

10/07/2006

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

RIGHT NUMBER: 63-32511

NAME AND ADDRESS: DANIEL R WEIBOLD
8576 BIGFOOT
MELBA ID 83641

KATHY L WEIBOLD
8576 BIGFOOT
MELBA ID 83641

SOURCE: SLEEPY HOLLOW DRAIN

TRIBUTARY: SNAKE RIVER

QUANTITY: 0.060 CFS

PRIORITY DATE: 09/29/1959

POINT OF DIVERSION:

T01N R02W S10 SESW Within CANYON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/01 11/15

0.060 CFS

PLACE OF USE: IRRIGATION Within CANYON County

T01N R02W S10 SESW 3.10

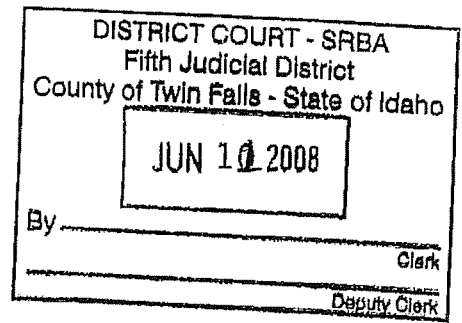
3.1 ACRES TOTAL

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

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



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 63-32511
)
Case No. 39576) ORDER TO SHOW CAUSE
)
_____)

This matter came before this Special Master pursuant to an initial hearing held June 6, 2008. Daniel R Weibold and Kathy L Weibold, (hereinafter "Claimants") were notified of the hearing via first class mail sent to their last known addresses. The Claimants failed to appear at the June 6, 2008, initial hearing.

On June 18, 2007, the Boise-Kuna Irrigation District (hereinafter "Objector") filed an objection to the *Director's Report* for this water right claim, asserting that the water right should be recommended with a different source description.

It is **hereby ordered** that the Claimants shall appear before this Special Master on **July 1, 2008, at 1:30 P.M.** Mountain Time, at the Snake River Basin Adjudication Courthouse, 253 – 3rd Avenue North, Twin Falls, Idaho, to show cause why the SRBA Court should not grant the objection filed by Boise-Kuna Irrigation District.

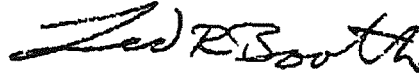
Parties may participate by telephone by dialing 225-383-1099 and when prompted entering the code 675342.

Participation in the show cause hearing is **not mandatory** and failure to appear will not be considered contempt of court. **However, failure to appear will result in a change in the source description of the Claimants' water right.** If the Claimants participate in the hearing, they will be expected to notify this Special Master whether they intend to prosecute the case, and accordingly a trial date will be set. In such event, no additional evidence or argument need be presented as the subcase will be allowed to proceed to trial as a matter of course. Therefore the parties need not produce testimony or evidence in accordance with I.R.C.P. 6(c)(2)(B).

A copy of this *Order to Show Cause* shall be served upon the Claimants and the Objector not less than five (5) days prior to the date herein shown. Service of the *Order to Show Cause* shall be made in accordance with I.R.C.P. 5(b) and 6(c)(2).

IT IS SO ORDERED

Dated June 11, 2008

A handwritten signature in black ink, appearing to read "Ted R. Booth", written over a horizontal line.

THEODORE R. BOOTH
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER TO SHOW CAUSE was mailed on June 11, 2008, with sufficient first-class postage to the following:

BOISE KUNA IRRIGATION DIST

Represented by:
SHELLEY M DAVIS
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

USDI BUREAU OF RECLAMATION

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

DIRECTOR OF IDWR

PO BOX 83720
BOISE, ID 83720-0098

DANIEL R WEIBOLD
KATHY L WEIBOLD
8576 BIGFOOT
MELBA, ID 83641
Phone: 208-495-1175

RECEIVED

JUN 22 2007

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) A. Subcase 63-32511
(Insert water right number)
)
Case No. 39576) STANDARD FORM 1
) OBJECTION
_____)

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: Daniel and Kathy Weibold
Address: 8576 Bigfoot
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: _____

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. Proposed wastewater remark does not sufficiently protect original appropriator.

F. VERIFICATION (must be completed)

State of Idaho)
)ss.
County of Ada)

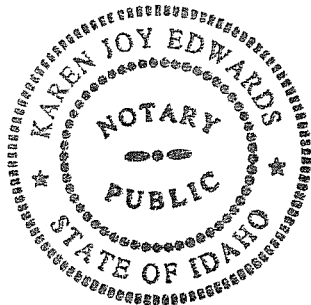
Rockelle M. Davis, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

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: Daniel and Kathy Weibold
Address: 8576 Bigfoot
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

10/09/2006

NOTICE OF ERROR
REPLY

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: 10/31/2006

Water right number: 63-32511

DANIEL R WEIBOLD
8576 BIGFOOT
MELBA ID 83641
Telephone Number: (208)495-1175

KATHY L WEIBOLD
8576 BIGFOOT
MELBA ID 83641
Telephone Number: (208)495-1175

RECEIVED

NOV 01 2006

WATER RESOURCES
WESTERN REGION

RECEIVED

NOV 03 2006

DEPARTMENT OF
WATER RESOURCES

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: 10/20/06

SIGNATURE:

Please print your name:

Daniel R Weibold

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

SCANNED

NOV 06 2006

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
	63-3171				

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)

GLEN L. & SANDRA J. ODELL

8576 BIGFOOT RD., MELBA, ID 83641

4. New Owner/Claimant(s)

Daniel R. or Kathy L. Wisbold

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

New Mailing Address

8576 Bigfoot Rd. Melba, ID, 83641

City, State and ZIP Code

New Telephone Number

208-495-1175

5. Date you acquired the property

10-21-1992

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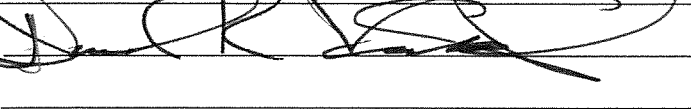
OCT 07 2006

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>63-3171</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>.06</u>	<u>3</u>
Stock		
Domestic		
Other		
Total	<u>.06 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)



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 _____

SCANNED
OCT 07 2006

Taylor, Bean & Whitaker Mortgage Corp.
1417 North Magnolia Ave.
Ocala, FL 34475

- [Space Above This Line For Recording Data]

DEED OF TRUST

MIN: 100029500012166991

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) **“Security Instrument”** means this document, which is dated **June 21, 2006**, together with all Riders to this document.

(B) "Borrower" is DANIEL R WIEBOLD and KATHY LYNN WIEBOLD, Husband and Wife

Borrower is the trustor under this Security Instrument.

(C) "Lender" is Taylor, Bean & Whitaker Mortgage Corp.
Lender is a Florida Corporation
the laws of FL
1417 North Magnolia Ave, Ocala, FL 34475

organized and existing under
Lender's address is

(D) "Trustee" is TITLE ONE

(E) **“MERS”** is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender’s successors and assigns. **MERS is the beneficiary under this Security Instrument.** MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

(F) "Note" means the promissory note signed by Borrower and dated **June 21, 2006**. The Note states that Borrower owes Lender **Two Hundred Forty Thousand and no/100** Dollars (U.S. \$ **240,000.00**) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than **July 01, 2021**.

IDAHO—Single Family—Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

ITEM T9648L1 (0011)—MERS

(Page 1 of 12 pages)

Form 3013 1/01

GREATLAND ■

To Order Call: 1-800-530-9393 ☐ Fax: 616-791-1131

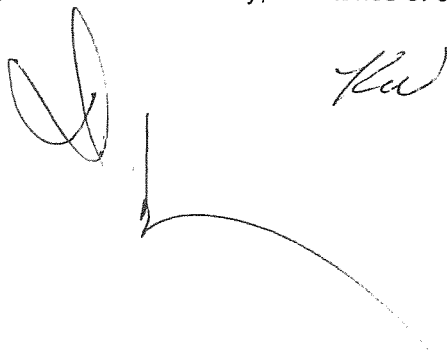


SCANNED
OCT 07 2006

EXHIBIT "A"

This parcel is situated in the Southeast Quarter of the Southwest Quarter of Section 10, Township 1 North, Range 2 West of the Boise Meridian, Canyon County, Idaho, and is more particularly described as follows;

COMMENCING at the Southwest corner of said Southeast Quarter of the Southwest Quarter; thence East along the South boundary of said Southeast Quarter of the Southwest Quarter, a distance of 671.87 feet to the TRUE POINT OF BEGINNING; thence North a distance of 451.24 feet; thence South $61^{\circ}07'20''$ East, a distance of 376.19 feet; thence South $52^{\circ}39'20''$ East, a distance of 81.75 feet; thence South $43^{\circ}07'10''$ East, a distance of 224.24 feet; thence South $19^{\circ}40'20''$ East, a distance of 59.78 feet to a point on said South boundary; thence West along said South boundary, a distance of 567.80 feet to the TRUE POINT OF BEGINNING.

Handwritten signature and initials. The signature is a stylized, cursive name, possibly 'J. L. ...'. To its right are the initials 'Ka' in a similar cursive style. Below the signature is a long, horizontal, slightly curved line.

SCANNED
OCT 07 2006

12/10/2006

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

RIGHT NUMBER: 63-32511
NAME AND ADDRESS: DANIEL R WEIBOLD
8576 BIGFOOT
MELBA ID 83641

KATHY L WEIBOLD
8576 BIGFOOT
MELBA ID 83641

RECEIVED
DEC 12 2006
DEPARTMENT OF
WATER RESOURCES

SOURCE: SLEEPY HOLLOW DRAIN TRIBUTARY: SNAKE RIVER
QUANTITY: 0.060 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	0.060 CFS

PLACE OF USE: IRRIGATION in CANYON County
T01N R02W S10 SESW 3.10

3.1 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

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

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

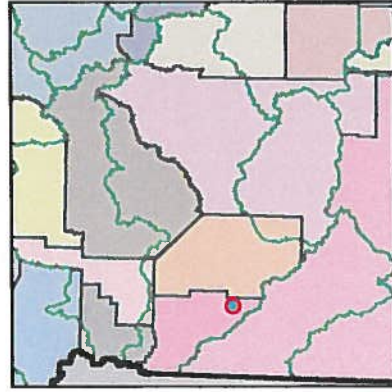


Idaho Department of Water Resources

SRBA Recommendation:
63-32511
(Irrigation)

Legend

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



Canyon County
IDWR Basin 63

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



0 0.1 0.2 Miles

+60000

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 $\frac{1}{4}$ SW $\frac{1}{4}$, 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 $\frac{1}{4}$ SW $\frac{1}{4}$	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