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DEC 15 2010

DEPARTMENT OF
WATER RESOURCES

FRITZ X. HAEMMERLE
 HAEMMERLE & HAEMMERLE, P.L.L.C.
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 P.O. Box 1800
 Hailey, ID 83333
 tel: (208) 578-0520
 FAX: (208) 578-0564
 ISB # 3862

Attorney for the Claimants

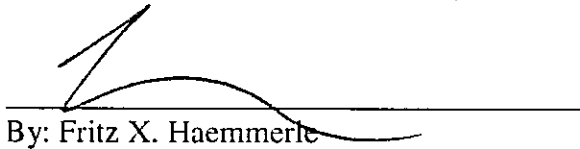
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	Subcase No. 37-11828 and 37-7767
	)	
Case No. 39576	)	MOTION TO FILE LATE OBJECTION
	)	
	)	
	)	
	)	
	)	

COMES NOW the Claimant, Flying Heart Ranch II Subdivision Owners Assn.,
 by and through Fritz X. Haemmerle of Haemmerle & Haemmerle, P.L.L.C., and hereby
 requests permission to file a Late Objection, as set forth in the prepared Standard Form
 Objection attached hereto as Exhibit A (37-11828) and Exhibit B (37-7767).

DATED this 15 day of December, 2010.

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


 By: Fritz X. Haemmerle

CERTIFICATE OF MAILING

I certify that on December 18, 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:

Flying Heart Ranch II Subdivision Owners Assn:
P.O. Box 1800
Hailey, ID 83333

3. Copies to:

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

Tom O'Gara et al.
Concerned water Users
c/o Albert P. Barker
Barker, Rosholt & Simpson, LLP
P.O. Box 2139
Boise, ID 83701

Big Wood Canal Co.
c/o Craig Hobdey
Hobdey & Hobdey
P.O. Box 176
Gooding, ID 83330

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

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


Fritz X. Haemmerle

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 SRBA	)	A. 37-11828
	)	(Insert water right number)
Case No. 39576	)	
_____	)	STANDARD FORM 1 OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

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
P.O. Box 1800
Hailey, ID 83333

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

Name: (see above)
Address:

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address:**
2. ☒ **Source:**
3. ☐ **Quantity:** Should reflect quality as claimed, 10 cfs., in addition to 11.2 AFA
4. ☐ **Priority Date**
5. ☐ **Point of Diversion:** Should reflect points of diversion as claimed:
Big Wood River: NENE, Sec. 5, TN 2N, R. 18E, BLAINE COUNTY
NWNE, Sec. 5, TN 2N, R. 18E, BLAINE COUNTY
SWSE, Sec. 5, TN 3N, R. 18E, BLAINE COUNTY
6. ☐ **Instream Flow Beginning and Ending Point**
7. ☐ **Purpose(s) of Use**
8. ☐ **Period of Year**
9. ☐ **Place of Use**
10. ☐ 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 OBJECTIONS(S): Recommendation does not reflect actual and historical beneficial use.

F.

VERIFICATION (must be completed)

State of Idaho)
)ss.
County of Blaine)

Fritz X. Haemmerle, 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.

(Signature of person filing objection)



(Attorney signing in representative capacity)

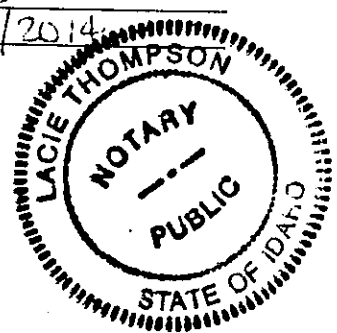
Subscribed and sworn to before me on: December 13, 2010

Lacie 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 objection, including all attachments, to the following persons:

1. Original to:

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P.O. Box 176
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United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

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



Signature of objector or attorney
mailing on Objector's 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.

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APR 12 1993

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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 31st
day of MARCH, 1993.

Acting for R. Keith Higginson, Director

APR 12 1993

EXHIBIT B

**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. 37-7767
	)	(Insert water right number)
Case No. 39576	)	
_____	)	STANDARD FORM 1
		OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

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
P.O. Box 1800
Hailey, ID 83333

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

Name: (see above)
Address:

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address:**

2. ☒ **Source:** Should be as claimed or licensed.

3. ☒ **Quantity:** Should be as claimed or licensed.

4. ☒ **Priority Date:** Should be as claimed or licensed.

5. ☒ **Point of Diversion:** Should be as claimed or licensed.

6. ☐ **Instream Flow Beginning and Ending Point**

7. ☒ **Purpose(s) of Use:** Should be as claimed or licensed.

8. ☒ **Period of Year:** Should be as claimed or licensed.

9. ☒ **Place of Use:** Should be as claimed or licensed.

10. ☐ 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 OBJECTIONS(S): Recommendation does not reflect actual and historical beneficial use. Also, if 37-11828 is not recommended, then this right should be recommended as licensed.

F. VERIFICATION (must be completed)

State of Idaho)
) ss.
County of Blaine)

Fritz X. Haemmerle, 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. §§ 42-1-401A(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.

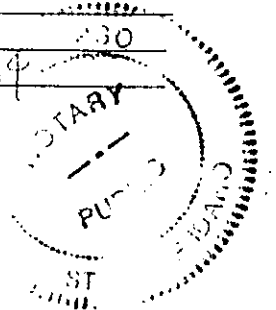
(Signature of person filing objection)



(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

December 13, 2010
Fritz X. Haemmerle
Notary Public for Utah
Residing at: Bethesda, MD
My Commission Expires: 1/28/2014



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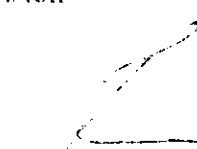
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Chief, Natural Resources Division
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PO Box 44449
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Signature of objector or attorney
mailing on Objector's behalf