

RECEIVED

MAY 20 2010

DEPARTMENT OF
WATER RESOURCES

Dale Gooby:
18 Savage Ranch Road
Salmon, ID 83467
May 17, 2010
Pro Se:

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

In Re SRBA	)	Subcase 75-14092 (Gooby)
	)	
	)	
	)	
Case No. 39576	)	MOTION TO ALTER OR AMEND
	)	SPECIAL MASTER'S RECOMMENDATION
_____	)	FOR SUBCASE 75-14092

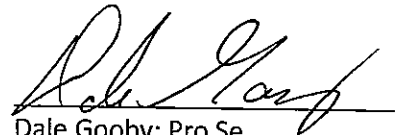
I would like to request that the place of use for the above claim be amended to reflect the 0.19 cfs/ 9.7 acres, as was originally outlined and proposed in the first SPECIAL MASTER REPORT AND RECOMMENDATION dated January 11, 2007, based on the following reasons:

- 1) The objection filed on February 1 and 9, 2007, by Jeff Waite and Dan Farley alleged only that the water right should not exist and did not object to the quantity or place of use.
- 2) It was never made clear at the hearing that lines drawn on the map by Bill Maxwell would become the quantitative basis by which place of use would be determined. I understood Mr. Maxwell's testimony to be used as additional information for determining irrigated areas in places where the aerial photography used by Idaho Department of Water Resources, as well as field investigation did not support the claim. I did not understand it would be used as the basis to deny irrigated lands where Idaho Department of Water Resources, using aerial photography and field investigations, clearly and accurately identified and quantified the place of use.

MOTION TO ALTER OR AMMEND
SPECIAL MASTER'S RECOMMENDATION
FOR SUBCASE 75-14092

- 3) Documentation that I originally provided to IDWR in the form of several years of aerial photography were accurate and sufficient to quantify unambiguously the place of use, using the GIS software that Idaho Department of Water Resources used. The original recommendations were reasonably accurate and certainly more accurate than the lines freehand drawn by Mr. Maxwell, from memory, on an aerial photo of marginal quality.
- 4) Mr. Maxwell has provided an affidavit stating that the lines (polygon), that he drew on the large aerial photo during the hearing on September 30th, 2009 to delineate lands owned by Dale Gooby that are currently irrigated, is in error. Mr. Maxwell further states that the original recommendation delineated by IDWR, January 11, 2007, were indeed accurate. That affidavit is attached.

Dated: May 17th, 2010



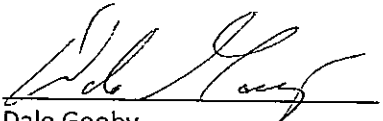
Dale Gooby: Pro Se
18 Savage Ranch Road
Salmon, Id 83467

VERIFICATION

State of Idaho
County of Lemhi

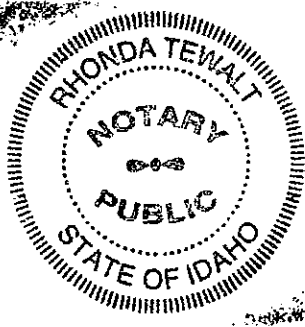
I Dale Gooby, being first duly sworn, upon oath, deposes and says:

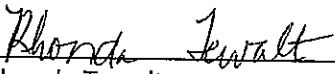
That I am the party/claimant filing this motion to alter or amend SPECIAL MASTER'S RECOMMENDATION FOR SUBCASE 75-14092, as defined by SRBA Administrative Order 1, Section 13a, I have written its contents and believe them to be true to the best of my knowledge.


Dale Gooby
18 Savage Ranch Rd
Salmon, ID 83467

Subscribed and sworn to before me, this 17 {day of month} day of May {month}, 2010,

{Notary Seal:}




Rhonda Tewalt
Notary Public for Idaho
Residing at: Salmon, Idaho
My Commission expires: 8-25-2014

GENERAL AFFIDAVIT

State of Idaho
County of Lemhi

BEFORE ME, the undersigned Notary, Rhonda Tewalt {name of Notary before whom affidavit is sworn}, on this 14 {day of month} day of May {month}, 2010, personally appeared Bill Maxwell {name of affiant}, known to me to be a credible person and of lawful age, who being by me first duly sworn, on his oath, deposes and says:

On September 30th, 2009 during a hearing on Dale Gooby's and other Wallace creek water right claims, I was asked to mark on an aerial photo the areas that I considered to be currently irrigated. I have since reviewed with Dale Gooby the draft recommendations (April 27, 2010) for his water right claims. I see that the line that I marked on Dale Gooby's property is in error. After reviewing higher quality Aerial Imagery than that presented at the hearing, I would agree that the original irrigated area recommended by IDWR January 11th, 2007 was reasonably accurate.

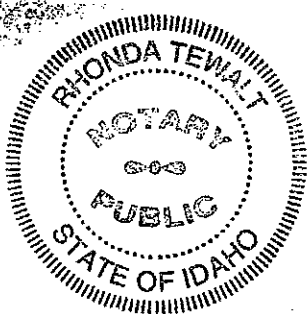
{set forth affiant's statement of facts}

Bill Maxwell
{signature of affiant}

Bill Maxwell
PO Box 256
Carmen, ID 83462

Subscribed and sworn to before me, this 14 {day of month} day of May {month}, 2010,

{Notary Seal:}



Rhonda Tewalt
{signature of Notary} 8.25-2014

Ronda Tewalt

CERTIFICATE OF MAILING

I certify that on May 17, 2010, I mailed the original and copies of this MOTION TO ALTER OR AMEND SPECIAL MASTER'S REPORT FOR SUBCASE 75-14092, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

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. Copies to:

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

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO 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

Dick Williams
Greg Bourdon
Linda Barinaga
Represented by:
Jerry R. Rigby
25 N. 2nd E.
PO Box 250
Rexburg, ID 83440-0250
Phone: 208-356-3633

Dan F Farley
Represented by:
Milton A. Slavin
Attorney at law
116 N. Center St.
Salmon, ID 83467
Phone: 208-756-2030

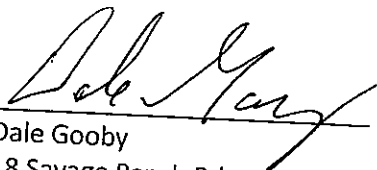
Jeffrey V. Waite
PO box 75
Carmen, ID 83462
Phone: 208-303-0153

David Jeffrey Odell
2742 Alpenglow Rd
Stevensville, MT 59870

David Yanoff
343 Diamond Creek Rd
Salmon, ID 83467-5298
Phone: 208-756-2248

Greg Bourdon
Vera M. Hartley Trust
59 Savage Ranch Rd
Salmon, ID 83467
Phone: 208-756-8315

Michelle Sneed
Russell Sneed
9449 Pershing Ave.
Orangevale, CA 95662



Dale Gooby
18 Savage Ranch Rd
Salmon, ID 83467