

Movant's Name
Sand Springs Ranch Partnership

818

Attorney's Name & Addresses
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C. A. DAW
Dillion, Bosch, Daw & Bock
Chartered
Fidelity Building
242 N. 8th St., Suite 200
Boise, ID 83702
Tel. (208) 344-8990
Fax. (208) 344-9140

**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. 36-00051A
	)	
Case No. 39576	)	AFFIDAVIT OF JOSEPHINE
	)	BEEMAN
	)	
_____	)	

Josephine Beeman, duly sworn on oath, states as follows:

1. I am the attorney for Sand Springs Ranch Partnership, the Movant in this matter.
2. Attached are true and correct copies of documents maintained by the Idaho Department of Water Resources with respect to SRBA claim 36-00051A.

DATED: August 18, 1995

/s/
Josephine Beeman

STATE OF IDAHO)
) ss
County of Ada)

Subscribed and sworn before me on August 18, 1995.

 /s/
Notary Public for Idaho
Residing at Boise, Idaho
Commission Expires: _____

**MOVANT'S RESPONSE TO ANSWER, AFFIRMATIVE DEFENSES AND PRAYER
FOR RELIEF OF CLAIMANT**

This portion of the response addresses the multi-page attachment to the objection (hereinafter "the attachment"), wherein the claimant admits or denies all sections of Parts I, II, and III of the director's report, asserts 27 affirmative defenses, and alleges a prayer for relief. The attachment contains the following sections, corresponding to the various sections of the director's report:

- (1) I. **GENERAL RESPONSE**
- (2) II. **DESCRIPTIVE SUMMARY**, (first unnumbered page of Part I of the director's report)
- (3) III. **TABLE OF CONTENTS** (second and third unnumbered pages of Part I of the director's report)
- (4) IV. 1. **INSTRUCTIONS FOR USING THIS REPORT PART I** (page 1 of Part I of the director's report)
- (5) IV. 2. **SCOPE OF THE ADJUDICATION** (pages 1-3 of Part I of the director's report)
- (6) IV. 3. **PURPOSE OF THIS REPORT PART I** (pages 3-4 of Part I of the director's report)
- (7) V. 1. **BOUNDARIES OF BASIN** (pages 4-6 of Part I of the director's report)
- (8) V. 2. **WATER SOURCES** (page 6 of Part I of the director's report)
- (9) V. 3. **DEVELOPMENT OF WATER USE** (pages 6-9 of Part I of the director's report)
- (10) VI. **GENERAL PROVISIONS 1-8 APPLY TO ALL WATER RIGHTS IN BASIN 36** (page 9 of Part I of the director's report)
- (11) VI. General Provision 1. **EFFECT OF ADJUDICATION** (page 9 of Part I of the director's report)
- (12) VI. General Provision 2. **GENERAL ADMINISTRATIVE PROVISIONS** (pages 9-10 of Part I of the director's report)
- (13) VI. General Provision 3. **CONJUNCTIVE ADMINISTRATION** (page 10 of Part I of the director's report)
- (13) VI. General Provision 4. **ADMINISTRATION OF GROUND WATER RIGHTS** (page 10 of Part I of the director's report)
- (14) VI. General Provision 5. **ADMINISTRATION OF BASIN 36 RELATIVE TO THE SNAKE RIVER** (page 10 of Part I of the director's report)
- (15) VI. General Provision 6. **ADMINISTRATION OF SMALL DOMESTIC AND STOCK WATER RIGHTS** (page 11 of Part I of the director's report)

- (16) VI. General Provision 7. **MEASURING DEVICES AND CONTROL WORKS** (page 11 of Part I of the director's report)
- (17) VI. General Provision 8. **FIRE FIGHTING PURPOSES** (page 11 of Part I of the director's report)
- (18) VI. General Provision 9. **CONSUMPTIVE USE** (page 12 of Part I of the director's report)
- (19) VI. **GENERAL PROVISION 10 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH DOMESTIC USE AS A PURPOSE OF USE** (page 12 of Part I of the director's report)
- (20) VI. General Provision 10. **DOMESTIC USE** (page 12 of Part I of the director's report)
- (21) VI. **GENERAL PROVISION 11 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH STOCK WATER USE AS A PURPOSE OF USE** (page 13 of Part I of the director's report)
- (22) VI. General Provision 11. **STOCK WATER USE** (page 13 of Part I of the director's report)
- (23) VI. **GENERAL PROVISIONS 12-16 APPLY TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH IRRIGATION AS A PURPOSE OF USE** (page 13 of Part I of the director's report)
- (24) VI. General Provision 12. **IRRIGATION USE** (pages 13-14 of Part I of the director's report)
- (25) VI. General Provision 13. **DIVERSION VOLUME FOR IRRIGATION** (page 14 of Part I of the director's report)
- (26) VI. General Provision 14. **CONSUMPTIVE USE FOR IRRIGATION** (pages 14-15 of Part I of the director's report)
- (27) VI. General Provision 15. **AMOUNT OF COMBINED WATER RIGHTS FOR IRRIGATION** (page 15 of Part I of the director's report)
- (28) VI. General Provision 16. **DIVERSION RATES IN EXCESS OF .02 CFS PER ACRE** (pages 15-16 of Part I of the director's report)
- (30) VI. 17. **INSTRUCTIONS FOR USE OF LIST OF RECOMMENDED WATER RIGHTS** (pages A-i through A-iii of Part I of the director's report)
- (31) VI. 18. **IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW** (pages A-1 through B-25 of Part I of the director's report)
- (32) **DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36). (DIRECTOR'S REPORT PART II)**
- (33) **DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36). (DIRECTOR'S REPORT PART III)**

The attachment also contains part VIII, **AFFIRMATIVE DEFENSES** (pp. 20 through 28) and a **PRAYER FOR RELIEF** (untitled, p. 28).

In response to each of the items enumerated above Movant responds that pursuant to Section 4 a.(2)(c) of SRBA Administrative Order 1, Rules of Procedure, Movant generally denies each and every allegation, if any, contained in each enumerated portion of the attachment. Movant affirmatively responds that neither SRBA Administrative Order 1, Rules of Procedure, nor Title 42, Chapter 14, Idaho Code, make provision for Movant to affirm, amplify, or otherwise respond to the claimant's admissions, or to deny the claimant's denials, and that Movant therefore does not believe that it is required to do so. Title 42, Chapter 14, Idaho Code solely defines the content and scope of the director's report. It is to contain a description of the water system and is to provide a recommendation as to each water right claimed and as to those matters necessary for administration of those water rights. Therefore, the content and scope of the objection is limited to those same matters. The attachment to the present objection asserts or otherwise raises matters not directly addressing the elements of the water right as recommended, the description of the water system, or the general provisions. Rather, the attachment raises broad issues as to the constitutional, statutory and administrative efficacy of the entire adjudication process. All such issues should be raised by means of motions to designate basinwide issues and similar procedural vehicles specifically designed to provide for basinwide notice and participation. They should not be permitted to divert the focus of any individual subcase away from the issues directly connected to the elements of the water right and the administration thereof. Therefore, because the attachment to the present objection is not within the scope of the statutory purpose of an objection it should be stricken.

However, in the event that the court should determine that all or part of the attachment is properly within the scope of the objection, Movant further responds as follows:

Movant affirmatively responds that all statements within the director's report are properly included therein pursuant to Title 42, Chapter 14, Idaho Code, and in particular pursuant to Idaho Code §§ 42-1411 and 42-1412(8); and that the provisions of the Idaho Rules of Civil Procedure regarding pleadings are inapplicable to the extent that they are in conflict with the statutory requirements. Therefore Movant denies all allegations directed at the contents of the director's report.

As to the enumerated portions of the attachment addressing the listings of recommended water rights, abstracts of federal reserved water right claims, or negotiated agreements, other than the individual recommendation that is the subject of this objection, Movant responds that such claims or agreements are not brought before this court by this objection.

Responding to the 27 affirmative defenses asserted in the attachment, Movant generally denies each and every affirmative defense asserted. Movant further responds that affirmative

defense numbers 1, 2, 4, 5, 10, 11, 12, 18, and 22, asserting various violations of civil or constitutional rights, fail to comply with the requirements I.R.C.P. 9(b) providing that in all averments of violation of civil or constitutional rights the factual circumstances constituting such violation must be stated with particularity. Accordingly, Movant asserts that those affirmative defenses should be stricken.

In response to that portion of the multi-page attachment to the objection wherein the claimant asserts a prayer for relief, Movant responds as follows:

1. Movant denies that the director's report asserts any claims against the claimant; rather, the director's report contains only the recommendation of the director as to how the claimant's water right should be decreed and administered.
2. Movant denies that the claimant is entitled to have the water right decreed as claimed unless in the director's report the water right has been recommended as claimed.
3. Movant denies that any acts upon its part constitute the taking of private property for which just compensation should be allowed and awarded.
4. Movant denies that the claimant is entitled to recover court costs and reasonable attorney fees.
5. Movant denies that the claimant by this objection has raised any claims entitling such claimant to any relief other than the eventual judicial determination and decree of the various elements of the claimant's water right, if any, and of those related matters necessary to describe and administer that water right.

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: NOV-2-1992
PAGE: A-25

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
-----------------	----------------	------------------	----------------	--------------------------	---------------------	----------------

SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

36-00106	PAUL E WATKINS INEZ S WATKINS RT 1 BOX 412 HAGERMAN ID 83332	04/01/1880	IRRIGATION	03-15 11-15	.44 CFS	DECREED
----------	---	------------	------------	-------------	---------	---------

POINT OF DIVERSION:
T07S R13E S11
PLACE OF USE: IRRIGATION

SESENU

T07S R13E S11
10.0 ACRES TOTAL
NWSW 10.0REMARKS: 0.24 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF THIS RIGHT AND RIGHT NO. 36-08099.
WATER IS DIVERSED THROUGH THE BARLOGI DITCH.TOTAL QUANTITY:
CONSUMPTIVE USE:
.44 CFS
30.0 AFY

36-00051A	WALTEN E MILDREN MARJORIE J MILDREN PO BOX 510 HAGERMAN ID 83332	06/26/1881	IRRIGATION	03-15 11-15	.12 CFS	DECREED
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POINT OF DIVERSION:
T07S R13E S11
PLACE OF USE: IRRIGATION

NESENE

T07S R13E S02
3.0 ACRES TOTAL
NESE 3.0REMARKS: WATER IS DELIVERED THROUGH THE JOHN BELL DITCH.
0.03 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF THIS RIGHT.
USE OF THIS RIGHT WITH RIGHT NO. 36-00054A IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 0.12 CFS, A TOTAL COMBINED
ANNUAL CONSUMPTIVE USE VOLUME OF 9.0 AF, AND TO THE IRRIGATION
OF A COMBINED TOTAL OF 3.0 ACRES IN A SINGLE IRRIGATION SEASON.TOTAL QUANTITY:
.12 CFSRECEIVED
AUG 2 5 1995Department of Water Resources
Adjudication Bureau

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J. N.

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NAME:

Walten

MILDREN

CLAIM: A36-00051A

CORRESPONDENCE ✓

EVIDENCE OF

PRIORITY

32X10

25X10

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
07S	13E	2	NE SE		IRR	4.0
				Section Acres		4.0
				Total Acres		4.0

11. Place of use in counties: GOODING

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
YES A36-00054, A3607323

14. Remarks:

P/U INCOMPLETE. SEE FILE.
THIS PROPERTY WAS SOLD BY JACK MARTIN TO MR. & MRS. MILDREN
ON JUNE 1, 1989.

15. Basis of Claim: DECREED

Case Number:
Court:
Decree date:

NEW INTERNATIONAL MORTGAGE BANK vs
Decree Plaintiff

IDARO POWER COMPANY
Decree Defendant

A36-00051

Date: 06/15/89

Page 2

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16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do ☒ do not wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) [Signature] Date: 6-20-89
Marjorie Mullen Date: 6-20-89

State of Idaho

County of Franklin

Subscribed and sworn (or affirmed) before me this 20th day of June 19 89

Seal

Residing at Hagerman, Idaho
My Commission Expires 5-10-91

Notary Public

A36-00051

Page

Date: 06/15/89

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6-001019 (30671)

WARRANTY DEED

For Value Received, Jack M. Martin and Millie M. Martin, husband and wife, of 1860 Roberts Drive, Dunwoody, Georgia, 30150, the Grantors, do hereby grant, bargain, sell and convey unto Wilfred M. Mildren and Marjorie Mildren, husband and wife, whose current address is 2014 N. Bagerman, Idaho, 83131, the Grantees, all of their right, title and interest in and to certain real property located in Gooding County, Idaho, and more particularly described as follows, to-wit:

TRACT 1 Township 7 South, Range 13 East of the Boise Meridian, Section 22: Part of the M21/4821/4 described as follows:

Beginning at a point on the easterly right-of-way of U.S. Highway No. 30, Project 2-2361-118, according to the survey thereof, which point is 208.00 feet south and 30 feet east of the southwest corner of said M21/4821/4;

Thence northeasterly along said Highway right-of-way, 855.65 feet to a point on said right-of-way opposite Station 218 + 69.36;

Thence N 88°22' E, 448.00 feet to the true point of Beginning;

Thence N 103°1' W, 129.83 feet;

Thence N 88°21' E, 66.63 feet;

Thence N 0°48' W, 463.70 feet more or less to a point 107 feet 3 inches (107.25 feet measured) south of the north boundary of said M21/4821/4;

WARRANTY DEED - 1

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Thence East parallel with the North boundary of
said NE1/4SE1/4 to point of intersection with the
East boundary of said NE1/4SE1/4;
Thence South along the East boundary of said
NE1/4SE1/4 to point 592.83 feet north of the
Southeast corner of said NE1/4SE1/4;
Thence West 587.19 feet;
Thence S 85°35' W, 246.03 feet;
Thence N 60°48' W, 103.40 feet;
Thence S 88°22' W, 94.80 feet to the true point of
Beginning.

TRACT II

An existing road right-of-way for ingress and
egress along the West line of said NE1/4SE1/4 and running a
distance of approximately 625 feet North from the Southwest
corner of said NE1/4SE1/4 and also a road right-of-way 25 feet
in width and running parallel to the South boundary line of
said property, a distance of approximately 475 feet East from
the West line of said NE1/4SE1/4, as set forth in microfilm
instrument No. 28712.

Together with thirty (30) miner's inches of water
from the John Bell Ditch being part of Water Right
Number A 36-000517 Water Right A 36-00051 for 2.4
C.F.S. and State of Idaho Water Right License 36-
7123 for 06 C.F.S.

TO HAVE AND TO HOLD the premises, with appurtenances
unto the said Grantees and to the Grantees' heirs and assigns
forever. And the said Grantees do hereby covenant, bind and with
the Grantees that Jack M. Martin and Lillian P. Martin, his
owners in fee simple of said premises, that the NE1/4SE1/4 be
free from encumbrances except as described above. BY THE GRANTORS
Grantees will warrant and defend the same to the heirs and assigns
of the Grantees.

WARRANTY DEED

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DATED 9-21-1959

STATE OF Illinois

COUNTY OF Franklin

I, James P. Martin, on this 21st day of September, 1959, before me, the undersigned, a Notary Public in and for said County of Franklin and State, personally appeared JACK M. MARTIN and LILLIAN P. MARTIN, husband and wife, known to me to be the persons whose names are subscribed to the foregoing instrument, 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 last above written.

Notary Public for Franklin County, Illinois
Residing at: Franklin, Illinois
My Commission Expires 12-31-1960

MLM 91228 MAR. DEE/LDZ

WARRANTY DEED

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A36-00051A
Date Received: 7/25/1988
Receipt No: 6001083
Received By: 167

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

208-837-4594

1. Name: JACK MARTIN
Address: BOX 281
HAGERMAN, ID 83332
AND/OR LILLIAS MARTIN
Name: BOX 281
Address: HAGERMAN, ID 83332

2. Date of Priority: JUN 26, 1881

trib. to: SNAKE RIVER

3. Source: BILLINGSLEY CREEK

4. Point of Diversion:

Township Range Section 1/4 of 1/4 of 1/4 Lot County
078 13E 11 SE NE GOODING

5. Description of diverting works:
VIA JOHN BELL DITCH

6. Water is used for the following purposes:

Purpose From To C.F.S. (or) A.F.A.
IRRIGATION 01/01 12/31 1.200

7. Total Quantity Appropriated is:
1.200 C.F.S. (and/or) A.F.A.

8. Total consumptive use is:
Acre Feet Per Annum.

9. Non-irrigation uses:

A36-00051A
A36-00051

Date: 07/25/88

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10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
07E	13E	2	NE SE		IRA	4.0
Section Acres						4.0
Total Acres						4.0

11. Place of use in counties: GOODING

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
YES A36-00054, A3607323

14. Remarks:
P/U INCOMPLETE. SEE FILE.

15. Basis of Claim: DECREED

Case Number:
Court:
Decree date:

NEW INTERNATIONAL MORTGAGE BANK vs IDAHO POWER COMPANY
Decree Plaintiff Decree Defendant

A36-00051

Page

Date: 07/25/88

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16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do not ☒ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Jack Motion Date: 2/25/88
_____ Date: _____

State of Idaho } ss.

County of T.F.

Subscribed and sworn (or affirmed) before me this _____ day

of July 19 88

Lois White
Notary Public

Seal

Residing at T.F.

My Commission Expires 5/95

A36-00051

Page 3

Date: 07/25/88

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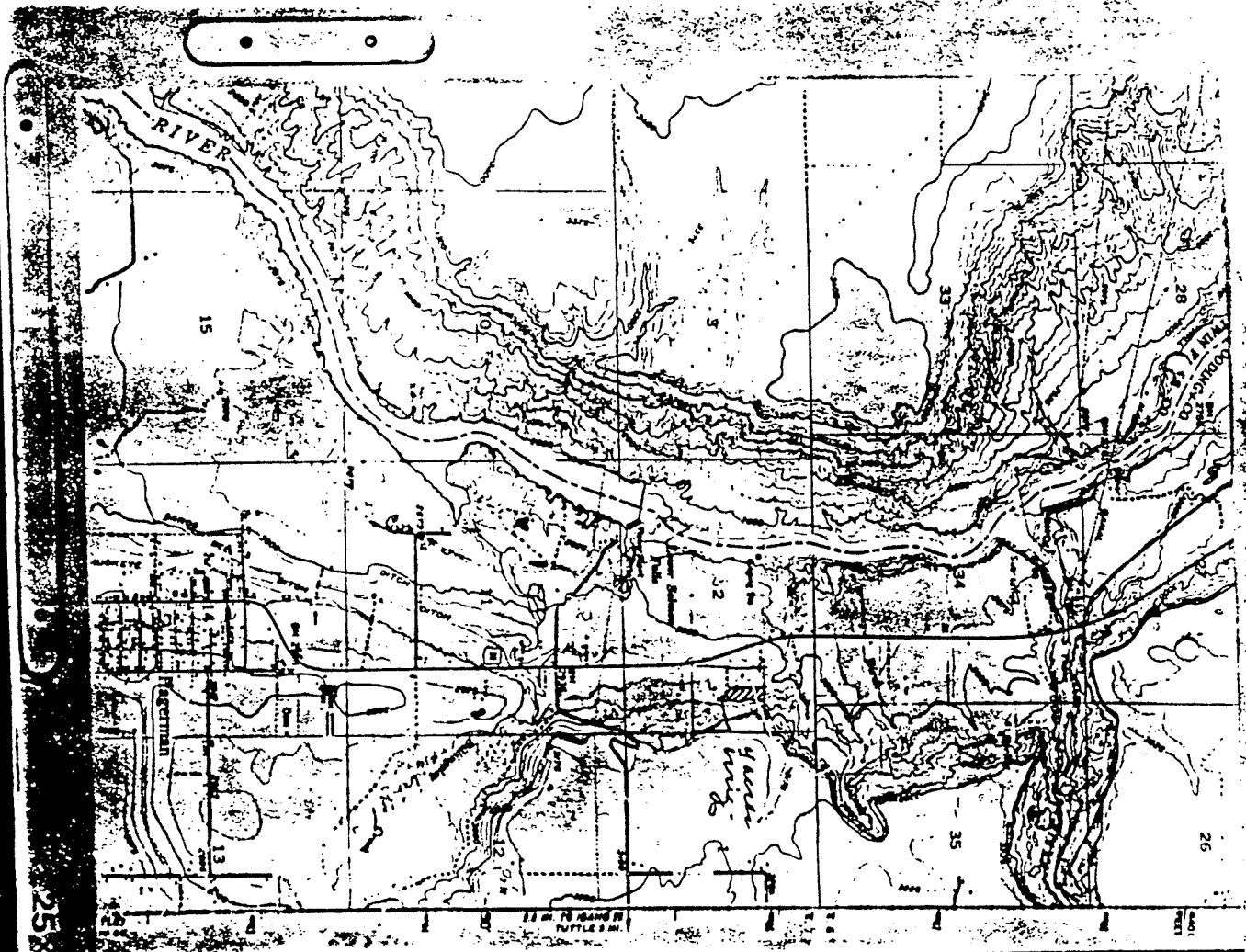
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05-Feb-10
WALTON E MI
P O BOX 510
HAGERMAN

RE: SRBA

Dear Sir:

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State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 734-3378

CHIEF, S. REGION

A. KUTN HERRITT
Supervisor

05-Feb-1991 09:13

WALTER E. MILDREN
P O BOX 310
BACEMAN ID 83332

RE: SRBA Claim A36-000511 number change to A36-00051A F

Dear Claimants:

In our review of the claims filed in the Snake River Basin Adjudication we have found it necessary to renumber your claim as described above. This action may have been taken as a result of one of the following described situations:

- A. We are correcting a duplication of numbers made when the claims were initially taken.
 - B. We are correcting the number since it was initially assigned in the wrong basin.
 - C. We have matched an existing water right number with the water use you claimed and for continuity have changed the number to correspond.
 - D. We have reviewed the water right record corresponding to the your initial claim and have found that the water right record does not exactly correspond so a new number has been assigned.
- Please note that the change in the number of your claim does not affect the validity of your claim. Please refer to the new number in all future correspondence. Please find enclosed a copy of the computer record of A36-00051A. If you have any questions please feel free to contact our office.

Sincerely,

A. K. Herritt

A. K. Herritt, P.E.
Water Rights Supervisor

Enc:

NOTICE OF ERROR

RESPONSE

CORRECTED R PROOF

400-24-1552

Please type or print clearly.
Idaho Department
Statehouse 3 Mail
Boise, Idaho 83720

The notice of error must be
below with your proposed

YOUR DEAL FC

1. Water right: ac

2. Name: NATIONAL

MAILING E

Address: Box 510

LAUREL

Weekday Telephon

TEAR AT PERFOR

32X10

25X10

32X10

400-24-1592

NOTICE OF ERROR FORM

RECEIVED

SEP 22 1992

Please type or print clearly, fill out completely, and return to:

Idaho Department of Water Resources
Statehouse Mail

Boise, Idaho 83720-9000

The notice of error must be received at IDWR by the deadline date printed below with your proposed recommendation.

YOUR DEADLINE FOR FILING A NOTICE OF ERROR IS: SEP-24-1992

1. Water right number: 36-00051A

2. Name: MARJORIE J. MILDRE
WALTER E. MILDRE

Address: Box 510
HAGERHEN, IDAHO 83332

Weekday Telephone Number: 837-4770

TEAR AT PERFORATIONS AND COMPLETE FORM ON OTHER SIDE

25X10

32X10

(Instead of filling in items 3 and 4 below you may include a copy of your proposed recommendation. On with the changes marked on the copy.)

3. Describe the portion of proposed recommendation with which you disagree:

I disagree with the allotment

4. Describe the changes you wish to have made in the proposed recommendation:

.03 CPS wouldn't hardly get 4 way up the ditch. The losses through the rocky soil in this area requires triple the amount of water in good soil areas. This lost water makes it's way into the snake liv

5. Describe why you disagree with the proposed recommendation:

as stated above.

Date: 9/11/68

SIGNATURE: [Signature]

32x10

RPI CVR MAF PHC MIS

WV/VP 213154
Page 2

NAME OF WATER RESOURCES
ADJUDICATION CLAIM FROM MARINE RESOURCES
(ORIGINAL)

Water right number - 034-00014

Profile Translation: REMAINS

Remarks
TOTAL COMBINED DIVERSION RATE OF 0.12 CFS, A TOTAL COMBINED
ANNUAL CONSUMPTION USE VALUE OF 9.0 AF, AND TO THE IRRIGATION
OF A COMBINED TOTAL OF 3.0 ACRES IN A SINGLE IRRIGATION SEASON.

Old Water Right Number

AS40051

Conditions of Approval

In Conditions of Approval: None

Decrease Plaintiff

FROM INTERNATIONAL WATERCOURSE BANK

Decrease Plaintiff

Decrease Plaintiff

Decrease Plaintiff

Decrease Plaintiff

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Decrease Plaintiff

Adjudication Rights Section and Flag Area

Court Report Filing - 04/01/0000

Objection Filing Date - 07/01/0000

Response Filing Date - 07/01/0000

Claim Received Date - 07/01/0000

Script Number - 0001403

POI Ownership Flag - 0

Room Connector - 0

Section of Error Flag - 0

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ADVISOR
(CD-12A)

MAJOR DIVISIONS OF WATER RESOURCES
ADJUSTMENT CLAIMS PROOF HEARING REPORT
(REGULATORY)

06/12/78 10:00:00
Page 1

RECEIVED BY 0117

044 037 Number

Water Right Number - 035-00051A

Profile Translations

ADDRESS

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First Name

Address

Address

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ALJCLP
(09-124)

SALES REPRESENTATIVE OF WATER RESOURCES
ADJUDICATION CLAIMS PROGRAM REPORT
(ORIGINAL)

06/12/92 10:00AM
Page 2

Index: Right number - 834-00031A Profile Transactions MESSAGE

.....
TOTAL COMBINED DIVERSION DATE OF 0.12 CFS, 1974, COMBINED
ANNUAL CONSUMPTION USE VALUE OF 1.0 CFS, 1974, COMBINED
OF 0 COMBINED TOTAL OF 1.12 CFS IN A SINGLE DIVERSION MEASURE.

AS40001

.....
Conditions of Approval, Form.

.....
Source Plaintiff Source Defendant Source Date
BIO INTERNATIONAL MORTGAGE BANK BANK POLICE COMPANY 06/04/000

.....
Date: 07/11/92 User ID: MORTGAGE SUBJECT: COPIES FROM COMMENTS ON JUNE 1, 1992.
THIS PROPERTY WAS SOLD BY JACK MORTGAGE TO MR. S. MORTGAGE.

.....
Audit Field: 06/12/92 Transaction

.....
Adjudication Rights Dates and Flags Date

.....
Court Report Filing 06/04/0000 Field Inspection Date 06/04/0000 Civil Case Number 39076
Dejection Filed Date 06/04/0000 Field Inspection Date 06/04/0000 Field Case Number 39076
Response Filed Date 06/04/0000 Field Inspection Date 06/04/0000 Field Case Number 39076
Claims Received Date 06/04/0000 Field Inspection Date 06/04/0000 Field Case Number 39076

PAGE: 15
UNCLASSIFIED INFORMATION

UN ELEMENT	FILE
PRIORITY NAME	
POINT OF VIEW	
SOURCE	
PLACE OF THE	
TYPE, LOCATION CITY, REGION	
EXPERIMENTAL USE	
PURPOSES	
PERIOD OF USE	
DATE OF CLARIFICATION	
REMARKS	

Remarks
FC
002-0

25X10

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PAGE: 3
PRIORITY DATE REVIEW

A. AJ CLAIM: 0 A36

B. WM RECORD: 0 36

C. FIELD CLAIM REQUIRE

DUE TO PRIORITY D

ARE THERE OUTSTANDING REA
IF YES REPAIR.

REMARKS:

RECOMMENDED PRIORITY C
86-26-1001

REVIEWED BY

CLAIM NUMBER: A36-00051

PAGE: 3
FIELD EXAMINATION INFORMATION

CONTACT PERSON:

PHONE NUMBER: () - - -

TIME: - - - A () P ()

PHONE NUMBER: () - - -

APPOINTMENT NAME: Y () N ()

DATE OF FIELD CLAIM: / /

ACCOMPANIED BY: ALO DATE HAND

RELATIONSHIP TO CLAIMANT:

DIRECTIONS TO PROPERTY / REMARKS:

128

1/80

0051

32x10

25x10

32x10

PAGE: 4
POINT OF DIVERSION:

A. AJ CLAIM POINT
RIGHT TWP.
AIC-00031 076

OTHER AJ CLAIMS
AIC-00031
AIC-00032
AIC-00033
AIC-00034
AIC-00035
AIC-00036
AIC-00037
AIC-00038
AIC-00039

CLAIM NUMBER: AIC-00031

PAGE: 3
PRIORITY DATE REVIEW PAGE

A. AJ CLAIM: 0 AIC-00031 PRIORITY DATE: 06-26-1981 STAGE: B
B. WE RECORD: 0 36-00031 PRIORITY DATE: 06-26-1981 STAGE: B

C. FIELD EXAM REQUESTED? YES
DATE: 1/23/90
FIELD EXAMINER: [Signature]

ARE THERE OBVIOUS REASONS TO QUESTION THE PRIORITY DATE CLAIMED? () NO (X) YES
IF YES EXPLAIN.

REMARKS:

RECOMMENDED PRIORITY DATE:
06-26-1981

REVIEWED BY:

SC

DATE 1/23/90

32X10

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PAGE: 4
POINT OF DIVERSION REVIEW SHEET

CLAIM NUMBER: A16-00051

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

SIGHT TWP. SEC.

A16-00051 876 11E 11

OTHER AJ CLAIMS WITH SAME AJ POB

A PREFIX

A16-00025

A16-00007

A16-07655

A16-16409

CITY
000010M

DATE

L/A

1/A

1/A

1/A

1/A

1/A

1/A

1/A

WE RECORD IN NAME OF ACRES TRACT

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34-00002

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SOURCE: BILLINGSLEY CNE

B. WE POINT OF DIVERSION

SIGHT TWP. SEC.

34-00051 876 11

OTHER WE RECORDS W/

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RECOMMENDED POINT(S) OF DIVERSION	1/4	1/4	1/4	1/4	1/4	COUNTY
TWP. SEC.	NE					
SOURCE: BILLINGSLEY CREEK						
REVIEWED BY: SCC						
DATE: 11-23-90						

VIA JOHN BELL PITCH

PAGE 10
PURPOSES REVIEW 1

A. AS CLAIMED BY
PUB
A36-00051 1821C

B. WE RECORDED
36-00051 1821C

C. FIELD CLERK
PUB
FIELD CLERK B1

DOE TO WATER
DOE TO RIVER
DOE TO FISH

D. PERIOD OF
RECORD
RECORD

REMARKS:

PAGE 10
PLACE OF THE REVIEW SHEET CONTINUED

PRESUMPTION FLAG:

REMARKS: *Area Not within 1000 ft of boundary*

RECOMMENDATIONS:

TOTAL ACRES: *3.0*

REVIEWED BY: *SCL*

DATE: *7/23-90*

A36-00051

FIELD RECORD
EVAL. ACRES

3.0 *3.0*

3.0

6-00051

10/24/90

1547

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PAGE: 11
DIVERSION AMOUNT REVIEW 81

A. DWS DIVERSION RATE C1

AL TOTAL CLAIMED IN
WM BOOT RIGHT TOTAL

*** IF 00 02 12 31
** If on season
** claimed and

FLOW MEASUREMENT

DWS 1 01

MEASUREMENT

C. ARE OTHER WATER RIGHT:
OTHER RIGHTS LISTED

LIST ALL RIGHTS WITH A SAU

CLAIM SOURCE

ALC-00031 BILLIR
ALC-00032 BILLIR
ALC-00033 BILLIR
ALC-00034 BILLIR
ALC-00035 BILLIR
ALC-00036 BILLIR
ALC-00037 BILLIR
ALC-00038 BILLIR
ALC-00039 BILLIR
ALC-00040 BILLIR

LIST ALL RIGHTS WITH SAME

CLAIM NO. PURPOSE

ALC-00031 STOCK
ALC-00032 STOCK
ALC-00033 STOCK
ALC-00034 STOCK
ALC-00035 STOCK
ALC-00036 STOCK
ALC-00037 STOCK
ALC-00038 STOCK
ALC-00039 STOCK
ALC-00040 STOCK

CLAIM NUMBER: ALC-00031

PAGE: 10
PURPOSE REVIEW SHEET

A. AL CLAIMS DATA:
PURPOSE
ALC-00031 IRRIGATION

DIVERSION QUANTITY
1,200 CFS
1,200 CFS

MONTH/DAY
FROM 01-01 TO 12-31

B. WM SACRIFICED DATA:
PURPOSE
Irrigation

DIVERSION QUANTITY
1,200 CFS
1,200 CFS

MONTH/DAY
FROM TO

TOTAL DIVERSION RATE/VOLUME CLAIMED

PERMUTATION PLAN:

C. FIELD TEAM REQUIRED?

DOE TO WATER-USE DISCREPANCY (12/81)
DOE TO DIVERSION RATE DISCREPANCY (12/81)
DOE TO PERIOD FROM/TO DISCREPANCY (12/81)

DATA/ANALYSIS
FIELD
X

D. PERIOD OF USE:

RECOMMEND AS CLAIMS:
RECOMMEND TO WM STANDARD OTHER

REMARKS:

4-1 to 10-31

REMARKS: Below

CLAIM NUMBER: A16-00001

PAGE: 11
DIVISION: A

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RECOMMENDATIONS:

SEC.

PURPOSES

IRIGATION

TOTAL FOR THIS RIGHT

REVIEWED BY: 9

63R prop

add. combined

CLAIM NUMBER: A35-00001

PAGE: 12
DIVERSION AMOUNT REVIEW SHEET CONTINUED

DATE/VOLUME CALCULATIONS: (IRIGATION)

13. CALCULATIONS

12. IRRIGATION DATE: 4-10
ACRES: 2.0 CFS/ACRE = 8.00 CFS
(Value from #7A section)

DOGS AMOUNT CLAIMED EXCEEDS 0.01 CFS/ACRE? X NI

*** IF YES ADDITIONAL WATER USE FORM FILED AND ATTACHED? NI Y/N ***

1. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE: NI/A

ACRES: 2.0 CONSUMPTIVE VOL. NI/A PER AREA 2.0

TOTAL CONSUMPTIVE USE: 1.0 NI/A

2. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME: NI/A

ACRES: 2 DIVERSION VOL. NI/A PER AREA 4

TOTAL DIVERSION VOLUME: 12 NI/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? NI NI

REMARKS: (Include limitations on CONSUMPTIVE USE for combined rights.)

Irigated w/ sprinklers
0.03
0.03 C.L.
0.12

32x10

25x10

32x10

FORMER: 415-0001

INT
TAX
BASE
1,300
1,300
1,300

2 be claimed on the
each bottom)

32X10

(7-31)

FORMER AND COMMISSION CODE WORKSHEET

SIXTH CLAIM NUMBER

036-000514

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CLAIM NO. 1

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Change Div. Date to 10/12/14

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Correct - Other Rights

Transfer existing reports to Comments

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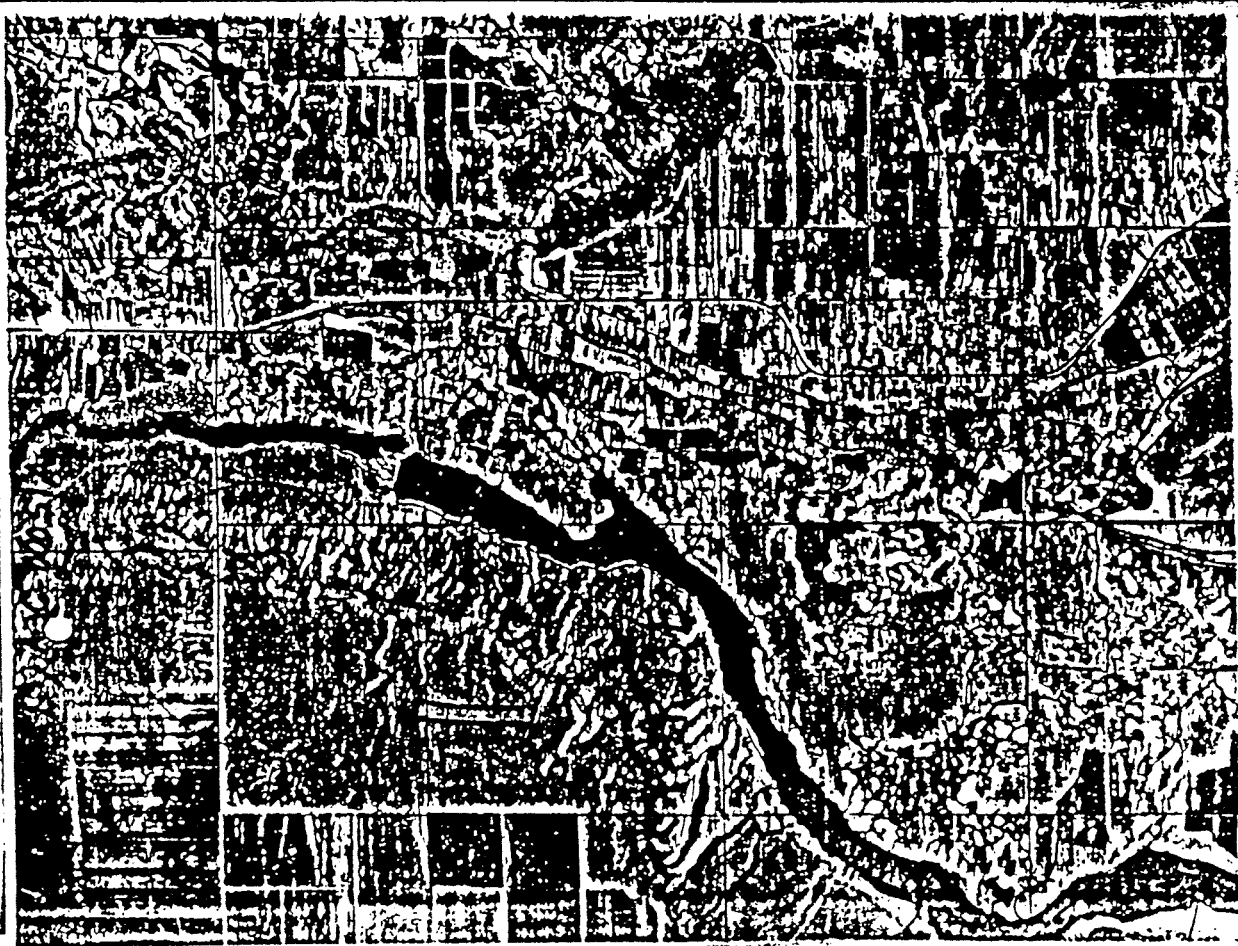
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SIGNATURE RIGHT SPLIT ANALYSIS

PARENT RIGHT NO. 34-00051 TOTAL DIVERSION DATE 1-20 PREPARATION DATE 7-29-72 WHF

PREPARATION DATE 7-29-72 WJF

[illegible]

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NAME: Martin. Jack

CLAIM: A 36-00051 A 0

CORRESPONDENCE

EVIDENCE OF

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(01 1993

Full Water Resources
in Area 1011

1 HEPWORTH, MUNGESTER & LEZAMIZ,
2 CHARTERED
3 133 Shoshone St. North
4 P.O. Box 389
5 Twin Falls, ID 83303-0389
6 Telephone: (208)734-7510
7 Attorneys for Claimant
8 (PPE\21530SUP.MOJ\lmc)

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MAR 02 1993

Department of Water Resources
Adjudication Bureau

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

In Re the General Adjudication
of Rights to the Use of Water
from the Snake River Basin
Water System

EAGERMAN WATER RIGHT OWNERS,
INC. AND ITS INDIVIDUAL
MEMBERS' THIRD SUPPLEMENTAL
NOTICE OF APPEARANCE

The State of Idaho, ex rel.
R. Keith Higginson in his
official capacity as director
of the Idaho Department of
Water Resources,

Petitioner,

vs.
United States; State of Idaho;
and all claimants to the use
of water from the Snake River
Basin Water System.

Respondents.

COMES NOW the law firm of Hepworth, Munger & Lezamiz
and supplements its Notice of Appearance to add on behalf of

THIRD SUPPLEMENTAL NOTICE OF APPEARANCE

INCL

Hepworth,
Munger
& Lezamiz

INCL
Hepworth,
Munger
& Lezamiz

32-A

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F C M P M

The United States Department of Justice (1)
Environment and Natural Resources Division
550 West Fort Street, Box 33
Boise, ID 83734


PATRICIA D. BROWN

THIRD SUPPLEMENTAL NOTICE OF APPEARANCE - 3

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23

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APR 30 1993

Department of Water Resources
Adjudication Bureau

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

In Re the General Adjudication
of Rights to the Use of Water
from the Snake River Basin
Water System

The State of Idaho, ex rel.
R. Keith Higginson in his
official capacity as Director
of the Idaho Department of
Water Resources,

Petitioner,

Vs.

The United States; the State
of Idaho; and all Claimants to
the use of water from the Snake
River Basin Water System,
Respondents.

Case No. A36-00051A

(You must insert the
water right number you
are objecting to)

OBJECTION

36-00051A-0001/
93-04-0057

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in the Director's Report. You may object to one water right per objection form. The water right number you are objecting to must be indicated above in the blank space following "Case No." To object to more than one water right, you must file a separate objection form for each. Forms may be obtained from the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form, as long as it is identical to the court's form. You must file your objection by the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

Any party physically filing 25 (twenty-five) or more objections must make an appointment with the Clerk of the Adjudication Court and arrange for an appointment to file multiple objections.

(Over)

OBJECTION - 1

By filing an
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Please fill

1. Petitioner's

Name

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Briefly

2. Owner of th

Name:

Address:

3. If this obj

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Attorney

Attorney

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OBJECTION - 2

By filing an objection form, you are certifying that the objection is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and that it is not filed for any improper purpose, such as to harass, cause unnecessary delay or needless increase in the cost of litigation.

I. GENERAL INFORMATION

Please fill in the following information:

1. Person objecting:

Name: Milton E. Mildren and/or Marjorie J. Mildren
Address: P.O. Box 510
Hagerman, Idaho 83312

Briefly describe your interest in this water right:

Priority date June 26, 1881; Decreed right
pursuant to New International Mortgage Bank v.
Idaho Power Company - March 22, 1932

2. Owner of the water right:

Name: Milton E. Mildren and/or Marjorie J. Mildren
Address: P.O. Box 510
Hagerman, Idaho 83312

3. If this objection is filed by an attorney:

Attorney Name: Patrick D. Brown & Pamela Parker
Attorney Address: Neworth, Mungaster & Lezanitz
P.O. Box 382, Twin Falls, ID 83301
Attorney Phone No.: (208) 734-7510

If filed by an attorney, notice of pending court proceedings will be sent to the attorney only.

OBJECTION - 2

RECEIVED

JUN 24 1982

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10. ☒
11. ☒

OBJECT

II. STATEMENT OF THE OBJECTION

Please check each "box" which states your objection to the recommendation in the Director's Report.

1. ☐ Name and Address: I object to the name and/or address of the owner of the water right.
2. ☐ Source: I object to the source of water.
3. ☒ Quantity: I object to:
 - a. ☒ the total quantity of water used in cubic feet per second; or
 - b. ☐ the total quantity of water stored in acre-feet per year; or
 - c. ☐ the total quantity of water reserved for each and every purpose, including all present and future uses.
4. ☐ Priority Date: I object to the priority date.
5. ☐ Points of Diversion: I object to the legal description of the point(s) of diversion.
6. ☐ Instream Flow: I object to the legal description of the beginning and ending points of the instream flow.
7. ☒ Purpose(s) of Use: I object to the purpose(s) of use.
8. ☐ Period of Year: I object to the period of year when water is used or is necessary for the purpose stated.
9. ☒ Place of Use: I object to:
 - a. ☐ the legal description of the place of use; or
 - b. ☒ the number of irrigated acres within each forty (40) acre subdivision.
10. ☒ Consumptive Use: I object to the annual volume of consumptive use.
11. ☒ Remarks: I object to the "remarks" listed with the water right.

(Over)

12. ☐ Water Right Recommendation: I object to:
- a. ☐ this water right being recommended at all; or
- b. ☐ this water right not being recommended.
13. ☐ Description of Reservation: I object to the legal description of the reservation.
14. ☒ Other: I object to: See attached
-
-
-
-

REASONS SUPPORTING EACH BOX CHECKED

In the space following, you must state the reason(s) by number for each box checked. You may use additional pages if necessary.

See Page 7

CHANGES TO THE DIRECTOR'S REPORT

Specifically describe how you want the Director's Report to be changed. You may use additional pages if necessary.

1.20 cfs maximum quantity; Use for Irrigation from 01/01 to 12/31; Stockwater from 1/1 to 12/31; Wildlife Habitat from 01/01 to 12/31; Aesthetic from 01/01 to 12/31; place of use: 4 acres; Consumptive use: to correspond with maximum quantity; remarks: strike all remarks after "John Bell Ditch".

Please note: You should attach copies of documents which support your objection. Note on each document the "box number" it supports.

OBJECTION - 4

32-A

☒ Check here if you are submitting documents. Please list each document by the title and number of pages. You may use additional pages if necessary.

See Hagerman Water Right Owners, Inc.'s

Compendium "A"

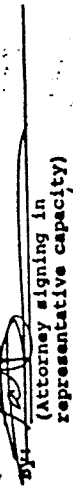
VERIFICATION (Must be Completed)

State of Idaho

County of Twin Falls Gooding

Malten E. Mildren/Marioris J. Mildren, being first duly
(Name of person filing objection)
sworn, upon oath, deposes and says:

That I am the person or entity filing this objection, that
I am a water claimant or party in this proceeding, as defined by I.C.
Sec 42-1401A(1) and (7), and that I have read the foregoing objec-
tion, know its contents and that the statements contained therein
are true to the best of my knowledge and belief.


Signature of person filing objection
By: 
(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 19th day of April
1991.


Notary Public for Idaho
Residing at: Boise, Idaho
My Commission Expires: 5-11-97

(Over)

INSTRUCTIONS FOR MAILING

You must mail the objection, including all attachments, to the Clerk of the Court. FAX filings will not be accepted by the Clerk of the Court. You must also send a copy to the owner of the water right, if other than yourself; to the Office of the Attorney General, State of Idaho; and to the United States Department of Justice, as set out below in the Certificate of Mailing. Finally, you must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I hereby certify that on the 22 day of April, 1991, I mailed the original and copies of the foregoing objection, including all attachments, to the following persons, by mailing the original and/or true and correct 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. One copy to the owner of the water right, and you must fill in the following information:

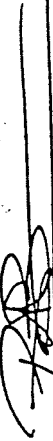
Owner name: Walter E. Mildren/Mariorie J. Mildren
Owner's address: P.O. Box 510
Hagerman, Idaho 81132

3. One copy to:

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

4. One copy to:

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, ID 83724


Signature of Objector or attorney
mailing on Objector's behalf

REASONS SUPPORTING EACH BOX CHECKED, page 4

Box 3, 3a and 10 - IDWR recommends an amount less than decreed and/or beneficially used. A reduction in water right would constitute a taking.

Box 7 - Beneficially used for purposes set forth in notice of claim.

Box 8 - IDWR recommends a period of use less than decreed and/or beneficially used. A reduction in water right would constitute a taking.

Box 9 - Director's Report fails to accurately state the place of use.

Box 11 - This is beyond the statutory authority vested in the Director.

CHANGES TO DIRECTOR'S REPORT, page 4

Objectors reserve the right to claim all purposes of use and quantities of use as shown by the evidence at trial.

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

Case No. 36-00051A -0001

In Re the General Adjudication
of the Rights to the Use of Water
from the Snake River Basin
Water System

The State of Idaho, ex rel.
R. Keith Higginson in his
official capacity as Director
of the Idaho Department of
Water Resources,

Petitioner,

vs.

The United States; the State
of Idaho; and all Claimants to
the use of water from the Snake
River Basin Water System,

Respondents.

RESPONSE TO OBJECTION

I. GENERAL INFORMATION

1. Person responding to objection:

Name: R. KEITH HIGGINSON, DIRECTOR

Address: IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449

Briefly describe your interest in this water right:

IDMR is required to file a response to an objection to part
I of the director's report pursuant to I.C. section 42-1412(2).

(Over)

RESPONSE TO OBJECTION NO. 36-00051A -0001 - PAGE 1

2. Person who filed objection:

Name: WALTEN E & MARJORIE MILDREN
Address: PO BOX 510
HAGERMAN ID 83332

3. If this response is filed by an attorney:

Attorney Name(s): NICHOLAS B. SPENCER
Attorney Address: DEPUTY ATTORNEY GENERAL(S)
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449

Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

3. ☒ Quantity: I respond to the objection concerning:
- 3a. ☒ The total quantity of water used in cubic feet per second.
7. ☒ Purposes of Use: I respond to the objection concerning the purpose(s) of use.
8. ☒ Period of Year: I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.
9. ☒ Place of Use: I respond to the objection concerning:
- 9b. ☒ The number of irrigated acres within each forty (40) acre subdivision.
10. ☒ Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.
11. ☒ Remarks: I respond to the objection concerning the "remarks" listed with the water right.

14. [X] Other: I respond to the objection concerning:

ALL MATTERS RAISED IN THE CLAIMANT'S ANSWER,
AFFIRMATIVE DEFENSES, AND PRAYER FOR RELIEF

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection items 3 and 3.a, and all allegations of the objection regarding those items, IDMR responds as follows: (1) it recommended the amount of water it determined was being beneficially used; (2) the claimant is not entitled to any amount greater than that which is beneficially used (Idaho Code Secs. 42-104 and 42-1402); (3) the recommendation of the director to the SRBA Court as to how the right should be decreed does not constitute a taking because it is simply a recommendation and not a final determination of the right; and (4) the eventual decree by the SRBA Court of the amount of water beneficially used, even if less than the amount previously decreed, will not constitute a taking because the right is limited to that amount beneficially used.

In response to Statement of the Objection item 7, and all allegations of the objection regarding that item, IDMR responds that it recommended the same purpose of use that was identified on the notice of claim and that was found when the claim was investigated. By identifying in the objection wildlife, aesthetics, and stockwater as additional uses that the claimant did not list on the notice of claim, the claimant improperly seeks to use the objection process to amend the claim. A claimant must obtain leave of the court to amend a claim after a director's report is filed, just as a party must obtain leave of the court to file a late claim after the director's report is filed. Once leave of the court is granted, IDMR can investigate the amended claim and make an appropriate recommendation to the court.

In response to Statement of the Objection item 8, and all allegations of the objection regarding this item, IDMR responds as follows: The decree asserted by the claimant does not contain a period of use decreed for this water right. Idaho Code 42-1411(2)(g) requires the director to determine the period of use of each water right acquired under state law that is recommended in the director's report. IDMR has developed irrigation season of use standards for various climatic areas throughout the state based on a 75% chance of a 24 degree fahrenheit frost. The

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irrigation season of use cannot exceed the period in which water may be beneficially used. The period of the year during which this water right may be used is consistent with the standard irrigation season of use for the area in which the place of use of this water right is located. Water may be used for irrigation outside the standard season of use, subject to the conditions set forth in General provision 12b of the director's report.

In response to Statement of the Objection 9 and 9.b, and all allegations of the objection regarding those items, IDWR responds that the recommended water right accurately describes the total number of acres within each 40 acre subdivision upon which IDWR found water was beneficially used for irrigation under this water right.

In response to Statement of the Objection item 10 and all allegations of the objection regarding this item, IDWR responds as follows: (1) The decree asserted by the claimant did not set an annual volume of consumptive use for this water right. (2) Idaho Code Sec. 42-1411(2)(1) requires the director to determine the annual volume of consumptive use for each water right acquired under state law and recommended in the director's report. (3) Idaho Code Sec. 42-1401A(2) provides that the quantification of consumptive use "is included as a rebuttable presumption in a decree only for the purpose of transfers pursuant to section 42-222, Idaho Code"; therefore, the consumptive use recommended for this water right is included solely for use in future transfer proceedings. (4) The annual volume of consumptive use recommended for this right is 3 acre feet per acre. This is the maximum volume of water consumed by the most water consumptive crop (pasture) that can be grown in the area during the period of year when water is used for irrigation, as provided for by Idaho Code Sec. 42-1401A(2). (5) The recommendation of the director to the SRBA Court as to how the right should be decreed does not constitute a taking because it is simply a recommendation and not a final determination of the right. (6) The eventual decree by the SRBA Court of the amount of water beneficially used, even if less than the amount previously decreed, will not constitute a taking because the right is limited to that amount beneficially used.

In response to Statement of the Objection item 11, and all allegations of the objection regarding that item, IDWR responds that it has authority pursuant to Idaho Code Sec. 42-1411(2)(1) to include in its recommendations of water rights acquired under state law and recommended in the director's report "such other matters as are necessary to define the right." The remark or remarks objected to are necessary to adequately describe and

define this water right.

In response to Statement of the Objection item 14, and all allegations of the objection regarding that item, see attached "IDMR's Response to Answer Affirmative Defenses and Prayer for Relief of Claimant".

In response to the sentence listed in Changes to the Director's Report, whereby the claimant attempts to "reserve the right to claim all purposes of use and quantities of use as shown by the evidence at trial," IDMR responds as follows: Insofar as this purported reservation of rights may constitute an attempt to reserve the right to amend at trial the claimant's notice of objection, the claimant improperly seeks to use the objection process to amend the claim. A claimant must obtain leave of the court to amend a claim just as a party must obtain leave of the court to file a late claim after the director's report is filed.

CHANGES TO THE DIRECTOR'S REPORT

The director proposes no changes to the description of this claim in the Director's Report.

☒ Check here if you are submitting documents. Please list each document by the title and number of pages. You may use additional pages if necessary:

	No. of Pages
Notice of Claim No. A36-00051A	6
IDMR's Response to Answer, Affirmative Defenses and Prayer for Relief of Claimant	4

(Over)

RESPONSE TO OBJECTION NO. 36-00051A -0001 - PAGE 5

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VERIFICATION (Must be Completed)

State of IDAHO
County of ADA

David B. Shaw, being first duly sworn, upon oath, deposes
and says:

That R. Keith Higginson, in his official capacity as
director of the Idaho Department of Water Resources, is a party
to this proceeding, as defined by I.C. 42-1401A(1) and (7); that
I am the Adjudication Bureau Chief for IDWR and am authorized by
R. Keith Higginson, in his official capacity as director of IDWR,
to verify this response; and that I have read the foregoing
response, know its contents and that the statements contained
therein are true to the best of my knowledge and belief.

Signature of person filing response

By:

W. B. Spencer
(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 26th day of August,
1993.

David B. Shaw
Notary Public for Idaho
Residing at:
My Commission expires December 8, 1994

David Smith, Boise, Idaho
Residing at Boise, Idaho
My Commission Expires December 8, 1994

RESPONSE TO OBJECTION NO. 36-00051A -0001 - PAGE 6

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RESPONSE

IN THE DISTRICT
IN RE THE GENER
OF RIGHTS TO
THE SNAKE RIVER

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A36-00051A
A36-00051

CERTIFICATE OF MAILING

I hereby certify that on the 31st day of August, 1993, I mailed the original and copies of the foregoing response, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepared 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. One copy to the owner of the water right, and you must fill in the following information:
See No. 3

3. One copy to the party who filed the objection, or if represented by an attorney, to their attorney; and you must fill in the following information:

Name: HERBERT HUNGERFORD & LEZANIZ
Address: PATRICK D. BROWN
& FENELOPPE PARKER
PO BOX 389
TWIN FALLS ID 83303

4. One copy to:
United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, Idaho 83734

W. L. L. L.
Signature of Respondent or attorney
mailing on Respondent's behalf

RESPONSE TO OBJECTION NO. 16-00051A - 0001 PAGE 17



CLERK D. AMORIS

A. JETHI HEGGARDON

17-Mar-1993

WALTEN E MILDREN
PO BOX 510
HAGERMAN ID 83332

RE: COPY of SRBA File(s): 36-00051A, 36-00054A, 36-07323

Dear Mr. Mildren:

please find enclosed the copies of documents you recently requested contained in the above referenced SEBA file(s) as of this date. Please note that copies of orthophoto quad maps or MAPP photography or aerial slides which may have been used in the review of your claim(s) have not been included since they are not easily reproduced. These items are however available for your review at our office. Please also note that in some situations some water rights may have other associated files which contain privileged information between IDWR staff and our legal council which has not been copied.

Please remit the following for the cost of the copies and postage:

12-22

Sincerely,

Jane
 Jeannie Robertson
 Records Clerk

Encl:

Mildner
47
39
57
123x5.615
part 2.90
part 2.9

RECEIVED

MAR 11 1993

Department of Water Resources
Southern Region Office

3-8-93
(Date)

IDAHO DEPARTMENT OF WATER RESOURCES
Southern Region
222 Shoshone St. East
Twin Falls, Idaho 83401-6602

Dear Idaho Department of Water Resources:

Please provide me with a copy of all information included in
my file as it relates to water right number 24-01121 dlt 0001
24-0001

Please advise me of any documents in my file which you are not
releasing to me and why they are not being released.

Please bill me for the copy charge.

Sincerely,

[Signature]
(Name)

[Signature]
(Address)

[Signature]
(City, State, Zip Code)

cc: David B. Shaw, Adjudication Bureau Chief
Idaho Department of Water Resources
1301 North Orchard Street
Statenshouse Mall
Boise, Idaho 83720-9000