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DEPARTMENT OF
WATER RESOURCES

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

In Re SRBA

Case No. 39576

A. Subcase 75-10547
(Insert water right number)

**DOMESTIC AND
STOCK WATER RIGHT
OBJECTION**

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name:

Stuart & Mitzi Felton

Address:

P.O. BOX 8

NORTH FORK, ID. 83466

Daytime Phone: 208-865-2243

Name & Address of Attorney, if any:

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

Name:

PATRICK MURPHY

Address:

14 BLAZETREE TRAIL

NORTH FORK, ID. 83466

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 Flow Description**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
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): PLEASE SEE ATTACHED
DOCUMENT.



VERIFICATION (Must be Completed)

State of IDAHO)
)ss.

County of LEWIS & CLARK

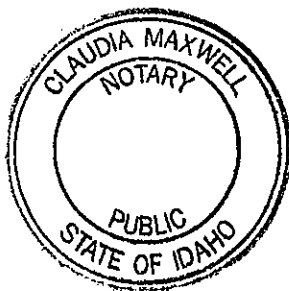
STUART L. FELTON, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

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.

Stuart L. Felton
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: October 13, 2010



Claudia Maxwell
Notary Public for Idaho
Residing at: North Fork Sp 83466
My Commission Expires: 3/7/12

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.



CERTIFICATE OF MAILING

I certify that on 10/14, ~~2009~~ ²⁰¹⁰, 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:

Address:

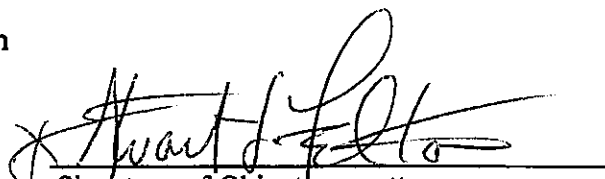
PATRICK MURPHY
14 BIAZTREE TRAIL
NORTH FORK, ID. 83466

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

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

October 7, 2010

Statement in support of Objection to water right claim #75-10547

Stuart L. Felton, The Objector, has a historic water right (75-10603) to the water of an unnamed spring source with a priority date of May 1, 1887. The Objector does protest the use of water from the unnamed spring and to Mr. Murphy's claim for water from this source. I suggest that the IDWR force the claimant cease & desist the use of water from an unnamed spring, in which the claimant has no legal water right.

The Location is within Lemhi County, at Township 25 N; Range 21 E; Section 15; NESW; along the North Fork of the Salmon River and at the head of a free flowing unnamed spring (historically referred to as the Spring Ditch). The head of the spring rising begins its flow on the land of the Levi Jones Homestead and since subdivided.

On **February 26, 2010**, at a trial being heard by Special Master Dolan, Mr. Murphy testified that he had a domestic well. Murphy further testified that the well was twelve (12) feet in depth and located at the head of the unnamed spring. Murphy said that the "well" was piped uphill to his house for domestic use.

Mr. Murphy, in fact, is making use of 'surface' water obtained directly from the unnamed spring. The water from the spring is being diverted into a shallow man made diversion box with a submersible pump.

Mr. Murphy has not obtained a well drilling permit and has not drilled a well. By definition of the Department of Water Resources, to qualify as 'ground' water use, a well must be at the depth of at least eighteen (18) feet.

On **February 26, 2010**, at the same trial being heard by Special Master Dolan, Ms. Adele Crawford testified that she and Mr. Hanson built the man made diversion box, at the head of the same "unnamed spring". She stated that the box is only deep enough to hold water for a submersible pump. Ms. Crawford is the individual who built the house now owned by Patrick Murphy and lived on the same land for over twenty (20) years 1968-1988. Adele Crawford testified that a well was never drilled, at the diversion box, while she owned the land.

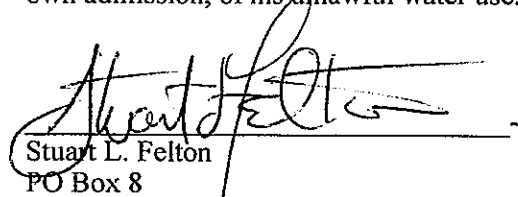
On **February 26, 2010**, Mr. Daryl Hull testified before Special Master Dolan, that he would often flood out the diversion box that Mr. Murphy calls his well.

On **February 26, 2010**, Ms. Monica Van Bussum and Mr. Garrick Baxter appeared at trial for the IDWR. They were both present in the court room during the testimony of Mr. Murphy and Mr. Hull and Ms. Crawford.

Ms. Van Bussum testified that she would be gravely concerned if a man made diversion box had been built, absent a permit. Although, Ms. Van Bussum made a site visit to the area of the spring, she admits did not visit the head of the unnamed spring where Mr. Murphy claims a 'ground' water right. I feel that the Dept. of Water Resources has a legal obligation to request Mr. Murphy discontinue his illegal use of water, from a source in which he does not have a water right. Since the trial date of February 26, 2010, there has been no action taken to correct the allegations presented in the water right claim 75-10547.

I, Stuart L. Felton, have a historic water right #75-10603 to the spring water source with a priority date of May 1, 1887. Mr. Patrick Murphy does not have any right to divert surface water from the spring source. I

object to his use of water from the "unnamed spring", and to Mr. Murphy's claim for water from this source. I feel justified in objecting at this time after just learning in February of 2010, by Mr. Murphy's own admission, of his unlawful water use.



Stuart L. Felton
PO Box 8
North Fork, Idaho 83466
208 865-2243

Cc: IDWR in Boise
Chief, Natural Resources Division
US Dept. of Justice, Environment & Natural Resource Division