

RECEIVED

MAR 01 2013

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

) Subcase: 31-12314
)
)

Case 39576

) STANDARD FORM 4
)
)

) MOTION TO FILE
)

) ☒ LATE NOTICE OF CLAIM
)

) ☐ AMENDED NOTICE OF CLAIM
)
_____)

☒ I have read ***SRBA Administrative Order 1, Rules of Procedure*** (amended Sept. 30, 1996).

My name is: Paul Gunderson (aka K Paul Gunderson)

My address is: 1555 E. 1500 N., Hamer, ID 83425

My phone number is: (208) 339-6670

I am an attorney representing Paul Gunderson

My name is Jerry R. Rigby

My address is: 25 North 2nd East, P.O. Box 250, Rexburg, Idaho 83440

My phone number is: (208) 356-3633

- ☒ I am providing legal and factual documentation for my claimed use of water. You must described these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

Owsley Canal Company vs. Ernest Bauerle Decree (10/14/1940)

Attachment #1 Review of decreed water right 31-95

I have attached:

- ☒ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$_____.
- ☒ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$447.00.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:
This motion will be heard on: Tuesday, May 21, 2013 at 1:30 P.M.,
at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

VERIFICATION

STATE OF IDAHO,)

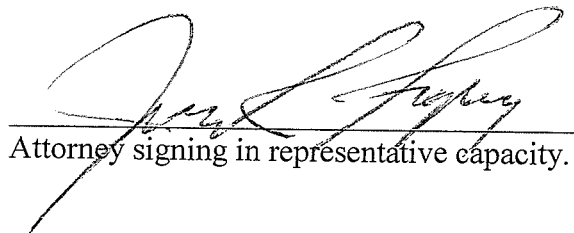
ss

County of Madison.)

Jerry R. Rigby, being first duly sworn, upon oath, deposes and says:

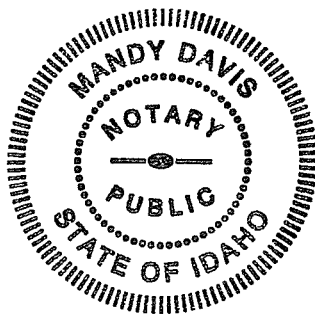
That I am the _____ of party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 4204101A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

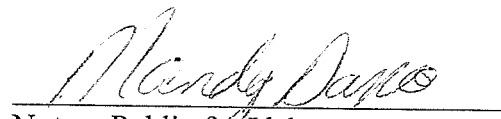
Signature of person filing motion



Attorney signing in representative capacity.

Subscribed and sworn to before me on this 26th day of February, 2013.





Notary Public for Idaho
Residing at St. Anthony
My Commission Expires: 06/24/2017

CERTIFICATE OF MAILING

I certify that on February 27, 2013, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to

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

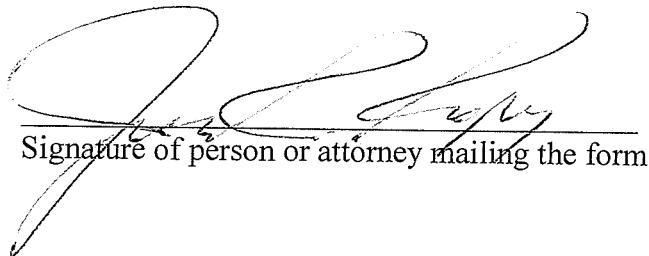
2. Copies to:

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

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

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

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or Special Master, you must serve a copy on all parties in that subcase.



Signature of person or attorney mailing the form

2-27
RECEIVED

MAR 01 2013

DEPARTMENT OF
WATER RESOURCES

SRBA Form No.42-1409-1 (Internet 2/09)

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576 - 10

Ident. Number 31-12314

Date Received: _____

Receipt No: _____

Received By: _____

NOTICE OF CLAIM
TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Paul Gunderson (aka K Paul Gunderson) Phone (208) 339-6670
Mailing Address 1555 E 1500 N Hamer ID ZIP 83425
Street or Box City State
2. Date of Priority (Only one (1) per claim) 10/14/1940
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water (✓) or Other () (a) _____
which is tributary to (b) _____

4. a. Location of Point of Diversion is: Township 7N, Range 35E, Section 27,
NE, 1/4 of NE, 1/4 Govt. Lot SE, BM., County of Jefferson

Parcel (PIN) no. _____

Additional points of diversion if any: SWNWSW Sec 25; SENE & NESE Sec 26, T07N, R35E

If available, GPS Coordinates _____

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

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

Govt. Lot _____, BM., County of _____

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

Govt. Lot _____, BM., 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. Wells mainline to sprinklers and ditches for flood irrigation

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For Irrigation purposes from 04/01 to 10/31 amount 10.00 or

For purposes from to amount or

For purposes from to amount or

For purposes from to amount or

7. Total quantity claimed (a) 10.00 (cfs) and/or (b) (acre feet)

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

9. 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.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
7N	35E	25										38							38
		26				14									37	25	39	38	153
		27													40	39	38	39	156

Parcel (PIN) no(s).

Total number of acres irrigated 347

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

11. Do you own the property listed above as place of use? Yes (✓) No ()

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

12. Describe any other water rights used at the same place and for the same purposes as described above.

31-11604, 31-11688, 31-11689, 31-7008, 31-95A & 31-7338

or None ()

13. Remarks: See Attachment #1

Note that 31-11362 (Joseph & Ella Marty) from Ground Water (Priority 10/14/1940) was allowed based on the Owsley Canal Co. vs. Earnest Bauerle decree that described the replacement (i.e. accomplished change) of the source from Dead Line Lake to Ground Water based on the precedent set in Raft River Recommendation 43-82A

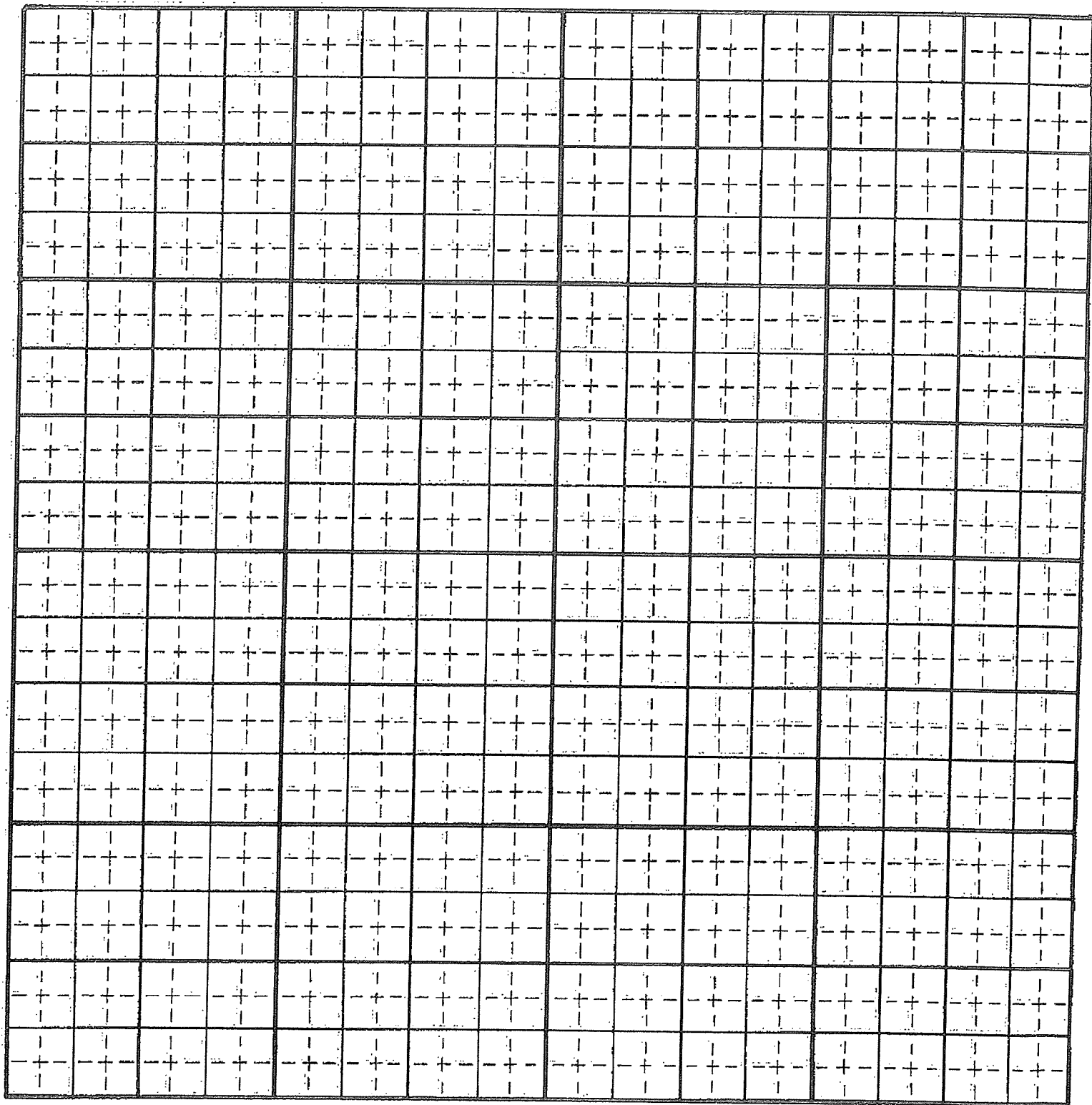
Last Name Gunderson

Identification No.

Map of Project: Attach aerial photograph or topographic map showing clearly the point of diversion, place of use, section number, township, and range number, unless unavailable. Otherwise sketch the elements above on the grid below.

Scale: 2 Inches equals 1 mile

See Attachment #2



Last Name Gunderson

Identification No. _____

14. Basis of Claim (Check One) Beneficial Use () Posted Notice () License () Permit () Decree (✓)

Court _____ Decree Date 10/14/1940 Plaintiff v. Defendant Owsley Canal Company vs.
Civil No. 1739 Ernest Bauerle
If applicable provide IDWR Water Right Number _____

15. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices 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/We do solemnly swear or affirm under penalty of perjury 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 under penalty of perjury that I am

_____ of _____,
Title Organization

that I have signed the foregoing document in the space below as

_____ of _____,
Title Organization

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

Signature of Authorized Agent Jerry R. Rigby Date 2-26-13

Title and Organization ATTY FOR PAUL GUNDERSON

16. Notice of Appearance:

Notice is hereby given that I, Jerry R. Rigby, will be acting as attorney at law of 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 Jerry R. Rigby Date 2-26-13

Address P.O. Box 250
REXBURG, Id 83440

Last Name Gunderson Identification No. _____

The Earnest Sauve vs. W. H. Abbott (11/01/1930) (Pgs 5 - 8 of 20) decreed water rights "No. 47" (Pg 7 of 20) were numbered as 31-0095 for 10.0 cfs (2/6/1918) from Dead Line Lake and 31-0096 for 15.2 cfs (3/3/1906) from an unnamed stream tributary to Mud Lake. Dead Line Lake does not appear on any USGS maps and appears to have disappeared sometime in the 1930's.

In the Snake River Basin Adjudication (SRBA) K. Paul Gunderson filed an SRBA claim on a portion (4.99 cfs) of water right 31-0095 and the claim was numbered 31-0095A (Pg 4 of 20). Sometime later Joseph and Ella Marty also filed on 31-0095 but since a portion of 31-0095 already had been filed on (i.e. 31-95A) their SRBA claim was number 31-0095B (Pg 13 of 20).

Location of Dead Line Lake:

Since Dead Line Lake does not appear on any USGS maps the exact location of the lake creates problems in defining the point(s) of diversion (i.e. location of). The Earnest Sauve vs. W. H. Abbott (11/01/1930) Decree provides the following information on the location of Dead Line Lake:

Water Right(s) No.3; Anderson Bros. Bank, 01/29/1910 priority water right for 3.20 cfs, the point of diversion is listed as "At a point North 66°05' East 1090 feet distant from the Quarter Section corner between Sections 26 and 27, Township 7 North, Range 35 East, B.M." (Pg 6 of 20)

And;

Water Right(s) No.47; 31-0095 H.R. Jackett and Frank S. Jackett, 02/06/1918 priority for 10.0 cfs water right from Dead Line Lake and right 31-0096 with the 03/03/1906 priority for 15.2 cfs from an unnamed stream, tributary to Mud Lake, lists points of diversion as SE¼NW¼ & NW¼NW¼ Sec 27, and the SW¼NW¼ Sec 26, all in T07N, R35E..... (Pg 7 of 20)

Dead Line Lake Water Rights:

In addition to the Earnest Sauve vs. W. H. Abbott (11/01/1930) Decree, The Owsley Canal Company vs. Ernest Bauerle Decree (10/14/1940) (Pg 9 - 12 of 20) references some of the same water rights.

The Owsley Canal Company vs. Ernest Bauerle Decree (10/14/1940) includes the following for Frank S. Jackett:

"... the defendant Frank S. Jackett is the owner of water permit ... issued to him by the Department of Reclamation of Idaho, for diversion by means of wells of 10 cubic feet per second of underground water ... also the owner of water... issued... to H.R. Jackett for the diversion of 10 cubic feet per second of underground water... defendant Frank S. Jackett is also the owner of certain wells whereby he obtains 15.2 cubic feet per second water decreed in the case of Sauve V. Abbott, et al, in the United States District Court of the District of Idaho, with a priority date of March 3 1906, which is from spring water arising in what has been known as "Deadline Lake" and in Sections 12, 23, 26, and 27, Township 7 North, Range 35 East Boise Meridian, being water from underground source in the vicinity of Mud Lake." (Pgs 10 - 11 of 20)

This section of the Owsley vs. Bauerle decree appears to indicate that (Ground Water) wells are required in order to divert water from Dead Line Lake (31-0095) and the spring water (31-0096).

"... Frank S. Jackett is also the owner of certain wells whereby he obtains 15.2 cubic feet per second... from spring water arising in what has been known as Deadline Lake" (Pg 10 of 20)

In the Adjudication Claim Back File for 31-95B the Recommended Right Report of 31-0095B (Pgs 13 - 14 of 20) the Comments Section dated 4/12/01 under "Remarks" has the following:

"Remark Copied from Raft River recommendation 43-82A pending instructions from Boise."(Pg 14 of 20)

Also;

"31-11362 is recommended as a replacement well for this right and 31-96..."(Pg 14 of 20)

A memo from Bryce Contor dated 6/22/2000 outlines the "Change of Source":

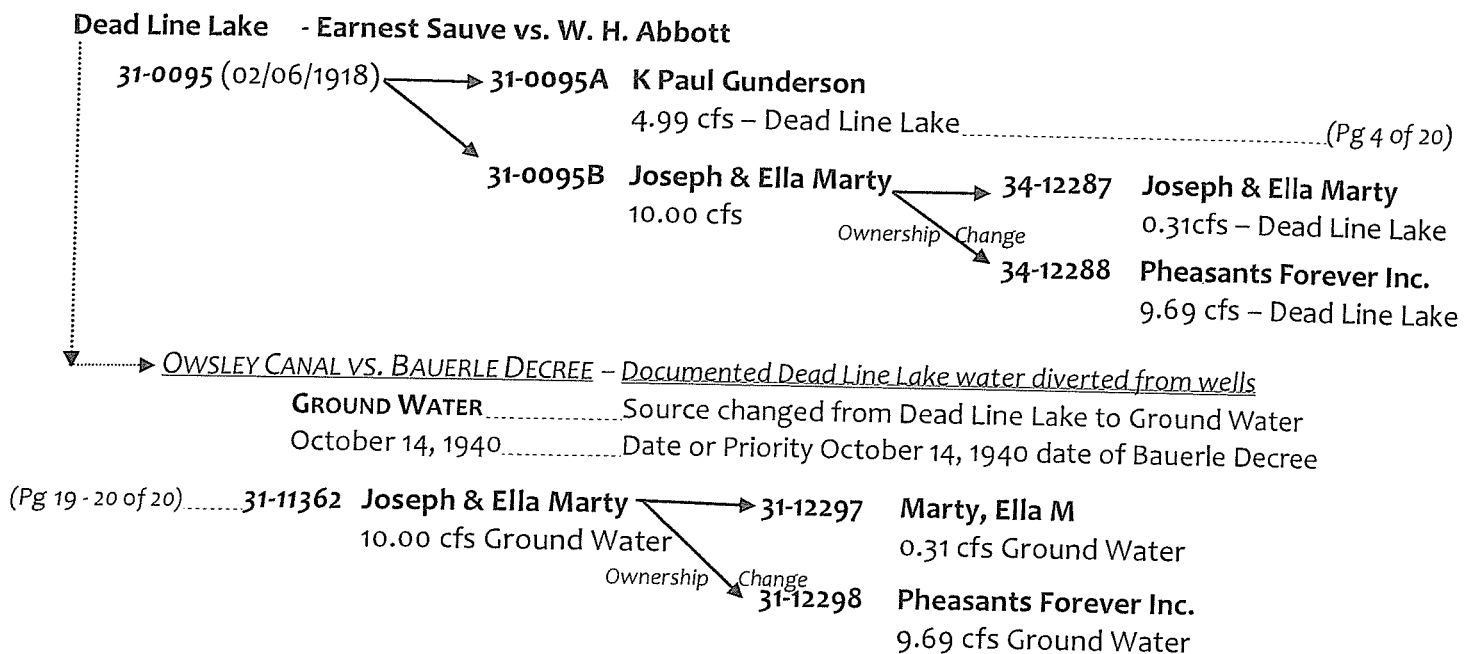
"1. Renumber original signed claim A31-00095 to A31-11362 and recommend as a beneficial use claim, source GW, Priority Date 10/14/1940 (the date the Bauerle Decree was issued) since the Bauerly references the accomplished change to the well."(Pg 15 of 20)

In a letter(Pgs 16 - 18 of 20) dated April 25, 2001, to Joe and Ella Marty, from Bryce A. Contor, a Senior Water Resource Agent with the Idaho Department of Water Resources, Item #3 titled "Priority Date for 31-11362" included the following:

"3. According to the precedent set in Raft River¹, I have recommended this replacement ground water right with the earliest date that I can document its use. That date is October. 14, 1940, the date of the Bauerly Decree which describes the replacement."(Pg 17 of 20)

Based on the information and recommendations above the following is the Pedigree of these water rights:

Pedigree:



1. Raft River Recommendation 43-82A

Review of Pedigree: Recommendations of water rights in the Snake River Basin Adjudication

The Earnest Sauve vs. W. H. Abbott decreed water right 31-0095 (02/06/1918) from Dead Line Lake. The Owsley Canal vs. Bauerle Decree (10/14/1940) subsequently documented that the source of water had changed from Dead Line Lake to Ground Water (wells).

Joseph & Ella Marty:

Based on the Earnest Sauve vs. W. H. Abbott the original SRBA claim 31-95B (Split 31-12287 & 31-12287) was decreed from Dead Line Lake for 10.00 cfs and a priority of February 6, 1918. The Owsley Canal vs. Bauerle Decree, the Raft River Recommendation 43-82A and the original SRBA claim 31-0095B were the basis for decreed water right 31-11362 for 10.00 cfs from ground water with a priority of October 14, 1940 (the date of the Bauerle Decree).

K. Paul Gunderson:

Water right 31-0095 (02-06-1918) from Dead Line Lake was split into 31-0095A (4.99 cfs) for K. Paul Gunderson, & 31-0095B (10.00 cfs) Joseph & Ella Marty.

K. Paul Gunderson water rights do not appear to have been processed in the SRBA the same as Joseph & Ella Marty and therefore did not received the same consideration of the Owsley Canal Company vs. Ernest Bauerle Decree and the precedence set in the Raft River Recommendation 43-82A for a ground water right.

Conclusion:

It is recommended that K. Paul Gunderson file a petition with the Snake River Basin Adjudication Court to file a late claim to receive the same consideration as Joseph & Ella Marty.

31-0095

DEAD LINE LAKE WATER RIGHTS

ATTACHMENT #1 (Page 4 of 20)

WATER RIGHT NO. 31-95A

Owner Type	Name and Address
Current Owner	K PAUL GUNDERSON
	1555 E 1500 N, HAMER, ID 83425

Priority Date: 02/06/1918

Basis: Decreed

Status: Active

Source	Tributary
DEAD LINE LAKE	MUD LAKE

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	04/01	10/31	4.99 CFS	
Total Diversion			4.99 CFS	

Location of Point(s) of Diversion:

DEAD LINE LAKE	SWNW	Sec. 26	Township 07N	Range 35E	JEFFERSON County
DEAD LINE LAKE	NWNW	Sec. 27	Township 07N	Range 35E	JEFFERSON County
DEAD LINE LAKE	SESW	Sec. 27	Township 07N	Range 35E	JEFFERSON County

Place of Use Legal Description: IRRIGATION JEFFERSON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
07N	35E	27		NESE	40		NWSE	39		SWSE	38		SESE	39

Total Acres: 156

Conditions of Approval:

1.	C18	THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
2.	E55	USE OF THIS RIGHT WITH RIGHT NO. 31-7008 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 156 ACRES IN A SINGLE IRRIGATION SEASON.
3.	C05	RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
4.		<i>The point of diversion described above represents an unused facility due to infrequent availability of water. Before this right may be diverted the water user must file a transfer to establish an active point of diversion, or show that an easement and means to convey water from the diversion to the place of use exists.</i>
5.	E51	USE OF THIS RIGHT WITH RIGHT NO. 31-7008 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 4.99 CFS.

Decreed Date: 02/22/2002

Water District Number: 110

Combined Acres Limit: 156

Combined Rate Limit: 4.99

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF IDAHO, EASTERN DIVISION

SAUVE VS. ABBOTT DECREE

ERNEST SAUVE,

Plaintiff,

-VS-

No. 635. -- In Equity

D E C R E E

To W. H. Abbott, Fay Abbott, Mary C. Adels, Allen Almonda, G. B. Allen, Allen & Harn, a co-p artnership, consisting of G. B. Allen and H. R. Harn; Wm. A. Andrews, Joseph Andrasen, Anderson Bros. Bank, a corporation; Gerret Auldhouse (sometimes known as Gerret Oldhouse); Clausen Auldhouse (sometimes known as Clausen Oldhouse), William Axline, Ernst Bauerle, Edward C. Barnes, May L. Barnes, Lovisa Barney, Arthur J. Barber, Charles Bartlett, Ambrose J. Beckner, Laura E. Beckner, William Beck, David Bethune, Lloyd Bennett, Gus E. Brauer, Administrator of the Estate of Annie J. Bennett, deceased; A. W. Belnap, C. W. Belnap, The Bennett Investment Company, Limited, a corporation; Gussie Binnard, Burka Binnard, Horace L. Birch, Binnard Ranch Company, a corporation; B. Binnard, Sarah Binnard and E. F. Mobley, Trustees for Binnard Ranch Company, a defunct corporation; Charles O. Rickman, as Trustee in Bankruptcy of Binnard Ranch Company, a corporation; Oscar A. Johannsson, as Receiver of Binnard Ranch Company, a corporation; Heber J. Blackburn, W. B. Boucher, Ray Bohney, R. T. Boatman, Mary Nicholas Boyd, Frank Boe, Charles E. Brosic, E. L. Browning, Adna E. Bramwell, Afton Bradshaw, Theresa Brinkmann, Lottie Burcham, G. F. Burcham, Katherine Burggraf, Anna M. Burggraf, John Burke (sometimes known as John Birks); John H. Burnside, Don R. Burnside, Arthur O. Burnside, Robert Burnside, Alexander Burrus, Burnside Bros., a co-partnership, consisting of John H. Burnside and Don R. Burnside; Vienna Carter, Luther V. Capps, Fred C. Carrell, Alice M. Cain, Charles G. Carlson, Albert Calkins, Elizabeth G. Capps, John Campbell, A. E. Carlson, Charles Campbell, Camas Mutual Irrigation Distric, a public corporation of Clark County, Idaho; Irene M. Cerney, Central Idaho Irrigation District, a public corporation of Jefferson County, Idaho; Chris Christensen, E. L.

SAUVE VS. ABBOTT DECREE (Cont.)G. B. Allen

1897 - May 1

1.2 c.f.s.

Source: Camas Creek, a tributary of Mud Lake.

1900 - July 1

1.8 c.f.s.

Point of Diversion: Where Camas Creek enters the land to be irrigated and hereinafter described.

For use on the following described land, to-wit: Northeast Quarter of Section 8, Township 12 North, Range 39 East, B. M.

No. 3**Source: Dead Line Lake**Anderson Bros. Bank,
a corporation

1908 - May 1

3.2 c.f.s.

Source: Dead Line Lake, a tributary of Mud Lake.

Point of Diversion: At the present point, or points, of diversion on or near the land to be irrigated.

For use on the following described land, to-wit: Northeast Quarter of Section 34, Township 7 North, Range 35 East, B. M.

1910 - January 29

3.2 c.f.s.

Source: Dead Line Lake, a tributary of Mud Lake.

POD with in: SW¼NW¼ Sec 26. T07N, R35E

Point of Diversion: At a point North 66°05' East 1090 feet distant from the Quarter Section corner between Sections 26 and 27, Township 7 North, Range 35 East, B.M.

For use on the following described land, to-wit: East Half of the Northwest Quarter and East Half of the Southwest Quarter of Section 34, Township 7 North, Range 35 East, B.M.

No. 4

SAUVE VS. ABBOTT DECREE (Cont.)

W. H. Hutchinson

1918 - January 1 2.6 c.f.s. Source: Camas Creek, a tributary of Mud Lake.

Point of Diversion: The intake of the Holley Water Users Association canal, which intake is located in the Southeast corner of the Northwest Quarter of the Northwest Quarter of Section 36, Township 7 North, Range 35 E.B.M.

For use on the following described land, to-wit: The South Half of the Southwest Quarter of Section 10; and the North Half of the Northwest Quarter of Section 15, Township 6 North, Range 35 East, B.M.

No. 46

Earle Jackson, as Administrator of the estate of Thomas A. Jackson, deceased (who died lite)

1917 - January 15 1.6 c.f.s. Source: Mud Lake

1918 - August 22 1.6 c.f.s. Point of Diversion: In the Northeast Quarter of the Northwest Quarter of Sec. 33, Twp. 7 North, Range 34 East, B.M.

For use on the following described land, to-wit: The Southeast Quarter of the Southeast Quarter of Section 29; the East Half of the Northeast Quarter and the Northeast Quarter of the Southeast Quarter of Section 32, Township 7 North, Range 34 East, B. M.

No. 47H. R. Jackett and Frank S. Jackett

31-0095 1918 - February 6 10.0 c.f.s. Source: Dead Line Lake, a tributary of Mud Lake.

31-0096 1906 - March 3 15.2 c.f.s. Source: An unnamed stream, tributary to Mud Lake.

POD's: T07N, R35E
Sec 26...SW¼NW ¼
Sec 27...NW¼NW ¼
.....SE¼NW ¼

Points of Diversion: (1) In the Southeast Quarter of the Northwest Quarter of Section 27; (2) In the Northwest Quarter of the Northwest Quarter of Section 27; (3) In the Southwest Quarter of the Northwest Quarter of Section 26; all in Township 7 North, Range 35 East, B.M.

For use on the following described land, to-wit: All of Section 33; the West Half of the West Half of Section 34; the Southeast Quarter of Section 28; the Southwest Quarter, and the South Half of the North Half of Section 27, all in Township 7 North, Range 35 East, B.M.

No. 48J. P. Jacoby

1890 - May 15 1.6 c.f.s. Source: Camas Creek, a tributary of Mud Lake.

Point of Diversion: In the Southwest Quarter of the Southeast Quarter of Sec. 20, Twp 10 N., Range 38 East, B.M.

For use on the following described land, to-wit: The Northeast Quarter and the East Half of the Northwest Quarter and the Northeast Quarter of the Southwest Quarter and the Northwest Quarter of the Southeast Quarter of Section 19, all in Township 10 North, Range 38 East B.M.

No. 49

-35-

SAUVE vs. ABBOTT DECREE (Cont.)

4.

And it is further ordered, adjudged and decreed, that no party hereto shall divert or use any of the waters herein decreed until he or his successors or assigns, have paid to the Commissioners aforesaid, the amount due and owing by such party, nor shall the official charged with the enforcement hereof permit any party, their successors or assigns, to divert any of the waters herein decreed without creditable evidence that such amount has been fully paid to such commissioners. A receipt from such commissioners, or either of them for the full amount so adjudged and decreed to be due them, exhibited to such official shall be creditable evidence that they have been paid.

DATED and SIGNED at Pocatello, Idaho, this 1st day of November,
in the year 1930.

(Signed). Charles C. Cavanah
United States District Judge

Endorsed, filed November 1, 1930
W. D. McReynolds, Clerk

THE OWSLEY CANAL COMPANY, a Corporation,
Plaintiff.

VS.

ERNEST BAUERLE, et al,

Defendants.

OWSLEY CANAL CO. VS. BAUERLE

CIVIL NO. 1739.

FINAL DECREE.

This cause came regularly on for trial before the court without a jury at the County Courthouse at Rigby, Idaho, on the 14th day of October, 1940.

The plaintiff and the defendant Ben H. Matkins appeared by their attorney, Edwin Snow. The defendants Ernest Bauerle, R.L. Bybie (whose name is sometimes spelled Bybee), R.P. Cope, R.P. Cope, as administrator of the estate of William Barnes, deceased, Edna Next, Cary Prugh (also known as Caroline E. Prugh), and Blanch Schaw (the last three defendants being successors to defendant H.R. Jackett, deceased), Holley Water Users' Association, a corporation, Bessie Hutchison Ellis (formerly Bessie Hutchison), Anna Hutchison (also known as Mrs. W.H. Hutchison, successor to W.H. Hutchison, deceased), Bessie M. Jackett, Frank S. Jackett, Samuel W. Lundholm, Frank E. McClain, David A. Sanders, J.L. Sanders, C.A. Sanders (successor to G.A. Adams, deceased, Charles Thieman, and John Barnes, appeared by their attorney, O.A. Johannesen; the defendants Nicholas Burgraf, Henry Jemmett, Nellie M. Skinner (also known as Nellie J. Skinner, successor to Mary Jemmett, deceased), Independent Water Users of Mud Lake, Inc., a corporation, Bertha I. Owsley, Merritt M. Owsley, Joseph B. Potter, and J.T. Sykes, were represented by their attorney, Ralph L. Albaugh.

None of the other defendants appeared either in person or by attorney.

A stipulation in writing, signed by all the parties who have appeared in the action by attorney, was presented to the court for approval, approved by the court, and filed herein, said stipulation reciting and stipulating the material facts in controversy, agreeing to compromise the cause, and consenting to the entry of this decree; and all parties who appeared in the action in their own persons filed in this cause their consent in writing to the entry of this decree; and accordingly, the cause having been duly submitted to and considered by the court, it is now,

ORDERED, ADJUDGED, AND DECREED AS FOLLOWS: MAY 28 1996

I.

1.

IV.

OWSLEY CANAL CO. VS. BAUERLE (CONT.)

That plaintiff is the owner of the following water permits issued to it by the Department of Reclamation of Idaho for the diversion by means of wells of underground waters in the vicinity of Mud Lake:

PERMIT NUMBER	AMOUNT.	PERMIT NUMBER	AMOUNT
31-0327 17611	110 cubic feet per second.	17640	50 cubic feet 31-0329 per second.
31-0328 17612	100 cubic feet per second.	18378	80 cubic feet 31-0330 per second.

V.

(a) That the defendant Holley Water Users Association is the owner of water permit No. 16979, issued to Bessie Hutchison (now Bessie Hutchison Ellis) by the Department of Reclamation of Idaho, for the diversion by means of wells of 25 cubic feet per second of underground water in the vicinity of Mud Lake; and is also the owner of water permit No. 17276, issued to R.P.Cope by the Department of Reclamation of Idaho, for the diversion by means of wells of 24 cubic feet per second of underground water in the vicinity of Mud Lake; and is also the owner of water permit No. R-528, issued by the Department of Reclamation of Idaho, for the diversion by means of wells and the storage of 5,000 acre feet annually of underground water in the vicinity of Mud Lake.

(b) That the defendant Bessie M. Jackett is the owner of water permit No. 17263, issued to her by the Department of Reclamation of Idaho, for the diversion by means of wells of 10 cubic feet per second of underground waters in the vicinity of Mud Lake.

(c) That the defendant Frank S. Jackett is the owner of water permit No. 17264, issued to him by the Department of Reclamation of Idaho, for the diversion by means of wells of 10 cubic feet per second of underground water in the vicinity of Mud Lake; and is also the owner of water permit No. 17347, issued by the Department of Reclamation of Idaho, to H.R.Jackett for the diversion by means of wells of 10 cubic feet per second of under-ground water in the vicinity of Mud Lake; and said defendant Frank S.Jackett is also the owner of certain wells whereby he obtains 15.2 cubic feet per second of water decreed in the case of 31-0096 (see 31-0096)

OWSLEY CANAL CO. VS. BAUERLE (CONT.)

V. Abbott, et al, in the United States District Court of the District of Idaho, with a priority date of March 3, 1906, which is from spring water arising in what has been known as "Deadline Lake" and in Sections 12, 23, 26, and 27, Township 7 North, Range 35 East Boise Meridian, being water from underground source in the vicinity of Mud Lake.

31-0336
2303
2461 (d) That the defendant Independent Waters Users of Mud Lake, Inc., a corporation, is now the owner by assignment of water permit No. 17690, originally issued by the Department of Reclamation of Idaho, to Frank S. Jackett, for the diversion by means of wells of 32.50 cubic feet per second of underground water in the vicinity of Mud Lake; and is also the 3 337 owner of water permit No. 17763, originally issued by said Department of Reclamation of Idaho to Merritt M. Owsley, for the diversion by means of wells of 50 cubic feet per second of underground water in the vicinity of Mud Lake.

31-0338 (e) That the defendant Samuel W. Lundholm is the owner of water permit No. 17543, issued to him by the Department of Reclamation of Idaho, for the diversion by means of wells of 3 cubic feet per second of underground water in the vicinity of Mud Lake.

VI.

That all the parties who have appeared in this suit (other than the parties owning said wells as above listed or interests therein) are the owners of water rights in Mud Lake or its tributaries.

VII.

That the parties owning water rights in Mud Lake and its tributaries, as aforesaid, assert in this suit the claim that the water developed and to be developed by means of wells constructed and to be constructed under the water permits listed in paragraphs IV and V hereof, and each of such wells, is tributary to Mud Lake and its tributaries and would constitute a part of the natural flow of said Mud Lake and its tributaries if not withdrawn from the ground by means of said wells; and, on the other hand, each of the owners of said wells, or any interest therein who are parties to this suit assert herein that the water developed and

MAY 28 1991

OWSLEY CANAL CO. VS. BAUERLE (CONT.)

Each of the parties hereto, and his or its agents, officers, and employees, is hereby enjoined and restrained from interfering with the free flow of water from said wells or any of them into Mud Lake during the non-irrigation season as herein directed, or from interfering during the irrigation season with the withdrawal and use of water from said wells by the respective owners thereof up to the amount of water withdrawn therefrom as limited by this decree.

XV.

The administration of this decree is hereby committed to the water-master of District No. 66.

XVI.

Each of the parties hereto shall bear his own costs,
Dated this 14th day of October, 1940.

C. J. TAYLOR, District Judge.

We hereby consent to the entry of the foregoing final decree; and hereby waive findings of fact and conclusions of law herein, and we hereby agree that the above entitled cause may be heard by the Judge of the above entitled court at any time upon motion of the plaintiff, either in open court or before the Judge at chambers.

Dated October 14, 1940.

Filed October 14th, 1940.
By Wm. Sauer, Clerk.

EDWIN SNOW.
Attorney for Plaintiff.
Residence: Boise, Idaho.

O. A. JOHANNESSEN, Attorney for Certain
Defendants. Residence: Idaho Falls, Idaho.
RALPH L. ALBAUGH, Attorney for Certain
Defendants. Residence: Idaho Falls, Idaho.

STATE OF IDAHO,)
County of Jefferson.)

SS.

I, Wm. Sauer, Clerk of the District Court, and Ex-Officio Auditor and Recorder, do hereby certify and declare that the foregoing Nine (9) sheets, numbered from 1 to 9 inclusive, are a full, true and correct copy of the FINAL DECREE, in Civil Case No. 1739, entitled The Owsley Canal Company, a Corporation, Plaintiff, VS ERNEST BAUERLE, et al., Defendants, which said Decree, is recorded in Book 122 of Judgments and Decrees, at Page 346, records of Jefferson County, Idaho.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, this 31st day of October, 1940.

MAY 28 1996

Wm Sauer
Clerk of the District Court, and Ex-Officio
Auditor and Recorder in and for Jefferson
County, State of Idaho.

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommended Right Report

04/12/2001

WATER RIGHT NO. 31-95B

Owner Type **Name and Address**
Current Owner JOSEPH M MARTY
 1775 E 1500 N
 HC BOX 2450
 HAMER, ID 83425
 (208)663-4319

Current Owner ELLA MARTY
 1775 E 1500 N
 HAMER, ID 83425
 (208)633-4319

Attorney ROGER LING
 PO BOX 396
 RUPERT, ID 83350

Priority Date: 02/06/1918
Basis: Decreed
Status: Active

Source **Tributary to**
 DEAD LINE LAKE MUD LAKE

Beneficial Use	From	To	Diversion Rate	Volume	Subuse Code
IRRIGATION	04/01	10/31	10 CFS		
Total Diversion			10 CFS		

Location of Point(s) of Diversion:

DEAD LINE LAKE	SWNW	Sec. 26	Township 07N	Range 35E	JEFFERSON County
DEAD LINE LAKE	NWNW	Sec. 27	Township 07N	Range 35E	JEFFERSON County
DEAD LINE LAKE	SESW	Sec. 27	Township 07N	Range 35E	JEFFERSON County

IRRIGATION Use:
 Acre Limit: 1280

Place(s) of use:

Place of Use Legal Description: IRRIGATION

JEFFERSON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
06N	35E	4	3	NENW	25	4	NWNW	9.6						
07N		21		NESE	17		NWSE	22		SWSE	37		SESE	35
		22		NWSW	6.9		SWSW	28						
		27		SWNE	4.9		SENE	9.9						
				NWNW	11		SWNW	26		SENE	14			
				NESW	23		NWSW	34		SWSW	36		SESW	36
		28		NENE	24		NWNE	32		SENE	3.8			
				NESE	37		NWSE	14		SWSE	29		SESE	37
		32	5	SENE	2.5									
			6	NESE	4.6									
		33		NENE	37		NWNE	39		SWNE	40		SENE	39
				NENW	31		NWNW	0.4	1	SWNW	21		SENE	40
				NESW	40		NWSW	37		SWSW	16		SESW	40

Water Right 31-95B

1

Water Right No. 31-95B (Cont.)

34	NESE 39	NWSE 40	SWSE 39	SESE 37
	NENW 39	NWNW 32	SWNW 40	SENW 40
	NESW 38	NWSW 40	SWSW 36	SESW 14

Total Acres: 1373.6

Conditions of Approval:

1. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
2. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

Remarks:

1. Point of Diversion THE POINT OF DIVERSION DESCRIBED ABOVE REPRESENTS AN UNUSED FACILITY DUE TO INFREQUENT AVAILABILITY OF WATER. BEFORE THIS RIGHT MAY BE DIVERTED THE WATERUSER MUST FILE A TRANSFER TO ESTABLISH AN ACTIVE POINT OF DIVERSION, OR SHOW THAT AN EASMENT AND MEANS TO CONVEY WATER FROM THE DIVERSION TO THE PLACE OF USE EXISTS.
2. Quantity USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 15.2 CFS. COMBINED RIGHT NOS.: 31-95B, 31-96, 31-11362.
3. Place of Use - Irrigation USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 1373.6 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 31-95B, 31-96, 31-335B, 31-340, 31-365, 31-11362.
4. Place of Use - Irrigation USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 1280 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 31-95B, 31-96, 31-11362.

Comments:

Author	Date	Subject	Comment
bcontor	4/11/01	Recommendation	REcommendation waiting on guidance from assistant attorney general, eCVR created to facilitate database management.
bcontor	4/12/01	Split	See 31-95A for documentation of ownership for that right. This right recommended for remaining portion of 31-95 as Marty owns original POU. I assert 31-95A was accomplished transfer of only enough of the original right to irrigate the POU claimed in 31-95A as documented by the probate decree.
bcontor	4/12/01	Remark	Remark copied from Raft River recommendation 43-82A pending instructions from Boise.
bcontor	4/12/01	POU	Permissible Place of Use with other Marty rights.
bcontor	4/12/01	Combined limitation	31-11362 is recommended as a replacement well for this right and 31-96. Consequently all three are limited to the combined rate of 31-95A and 31-96.
bcontor	4/12/01	PODs	Recommended per decree, per Raft River recommendation guidance.
bcontor	4/12/01	Combined Limit	Bauerly appears to award to Jackett only 15.2 cfs from surface sources, therefore this right, 31-96, and replacement well right 31-11362 are limited to 15.2 cfs.

Dates:

Licensed Date:
 Claim Received Date: 04/11/2001

Enlargement Use Priority Date:
 Enlargement Statute Priority Date:

Decreed Date:

Date Filed with Court:

Objection Filed Date:

SPS Filed:

Special Master Recom Signed Date:

Element Reviewed/Verified Dates:

Element	Last Review Date	Reviewer	Last Verified Date	Verifier	Status
POD	4/12/01 5:38:15 PM	bcontor			In Process
POU	4/12/01 6:02:05 PM	bcontor			In Process
Priority Date	4/12/01 5:35:51 PM	bcontor			In Process
Quantity	4/12/01 6:04:38 PM	bcontor			In Process
Season	4/12/01 6:04:07 PM	bcontor			In Process
Source	4/12/01 5:38:46 PM	bcontor			In Process
Summary	4/12/01 6:10:44 PM		4/12/01 6:10:44 PM	bcontor	Complete

Water Right 31-95B

Combined Limitation:

31-11362 is recommended as a replacement well for this right and 31-96. Consequently all three are limited to the combined rate of 31-94A and 31-96. 2

To: A31-00095
A31-11362
Fr: Bryce Contor *Bryce*
Date: 6/22/2000

Re: Change of Source

Candice McHugh called today with input from the output of the Raft River meetings & Karl Dreher's input.

Based on that conversation and a follow-up conversation w/ Ernie Carlsen, I plan to do the following:

1. Renumber original signed claim A31-00095 to A31-11362 and recommend as a beneficial use claim, source GW, priority date 10/14/1940 (the date the Bauerly Decree was issued), since the Bauerly references the accomplished change to the well.
2. If Marty returns the outstanding amended version of A31-00095 (which differs from the original claim only in that the source is restored to "Dead Line Lake" to match the source decreed in Suave), recommend it as a SW right w/ decreed priority. Non-availability of water will be defense against forfeiture.
3. Both recommendations will carry remarks pointing to the other right to prevent unstacking.
4. If Marty wishes to enjoy the 1906 priority on a GW right, he needs to apply for a formal transfer to change source and POD on the 31-00095 right.



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNORKARL J. DREHER
DIRECTOR

April 25, 2001

Joe and Ella Marty
1775 E 1500 N
Hamer, Idaho 83425Re: Adjudication Recommendations
31-95B, 31-96, 31-335B, 31-340, 31-365, 31-11362

Dear Mr. and Mrs. Marty:

Enclosed are copies of the Adjudication Recommendations on the new claims you submitted, and copies of the revised recommendations on your other claims. This letter describes my response to issues you raised in the Notice of Error process and explains the recommendations made on the new claims.

During the Notice of Error, you identified several areas of concern. My responses are:

1. Right 31-7234 ("The 80").

No adjustments were made, as you believed the recommendation was correct. No copy of this recommendation is enclosed.

2. Permissible Place of Use

I have reviewed the map you provided and adjusted the recommendations to a combined total of 1373.6 acres, as shown on the attached illustration. This is more acres than department engineer Scott King found, but is consistent with the Farm Service Agency measurements of the lands you identified as irrigated pasture.

3. Point of Diversion, Source, and Priority Date on 31-95 (renumbered to 31-95B) and 31-96

This will be explained in detail later in the letter.

4. Description of Diversion Works

The description of diversion works on the various claims has been adjusted, as you requested. This part of the claim is not carried forward to the recommendations, but the corrected descriptions will be kept as part of the permanent record of your water rights.

5. Diversion Rate and Priority Date on Ground Water Right 31-11362

The diversion rate has been adjusted to 10.0 cfs, according to your amended claim and my follow-up review. The priority date was not adjusted, as explained later.

6. New Measurements of Diversion Rate

The measurements performed this spring by American Pump were within a few percent of the

measurements performed in 1997 by the North Water Measurement District. American pump indicated that the combined capacity is just over 21 cfs. The recommendations are more than adequate to allow diversion of water at this rate. I based the recommendations on previously licensed and/or decreed rates, not on current capacity.

In the Notice of Error process, you requested that ground water recommendation 31-11362 show the original priority date of the surface water rights it replaced (31-95 and 31-96). On claims 31-95 and 31-96, you requested that these surface water recommendations show the wells as points of diversion. The claims referred to a similar situation in Raft River, and requested that these rights be recommended in the same manner. The following points explain how I made these recommendations:

1. Renumbering of 31-95 to 31-95B

This right was renumbered to 31-95B to reflect the fact that a competing claim 31-95A has been recommended for part of the original right. 31-95B is recommended for the balance of the original right, not recommended to the other claimant.

Our ordinary standard for recommending a water right is that we must find "ownership" and "use" of the water right. This right is unique in that it has not been used for many years due to non-availability of water, so "use" is difficult to verify. However, non-availability of water is considered a defense against forfeiture, so I have recommended all of the original cfs of right 31-95.

Without historical use, it is also difficult to establish "ownership," because there are no delivery records to support or discredit a claim to an accomplished transfer. I based the recommendation for competing claim 31-95A upon a probate decree that awarded a water right to the other claimant's predecessor in interest, specifically identified by the permit number that was decreed as right 31-95. While the competing claim was for the full diversion rate of original right 31-95, the probate record and the claim did not document a large enough place of use to require the full diversion rate, so I recommended only the rate required for the claimed and currently irrigated acres.

In your case, I took the reference in the Bauerly Decree to rights owned by your predecessor Frank Jackett as evidence of ownership. The description in Bauerly is somewhat confused, and appears to describe elements of original right 31-96 along with elements of original right 31-95. It is unclear which, or perhaps parts of both rights, were referred to. However, the decree clearly describes that Jackett was the authorized to divert 15.2 cfs. I make the assumption that this could have included the part of 31-95 not conveyed to the other claimant's predecessor.

Consequently, I have referred to the probate record to support my recommendation of right 31-95A to the other claimant, and I have referred to the Bauerly Decree to recommend 31-95B to you.

2. Points of Diversion for 31-95B and 31-96

In your claim, you request that the wells be listed as points of diversion for these surface rights. I have reviewed this situation with the Deputy Attorney General assigned to this basin and with the Adjudication Bureau Chief. They agreed that it would be appropriate to recommend these rights according to the precedent set in Raft River. Consequently, I have recommended these surface rights with the original decreed points of diversion, and added a remark clarifying that these points may be currently unused due to non-availability of water.

3. Priority Date for 31-11362

According to the precedent set in Raft River, I have recommended this replacement ground water right with the earliest date that I can document its use. That date is October 14, 1940, the date of the Bauerly Decree which describes the replacement.

4. Combined Use Limitations

Bauerly clearly identified that Jackett was the owner of 15.2 cfs of surface rights. It also clearly indicated that the wells were intended to supplement or replace these surface sources. Therefore, I have limited the two surface rights and the ground water right in combination to a diversion rate of 15.2 cfs.

Rights 31-95 and 31-96 were originally decreed to 1340 acres. Competing claim 31-95A was recommended for 160 acres, leaving 1280 acres as a combined limitation for the two surface rights and the ground water right. However, these rights have been recommended on a "permissible place of use" basis, allowing their use on the entire farm. The combined limitation would only be used to help define a future transfer.

With these limitations in place, all your recommendations combined authorize approximately 1 1/2 miners inches per acre on 1373.6 acres, and exceed your current diversion capacity.

Please review these recommendations and call me if you have questions. Per the request on the claims, I have sent a copy to your attorney Mr. Ling.

Sincerely,

Bryce A. Contor
Senior Water Resource Agent

enclosures: Preliminary Directors Reports
Illustration of Revised Place of Use

cc: Roger Ling
Ling and Robinson
P.O. Box 396
Rupert, Idaho 83350

31-0095

DEAD LINE LAKE WATER RIGHTS

ATTACHMENT #1 (Page 19 of 20)

WATER RIGHT NO. 31-11362

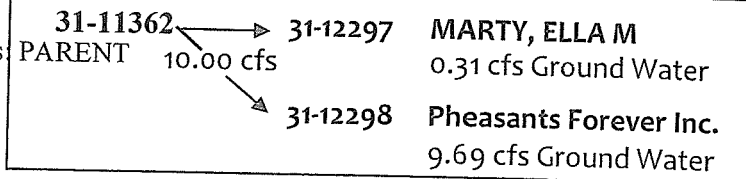
Water Right Report

Owner Type	Name and Address
Current Owner	JOSEPH M or ELLA M MARTY
	1775 E 1500 N, HAMER, ID 83425
Original Owner	H R JACKETT
Original Owner	FRANK S JACKETT

Priority Date: 10/14/1940

Basis: Decreed

Status:



Source	Tributary
GROUND WATER	MUD LAKE

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	05/01	11/01	10 CFS	3669.5 AFA
Total Diversion			10 CFS	

Location of Point(s) of Diversion:

GROUND WATER	NESENE	Sec. 27	Township 07N	Range 35E	JEFFERSON County
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IRRIGATION Use: Acre Limit: 1280

Place of Use Legal Description: IRRIGATION JEFFERSON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
06N	35E	4	3	NENW	25	4	NWNW	9.6						
07N		21		NESE	17		NWSE	22		SWSE	37		SESE	35
		22		NWSW	6.9		SWSW	28						
		27		SWNE	4.9		SENE	9.9						
				NWNW	11		SWNW	26		SENW	14			
				NESW	23		NWSW	34		SWSW	36		SESW	36
		28		NENE	24		NWNE	32		SENE	3.8			
				NESE	37		NWSE	14		SWSE	29		SESE	37
		32	5	SENE	2.5									
			6	NESE	4.6									
		33		NENE	37		NWNE	39		SWNE	40		SENE	39
				NENW	31		NWNW	0.4	1	SWNW	21		SENW	40
				NESW	40		NWSW	37		SWSW	16		SESW	40
				NESE	39		NWSE	40		SWSE	39		SESE	37
		34		NENW	39		NWNW	32		SWNW	40		SENW	40
				NESW	38		NWSW	40		SWSW	36		SESW	14

Total Acres: 1373.6 IRRIGATION Use: Acre Limit: 1280

WATER RIGHT NO. 31-11362(Cont.)

Conditions of Approval:

1.	E56	USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 1280 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 31-95B, 31-96, 31-11362.
2.	E56	USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 1373.6 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 31-95B, 31-96, 31-335B, 31-340, 31-365.
3.	E52	USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 15.2 CFS. COMBINED RIGHT NOS.: 31-95B, 31-96, 31-11362.
4.	C05	RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
5.	C18	THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

Decreed Date: 07/18/2002 Split: PARENT

Owner Name Connector: OR

Water District Number: 110

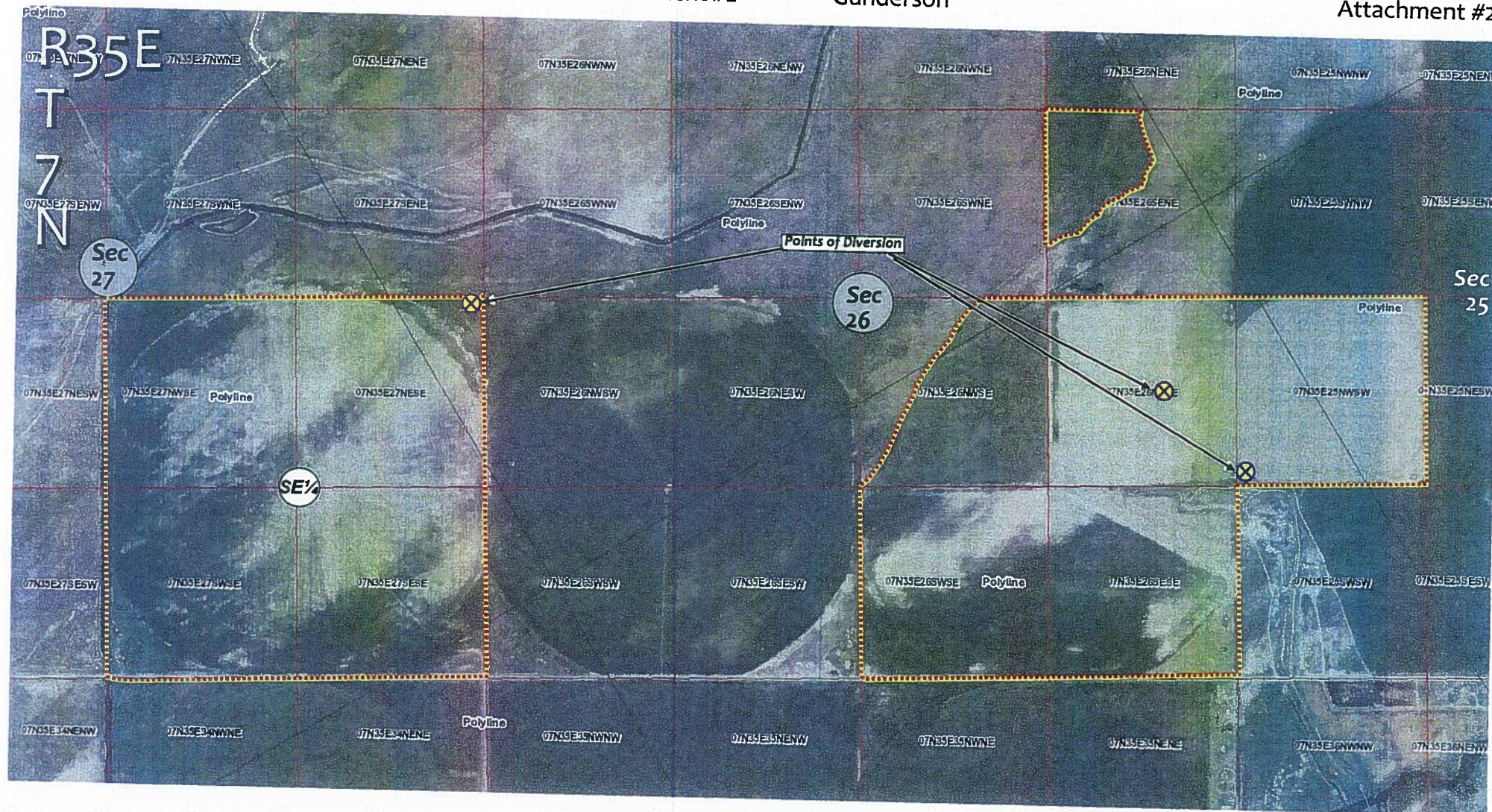
Combined Acres Limit: 1373.6

Gunderson

Attachment #2

Gunderson

Attachment #2



Prepared by Keith C. Wilson

Rocky Mountain Environmental Assoc. Inc.
482 Constitution Way, Suite 303, Idaho Falls, ID 83402


(208) 524-2353 / (208) 524-1795 Fax

Prepared by Keith C. Wilson

Rocky Mountain Environmental Assoc. Inc.
482 Constitution Way, Suite 303, Idaho Falls, ID 83402


(208) 524-2353 / (208) 524-1795 Fax

