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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)
)
)
)
)
_____)

Subcase Nos. 21-2170

STANDARD FORM 1
OBJECTION

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: State of Idaho
Idaho Department of Fish and Game
Address: P.O. Box 25
Boise, ID 83707
Phone: (208) 334-3700

Attorney Name: LAWRENCE G. WASDEN
Attorney General

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

ANN Y. VONDE, ISB No. 8406
Deputy Attorney General

Attorney Address: P.O. Box 44449
Boise, Idaho 83711-4449

Attorney Phone No.: Telephone: (208) 334-2400

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

Name: Idaho Department of Fish and Game
P.O. Box 25
Boise, ID 83707

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

1. ☐ **Name and Address**

Should be:

2. ☒ **Source**

Should be: Tributary to Sinks.

3. ☐ **Quantity**

Should be:

4. ☐ **Priority Date**

Should be:

5. ☐ **Point 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:

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 OBJECTIONS(S): As depicted in attached Exhibit A and B, Blue Creek historically sank before it reached Sand Creek. In investigating water right 21-2039 and 21-2170, IDFG discovered there are several other decreed water rights within the Sand

Creek Wildlife Management Area ("SCWMA") that also have their Source as Blue Creek that should also be changed to "tributary to Sinks." In connection with this objection, IDFG will also file a Motion to Set Aside Partial Decrees 21-00014, 21-00015, 21-2153, 21-2129, 21-4006, 21-4007, 21-4008, 21-7151.

F. VERIFICATION (must be completed)

State of Idaho)
)ss.
County of Ada)

Ann Y. Vonde, 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.

LAWRENCE G. WASDEN
Attorney General

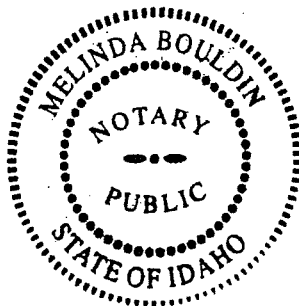
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

ANN Y. VONDE
Deputy Attorney General

Ann Y. Vonde

Subscribed and sworn to before me on:

August 21, 2013



Melinda Bouldin
Notary Public for *Idaho*
Residing at: *Boise, ID*
My Commission Expires: *12.8.16*

CERTIFICATE OF MAILING

I certify that on this 21st day of August 2013, I caused to be served the original and/or copy of this form on the following persons by the indicated method:

1. Original to:

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

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Federal Express
☐ Facsimile: (208) 736-2121

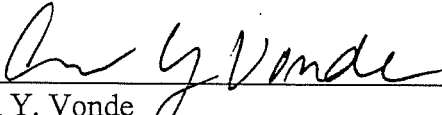
2. Copies to

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

- ☐ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Federal Express
☐ Facsimile:
☒ Statehouse Mail

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

Not Applicable



Ann Y. Vonde
Deputy Attorney General

EXHIBIT A

REPORT OF ENGINEER

This proof is for Beneficial Use

In Water District No. 36-A

1. State name of applicant and number of permit:..... John Bishop - Permit 14459

2. State source of water supply: El Estero and reservoir

3. Location of point of diversion: NW¹SW¹ Sec. 3, Twp. 10 N., R. 41 E., B.M.

4. Describe works as they exist, giving dimensions and capacities of same:.....

Dam, length 215 ft, 20' wide at top, 12' high, earth with rock arch face, up-
stream; spillway earth dam, 12' high, 12" walls of concrete.

1 flume 250' - 3' x 1 1/2" w/ 1 1/2" plank capacity 6 cu ft

1 June 200 - 12" x 12" " " " R. C. H.

1 flume #00 " " R " "

7 Head Gates $2\frac{1}{2}' \times 3' \times 4'$ long 6 " "

$3\frac{1}{2}$ miles lateral 3 to 4' bottom R to 6 GN II'

5. State whether or not water has been turned into works of diversion: Yes

6. Give exact location of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if for other than irrigation): NW¹SE¹, SW¹SE¹ Sec.3, NE¹NE¹, NW¹NE¹, SW¹NE¹, SE¹NE¹, NE¹NW¹, NW¹NW¹.

SW $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec.9, NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec.10, all in T. 10 N., R. 41 E., S. 10.

$NE_{\frac{1}{2}}^- NE_{\frac{1}{2}}^+$	} SCC.9	30	✓	$NW_{\frac{1}{2}}^- NW_{\frac{1}{2}}^+$	} SCC.9	30	✓
$NW_{\frac{1}{2}}^- NE_{\frac{1}{2}}^+$		0	+	$SW_{\frac{1}{2}}^- SW_{\frac{1}{2}}^+$		30	✓
$SW_{\frac{1}{2}}^- NE_{\frac{1}{2}}^+$		80	✓	$NW_{\frac{1}{2}}^- SE_{\frac{1}{2}}^+$		40	✓
$SE_{\frac{1}{2}}^- NE_{\frac{1}{2}}^+$		40	✓	$NE_{\frac{1}{2}}^- NW_{\frac{1}{2}}^+$		40	✓
$NE_{\frac{1}{2}}^- NW_{\frac{1}{2}}^+$		35	✓	$NW_{\frac{1}{2}}^- NW_{\frac{1}{2}}^+$		40	✓

7. Submit map on enclosed plat, showing location and details of above description.

8. How many parties conduct water in this system?...one.....

9. Give names and amount of each right:.....

John Bishop, as shown on map

10. What large stream would the water here appropriated finally reach? North Fork.....

11. Describe the various tributaries en route, from point of diversion to the principal drainage stream: Blue Creek, Sand Creek, North Fork Snake River.

Blue Creek waters sink on the foot of Mt. Bishop and do not reach

Sand Creek except during the spring run-off from melting snow.

Remarks: The SE₂ SALT SEC. 9 should have been included, but was left out by mistake. The average as cross tabbed and marked in red is recognized by the Bishop. Does former rights case for average not included in this application?

This examination was made on the 9th day of Aug. 1921.

(Signed) Chas. H. Gerninger Examiner

14459

OVER

(This report must be sworn to when not made by an attaché of the office.)

STATE OF IDAHO,

} ss.

County of

..... being first duly sworn, deposes and says that the
statements contained in the within report are correct to the best of his knowledge and belief.

Subscribed and sworn to before me this day of 19.....

My commission expires

Notary Public.

Dist. 36-A

John Bishop

St. Anthony,

Permit 14459

Instructions to Examiners

1. Examiners will not be permitted to examine any of the receipts in the office pertaining to this permit. They are to furnish a report of the facts and conditions as they exist, from their own observations and inquiries.
2. Always carefully note the location of the point of diversion, and accurately plot same.
3. Find out how many parties own right in the ditch or canal and give their names and amount of right.
4. When proof is for beneficial use, carefully check up the number of acres actually irrigated in each forty and accurately plot same.
5. Make a map showing the correct location of stream and ditches, and the irrigated lands, and any adjacent permanent landmarks, such as towns, lakes, large streams and public roads.
6. If any unusual conditions are discovered, make a plain statement of them under remarks.
7. Always see the holder. If possible, and go over the whole ground with him, and make your report only upon actual existing facts and conditions.

[illegible]

14459

EXHIBIT B

21-2039

No. 9308

APPLICATION FOR PERMIT

To appropriate the Public Waters of the State of Idaho

1. Name of applicant: Mary Whittington and Wm E. Whittington,

Postoffice address: St Anthony

County: Fremont

State: Idaho

II. The financial resources of the applicant are:

(d) Other resources: Applicants have land under Govt. entry also land patented under the proposed works:

2. The quantity of water claimed: eight cubic feet per second.

3. Source of water supply: Blue Creek, flood, waste, surplus, and all other water of not used beneficially.

County of Fremont.

4. Location of point of diversion: A, upper NE corner NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 3, B. SE corner as A. C. Center of SW $\frac{1}{4}$ of SW $\frac{1}{4}$ Sec. 3. D. NW corner of SW $\frac{1}{4}$ of NW $\frac{1}{4}$ Twp. 10 N. R. 41 E. B.M.

5. To be used for:

I. Irrigation and domestic use: and for the watering of stock.

(a) Amount of land to be irrigated: 400 acres.

(b) In the following legal subdivisions: W $\frac{1}{2}$ of S.W. $\frac{1}{4}$ of Sec 3 N $\frac{1}{2}$ of NW $\frac{1}{4}$

N $\frac{1}{2}$, SW $\frac{1}{4}$, & NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec 9 Twp 10 N. Range 41 E. B.M.

6. Estimated cost of works: \$1,500

7. Description of works for diversion:

I. Kind of works: Reservoir, Dam, Ditch & Flume.

II. Dimensions of works:

(a) Height of dam 10 feet, length of dam at top 200 feet, length of dam 180 feet. Material used in construction Earth.

(b) Capacity of reservoir 30 acre feet.

public waters of the State of Idaho as herein set forth.

Mary Whittington and Wm

By Wm. E. Whittington..

Remarks: 60 inches of the regular flow of Blue Creek, is included in this and has been appropriated, and used by applicant and other prior owners of West 1/2 of the SW 1/4 Sec 3, and the N 1/2 of the NW 1/4 Sec. 10 Twp. 10 N 60 inches above mentioned was as stated, used on the above described land, made of record according to law then existing, The applicant does not wish as any waiver of his prior right to the 60 inches, but desires to confirm his further compliance of the law of 1903.

APPROVAL OF STATE ENGINEER.

The number of this permit is 6416.

Date of first receipt of application 9.00 A.M. July 30, 1910

Recorded in Book 19, Page 6416. Approved August 4, 1910.

This is to certify that I have examined the within application and appropriate the public waters of the State of Idaho and hereby grant subject to the following limitations and conditions:

Work to begin on or before October 3, 1910, and to continue dili uninterruptedly to completion, unless temporarily interrupted by circumstances over which permit holder has no control.

One-fifth of the work above specified to be completed on or before

The whole of said work to be completed on or before August 4, 1914

The time for proof of beneficial use of water appropriated in accordance extended to August 4, 1914.

Witness my hand this fourth day of August, 1910.

D. G. Martin

State Engineer.

Proof of Completion of Works made October 2, 1913.

Certificate of Completion of Works issued November 8, 1913.

Permit No. 6416.

CERTIFICATE OF COMPLETION OF WORKS.

To All Whom it May Concern:

This is to certify that Mary Whittington and Wm. E. Whittington of St. Anthony, County of Fremont, and State of Idaho, the holders of Permit No. 6416, issued upon Application No. 9308, bearing date of priority of July 30, 1910, authorizing the div of eight (8) second feet of the waters of Blue Creek, County of Fremont, State of Id. for irrigation and domestic purposes, have fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works of diver set out and described in said Permit; that said works are adequate for diverting and conveying to the place of intended use eight (8) second-feet of the waters of Blue Cr that the points of diversion of said waters are as follows: A- at upper NE Cor. of NW $\frac{1}{4}$ of SW $\frac{1}{4}$, Sec. 3; B- at S. E. Cor. of NW $\frac{1}{4}$ of SW $\frac{1}{4}$ Sec. 3; C- Center of SW $\frac{1}{4}$ of SW $\frac{1}{4}$ Sec. 3, and D - at N. E. Cor. of SW $\frac{1}{4}$ of NW $\frac{1}{4}$, Sec. 10, T. 10 N. R. 41 E. B. M., and the lands proposed to be irrigated by the use of said water are described as follows, NE $\frac{1}{4}$, SW $\frac{1}{4}$ and NW $\frac{1}{4}$ of SE $\frac{1}{4}$, Sec. 9; NE $\frac{1}{4}$ of NW $\frac{1}{4}$ Sec. 10; W $\frac{1}{2}$ of SW $\frac{1}{4}$, Sec. 3; all in T. 10 N. R. 41 E. B. M., containing about 400 acres.

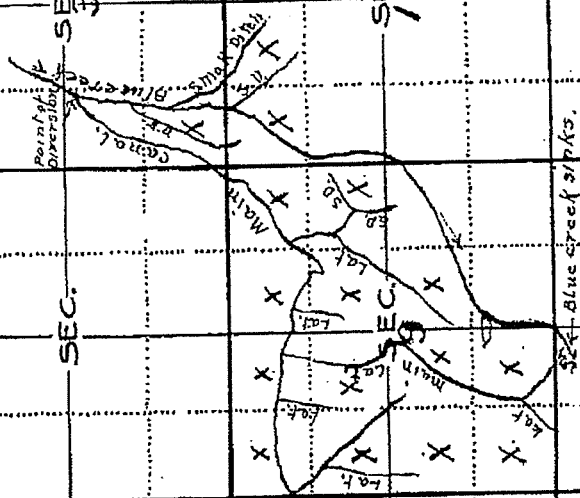
Witness my hand this 8th day of November, A. D. 1913.

F. P. KING,

State Engineer of the State of Idaho.

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T. 10. R. 41 E. B. 11. Mary Whittington & Son E. Whittington Permit # 6416



6416
 B/3