

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: A63-23182
Date Received: 8/13/1990
Receipt No: C017992
Received By: _____

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: MARY LOU TLUCEK 208-495-2550
Address: RT. 1
MELBA ID 83641
AND/OR
Name: JERRY L. TLUCEK 208-495-2550
Address: RT. 1
MELBA ID 83641

2. Date of Priority: MAY 1, 1973

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
01N	01W	22	SE	SE			ADA

5. Description of diverting works:
WELL, 385', 12", 100 HP VERT. TURB. PUMP, 8" LINE, 60 HP BOOSTER

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	1.720		

7. Total Quantity Appropriated is:
1.720 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 301.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
01N	01W	22	SE	SW		IRR	40.0

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
01N	01W	22	NE	SE		IRR	5.0
			NW	SE		IRR	40.0
			SW	SE		IRR	1.0
Section Acres							86.0
Total Acres							86.0

11. Place of use in counties: ADA

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

13. Other Water Rights Used:
A63-03174

14. Remarks:

CLAIMANT IS RELYING UPON IDAHO CODE SECTION 42-1416(2) FOR
EXPANSION OF A63-03174.

15. Basis of Claim: BENEFICIAL USE

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: _____

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): _____ Date: _____
_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____

My Commission Expires _____

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

Should questions arise during
the processing of this
application please contact:

SCOTT L. CAMPBELL
Elam, Burke and Boyd
P. O. Box 1539
Boise, ID 83701-1539
343-5454

Ident. Number: A63-23182
Date Received: 8/13/90
Receipt No: 6017992
Received By: J. Jensen

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: JERRY L. TLUCEK
Address: RT. 1
MELBA, ID 83641

208-495-2550

AND/OR

Name: MARY LOU TLUCEK
Address: RT. 1
MELBA, ID 83641

208-495-2550

2. Date of Priority: ~~NOV 27, 1989~~ May 1, 1973

3. Source: GROUNDWATER

Trib. to:

4. Point of Diversion:

Department of Water Resources

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
01N	01W	22	SE	SE			ADA

5. Description of diverting works:

WELL, 385', 12", 100 HP VERT. TURB. PUMP, 8" LINE, 60 HP BOOSTER

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	1.720		

7. Total Quantity Appropriated is:

1.720 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 301.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
01N	01W	22	SE	SW		IRR	40.0

RECEIVED
AUG 13 1990

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
01N	01W	22	NE	SE		IRR	5.0
			NW	SE		IRR	40.0
			SW	SE		IRR	1.0
Section Acres							86.0
Total Acres							86.0

11. Place of use in counties: ADA

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

13. Other Water Rights Used:
A63-03174

14. Remarks: Claimant is relying upon Idaho Code section 42-1416(2) for expansion of A63-03174.

15. Basis of Claim: BENEFICIAL USE

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 X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 0

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):

Jimmy L. Luce
Mary Lou Luce

Date:

8/8/90

Date:

8-8-90

State of Idaho)
County of Canyon) SS.

Subscribed and sworn (or affirmed) before me this 8th day
of Aug. 19 90

Seal

[Signature]
Notary Public

Residing at Melba

My Commission Expires 11-12-92

17. Notice of Appearance:

Notice is hereby given that I, Scott L. Campbell will be
Print Name
acting as attorney at law on behalf of the claimant signing above, and that
all notices required by law to be mailed by the director to the claimant
signing above should be mailed to me at the address listed below.

Signature Scott L. Campbell

Address P.O. Box 1539, Boise, Idaho 83701-1539

Date 8/10/90



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

August 28, 1990

Mr. Scott L. Campbell
Elam, Burke, & Boyd
P. O. Box 1539
Boise, ID 83701

RE: Snake River Basin Adjudication - Ada County
Claim Nos. A63-23182 and A63-03174 (Amended)
Jerry L. and Mary Lou Tlucek

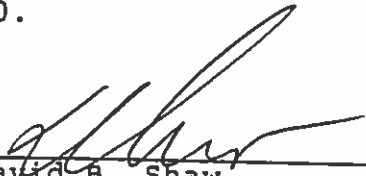
Dear Mr. Campbell:

In response to your letter dated August 10, 1990 and the explanation presented regarding a Request for Extension of time to file water rights in Ada County. The original filing deadline for this claim was September 8, 1989. This letter is granting an extension of time for the filing of Notice of Claims to a Water Right.

The extension is granted until August 13, 1989, which is the date your Notice of Amended Claims Nos. A63-23182 and A63-03174 was received in our office. Please keep this extension of time with your other legal documents.

This extension is granted under the authority of §42-1409 (10), Idaho Code.

Signed this 28th day of August, 1990.



David B. Shaw
Adjudication Bureau Chief

DBS;dms

cc: IDWR, Western Region

From: DWR03::SHAFF 15-AUG-1990 14:59:18.78
To: DWR80::SHURTE
CC: SHAFF
Subj: RE: TLUCEK CLAIMS - SCOTT CAMPBELL, ATTORNEY

Ah, Ah. Funny you should be asking about this. I probably got Campbell's letter with the Tlucek claims Monday. I read the letter today and sent the package to Dave to consider the request for extension.

Tell ya what. Why don't I send it all to you when Dave has taken action on the extension? Sounds like you have all the background info., and I won't have to start at ground zero. From memory "Campbell" amended one claim and submitted another. The claims are related to the prior correspondence/conversations, but I cannot recall specifically how. When I read the extension stuff I passed the package on to Dave, thus delaying sorting out the details of the claims.

From: DWR80::SHURTE 15-AUG-1990 13:26:44.30
To: DWR03::SHAFF
CC:
Subj: TLUCEK CLAIMS - SCOTT CAMPBELL, ATTORNEY

HI DON. I FOUND A CLAIM NO. A63-03174 WITH A LETTER ATTACHED FROM JOHN C. STATING THAT TLUCEK'S HAD CLAIMED 200 ACRES WHEN THEIR ORIG. LICENSE WAS FOR 114 ACRES. SCOTT C. HAD CALLED STEVE LESTER AND HE HAD GIVEN ME A MEMO TO CHECK THE CLAIM, ETC. I FINALLY RECEIVED THE CLAIM WITH JOHN'S LETTER AND SCOTT CAMPBELL TELLS ME THAT HE HAD TALKED TO BRUCE AND SENT ANOTHER CLAIM FOR THE ADDITIONAL 86 ACRES DIRECTLY TO YOU. THEN, BRUCE STATES HE ALSO SENT SCOTT AN AMENDED CLAIM FOR A63-03174 TO REDUCE THE ACRES TO 114. IN LOOKING AT THE HOST TEMP. I FOUND A63-23182 FOR TLUCEK'S 86 ACRES, BUT NO RECEIPT ATTACHED AND IT'S STILL IN HOST TEMP. I ASSUME THEY WOULD HAVE TO SUBMIT ANOTHER \$50. WHAT I WOULD LIKE TO KNOW IS IF YOU RECEIVED THOSE CLAIMS BACK, AND WHERE THEY MIGHT BE. I HESITATE TO THINK YOU SENT THEM HERE, BECAUSE THE ONE IS STILL IN THE HOST TEMP. WOULD YOU CHECK IT OUT FOR ME SO I CAN ATTACH THIS ORIGINAL, AND CORRESPONDENCE TO THE AMENDED CLAIM. THANKS, JAN.

ELAM, BURKE AND BOYD

ATTORNEYS AND COUNSELORS AT LAW

KEY FINANCIAL CENTER
702 WEST IDAHO
POST OFFICE BOX 1539
BOISE, IDAHO 83701

TELEPHONE
208-343-5454
TELECOPIER
208-384-5844

SCOTT L. CAMPBELL

August 10, 1990

RECEIVED
AUG 13 1990

Mr. Don Shaff
Assistant Adjudication Bureau Chief
Idaho Department of Water Resources
1301 N. Orchard
Boise, Idaho 83706

Department of Water Resources

RE: Claim Nos. A63-23182 and A63-03174 (Amended)
Jerry L. and Mary Lou Tlucek

Dear Don:

Pursuant to our recent telephone conversation with regard to the above-captioned claims, I have enclosed the executed originals of the above-referenced claims. As I indicated in our telephone conversation, these claims were revised and are submitted in accordance with the prior correspondence with John Carlson of your Department and dated June 20, 1990, and in accordance with the correspondence of Bruce Schuld of the Western Region Office of your Department dated July 31, 1990, a copy of which is enclosed per Mr. Schuld's request.

As I indicated during our telephone conversation, there were extenuating circumstances which prevented Mr. and Mrs. Tlucek from providing me with the necessary direction to comply with the thirty-day time frame outlined in John Carlson's correspondence of June 20, 1990. After I received John Carlson's correspondence, I notified Mr. and Mrs. Tlucek by letter dated June 25, 1990. After I received no response, I followed the initial letter with a second letter dated July 11, 1990. The day after the deadline outlined in John Carlson's correspondence, I received a telephone call from Mr. Tlucek, who indicated that he and his wife had been out of town for three weeks and had not read either of my letters until that day. Accordingly, they requested that I proceed as necessary and hoped that the penalty could be waived. I then attempted to contact John Carlson, who was on vacation, and ultimately ended up speaking with Bruce Schuld of the Western Region Office regarding this matter. Given the circumstances, I hereby request that the Department exercise its discretion and waive the penalty charge for the additional claim.

You also informed me during our telephone conversation that a written description of these circumstances in this letter would satisfy the requirement of filing a formal Request for Extension of Time to File Adjudication Claim. Therefore, I have not supplied one. If you do, in fact, require such a formal filing, please notify me.

Based upon the assumption that the Department will treat this request favorably, I have enclosed our check payable to the Idaho Department of Water Resources in the amount of \$50.00 for Claim No. A63-23182. The per-acre charge for irrigation use on the property has already been paid in the prior filings under Claim A63-03174. Needless to say, if the Department does not waive the late penalty charge, we will provide that additional fee after notification from the Department.

I also request that the Department provide me with a receipt, as well as conformed copies of the Claims as filed, so that I have a complete record for my files.

Thank you for your anticipated cooperation.

Very truly yours,

ELAM, BURKE AND BOYD


Scott L. Campbell

SLC:bhb
Encl.

cc: Mrs. and Mrs. Jerry L. Tlucek



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705 - (208) 334-2190

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

July 31, 1990

Scott Cambell
Elam Burke and Boyd
P.O. Box 1539
Boise, Idaho 83701

RE: A63-03174 and A63-23182, attached.

Dear Mr. Cambell;

As per our conversation this morning, I am sending you forms for requesting an Extension of Time. Requests should be submitted with any claims done after the county's due date. In this instance, A63-23182. If the request is granted by Dave Shaw, then the late fees will be waived. If, however, you are denied your request, you are required to immediately submit the late fees due or the claim will be rejected and a refund of adjudication fees will be instigated. Please be very specific in describing the circumstances that resulted in late submittal or response to our Bureau's queries.

Furthermore, I have taken the initiative and filled out A63-23182, attached, which is a beneficial use claim to the irrigation of the acreage in excess of that covered by license #63-03174. I have also made amended version of A63-03174, attached, which is the proper way to make claim to the license. There are three packages of claims, two of them are stamped for the files of you and your clients. One set, containing a copy of each claim, should be signed by you, your client, and his/her signature must be notarized. The claims should then be re-submitted to this office with the request for an Extension of Time to waive the late fees for A63-23182, and a \$50 filing fee for A63-23182. No acreage fee is due as acreage fees were paid for in the original submittal of A63-03174. A copy of this letter should also be submitted, as it will help to expedite this office's handling of the claims.

Regards,

Bruce A. Schuld
Senior Water Resource Agent
Western Region

cc:BAS:SC:file

JAN.

CONVERSATION MEMORANDUM

DATE 7/30/90

FILE A63-03174

NAME OF PARTY Scott Campbell, Attorney 343-5454

EMPLOYEE Steve Legten

RE: Scott Campbell called about claim A63-03174.
He has a letter of 6/20/90 from John Carlson.
The State office told Scott that file was at
Wastown.

I didn't see file in Ady. Filing cabinet.

Could you have someone track this down
& call Scott?

Thanks,

SL



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

June 20, 1990

Scott L. Campbell
Attorney at Law
P.O. Box 1539
Boise, ID 83701

RE: Notice of Claim to a Water Right A63-03174
in the name of Jerry L. and/or Mary Lou Tlucek, Ada County

Dear Mr. Campbell:

Enclosed please find a file copy of the above-referenced document. This claim has been processed and no additional action is required. Also enclosed is the yellow file copy.

During the review of the claim, we noted that the original license was issued for 114 acres. Therefore, the claim as processed for 200 acres appears to be an expansion according to Idaho Code §42-1416.

If you wish to modify this claim to reflect the 114 acres and submit a separate claim for the expanded acres, you may do so within 30 days without the penalty of a late fee.

Another option is to file an Application for Permit on this additional irrigated acreage. A form is enclosed for your possible use in this matter.

Please do not hesitate to contact this office if you have any questions or we can be of assistance.

Sincerely,

John D. Carlson
John D. Carlson
Adjudication Supervisor

JDC:HHT:sf:state

Enclosures:

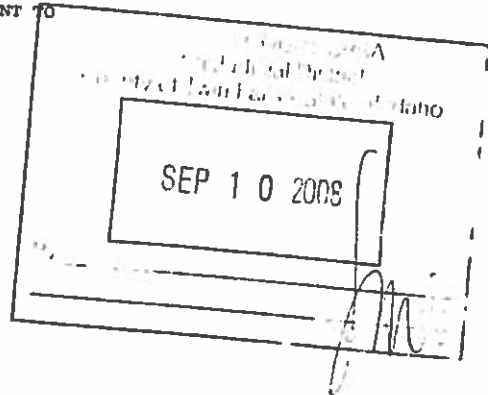
A63-03174, Computer File Copy
& Yellow File Copy
Application for Permit

A63-03174 Computer File Copy & Yellow File Copy

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)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 63-23182



NAME AND ADDRESS: JERRY L TLUCEK
MARY LOU TLUCEK
15188 S CAN-ADA RD
MELBA, ID 83641

SOURCE: GROUND WATER

QUANTITY: 0.80 CFS
387.00 AFY

This right when combined with Right No. 63-3174 shall provide no
more than 1.85 cfs nor more than 900 AF per annum.

PRIORITY DATE: 05/01/1973

This water right is subordinate to all water rights with a
priority date earlier than April 12, 1994, that are not decreed
as enlargements pursuant to Section 42-1426, Idaho Code. As
between water rights decreed as enlargements pursuant to Section
42-1426, Idaho Code, the earlier priority right is the superior
right.

POINT OF DIVERSION: T01N R01W S22 SESE Within Ada County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-01 TO 11-15	0.80 CFS 387.00 AFY

PLACE OF USE:	Irrigation	Within Ada County
	T01N R01W S22	SESW 40.0 NWSE 40.0 SESE 40.0
	200.0 Acres Total	

RIGHT NOS. 63-3174 AND 63-23182 ARE LIMITED TO THE IRRIGATION OF
A COMBINED TOTAL OF 200 ACRES IN A SINGLE IRRIGATION SEASON.
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 86 ACRES WITHIN THE
PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

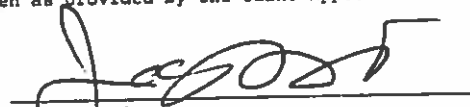
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This right is based upon an enlargement of Right No. 63-3174
pursuant to Section 42-1426, Idaho Code.

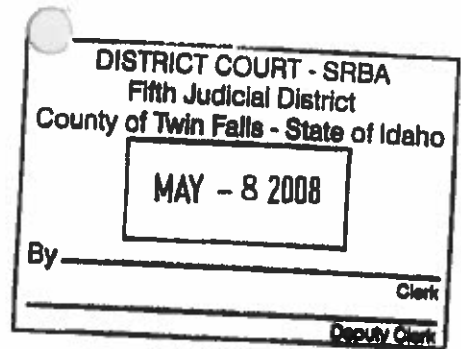
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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) SPECIAL MASTER'S REPORT
Case No. 39576)
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
)
) FOR WATER RIGHTS 63-03174
) and 63-23182

I. FINDINGS OF FACT

Notices of claim were filed for the above-captioned water rights 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 these water rights.

The claimants of the water rights, Mary Lou and Jerry L. Tlucek, through their attorney of record Scott L. Campbell, timely filed an objection in each subcase. On April 30, 2008, the parties filed a *Standard Form 5 – Stipulated Elements of a Water Right* in each of the subcases, which resolved the objections. The Idaho Department of Water Resources concurred with the stipulations.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the *Standard Forms 5*, IT IS RECOMMENDED that water rights 63-03174 and 63-23182 be decreed with the elements as set forth in the attached *Recommendations for Partial Decrees Pursuant to I.R.C.P. 54(b)*.

Dated

May 8, 2008

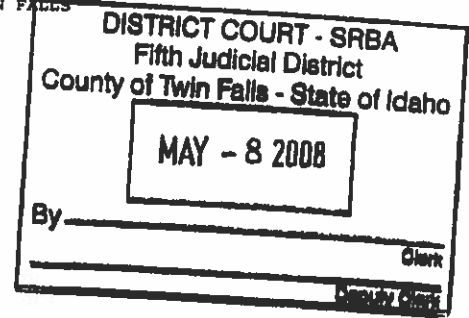
Theodore R. Booth
Special Master
Snake River Basin Adjudication

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

In Re SRBA)
)
Case No. 39576)
)

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

Water Right 63-03174



NAME AND ADDRESS: JERRY L TLUCEK
MARY LOU TLUCEK
15188 S CAN-ADA RD
MELBA, ID 83641

SOURCE: GROUND WATER

QUANTITY: 1.85 CFS
513.00 AFY

THIS RIGHT WHEN COMBINED WITH RIGHT NO. 63-23182 SHALL PROVIDE NO
MORE THAN 1.85 CFS NOR MORE THAN 900 AF PER ANNUM.

PRIORITY DATE: 11/27/1959

POINT OF DIVERSION: T01N R01W S22 SESE Within Ada County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	1.85 CFS
			513.00 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 Ada County
	T01N R01W S22	SESN 40.0
		NESE 40.0
		NWSE 40.0
		SWSE 40.0
		SESE 40.0
	200.0 Acres Total	

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 114 ACRES WITHIN THE
PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

THIS RIGHT AND RIGHT NO. 63-23182 ARE LIMITED TO THE IRRIGATION
OF A COMBINED TOTAL OF 200 ACRES IN A SINGLE IRRIGATION SEASON.

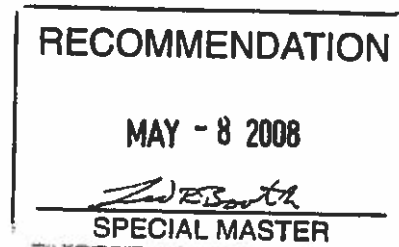
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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.

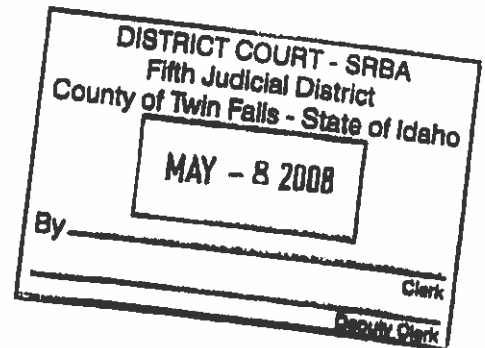
John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication



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)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 63-23182



NAME AND ADDRESS: JERRY L TLUCEK
MARY LOU TLUCEK
15188 S CAN-ADA RD
MELBA, ID 83641

SOURCE: GROUND WATER

QUANTITY: 0.80 CFS
387.00 AFY

This right when combined with Right No. 63-3174 shall provide no more than 1.85 cfs nor more than 900 AP per annum.

PRIORITY DATE: 05/01/1973

This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.

POINT OF DIVERSION: T01N R01W S22 SESE Within Ada County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-01 TO 11-15	0.80 CFS 387.00 AFY

PLACE OF USE:	Irrigation	Within Ada County
	T01N R01W S22	SESW 40.0 NESE 40.0 NWSE 40.0 SWSE 40.0 SESE 40.0
	200.0 Acres Total	

RIGHT NOS. 63-3174 AND 63-23182 ARE LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 200 ACRES IN A SINGLE IRRIGATION SEASON. THIS RIGHT IS LIMITED TO THE IRRIGATION OF 86 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

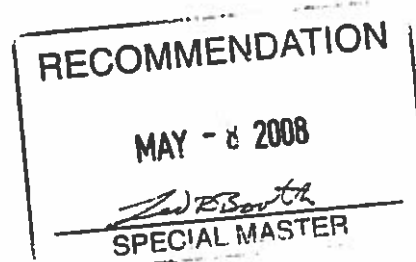
This right is based upon an enlargement of Right No. 63-3174 pursuant to Section 42-1426, Idaho Code.

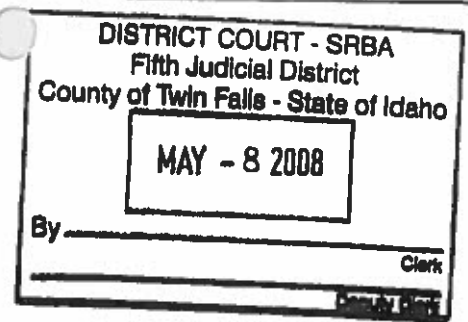
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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

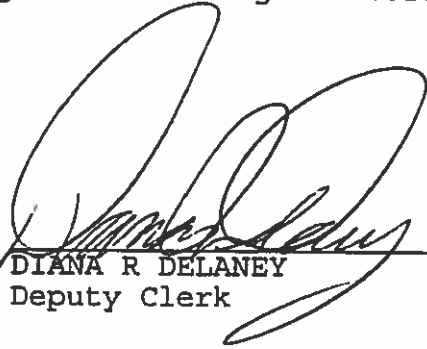
Water Right(s): 63-03174
63-23182

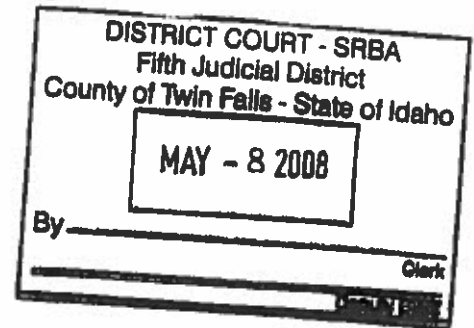
On May 08, 2008, Special Master THEODORE R. BOOTH issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

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 May 08, 2008.


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): 63-03174
63-23182

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 May 08, 2008, with sufficient first-class postage prepaid to the following:

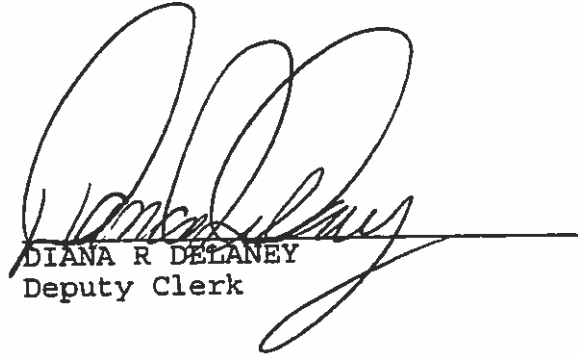
DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

JERRY L & MARY LOU TLUCEK
JERRY L TLUCEK
MARY LOU TLUCEK
Represented by:
DYLAN B LAWRENCE
101 S CAPITOL BLVD 10TH FLOOR
PO BOX 829
BOISE, ID 83701-0829

CERTIFICATE OF MAILING

PAGE 1
05/08/08

JERRY L & MARY LOU TLUCEK
JERRY L TLUCEK
MARY LOU TLUCEK
Represented by:
SCOTT L CAMPBELL
101 S CAPITOL BLVD 10TH FLOOR
PO BOX 829
BOISE, ID 83701-0829
Phone: 208-345-2000



DIANA R DELANEY
Deputy Clerk

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
APR 30 2008	
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 No. 63-23182
	)	
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(s):

Jerry L. Tlucek
Mary Lou Tlucek

 4/22/08

Scott L. Campbell Date
Attorney for Claimants/Objectors

IDWR Concurrence:


Donald V. Shaff
Adjudication Bureau Chief

4-25-08
Date


Garrick L. Baxter
Deputy Attorney General
Attorney for IDWR

4/24/08
Date

04/10/2008

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

RIGHT NUMBER: 63-23182

NAME AND ADDRESS: MARY LOU TLUCEK
15188 S CAN-ADA RD
MELBA ID 83641

JERRY L TLUCEK
15188 S CAN-ADA RD
MELBA ID 83641

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.800 CFS
~~220-60~~ 387.00 AFY

This right when combined with Right No. 63-3174 shall provide no more than 1.85 cfs nor more than \$12 900 AF per annum.

PRIORITY DATE: 05/01/1973

This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.

POINT OF
DIVERSION:

T01N R01W S22 SESE Within ADA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	03/01 11/15	0.800 CFS ~~220-60~~ 387.00 AFY

PLACE OF USE: IRRIGATION in ADA County

T01N R01W S22	SESW	40.00	T01N R01W S22	NESE	5-00 40.00
T01N R01W S22	NWSE	40.00	T01N R01W S22	SWSE	1-00 40.00
T01N R01W S22	SESE	40.00			

86 200 ACRES TOTAL

Right Nos. 63-3174 and 63-23182 are limited to the irrigation of a combined total of 200 acres in a single irrigation season.

This right is limited to the irrigation of 86 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. Section 42-1412(6), Idaho Code.

This right is based upon an enlargement of Right No. 63-3174 pursuant

SLC
JB
[Signature]

to Section 42-1426, Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

AS ~~AS~~

CERTIFICATE OF MAILING

I certify that on April 28, 2008, 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:

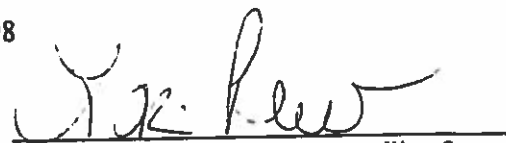
CLERK OF THE DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
253 THIRD AVENUE NORTH
P.O. BOX 2707
TWIN FALLS, IDAHO 83303-2707

2. Copies to:

JERRY L. TLUCEK
MARY LOU TLUCEK
Represented by:
DYLAN B. LAWRENCE
101 S. CAPITOL BLVD 10TH FLOOR
P.O. BOX 829
BOISE, ID 83701-0829

JERRY L. TLUCEK
MARY LOU TLUCEK
Represented by:
SCOTT L. CAMPBELL
101 S. CAPITOL BLVD 10TH FLOOR
P.O. BOX 829
BOISE, ID 83701-0829

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


Signature of person or attorney mailing form

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

In Re SRBA)

A. Subcase

63-23182

(Insert water right number)

Case No. 39576)
_____)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Jerry L. Tlucek and Mary Lou Tlucek

Address: 15188 S. Can-Ada Road

Melba, Idaho 83641

Daytime Phone: (208) 495-2034

Name & Address of Attorney, if any:

Scott L. Campbell

Moffatt Thomas

PO Box 829, Boise, Idaho 83701

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

Name: Jerry L. Tlucek and Mary Lou Tlucek

Address: 15188 S. Can-Ada Road

Melba, Idaho 83641

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

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☒ **Quantity**
Should be: 1.72 cfs and 301.0 afa
4. ☒ **Priority Date**
Should be: Please see Attachment 1 hereto
5. ☐ **Point of Diversion**
Should be: _____
6. ☐ **Instream Flow Beginning and Ending Point**
Should be: _____
7. ☒ **Purpose(s) of Use**
Should be: Quantity should be 1.72 cfs and 301.0 afa
8. ☒ **Period of Year**
Should be: Quantity should be 1.72 cfs and 301.0 afa
9. ☒ **Place of Use**
Should be: Please see Attachment 2 hereto
10. ☐ **I object because:**
 - ☐ This water right Should not exist.
 - ☐ This water right was not recommended, but Should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTIONS(S):**

Please see Attachment 3 hereto.

F.

VERIFICATION (must be completed)

State of Idaho)
)ss.
County of Ada)

Scott L. Campbell, 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)

Scott L. Campbell
(Attorney signing in representative capacity)

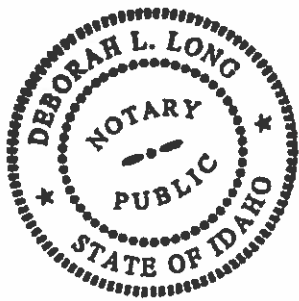
Subscribed and sworn to before me on: _____

6/19/07

Deborah Long
Notary Public for Idaho

Residing at: Boise

My Commission Expires: 10/10/07



INSTRUCTIONS FOR MAILING

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

G. CERTIFICATE OF MAILING

I certify that on June 19, 2007, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

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

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

Name: Jerry L. Tlucek and Mary Lou Tlucek

Address: 15188 S. Can-Ada Road
Meiwa, Idaho 83641

3. Copies to:

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

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

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



Signature of objector or attorney
mailing on Objector's behalf

**ATTACHMENT 1 TO
STANDARD FORM 1 – OBJECTION
SUBCASE 63-23182**

Jerry and Mary Lou Tlucek are objecting to the following remark under Priority Date, as set forth in the Director's Report:

This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decrees as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.

**ATTACHMENT 2 TO
STANDARD FORM 1 – OBJECTION
SUBCASE 63-23182**

The Director's Report incorrectly identifies the place of use for irrigation of lands under this water right. The correct, historic place of use is as follows:

TWP	RNG	SEC	14 of 14	14 of 14	Acres
1N	1W	22	SE	SW	40
			NE	SE	40
			NW	SE	40
			SW	SE	40
			SE	SE	40
Total					200

**ATTACHMENT 3 TO
STANDARD FORM 1 – OBJECTION
SUBCASE 63-23182**

Reasons Supporting Objection(s)

Quantity:

The claimed quantity of 1.72 cfs and 301.0 afy should be recommended in full, based upon historic diversion, delivery, and use by Jerry and Mary Lou Tlucek.

Priority Date:

There is no legal basis for inclusion of the enlargement remark.

Purpose and Period of Use:

The claimed quantity of 1.72 cfs and 301.0 afy should be recommended in full, based upon historic diversion, delivery, and use by Jerry and Mary Lou Tlucek.

Place of Use:

The place of use described in the Director's Report does not accurately describe the lands historically irrigated under this water right.

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

RIGHT NUMBER: 63-23182

NAME AND ADDRESS:

JERRY L TLUCEK
15188 S CAN-ADA RD
MELBA ID 83641

MARY LOU TLUCEK
15188 S CAN-ADA RD
MELBA ID 83641

SOURCE:

Source:

Tributary:

GROUND WATER

QUANTITY:

0.800 CFS

220.600 AFY

This right when combined with Right No. 63-3174 shall provide no more than 1.85 cfs
nor more than 513 AF per annum.

PRIORITY DATE:

05/01/1973

This water right is subordinate to all water rights with a priority date earlier than April
12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho
Code. As between water rights decreed as enlargements pursuant to Section
42-1426, Idaho Code, the earlier priority right is the superior right.

POINT OF DIVERSION:

T01N R01W S22 SESE
Within ADA County

PURPOSE AND
PERIOD OF USE:

Purpose of use

Period of use

Quantity:

IRRIGATION

03/01 11/15

0.800 CFS

220.60 AFY

PLACE OF USE:

IRRIGATION

within ADA County

T01N R01W S22 SESW 40.0

T01N R01W S22 NESE 40.0

~~T01N R01W S22 NESE 5.0~~

T01N R01W S22 NWSE 40.0

T01N R01W S22 SWSE 40.0

~~T01N R01W S22 SWSE 1.0~~

T01N R01W S22 SESE 40.0

200 ACRES TOTAL

~~86 ACRES TOTAL~~

Right Nos. 63-3174 and 63-23182 are limited to the irrigation of a combined total of 200
acres in a single irrigation season.

This right is limited to the irrigation of 86 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. Section 42-1412(6), Idaho
Code.

This right is based upon an enlargement of Right No. 63-3174 pursuant
to Section 42-1426, Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Moffatt Thomas

MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

RECEIVED

OCT 25 2006

DEPARTMENT OF
WATER RESOURCES

Boise
Idaho Falls
Pocatello
Twin Falls

US Bank Plaza Building
101 S Capitol Blvd 10th Fl
PO Box 829
Boise Idaho 83701 0829

October 24, 2006

208 345 2000
800 422 2889
208 385 5384 Fax
www.moffatt.com

Eugene C. Thomas
John W. Barrett
R. B. Rock
Richard C. Fields
John S. Simko
John C. Ward
D. James Manning
Gary T. Dance
Larry C. Hunter
Randall A. Peterman
Mark S. Prusynski
Stephen R. Thomas
Glenna M. Christensen
Gerald T. Husch
Scott L. Campbell
Robert B. Burns

Michael E. Thomas
Patricia M. Olsson
Bradley J. Williams
Lee Radford
Michael O. Roe
David S. Jensen
James L. Martin
C. Clayton Gill
David P. Gardner
John O. Fitzgerald, II
Julian E. Gabiola
Angela Schaer Kaufmann
Michael W. McGraham
Paul D. McFarlane
Kimberly D. Evans Ross
Jon A. Stenquist

Tyler J. Henderson
Jason G. Murray
Mark C. Peterson
Andrew J. Waldera
Tyler J. Anderson
Dylan B. Lawrence
Joel A. Flake, Jr.
Russell G. Metcalf
Robert E. Bakes, of counsel
Morgan W. Richards, of counsel
Willis C. Moffatt, 1907-1980
Kirk R. Helvie, 1956-2003

David R. Tuthill Jr.
Administrator
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Re: Water Right 63-23182
In the Name of Jerry and Mary Lou Tlucek
MTBR&F File No. 22377.1

Dear Dave:

I am in receipt of a preliminary recommendation, dated October 6, 2006, for the above-referenced water right. I am unclear as to the purpose of this preliminary recommendation, because last year I received a preliminary recommendation, dated November 22, 2005, for this same water right, to which a notice of error reply was timely filed on December 2, 2005. For purposes of convenience, I have enclosed copies of the October 6, 2006 and November 22, 2005 preliminary recommendations as well as the December 2, 2005 notice of error reply.

What is remarkably perplexing with the October 6, 2006 preliminary recommendation is the significant reduction in quantity of water (1.720 cfs to 0.800 cfs). As you will note from the enclosed notice of error reply, it did not request a reduction in the quantity of water. Instead, it requested removal of (1) the afy limitation under the element of quantity, as there is no basis for inclusion of the volumetric limitation, and (2) the remark identified set forth under the element of priority date, as there is no basis for inclusion of the remark.

Please contact me at your earliest convenience to discuss this matter.

Very truly yours,


Scott L. Campbell

SLC/tmh
Enclosures
cc: Jerry Tlucek (w/encls.)

ENLARGEMENT CLAIM -
REDUCTION BASED ON 86 AC
ENLARGEMENT USING 63-3174
LIMITATIONS. PARAGRAPH ABOUT
PRIORITY DATE IS MANDATORY FOR
FD-1202 (12-2000)

10/06/2006

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

RIGHT NUMBER: 63-23182

NAME AND ADDRESS: MARY LOU TLUCEK
15188 S CAN-ADA RD
MELBA ID 83641

JERRY L TLUCEK
15188 S CAN-ADA RD
MELBA ID 83641

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.800 CFS
220.60 AFY

This right when combined with Right No. 63-3174 shall provide no more than 1.85 cfs nor more than 513 AF per annum.

PRIORITY DATE: 05/01/1973

This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.

POINT OF DIVERSION:

T01N R01W S22 SESE Within ADA County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/01 11/15

0.800 CFS
220.60 AFY

PLACE OF USE:

IRRIGATION Within ADA County

T01N R01W S22	SESW	40.00	T01N R01W S22	NESE	5.00
T01N R01W S22	NWSE	40.00	T01N R01W S22	SWSE	1.00

86 ACRES TOTAL

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

This right is based upon an enlargement of Right No. 63-3174 pursuant to Section 42-1426, Idaho Code.

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 - Beneficial Use

NOTICE OF ERROR

REPLY

11/22/2005
RECEIVED

DEC 02 2005

DEPARTMENT OF
WATER RESOURCES

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

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

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: December 2, 2005

Water right number: 63-23182

JERRY L. TLUCEK
15188 S CAN-ADA RD
MELBA ID 83641
Telephone Number: (208) 495-2550

MARY LOU TLUCEK
15188 S CAN-ADA RD
MELBA ID 83641
Telephone Number: (208) 495-2550

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

Quantity; Priority Date

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

Quantity: Delete the volumetric limitation of 387 acre feet per year.

Priority Date: Delete the following remark: "This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right."

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

Quantity: There is no basis for inclusion of the acre feet per year volumetric limitation.

Priority Date: There is no basis for inclusion of the remark.

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

DATE: 12/02/05 SIGNATURE: Scott L. Campbell

Please print your name:

Scott L. Campbell
Moffatt, Thomas, Barrett, Rock & Fields, Chartered
PO Box 8729
Boise, Idaho 83701

Counsel of record for Jerry and Mary Lou Tlucek

IDWR Regional Office, 2735 Airport Wy, Boise, ID 83705, 2083342190

11/22/2005

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

RIGHT NUMBER: 63-23182

NAME AND ADDRESS: MARY LOU TLUCEK
15188 S CAN-ADA RD
MELBA ID 83641

JERRY L TLUCEK
15188 S CAN-ADA RD
MELBA ID 83641

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 1.720 CFS
387.00 AFY

This right when combined with Right No. 63-3174 shall provide no more than 1.85 cfs per acre.

PRIORITY DATE: 05/01/1973

This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.

POINT OF DIVERSION:

T01N R01W S22 SESE Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	1.720 CFS 387.00 AFY

PLACE OF USE: IRRIGATION Within ADA County

T01N R01W S22	SESW	40.0	T01N R01W S22	NESE	5.0
T01N R01W S22	NWSE	40.0	T01N R01W S22	SWSE	1.0

86 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 - Beneficial Use

09/27/2006

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

RIGHT NUMBER: 63-23182

NAME AND ADDRESS: MARY LOU TLUCEK
15188 S CAN-ADA RD
MELBA ID 83641

JERRY L TLUCEK
15188 S CAN-ADA RD
MELBA ID 83641

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.800 CFS
220.600 AFY

This right when combined with Right No. 63-3174 shall provide no more than 1.85 cfs nor more than 513 AF per annum.

PRIORITY DATE: 05/01/1973

This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.

POINT OF DIVERSION:

T01N R01W S22 SESE Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.800 CFS 220.60 AFY

PLACE OF USE: IRRIGATION Within ADA County

T01N R01W S22	SESW	40.00	T01N R01W S22	NESE	5.00
T01N R01W S22	NWSE	40.00	T01N R01W S22	SWSE	1.00

86 ACRES TOTAL

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

This right is based upon an enlargement of Right No. 63-3174 pursuant to Section 42-1426, Idaho Code.

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 - Beneficial Use

Idaho Department of Water Resources



T01N R01W

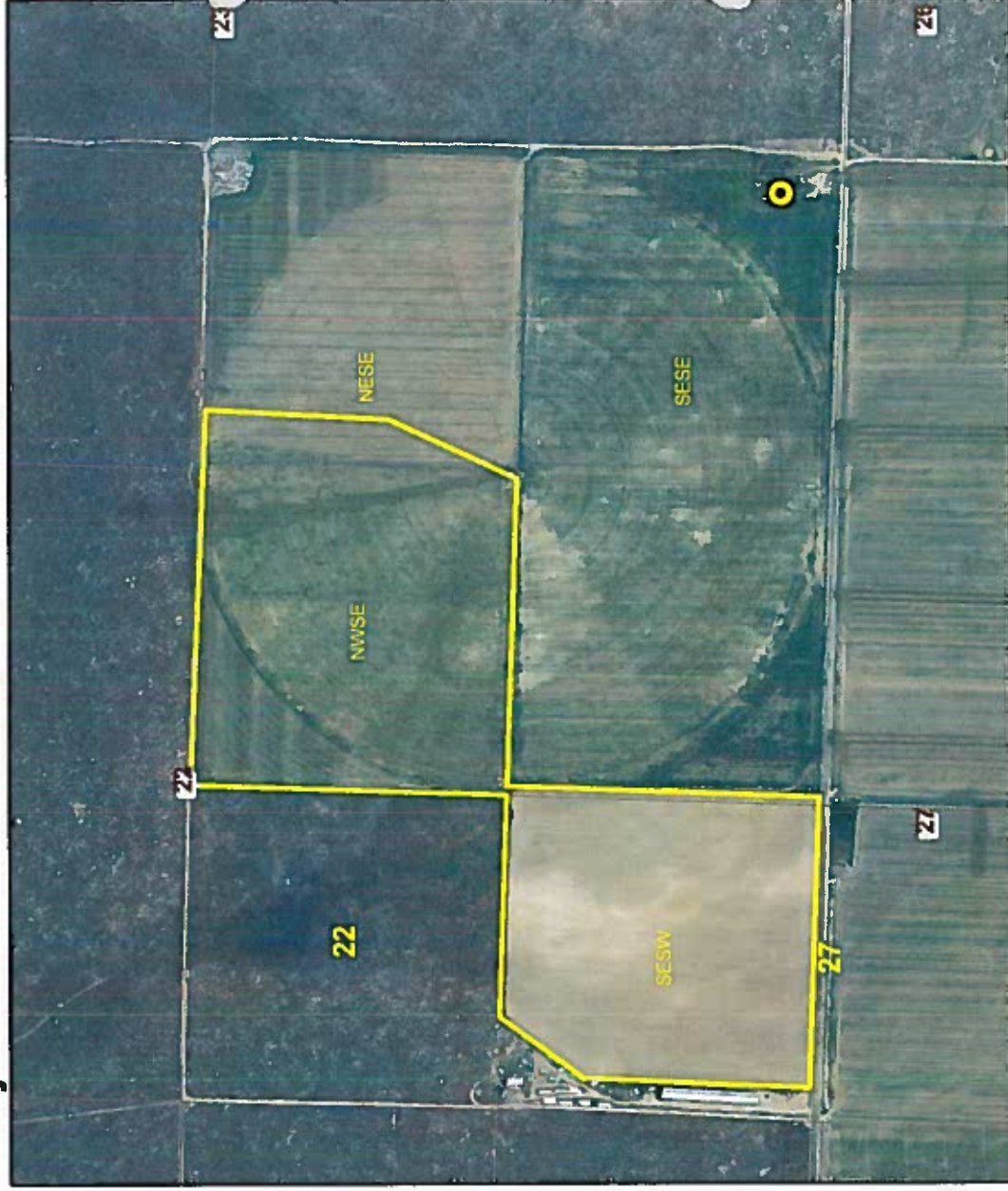
Adjudication Claim Number: **63-23182**

Legend

-  Recommend POD
-  63-23182.shp
-  GCDB01N01W GCDB



Ada County
IDWR Basin 63



Prepared by A. Warnfjes
On Monday, November 14, 2005
2004 NAIP Aerial Photography

11/21/2005

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

RIGHT NUMBER: 63-23182
NAME AND ADDRESS: MARY LOU TLUCEK
15188 S CAN-ADA RD
MELBA ID 83641

JERRY L TLUCEK
15188 S CAN-ADA RD
MELBA ID 83641

SOURCE: GROUND WATER *.80 cfs* TRIBUTARY:
QUANTITY: ~~1.720 CFS~~ *220.6 AF*
~~387,000 AFY~~

This right when combined with Right No. 63-3174 shall provide no more than 1.85 cfs per acre *NEL 513 AF/ANNUUM*

PRIORITY DATE: 05/01/1973

Need evidence of Priority — OK — see affidavit

This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.

POINT OF DIVERSION:

T01N R01W S22 SESE Within ADA County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE
IRRIGATION	03/01 11/15

QUANTITY
~~1.720 CFS~~
~~387,000 AFY~~

PLACE OF USE: IRRIGATION Within ADA County

T01N R01W S22	SESW	40.0	T01N R01W S22	NESE	5.0
T01N R01W S22	NWSE	40.0	T01N R01W S22	SWSE	1.0

86 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 - Beneficial Use

enlargement of 63-3174

Water Right 63-23182

*KO2 Gen.
(63-3174)*

Idaho Department of Water Resources

Claim Number: 63-23182

Legal: T01N, R01W, S22

Reviewed By:

● Point of Diversion



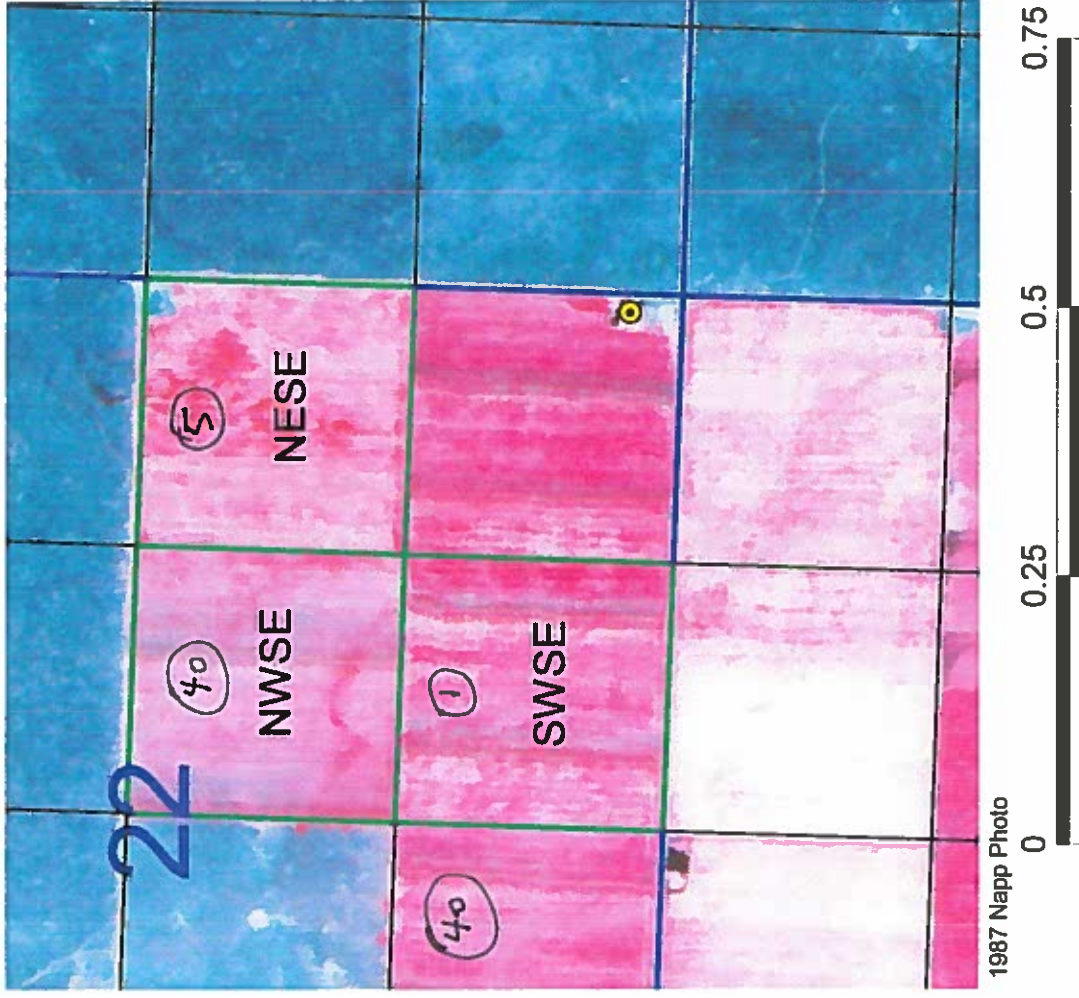
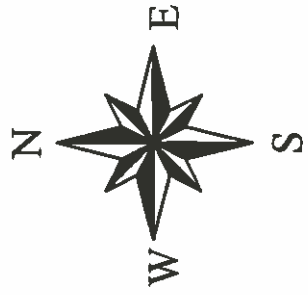
Place of Use



Section Lines



Quarter Quarter Lines



Moffatt Thomas

MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

Eugene C. Thomas
John W. Barrett
R. B. Rock
Richard C. Fields
John S. Simko
John C. Ward
D. James Manning
Gary T. Dance
Larry C. Hunter
Randall A. Peterman
Mark S. Prusynski
Stephen R. Thomas
Glenna M. Christensen
Gerald T. Husch
Scott L. Campbell
Robert B. Burns

Michael E. Thomas
Patricia M. Olsson
James C. deGlee
Bradley J. Williams
Lee Radford
Michael O. Roe
David S. Jensen
James L. Martin
C. Clayton Gill
David P. Gardner
John O. Fitzgerald, II
Julian E. Gabiola
Angela Schaer Kaufmann
Michael W. McGreaham
Paul D. McFarlane
Kimberly D. Evans Ross

Jon A. Stenquist
Valerie N. Charles
Tyler J. Henderson
Jason G. Murray
Mark C. Peterson
Andrew J. Waldera
Tyler J. Anderson
Joel A. Flake, Jr.
Russell G. Metcalf
Robert E. Bakes, *of counsel*
Morgan W. Richards, *of counsel*
Willis C. Moffatt, 1907-1980
Kirk R. Helvie, 1956-2003

January 25, 2006

RECEIVED

JAN 31 2006

DEPARTMENT OF
WATER RESOURCES

US Bank Plaza Building
101 S Capitol Blvd 10th Fl
PO Box 829
Boise Idaho 83701 0829

208 345 2000
800 422 2889
208 385 5384 Fax
www.moffatt.com

David R. Tuthill, Jr. *DR*
Administrator
Resource Protection Bureau
Idaho Department of Water Resources
322 E. Front Street
Idaho Water Center
Boise, ID 83702

Re: Water Right No. 63-23182 in the Name of Jerry L. and Mary Lou Tlucek
MTBR&F File No. 22377.0

Dear Dave:

I am in receipt of your correspondence to Jerry and Mary Lou Tlucek dated December 12, 2005, wherein you requested the Tlucek's provide the Idaho Department of Water Resources with evidence to support the claimed priority date of May 1, 1973 for water right number 63-23182. In this regard, enclosed please find an Affidavit of Jerry L. Tlucek establishing the claimed priority date.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Very truly yours,

Scott L. Campbell
Scott L. Campbell

SLC/tmh

Enclosure

cc: Jerry Tlucek (w/encl.)

AFFIDAVIT OF JERRY L. TLUCEK

STATE OF IDAHO)
) ss.
County of Ada)

JERRY L. TLUCEK, being first duly sworn upon oath, deposes and says:

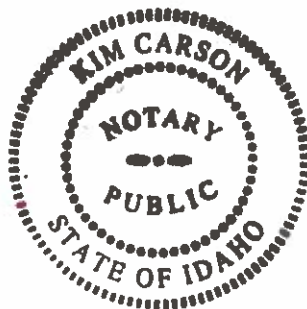
1. I am over the age of 18 years and make this affidavit based upon personal information.
2. I am currently a resident of Melba, Ada County, Idaho. I have resided in Melba, Ada County, Idaho for approximately ~~32~~ 45 years.
3. On December 29, 1973, I purchased real property located in the Southeast Quarter and the Southeast Quarter of the Southwest Quarter of Section 22, Township 1 North, Range 1 West, Boise Meridian, Ada County, Idaho (the "Property"). Attached hereto as Exhibit "A" is a true and correct copy of the Warranty Deed dated December 29, 1973.
4. Subsequent to my purchase of the Property, I also purchased certain personal property consisting of irrigation and farm equipment and other items. Attached hereto as Exhibit "B" is a true and correct copy of the Bill of Sale dated December 29th, 1973.
5. From and after the purchase of the property, I have continually irrigated the Property with water produced from a well located in the Southeast Quarter of the Southeast Quarter of Section 22, Township 1 North, Range 1 West, Ada County, Idaho. This well serves as the point of diversion for water right numbers 63-3174 and 63-23182.

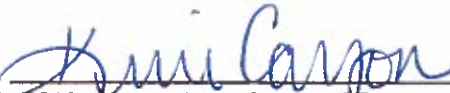
DATED this 23 day of January, 2006.



Jerry L. Tlucek

SUBSCRIBED AND SWORN to before me this 23rd day of January, 2006.





NOTARY PUBLIC FOR IDAHO

Residing at Nampa, ID

My Commission Expires 6/13/11

THIS INDENTURE, Made this 29th day of December
 in the year of our Lord one thousand nine hundred and seventy-three, between
 JAMES C. COCHRANE and JOAN C. COCHRANE, husband and wife,
 of Meridian, County of Ada, State of Idaho
 the parties of the first part, and JERRY TLUCEK and MARY LOU TLUCEK, husband
 and wife,
 of Melba, County of Ada, State of Idaho,
 the parties of the second part.

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of
 TEN AND NO/100 (\$10.00) - - - - - DOLLARS,
 and other good and valuable consideration,
 lawful money of the United States of America,

to them in hand paid by the said
 parties of the second part, the receipt whereof is hereby acknowledged, have granted, bargained
 and sold, and by these presents do grant, bargain, sell, convey and confirm unto the said parties
 of the second part, and to their heirs and assigns forever, all of the following described real estate,
 situated in, County of Ada, State of Idaho, to-wit:

The Southeast One-quarter (SE $\frac{1}{4}$) and the Southeast
 One-quarter (SE $\frac{1}{4}$) of the Southwest One-quarter
 (SW $\frac{1}{4}$) of Section 22, Township 1 North, Range 1
 West, Boise Meridian, together with any and all
 water rights belonging or in anywise appertaining
 thereto.

SUBJECT to taxes and assessments of every kind and
 nature for the year 1974 and all subsequent years.

TOGETHER, With all and singular the tenements, hereditaments and appurtenances thereunto
 belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents,
 issues and profits thereof; and all estate, right, title and interest in and to the said property, as well
 in law as in equity, of the said parties of the first part.

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises together with
 the appurtenances unto the parties of the second part, and to their heirs and assigns forever.

And the parties of the first part, and their heirs, shall and will warrant and by these presents
 forever defend the premises in the quiet and peaceable possession of the parties of the second part, their
 heirs and assigns, against the parties of the first part, and their heirs, and against all and every
 person and persons whomsoever, lawfully claiming the same shall and will WARRANT and by these presents
 forever DEFEND.

IN WITNESS WHEREOF, The said parties of the first part have hereunto set their hands and seals the day and year first above written.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF

James C. Cochrane [Seal]
Joan C. Cochrane [Seal]
[Seal]
[Seal]

STATE OF IDAHO

County of Ada

ss.

On this 8th day of January in the year 1974, before me
the undersigned, a Notary Public

in and for said State, personally appeared JAMES C. COCHRANE and JOAN C. COCHRANE,
husband and wife,

known to me to be the persons whose names are subscribed to the within instrument, and
acknowledged to me that they executed the same.

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

Charles L. Chafford

Notary Public for the State of Idaho,
Residing at Boise, Idaho

No.

WARRANTY DEED

-TO-

Dated 19

STATE OF IDAHO

County of

I hereby certify that this instrument was filed
for record at request of

at minutes past
o'clock M., this day

of A. D. 19
in my office, and duly recorded in Book
of at page

Ex-Officio Recorder.

By Fees, \$ Deputy.

Mail to

BYMETER COMPANY, BOISE

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, That on this 29th day of December, 1973, JAMES C. COCHRANE and JOAN C. COCHRANE, husband and wife, of Ada County, State of Idaho, the parties of the first part, for and in consideration of the sum of TEN AND NO/100 (\$10.00) DOLLARS, and other good and valuable consideration, lawful money of the United States of America, to them in hand paid by JERRY TLUCEK and MARY LOU TLUCEK, husband and wife, of Ada County, State of Idaho, the parties of the second part, the receipt whereof is hereby acknowledged, do by these presents Grant, Bargain, Sell and Convey unto the said parties of the second part, their executors, administrators and assigns

All that certain personal property described in EXHIBIT "A" attached hereto and by this reference made an integral part hereof, all of the same being either located upon or used in connection with the Southeast One-quarter (SE $\frac{1}{4}$) and the Southeast One-quarter (SE $\frac{1}{4}$) of the Southwest one-quarter (SW $\frac{1}{4}$) of Section 22, Township 1 North, Range 1 West, Boise Meridian, Ada County, Idaho.

TO HAVE AND TO HOLD The same to the said parties of the second part, their executors, administrators and assigns, forever; and the said parties of the first part do for their heirs, executors and administrators, covenant and agree to and with the said parties of the second part, their executors, administrators or assigns to WARRANT and DEFEND the sale of said property, goods and chattels hereby made, unto the said parties of the second part, their executors, administrators and assigns, against all and every person and persons whomsoever, lawfully claiming or to claim the same.

IN WITNESS WHEREOF, The said parties of the first part hereunto set their hands and seals the day and year first above written.


James C. Cochrane

Joan C. Cochrane

STATE OF IDAHO,)
) SS.
County of Ada,)

On this 8th day of January, in the year 1974, before me,
the undersigned, a Notary Public in and for said State, personally
appeared JAMES C. COCHRANE and JOAN C. COCHRANE, husband and wife,
known to me to be the persons whose names are subscribed to the with-
in instrument, and acknowledged to me that they executed the same.

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

written:



Charles D. Challand
Notary Public for the State of Idaho
Residing at Boise, Idaho

EXHIBIT "A"

PERSONAL PROPERTY SCHEDULE RE:

Purchase and Sale Agreement entered into by and between JAMES C. COCHRANE and JOAN C. COCHRANE, husband and wife, Sellers, and JERRY TLUCEK and MARY LOU TLUCEK, husband and wife, Buyers, dated December 29, 1973.

One 1966 U. S. Pump, Serial No. 23609
One booster 1967 Cornell pump, Serial No. 10817
One U. S. electric motor, 100 H. P., Serial No. 1291536
One G. E. Electric motor 60 H. P., Serial No. 1215114
26 - 50'x10" aluminum main line
20 - 50'x8" aluminum main line
18 - 50'x6" aluminum main line
8 - 50'x4" aluminum main line
6 - $\frac{1}{4}$ mile 3" sprinkler laterals with all sprinkler head connectors, end plugs and accessories
3 redi-rain wheel roll lines $\frac{1}{4}$ mile (subject to encumbrances)
2 DeKota wheel roll lines $\frac{1}{4}$ mile
All electrical panels
One 1972 Great Lakes 26'x64' double wide mobile home, Serial No. 8791, subject to encumbrances in favor of the Idaho Bank and Trust, Boise, Idaho which is assumed by the Buyers herein. The installment payment due January, 1974, is to be paid by the Sellers herein.
One Massey-Ferguson swather Model 36
One Model 560 Tractor
One New-Holland bale wagon Model 1010
One triple-K cultivator
One pipe trailer
6 section harrows
One 105 gallon field spray unit
One Massey-Ferguson Model 124 Hay Baler

Draft

10/26/2005

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

RIGHT NUMBER: 63-23182
NAME AND ADDRESS: MARY LOU TLUCEK
15188 S CAN-ADA RD
MELBA ID 83641

JERRY L TLUCEK
15188 S CAN-ADA RD

MELBA ID 83641

SOURCE: GROUND WATER TRIBUTARY:
QUANTITY: 1.720 CFS
PRIORITY DATE: 05/01/1973
POINT OF DIVERSION: T01N R01W S22 SESE Within ADA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
3/15 11/15

QUANTITY
1.720 CFS

THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS MARCH 1 AND MAY CONTINUE TO AS LATE AS NOVEMBER 15, 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 ADA County

T01N R01W S22	SESW	40.0	T01N R01W S22	NESE	5.0
T01N R01W S22	NWSE	40.0	T01N R01W S22	SWSE	1.0

86 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 - Beneficial Use

- Enlargement Code
- AF Limit

$86 \times 4.5 = 387$

but base right

Provides 513 af
with 1.85 cfs

During the Season

8 3/4 to
11/15,

8.5 months
260 days

$1.85 \times 260 \times$

$1.9835 = 954$
af

5B
+ 387
900

∴ well
Can
produce
sufficient
Volume

Draft

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-23182 V1

WATER RIGHT NUMBER: 63-23182 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	MARY LOU TLUCEK 15188 S CAN-ADA RD MELBA, ID 83641 (208)495-2550
Attorney	SCOTT L CAMPBELL MOFFATT THOMAS BARRETT ROCK & FIELDS CHTD PO BOX 829 BOISE, ID 83701-0829 (208)345-2000
Current Owner	JERRY L TLUCEK 15188 S CAN-ADA RD MELBA, ID 83641 (208)495-2550

Priority Date: 05/01/1973

Basis:

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>Annual Volume</u>
IRRIGATION	3/15 to 11/15	1.720 CFS	
	<u>Total Diversion:</u>	1.720 CFS	

Location of Point(s) of Diversion

GROUND WATER	SE1/4SE1/4	Sec. 22, Twp 01N, Rge 01W, B.M.
ADA 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	
01N 01W 22													40.0	5.0	40.0	1.0	86.0

Total Acres: 86

Conditions of Approval:

1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-23182 V1

1. Purpose of Use THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS MARCH 1 AND MAY CONTINUE TO AS LATE AS NOVEMBER 15, 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.

Comments:Dates and Other Information:

Decreed Date:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Defendant:
 Plaintiff:
 Civil Case Number:
 Judicial District:
 Notice of Error Flag:
 State or Federal: S
 Owner Name Connector: AND
 Water District Number:
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

Combined Use Limits:Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Contacts	12/21/2004 11:29:12 AM	awarntje			Active
Priority Date	12/21/2004 11:36:35 AM	awarntje			Active
Source	12/21/2004 11:37:13 AM	awarntje			Active
POU	12/21/2004 11:53:57 AM	awarntje			Active
POD	12/21/2004 12:42:51 PM	awarntje			Active
Use	12/21/2004 12:43:54 PM	awarntje			Active
Season	12/21/2004 12:45:05 PM	awarntje			Active
Quantity	12/21/2004 12:46:20 PM	awarntje			Active
Summary			12/21/2004	awarntje	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
----------------	------------------------	-----------------	-----------------

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-23182 V1

POD	12/21/2004 12:42:51 PM	awarntje	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the POD? (Yes) 9. Does the file contain all the necessary information to verify the POD? (No) 10. Is a POD remark and/or condition required?
Contacts	12/21/2004 11:29:13 AM	awarntje	(No) 1. Do you want to schedule an appointment? Comment for 1: Sufficient info in file
POU	12/21/2004 11:52:29 AM	awarntje	Edited shape boundary
POU	12/21/2004 11:53:57 AM	awarntje	(No) 1. Is the basis of this claim a Decree or License? (Yes) 2b. Is the POU required? (No) 3. Is the basis of claim a Application or Permit? (No) 7. Is there evidence that there has been a change in the POU? (Yes) 13. Does the file contain all the necessary information to verify the POU? (No) 14. Is a POU remark and/or condition required?
Priority Date	12/21/2004 11:36:35 AM	awarntje	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (No) 4. Is the basis of claim decree or license? (No) 7. Is the basis of claim a Application or Permit? (No) 8. Is the basis of claim a posted notice? (Yes) 9. Is the Priority Date claimed after the date a permit is required for the source and the water use? (Yes) 11. Is the claim for an expansion or enlargement under 42-1416B or 42-1426? (No) 12. Does the claim file contain sufficient evidence of Priority Date?
POD	12/21/2004 12:42:38 PM	awarntje	Edited point location
Season	12/21/2004 12:45:05 PM	awarntje	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Period of Use? (Yes) 12. Does the file contain all the necessary information to verify the Period of Use? (No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administratively determined? (Yes) 15. Is irrigation claimed as a Purpose of Use? (Yes) 18. Is a Period of Use remark and/or condition required?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-23182 V1

Quantity	12/21/2004 12:46:21 PM	awarntje	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is the basis of claim a posted notice? (No) 7. Is a flow measurement required? (Yes) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (Yes) 10. Is a irrigation a purpose of use? (No) 12. Is a Quantity remark or condition required? Description for Question 10 - 1.72 CFS & 301. AF
Summary	12/21/2004 12:46:56 PM	awarntje	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (No) 5. Does this right have any combined use limits with other rights? (No) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (No) 8. Is this a split or combined right? (No) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?
Source	12/21/2004 11:37:13 AM	awarntje	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim an Application or Permit? (No) 6. Is the basis of claim a Posted Notice? (No) 7. Is there evidence that there has been a change in the source? (Yes) 10. Does the file contain all the necessary information to verify the source? (No) 11. Is a Source remark and/or condition required? Description for Question 10 - Field Exam
Use	12/21/2004 12:43:54 PM	awarntje	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Purpose of Use? (Yes) 11. Does the file contain all the necessary information to verify the Water Use? (No) 13. Is a Purpose of Use remark and/or condition required? Description for Question 10,11,12 - aerial photo



IDAHO DEPARTMENT OF WATER RESOURCES

SNAKE RIVER BASIN ADJUDICATION - BASIN 63

RIGHT ID
POD ID
Quad
Claim Type
Easting
Northing
GPSID

Diversion Description

WELL, 385', 12", 100 HP VERT. TURB. PUMP, 8" LINE, 60 HP BOOSTER.
Pad for booster is empty.

Assumptions

Elevation head.

Invoice #

2000-055-01

Phase-0 (No Attention)
Phase-I (Ready to Go to Field)
Phase-II (Site Visit - Data Missin
Phase-III (Complete w/issues)
Phase-IV (Total Complete)

Linked

☐ Photos\404668a.JPG

Photos

☐ Photos\404668b.JPG

EPE (ft)

16

Date (M/D/Y)

11/12/01

Time

10.05

Flow Rate (CFS)

2.32

Open Channel Flow

☐ Complete one box from both Area and Calculation sections

Cross Sectional Area

☐ Circular Channel

- ☐ Less than half full
☐ Half full
☐ More than half full
☐ Full

Diameter

Depth

☐ Rectangular Channel

Width

Depth

Flow Calculation

☐ Continuity

Velocity

☐ Orifice

(Use only for head over a pipe flowing full with free discharge)

Depth of Water above orifice centerline

☐ Weir

(Use only for water flowing freely over weir)

Height of water above nappe

Width of weir

☐ Manning (If used, include photo of representative channel section)

Channel Slope

Channel Description

Concrete lined	.016
Smooth earth	.025
Earth	.033
Rough bed, weeds on sides	.04
Smooth natural stream	.033
Rough natural stream	.1

Pumped System ☒

HP

Pressure Head (psi)

Elevation Head (ft)

Motor Mfg

Motor Serial #

Pump Type

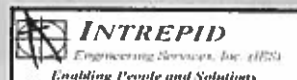
Pump Mfg

Pump Serial#

New Contact Information ☐

New Contact Comments

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RIGHT ID

63 23182

DATE: 05/09/00
PAGE: 224

Audit: 12/27/94 RMCCARTH 07/17/95 JSHURTE



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

December 12, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

MR. & MRS JERRY L TLUCEK
15188 S CAN-ADA RD
MELBA ID 83641

Re: Evidence of Priority Date – 63-23182 for Jerry L. & Mary Lou Tlucek

Dear Mr. & Mrs. Tlucek:

The Notice of Claim to a Water Right (claim) identified with the number shown above your name has been filed in the Snake River Basin Adjudication (SRBA). The claim indicates the water usage is based on an enlargement of water right No. 63-3174. Water rights of this type are established by the historic use of water, dating back to when water was first used for the purpose claimed, and are termed beneficial use rights. The date of first use, known as the priority date, has not been confirmed by a License, Decree or Permit. Since the priority date and historic use of a beneficial use right cannot be confirmed by field examination, **proof must be provided by the claimant** supporting the priority date claimed and the historic use of the water.

This right, 63-23182, is being withheld from the Basin 63, Part 2 Director's Report pending the department receiving information from the claimant supporting the priority date claimed and the historic use of the water. Upon receiving this information, this right will be included in Basin 63 Part 3 Director's Report next year.

Enclosed you will find a computer printout of the claim and the pamphlet entitled "Evidence of Priority." The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement.

PLEASE NOTE: IDWR will recommend the SRBA Court decree the claim with a priority date of August 1, 1987, the approximate date of aerial photography which shows irrigation of the 86 acres claimed, if no additional evidence of the priority date and of the historic use is submitted. It will be to your advantage to provide clear and convincing evidence. If you choose to submit statements from individuals as evidence, the statement should be in the form of a notarized affidavit.

Please submit the required evidence supporting the priority date and the historic use by January 30, 2006, referencing all documents with the corresponding claim number. If you have questions not covered by this letter or the enclosed pamphlet, please contact this office. Our toll free number is 1-800-451-4129.

Sincerely,

David R. Tuthill, Jr. PhD, P.E.
Administrator
Water Administration Division

Enclosure
Cc: Scott Campbell

NOTICE OF ERROR

REPLY

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

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

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: December 2, 2005

Water right number: 63-23182

JERRY L. TLUCEK
15188 S CAN-ADA RD
MELBA ID 83641
Telephone Number: (208) 495-2550

MARY LOU TLUCEK
15188 S CAN-ADA RD
MELBA ID 83641
Telephone Number: (208) 495-2550

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

Quantity; Priority Date

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

Quantity: Delete the volumetric limitation of 387 acre feet per year.

Priority Date: Delete the following remark: "This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right."

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

Quantity: There is no basis for inclusion of the acre feet per year volumetric limitation.

Priority Date: There is no basis for inclusion of the remark.

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

DATE: 12/02/05

SIGNATURE:

Scott L. Campbell

Please print your name:

Scott L. Campbell
Moffatt, Thomas, Barrett, Rock & Fields, Chartered
PO Box 8729
Boise, Idaho 83701

Counsel of record for Jerry and Mary Lou Tlucek

IDWR Regional Office, 2735 Airport Wy, Boise, ID 83705, 2083342190

*Withhold from
Part 2 -
Send a letter
requesting priority
date info, similar
to letter in file.*

DRAFT

November 14, 2005

MR SCOTT L CAMPBELL
MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD
101 S CAPITOL BLVD 10TH FL
PO BOX 829
BOISE ID 83701-0829

Re: Evidence of Priority Date – 63-23182

Dear Mr. Campbell:

*1. This right withheld from
Part 2 - will be
recommended in part 3.
Needs priority date info.*

The Notice of Claim to a Water Right (claim) identified with the number shown above your names has been filed in the Snake River Basin Adjudication (SRBA). The claim indicates your water usage is based on "Beneficial Use" or a "Statutory Claim." Water rights of this type are established by the historic use of water, dating back to when water was first used for the purpose claimed, and are termed beneficial use rights. The date of first use, known as the priority date, has not been confirmed by a License, Decree or Permit. Since the priority date and historic use of a beneficial use right cannot be confirmed by field examination, **proof must be provided by the claimant** supporting the priority date claimed and the historic use of the water.

If you no longer own the property to which the claim is appurtenant please forward this correspondence to the present owner, or return it to Idaho Department of Water Resources (IDWR). If you have received this correspondence from the previous owner of the property it is recommended that you file a Change of Ownership form with IDWR in order to receive future mailings and to participate in the adjudication.

Enclosed you will find a computer printout of your claim and the pamphlet entitled "Evidence of Priority." The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement.

PLEASE NOTE: IDWR will recommend the SRBA Court decree the claim disallowed if no evidence of the priority date and of the historic use is submitted. It will be to your advantage to provide clear and convincing evidence. If you choose to submit statements from individuals as evidence, the statement should be in the form of a notarized affidavit.

Please submit the required evidence supporting the priority date and the historic use by the date shown above, referencing all documents with the corresponding claim number. If you have questions not covered by this letter or the enclosed pamphlet, please contact this office. Our toll free number is 1-800-451-4129.

Sincerely,

Enclosure
Cc: Mr. & Mrs. Jerry L. Tlucek

David R. Tuthill, Jr. Ph.D., P.E.
~~Adjudication Bureau Chief~~

Administrator Wtr Mgmt Div

Moffatt Thomas

MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

Boise
Idaho Falls
Pocatello
Twin Falls

Eugene C. Thomas
John W. Barrett
R. B. Rock
Richard C. Fields
John S. Simko
John C. Ward
D. James Manning
Gary T. Dance
Larry C. Hunter
Randall A. Peterman
Mark S. Prusynski
Stephen R. Thomas
Glenna M. Christensen
Gerald T. Husch
Scott L. Campbell
Robert B. Burns

Michael E. Thomas
Patricia M. Olsson
James C. deGlee
Bradley J. Williams
Lee Radford
Michael O. Roe
David S. Jensen
James L. Martin
C. Clayton Gill
David P. Gardner
John O. Fitzgerald, II
Julian E. Gabiola
Angela Schaer Kaufmann
Michael W. McGraham
Kimberly D. Evans Ross
Jon A. Stenquist

Eric M. Barzee
Valerie N. Charles
Tyler J. Henderson
Jason G. Murray
Mark C. Peterson
Andrew J. Waldera
Tyler J. Anderson
Joel A. Flake, Jr.
Russell G. Metcalf

Robert E. Bakes, *of counsel*
Morgan W. Richards, *of counsel*

Willis C. Moffatt, 1907-1980
Kirk R. Helvie, 1956-2003

October 26, 2005

US Bank Plaza Building
101 S Capitol Blvd 10th Fl
PO Box 829
Boise Idaho 83701 0829

208 345 2000
800 422 2889
208 385 5384 Fax
www.moffatt.com

RECEIVED

OCT 28 2005

WATER RESOURCES
WESTERN REGION

Lori Graves
Western Region Office
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705

Re: Notice of Appearance on Behalf of Jerry Tlucek
MTBR&F File No. 22377.1

Dear Lori:

Please take notice that the undersigned attorney, Scott L. Campbell of the firm of MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHARTERED, represents Jerry Tlucek concerning his water right matters, including, without limitation, water right nos. 63-03174, 63-07068, 63-07389, 63-07392, 63-23182, and 63-32184. Please direct all notices, correspondence, pleadings, filings or other communication me at the address and telephone number listed above.

Thank you for your assistance in this matter. If you have any questions, please do not hesitate to contact me.

Very truly yours,



Scott L. Campbell

SLC/tmh
cc: Jerry Tlucek