

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho DEC - 2 2009 By _____

**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	)	SPECIAL MASTER'S REPORT
	)	
Case No. 39576	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHT 63-33146

I. FINDINGS OF FACT

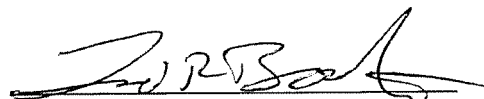
A notice of claim was filed for the above-captioned water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources (IDWR) examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

On September 25, 2009, IDWR filed an *Amended Director's Report* for the claim. On October 28, 2009, the claimant of the water right, the Troost Family Living Trust, through its attorney Dana Hofstetter, filed an objection to the *Amended Director's Report*, seeking to make certain technical corrections thereto. A hearing on the objection was held on December 1, 2009, at which the parties and IDWR agreed to make the technical corrections sought in the objection.

II. CONCLUSIONS OF LAW

Therefore based on the file and record, IT IS RECOMMENDED that water right 63-33146 be decreed with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated Dec. 2009


Theodore R. Booth
Special Master
Snake River Basin Adjudication

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

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

DEC - 2 2009

By _____

Clerk

Deputy Clerk

In Re SRBA)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 63-33146

NAME AND ADDRESS: TROOST FAMILY LIVING TRUST
C/O GREG TROOST
30540 SABIN RD
PARMA, ID 83660

SOURCE: GROUND WATER

QUANTITY: 0.36 CFS
108.00 AFY

This right when combined with all other rights shall provide no
more than 0.02 cfs per acre nor more than 4.5 afa per acre at
the field headgate for irrigation.

PRIORITY DATE: 04/18/1977

POINT OF DIVERSION: T05N R05W S01 LOT 3 (NENW) Within Canyon County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.36 CFS 108.00 AFY

The use of water for irrigation under this right may begin as
early as March 1 provided other elements of the right are not
exceeded. The use of water before March 15 under this remark is
subordinate to all water rights having no subordinated early or
late irrigation use and a priority date earlier than the date a
partial decree is entered for this right.

PLACE OF USE: Irrigation Within Canyon County
T05N R05W S01 LOT 2 (NWNE) 23.0 LOT 3 (NENW) 30.0
53.0 Acres Total

This right is limited to the irrigation of 24 acres within the
place of use described above in a single irrigation season.

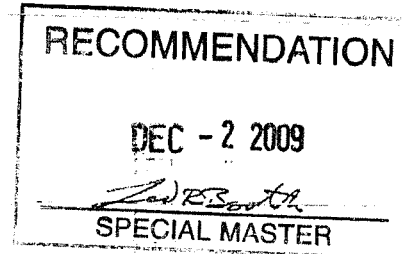
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

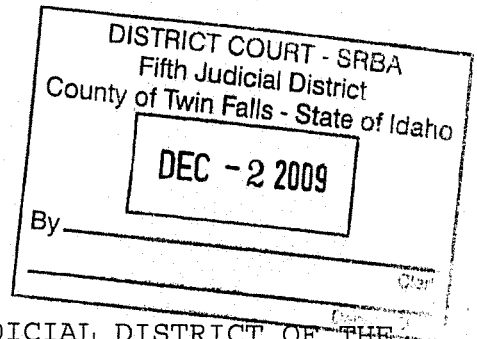
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication





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. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

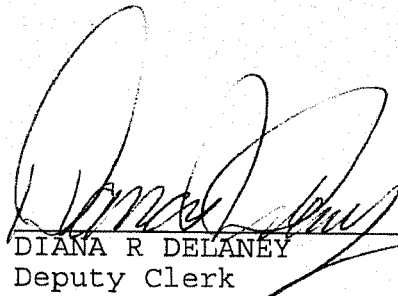
Water Right(s): 63-33146

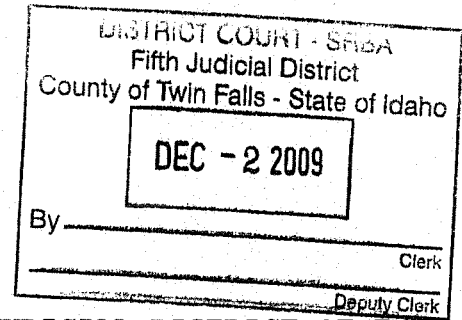
On December 02, 2009, Special Master THEODORE R. BOOTH issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION shall constitute a waiver of the right to challenge it before the Presiding Judge.

DATED December 02, 2009.


DIANA R DELANEY
Deputy Clerk



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. 39576)
_____)

CERTIFICATE OF MAILING

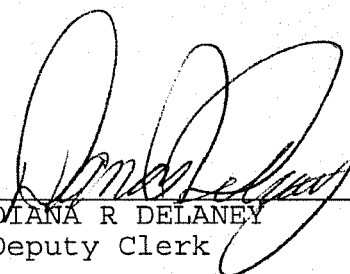
Water Right(s) : 63-33146

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on December 02, 2009, with sufficient first-class postage prepaid to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

L W & BARBARA RAGAINS
TROOST FAMILY LIVING TRUST
Represented by:
DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702
Phone: 208-424-7800



DIANA R DELANEY
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
12/02/09

STATUS CONFERENCE NOTES:

RIGHT NO. 63-33146

DATE: 12-1-09

OK to go for Troost except objection
filed to NCAP on Transfer. These
changes were agreed upon in the
meeting by SM Booth.

1- c/o (added in front of Greg Troost's name)
2- Delete "of the lands above" from
quantity remark.

3- Change 1 year remark to normal
one used & put in explanatory remark.

All of the above are good changes,
especially # 2 & 3 which were errors.

OK to change. Court is changing &
we will change our databases also.

[Signature]

Shurte, Jan

From: Spencer, Nick
Sent: Monday, November 30, 2009 4:56 PM
To: Shurte, Jan
Cc: Williams, Ray
Subject: 63-33040 (Ragains/Lindley/Troost)

Hi Jan.

I have been looking at the Dana's objection to the Troost NCAP. On the one hand I see the need for some of the language from the transfer being placed on the water right description. On the other hand, it seems to me that the precise language used in the transfer is not phrased in a way to make its meaning clear in the context of the partial decree. (For instance, the "transfer must be completed in one year" condition. That is understandable on the transfer because the reader can look at the date the transfer was approved to figure out when the one year period runs. But that isn't possible on the partial decree.)

Anyway, I have had an idea that might work to resolve both Dana's objection and my own concerns about getting accurate phraseology on the partial decree. What do you think of this: a generic remark that reads something to the effect of "This right also is subject to the conditions contained in Transfer No. XYZ, issued on [month] [day], 2009."? That way, anybody who looks at the partial decree can be alerted to look at the transfer and read the conditions within the context of the transfer.

Please let me know your thoughts. Thanks. NBS

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

In Re SRBA

Case 39576

A. Subcase 63-33146

(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Troost Family Living Trust

Address: 30540 Sabin Road

Parma, Idaho 83660

Daytime Phone: (208) 722-7325

Name & Address of Attorney, if any:

Dana Hofstetter, ISB #3867

Hofstetter Law Office, LLC

608 West Franklin Street

Boise, Idaho 83702

(208)-424-7800

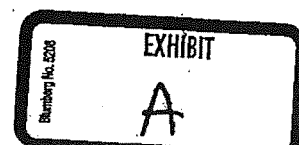
C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Troost Family Living Trust

Greg Troost

Address: 30540 Sabin Road

Parma, Idaho 83660



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: Troost Family Living Trust, of which Greg Troost is a Trustee
2. ☐ **Source**
Should be: _____
3. ☒ **Quantity**
Should be: Remark should not reference lands above.
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. ☒ **Other Provisions**
Should be: Remark regarding transfer should be deleted.
11. **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 OBJECTION(S):** Greg Troost is a Trustee of the Trust. There are no lands described above the quantity remark. Transfer condition should be moved to explanatory material.

F.

VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

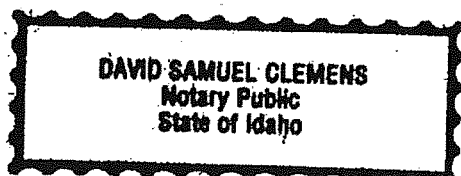
Dana L. Hofstetter, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

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

Dana L. Hofstetter
Attorney signing in representative capacity

Subscribed and sworn to before me on: October 28, 2009



David Samuel Clemens
Notary Public for the State of Idaho
Residing at: Boise, ID
My Commission expires: 7/18/2014

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 October 28, 2009, I filed the original with the SRBA Court and mailed copies of this Objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court (*via Hand Delivery*)
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: Troost Family Living Trust

Address: 30540 Sabin Road
Parma, ID 83660

3. Copies to:

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

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

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



Signature of Objector or attorney
mailing on Objector's behalf

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

RIGHT NUMBER: 63-33146

NAME AND ADDRESS: TROOST FAMILY LIVING TRUST
GREG TROOST
30540 SABIN RD
PARMA ID 83660

~~JOHN R LINDLEY~~
~~29453 GOTSCH RD~~
~~PARMA ID 83660~~

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.360 CFS
108.000 AFY

This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.

PRIORITY DATE: 04/18/1977

POINT OF DIVERSION:

T05N R05W S1 NENW Lot 3 Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	0.360 CFS 108.00 AFY

The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION in CANYON County

<u>T05N R05W S01 Lot 2 NWNE 23.00</u>	<u>T05N R05W S01 Lot 3 NENW 30.00</u>
<u>T05N R05W S01 SWNE 18.00</u>	<u>T05N R05W S01 SENE 6.00</u>

53 ACRES TOTAL ~~24 ACRES TOTAL~~

This right is limited to the irrigation of 24 acres within the place of use described above in a single irrigation season.

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

The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

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.

SF5 Right No. 63-33146

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Right Nos. 63-9110, 63-33041 and 63-33145 are also diverted through point of diversion described above.

This right is a split from former right 63-8700 and former right 63-33040.

The right holder shall either install a measuring device or provide a certified measurement by a professional engineer or install an access port or other device as specified by the Department.

~~Use of this right is combined with water from Black Canyon Irrigation District.~~

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

RIGHT NUMBER: 63-33146

NAME AND ADDRESS: TROOST FAMILY LIVING TRUST
GREG TROOST
30540 SABIN RD
PARMA ID 83660

JOHN R LINDLEY
29453 GOTSCH RD
PARMA ID 83660

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.360 CFS
108.000 AFY

This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.

PRIORITY DATE: 04/18/1977

POINT OF DIVERSION:

T05N R05W S1 NENW Lot 3 Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	0.360 CFS 108.00 AFY
The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.		

PLACE OF USE: IRRIGATION in CANYON County

<u>T05N R05W S01 Lot 2 NWNE</u>	<u>23.00</u>	<u>T05N R05W S01 Lot 3 NENW</u>	<u>30.00</u>
<u>T05N R05W S01 SWNE</u>	<u>18.00</u>	<u>T05N R05W S01 SENE</u>	<u>6.00</u>

53 ACRES TOTAL ~~24 ACRES TOTAL~~

This right is limited to the irrigation of 24 acres within the place of use described above in a single irrigation season.

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

The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.

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

After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Right Nos. 63-9110, 63-33041 and 63-33145 are also diverted through point of diversion described above.

This right is a split from former right 63-8700 and former right 63-33040.

The right holder shall either install a measuring device or provide a certified measurement by a professional engineer or install an access port or other device as specified by the Department.

~~Use of this right is combined with water from Black Canyon Irrigation District.~~

**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. 39576

)
)
)
)
)

Water Rights: 63-33146

**NOTICE OF COMPLETED
ADMINISTRATIVE
PROCEEDING**

IDWR has completed the following administrative proceeding:

☐ Address change

☐ Substitution of Party

XX IC § 42-222 transfer

☐ Point of diversion XX Place of use

☐ Period of use ☐ Nature of use

☐ Split of water right XX Change in ownership

XX Other – Conditions & Remarks

☐ IC § 42-219 license

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Report(s)* for said water right(s). No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: September 24, 2009



Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on September 24, 2009, I delivered the original and copies of this form, including all attachments, to the following persons, postage prepaid if required and addressed as follows:

1. Original to:

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

☐ overnight mail
☒ regular mail
☐ hand-delivered
☐ facsimile

2. Copies to:

Clive Strong
Off ice of the Attorney General
P.O. Box 44449
Boise, ID 83711-4449

☐ overnight mail
☒ regular mail
☐ hand-delivered
☐ facsimile

United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724

☐ overnight mail
☒ regular mail
☐ hand-delivered
☐ facsimile

3. Copies to all parties to the subcase:

Troost Family Living Trust
Greg Troost
30540 Sabin Rd
Parma ID 83660

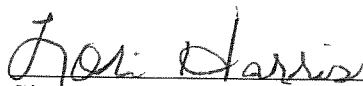
☐ overnight mail
☒ regular mail
☐ hand-delivered
☐ facsimile

John R Lindley
c/o Jon C Gould
Ringert Clark Chartered
PO Box 2773
Boise ID 83701

☐ overnight mail
☒ regular mail
☐ hand-delivered
☐ facsimile

L W & Barbara Ragains
c/o Dana Hofstetter
608 W Franklin St
Boise ID 83702

☒ regular mail



Signature of person mailing this document



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

September 24, 2009

TROOST FAMILY LIVING TRUST
GREG TROOST
30540 SABIN RD
PARMA ID 83660

Re: Water Right No. 63-33146

Dear Mr. Troost:

Enclosed is a copy of the Notice of Completed Administrative Procedure and pertinent water right(s) recently sent to the Snake River Basin Adjudication Court in Twin Falls. These documents are now required to be filed by the Department in order to notify the Court of any changes to your water right(s).

The change to your water right(s) was a result of an approved transfer. This notification to the Court does not affect the previous approval of this transfer or your water right(s). You will be notified of any future action on your water right(s) by the SRBA Court or Water Resources.

Please contact this office if you have any questions concerning this notification.

Sincerely,

A handwritten signature in cursive script that reads "Lori Harris".

Lori Harris
Technical Records Specialist 2
Adjudication Section
Western Region Office

JS:lh
Enclosures

cc: John Lindley
L W & Barbara Ragains

WATER RIGHT NO. 63-33146
As Modified by Transfer No. 75674

In accordance with the approval of Transfer No. 75674, Water Right No. 63-33146 is now described as follows.

Right Holder: TROOST FAMILY LIVING TRUST
 GREG TROOST
 30540 SABIN RD
 PARMA ID 83660

Priority Date: April 18, 1977

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	to 11/15	0.36 CFS	108.0 AF
			0.36 CFS	108.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER L3 (NENW) Sec. 1 Twp 05N Rge 05W CANYON County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N 05W 1		23.0			30.0												53.0
		L 2			L 3												

Total Acres: 53.0

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
4. This right is limited to the irrigation of 24 acres within the place of use described above in a single irrigation season.
5. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.

SCANNED

SEP 21 2008

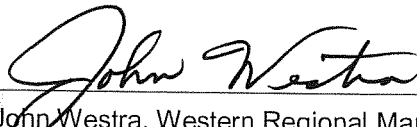
WATER RIGHT NO. 63-33146
As Modified by Transfer No. 75674

CONDITIONS OF APPROVAL

6. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 3/15 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than a SRBA partial decree is entered for this right.
7. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
8. Rights 63-9110, 63-33041, and 63-33145 are diverted through the point of diversion described above.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 21st day of September, 2009


John Westra, Western Regional Manager

SCANNED

SEP 21 2009

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 75674

This is to certify that: TROOST FAMILY LIVING TRUST

GREG TROOST
30540 SABIN RD
PARMA ID 83660
(208)722-7325

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Change

<u>Right</u>	<u>Origin/Basis</u>	<u>Priority</u>	<u>Rate</u>	<u>Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
63-33146	AJC/License	04/18/1977	0.36 cfs	108 af	N/A	24.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

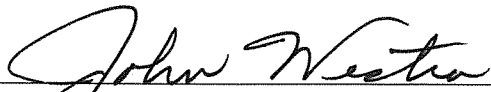
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-33146	NO	NO	YES	NO	NO	NO

Summary of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (changed portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
63-33146	63-33146	0.36 cfs	108 af	24.0	53.0		N/A	N/A	N/A	N/A
COMBINED										
TOTALS		0.36 cfs	108 af	24.0	53.0		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 21st day of September, 2009



John Westra, Western Regional Manager

SCANNED

SEP 21 2009

RECEIVED

MAY 12 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
MAY - 8 2009	
By _____	Clerk
Deputy Clerk	

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 63-33146
	)
Case No. 39576	) ORDER GRANTING MOTION TO FILE
	) LATE OBJECTION
	)
	) ORDER VACATING TRIAL SCHEDULE
	)
	) ORDER SETTING STATUS
	) CONFERENCE

On March 26, 2009, L.W. and Barbara J. Ragains, through their attorney Dana Hofstetter, filed a *Motion to File Late Objection* together with a supporting affidavit. A hearing on the motion was held on May 5, 2009. Based upon the comments of the participants at the hearing, this Special Master finds that the requirement of I.R.C.P. 55(c) have been met and accordingly the *Motion* is **granted**. The Clerk of the Court is instructed to file the previously lodged objection.

The trial and all associated dates and deadlines set forth in the December 11, 2008 *Trial Scheduling Order* are hereby **vacated**.

A status conference will be held on **December 1, 2009 at 9:30 AM** Mountain Time at the Snake River Basin Adjudication Courthouse, 253 3rd Avenue North, Twin Falls, Idaho. Parties may participate by telephone by dialing 225-383-1099 and when prompted entering the code 675342.

Dated May 8, 2009



THEODORE R. BOOTH
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING LATE OBJECTION; ORDER VACATING TRIAL; ORDER SETTING STATUS CONFERENCE was mailed on May 08, 2009, with sufficient first-class postage to the following:

L W & BARBARA RAGAINS

Represented by:

DANA L. HOFSTETTER

608 WEST FRANKLIN STREET

BOISE, ID 83702

Phone: 208-424-7800

JOHN R LINDLEY

Represented by:

JON C GOULD

RINGERT CLARK CHARTERED

PO BOX 2773

BOISE, ID 83701

DIRECTOR OF IDWR

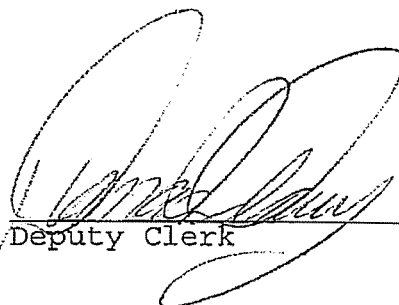
PO BOX 83720

BOISE, ID 83720-0098

ORDER

Page 1 5/08/09

FILE COPY FOR 02186 Deputy Clerk



STATUS CONFERENCE NOTES:

RIGHT NO. 63-33146

DATE: 5-5-09

Dana's request:
Case will be stayed until transfer
is filed and then approved.
Once approved we could do an
NCAP representing the new right.

~~Rather than an NCAP~~

Ordered all deadlines are vacated
& ~~with no~~ objection is granted.
December 1, 2009 9:30 AM status
conference. Special Master wants
an SFS rather than NCAP? Ted's
going to do a quib order.

Shurte, Jan

From: Spencer, Nick
Sent: Monday, May 04, 2009 6:12 PM
To: Homan, John; Peppersack, Jeff
Cc: Williams, Ray; Shurte, Jan
Subject: 63-33146 (Ragains/Lindley/Troost)

Gentlemen: I have a quick question about what evidence of a legal interest in real property is sufficient to allow a party to file an application for transfer. Here is the situation in a nutshell. IDWR records show the water right as belonging to Lindley, even though there is a dispute in the SRBA as to whether Lindley or Troost own it. The water right is going to be transferred to property owned by Troost. To resolve the dispute between Ragains and Troost on the one hand, and Lindley on the other hand, the three are going to enter into a written settlement agreement. The agreement provides (1) Lindley will execute a quitclaim deed for the water right to Troost, which deed will be placed in escrow; (2) Troost will file an application for transfer to move the water right to his property, (3) after [if] the transfer is approved, Ragains, Troost, and Lindley will sign an SF-5 agreeing the water right belongs to Troost and is located on Troost's property, (4) the right then gets partially decreed in the SRBA, and (4) the quitclaim deed is released from escrow to Troost [and, also, money changes hands]. My question is whether this contract will be sufficient evidence of Troost's interest in the property for allocations to accept and process the application for transfer. If not, do you have any suggestions on how the parties ought to restructure their agreement? Please advise. Thanks. NBS

Shurte, Jan

From: Spencer, Nick
Sent: Monday, May 04, 2009 5:37 PM
To: Hofstetter Law Office; jon@ringertlaw.com
Cc: Shurte, Jan; Williams, Ray
Subject: 63-33146 (Ragains/Lindley/Troost)

Dana and Jon:

My apologies for not responding sooner. We have been hung up over here by what I now realize was a misunderstanding of your intentions regarding the SF-5 for 63-33146. We were thinking that you were proposing that the parties and IDWR enter into an SF-5 for 63-33146 before the right was transferred to the Troost POU, which SF-5 would specify that the right's POU would be determined in the transfer. The difficulty we were having was whether IDWR could sign off on an SF-5 that did not specifically describe the POU, but rather only provided it would be determined in a future transfer. Upon re-reading the proposed settlement agreement I now understand that the agreement contemplates the SF-5 for 63-33146 will not be executed until after the Troost transfer is approved and the new POU is known for certain. I now understand that Dana's March 4th e-mail to Ray Williams requesting the preparation of an SF-5 for 63-33146 as shown in Exhibit D of the proposed settlement agreement was only for him to prepare a "specimen" SF-5 to use as Exhibit D, so that Exhibit D did not have to contain the handwritten reference to the future determination of the POU. If that is not the case, please let me know.

As I now understand the essential sequence of events described in the proposed settlement agreement, they are (1) Lindley executes a quitclaim deed of 63-33146 to Troost, which quitclaim deed is held in escrow, (2) Troost transfers the water right to his property, (3) the SF-5 describing the right as being on Troost's property is executed, (4) the quitclaim deed is released from escrow. The problem I see with this is that the allocations folks at IDWR are going to need to see proof that Troost has a sufficient legal interest in the water right to enable him to transfer it before they will process the transfer. I am not sure that a deed held in escrow, only to be released upon the occurrence of future events, is a sufficient legal interest. You might want to explore that question further. If it is not, I wonder if Lindley could execute the quitclaim deed to Troost outright, rather than putting it into escrow. The settlement agreement could then instead contain a provision that if the transfer was not approved, the right was not satisfactorily decreed in the SRBA, etc etc, that Troost would be required to convey the water right back to Lindley. Is this a workable alternative? If not, I am sure there is another way to resolve the problem.

Anyway, I will take the heat from the Special Master in the morning, explaining that it was my own confusion and overly-busy schedule that caused the delay in getting this matter resolved. Best wishes, NBS

Shurte, Jan

From: Peppersack, Jeff
Sent: Tuesday, May 05, 2009 8:24 AM
To: Spencer, Nick; Homan, John
Cc: Williams, Ray; Shurte, Jan
Subject: RE: 63-33146 (Ragains/Lindley/Troost)

Nick,
I think the agreement would be enough to accept and process the transfer. Since the agreement wouldn't release the quitclaim deed until after the transfer is approved, the SF5 is signed and the SRBA decree is issued, I guess that means the transfer would be approved with the right in the name of Lindley. Troost would file an owner change after the deed is released.

We've processed and approved similar agreements by simply having the owner of record sign an agreement allowing the transfer or co-signing the transfer application and then we issue the approval with the right in the name of the 2nd party where the water right is moved to (based on the assumption that when the transfer is accomplished, the right is appurtenant to the place of use and owned by the land owner). There is a risk that the transfer is never accomplished, but we could rescind the transfer in that case.

Jeff

From: Spencer, Nick
Sent: Monday, May 04, 2009 6:12 PM
To: Homan, John; Peppersack, Jeff
Cc: Williams, Ray; Shurte, Jan
Subject: 63-33146 (Ragains/Lindley/Troost)

Gentlemen: I have a quick question about what evidence of a legal interest in real property is sufficient to allow a party to file an application for transfer. Here is the situation in a nutshell. IDWR records show the water right as belonging to Lindley, even though there is a dispute in the SRBA as to whether Lindley or Troost own it. The water right is going to be transferred to property owned by Troost. To resolve the dispute between Ragains and Troost on the one hand, and Lindley on the other hand, the three are going to enter into a written settlement agreement. The agreement provides (1) Lindley will execute a quitclaim deed for the water right to Troost, which deed will be placed in escrow; (2) Troost will file an application for transfer to move the water right to his property, (3) after [if] the transfer is approved, Ragains, Troost, and Lindley will sign an SF-5 agreeing the water right belongs to Troost and is located on Troost's property, (4) the right then gets partially decreed in the SRBA, and (4) the quitclaim deed is released from escrow to Troost [and, also, money changes hands]. My question is whether this contract will be sufficient evidence of Troost's interest in the property for allocations to accept and process the application for transfer. If not, do you have any suggestions on how the parties ought to restructure their agreement? Please advise. Thanks. NBS

L. W. and Barbara J. Ragains

Dana L. Hofstetter, ISB No. 3867
HOFSTETTER LAW OFFICE, LLC
608 West Franklin Street
Boise, ID 83702
Telephone: (208) 424-7800
Facsimile: (208) 424-8774

John Lindley

Jon C. Gould, ISB No. 6709
RINGERT LAW CHARTERED
455 S. Third, P.O. Box 2773
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657

**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. 39576

)
) Subcase Nos. 63-33040, 63-33145
) and 63-33146
)

**RELEASE AND SETTLEMENT
AGREEMENT**

_____)
This Release and Settlement Agreement ("Agreement") is entered into as of the effective date indicated below, by and between, and among L. W. and Barbara J. Ragains, husband and wife, (the "Ragains"), the Troost Family Living Trust, an Idaho revocable trust, ("Troost") and John R. Lindley, a single man, ("Lindley") upon the following terms and conditions:

- VLM - is well on Troost land?
1. Agreement to Pay and Release. Troost hereby agrees to pay Lindley a sum of twenty four thousand dollars (\$24,000.00), Lindley hereby agrees to forever release and quitclaim any and all right title and interest in and to Water Right Nos. 63-8700, 63-33040, 63-33041, 63-33145 and 63-33146 and the associated well and the parties hereby agree to the full and final settlement of contested and disputed claims in Snake River Basin Adjudication ("SRBA") Subcase Nos. 63-8700, 63-33040, 63-33041, 63-33145 and 63-33146.
 2. Payment. Troost agrees to deliver the sum of TWENTY-FOUR THOUSAND AND NO/100 (\$24,000) (the "Payment") in the form of a certified check to Crystal Shifflett, Transnation Title & Escrow Inc., 8665 W. Emerald St., Suite 200, Boise, Idaho 83704 ("Escrow Agent"), within seven (7) days after the effective date of this Agreement, to be deposited in and released from an interest-bearing account pursuant to the escrow instructions of paragraph 6 herein.
 3. Deeds. Lindley agrees to execute and have notarized a quit claim deed (the "Troost Deed") in the form of Exhibit A hereto relinquishing any and all right, title and interest in and to Water Right No. 63-33146 and the associated well to Troost and to deliver such deed to the Escrow Agent within seven (7) days after the effective date of this Agreement to be held and delivered pursuant to the escrow instructions of paragraph 6 herein. Lindley further agrees to execute and have notarized a quit claim deed (the "Ragains Deed") in the form of Exhibit B hereto relinquishing any and all right, title and interest in and to Water Right

No. 63-33145 to the Ragains and to deliver such deed to the Escrow Agent within seven (7) days after the effective date of this Agreement to be held and delivered pursuant to the escrow instructions of paragraph 6 herein.

4. Water Right Transfer. The parties acknowledge that Troost's use of Water Right No. 63-33146 on its property will require Idaho Department of Water Resources ("IDWR") approval of an Application for Transfer of Water Right. Troost agrees to prepare an Application for Transfer to change the place of use of the Water Right ("Transfer Application"). Troost shall file the Transfer Application with IDWR along with the associated filing fee within thirty (30) days after the effective date of this Agreement. Lindley and the Ragains agree to cooperate as necessary for approval of the Transfer Application in all administrative and judicial proceedings. For purposes of this Agreement, final approval shall mean approval of the Application for Transfer on terms and conditions that are acceptable to Troost after all administrative and judicial remedies are exhausted. The parties agree to mutually seek an SRBA Court stay of SRBA Subcase No. 63-33146 pending IDWR processing of the Transfer Application. However, the parties shall encourage and allow SRBA Subcase Nos. 63-8700, 63-33040, 63-33041, and 63-33145 to be partially decreed by the SRBA Court as described in Exhibit C hereto (SRBA Special Master's Report and Recommendation for Water Right Nos. 63-33041 and 63-08700 dated October 15, 2008 and SRBA Notice of Completed Administrative Proceeding for Water Right 63-33040 -Split into 63-33145 and 63-33146- dated February 2, 2009) as soon as possible. Lindley agrees to withdraw any

Objections from Subcase Nos. 63-8700, 63-33040, 63-33041 and 63-33145 and to take whatever other steps the SRBA Court deems necessary for these Subcases to proceed to partial decree in the SRBA with the elements described in Exhibit C hereto as soon as possible.

5. SRBA Standard Form 5. Within fourteen (14) days of notification of final approval of the Application for Transfer, the Ragains, Troost and Lindley agree to execute and file with the SRBA Court, an SRBA Standard Form 5 document for Subcase No. 63-33146, substantially in the form of Exhibit D with Troost as the water right owner and with whatever other revisions are necessary to conform the Standard Form 5 to the terms of the final approval of the Transfer Application.
6. Escrow Agent and Instructions. The parties hereby appoint Crystal Shifflett, Transnation Title & Escrow Inc., 8665 W. Emerald St., Suite 200, Boise, Idaho 83704 as the Escrow Agent to hold and release the Payment and the quit claim deeds pursuant to the following instructions and any additional written instructions signed by both parties hereto and provided to the Escrow Agent. Troost and Lindley shall share equally the Escrow Agent's fee.
 - a. The Payment, together with any interest accrued thereon, shall be released to Lindley only upon: (1) a final SRBA Partial Decree is issued by the SRBA Court for Water Right No. 63-33146 in substantial conformance with the Standard Form 5 in Exhibit D hereto; (2) the expiration of all judicial periods for appeal of the SRBA Partial Decrees for Water Right Nos. 63-8700, 63-33040, 63-33041, 63-33145, and 63-33146 have passed without an appeal

having been filed, and (3) Escrow Agent's receipt of written approvals by Troost and the Ragains that the terms and conditions of the final SRBA Partial Decrees for Water Right Nos. 63-8700, 63-33040, 63-33041, 63-33145, and 63-33146 are all acceptable and that the applicable periods of appeal for these Partial Decrees have all passed. Troost's and the Ragains' written approvals (or disapproval, if applicable) shall be provided in writing to Escrow Agent within seven (7) days after expiration of the last applicable judicial period for appeal. Upon receipt of both the Ragains' and Troost's written approvals, Escrow Agent shall release the Payment and accrued interest thereon to Lindley. The quit claim deeds shall be recorded and released to Troost and the Ragains, respectively, upon release of the Payment and all accrued interest to Lindley.

b. If the stay of SRBA Subcase No. 63-33146 is not allowed, if the Application for Transfer is not approved, if the Application for Transfer is approved on conditions unacceptable to Troost, if any of the Partial Decrees are disapproved by Troost or the Ragains, or if any of the Partial Decrees are appealed, the escrow shall terminate pursuant to paragraph 6(c) below, unless extended by the parties by mutual written agreement.

c. Upon termination of the escrow, the Escrow Agent shall release immediately the Payment, together with any accrued interest earned thereon, to Troost pursuant to written instructions to Escrow Agent, and shall return the quit claim deeds to Lindley. Upon release of the Payment to Troost and return of the quit claim deeds to Lindley, this Agreement shall terminate. The parties may, by mutual written agreement and written notification to the Escrow Agent,

extend the term of the escrow.

7. Representations, Warranties, and Covenants. The parties hereby represent and warrant to and covenant that:

a. They each have full right, power, and authority to execute and deliver this Agreement and to consummate the transactions provided for herein without obtaining any further consents or approvals from, or the taking of any other actions with respect to, any other parties, and this Agreement, when executed and delivered, will constitute a valid and binding agreement, enforceable against each of them in accordance with its terms.

b. To each of the parties' actual knowledge, there are no attachments, executions, assignments for the benefit of creditors or voluntary or involuntary proceedings in bankruptcy pending, or threatened against them.

c. Lindley represents that he is the sole owner of the 24 acre place of use described on Exhibit C hereto for Water Right No. 63-33146 and that he has not granted any person, firm or corporation or other entity any right or option to acquire those 24 acres, or any part thereof.

d. Lindley has not granted and will not grant any other person, firm or corporation or other entity any right or option to acquire or any other interest in Water Right Nos. 63-8700, 63-33040, 63-33041, 63-33145 and 63-33146, or any part thereof.

e. Each of the parties' representations and warranties shall survive indefinitely.

8. Notice Prior to Enforcement. Before any party files a new action to enforce any of the terms hereof, such party shall first provide the other parties with thirty (30) days prior written notice to all of the other parties. The parties agree that the purpose of said notice is to give the parties a reasonable opportunity to address any alleged deficiencies in performance which prompted the notice.
9. Entire Agreement. Plaintiffs declare and represent that no promise, inducement or agreement not expressed herein has been made and that this Release and Settlement Agreement contains the entire agreement between the entire parties hereto. Furthermore, the parties are fully informed in this matter and this Release and Settlement Agreement is made and entered into of their own free will, voluntarily, and without coercion or duress.
10. Assignments or Modifications. This Release and Settlement Agreement represents the full and complete meeting of the minds of the parties hereto, and it is not altered, amended, modified or varied by any prior or contemporaneous oral or written terms. Any assignments of or modifications to this Agreement must be in writing and consented to by all parties hereto.
11. Governing Law. The terms of the Release and Settlement Agreement are contractual in nature and not mere recitals. This Release and Settlement Agreement is entered into in the State of Idaho and shall be accordance with its laws.
12. Cooperation. The parties agree to cooperate fully and execute any all supplemental documents and to take any and all actions which may be necessary

or appropriate to give full force and effect to the basic terms and intent of this Release and Settlement Agreement.

13. Counterparts. This Release and Settlement Agreement may be executed in any number of counterparts for the convenience of the parties, all of which, when taken together and after execution by all parties hereto, shall constitute one and the same Release and Settlement Agreement.
14. Time of Essence. Time is of the essence in the performance of all obligations under this Agreement.
15. Breach. In the event of a breach of any of the covenants, conditions and agreements contained herein, the breaching party shall pay all costs and expenses, including reasonable attorneys' fees, which may arise or accrue from enforcing this Agreement, whether by suit or otherwise. All remedies specifically set forth herein are cumulative and shall be deemed to be in addition to any remedies otherwise available at law or in equity, including the right to restrain by injunction any violation or threatened violation of any of the terms, covenants or conditions of this Agreement and the right to obtain a decree of specific performance of any of such terms, covenants or conditions, it being agreed that the remedy at law for breach of any of such terms, covenants or conditions may not be adequate.
16. Binding Effect. The provisions of this Agreement shall be binding upon and inure to the benefit of each of the parties, and their respective administrators, executors, partners, officers, directors, members, legal representatives, heirs, devisees, successors and assigns.

17. Headings. Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.
18. Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any remaining portions thereof or any other provision.
19. Non-Waiver. No delay or failure of a party to exercise any right under this Agreement, and no partial or single exercise of that right shall constitute waiver of that or any other right, unless otherwise expressly provided herein. No express or implied consent to or waiver of any breach or default by a party in the performance of its obligations hereunder shall be deemed or construed to be a consent to or waiver of any other breach or default by such party of the same or any other obligations hereunder. Failure on the part of any party to complain of any act or failure to act of any of the other parties or to declare such failure continuous shall not constitute a waiver of such party's rights hereunder.
20. Effective date. This Agreement shall be effective only upon execution by all Parties. The effective date shall be the date of the last execution.
21. Notices. All notices, demands or requests provided for in this Agreement shall be deemed to have been properly given or served upon a party or its permitted assignee three (3) days after depositing the same in the United State mail, postage prepaid and registered or certified with return receipt requested, at the addresses set forth in Exhibit C hereto. By giving to the other party at least thirty

(30) days written notice thereof, the parties hereto and their respective successors and assigns shall have the right at any time during the term of this Agreement to change their respective addresses, and shall have the right to specify any other address within the United States of America.

IN WITNESS WHEREOF, Troost, the Ragains and Lindley have executed this Agreement on the date(s) set forth below.

TROOST FAMILY LIVING TRUST

Date: _____

By: _____
Greg Troost
Its Trustee

JOHN R. LINDLEY

Date: _____

L. W. RAGAINS

Date: _____

BARBARA J. RAGAINS

Date: _____

STATE OF IDAHO)
) ss:
County of _____)

On this _____ day of _____, 2009, before me, the undersigned Notary Public, personally appeared Greg Troost, known or identified to me to be the person whose name is subscribed to the foregoing instrument as Trustee of the Troost Family Living Trust and acknowledged to me that he executed the same as such Trustee of the Troost Family Living Trust.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgment first above written.

Notary Public for the State of Idaho
Residing at _____
My Commission Expires: _____

STATE OF IDAHO)
) ss:
County of _____)

On this _____ day of _____, 2009, before me, the undersigned Notary Public, personally appeared John R. Lindley, known or identified to me, to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgment first above written.

Notary Public for the State of Idaho
Residing at _____
My Commission Expires: _____

STATE OF IDAHO)
) ss:
County of _____)

On this _____ day of _____, 2009, before me, the undersigned Notary Public, personally appeared L. W. Ragains, known or identified to me, to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgment first above written.

Notary Public for the State of Idaho
Residing at _____
My Commission Expires: _____

STATE OF IDAHO)
) ss:
County of _____)

On this _____ day of _____, 2009, before me, the undersigned Notary Public, personally appeared Barbara J. Ragains, known or identified to me, to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgment first above written.

Notary Public for the State of Idaho
Residing at _____
My Commission Expires: _____

QUITCLAIM DEED
FOR WATER RIGHT AND WELL

FOR VALUE RECEIVED, John R. Lindley, a single man, the Grantor, does hereby convey, release, remise and forever quitclaim unto Greg Troost, Trustee of the Troost Family Living Trust, the Grantee, whose address is 30540 Sabin Road, Parma, Idaho 83660, all of Grantor's right title and interest in and to Idaho Water Right No. 63-33146, formerly a portion of Water Right Nos. 63-8700 and 63-33040, and the associated well which are both more particularly described in Exhibit A that is attached hereto and by this reference is made apart hereof.

IN WITNESS WHEREOF, this deed was executed by the undersigned on the _____ day of _____, 2009.

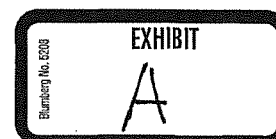
John R. Lindley

STATE OF IDAHO)
) ss
County of _____)

On this _____ day of _____, 2009, before me, the undersigned Notary Public, personally appeared John R. Lindley, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgment first above written.

Notary Public for the State of Idaho
Residing at _____
My Commission Expires: _____



12/26/2008

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-33146

NAME AND ADDRESS: JOHN R LINDLEY
29453 GOTSCH RD
PARMA ID 83660

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.360 CFS
108.00 AFY

PRIORITY DATE: 04/18/1977

POINT OF
DIVERSION:

T05N R05W S1 NENW Lot 3 Within CANYON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/15 11/15

0.360 CFS
108.00 AFY

The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION in CANYON County

T05N R05W S01 SWNE 18.00 T05N R05W S01 SENE 6.00

24 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.

Shimberg No. 5293

EXHIBIT

A

QUITCLAIM DEED
FOR WATER RIGHT

FOR VALUE RECEIVED, John R. Lindley, a single man, the Grantor, does hereby convey, release, remise and forever quitclaim unto L. W. and Barbara J. Ragains, husband and wife, the Grantees, whose address is 29392 Sabin Road, Parma, Idaho 83660, all of Grantor's right title and interest in and to Idaho Water Right No. 63-33145, formerly a portion of Water Right Nos. 63-8700 and 63-33040, which is more particularly described in Exhibit A that is attached hereto and by this reference is made a part hereof.

IN WITNESS WHEREOF, this deed was executed by the undersigned on the _____ day of _____, 2009.

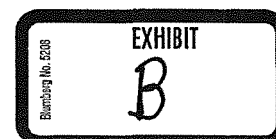
John R. Lindley

STATE OF IDAHO)
) ss
County of _____)

On this ____ day of _____, 2009, before me, the undersigned Notary Public, personally appeared John R. Lindley, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgment first above written.

Notary Public for the State of Idaho
Residing at _____
My Commission Expires: _____



12/26/2008

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-33145
NAME AND ADDRESS: BARBARA J RAGAINS
29392 SABIN
PARMA ID 83660
L W RAGAINS
29392 SABIN
PARMA ID 83660

SOURCE: GROUND WATER
QUANTITY: 1.660 CFS
499.50 AFY

TRIBUTARY:

PRIORITY DATE: 04/18/1977

POINT OF
DIVERSION:

T05N R05W S1 NENW Lot 3 Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
-----------------------	----------------------	-----------------

IRRIGATION	03/15 11/15	1.660 CFS 499.50 AFY
------------	-------------	-------------------------

The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

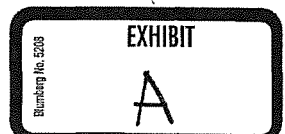
PLACE OF USE: IRRIGATION in CANYON County

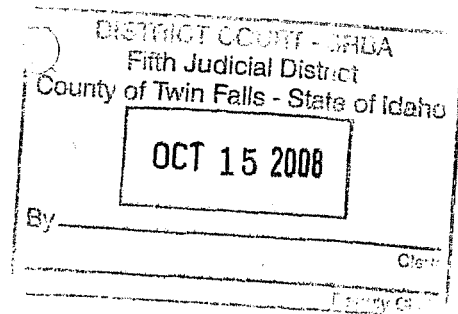
T05N R05W S01 Lot 3 NENW	10.00	T05N R05W S01 Lot 4 NWNW	23.00
T05N R05W S01 NESW	40.00	T05N R05W S01 NWSW	38.00

111 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.





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) SPECIAL MASTER'S REPORT
Case No. 39576)
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
)
) FOR WATER RIGHT 63-33041
)
) SPECIAL MASTER'S REPORT AND
) RECOMMENDATION OF
) DISALLOWANCE FOR WATER RIGHT
) CLAIM 63-08700

A notice of claim was filed for water right 63-08700 pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources (IDWR) examined the water system for this reporting area. The *Director's Report* contained a recommendation for the elements of water right 63-08700. Subsequent to the filing of the *Director's Report*, IDWR filed a *Notice of Completed Administrative Proceeding* which split water right 63-08700 into water rights 63-33040 and 63-33041. A hearing on a motion to file a late objection was held in subcase 63-33040 on October 3, 2008. At the hearing, it was determined that water right claim 63-33041 will not be affected by the outcome of contested water right 63-33040, and therefore water right claim 63-33041 can proceed on its own.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, IT IS RECOMMENDED that water right 63-33041 be decreed with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*. IT IS FURTHER RECOMMENDED that the SRBA District Court enter a final order **disallowing** water right claim 63-08700.

Dated Oct 15, 2008

Theodore R. Booth
Special Master
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS - State of Idaho

DISTRICT COURT - SRBA

Fifth Judicial District

OCT 15 2008

In Re SRBA

Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 63-33041

Clerk

NAME AND ADDRESS:

TROOST FAMILY LIVING TRUST
GREG TROOST
30540 SABIN RD
PARMA, ID 83660

SOURCE:

GROUND WATER

QUANTITY:

0.31 CFS
94.50 AFY

PRIORITY DATE:

04/18/1977

POINT OF DIVERSION:

T05N R05W S01 LOT 3 (NENW) Within Canyon County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE
Irrigation

PERIOD OF USE
03-15 TO 11-15

QUANTITY
0.31 CFS
94.50 AFY

The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE:

Irrigation

Within Canyon County

T05N R05W S01 LOT 2 (NWNE) 21.0
21.0 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. I.C. SECTION 42-1412(6).

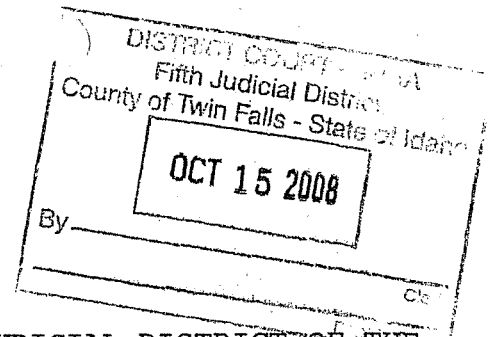
RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

RECOMMENDATION

OCT 15 2008



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. 39576)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

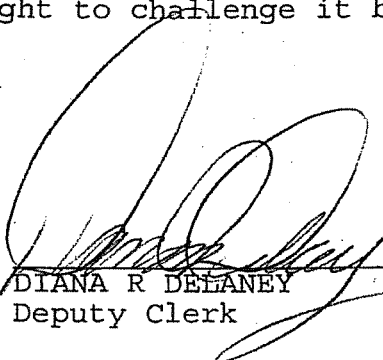
Water Right(s): 63-08700
63-33041

On October 15, 2008, Special Master THEODORE R. BOOTH issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION shall constitute a waiver of the right to challenge it before the Presiding Judge.

DATED October 15, 2008.


DIANA R DELANEY
Deputy Clerk

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of I

OCT 15 2008

By _____

Deputy

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. 39576)

CERTIFICATE OF MAILING

Water Right(s): 63-08700
63-33041

CERTIFICATE OF MAILING

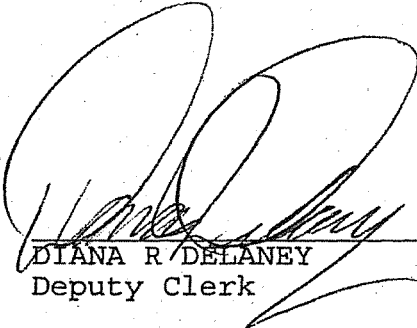
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on October 15, 2008, with sufficient first-class postage prepaid to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

BARBARA J RAGAINS
L W RAGAINS
Represented by:
DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702
Phone: 208-424-7800

TROOST FAMILY LIVING TRUST
GREG TROOST
30540 SABIN RD
PARMA, ID 83660

CERTIFICATE OF MAILING


DIANA R DELANEY
Deputy Clerk

PAGE 1
10/15/08

In Re SRBA	)	Water Right: 63-33040 (Split)
	)	into 63-33145 and 63-33146
	)	
Case No. 39576	)	NOTICE OF COMPLETED
	)	ADMINISTRATIVE
	)	PROCEEDING

☐ Address change

☒ Substitution of Party

☒ Split of water right ☒ Change in ownership

☐ IC § 42-222 transfer

☐ Point of diversion ☐ Place of use

☐ Period of use ☐ Nature of use

☐ Split of water right ☐ Change in ownership

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on 2/4, 2009, I delivered the original and copies of this form, including all attachments, to the following persons, postage prepaid if required and addressed as follows:

1. Original to:

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

2. Copies to:

Clive Strong
Off ice of the Attorney General
P.O. Box 44449
Boise, ID 83711-4449

United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724

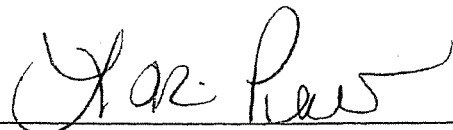
3. Copies to all parties to the subcase:

John R. Lindley
29453 Gotsch Rd.
Parma, ID 83660

L.W. and Barbara Ragains
29392 Sabin
Parma, ID 83660

Jon C. Gould
Ringert Law Chtd.
P.O. Box 2773
Boise, ID 83701-2773

Dana L. Hofstetter
Hofstetter Law Office
608 W. Franklin St.
Boise, ID 83702



Signature of person mailing this document

12/26/2008

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

RIGHT NUMBER: 63-33040

SPLIT RIGHT: SEE RIGHT NOS. 63-33145 and 63-33146.

12/26/2008

IDAHO DEPARTMENT OF WATER RESOURCES
CLAIMS / RIGHTS NOT RECOMMENDED

<u>W.R. NUMBER</u>	<u>NAME AND ADDRESS</u>	<u>CLAIM DISPOSITION</u>	<u>REASON</u>
63-33040	BARBARA J RAGAINS 29392 SABIN PARMA ID 83660 L W RAGAINS 29392 SABIN PARMA ID 83660	Disallowed	Recommended as Right Nos. 63-33145 & 63-33146

12/26/2008

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-33145
NAME AND ADDRESS: BARBARA J RAGAINS
29392 SABIN
PARMA ID 83660
L W RAGAINS
29392 SABIN
PARMA ID 83660

SOURCE: GROUND WATER TRIBUTARY:
QUANTITY: 1.660 CFS
499.50 AFY

PRIORITY DATE: 04/18/1977

POINT OF
DIVERSION:

T05N R05W S1 NENW Lot 3 Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
-----------------------	----------------------	-----------------

IRRIGATION	03/15 11/15	1.660 CFS 499.50 AFY
------------	-------------	-------------------------

The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION in CANYON County

T05N R05W S01 Lot 3 NENW	10.00	T05N R05W S01 Lot 4 NWNW	23.00
T05N R05W S01 NESW	40.00	T05N R05W S01 NWSW	38.00

111 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 63-33040.

This right is a split from former right 63-8700.

The right holder shall either install a measuring device or provide a certified measurement by a professional engineer or install an access port or other device as specified by the Department.

Right No. 63-9110 is also diverted through point of diversion described above.

Use of this right is combined with water from Black Canyon Irrigation District.

12/26/2008

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-33146

NAME AND ADDRESS: JOHN R LINDLEY
29453 GOTSCH RD
PARMA ID 83660

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.360 CFS
108.00 AFY

PRIORITY DATE: 04/18/1977

POINT OF
DIVERSION:

T05N R05W S1 NENW Lot 3 Within CANYON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/15 11/15

0.360 CFS
108.00 AFY

The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION in CANYON County

T05N R05W S01 SWNE 18.00 T05N R05W S01 SENE 6.00

24 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

Use of this right is combined with water from Black Canyon Irrigation District.

Right No. 63-9110 is also diverted through point of diversion described above.

This right is a split from former right 63-8700.

The right holder shall either install a measuring device or provide a certified measurement by a professional engineer or install an access port or other device as specified by the Department.

This right is a split from former right 63-33040.

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. 63-33146
	)	
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT(s):

OBJECTOR:

Barbara J. Ragains

John R. Lindley

L.W. Ragains

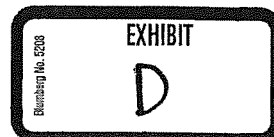
Greg Troost, Trustee
Troost Family Living Trust

Dana L. Hofstetter Date
Attorney for Claimants

John C. Gould Date
Attorney for Objector

IDWR Concurrence:

STANDARD FORM 5 – Water Right No. 63-33146



Jan Shurte Date
Water Rights Supervisor

Nicholas B. Spencer Date
Deputy Attorney General
Attorney for IDWR

12/26/2008

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-33146
NAME AND ADDRESS: Troost Family Living Trust, Greg Troost
30540 Sabin Road
PARMA ID 83660

SOURCE: GROUND WATER TRIBUTARY:

QUANTITY: 0.360 CFS
108.00 AFY

PRIORITY DATE: 04/18/1977

POINT OF
DIVERSION:

T05N R05W S1 NENW Lot 3 Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	0.360 CFS 108.00 AFY
The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.		

PLACE OF USE: IRRIGATION in CANYON County
Location to be determined by Troost Transfer

24 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.

CERTIFICATE OF MAILING

I certify that on _____, 2009, 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, IDAHO 83303-2707

2. Copies to:

BARBARA J. RAGAINS
L W RAGAINS
TROOST FAMILY LIVING TRUST
Represented by:
DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702
Phone: 208-424-7800

JOHN R LINDLEY
Represented by:
JON C. GOULD
RINGERT CLARK CHARTERED
P.O. BOX 2773
BOISE, ID 83701

DIRECTOR OF IDWR
P.O. BOX 83720
BOISE, ID 83720-0098

Signature of person or attorney mailing form

Music, Vicky

From: Williams, Ray
Sent: Wednesday, March 04, 2009 11:30 AM
To: Music, Vicky; Spencer, Nick
Subject: FW: Ragains
Attachments: Release and Settlement Agreement.pdf

Nick & Vicky,

What are your thoughts? In looking at the proposed SF5, I think an ownership change and an NCAP might be necessary prior to changing ownership. I'm not sure about the place of use proposal either.

Thanks,

Ray

From: Hofstetter Law Office [mailto:Dana@IdahoWaterLaw.com]
Sent: Wednesday, March 04, 2009 10:57 AM
To: Williams, Ray; Chris Bromley
Cc: Spencer, Nick; Jon Gould
Subject: Re: Ragains

Ray:

If you could provide the SF5 for 63-33146 in the form of Exhibit D to the attached, that would be great. As you will note, I marked up the Director's Report Recommendation by hand to create the SF5.

Thank you,
Dana

P.S. Ray/Nick Perhaps IDWR should review the attached settlement agreement and let me and Jon know if anything needs to be revised and if the planned settlement is okay with IDWR prior to execution which I anticipate would be accomplished early next week.

Williams, Ray wrote:

Dana,

I'm sorry that I am late responding to this. I was out sick yesterday. In looking at the notes from yesterday, it looks like you sent a proposed agreement to Jon. I'm guessing you no longer need this. If that's not the case, let me know, and I will have a Word document sent to you.

Thanks,

Ray

3/4/2009

-----Original Message-----

From: Hofstetter Law Office [<mailto:Dana@IdahoWaterLaw.com>]

Sent: Monday, March 02, 2009 4:46 PM

To: Williams, Ray

Subject: Re: Ragains

Ray:

Could you also provide me the water right description for the SF5 for 63-33146 (or 63-33040) as a Word document?

Thank you,
Dana

Williams, Ray wrote:

Dana,

Nick forwarded your voice mail to me. Is this what you were wanting?

Thanks,

Ray

<<63-33040 SF5.doc>>

RECEIVED

MAR 30 2009

DEPARTMENT OF
WATER RESOURCES

2009 MAR 27 PM 03:06
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

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	)	ORDER SETTING HEARING
	)	
Case No. 39576	)	
_____	)	SUBCASE NO: 63-33146

Please be advised that Special Master THEODORE R BOOTH
has set for hearing the MOTION TO FILE LATE OBJECTION.

TUESDAY, MAY 05, 2009 at 10:30 AM (MT)

SRBA
253 - 3RD AVENUE NORTH
TWIN FALLS, ID

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

IT IS SO ORDERED.

Dated: MARCH 27, 2009

/S/ THEODORE R. BOOTH
Special Master
Snake River Basin Adjudication

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

Page 1 3/27/09

CERTIFICATE OF MAILING

I Certify that a true and correct copy of the ORDER SETTING HEARING was mailed on MARCH 27, 2009, with sufficient first-class postage to the following:

L W & BARBARA RAGAINS

Represented by:
JOHN A. BUSH
PO BOX 2774
800 W IDAHO STE 300
BOISE, ID 83702
Phone: 208-344-7700

JOHN R LINDLEY

Represented by:
JON C GOULD
RINGERT CLARK CHARTERED
PO BOX 2773
BOISE, ID 83701

DANA HOFSTETTER
HOFSTETTER LAW OFFICE LLC
608 W FRANKLIN ST
BOISE, ID 83702

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

RECEIVED

MAR 27 2009

DEPARTMENT OF
WATER RESOURCES

L. W. and Barbara J. Ragains

Dana L. Hofstetter, ISB #3867
HOFSTETTER LAW OFFICE, LLC
608 West Franklin Street
Boise, Idaho 83702
(208) 424-7800
(208) 424-8774 (Facsimile)

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

In Re SRBA

Case No. 39576

)
)
)
)

Subcase No. 63-33146

**MOTION TO FILE LATE
OBJECTION**

MOTION

L. W. and Barbara J. Ragains, by and through their counsel of record, Dana Hofstetter of Hofstetter Law Office, LLC, hereby move, pursuant to I.R.C.P. Rule 55(c) and SRBA Administrative Order 1 Section 17(c), for leave to file a late Objection to Water Right No. 63-33146. This Motion is supported by the Memorandum below, the proposed Objection

attached hereto as Exhibit A, the contemporaneously filed Affidavit of Dana L. Hofstetter and the record.

MEMORANDUM

The SRBA record reflects that Water Right No. 63-33146 derives from licensed Water Right No. 63-8700. L. W. and Barbara J. Ragains were the original licensees for Water Right No. 63-8700 and originally claimed Water Right No. 63-8700 in the SRBA. *Affidavit of Dana L. Hofstetter*. The SRBA record also reflects that John R. Lindley filed a late Objection challenging the Ragains' ownership of a portion of the water right originally included in License No. 63-8700. This late Objection resulted in IDWR's split of the successor water right remaining in the Ragains' ownership, into Water Right Nos. 63-33145 and 63-33146. This recent split, as evidenced in the Notice of Completed Administrative Proceeding ("NCAP") filed in the subject subcase on February 5, 2009, necessitates this Motion to File Late Objection as the Ragains continue to contest Mr. Lindley's claim to a portion of the former Water Right No. 63-8700.

GOOD CAUSE EXISTS TO GRANT LEAVE TO FILE A LATE OBJECTION

The decision to allow a late objection to be filed in the SRBA, is based on the good cause standard of I.R.C.P. 55(c). The Rule 55(c) standard requires good cause and a meritorious defense. *McFarland v. Curtis*, 123 Idaho 931, 935, 854 P.2d 274, 278 (Ct. App. 1993). The Rule 55(c) standard for setting aside entry of default is less stringent than the Rule 60(b) standard for setting aside default judgment. *Id.* at 935-36, 854 P.2d at 278-79. This approach is consistent with the policy that cases generally

should be decided on their merits and that in an earlier stage of where there has been no judgment, a liberal approach is appropriate. *Id.* at 936, 854 P.2d at 279. The Rule 55(c) standard has been described as requiring the movant to show some excuse for a failure to answer and that a meritorious defense exists, as the policy of deciding cases on the merits should be recognized. *Id.* Further SRBA Administrative Order 1, Section 17(c) provides for the filing of Motions to File Late Objections in instances such as these where an NCAP has been issued: "Any party wishing to file an objection to an Amended Director's Report [NCAP] may do so by filing a *Motion to File a Late Objection* within 21 days following the notice of filing the Amended Director's Report [NCAP] in the Docket Sheet."

This Motion is consistent with these authorities. This Motion to File Late Objection became necessitated by IDWR's recommendation of a portion of the former Water Right No. 63-8700 to Mr. Lindley in the NCAP filed on February 5, 2009. This Motion complies with the time frame provided in Administrative Order 1, Section 17(c) for such motions. Further, License No. 63-8700, as originally issued to the Ragains including the portion of the water right now described as 63-33146 in the NCAP, evidences the Ragains' meritorious claim.

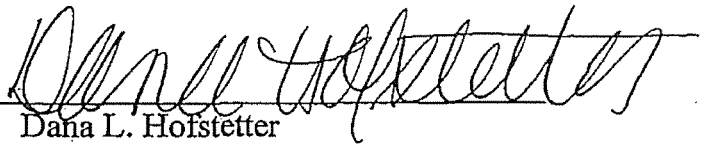
CONCLUSION

For the reasons stated above, this Motion to File Late Objection should be granted.

RESPECTFULLY SUBMITTED this 26th day of March, 2009.

HOFSTETTER LAW OFFICE, LLC

By


Dana L. Hofstetter

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of March, 2009, I caused to be served copies of the foregoing **Motion to File Late Objection** by the methods indicated below:

Idaho Department of Water Resources
Document Depository
P. O. Box 83720
Boise, Idaho 83720-0098
* U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, ID 83711-4449
* U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax

United States Department of Justice
Environment and Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724
* U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax

Jon C. Gould
Ringert Clark Chartered
P.O. Box 2773
Boise, ID 83701-2773
* U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax


Dana L. Hofstetter

4090.1/8486

RECEIVED

MAR 27 2009

DEPARTMENT OF
WATER RESOURCES

L. W. and Barbara J. Ragains

Dana L. Hofstetter, ISB #3867
HOFSTETTER LAW OFFICE, LLC
608 West Franklin Street
Boise, Idaho 83702
Telephone (208) 424-7800
Facsimile: (208) 424-8774
Email: Dana@IdahoWaterLaw.com

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

In Re SRBA

Case 39576

)
)
)
)
)
)
)

Subcase No. 63-33146

AFFIDAVIT OF DANA L. HOFSTETTER

STATE OF IDAHO

COUNTY OF ADA

)
) ss.
)

Dana L. Hofstetter, being first being duly sworn upon oath, deposes and says:

- (1) I am Dana L. Hofstetter, counsel of record for L. W. and Barbara J. Ragains.
- (2) Attached hereto as Exhibit A is a true and correct copy of the Idaho

Department of Water Resources' ("IDWR") Water Right License No. 63-8700 that I printed from IDWR's Internet website.

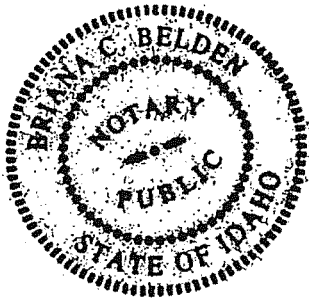
(3) Attached hereto as Exhibit B is a true and correct copy of SRBA Claim No. 63-8700 that I obtained from IDWR.

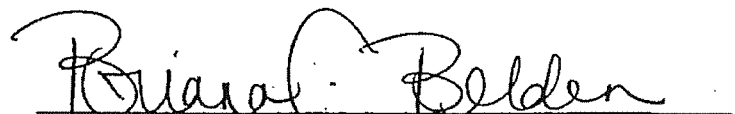
FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 26th day of March, 2009.


Dana L. Hofstetter

SUBSCRIBED AND SWORN to before me this 26th day of March 2009.




Notary Public in and for the State of Idaho
Residing at: Meridian
My Commission Expires: 01-16-2013

CERTIFICATE OF SERVICE

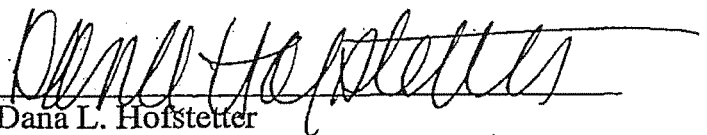
I hereby certify that I caused to be served a copy of the foregoing document this 26th day of March 2009, by U.S. Mail postage pre-paid to:

IDWR Director
P.O. Box 83720
Boise, ID 83720-0098

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

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

Jon C. Gould
Ringert Clark Chartered
P.O. Box 2773
Boise, ID 83701-2773


Dana L. Hofstetter

A

PAGE 2

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 63-08700

This license is issued pursuant to the provisions of Section 42-219, Idaho Code.
Witness the seal and signature of the Director, affixed at Boise, this 9th
day of MARCH, 1990.

Acting for R. Keith Higginson, Director

MICROFILMED

MAR 13 1990

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A63-08700
Date Received: 2/08/1990
Receipt No: MD 5796
Received By: SEA

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: L. W. RAGAINS 208-722-5515
Address: 29392 SABIN 83660
PARMA, ID
OR
Name: BARBARA RAGAINS 208-722-5515
Address: 29392 SABIN 83660
PARMA, ID
2. Date of Priority: APR 18, 1977
3. Source: GROUNDWATER Trib. to:
4. Point of Diversion:
Township Range Section 1/4 of 1/4 of 1/4 Lot County
05N 05W 1 SE NE NW 3 CANYON
5. Description of diverting works:
WELL, 320' DEPTH, 12" CAS., 119' TO WATER, PUMP PIPE, SPRINKLER & GRAV.
6. Water is used for the following purposes:
Purpose From To C.F.S. (or) A.F.A.
IRRIGATION 03/15 11/15 2.330
7. Total Quantity Appropriated is:
2.330 C.F.S. (and/or) A.F.A.
8. Total consumptive use is 546.0 Acre Feet Per Annum.
9. Non-irrigation uses:
STOCKWATER INCIDENTAL TO IRRIGATION.

A63-08700

Page 1

Date: 02/08/90

MICROFILMED

AUG 24 1997

EXHIBIT

B

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
05N	05W	1	NW		NE	2	IRR	21.0
			SW		NE		IRR	18.0
			SE		NE		IRR	6.0
			NE		NW	3	IRR	10.0
			NW		NW	4	IRR	23.0
			NE		SW		IRR	40.0
			NW		SW		IRR	38.0

Section Acres 156.0

Total Acres 156.0

11. Place of use in counties: CANYON

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:

D-LINE CANAL & BLACK CANYON IRR. DIST.

14. Remarks:

NOT TO EXCEED .02 CFS/AC. OR 4.5 AF/AC.

15. Basis of Claim: PERMIT

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do do not ✓ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

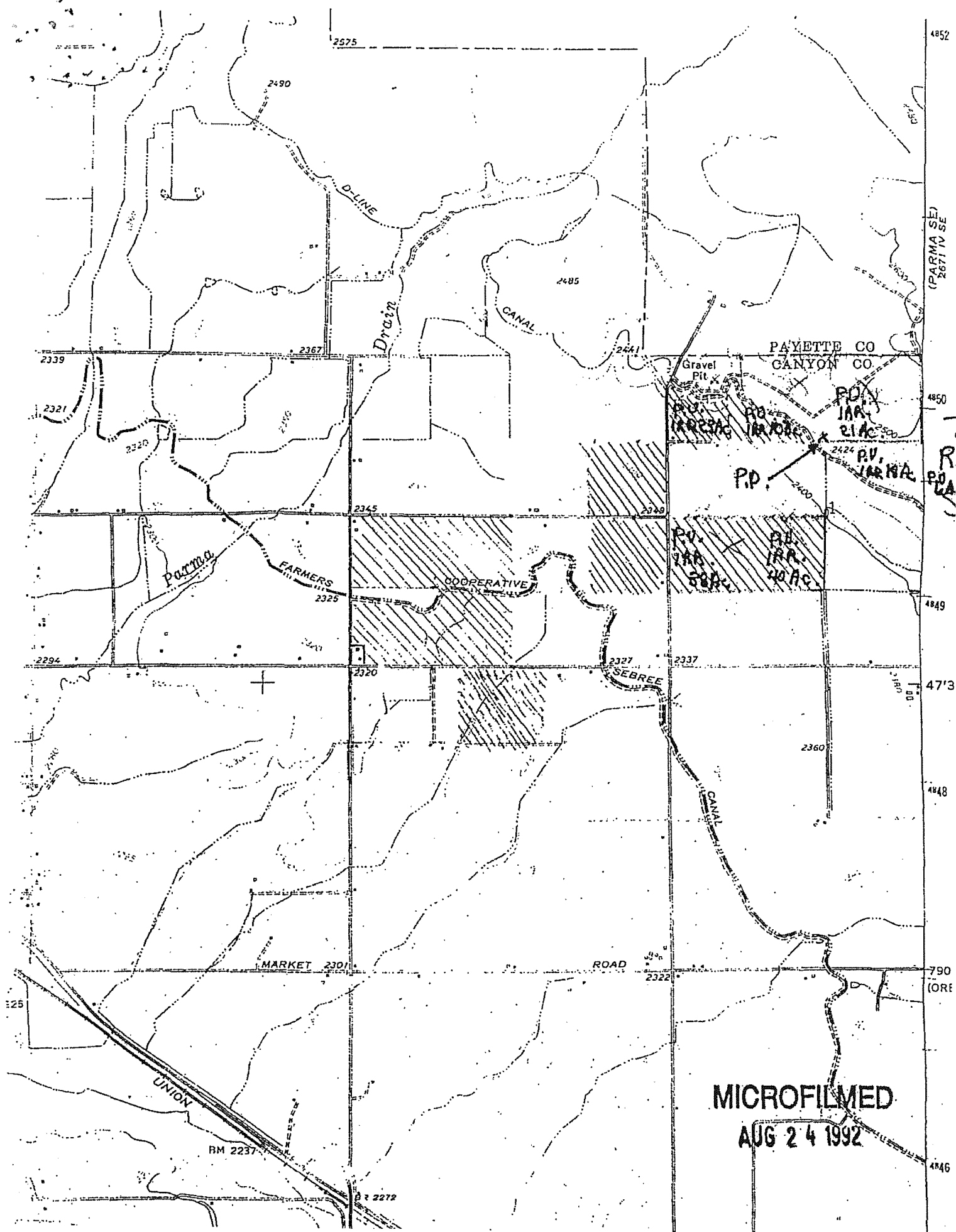
Signature of Claimant(s): L W Ragains Date: 2-8-90
Date: _____

State of Idaho)
County of CANYON) ss.

Subscribed and sworn (or affirmed) before me this 8th day
of Feb. 19 90 Janet C. Smith
Notary Public

Seal

Residing at Boise, ID
My Commission Expires 11/08/1994



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

In Re SRBA

Case 39576

A. Subcase 63-33146

(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: L. W. and Barbara J. Ragains

Address: 29392 Sabin

Parma, Idaho 83660

Daytime Phone: (208) 722-5515

Name & Address of Attorney, if any:

Dana Hofstetter, ISB #3867

Hofstetter Law Office, LLC

608 West Franklin Street

Boise, Idaho 83702

(208)-424-7800

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

Name: John R. Lindley

Address: 29453 Gotsch Road

Parma, Idaho 83660

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: L. W. and Barbara J. Ragains
2. ☐ **Source**
Should be: _____
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 OBJECTION(S):** License No. 63-8700.

F.

VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

Dana L. Hofstetter, 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

Dana Hofstetter
Attorney signing in representative capacity

Subscribed and sworn to before me on: March 26, 2009



Briana C. Belden
Notary Public for the State of Idaho
Residing at: Meridian
My Commission expires: 01-16-2013

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 March 26, 2009, I filed the original with the SRBA Court and mailed copies of this Objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court (*via Hand Delivery*)
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:

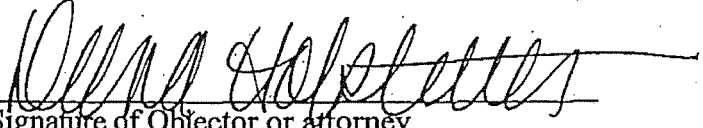
Name: Jon C. Gould
Ringert Clark Chartered
Address: P.O. Box 2773
Boise, ID 83701-2773

3. Copies to:

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

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

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


Signature of Objector or attorney
mailing on Objector's behalf

RECEIVED
FEB 26 2009
DEPARTMENT OF
WATER RESOURCES

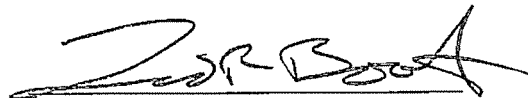
DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
FEB 25 2009	
By _____	Clerk
Deputy Clerk	

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) Subcases 63-33040, 63-33145 and 63-33146
Case No. 39576)
) SECOND ORDER EXTENDING
) DEADLINE FOR FILING AMENDED /
) SUPPLEMENTAL PLEADINGS and/or
) COUNTERCLAIMS

On February 23, 2009, this Special Master received email correspondence from attorney Dana Hofstetter seeking an extension of the deadline for the filing of amended / supplemental pleadings and/or counterclaims. The email represented that opposing counsel does not object to such an extension. Accordingly, it is hereby **ordered** that the aforementioned deadline is extended to **March 3, 2009**.

Dated Feb. 25, 2009



THEODORE R. BOOTH
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SECOND ORDER
EXTENDING DEADLINE FOR FILE AMENDED/ SUPPLEMENTAL PLEADINGS
AND/OR COUNTERCLAIMS was mailed on February 25, 2009, with sufficient
first-class postage to the following:

BARBARA J RAGAINS

L W RAGAINS

Represented by:

DANA L. HOFSTETTER

608 WEST FRANKLIN STREET

BOISE, ID 83702

Phone: 208-424-7800

JOHN R LINDLEY

Represented by:

JON C GOULD

RINGERT CLARK CHARTERED

PO BOX 2773

BOISE, ID 83701

DIRECTOR OF IDWR

PO BOX 83720

BOISE, ID 83720-0098

BARBARA J RAGAINS

L W RAGAINS

29392 SABIN

PARMA, ID 83660

JOHN R LINDLEY

29453 GOTSCH RD

PARMA, ID 83660

RECEIVED

FEB 12 2009

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
FEB 11 2009	
By _____	Clerk
_____	Deputy Clerk

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	) Subcases 63-33040, 63-33145 and 63-33146
	)
Case No. 39576	) ORDER EXTENDING DEADLINE FOR
	) FILING AMENDED / SUPPLEMENTAL
_____	) PLEADINGS and/or COUNTERCLAIMS

The December 11, 2008, *Trial Scheduling Order* for the above-captioned subcases has a deadline of February 9, 2009 for the filing of amended / supplemental pleadings and/or counterclaims. On February 9, 2009, this Special Master received email correspondence from attorney Dana Hofstetter seeking a two week extension of this deadline. The email represented that opposing counsel does not object to such an extension. Accordingly, it is hereby **ordered** that the aforementioned deadline is extended to **February 23, 2009**.

Dated

Feb. 11, 2009



THEODORE R. BOOTH
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER EXTENDING DEADLINE FOR FILING AMENDED/SUPPLEMENTAL PLEADINGS AND/OR COUNTERCLAIM was mailed on February 11, 2009, with sufficient first-class postage to the following:

BARBARA J RAGAINS
L W RAGAINS
Represented by:
DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702
Phone: 208-424-7800

JOHN R LINDLEY
Represented by:
JON C GOULD
RINGERT CLARK CHARTERED
PO BOX 2773
BOISE, ID 83701

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

BARBARA J RAGAINS
L W RAGAINS
29392 SABIN
PARMA, ID 83660

JOHN R LINDLEY
29453 GOTSCH RD
PARMA, ID 83660

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

RIGHT NUMBER: 63-33146

NAME AND ADDRESS: JOHN R LINDLEY
29453 GOTSCH RD
PARMA ID 83660

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.360 CFS
108.000 AFY

PRIORITY DATE: 04/18/1977

POINT OF DIVERSION:

T05N R05W S1 NENW Lot 3 Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	0.360 CFS 108.00 AFY
The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.		

PLACE OF USE: IRRIGATION in CANYON County

T05N R05W S01	SWNE	18.00	T05N R05W S01	SENE	6.00
---------------	------	-------	---------------	------	------

24 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

Use of this right is combined with water from Black Canyon Irrigation District.

Right No. 63-9110 and 63-33145 are also diverted through point of diversion described above.

This right is a split from former right 63-8700 and former right 63-33040.

The right holder shall either install a measuring device or provide a certified measurement by a professional engineer or install an access port or other device as specified by the Department.

Shurte, Jan

From: Hofstetter Law Office [Dana@IdahoWaterLaw.com]
Sent: Friday, June 05, 2009 2:20 PM
To: Jon Gould
Cc: Shurte, Jan; Spencer, Nick
Subject: Troost Transfer Application - 63-33146

Attachments: Transfer Application.pdf



Transfer
Application.pdf (3 MB)

Jon:

I attach a copy of the Troost Transfer Application for Water Right No. 63-33146 that was filed with IDWR yesterday. Please let me know if you have any questions or comments about this matter.

Thank you,
Dana Hofstetter

RECEIVED

JUN 04 2009

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

WATER RESOURCES
WESTERN REGION**MINIMUM REQUIREMENTS CHECKLIST**
TO BE SUBMITTED WITH APPLICATION FOR TRANSFER

An application for transfer must be prepared in accordance with the minimum requirements listed below to be acceptable for processing by the Department. Incomplete applications will be returned. The instructions, fee schedule and water right proof report or details report for Part 2A of the transfer application are available from any Department office or on the Department's website at <http://www.idwr.idaho.gov/>.

Check whether each item below is *attached* (Yes) or *not applicable* (N/A) for the proposed transfer.

- | Yes | N/A | |
|-------------------------------------|-------------------------------------|--|
| ☒ | ☐ | * Means the item is <u>always required</u> and must be included with the application. |
| ☒ | ☐ | * Completed Application for Transfer of Water Right form, Part 1. |
| ☒ | ☐ | * Signature of applicant(s) or applicant's authorized representative on Application for Transfer Part 1. Include evidence of authority labeled Attachment #3 (see below) if signed by representative. |
| ☒ | ☐ | * Application for Transfer Part 2A. Attach a Proof Report (obtained from Department) or Details Report (obtained on website) describing each water right in the transfer as currently recorded. |
| ☐ | ☒ | Complete and attach an Application for Transfer Part 2B <u>for each water right</u> for which <u>only a portion</u> is proposed to be changed through this transfer application. |
| ☒ | ☐ | * Application for Transfer Part 3A is always required (see Attachment #7a below); Parts 3B and 3C must be completed for transfer applications proposing to change the nature of use of the water right(s) or proposing changes to supplemental right(s). |
| ☒ | ☐ | * Correct fee submitted with transfer application form. (Fee schedule is on website and instructions for application for transfer.) |

Attachments to Application - Label each attachment with the corresponding number shown below as Attachment #1-9.

- | | | |
|-------------------------------------|-------------------------------------|--|
| ☒ | ☐ | #1 If the applicant is a business, partnership, organization, or association, and <u>not</u> currently registered in the State of Idaho as a business entity, attach documentation identifying officers authorized to sign or act on behalf of right holder. (See Part 1.) |
| ☒ | ☐ | #2a Water Right ownership documentation if Dept. records do not show the transfer applicant as the current water right owner. |
| ☒ | ☐ | #2b If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). |
| ☒ | ☐ | #3 Documentation of authority to make the change if the applicant is not the water right owner. |
| ☐ | ☒ | #4 Power of Attorney or documentation providing authority to sign or act on the applicant's behalf. (See Part 1.) |
| ☐ | ☒ | #5 If the transfer application proposes to change the point of diversion for a water right affecting the Eastern Snake Plain Aquifer (ESPA), attach the results of an ESPA analysis and a detailed mitigation plan to offset any depletions to hydraulically connected reaches of the Snake River. ESPA transfer spreadsheet and model grid labeled cells are available on the Department's website at http://www.idwr.idaho.gov/water/rights/ . |
| ☐ | ☒ | #6 Notarized statement of agreement or a statement on official letterhead signed by an authorized representative from each lien holder or other entity with financial interest in the water right(s) or land affected by the proposed transfer. (See Part 1.5.c.) |
| ☒ | ☐ | * #7a Attach a map identifying the proposed point(s) of diversion, place(s) of use, and water diversion and distribution system details as described on the application. Include legal description labels. If only a portion of the right is proposed to be changed, identify the current location of the part of the existing right(s) proposed to be changed. (See Part 3A.) |
| ☒ | ☐ | #7b If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. |
| ☐ | ☒ | #8a If the transfer application proposes to change the nature of use or period of use for one or more rights, provide documentation describing the extent of historic beneficial use for the water rights proposed to be transferred and document how enlargement will be avoided. (See Part 3B.) |
| ☐ | ☒ | #8b If the transfer application proposes to change the place of use of a supplemental irrigation right, provide documentation regarding the historic use of the supplemental right(s) and availability or reliability of the primary right(s) being supplemented, both before and after the proposed change. (See Part 3C.) |
| ☐ | ☒ | #9 Other. Please describe: _____ |

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1Name of Applicant(s) Troost Family Living Trust Phone (208) 722-7325Mailing address 30540 Sabin Road, Parma, Idaho 83660 Email _____

- ☒ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it **Attachment #1**.
- ☒ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it **Attachment #2a**.
- ☒ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it **Attachment #2b**.
- ☒ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it **Attachment #3**.

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☐ No RepresentativeName of Representative Dana L. Hofstetter, Hofstetter Law Office, LLC Phone (208) 424-7800Mailing address 608 West Franklin Street, Boise, Idaho 83702 Email Dana@IdahoWaterLaw.com☐ Send all correspondence for this application to the representative and not to the applicant.

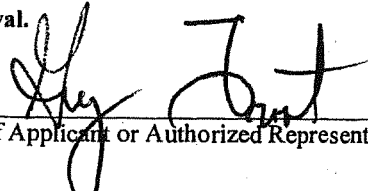
OR

☒ Send original correspondence to the applicant and copies to the representative.☒ The representative may submit information for the applicant but is not authorized to sign for the applicant.

OR

☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it **Attachment #4**.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.


 Signature of Applicant or Authorized Representative

GREG TROOST-TRUSTEE 6/2/09
 Print Name and Title if applicable Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it Part 1A.2. relocate place of use pursuant to Release and Settlement Agreement dated May 5, 2009

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part ☒ ☐	63-33146	0.36/108	irrigation	3/1 to 11/15	ground water
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 0.36 cfs and/or 108 ac-ft

2. Total amount of water proposed to be transferred or changed 0.36 cubic feet per second and/or 108 acre-feet per annum

3. Point(s) of Diversion:

- ☒ No changes to point(s) of diversion are proposed-the following chart is therefore not completed. (Proceed to #4.)
- ☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA. Label it **Attachment #5**.

New ?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

- ☐ No changes to place of use are proposed-the following chart is therefore not completed. (Proceed to #5.)

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5N	5W	1		23			30												
																			</

Total Acres (for irrigation use) 24 within 53

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

5. General Information:

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future: Existing Well.

- b. Who owns the property at the point(s) of diversion? Applicant

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system: _____

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?

If yes, ☐ Attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it **Attachment #6**. List the name of the entity and type of lien: _____

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer: Will not be irrigated

- e. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use: 63-33041, 63-33145 and 63-9100

- f. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- | | | |
|--------------------------|-------------------------------------|---|
| ☐ | ☒ | undergone a period of five or more consecutive years of non-use, |
| ☐ | ☒ | currently leased to the Water Supply Bank, |
| ☐ | ☒ | currently used in a mitigation plan limiting the use of water under the right, or |
| ☐ | ☒ | currently enrolled in a Federal set-aside program limiting the use of water under the rights? |

If yes, describe: Claimed in SRBA in 1990

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT PART 2

A. DESCRIPTION OF RIGHT(S) AS RECORDED

For each water right listed in Part 1B.1. of the application, attach a Proof Report (obtained from Department) or Details Report (obtained from website @ <http://www.idwr.idaho.gov/apps/ExtSearch/SearchWRAJ.asp>). Label it **Part 2A.**

B. IF ONLY A PORTION OF THE RIGHT IS PROPOSED TO BE CHANGED, DESCRIBE THE PORTION BEING CHANGED AS IT APPEARS BEFORE THE REQUESTED CHANGES

- ☐ Complete and attach one copy of **Part 2B** for each right for which only a portion is proposed to be changed. If the entire right is proposed to be changed, Part 2B is not applicable.

Right Number: _____

[illegible]

2. Lands irrigated or place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

[illegible]

Total Acres (for irrigation use) _____

Add'l Fee Paid _____ Date _____ Received by _____ Receipt # _____

COPY

**FIRST AMENDMENT
TO
THE TROOST FAMILY LIVING TRUST**

WE, GREGORY T. TROOST and JOYCE K. TROOST, are the Settlers and Trustees of the TROOST FAMILY LIVING TRUST, dated April 28, 1997 ("Trust"), and we hereby amend said Trust pursuant to Section 2.1 thereof, as follows:

1. Section 6.1 of the Trust is hereby revoked and shall now read in its entirety as follows:

"6.1 Successor Trustees. If either GREGORY T. TROOST or JOYCE K. TROOST becomes unwilling or unable to act, the other shall act as sole Trustee. If both GREGORY T. TROOST and JOYCE K. TROOST become unwilling or unable to act, MAYNARD TROOST and PHILLIP DERENZIS shall act as Co-Trustees. If GREGORY T. TROOST, JOYCE K. TROOST, and either MAYNARD TROOST or PHILLIP DERENZIS shall be or become unwilling or unable to act, PETER DE GROOT shall act as Co-Trustee with either MAYNARD TROOST or PHILLIP DERENZIS, as the case may be. If any two of MAYNARD TROOST, PHILLIP DERENZIS, and PETER DO GROOT shall be or become unwilling or unable to act, SHARLA WIND shall act as Co-Trustee with whomever remains as Co-Trustee. No bond shall be required of any Trustee named in this agreement, whether acting jointly or alone."

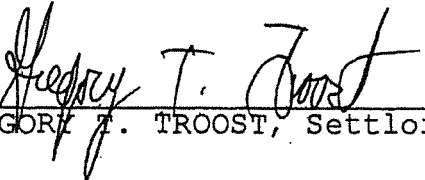
2. Section 8.3 of the Trust is hereby revoked and shall now read in its entirety as follows:

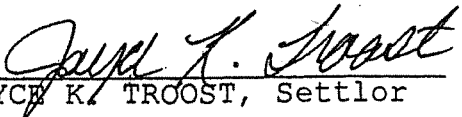
"8.3 Limitations on Insured Trustee. Should the Troost Family Trust hold as an asset any policy on the life of a Trustee of the trust, such Trustee shall have none of the powers set forth above to deal with such policy and none of the incidents of ownership in it. Such powers and rights shall rather be exercised solely by Maynard Troost and Phillip Derenzis, or if either Maynard Troost or Phillip Derenzis is unable or unwilling to do so, by Peter De Groot with the remaining person, as Special Trustee. If any two of the foregoing persons is unable or unwilling to do so, then Sharla Wind shall act as Special Trustee with the remaining person. Each such policy shall be held as a segregated asset of the Troost Family Trust subject to the sole management of the Special Trustee. Premiums on any such policy shall be paid from the principal of the Troost Family Trust. The Special Trustee shall have full power and authority to exercise any option, privilege or benefit in connection with any such policy, provided, however,

that such power shall be exercised only for the benefit of the trust estate and one or more of the beneficiaries."

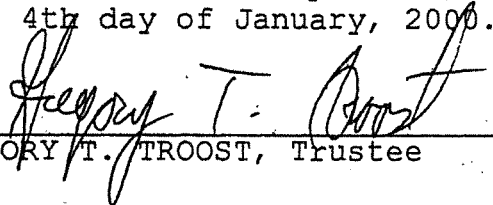
3. All other provisions of the TROOST FAMILY LIVING TRUST dated April 28, 1997 are hereby affirmed.

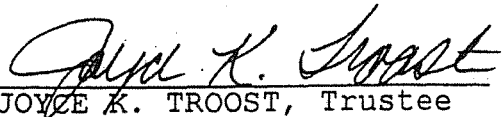
This First Amendment to the TROOST FAMILY LIVING TRUST dated April 28, 1997, consisting of two (2) pages, was executed by the Settlers at Claremont, California on the 4th day of January, 2000.


GREGORY T. TROOST, Settlor


JOYCE K. TROOST, Settlor

The foregoing First Amendment to the TROOST FAMILY LIVING TRUST dated April 28, 1997 is accepted by the Trustees on this 4th day of January, 2000.

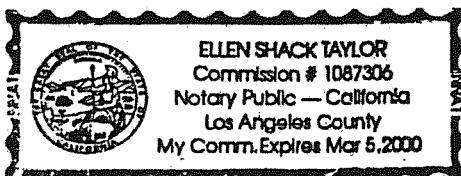

GREGORY T. TROOST, Trustee

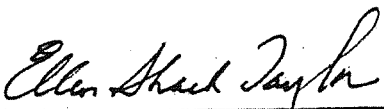

JOYCE K. TROOST, Trustee

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On January 4, 2000, before me, Ellen Shack Taylor, a notary public for the State of California, personally appeared GREGORY T. TROOST and JOYCE K. TROOST, personally known to me (or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.




Notary Public in and for
said County and State

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. 39576

) Water Right: 63-33040 (Split)
) into 63-33145 and 63-33146
)

) NOTICE OF COMPLETED
) ADMINISTRATIVE
) PROCEEDING

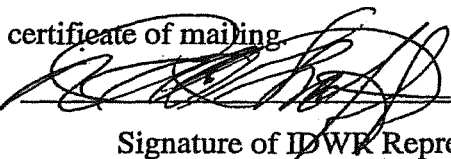
IDWR has completed the following administrative proceeding:

- ☐ Address change
- ☒ Substitution of Party
- ☒ Split of water right ☒ Change in ownership
- ☐ IC § 42-222 transfer
- ☐ Point of diversion ☐ Place of use
- ☐ Period of use ☐ Nature of use
- ☐ Split of water right ☐ Change in ownership

IDWR certifies that it has completed its investigation into the changes to the elements of the water right listed above as set forth in the attached *Amended Director's Report(s)* for said water right(s). No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: Feb 2, 2009


Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on 2/4, 2009, I delivered the original and copies of this form, including all attachments, to the following persons, postage prepaid if required and addressed as follows:

1. Original to:

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

2. Copies to:

Clive Strong
Off ice of the Attorney General
P.O. Box 44449
Boise, ID 83711-4449

United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724

3. Copies to all parties to the subcase:

John R. Lindley
29453 Gotsch Rd.
Parma, ID 83660

L.W. and Barbara Ragains
29392 Sabin
Parma, ID 83660

Jon C. Gould
Ringert Law Chtd.
P.O. Box 2773
Boise, ID 83701-2773

Dana L. Hofstetter
Hofstetter Law Office
608 W. Franklin St.
Boise, ID 83702


Signature of person mailing this document

12/26/2008

IDAHO DEPARTMENT OF WATER RESOURCES
CLAIMS / RIGHTS NOT RECOMMENDED

<u>W.R. NUMBER</u>	<u>NAME AND ADDRESS</u>	<u>CLAIM DISPOSITION</u>	<u>REASON</u>
63-33040	BARBARA J RAGAINS 29392 SABIN PARMA ID 83660	Disallowed	Recommended as Right Nos. 63-33145 & 63-33146
	L W RAGAINS 29392 SABIN PARMA ID 83660		

12/26/2008

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

RIGHT NUMBER: 63-33040

SPLIT RIGHT: SEE RIGHT NOS. 63-33145 and 63-33146.

12/26/2008

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-33145
NAME AND ADDRESS: BARBARA J RAGAINS
29392 SABIN
PARMA ID 83660
L W RAGAINS
29392 SABIN
PARMA ID 83660

SOURCE: GROUND WATER TRIBUTARY:
QUANTITY: 1.660 CFS
499.50 AFY

PRIORITY DATE: 04/18/1977

POINT OF
DIVERSION:

T05N R05W S1 NENW Lot 3 Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
-----------------------	----------------------	-----------------

IRRIGATION	03/15 11/15	1.660 CFS 499.50 AFY
------------	-------------	-------------------------

The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION in CANYON County

T05N R05W S01 Lot 3 NENW	10.00	T05N R05W S01 Lot 4 NWNW	23.00
T05N R05W S01 NESW	40.00	T05N R05W S01 NWSW	38.00

111 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 63-33040.

This right is a split from former right 63-8700.

The right holder shall either install a measuring device or provide a certified measurement by a professional engineer or install an access port or other device as specified by the Department.

Right No. 63-9110 is also diverted through point of diversion described above.

Use of this right is combined with water from Black Canyon Irrigation District.

12/26/2008

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-33146

NAME AND ADDRESS: JOHN R LINDLEY
29453 GOTSCH RD
PARMA ID 83660

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.360 CFS
108.00 AFY

PRIORITY DATE: 04/18/1977

POINT OF
DIVERSION:

T05N R05W S1 NENW Lot 3 Within CANYON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/15 11/15

0.360 CFS
108.00 AFY

The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION in CANYON County

T05N R05W S01 SWNE 18.00 T05N R05W S01 SENE 6.00

24 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

Use of this right is combined with water from Black Canyon Irrigation District.

Right No. 63-9110 is also diverted through point of diversion described above.

This right is a split from former right 63-8700.

The right holder shall either install a measuring device or provide a certified measurement by a professional engineer or install an access port or other device as specified by the Department.

This right is a split from former right 63-33040.



Pioneer Title Co.

GOING BEYOND

610 South Kimball Avenue / Caldwell, Idaho
83605 / (208) 459-1651

NO. 025 P. 2

657

200804245

WARRANTY DEED

For Value Received Lawrence Ragains and Barbara Ragains, husband and wife

hereinafter referred to as Grantor, does hereby grant, bargain, sell, warrant and convey unto

Troost Family Living Trust

hereinafter referred to as Grantee, whose current address
is 30540 Sabin Rd., Parma, 10 83660

the following described premises, to-wit:

The East 300 feet of that portion of Government Lot 4 lying Northeasterly of the Black Canyon Canal; That portion of Government Lot 3 lying Northeasterly of the Black Canyon Canal and All of Government Lot 2, all in Section 1, Township 5 North, Range 5 West of the Boise Meridian, Canyon County, Idaho

To HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, his heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

Dated: May 7, 2008

Lawrence Ragains
Lawrence Ragains

Barbara Ragains
Barbara Ragains

State of Idaho

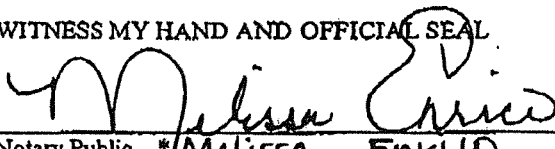
SS.

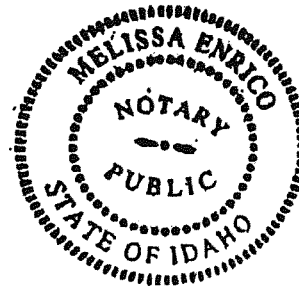
County of Canyon

On this 12th day of May, 2008, before me, the undersigned, a Notary Public, in and for said State, personally appeared Lawrence Ragains and Barbara Ragains, known to me, and/or identified to me on the basis of satisfactory evidence, to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same.

WITNESS MY HAND AND OFFICIAL SEAL

(SEAL)


 Notary Public *Melissa Enrico
 Residing at: Caldwell
 Commission Expires: ~~2011~~ 01-04-12



Dana L. Hofstetter, ISB No. 3867
HOFSTETTER LAW OFFICE, LLC
608 West Franklin Street
Boise, ID 83702
Telephone: (208) 424-7800
Facsimile: (208) 424-8774

Jon C. Gould, ISB No. 6709
RINGERT LAW CHARTERED
455 S. Third, P.O. Box 2773
Boise, Idaho 83701-2773
Telephone: (208) 342-4591
Facsimile: (208) 342-4657

In Re SRBA
Case No. 39576

RELEASE AND SETTLEMENT AGREEMENT

RELEASE AND SETTLEMENT AGREEMENT - Page 1

Attachment 3

1. Agreement to Pay and Release. Troost hereby agrees to pay Lindley a sum of twenty four thousand dollars (\$24,000.00), Lindley hereby agrees to forever release and quitclaim any and all right title and interest in and to Water Right Nos. 63-8700, 63-33040, 63-33041, 63-33145 and 63-33146 and the associated well and the parties hereby agree to the full and final settlement of contested and disputed claims in Snake River Basin Adjudication ("SRBA") Subcase Nos. 63-8700, 63-33040, 63-33041, 63-33145 and 63-33146.
2. Payment. Troost agrees to deliver the sum of TWENTY-FOUR THOUSAND AND NO/100 (\$24,000) (the "Payment") in the form of a certified check to Crystal Shifflett, Fidelity National Title Company of Idaho, 8665 W. Emerald St., Suite 200, Boise, Idaho 83704 ("Escrow Agent"), within seven (7) days after the effective date of this Agreement, to be deposited in and released from an interest-bearing account pursuant to the escrow instructions of paragraph 6 herein.
3. Deeds. Lindley agrees to execute and have notarized a quitclaim deed (the "Troost Deed"); in the form of Exhibit A hereto, relinquishing any and all right, title and interest in and to Water Right No. 63-33146 and the associated well to Troost and to deliver such deed to the Escrow Agent within seven (7) days after the effective date of this Agreement to be held and delivered pursuant to the escrow instructions of paragraph 6 herein. Lindley further agrees to execute and have notarized a quitclaim deed (the "Ragains Deed"), in the form of Exhibit B hereto, relinquishing any and all right, title and interest in and to Water Right No. 63-33145 to the Ragains and to deliver such deed to the Escrow Agent within seven (7) days after the effective date of this Agreement to be held and delivered pursuant to the escrow instructions of paragraph 6 herein.
4. Water Right Transfer. The parties acknowledge that Troost's use of Water Right No. 63-33146 on its property will require Idaho Department of Water Resources ("IDWR") approval of an Application for Transfer of Water Right. Troost agrees to prepare an Application for Transfer to change the place of use of Water Right No. 63-33146 ("Transfer Application"). Troost shall file the Transfer Application with IDWR along with the associated filing fee within thirty (30) days after the

effective date of this Agreement. Lindley and the Ragains agree to cooperate as necessary for approval of the Transfer Application in all administrative and judicial proceedings. For purposes of this Agreement, "final approval" shall mean approval of the Transfer Application on terms and conditions that are acceptable to Troost after all administrative and judicial remedies are exhausted. The parties agree to mutually seek an SRBA Court stay of SRBA Subcase No. 63-33146 pending IDWR processing of the Transfer Application. However, the parties shall encourage and allow SRBA Subcase Nos. 63-8700, 63-33040, 63-33041, and 63-33145 to be partially decreed by the SRBA Court as described in Exhibit C hereto (SRBA Special Master's Report and Recommendation for Water Right Nos. 63-33041 and 63-08700 dated October 15, 2008 and SRBA Notice of Completed Administrative Proceeding for Water Right 63-33040 -Split into 63-33145 and 63-33146- dated February 2, 2009) as soon as possible. Lindley agrees to withdraw any Objections from Subcase Nos. 63-8700, 63-33040, 63-33041 and 63-33145 and to take whatever other steps the SRBA Court deems necessary for these Subcases to proceed to partial decree in the SRBA with the elements described in Exhibit C hereto as soon as possible.

5. SRBA Standard Form 5. Within fourteen (14) days of notification of final approval of the Transfer Application, the Ragains, Troost and Lindley agree to execute and file with the SRBA Court, an SRBA Standard Form 5 document for Subcase No. 63-33146, substantially in the form of Exhibit D with Troost as the water right owner and with whatever other revisions are necessary to conform the Standard Form 5 to the terms of the final approval of the Transfer Application.
6. Escrow Agent and Instructions. The parties hereby appoint Crystal Shifflett, Fidelity National Title Company of Idaho, 8665 W. Emerald St., Suite 200, Boise, Idaho 83704 as the Escrow Agent to hold and release the Payment and the quitclaim deeds pursuant to the following instructions and any additional written instructions signed by the parties hereto and provided to the Escrow Agent. Troost and Lindley shall share equally the Escrow Agent's fee.
 - a. The Payment, together with any interest accrued thereon, shall be released

to Lindley only upon: (1) a final SRBA Partial Decree is issued by the SRBA Court for Water Right No. 63-33146 in substantial conformance with the Standard Form 5 in Exhibit D hereto; (2) all periods for judicial appeal of the SRBA Partial Decrees for Water Right Nos. 63-8700, 63-33040, 63-33041, 63-33145, and 63-33146 have passed without an appeal having been filed, and (3) Escrow Agent's receipt of written approvals by Troost and the Ragains that the terms and conditions of the final SRBA Partial Decrees for Water Right Nos. 63-8700, 63-33040, 63-33041, 63-33145, and 63-33146 are all acceptable and that the applicable periods of appeal for these Partial Decrees have all passed. Troost's and the Ragains' written approvals (or disapproval, if applicable) shall be provided in writing to Escrow Agent within seven (7) days after expiration of the last applicable judicial period for appeal. Upon receipt of both the Ragains' and Troost's written approvals, Escrow Agent shall release the Payment and accrued interest thereon to Lindley. The quitclaim deeds shall be recorded and released to Troost and the Ragains, respectively, upon release of the Payment and all accrued interest to Lindley.

b. If the stay of SRBA Subcase No. 63-33146 is not allowed, if the Transfer Application is not approved, if the Transfer Application is approved on conditions unacceptable to Troost, if any of the Partial Decrees are disapproved by Troost or the Ragains, or if any of the Partial Decrees are appealed, the escrow shall terminate pursuant to paragraph 6(c) below, unless extended by the parties by mutual written agreement.

c. Upon termination of the escrow, the Escrow Agent shall release immediately the Payment, together with any accrued interest earned thereon, to Troost pursuant to written instructions to Escrow Agent, and shall return the quitclaim deeds to Lindley. Upon release of the Payment to Troost and return of the quitclaim deeds to Lindley, this Agreement shall terminate. The parties may, by mutual written agreement and written notification to the Escrow Agent, extend the term of the escrow.

7. Representations, Warranties, and Covenants. The parties hereby represent and warrant to and covenant that:
- a. They each have full right, power, and authority to execute and deliver this Agreement and to consummate the transactions provided for herein without obtaining any further consents or approvals from, or the taking of any other actions with respect to, any other parties, and this Agreement, when executed and delivered, will constitute a valid and binding agreement, enforceable against each of them in accordance with its terms.
 - b. To each of the parties' actual knowledge, there are no attachments, executions, assignments for the benefit of creditors or voluntary or involuntary proceedings in bankruptcy pending, or threatened against them.
 - c. Lindley represents that he is the sole owner of the 24 acre place of use described on Exhibit C hereto for Water Right No. 63-33146 and that he has not granted any person, firm or corporation or other entity any right or option to acquire those 24 acres, or any part thereof.
 - d. Lindley has not granted and will not grant any other person, firm or corporation or other entity any right or option to acquire or any other interest in Water Right Nos. 63-8700, 63-33040, 63-33041, 63-33145 and 63-33146, or any part thereof.
 - e. Each of the parties' representations and warranties shall survive indefinitely.
 - f. Upon the release of the Payment and the quitclaim deeds pursuant to paragraph 6(a) above, the Ragains relinquish any claims of unjust enrichment they may have against Lindley in connection with Water Right No. 63-8700, any water rights split from Water Right No. 63-8700 or the associated well.
8. Notice Prior to Enforcement. Before any party files a new action to enforce any of the terms hereof, such party shall first provide all the other parties with thirty (30) days prior written notice. The parties agree that the purpose of said notice is to give the parties a reasonable opportunity to address any alleged deficiencies in performance which prompted the notice.

9. Entire Agreement. Plaintiffs declare and represent that no promise, inducement or agreement not expressed herein has been made and that this Release and Settlement Agreement contains the entire agreement between and among the parties hereto. This Release and Settlement Agreement represents the full and complete meeting of the minds of the parties hereto, and it is not altered, amended, modified or varied by any prior or contemporaneous oral or written terms. Furthermore, the parties are fully informed in this matter and this Release and Settlement Agreement is made and entered into of their own free will, voluntarily, and without coercion or duress.
10. Assignments or Modifications. Any assignments of or modifications to this Agreement must be in writing and signed by all parties hereto.
11. Governing Law. The terms of the Release and Settlement Agreement are contractual in nature and not mere recitals. This Release and Settlement Agreement is entered into in the State of Idaho and shall be enforced in accordance with its laws.
12. Cooperation. The parties agree to cooperate fully and execute any and all supplemental documents and to take any and all actions which may be necessary or appropriate to give full force and effect to the basic terms and intent of this Release and Settlement Agreement.
13. Counterparts. This Release and Settlement Agreement may be executed in any number of counterparts for the convenience of the parties, all of which, when taken together and after execution by all parties hereto, shall constitute one and the same Release and Settlement Agreement.
14. Time of Essence. Time is of the essence in the performance of all obligations under this Agreement.
15. Breach. In the event of a breach of any of the covenants, conditions and agreements contained herein, the breaching party shall pay all costs and expenses, including reasonable attorneys' fees, which may arise or accrue from enforcing this Agreement, whether by suit or otherwise. All remedies specifically set forth herein are cumulative and shall be deemed to be in addition to any remedies

otherwise available at law or in equity, including the right to restrain by injunction any violation or threatened violation of any of the terms, covenants or conditions of this Agreement and the right to obtain a decree of specific performance of any of such terms, covenants or conditions, it being agreed that the remedy at law for breach of any of such terms, covenants or conditions may not be adequate.

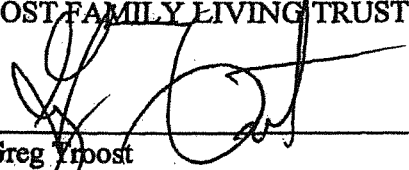
16. Binding Effect. The provisions of this Agreement shall be binding upon and inure to the benefit of each of the parties, and their respective administrators, executors, partners, officers, directors, members, legal representatives, heirs, devisees, successors and assigns.
17. Headings. Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.
18. Severability. The provisions of this Agreement shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any remaining portions thereof or any other provision.
19. Non-Waiver. No delay or failure of a party to exercise any right under this Agreement, and no partial or single exercise of that right shall constitute waiver of that or any other right, unless otherwise expressly provided herein. No express or implied consent to or waiver of any breach or default by a party in the performance of its obligations hereunder shall be deemed or construed to be a consent to or waiver of any other breach or default by such party of the same or any other obligations hereunder. Failure on the part of any party to complain of any act or the failure to act of any of the other parties or to declare such failure continuous shall not constitute a waiver of such party's rights hereunder.
20. Effective date. This Agreement shall be effective only upon execution by all parties. The effective date shall be the date of the last execution.
21. Notices. All notices, demands or requests provided for in this Agreement shall be deemed to have been properly given or served upon a party or its permitted assignee three (3) days after depositing the same in the United States mail, postage prepaid and registered or certified with return receipt requested, at the addresses

set forth in Exhibit C hereto. By giving to the other party at least thirty (30) days written notice thereof, the parties hereto and their respective successors and assigns shall have the right at any time during the term of this Agreement to change their respective addresses, and shall have the right to specify any other address within the United States of America.

IN WITNESS WHEREOF, Troost, the Ragains and Lindley have executed this Agreement on the date(s) set forth below.

Date: 5/5/09

TROOST FAMILY LIVING TRUST

By: 

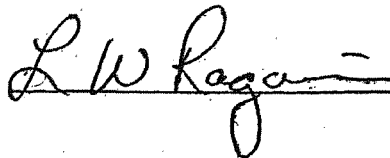
Greg Troost
Its Trustee

JOHN R. LINDLEY

Date: _____

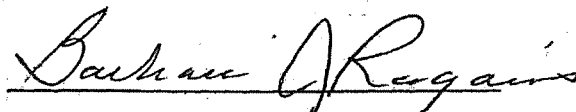
L. W. RAGAINS

Date: 5-5-09



BARBARA J. RAGAINS

Date: 5-5-09



set forth in Exhibit C hereto. By giving to the other party at least thirty (30) days written notice thereof, the parties hereto and their respective successors and assigns shall have the right at any time during the term of this Agreement to change their respective addresses, and shall have the right to specify any other address within the United States of America.

IN WITNESS WHEREOF, Troost, the Ragains and Lindley have executed this Agreement on the date(s) set forth below.

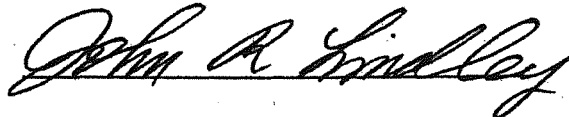
TROOST FAMILY LIVING TRUST

Date: _____

By: _____
Greg Troost
Its Trustee

JOHN R. LINDLEY

Date: 5-5-09



L. W. RAGAINS

Date: _____

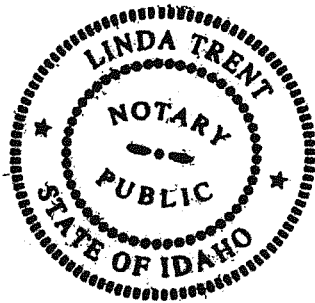
BARBARA J. RAGAINS

Date: _____

STATE OF IDAHO)
) ss:
County of Canyon)

On this 5th day of MAY, 2009, before me, the undersigned Notary Public, personally appeared Greg Troost, known or identified to me to be the person whose name is subscribed to the foregoing instrument as Trustee of the Troost Family Living Trust and acknowledged to me that he executed the same as such Trustee of the Troost Family Living Trust.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgment first above written.



Linda Trent
Notary Public for the State of Idaho
Residing at Pomeroy, ID.
My Commission Expires: 10/3/2009

STATE OF IDAHO)
) ss:
County of _____)

On this _____ day of _____, 2009, before me, the undersigned Notary Public, personally appeared John R. Lindley, known or identified to me, to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgment first above written.

Notary Public for the State of Idaho
Residing at _____
My Commission Expires: _____

STATE OF IDAHO)
) ss:
County of _____)

On this _____ day of _____, 2009, before me, the undersigned Notary Public, personally appeared Greg Troost, known or identified to me to be the person whose name is subscribed to the foregoing instrument as Trustee of the Troost Family Living Trust and acknowledged to me that he executed the same as such Trustee of the Troost Family Living Trust.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgment first above written.

Notary Public for the State of Idaho
Residing at _____
My Commission Expires: _____

STATE OF IDAHO)
) ss:
County of Owyhee)

On this 5 day of May, 2009, before me, the undersigned Notary Public, personally appeared John R. Lindley, known or identified to me, to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgment first above written.

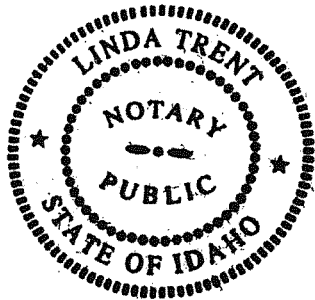


Miren M. Lowry
Notary Public for the State of Idaho
Residing at 26700 Meloy Rd
My Commission Expires: 3/9/2010

STATE OF IDAHO)
) ss:
County of Canyon)

On this 5th day of May, 2009, before me, the undersigned Notary Public, personally appeared L. W. Ragains, known or identified to me, to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgment first above written.

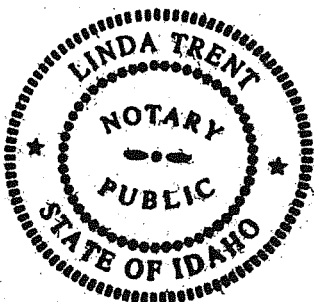


Linda Trent
Notary Public for the State of Idaho
Residing at Parma, ID.
My Commission Expires: 10/3/2009

STATE OF IDAHO)
) ss:
County of Canyon)

On this 5th day of May, 2009, before me, the undersigned Notary Public, personally appeared Barbara J. Ragains, known or identified to me, to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgment first above written.



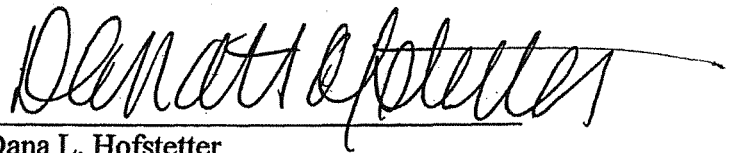
Linda Trent
Notary Public for the State of Idaho
Residing at Parma
My Commission Expires: 10/3/2009

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of May, 2009, I caused to be served copies of the foregoing **Release and Settlement Agreement** with exhibits by U.S. Mail postage pre-paid to the following:

IDWR Director
P.O. Box 83720
Boise, ID 83720-0098

Jon C. Gould
Ringert Law Chartered
P.O. Box 2773
Boise, Idaho 83701-2773

A handwritten signature in black ink, appearing to read "Dana L. Hofstetter", written over a horizontal line.

Dana L. Hofstetter

E:\4090.1\8573

**QUITCLAIM DEED
FOR WATER RIGHT AND WELL**

FOR VALUE RECEIVED, John R. Lindley, a single man, the Grantor, does hereby convey, release, remise and forever quitclaim unto Greg Troost as Trustee of the Troost Family Living Trust, the Grantee, whose address is 30540 Sabin Road, Parma, Idaho 83660, all of Grantor's right title and interest in and to Idaho Water Right No. 63-33146 (formerly a portion of Water Right Nos. 63-8700 and 63-33040) and the associated well (point of diversion) which are both more particularly described, as of the date of execution of this deed, in Exhibit A that is attached hereto and by this reference is made apart hereof.

IN WITNESS WHEREOF, this deed was executed by the undersigned on the _____ day of _____, 2009.

John R. Lindley

STATE OF IDAHO)
) ss
County of _____)

On this _____ day of _____, 2009, before me, the undersigned Notary Public, personally appeared John R. Lindley, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgment first above written.

Notary Public for the State of Idaho
Residing at _____
My Commission Expires: _____



12/26/2008

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-33146

NAME AND ADDRESS: JOHN R LINDLEY
29453 GOTSCH RD
PARMA ID 83660

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.360 CFS
108.00 AFY

PRIORITY DATE: 04/18/1977

POINT OF
DIVERSION:

T05N R05W S1 NENW Lot 3 Within CANYON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/15 11/15

0.360 CFS
108.00 AFY

The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION in CANYON County

T05N R05W S01

SWNE

18.00

T05N R05W S01

SENE

6.00

24 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.

EXHIBIT

A

**QUITCLAIM DEED
FOR WATER RIGHT**

FOR VALUE RECEIVED, John R. Lindley, a single man, the Grantor, does hereby convey, release, remise and forever quitclaim unto L. W. and Barbara J. Ragains, husband and wife, the Grantees, whose address is 29392 Sabin Road, Parma, Idaho 83660, all of Grantor's right title and interest in and to Idaho Water Right No. 63-33145, formerly a portion of Water Right Nos. 63-8700 and 63-33040, which is more particularly described in Exhibit A that is attached hereto and by this reference is made a part hereof.

IN WITNESS WHEREOF, this deed was executed by the undersigned on the _____ day of _____, 2009.

John R. Lindley

STATE OF IDAHO)
) ss
County of _____)

On this _____ day of _____, 2009, before me, the undersigned Notary Public, personally appeared John R. Lindley, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this acknowledgment first above written.

Notary Public for the State of Idaho
Residing at _____
My Commission Expires: _____



12/26/2008

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-33145
NAME AND ADDRESS: BARBARA J RAGAINS
29392 SABIN
PARMA ID 83660
L W RAGAINS
29392 SABIN
PARMA ID 83660

SOURCE: GROUND WATER TRIBUTARY:

QUANTITY: 1.660 CFS
499.50 AFY

PRIORITY DATE: 04/18/1977

POINT OF
DIVERSION:

T05N R05W S1 NE1/4 Lot 3 Within CANYON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/15 11/15

1.660 CFS
499.50 AFY

The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION in CANYON County

T05N R05W S01 Lot 3 NE1/4	10.00	T05N R05W S01 Lot 4 NW1/4	23.00
T05N R05W S01	NE1/4	T05N R05W S01	NW1/4 38.00

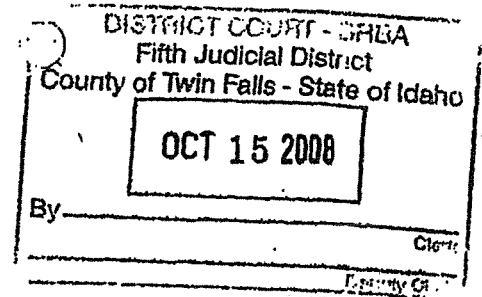
111 ACRES TOTAL

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.

EXHIBIT

A



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. 39576

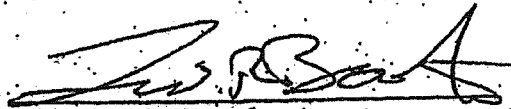
) SPECIAL MASTER'S REPORT
)
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
)
) FOR WATER RIGHT 63-33041
)
) SPECIAL MASTER'S REPORT AND
) RECOMMENDATION OF
) DISALLOWANCE FOR WATER RIGHT
) CLAIM 63-08700

A notice of claim was filed for water right 63-08700 pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources (IDWR) examined the water system for this reporting area. The *Director's Report* contained a recommendation for the elements of water right 63-08700. Subsequent to the filing of the *Director's Report*, IDWR filed a *Notice of Completed Administrative Proceeding* which split water right 63-08700 into water rights 63-33040 and 63-33041. A hearing on a motion to file a late objection was held in subcase 63-33040 on October 3, 2008. At the hearing, it was determined that water right claim 63-33041 will not be affected by the outcome of contested water right 63-33040, and therefore water right claim 63-33041 can proceed on its own.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein, IT IS RECOMMENDED that water right 63-33041 be decreed with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*. IT IS FURTHER RECOMMENDED that the SRBA District Court enter a final order disallowing water right claim 63-08700.

Dated Oct 15, 2008


Theodore R. Booth
Special Master
Snake River Basin Adjudication

SPECIAL MASTER'S REPORT
G:\BASIN FOLDERS\MRR\63mrr\33041.doc
10/15/2008

RECEIVED OCT 15 2008
RECEIVED OCT 15 2008

EXHIBIT

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

DISTRICT COURT - SRBA

Fifth Judicial District

County of Twin Falls - State of Idaho

In Re SRBA

Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 63-33041

OCT 15 2008

By

Clerk

NAME AND ADDRESS:

TROOST FAMILY LIVING TRUST
GREG TROOST
30540 SABIN RD
PARMA, ID 83660

SOURCE:

GROUND WATER

QUANTITY:

0.31 CFS
94.50 APY

PRIORITY DATE:

04/18/1977

POINT OF DIVERSION:

T05N R05W S01 LOT 3 (NENW) Within Canyon County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	03-15 TO 11-15	0.31 CFS 94.50 APY

The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE:

Irrigation
T05N R05W S01 LOT 2 (NWNE) 21.0
21.0 Acres Total
Within Canyon County

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

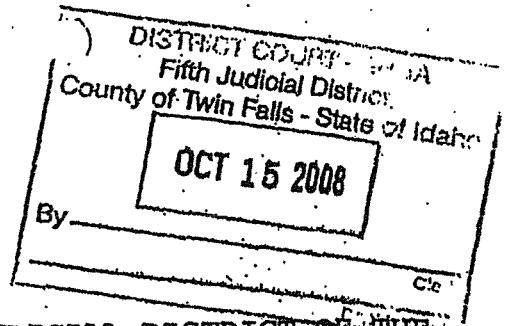
With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

RECOMMENDATION

OCT 15 2008

John M. Melanson
SDT



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. 39576)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

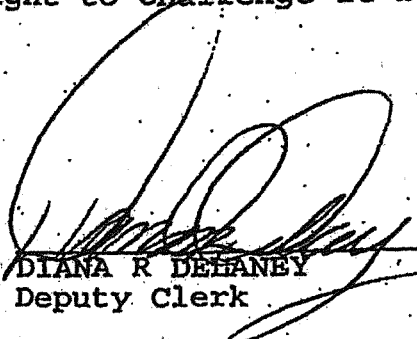
Water Right(s): 63-08700
63-33041

On October 15, 2008, Special Master THEODORE R. BOOTH issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION shall constitute a waiver of the right to challenge it before the Presiding Judge.

DATED October 15, 2008...


DIANA R. DEHANEY
Deputy Clerk

NOTICE OF ISSUANCE

PAGE 1
10/15/08

DISTRICT COURT - SR
Fifth Judicial District
County of Twin Falls - State of Idaho

OCT 15 2008

By _____

Dep

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. 39576

CERTIFICATE OF MAILING

Water Right(s): 63-08700
63-33041

CERTIFICATE OF MAILING

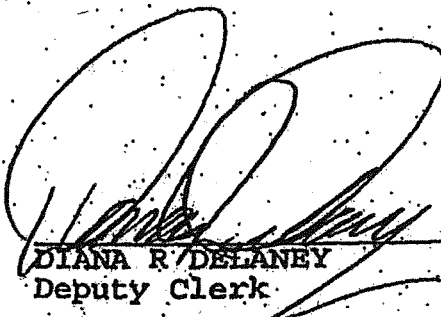
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on October 15, 2008, with sufficient first-class postage prepaid to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

BARBARA J. RAGAINS
L W RAGAINS
Represented by:
DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702
Phone: 208-424-7800

TROOST FAMILY LIVING TRUST
GREG TROOST
30540 SABIN RD
PARMA, ID 83660

CERTIFICATE OF MAILING


DIANA R. DELANEY
Deputy Clerk

PAGE 1
10/15/08

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. 39576

) Water Right: 63-33040 (Split)
) into 63-33145 and 63-33146
)
)
)
)
)

NOTICE OF COMPLETED
ADMINISTRATIVE
PROCEEDING

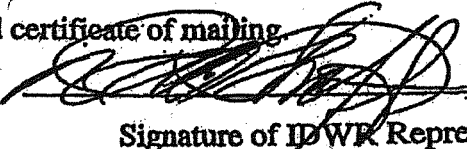
IDWR has completed the following administrative proceeding:

- ☐ Address change
- ☒ Substitution of Party
- ☒ Split of water right ☒ Change in ownership
- ☐ IC § 42-222 transfer
- ☐ Point of diversion ☐ Place of use
- ☐ Period of use ☐ Nature of use
- ☐ Split of water right ☐ Change in ownership

IDWR certifies that it has completed its investigation into the changes to the elements of the water right listed above as set forth in the attached *Amended Director's Report(s)* for said water right(s). No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: Feb 2, 2009


Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on 2/4, 2009, I delivered the original and copies of this form, including all attachments, to the following persons, postage prepaid if required and addressed as follows:

1. Original to:

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

2. Copies to:

Clive Strong
Office of the Attorney General
P.O. Box 44449
Boise, ID 83711-4449

United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724

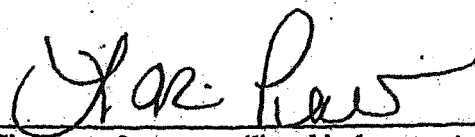
3. Copies to all parties to the subcase:

John R. Lindley
29453 Gotsch Rd.
Parma, ID 83660

L.W. and Barbara Ragains
29392 Sabin
Parma, ID 83660

Jon C. Gould
Ringert Law Chtd.
P.O. Box 2773
Boise, ID 83701-2773

Dana L. Hofstetter
Hofstetter Law Office
608 W. Franklin St.
Boise, ID 83702


Signature of person mailing this document

12/26/2008

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

RIGHT NUMBER: 63-33040

SPLIT RIGHT: SEE RIGHT NOS. 63-33145 and 63-33146.

12/26/2008

IDAHO DEPARTMENT OF WATER RESOURCES
CLAIMS / RIGHTS NOT RECOMMENDED

<u>W.R. NUMBER</u>	<u>NAME AND ADDRESS</u>	<u>CLAIM DISPOSITION</u>	<u>REASON</u>
63-33040	BARBARA J RAGAINS 29392 SABIN PARMA ID 83660 L W RAGAINS 29392 SABIN PARMA ID 83660	Disallowed	Recommended as Right Nos. 63-33145 & 63-33146

12/26/2008

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-33145
NAME AND ADDRESS: BARBARA J RAGAINS
29392 SABIN
PARMA ID 83660
L W RAGAINS
29392 SABIN
PARMA ID 83660

SOURCE: GROUND WATER TRIBUTARY:

QUANTITY: 1.660 CFS
499.50 AFY

PRIORITY DATE: 04/18/1977

POINT OF
DIVERSION:

T05N R05W S1 NENW Lot 3 Within CANYON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/15 11/15

1.660 CFS
499.50 AFY

The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION in CANYON County

T05N R05W S01 Lot 3 NENW	10.00	T05N R05W S01 Lot 4 NWNW	23.00
T05N R05W S01 NESW	40.00	T05N R05W S01 NWSW	38.00

111 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 63-33040.

This right is a split from former right 63-8700.

The right holder shall either install a measuring device or provide a certified measurement by a professional engineer or install an access port or other device as specified by the Department.

Right No. 63-9110 is also diverted through point of diversion described above.

Use of this right is combined with water from Black Canyon Irrigation District.

12/26/2008

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-33146
NAME AND ADDRESS: JOHN R LINDLEY
29453 GOTSCH RD
PARMA ID 83660

SOURCE: GROUND WATER TRIBUTARY:

QUANTITY: 0.360 CFS
108.00 AFY

PRIORITY DATE: 04/18/1977

POINT OF
DIVERSION:

T05N R05W S1 NENW Lot 3 Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
-----------------------	----------------------	-----------------

IRRIGATION	03/15 11/15	0.360 CFS 108.00 AFY
------------	-------------	-------------------------

The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION in CANYON County

T05N R05W S01	SWNE	18.00	T05N R05W S01	SENE	6.00
---------------	------	-------	---------------	------	------

24 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

Use of this right is combined with water from Black Canyon Irrigation District.

Right No. 63-9110 is also diverted through point of diversion described above.

This right is a split from former right 63-8700.

The right holder shall either install a measuring device or provide a certified measurement by a professional engineer or install an access port or other device as specified by the Department.

This right is a split from former right 63-33040.

**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. 39576

Subcase No. 63-33146

STANDARD FORM 5

STIPULATED ELEMENTS OF A
WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT(s):

Barbara J. Ragains

L.W. Ragains

Greg Troost, Trustee
Troost Family Living Trust

Dana L. Hofstetter
Attorney for Claimants

Date

OBJECTOR:

John R. Lindley

John C. Gould
Attorney for Objector

Date

IDWR Concurrence:

STANDARD FORM 5 – Water Right No. 63-33146



Jan Shurte Date
Water Rights Supervisor

Nicholas B. Spencer Date
Deputy Attorney General
Attorney for IDWR

12/26/2008

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-33146
NAME AND ADDRESS: Troost Family Living Trust, Greg Troost
30540 Sabin Road
PARMA ID 83660

SOURCE: GROUND WATER TRIBUTARY:

QUANTITY: 0.360 CFS
108.00 AFY

PRIORITY DATE: 04/18/1977

POINT OF
DIVERSION:

T05N R05W S1 NENW Lot 3 Within CANYON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/15 11/15

0.360 CFS
108.00 AFY

The use of water for irrigation under this right may begin as early as March 1 provided other elements of the right are not exceeded. The use of water before March 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE:

IRRIGATION in CANYON County.
Location to be determined by Troost Transfer

24 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.

CERTIFICATE OF MAILING

I certify that on _____, 2009, 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, IDAHO 83303-2707

2. Copies to:

BARBARA J. RAGAINS
L W RAGAINS
TROOST FAMILY LIVING TRUST

Represented by:
DANA L. HOFSTETTER
608 WEST FRANKLIN STREET
BOISE, ID 83702
Phone: 208-424-7800

JOHN R LINDLEY
Represented by:
JON C. GOULD
RINGERT CLARK CHARTERED
P.O. BOX 2773
BOISE, ID 83701

DIRECTOR OF IDWR
P.O. BOX 83720
BOISE, ID 83720-0098

Signature of person or attorney mailing form

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report

6/4/2009

WATER RIGHT NO. 63-33146

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	JOHN R LINDLEY 29453 GOTSCH RD PARMA, ID 83660 (208)722-7314
Directors Report Owner	BARBARA J RAGAINS
Directors Report Owner	L W RAGAINS 29392 SABIN PARMA, ID 83660 (208)722-5515

Priority Date: 04/18/1977

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	11/15	0.36 CFS	
Total Diversion			0.36 CFS	

Location of Point(s) of Diversion:

GROUND WATER	SENENW Lt 3	Sec. 01	Township 05N	Range 05W	CANYON County
--------------	-------------	---------	--------------	-----------	---------------

Attachment, Part 2A

Place(s) of use:

Place of Use Legal Description: IRRIGATION CANYON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
05N	05W	1		SWNE	18		SENE	6						

Total Acres: 24

Conditions of Approval:

1. This right is a split from former right 63-8700 .
2. This right is a split from former right 63-33040 .
3. The well and any pumps used to divert water under this water right are owned by L.W. and Barbara Ragains. The surface pipes historically used to deliver water to the 240 acre parcel are no longer in place. Claimant intends on completing a new well on his property within or adjacent to the 24-acre parcel.

Dates:

Licensed Date:

Claim Received Date:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

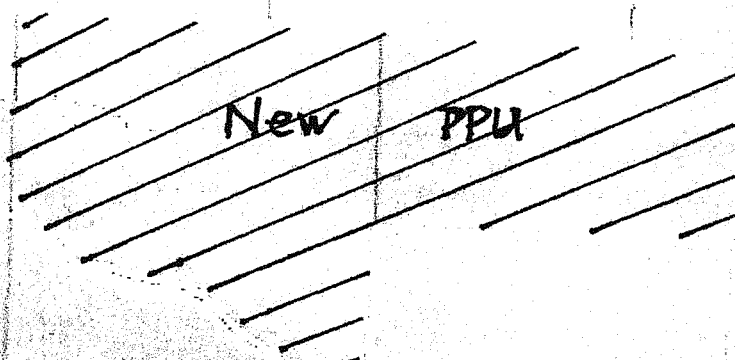
Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close



Idaho Department of Water Resources Receipt

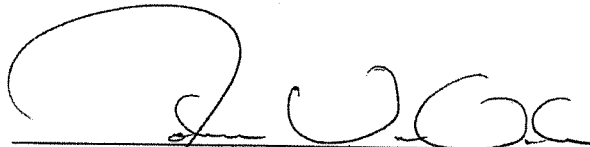
Receipt ID: W037525

Payment Amount	\$290.00	Date Received	6/4/09 4:47	Region	WESTERN
Payment Type	Check	Check Number	2872		
Payer	HOFSTETTER LAW OFFICE, LLC				

Comments TRANFER OF WATER RIGHT (63-33146; TROOST FAMILY LIVING TRUST)

Fee Details

Amount	Description	Fund	Fund Detail	PCA	Subobject
\$290.00	TRANSFERS	0229	21	62105	1155



Signature Line (Department Representative)

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 63-33146
Date Received: 2/8/1990
Receipt No: X777777
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

JOHN R LINDLEY Phone: (208) 722-7314
29453 GOTSCH RD
PARMA ID USA 83660

2. Date of Priority: 04/18/1977

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot				County	Type
05N	05W	1	SE	NE	NW	3	CANYON	

5. Description of diverting works:

WELL, 320' DEPTH, 12" CAS., 119' TO WATER, PUMP PIPE, SPRINKLER & GRAV.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	11/15	0.36	

7. Total Quantity Appropriated is:
0.36 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
05N	05W	1	SW	NE	IRRIGATION	18
			SE	NE	IRRIGATION	6
					Section Acres	24
					Total Acres	24

11. Place of use in counties: CANYON

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

This right is a split from former right 63-33040 .

The well and any pumps used to divert water under this water right are owned by L.W. and Barbara Ragains. The surface pipes historically used to deliver water to the 240 acre parcel are no longer in place. Claimant intends on completing a new well on his property within or adjacent to the 24-acre parcel.

15. Basis of Claim: License

RECEIVED

OCT 14 2008

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
 NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

RECEIVED

OCT 07 2008

DEPARTMENT OF
WATER RESOURCES

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 IDWR will produce new water right number(s) for the split(s).

Water Right No(s)	Adjudication Claim No(s)	Split(s)	Water Right No(s)	Adjudication Claim No(s)	Split(s)
63-8700	63-33040	X			

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 on file with the county Planning and Zoning or Recorder's Office).
- OR**
- D. 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 or equivalent **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) Barbara J. Ragains/L.W. Ragains
29392 Sabin
Parma, ID 83660
4. New Owner/Claimant(s) John Lindley
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
29453 Gotsch Road
 New Mailing Address Parma, ID 83660
 City, State and ZIP Code
 New Telephone Number (208) 484-8791 Email: _____

SCANNED

OCT - 9 2008

5. Date you acquired the property 1991

6. **If the change in ownership affects the entire water right for each water right or adjudication claim number listed in line 1, then skip this line and go to line 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 (you may copy this page, if 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.

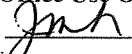
DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right will not be split, skip this area and proceed to line 7)		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Water Right and/or Adjudication Claim Number <u>63-33040</u>		
Irrigation	<u>0.36 cfs / 108 AFA</u>	<u>24 acres</u>
Stock		
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number _____		
Irrigation		
Stock		
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number _____		
Irrigation		
Stock		
Domestic		
Other		
Totals		

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.

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

IT IS IMPORTANT TO FILE THIS COMPLETED FORM AT THE APPROPRIATE IDWR OFFICE, WITH PAYMENT OF THE FILING FEE AND THE OWNERSHIP DOCUMENT(S), AS REFERRED TO IN LINE 2.

For IDWR Office Use Only:

Received by  Date 10-14-08
 Received by _____ Date _____
 Processed by _____ AJ Date _____

Receipt Amt. N/A
 Receipt No. _____
 WR _____ Date _____

PC02634

Inst 9/02767

WARRANTY DEED

FOR VALUE RECEIVED Cynthia Elaine Baldwin, an unmarried person the Grantor, does hereby grant, bargain, sell and convey unto John R. Lindley, an unmarried person

the Grantee, whose address is 29453 Gotsch Road, Parma, ID 83660

the following described premises, to-wit:

See attached Exhibit "A", which by this reference is made a part hereof and is comprised of one (1) page.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, his heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that she is the owner in fee simple of said premises; that said premises are free from all encumbrances except for general taxes and assessments for the year 1991 and subsequent years, covenants, conditions, restrictions and easements of record; and that she will warrant and defend the same from all lawful claims whatsoever.

DATED: February 11, 1991

Cynthia Elaine Baldwin
Cynthia Elaine Baldwin

STATE OF IDAHO

COUNTY OF CANYON

On this 12th day of February in the year 1991, before me, a Notary Public, personally appeared Cynthia Elaine Baldwin known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

Robert L. Thompson
Notary Public
Residing at Caldwell
My commission expires 1-27-93

PIONEER TITLE COMPANY
OF CANYON COUNTY

100 10TH AVE SOUTH
Nampa, IDAHO 83651

423 SOUTH KIMBALL
CALDWELL, ID 83605

OCT - 9 2008

PC 02634

EXHIBIT "A"

A part of the Northeast quarter of the Southeast Quarter of Section 1, Township 5 North, Range 5 West, Boise Meridian, Canyon County, Idaho, more particularly described as follows:

BEGINNING at the intersection of the centerline of the D-Line Canal, also known as the Black Canyon Canal, and the Easterly boundary of said Section 1; thence

North following the Eastern boundary of said Section 1 a distance of 460 feet; thence

West parallel with the North boundary of said Section 1 a distance of 473 feet; thence

South and parallel with the Easterly boundary of said Section 1 a distance of 364 feet, more or less, to the centerline of the D-Line Canal, also known as the Black Canyon Canal; thence in a

Southeasterly direction along the centerline of the D-Line Canal, also known as the Black Canyon Canal, to the POINT OF BEGINNING.

9102767

RECORDED

191 FEB 13 PM 3 -J

HED J KERR

CANYON CNT / RECORDER

BY *C. Kerr*

PIONEER - CALDWELL

FILED
FEB 13 1913

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 63-33040
Date Received: 2/8/1990
Receipt No: X777777
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

BARBARA J RAGAINS Phone: (208)722-5515
29392 SABIN
PARMA ID USA 83660

L W RAGAINS Phone:
29392 SABIN
PARMA ID USA 83660

2. Date of Priority: 04/18/1977

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot				County	Type
05N	05W	1	SE	NE	NW	3	CANYON	

5. Description of diverting works:

WELL, 320' DEPTH, 12" CAS., 119' TO WATER, PUMP PIPE, SPRINKLER & GRAV.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	11/15	2.02	

7. Total Quantity Appropriated is:
2.02 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
05N	05W	1	SW	NE	IRRIGATION	18
			SE	NE	IRRIGATION	6
			NE	NW	3 IRRIGATION	10
			NW	NW	4 IRRIGATION	23
			NE	SW	IRRIGATION	40
			NW	SW	IRRIGATION	38
					Section Acres	135
					Total Acres	135

11. Place of use in counties: CANYON

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

This right is a split from former right 63-8700 .

15. Basis of Claim: License

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

RECEIVED

MAY 20 2008

WATER RESOURCES
WESTERN REGION

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 IDWR will produce new water right number(s) for the split(s).

Water Right No(s)	Adjudication Claim No(s)	Split(s)	Water Right No(s)	Adjudication Claim No(s)	Split(s)
	A63-08700				

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 on file with the county Planning and Zoning or Recorder's Office).
- OR**
- D. 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 or equivalent **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)

LARRY RAGAINS
 29392 SABIN RD.
 PARMA ID 83660

4. New Owner/Claimant(s)

GREG TROOST - TROOST FAMILY LIVING TRUST.

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

New Mailing Address

30540 SABIN RD.

City, State and ZIP Code

PARMA ID 83660

New Telephone Number

(208) 722 7325 Email: MILKHOG @ AOL.COM

Form 43-248/42-1409(6) 12/2006

5. Date you acquired the property

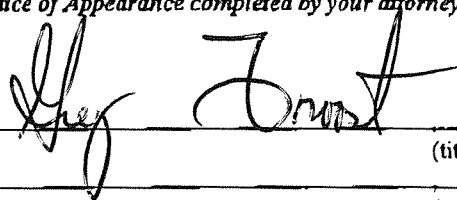
5-6-08

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in line 1, then skip this line and go to line 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 (you may copy this page, if 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 will not be split, skip this area and proceed to line 7)		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		

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.

7. Signature(s) of New Owner(s) or Claimant(s)



(title if applicable)

(title if applicable)

IT IS IMPORTANT TO FILE THIS COMPLETED FORM AT THE APPROPRIATE IDWR OFFICE, WITH PAYMENT OF THE FILING FEE AND THE OWNERSHIP DOCUMENT(S), AS REFERRED TO IN LINE 2.

For IDWR Office Use Only:

Received by [Signature]

Date 5-20-08

Receipt Amt. N/A

Received by [Signature]

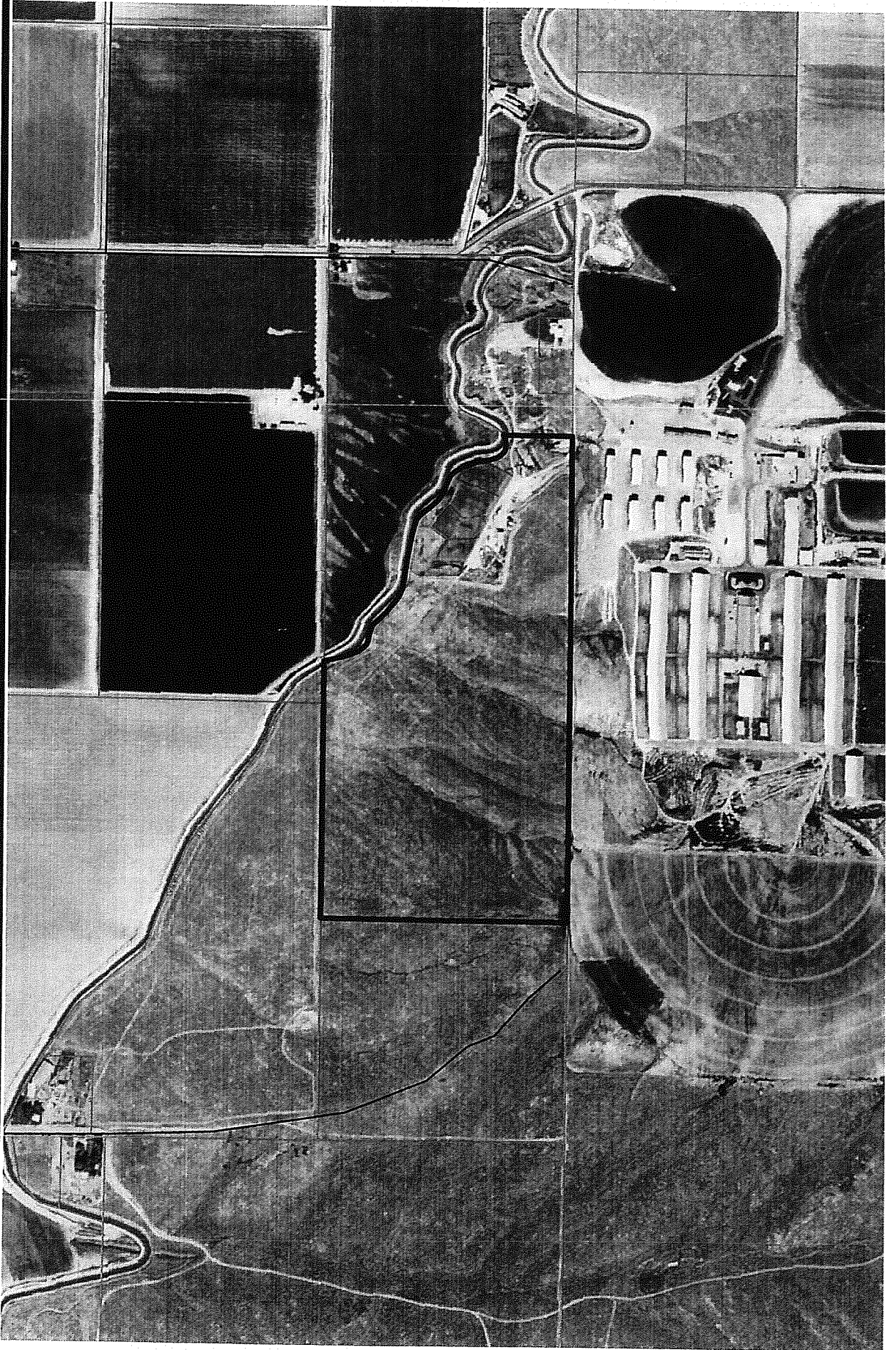
Date 5-21-08

Receipt No. _____

Processed by [Signature] AJ

Date 5-21-08

WR _____ Date _____

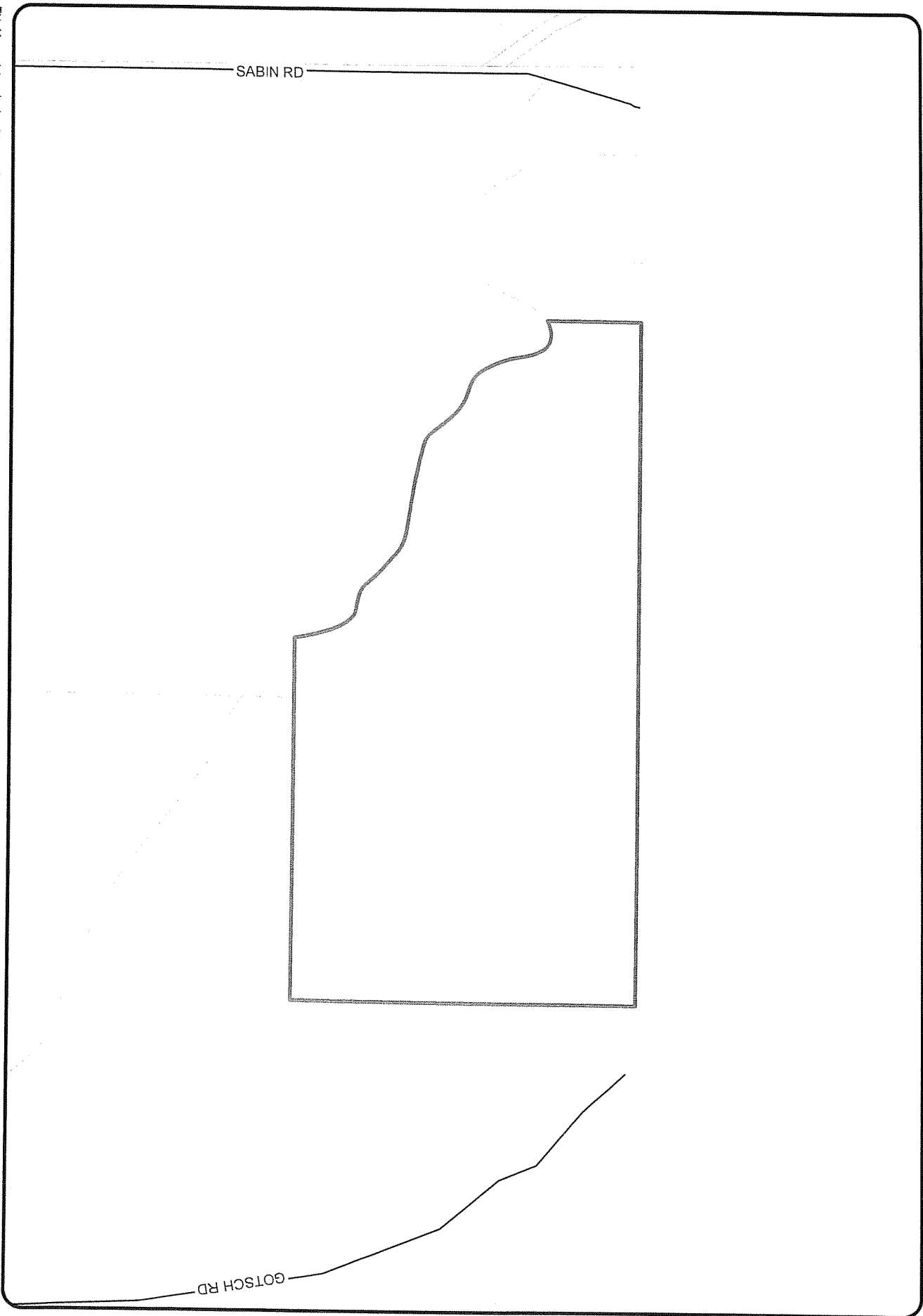


Map Created: May-09-2008

This Map and data displayed is a graphic representation derived from the Canyon Counties Geographic Information System (GIS) data. It is not guaranteed survey accuracy and was compiled from numerous sources which may not be accurate. Users are to field verify this information. Canyon County and Regional Geographic Services, Inc. Are not liable for errors or omissions resulting from the use of this product for any purpose.



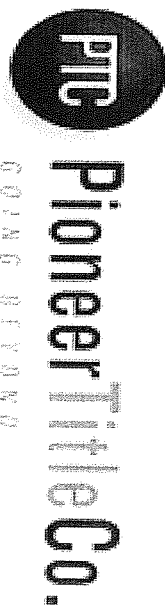
Copyright © 2006



This Map and data displayed is a graphic representation derived from the Canyon County Geographic Information System (GIS) data.

It was designed and intended for staff use only.
It is not guaranteed survey accuracy.

This map is based on information available and was compiled from numerous sources which may not be accurate. Users are to field verify this information. Canyon County and Single Point Solutions, Inc are not liable for errors or omissions resulting from the use of this product for any purpose.



File No.: 200804245

EXHIBIT A

The East 300 feet of that portion of Government Lot 4 lying Northeasterly of the Black Canyon Canal; That portion of Government Lot 3 lying Northeasterly of the Black Canyon Canal and All of Government Lot 2, all in Section 1, Township 5 North, Range 5 West of the Boise Meridian, Canyon County, Idaho

6-T.



610 South Kimball Avenue / Caldwell, Idaho
83605 / (208) 459-1651

200804245

WARRANTY DEED

For Value Received **Lawrence Ragains and Barbara Ragains, husband and wife**

hereinafter referred to as Grantor, does hereby grant, bargain, sell, warrant and convey unto

Troost Family Living Trust

hereinafter referred to as Grantee, whose current address
is 30540 Sabin Rd., Parma, 10 83660

the following described premises, to-wit:

The East 300 feet of that portion of Government Lot 4 lying Northeasterly of the Black Canyon Canal; That portion of Government Lot 3 lying Northeasterly of the Black Canyon Canal and All of Government Lot 2, all in Section 1, Township 5 North, Range 5 West of the Boise Meridian, Canyon County, Idaho

To HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, his heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

Dated: May 7, 2008

Lawrence Ragains
Lawrence Ragains

Barbara Ragains
Barbara Ragains

State of Idaho

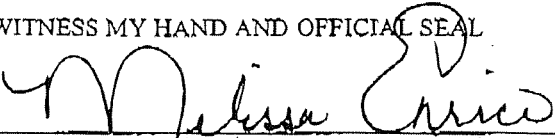
SS.

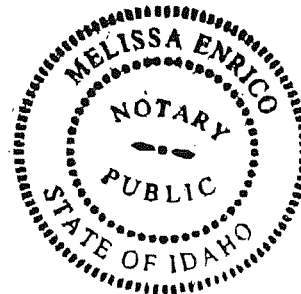
County of Canyon

On this 12th day of May, 2008, before me, the undersigned, a Notary Public, in and for said State, personally appeared Lawrence Ragains and Barbara Ragains, known to me, and/or identified to me on the basis of satisfactory evidence, to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same.

WITNESS MY HAND AND OFFICIAL SEAL

(SEAL)


Notary Public *Melissa Enrico
Residing at: Caldwell
Commission Expires: ~~5-27-11~~ 01-04-12



CHANGE OF OWNERSHIP, SPLIT
FOR Troost Family Living Trust

#	<u>63-8100</u>		
Name	<u>RABAINS</u>		
Irrigation:			
<u>156</u> acres	<u>2.33</u> cfs	<u>102</u> AF	
~~Stockwater~~	_____ cfs	_____ AF	
~~Domestic~~	_____ cfs	_____ AF	
TOTAL	<u>2.33</u> cfs	<u>102</u> AF	

.015 cfs/ac

#	<u>63-33040</u>		
Name	<u>RABAINS</u>		
Irrigation:			
<u>135</u> acres	<u>2.02</u> cfs	<u>607.5</u> AF	
~~Stockwater~~	_____ cfs	_____ AF	
~~Domestic~~	_____ cfs	_____ AF	
TOTAL	_____ cfs	_____ AF	

#	<u>63-33041</u>		
Name	<u>Troost Family Liv. Trust</u>		
Irrigation:			
<u>21</u> acres	<u>.32</u> cfs	<u>94.5</u> AF	
~~Stockwater~~	_____ cfs	_____ AF	
~~Domestic~~	_____ cfs	_____ AF	
TOTAL	_____ cfs	_____ AF	

remainder

Sec 1 NWNE 21

* The NWNE, the portion of the SWNE & SENE north of the canal has not been irrigated since the 1990s per all aeriels. Lic exam 1990. The NENW was not licensed & though the claimant Rabains wanted to include this per an ACCOM trx, I could not see that it had ever been irrigated. the LIC. process & GRBA has tolled any finding of forfeiture

VLM

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A63-08700
Date Received: 2/08/1990
Receipt No: M005796
Received By: SEA

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: L. W. RAGAINS 208-722-5515
Address: 29392 SABIN
PARMA, ID 83660
OR
Name: BARBARA RAGAINS 208-722-5515
Address: 29392 SABIN
PARMA, ID 83660
2. Date of Priority: APR 18, 1977
3. Source: GROUNDWATER Trib. to:
4. Point of Diversion:
Township Range Section 1/4 of 1/4 of 1/4 Lot County
05N 05W 1 SE NE NW 3 CANYON
5. Description of diverting works:
WELL, 320' DEPTH, 12" CAS., 119' TO WATER, PUMP PIPE, SPRINKLER & GRAV.
6. Water is used for the following purposes:
Purpose From To C.F.S. (or) A.F.A.
IRRIGATION 03/15 11/15 2.330
7. Total Quantity Appropriated is:
2.330 C.F.S. (and/or) A.F.A.
8. Total consumptive use is 546.0 Acre Feet Per Annum.
9. Non-irrigation uses:
STOCKWATER INCIDENTAL TO IRRIGATION.

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
05N	05W	1	NW		NE	2	IRR	21.0
			SW		NE		IRR	18.0
			SE		NE		IRR	6.0
			NE		NW	3	IRR	10.0
			NW		NW	4	IRR	23.0
			NE		SW		IRR	40.0
			NW		SW		IRR	38.0
							Section Acres	156.0
							Total Acres	156.0

11. Place of use in counties: CANYON

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:

D-LINE CANAL & BLACK CANYON IRR. DIST.

14. Remarks:

NOT TO EXCEED .02 CFS/AC. OR 4.5 AF/AC.

15. Basis of Claim: PERMIT

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not ☒ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): L W Ragans Date: 2-8-90

Date: _____

State of Idaho)
County of CANYON) SS.

Subscribed and sworn (or affirmed) before me this 8th day
of FEB. 19 90
Janet C. Smith
Notary Public

Seal

Residing at Boise, ID
My Commission Expires 11/08/1994

