

DEC 15 2010

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 37-11828
	)	
Case No. 39576	)	
	)	STANDARD FORM 2
	)	RESPONSE TO OBJECTION
_____	)	

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

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: Flying Heart Ranch II Subdivision Owners Assn:

Address: P.O. Box 1800

Hailey, ID 83333

Daytime Phone: 578-0520

Name & Address of Attorney, if any:

Fritz X. Haemmerle

HAEMMERLE & HAEMMERLE, P.L.L.C.

P.O. Box 1800

Hailey, ID 83333

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

Name: Tom O'Gara et al.
c/o Concerned Water Users

Big Wood Canal Co.
112 South Apple St.
Shoshone, ID 83352

Address: P.O. Box 1200
Bellevue, ID 83313

Filed by: Albert P. Barker
Barker, Rosholt & Simpson, LLP
P.O. Box 2139
Boise, ID 83701

Craig Hobdey
Hobdey & Hobdey
P.O. Box 176
Gooding, ID 83330

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

1. ☐ Name and Address

2. ☐ Source

3. X Quantity

4. X Priority Date

5. ☐ Point(s) of Diversion

6. ☐ Instream Flow Description

7. X Purpose(s) of Use

8. X Period of Year

9. X Place of Use

10. X Recommendation

☐ This water right should not exist.

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

General: If this water right does not exist, then it should be recommended under 37-7767, under the licensed elements of the right, as set forth in Exhibit A.

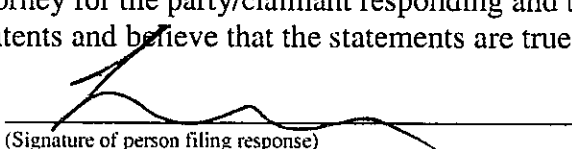
E. **VERIFICATION** (Must be Completed)

State of Idaho)
)ss.

County of Blaine)

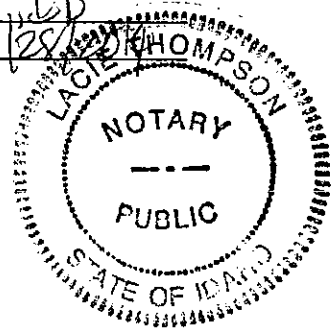
Fritz X. Haemmerle, duly sworn, upon oath, deposes and says:

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


(Signature of person filing response)

Fritz X. Haemmerle
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: December 13th 2010
Laur Thompson
Notary Public for Idaho
Residing at: Bellevue, ID
My Commission Expires: 1/28/2014



CERTIFICATE OF MAILING

I certify that on December 13, 2010, 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:

Name: Flying Heart Ranch II Subdivision Owners Assn:

Address: P.O. Box 1800

Hailey, ID 83333

Daytime Phone: 578-0520

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

Albert P. Barker
Barker, Rosholt & Simpson, LLP
P.O. Box 2139
Boise, ID 83701

Craig Hobdey
Hobdey & Hobdey
P.O. Box 176
Gooding, ID 83330

4. Copies to:

IDWR Document Depository United States Department of Justice
PO Box 83720 Environment & Natural Resource Division
Boise, ID 83720-0098 550 West Fort Street, MSC 033

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449
Boise, ID 83724



Your signature or signature of attorney
mailing on your behalf

EXHIBIT A

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 37-07767

Priority: February 27, 1979

Maximum Diversion Rate:

10.00 CFS

This is to certify, that FLYING HEART RANCH II

C/O BRIAN BALLARD

PO BOX 297

KETCHUM ID 83340

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated February 27, 1979; and has submitted Proof of Beneficial Use on March 22, 1984. An examination indicates that the works have a diversion capacity of 10.000 cfs of water from:

SPRINGS

tributary to BIG WOOD RIVER

source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
RECREATION	01/01 to 12/31	10.00 CFS	

LOCATION OF POINT(S) OF DIVERSION:

SWSE , Sec. 32, Township 03N, Range 18E
BLAINE County

PLACE OF USE: RECREATION

TWN RGE SEC

02N 18E 5 Lot 1(NENE)

Lot 2(NWNE)

SENE

CONDITIONS/REMARKS:

1. This water right is appurtenant to the described place of use.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
4. Use of water under this water right will be regulated by the watermaster of State Water District No. 37.
5. Use of water under this right shall be non-consumptive.
6. The Director retains jurisdiction over this license to determine whether the use of water is consumptive, and to require measuring devices or testing by the water right holder to determine consumption. If water is being consumed, the Director also retains jurisdiction to require mitigation, or to regulate the right in its priority with other water rights of the Big Wood River.
7. Water discharged into a natural channel must satisfy Idaho water quality standards.
8. Recreation use is for fishing.

RECORDED

APR 12 1993

PAGE 2

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

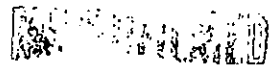
WATER RIGHT NO. 37-07767

CONDITIONS/REMARKS:

9. Facility Volume = 820,000 cubic feet.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code.
Witness the seal and signature of the Director, affixed at Boise, this 30
day of MARCH, 1992.

Acting for *R. Keith Higginson*, Director



APR 12 1993