

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

)

A. Subcase 63-32510

(Insert water right number)

)

Case No. 39576

)

STANDARD FORM 1
OBJECTION

)

RECEIVED

JUN 22 2007

DEPARTMENT OF
WATER RESOURCES

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Boise-Kuna Irrigation District

Address: 129 North School Avenue

Kuna, ID 83634

Daytime Phone: 208-922-5608

Name & Address of Attorney, if any:

Shelley M. Davis

Barker Rosholt & Simpson, LLP

1010 W. Jefferson, Ste. 102, Boise ID 83702

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

Name: Rocky Leroy and Laurie Smith

Address: 8734 Bigfoot Rd.

Melba, ID 83641

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

1. ☐ **Name and Address**

Should be: _____

2. ☒ **Source**

Should be: The source should be described as waste waters, and waste waters belong to the Boise-Kuna Irrigation District.

3. ☐ **Quantity**

Should be: _____

4. ☐ **Priority Date**

Should be: _____

5. ☐ **Point of Diversion**

Should be: _____

6. ☐ **Instream Flow Beginning and Ending Point**

Should be: _____

7. ☐ **Purpose(s) of Use**

Should be: _____

8. ☐ **Period of Year**

Should be: _____

9. ☒ **Place of Use**

Should be: Land Subject to Boise-Kuna Irrigation Water Right

10 ☐ **I object because:**

☒ This water right Should not exist.

☐ This water right was not recommended, but Should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTIONS(S): There has been no lawful appropriation of this right. The description of the source should have been waste water. The waste waters belong to the Boise-Kuna Irrigation District and are not available for private development and appropriation. Further, any attempted development of this right constitutes a trespass against the drains of the Boise-Kuna Irrigation District. The place of use is covered by an existing Boise-Kuna Irrigation District water right, which is the primary water right for the place of use. Proposed wastewater remark does not sufficiently protect original appropriator.

F. VERIFICATION (must be completed)

State of Idaho)
County of Boise)ss.

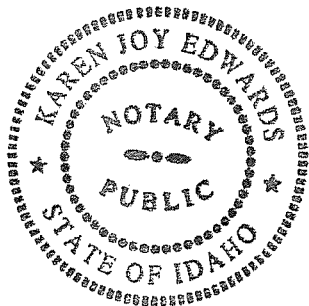
Rochelle M. D., duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and(6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)

[Signature]
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: 6/18/07



Notary Public for Idaho
Residing at: Boise, Idaho
My Commission Expires: 8/2/2012

Karen Joy Edwards

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on June 17, 2007, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

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

2. One copy to the claimant of the water right at the following address:

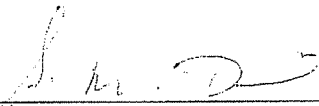
Name: Rocky Leroy and Laurie Smith
Address: 8734 Bigfoot Rd.
Melba, ID 83641

3. Copies to:

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

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of Attorney General
PO Box 44449
Boise, ID 83711-4449



Signature of objector or attorney
mailing on Objector's behalf

11/01/2006

NOTICE OF ERROR
REPLY

RECEIVED

NOV 07 2006

DEPARTMENT OF
WATER RESOURCES

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: 11/08/2006

Water right number: 63-32510

ROCKY LEROY SMITH
8734 BIGFOOT RD
MELBA ID 83641
Telephone Number: (208)495-2217

LAURIE SMITH
8734 BIGFOOT RD
MELBA ID 83641
Telephone Number: (208)495-2217

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

2. Describe the changes you wish to make in the proposed recommendation:

3. Give a brief explanation as to why you disagree with these portions:

 I AGREE with this proposed recommendation: no changes need to be made.

DATE:

11/4/06

SIGNATURE:

Rocky Smith

Please print your name:

Rocky Smith

IDWR Regional Office, 322 E Front St
PO Box 83720, Boise, ID 83720-0098, 2082874800

SCANNED

NOV 07 2006

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WESTERN REGIONAL OFFICE
2735 AIRPORT WAY
BOISE, IDAHO 83705

ADDRESS SERVICE
REQUESTED

NOT DELIVERABLE
AS ADDRESSED,
UNABLE TO FORWARD

GLENN L O DELL

SANDRA J O DELL
8576 BIGFOOT RD

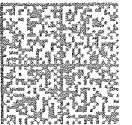
MELBA ID 83641

und

RECEIVED
OCT 16 2003
WATER RESOURCES
WESTERN REGION

63-32510

FIRST CLASS



SCANNED
APR 10 2007

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
63-32510					

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s)

Allen & Sandra O Dell

4. New Owner/Claimant(s)

Rocky & Laurie Smith

Name Connector (Check one): ☐ and, ☐ or, ☐ and/or

New Mailing Address

8734 Bigfoot Rd.

City, State and ZIP Code

Merida, ID 83641

New Telephone Number

808 495-2217

5. Date you acquired the property

April 1990

SCANNED

NOV 01 2006

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number <u>63-~~32510~~ 32510</u>		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	<u>c 12</u>	<u>6</u>
Stock		
Domestic		
Other		
Total	<u>c 12 CFS</u>	

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation		
Stock		
Domestic		
Other		
Total		

* 7. Signature of New Owner(s) or Claimant(s)
(include title if applicable)

Rodney J. Smith
Jamie E. Smith

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by _____ Date _____ Fee _____
 Received by _____ Date _____ Receipt No. _____
 Processed by _____ AJ Date _____ WR _____ Date _____

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NOV 3 1 2006

PN 18222

INSTRUMENT NO. 9006193

WARRANTY DEED

FOR VALUE RECEIVED GLENN O'DELL ALSO SHOWN OF RECORD AS GLEN O'DELL and SANDRA J. O'DELL, husband and wife

the Grantors, do hereby grant, bargain, sell and convey unto ROCKY L. SMITH and LAURIE E. SMITH, husband and wife

the Grantees, whose address is 8734 BIGFOOT RD, MELBA, ID 83641

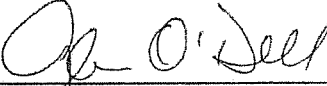
the following described premises, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantees, that they the owners in fee simple of said premises; that said premises are free from all encumbrances; except for general taxes and assessments for the year 1990 and subsequent years, covenants, conditions, restrictions and easements of record;

and that they will warrant and defend the same from all lawful claims whatsoever.

DATED: April 4, 1990


GLENN O'DELL


SANDRA J. O'DELL

STATE OF IDAHO
COUNTY OF CANYON
On this 5th day of April, 1990, before me a
notary public, personally appeared **GLENN O'DELL AND
SANDRA J. O'DELL**, known or identified to me to be the
person(s) who(s) name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they have
executed the same.


Notary Public
Residing at CALDWELL, Idaho
My commission expires: 2-16-96

PIONEER TITLE COMPANY
OF CANYON COUNTY

100 10TH AVE SOUTH
NAMPA, IDAHO 83651

SCANNED
NOV 01 2006

423 SOUTH KIMBALL
CALDWELL, ID 83605

Idaho Department of Water Resources



SRBA Recommendation:
63-32510
(Irrigation)

Legend

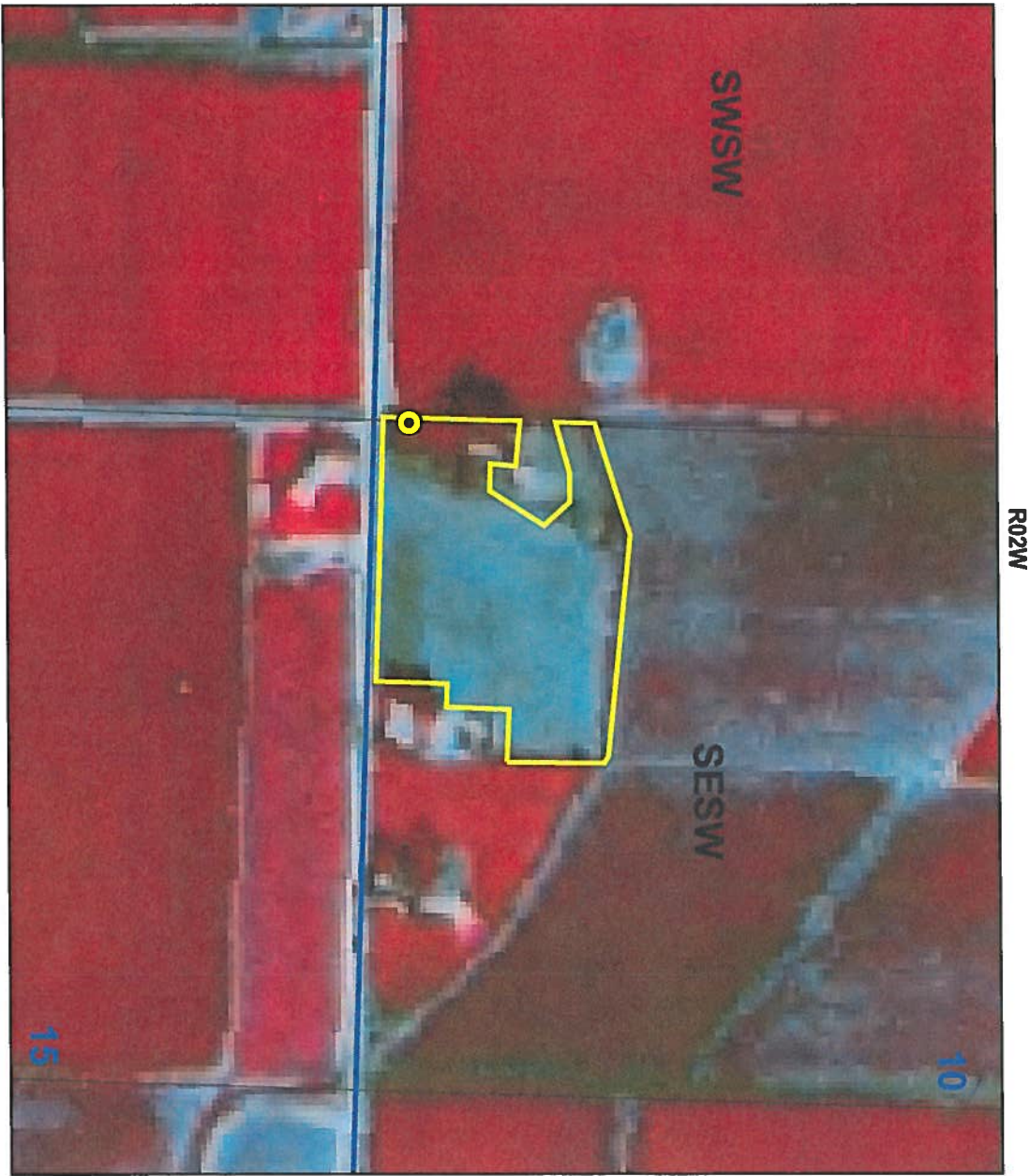
- Point of Diversion
- Place of Use
- Townships
- PLS Sections
- Quarter Quarters



Canyon County
IDWR Basin 63



T01N



Prepared by M. Ciscell
On Tuesday, October 17, 2006
1987/88 Aerial Photography

State of Idaho

License and Certificate of Water Right

Water License No. 28184

Amount 0.4 c.f.s.

Water District No.

Priority Sept. 29, 1959

THIS IS TO CERTIFY that LLOYDS, INCORPORATED
of Nampa, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated September 29, 1959; that Permit No. 28184
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
0.4 second feet, was issued thereunder on November 4, 1959, showing that said works
were completed on the 23rd day of October, 1959; and that on the 15
day of December, 1959,

LLOYDS, INCORPORATED

of Nampa, State of Idaho, made proof to the satisfaction of the
State Reclamation Engineer of Idaho, of the right to use the waters of Sleepy Hollow
Drain, a tributary of Snake River, for the purpose of irrigation
purposes, under Use Permit No. 28184 of the Department of Reclamation
and that said right to the use of said waters has been perfected in accordance with the laws of Idaho,
and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume
11 of Licenses at page 6898, on the 3 day of June, 1960;

The right hereby confirmed dates from September 29, 1959;

The Point of Diversion is located

in the SE 1/4 SW 1/4, Sec. 10, Tp. 1 N., R. 2 W., B. M. Canyon County

That the amount of water to which such right is entitled and hereby confirmed, for the purposes
aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall
not exceed 0.4 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
1 N.	2 W.	10	SE 1/4 SW 1/4	19.19	20
Total number of acres to be irrigated:					20

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place
of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this
3rd day of June, 1960.

s/ GEO. N. CARTER

State Reclamation Engineer.

(SEAL)

63 3171

12/10/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-32510
NAME AND ADDRESS: ROCKY LEROY SMITH
8734 BIGFOOT RD
MELBA ID 83641

LAURIE SMITH
8734 BIGFOOT RD
MELBA ID 83641

RECEIVED
DEC 12 2006
DEPARTMENT OF
WATER RESOURCES

SOURCE: SLEEPY HOLLOW DRAIN TRIBUTARY: SNAKE RIVER
QUANTITY: 0.120 CFS
PRIORITY DATE: 09/29/1959
POINT OF
DIVERSION: T01N R02W S10 SESW Within CANYON County
PURPOSE AND
PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	03/01 11/15	0.120 CFS
PLACE OF USE:	<u>IRRIGATION in CANYON County</u>		
	T01N R02W S10 SESW 6.00		
	6 ACRES TOTAL		

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Use of this right is combined with water from Boise-Kuna Irrigation District.

This right is a split from former right 63-3171 .

10/17/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-32510

NAME AND ADDRESS: GLENN L O DELL
8576 BIGFOOT RD
MELBA ID 83641

SANDRA J O DELL
8576 BIGFOOT RD
MELBA ID 83641

SOURCE: SLEEPY HOLLOW DRAIN

TRIBUTARY: SNAKE RIVER

QUANTITY: 0.120 CFS

PRIORITY DATE: 09/29/1959

POINT OF DIVERSION:

T01N R02W S10 SESW Within CANYON County

PURPOSE AND

PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	03/01 11/15	0.120 CFS
PLACE OF USE:	<u>IRRIGATION Within CANYON County</u>		
	T01N R02W S10	SESW 6.00	
	6 ACRES TOTAL		

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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.

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