

RECEIVED

FEB 05 2010

DEPARTMENT OF
WATER RESOURCES

Claimant Name:

Three Creeks Ranch, L.L.C.

Attorney Name & Address:

James P. Speck, ISB#2067

Speck & Aanestad

A Professional Corporation

120 East Avenue

P.O. Box 987

Ketchum, Idaho 83340

Phone: (208) 726-4421

FAX: (208) 726-0752

E-mail: jim@speckandaanestad.com

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 37-2553B

Case No. 39576

AFFIDAVIT OF JAMES P. SPECK IN
SUPPORT OF MOTION TO FILE LATE
OBJECTION

STATE OF IDAHO

County of Blaine

:ss

I, JAMES P. SPECK, being over the age of eighteen years, make this affidavit based on personal information.

1. I am a shareholder of the law firm of Speck & Aanestad, a Professional Corporation, the counsel of record for Three Creeks Ranch, L.L.C., the Claimant for this water right.

2. Attached hereto as **Exhibit A** is a copy of the recommendation for Water Right No.

37-2553A, the other portion of the parent for the water right which is the subject of this Subcase, as filed with this Court in February, 2007.

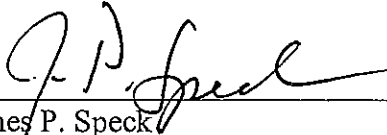
3. Attached hereto as **Exhibit B** is a copy of approved Transfer 4254 which forms the basis for the recommendation of Water Right No. 37-2553B.

4. Attached hereto as **Exhibit C** is a copy of the original notice of claim filed for the water right which is the subject of this Subcase by then-owner Three Creeks Ranch, Inc., on November 27, 1990.

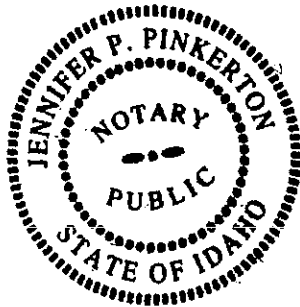
5. Attached hereto as **Exhibit D** is a copy of the notice of claim for the water right which is the subject of this Subcase sent to the Claimant herein by the Idaho Department of Water Resources in September, 2001 after processing the change of water right ownership when Claimant acquired the property from Three Creeks Ranch, Inc.

6. Attached hereto as **Exhibit E** is a copy of my January 6, 2010 email exchange with Mr. Doug Jones, the IDWR agent working on these Subcases. Mr. Jones agrees the recommendation is 37-2553B is incorrect and suggests my client file an Objection to correct it.

DATED this 2 day of February, 2010.


James P. Speck

SUBSCRIBED AND SWORN TO before me this 2 day of February, 2010.



Jennifer P. Pinkerton
NOTARY PUBLIC for Idaho
Residing at: Ketchum, ID
Comm. Expires: 2/9/15

CERTIFICATE OF SERVICE

I hereby certify that on the 3 day of February, 2010, I served a true and correct copy of the foregoing AFFIDAVIT OF JAMES P. SPECK IN SUPPORT OF MOTION TO FILE LATE OBJECTION on the following persons in the manner designated below:

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

- ☒ United States Mail, Postage Prepaid
☐ Hand Delivery
☐ Facsimile, with copy by United States Mail, Postage Prepaid

Three Creeks Ranch L.L.C.
1901 Bayadere Terrace
Corona Del Mar, CA 92625

- ☒ United States Mail, Postage Prepaid
☐ Hand Delivery
☐ Facsimile, with copy by United States Mail, Postage Prepaid

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

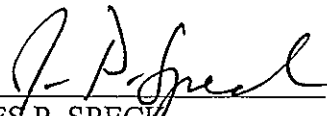
- ☒ United States Mail, Postage Prepaid
☐ Hand Delivery
☐ Facsimile, with copy by United States Mail, Postage Prepaid

The United States Department of Justice
Environmental and Natural Resources
Division
550 West Fort Street
Box 33
Boise, ID 83724

- ☒ United States Mail, Postage Prepaid
☐ Hand Delivery
☐ Facsimile, with copy by United States Mail, Postage Prepaid

Idaho Department of Water Resources
Document Depository
P.O. Box 83720
Boise, ID 83720-0098

- ☒ United States Mail, Postage Prepaid
☐ Hand Delivery
☐ Facsimile, with copy by United States Mail, Postage Prepaid


JAMES P. SPECK

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

RIGHT NUMBER: 37-2553A

NAME AND ADDRESS: AUBREY SPRING RANCH LLC
8836 N HESS ST STE D
HAYDEN ID 83835

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 2.000 CFS
350.00 AFY

This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 afa per acre for irrigation of the lands above.

PRIORITY DATE: 06/28/1954

POINT OF
DIVERSION: T01S R19E S14 SESENE Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/31	2.000 CFS 350.00 AFY

PLACE OF USE: IRRIGATION in BLAINE County

T01S R19E S14	NENE	15.00	T01S R19E S14	SENE	35.00
T01S R19E S14	NESE	27.00	T01S R19E S14	SESE	23.00

100 ACRES TOTAL

Right Nos. 37-252, 37-712, 37-2553A, 37-2553B, 37-2575, 37-2686D and 37-7598D are limited to the irrigation of a combined total of 224 acres in a single irrigation season.

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

The right holder shall use the full allotment of his surface water right, to the extent it is available, in conjunction with groundwater diverted pursuant to this right.

Diversion under Right No. 37-02553A may occur only when flow is available from the original source, an unnamed drain, at the original point of diversion located on or near the line between NENW and NWNW, S14, T01S, R19E.

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

EXHIBIT A

Use of water under this water right will be regulated by the watermaster of State Water District No. 37.

The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 4254
WATER RIGHT NO. 37-02553B

This is to certify that: **WILLIAM A MCMAHAN**
C/O JAMES P SPECK ESQUIRE
PO BOX 987
KETCHUM ID 83340

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/15	2.00 CFS	350.0 AF

SOURCE

GROUNDWATER

Priority: 06/28/1954

LOCATION OF POINT(S) OF DIVERSION:

SENE , Sec. 14, Township 01S, Range 19E
BLAINE County

PLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
01S 19E 14	NENE 15	SENE 35	NESE 27	
	SESE 23			100
		Total number of acres irrigated:		100

CONDITIONS/REMARKS:

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 37M.
2. The right holder shall use the full allotment of his surface water right, to the extent it is available, in conjunction with groundwater diverted pursuant to this right.
3. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.5 afa per acre for the lands above.
4. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.

MICROFILMED

MAR 23 1995

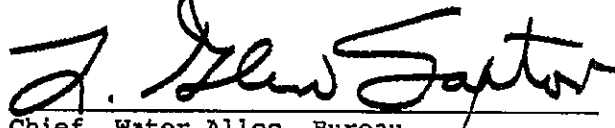
EXHIBIT B

TRANSFER NO. 4254
WATER RIGHT NO. 37-02553B

CONDITIONS/REMARKS:

5. Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.
6. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
7. After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.
8. Diversion under Right No. 37-02553B may occur only when flow is available from the original source, an unnamed drain, at the original point of diversion located on or near the line between NENW and NWNW, S14, T01S, R19E.

Dated this 30th day of January, 1995.


Chief, Water Alloc. Bureau

RECORDED

JAN 23 1995

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:

Ident. Number

Date Received

Receipt Number

39576
A37-02553B

RECEIVED

NOV 27 1990

Department of Water Resources
Southern Region Office

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) THREE CREEKS RANCH, INC. Phone (208) 726-0973

Mailing Address P.O. BOX 1864, KETCHUM, IDAHO Zip 83340

2. Date of Priority (Only one (1) per claim) 6/28/1954

3. Source of water supply (a) DRAINAGE DITCH
which is tributary to (b) LOVING CREEK

4. a. Location of existing point of diversion is: Township 1S Range 19E Section 14,
1/4 of NW 1/4 of NE 1/4, Govt. Lot, B.M., County of BLAINE

Additional points of diversion if any: NENW and NWNW

b. If instream flow, beginning point of claimed instream flow is:

Township Range Section , 1/4 of 1/4 of 1/4,

Govt. Lot B.M., County of

ending point is: Township Range Section , 1/4 of 1/4 of
 1/4, Govt. Lot B.M., County of

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.

MICROFILMED
FEB 23 1993

EXHIBIT C

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For IRRIGATION purposes from 04/01 to 11/01 amount 2 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 2 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
1S	19E	14		30	40		40	40	40	40									230

Total number of acres irrigated 230

11. In which county (ies) are lands listed above as place of use located? BLAINE

12. Do you own the property listed above as place of use? Yes XXXXXXXX No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
A37-04341, A37-07811 or None ()

14. Remarks:

Last Name THREE CREEKS RANCH Ident No. _____
INC.

Copies: White - State, Yellow - Claimant

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FEB 23 1993

Scale: 2 inches equals 1 mile

[illegible]

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FEB 23 1993

Last Name THREE CREEKS RANCH, INC. Ident No.

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License XXX Permit _____
Decree _____ 53 11-28-1990
If applicable provide IDWR Water Right Number 37-02533
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

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 XX
wish to receive and pay a small annual fee for monthly copies of the docket sheet.
Number of attachments 1

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true
and correct.

Signature of Claimant (s) _____ Date _____
_____ Date _____

For Organizations: I do solemnly swear or affirm that I am SECRETARY
Title
of THREE CREEKS RANCH, INC. that I have signed the foregoing
Organization
document in the space below as SECRETARY of THREE CREEKS RANCH, INC.
Title Organization
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Pete deFixey

Title and Organization SECRETARY, THREE CREEKS RANCH, INC. Date 11/9/90

State of Idaho or _____)
County of BLAINE) SS.

Subscribed and sworn (or affirmed) before me this 9th day of November 19 90

SEAL

Notary Public James M. Cenarrusa

Residing at Carey

My Commission Expires 11-10-94

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf
of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above
should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

Last Name THREE CREEKS RANCH
INC. Ident. Number _____

Copies White-State, Yellow-Claimant

MICROFILMED
FEB 23 1993

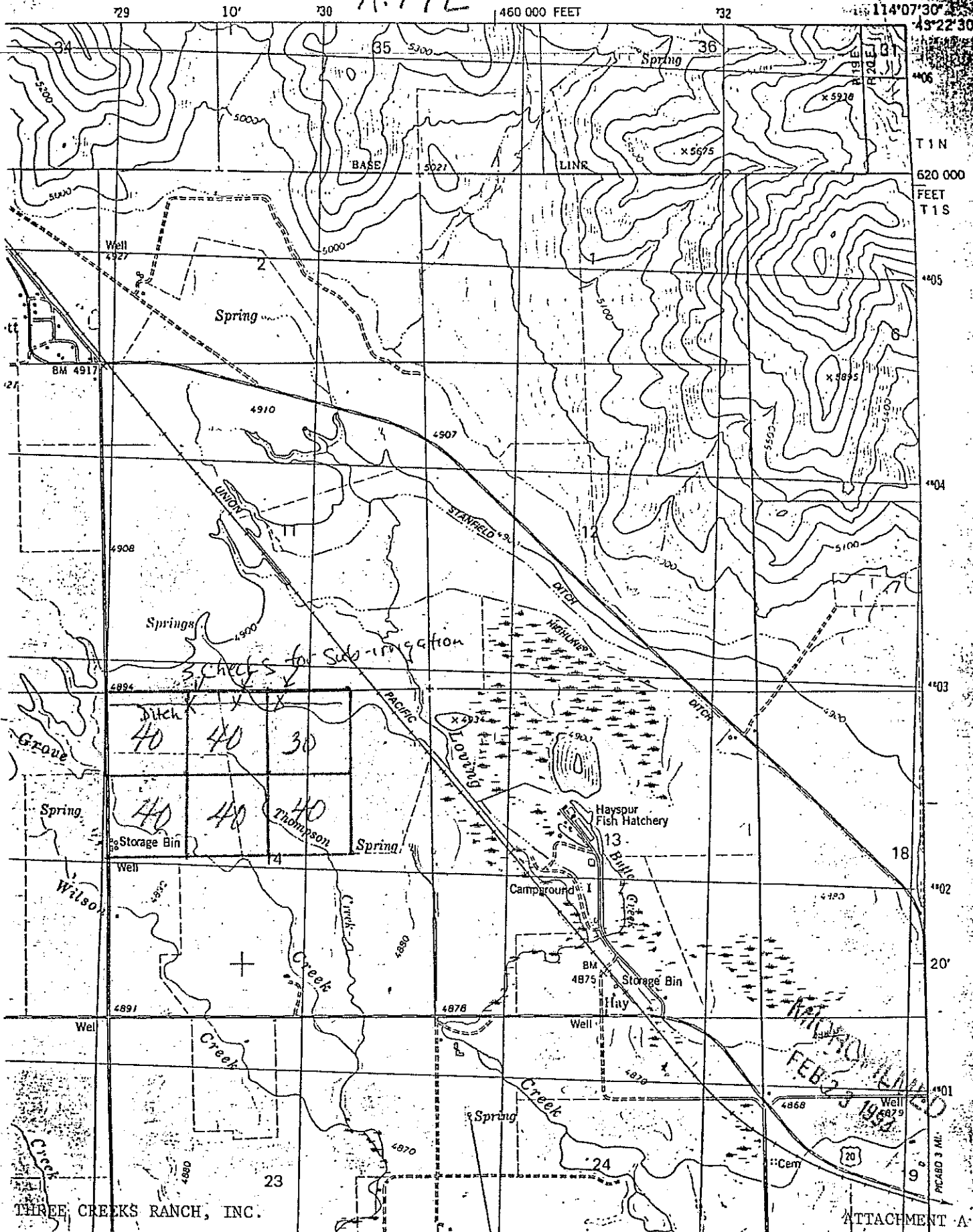
GANNE, T QUADRANGLE

IDAHO-BLAINE CO

7.5 MINUTE SERIES (TOPOGRAPHIC)

R. 19 E

1 mile
1:250,000
Scale



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 37-2553B
Date Received: 11/28/1990
Receipt No: S012856
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

THREE CREEKS RANCH L.L.C. Phone: (714)545-7101x2101

1901 BAYADERE TERRACE
CORONA DEL MAR CA USA 92625

2. Date of Priority: 06/28/1954

3. Source: DRAINAGE DITCH , DRAINAGE DITCH , DRAINAGE DITCH Trib. to: LOVING CREEK
, LOVING CREEK , LOVING CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
01S	19E	14	NE NW	BLAINE	
01S	19E	14	NW NW	BLAINE	
01S	19E	14	NW NE	BLAINE	

5. Description of diverting works:

DITCH, GRAVITY IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/01	11/01	2	920

7. Total Quantity Appropriated is:

2 C.F.S. and/or 920 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
01S	19E	14	NW	NE	IRRIGATION	30
			SW	NE	IRRIGATION	40
			NE	NW	IRRIGATION	40
			NW	NW	IRRIGATION	40
			SW	NW	IRRIGATION	40
			SE	NW	IRRIGATION	40
					Section Acres	230
					Total Acres	230

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:

30 ACRES OVERLAPPED WITH A37-04341

15. Basis of Claim: License

E-mail

From: Jones, Doug
Date: Wed Jan 6, 10 - 5:16 PM - E-mail
To: Jim Speck
CC:
Subject: RE: Three Creeks Ranch/Water Rights - 37-2553B

Contact: Mr. Doug Jones
File: Three Creeks Ranch/Water Rights - 1533/090105

YES! It was brought to my attention by an in-house person a while ago and in that spare minute I was going to have I then was going to correct it and somehow submit "corrected" DR's. Please, please object.

Doug

-----Original Message-----

From: Jim Speck [mailto:jim@speckandaanestad.com]
Sent: Wednesday, January 06, 2010 5:13 PM
To: Jones, Doug
Cc: Fawcett, Trish; jack@croul.com; steve.fishguy@gmail.com
Subject: Re: Three Creeks Ranch/Water Rights - 37-2553B

Doug,

I was recently retained to work on some water rights issues for the property in the Silver Creek area known as Three Creeks Ranch. Unfortunately this water right was recommended in the Director's Report in February 2007 to the wrong place of use. Trish scanned in the claim file and it is clear it was claimed by the previous owner correctly as appurtenant to the Ranch, it has never been transferred or otherwise moved, and yet it was for some reason that can't be determined from the scanned file, recommended on the adjacent property where the other portion of the original right was transferred by the then owner, a client of mine, Bill McMahan!! My new client, Three Creeks Ranch, LLC, did not notice the error and thus failed to file an objection.

Can you please confirm that this recommendation was, in fact, a mistake. I will then file a motion for a late objection. Thanks for your help and Happy New Year!!

Jim

James P. Speck
SPECK & AANESTAD
A Professional Corporation
120 East Avenue
P.O. Box 987
Ketchum, ID 83340
208.726.4421
208.726.0752 (fax)
jim@speckandaanestad.com

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EXHIBIT E