

RECEIVED
SEP 04 2009
DEPARTMENT OF
WATER RESOURCES

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

In Re SRBA

Case No. 39576

A. Subcase 63-31418
(Insert water right number)

STANDARD FORM 2
RESPONSE TO OBJECTION

Please **print or type** the following information:

B. NAME AND ADDRESS OF PERSON RESPONDING

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

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

Daytime Phone: 208-373-3831

Name & Address of Attorney, if any:

David L. Negri (208) 334-1936 phone. (208) 334-1414 fax
United States Department of Justice
Environment and Natural Resource Division
General Litigation Section
550 West Fort Street, MSC 033
Boise, Idaho 83724

C. NAME AND ADDRESS OF PERSON WHO FILED THE OBJECTION TO
WHICH YOU ARE RESPONDING

Name: Basin and Range Resource Company, LLC

Address: 3480 GS Richards Boulevard, Suite 101; Carson City, NV. 89703

Name: Dana L. Hofstetter (attorney for objector)

Address: 608 West Franklin Street; Boise, Idaho 83702

D. I am responding to the objections to the following elements. (Please check the appropriate box(es)).

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

11. Recommendation:

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

Objector seeks to overcome IDWR's recommended disallowance of 3.0 acres describing federal public land within NWNE, S34, T06N, R04W. BLM resolved its objection to these 3.0 acres of trespass irrigation pursuant to a Standard Form 5 filed with the court on 02-19-2008 in subcase 63-31417 with Joseph W. Roberts who was the original licensee of 63-07354 and the Director's Report owner of 63-31417. The SF-5 filed by the parties in 63-31417 dismissed the 3.0 acres on federal public land with prejudice.

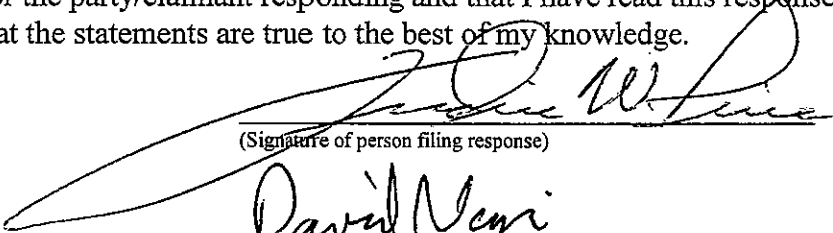
E.

VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of ADA)

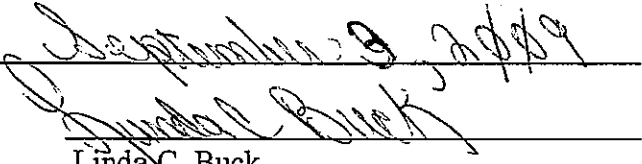
Fredric W. Price, Water Rights Specialist, duly sworn, upon oath, deposes and says:
(Name of person filing response)

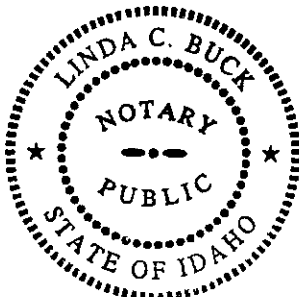
That I am the party/claimant filing this response, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant responding and that I have read this response, know its contents and believe that the statements are true to the best of my knowledge.


(Signature of person filing response)

David Neri
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: September 9, 2009


Linda C. Buck



Notary Public for State of Idaho

Residing at: Mountain Home, ID.

My Commission Expires: 12-21-2011

INSTRUCTIONS FOR MAILING

You must mail the response, 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.

F.

CERTIFICATE OF MAILING

I certify that on 9/3, 2009, I mailed the original and copies of this response, including all attachments, to the following persons:

1. Original to:

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

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

Basin and Range Resource Company, LLC
3480 GS Richards Boulevard, Suite 101; Carson City, Nevada 89703

3. One copy to the party who filed the objection at the following address:

Basin and Range Resource Company, LLC
3480 GS Richards Boulevard, Suite 101; Carson City, NV. 89703
Dana L. Hofstetter (attorney for objector)
608 West Franklin Street; Boise, Idaho 83702

4. Copies to:

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

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


Your signature or signature of attorney mailing on your behalf

AMENDED DIRECTOR'S REPORT
FILED 07-31-2009

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

RIGHT NUMBER: 63-31418

NAME AND ADDRESS: BASIN AND RANGE RESOURCE COMPANY LLC
3480 G S RICHARDS BLVD #101
CARSON CITY NV 89703

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 2.340 CFS
526.500 AFY

This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre for irrigation of the lands above.

PRIORITY DATE: 03/28/1974

POINT OF DIVERSION:

T06N R04W S34 SENW Within PAYETTE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/15 11/15

2.340 CFS
526.50 AFY

The use of water for irrigation under this right may begin as early as March 1, provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION in PAYETTE County

T06N R04W S34	SWNE	24.00	T06N R04W S34	NENW	14.50
T06N R04W S34	SENE	12.50	T06N R04W S34	NESE	25.00
T06N R04W S34	NWSE	23.00	T06N R04W S34	SESE	18.00

117 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 - License

This right is subject to all prior water rights and may be forfeited by five years of non-use.

The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.

This right is a split from former right 63-7354.

Modifications to or variance from this license must be made with the limits of Section 42-222, Idaho Code, or the applicable Idaho law.

ORIGINAL DIRECTOR'S REPORT
B63 I#0, PART 3

12/14/2006

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

RIGHT NUMBER: 63-31418
NAME AND ADDRESS: JOHN ROORDA
14040 WILLIS RD
CALDWELL ID 83607

LARRY ROORDA
14040 WILLIS RD
CALDWELL ID 83607

SOURCE: GROUND WATER TRIBUTARY:
QUANTITY: 2.200 CFS
495.00 AFY
PRIORITY DATE: 03/28/1974
POINT OF
DIVERSION: T06N R04W S34 SENW Within PAYETTE County
PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	2.200 CFS 495.00 AFY

The use of water for irrigation under this right may begin as early as March 1, provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION in PAYETTE County

T06N R04W S34	SWNE	24.00	T06N R04W S34	NENW	14.50
T06N R04W S34	SENE	12.50	T06N R04W S34	NESE	18.00
T06N R04W S34	NWSE	23.00	T06N R04W S34	SESE	18.00

110 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 - License

This right is a split from former right 63-7354.

PAYETTE COUNTY 075
BOISE DISTRICT SEC 3

MT PLAT

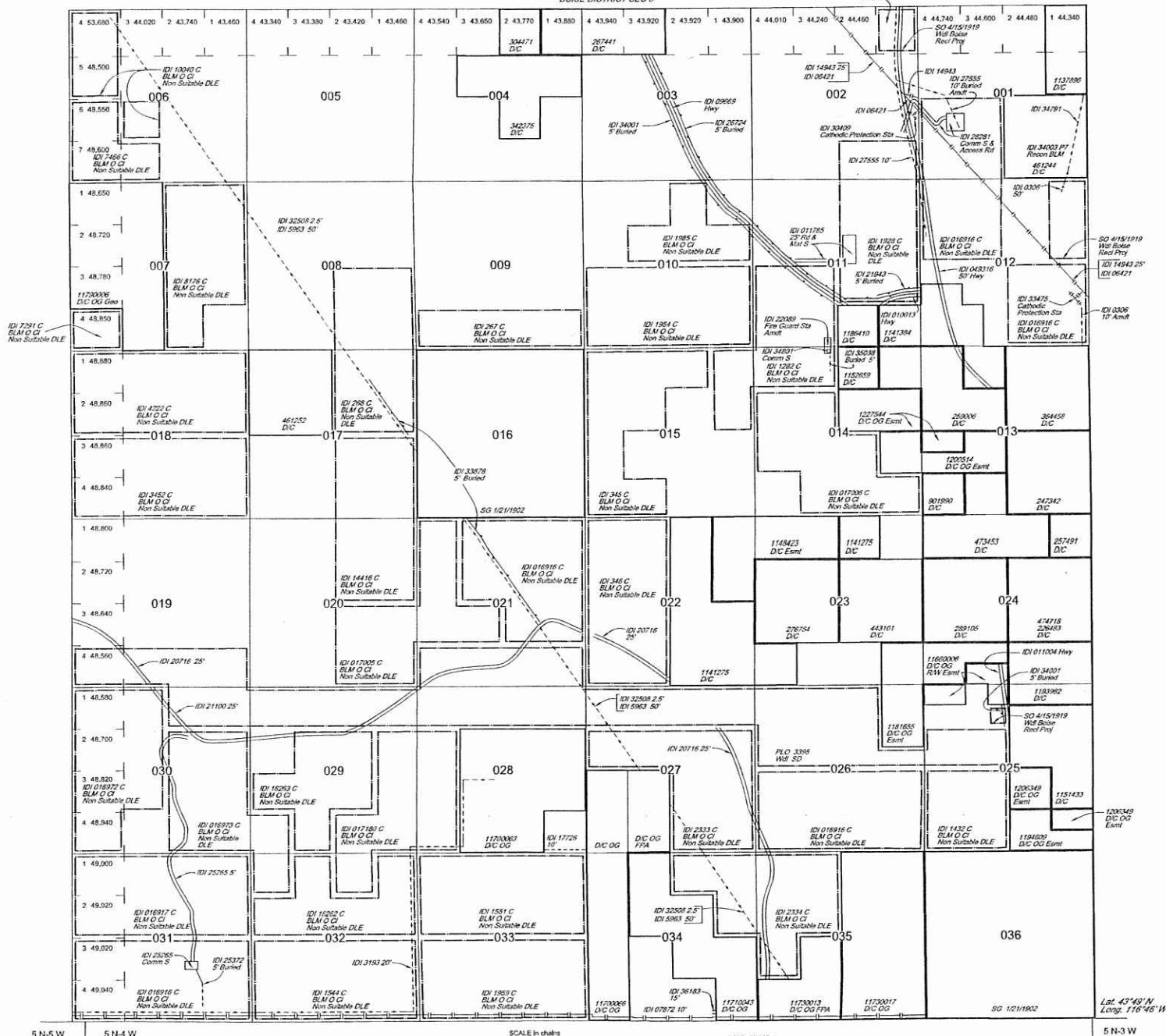
B 027560 Black Canyon Irrigation Dist (Act of Cong
8/11/1916) affects land in
Secs 1 to 4 Incl
Secs 10 to 14 Incl
Secs 22 to 26 Incl

B 027560 Black Canyon Irrigation Dist (Act of Cong
8/11/1916) affects land in

Secs 1 to 4 Incl
Secs 10 to 14 Incl
Secs 22 to 26 Incl

FOR ORDERS EFFECTING DISPOSAL OR USE OF
UNIDENTIFIED LAND REFER TO INDEX OF
MISCELLANEOUS DOCUMENTS

FILE REF: I208050N0347H4M10000.dwg	
CONVERTED TIF: 01/22/2005	BY: ST
LAST UPDATED: 01/22/2009	BY: JCB
QA/QC #1:	QA/QC #2:
POSTED TO PUBLIC RECORDS: July 2, 2009	
BY:	
PUBLIC LAND SURVEY SYSTEM (PLSS)	
BLM GDSB ACQUIRED:	04/26/2005
OTHER:	NA
PROJECTED COORDINATE SYSTEM: UTM ZONE 11N, NAD 1983	
NOTES:	
USE PLATS:	



DISCLAIMER:

This plot is only a graphic display of the Bureau of Land Management's (BLM) Record of Title and township survey data. Records herein do not reflect title changes which may have been affected by lateral movements of river or other bodies of water. Refer to cadastral surveys for official information.

The notation shown on withdrawals represent the last action taken, but may not be the effective date. See the historical index for the date of original withdrawal order.

No warranty is made by the Bureau of Land Management. The accuracy, reliability, or completeness of these data for individual use or aggregate use with other data is not guaranteed.

Bolsn Mer.

T. 6 N
R. 4 W