

**SUPPLEMENTAL DIRECTOR'S REPORT
REGARDING SUBCASE NOS. 75-4471 and 75-10475**

In Re SRBA
Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources
David R. Tuthill, Jr., Director
Donald V. Shaff, Adjudication Bureau Chief

February 27, 2009

I. INTRODUCTION

In accordance with Idaho Code § 42-1412(4), Administrative Order 1, and Special Master Dolan's December 17, 2008, *Order for 706 Report*, the Director of the Idaho Department of Water Resources ("Department") submits this Supplemental Director's Report ("Report") regarding subcase numbers 75-4471 and 75-10475. This report was prepared under the supervision of David R. Tuthill, Jr., Director, and Donald V. Shaff, Adjudication Bureau Chief.

The following Department employee has knowledge of the information contained in the Report: Monica Van Bussum, Senior Water Resource Agent, State Office in Boise ("Agent Van Bussum").

II. SUMMARY

At issue are the Department's recommendations for 75-4471 and 75-10475, a beneficial use waste water right and a decreed right from Jesse Creek, respectively. In its Basin 75 Director's Report for Irrigation and Other Uses, filed with the Snake River Basin Adjudication ("SRBA") District Court on January 11, 2007, the Department recommended these water rights to Silver Peak Ranch Trust, care of Myrthus Austin and Ron Austin.¹ On October 19, 2007, Bob Blackadar filed timely objections to both 75-4471 and 75-10475.² In his objection to 75-4471, Mr. Blackadar stated that the point of diversion and place of use are incorrect, but also stated that the water right should not exist. In his objection to 75-10475, Mr. Blackadar simply stated that this water right should not exist.

After further review, the Department partially agrees with Mr. Blackadar and concludes that its original recommendations should be modified. This report outlines the basis for the Department's amended recommendations for these water rights.

¹ Copies of the Department's original recommendations are attached as Attachment A.

² Copies of Mr. Blackadar's objections are attached as Attachment B.

III. SRBA CLAIM NO. 75-10475

1. Background

75-10475 is a combined claim for two decreed rights: 75-3 and 75-9. These rights were decreed in the *Miller v. Long* decree entered June 26, 1925. 75-3 was decreed to William Boomer. 75-9 was decreed to the Gilmore & Pittsburg Railroad Company. Both 75-3 and 75-9 were decreed with an April 1, 1894, priority date. 75-3 was decreed for 1.44 cfs and 75-9 was decreed for 1.5 cfs, for a total of 2.94 cfs. The two rights were combined into one claim in the SRBA. 75-10475 was claimed by the Silver Peak Ranch Trust for 1.94 cfs with an April 1, 1894, priority date, for irrigation. The Department recommended the right as claimed.

2. Prior Litigation in SRBA

Bob Blackadar objected to the Department's recommendation for 75-10475, stating that the right should not exist. In support of his objection, Mr. Blackadar referenced a summary judgment order from the SRBA District Court in SRBA Subcase No. 94-00004. SRBA Subcase No. 94-00004 arose from a lawsuit filed by Mr. Blackadar against Myrthus Austin for damaged allegedly done to Mr. Blackadar's property through ditch maintenance activity. The case was first filed in Washington County District Court, but was later transferred to the SRBA District Court in 1995 because the Washington County court construed *Young Harvey Walker v. Big Lost River Irrigation District*, 124 Idaho 78, 856 P.2d 868 (1993) as divesting the court of jurisdiction. While the lawsuit was not filed to determine the elements of Austin's water rights, the SRBA District Court did have cause to examine the validity of 75-3. In the SRBA District Court's order on summary judgment, the Court held that:

Matthias Austin, [predecessor of Myrthus Austin and Silver Creek Ranch Trust] however, received no right to the use of water from the deed which conveyed land to him from the Gilmore & Pittsburgh [sic] Railroad. . . . The deed conveying that particular property to Matthias Austin specifically reserves all decreed water rights from Jesse Creek. Myrthus Austin can possess no Jesse Creek water right by his successive interest in the land. This court finds water right no. 75-00009 to have been reserved by deed.

Memorandum Decision and Order Granting Partial Summary Judgment and Order Denying Motion to Suppress Evidence, July 7, 1995, SRBA Subcase No. 94-00004, at 6.

Ultimately, the Court concluded “because of the Railroad’s reservation, water right no. 75-00009 is not appurtenant to the Austin land, and has most likely been forfeited by the Railroad.” *Id.* at 7. The Court found insufficient evidence existed to determine the status of 75-3. *Id.*

The Department agrees with Mr. Blackadar that the decision in SRBA Subcase 94-00004 is applicable. The Department also agrees the portion of this claim linked to decreed right 75-9 should be disallowed because of the SRBA Court’s decision on summary judgment. However, the Court’s order leaves open the question of the validity of 75-3. Thus, the Department examines 75-3 in greater detail below.

Validity of 75-3.

As discussed above, 75-3 was decreed to William Boomer in the *Miller v. Long* decree. The decreed place of use for the water right is described as the S1/2NE and the N1/2SE Section 31, Township 22 North, Range 22 East, B.M., excepting three parcels of land. Mr. Blackadar stated the place of use recommended to Silver Peak Ranch Trust by the Department puts the place of use on the three excepted parcels described in the *Miller v. Long* decree. Mr. Blackadar

argues because the place of use is on the land exempted, this means 75-3 should not be recommended to Silver Peak Ranch Trust.³

The Department finds that most of the Silver Peak Ranch Trust property falls within the excepted parcels listed in the decree. However, this does not mean Silver Peak Ranch Trust cannot have an ownership interest in 75-3. The Department's delivery records support the claim that there has been a transfer of this water right from the place of use described in the *Miller v. Long* decree to the Silver Peak Ranch Trust property.

As part of its investigation into Mr. Blackadar's objection, the Department has reviewed the water master records for this area. The records vary in the amount of information they contain, but they do show that prior to 1944, the water master delivered W.D. Boomer water with a 1894 priority date. The 1945 record shows both Matt Austin and W.D. Boomer as receiving 1894 water. The 1946 records are not clear, but it does appear that Boomer is listed as receiving water in this year. However, starting in 1947, Boomer disappears from the records and the records show that Matt Austin and his successors continue to receive 1894 water. The following is a summary of just some of the records in the Department's possession:⁴

- 1944 water master delivery record listing W.D. Boomer as a present owner and the priority date next to his name is 1894. The quantity of water delivered is not listed.
- 1945 water master delivery record listing W.D. Boomer as a present owner with a 1894 priority date. Matt Austin appears for the first time as a present owner, also with a 1894 priority date.
- 1946 water master delivery record listing Boomer's name. The name Boomer appears towards the bottom and is very hard to read. No other information is visible as the copy quality is very poor.

³ This argument does not appear in Mr. Blackadar's objection but was raised by Mr. Blackadar at the initial hearing and in subsequent discussions with Mr. Blackadar.

⁴ Copies of the water master records are attached as Exhibit C.

- 1947 water master delivery record does not list Boomer. Matt Austin is shown as receiving 75 inches (1.5 cfs) of 1894 water.
- 1948 water master document listing Matt Austin as a current owner receiving 1.5 cfs of 1894 water. Again, no listing of Boomer.

Additional water master documents show the water was historically delivered to the Austins. This is just a sampling of documents available regarding this water right:

- A 1969 water master document listing 1.5 cfs of water being delivered to M. Austin.
- A 1970 water master document listing 1.5 cfs of water being delivered to M. "Auston."
- A 1973 book of decrees maintained by the Department, listing William Boomer as the original owner of 75-3 and the current owner as "Murphus" Austin. The document shows 72 inches (1.44 cfs) being delivered with a 4/1/1894 priority date to Austin.
- A 1977 assessment log for water users in Water District 75-A showing that "Marthus" Austin as being assessed \$27.48 for delivery of water.
- A 1987 water master document showing 75-3 being delivered to Emerson Hill (0.15 cfs) and Myrthus Austin (1.44 cfs).
- A 1992 water master document showing 75-3 and 75-9 being delivered to Myrthus Austin, but a handwritten note next to 75-9 reads, "May be forfeited."

Normally, the Department requires a claimant to submit deeds showing proof of ownership or unity of title before the Department will recommend an accomplished transfer from decreed property to property that was not included in the decree. However, in this case, there are extensive historical records showing this right has been delivered to the predecessors of Silver Creek Ranch Trust. These records, coupled with the fact that no one contested the historic delivery of this water right for decades, no one else claimed this water right for themselves and the decreed place of use is no longer irrigated, leads the Department to conclude this portion of the water right should be recommended as valid to Silver Peak Ranch Trust.

Mr. Blackadar raised one more argument in opposition to this water right. Mr. Blackadar suggested that Silver Peak Ranch Trust cannot be owners of 75-3 because William Boomer sold the water right to the City of Salmon. To support his assertion of the water right sale, Mr. Blackadar supplied a deed between William and Della Boomer and the City of Salmon dated November 6, 1937.⁵ The deed states the Boomers sold the City of Salmon a water right for \$4,400, with the description,

All the right title and interest of the parties of the first part [the Boomers] in and to the water of Jesse Creek, Lemhi County, State of Idaho, and herein warranted to be not less than 22 inches, said waters having been decreed by the District Court of the State of Idaho and recorded in Book A of Judgments on Page 251, and the land on which this water has been used for irrigation purposes being a part of the S1/2NE1/4 and the N1/2SE1/4 of Section 31 in Township 22 North Range 22 East of the Boise Meridian, Lemhi County, State of Idaho. This is first right water.

The Department agrees the legal description in the deed matches the legal description provided in the decree and the deed appears to convey the decreed water to the City of Salmon. However, the Boomer deed is problematic in several respects. First, the deed says the water right is first right water, but 75-3 is actually eighth right water from Jesse Creek. Second, the deed also states the water right was recorded in Book A of Judgments on Page 251. This description is the location of the first Jesse Creek decree, of which the 75-3 was not part. 75-3 was recorded as part of the second Jesse Creek decree in Book C of Judgments on pages 294-297. Third, the deed states that the water right was not less than 22 inches. 75-3 is, in fact, 72 inches. It is odd that a deed would not more fully describe the amount of the water right when it had only 12 years previously been decreed to the owners and conveyors. Finally, as described above, the Department has records showing 75-3 being delivered to the Austin family for many decades. The City of Salmon has never requested delivery of 75-3, even though water masters

⁵ A copy of the deed is attached at Exhibit D.

for the last 25 years have also been City employees. Thus, given the ambiguities surrounding the deed and the fact that this water has historically been delivered to the Austin family, the Department believes that this water right should be recommended to Silver Creek Ranch Trust.

Conclusion Regarding SRBA Claim 75-10475

75-10475 is a combined claim for two decreed rights: 75-3 and 75-9. The Department agrees that the portion of the right linked to 75-9 should not be recommended. However, the Department believes that the weight of the evidence presented suggests that Silver Peak Ranch Trust is the owner of 75-3 and that there has been an accomplished change in place of use pursuant to Idaho Code § 42-1425 for the historically delivered and decreed amount of 1.44 cfs. A copy of the Department's revised recommendation is attached to this report as Exhibit E.

IV. SRBA CLAIM NO. 75-4471

1. Background

75-4471 was claimed by the Silver Peak Ranch Trust with the elements:

- Priority date: 4/1/1941
- Basis: Statutory Claim
- Source: Waste water tributary to Salmon River
- Diversion rate: 2.5 cfs
- Place of Use (POU): Same as 75-10475

75-4471 was recommended with these elements by the Department in its Basin75 Director's Report of January 11, 2007. Mr. Blackadar filed an objection, stating the point of diversion should be SWSESW Section 31, Township 22 North, Range 22 East, B.M. The point of diversion issue is being addressed in subcases 75-14 et al., being heard by the Court separately. Mr. Blackadar's objection for 75-4471 also stated that the place of use should be, "Limited to property South and West of the North Ditch About 15 acres." For reasons supporting his objection, Mr. Blackadar wrote, "Waste Water is Not Subject to Demand; since

the Norton Ditch bisects the property, it constrains area of use; This water right has the potential to be a liability for the public and I would encourage the State of Idaho, Dept. of Transportation to intervene on behalf of the public.”

There are several issues to be addressed from Mr. Blackadar’s objection: waste water being subject to demand, limiting the place of use to that constrained by the Norton Ditch, and the water right posing a liability for the public.

2. Waste Water

The Department recommended the source of this water right as waste water. In his objection, Mr. Blackadar seemingly suggests that the fact that this water right has a source of waste water means that the water right should be disallowed. The Department disagrees. It is true that in Idaho, the original appropriator of the water is entitled to capture the waste for reuse in certain circumstances. See *A & B Irrigation Dist. v. Aberdeen-American Falls Ground Water Dist.*, 141 Idaho 746, 752, 118 P.3d 78, 84 (2005). However, this does not mean a waste water right cannot be decreed in the SRBA. This court regularly decrees water rights with waste water as the source.

Agent Van Bussum met with Ron Austin, the representative for Silver Peak Ranch Trust, at the Basin 75 initial hearings in September 2008 and again at the Department’s Salmon Field Office in November 2008. During those meetings, Mr. Austin stated that he understood that the wasting of water feeding the ditch to his property can stop at any time. As such, the Department sees no reason to modify its recommendation to address this issue.

3. Place of Use

Mr. Blackadar objected to the place of use description, suggesting that Mr. Austin irrigates property south and west of the Norton Ditch. In his meetings with Agent Van Bussum,

Mr. Austin agreed that he does not irrigate land east of the Norton Ditch with Jesse Creek water. Agent Van Bussum subsequently met with Mr. Austin on November 6, 2008, to alter the POU for 75-4471 to reflect property to the west of the Norton Ditch. The Department has prepared a revised recommendation with the place of use.

4. Liability Regarding Ditch

The issue of ditch safety, while always important, is outside the scope of this adjudication and must be addressed outside the SRBA. The Department sees no reason to modify its recommendation to address this issue.

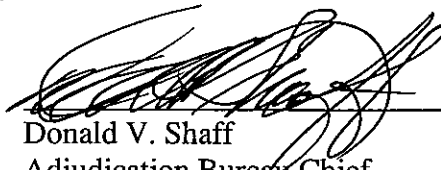
5. Conclusion Regarding 75-4471

Given the additional evidence uncovered through subsequent meetings with Mr. Austin, the Department now recommends 75-4471 as appurtenant to Silver Peak Ranch Trust land west of the Norton Ditch for a total of 29.7 acres. 75-4471 would now be recommended for 0.6 cfs to cover the 29.7 acres west of the Norton Ditch irrigated by Silver Peak Ranch Trust. A copy of the Department's revised recommendation is attached to this report as Exhibit F.

V. CONCLUSION

Based upon additional information provided to the Department, the Department agrees its recommendations should be modified. Revised recommendations are attached to this report as Exhibits E and F. The Department recommends the Court issue decrees consistent with these revised recommendations.

Submitted this 27th day of February, 2009.


Donald V. Shaff
Adjudication Bureau Chief,
Idaho Department of Water Resources

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served a true and correct copy of the following described document on the persons listed below by United States mail with the correct postage affixed thereto on this _____ day of _____.

Document Served: Supplemental Director's Report Regarding SRBA Subcase Nos. 75-4471 and 75-10475

Persons Served:

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

☐ Overnight Mail
☐ Regular Mail
☐ Hand-Delivered
☐ Facsimile

2. Copies to:

SILVER PEAK RANCH TRUST
C/O MYRTHUS AUSTIN/RON AUSTIN
63 HWY 93 N
SALMON, ID 83467-5292

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

ROBERT L BLACKADAR
10 N CHEROKEE RD
SALMON, ID 83467

Idaho Department of Water Resources

ATTACHMENT A

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

RIGHT NUMBER: 75-4471

NAME AND ADDRESS: SILVER PEAK RANCH TRUST
C/O MYRTHUS AUSTIN/RON AUSTIN
63 HWY 93 N
SALMON ID 83467-5292

SOURCE: WASTE WATER

TRIBUTARY: SALMON RIVER

QUANTITY: 2.500 CFS

PRIORITY DATE: 04/01/1941

POINT OF
DIVERSION: T22N R22E S31 SESW Within LEMHI County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>		<u>PERIOD OF USE</u>		<u>QUANTITY</u>	
IRRIGATION		4/01	11/01	2.500 CFS	
PLACE OF USE: <u>IRRIGATION in LEMHI County</u>					
T22N R22E S31	SENE	35.00	T22N R22E S31	NESE	11.00
T22N R22E S32	SWNW	5.10	T22N R22E S32 Lot 3	SWNW	33.00
T22N R22E S32 Lot 4	SWNW	1.80	T22N R22E S32	SENE	10.00
T22N R22E S32 Lot 3	SENE	8.00	T22N R22E S32 Lot 4	SENE	7.30
T22N R22E S32 Lot 7	NESW	4.50	T22N R22E S32	NWSW	3.30
T22N R22E S32 Lot 6	NWSW	8.40	T22N R22E S32 Lot 7	NWSW	3.00

130.4 ACRES TOTAL

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.

This right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

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

RIGHT NUMBER: 75-10475

NAME AND ADDRESS: SILVER PEAK RANCH TRUST
C/O MYRTHUS AUSTIN/RON AUSTIN
63 HWY 93 N
SALMON ID 83467-5292

SOURCE: JESSE CREEK

TRIBUTARY: SALMON RIVER

QUANTITY: 1.940 CFS

PRIORITY DATE: 04/01/1894

POINT OF
DIVERSION: T21N R22E S1 SWNW Within LEMHI County

PURPOSE AND
PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	04/01 10/31	1.940 CFS
PLACE OF USE:	<u>IRRIGATION in LEMHI County</u>		
	T22N R22E S31 NENE	0.40	T22N R22E S31 SENE 30.00
	T22N R22E S31 NESE	8.80	T22N R22E S32 Lot 1 NENW 1.80
	T22N R22E S32 NWNW	0.30	T22N R22E S32 SWNW 5.10
	T22N R22E S32 Lot 3 SWNW	33.00	T22N R22E S32 Lot 4 SWNW 1.80
	T22N R22E S32 SENW	9.00	T22N R22E S32 Lot 3 SENW 7.70
	T22N R22E S32 Lot 4 SENW	6.10	T22N R22E S32 Lot 7 NESW 4.50
	T22N R22E S32 NWSW	3.10	T22N R22E S32 Lot 6 NWSW 7.70
	T22N R22E S32 Lot 7 NWSW	2.90	

122.2 ACRES TOTAL

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

ATTACHMENT B

a
RECEIVED

OCT 15 2007

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)

A. Subcase

75 - 10475

(Insert water right number)

Case No. 39576)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name:

Robert L. Blackadar

Address:

10 N Cherokee Rd

Salmon, ID 83467

Daytime Phone:

208 - 756-4967

Name & Address of Attorney, if any:

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

Name:

Silver Peak Ranch Trust

Address:

c/o Myrthus Austin / Ron Austin

63 Hwy 93N

Salmon, ID 83467 - 5292

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 of Diversion**
Should be: _____
6. ☐ **Instream Flow Beginning and Ending Point**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: _____
10. ☒ **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 OBJECTIONS(S): Case NO. : 94-00004
In the District Court of the Fifth Judicial District
of the State of Idaho, In and for the County of
Twin Falls Memorandum Decision and Order
Granting Partial Summary Judgement.

F.

VERIFICATION (must be completed)

State of Idaho)
)ss.
County of Lemhi)

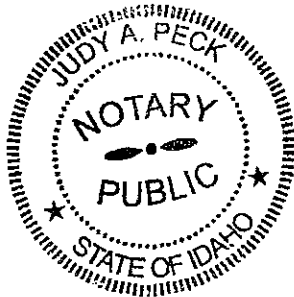
Robert L. Blackadar, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

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.

Robert L. Blackadar
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: Oct. 12, 2007



Judy A. Peck
Notary Public for East Idaho Co.
Residing at: Carmen Id.
My Commission Expires: 7-31-2012

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 October 13, 2007, 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
PO Box 2707
Twin Falls, ID 83303-2707

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

Silver Peak Ranch Trust
Name: S/O Myrthys Austin / Ron Austin
Address: 63 Hwy 93 N
Salmon, ID 83467-5292

3. Copies to:

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

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

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

Robert J. Blackdon
Signature of objector or attorney
mailing on Objector's behalf

a.
RECEIVED
OCT 13 2007
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)

A. Subcase

75 - 4471

(Insert water right number)

Case No. 39576)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Robert L. Blackadar

Address: 10 N Cherokee Rd.
Salmon, ID 83467

Daytime Phone: 208-756-4967

Name & Address of Attorney, if any:

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

Name: Silver Peak Ranch Trust

Address: 90 Myrthes Austin / Ron Austin
63 Hwy 93 N
Salmon, ID 83467 - 5292

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 of Diversion**
Should be: SW 1/4, SE 1/4, SW 1/4 Section 31,
T. 22 N., R. 22 E., Boise meridian
6. ☐ **Instream Flow Beginning and Ending Point**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☒ **Place of Use**
Should be: Limited to property ~~North~~ South
and west of the Norton Ditch About
10. ☒ **I object because:** 15 acres
☒ This water right Should not exist.

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

E. **REASONS SUPPORTING OBJECTIONS(S):** Waste Water is Not
Subject to Demand. Since the Norton Ditch bisects the
property, it constrains area of use; This water right
has the potential to be a liability for the public and
I would encourage the State of Idaho, Dept. of Transportation
to intervene on behalf of the public.

F.

VERIFICATION (must be completed)

State of Idaho)
)ss.
County of Lemhi)

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

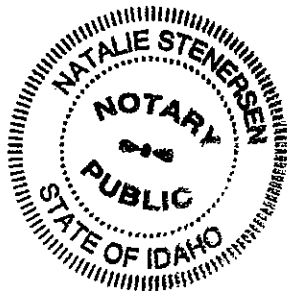
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Robert L. Blackadar
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

10-15-2007



Natalie Stenersen
Notary Public for East Idaho C.A.
Residing at: Salmon, ID
My Commission Expires: 5-18-2010

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 October 15, 2007, 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
PO Box 2707
Twin Falls, ID 83303-2707

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

Name: Silver Peak Ranch Trust
Address: % Myrtles Austin / Ron Austin
63 Hwy 93 N
Salmon ID 83467

3. Copies to:

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

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

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

Signature of objector or attorney
mailing on Objector's behalf

ATTACHMENT C

Apr 24th to June 15th
 Month of ~~May~~ to ~~June~~

Name of Present Owner Address Name or Number of Right as Shown in Decree Priority Date Amount Sec. Feet Total Right Sec. Feet

NOTE—Figures to be given in cubic feet per second for 24-hour periods, or 24-hour second feet. Give name of owner of water rights, not tenant.

DAYS OF MONTH

Name of Present Owner	Address	Name or Number of Right as Shown in Decree	Priority Date	Amount Sec. Feet	Total Right Sec. Feet
John Calf Salmon		1 st and 2 nd	1894		
City Salmon		1 st and 2 nd	1894		
But. Park		2 nd	1894		
Chas. Rose		6 th	1894		
Mar. Co. Est.		7 th	1894		
St. Thornton		8 th	1894		
Geo. Oliver			1894		
J. T. Long			1894		
Wheeler Est.			1894		
Granger			1894		
F. Hill			1894		
Allen Standard			1894		
Railroad			1894		
W. D. Boomer			1894		
Harrie Est.					
Conkrite Est.					
Middlebury					
Wing Est.					
Campbell Est.					
Johnson Est.					

1944
 WATER MASTER
 DELIVERY RECORD

Month of

May

Name of Present Owner

Address

Name or
Number of
Right as Shown
in Decree

Priority Date

Amount Sec. Feet

Total Right
Sec. Feet

NOTE - Figures to be
feet per second for
or 24-hour second fe
of owner of water rig

DAYS OF

John Cole	Salmon	1 st + 2 nd	1894		
City Salmon	Salmon	1 st + 2 nd	1894		
Blair Parker	Salmon	2 nd	1894		
Chas Rose	Salmon	6 th	1894		
George Fustum	=	7 th	1894		
Geo Oliver	=	8 th	1894		
John Tong	=		1894		
Miller Est	=		1894		
J. H. Hyman	=		1914, 1894		
Allen Stoddard	=		1894		
H Martin	=		1894		
Matt Austin	=		1894		
W. D. Boomer	=		1894		
Eddie Edwards	=		1914		
Ada Pope	=		1902		
Harris Est.	=		2 nd		

1 00 1 00 1
1 15 1 15 1

1945
WATER MASTER
DELIVERY RECORD

ith of

NOTE—Figures to be given in cubic feet per second for 24-hour periods, or 24-hour second feet. Give name of owner of water rights, not tenant.

DAYS OF MONTH

Name of Present Owner	26	27	28	29	30	31	Total in 24-hour Sec. Feet	Remarks	Acres Cultivated
10. us 100	3.934	3.934	3.934	3.934	3.934	3.934		13.024	
6.76	6.76	6.76	6.76	6.76	6.76	6.76			
2.623	2.623	2.623	2.623	2.623	2.623	2.623			
Geo. Oliver	1.50	1.50	1.50	1.50	1.50	1.50	2.52		
Chas. Rice	.60	.60	.60	.60	.60	.60	.60		
Wm. Rice	1.	1.	1.	1.	1.	1.			
Sam F. Wiley	.20	.20	.20	.20	.20	.20			
Neyman									
Long									
Green									
Geo. Martin									
J. Johnson									
W. H. Hinton									

Total Daily Distribution

1946 WATER MASTER DELIVERY RECORD

ith of

NOTE—Figures to be given in cubic feet per second for 24-hour periods, or 24-hour second feet. Give name of owner of water rights, not tenant.

Month of *May*
Sept

Name of Present Owner

Address

Name or
Number of
Right as Shown
in Decree

Priority Date

Amount Sec. Feet

Total Right
Sec. Feet

NOTE — Figures to be given in cubic
feet per second for 24-hour periods,
or 24-hour second feet. Give name
of owner of water rights, not tenant.

DAYS OF MONTH

Acres
utili-
ated

Frank L. L. Salmon	1st 27.5	1892	200
City Salmon	1st	1892	200
John L. L. Salmon	1st 27.5	1894	200
City Salmon	2nd 111	1894	60
McC. Kull	2nd 65 1/2	1894	85
Horn's Est.			
Conk's Est.			
McL. L. Kull	Salmon	2nd 18 1/2	
Head Est.			
Combs Est.			
George Oliver Salmon	1st 6 1/4	1894	250
Chas. Rose	Salmon	6th 10	
Stander	Salmon	1894 15	
Joseph F. Riley	Salmon	7th	
E. H. Hyman	Salmon	1894 35	
Frederick Randolph	Salmon	1914 30	
George L. L. Salmon	Salmon	1894 72	
Emerson Hill	Salmon	1894 13	
Matt Austin	Salmon	1894 6 1/2	
W. P. Pope	Salmon	1894 75	
W. P. Pope	Salmon	1902 60	
W. P. Pope	Salmon	1913 20	
George L. L. Salmon	Salmon	1914 56	
Edith Edwards	Salmon	1914 160	

1947
WATER MASTER
DELIVERY RECORD

Month of 1/19

Name of Present Owner	Address	Name or Number of Right as Shown in Decree	Priority Date	Amount Sec.	Total Right Sec. Feet	DAYS OF MONTH				
						1	2	3	4	5
John Coles Salmon		1st 1/2 1894		5.44						
City of Salmon Salmon		1st 1/2 1894		11.00						
W. H. Hulls Salmon		2nd 1894		3.00						
C. Traylor Salmon		2nd 1894		3.00						
Geo. W. Oliver Salmon		5th 1894		7.12						
Chas. Rose Salmon		6th		2.00						
Stanley Salmon		6th		3.00						
Sarah F. Wiley - Not in use		7th		1.00						
E. H. Nyeman Salmon		1894		7.00						
John Long Salmon		1894		2.00						
Thos. Mandelphi Salmon		1894		1.00						
Banks										
Geo. Turton Salmon		1894		2.00						
Matt Austin Salmon		1894		1.00						
Eddie Edwards Salmon		1894		2.00						

1948
WATER MASTER
DOCUMENT

Month of

Name of Present Owner

Address

Name or
Number of
Right as Shown
in Decree

Priority Date

Amount Sec. Feet

Total Right
Sec. Feet

NOTE: Figures to be g
feet per second for 24
or 24 hour second feet
of average of water right

1

2

3

Salmon Lake
Chico *11*
Delaware *11*
Rehington *11*
Somerset *11*
Spencer *11*
Chico *11*
Depp *11*
Chico *11*
McClure *11*

3.5	1	75	1	75	1
6	3	00	3	00	3
3.3	1	68	1	68	1
.6		30		30	
1		50		50	
.4		20		20	
7	3	50	3	50	3
1		50		50	
2	1	00	1	00	1
1.5		75		75	

1969
WATER MASTER
DOCUMENT

Month of

Name of Present Owner

Address

Name or
Number of
Right as Shown
in Decree

Priority Date

Amount Sec. Feet

Total Right
Sec. Feet

NOTE. Figures to be given in cubic feet per second for 24-hour periods, or 24-hour second feet. Give name of owner of water rights, not tenant.

					1	2	3	4	5
C. J. Salmon	Salmon		3.5		1 75	1 75	1 75	1 75	1 75
Alfred Salmon			6		3 00	3 00	3 00	3 00	3 00
Blair Gordon Salmon			3.8		1 68	1 68	1 68	1 68	1 68
Richardson Salmon			.6		30	30	30	30	30
Oliver Salmon			6		3 00	3 00	3 00	3 00	3 00
James Salmon			.4		20	20	20	20	20
Johnson Salmon			.2		20	20	20	20	20
Williamson Salmon			1.5		75	75	75	75	75
Edwards Salmon			2.		1 00	1 00	1 00	1 00	1 00
Piper Salmon			1		50	50	50	50	50

NOTE: Figures to be given in cubic feet per second for 24-hour periods, or 24-hour second feet. Give name of owner of water rights, not tenant.

TITLE
OF
CASE

George G. Miller

Plaintiff

SOURCE Jessa Creek (accr

WATER DIST. 75-A

JUDICIAL DIST. 6

Ernest Long et al.

Defendants

DATE OF DECREE June 19, 19

PN.	DN.	DECREED OWNER	NAME	PRESINT OWNER	ACR. INCHES	PRIORITY	DIVERSION				REMARKS, L
							SUBDIV.	SEC.	TWR.	RD.	
											Rights of this decree are subject to terms and conditions of prior
1		George G. Miller									5/11/54, S.
75	001	present owner:	Axel Sorenson (?)		35	4-1-94					W3SE, Sec. 3
1		estate of John Long									NWSE, NESW, Lo
75	113	present owner:	BLACKADOR		100	4-1-94	"	"			NWNE, Sec. 3
1		Guy Edwards									
75	002	present owner:	Guy Edwards		85	4-1-94	"	"			lots 3 & 4, E.
1		William Boomer									SENE, NWSE, S
75	003	present owner:	MURPHUS AUSTIN		72	4-1-94	"	"			2 parts, dander
1		Harry Kelly									Property in 2
75	004	present owner:	SALMON CITY		60	4-1-94	"	"			
1		George Oliver	(JACOBSEN)								SW & SE, Sec.
75	005	present owner:	BETTS RANCHES		250	4-1-94	"	"			T.
1		Bertha N. Rose									lots 1 & 10, S
75	114	present owner:	SALMON CITY		25	4-1-94	"	"			parts of lots
1		Edson A. Morris									portion of Se
75	006	present owner:	Not Active		15	4-1-94	"	"			Salmon City,
1		Citizens National Bank									SESW, SWSE, L
75	007	present owner:	BLACKADOR (?)		200	4-1-94	"	"			lots 1 & 2, S
1		Conrad Hill									lots in North
75	008	present owner:	Not Active		7.5	4-1-94	"	"			and McCordell's

DECREE NUMBER

DECREE NUMBER

CT - CUMULATIVE TO

OF THE WATER USERS

WATER DISTRICT No. 75-A

Estimated Amount for Watermaster's Salary	\$ 550.00
Estimated Amount for XXXXXXXXXXXX Secretary	\$ 50.00
Estimated Amount for Other Expenses	\$ 138.00
TOTAL ESTIMATED EXPENSES FOR 1977	\$ 738.00

DISTRIBUTION OF THE BUDGET AMONG USERS

Individual, Ditch or Canal Company, assessed	Water Right Ident. No.	Address	Amount of Budget
City of Salmon		Box 770, Salmon, Ida	197.87
Dr. W. L. Blackadar (Aldous)		Box 1110 " "	138.10
Dr. W. L. Blackadar		Box 1110 " "	85.78
John Raddington		Box 931 " "	10.99
Fred Jacobson		Box 1493 Ogden, Utah 84402	171.50
Carl Gaver		Box 777 Salmon, Idaho	14.66
Axel Sorenson		Box 1156 " "	14.66
Edgar Edwards		Box 299 " "	29.32
Pope & Jacobson (Fred Jacobson)		Box 1493 Ogden, Utah 84402	18.32
Marthus Austin		Box 3 Salmon, Idaho	27.48
Roy Turner		Box 1110 " "	29.32
		TOTAL	738.00

File: First decree
Report: wa

Page 1
JUNE 16, 1987

Id. #	Year	Owner	Water amt.	Place
75-0016	1867	City	100"	Water works
75-0017	1867	City	12"	Water Works
75-0017	1867	Blackadar	63"	Blackadar ranch
75-0018	1867	City	15"	Water works
75-0019	1868	Blackadar	65 1/3"	Blackadar place
75-0019	1868	Blackadar	24 2/3"	Blackadar place
75-0019	1868	City	60"	Water Works
75-0019	1868	City	15"	Water Works
75-0019	1868	Smedley	15"	Smedley ranch
75-0023	1869	MRS. A.R. McCall	7"	?
75-0024	1877	City	5"	Water Works
75-0021	1883	Smedley	5"	Smedley Ranch
75-0026	1884	City	15"	Water works
75-0026	1884	Sorenson	10"	?
75-0020	1888	Gaver	15	Gaver Place
75-0022	1889	Smedley	100"	Smedley Ranch
75-0001	1894	Axel Sorenson	35"	Sorenson Ranch
75-0113	1894	BLACKADAR	100"	
75-0002	1894	GUY EDWARDS	85"	EDWARDS RANCH
75-0003	1894	Myrthus Austin	72"	
75-0004	1894	City	60"	Water Works
75-0005	1894	Smedley	250"	Smedley Ranch
75-0114	1894	City	25	Water Works
75-0008	1894	EDSON A. MOORE	13"	not active
75-0007	1894	Blackadar	200"	Blackadar Ranch
75-0003	1894	EMERSON HILL	7.5"	

File: SECOND DECREE
Report: wa-wa

Page 1
JUNE 16, 1987

Id. #	Year	Owner	Water amt.	Place
75-0009	1894	Gilmore & Pittsburg R.R. Co	75	
75-0010	1914	Anthony & Sons	80"	
75-0011	1914	Frank Ainsworth	56	
75-0012	1914	E.D. Randolph	80	
75-0013	1914	Axel Sorenson	30	Sorenson Ranch

File: Third water
Report: wa

Page 1
JUNE 16, 1987

Id. #	Year	Owner	Water amt.	Place
75-0003	1894	phj(smedley?)	250"	
75-0014	1902	Smedley	60"	Smedley ranch
75-0015	1913	Ainsworth	20"	not active

1987
WATER MASTER
DOCUMENT

PRIORITY	WATER RIGHT NUMBER	WATER USER	PRIORITY DATE	AMOUNT CFS	IN	DIVERSION POINT
5	75-00026B	M. WILSON	05/01/1884	0.2	10	D7 FARMERS DITCH
6	75-00020	GAVER	06/01/1888	0.3	15	D6 JESSE CREEK
7	75-00022	ARROWHEAD	05/01/1889	2.0	100	(D2) CHIPS CREEK
8	75-00003	M. AUSTIN	04/01/1894	1.4	70	D7 FARMERS DITCH
8	75-00005	ARROWHEAD	04/01/1894	5.0	250	(D8) POLLARD CREEK
8	75-00001	SCHULENBURGER AND SORENSEN	04/01/1894	0.7	35	D7 FARMERS DITCH
8	75-00007	CITY <i>Turner</i>	04/01/1894	4.0	200	D5 WATER WORKS
8	75-00113	BLACKADAR	04/01/1894	2.0	100	D7 FARMERS DITCH
8	75-00009.2	M. AUSTIN	04/01/1894	1.5	75	D7 FARMERS DITCH
8	75-00002	E. EDWARDS	04/01/1894	1.7	85	D1 CHIPS CREEK
9	75-00014	J. PROKSCH	04/01/1902	1.2	60	D9 POLLARD CREEK

*May 1953
for 1953*

True Cr

ATTACHMENT D

This Indenture, Made this 6th day of November in the year of our Lord one thousand nine hundred and thirty-seven between WILLIAM D. BOOMER and DELLA BOOMER, husband and wife, of County of Lemhi, State of Idaho, the part ies of the first part, and CITY OF SALMON, a municipal corporation of Salmon, County of Lemhi, State of Idaho, the party Y of the second part.

WITNESSETH, That the said parties of the first part, for and in consideration of
 FOUR THOUSAND FOUR HUNDRED AND NO/100 (\$4,400.00) - DOLLARS,
lawful money.....of the United States of America, to.....them..... in hand paid by the said party.. of the second part,
 the receipt where of is hereby acknowledged, ha.....ye GRANTED, BARGAINED and SOLD and by these presents do..... GRANT,
 BARGAIN, SELL, CONVEY and CONFIRM unto the said party.. of the second part, and to.....its..... heirs and assigns forever, all
 of the following described real estate, situated in County of Lemhi, State of Idaho,
 to-wit:

All the right title and interest of the parties of the first part in and to the waters of Jesse Creek, Lemhi County, State of Idaho, and herein warranted to be not less than 22 inches, said waters having been decreed by the District Court of the State of Idaho and recorded in Book A of Judgments on Page 251, and the land on which this water has been used for irrigation purposes being a part of the S¹/₄NE¹/₄ and the N¹/₂SE¹/₄ of Section 31 in Township 22 North Range 22 East of the Boise Meridian, Lemhi County, State of Idaho.

This water is first right water

Documentary stamps \$4.50 canceled 3/15/39 R L S

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and also all estate, right, title, interest in and to the said property, possession, claim and demand whatsoever, as well in law as in equity, of the said parcels of the first part, **എന്നവയെക്കുറിച്ചുള്ള**
നടപടികളെക്കുറിച്ചുള്ള

TO HAVE AND HOLD all and singular, the above mentioned and described premises, together with the appurtenances, unto the part y... of the second part, and to its..... heirs and assigns forever. And the said parties of the first part, and their..... heirs, the said premises in the quiet and peaceful possession of the said part y... of the second part, . . . its..... heirs and assigns, against the said parties of the first part andtheir..... heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim, the same shall and will warrant and by these presents forever defend.

IN WITNESS WHEREOF, the said parties of the first part have, hereunto set their..... hands, and seals, the day and year first above written.

Signed, sealed and delivered in the presence of

William D. Boomer

Della Boomer

ADMINISTRATIVE SECTIONS: VARIOUS OTHER INFORMATION - - - - - (SEAL)

STATE OF IDAHO, }
COUNTY OF LEMHI, } ss.

On this 6th day of November, in the year 1932, before me Frederick Hughes Snook State
a Notary Public in and for said County, personally appeared

to me to be the person, and whose name, S. & T's subscribed to the within instrument, and acknowledged to me that they 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.

{ {SEAL} }

Frederick Hughes Snook
Notary Public for the State of Idaho,
Residing at Salmon, Idaho.

75-3 warranty deed

Received from Bob Blackadar
during meeting re: Jesse Cr.
11/7/2008

M. Van Bussum

ATTACHMENT E

02/27/2009

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

RIGHT NUMBER: 75-10475

NAME AND ADDRESS: SILVER PEAK RANCH TRUST
C/O MYRTHUS AUSTIN/RON AUSTIN
63 HWY 93 N
SALMON ID 83467-5292

SOURCE: JESSE CREEK

TRIBUTARY: SALMON RIVER

QUANTITY: 1.440 CFS

PRIORITY DATE: 04/01/1894

POINT OF DIVERSION:

T21N R22E S1 SWNW Within LEMHI County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	1.440 CFS

PLACE OF USE: IRRIGATION in LEMHI County

T22N R22E S31	SENE	20.00	T22N R22E S31	NESE	9.30
T22N R22E S32 Lot 6 NWSW		0.40			

29.7 ACRES TOTAL

Right Nos. 75-4471 and 75-10475 are limited to the irrigation of a combined total of 29.7 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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

ATTACHMENT F

02/27/2009

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

RIGHT NUMBER: 75-4471

NAME AND ADDRESS: SILVER PEAK RANCH TRUST
C/O MYRTHUS AUSTIN/RON AUSTIN
63 HWY 93 N
SALMON ID 83467-5292

SOURCE: WASTE WATER

TRIBUTARY: SALMON RIVER

QUANTITY: 0.600 CFS

PRIORITY DATE: 04/01/1942

POINT OF DIVERSION:

T22N R22E S31 SESW Within LEMHI County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	0.600 CFS

PLACE OF USE: IRRIGATION in LEMHI County

T22N R22E S31	SENE	20.00	T22N R22E S31	NESE	9.30
T22N R22E S32 Lot 6 NWSW		0.40			

29.7 ACRES TOTAL

Right Nos. 75-4471 and 75-10475 are limited to the irrigation of a combined total of 29.7 acres in a single irrigation season.

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

This right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use