required.                                                                                                                                                        |
| POU            | 5/2/2001 3:35:01 PM    | rbrown          | 1. (YES) The POU is required.<br>2. (NO) The basis of claim is not beneficial use.<br>3. (NO) The Parent Right does not have a POU.<br>5. (NO) There is no evidence that there has been a change in the POU.<br>9. (YES) The file contains all the necessary information to verify the POU.<br>Comment for 9: NAPP review; field exam<br>12. (NO) POU remark was not required.<br>13. (NO) POU condition was not required.                                                                            |

## IDAHO DEPARTMENT OF WATER RESOURCES

## Adjudication Recommendation Report 61-293B V1

|          |                     |        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|----------|---------------------|--------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| POU      | 5/2/2001 3:37:28 PM | rbrown | Edited shape boundary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| POU      | 5/2/2001 3:38:43 PM | rbrown | Edited PLS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| POU      | 5/2/2001 3:39:05 PM | rbrown | Edited Season Of Use                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| POU      | 5/2/2001 3:45:33 PM | rbrown | Edited shape boundary                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| POU      | 5/2/2001 3:46:12 PM | rbrown | Edited PLS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Use      | 5/2/2001 3:57:27 PM | rbrown | 1. (NO) The basis of claim is not beneficial use.<br>2. (YES) The parent right has a purpose of use.<br>3. (YES) The claimed purpose of Use can be verified using the water right file.<br>11. (NO) Purpose of Use remark was not required.<br>12. (NO) Purpose of Use condition was not required.                                                                                                                                                                                                                                                                                                                  |
| Season   | 5/2/2001 3:58:08 PM | rbrown | 1. (NO) The basis of claim is not beneficial use.<br>2. (NO) The parent right does not have a period of use.<br>4. (NO) There is not evidence that there has been a change to the period of use.<br>9. (YES) The file contains all the necessary information to verify the period of use.<br>11. (NO) The basis of is not a decree, license, or a transferred beneficial use right that has had the period of use administratively determined.<br>13. (YES) Irrigation is the purposed use.<br>15. (NO) Period of Use remark was not required.<br>16. (NO) Period of Use condition was not required.                |
| Quantity | 5/2/2001 4:00:36 PM | rbrown | 1. (NO) The basis of claim is not beneficial use.<br>2. (NO) The basis of claim is not a posted notice.<br>3. (YES) The parent right has a diversion rate and/or diversion volume.<br>4. (YES) The claimed diversion rate and/or volume can be verified using the water right file.<br>6. (NO) The source is not ground water and the purpose of use does not require a diversion volume limit.<br>7. (NO) The parent right does not have an annual diversion volume limit.<br>9. (NO) Quantity remark was not required.<br>10. (NO) Quantity condition was not required.                                           |
| Summary  | 5/4/2001 7:56:59 AM | rbrown | 1. (NO) The basis of the claim is not beneficial use.<br>3. (NO) There is no indication that there has been a five year period of continuous nonuse that could result in a recommendation of forfeiture or partial forfeiture.<br>5. (YES) General remark was required.<br>6. (NO) Explanatory remark was not required.<br>7. (NO) Additional condition was not required.<br>8. (YES) Wanted to view the recommended right.<br>9. (NO) This is not a split right.<br>10. (NO) This is not a combined right.<br>11. (NO) Documents were not linked or attached to this file.<br>12. (YES) Set the verification date. |

IDAHO DEPARTMENT OF WATER RESOURCES  
Adjudication Recommendation Report 61-293B V1

SubCase:

SubCase Number: 61-293B  
Class: 2  
SF5 Filed Date:  
Special Master Recom Signed Date: 2/8/2002  
Attorney Assigned: SUSAN E HAMLIN-NYGARD  
Adjudication Agent:  
Basis of Claim:  
Date Filed: 6/15/1999 Objection Status: Active  
Date Filed: 3/31/1999 Objection Status: Active

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES  
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: FEB-12-1999  
PAGE: A-915-----  
RIGHTS FROM: SOURCE: SAND SPRINGS GULCH TRIBUTARY: LITTLE CANYON CREEK  
-----

RIGHT NUMBER: 61-00293B

NAME & ADDRESS: MARY BATRUEL  
RT 1 BOX 426  
GLENNS FERRY ID 836230000PAUL BATRUEL  
RT 1 BOX 426  
GLENNS FERRY ID 83623PETER BATRUEL  
RT 1 BOX 426  
GLENNS FERRY ID 836230000

SOURCE: SAND SPRINGS GULCH TRIBUTARY: LITTLE CANYON CREEK

QUANTITY: 0.575 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE  
SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 01/01/1898

POINT OF DIVERSION: T05S R09E S12 SESE Within ELMORE County  
R10E S18 SWNWPURPOSE AND PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY  
IRRIGATION 03-15 11-15 0.575 CFS  
STOCKWATER 01-01 12-31 0.575 CFSPLACE OF USE: IRRIGATION Within ELMORE County  
T04S R09E S13 ~~NWNE 15~~ ~~SWNE 24~~ SENE 9 ~~NENW 15~~  
NWNE 15 ~~SWNE 24~~ NESE 28 ~~NWSE 16~~  
SESE 13 ~~SWNE 24~~  
R10E S13 SENW 16  
S18 SENW 28  
NWSE 10  
295 ACRES TOTAL

Place of use for STOCKWATER is same as IRRIGATION

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

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

*Corrected POU 5/2/01 R/grown  
Correction to recommendation can  
be accomplished by SF5 or ADR.*

AJ5856NP

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

DATE: FEB-12-1999  
PAGE: A-916

-----  
RIGHTS FROM: SOURCE: SAND SPRINGS GULCH TRIBUTARY: LITTLE CANYON CREEK  
-----  
RIGHT NUMBER: 61-00293B (CONT)

OTHER PROVISIONS: (CONT)

THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER  
IN BASIN 61 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER  
RIGHTS IN BASIN 61:

| WATER RIGHT NO. | SOURCE |
|-----------------|--------|
| NONE            | NONE   |

THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER  
IN BASIN 61 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER  
RIGHTS IN THE SNAKE RIVER BASIN:

| WATER RIGHT NO. | SOURCE |
|-----------------|--------|
| NONE            | NONE   |

ALL WATER RIGHTS WITHIN BASIN 61 ARE FROM CONNECTED SOURCES  
OF WATER IN THE SNAKE RIVER BASIN AND SHALL BE ADMINISTERED  
CONJUNCTIVELY.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

**MATT J. HOWARD**

ATTORNEY AT LAW

2402 W. IFFERSON

BOISE, IDAHO 83702

TELEPHONE (208) 333-0622

FACSIMILE (208) 345 8945

EMAIL MHOWARD@MICRON.NET

**FACSIMILE TRANSMITTAL SHEET**

|                           |                                     |
|---------------------------|-------------------------------------|
| TO:                       | FROM:                               |
| Susan Hanlin              | Matt J. Howard                      |
| COMPANY:                  | DATE:                               |
| IDWR                      | April 18, 2000                      |
| FAX NUMBER:               | TOTAL NO. OF PAGES INCLUDING COVER: |
|                           | 34                                  |
| RE:                       |                                     |
| Batruecl Notices of Claim |                                     |

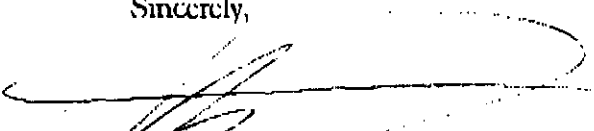
☐ URGENT    ☐ FOR REVIEW    ☐ FOR YOUR INFO    ☐ PLEASE REPLY    ☒ KEEP FOR FILES

**NOTES/COMMENTS:**

Dear Susan:

Attached are the Batruels' notices of claim. I also included the entire Standard Form 4 for 61-00293B because the appendix to that motion explains the purpose for splitting out 293B into 293B and A61-11921. Carter is the one who helped me split the claim so if you have questions, he can probably help you, or feel free to contact me.

Sincerely,

  
Matt J. Howard

327-5400

**CONFIDENTIAL & PRIVILEGED INFORMATION**

This facsimile is confidential & privileged. It is for use of the individual(s) named on this cover sheet. If you are not the intended recipient, do not read this facsimile. Any further inspection, dissemination, or copying of this facsimile is prohibited. If you have received this facsimile by error, please notify us by phone immediately, and we will arrange to have it returned to us. Thank you for your cooperation.

**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 <u>61-00293B</u>                                           |
|            | ) | (Insert water right number)                                        |
|            | ) |                                                                    |
| Case 39576 | ) | <b>STANDARD FORM 4</b>                                             |
|            | ) |                                                                    |
|            | ) | <b>MOTION TO FILE:</b>                                             |
|            | ) | <input type="checkbox"/> <b>LATE NOTICE OF CLAIM</b>               |
|            | ) | <input checked="" type="checkbox"/> <b>AMENDED NOTICE OF CLAIM</b> |

---

**INSTRUCTIONS**

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in **SRBA Administrative Order 1, Rules of Procedure** (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it 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 is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

☒ I have read **SRBA Administrative Order 1, Rules of Procedure** (amended Sept. 30, 1996).

My name is \_\_\_\_\_

My address is \_\_\_\_\_

My phone number is: Work \_\_\_\_\_ Home \_\_\_\_\_

I am an attorney representing Paul and Mary Batruel

My name is Matt J. Howard

My address is 2402 W. Jefferson, Boise, ID 83702

My phone number is (208) 333-0622

### MOTION TO FILE A LATE NOTICE OF CLAIM

*A Motion to File a Late Notice of Claim* will require a hearing before the Presiding Judge.

☐ I did not file a Notice of claim to the use of water in the SRBA because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

☐ I am providing legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I have attached:

- ☐ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ \_\_\_\_\_.
- ☐ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ \_\_\_\_\_.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on \_\_\_\_\_  
(Insert Date and Time)  
 at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

### MOTION TO FILE AN AMENDED NOTICE OF CLAIM

*A Motion to File an Amended Notice of Claim* may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

☒ I must amend my Notice of Claim to the use of water in the SRBA because:

Please see Appendix A  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

- ☐ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.

---

---

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I have attached:

- ☒ An amended Notice of Claim (available from IDWR).

- ☒ Payment of the following additional fees required by IDWR: \$ 2<sup>00</sup>

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---

**VERIFICATION** (Must be completed)State of IdahoCounty of Ada

Matt J. Howard, being first duly sworn, upon oath, deposes and says:  
 (Insert name of person filing form)

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

\_\_\_\_\_  
 Signature of person filing motion

[Signature]  
 Attorney signing in representative capacity

Subscribed and sworn to before me on 3-15-00  
 (Insert Date)



[Signature]  
 Notary Public for IDAHO  
 Residing at: BOISE, IDAHO  
 My Commission expires: 2/04/2002

**INSTRUCTIONS FOR MAILING**

You must mail this form, including all attachments, to the Clerk of the SRBA Court. **FAX filings will not be accepted by the SRBA Clerk of the Court.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

## **APPENDIX A**

Mary and Paul Batruel must amend their Notice of Claim for 61-00293B to accurately reflect their two decreed water rights from Sand Springs Gulch and the historical beneficial use of those water rights.

The original claim for 61-00293B ("the original claim") incorrectly combines two decreed water rights from Sand Springs Gulch. Consequently, the original claim identifies two points of diversion. One diversion point is in Section 12 and is commonly referred to as "the Pond Diversion." The second diversion point is in Section 18 and is commonly referred to as "the 50/50 Diversion."

The *Herron Decree*, which decreed water rights in Sand Springs Gulch, identifies three water rights. The first water right was decreed to Plaintiff Herron for diversion of all water in Sand Springs Gulch, up to the capacity of Herron's 1898 ditch, at a point which is believed to be the Pond Diversion. The second and third water rights were decreed to Defendants Morrow and Van Fleet, for a total of 57.5 inches (1.15 cfs), to be diverted at a point lower in Sand Springs Gulch, which is believed to be at the 50/50 diversion.

Unfortunately, IDWR never assigned an identification number to Plaintiff Herron's water right. Because there was no prior water right number assigned to the Herron water right, the Batruels, who are the successors to Plaintiff Herron and Defendant Morrow, claimed both the Herron and Morrow water rights on one claim form under water right no. 61-00293B.

Because of this error, the Batruels must amend their original claim to properly reflect their two separately decreed water rights—the Herron water right (which has now been identified as claim no. A61-11921) and the Morrow water right (A61-00293B). Claims for both these water rights are attached to this motion.

The Batruels must also amend their original claim to properly reflect the historical beneficial use of their two decreed water rights to include other places of use; domestic and stock water uses which are decreed for these water rights; wildlife and aesthetic uses which may now be claimed under Idaho Code § 42-1425; and an irrigation season of use consistent with the recommendation of the Idaho Department of Water Resources. The Batruels must also amend their original claim to ensure that it is consistent their overlapping water rights, nos. 61-00308 and 61-10834, because those water rights all utilize the same interconnected irrigation system.

CERTIFICATE OF MAILING

I certify that on March 16, 2000, I mailed the original and copies of this form, including all attachments, to the following persons by the method indicated below:

## 1. Original to:

Clerk of the District Court  
Snake River Basin Adjudication  
253 Third Ave., North  
P. O. Box 2707  
Twin Falls, ID 83303-2707

☒ U.S. Mail ☒ Overnight Mail ☐ Hand-delivered

## 2. Copies to:

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

☒ U.S. Mail ☐ Overnight Mail ☐ Facsimile ☐ Hand-delivered

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

Boise, ID 83711-4449

☒ U.S. Mail ☐ Overnight Mail ☐ Facsimile ☐ Hand-delivered

United States Department of Justice  
Environment and Natural Resources Division  
550 W. Fort Street, MSC 033  
Boise, ID 83724

☒ U.S. Mail ☐ Overnight Mail ☐ Facsimile ☐ Hand-delivered

Charles Honsinger  
Ringert, Clark Chtd  
P. O. Box 2773

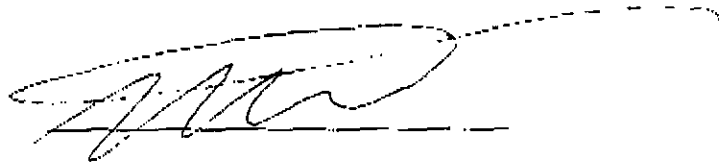
Boise, ID 83701-2773

☒ U.S. Mail ☐ Overnight Mail ☐ Facsimile ☐ Hand-delivered

Norman Semanko  
Rosholt, Robertson & Tucker  
P. O. Box 1906

Twin Falls, ID 83303-1906

☒ U.S. Mail ☐ Overnight Mail ☐ Facsimile ☐ Hand-delivered



*Pls. file in Claim  
No. A61-00293*

their lands all of said seepage water rising in said Sand Spring Gulch below the said 1898 dam and ditch of plaintiff to the amount of fifty-seven and one-half inches, and have ever since used said water for the reclamation and irrigation of their said lands and for domestic purposes and for watering stock.

(7.) It is further ordered adjudged and decreed that the plaintiff is entitled, as against the defendants and each of them, to divert, appropriate and use all the water flowing in said Sand Spring Gulch, at the point where the dam or dyke was constructed therein by the plaintiff in the year 1898, to the extent of the capacity of the ditch then in 1898 constructed and leading from such dam or dyke to what is known as Reservoir No. 3.

8. 0293 (8.) That the defendants are entitled, as against the plaintiff, to divert, appropriate and use all the water that rises and flows in said Sand Spring Gulch between the dam known as plaintiff Herron's 1898 dam, and a dam constructed by the defendants further down in said gulch, to the extent of  $57\frac{1}{2}$  inches.

9. It is further ordered, adjudged and decreed that each and every party hereto, their agents, attorneys, employees, and privies, and their successors in interest, be, and they are hereby, enjoyed and restrained from interfering in any manner with the waters flowing in said Sand Spring Gulch except as provided by the terms of this decree.

10. It is ordered that each of the parties hereto pay his own costs.

Dated February 26th, A.D. 1904.

Lytleton Price,

District Judge.

STATE OF IDAHO )  
COUNTY OF ELMORE) ss

I hereby certify that this instrument was filed for record at request J. A. Purtil at 30 minutes past 3 o'clock P.M. this 27 day of Feb'y A.D. 1904 in my office.

Fees \$1.50

J. A. Purtil  
Ex-Officio Recorder

*Pls. file in Claim  
No. A61-00293*

their lands all of said seepage water rising in said Sand Spring Gulch below the said 1898 dam and ditch of plaintiff to the amount of fifty-seven and one-half inches, and have ever since used said water for the reclamation and irrigation of their said lands and for domestic purposes and for watering stock.

(7.) It is further ordered adjudged and decreed that the plaintiff is entitled, as against the defendants and each of them, to divert, appropriate and use all the water flowing in said Sand Spring Gulch, at the point where the dam or dyke was constructed therein by the plaintiff in the year 1898, to the extent of the capacity of the ditch then in 1898 constructed and leading from such dam or dyke to what is known as Reservoir No. 3.

0293 (8.) That the defendants are entitled, as against the plaintiff, to divert, appropriate and use all the water that rises and flows in said Sand Spring Gulch between the dam known as plaintiff Herron's 1898 dam, and a dam constructed by the defendants further down in said gulch, to the extent of 54½ inches.

9. It is further ordered, adjudged and decreed that each and every party hereto, their agents, attorneys, employees, and privies, and their successors in interest, be, and they are hereby, enjoyed and restrained from interfering in any manner with the waters flowing in said Sand Spring Gulch except as provided by the terms of this decree.

10. It is ordered that each of the parties hereto pay his own costs.

Dated February 26th, A.D. 1904.

Lyttleton Price,  
District Judge.

STATE OF IDAHO )  
COUNTY OF ELMORE) ss

I hereby certify that this instrument was filed for record at request J. A. Purtil at 30 minutes past 3 o'clock P.M. this 27 day of Feby A.D. 1904 in my office.

Fees \$1.50

J. A. Purtil  
Ex-Officio Recorder

16:23:32  
11/16/98

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
ADJUDICATION CLAIM VERIFICATION REPORT

PAGE: 1  
GENERAL INFORMATION  
CLAIM NUMBER: A61-00293B

|                            |                          |
|----------------------------|--------------------------|
| LAST: MORROW               | FIRST: JAMES             |
| ADDRESS:                   |                          |
| CITY: XXXX                 | STATE: ID ZIP: XXXX      |
| PHONE NUMBER: 208-000-0000 |                          |
| OWNER CODE: O              |                          |
|                            |                          |
| LAST: VAN FLEET            | FIRST: JOSEPH            |
| ADDRESS:                   |                          |
| CITY: XXXX                 | STATE: ID ZIP: XXXX      |
| PHONE NUMBER: 208-000-0000 |                          |
| OWNER CODE: O              |                          |
|                            |                          |
| LAST: BATRUEL              | FIRST: PETER             |
| ADDRESS: RT 1 BOX 426      |                          |
| CITY: GLENNS FERRY         | STATE: ID ZIP: 836230000 |
| PHONE NUMBER: 208-366-2375 |                          |
| OWNER CODE: C              |                          |
|                            |                          |
| LAST: BATRUEL              | FIRST: MARY N            |
| ADDRESS: RT 1 BOX 426      |                          |
| CITY: GLENNS FERRY         | STATE: ID ZIP: 836230000 |
| PHONE NUMBER: 208-366-2375 |                          |
| OWNER CODE: C              |                          |
|                            |                          |
| LAST: BATRUEL              | FIRST: PAUL              |
| ADDRESS: RT 1 BOX 426      |                          |
| CITY: GLENNS FERRY         | STATE: ID ZIP: 83623     |
| PHONE NUMBER: 208-366-2375 |                          |
| OWNER CODE: C              |                          |

|                                       |                                                                                                         |
|---------------------------------------|---------------------------------------------------------------------------------------------------------|
| FIELD EXAM REQUIRED?                  | FIELD EXAMINER                                                                                          |
| VERIFICATION REQUIRED DUE TO REMARKS? | Y( ) N(✓)                                                                                               |
| CLAIM REMARKS: GEN                    | PLACE OF USE FOR STOCK IS IN THE SAME AREA AS THE IRRIGATION ONLY<br>BY DIFFERENT METHOD OF CONVEYANCE. |

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 / NOTES:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

|                                                                                                                            |                           |          |
|----------------------------------------------------------------------------------------------------------------------------|---------------------------|----------|
| A. AJ CLAIM: # A61-00293B                                                                                                  | PRIORITY DATE: 01-01-1898 | STAGE: D |
| B. WR RECORD: # 61-00293B                                                                                                  | PRIORITY DATE: - -        | STAGE: D |
| C. CAN THE PRIORITY DATE CLAIMED BE CONFIRMED BY A DECREE OR LICENSE?                                                      |                           |          |
| D. HAS THERE BEEN A LATER COURT DECREE OF THE WATER RIGHT(S) FROM THIS WATER SOURCE?                                       | Y( ) N( )                 |          |
| E. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE? (IF YES, DESCRIBE BELOW)           | Y( ) N( )                 |          |
| F. IF THIS CLAIM IS BASED ON A PERMIT, WHERE IS THE PERMIT IN THE LICENSING PROCESS?                                       |                           |          |
| PROOF OF BENEFICIAL USE SUBMITTED                                                                                          | N/A( ) Y( ) N( )          |          |
| FIELD EXAM COMPLETED                                                                                                       | N/A( ) Y( ) N( )          |          |
| FIELD EXAM SENT TO STATE OFFICE                                                                                            | N/A( ) Y( ) N( )          |          |
| LICENSE ISSUED                                                                                                             | N/A( ) Y( ) N( )          |          |
| * IF THE PERMIT WILL NOT BE LICENSED PRIOR TO THE DIRECTOR'S REPORT, USE CONDITION CODE A01 AND RECOMMEND AS PERMITTED.    |                           |          |
| G. IF THIS CLAIM IS BASED ON BENEFICIAL USE, IS ADDITIONAL EVIDENCE OF THE PRIORITY DATE REQUIRED?                         | N/A( ) Y( ) N( )          |          |
| * FOR CLAIMS BASED ON BENEFICIAL USE, DESCRIBE THE EVIDENCE OF PRIORITY SUBMITTED, INCLUDING THE ANALYSIS OF THE EVIDENCE. |                           |          |
| H. IS THE STAGE OF THE CLAIM CODED CORRECTLY?                                                                              | Y( ) N( )                 |          |

NOTES: *Priority date taken from 1904 decree.*

=====

RECOMMENDED PRIORITY DATE: *8-1-1898*

REVIEWED BY: *RA* DATE: *11/17/98*

## A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

| RIGHT      | TWP. RGE. | SEC. | 1/4 | 1/4 | 1/4 | LOT | POD<br>FLAG | COUNTY | DIVERSION NAME | DIVERSION NUMBER |
|------------|-----------|------|-----|-----|-----|-----|-------------|--------|----------------|------------------|
| A61-002938 | 05S 09E   | 12   |     | SE  | SE  |     |             | ELMORE |                |                  |
| A61-002938 | 05S 10E   | 18   |     | SW  | NW  |     |             | ELMORE |                |                  |

OTHER AJ CLAIMS WITH SAME AJ POD  
 A PREFIX R PREFIX  
 A61-04038 61-11630  
 A61-11630

WR RECORDS IN SAME 40 ACRE TRACT  
 61-04038  
 61-04039

SOURCE: SAND SPRING GULCH

TRIB: LITTLE CANYON CREEK

## B. WR POINT OF DIVERSION AND SOURCE:

61002938 THERE IS NO POD ASSOCIATED WITH THIS WATER RIGHT NUMBER

SOURCE: SAND SPRING GULCH

TRIB: LITTLE CANYON CREEK

C. IS THE CLAIMED POD WITHIN THE SAME 40 ACRE TRACT THAT IS DESCRIBED IN THE WATER RIGHT FILE? N/A(✓) Y( ) N( )

\* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN POD, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

D. CAN THE CLAIMED POD BE VERIFIED USING THE WATER RIGHT FILE OR GPS DATA? N/A( ) Y( ) N(✓)

E. SHOULD THE CLAIMED POD BE VERIFIED BY FIELD EXAM? Y( ) N(✓)

F. IS THE CLAIMED SOURCE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A( ) Y(✓) N( )

\* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN SOURCE, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

G. CAN THE CLAIMED SOURCE BE VERIFIED USING THE WATER RIGHT FILE? Y(✓) N( )

H. SHOULD THE CLAIMED SOURCE BE VERIFIED BY FIELD EXAM? Y( ) N(✓)

I. HOW WAS THE POD AND SOURCE VERIFIED?

LICENSING FIELD EXAM (DATE OF FIELD EXAM )

AJ FIELD EXAM (DATE OF FIELD EXAM ) NAME OF EXAMINER

OTHER (DESCRIBE IN NOTES BELOW)



A. ROOT WATER RIGHT NUMBERS: A61-002938  
A61-00293A

| B. POU LISTING |     | TWP | RNG | SEC | 1/4 | 1/4 | LOT | NAME              | AJ<br>#/ACRES     | WR<br>#/ACRES | LANDSAT<br>DATA | FIELD<br>EXAM. | RECOMM.<br>ACRES |
|----------------|-----|-----|-----|-----|-----|-----|-----|-------------------|-------------------|---------------|-----------------|----------------|------------------|
| 05S            | 09E | 13  | SW  | NE  |     |     |     | BATRUEL, PETER    | A61-002938 / 25.0 | -             | /               | 41.0           | 24.0             |
|                |     |     | SW  | NE  |     |     |     | BATRUEL, PETER    | A61-04132 / 30.0  | 61-04132      | /               |                |                  |
|                |     |     | SW  | NE  |     |     |     | BATRUEL, MARY     | A61-10194 /       | -             | /               |                |                  |
|                |     |     | SW  | NE  |     |     |     | BATRUEL, MARY     | A61-10540 /       | -             | /               |                |                  |
|                |     |     | SW  | NE  |     |     |     | BATRUEL, MARY     | 61-10194 /        | -             | /               |                |                  |
|                |     |     | SW  | NE  |     |     |     | BATRUEL, MARY     | 61-10540 /        | -             | /               |                |                  |
| 05S            | 09E | 13  | SE  | NE  |     |     |     | BATRUEL, PETER    | A61-002938 / 12.0 | -             | /               |                | 9.0              |
| 05S            | 09E | 13  | NE  | SE  |     |     |     | BATRUEL, PETER    | A61-002938 / 37.0 | -             | /               | 41.0           | 36.0             |
|                |     |     | NE  | SE  |     |     |     | BATRUEL, PETER    | A61-04132 / 20.0  | 61-04132      | /               |                |                  |
|                |     |     | NE  | SE  |     |     |     | BATRUEL, PETER    | A61-10834 / 8.0   | -             | /               |                |                  |
|                |     |     | NE  | SE  |     |     |     | MORROW, JAMES C.  | 61-02055 / 8.0    | 61-02055      | /               |                |                  |
|                |     |     | NE  | SE  |     |     |     | MORROW, JAMES C.  | 61-02224 / 8.0    | 61-02224      | /               |                |                  |
| 05S            | 09E | 13  | NW  | SE  |     |     |     | BATRUEL, PETER    | A61-002938 / 16.0 | -             | /               | 26.0           | 16.0             |
| 05S            | 09E | 13  | SE  | SE  |     |     |     | BATRUEL, PETER    | A61-002938 / 10.0 | -             | /               | 24.0           | 13.0             |
|                |     |     | SE  | SE  |     |     |     | BATRUEL, PETER    | A61-10834 / 7.0   | -             | /               |                |                  |
|                |     |     | SE  | SE  |     |     |     | BATRUEL, PETER    | A61-04132 / 5.0   | 61-04132      | /               |                |                  |
|                |     |     | SE  | SE  |     |     |     | MORROW, JAMES C.  | 61-02055 / 7.0    | 61-02055      | /               |                |                  |
|                |     |     | SE  | SE  |     |     |     | MORROW, JAMES C.  | 61-02224 / 7.0    | 61-02224      | /               |                |                  |
| 05S            | 10E | 18  | SE  | NW  |     |     |     | BATRUEL, PETER    | A61-002938 / 26.0 | -             | /               | 37.0           | 28.0             |
|                |     |     | SE  | NW  |     |     |     | BATRUEL, PETER    | A61-003038 / 26.0 | -             | /               |                |                  |
|                |     |     | SE  | NW  |     |     |     | BATRUEL, PETER    | A61-04132 / 30.0  | 61-04132      | /               |                |                  |
|                |     |     | SE  | NW  |     |     |     | BATRUEL, PETER    | A61-10382 / 26.0  | -             | /               |                |                  |
|                |     |     | SE  | NW  |     |     |     | BATRUEL, PETER    | A61-003048 / 26.0 | -             | /               |                |                  |
| 05S            | 10E | 18  | NW  | SW  |     |     |     | BATRUEL, PETER    | A61-002938 / 30.0 | -             | /               |                | 30.0             |
|                |     |     | NW  | SW  |     |     |     | BATRUEL, PETER    | A61-04132 / 15.0  | 61-04132      | /               |                |                  |
|                |     |     | NW  | SW  |     |     |     | BATRUEL, PETER    | A61-10834 / 8.0   | -             | /               |                |                  |
|                |     |     | NW  | SW  | 3   |     |     | VINER, RICHARD P. | 61-04039 / 40.0   | 61-04039      | /               |                |                  |
|                |     |     | NW  | SW  | 3   |     |     | MORROW, JAMES C.  | 61-02055 / 8.0    | 61-02055      | /               |                |                  |
|                |     |     | NW  | SW  | 3   |     |     | MORROW, JAMES C.  | 61-02224 / 8.0    | 61-02224      | /               |                |                  |
| 05S            | 10E | 18  | SW  | SW  |     |     |     | BATRUEL, PETER    | A61-002938 / 38.0 | -             | /               |                | 38               |
|                |     |     | SW  | SW  |     |     |     | BATRUEL, PETER    | A61-04132 / 25.0  | 61-04132      | /               |                |                  |
|                |     |     | SW  | SW  | 4   |     |     | BATRUEL, PETER    | A61-10834 / 7.0   | -             | /               |                |                  |
|                |     |     | SW  | SW  | 4   |     |     | MORROW, JAMES C.  | 61-02055 / 7.0    | 61-02055      | /               |                |                  |
|                |     |     | SW  | SW  | 4   |     |     | MORROW, JAMES C.  | 61-02224 / 7.0    | 61-02224      | /               |                |                  |

| TWP | RNG | SEC | 1/4 | 1/4 | LOT | NAME           | AJ<br>#/ACRES     | WR<br>#/ACRES   | LANDSAT<br>DATA | FIELD<br>EXAM. | RECOMM.<br>ACRES |
|-----|-----|-----|-----|-----|-----|----------------|-------------------|-----------------|-----------------|----------------|------------------|
| 05S | 10E | 18  | NE  | SE  |     | BATRUEL, PETER | A61-002938 / 12.0 | - /             | 34.0            |                | 17.0             |
|     |     |     | NE  | SE  |     | BATRUEL, PETER | A61-003038 / 12.0 | - /             |                 |                |                  |
|     |     |     | NE  | SE  |     | BATRUEL, PETER | A61-04132 / 20.0  | 61-04132 / 20.0 |                 |                |                  |
|     |     |     | NE  | SE  |     | BATRUEL, PETER | A61-10382 / 12.0  | - /             |                 |                |                  |
|     |     |     | NE  | SE  |     | BATRUEL, PETER | A61-003048 / 12.0 | 61-003048 /     |                 |                |                  |
|     |     |     | NE  | SE  |     | LATTY, JOHN    | 61-00303 /        |                 |                 |                |                  |
| 05S | 10E | 18  | NW  | SE  |     | BATRUEL, PETER | A61-002938 / 35.0 | - /             | 42.0            |                | 40.0             |
|     |     |     | NW  | SE  |     | BATRUEL, PETER | A61-003038 / 35.0 | - /             |                 |                |                  |
|     |     |     | NW  | SE  |     | BATRUEL, PETER | A61-04132 / 35.0  | 61-04132 / 35.0 |                 |                |                  |
|     |     |     | NW  | SE  |     | BATRUEL, PETER | A61-10382 / 35.0  | - /             |                 |                |                  |
|     |     |     | NW  | SE  |     | BATRUEL, PETER | A61-003048 / 35.0 | 61-003048 /     |                 |                |                  |
|     |     |     | NW  | SE  |     | LATTY, JOHN    | 61-00303 /        |                 |                 |                |                  |

ADDITIONAL POU FOUND

*same as 61-00308 minus acres in S. 17*

TOTAL ACRES A61-002938 241.00 245.00

POU COUNTY: ELMORE

C. IS WATER USAGE FOUND IN TRACTS OTHER THAN THOSE CLAIMED?

\* IF YES, ARE THESE TRACTS LISTED ABOVE ( ), OR ARE THEY LISTED ON AN ATTACHED SHEET ( )

Y( ) N( )

LIST OF ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE

| CLAIM NO.  | SOURCE              | NAME           | DIV. RATE | DIV. RATE/ACRE | DIV. VOL. | DIV. VOL./ACRE |
|------------|---------------------|----------------|-----------|----------------|-----------|----------------|
| A61-002938 | SAND SPRING GULCH   | BATRUEL, PETER | 1.150     | 0.004          |           |                |
| A61-003038 | LITTLE CANYON CREEK | BATRUEL, PETER | 0.200     | 0.002          |           |                |
| A61-003048 | LITTLE CANYON CREEK | BATRUEL, PETER | 0.800     | 0.010          |           |                |
| A61-04132  | LITTLE CANYON CREEK | BATRUEL, PETER | 10.230    | 0.045          |           |                |
| A61-10382  | LITTLE CANYON CREEK | BATRUEL, PETER | 0.720     | 0.009          |           |                |
| A61-10834  | LITTLE CANYON CREEK | BATRUEL, PETER | 0.600     | 0.020          | 700.00    | 23.33          |

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

| CLAIM NO.  | PURPOSES   | NAME           | MONTH/DAY           | RATE      | VOLUME |
|------------|------------|----------------|---------------------|-----------|--------|
| A61-002938 | STOCKWATER | BATRUEL, PETER | FROM 01-01 TO 12-31 | 1.150 CFS |        |
| A61-10194  | STOCKWATER | BATRUEL, MARY  | FROM 01-01 TO 12-31 | 0.200 CFS |        |
| A61-10540  | DOMESTIC   | BATRUEL, MARY  | FROM 01-01 TO 12-31 | 0.080 CFS |        |
| 61-10194   | STOCKWATER | BATRUEL, MARY  | FROM 01-01 TO 12-31 | 0.200 CFS |        |
| 61-10540   | DOMESTIC   | BATRUEL, MARY  | FROM 01-01 TO 12-31 | 0.080 CFS |        |

D. ARE OTHER WATER RIGHTS USED FOR THE SAME PURPOSE? Y( ) N( )

\* IF YES, COMPLETE OVERLAP REVIEW:

OTHER RIGHTS LISTED IN CLAIM: CLAIM NO.'S A61-04132, 003038, 003048, 02055, 00308.

E. IS THE CLAIMED POU THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A( ) Y( ) N( )

\* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN POU, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

F. CAN THE CLAIMED POU BE VERIFIED USING THE WATER RIGHT FILE AND AVAILABLE AERIAL PHOTOS? N/A( ) Y( ) N( )

G. SHOULD THE CLAIMED POU BE VERIFIED BY FIELD EXAM? Y( ) N( )

H. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE OF THIS RIGHT, OR ANY PORTION OF THIS RIGHT? Y( ) N( )

CHECK DOCUMENTS USED TO VERIFY POU: ☒ ORTHOPHOTOQUAD, IDWR NO. AT116; ( ) TOPOGRAPHIC QUAD, IDWR NO. \_\_\_\_\_;  
☒ NAPP, IDWR NO. G15; ( ) ASCS PHOTO; ( ) OTHER \_\_\_\_\_

**NOTES:**

**RECOMMENDATIONS:-**

TOTAL ACRES: \_\_\_\_\_ N/A(\_\_\_\_)

REVIEWED BY: [Signature] DATE: 4/17/98

## A. AJ CLAIMED USES:

| PURPOSE OF USE              | PERIOD OF USE (MONTH/DAY) | DIV. RATE FOR EACH USE | DIV. VOL. FOR EACH USE |
|-----------------------------|---------------------------|------------------------|------------------------|
| A61-002938 IRRIGATION       | FROM 04-01 TO 11-01       | 1.150 CFS              |                        |
| A61-002938 STOCKWATER       | FROM 01-01 TO 12-31       | 1.150 CFS              |                        |
| TOTAL DIVERSION RATE/VOLUME |                           | 1.150 CFS              |                        |

## B. WR RECORDED USES:

| PURPOSE OF USE              | PERIOD OF USE (MONTH/DAY) | DIV. RATE FOR EACH USE | DIV. VOL. FOR EACH USE |
|-----------------------------|---------------------------|------------------------|------------------------|
| 61-002938 IRRIGATION        | FROM TO                   | 0.575 CFS              |                        |
| TOTAL DIVERSION RATE/VOLUME |                           | 0.575 CFS              |                        |

## C. DOES THE CLAIMED PURPOSE OF USE CORRECTLY DESCRIBE THE WATER USE? Y(✓) N( )

D. IS THE CLAIMED PURPOSE OF USE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A( ) Y(✓) N( )

\* IF NO, AND IF THE ACTUAL WATER USE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN PURPOSE OF USE, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

E. SHOULD THE CLAIMED PURPOSE OF USE BE VERIFIED BY FIELD EXAM? Y( ) N(✓)

F. DOES THE CLAIMED PERIOD OF USE CONFORM TO IDWR STANDARDS? Y( ) N( )

G. SHOULD THE PERIOD OF USE BE RECOMMENDED TO IDWR STANDARDS? Y(✓) N( )

\* IF THE RECOMMENDED PERIOD OF USE IS DIFFERENT THAN IDWR STANDARDS, EXPLAIN IN NOTES BELOW.

H. IS THE CLAIMED DIVERSION RATE FOR EACH USE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A( ) Y( ) N(✓)

\* IF NO, DESCRIBE IN NOTES BELOW HOW THE RECOMMENDED DIVERSION RATE FOR EACH USE WAS DETERMINED.

I. SHOULD THE CLAIMED DIVERSION RATE FOR EACH USE BE VERIFIED BY FIELD EXAM? N/A( ) Y( ) N(✓)

J. IS THE CLAIMED DIVERSION VOLUME FOR EACH USE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A(✓) Y( ) N( )

\* IF NO, DESCRIBE IN NOTES BELOW HOW THE RECOMMENDED DIVERSION VOLUME FOR EACH USE WAS DETERMINED.

K. SHOULD THE CLAIMED DIVERSION VOLUME FOR EACH USE BE VERIFIED BY FIELD EXAM? N/A( ) Y( ) N(✓)

NOTES:

*Quartz South diversion allowed 0.575 under this report.*

AJ CLAIM TOTAL DIVERSION RATE: 1.150 CFS

WR ROOT RIGHT TOTAL DIVERSION RATE: 0.575 CFS

A. IS THE CLAIMED TOTAL DIVERSION RATE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A( ) Y( ) N( )

B. CAN THE CLAIMED TOTAL DIVERSION RATE BE VERIFIED USING THE WATER RIGHT FILE? N/A( ) Y( ) N( )

\* ALL CLAIMS BASED ON BENEFICIAL USE (INCLUDING POSTED NOTICES AND STATUTORY CLAIMS) REQUIRE A FLOW MEASUREMENT.

C. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE OF THIS RIGHT, OR ANY PORTION OF THE DIVERSION RATE? Y( ) N( )

\* IF AN AMOUNT SMALLER THAN THE ORIGINAL DIVERSION RATE IS CLAIMED AND A FIELD EXAM IS NOT REQUIRED, EXPLAIN IN NOTES.

D. SHOULD THE CLAIMED DIVERSION RATE BE VERIFIED BY FIELD EXAM? Y( ) N( )

FLOW MEASUREMENT

MEASUREMENT METHOD n/a, SEE ATTACHED CALCULATIONS.

F. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE  
ACRES            x 0.02 CFS/ACRE =            CFS  
(Taken from poa review)

IS A DIVERSION RATE PER ACRE GREATER THAN 0.02 CFS/ACRE CLAIMED? Y( ) N( )

IF YES, IS AN ADDITIONAL WATER USE FORM FILED AND ATTACHED? Y( ) N( )

2. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME =            AF/A

ACRES            x DIVERSION VOL. AF/A FOR AREA            =

TOTAL DIVERSION VOLUME            AF/A

3. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE =            AF/A

ACRES            x CONSUMPTIVE VOL. AF/A FOR AREA            =

TOTAL CONSUMPTIVE USE            AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION: SEE BELOW ( ) OR SEE ATTACHMENT ( )



RECOMMENDATIONS: CHECK HERE IF RECOMMENDED AS CLAIMED ( )

| REC.<br>PURPOSE OF USE | REC. PERIOD |       | REC. DIV<br>RATE CFS | REC. DIV<br>VOL. AF/A |          | REC. CONS.<br>USE |          |
|------------------------|-------------|-------|----------------------|-----------------------|----------|-------------------|----------|
|                        | FROM        | TO    |                      | DATABASE              | EXAMINER | DATABASE          | EXAMINER |
| IRRIGATION             | 3-15        | 11-15 | 1.150                | 0.505                 | 0        | 0.0               | 0        |
| STOCKWATER             | 04-01       | 11-01 | 1.150                | 0.505                 | 0        | 0.0               | 0        |
|                        | 01-01       | 12-31 |                      |                       |          |                   |          |
|                        |             |       |                      |                       |          |                   |          |
|                        |             |       |                      |                       |          |                   |          |
|                        |             |       |                      |                       |          |                   |          |
| TOTAL FOR THIS RIGHT   |             |       |                      |                       |          |                   |          |

NON-IRRIGATION USES CLAIMED: NONE

NON-IRRIGATION USES RECOMMENDED: CHECK HERE IF RECOMMENDED AS CLAIMED ( )

REVIEWED BY: RB

DATE: 11/17/98

FLAG: \_\_\_\_\_

STANDARD CONDITIONS (CODE): N05, N08

STANDARD REMARKS (CODE): \_\_\_\_\_

EXPLANATORY CONDITIONS (CODE): \_\_\_\_\_

EXPLANATORY REMARKS (CODE): \_\_\_\_\_

A. CHECK ONLY THE FOLLOWING THAT APPLY:

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

OWNERSHIP \_\_\_\_\_  
FORFEIT/ABANDON \_\_\_\_\_  
ADDITIONAL DIV. AMOUNT \_\_\_\_\_

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 61-00293

DATABASE 1.150 CFS  
TOTAL DIVERSION RATE OF WR SPLITS

SPLITS:

| OLD RIGHT NUMBERS | CURRENT CLAIM NUMBERS | DIVERSION RATE | CURRENT "R" CLAIM NUM. | "R" DIV. RATE | WR RIGHT NUMBERS | DIVERSION RATE |
|-------------------|-----------------------|----------------|------------------------|---------------|------------------|----------------|
| A61-00293         | A61-00293A            | 0.715          | -                      | -             | 61-00293         | 0.575          |
| -                 | A61-00293B            | 1.150          | -                      | -             | 61-00293A        | 0.575          |
| -                 | -                     | -              | -                      | -             | 61-00293B        | 0.575          |

TOTAL CFS 1.865

1.150

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 DESCRIBED BELOW ( ) OR SEE ATTACHMENT ( )?

DATABASE N  
FIELD EXAMINER Y( ) N( )

NOTES:

AUTHENTICATION:

SIGNATURE: Robert Brown DATE: 12/6/98

NAME OF FIELD EXAMINER: \_\_\_\_\_ TITLE: \_\_\_\_\_

Apr-18-00 13:32

FROM : PENNER & FINK INSURANCE

PHONE NO. : 2083667487

Mar. 16 2000 01:57PM P4

P.04

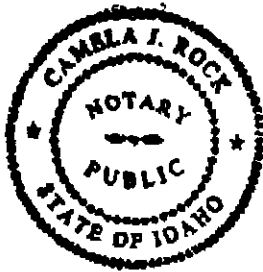
Mar-16-00 10:31A

P.08

State of Idaho )  
County of Elmore ) SS.

Subscribed and sworn (or affirmed) before me this 16<sup>th</sup> day  
of March 2000

Carmela J. Rock  
Notary Public



Residing at Glenns Ferry, Idaho  
My Commission Expires 04-26-05