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DEC 14 1998

Department of Water Resources



RINKER COMPANY

December 8, 1998

Shelley W. Keen, Water Rights Supervisor
State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street
P. O. Box 83720
Boise, Idaho 83720-0098

Re: Water Right No. 37-08854

Dear Mr. Keen:

Thank you for your letter of December 1 regarding subject water right. I will file your letter and proceed as required.

If it would be possible I would very much appreciate your department circulating a memo requesting that all water matters and correspondence pertaining to properties I own that a carbon copy automatically go to:

Charles E. Brockway Ph.D, P.E.
BROCKWAY ENGINEERING
2160 Washington Street North, #4
Twin Falls, Idaho 83301
208/736-8543

Dr. Brockway has a complete Power of Attorney pertaining to all my water matters and is entitled to sign any papers on my behalf.

Thank you for your cooperation.

Sincerely,


Harry S. Rinker

/lc

cc: Charles E. Brockway, Ph.D, P.E.

RECEIVED

NOV 05 1998

LIMITED POWER OF ATTORNEY

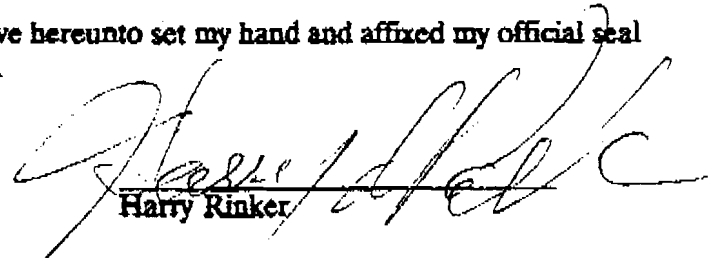
Department of Water Resources
Southern Region

KNOW ALL MEN BY THESE PRESENTS:

I, Harry Rinker, dba Rinker Company, hereby nominate and appoint Charles E. Brockway, of Kimberly, Idaho, as my attorney-in-fact with full authority to act for and on my behalf to undertake any and all acts or matters pertaining to any and all water rights I may own or seek to acquire in Blaine County, Idaho. Additionally, I hereby ratify and confirm any and all such acts on matters as contemplated herein.

My agent is hereby authorized to sign, seal, and deliver, as my act in deed, those said instruments of writing that may be necessary or proper to carry into execution and effect the applications and transfers above-mentioned. Further, I hereby declare that each and every application, transfer, agreement, receipt, or payment which shall be by my said agent given, made or done for the aforesaid purposes shall be as good, valid, and effectual as if they had been signed, sealed, and delivered by me in my own proper person; and I hereby undertake at all times to ratify whatsoever my said agent shall lawfully do or cause to be done in or concerning the said premises by virtue of these presents.

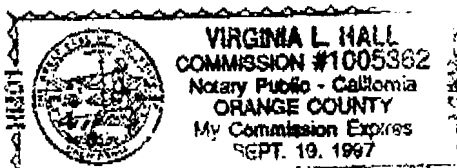
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal
this 1st day of Sept., 1995.


Harry Rinker

CALIF
STATE OF ~~IDAHO~~)
ORANGE) IS.
County of ~~Blaine~~

On the 1st day of Sept., 1995, before me, a Notary Public, in and for said County and State, personally appeared HARRY RINKER, known or identified to me to be the individual whose name is subscribed to the within instrument, 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.




NOTARY PUBLIC FOR ~~IDAHO~~ CALIF.
Residing at: LAGUNA NIGUEL
My commission expires: 9/19/97



IDAHO DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION
222 SHOSHONIE STREET
TWIN FALLS ID 83301
(208) 736-3033

PHILIP E BATT
GOVERNOR

KARL J DREHER
DIRECTOR

BASIS FOR RECOMMENDATION FOR A37-00899A AND A37-00899B

Gary Slettee, at Mr Chapman's request, reviewed his (Chapman) records and could find no evidence of use of these rights. In discussions with the watermaster (Lee Peterson), he indicated that he has no knowledge of these rights being delivered since about 1966.

Attached is a portion of notes copied from the watermaster files relating to the Chapman property and water use. Among the documents is an undated set of 3 pages of hand written notes listing water users within the place of use boundary of the original decreed rights 37-00521, 37-00522, and 37-00523. The original boundary for those rights also includes the place of use for the rights listed above. The third page lists Dorothy Chapman 37-00899 at 49.79 inches and notes that "not used since about 1966. Author of the notes not positively identified.

As there is no indication that 37-00899 has been used since 1966 and that 37-00913 was decreed to property not owned by Mr Chapman and there is no evidence of an unrecorded transfer moving that right to his property, I am recommending this claim for disallowal.

RECOMMENDATION = DISALLOW

BASIS OF

RECOMMENDATION = Portion based upon 37-00899,
P04 - FORFEITED/ABANDONED
= Portion based upon 37-00913,
P01 - NO LAWFUL APPROPRIATION SHOWN

NOTE: The property is currently being irrigated from portions of surface water rights 37-00521, 37-00522, and 37-00523. A portion of the property is also being irrigated from groundwater rights 37-02507 and 37-02640 as split.



State of Idaho
DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

April 5, 1996

**CHANGE OF OWNERSHIP ANALYSIS FOR
A37-00521C, A37-00522B, AND A37-00523B**

Warranty deed 318773, dated April 20, 1990 and recorded April 23, 1990, states in EXHIBIT 1 in part;

"Together with all water rights appurtenant to the above described real property, specifically including, but not limited to 90.4% of the following itemized decreed surface water rights for irrigation from the Big Wood River and the ditch rights which are appurtenant to the property, to facilitate the delivery of the surface water through Headgate 22 and the Hiawatha Canal headgate 24 and the Osborn Ditch, and Headgate 25 and the Purdum Ditch:"

DECREED RIGHTS

<u>Priority</u>	<u>Purpose</u>	<u>SRBA Claim No.</u>
6/1/1886	Irrigation	37-00521C
5/4/1889	Irrigation	37-00522B
5/21/1890	Irrigation	37-00523B
11/12/1936	Irrigation	37-00833B
4/1/1940	Irrigation	37-00899

**PROPORTIONATE SPLIT BASED UPON PERCENTAGE
IDENTIFIED IN WARRANTY DEED**

	A37-00521C	A37-005222B	A37-00523B	A37-00833B	A37-00899
RATE	5.46 cfs	4.46 cfs	5.34 cfs	1.66 cfs	1.264 cfs
PERCENT	<u>.096</u>	<u>.096</u>	<u>.096</u>	<u>.096</u>	<u>.096</u>

PROPORTIONATE SPLIT OF DIVERSION RATES

CLAIM #	A37-00521L	A37-005222J	A37-00523G	A37-00833S	A37-00899A
CHAPMAN	0.52 cfs	0.43 cfs	0.51 cfs	0.16 cfs	0.12 cfs
CLAIM #	A37-00521M	A37-005222K	A37-00523H	A37-00833T	A37-00899B
RINKER	4.94 cfs	4.03 cfs	4.83 cfs	1.50 cfs	1.144 cfs

The place of use was split with the claimed acres that are appurtenant to the property described as Lot 2 Block 1 of Chapman's Cloverly Ranch subdivision and Lot 2 Block 1 of Chapman's East

Cloverly Ranch subdivision listed for Mr Chapman and the balance of the claimed acres being listed for Mr Rinker.

A37-02507 was split into A37-02507A (owner = Rinker) and A37-02507B (owner = Cloverly Farms) based upon approved transfer 3902.

A37-02640 was split into A37-002640A (owner = Rinker) and A37-02640B (owner = Cloverly Farms) based on approved transfer 3901.

Prepared By KKC

April 8, 1996

File - ADJ:CHAPMAN-SPLIT-ANALYSIS.37

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES



LEE R. PETERSON
Watermaster

WATER DISTRICT NO. 37 & 37 M

P.O. Box T
Shoshone, Idaho 83352
(208) 886-2451

RECEIVED

MAR 27 1996

Department of Water Resources
Southern Region

Kelly Christensen
IDWR
222 Shoshone St. East
Twin Falls, Idaho 83301

March 25, 1996

In response to your phone call this date I researched the files and have sent you all pertinent information I could find including Reid Newby's worksheets. Note one worksheet that I have hi-lighted mentions the water right you asked about last week 37-899 and that it has not been delivered since about 1966, thirty years ago.

If we can be of further help, feel free to give us a call.

Sincerely,

A handwritten signature in cursive script, reading "Norma Peterson".

Norma Peterson
Secretary/Treasurer

4/16/90

Reid

I've outlined the Cloverly Ranch
OWNED BY John Chapman

He filed Claims:

521C	5.46	CFS	6/1/86
522B	4.46		5/4/89
523B	5.34		5/21/90
- 833B	1.66		11/12/36
- 0899	1.264		4/1/40

All Claims Says He can divert all of it
To all his lands through

Hixson # 22

Osborn # 24

Purdum # 25

That doesn't appear possible to me -

Can you mark up the map shift map

& put "H" "O" or "P" on

the fields served by the various

ditches? Put more than one initial if served

by more than one ditch.

If I'm not back by ~~5:00~~ Closing

would you mail to me at P.O. 1406

Twin Falls 83301. Bill me.

Twin Falls, John Rosenthal

Ludette

Ken took off

Etot place; P. unknown.

taken off 3

Sec 29 SW⁴ SE⁴, SE⁴ SE⁴ corner (unknown)

Sec 32 NE⁴ SE⁴, SE⁴ SE⁴ - 1 — —
NE NE⁴, NW⁴ NE⁴, SE⁴ NE⁴ — —

Sec 33 NW⁴ SW⁴, SW⁴ SW⁴ ~~SE~~ — —

Robert Summers for land.

3N - 18E

NE⁴, 160 SE NW⁴ - 40, NE⁴ SE⁴, NW⁴ SE⁴, SE⁴ SE⁴,
Sec 32 - 36 acres

SW⁴ SE⁴, SE⁴ SE⁴, Sec 29 - 80 acres
NW⁴ SW⁴, SW⁴ SW⁴ Sec 33 80 acres

James H. Paffy

37-0523A. 6-1-1986 + 54-1889

0523A

Sec 29 SW⁴ SE⁴, SE⁴ SE⁴, —

Sec 32 NE⁴ NE⁴, NW⁴ NE⁴ 20, SE⁴ NE⁴, NE⁴ SE⁴, SE⁴ SE⁴

Sec 33 NW⁴ SW⁴, SW⁴ SW⁴,

#2 Sec. 29. SW⁴ SE⁴, SE⁴ SE⁴

Sec 32 NE⁴ NE⁴, NW⁴ NE⁴, SE⁴ NE⁴,
NE⁴ SE⁴, SE⁴ SE⁴,

Sec 33 NW⁴ SW⁴ SW⁴ SW⁴

Dorothy Chapma

4979 Snakes.

37-0899 - 7er

Tr. NE⁴NE⁴ (ter No 1555) Tr. S⁴NE⁴ (ter 669)

All on Sec 32. T. 3N R 18E

Priority of April 1940

Not used until about 1966

~~Frost~~

37-0521 - T₂ ~~II~~ 2992 - 3108 - 3286

0522
0523

SW⁴NE⁴, SE⁴NW⁴, NE⁴SW⁴, NW⁴SE⁴,

Sec. 32

S²SE⁴ sec 29,

N²NE⁴, SE⁴NE⁴, Sec 32;

E²SE⁴ sec 32

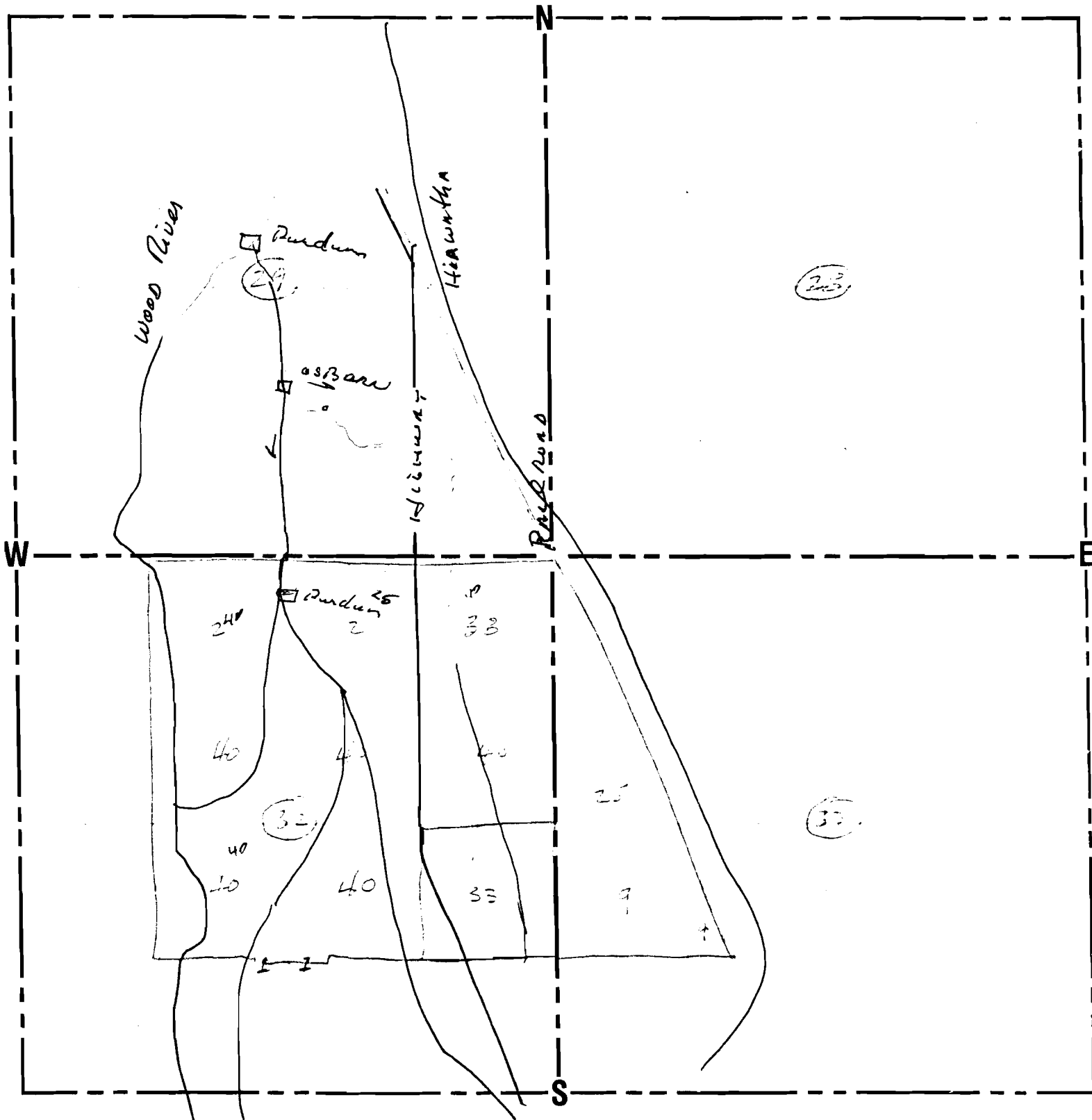
W²SW⁴ sec 33

T. 3 N R 18 = 520 Acres

No water in Hiawatha
Ditch

T2N
R18E BM

SCALE FOR SECTION, { Each side large blue squares = 20 chains, 80 rods, 1320 feet; area of square 40 acres.
660 Ft. = 1 Inch { Each side small red squares = 5 chains, 20 rods, 330 feet; area of square 2½ acres.



SCALE FOR QUARTER SECTION, { Each side large blue squares = 10 chains, 40 rods, 660 feet; area of square 10 acres.
330 Ft. = 1 Inch { Each side small red squares = 2.5 chains, 10 rods, 165 feet; area of square .625 of 1 acre.

PRONTO LAND MEASURE 660-330 MAP SHEET

PRONTO LAND MEASURE
P.O. Box 3219, Flint, MI 48502
Phone (313) 233-7950

CHAPMAN'S CLOVERLY RANCH
SUBDIVISION
TOTAL ACRES = 26.4

26.4)

CHAPMAN'S EAST CLOVERLY RANCH
SUBDIVISION
TOTAL ACRES = 15.77

TOTAL
ACRES
15.77

4.9

Book 137
Pg 497
also see 8017
704 678
704 678

52/33

* Elation
described
Rockwell VS

CLAIM A37-00521C INIT

T. R. S. Q/Q

P/D _____
PHOTO _____

DT. & ID.

(see B33 folder)

CONVERSATION MEMORANDUM

NAME OF PARTY LEE PETERSON (WATERMASTER) DATE JAN. 04, 1996
EMPLOYEE COREY SKINNER FILE A37-00833B
A37-00899

RE:

TODAY I TALKED WITH MR. PETERSON ABOUT ADJUDICATION CLAIMS A37-00833B AND A37-00899. BOTH CLAIMS WERE MADE BY JOHN S. CHAPMAN, AND I WAS UNABLE TO FIND ANY RECORD OF DELIVERY OF THESE CLAIMS TO EITHER MR. CHAPMAN OR MR. HARRY RINKER (MR. RINKER HAS OBTAINED A PORTION OF THESE CLAIMS). I ASKED LEE PETERSON ABOUT THIS AND HE CONFIRMED THAT HE DOES NOT DELIVER THESE CLAIMS (OR THE RIGHTS THEY ARE BASED ON) TO MR. CHAPMAN OR MR. RINKER.

CONVERSATION MEMORANDUM

EMPLOYEE: STEVE CLELLAND

FILE A37-00521 C

RE: Rinker transfer of Chapman Waters

- 00522 B
- 00523 B
- 00833 B
- 00899 B

DATE 10-6-93

NAME OF PARTY

Dale & Mary Mizer 788-2903

(watermaster of the Hiawatha)

Mary provided the following information.
She was concerned the proper paperwork be completed and correct.

She said the Chapman's had Hiawatha Canal water but didn't want to pay the maintenance assessment so they moved to the River itself. When Rinker took over he has moved some (or all?) back to the Hiawatha. She has told Mr. Rinker to do the correct paper work to complete this action. She also described this rights:

Osborne Ditch:

6-1-1886

203.79"

Purdum Ditch:

6-1-1886

20.79"

5-4-1889

183.51"

5-4-1889

18.08"

5-21-1889

156.39"

5-21-1889

15.37"

543.69"

54.24"

MICROFILMED

BET 24 1994

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: **A37-00899B**
Date Received: 10/27/1988
Receipt No: X777777
Received By: _____

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name: HARRY S RINKER
Address: PO BOX 7250
NEWPORT BEACH CA 92658-7250
2. Date of Priority: APR 1, 1940
3. Source: BIG WOOD RIVER Trib. to: MALAD RIVER
4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
03N	18E	20		SE	SW		BLAINE

5. Description of diverting works:
HIAWATHA CANAL HEADGATE #22

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	1.144		

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

8. Total consumptive use is 710.2 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
03N	18E	32	NE	NE		IRR	38.0
			NW	NE		IRR	2.0
			SW	NE		IRR	35.0
			SE	NE		IRR	40.0
			NE	NW		IRR	2.0

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
03N	18E	32	SE	NW		IRR	40.0
			NE	SW		IRR	33.0
			SE	SW		IRR	1.0
			NE	SE		IRR	33.0
			NW	SE		IRR	25.6
			SW	SE		IRR	1.0
						Section Acres	250.6
		33	NW	SW		IRR	24.0
						Section Acres	24.0
						Total Acres	274.6

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:

14. Remarks:

THIS IS A FLOOD RIGHT CREATED BY COMBINING THIS RIGHT AND
37-00913.

CLAIM SPLIT BASED UPON PERCENTAGE IDENTIFIED IN WARRANTY DEED
318773. PLACE OF USE SPLIT BASED UPON CLAIMED ACRES WITHIN OWNED
ACRES. DATA ENTERED 4-8-96. KKC

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

Decree Plaintiff

vs Decree Defendant

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-899B V1

WATER RIGHT NUMBER: 37-899B V1

<u>Owner Type</u>	<u>Name and Address</u>
Representative	CHARLES E BROCKWAY C/O BROCKWAY ENGINEERING 2016 N WASHINGTON ST #4 TWIN FALLS, ID 83301
Original Owner	JOHN S CHAPMAN PO BOX 2898 BOISE, ID 83701
Current Owner	HARRY S RINKER PO BOX 7250 NEWPORT BEACH, CA 92658-7250 (714)879-8300

Priority Date: 04/01/1940

Basis:

Status: Disallowed

<u>Source</u>	<u>Tributary</u>
BIG WOOD RIVER	MALAD RIVER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01 to 11/01	1.144 CFS	
	<u>Total Diversion:</u>	1.144 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER	SE1/4SW1/4	Sec. 20, Twp 03N, Rge 18E, B.M.
BLAINE County		

Place of Use

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	
03N	18E	32	38.0	2.0	35.0	40.0	2.0			40.0	33.0			1.0	33.0	25.6	1.0		250.6
03N	18E	33									24.0								24.0

Total Acres: 274.6

Conditions of Approval:

1. P14 Forfeited/abandoned: This is included for a claim based on a decree or license that is proposed to be disallowed on the basis that the water right no longer exists because forfeiture of the right by nonuse was confirmed and a defense to forfeiture was not confirmed, or because abandonment of the right was confirmed.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-899B V1

2. P04 Forfeited/abandoned due to non-use since 1966.

Remarks:Comments:

1. Igraves 1/5/2007 Reason For Disallow

Comment: This right has been combined with 37-913 and is considered a flood right. According to watermaster records, right 37-899 has not been delivered since 1966 and right 37-913 was decreed to property not owned by the original claimant (Chapman). There is no evidence of an unrecorded transfer moving right 37-913 to Chapman property.

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: S

Owner Name Connector: AND

Water District Number:

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False

Combined Use Limits:Water Supply Bank: