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Department of Water Resources

Claimant: Shelby Wise and Joan Wise

Attorney Name and Address: HEPWORTH, LEZAMIZ & HOHNHORST,
CHARTERED
133 Shoshone St. North
P.O. Box 389
Twin Falls, ID 83303-0389
Telephone: (208)734-7510

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

* * * * *

In Re SRBA	)	Subcase No. 36-00084
	)	
	)	MOTION FOR LEAVE
Case No. 39576	)	TO FILE LATE OBJECTION
	)	

96-07-0007

* * * * *

COMES NOW Claimant, Shelby Wise, by and through undersigned counsel and moves the court to enter an order pursuant to *SRBA Admin. Order No. 1*, permitting Claimants to file a late objection to the recommendation filed by Idaho Department of Water Resources regarding the claim made by Shelby Wise and Joan Wise, number 36-00084.

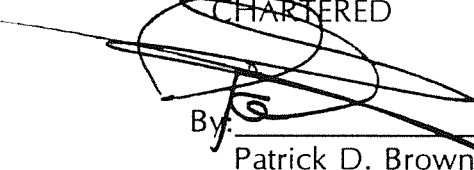
This motion is based upon the *Affidavits of Shelby Wise and Patrick D. Brown*. Mr. Brown states why the objection was not filed within the scheduled deadline for Basin 36. Mr. Wise states the meritorious basis upon which the objections rest and the factual

1 foundation on which the rights will be based. A Proposed Objection is attached to this
2 motion.

3 Oral argument is requested.

4 Dated this 6 day of June, 1996.

5 HEPWORTH, LEZAMIZ & HOHNHORST,
6 CHARTERED

7 By: 

8 Patrick D. Brown
9 Attorneys for Claimant
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CERTIFICATE OF SERVICE

The undersigned, a resident attorney of the State of Idaho, with offices at 133 Shoshone St. North, P.O. Box 389, Twin Falls, Idaho 83303, and one of the attorneys for the claimants in this matter, certifies that on the 7 day of June, 1996, he served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

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

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

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John K. Simpson
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Boise, ID 83701-2139

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Director of IDWR
P. O. Box 83720
Boise, ID 83701-2139

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Rinda R. Just
Deputy Attorney General
Parks and Recreation Dept.
Boise, ID 83720

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U.S. Fish & Wildlife Service
Division of Engineering
911 N.E. 11th Ave.
Portland, OR 97232

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Patrick D. Brown

(WATER\00084MOT.LT)\lm

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. <u>36-00084</u>
Case No. 35976	)	(Insert Water Right Number)
	)	
	)	STANDARD FORM NO. 1
	)	
_____	)	OBJECTION

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. To object to more than one water right, you must file a separate objection form for each. The water right number you are objecting to must be indicated above in the blank space following "Case No. " 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 SRBA Court no later than 14 days before the filing deadline to file their pleadings.

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.

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

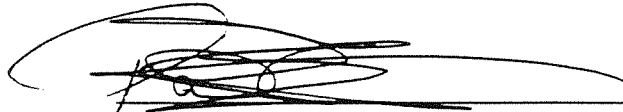
VERIFICATION (Must be Completed)

State of Idaho

County of Twin Falls

Patrick D. Brown, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection (as listed on Page 2, Section 2, "Party/Claimant Objecting") as defined by I.C. §42-1401A(1)(7), and that I have read this objection, know its contents and that the statements 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 on: June 7, 1996

Sandra E. Morrison
Notary Public for Idaho
Residing at: Jerome
My Commission Expires: 124 12001

✓
MOORE

a total of 20 acres.

NEAL,	2	Billingsley Creek	April 1, 1885	Sands Ditch
LOUIS,	1	Billingsley Creek	April 1, 1910	Sands Ditch
HARRY H.	2	Billingsley Creek	Jan. 2, 1891	Granger Ditch
AND EFFIE	.8	Spring	Jan. 2, 1891	Unnamed Spring;

NEAL,
AND ALVA
EED

(Said Unnamed spring arises in the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 11, Twp. 7 S. R. 13 E. B. M. at a point 1065 feet north 2 degrees 2' West from the southeast corner of said forty acre tract of land.)

The SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 11, Twp. 7 S. R. 13 E. B. M. excepting approximately nine acres described as follows:

Beginning at the Southeast Corner of the said Southwest Quarter of the SE $\frac{1}{4}$ of said Sec. 11, Thence north along the center of the Hagerman road 305.25 feet, thence North 80 degrees 55' West 907.5 feet, thence South 44 degrees 58' West 631.15 feet to the Quarter corner of the boundary line between Sections 11 and 14, thence due east to the place of beginning.

Also the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Sec. 11, Twp. 7 S. R. 13 E. B. M., excepting a strip of ground extending along the entire length of the south side of said SE $\frac{1}{4}$ of the SW $\frac{1}{4}$, which strip is 28 feet wide on the west and runs to a point at the east end, or the quarter corner of the above mentioned secs. 11 and 14, Twp. 7 S. R. 13 E. B. M.

✓
MILES,
LIBBIE

1.4	Len Lewis Spring	Sept. 1, 1889	Brailsford- Owens Ditch
-----	------------------	---------------	----------------------------

All that portion of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 36, Twp. 7 S. R. 13 E. B. M. lying west of the central channel of the "Brailsford Ditch," as now laid out and existing through said subdivision, which said tract of land contains approximately 7.17 acres of land and is more particularly bounded and described as follows, to-wit:

"Commencing at the southwest corner of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$

NAME	AMOUNT OF WATER IN SECOND FEET AND SOURCE	PRIORITY OF APPROPRIATION	DIVERSION POINT
------	---	------------------------------	-----------------

of said section, township and range aforesaid; thence east along the south boundary of said subdivision 488 feet to the center of the said "Brailsford Ditch;" thence following the center channel of said ditch north 19 degrees 34' West 170 feet; thence north 48 degrees 14' West 165 feet; thence north 9 degrees 29' West 723 feet; thence north 20 degrees 15' West 360 feet to the northwest corner of said subdivision; thence south along the west boundary line of said subdivision 1330 feet to the place of beginning.

Also the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 36, Twp. 7 S. R. 13 less the north 2 $\frac{1}{2}$ acres thereof now belonging to one W. C. Barton, said exception being that portion of said tract of land lying north of the public highway.

ARROTT, RS. FLOR- NCE,	1.2 Billingsley Creek	Sept. 10, 1884	Buckeye Ditch;
------------------------------	-----------------------	----------------	----------------

A certain tract of land commencing 204.3 feet west of the southeast corner of Block No. 10 and continuing along said line west 195.7 feet to the southwest corner of said Block, thence north along said block line 269.3 feet to the northwest corner of said block; thence east along said block line 297 feet; thence in a south-westerly direction 287.7 feet to the point of beginning containing 1.52 acres more or less, all in Block No. 10 of the Townsite of Hagerman, according to the map or plat on file in the office of the Recorder of Gooding County, Idaho;

Also Lots 1 to 7 inclusive and 10 to 16 inclusive of Block 9, Lots 3, 4, 7, 10, 11, 12, 14, 15, 16, in Block 6, Lots 9, 10, 11, 12, 13, 14, 15, and 16 in Block 5 of Hagerman Townsite, according to the map or plat thereof on file in the office of the Recorder of Gooding County, Idaho.

PENFOLD, JOHN T., AND EMMA PENFOLD	2 Spring	Feb. 1, 1888	Weatherby Springs;
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The SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 25, Twp. 7 S. R. 13 E. B. M. and that portion of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 25, known as Tax No. 3, and more particularly described as follows, to-wit: Beginning at a point on the East line of the southwest quarter of Sec. 25, Twp. 7 S. R. 13 E. B. M. 1590 feet north of the southeast corner of said SW $\frac{1}{4}$ of Sec. 25, thence running north 34 degrees West 488 feet, thence North 20 degrees, west 685 feet to within 15 feet of the North boundary of said SW $\frac{1}{4}$ of Sec. 25, thence 89 degrees 18 minutes east 500 feet and thence south 1035 feet to the place of beginning.

PENFOLD, PARLEY, AND GRACE PENFOLD	2.4 Billingsley Creek	March 30, 1884	E.M. Bell Ditch
	.4 Billingsley Creek	Sept. 10, 1884	Buckeye Ditch.
	The NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 27, Twp. 7 S. R. 13 E. B. M.		

WATER RIGHT ELEMENTS

1. Name and Address of Claimant:
Shelby Wise and Joan Wise
1049-B E. 2925 S.
Hagerman, ID 83332
2. Source of Water:
Len Lewis Spring
3. Quantity of Water Used:
1.4 cfs
4. Date of Priority:
September 1, 1889
5. Legal Description of the Point of Diversion:
Township 8 South, Range 14 East, Boise Meridian, Section 6,
SE1/4SW1/4NE1/4, Gooding County, Idaho
6. Purpose of Use:
Irrigation; Diversion System Maintenance; Stockwater
7. Period of Year Water is used for such Purposes:
Irrigation purpose is used during the irrigation season; All other
purposes are used year around
8. Legal Description of the Place of Use:
Township 7 South, Range 13 East, Boise Meridian, Section 36,
SW1/4NE1/4 - 7 acres;
Township 7 South, Range 13 East, Boise Meridian, Section 36,
SE1/4NW1/4 - 22 acres
9. Annual Volume of Consumptive Use:
108.75 afa
10. Conditions on the Exercise of Water Right:
None
11. Remarks necessary for Definition:
None