

RECEIVED  
MAY 04 2011  
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 37-00577B  
(Insert water right number)

Case No. 39576 )

**STANDARD FORM 2  
RESPONSE TO OBJECTION**

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

**B. NAME AND ADDRESS OF PERSON RESPONDING**

Name: United States of America acting through the Department of Interior,  
Bureau of Land Management, Idaho State Office

Address: 1387 South Vinnell Way  
Boise, Idaho 83709-1657

Daytime Phone: (208) 373-3831 (Fred Price)

Name & Address of Attorney, if any:

David L. Negri (208) 334-1936 phone, (208) 334-1414 fax  
United States Department of Justice  
Environment and Natural Resource Division  
Natural Resources Section  
550 West Fort Street, MSC 033  
Boise, Idaho 83724

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

Name: Hiawatha Canal Water Users Association of Lateral or Laterals  
Address: c/o Fritz X. Haemmerle, ISB #3862  
Haemmerle & Haemmerle, PLLC  
P.O. Box 1800  
Hailey, Idaho 83333

**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. ☐ Purpose(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.

**REASONS SUPPORTING RESPONSE:**

Claimant filed an Amended Notice of Claim with the SRBA Court on 10-29-2010, which included 2 POUs for mitigation (i.e. conveyance loss in the canal) describing federal public land within SENE, S04, and SWNW, S14, T02N, R18E.

IDWR filed an Amended Director's Report ("ADR") with the SRBA Court on 01-03-2011 which recommended one of the POUs on federal public land (SENE, S04, T02N, R18E), together with a remark that clarifies that the use of water is limited to within the canal: "The Place of Use on federal ground in TWP 2N, Rng 18E Sec 4 SENE does not include any irrigation uses." BLM's concerns regarding a POU described on federal public land are resolved by the remark, so BLM did not need to object.

Claimant filed an objection to the 01-03-2011 ADR on 01-27-2011 asserting that the Place of Use ("POU") should be "as claimed," where the 10-29-2010 Amended Claim includes a POU on federal public land within SWNW, S14, T02N, R18E that was not recommended.

If the Claimant is successful in overcoming IDWR's disallowance of a POU on federal public land within SWNW, S14, T02N, R18E (provided there is actually a canal there), then BLM's Response seeks modification of the clarifying remark, such that it would also include a reference to this POU: "The Place of Use on federal ground in ~~TWP 2N, Rng 18E Sec 4 SENE, Sec 4, and SWNW, Sec 14, T02N, R18E~~ does not include any irrigation uses."

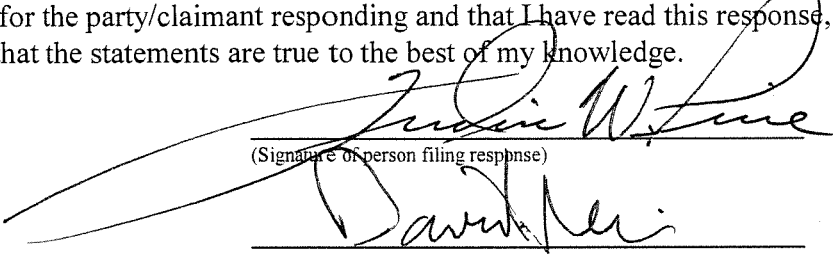
E.

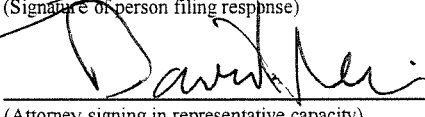
**VERIFICATION** (Must be Completed)

State of Idaho )  
 ) ss.  
County of ADA )

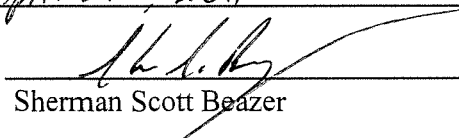
Fredric W. Price, Water Rights Specialist, duly sworn, upon oath, deposes and says:  
(Name of person filing response)

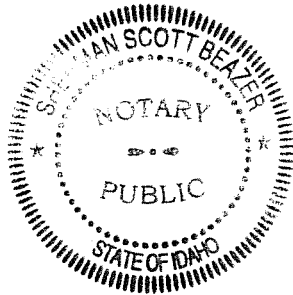
That I am the party/claimant filing this response, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant responding and that I have read this response, know its contents and believe that the statements are true to the best of my knowledge.

  
(Signature of person filing response)

  
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: April 29<sup>th</sup>, 2011

  
Sherman Scott Beazer



Notary Public for State of Idaho  
Residing at: Boise, ID.  
My Commission Expires: 12-10-2015

## 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.

**F.**

## CERTIFICATE OF MAILING

I certify that on May 3, 2011, 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  
P.O. Box 2707  
Twin Falls, Idaho 83303-2707

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

Hiawatha Canal Water Users Association of Lateral or Laterals  
c/o Fritz X. Haemmerle, ISB #3862  
Haemmerle & Haemmerle, PLLC  
P.O. Box 1800  
Hailey, Idaho 83333

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

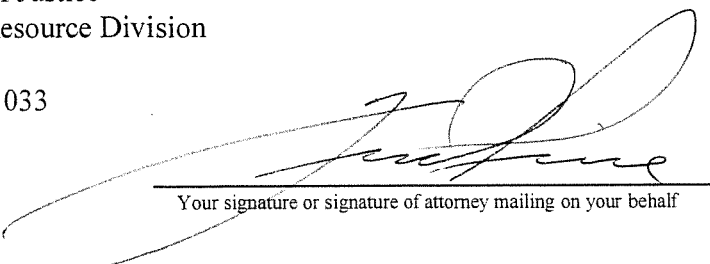
Hiawatha Canal Water Users Association of Lateral or Laterals  
c/o Fritz X. Haemmerle, ISB #3862  
Haemmerle & Haemmerle, PLLC  
P.O. Box 1800  
Hailey, Idaho 83333

4. Copies to:

IDWR Document Depository  
P.O. Box 83720  
Boise, Idaho 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  
Natural Resources Section  
550 West Fort Street, MSC 033  
Boise, Idaho 83724

  
Your signature or signature of attorney mailing on your behalf

12/28/2010

IDAHO DEPARTMENT OF WATER RESOURCES  
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-577B

NAME AND ADDRESS: HIAWATHA CANAL WATER USERS ASSOCIATION OF LATERAL OR LATERALS  
PO BOX 669  
HAILEY ID 83333

SOURCE: BIG WOOD RIVER

TRIBUTARY: MALAD RIVER

QUANTITY: 2.740 CFS

To prevent injury to other water right holders, the watermaster shall deliver 2.74 cfs of this right into the Hiawatha Canal where it shall remain undiverted.

PRIORITY DATE: 03/24/1883

POINT OF  
DIVERSION:

T03N R18E S20 SWNW Within BLAINE County

PURPOSE AND  
PERIOD OF USE:

| <u>PURPOSE OF USE</u>                            | <u>PERIOD OF USE</u>     | <u>QUANTITY</u> |
|--------------------------------------------------|--------------------------|-----------------|
| MITIGATION                                       | 04/15 10/31              | 2.740 CFS       |
| PLACE OF USE: <u>MITIGATION in BLAINE County</u> |                          |                 |
| T02N R18E S03 SWSW                               | T02N R18E S04 Lot 2 NWNE |                 |
| T02N R18E S04 SWNE                               | T02N R18E S04 SENE       | BLM             |
| T02N R18E S04 Lot 3 NENW                         | T02N R18E S04 NESE       |                 |
| T02N R18E S04 NWSE                               | T02N R18E S04 SSESE      |                 |
| T02N R18E S09 NENE                               | T02N R18E S10 NENW       |                 |
| T02N R18E S10 NWNW                               | T02N R18E S10 SWNW       |                 |
| T02N R18E S10 SENW                               | T02N R18E S10 NWSW       |                 |
| T02N R18E S10 SWSW                               | T02N R18E S10 SESW       |                 |
| T03N R18E S20 SWNW                               | T03N R18E S20 SENW       |                 |
| T03N R18E S20 NESW                               | T03N R18E S20 NWSE       |                 |
| T03N R18E S20 SWSE                               | T03N R18E S20 SWSW       |                 |
| T03N R18E S29 NENE                               | T03N R18E S29 NWNE       |                 |
| T03N R18E S29 SENE                               | T03N R18E S29 NESE       |                 |
| T03N R18E S29 SSESE                              | T03N R18E S33 NWNW       |                 |
| T03N R18E S33 SWNW                               | T03N R18E S33 SENW       |                 |
| T03N R18E S33 NESW                               | T03N R18E S33 SESW       |                 |

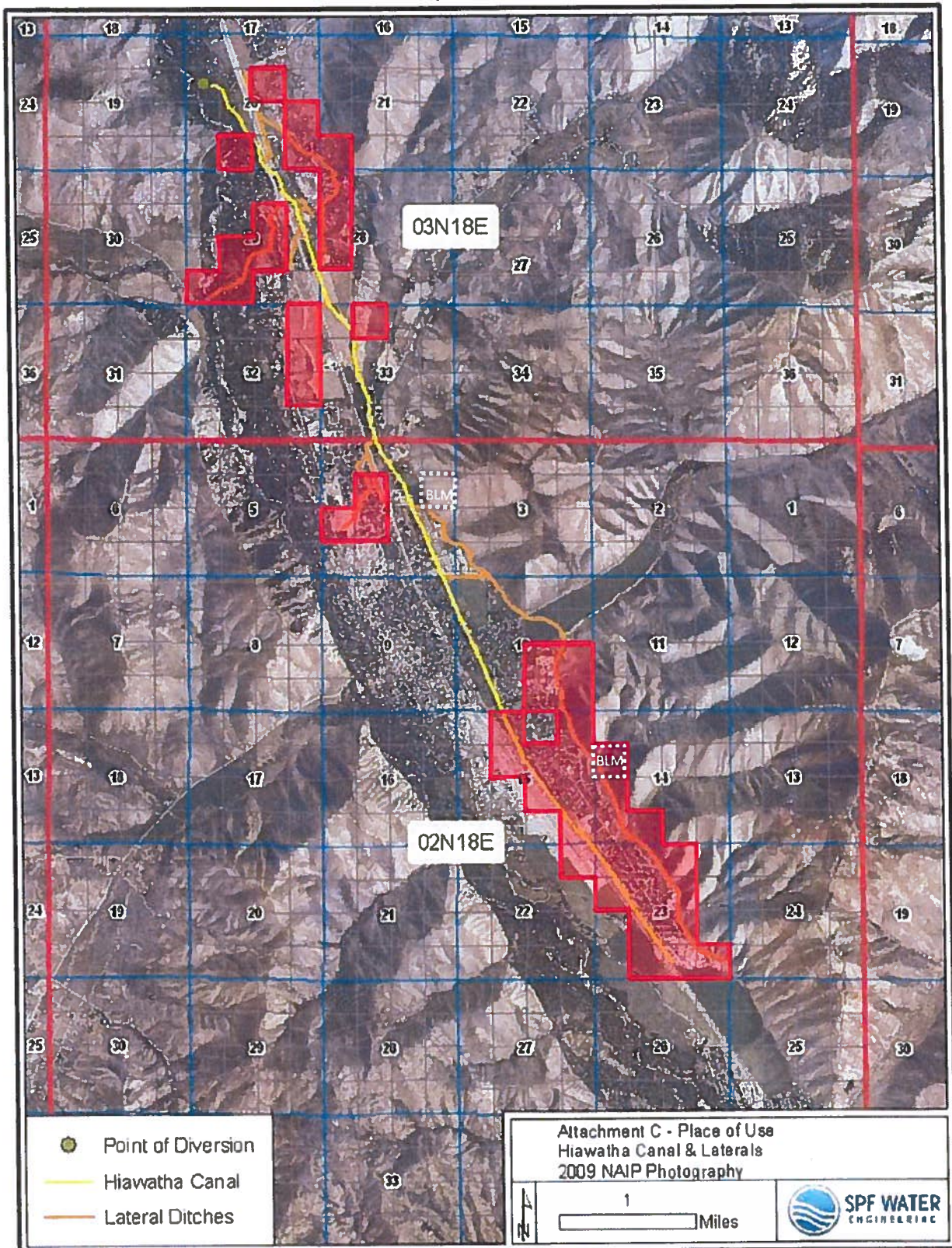
Starting at the point of diversion this right is appurtenant to the first 900 ft of the Hiawatha Canal

The Place of Use on federal ground in TWP 2N, Rng 18E Sec 4 SENE does not include any irrigation uses.

# 10-29-10 Amended Claim -Map

Red areas were claimed but not recommended.

37-00577B



# 10-29-10 Amended Claim -POU List

37-00577B

## Attachment B - Place of Use

| TOWNSHIP | RANGE | SEC | QQ   | GOVT LOT NUM |
|----------|-------|-----|------|--------------|
| 02N      | 18E   | 3   | SWSW |              |
| 02N      | 18E   | 4   | NWNE | 2            |
| 02N      | 18E   | 4   | SWNE |              |
| 02N      | 18E   | 4   | SENE |              |
| 02N      | 18E   | 4   | NENW | 3            |
| 02N      | 18E   | 4   | SENW |              |
| 02N      | 18E   | 4   | NESW |              |
| 02N      | 18E   | 4   | NWSW |              |
| 02N      | 18E   | 4   | NESE |              |
| 02N      | 18E   | 4   | NWSE |              |
| 02N      | 18E   | 4   | SESE |              |
| 02N      | 18E   | 9   | NENE |              |
| 02N      | 18E   | 10  | SWNE |              |
| 02N      | 18E   | 10  | SENE |              |
| 02N      | 18E   | 10  | NENW |              |
| 02N      | 18E   | 10  | NWNW |              |
| 02N      | 18E   | 10  | SWNW |              |
| 02N      | 18E   | 10  | SENW |              |
| 02N      | 18E   | 10  | NWSW |              |
| 02N      | 18E   | 10  | SWSW |              |
| 02N      | 18E   | 10  | SESW |              |
| 02N      | 18E   | 10  | NESE |              |
| 02N      | 18E   | 10  | NWSE |              |
| 02N      | 18E   | 10  | SWSE |              |
| 02N      | 18E   | 10  | SESE |              |
| 02N      | 18E   | 14  | SWNW |              |
| 02N      | 18E   | 14  | NWSW |              |
| 02N      | 18E   | 14  | SWSW |              |
| 02N      | 18E   | 14  | SESW |              |
| 02N      | 18E   | 15  | NENE |              |
| 02N      | 18E   | 15  | SWNE |              |
| 02N      | 18E   | 15  | SENE |              |
| 02N      | 18E   | 15  | NENW |              |
| 02N      | 18E   | 15  | SENW |              |
| 02N      | 18E   | 15  | NESE |              |
| 02N      | 18E   | 15  | NWSE |              |
| 02N      | 18E   | 15  | SESE |              |
| 02N      | 18E   | 22  | NENE |              |
| 02N      | 18E   | 23  | NWNE |              |
| 02N      | 18E   | 23  | SWNE |              |
| 02N      | 18E   | 23  | NENW |              |
| 02N      | 18E   | 23  | NWNW |              |
| 02N      | 18E   | 23  | SWNW |              |
| 02N      | 18E   | 23  | SENW |              |

BLM -recommended

pvt -not recommended

pvt -not recommended

BLM -not recommended

pvt -not recommended

# 10-29-10 Amended Claim -POU List

37-00577B

## Attachment B - Place of Use

| TOWNSHIP | RANGE | SEC | QQ   | GOVT LOT NUM |
|----------|-------|-----|------|--------------|
| 02N      | 18E   | 23  | NESW |              |
| 02N      | 18E   | 23  | SESW |              |
| 02N      | 18E   | 23  | NWSE |              |
| 02N      | 18E   | 23  | SWSE |              |
| 02N      | 18E   | 23  | SESE |              |
| 03N      | 18E   | 20  | SWNE |              |
| 03N      | 18E   | 20  | SWNW |              |
| 03N      | 18E   | 20  | SENW |              |
| 03N      | 18E   | 20  | NESW |              |
| 03N      | 18E   | 20  | SESW |              |
| 03N      | 18E   | 20  | NESE |              |
| 03N      | 18E   | 20  | NWSE |              |
| 03N      | 18E   | 20  | SWSE |              |
| 03N      | 18E   | 20  | SESE |              |
| 03N      | 18E   | 21  | SWSW |              |
| 03N      | 18E   | 28  | NWNW |              |
| 03N      | 18E   | 28  | SWNW |              |
| 03N      | 18E   | 28  | NWSW |              |
| 03N      | 18E   | 28  | SWSW |              |
| 03N      | 18E   | 29  | NENE |              |
| 03N      | 18E   | 29  | NWNE |              |
| 03N      | 18E   | 29  | SWNE |              |
| 03N      | 18E   | 29  | SENE |              |
| 03N      | 18E   | 29  | NESW |              |
| 03N      | 18E   | 29  | SWSW |              |
| 03N      | 18E   | 29  | SESW |              |
| 03N      | 18E   | 29  | NESE |              |
| 03N      | 18E   | 29  | NWSE |              |
| 03N      | 18E   | 29  | SESE |              |
| 03N      | 18E   | 32  | NENE |              |
| 03N      | 18E   | 32  | SENE |              |
| 03N      | 18E   | 32  | NESE |              |
| 03N      | 18E   | 33  | NENW |              |
| 03N      | 18E   | 33  | NWNW |              |
| 03N      | 18E   | 33  | SWNW |              |
| 03N      | 18E   | 33  | SENW |              |
| 03N      | 18E   | 33  | NESW |              |
| 03N      | 18E   | 33  | SESW |              |

pvt -not recommended

pvt -not recommended

pvt -not recommended

pvt -not recommended

pvt -not recommended

pvt -not recommended

pvt -not recommended

