

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: A61-04038
Date Received: 12/ 7/1989
Receipt No: W006865
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT-
ACQUIRED UNDER STATE LAW

amended

1. Name: CARLENE SMITH
Address: RT 1 BOX 420
GLENNS FERRY ID 83623
208-366-2711
2. Date of Priority: MAR 3, 1923
3. Source: SAND SPRING Trib. to: LITTLE CANYON CREEK
4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
05S	10E	18		SW	NW		ELMORE
5. Description of diverting works:
SPRINGS INTO CANYON CREEK AND SPRINKLERS IN PASTURE & LAWN
6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.200		
STOCKWATER	01/01	12/31	0.020		
DOMESTIC	01/01	12/31	0.060		
7. Total Quantity Appropriated is:
0.200 C.F.S. (and/or) A.F.A.
8. Total consumptive use is 27.0 Acre Feet Per Annum.
9. Non-irrigation uses:
DOMESTIC, 1 HOME; STOCK, 400 HEAD CATTLE.
10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05S	10E	18	NE	SW		STOCK	
			SE	SW		IRR	9.0

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05S	10E	18	SW	SE		DOMEST	

Section Acres	9.0
---------------	-----

Total Acres	9.0
-------------	-----

11. Place of use in counties: ELMORE

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

13. Other Water Rights Used:
NONE

14. Remarks:

15. Basis of Claim: STATUTORY CLAIM

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): Barlene Smith Date: 2-12-96

Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 12TH day
of February 19 96

Roxanne McCarthy
Notary Public

Seal

Roxanne McCarthy, Notary Public
Residing at Residing at Boise, Idaho
My Commission Expires May 16, 1996.
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

Ident. Number 461-4038Date Received 12-5-89Receipt Number W0006865

RECEIVED

DEC 05 1989

Department of Water Resources
Western Regional Office

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Carlen Vine Phone (208) 366-2638Mailing Address Rt 1 Box 420 Glenns Ferry Id. Zip _____2. Date of Priority (Only one (1) per claim) 3/3/19233. Source of water supply (a) Spring
which is tributary to (b) Little Canyon Creek4. a. Location of existing point of diversion is: Township 55 Range 10E Section 18,
SE 1/4 of SW 1/4 of NW 1/4, Govt. Lot, _____ B.M., County of Idaho

Additional points of diversion if any: _____

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

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

Govt. Lot _____ B.M., County of _____
ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____
_____ 1/4, Govt. Lot _____ B.M., County of _____5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.Spring water Canyon Creek
and sprinklers in pasture and lawn

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6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from 4/1 to 11/1 amount 0.20 or _____
 For Domestic purposes from 4/1 to 11/1 amount 0.02 or _____
 For Stock purposes from 4/1 to 12/31 amount 0.06 or _____
 For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.20 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 27 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) D/1 5/400

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
55	10E	18									5			9			D		9

Total number of acres irrigated 9

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

12. Do you own the property listed above as place of use? Yes No
 If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
 _____ or None (✓)

14. Remarks:

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Last Name _____ Ident No. _____

Copies: White -State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice ☒ License _____ Permit _____
Decree _____
If applicable provide IDWR Water Right Number 61-4038
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

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

Signature of Claimant (s) Barlene Viner Date 11-30-89

Date _____

For Organizations: I do solemnly swear or affirm that I am _____

Title
of _____, that I have signed the foregoing
Organization
document in the space below as _____ of _____
Title Organization
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____
Title and Organization _____ Date _____

State of Idaho/or _____)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 30 day of November, 1989

SEAL

Notary Public Bruce A. Schuler

Residing at _____

My Commission Expires _____

Please Print Name

BRUCE A. SCHULER, NOTARY PUBLIC
RESIDING AT BOISE, IDAHO
MY COMMISSION EXPIRES ON APRIL 11, 1995

17. Notice of Appearance:

Notice is hereby given that I, _____ will be 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 _____

Address _____

Date _____

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Last Name _____ Ident. Number _____

Copies White-State, Yellow-Claimant

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JAN 23 1998

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are on the back of this page.

Incomplete forms will be returned.

RECEIVED

JAN 27 1998

1. Water Right Number(s) A61-04038
Adjudication Claim Number(s) _____
Department of Water Resources
2. The following **REQUIRED** information must be submitted with this form.
- A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE, or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.
AND
- B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually on file with the county.)
OR
- C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency (formerly ASCS) AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.
3. Name and Address of Former Owner/Claimant(s) CARLENE SMITH
RT 1 BOX 420 GLENN'S FERRY, ID 83623
4. New Owner/Claimant(s) RJT FARMING, INC.
Name connector (Check one): ☐ AND, ☐ OR, ☐ AND/OR
New Mailing Address PO BOX 475
City, State and ZIP Code RUPERT, ID 83350
New Telephone Number () -
5. Date you acquired the property 12-29-97
6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.
***SELLER RETAINS WATER RIGHTS AS ORIGINAL FILED.**
Number of acres actually irrigated _____ Number and type of stock _____
Diversion rate in CFS _____ Number of homes _____ Other uses _____
cubic feet per second
If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.
7. Signature of New Owner/Claimant(s) RJT Farming Inc Date _____
Roger L Jones owner Date Dec 29, 1997
8. For Snake River Basin Adjudication Claims: If you are represented by an attorney and you want IDWR to correspond directly with your attorney for all matters related to your claims, please attach a Notice of Appearance completed by your attorney.
Seller retains, per deed RB 11/13/98



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type
(see instructions on back of page)

DATE OF CLOSING: _____

LEGAL DESCRIPTION OF PROPERTY: Township _____ Range _____
Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4, Govt. Lot _____, BM.
Lot _____, Block _____, Subdivision/Townsite _____.
If you have additional legal descriptions, please attach separate sheet.

- ☐ Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)
- ☐ Water Right Number(s)
Assigned by IDWR: A61-00293A, - 00299, - 00303A,
- 00304A, - 00370, - 05000, - 04038,
- ☐ Name and Address of Former Owner/Claimant(s)(Seller): 0413, - 07236
Carlene Viner
- ☐ New Owner/Claimant (Purchaser): Carlene Smith
- ☐ New Mailing Address: Rt. 1, Box 420
Glenns Ferry ID 83623
- ☐ New Telephone Number: () 366-2711
- ☐ Does the change in ownership result in a splitting of the water right owned/claimed? yes ☒ no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:
name change only

- ☐ Attach proof of ownership, describe proof attached: _____

(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

- ☒ Signature of New Owner/Claimant(s) Carlene Smith Date 2-12-96
Date _____
- ☐ Signature of Former Owner/Claimant(s): _____ Date _____
Date _____

(Signature of former claimant(s) is not required if proof of ownership is attached.)

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: 2-12-96 By: RMF

Further Action Needed:

Further Action Taken

Date: _____ By: _____

Final Review and Data-Entry

Date: 2-12-96 By: RMF

Claim Numbers of Split, if any:

Original to be mailed to Idaho Department of Water Resources
Copies to Former Owner and New Owner

Water Right Number - 61-04038 Adj. Flag Translation: Standard Water Right Number Old (D) Number -
+ - - - - Last Name - - - - + + - First Name - - - - + + - - - - Address - - - - - +

*** C - CURRENT OWNER ***
VINER RICHARD P.

1 - RT. 1 BOX 420
2 -
3 -
City- GLENNS FERRY State- ID Zip- 83623
Phone -

1 - RT. 1 BOX 420
2 -
3 -
City- GLENNS FERRY State- ID Zip- 83623
Phone -

14 + - - - - Region - - - - + + - - - - Stage - - - - + + - - - - Status - - - - +
S - STATUTORY CLAIM

+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
SPRING LITTLE CANYON CREEK

+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County Stream Index (Blank if no Index Code)

05S 10E 18 SW NW (39) ELMORE 272.0 373.0 1.0 0.9

+ - - - - Code Description Period From Period To Water Use Diversion Rate Diversion Volume

01 - IRRIGATION 04/01 11/01 0.920
04 - STOCKWATER 01/01 12/31 0.040
43 - DOMESTIC 01/01 12/31 0.040

+ - - - - Total Div. Rate - + + - - - - Total Div. Volume - + + - - - - Total Div. Capacity - + + - - - - Total Consumptive Use - + + - - - - KW Usage - +
1.000

+ - - - - Twn Rng Sec Tract Lot Acres Place of Use Code Description County

05S 10E 18 SE SW 40.0 01 IRRIGATION (39) ELMORE
05S 10E 18 SW SE 40.0 01 IRRIGATION (39) ELMORE
05S 10E 18 SE SE 20.0 01 IRRIGATION (39) ELMORE
05S 10E 18 NE SW 04 STOCKWATER (39) ELMORE
05S 10E 18 SE SW 43 DOMESTIC (39) ELMORE

Total Acres: 100.0

+ - - - - Diversion Means - DITCH, PUMP & PIPELINE.
+ - - - - Non-Irrigation Use - S/300 HEAD RANGE, 10 HORSES.
+ - - - - Other Rights for Same Use -

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[illegible]

AUG 11 1952

3/26/1990

SRBA CLAIMS RECEIVING CHECKLIST

CLAIMANT'S NAME

Vincent, Carlene

CLAIM IDENT. NO.

AG1-4038

DATE RECEIVED

12-5-89

CK #

1928

AMOUNT \$

917

Required

- | | YES | NO | Info? |
|--|-------------------------------------|--------------------------|-------|
| 1. Is the name and address complete with zip code? | ☒ | ☐ | * |
| 2. Is a priority date entered?
Is the priority date acceptable in view of mandatory filing dates?
See Adjudication Memos #1 and #4 to determine if a Permit is required. | ☒ | ☐ | * |
| 3. (a) Is a source entered? | ☒ | ☐ | * |
| (b) Is a tributary to entered? (if required) N/A | ☒ | ☐ | |
| 4. Is the legal description of the p.d. sufficient? | ☒ | ☐ | * |
| 5. Is there a description of the diverting works? | ☒ | ☐ | |
| 6. Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form. | ☒ | ☐ | * |
| Is the period of use included? | ☒ | ☐ | |
| Is a quantity claimed for each use? | ☒ | ☐ | * |
| 7. Is a total quantity claimed entered? | ☒ | ☐ | |
| 8. If required is a consumptive use entered? N/A | ☒ | ☐ | |
| Is the consumptive use correct? N/A | ☒ | ☐ | |
| 9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, see Adjudication Memo # 4. N/A | ☒ | ☐ | * |
| 10. Is (are) the place(s) of use and purpose(s) indicated? | ☒ | ☐ | * |
| 11. Is (are) the county(ies) entered? | ☒ | ☐ | |
| 12. Is the ownership of p.u. checked? | ☒ | ☐ | |
| 13. Are other water rights listed or "none" indicated? (see Item No. 17 for checking other water rights) | ☒ | ☐ | |
| 14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.) N/A | ☒ | ☐ | |
| 15. Is the basis of the claim indicated? | ☒ | ☐ | |
| 16. If the basis of claim is shown as license, permit or decree is the existing water right number listed? (If yes, compare claim with the existing water right and either attach a proof report or state in comments that existing right was compared to claim) N/A | ☒ | ☐ | |
| 17. If the basis of claim is shown as beneficial use, or not marked, are there existing water rights shown in our records using the legal desc. on the claim? (If yes, describe these rights in "Comments") NOTE: If the claim is for domestic/stockwater this check is not as necessary unless it is indicated there is an existing right N/A | ☒ | ☐ | |
| 18. If the claimant requested a monthly docket sheet, is payment enclosed? (If yes, describe payment status in "Comments" below.) N/A | ☒ | ☐ | |
| 19. Is the claim signed by the claimant, and is the signature appropriate? Organizations must complete the organization block. | ☒ | ☐ | * |
| 20. Has the claim been signed, sealed, and dated by a notary? | ☒ | ☐ | * |
| 21. Was this claim filed on time, or was an extension granted? | ☒ | ☐ | * |
| 22. Is the fee enclosed correct? Exempt | ☒ | ☐ | * |

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YES NO

3. Should this claim be receipted and data entered?

Claim checked by: HW

Date: 5-17-80

Claim must be returned to claimant: _____

(Yes) / (No)

Claimant must be notified of modifications: _____

(Yes) / (No)

Receipt Prepared by: _____ Date: _____

Claim data entered by: _____ Date: _____

Checked by: _____ Date: _____

Returned to claimant by: _____ Date: _____

Comments:

Increase in quantity claimed, across iss.
Chg in location of domestic

61-04038

12/16/2002

Quantity:

The claim was amended in 9/2002;
SCCA Court required Amended
Director's Report submitted 12/2002. No
water was available for measurement
during this time frame.

Claimed: $0.18 \text{ cfs} / 18 \text{ acres} = 0.01 \text{ cfs per acre}$

NAPP photography indicates 11.0 acres
irrigated.

Possible Scenarios:

(1) 11.0 acres at 1" per acre

$11.0 \text{ acres} \times 0.02 \text{ cfs} = 0.22 \text{ cfs}$

Exceeds claimed amount

(2) 11.0 acres at pro rata share

$11.0 \text{ acres} \times 0.01 \text{ cfs} = 0.11 \text{ cfs}$

(3) theoretical calculation

(1) PDS using 10 hp pump from pond
assumptions

(i) gravity flow must supply
water at a rate that will not

dry pump; pond does not include storage and is very small

$$(1) \text{ lift} = 10'$$

$$\text{pressure} = 80 \text{ psi}$$

$$\text{efficiency} = 70\%$$

$$Q = \frac{(8.8)(10 \text{ hp})(.70)}{10' + (2.31 \times 80)} = 0.31 \text{ cfs}$$

(2) Pond using $\frac{1}{2}$ hp pump to stockyard similar assumptions

$$Q = \frac{(8.8)(0.5 \text{ hp})(.70)}{10' + (2.31 \times 80)} = 0.02 \text{ cfs}$$

Considerations

(1) irrigation: 10hp can deliver water at 1" per acre but that recommendation would exceed the amount claimed.

Recommend amount claimed on 11.0 acres.

(2) stockwater: IOWR guidelines recommend 0.09 cfs as the rate of diversion for 400 head (claimed). If the 10' lift assumed was 5' (possible), then the rate of diversion claimed would be accurate. Assume 0.04 cfs

Priority Date:

Claimed: 1/2/1898 (date one day senior to rights in Sand Springs Gulch Creek subject to decree)

Statutory Claim: 3/3/1923

Evidence submitted: Claimant (Smith) submitted "Notice of Water Right" to Sand Gulch Spring, recorded 8/26/1897. According to claimant, water from the spring was originally ditched to the P.O. by Mr. Latty, who recorded the "Notice of Water Right". This practice continued until sometime before claimed acquired the property. By that time (1900's), water from the spring was allowed to flow into Sand Springs Gulch Creek and picked up by the two pumps claimed. Neighbor (Peterson) agrees via stip. to resolve objection.

Recommendation: Treat this as a beneficial use claim that has undergone a change in source. Other water rights from Sand Springs

quch have the following
priority dates currently:

61-293B 18/1/1898

61-293C 8/1/1898

61-293D 18/1/1898

IOWR believes the priority date
for 61-293C is correct and has
filed a "Notice of Non-Concurrence"
for the B+D portions. The priority
dates for those rights contain a
clerical error as to priority date.

Priority date for this right can
go "back into" the previous decree
but will remain junior per
settlement agreement

Priority Date: 8/2/1898

Ryanne Mason
12/16/2007

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JAN 18 2001

Department of Water Resources

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

In Re SRBA	)	Subcase No. 61- 04038
	)	
Case No. 39576	)	
	)	STANDARD FORM 1
	)	OBJECTION TO AMENDED DIRECTORS
_____	)	REPORT

NAME AND ADDRESS OF PERSON OBJECTING

Name: Carlene Smith
Address: Route 1, Box 420
Glenns Ferry, ID 83623
Daytime Phone: (208) 366-2711

Name & Address of Attorney:

Charles L. Honsinger
Ringert Clark, Chartered
P.O. Box 2773
Boise, ID 93701

CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTORS'S REPORT

Name: Carlene Smith
Address: Route 1, Box 420
Glenns Ferry, ID 83623

COPY

I object to the following elements as recommended in the Director's

Report.

1. X **Name and Address**
Should be: As claimed
2. X **Source**
Should be: As claimed
3. X **Quantity**
Should be: As claimed
4. X **Priority Date**
Should be: As claimed
5. X **Point(s) of Diversion**
Should be: As claimed
6. **Instream Flow Description**
Should be:
7. X **Purpose(s) of Use**
Should be: As claimed
8. X **Period of Year**
Should be: As claimed
9. X **Place of Use**
Should be: As claimed
10. X **I object because:**

- X This water right was not recommended, but should be recommended with the elements described above..

REASONS SUPPORTING OBJECTION(S):

This water right has been beneficially used as claimed since the priority date claimed.

VERIFICATION

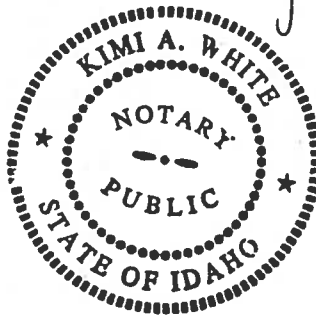
State of Idaho)
County of Ada) ss.
)

Charles L. Honsinger, being duly sworn, upon oath, deposes and says:

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.

Charles L. Honsinger
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: January 16, 2001



Kimi A. White
Notary Public for Idaho
Residing at: Boise, Idaho
My Commission Expires: 04/01/04

CERTIFICATE OF MAILING

I certify that on January 16, 2001, I mailed copies of this objection to the following:

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

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

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

Charles L. Honsinger
Signature of Objector or attorney
mailing on Objector's behalf

Charles L. Honsinger (ISB # 5240)
Ringert Clark, Chartered
P.O. Box 2773
Boise, ID 83701
Tel: (208) 342-4591
Fax: (208) 342-4657

Attorneys for Claimant Carlene Smith

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 61-04038
	)	
	)	
Case 38576	)	STANDARD FORM 4
	)	
	)	MOTION TO FILE AMENDED NOTICE OF CLAIM
_____	)	

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in **SRBA Administrative Order 1, Rules of Procedure** (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

I have read **SRBA Administrative Order 1, Rules of Procedure** (amended Sept. 30, 1996).
I am an attorney representing Carlene Smith.

PD, CS MB

My address is: RINGERT CLARK, CHARTERED, P.O. Box 2773, Boise, Idaho 83701
My phone number is: 208/342-4591

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A *Motion to File a Late Notice of Claim* may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

Ms. Smith must amend her Amended Notice of Claim to the use of water in the SRBA because the original amended claim to this water right did not specify the correct priority date and source, and improperly listed points of diversion and other places and purposes of use. After negotiations with IDWR and the other Party to this subcase, it has been determined that the original amended claim to this water right does not reflect its historical use.

I have attached:

A fully completed amended Notice of Claim (available from IDWR).

VERIFICATION (Must be completed)

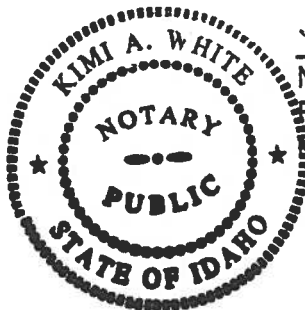
State of Idaho)
)
County of Ada)

Charles L. Honsinger, being first duly sworn, upon oath, deposes and says:

That I am the attorney for the party/claimant filing this motion for amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Charles L. Honsinger
Attorney signing in representative capacity

Subscribed and sworn to before me on September 19, 2002.



Kimi A. White
Notary Public for Idaho
Residing at: Boise, Idaho
My Commission expires: 04/01/04

RB C MB

CERTIFICATE OF MAILING

I certify that on September 20, 2002, 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:

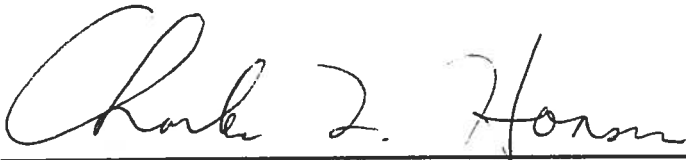
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

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

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

Matt J. Howard
Attorney at Law
P.O. Box 190012
Boise, ID 83719



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

GENERAL ADJUDICATION
AS TO THE USE OF WATER FROM
THE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number _____
Date Received _____
Receipt Number _____

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

type or print clearly

Name of Claimant (s) Carlene R. Smith Phone (208) 366-2711

Living Address Route 1, Box 420, Glenns Ferry, ID Zip 83623

Date of Priority (Only one (1) per claim) January 2, 1898

Source of water supply (a) Sand Springs Gulch and/or Sand Springs
which is tributary to (b) Little Canyon Creek and/or Sand Springs Gulch

Location of existing point of diversion is: Township 05S Range 10E Section 18.

1/4 of SW 1/4 of SE 1/4, Govt Lot, B.M., County of Elmore

Additional points of diversion if any: TOSS, R10E, S.18 NESW; TOSS, R10E, S.18, NWSE (Injection & Rediversion)

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

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

Govt Lot _____ B.M., County of _____

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

1/4, Govt Lot B.M., County of

c. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),

Including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. Diversion in Section 18, SWSE is
Gravity pipeline from Sand Springs Gulch to diversion pond with
10 hp pump. Diversion in Section 18, NESW is 1/2 hp pump diverting
water to stockyard.

EXHIBIT A

CS MB

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from 3/15 to 11/15 amount .18cfs or _____

For Stockwater purposes from 1/1 to 12/31 amount .04cfs or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) .18 cfs (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is N/A acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) Stockwater use for 400 head of cattle

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
05S	10E	18									3			12			2		17
05S	10E	19					†												1

Total number of acres irrigated 18

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

12. Do you own the property listed above as place of use? Yes _____ No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
Water right no. 61-0293D or None ()

14. Remarks:

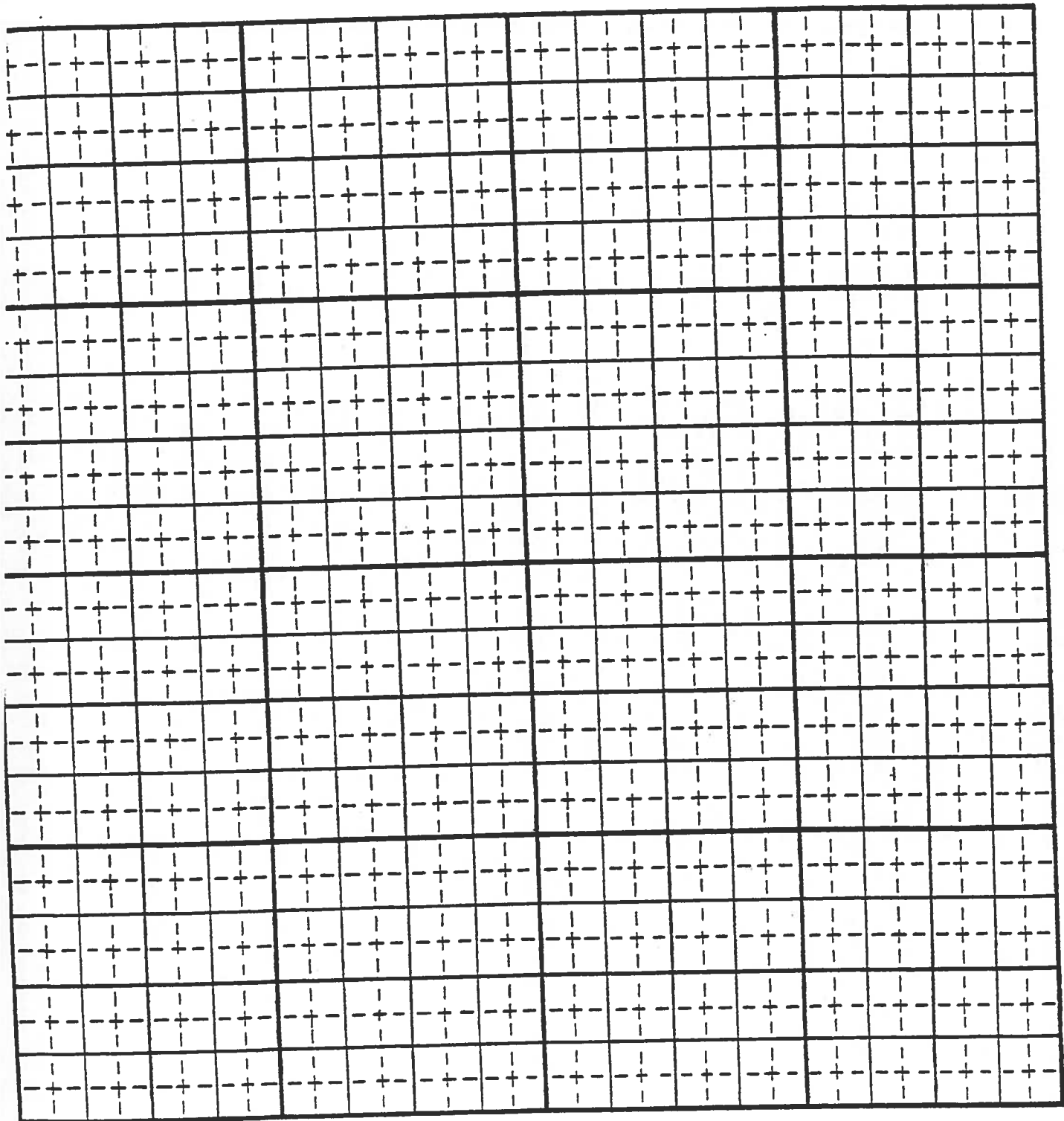
Last Name _____ Ident No. _____

EXHIBIT A

RB CS MB

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile



Last Name _____

Ident No. _____

HIBITA

PS CS MB

15. Basis of Claim (check one) Beneficial Use X Posted Notice _____ License _____ Permit _____
Decree _____
If applicable provide IDWR Water Right Number 61-4038
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

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

Signature of Claimant (s) _____

Date 09/19/02

Date _____

For Organizations: I do solemnly swear or affirm that I am _____

Title

of _____, that I have signed the foregoing

Organization

document in the space below as _____ of _____

Title

Organization

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

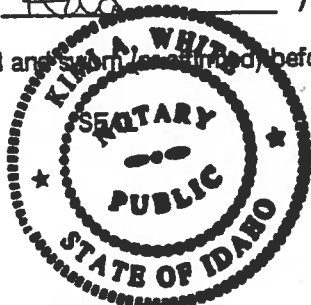
Signature of Authorized Agent _____

Title and Organization _____

Date _____

State of Idaho/or Idaho)
County of Ada) ss.

Subscribed and sworn to (certified) before me this 19th day of September 2002



Notary Public

Kim C. White

Residing at

Boise, Idaho

My Commission Expires

04/01/04

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be 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 _____

Address _____

Date _____

Last Name _____ Ident. Number _____

EXHIBIT A

Handwritten initials and signatures: PO, C, MB

Notice of Water Right

John M. Latty

Dated Aug 26 1897

Notice of Water Right

It is hereby given that John M. Latty, a citizen of the United States, over 21 years of age, do hereby claim the water flowing from Sand Creek Spring

in Lot 2 of Sec 18 T⁴ S. 8. of R. 10 E. in Elmore County, State of Idaho, to the extent of one cubic foot per second.

That the place of diversion is at the said above spring up on the tract above described, and about three 1/2 miles Northwesterly from the Town of Glenn's Ferry

That this water is claimed for domestic and agricultural purposes, and that I intend to use the same on the following described tract of land in said above County to wit: E² S⁴ N⁴ Sec 18, and E² N⁴ Sec 19 T⁴ S. 8. R. 10 E. of Boise Meridian.

The said above water to be diverted and conveyed from said above described spring, by means of ditch or conduit, or both both, running from said spring East about one quarter of a mile, and thence South one mile, and to irrigate the said last above tract of land.

That the length of time necessary for the completion of the diversion of said water and the conducting of the same as above set forth, will not exceed one year.

Dated this 26th Day of August 1897.

John M. Latty
Claimant

State of Idaho

County of Elmore

John M. Latty, being first duly sworn deposes and says that he is the Claimant mentioned in the above and foregoing notice of water right. That on the 26th Day of August 1897, at the place of intended diversion, as appears in said notice, he posted a notice of

This Indenture, Made this 7 day of December, in the year of our Lord one thousand nine hundred twenty eightm between Mary J. Van Fleet, of Glenns Ferry, Elmore County, state of Idaho, a widow, the party of the first part and Robert Parmley of Glenns Ferry, county of Elmore, state of Idaho, party of the second part,

Witnesseth, That the said party of the first part ~~for and in consideration of the sum of \$10.00~~ law-
ful money of the United States of America, to her in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained and sold, and by these presents do grant, bargain, sell, convey and confirm unto the said party of the second part, and to his heirs and assigns forever, all the following described real estate, situated in Elmore County, state of Idaho, to wit:-

The Southwest quarter of the Northeast quarter, the East One Half of the Southwest quarter and the South Half of the Southeast quarter of Section Eighteen, the East half of the Northwest quarter of Section Nineteen all in Township Five South, Range Ten East B.M.

Together with all water rights appurtenant thereto out of Canyon Creek (Little), Sand Springs gulch or any other stream, creek gulch or water course or ravine, and whether or not the same has been decreed, acquired by appropriation or otherwise, and owned by grantor.

Together, With all and singular the temements, 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 party of the first part.

To have and to hold, All and singular the above mentioned and described premises, together with the appurtenances, unto the party of the second part, and to his heirs and assigns forever.

And the said party of the first part, and her heirs, the said premises in the quiet and peaceable possession of the said party of the said second part, his heirs and assigns against the said party of the first part, and her heirs and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will Warrant and by these presents forever defend, excepting King Hill Irrigation

In witness whereof, The said party of the first part has hereunto set her hand and seal the day and year first above written.

Signed in the presence of

Maudie Curnings

Jean Van Fleet Lee

Mary J. Van Fleet (Seal)

12/28/2000

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

RIGHT NUMBER: 61-4038

NAME AND ADDRESS: CARLENE SMITH
RT 1 BOX 420
GLENNS FERRY, ID 83623

NO LAWFUL APPROPRIATION SHOWN

November 20, 1998

**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 18, 1998

Water right number: 61-04038

CARLENE SMITH
RT 1 BOX 420
GLENN'S FERRY ID 83623

Daytime Telephone Number: (208) 366-2711
Evening Telephone Number: Above

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

Claim not recommended

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

Claim should be recommended based on a court decree, posted notice, and beneficial use. Quantity based on the irrigation of 9 acres.

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

This claim is based on 1904 decree (Herron v Morrow & Van Fleet and the judgement of the Fourth Judicial District Court (7-13-87) Case No. 8224) with input from the Attorney General of the State of Idaho, posted notice and beneficial use. Information on file with IDWR

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

DATE: 12/15/98

SIGNATURE: Carlene Smith

Please print your name: Carlene Smith



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

January 28, 1993

Re: Claim No(s). Ab1-04038, Ab1-04115

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

CARLENE VINER
RT 1 BOX 420
GLENN'S FERRY ID 83623

Dear Claimant(s):

In the past, you submitted the above referenced claim(s) in the Snake River Basin Adjudication. Enclosed is a computer generated print-out of the claim(s) for your reference only; this print-out is **NOT** to be returned or re-filed. You have indicated when this claim was filed that the water right(s) was based on either a "Statutory Claim" or "Beneficial Use" of the water. Water rights of this type are established by the historical use of water for a beneficial purpose, dating back to the time the water was first used, this date being the "**Priority Date**" as shown on the enclosed print-out. Your claim(s) has not been confirmed by a previous filing with the Department of Water Resources since there is no decree, license, or permit on file to verify the use of this water. For this reason, the Department is under a legal requirement to gather evidence from claimants supporting the date of priority for claims based on historical beneficial use of water. Any other claims you may have filed, that are not listed above, do not require evidence of priority.

Enclosed is a pamphlet entitled "**Evidence of Priority**" which describes why evidence of the priority date is necessary along with examples of types of evidence that can be submitted to fulfill this requirement. If no evidence is submitted, or we do not hear from you within the time limit below, your priority date, as claimed, may not be recommended to the Court for decree. This could jeopardize your water use under this right(s), if water availability problems arise in the future. It is our goal to decree the historical water rights within the Snake River Basin as accurately as possible. Field exams to verify claims in this area should be conducted this summer by Department personnel. Prior to conducting the field exams, we will contact you to discuss details and schedule a time convenient for you.

Please submit the required evidence supporting the priority date(s) by March 15, 1993, referencing all documents with the corresponding claim number(s). If you have any questions not covered by this letter, or the enclosed pamphlet, please call the toll-free number listed on the back page of the pamphlet or the Western Region office shown above.

Adjudication Section
Department of Water Resources
Western Region Office

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

RIGHT NUMBER: 61-4038
NAME AND ADDRESS: CARLENE R SMITH
RT 1 BOX 420
GLENN'S FERRY ID 83623
SOURCE: SAND SPRING GULCH CREEK TRIBUTARY: LITTLE CANYON CREEK
QUANTITY: 0.18 CFS
THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT
EXCEED 13,000 GALLONS PER DAY.
PRIORITY DATE: 08/02/1898
POINT OF DIVERSION:

T05S R10E S18 NESW Within ELMORE County
T05S R10E S18 SWSE Within ELMORE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	0.18 CFS
STOCKWATER	01/01 12/31	0.04 CFS

PLACE OF USE: IRRIGATION Within ELMORE County

T05S R10E S18	NESW	2.0	T05S R10E S18	NESW	7.0
T05S R10E S18	SWSE	1.0	T05S R10E S19	NENW	1.0

STOCKWATER Within ELMORE County

T05S R10E S18	NESW	T05S R10E S18	SESW
---------------	------	---------------	------

11 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.

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL
BENEFICIAL USE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use