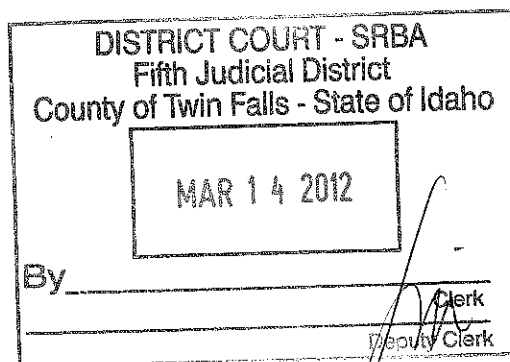


Claimants Names:

Marathon Partners LLC

Attorney Name & Address:

**James P. Speck, ISB#2067
Speck & Aanestad
A Professional Corporation
120 East Avenue
P. O. Box 987
Ketchum, Idaho 83340
(208) 726-4421
FAX: (208) 726-0752**



**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

)
)
)
)
)
)

Subcase 37-21112

**AFFIDAVIT OF JAMES P. SPECK
IN SUPPORT OF ATTORNEYS FEES**

STATE OF IDAHO)
) ss.
County of Blaine)

Pursuant to I.R.C.P. § 54(e)(5) I, JAMES P. SPECK, after being first duly sworn under oath, depose and state as follows:

1. I am over the age of eighteen (18) years and make this Affidavit of my personal knowledge and/or from the books, records and ledgers maintained in the regular and ordinary course of business.

2. I am an attorney licensed to practice law in the State of Idaho and a shareholder in the law firm of Speck & Aanestad, A Professional Corporation, attorneys of record for the Claimant, Marathon Partners, LLC ("Marathon").

**AFFIDAVIT OF JAMES P. SPECK
IN SUPPORT OF ATTORNEYS FEES - 1**

3. Attached hereto as **Exhibit 1** is a true, correct and complete itemization of all services provided by our firm with regard to this litigation with some privileged matters redacted. The time spent by the undersigned as the attorney providing the services itemized on Exhibit A is fairly and reasonably valued at the following hourly rates: \$275 from November 2007 through December 2009 and \$295 from January 2010 through the present.

4. I am familiar with the regular, usual and customary hourly rates charged by attorneys in this area for services comparable to those furnished by our firm in this case. I believe and opine the rates identified above are fair and reasonable and are consistent, comparable and competitive with the hourly rates currently charged by attorneys of comparable skill and experience, providing similar services, in connection with similar litigation, in this geographic area. I believe and opine that the rates at which services were charged in this matter were reasonable and that the services provided and time expended were reasonable, necessary and appropriate in amount.

5. I have actively represented clients in filing claims for and perfecting water rights in the SRBA since it commenced in November 1987. I have represented clients in at least 90 subcases involving Objections filed by the Objectors in Basin 37. I have also represented numerous clients in the purchase and sale of water rights in Basin 37. A recent transaction involved water rights with the same priority date as 37-21112 (March 24, 1883) and also delivered through the Hiawatha Canal. The purchase price was \$30,000 per irrigated acre.

6. Attached hereto as **Exhibit 2** is a true and correct copy of the Director's Report recommendation for 37-21112 filed with this Court by the Idaho Department of Water Resources in February, 2007.

7. Attached hereto as **Exhibit 3** is a true and correct copy of the Standard Form 1

Objection filed herein on or about November 14, 2007 by Tom O’Gara, John F. Stevenson, Bill Molyneux, Pete Van Der Meulen, Grace Eakin, Rocky Sherbine, Gerald Bashaw, Pepin Corso-Harris and Big Wood Canal Company (the “Objectors”).

8. Attached hereto as **Exhibit 4** is a true and correct copy of the Standard Form 2 Response to Objection filed herein by Marathon on or about January 14, 2008.

9. Attached hereto as **Exhibit 5** is a true and correct copy of the April 23, 2008 letter from the undersigned to Mr. Craig Hobdey, attorney for the Objector, Big Wood Canal Company, without the enclosures.

10. Attached hereto as **Exhibit 6** is a true and correct copy of the April 25, 2008 letter from Mr. Hobdey to the undersigned.

11. Attached hereto as **Exhibit 7** is a true and correct copy of the May 1, 2008 letter from the undersigned to Mr. Hobdey.

12. Attached hereto as **Exhibit 8** is a true and correct copy of the May 5, 2008 letter from Mr. Hobdey to the undersigned.

13. Attached hereto as **Exhibit 9** is a true and correct copy of the March 6, 2009 letter from the undersigned to Mr. Barker and Mr. Hobdey, without the enclosures.

14. Attached hereto as **Exhibit 10** is a true and correct copy of the e-mail exchanges between Mr. Barker and the undersigned on March 21-22, 2009.

15. Attached hereto as **Exhibit 11** is a true and correct copy of an e-mail received by the undersigned from Mr. Al Barker, the attorney for the individual Objectors, on May 1, 2010 together with copies of the attachments.

16. Attached hereto as **Exhibit 12** is a true and correct copy of the February 6, 1995 Memorandum from L. Glen Saxton to Jim Johnson and Pam Skaggs taken from the Idaho Department of Water Resources claim file for 37-12818, the parent right for 37-21112.

17. Attached hereto as **Exhibit 13** is a true and correct copy of the Hailey Irrigation Study, dated October 26, 2010, prepared for Marathon by Mr. Anthony Morse.

18. Attached hereto as **Exhibit 14** is a true and correct copy of the Affidavit of James W. Phillips, dated November 12, 2010.

19. Attached hereto as **Exhibit 15** is a true and correct copy of the Affidavit of Dwight Burr Smith, dated November 15, 2010.

20. Attached hereto as **Exhibit 16** is a true and correct copy of the e-mail exchange between Mr. Barker and the undersigned on November 16 and 29, 2010.

21. Attached hereto as **Exhibit 17** is a true and correct copy of the e-mail from Ms. Vicki Kelly to Mr. Barker, Mr. Hobdey and the undersigned and its attachments.

22. Attached hereto as **Exhibit 18** is a true and correct copy of the e-mail exchange among Ms. Kelly, Mr. Hobdey and the undersigned from January 20, 2011 through February 18, 2011.

23. Attached hereto as **Exhibit 19** is a true and correct copy of the e-mail exchange among Mr. Nick Spencer, attorney for IDWR, Mr. Hobdey, Mr. Barker and the undersigned on February 24 and 25, 2011.

24. Attached hereto as **Exhibit 20** is a true and correct copy of the email and attachments to Mr. Barker and Mr. Hobdey from the undersigned on March 1, 2011.

25. Attached hereto as **Exhibit 21** is a true and correct copy of the November 16, 2011

e-mail and attachment sent to Mr. Barker and Mr. Hobdey by the undersigned.

26. Attached hereto as **Exhibit 22** is a true and correct copy of the Analysis of Flow Rate and a Water Delivery Remark for Water Right No. 37-21112 prepared by David R. Tuthill, Jr., Ph.D., P.E. and dated January 11, 2012.

27. Attached hereto as **Exhibit 23** is a true and correct copy of the Standard Form 5 Stipulated Elements of a Water Right as filed herein on January 17, 2012 together with a legible copy of the water right recommendation attached thereto.

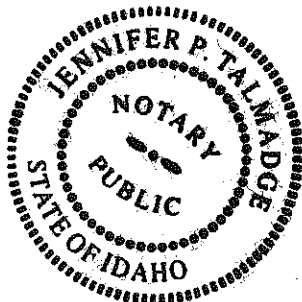
28. Attached hereto as **Exhibit 24** is a true and correct copy of the Order of Partial Decree issued herein for Water Right 37-21112 on March 2, 2012.

29. Attached hereto as **Exhibit 25** are true and correct copies of the SF5's for SRBA Subcases 37-21123 and 37-21125.

30. Attached hereto as **Exhibit 26** is a true and correct copy of the "pedigree" of 37-12818 printed from the Department's internet website.


JAMES P. SPECK

SUBSCRIBED AND SWORN TO before me this 13th day of March, 2012.




Notary Public for Idaho
Residing at: Ketchum, Id.
Comm. Expires: 2/9/15

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of March, 2012, I served a true and correct copy of the foregoing Affidavit of James P. Speck in Support of Attorneys Fees on the following persons in the manner designated below:

Mr. Nicholas J. Spencer
Idaho Department of Water Resources
322 E. Front Street
Boise ID 83720-0098
Fax: (208) 287-6700

- ☒ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☐ Facsimile, with copy by United States Mail, Postage Prepaid
- ☐ Electronic mail

Albert P. Barker
Barker, Rosholt & Simpson, LLP
P.O. Box 2139
Boise, ID 83701
Fax: (208) 344-6034

- ☒ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☐ Facsimile, with copy by United States Mail, Postage Prepaid
- ☐ Electronic mail

Craig Hobdey
Hobdey & Hobdey
P.O. Box 176
Gooding, ID 83330
Fax: (208) 934-4420

- ☒ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☐ Facsimile, with copy by United States Mail, Postage Prepaid
- ☐ Electronic mail

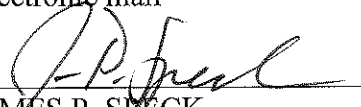

JAMES P. SPECK

EXHIBIT 1

Mar/12/2012

Speck & Aanstad, P.C.

Page:

Client Ledger

Nov/ 1/2007 To Mar/ 3/2012

|----- General -----|

Date	Entry #	Received From/Paid To Explanation	Inq# Rec#	Rpts	Disbs	Fees	Inv#	Acc	Trust Activity		
									Rpts	Disbs	Balance
31	Dumke, Ed & Sue										
950310		Marathon Partners Water Rights									
Dec/ 7/2007	195178	Lawyer: 2 1.00 Hrs X 265.00 Review director's report recommendation and objection filed by BWCC et al; E-mail client re. same; Telephone conference with client re. defending same; E-mail D. Jones, IDWR, re. copy of SRBA claim file; Preparation of notice of appearance and notice of change in address				265.00	22569				
Dec/ 8/2007	195170	Lawyer: 2 0.20 Hrs X 265.00 Review and reply to e-mails from client re. SRBA objections				53.00	22569				
Jan/10/2008	196870	Lawyer: 2 0.50 Hrs X 275.00 Preparation of Response to BWCC et al Objection to 37-21112 claiming forfeiture; Dictation of letter to SRBA Court re. filing same				137.50	22682				
Jan/11/2008	196871	Lawyer: 2 0.30 Hrs X 275.00 Telephone conference with client re. forfeiture issues for challenged water right				82.50	22682				
Jan/16/2008	196872	Lawyer: 2 0.40 Hrs X 275.00 Review and reply to e-mail from client re. responses to BWCC et al objections; Telephone conference with client re. same				110.00	22682				
		[REDACTED]									
		[REDACTED]									
		[REDACTED]									
		[REDACTED]									
Apr/21/2008	200166	Lawyer: 2 0.30 Hrs X 275.00 Review file re. history of sale, donation, permit applications and mitigation plans for portions of 1883 water right				82.50	22977				
Apr/22/2008	200332	Lawyer: 2 0.20 Hrs X 275.00 Dictation of letter to attorney Hobday re. demand to withdraw objections based on collateral estoppel				55.00	22977				
May/ 1/2008	201501	Lawyer: 2 0.50 Hrs X 275.00 Review letter from attorney Hobday re. our request to Big Wood Canal Company to withdraw objections; Dictation of letter to attorney Hobday re. case law supporting same				137.50	23079				
May/28/2008	201144	Lawyer: 2 0.20 Hrs X 275.00 Review and reply to e-mail from client re. estoppel arguments				55.00	23079				
		[REDACTED]									
		[REDACTED]									
Jan/26/2009	208941	Lawyer: 2 0.30 Hrs X 275.00 Review and reply to e-mail from client re. status of SRBA subcase				82.50	23822				
		[REDACTED]									
		[REDACTED]									
Feb/15/2009	210002	Lawyer: 2 0.20 Hrs X 275.00 Review and reply to e-mail from client re. SRBA issues				55.00	23943				
Feb/20/2009	209960	Lawyer: 2 0.20 Hrs X 275.00 Telephone call from client re. SRBA status				55.00	23943				
Feb/23/2009	209954	Lawyer: 2 0.20 Hrs X 275.00 E-mail to client re. water rights meeting				55.00	23943				
Mar/ 5/2009	210965	Lawyer: 2 0.50 Hrs X 275.00 Telephone conference with client re. contacting objectors re. settlement; Dictation of letter to attorneys Barker and Hobday re. settlement meeting; Review e-mail from client re. same				137.50	24028				
Mar/13/2009	210906	Lawyer: 2 0.20 Hrs X 275.00 Review and reply to e-mail from client re. no reply from				55.00	24028				

Resp Lawyer: JPS

Mar/12/2012

Speck & Aanstad, P.C.

Client Ledger

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Date	Entry #	Received From/Paid To Explanation	hq# Rec#	General		Fees	Trust Activity		Balance
				Rpts	Disbs		Inv#	Acc	
Mar/22/2009	210865	Lawyer: 2 0.20 Hrs X 275.00 Review and reply to e-mail from attorney Barker re. possible settlement of amended objection				55.00	24028		
Apr/ 2/2009	212055	Lawyer: 2 0.20 Hrs X 275.00 Review and reply to e-mail from client re. settlement				55.00	24134		
Apr/ 3/2009	212045	Lawyer: 2 0.20 Hrs X 275.00 Review and reply to e-mail from client				55.00	24134		
May/18/2009	212967	Lawyer: 2 0.50 Hrs X 275.00 Telephone conference with client re. status of SRBA Subcase and other Hiawatha Canal water rights; Review e-mail from client to attorney Haemmerle re. Hiawatha Canal water rights; E-mail client list of same from watermaster decrees book				137.50	24236		
Sep/14/2009	216691	Lawyer: 2 0.20 Hrs X 275.00 Review and reply to e-mail from client re. value of water rights				55.00	24632		
Sep/15/2009	216681	Lawyer: 2 0.30 Hrs X 275.00 Telephone call from client re. water rights status, value and related issues				82.50	24632		
Mar/28/2010	222259	Lawyer: 2 0.30 Hrs X 295.00 Review notice setting initial hearing for Subcase 37-21112 and e-mail copy to client; Review e-mail from client re. meeting before initial hearing				88.50	25130		
Mar/29/2010	222069	Lawyer: 2 0.20 Hrs X 295.00 Review and reply to e-mail from client re. meeting to discuss initial hearing issues				59.00	25130		
Apr/21/2010	223037	Lawyer: 2 0.60 Hrs X 295.00 Office conference with client re. initial hearing				177.00	25229		
Apr/27/2010	223088	Lawyer: 2 1.40 Hrs X 295.00 Court appearance - SRBA initial hearing in Twin Falls				413.00	25229		
May/ 2/2010	223856	Lawyer: 2 3.00 Hrs X 295.00 Review e-mail from attorney Barker with 1984 and 1987 aerial photos; Review file re. evidence of use prior to 1987; E-mail client re. same; Review IDWR website files re. permits and transfers for portions of water right sold and gifted by client				885.00	25332		
May/ 3/2010	223864	Lawyer: 2 0.50 Hrs X 295.00 Review other files on permit and transfer applications for portions of client water right				147.50	25332		
May/23/2010	223999	Lawyer: 2 0.30 Hrs X 295.00 E-mail client re. status of SRBA subcase; Review and reply to e-mail from client re. same				88.50	25332		
Jun/24/2010	224631	Lawyer: 2 1.10 Hrs X 295.00 Office conference with client re. next steps in contested subcase; E-mail IDWR attorney Spencer re. aerial photographs and watermaster delivery records; Review and reply to e-mails from IDWR attorney				324.50	25422		

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Date	Entry #	Received From/Paid To Explanation	hq# Rec#	General	Rpts	Disbs	Fees	Inv#	Acc	Rpts	Disbs	Balance
Jun/25/2010	224640	re. same Lawyer: 2 0.50 Hrs X 295.00 Telephone conference with J. Phillips re. recollection of irrigation of client's land; Review and reply to e-mails from K. Christensen, IDWR, re. aerial photos; E-mail D. Jones, IDWR, re. same					147.50	25422				
Jun/28/2010	224658	Lawyer: 2 0.20 Hrs X 295.00 Review and reply to e-mail from D. Jones, IDWR, re. aerial photos					59.00	25422				
Jun/30/2010	224685	Lawyer: 2 0.20 Hrs X 295.00 Review e-mail from D. Jones with copy of 1974 aerial photo					59.00	25422				
Jul/12/2010	225507	Lawyer: 2 0.30 Hrs X 295.00 Review and reply to e-mail from J. Gaeddert re. aerial photos [REDACTED] Telephone conference with C. Brockway re. aerial photo analysis					88.50	25518				
Jul/14/2010	225526	Lawyer: 2 0.20 Hrs X 295.00 Review e-mail from J. Gaeddert re. circa 1980 aerial photo of client property					59.00	25518				
Jul/15/2010	225540	Lawyer: 2 0.20 Hrs X 295.00 E-mail J. Gaeddert re. meeting with M. Fox; Review and reply to e-mails from J. Gaeddert re. same					59.00	25518				
Jul/16/2010	225550	Lawyer: 2 0.30 Hrs X 295.00 Telephone conference with J. Phillips re. Young and Stennett irrigation					88.50	25518				
Jul/23/2010	225595	Lawyer: 2 1.50 Hrs X 295.00 Meeting with M. Fox, J. Fox and J. Gaeddert re. irrigation of Deerfield and Hidden Meadows lands					442.50	25518				
Jul/27/2010	225624	Lawyer: 2 0.20 Hrs X 295.00 Telephone conference with H. Knight re. Martin Young irrigation					59.00	25518				
Aug/ 5/2010	226357	Lawyer: 2 0.20 Hrs X 295.00 Review and reply to e-mail from client re. aerial photography analysis expert					59.00	25611				
Sep/ 7/2010	227235	Lawyer: 2 0.20 Hrs X 295.00 Review and reply to e-mail from J. Gaeddert re. another photo					59.00	25707				
Sep/24/2010	227367	Lawyer: 2 1.80 Hrs X 295.00 Compile photographs; E-mail J. Phillips re. dating same; Telephone conference with T. Morse re. analyzing photographs; Review and reply to e-mails from J. Gaeddert re. same; Telephone conference with D. Tuthill re. T. Morse work; E-mail T. Morse information					531.00	25707				
Sep/28/2010	227376	Lawyer: 2 0.30 Hrs X 295.00 E-mail T. Morse re. aerial photos; Review and reply to e-mail from T. Morse re. analysis of same					88.50	25707				
Oct/ 1/2010	228138	Lawyer: 2 1.50 Hrs X 295.00 Office conference with client re. status of SRBA subcase; Legal research [REDACTED] [REDACTED] [REDACTED]					442.50	25825				
Oct/ 4/2010	228152	Lawyer: 2 0.60 Hrs X 295.00 Telephone conference with T. Morse re. status of analysis; Telephone conference with watermaster re. recent priority cut; Telephone conference with B. Smith					177.00	25825				
Oct/ 6/2010	228177	Lawyer: 2 0.80 Hrs X 295.00 Telephone conference with J. Phillips re. dates of photographs; Telephone status conference with SM Bilyeu et al; Review deeds in chain of title re. date of Pacesetter acquisition					236.00	25825				
Oct/ 7/2010		Lawyer: 2 3.20 Hrs X 295.00					944.00	25825				

Date	Entry #	Received From/Paid To Explanation	hq# Rec#	Nov/ 1/2007 To Mar/ 3/2012 General	Rpts	Disbs	Fees	Inv#	Acc	Rpts	Disbs	Balance
		re, flood irrigation of client property; Research dates Smith acquired and platted adjacent property; Office conference with T. Morse re. satellite imagery study; E-mail client; Review e-mail from client; Review e-mail from T. Morse										
Oct/12/2010	228222	Lawyer: 2 0.20 Hrs X 295.00 Telephone conference with B. Rathke re. irrigation in 1979-80					59.00		25825			
Oct/13/2010	228227	Lawyer: 2 0.60 Hrs X 295.00 Review draft aerial photo analysis from T. Morse and forward to client; E-mail T. Morse re. same; Review photos from B. Rathke; Review e-mail from client re. T. Morse study					177.00		25825			
Oct/14/2010	228240	Lawyer: 2 0.50 Hrs X 295.00 E-mail T. Morse re. client questions on his study; Research water right priority cuts for 1975 to 1985; E-mail client					147.50		25825			
Oct/15/2010	228247	Lawyer: 2 0.60 Hrs X 295.00 Review e-mail from T. Morse re. report and forward to client; Review USGS flow data for 1975 - 1988					177.00		25825			
Oct/18/2010	228258	Lawyer: 2 0.80 Hrs X 295.00 Review e-mail from T. Morse re. final version of satellite photo analysis and forward to client; Review analysis; E-mail T. Morse re. same; Review e-mail from client re. same					236.00		25825			
Oct/19/2010	228269	Lawyer: 2 0.20 Hrs X 295.00 E-mail T. Morse report to J. Phillips					59.00		25825			
Oct/21/2010	228292	Lawyer: 2 1.00 Hrs X 295.00 Office conference with J. Phillips re. reviewing Morse study; Review and reply to e-mail from client					295.00		25825			
Oct/22/2010	228297	Lawyer: 2 0.20 Hrs X 295.00 Review and reply to e-mails from client re. Rathke					59.00		25825			
Oct/24/2010	228574	Lawyer: 2 1.00 Hrs X 295.00 Legal research					295.00		25825			
Oct/25/2010	228319	Lawyer: 2 1.60 Hrs X 295.00 Review and reply to e-mails from client re. Nov. 15 settlement conference and forfeiture issues; Prepare table of Morse report findings and conclusions; E-mail same to B. Smith; E-mail D. Tuthill					472.00		25825			
Oct/26/2010	228330	Lawyer: 2 0.20 Hrs X 295.00 Review and reply to e-mail from client re. CV for T. Morse					59.00		25825			
Nov/ 1/2010	229060	Lawyer: 2 0.70 Hrs X 295.00 Office conference with J. Phillips re. Morse report and his recollections					206.50		25914			
Nov/ 3/2010	229074	Lawyer: 2 1.10 Hrs X 295.00 Review and reply to e-mail from client re. preparations for settlement conference; Telephone conference with B. Rathke re. meeting; E-mail J. Phillips re. M. Young; Prepare for meeting with B. Rathke					324.50		25914			
Nov/ 4/2010	229082	Lawyer: 2 2.50 Hrs X 295.00 Meeting with B. Rathke re. his recollections of irrigation of the property					737.50		25914			

Mar/12/2012

Speck & Aarnestad, P.C.
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Date	Entry #	Received From/Paid To Explanation	hq# Rec#	Trust Activity		Fees	Inv#	Acc	Rpts	Disbs	Balance
				Rpts	Disbs						
	229103	Preparation of first draft of affidavits of B. Rathke, B. Smith and J. Phillips; E-mail B. Smith and J. Phillips re. same; Review e-mail from J. Phillips re. same and forward to client				914.50	25914				
Nov/ 9/2010	229111	Lawyer: 2 0.20 Hrs X 295.00 Review and reply to e-mail from J. Gaeddert				59.00	25914				
Nov/10/2010	229121	Lawyer: 2 1.50 Hrs X 295.00 Review and reply to e-mails from D. Tuthill re. settlement conference; Telephone conference with D. Tuthill re. same; Review and reply to e-mail from client re. same; Review and reply to e-mail from J. Phillips re. affidavit; Telephone conference with B. Smith re. his affidavit; Review e-mail from client				442.50	25914				
Nov/11/2010	229127	Lawyer: 2 0.60 Hrs X 295.00 Review and reply to e-mails from D. Tuthill re. outline of powerpoint presentation and forward to client; Review e-mails from client re. same; Review and reply to e-mail from B. Smith re. his affidavit				177.00	25914				
Nov/12/2010	229135	Lawyer: 2 0.80 Hrs X 295.00 Review and reply to e-mails from J. Phillips and D. Tuthill; Telephone conference with J. Phillips re. finalizing his affidavit				236.00	25914				
Nov/13/2010	229140	Lawyer: 2 0.40 Hrs X 295.00 Prepare for settlement conference				118.00	25914				
Nov/15/2010	229150	Lawyer: 2 2.00 Hrs X 295.00 Court appearance for SRBA settlement conference in Twin Falls; E-mail client re. same				590.00	25914				
Nov/16/2010	229161	Lawyer: 2 0.30 Hrs X 295.00 Review and reply to e-mail from D. Tuthill re. settlement and forward to client; Review and reply to e-mail from client re. same; E-mail attorneys Barker and Hobday signed copies of Phillips and Smith affidavits				88.50	25914				
Nov/19/2010	229190	Lawyer: 2 0.20 Hrs X 295.00 Review and reply to e-mails from T. Morse and client re. settlement				59.00	25914				
Nov/29/2010	229217	Lawyer: 2 0.20 Hrs X 295.00 Review e-mail from attorney Barker re. withdrawing objections and forward to client				59.00	25914				
Nov/30/2010	229228	Lawyer: 2 1.00 Hrs X 295.00 Review and reply to e-mail from client [REDACTED] [REDACTED] Review and reply to e-mail from client [REDACTED]				295.00	25914				
Dec/ 2/2010	230000	Lawyer: 2 0.50 Hrs X 295.00 Review and reply to e-mails from client [REDACTED]				147.50	25980				
Dec/ 3/2010	230011	Lawyer: 2 0.60 Hrs X 295.00 Review e-mail from V. Kelly, IDWR, re. revised recommendation and POU shape file and forward to client; Review and reply to e-mail from client re. same				177.00	25980				
Dec/10/2010	230058	Lawyer: 2 0.30 Hrs X 295.00 Review and reply to e-mail from client re. status report; [REDACTED]				88.50	25980				
Dec/11/2010	230065	Lawyer: 2 1.00 Hrs X 295.00 Legal research concerning attorney fees [REDACTED]				295.00	25980				

Speck & Aanestad, P.C.
Client Ledger
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|----- General -----|

Date	Received From/Paid To	hq#	Nov/ 1/2007 To Mar/ 3/2012	Trust Activity	Balance
Entry #	Explanation	Rec#	General	Disbs	
Jan/10/2011	Lawyer: 2 1.30 Hrs X 295.00				383.50 26083
230921	Review SRBA claim files re. evidence of forfeiture prior to 1988				
Jan/11/2011	Lawyer: 2 1.00 Hrs X 295.00				295.00 26083
230939	Review IDWR backfiles and claim files re. evidence of forfeiture				
Feb/ 3/2011	Lawyer: 2 0.20 Hrs X 295.00				59.00 26178
231782	Review and reply to e-mail from attorney Hobdey re. SF5				
Feb/17/2011	Lawyer: 2 0.40 Hrs X 295.00				118.00 26178
231897	Review and reply to e-mails from V. Kelly, IDWR, and attorney Hobdey re. quantity and field headgate restriction				
Feb/18/2011	Lawyer: 2 0.30 Hrs X 295.00				88.50 26178
231908	Review and reply to e-mails from attorney Hobdey re. settlement				
Feb/23/2011	Lawyer: 2 0.50 Hrs X 295.00				147.50 26178
231932	Preparation for status conference; Telephone conference status with SM Bilyeu et al				
Feb/24/2011	Lawyer: 2 0.30 Hrs X 295.00				88.50 26178
231947	E-mail attorneys Barker and Hobdey re. quantity issue; Review e-mail from IDWR attorney Spencer re. same; Review e-mail from attorney Hobdey re. field headgate limit; E-mail client re. same				
Feb/25/2011	Lawyer: 2 0.40 Hrs X 295.00				118.00 26178
231962	Review e-mail from client re. field headgate restrictions; E-mail attorneys Barker, Hobdey and Spencer re. same; Review and reply to e-mail from attorney Barker re. same				
Feb/28/2011	Lawyer: 2 1.00 Hrs X 295.00				295.00 26178
231972	Review decrees for Hiawatha Canal water rights re. field headgate remarks; Telephone conference with attorneys Barker and Hobdey, IDWR attorney Spencer and agent Cielland re. same				
Mar/ 1/2011	Lawyer: 2 0.70 Hrs X 295.00				206.50 26263
232668	Preparation of map showing Phillips, Knight and client POU; E-mail same to attorneys Barker and Hobdey; Telephone conference with client re. same				
Mar/ 7/2011	Lawyer: 2 0.70 Hrs X 295.00				206.50 26263
232721	Review and reply to e-mail from attorney Barker re. conveyance loss remark proposal; Telephone settlement conference with attorneys Spencer, Barker and Hobdey; Review and reply to e-mails from client				
May/ 4/2011	Lawyer: 2 0.20 Hrs X 295.00				59.00 26446
234286	E-mail attorneys Barker and Hobdey re. signing SF5; E-mail client re. same				
Jun/ 7/2011	Lawyer: 2 0.20 Hrs X 295.00				59.00 26526
235182	E-mail attorneys Barker and Hobdey re. SF5				

Mar/12/2012

Speck & Banestad, P.C.
Client Ledger
Nov/ 1/2007 To Mar/ 3/2012
|----- General -----|

Date	Entry #	Received From/Paid To Explanation	Jq# Rec#	Trust Activity		Fees	Inv#	Acc	Rpts	Disbs	Balance
				Rpts	Disbs						
Jun/10/2011	235214	Lawyer: 2 0.20 Hrs X 295.00 Review e-mail from client re. SRBA status				59.00	26526				
Jun/21/2011	235289	Lawyer: 2 0.20 Hrs X 295.00 Review e-mail from IDWR attorney Spencer and forward to client				59.00	26526				
Jun/22/2011	235300	Lawyer: 2 1.00 Hrs X 295.00 Telephone status conference with SM Bilyeu et al; Review e-mail from attorney Barker re. proposed conveyance loss remark and forward to client; Telephone conference with client re. same				295.00	26526				
Jun/23/2011	235315	Lawyer: 2 1.00 Hrs X 295.00 Review excess flow analyses for other properties in valley; E-mail attorneys Barker and Hobdey rejecting conveyance loss remark proposal; Research [REDACTED]				295.00	26526				
Jun/24/2011	235327	Lawyer: 2 0.20 Hrs X 295.00 Review and reply to e-mail from attorney Barker re. conveyance loss remark				59.00	26526				
Jun/28/2011	235346	Lawyer: 2 0.20 Hrs X 295.00 Review order re. trial etc; E-mail client re. same				59.00	26526				
Jul/ 8/2011	236159	Lawyer: 2 0.50 Hrs X 295.00 Telephone conference with client re. status of SRBA subcase; Review file re. same; E-mail attorneys Barker & Hobdey final settlement proposal				147.50	26634				
Aug/ 5/2011	237049	Lawyer: 2 0.20 Hrs X 295.00 Telephone conference with attorney Hobdey re. settlement				59.00	26733				
Aug/11/2011	237091	Lawyer: 2 0.30 Hrs X 295.00 Review and reply to e-mails from client re. status of SRBA subcase				88.50	26733				
Sep/ 3/2011	238040	Lawyer: 2 0.20 Hrs X 295.00 E-mail attorneys Barker and Hobdey re. settlement or trial				59.00	26825				
Oct/ 5/2011	238772	Lawyer: 2 0.30 Hrs X 295.00 Telephone status conference with SM Bilyeu et al				88.50	26908				
Oct/13/2011	238861	Lawyer: 2 0.20 Hrs X 295.00 E-mail client re. outcome of status conference				59.00	26908				
Oct/14/2011	238875	Lawyer: 2 0.50 Hrs X 295.00 Telephone conference with client [REDACTED] Review e-mail from client re. power records for sump pump				147.50	26908				
Oct/17/2011	238884	Lawyer: 2 0.50 Hrs X 295.00 Review e-mails from client re. power records and pump specs; E-mail D. Tuthill re. volume calculations; Review and reply to e-mails from client re. annual FHG volume remark				147.50	26908				
Oct/18/2011	238894	Lawyer: 2 0.20 Hrs X 295.00 Review and reply to e-mails from D. Tuthill re. calculating diversion volume from power records				59.00	26908				
Oct/19/2011	238904	Lawyer: 2 0.20 Hrs X 295.00 Review e-mail from client to D. Tuthill with power records				59.00	26908				
Oct/24/2011	238937	Lawyer: 2 0.30 Hrs X 295.00 Review and reply to e-mails from D. Tuthill and client re. water right volume calculations				88.50	26908				
Oct/28/2011	238964	Lawyer: 2 0.20 Hrs X 295.00 Review and reply to e-mail from D. Tuthill				59.00	26908				
Nov/ 7/2011	239705	Lawyer: 2 0.50 Hrs X 295.00 Review and reply to e-mails from D. Tuthill and client re. memo on FHG remark and site inspection				147.50	27014				
Nov/15/2011	239794	Lawyer: 2 0.60 Hrs X 295.00 E-mail D. Tuthill re. revised memo on quantity remark; Review and reply to e-mail				177.00	27014				

Mar/12/2012

Speck & Aanestad, P.C.
Client Ledger
Nov/ 1/2007 To Mar/ 3/2012
|----- General -----|

Date	Entry #	Received From/Paid To Explanation	Inq# Rec#	Rpts	Disbs	Fees	Inv#	Trust Activity		
								Acc	Rpts	Disbs
Nov/16/2011	239806	memo Lawyer: 2 1.20 Hrs X 295.00 Review and reply to e-mail from D. Tuthill with final memo on quantities remark; E-mail attorneys Barker and Hobdey copy of same; Review e-mail from attorney Hobdey re. same and forward to D. Tuthill; Review e-mail from D. Tuthill re. same; E-mail attorney Hobdey re. same; Review e-mail from attorney Hobdey re. same and forward to D. Tuthill and client; Review e-mail from D. Tuthill re. same				354.00	27014			
Nov/17/2011	239816	Lawyer: 2 0.50 Hrs X 295.00 Review and reply to e-mail from client re. conveyance loss remark; Review and reply to e-mail from D. Tuthill re. same; Review e-mail from client re. same				147.50	27014			
Nov/21/2011	239835	Lawyer: 2 0.20 Hrs X 295.00 E-mail attorney Hobdey re. no settlement on remark; Review e-mail from client re. same				59.00	27014			
Nov/23/2011	239849	Lawyer: 2 2.70 Hrs X 295.00 Preparation of first draft of discovery requests to objectors				796.50	27014			
Nov/28/2011	239854	Lawyer: 2 0.40 Hrs X 295.00 Finalize, sign and serve discovery requests				118.00	27014			
Dec/ 1/2011	240613	Lawyer: 2 0.20 Hrs X 295.00 Telephone conference with client re. discovery requests				59.00	27121			
Jan/ 3/2012	241468	Lawyer: 2 1.20 Hrs X 295.00 Review Objectors' joint response to discovery requests; Preparation of motion to strike and affidavit of JPS re. time of service of same; File and serve same by fax; E-mail D. Tuthill re. trial				354.00	27209			
Jan/ 4/2012	241479	Lawyer: 2 0.90 Hrs X 295.00 Telephone conference pre-trial with SM Bilyeu et al; Review docket sheet re. copies of motion to strike and affidavit filed with court				265.50	27209			
Jan/ 5/2012	241487	Lawyer: 2 2.70 Hrs X 295.00 Review and reply to e-mail from D. Tuthill re. trial; E-mail K. Lakey re. conveyance loss remark issue; Review and reply to e-mails from client re. trial and testimony; Telephone conference with A. Merritt, IDWR, re. conveyance loss spreadsheet; Telephone conference with IDWR attorney Spencer re. agent testimony; Legal research [REDACTED] [REDACTED], Prepare list of exhibits and potential witnesses; E-mail D. Cropper re. issues for trial;; Telephone conference with K. Lakey re. scope of his administration; [REDACTED] [REDACTED]				796.50	27209			
Jan/ 6/2012	241498	Lawyer: 2 0.50 Hrs X 295.00 Review e-mail from G. Hanselman [REDACTED] and forward to client; E-mail D. Tuthill re. information and exhibits for trial				147.50	27209			
Jan/ 7/2012	241506	Lawyer: 2 0.80 Hrs X 295.00 Review and reply to e-mail from D. Tuthill re. duty of water calculation; Telephone conference with D. Tuthill re. same; Annotate 1980 aerial photo and e-mail to D. Tuthill; Review e-mail from D. Tuthill to A. Merritt re. other bubble analysis in vicinity				236.00	27209			

Mar/12/2012

Speck & Aanstad, P.C.

Client Ledger

Nov/ 1/2007 To Mar/ 3/2012

General

Trust Activity

Date	Entry #	Received From/Paid To Explanation	Inq# Rec#	Rcpts	Disbs	Fees	Inv#	Acc	Rcpts	Disbs	Balance
	241516	Preparation of first draft of witness and exhibit lists; E-mail client [REDACTED] E-mail attorney Spencer re. Clelland testimony; Telephone conference with agent S. Clelland and IDWR attorney Spencer re. trial testimony; Telephone conference with D. Tuthill re. his analysis				413.00	27209				
Jan/10/2012	241528	Lawyer: 2 1.10 Hrs X 295.00 Review and reply to e-mail from D. Tuthill re. CV; Telephone conference with attorney Hobdey re. offer to withdraw objection and each pay their fees and costs; Telephone conference with client re. same; Telephone conference with D. Tuthill re. results of his analysis; Review e-mail from IDWR with their witness and exhibit list; E-mail attorneys Barker, Hobdey & Spencer our witness & exhibit lists; Review BWCC witness & exhibit list; E-mail IDWR and BWCC list to client				324.50	27209				
Jan/11/2012	241537	Lawyer: 2 4.20 Hrs X 295.00 Preparation for continued pre-trial conference; Telephone conference with D. Tuthill re. current draft of analysis; Review same; E-mail client re. same; Telephone conference with D. Cropper re. conveyance loss remark; Telephone pre-trial conference with SM Bilyeu et al; Telephone conference with D. Tuthill re. Barker documents and his report; Telephone conference with client re. same; Review CWU list of exhibits; Review final version of Tuthill report; Telephone conferences with D. Tuthill re. same; E-mail same to attorneys Barker, Hobdey and Spencer; Telephone conference with client re. same				1239.00	27209				
Jan/12/2012	241544	Lawyer: 2 1.00 Hrs X 295.00 Review final Tuthill analysis of on-field water requirement; Telephone conference with D. Tuthill re. same; Telephone conference with attorneys re. agreement on conveyance remark; Review e-mail from V. Kelly, IDWR, with SF5 and forward to client; [REDACTED]				295.00	27209				
Jan/13/2012	241551	Lawyer: 2 1.80 Hrs X 295.00 Review e-mail from client re. SF5; Telephone conference with client re. same; Review order on motion to strike and e-mail to client; [REDACTED]				177.00	27209				
Jan/16/2012	241558	[REDACTED] Sign SF5 and e-mail to attorney Hobdey				59.00	27209				
Jan/17/2012	241564	Lawyer: 2 0.30 Hrs X 295.00 Review e-mail from V. Kelly, IDWR, re. filing SF5 today and forward to client; Review e-mail from client re. same; Review e-mail from V. Kelly re. trial vacated and forward to client				88.50	27209				
Jan/24/2012	241599	Lawyer: 2 0.20 Hrs X 295.00 Review SMRR for 37-21112; E-mail client re. same				59.00	27209				
Feb/28/2012	242524	Lawyer: 2 0.20 Hrs X 295.00 Review and reply to e-mail from client re. deadline for				59.00	27298				

UPSON & HANCOCK, P.C.

Client Ledger

From Nov/ 1/2007

Date	Entry #	Received From/Paid To Explanation	Chq# Rec#	General		Fees	Trust Activity				Balance
				Ropts	Disbs		Av#	Acc	Ropts	Disbs	
Mar/ 3/2012	242769	Lawyer: 2 0.20 Hrs X 295.00 Review order of partial decree for 37-21112 and e-mail to client; Review e-mail from client re. same				59.00					
Mar/ 6/2012	242777	Lawyer: 2 1.20 Hrs X 295.00 Preparation of first draft of pleadings to request attorneys fees				354.00					
Mar/ 7/2012	242778	Lawyer: 2 1.30 Hrs X 295.00 Preparation of first draft of pleadings for attorneys fees request				383.50					
Mar/ 9/2012	242779	Lawyer: 2 1.20 Hrs X 295.00 Review and revise drafts of pleadings for attorneys fees request				354.00					
Mar/ 9/2012	242780	Lawyer: 2 2.00 Hrs X 295.00 Review and revise drafts of pleadings for attorneys fees request				590.00					
Mar/10/2012	242781	Lawyer: 2 1.00 Hrs X 295.00 Review and revise drafts of pleadings for attorneys fees request				295.00					
Mar/11/2012	242782	Lawyer: 2 1.00 Hrs X 295.00 Finalize pleadings for attorneys fees request; E-mail client re. same				295.00					
Mar/12/2012	242783	Lawyer: 2 1.10 Hrs X 295.00 Finalize pleadings for attorneys fees request; Office conference with client re. signing same				324.50					

TOTALS
PERIODFEES
27729.50

EXHIBIT 2

02/20/2007

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

RIGHT NUMBER: 37-21112
NAME AND ADDRESS: MARATHON PARTNERS LLC
PO BOX 3118
SUN VALLEY ID 83353
SOURCE: BIG WOOD RIVER
QUANTITY: 1.419 CFS
PRIORITY DATE: 03/24/1883
POINT OF DIVERSION: T03N R18E S20 SWNW Within BLAINE County
TRIBUTARY: MALAD RIVER

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	04/15 11/15	1.419 CFS
PLACE OF USE:	<u>IRRIGATION in BLAINE County</u>		
	T02N R18E S09	NENE 2.00	T02N R18E S10 NWNW 34.00
	T02N R18E S10	SWNW 11.00	T02N R18E S10 SENW 7.00

54 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Right 37-12818A is a split from former right 37-577.

This right is a split from former right 37-12818A.

EXHIBIT 3

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 No. 37-21112

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING:

Tom O'Gara
John F. Stevenson
Bill Molyneux
Pete Van Der Meulen
Grace Eakin
Rocky Sherbine
Gerald Bashaw
Pepin Corso-Harris
c/o Concerned Water Users
P.O. Box 1200
Bellevue, ID 83313

Big Wood Canal Company
112 South Apple Street
Shoshone, ID 83352

Name and Address of Attorney, if any:

Albert P. Barker
Barker, Rosholt & Simpson, LLP
P.O. Box 2139
Boise, ID 83701
Telephone: (208) 336-0700
Attorney for O'Gara, Stevenson,
Molyneux, Van Der Meulen, Eakin,
Sherbine & Bashaw

Craig Hobdey
Hobdey & Hobdey
P.O. Box 176
Gooding, ID 83330
Telephone: (208) 934-4420
Attorney for Big Wood Canal Company

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

Name: Marathon Partners LLC
Address: P.O. Box 3118
Sun Valley, ID 83353

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

1. ☐ **Name and Address**
Should be:
2. ☐ **Source**
Should be:
3. ☒ **Quantity**
Should be: Diversion rate excessive for POU
4. ☐ **Priority Date**
Should be:
5. ☐ **Point(s) of Diversion**
Should be:
6. ☐ **Instream Flow Beginning and Ending Point**
Should be:
7. ☐ **Purpose(s) of Use**
Should be:
8. ☒ **Period of Year**
Should be: 4/15 to 10/31
9. ☐ **Place of Use**
Should be:
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 OBJECTION(S):

Right has been forfeited for non-use or abandoned.

Big Wood Canal Company

Tom O'Gara
John F. Stevenson
Bill Molyneux
Pete Van Der Meulen
Grace Eakin
Rocky Sherbine
Gerald Bashaw
Pepin Corso-Harris

By: [Signature]
Albert P. Barker, Attorney

By: [Signature]
Craig Hobdey, Attorney

VERIFICATION

F.

State of IDAHO)
) ss.
County of Ada)

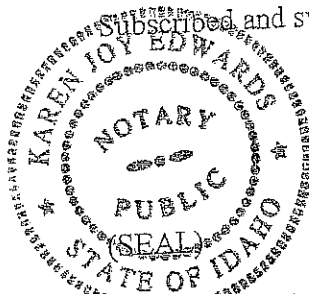
Albert P. Barker, duly sworn, upon oath, deposes and says:

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, and I have been expressly authorized to sign this objection on behalf of the attorney for Big Wood Canal Company.

(Signature of person filing objection)

[Signature]
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: November 14, 2007



Karen Joy Edwards
Notary Public for: Idaho
Residing at: Boise
My Commission Expires: 8/2/2012

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 November 1st, 2007, I hand-delivered and mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original hand-delivered to:

Clerk of the District Court
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, ID 83303-2707

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

Name: Marathon Partners LLC
Address: P.O. Box 3118
Sun Valley, ID 83353

3. Copies mailed to:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment & Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724



EXHIBIT 4

RECEIVED

JAN 14 2008

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 37-21112

STANDARD FORM 2
RESPONSE TO OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: Marathon Partners LLC
Address: P.O. Box 3118, Ketchum, ID 83340
Daytime Phone: 208-726-8008

Name & Address of Attorney, if any:
James P. Speck
SPECK & AANESTAD
A Professional Corporation
PO Box 987
Ketchum, ID 83340

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

Name:	Big Wood Canal Company	Tom O'Gara, John F. Stevenson, Bill Molyneux, Pete Van Der Meulen, Grace Eakin, Rocky Sherbine, Gerald Bashaw, Pepin Corso-Harris
Address:	112 South Apple St. Shoshone, ID 83352	c/o Concerned Water Users PO Box 1200 Bellevue, ID 83313

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
10. Recommendation:

☒ This water right should not exist.

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

11. **Respondents' Position:** This water right should exist. This water right has not been forfeited through non use or abandoned in whole or in part. In the alternative, the use of this water right has been resumed. The Objectors have waived their right to assert the claims made in their Objections. The Objectors are barred from asserting the claims made in their Objections by laches, equitable estoppel, quasi-estoppel, and judicial estoppel. Respondent is entitled to recover from Objectors its costs and attorneys fees incurred in this action. Respondent reserves the right to assert other legal bases to support its position as discovery proceeds in this matter.

F.

VERIFICATION (Must be completed)

State of Idaho)
)
County of Blaine) ss.

James P. Speck, being first duly sworn, upon oath, deposes and says:

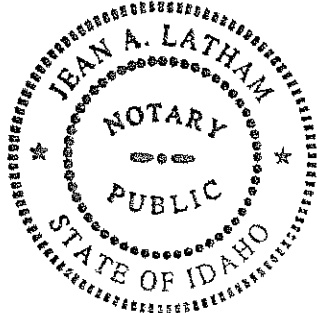
That I am the party/claimant filing this objection, as defined by I.C. § 42-1401A(1) and (6), or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)

J. R. Speck
(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

January 10, 2008



Jean A. Latham
Notary Public for Idaho
Residing at Blaine ID.
My Commission expires 1-25-2013

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 of the parties listed below in the Certificate of Mailing.

G.

CERTIFICATE OF MAILING

I certify that on January 11, 2008, 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:

Name: Marathon Partners LLC
Address: P.O. Box 3118, Ketchum, ID 83340

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

Name:	Big Wood Canal Company	Tom O'Gara, John F. Stevenson, Bill Molyneux, Pete Van Der Meulen, Grace Eakin, Rocky Sherbine, Gerald Bashaw, Pepin Corso-Harris
Address:	112 South Apple St. Shoshone, ID 83352	c/o Concerned Water Users PO Box 1200 Bellevue, ID 83313

4. Copies to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, Idaho 83711-4449

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

Albert P. Barker
Barker, Roshalt & Simpson, LLP
PO Box 2139, Boise, ID 83701

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, Idaho 83734

Craig D. Hobdey
PO Box 176
Gooding, ID 83330

Scott L. Campbell & Andrew J. Waldera
Moffatt Thomas Barrett Rock & Fields
PO Box 829, Boise, ID 83701

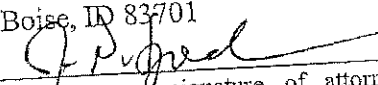

Your signature or signature of attorney
mailing on your behalf

EXHIBIT 5

SPECK & AANESTAD
A PROFESSIONAL CORPORATION
ATTORNEYS

JAMES R. SPECK
jim@speckandaanestad.com
DOUGLAS J. AANESTAD
doug@speckandaanestad.com

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340

TELEPHONE
(208) 726-4421
FACSIMILE
(208) 726-0752

April 23, 2008

Mr. Craig D. Hobdey
HOBDEY & HOBDEY
P.O. Box 176
Gooding ID 83330

**Re: Marathon Partners, LLC (SRBA Subcase 37-21112),
John Miley (SRBA Subcase 37-21116), and
Blaine County School District (SRBA Subcase 37-21114)**

Dear Craig:

I represent Marathon Partners, LLC, ("Marathon") John Miley and the Blaine County School District #61, (the "District") the owners and claimants of the above-referenced water rights. I have enclosed for your reference copies of the recommendations for each of these water rights filed with the SRBA Court and your Objections to each of the water rights asserting that the "right has been forfeited for non-use or abandoned." On the basis of the matters described below, I am asking that your client, Big Wood Canal Company, withdraw its objections to these water rights.

In 1993, Marathon (then Marathon Partners, an Idaho general partnership) was the owner of 2.72 cfs of a portion of Water Right No. 37-577. That portion was claimed in the SRBA as Water Right No. 37-12818 for the irrigation of 103 acres of land that had recently been annexed into the city of Hailey. The District was then in the process of planning new athletic fields associated with the Wood River High School in Hailey, Idaho and in need of water rights to do so. Marathon agreed to donate to the District 1.06 cfs of the above-described water right. At the same time, Marathon Partners agreed to sell to Mr. Keith Friedly, the previous owner of Mr. Miley's property, 0.026 cfs of this water right. Since neither the District nor Mr. Friedly could efficiently convey these Big Wood River water rights to their respective properties, they filed Applications for Permit with the Idaho Department of Water Resources ("IDWR") for new groundwater irrigation rights proposing, as a part of their respective applications, to "exchange" the Big Wood River water right in return for the new consumptive ground water diversion by leaving the Big Wood water right in the river to compensate for depletions caused by the new ground water diversions. I have enclosed copies of Application for Permit No. 37-8819 filed by Keith Friedly and Application for Permit No. 37-8821 filed by the District. Your client, Big Wood Canal Company, filed a protest to both of these Applications for Permit (copies of those protest letters are enclosed).

Mr. Craig Hobdey
April 23, 2008
Page - 2

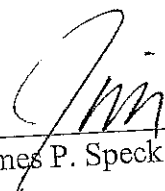
The validity of the Marathon Partners' water right was called into question by the proposal to use portions of that right in the two mitigation plans. Your client reviewed these applications and the respective mitigation plans and then, on October 25, 1993, withdrew their protests by letters to IDWR, copies of which are also enclosed. Therefore, your client was a party to these two administrative proceedings¹ in which the non-use of the water rights now challenged on these very grounds in the SRBA was an issue. As you know, there are numerous decisions by Judge Wood, Judge Burdick and Judge Melanson, as well as one or more special masters addressing the issue of collateral estoppel in the SRBA. I am confident that doctrine will be applied in each of these subcases to successfully bar your client from pursuing its objections to these water rights. If you are not familiar with these decisions, let me know and I will provide you the appropriate citations.

Please call me as soon as possible to discuss these matters.

Thank you.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By: 

James P. Speck

JPS:jal

cc: Ed Dumke (w/encls.)
John Miley (w/encls.)
Blaine County School District #61 (w/encls.)

¹ Two other portions of the Marathon Partners water right were sold and used in similar mitigation plans, but I do not presently represent the claimants for those portions in the SRBA.

EXHIBIT 6

RECEIVED

APR 29 2008

HOBDEY LAW OFFICE, PLLC

125 Fifth Avenue West

P.O. Box 176

Gooding, Idaho 83330-0176

Craig D. Hobdey
(208) 934-4429

SPECK & AANESTAD

Facsimile
(208) 934-4420

April 25, 2008

James Speck
Attorney at Law
PO Box 987
Ketchum ID 83340

Re: Marathon Partners

Dear Jim:

Thank you for your letter of April 23, 2008. I reviewed your enclosures and will present the matter to the Board of Directors at the May 1 meeting. I am not familiar with any decision that would prevent Big Wood Canal Company from continuing its objections to the water rights. In 1993 the Company was not aware that the water rights had not been used for many years and therefore a resumption of the use was not in question. It appears to me the Canal Company simply withdrew their objection to the proposed transfer based upon a mitigation plan. They did not waive any future objections based upon the SRBA recommendation.

In any event, if you send me a copy of the decision you believe is on point I will be happy to review it. As I advised I will discuss this with the Board of Directors at the May 1 meeting.

Have the Concerned Water Users also objected to these rights?

Sincerely,



Craig D. Hobdey

CDH:dm

EXHIBIT 7

SPECK & AANESTAD
A PROFESSIONAL CORPORATION
ATTORNEYS

JAMES P. SPECK
jim@speckandaanestad.com
DOUGLAS J. AANESTAD
doug@speckandaanestad.com

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340

TELEPHONE
(208) 726-4421
FACSIMILE
(208) 726-0752

May 1, 2008

Mr. Craig D. Hobdey
HOBDEY & HOBDEY
P.O. Box 176
Gooding ID 83330

**Re: Marathon Partners, LLC (SRBA Subcase 37-21112),
John Miley (SRBA Subcase 37-21116), and
Blaine County School District (SRBA Subcase 37-21114)**

Dear Craig:

I received your April 25, 2008 letter on these matters yesterday. Big Wood Canal Company, by filing the objections became parties to the administrative proceedings which directly implicated the validity of the Big Wood water rights now at issue in the SRBA. What the company may or may not have known in 1993 regarding the history of use of those water rights is not very relevant under the case law discussed below. Instead, their participation in those proceedings effectively waives their right to make the challenges they have asserted in the SRBA.

There have been 17 decisions in the SRBA regarding collateral estoppel, six by Special Masters, five by Judge Wood, two by Judge Burdick, and four by Judge Melanson. Special Master Haemmerle's initial report in *Facility Volume* on August 28, 1996, the first decision on the subject by a Special Master, was limited to parties in the SRBA who were also parties to the licenses involved:

Having determined that I.C. § 42-220 binds the state to licensed rights, those same licenses are also binding on the license holder. If a party is aggrieved by any aspect of a license, that party's remedy is to seek an administrative review and then, if necessary, a judicial review of the license. I.C. § 42-1701(A); *Hardy v. Higginson*, 123 Idaho 485, 849 P.2d 946 (1997). If the license is not appealed when issued, any attempt to appeal the license in a subsequent judicial proceeding, like the SRBA, would constitute a collateral attack on the license. See, e.g., *Mosman v. Mathison*, 90 Idaho 76, 408 P.2d 450 (1965); *Bone v. City of Lewiston*, 107 Idaho 844, 693 P.2d 1046 (1984).

Mr. Craig D. Hobdley

May 1, 2008

Page 2

As to the licenses which contained a facility volume provision when issued, Haemmerle ruled that the provisions must remain in the licenses. He qualified his ruling, however, by stating that it "expresses no opinion as to whether parties in the SRBA, not parties to a license, can challenge a license in the SRBA." Quoting Special Master Haemmerle, Judge Wood adopted the ruling in his **Order on Challenge (Consolidated Issues) of "Facility Volume" Issue and "Additional Evidence" Issue**, Subcase No. 36-2708 et al., December 29, 1999, at 16.

Three months later, Judge Wood entered another order concerning collateral attacks on licenses issued by IDWR, this time ruling that non-parties to the licensing process, as well as parties, are barred from collaterally attacking a license in the SRBA. The case involved the Nez Perce Tribe's claims for off-reservation instream flows and a motion filed by the Tribe pursuant to I.R.C.P. 40(d)(2) to disqualify Judge Wood because he "is a party" to the SRBA and he is related to other parties. The Tribe asserted that "the interests of Judge Wood and his family members are in direct conflict with the Tribe's off-reservation instream flow claims." **Response to United States' Motion for Status Conference and Order on New Perce Tribe's Motion to Set Aside All Decisions, Judgments and Orders on Instream Flow Claims Entered in Consolidated Subcase 03-10022 by Judge R. Barry Wood, and Motion to Disqualify Judge Wood**, Consolidated Subcase No. 03-10022, March 23, 2000, at 10.

The interests of Judge Wood and his family members consisted of his domestic well, a license to irrigate part of a 13 acre parcel around his residence, his brother's domestic well and a right to irrigate part of the 10 acres around his residence, a sister's domestic well, and another sister's domestic well and right to irrigate 62.8 acres. The "objection periods" for all of the rights had expired, and the Tribe had not filed objections to the rights. Two of the rights had already been decreed. With respect to his own license to irrigate around his residence, Judge Wood noted:

The fact that this claim is based on [a] previously licensed claim is also significant because of the scope of what can be litigated in the SRBA relative to licensed water rights is substantially limited. Licensed water rights are perfected administratively as opposed to judicially or in the SRBA. See I.C. § 42-201 *et seq.* In fact, judicial review of the administrative agency action relative to licensed water rights does not even fall under the jurisdiction of the SRBA. *Twin Falls Canal Co. V. IDWR*, 127 Idaho 688, 688-89, 905 P.2d 89, 89-90 (1995). Additionally, the elements of previously licensed water rights are not subject to collateral attack in the SRBA proceedings. See *e.g.*, *Bone v.*

Mr. Craig D. Hobdey

May 1, 2008

Page 3

City of Lewiston, 107 Idaho 844, 847-48, 693 P.2d 1046, 1049-50 (1984) . . .

As such, the only factual issues that can be addressed in the SRBA relative to the existence of a licensed water right concern legal causes of action which may have arisen subsequent to the issuance of the license, such as abandonment or forfeiture of the right.

Id. at 18, fn. 11. In reaching the view that the Tribe's motion to disqualify was without merit, Judge Wood also held:

The license *per se*, and the right it created, is not subject to collateral attack within the SRBA proceedings. Unlike a federal reserved right, a constitutionally based claim under state law, or perhaps a claim based upon a private decree, the Tribe cannot attack the elements of an underlying licensed right in the SRBA at this late date. An objection to a licensed right cannot be a substitute for an appeal of IDWR's administrative decision concerning the merits of the right created by the license. If a license is not appealed when issued, any attempt to appeal the license in a subsequent judicial proceeding, e.g., the SRBA, would constitute an impermissible collateral attack on the license. See, e.g., *Mosman v. Mathison*, 90 Idaho 76, 408 P.2d 450 (1965); *Bone v. City of Lewiston*, 107 Idaho 844, 693 P.2d 1046 (1984).

Id. at 33. While Judge Wood did not explicitly address the fact that the Tribe was not a party to the licensing process, he implicitly took the position that *nobody* can "attack the elements of an underlying licensed right at this late date." Subsequent decisions by Special Masters in the SRBA have also concluded that non-parties to a licensing process "are barred from collaterally attacking a license in SRBA proceedings . . ." See, e.e., **Order Granting United States Motion for Summary Judgment and Special Master Report**, Subcases Nos. 55-2415 *et al.*, Special Master Dolan, October 5, 2005, at 6.

In this regard, the decisions in the SRBA have effectively merged collateral estoppel with the waiver of a right to challenge a proposed water right permit that could ultimately lead to the issuance of a license. In 1997, Judge Hurlbutt entered a decision in a case involving a challenge by Mr. and Mrs. Adams to the water right recommended in the Director's Report for Ruby Springs Water Company, which provided water to the Norwood Subdivision. The initial right was created administratively in License No. 36-07092A, issued to the Norwood Subdivision on August 16, 1976, following proceedings in which Mr. and Mrs. Adams had not been parties. The water company was incorporated on November 2, 1977, and it was assigned all of the rights under the license. Judge Hurlbutt held:

Mr. Craig D. Hobdey
May 1, 2008
Page 4

The Special Master entered lengthy findings about License 36-07092A and its several transfers leading up to its issuance to Ruby Springs Water Co. The Adamses' objection is misplaced because it is a collateral challenge to the Director's decision to issue License No. 36-07092A. The Adamses had the opportunity to protest the License transfer at the time of issuance which they failed to do. They waived any challenge to the issuance of the License. The SRBA is not a case authorized to revive lost challenges to licensing decisions.

Order Adopting Special Master's Report and Recommendation, December 10, 1977, at 4.

Similarly, on January 11, 2000, Judge Wood addressed a determination in a report by Special Master Haemmerle that an objection to a remark contained in the Director's Report constituted an impermissible collateral attack on an administrative agency's action. **Memorandum Decision and Order on Challenge; Order on State of Idaho's Motion to Dismiss Claimant's Notice of Challenge**, Subcase No. 36-08099. Special Master Haemmerle had made reference to the same paragraph he used in *Facility Volume*, which Judge Wood quoted in full and with which he concurred. Judge Wood then stated:

River Grove's claim in the SRBA to water right 36-08099 is predicated on the license issued April 3, 1991. The license, in turn, is predicated on the permit issued October 18, 1983. River Grove's objection to the subordination remark contained in the Director's Report is a very belated attempt to seek judicial review of an administrative agency's decision (IDWR). River Grove and/or its predecessors-in-interest failed to timely request a hearing pursuant to I.C. § 42-1701(A), which allows for administrative review of IDWR's decisions in accordance with the Idaho Administrative Procedures Act, I.C. §§ 67-5201 to 67-5292 ('APA'). An opportunity for such a hearing presented itself when the application for permit was approved (October 18, 1983) and when the license was issued (April 3, 1991). . . . The permittee did not seek judicial review (of either the permit or the license) in accordance with the APA. At the time, former I.C. § 67-5215 also required exhaustion of administrative remedies as a prerequisite to judicial review. [Footnote omitted]. This section further required a petition for judicial review to be filed with the district court within 30 days after the service of the final agency decision. The license on which River Grove's claim is predicated became final after the time for seeking review expired. Accordingly, this Court does not have jurisdiction to go back and review IDWR's decision at this point in time.

Mr. Craig D. Hobdey
May 1, 2008
Page 5

Ibid. at 16-17.

Finally, on October 6, 2006, Judge Melanson entered an explicit decision with respect to the effect of a license on persons other than the parties to the administrative proceeding and their privies. The case involved the City of Pocatello's assertion of a "federal reserved right" as an alternative basis for 38 separate claims it had made based on state law, including some previously decreed rights and some licensed rights. The City's theory raised the issue of whether it was bound by its decrees and licenses. After concluding that "prior decrees are binding on the parties to the decree and their privies" [*citing State v. Hagerman Water Right Owners*, 130 Idaho 736, 741-42, 947 P.2d 409, 414-15 (1997)], Judge Melanson turned to the licenses:

Licenses are and have been consistently treated in the SRBA the same as prior decrees for purposes of binding the parties and their privies. In **Order on Challenge (Consolidated Issues) of 'Facility Volume' Issue and 'Additional Evidence' Issue**, Subcases 36-02708 *et al.* (Dec. 29, 1999), the SRBA Court affirmed a special master's ruling that the SRBA was not the appropriate forum for collaterally attacking licenses previously issued through administrative proceedings.

The SRBA cannot serve as a second opportunity for IDWR to recondition a license which it had full opportunity to condition when the license was originally issued. *See e.g., Matter of Hidden Springs Trout Ranch, Inc. v. Alred*. Having determined that I.C. § 42-220 binds the state to licensed rights, those same licenses are also binding on the license holder. If a party is aggrieved by any aspect of a license, that party's remedy is to seek an administrative review and then, if necessary, a judicial review of the license. I.C. §§ 42-1701(A) and 67-5270; *Hardy v. Higgenson*, 123 Idaho 485, 849 P.2d 946 (1997). If the license is not appealed when issued, any attempt to appeal the license in a subsequent judicial proceeding, like the SRBA, would constitute a collateral attack on the license. [footnote 5 cited]. *See e.g., Mosman v. Mathison*, 90 Idaho 76, 408 P.2d 450 (1965); *Bone v. City of Lewiston*, 107 Idaho 844, 693 P.2d 1046 (1984).

Ibid. at 12-13. Judge Melanson went on to posit that licenses are binding on non-parties:

Like a prior decree, a licensed right is not conclusive as to the extent of the water right, since a license does not insulate a claimant from practices

Mr. Craig D. Hobdey
May 1, 2008
Page 6

occurring after the license was issued such as abandonment or forfeiture. However, unlike a prior decree, the binding effect of a license extends beyond the parties to the administrative proceeding and their privies. [Judge Melanson's footnote reads: Publication notice is given and any affected person can initiate a contested case.]. The Idaho legislature also acknowledged the binding effect of prior licenses and decrees in enacting Idaho Code § 42-1427 which provides a mechanism for defining elements of water rights not described in prior decrees or licenses. Accordingly, the City [of Pocatello] is also bound by its prior license for water claim 29-07431.

Id. at 13. In effect, Judge Melanson ruled that collateral estoppel applies to persons or their predecessors *who could have become parties*. He concluded by alluding to a decision by Judge Burdick in **Order Disallowing Uncontested Federal Reserved Water Right Claims**, Subcases 61-11783, 84 & 85, April 6, 2001. In that case, Judge Burdick denied the United States' claims for reserved rights in relation to acquired or condemned land where no federal reservation from the public domain had taken place. He also, however, "raised the issue of whether the United States was barred from claiming federal reserved rights where the subject rights had been previously licensed." *Id.* fn. 5.

A collateral attack on a water right license or an approved water right transfer is an attempt by a party to the administrative proceedings or someone in privity with him to evade or defeat the force and effect of the final order issuing the license or transfer in an unrelated judicial proceeding. The concept of privity pertains to the relationship between a party to a proceeding and a person who was not a party, but whose interest in the proceeding was such that he would be bound by the license or transfer as if he were a party, *e.g.*, a successor-in-interest to a party. The waiver of a right to protest or challenge an administrative decision, on the other hand, could derive from a much broader group of potential players, *i.e.*, any person who believes that a particular administrative action might be adverse to his interests. The early SRBA decisions regarding collateral estoppel, as well as the Supreme Court decisions relied upon in those decisions, are collateral estoppel decisions. As the SRBA cases developed, however, reference continued to be made to the earlier collateral estoppel decisions, but the group of persons to whom the decisions applied was broadened from parties to the administrative proceedings or their privies to anyone who might have challenged the administrative action. These cases effectively merged collateral estoppel with the waiver of a right to protest administrative action by non-parties.

In sum, the SRBA decisions and the Supreme Court decisions upon which they rely posit the proposition that any party to water right permitting or transfer proceedings, anybody

Mr. Craig D. Hobdey
May 1, 2008
Page - 7

in privity with a party, and anyone who could have become a party by protesting a permit or transfer application or by challenging IDWR's action in issuing a permit, license or transfer is collaterally estopped from attacking any element of the license or transferred water right in the SRBA or any other judicial proceeding. In the present cases, this applies to the water rights used as mitigation for the licensed ground water diversions. Although these cases do not foreclose an attack or challenge to the mitigation water rights based on events occurring subsequent to the issuance of the licenses, the law of the case in the SRBA, as you know, effectively tolls the running of the forfeiture statute during the pendency of a claim so that forfeiture of these mitigation rights cannot be based on any non use after the date of the licenses for the ground water rights based on the use of the Big Wood River rights for mitigation.

The Concerned Water Users have also objected to these rights. However, they did not file protests and were not otherwise parties to the previous administrative proceedings. Nonetheless, under Judge Melanson's interpretation of the doctrine of collateral estoppel in the SRBA, I believe they are foreclosed from bringing these objections and will pursue that position with them.

Please let me know your client's position after you discuss this legal authority with them. Thank you.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

By: 

James P. Speck

JPS:jal

cc: Ed Dumke
John Miley
Blaine County School District #61

EXHIBIT 8



Blunk
RECEIVED
MAY 06 2008

HOBDEY LAW OFFICE, PLLC

125 Fifth Avenue West
P.O. Box 176
Gooding, Idaho 83330-0176

SPECK & AANESTAD

Facsimile
(208) 934-4420

Craig D. Hobdey
(208) 934-4429

May 5, 2008

James Speck
Attorney at Law
PO Box 987
Ketchum ID 83340

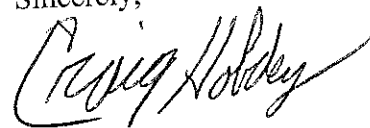
Re: Marathon Partners

Dear Jim:

Thank you for your letter of May 1, 2008. I have reviewed the decisions and still have some concerns. As you set forth of the bottom of page 5 and the top of page 6 of your letter, "a license does not insulate a claimant from practices occurring after the license was issued, such as abandonment or forfeiture." Therefore, we are not attacking the original license but are attacking things that occurred after the license was issued and prior even to the administrative proceeding in 1993. It is our position that a party cannot revive an abandoned water right, after the commencement of the SRBA, nor they split it and claim that it was not abandoned.

However, given the complexity of the pedigree of this water right I'll have to do a little more research into the matter and consult with my client before I can give a definitive response one way or the other.

Sincerely,



Craig D. Hobdey

CDH:dm

EXHIBIT 9

SPECK & AANESTAD
A PROFESSIONAL CORPORATION
ATTORNEYS

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jim@speckandaanestad.com

DOUGLAS J. AANESTAD
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P. O. BOX 987
KETCHUM, IDAHO 83340

TELEPHONE
(208)726-4421
FACSIMILE
(208)726-0752

March 6, 2009

VIA E-MAIL - apb@idahowaters.com; hobdeycraig@hotmail.com
ORIGINAL WILL NOT FOLLOW

Mr. Al Barker
Mr. Craig Hobdey

Re: Marathon Partners, LLC (SRBA Subcase 37-21112), John Miley (SRBA Subcase 37-21116), and Blaine County School District (SRBA Subcase 37-21114)

Dear Al and Craig:

I represent the Claimants in the above-referenced subcases. Marathon Partners' Big Wood River water right is delivered through the Hiawatha Canal to its property situated immediately south of the Old Cutters' subdivision and north of Quigley Road in the City of Hailey. Al's client, Gerry Bashaw, currently farms that property pursuant to an agreement with Marathon Partners. Another of Al's clients, Rocky Sherbine, farmed the property prior to Bashaw. The other two water rights are portions of the original Marathon Partners' Big Wood River water right that were, respectively, donated to the Blaine County School District and sold to the previous owner of John Miley's property. The District and Miley's predecessor then filed for and obtained permitted and licensed ground water rights to irrigate their respective properties using the portions of the Big Wood River water right as mitigation.

The "mitigation" required by the terms and conditions of the District's and Miley's permitted and licensed ground water rights is to simply leave all or portions of their Big Wood River rights in the river. For the District, License No. 37-8821 (as modified by Amended Transfer No. 70522) which irrigates the playing fields and grounds of the Wood River High School, and Permit 37-21177, which irrigates part of the playing fields at Woodside Elementary School, are mitigated by portions of 37-21114. Miley's License No. 37-8819 is mitigated by all of 37-21116. Copies of these licenses, permit and transfer are attached.

Your objections challenge the quantity, season of use and existence based on forfeiture of these three Big Wood River water rights. I am interested in exploring the possibility of an informal settlement conference to discuss the relief sought by your clients' objections. However, if your clients' real and only goal is to have the Court declare these water rights forfeited, then settlement

Al Barker and Craig Hobdey

March 6, 2009

Page 2

discussions are probably pointless!

Please call me at your earliest convenience on this matter. Thank you.

Sincerely yours,

SPECK & AANESTAD
A Professional Corporation

A handwritten signature in black ink, appearing to read "Jim", written over the printed name of James P. Speck.

James P. Speck

CC: Ed Dumke
John Miley
Jim Lewis, Blaine County School District
Mike Chatterton, Blaine County School District

EXHIBIT 10

James Speck Wed Mar 7, 2012

E-mail

From: Jim Speck
 Date: Sun Mar 22, 09 - 1:05 PM - E-mail
 To: 'Albert Barker'
 CC: 'Mr. Craig D. Hobdey'; 'Ed Dumke'
 Subject: RE: RE: RE: Marathon Partners, LLC / Miley / Blaine Co. School District

Contact: Al Barker
 File: Dumke/Marathon Partners Water Rights - 31/950310

Al,

That is correct for Miley BCSD. The Marathon Partners water right is diverted at through the Hiawatha Canal and I believe is the last right taken out - the place of use is immediately north of Quigley Road in Hailey. I believe I mentioned that one of your clients - Bashaw - farms it for my client (Ed Dumke, Jr. is the main principal for the partnership).

Jim

-----Original Message-----

From: Albert Barker
 Sent: Sunday, March 22, 2009 12:57 PM
 To: Jim Speck
 Cc: 'Mr. Craig D. Hobdey'

I understood from your letter that these rights are not diverted and are left in the river because they are mitigation for the gw rights?

-----Original Message-----

From: "Jim Speck" <jim@speckandaanestad.com>
 To: "Albert Barker" <apb@idahowaters.com>
 Cc: "Mr. Craig D. Hobdey" <hobdeycraig@hotmail.com>; "Ed Dumke" <edumke@mac.com>; "jbmiley@yahoo.com" <jbmiley@yahoo.com>; "hroyal@blaineschools.org" <hroyal@blaineschools.org>; "mchatterton@blaineschools.org" <mchatterton@blaineschools.org>
 Sent: 3/22/2009 12:45 PM
 Subject: RE: RE: Marathon Partners, LLC / Miley / Blaine Co. School District

Al,

What time frame are you referring to for the rights not being exercised? The Miley and BCSD rights are mitigation for permits issued in the early to mid-1990's (you should have that information). Marathon Partners' water right to my knowledge does not have any period of non-exercise. Is this sufficient to have an informal settlement conference the week of March 30-April 3??

Jim

James P. Speck
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 A Professional Corporation
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 Ketchum, ID 83340
 208.726.4421
 208.726.0752 (fax)
 jim@speckandaanestad.com

CONFIDENTIAL COMMUNICATION

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James Speck Wed Mar 7, 2012

message in error, please immediately notify the sender by replying to this email message or by telephone. Thank you.

-----Original Message-----

From: Albert Barker
Sent: Saturday, March 21, 2009 4:55 PM
To: Jim Speck
Cc: Mr. Craig D. Hobdey

Jim-

If the reason that these rights have not been exercised is because they are in the river for mitigation of new groundwater rights, it seems to me that we ought to be able to settle this one pretty easily. Without speaking for Craig, I'd like to be sure this is the case and would be happy to have an informal conference to discuss. I am out next week, but could arrange a time the following week.

Albert P. Barker
Barker Rosholt & Simpson LLP
(208) 336-0700

CONFIDENTIALITY NOTICE: This e-mail and its attachments are confidential and may be privileged. If you believe this e-mail has been sent to you in error, please notify the sender immediately and delete this email. Do not deliver, distribute or copy this transmission.

-----Original Message-----

From: Jennifer Pinkerton [mailto:jennifer@speckandaanestad.com]
Sent: Friday, March 06, 2009 11:06 AM
To: Albert Barker; 'Mr. Craig D. Hobdey'
Cc: jbmiley@yahoo.com; edumke@mac.com; Jim Lewis;
mchatterton@blaineschools.org; 'Jim Speck'
Subject: Marathon Partners, LLC / Miley / Blaine Co. School District

Dear Al and Craig:

Attached please find a letter from Jim Speck regarding Marathon Partners, LLC (SRBA Subcase 37-21112), John Miley (SRBA Subcase 37-21116), and Blaine County School District (SRBA Subcase 37-21114), together with pertinent enclosures. Please let me know if you have any trouble with the attachments. Thank you.

Best regards,
Jennifer Pinkerton
Asst. to James P. Speck
jennifer@speckandaanestad.com
208-726-4421

EXHIBIT 11

E-mail

From: Albert Barker
Date: Sat May 1, 10 - 1:14 PM - E-mail
To: Spencer, Nick
CC: Craig Hobdey; Jim Speck
Subject: Marathon Partners et al.

Contact: Al Barker
File: Dumke/Marathon Partners Water Rights - 31/950310

Nick-

Attached is the 1984 aerial photo and a 1987 aerial photo of the Marathon property we discussed at the hearings this week. We attempted to map out the irrigated portion of that property as of those 2 dates. Consistent with the back files there appears to be no irrigation in 1987 and very little irrigation in 1984. Also enclosed is the recommendation of disallowal of the parent right because of forfeiture for nonuse.

cc Jim Speck/Craig Hobdey

Albert P. Barker

Barker Rosholt & Simpson LLP

(208) 336-0700

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Attachments: quigley_mouth_pou_irrigation_analyses_198408.pdf; quigley_mouth_pou_irrigation_analyses_198708.pdf; 37_12818 recommendation.pdf

RECPOU 37-12818

-  Subject POU (mouth of Quigley Canyon)
-  blaine_QQ_sections

Total Area of Subject POU: 104.0
Total Irrigated Acreage: 20.2***

*** NOTE: Appears to be incidental irrigation.

12.7

7.6

1984 Aerial

RECPOU 37-12818

 Subject POU (mouth of Quigley Canyon)
 blaine_QQ_sections

Total Area of Subject POU: 104.0
Total Irrigated Acreage: 0.0

1987 Aerial

7/7/2009

WATER RIGHT NO. 37-12818
Status: Parent

Owner Type	Name and Address
	PACESETTER DEVELOPMENT CO

Conditions of Approval:

1.	P14	FORFEITED/ABANDONED: This is included for a claim based on a decree or license that is PROPOSED to be disallowed on the basis that the water right no longer exists because forfeiture of the right by nonuse was confirmed and a defense to forfeiture was not confirmed, or because abandonment of the right was confirmed. THIS CLAIM IS FOR A PORTION OF 37-0577 ORIGINALLY DECREED TO W. T. RILEY. CONFORMED ATTORNEY MAILING ADDRESS DMS ***** PURSUANT TO APPROVED
2.		TRANSFER 4205 9/5/95: CLAIM WAS SPLIT - A37-12818A PACESETTER DEVELOPMENT CO. 2.61 CFS. A37-12818B J PETER AND CLAIRE B FITZPATRICK .11 CFS.

Water Right 37-12818

EXHIBIT 12

MEMORANDUM

To: Jim Johnson
Pam Skaggs

From: L. Glen Saxton *LS*

RE: ATTACHED APPLICATIONS FOR PERMIT AND APPLICATION FOR
TRANSFER

Date: February 6, 1995

The attached four (4) applications for permit and application for transfer no. 4205 which proposes mitigation to allow approval of the four applications for permit, have been subject to intense review between Water Allocation Bureau and Adjudication Bureau. The review relates to past use of the right proposed for mitigation and potential forfeiture of it.

The bottom line is that we should approve the applications for permit and application for transfer since the information presently available does not clearly show that the mitigation right has been forfeited through non-use.

Please review the applications for approval and give them some priority since these files have been around for a while and are regularly checked upon by Jim Speck. Thanks.

EXHIBIT 13
TO

*AFFIDAVIT OF JAMES P. SPECK IN
SUPPORT OF ATTORNEYS FEES*

IS A SEPARATE, SPIRAL BOUND EXHIBIT

EXHIBIT 14

Claimants Names:
Marathon Partners LLC

Attorney Name & Address:
James P. Speck, ISB#2067
Speck & Aanestad
A Professional Corporation
120 East Avenue
P.O. Box 987
Ketchum, Idaho 83340
(208) 726-4421
FAX: (208) 726-0752

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)

AFFIDAVIT OF JAMES W.
PHILLIPS

Subcase No. 37-21112

STATE OF IDAHO)

:ss

County of Blaine.)

I, JAMES W. PHILLIPS, being over the age of eighteen years, make this affidavit based on personal information.

1. I have been a resident of Blaine County, Idaho, since 1969.

2. From 1974 until 1981, I often lived at, and when not staying there frequented on an almost daily basis, the residence of Howard and Connie Knight located on what now is Lot 5 of the Marvin Gardens Subdivision, which was then located within what was then a 55-acre parcel immediately east of the Marathon Partners land irrigated by the water right which is the subject of this Subcase. A substantial portion of this parcel is hillside. Approximately thirty-five (35) acres bounded on the west by the Marathon Partners property, on the south by Quigley Road and on the east by the High Ditch, was and still is irrigated, and this portion is generally outlined in black on the photograph attached hereto as Exhibit A, which I understand was taken from Della Mountain. I have also labeled on this photograph Quigley Road, the Marathon Partners parcel, the High Ditch, the home built by Bruce Rathke and sold to Galen Hanselman, and the cabin on the property Martin and Lexi Young sold to Burr Smith in 1983.

3. In 1978, myself and two friends entered a contract to purchase the 55 acres. In 1981, I had a portion of the property released to me and I started building my present home in the southeastern portion of the above-described part of the 55 acres. The excavation work for my home

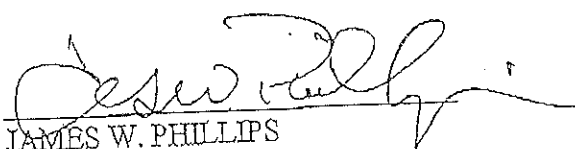
is easily seen and marked on Exhibit A, so I know this photograph was taken in the spring to early summer of 1981.

4. I am an attorney who, in 1978, had no previous experience with farming. At that time, Martin Young owned and farmed the Marathon Partners land and Martin became my guru for everything about farming and irrigation.

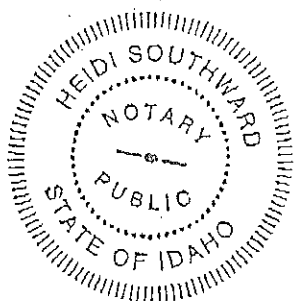
5. From 1978 to date, my partners and I, or our successors in interest, have irrigated the property each year. From 1978 until 1988, my partners and I continued to raise grass/alfalfa hay on the land adjacent to the Marathon Partners land, except for my lot which I have farmed myself to date. After 1988, we had portions of the property deeded to us individually. Today, besides residences, the land is used for hay farming, stock grazing, and orchard and landscape irrigation. Then, as now, we would start flood-irrigating at the end of April or early May every year and continue until the first cutting of hay, typically in early to mid July. We would then continue irrigating with a second cutting near the end of August. The irrigation water rights for our property have the same priority date as the water right which is the subject of this Subcase. Our water rights are delivered to our property through the High Ditch. From 1978 through 1982, when I believe Martin Young moved to Emmett, Idaho, Martin irrigated the Marathon Partners property raising grass alfalfa and following the same pattern of flood irrigation and cuttings that we did for our adjacent property. I personally observed and often assisted Martin with the irrigation of his land. After Martin moved off the land, I observed first Clint Stennett then Burr Smith flood irrigate the Marathon property through 1986.

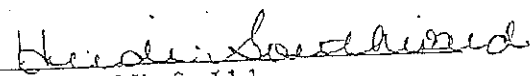
6. I have reviewed the Hailey Irrigation Study, dated October 26, 2010, prepared by Anthony Morse. Mr. Morse's conclusions accurately describe how Martin Young irrigated that property from 1978 until 1983. Mr. Morse's conclusions for irrigation of the Marathon Partners property from 1984 through 1987 are also consistent with how I, as a neighbor, observed the property being irrigated. Copies of these conclusion pages are attached as Exhibit B to this affidavit.

DATED this 12th day of November, 2010.


JAMES W. PHILLIPS

SUBSCRIBED AND SWORN to before me this 12th day of November, 2010.




Notary Public for Idaho

Residing at: Hailey

Comm. Expires: 1-18-11

Phillips home
excavation

Quigley Road

High Ditch

Martin Young

Marathon Partners
property

Rathke/Hanselman Home

Martin Young

EXHIBIT A

1978

The field has good vegetation cover through late June. In mid July, the field appears not to have any significant amount of vegetation. However, in comparing the field with the Quigley Canyon field, it is likely that the lack of vegetation in the July 18th image is due to the field being cut. This interpretation is supported by the recovery of vegetation in the western part of the field in late August. By late August, the eastern part of the field has no vegetation.

Conclusion: The entire field was irrigated through early July. After early to mid July, the western part of the field was irrigated.

EXHIBIT B

1979

The western part of the field has good vegetation cover through the middle of June. The mottled pattern within the field in the July 13th image, coupled with a similar pattern in the Quigley Canyon field, suggests that the field had been recently cut. In late July and early September, only the western part of the field had vegetation.

Conclusion: The field was irrigated through early to mid June. After mid July, only the western part of the field was irrigated.

1980

The field had vegetation cover through the end of July. By mid August, the center and eastern part of the field no longer had good vegetation cover. By mid September the field had lost most of its vegetation cover, and was without active vegetation by early October.

Conclusion: The field was irrigated through mid to late July, but not after mid to late September.

1981

From mid July to late August, the western part of the field has vegetation cover, but the center and eastern parts of the field had none.

Conclusion: The western part of the field was irrigated through late August, but the center and eastern parts were not.

1982

The entire field was vegetation-covered through early July, although the western part of the field had better cover than did the center and eastern parts.

Conclusion: The field was irrigated through early July.

1983

The field was well vegetated through mid June. By September 1st, the eastern part of the field had lost its vegetation, a condition that persisted for the rest of the season.

Conclusion: The field was irrigated through mid-June. Sometime before early September, the eastern part of the field stopped being irrigated.

1984

The field had good vegetation cover through the end of June. By late July, the field had lost its vegetation cover. By early August, vegetation had returned to the eastern and western parts of the field, but not to the center part. By the end of August, only the western part of the field and the northeast corner had vegetation.

Conclusion: The field was irrigated through the end of June, with only the western part of the field and the northeast corner being irrigated through the end of August.

1985

The field was covered with vegetation through the end of June, although by the end of June, the center part of the field clearly had less vegetation than did the western and eastern parts. By late July, only two strips of the field were vegetated, and that remained the case through the end of August. By the end of September, the entire field had poor vegetation cover.

Conclusion: The field was irrigated through mid-June; after that, only small parts of the field were irrigated through the end of August.

1986

The field was covered with vegetation through mid-June. By mid-July, the field was without vegetation cover.

Conclusion: The field was irrigated through mid-June. The irrigation stopped sometime before the end of July.

1987

The field had no significant vegetation in mid-May and early July through early September. The June 16th image shows some vegetation in the field that is gone two weeks later.

Conclusion: The field was not irrigated in 1987.

EXHIBIT 15

Marathon Partners LLC

James P. Speck, ISB#2067
Speck & Aanestad
A Professional Corporation
120 East Avenue
P. O. Box 987
Ketchum, Idaho 83340
(208) 726-4421
FAX: (208) 726-0752

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

Case No. 39576

AFFIDAVIT OF DWIGHT BURR
SMITH

Subcase No. 37-21112

:SS

)

I, DWIGHT BURR SMITH, being over the age of eighteen years, make this affidavit based on personal information.

1. In April, 1983, I purchased Lot 1 of Martin Young's subdivision from Martin and Alexis Young. A copy of the Martin Young Subdivision plat is attached hereto as **Exhibit A**. The property was approximately 3.5 acres in size and came with seven inches of Water Right No. 37-0577 with a March 24, 1883 priority date. This property is immediately north of the Rathke Subdivision and west and south of the property now owned by Marathon Partners and irrigated by the water right which is the subject of this Subcase.

2. I moved into a cabin on the property I purchased from the Young's that same year and lived there until 1996. The cabin is no longer there as it has since been torn down.

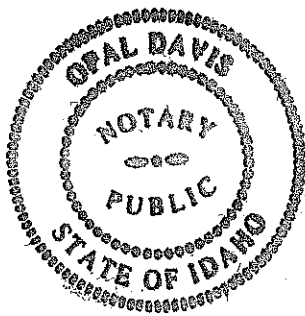
3. During the years that I lived there, I flood-irrigated both my property and the adjacent land now owned by Marathon Partners. I never cut hay from either property but, instead, raised pasture grass on both properties for my horses and horses boarded by Clint Stennett. During those years we would irrigate as much of both properties as possible early in the season, sometimes rotating the water to provide sufficient flow to cover both properties. In all of those years there was never sufficient water by the end of the season to irrigate the entire field so only the western portions of the Marathon Partners property and my property were irrigated through the end of the season.

4. I have reviewed the portions of the Hailey Irrigation Study, dated October 26, 2010, by Anthony Morse, which covered the years that I irrigated the Marathon Partners property. Attached as **Exhibit B** are copies of the conclusions for 1983 through 1987 from that Study. Mr. Morse's conclusions accurately describe the irrigation of the Marathon Partners property for 1983 through 1987.

DATED this 15 day of November, 2010.

Dwight Burr Smith
DWIGHT BURR SMITH

SUBSCRIBED AND SWORN to before me this 15th day of November, 2010.



Opal Davis
Notary Public for Idaho
Residing at: RT1, Box 1210, Fairfield ID
Comm. Expires: 6/20/13

CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of November, 2010, I served a true and correct copy of the foregoing on the following persons in the manner designated below:

Chief, Natural Resources Division
Office of the Attorney General, State of Idaho
P. O. Box 44449
Boise, ID 83711-4449

- ☐ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☐ Facsimile, with copy by United States Mail, Postage Prepaid

The United States Department of Justice
Environmental and Natural Resources
Division
550 West Fort Street
Box 33
Boise, ID 83724

- ☐ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☐ Facsimile, with copy by United States Mail, Postage Prepaid

Idaho Department of Water Resources
Document Depository
P.O. Box 83720
Boise, ID 83720-0098

- ☐ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☐ Facsimile, with copy by United States Mail, Postage Prepaid

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

- ☐ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☐ Facsimile, with copy by United States Mail, Postage Prepaid

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

- ☐ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☐ Facsimile, with copy by United States Mail, Postage Prepaid

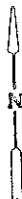
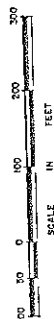
JAMES P. SPECK

PLAT SHOWING

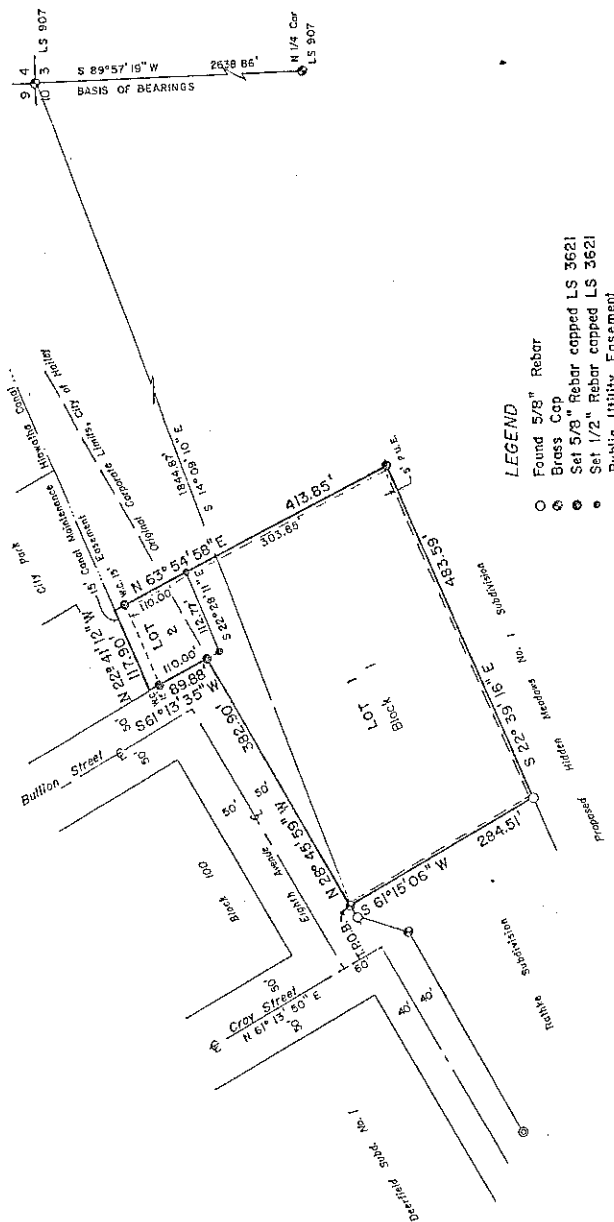
MARTIN YOUNG SUBDIVISION

LOCATED WITHIN S.10, T.2N., R.18E., B.M., & PORTIONS OF LOTS 8-12,
BLOCK 93, CITY OF HAILEY, BLAINE COUNTY, IDAHO

1982



NOTES:
1. This subdivision lies within a future easement corridor as proposed
in Friedman Memorial Airport Master Plan, October 1978.



- LEGEND
- Found 5/8" Rebar
 - Brass Cap
 - Set 5/8" Rebar capped LS 3621
 - Set 1/2" Rebar capped LS 3621
 - Public Utility Easement



MARTIN YOUNG SUBD.
SAWTOOTH ENGINEERS
CONSULTING ENGINEERS
KETCHUM, IDAHO

Sheet 1 of 2

EXHIBIT A

CERTIFICATE OF OWNERSHIP

This is to certify that we are owners in fee simple of the following described parcel of land, Blaine County, Idaho, and of land located within Section 10, T. 2N., R. 18E., B.M., City of Halley, Blaine County, Idaho, particularly described as follows:
Commencing at a brass cap marking the NW corner of Section 10, thence S 14° 05' 10" E 1844.87 feet to a brass cap marking the TRUE POINT OF BEGINNING; thence N 28° 45' 59" W 382.90 feet; thence S 61° 13' 35" W 89.88 feet; thence N 22° 41' 12" W 117.90 feet; thence N 63° 54' 58" E 413.85 feet; thence S 22° 39' 18" E 483.69 feet; thence S 61° 15' 06" W 284.51 feet to the TRUE POINT OF BEGINNING, containing 3.71 acres, more or less.
It is the intent of the owners to include said land in this plat.
The easements indicated herein are dedicated to the public, but the right to use said easements is hereby reserved for public utility and for any other uses indicated herein and no permanent structures are to be erected within the lines of said easements.

Martin Young
Martin Young

Alexia Young
Alexia Young

John T. Barton
John T. Barton

Janice Barton
Janice Barton

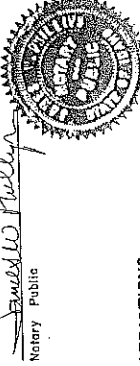
ACKNOWLEDGEMENT

STATE OF IDAHO } ss
COUNTY OF BLAINE }
On this 11th day of August, 1983, before me, a Notary Public in and for said State, personally appeared Alexia Young and Janice Barton, whose names also subscribed to the Owner's Certificate and acknowledged to me that they executed the same.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



ACKNOWLEDGEMENT

STATE OF IDAHO } ss
COUNTY OF BLAINE }
On this 11th day of August, 1983, before me, a Notary Public in and for said State, personally appeared Alexia Young and Janice Barton, whose names also subscribed to the Owner's Certificate and acknowledged to me that they executed the same.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



SANITARY RESTRICTIONS

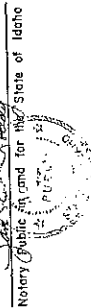
SURVEYOR'S CERTIFICATION

I, Richard D. Fosbury, a duly licensed land surveyor in the State of Idaho, do hereby certify that this plat is a true and accurate map of the land surveyed under my direct supervision and that it is in accordance with the Idaho State Code relating to plats and surveys.



ACKNOWLEDGEMENT

STATE OF IDAHO } ss
COUNTY OF BLAINE }
On this 11th day of August, 1983, before me, a Notary Public in and for said State, personally appeared Richard D. Fosbury, known to me to be the person whose name is subscribed to the above Surveyor's Certificate and acknowledged to me that he executed the same.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



COUNTY ENGINEER'S APPROVAL

I, Jim W. Koonce, County Engineer for Blaine County, Idaho, have checked the foregoing plat and computations for making the same and have determined that they comply with the laws of the State of Idaho relating thereto.



APPROVAL OF CITY ZONING COMMISSION

The foregoing plat was approved by the Halley City Zoning Commission on this 11 day of August, 1983.
Martin Young
Chairman

APPROVAL OF CITY COUNCIL

The foregoing plat was approved by the City Council of Halley on this 11 day of August, 1983.
Martin Young
City Clerk

CITY ENGINEER'S APPROVAL

The foregoing plat was approved by R. James Coleman for the City of Halley on this 11 day of August, 1983.
Martin Young
City Engineer

COUNTY TREASURER'S APPROVAL

The taxes on the foregoing parcel of land have been paid to this date and this plat of Martin Young Subdivision is hereby approved this 11 day of August, 1983.
Martin Young
Blaine County Treasurer

COUNTY RECORDER'S CERTIFICATE

STATE OF IDAHO } ss
COUNTY OF BLAINE }
This is to certify that the foregoing plat was filed in the office of the Recorder of Blaine County, Idaho on this 11 day of August, 1983, at 11:00 A.M., and duly recorded in Plat Book 1, at page 1.

237400

1983

The field was well vegetated through mid June. By September 1st, the eastern part of the field had lost its vegetation, a condition that persisted for the rest of the season.

Conclusion: The field was irrigated through mid-June. Sometime before early September, the eastern part of the field stopped being irrigated.

EXHIBIT B

1984

The field had good vegetation cover through the end of June. By late July, the field had lost its vegetation cover. By early August, vegetation had returned to the eastern and western parts of the field, but not to the center part. By the end of August, only the western part of the field and the northeast corner had vegetation.

Conclusion: The field was irrigated through the end of June, with only the western part of the field and the northeast corner being irrigated through the end of August.

1985

The field was covered with vegetation through the end of June, although by the end of June, the center part of the field clearly had less vegetation than did the western and eastern parts. By late July, only two strips of the field were vegetated, and that remained the case through the end of August. By the end of September, the entire field had poor vegetation cover.

Conclusion: The field was irrigated through mid-June; after that, only small parts of the field were irrigated through the end of August.

1986

The field was covered with vegetation through mid-June. By mid-July, the field was without vegetation cover.

Conclusion: The field was irrigated through mid-June. The irrigation stopped sometime before the end of July.

1987

The field had no significant vegetation in mid-May and early July through early September. The June 16th image shows some vegetation in the field that is gone two weeks later.

Conclusion: The field was not irrigated in 1987.

EXHIBIT 16

James Speck Mon Mar 5, 2012**E-mail**

From: Albert Barker
Date: Mon Nov 29, 10 - 5:58 PM - E-mail
To: Jim Speck
CC: Craig Hobdey
Subject: RE: Marathon Partners Water Rights - 37-21112

Contact: Al Barker
File: Dumke/Marathon Partners Water Rights - 31/950310

Jim-

I've reviewed the materials your provided and these affidavits; talked with Craig and with my clients. Based on this new information, we are willing to withdraw our objection. That was good work in pulling together this documentary evidence.

Albert P. Barker
Barker Rosholt & Simpson LLP
(208) 336-0700

CONFIDENTIALITY NOTICE: This e-mail and its attachments are confidential and may be privileged. If you believe this e-mail has been sent to you in error, please notify the sender immediately and delete this email. Do not deliver, distribute or copy this transmission.

-----Original Message-----

From: Jim Speck [mailto:jim@speckandaanestad.com]
Sent: Tuesday, November 16, 2010 11:00 AM
To: Albert Barker; 'Craig Hobdey'
Cc: 'Ed Dumke'
Subject: Re:Marathon Partners Water Rights - 37-21112

Al & Craig,

Here are signed copies of the two affidavits that I gave to Craig yesterday. I added in the color version of Ex. A to the Phillips affidavit since the BW version is pretty useless. Al, let me know as soon as you can if your clients and you concur with Craig that the objections should be withdrawn. Thank you.

Jim

James P. Speck
SPECK & AANESTAD
A Professional Corporation
120 East Avenue
P.O. Box 987
Ketchum, ID 83340
208.726.4421
208.726.0752 (fax)
jim@speckandaanestad.com

CONFIDENTIAL COMMUNICATION

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EXHIBIT 17

James Speck Thu Mar 8, 2012

E-mail

From: Kelly, Vicki
Date: Fri Dec 3, 10 - 3:38 PM - E-mail
To: Jim Speck; Craig Hobdey; Albert Barker
CC:
Subject: Marathon Partners 37-21112

Contact: Vicki Kelly
File: Dumke/Marathon Partners Water Rights - 31/950310

<<DOC002.PDF>>

Good Afternoon

Attached is a layout and updated recommendation for the Marathon Partners subcase 37-21112, prepared by Steve Cielland. Please look it over and see what you think. With the adjustment to the POU, Steve came up with 53 acres. Any questions on the recommendation or layout, please contact Steve via email or telephone (208-287-4913). If you need anything else, please let me know. If this is good for everyone, we can get an SF5 routing. Just let me know. Thanks - Vicki Kelly, Paralegal

Attachments: DOC002.PDF

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

RIGHT NUMBER: 37-21112

NAME AND ADDRESS:

MARATHON PARTNERS LLC
PO BOX 3118
KETCHUM ID 83340

SOURCE:

Source:
BIG WOOD RIVER

Tributary:
MALAD RIVER

QUANTITY:

1.419 CFS
0.000 AFY

PRIORITY DATE:

03/24/1883

POINT OF DIVERSION:

T03N R18E S20 SWNW
Within BLAINE County

PURPOSE AND
PERIOD OF USE:

Purpose of use

Period of use:

Quantity:

IRRIGATION

04/15 11/15

1.419 CFS

PLACE OF USE:

IRRIGATION

within BLAINE County

T02N R18E S09 NENE 6.0

T02N R18E S10 NWNW 37.0

T02N R18E S10 SWNW 10.0

~~T02N R18E S09 NENE 2.0~~

~~T02N R18E S10 NWNW 34.0~~

~~T02N R18E S10 SWNW 11.0~~

~~T02N R18E S10 SENW 7.0~~

53 ACRES TOTAL

~~54 ACRES TOTAL~~

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

This right is a split from former right 37-12818A.
Right 37-12818A is a split from former right 37-577.



Idaho Department of Water Resources

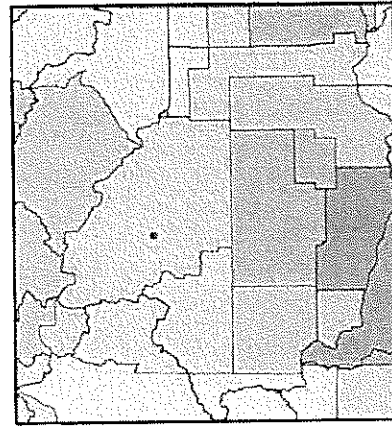
Adjudication Recommendation

37-21112

(IRRIGATION)

Legend

- Place of Use
- State Outline
- Townships
- PLS Sections
- Quarter Quarters



Blaine County
IDWR Basin 37

Prepared by Cleland, Steve
On November 17, 2010
2004 Aerial Photography

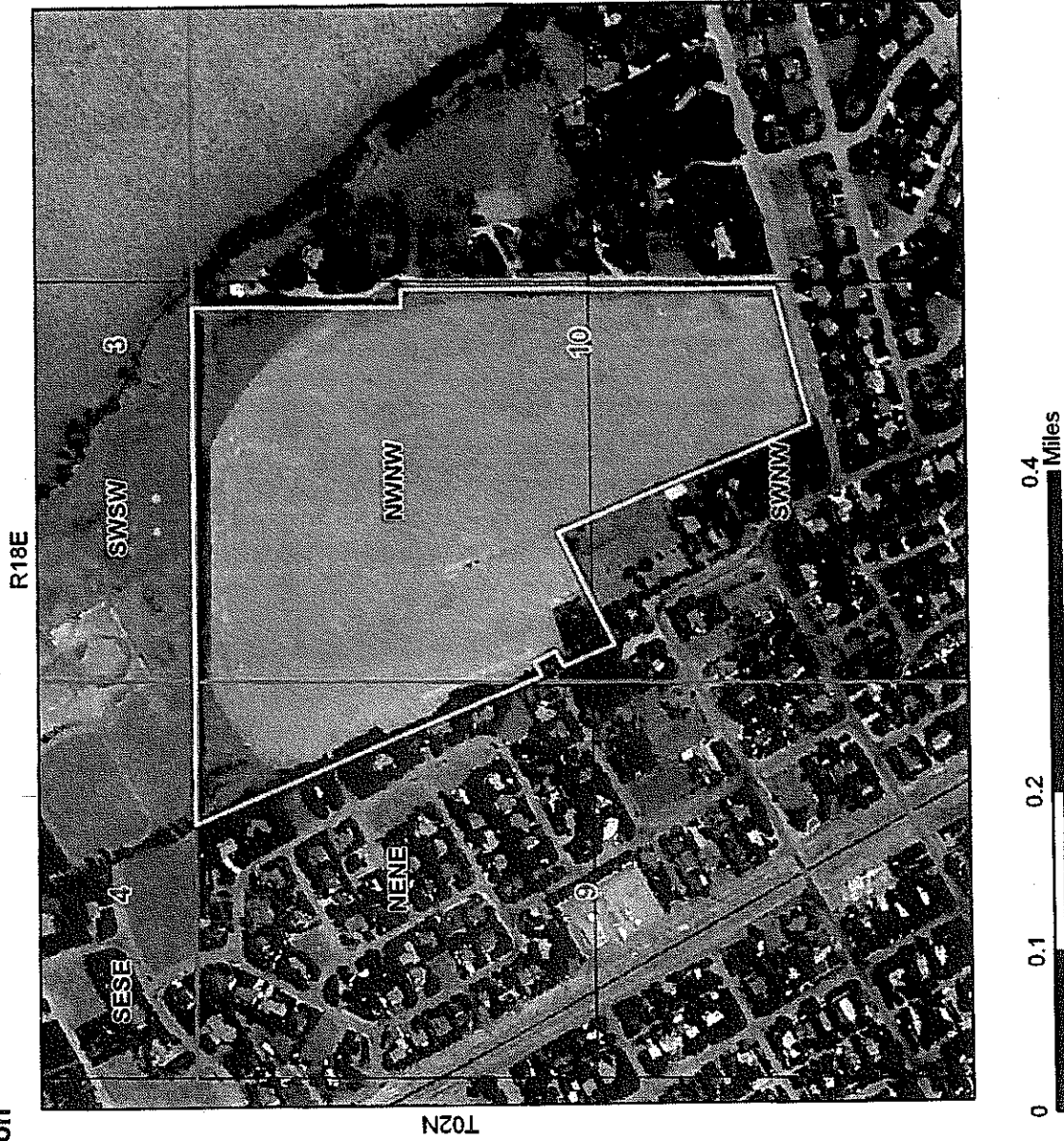


EXHIBIT 18

James Speck Wed Mar 7, 2012

E-mail

From: Jim Speck
 Date: Fri Feb 18, 11 - 12:11 PM - E-mail
 To: 'Vicki Kelly'; 'Albert Barker'; 'Craig Hobdey'
 CC: 'Nick Spencer'; 'Ed Dumke'
 Subject: RE: RE: Marathon Partners 37-21112

Contact: Mr. Craig D. Hobdey
 File: Dumke/Marathon Partners Water Rights - 31/950310

Craig,

If you are not willing to sign the proposed SF5 please specify the exact changes you request.

Jim

-----Original Message-----

From: Craig Hobdey
 Sent: Friday, February 18, 2011 11:44 AM
 To: Jim Speck; Vicki Kelly; Albert Barker
 Cc: Nick Spencer

Jim,

I am sure that in my life I've made many mistakes, but that does not mean I am obligated to repeat them.

Craig Hobdey

> From: jim@speckandaanestad.com
 > To: vicki.kelly@idwr.idaho.gov; apb@idahowaters.com; hobdeycraig@hotmail.com
 > CC: nick.spencer@idwr.idaho.gov; edumke@mac.com
 > Subject: RE: RE: Marathon Partners 37-21112
 > Date: Fri, 18 Feb 2011 11:32:39 -0700

>
 > Craig,

>
 > You signed SF5's for the Old Cutters water rights totaling 200 in.
 > to irrigate 66 acres of land immediately North of the Marathon Partners
 > property. I have a hard time understanding your concern over the 1.3 in/A
 > for Marathon!

>
 > Jim

> -----Original Message-----

> From: Craig Hobdey
 > Sent: Friday, February 18, 2011 10:47 AM
 > To: Jim Speck; Vicki Kelly; Albert Barker
 > Cc: Nick Spencer

>
 >
 > As stated many times, How can IDWR justify not following I.C. 42-220, an
 > inche per acre.

>
 > Craig Hobdey

>
 >

>> From: jim@speckandaanestad.com
 >> To: vicki.kelly@idwr.idaho.gov; apb@idahowaters.com;
 >> hobdeycraig@hotmail.com
 >> CC: nick.spencer@idwr.idaho.gov; edumke@mac.com

James Speck Wed Mar 7, 2012

>> Subject: RE: RE: Marathon Partners 37-21112
>> Date: Thu, 17 Feb 2011 17:09:47 -0700
>>
>> And what is that "legal question"?
>>
>> Jim
>>
>> -----Original Message-----
>> From: Craig Hobdey
>> Sent: Thursday, February 17, 2011 5:02 PM
>> To: Jim Speck; Vicki Kelly; Albert Barker
>> Cc: Nick Spencer
>>
>>
>> Jim- No facts are being questioned, my is a purely legal question.
>>
>> Craig Hobdey
>>
>>
>>
>>> From: jim@speckandaanestad.com
>>> To: vicki.kelly@idwr.idaho.gov; apb@idahowaters.com;
>>> hobdeycraig@hotmail.com
>>> CC: nick.spencer@idwr.idaho.gov; edumke@mac.com
>>> Subject: RE: RE: Marathon Partners 37-21112
>>> Date: Thu, 17 Feb 2011 16:57:46 -0700
>>>
>>> Craig,
>>>
>>> The amount of this water right is based on the original claim filed
>>> by the previous owner of the property less the amounts sold or gifted by
>>> my
>>> client to others. I believe those amounts are also reflected in the
>>> Watermaster delivery records. Do you have any evidence to support a
>>> reduction in this amount?
>>>
>>> Jim
>>>
>>> -----Original Message-----
>>> From: Craig Hobdey
>>> Sent: Thursday, February 17, 2011 4:35 PM
>>> To: Vicki Kelly; Jim Speck; Albert Barker
>>> Cc: Nick Spencer
>>>
>>>
>>> All- I am still waiting for a response from IDWR to my email of January
>>> 30,
>>> 2011.
>>> (see below)
>>>
>>> Craig Hobdey
>>>
>>>
>>>
>>>> Subject: RE: RE: Marathon Partners 37-21112
>>>> Date: Thu, 17 Feb 2011 16:15:28 -0700
>>>> From: Vicki.Kelly@idwr.idaho.gov
>>>> To: jim@speckandaanestad.com; apb@idahowaters.com;
>>>> hobdeycraig@hotmail.com
>>>> CC: Nick.Spencer@idwr.idaho.gov
>>>>
>>>> Hello gentlemen
>>>>
>>>> I looked over my notes from our November settlement meeting--I didn't
>>>> note anything on this particular subject but it seems to me there was
>>>> talk of Marathon being the last user on the ditch as we were breaking

James Speck Wed Mar 7, 2012

>>>> up. I thought we were pretty much on-board after Dave Tuthill's
>>>> presentation & light discussion that followed. Anyway, our next
> hearing

>>>> is coming up on Wednesday. Has this hit a snag? Thanks - Vicki

>>>>

>>>> -----Original Message-----

>>>> From: Jim Speck [mailto:jim@speckandaanestad.com]

>>>> Sent: Thursday, February 03, 2011 12:05 PM

>>>> To: Kelly, Vicki; 'Albert Barker'; 'Craig Hobdey'

>>>> Cc: 'Ed Dumke'

>>>> Subject: RE: RE: Marathon Partners 37-21112

>>>>

>>>> Craig & Al,

>>>>

>>>> This is the last user on the Hiawatha Canal so that diversion

>>>> rate

>>>> at the canal headgate is far from excessive. We will not agree to a

>>>> field

>>>> headgate remark for this right.

>>>>

>>>> Jim

>>>>

>>>> -----Original Message-----

>>>> From: Craig Hobdey

>>>> Sent: Sunday, January 30, 2011 2:42 PM

>>>> To: Vicki Kelly; Jim Speck; Albert Barker

>>>>

>>>>

>>>> Do we add a field headgate remark? Otherwise how does the Dept.

> justify

>>>> 1.34 inches per acre.

>>>>

>>>> Craig Hobdey

>>>>

>>>>

>>>>

>>>>

>>>>

>>>> Subject: FW: Marathon Partners 37-21112

>>>> Date: Thu, 20 Jan 2011 16:25:25 -0700

>>>> From: Vicki.Kelly@idwr.idaho.gov

>>>> To: jim@speckandaanestad.com; hobdeycraig@hotmail.com;

>>>> apb@idahowaters.com

>>>>

>>>>

>>>>

>>>> Hello Gentlemen:

>>>> Any word on moving this to SF5 based on the recommendation below?

>>>> Thanks -

>>>> Vicki

>>>>

>>>>

>>>> From: Kelly, Vicki

>>>> Sent: Friday, December 03, 2010 3:38 PM

>>>> To: 'Jim Speck'; 'Craig Hobdey'; 'Albert Barker'

>>>> Subject: Marathon Partners 37-21112

>>>>

>>>> <<DOC002.PDF>>

>>>> Good Afternoon

>>>> Attached is a layout and updated recommendation for the Marathon

>>>> Partners

>>>> subcase 37-21112, prepared by Steve Clelland. Please look it over and

>>>> see

>>>> what you think. With the adjustment to the POU, Steve came up with 53

>>>> acres. Any questions on the recommendation or layout, please contact

>>>> Steve

James Speck Wed Mar 7, 2012

Page: 4

>>>> via email or telephone (208-287-4913). If you need anything else,
>>>> please
>>>> let me know. If this is good for everyone, we can get an SF5 routing.
>>>> Just let me know. Thanks - Vicki Kelly, Paralegal
>>>>
>>>>
>>>
>>>
>>
>>
>
>

EXHIBIT 19

E-mail

From: Jim Speck
Date: Fri Feb 25, 11 - 2:58 PM - E-mail
To: 'Nick Spencer'; 'Craig Hobdey'; 'Albert Barker'
CC: 'steve.clelland@idwr.idaho.gov'; 'edumke@mac.com'
Subject: RE: RE: RE: Marathon Partners - 37-21112

Contact: Al Barker
File: Dumke/Marathon Partners Water Rights - 31/950310

I doubt that more than 1 in/A gets to my client's property most of the time. He continues to flood irrigate portions of the land (pivot corners). The Watermaster does not administer diversions out of the Hiawatha Canal to my knowledge. It will likely cause my client to incur unnecessary additional expenses for the benefit of no one. My client is bound by Idaho water law to not apply any more water to his land than what constitutes "beneficial use" of that water which, depending on the irrigation methods used, could well be more than 1 in/A.

Jim

-----Original Message-----

From: Albert Barker
Sent: Friday, February 25, 2011 9:30 AM
To: Jim Speck; Nick Spencer; Craig Hobdey
Cc: steve.clelland@idwr.idaho.gov

Because??

-----Original Message-----

From: Jim Speck [mailto:jim@speckandaanestad.com]
Sent: Friday, February 25, 2011 9:14 AM
To: 'Nick Spencer'; Albert Barker; 'Craig Hobdey'
Cc: steve.clelland@idwr.idaho.gov; edumke@mac.com
Subject: RE: RE: Marathon Partners - 37-21112

Craig, Al & Nick,

My client will not agree to any field headgate restriction for this water right.

Jim

-----Original Message-----

From: Craig Hobdey
Sent: Thursday, February 24, 2011 5:29 PM
To: Nick Spencer; Jim Speck; Albert Barker
Cc: steve.clelland@idwr.idaho.gov; edumke@mac.com

I,m good with that let's have a .02cfs diversion at the field headgate.

Craig Hobdey

> Subject: RE: Marathon Partners - 37-21112
> Date: Thu, 24 Feb 2011 16:46:00 -0700
> From: Nick.Spencer@idwr.idaho.gov
> To: jim@speckandaanestad.com; apb@idahowaters.com;
hobdeycraig@hotmail.com
> CC: Steve.Clelland@idwr.idaho.gov; edumke@mac.com
>
> Gentlemen: I have checked with Steve Clelland to get his thoughts on
> the reasonableness of a diversion rate of 1.34 inches per acre. Steve
> informs me that the distance from the POD into the Hiawatha Canal down
> to the Marathon Partners headgate is about 4.6 miles. Therefore he

does

> not think the diversion rate is unreasonable. I pass this information
> on for your consideration. NBS

>

> -----Original Message-----

> From: Jim Speck [mailto:jim@speckandaanestad.com]

> Sent: Thursday, February 24, 2011 11:48 AM

> To: 'Al Barker'; 'Craig Hobdey'

> Cc: Clelland, Steve; Spencer, Nick; 'Ed Dumke'

> Subject: Re: Marathon Partners - 37-21112

>

> Al & Craig,

>

> I would like to confirm that you agree with the place of use and

> number of irrigated acres described in the draft amended
recommendation

> prepared by Steve Clelland. Assuming that is the case, Craig is
correct

> that the recommended amount is 1.34 inches/acre at the Hiawatha

> Headgate.

> As of the commencement of the SRBA this land had always been flood

> irrigated. I would be very surprised if a soils analysis of this POU

> would

> establish a duty of water of less than this amount for flood
irrigation

> at

> the field headgate much less at the diversion from the river. Do you

> (or

> the Department, Steve & Nick) have any information to the contrary
that

> would justify a quantity for this right less than the current

> recommendation? I don't think the fact that my client has since

> converted

> the property to sprinkler irrigation should make any difference for
the

> recommendation.

>

> Please reply before Monday's phone conference. Thanks.

>

>

> Jim

>

> James P. Speck

> SPECK & AANESTAD

> A Professional Corporation

> 120 East Avenue

> P.O. Box 987

> Ketchum, ID 83340

> 208.726.4421

> 208.726.0752 (fax)

> jim@speckandaanestad.com

>

> _____
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> email

> message in error, please immediately notify the sender by replying to

> this

EXHIBIT 20

E-mail

From: Jim Speck
Date: Tue Mar 1, 11 - 11:10 AM - E-mail
To: 'Al Barker'; 'Craig Hobdey'
CC: 'Spencer, Nick'; 'steve.clelland@idwr.idaho.gov'; 'edumke@mac.com'
Subject: Re: Marathon Partners - 37-21112

Contact: Al Barker
File: Dumke/Marathon Partners Water Rights - 31/950310

Al & Craig,

You both signed SF5's for the Phillips and Knight water rights without asking for any field headgate remark. The POU's for those rights and the recommended POU for the Marathon Partners right are shown on the attached. The duties of water for those rights at the Hiawatha headgate are 2.38 in/A and 1.94 in/A, respectively, whereas the recommendation for 37-21112 is 1.34 in/A.

Jim

James P. Speck
SPECK & AANESTAD
A Professional Corporation
120 East Avenue
P.O. Box 987
Ketchum, ID 83340
208.726.4421
208.726.0752 (fax)
jim@speckandaanestad.com

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Attachments: 2009 pou map.pdf

IDWR Home IDWR GIS

IDWR Mapping Tool Marathon Partners



EXHIBIT 21

James Speck Wed Mar 7, 2012

E-mail

From: Jim Speck
Date: Wed Nov 16, 11 - 10:32 AM - E-mail
To: 'Al Barker'; 'Craig Hobdey'
CC: 'Ed Dumke'; 'Dave Tuthill'; 'Spencer, Nick'
Subject: Re: Marathon Partners/37-21112

Contact: Al Barker
File: Dumke/Marathon Partners Water Rights - 31/950310

Al & Craig,

We asked Dave Tuthill to look at the issue of whether or not a quantity remark of any kind was appropriate for this water right. Dave then investigated the matter and prepared the attached Memorandum, concluding no such remark is warranted. Dave is prepared to testify accordingly at trial. The Department's recommendation does not include any such remark and I trust they will defend that position. In light of all this I ask that you reconsider your request for such a remark.

Thank you.

Jim

James P. Speck
SPECK & AANESTAD
A Professional Corporation
120 East Avenue
P.O. Box 987
Ketchum, ID 83340
208.726.4421
208.726.0752 (fax)
jim@speckandaanestad.com

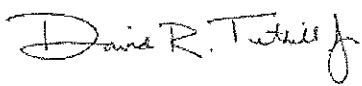
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Attachments: Quantities of Water Under Water Right 37-21112.pdf

MEMORANDUM

TO: Mr. James Speck

FROM: David R. Tuthill, Jr., Ph.D., P.E. 

DATE: November 16, 2011

RE: Quantities of Water Under Water Right No. 37-21112

I have been asked to suggest language for a remark to limit the field headgate rate of flow or volume diverted under water right No. 37-21112. My analysis has resulted in a recommendation that such a limiting remark would not be appropriate for this water right.

FIELD EXAMINATION

I conducted a field visit at the place of use of water right No. 37-21112 on November 7, 2011. The field visit was conducted after the water system had been drained for the off-season, hence I did not measure flows.. However, the information gathered during the field visit helps to inform the analysis, as follows.

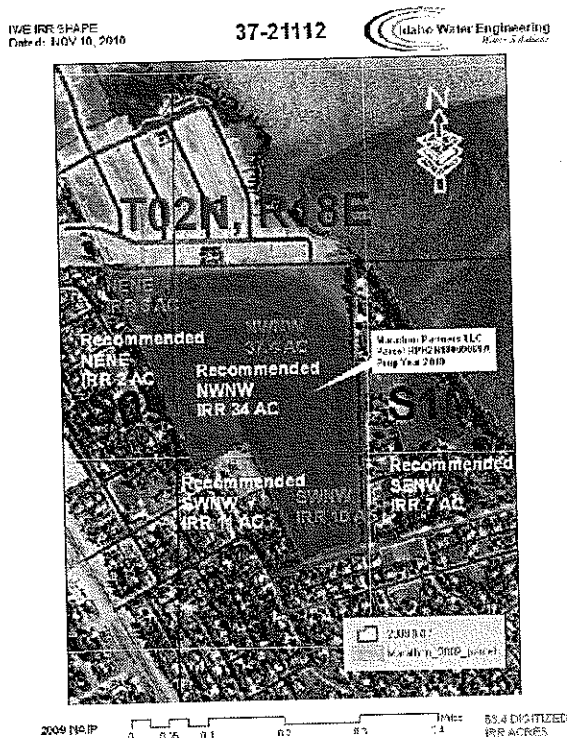


Figure 1. Recommended Place of Use for Water Right No. 37-21112

MEMORANDUM

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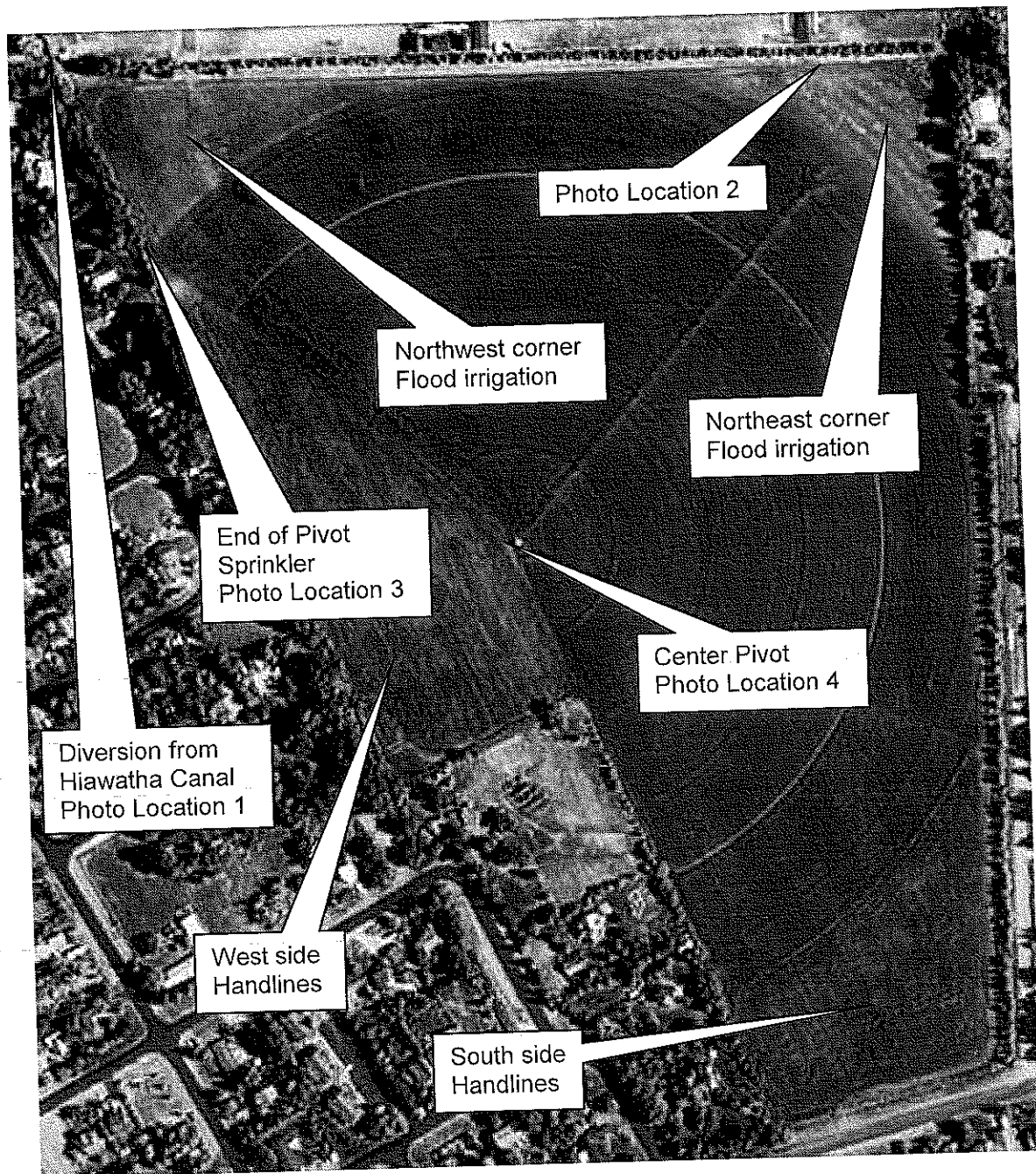


Figure 2. Recent Google Earth Image of Place of Use, with Irrigation System Annotation

MEMORANDUM

Page 2 of 12

As depicted in Figure 2, the 53 acres irrigated under this water right are irrigated by three systems – a pivot, handlines, and flood irrigation. The pump and motor combination that provides water to the pivot also provides water to the handlines.

Photo Location 1 is at the point where the 37-2112 water right diverts from the Hiawatha Canal.

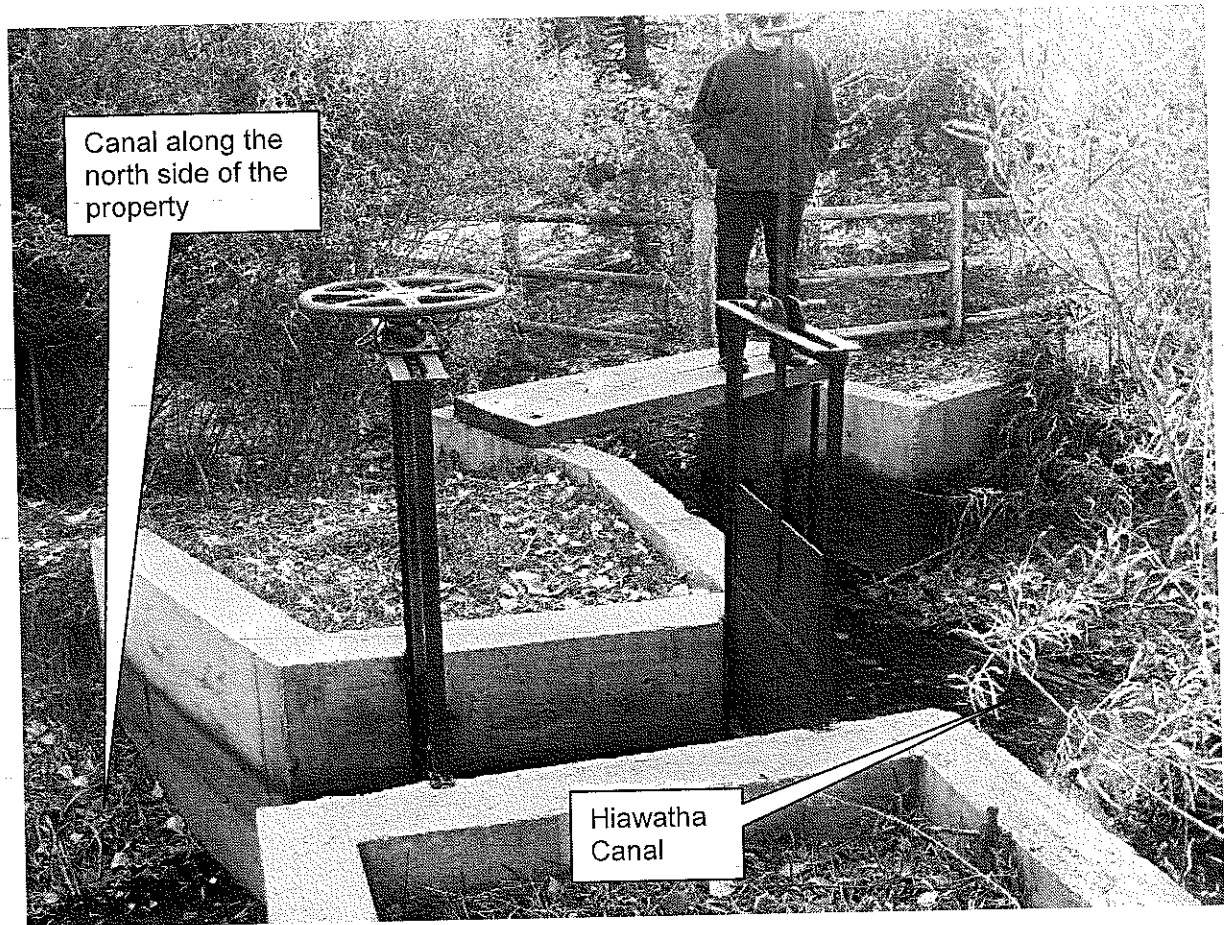


Figure 3. Photo at Location 1 looking southwest at the structure that diverts from the Hiawatha Canal. The observer is property caretaker Galen Hanselman.



Figure 4. Photo at Location 1 looking east along the ditch at the north side of the property

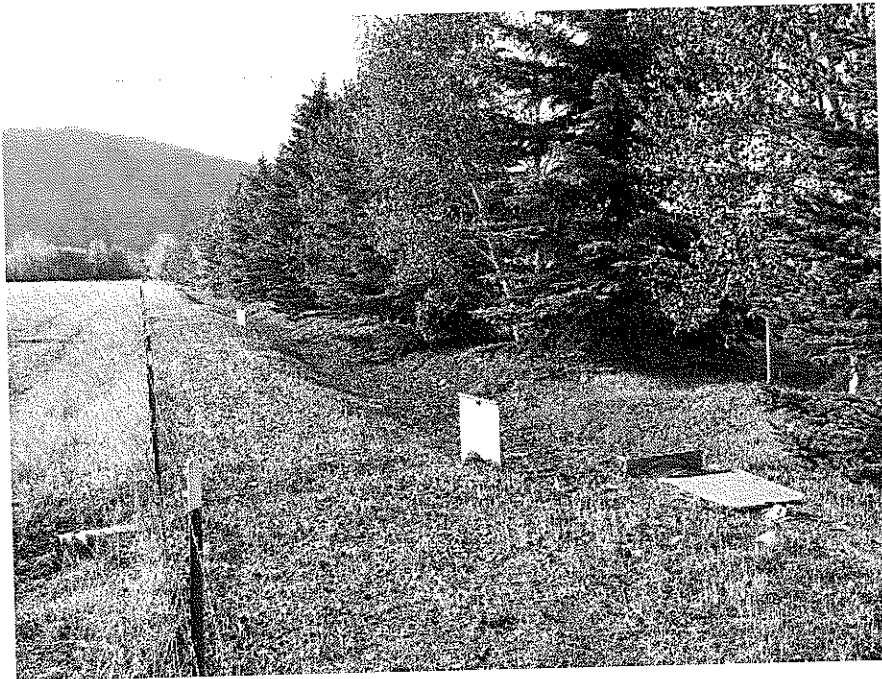


Figure 5. Photo at Location 2 looking west along the ditch on the north side of the property

MEMORANDUM

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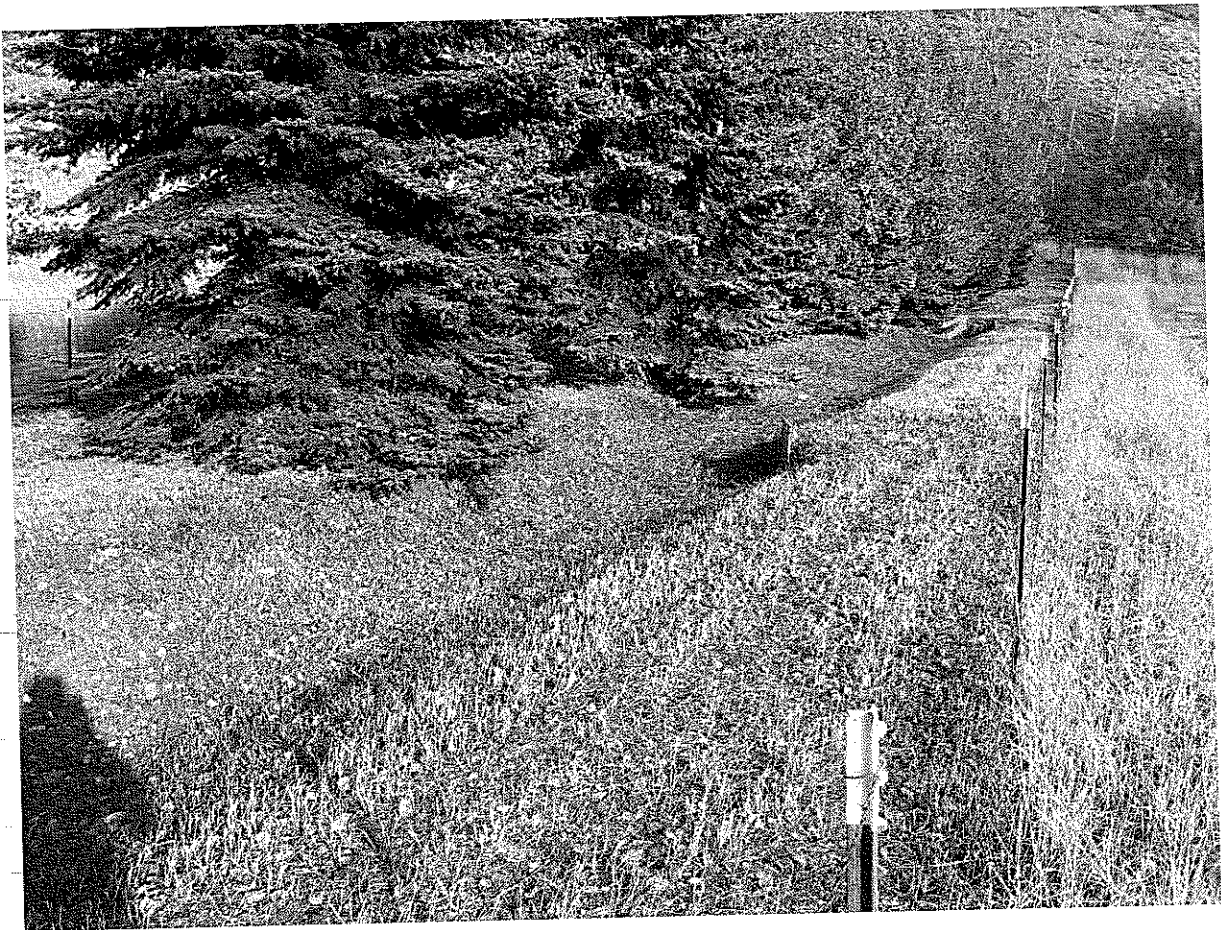


Figure 6. Photo at Location 2 looking east along the ditch on the north side of the property

The ditch that flows on the north side of the property is shown in Figures 4, 5 and 6. While I did not measure the flow in this ditch, I would not be surprised to see more than 2 cubic feet per second (cfs) flowing in the ditch given its dimensions and configuration. I asked Mr. Hanselman if this ditch can be used to provide flood irrigation for the northeast and northwest corners *while* the pump is operating. He confirmed that this is possible, but indicated that normally the flood irrigation is not conducted while the pump is running, to reduce the debris flowing into the pumped system.

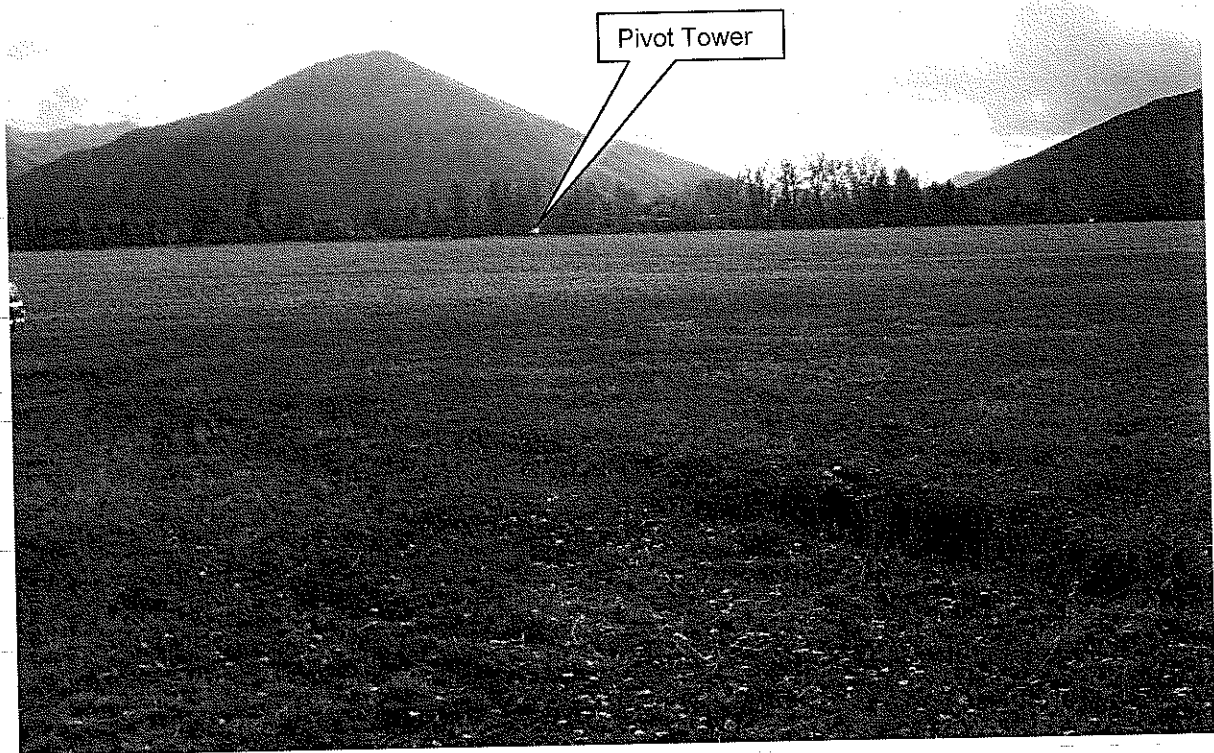


Figure 7. Photo at Location 2 looking southwest across the flood irrigated portion of the property in the foreground and the pivot irrigated property in the background.

Note from Figure 7 that one can see the furrow extending south across the area irrigated in this area. Similar furrows extend from all of the turnouts seen in Figures 4, 5 and 6..



Figure 8. Photo at Location 3 looking southeast toward the center of the pivot

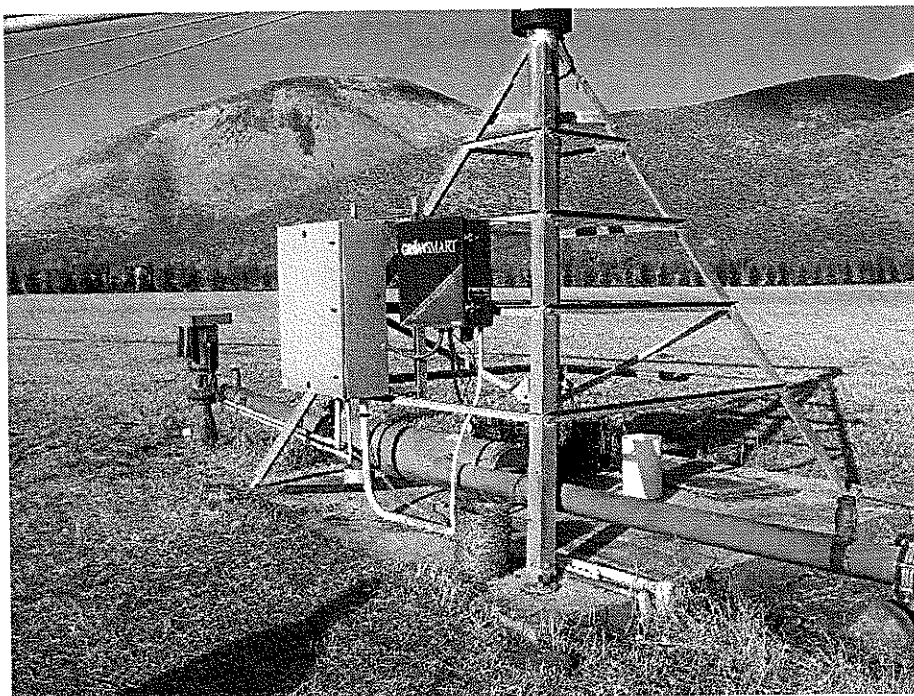


Figure 9. Center pivot tower facing northeast from Location 4.

MEMORANDUM

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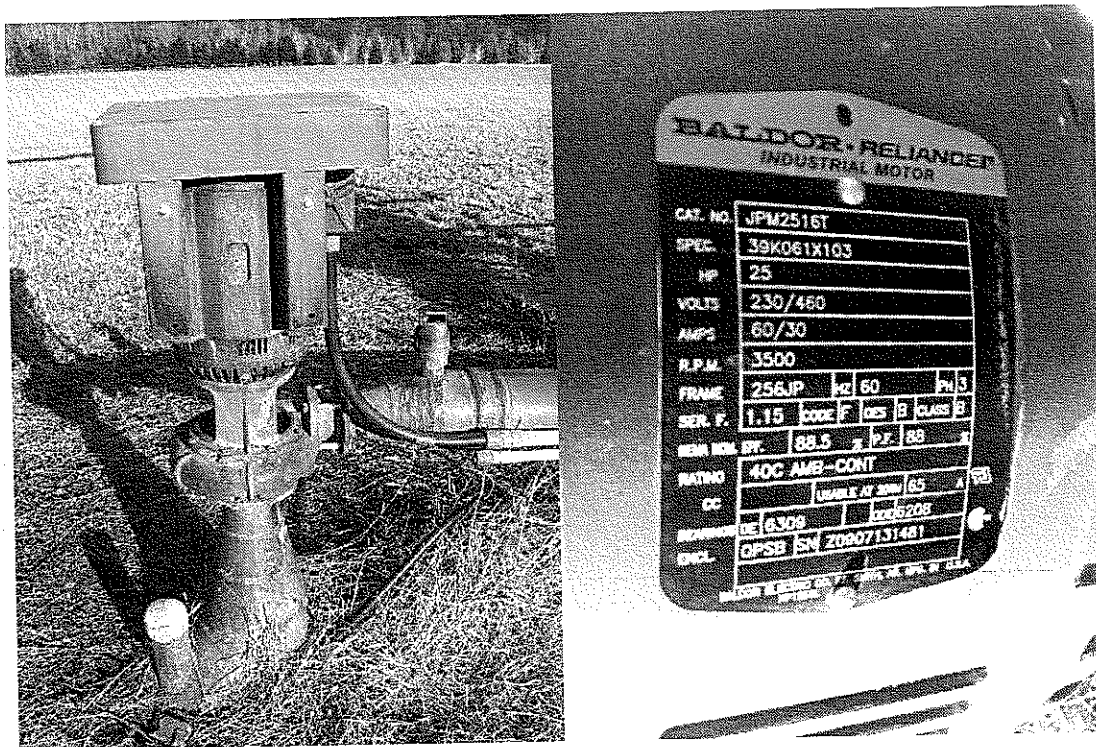


Figure 10. System pump and motor, and close-up of pump cover plate at location 4.

ANALYSIS

Rate of Flow

As an alternative to conducting a flow measurement, I obtained and reviewed the pump curve for the installed system. The specifications of the pump and associated motor are as follows:

Berkeley Pump: Model: B3ZFL; impeller Diameter: 7.25
S/N or Date: 2H0331; B.M.: B70209

The motor is Baldor Reliance, 25 HP, 460V, 30A, 3500 rpm, cat# JPM2516T

The associated Berkeley Pump Curve is identified as follows:

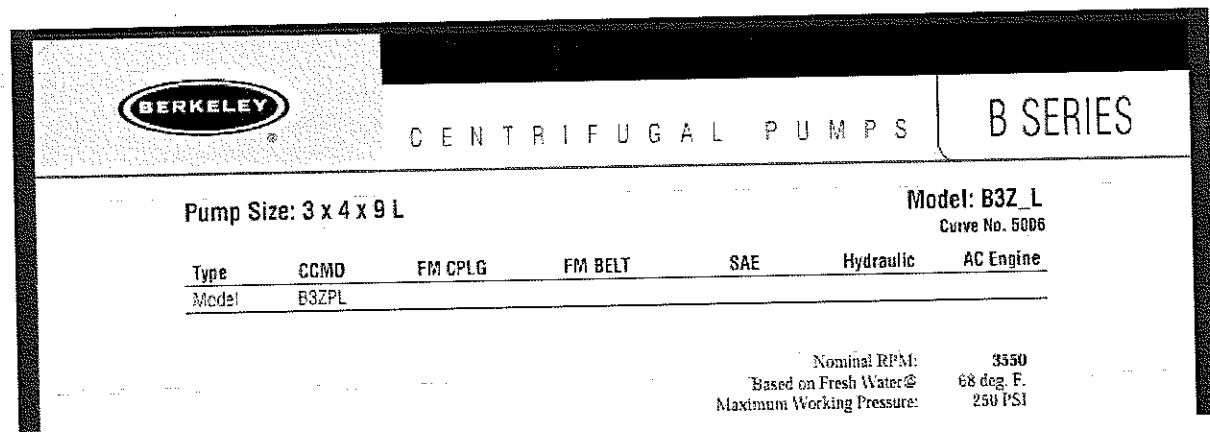


Figure 11. Berkeley Pump Curve header information.

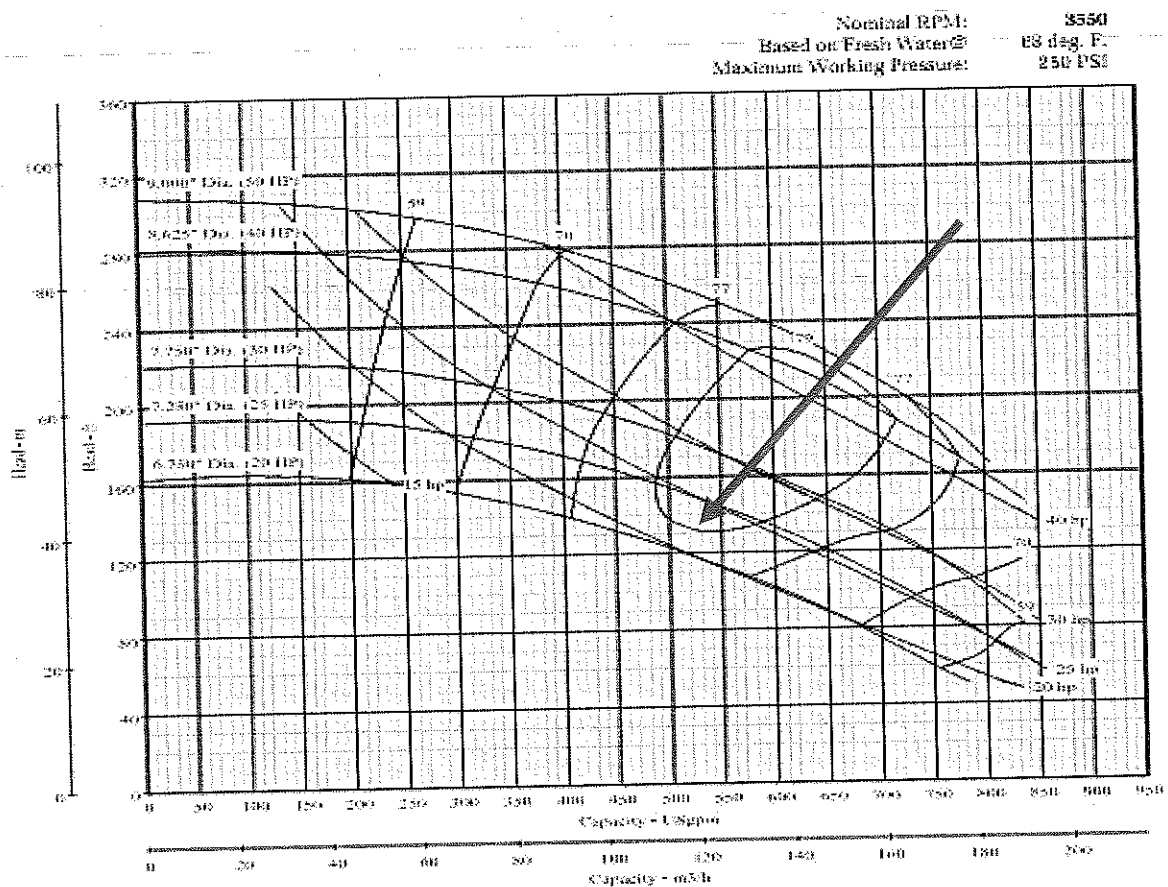


Figure 12. Berkeley Pump Curve for installed system.



Flow Rate for the Pumped System

The red arrow on Figure 12 points to the design flow for this pump, using the installed 25 HP motor. Reading down to the ordinate (Y) axis, the design flow rate is 535 gpm (1.19 cfs). While the actual flow pumped depends on a variety of additional factors, it can be assumed for the purposes of this analysis that the installation of this particular pump and motor indicate that when the system was installed, approximately this flow was pumped. As corroborating information, when I queried Mr. Hanselman about the flow of the system, he indicated that it is 550 gpm (for combined operation of the center pivot sprinkler and handlines). This is about 3 percent more than the design flow that I had computed using the pump curve, well within the band of expected performance for this system based on the pump curves.

The pump diverts from a sump fed by the ditch on the north side of the property that diverts from the Hiawatha Canal. Water Right No. 37-21112 provides for a diversion rate from the Big Wood River, meaning that the diversion rate also needs to provide for canal loss. Figure 13 depicts the location of the Hiawatha Canal (adapted from a canal shapefile provided by IDWR). Note that the straight line distance from the point of diversion to the pump for this water right is about 4 miles. The flow for Water Right No. 37-21112 is 1.419 cfs. This flow rate would provide only 0.229 cfs ($1.419 - 1.19$) for ditch loss, which is only 16 percent of the flow of the water right. This is not an unreasonably high amount and likely underestimates the loss in the four mile plus reach.

An alternate way to compute the adequacy of the flow rate is to use the standard guideline of 0.02 cfs/acre at the field headgate. This technique would indicate a requirement of 1.06 cfs for the irrigation of 53 acres. In this case the amount available for ditch loss would be 0.359 cfs ($1.419 - 1.06$). This would allow for a ditch loss of 25 percent of the water right, which is still reasonable given the nature of this ditch. Thus, a flow rate of 1.419 is a reasonable rate for the irrigation of these 53 acres.

Flow Rate for the Gravity Flow System

As depicted by the annotated photos above, the pumped system, consisting of the center pivot and the handlines, irrigates only part of the 53 acres. The northeast and northwest corners are irrigated with gravity flow. Normally these portions are not irrigated when the pump is operational in order to reduce debris. However, the system design provides the ability to irrigate the pumped system and the gravity flood system concurrently. The required flow rate is not computed for this event, as there is sufficient justification for the flow rate of 1.419 cfs without this additional component.

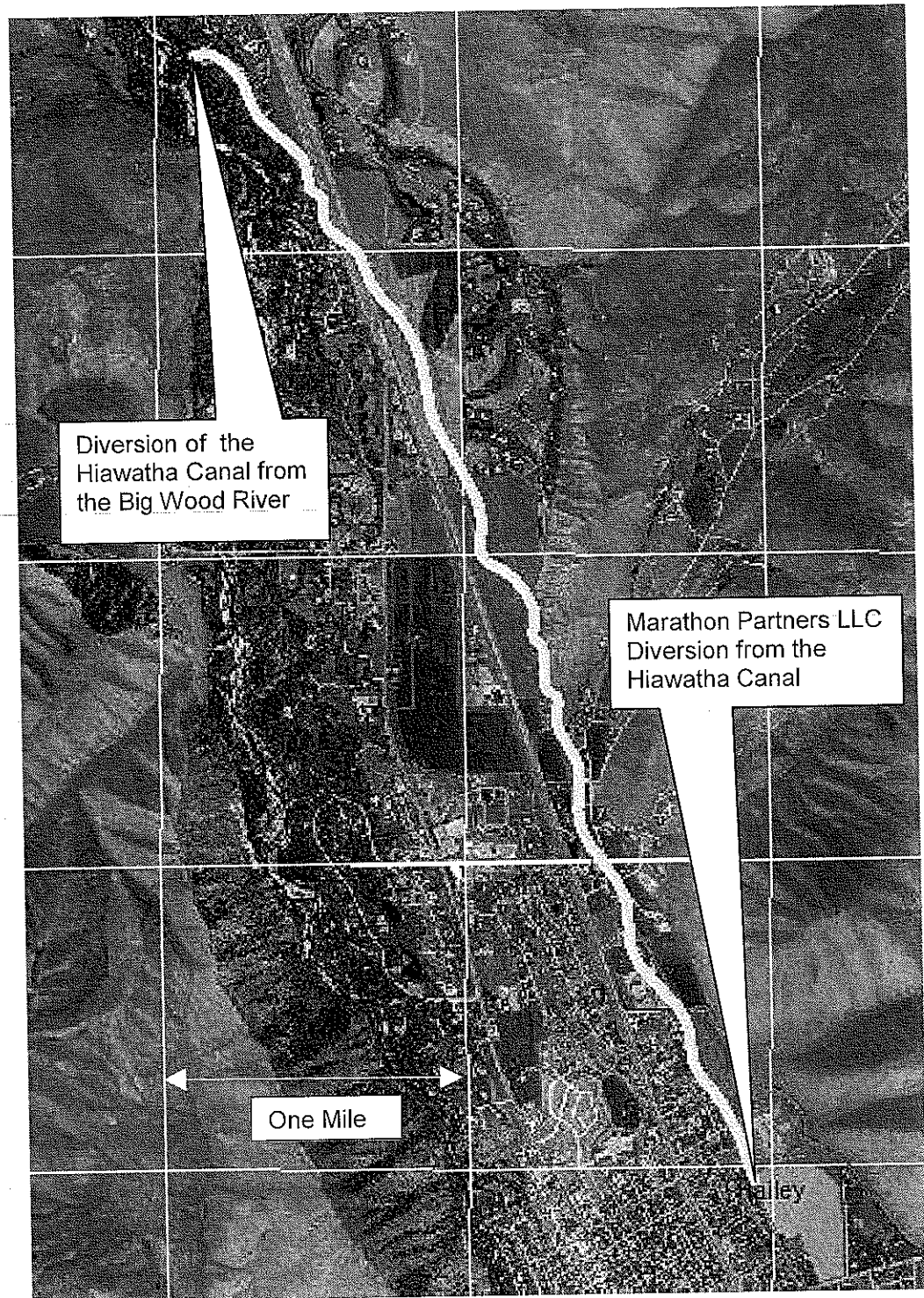


Figure 13. Hiawatha Canal depicted in yellow.



Volume Diverted

In the early 1970's the Idaho Department of Water Resources initially recommended volumes diverted for previously decreed surface water irrigation diversions in the Lemhi River Basin Adjudication. These recommendations resulted in objections by irrigators who argued that the state should not force efficiencies on existing decreed irrigation rights from surface water. IDWR eventually revoked the proposed volumetric limitations on the Lemhi River recommendations and the rights were decreed without volume limitations. This policy carried forth in the Payette River Basin Adjudication, conducted in the late 1970's and early 1980's, and in the SRBA. With rare exception, volumetric limitations have not been placed on water rights of this type.

On one hand, some water users have chosen to voluntarily accept volumetric limits on decreed irrigation water rights such as this one in order to resolve objections. However, in the case of Water Right No. 37-21112, where the system still irrigates a portion of land under the older gravity flow system, such a limitation could result in an inadequate water supply, and a water supply that is less than what historically was available.

For every water right, the water user is limited by statute to use only that amount of water that can be applied to beneficial use. Thus, the volume to be diverted is limited by statute and a specific quantified limitation is not required.

Accordingly, I recommend that a specific quantified volumetric limitation is not warranted for Water Right No. 37-21112.

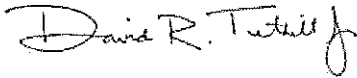
Recommendation

Based on the facts about this installation described above, it is my opinion that no rate of flow or volumetric limitations are warranted for Water Right No. 37-21112.

EXHIBIT 22



MEMORANDUM

TO: Mr. James Speck
FROM: David R. Tuthill, Jr., Ph.D., P.E. 
DATE: January 11, 2012
RE: **Analysis of Flow Rate and a Water Delivery Remark for Water Right No. 37-21112**

This memorandum addresses two issues relative to Water Right No. 37-21112. First, is 1.419 cubic feet per second (cfs) a proper rate of flow? Second, should the decree include a remark that reads "A portion of this water right is used for conveyance"? My analysis has resulted in determinations that 1.419 cfs can be beneficially used to irrigate the property and thus is a proper rate of flow, and the conveyance remark is not necessary for delivery of the water right.

RATE OF FLOW – EXISTING SYSTEM

FIELD EXAMINATION

I conducted a field visit at the place of use of water right No. 37-21112 on November 7, 2011. The field visit was conducted after the water system had been drained for the off-season, hence I did not measure flows. However, the information gathered during the field visit helps to inform the analysis, as follows.

For general orientation of the irrigated property, consider Figure 1.

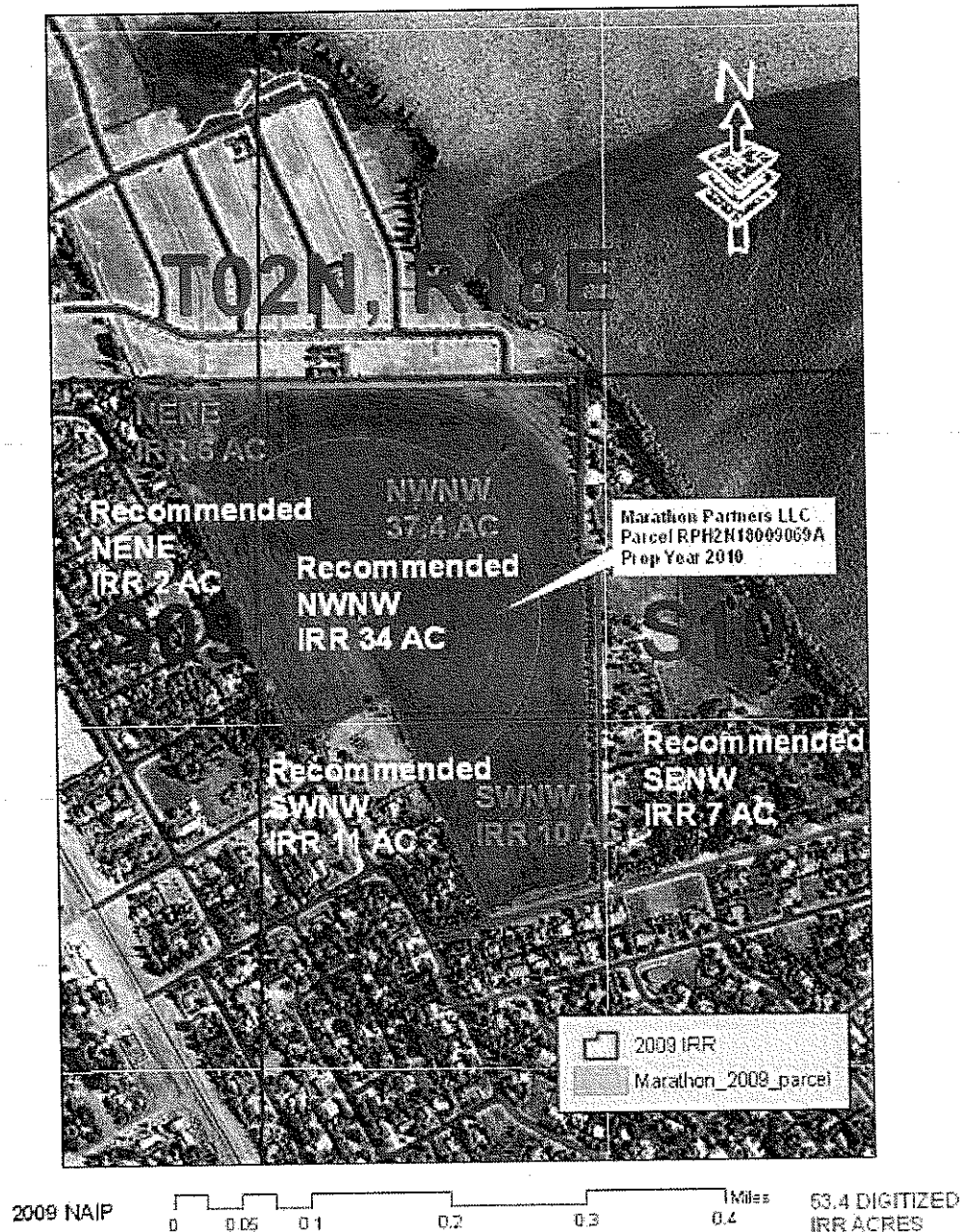


Figure 1. Recommended Place of Use for Water Right No. 37-21112

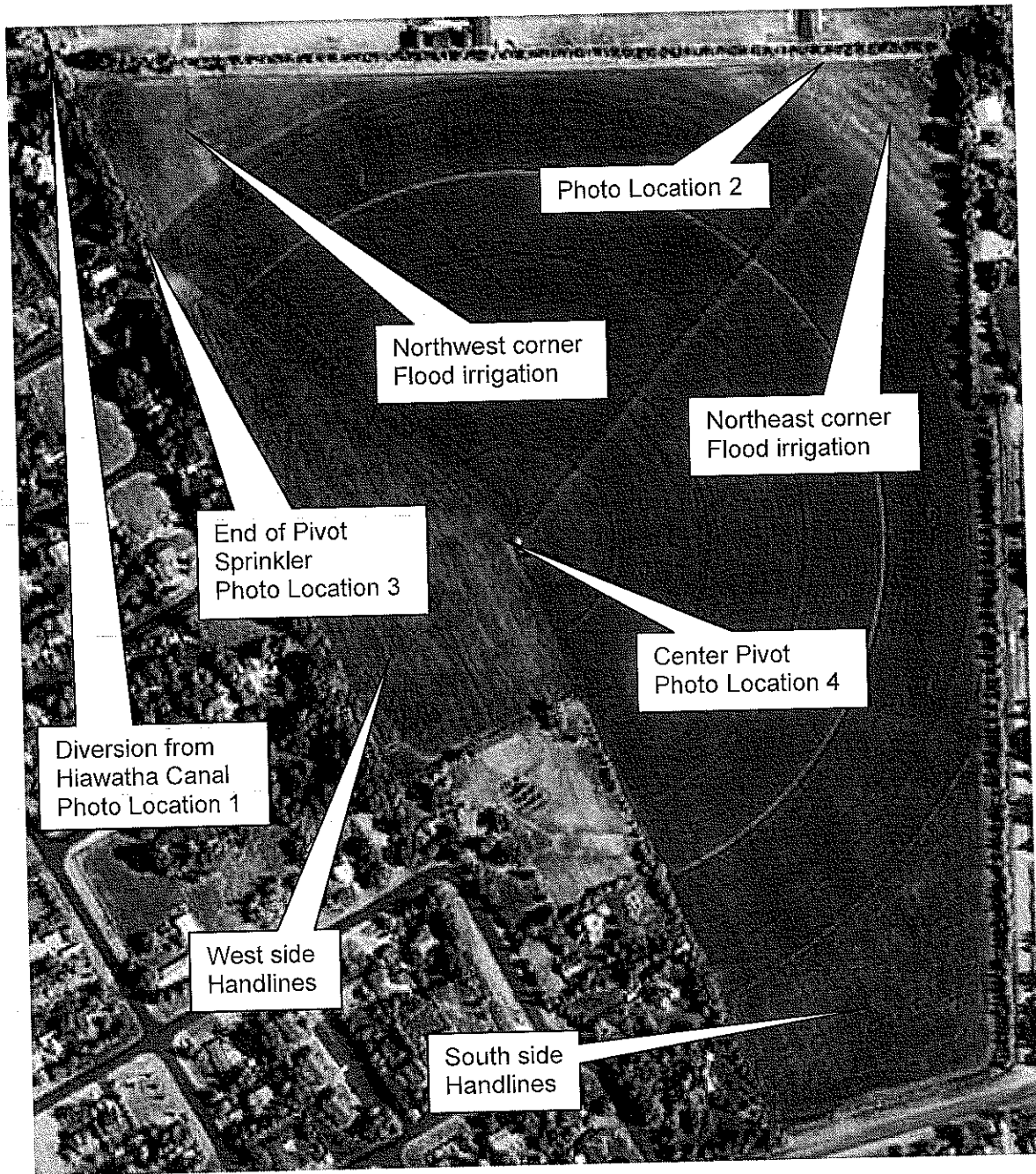


Figure 2. Recent Google Earth Image of Place of Use, with Irrigation System Annotation

As depicted in Figure 2, the 53 acres irrigated under this water right are irrigated by three systems – a pivot, handlines, and flood irrigation. The pump and motor combination that provides water to the pivot also provides water to the handlines.

Photo Location 1 is at the point where the 37-2112 water right diverts from the Hiawatha Canal.

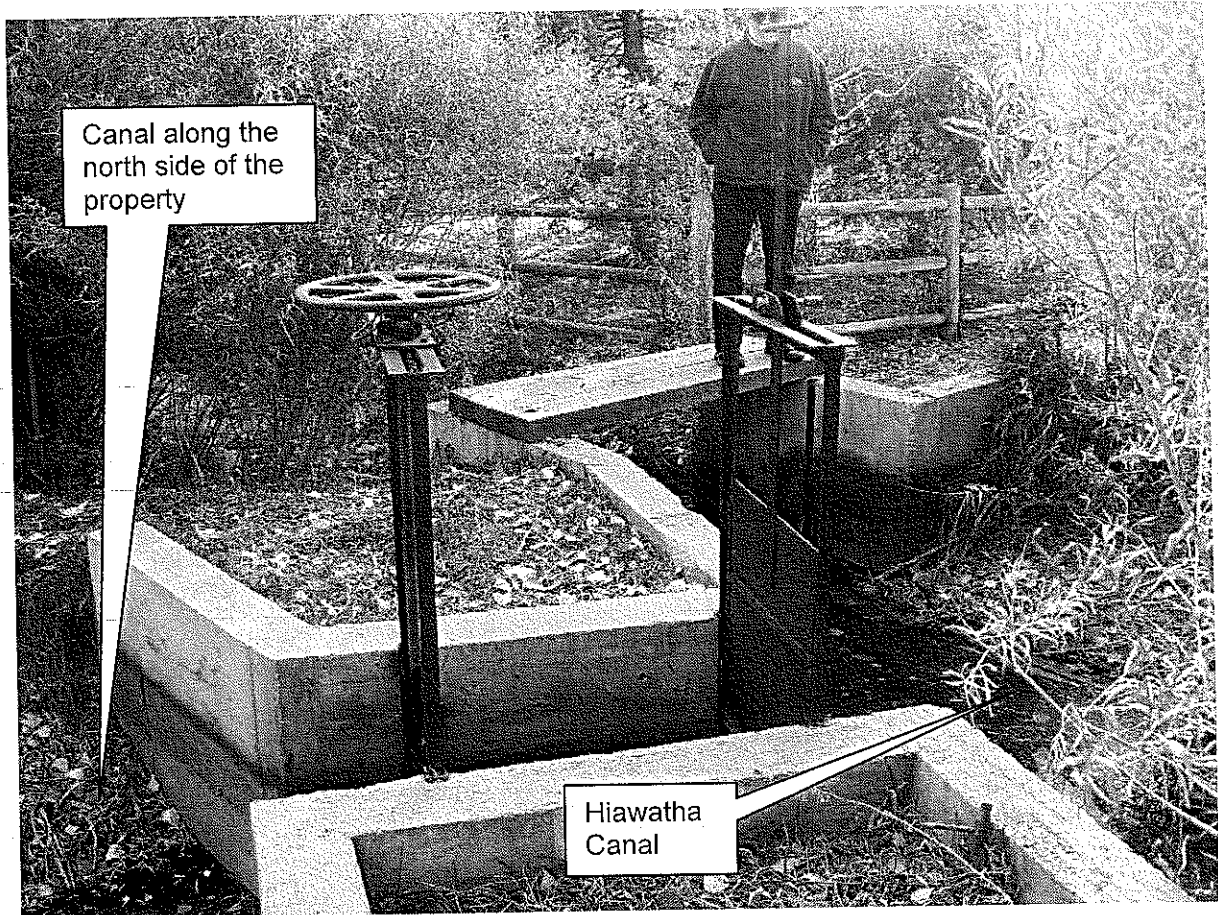


Figure 3. Photo at Location 1 looking southwest at the structure that diverts from the Hiawatha Canal. The observer is property caretaker Galen Hanselman.



Figure 4. Photo at Location 1 looking east along the ditch at the north side of the property

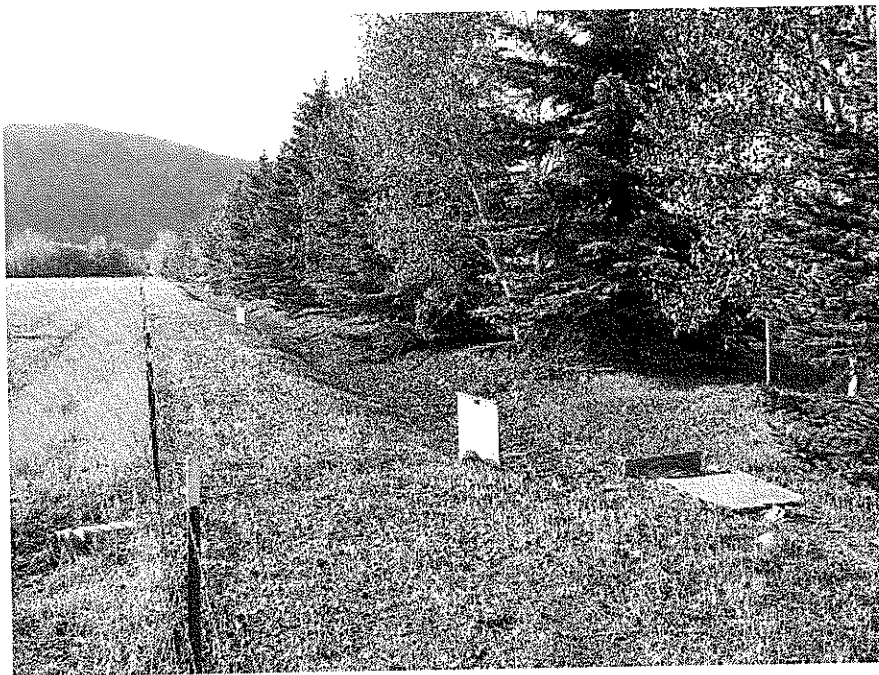


Figure 5. Photo at Location 2 looking west along the ditch on the north side of the property

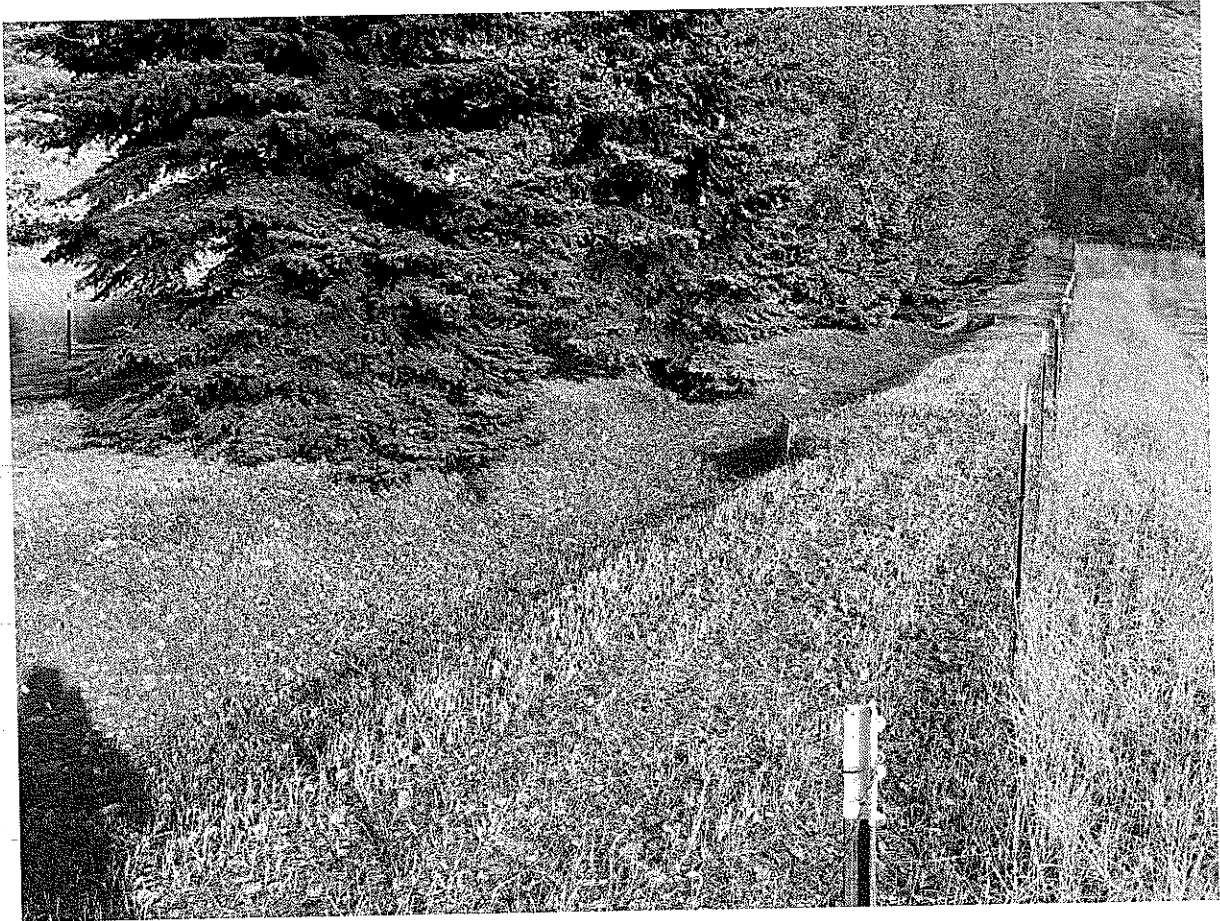


Figure 6. Photo at Location 2 looking east along the ditch on the north side of the property

The ditch that flows on the north side of the property is shown in Figures 4, 5 and 6. While I did not measure the flow in this ditch, I would not be surprised to see more than 2 cubic feet per second (cfs) flowing in the ditch given its dimensions and configuration. I asked Mr. Hanselman if this ditch can be used to provide flood irrigation for the northeast and northwest corners *while* the pump is operating. He confirmed that this is possible, but indicated that normally the flood irrigation is not conducted while the pump is running, to reduce the debris flowing into the pumped system.

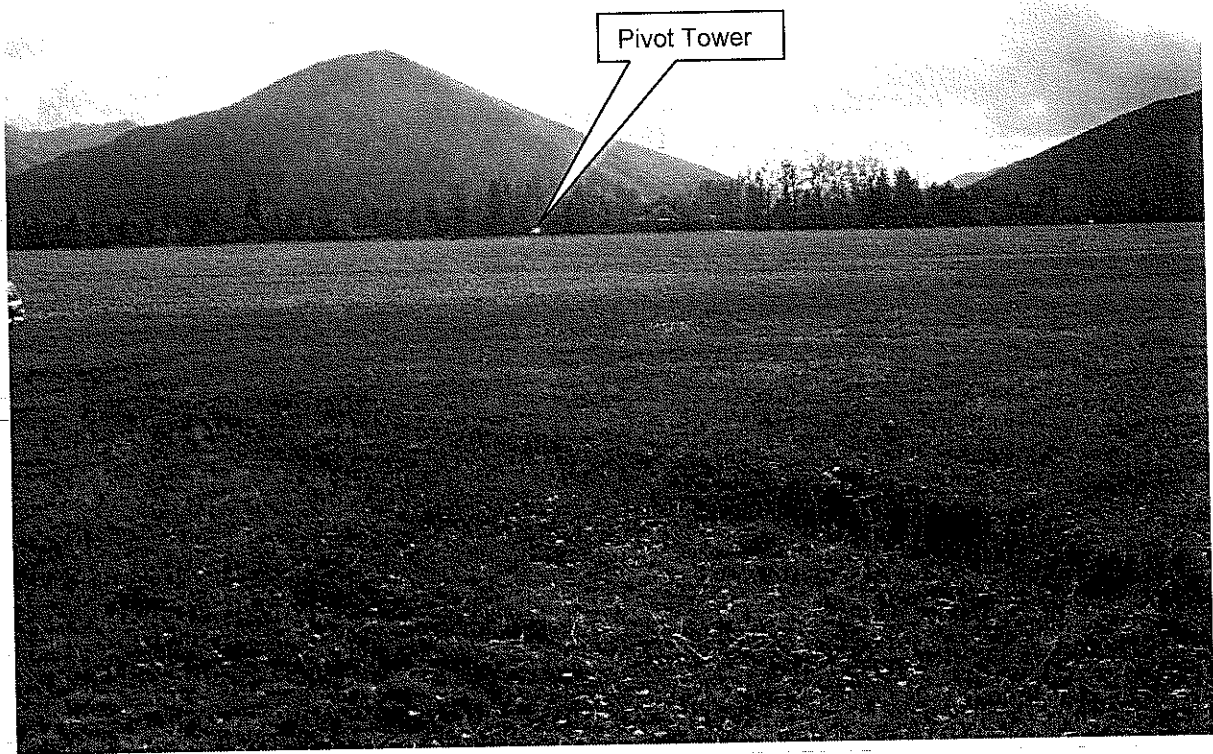


Figure 7. Photo at Location 2 looking southwest across the flood irrigated portion of the property in the foreground and the pivot irrigated property in the background.

Note from Figure 7 that one can see the furrow extending south across the area irrigated in this area. Similar furrows extend from all of the turnouts seen in Figures 4, 5 and 6..



Figure 8. Photo at Location 3 looking southeast toward the center of the pivot

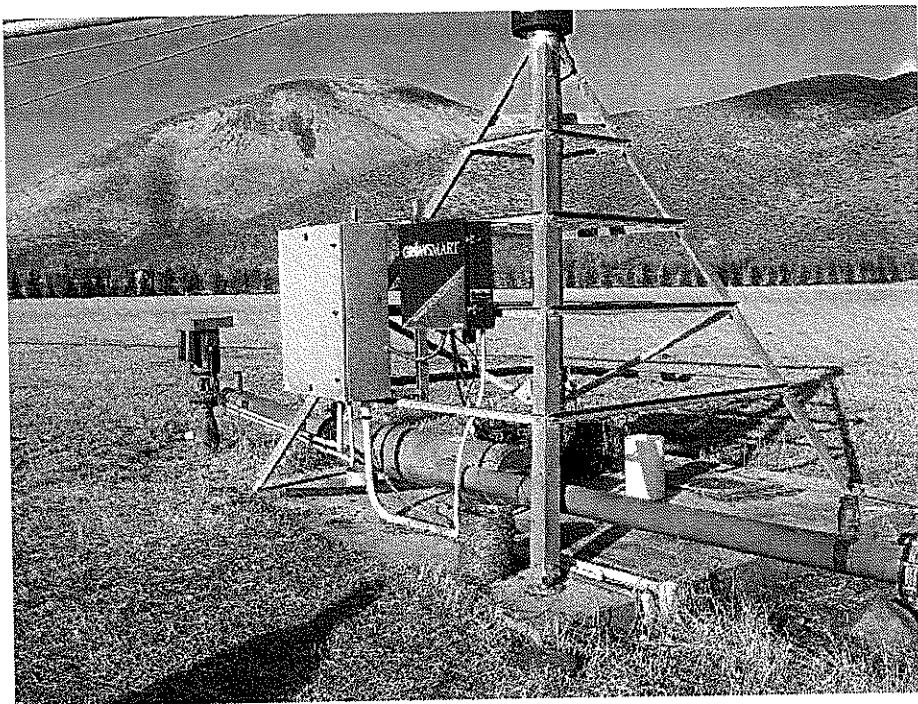


Figure 9. Center pivot tower facing northeast from Location 4.

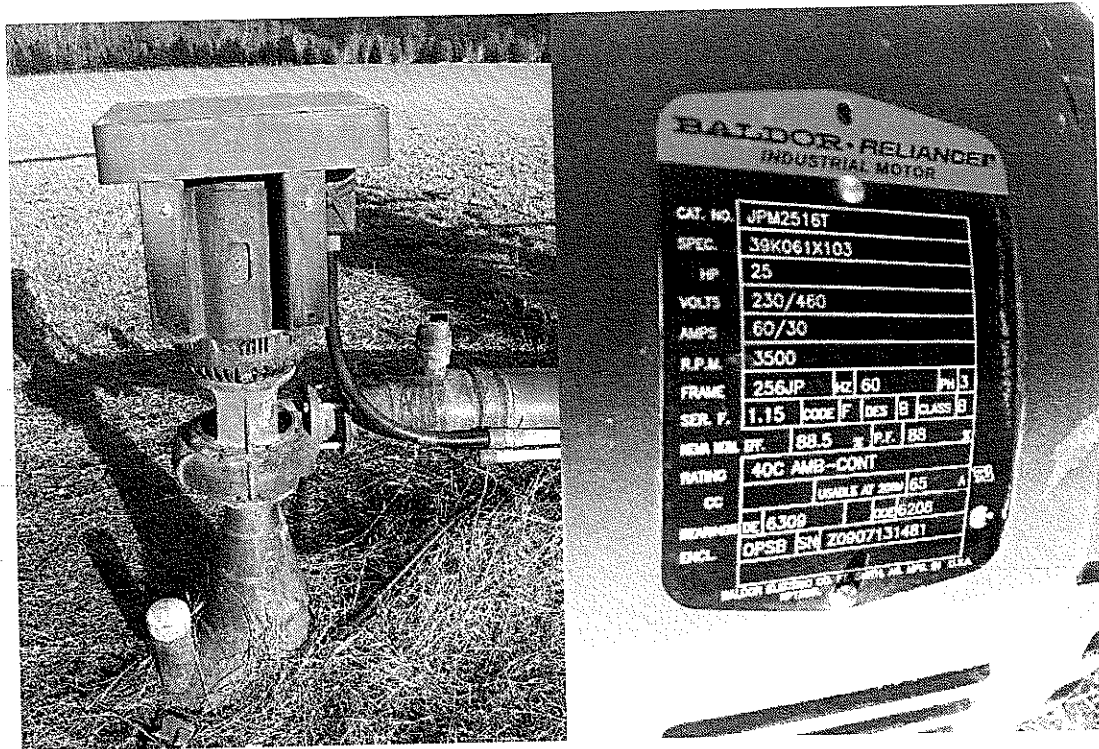


Figure 10. System pump and motor, and close-up of pump cover plate at location 4.

ANALYSIS FOR THE EXISTING SYSTEM

Rate of Flow

As an alternative to conducting a flow measurement, I obtained and reviewed the pump curve for the installed system. The specifications of the pump and associated motor are as follows:

Berkeley Pump: Model: B3ZFL; impeller Diameter: 7.25
S/N or Date: 2H0331; B.M.: B70209

The motor is Baldor Reliance, 25 HP, 460V, 30A, 3500 rpm, cat# JPM2516T

The associated Berkeley Pump Curve is identified as follows:

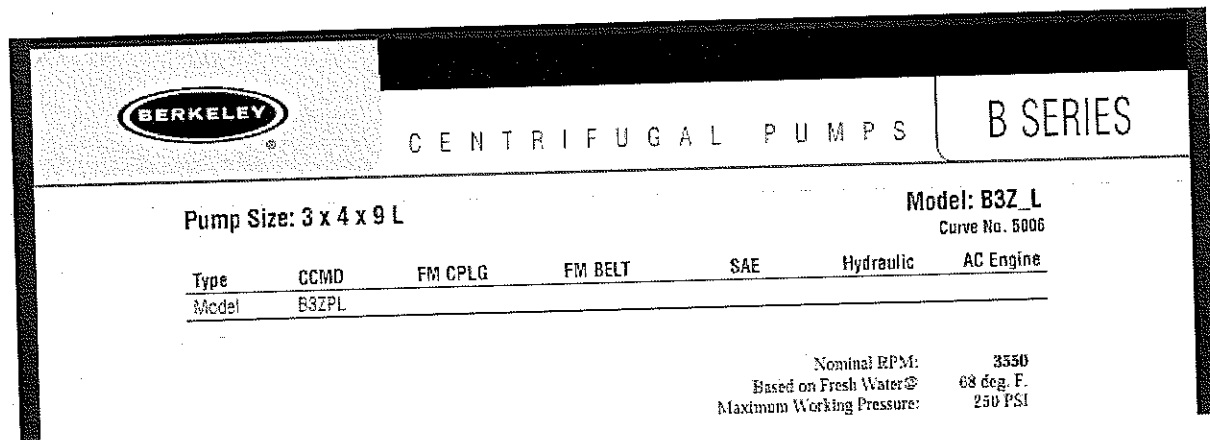


Figure 11. Berkeley Pump Curve header information.

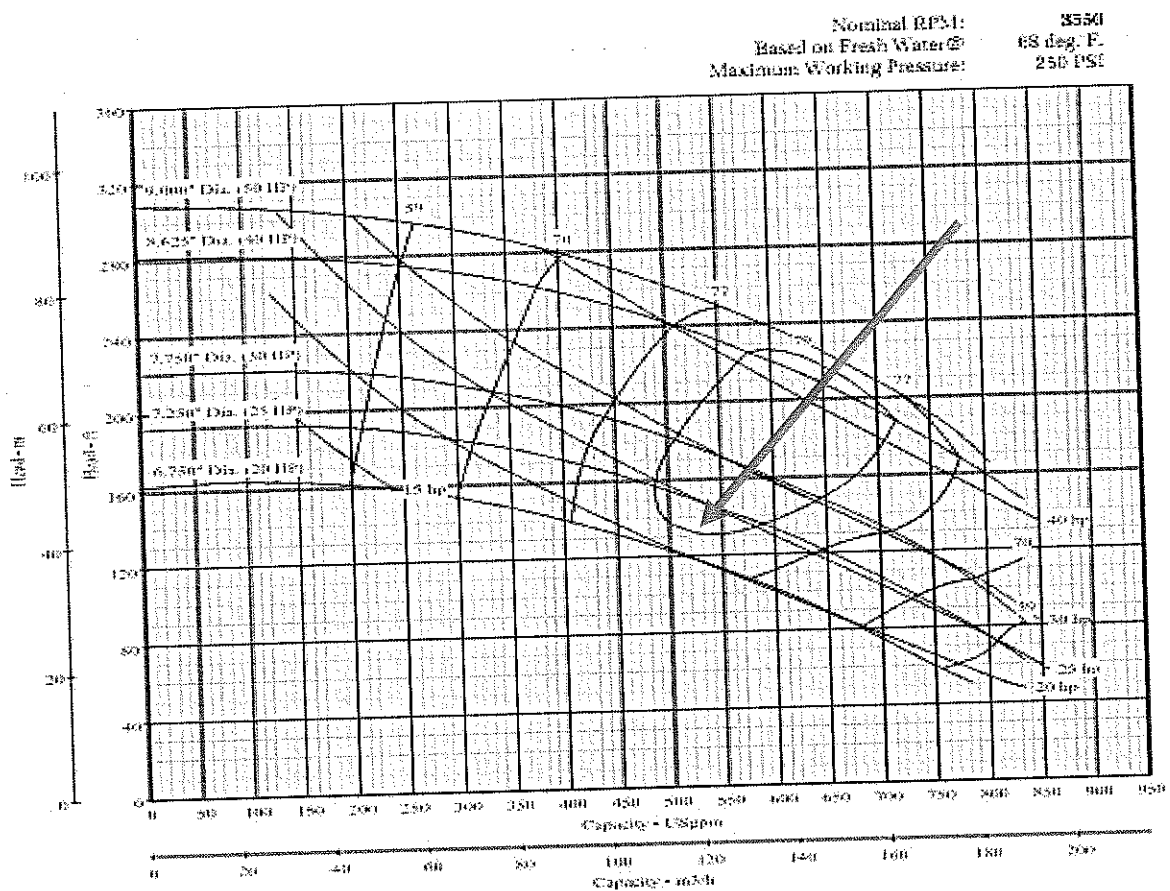


Figure 12. Berkeley Pump Curve for installed system.



Flow Rate for the Pumped System

The red arrow on Figure 12 points to the design flow for this pump, using the installed 25 HP motor. Reading down to the ordinate (Y) axis, the design flow rate is 535 gpm (1.19 cfs). While the actual flow pumped depends on a variety of additional factors, it can be assumed for the purposes of this analysis that the installation of this particular pump and motor indicate that when the system was installed, approximately this flow was pumped. As corroborating information, when I queried Mr. Hanselman about the flow of the system, he indicated that it is 550 gpm (for combined operation of the center pivot sprinkler and handlines). This is about 3 percent more than the design flow that I had computed using the pump curve, well within the band of expected performance for this system based on the pump curves.

The pump diverts from a sump fed by the ditch on the north side of the property that diverts from the Hiawatha Canal. Water Right No. 37-21112 provides for a diversion rate from the Big Wood River, meaning that the diversion rate also needs to provide for canal loss. Figure 13 depicts the location of the Hiawatha Canal (adapted from a canal shapefile provided by IDWR). Note that the straight line distance from the point of diversion to the pump for this water right is about 4 miles. The flow for Water Right No. 37-21112 is 1.419 cfs. This flow rate would provide only 0.229 cfs ($1.419 - 1.19$) for ditch loss, which is only 16 percent of the flow of the water right. This is not an unreasonably high amount and likely underestimates the loss in the four mile plus reach.

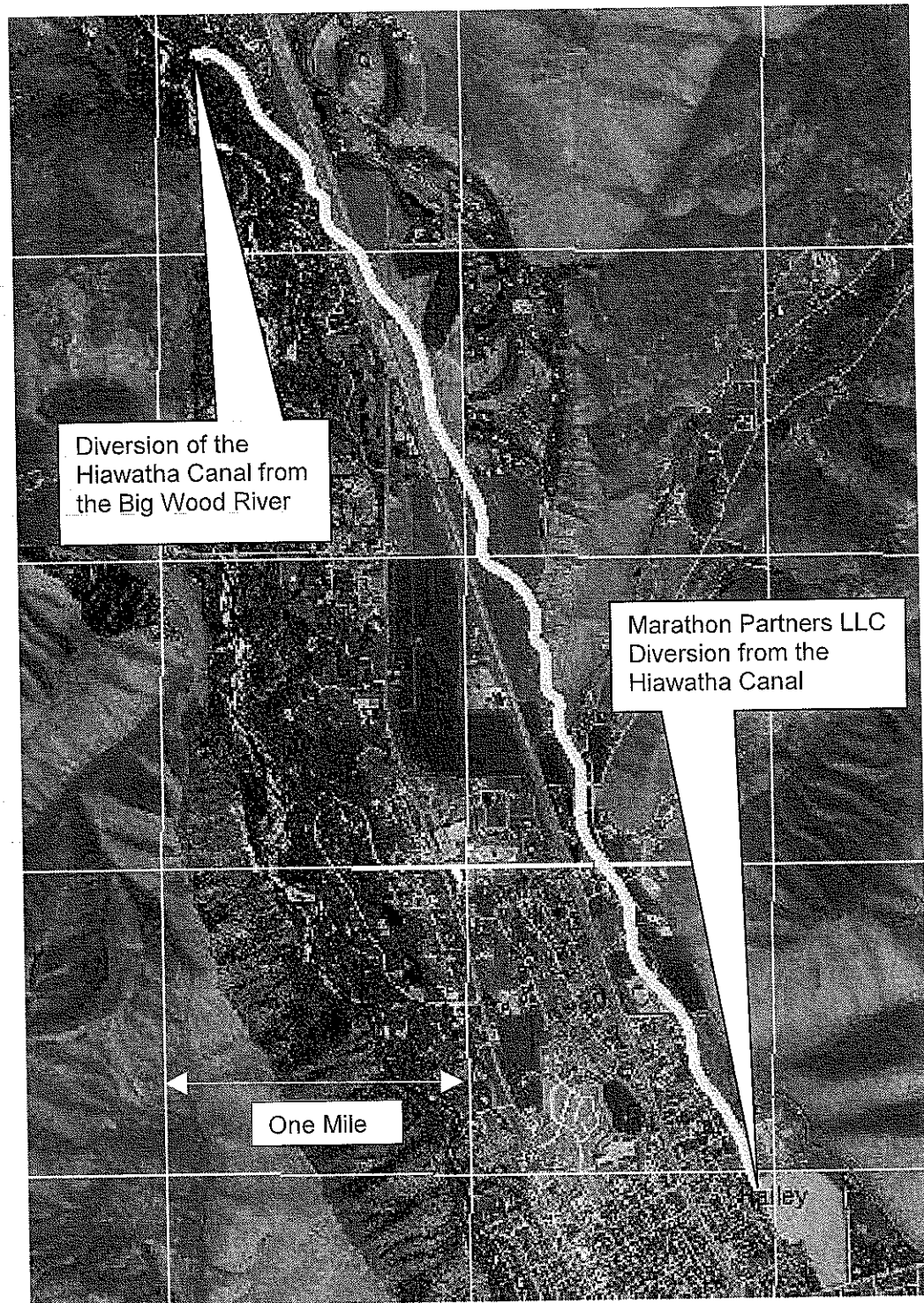


Figure 13. Hiawatha Canal depicted in yellow.



An alternate way to compute the adequacy of the flow rate is to use the standard guideline of 0.02 cfs/acre at the field headgate. This technique would indicate a requirement of 1.06 cfs for the irrigation of 53 acres. In this case the amount available for ditch loss would be 0.359 cfs ($1.419 - 1.06$). This would allow for a ditch loss of 25 percent of the water right, which is still reasonable given the nature of this ditch. Thus, a flow rate of 1.419 is a reasonable rate for the irrigation of these 53 acres.

Flow Rate for the Gravity Flow System

As depicted by the annotated photos above, the pumped system, consisting of the center pivot and the handlines, irrigates only part of the 53 acres. The northeast and northwest corners are irrigated with gravity flow. Normally these portions are not irrigated when the pump is operational in order to reduce debris. However, the system design provides the ability to irrigate the pumped system and the gravity flood system concurrently. The required flow rate is not computed for this event, as there is sufficient justification for the flow rate of 1.419 cfs without this additional component.

Recommendation

Based on the facts about this installation described above, it is my opinion that no rate of flow limitations are warranted for Water Right No. 37-21112, based on the existing system.

RATE OF FLOW – HISTORIC SYSTEM

While the present Marathon Partners property irrigation system incorporates a center pivot, the irrigation system that existed on this property in 1987 was a completely gravity flow system.

The Snake River Basin Adjudication (SRBA) started with three "test basins", including Basin 36 in the Hagerman area. This test basin process established that IDWR would recommend, and the SRBA Court would issue partial decrees for the flows that would be needed by the water user if there is a return to the historic system, to the extent that the flow (1) is claimed in the SRBA, (2) is supported by the previously issued decreed water rights, and (3) can be placed to a beneficial use. A flow of 1.419 cfs has been claimed by Marathon Partners, LLC, and is supported by previously issued decreed water rights, as evidenced by the recommendation from IDWR. Hence, the Marathon Partners property should be eligible for a recommendation of a rate of flow based on the requirements of a gravity flow system if the stated flow can be applied to a beneficial use. The computation of flow rate required under the original gravity flow system is detailed in a companion memorandum entitled: Computation of Flow Requirement for Water Right No. 37-21112 Under a Totally Gravity Flow System.

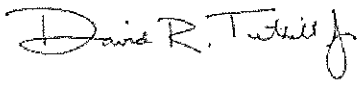


REMARK

A remark that has been considered for Water Right No. 37-21112 is "A portion of this water right is used for conveyance." On one hand, this remark can be considered to not significantly limit the water right, as the portion of the right that is to be used for conveyance is not specified. On the other hand, the question that must be addressed in determining the need for a remark is whether the remark is necessary for administration of the right. In this regard, I reflect on more than thirty years of working with Water Districts and Watermasters for IDWR, starting in 1976, and in making water right recommendations for the Payette River Basin Adjudication and for the Snake River Basin Adjudication. IDWR has not added the remark in question as a standard remark for water rights that include conveyance losses. There are thousands of water rights that include water for conveyance loss that have been recommended by IDWR for consideration by the courts. As a result of these recommendations, thousands of water rights that include conveyance loss do not contain this remark and have already decreed in the Payette River Basin Adjudication, and have received partial decrees in the Snake River Basin Adjudication.

It is my professional opinion that the remark "A portion of this water right is used for conveyance" is not necessary for administration of Water Right No. 37-21112.

MEMORANDUM

TO: Mr. James Speck
FROM: David R. Tuthill, Jr., Ph.D., P.E. 
DATE: January 11, 2012
RE: **Computation of Flow Requirement for Water Right No. 37-21112 Under a Totally Gravity Flow System**

This memorandum provides a computation of the flow requirement for Water Right No. 37-21112 under a totally gravity system. It is a companion memorandum to one entitled "Analysis of Flow Rate and a Water Delivery Remark for Water Right No. 37-21112."

RATE OF FLOW – HISTORIC SYSTEM

While the present Marathon Partners property irrigation system incorporates a center pivot, the irrigation system that existed on this property in 1987 was a completely gravity flow system, as depicted in Figure 1.

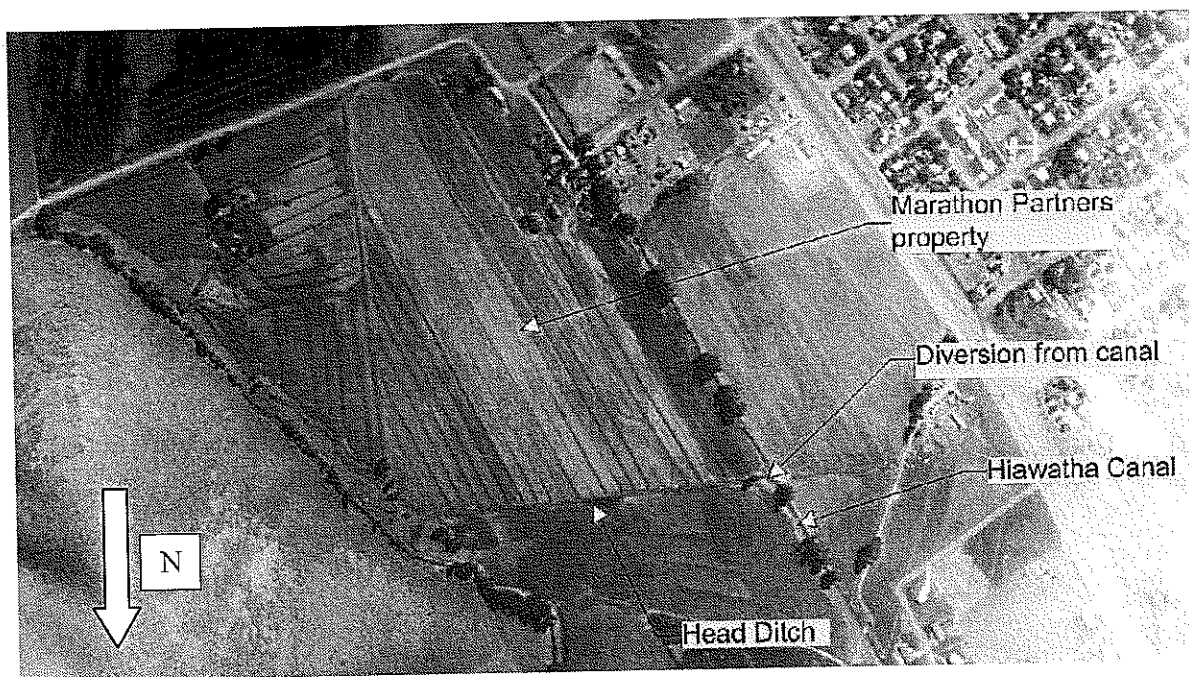


Figure 1. Marathon Partners Property Circa 1980



In October, 1991, the Idaho Department of Water Resources (IDWR) commissioned Hubble Engineering, Inc. and Associated Earth Sciences, Inc., to develop two reports (referred to as the "Hubble Reports"). One was entitled "Guidelines for the Evaluation of Irrigation Diversion Rates", and the other was entitled "Evaluation Workbook for Irrigation Diversion Rates." (Hubble Evaluation Workbook). IDWR staff used these guidelines at various times in the 1990s and a few times since, but their use has not been widespread in recent years. This is largely because (1) water rights often have limiting factors and additional considerations other than computed diversion values, and (2) significant subjective judgment is employed in implementing the information in the documents.

In the present instance we have a situation where IDWR has recommended a flow rate of 1.419 cubic feet per second (cfs) for the irrigation of 53 acres, or about 0.027 cfs per acre. This recommendation is supported by review of earlier decreed water rights and by the claim. Modern irrigation systems anticipate that flow rates are limited to 0.02 cfs per acre unless a showing is made that more water is required. For an existing gravity flow system with a decreed water right, a flow rate of 0.027 cfs per acre is not perceived to be out of the ordinary and normally would not require additional analysis to be accepted. Nevertheless, an analysis has been undertaken as shown below, using principles from the Hubble Reports.

Recommended Design Efficiencies

Figure A-8 of the Hubble Evaluation Workbook anticipates a design efficiency for furrows and corrugations (the Marathon Partners property had corrugations), with slopes of .5% to 2%, to be 65%, but older systems are much less efficient than this, typically in the range of 30%.

Soil Considerations

As described in Figure 2, the predominant soil for the Marathon Partners property is the Little Wood soil type, characterized as gravelly loam. This Intake Family 2.0 soil (per Hubble Evaluation Workbook Figures A-2 and A-3-1) typically is very well drained and has reduced moisture holding capacity at the lower root levels of alfalfa. The significance of this soil type is that irrigation is required at higher frequencies than for other less gravelly soil.

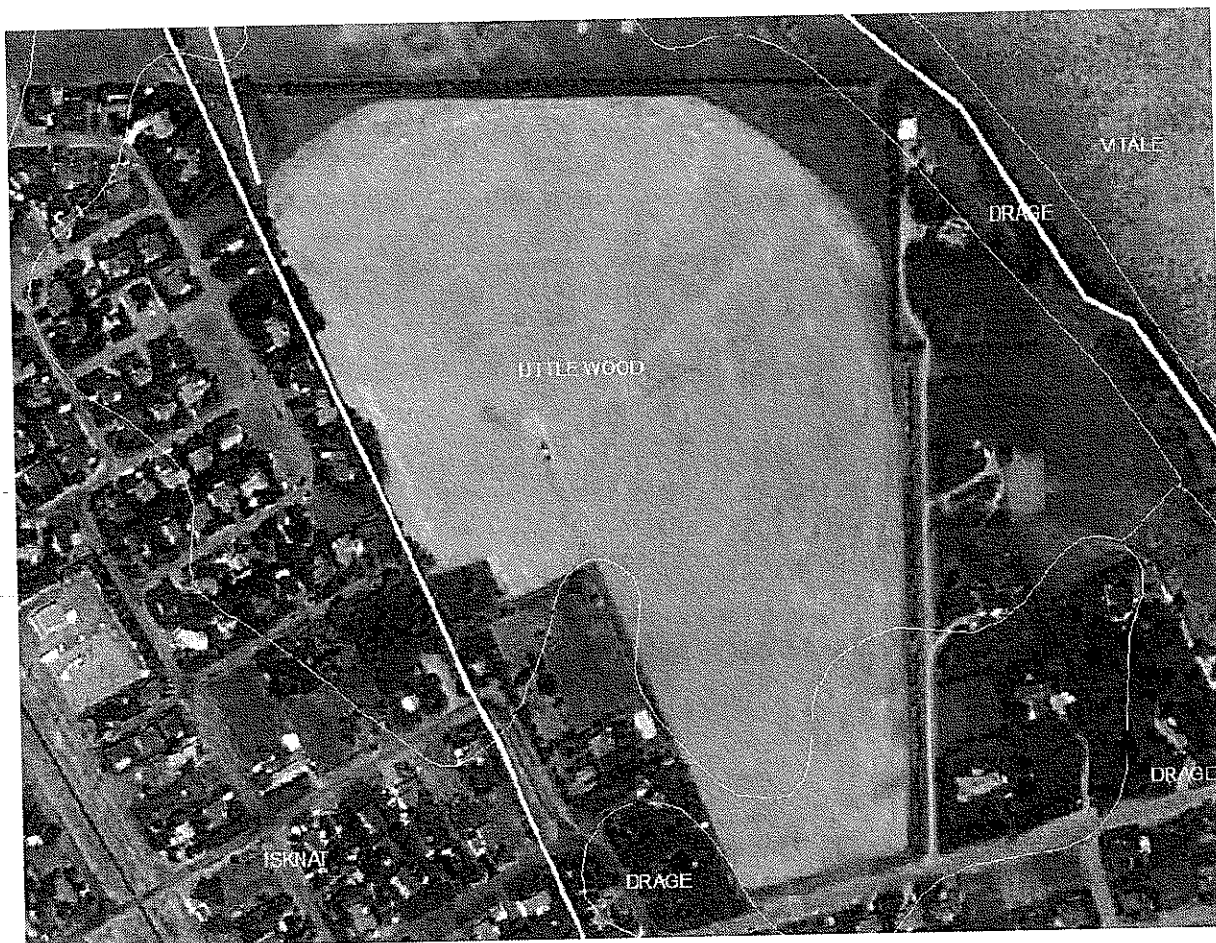


Figure 2. Soil Types in the Vicinity of the Marathon Partners Property

Crop Water Requirements

One data set that has improved greatly since the Hubble Reports were issued is the computation of crop water requirements. Figure 3 is a snapshot from the ET Idaho website, the University of Idaho sponsored site that provides extensive data regarding crop water requirements. For purposes of this analysis, the crop type is alfalfa hay, which is a typical crop for the Marathon Partners property.

ET Idaho 2009: Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho

Please send suggestions for improving this site to robiscr at kinberly dot idaho dot edu Copyright 2012, University of Idaho.

Hailey Ranger Stn (NWS --103942)

Statistics based on thirty

For a different land cover or crop click on the above link.

You can highlight this table and copy via the clipboard to a Microsoft Excel or OpenOffice spreadsheet to plot or otherwise work with this data.

Alfalfa - less frequent cuttings																
Precipitation Deficit (Click here for a graph)																
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Growing Season ^a	Non Growing Season ^b	Annual	
Mean	mm/day												mm			
Monthly ^c	-0.20	-0.06	0.03	0.09	2.48	3.24	4.55	5.17	2.22	0.32	-0.57	-0.42	624	-41	595	
15-Day Moving Average ^d	-0.23	-0.08	0.03	0.02	2.44	3.35	4.25	5.31	2.12	0.33	-0.71	-0.49				
7-Day Moving Average ^e	-0.23	-0.08	0.07	0.04	2.47	3.26	4.40	5.25	2.18	0.32	-0.52	-0.43				
3-Day Moving Average ^f	-0.21	-0.07	0.08	0.07	2.48	3.24	4.51	5.19	2.21	0.33	-0.55	-0.42				
Standard Deviation	mm/day												mm			
Monthly	0.71	0.37	0.21	0.23	1.86	1.14	0.87	1.52	0.99	1.11	0.55	0.72	78	38	82	
15-Day Moving Average	0.68	0.36	0.33	0.36	1.67	1.38	1.55	1.49	1.38	1.34	1.12	0.73				
7-Day Moving Average	0.90	0.75	0.57	0.63	2.02	2.07	1.81	1.79	1.69	1.41	1.35	1.12				
3-Day Moving Average	1.21	1.05	0.94	1.19	2.41	2.65	2.12	2.28	2.13	1.94	2.21	1.39				
20% Exceedance	mm/day												mm			
Monthly	0.07	0.17	-0.24	0.30	3.43	6.20	4.98	5.90	2.97	1.12	-0.05	0.00	701	-3	688	
15-Day Moving Average	0.31	0.40	-0.28	0.62	5.06	7.07	6.81	6.72	4.42	2.91	-0.35	0.25				
7-Day Moving Average	0.52	0.72	1.07	1.35	6.07	7.83	7.59	7.04	5.13	2.76	1.39	0.44				
3-Day Moving Average	0.78	0.83	1.79	2.91	6.91	8.45	8.01	7.34	5.87	1.74	1.33	0.53				
80% Exceedance	mm/day												mm			
Monthly	-0.62	-0.11	-0.03	-0.07	1.14	4.13	3.83	4.82	1.33	0.01	-1.95	-1.95	564	-75	522	
15-Day Moving Average	-1.09	-0.44	-0.52	-0.64	0.13	2.98	2.37	3.17	0.31	-0.57	-2.32	-2.17				
7-Day Moving Average	-3.43	-1.00	-1.21	-1.35	-0.42	0.50	1.72	1.86	-0.81	-2.31	-4.25	-2.78				
3-Day Moving Average	-6.43	-2.26	-2.83	-3.16	-1.31	-0.01	0.79	0.16	-4.32	-6.34	-8.28	-1.35				

Figure 3. ET Idaho Information for Alfalfa, at the Hailey Ranger Station weather station.

Note that this table identifies precipitation deficits, defined as the irrigation requirements minus anticipated precipitation. For irrigation of 53 acres, the requirement at 30% efficiency is as follows:

$$1.419 \text{ cfs} * 1.9835 \text{ acre-foot/cfs-day} / 53 \text{ acres} * 1\text{mm}/.00328 \text{ ft} * .3 \text{ (efficiency)} = 4.86 \text{ mm/day}$$



Per the ET table, this amount of water is typically needed during a normal June, and is inadequate during a hot (20% exceedance) summer.

Summary

The intent of this memorandum is not to design an irrigation system but rather to demonstrate that during the hot times of the year, a flow of 1.419 cfs can be beneficially used by alfalfa in the Hailey area for the irrigation of 53 acres, given an older gravity flow system. Soil moisture carryover can in some locations be a primary factor in reducing rate of flow requirements, but in this location the gravelly loam does not have a high moisture holding capacity.

Based on the irrigation needs of the historic gravity flow irrigation system, the recommendation of 1.419 cfs for water right no. 37-21112 can be supported even without a canal loss component.



Appendix

Little Wood Soil Type

This soil description was provided at:

https://soilseries.sc.egov.usda.gov/OSD_Docs/L/LITTLE_WOOD.html

LITTLE WOOD SERIES

The Little Wood series consists of very deep, well drained soils that formed in loess, alluvium, and residuum from mixed sources. Little Wood soils are on fan terraces, stream terraces, and dissected alluvial terraces. Slopes are 0 to 30 percent. Permeability is moderate in the upper part and very rapid below. The average annual precipitation is about 14 inches and the average annual air temperature is about 43 degrees F.

TAXONOMIC CLASS: Loamy-skeletal, mixed, superactive, frigid Ultic Argixerolls

TYPICAL PEDON: Little Wood very gravelly loam, alfalfa. (Colors are for dry soil unless otherwise noted.)

Ap--0 to 8 inches; grayish brown (10YR 5/2) very gravelly loam, very dark grayish brown (10YR 3/2) moist; moderate fine granular structure; slightly hard, friable, slightly sticky and slightly plastic; many fine and medium roots; many fine irregular pores; slightly acid (pH 6.4); clear smooth boundary. (7 to 9 inches thick)

A--8 to 14 inches; grayish brown (10YR 5/2) very gravelly loam, very dark grayish brown (10YR 3/2) moist; moderate fine and medium subangular blocky structure; slightly hard, friable, slightly sticky and slightly plastic; many fine and medium roots; many fine tubular pores; slightly acid (pH 6.4); clear wavy boundary. (2 to 8 inches thick)

Bt1--14 to 19 inches; brown (10YR 5/3) very gravelly sandy clay loam, dark brown (10YR 3/3) moist; moderate fine and medium subangular blocky structure; slightly hard, friable, sticky and slightly plastic; common fine and medium roots; many fine tubular pores; few faint clay films on vertical faces of peds and in pores; slightly acid (pH 6.4); clear wavy boundary. (2 to 7 inches thick)

Bt2--19 to 30 inches; pale brown (10YR 6/3) very gravelly sandy clay loam, brown (10YR 4/3) moist; moderate medium subangular blocky structure; slightly hard, friable, sticky and plastic; common fine and medium roots; many fine tubular pores; few faint clay films on faces of peds and in pores; neutral (pH 6.6); clear wavy boundary. (8 to 13 inches thick)

C1--30 to 46 inches; pale brown (10YR 6/3) very gravelly loamy coarse sand, brown (10YR 4/3) moist; massive; soft, very friable, nonsticky and nonplastic; many fine and medium roots; many fine tubular pores; 50 percent pebbles and 10 percent cobbles; neutral (pH 7.0); gradual wavy boundary. (12 to 20 inches thick)

C2--46 to 60 inches; extremely gravelly coarse sand; single grain; loose; few fine roots; neutral (pH 7.0).

TYPE LOCATION: Camas County, Idaho; about 3 miles east and 3 miles north of Fairfield; 150 feet west and 450 feet north of the southeast corner of sec. 25, T. 1 N., R. 14 E.

RANGE IN CHARACTERISTICS:

Average annual soil temperature - 42 to 47 degrees F.
Average summer soil temperature - 60 to 65 degrees F.

MEMORANDUM

January 11, 2012

Page 6 of 8

Idaho Water Engineering, LLC, 2918 N. El Rancho Pl. Boise, ID 83704, Ph. 208-378-1513, www.idahowaterengineering.com



Mollic epipedon thickness - 10 to 19 inches
Depth to sandy-skeletal layer and base of the argillic - 21 to 34 inches
Reaction - moderately acid to neutral
Base saturation - 50 to 75 percent

A horizon
Value - 3 through 5 dry, 2 or 3 moist
Chroma - 1 through 3 dry or moist

Bt horizon
Hue - 7.5YR or 10YR
Value - 4 through 6 dry, 3 to 5 moist
Chroma - 2 through 6 dry or moist
Texture - GRV-SCL, GRV-CL, CBX-SCL, GRV-L
Clay percentage - average 20 to 35 percent
Coarse fragment content - 35 to 55 percent pebbles, 5 to 40 percent cobbles, 35 to 85 percent total

C horizon
Texture - GRX-LCOS, GRX-COS, CBX-LCOS, or CBX-COS
Rock fragment content - 60 to 80 percent
In some pedons this is a Bkq horizon with lime and silica coatings on undersides of rock fragments

Bq horizons are present in some pedons

COMPETING SERIES: These are the Apmat, Durst, Fergie, Fraval, Henhoit, Kalo, Klicker, Klickson, Morningstar, Mulshoe, Sapkin, and Sattley series. Apmat soils have 10 to 18 percent clay in the argillic and occur in a 20 to 35 inch precipitation. Durst, Fraval, Kalo, Klicker, Mulshoe, and Sapkin soils have a lithic or paralithic contact at depths of 20 to 40 inches. Fergie soils have bedrock at 50 to 60 inches. Henhoit and Klickson are deeper than 34 inches to the base of the argillic. In addition, Henhoit has a base saturation of more than 75 in some part of the upper 30 inches. Klickson soils have an O horizon. Morningstar soils have O horizons and lack sandy-skeletal material immediately below the argillic horizon. Sattley soils lack a sandy-skeletal layer immediately below the argillic above 40 inches and are dry 120 consecutive days during summer and fall.

GEOGRAPHIC SETTING: Little Wood soils are on fan terraces, stream terraces, and dissected alluvial terraces. Slopes range from 0 to 30 percent. The soil formed in loess, alluvium, and residuum from mixed sources. Elevation ranges from 4,700 to 6,200 feet. The annual precipitation is 12 to 18 inches, most of which falls as snow and early spring rain. The average annual air temperature is about 40 to 46 degrees F. The frost-free season is 60 to 110 days.

GEOGRAPHICALLY ASSOCIATED SOILS: These are the Adamson, Balaam, Bringmee, Bruneel, Carey Lake, Rands, Simonton, and Vodermaier soils. Adamson, Balaam, Bruneel, and Vodermaier soils lack an argillic horizon. Bringmee, Carey Lake, Rands, and Simonton soils have less than 35 percent coarse fragments in the control section. Adamson and Balaam soils occur on stream terraces. Bruneel soils occur on flood plains. Bringmee, Carey Lake, Rands, Simonton, and Vodermaier soils occur on fan terraces.

DRAINAGE AND PERMEABILITY: Well drained; slow runoff; moderate permeability in the subsoil and very rapid below this depth.

USE AND VEGETATION: Dry cropland, irrigated cropland, rangeland, and housing sites. Alfalfa hay, pasture, and small grains are the principle crops. Vegetation is bluebunch wheatgrass, Idaho fescue, Sandberg bluegrass, needlegrasses, mountain big sagebrush, and basin big sagebrush.

DISTRIBUTION AND EXTENT: Little Wood soils are moderately extensive in south-central Idaho.



MLRA SOIL SURVEY REGIONAL OFFICE (MO) RESPONSIBLE: Portland, Oregon

SERIES ESTABLISHED: Camas County, Idaho, 1977.

REMARKS: Diagnostic horizons and features recognized in this pedon are:

Mollic epipedon - the zone from the surface of the soil to a depth of approximately 14 inches (Ap and A horizons)

Argillic horizon - the zone from approximately 14 to 30 inches (Bt1 and Bt2 horizons)

National Cooperative Soil Survey

EXHIBIT 23



RECEIVED
JAN 20 2012
SPECK & AANESTAD

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

January 17, 2012

Clerk of the District Court
Snake River Basin Adjudication
P.O. Box 2720
Twin Falls, ID 83303-2707
Via Facsimile

RE: Standard Form 5 for water right 37-21112 (Marathon Partners LLC)

Dear Clerk:

Attached for filing is a Standard Form 5 (SF5) for water right 37-21112 (claimed by Marathon Partners LLC). Because the recommendation included in the SF5 may be difficult to read due to several electronic scannings, IDWR is also enclosing a cleaner copy of the recommendation for the court's convenience.

The Marathon Partners subcase is set for trial on January 18, 2012. If you would please alert Special Master Bilyeu that the SF5 has been filed, it would be greatly appreciated. Should you have any further questions regarding this subcase, please feel free to contact me at 208-287-4816. Thank you!

Sincerely,

A handwritten signature in cursive script, appearing to read "Vicki Kelly".

Vicki Kelly,
Paralegal

Enc.

cc: Jim Speck
Craig Hobdey
Al Barker

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

RIGHT NUMBER: 37-21112

NAME AND ADDRESS:

MARATHON PARTNERS LLC
PO BOX 3118
KETCHUM ID 83340

SOURCE:

Source:
BIG WOOD RIVER

Tributary:

MALAD RIVER

QUANTITY:

1.419 CFS

PRIORITY DATE:

03/24/1883

POINT OF DIVERSION:

T03N R18E S20 SWNW
Within BLAINE County

PURPOSE AND
PERIOD OF USE:

Purpose of use
IRRIGATION

Period of use:

04/15 11/15

Quantity:

1.419 CFS

PLACE OF USE:

IRRIGATION

within BLAINE County

T02N R18E S09 NENE 6.0
T02N R18E S10 NWNW 37.0
T02N R18E S10 SWNW 10.0

~~T02N R18E S09 NENE 2.0~~
~~T02N R18E S10 NWNW 34.0~~
~~T02N R18E S10 SWNW 11.0~~
~~T02N R18E S10 SENW 7.0~~

53 ACRES TOTAL

~~54 ACRES TOTAL~~

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

This right is a split from former right 37-12818A.
Right 37-12818A is a split from former right 37-577.

A portion of this water right is used for conveyance.

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TETON**

In Re SRBA

Subcase No.: 37-21112

Case No. 39576

STANDARD FORM 5

STIPULATED ELEMENTS OF A
WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialling each of the attached pages.

CLAIMANT / RESPONDENT:

J. P. Speck 1-13-12
James P. Speck Date
Attorney for Marathon Partners LLC

OBJECTORS:

Craig Noddy 1-16-12
Craig D. Hobdey Date
Attorney for Big Wood Canal Company

Albert P. Barker 1-12-12
Albert P. Barker Date
Attorney for Tom O'Gara, John F.
Stevenson, Bill Molynaux, Pete Van Der
Moulen, Grace Habin, Rocky Shertine,
Gerald Bashaw, and Popin Corso-Harris

IDWR CONCURRENCE:

 1/12/12

Steve Clalland

Date

Sr. Water Resource Agent

IDWR CONCURRENCE:

 1-12-12

Nicholas B. Spender

Date

Deputy Attorney General

Attorney for IDWR

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

RIGHT NUMBER: 27-21112
NAME AND ADDRESS:

MEASURED PARTIALS LLC
PO BOX 1118
METCHEN ID 83240

SOURCE: BIG WOOD RIVER

TRIBUTARY:
MAJED RIVER

QUANTITY: 1.419 CFS

PRIORITY DATE: 03/26/1981

POINT OF DIVERSION:
TOWN RISE REC SWW
WITHIN BLAINE COUNTY

PURPOSE AND PERIOD OF USE:	Purpose of use	Period of use:	Quantity:
IRRIGATION		04/15 11/15	1.419 CFS
PLACE OF USE:	IRRIGATION	within BLAINE County	

TOWN RISE REC SWW 5.0
TOWN RISE REC SWW 27.0
TOWN RISE REC SWW 18.0

FORM-RISE-REC-SWW-5.0
FORM-RISE-REC-SWW-27.0
FORM-RISE-REC-SWW-18.0
FORM-RISE-REC-SWW-5.0

21.419 CFS TOTAL

21.419 CFS TOTAL

OTHER PROVISIONS NECESSARY FOR DIVERSION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decree

This right is a split from former right 27-12818A.
Right 27-12818A is a split from former right 27-577.

A portion of this water right is used for conveyance.

CERTIFICATE OF SERVICE

I certify that on January 17, 2012, I caused to be served true and correct copies of this Standard Form 5, to the following persons, in the manner indicated and addressed as follows:

1. Original to:

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

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☒ Facsimile

2. Copies to:

IDWR Document Repository
P.O. Box 83720
Boise, ID 83720-0098

☐ Overnight Mail
☐ Regular Mail
☒ Hand-Delivered
☐ Facsimile

James P. Speck
Speck & Aanestad
P.O. Box 987
Ketchum, ID 83340

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

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

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

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

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile



Signature of person or attorney mailing the form

EXHIBIT 24

RECEIVED
MAR 05 2012
SPECK & AANESTAD

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
MAR - 2 2012	
By _____	Clerk
_____	Deputy Clerk

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

ORDER OF PARTIAL DECREE

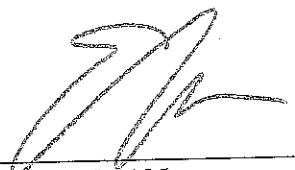
Subcase No. 37-21112
(Marathon Partners LLC)

On January 23, 2012, a *Special Master's Report and Recommendation* was filed for the above-captioned water right. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report and Recommendation* and wholly adopts them as its own.

Therefore, IT IS ORDERED that the above-captioned water right be decreed as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED March 2, 2012


ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

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

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 37-21112

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

MAR - 2 2012

By

Clerk

Deputy Clerk

NAME AND ADDRESS:

MARATHON PARTNERS LLC
PO BOX 3118
KETCHUM, ID 83340

SOURCE:

BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY:

1.419 CFS

PRIORITY DATE:

03/24/1883

POINT OF DIVERSION:

T03N R18E S20

SWNW

Within Blaine County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE
Irrigation

PERIOD OF USE

04-15 TO 11-15

QUANTITY

1.419 CFS

PLACE OF USE:

Irrigation

T02N R18E S09

S10

53.0 Acres Total

NENE 6.0

NWNW 37.0

Within Blaine County

SWNW 10.0

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Eric J. Wildman
Presiding Judge of the
Snake River Basin Adjudication

2012 MAR 02 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

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)

CERTIFICATE OF MAILING

Case No. 39576)
_____)

Water Right(s): 37-21112

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 37-21112 was mailed
on March 02, 2012, with sufficient first-class postage prepaid
to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

BILL MOLYNEUX
GERALD BASHAW
GRACE EAKIN
JOHN F STEVENSON
PEPIN CORSO-HARRIS
PETE VAN DER MEULEN
ROCKY SHERBINE
TOM O GARA

Represented by:

ALBERT P BARKER
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

EXHIBIT 25

1524

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

2009 SEP 24 AM 10 16

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

) Subcase No. 37-21123
)
)
)

) STANDARD FORM 5
)
)

) STIPULATED ELEMENTS OF A
) WATER RIGHT
)

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

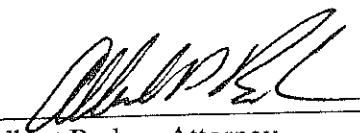
CLAIMANTS/RESPONDENTS:

James W. & Evelyn Phillips

OBJECTORS:

Concerned Water Users


Fritz X. Haemmerle, Attorney Date 8/25/09


Albert Barker, Attorney Date 8/25/09

OBJECTORS:

Big Wood Canal Company

RESPONDENT:

Barker Living Trust, et al

Craig D. Hobdey 9-16-09
Craig D. Hobdey, Attorney Date

J. P. Speck 9-11-09
James Speck, Attorney Date

RESPONDENT:

Newfoundland Partners

RESPONDENT:

Sinclair Oil Corporation

Scott Campbell 9/02/09
Scott Campbell, Attorney Date

Scott Campbell 9/02/09
Scott Campbell, Attorney Date

IDWR Concurrence:

Kelly Christensen 9-18-09
IDWR Agent Date

[Signature] 9/17/09
Deputy Attorney General, IDWR Date

CERTIFICATE OF MAILING

I certify that on 9/23, 2009, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

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. Copies to:

BILL MOLYNEUX
GERALD BASHAW
GRACE EAKIN
JOHN F STEVENSON
PEPIN CORSO-HARRIS
PETE VAN DER MEULEN
ROCKY SHERBINE
TOM O GARA

Represented by:
ALBERT P BARKER
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139

SINCLAIR OIL CORPORATION
Represented by:
ANDREW J WALDERA
101 S CAPITOL BLVD 10TH FLOOR
PO BOX 829
BOISE, ID 83701-0829

BIG WOOD CANAL CO
BIG WOOD CANAL COMPANY
Represented by:
CRAIG D. HOBDEY
125 5TH AVE
PO BOX 176
GOODING, ID 83330

EVELYN PHILLIPS
JAMES & EVELYN PHILLIPS
JAMES W PHILLIPS

Represented by:
HAEMMERLE, FRITZ X.
PO BOX 1800
HAILEY, ID 83333

BARKER LIVING TRUST
CHANAY CREEK RANCH LLC
CHARLES L MATTHIESEN
CHARLES T FOLEY
EAGLE CREEK IRRIGATION CO
ECD INC
ELISE G LUFKIN
GIMLET PROPERTY OWNERS ASSN
GREGORY RANCH LLC
LAKE CREEK MEADOWS HOMEOWNERS
MICHAEL E WILLARD
MICHAEL ENGL
MYER BERLOW
RALPH W & KANDI L GIRTON
RIVER ROCK RANCH LP
RIVERS EDGE ASSOCIATES LLC
ROY R WOODS
STEVEN D HOLZMAN TRUST
THE GULCH TRUST
THE R DANIEL OLMSTEAD
WILLIAM B GORDON

Represented by:
JAMES P. SPECK
SPECK & AANESTAD
120 EAST AVENUE
PO BOX 987
KETCHUM, ID 83340

NEWFOUNDLAND PARTNERS
SINCLAIR OIL CORPORATION

Represented by:
SCOTT L CAMPBELL
101 S CAPITOL BLVD 10TH FLOOR
PO BOX 829
BOISE, ID 83701-0829

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

A handwritten signature in cursive script, appearing to read "K. R. Lewis", written over a horizontal line.

Signature of person or attorney mailing the form

07/23/2009

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

RIGHT NUMBER: 37-21123

NAME AND ADDRESS: EVELYN PHILLIPS
PO BOX 864
HAILEY ID 83333

JAMES W PHILLIPS
PO BOX 864
HAILEY ID 83333

SOURCE: BIG WOOD RIVER

TRIBUTARY: MALAD RIVER

QUANTITY: 0.300 CFS

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 03/24/1883

POINT OF
DIVERSION:

T03N R18E S20 SWNW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
STOCKWATER	04/15 10/31	0.020 CFS
~~RECREATION~~	~~04/15 10/31~~	~~0.300 CFS~~
IRRIGATION	04/15 10/31	0.300 CFS
~~AESTHETIC~~	~~04/15 10/31~~	~~0.300 CFS~~

PLACE OF USE:

IRRIGATION in BLAINE County

T02N R18E S10 NENW 1.70 T02N R18E S10 SENW 4.60

STOCKWATER in BLAINE County

T02N R18E S10 NENW T02N R18E S10 SENW

RECREATION in BLAINE County

~~T02N R18E S10 NENW T02N R18E S10 SENW~~

AESTHETIC in BLAINE County

~~T02N R18E S10 NENW T02N R18E S10 SENW~~

6.3 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

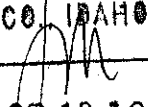
PROPERTY IS ALSO KNOWN AS LOT 3, BLK 1, MARVIN GARDENS
SUBDIVISION.

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 37-577CD.

JPB
SLC
CJPB
CH
CB

KKC

1573

DISTRICT COURT - SRBA
TWIN FALLS CO. IDAHO
FILED 

2009 SEP 24 AM 10 16

**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. 37-21125
	)	
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

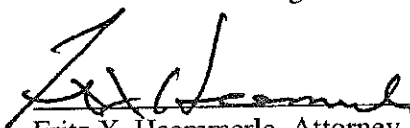
This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

**CLAIMANTS/OBJECTORS/
RESPONDENTS:**

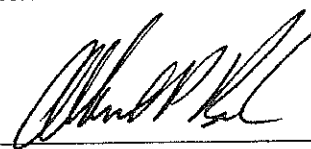
Carol & Howard Knight


Fritz X. Haemmerle, Attorney

8/13/09
Date

OBJECTORS:

Concerned Water Users


Albert Barker, Attorney

8/25/09
Date

OBJECTORS:

Big Wood Canal Company

Craig D. Hobdey 9-16-09
Craig D. Hobdey, Attorney Date

RESPONDENT:

Barker Living Trust, et al

J. P. Speck 7-11-09
James Speck, Attorney Date

RESPONDENT:

Newfoundland Partners

RESPONDENT:

Sinclair Oil Corporation

Scott Campbell 7/02/09
Scott Campbell, Attorney Date

Scott Campbell 9/02/09
Scott Campbell, Attorney Date

IDWR Concurrence:

Kelly Christensen 9-18-09
IDWR Agent Date

[Signature] 9/17/09
Deputy Attorney General, IDWR Date

CERTIFICATE OF MAILING

I certify that on 9/23, 2009, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

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BIG WOOD CANAL COMPANY
Represented by:
CRAIG D. HOBDEY
125 5TH AVE
PO BOX 176
GOODING, ID 83330

CAROL KNIGHT
HOWARD & CAROL KNIGHT
HOWARD KNIGHT

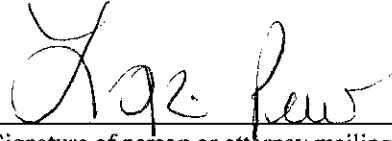
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CHARLES T FOLEY
EAGLE CREEK IRRIGATION CO
ECD INC
ELISE G LUFKIN
GIMLET PROPERTY OWNERS ASSN
GREGORY RANCH LLC
LAKE CREEK MEADOWS HOMEOWNERS
MICHAEL E WILLARD
MICHAEL ENGL
MYER BERLOW
RALPH W & KANDI L GIRTON
RIVER ROCK RANCH LP
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THE R DANIEL OLMSTEAD
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NEWFOUNDLAND PARTNERS
SINCLAIR OIL CORPORATION
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SCOTT L CAMPBELL
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BOISE, ID 83701-0829

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

A handwritten signature in cursive script, appearing to read "K. J. Lewis", written over a horizontal line.

Signature of person or attorney mailing the form

07/23/2009

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

RIGHT NUMBER: 37-21125

NAME AND ADDRESS: CAROL KNIGHT
PO BOX 774
HAILEY ID 83338

HOWARD KNIGHT
PO BOX 774
HAILEY ID 83338

SOURCE: BIG WOOD RIVER

TRIBUTARY: MALAD RIVER

QUANTITY: 0.070 CFS

PRIORITY DATE: 03/24/1883

POINT OF
DIVERSION:

T03N R18E S20 SWNW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	0.070 CFS
RECREATION	04-15 TO 10-31	0.07 CFS
AESTHETIC	04-15 TO 10-31	0.07 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T02N R18E S10 SENW 1.80

RECREATION in BLAINE County

T02N R18E S10 SENW

AESTHETIC in BLAINE County

T02N R18E S10 SENW

1.8 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

PROPERTY IS ALSO KNOWN AS LOT 6, BLK 1, MARVIN GARDENS
SUBDIVISION.

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 37-577CD.

EXHIBIT 26

Pedigree Search (History of Water Right Number splits)

Adjudication Pedigree for 37-577

-- Water Right Number / Status /Reason for split

--37-577 /Parent /Other

--37-11924 /See Remarks /Ownership Change

--37-11924A /PARENT /Ownership Change

--37-20759 /PARENT /Ownership Change

--37-20870 /Parent /Ownership Change

--37-21513 /Active /Ownership Change

--37-21514 /Active /Ownership Change

--37-21515 /Active /Ownership Change

--37-21516 /Closed /Ownership Change

--37-21517 /Active /Ownership Change

--37-21518 /Active /Ownership Change

--37-21519 /Active /Ownership Change

--37-21520 /Active /Ownership Change

--37-21521 /Active /Ownership Change

--37-21522 /Closed /Ownership Change

--37-21523 /Parent /Ownership Change

--37-21670 /Active /Ownership Change

--37-21671 /Active /Ownership Change

--37-21672 /Closed /Ownership Change

--37-21673 /Active /Ownership Change

--37-21674 /Active /Ownership Change

--37-21675 /Active /Ownership Change

--37-21676 /Active /Ownership Change

--37-21677 /Active /Ownership Change

--37-21678 /Parent /Ownership Change

--37-21847 /Active /Ownership Change

--37-21848 /Active /Ownership Change

--37-21849 /Active /Ownership Change

--37-21850 /Active /Ownership Change

--37-21851 /Closed /Ownership Change

--37-21852 /Active /Ownership Change

--37-21853 /Active /Ownership Change

--37-21854 /Active /Ownership Change
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--37-21860 /Active /Ownership Change
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--37-11924B /Active /Ownership Change
--37-12818 /See Remarks /Transfer
--37-12818A /PARENT /Ownership Change
--37-21112 /Active /Ownership Change
--37-21113 /Active /Ownership Change
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--37-21115 /Closed /Ownership Change
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--37-12818B /See Remarks /Ownership Change
--37-12818C /Active /Ownership Change
--37-12818D /Active /Ownership Change
--37-12869 /Parent /Ownership Change
--37-21789 /Parent /Ownership Change
--37-21817 /Closed /Ownership Change
--37-21818 /Closed /Ownership Change
--37-21790 /Active /Ownership Change
--37-21956 /Active /Other
--37-21981 /Closed /Other

Water Right Pedigree for 37-577