

SEP 21 2011

DEPARTMENT OF
WATER RESOURCES

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Attorneys for Claimants: DKJ Farms, LLC & Woodmansee Johnson Canal 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	)	Subcase Nos. 22-265E, 22-13479, 22-594, 22-13987 &
Case No. 39576	)	22-13988
	)	
	)	CLAIMANTS DKJ FARMS, LLC &
	)	WOODMANSEE JOHNSON CANAL COMPANY
	)	RESPONSE TO OBJECTOR BROWN'S MOTION
_____	)	TO FILE LATE OBJECTIONS

The Petitioner George Brown has petitioned the Court to allow his filing of late objections to water right numbers 22-265E¹, 22-13479, 22-594, 22-13987, and 22-13988. Presently, the only objectors to the above entitled claims are the Claimants themselves. However, even if Petitioner's motion has shown good cause for his tardiness, he should not be allowed to file the late objections because the reasons provided for in the objections have no basis in law. Therefore, the law is well established that before one is entitled to receive leave of the court to allow a late motion claiming good cause, one must also establish that there is a basis in law and

¹22-265E is the Parent right which has now been split into 22-13987 & 22-13988

fact which, if proven, would result in objector's prevailing upon his underlying objection. This is not the case in the present matter as shall be detailed below:

Non-protested Transfers

The Petitioner has objected to water rights 22-13987 and 22-13988 on the grounds that these water rights resulted from transfers which violate I.C. § 42-222's rules regarding transfers. However, regardless of the Petitioner's reasons, he is barred from appealing or objecting to these transfers by the Idaho Administrative Procedures Act.

Transfers are administrative actions and as such, are subject to judicial review pursuant to the provisions and standards set forth in chapter 52, title 67, Idaho Code (The Idaho Administrative Procedures Act). I.C. § 42-222 (5) and I.C. § 42-1701A(4).

An agency action can be defined as "the whole or part of a rule or order." I.C. § 67-5201(3)(a). An order is "an agency action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of (1) or more specific persons." I.C. § 67-5201(12). A transfer proceeding with the Idaho Department of Water Resources (IDWR) clearly determines the legal rights, duties, and privileges, and other legal interests regarding a water right.

The Idaho Administrative Act (hereinafter IAPA), does provide for judicial review of agency actions, yet it also provides parameters which that review may be allowed. One of those parameters is that the person aggrieved must have exhausted administrative remedies before seeking judicial review. I.C. § 67-5271. Another is that the person aggrieved must petition for judicial review of a final order within 28 days of the final order. I.C. § 67-5273. Finally, venue

for judicial review of an agency decision regarding real property is proper in the county in which the property which is the subject of the agency action is located (or the District Court correctly assigned such appeals). I.C. § 67-5272. In fact, the Idaho Code statutes which address the adjudication of water rights, chapter 14 of title 42, specifically deny jurisdiction for judicial review of agency actions in a adjudication proceeding as commenced under that chapter, such as the SRBA. I.C. § 42-1401D.

The Petitioner has listed transfers 3002 and 2034 as the transfers which have allegedly had negative effects on his water rights and the environment. Transfer 2034 is dated October 7, 1979, and transfer 3002 is dated July 22, 1985. Both of these transfers pre-date the SRBA. As agency actions, both transfers were subject to the IAPA's rules for judicial review. First, the transfers were not challenged by the Petitioner within 28 days of the final order. Second, there is no record of the Petitioner exhausting administrative remedies. Finally, the venue for challenging the transfers lies in the District Court where the property which is subject to the administrative action exists.

Because the Petitioner has not complied with the rules for judicial review as prescribed by IAPA, he should not be allowed to object on the grounds that the transfers violate his rights. In fact, the matter is "jurisdictional" in that this Court is without jurisdiction to even hear the objection by Petitioner.

Enlargement Claim

The Petitioner has also petitioned to file a late objection to water right 22-13479 on the grounds that it is an enlargement of an earlier right, 22-265. The Petitioner asserts in his remarks

to the Standard Form 1 Objection that “right 22-13479 was approved pursuant to I.C. § 42-1426 resulting in an increased rate of diversion to 3.1 cfs. An element of I.C. § 42-1426 is that the right cannot result in an enlargement.”

The Petitioner seems to show a fundamental misunderstanding of what an enlargement claim is. Here, the Petitioner is claiming that the water right owner diverted 3.1 more cfs than he is allowed. However, that is untrue. The Claimant’s predecessor in interest filed this claim because he had been able to use a previously decreed right of 3.1 cfs of the water on acres upon which the original right did not appertain. It is precisely for situations such as these that I.C. § 42-1426 was passed. This law allows water right users who have enlarged their valid rights by irrigating previously unauthorized acres to obtain an additional right to use the same decreed diversion rate with a later priority date without having gone through the initial permitting process and by obtaining said enlargement right through the SRBA.

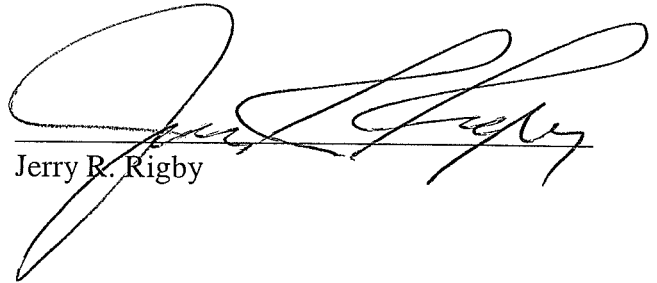
The Petitioner has provided no claim that the Jeppesens have diverted cfs in addition to their allowed decreed rights. As such, his petition to file a late objection on the grounds that the Jeppesen’s used water they were not authorized to divert should not be allowed.

Finally, as to Claimant’s right No 22-594 (adding an additional point of diversion & place of use): In addition to the accomplished transfer issues described above, the Petitioner’s objection claims violations of conservation laws and loss of public interest have occurred, which is not within the purview of this SRBA Court.

Conclusion

The Petitioner should not be allowed to file a late objection on the grounds that transfers 2034 and 3002 had damaged his water rights because he has not complied with the requirements of the IAPA, and the SRBA Court lacks jurisdiction to hear such arguments as such orders are res judicata. Similarly, the Petitioner should not be allowed to file a late objection on the grounds that the Jeppesens have diverted more water than what has been allocated to them because he has submitted no claim of such, despite having more than adequate time to show such proof. Finally, the Petitioner requests the ability to argue that the violations of conservation laws and loss of public interest have occurred, which is not within the purview of this SRBA Court. Therefore, as a matter of policy and judicial economy, Petitioner's petition should be denied by the Court.

DATED this 19th day of September, 2011.



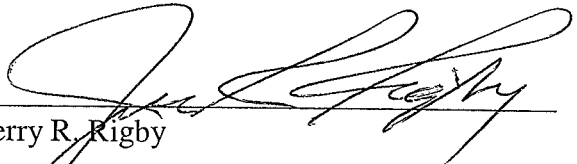
Jerry R. Rigby

CERTIFICATE OF SERVICE BY MAIL, HAND DELIVERY
OR FACSIMILE TRANSMISSION

I hereby certify that a true and correct copy of the foregoing document was on this date served upon the persons named below, at the addresses set out below their name, either by mailing, hand delivery or by telecopying to them a true and correct copy of said document in a properly addressed envelope in the United States mail, postage prepaid; by hand delivery to them; or by facsimile transmission.

DATED this 19th day of September, 2011.

RIGBY ANDRUS & RIGBY, Chartered



Jerry R. Rigby

Joseph F. Brown
4094 S. Federal Way, #K102
Boise, ID 83716

☒ Mail
☐ Hand Delivery
☐ Facsimile
☒ Electronic Mail

IDWR Depository
P.O. Box 83720
Boise, ID 83720

☒ Mail
☐ Hand Delivery
☐ Facsimile

Clerk of the District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls, ID 83303-2707
208-736-2121

☒ Mail (Copies for each file)
☐ Hand Delivery
☒ Facsimile

April 24, 1982

Idaho Water Resource Board
Ron Carlson
Idaho Falls, Idaho 83401

Gentlemen:

The Woodmansee-Johnson-Rexburg-Mill Ditch Co. who is the sole owner of water rights numbered 22-0594 and 220592, with priority dates of 3-15-1881 and 3-15-1889, wishes to change the point of diversion to a new point of diversion and place of use to the SE $\frac{1}{4}$ NW $\frac{1}{2}$ of Sec. 21 TNP. 5 Rge. 41 E.. This land is owned and operated by Merle Jeppesen. This water is from the Moody Creek.

Sincerely,

W.J.R.M.D Co.

Dell Palmer
Dell Palmer President

April 3 1982

a regular meeting of the stockholders of the W. J. R. M. Ditch Co. held in the City Hall at Sugar City, Idaho.

Meeting convened at 2:00 P.M. the following stockholders were present.

Dell Palmer, Russell Wilding, Royle Thompson, Larry Parkinson, Dell Barney, Ralph Huskinson and Brent Barrus.

Dell Palmer, Chairman presiding.

The minutes of the stockholders meeting held March 28, 1981 and the Directors meeting held March 28, 1981 were read.

It was moved by Russell Wilding and seconded by Royle Thompson that we approve the minutes as read. Motion carried.

A financial report from March 28, 1981 to April 3, 1982 was presented as follows -

Balance on hand	\$ 443.77
Deposited	--- \$ 4,412.10
Total	--- \$ 4,855.87
Disbursements	--- 4,726.74
Balance	--- \$ 129.13.03

After some discussion it was moved by Brent Barrus that we approve the financial report as read, seconded by Russell Wilding. Motion carried.

The secretary was asked to write a letter to Ron Carlson of the Water Resource Board, regarding the change of

It was moved by Barry Parkinson that we approve the rental of 300 inches of water to Merle Teppesen at a point of diversion described in the agreement for the 1982 season for 500⁰⁰, seconded by Dell Barney; motion carried.

Brent Barrus was asked to make changes in the agreement and have Dell Palmer approve it.

Ralph Huskinson reported that ^{the} headgate by his place had washed out.

Mr. Huskinson asked about his shares of water in the W. J. R. M. Ditch Co. He said they have been paying on 41 shares of water stock since 1946 and we only show record of them owning 32 shares.

It was moved by Dell Barney that ~~we~~ we appoint Dell Palmer as chairman to research the amount of shares of common stock in the W. J. R. M. Ditch Co. and provide a history of the stock and the legal procedure of distributing all of the common stock to stockholders on the canal. Dell will appoint his own committee, seconded by Brent Barrus; motion carried.

The matter of electing officers was taken up by the chairman.

It was moved by Ralph Huskinson that we suspend the rules of election and appoint the following as directors by acclamation: Dell Palmer, Russell Wilding, Roy Le Thompson, Brent Barrus and.

after some discussion it was decided to contact the following stockholders and ask if they would pay their 1983 assessment:-

Rexburg Eighteenth Ward, Merle Teppesen, Frank Summers, Garry Parkinson, Barrus Brothers and Dell Palmer.

It was moved by Royle Thomson and seconded by Brent Barrus that we assess \$4.50 per share against the Capital Stock for the 1983 water assessment. Motion Carried.

All of the above mentioned stockholders were called and all said they would pay their 1983 assess. Dell Palmer paid \$200.00.

It was moved by Garry Parkinson and seconded by Royle Thomson that we pay the bills amounting to \$1,232.58; Motion Carried.

Lamar Barrus and Merle Teppesen met with the Directors.

Garry Parkinson reviewed with Lamar Barrus and Brent Barrus the legal aspects of allowing Merle Teppesen to use their property description as a point of diversion for # 220594 = 3.2 second feet and # 220592 = 6.4 second feet. It was decided that more research needed to be done on this matter before making any decisions.

Meeting adjourned - at 3:00 P.M.
@ I. Barrus Secretary

Woodmansee Johnson Canal Company

Directors Meeting

December 7, 2002

Present: Dell Barney, Mark Hirschi, Russell Wilding, Bevan Jeppesen, Dallin Jeppesen and Brent Barrus.

Subject: Merle Jeppesen family's request to obtain water shares in the Woodmansee Johnson Canal Company.

It was moved by Dell Barney that we issue 530 water shares in the Woodmansee Johnson Canal Company to the Merle Jeppesen family.

These 530 water shares will be allocated to water the 530 acres they are presently watering with the Woodmansee Johnson's water rights in the Moody Creek.

The directors will allocate 20 cfs for the 530 shares of water.

The directors will assess the 530 water shares at \$1.00 per share, using the 2002 assessment of \$5.00 per share on the other water shares in the canal co. as the standard. In any year when the assessment on the regular shares is increased or decreased, the assessment on 530 shares of the Jeppesen family will be adjusted proportionately. In the case that there are additional assessments made during any year, the Jeppesen shares will be assessed proportionately to the assessment on the regular shares, or 20% of the assessment on the regular shares.

It is further moved that we have Jerry Rigby review the motion to add any insight or changes that may be necessary from a legal standpoint.

Mark Hirschi seconded the motion. The vote was unanimous.

Mark Hirschi moved that the meeting be adjourned. Seconded by Dell Barney. Meeting adjourned.

Notation: The Woodmansee Johnson Canal Company's water right in the Moody Creek is reduced by one-half on Jun² 1st of every year.

~~1~~ 1 CFS = 7.4805 gallons per second

20 CFS = 149.61 gallons per second



IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT

of the

State of Idaho, in and for the County of Fremont.

Rexburg Irrigation Company, et al.,

Plaintiffs,

-vs-

Idaho Irrigation Canal Company, et al.,

Defendants.

DECREES.

This cause coming on to be heard this 16 day of December 1920, upon the Report of F. J. Cowen, Referee heretofore appointed for the purpose of taking the testimony and making recommendations as to Findings of Fact, Conclusions of Law and Decree, to be entered herein, and the said F. J. Cowen, having filed his report of the testimony taken, and his recommendations as to Findings of Fact and Conclusions of Law, which have heretofore been adopted, and the respective plaintiffs and defendants and cross-complainants appearing herein by their respective counsel, and the Court being fully informed and advised in the premises, and having ordered that judgment be entered in accordance with the Report and recommendations of the said Referee, Wherefore, by reason of the law and the Report and Findings of Fact and Conclusions of Law aforesaid, it is ordered, Adjudged and Decreed, that the several parties plaintiffs and defendants herein named, do have judgment respectively granted to and in favor of the said Rexburg Irrigation Company, et al., and against the said Idaho Irrigation Canal Company, et al., and for the purpose of carrying out the same, the said

Wood, Samuel

N1/2 of SW1/4, and SE1/4 of SW1/4 of Sec. 1, and
NE1/4 of NW1/4 of Sec. 12, T. 4 N., R. 47
E., B. M.

Woodhouse,
Wilford

S1/2 of SW1/4, and S1/2 of SE1/4 of Sec. 30, T.
4 N., R. 37 E., B. M., containing 160 acres.

Woodhouse, C. H.

E1/2 of Sec. 15, W1/2 of Sec. 13, and Sections
10, 11, 14 and 23, T. 5 N., R. 40 E., B. M.

Woodhouse,
Charles H.

22-0592/0593/0594
W1/2 of NE1/4 of Sec. 14, S1/2 of SW1/4 of Sec.
11, S1/2 of SE1/4 of Sec. 10, NW1/4 of Sec.
14, W1/2 of SE1/4, and N1/2 of SW1/4 of Sec.
14, and S1/2 of SE1/4 of Sec. 11, T. 6 N.,
R. 40 E., B. M. | 22-0591
Also, SE1/4 of Sec. 10,
S1/2 of S 1/2 of Sec. 11, W1/2 of NE1/4 of
Sec. 14, NW1/4 of Sec. 14, and N1/2 of S1/2
of Sec. 14, T. 6 N., R. 40 E., B. M. |

Wood, Frank

S1/2 of NE1/4, and S1/2 of NW1/4 of Sec. 8, T.
6 N., R. 45 E., B. M., containing 160 acres.

Woods, William S.

Lot 4 NE1/4 of NW1/4 of Sec. 31, SE1/4 of
SW1/4, SW1/4 of SE1/4, and Lot 4 of Sec.
30, T. 5 N., R. 45 E., B. M.

Woodville Canal
Company, The

Lands of stockholders of said company and the
users of water from said company, the de-
scription of said lands and the names of
said stockholders and users of water not
being given in the pleadings of said company.

Wuthrich,
Parolina

S1/2 of NE1/4 of Sec. 19, and NE1/4 of NW1/4,
and NW1/4 of NE1/4 of Sec. 30, T. 4 N., R.
45 E., B. M., containing 160 acres.

Wyoming & Darby
Bench Canal
Company, Limited, The

Lands of stockholders of said company, sit-
uate in Sections 5, 6, 7 and 18, T. 4 N.,

Future of Moody Creek to be topic at public meeting

BY LESLIE CRIDER
Staff Writer

Will part of the Moody Creek east of Rexburg, dry up if Merle Jeppesen's request for a transfer of water rights is approved.

That is the question that is on the minds of people who have homes along the Moody Creek, the Departments of Water Resources and the Department of Fish and Game.

But just what Jeppesen thinks of the controversy is unknown as he and his lawyer, Rich Andrus of Rexburg, declined to be interviewed.

A public conference, which could turn into a hearing, is scheduled at the Madison District Library in Rexburg Tuesday at 4 p.m. by the water department. It was scheduled for 9 a.m., but the department changed the time.

A conference, as explained by Ernest Carlson, senior Water Resources analyst, is when all the people who are protesting the transfer, water department representatives and Jeppesen get together to see if the problem can be solved through discussion. If not, then the proceeding turns into a hearing.

In a hearing, testimony is tape recorded and the proceeding becomes like a trial. The director of the water department reviews the testimony and makes a decision as to whether a transfer will be granted.

But the people meeting Tuesday are scheduled to talk about an exchange of water rights, not a transfer. At first Jeppesen filed for an exchange of rights, then he filed for a transfer. A transfer will allow him to change the point of diversion and the place of use. An exchange will not.

It gets a little complicated. The conference is for the exchange, but it is the transfer of rights that people are protesting. The last day people can protest the transfer is Tuesday and then there must be a 10-day waiting period. But there is a possibility that a conference for the transfer will also be held Tuesday, but all parties must agree to forego the 10-day waiting period.

By transferring water rights with Martin Garn, Jeppesen will have an early priority date, Carlson says. Garn's water right goes back to about the 1880s. If the right is transferred, then Jeppesen's water right will also go back to the 1880s. And that means Jeppesen will have first priority on the creek's water.

It's true that Garn has had the water right and the creek has not dried up. But Jeppesen wants to take the water out at another place, Carlson says. Garn's point

But will the creek go dry, Carlson says he doesn't know of any studies that have been done on the creek to determine the amount of water flow. But the water department representative at Tuesday's

Potato truck collides with a train

No one was injured in a collision between a train and a potato truck in Rexburg Tuesday night, but both vehicles had thousands of dollars in damages.

A report at the Rexburg Police Department says the potato truck, driven by Ardell M. Nagle of Rexburg, was traveling east on Main Street in the inner lane when it approached the intersection of Third West Street and a railroad crossing.

There were two vehicles already stopped at the crossing in the eastbound lanes. The report says the truck pulled in between the two vehicles, coming to a stop on the railroad track. The front end of a Union Pacific train collided with the left door of the truck. A witness at the scene told the police that the driver of the truck had jumped to safety before the collision.

Damage to the truck was estimated at \$6,000. The train had about \$2,000 in damages.

Nagle was charged with failure to stop at a railroad crossing.

Man charged with assault following fight

ST. ANTHONY — A family fight Sunday ended up with the wife hospitalized and the husband in jail in St. Anthony.

At 21 a.m. Sunday law enforcement officers were called to an apartment above the old Thriftway building in St. Anthony where Jesse and Candy Ochoa were staying.

The woman had been beaten with a flat iron and a piece of wood, says Fremont County Sheriff's Deputy Burt Bates.

When Bates arrived, Ochoa was arrested and his wife was taken to

conference may request a flow chart be made. However, Carlson can't predict what will happen at the conference.

But the representative will be examining two issues to determine if the transfer should go through. According to the notice of the conference they are:

— Are other water rights injured by the exchange?

— Does the exchange constitute an enlargement in the place of use of the original right?

If it is proven the creek will dry up, then other people's water rights may be affected.

An "enlargement in place of use" refers to the amount of water consumed. The department will examine the issue to see if more water will be consumed than was specified in the original water right.



Adelaide Anderson Marshall

Piano teachers' guild to hold area auditions

The National Guild of Piano Teachers auditions will be held on the Ricks College campus Tuesday through Saturday next week.

The American College of Musicians is sponsoring the auditions, a news release from a spokesman for the group says.

This will be the first time musicians in this area have joined the 9,800 teachers and 95,000 students in over 700 audition centers across the United States who participate each year.

Performances from one to 20 pieces will be executed from memory by participating students. Social, music and hobbyist programs will be presented by those who do not play by memory.

Each performer will include musicianship phases of various levels of difficulty required for their program.

Rather than a competition between students, the performance is judged against a standard of excellence. Each student receives a full evaluation of his or her performance, a diploma and pin.

Adelaide Anderson Marshall of Boise

will be judging Rexburg's first auditions. Mrs. Marshall received her bachelor of music and master of music degrees from Chicago Musical College. She has taught at Idaho State University, Boise Junior College, Boise State University and Northwest Nazarene College. In addition, Mrs. Marshall has won numerous scholarships and awards during her career and has judged guild auditions in all parts of the United States.

Area teachers whose students will be participating in the auditions are Dr. Del Parkinson, Dianne Rolfe, Vivian Terry, Eileen Wilcox, Nina Wilkins and Pat Hansen, all of Rexburg; Marilyn Gee and Ronette Titensor of Sugar City; Rosalie Jamison and Betty Roberts of Idaho Falls; JeNene Anderson, Marlene Hillam and Susan Mann of Blackfoot; and Diane Schwendman of Newdale.

Teachers desiring information concerning the auditions may contact the audition chairman, Pat Hansen, of Rexburg.

LDS missionaries

Push of hot air

oles, so light while he's underground. Employees go into the manhole to splice telephone cable. By cutting the cable, they can provide more telephone service. These men were working in a manhole in front of the courthouse and splicing cable for the new Rexcraft building north of Rexburg. Staff photo by Cathy Kotter.

School elections new surprises

The election in Jefferson School

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The election in Jefferson School District 251 developed into a contest in one of the races. James C. Downey defeated Raylen Miskin in Zone 4, which included most of Rigby and the communities south of Rigby. 152-90. R. H. Clark, the district business manager, says Downey had filed a petition to run but had asked to withdraw from the race. He reversed his decision later. Downey was on the school board a few years ago and will succeed Betty Peterson for the next term.

Incumbent Larry Harrop, who ran unopposed in Zone 3, received all 37 of the votes that were cast. Clark says.

The turn-out at the polls in Sugar Salem School District 322 was poor. Superintendent Tom Kershaw says it's the highest voting the school district has ever had. There were no write-ins so both of the incumbents who had filed to run again were re-elected.

Clyde Haws got 18 votes in Zone 5 and Robert Worrell got 35 votes in Zone 4.

The Rigby Review

BY BECKY RIRIE

Rigby golf
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The Rigby Study Club presented the Senior Tea for all the Rigby senior girls Saturday. The afternoon included singing, dancing and a fashion show.

Saturday evening the Drama Club banquet was held and awards were presented. Best actor went to Kevin Cook for his performance as Tom in "Tom Sawyer." Best actress to Danna Carter for her role as Annie in "The Miracle Worker." Best supporting actor to Reese Purser for his role as Bernard Sands in "It Happens Every Summer." Best supporting actress to Shelly Smith as Helen Keller in "The Miracle Worker." Best character actor to Reese Purser as James Keller in "The Miracle Worker." Best character actress to Beckie Whitmill as Anabelle Ames in "It Happens Every Summer." Best cameo appearance to Paul Jones as Sid Sawyer in "Tom Sawyer." The William Shakespeare award — best all around dramatist — was given to Doyle Jenkins.

Jaylene Youngstrom is the new drama club president and Lori Green is the new secretary.

The Rigby senior all night party was held this Wednesday with a picnic at the Rigby Lake.

Thursday is the last day of school for the class of 1980. The sophomores and juniors will end their school year on Friday.

The senior class of Rigby High School will hold their commencement exercises Friday at 7:30 p.m. in the school gym. Esther Henry is valedictorian and Laura Lyn Harrison is salutatorian.

of diversion is farther upstream. Also, there is some concern that Jeppesen might take out more water than Garn has.

Tom Reinecker, regional supervisor of the Department of Fish and Game in Idaho Falls, says Jeppesen's request may dry up 11 miles of the Moody Creek. From Jeppesen's point of diversion downstream, north toward Rexburg, may run dry. And there are already more water rights than there is water, Reinecker says.

Without water, fish can't live. Reinecker admits that the best fishing is upstream from where Jeppesen's point of diversion would be. But he says the department hates to see any kind of fishery dry up. And he says other types of wildlife who use the water will be affected.

However, he knows the department is standing on thin legal ground because there are no legal water rights for fisheries.

Reinecker says Idahoans have contributed between \$2,500 to \$3,000 by purchasing fishing licenses for an easement on the creek. The easement allows the public to fish on the creek. If the creek dries up, then the money is wasted, Reinecker says.

He says, "We have seen it get very low in the summer. It really gets very low."

But he says there could be recharging — recharging is when some of the water at the upper end of the stream goes underground and resurfaces at a lower elevation where there are additional springs or canals. He says, "I have seen it happen, but I don't know if it would happen on the Moody Creek."

Dr. George R. Brown, an Idaho Falls doctor who has a home along the creek, says he will be upset if the transfer is allowed to go through. He says Jeppesen will be able to take more water out than he has in the past and that will dry up the creek.

He says, "Here is a situation where the public plus the people below the stream of water will be affected by the change. Our natural resources are decreasing fast and this (the Moody Creek) will be lost forever. The public should be aware of what's happening, and maybe they'll get legislators out to change the minimum flow (requirements) in a stream."

Brown admits his is purely a moral argument because he owns no water shares. However, he does have a well that is 30 feet deep on his property. If the creek goes dry, then the well will, too, he says.

Men who work on his dry farm during the summer depend on well water for drinking, bathing and cooking during the summer. And the Brown family uses well water when it visits the home on weekends.

THE STANDARD-JOURNAL

Area obituaries

A. Eveline Hillman

IDAHO FALLS — Services for Alice Eveline Hillman, 80, of Plano, who died Tuesday in an Idaho Falls hospital of a heart attack, will be conducted Saturday at 1 p.m. in the Plano LDS Ward Church by Bishop Roland P. Blaser.

Burial will be in the Plano Cemetery.

She was born Dec. 24, 1899, in Hibbard, a daughter of Justin A. and Anna Eliza Lemon Knapp.

She married John Alfred Hillman June 8, 1916, in the Salt Lake LDS Temple.

She and her husband farmed in Plano. They raised beef cattle for many years in Plano, Garber, Wells, Woodrow and Kilgore.

She took pride in her home, and she kept the yard filled with flowers. She was an excellent cook and often fed many farm and cattle people in her home.

Survivors include two children, Harold Jack Hillman and Rulon J. Hillman, both of Plano; two sisters, Elsie May Larson Kepner of Rexburg and Esther Jane Robertson of Idaho Falls.

She was preceded in death by her husband and a daughter, Beth Elizabeth Hillman.

The family will receive friends Friday from 7 p.m. to 9 p.m. at Flamm Funeral Home and again Saturday one hour before services at the church.

INDIAN MINIATURES

LOS ANGELES (AP) — Eighty-three Indian miniature paintings continue on display at the Los Angeles County Museum of Art through June 15.

Called "The Classical Tradition in Rajput Painting," the exhibition was organized by the Pierpont Morgan Library and the Gallery Association of New York State. It focuses on the art of a period from the 16th to the 18th century, when Northern India came under the influence of Islamic culture, after falling to the Mughal emperor Akbar.



Scott Packer

Scott Packer, son of Mr. and Mrs. Don Packer of Rexburg, will serve a mission for the LDS Church in Sendai, Japan.

He will enter the Mission Training Center in Provo, Utah, June 5.

He will be honored at a farewell testimonial meeting Sunday at 8 a.m. at the Rexburg LDS East Stake Center.



Scott William Denney

Scott William Denney, son of Mr. and Mrs. Donald Denney of Rexburg, will serve a mission for the LDS Church in Chicago.

He will enter the Mission Training Center in Provo, Utah, June 5.

He will be honored at a farewell testimonial meeting Sunday at 9 a.m. at the Rexburg LDS 4th Ward.

Fisherman's breakfast expects good weather

By NEIL KILGREN
Staff Writer

At 5 a.m. Friday the cooks will begin stoking the fires, mixing the pancake batter, getting a handle on their spatulas.

By 6 a.m. the crowds will already be lining up. And, if past years mean anything, the crowds should be there, 10,000 strong, for the 25th annual Free Fisherman's Breakfast at Riverside Park in St. Anthony.

The theme of this year's breakfast is its Silver Anniversary. The event began a quarter century ago as free coffee and doughnuts for passing fishermen. Past breakfasts have been subjected to rain, flooding and snow. The weather this year is predicted to be fair and warm.

The breakfast has been put together through months of planning by 26 committee members and the volunteer efforts of nearly 500 persons. Local businesses and food producers donate the supplies. The event is sponsored by the St. Anthony Chamber of Commerce.

This year's fête will feature booths, displays, demonstrations, music, awards and appearances by a number of politicians. Smokey the Bear will be on hand and Sen. James McClure, R-Idaho, will be the featured speaker.

The booths will be set up around the breakfast site and will give outsiders a glimpse of what St. Anthony and the upper valley have to offer.

Those with booths will include the Fremont General Hospital Foundation, Young Adult Conservation Corps, Youth Services Center, Upper Valley Fly Tyng Association, St. Anthony Airport, the Idaho Fish and Game Department, a wood burning display and the four military services.

The dignitaries who will appear at various times during the breakfast are Rep. George Hansen, R-Idaho, and his primary election opponent for the 2nd District seat, Jim Jones, Lt. Gov. Philip Batt, McClure, State Sen. Dane Watkins, R-Idaho Falls, John Townsley, superintendent of Yellowstone National Park, and Milton Klein of the Idaho Department of Health and Welfare.

OLD MASTERS

KANSAS CITY, Mo. (AP)

A selection of 90 "Old Master" prints from a distinguished collection of graphic works will be on display at the Nelson Gallery of Art through June 15.

Among the works shown are 27 etchings by Canaletto, the Italian master, and three engravings by Albrecht Dürer. Also included are works by Altdorfer, Van Dyck, Ribera and Schongauer.

The selection is from the collection of Mr. and Mrs. Adolph Well, Jr., of Montgomery, Ala.