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DEPARTMENT OF
WATER RESOURCES

LAWRENCE G. WASDEN
Attorney General

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

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Attorneys for the Idaho Department of Fish and Game

**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 39576

)
) Subcase Nos. 21-00014; 21-00015, 21-2153,
) 21-2129, 21-4006, 21-4007, 21-4008, 21-7151
)
)
) **MOTION TO SET ASIDE PARTIAL**
) **DECREES**
)
)

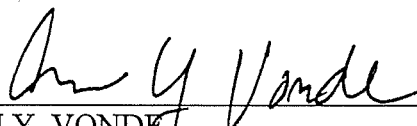
The Idaho Department of Fish and Game (“IDFG”) moves the Court pursuant to Rule and 14(d) of SRBA Administrative Order 1 (“AO1”) and Rule 60(b) of the Idaho Rules of Civil Procedure for an order setting aside partial decrees 21-00014, 21-00015, 21-2153, 21-2129, 21-4006, 21-4007, 21-4008, and 21-7151. The grounds for this motion are set forth in IDFG’s

Memorandum in Support of Motion to Set Aside Partial Decrees, and the Affidavit of Tom Bassista and Affidavit of Ann Y. Vonde in support thereof.

DATED this 22nd day of August 2013.

LAWRENCE G. WASDEN
Attorney General

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



ANN Y. VONDE
Deputy Attorney General

CERTIFICATE OF SERVICE

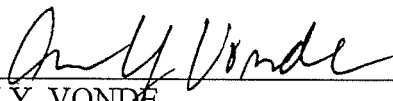
I HEREBY CERTIFY that on this 22nd day of August 2013, I caused a true and correct copy of the foregoing MOTION TO SET ASIDE PARTIAL DECREES to be filed with the Court and served on the following parties by the indicated methods:

CLERK OF THE SRBA COURT
253 THIRD AVENUE NORTH
P.O. BOX 2707
TWIN FALLS, IDAHO 83303-2707

- ☒ U.S. Mail
- ☐ Hand Delivery
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DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

- ☐ U.S. Mail
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- ☐ Facsimile:



ANN Y. VONDE
Deputy Attorney General

LAWRENCE G. WASDEN
Attorney General

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Chief, Natural Resources Division

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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 SRBA	)	
	)	Subcase Nos. 21-00014, 21-00015, 21-2153,
	)	21-2129, 21-4006, 21-4007, 21-4008, 21-7151
	)	
Case 39576	)	MEMORANDUM IN SUPPORT OF
	)	MOTION TO SET ASIDE PARTIAL
	)	DECREES
	)	
	)	

The Idaho Department of Fish and Game (“IDFG”) submits this memorandum in support of its “Motion to Set Aside Partial Decrees” in subcase nos. 21-00014, 21-00015, 21-2153, 21-2129, 21-4006, 21-4007, 21-4008, and 21-7151 pursuant to Administrative Order (“AO1”) Rule 14(d) and Idaho Rule of Civil Procedure 60(b).

I. STANDARD OF REVIEW

In the Snake River Basin Adjudication (“SRBA”), a motion to set aside a partial decree is treated similar to a motion to set aside a final judgment and determined in accordance with the criteria set forth in I.R.C.P. 60(b). AO1 § 14(d) (“Parties seeking to modify a partial decree shall comply with I.R.C.P. 60(a) or 60(b). Rule 60(b)(6) provides that a judgment may be set aside for “any other reason justifying relief from the operation of the judgment.” *Id.*¹ Rule 60(b) requires that a motion to set aside a judgment must be filed “within a reasonable time.”

The decision to grant or deny a Rule 60(b) motion for relief from a final judgment rests in the sound discretion of the trial court. *Pullin v. City of Kimberly*, 100 Idaho 34, 36, 592 P.2d 849, 851 (1979). Although a court is vested with broad discretion in determining whether to grant or deny a Rule 60(b) motion, its discretion is limited and the motion may only be granted on a showing of “unique and compelling circumstances justifying relief.” *Dawson v. Cheyovich Family Trust*, 149 Idaho 375, 380, 234 P.3d 699, 704 (2010).

II. STATEMENT OF FACTS AND ARGUMENT

IDFG manages the Sand Creek Wildlife Management Area (“SCWMA”) located near St. Anthony, Idaho. *Affidavit of Tom Bassista in Support of Motion to Set Aside Partial Decrees* (“*Bassista Affidavit*”) at 2. The SCWMA consists of five inter-connected ponds that are used primarily as wildlife habitat and recreation. *Bassista Affidavit* at 2. There are several water rights associated with the SCWMA. Water rights 21-00014, 21-00015, 21-2153, 21-2159, 21-4006, 21-4007, 21-4008, and 21-7151 (“Partial Decrees”) have been partially decreed in the Snake River Basin Adjudication (“SRBA”). In addition, IDFG recently filed two late claims, 21-

¹ In addition to stating a reason that justifies setting aside a partial decree, typically the moving party must “allege facts which, if established, would constitute a meritorious defense.” *Memo. Decision and Order on Mot. to Set Aside Partial Decree* at 8, SRBA Subcase No. 55-02373 et al. (May 1, 2001). Since IDFG seeks to set aside a decree in its favor, the meritorious defense element does not apply in this case.

2039 and 21-2170, for use with the SCWMA. IDFG has filed an objection to the recommendations on late claims 21-2039 and 21-2170 on the basis that the source should state “tributary to Sinks,” rather than “tributary to Sand Creek.”

During its investigation for late claims 21-2039 and 21-2170, IDFG reviewed its Partial Decrees for the SCWMA. While reviewing the Partial Decrees, IDFG discovered several errors on the Partial Decrees. *Bassista Affidavit* at 3.

Partial decree 21-00014 has the following errors:

- 1) The Source element is incorrect because it lists “Sand Creek” as the source rather than as an Unnamed Stream tributary to Sand Creek. *Bassista Affidavit* at 3.
- 2) The quantity element is incorrect because the quantity was decreed as an acre-feet per year (“AFY”) volume rather than in cubic-feet per second. *Bassista Affidavit* at 3.
- 3) The Point of Diversion is incorrect because it lists an incorrect location in Section 9 and omits the correct location in Section 10. *Bassista Affidavit* at 3.
- 4) The Period of Use is incorrect because it lists the entire year instead of just the irrigation season. *Bassista Affidavit* at 3.
- 5) The Place of Use is incorrect because it includes two incorrect locations in Section 9 but omits a quarter/quarter in Section 9 that should be included. *Bassista Affidavit* at 4.

Partial Decree 21-00015 has the following errors:

- 1) The Source element is incorrect because it lists “Sand Creek” as the source rather than as an Unnamed Stream tributary to Sand Creek. *Bassista Affidavit* at 4.

- 2) The quantity element is incorrect because the quantity was decreed as an acre-feet per year (“AFY”) volume rather than in cubic-feet per second (“CFS”). *Bassista Affidavit* at 4.
- 3) The Point of Diversion is incorrect because Section 9 does not include the point of diversion and it also incorrectly lists the Quarter-Quarter in Section 10. *Bassista Affidavit* at 4.
- 4) The Period of Use is incorrect because it lists the entire year instead of just the irrigation season. *Bassista Affidavit* at 4.
- 5) The Place of Use is incorrect because it includes two incorrect quarter/quarter locations in Section 9 but omits a quarter/quarter in Section 9 that should be included. *Bassista Affidavit* at 5.

Partial Decree 21-2153 has the following errors:

- 1) The Source is incorrect because it lists Blue Creek as tributary to “Sand Creek.” *Bassista Affidavit* at 5.
- 2) The Place of Use is incorrect because it does not include a quarter/quarter in Section 3. *Bassista Affidavit* at 5.

Partial Decree 21-2159 has the following errors:

- 1) The Source is incorrect because it lists Blue Creek as tributary to “Sand Creek.” *Bassista Affidavit* at 5.
- 2) The Point of Diversion is incorrect because it incorrectly lists the quarter/quarter location. *Bassista Affidavit* at 5.

- 3) The Place of Use is incorrect because it includes a quarter/quarter in Section 9 that is incorrect and omits a quarter/quarter in Section 9 that should be included. *Bassista Affidavit* at 5.

Partial Decree 21-4006 has the following errors:

- 1) The Source element is incorrect because it lists “Sand Creek” as the source rather than as an Unnamed Stream tributary to Sand Creek. *Bassista Affidavit* at 5.
- 2) The Quantity is incorrect because it fails to include a diversion to storage quantity amount in CFS. *Bassista Affidavit* at 5.
- 3) The Point of Diversion is incorrect because Section 9 does not include the point of diversion and it also incorrectly lists the quarter/quarter in Section 10. *Bassista Affidavit* at 6.
- 4) The Purpose of Use is incorrect because it does not include “diversion to storage.” *Bassista Affidavit* at 6.

Partial Decree 21-4007 has the following errors:

- 1) The Source is incorrect because it lists Blue Creek as tributary to “Sand Creek.” *Bassista Affidavit* at 6.
- 2) The Point of Diversion is incorrect because it includes a location in Section 3. *Bassista Affidavit* at 6.
- 3) The Place of Use is incorrect because it omits a quarter/quarter location in Section 10. *Bassista Affidavit* at 6.

Partial Decree 21-4008 has the following errors:

- 1) The Source is incorrect because it lists Blue Creek as tributary to “Sand Creek.” *Bassista Affidavit* at 6.

2) The Point of Diversion is incorrect because it omits a quarter/quarter location in Section 10. *Bassista Affidavit* at 6.

3) The Place of Use is incorrect because it omits a quarter/quarter location in Section 10. *Bassista Affidavit* at 7.

Partial Decree 21-7151 has the following errors:

1) The Source is incorrect because it lists Blue Creek as tributary to “Sand Creek.” *Bassista Affidavit* at 7.

Idaho Rule of Civil Procedure 60(b)(6) provides the authority for this Court to set aside the Partial Decrees for “any other reason justifying relief from the operation of the judgment.” In this case, several mistakes were made in the Partial Decrees that only came to light with investigation of late claims 21-2039 and 21-2170. Because all of the water rights associated with the SCWMA are interconnected and are managed as a whole, IDFG requests the Court set aside the partial decrees so as to make them consistent both with its late claims 21-2039 and 21-2170, and with how the water is managed on the ground. *Bassista Affidavit* at 2–3. IDFG has worked with the Idaho Department of Water Resources (“IDWR”) to identify the changes that will need to be made to the Partial Decrees. IDWR concurs in the changes that IDFG is proposing for the Partial Decrees.

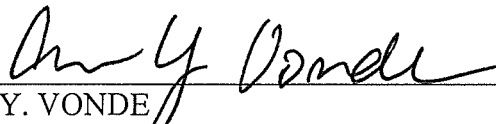
III. CONCLUSION

For the reasons set forth above, IDFG requests that partial decrees 21-00014, 21-00015, 21-2153, 21-2159, 21-4006, 21-4007, 21-4008, and 21-7151 be set aside.

DATED this 22nd day of August 2013.

LAWRENCE G. WASDEN
Attorney General

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



ANN Y. VONDE
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of August 2013, I caused a true and correct copy of the foregoing MEMORANDUM IN SUPPORT OF MOTION TO SET ASIDE PARTIAL DECREES to be filed with the Court and served on the following parties by the indicated methods:

CLERK OF THE SRBA COURT
253 THIRD AVENUE NORTH
P.O. BOX 2707
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Ann Y. Vonde
Deputy Attorney General

LAWRENCE G. WASDEN
Attorney General

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

ANN Y. VONDE, ISB No. 8406
Deputy Attorney General
Natural Resources Division
P.O. Box 83720
Boise, Idaho 83720-0010
Telephone: (208) 334-4141
Fax: (208) 854-8072
Email: ann.vonde@ag.idaho.gov

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

In Re SRBA	)	Subcase Nos. 21-00014, 21-00015,
	)	21-2153, 21-2159, 21-4006, 21-4007,
	)	21-4008, and 21-715.
	)	
Case No. 39576	)	AFFIDAVIT OF ANN Y. VONDE
	)	IN SUPPORT OF MOTION TO SET
	)	ASIDE PARTIAL DECREES
	)	
	)	
	)	

STATE OF IDAHO)
) ss.
County of Ada)

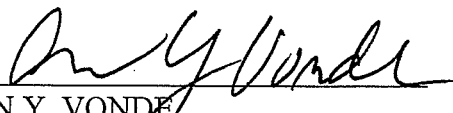
I, ANN Y. VONDE, being duly sworn upon oath, depose and hereby state as follows:

1. I am a Deputy Attorney General for the State of Idaho, and I represent the Idaho Department of Fish and Game in this matter.
2. The following is based upon my own personal knowledge.

3. Attached hereto as Exhibit A is a true copy of a map created by the Idaho Department of Water Resources ("IDWR") that depicts the Sand Creek Wildlife Management Area.
4. Attached hereto as Exhibit B is a true and correct copy of IDFG's Notice of Claim to a Water Right for water right 21-00014 that was obtained from the IDWR website.
5. Attached hereto as Exhibit C is a true and correct copy of the *Arcadia Reservoir, Irrigation, and Canal Co., v. Rosenborough* ("Arcadia Reservoir Decree") obtained from the IDWR website.
6. Attached hereto as Exhibit D is a true and correct copy of IDFG's Notice of Claim to a Water Right for water right 21-00015 that was obtained from the IDWR website.
7. Attached hereto as Exhibit E is a true and correct copy of IDFG's Claim to a Water Right for water right 21-4006 that was obtained from the IDWR website.
8. Attached hereto as Exhibit F is a true and correct copy of a Report of Engineer for water right 21-2170 that was obtained from the IDWR website.
9. Attached hereto as Exhibit G is a true and correct copy of the Application for Permit submitted for water right 21-2039 that was obtained from the IDWR website.

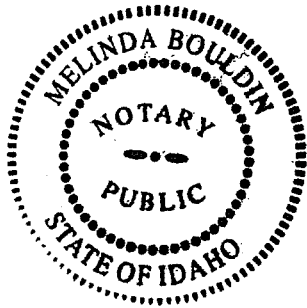
FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED and SIGNED this 22nd day of August, 2013.


ANN Y. VONDE
Deputy Attorney General

STATE OF IDAHO)
) ss.
County of Ada)

SUBSCRIBED AND SWORN TO before me this 22nd day of August,
2013.



Melinda Bouledin

NOTARY PUBLIC FOR IDAHO

Residing at: Boise, ID

My Commission Expires: 12-8-16

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of August 2013, I caused to be served a true and correct copy of the foregoing AFFIDAVIT OF ANN Y. VONDE IN SUPPORT OF MOTION TO SET ASIDE PARTIAL DECREES to the following by the method indicated:

CLERK OF THE DISTRICT COURT SRBA P.O. BOX 2707 TWINS FALLS, ID 83307	☒ U.S. Mail/Postage Prepaid ☐ Facsimile ☐ Overnight Mail ☐ Hand Delivery
DIRECTOR OF IDWR P.O. BOX 83720 BOISE, ID 83720-0098	☒ U.S. Mail/Postage Prepaid ☐ Facsimile ☐ Overnight Mail ☐ Hand Delivery



Ann Y. Vonde
Deputy Attorney General

2. I am employed by the Idaho Department of Fish and Game (“IDFG”) and have been so employed for approximately three years. I was over the age of eighteen years at the time I was first employed.
3. I am the Environmental Staff Biologist for the Upper Snake and Salmon Regions of IDFG. My principal duties include providing technical support and IDFG comments concerning fish and wildlife resources for land and water use proposals and planning efforts. I have been employed in this position since October 31, 2010.
4. I make the following statements based upon my review of IDFG’s and the Idaho Department of Water Resources’ (“IDWR”) records and personal knowledge of the geographic layout and water use on the Sand Creek Wildlife Management Area (“SCWMA”).
5. IDFG manages the SCWMA which consists of five inter-connected ponds that are used primarily for wildlife habitat and recreation.
6. IDFG has eight water rights for use within the SCWMA. Water rights 21-00014, 21-00015, 21-2153, 21-2159, 21-4006, 21-4007, 21-4008, and 21-7151 (“Partial Decrees”) were partially decreed in the Snake River Basin Adjudication (“SRBA”).
7. IDFG recently filed two additional late claims, 21-2039 and 21-2170, in the SRBA for use within the SCWMA.
8. Late claims 21-2039 and 21-2170 were recommended in the Director’s Report dated June 20, 2013. IDFG objected to the recommendations for 21-2039 and 21-2170 on the basis that the Source element should read “tributary to Sinks” rather than “tributary to Sand Creek.”

9. In investigating late claims 21-2039 and 21-2170, IDFG also reviewed the Partial Decrees for the SCWMA and found several errors in each of the Partial Decrees.
10. Partial decree 21-00014 has the following errors:
 - a. The Source element is incorrect because it lists "Sand Creek" as the source rather than as an Unnamed Stream tributary to Sand Creek.
 - b. The quantity element is incorrect because the quantity was decreed as an acre-feet per year ("AFY") volume rather than in cubic-feet per second ("CFS"). This water right was originally decreed as a natural flow irrigation right in the Arcadia Reservoir Decree. *Affidavit of Ann Y. Vonde in Support of Motion to Set Aside Partial Decree ("Vonde Affidavit")* Exhibit C. IDFG's original claim for this water right noted that the water flows through the pond. *Vonde Affidavit* Exhibit B. IDFG currently manages the pond as claimed.
 - c. The Point of Diversion is incorrect because it lists an incorrect location in Section 9 and omits the correct location in Section 10. The Point of Diversion on partial decree 21-00014 is located within Pond #4. *Vonde Affidavit* Exhibit A. However, on the ground, the headgate that takes water to the pond is located on the Unnamed Stream commonly known as Sharp Springs Fork of Sand Creek. *Vonde Affidavit* Exhibit A. IDFG originally claimed this right with a point of diversion on the stream. *Vonde Affidavit* Exhibit B.
 - d. The Period of Use is incorrect because it lists the entire year instead of just the irrigation season. This water right was originally decreed as an irrigation water right in the Arcadia Reservoir Decree. *Vonde Affidavit* Exhibit C.

- e. The Place of Use is incorrect because it includes two incorrect quarter/quarter locations in Section 9 but omits a quarter/quarter in Section 9 that should be included.

11. Partial Decree 21-00015 has the following errors:

- a. The Source element is incorrect because it lists “Sand Creek” as the source rather than as an “Unnamed Stream” tributary to Sand Creek.
- b. The quantity element is incorrect because the quantity was decreed as an acre-feet per year (“AFY”) volume rather than in cubic-feet per second (“CFS”). *Vonde Affidavit* Exhibit C. This water right was originally decreed as a natural flow irrigation right in the Arcadia Reservoir Decree. *Vonde Affidavit* Exhibit C. IDFG’s original claim for this water right noted that the water flows through the pond. *Vonde Affidavit* Exhibit D. IDFG currently manages the pond as claimed.
- c. The Point of Diversion is incorrect because Section 9 does not include the point of diversion and it also incorrectly lists the Quarter-Quarter in Section 10. The Point of Diversion on partial decree 21-00015 is located within Pond #4. *See Vonde Affidavit* Exhibit A. However, on the ground, the headgate that takes water to the pond is located on the Unnamed Stream commonly known as Sharp Springs Fork of Sand Creek. *See Vonde Affidavit* Exhibit A. IDFG originally claimed this right with a point of diversion on the stream. *Vonde Affidavit* Exhibit D.
- d. The Period of Use is incorrect because it lists the entire year instead of just the irrigation season. This water right was originally decreed as an irrigation water right in the Arcadia Reservoir Decree. *Vonde Affidavit* Exhibit C.

- e. The Place of Use is incorrect because it includes two incorrect quarter/quarter locations in Section 9 but omits a quarter/quarter in Section 9 that should be included. *Vonde Affidavit* Exhibit A.
12. Partial Decree 21-2153 has the following errors:
- a. The Source is incorrect because it lists Blue Creek as tributary to “Sand Creek.” *Vonde Affidavit* Exhibit F and Exhibit G.
 - b. The Place of Use is incorrect because it does not include a quarter/quarter in Section 3. See *Vonde Affidavit* Exhibit A
13. Partial Decree 21-2159 has the following errors:
- a. The Source is incorrect because it lists Blue Creek as tributary to “Sand Creek.” *Vonde Affidavit* Exhibit F and Exhibit G.
 - b. The Point of Diversion is incorrect because it incorrectly lists the quarter/quarter location. See *Vonde Affidavit* Exhibit A.
 - c. The Place of Use is incorrect because it includes a quarter/quarter in Section 9 that is incorrect and omits a quarter/quarter in Section 9 that should be included. See *Vonde Affidavit* Exhibit A.
14. Partial Decree 21-4006 has the following errors:
- a. The Source element is incorrect because it lists “Sand Creek” as the source rather than as an “Unnamed Stream” tributary to Sand Creek.
 - b. The Quantity is incorrect because it fails to include a diversion to storage quantity amount in CFS. This is not an on stream reservoir for purposes of this right. Water is taken from Sharp Springs Fork of Sand Creek through a ditch and then into the pond for storage. See *Vonde Affidavit* Exhibit A.

- c. The Point of Diversion is incorrect because Section 9 does not include the point of diversion and it also incorrectly lists the quarter/quarter in Section 10. The Point of Diversion on partial decree 21-4006 is located within Pond #4 and on Sand Creek. However, on the ground, the headgate that takes water to the pond is located on the Unnamed Stream commonly known as Sharp Springs Fork of Sand Creek. *Vonde Affidavit* Exhibit A. IDFG originally claimed this right with a point of diversion on the Unnamed Stream. *Vonde Affidavit* Exhibit E.
 - d. The Purpose of Use is incorrect because it does not include “diversion to storage.” This is not an on-stream reservoir for purposes of this right. Water is taken from Sharp Springs Fork of Sand Creek through a ditch and then into the pond for storage. *Vonde Affidavit* Exhibit A.
15. Partial Decree 21-4007 has the following errors:
- a. The Source is incorrect because it lists Blue Creek as tributary to “Sand Creek.” *Vonde Affidavit* Exhibit F and Exhibit G.
 - b. The Point of Diversion is incorrect because it includes a location in Section 3. *Vonde Affidavit* Exhibit A.
 - c. The Place of Use is incorrect because it omits a quarter/quarter location in Section 10. *Vonde Affidavit* Exhibit A.
16. Partial Decree 21-4008 has the following errors:
- a. The Source is incorrect because it lists Blue Creek as tributary to “Sand Creek.” *Vonde Affidavit* Exhibit F and Exhibit G.
 - b. The Point of Diversion is incorrect because it omits a quarter/quarter location in Section 10. *Vonde Affidavit* Exhibit A.

c. The Place of Use is incorrect because it omits a quarter/quarter location in Section

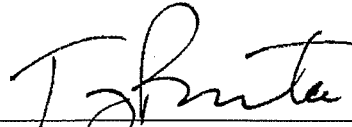
10. *Vonde Affidavit* Exhibit A.

17. Partial Decree 21-7151 has the following errors:

a. The Source is incorrect because it lists Blue Creek as tributary to "Sand Creek." *Vonde Affidavit* Exhibit F and Exhibit G.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

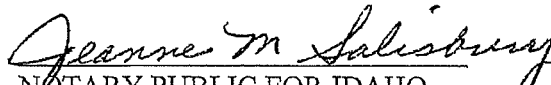
DATED and SIGNED this 22nd day of August, 2013.



TOM BASSISTA
Environmental Staff Biologist

State of Idaho)
)ss.
County of Bonneville)

SUBSCRIBED AND SWORN TO before me this 22 day of August, 2013.



NOTARY PUBLIC FOR IDAHO

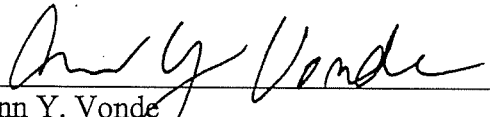
Residing at: 4279 Commerce Circle, Idaho Falls, Idaho

My Commission Expires: 5-13-2014

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of August 2013, I caused to be served a true and correct copy of the foregoing AFFIDAVIT OF TOM BASSISTA to the following by the method indicated:

CLERK OF THE DISTRICT COURT SRBA P.O. BOX 2707 TWINS FALLS, ID 83307	☒ U.S. Mail/Postage Prepaid ☐ Facsimile ☐ Overnight Mail ☐ Hand Delivery
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Ann Y. Vonde
Deputy Attorney General

EXHIBIT A

Upper Blue Creek Reservoir

Blue Creek

Blue Creek Pond No. 1

Blue Creek Pond No. 2

Blue Creek Pond No. 3

Blue Creek Pond No. 4

Ditch to Pond 4

Sand Creek

Sharp Springs "Fork" of Sand Creek

Under Claimed POD

Blue Creek Sinks



EXHIBIT B

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 A 21-00014

Date Received _____

Receipt Number _____

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly State of Idaho1. Name of Claimant (s) Dept. Fish & Game Phone (208) 334-3700Mailing Address P.O. Box 25 600 S. Walnut Boise, ID Zip 837072. Date of Priority (Only one (1) per claim) 5/15/18963. Source of water supply (a) Sand Cr (Sharp's Spring)
which is tributary to (b) Henry's Fork Snake River4. a. Location of existing point of diversion is: Township 10N Range 41E Section 10,
1/4 of NW 1/4 of SW 1/4, Govt. Lot, B.M., County of Fremont

Additional points of diversion if any: _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, 1/4 of _____ 1/4 of _____

1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),

including the dates of any changes or enlargements in use, the dimensions of the diversion works as

constructed and as enlarged and the depth of each well. A headgate and weir are on thecreek and a ditch runs water into a pond. Pond is run-of-creek

MICROFILMED

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6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Fish propagation purposes from 1/1 to 12/31 amount 1.0 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 1.0 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) Fish propagation

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic)

in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
10N	41E	9									HH			HH		HH	HH	HH	
		10										HH							

Total number of acres irrigated _____

11. In which county (ies) are lands listed above as place of use located? Fremont

12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
A21-00010, A21-00015 or None ()

14. Remarks: Use has changed from irrigation to fish propagation

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OCT 20 1992

Last Name IDFG Ident No. 21-00014

Copies: White -State, Yellow-Claimant

Scale: 2 inches equals 1 mile

A 16x16 grid of 256 squares. Each square contains a small crosshair pattern, which is a central vertical line and a central horizontal line intersecting at the center of the square. The lines are thin and black, and the background of each square is white. The grid is composed of 16 rows and 16 columns, with each square being approximately 10x10 units in size.

OCT 20 1992

Last Name IOFG

Ident No. A21-00014

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____
Decree X

If applicable provide IDWR Water Right Number A21-00014

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant Arredia

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 _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date _____

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____

of IDAHO DEPT. OF FISH & GAME

Organization

document in the space below as _____

Title

of

IDAHO DEPT. OF FISH & GAME

Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____

IDAHO DEPT. OF FISH & GAME

Date 6/20/90

State of Idaho/or Idaho)

County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 20th day of June 1990

SEAL

Notary Public

Residing at

My Commission Expires

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

MICROFILMED

OCT 20 1992

Last Name IDFG Ident. Number 21-00014

Copies White-State, Yellow-Claimant

EXHIBIT C

21-6

IN AND FOR FREMONT COUNTY.

File # 91

Plaintiff,

Defendant: _____

T-512 on 10/10/50 was commenced on the 5th day of August, A. D. 1904, and

Roseborough, Logan Roseborough, Charles Peterson, Byron Markham, Paul

Flister, Thomas W. Lyons, R. M. Barton, Cullen Thompson, and N. P.

Smith, and thereafter by stimulation-daily made and entered Journal:

Steele was substituted Defendant Perard in the name of H. H. Smith.

Patricia Melby was substituted as counsel in the place of J. T. Melby.

October, 1941. E. A. Smith was made a part of incident in the Smith case.

wherein Summons as to these parties being examined and held as-

Edward Carlson Thompson having been allowed by stipulation in open

Conclude the his Complaints in intervention, and the Defendants. Etc.

2. Re: The Hon. R. L. Harbrough, Chairman, Petroleum & Natural Gas Committee, House of Representatives, Pennsylvania

Francis W. Lyons, Daniel Stigler, Calvin Thompson, Peter Mel-

ling, and E. A. Smith, by their attorney, The J. Reamer, Esq., filed

the Answer and Cross Complaint, claiming that said rights in the

waters of Upper Sand Creek and its tributaries, the other defendant.

R. M. Barton working on the film in the red.

And it was also stipulated by counsel for all parties that the De-

Comments might make Answer to the couple in by a general denial with the

same force and effect as if specific denials to all the allegations.

of the same, and the above complaint should be deemed to be verified.

And it was further agreed that all Gross complaints should be

pective parties and the arguments of counsel, and the latter having been submitted to the Court, and a stipulation having been made by the counsel for the respective parties that the Judge of the Court might visit the premises and view the same and find the amount of water in said stream, and that Decision could be filed out of term time as though in term time.

And the Court, having on the 16th day of December, A. D. 1903, rendered its Decision herein, in writing and the Findings of Fact and Conclusions of Law having been filed in accordance with the said Decision, in which are found all the facts necessary to support this Decree and no facts having been found inconsistent therewith.

It is therefore ordered, adjudged and decreed that the waters of Upper Sand Creek and its tributaries be and the same are hereby distributed and decreed to the several parties to this suit, for beneficial purposes and uses, in the irrigation of their lands described in the Complaint and Cross-complaints in amounts and of the dates, with priorities of right in accordance with said dates, as follows, to-wit:

To the Arcadia Reservoir Irrigation & Canal Co., Ltd., a corporation 335 inches or six and 7/10 cubic feet per second of time of all the waters of Upper Sand Creek dating from May 15th, 1890.

To the defendant, Logan Roseborough, on the W. A. Smith claim, 30 inches or one and 3/5 cubic feet per second of time of the water from that part of Upper Sand Creek known as Sharp's Springs, dating from May 15th 1890.

To the defendant Logan Roseborough, on the Richard D. Smith claim, 35 inches or one and 7/10 cubic feet per second of time of the waters of that part of Upper Sand Creek known as Sharp's Springs, dating from May 15th 1890.

To the defendant, Paul Fletcher, 30 inches or 3/5 cubic feet per second of time of the waters of that part of Upper Sand Creek, known as East Creek, or Griffith's Springs, dating from May 15th, 1890.

To the defendant, Thomas H. Lyons, 30 inches or 3/5 cubic feet per second of time of the waters of that part of Upper Sand Creek known

0004 ✓
E. 3101 To defendant, Peter Melling, 50 inches of one cubic foot per seconds
time of the water of that part of Upper Sand Creek known as Sharp's
21 0005 ✓
T. 3101 Springs, dating from May 15th 1886. All in such or 1/5 cubic feet
per seconds time of the water of that part of Upper Sand Creek known as
21 0006 ✓
Sharp's Springs, dating from May 15th 1886.

To the defendant, Edward Roseborough, 25 inches of 1/2 cubic feet
per second time of the water from that part of Upper Sand Creek known
as Griffith's Springs, dating from May 15th 1900.

21 0017 ✓
To the defendant Cullom Thompson, 25 inches or 1/2 cubic feet per
second time of the water of that part of Upper Sand Creek known as
Sharp's Springs, dating from July 1st, 1886.

That the several amounts of water above decreed be measured and
distributed to the said parties at their several points of diversion from
the natural channel of said Upper Sand Creek to the said Tributaries
thereof, respectively,

That the said waters herein decreed be measured under the weir
system, in cubic feet per second of time; 12 1/2 inches of water as
herein decreed being equal to one cubic foot per second of time, or one
second foot.

It is further ordered that each of said parties to this suit con-
struct and maintain at their several points of diversion respectively,
substantial and uniform boxes, head gates and weirs for the measurement
of their said water.

That each and every of the parties to this suit, their agents, at-
torneys, assignees and grantees, are hereby restrained and perpetually
enjoined from in any manner interfering with the waters of said Upper
Sand Creek, and the tributaries thereof herein decreed, or exercising
any other or greater rights with reference to said waters than as herein
decreed to the respective parties.

That the costs of this action be paid as follows, to-wit:
That each, the plaintiff and defendants pay their own
costs.

Dated at Montpelier, Idaho, this 24th day of December 1900.

EXHIBIT D

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

A21-00015

Date Received

Receipt Number

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly:

1. Name of Claimant (s) State of Idaho Dept. Fish & Game Phone (208) 334-3700

Mailing Address P.O. Box 25 600 S. Walnut Boise, ID. Zip 83707

2. Date of Priority (Only one (1) per claim) 5/15/1896

3. Source of water supply (a) Sand Cr. (Sharp's Spring)
which is tributary to (b) Henry's Fork Snake River

4. a. Location of existing point of diversion is: Township 10 N Range 4 E Section 10,
1/4 of NW 1/4 of SW 1/4, Govt. Lot, B.M., County of Fremont

Additional points of diversion if any:

b. If instream flow, beginning point of claimed instream flow is:

Township Range Section , 1/4 of 1/4 of 1/4,

Govt. Lot B.M., County of

ending point is: Township Range Section , 1/4 of 1/4 of

 1/4, Govt. Lot B.M., County of

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.

A headgate and weir are located
on the creek and a ditch runs the water into a pond.
Pond is run-off-creek

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OCT 20 1992

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Fish propagation purposes from 1/1 to 12/31 amount 0.2 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.2 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) Fish propagation

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
10N	41E	9									SH			SH	SH	SH	SH		
		10										H							

Total number of acres irrigated _____

11. In which county (ies) are lands listed above as place of use located? Fremont

12. Do you own the property listed above as place of use? Yes X No _____

If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
A21-00010, A21-00014 or None ()

14. Remarks: Use has changed from irrigation to fish propagation

Last Name IDFG

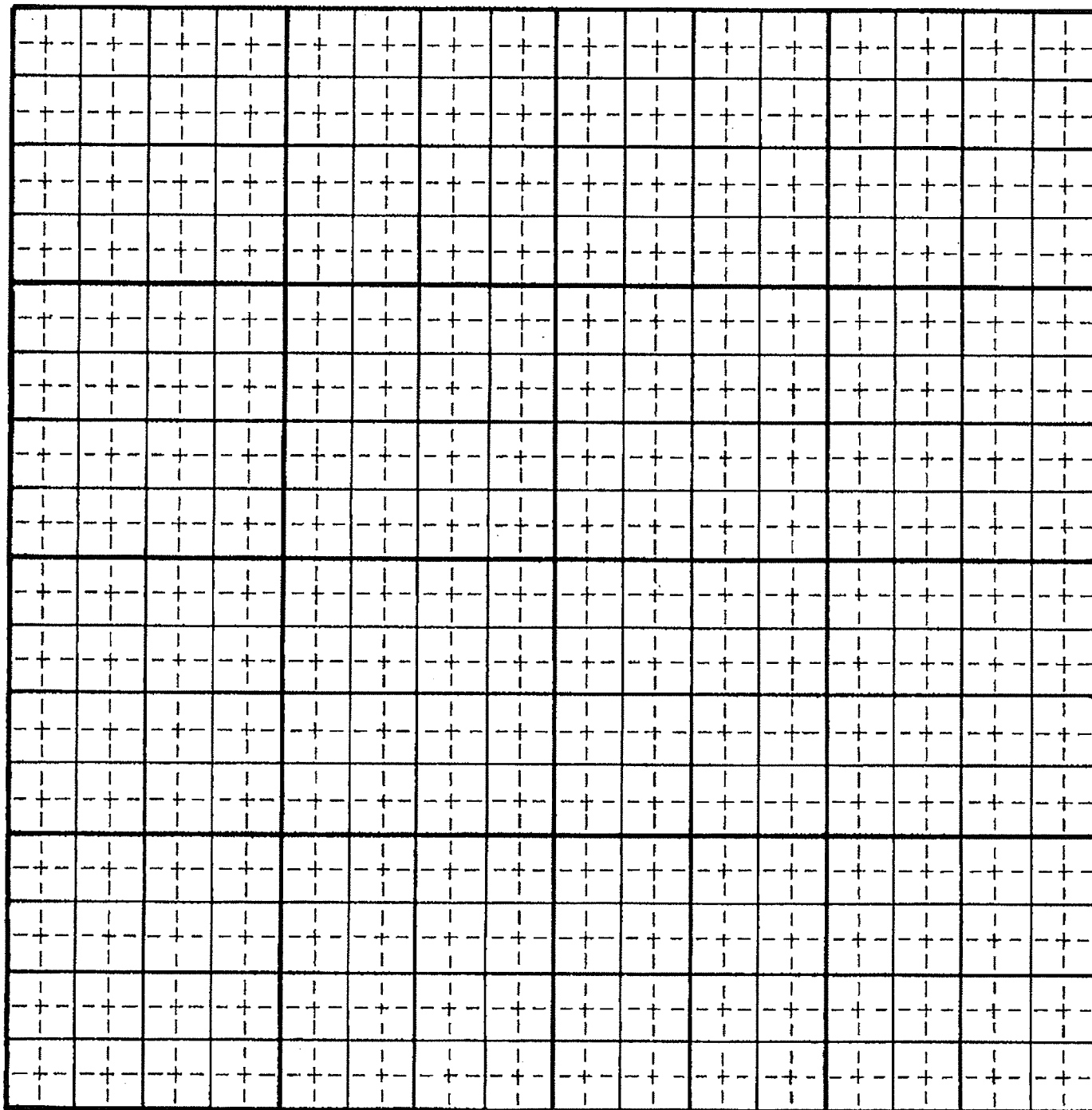
Ident No. A21-00015

MICROFILMED

Copies: 2 of 2 Claimant
OCT 20 1992

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 Inches equals 1 mile



MICROFILMED

Last Name IDFG

Ident No. A21-00015

OCT 20 1992
Copies: White-Stat, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____

If applicable provide IDWR Water Right Number A21-60015

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant Micaela

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

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date _____

Date _____

For Organizations: I do solemnly swear or affirm that I am Director

of IDAHO DEPT. OF FISH & GAME Title that I have signed the foregoing

document in the space below as Director of IDAHO DEPT. OF FISH & GAME

document in the space below as Director of IDAH0 DEPT. OF FISH & GAM
Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent 

Title and Organization Supt. IDAHO DEPT. OF FISH & GAME Date 6/20/1990

State of Idaho/or Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 20th day of June 1990

SEAL

Notary Public *Nakathu Baker*

Residing at Emmett Idaho

My Commission Expires October 31, 1991

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

Last Name 1DFG Ident. Number A21-00015

MICROFILMED

Copies Held - **OCT 20 1992** - **Yellowknife**

EXHIBIT E

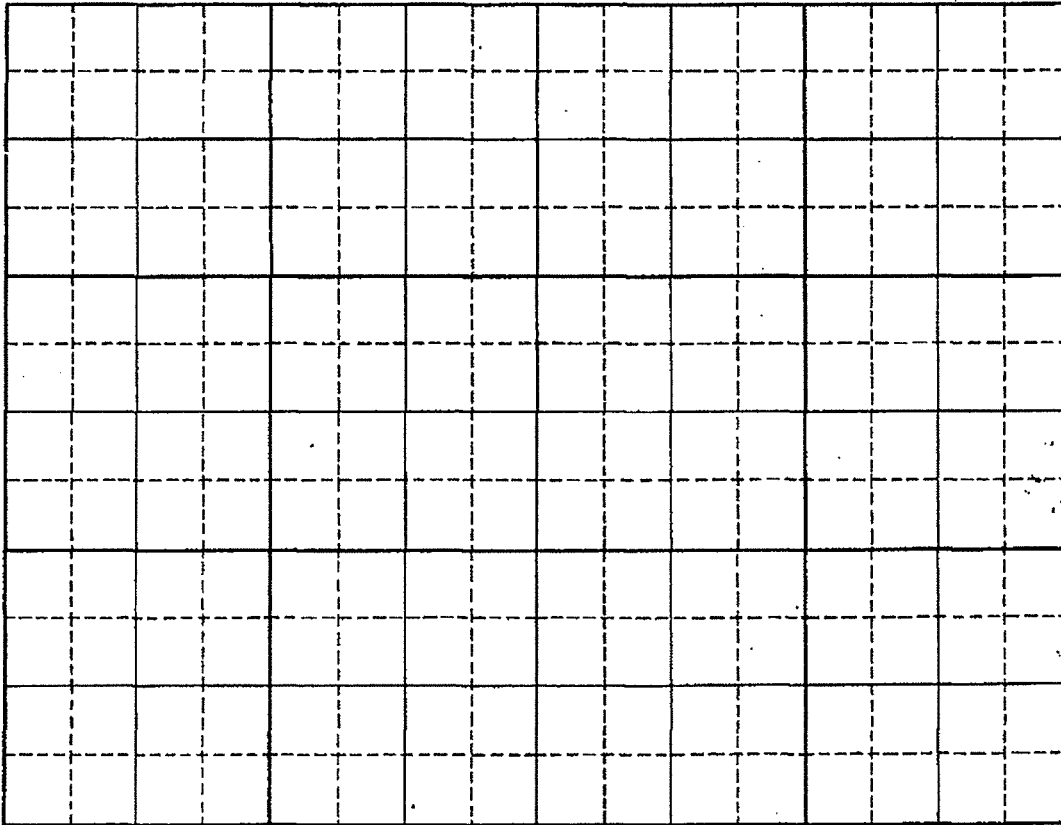
CLAIM TO A WATER RIGHT

Notice is hereby given that IDAHO FISH AND GAME DEPARTMENT
600 South Walnut Street (name of claimant)
of P. O. Box 25 Boise, ID 83707, claims a right to the diversion and beneficial use of
(mailing address)
ground water or surface water tributary to Henry's Fork of Snake River.

(cfs, gpm or a/f)	(dom., intl., stock, etc.)	(both dates inclusive)
----------------------	-------------------------------	------------------------

(7) If you are claiming water as a member of an organization, list name of organization:

- (8) Remarks The Fish & Game Dept. on May 13, 1960, submitted to the Dept. of Reclamation (Dept. of Water Administration) an application for permit to construct a reservoir and appropriate and store water in the amount of 150 acre ft. of water in this pond area, designated Pond #4 on the attached map (Permit #R-1069-21-2159). This claim to a water right is for an additional 240 acre ft. of water storage for a total of 390 acre ft., the capacity of reservoir #4 in 1962.



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system. Map attached.

State of Idaho

County of Bonneville ss.
Ada

Be it known that the undersigned, being duly sworn, deposes and says that he, ~~XXX XXXX~~ subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

IDAHO FISH AND GAME DEPARTMENT

Sworn to before me this 27th day of September

Joseph C. Green Director

Robert Walter 19 73

Notary Public

Residing at Boise, Idaho

My commission expires 6/10/75

For Department Use Only

Received by mt Date 9-24-73 Exception filed by: _____ Forwarded to _____ Date _____
Prelim. check by NCY Date 9/24/73
\$10.00 fee received by mt Date 9-24-73 VOUCHER SIGNED _____
Approved for publication by (tu) 9/22/73 10/11/73
Published in Idaho Fish & Game # 70392
Dates Oct. 4 - Oct. 11, 1973

Public, App'd NCY 10/18/73

EXHIBIT F

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: Spate Creek and reservoir

3. Location of point of diversion: NW¹SW¹ Sec. 3, Twp. 10 N., R. 41 E., B. 1.

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-crib face, up-
stream spillway 82 ft long, 12' high, 12" walls of concrete.

1. Time 250' - 3' x 15" at 1/2 plant capacity 6 cu ft

1. Home 200-12"x18" " " " R. S. H.

1 flume 400 " " R " "

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

$3\frac{1}{2}$ miles. Interval 3 to 5' bottom. R. 71. 6 cu ft.

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): N1/4S1/4, SW1/4S1/4 Sec.3, NE1/4N1/4, NW1/4N1/4, SW1/4N1/4, S1/4N1/4, NE1/4N1/4, NW1/4N1/4

SW $\frac{1}{4}$ AW $\frac{1}{4}$, 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. 4 N.

$NE_{\frac{1}{2}}NE_{\frac{1}{2}}^{\perp}$	30	✓	$NW_{\frac{1}{2}}NW_{\frac{1}{2}}^{\perp}$	} Sec. 9	30	✓
$NW_{\frac{1}{2}}NE_{\frac{1}{2}}^{\perp}$	0	+	$SW_{\frac{1}{2}}SW_{\frac{1}{2}}^{\perp}$		0	✓
$SW_{\frac{1}{2}}NE_{\frac{1}{2}}^{\perp}$	30	✓	$NW_{\frac{1}{2}}SE_{\frac{1}{2}}^{\perp}$	} Sec. 10	40	✓
$SE_{\frac{1}{2}}NE_{\frac{1}{2}}^{\perp}$	40	✓	$NE_{\frac{1}{2}}NW_{\frac{1}{2}}^{\perp}$		40	✓
$NE_{\frac{1}{2}}NW_{\frac{1}{2}}^{\perp}$	35	✓	$NW_{\frac{1}{2}}NW_{\frac{1}{2}}^{\perp}$		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, ps. Shown to me.

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 farm of Mr. Bishop and do not reach

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

Remarks: The SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 9 should have been included, but was left out by mistake. The acreage as cross-titled and marked in red is irrigated by the Bishop. Does former right case for acreage not included in this application?

This examination was made on the 24 day of Aug. 1924.

(Signed) Chas. H. Essinger Examiner.

14459

OVER

(This report must be sworn to when not made by an attache 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.

Bis. 36-A

John Bishop

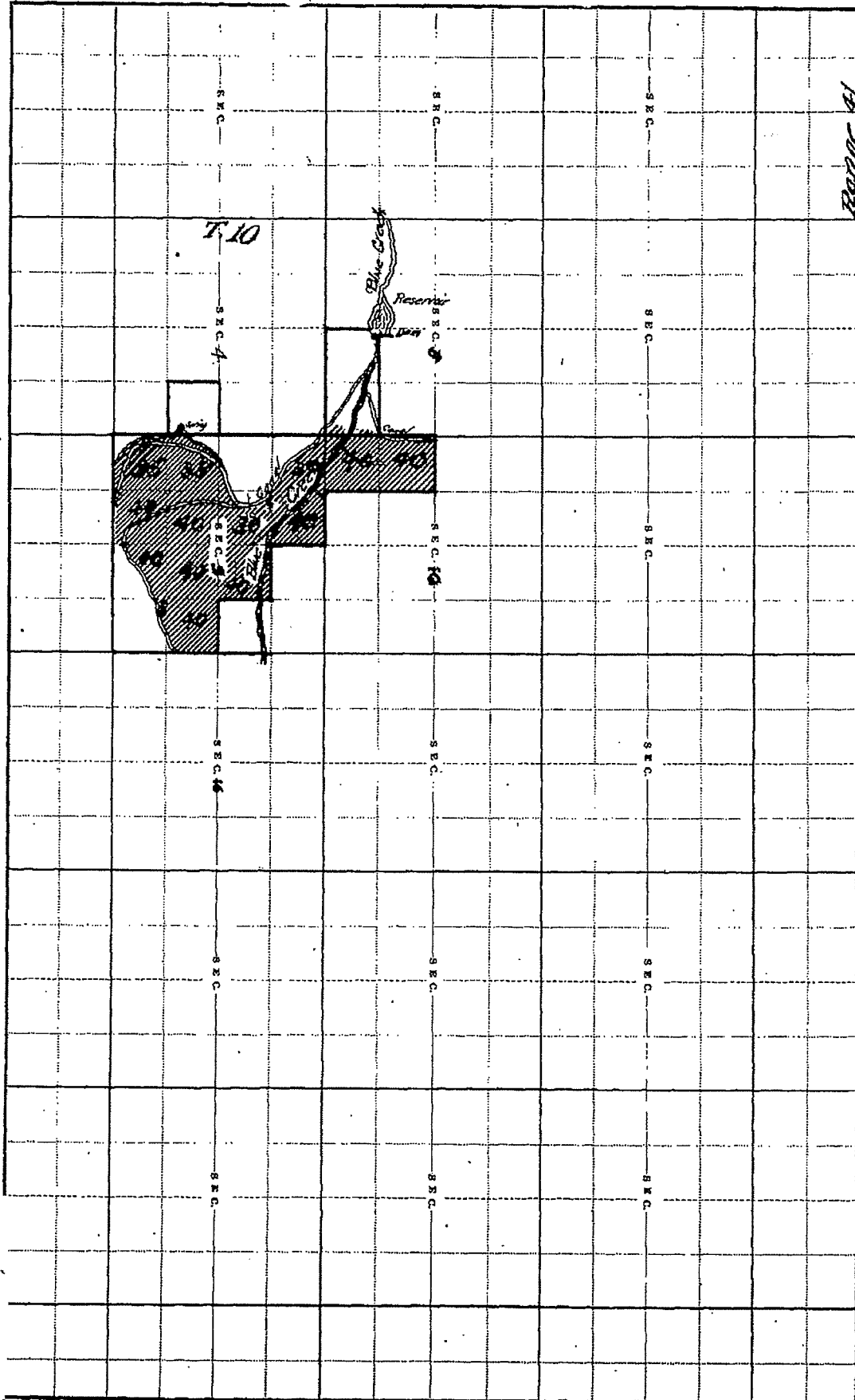
St. Anthony,

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 put 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 put same.
5. Make a map showing the correct location of streams 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 remark.
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.

NAME OF APPLICANT John E. '90



SCALE: 2 INCHES = 1 MILE. DRAW PLAN IN INK.

14459

EXHIBIT G

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 waters 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 circumstance 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, 19

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, N $\frac{1}{2}$, SW $\frac{1}{4}$ and NW $\frac{1}{4}$ of SE $\frac{1}{4}$, Sec. 9; N $\frac{1}{2}$ 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.

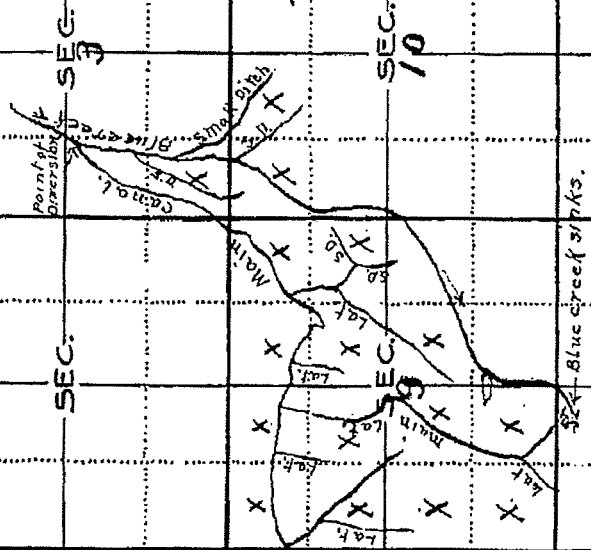
Witness my hand this 8th day of November, A. D. 1913.

F. P. KING,

State Engineer of the State of Idaho.

8
Page 1462

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



6416

B/3