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 51-4037
Date Received: 1/21/1994
Receipt No: W017115
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

WATERONE ENTERPRISES LLC Phone: (209) 839-1151

251 VERSAILLES CT
TRACY CA USA 95376

2. Date of Priority: 06/20/1885

3. Source: MURPHY HOT SPRINGS Trib. to: JARBIDGE RIVER EAST FORK

4. Point of Diversion:

Township	Range	Section	1/4	of 1/4	of 1/4	Lot	County	Type
16S	09E	24		NW	NW		OWYHEE	

5. Description of diverting works:

PIPELINE, GRAVITY FED TO HOUSE, LODGE, HOT BATHS & SWIMMING POOL

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
COMMERCIAL	01/01	12/31	0.04	
DOMESTIC	01/01	12/31	0.02	

7. Total Quantity Appropriated is:
0.06 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4	of 1/4	Lot	Use	Acres
16S	09E	24	NW	NW		COMMERCIAL	
			NW	NW		DOMESTIC	

11. Place of use in counties: OWYHEE

12. Do you own the property 1isted above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

CLAIM AMENDED 10/24/01 SB. PER STANDARD FORM 4, APPROVED MOTION TO FILE AMENDED NOTICE OF CLAIM AND PER CONFERENCE WITH SPECIAL MASTER DOLAN 10/24/01.

COMMERCIAL USE IS FOR SWIMMING POOL, TUBS, INTERNAL USE FOR LODGE FACILITIES, AND 1 TRAILER.

THIS CLAIM WAS ORIGINALLY FILED ON THE SHORT FORM, AND THE CLAIMANT PAID $25 UNDER RECEIPT NUMBER W017115. SINCE THE USE IS COMMERCIAL, ADDITIONAL FEES, INCLUDING A LATE FEE, ARE REQUIRED
STATUATORY CLAIM WAS PERFECTED PRIOR TO 05/20/1971
OWNERSHIP CHANGED 07/08/1996. WARRANTY DEED DOES NOT SUPPORT OWNERSHIP BY MATTHEW OLIVAS. MM
OWNERSHIP CHANGED 04/08/1997. QUIT CLAIM DEED IN FILE. MM

15. Basis of Claim: Beneficial Use

RECEIVED
SEP 12 2001
Department of Water Resources

Name of Party Filing Document:
WaterOne Enterprises, LLC

Attorney Name & Address:
Timothy J. Schneider, ISB No. 6070
Roger D. Ling, ISB No. 1018
LING & ROBINSON
615 H Street, P. O. Box 396
Rupert, Idaho 83350

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	Subcase No. 51-04037
Case No. 39576	**STANDARD FORM 4**
	MOTION TO FILE:
	☐ **LATE NOTICE OF CLAIM**
	☒ **AMENDED NOTICE OF CLAIM**

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy both sides with the even-number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in ***SRBA Administrative Order 1, Rules of Procedure*** (amended Sept. 4 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

■ I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

My name is WaterOne Enterprises, LLC

My address is 281 Versailles Court
Tracy, California 95376

My phone number is: Work: (209) 839-1151 Home:

I am an attorney representing WaterOne Enterprises, LLC

My name is Timothy J. Schneider

My address is P.O. Box 396
Rupert, Idaho 83350

My phone number is (208) 436-4717

MOTION TO FILE A LATE NOTICE OF CLAIM

A *Motion to File a Late Notice of Claim* will require a hearing before the Presiding Judge.

□ I did not file a Notice of Claim to the use of water in the SRBA because:

□ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

□ I am providing legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

I have attached

- ☐ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. §42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of $_____.
- ☐ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of $_____.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

   This motion will be heard on _____
   (Insert date and time)

   in the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A *Motion to File an Amended Notice of Claim* may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

☒ I must amend my Notice of Claim to the use of water in the SRBA because:

Following consultation with the Department of Water Resources, it was determined that the nature of use of this water right was for commercial use in a swimming pool and hot tubs, and that the claim for heating was inaccurate.

■ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.

We are relying upon those documents on file with the Court in Subcase No. 51-04037

I have attached

■ An amended Notice of Claim (available from IDWR).

□ Payment of the following additional fees required by IDWR:

VERIFICATION (Must be Completed)

State of Idaho

County of Minidoka

Timothy J. Schneider, **duly sworn, upon oath, deposes and says:**
(Name of person filing objection)

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. § 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on: September 6, 2001
(Insert Date)

JUDY BARNES
NOTARY PUBLIC
STATE OF IDAHO

Notary Public for the State of Idaho
Residing at: Rupert, Idaho
My Commission expires: 02/12/2005

INSTRUCTION FOR MAILING

You must mail the objection, including all attachments, to the Clerk of the Court. **FAX filings will not be** accepted by the **Clerk of the Court**. You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I hereby certify that on September 6, 2001, I mailed the original and copies of this motion, 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
P.O. Box 2707
Twin Falls, Idaho 83303-2707

2. 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, Idaho 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 033
Boise, ID 83724

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that subcase.

Garrick Baxter
Deputy Attorney General
Water Resources Unit
Natural Resources Division
1301 N. Orchard Street
Boise, ID 83726-2237

Janet OCrowley
16 Stub Road
Carey, ID 83320

David Gehlert
Deputy Attorney General
Natural Resources Division
P. O. Box 7720
Boise, ID 83720-0010

Terrence A. Dolan
Special Master
Snake River Basin Adjudication
P. O. Box 2707
Twin Falls, ID 83303-2707

Signature of person or attorney mailing the form

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: 51-04037

Date Received: 0/00/0000
Receipt No: X111111
Received By: _____

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

1. Name: WaterOne Enterprises, LLC
Address: 51 Versailles Court
Tracy, California 95376

2. Date of Priority: 06/20/1885

3. Source: Hot Springs Trib. to: Jarbidge River, East Fork

4. Point of diversion: T16S R09E S24

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
Domestic	01/01	12/31	.02 CFS		
Commercial	01/01	12/31	.04 CFS		

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

Use of This right With Right Nos.:

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses: Commercial use

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
16S	09E	24	NW NW		Commercial	
16S	09E	24	NW NW		Domestic	

THIS RIGHT IS IMITED TO

11. **Place** of se in **counties:** **OWYHEE**

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

13. **Other Wa** c Rights **Used:**

NONE

14. **Remarks:**

15. **Basis** of im: **BENEFICIAL USE**

16. **Signature**
(a.) By gning below, I/We acknowledge that I/We have received, read, and under tand the form entitled "How you will receive notice in the Snake Riv r Basin Adjudication." (b.) I/We do ___ do not _X_ wish to receive a d pay a small annual fee for monthly copies of the docket sheet.

For Organizati s. I do solemnly swear or affirm that I am the attorney (Title) for WaterOne nterprises, LLC (Organization), that I have signed the foregoing document in th space below as attorney (Title) for WaterOne Enterprises, LLC (Organization), and that the state ts contained in the foregoing document are true and correct.

Signatur f Authorized Agent _____

Title and ganization Attorney for WaterOne Enterprises, LLC

Date: 09/ 01

State of Idaho)
)
County of N gok)

Subscribed and n (or affirmed) before me this 6th day of September, 2001.

SEAL Y BARNES
NOTARY PUBLIC
STATE OF IDAHO

Notary Public _____
Notary Public, State of Idaho
Residing at: Rupert Idaho
My Commission Expires: 02/12/2005
Please Print Name: Judy Barnes

17. **Notice of Appearance:**

Notice is hereby given that I, Timothy J. Schneider **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 P.O. Box 396, Rupert, Idaho 83350

Date: September 3, 2001

Form 42-1409(6) July, 2000

RECEIVED
APR 04 2001
WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

RECEIVED
APR 02 2001
Department of Water Resources
Southern Region

Please print or type. Attach pages with additional information. Instructions are included at the end of this form. Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

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MAY 25 2001
WATER RESOURCES
WESTERN REGION

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
51-04037	51-04037				

2. The following **REQUIRED** information must be submitted with this form:

A. The appropriate **FILING FEE.** See instructions for fee amounts. N/A

B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION.**

C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The AERIAL PHOTO should be submitted in place of the PLAT OF PROPERTY or SURVEY MAP.

3. Name and Address of Former Owner/Claimant(s): Matthew Olivas
Desert Hot Springs
Rogerson, Idaho 83302

4. New Owner/Claimant(s): WaterOne Enterprises, LLC
Name Connector (Check one): [ ] and, [ ] or, [ ] and/or

New Mailing Address: 251 Versailles Court

City, State and ZIP Code: Tracy, California 95376

New Telephone Number: (209) 839-1151

5. Date you acquired the property: 01/17/2001

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation		
Stock		
Domestic		
Other _____		
Total		

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation		
Stock		
Domestic		
Other _____		
Total		

7. Signature of New Owner(s) or Claimant(s) Thomas Scroggins
(include title if applicable)

Thomas Scroggins, CEO, WaterOne Enterprises, LLC

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by _____ Date _____ Fee _____
Receipted by _____ Date _____ Receipt No. _____
Processed by _____ AJ Date _____ WR _____ Date _____

51-04027	1-30-1998	JOSE BARINAGA TRUST	PD ISSUED
51-04028	1-30-1998	JOSE BARINAGA TRUST	PD ISSUED
51-04031	3-19-2001	USDI BLM	PD ISSUED
51-04032	12-01-2000	BLICK RANCHES	PD ISSUED
51-04033	11-16-1998	USDI BLM	PD ISSUED
51-04035	6-12-2000	FLOPET INC	PD ISSUED
51-04036	6-23-1998	BLICK RANCHES	PD ISSUED
51-04037	8-23-2001	OLIVAS, MATTHEW	TRIAL SET
	LAST EVENT/DATE:	MOTION FILED 4-30-2001	
	NEXT EVENT/DATE:	DISCVY CUTOFF 6-01-2001	
51-04038	4-26-2001	INGRAM, DELORES D	PD ISSUED
51-04039	1-30-1998	NYE, CLARENCE H	PD ISSUED
51-04040	12-01-2000	BUCK CREEK RANCH INC	PD ISSUED
51-04041	6-23-1998	BUCK CREEK RANCH INC	PD ISSUED
51-04045	12-01-2000	BRACKETT LIVESTOCK INC	PD ISSUED
51-04046	10-27-1999	USDI BLM	PD ISSUED
51-04047	12-01-2000	DEPT OF FISH & GAME	PD ISSUED
51-04048			

RECEIVED
APR 02 2001
Department of Water Resources
Southern Region

TRUSTEE'S QUITCLAIM DEED

THIS INDENTURE, Made as of this 17th day of January, 2001, by and between Lois K. Murphy, trustee, ("Grantor"), and Waterone Enterprises, LLC ("Grantee"), at 251 Versailles Ct., Tracy, CA 95376.

WITNESSETH:

WHEREAS, Grantor was duly and regularly appointed as qualified trustee of the bankruptcy estate of Matthew Olivas and Trini R. Olivas ("Debtors"), being bankruptcy Case No. 00-01741, now pending in the United States Bankruptcy Court for the District of Idaho; and,

WHEREAS, The trustee Grantor has authority to sell property of the estate pursuant to 11 USC 363(b)(1) and said Notice of Sale by Trustee was filed with the bankruptcy court on December 15, 2000 with a duly noticed auction held on January 12, 2001;

WHEREAS, Grantor sold and Grantee purchased at said auction whatever rights the bankruptcy estate may have had in real property of the Debtors being subject to an Amended Order, Judgment and Decree of Foreclosure filed May 12, 2000 and various other liens and encumbrances including IRS liens; and,

NOW, THEREFORE, for valuable consideration received, Grantor does hereby release and quitclaim to Grantee, its successors and assigns forever, any right, title, interest, and estate the debtors and the bankruptcy estate may have had by operation of law or otherwise in and to the following real property situated in Owyhee, Idaho, described as follows:

See Exhibit A attached.

Said conveyance is made subject to all liens and encumbrances of any kind remaining on the property and is further made without any warranties of title, condition, marketability, habitability, fitness or any other express or implied warranty. Grantor does not warrant that the bankruptcy estate had any such interest. The property is conveyed "AS IS and WHERE IS".

IN WITNESS THEREOF, Signed:

Lois K. Murphy

By: Lois K. Murphy, Trustee

STATE OF IDAHO)
) ss.
County of Ada)

On this 17th day of January, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Lois K. Murphy, known or identified to me to be the person whose name is subscribed to the within instrument, as Trustee in Bankruptcy for Matthew Olivas and Trini R. Olivas, and acknowledged to me that he executed the same as in his own name as Trustee in said Bankruptcy.

IN WITNESS THEREOF, I have hereunto set my hand and affixed my official seal as of the day and year in this certificate first above written.

Notary Public of Idaho
Residing in Boise, Idaho
Commission Expires: 9-27-01

NYCHELL L. EARLS NOTARY PUBLIC STATE OF IDAHO

RECORDING INFORMATION:

FEE 4.00 Ling Robinson

OWYHEE COUNTY RECORDER
BY K. Hughes
DEPUTY

235339

FILED - RECORDED
01 MAR 19 AM 9:13

EXHIBIT "A"

A parcel of land within the West Half of the Northwest Quarter (W½NW¼) of Section 24, Township 16 South, Range 9 East, Boise Meridian, Owyhee County, Idaho, and more particularly described as follows:

COMMENCING at a brass-cap marking the Northwest corner of Section 24, Township 16 South, Range 9 East, Boise Meridian;
THENCE South 54°09' East, 859.6 feet to the true point of beginning;
THENCE South 34°13' East, 560.0 feet;
THENCE South 55°47' West, 1230.7 feet to the west boundary of said Section 24;
THENCE North 0°13' East, 678.9 feet along the west boundary of said Section 24;
THENCE North 55°47' East, 846.9 feet to the True Point of Beginning. Together with all water rights evidenced by water right numbers

EXCEPTING THE FOLLOWING DESCRIBED 2 PARCELS OF LAND: 51-04037, A51-04037

PARCEL NO. 1: and A51-12760

A parcel of land in the NW¼, Section 24, Township 16 South, Range 9 East, Boise Meridian, being more particularly described as follows:

BEGINNING at the NW corner of the NW¼ of Section 24, Township 16 South, Range 9 East, Boise Meridian
THENCE running South 0°12'33" West for a distance of 358.0 feet to a point;
THENCE running South 35°36'34" East for a distance of 512.9 feet, said point is the TRUE POINT OF BEGINNING, said point is also the SW corner of Lot 1, Block 12 of Murphy Hot Springs Subdivision No. 1 as recorded in Owyhee County Courthouse;
THENCE South 26°30' East for a distance of 124.28 feet;
THENCE North 56°28' East for a distance of 189.61 feet;
THENCE North 46°27' West for a distance of 128.32 feet to a point, which lies on the Southerly boundary of said Murphy Hot Springs Subdivision No. 1;
THENCE South 55°47' West for a distance of 145.43 feet, along the Southerly boundary of Lot 1, Block 12, Murphy Hot Springs Subdivision No. 1 to the TRUE POINT OF BEGINNING.

PARCEL NO. 2:

A parcel of land in the NW¼ of Section 24, Township 16 South, Range 9 East, Boise Meridian, Owyhee County, Idaho, described as follows:

BEGINNING at the Northeast corner of Lot 28, Block 7, Murphy Hot Springs Subdivision No. 2, Owyhee County, Idaho;
THENCE North 34°13'00" West 37.5 feet to a point;
THENCE South 55°47'00" West 85 feet, more or less, to the East Bank of Jarbidge River;
THENCE in a Southeasterly direction 37.5 feet, more or less, to the Northwest corner of Lot 29, Block 7 of Murphy Hot Springs Subdivision No. 2;
THENCE North 55°47'00" East 80.8 feet to the Point of Beginning.

TOGETHER with 0.060 (cfs) of water evidenced by IDWR Water Right Number 51-04037.

RECEIVED
SEP 2 1 1998
WATER RESOURCES
WESTERN REGION

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: **R51-04037**
Date Received: 1/21/1994
Receipt No: W017115
Received By: _____

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

1. Name: MATTHEW OLIVAS 208-857-2233
   Address: DESERT HOT SPRINGS
   ROGERSON ID 83302

2. Date of Priority: JUN 20, 1885

3. Source: MURPHY HOT SPRINGS Trib. to: JARBIDGE RIVER, EAST FORK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
16S	09E	24	SW NW NW		OWYHEE

5. Description of diverting works:
   SPRINGS (TWO) PIPED TO HOUSE, POOL, BATHS, AND LODGE.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
HEATING	01/01	12/31	0.040		
DOMESTIC	01/01	12/31	0.020		
COMMERCIAL	01/01	12/31	0.020		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
16S	09E	24	NW NW		DOMEST	
			NW NW		COMMER	
			NW NW		HEAT	

11. Place of use in counties: OWYHEE

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

13. Other Water Rights Used:
51-12760

14. Remarks:
USE IS FOR 1 HOME; COMMERCIAL USE, POOL, BATHS, LODGE; AND HEATING.
WATER TEMPERATURE MEASURED AT 117 DEGREES F.

15. Basis of Claim: BENEFICIAL USE

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 X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 2

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: 9-18-98

_____ Date: _____

State of Idaho)
) SS.
County of Twin Falls)

Subscribed and sworn (or affirmed) before me this 18th day of September 19 98

_____
Notary Public

Seal

Residing at Twin Falls, Id

My Commission Expires 2/4/2000

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: **A51-04037**
Date Received: 1/21/1994
Receipt No: W017115
Received By: _____

COPY FOR YOUR FILES **NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW** **COPY FOR YOUR FILES**

1. Name: MATTHEW OLIVAS 208-857-2233
   Address: DESERT HOT SPRINGS
   ROGERSON ID 83302

2. Date of Priority: JUL 1, 1934

3. Source: MURPHY HOT SPRINGS Trib. to: JARBIDGE RIVER, EAST FORK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
16S	09E	24	NW NW		OWYHEE

5. Description of diverting works:
   PIPELINE, GRAVITY FED TO HOUSE, LODGE, HOT BATHS & SWIMMING POOL

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
HEATING	01/01	12/31	0.040		
DOMESTIC	01/01	12/31	0.020		
COMMERCIAL	01/01	12/31	0.020		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
   1 HOUSEHOLD/HOT SPRINGS POOL FOR BATHING & SWIMMING POOL & LODGE.

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
16S	09E	24	NW NW		HEAT	
			NW NW		DOMEST	

11. Place of use in counties: OWYHEE

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

13. Other Water Rights Used:
A51-12760

14. Remarks:
THIS CLAIM WAS ORIGINALLY FILED ON THE SHORT FORM, AND THE CLAIMANT PAID $25 UNDER RECEIPT NUMBER W017115. SINCE THE USE IS COMMERCIAL, ADDITIONAL FEES, INCLUDING A LATE FEE, ARE REQUIRED.
STATUATORY CLAIM WAS PERFECTED PRIOR TO 05/20/1971.
OWNERSHIP CHANGED 07/08/1996. WARRANTY DEED DOES NOT SUPPORT OWNERSHIP BY MATTHEW OLIVAS. MM.
OWNERSHIP CHANGED 04/08/1997. QUIT CLAIM DEED IN FILE. MM.

15. Basis of Claim: STATUTORY CLAIM

Form 42-248/42-1409(6) 1/9/97

RECEIVED
MAR 3 1 1997
WATER RESOURCES
WESTERN REGION

REC VED

STATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES

MAR 2 7 1997

Department of Water Resources
Southern Region

NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are on the back of this page.
Incomplete forms will be returned.

1. Water Right No(s).: _____

ALL Adjudication Claim No(s).: ASI-04037 (RSI-04037) and ASI-12760 (RSI-12760)

2. The following REQUIRED information must be submitted with this form:

   A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.

   AND

   B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually attached to your deed or on file with the county.)

   OR

   C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.

3. Name and Address of Former Owner/Claimant: SYLVIA OLIVAS
   DESERT HOT SPRINGS, ROGERSON, ID 83302

4. New Owner/Claimant(s): Mathew Olivas
   Name Connector (Check one): [ ] and, [ ] or, [ ] and/or
   New Mailing Address: Desert Hot Springs
   City, State and ZIP Code: Rogerson Id 83302
   New Telephone Number: (208) 857-2233

5. Date you acquired the property: Sept 9, 1996

6. If you have acquired only a portion of the former owner's property, IDWR may need to split tbe water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.

   Number of acres you irrigate _____ Number and type of stock _____

   Diversion rate in CFS _____ Number of homes _____ Other uses _____

   If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.

7. Signature of New Owner or Claimant(s): _____

   (Corporations or other organizations must submit a list of directors and/or officers demonstrating authority to sign form.)

8. For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him or her for all matters related to your claims..

* Signature of Former Owner _____

QUITCLAIM DEED

For Value Received, **SYLVIA OLIVAS**, _____,

does (do) hereby convey, release, remise and forever quit claim

unto **MATTHEW OLIVAS**,

whose address is: Desert Hot Springs, Rogerson, Idaho 83302,

the following described premises, to-wit.

See Exhibit "A" attached hereto and by this reference made a part hereof.

together with their appurtenances.

TWIN FALLS COUNTY, IDAHO
RECORDED FOR: Ellsworth, et al
1996 SEP 12 P 3:19 199601584

ROBERT D. FORT
EX-OFFICIO RECORDER
FEE: 6.00 DEPUTY: CF

DATED:

SYLVIA OLIVAS

STATE OF IDAHO, COUNTY OF Ada
On this 9th day of September, 1996,
before me, a notary public in and for said State,
personally appeared

SYLVIA OLIVAS

known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

Notary Public
Residing at _____, Idaho
My commission expires: 1-17-2001

STATE OF IDAHO, COUNTY OF
I hereby certify that this instrument was filed
at the request of
at _____ minutes past _____ o'clock _____ m.
this _____ day of _____,
19 _____, in my office, and duly recorded in Book of
Deeds at page _____

Ex-Officio Recorder

By _____ Deputy

Fees $
Mail to:

A parcel of land within the West Half of the Northwest Quarter (W½NW¼) of Section 24, Township 16 South, Range 9 East, Boise Meridian, Owyhee County, Idaho, and more particularly described as follows:

COMMENCING at a brass-cap marking the Northwest corner of Section 24, Township 16 South, Range 9 East, Boise Meridian;

THENCE South 54°09' East, 959.6 feet to the true point of beginning;

THENCE South 34°13' East, 560.0 feet;

THENCE South 55°47' West, 1230.7 feet to the west boundary of said Section 24;

THENCE North 0°13' East, 678.9 feet along the west boundary of said Section 24;

THENCE North 55°47' East, 846.9 feet to the True Point of Beginning.

EXCEPTING THE FOLLOWING DESCRIBED 2 PARCELS OF LAND:

PARCEL NO. 1:

A parcel of land in the NW¼, Section 24, Township 16 South, Range 9 East, Boise Meridian, being more particularly described as follows:

BEGINNING at the NW corner of the NW¼ of Section 24, Township 16 South, Range 9 East, Boise Meridian

THENCE running South 0°12'33" West for a distance of 358.0 feet to a point;

THENCE running South 35°36'34" East fora distance of 512.9 feet, said point is the TRUE POINT OF BEGINNING, said point is also the SW corner of Lot 1, Block 12 of Murphy Hot Springs Subdivision No. 1 as recorded in Owyhee County Courthouse;

THENCE South 26°30' East for a distance of 124.29 feet;

THENCE North 56°28' East for a distance of 189.61 feet;

THENCE North 46°27' West for a distance of 128.32 feet to a point, which lies on the Southerly boundary of said Murphy Hot Springs Subdivision No. 1;

THENCE South 55°47' West for a distance of 145.43 feet, along the Southerly boundary of Lot 1, Block 12, Murphy Hot Springs Subdivision No. 1 to the TRUE POINT OF BEGINNING.

PARCEL NO. 2:

A parcel of land in the NW¼ of Section 24, Township 16 South, Range 9 East, Boise Meridian, Owyhee County, Idaho, described as follows:

BEGINNING at the Northeast corner of Lot 28, Block 7, Murphy Hot Springs Subdivision No. 2, Owyhee County, Idaho;

THENCE North 34°13'00" West 37.5 feet to a point;

THENCE South 55°47'00" West 85 feet, more or less, to the East Bank of Jarbidge River;

THENCE in a Southeasterly direction 37.5 feet, more or less, to the Northwest corner of Lot 29, Block 7 of Murphy Hot Springs Subdivision No. 2;

THENCE North 55°47'00" East 80.8 feet to the Point of Beginning.

TOGETHER with 0.060 (cfs) of water evidenced by IDWR Water Right Number 51-04037.

EXHIBIT "A"

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: **A51-04037**
Date Received: 1/21/1994
Receipt No: W017115
Received By: _____

COPY FOR YOUR FILES | **NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW** | **COPY FOR YOUR FILES**

1. Name: SYLVIA OLIVAS 208-857-2233
   Address: DESERT HOT SPRINGS
   ROGERSON ID 83302

2. Date of Priority: JUL 1, 1934

3. Source: MURPHY HOT SPRINGS Trib. to: JARBIDGE RIVER, EAST FORK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
16S	09E	24	NW NW		OWYHEE

5. Description of diverting works:
   PIPELINE, GRAVITY FED TO HOUSE, LODGE, HOT BATHS & SWIMMING POOL

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
HEATING	01/01	12/31	0.040		
DOMESTIC	01/01	12/31	0.020		
COMMERCIAL	01/01	12/31	0.020		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
   1 HOUSEHOLD/HOT SPRINGS POOL FOR BATHING & SWIMMING POOL & LODGE.

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
16S	09E	24	NW NW		HEAT	
			NW NW		DOMEST	

11. Place of use in counties: OWYHEE

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

13. Other Water Rights Used:
A51-12760

14. Remarks:
THIS CLAIM WAS ORIGINALLY FILED ON THE SHORT FORM, AND THE CLAIMANT PAID $25 UNDER RECEIPT NUMBER W017115. SINCE THE USE IS COMMERCIAL, ADDITIONAL FEES, INCLUDING A LATE FEE, ARE REQUIRED.
STATUATORY CLAIM WAS PERFECTED PRIOR TO 05/20/1971.
OWNERSHIP CHANGED 07/08/1996. WARRANTY DEED DOES NOT SUPPORT OWNERSHIP BY MATTHEW OLIVAS. MM.

15. Basis of Claim: STATUTORY CLAIM

Form 42-1409(7)

NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type
(see instructions on back of page)

RECEIVED
JUN 27 1996
Department of Water Resources
Southern Region

DATE OF CLOSING: _____

LEGAL DESCRIPTION OF PROPERTY: Township_____ Range_____
Section_____,_____1/4 of_____1/4 of_____1/4,Govt. Lot_____,
Lot_____,Block,_____,Subdivision/Townsite_____.
If you have additional legal descriptions, please attach separate sheet.

RECEIVED
JUN 28 1996
WATER RESOURCES
WESTERN REGION

[ ] Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)

[ ] Water Right Number(s) Assigned by IDWR: A51-04037, A51-12760

[ ] Name and Address of Former Owner/Claimant(s)(Seller): ANITA F AND HARRY B SHOWALTER
MURPHY HOT SPRINGS
ROGERSON ID 83302

[ ] New Owner/Claimant (Purchaser): MATTHEW ~~MICHAEL~~ AND/OR SYLVIA OLIVAS

New Mailing Address: Desert Hot Springs
Rogerson Id 83302
208 852-2237

New Telephone Number: (Fax 852-2237)

[ ] Does the change in ownership result in a splitting of the water right owned/claimed? ___yes _X_no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

Attach proof of ownership, describe proof attached: _____

(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

Signature of New Owner/Claimant(s) _____ Date 6-24-96
_____ Date

[ ] Signature of Former Owner/Claimant(s): _____ Date
_____ Date

(Signature of former claimant(s) is not required if proof of ownership is attached.)

FOR IDWR USE ONLY:
Initial Review and Data-Entry
Date: 07/08/1996 **By:** TM
Further Action Needed:

Further Action Taken
Date: 07/08/1996 **By:** TM
Final Review and Data-Entry
Date: 07/08/1996 **By:** TM
Claim Numbers of Split, if any:
N/A

Original to be mailed to Idaho Department of Water Resources
Copies to Former Owner and New Owner

RECEIVED
JUN 27 1996
Department of Water Resources
Southern Region

FILED-RECORDED
'94 FEB 7 PM 12 53
211977
BARBARA KING
OWYHEE COUNTY RECORDER
BY [illegible]
DEPUTY
INDEXED
MICROFILMED

RECEIVED
JUN 28 1996
WATER RESOURCES
WESTERN REGION

WARRANTY DEED

FOR VALUE RECEIVED, **HARRY B. SHOWALTER** and **ANITA SHOWALTER**, husband and wife, the Grantors, do hereby grant, bargain, sell and convey unto **SYLVIA OLIVAS**, a single person, the Grantee, whose address is c/o Matthew Olivas, 806 E Street, Rupert, , 83350, the following described premises, to-wit:

A parcel of land within the West Half of the Northwest Quarter (W½NW¼) of Section 24, Township 16 South, Range 9 East, Boise Meridian, Owyhee County, Idaho, and more particularly described as follows:

COMMENCING at a brass-cap marking the Northwest corner of Section 24, Township 16 South, Range 9 East, Boise Meridian;
THENCE South 54°09' East, 859.6 feet to the true point of beginning;
THENCE South 34°13' East, 560.0 feet;
THENCE South 55°47' West, 1230.7 feet to the west boundary of said Section 24;
THENCE North 0°13' East, 678.9 feet along the west boundary of said Section 24;
THENCE North 55°47' East, 846.9 feet to the True Point of Beginning.

EXCEPTING THE FOLLOWING DESCRIBED 2 PARCELS OF LAND:

PARCEL NO. 1:

A parcel of land in the NW¼, Section 24, Township 16 South, Range 9 East, Boise Meridian, being more particularly described as follows:

BEGINNING at the NW corner of the NW¼ of Section 24, Township 16 South, Range 9 East, Boise Meridian

THENCE running South 0°12'33" West for a distance of 358.0 feet to a point;

THENCE running South 35°36'34" East for a distance of 512.9 feet, said point is the TRUE POINT OF BEGINNING, said point is also the SW corner of Lot 1, Block 12 of Murphy Hot Springs Subdivision No. 1 as recorded in Owyhee County Courthouse;

THENCE South 26°30' East for a distance of 124.28 feet;

THENCE North 56°28' East for a distance of 189.61 feet;

THENCE North 46°27' West for a distance of 128.32 feet to a point, which lies on the Southerly boundary of said Murphy Hot Springs Subdivision No. 1;

THENCE South 55°47' West for a distance of 145.43 feet, along the Southerly boundary of Lot 1, Block 12, Murphy Hot Springs Subdivision No. 1 to the TRUE POINT OF BEGINNING.

PARCEL NO. 2:

A parcel of land in the NW¼ of Section 24, Township 16 South, Range 9 East, Boise Meridian, Owyhee County, Idaho, described as follows:

BEGINNING at the Northeast corner of Lot 28, Block 7, Murphy Hot Springs Subdivision No. 2, Owyhee County, Idaho;

THENCE North 34°13'00" West 37.5 feet to a point;

THENCE South 55°47'00" West 85 feet, more or less, to the East Bank of Jarbidge River;

THENCE in a Southeasterly direction 37.5 feet, more or less, to the Northwest corner of Lot 29, Block 7 of Murphy Hot Springs Subdivision No. 2;

THENCE North 55°47'00" East 80.8 feet to the Point of Beginning.

TOGETHER with 0.060 (cfs) of water evidenced by IDWR Water Right Number 51-04037.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, their heirs and assigns

forever. And the said Grantors do hereby covenant to and with the said Grantees, that they are the owners in fee simple of said premises; that said premises are free from all encumbrances except those of record or apparent and, except for those encumbrances, they will warrant and defend the same from all lawful claims whatsoever.

DATED this 4th day of February, 1994.

Harry B. Showalter
HARRY B. SHOWALTER

Anita Showalter
ANITA SHOWALTER

STATE OF IDAHO)
: ss.
County of Twin Falls)

On this 4th day of February, 1994, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared HARRY B. SHOWALTER and ANITA SHOWALTER, husband and wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

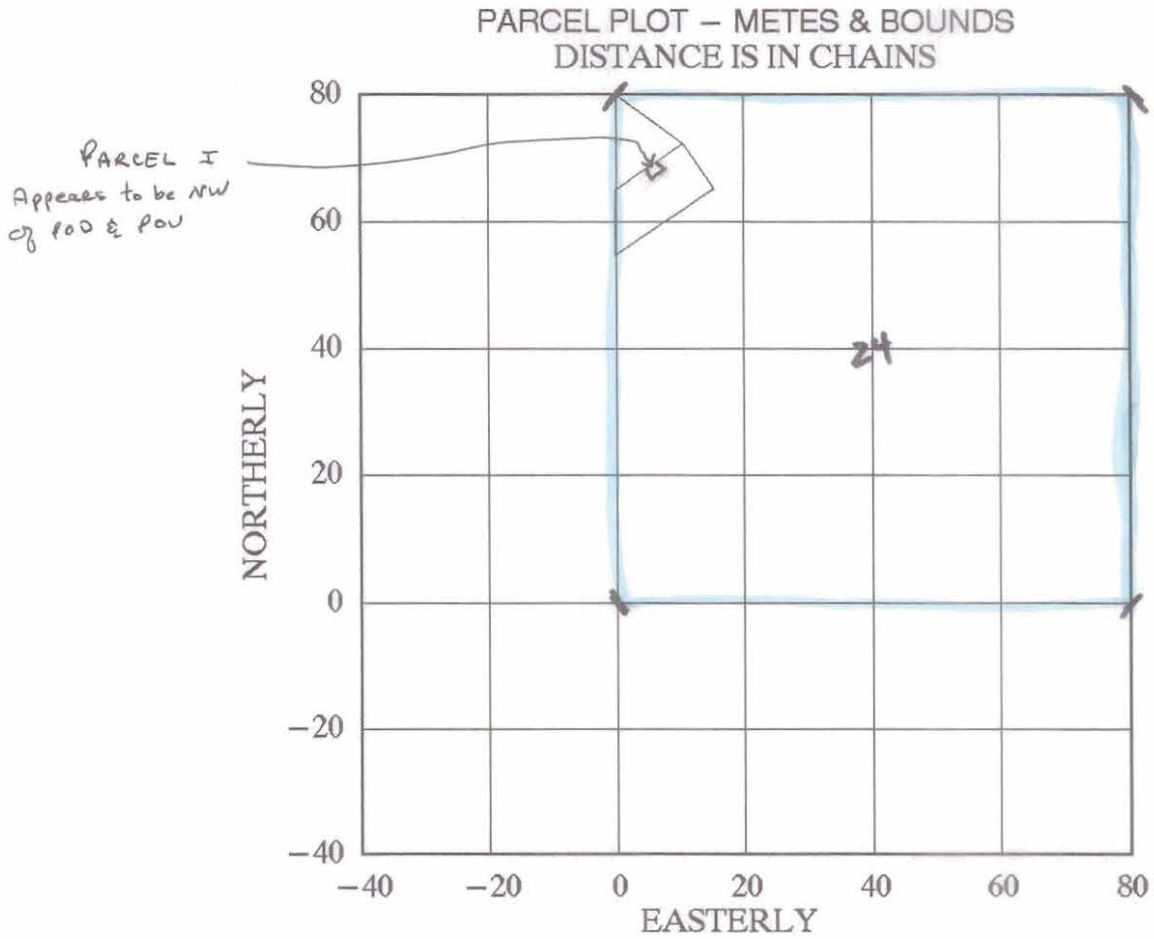
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY PUBLIC STATE OF IDAHO

Notary Public for Idaho
Residing at Burley
Commission Expires: 7-12-95

(ROK\4036WD.00J)

A51-04037
A51-12760



Showalter to Olwes

T16S R09E 5.24

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: **A51-04037**
Date Received: 2/ 4/1994
Receipt No: W17145+W17151
Received By: LRWeMM

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

1. Name: HARRY B SHOWALTER 208-857-2233
   Address: MURPHY HOT SPRINGS
   ROGERSON ID 83302
   OR
   Name: ANITA F SHOWALTER 208-857-2233
   Address: MURPHY HOT SPRINGS
   ROGERSON ID 83302

2. Date of Priority: JUL 1, 1934

3. Source: MURPHY HOT SPRINGS Trib. to: JARBIDGE RIVER, EAST FORK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
16S	09E	24	NW NW		OWYHEE

5. Description of diverting works:
   PIPELINE, GRAVITY FED TO HOUSE, LODGE, HOT BATHS & SWIMMING POOL

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
HEATING	01/01	12/31	0.040		
DOMESTIC	01/01	12/31	0.020		
COMMERCIAL	01/01	12/31	0.020		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
   1 HOUSEHOLD/HOT SPRINGS POOL FOR BATHING & SWIMMING POOL & LODGE.

10. Place of Use:

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
16S	09E	24	NW	NW		HEAT	
			NW	NW		DOMEST	

11. Place of use in counties: OWYHEE

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

13. Other Water Rights Used:
A51-12760

14. Remarks:
THIS CLAIM WAS ORIGINALLY FILED ON THE SHORT FORM, AND THE CLAIMANT PAID $25 UNDER RECEIPT NUMBER W017115. SINCE THE USE IS COMMERCIAL, ADDITIONAL FEES, INCLUDING A LATE FEE, ARE REQUIRED.
STATUATORY CLAIM WAS PERFECTED PRIOR TO 05/20/1971.

15. Basis of Claim: STATUTORY CLAIM

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 ____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____

_____ Date: _____

State of Idaho)
) SS.
County of _____)

Subscribed and sworn (or affirmed) before me this _____ day

of _____ 19 _____

_____
Notary Public

Seal

Residing at _____

My Commission Expires _____

Form No. 42-1409 (2) b 9/88

RECEIVED

JAN 19 1994

Department of Water Resources
Southern Region Office

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

Identification No 51-04037

Date Received 1-21-94

Receipt Number 0017115

RECEIVED

JAN 21 1994

WATER RESOURCES
WESTERN REGION

NOTICE OF CLAIM TO A WATER RIGHT

ACQUIRED UNDER STATE LAW

For Domestic and/or Stockwater Purposes
Where Daily Use is less than 13,000 gallons per day.

Filing Fee $25

Please type or print clearly

1. Name of Claimant (s) Harry B. Showalter & Anita F. Showalter Phone (208) 857-2233

Mailing Address Murphy Hot Springs, Rogerson, Idaho Zip 83302

2. Date of Priority (Only one per claim) 07/01/34 Month/Day/Year

3. Source of water supply (Check one) (X) Groundwater or Other ( ) (a) Murphy Hot Springs
Name or kind of source

which is tributary to (b) Jarbidge River, East Fork

4. Location of point of diversion is: Township 16S Range 09E

Section 24, NW 1/4 of NW 1/4 of _____ 1/4, Gov. Lot _____, BM,

County of Owyhee

Additional points of diversion if any: None

5. Description of existing diversion works (Ditches, Wells, Pumps, Pipelines, Headgate 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. pipeline, gravity fed to house, lodge, hot baths and swimming pool

6. Water is claimed for the following: (limited to Domestic and/or Stockwater only. See Instructions.)

		Month/Day		Month/Day		(cfs)
For heating	purposes from	01/01	to	12/31	amount	0.04
For domestic & commercial	purposes from	01/01	to	12/31	amount	0.02

(Both dates are inclusive)

7. Total quantity claimed 0.060 (cfs) 1/19/01/01 to 12/31 .02

8. Total consumptive use claimed is *de minimus*

9. Non-irrigation uses. Describe fully. (Domestic: give number of households served if single ownership, Stockwater: Number and Number of livestock) 1 household/Hot Springs Pools for bathing and swimming pool and lodge.

10. Place of use is: Township: 16S Range 09E

Section 24, NW 1/4 of NW 1/4, Govt. Lot _____ B M

County of Owyhee for (Circle One) **Domestic** **Stock** **Domestic and Stock**

Additional places of use, if any None

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

12. Do you own the property listed above as place of use? Yes X 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 purpose as described above. None XX

14. Remarks: Statutory claim was perfected prior to 5/20/71

15. Basis of Claim (Circle One) Beneficial Use Posted Notice License Permit Decree

Court _____ Decree Date _____ Plaintiff vs Defendant _____

If applicable provide IDWR Water Right Number 51-04037

16. Signature (s)

Number of Attachments zero

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

Signature of Claimant (s) x Harry B. Showalter Date 1-11-94
x Anita I. Showalter Date 1-11-94

For Organizations: I do solemnly swear or affirm that I am _____

of _____ (Organization), that I have signed the foregoing
document in the space below as _____ (Title) of _____ (Organization)
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____ Date _____

Title and Organization _____

State of Idaho/or _____)
) SS.
County of Twin Falls)

Subscribed and sworn (or affirmed) before me this 11th day of January 1994

SEAL

Notary Public Russell Kroening
Residing at Twin Falls, Id
My Commission Expires 8-12-99

Last Name _____ Ident No _____

Copies: White State, Yellow Claimant

RECEIVED
JAN 19 1994
Department of Water Resources
Southern Region Office

STEPHAN, KVANVIG, GREENWOOD, STONE & TRAINOR
ATTORNEYS AT LAW
FIRST SECURITY BANK BUILDING
102 MAIN AVENUE SOUTH
POST OFFICE BOX 83
TWIN FALLS, IDAHO 83303-0083

ROBERT W. STEPHAN 1946-1992
RUSSELL G. KVANVIG
RICHARD D. GREENWOOD
LAIRD B. STONE
KEVIN F. TRAINOR
ROBERT C. NICHOLSON

FRANK L. STEPHAN 1886-1952
DANIEL A. SLAVIN 1938-1987
OFFICE ADMINISTRATOR
ESTHER BOPP
TELEPHONE 208/733-2722
FAX 208/733-3619

RECEIVED
JAN 21 1994
WATER RESOURCES
WESTERN REGION

January 19, 1994

State of Idaho
Department of Water Resources
220 Shoshone Street East
Twin Falls, ID 83301

Re: Harry B. and Anita F. Showalter

Gentlemen:

Please file the attached Notice of Claim to a Water Right for Harry B. and Anita F. Showalter. Our check for your filing fee in the amount of $25 accompanies the Notice.

If you have any questions or need anything additional please feel free to contact our office or the Showalters.

Sincerely,

STEPHAN, KVANVIG, GREENWOOD,
STONE & TRAINOR

Denise Green

Denise Green, Legal Assistant

Enclosures

(RGK\4036LDWR.003)

SPECIAL POWER OF ATTORNEY

BE IT KNOWN BY THESE PRESENTS, that We, **HARRY B. SHOWALTER** and **ANITA F. SHOWALTER**, of Rogerson, Idaho, have made, constituted and appointed and by these presents do make, constitute and appoint **OWYHEE COUNTY TITLE COMPANY**, of Murphy, Idaho, our true and lawful attorney for us and in our names, place and stead and for use and benefit to deal with all matters pertaining to any and all water rights standing in our names on the real estate located in Owyhee County, Idaho, a description of which is as follows:

A parcel of land within the West Half of the Northwest Quarter (W½NW¼) of Section 24, Township 16 South, Range 9 East, Boise Meridian, Owyhee County, Idaho, and more particularly described as follows:

COMMENCING at a brass-cap marking the Northwest corner of Section 24, Township 16 South, Range 9 East, Boise Meridian;

THENCE South 54°09' East, 859.6 feet to the true point of beginning;

THENCE South 34°13' East, 560.0 feet;

THENCE South 55°47' West, 1230.7 feet to the west boundary of said Section 24;

THENCE North 0°13' East, 678.9 feet along the west boundary of said Section 24;

THENCE North 55°47' East, 846.9 feet to the True Point of Beginning.

EXCEPTING THE FOLLOWING DESCRIBED 2 PARCELS OF LAND:

PARCEL NO. 1:

A parcel of land in the NW¼, Section 24, Township 16 South, Range 9 East, Boise Meridian, being more particularly described as follows:

BEGINNING at the NW corner of the NW¼ of Section 24, Township 16 South, Range 9 East, Boise Meridian

THENCE running South 0°12'33" West for a distance of 358.0 feet to a point;

THENCE running South 35°36'34" East for a distance of 512.9 feet, said point is the TRUE POINT OF BEGINNING, said point is also the SW corner of Lot 1, Block 12 of Murphy Hot Springs Subdivision No. 1 as recorded in Owyhee County Courthouse;

THENCE South 26°30' East for a distance of 124.28 feet;

THENCE North 56°28' East for a distance of 189.61 feet;

THENCE North 46°27' West for a distance of 128.32 feet to a point, which lies on the Southerly boundary of said Murphy Hot Springs Subdivision No. 1;

THENCE South 55°47' West for a distance of 145.43 feet, along the Southerly boundary of Lot 1, Block 12, Murphy Hot Springs Subdivision No. 1 to the TRUE POINT OF BEGINNING.

PARCEL NO. 2:

A parcel of land in the NW¼ of Section 24, Township 16 South, Range 9 East, Boise Meridian, Owyhee County, Idaho, described as follows:

BEGINNING at the Northeast corner of Lot 28, Block 7, Murphy Hot Springs Subdivision No. 2, Owyhee County, Idaho;

THENCE North 34°13'00" West 37.5 feet to a point;

THENCE South 55°47'00" West 85 feet, more or less, to the East Bank of Jarbidge River;

THENCE in a Southeasterly direction 37.5 feet, more or less, to the Northwest corner of Lot 29, Block 7 of Murphy Hot Springs Subdivision No. 2;

THENCE North 55°47'00" East 80.8 feet to the Point of Beginning.

giving and granting unto our said attorney full power and authority to do and perform every act and thing whatsoever requisite and necessary to be done, as fully to all intents and purposes as we might or could do if personally present, hereby ratifying and confirming anything that our said attorney shall lawfully do or cause to be done by virtue of these presents.

This power of attorney is revocable, provided, that insofar as any governmental agency, bank, trust company, insurance company, transfer agent, or other persons shall rely upon this power, this power may be revoked only by a notice in writing executed by us or our agent and delivered to such person or institution.

This Special Power of Attorney shall not be affected by disability of the principal.

Third parties may rely upon the representations of our

ent as to all matters relating to any power granted to our agent, and no person who may act in reliance upon the representations of our agent or the authority granted to our agent shall incur any liability to us or our estate as a result of permitting our agent to exercise any power.

IN WITNESS WHEREOF, We have executed this Special Power of Attorney this 4th day of February, 1994.

Harry B. Showalter
HARRY B. SHOWALTER

Anita F. Showalter
ANITA F. SHOWALTER

STATE OF IDAHO)
: ss.
County of Twin Falls)

On this 4th day of February, 1994, before me, the undersigned, a Notary Public for Idaho, personally appeared HARRY B. SHOWALTER and ANITA F. SHOWALTER, husband and wife, known or identified to me to be the persons whose names are subscribed to the foregoing 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.

Notary Public for Idaho
Residing at Ex
Commission Expires: 7-12-99

(RGK\4036POA.003)

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12 2003
Department of Water Resources

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED
2003 DEC 11 PM 2 44

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	)	**For Water Right 51-04037**
	)	
Case No. 39576	)	**ORDER OF PARTIAL DECREE**
	)	

On May 19, 2003, the Special Master issued a ***2nd Amended Special Master's Report and Recommendation*** for the above-captioned water right in accordance with a *Standard Form 5* executed by the parties. On June 30, 2003, a *Motion to Alter or Amend* was filed. On October 7, 2003, the Special Master entered an ***Order Partially Granting Motion to Dismiss; Order Dismissing Motion to Alter or Amend; Order Vacating Trial Setting; and Order Denying Motion for Attorney's Fees and Costs (October 17, 2003, Order)***. No Challenges were filed to the Special Master's ***October 17, 2003, Order*** *and* the time for filing Challenges has expired.

Pursuant to I.R.C.P. 53(e)(2) and ***SRBA Administrative Order 1***, Section 13f, this Court has reviewed both the Findings of Fact and Conclusions of Law contained in the ***2nd Amended Special Master's Report*** and in the ***October 17, 2003, Order*** and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 51-04037 is hereby **decreed** as set forth in the attached ***Partial Decree(s) Pursuant to I.R.C.P. 54(b)***.

DATED: December 11, 2003

JOHN M. MELANSON
Presiding Judge of the
Snake River Basin Adjudication

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED
2003 DEC 11 PM 2 44

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	)	PARTIAL DECREE PURSUANT TO
	)	I.R.C.P. 54(b) FOR
Case No. 39576	)	
	)	Water Right 51-04037

NAME AND ADDRESS: WATERONE ENTERPRISES LLC
251 VERSAILLES CT
TRACY, CA 95376

SOURCE: MURPHY HOT SPRINGS TRIBUTARY: EAST FORK JARBIDGE RIVER

QUANTITY: 0.06 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 06/20/1885

POINT OF DIVERSION: T16S R09E S24 SWNWNW Within Owyhee County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Domestic	01-01 TO 12-31	0.02 CFS
Commercial	01-01 TO 12-31	0.04 CFS

COMMERCIAL USE IS FOR POOL, BATHS, INTERNAL LODGE USE AND 1 TRAILER.

PLACE OF USE:

Commercial		Within Owyhee County
T16S R09E S24	NWNW	
Domestic		Within Owyhee County
T16S R09E S24	NWNW	

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR DOMESITIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF PARTIAL DECREE was mailed on December 11, 2003, with sufficient first-class postage to the following:

WATERONE ENTERPRISES, LLC
Represented by:
KEVIN J. BEATON
101 S CAPITOL BLVD STE 1900
BOISE, ID 83702-5958
Phone: 208-389-9000

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

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

WATERONE ENTERPRISES LLC
251 VERSAILLES CT
TRACY, CA 95376

JANET O'CROWLEY
317 W C ST
SHOSHONE, ID 83352
Phone: 208-823-4554

WATERONE ENTERPRISES LLC
359 N 400 W
PAUL, ID 83347

Deputy Clerk

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Department of Water Resources

2003 OCT -7 AM 11: 34
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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	) **Subcase 51-04037**
	) **(WaterOne Enterprises, LLC)**
Case No. 39576	)
	) **ORDER PARTIALLY GRANTING**
	) **MOTION TO DISMISS; ORDER**
	) **DISMISSING MOTION TO ALTER**
	) **OR AMEND; ORDER VACATING**
	) **TRIAL SETTING; AND ORDER**
	) **DENYING MOTION FOR**
	) **ATTORNEYS FEES AND COSTS**

Procedural Background

On May 19, 2003, the Special Master entered a ***2nd Amended Special Master Report*** recommending that WaterOne Enterprises LLC ("WaterOne") is entitled to a partial decree adjudicating a water right under claim 51-04037 as agreed to by the parties in a *Standard Form 5*. The *SF-5* was signed by claimant WaterOne (Thomas Scroggins and WaterOne's attorneys, Stoel Rives LLP, by Kevin Beaton) and respondents Janet O'Crowley, Char Scott and the State of Idaho, with IDWR's concurrence.

On June 30, 2003, "WaterOne Enterprises LLC, Matthew Olivas" filed a *Motion to Alter or Amend the Special Master's Recommendation* asking that the remark, "Commercial use is for pool, baths, internal lodge use and 1 trailer," be stricken from the recommendation for the partial decree. On July 11, 2003, WaterOne filed its *Response* and *Motion for Attorneys Fees and Costs* alleging: "Mr. Olivas has no interest in the water right and has no reason to seek modification of the right."

A hearing on the *Motion to Alter or Amend* filed by "WaterOne Enterprises LLC, Matthew Olivas" and WaterOne's *Motion for Attorneys Fees and Costs* was held on August 14, 2003. The Special Master noted that Owyhee County District Judge James C. Morfitt has

already determined that WaterOne is the fee simple owner of Murphy Hot Springs and by operation of law, its appurtenant water right 51-04037. That done, the only elements remaining to be decided by the SRBA Court were **quantity** and **purposes of use** (those elements related to the above remark). On the record, Mr. Olivas stated that he is not an attorney and failed to specify his standing with WaterOne.

Toward that end, the matter was set for trial, but with the caution that since a corporation owns the water right, anyone wishing to appear at trial and represent WaterOne must be an attorney. The August 15, 2003 ***Order Setting Trial*** further stated: "In the event no attorney appears to represent WaterOne Enterprises, LLC, for the purpose of litigating the remaining two contested elements, the pending *Motion to Alter or Amend the Special Master's Recommendation* will be dismissed as not properly filed and water right 51-04037 will continue as recommended in the ***2nd Amended Special Master Report and Recommendation.***"

A deadline of September 26, 2003, was set for any Idaho attorney, other than Stoel Rives, LLP, to file a notice of appearance to represent WaterOne for the purposes of litigating the contested elements of quantity and purposes of use. To date, no attorney has filed such a notice of appearance.

On September 30, 2003, Teresa A. Hill, of Stoel Rives LLP, filed a *Motion to Dismiss* seeking: 1) dismissal of the *Motion to Alter or Amend*, 2) an order vacating the trial setting, 3) a partial decree of 51-04037 as recommended in the ***2nd Amended Special Master Report and Recommendation*** and 4) a ruling on its *Motion for Attorneys Fees and Costs*.

Order

THEREFORE, IT IS ORDERED that:

1. WaterOne's *Motion to Dismiss* is **granted**, in part;
2. The *Motion to Alter or Amend* filed by "WaterOne Enterprises LLC, Matthew Olivas" is **dismissed** as not properly filed;
3. The trial set for November 6, 2003, is **vacated**; and
4. WaterOne's *Motion for Attorneys Fees and Costs* is **denied**.[1]

[1] WaterOne's *Motion for Attorneys Fees and Costs* was denied, not because its *Motion* lacks merit, but because a decision by the Special Master on that issue would necessarily implicate issues yet to be determined by Judge Morfitt – *i.e.*, who owns or controls WaterOne. It is expected that Judge Morfitt will take into account developments in the SRBA in his deliberations on whether to award attorney fees and costs in the matters before him.

DATED October 7, 2003.

TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER was mailed on October 07, 2003, with sufficient first-class postage to the following:

WATERONE ENTERPRISES, LLC
Represented by:
KEVIN J. BEATON
101 S CAPITOL BLVD STE 1900
BOISE, ID 83702-5958
Phone: 208-389-9000

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
PO BOX 44449
BOISE, ID 83711-4449

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

WATERONE ENTERPRISES LLC
251 VERSAILLES CT
TRACY, CA 95376

JANET O'CROWLEY
317 W C ST
SHOSHONE, ID 83352
Phone: 208-823-4554

WATERONE ENTERPRISES LLC
359 N 400 W
PAUL, ID 83347

Robbin Hall
Deputy Clerk

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Department of Water Resources

Kevin J. Beaton (ISB #3080)
Teresa A. Hill (ISB #6175)
STOEL RIVES LLP
101 S. Capitol Blvd., Ste. 1900
Boise, Idaho 83702-5958
Telephone: (208) 389-9000
Facsimile: (208) 389-9040

Attorneys for WaterOne Enterprises LLC,
a California limited liability company

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	)	Case No.: 51-04037
	)	MOTION TO DISMISS

COMES NOW claimant WaterOne Enterprises, LLC California ("WaterOne California") by and through its attorneys of record, and moves this court for an order: (1) dismissing the Motion to Alter or Amend the Special Master's Recommendation filed by Mathew Olivas on June 27, 2003 ("Motion to Amend"), (2) vacating the Order Setting Trial for November 6, 2003, and (3) decreeing water right 51-04037 as recommended in the 2nd Amended Special Master Report and Recommendation. WaterOne California also seeks a ruling on its Motion for Attorneys Fees and Costs.

Mathew Olivas filed a Motion to Amend the Special Master's Recommendation for water right no. 51-04037, seeking the deletion of language limiting the purpose of use for the water and objecting to the quantity of the water under the right. A hearing was held on this motion on August 14, 2003 where Mr. Olivas and Don and Cecil Dozier sought to appear *pro se* on behalf of "WaterOne." This Court issued an Order Setting Trial on the issues contested by Messrs Olivas and Dozier on August 15, 2003. However, this Court specifically found that "any person wishing to appear at the trial and represent WaterOne Enterprises, LLC, must be an attorney

admitted to practice in the State of Idaho ... who has filed a written notice of appearance with the SRBA." Order Setting Trial at 3. This Court further stated that any attorney wishing to appear at the November 6, 2003 trial on behalf of WaterOne Enterprises, LLC "shall file a notice of appearance in writing with the SRBA Court **no later than Friday, September 26, 2003.**" *Id.* at 4 (emphasis in original). The Order Setting Trial stated that "[i]n the event no attorney appears to represent WaterOne Enterprises, LLC, for the purpose of litigating the remaining two contested elements, the pending *Motion to Alter or Amend the Special Master's Recommendation* will be dismissed as not properly filed and water right 51-04037 will continue as recommended in the ***2nd Amended Special Master Report and Recommendation***." *Id.* at 3. No notice of appearance was filed on behalf of Messrs Olivas and Dosier by the Court ordered deadline of Friday, September 26, 2003. Messrs Olivas and Dosier are the only parties attempting to contest the elements of the water right; therefore, WaterOne California seeks an order dismissing the Motion to Amend and recommending the water right as settled by the parties in the Standard Form 5 and reflected in the Special Master's 2nd Recommendation. Because Mr. Olivas' improperly filed Motion to Amend is the only pending contest to the water right, the November 6, 2003 trial on the contested issues should be vacated.

In the Order Setting Trial, this Court further indicated that it would take WaterOne California's Motion for Attorneys Fees and Costs under advisement pending the determination of this issue. WaterOne reasserts its Motion for Attorneys Fees and Costs filed on July 11, 2003 and seeks an award of the reasonable expenses incurred in responding to Mr. Olivas' improper Motion to Amend since an order dismissing Mr. Olivas' motion will conclude this issue.

Dated this 30th day of September, 2003

STOEL RIVES LLP

By: _____
Teresa A. Hill
Attorneys for WaterOne Enterprises, LLC

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 30th day of September, 2003, I caused to be served a true copy of the foregoing to the following in the manner described below:

David J. Barber Deputy Attorney General Natural Resources Division P.O. Box 4449 Boise, Idaho 83711-4449	__Overnight Mail X Regular Mail __Hand-Delivered __Facsimile
Mathew Olivas 359 North 400 West Paul, Idaho 83347	__Overnight Mail X Regular Mail __Hand-Delivered __Facsimile
Janet O'Crowley 317 West C Street Shoshone, Idaho 83352	__Overnight Mail X Regular Mail __Hand-Delivered __Facsimile
Idaho Department of Water Resources P.O. Box 83720 Boise, Idaho 83720-0098	__Overnight Mail X Regular Mail __Hand-Delivered __Facsimile
United States Department of Justice Environment and Natural Resources Division 550 West Fort Street, MSC 033 Boise, Idaho 83724	__Overnight Mail X Regular Mail __Hand-Delivered __Facsimile

Teresa A. Hill

SENT FOR SIGNATURES ON 4-7-03.

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 51-4037

NAME AND ADDRESS: WATERONE ENTERPRISES LLC
251 VERSAILLES CT
TRACY CA 95376

SOURCE: MURPHY HOT SPRINGS TRIBUTARY: EAST FORK JARBIDGE RIVER

QUANTITY: 0.060 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 06/20/1885

POINT OF DIVERSION:

T16S R09E S24 SWNWNW Within OWYHEE County Source: MURPHY HOT SPRINGS

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
DOMESTIC	01/01 12/31	0.020 CFS
COMMERCIAL	01/01 12/31	0.040 CFS

COMMERCIAL USE IS FOR POOL, BATHS, INTERNAL LODGE USE, AND 1 TRAILER.

PLACE OF USE: DOMESTIC Within OWYHEE County

T16S R09E S24 NWNW

COMMERCIAL Within OWYHEE County

T16S R09E S24 NWNW

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.

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR DOMESTIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: Beneficial Use

WATER TEMPERATURE MEASURED AT 117 DEGREES F.

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 24, 2003

WATERONE ENTERPRISES LLC
251 VERSAILLES CT
TRACY CA 95376

RE: Water Right No. 51-4037

Dear Property Owner(s):

Enclosed is a copy of the above referenced water right, which reflects the change in ownership of the land and appurtenant water rights, covered under the original filing. Also enclosed is a copy of the Notice of Completed Administrative Proceedings, which has been sent to the Snake River Basin Court as notification of the change.

Thank you for your patience and cooperation, as we have had several water right changes to process. If you have any questions concerning the enclosed water rights, please feel free to contact this office.

Sincerely,

Denise Hatfield

Denise Hatfield
Office Specialist 1
Adjudication Section
Western Region

DH: dh

Enclosures

cc: Purity Sweet
Kevin J Beaton, Attorney at Law

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	)	**Water Rights: 51-4037**
	)	
Case No. 39576	)	**NOTICE OF COMPLETED**
	)	**ADMINISTRATIVE**
	)	**PROCEEDING**

IDWR has completed the following administrative proceeding:

☐ Address change

☒ Substitution of Party

☐ IC § 42-222 transfer

- ☐ Point of diversion
- ☐ Place of use
- ☐ Period of use
- ☐ Nature of use
- ☐ Split of water right
- ☐ Change in ownership
- ☐ Other

☐ IC § 42-219 license

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Report(s)* for said water right(s). No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: March 24, 2003

Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on March 24, 2003, I delivered the original and copies of this form, including all attachments, to the following persons, postage prepaid if required and addressed as follows:

1. Original to:

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

___ overnight mail
_X_ regular mail
___ hand-delivered
___ facsimile

2. Copies to:

Clive Strong
Office of the Attorney General
P.O. Box 44449
Boise, ID 83711-4449

___ overnight mail
_X_ regular mail
___ hand-delivered
___ facsimile

United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724

___ overnight mail
_X_ regular mail
___ hand-delivered
___ facsimile

3. Copies to all parties to the subcase:

Purity Sweet ***(Former Owners)***
359 N 400 W
Paul ID 83347

___ overnight mail
_X_ regular mail
___ hand-delivered
___ facsimile

Waterone Enterprises LLC ***(Current Owners)***
251 Versailles Ct
Tracy CA 95376

___ overnight mail
_X_ regular mail
___ hand-delivered
___ facsimile

Kevin J Beaton
101 S Capitol Blvd, Suite 1900
Boise ID 83702-5958

___ overnight mail
_X_ regular mail
___ hand-delivered
___ facsimile

Denise Hatfield
Signature of person mailing this document

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 51-4037

NAME AND ADDRESS: WATERONE ENTERPRISES LLC
251 VERSAILLES CT
TRACY CA 95376

SOURCE: MURPHY HOT SPRINGS TRIBUTARY: EAST FORK JARBIDGE RIVER

QUANTITY: 0.060 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 06/20/1885

POINT OF DIVERSION:

T16S R09E S24 SWNWNW Within OWYHEE County Source: MURPHY HOT SPRINGS

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
DOMESTIC	01/01 12/31	0.020 CFS
COMMERCIAL	01/01 12/31	0.040 CFS

COMMERCIAL USE IS FOR POOL, BATHS, INTERNAL LODGE USE, AND 1 TRAILER.

PLACE OF USE: DOMESTIC Within OWYHEE County

T16S R09E S24 NWNW

COMMERCIAL Within OWYHEE County

T16S R09E S24 NWNW

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.

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR DOMESTIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: Beneficial Use

WATER TEMPERATURE MEASURED AT 117 DEGREES F.

Form 42-248/42-1409(6) July, 2000

RECEIVED

FEB 18 2003

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
Incomplete forms will be returned

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
51-4037	51-4037				

2. The following **REQUIRED** information must be submitted with this form:

   A. The appropriate **FILING FEE**. See instructions for fee amounts. ∅

   B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.

   C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
   PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

   OR

   If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The AERIAL PHOTO should be submitted in place of the PLAT OF PROPERTY or SURVEY MAP.

3. Name and Address of Former Owner/Claimant(s): Purity Sweet
   379 N 400 W, Paul, ID, 83347

4. New Owner/Claimant(s): Waterone Enterprises, LLC, a California Limited Liability Company
   Name Connector (Check one): [ ] and, [ ] or, [ ] and/or

   New Mailing Address: 251 Versailles Court

   City, State and ZIP Code: Tracy, CA 95376

   New Telephone Number: (209 839-1151

5. Date you acquired the property: 1/17/2001; ownership confirmed by court order dated 11/05/2002 (attached).

Form 42-248-02 (Website) July 2000

6. **If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7.** If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation		
Stock		
Domestic		
Other _____		
Total		

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation		
Stock		
Domestic		
Other _____		
Total		

7. Signature of New Owner(s) or Chairman(s) Thomas Bacigalupo
(include title if applicable) MANAGING Member

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only
Received by DH Date 2-18-03 Fee 0
Receipted by _____ Date _____ Receipt No. _____
Processed by _____ AJ Date _____ WR _____ Date _____

TRUSTEE'S QUITCLAIM DEED

THIS INDENTURE, Made as of this 17th day of January, 2001, by and between Lois K. Murphy, trustee, ("Grantor"), and Waterone Enterprises, LLC ("Grantee"), at 251 Versailles Ct., Tracy, CA 95376.

WITNESSETH:

WHEREAS, Grantor was duly and regularly appointed as qualified trustee of the bankruptcy estate of Matthew Olivas and Trini R. Olivas ("Debtors"), being bankruptcy Case No. 00-01741, now pending in the United States Bankruptcy Court for the District of Idaho; and,

WHEREAS, The trustee Grantor has authority to sell property of the estate pursuant to 11 USC 363(b)(1) and said Notice of Sale by Trustee was filed with the bankruptcy court on December 15, 2000 with a duly noticed auction held on January 12, 2001;

WHEREAS, Grantor sold and Grantee purchased at said auction whatever rights the bankruptcy estate may have had in real property of the Debtors being subject to an Amended Order, Judgment and Decree of Foreclosure filed May 12, 2000 and various other liens and encumbrances including IRS liens; and,

NOW, THEREFORE, for valuable consideration received, Grantor does hereby release and quitclaim to Grantee, its successors and assigns forever, any right, title, interest, and estate the debtors and the bankruptcy estate may have had by operation of law or otherwise in and to the following real property situated in Owyhee, Idaho, described as follows:

See Exhibit A attached.

Said conveyance is made subject to all liens and encumbrances of any kind remaining on the property and is further made without any warranties of title, condition, marketability, habitability, fitness or any other express or implied warranty. Grantor does not warrant that the bankruptcy estate had any such interest. The property is conveyed "AS IS and WHERE IS".

IN WITNESS THEREOF, Signed:

Lois K. Murphy

By: Lois K. Murphy, Trustee

STATE OF IDAHO)
) ss.
County of Ada)

On this 17th day of January, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Lois K. Murphy, known or identified to me to be the person whose name is subscribed to the within instrument, as Trustee in Bankruptcy for Matthew Olivas and Trini R. Olivas, and acknowledged to me that he executed the same as in his own name as Trustee in said Bankruptcy.

IN WITNESS THEREOF, I have hereunto set my hand and affixed my official seal as of the day and year in this certificate first above written.

Notary Public of Idaho
Residing in Boise, Idaho
Commission Expires: 9-27-01

RECORDING INFORMATION:

235339

FILED - RECORDED
01 MAR 19 AM 9:13
OWYHEE COUNTY
BY Robinson
DEPUTY

EXHIBIT "A"

A parcel of land within the West Half of the Northwest Quarter (W½NW¼) of Section 24, Township 16 South, Range 9 East, Boise Meridian, Owyhee County, Idaho, and more particularly described as follows:

Part 1)

COMMENCING at a brass-cap marking the Northwest corner of Section 24, Township 16 South, Range 9 East, Boise Meridian;
THENCE South 54°09' East, 859.6 feet to the true point of beginning;
THENCE South 34°13' East, 560.0 feet;
THENCE South 55°47' West, 1230.7 feet to the west boundary of said Section 24;
THENCE North 0°13' East, 678.9 feet along the west boundary of said Section 24;
THENCE North 55°47' East, 846.9 feet to the True Point of Beginning. Together with all water rights evidenced by water right numbers

EXCEPTING THE FOLLOWING DESCRIBED 2 PARCELS OF LAND: 51-04037, A51-04037

PARCEL NO. 1: and A51-12780

A parcel of land in the NW¼, Section 24, Township 16 South, Range 9 East, Boise Meridian, being more particularly described as follows:

Owyhee Co. STATES OWNER OF THIS PARCEL #1 IS CHAR SCOTT (EXCEPTION)

BEGINNING at the NW corner of the NW¼ of Section 24, Township 16 South, Range 9 East, Boise Meridian
THENCE running South 0°12'33" West for a distance of 358.0 feet to a point;
THENCE running South 35°36'34" East for a distance of 512.9 feet, said point is the TRUE POINT OF BEGINNING, said point is also the SW corner of Lot 1, Block 12 of Murphy Hot Springs Subdivision No. 1 as recorded in Owyhee County Courthouse;
THENCE South 26°30' East for a distance of 124.28 feet;
THENCE North 56°28' East for a distance of 189.61 feet;
THENCE North 46°27' West for a distance of 128.32 feet to a point, which lies on the Southerly boundary of said Murphy Hot Springs Subdivision No. 1;
THENCE South 55°47' West for a distance of 145.43 feet, along the Southerly boundary of Lot 1, Block 12, Murphy Hot Springs Subdivision No. 1 to the TRUE POINT OF BEGINNING.

PARCEL NO. 2:

A parcel of land in the NW¼ of Section 24, Township 16 South, Range 9 East, Boise Meridian, Owyhee County, Idaho, described as follows:

Owyhee Co. STATES OWNER OF THIS PARCEL IS HERBERT WALDMAN & LOWELL PRUNTY (EXCEPTION)

BEGINNING at the Northeast corner of Lot 28, Block 7, Murphy Hot Springs Subdivision No. 2, Owyhee County, Idaho;
THENCE North 34°13'00" West 37.5 feet to a point;
THENCE South 55°47'00" West 85 feet, more or less, to the East Bank of Jarbidge River;
THENCE in a Southeasterly direction 37.5 feet, more or less, to the Northwest corner of Lot 29, Block 7 of Murphy Hot Springs Subdivision No. 2;
THENCE North 55°47'00" East 80.8 feet to the Point of Beginning.

TOGETHER with 0.060 (cfs) of water evidenced by IDWR Water Right Number 51-04037.

RECEIVED
FEB 18 2003
WATER RESOURCES
WESTERN REGION

STOEL RIVES LLP
ATTORNEYS AT LAW

101 S. Capitol Boulevard, Suite 1900
Boise, Idaho 83702
main 208.389.9000
fax 208.389.9040
www.stoel.com

TERESA A. HILL
Direct (208) 387-4264
tahill@stoel.com

February 18, 2003

Boise Western Regional Office
2735 Airport Way
Boise, Idaho 83705-5082

Re: Change in Ownership
Water Right No. 51-4037

Dear Sir:

Enclosed is a Notice of Change in Water Right Ownership for water right number 51-4037, from Purity Sweet to Waterone Enterprises, LLC, a California Limited Liability Company ("Waterone California"). The Notice contains a faxed signature. We will follow up with the original once we have received it from our client.

Waterone California has requested the issuance of a Notice of Completed Administrative Proceeding and Amended Director's Report in Subcase No.: 51-04037, based on this clarification of ownership. A hearing on this matter is scheduled for April 3, 2003. A copy of this Notice of Change in Water Right Ownership has been provided to the court and parties of record in Subcase No.: 51-04037.

Please contact me if you have any questions or need any additional information.

Very truly yours,

Teresa A. Hill

Enclosures

cc: Garrick Baxter, Deputy Attorney General
Thomas Scroggins

Oregon
Washington
California
Utah
Idaho

SRBA
SUBCASE SUMMARY REPORT 51-04037

Return to SRBA Home Page (Pending)

SRBA SUBCASE SUMMARY REPORT HTML12
03-24-2003

SUBCASE: 51-04037 FILE#: 00365
CLAIMANT: PURITY SWEET
359 N 400 W

PAUL ID 83347
STATUS: AT ISSUE SPECIAL MASTER: DOLAN, TERRENCE A.
WATER SOURCE: MURPHY HOT SPRINGS,EAST FORK JARBIDGE RIVER
ISSUES: QUANTITY OF WATER USED
0
PURPOSE OF USE DESCRIPTION
NAME AND ADDRESS DESCRIPTION

****** PARTIES INVOLVED ******

PURITY SWEET	C PRO SE
WATERONE ENTERPRISES LLC	O PRO SE
WATERONE ENTERPRISES, LLC	O ATTY: KEVIN J. BEATON

****** ROA ENTRIES ******

07-19-1999	LDGD: OBJ 01, BY OLIVAS, MATTHEW	RB	08-02-1999	0001
07-28-1999	SPOKE WITH WALKER, MOTION FOR LATE OBJ TO BE FILED (AA)			
05-23-2000	ORDER SETTING HEARING LATE OBJECTION FILED BY MATTHEW OLIVAS	HS	06-14-2000	0130
06-14-2000	HEARING HELD ON LATE OBJECTION-NO RECORDING	HH	06-14-2000	0130
06-14-2000	MINUTES FILED-NO RECORDING			
06-15-2000	ORDER GRANTING MOTION TO FILE LATE OBJECTION			
06-15-2000	ORDER SETTING INITIAL HEARING	1S	09-01-2000	1000
06-15-2000	RESPONSES TO LATE OBJECTIONS DUE 8/18/2000	ZB	08-18-2000	0500
06-15-2000	OBJ 01 F/B OLIVAS, MATTHEW	RB	08-18-2000	0001
08-17-2000	RESPONSE TO OBJ 0001 F/B STATE OF IDAHO			0001
09-07-2000	ORDER FOR CONTACT	ZZ	10-06-2000	0500
10-03-2000	EX PARTE MOTION TO EXTEND FILING DEADLINE F/B MATHEW OLIVAS	MG	10-03-2000	
10-16-2000	NOTICE SETTING INITIAL HEARING	1S	11-06-2000	1100
11-03-2000	ORDER DESIGNATING O'CROWLEY AS A PARTY RESPONDANT IN SUBCASE NO. A51-04037			
11-06-2000	HEARING HELD	IH	11-06-2000	1100
11-06-2000	MINUTES FILED			
11-09-2000	CORRESPONDENCE FROM MATTHEW OLIVAS			
11-09-2000	ORDER DISMISSING OBJECTION		11-09-2000	0001
11-09-2000	REPORT & RECOMMENDATION OF MASTER	CB	12-28-2000	
11-09-2000	NOTICE OF ISSUANCE - MASTERS R&R			
11-09-2000	CERTIFICATE OF MAILING - MASTER R&R			
11-13-2000	CORRESPONDENCE FROM ROGER LING RE: REQUEST			

	FOR DOCUMENTS; WILL FILE A NOTICE OF APPEAR			
11-14-2000	AMENDED SPECIAL MASTER REPORT(NO CHANGE TO MASTER'S REPORT ISSUED 11/9/00)	CB	12-28-2000	
12-19-2000	MOTION TO ALTER OR AMEND SPECIAL MASTER REPORT OF 11/13/2000 AND SPECIAL MASTER RECOMMENDATION FOR PARTIAL DECREE	MG	03-02-2001	
12-19-2000	AFFIDAVIT IN SUPPORT OF MOTION TO ALTER OR AMEND AND TO VACATE ORDER			
12-19-2000	MTN TO SET ASIDE ORDER DISMISSING OBJECTION ASSIGNED MASTER WAS: 154 WOOD, BARRY	MG	03-02-2001	
12-19-2000	NOTICE OF APPEARANCE - LING FOR OLIVAS ASSIGNED MASTER WAS: 700 DOLAN, TERRENCE A			
12-22-2000	MEMORANDUM IN SUPPORT OF MOTION TO ALTER OR AMEND AND MOTION TO SET ASIDE ORDER			
12-29-2000	MEMORANDUM IN SUPPORT OF SPECIAL MASTER REPORT AND RECOMMENDATION F/B OCROWLEY (WITH ATTACHED EXHIBITS)			
01-08-2001	ORDER SETTING HEARING MOTION TO ALTER OR AMEND SPECIAL MASTER	HV	02-15-2001	0130
02-15-2001	HEARING HELD - MOITON TO ALTER/AMEND	HH	02-15-2001	0130
02-15-2001	MINUTES - HEARING ON MOT TO ALTER/AMEND			
02-22-2001	LDGD: BANKRUPTCY COURT EXHIBITS F/B OCROWLEY			
03-02-2001	ORDER GRANTING MOTION TO SET ASIDE ORDER & MOTION TO ALTER OR AMEND AND			
03-02-2001	ORDER SETTING SCHEDULING CONFERENCE	SS	03-29-2001	1000
03-16-2001	MOTION TO SET ASIDE ORDER GRANTING MOTION TO TO SET ASIDE ORDER AND MOTION TO ALTER OR AMEND AND MOTION OBJECTING TO AMENDED PRIORITY DATE	MF	03-16-2001	
03-29-2001	SCHEDULING CONFERENCE HELD	SH	03-29-2001	1000
03-29-2001	MINUTES FILED			
03-29-2001	TRIAL SCHEDULING ORDER	TV	08-23-2001	1000
03-29-2001	AMENDED PLEADINGS DUE	ZB	04-30-2001	0500
03-29-2001	DISCOVERY CUTOFF	DC	06-01-2001	0500
03-29-2001	DISPOSITIVE MOTIONS DUE	MB	06-15-2001	0500
03-29-2001	706 REPORT DUE	MB	08-01-2001	0500
03-29-2001	PRETRIAL HEARING	PS	08-10-2001	1000
04-30-2001	AMENDED MOTION TO CLARIFY ISSUES TO BE HEARD AT TRIAL 8/23/2001 F/B O'CROWLEY	MF	04-30-2001	
05-15-2001	NOTICE OF SERVICE OF STATE OF IDAHO'S FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION AND REQUESTS FOR ADMISSION TO CLAIMANT MATTHEW OLIVAS AND WATERONE ENTERPRISES LLC SERVED ON TIM SCHNEIDER SUBSTITUTION OF PARTY			
06-01-2001	NOTICE OF COMPLETED ADMINISTRATIVE PROCEEDING		06-29-2001	
06-01-2001	AMENDED DIRECTOR'S REPORT/SUBSTITUTE PARTY			
06-04-2001	OBJECTIONS TO AMENDED REPORT DUE 6/29/2001	8B	06-29-2001	0500
06-04-2001	RESPONSES DUE 7/13/2001	RB	07-13-2001	0500
06-15-2001	NOTICE OF SERVICE F/B LING			
07-18-2001	NOTICE OF SERVICE OF RESPONSE F/B LING			
08-01-2001	SUPPLEMENTAL DIRECTOR'S REPORT			
08-09-2001	STATE OF IDAHO'S DISCLOSURE OF TRIAL WITNESS & EXHIBITS			
08-10-2001	CLAIMANT/OBJECTOR WATERONE ENTERPRISES DISCLOSURE OF TRIAL WITNESSES & EXHIBITS			
08-10-2001	PRETRIAL HEARING HELD	HH	08-10-2001	0130
08-13-2001	ORDER GRANTING MOTION TO VACATE TRIAL SETTING TRIAL SET FOR 8/23/01 VACATED	TV	08-23-2001	
08-27-2001	NOTICE OF SERVICE OF DISCOVERY F/B O CROWLEY			

09-07-2001	MOTION TO FILE AMENDED CLAIM F/B WATER ONE	MG	10-24-2001	
09-11-2001	ORDER SETTING HEARING ON MOTION TO FILE AMENDED NOTICE OF CLAIM	HS	10-24-2001	0930
10-24-2001	HEARING HELD	HH	10-24-2001	0930
10-24-2001	MINUTES FILED			
10-24-2001	ORDER GRANTING MOTION TO FILE AMENDED NOTICE OF CLAIM AND SETTING DEADLINES			
	AMENDED DIRECTOR'S REPORT DUE 11/02/01	ZB	11-02-2001	0500
	OBJECTIONS TO AMENDED DR DUE 12/28/01	8B	12-28-2001	0500
	ASSIGNED MASTER WAS: 700 DOLAN, TERRENCE A			
11-02-2001	AMENDED DIRECTOR'S REPORT FILED CHANGES: POD, POU & LANGUAGE			
12-28-2001	OBJ 02 F/B WATERONE ENTERPRISES LLC	RB	01-28-2002	0002
02-12-2002	ORDER SETTING STATUS/SCHEDULING CONFERENCE	UV	03-11-2002	1100
03-05-2002	ORDER RESETTING STATUS/SCHEDULING CONFERENCE	US	04-05-2002	0130
03-20-2002	NOTICE OF COMPLETED ADMINISTRATIVE PROCEEDING		03-20-2002	
03-20-2002	SUBSTITUTION OF PARTY WATERONE/PURITY SWEET		03-20-2002	
03-20-2002	AMENDED DIRECTOR'S REPORT ATTACHED TO NCAP SUBSTITUTION OF PARTY WATERONE/PURITY SWEET			
04-10-2002	MOTION FOR LEAVE TO FILE A RESPONSE OR IN THE ALTERNATIVE TO FILE A LATE RESPONSE	MG	06-06-2002	
04-11-2002	ORDER SETTING HEARING STATE'S MOTION TO FILE RESPONSE AND STATUS/SCHEDULING CONFERENCE	HS	06-06-2002	0330
04-24-2002	MOTION TO FILE LATE OBJECTION F/B WATERONE ENTERPRISES	MG	06-06-2002	0500
04-24-2002	AFFIDAVIT OF THOMAS SCROGGINS IN SUPPORT OF MOTION TO FILE LATE OBJECTION			
04-24-2002	LODGED: OBJ 3 F/B WATERONE ENTERPRISES OBJECTION TO AMENDED DIRECTORS REPORT			
04-25-2002	ORDER SETTING HEARING ON MOTION TO FILE LATE OBJECTION	HS	06-06-2002	0330
05-10-2002	RESPONSE TO ATTORNEY GENERAL MOTION TO FILE RESPONSE F/B JANET OCROWLEY		05-10-2002	
06-06-2002	HEARING HELD: MOTION FOR LATE RESPONSE AND	HH	06-06-2002	0330
06-06-2002	MINUTES FILED MOTION FOR LATE OBJECTION			
06-07-2002	ORDER GRANTING MOTION TO WITHDRAW; (SCHNEIDER WITHDRAW AS COUNSEL)			
06-07-2002	ORDER GRANTING STATE'S MOTION FOR LEAVE TO FILE RESPONSE			
06-07-2002	AND ORDER GRANTING MOTION TO FILE LATE OBJ			
01-21-2003	MOTION FOR SUMMARY JUDGMENT F/B WATERONE	MF	01-21-2003	
01-21-2003	MOTION TO SUPPLEMENT OBJECTION AND FOR ISSUANCE OF AMENDED DIRECTOR'S REPORT F/B WATERONE ENTERPRISES	MF	01-21-2003	
01-21-2003	AFFIDAVIT OF TERESA A HILL IN SUPPORT OF WATERONE ENTERPRISES LLC'S MOTION FOR FOR SUMMARY JUDGMENT AND MOTION TO SUPPLEMENT OBJECTION AND FOR ISSUANCE OF AMENDED DIRECTOR'S REPORT			
01-22-2003	ORDER SETTING HEARING	HV	03-27-2003	1100
01-27-2003	ORDER VACATING AND RESETTING EVENT	HS	04-03-2003	1000
02-19-2003	WATERONE ENTERPRISES LLC'S SECOND MOTION TO SUPPLEMENT OBJECTION AND FOR ISSUANCE OF AMENDED DIRECTOR'S REPORT	MF	02-19-2003	
02-19-2003	SUPPLEMENTAL AFFIDAVIT OF TERESA A HILL IN SUPPORT OF WATERONE ENTERPRISES LLC'S SECOND MOTION TO SUPPLEMENT OBJECTION AND FOR ISSUANCE OF AMENDED DIRECTOR'S REPORT			

03-03-2003 LODGED: CORRESPONDENCE F/B STATE OF IDAHO

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SUBCASE MAILING LIST 51-04037

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WATERONE ENTERPRISES, LLC
Represented by:
KEVIN J. BEATON
101 S CAPITOL BLVD STE 1900
BOISE, ID 83702-5958
Phone: 208-389-9000

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

PURITY SWEET
WATERONE ENTERPRISES LLC
359 N 400 W
PAUL, ID 83347

319 per ownership chg form 2.18.03

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FILED
11:50 A.M. P.M.
NOV 05 2002
CYNTHIA EATON, CLERK
Deputy Clerk

RECEIVED
NOV 12 2002

IN THE DISTRICT COURT FOR THE THIRD JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF OWYHEE

WATERONE ENTERPRISES, LLC, a California Limited Liability Company, THOMAS SCROGGINS, an individual, and VIRGINIA CANAVERO, an individual,

Plaintiffs,

-vs-

MATTHEW OLIVAS and TRINA OLIVAS, et al.,

Defendants.

Case No. CV 2001-03402

MEMORANDUM DECISION AND ORDER

MATTHEW OLIVAS and TRINA OLIVAS, husband and wife; DON DOZIER, an individual, NANCY DOZIER, an individual, DANNY CRYSTAL, an individual, TRUST COMPANY OF AMERICA, and HIGH DESERT RESOURCES, LLC, an Idaho limited liability company, PURITY SWEET, INC., An Idaho corporation,

Counterclaimants and Cross-claimants,

-vs-

WATERONE ENTERPRISES, LLC, a California Limited Liability Company, THOMAS SCROGGINS, an individual, and VIRGINIA CANAVERO, and individual,

Counterdefendants,

JOE SHELTON, C. CRELLIN SCOTT, And TRUST COMPANY OF AMERICA as custodian for C. CRELLIN SCOTT,

Cross-Defendants.

The above-entitled case came on regularly for hearing before the Court on various motions. Plaintiffs/Counterdefendants (hereafter referred to as "Plaintiffs") appeared through their counsel of record, Kimbell D. Gourley. Defendants/Counterclaimants/Cross-claimants Matthew Olivas, Trina Olivas, Don Dozier, Nancy Dozier, Brent Dozier, Danny Crystal, Trust Company of America (as Trustee for Nancy Dozier), High Desert Resources, LLC and Purity Sweet, Inc., (hereafter collectively referred to as "Olivas Defendants") appeared through their attorney of record Randy J. Stoker.

Defendant Sylvia Olivas having previously been defaulted, did not appear, either in person or by counsel.

The status and representation of Defendants/Cross-Defendants, Joseph Shelton, C. Crellin Scott, Trust Company of America (as custodian for C. Crellin Scott) and High Desert Resources, LLC (hereafter "Shelton Defendants") in these motions is unclear. On January 23, 2002 the Olivas Defendants, through their then attorney Mr. Donald

Chisholm filed an answer, counterclaim as well as a cross-claim against Shelton, Scott and Trust Company of America (as custodian for C. Crellin Scott) (hereafter TCA-Scott). Thereafter, Mr. J. Dee May, on behalf of Shelton, Scott, TCA-Scott and High Desert Resources, LLC, filed an answer, counterclaim and cross-claim against the Olivas Defendants excluding High Desert Resources and thereafter, a reply to the cross-claim of the Olivas Defendants. At that point, both Mr. Chisholm and Mr. May were purporting to represent High Desert Resources. Pursuant to stipulation, the Court entered an Order requiring the Olivas Defendants to file an amended answer, counterclaim and cross-claim. Pursuant to that Order, Mr. Chisholm filed on April 1, 2002 an amended answer and counterclaims but no cross-claims. The heading on the pleadings reflects that Mr. Chisholm was "Attorney for all Named Defendants, except Sylvia Olivas." The amended answer and counterclaims purports to assert a counter claim against Plaintiffs on behalf of defendants Shelton, Scott and TCA-Scott; all of whom were at that time represented by Mr. May. On June 17, 2002, Mr. Chisholm filed his motion to withdraw as counsel for the defendants. That motion was granted on June 25, 2002 over the objection of the Plaintiffs. Thereafter, on July 5, 2002, Mr. May filed a notice of appearance on behalf of High Desert Resources and 'reiterate[d]" that he is the attorney representing Shelton, Scott and TCA-Scott. Each of the Olivas Defendants then filed notices of appearance *pro se*.

On August 22, 2002 Mr. Stoker substituted in as attorney for the Shelton Defendants in place of Mr. May and on September 3, 2002, entered his appearance as attorney for the Olivas Defendants. Mr. Stoker thus appears to be in the unique position of representing both the cross-claimants and the cross-defendants in this action.

The Court having heard and carefully considered the arguments of counsel, the affidavits, and briefs filed in support of and in opposition to the various motions together with the file and records in this case, and good cause appearing, finds and concludes as follows:

Background and Procedural History

This litigation involves a parcel of real property situated in Owyhee County Idaho commonly known as "Murphy Hot Springs" and/or "Desert Hot Springs" (hereafter "Murphy Hot Springs"). At issue is the ownership of and right to the possession of Murphy Hot Springs, the ownership of Waterone Enterprises, LLC, a California limitied liability company (hereafter "Waterone California"), the ownership of the Amended Order, Judgment and Decree of Foreclosure related to Murphy Hot Springs entered in the case entitled *Showalter v. Olivas*, Owyhee County Case No. CV 96-1314, as well as various claims of the parties for breach of contract.

In 1994, Harry and Anita Showalter owned Murphy Hot Springs. The Showalter's conveyed Murphy Hot Springs via a warranty deed to Sylvia Olivas on February 7, 1994. To secure payment of a portion of the purchase price, Olivas executed a deed of trust in favor of the Showalters.

On September 9, 1997, Sylvia Olivas conveyed Murphy Hot Springs to her brother Matthew Olivas via a quitclaim deed.

On May 12, 2000, this Court entered an Amended Order, Judgment and Decree of Foreclosure in favor of the Showalters pursuant to the deed of trust on Murphy Hot Springs securing payment of the obligations owing by the Sylvia, Matthew and Trina Olivas.

Thereafter, on July 13, 2000 Matthew and Trina Olivas filed for bankruptcy under Chapter 11 of the United States Bankruptcy Code. The Olivases listed themselves as owners of Murphy Hot Springs in the bankruptcy schedules. The Olivases' Chapter 11 bankruptcy was converted to a Chapter 7 by order of the United States Bankruptcy Court on October 26, 2000, and Lois Murphy was appointed as the bankruptcy trustee.

On January 12, 2001 the bankruptcy trustee, held a public auction to sell the Olivases' interest in Murphy Hot Springs. Waterone California bid $85,000 for Murphy Hot Springs, and was the highest bidder. On January 17, 2001, Ms. Murphy executed a Trustee Quitclaim Deed ("the trustee's deed") conveying the bankruptcy estate's interest in Murphy Hot Springs to Waterone California with an address of 251 Versailles Court, Tracy California, 95376.

The trustee's deed stated:

> Sale is subject to all liens or claims with all valid liens remaining attached to the property. The following claims will remain with the property after the sale: Judgment of Foreclosure in *Showalter v. Olivas*, Case No., ... Rights of redemptions, exemptions and all liens and encumbrances of record including easements and property taxes.

On March 28, 2001, Waterone Enterprises, LLC, an Idaho limited liability company (hereafter "Waterone Idaho") filed articles of organization with the Idaho Secretary of State, listing an address of 2410 Gem Ave. Emmett, Idaho 83617

On June 15, 2001, the Bankruptcy Court executed an order approving the trustee's sale of property to "Waterone Enterprises, LLC ."

On December 3, 2001 Waterone Enterprises, LLC, a California limited liability company, registered with the Idaho Secretary of State.

On December 11, 2001, Waterone California filed a complaint in this case asserting causes of action for quiet title and slander of title, ejectment and restitution of the property, declaratory judgment as to the ownership of "Waterone," declaratory judgment as to ownership of the amended judgment and decree of foreclosure and attorney fees and costs. Defendants answered and asserted various counterclaims and cross-claims.

Motions Before the Court

(1) Plaintiffs' Motion for Partial Summary Judgment; (2) Defendants' Motion to Continue Summary Judgment Proceedings; (3) Plaintiffs' Motion to Strike Defendants' Memorandum in Opposition to Plaintiffs' Motion for Partial Summary Judgment and Affidavit of Danny Crystal; and, (4) Waterone Idaho's Motion to Intervene.

Analysis

I. Defendants' Motion to Continue Summary Judgment Proceedings

The Court will first address the Defendants' Motion to Continue Summary Judgment Proceedings.

The Court finds that Plaintiffs' Motion for Partial Summary Judgment was filed June 13, 2002 and originally noticed for hearing on July 12, 2002. Thereafter the attorney representing the Olivas Defendants filed a motion for leave to withdraw as counsel and noticed his motion to withdraw for hearing on June 24, 2002. Plaintiffs filed their objection to the motion. On June 24, 2002 the Court granted the Olivas defendants' then counsel's motion to withdraw as attorney of record pursuant to I.R.C.P. 11(b)(3). The withdrawal of the Olivas Defendants' attorney precluded the Court from addressing Plaintiffs' motion for partial summary judgment noticed for July 12, 2002. Thereafter, on

or about July 15, 2002 each of the Olivas defendants filed a notice of *pro se* appearance pursuant to rule 11(b)(3). On August 6, 2002 Plaintiffs filed an amended notice of hearing noticing their motion for partial summary judgment for hearing before the Court on September 13, 2002. Thereafter, on August 22 and September 3, 2002 Randy J. Stoker entered his appearance on behalf of all Defendants and filed a motion to continue the summary judgment proceedings pursuant to I.R.C.P. 56(f) asserting that he had just been retained on behalf of the defendants, that no discovery has been conducted in the case and that he was filing a motion to intervene on behalf of Waterone Idaho which is a necessary party to a full adjudication of the issues presented by Plaintiffs' motion.

The Court's decision to grant or deny a motion for continuance under I.R.C.P 56(f) is one of discretion. See *Johnston v. Pascoe,* 100 Idaho 414, 418-19 (1979).

The Court finds and concludes that Plaintiffs' motion for partial summary judgment was originally filed June 13, 2002, some ninety (90) days prior to the hearing noticed for September 13, 2002. The Court further finds and concludes that Plaintiffs' motion for partial summary judgment had previously been noticed for hearing in July and that the withdrawal of counsel for the Olivas Defendants, over the objection of the Plaintiffs, mandated that the July hearing be vacated. The Olivas Defendants each entered *pro se* appearances in July 2002. The non-Olivas Defendants were represented by Mr. May at all times prior to Mr. Stoker's substitution for Mr. May on August 22, 2002.

The Court further finds and concludes that Plaintiffs' motion for partial summary judgment addresses only the issues of the ownership and the right of possession of the real property. Issues relating to the ownership of Waterone California, the Amended

Order, Judgment and Decree of Foreclosure and related breach of contract claims are outside the ambit of Plaintiffs' motion.

The Court further finds and concludes that the affidavit of Defendants' counsel filed in support of their motion to continue does present sufficient facts to justify this Court's determination that Defendants cannot present, by affidavit, facts essential to justify Defendants' opposition to Plaintiffs' motion. Nor does counsel's affidavit present facts that reasonably establish that depositions or additional discovery in this case would disclose facts essential to justify Defendants' opposition to the motion.

The Court cannot find and conclude, based upon the affidavit presented, that yet another continuance of the hearing on Plaintiffs' Motion for Partial Summary Judgment is appropriate or that additional time would allow Defendants to present facts essential to justify Defendants' opposition to Plaintiffs' Motion of Partial Summary Judgment.

Therefore, Defendants' Motion to Continue Summary Judgment Proceedings be and is hereby, DENIED.

II. Plaintiffs' Motion to Strike Defendants' Memorandum in Opposition to Plaintiffs' Motion for Partial Summary Judgment and Affidavit of Danny Crystal

The basis for Plaintiffs' motion to strike is two-fold. First, Plaintiffs correctly assert that the filings are untimely pursuant to I.R.C.P. 56(c). Second, Plaintiffs assert that the Affidavit of Danny Crystal does not comply with the requirements of I.R.C.P. 56(e).

At the scheduled hearing on September 13th, and for the purpose of insuring that their motion would be heard, Plaintiffs', in effect, withdrew their timeliness objection. Therefore, Plaintiffs' motion to strike on the grounds of untimely filing was withdrawn and is hereby DENIED.

I.R.C.P. 56(e) sets forth the requirements for affidavits in support and in opposition to summary judgment. Rule 56(e) provides:

> Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. (emphasis added).

Plaintiffs' Motion for Partial Summary Judgment is heard and determined by the Court. The Court can determine, and will disregard and not rely upon, any averments in the affidavit of Danny Crystal that are not in compliance with the requirements established by Rule 56(e). Therefore, Plaintiffs' motion to strike the affidavit of Danny Crystal is DENIED.

III. Plaintiffs' Motion for Partial Summary Judgment

A. Standards for Summary Judgment

Summary judgment is appropriate where the pleadings, depositions, admissions and affidavits on file show that there are no genuine issues of material fact and that the moving party is entitled to judgment as a matter of law. I.R.C.P. 56(c); *City of Idaho Falls v. Home Indemnity Co.*, 126 Idaho 604, 606 (1995). At all times, the burden of proving the absence of a genuine issue of material facts rests upon the moving party. *G and M Farms v. Funk Irrigation Co.*, 119 Idaho 514, 517 (1991).

As a general rule, in consideration of the motion, the court must liberally construe the facts and inferences contained in the existing record in favor of the party opposing the motion. *Bonz v. Sudweeks*, 119 Idaho 539, 541 (1991).

To withstand a motion for summary judgment, the opposing party's case must be anchored in something more solid than speculation. A mere scintilla of evidence is not sufficient to create a genuine issue of material fact. *Edwards v. Conchemco, Inc.*, 111 Idaho 851, 853 (Ct. App. 1986). The party opposing the motion may not merely rest on the allegations contained in the pleadings; rather, evidence by way of affidavit or deposition must be produced to contradict the assertions of the moving party. I.R.C.P. 56(e); *Ambrose v. Buhl Joint School Dist. #412*, 126 Idaho 581, 584 (Ct. App. 1995).

Supporting and opposing affidavits must be made on personal knowledge, must set forth such facts as would be admissible in evidence, and must show affirmatively that the affiant is competent to testify to the matters stated therein. I.R.C.P. 56(e).

B. Findings of Facts and Conclusions of Law

Plaintiffs seek a partial summary judgment declaring: 1) Waterone California is the fee simple owner of Murphy Hot Springs, and that Defendants have slandered such title by the execution and recording of "wild" deeds and conveyances; 2) that Waterone California is entitled to the immediate possession of Murphy Hot Springs and the issuance of a writ of ejectment or assistance; and, 3) the Courts declaration that neither Trina nor Matthew Olivas possess a homestead exemption or a right of redemption with respect to the Murphy Hot Springs property.

1) Undisputed Facts

Showalters conveyed Murphy Hot Springs to Sylvia Olivas, by warranty deed, on February 7, 1994.

Sylvia Olivas executed a deed of trust in favor of Showalters to secure payment of a portion of the purchase price.

On September 9, 1997, Sylvia Olivas conveyed Murphy Hot Springs to the Defendant Matthew Olivas, by quitclaim deed.

On May 12, 2000 this Court entered an Amended Order, Judgment and Decree of Foreclosure on the obligations owed by Sylvia Olivas and the defendant's Matthew Olivas and Trina Olivas pursuant to the promissory notes secured by the deed of trust on the Murphy Hot Springs Property.

On July 13, 2000, Matthew and Trina Olivas filed for relief under Chapter 11 of the United States Bankruptcy Code.

The Olivases filed schedules in the bankruptcy proceedings asserting ownership of Murphy Hot Springs subject to liens and encumbrances.

On October 26, 2000, the United States Bankruptcy Court converted the Olivases' Chapter 11 bankruptcy proceedings to a Chapter 7 bankruptcy and appointed Lois Murphy as the Chapter 7 trustee.

On or about December 14, 2000, the Chapter 7 trustee filed her Notice of Sale by Trustee with the United States Bankruptcy Court thereby giving notice to all interested parties of her intent to sell all of the bankruptcy estate's interest in all real and personal property including the Murphy Hot Springs property and the cash bond on deposit with the Owyhee County Court.

No objections were made to the proposed sale.

Pursuant to notice, on January 12, 2001, the bankruptcy trustee, acting through her attorney, held a public auction for the purpose of selling the Murphy Hot Springs property.

Waterone Enterprises LLC, a California limited liability company was the successful bidder at the trustee's sale with a bid of $85,000.00.

On January 17, 2001, the bankruptcy trustee executed a trustee's quitclaim deed whereby the trustee conveyed all of the bankruptcy estate's interest in the Murphy Hot Spings property to Waterone Enterprises.

The Trustee's Quitclaim Deed conveyed Murphy Hot Springs to Waterone Enterprises LLC at 251 Versailles Ct., Tracy, California 95376. The Trustee's Quitclaim deed provided:

> WHEREAS, [Trustee] sold and [Waterone] purchased at said auction whatever rights the bankruptcy estate may have had in the real property of the Debtors being subject to an Amended Order, Judgment and Decree of Foreclosure filed May 12, 2000 and various other liens and encumbrances including IRS liens; and, ... Grantor does hereby release and quitclaim to [Waterone], . . . any right, title, interest, and estate the debtors and the bankruptcy estate may have had by operation of law or otherwise in and to . . . [the real property]. Said conveyance is made subject to all liens and encumbrances of any kind remaining on the property . . .

On June 15, 2001 the United States Bankruptcy Court entered its order approving the Trustee's sale of real and personal property "subject to all liens, encumbrances and claims, which remain attached to such Property." The Bankruptcy Court's order ratified, confirmed and approved the sale of Murphy Hot Springs to Waterone Enterprises, LLC subject to [the] foreclosure judgment . . . ."

Articles of Organization of Waterone Enterprises, LLC, a California limited liability company were filed with the Secretary of State of the State of California on July 5, 2000.

The Articles of Organization reflect that the street address of the principal executive office of Waterone Enterprises, LLC is 251 Versailles Court, Tracy, California 95376 and that Virginia Canavero and Thomas Scroggins are the managers and members of the limited liability company.

On March 28, 2001 Articles of Organization under the name of Waterone Enterprises LLC were filed with the Secretary of State of the State of Idaho. The Articles of Organization were filed by Attorney Clayne S. Zollinger, Jr. at the request of Thomas Scroggins and Waterone Enterprises, LLC, a California limited liability company.

Waterone Enterprises, LLC, a California limited liability company registered with the Secretary of State of the State of Idaho on December 3, 2001.

This action was commenced by Plaintiffs filing of their verified complaint on December 11, 2001.

2) Right of Redemption and Homestead Exemption

Defendants assert that partial summary judgment is inappropriate in this case for the reason that the Olivases have a right of redemption and a homestead exemption in the Murphy Hot Springs real property that was not extinguished by the Chapter 7 bankruptcy trustee's sale of the property.

Defendants predicate their argument on the language contained in the Notice of Sale by Trustee filed in the Bankruptcy Court on December 15, 2000, as follows:

> 5. TREATMENT OF EXISTING LIENS: Sale is subject to all liens or claims with all valid liens remaining attached to the property. The following claims will remain with the property after the sale: Judgment of Foreclosure in *Showalter v. Olivis* (sic) Case No. CV 96-01314, 3rd Judicial District, Owyee (sic) County, State of Idaho, filed 5/12/00 in favor of Showalter or assigns; **Rights of redemptions, exemptions** and all liens and encumbrances

> of record including easements and property taxes. (Underlining and italics in original. Bold emphasis added).

Defendants also cite nearly identical language contained in the Report of Sale by Trustee filed with the Bankruptcy Court on March 14, 2001 and attached as Exhibit 20 to the Affidavit of Danny Crystal filed September 6, 2002. Plaintiffs have objected to consideration of Exhibit 20 asserting that Mr. Crystal lacks the knowledge to lay a foundation for that Exhibit. The Court agrees. Rule 56(e) requires that "[S]worn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith." The Court will therefore not consider the language contained in Exhibit 20 to the Crystal affidavit. The same language, however, is contained in the Notice of Sale by Trustee attached to the Affidavit of Lois Murphy that was filed by Plaintiffs.

Defendants rely on the language of the Trustee's Quitclaim Deed and the Notice of Sale by Trustee and have cited no authority in support of their arguments.

a) Right of Redemption

A judgment debtor's right of redemption in Idaho is statutory. Chapter 3, Title 11, Idaho Code, provides for "Levy and Sale Under Execution." I.C. § 11-301 provides for execution of a writ against the property of a judgment debtor by the sheriff. I.C. § 11-302 provides for notice that is required prior to the sale of property on execution while § 11-304 provides the procedures for the conduct of the sale of property under execution. I.C. § 11-310 and Chapter 4, Title 11, Idaho Code, provide that a judgment debtor or his successor may redeem real property from the purchaser within the time specified in I.C. § 11-402 following a sale under execution.

The Idaho statutory scheme provides a right of redemption to a judgment debtor whose real property is sold pursuant to a writ of execution.

In this case, there was no sale under execution pursuant to the Amended Order, Judgment and Decree of Foreclosure entered by this Court in *Showalter v. Olivas* and, thus no right of redemption has arisen under Idaho law. Defendants have provided no authority or argument that a the sale of a bankrupt's real property by a bankruptcy trustee gives rise to any right of redemption under either Idaho of federal law.

The Court finds and concludes, as a matter of law that Defendants have no right of redemption as to the Murphy Hot Springs real property pursuant to Title 11, Idaho Code.

The Court further finds and concludes, as a matter of law that Defendants' claim to a right of redemption, which has survived sale by the bankruptcy trustee, is without merit.

The Court still further finds and concludes that there is no genuine issue of material fact relating to Defendants' claim of a right of redemption to the real property and that Plaintiffs are entitled to summary judgment on that issue.

b) Homestead Exemption

The homestead exemption is also a creature of statute. Idaho statutes provide as follows:

> **55-1001. Definitions.** – For purposes of this chapter:
>
> (2) "Homestead" means and consists of the dwelling house or the mobile home in which the owner resides or intends to reside . . . . Property included in the homestead must be actually intended or used as a principal home for the owner.
>
> * * * *

> (4) "Owner" includes, but is not limited to, a purchaser under a deed of trust, mortgage, or contract, or a person who takes the subject property under a life estate. (emphasis added).

Idaho Code § 55-1003 states in pertinent part:

> A homestead may consist of lands . . . regardless of area, but the homestead exemption amount shall not exceed the lesser of (i) the total net value of the lands, mobile home, and improvements as described in section 55-1001, Idaho Code; or (ii) the sum of fifty thousand dollars ($50,000).

Idaho Code § 55-1005 states:

> The homestead is subject to execution or forced sale in satisfaction of judgments obtained: . . . (3) on debts secured by mortgages, deeds of trust or other consensual liens upon the premises, executed and acknowledged by the husband and wife or by an unmarried claimant. (4) On debts secured by mortgages, deeds of trust or other consensual liens upon the premises, executed and recorded before the homestead became effective.

Idaho Code § 55-1008 further provides:

> (1) Except as provided in section 55-1005, Idaho Code, the homestead is exempt from attachment and from execution or forced sale for the debts of the owner up to the amount specified in section 55-1003, Idaho Code. . . . (emphasis added).

Chapter 11, Title 55, Idaho Code, provides for the Sale of Homestead on Execution. I.C. § 55-1112 provides that if a sale on execution is made, the proceeds thereof, to the amount of the homestead exemption, must be paid to the [judgment debtor] and the balance applied to the satisfaction of the execution.

The commencement of a bankruptcy case creates an estate in bankruptcy which is comprised, in essence, of all of the debtor's property; once the property becomes a part of the estate, an individual debtor may exempt certain property from the bankruptcy estate.

In the bankruptcy context, "exempting" property means removing the property from the bankruptcy estate and thereby excluding the exempted property from bankruptcy administration and distribution to creditors. *See* 9A Am. Jur. 2d, Bankruptcy § 1245

Unless applicable state law provides otherwise, the Bankruptcy Code permits an individual debtor to exempt from the estate property listed as exemptible by the Bankruptcy Code or under applicable state or local law. *Id.*, § 1247. Under Idaho law, a Chapter 7 debtor can claim the homestead exemption provided by I.C. § 55-1003 in the bankruptcy proceedings.

The United States Bankruptcy Code, 11 U.S.C § 541(a) provides:

> The commencement of a case under section 301 . . . of this title creates an estate. Such estate is comprised of all the following property, wherever located and by whomever held: (1) Except as provided in subsections (b) and (c)(2) of this section, all legal or equitable interests of the debtor in property as of the commencement of the case. (emphasis added).

With certain exceptions not applicable in this case, the United States District Courts have original and exclusive jurisdiction of all cases under the Bankruptcy Code. 9 Am. Jur. 2d, Bankruptcy § 560.

Defendants have provided no authority that Defendants' homestead exemption, if indeed they had any such homestead exemption under Idaho law, survives the Chapter 7 Trustee's sale of Murphy Hot Springs.

Defendants have failed to present any evidence by way of affidavit or otherwise that they at any time qualified for a homestead exemption on the Murphy Hot Springs property pursuant to I.C. § 55-1001 *et seq.* The existence of disputed facts will not defeat summary judgment when a party fails to make a showing sufficient to establish the

existence of an element essential to his case, and on which he will bear the burden of proof at trial. *Garzee v. Barkley,* 121 Idaho 771 (Ct. App. 1992).

Further, the Court finds and concludes, as a matter of law that Defendants ceased to be the "owner" of Murphy Hot Springs upon sale of the real property by the Chapter 7 Trustee and that Defendants have no homestead exemption in the real property sold by the Chapter 7 Trustee.

The Court further finds and concludes, as a matter of law that Defendants claim to a homestead exemption in the Murphy Hot Springs property, which has survived sale by the bankruptcy trustee, is without merit.

The Court still further finds and concludes that there is no genuine issue of material fact relating to Defendants claim of a homestead exemption in the real property and Plaintiffs are entitled to summary judgment on that issue.

3) Identity of the Purchaser at the Chapter 7 Trustee's Sale

Defendants state that the "real question before the court is 'who was the purchaser of the trustee's position at the bankruptcy sale?'" (*Defendants' Memorandum in Opposition to Plaintiffs' Motion for Partial Summary Judgment* at p. 8). Defendants argue, in essence, that the trustee's deed is ambiguous because there are two entities known as Waterone Enterprises, LLC – one organized under the laws of the State of California and one organized under the laws of the State of Idaho. Defendants further assert that Waterone California was not registered in the State of Idaho at the time of the Chapter 7 Trustee's sale and was thus precluded from conducting business in the State of Idaho.

a) Ambiguity

"In construing a deed the court should seek and, if possible, give effect to the intention of the parties." *Currie v. Walkinshaw*, 113, Idaho 586, 589 (Ct. App. 1987). The Court of Appeals continued:

> If the language of a deed is plain and unambiguous the intention of the parties must be ascertained from the deed, and parol evidence, that is, documentary, oral or real evidence extrinsic to the deed itself, is not admissible to ascertain intent. . . .Thus, where a written instrument is clear and unambiguous, its interpretation is a matter of law . . . . But where an instrument is ambiguous, interpretation of that instrument is a matter of fact for the trier of fact.

Id.

The Chapter 7 Trustee's public auction sale of the real property occurred on January 12, 2001. The Chapter 7 Trustee's quitclaim deed was executed by the Trustee on January 17, 2001 and recorded in the records of Owyhee County, Idaho on March 19, 2001.

The Grantee of the Trustee's Quitclaim Deed is "Waterone Enterprises, LLC . . . at 251 Versailles Ct., Tracy, CA 95376."

Waterone Enterprises, LLC, a California limited liability company filed its Articles of Organization with the Secretary of State of the State of California on July 5, 2000.

The Limited Liability Company – Statement of Information reflects that the street address of the principal executive office of Waterone Enterprises, LLC, a California Limited Liability Company is 251 Versailles Court, Tracy, CA 95376.

The organizational documents for Waterone Idaho were not filed with the Secretary of State of the State of Idaho until March 28, 2001; more than two months after

the Trustee's Sale and the Trustee's execution of the quitclaim deed and some nine (9) days after the recording of the quitclaim deed.

The Court finds and concludes that events occurring subsequent to execution and recordation of a deed do not render the deed ambiguous.

The Court further finds and concludes that the Chapter 7 Trustee's Quitclaim deed is unambiguous and that its interpretation presents a question of law rather than of fact.

The Court still further finds and concludes that there is no genuine issue of material fact relating to the identity of the grantee of the quitclaim deed and Plaintiffs are entitled to summary judgment on that issue.

b) Failure of Waterone California to Register in Idaho

Defendants next seemingly assert that Waterone California could not purchase the real property at the Trustee's sale because it had failed to register with the Idaho Secretary of State as a foreign limited liability company prior to transacting business in the State of Idaho as required by I.C. § 53-651.

Waterone did not register as a foreign limited liability company with the Idaho Secretary of State until December 3, 2001.

Registration is required prior to transacting business in this state. I.C. § 53-656 addresses the transaction of business in this state without registration. I.C. § 53-656(1) provides that a foreign limited liability company transacting business in this state may not maintain an action, suit, or proceedings in a court of this state until it has registered in this state. (emphasis added). In this case, Waterone California registered with the Idaho Secretary of State prior to the commencement of this action.

I.C. § 53-656 (4) and (5) also provide for civil penalties enforceable by the Attorney General as well as injunctive relief.

I.C. § 53-656 further provides: "(2) The failure of a foreign limited liability company to register in this state does not: (a) Impair the validity of any contract or act of the foreign limited liability company."

Further, I.C. § 53-657 provides:

> (1) The following activities of a foreign limited liability company, among others, do not constitute transacting business within the meaning of this chapter: . . . . (i) Owning, without more, real or personal property . . . .

The Court finds and concludes, as a matter of law, that Waterone California's failure to register with the Idaho Secretary of State as a foreign limited liability company prior to the purchase of Murphy Hot Springs at the Chapter 7 Trustee's sale neither impairs the validity of its purchase of the real property nor does it create any ambiguity in the deed. Plaintiffs are entitled to summary judgment on that issue.

4) Summary – Fee Simple Ownership of Murphy Hot Springs

The Court finds and concludes that its ruling on the issues addressed above preclude any genuine issue of material fact as to the fee simple ownership of Murphy Hot Springs by Waterone Enterprises, LLC, a California limited liability company, and that Plaintiffs are entitled to partial summary judgment on that issue.

5) Writ of Ejectment

Plaintiffs further seek partial summary judgment decreeing that Waterone California is entitled to the immediate possession of Murphy Hot Springs and the issuance of a writ of ejectment directing the Owyhee County Sheriff to evict all parties on the property and deliver possession thereof to Plaintiffs.

To show entitlement to a writ of ejectment, Plaintiffs "must allege and prove: 1) ownership, 2) possession by the defendants, and 3) refusal of the defendants to surrender possession." *Pro Indiviso, Inc. v. Mid-Mile Holding Trust*, 131 Idaho 741, 745 (1998) (citing *Petty v. Petty*, 70 Idaho 473 (1950)).

> A writ of assistance is a form of process issued by a court of equity to transfer the possession of property, and more specifically lands, the title or right to which it has previously adjudicated . . . . The sole question to be determined on the motion is whether applicant has a right, as against the party in possession to use the writ to obtain possession. In the absence of any claim of an independent paramount title, the only question on such application is whether the decree has or has not been complied with.

Id. at 746 (quoting *Eagle Rock Corp. v Idamont Hotel Co.*, 60 Idaho 639, 647 (1939)).

This Court has determined that Waterone California is the owner of the Murphy Hot Springs real property by quitclaim deed received from the Chapter 7 bankruptcy trustee. Thus, there is no genuine issue of material fact as to the first element of an action for ejectment. The only affidavit on file addressing the remaining elements is that of Thomas Scroggins. In paragraph 19 of his Affidavit, Mr. Scroggins states: "That it is your affiant's understanding and belief that Matthew Olivas and/or other Defendants are in possession of the Property, and are preventing Waterone from taking possession of the Property." The averments in paragraph 19 of Mr. Scroggins affidavit do not satisfy the requirements of Rule 56(e) and are thus insufficient to establish the remaining two elements.

OWNERSHIP STATED FOR WATERONE CALIFORNIA NOT WATERONE IDAHO

The Court finds and concludes that Plaintiffs have failed to meet their burden of establishing that there are no genuine issues of material fact and that they are entitled to a

writ of ejectment as a matter of law. Plaintiffs motion for partial summary judgment and issuance of a writ of ejectment is, therefore, DENIED.

6) Slander of Title

In order to maintain a cause of action for slander of title, the Plaintiffs have the burden of showing: 1) the uttering or publishing of slanderous statements; 2) when the statements were false; 3) with malice; and, 4) resulting in special damages.

Those elements of an action for slander of title were first enunciated by our Supreme Court in *Matheson v. Harris*, 98 Idaho 758, 759 (1977). In *Matheson*, the Supreme Court noted that the parties to the appeal had agreed that ". . . slander of title is premised upon a false and malicious statement, be it oral or written, made in disparagement of a person's title to real or personal property causing him special damages." *Id.* The four elements of slander of title set forth in *Matheson*, have since been cited by our Court of Appeals. See *Baker v. Boren*, 129 Idaho 885, 897 (Ct. App. 1997). In a slander action not involving title to real property, our Supreme Court has defined "express malice" or "malice in fact" to mean: ". . . the publication of defamatory matter in bad faith, without belief in the truth of the matter published, or with reckless disregard of the truth or falsity of the matter." *Barlow v. International Harvester Company*, 95 Idaho 881, 892 (1974).

Utilizing the explanation of slander of title found in *Matheson*, the Court finds and concludes that the Defendants have executed and published written statements in disparagement of Waterone California's title to the Murphy Hot Springs real property and that those written statements asserting claims of ownership of some interest in the Murphy Hot Springs real property were false. The Court further finds and concludes that

Plaintiffs bear the burden of proving at trial that the false statements were uttered or published with malice and that the false statements caused Plaintiff special damages.

The Court finds and concludes that the pleadings and affidavits on file fail to establish the elements of malice and special damages.

The Court finds and concludes that Plaintiffs' motion for partial summary judgment on the issue of slander of title be DENIED.

7) Waterone Idaho's Motion to Intervene

On September 6, 2002 Defendants' counsel filed a motion to intervene on behalf of Waterone Enterprises, LLC, an Idaho limited liability company and noticed for hearing on September 13, 2002.

As determined above, Waterone Idaho was organized subsequent to the conveyance of the real property at issue in this case and was thus not in existence at the time of the bankruptcy trustee's sale.

The undisputed affidavit of Clayne S. Zollinger, Jr. reflects that he filed the Articles of Organization for Waterone Idaho and that he filed those Articles at the behest of Thomas Scroggins and Waterone California, Plaintiffs in this action.

Defendants' motion to allow Waterone Idaho to intervene is not supported by affidavit.

The Court finds and concludes that Defendants' motion to allow Waterone Idaho to intervene fails to establish a basis for either intervention as a matter of right or permissive intervention. Waterone Idaho's motion to intervene is DENIED, without prejudice.

Therefore,

ORDER

IT IS HEREBY ORDERED, and this does ORDER, that Plaintiffs' Motion for Partial Summary Judgment be, and is hereby, GRANTED, in part, and DENIED, in part.

DATED: NOV 5 2002

James C. Morfitt
District Judge

CERTIFICATE OF MAILING

I HEREBY CERTIFY that a true and correct copy of the forgoing Memorandum Decision and Order was mailed to the following persons on this 5th day of November 2002.

Kimbell D. Gourley
JONES, GLEDHILL, HESS, ANDREWS,
FUHRMAN, BRADBURY & EIDEN, P.A.
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RANDY J. STOKER CHARTERED
204 Fourth Avenue East
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Twin Falls, ID 83303-0225

CYNTHIA EATON
~~G. Noel Hales~~
Clerk of the District Court

BY: Irina Ama
Deputy Clerk

4/2

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Department of Water Resources

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TWIN FALLS CO. IDAHO
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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** JANET O'CROWLEY Plaintiff, v. MATTHEW OLIVAS and TRINI OLIVAS, Husband and Wife, Defendants.	**ORDER TRANSFERRING SRBA SUBCASE TO THE DISTRICT COURT FOR OWYHEE COUNTY FOR DISPOSITION OF REMAINING ISSUES** **SRBA Subcase No. 94-00013** **Owyhee County Case No. _____**

I.

SUMMARY OF PROCEEDINGS AND DESCRIPTION OF CASE

On April 14, 1997, Janet O'Crowley filed a *Complaint* in the Snake River Basin Adjudication against Matthew and Trina Olivas, alleging several tort causes of action including trespass, conversion, nuisance and assault, which stemmed from a dispute over water rights. The *Complaint* alleged, *inter alia*, that the Olivases interfered with O'Crowley's water right (51-10220), which diverts from the same source (Murphy Hot Springs) as Olivases' water right (51-04037) and shares a common diversion works, which is located on the Olivas property. At the time the *Complaint* was filed neither water right had been adjudicated in the SRBA.

On April 22, 1997, then-Presiding Judge Daniel C. Hurlbutt, Jr., entered a ***Temporary Restraining Order***. Ms. O'Crowley posted a $1500 cash bond in connection therewith. On May 6, 1997, Judge Hurlbutt entered a ***Stipulated Order for Preliminary Injunction***, enjoining the

Olivases from interfering with the delivery of water right 51-10220 until further order of the Court.

A ***Partial Decree*** was entered for Ms. O'Crowley's water right in 1998 (and was subsequently amended). On November 3, 2000, then-Presiding Judge Barry Wood entered an order staying the matter until the Olivases' water right had also been adjudicated. The Court concluded that some of the causes of action alleged by O'Crowley could not be resolved until the elements of Olivases' water right had been determined. Specifically, until the respective priority dates had been adjudicated, the Court could not determine which water right was senior. The order then indicated that following the determination of the elements for water right 51-04037, any unresolved remaining issues alleged in the *Complaint* would be transferred to a court of appropriate jurisdiction as the tort claims alleged in the *Complaint* are outside the scope of the limited jurisdiction of the SRBA District Court. Ms. O'Crowley was in agreement as to proceeding in this manner.

On June 12, 2002, an ***Amended Partial Decree*** was issued for the O'Crowley water right (copy attached as Exhibit A). The Olivas water right is still pending in the SRBA. However, the only objection raised with respect to the Olivas water right and consequently the only issue before the SRBA Court does not involve an element that affects the O'Crowley water right.[1] Therefore all other elements of the Olivas water right will be decreed as reported by IDWR in the Director's Report (copy attached as Exhibit B). The Olivas water right will ultimately be decreed with the same priority date as the O'Crowley water right. Accordingly, the remaining issues in the case are ripe for determination.

On July 16, 2002, the SRBA Court held a hearing on this matter to determine if the remaining issues involved in this case can now be transferred to the District Court in Owyhee County for disposition. Janet O'Crowly appeared in person, *pro se*. Matthew and/or Trina Olivas did not appear. At the hearing, Ms. O'Crowley indicated that she did not wish to pursue the remaining causes of action against Mathew and Trina Olivas but stated her desire to have the preliminary injunction made permanent to prevent any further interference with her water right and/or diversion works, which are situated on the Olivas property. The Court indicated that it

[1] The only issue with respect to the Olivas water right involves the consumptive use of the water right. Olivas seeks to use the water for commercial bottling, which is a total consumptive use. The O'Crowley water right shares the same source and point of diversion as the Olivas water right and therefore is not dependent on the degree of consumption of the Olivas right.

would transfer the matter over to the Court of appropriate jurisdiction and Ms. O'Crowley could move to dismiss at that time as well as seek injunctory relief.

II.

REMAINING ISSUES

1. Should the causes of action for trespass, conversion, nuisance, and assault, contained in the Complaint be dismissed with prejudice?

2. Should the preliminary injunction be made permanent in light of the fact that IDWR now has the proper authority to administer the water rights involved in accordance with the respective SRBA Partial Decrees and/or Director's Reports?

3. Should Ms. O'Crowley's $1500 cash bond be exonerated?

III.

ORDER

In accordance with the foregoing, the following are HEREBY ORDERED:

1. SRBA subcase 94-00013 is transferred to the District Court of Owyhee County for final disposition.

2. The clerk of the SRBA Court shall forward Ms. O'Crowley's $1500 cash bond to the District Court of Owyhee County to be held consistent with further rulings of the District Court for Owyhee County.

3. The Clerk of the SRBA Court shall prepare a certified copy of the case file in this matter and forward it to the District Court of Owyhee County. The original court file shall remain with the SRBA District Court.

DATED: 7-29-02

ROGER S. BURDICK
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER TRANSFERRIN SRBA SUBCASE TO THE DISTRICT COURT FOR OWYHEE COUNTY FOR DISPOSITION OF REMAINING ISSUE was mailed on July 30, 2002, with sufficient first-class postage to the following:

MATTHEW OLIVAS
TRINI OLIVAS
DESERT HOT SPRINGS
ROGERSON, ID 83302

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

JANET O'CROWLEY
16 STUBB RD
CAREY, ID 83320-5026

Robbin Glatz
Deputy Clerk

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho
JUN 21 2002
By
Clerk
Deputy Clerk

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	)	
	)	**ORDER OF AMENDED PARTIAL DECREE**
Case No. 39576	)	
	)	**For Water Right 51-10220**

On January 30, 1998, this Court entered a ***Partial Decree*** in the above-captioned subcase, adjudicating to the Claimant, Janet O'Crowley, .01 cfs from Murphy Hot Springs for year 'round domestic use, with a priority date of May 15, 1971. On August 13, 2001, O'Crowley filed a *Motion to Amend the Partial Decree* for water right 51-10220, seeking a June 20, 1885, priority date. The *Motion* was originally filed in subcase 51-04037, wherein O'Crowley is a party respondent and is alleging in that subcase *inter alia*, wrongful interference with the diversion works and use of water right 51-10220. Water rights 51-04037 and 51-10220 share a common source.

A ***Special Master's Report and Recommendation*** was entered on August 14, 2001, recommending the ***Partial Decree*** for water right 51-10220 be set aside and amended to reflect the June 20, 1885, priority date. On October 9, 2001, this Court entered an ***Order Setting Aside Partial Decree.*** On November 2, 2001, the Idaho Department of Water Resources filed an *Amended Director's Report Subcase No.* 51-10220, recommending a priority date of June 20, 1885. No objections were filed.

On March 11, 2002, a ***Special Master's Report and Recommendation*** was filed recommending the June 20, 1885, priority date. No Challenges were filed to the ***Special Master's Recommendation*** and the time for filing Challenges has now expired. Pursuant to I.R.C.P. 53(e)(2) and ***SRBA Administrative Order 1,*** section 13f, this Court has reviewed the

EXHIBIT A

Findings of Fact and Conclusions of Law contained in the ***Special Master's Report*** and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 51-10220 is hereby decreed as set forth in the attached ***Amended Partial Decree Pursuant to I.R.C.P. 54(b)***.

DATED: 6-11-02

ROGER S. BURDICK
Presiding Judge
Snake River Basin Adjudication

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

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho
JUN 21 2002
By _____ Clerk
_____ Deputy Clerk

In Re SRBA	)	PARTIAL DECREE PURSUANT TO
	)	I.R.C.P. 54(b) FOR
Case No. 39576	)	
	)	Water Right 51-10220

NAME AND ADDRESS: JANET O'CROWLEY
16 STUBB RD
CAREY, ID 83320-5026

SOURCE: MURPHY HOT SPRING TRIBUTARY: JARBRIDGE RIVER, EAST FORK

QUANTITY: 0.01 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 06/20/1865

POINT OF DIVERSION: T16S R09E S34 NWNW Within Owyhee County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Domestic	01-01 TO 12-31	0.01 CFS

PLACE OF USE: Domestic Within Owyhee County
T16S R09E S24 NWNW

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Roger Burdick

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF AMENDED PARTIAL DECREE AND AMENDED PARTIAL DECREE PURSUANT TO IRCP 546 was mailed on June 13, 2002, with sufficient first-class postage to the following:

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

JANET O'CROWLEY
16 STUBB RD
CAREY, ID 83320-5026

RIGHTS FROM: SOURCE: MURPHY HOT SPRINGS TRIBUTARY: JARBIDGE RIVER, EAST FORK

RIGHT NUMBER: 51-04037

NAME & ADDRESS: MATTHEW OLIVAS
DESERT HOT SPRINGS
ROGERSON ID 83302

SOURCE: MURPHY HOT SPRINGS TRIBUTARY: JARBIDGE RIVER, EAST FORK

QUANTITY: 0.06 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 06/20/1885

POINT OF DIVERSION: T16S R09E S24 SWNWW Within OWYHEE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
COMMERCIAL	01-01 12-31	0.02 CFS
HEATING	01-01 12-31	0.04 CFS
DOMESTIC	01-01 12-31	0.02 CFS

USE IS FOR 1 HOME; COMMERCIAL USE, POOL, BATHS, LODGE; AND HEATING.

PLACE OF USE:

COMMERCIAL	Within OWYHEE County
T16S R09E S24	NWNW
HEATING	Within OWYHEE County
T16S R09E S24	NWNW
DOMESTIC	Within OWYHEE County
T16S R09E S24	NWNW

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - BENEFICIAL USE
WATER TEMPERATURE MEASURED AT 117 DEGREES F.

EXHIBIT B

DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
STATE OF IDAHO

RECEIVED
JUN 11 2002
Department of Water Resources

TERRENCE A. DOLAN
SPECIAL MASTER
(208) 736-3011
FAX (208) 736-2121

SRBA CHAMBERS
P.O. BOX 2707
TWIN FALLS, IDAHO 83303-2707

June 7, 2002

Hon. James C. Morfitt
District Judge
Fourth Judicial District
1115 Albany Street
Caldwell, Idaho 83605

Re: CV 01-03402 and SRBA Subcase
51-04037

Dear Judge Morfitt:

Enclosed is an ***Order*** I recently entered in an SRBA subcase that relates to a quiet title action pending before you. I've highlighted the relevant sections. Essentially, I plan on holding our subcase in abeyance until the issue of ownership of the land at Murphy Hot Springs is resolved in your proceeding. There are a number of individuals involved, but the corporate entities are WaterOne Enterprises LLC (Idaho), WaterOne Enterprises LLC (California) and Purity Sweet, Inc.

If you need any records from our file, please give me a call. In the meantime, we'll check in with the Clerk of the District Court in Murphy now and then to follow the progress of the quiet title action. We plan to set our subcase on a trial track as soon as ownership is resolved.

Sincerely,

Terrence A. Dolan
Special Master
Snake River Basin Adjudication

Enclosure
cc. WaterOne Enterprises, LLC
Purity Sweet
Kevin J. Beaton
David Barber
Garrick Baxter

RECEIVED
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Department of Water Resources
2002 JUN -7 PM 1:07
DISTRICT COURT-SRBA
TWIN FALLS (IDAHO)

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	)	**Subcase 51-04037**
	)	**(Purity Sweet, Inc., or WaterOne**
Case No. 39576	)	**Enterprises LLC)**
	)	
	)	**ORDER GRANTING MOTION TO**
	)	**WITHDRAW; ORDER GRANTING**
	)	**STATE'S MOTION FOR LEAVE TO**
	)	**FILE RESPONSE; and ORDER GRANTING**
	)	**MOTION TO FILE LATE OBJECTION**

A hearing on pending *Motions* was held on June 6, 2002, at the SRBA Courthouse in Twin Falls, Idaho. Claimant Purity Sweet, Inc., was not represented by counsel, but two of its officers (Don Dozier and Matthew Olivas) appeared in court; Timothy J. Schneider appeared for claimant WaterOne Enterprises LLC (Idaho); Kevin J. Beaton appeared for claimant WaterOne Enterprises LLC (California), along with Thomas Scroggins; David J. Barber appeared for respondent the State of Idaho; respondent Janet O'Crowley appeared *pro se*; and Garrick L. Baxter appeared by telephone for IDWR.

The first matter to be heard was Mr. Schneider's oral motion to withdraw as attorney of record for WaterOne Enterprises LLC (Idaho). Mr. Schneider cited irreconcilable conflicts of interest having consulted with parties of both WaterOne Enterprises LLC (Idaho) and WaterOne Enterprises LLC (California).[1] Mr. Beaton, counsel for WaterOne Enterprises LLC (California), said his client would not waive any claim of conflict of interest and did not oppose the motion. Messrs. Dozier and Olivas spoke against the motion because it would leave WaterOne Enterprises LLC (Idaho) without an attorney. Their roles in WaterOne Enterprises LLC (Idaho) are presumably the same as their roles in Purity Sweet, Inc.

[1] There is a pending quite title action in Owyhee County District Court, case no. CV 01-03402, essentially between WaterOne Enterprises LLC (California) and Purity Sweet, Inc. [WaterOne Enterprises LLC (Idaho)] to determine ownership of the land to which water right 51-04037 is appurtenant.

The second matter was the State of Idaho's *Motion for Leave to File a Response or in the Alternative to File a Late Response* filed April 10, 2002. Mr. Barber pointed out that the State filed a *Response to Objection* in subcase 51-04037 on August 17, 2000, in response to Matthew Olivas' *Objection* to quantity. The State filed the present *Objection* simply to make the record clear that it remains a party to the subcase, including WaterOne Enterprises LLC's pending *Objection* to purpose of use filed December 28, 2001. No one opposed the State's *Motion.*

The third matter to be heard was a *Motion to File Late Objection* filed by WaterOne Enterprises LLC (California) on April 24, 2002. Mr. Beaton argued his client is a necessary party being an adverse claimant to 51-04037 and the plaintiff in the pending Owyhee County District Court quiet title action. No one opposed the *Motion.*

THEREFORE, IT IS ORDERED that:

1. Mr. Schneider's oral motion to withdraw as attorney of record for WaterOne Enterprises LLC (Idaho) is **granted**. His client will have ample time to retain substitute counsel in light of the Special Master's stated intent to defer further action in the subcase pending resolution of ownership by the Owyhee County District Court;[2]

2. The State of Idaho's *Motion for Leave to File a Response or in the Alternative to File a Late Response* is **granted**; and

3. The *Motion to File Late Objection* filed by WaterOne Enterprises LLC (California) is **granted.**

DATED June 7, 2002.

TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

[2] Mr. Beaton said a summary judgment hearing before the Owyhee County District Court is scheduled for July 12, 2002, and trial is set for sometime in March, 2003.

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO WITHDRAW; ORDER GRANTING STATE'S MOTION FOR LEAVE TO FILE RESPONSE AND MOTION GRANT was mailed on June 07, 2002, with sufficient first-class postage to the following:

STATE OF IDAHO
Represented by:
DAVID J. BARBER
STATEHOUSE RM 210
STATEHOUSE MAIL
BOISE, ID 83720-0010
Phone: 208-334-2400

WATERONE ENTERPRISES, LLC
Represented by:
KEVIN J. BEATON
101 S CAPITOL BLVD STE 1900
BOISE, ID 83702-5958
Phone: 208-389-9000

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

JANET O'CROWLEY
16 STUBB ROAD
CAREY, ID 83320-5026
Phone: 208-823-4554

PURITY SWEET
WATERONE ENTERPRISES LLC
359 N 400 W
PAUL, ID 83347

Deputy Clerk

RECEIVED
APR 12 2002
Department of Water Resources

Movant: State of Idaho

ALAN G. LANCE
Attorney General

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

DAVID J. BARBER
Deputy Attorney General
Natural Resources Division
P.O. Box 44449
Boise, ID 83711-4449
Telephone: (208) 334-2400
Facsimile: (208) 334-2690
Idaho State Bar # 2597 (Barber)

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	)	Subcase No. 51-04037
	)	
Case No. 39576	)	MOTION FOR LEAVE TO FILE A RESPONSE
	)	OR IN THE ALTERNATIVE TO FILE A LATE
	)	RESPONSE
	)	

The State of Idaho, by and through David J. Barber, Deputy Attorney General, Natural Resources Division, hereby moves the Court for permission to file a response to the objection filed by WaterOne Enterprises LLC on December 28, 2001. The grounds for this motion are as follows:

1. The ORDER GRANTING MOTION TO FILE AMENDED NOTICE OF CLAIM and SETTING DEADLINES (Order) dated October 24, 2001 provided that

COPY

objections to the amended Director's report shall be filed no later than Friday, December 28, 2001. However, that Order did not set any deadlines for filing responses to any objections that may be filed. Thus, by the terms of that order, the present response is not untimely. Nonetheless, even if the present response is deemed to be untimely, good cause exists for allowing the State of Idaho to file the response at this time.

2. The Certificate of Service for that Order indicates that the Order was not served on the State of Idaho.

3. Claimant WaterOne filed an Objection to the remark associated with the purpose of use. The remark to the purpose of use stated: "COMMERCIAL USE IS FOR POOL, BATHS, INTERNAL LODGE USE AND 1 TRAILER."

4. The predecessors in interest of WaterOne had filed application to appropriate water no. 51-07362 with the Idaho Department of Water Resources (hereinafter "IDWR"), which requested the permission of the IDWR to begin the commercial bottling of water for sale at Murphy Hot Springs. The IDWR denied this application for permit. A true and correct copy of this administrative decision is attached as Attachment I.

5. The apparent reason for the present objection is to change the definition of this water right in a manner that would allow the commercial bottling of water for sale, and thus to circumvent a final administrative decision of the IDWR.

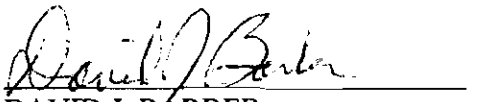
6. Because the commercial bottling of water for sale is one hundred per cent consumptive for the local watershed, it may have a substantial adverse impact on the local water resources. The participation of the State of Idaho is warranted in this subcase because of the substantial policy issues regarding this potential change in water use.

CONCLUSION

The State respectfully requests that the Court grant its request to file the Response that is attached as Attachment II and to participate further in this subcase for good cause shown.

DATED this 9th day of April 2002.

ALAN G. LANCE
Attorney General



DAVID J. BARBER
Deputy Attorney General
Natural Resources Division

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of April 2002, I caused to be served a true and correct copy of the foregoing **STATE OF IDAHO'S MOTION FOR LEAVE TO FILE RESPONSE OR IN THE ALTERNATIVE TO FILE A LATE RESPONSE** to the following addressees by the method indicated:

WaterOne Enterprises LLC 251 Versailles Court Tracy, CA 95376	☑ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: _____ ☐ Statehouse Mail
Timothy J. Schneider Ling & Robinson 615 H Street P.O. Box 396 Rupert, ID 83350	☑ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: _____ ☐ Statehouse Mail
Purity Sweet 390 W 100 S Paul, ID 83347	☑ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: _____ ☐ Statehouse Mail
Janet O'Crowley 16 Stubb Road Carey, ID 83320-5026	☑ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☑ Facsimile: (208) 823-4554 ☐ Statehouse Mail
Idaho Department of Water Resources P.O. Box 83720 Boise, ID 83720-0098	☐ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: _____ ☑ Statehouse Mail
United States Department of Justice Environment and Natural Resources Division 550 West Fort Street, MSC 033 Boise, ID 83724	☐ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: _____ ☑ Statehouse Mail

DAVID J. BARBER
Deputy Attorney General
Natural Resources Division

ATTACHMENT I

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 51-07362 IN THE NAME OF MATTHEW OLIVAS	))))	FINAL ORDER

A hearing was conducted in Twin Falls, Idaho, on June 11, 1997, regarding protests opposing the above described application for permit to appropriate water. Murphy Hot Springs Property Owners Association was represented by Norman Semanko, attorney at law. The applicant and the other protestants represented themselves. A recommended order was issued on August 18, 1997. Matthew Olivas petitioned for reconsideration on September 5, 1997, and the petition was denied on September 19, 1997. No exceptions to the recommended order were received.

FINDINGS OF FACT

1. On July 15, 1996, Sylvia Olivas filed application to appropriate water no. 51-07362. Notice of the application was printed in the Owyhee Avalanche in Homedale, Idaho. Application for permit no. 51-07362 was subsequently assigned to Matthew Olivas (Olivas) on March 27, 1997.

2. Application for permit no. 51-07362 proposes the diversion of warm spring water from two springs on the northwest side of the East Fork of the Jarbidge River:

Source:	Murphy Hot Springs
Proposed priority:	07/15/96
Point of diversion:	SWNWNW[1], Section 24, T16S, R9E, B.M.[2]
Place of use:	NWNW, Section 24, T16S, R9E
Flow rate:	0.04 cfs
Nature of use:	Commercial (bottling & sale of drinking water)
Period of use:	January 1 through December 31

3. The following protestants filed protests against application for permit no. 51-07362: Murphy Hot Springs Property Owners Association; Robert W. Fries; Lowell Prunty;

[1]The absence of the quadrant identifier implies that the fraction "1/4" should be read into the description.

[2]The acronym "B.M." is an abbreviation for "Boise Meridian" and will be eliminated in the remainder of the text.

The foregoing is a true and certified copy of the document on file at the department of Water Resources.

Signed this 9th day of April, 2002

Shelly W. Keen

Charles R. Potter; John Etter; Janet O'Crowley; Anita Showalter; James Don Smith; David J. Long; and Virgil E. Dodd.

4. Water flowing from Murphy Hot Springs is currently captured by Olivas and supplies water to a swimming pool, three hot tubs, a home, and a lodge. The right to use water from Murphy Hot Springs for these purposes is represented by Snake River Basin Adjudication (SRBA) claim no. A51-04037:

Source:	Murphy Hot Springs
Priority:	07/01/34
Point of diversion:	NWNW, Section 24, T16S, R09E
Place of use:	NWNW, Section 24, T16S, R09E
Flow rate:	0.06 cfs
Nature of use:	Heating, domestic, and commercial
Period of use:	January 1 through December 31

5. Originally, one spring supplied water to the swimming pool and another spring supplied water to the hot tubs. In addition, one home and three trailers were supplied water from the same water line that delivers water to the hot tubs.

6. A lodge on the southwest side of the East Fork of the Jarbidge River also received warm water from the water line which supplied the hot tubs.

7. A 3/4-inch water line was tapped into the supply line delivering water to the swimming pool. The 3/4-inch water line delivered water to a residence owned by Margaret Thompson, now owned by Janet O'Crowley, one of the protestants. Ms. O'Crowley's water right for domestic use is represented by SRBA claim no. A51-10220:

Source:	Murphy Hot Springs
Priority:	05/15/71
Point of diversion:	NWNW, Section 24, T16S, R09E
Place of use:	NWNW, Section 24, T16S, R09E
Flow rate:	0.01 cfs
Nature of use:	Domestic
Period of use:	January 1 through December 31

8. License no. 51-07138, originally established by John Thompson, authorized the diversion of wastewater after use in the swimming pools and hot tubs:

Source:	Wastewater
Priority:	01/03/79
Point of diversion:	NWNWNW, Section 24, T16S, R09E
Place of use:	NWNW, Section 24, T16S, R09E

Flow rate:	0.10 cfs
Nature of use:	Heating, irrigation
Period of use:	January 1 through December 31

9. In September of 1993, Matthew and Trini Olivas purchased the lodge, residence, swimming pool, hot tubs, and surrounding property. Delivery of warm water to the three trailers was discontinued before the purchase by Matthew and Trini Olivas. During the spring of 1994, Olivas constructed a water line linking the swimming pool water line to the hot tub water line. He modified the water line to the hot tubs by adding another water line extending down gradient and across to the northwest side of the East Fork of the Jarbidge River to a bottling plant he had constructed. Any overflow from the swimming pool, the hot tubs, the home, or the bottling plant discharges into the East Fork of the Jarbidge River unless captured by another water user.

10. At the same time Olivas constructed the cross-connection between the two spring water lines, he changed the 3/4-inch connection for the Thompson (O'Crowley) property from the pool water line to the hot tub water line.

11. Applicant's exhibit no. 5 schematically depicts the construction as completed by Olivas. A series of valves in the system, also depicted on the exhibit, regulates the quantities of warm water flowing to the swimming pool, the hot tubs, the O'Crowley property, and finally across the Jarbidge River to the bottling plant. Olivas must adjust these valves to insure that the proper mixture of hot water and cold water is delivered to the swimming pool for swimming and to the hot tubs for bathing. He must also regulate the most downstream valve before discharge into the East Fork of the Jarbidge River to back water into the bottling plant.

12. Shortly after purchasing the property, Olivas began bottling some water for drinking. He began selling the water as part of the business at the lodge. He also began selling water to other individuals, primarily to Matt Clawson (Clawson). Clawson stated that he (Clawson) began selling approximately 36 gallons per week to customers.

13. After construction of the bottling plant and reconstruction of the water line, Margaret Thompson noticed problems with delivery of hot water through the 3/4-inch water line when Olivas was bottling water.

14. After Janet O'Crowley purchased the Thompson property in the fall of 1994, she also experienced water delivery problems. O'Crowley documented the shortages in a journal, and those entries are summarized in protestants' exhibit AA. O'Crowley correlated her water shortages directly with her observations of bottling water at the bottling plant.

15. Olivas testified that if the application is approved, he would operate one eight-hour shift for five days a week, bottling approximately twelve gallons per minute. He predicted bottling and marketing approximately 28,500 gallons per month.

16. Olivas signed a long term lease agreement with Clawson. Clawson agreed to operate the swimming pool, lodge, and hot tubs and to market the bottled water. The contract is marked as protestants' exhibit KK.

17. Olivas testified generally about the operation of the system. He did not present any data regarding the flows of the springs, the demand of the other users, and how much water would be available for appropriation.

18. Maria Minicucci (Minicucci), an employee of the Department of Water Resources (IDWR), measured flows from the springs on March 3, 1994, as part of an SRBA examination. She measured 0.07 cfs in a runoff ditch just north of the bath houses with a pygmy meter. She acknowledged she may not have measured all the flow because some water may have been diverted to the house and lodge during her measurement.

19. Minicucci also measured a swimming pool volume of 4,000 cubic feet. Olivas told Minicucci that the pool fills in 22 hours. A continuous flow of 0.051 cfs would fill the swimming pool in 22 hours. However, this flow rate may not be a representative measurement of the total output from the springs because the cross-connection may not have been complete at the time, since Olivas testified that cold water must be mixed with the low temperature geothermal water to control temperatures for swimming.

20. Two field examinations were conducted for water right no. 51-07138, established by John B. Thompson and described above in finding of fact no. 8. In January of 1979, Gary Funderburg, another IDWR employee, measured a wastewater flow of 0.042 cfs from the swimming pool and the hot tubs with a portable cippoletti weir. In August of 1984, Jan Grover, another IDWR employee, estimated that 0.10 cfs was flowing in the waste ditch below the swimming pool and hot tubs.

21. Testimony established that the system as constructed and operated with the bottling plant does not deliver sufficient water to the O'Crowley property pursuant to her claimed water right. Olivas did not present any rebuttal evidence, nor did Olivas present a plan to supply uninterrupted domestic water to O'Crowley.

22. Evidence was presented about an ongoing foreclosure action and a reeent bankruptcy action, calling into question the financial ability of Olivas to construct and operate the project. Olivas submitted a tax return and financial statement as evidence. Olivas did not submit evidence regarding the cost of completing construction of the bottling plant, the cost of operating the bottling plant, or that Olivas or Clawson could finance the project. The protestants submitted evidence that Olivas/Clawson had been denied a Small Business Administration loan, with a letter by Clawson stating that the denial of the loan would jeopardize operation of the bottling plant.

23. Olivas presented testimony showing that he has already expended significant effort to print labels for the bottles and has already bottled water at the bottling plant.

24. Olivas established that the bottled water business could be a lucrative business and would increase the income of his family. He testified that the plant could employ three to four employees.

25. Olivas testified that the warm spring water had been tested for quality. Olivas testified that the water is naturally distilled when the water is geothermally heated to steam underground and then condenses to become a liquid, allegedly leaving many impurities behind. To the extent geothermal heat purifies the spring water, this is a beneficial use of the geothermal heat.

26. The protestants expressed their opinion that the construction and operation of the bottling plant would not serve the public interest. Protestants expressed concern about water quality. The protestants were particularly concerned about the surrounding corral and manure, the hygiene of people who have bottled water in the past, and the condition and exposure of the water line delivering water to the plant.

27. Protestants expressed their opinion that the increased truck traffic hauling water to and from the bottling plant would degrade the gravel roads in the area.

28. Robert W. Fries (Fries) testified that the original developer promised him free access to the swimming pool and hot tubs when he bought his residential lots. Fries testified that Olivas had denied him access to the swimming pool and hot tubs.

CONCLUSIONS OF LAW

1. Idaho Code § 42-203A(5) provides, in pertinent part, as follows:

> In all applications whether protested or not protested, where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use, or (f) that it is contrary to conservation of water resources within the state of Idaho; the director of the department of water resources may reject such application and refuse issuance of a permit therefor . . . .

2. Idaho Code § 42-230(a)(1) states:

> All ground water having a temperature of greater than eighty-five (85) degrees Fahrenheit and less than two hundred twelve (212) degrees Fahrenheit in the bottom of a well shall be classified and administered as a low temperature geothermal resource pursuant to section 42-233, Idaho Code.

3. Idaho Code § 42-233(1) states:

> The right to the use of low temperature geothermal resources of this state shall be acquired by appropriation. The appropriation may be perfected by means of the application, permit and license procedure as provided in this chapter for ground water, provided that low temperature geothermal resources shall be utilized primarily for heat value and secondarily for the value as water. Usage of a low temperature geothermal resource primarily for reasons other than heat value is not a beneficial use of the resource, unless the director of the department of water resources exempts the proposed use. The director may exempt a proposed use if the director finds that the proposed use satisfies the following criteria: (i) there is no feasible alternative use of the resource; (ii) there is no economically viable source of water having a bottom hole temperature of eighty-five (85) degrees or less in a well available; (iii) the exemption is in the public interest.

4. The applicant bears the burden of proof regarding the criteria that must be considered pursuant to Idaho Code § 42-203A.

5. The applicant did not submit sufficient proof to establish that there is sufficient water for the purpose sought.

6. The applicant failed to establish that his use would not injure other water users. Protestant O'Crowley established that bottling water by Olivas had prevented the use of water to which she was entitled.

7. The applicant did not present evidence that he had sufficient financial resources to construct and operate the bottling facility.

8. The applicant has accomplished sufficient work to show that the application is not being filed for purposes of speculation or delay.

9. The protestants did not raise sufficient public interest concerns for the application for permit to be denied based on public interest except with respect to water quality issues. Degradation of county roads is an issue that should be resolved by the entities that control local road maintenance and use. Speculation about future use of the water and unfulfilled promises to land purchasers are not public interest concerns that rise to the level of justifying denial of an

application for permit to Olivas. On the contrary, the use proposed by Olivas appears to have local public interest merit because of the value of the bottled water compared with the small quantity of water that would be diverted.

10. Olivas did not submit sufficient information to show that he could comply with health regulations.

11. Because Olivas did not carry his burden of proof, application for permit no. 51-07362 will be denied.

12. Because application for permit no. 51-07362 will be denied, this decision does not require an interpretation of whether Idaho Code § 42-230 and Idaho Code § 42-233 define warm spring water as low temperature geothermal water, and whether a proposed use of warm spring water must satisfy the criteria of Idaho Code § 42-233.

13. Olivas, or another applicant, should not be prevented from applying for use of Murphy Hot Springs for bottled water or some other purpose if the criteria that must be reviewed by IDWR can be satisfied.

ORDER

IT IS HEREBY ORDERED that application for permit to appropriate water is **REJECTED**, and issuance of permit for the application is **DENIED** without prejudice.

Dated this 26th day of January, 1998.

KARL J. DREHER
Director

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of January, 1998, I mailed a true and correct copy, postage paid, of the foregoing document to the following individuals:

Sylvia Olivas
Desert Hot Springs
Rogerson, ID 83302

Charles R. Potter
2278 Bowlin Lane
Twin Falls, ID 83301

James Don Smith
216 Borah Ave. W
Twin Falls, ID 83301

Norman M. Semanko
Rosholt, Robertson & Tucker
Murphy Hot Springs Prop Owners
P. O. Box 1906
Twin Falls, ID 83301

John Etter
137 2nd Ave. E
Twin Falls, ID 83301

Robert W. Fries
1720 Poplar Ave
Twin Falls, ID 83301

Janet O'Crowley
Murphy Hot Springs
Rogerson, ID 83302

Virgil E. Dodd
Murphy Hot Springs
Rogerson, ID 83302

Lowell Prunty
Murphy Hot Springs
Rogerson, ID 83302

Anita Showalter
Murphy Hot Springs
Rogerson, ID 83302

David J. Long
P. O. Box 209
Hansen, ID 83334

Julie L. Yarbrough
JULIE L. YARBROUGH
Senior Secretary

N:\SPACKMAN\OLIVAS5.FO

The foregoing is a true and certified copy of the document on file at the department of Water Resources.

Signed this 9th day of April 2002

Shelley W. Keen

ATTACHMENT II

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: 51-04037
		(Insert water right number
Case No. 39576		From the Objection Form)
		STANDARD FORM 2
		RESPONSE TO OBJECTION

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

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: State of Idaho
Address: 700 W. Jefferson, Room 210
P.O. Box 44449
Boise, Idaho 83711-4449
Phone: Work: (208) 334-2400 Home: N/A

Name and Address of Attorney, if any:

Attorney Name: ALAN G. LANCE
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
DAVID J. BARBER
Deputy Attorney General
Attorney Address: Office of the Attorney General
700 W. Jefferson, Room 210
P.O. Box 44449
Boise, ID 83711-4449
Attorney Phone No. (208) 334-2400
Idaho State Bar # 2597

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

Name: WaterOne Enterprises LLC
Address: 251 Versailles Court
Tracy, CA 95376

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. ☐ **Points of Diversion**
6. ☐ **Instream Flow Description**
7. ☑ **Purpose(s) of Use**
8. ☐ **Period of Year**
9. ☐ **Place of Use**

11. **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. **VERIFICATION (Must be Completed)**

State of Idaho)
) ss.
County of Ada)

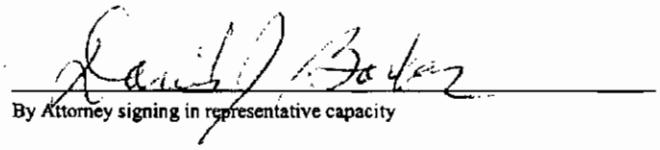
David J. Barber, Deputy Attorney General, being first duly sworn, upon oath, deposes and says:

That the State of Idaho, in both its sovereign and proprietary capacity, pursuant to I.C. § 42-1411A(16) is filing this objection and that I am a Deputy Attorney General authorized to represent the State of Idaho, which is a party/claimant in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and I have read this objection, know its contents and that the statements are true to the best of my knowledge and belief.

ALAN G. LANCE
Attorney General

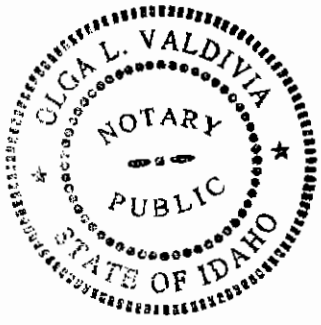
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

DAVID J. BARBER
Deputy Attorney General
Natural Resources Division



By Attorney signing in representative capacity

Subscribed and sworn to before me on: April 9, 2002
(Insert Date)



Notary Public for IDAHO
Residing at: BOISE, ID
My commission expires: 2/8/06

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.

G. CERTIFICATE OF MAILING

I certify that on April 9, 2002, 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
   P.O. Box 2707
   Twin Falls, Idaho 83303-2707

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

   WaterOne Enterprises LLC
   251 Versailles Court
   Tracy, CA 95376

3. Copies to:

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

   Chief of Natural Resource Division (not applicable)
   Office of the Attorney General
   State of Idaho
   P.O. Box 44449
   Boise, Idaho 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, Idaho 83724

Janet O'Crowley
16 Stubb Road
Carey, ID 83320-5026

Timothy J. Schneider
Ling & Robinson
615 H Street
P.O. Box 396
Rupert, ID 83350

Purity Sweet
390 W 100 S
Paul, ID 83347

Signature of party claimant or attorney

IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 Airport Way
Boise, Idaho 83705-5082

RETURN SERVICE REQUESTED

RETURN SERVICE REQUESTED

RESON. FIRST CLA

BOISE MAR 19'02 ID

PB METER 7110094 U.S. POSTAGE 00.48

RECEIVED
MAR 2 1 2002
WATER RESOURCES
WESTERN REGION

51-4037

PURITY SWEET
379 N 400 W
PAUL ID 83347

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 19, 2002

PURITY SWEET
379 N 400 W
PAUL ID 83347

RE: Water Right No. 51-4037

Dear Property Owner(s):

Enclosed is a copy of the above referenced water right, which reflects the change in ownership of the land and appurtenant water rights, covered under the original filing. Also enclosed is a copy of the Notice of Completed Administrative Proceedings, which has been sent to the Snake River Basin Court as notification of the change.

Thank you for your patience and cooperation, as we have had several water right changes to process. If you have any questions concerning the enclosed water rights, please feel free to contact this office.

Sincerely,

Adjudication Section
Western Region

DB: db

Enclosures

cc: Waterone Enterprises LLC
Timothy J Schneider, Ling and Robinson
David J Barber, State of Idaho
Janet O'Crowley

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	)	**Water Rights: 51-4037**
	)	
Case No. 39576	)	**NOTICE OF COMPLETED ADMINISTRATIVE PROCEEDING**
	)	
	)	

IDWR has completed the following administrative proceeding:

☐ Address change

☒ Substitution of Party

☐ IC § 42-222 transfer

- ☐ Point of diversion
- ☐ Place of use
- ☐ Period of use
- ☐ Nature of use
- ☐ Split of water right
- ☐ Change in ownership
- ☐ Other

☐ IC § 42-219 license

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Report(s)* for said water right(s). No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: March 19, 2002

Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on March 19, 2002, I delivered the original and copies of this form, including all attachments, to the following persons, postage prepaid if required and addressed as follows:

1. Original to:

Clerk of the District Court Snake River Basin Adjudication P.O. Box 2707 Twin Falls, ID 83303-2707	___ overnight mail _X_ regular mail ___ hand-delivered ___ facsimile

2. Copies to:

Clive Strong Office of the Attorney General P.O. Box 44449 Boise, ID 83711-4449	___ overnight mail _X_ regular mail ___ hand-delivered ___ facsimile
United States Dept of Justice Environment & Natural Resource Div 550 West Fort Street MSC 033 Boise ID 83724	___ overnight mail _X_ regular mail ___ hand-delivered ___ facsimile

3. Copies to all parties to the subcase:

Waterone Enterprises LLC ***(Former Owners)*** 251 Versailles Ct Tracy CA 95376	___ overnight mail _X_ regular mail ___ hand-delivered ___ facsimile
Purity Sweet ***(Current Owners)*** 379 N 400 W Paul ID 83347	___ overnight mail _X_ regular mail ___ hand-delivered ___ facsimile
Timothy J Schneider ***(Attorney)*** Ling and Robinson 615 H St PO Box 396 Rupert ID 83350-0396	___ overnight mail _X_ regular mail ___ hand-delivered ___ facsimile

David J Barber State of Idaho Statehouse Rm 210 Statehouse Mail Boise ID 83720-0010	***(Attorney)***	___ overnight mail _X_ regular mail ___ hand-delivered ___ facsimile
Janet O'Crowley 16 Stubb Rd Carey ID 83320-5026		___ overnight mail _X_ regular mail ___ hand-delivered ___ facsimile

Denise Buffington
Signature of person mailing this document

03/18/2002

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 51-4037

NAME AND ADDRESS: PURITY SWEET
379 N 400 W
PAUL ID 83347

SOURCE: MURPHY HOT SPRINGS TRIBUTARY: EAST FORK JARBIDGE RIVER

QUANTITY: 0.06 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 06/20/1885

POINT OF DIVERSION:

T16S R09E S24 SWNWNW Within OWYHEE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
DOMESTIC	01/01 12/31	0.020 CFS
COMMERCIAL	01/01 12/31	0.040 CFS

COMMERCIAL USE IS FOR POOL, BATHS, INTERNAL LODGE USE, AND 1 TRAILER.

PLACE OF USE: DOMESTIC Within OWYHEE County

T16S R09E S24 NWNW

COMMERCIAL Within OWYHEE County

T16S R09E S24 NWNW

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. THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR DOMESTIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: Beneficial Use

WATER TEMPERATURE MEASURED AT 117 DEGREES F.

RECEIVED

Form 42-248/42-1409(6) July, 2000

MAR 12 2002

Department of Water Resources
Southern Region

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
	51-4037				

2. The following **REQUIRED** information must be submitted with this form:

   A. The appropriate **FILING FEE**. See instructions for fee amounts. N/A

   B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.

   C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
   PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

   OR

   If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The AERIAL PHOTO should be submitted in place of the PLAT OF PROPERTY or SURVEY MAP.

3. Name and Address of Former Owner/Claimant(s): WATER ONE ENT. LLC
   379 N 400 W PAUL, ID 83347

4. New Owner/Claimant(s): PURITY SWEET
   Name Connector (Check one): [ ] and, [ ] or, [ ] and/or

   New Mailing Address: 379 N 400 W

   City, State and ZIP Code: PAUL, ID 83347

   New Telephone Number: 208 438 2529

5. Date you acquired the property: 3-12-02

RECEIVED

MAR 13 2002

WATER RESOURCES
WESTERN REGION

6. **If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7.** If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation		
Stock		
Domestic		
Other _____		
Total		

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation		
Stock		
Domestic		
Other _____		
Total		

7. Signature of New Owner(s) or Claimant(s) (include title if applicable) Chris Dozier

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only
Received by DB Date 3-13-02 Fee 0
Receipted by K Date _____ Receipt No. _____
Processed by _____AJ Date _____ WR _____ Date _____

QUITCLAIM DEED

For Value Received Waterone Enterprises LLC

Do hereby convey, release, remise and forever quit claim

unto Purity Sweet Inc., A Idaho Corporation
address is 359 North 400 West Paul, Idaho 83347
the following described premises, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE AND MADE A PART HEREOF.

REQUEST OF Cecil Dozier

238438

FILED - RECORDED
02 JAN 22 PM 2:50
OWYHEE COUNTY RECORDER
BY Carlett
DEPUTY

Together with their appurtenances.

Dated:

Don Dozier

Matthew Dozier

Danny Crystal

Members of Waterone Enterprises LLC

Brent Dozier

STATE IDAHO COUNTY OF OWYHEE

On this 17th day of January 2002 before me, a notary public in and for said State, personally appeared

known to me to be the persons who is names the grantor subscribed to the within instrument and acknowledged to me that he executed the same.

CLARICE LESLIE NOTARY PUBLIC STATE OF IDAHO

Clarice Leslie
Notary Public

Residing at 205 E Ellis Paul Id 83347
Comm. Expires 1-26-2005

C31367

STATE IDAHO COUNTY OF OWYHEE

I hereby certify that his instrument was filed for record at the request of

at minutes past o'clock m.,
This day of
19 , in my office, and duly recorded in Book of Deeds at page

Ex-Officico Recorder

By Deputy.

Fees $
Mail to:

EXHIBIT "A"

A parcel of land within the West Half of the Northwest Quarter (W½NW¼) of Section 24, Township 16 South, Range 9 East, Boise Meridian, Owyhee County, Idaho, and more particularly described as follows:

COMMENCING at a brass-cap marking the Northwest corner of Section 24, Township 16 South, Range 9 East, Boise Meridian;
THENCE South 54°09' East, 859.6 feet to the true point of beginning;
THENCE South 34°13' East, 560.0 feet;
THENCE South 55°47' West, 1230.7 feet to the west boundary of said Section 24;
THENCE North 0°13' East, 678.9 feet along the west boundary of said Section 24;
THENCE North 55°47' East, 846.9 feet to the True Point of Beginning.

EXCEPTING THE FOLLOWING DESCRIBED 2 PARCELS OF LAND:

PARCEL NO. 1:

A parcel of land in the NW¼, Section 24, Township 16 South, Range 9 East, Boise Meridian, being more particularly described as follows:

BEGINNING at the NW corner of the NW¼ of Section 24, Township 16 South, Range 9 East, Boise Meridian
THENCE running South 0°12'33" West for a distance of 358.0 feet to a point;
THENCE running South 35°36'34" East for a distance of 512.9 feet, said point is the TRUE POINT OF BEGINNING, said point is also the SW corner of Lot 1, Block 12 of Murphy Hot Springs Subdivision No. 1 as recorded in Owyhee County Courthouse;
THENCE South 26°30' East for a distance of 124.28 feet;
THENCE North 56°28' East for a distance of 189.61 feet;
THENCE North 46°27' West for a distance of 128.32 feet to a point, which lies on the Southerly boundary of said Murphy Hot Springs Subdivision No. 1;
THENCE South 55°47' West for a distance of 145.43 feet, along the Southerly boundary of Lot 1, Block 12, Murphy Hot Springs Subdivision No. 1 to the TRUE POINT OF BEGINNING.

PARCEL NO. 2:

A parcel of land in the NW¼ of Section 24, Township 16 South, Range 9 East, Boise Meridian, Owyhee County, Idaho, described as follows:

BEGINNING at the Northeast corner of Lot 28, Block 7, Murphy Hot Springs Subdivision No. 2, Owyhee County, Idaho;
THENCE North 34°13'00" West 37.5 feet to a point;
THENCE South 55°47'00" West 85 feet, more or less, to the East Bank of Jarbidge River;
THENCE in a Southeasterly direction 37.5 feet, more or less, to the Northwest corner of Lot 29, Block 7 of Murphy Hot Springs Subdivision No. 2;
THENCE North 55°47'00" East 80.8 feet to the Point of Beginning.

TOGETHER with 0.060 (cfs) of water evidenced by IDWR Water Right Number 51-04037.

RECEIVED
JAN 0 7 2002
WATER RESOURCES
WESTERN REGION

RECEIVED
DEC 31 2001
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 No. 51-04037**
Case No. 39576	**STANDARD FORM 1**
	OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: WaterOne Enterprises, LLC

Address: 251 Versailles Court
Tracy, California 95376

Daytime Phone (209) 969-4275

Name & Address of Attorney, if any:
TIMOTHY J. SCHNEIDER
LING & ROBINSON
615 H Street, P. O. Box 396
Rupert, Idaho 83350

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

Name: WaterOne Enterprises, LLC

Address: 251 Versailles Court
Tracy, California 95376

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(s) of Diversion**
   Should be: _____

6. ☐ **Instream FlowDescription**
   Should be: _____

7. ☒ **Purpose(s) of Use**
   Should be: Remark commercial use for pools, baths, etc. should be stricken

8. ☐ **Period of Year**
   Should be: _____

9. ☐ **Place of Use**
   Should be: _____

11. **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 OBJECTION(S): The limitation on commercial use set out by the remark should not be there and is contrary to Idaho law.

VERIFICATION

STATE OF IDAHO)
)
County of Minidoka)

Timothy J. Schneider, duly sworn, upon oath, deposes and says:

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.

Signature of person filing objection

Attorney signing in representative capacity

Subscribed and sworn to before me on: December 28, 2001

BRENDA LaROQUE
NOTARY PUBLIC
STATE OF IDAHO

Notary Public for Idaho
Residing at: Burley, Idaho
My Commission Expires: 12/12/07

CERTIFICATE OF MAILING

I certify that on December 28, 2001, 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
P.O. Box 2707
Twin Falls, Idaho 83303-2707

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

Name: Timothy J. Schneider
Address: LING & ROBINSON
P.O. Box 396
Rupert, Idaho 83350

Name: WaterOne Enterprises, LLC
Address: 251 Versailles Court
Tracy, California 95376

Name: Janet O'Crowley
Address: 16 Stubb Road
Carey, Idaho 83320-5026

3. 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, Idaho 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 033
Boise, Idaho 83734

Signature of Objector or attorney
mailing on Objector's behalf

RECEIVED
NOV 0 2 2001
WATER RESOURCES
WESTERN REGION

2001 OCT 24 PM 3:33
FILED
SRBA
IDAHO

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	)	**Subcase 51-04037**
	)	
Case No. 39576	)	**ORDER GRANTING MOTION TO**
	)	**FILE AMENDED NOTICE OF CLAIM**
	)	**and SETTING DEADLINES**

On September 7, 2001, claimant WaterOne Enterprises, LLC, filed a *Motion to File Amended Notice of Claim* stating one of the originally claimed uses, "heating," was inaccurate. Instead, the claimed use should be "commercial" because .04 cfs of the water is used in a swimming pool and hot tubs.

A hearing on the *Motion* was held on October 24, 2001, at the SRBA Courthouse in Twin Falls, Idaho. Timothy J. Schneider appeared for claimant WaterOne Enterprises; respondent Janet O'Crowley appeared *pro se*; David J. Barber appeared by telephone for respondent the State of Idaho; and Garrick L. Baxter appeared by telephone for IDWR, along with IDWR agent Sue Bock. No party opposed the *Motion* and IDWR concurred with the change in terms.

THEREFORE, IT IS ORDERED that:

1. WaterOne Enterprises' *Motion* is **granted**;

2. IDWR shall file an amended Director's report concerning the amended claim no later than **Friday, November 2, 2001**; and

3. Objections to the amended Director's report shall be filed no later than **Friday, December 28, 2001**.

DATED October 24, 2001.

TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO FILE AMENDED NOTICE OF CLAIM AND SETTING DEADLINES was mailed on October 24, 2001, with sufficient first-class postage to the following:

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

JANET O'CROWLEY
16 STUBB RD
CAREY, ID 83320-5026
Phone: 208-857-2239

Courtesy Copy
Timothy Schnieder
PO Box 396
Rupert, ID 83350

Deputy Clerk

IDAHO DEPARTMENT OF WATER RESOURCES 10/31/2001

RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

WATER RIGHT NUMBER: 51-4037

NAME AND ADDRESS: WATERONE ENTERPRISES LLC
251 VERSAILLES CT
TRACY CA 95376

SOURCE: MURPHY HOT SPRINGS TRIBUTARY: EAST FORK JARBIDGE RIVER

QUANTITY: 0.06 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 06/20/1885

POINT OF DIVERSION:

T16S R09E S24 SWNWNW Within OWYHEE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
DOMESTIC	01/01 12/31	0.020 CFS
COMMERCIAL	01/01 12/31	0.040 CFS

COMMERCIAL USE IS FOR POOL, BATHS, INTERNAL LODGE USE, AND 1 TRAILER.

PLACE OF USE: DOMESTIC Within OWYHEE County

T16S R09E S24 NWNW

COMMERCIAL Within OWYHEE County

T16S R09E S24 NWNW

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR DOMESTIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
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: Beneficial Use

WATER TEMPERATURE MEASURED AT 117 DEGREES F.

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

Water Right 51-4037

NAME AND ADDRESS: WATERONE ENTERPRISES LLC
251 VERSAILLES CT
TRACY CA 95376

SOURCE: MURPHY HOT SPRINGS TRIBUTARY: EAST FORK JARBIDGE RIVER

QUANTITY: 0.06 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 06/20/1885

POINT OF DIVERSION:

T16S R09E S24 SWNWNW Within OWYHEE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
DOMESTIC	01/01 12/31	0.020 CFS
COMMERCIAL	01/01 12/31	0.040 CFS

COMMERCIAL USE IS FOR POOL, BATHS, INTERNAL LODGE USE, AND 1 TRAILER.

PLACE OF USE: DOMESTIC Within OWYHEE County

T16S R09E S24 NWNW

COMMERCIAL Within OWYHEE County

T16S R09E S24 NWNW

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: Beneficial Use

WATER TEMPERATURE MEASURED AT 117 DEGREES F.

IDAHO DEPARTMENT OF WATER RESOURCES 10/24/2001

PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

NAME AND ADDRESS: WATERONE ENTERPRISES LLC
251 VERSAILLES CT
TRACY CA 95376

SOURCE: MURPHY HOT SPRINGS TRIBUTARY: EAST FORK JARBIDGE RIVER

QUANTITY: 0.06 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 06/20/1885

POINT OF DIVERSION:

T16S R09E S24 SWNWNW Within OWYHEE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
DOMESTIC	01/01 12/31	0.020 CFS
COMMERCIAL	01/01 12/31	0.040 CFS

COMMERCIAL USE IS FOR POOL, BATHS, INTERNAL LODGE USE, AND 1 TRAILER.

PLACE OF USE: DOMESTIC Within OWYHEE County

T16S R09E S24 NWNW

COMMERCIAL Within OWYHEE County

T16S R09E S24 NWNW

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: Beneficial Use

WATER TEMPERATURE MEASURED AT 117 DEGREES F.^^^

RIGHT NUMBER: 51-4037

NAME AND ADDRESS: WATERONE ENTERPRISES LLC
251 VERSAILLES CT
TRACY CA 95376

SOURCE:

QUANTITY: 0.06 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 06/20/1885

POINT OF DIVERSION:

T16S R09E S24 SWNWNW Within OWYHEE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
DOMESTIC	1/01 12/31	0.020 CFS
HEATING	1/01 12/31	0.040 CFS
COMMERCIAL	1/01 12/31	0.020 CFS

USE IS FOR 1 HOME; COMMERCIAL USE, POOL, BATHS, LODGE; AND HEATING.^^^

PLACE OF USE:

DOMESTIC Within OWYHEE County

T16S R09E S24 NWNW

HEATING Within OWYHEE County

T16S R09E S24 NWNW

COMMERCIAL Within OWYHEE County

T16S R09E S24 NWNW

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL:

WATER TEMPERATURE MEASURED AT 117 DEGREES F.^^^

- Pool 50 guest per week x 52 = 2,600 x 10 gal 260,000

Bathhouse 10 gal same ↑ 260,000

- Used in lodge for showers, culinary, restrooms

Restaurant w/ facilities 10 gal x 2,600 260,000

- 1 trailer 50 gal x 365 days 18,250

798,250 gal per year

798,250 ÷ 325,850 = 2.45 A.F.

798,250 ÷ 365 days 2,187 gal per day.

2,187 gpd / 646,315 = .003 cfs

10/23/01 Per M. Schneider: Pool + tubes get direct flows through of water to maintain temp + volume on a 24 hour 7 day a week basis

pool is 40'x20' average depth 5'

40x20

43,560 (c.f.) = 0.018 acres

0.018 x 5' = 0.09 Acre feet

1 AF 325,850 gal

.09 AF = 29,326.5 gallon cap. for pool.

29,326.5 gal / 9 gal = (0.02 cfs) X 60 = 54.3 hr to fill

9 gpm =

448.83 0.02 x 365 days X 1.9835 AF per day = 14.5 AF per year.

* Maria's measurement on spring was .07 cfs she says Chris said it takes about 22 hours to fill pool. would equate to about 22 gpm. or 0.049 cfs measurment was from both springs, below the pool w/ pool not filling. Did not account for domestic uses.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 51-4037 V1

WATER RIGHT NUMBER: 51-4037 V1

Owner Type	Name and Address
Original Owner	ANITA F SHOWALTER MURPHY HOT SPRINGS ROGERSON, ID 83302 (208)857-2233
Original Owner	SYVIA OLIVAS DESERT HOT SPRINGS ROGERSON, ID 83302 (208)857-2233
Current Owner	WATERONE ENTERPRISES LLC 251 VERSAILLES CT TRACY, CA 95376 (209) 839-1151
Attorney	LING AND ROBINSON 615 H ST PO BOX 396 RUPERT, ID 83350-0396 (208)436-4717
Directors Report Owner	MATTHEW OLIVAS DESERT HOT SPRINGS ROGERSON, ID 83302 (208)857-2233
Original Owner	HARRY B SHOWALTER MURPHY HOT SPRINGS ROGERSON, ID 83302 (208)857-2233

Priority Date: 06/20/1885

Basis: Beneficial Use

Status: Active

Source	Tributary
MURPHY HOT SPRINGS	EAST FORK JARBIDGE RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
DOMESTIC	1/01 to 12/31	0.020 CFS	
HEATING	1/01 to 12/31	0.040 CFS	
COMMERCIAL	1/01 to 12/31	0.020 CFS	
	Total Diversion:	0.060 CFS	

Location of Point(s) of Diversion

MURPHY HOT SPRINGS SW1/4NW1/4NW1/4 Sec. 24, Twp 16S, Rge 09E, B.M.

OWYHEE County

Place of Use

DOMESTIC Within OWYHEE County

T16S R09E S24 NWNW

Total Acres: 0

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 51-4037 V1

HEATING Within OWYHEE County

T16S R09E S24 NWNW

Total Acres: 0

COMMERCIAL Within OWYHEE County

T16S R09E S24 NWNW

Total Acres: 0

Conditions of Approval:

1. N11 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
2. N13 THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.

Remarks:

1. Purpose of Use USE IS FOR 1 HOME; COMMERCIAL USE, POOL, BATHS, LODGE; AND HEATING.^^
2. Explanatory WATER TEMPERATURE MEASURED AT 117 DEGREES F.^^

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: OR
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

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 51-4037 V1

SubCase:

SubCase Number: 5104037
Class: 1
SF5 Filed Date:
Special Master Recom Signed Date: 11/9/2000
Attorney Assigned: SUSAN E HAMLIN-NYGARD
Date Filed: 7/15/1999 Objection Status: Withdrawn or Dismissed

RECEIVED
AUG 3 1 2001
WATER RESOURCES
WESTERN REGION

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AUG 14 2001
Department of Water Resources

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IDAHO

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	)	**Subcase 51-04037**
	)	
Case No. 39576	)	**ORDER GRANTING MOTION TO VACATE TRIAL SCHEDULING ORDER**
	)	

A pre-trial hearing was held on August 10, 2001, at the SRBA Courthouse in Twin Falls, Idaho. Timothy J. Schneider appeared for claimant Waterone Enterprises, L.L.C.; respondent Janet O'Crowley appeared *pro se*, along with Jessie Byrd; David J. Barber appeared by telephone for respondent the State of Idaho; and Garrick L. Baxter appeared by telephone for IDWR, along with IDWR Agent Sue Bock.

Ms. O'Crowley moved to vacate the ***Trial Scheduling Order*** and the trial set for August 23, 2001, so that she could pursue a motion to set aside or modify a ***Partial Decree*** in her water right 51-10220, entered January 30, 1998. That ***Partial Decree*** adjudicated to Ms. O'Crowley .01 cfs from Murphy Hot Spring for year 'round domestic use with a priority date of May 15, 1971.

Ms. O'Crowley's water right 51-10220 derives from the same source as 51-04037 for which IDWR has recommended a priority date of June 20, 1885. See *Supplemental Director's Report Regarding Subcase No. 51-04037*, dated July 30, 2001. Ms. O'Crowley argued her water right should have the same priority date as 51-04037 and one way to accomplish that is for her to request the ***Partial Decree*** in 51-10220 be set aside or modified.

THEREFORE, IT IS ORDERED that the ***Trial Scheduling Order***, dated March 29, 2001, is **vacated.**

DATED August 10, 2001.

TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO VACATE TRIAL SCHEDULING ORDER was mailed
March 29, 2001, with sufficient first-class postage to the following:

Director of IDWR
P O Box 83720
Boise, Idaho 83720-0098

Office of the Attorney General
State of Idaho
Peter J. Ampe
P O Box 83720
Boise, Idaho 83720-0010

Roger D. Ling
P O Box 396
Rupert, Idaho 83350

Janet O'Crowley
Murphy Hot Springs
Rogerson, Idaho 83302

Waterone Enterprises, LLC
251 Versailles Ct
Tracy, California 95376

Deputy Clerk

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

TRANSMITTAL COVER SHEET

FAX NUMBER: (208) 327-5400

DATE: 6/21/01

TO: Sue Bock **FROM:** Garrick Baxter

DOCUMENT DESCRIPTION: Olivas Answer to State Interrogatories - Take a look at & let me know what you think.

COVER SHEET + 14 **PAGES**

CONTACT: _____ **IF YOU DO NOT RECEIVE ALL THE PAGES.**

THANK YOU!

Timothy J. Schneider, Esq.
LING & ROBINSON
P. O. Box 396
Rupert, Idaho 83350
Telephone (208) 436-4717
Facsimile (208) 436-6804
ISB No. 6070

Attorneys for Claimant/Objector,
WaterOne Enterprises, Inc.

MAIL

45221

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,	Subcase No. 51-04037 **ANSWERS TO INTERROGATORIES AND RESPONSES TO REQUESTS FOR PRODUCTION AND REQUESTS FOR ADMISSION**

COMES NOW the claimant/objector, WaterOne Enterprises, LLC, by and through its attorney of record, Timothy J. Schneider of the firm Ling & Robinson, and pursuant to Rule 33 of the Idaho Rules of Civil Procedure, answers the Interrogatories, Requests for Production and Requests for Admission served upon it by the State of Idaho, as follows:

INTERROGATORY NO. 1: Please identify each person known to you or your attorneys who has or may have knowledge of any fact pertinent to any element of the water right claimed in your Claim, or pertinent to your Objection, and state the subject matter of that knowledge. In your answer to this Interrogatory No. 1, please include each person who has been retained, hired, or relied upon by

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RUPERT, IDAHO 83350-0396

you, our agents or representatives who review any issues presented in your Claim or Objection.

ANSWER TO INTERROGATORY NO. 1:

Matthew Olivas
General Delivery
Desert Hot Springs
Rogerson, Idaho 83302
Telephone: (208) 857-2233

Matthew Olivas has knowledge of the quantity of water diverted, the purpose and period of use, the point of diversion, the place of use of water under Water Right No. 51-04037.

Robin D. Wells
1301 North Orchard Street
Boise, Idaho 83706
Telephone: (208) 327-7960

Robin Wells has knowledge of the diversion works, quantity of water diverted, point of diversion, and place of use.

Cecil Dozier
1375 W. Highway 26
Paul, ID 83347
Telephone: (208) 532-4790

Cecil Dozer has knowledge as to the historic commercial use of the water diverted under Claim No. 51-04037.

INTERROGATORY NO. 2: Please identify each person you intend to call as a witness at the trial of this matter, and for each such person state:

a. The substance of his or her expected testimony, and

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b. Whether you, your agents, representatives and/or attorneys have obtained any oral or written statement from said witnesses.

ANSWER TO INTERROGATORY NO. 2:

a. Matthew Olivas will testify to how water is diverted, and that all water diverted is placed to a beneficial use in the commercial endeavors including the swimming pool and hot tubs, and use of water by guests of the lodge. Olivas will also testify to the set up of the diversion works, and what proportion of the water diverted is diverted through which works into guest areas, including the swimming pool, hot tubs and lodge. Olivas will testify to the fact that water has been diverted and bottled for consumption by guests of the lodge and for commercial sale.

Robin Wells has been on the property, examined the diversion works and measured the quantity of water diverted. Wells is expected to testify as to the set up of the diversion works, his measurements of the quantity of water diverted, and the application of water diverted to beneficial use.

Cecil Dozier will testify that the swimming pool and hot tubs are the same size and filled in

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the same manner that they have been for at least 30 years.

b. No.

INTERROGATORY NO. 3: Please identify each person whom you expect to call as an expert witness a the trial of this matter, and for each such person state:

a. The qualifications upon which you intend to rely to establish said person as an expert witness, or in the alternative you may provide a copy of a current *curriculum vitae* for each such person; and

b. The substance of the facts and opinions to which he or she is expected to testify.

ANSWER TO INTERROGATORY NO. 3: Claimant/objector intends to call Robin Wells who would qualify as an expert under the rules as a physical engineer employed by the Idaho Department of Water Resources (IDWR). Claimant/objector states that it has retained no expert witnesses for the purpose of giving testimony at the trial of this matter. If trial experts are retained, claimant/objector will supplement its Answer to this discovery request and disclose the information regarding such experts permitted by the Idaho Rules of Civil Procedure in accordance with those rules and the rules and orders of this Court.

b. See Answer to Interrogatory No. 2 above.

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INTERROGATORY NO. 4: Please identify each documentary, written or tangible item of evidence you expect to introduce or use, or may use at the trial of this matter.

ANSWER TO INTERROGATORY NO. 4:

a. Report of Robin D. Wells, P.E., for Idaho Department of Water Resources, Energy Division - SIS Project dated April 10, 2000.

b. Letter with enclosures from Gary Spackman to Interested Parties dated August 8, 1997 Re: Applications for Permit No. 51-07362 in the Name of Matthew Olivas

c. *Final Order in the Matter of Application for Permit No. 51-07362 in the Name of Matthew Olivas* dated January 26, 1998.

d. Letter from Susan Bock, Idaho Department of Water Resources, to Lloyd Walker dated September 10, 1998 Re: Change of Priority Date for Water Right Claim No. 51-04037.

e. *Amended Notice of Claim to a Water Right Acquired Under State Law* No. 51-04037 dated September 18, 1998 with attachment "Kitty Wilkins . . . Horse Queen of Idaho."

INTERROGATORY NO. 5: Please describe fully how water has been put to beneficial use for the claimed purpose of use "Commercial Use" as identified in your Claim and/or Amended Claim.

ANSWER TO INTERROGATORY NO. 5: The water diverted under Claim No. 51-04037 has been put to beneficial use for the purpose of "commercial use" by using said water in a commercial

establishment, to fill swimming pool, commercial rental of hot tubs, drinking water for use of guests of the commercial establishment, bottling of water for the use of guests of the commercial establishment, for sale to guests of the commercial establishment, for the renting of a lodge to service guests of the commercial establishment, and for commercial sale.

INTERROGATORY NO. 6: In your Objection, you object to the Director's recommendation as to the quantity of water for "Commercial Use". Please state each theory, claim, fact or defense on which you rely to support this objection, including but not limited to every theory, claim, fact or defense upon which you contend thee Director's Report should be as described in your Notice of Claim and/or Amended Claim.

ANSWER TO INTERROGATORY NO. 6: Measurements made by the IDWR will establish that the Director's Recommendation of the quantity of water for "commercial use" is in error. Measurements made on April 10, 2000 by Robin Wells establish that the entire flow of the south spring flows into the commercial swimming pool on the subject property. The flow from the south spring was measured by Mr. Wells at 11.13 gallons per minute (gpm), along with a temporary leak in the transport system of 5 gpm, for a total of 16.13 gpm or .036 cfs. Flow from the north spring, as measured by Robin Wells, to the hot tubs and lodge was 41.86 gpm or .09 cfs. A Memo to File dated January 17, 1979 from Gary Funderburg, which

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is attached to a letter dated August 8, 1997 to Interested Parties from Gary Spackman, shows a measurement of waste water from the swimming pool and hot baths at Murphy Hot Springs Lodge of .042 cfs. Notes, attached to that same document and dated 6/18/96, indicate a measurement of diversion of .07 cfs for use in commercial property.

INTERROGATORY NO. 7: Please identify any diversion or water measurement records of which you are aware that support the quantity claimed for each purpose of use.

ANSWER TO INTERROGATORY NO. 7: See Answer to Interrogatory No. 6 above.

REQUEST FOR PRODUCTION NO. 1: Please produce each document that you expect to introduce or use, or may use, as an exhibit at the trial of this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

a. Report of Robin D. Wells, P.E., for Idaho Department of Water Resources, Energy Division - SIS Project dated April 10, 2000.

b. Letter with enclosures from Gary Spackman to Interested Parties dated August 8, 1997 Re: Applications for Permit No. 51-07362 in the Name of Matthew Olivas

c. *Final Order in the Matter of Application for Permit No. 51-07362 in the Name of Matthew Olivas* dated January 26, 1998.

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d. Letter from Susan Bock, Idaho Department of Water Resources, to Lloyd Walker dated September 10, 1998 Re: Change of Priority Date for Water Right Claim No. 51-04037.

e. *Amended Notice of Claim to a Water Right Acquired Under State Law* No. 51-04037 dated September 16, 1998 with Attachment "Kitty Wilkins . . . Horse Queen of Idaho."

REQUEST FOR PRODUCTION NO. 2: Please produce each document described, identified, itemized or relied upon by you in your response to any Interrogatories served upon you by any party in this case.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2: See Response to Request for Production No. 1 above.

REQUEST FOR PRODUCTION NO. 3: Please produce each document pertaining to your Claim, Amended Claim or your Objection that has been obtained by you, your attorneys or representatives, including anyone acting on your or their behalf, from any person believed by you or by your attorney to have knowledge of any facts pertinent to your Claim.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: See Response to Request for Production No. 1 above.

REQUEST FOR PRODUCTION NO. 4: Please produce each court order, decree, stipulation or agreement of any kind pertaining to all or a portion of the water identified in your Claim or Amended Claim.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4: See Response to Request for Production No. 1 above.

INTERROGATORY NO. 8: Identify each fact that you contend supports your claim for .06 CFS "Commercial Use" as claimed in your Amended Claim.

ANSWER TO INTERROGATORY NO. 8: See Answers to Interrogatory Nos. 5 and 6 above.

INTERROGATORY NO. 9: Identify each document known to you or your attorneys which contain any facts related to your Claim for "Commercial Use" as claimed in your Amended Claim.

ANSWER TO INTERROGATORY NO. 9: See Answers to Interrogatory Nos. 4, 5 and 6 above.

REQUEST FOR PRODUCTION NO. 5: Produce all documents identified in your response to Interrogatory No. 4.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5: See Response to Request for Production No. 1 above.

INTERROGATORY NO. 10: Identify all persons who participated in any aspect of the preparation of your Objection, and describe the role each person had and the tasks performed.

ANSWER TO INTERROGATORY NO. 10: Matthew Olivas provided information on quantity of water diverted and purpose and place of use of said water; the late Lloyd J. Walker, 250 Second Avenue South, Suite A, Twin Falls, Idaho 83303 prepared and filed the Objection.

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INTERROGATORY NO. 11: Identify all persons who participated in any aspect of the preparation of your Objection, and all amendments thereto, and describe the role each person had and the tasks performed.

ANSWER TO INTERROGATORY NO. 11: See Answer to Interrogatory No. 10 above.

REQUEST FOR PRODUCTION NO. 6: Produce all documents reviewed and files relating to this proceeding of each person identified in your response to Interrogatory No. 11.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6: See Response to Request for Production No. 1 above.

INTERROGATORY NO. 12: Identify all persons who participated in any aspect of the preparation of your Objection, and describe the role each person had and the tasks performed.

ANSWER TO INTERROGATORY NO. 12: See Answer to Interrogatory No. 10 above.

REQUEST FOR PRODUCTION NO. 7: Produce all documents reviewed and filed relating to this proceeding of each person identified in your response to Interrogatory No. 5.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7: See Response to Request for Production No. 1 above.

REQUEST FOR ADMISSION NO. 1: Admit that prior to November 19, 1987, no more than .02 CFS of Water Right No. 51-04037 was put to a beneficial use for the purpose of "Commercial Use", as

that purpose is used in your Claim and/or Amended Claim and Objection.

RESPONSE TO REQUEST FOR ADMISSION NO. 1: Deny.

INTERROGATORY NO. 13: If you deny Request for Admission No. 1, explain with specificity the factual basis for your contention that prior to November 19, 1987, more than .02 CFS of Water Right No. 51-04037 was put to a beneficial use for the purpose of "Commercial Use", as that purpose is used in your Claim and/or Amended Claim and Objection.

ANSWER TO INTERROGATORY NO. 13: As shown by the documents and measurements produced by IDWR, produced with these responses, it takes in excess of .02 cfs of water to fill and maintain the swimming pool and hot tubs commercially rented and run at Murphy Hot Springs. The pool and hot tubs were in existence and water was diverted for their commercial use prior to November 19, 1987.

REQUEST FOR PRODUCTION NO. 8: Produce all documents known to you or your attorneys that support or allegedly support your response to Interrogatory No. 13.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8: See Response to Request for Production No. 1 above.

REQUEST FOR ADMISSION NO. 2: Admit that a portion of the .06 CFS of Water Right No. 51-04037 claimed for the purpose of "Commercial Use", as that purpose is used in your Claim and/or

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Amended Claim and Objection is used or intended to be used for a bottling water plant for consumer sale.

RESPONSE TO REQUEST FOR ADMISSION NO. 2: Claimant/objector admits that claimant/objector intends to use the .06 cfs of water in Water Right No. 51-04037 for a bottling water plant for consumer sale, provided claimant/objector can obtain the necessary approval of IDWR and other applicable agencies.

INTERROGATORY NO. 14: If you deny Request for Admission No. 2, explain with specificity the factual basis for your contention that a portion of the .06 CFS of Water Right No. 51-04037 claimed for the purpose of "Commercial Use", as that purpose is used in your Claim and/or Amended Claim and Objection is not use or intended to be used for a plant bottling water for consumer sale.

ANSWER TO INTERROGATORY NO. 14: See Response to Request for Admission No. 2.

REQUEST FOR PRODUCTION NO. 9: Produce all documents known to you or your attorneys that support or allegedly support your response to Interrogatory No. 14.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9: None.

REQUEST FOR ADMISSION NO. 3: Admit that a .04 CFS of Water Right No. 51-04037 claimed for the purpose of "Commercial Use", as that purpose is used in your Amended Claim and Objection is used or intended to be used for the same purpose of use as the

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RUPERT, IDAHO 83350-0396

purpose of use claimed in the Application for Permit, Idnet. No. 51-07362 dated on or about July 15, 1996 in the name of Sylvia Olivas, attached hereto as Exhibit B.

RESPONSE TO REQUEST FOR ADMISSION NO. 3: Claimant/objector admits that, contingent upon approval of IDWR and other applicable agencies, claimant/objector intends to use the water from Claim No. 51-04037 for use for a plant bottling water for consumer sale which was the purpose of use in Application for Permit No. 51-07362.

INTERROGATORY NO. 15: If you deny Request for Admission No. 3, explain with specificity the factual basis for your contention that Admit that .04 CFS of Water Right No. 51-04037 claimed for the purpose of "Commercial Use", as that purpose is used in your Amended Claim and Objection is not used or intended to be used for the same purpose of use as the purpose of use claimed in the Application for Permit, Idnet. No. 51-07362 dated on or about July 15, 1996 in the name of Sylvia Olivas attached hereto as Exhibit B.

ANSWER TO INTERROGATORY NO. 15: See Response to Request for Admission No. 3 above.

REQUEST FOR PRODUCTION NO. 10: Produce all documents known to you or your attorneys that support or allegedly support your response to Interrogatory No. 15.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10: None.

LING & ROBINSON
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0398

REQUEST FOR ADMISSION NO. 4: Admit that the attached Exhibit A is a true and correct copy of a Notice of Violation issued against Claimant/Objector Matthew Olivas.

RESPONSE TO REQUEST FOR ADMISSION NO. 4: Admit.

INTERROGATORY NO. 16: If you deny Request for Admission No. 4, explain with specificity the factual basis for your contention that the attached Exhibit A is not a true and correct copy of a Notice of Violation issued against Claimant/Objector Matthew Olivas.

ANSWER TO INTERROGATORY NO. 16: See Response to Request for Admission No. 4 above.

REQUEST FOR PRODUCTION NO. 11: Produce all documents known to you or your attorneys that support or allegedly support your response to Interrogatory No. 16.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11: None.

INTERROGATORY NO. 17: Identify each and every person who took part in or assisted in responding to these discovery requests.

ANSWER TO INTERROGATORY NO. 17:

Matthew Olivas
General Delivery
Desert Hot Springs
Rogerson, Idaho 83302
Telephone (208) 857-2233

Timothy J. Schneider
LING & ROBINSON
P. O. Box 396
Rupert, Idaho 83350
Telephone (208) 436-4717

LING & ROBINSON
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

Thomas Soroggins
251 Versailles Court
Tracy, California 95376
Telephone (209) 839-1151

DATED this 13th day of June, 2001.

LING & ROBINSON

By: _____
Timothy J. Schneider
Attorney for WaterOne Enterprises, LLC

STATE OF IDAHO)
) ss.
County of Minidoka)

Thomas Soroggins, being first duly sworn on his oath, deposes and states:

That he is the Manager of WaterOne Enterprises, claimant in the above entitled action, that he has read the above and foregoing ***Answers to Interrogatories and Responses to Requests for Production and Requests for Admissions***, knows the contents thereof, and the facts stated he believes to be true.

_____
Thomas Soroggins

SUBSCRIBED AND SWORN to before me this 13th day of June, 2001.

(SEAL)

JUDY BARNES
NOTARY PUBLIC
STATE OF IDAHO

_____
Notary Public for Idaho
Residing at: Rupert, Idaho
My Commission Expires: 02/12/2005

LING & ROBINSON
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0826

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

May 31, 2001

WATERONE ENTERPRISES LLC
251 VERSAILLES CT
TRACY CA 95376

RE: Water Right No. 51-04037

Dear Property Owner(s):

Enclosed is a copy of the above referenced water right, which reflects the change in ownership of the land and appurtenant water rights covered under the original filing. Also enclosed is a copy of the Notice of Completed Administrative Proceedings which has been sent to the Snake River Basin Court as notification of the change.

Thank you for your patience and cooperation, as we have had several ownership changes to process. If you have any questions concerning the enclosed water rights, please feel free to contact this office.

Sincerely,

Denise Buffington

Denise Buffington
Office Specialist 1
Adjudication Section
Western Region

DB:db

Enclosures

cc: Matthew Olivas
Ling & Robinson, Attorneys at Law

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	)	**Water Rights: 51-04037**
	)	
Case No. 39576	)	**NOTICE OF COMPLETED ADMINISTRATIVE PROCEEDING**
	)	
	)	

IDWR has completed the following administrative proceeding:

☐ Address change

☒ Substitution of Party

☐ IC § 42-222 transfer

- ☐ Point of diversion
- ☐ Place of use
- ☐ Period of use
- ☐ Nature of use
- ☐ Split of water right
- ☐ Change in ownership
- ☐ Other

☐ IC § 42-219 license

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Report(s)* for said water right(s). No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: May 31, 2001

Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on May 31, 2001, I delivered the original and copies of this form, including all attachments, to the following persons, postage prepaid if required and addressed as follows:

1. Original to:

Clerk of the District Court Snake River Basin Adjudication P.O. Box 2707 Twin Falls, ID 83303-2707	___ overnight mail _X_ regular mail ___ hand-delivered _X_ facsimile

2. Copies to:

Clive Strong Office of the Attorney General P.O. Box 44449 Boise, ID 83711-4449	___ overnight mail _X_ regular mail ___ hand-delivered ___ facsimile
United States Dept of Justice Environment & Natural Resource Div 550 West Fort Street MSC 033 Boise ID 83724	___ overnight mail _X_ regular mail ___ hand-delivered ___ facsimile

3. Copies to all parties to the subcase:

Matthew Olivas *(Seller)* Desert Hot Springs Rogerson ID 83302	___ overnight mail _X_ regular mail ___ hand-delivered ___ facsimile
WaterOne Enterprises LLC *(Purchaser)* 251 Versailles Ct Tracy CA 95376	___ overnight mail _X_ regular mail ___ hand-delivered ___ facsimile
Ling and Robinson *(Attorney)* 615 "H" St PO Box 396 Rupert ID 83350-0396	___ overnight mail _X_ regular mail ___ hand-delivered ___ facsimile

Denise Bullington

Signature of person mailing this document

05/31/2001

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

RIGHT NUMBER: 51-4037

NAME AND ADDRESS: WATERONE ENTERPRISES LLC
251 VERSAILLES CT
TRACY, CA 95376

SOURCE: MURPHY HOT SPRINGS TRIBUTARY: EAST FORK JARBIDGE RIVER

QUANTITY: 0.06 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 06/20/1885

POINT OF DIVERSION: T16S R09E S24 SWNWNW Within OWYHEE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
COMMERCIAL	1-01 12-31	0.02 CFS
HEATING	1-01 12-31	0.04 CFS
DOMESTIC	1-01 12-31	0.02 CFS

USE IS FOR 1 HOME; COMMERCIAL USE, POOL, BATHS, LODGE; AND HEATING

PLACE OF USE:

COMMERCIAL Within OWYHEE County
T16S R09E S24 NWNW
HEATING Within OWYHEE County
T16S R09E S24 NWNW
DOMESTIC Within OWYHEE County NWNW
T16S R09E S24

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

WATER TEMPERATURE MEASURED AT 117 DEGREES F

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

TRANSMITTAL COVER SHEET

FAX NUMBER: (208) 327-5400

DATE: 5-1-01

TO: Jan / Sue **FROM:** Becky Harvey

DOCUMENT DESCRIPTION: FYI: Janet O'Crowley's Amended Motion to Clarify Issues to be Heard @ Trial.

COVER SHEET + 6 **PAGES**

CONTACT: Bec: 327-7881 **IF YOU DO NOT RECEIVE ALL THE PAGES.**

THANK YOU!

Janet OCrowley
16 Stub Rd.
Carey, ID 83320
208- 823-4554

Appearing PRO SE

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	Subcase 51-04037 AMENDED MOTION TO CLARIFY ISSUES TO BE HEARD AT TRIAL 23 AUGUST 2001

CLARIFICATION

Abbreviated title above used for clarity and to avoid long title such as "Motion in Opposition to Special Master's Order Granting Motion to Set Aside Order and Motion to Alter or Amend and to Vacate." This present Amended Motion supports Special Master Terrence A. Dolan' s 14 November 2000 AMENDED SPECIAL MASTER REPORT concluding that Matthew Olivas is entitled to .06 cfs for his Water Right 51-04037. This present Amended Motion of Respondant OCrowley, however draws Court's attention to need to add , or substitute name of new owner of subject hot springs commercial property in this action. This case is to decide whether the owner of said hot springs commercial property is entitled to no more than .06 cfs under Permit 51-04037 as the Director's Report recommended

Close scrutiny of documents filed with the Court 16 March 2001 will reveal that Matthew Olivas et al had no ownership of record in subject property or water permit # 51-04037, nor redemption right after 12 January 2001. It appears this proceeding should be directed to current owner of record of subject property and of redemption right. Per Rule 19 (a) (1) I. R. C. P. "...person shall be joined as a party if (2) the person claims an interest relating to the subject of the action...". Per Rule 21 I.R.C.P. "Parties may be dropped or added by order of the court on motion of any party."

Close reading of documents presented in this case show no intelligible reason for the Special Master to reconsider the Director's Report denying additional water to 51-04037; nor for altering Special Master's Recommendation in regard to quantity of water (.06 cfs) allowed 51-04037. Other than a scrupulous regard for a supposed rationale that Claimant might adduce, but so far has not, no reason appears for Special Master Dolan to continue these proceedings beyond the point of reaffirming the Director's Report in regard to quantity and recommending to the Court the award of .06 cfs be decreed for Water Permit # 51-04037.

AT TRIAL

Be it noted that this Respondant has never objected to the .06 cfs quantity of water historically held, and currently proposed by the Director of the Idaho Department of Water Resources (IDWR) for 51-04037 but at trial, as currently scheduled, this Respondant will be prepared to show that:

A. Matthew Olivas et al are not the owners of record

B. It is not known if successor owner in fact, has filed application to IDWR for any augmented use.

C. Prior to time of the Olivas' filing objection to Director's Report, they had customarily and flagrantly been diverting amounts far in excess of their permit.

D That diverted amounts as high as .1618 had not been put to beneficial use.

E. That such diversions and associated structures employed have greatly harmed Permit # 51-10220 to the extent of extinguishing any outflow to OCrowley's inlet pipe.

F. That previous owners, the Olivas', and present owner, Waterone, have ignored this Court's Injunction against interfering with delivery of .01 cfs ot Permit 51-10220 to OCrowley's pipeline, and have not restored OCrowley's diversion works and have not reimbursed OCrowley for the cost of their installation - all of which were included in the judgment given by the Honorable Judge Daniel C. Hurlbutt, Jr 10 OCtober 1997. Both named owners' have flouted that ORDER HOLDING MATTHEW OLIVAS IN CONTEMPT

G. That continuation during three and one half years of illegal diversion of OCrowley's proper hot water has caused her great loss in money, in loss of amenities , and has mounted a great obstacle to possible sale of her homestead.

H. That Permit 51-10220 has a filing priority date earlier than that of 51-04037.

I. That change of priority date to 1885 granted to permit -51-04037 was irregularly and secretively granted, on flimsy and unsound historical interpretation.

J. That Judge Daniel C. Hurlbutt's Contempt Order is still in effect.

K. That Judge Daniel C. Hurlbutt's Injunction is still in effect but has been scoffed at by Parties Claimant in this action.

L. That OCrowley is entitled to benefit of all measures Ordered by this Court.

M. That easement for waterline given in OCrowley's property deed must be legally defined by survey to correspond with court-ordered diversion at the spring.

SUMMARY

It is this Respondant's position that the OCrowley permit 51-10220 priority date is earlier than the first application by Claimant's predecessor for 51-04037. OCrowley will show that both permits originate from the same spring and can only share the date of first beneficial use, whatever method is used to determine the official priority date. OCrowley will show that, by repeated scofflaw actions, for which no penalty has been exacted, Claimants have eliminated any claim to any augmentation of their water withdrawal from the springs, EXCEPT by following IDWR's rules and filing an application, as is customary.

It is this Party Respondant's position that Special Master Dolan has no impediment in law for declaring this case concluded, by reiterating the Recommendation he made on 13 November 2000 sustaining the Director's Report and recommending .06 cfs for 51-04037.

s/ Janet OCrowley, Pro Se

30 APRIL 2001

On this date, 30 APRIL 2001 I, Janet OCrowley did post in the U.S. Mail true and correct copies of the above Motion with Exhibit Timeline to the following parties:

Tim Schneider, Esq.
POB 396
Rupert, ID 83350

Matthew Olivas, et al
Murphy Hot Springs
Rogerson, ID 83302

Peter J. Ampe
Deputy Attorney General
State of Idaho
POB 44449
Boise, Idaho 833711-4449

Director of IDWR
POB 83720
Boise, ID 83720-0098

Mr. Garrick Baxter
IDWR Western Region
2735 Airport Way
Boise, ID 83705-5082

Waterone Enterprises, LLC
251 Versailles Ct.
Tracy, CA 95376

Before me appeared the undersigned known to me and signed this document.

s/ Janet OCrowley 3 APRIL 2001

Notary Public
My commission expires _____

WATER RIGHT 51-10220 TIMELINE

3 OCT 1924	Site of present Murphy Hot Springs town homesteaded by Floyd A. Rose. Deed signed Calvin Coolidge. No mention of included water rights. Deed "subject to any vested and accrued water rights".
1 July 1934	Shown as priority date on 51-04037 Adjudication Claim Form filed by Showalters in 1994 without any supporting documentation.
30 OCT 1969	Murphy Hot Springs Land Corp. gives Warranty Deed to John and Margaret Thompson "Together with the right to a connection at the swimming pool supply line..." This is first known mention and claim on hot spring water at Murphy Hot Springs. Thompsons purchased a portion of the Murphy Hot Springs Land and received a portion of their hot spring water.
15 May 1971	Priority date of Water Permit # 51-10220 to Thompsons for hot springs water.
26 JAN 1989	Margaret Thompson filed $25 Adjudication fee for 51-10220
21 JAN 1994	Harry and Anita Showalter (successors to Murphy Hot Springs Land Corp.) filed Adjudication Claim for 51-04037 (hot spring water) with notation "perfected pre-20 May 1971" for .06 cfs "domestic, hot pools."

WATER RIGHT 51-04037 TIMELINE

!# MAR 1978	Murphy Hot Springs Land Corp. sells to Showaalters. No mention of water.
21 JAN 1994	Showalters file Adjudication Claim on 51-04037
3 FEB 1994	Showalters sell to Sylvia Olivas "together with .06 cfs water".
12 SEP 1996	Sylvia Olivas Quit Claims toMatthew Olivas
10 SEP 1998	Susan Bock, Sr. Water Resources Agent notifies Olivas' attorney "As per evidence you submitted on Sept. 20, 1998, I have changed the priority date to June 20 1885."
21 SEP 1998	amended Adjudication Claim 51±-04037 with priority date 20 June 1885. Otherwise identical with 1994 Showalter Adjudication Claim. Carries the same notation .04 + .02 + .02 = .06.

Provenance of the unsubstantiated 1885 priority date provided by Olivas and Walker appears to rest solely upon a folk history publication *Owyhee Cattlemen, 1878 - 1978* by Mildretta Adams, relating that Kitty Wilkins had a horse ranch somewhere on the East Fork of Jarbidge River, possibly at Robinson Hole, possibly at Summercamp, but claiming, or even beneficial use of the instant hot springs is not mentioned. Therefore Thompsons' purchase of a share of hot springs in 1969, and their filing for a permit in May 1971 remains the earliest priority date known for Murphy Hot Springs.

RECEIVED
APR 30 2001
WATER RESOURCES
WESTERN REGION

26 APRIL 2001

TO: Idaho Department of Water REsources
Ms. Susan Bock and Ms. Jan Shurtz, Water Resource Agents,
Western Region 2735 Airport Way
Boise, ID 83705 -5082

FROM: Janet OCrowley
16 Stub Rd.
Carey, ID 83320
Permit # 51-10220

RE: To confirm telephone conversation regarding
change of priority date Permit # 51- 04037

Dear Ms. Bock and Ms. Shurtz

Please correct me if any of the following is erroneous information:

I spoke with both of you simultaneously On 15 APRIL 2001 asking if there were any other source material than the article "Kitty Wilkins - Horse Queen of Idaho" published in *Owyhee Cattlemen 1878 - 1978* by Mildretta Adams. Ms. Becky Harvey kindly faxed me a copy of said article, along with a Notice of Error, dated 02 SEP 1998 from attorney Lloyd Walker, and a letter on IDWR stationery confirming to Lloyd Walker that the priority date on Permit # 51-04037 had been changed.

I asked whether there were any other relevant documents, and was told there were not. I asked whether said article were the sole basis for the decision to change the priority date, and was told that it was.

I asked if IDWR would then change the priority date of my Permit # - 10220, since it flows from the same spring as # 51-04037. I was told that, since the decree had already been issued, I would have to request the Water Court to make the change.

I believe this is the only substantive matter of our conversation. Thank you for your kind cooperation.

s/ Janet OCrowley

Janet OCrowley

HP LaserJet 3100
Printer/Fax/Copier/Scanner

SEND CONFIRMATION REPORT for
IDAHO DEPT OF WATER RESOURCES
2083275400
Apr-25-01 3:25PM

Job	Start Time	Usage	Phone Number or ID	Type	Pages	Mode	Status
363	4/25 3:24PM	1'15"	208 857 2265	Send	2/ 2	96	Completed
	Total	1'15"	Pages Sent: 2	Pages Printed: 0			

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

2 - Notice of Error

TRANSMITTAL COVER SHEET

FAX NUMBER: (208) 327-5400

DATE: 4-25-01

TO: Janet O'Crowley **FROM:** Becky Harvey
Paralegal

DOCUMENT DESCRIPTION: documents re: priority date, pursuant to your request

COVER SHEET + 1 **PAGES**

CONTACT: Becky: 327-7881 **IF YOU DO NOT RECEIVE ALL THE PAGES.**

THANK YOU!

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

#2 - Notice of Error

TRANSMITTAL COVER SHEET

FAX NUMBER: (208) 327-5400

DATE: 4-25-01

TO: Janet O'Crowley

FROM: Becky Harvey
Paralegal

DOCUMENT DESCRIPTION: documents re: priority date, pursuant to your request.

COVER SHEET + 15 **PAGES**

CONTACT: Becky: 327-7881 **IF YOU DO NOT RECEIVE ALL THE PAGES.**

THANK YOU!

HP LaserJet 3100
Printer/Fax/Copier/Scanner

SEND ERROR REPORT for
IDAHO DEPT OF WATER RESOURCES
2083275400
Apr-25-01 3:19PM

Job	Start Time	Usage	Phone Number or ID	Type	Pages	Mode	Status
361	4/25 3:08PM	5'15"	208 857 2265	Send	5/16	96	Communication Error 1041
361	4/25 3:15PM	2'51"	208 857 2265	Send	2/16	96	Communication Error 1041
361	4/25 3:19PM	0'00"	912088234554,,,,6418 59	Send	0/16		Remote Fax was Busy 961

Total 8'06" Pages Sent: 7 Pages Printed: 0

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

TRANSMITTAL COVER SHEET

FAX NUMBER: (208) 327-5400

DATE: 4-25-01

TO: Janet O'Crowley **FROM:** Becky Harvey
Paralegal

DOCUMENT DESCRIPTION: documents re: priority date, pursuant to your request.

COVER SHEET + 15 **PAGES**

CONTACT: Becky, 327-7881 **IF YOU DO NOT RECEIVE ALL THE PAGES.**

THANK YOU!

RECEIVED
APR
Department of Water Resources

23 April 2001

RECEIVED
APR 2 6 2001
WATER RESOURCES
WESTERN REGION

TO: Susan Bock, Sr. Water Resource Agent
I.D.W.R.

FROM: Janet OCrowley
16 STub Rd.
Carey,ID 83320
208 - 823-4554

RE: Priority Date Change, Permit 51-04037
Urgent Response Required

Dear Ms. Bock

In order to perfect an amended pleading due April 30, 2001 before Special Master Terrance Dolan, SRBA, in Twin FAlls, I must have copies of all correspondance from Matthew Olivas, or his attorney, Lloyd Walker pertaining to the priority date change on Permit 51-04037, which apparently took place during August and September 1998.

I would very much appreciate your cooperation in furnishing me this data. My fax number is 823-4554. A notice call is required to activate the fax.

I am faxing this request to you 23 April, with hard copy to follow in today's mail.

Your cooperation is much appreciated.

s/ Janet OCrowley

Janet OCrowley

cc: Mr. Karl Dreher, Director, I.D.W.R.

ROGER D. LING
BRENT T. ROBINSON

JASON D. WALKER
TIMOTHY J. SCHNEIDER
ASSOCIATES

LING & ROBINSON
ATTORNEYS AT LAW
615 "H" STREET
P. O. BOX 396
RUPERT, IDAHO 83350-0396

AREA CODE 208
TELEPHONE 436-4717
FAX 436-6804

RECEIVED

March 30, 2001

Department of Water Resources
RECEIVED
APR 2 2001
Department of Water Resources
Southern Region
RECEIVED
MAY 25 2001
WATER RESOURCES
WESTERN REGION

Department of Water Resources
Southern Region
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380

RE: **Water Right No. 51-04037**

Dear Gentlemen:

Enclosed herewith for processing by the Department is a signed and completed Notice of Change of Water Right Ownership along with a copy of a Trustee's Quitclaim Deed conveying the property to which said water right is appurtenant.

Your anticipated assistance in this matter is greatly appreciated. Please feel free to contact the undersigned if you have any questions or comments in regard to this matter.

Very truly yours,

Timothy J. Schneider

TJS:jb

encs

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

TRANSMITTAL COVER SHEET

FAX NUMBER: (208) 327-5400

DATE: 3-21-01

TO: Sue Bock **FROM:** Becky Harvey

DOCUMENT DESCRIPTION: Motion re: 51-04037. Is a change of ownership pending ?? I will send a complete copy of the document- it is too lengthy to fax with the attachments.

COVER SHEET + 20 **PAGES**

CONTACT: Bec: 327-7881 **IF YOU DO NOT RECEIVE ALL THE PAGES.**

THANK YOU!

RECEIVED
MAR 19 2001
Department of Water Resources

Janet OCrowley
16 Stub Rd.
Carey, Idaho 83320
Telephone: (208) 823-4554

Acting Pro se

RECEIVED
MAR 22 2001
WATER RIGHTS
WESTERN REGION

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	Subcase 51-04037 MOTION TO SET ASIDE ORDER GRANTING MOTION TO SET ASIDE ORDER AND MOTION TO ALTER OR AMEND and MOTION OBJECTING TO AMENDED PRIORITY DATE

Now comes Janet OCrowley, to present to the Court good reason for the stated motions. A hearing was conducted on February 15, 2001 before the Honorable Terrance Dolan, Special Master, in Twin Falls, Idaho, to hear a Motion by Matthew Olivas to SET ASIDE THE SPECIAL MASTER'S ORDER of November 9, 2000 DISMISSING MR. OLIVAS' OBJECTION AND SPECIAL MASTER'S REPORT. The Special Master then went on to cite the unreasonable delays and extent of the resulting prejudice, and discounted the excuses offered by Mr. Olivas. This respondent also points out that she did not receive a copy of Olivas' hand written document of November 9, 2000, deemed to be a Motion by the Court.

The Special Master failed to conclude, however, that the primary victim of this delay is Janet OCrowley, a party respondent in this case.

Then the Special Master considered the fact that the Court had not been informed of the Olivas Bankruptcy, a Chapter 11 filed by Olivas at Boise, Idaho in the U.S. Bankruptcy Court for the State of Idaho, on July 13, 2000, Case #00-01741-11, that Chapter Eleven was converted to a Chapter Seven on October 26, 2000, by the presiding Judge, the Honorable Terry L. Myers. The property at Murphy Hot Springs, along with the water rights, was subsequently sold at public Auction by the Bankruptcy Trustee, Lois K. Murphy, on January 12, 2001.

The buyer was Waterone Enterprises, LLC of Tracy, California. Special Master Dolan correctly assumed they were an unknown party, and unaware of the February 15 hearing.

A careful review of the record, however, will show that the new owners of Murphy Hot Springs and Matthew Olivas are closely associated and could be viewed as one and the same. (see attachment A, a chronological order of their association). Considering Olivas, High Desert Resource, LLC, and Waterone Enterprises, LLC as one would eliminate any credible reason to grant Olivas' Motion to SET ASIDE THE SPECIAL MASTERS ORDER of November 9, 2000. This notification was also the duty of Olivas and/or his Attorney. Olivas should not be rewarded for what appears to be intentional breach of procedure. It is OCrowley's position that the Order of November 9, 2000 should be reinstated.

THE MOTION OBJECTING TO A CHANGE OF PRIORITY DATE FOR WATER RIGHT #51-04037

To understand this objection the Court needs to know that OCrowley's domestic water right was originally carved out of 51-04037, as evidenced by a warranty deed, dated October 30, 1969, from Charles and Mae Janacek, grantors, to John and Margaret Thompson, grantees, and recorded in the Owyhee County Courthouse as instrument #124644, attached with this Motion as attachment B #1.

This is the first deed in the chain of title on this parcel of land (Murphy Hot Springs) that indicates any transfer of water, or indicates any prior ownership of water.

Arguably, OCrowley's water right is the prior and primary right to water from Murphy Hot Springs.
The warranty deed from Murphy Hot Springs Land Company, the grantor, to Harry B. and Anita Showalter, husband and wife, the grantees, dated March 13, 1978, and recorded at the Owyhee County Courthouse as instrument #154461 shows no transfer of a water right.B #2
The Showalters sold the property to Olivas, et al; February 4, 1994. The water right they transferred to Olivas was apparently filed for after 1978, and possibly as late as 1994. The earliest date OCrowley could find on any written record for a water right prior to Olivas was January 11, 1994.

The 1/4 section of land that Murphy Hot Springs is situated within was taken as Homestead by one Floyd A. Rose on October 3, 1924, U.S. Land Patent #945531. B #3

Even then there is no mention of a water right, as such, vested to the property known now as Murphy Hot Springs.

The documents pertaining to a water right at Murphy Hot Springs are #1, a Notice of Claim to A Water Right, dated January 24, 1994, which carries a statement "where Daily use is less than 13,000 gallons per day", the claimants being Harry B. and Anita Showalter, showing a priority date of July 1 1934. A note on the back of this document states 'statutory claim was perfected prior to May 20, 1971, the receipt # is W017115. B #4

#2 document is type written, 2 pages, bearing the same date and receipt #W017115, as document #1, but is dated on the bottom September 11, 1998. This document is in the name of Matthew Olivas, and shows a priority date of June 20, 1885. B #5

The amended priority date Olivas has attempted to establish is from a very convoluted account from a book on the life of Kitty Wilkins, (Owyhee Cattlemen, 1878,1978 by Adams). The quotation from this book furnished to the IDWR by Olivas to support this amended date mentions the existence of a Hot Springs, but there is not a word about any use of the water, or any attempt to claim it, or even the land it was on.

This fanciful attempt by Olivas to create a very early priority date, overlooking the fact that water right #51-10220 is rightfully a prior permit, is difficult to understand until you consider the following: Mr. Olivas has unabashedly appropriated water far in excess of his permit for at least two years, even though he had no use for it. (see page 3, Special Masters report, of February 15 hearing.) Mr. Olivas stated: "This affiant's objection challenged the quantity of the water recommended under Claim #51-04037. The recommendation of the Director of IDWR was for only .06 cfs, while this affiant has established through measurements made by an employee of the Idaho Department of Water Resources that his diversions are at least 72.49 gallons per minute, or .1618 cfs."

His reasoning appears to be if he can convince IDWR that he somehow has a water right going back to 1885, he can also convince them that that unknown beneficial use consumed all of the water from the springs, therefore he (Olivas) is now entitled to all of the flow of springs.

This scenario appears whimsical until you acknowledge the fact that someone in authority at IDWR, Western Division, has already swallowed the Olivas 1885 priority date hook line and sinker and recommend it to SRBA. It was in fact mentioned in the Special Master's Order, concerning the February 15, 2000 hearing. (see page 1 footnote 2)

SUMMARY AND PRAYER FOR RELIEF

OCrowley will take this opportunity to state she has never challenged the 51-04037 (.06cfs) water right formerly held by Olivas, in this Court or anywhere else. OCrowley filed a suit, April, 1997, in SRBA, Subcase #94-00013 for the sole purpose of securing the uninterrupted delivery of her water as per her water right #51-10220, and to prevent destruction of her diversion works.

Water is a property, theft of water is a crime, like any other theft of property, While OCrowley's suit #94-00013 languishes in IDWR, SRBA, purgatory for 4 years, the thief continues to steal. OCrowley requests the Special Masters ORDER DISMISSING OBJECTION and SPECIAL MASTERS REPORT, of November 9, 2000 be reinstated as the best remedy to get this case moving.

Respectfully Submitted this 16th day of March 2001

Janet OCrowley

ATTACHMENT 'A'

(As part of OCrowley's MOTION TO SET ASIDE THE SPECIAL MASTERS ORDER GRANTING MOTION TO SET ASIDE ORDER and MOTION TO ALTER OR AMEND) This chronology deals with a individual by the name of Gary Thomas, whose address is 2410 Gem Avenue, Emmett, Idaho, 83617, and shows the continuity of Matthew Olivas, High Desert Resource, LLC, and Waterone Enterprises, LLC.

On August 17, 2000, Mr. Thomas appeared at the Bankruptcy Court in Boise and testified for Mr. Olivas who was attempting to reduce the amount owed the Showalters for the property. (see Court copies attached) A-1

Mr. Thomas next appeared with a letter to Harold Q. Noack, attorney for Orvin Twitchell, an Olivas Creditor, stating he (Thomas) represents High Desert Resource, LLC and proposing to buy Twitchells interest. (see copy of letter attached) A-2

The next appearance by Mr. Thomas is at the sale conducted by the Bankruptcy Trustee for the Hot Springs Property. Mr. Thomas represented Waterone Enterprises, LLC in the bidding and wrote and signed a statement that he had authorization to bind Waterone Enterprises, LLC and to guarantee delivery of the funds to complete the sale ($85,000) which he apparently did. (see page from Trustees sale, attached) A-3

It is inconceivable that Matthew Olivas appeared at the hearing before the Special Master without the knowledge of all the parties.

A-1

UNITED STATES BANKRUPTCY COURT
District of Idaho

U.S. COURTS
00 AUG 17 PM 3:35
REC'D FILED
CAMERON S. BURKE, CLERK, IDAHO

DATE	8.17.00 CASE NO. 00-01
CASE NAME	Olivas, Matthew
PRESIDING JUDGE	Terry L. Myers
NATURE OF PROCEEDINGS	1) 362 Final - Anita Showalter 2) Motion to Dismiss/Convert by US Trustee

APPEARANCES

Richard Himberger - counsel for Debtor
Iver Longeteig & Lawrence Sirhall - counsel for Anita Showalter
Harold Noack - counsel for Estate of Ersual Twitchell
Jeff Howe - counsel for US Trustee

REPORT OF PROCEEDINGS

2) Motion to Dismiss/Convert - US Trustee.

Stipulation reached.

Debtor to file disclosure and plan and set for disclosure statement hearing within 30 days. If complied with, motion to dismiss/convert will be continued to time of hearing on approval of disclosure statement. Failure to file said papers would result in dismissal of case upon request of the US Trustee without further hearing.

Court will entertain hearing upon request of an interested party and upon shortened notice as to whether to dismiss case with prejudice or to convert to chapter 7 in lieu of dismissal without prejudice.

1) 362 Final - Anita Showalter.

Randy French
Courtroom Deputy

A-1

Brett Delange and Anita Showalter sworn and examined for movant.
Exhibits 2-3 marked and admitted for movant.

Don Dozier and Gary Thomas sworn and examined for Debtor.
Exhibits 1-5 & 8 marked and admitted for Debtor.

After argument, matter taken UNDER ADVISEMENT to be taken up for oral ruling this same date at 1:30pm.

Prior to issuance of oral ruling, parties reached a stipulation resolving matter:

Debtor to pay the sum of $355,000 which includes $30,000 in attorney fees (to be paid directly to attorney) over Anita Showalter in total satisfaction of their claim. In turn Anita Showalter to release any interest in the supersedeas bond being held at the State Court and will release Debtor of any liability of any deficiency claim which may arise.

If above not complied with stay will be vacated without further hearing.

Debtor to notice matter for hearing for approval of Court on settlement and compromise and notice same for hearing on September 14, 2000 at 10:30am. Debtor to include in language that parties have until September 11, 2000 to object to settlement and compromise.

It is further noted that Debtor is to have the disclosure statement and plan filed on or before September 18, 2000 and have a hearing date selected for approval of disclosure statement.

Randy French
Courtroom Deputy

DON'T HAVE NO IDEA WHAT THIS IS. ???

208-42-

1524

Gary C. Thomas
2410 Gem Avenue
Emmett, ID 83617
(208) 365-4763
FAX (208) 365-4763

A-2

Harold Q. Noack
Attorney at Law2
P.O. Box 875
Boise, ID 83701
FAX (208) 336-6701

Re: Olivas Chapter 7 Case # 00-1741
Your client Orin R. Twitchell

Dear Mr. Noack:

I represent High Desert Resources (HDR), LLC, who is the largest creditor in the above referenced case. HDR is negotiating with all creditors in an attempt to eventually dismiss the case and expedite HDR's possible purchase of the property.

HDR has authorized me to offer your client $3,000 in exchange for your client's claim in the bankruptcy and an assignment of the judgement your client has against Matt Olivas. As you are aware this is significantly more than your client will likely receive in this Chapter 7, especially with the IRS secured and priority claim of nearly $60,000.

Inasmuch as time is of the essence, this offer will remain open only until Friday, November 10, 2000.

I look forward to your response. Please call if you have any questions.

Sincerely,

Gary C. Thomas

cc: High Desert Resources

DICK THIS LOOKS LIKE A N OFFER TO ME . MR. NOAVK WILL SEND A ESTIMATE ON HOW MUCH IT IS . & I WILL SEND IT TO YOU .

THANKS

A-3

4. TIME AND PLACE OF SALE:

January 12, 2001 at 10:00 o'clock a.m.
Office of Lois K. Murphy
2404 Bank Dr., Suite 312
Boise, Idaho 83705

5. TREATMENT OF EXISTING LIENS: Sale is subject to all liens or claims with all valid liens remaining attached to the property. The following claims will remain with the property after the sale: Judgment of Foreclosure in *Showalter v. Olivis* Case No. CV 96-01314, 3rd Judicial District, Owyee County, State of Idaho, filed 5/12/00 in favor of Showalter or assigns; Rights of redemptions, exemptions and all liens and encumbrances of record including easements and property taxes.

6. VALUE OF PROPERTY TO BE SOLD: The Trustee estimates that the fair market value of the property is: approximately $85,000 to $90,000 for the entire lot.

7. AUTHORITY FOR CONDUCTING SALE: 11 USC 363(b)(1)

8. MISCELLANEOUS INFORMATION:

Pending offers: $85,000 from Waterone Enterprises, LLC, 251 Versailles Ct., Tracy, CA 95376. The Trustee holds $2,000 ernest funds from Waterone.

Estimated net proceeds to be retained by the estate - $85,000.

9. ESCROW EXPENSES AND COMMISSIONS: None.

10. ADDITIONAL TERMS OF SALE:

THE PROPERTY SHALL BE SOLD "AS IS", "WHERE IS", AND WITHOUT WARRANTY OF ANY NATURE WHATSOEVER, EITHER EXPRESS OR IMPLIED AND SUBJECT TO ALL EXISTING CLAIMS.

Jed W. Manwaring,
Attorney for Trustee: Lois K. Murphy
2404 Bank Dr. Suite 312
Boise, ID 83705
(208) 424-1406

Sale held: 1/12/01 10:45 a.m.
Sold by Trustee to Waterone Enterprises LLC for $85,000
Buyer will wire transfer funds to Trustee by 5:00pm today
Trustee will return $2,000 ernest check upon receipt of funds.
Trustee will will execute all reasonable documents to effectuate release of claim to property; Gary Thomas represents he has authority to bind Waterone Ent. LLC.

Gary Thomas

7642 85510017678011 FEE

B-1

EXHIBIT "F"

B-2

WARRANTY DEED

For Value Received

MURPHY HOT SPRINGS LAND COMPANY, a partnership

Hereinafter called the grantor, hereby grants, bargains, sells and conveys unto

HARRY B. SHOWALTER, and ANITA SHOWALTER, Husband and wife

Hereinafter called the grantee, the following described premises in Owyhee County, Idaho, to-wit:

A parcel of land within the Northwest Quarter (NW¼), Section Twenty-four (24), Township Sixteen (16) South, Range Nine (9) East, Boise Meridian, Owyhee County, Idaho, and more particularly described by metes and bounds as follows:

COMMENCING at a brass-cap marking the Northwest corner of said Section 24, Township 16 South, Range 9 East, Boise Meridian;

THENCE South 54°09' East, 859.6 feet to the true point of beginning

THENCE South 34°13' East, 560.0 feet;

THENCE South 55°47' West 1230.7 Feet along the west boundary of said Section 24;

THENCE North 0°13' East, 678.9 feet along the West boundary of said Section 24'

THENCE North 55°47' East, 846.9 feet to the true point of beginning;

And said parcel containing 13.35 acres, more or less subject to roving utility easements for power, water, T.V., telephone and roads.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee and to the Grantee's, their heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that they are free from all incumbrances except as described above and that Grantor will warrant and defend the same from all lawful claims whatsoever.

Dated:

Duard Lawley, President of Brillig Corporation, a partner

STATE OF IDAHO, COUNTY OF

On this 13 day of March, 1978, before me, a notary public in and for said State, personally appeared

Duard Lawley, President of Brillig Corporation, a partner

known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

Notary Public

Residing at , Idaho

Comm. Expires

STATE OF IDAHO, COUNTY OF Owyhee

I hereby certify that this instrument was filed for record at the request of Owyhee Title Co.

at 30 minutes past 10:00 o'clock A m., this 20th day of April, 1978, in my office, and duly recorded in Book of Deeds at page Microfilmed

BARBARA JAYO
Ex-Officio Recorder

By Deputy.

Fees $ 1.00

Mail to:

INSTRUMENT No. 154461

4—1068-R.

B-3

Boise 024595.

The United States of America,

To all to whom these presents shall come, Greeting:

WHEREAS, a Certificate of the Register of the Land Office at Boise, Idaho,

has been deposited in the General Land Office, whereby it appears that, pursuant to the Act of Congress of May 20, 1862, "To Secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of

Floyd A. Rose

has been established and duly commuted, in conformity to law, for the northwest quarter of Section twenty-four in Township sixteen south of Range nine east of the Boise Meridian, Idaho, containing one hundred sixty acres,

according to the Official Plat of the Survey of the said Land, returned to the GENERAL LAND OFFICE by the Surveyor-General:

NOW KNOW YE, That there is, therefore, granted by the UNITED STATES unto the said claimant the tract of Land above described; TO HAVE AND TO HOLD the said tract of Land, with the appurtenances thereof, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I, Calvin Coolidge,

President of the United States of America, have caused these letters to be made Patent, and the seal of the General Land Office to be hereunto affixed.

GIVEN under my hand, at the City of Washington, the THIRD

(SEAL) day of OCTOBER in the year of our Lord one thousand

nine hundred and TWENTY-FOUR and of the Independence of the

United States the one hundred and FORTY-NINTH

By the President: Calvin Coolidge

By Viola C. Pugsley, Secretary.

M. P. LeRoy, Recorder of the General Land Office.

RECORD OF PATENTS: Patent Number 945531

Form No. 42-1409 (2) b 9/88

RECEIVED

JAN 19 1994

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

CIVIL CASE NUMBER: 39576

Identification No 37-04031

Date Received 1-31-94

Receipt Number 0017115

RECEIVED

JAN 21 1994

WATER RESOURCES WESTERN REGION

NOTICE OF CLAIM TO A WATER RIGHT

B-4

ACQUIRED UNDER STATE LAW

For Domestic and/or Stockwater Purposes

Where Daily Use is less than 13,000 gallons per day.

Filing Fee $25

Please type or print clearly

1. Name of Claimant (s) Harry B. Showalter & Anita F. Showalter Phone (208) 857-2233

Mailing Address Murphy Hot Springs, Rogerson, Idaho Zip 83302

2. Date of Priority (Only one per claim) 07/01/34 Month/Day/Year

3. Source of water supply (Check one) (X) Groundwater or Other ( ) (a) Murphy Hot Springs
Name or kind of source

which is tributary to (b) Jarbidge River, East Fork

4. Location of point of diversion is: Township 16S Range 09E

Section 24, NW 1/4 of NW 1/4 of _____ 1/4, Govt. Lot _____, BM.,

County of Owyhee

Additional points of diversion if any: None

5. Description of existing diversion works (Ditches, Wells, Pumps, Pipelines, Headgate 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. pipeline, gravity fed to house, lodge, hot baths and swimming pool

6. Water is claimed for the following: (Limited to Domestic and/or Stockwater only. See Instructions.)

		Month/Day		Month/Day		(cfs)
For heating	purposes from	01/01	to	12/31	amount	0.04
For domestic	purposes from	01/01	to	12/31	amount	0.02

(Both dates are inclusive)

← Commercial 01/01 to 12/31 .02

7. Total quantity claimed 0.060 (cfs)

8. Total consumptive use claimed is de minimis

9. Non-irrigation uses. Describe fully. (Domestic: give number of households served if single ownership; Stockwater: Type and Number of livestock) 1 household/Hot Springs pools for bathing and swimming pool and lodge.

FEB 19 '97 14:42

D-4

Place of use is: Township: 16S Range 09E

Section 24, NW 1/4 of NW 1/4, Govt. Lot _____, B.M.,

County of Owyhee for (Circle One) Domestic Stock Domestic and Stock

Additional places of use, if any None

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

12. Do you own the property listed above as place of use? Yes X 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. None (xx)

14. Remarks: Statutory claim was perfected prior to 5/20/71

15. Basis of Claim (Circle One) Beneficial Use Posted Notice License Permit Decree

Court _____ Decree Date _____ Plaintiff vs Defendant _____

If applicable provide IDWR Water Right Number 51-04037

16. Signature (s)

Number of Attachments zero

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

Signature of Claimant (s) x Harry B. Shoemaker Date 1-11-94

x Quita I. Shoemaker Date 1-11-94

For Organizations: I do solemnly swear or affirm that I am _____ (Title)

of _____ (Organization), that I have signed the foregoing

document in the space below as _____ (Title) of _____ (Organization)

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____ Date _____

Title and Organization _____

State of Idaho/or _____)
) SS.
County of Twin Falls)

Subscribed and sworn (or affirmed) before me this 11th day of January 1994

SEAL

Notary Public Russell Browning

Residing at Twin Falls, Id

My Commission Expires 8-12-99

Last Name _____ Ident No. _____

Copies: White-State, Yellow-Claimant

B-5

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

September 10, 1998

Lloyd Walker, Attorney at Law
PO Box 1923
Twin Falls, ID 83303-1923

Re: Change of priority date for water right claim no. 51-04037.

As per the evidence you submitted on September 2, 1998, I have changed the priority date to June 20, 1885.

Please have your claimant sign the amended claim form and return to this office as soon as possible.

If you have any questions, give me a call.

Sincerely,

Susan Bock
Sr. Water Resources Agent

Enclosure: Profile report, Amended Claim Form

RECEIVED
SEP 2 1 1998
WATER RESOURCES
WESTERN REGION

B-5

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: R51-04037
Date Received: 1/21/1994
Receipt No: W017115
Received By: _____

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

1. Name: MATTHEW OLIVAS 208-857-2233
   Address: DESERT HOT SPRINGS
   ROGERSON ID 83302

2. Date of Priority: JUN 20, 1885

3. Source: MURPHY HOT SPRINGS Trib. to: JARBIDGE RIVER, EAST FORK

4. Point of Diversion:

Township	Range	Section	1/4	of 1/4	of 1/4	Lot	County
16S	09E	24	SW	NW	NW		OWYHEE

5. Description of diverting works:
   SPRINGS (TWO) PIPED TO HOUSE, POOL, BATHS, AND LODGE.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
HEATING	01/01	12/31	0.040		
DOMESTIC	01/01	12/31	0.020		
COMMERCIAL	01/01	12/31	0.020		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4	of 1/4	Lot	Use	Acres
16S	09E	24	NW	NW		DOMEST	
			NW	NW		COMMER	
			NW	NW		HEAT	

B-5

11. Place of use in counties: OWYHEE

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

13. Other Water Rights Used:
51-12760

14. Remarks:
USE IS FOR 1 HOME; COMMERCIAL USE, POOL, BATHS, LODGE; AND HEATING.
WATER TEMPERATURE MEASURED AT 117 DEGREES F.

15. Basis of Claim: BENEFICIAL USE

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 X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 2

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: 9-18-98

_____ Date: _____

State of Idaho)
) ss.
County of Twin Falls)

Subscribed and sworn (or affirmed) before me this 18th day of September 19 98

_____
Notary Public

Seal

Residing at Twin Falls, Id

My Commission Expires 2/14/2000

CERTIFICATE OF SERVICE

I, the undersigned, affirm that I have this day served true and correct copies of MOTION TO SET ASIDE ORDER GRANTING MOTION TO SET ASIDE MOTION and MOTION OBJECTING TO AMENDED PRIORITY DATE plus ATTACHMENTS by U.S. Mail postage prepaid, in envelopes addressed to said persons at the following addresses:

Roger Ling
P.O. Box 396
Rupert, ID 83350

Waterone Enterprises,LLC
251 Versailles Ct.
Tracy, CA 95376

Director of IDWR
Documentary Depository
P.O. Box 83720
Boise, ID 83720

Idaho Dept. of Water Resources
Western Division
Garrick Baxter Sr. Agent
2735 Airport Way
Boise, ID 83705

Office of Attorney General
State of Idaho
Peter J. Ampe
P.O. Box 83720
Boise, ID 83720

Janet OCrowley
pro se

HP LaserJet 3100
Printer/Fax/Copier/Scanner

SEND CONFIRMATION REPORT for
IDAHO DEPT OF WATER RESOURCES
2083275400
Mar-15-01 10:04AM

Job	Start Time	Usage	Phone Number or ID	Type	Pages	Mode	Status
970	3/15 9:52AM	12'02"	2086554300	Send	16/16	EC 96	Completed

Total 12'02" Pages Sent: 16 Pages Printed: 0

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

TRANSMITTAL COVER SHEET

FAX NUMBER: (208) 327-5400

DATE: 3-15-01

TO: Dick Bird

FROM: Becky Harvey
AGO/ IDWR

DOCUMENT DESCRIPTION: Documents you requested pertaining to the priority date change. If the quality of the fax is not sufficient, please call me & I will mail additional copies to you.

COVER SHEET + 15 PAGES

CONTACT: Becky; 327-7881 IF YOU DO NOT RECEIVE ALL THE PAGES.

THANK YOU!

You are also welcome to come in & review the claim file.

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
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THANK YOU!

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1422-18

DEC 26 2000

ORIGINAL

U S DISTRICT & BANKRUPTCY COURTS
00 DEC 15 PM 4:47
FILED DEPOSITORY IDAHO
Cameron S. Burke, Clerk

Jed W. Manwaring, ISB# 3040
EVANS, KEANE LLP
1101 W. River Street, Suite 200
P. O. Box 959
Boise, Idaho 83701-0959
Telephone: (208) 384-1800
Facsimile: (208) 345-3514

Attorneys for Trustee, Lois K. Murphy

RECEIVED
MAR 13 2001
WATER RESOURCES
WESTERN REGION

UNITED STATES BANKRUPTCY COURT

DISTRICT OF IDAHO

In Re: Matthew Olivas Trina R. Olivas Debtor.	Case No. 00-01741 **NOTICE OF SALE BY TRUSTEE**

PLEASE TAKE NOTICE THAT the Trustee will sell the property described below in which the estate claims an interest pursuant to 11 USC 363, Bankruptcy Rule 6004(e)(1) and LBR 307. This sale will take place unless a written objection and request for hearing is received by the U.S. Bankruptcy Court (550 W. Fort St., MSC 042, Boise, Idaho 83724-0042) and the Trustee **on or before January 5, 2001.**

1. DESCRIPTION OF PROPERTY TO BE SOLD:

The Bankruptcy Estate's interest in all real and personal property in the case including: (1) real property known as Desert Hot Springs consisting of 14.9 acres and improvements of 9 rental cabins and outbuildings located in Owyhee County (subject to a foreclosure Judgment of $377,326 plus interest from 10/97); (2) the estate's interest in a $125,000 cash bond on deposit with Owyhee County Magistrate's Court (subject to creditor's competing claim of entitlement; and (3) the estate's interest in any non-exempt personal property on the real property.

2. TYPE OF SALE: Public Auction with the opening and pending bid of $85,000 from:
Waterone Enterprises, LLC
251 Versailles Ct.
Tracy, CA 95376

3. TERMS OF SALE: Cash or equivalent from the highest bidder on the date of auction. Trustee will allow a reasonable time after bidding to obtain remaining cash or cashier's check.

Case No. 00-01741

4. TIME AND PLACE OF SALE:

January 12, 2001 at 10:00 o'clock a.m.
Office of Lois K. Murphy
2404 Bank Dr., Suite 312
Boise, Idaho 83705

5. TREATMENT OF EXISTING LIENS: Sale is subject to all liens or claims with all valid liens remaining attached to the property. The following claims will remain with the property after the sale: Judgment of Foreclosure in *Showalter v. Olivis* Case No. CV 96-01314, 3rd Judicial District, Owyee County, State of Idaho, filed 5/12/00 in favor of Showalter or assigns; Rights of redemptions, exemptions and all liens and encumbrances of record including easements and property taxes.

6. VALUE OF PROPERTY TO BE SOLD: The Trustee estimates that the fair market value of the property is: approximately $85,000 to $90,000 for the entire lot.

7. AUTHORITY FOR CONDUCTING SALE: 11 USC 363(b)(1)

8. MISCELLANEOUS INFORMATION:

Pending offers: $85,000 from Waterone Enterprises, LLC, 251 Versailles Ct., Tracy, CA 95376. The Trustee holds $2,000 ernest funds from Waterone.

Estimated net proceeds to be retained by the estate - $85,000.

9. ESCROW EXPENSES AND COMMISSIONS: None.

10. ADDITIONAL TERMS OF SALE:

THE PROPERTY SHALL BE SOLD "AS IS", "WHERE IS", AND WITHOUT WARRANTY OF ANY NATURE WHATSOEVER, EITHER EXPRESS OR IMPLIED AND SUBJECT TO ALL EXISTING CLAIMS.

Jed W. Manwaring

Jed W. Manwaring,
Attorney for Trustee: Lois K. Murphy
2404 Bank Dr. Suite 312
Boise, ID 83705
(208) 424-1406

Sale held: 1/12/01 10:45 a.m.
Sold by Trustee to Waterone Enterprises LLC for $85,000
Buyer will wire transfer funds to Trustee by 5:00pm today
Trustee will return $2,000 ernest check upon receipt of funds.
Trustee will will execute all reasonable documents to effectuate release of claim to property; Gary Thomas represents he has authority to bind Waterone Ent. LLC.

Gary Thomas

017642 85510017678011 ITEE

TRUSTEE'S QUITCLAIM DEED

THIS INDENTURE, Made as of this 17th day of January, 2001, by and between Lois K. Murphy, trustee. ("Grantor"), and Waterone Enterprises, LLC ("Grantee"), at 251 Versailles Ct., Tracy, CA 95376.

WITNESSETH:

WHEREAS, Grantor was duly and regularly appointed as qualified trustee of the bankruptcy estate of Matthew Olivas and Trini R. Olivas ("Debtors"), being bankruptcy Case No. 00-01741, now pending in the United States Bankruptcy Court for the District of Idaho; and,

WHEREAS, The trustee Grantor has authority to sell property of the estate pursuant to 11 USC 363(b)(1) and said Notice of Sale by Trustee was filed with the bankruptcy court on December 15, 2000 with a duly noticed auction held on January 12, 2001;

WHEREAS, Grantor sold and Grantee purchased at said auction whatever rights the bankruptcy estate may have had in real property of the Debtors being subject to an Amended Order, Judgment and Decree of Foreclosure filed May 12, 2000 and various other liens and encumbrances including IRS liens; and,

NOW, THEREFORE, for valuable consideration received, Grantor does hereby release and quitclaim to Grantee, its successors and assigns forever, any right, title, interest, and estate the debtors and the bankruptcy estate may have had by operation of law or otherwise in and to the following real property situated in Owyhee, Idaho, described as follows:

See Exhibit A attached.

Said conveyance is made subject to all liens and encumbrances of any kind remaining on the property and is further made without any warranties of title, condition, marketability, habitability, fitness or any other express or implied warranty. Grantor does not warrant that the bankruptcy estate had any such interest. The property is conveyed "AS IS and WHERE IS".

IN WITNESS THEREOF, Signed:

Lois K. Murphy

By: Lois K. Murphy, Trustee

STATE OF IDAHO)) ss. County of Ada) On this 17th day of January, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Lois K. Murphy, known or identified to me to be the person whose name is subscribed to the within instrument, as Trustee in Bankruptcy for Matthew Olivas and Trini R. Olivas, and acknowledged to me that he executed the same as in his own name as Trustee in said Bankruptcy. IN WITNESS THEREOF, I have hereunto set my hand and affixed my official seal as of the day and year in this certificate first above written. Notary Public of Idaho Residing in Boise, Idaho Commission Expires: 9-27-01	RECORDING INFORMATION:

EXHIBIT "A"

A parcel of land within the West Half of the Northwest Quarter (W½NW¼) of Section 24, Township 16 South, Range 9 East, Boise Meridian, Owyhee County, Idaho, and more particularly described as follows:

COMMENCING at a brass-cap marking the Northwest corner of Section 24, Township 16 South, Range 9 East, Boise Meridian;
THENCE South 54°09' East, 859.6 feet to the true point of beginning;
THENCE South 34°13' East, 560.0 feet;
THENCE South 55°47' West, 1230.7 feet to the west boundary of said Section 24;
THENCE North 0°13' East, 678.9 feet along the west boundary of said Section 24;
THENCE North 55°47' East, 846.9 feet to the True Point of Beginning. Together with all water rights evidenced by water right numbers

EXCEPTING THE FOLLOWING DESCRIBED 2 PARCELS OF LAND: 51-04037, A51-04037

PARCEL NO. 1: and A51-12780

A parcel of land in the NW¼, Section 24, Township 16 South, Range 9 East, Boise Meridian, being more particularly described as follows:

BEGINNING at the NW corner of the NW¼ of Section 24, Township 16 South, Range 9 East, Boise Meridian
THENCE running South 0°12'33" West for a distance of 358.0 feet to a point;
THENCE running South 35°36'14" East for a distance of 512.9 feet, said point is the TRUE POINT OF BEGINNING, said point is also the SW corner of Lot 1, Block 12 of Murphy Hot Springs Subdivision No. 1 as recorded in Owyhee County Courthouse;
THENCE South 26°30' East for a distance of 124.28 feet;
THENCE North 56°28' East for a distance of 189.61 feet;
THENCE North 46°27' West for a distance of 128.32 feet to a point, which lies on the Southerly boundary of said Murphy Hot Springs Subdivision No. 1;
THENCE South 55°47' West for a distance of 145.41 feet, along the Southerly boundary of Lot 1, Block 12, Murphy Hot Springs Subdivision No. 1 to the TRUE POINT OF BEGINNING.

PARCEL NO. 2:

A parcel of land in the NW¼ of Section 24, Township 16 South, Range 9 East, Boise Meridian, Owyhee County, Idaho, described as follows:

BEGINNING at the Northeast corner of Lot 28, Block 7, Murphy Hot Springs Subdivision No. 2, Owyhee County, Idaho;
THENCE North 34°13'00" West 37.5 feet to a point;
THENCE South 55°47'00" West 85 feet, more or less, to the East Bank of Jarbidge River;
THENCE in a Southeasterly direction 37.5 feet, more or less, to the Northwest corner of Lot 29, Block 7 of Murphy Hot Springs Subdivision No. 2;
THENCE North 55°47'00" East 80.8 feet to the Point of Beginning.

TOGETHER with 0.060 (cfs) of water evidenced by IDWR Water Right Number 51-04037.

BILL OF SALE

Pursuant to Notice of Sale by Trustee, which auction sale was held on January 12, 2001, and for valuable consideration in the amount of $85,000, the Trustee hereby transfers to Waterone Enterprises LLC all right title and interest of the bankruptcy estate of Matthew Olivas and Trini R. Olivas, Case No. 00-01741, in the US Bankruptcy Court for the Dist. Of Idaho in the following property: all non-exempt personal property of the Debtors located in Owyhee County, excluding any of the Debtors' horses or interest in horses; but including whatever interest the bankruptcy estate may have had in a certain cash bond of $125,000 held by the clerk of the District Court of Owyhee County, Case No. CV 96-01314, *Showalter v. Olivas*.

This transfer is made without any express or implied warranties of any kind including NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Said transfer is subject to all existing known and unknown claims to such personal property.

DATED this 17th day of January, 2001.

Lois K. Murphy, Trustee in Bankruptcy for Olivas

ACTION REQUIRED

FROM: Jim, Southern

TO: Gary Spackman 2-23-01

Here is the document I phoned you about.

RECEIVED
FEB 26 2001
WATER RESOURCES
WESTERN REGION

RECEIVED
FEB 21 2001
Department of Water Resources

EVANS, KEANE LLP
Attorneys at Law

Boise Office

Member, Commercial Law Affiliates with Independent Firms in Principal Cities Worldwide

1101 W. River Street, Suite 200
P.O. Box 959
Boise, Idaho 83701-0959

Telephone: (208) 384-1800
Facsimile: (208) 345-3514
E-mail: firm@ ekidalaw.com
Website: http://www.ekidalaw.com

FACSIMILE COVER SHEET

January 16, 2001

RECEIVED
FEB 26 2001
WATER RESOURCES
WESTERN REGION

From: Jed W. Manwaring

To: Richard Bird — **Facsimile No.:** (208) 655-4300
Lois K. Murphy 424-1528

Re: Olivas Bankruptcy
Our File No. 1422-18

Documents Transmitted: Sale documents.

Comments: The sale of January 12, 2001 was accomplished and consumated as noticed and sold in the attached documents. I conducted the sale as the attorney for the Trustee.

This message consists of 6 page(s), including this cover page.

CONFIDENTIALITY NOTICE

This facsimile transmission (and/or the documents accompanying it) may contain confidential information belonging to the sender which is protected by the attorney-client privilege. The information is intended only for the use of the individual or entity named below. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone to arrange for return of the documents.

1422-18

DEC 26 2000

ORIGINAL

U S DISTRICT & BANKRUPTCY COURTS
00 DEC 15 PM 4:47
FILED DEPOSITORY IDAHO
Cameron S. Burke, Clerk

Jed W. Manwaring, ISB# 3040
EVANS, KEANE LLP
1101 W. River Street, Suite 200
P. O. Box 959
Boise, Idaho 83701-0959
Telephone: (208) 384-1800
Facsimile: (208) 345-3514

Attorneys for Trustee, Lois K. Murphy

UNITED STATES BANKRUPTCY COURT

DISTRICT OF IDAHO

In Re: Matthew Olivas Trina R. Olivas Debtor.	Case No. 00-01741 **NOTICE OF SALE BY TRUSTEE**

PLEASE TAKE NOTICE THAT the Trustee will sell the property described below in which the estate claims an interest pursuant to 11 USC 363, Bankruptcy Rule 6004(e)(1) and LBR 307. This sale will take place unless a written objection and request for hearing is received by the U.S. Bankruptcy Court (550 W. Fort St., MSC 042, Boise, Idaho 83724-0042) and the Trustee on or before January 5, 2001.

1. DESCRIPTION OF PROPERTY TO BE SOLD:

The Bankruptcy Estate's interest in all real and personal property in the case including: (1) real property known as Desert Hot Springs consisting of 14.9 acres and improvements of 9 rental cabins and outbuildings located in Owyhee County (subject to a foreclosure Judgment of $377,326 plus interest from 10/97); (2) the estate's interest in a $125,000 cash bond on deposit with Owyhee County Magistrate's Court (subject to creditor's competing claim of entitlement; and (3) the estate's interest in any non-exempt personal property on the real property.

2. TYPE OF SALE: Public Auction with the opening and pending bid of $85,000 from:
Waterone Enterprises, LLC
251 Versailles Ct.
Tracy, CA 95376

3. TERMS OF SALE: Cash or equivalent from the highest bidder on the date of auction. Trustee will allow a reasonable time after bidding to obtain remaining cash or cashier's check.

Case No. 00-01741

4. TIME AND PLACE OF SALE:

January 12, 2001 at 10:00 o'clock a.m.
Office of Lois K. Murphy
2404 Bank Dr., Suite 312
Boise, Idaho 83705

5. TREATMENT OF EXISTING LIENS: Sale is subject to all liens or claims with all valid liens remaining attached to the property. The following claims will remain with the property after the sale: Judgment of Foreclosure in *Showalter v. Olivis* Case No. CV 96-01314, 3rd Judicial District, Owyee County, State of Idaho, filed 5/12/00 in favor of Showalter or assigns; Rights of redemptions, exemptions and all liens and encumbrances of record including easements and property taxes.

6. VALUE OF PROPERTY TO BE SOLD: The Trustee estimates that the fair market value of the property is: approximately $85,000 to $90,000 for the entire lot.

7. AUTHORITY FOR CONDUCTING SALE: 11 USC 363(b)(1)

8. MISCELLANEOUS INFORMATION.

Pending offers: $85,000 from Waterone Enterprises, LLC, 251 Versailles Ct., Tracy, CA 95376. The Trustee holds $2,000 ernest funds from Waterone.

Estimated net proceeds to be retained by the estate - $85,000.

9. ESCROW EXPENSES AND COMMISSIONS: None.

10. ADDITIONAL TERMS OF SALE:

THE PROPERTY SHALL BE SOLD "AS IS", "WHERE IS", AND WITHOUT WARRANTY OF ANY NATURE WHATSOEVER, EITHER EXPRESS OR IMPLIED AND SUBJECT TO ALL EXISTING CLAIMS.

Jed W. Manwaring

Jed W. Manwaring,
Attorney for Trustee: Lois K. Murphy
2404 Bank Dr. Suite 312
Boise, ID 83705
(208) 424-1406

Sale held: 1/12/01 10:45 a.m.
Sold by Trustee to Waterone Enterprises LLC for $85,000
Buyer will wire transfer funds to Trustee by 5:00pm today
Trustee will return $2,000 ernest check upon receipt of funds.
Trustee will will execute all reasonable documents to effectuate release of claim to property; Gary Thomas represents he has authority to bind Waterone Ent. LLC.

Gary Thomas

7642 85510017678011 FEE

TRUSTEE'S QUITCLAIM DEED

THIS INDENTURE, Made as of this 17th day of January, 2001, by and between Lois K. Murphy, trustee, ("Grantor"), and Waterone Enterprises, LLC ("Grantee"), at 251 Versailles Ct., Tracy, CA 95376.

WITNESSETH:

WHEREAS, Grantor was duly and regularly appointed as qualified trustee of the bankruptcy estate of Matthew Olivas and Trini R. Olivas ("Debtors"), being bankruptcy Case No. 00-01741, now pending in the United States Bankruptcy Court for the District of Idaho; and,

WHEREAS, The trustee Grantor has authority to sell property of the estate pursuant to 11 USC 363(b)(1) and said Notice of Sale by Trustee was filed with the bankruptcy court on December 15, 2000 with a duly noticed auction held on January 12, 2001;

WHEREAS, Grantor sold and Grantee purchased at said auction whatever rights the bankruptcy estate may have had in real property of the Debtors being subject to an Amended Order, Judgment and Decree of Foreclosure filed May 12, 2000 and various other liens and encumbrances including IRS liens; and,

NOW, THEREFORE, for valuable consideration received, Grantor does hereby release and quitclaim to Grantee, its successors and assigns forever, any right, title, interest, and estate the debtors and the bankruptcy estate may have had by operation of law or otherwise in and to the following real property situated in Owyhee, Idaho, described as follows:

See Exhibit A attached.

Said conveyance is made subject to all liens and encumbrances of any kind remaining on the property and is further made without any warranties of title, condition, marketability, habitability, fitness or any other express or implied warranty. Grantor does not warrant that the bankruptcy estate had any such interest. The property is conveyed "AS IS and WHERE IS".

IN WITNESS THEREOF, Signed:

Lois K. Murphy

By: Lois K. Murphy, Trustee

STATE OF IDAHO)) ss. County of Ada) On this 17th day of January, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Lois K. Murphy, known or identified to me to be the person whose name is subscribed to the within instrument, as Trustee in Bankruptcy for Matthew Olivas and Trini R. Olivas, and acknowledged to me that he executed the same as in his own name as Trustee in said Bankruptcy. IN WITNESS THEREOF, I have hereunto set my hand and affixed my official seal as of the day and year in this certificate first above written. Notary Public of Idaho Residing in Boise, Idaho Commission Expires: 9-27-01	RECORDING INFORMATION

EXHIBIT "A"

A parcel of land within the West Half of the Northwest Quarter (W½NW¼) of Section 24, Township 16 South, Range 9 East, Boise Meridian, Owyhee County, Idaho, and more particularly described as follows:

COMMENCING at a brass-cap marking the Northwest corner of Section 24, Township 16 South, Range 9 East, Boise Meridian;
THENCE South 54°09' East, 859.6 feet to the true point of beginning;
THENCE South 34°11' East, 560.0 feet;
THENCE South 55°47' West, 1330.7 feet to the west boundary of said Section 24;
THENCE North 0°13' East, 678.9 feet along the west boundary of said Section 24;
THENCE North 55°47' East, 846.5 feet to the True Point of Beginning - Together with all water rights evidenced by water right numbers

EXCEPTING THE FOLLOWING DESCRIBED 2 PARCELS OF LAND: 51-04037, A51-04037

PARCEL NO. 1: and A51-12780

A parcel of land in the NW¼, Section 24, Township 16 South, Range 9 East, Boise Meridian, being more particularly described as follows:

BEGINNING at the NW corner of the NW¼ of Section 24, Township 16 South, Range 9 East, Boise Meridian
THENCE running South 0°13'33" West for a distance of 358.0 feet to a point;
THENCE running South 35°36'34" East for a distance of 512.9 feet, said point is the TRUE POINT OF BEGINNING, said point is also the SW corner of Lot 1, Block 12 of Murphy Hot Springs Subdivision No. 1 as recorded in Owyhee County Courthouse;
THENCE South 36°30' East for a distance of 136.28 feet;
THENCE North 56°38' East for a distance of 139.61 feet;
THENCE North 66°27' West for a distance of 128.32 feet to a point, which lies on the Southerly boundary of said Murphy Hot Springs Subdivision No. 1;
THENCE South 55°47' West for a distance of 145.43 feet, along the Southerly boundary of Lot 1, Block 12, Murphy Hot Springs Subdivision No. 1 to the TRUE POINT OF BEGINNING.

PARCEL NO. 2:

A parcel of land in the NW¼ of Section 24, Township 16 South, Range 9 East, Boise Meridian, Owyhee County, Idaho, described as follows:

BEGINNING at the Northeast corner of Lot 28, Block 7, Murphy Hot Springs Subdivision No. 2, Owyhee County, Idaho;
THENCE North 34°13'08" West 37.5 feet to a point;
THENCE South 55°47'08" West 85 feet, more or less, to the East Bank of Jordidge River;
THENCE in a Southeasterly direction 37.5 feet, more or less, to the Northwest corner of Lot 29, Block 7 of Murphy Hot Springs Subdivision No. 2;
THENCE North 55°47'08" East 80.8 feet to the Point of Beginning.

TOGETHER with 0.060 (cfs) of water evidenced by IDWR Water Right Number 51-04037.

BILL OF SALE

Pursuant to Notice of Sale by Trustee, which auction sale was held on January 12, 2001, and for valuable consideration in the amount of $85,000, the Trustee hereby transfers to Warerone Enterprises LLC all right title and interest of the bankruptcy estate of Matthew Olivas and Trini R. Olivas, Case No. 00-01741, in the US Bankruptcy Court for the Dist. Of Idaho in the following property: all non-exempt personal property of the Debtors located in Owyhee County, excluding any of the Debtors' horses or interest in horses; but including whatever interest the bankruptcy estate may have had in a certain cash bond of $125,000 held by the clerk of the District Court of Owyhee County, Case No. CV 96-01314, *Shewalter v. Olivas*.

This transfer is made without any express or implied warranties of any kind including NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Said transfer is subject to all existing known and unknown claims to such personal property.

DATED this 17th day of January, 2001.

Lois K. Murphy, Trustee in Bankruptcy for Olivas

RECEIVED
AUG 29 2000
WATER RESOURCES
WESTERN REGION

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 51-04037
(Insert water right number from the Objection Form)

STANDARD FORM 2
RESPONSE TO OBJECTION

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

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: State of Idaho

Address: 700 W. Jefferson, Room 210
P.O. Box 44449
Boise, Idaho 83711-4449

Phone: Work: (208) 334-2400 Home: N/A

Name and Address of Attorney, if any:

Attorney Name: ALAN G. LANCE
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
PETER J. AMPE
Deputy Attorney General

Attorney Address: Office of the Attorney General
700 W. Jefferson, Room 210
P.O. Box 44449
Boise, ID 83711-4449

Attorney Phone No. (208) 334-2400
ISB# 5209

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

Name: Matthew Olivas
Address: Desert Hot Springs
Rogerson, ID 83302

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. ☐ **Purposes(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.

E. **VERIFICATION** (Must be Completed)

State of Idaho)
) ss.
County of Ada)

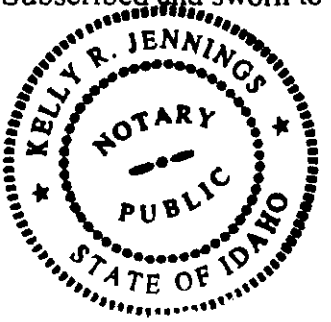
Peter J. Ampe, duly sworn, upon oath, deposes and says:

That the State of Idaho, in both its sovereign and proprietary capacity, is filing this objection and that I am a Deputy Attorney General authorized to represent the State of Idaho, which is a party/claimant in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and I have read this response, know its contents and that the statements are true to the best of my knowledge and belief.

(Signature of person filing response)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: August 16, 2000



Notary Public for IDAHO
Residing at: BOISE, ID
My commission expires: May 29, 2003

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 parties listed below in the Certificate of Mailing.

F. CERTIFICATE OF MAILING

I certify that on August 16, 2000 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
   PO Box 2707
   Twin Falls, ID 83303-2707

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

   Matthew Olivas
   Desert Hot Springs
   Rogerson, ID 83302

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

   Matthew Olivas
   Desert Hot Springs
   Rogerson, ID 83302

4. Copies to:

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

United States Department of Justice
Environment & Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

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

(Not Applicable)

Your signature or signature of attorney mailing on your behalf

IDAHO DEPARTMENT OF WATER RESOURCES
ENERGY DIVISION - SIS PROJECT

Warren Weihing, P.E. - Gerald Fleischman, P.E. — Robin Wells, P.E.
1301 N. Orchard St. Boise, Idaho 83706 208-327-7960 — 1341 Fillmore St., Suite 200 Twin Falls, Idaho 83301 208-736-4753-234

Date: April 10, 2000
To: Mathew Olivas
Desert Hot Springs
Rogerson, Idaho 83302
Telephone and Fax 1-208-857-2233

To: Janet O'Crowley
Murphy Hot Springs
Rogerson, Idaho 83302
Telephone 1-208-857-2265
Fax 1-208-857-2264

From: Robin D. Wells P.E.
Idaho Department of Water Resources
1341 Fillmore Street
Twin Falls, Idaho 83301
Telephone 1-208-736-3033
Fax 1-208-736-2027

Pre-Field Aug 10th 10:00 by phone
Drafting 2006 Report expanded to cover the history

Subject: Water Measurements on April 8, 2000 at Murphy Hot Springs, Fax Version, Revised

On April 8th, I measured water flows at Murphy's Hot Springs (Desert Hot Springs) at the reque.. of Mathew Olivas; these flows were diversions from two hot springs referred to here as the North Spring and the South Spring. Olivas shares the North Spring with Janet O'Crowley.

While on the site, Janet O'Crowley, a resident and neighbor or Olivas asked me to measure the flow, which supplied her residence from the North Spring which O'Crowley shared with Olivas.

My purpose in being at Murphy's Hot Springs on April 8th was a courtesy water measurement; not for the purpose of conflict resolution, or water rights investigation.

The following are the results of my measurement efforts:

A PVC bucket and coffee can were used to measure all but one of the pipe flows. The bucket, brim full held 5.51 (5.507) gallons. The coffee can held 0.85 (0.849) gallons.

The North and South Springs are on the side of a hill above the Olivas and O'Crowley properties. The two springs are connected by a PVC pipe, although with the configuration at the time of measurement, there was no flow between the springs.

All of the captured, pipe flow water from the South Spring was flowing to Mr. Olivas' swimming pool during the flow measurement. Because of the steep gradient, the 2.375 inch OD PVC pipe was not full and the flow measurement was made with a bucket and stopwatch at the pool. The discharge into the swimming pool was (5.507 gal x 60.00s/29.68s =) 11.13 gpm. (Ref: South Spring, high discharge point).

There was a leak escaping from the South Spring at the diversion grouting; there could be more leakage that I did not observe. I subjectively estimated the leak to be about 5 gpm. At the bottom of the hill below the spring, there was water seeping from the rocks that collected into a ditch that flowed across the yard and into the East Fork of the Jarbidge. I measured the flow in this ditch with a coffee can at (0.849 x 60.0s/23.99s =) 5.05 gpm. (Ref: South Spring, low discharge point).

EXHIBIT "A"

The captured North Spring pipe flow was measured at four points: The high Olivas discharge point (water bottling site, east side of the river), the O'Crowley diversion at the spring (west of the river), the middle diversion, and low Olivas discharge point (west of the river).

The North Spring, high discharge point was measured with a Tyme Flite Sonic Meter and was 41.86 gpm.

The North Spring, middle diversion point was measured with a coffee can; this water results from leakage from the North Spring grouting, and manifold overflow (of which there was none at of the hour of the measurement). This flow was collected in a perforated pipe and discharged to a ditch which crossed the yard and flowed into the river. The flow was (0.849gal x 60.0s/48.8s =) 1.04 gpm.

The North Spring, low discharge point was measured with a bucket and stopwatch and averaged 11.26 gpm over 15 measurements.

The North Spring, O'Crowley measurement was measured twice at the spring, and twice at the house. This first measurement at the house using a bucket and was 2.20 gpm.

Because Mrs. O'Crowley's right was about 0.01 cfs (4.49 gpm) the flow into the 1.5 inch plastic line supplying the house was measured at the spring with the line detached; that flow was 2.61 gpm.
A valve was adjusted (7.5 turns) to make more water available to O'Crowley's manifold diversion point, and the O'Crowley diversion re-measured at the spring with the water line detached, and that flow was 4.40 gpm.

The discharge was remeasured at the O'Crowley house and that flow was 2.33 gpm. This discharge through a hose on the side of the house, drained the hot water system in the house.

When the hose was shut off, the pressure in the water line grew from about 1 psi, to about 8 psi. The elevation of the spring above the O'Crowley house is about 20 feet.

Friction and fitting losses at the spring (fittings were necked down to hose bib diameter) and at the house will reduce the available pressure in the O'Crowley House to less than 20 feet of head. It is not likely that Mrs. O'Crowley will be able to divert more than 4.5 gpm, using gravity flow through 1.5 inch supply line necked to a 3/4 inch pipe size in the house, considering the additional fitting losses and elevation rise of faucets.

I suggested to both O'Crowley and Olivas that, to eliminate controversy, the O'Crowley diversion point should be moved to the east side of the North Spring Valve and attached to a 1.5 inch nipple with no fitting reductions. The diversion point should be on the lower portion of the manifold and on the bottom of the pipe so that the O'Crowley line will not drain when water is running in the house. The supply line did drain during the second house measurement, and eventually lower the pressure at the house to about 1 psi (less than the height of a kitchen faucet.

Note that the pressure reduction in the house was a combination of "glory hole geometry" in the manifold, and friction but mostly fitting losses near and in the house. Relocating the O'Crowley diversion in an "under pipe" takeout on the lower east side of the horizontal mainline at the manifold will at least put an 8 psi supply pressure to the end of the O'Crowley 1.5 inch supply line.

I believe that the above measurements are accurate and represent the situation as observed on April 8, 2000.

I have received no compensation from O'Crowley or Olivas for the above measurements.

Robin D. Wells P.E. #4019

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF DIVERSION AND USE OF WATER NOT IN CONFORMANCE WITH WATER RIGHTS ON LANDS OWNED OR CONTROLLED BY MATTHEW OLIVAS	)))))	**NOTICE OF VIOLATION**

The Director of the Department of Water Resources (IDWR) is charged with the duties of protecting vested water rights, enforcing specific statutes of the state of Idaho, and enforcing the rules promulgated by IDWR. The Director is also authorized to order the cessation of violations or attempted violations of the provisions of the law relating to all aspects of appropriation and distribution of water.

A hearing was conducted on July 14, 1999, regarding complaints from residents of the town of Murphy Hot Springs who alleged Matthew Olivas (Olivas) was illegally diverting and using water. The hearing was conducted to gather evidence about the use of water by Olivas. Olivas attended the hearing. In addition, the following residents or owners of property in Murphy Hot Springs attended: John & Anita Showalter, Janet OCrowley, Robert Fries, John Etter, and James D. Smith. Based on the testimony presented at the hearing and evidence in the files of IDWR, IDWR finds, concludes, and orders as follows:

FINDINGS OF FACT

1. Matthew Olivas operates a commercial business in the town of Murphy Hot Springs consisting of a lodge, two or three dwellings, some of which may be rented, a swimming pool, and some additional outbuildings.

2. Olivas claimed water rights associated with the property in the Snake River Basin Adjudication (SRBA). One of the water right claims, numbered A51-04037, asserts the right to divert 0.06 cubic feet per second (cfs) from Murphy Hot Springs (hereafter referred to as "the spring") located in the NW1/4NW1/4, Section 24, T16S, R09E, B.M. The water right claim describes domestic use in one home; commercial use in a pool, baths, and a lodge; and heating.

3. A commercial bottling plant is located on property occupied by Olivas In 1996, Olivas' daughter filed application to appropriate water no. 51-07362 with IDWR, seeking to divert water from the low temperature geothermal spring to a bottling plant for commercial sales. The application was subsequently assigned to Matthew Olivas. Application no. 51-07362 was denied by final order of the Director in January 1998.

4. After denial of the Olivas application, residents of the town of Murphy Hot Springs complained about the continued diversion of water from the spring by Olivas to the bottling plant and shipping of water out of the town of Murphy Hot Springs. The complaining residents submitted evidence to IDWR that water from the spring was being sold in retail outlets in Twin Falls, Idaho and generally in the Magic Valley. This evidence included samples of bottled water, wrappers affixed to the bottles, and receipts for the purchased water.

5. At the hearing, Matthew Olivas testified that he was bottling approximately one hundred (100) gallons of water per month. He stated that the water was being sold through his lodge (Desert Hot Springs Lodge) and was only available through the lodge. Olivas stated that,

in addition to the 100 gallons bottled monthly, other customers were driving to Murphy Hot Springs and filling their own bottles or containers. Furthermore, a customer named Frank Peterson fills one-to-five gallon bottles with water and transports them away in a horse trailer. This water is not sold to Frank Peterson, however. Frank Peterson delivers hay to Olivas, and Olivas allows Peterson to bottle and remove the water free of charge, presumably as compensation for the hay.

6. The complaining residents established that Matthew Olivas is advertising water bottled at Murphy Hot Springs with a brochure containing an order form and a toll free telephone number. Matthew Olivas testified and the complaining parties verified that Matthew Olivas is shipping bottled water through United Parcel Service. Testimony by Olivas that the water is being sold through the Desert Hot Springs Lodge and is only available through the lodge is interpreted to mean that the lodge is the location from which business is being conducted.

7. Matthew Olivas testified that he hired a person to bottle under his bottling label and that he has control of the label.

8. The complaining residents established that Olivas and other individuals regularly load water into trailers or vehicles to be shipped out of Murphy Hot Springs.

CONCLUSIONS OF LAW

1. Idaho Code Section 42-351 states:

> If the director of the department of water resources finds, on the basis of available information, that a person is diverting water or has diverted water from a natural water course or from a ground water source without having obtained a valid water right to do so, or is applying water or has applied water not in conformance with a valid water right, then the director of the department of water resources shall have the discretion to issue a notice of violation to the person in accordance with the provisions of section 42-1701B, Idaho Code, for the illegal diversion or use of water.

2. Idaho Code Section 42-1701B states:

> (2) Notice. . . . the notice of violation shall identify the alleged violation and shall specify each provision of the designated chapter, rule, permit, condition of approval or order which has been violated. The notice of violation shall state the remedy, including all restoration and mitigation measures, and the amount of any civil penalty the director seeks for redress of the violation. Factors the director may consider in seeking the appropriate remedy include the impact of the violation and whether the violation was willful, a repeat violation for which the violator had been given a prior written warning, or the violator has otherwise refused to comply with the department's lawful directives. The notice of violation shall inform the person to whom it is directed of an opportunity to confer with the director, or the director's designee in a compliance conference concerning the alleged violation.
>
> (6) Penalty.
> (a) Any person determined in a judicial civil enforcement action to have substantially violated nay provision of title 42, Idaho Code, or any rule promulgated pursuant to that title, shall be liable for a civil penalty . . . not to exceed:
> (i) For nonirrigation uses, fifty dollars ($50.00) per one-tenth (0.1) cubic feet per second of water or part thereof, per calendar day, up to a maximum penalty of fifty thousand dollars ($50,000) per year for water illegally used or diverted.

3. Matthew Olivas is diverting water for a purpose not authorized by existing water rights in violation of Idaho Code § 42-351.

ORDER

IT IS HEREBY ORDERED that Matthew Olivas shall cease and desist diverting water from sources located in Section 24, T16S, R09E, B.M., or from other sources near the town of Murphy Hot Springs for human consumption other than domestic use as claimed by adjudication claim no. A51-04037. Specifically, Matthew Olivas shall not place or cause to be placed water in containers for sale or for distribution.

IT IS FURTHER ORDERED that Matthew Olivas shall pay a penalty of fifty dollars ($50) per day for any diversion of water for human consumption other than domestic use, or for any documented placement of water in containers or documented shipping of water.

IDWR may pursue injunctive relief in the district court of the State of Idaho if Olivas does not cease the illegal use of water.

NOTICE IS GIVEN that Olivas may request, in writing, a compliance conference with IDWR within 14 days of the date of receipt of this notice of violation.

Dated this 3rd day of November, 1999.

GARY SPACKMAN
Hearing Officer

CERTIFICATE OF MAILING

I hereby certifiy that on the 3rd day of November, 1999, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:

Sue Taylor
Senior Secretary

CERTIFIED MAIL

MATTHEW OLIVAS
DESERT HOT SPRINGS
ROGERSON ID 83302

NON-CERTIFIED MAIL

LLOYD J WALKER
ATTORNEY AT LAW
PO BOX 1923
TWIN FALLS ID 83303-1923

CHARLES R POTTER
2278 BOWLIN LN
TWIN FALLS ID 83302

JAMES DON SMITH
216 BORAH AVE W
TWIN FALLS ID 83302

NORMAN M SEMANKO
ROSHOLT ROBERTSON & TUCKER
MURPHY HOT SPRINGS PROP OWNERS
PO BOX 1906
TWIN FALLS ID 83301

JOHN ETTER
137 2ND AVE E
TWIN FALLS ID 83301

DAVID J LONG
PO BOX 209
HANSEN ID 83334

ROBERT W FRIES
1720 POPLAR AVE
TWIN FALLS ID 83301

JANET O'CROWLEY
MURPHY HOT SPRINGS
ROGERSON ID 83302

VIRGIL E DODD
MURPHY HOT SPRINGS
ROGERSON ID 83302

LOWELL PRUNTY
MURPHY HOT SPRINGS
ROGERSON ID 83302

ANITA SHOWALTER
MURPHY HOT SPRINGS
ROGERSON ID 83302

SANDY HEMMINWAY
SOUTHWEST DISTRICT HEALTH DEPT
920 MAIN
CALDWELL ID 83605

RECEIVED
JUL 16 1999
Department of Water Resources

COF

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 51-04037
(Insert water right number)

STANDARD FORM 1 OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Matthew Olivas

Address: Rogerson, ID 83302

Daytime Phone: (208) 857-2233

Name & Address of Attorney, if any:

Lloyd J. Walker
250 Second Ave. South, Suite A
Twin Falls, ID 83303-1923

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

Name: Matthew Olivas

Address: Rogerson, ID 83302

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: N/A

2. ☐ **Source**
   Should be: N/A

3. ☒ **Quantity**
   Should be: Commercial use .06 CFS

4. ☐ **Priority Date**
   Should be: N/A

5. ☐ **Point(s) of Diversion** N/A
   Should be:

6. ☐ **Instream Flow Description**
   Should be: N/A

7. ☐ **Purpose(s) of Use**
   Should be: N/A

8. ☐ **Period of Year**
   Should be: N/A

9. ☐ **Place of Use**
   Should be: N/A

11. **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 OBJECTION(S): The use of the water right granted is for .06 CFS. Under N13, the use is limited to 13,000 gallons a day, which is not nearly sufficient for commercial use. It is inconsistent with the .06CFS granted, which is the correct amount. This application has been previously submitted, but no final decree has been entered.

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 July 15, , 1999, 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: Matthew Olivas
   Address: Rogerson, ID 83302

3. Copies to:

   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

Signature of Objector or attorney
mailing on Objector's behalf

F. **VERIFICATION** (Must be Completed)

State of Idaho)
)ss.
County of Twin Falls)

Matthew Olson, 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.

Matthew Olson
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: 7-15-99

Notary Public for Idaho
Residing at: Twin Falls
My Commission Expires: 2/4/2000

RECEIVED
AUG 18 1998
WATER RESOURCES
WESTERN REGION

LLOYD J. WALKER
ATTORNEY AT LAW
131 Second Street West
P.O. Box 1923
Twin Falls, ID. 83303-1923
Telephone: (208) 733-3083
LJW/rw/CLIENT/Olivas/water/hearing.mem

ORIGINAL

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

MEMORANDUM FOR SUBMISSION AT WATER HEARING ON AUGUST 18, 1998

The Hearing noticed for August 18, 1998 at Grandview, Idaho does not directly affect the two water rights set out by the Department of Water Resources for use by Matthew Olivas at Murphy Hot Springs. The two water rights being #51-04037 in the amount of .06 CFS and #51-12760 for the amount of .04 CFS. The applicant Matthew Olivas does not appear to have any objections or conflicts with the hearings on these two applications. The domestic use of the water on #51-12760 for a home, public restrooms and three camping spaces appear to be correct. And #51-04037 for in one home, commercial use in a swimming pool, bath, lodges and heating appears to be accurate.

The reason for this submission however, is to comment on the findings of the Department of Water Resources in relation to the application #51-07362 which included the use of the natural spring water for bottling water for sale. When the State Department of Water Resources found that the use by Matthew Olivas because of the

bottling of water for the sale, interferes with the Janet O'Crowley water right.

The Janet O'Crowley water right is designated in that document as .01 cubic feet of water, which originally was delivered through a 3/4 inch pipe from a 3 inch gravity feed line to Ms. O'Crowley. That water is now delivered from an installation at the spring site put in place by Janet O'Crowley. The notices indicate that each party is required to prove that the water is being used for beneficial purposes, and if that is applied to the water used by Janet O'Crowley which is .01 CFS, then there can be no further problems Ms. O'Crowley is receiving and will continue to receive through her installation at the spring site of a 1.5 inch receptacle which carries water through a black pipe line to the O'Crowley residence. There is submitted here with and have been submitted to the Court picture of that installation and the fact that most of the water is wasting through a hose which is dumped back on the Olivas property doing damage to it.

The Department of Water Resources never did find the degree to which there was some so called interference with the O'Crowley claim.

The question remains before Mr. Olivas is asked to proceed with his application to bottle water, what jurisdiction does the Department of Water Resources have to require proof of "sufficient information to show that he can comply with health regulations".

Under paragraph 7 that he did not have sufficient financial resources to accomplish the bottling and sale of water. Because

this is geothermal water, it is assumed that it must be proved under *I.C. § 42-233 (1)* that the bottling and sale of spring water is a use consistent with the public interest.

The finding that Mr. Olivas must prove financial ability is strange when the state also finds that when Mr. Olivas uses his bottling plant it interferes with the delivery of Ms. O'Crowley's water.

Dated this 18th day of August, 1998.

LLOYD J. WALKER

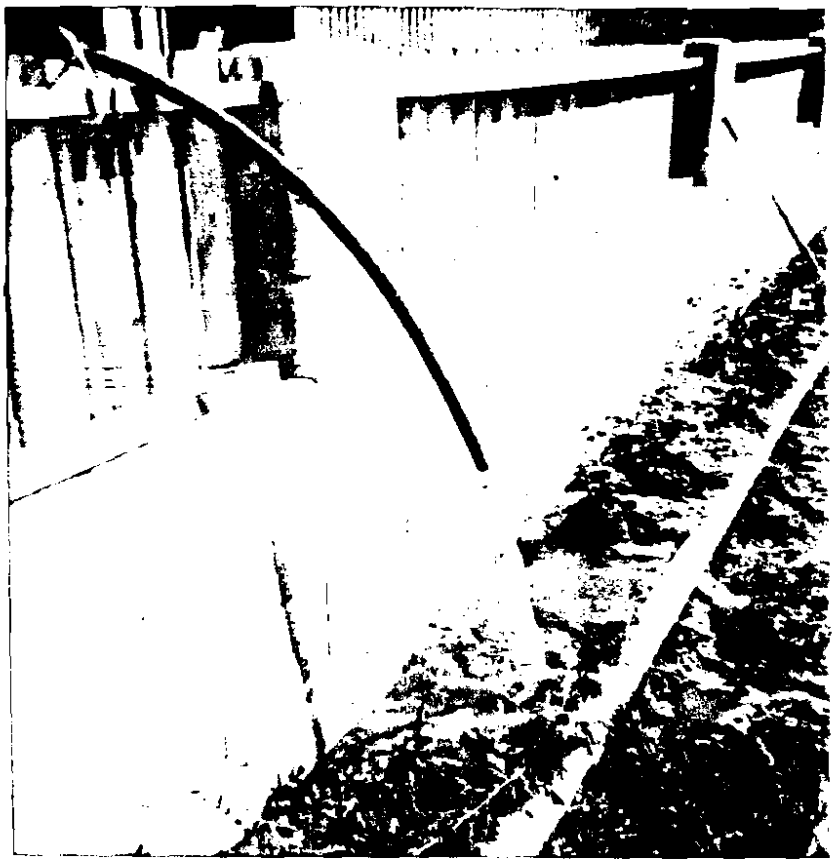
Lloyd J. Walker
Attorney for Matthew Olivas

CERTIFICATE OF MAILING

I, the undersigned, hereby certify that on the 18th day of August, 1998, I served copies of the foregoing by placing true and correct copies thereof in the U.S. Mail, postage prepaid, in envelopes addressed to the following:

Patrick D. Brown
HEPWORTH, LEZAMIZ & HOHNHORST
133 Shoshone St. North
P.O. Box 389
Twin Falls, ID 83303-0389

Lloyd J. Walker



















State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

September 10, 1998

Lloyd Walker, Attorney at Law
PO Box 1923
Twin Falls, ID 83303-1923

Re: Change of priority date for water right claim no. 51-04037.

As per the evidence you submitted on September 2, 1998, I have changed the priority date to June 20, 1885.

Please have your claimant sign the amended claim form and return to this office as soon as possible.

If you have any questions, give me a call.

Sincerely,

Susan Bock
Sr. Water Resources Agent

Enclosure: Profile report, Amended Claim Form

August 4, 1998

RECEIVED
SEP 0 2 1998
WATER RESOURCES
WESTERN REGION

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.
YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: September 4, 1998

Water right number: 51-04037

MATTHEW OLIVAS
DESERT HOT SPRINGS
ROGERSON ID 83302

or Lloyd J. Walker, attorney at Law
P.O. Box 1923
Twin Falls, Id 83303-1923

Daytime Telephone Number: 208-857-2233 or 208-733-3083
Evening Telephone Number: 208-857-2233 or 208-733-3083

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

Priority Date Changed to June 20, 1885
(See attached document)

2. Describe the changes you wish to make in the proposed recommendation:

Priority Date - changed to June 20, 1885
(See attached documents)

3. Give a brief explanation as to why you disagree with these portions:

See attached document

____ **I AGREE with this proposed recommendation; no changes need to be made.**

DATE: 8/31/98 **SIGNATURE:** Lloyd J. Walker

Please print your name: Lloyd J. Walker

Attorney for Matthew Olivas

IDWR Western Regional Office, 2735 Airport Way, Boise, ID 83705-5082, (208) 334-2190

Adams,
Owyhee Cattlemen 1878-1978
IR
979.658 A
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received

Kittie Wilkins . . . Horse Queen of Idaho

Long before Idaho became noted for the quality of its potatoes, skiing resorts and recreation, it became famous in an unusual, and unheard of way. It produced a lady horse-dealer in the person of Miss Kittie Wilkins, who achieved worldwide acclaim as the "Horse Queen of Idaho", and she hailed from Owyhee County.

A quote from Bancroft's History of Idaho, 1890: "The opening of railroad transportation marked a new era, encouraging every existing industry, and encouraging new ones. The exports of livestock in 1885 aggregated 36,000 head of cattle and horses, or 1,800 carloads."

"One of the horse-raisers of Idaho is Miss Kittie Wilkins, sometimes called the Horse Queen of Bruneau Valley where she resides with her parents on a large ranch. Her stock consists of Black Hawks, Morgans, Percherons, Hambeltonians, and French draught horses. The father of Miss Wilkins settled in Idaho in 1865, when she was an infant, and from one filly given the child, came by good management, a band of 7 or 8 hundred horses. Miss Wilkins was educated at St. Vincent's Academy, Walla Walla, Wash. and the convent of Notre Dame, San Jose, Calif."

J. R. Wilkins moved his family to California from Jacksonville, Oregon and was engaged in various enterprises during the time that they resided there. Evidently he was successful in his ventures. He came to Silver City in 1866 as an advance man, scouting out a location for a store. Things were looking lively "up the creek", about a mile above Silver City and he decided that a business would flourish there. He departed May 15, by stage for California.

Owyhee Avalanche, June 16, 1866:

"Messers Wilkins and Cove have arrived from Sierra Vista, Calif. with a large stock of heavy groceries, and located on the west side of Jordan Creek, nearly opposite the Jackson Mill. Have 15,000 pounds of flour, about same of barley, plenty liquors etc. Also 60 yoke of cattle, and a lot of heavy wagons for sale. Are erecting a business house. O. Streshley Esq., has purchased several lots at the same point, and is about erecting a building. The point is well supplied with delicious water, and we expect to see it quite a business place." The location became known as Asby.

Avalanche, June 30, 1866 — Asby Store —

"The citizens of Asby will be pleased to know that a large store of all kinds of groceries in common use, has been established in their precinct. Messers Wilkins and Cove have just opened a fine stock above and opposite the Webfoot Mill. Have the best of everything — including liquors — and will sell at "live and let live" rates, for particulars see advertisement."

The Asby Store — Wilkins and Cove



KITTY WILKINS—1875.

A letter from "Billie"—San Fransisco, Sept. 23, 1875—"Your photograph was received with joy and happiness, for now I will always have before me, her that I love and cherish above all others, and will I hope until time is no more."

Since the Wilkins outfit branded their stock with the Diamond brand Kittie was also known as "The Queen of Diamonds"

— advertised a long list of staple groceries plus candles, nails, grindstones, clothing, boots and tinware, "and all other articles needed in a mining camp."

Wilkins seems to have followed along "where the action was", Tuscarora, Nevada, Elko and to Hailey and Challis, where they were in the stock business. Mrs. Laura Wilkins purchased, of O. E. Penwell, Challis, Idaho. "In and for the consideration of the sum of $300.00, a town lot and parcel of ground situated and being in the townsite of Challis facing Main Ave." May 7, 1881.

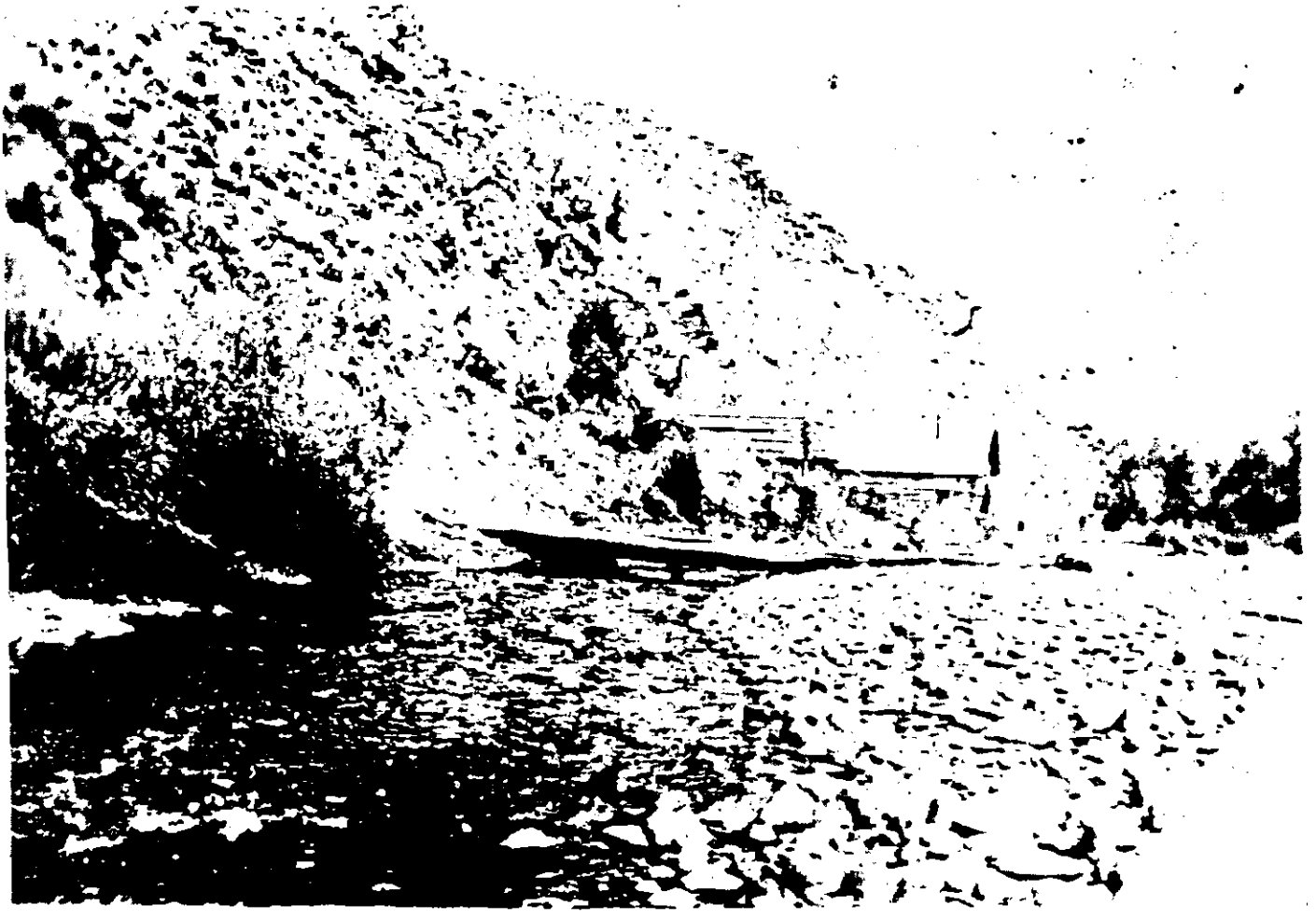
J. E. Wilkins, acting as agent for the Wilkins Co. bought a stallion from Hiram Rice at Hailey, Idaho. The bill of sale reads in part: "Know all men by these present, that I, Hiram Rice of Hailey, County of Alturas, Ida. Territory, for and in consideration of the sum of one thousand dollars, lawful currency to me in hand this 13th day of July 1884, paid by J. E. Wilkins of said town, county and territory — the receipt is hereby acknowledged and do hereby agree to bargain sell and transfer the following personal property: viz: The Stallion known as "Waterloo Junior" a dapple gray, at time of this writing at Baufields Stable in town of Hailey"—

It was about this time that the Wilkins Co. was looking for new and broader horizons for their livestock operations. They selected the Bruneau Valley for a home base, and with the range free and open they spread out 75 miles to the headwaters of the Bruneau river, and on in to Nevada.

The Wilkins Co. consisted of Kittie, her father and three brothers and they had both cattle and horses. In the Bruneau directory of the Owyhee Co. "Blue Book", 1898, the names of the Wilkins family were listed: "Kittie Wilkins (Wilkins Horse Co.), John E. Wilkins, rancher and stock raiser, Samuel B. Wilkins, rancher and stock raiser." John R. Wilkins and Laura K. the parents of the above listed were also partners in the company, owning all the farm and grazing land that supported the enterprises. They were all involved in the Wilkins Horse Co. Kittie's brother Bert, was not listed as a stock owner, although he worked for the company.

J. R. Wilkins acquired the property which was later known by the old time riders as "Kittie's Hot Hole", in 1885 by claiming a Squatters Right thereon. On the west side of the canyon, hot water poured down the steep slope of the canyon. According to the old timers, a man named Price was the first to file on the Hot Springs. He "came up missing" and was never heard of again."

A legal document, painstakingly written in longhand was filed and notorized by William Schenk, Justice of the Peace, Bruneau Precinct, Owyhee Co., I.T. in Feb, 1886.



Kitty's Hot Hole 1912. Now Murpy Hot Springs. Bridge in foreground led up the the Crippen Grade on the road to Jarbridge.

Land Claim

"Know by all men of these presents, that I, the undersigned, have this day (June 20, 1885) located and hereby claim one-hundred and twenty acres of land for agricultural and grazing purposes.

"Said claim is situated on Robinson's Fork of the Bruneau River, about 60 miles from Bruneau Valley, in Owyhee Co., Ida."

A description of the land was given. Marked by stakes numbered one to four, beginning at stake number one, one hundred yards from Summercamp house, the area formed a rectangular strip of 120 acres. Wilkins was duly sworn and stated that he "held no other Land Claim under the provisions of "an act prescribing the mode of maintaining and defending possessory actions of the public lands of the Territory."

The Wilkins Co. made the Hot Hole headquarters for their range operations in that area. The buckaroos built large corrals of willows and poles, and rock fences across the canyon to the rimrock, to hold the horses. The rock fence is still there, a monument to the Wilkins outfit. "They built the fences as high as the rocks would hold together", Irene Murphy said. "The wild mares could jump over them but the fence held the little colts, and the mares wouldn't leave them."

The Owyhee country at the head of the Bruneau River and to the Jarbridge Mountains in Nevada was the range of the Wilkins Co., with the so-called Wilkins Island, a large land area between two forks of the Bruneau being their principal range holdings. The family maintained Clover Flat, Winter Camp and their home ranch three miles below the town of Bruneau, also an island on the Snake River one mile above the Loveridge Ferry. They had fenced the 160 acre island, cut hay and wintered stock there. Back water of the Strike Reservoir now covers both the island in Snake River and the ranch on the Bruneau River.

All of the Wilkins horses headed for Mountain Home to be shipped by train to distant points, forded Snake River at the Island, swimming their way across the two channels. Mountain Home was the nearest shipping point for the Bruneau and Three Creek ranges, and hundreds of horses were shipped from there each year to the eastern markets.

The King Brothers bought 750 head of the Wilkins horses, dry mares and yearlings, and trailed them to their Texas ranch in 1890. They had a regular trail outfit and it was less expensive than shipping by rail.

An island of land, formed by two forks of the Jarbridge River, covers approximately six square miles that lies within Owyhee County. The other portion of the Island is in Nevada, and extends to the Jarbridge mountains. The island became the domain of the Wilkins out fit and was known as Wilkins Island. Thousands of horses run at large on the range.

The Hot Hole had once been occupied by the Sommercamp outfit, who had moved their large cattle herds to Squaw Creek in the northern part of Owyhee County. Old timers referred to Sommercamp as "Summer Camp", and spelled it accordingly.

In June 1886, Wilkins' possessory right to the Hot Hole was being challenged by G.W. Moore, a rancher of Three Creek. A hearing was scheduled in the court of Justice of the Peace William Schenck.

It would appear that holding court in a tent had its disadvantages at times, as "In the case of the people versus J. R. Wilkins and Mrs. J. R. Wilkins — June 28, 1886.-Complaintant G. W. Moore — object of action to eject Wilkins off a certain piece of land on East Bruneau, known as Summer Camp.

Mrs. Wilkins appeared at 10 o'clock A.M. July 5, 1886. Adjourned to meet at the school house at 1½ P.M., same day (on account of the heat of the tent in which I am living.)" William Schenck.

Below the Diamond A, once headquarters for Dan Murphy, on Buckcreek and north of the old Cowan ranch, on the East Fork of the Bruneau River is a natural arch about 30 feet high, so perfectly hewn in the rock that it seems to be hand-hewn by man. Down through the ages the water of the river has churned out a deep hole behind the arch with a deep incline, approximately 60 feet to the bottom. Wild mustangs were forced over the drop into the natural corral. A strong high barrier was placed in the arch, the only way out.

Slipping and sliding the horses reached the bottom of the hole. Sometimes horses were killed or crippled by others piling on top of them, before they could regain their feet in the sandy pothole below. According to Jack Thompson, formerly of Grassmere, "there was only one horse that ever succeeded in climbing up out of that hole. A man couldn't climb it as there were no footholds. The Arch is one of the wonders of Idaho."

The horses were held in the "Arch corral" until they could be branded. There was always a sizable bunch of mavericks that Kittie Wilkins claimed. In those days big outfits were never questioned about branding a maverick or "slick". Whoever got a "long loop on a critter" was entitled to it in the early days of stock raising. A buckaroo wasn't considered "worth his salt" if he failed to find free animals once in a while to swell the herds of his boss.

Every man who worked for an outfit was treated as an equal and did an "honest day's work for an honest day's pay". The foreman accepted no privileges and worked just as hard as his men. "A green-broke" horse sold at $75 or $100.

Kittie employed good riders and horse breakers and they were proud to be on her payroll. Hugo Strickland, who later became a world's champion bronc rider rode for Kittie. His picture hangs in the Cowboy Hall of Fame. Others who rode for the Wilkins outfit were the Pellessier boys — Dick, Frank and Joe, Jeff Davis and Jess Campbell. Such notables as Diamond-field Jack and Walter Scott, who later became famous as Death Valley Scotty, once rode the range for Kittie Wilkins.

Storm clouds of another sort were gathering on the horizon in 1888 for J R. Wilkins. A "running feud" had been going on for sometime between John McCoy and Wilkins.

John McCoy sought legal action against J. R. Wilkins in 1888, for assault with a deadly weapon, a large pocket knife. An affidavit signed by John Strohl a witness for Wilkins was subscribed and sworn to before William Schenck, Justice of the Peace on June 12, 1888. Bruneau Precinct, Owyhee County Idaho Territory:

In the District Court, Second Judicial of Idaho Territory, in and for the County of Ada.

"Territory of Idaho vs. J.R. Wilkins

"John Strohl being duly sworn says my name is John Strohl — I am acquainted with the parties to this action. I first met McCoy between Mountain Home and Snake River on my way to the

Wilkins ranch for em ployment. He told me that he had po: sion of all the Wilkins property, an dvised me not to go there as I could f plenty of other places to work, and th e would try and find work for me son here else. This was sometime about e first of Dec. 1887. When I went work for the Wilkins family, I told t m what McCoy said to me and a s ort time afterward McCoy came o to the Island where I was working on Snake River. Mr. Wilkins told him hat he did not want him around his c p or about his premises for he, Mc oy, had been meddling with his pri ate affairs, and accused him of stopping a stranger on the highway and trying to p suade him not to come here for emp yment, which Mr. McCoy denied. Th n Mr. Wilkins said "here is the man y u talked to and you can settle with hi ", pointing to me, and then walked aw y. This is all I remember being said be ween them.

"McCoy then admitted to me before Charles Rasmussen that he did have this talk with me and wanted an understanding that we would be friendly when we met on the road, then went away.

"Sometime in April I was up on the Summer Range at the Wilkins Corrals in Idaho, when Frank Ross rode inside of the Corrals with a rifle on his saddle in front of him, and a revolver strapped to him. Mr. Wilkins asked him if he had any business with him. Ross said no. Then he asked him if he had any business at the Corrals. Ross said he did not know as he had. Mr. Wilkins asked him if he was working for McCoy. Ross said he was. Mr. Wilkins said, "Then Ross, I will give you a pointer, whenever you come here on official business you leave your guns at home."

"I never heard Mr. Wilkins make any threats about McCoy, or any of his men. I saw McCoy on the range in May. He wanted me to sign my name to a paper he had concerning the ownership and number of horses on the range, and I told him I would not.

Signed — John Strohl"

When J. R. Wilkins first started shipping to eastern markets, Kittie accompanied her father on selling trips with trainloads of horses to be sold at auction. Kittie soon learned the business and in time her father entrusted her to conduct all the sales for the Wilkins Company. She was accompanied on these trips by one of her brothers and ranch hands to handle the horses and work in the sales ring, and to unload them from the cars at feed and watering stops. Sometimes more men of the outfit accompanied them, riding in the caboose of the stock train.

The fame of Kittie Wilkins mentioned by Bancroft in 1890 was just beginning and her title of Horse Queen of Idaho was well earned. Kittie not only sold horses in eastern markets, but rode the range with her buckaroos, overseeing the roundups and cutting back the culls. She was an excellent horsewoman and could ride with ease on a sidesaddle at a gallop, her horse jumping rocks and sagebrush to head a bunch of horses into the holding corrals.

Consequently she was an admirable figure in the sale yards as she rode and demonstrated the Wilkins horses. Her father, J. R. Wilkins, learned early in the game that Kittie made a good representative of the company, and could conduct sales in a businesslike manner, under any conditions. Kittie always wore modishly styled riding apparel and hats that were attractive.

She carried two trunks throughout her travels. One contained her "city" wardrobe and the other, a large utility trunk covered with a leather-like material, held her sidesaddle and riding gear. It was labeled, K.C.W. HORSE DEALER — BRUNEAU, IDAHO

Diamonds, according to legend and song, are supposed to be a "girl's best friend". "Diamond-Tooth-Lil" wore her diamonds as fillings in her teeth and Diamond-Field Jack" bedecked himself with a diamond stickpin, a watch-fob imbedded with diamonds and a large one in his ring. However, the Diamond Brand on the shoulders of Kittie Wilkin's horses brought her fame and fortune as "The Queen of Diamonds, the Horse Queen of Idaho."

"MISS WILKINS LIKES HORSES"

From an Omaha newspaper, 1892:

Miss Kittie Wilkins, the "horse queen" of Idaho, has been in the city for a few days, stopping at the Mercer. Miss Wilkins is not of the type known as the "new woman", but is rather of the independent, self-made woman. She is at the head of one of the largest horse raising ranches in the world, and is not only the manager, but also saleslady of all the horses produced. Her ranch, which comprises several thousand acres, is located near Mountain Home, in the famous Valley of Bruneau, Idaho, and upon it every detail which pertains to the rearing of the horse has been perfected.

"Miss Wilkins, together with a brother, has been in the business over eight years, and has accumulated a large fortune in the handling of "man's best friend" and servant. Once a year she takes to the eastern market a large consignment of horses, and frequently goes as far as Boston in disposing of them. Three carloads have been sold on the present trip, mainly to parties in New Orleans, and she expects to dispose of 200 more very shortly in the same city.

"Miss Wilkins is a charming talker and can give one more points on her favorite animal in less time than the ordinary horseman can, in a much more entertaining manner. In conversation with a Bee reporter she said:

"I do not think that the bicycle fad has injured our business as much as the newspapers would have us believe. I had no trouble in selling all the horses I brought with me this time and I could have retailed a carload of saddle horses right here in Omaha if I had had them along. A good horse is always in demand and he will be the favorite long after the bicycle craze is forgotten. The killing of horses for food, which has lately been introduced in this country and in some of the foreign countries, is an enterprise that I cannot too severely condemn. No lover of the most beautiful animal ever created will ever submit to having him killed and eaten. I would almost feel like a cannibal should I attempt it.

"Miss Wilkins purchased two pacing stallions a short time ago, and will take them home on her return trip. The horses were purchased of F.W. Burns of Lemars, Ia., and one of them has a record of 2:13. Miss Wilkins leaves for St. Louis tomorrow."

All of the Wilkins Company's selling trips to the eastern markets were not successful, however. On one occasion Kittie shipped horses to one point and her parents to another. Kittie had sold her horses at near bedrock prices, then bought some Jersey cattle to ship to Idaho. Her father wrote from New Orleans: "I came here last Friday night. I billed to New Orleans via Memphis. I think you had better sell your Jerseys for what you can get and let Ed (Rudd) go home. The expense of the car will be more than they are worth. I want your Ma to go to Chicago and meet you at the

Miss Kittie Wilkins,

MOUNTAIN HOME, IDAHO,

—HAS ON SALE AT OUR YARDS—

HOWARD, S. DAK.,

TWO CARLOADS

Choice Heavy Mares and Geldings,

o——WHICH WILL BE SOLD AT——o

BED ROCK BOTTOM PRICES.

We wish to impress on your minds that this is the BEST bunch of Good-Sized, Heavy, Young Work Horses and Drivers ever brought to South Dakota. Come and look them over at once, as Miss Wilkins will be here only a few days. You never will have another such chance to purchase this class of horses at the prices at which she is offering them. No old broken down or blemished bronchos.

KENDALL & MILLS.

THE PRESS Print, Howard, S. Dak.

Grand Pacific Hotel, but she says she would rather go with me to St. Louis. We will wire you at Battle Creek today or tomorrow. What we are going to do I cannot say, as we can't get only $20.00 a head for the mares here so I think I had better get away as soon as possible. I can load on a horse car over the Wabash by 4 o'clock this afternoon."

Mrs. Wilkins added a note to the letter — "You must feel very uneasy if you have not heard from any of us. I expect you have had a hard time with your horses — they are worth very little — cattle are in good demand. I know you have done the best you could. Your Pa says that we will drive the next lot. I would like to have the Jerseys, but you see what it will cost to get them home. We will have to be careful or we won't make expenses. One thing they are our own horses if we do lose on them."

Business matters of the Wilkins Company were placed in the capable hands of Kittie, by her parents J.R. and Laura K. Wilkins in 1896. They appointed Kittie, "our true and lawful attorney for us and in our names, place and stead and for us to ask for and demand, sue for and collect and receive all such sums of money which are or shall be due payable and belonging to us — giving and granting our said attorney full power and authority about the premises."

Perhaps Kittie inherited her independent spirit and good business judgment from her mother Laura Wilkins. A "chip off the old maternal block" might be a fitting phrase to describe Kittie. Laura Wilkins demonstrated her desire to be a cow woman in her own right over a century ago.

On the 28th day of May, 1868, Laura K. Wilkins had the following document notarized and filed in Union County, Oregon:

Record of Married Women's Separate Property.

"To all whom it may concern: Know ye that I, Laura K. Wilkins of the County of Union State of Oregon, having purchased of G. W. Allen of Wash. Territory, on or about Oct. 1867, through my agent John R. Wilkins, the following described personal property, to wit: Eight head of Milch cows, described as follows; Three red ones, one black one, one white, one spotted red and white, one red with a brockle face and line back and one pale red or yellow, and that the purchase money of said property was my own money, separate and apart from that of my husband John R. Wilkins and was bequethed to me by my father Samuel Smith in his last Will now on file in the Clerk's office in Tulare County Calif. And notice is hereby given to all persons whomever that I, Laura K. Wilkins do claim all the above described property as my separate property."

Kittie had never married although she had met many men in her life who had professed undying love for her.

From San Francisco, a letter dated Nov. 12, 1876, from a gentleman who had been very ill. "There are days when I wish I had never been born, but then again when thinking of you and my mother, it brings to mind that there is something to live for and if there are any two human beings whom I love it is you and my mother." —The letter was signed "Your constant lover, Billie."

Another missive from Tuscarora, Nevada, dated Oct. 3, 1880, chiding Kittie for not writing a letter to the sender, an official of the Independence Mining Co., said in part: "I had no idea where to find you until after hearing from your brother John and even now I scarcely know how to address a letter to you. John wrote from Bonanza City saying that you and your ma were there with him, balance except Sam were at Challis. I am at a loss to know why you object to writing to your friends in Tuscarora.

"I received the nomination for State Senator but had to withdraw my name. There is no certainty that I will remain in the state this winter. I could have got away with the baggage easy but am glad I got out of the scrape. There is neither money or honor in politics."

He had been in Elko several times since Kittie's departure, he told her, and that all her friends were well. Then added a bit of scandal. "One of the Redsull girls, I think the second eldest, married Bailey. Slept with her one night and then left for Idaho. Report has it with a lot of mules not belonging to him. Rather unfortunate for the girl. Now Kittie I am not going to tell you how much I love you or how lonesome I feel without you because I am mad at you. I have always been your friend and do not deserve such coolness at your hands."

Kittie had many admirers among the ranchers and the buckaroos who worked for her. But there were "city slickers" too, from Denver, Omaha, San Francisco and in the east, who wrote of their undying love for her. There was one ardent swain who wrote, "You asked how I would like living on ranch. Well my dear, that is a hard question to answer. I have had no experience in ranching so hardly know what to say. If I were to ask you whether you like country life best you could very soon tell me as you have had an experience of both country and city living. I don't think I should care to spend all my days on a ranch, it might do for a few years. I like a good live city, but think I could be contented in most any place providing the surroundings were pleasant.

"Do you expect to remain in Denver? I hope you will have a good time, but I don't want you to get sick, or let some other fellow run off with you and leave me in the cold."

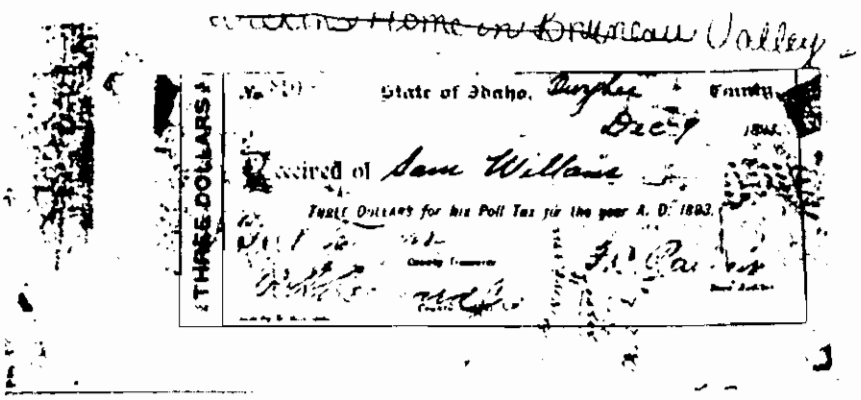
Kittie knew that there could be no guarantee that "the surroundings would be pleasant", in a horse camp on the desert, among a bunch of buckaroos, men who had been in the saddle since daybreak, begrimed with sweat and dust, had one fixed idea in mind, it would be "pleasant to surround" a plate of beans with sourdough biscuits, washed down with a hot cup of thick coffee, before they "hit the sack". No doubt Kittie checked him off the list of her potential suitors. There was no room for "dudes" in Kittie's life. Her first love was horses; the joys she experienced working with them meant more to Kittie than a husband.

Eventually Kittie discarded them all one by one. Perhaps her brothers, John and Sam's marital troubles were a factor in influencing her to remain single. In one instance she was called on to testify in John's behalf.

John's wife was suing him for divorce. Among the many charges that she made of ill-treatment by the Wilkins clan was that she, a bride of a few months, was held against her will at the horse camp on the Island, near the Hot Hole.

In the District Court, Second Judicial, of Idaho Territory in and for the County of Ada. Rosa Lee Wilkins versus John Wilkins.

Kittie Wilkins being duly sworn says: "My name is Kittie Wilkins, I am acquainted with the parties in this action, I am a sister of the defendant — I was living with my father and mother at our home in Bruneau Valley Owyhee Co. in



Sam Wilkins Poll Tax for 1893

Nov. 1886, when my brother the defendant came there with the plaintiff as his wife. I know when the Plaintiff went to the Island in July or August 1887. She went at her own persistent request and she never intimated any objection to stopping there to my knowledge. I know that she had saddle horses and equipment at her command during all the time that she was there, and could, and did leave the Island at her own option and pleasure."

In time the couple "patched up" their differences and lived happily ever after.

A tax receipt for Real and Personal Tax of the Wilkins Co. in 1893 amounted to $730.25. The Company was assessed for one thousand head of horses, 400 cattle and 2 jacks, their Bruneau Valley ranch and Wilkins Island on the Snake River, farm implements, wagons and harness and a piano. O. F. Brunzell, Owyhee County tax collector signed the tax receipt.

1896 — Land, improvements on land, Winter Camp and the island on Snake River, 1,000 horses, 400 cattle and other property amounted to $431.07. A. B. Crocheron was Owyhee County tax collector.

The Wilkins spread covered a lot of territory. Stock ranged both in Nevada and Owyhee County. In 1902 Kittie paid taxes to the State of Nevada, County of Elko, $30.40 for 150 head of horses and 50 head of cattle.

Sometimes it took a lot of range shifting to outwit the County Assessor, and it was common practice among the stockgrowers to do so. Anyhow, the reports of the eastern newspapers and the actual count of horses turned in to county officials "didn't jibe."

J. R. Wilkins died in 1904 and the burden of holding the outfit together fell on Kittie and her mother, although the elder Wilkins had deeded one ranch to Kittie the balance of the property was in Laura Wilkins name. Evidently there were some who tried to take advantage of the widow.

Mrs. Laura Wilkins had been a silent partner in the Horse and Cattle Co., as far as notoriety was concerned. Nevertheless she was "the power behind the throne" in land matters and other legal business. The Wilkins land at the Hot Hole was threatened in 1910.

Bruneau, Ida., Jan. 17, 1910:

"This is to certify that William L. West is my agent to look after my possessery rights at what is known as the Wilkins Hot Springs at the head waters of the Bruneau River, in Owyhee Co., Ida., with full power to take possession of the same and oust all intruders therein and to prevent any instrusions thereon."

W. R. Craster bought a ranch near Glenns Ferry in Owyhee Co. from his brother Edmund Craster, in 1900, "for and in consideration of $1,000." It later became the property of Joe Pellessier, Kittie Wilkins' foreman. In 1909, after Joe's death, Kittie Wilkins bought it from Richard Pellissier, the administrator of Joe's estate, for $500. The ranch "contained 159 acres, also the ferry on the Snake River known as "Craster's Ferry".

Joe Pellessier, a vaquero of French extraction, was the Buckaroo Boss for Kittie for many years, a trusted employee. He was a top hand with cattle and horses and was handy with a gun. Horsethieves and cattle rustlers steered clear of Joe.

One afternoon in 1909, Joe brought the saddle bunch in to Dove Springs, ahead of the other riders, who were bringing in the day's round-up of range horses. It was Joe's intention to get fresh water from the spring and start supper for the boys. As he neared the camp he was furious to find a band of sheep around the spring and it was tramped full of mud. A heated argument with the camp tender, ended in death for Joe.

From the Owyhee Nugget, Silver City, dateline March 19, 1909:

"Glenns Ferry, March 16, Ray Williams shot and killed Joseph Pellessier, foreman for Kittie Wilkins, the horsewoman, at Dove Springs about 15 miles from here, this afternoon at 4 o'clock.

"Ray Williams who is a young man and camptender for Skillern the sheepman, shot and killed Pellessier in a rage. Williams came here tonight and gave himself up and is being held here by the Deputy Sheriff awaiting word from the authorities of Owyhee County, in which county the crime was committed. The shooting was done with a 30-30 rifle, three bullets taking effect.

"Pellessier was well known in southern Idaho, having been a resident of this section for the last 15 years. He was 45 years old and particularly known for his management of Miss Wilkins ranch, which is one of the best in the Bruneau country.

"There was some fear early in the evening that a mob might attempt to lynch Williams, but all was quiet at 10 o'clock, all the small crowds having disbanded and gone to their homes. It is understood that Williams had several disputes with the ranch foreman over the water hole. The coroner at Silver City has been notified of the death and will give instructions in the morning relative to holding an inquest."

Lee Strickland, Ed Smith and Joe's brother Frank rode into camp shortly after the killing. "Wilhams was gone," Strickland said, "and it's a good thing or we would have strung him up. When they tried Williams, he claimed self-defense. Said Joe was getting off his horse to kill him. Libby was the Lawyer for the defense and Hawley the Prosecutor. Williams was acquited. Skillern, the sheepman put up the money to get him off."

After Pellessier's death, Lee Strickland of Bruneau, who had worked for Kittie at various times "run the outfit" for about seven years.

"Wilkins brought in some Jacks to raise mules and they were put in with the mares at a place called "Jack Hole", but cougars were bad over there — killed a

E. L. Ballard,



CLERK OF THE DISTRICT COURT AND EX-OFFICIO AUDITOR AND RECORDER

OWYHEE County

IDAHO

DISTRICT JUDGES 1ST JUDICIAL DISTRICT
JAMES H. RICHARDS
DISTRICT ATTORNEY
CHARLES M. HAYS
COUNTY COMMISSIONERS
1ST DISTRICT WILLIAM N. NICHOLS
2ND DISTRICT JOHN SCALES
3RD DISTRICT WALTER T. COOK

Silver City, Feby 5th 1897

Mrs. Laura K. Wilkins

Bruneau Valley Ida.

TAX RECEIPT

No. 69

—OF—

REAL AND PERSONAL PROPERTY OWYHEE COUNTY, IDAHO, FOR THE YEAR OF 1893.

Page 42 Line 27 Dec 9 1893.

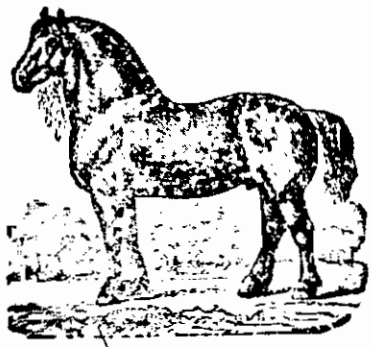
Received of Wilkins & Co ... *for State and County Taxes assessed in Owyhee County, Idaho, A. D. 1893, on the following property, to-wit:*

Real Estate and Improvements.	Bruneau Valley							$1300.
"	on Island							400.
PERSONAL PROPERTY.								
	NO	VALUE		NO.	VALUE			
Merchandise			Machinery					
Furniture			Horses	1000	$15000.	Paid		100.
Money on hand			Mules					
Money on deposit			Cattle	400	4800.			
Money secured by			Jacks	2	500.			
Solvent debts			Sheep					
Watches and Jewelry			Hogs					
Farming Implements		50.	Other Property					
Wagons		100.						
Harness		50.						2000.
Sewing Machines								
TOTAL VALUE								$2300
TOTAL TAX								$24.75
			SCHOOL TAX					5.50
			GRAND TOTAL TAX					$30.25

O. F. Brungell

Tax Collector.

Deputy Tax Collector.



Wilkins Horse Co.

S. B. Wilkins Secretary

The Heaviest Dealers and Growers in Idaho.

Reduced Rates on Car Lots

☞ Delivered at Mountain Home or at American Falls, Idaho.

Bureau Valley, Idaho, Apr 12 1911

Glenn's Ferry, Idaho, APR 12 1911 191

GLENN'S FERRY BANK, Limited

Pay to the order of Lee Strickland $20.00

Twenty and no/100 DOLLARS

APR 12 1911 GLENN'S FERRY, IDA.

Ruth C Wilkins

Per S.B.W.

89170 GLASS & PRUDHOMME CO. PORTLAND, OR

THE PACIFIC EXPRESS COMPANY.

AGENTS WILL GIVE THIS RECEIPT FOR ALL MONEYS AND VALUABLE PARCELS.

No.

THE PACIFIC EXPRESS COMPANY.

350.00

DENVER, COLO. Nov 4th 1910

Received of Ruth C. Wilkins

Order. Sealed, and paid to order.

Valued at Three Hundred Fifty ——— DOLLARS.

Addressed S. B. Wilkins Mountain Home

Upon the special acceptance and agreement that this Company is to forward the same to its agents nearest or most convenient to destination only, and there to deliver the same to other parties to complete the transportation—such delivery to terminate all liability of this Company for such package; and, also, that this Company is not to be held liable in any manner, or to any extent, for any loss, damage or detention of such package or of its contents, or of any portion thereof, occasioned by the acts of God, or by any person or persons acting or claiming to act in any military or other capacity in hostility to the Government of the United States, or occasioned by civil or military authority, or by the acts of any armed or other mob or riotous assemblage, piracy or the dangers incident to a time of war, nor when occasioned by the dangers of railroad transportation, or ocean or river navigation, or by fire or steam, unless specially assumed by this Company, and so specified in this receipt. In no event is this Company to be liable for a greater sum than that above mentioned, nor shall it be liable for any such loss, unless the claim therefor SHALL BE MADE IN WRITING, AT THIS OFFICE, WITHIN SIXTY DAYS from this date, in a statement to which this receipt shall be annexed, and the shipper and owner hereby severally agree that all stipulations and conditions in this receipt contained shall extend to and inure to the benefit of each and every Company, or person, to whom the PACIFIC EXPRESS COMPANY may entrust or deliver the above described property for transportation (which the said Pacific Express Company is hereby authorized to do), and shall define and limit the liability therefor of such other Company or person.

NOT NEGOTIABLE.

READ THIS RECEIPT.

For the Company. O. M. Buckley

lot of the colts. Robinson Hole and Wilkins Island all laid in the same country — quite a country! The range was free and easy," Lee Strickland recalled in 1970. "Bob Owens from Big Springs once run the Wilkins spread as foreman. He was a good rider but an ornery son-of-a-gun."

"John Wilkins was the main horse man of the outfit, real cowboy, that feller. John branded his horses with the Diamond on the stifle, Kittie had a shoulder Diamond. Bert Wilkins was a good camp cook and horse-breaker. He took horses to Denver and broke them out, then Kittie would pick 'em up to sell at auctions in the east."

"At the Hot Hole the corrals held 1500 head of horses. The corrals were built of poles and willows, there was small corrals to divide them up. When we "worked" horses all the good mares and studs were turned on the "inside" range and the others turned out to scatter. Took us several days to brand all the colts and cut out the culls."

Lee was looking down the dusty trails of 60 years ago and a tear glistened in his eye as he looked back on his younger days when he rode for Kittie Wilkins. He told of rescuing some of the Wilkins horses in the winter. "Fred Smith and I went after them. Found 'em in a little cluster of mahogany. Snow was deep and they were too weak to break out of there. They were long-haired and so starved they had eat all the bark off the mahogany. We beat a trail down with our saddle horses and finally got 'em out of there. Never amounted to nothin' afterward."

"If I had kept a diary of those days I'd a been alright. But we never thought about tryin' to remember things that happened. Just let one day go by after another."

There was a story of a holdup at Three Creek that Lee recalled. "A couple of gunmen robbed the Three Creek store. They took money and a lot of supplies. Old Doc Roberts was in the store eatin' a can of sardines. When they said "stick-em-up", Doc held his hands high in the air with the sardine can in one hand and a fork in the other.

Old Farraday was runnin' the store and he told the robbers that they might as well take a bottle of whiskey along and give 'em one. They lit out for Winnemucca, where they robbed a bank in broad daylight. They stole a lot of horses.



"Ed Rudd — A longtime employee of the Wilkins outfit took consignments of horses to eastern markets for Kittie. Bought the Wilkins home ranch in Bruneau Valley, 1917, from Mrs. Laura K. Wilkins."

Funny thing about them fellers, they knew all the best horses. Will Hodge had a good horse, "Tony", stole him and an outfit, and they took Wilkins" "Powder Face" a great horse. George Moore got some of his back — they come home."

Buddy Waterhouse, now a resident of the Veterans Home in Boise, once worked for Kittie Wilkins when he was just a boy, "knee-high to a grasshopper." Most of the old-time cowboys who were proud to say "I worked for Kittie Wilkins," are now ghost riders in the sky.

Kittie Wilkins dictated a letter to the Curtis Publishing Company:

"On May 6, 1911 you published quite a shocking article about the Home Pioneers, by Miss Maude Radford Warren.

"Now Hettie Martin seems to be the name of the Home Pioneer. This was none other than Kittie C. Wilkins, the Horse Queen of Idaho, living in Idaho for the past 35 years, and ranching in Idaho from 1885 to the present.

"We were at one of the other stockgrowers ranches, staying there during one of our Fairs in Chicago.

"We had more horses than any other stock holder from this part of the country. Our horses were sold in many cities in the East. Quite a number of them were sold in New Orleans and to the Argentines."

Laura K. Wilkins was winding up her affairs in 1917, after a long and strenuous life. On July 14, 1917, she sold her Bruneau Valley ranch to Ed Rudd. "In consideration of $7,000.00, of all of her ranch known as the Wilkins home ranch, situated on the Bruneau River, Owyhee Co. approximately three miles below the town of Bruneau, consisting of 160 acres, improvements thereon and water rights for irrigation purposes — all her cattle consisting of about 50 head of cows, calves, heifers and steers having the Diamond brand on the left hip or ribs, for the sum of $55.00 per head."

In August she made her will:

"In the name of God, Amen, I, Laura K. Wilkins of Bruneau, Owyhee County, State of Idaho, eighty-three years of age and being of sound and disposing mind and memory and not acting under duress, menace, fraud or undue influence of any person whatever, do make and declare this my last Will and Testament in the manner and form as follows, that is to say.

"First, I give to my son, Samuel B. Wilkins and his two children, who were adopted by me, Laura Wilkins and Michal Wilkins, the sum of one hundred dollars each.

"Second. I give and bequeath to my daughter Kittie C. Wilkins one-half of all the balance of my estate of which I shall die seized of, of every kind, name and nature, real, personal and mixed both in possession and in expectancy, unto her and her heirs forever. The half of the remainder of my estate I bequeath to my son, John E. Wilkins, but direct that said half so willed to my said son, John E. Wilkins, be held in trust by my said daughter, Kittie C. Wilkins, for the use of my said son during his life, and any remainder over after his death to go to my said daughter Kittie C. Wilkins and



Wilkins home ranch in Bruneau Valley.

Ranch now under waters of Strike Lake.

unto her heirs and assigns forever. It being the purpose of this clause that my said son, John E. have a life estate in one-half of said remainder, but the same to be managed and controlled by my said daughter and he to receive the profits thereof, and so much of the principal as he may need.

"Third. I do not desire that any of my other grandchildren receive any part of my estate.

"Lastly I nominate and appoint my said daughter, Kittie C. Wilkins the executrix of this my last will, without bonds and hereby revoke all former wills by me made.

"In witness whereof I have hereunto set my hand and seal the eighth day of August in the year nineteen hundred and seventeen.

Laura B. Wilkins (SEAL)

"The foregoing instrument consisting of one page besides this one, was on the date hereof signed, sealed and declared to be her last Will and Testament by Laura K. Wilkins, in our presence, who at her request, and in her presence and in the presence of each other have subscribed our names as witnesses thereto."

W. C. Howie

Residence Mountain Home, Idaho

Ed Rudd

Residence Mountain Home, Idaho

Kittie had dismissed the "bicycle craze" as being just a "fad", on that long ago day in Omaha, Neb., when her career as a horse dealer had a rosy future. She could not foresee the advent of the "Horseless Carriage" that would come to replace the horse as "man's best friend."

What happened to Kittie Wilkins' horses? Lee Strickland supplied the answer. "As Kittie grew older she lost all interest. Horses were not worth anything after automobiles came into use, and the range was stripped of horses — carloads of nice horses were shipped as chicken-feeders. And rustlers got a lot of 'em, too. They drove them to Nevada and shipped out of Elko. In the late 20's and early 30's times were tough. A guy had to make a "buck" the best way he could.

In 1942 a fellow by the name of Harlan and some other riders were gathering horses off the "inside" desert and picked up the last of Kittie's horses. They were old gray-headed geldings that had strayed from their home range. They let them drink water and they were easy to corral. Don't know what they did with them. Kittie was dead by that time so it didn't matter much."

The Idaho Statesman — Oct. 9, 1936:

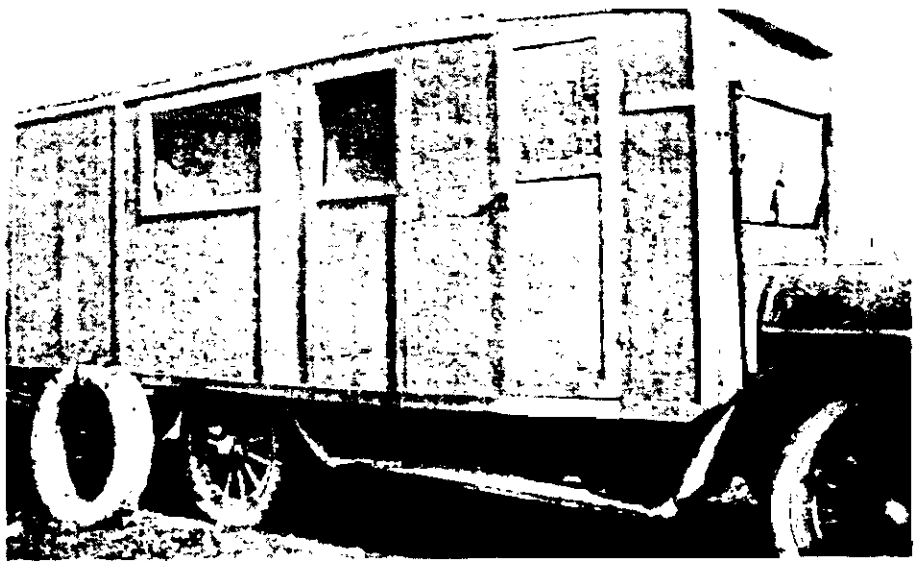
"Kittie Wilkins, 'Horse Queen' Dies Suddenly, famous Idaho Stock Grower who once had a Herd of 4,000 Broncs, Succumbs to heart disease at age of 79.

"Kittie Wilkins 79, pioneer stock raiser and for many years "Idaho Horse Queen", died Thursday morning at Glenns Ferry. She had been ill two days. Physicians attribute death to a heart attack.

"Funeral services will be conducted Monday morning at 10 o'clock at Glenns Ferry. Burial will be at Mountain Home where her brother, John Wilkins, her ranching partner, was buried Sept. 2. Her survivors are two nephews, John F. Wilkins of Mountain Home and Michael Wilkins of Salmon City.

"The career of Kittie Wilkins was closely linked with the development of the Idaho livestock industry. For more than 40 years she and her brother and father operated the Wilkins Island ranch in the Bruneau district. They specialized in horses which have been noted throughout the nation. Miss Wilkins was an expert horsewoman and rode regularly until recent years.

"Diamond Field" Jack Davis was



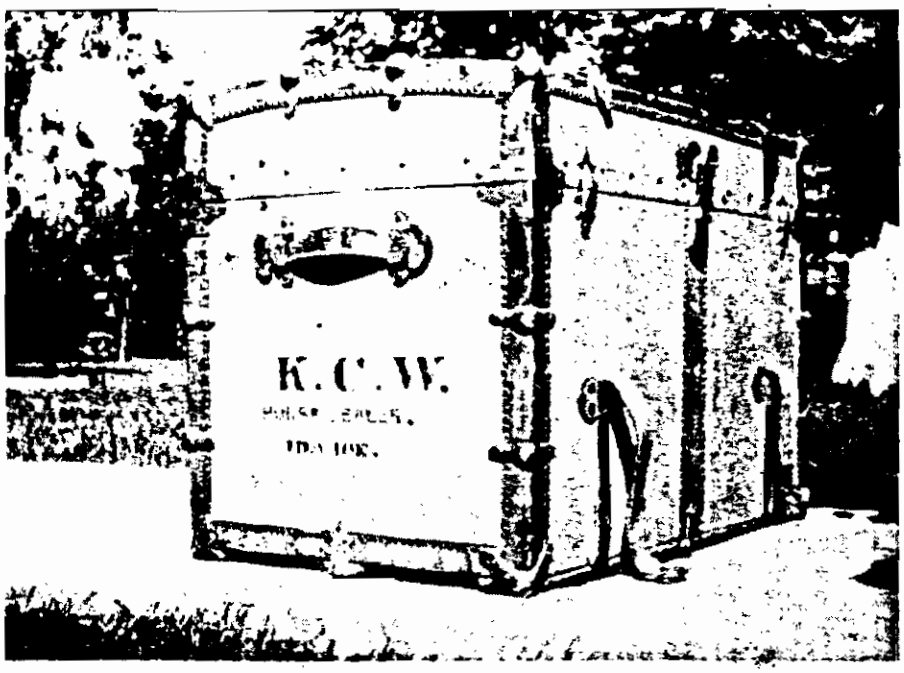
A "mobile home," 1920's.

once an employee of Miss Wilkins. Davis was in 1897, convicted of the murder of two sheepmen, John C. Wilson and Daniel C. Cummings. He was sentenced in Cassia County Court to be hanged. The sentence was commuted at the last minute by the Board of Pardons to a life term in the State prison.

"Miss Wilkins was born in Jacksonville, Ore. in 1857. As a girl she came to Boise with her family and lived in a home on the corner now occupied by Hotel Boise.

"It was Kittie's herd of 4,000 horses that earned her the title of "Horse Queen of Idaho", by which she was known, not only in the west but in eastern stock markets. She sold hundreds at a time. On one deal she is reputed to have sold 500 head. The United States Cavalry was a steady customer.

"On a trip to Omaha, Neb., while the business was in its prime, Kittie found there was no market for horses by the head so she sold her string by the pound."



This trunk and one other of similar size, held all of Kittie Wilkin's gear that she took with her on her horse selling trips to the east. It was inscribed K.C.W. Horse Dealer Idahoe.

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	MATTHEW OLIVAS	06/20/1885	COMMERCIAL	01-01	12-31	0.02 CFS	
	DESERT HOT SPRINGS		HEATING	01-01	12-31	0.04 CFS	
	ROGERSON ID 83302		DOMESTIC	01-01	12-31	0.02 CFS	
	(208) 857-2233						
					TOTAL DIVERSION:	0.06 CFS	

Water Source: MURPHY HOT SPRINGS Tributary to: JARBIDGE RIVER, EAST FORK Stage: BENEFICIAL USE

Point(s) of Diversion: T16S R09E S24 SWNWNW OWYHEE County

Place of use Legal Description for: COMMERCIAL

			NE				NW				SW				SE			
			NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE
T	R	S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac
16S	09E	24						C										

Place of use Legal Description for: HEATING

			NE				NW				SW				SE			
			NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE
T	R	S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac
16S	09E	24						H										

Place of use Legal Description for: DOMESTIC

			NE				NW				SW				SE			
			NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE
T	R	S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac
16S	09E	24						D										

POU County: OWYHEE

Other Rights: 51-12760

Conditions of Approval:

N11 - THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
- DETERMINATION OF HISTORICAL BENEFICIAL USE.

N13 - THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
- GALLONS PER DAY.

Remarks: USE USE IS FOR 1 HOME; COMMERCIAL USE, POOL, BATHS, LODGE; AND HEATING.

EXP WATER TEMPERATURE MEASURED AT 117 DEGREES F.

Dates: Exam Made Date: 03/03/1994 Verified Date: 09/10/1998 Objection Filed Date:

Misc: Water District Number: Field Inspection Flag:
Presumption Flag:

Comments: Date: 06/19/1996 User-ID: MMINICUC Subject: COPIED FROM REMARKS
THIS CLAIM WAS ORIGINALLY FILED ON THE SHORT FORM, AND THE CLAIMANT PAID $25 UNDER RECEIPT NUMBER W017115. SINCE THE USE IS COMMERCIAL, ADDITIONAL FEES, INCLUDING A LATE FEE, ARE REQUIRED.
STATUATORY CLAIM WAS PERFECTED PRIOR TO 05/20/1971.

Date: 07/08/1996 User-ID: MMINICUC Subject: OWNERSHIP
OWNERSHIP CHANGED 07/08/1996. WARRANTY DEED SHOWS OWNERSHIP TO SYLVIA OLIVAS ONLY. MM.

Date: 04/08/1997 User-ID: MMINICUC Subject: C OF O
OWNERSHIP CHANGED 04/08/1997. QUIT CLAIM DEED IN FILE. MM.

Date: 04/03/1998 User-ID: SBOCK Subject: RECEIPT NO. W017115
AN ADDITIONAL $81 WAS PAID TO COVER THE SRBA LATE FEE AND COMMERCIAL USE AT 0.06 CFS.

Audit: 09/10/98 SBOCK

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	MATTHEW OLIVAS	01/31/1935	COMMERCIAL	01-01	12-31	0.02 CFS	
	DESERT HOT SPRINGS		HEATING	01-01	12-31	0.04 CFS	
	ROGERSON ID 83302		DOMESTIC	01-01	12-31	0.02 CFS	
	(208) 857-2233						
					TOTAL DIVERSION:	0.06 CFS	

Water Source: MURPHY HOT SPRINGS Tributary to: JARBIDGE RIVER, EAST FORK Stage: BENEFICIAL USE

Point(s) of Diversion: T16S R09E S24 SWNWNW OWYHEE County

Place of use Legal Description for: COMMERCIAL

			NE				NW				SW				SE			
			NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE
T	R	S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac
16S	09E	24						C										

Place of use Legal Description for: HEATING

			NE				NW				SW				SE			
			NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE
T	R	S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac
16S	09E	24						H										

Place of use Legal Description for: DOMESTIC

			NE				NW				SW				SE			
			NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE
T	R	S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac
16S	09E	24						D										

POU County: OWYHEE

Other Rights: 51-12760

Conditions of Approval:

N11 - THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
- DETERMINATION OF HISTORICAL BENEFICIAL USE.

N13 - THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
- GALLONS PER DAY.

Remarks: USE USE IS FOR 1 HOME; COMMERCIAL USE, POOL, BATHS, LODGE; AND HEATING.

EXP WATER TEMPERATURE MEASURED AT 117 DEGREES F.

Dates: Exam Made Date: 03/03/1994 Verified Date: 07/15/1998 Objection Filed Date:

Misc: Water District Number: Field Inspection Flag:
Presumption Flag:

Comments: Date: 06/19/1996 User-ID: MMINICUC Subject: COPIED FROM REMARKS
THIS CLAIM WAS ORIGINALLY FILED ON THE SHORT FORM, AND THE CLAIMANT PAID $25 UNDER RECEIPT NUMBER W017115. SINCE THE USE IS COMMERCIAL, ADDITIONAL FEES, INCLUDING A LATE FEE, ARE REQUIRED.
STATUATORY CLAIM WAS PERFECTED PRIOR TO 05/20/1971.

Date: 07/08/1996 User-ID: MMINICUC Subject: OWNERSHIP
OWNERSHIP CHANGED 07/08/1996. WARRANTY DEED SHOWS OWNERSHIP TO SYLVIA OLIVAS ONLY. MM.

Date: 04/08/1997 User-ID: MMINICUC Subject: C OF O
OWNERSHIP CHANGED 04/08/1997. QUIT CLAIM DEED IN FILE. MM.

Date: 04/03/1998 User-ID: SBOCK Subject: RECEIPT NO. W017115
AN ADDITIONAL $81 WAS PAID TO COVER THE SRBA LATE FEE AND COMMERCIAL USE AT 0.06 CFS.

Audit: 07/15/98 SBOCK

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	SYVIA OLIVAS	01/31/1935	COMMERCIAL	01-01	12-31	0.02 CFS	
	DESERT HOT SPRINGS		HEATING	01-01	12-31	0.04 CFS	
	ROGERSON ID 83302		DOMESTIC	01-01	12-31	0.02 CFS	
	(208) 857-2233				TOTAL DIVERSION:	0.06 CFS	

Water Source: MURPHY HOT SPRINGS Tributary to: JARBIDGE RIVER, EAST FORK Stage: BENEFICIAL USE

Point(s) of Diversion: T16S R09E S24 SWNWNW OWYHEE County

Place of use Legal Description for: COMMERCIAL

			NE				NW				SW				SE			
			NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE
T	R	S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac
16S	09E	24						C										

Place of use Legal Description for: HEATING

			NE				NW				SW				SE			
			NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE
T	R	S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac
16S	09E	24						H										

Place of use Legal Description for: DOMESTIC

			NE				NW				SW				SE			
			NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE
T	R	S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac
16S	09E	24						D										

POU County: OWYHEE

Non-Irrigation Uses: DOMESTIC, ONE HOME; COMM., POOL, BATHS, LODGE; HEATING

Dther Rights: 51-12760

Dates: Exam Made Date: 03/03/1994 Verified Date: Objection Filed Date:

Misc: Water District Number: Field Inspection Flag:
Presumption Flag:

Comments: Date: 06/19/1996 User-ID: MMINICUC Subject: COPIED FROM REMARKS
THIS CLAIM WAS ORIGINALLY FILED ON THE SHORT FORM, AND THE CLAIMANT PAID $25 UNDER RECEIPT NUMBER W017115. SINCE THE USE IS COMMERCIAL, ADDITIONAL FEES, INCLUDING A LATE FEE, ARE REQUIRED.
STATUATORY CLAIM WAS PERFECTED PRIOR TO 05/20/1971.

Date: 06/19/1996 User-ID: MMINICUC Subject: GEN
WATER TEMP. MEASURED AT 117 DEGREES F.

Date: 07/08/1996 User-ID: MMINICUC Subject: OWNERSHIP
OWNERSHIP CHANGED 07/08/1996. WARRANTY DEED SHOWS OWNERSHIP TO SYLVIA OLIVAS ONLY. MM.

Audit: 07/08/96 MMINICUC

42-2.35

AJ0749NP
No. R51-04037

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)

DATE: 04/08/97
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	MATTHEW OLIVAS DESERT HOT SPRINGS ROGERSON ID 83302 (208) 857-2233	01/31/1935	COMMERCIAL HEATING DOMESTIC	01-01 01-01 01-01	12-31 12-31 12-31	0.02 CFS 0.04 CFS 0.02 CFS	
				TOTAL DIVERSION:		0.06 CFS	

Water Source: MURPHY HOT SPRINGS Tributary to: JARBIDGE RIVER, EAST FORK Stage: BENEFICIAL USE

Point(s) of Diversion: T16S R09E S24 SWNWNW OWYHEE County

Place of use Legal Description for: COMMERCIAL

			NE				NW				SW				SE			
			NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE
T	R	S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac
16S	09E	24						C										

Place of use Legal Description for: HEATING

			NE				NW				SW				SE			
			NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE
T	R	S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac
16S	09E	24						H										

Place of use Legal Description for: DOMESTIC

			NE				NW				SW				SE			
			NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE
T	R	S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac
16S	09E	24						D										

N11

POU County: OWYHEE

Non-Irrigation Uses: DOMESTIC, ONE HOME; COMM., POOL, BATHS, LODGE; HEATING

Other Rights: 51-12760

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):
A51-04037 A51-07135 A51-07194 A51-10005 A51-10008 A51-10011 A51-10051 A51-10200 A51-10220 A51-10307
A51-10394 A51-12760 R51-07135 R51-07194 R51-10008 R51-10200 R51-10220 R51-10307 R51-10394 R51-12760

Other Water Rights Listing Overlapping Place(s) of Use:
A51-07138

Dates: Exam Made Date: 03/03/1994 Verified Date: Objection Filed Date:

Misc: Water District Number: Field Inspection Flag:
Presumption Flag:

Comments: Date: 06/19/1996 User-ID: MMINICUC Subject: COPIED FROM REMARKS
THIS CLAIM WAS ORIGINALLY FILED ON THE SHORT FORM, AND THE
CLAIMANT PAID $25 UNDER RECEIPT NUMBER W017115. SINCE THE
USE IS COMMERCIAL, ADDITIONAL FEES, INCLUDING A LATE FEE, ARE
REQUIRED.
STATUATORY CLAIM WAS PERFECTED PRIOR TO 05/20/1971.

Date: 06/19/1996 User-ID: MMINICUC Subject: GEN
WATER TEMP. MEASURED AT 117 DEGREES F. → 805 EXP

Date: 07/08/1996 User-ID: MMINICUC Subject: OWNERSHIP
OWNERSHIP CHANGED 07/08/1996. WARRANTY DEED SHOWS OWNERSHIP TO
SYLVIA OLIVAS ONLY. MM.

Date: 04/08/1997 User-ID: MMINICUC Subject: C OF O
OWNERSHIP CHANGED 04/08/1997. QUIT CLAIM DEED IN FILE. MM.

Audit: 04/08/97 MMINICUC

Commercial Use $50.00
$100 per CFS 0.06 = $ 6.00
Late Fee $ 50.00
$106.00

$25.00 paid originally
$31.00 paid by Shoshone
$50.00 SRBA late fee
$106 paid

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	ANITA F SHOWALTER	~~07/01/1934~~	COMMERCIAL	01-01	12-31	0.02 CFS	
C	HARRY B SHOWALTER	01/31/1935	HEATING	01-01	12-31	0.04 CFS	
			DOMESTIC	01-01	12-31	0.02 CFS	
					TOTAL DIVERSION:	0.06 CFS	

Water Source: MURPHY HOT SPRINGS Tributary to: JARBIDGE RIVER, EAST FORK Stage: ~~STATUTORY CLAIM~~ J

Point(s) of Diversion: T16S R09E S24 ~~SW~~ NWNW OWYHEE County

Place of use Legal Description for: HEATING

		NE				NW				SW				SE			
		NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE
T	R S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac
16S	09E 24						H										

Place of use location for COMMERCIAL is the same location as described for: HEATING

Place of use Legal Description for: DOMESTIC

		NE				NW				SW				SE			
		NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE
T	R S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac
16S	09E 24						D										

POU County: OWYHEE

Non-Irrigation Uses: 1 HOUSEHOLD/HOT SPRINGS POOL FOR BATHING & SWIMMING POOL & LODGE.

Domestic, one home, lodge
Heating, one home, lodge
Commercial, lodge, swimming pool, baths

Other Rights: ~~A~~51-12760

Remarks: GEN THIS CLAIM WAS ORIGINALLY FILED ON THE SHORT FORM, AND THE CLAIMANT PAID $25 UNDER RECEIPT NUMBER W017115. SINCE THE USE IS COMMERCIAL, ADDITIONAL FEES, INCLUDING A LATE FEE, ARE REQUIRED.
STATUATORY CLAIM WAS PERFECTED PRIOR TO 05/20/1971.

To comments

Dates: Exam Made Date: 03/03/1994 Verified Date: Objection Filed Date:

Misc: Water District Number: Field Inspection Flag:
Presumption Flag:

POD: 2 POD's located in SWNWNW
51-10220 is also diverted through this POD (1 of springs, ~~South~~ North spring)

WATER TEMP 117° F

GENERAL INFORMATION

1
CLAIM NUMBER: A51-04037

LAST: SHOWALTER FIRST: ANITA F
ADDRESS: MURPHY HOT SPRINGS
CITY: ROGERSON STATE: ID ZIP: 83302
PHONE NUMBER: 208-857-2233

OWNER CODE: C

LAST: SHOWALTER FIRST: HARRY B
ADDRESS: MURPHY HOT SPRINGS
CITY: ROGERSON STATE: ID ZIP: 83302
PHONE NUMBER: 208-857-2233

OWNER CODE: C

FIELD EXAM REQUIRED?

	DATABASE	FIELD EXAMINER
VERIFICATION REQUIRED DUE TO REMARKS?	(Y)	Y(Y) N(___)

CLAIM REMARKS: GEN THIS CLAIM WAS ORIGINALLY FILED ON THE SHORT FORM, AND THE CLAIMANT PAID $25 UNDER RECEIPT NUMBER W017115. SINCE THE USE IS COMMERCIAL, ADDITIONAL FEES, INCLUDING A LATE FEE, ARE REQUIRED.
STATUATORY CLAIM WAS PERFECTED PRIOR TO 05/20/1971.

CONTACT PERSON: Sylvia Olivas PHONE NUMBER: (208) 857-2233

DATE OF FIELD EXAM: 03/03/1994 APPOINTMENT MADE: Y(X) N(___) TIME: 11:00 A(X) P(___)

ACCOMPANIED BY: Mr. Olivas PHONE NUMBER: (___) ___-____

RELATIONSHIP TO CLAIMANT: Spouse

DIRECTIONS TO PROPERTY / NOTES:

I84 Boise to Twin Falls. RT 93 toward Jack Pot NV, turn off @ Rogerson. Take LT turn in Rogerson (@ bar), follow road to Murphy Hot Springs.

A. AJ CLAIM: # A51-04037 PRIORITY DATE: 07-01-1934 STAGE: S

B. WR RECORD: # 51-04037 PRIORITY DATE: 07-01-1934 STAGE: S

C. CAN THE PRIORITY DATE CLAIMED BE CONFIRMED BY A DECREE OR LICENSE? Y(___) N(X)

D. HAS THERE BEEN A LATER COURT DECREE OF THE WATER RIGHT(S) FROM THIS WATER SOURCE? Y(___) N(X)

E. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE? (IF YES, DESCRIBE BELOW) Y(___) N(X)

F. IF THIS CLAIM IS BASED ON A PERMIT, WHERE IS THE PERMIT IN THE LICENSING PROCESS?

PROOF OF BENEFICIAL USE SUBMITTED N/A(X) Y(___) N(___)

FIELD EXAM COMPLETED N/A(X) Y(___) N(___)

FIELD EXAM SENT TO STATE OFFICE N/A(X) Y(___) N(___)

LICENSE ISSUED N/A(X) Y(___) N(___)

* IF THE PERMIT WILL NOT BE LICENSED PRIOR TO THE DIRECTOR'S REPORT, USE CONDITION CODE A01 AND RECOMMEND AS PERMITTED.

G. IF THIS CLAIM IS BASED ON BENEFICIAL USE, IS ADDITIONAL EVIDENCE OF THE PRIORITY DATE REQUIRED? N/A(___) Y(X) N(___)

* FOR CLAIMS BASED ON BENEFICIAL USE, DESCRIBE THE EVIDENCE OF PRIORITY SUBMITTED, INCLUDING THE ANALYSIS OF THE EVIDENCE.

H. IS THE STAGE OF THE CLAIM CODED CORRECTLY? Y(___) N(X)

NOTES: 06/18/1996: Change stage to I (beneficial use). Affidavits support use of the springs for the claimed purposes of use since January 1935. As per SRBA Memo No. 15, pg. 3, recommended date is last day of the month. mn

RECOMMENDED PRIORITY DATE:

01 - 31 - 1935

REVIEWED BY T.T. Menuier DATE 06/18/1996

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	POD FLAG	COUNTY	DIVERSION NAME	DIVERSION NUMBER
A51-04037	16S	09E	24		NW	NW			OWYHEE		

OTHER AJ CLAIMS WITH SAME AJ POD

A PREFIX	R PREFIX
*	**

WR RECORDS IN SAME 40 ACRE TRACT

51-04039
51-07135
51-07138
51-07194
51-07195

* 21 A PREFIX CLAIMS WITH THIS POD
** 20 R PREFIX CLAIMS WITH THIS POD

SOURCE: MURPHY HOT SPRINGS TRIB: JARBIDGE RIVER, EAST FORK

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	POD FLAG	COUNTY	DIVERSION NAME	DIVERSION NUMBER
51-04037	16S	09E	24		NW	NW			OWYHEE		

OTHER WR RECORDS WITH SAME WR POD

51-04039 ✓
51-07135 ✓
51-07138 ✓
51-07194 ✓
51-07195 ✓

***** 21 A PREFIX CLAIMS IN SAME 40 ACRE TRA
****** 20 R PREFIX CLAIMS WITH THIS POD

AJ CLAIMS IN SAME 40 ACRE TRACT

A PREFIX	R PREFIX
*****	******

SOURCE: MURPHY HOT SPRINGS TRIB: JARBIDGE RIVER, EAST FORK

C. IS THE CLAIMED POD WITHIN THE SAME 40 ACRE TRACT THAT IS DESCRIBED IN THE WATER RIGHT FILE? N/A(___) Y(_X_) N(___)

* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN POD, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

D. CAN THE CLAIMED POD BE VERIFIED USING THE WATER RIGHT FILE OR GPS DATA? N/A(___) Y(___) N(_X_)

E. SHOULD THE CLAIMED POD BE VERIFIED BY FIELD EXAM? Y(_X_) N(___)

F. IS THE CLAIMED SOURCE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A(___) Y(X) N(___)

* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN SOURCE, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

G. CAN THE CLAIMED SOURCE BE VERIFIED USING THE WATER RIGHT FILE? Y(___) N(X)

H. SHOULD THE CLAIMED SOURCE BE VERIFIED BY FIELD EXAM? Y(X) N(___)

I. HOW WAS THE POD AND SOURCE VERIFIED?

LICENSING FIELD EXAM (DATE OF FIELD EXAM _____) Y(___) N(X)

AJ FIELD EXAM (DATE OF FIELD EXAM 03/03/1994 NAME OF EXAMINER T. Tenicucci in Werner) Y(X) N(___)

OTHER (DESCRIBE IN NOTES BELOW)

NOTES: 06/18/1996 : Source confirmed by field exam. 2 springs are located in hillside above pool area. Assume these are the same springs as mentioned in the affidavits, as they are piped directly to the pool. Since the location of the pool probably has not changed, & the springs used in the pool probably have not changed either. Mr. Olivas mentioned another spring on the northeast side of the road but this spring was not developed at the time of the field exam.

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE: CHECK HERE IF RECOMMENDED AS CLAIMED (___)

TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	POD FLAG	COUNTY	DIVERSION NAME	DIVERSION NBR
16S	09E	24		NW	NW			OWYHEE		
16S	09E	24	SW	NW	NW	___	___	Owyhee	___	___
___	___	___	___	___	___	___	___	___	___	___
___	___	___	___	___	___	___	___	___	___	___
___	___	___	___	___	___	___	___	___	___	___
___	___	___	___	___	___	___	___	___	___	___
___	___	___	___	___	___	___	___	___	___	___

(2 POD'S IN SWXNWXNW.)

SOURCE: ✓MURPHY HOT SPRINGS TRIB: ✓JARBIDGE RIVER, EAST FORK

REVIEWED BY: [signature] DATE: 06/18/1996

SYSTEM DESCRIPTION: DESCRIBED BELOW (X), SEE LICENSE FILE (___), OR SEE ATTACHMENT (___)

A51-10220 IS NEIGHBOR'S DOM. CLAIM FROM SPRING.

Pool is 40' x 20', AV. depth 5'. One spring has 3" pipe to barrel 7' away, then a 2" pipe from the barrel to the pool, lodge, house, ~~etc~~ & neighbor's domestic use (claimed separately) At second spring, ~~to~~ to the north of the first spring. Again the water is piped to a barrel and then 2 pipes leave the barrel to the pool, house baths, etc. ~~The~~ The neighbor's pipe is a third pipe + runs directly to her property from the barrel. ☞

A. ROOT WATER RIGHT NUMBERS: A51-04037

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES		WR #/ACRES		LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
16S	09E	24	NW	NW		SHOWALTER, ANITA F	A51-04037	/	51-04037	/			
			NW	NW		SCHOWALTER, ANITA F	R51-12760	/	-	/			
			NW	NW		DODD, VIRGIL E	R51-10006	/	-	/			
			NW	NW		NYE, CLARENCE H	A51-04039	/	51-04039	/ GW			
			NW	NW		THOMPSON, JERRY L	A51-10005	/	-	/ GW			
			NW	NW		DODD, VIRGIL E	A51-10006	/	-	/ GW			
			NW	NW		THOMPSON, MARGARET O	A51-07135	/	51-07135	/ EF			
			NW	NW		THOMPSON, MARGARET O	A51-07194	/	51-07194	/ GW			
			NW	NW		POTTER, CHARLES R	A51-10011	/	-	/ GW			
			NW	NW		FLORENCE, FRANK	A51-10020	/	-	/ GW			
			NW	NW		BURKHART, LEON	A51-10051	/	-	/ GW			
			NW	NW		SMITH, JAMES D	A51-10068	/	-	/ GW			
			NW	NW		MONTGOMERY, NANCY J	A51-10155	/	-	/ GW			
			NW	NW		ELTON, CLIFFORD N	A51-10200	/	-	/ GW			
			NW	NW		THOMPSON, MARGARET O	A51-07138	/ 1.0	51-07138	/ 1.0			
			NW	NW		LAZAROS, J LEWIS	A51-10151	/	-	/ GW			
			NW	NW		THOMPSON, MARGARET O	A51-10220	/	-	/ MHS			
			NW	NW		ETTER, JOHN	A51-10010	/	-	/ GW			
			NW	NW		DENTON, ROBERT E	A51-10307	/	-	/ GW			
			NW	NW		NYE, FRANCES R	R51-04039	/	-	/			
			NW	NW		BAIRD, RUSSELL	R51-10150	/	-	/			
			NW	NW		DENTON, ROBERT E	R51-10307	/	-	/			
			NW	NW		ETTER, SUE	A51-10008	/	-	/ GW			
			NW	NW		ETTER, JOHN	R51-10008	/	-	/			
			NW	NW		SMITH, JAMES D	R51-10068	/	-	/			
			NW	NW		LAZAROS, J LEWIS	R51-10151	/	-	/			
			NW	NW		MONTGOMERY, NANCY J	R51-10155	/	-	/			
			NW	NW		ELTON, CLIFFORD N	R51-10200	/	-	/			
			NW	NW		WILLIS, THURMAN	R51-10154	/	-	/			
			NW	NW		THOMPSON, MARGARET O	R51-07194	/	-	/			
			NW	NW		THOMPSON, RUTH N	R51-10005	/	-	/			
			NW	NW		WHITMORE, HARRY A	R51-10010	/	-	/			
			NW	NW		POTTER, CHARLES R	R51-10011	/	-	/			
			NW	NW		FLORENCE, FLORENCE	R51-10020	/	-	/			
			NW	NW		BURKHART, LEON	R51-10051	/	-	/			
			NW	NW		SMITH, DELORES ANN	A51-12810	/	-	/ GW			
			NW	NW		WILLIS, THURMAN	A51-10154	/	-	/ GW			
			NW	NW		THOMPSON, MARGARET O	R51-10220	/	-	/			
			NW	NW		SCHOWALTER, ANITA F	A51-12760	/	-	/			
			NW	NW		THOMPSON, MARGARET O	R51-07135	/	-	/			
			NW	NW	6	BAIRD, RUSSELL	A51-10150	/	-	/ GW			
			NW	NW		NYE, CLARENCE H.			51-07195	/			
16S	09E	24	NW	NW		SHOWALTER, ANITA F	A51-04037	/	51-04037	/			

HEATING COMM DOMESTIC

NO GOVT LOT - CORRECT ON A51-10150

don.

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES		WR #/ACRES		LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
			NW	NW		SCHOWALTER, ANITA F	R51-12760 /		- /				
			NW	NW		DODD, VIRGIL E	R51-10006 /		- /				
			NW	NW		NYE, CLARENCE H	A51-04039 /		51-04039 /				
			NW	NW		THOMPSON, JERRY L	A51-10005 /		- /				
			NW	NW		DODD, VIRGIL E	A51-10006 /		- /				
			NW	NW		THOMPSON, MARGARET O	A51-07135 /		51-07135 /				
			NW	NW		THOMPSON, MARGARET O	A51-07194 /		51-07194 /				
			NW	NW		POTTER, CHARLES R	A51-10011 /		- /				
			NW	NW		FLORENCE, FRANK	A51-10020 /		- /				
			NW	NW		BURKHART, LEON	A51-10051 /		- /				
			NW	NW		SMITH, JAMES D	A51-10068 /		- /				
			NW	NW		MONTGOMERY, NANCY J	A51-10155 /		- /				
			NW	NW		ELTON, CLIFFORD N	A51-10200 /		- /				
			NW	NW		THOMPSON, MARGARET O	A51-07138 /	1.0	51-07138 /	1.0			
			NW	NW		LAZAROS, J LEWIS	A51-10151 /		- /				
			NW	NW		THOMPSON, MARGARET O	A51-10220 /		- /				
			NW	NW		ETTER, JOHN	A51-10010 /		- /				
			NW	NW		DENTON, ROBERT E	A51-10307 /		- /				
			NW	NW		NYE, FRANCES R	R51-04039 /		- /				
			NW	NW		BAIRD, RUSSELL	R51-10150 /		- /				
			NW	NW		DENTON, ROBERT E	R51-10307 /		- /				
			NW	NW		ETTER, SUE	A51-10008 /		- /				
			NW	NW		ETTER, JOHN	R51-10008 /		- /				
			NW	NW		SMITH, JAMES D	R51-10068 /		- /				
			NW	NW		LAZAROS, J LEWIS	R51-10151 /		- /				
			NW	NW		MONTGOMERY, NANCY J	R51-10155 /		- /				
			NW	NW		ELTON, CLIFFORD N	R51-10200 /		- /				
			NW	NW		WILLIS, THURMAN	R51-10154 /		- /				
			NW	NW		THOMPSON, MARGARET O	R51-07194 /		- /				
			NW	NW		THOMPSON, RUTH N	R51-10005 /		- /				
			NW	NW		WHITMORE, HARRY A	R51-10010 /		- /				
			NW	NW		POTTER, CHARLES R	R51-10011 /		- /				
			NW	NW		FLORENCE, FLORENCE	R51-10020 /		- /				
			NW	NW		BURKHART, LEON	R51-10051 /		- /				
			NW	NW		SMITH, DELORES ANN	A51-12810 /		- /				
			NW	NW		WILLIS, THURMAN	A51-10154 /		- /				
			NW	NW		THOMPSON, MARGARET O	R51-10220 /		- /				
			NW	NW		SCHOWALTER, ANITA F	A51-12760 /		- /				
			NW	NW		THOMPSON, MARGARET O	R51-07135 /		- /				
			NW	NW	6	BAIRD, RUSSELL	A51-10150 /		- /				
			NW	NW		NYE, CLARENCE H.			51-07195 /				

ADDITIONAL POU FOUND

TOTAL ACRES A51-04037

Ø IRRIGATION

POU COUNTY: OWYHEE

C. *IS WATER USAGE FOUND IN TRACTS OTHER THAN THOSE CLAIMED?* Y(___) N(X)

* IF YES, ARE THESE TRACTS LISTED ABOVE (___), OR ARE THEY LISTED ON AN ATTACHED SHEET (___)

LIST OF ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE

CLAIM NO.	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A51-07138	WASTE WATER	THOMPSON, MARGARET O	0.100	0.100	0.80	0.80

LIST ALL RIGHTS WITH SAME POU BUT NOT USED FOR IRRIGATION.

CLAIM NO.	PURPOSES	NAME	MONTH/DAY		RATE	VOLUME
A51-04037	HEATING	SHOWALTER, ANITA F	FROM 01-01	TO 12-31	0.040 CFS	
A51-04037	DOMESTIC	SHOWALTER, ANITA F	FROM 01-01	TO 12-31	0.020 CFS	
A51-04037	COMMERCIAL	SHOWALTER, ANITA F	FROM 01-01	TO 12-31	0.020 CFS	
R51-12760	DOMESTIC	SCHOWALTER, ANITA F	FROM 01-01	TO 12-31	0.040 CFS	
R51-10006	DOMESTIC	DODD, VIRGIL E	FROM 01-01	TO 12-31	0.040 CFS	
A51-04039	DOMESTIC	NYE, CLARENCE H	FROM 01-01	TO 12-31	0.040 CFS	
A51-10005	DOMESTIC	THOMPSON, JERRY L	FROM 01-01	TO 12-31	0.020 CFS	
A51-10006	DOMESTIC	DODD, VIRGIL E	FROM 01-01	TO 12-31	0.040 CFS	
A51-07135	DOMESTIC	THOMPSON, MARGARET O	FROM 01-01	TO 12-31	0.020 CFS	
A51-07194	DOMESTIC	THOMPSON, MARGARET O	FROM 01-01	TO 12-31	0.020 CFS	1.20 AF/A
A51-10011	DOMESTIC	POTTER, CHARLES R	FROM 01-01	TO 12-31	0.040 CFS	
A51-10020	DOMESTIC	FLORENCE, FRANK	FROM 01-01	TO 12-31	0.030 CFS	
A51-10051	DOMESTIC	BURKHART, LEON	FROM 01-01	TO 12-31	0.040 CFS	
A51-10068	DOMESTIC	SMITH, JAMES D	FROM 01-01	TO 12-31	0.020 CFS	
A51-10155	DOMESTIC	MONTGOMERY, NANCY J	FROM 01-01	TO 12-31	0.040 CFS	
A51-10200	DOMESTIC	ELTON, CLIFFORD N	FROM 05-01	TO 11-01	0.020 CFS	
A51-10151	DOMESTIC	LAZAROS, J LEWIS	FROM 01-01	TO 12-31	0.040 CFS	
A51-10220	DOMESTIC	THOMPSON, MARGARET O	FROM 01-01	TO 12-31	0.010 CFS	
A51-10010	DOMESTIC	ETTER, JOHN	FROM 01-01	TO 12-31	0.040 CFS	
A51-10307	DOMESTIC	DENTON, ROBERT E	FROM 01-01	TO 12-31	0.020 CFS	
R51-04039	DOMESTIC	NYE, FRANCES R	FROM 01-01	TO 12-31	0.040 CFS	
R51-10150	DOMESTIC	BAIRD, RUSSELL	FROM 01-01	TO 12-31	0.040 CFS	
R51-10307	DOMESTIC	DENTON, ROBERT E	FROM 01-01	TO 12-31	0.020 CFS	
A51-10008	DOMESTIC	ETTER, SUE	FROM 01-01	TO 12-31	0.040 CFS	
R51-10008	DOMESTIC	ETTER, JOHN	FROM 01-01	TO 12-31	0.040 CFS	
R51-10068	DOMESTIC	SMITH, JAMES D	FROM 01-01	TO 12-31	0.020 CFS	
R51-10151	DOMESTIC	LAZAROS, J LEWIS	FROM 01-01	TO 12-31	0.040 CFS	
R51-10155	DOMESTIC	MONTGOMERY, NANCY J	FROM 01-01	TO 12-31	0.040 CFS	

06/18/1996 ALSO DIVERTED FROM SOUTH NORTH SPRING

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
R51-10200	DOMESTIC	ELTON, CLIFFDRO N	FROM 05-01 TO 11-01	0.020 CFS	
R51-10154	DOMESTIC	WILLIS, THURMAN	FROM 01-01 TO 12-31	0.040 CFS	
R51-07194	DOMESTIC	THOMPSON, MARGARET O	FROM 01-01 TO 12-31	0.020 CFS	1.20 AF/A
R51-10005	DOMESTIC	THOMPSON, RUTH N	FROM 01-01 TO 12-31	0.020 CFS	
R51-10010	DOMESTIC	WHITMORE, HARRY A	FROM 01-01 TO 12-31	0.040 CFS	
R51-10011	DOMESTIC	POTTER, CHARLES R	FROM 01-01 TO 12-31	0.040 CFS	
R51-10020	DOMESTIC	FLORENCE, FLORENCE	FROM 01-01 TO 12-31	0.030 CFS	
R51-10051	DOMESTIC	BURKHART, LEON	FROM 01-01 TO 12-31	0.040 CFS	
A51-12810	DOMESTIC	SMITH, DELORES ANN	FROM 01-01 TO 12-31	0.040 CFS	2.40 AF/A
A51-10154	DOMESTIC	WILLIS, THURMAN	FROM 01-01 TO 12-31	0.040 CFS	
R51-10220	DOMESTIC	THOMPSON, MARGARET O	FROM 01-01 TO 12-31	0.010 CFS	
A51-12760	DOMESTIC—Cold well	SCHOWALTER, ANITA F	FROM 01-01 TO 12-31	0.040 CFS	
R51-07135	DOMESTIC	THOMPSON, MARGARET O	FROM 01-01 TO 12-31	0.020 CFS	3.00 AF/A
A51-10150	DOMESTIC	BAIRD, RUSSELL	FROM 01-01 TO 12-31	0.040 CFS	

D. ARE OTHER WATER RIGHTS USED FOR THE SAME PURPOSE? Y(X) N(__)

* IF YES, COMPLETE OVERLAP REVIEW:

OTHER RIGHTS LISTED IN CLAIM: A51-12760

A51-12760 represents the cold water well which also serves ~~[illegible]~~ domestic use.

E. IS THE CLAIMED POU THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A(__) Y(X) N(__)

* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN POU, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

F. CAN THE CLAIMED POU BE VERIFIED USING THE WATER RIGHT FILE AND AVAILABLE AERIAL PHOTOS? N/A(__) Y(__) N(X)

G. SHOULD THE CLAIMED POU BE VERIFIED BY FIELD EXAM? Y(X) N(__)

H. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE OF THIS RIGHT, OR ANY PORTION OF THIS RIGHT? Y(__) N(X)

CHECK DOCUMENTS USED TO VERIFY POU: ( ) ORTHOPHOTOQUAD, IDWR NO. _____; (X) TOPOGRAPHIC QUAD, IDWR NO. DD66 ;

( ) NAPP, IDWR NO. _____; ( ) ASCS PHOTO; (X) OTHER Govt Plat [redacted]

NOTES: 06/18/1996: POU confirmed by field exam. Water is piped to home, lodge/café, restrooms, and is used in a swimming pool which measures 40' x 20' x 5'. Cold water ground water is also used in the house, lodge/cafe, 3 camping trailer sites, and restrooms which are separate from the lodge. ON 03/07/1994 the current owner was notified that the water right on the cold well is not valid for any use beyond domestic (.04 cfs, 2500 gpd) (Attachment G). Please also see correspondence dated 06/18/1996. nn

RECOMMENDATIONS:

TOTAL ACRES: _____ N/A(X)

REVIEWED BY: [signature] DATE: 06/18/1996

A. AJ CLAIMED USES:

	PURPOSE OF USE	PERIOD OF USE (MONTH/DAY)	DIV. RATE FOR EACH USE	DIV. VOL. FOR EACH USE
A51-04037	HEATING	FROM 01-01 TO 12-31	0.040 CFS	
A51-04037	DOMESTIC	FROM 01-01 TO 12-31	0.020 CFS	
A51-04037	COMMERCIAL	FROM 01-01 TO 12-31	0.020 CFS	
	TOTAL DIVERSION RATE/VOLUME		0.060 CFS	

B. WR RECORDED USES:

	PURPOSE OF USE	PERIOD OF USE (MONTH/DAY)	DIV. RATE FOR EACH USE	DIV. VOL. FOR EACH USE
51-04037	HEATING	FROM 01-01 TO 12-31	0.040 CFS	
51-04037	DOMESTIC	FROM 01-01 TO 12-31	0.020 CFS	
	TOTAL DIVERSION RATE/VOLUME		0.060 CFS	

C. DOES THE CLAIMED PURPOSE OF USE CORRECTLY DESCRIBE THE WATER USE? Y(X) N(___)

D. IS THE CLAIMED PURPOSE OF USE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A(___) Y(X) N(___)

* IF NO, AND IF THE ACTUAL WATER USE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN PURPOSE OF USE, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE. Added commercial use, which has always been present. mm

E. SHOULD THE CLAIMED PURPOSE OF USE BE VERIFIED BY FIELD EXAM? Y(X) N(___)

F. DOES THE CLAIMED PERIOD OF USE CONFORM TO IDWR STANDARDS? Y(X) N(___)

G. SHOULD THE PERIOD OF USE BE RECOMMENDED TO IDWR STANDARDS? Y(X) N(___)

* IF THE RECOMMENDED PERIOD OF USE IS DIFFERENT THAN IDWR STANDARDS, EXPLAIN IN NOTES BELOW.

H. IS THE CLAIMED DIVERSION RATE FOR EACH USE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A(___) Y(X) N(___)

* IF NO, DESCRIBE IN NOTES BELOW HOW THE RECOMMENDED DIVERSION RATE FOR EACH USE WAS DETERMINED.

I. SHOULD THE CLAIMED DIVERSION RATE FOR EACH USE BE VERIFIED BY FIELD EXAM? N/A(___) Y(X) N(___)

J. IS THE CLAIMED DIVERSION VOLUME FOR EACH USE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A(X) Y(___) N(___)

* IF NO, DESCRIBE IN NOTES BELOW HOW THE RECOMMENDED DIVERSION VOLUME FOR EACH USE WAS DETERMINED.

K. SHOULD THE CLAIMED DIVERSION VOLUME FOR EACH USE BE VERIFIED BY FIELD EXAM? N/A(X) Y(___) N(___)

NOTES: 06/18/1996: Water is used year-round for home, lodge/cafe, restrooms which are separate, trailer sites, and swimming pool. Total diversion rate claimed is the same as the statutory claim, but the commercial use has been ~~so~~ delineated in the SRBA claim. This is not an expansion of the right as far as I can tell. All uses are non-consumptive. Pool ~~is~~ uses 4000 ft^3 of water; Mr. Olivas indicated during the field exam that it takes approximately 22 hrs for the pool to fill. Outflow from the springs was measured at .07 cfs, just below the pool (the pool was not filling). This measurement may not reflect the full outflow from the springs since some water was being diverted to the house and the lodge. MM

AJ CLAIM TOTAL DIVERSION RATE: 0.060 CFS

WR ROOT RIGHT TOTAL DIVERSION RATE: 0.060 CFS

A. IS THE CLAIMED TOTAL DIVERSION RATE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A(___) Y(X) N(___)

B. CAN THE CLAIMED TOTAL DIVERSION RATE BE VERIFIED USING THE WATER RIGHT FILE? N/A(___) Y(___) N(X)

* ALL CLAIMS BASED ON BENEFICIAL USE (INCLUDING POSTED NOTICES AND STATUTORY CLAIMS) REQUIRE A FLOW MEASUREMENT.

C. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE OF THIS RIGHT, OR ANY PORTION OF THE DIVERSION RATE? Y(___) N(X)

* IF AN AMOUNT SMALLER THAN THE ORIGINAL DIVERSION RATE IS CLAIMED AND A FIELD EXAM IS NOT REQUIRED, EXPLAIN IN NOTES.

D. SHOULD THE CLAIMED DIVERSION RATE BE VERIFIED BY FIELD EXAM? Y(X) N(___)

E. FLOW MEASUREMENT

MEASUREMENT METHOD Piggy Meter, SEE ATTACHED CALCULATIONS.

F. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE
ACRES _____ x 0.02 CFS/ACRE = _____ CFS
(Taken from pou review)

IS A DIVERSION RATE PER ACRE GREATER THAN 0.02 CFS/ACRE CLAIMED? Y(___) N(___)

IF YES, IS AN ADDITIONAL WATER USE FORM FILED AND ATTACHED? Y(___) N(___)

1b. CALCULATIONS

4000 ft³/22 hrs = 181.8 ft³/hr =

3.03 ft³/min = .05 ft³/sec.

Flow to swimming pool.
Approximation.

TRN

2. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

ACRES _____ x DIVERSION VOL. AF/A FOR AREA _____ =

TOTAL DIVERSION VOLUME _____ AF/A

3. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = AF/A

ACRES _____ x CONSUMPTIVE VOL. AF/A FOR AREA _____ =

TOTAL CONSUMPTIVE USE _____ AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION: SEE BELOW (___) OR SEE ATTACHMENT (___)

Pg 14 (div. amt review) deleted.

RECOMMENDATIONS: CHECK HERE IF RECOMMENDED AS CLAIMED (X)

REC. PURPOSE OF USE	REC. PERIOD FROM	TO	REC. DIV RATE CFS DATABASE	EXAMINER	REC. DIV VOL. AF/A DATABASE	EXAMINER	REC. CONS. USE DATABASE	EXAMINER
HEATING	01-01	12-31	0.040	.04			0.0	
DOMESTIC	01-01	12-31	0.020	.02			0.0	
COMMERCIAL	01-01	12-31	0.020	.02			0.0	
TOTAL FOR THIS RIGHT				.06				0

NON-IRRIGATION USES CLAIMED: 1 HOUSEHOLD/HOT SPRINGS POOL FOR BATHING & SWIMMING POOL & LODGE.

NON-IRRIGATION USES RECOMMENDED: CHECK HERE IF RECOMMENDED AS CLAIMED (___)

REVIEWED BY: T T Timmerman DATE: 06/18/1996

FLAG:

STANDARD CONDITIONS (CODE):

STANDARD REMARKS (CODE): POD: 51-10220 is also diverted through one of the points of diversion listed.
2 PODs IN SWSWNW S. 24, T16S R09E.

EXPLANATORY CONDITIONS (CODE):

EXPLANATORY REMARKS (CODE):

A. CHECK ONLY THE FOLLOWING THAT APPLY:

	ACCEPTED AS CLAIMED	NEEDS REVIEW
OWNERSHIP	( )	(X) – Now Olivas?
FORFEIT/ABANDON	( )	( )
ADDITIONAL DIV. AMOUNT	( )	( )

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 51-04037

TOTAL DIVERSION RATE OF WR SPLITS — DATABASE: 0.060 — EXAMINER: TM — CFS

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
-	A51-04037	0.060	R51-04037	.06	51-04037	0.060
	TOTAL CFS	0.060		.06		0.060

DIVERSION RATE REVIEW

DO THE SUM CFS RATE OF THE SPLITS EQUAL THE ROOT RIGHT CFS RATE? (Y/N)
IF NO, IS THE WRITTEN REVIEW DESCRIBED BELOW (___) OR SEE ATTACHMENT (___)?

DATABASE: (Y) — FIELD EXAMINER: Y(TM) N(___)

NOTES:

06/18/1996: This water right has not been split. The current owners may be the Olivas' – see corr. dated 06/18/1996 to a second effort to get change of ownership (+ Applications for Permit) from current owner. TM

AUTHENTICATION:

SIGNATURE: [signature] DATE: 06/18/1996

NAME OF FIELD EXAMINER: MARIA MINICUCCI TITLE: SR WATER AGENT

6-90 STATE OF IDAHO Adjudication Claim No. AS1-04037

DEPARTMENT OF WATER RESOURCES

Staff Analysis Sheet For

SRBA Claim Verification Field Report

A. Prior to Conducting the Exam, the File Contains:

___ Claim Verification Report(CVR)

✓ Copy of Adjudication Claim

___ Copies of pertinent files(prev. rts., exams, etc.)

✓ Well Inspection Form (If Needed)

✓ Copy of U.S.G.S. Quad map, orthophotoquad, or NAPP photography

✓ Check P.D. & P.U. desc. for Govt. Lots(if a lot is found, a copy of the Govt. plat is needed to add the lot onto the R claim file later. POD GOV'T LOTS

___ Check CVR for P.D. overlap(see page titled Pt. of Div. Review Sheet)

✓ Check AJ & WR P/D indexes(to ck. accuracy of CVR overlap ckd. above)

Overlap X yes ___ no If yes: X copy of claims & water rights incl?

Type of Overlap? ___ Add acres or uses to existing system

___ Increase rate of flow or volume

___ Other: AS1-10220; Deeded access

✓ Check CVR for P.U. overlaps(see page titled Pl. of Use Review Sheet)

✓ Check AJ & WR P/U indexes(to ck. accuracy of CVR overlap ckd. above)

Overlap ✓ yes ___ no If yes: ___ copy of claims & water rights incl?

Type of Overlap? ___ Increase rate of flow or volume

___ Add P/D's

___ Increase number of acres within tracts

✓ Different source for same ~~acres~~ uses

___ Other: _____

___ Appointment Letter Sent? _____ (initial & date)

X Appointment Made and Telephone Conversation Memo Attached

B. After Conducting the Exam, the File Contains:

X Fully Completed and Signed CVR Form

X Photographs of Point(s) of Diversion and Place of Use

X Completed map outlining Point(s) of Diversion and Place of Use

C. Review and Processing:

Claim No. submitted for weekly exam completed prog. report? X Yes ___ No

Exam completed date data entered on claim TRT 06/19/1996 (initial & date)

Claim Verification Report completed TRT 06/19/1996 (initial & date)

Was CVR spot-checked by Supervisor? ___ Yes ___ No _____ (initial & date)

R claim file created TRT 06/19/1996 (initial & date)

Recommendations entered on R claim file TRT 06/19/1996 (initial & date)

A51-04037
A51-12760

FIELD EXAM PHOTO INDEX SUMMARY

Date: 03/03/1994 Roll No.: _____

Photographer: M Minicucci

PHOTO NO.	SUBJECT
1	Cold water well house (cold water)
2	Trailers & lodge from X river
3	cold water well + Jamaica
4	Hot Spring pool, H_2O under corrugated pipe
5	Pool - lodge. Taken from hillside
6	2nd Hot Spring - taken from below
7	
8	
9	
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12	
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14	
15	
16	
17	
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19	
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21	
22	
23	
24	

MAPS AND AERIAL PHOTOGRAPHS USED TO REVIEW THIS NOTICE OF CLAIM TO A WATER RIGHT

TYPE OF MAP OR PHOTOGRAPH (CHECK IF USED)	IF USED, SUPPLY APPROPRIATE DATE AND OTHER INFORMATION	COPY INCLUDED IN FILE?
( ) ORTHOPHOTOQUAD	DATE OF PHOTO _____ IDWR ID NO. _____	Y(___) N(___)
(X) TOPOGRAPHIC	DATE FIELD CHECKED 1974 IDWR ID NO. DD66	Y(Y) N(___) (E)
( ) NAPP	DATE OF PHOTO _____ IDWR ID NO. _____	Y(___) N(___)
( ) ASCS AERIAL PHOTO	DATE OF PHOTO _____	Y(___) N(___)
( ) ASCS COLOR SLIDE	DATE OF PHOTO _____	Y(___) N(___)
( ) BLM OR USFS AERIAL PHOTO	DATE OF PHOTO _____	Y(___) N(___)
(X) TOWNSHIP SURVEY (GOVERNMENT PLAT)	DATE OF SURVEY 1918	Y(X) N(___) (I)
( ) SCS SOIL SURVEY MAP	DATE ISSUED _____	Y(___) N(___)
( ) SUBDIVISION PLAT MAP	DATE OF MAP _____	Y(___) N(___)
( ) OTHER _____	DATE _____	Y(___) N(___)
( ) OTHER _____	DATE _____	Y(___) N(___)
( ) OTHER _____	DATE _____	Y(___) N(___)

LIST OF ATTACHMENTS (CHECK IF ATTACHED)	IF ATTACHED, SUPPLY APPROPRIATE INFORMATION		NO. OF PAGES	NOTES
( ) LICENSING FIELD EXAM	DATE OF FIELD EXAM			
( ) WATER RIGHT LICENSE	DATE LICENSE SIGNED			
( ) IDWR APPROVED TRANSFER	DATE TRANSFER APPROVED			
( ) SYSTEM DESCRIPTION	DATE DRAWN			
(X) PHOTOGRAPHS	DATE(S) PHOTOS TAKEN	03/03/1994		(C), (D)
( ) SPLIT RIGHT REVIEW	DATE REVIEW COMPLETED			
( ) HUBBLE ANALYSIS	DATE ANALYSIS COMPLETED			
( ) CONVEYANCE LOSS ANALYSIS	DATE ANALYSIS COMPLETED			
(X) FLOW MEASUREMENT CALCULATIONS	DATE SYSTEM MEASURED	03/03/1994	1	(F)
(X) OTHER Statutory claim	DATE	03/30/1982	2	Describes uses of hot water
(X) OTHER Conv. Memo	DATE	02/11/1994	1	Field exam appointments (A)
X Evidence of Records			15	Local history, affidavits (B)
X IDWR Correspondence		03/07/1994	1	(G)
X Memo		05/02/1994	1	(H)
X STAT CLAIM		03/30/1982	2	(J)

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

15:13:52
06/10/96

QUICKLOOK INFORMATION

18
CLAIM NUMBER: A51-04037

WR ELEMENT	DATA DISCREPANCY Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	ELEMENT DOCUMENTED WHOM/DATE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE	Y	03/07/1994 DM	03/03/1994 DM	Y		DM 06/18/1996	DM 06/19/1996	
POINT OF DIV				Y (Add 10-acre)				
SOURCE				N				
PLACE OF USE	Y			N				
DIV. AMOUNT CFS/VOLUME	Y			N				
CONSUMPTIVE USE	-							
PURPOSES OF USE	Y			N				
PERIOD OF USE	Y			N				
BASIS OF CLAIM				Y				
REMARKS	Y							

BARCODE UPDATED
WHOM/DATE
DM 06/19/1996

ATTACHMENT A

CONVERSATION MEMORANDUM

NAME OF PARTY Sylvia Olivas 857-2233 DATE 02/11/1994
EMPLOYEE: M. Minicucci FILE A51-04037, - 12760

RE: Field Exam

New owner of Murphy Hot Springs.

Appt scheduled for Thurs 17 FEB 94 11:00 a.m.

From Boise → Twin Falls.
Road toward Jack Pot, TO ROGERSON.
TURN @ bar IN Rogerson to Murphy Hot Springs

02/17/1994
Cancelled appt. - Inclement weather

Rescheduled for 03/03/1994 11:00 a.m.

AS1-04037
Attachment B, pg 1

HOT HOLE
KITTY'S HOT HOLE
MURPHY'S HOT SPRINGS

25 - 26

A hot spring bubbled out of the ground and ran into the East Fork of the Jarbidge River. This spring, located on the road to the Jarbidge Gold Camp, was claimed by Laura Kitty Wilkins and became known as Kitty's Hot Hole in about 1885. The Hot Hole was not really a ranch, but served as headquarters for the summer grazing Island, where thousands of horses were kept and shipped to eastern and western markets. The United States Cavalry was one of the ranch's regular and best customers. Kitty achieved fame as the "Horse Queen of Idaho." In 1890 she had a band of 700 or 800 horses. A rock fence, which is still visible at a right angle to the grade down the canyon, was built by Kitty to contain her horses. While mares could easily jump the barrier, colts could not, and therefore the mares stayed inside this economical fence.

Kitty Wilkins ran horses on the Bruneau and Island ranges until 1919, when the First World War was over and the horse ranges were gone and so were the horse markets. Tales of Kitty's colorful life were widely known in early days. In 1919 Kitty Wilkins, still the horse queen and young at heart, sold her ranch and horses and semi-retired to her home in Glenns Ferry. She was always interested in the progress of the nation. She kept a small ranch until her death in October of 1936.

In 1935 the site, located seven miles inside the Idaho border, was for sale. It was purchased by Pat Murphy, who had come west from Missouri at the age of seventeen. He had worked as a camp tender and farm worker, and in 1924 found himself in Jarbidge, hoping to get rich.

The Hot Springs were just a hole in the ground when Pat purchased the site. "You could dip the hot water from the springs in the corner of one room," he said. Hot Hole became a stop-over for travelers going to Jarbidge. A permanent log building with sleeping rooms on the second floor was constructed. Pat intended to merely improve the two-room structure for a home, but a group of CCC (Civilian Conservation Corps) boys stationed nearby changed his plans. He was told that if he constructed a swimming pool so the boys could swim, they would help build a road and Pat could make a few bucks.

Pat built a pool and also installed private baths. As more people came, eight cabins were constructed. Soon meals were being served to the public in his house. Pat's sister, Zoe Wilson, served as cook. A dance hall was soon built out of railroad ties. Dances attracted people from far and wide.

ASI-04037
B-2

Soon a primitive landing strip was built so that small planes could land on a small area above the canyon. Pat and his wife, Ottoway (Brown), together served as genial hosts. Ottoway often played a "mean" piano for the Saturday night dances held at the Hot Springs.

Pat sold the resort in about 1960 to Chuck and May Janacek. The Janaceks continued to offer swimming, food, cool drinks and conversation to many a visitor for many years. Harry and Anita Showalter purchased the Hot Springs from the Janaceks and continue to operate the resort to this day.

While the Island is still used for livestock grazing, the vast rangeland is known for its scenery, hunting, fishing, and recreational uses, rather than for the famous mustang roundups of the past.

Submitted by
Ronda Macaw



Kitty Wilkins

MEMO TO SRBA CLAIM FILE NO. _____ - _____
A51 - 04037

Attachment B-3

MANT'S NAME: Showalter DATE: 05/23/1995

TY: Owyhee

OYEE: Minidoka

Carolyn @ Idaho Historical Library (334-3356) confirmed that the CCC was active in Idaho from 1933 to 1942. The peak year was 1935. She was unable to determine the years CCC workers were in the Murphy Hot Springs area.

A51-04037
B-4

AFFIDAVIT

STATE OF IDAHO)
: ss.
County of Twin Falls)

JULE LARIOS, being first duly sworn, deposes and says:

1. Attached hereto as Exhibit "A" is an Idaho Department of Water Resources Water Right Proof Reading Report for Harry and Anita Showalter. This relates to Water Right No. 51-04037.

2. I am personally familiar with the water source known as Murphy Hot Springs and the tributary known as the East Fork of the Jarbidge River.

3. I have been personally acquainted with this property since prior to July 1, 1934. I have resided in the Murphy Hot Springs area since prior to July 1, 1934. The owners of the property used the water from Murphy Hot Springs for a hot water swimming pool, hot water baths and for hot water heat to the buildings and for domestic purposes also. The water from the springs have been used for that purpose, to my knowledge, since at least January of 1935.

DATED this 11 day of February, 1994.

Jule Larios
JULE LARIOS

SUBSCRIBED AND SWORN to before me this 11 day of February, 1994.

Russell Evans
Notary Public for Idaho
Residing at Twin Falls
Commission Expires: 8-12-99

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT

Water Right Number - 51-04037 Prefix Translation: WATER RIGHT Old (D) Number -

Last Name	First Name	Address
*** C - CURRENT OWNER ***		
SHOWALTER	HARRY B.	1 - 2 - 3 - City- ROGERSON State- ID Zip- 83302 Phone -
SHOWALTER	ANITA F.	1 - 2 - 3 - City- ROGERSON State- ID Zip- 83302 Phone -

Priority Date: 07/01/1934
Region: 14 WESTERN
Stage: S - STATUTORY CLAIM
Status:

Source: MURPHY HOT SPRINGS
Tributary: JARBIDGE RIVER, EAST FORK

Point of Diversion

Twn	Rng	Sec	Tract	Lot	RFlg	County	Diversion Name	Diversion Rate	Diversion No.
16S	09E	24	NW NW			(73) OWYHEE			

Water Use

Code	Description	Period From	Period To	Diversion Rate	Diversion Volume
22	HEATING	01/01	12/31	0.040	
43	DOMESTIC	01/01	12/31	0.020	

Total Div. Rate: 0.060
Total Div. Volume:
Totsl Div. Capacity:

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
16S	09E	24	NW NW			22	HEATING	(73) OWYHEE

Diversion Means - PIPELINE

Non-Irrigation Use - D/1 HOME

Other Rights for Same Use -

Remarks
No Remarks found.

Old Water Right Numbers
No Old Water Right Numbers found.

EXHIBIT 4

AS1-04037
B-5

Water right number - 51-04037 Prefix Translation: WATER RIGHT

Conditions of Approval
No Conditions of Approval found.

Decree Plaintiff	Decree Defendant	Decree Date
		00/00/0000

Comments
No Comments Found

Audit Fields - 01/13/86 04/30/88 CONVERT

Water Rights Dates and Flags Area

Proof Due Date	- 00/00/0000	Field Exam Made	- 00/00/0000	Field Exam Fee	-
Approved/Denied	- 00/00/0000	Protested Date	- 00/00/0000	Swan Falls	-
Proof Made Date	- 00/00/0000	Hearing Date	- 00/00/0000	Temporary Right	- P
Exam to S.O. Date	- 00/00/0000	Verified Date	- 01/13/1986	DLE/Carey Act	-
Order Show Cause	- 00/00/0000	Receipt Number	-	Water District	-
Licensed Date	- 00/00/0000	Appl Received	- 00/00/0000	Transfer/Amended	-
Decree Date	- 00/00/0000	Presumption Flag	-		

A51-04037
3-6

A51-04037
B-7

AFFIDAVIT

STATE OF IDAHO)
: ss.
County of Twin Falls)

NOY ELBERT BRACKETT, II, being first duly sworn, deposes and says:

1. Attached hereto as Exhibit "A" is an Idaho Department of Water Resources Water Right Proof Reading Report for Harry and Anita Showalter. This relates to Water Right No. 51-04037.

2. I am personally familiar with the water source known as Murphy Hot Springs and the tributary known as the East Fork of the Jarbidge River.

3. I have been personally acquainted with this property since 1934. I have resided in the Three Creek area since prior to April 1, 1934. The owners of the property used the water from Murphy Hot Springs for a hot water swimming pool, hot water baths and for hot water heat to the buildings and for domestic purposes also. The water from the springs have been used for that purpose, to my knowledge, since at least January of 1935.

DATED this 11 day of February, 1994.

Noy Elbert Brackett II
NOY ELBERT BRACKETT, II

SUBSCRIBED AND SWORN to before me this 11 day of February, 1994.

Russell Kranz
Notary Public for Idaho
Residing at Twin Falls
Commission Expires: 8-12-99

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT

Water Right Number - 51-04037 Prefix Translation: WATER RIGHT Old (D) Number -

Last Name	First Name	Address
*** C - CURRENT OWNER ***		
SHOWALTER	HARRY B.	1 - 2 - 3 - City- ROGERSON State- ID Zip- 83302 Phone -
SHOWALTER	ANITA F.	1 - 2 - 3 - City- ROGERSON State- ID Zip- 83302 Phone -

Priority Date: 07/01/1934
Region: 14 WESTERN
Stage: S - STATUTORY CLAIM
Status:

Source: MURPHY HOT SPRINGS
Tributary: JARBIDGE RIVER, EAST FORK

Point of Diversion

Twn	Rng	Sec	Tract	Lot	RFlg	County	Diversion Name	Diversion Rate	Diversion No.
16S	09E	24	NW NW			(73) OWYHEE			

Water Use

Code	Description	Period From	Period To	Diversion Rate	Diversion Volume
22	HEATING	01/01	12/31	0.040	
43	DOMESTIC	01/01	12/31	0.020	

Total Div. Rate: 0.060
Total Div. Volume:
Total Div. Capacity:

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
16S	09E	24	NW NW			22	HEATING	(73) OWYHEE

Diversion Means - PIPELINE

Non-Irrigation Use - D/1 HOME

Other Rights for Same Use -

Remarks

No Remarks found.

Old Water Right Numbers

No Old Water Right Numbers found.

EXHIBIT A

A51-04037
3-8

Water right number - 51-04037 Prefix Translation: WATER RIGHT

Conditions of Approval

No Conditions of Approval found.

Decree Plaintiff | Decree Defendant | Decree Date - 00/00/0000

Comments

No Comments Found

Audit Fields - 01/13/86 04/30/88 CONVERT

Water Rights Dates and Flags Area

Proof Due Date	- 00/00/0000	Field Exam Made	- 00/00/0000	Field Exam Fee	-
Approved/Denied	- 00/00/0000	Protested Date	- 00/00/0000	Swan Falls	-
Proof Made Date	- 00/00/0000	Hearing Date	- 00/00/0000	Temporary Right	- P
Exam to S.O. Date	- 00/00/0000	Verified Date	- 01/13/1986	DLE/Carey Act	-
Order Show Cause	- 00/00/0000	Receipt Number	-	Water District	-
Licensed Date	- 00/00/0000	Appl Received	- 00/00/0000	Transfer/Amended	-
Decree Date	- 00/00/0000	Presumption Flag	-		

51-04037
3-4

A51-04037
B-10

AFFIDAVIT

STATE OF IDAHO)
: ss.
County of Twin Falls)

LOLA BLOSSOM, being first duly sworn, deposes and says:

1. Attached hereto as Exhibit "A" is an Idaho Department of Water Resources Water Right Proof Reading Report for Harry and Anita Showalter. This relates to Water Right No. 51-04037.

2. I am personally familiar with the water source known as Murphy Hot Springs and the tributary known as the East Fork of the Jarbidge River.

3. I have been personally acquainted with this property since prior to July 1, 1934. I have resided in the Three Creek area since prior to July 1, 1934. The owners of the property used the water from Murphy Hot Springs for a hot water swimming pool, hot water baths and for hot water heat to the buildings and for domestic purposes also. The water from the springs have been used for that purpose, to my knowledge, since at least January, 1935.

DATED this 24 day of February, 1994.

Lola Blossom
LOLA BLOSSOM

SUBSCRIBED AND SWORN to before me this 24 day of February, 1994.

Notary Public for Idaho
Residing at Twin Falls
Commission Expires: [illegible]

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT

Water Right Number - 51-04037 Prefix Translation: WATER RIGHT Old (D) Number -

Last Name	First Name	Address
*** C - CURRENT OWNER ***		
SHOMALTER	HARRY B.	1 - 2 - 3 - City- ROGERSON State- ID Zip- 83302 Phone -
SHOMALTER	ANITA F.	1 - 2 - 3 - City- ROGERSON State- ID Zip- 83302 Phone -

Priority Date	Region	Stage	Status
07/01/1934	14 WESTERN	S - STATUTORY CLAIM	

Source: MURPHY HOT SPRINGS

Tributary: JARBIDGE RIVER, EAST FORK

Point of Diversion

Twn	Rng	Sec	Tract	Lot	RFlg	County	Diversion Name	Diversion Rate	Diversion No.
16S	09E	24	NW NW			(73) OWYHEE			

Water Use

Code	Description	Period From	Period To	Diversion Rate	Diversion Volume
22	HEATING	01/01	12/31	0.040	
43	DOMESTIC	01/01	12/31	0.020	

Total Div. Rate	Total Div. Volume	Total Div. Capacity
0.060		

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
16S	09E	24	NW NW			22	HEATING	(73) OWYHEE

Diversion Means - PIPELINE

Non-Irrigation Use - D/1 HOME

Other Rights for Same Use -

Remarks

No Remarks found.

Old Water Right Numbers

No Old Water Right Numbers found.

A51-04037
B-11

Water right number - 51-04037 Prefix Translation: WATER RIGHT

Conditions of Approval
No Conditions of Approval found.

Decree Plaintiff | Decree Defendant | Decree Date
00/00/0000

Comments
No Comments Found

Audit Fields - 01/13/86 04/30/88 CONVERT

Water Rights Dates and Flags Area

Proof Due Date	- 00/00/0000	Field Exam Made	- 00/00/0000	Field Exam Fee	-
Approved/Denied	- 00/00/0000	Protested Date	- 00/00/0000	Swan Falls	-
Proof Made Date	- 00/00/0000	Hearing Date	- 00/00/0000	Temporary Right	- P
Exam to S.O. Date	- 00/00/0000	Verified Date	- 01/13/1986	DLE/Carey Act	-
Order Show Cause	- 00/00/0000	Receipt Number	-	Water District	-
Licensed Date	- 00/00/0000	Appl Received	- 00/00/0000	Transfer/Amended	-
Decree Date	- 00/00/0000	Presumption Flag	-		

A51-04037
3-12

AS1-04037
B-13

AFFIDAVIT

STATE OF IDAHO)
: ss.
County of Twin Falls)

ROLAND K. PATRICK, being first duly sworn, deposes and says:

1. Attached hereto as Exhibit "A" is an Idaho Department of Water Resources Water Right Proof Reading Report for Harry and Anita Showalter. This relates to Water Right No. 51-04037.

2. I am personally familiar with the water source known as Murphy Hot Springs and the tributary known as the East Fork of the Jarbidge River.

3. I have been personally acquainted with this property since July 1, 1934. I have resided in the Three Creek area since prior to July 1, 1934. The owners of the property used the water from Murphy Hot Springs for a hot water swimming pool, hot water baths and for hot water heat to the buildings and for domestic purposes also. The water from the springs have been used for that purpose, to my knowledge, since at least January, 1935.

DATED this 7 day of ~~February~~ March, 1994.

~~Roland~~ Roland K. Patrick
~~ROLAND~~ K. PATRICK

SUBSCRIBED AND SWORN to before me this 7 day of ~~February~~ March, 1994.

Notary Public for Idaho
Residing at ~~Twin Falls~~ Buhl
Commission Expires: 2-20-97

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT

Water Right Number - 51-04037 Prefix Translation: WATER RIGHT Old (D) Number -

Last Name	First Name	Address
*** C - CURRENT OWNER ***		
SHOWALTER	HARRY B.	1 - 2 - 3 - City- ROGERSON State- ID Zip- 83302 Phone -
SHOWALTER	ANITA F.	1 - 2 - 3 - City- ROGERSON Stete- ID Zip- 83302 Phone -

Priority Date	Region	Stage	Status
07/01/1934	14 WESTERN	S - STATUTORY CLAIM	

Source	Tributary
MURPHY HOT SPRINGS	JARBIDGE RIVER, EAST FORK

Point of Diversion

Twn	Rng	Sec	Tract	Lot	RFlg	County	Diversion Name	Diversion Rate	Diversion No.
16S	09E	24	NW NW			(73) OWYHEE			

Water Use

Code	Description	Period From	Period To	Diversion Rate	Diversion Volume
22	HEATING	01/01	12/31	0.040	
43	DOMESTIC	01/01	12/31	0.020	

Total Div. Rate	Total Div. Volume	Total Div. Capacity
0.060		

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
16S	09E	24	NW NW			22	HEATING	(73) OWYHEE

Diversion Means - PIPELINE

Non-Irrigation Use - D/1 HOME

Other Rights for Same Use -

Remarks

No Remarks found.

Old Water Right Numbers

No Old Water Right Numbers found.

51-04037
B-14

Water right number - 51-04037 Prefix Translation: WATER RIGHT

Conditions of Approval

No Conditions of Approval found.

Decree Plaintiff	Decree Defendant	Decree Date
		00/00/0000

Comments

No Comments Found

Audit Fields - 01/13/86 04/30/88 CONVERT

Water Rights Dates and Flags Area

Proof Due Date	- 00/00/0000	Field Exam Made	- 00/00/0000	Field Exam Fee	-
Approved/Denied	- 00/00/0000	Protested Date	- 00/00/0000	Swan Falls	-
Proof Made Date	- 00/00/0000	Hearing Date	- 00/00/0000	Temporary Right	- P
Exam to S.O. Date	- 00/00/0000	Verified Date	- 01/13/1986	DLE/Carey Act	-
Order Show Cause	- 00/00/0000	Receipt Number	-	Water District	-
Licensed Date	- 00/00/0000	Appl Received	- 00/00/0000	Transfer/Amended	-
Decree Date	- 00/00/0000	Presumption Flag	-		

AS1-04037
B-15

ATTACHMENT C

PHOTOGRAPHER AND DATE OF PHOTOS T Minicucci 03/03/1994

FILE NO. A51-04037 T16S R09E SW NW NW S.24



① South Spring.



② North Spring

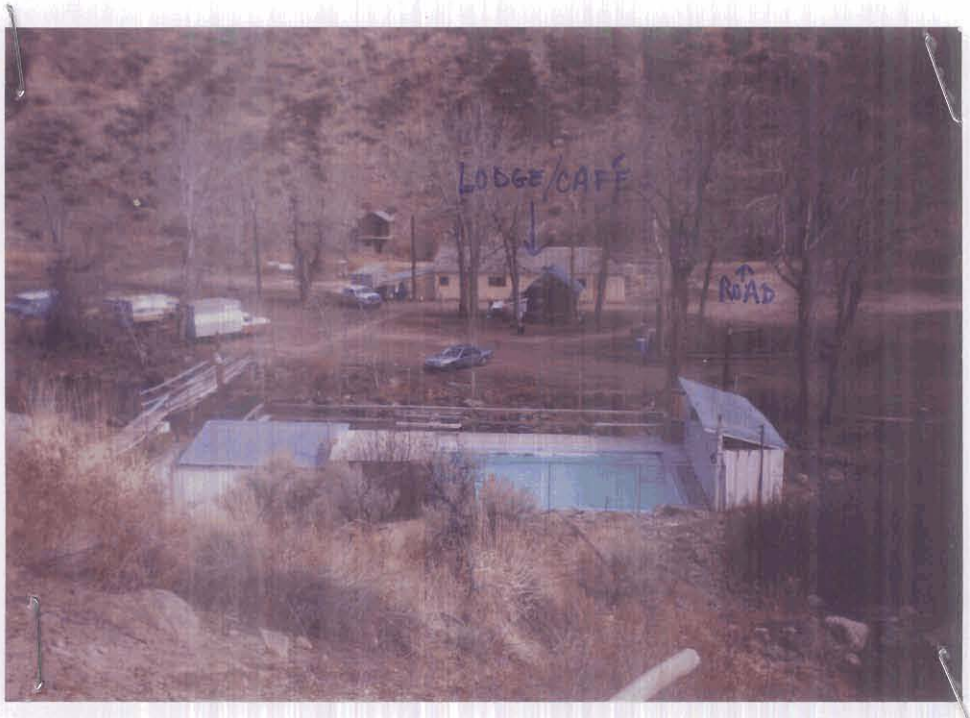
Pipe to left is diversion for A51-10220.

Two other pipes serve A51-04037

Attachment (P)

PHOTOGRAPHER AND DATE OF PHOTOS T MINICUCCI 03/03/1994

FILE NO. A51-04037 T16S R09E S.24



(3) Place of Use (Pool + Lodge). Picture is taken from the south spring looking north east toward the road. Trailer hook-ups are located to the right just out of the picture.

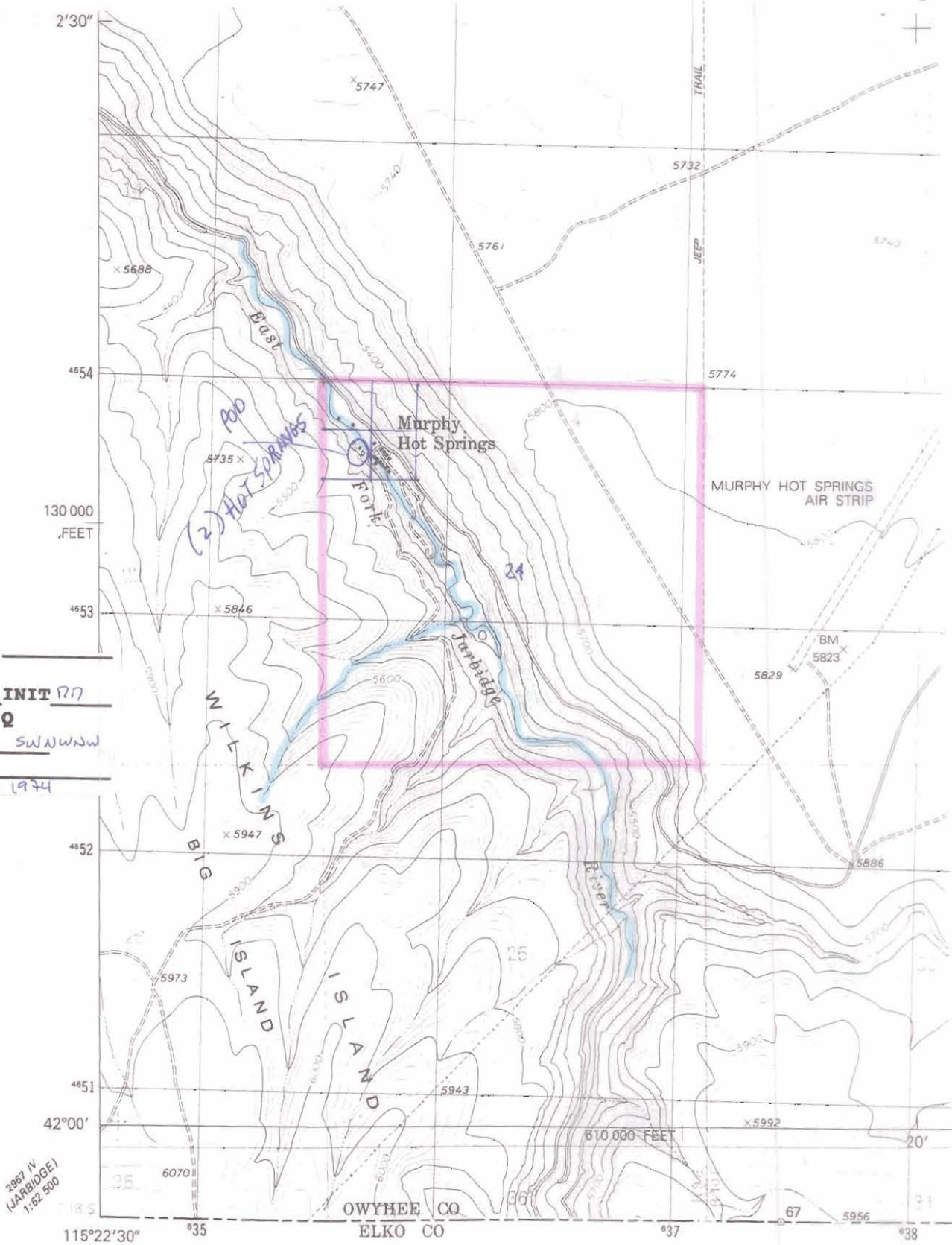
PHOTOGRAPHER AND DATE OF PHOTOS T Minicucci 03/03/1994

FILE NO. A51-04037 T16S R24E S.24 NWNW



Location of measurement. House is behind on the right and the pool is to the right of the house.

ATTACHMENT E



CLAIM A51-04037 INIT MM

T.	R.	S.	Q/Q
P/D 16S	09E	24	SWNWNW

SCALE 1:24 000

PHOTO ID. DD66 DATE 1974

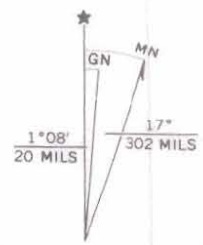
Mapped, edited, and published by the Geological Survey

Control by USGS and NOS/NOAA

Topography by photogrammetric methods from aerial photographs taken 1973. Field checked 1974
Map edited 1979

Projection and 10,000-foot grid ticks: Idaho coordinate system, west zone (transverse Mercator)
1000-meter Universal Transverse Mercator grid, zone 11
1927 North American Datum
To place on the predicted North American Datum 1983 move the projection lines 14 meters north and 75 meters east as shown by dashed corner ticks

Fine red dashed lines indicate selected fence and field lines



UTM GRID AND 1979 MAGNETIC NORTH DECLINATION AT CENTER OF SHEET

DD66

Form 219-N
7/66

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Water Right
(if applicable)

Open Channel Discharge Measurement Notes

A. GENERAL INFORMATION

1. Name of stream or ditch: Runoff ditch from Hot Springs
2. Location: just north of bath house
3. Person conducting measurement: Maria M. & Werner-N
4. Date and time of measurement: 3-3-94
5. Accompanied by:
6. Measuring device size and ID no.: Pygmy - Lindas 1:2 2
7. Spin test before measurement OK? after measurement OK?
8. Purpose of measurement: To determine flow from springs
   H2O Temp = 117°F

B. MEASUREMENT DATA

Angle coefficient	Dist. from initial point	Width	Depth	Observation depth	Revolutions	Time in seconds	VELOCITY: At point	VELOCITY: Mean in vertical	Adjusted for hor. angle or	Area	Dis.
	.3	0.0	0		REW @ 1249						
	.45	.15	.15		10	40	.25			0.02	.01
										~~.05~~	
	.7	.27	.2		6	40	.15			0.05	.01
	1.0	0.30	.2		22	40	.55			0.06	.03
	1.3	.25	.2		8	40	0.20			0.05	.01
	1.45	.25	.15		6	40	0.15			0.04	.01
	1.8	.20	0		REW @ 1305						
										~~.07~~	

A51-04037
Attachment F

ATTACHMENT G

State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

March 7, 1994

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

SYLVIA OLIVAS
MURPHY HOT SPRINGS
ROGERSON ID 83302

RE: Snake River Basin Adjudication Notice of Claim Nos. A51-04037 & A51-12760

Dear Ms. Olivas:

As we discussed during our visit with Mr. Olivas on March 3, this letter serves to explain the enclosed materials.

Four copies of the form "Application for Permit" are enclosed with this letter. These forms are used to apply for permits for 'new' uses of water, that is water uses which have not yet been developed. Also enclosed is a separate instruction sheet. Mr. Olivas talked about the cold water well, a possible river diversion, and possible development of the spring on the other side of the road.

It is extremely important that you file an application for the cold water well, since that source has already been developed. You should include all present uses of the water, as well as future development plans.

The form "New Property Owner Notice of Change of Water Right Ownership" will serve to notify the Department of Water Resources that the listed claims have new ownership. The instructions for this form are on the back. Please complete and return this form to my attention. Once this form and the supporting documentation have been received back in this office, I will be able to change the ownership on the claims.

We spoke with Mr. Olivas about amending the claim on the hot springs to accurately reflect the amount of water being used. Once the ownership has been changed on the claim, I will be able to send an amended claim to you for your review and signature.

Finally, I am sending your documents regarding the history of Murphy Hot Springs back to you. These documents are very helpful - please let me know if you have any information about their source.

Please feel free to contact me regarding this letter or the enclosed material.

Sincerely,

Maria Minicucci
Water Agent, Adjudication Bureau

MM/m
Encs: Instructions and Application for Permit forms (4)
Change of Ownership form
History of Murphy Hot Springs

ATTACHMENT H

MEMORANDUM

TO: File 51-07347

FROM: M. Minicucci

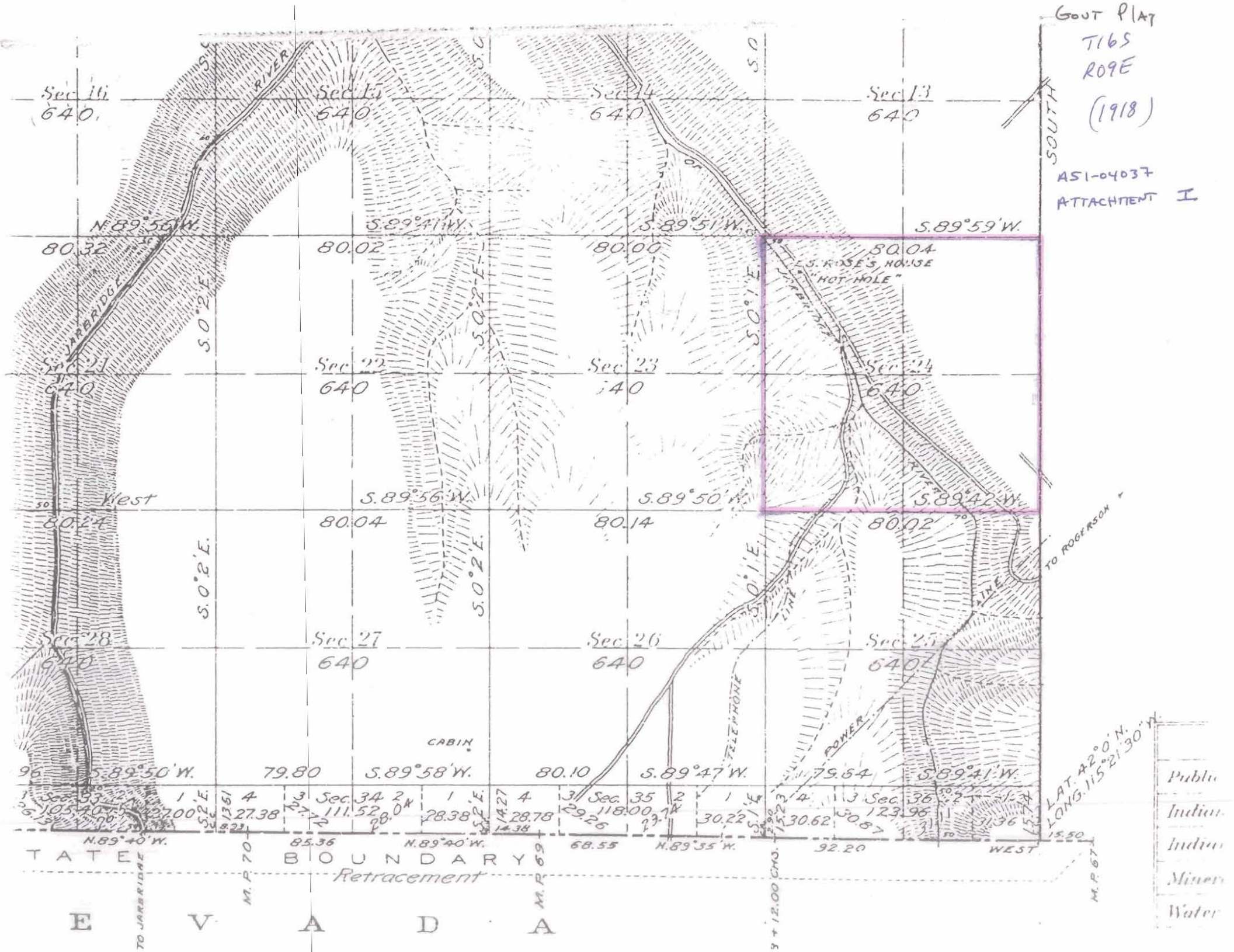
DATE: May 2, 1994

RE: SRBA Claim

The owner of permit 51-07347 has filed a claim in the SRBA on the same source as the permit. The the purposes listed in the claim (A51-04037) are Heating, Domestic, and Commercial.

The permit application mentions that some existing uses are to be abandoned in the development of this permit. Please advise regarding the licensure of this permit as it may affect the proposed recommendation of their SRBA claim.

06/19/1996: The permit (51-07347) was lapsed 08/10/1995. mm


GOUT PLAT
T16S
R09E
(1918)
ASI-04037
ATTACHMENT I
Sec 16
640
Sec 15
640
Sec 14
640
Sec 13
640
SOUTH
RIVER
JARBRIDGE
N.89°56'W.
S.89°47'W.
S.89°51'W.
S.89°59'W.
80.32
80.02
80.00
80.04
S. ROSE'S HOUSE
"HOT HOLE"
S.0°2'E.
S.0°2'E.
S.0°1'E.
Sec 21
640
Sec 22
640
Sec 23
640
Sec 24
640
West
S.89°56'W.
S.89°50'W.
S.89°42'W.
80.24
80.04
80.14
80.02
TO ROGERSON
S.0°2'E.
S.0°2'E.
S.0°1'E.
LINE
Sec 28
640
Sec 27
640
Sec 26
640
Sec 25
640
CABIN
TELEPHONE
POWER
96
S.89°50'W.
79.80
S.89°58'W.
80.10
S.89°47'W.
79.64
S.89°41'W.
LAT. 42°0' N.
LONG. 115°21'30" W.
Sec. 33
Sec. 34
Sec. 35
Sec. 36
105.40
111.52
118.00
123.96
N.89°40'W.
85.36
N.89°40'W.
68.55
N.89°35'W.
92.20
WEST
TATE BOUNDARY
Retracement
M.P. 70
M.P. 69
M.P. 67
TO JARBRIDGE
E V A D A
Public
Indian
Indian
Mines
Water

Claim No. 51-4037

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that Harry B. &/or Anita F. Showalter
(Name of Claimant)

Rogerson, ID 83302
(Mailing Address) (Zip Code)

Telephone No. 857-2626

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use) 7/1/1934

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
Murphy Hot Springs tributary to East Fork Jarbidge River

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

	(cfs, gpd, AFA)	(Domestic, Irrigation, Stock, etc.)		(Both dates inclusive) (Mo., Day)		(Mo., Day)
Quantity	.04 cfs	Use Heating	Period of Use From	1/1	To	12/31
Quantity	.02 cfs	Use Domestic	Period of Use From	1/1	To	12/31
Quantity		Use	Period of Use From		To	
Quantity		Use	Period of Use From		To	
Quantity		Use	Period of Use From		To	

(4) .06 cfs (cfs, gpd, AFA) TOTAL QUANTITY USED

(5) A) Point of diversion: (Location of point where water is diverted from its source)
NW ¼ NW¼, Sec. 24 Twp 16S Rge 9E B.M. County of Owyhee
Additional points of diversion:

B) Describe means of diversion of water (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Gravity fed to house, Lodge, hot baths and swimming pool.

(6) A) Describe location of use by listing number of irrigated acres within each 40 acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

T	R	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW	SE¼	NE¼	NW¼	SW¼	SE¼	
16S	9E	24						X											

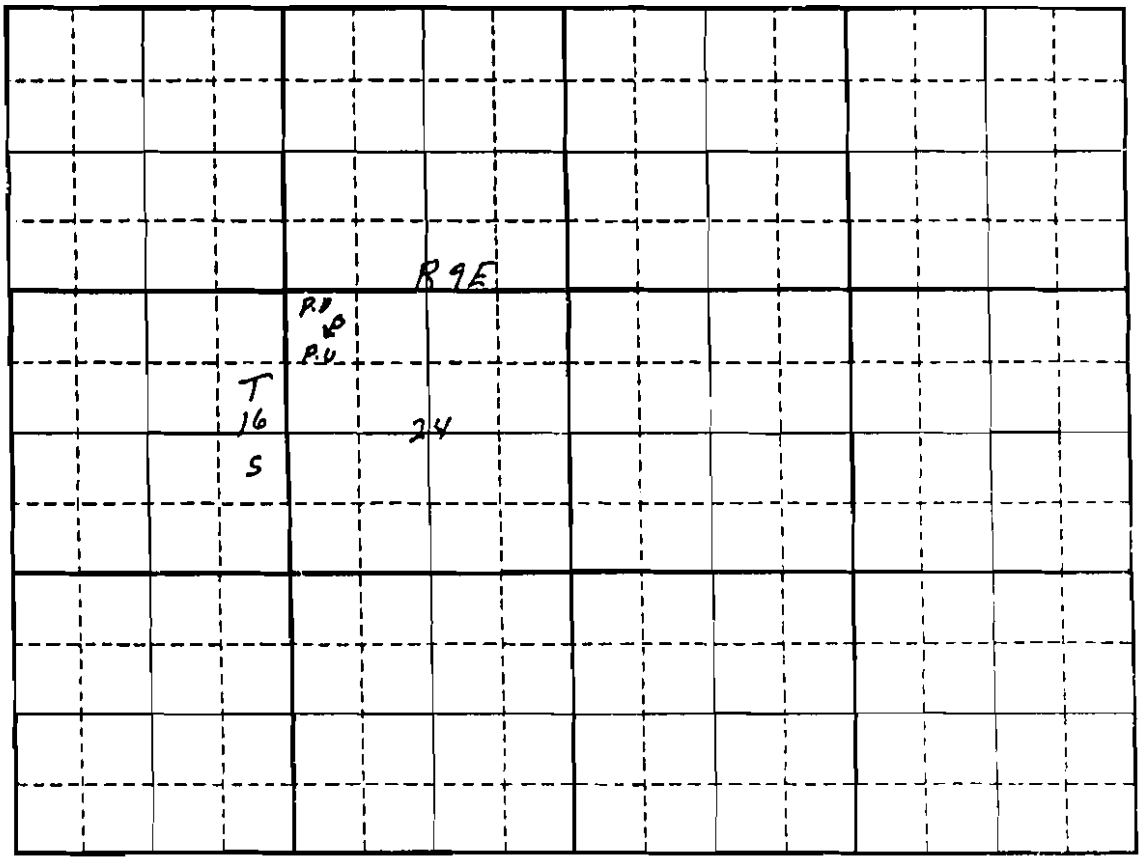
No. of acres _____

B) If water is used for other purposes than irrigation, describe fully the use made of the water, including the amount used for each purpose. water
Water is cooled for drinking - temp. of water is 129 degrees - Hot is used to heat one domestic, Lodge, hot baths, swimming pool.

NOTE Include here the type and number of stock watered.

(7) If you are claiming water as a member of an irrigation district

(8) Remarks _____



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40 acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
) ss.
County of Ada)

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Harry B. Skowalter
(Claimant)

Sworn to before me this 30 day of March, 1982.

Harry M. Hinchey
Notary Public
Residing at Boise

My commission expires Life

FOR DEPARTMENT USE ONLY

Received by JKN Date 3/30/82 Exception filed by Fowarded to claimant by Date
Prelim. check by L Date 4/13/82
31. $20.00 fee received by J. P. Date 3/30/82 # 22633
Published in Owyhee Nugget
Dates 4/22 & 4/29/82

State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

[ ]

MATTHEW OLIVAS
DESERT HOT SPRINGS
ROGERSON ID 83302

April 8, 1997

[ ]

RE: Notices of Claim to a Water Right Nos. A51-04037 and A51-12760

Dear Mr. Olivas:

Enclosed are copies of the above referenced claims which reflect the change in ownership of the lands and appurtenant water rights to you.

The Department will contact you in the future concerning any requirements that may be needed in order to process the claims for final court decree.

If you have any questions in regard to your water rights, please do not hesitate to contact this office.

Sincerely,

Maria Minicucci

ADJUDICATION STAFF
WESTERN REGION OFFICE

MM:m

Enc.

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

file in A51-4037
other letters in complaint file

December 18, 1996

JANET OCROWLEY
MURPHY HOT SPRINGS BOX #2
ROGERSON ID 83302

RE: Interference with Delivery of Water under Claim No. A51-10220

Dear Ms. OCrowley:

I have received your letters dated 12/06/96 and 12/13/96, in which you describe actions taken by Mr. Olivas to interrupt your domestic hot water supply. I have also reviewed the report filed by Owyhee County Deputy Jim Bish, after his visit to Murphy Hot Springs. In this response, I intend to clarify the position and authority of the Idaho Department of Water Resources (IDWR) on this matter, and to advise you of the actions you may expect from this office.

Presently, there have been three separate issues identified at Murphy Hot Springs. They are:

- the interruption of domestic hot water at the OCrowley residence;
- allegations of appropriations by Mr. Olivas for a commercial bottled water facility without a water right permit; and,
- allegations of appropriations by Mr. Olivas for irrigation without a water right permit.

The department must consider each of these issues separately. On a separate page, I have provided a brief summary of the water rights or water right applications involved. Please refer to this summary during the following discussion.

IDWR will take the following actions with regard to the above issues:

The interference in delivery of your domestic hot water supply is a civil matter over which IDWR has no jurisdiction. IDWR's regulatory power is limited to those situations where an unauthorized diversion has been documented, or where there exists an enforceable delivery order. IDWR has no authority to regulate competing private diversions from a shared pipeline, even if one water user is in a controlling position. If a mutually agreeable delivery arrangement cannot be made between two parties, settlement must be sought through the local courts. In this case, the Olivas right A51-04037 is the senior right in the shared pipeline. In times of water shortage, the senior right must be satisfied before your right A51-10220 is diverted. Diversions under the new

commercial application 51-07362, if approved, would be junior to your right.

If Mr. Olivas is making a commercial diversion to a bottling plant in advance of the approval of his water right application no. 51-07362, IDWR could issue a cease and desist order against that illegal diversion. We could not stop the historical diversion under A51-04037. At this point, an illegal diversion is being defined by IDWR as any bottled water product being sold off the premises or not in specific connection with the on-site business. However, IDWR cannot and will not take action unless it is clearly evidenced that Mr. Olivas is actually making an illegal diversion. Presently, there is not sufficient evidence that Mr. Olivas is operating a commercial bottling plant. The Southwest District Health Department (SWDH) also has regulatory authority over this type of facility and has taken no action for the same reason. SWDH and IDWR would work together to issue simultaneous violations on this alleged facility if enough evidence were available.

During a field inspection in 1994, an IDWR staff member witnessed the irrigation of two small areas on the Olivas property. In one area, flows were diverted from a cold water spring source, and in the other, flows were diverted from the hot pool overflow. No irrigation is authorized under the existing Olivas right. Applications have been filed for both these uses. As explained above, IDWR could issue a cease and desist order to stop irrigation which is occurring without a valid water right permit. Because the 1996 irrigation season is now over, we will not investigate this particular matter at this time. However, if irrigation continues in the 1997 irrigation season, and the water right permits have not been awarded, Mr. Olivas would be subject to cease and desist action by IDWR.

Short of legal action, one method available to you to influence and protect the distribution of your water rights is to become active in the processing of the Olivas applications for permit. During advertising of all new applications, protests may be received from parties who feel they might be injured by the approval of the new right. Protestants have the opportunity, through department facilitated conferences, to contribute to the decision-making process. In some circumstances, new permits may be issued with specific conditions of use which are designed to protect existing rights, and which might then be administered according to Idaho law.

The Olivas rights have not yet been advertised. If you would like to protest, you may do so now or during the advertising period. However, once advertising occurs, there will be a deadline for the receipt of protests. I have enclosed protest forms. I have already forwarded copies of the applications.

If you have additional questions, please feel free to contact me again.

Sincerely,

Cindy Hodges

Cindy Hodges
Sr. Water Resource Agent

Enclosures

cc: Randy Grove, SWDH
Jim Bish, Owyhee County Sheriff's office

Water rights of record from Murphy Hot Springs:

Number	Owner	Priority	Use	Amount
A51-04037	Olivas	1934	Domestic (1 home) Commercial (lodge) Heat (pools)	0.06 cfs (27 gpm)
A51-10220	OCrowley	1971	Domestic	0.01 cfs (5 gpm)
51-07362 (application*)	Olivas	1996	Commercial (bottling plant)	0.04 cfs (18 gpm)

Other water rights of record:

Number	Owner	Priority	Use	Amount
51-07138 (waste water)	OCrowley	1979	Irrigation (1 acre) Heat (pools)	0.1 cfs (45 gpm)
51-07363 (application* - waste water)	Olivas	1996	Irrigation (½ acre)	0.04 cfs (18 gpm)
51-07361 (application* - cold spring)	Olivas	1996	Irrigation (3 acre)	0.06 cfs (27 gpm)

* Mr. Olivas filed the above three applications for permit upon request from this office. Presently, processing has been temporarily delayed, and the applications have not been approved for use.

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

November 18, 1996

JANET OCROWLEY
MURPHY HOT SPRINGS BOX #2
ROGERSON ID 83302

Ms. Ocrowley's letter in complaint file.

RE: Claim to Water Right A51-04037, Sylvia Olivas

Dear Ms. OCrowley:

Per your request, enclosed is a proof copy of Claim No. A51-04037, in the name of Sylvia Olivas.

As you also noted in your letter, Olivas has made two applications for permit for additional uses from Murphy Hot Springs. There is a third application for permit from a cold water spring. Because these filings may also be of interest to you, I have included copies of the applications. Please note that these applications have not yet been processed by this office and do not represent approved uses.

The first step in application processing is public advertising. At this time, I do not know when advertising will occur for the Olivas applications. Either before or during advertising, you will have the opportunity to formally protest the approval of the applications. Protest filing forms are included.

You may not use protest forms to contest Claim No. A51-04037, as it is a part of the Snake River Basin Adjudication (SRBA). Once Claim No. A51-04037 has been recommended to the Court, you may file an objection. If you have specific questions about A51-04037, the SRBA, or the objection process, please contact Maria Minicucci of this office.

If you have additional questions or if I may be of further assistance, please feel free to contact me again.

Sincerely,

Cindy Hodges

Cindy Hodges
Sr. Water Resource Agent

Enclosures

State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

[ ]

ANITA F SCHOWALTER
HARRY B SCHOWALTER
MURPHY HOT SPRINGS
ROGERSON ID 83302

July 8, 1996

[ ]

RE: Notice of Claim(s) to a Water Right No(s):

A51-04037, A51-12760

Dear Claimant:

Enclosed is a copy of the "Notice of Change of Water Right Ownership" form which has been submitted to this office. This form identifies you as the former owner of the above-referenced water right(s).

This letter is to notify you that the ownership of the water right(s) has been changed to the name(s) identified as the New Owner/Claimant. This reflects the change in ownership of the land and appurtenant water right(s) to the new owner.

If you have any questions regarding this matter, please contact this office.

Sincerely,

Adjudication Staff
Western Region Office

MM:m
Enc.

State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 8, 1996

SYLVIA OLIVAS
MATTHEW OLIVAS
DESERT HOT SPRINGS
ROGERSON ID 83302

RE: Notices of Claim to a Water Right Nos. A51-04037 & A51-12760

Dear Ms. and Mr. Olivas:

Enclosed are copies of the above-referenced claims which reflect the change in ownership to Ms. Olivas. Also enclosed is a copy of the Change of Ownership form which was submitted to this office. These documents are for your records and should not be returned to this office.

Copies of notes taken regarding some communication between our office in Twin Falls and Mr. Olivas were also submitted to this office. These documents are also for your records and are returned to you with this letter.

Mr. Olivas contacted this office this morning to request Application for Permit forms. These forms are used to apply for a permit to appropriate water for new development. Enclosed are several applications as well as instructions with a fee schedule. The appropriate fee must be returned with the application.

Mr. Steve Lester of this office has written to you about a complaint received by this office regarding your water uses. Please refer all questions and comments about this letter to Mr. Lester at the telephone number at the top of this letter.

Finally, enclosed is a photograph that was taken during the field exam on March 3, 1994. This young person assisted us by standing by the well casing to give scale to the picture. This picture is an extra copy and need not be returned.

If you have any questions, please do not hesitate to contact me at this office.

Sincerely,

Maria Minicucci
Sr. Water Agent, Adjudication Bureau

MM:m
Enc: A51-04037, A51-12760, App. for permit (3), C of O form copy, photo, Conv. Memo (F. Hitchcock)

ADJUDICATION MEMORANDUM

CLAIM NO.: A51-04037, A51-12760 **SUBJECT:** Office Visit @ Southern

EMPLOYEE: TMinicucci **DATE:** 07/08/1996

TR. Olivas included a copy of the communication documentation from Frank Hitchcock of Southern Region. I called TR. Hitchcock to bring him up to date (SRBA claims, S. Lester's letter), and to ask him refer all future inquiries to TR. Lester or to me. TR. Hitchcock indicated that he would make a note in his files to do so, and would notify the receptionists/secretaries to do the same.

RECEIVED

JUN 2 8 1996

WATER RESOURCES
WESTERN REGION

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. UNKNOWN

This form is to be used to document public record information requests regarding any SRBA claim or claims. The form may also be used to document IDWR communications requesting information regarding any SRBA claim or claims when the request is not made in writing or the claim verification report is not readily available to document the request. This form is to be filed in all relevant claim files or a central office file.

IDWR Employee/Agent Frank Hitchcock

◇◇

June 25, 1996 1:15pm

NAME:
MATTHEW OLIVAS

RE:
MURPHY HOT SPRINGS-1409

WALK-IN AT 1:00 PM-CW-CONVERSAATION MEMO FORM USED TO RECORD QUITE A FEW QUESTIONS/COMMENTS RE:/ COMPLAINTS MADE TO THIS OFFICE ACCORDING TO HIM AND HOW TO IDENTIFY FUTURE USAGE OF BOTTLING AT THE MURPHY HOT SPRINGS RESORT.

SINCE THE SYSTEM WAS DOWN I TOOK CAREFUL NOTES AND EXPLAINED THAT WITHOUT ANY DATA FROM HIM IN THE FORM OF PAPERWORK REGARDING THE RIGHTS ON THE PROPERTY I COULDN'T RESPOND OR GIVE HIM ANY DECISION ON WHAT HE WAS ALLEGING.

GAVE HIM A COPY OF THE NOTES, SIGNED THEM AND PUT THE TIME THAT HE GOT THEM FROM ME ON THE MEMO.

**I PROMISED TO: GIVE A COPY TO TARA WHO WOULD NOTIFY ME WHEN THE PAPERS COME IN THAT HE SAID HE HAD MAILED YESTERDAY AFTER RECIEVING A LETTER (?). ALSO, THAT WE WOULD CONTACT HIM BY PHONE AND LET HIM KNOW WHAT THE RESPONSE(S) WOULD BE TO HIS QUESTION(S).
REVIEWED WITH TARA-CC TO HOLD FILE ON MY WORK TABLE.**

COPY

CONVERSATION MEMO

RECEIVED

COPY

JUN 28 1996

WATER RESOURCES
WESTERN REGION

FIL 7

AGENT: ZH

DATE: 06-25-96

RE: MURRAY HOT SPRGS.

NAME OF PARTY: MATTHEW OLIVAS 857-2233 home

Stewardship (previous owner) ownership - W. Dud sent.

NO - transfer of this appl

2 complaints diverting illegally

(1) put their waste water in the garden hose into sewer - thru THOMPSON's property into E. Fork Trib

(2) bottling facility (septic system

Ford grade pipe - need inf that has been measured by this dept and OK to use for historical usage

was already in there w/ new pipes -

6 CFS - (1) call him when gasoline comes in

(2) bottling - visit to lodge - PAT

CONVERSATION MEMORANDUM

DATE 6/21/96

FILE

NAME OF PARTY Matthew & Sylvia Olivas ← ŌLĪVAS 557-2233

EMPLOYEE Steve Lorton

RE: Current Mailing Address

An employee answered the phone. Said current mailing address is

M. & S. Olivas
Desert Hot Springs
Rogerson ID 83302

State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

June 20, 1996

MATTHEW & SYLVIA OLIVAS
DESERT HOT SPRINGS
ROGERSON ID 83302

RE: COMPLAINTS ABOUT WATER USES

Dear Mr. and Mrs. Olivas:

This office has received complaints regarding water uses on your property in Murphy Hot Springs. Staff from this office have not made a site visit to verify the accuracy of these complaints, and this letter is not suggesting that the information provided to this office is either correct or incorrect.

The allegations, in conjunction with information already found in department records, suggest that two illegal diversions of public water are occurring for water uses on your property.

One, the water piped from the hot spring(s) to a commercial bottling venture is not sanctioned by any valid water right or adjudication claim on record with this agency. If this use is occurring, a new water right permit must be obtained. An alternative to a new permit can be arranged by changing an existing valid right in which an historical use would be decreased to allow the new use to function.

Two, it has been alleged that you are diverting water from the waste water ditch that is supplied via overflow from the hot spring(s) system, and that your waste water diversion is being used to irrigate a garden. This activity is not authorized under any valid water right or adjudication claim on record with this agency. As in the first example, two options can be considered to sanction such a diversion.

Use of either of these diversions, if occurring, must cease until valid water right protection is established pursuant to I.C. § 42-351 and 42-352. Continuing use of either diversion for a beneficial use not protected by a water right can result in a notice of violation, which can include penalties of up to $100 per day per illegal diversion. This office will respond to further complaints with a site visit to establish a more complete factual record before taking any other steps in this matter.

The only recorded rights to use water on your property are adjudication claim nos. A51-04037 for Murphy Hot Springs and A51-12760 for a cold water well. Neither of these claims include the uses identified in this letter. Also, the claimants of record for both claims are Anita and Harry Showalter. Your property interests would be well served by recording a change in ownership for these claims as required by Idaho law in the Snake River Basin Adjudication process.

Please refer to the enclosed form and printouts to record a change in ownership. If you have any questions or need any help in this or other water right or adjudication matters, please contact me at your earliest convenience. Your cooperation in resolving these issues is greatly appreciated.

I am sending copies of this letter to appropriate parties who have been involved in these issues in the Murphy Hot Springs area.

Sincerely,

Steve Lester
Deputy Regional Manager

c: A. & H. Showalter
M. Thompson
Owyhee County Sheriff
IDWR SRBA Staff

ANITA &/OR HARRY SHOWALTER
MURPHY HOT SPRINGS
ROGERSON ID 83302

MARGARET THOMPSON
MURPHY HOT SPRINGS
ROGERSON ID 83302

RANDY GROVE
SOUTHWEST DIST HEALTH DEPT
920 MAIN
CALDWELL ID 83605

TIM NETTLETON
OWYHEE COUNTY SHERIFF'S OFFICE
MURPHY ID 83650

CONVERSATION MEMORANDUM

DATE 6/20/91

FILE

NAME OF PARTY Owyhee Co. Assessor's Office 495-2817

EMPLOYEE Steve Leth

RE: Ownership @ Commercial Site —

Records @ County show L. 3-7 Murphy Hot Sp. Subd. owned by Shewalters

Also show 10.35 Acres with house, restaurant, & cabins & misc. goods) owned by Sylvia Olivas (nothing in name of Matthew)
1941 Priest Pl.
Boise 83706

no phone # in phonebook
but 383-9395 per directory assistance
↓
called
↓
no longer in service,
letter is only option.

follow up - letter - S. Olivas
cc - Shewalter
- Matthew Olivas @ Shewalter
- M. Thompson
- Owyhee Co. Sheriff's office (?)

State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

June 19, 1996

MICHAEL AND SYLVIA OLIVAS
MURPHY HOT SPRINGS
ROGERSON ID 83302

RE: Notices of Claim to a Water Right No. A51-04037 & A51-12760

Dear Mr. and Mrs. Olivas:

This department sent a letter to you on March 7, 1994, requesting that you complete the documentation to update the ownership records for the above-referenced claims. We have not received a response to our request.

This letter is a second request for documentation supporting your ownership of the property and the appurtenant water rights. Enclosed are reports which summarize the claims which have been filed in the Snake River Basin Adjudication (SRBA) for those water rights. New owners of claims are required by law to notify the department of the change in ownership. Notices and correspondence, legal and otherwise, are sent to the current owners listed in the department's records.

Please complete the enclosed "Change of Ownership" form by adding your signature(s), and return the form to this office with a copy of the deed which shows your ownership of the property.

If you have any questions, please do not hesitate to contact this office. You may call the number at the top of this letter, or call me directly at 334-2266, extension 112 (you must have a push button telephone to use my direct line).

Sincerely,

Maria Minicucci
Sr. Water Agent, Adjudication Bureau

MM:m

Enc: Profile reports, A51-04037, A51-12760; Change of Ownership form