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OCT 31 2008
DEPARTMENT OF
WATER RESOURCES

COPY

3. The aerial photograph attached hereto as **Exhibit C** is marked to show the location of my East Fork diversion (designated as EF-4) and the land I own and irrigate from this diversion.

4. I have lived along the East Fork since 1970 and have observed the EF-4 diversion, ditch system and my irrigated fields every year since then. From 1970 to the present, all of the land I own has been irrigated to raise hay and for pasture. From 1970 to the present, all of my land has been irrigated with water diverted from the East Fork through the EF-4 diversion. Today, the ditch that conveys water from EF-4 is the same size as it was in 1970, and conveys the same quantities of water.

5. It is my understanding that my land has been irrigated with East Fork water diverted through EF-4 since my earliest water right was established in 1880. This understanding is confirmed by Dick Baker, who has also signed an affidavit in support of my claim for conveyance losses.

6. My irrigated fields are located within a canyon along the East Fork, at or only a few feet above the water level of the river. The soil in the ditches is very porous gravel and river rock. Seepage loss from the ditches has always been very high. Water lost through seepage returns to the river. For these reasons, the majority of the water I have diverted has always been lost to seepage.

7. The only significant change in my diversion has been that, in recent years, a fish screen has been added at or near the diversion. The screen was sized so that I could continue to divert the quantity of water that had been historically diverted. Attached hereto as **Exhibit D** is my "Flow Agreement" with the Idaho Department of Fish and Game which states the flow Fish

and Game measured through EF-4 shortly before the fish screen was installed.

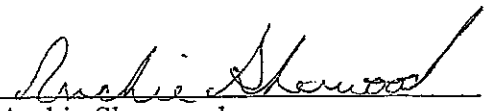
8. Attached hereto as **Exhibit E** are photographs of the EF-4 diversion and ditch. The bed and banks of the ditch are river rock and gravel, so there is a very large amount of seepage loss in conveying water from the point of diversion to the place of use.

9. The water quantities in my partial decrees are far less than the quantity that has been historically diverted and used, as established by the measurements taken by the Idaho Department of Fish and Game for my "Flow Agreement." Due to the seepage losses through my ditch system, I cannot effectively irrigate my fields with the water quantities provided by my decrees. Like my ditch, the ground I irrigate is very porous and does not retain water, requiring application of significant quantities of water by flood irrigation to maintain my pastures and grow hay.

10. Clearly, I need and have always diverted and beneficially used, more water than is provided by my decrees. I respectfully request that the IDWR recommend, and the SRBA Court issue decrees for, the late claims I am filing in order to account for seepage losses and continue to provide for irrigation of my fields.

Further your affiant sayeth naught.

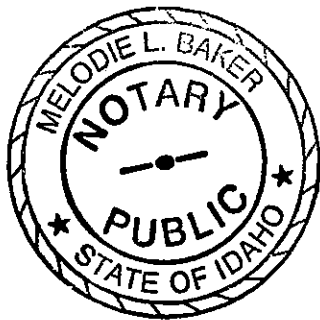
Dated this 26 day of October, 2008.


Archie Sherwood

STATE OF IDAHO)
)ss.
County of Custer)

On this 27th day of October, 2008, before me, the undersigned, a notary public in and for said state, personally appeared ARCHIE SHERWOOD, known to me to be the individual that executed the foregoing affidavit, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.



Melodie Baker
Notary Public for IDAHO
Residing at Clayton, ID
My Commission Expires: 12-11-12

EF-4 Water Rights, Claims & Measurements

EF-4 conveyance loss total:

$$24.00 \text{ cfs (IDFG)} - 5.42 \text{ cfs (decrees)} = 18.58 \text{ cfs}$$

<u>Decrees</u>	<u>Rates</u>	<u>Decrees</u> <u>Total</u>	<u>%¹</u>	<u>Conveyance</u> <u>Total</u>	<u>Claims</u>	<u>Total</u>	<u>Ditch Measurements</u> <u>IDFG</u>
							24.00 cfs
72-00226A (Ingram)	4.63 cfs						
72-00227A (Ingram)	.48 cfs						
	55% x 5.11 cfs = 2.81 cfs ²		.6343	x 18.58 cfs =	11.79 cfs + 2.81 cfs =	14.60 cfs	
72-00228A (Sherwood)	1.26 cfs						
72-00229 (Sherwood)	.30 cfs	1.56 cfs	.3521	x 18.58 cfs =	6.54 cfs + 1.56 cfs =	8.10 cfs	
72-00228B (Anderson)	.06 cfs						
72-10538 (Idaho)	.80 cfs	0.86 cfs				0.86 cfs	
All Rights total:		5.23 cfs		+	18.33 cfs	23.56 cfs	

¹For purposes of apportioning conveyance losses to the Ingram and Sherwood diversions, this is the percentage which the owner's diversion bears to the total irrigation EF-4 diversions (water right no. 72-10538, for bypass flow through the IDFG fish screen, is not included in this calculation).

²Ingrams' water rights are diverted through EF-3 and EF-4. Conveyance loss is apportioned to Ingrams' based upon their diversion of 55% of these water rights at EF-4 to irrigate approximately 55% of the acres within the place of use.

SRBA PARTIAL DECREE 72-00228A

Issued on 11-17-2000.

This is not an official copy.

Contact IDWR or the Court for a Certified Copy.

Choose Landscape Orientation when printing.

NAME AND ADDRESS:	ARCHIE SHERWOOD PO BOX 163 CLAYTON, ID 83227		
SOURCE:	SALMON RIVER, EAST FORK	TRIBUTARY:	SALMON RIVER
QUANTITY:	1.26 CFS		
PRIORITY DATE:	05/01/1885		
POINT OF DIVERSION:	T10N R18E S13	SWSNW	Within Custer County
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	1.26 CFS
PLACE OF USE:	Irrigation	Within Custer County	
	T10N R18E S12	SWNE 8.0	NESW 3.2
		SESW 6.5	NWSE 20.0
		SWSE 11.0	
	S13	NENW 14.0	

62.7 Acres Total

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 60 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. USE OF THIS RIGHT WITH RIGHT NO. 72-00229 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 60 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. I.C. SECTION 42-1412(6).

[Return to SRBA Home Page](#)

Exhibit B

SRBA

PARTIAL DECREE 72-00229

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Choose Landscape Orientation when printing.

NAME AND ADDRESS: ARCHIE SHERWOOD
PO BOX 163
CLAYTON, ID 83227

SOURCE: SALMON RIVER, EAST FORK TRIBUTARY: SALMON RIVER

QUANTITY: 0.30 CFS

PRIORITY DATE: 05/01/1936

POINT OF DIVERSION: T10N R18E S13 SWSWNW Within Custer County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Irrigation 04-01 TO 10-31 0.30 CFS

PLACE OF USE: Irrigation Within Custer County

T10N R18E S12	SWNE 8.0	NESW 3.2
	SESW 6.5	NWSE 20.0
	SWSE 11.0	
	NENW 14.0	

62.7 Acres Total

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 60 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
USE OF THIS RIGHT WITH RIGHT NO. 72-00228A IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 60 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. I.C. SECTION 42-1412(6).

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10/29/2008

OPTIMUM MAXIMUM DIVERSION FLOW AGREEMENT

24 Feb

Between: Idaho Department of Fish and Game and Allen Anderson, Gary Ingram and Archie Sherwood, owner/users) of Salmon East Fork River diversion 04.

Purpose: This agreement is to quantify the optimum maximum flow to be screened for fish protection by the Idaho Department of Fish and Game, and

Whereas: Irrigators have the right to divert flows above their decreed right during maximum flows from the East Fork of the Salmon River, and

Whereas: Maximum flows vary in time of year and in length of time from year to year, and

Whereas: Maximum flows vary in level from year to year, and

Whereas: Measured flows by the Idaho Department of Water Resources (IDWR) and Idaho Department of Fish and Game are only one point in time measurements, and

Whereas: These measurements give only an approximation and not a definitive value for maximum flows, and

Whereas: In the past, the Idaho Department of Fish and Game has designed screening facilities for approximated maximum flows based on their or IDWR flow measurements, and

Whereas: In some cases, measured maximum flows following construction of new fish screens have exceeded design flows, and

Whereas: Idaho Department of Fish and Game is required to meet current design criteria established by National Marine Fisheries Service of 0.4 of a foot per second maximum approach velocity of water through the screen, and

Whereas: Idaho Department of Fish and Game is trying to bring all screening structures into NMFS criteria, and

Exhibit D

Flow Agreement
Cont.

Whereas: Costs of the fish screen structure rise in proportion to the water diverted, especially on small diversions, and

Whereas: Cost of building a screen to meet only a short period of maximum flow is a waste of tax payer dollars, and

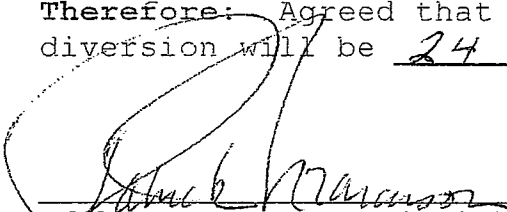
Whereas: Screens which are built to meet maximum flows that are available only during a short period of time or only during occasional years, do not operate efficiently at or near decreed flow levels, and

Whereas: This agreement is not for the purpose of limiting or infringing on irrigator's water rights or the right to divert flows above decreed rights, and

Whereas: This agreement is in the best interest for both Idaho Department of Fish and Game and the irrigators to agree on a maximum flow for the above diversion, and

Whereas: If there is no such agreement, Idaho Department of Fish and Game will design and build the fish screen to meet the approximated maximum measured flow, which may or may not be the correct optimum flow. It is

Therefore: Agreed that the optimum diverted flow for the above diversion will be 24 CFS (1200 Idaho's Miners Inches)


Idaho Department of Fish and Game
Pat Marcuson Program Coordinator

1/18/01
Date

Dary Ingram
Water User

1-17-2001
Date

Archie Sheppard
Water User

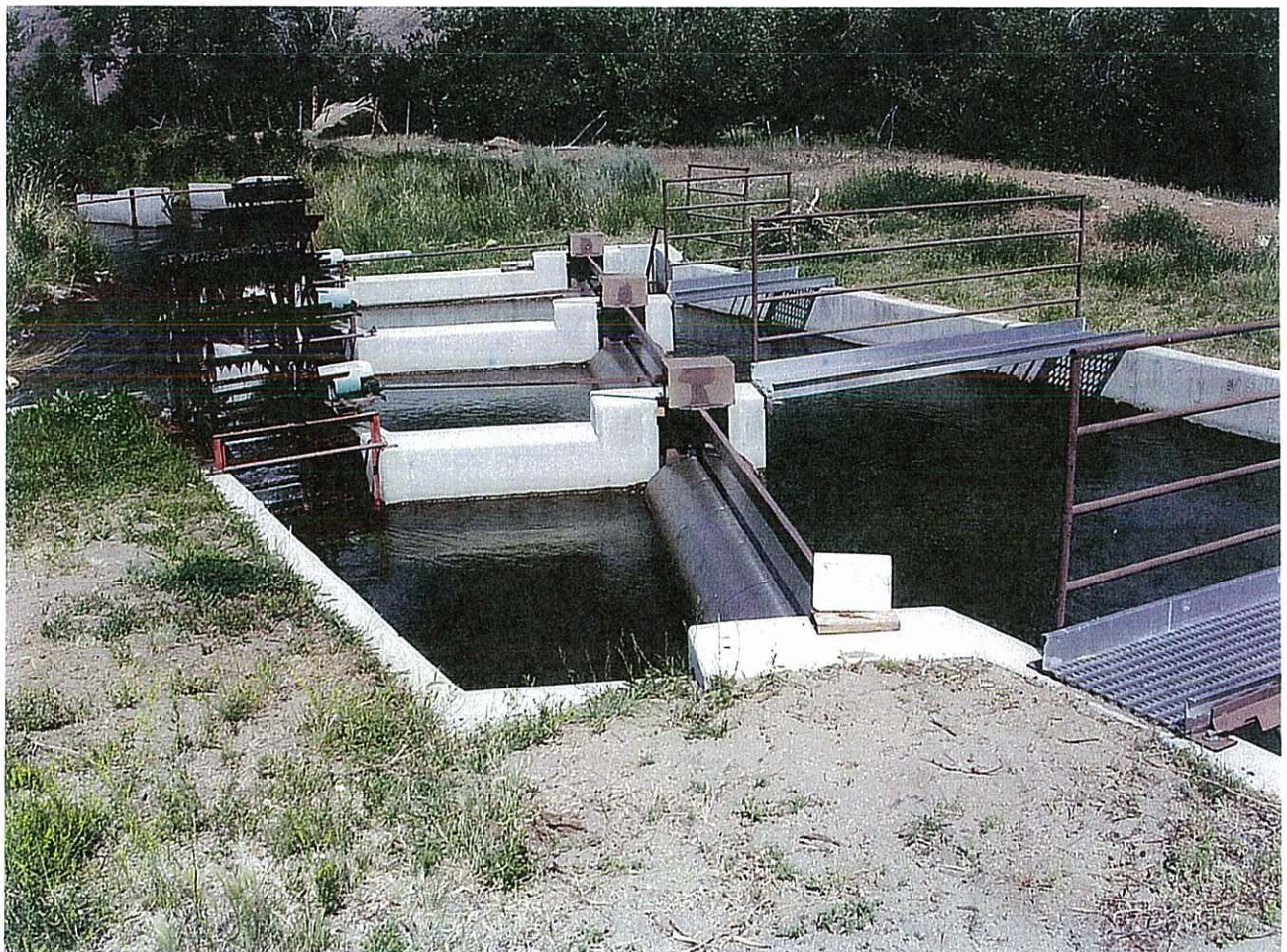
1. 17 2001
Date

Allen B. Inderson

1-17-01



EF
04



EF
04

Exhibit E