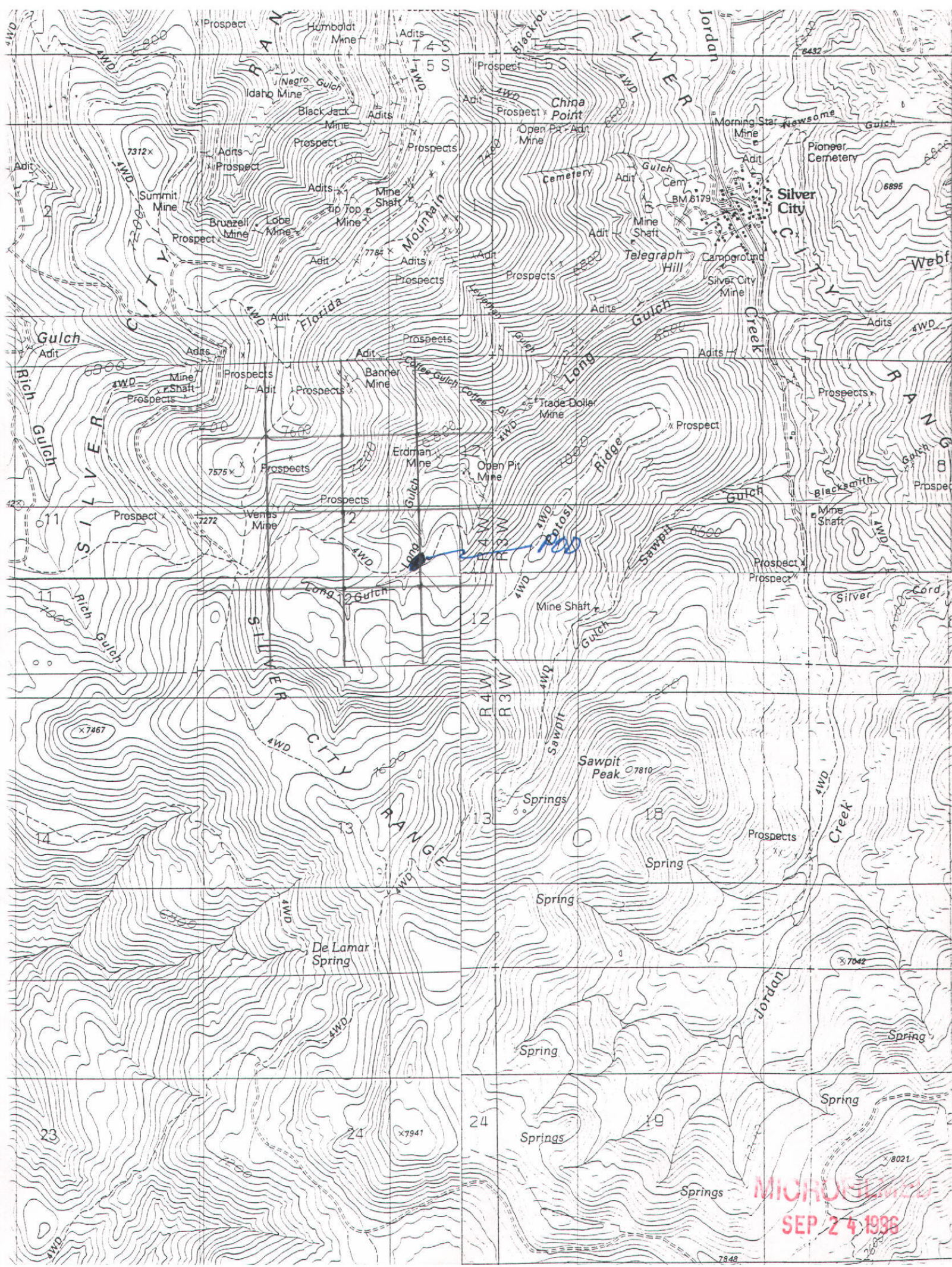




IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

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: A55-04012
Date Received: 6/07/1988
Receipt No: W001860
Received By: DET

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ELEANOR L. SMITH
Address: 1017 N. 28TH
BOISE, ID 83702

2. Date of Priority: MAY 01, 1931

3. Source: LONG GULCH CREEK Trib. to: JORDAN CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
05S	04W	12	SE	SW			OWYHEE

5. Description of diverting works:
SEE REMARKS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
MINING	05/01	11/15	7.000		
MINING STORAGE	05/01	11/15			15.00
MINING FROM STORAGE	05/01	11/15			15.00

7. Total Quantity Appropriated is:
7.000 C.F.S. (and/or) 15.00 A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
PLACER MINING

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05S	04W	12	SE	NE		MINING	

A55-04012

Page 1

Date: 06/07/88

MICROFILMED
SEP 24 1996

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
05S	04W	12	NE SE		MINING	

11. Place of use in counties: OWYHEE

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

13. Other Water Rights Used:
NONE

14. Remarks:

WATER FROM LONG GULCH CREEK ACCUMULATES IN A 15 ACRE-FOOT RESERVOIR LOCATED IN THE SE1/4 SW1/4 SEC 12, T 5 S, R 4 W. THE WATER IS DIVERTED FROM THE RESERVOIR VIA A HEADGATE AND DITCH THEN INTO A PENSTOCK WHICH IS FITTED INTO A 12 INCH PIPE. THE PIPE IS NARROWED INTO AN 8 INCH, THEN INTO A 3 INCH HYDRAULIC PIPE.

15. Basis of Claim: STATUTORY CLAIM
Water Right Number:

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:

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): X *E. ...* Date: 1/4/1989
_____ Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 4th day
of January 19 89 *David L. Tuttle*
Seal Notary Public

Residing at Boise Id
My Commission Expires 9/15/1994

Identification No. _____
Claim No. 55-4012
Map No. _____

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION

CLAIM TO A WATER RIGHT

Established by Diversion and Application to Beneficial Use

Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. The filing of this claim does not confirm the water right but will serve for information purposes only. It may, however, become the basis for future adjudication of the water right by the Court.

(Please refer to the instructions on the back of this form)

1. Name of claimant Eleanor L. Smith
post office address 1017 North 28th. Boise, Idaho 83702
2. The point of diversion is in SW $\frac{1}{4}$ of SW ^(1st 5) $\frac{1}{4}$ Section 7 Township 5 S
Range 4 W B.M. located on Springs
(name of source)
tributary to Long Gulch Creek in Owyhee County.
3. Dates of priority claimed: list the priority for each separate quantity that you claim. Priority dates should be based upon the earliest diversion of the water which has resulted in continued beneficial use since that time. If there has been an interval of five years or greater when the water was not beneficially used for the same purpose as originally appropriated, the priority that you claim should date from the time that the water was again beneficially applied following the period of non-use.
 - a. Date of priority claimed:
May 1, 1931 amount: 7.0 c.f.s. or 15 acre feet per day.
amount: _____ c.f.s. or _____ acre feet
amount: _____ c.f.s. or _____ acre feet
Total claimed _____ c.f.s. or _____ acre feet.
 - b. Explain the purpose for which the water has been used and the time during the year when you have used the right claimed:
use Mining period of use from May 1 to Nov. 15 (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive).
4. Description of diverting works:
 - a. Surface water diversion dam and/or headgate: material is composed of Dirt Dam
_____ ; length is 100 feet; height is 14 feet;
width at bottom is 10 feet; width at top is 18 feet; explain any increase in diversion capacity since structure was first built, giving dates and estimated capacities if known May 1, 1931
Capacity 15 acre feet.
 - b. Underground water diverting works: is well flowing or pumped _____ ; depth of well is _____ feet; diameter of well is _____ inches; type of pump is _____
capacity of pump is _____ g.p.m.; name and address of well driller is _____

MICROFILMED

c. Conveying works: length of ditch to place of use is 5000 feet; width of ditch at top is 3 feet; width of bottom of ditch is 3 feet; depth of water is 6" feet; grade of ditch per 1000 feet is _____ feet; material through which ditch passes is Gravel and sand; maximum length of pipe line to first place of use is _____ feet; diameter of pipe line is _____ inches; type of pipe _____; grade of pipe per 1000 feet is _____. Please explain any changes or increase in size of conveying system since water was first appropriated, giving date and dimensions if possible _____.

If feeder canal is used give maximum carrying capacity _____ c.f.s.; if reservoir is off stream, describe location of reservoir by 40-acre subdivisions. SW¹/₄, SW²/₄, Sec. 7, T. 5-S., R. 4 W.

has there been any enlargement of the reservoir since it was first built No, if so, give dates and describe _____

[illegible]

Explain any significant increase in area irrigated since first use, give dates and acreages if known _____

b. Do you get water through a ditch owned by several users? N. A. If yes, give the name of the ditch
_____ The other users and their respective
interests in the ditch are (if known) _____

6. Where water is used for stock watering, give number of each kind of stock watered N. A.

7. Where water is used for domestic or municipal purposes give number of families served N. A.
name of town supplied _____

8. Where water is used for other purposes not above enumerated, give the nature of use, the extent of use,
and any details regarding the initiation of the right or subsequent later expansion. Be as specific as possible,
giving dates and quantities _____

9. Remarks: please explain any details of your claim which you feel need clarification or additional explanation

SW 1/4 SW 1/4 is also Gov't lot 5.

State of Idaho

County of Ada

ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the
foregoing claim to a water right, together with all attached information, and that the matters and facts therein are
true to the best of the affiants knowledge.

Sworn to before me this 17th

day of July

1974

Clarence L. Smith
Claimant

Blanchard J. Williams
Notary Public

Residing at Boise

My commission expires 6-15-77

Sheet #1595 For Department Use Only

Received by LF Date 7-17-74

Exception filed by: _____

Forwarded to
claimant by: _____

Date _____

Prelim. check by KHF Date 7/17/74

Fee received by LF Date 8-17-74 Fee \$ 10.00

Approved for publication by On 8-6-74

Published in Boise Free Press Dates 7-25, 8-1-74

**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 55-04012

Case No. 39576

STANDARD FORM 5

STIPULATED ELEMENTS OF A WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

Date: _____

ELEANOR L. SMITH
Claimant/Objector

**KINROSS DELAMAR
MINING COMPANY**
Objector

AJ5856NP

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

DATE: NOV-10-1998

PAGE: A-1

RIGHTS FROM: SOURCE: LONG GULCH TRIBUTARY: JORDAN CREEK

RIGHT NUMBER: 55-04012

NAME AND ADDRESS: ELEANOR L SMITH
1017 N 28TH
BOISE ID 83702SOURCE: LONG GULCH TRIBUTARY: JORDAN CREEKQUANTITY: 0.11 CFS
15.0 AFY

PRIORITY DATE: 05/01/1931

POINT OF DIVERSION: T05S R04W S12 NESE Within Owyhee County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	<u>MINING</u>	<u>05-01 11-15</u>	<u>0.11 CFS</u>
	<u>MINING STORAGE</u>	<u>05-01 11-15</u>	<u>15.0 AFY</u>
	<u>MINING FROM STORAGE</u>	<u>05-01 11-15</u>	<u>15.0 AFY</u>
	<u>MINING USE FOR PLACER MINING AND EXPLORATORY PURPOSES.</u>		

PLACE OF USE: MINING Within Owyhee County
T05S R04W S12 SESE NESEMINING FROM STORAGE
SAME AS OTHER USEEXPLANATORY MATERIAL: BASIS OF CLAIM - BENEFICIAL USE

Date: _____

Agent
IDWR Concurrence

Susan Hamlin
Attorney for IDWR

CERTIFICATE OF MAILING

I certify that on _____, 1998, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

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

2. Copies to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 83720
Boise, ID 83720-0098

Kinross DeLamar Mining Co.
Russell Dittrich, General Manager
P.O. Box 52
Jordan Valley, OR 97910

Eleanor L. Smith
1017 N. 28th
Boise, ID 83702

IDWR Repository
P.O. Box 83720
Boise, ID 83720-0098

Signature of person or attorney mailing the form

Comments:

Date: 03/21/1994 User-ID: MCCARTHY Subject: COPIED FROM REMARKS
WATER FROM LONG GULCH CREEK ACCUMULATES IN A 15 ACRE-FOOT
RESERVOIR LOCATED IN THE SE1/4 SW1/4 SEC 12, T 5 S, R 4 W.
THE WATER IS DIVERTED FROM THE RESERVOIR VIA A HEADGATE AND DITCH
THEN INTO A PENSTOCK WHICH IS FITTED INTO A 12 INCH PIPE. THE
PIPE IS NARROWED INTO AN 8 INCH, THEN INTO A 3 INCH HYDRAULIC
PIPE.

Date: 02/07/1998 User-ID: JSHURTE Subject: CORRECTED SOURCE
PER TOPO MAP THE SOURCE SHOULD BE LONG GULCH RATHER THAN LONG
GULCH CREEK.

Date: 11/10/1998 User-ID: JSHURTE Subject: RECOMMENDED RIGHT
THIS RIGHT WAS ORIGINALLY RECOMMENDED FOR DISALLONAL, HOWEVER,
INFORMATION WAS SUBMITTED BY KINROSS WHO LEASES ELEANOR SMITH'S
MINING CLAIM AND WHO HAS BEEN UTILIZING THIS WATER FOR PLACER
MINING AND EXPLORATORY MINING FOR SEVERAL YEARS. THE DISALLONAL
WAS DUE TO DISREPAIR OF THE PIPELINE FROM THE STORAGE POND AT THE
TIME OF THE ORIGINAL FIELD EXAM. HOWEVER, USE HAD BEEN ONGOING
VIA A PORTABLE PUMP PUT IN THE POND AND INTO TRUCKS WHICH THEN
HAULED THE WATER TO THE PLACE OF USE RATHER THAN PIPING IT AS HAD
HISTORICALLY BEEN DONE. THIS IS STILL CONSIDERED A BENEFICIAL
USE OF THE WATER FOR MINING PURPOSES, THEREFORE, THIS RIGHT IS
BEING RECOMMENDED BASED ON THE AMOUNT OF WATER LEASEE'S STATE HAS
BEEN PUMPED FOR SEVERAL YEARS - 50 GPM. THE POND IS STILL 15 AF.

Audit: 11/10/98 JSHURTE

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

DATE: November 10, 1998

PAGE: 1

RIGHT NUMBER: 55-04012

NAME AND ADDRESS: ELEANOR L SMITH
1017 N 28TH
BOISE ID 83702

SOURCE: LONG GULCH TRIBUTARY: JORDAN CREEK

QUANTITY: 0.11 CFS
15.0 AFY

PRIORITY-DATE: 05/01/1931

POINT OF DIVERSION T05S R04W S12 NESE Within Owyhee County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
MINING	05-01 11-15	0.11 CFS
MINING STORAGE	05-01 11-15	15.0 AFY
MINING FROM STORAGE	05-01 11-15	15.0 AFY

MINING USE FOR PLACER MINING AND EXPLORATORY PURPOSES.

PLACE OF USE: MINING Within Owyhee County
T05S R04W S12 SENE NESE

Place of use for MINING FROM STORAGE is same as MINING

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

THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER
IN BASIN 51 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER
RIGHTS IN BASIN 51:

WATER RIGHT NO.	SOURCE
NONE	NONE

THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER
IN BASIN 51 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 51 ARE FROM CONNECTED SOURCES
OF WATER IN THE SNAKE RIVER BASIN AND SHALL BE ADMINISTERED
CONJUNCTIVELY.

EXPLANATORY MATERIAL: BASIS OF CLAIM - BENEFICIAL USE

*Deleted &
new recommendation
sent 11-16-98
J*

COMMUNICATION DOCUMENTATION

Claim No. 55-04012

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

IDWR Employee/Agent JAN SHUKTE Date 11-9-98Contact Person(s) COURTNEY HESS, REPRESENTATIVE FOR ELEANOR SMITH, CLAIMANT. 467-1824 (HESS'S #)Nature of Contact CONCERNING SETTLEMENT ON RECOMMENDATION OF ELEANOR SMITH'S CLAIM FOR MINING PURPOSES - PREVIOUSLY DISALLOWED.

Substance of Communication COURTNEY HESS PHONED BACK & HAD TALKED WITH ELEANOR SMITH CONCERNING WHETHER 30 GPM (.11 CFS) & 15 AF WERE ACCEPTABLE AS A RECOMMENDATION ON HER MINING CLAIM. HE STATED ELEANOR AGREED WITH THOSE FIGURES. WE WILL SEND THE SFS TO DAN JENKIN (KINROSS'S ATTORNEY) TO SIGN FOR THE KINROSS OBJECTION & IN TURN HE WILL SEND IT TO ELEANOR SMITH WHO WILL ALSO SIGN & COURTNEY HESS WILL HAND DELIVER TO ME THE SIGNED SFS. WE WILL THEN ~~RE~~ RECOMMEND THE .11 CFS & 15 AF FOR MINING & PETITION TO VACATE THE HEARING SET FOR NOV. 18TH.

COMMUNICATION DOCUMENTATION

Claim No. 55-04012

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

IDWR Employee/Agent TAM THURTE Date 11-6-98Contact Person(s) DAN JENSEN, ATTORNEY FOR
KINROSS (801) 532-7840, 185 S. STATE ST., SUITE 1300, SALT LAKE CITY UT 84111Nature of Contact CONCERNING SETTLEMENT OF OBJECTION
BY KINROSS TO DISALLOWAL OF ELEANOR SMITH'S
CLAIM WHICH KINROSS LEASES FOR MINING.

Substance of Communication BASED ON CORRESPONDENCE
IN THE FILE SUBMITTED BY THE CLAIMANT,
COURTNEY HESS + KINROSS IT APPEARS THIS
CLAIM COULD BE RECOMMENDED. THE
DAM WAS IN AT THE TIME OF IDWR'S
INSPECTION, HOWEVER, THE PIPELINE WAS NOT
IN USE (DISREPAIR). KINROSS HAS BEEN PUMPING
OUT OF THE POND INTO TRUCKS + THE WATER
USED FOR PLACER MINING + EXPLORATORY PURPOSES.
DAN JENSEN AGREED TO THE 50GPM NOTED IN
KIM RICHARDSON'S (KINROSS) LETTER OF 3-27-98. BEING
RECOMMENDED.

FAX - 801-532-7750

RECEIVED

AUG 25 1998

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	)	Subcase 55-4012
	)	(Insert water right number)
Case 39576	)	
	)	STANDARD FORM 1
	)	
	)	OBJECTION

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in a Director's Report. 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 you are objecting to must be indicated above in the blank space following "Subcase." To object to multiple water right recommendations, you must use a separate form for each objection and there must be only one objector for each form.

You must file your objection by the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

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

Any party physically filing 25 or more objections must contact the Clerk of the SRBA Court no later than 14 days before the filing deadline and arrange an appointment to file multiple objections.

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

I. GENERAL INFORMATION

Please fill in the following information:

1. **Party/Claimant objecting:**

Name: Eleanor L. Smith

Address: 1017 N. 28th

Boise, ID 83702

Phone: Work: _____ Home: (208) 343-7206

Briefly describe your interest in this water right:

I am the owner of this water right. Since 1989 it has
been leased and optioned to Kinross DeLamar Mining Co.

2. **If this objection is filed by an attorney:**

Attorney Name: _____

Attorney Address: _____

Attorney Phone No.: _____

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

II. STATEMENT OF THE OBJECTION

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

1. ☐ Name and Address: I object to the name and/or address of the owner of the water right.
2. ☐ Source: I object to the source of water.
3. Quantity: I object to:
 - ☐ a. the total quantity of water used in cubic feet per second; or
 - ☐ b. the total quantity of water stored in acre feet per year; or
 - ☐ c. the total quantity of water reserved for each and every purpose, including all present and future uses.
4. ☐ Priority Date: I object to the priority date.
5. ☐ Point(s) of Diversion: I object to the legal description of the point(s) of diversion.
6. ☐ Instream Flow: I object to the legal description of the beginning and ending points of the instream flow.
7. ☐ Purpose(s) of Use: I object to the purpose(s) of use.
8. ☐ Period of Year: I object to the period of year when water is used or is necessary for the purpose stated.
9. Place of Use: I object to:
 - ☐ a. the legal description of the place of use; or
 - ☐ b. the number of irrigated acres within each 40-acre subdivision.
10. ☐ Consumptive Use: I object to the annual volume of consumptive use.
11. Water Right Recommendation: I object to:
 - ☐ a. this water right being recommended at all; or
 - ☒ b. this water right not being recommended.
12. ☐ Description of Reservation: I object to the legal description of the reservation.

13. ☒ Other: I object to: Finding of no beneficial use.

REASONS SUPPORTING EACH BOX CHECKED

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

See attached page

CHANGES TO THE DIRECTOR'S REPORT

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

See attached page

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

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

1. One-page Memorandum dated March 27, 1998 from Kim R.
Richardson of Kinross DeLamar Mining Co. to Roxanne Brown,
DWR.
2. Three-page Claim to a Water Right dated July 17, 1974 for
claim No. 55-4012.

VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

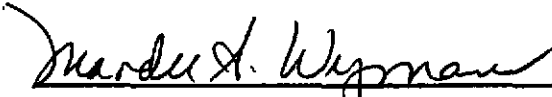
ELEANOR L. SMITH, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection (as listed on Page 2, Section 1, "Party/Claimant objecting") as defined by I.C. §§ 42-1401A(1) and (7) 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: August 24, 1998


Notary Public for Boise ID/Eleanor Smith
Residing at: 2401 Regent St Boise ID 83702
My Commission expires: June 1999

INSTRUCTIONS FOR MAILING

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

CERTIFICATE OF MAILING

I certify that on August 24, 1998, I mailed the original and copies of this objection, including all attachments, to the following persons, by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

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

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

Name: N/A
Address: _____

3. Copies to:

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

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

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



Signature of Objector or attorney
mailing on Objector's behalf

Subcase 55-4012
Objection (continued)

II. Statement of the Objection

Box 11.b

I object to the Director's failure to recommend my claim and his proposal to disallow my claim based on an alleged lack of beneficial use. The attached Memorandum dated March 27, 1998 from my lessee, Kinross DeLamar Mining Co., documents beneficial use in 1992, 1993, 1994, 1995, 1996 and 1997 for such things as pumping to test for placer mining operations, prospecting, exploration drilling, and placer mining operations. This document was timely submitted to the DWR. In addition, Kinross discussed and documented its water use with DWR field representatives during their site visits to the property. Mining and related uses constitute beneficial use of water under Idaho law. Mining use has been documented and therefore my claim should be allowed.

Box 13

Same as above.

Changes to the Director's Report

I want the Director's Report to recommend approval of my Claim to a Water Right as it was filed on July 17, 1974 (see attached copy).

P. 04 956 208 583 2516 JUL-29-1998 15:48

KINROSS

DeLamar Mining Co.

March 27, 1998

To: Roxanne Brown, Dept. of Water Resources

From: Kim R. Richardson

Documentation of water use from Eleanor Smith's water right as stated in the Mineral Lease with Option to Purchase between Eleanor L. Smith and NERCO Exploration Company.

YEAR

- 1992 A pumping set up was tested. We were able to pump 50 g.p.m. for several hours for each of five days. The available water was tested for its potential use in a placer operation.
- 1993 A pump was set up on Eleanor Smith's water right evaluating the use for a placer project. Approximately 50 g.p.m. was pumped over a period of 4 hours, on each of three consecutive days. Water was also used for exploration drilling. During the two months of drilling, roughly 50,000 gallons of water were used to provide water to the exploration drill rig.
- 1994
1995
&
1996 A pump was set and water pumped to determine its use for a placer operation. Also, water was used for exploration drilling during two of these years. In 1995, the water was used for a small scale placer operation. The pump used was similar to that in previous years.
- 1997 Water was used for exploration drilling. During the summer, approximately 75,000 gallons were used in exploration drilling.

Kim R. Richardson
Kim R. Richardson

Superintendent of Technical Services

6/9/94

RECEIVED

SEP 12 1994

COMMUNICATION DOCUMENTATION

Department of Water

Claim No. A55-4012

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

IDWR Employee/Agent Linda Warner Date 9-9-94

Contact Person(s) Rita Clark for Eleanor Smith

342-110 Daughter

Nature of Contact Usage of water for mining

Substance of Communication She is concerned w/ our recommendation

of their usage & whether Silver City H₂O Users filed on
Long Gulch creek & if domestic users have higher priority
over mining.

1. I advised her that their claim for mining will most likely
be disallowed due to their appearing to be no usage. I said she
should obtain affidavits supporting a continued usage from the people
who mine their claim. I advised her of F.D.'s for future law relating
to a moratorium occurring for 5+ years. Advised her of SRBA status
& that we have not yet submitted our recommendation to the Director.
also that there would be a notice of error period at that time.

2. Told her that according to our computer records
we had no claims from Silver City for Long Gulch H₂O, only
springs.

3. P.L.B.s - depending on circumstances domestic usage had a
higher priority than mining.

SEP 24 1994

Water Right Number - R55-04012 Prefix Translation: RESEARCH Old (D) Number -

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

*** C - CURRENT OWNER ***
SMITH

ELEANOR L

1 - 1017 N 28TH

2 -

3 -

City- BOISE

Phone - 208-000-0000

State- ID Zip- 83702

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - +
05/01/1931 14 WESTERN

+ - - - - Source - - - - - + + - - - - - Tributary - - - - - +
LONG GULCH CREEK

JORDAN CREEK

+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot Rflg County

05S 04W 12 SE SW (73) OWYHEE

+ - - - - Code Description Period From Period To Water Use Diversion Rate Diversion Volume

13 - MINING	05/01	11/15	7.000	15.00
14 - MINING STORAGE	05/01	11/15		15.00
15 - MINING FROM STORAGE	05/01	11/15		

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
7.000 15.00 0.0

+ - - - - Place of Use - - - - - County

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
05S	04W	12	SE NE			13	MINING	(73) OWYHEE
05S	04W	12	NE SE			13	MINING	(73) OWYHEE

Total Acres:

+ - - Diversion Means - SEE REMARKS.

+ - - Non-Irrigation Use - PLACER MINING

+ - - Other Rights for Same Use - NONE

+ - - - - Remarks - - - - - +
NO BENEFICIAL USE FOUND.

+ - - - - Old Water Right Numbers Found - - - - - +
No Old Water Right Numbers Found

SEP 24 1996

Prefix Translation: RESEARCH

Court Report Filing	- 00/00/0000	Field Inspection Made	- 06/19/1992	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 03/21/1994	Old Judicial District	-
Claim Received Date	- 01/04/1989	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- W001860	Water District	-
		PQU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	-	Presumption Flag	-
				Notice of Error Flag	-

SEP 24 1995

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

13:48:23
06/10/92

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A55-04012

LAST: SMITH
ADDRESS: 1017 N. 28TH
CITY: BOISE
PHONE NUMBER:
OWNER CODE: C

FIRST: ELEANOR L.

STATE: ID ZIP: 83702

FIELD EXAM REQUIRED?

FIELD
EXAMINER

DATABASE
Y

VERIFICATION REQUIRED DUE TO REMARKS?

CLAIM REMARKS:

WATER FROM LONG GULCH CREEK ACCUMULATES IN A 15 ACRE-FOOT
RESERVOIR LOCATED IN THE SE1/4 SW1/4 SEC 12, T 5 S, R 4 W.
THE WATER IS DIVERTED FROM THE RESERVOIR VIA A HEADGATE AND DITCH
THEN INTO A PENSTOCK WHICH IS FITTED INTO A 12 INCH PIPE. THE
PIPE IS NARROWED INTO AN 8 INCH, THEN INTO A 3 INCH HYDRAULIC
PIPE. *out*

FIELD EXAMINATION INFORMATION

CONTACT PERSON:

PHONE NUMBER: () - -

DATE OF FIELD EXAM: / /

TIME: : A () P ()

ACCOMPANIED BY:

PHONE NUMBER: () - -

RELATIONSHIP TO CLAIMANT:

DIRECTIONS TO PROPERTY / REMARKS:

See attached Memo.

SEP 24 1936

5-27-92. L.R.W.

FIELD EXAM
TELEPHONE CONVERSATION MEMO

NERCO MINES

I.D. NUMBER A55-4012

JUN 3 1992 1-583-2511

NAME OF CONTACT Eleanor Smith / ^{DAUGHTER} RITA CLAIR / ^(BEN) of PORTERFIELD

PHONE NO. 343-7206 ADJ. AGENT RON HOWERTON

DATE SET FOR EXAM _____

LOCATION Silver City area (2-MILES FROM)

CALLED ELEANOR SMITH, SHE COULDN'T ANSWER THE PHONE, INSTEAD
HER DAUGHTER RITA CLAIR ANSWERED. RITA SAID SHE WAS LEASING
THE MINE TO BEN-PORTERFIELD OF NERCO. SHE SAID HE COULD
TAKE ME THERE. CALLED BEN HE WILL MEET ME IN SILVER
CITY AT NOON JUNE 19TH (FRIDAY)

Diverting at full rates? _____

Type of measuring devices? _____

Places to make measurements? _____

Type of system? (pipeline, ditches) _____

How many laterals are used? _____

Length and size of mainline? _____

Size of Motor used for each P/D? _____

Estimate of depth to water? _____

Pressure at well? _____

Pressure at sprinkler head? _____

COMMENTS They will be available for exam any
day but Wed. & the July 4th weekend

BEN PORTERFIELD will take us up to the mine. HE SAID

THAT THEY ARE NOT PLACER MINING AND THE WEIR HAD BEEN
WASHED-OUT. THE MINE IS GENERALLY INJECTED FROM A
3400 GAL TRUCK OR A SMALLER TRUCK WITH A WATER
PICK-UP FROM LOWER GULCH CREEK. HE WILL BRING 4 PUMPS
FOR THE PUMP. (THE TRUCK IS PARKED NOW) NOT IN USE...

A. AJ CLAIM: # A55-04012 PRIORITY DATE: 05-01-1931 STAGE: S
B. WR RECORD: # 55-04012 PRIORITY DATE: 05-01-1931 STAGE: S

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

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

REMARKS: Affidavit submitted as evidence of priority supports date claimed.

According to several conversations with NERCO personnel, this right has been used in a very different fashion since 1987. Prior to that the use appears to have been in placer mining. Since 1987, the only use has been mine pumping into trucks for quarrying purposes.

RECOMMENDED PRIORITY DATE:
05-01-1931

REVIEWED BY RME

DATE

6/10/93

Recommend disavowal due to forfeiture, 1987 to 1993 non-use.

No beneficial use found: Remark/Cont. 903

NERCO did offer to repair & demonstrate the system but I told them not to; demonstration would not confirm use over time.

SEP 24 1935

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A55-04012	05S	04W	12	SE	NE	SE		OWYHEE

OTHER AJ CLAIMS WITH SAME AJ POD
A PREFIX R PREFIX
NONE

WR RECORDS IN SAME 40 ACRE TRACT

NONE

SOURCE: LONG GULCH CREEK

TRIB: JORDAN CREEK

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
55-04012	05S	04W	7	SW	SW	SW	5	OWYHEE

OTHER WR RECORDS WITH SAME WR POD

AJ CLAIMS IN SAME 40 ACRE TRACT
A PREFIX R PREFIX

NONE

NONE

SOURCE: SPRINGS

TRIB: LONG GULCH CREEK

C. FIELD EXAM REQUIRED?

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

REMARKS:

*Diversion found as mapped. Dam in Long Gulch
improves water for diversion down a ditch and
into ~8" pipe downhill to site of power house. Multiple
breaks in pipeline at time of exam; system inoperable.*

SEP 24 1938

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:
TWP. RGE. SEC. 1/4 1/4 1/4

COUNTY

LOT

1/4

1/4

SOURCE:

REVIEWED BY: *AM*

TRIB:

DATE: *FEB-94*

SEP 24 1993

A. ROOT WATER RIGHT NUMBERS: A55-04012

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
05S	04W	12	SE	NE		SMITH, ELEANOR L.	A55-04012 /				
			SE	NE		BANNER MINING & MILLING CO.	A55-02022 /	55-02022 /			
05S	04W	12	NE	SE		SMITH, ELEANOR L.	A55-04012 /				
			NE	SE		JOYCE LIVESTOCK CO.	A55-10135 /				
			NE	SE		JOYCE LIVESTOCK CO.	R55-10135 /				
TOTAL ACRES							A55-04012				

ARE IRRIGATED ACRES FOUND IN TRACTS OTHER THAN INDICATED ABOVE, Y() N()
IF YES SEE ATTACHED SHEET:

C. FIELD EXAM REQUIRED?

FIELD
EXAMINER

DATABASE

Y

DUE TO POU DISCREPANCY? (Y/N)

POU COUNTY: OWYHEE

PRESUMPTION FLAG:

REMARKS:

Mine site found as claimed.

RECOMMENDATIONS:

TOTAL ACRES:

REVIEWED BY:

DATE:

3-21-94

A. AJ CLAIMED USES:

PURPOSES	FROM	MONTH/DAY TO	DIVERSION QUANTITY
A55-04012 MINING STORAGE	05-01	11-15	7.000 CFS
A55-04012 MINING FROM STORAGE	05-01	11-15	15.00 AF/A
A55-04012 MINING FROM STORAGE	05-01	11-15	15.00 AF/A
TOTAL DIVERSION RATE/VOLUME CLAIMED			15.00 AF/A

B. WR RECORDED USES:

PURPOSES	FROM	MONTH/DAY TO	DIVERSION QUANTITY
55-04012 MINING	05-01	11-15	7.000 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED			15.00 AF/A

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

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

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

Y () N ()

RECOMMEND TO WR STANDARDS OR OTHER?

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

REMARKS:

Disputed.

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS? Y() N()

AJ TOTAL CLAIMED DIVERSION RATE: 7.000 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 7.000 CFS

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

FLOW MEASUREMENT REQUIRED?

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

FLOW MEASUREMENT

MEASUREMENT METHOD , SEE ATTACHED CALCULATIONS.

B.

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

OTHER RIGHTS LISTED IN CLAIM: NONE

NO CLAIMS FOUND WITH SAME POU AND IRRIGATION USAGE

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

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A55-02022	MINING	BANNER MINING & MILLING CO.	FROM 01-01 TO 12-31	3.000 CFS	

RATE/VOLUME CALCULATIONS: (IRRIGATION)

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

DOES AMOUNT CLAIMED EXCEED 0.02 CFS/ACRE? ☒ YES ☐ NO

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

22. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE =

ACRES	x CONSUMPTIVE VOL. AF/A FOR AREA	=
TOTAL CONSUMPTIVE USE		AF/A

3. ~~IRRIGATION~~ DIVERSION VOLUME

CLAIMED DIVERSION VOLUME =	15.00	AF/A
----------------------------	-------	------

~~SERIES~~	$\times$ DIVERSION VOL. AF/A FOR AREA	=
TOTAL DIVERSION VOLUME	AF/A	
1	100	100
2	100	100
3	100	100
4	100	100
5	100	100
6	100	100
7	100	100
8	100	100
9	100	100
10	100	100
11	100	100
12	100	100
13	100	100
14	100	100
15	100	100
16	100	100
17	100	100
18	100	100
19	100	100
20	100	100
21	100	100
22	100	100
23	100	100
24	100	100
25	100	100
26	100	100
27	100	100
28	100	100
29	100	100
30	100	100
31	100	100
32	100	100
33	100	100
34	100	100
35	100	100
36	100	100
37	100	100
38	100	100
39	100	100
40	100	100
41	100	100
42	100	100
43	100	100
44	100	100
45	100	100
46	100	100
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49	100	100
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53	100	100
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82	100	100
83	100	100
84	100	100
85	100	100
86	100	100
87	100	100
88	100	100
89	100	100
90	100	100
91	100	100
92	100	100
93	100	100
94	100	100
95	100	100
96	100	100
97	100	100
98	100	100
99	100	100
100	100	100

1. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y() N()

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

SEP 24 1963

RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD FROM TO	REC. DIV RATE CFS	REC. DIV VOL. AF/A	REC. CONS. USE
		DATABASE EXAMINER	DATABASE EXAMINER	DATABASE EXAMINER
TOTAL FOR THIS RIGHT				

REVIEWED BY: _____

DATE: _____

NOT RECORDED
SEP 24 1938

A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP
FORFEIT/ABANDON
ADDITIONAL DIV. AMOUNT

ACCEPTED
AS CLAIMED
()
()
()

NEEDS
REVIEW
()
()
()

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 55-04012

TOTAL DIVERSION RATE OF WR SPLITS

SPLITS:

DATABASE
7.000

EXAMINER

CFS

OLD RIGHT
NUMBERS

CURRENT
CLAIM NUMBERS

DIVERSION
RATE

CURRENT "R"
CLAIM NUM.

"R" DIV.
RATE

WR RIGHT
NUMBERS

DIVERSION
RATE

A55-04012

7.000

-

55-04012

7.000

TOTAL CFS

7.000

7.000

DIVERSION RATE REVIEW

FIELD
EXAMINER

DATABASE
Y

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

REMARKS:

AUTHENTICATION:

SIGNATURE: Reverend McCarthy

DATE: 3-21-94
TITLE: Dr. William McCarthy

NAME OF FIELD EXAMINER:

ADJUDICATION CLAIM CHECKLIST

NOTICE OF CLAIM NO. A55-04012

NR ELEMENT	FIELD EXAM Y/N-IF NO, DO OFFICE VERIFICATION	FIELD EXAM OR IN-OFFICE VERIFICATION WHOM/DATE	CLAIM VERIFIED BY CODE (SEE BELOW)	CHANGE CLAIM Y/N	CLAIMANT CONTACT NEEDED - Y/N**	REVIEW COMPLETED WHOM/DATE	"R" RECORD
PRIORITY*	N	RMF 6-10-93	6	Y	N	RMF 3-21-94	
PT. OF DIV.	Y	RMF 6-19-93	5, 6				
SOURCE							
PL. OF USE							
DIV. AMOUNT CFS/AF							
CONSUMPTIVE USE							
NATURE OF USE							
PERIOD OF USE	↓						
BASIS OF CLAIM	N						
REMARKS	N	↓	↓	↓	↓	↓	↓

DATA ENTRY COMPLETED
BY RME DATE 3-21-94

FINAL RECOMMENDATION
BY RME DATE 3-21-94

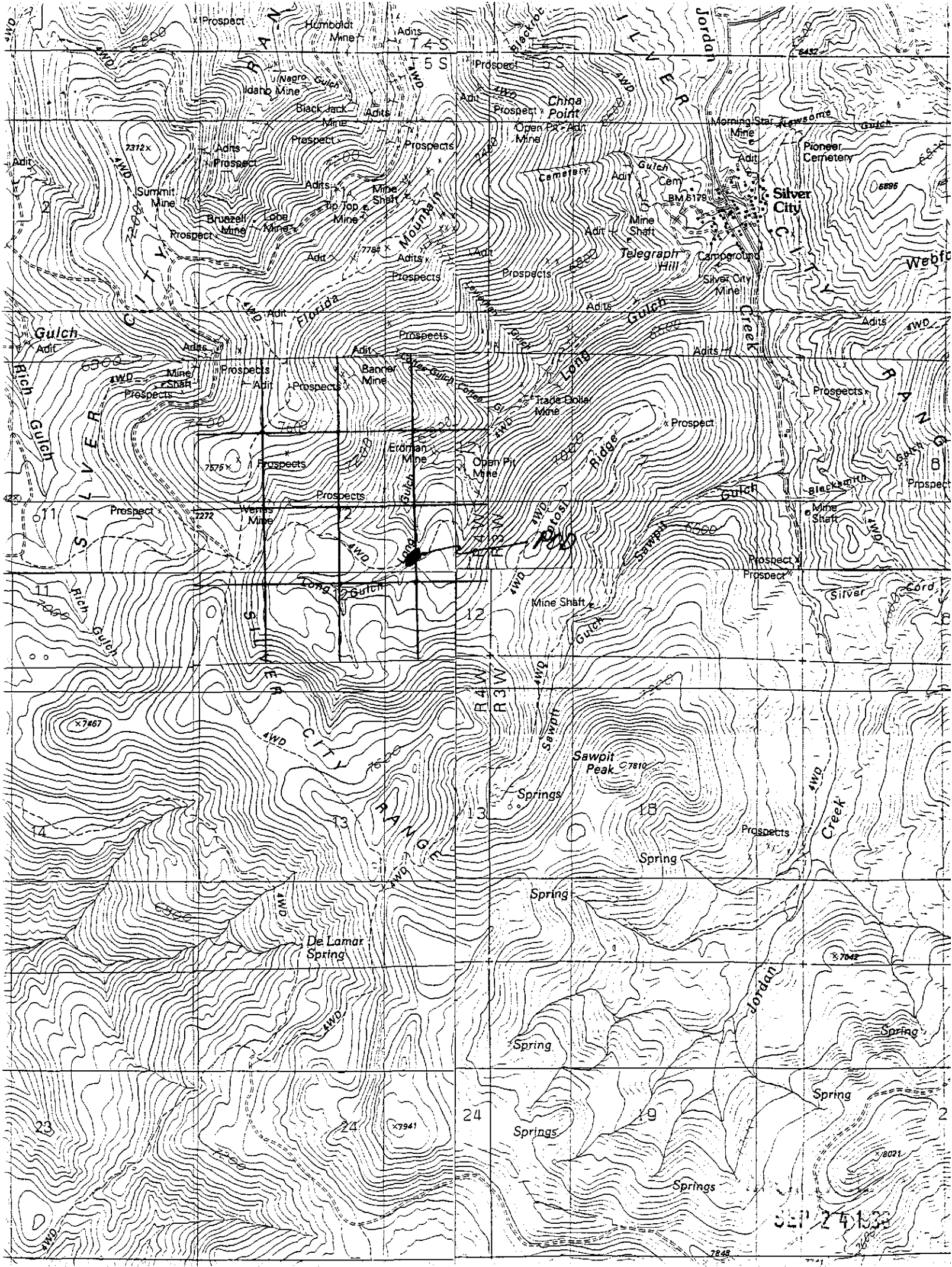
VERIFICATION CODES
 TOPO MAP/ORTHO PHOTO = 1
 ASCS MAP = 2
 WATERMASTER RECORDS = 3
 NAPP PHOTOS = 4
 FIELD EXAM = 5
 OTHER (SEE COMMENTS) = 6

*IF REQUIRED HAS EVIDENCE OF PRIORITY BEEN
SUBMITTED - YES ✓ NO

**IF CLAIMANT CONTACT IS NEEDED, COMPLETE
CLAIMANT CONTACT CHECKLIST AND ATTACH.

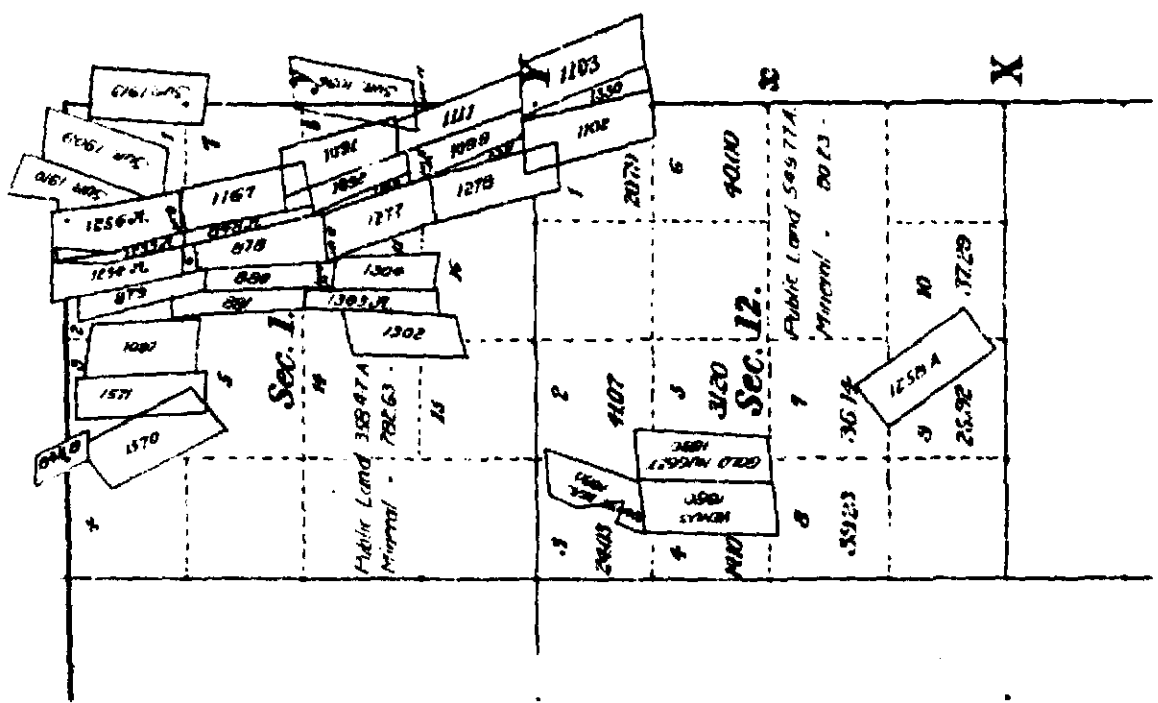
COMMENTS:

Disallowed; no beneficial use found.



A

u



Sec. 2.

Sec. 11.

Sec. 14.

Sec. 3.

Sec. 10.

Sec. 15.

Meanders of			
Post	Course	Chains	Feet
Public Land			
Sec. 1			
Lat	Acres	Lot	
1	4.49	9	
2	7.92	10	
3	4.89	11	
4	36.35	12	
5	40.99	13	
6	101	14	
7	20.33	15	
8	401	16	
17		17	
Mineral Land			
Sec. 1			
Survey	Claim	Acres	
8483	Black Jack	3.443	
B	" " " "	4.531	
8473	Empire State	14.940	
8479	Phillips	13.517	
8480	Sullivan	7.503	
8481	Belknap	10.610	
10891	Colorado	14.774	
10892	Sicoma Nevada	6.572	
10897	Independence	16.779	
10899	Sumner	9.344	
11043	James G. Blaine	19.659	
1111	Trade Dollar	12.242	
1167	Virginia	12.352	
12334	Charles T. Treadwell	3.404	
12444	Scrutiny	11.854	
12864	Houpheland Road	15.392	
1277	Algonc	10.251	

SEP 24 1890



NERCO EXPLORATION COMPANY
P.O. BOX 52
JORDAN VALLEY, OR 97910
TELEPHONE: (208) 583-2511
FAX: (208) 583-2516

November 2, 1992

Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705

RE: Request for Extension of Time
Water Right No. 55-4012

Dear Water Resource Agent:

Enclosed please find the above captioned Request for Extension of Time submitted on behalf of Eleanor L. Smith with assistance from NERCO Exploration Company ("NEXCO"). Eleanor Smith has entered into a lease agreement with NEXCO, involving her unpatented mining claims and Idaho Water Right No. 55-4012, whereby NEXCO is responsible for maintaining Mrs. Smith's rights and use. NEXCO staff met with representatives of the Idaho Department of Water Resources (IDWR) on June 19, 1992, for a field inspection to verify the usage of the water rights applied for by Eleanor Smith. The construction of the reservoir, control gates, ditch and pipeline system were confirmable at the time of the inspection. NEXCO is concerned that the actual use of the water right in the quantity and for the use stated on Mrs. Smith application may not have been readily verified by the field inspection.

To insure that substantial evidence in support of the quantity and use is available for adjudication of the water rights, NEXCO attempted to operate on the property in late summer, however, the water supply was severely diminished due to the drought. During the time period from May 1931 through 1987, Mrs. Smith has fully utilized the water right in the quantity specified for mining purposes, as acknowledged by Mrs. Smith in a letter dated March 28, 1991, and sworn statement dated July 3, 1990. Since that time, NEXCO has utilized the water right for exploration activities on nearby Florida Mountain by pumping and hauling water from the reservoir, as indicated by letter dated March 15, 1991. NEXCO plans to utilize all available flow up to the specified limits for mining purposes as soon as possible in the Spring of 1993. At that time, NEXCO will request a supplemental inspection by IDWR for verification of quantity and use.

This Request for Extension for Time is submitted to allow NEXCO to supplement the field inspection information in order to verify the quantity and use of Eleanor L. Smith's statutory claim to water rights.

Sincerely,

Cortney E. Hesse

Landman

MAILED
SEP 24 1992

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

REQUEST FOR EXTENSION OF TIME

TO PROVIDE ADDITIONAL TIME IN WHICH TO SUBMIT PROOF OF
BENEFICIAL USE FOR A WATER RIGHT PERMIT

The Idaho Department of Water Resources will consider this form as a request that the permit holder(s) be granted an additional period of time in which to complete development of water right under the provisions of Section 42-204, Idaho Code.

Permit No. 55-4012

Name(s) of Permit Holder: Eleanor L. Smith

Mailing Address: 1017 N 28th St, Boise, ID 83702

Date Proof is Due November 15, 1992 Telephone No. (208) 343-7206

Describe what work has been completed toward the development of this water right:
(This must be filled out! If no work has been completed, show "none".)

Construction of reservoir, control gates, ditch & pipeline system to divert
flow to mining operations. IDWR verification examination on June 1992.

Water right fully utilized for mining 1931 through 1987. Partial utilization
by NEXCO (Lessee) for exploration activities in 1990. Costing \$

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

Water rights & associated mining claims leased to NERCO Exploration Co (NEXCO)
Drought has limited available water supply. NEXCO reviewing available options
to determine most effective method for full verifiable utilization.

Permit holder(s) request an extension to November 15, 19 93.

FEE: \$15.00

Eleanor L. Smith
(Signature)*

*If other than permit holder, Power of Attorney must be supplied.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be

Signed this _____ day _____, 19 _____

SEP 24 1992



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

May 22, 1992

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

ELEANOR L SMITH
1017 N 28TH
BOISE ID 83702

RE: Claims filed in the Snake River Basin Adjudication

CLAIM NO. A55-04012 - DWYHER Co.

Dear Claimants:

The Department of Water Resources will be conducting beneficial use and water right claim verification examinations in your area beginning in June. An examination is needed to verify your water use in order to issue a water right license and/or decree.

Information on your permit or claim which may need to be verified includes source of water, type of usage, amount of water used, number of acres irrigated, and legal descriptions of the point of diversion and/or place of use.

In order to expedite these field examinations, which need to be completed this summer in your area, we request that you contact our office at (208)334-2190 within two weeks to make an appointment at a time convenient for you. The amount of time required to conduct these exams depends on the number of water rights you have filed. An approximate time can be given when you call for an appointment.

Although it is not mandatory that you accompany the field examiner, it does insure that an accurate description of your system will be made. If either yourself, or someone familiar with the system, could accompany the examiner it would be appreciated.

In some cases, the date of priority claimed also needs to be verified. Letters were sent to some claimants notifying them that evidence of the date of first use of their water right(s) was required. If you received one of these letters and have questions, we can address those during our examination.

To make an appointment, or if you have any questions or problems with scheduling the exam, please contact one of the following water resource agents:

LINDA WERNER

KAY WALKER

RON HOWERTON

ROXANNE MCCARTHY

MAILED
SEP 24 1992

RECEIVED

JUL 17 1991

Department of Water Resources
Western Regional Office

Eleanor L. Smith
1017 N. 28th St.
Boise, ID 83702

July 15, 1991

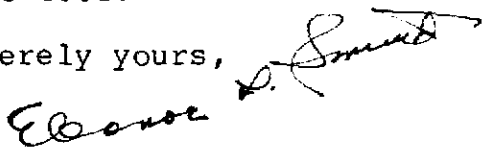
Ms. Jan Shurte, Adjudication Section
Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705-5082

Re: A55-04012

Dear Ms. Shurte:

Enclosed is the notarized affidavit of evidence of priority date for claim No. A55-04012, which has been used for mining purposes since 1931.

Sincerely yours,



Eleanor L. Smith

P. S. Please excuse the up-hill or down-hill slants of my signature in that I have lost my eye-sight, which can be verified by Dr. Adkins.

ELS/rsc

SEP 24 1991

RECEIVED

JUL 17 1991

Department of Water Resources
Western Regional Office

Eleanor L. Smith
1017 N. 28th St.
Boise, ID 83702
July 15, 1991

To Whom It May Concern:

The water right, identified as A55-04012, was first used for placer mining in May, 1931, by my father and owner of the mining claims, Elisha Lewis. The existing reservoir was built in July, 1945 to modernize the placer mining method.

I personally witnessed the first use in May, 1931, and have been owner of the property since 1945.

I filed for the water right in July, 1974, at which time the number 55-4012 was assigned.

I re-filed a notice of claim to a water right, A55-04012, on January 4, 1989, at which time I paid the \$750 adjudication fee.

I do solemnly swear or affirm that the above statements are true and correct.

Eleanor

Eleanor L. Smith

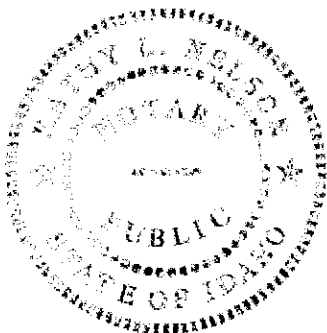
State of Idaho)

County of Ada)

) SS.

Eleanor L. Smith

Subscribed and sworn to before me this 15th day of July, 1991.



My Commission expires 6-14-96

SEP 24 1991



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

A55-04012 *JUNE 28, 1991* RE: Claim No(s): A55-04012
ELEANOR L. SMITH
1017 N. 28TH

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

BOISE

ID 83702

Dear Claimant(s):

In the past, you submitted the above referenced claim(s) in the Snake River Basin Adjudication. Enclosed is a computer generated print-out of the claim(s) for your reference only; this print-out is NOT to be returned or re-filed. You have indicated when this claim was filed that the water right(s) was based on a "Statutory Claim" or "Beneficial Use" of the water. Water rights of this type are established by the historical use of water for a beneficial purpose, dating back to the time the water was first used, this date being the "Priority Date" as shown on the enclosed print-out. Your claim(s) has not been confirmed by a previous filing with the Department of Water Resources since there is no license, decree or permit on file to verify the use of this water. For this reason, the Department is under a legal requirement to gather evidence from claimants supporting the date of first use, or "Priority Date", for claims based on historical beneficial use of water.

Enclosed is a pamphlet entitled "Evidence of Priority" which describes the types of evidence required and explains what kind of documents will fulfill this requirement. While we encourage you to read the entire pamphlet, we would like to direct your attention to the right-hand half of this pamphlet once you open it. There you will find information concerning the evidence requirements mentioned above. The other sections describe to you why this evidence is necessary.

If no evidence is submitted, or we do not hear from you within the time limit below, your priority date, as claimed, cannot be recommended to the Court for decree. This could jeopardize your water use under this right(s), if water availability problems arise in the future. It is our goal to decree the historical water rights within the Snake River Basin as accurately as possible. Field exams to verify other items of the above claim(s) have been or soon will be conducted by Department personnel.

Please submit the required evidence supporting the priority date(s) by August 1, 1991, referencing all documents with the corresponding claim number(s). If you have any questions not covered by this letter or the enclosed pamphlet, please contact a water resource agent in this office.

Sincerely,

Jan Shurte
Water Rights Supervisor
Adjudication Section

JS:lh
Enclosures

MAILED
SEP 24 1991

APR 30 1991

Department of Water Resources
Western Regional Office

Eleanor L. Smith
1017 N. 28th Street
Boise, ID 83702

March 28, 1991

Lori White
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705

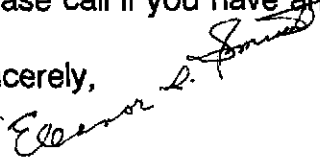
RE: Water Right Number 55-4012

Dear Ms. White:

Water right number 55-4012 was fully utilized for mining purposes through 1987 as identified on the attached affidavit. This water right and mining claims on which the water was used have been leased by NERCO DeLamar Company. NERCO is not fully utilizing this water right at this time, but is using the water right to supply some of the water needed for mineral exploration as indicated on the attached affidavit. NERCO is expected to fully utilize the water right again after sufficient ore reserves in this area are identified and a mining operation is permitted. Exploration and permitting activities may take years. Therefore, please take this time frame for resumption of full utilization into account during the adjudication process and field examination, and do not reduce my existing right during the adjudication process.

Please call if you have any questions about the above information.

Sincerely,



Eleanor L. Smith

RECORDED
SEP 24 1991

1017 N. 28th Street
Boise, ID 83702
July 3, 1990

To Whom It May Concern:

I, Eleanor L. Smith, am the owner of Water Right No. 55-4012, filed in 1974, and filed again because of adjudication and paid for in 1989 with the Identification Number of A55-04012.

The water has been used for placer mining consecutively from 1931 through 1987.

Eleanor L. Smith

State of Idaho
County of Ada
On this 3 day of July, 1990,
before me, a Notary Public in and for said
State, personally appeared

ELEANOR L. Smith
known to me to be the person(s) whose
name(s) is/are subscribed to the within
instrument, and acknowledged to me ()
She executed the same

Jeannette Dally
Notary Public
Residing: Boise
Commission Expires 3-18-91

MICROFILMED
SEP 24 1996



NERCO EXPLORATION COMPANY
P.O. BOX 52
JORDAN VALLEY, OR 97919
TELEPHONE: (208) 583-2511
FAX: (208) 583-2516

March 15, 1991

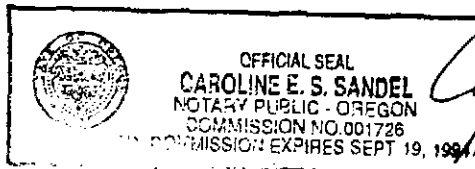
To Whom It May Concern:

On September 18, 1990, NEXCO pumped water from the reservoir used to supply water to the Monarch placer claims in Long Gulch, near Silver City, Idaho. NEXCO used the water in support of its exploration activities on nearby Florida Mountain.

A handwritten signature in dark ink, appearing to read 'Ben Porterfield'.

Ben Porterfield
Project Manager

*Subscribed and sworn to before me
this 15th day of March, 1991.*



Caroline E S Sandel

My Commission Expires: 9/19/94

March 15, 1991
SEP 24 1990