

RECEIVED

JAN 15 1999

WATER RESOURCES
WESTERN REGION

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: A63-17246B

Date Received: 8/10/1989

Receipt No: X777777

Received By: _____

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: STEPHEN J GRACE 208-362-6726
Address: 8440 W VICTORY RD
BOISE ID 83709
AND
Name: MARILYN A GRACE 208-362-6726
Address: 8440 W VICTORY RD
BOISE ID 83709

2. Date of Priority: MAR 15, 1922

3. Source: FIVE MILE CREEK Trib. to: FIFTEEN MILE CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
03N	01E	24	SE	SW			ADA

5. Description of diverting works:
DAM IN CREEK TO DITCH TO FLOOD IRRIG.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.050		
STOCKWATER	03/15	11/15	0.020		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
STOCKWATER, 7 HORSES OR RANGE CATTLE

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
03N	01E	24	SE SE	SW SW	STOCK IRR	2.5
Section Acres						2.5
Total Acres						2.5

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:
NEW YORK IRRIG.

14. Remarks:

NOTE: CLAIMANT PURCHASED 2.51 ACRES. (PER CLAIMANT 9/14/98).
1/12/99 AMENDMENT: ORIGINAL CLAIM INCORRECTLY LISTED WRONG
P/D LEGAL.

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: 1

For Individuals:

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

Signature of Claimant(s): Stephen Grace Date: January 13, 1999
Marilyn A. Grace Date: Jan. 13 - 1999

State of Idaho)
County of Ada) SS.

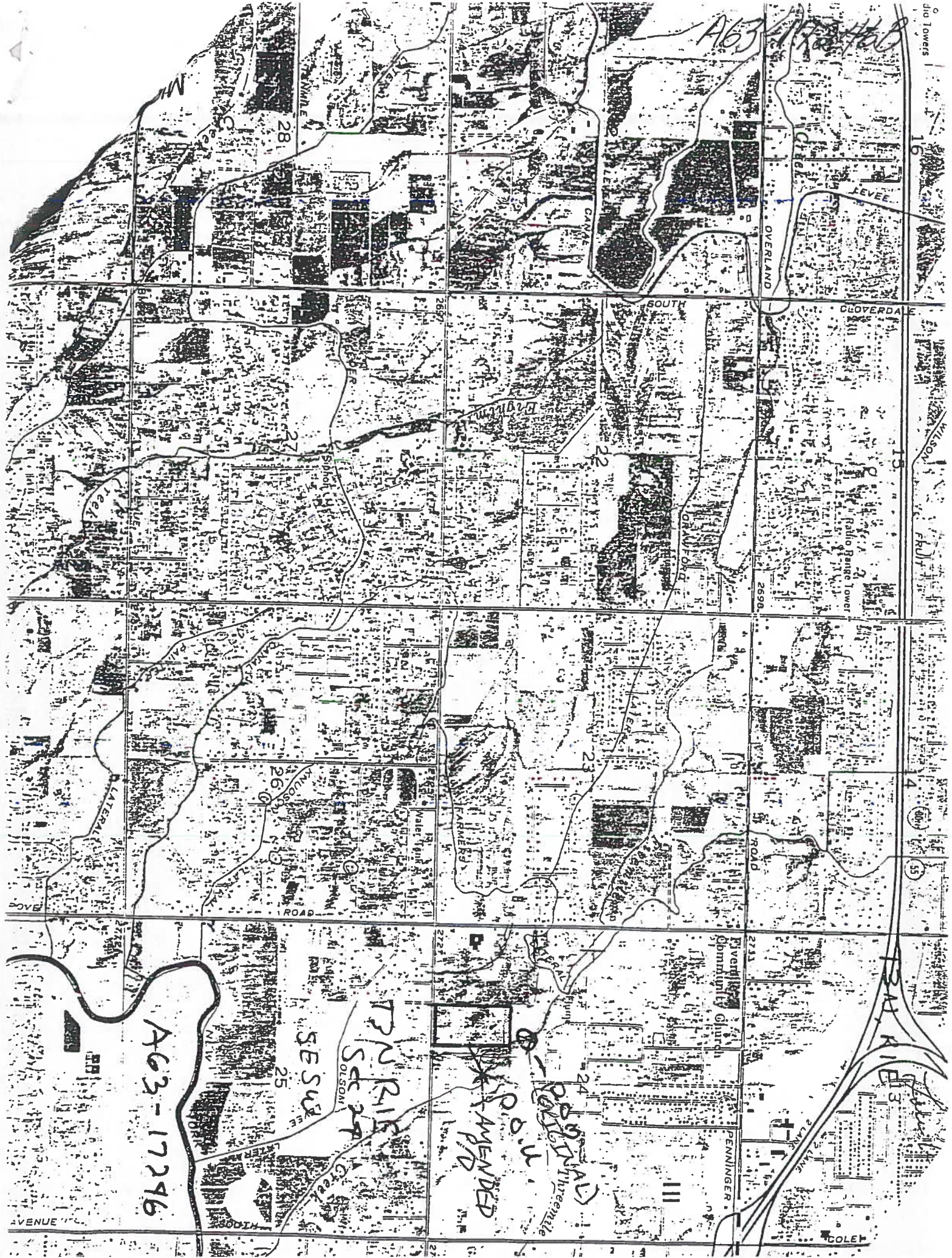
Subscribed and sworn (or affirmed) before me this 13th day
of January 19 99 Roxanne Brown
Notary Public

Seal



Residing at Bowie, MD
My Commission Expires 5-16-2007

A63-174468



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: A63-17246B
Date Received: 8/10/1989
Receipt No: X777777
Received By: _____

COPY FOR
YOUR FILES

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

COPY FOR
YOUR FILES

1. Name: STEPHEN J GRACE
Address: 8440 W VICTORY RD
BOISE ID

83709

208-362-6726

AND

Name: MARILYN A GRACE
Address: 8440 W VICTORY RD
BOISE ID

83709

208-362-6726

2. Date of Priority: MAR 15, 1922

3. Source: FIVE MILE CREEK Trib. to: FIFTEEN MILE CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
03N	01E	24		NE	SW		ADA

5. Description of diverting works:
DAM IN CREEK TO DITCH TO FLOOD IRRIG.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.050		
STOCKWATER	03/15	11/15	0.020		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
STOCKWATER, 7 HORSES OR RANGE CATTLE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
03N	01E	24	SE	SW		STOCK	
			SE	SW		IRR	2.5
					Section Acres		2.5
					Total Acres		2.5

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:
NEW YORK IRRIG.

14. Remarks:
NOTE: CLAIMANT PURCHASED 2.51 ACRES. (PER CLAIMANT 9/14/98).

15. Basis of Claim: BENEFICIAL USE

RECEIVED

AUG 04 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.

A63-17246B

1. Water Right No(s).: (# A63-17246 & A63-17247)
Adjudication Claim No(s).: (# AJ 0749 NP)
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 attached to your deed or on file with the county.)
OR
 - C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.
3. Name and Address of Former Owner/Claimant JESSIE ACORDA
8440 W. VICTORY BOISE, ID 83709
4. New Owner/Claimant(s) STEPHEN J. GRACE & MARILYN A. GRACE
Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
New Mailing Address 8440 WEST VICTORY RD.
City, State and ZIP Code BOISE, IDAHO 83709
New Telephone Number (208) 362-6726
5. Date you acquired the property JULY 31, 1998
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.
Number of acres you irrigate 2.51 Number and type of stock HORSES - [#] 07 OR 07 CATIE
Diversion rate in CFS _____ Number of homes ONE (1) Other uses IRRIGATION W- LAWN & GARDEN STOCKWATER
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 or Claimant(s) Stephen J. Grace
Marilyn A. Grace
(Corporations or other organizations must submit a list of directors and/or officers demonstrating authority to sign form.)
8. For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him or her for all matters related to your claims..

3
mg.

TRUSTEES DEED

This deed made this 3rd day of August, 1998 between First Security Bank, N.A. as Trustee of the JESSIE V. ACORDA TRUST AGREEMENT, Under agreement dated 3 April 1995, Grantor and party of the first part; and STEPHEN J. GRACE AND MARILYN GRACE, HUSBAND AND WIFE, whose address is 8440 WEST VICTORY ROAD, BOISE, IDAHO, 83709, Grantee and parties of the second part;

WITNESSETH, That the said party of the first part, for good and other valuable consideration, to them in hand paid by the said parties of the second part, the receipt whereof is hereby acknowledged, does hereby grant, bargain, sell and convey without warranty unto the said parties of the second part the following described real property situated in ADA County, State of IDAHO, to-wit:

A PARCEL OF LAND LYING INT HE SE1/4 SW1/4 OF SECTION 24,
T.3N., R.1E., B.M., ADA COUNTY, IDAHO AND BEING MORE
PARTICULARLY DESCRIBED IN EXHIBIT "A":

Together with all and singular the tenements, hereditament, and appurtenances thereunto belonging, or other wise appertaining, and all estate, right, title, and interest in and to the said property.

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

First Security Bank, N.A. as Trustee
for the JESSIE V. ACORDA TRUST
AGREEMENT, Under agreement dated 3
April 1995

BY 
Calvin E. Kidney
Assistant Vice President, Manager
Trust Real Estate

STATE OF IDAHO)
) ss.
County of ADA)

On this 3RD Day of AUGUST, 1998, before me, Shelley S. Ross, a Notary Public in and for said State, personally appeared Calvin E. Kidney known or identified to me to be the Assistant Vice President, Manager Trust Real Estate, of the corporation/fiduciary that executed the instrument as Trustee for the Jessie V. Acorda Trust Agreement, under agreement dated 3 April 1995 or the person who executed the instrument on behalf of said corporation/fiduciary and acknowledged to me that such corporation/fiduciary executed the same.

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



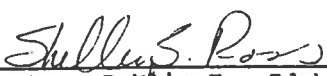

Notary Public for Idaho
Residing at Boise, Idaho
My Commission Expires: 9/28/02

EXHIBIT "A"

Commencing at a found Aluminum Cap marking the Section Corner common to Sections 23, 24, 25, and 26, T.3N., R.1E., B.M., Ada County, Idaho; thence S.89°35'54"E. 2001.09 feet along the south boundary of said Section 24 to a found 5/8" iron pin marking the SE Corner of the W1/2 of the said SE1/4 SW1/4 of Section 24; thence continuing S.89°35'54"E. 5.00 feet to a point; thence N.0°28'09"E. 27.08 feet (formerly 27.07 feet) to a set 5/8" iron pin marking a point on the northerly right of way of W. Victory Road, said pin also marking the REAL POINT OF BEGINNING;

thence N.89°46'13"W. 140.00 feet along the said northerly right of way of W. Victory Road to a set 5/8" iron pin;

thence N.0°28'09"E. 797.00 feet to a set 5/8" iron pin;

thence S.89°46'13"E. 135.00 feet to a set 5/8" iron pin;

thence S.0°28'09"W. 474.06 feet along the easterly boundary of the said W1/2 SE1/4 SW1/4 of Section 24 to a found 1/2" iron pin;

thence S.89°31'51"E. 5.00 feet to a set 5/8" iron pin;

thence S.0°28'09"W. 322.92 feet to the point of beginning, containing 2.51 acres, more or less.

SUBJECT TO:

Any easements or rights of way of record or in use.



Colleen Marks, L.S. 7045 • 6405 Ustick Road • Boise, ID 83704 • (208) 378-7703

PROPERTY DESCRIPTION
PARCEL "A"

A parcel of land lying in the W1/2 SE1/4 SW1/4 of Section 24, T.3N., R.1E., B.M., Ada County, Idaho and being more particularly described as follows:

Commencing at a found Aluminum Cap marking the Section Corner common to Sections 23, 24, 25, and 26, T.3N., R.1E., B.M., Ada County, Idaho; thence S.89°35'54"E. 1334.10 feet along the south boundary of said Section 24 to a set 5/8" iron pin marking the W1/16 Corner common to said Sections 24 and 25; thence N.0°31'04"E. 25.06 feet to a set 5/8" iron pin marking a point on the northerly right of way of W. Victory Road, said pin also marking the REAL POINT OF BEGINNING;

thence continuing N.0°31'04"E. 1303.86 feet to a found 5/8" iron pin marking the SW1/16 Corner of said Section 24;

thence S.89°42'11"E. 665.87 feet to a found 5/8" iron pin marking the NE Corner of the said W1/2 SE1/4 SW1/4 of Section 24;

thence S.0°28'09"W. 506.07 feet along the easterly boundary of the said W1/2 SE1/4 SW1/4 of Section 24 to a set 5/8" iron pin;

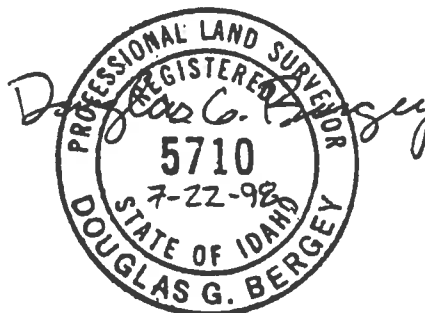
thence N.89°46'13"W. 135.00 feet to a set 5/8" iron pin;

thence S.0°28'09"W. 797.00 feet to a set 5/8" iron pin marking a point on the said northerly right of way of W. Victory Road;

thence N.89°46'13"W. 531.97 feet along the said northerly right of way of W. Victory Road to the point of beginning, containing 17.47 acres, more or less.

SUBJECT TO:

Any easements or rights of way of record or in use.





Colleen Marks, L.S. 7045 • 6405 Ustick Road • Boise, ID 83704 • (208) 378-7703

PROPERTY DESCRIPTION
PARCEL "B"

A parcel of land lying in the SE1/4 SW1/4 of Section 24, T.3N., R.1E., B.M., Ada County, Idaho and being more particularly described as follows:

Commencing at a found Aluminum Cap marking the Section Corner common to Sections 23, 24, 25, and 26, T.3N., R.1E., B.M., Ada County, Idaho; thence S.89°35'54"E. 2001.09 feet along the south boundary of said Section 24 to a found 5/8" iron pin marking the SE Corner of the W1/2 of the said SE1/4 SW1/4 of Section 24; thence continuing S.89°35'54"E. 5.00 feet to a point; thence N.0°28'09"E. 27.08 feet (formerly 27.07 feet) to a set 5/8" iron pin marking a point on the northerly right of way of W. Victory Road, said pin also marking the REAL POINT OF BEGINNING;

thence N.89°46'13"W. 140.00 feet along the said northerly right of way of W. Victory Road to a set 5/8" iron pin;

thence N.0°28'09"E. 797.00 feet to a set 5/8" iron pin;

thence S.89°46'13"E. 135.00 feet to a set 5/8" iron pin;

thence S.0°28'09"W. 474.06 feet along the easterly boundary of the said W1/2 SE1/4 SW1/4 of Section 24 to a found 1/2" iron pin;

thence S.89°31'51"E. 5.00 feet to a set 5/8" iron pin;

thence S.0°28'09"W. 322.92 feet to the point of beginning, containing 2.51 acres, more or less.

SUBJECT TO:

Any easements or rights of way of record or in use.



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: A63-17246
Date Received: 8/10/1989
Receipt No: W004309
Received By: S. J. L.

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: JESSIE ACORDA
Address: 8440 W. VICTORY
BOISE, ID 83709 208-362-1778

2. Date of Priority: MAR 15, 1922

3. Source: FIVE MILE CREEK Trib. to: FIFTEEN MILE CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
03N	01E	24	NE	SW			ADA

5. Description of diverting works:
DAM IN CREEK TO DITCH TO FLOOD IRRIG.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.400		
STOCKWATER	03/15	11/15	0.020		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
S/20 HEAD

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
03N	01E	24	SE	SW		STOCK	
			SE	SW		IRR	20.0
						Section Acres	20.0

A63-17246

Page 1

Date: 08/10/89

~~MICROFILMED~~
AUG 26 1992

10. Place of Use: Continued

Total Acres 20.0

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:
NEW YORK IRRIG.

14. Remarks:

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): Jessie Beards Date: 8-10-89

Date: _____

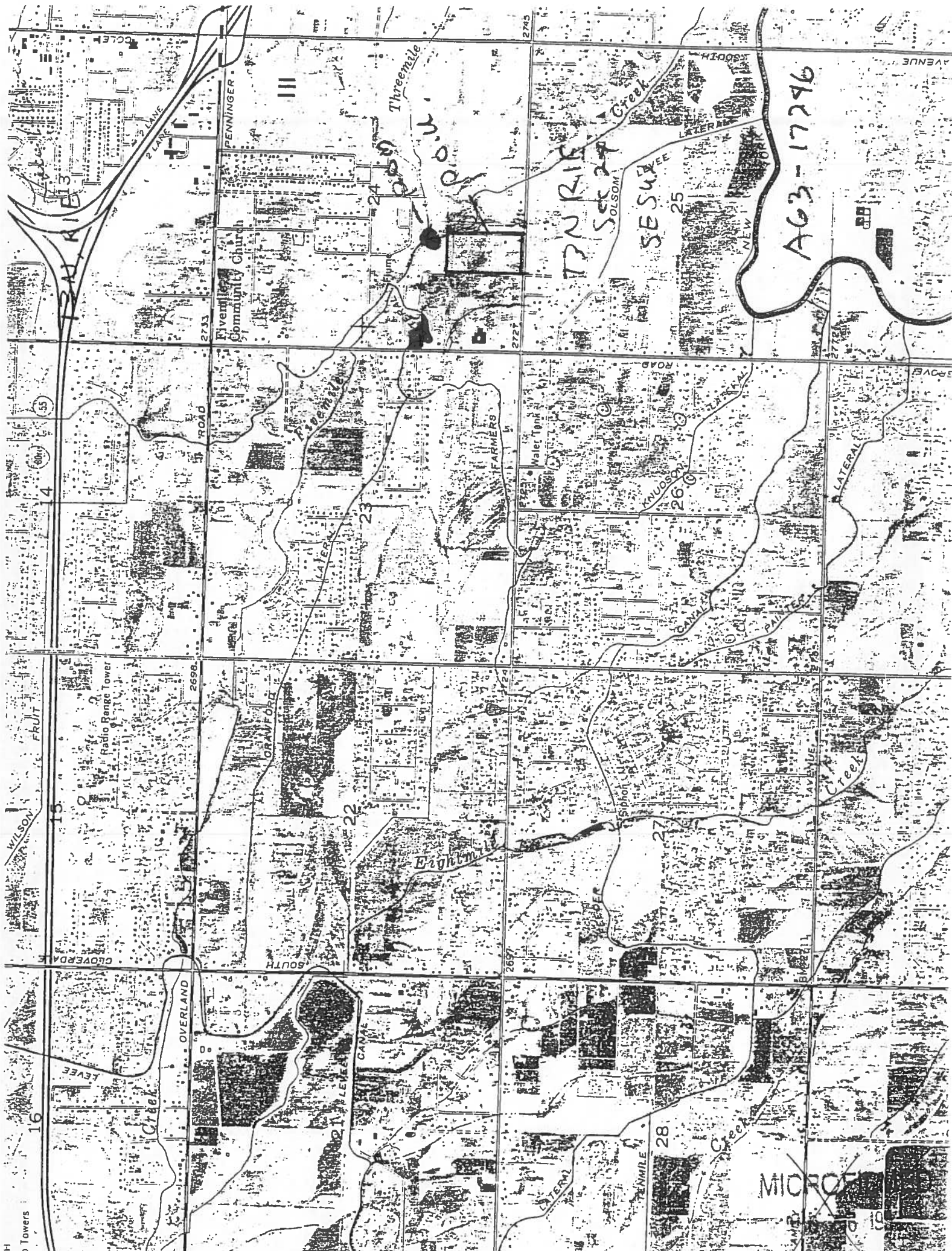
State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 10 day
of Aug 19 89

Eldon L. Roush
Notary Public

Seal

Residing at Eldon L. Roush
Residing at Boise, Idaho
My Commission Expires September 8, 1994



DIVERSION
VOLUME

1
2
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Stage: BENEFICIAL USE

ADA County

SE

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CTAI

ES

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age (17247)

S. (F)
INCOR

Date:

pecti

2023/03/08

IDWR - WESTERN REGION

CONTRACTOR: Karan Waters

CLAIM/ID #: 63-17246 B Date: 3-14-01

	TNS	RNG	SEC	NE				NW				SW				SE				Sum
				NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
Claim	3N	1E	24												25					2.5
GIS															17.5					17.5
Claim																				
GIS																				
Claim																				
GIS																				
Claim																				
GIS																				

Number of POD's 1

Total Claimed Acres: 2.5

Overlapping POU Claim #'s:

Total GIS Acres: 17.5

COMMENTS:

can't tell what part of original acres this claimant purchased.
also don't know if this change in POD legal applies to
63-17246 A also.

Original was 20 acres the spot carved out on S.E.
is this 2.5 acre piece

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

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

In Re SRBA)
Case No. 39576)
_____)

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

Water Right 63-17246B

MAR - 4 2008

By _____ Clerk
Deputy Clerk

NAME AND ADDRESS: MARILYN A GRACE
STEPHEN J GRACE
8440 W VICTORY RD
BOISE, ID 83709

SOURCE: FIVEMILE CREEK TRIBUTARY: FIFTEENMILE CREEK

THE SOURCE OF THIS WATER RIGHT IS WASTE WATER. THE WASTING OF
WATER MAY BE DISCONTINUED AT ANY TIME.

QUANTITY: 0.07 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL
NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 03/15/1922

POINT OF DIVERSION: T03N R01E S24 SESW Within Ada County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-01 TO 11-15	0.05 CFS
	Stockwater	03-01 TO 11-15	0.02 CFS

PLACE OF USE: Irrigation Within Ada County
T03N R01E S24 SESW 2.5
2.5 Acres Total
Stockwater Within Ada County
T03N R01E S24 SESW

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

STOCKWATER USE IS FOR 7 HORSES OR RANGE CATTLE.
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.

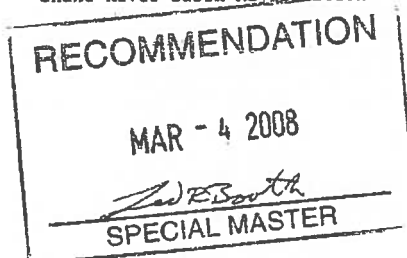
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
USE.

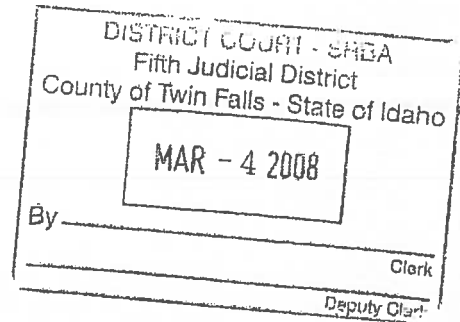
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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

CERTIFICATE OF MAILING

Water Right(s): 63-17246B

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 March 04, 2008, with sufficient first-class postage prepaid to the following:

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

NEW YORK IRRIGATION DISTRICT

Represented by:
CHARLES F MC DEVITT
420 W BANNOCK ST
PO BOX 2564
BOISE, ID 83701
Phone: 208-343-7500

NEW YORK IRRIGATION DISTRICT

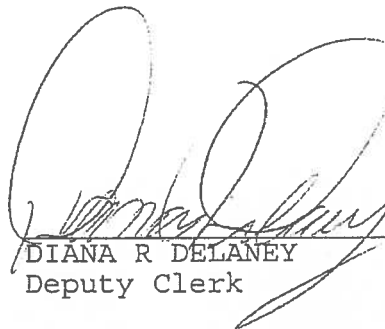
Represented by:
KENDAL A. MC DEVITT
405 S 8TH ST, STE 202
BOISE, ID 83702
Phone: 208-246-8650

CERTIFICATE OF MAILING

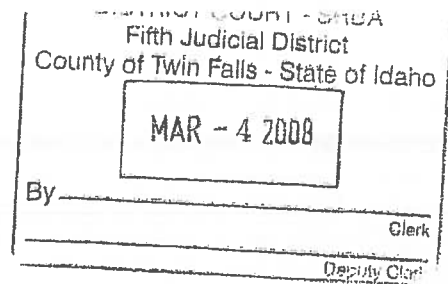
PAGE 1
03/04/08

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

MARILYN A & STEPHEN J GRACE
MARILYN A GRACE
STEPHEN J GRACE
8440 W VICTORY RD
BOISE, ID 83709
Phone: 208-362-6726



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)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

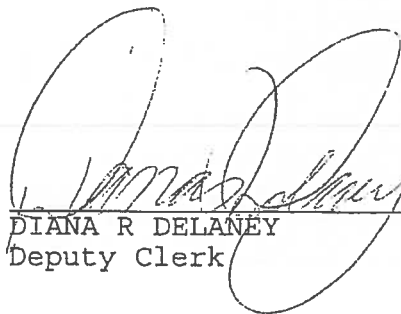
Water Right(s): 63-17246B

On March 04, 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 March 04, 2008.

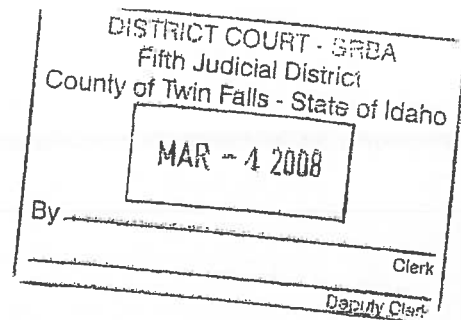


DIANA R DELANEY
Deputy Clerk

RECEIVED

MAR 05 2008

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) SPECIAL MASTER'S REPORT
Case No. 39576)
) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW
)
) FOR WATER RIGHT 63-17246B

I. FINDINGS OF FACT

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

On April 21, 2006, the New York Irrigation District filed an objection to the *Director's Report*, asserting that the source of the water right is waste water. On February 5, 2008, a pretrial conference was held at which the claimants, Marilyn and Stephen Grace, failed to appear. An *Order to Show Cause* was issued on February 8, 2008, and a hearing thereon was held on February 20, 2008. Based upon the comments of the Claimants at the hearing, this Special Master finds that the Claimants have not demonstrated good cause for their failure to prosecute the water right claim. Accordingly, the objection filed by the NYID is **granted**, resulting in the recommendation that the SRBA District Court include a waste water remark in the partial decree for the water right.

II. CONCLUSIONS OF LAW

Therefore based on the file and record herein and pursuant to the terms of the *Order to Show Cause*, IT IS RECOMMENDED that water right 63-17246B be decreed with the elements as set forth in the attached *Recommendation for Partial Decree Pursuant to I.R.C.P. 54(b)*.

Dated

March 4, 2008

Theodore R. Booth
Special Master
Snake River Basin Adjudication

RECEIVED

FEB 11 2008

DEPARTMENT OF
WATER RESOURCES

ADJUTANT GENERAL
TWIN FALLS CO., IDAHO
FILED _____

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

In Re SRBA) Subcase 63-17246B
)
Case No. 39576) ORDER TO SHOW CAUSE
)
) ORDER VACATING TRIAL

On September 19, 2007, a *Trial Scheduling Order* was issued in the above-captioned subcase, which included a pre-trial conference to be held on February 5, 2008. The *Trial Scheduling Order* was sent to Marilyn Grace and Stephen Grace (hereinafter "Claimants") via first class mail sent to their last known address. The Claimants failed to appear at the February 5, 2008, pretrial conference either in person or through counsel.

Due to the uncertainty of whether the Claimants intend to actively participate in defending their water right claim against the objection filed thereto by the New York Irrigation District, the trial in this matter previously scheduled to begin on February 21, 2008 at 1:30 PM is **vacated**.

It is **hereby ordered** that the Claimants shall appear before this Special Master on **February 20, 2008, at 1:30 P.M.** Mountain Time, at the Idaho Supreme Court Building, 451 West State Street, Boise, Idaho, or participate by telephone by dialing 1-225-383-1099 participation code 675342, to show cause regarding their failure to participate at the pre-trial conference. In the absence of a showing of good cause, and pursuant to I.R.C.P. 41(c), it will be the recommendation of this Special Master that the Claimants' water right be decreed by the SRBA Court with the elements of the right as set forth in the *Director's Report*, together with the following remark: **"The source of this water right is waste water. The wasting of water may be discontinued at anytime."**

Participation in the show cause hearing is **not mandatory** and failure to appear will not be considered contempt of court. **However, failure to appear will result in the Claimants being deemed to have consented to the inclusion of the above-quoted remark.** If the Claimants participate in the hearing and make a showing of good cause for their failure to appear at the pre-trial conference, a trial date will be reset.

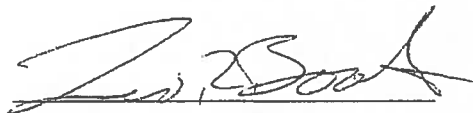
Pursuant to I.R.C.P. 6(c)(2), the parties to this subcase are hereby notified that they may elect to produce testimony and evidence at the hearing, or to cross-examine the adverse party and/or the adverse party's affiants, by giving notice to the court and the adverse party at least twenty-four (24) hours before the hearing, such notice shall designate the person(s) sought to be cross-examined. In the event that such notice is given by any party, telephonic participation at the hearing will not be available, and the parties must appear in person.

A copy of this *Order to Show Cause* shall be served upon the Claimants not less than five (5) days prior to the date herein shown, upon which those parties are required to appear before this Special Master and show cause. Service of the *Order to Show Cause* shall be made in accordance with I.R.C.P. 5(b) and 6(c)(2).

IT IS SO ORDERED

Dated

Feb 8, 2008



THEODORE R. BOOTH
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER TO SHOW CAUSE was mailed on February 08, 2008, with sufficient first-class postage to the following:

NEW YORK IRRIGATION DISTRICT

Represented by:
CHARLES F MC DEVITT
420 W BANNOCK ST
PO BOX 2564
BOISE, ID 83701
Phone: 208-343-7500

NEW YORK IRRIGATION DISTRICT

Represented by:
KENDAL A. MC DEVITT
405 S 8TH ST, STE 202
BOISE, ID 83702
Phone: 208-246-8650

USDI BUREAU OF RECLAMATION

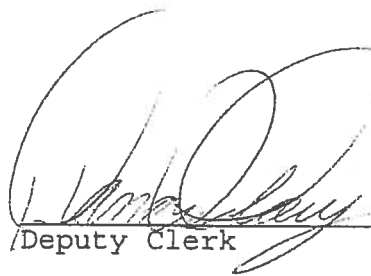
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

DIRECTOR OF IDWR

PO BOX 83720
BOISE, ID 83720-0098

MARILYN A & STEPHEN J GRACE

MARILYN A GRACE
STEPHEN J GRACE
8440 W VICTORY RD
BOISE, ID 83709
Phone: 208-362-6726



Chas. F. McDevitt (ISB No. 835)
Dean J. Miller (ISB #1968)
McDevitt & Miller LLP
420 West Bannock Street
P.O. Box 2564-83701
Boise, Idaho 83702
Tel: 208-343-7500
Fax: 208-336-6912

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DEPARTMENT OF
WATER RESOURCES

Attorneys for New York Irrigation District

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

In Re SRBA

Case No. 39576

Sub Case No: 63-17246B

**SUPPLEMENTAL DISCLOSURE OF
EXPERT WITNESSES BY THE NEW
YORK IRRIGATION DISTRICT**

The New York Irrigation District, by and through its attorneys of record, hereby disclose the following individuals who may be called to testify as witnesses at the trial for this matter:

1. Mr. Terry Scanlan, whose C.V. is attached as an Expert Witness, will testify on behalf of New York Irrigation District:

Mr. Jason Thompson, E.I.T., and I, identified locations to measure water flow in Three Mile Creek, Five Mile Creek, Eight Mile Creek, Nine Mile Creek, Ten Mile Creek and one Unnamed Lateral, with a purpose of determining the flow of water in each of those "creeks or drains".

The first measurements by Mr. Jason Thompson took place on September 27 and 28, 2007, the results of those measurements are appended hereto as Exhibit No 1, which I will identify and testify to Exhibit No. 1 and its findings; the next measurement was on October 4, 2007, a copy of which is appended hereto and marked Exhibit No. 2, which I will identify and testify as to its findings; the third measurement was made on October 11, 2007, the results of which are contained in Exhibit No. 3, appended hereto and made a part hereof, I will identify and testify as to its findings; the final measurement was on October 25, 2007, a copy of which is appended hereto and marked Exhibit No. 4, which I will identify and testify as to its findings.

Based upon my experience of over 20 years as an engineer and geologist dealing with hydrology, I will express my opinion based upon my experience and the measurements taken by Jason Thompson under my direction. I will testify that in my opinion, neither Three Mile Creek, Five Mile Creek, Eight Mile Creek, Nine Mile Creek, Ten Mile Creek, nor the Unnamed Lateral, measured at a Cloverdale road site, have sufficient natural flow at the points of measurement during the irrigation season to reliably irrigate any property or real estate relying on any of the above identified creeks or drains for irrigation water. In this instance, natural flow is defined as groundwater that discharges to the stream channel or runoff of precipitation that reaches the stream channel.

The Boise Project Board of Control and the Irrigation Districts using the New York Canal all discontinued providing irrigation water to the land in which each of the above cited water ways exist as of approximately September 30, 2007. Following that date, there was no measurable flow of water in any of the creeks, waterways, or drains at the measurement points identified above. Therefore, the conclusion is that the water flowing at the measurement points

in those creeks, drains or waterways, during the irrigation season is primarily the result of waste water from irrigation water supplied by the irrigation companies to their clientele.

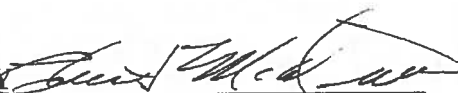
2. Mr. Jason Thompson, whose C.V. is attached as an Expert Witness, will testify as to measurements taken and fact that no measurable flow existed in Three Mile Creek, Five Mile Creek, Eight Mile Creek, Nine Mile Creek, Ten Mile Creek, nor the Unnamed Lateral following the approximate September 30, 2007, discontinuance of New York Irrigation District's delivery to its patrons.

3. Mr. Robert D. Schmidt, hydrologist for the United States Bureau of Reclamation, whose C.V. is attached as an Expert Witness, will testify regarding the source of the water in project drains, including the fact that the source of water for this right is wastewater.

4. Mr. Jerry Gregg, Area Manager Snake River Area Office, United States Bureau of Reclamation, upon being called as an Expert Witness, will testify regarding the development and operations of the Boise Project, including the drainage systems and the integrating of existing defiles.

Dated this 3/ day of October, 2007

McDevitt & Miller LLP

BY 

Chas. F. McDevitt

Attorneys for New York Irrigation District

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of October, 2007, I caused to be served, via email and telecopy, a true and correct copy of the foregoing document, upon:

CLERK OF THE SRBA COURT
SRBA Courthouse
District Court
Fax: (208) 736-2121

Hand Delivered
U.S. Mail
Fax
Fed. Express
Email

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☒
☒
☒

Stephen J. and Marilyn A. Grace
8440 W. Victory Road
Boise, ID 83709

Hand Delivered
U.S. Mail
Fax
Fed. Express
Email

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

Hand Delivered
U.S. Mail
Fax
Fed. Express
Email

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

Hand Delivered
U.S. Mail
Fax
Fed. Express
Email

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

Hand Delivered
U.S. Mail
Fax
Fed. Express
Email

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RONALD J. TENPAS
Acting Assistant Attorney General
DAVID W. GEHLERT
Environment and Natural Resources Div.
U.S. Department of Justice
1961 Stout Street, 8th Floor
Denver, Colorado 80294

Hand Delivered
U.S. Mail
Fax
Fed. Express
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McDEVITT & MILLER LLP

BY Heather Hule, legal Asst.

EXHIBIT NO. 1

Summary of the flow observations made on September 27 and 28:

Threemile and Fivemile Creeks. Threemile Creek was visted just above the confluence with Fivemile Creek (Site 10), but there was insufficient flow for a measurement. Fivemile Creek was measured within the United Water equipment storage yard (Site 3). The measured flow was 0.48 cfs. Accuracy was likely poor due to a very wide wetted area, most of which had negligible flow. A Fivemile Creek flow of 3.24 cfs was then measured approximately 3000 feet downstream at Maple Grove Road (Site 9). This significant increase in flow over a short distance suggests that another surface water source is discharging into the creek. We suspect that one source of the flow increase could be the Farmer's Lateral, which crosses Fivemile Creek in this reach. Jason will attempt to obtain access to Fivemile Creek through this area to identify the source of additional flow. We will continue to monitor flows at these locations on a weekly basis.

Eightmile Creek. Eightmile Creek was measured at the two locations (Sites 1 and 2) that were identified during our tour last Wednesday. Flows at both locations were between 6.0 and 6.5 cfs. We will continue to monitor flows at these locations on a weekly basis.

Ninemile Creek. Ninemile Creek was measured at a point on the north side of Amity Road (Site 4, 0.66 cfs) and in the area that we visited last week (Site 5, 0.50 cfs), downstream from the large pond. We will continue to monitor flows at these locations on a weekly basis.

Tenmile Creek. Tenmile Creek was measured at Columbia Road (Site 8, 1.26 cfs). A tributary of Tenmile Creek was also measured at Columbia Road (Site 7, 0.06 cfs), although no flow was observable in this tributary channel about 1000 feet further downstream. Tenmile Creek had no visible flow at Lake Hazel Road, suggesting that the flow is being diverted within this reach. We will continue to monitor flows at these locations on a weekly basis.

EXHIBIT NO. 2

Summary of the flow observations made on October 4:

Fivemile Creek @ United Water (Site 3) – Flow measured at 0.14 cfs

Fivemile Creek @ Maple Grove Road (Site 9) – There was water present, I attempted a flow measurement but no flow was detected

Threemile Creek US Fivemile (Site 10) – Water was ponded at road crossing, but no flow observed in or out of ponded water

I checked Fivemile Creek where it meets the Farmers Lateral. The Farmers Lateral is piped over Fivemile Creek, but there is also a flume connecting the lateral and Fivemile Creek. There was no gate at the head of the flume. It is very likely that at the time of the last measurement, flow was entering Fivemile from the lateral. The lateral was dry this time, and there was no flow observed in Fivemile Creek at Maple Grove.

Eightmile Creek @ McDonald Lateral (Site 1) – There was water present, but no visible flow. I did not attempt a measurement

Eightmile Creek @ Reutzel Dr (Site 2) – There was water present, but no visible flow. I did not attempt a measurement

Ninemile Creek @ Willandra Way (Site 4) – No water present

Ninemile Creek @ Zaldia Ln (Site 5) – There was water present, but no visible flow. I did not attempt a measurement

Tenmile Creek @ Lake Hazel Rd (Site 6) – There was water present, but no visible flow. I did not attempt a measurement

Tenmile Creek @ Columbia Rd (Site 8) – There was water present, but no visible flow. I did not attempt a measurement

Unnamed Lateral @ Cloverdale Rd (Site 7) – No water present

EXHIBIT NO. 3

Summary of the flow observations made on October 11:

Fivemile Creek @ United Water (Site 3) – Flow measured at 0.15 cfs (flow on October 4 was measured at 0.14 cfs)

Fivemile Creek @ Maple Grove Road (Site 9) – There was water present, but no visible flow (same as on October 4)

Threemile Creek US Fivemile (Site 10) – Water was ponded at road crossing, but no flow observed in or out of ponded water (same as on October 4)

Eightmile Creek @ McDonald Lateral (Site 1) – There was water present, but no visible flow (same as on October 4)

Eightmile Creek @ Reutzel Dr (Site 2) – There was water present, but no visible flow (same as on October 4)

Ninemile Creek @ Willandra Way (Site 4) – No water present (same as on October 4)

Ninemile Creek @ Zaldia Ln (Site 5) – There was water present, but no visible flow (same as on October 4)

Tenmile Creek @ Lake Hazel Rd (Site 6) – There was water present, but no visible flow (same as on October 4)

Tenmile Creek @ Columbia Rd (Site 8) – There was water present, but no visible flow (same as on October 4)

Unnamed Lateral @ Cloverdale Rd (Site 7) – No water present (same as on October 4)

EXHIBIT NO. 4

Summary of the flow observations made on October 25:

Notable changes from the observations made on October 11 include no visible flow on Fivemile Creek at United Water and no water present at Threemile Creek US of Fivemile Creek.

Fivemile Creek @ United Water (Site 3) – There was water present, but no visible flow

Fivemile Creek @ Maple Grove Road (Site 9) – There was water present, but no visible flow (same as on October 4 and 11)

Threemile Creek US Fivemile (Site 10) – No water present

Eightmile Creek @ McDonald Lateral (Site 1) – There was water present, but no visible flow (same as on October 4 and 11)

Eightmile Creek @ Reutzel Dr (Site 2) – There was water present, but no visible flow (same as on October 4 and 11)

Ninemile Creek @ Willandra Way (Site 4) – No water present (same as on October 4 and 11)

Ninemile Creek @ Zaldia Ln (Site 5) – There was water present, but no visible flow (same as on October 4 and 11)

Tenmile Creek @ Lake Hazel Rd (Site 6) – There was water present, but no visible flow (same as on October 4 and 11)

Tenmile Creek @ Columbia Rd (Site 8) – There was water present, but no visible flow (same as on October 4 and 11)

Unnamed Lateral @ Cloverdale Rd (Site 7) – No water present (same as on October 4 and 11)

Education

M.S., Geological Engineering
University of Idaho

B.S., Geological Engineering
University of Idaho

Professional Certification

Professional Engineer
Idaho No. 6266, 1990

Professional Geologist
Idaho No. 646, 1989

Oregon No. G1311, 1992

Certified Water Right Examiner
Idaho No. 05-129

Areas of Expertise

- Design, installation, and testing of high-capacity wells for irrigation, municipal, and industrial water supply
- Groundwater development studies
- Water rights

Experience Summary

Mr. Scanlan has more than 20 years of professional experience in water supply consulting as an engineer and hydrogeologist. He has particular expertise in water rights, well and pump design, public water systems, pressurized irrigation, and other water resource issues.

Mr. Scanlan's work experience has focused on well design and construction, surface water and ground water pump systems, aquifer and well testing, water development studies, and water rights. He also has experience in geothermal resource development, mining-related environmental studies, ground water drainage investigations, soils investigations, geologic mapping, and wastewater land application projects. He has served as Chairman of the Idaho Board of Registration for Professional Geologists. Mr. Scanlan is a Certified Water Right Examiner in Idaho.

SPF Water Engineering, LLC—2004 to present

Mr. Scanlan is currently a Principal Engineer with SPF Water Engineering, LLC. SPF Water Engineering, LLC, was formed from Scanlan Engineering in March 2004 to provide a wider range of water resource engineering services. Since joining SPF, Mr. Scanlan has continued his practice of water resource consulting and engineering, with additional emphasis on development of community water systems for subdivisions and planned communities in southwest Idaho.

Scanlan Engineering—1994 to 2004

Mr. Scanlan formed Scanlan Engineering in 1994 to provide engineering and hydrogeologic consulting to public and private clients. Scanlan Engineering provided water resource consulting services to more than 200 separate clients, primarily in southwest Idaho. Local clients included the City of Boise (Public Works Department, Parks Department), Micron Technology, J.R. Simplot Company, Capitol Water Corporation, United Water Idaho, Inc., Meridian School District, City of Eagle, Sorrento Lactalis, City of Nampa, Boise State University, Ada County Highway District, and the Idaho Water Resources Research Institute. Mr. Scanlan has served as a subconsultant on water supply projects for numerous engineering firms in Idaho, most recently including Montgomery Watson Harza, Toothman-Orton Engineering Company, Entranco, Secesh Engineering, Materials Testing, Inc., and Civil Survey Consultants.

Montgomery Watson—1986 to 1993

Prior to forming Scanlan Engineering in 1994, Mr. Scanlan worked as a supervising hydrogeologist for Montgomery Watson in Boise, Idaho. He

managed and conducted investigations related to ground water development and ground water contamination at locations throughout the western United States.

U.S. Geological Survey—1984 to 1986

Mr. Scanlan was employed by the U.S. Geological Survey as a field assistant in the geologic division prior to joining Montgomery Watson in 1986. Responsibilities included geologic mapping, landslide hazard evaluation, and mineral potential studies. Mr. Scanlan worked on the Challis and Hailey 2° Quadrangle CUSMAP programs.

Relevant Water Supply Project Experience

- Ground water development projects at more than 100 sites in Idaho for public and private water utilities, subdivisions, schools, and industries, including production well and pump design, aquifer pumping tests, exploration drilling programs, and ground water development studies.
- Design, construction monitoring, and testing of four 1,000- to 1,200-foot, high-capacity, industrial water supply wells and pump systems for Micron Technology in Boise, Idaho.
- Lead consultant to Micron Technology for the Boise River water supply and aquifer recharge project. Mr. Scanlan provided consulting services involving water rights, a nominal 25,000-gpm pump station, 3 miles of 24-inch and 30-inch pipeline, an ultra-filtration membrane water treatment system, and a nominal 4-MGD injection well for recharge purposes.
- Irrigation well and pump system design, surface water pump system design, construction monitoring, and well testing at municipal parks in Boise, Idaho. These projects included work on approximately 80 well and pump systems, including design and construction of more than 20 well or surface water pumping systems.
- Design, permitting, and construction inspection of well pump systems and well houses for Capitol Water Corporation in Boise, Idaho. Mr. Scanlan also provided consulting services related to ASR and water rights.
- Design, construction, and testing of salt water production wells for large-scale aquarium projects in Guam and Taiwan.
- Evaluation of ground water potential for snowmaking supplies at Sun Valley and Bogus Basin ski areas and design and testing of the water supply well for the snowmaking system at Sun Valley.
- Evaluation and testing of infiltration galleries and Ranney Collectors at Sequim, Washington (horizontal gallery, Dungeness River), Irrigon, Oregon (four Ranney Collectors, Columbia River), and Boise, Idaho (three Ranney Collectors, Boise River).
- Ground water development studies, well construction, and aquifer testing for fish hatchery projects in the Columbia, Umatilla,

Walla Walla, Imnaha, and Grand Ronde river basins of Oregon for the Bonneville Power Administration. These projects included test well drilling and aquifer tests at ten locations, with well construction in alluvial and basalt aquifers.

- Production well design and testing at the Upper Pahsimeroi Fish Hatchery for Idaho Power Company.
- Design of the domestic supply, mine-pit dewatering, and industrial supply wells for the Beartrack mining project at Leesburg, Idaho.
- Resident geologist during drilling and completion of a 3,015-foot water supply well at Wright, Wyoming.
- Water master plan for the 3600-acre City of Boise Twentymile South Farm. The master plan included reconfiguration of water rights, development of additional irrigated lands, design of two large-capacity irrigation wells, and design of a 500-hp variable deep well turbine pump system.

Relevant Water Rights Experience

- Preparation of hundreds of water right applications (transfers, amendments, permits, claims) for public and private clients in Idaho. Since 2004, Mr. Scanlan and SPF staff have been involved in more than 150 projects involving water rights for more than 100 different clients.
- Evaluation of surface water and ground water interactions, well interference, irrigation development, and consumptive water use related to water right transfers in the Boise Valley, Wood River Valley, Mud Lake, Magic Valley, Big Lost River, and Little Lost River areas of Idaho.
- Evaluation and measurement of flow from springs involved in water right disputes along the Snake River near Twin Falls, Idaho.
- Investigations related to Snake River Basin Adjudication claims, including calculation of irrigation requirements and seepage losses, measurement of irrigation diversion rates, and determination of historically irrigated areas.
- Expert witness testimony regarding water use, well interference, and the interaction of surface water and ground water for numerous clients in southern and central Idaho.
- Evaluation of irrigation diversions, natural flow, return flow, and storage accounting on the Payette River system for the Payette Water Users Association.
- Evaluation of Federal and Tribal in-stream flow and spring claims in the Snake and Salmon River Basins.
- Preparation of mitigation plans to allow ground water diversions for irrigation and industrial use in moratorium areas or ground water management areas in the Boise and Snake River Basins.

Relevant Geothermal Resource Development Experience

- Construction monitoring for drilling and hydraulic fracturing of a 2,300-foot geothermal injection well for the Veterans Administration Medical Center in Boise, Idaho.
- Project manager for detailed study of the Boise Front Geothermal Aquifer for the city of Boise and Boise Warm Springs Water District. The study included computer modeling of hydraulic and thermal impacts of increased geothermal fluid production and spent fluid injection. Mr. Scanlan served as project manager for design, construction, and testing of a 3,200-foot geothermal injection well for the city.
- Aquifer testing and high-capacity variable-speed pump system design for deep geothermal space-heating wells at the College of Southern Idaho.
- Geothermal aquifer investigations, well testing, production well and pump design, and water level monitoring for J.R. Simplot Company at aquaculture facilities in Caldwell and Grand View, Idaho.

Professional Affiliations

Idaho Association of Professional Geologists

National Ground Water Association

Idaho Ground Water Association

Education

M.S., Civil and Environmental Engineering

Utah State University

B.S., Biology

Boise State University

Professional Certification

Engineer-in-Training

Utah, 2002

Training

AutoCAD Level 1 Training

PacifiCAD, Inc., 2004

OSHA 40-Hour

2004

OSHA 8-Hour Refresher

2005

Relevant Experience

- Water rights investigation and interpretation
- Water rights amendments and transfers
- Application of geographic information systems (GIS)
- Water supply assessments
- Well site evaluations
- Well completion reports
- Monitoring of water quality, ground water levels, and streamflows
- Oversight of pump and well testing

Experience Summary

Mr. Thompson is a Water Resources/Environmental Engineer with over 6 years of educational and professional experience relating to water resource engineering. Currently, Mr. Thompson is employed as an associate engineer (EIT) for SPF Water Engineering, LLC. His duties include investigating water rights, assisting in water supply assessments, preparing reports related to well engineering and construction, and various field work. Mr. Thompson is also a trained geographic information system (GIS) and CAD technician. Prior to working at SPF Water Engineering, Mr. Thompson worked as a consulting engineer specializing in NEPA studies related to water resources, water rights evaluations, surface hydrologic modeling, storm water detention pond design, mine tailings repository design, and natural channel design. He also has two years of experience performing field studies related to aquatic and riparian habitat assessment, botanical surveys, stream classification, hydrology, and surveying. His educational background is in environmental engineering with an emphasis in water/wastewater treatment, surface water quality, and natural systems engineering. He has also taken classes in groundwater, hydrology, hydrologic/hydraulic modeling, and watershed restoration. His undergraduate education focused on biology, with an emphasis in botany and microbiology.

SPF Water Engineering, LLC—Oct 2005 to present

Mr. Thompson is currently an associate engineer (EIT) for SPF Water Engineering, LLC. His duties include investigating existing water rights, facilitating water rights transfers, assisting in water supply assessments for proposed water systems, and preparing well site evaluations and well completion reports. Mr. Thompson also performs field work, including ground water quality sampling, ground water level monitoring, surface flow measurements, and the oversight of pump and well testing. Mr. Thompson also applies GIS technology to produce maps for various projects.

Science Applications International Corporation – Feb 2004 to Oct 2005

At SAIC, Mr. Thompson wrote the water resources section in a NEPA study for a large highway project in Washington. He also performed several water rights evaluations for the state of Washington, identifying source waters for proposed ground water withdrawals. Mr. Thompson also conducted surface hydrologic modeling for several projects, including the design of two storm water detention ponds. As part of two large mine tailings removal projects, Mr. Thompson assisted in the design of on-site mine tailings repositories and a natural channel restoration design. As part of a water quality and storm water assessment at an abandoned industrial site, Mr. Thompson was responsible for assimilating and analyzing collected chemical sampling data. The data was incorporated into an

Access database for data retrieval and analysis, and a GIS framework was developed to visually display sampling locations and selected attributes.

Utah State University, Graduate Researcher – Jan 2002 to June 2002

As a graduate student working on his Master's thesis, Mr. Thompson developed an aquatic and riparian habitat assessment methodology for identifying degraded sections of the Santa Clara River in southwest Utah. The field work component of this project required identification and evaluation of mesohabitat types, the riparian community, instream cover components, channel bed substrate, and bank stability. Data analysis involved the development of a streamflow impairment procedure relating measured existing flow conditions with a theoretical flow representative of natural flow conditions as well as a methodology for assessing the potential deleterious effects of water temperature on the native fish community. This habitat assessment also required spatial analyses of different land use classifications within the Santa Clara River floodplain using GIS as well as aerial photograph interpretation.

Utah State University, Field Crew Member – July 2000 to Nov 2000

Mr. Thompson worked as a field crew member performing hydrologic, bathymetric, and water quality studies on the Nooksack River in northwest Washington. This field work involved establishing and downloading thermographs for water temperature monitoring, measuring discharge, operating a motorized inflatable boat and associated sonar equipment, taking water quality measurements using field kits, collecting invertebrate samples using different accepted techniques, and performing surveys using both a Total Station and survey-grade GPS equipment. Experience was also obtained on salmonid identification and habitat evaluation.

USDA Agricultural Research Service – May 1998 to Aug 1998

Mr. Thompson conducted a comprehensive literature review regarding riparian and stream restoration techniques for incorporation into a BLM Riparian Knowledgebase to assist land managers in performing applicable restoration efforts. He obtained a comprehensive knowledge of existing restoration techniques, including determination of appropriate methods taking into account site-specific characteristics and effective monitoring procedures.

USDA Bureau of Land Management – May to Aug 1996, 1997

As a student intern for the Bureau of Land Management, Mr. Thompson conducted rare plant surveys in the Owyhee Desert of southwest Idaho. This work required plant identification, four-wheel drive vehicle operation, and a familiarity with the use of topographic maps. This internship also involved the classification of natural stream types using the Rosgen Classification utilizing the appropriate field techniques. This internship also provided Mr. Thompson with the opportunity to evaluate the functioning condition of riparian areas, taking into account vegetation structure, bank stability, and disturbance.

Curriculum Vita

Robert D. Schmidt

Education

B.S. Mathematics 1970, University of Minnesota

M.S. Geoengineering/Hydrology 1985, University of Minnesota

Work History

2007 Consulting Groundwater Hydrologist, Boise Idaho.

Develop a groundwater hydrologic model to estimate seepage rates from the proposed Black Rock reservoir near Hanford Washington, and potential impacts on the nearby nuclear reservation. Participate in a collaborative study with University of Idaho economists to develop coupled hydrologic and economic models for the Boise Valley. Use the models to quantify the value of hydrologic/economic externalities associated with canal seepage, drain returns and groundwater pumping in the Boise Project.

2000-2006 Hydrologist, Bureau of Reclamation, PN Regional Office.

Conduct a broad range of groundwater hydrologic investigations in Idaho and Oregon, mostly involving development and application of groundwater models. Develop a GIS water budget data base for the Lower Boise Valley. Project the impact of future Domestic, Commercial, Municipal and Industrial water use in the basin on groundwater resources. Develop analytic element groundwater models of the Boise Project, for use in evaluating hydrologic impacts of new groundwater withdrawals on Reclamation canals and reservoirs. Provide expert testimony with regard to hydrologic impacts of new groundwater withdrawals on Boise Project canals and drains.

Participate in informational exchanges with other state, federal, tribal, and university hydrologists regarding groundwater model development and application in Idaho and Oregon. Develop models of groundwater and stream interactions in the Bandon Cranberry Water Control District, for the Oregon Water Resource Dept. Develop flow and contaminant transport models for gasoline spill remediation in Payette Idaho and Garden Valley Idaho, for USEPA. Coordinate development and application of groundwater and river system models of the Umatilla basin in Eastern Oregon, to determine flow mitigation requirements for irrigation districts. Direct Reclamation activities related to monitor well construction and hydrologic data acquisition in the Eastern Snake Plain. Member of technical advisory committee for the University of Idaho, Eastern Snake Plain groundwater model enhancement project.

1998-2000 Hydrologist/Team Leader Managed Aquifer Recharge Program, Bureau of Reclamation and Idaho Dept of Water Resources.

Direct hydrologic investigations of managed aquifer recharge in the Eastern Snake Plain, in conjunction with the Idaho Department of Water Resources and the University of Idaho. Use hydrologic models to identify potential managed recharge sites and determine impacts on groundwater level and spring discharge.

Evaluate impacts of managed aquifer recharge on Salmon flow augmentation, hydropower rights, rental pool water availability, winter water savings, instream habitat for fish and wildlife. Work with IDEQ and IDWR to establish groundwater monitoring requirements for pilot recharge projects.

1997-1998 Consulting Groundwater Hydrologist.

Develop groundwater hydrologic models for mine closure planning. (sub contractor to DB Stephens and Assoc.)

1995-1997 Hydrologist, Bureau of Reclamation, Denver Technical Support Center.

Perform hydrologic investigations in support of experimental in-situ copper leaching test at the Mineral Park mine in northern Arizona. Conduct pumping tests and develop analytical and numerical groundwater models.

1992-1995 Supervisor, Hydrologic Applications Group, Twin Cities Minnesota Research Center, Bureau of Mines.

Directed multi-disciplinary group of scientists, engineers, and technicians in hydrologic studies related to mining and water resources.

1975- 1992 Hydrologist, Twin Cities Minnesota Research Center, Bureau of Mines.

Develop analytical and numerical models of groundwater flow and contaminant transport in connection with coal and hard rock mining activities. Develop new coal mine dewatering methods. Conduct aquifer tests and develop hydrologic data acquisition systems for aquifer testing. Prepare and publish investigative reports.

Selected Reports and Publications (1990- present)

Schmidt RD, J. Johnson, K. Didricksen, Modeling Groundwater Hydrologic Impacts of the Potential Black Rock Reservoir, USBR Technical Series TS-YSS-19, September 2007, 88 pp.

Schmidt RD, D. Dyke, Z. Cook, A Distributed Parameter Water Budget Data Base for Lower Boise Valley, A collaborative USBR/IDWR report , January 2007, 110pp.

Schmidt RD, Hydrologic Analysis of the Payette Gasoline Spill (USBR report for USEPA) August 2002, 32 pp.

Schmidt RD, Modeling Groundwater and Stream Interactions I the Bandon Cranberry Water Control District Bandon, Oregon, (USBR report for OWRD) July 2002, 74 pp.

Schmidt RD, and K Tarbet, Sand Hollow Groundwater Hydrologic Modeling Investigations, USBR report, March, 2002, 29 pp.

Idaho Dept of Water Resources Investigative Report, Feasibility of Large-Scale Managed Recharge of the Eastern Snake Plain Aquifer System, (coauthored with Paul Castelin, Jeffery Lefkoff, and Rex Harding), December, 1999, 233 pp.

Schmidt RD and D. Earley, New Facilities Investigations: Hydrologic Impact of In Situ Leaching at Cyprus Mineral Park Mine, Aquifer Protection Permit Application submitted to Arizona Dept. of Environmental Quality, July 1 1995.

Schmidt RD, Salovich M.J, Sodhi P, and J. Oswald, Reference Guide and User Manual for MFLOW, an Analytic Element Hydrology Model , USBM Open File Reprort , 1995.

Schmidt RD, Dahl L., Kim K., Paillet, F. and D. Earley, Hydrologic Characterization of a Chalcocite Copper Ore Deposit for In Situ Leach Mining, SME/AIME Annual Meeting, Denver, Co. preprint 95-252, March 6-9, 1995, 21 pp. (accepted by International Journal of Surface Mining, Reclamation, and Environment for publication in 1996)

Earley D., Schmidt RD, Y.C. Kim , Mitigation of Acid Rock Drainage through Application of In Situ Mining Technology to Fracture Hosted, Supergene Copper Sulfide Ore Deposits, Engineering Foundations Conf. on Technical Solutions for Pollution Prevention in the Mining and Mineral Processing Industries, Palm Coast Fl, Jan. 22-27, 1995.

Schmidt, RD, Earley D., and M. Friedel, Dynamic Influences on Hydraulic Conductivity during In Situ Copper Leaching, in In situ Recovery of Minerals II Proceedings of Engineering Foundations Conf. on in situ recovery of minerals, ed. S Swan and K. Coyne p 259-287, 1994.

Friedel M. , Schmidt RD, Jones P., and Y.C Kim, Geostatistical Analysis of Dynamic Transmissivity Conditions during In situ Copper Leaching, Proceedings: APCOM 92, 23rd International Symposium Computer Applications in the Mineral Industries, Tucson Az., April 7-11, 1992, pp 49-59.

Schmidt RD, Factors Affecting Residential Water Well Yield in Vicinity of Underground Coal Mines, Proceedings; 3rd Workshop on Surface Subsidence Due to Underground Mining, Morgantown W. Va., June 1-4, 1992, p 244-252.

Schmidt, RD and M. Friedel, Application of Computers in the Analysis of In Situ Leach Mining Hydrology, Proceedings: Indo-American Seminar on Computers in the Mineral Industry - Current State of the Art and Emerging Needs, Dhanbad, India, Nov 10-13, 1991, 21 pp..

Friedel M. and RD Schmidt, Effect of an Unsaturated Setting on the Hydrology of In Situ Copper Leaching Proceedings of SME annual meeting Denver Colo. 91-192 Feb. 25-28, 1991, 12 pp

Kim Y.C., Zhao, Y., Schmidt, RD and K. Behnke, Determination of dynamic permeability changes during In situ Leaching at Cyprus Casa Grande Operation ,Proceedings of SME annual meeting Denver Colo. Feb. 25-28, 91-144,1991,m 16 pp.

Schmidt RD, Behnke, K., and M.. Friedel, Hydrologic Considerations of Underground In Situ Copper Leaching, Proceedings of SME annual meeting, Feb 26-Mar 1, 1990, 12 pp.

Level, E., Murphy, B., Schmidt, RD and M. Salovich, A Hydrologic Data Acquisition System for In Situ Leaching, Proceedings of GEOTECH 90 Oct. 7-9, Dallas, Tx. 1990, 21 pp.

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

2007 SEP 13 PM 4 43

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

In Re SRBA	) Subcases 63-17246A and 63-17246B
	)
Case No. 39576	) TRIAL SCHEDULING ORDER
	)
_____	) ORDER OF JOINT TRIAL

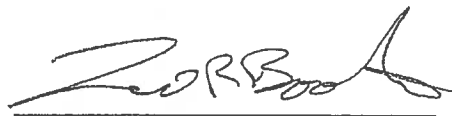
A Scheduling Conference was held on September 11, 2007. Pursuant to I.R.C.P. 42(a), and because there is a common question of fact regarding the origin of water in Five Mile Creek -- which is the source of water for both of the above-captioned water rights -- it is **ordered** that the trials in subcases 63-17246A and 63-17246B shall be held jointly. The following dates shall govern the conduct of these subcases through trial:

October 31, 2007	5:00 PM	Disclosure of Witnesses. Disclosure of all witnesses, except impeachment witnesses, shall be completed by this deadline. All non-disclosed witnesses, except impeachment witnesses, shall be excluded from testifying in the trial unless permitted by the Special Master in the interests of justice. I.R.C.P. 16(e)(6)(J).
December 14, 2007	5:00 PM	Discovery Served and Responses Completed. Deadline for completion of all discovery, meaning that all discovery is served and response is complete, including the taking of depositions of lay and expert witnesses, all interrogatories, request for production / inspections and admissions. Motions to compel should be filed accordingly so as to accommodate this deadline.
January 8, 2008	5:00 PM	Hearing on Motion for Summary Judgment. Motions for summary judgment shall be filed, notice for hearing, and actually heard by this deadline. The filing and service of the motion, affidavits, and briefing shall be conducted in compliance with I.R.C.P. 56(c).

February 5, 2008 9:00 AM Final Pre-Trial Conference. Pursuant to I.R.C.P. 16, a final pre-trial conference will be held at the Snake River Basin Adjudication Courthouse, 253 3rd Avenue North, Twin Falls, Idaho. Parties may participate by telephone by dialing 225-383-1099 and when prompted entering the code 675342.

February 21, 2008 1:30 PM Trial. The trial be held at the Idaho Supreme Court Building, 451 West State Street, Boise, Idaho, in the lower-level conference room.

Dated September 19, 2007

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

THEODORE R. BOOTH
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the TRIAL SCHEDULING ORDER was mailed on September 19, 2007, with sufficient first-class postage to the following:

NEW YORK IRRIGATION DISTRICT

Represented by:
CHARLES F MC DEVITT
420 W BANNOCK ST
PO BOX 2564
BOISE, ID 83701
Phone: 208-343-7500

NEW YORK IRRIGATION DISTRICT

Represented by:
KENDAL A. MC DEVITT
405 S 8TH ST, STE 202
BOISE, ID 83702
Phone: 208-246-8650

USDI BUREAU OF RECLAMATION

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

DIRECTOR OF IDWR

PO BOX 83720
BOISE, ID 83720-0098

BRIGHTON CORP

12601 W EXPLORER DR, STE 200
BOISE, ID 83713
Phone: 208-378-4000

MARILYN A & STEPHEN J GRACE

MARILYN A GRACE
STEPHEN J GRACE
8440 W VICTORY RD
BOISE, ID 83709
Phone: 208-362-6726

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JUL 6 2007

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
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2007 JUL 5 PM 1 57

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

In Re SRBA

Subcases 63-17246B

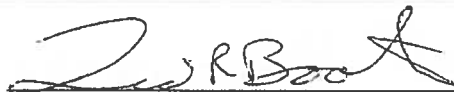
Case No. 39576

ORDER SETTING HEARING ON
MOTION TO WITHDRAW AS ATTORNEY
OF RECORD

On July 5, 2007, Michael P. Lawrence, of the law firm Givens Pursley LLP, filed a Rule 11(b)(2) *Motion to Withdraw as Attorney of Record* for Marilyn A. and Stephen J. Grace in subcase 63-17246B.

IT IS ORDERED THAT hearing on the *Motion to Withdraw as Attorney of Record* in subcase 63-17246B is set for **Tuesday, July 24, 2007, at 2:00pm**, at the Snake River Basin Adjudication Courthouse, 253 – 3rd Avenue North, Twin Falls, Idaho. Parties may participate by telephone by dialing the number 1-918-583-3445 and when prompted entering code 406128. If you have any difficulty connecting to this call, call the SRBA Court immediately at 208-736-3011.

DATED July 5, 2007.



THEODORE R BOOTH
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the NOTICE SETTING HEARING ON MOTION TO WITHDRAW AS ATTORNEY OF RECORD was mailed on July 05, 2007, with sufficient first-class postage to the following:

NEW YORK IRRIGATION DISTRICT

Represented by:
CHARLES F MC DEVITT
420 W BANNOCK ST
PO BOX 2564
BOISE, ID 83701
Phone: 208-343-7500

NEW YORK IRRIGATION DISTRICT

Represented by:
KENDAL A. MC DEVITT
405 S 8TH ST, STE 202
BOISE, ID 83702
Phone: 208-246-8650

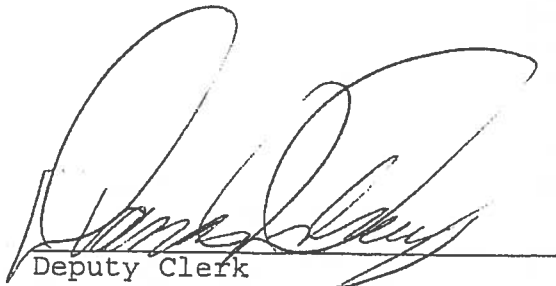
MARILYN A & STEPHEN J GRACE
MARILYN A GRACE
STEPHEN J GRACE

Represented by:
MICHAEL P LAWRENCE
PO BOX 2720
BOISE, ID 83701
Phone: 208-388-1200

USDI BUREAU OF RECLAMATION

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

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



Michael P. Lawrence [ISB No. 7288]
GIVENS PURSLEY LLP
601 West Bannock Street
P.O. Box 2720
Boise, Idaho 83701-2720
Office: (208) 388-1200
Fax: (208) 388-1300
www.givenspursley.com

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JUL 03 2007

DEPARTMENT OF
WATER RESOURCES

Attorney for Marilyn A. Grace & Stephen J. Grace

**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

Sub Case No.: 63-17246B

**MOTION TO WITHDRAW AS
ATTORNEY OF RECORD**

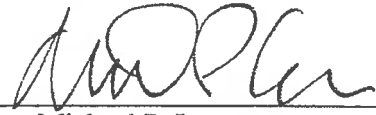
Michael P. Lawrence, of the firm Givens Pursley LLP, attorney of record for claimants Marilyn A. Grace and Stephen J. Grace ("the Graces"), hereby files this motion to withdraw as attorney of record for the Graces in the above-captioned matter pursuant to Idaho Rule of Civil Procedure 11(b)(2). The basis for this motion is that on June 28, 2007, Mr. Grace terminated this firm's representation of the Graces in this matter in order to avoid accruing further legal fees. Accordingly, this Court should grant this motion.

I am providing notice today to the Graces by this motion that I am requesting to withdraw as attorney of record.

I request the Court provide a telephonic hearing date for this motion.

Respectfully submitted this 2nd day of July, 2007.

GIVENS PURSLEY LLP

By 
Michael P. Lawrence

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd of July, 2007, the foregoing was filed, served, or copied as follows:

ORIGINAL FILED

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

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

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

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420 W. Bannock Street
P.O. Box 2564
Boise, ID 83701

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New York Irrigation District
Kendal A. McDevitt
405 S. Eighth Street, Suite 202
Boise, ID 83702

☒ U. S. Mail
☐ Hand Delivered
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☐ E-mail

Stephen J. Grace & Marilyn A. Grace
8440 W. Victory Road
Boise, ID 83709

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ E-mail



Michael P. Lawrence
GIVENS PURSLEY LLP

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
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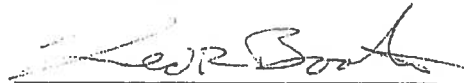
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	) Subcase 63-17246B
	)
Case No. 39576	) ORDER GRANTING MOTION TO
	) WITHDRAW AS ATTORNEYS OF
	) RECORD
	)

This matter came before this Special Master upon a *Motion to Withdraw as Attorneys of Record* filed by attorney Michael P. Lawrence of Givens Pursley LLP., on July 5, 2007. A hearing on the matter was held on July 24, 2007. Based upon the contents of the *Motion* and the comments of counsel at the hearing, and good cause appearing, the *Motion* is hereby **granted**.

Pursuant to Idaho Rule of Civil Procedure 11(b)(3), the Claimants of this water right, Marilyn Grace and Stephen Grace, shall either appoint another attorney or file a written notice with the Court stating how they will proceed without an attorney, within 20 day from the date of service or mailing of this **Order**. If the Claimants fail to file and serve an additional written appearance in this action either in person or through a newly appointed attorney within such 20 day period, such failure shall be sufficient ground for entry of default and default judgment against the Claimants or dismissal of the action, with prejudice, without further notice. The withdrawing attorneys shall serve copies of this order upon the Claimants and shall file proof of service with the Court in accordance with I.R.C.P. 11(b)(3).

Dated July 25, 2007



THEODORE R. BOOTH
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO WITHDRAW AS ATTORNEY OF RECORD was mailed on July 26, 2007, with sufficient first-class postage to the following:

NEW YORK IRRIGATION DISTRICT

Represented by:
CHARLES F MC DEVITT
420 W BANNOCK ST
PO BOX 2564
BOISE, ID 83701
Phone: 208-343-7500

NEW YORK IRRIGATION DISTRICT

Represented by:
KENDAL A. MC DEVITT
405 S 8TH ST, STE 202
BOISE, ID 83702
Phone: 208-246-8650

MARILYN A & STEPHEN J GRACE

Represented by:
MICHAEL P LAWRENCE
PO BOX 2720
BOISE, ID 83701
Phone: 208-388-1200

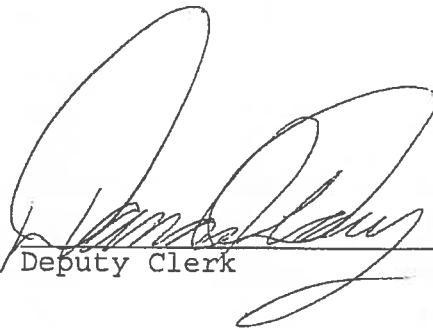
USDI BUREAU OF RECLAMATION

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

DIRECTOR OF IDWR

PO BOX 83720
BOISE, ID 83720-0098

MARILYN A GRACE
STEPHEN J GRACE
8440 W VICTORY RD
BOISE, ID 83709
Phone: 208-362-6726



1307

GIVENS PURSLEY LLP

LAW OFFICES
601 W. Bannock Street
PO Box 2720, Boise, Idaho 83701
TELEPHONE: 208 388-1200
FACSIMILE: 208 388-1300
WEBSITE: www.givenspursley.com

MICHAEL P. LAWRENCE
DIRECT DIAL: 208 388-1294
EMAIL: MichaelLawrence@givenspursley.com

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JAN 15 2007
DEPARTMENT OF
WATER RESOURCES

Gary G. Allen
Kristen A. Atwood
Kelly T. Barbour
Peter G. Barton
Christopher J. Beeson
William C. Cole
Michael C. Creamer
Thomas E. Dvorak
Roy Lewis Eiguren
Jeffrey C. Fereday
Martin C. Hendrickson
Steven J. Hippler
Deborah K. Kristensen
Anne C. Kunkel

Jeremy G. Ladle
Michael P. Lawrence
Franklin G. Lee
David R. Lombardi
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Kelly Greene McConnell
Cynthia A. Mellillo
Christopher H. Meyer
L. Edward Miller
Patrick J. Miller
Judson B. Montgomery
Angela K. Nelson
Deborah E. Nelson

W. Hugh O'Riordan, LL.M.
Angela M. Reed
H. Barton Thomas, LL.M.
Scott A. Tschirgi, LL.M.
J. Will Varin
Conley E. Ward
Robert B. White
Terri R. Yost

RETIRED
Kenneth L. Pursley
Raymond D. Givens
James A. McClure

December 29, 2006

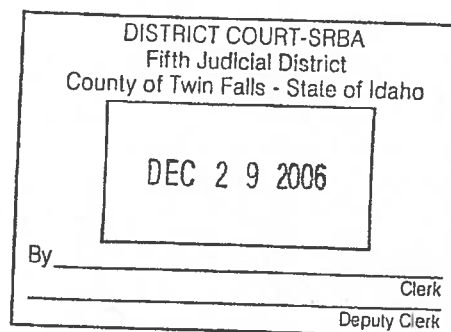
* Licensed in New York
and Washington DC

Via Facsimile and U.S. Mail

Theodore R. Booth
Special Master
Snake River Basin Adjudication
District Court for the Fifth Judicial District
253 3rd Ave. N., P.O. Box 2707
Twin Falls, ID 83303-2707

Re: SRBA Subcase No. 63-17246B

Dear Special Master Booth:



At the initial hearing before the SRBA Court in the above-referenced subcase, the parties agreed to allow the claimant additional time to amend the water right claim, and the Court set a December 29, 2006, deadline for filing an amended claim.

The claimant has decided not to amend the water right claim at this time. The claimant intends to proceed on the original water right claim as recommended by the Department of Water Resources. By declining to amend the claim at this time, however, the claimant does not intend to waive any right to move the Court to amend the claim in the future.

It is the claimants' intent that a status conference on this matter remains scheduled for April 10, 2007, at 10:15 a.m.

Please contact me with any questions.

Sincerely,

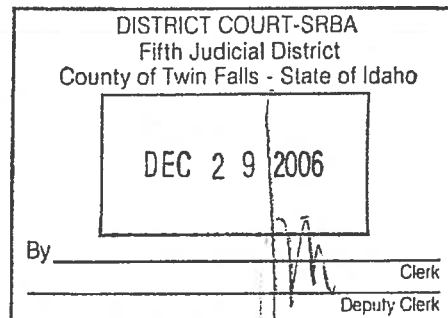
Michael P. Lawrence

cc: Stephen and Marilyn Grace
Charles McDevitt, New York Irrigation District
USDI Bureau of Reclamation
Nicholas Spencer, IDWR

MPL/la S:\CLIENTS\8959\1\MPL to SRBA re Amended Claims.DOC

Michael P. Lawrence [ISB 7288]
GIVENS PURSLEY LLP
601 West Bannock Street
P.O. Box 2720
Boise, Idaho 83701-2720
Office: (208) 388-1200
Fax: (208) 388-1300
www.givenspursley.com

Attorney for Claimants,
Marilyn A. Grace and Stephen J. Grace



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

In Re SRBA
Case No. 39576

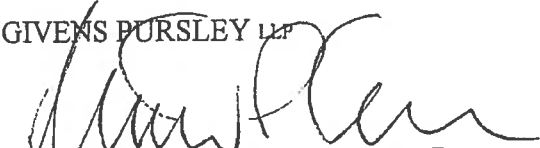
) Subcase No. 63-17246B
)
) NOTICE OF APPEARANCE
)

YOU WILL PLEASE take notice that Michael P. Lawrence of the firm Givens Pursley LLP, hereby enters his appearance as said attorney of record for Claimants, Marilyn A. Grace and Stephen J. Grace in the above entitled action.

DATED this 29th day of December, 2006.

Respectfully submitted,

GIVENS PURSLEY LLP


Michael P. Lawrence

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st of December, 2006, the foregoing was filed, served, or copied as follows:

ORIGINAL FILED

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

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

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

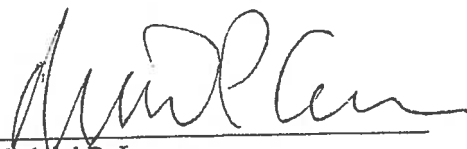
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New York Irrigation District
Charles F. McDevitt
420 W. Bannock Street
P.O. Box 2564
Boise, ID 83701

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ E-mail

Michael P. Tribe
Ling, Robinson & Walker
P.O. Box 396
Rupert, ID 83350

☒ U. S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ E-mail



Michael P. Lawrence
GIVENS PURSLEY LLP

1309

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2006 DEC 4 PM 2 33

Michael P. Tribe
LING, ROBINSON & WALKER
Attorneys at Law
615 H Street
P. O. Box 396
Rupert, Idaho 83350
Telephone (208) 436-4717
Facsimile (208) 436-6804
ISB No. 6816

Attorneys for Respondents,
Marilyn A. Grace and Stephen J. Grace

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. 63-17246B
	)	
Case No. 39576	)	MOTION FOR WITHDRAWAL
	)	<u>AS ATTORNEY OF RECORD</u>

COMES NOW Michael P. Tribe of the firm Ling, Robinson & Walker, Rupert, Idaho, attorneys at law, and moves the Court for leave to withdraw as attorneys of record for respondents Marilyn A. Grace and Stephen J. Grace in this matter, and in support thereof states:

The firm of Ling, Robinson & Walker originally represented the respondents by filing on their behalf a Standard Form 2 Response to Objection dated June 22, 2006. On September 22, 2006, movant received a *Notice Setting Subcase for Initial Hearing* for Tuesday, December 5, 2006 at the Idaho Supreme Court Building in Boise, Idaho. This firm has a three-day trial beginning December 4, 2006 in Twin Falls, Idaho. Such notice of trial setting precedes the September 22, 2006 *Notice Setting Subcase for Initial Hearing* for the above-referenced subcase number, not allowing your movant to attend the December 5, 2006 initial hearing. By

LING, ROBINSON & WALKER
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

1
2
3 letter dated September 22, 2006, movant advised respondents Grace of the conflict and that it
4 would be necessary for them to obtain another attorney in the place and stead of Michael P.
5 Tribe, movant herein. A copy of said letter is attached hereto as Exhibit "A." This withdrawal of
6 counsel, therefore, is merely procedural to remove the firm of Ling, Robinson & Walker from the
7 court's certificates of service in Subcase No. 63-17246B.

8 WHEREFORE, your movant prays that an Order be entered by the Court allowing
9 the firm of Ling, Robinson & Walker to withdraw as attorneys of record for the respondents
10 Stephen J. Grace and Marilyn A. Grace.

11 Respectfully submitted this 1st day of December, 2006.

12 LING, ROBINSON & WALKER

13
14 By: 
15 Michael P. Tribe

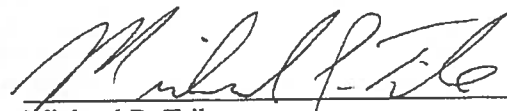
16 **CERTIFICATE OF SERVICE**

17 I hereby certify that I have this 1st day of December, 2006, served true and correct
18 copies of the foregoing *Motion for Withdrawal as Attorney of Record* by mailing said copies via
First Class, U.S. Mail, properly addressed with first-class postage prepaid, to:

19 Marilyn A. Grace and Stephen J. Grace
20 8440 W. Victory Road
Boise, Idaho 83709

21 New York Irrigation District
22 6616 Overland Road
23 Boise, Idaho 83709

24 Charles F. McDevitt
25 McDevitt & Miller, LLP
26 P. O. Box 2564
Boise, Idaho 83701

27 
Michael P. Tribe

BRENT T. ROBINSON
JASON D. WALKER

KELLY ARTHUR ANTHON
MICHAEL P. TRIBE

ROGER D. LING, OF COUNSEL

LING, ROBINSON & WALKER

ATTORNEYS AT LAW
615 "H" STREET
P. O. BOX 396
RUPERT, IDAHO 83350-0396

AREA CODE 208
TELEPHONE 436-4717
FAX 436-6804

September 22, 2006

Mr. Stephen J. Grace
8440 W. Victory Road
Boise, Idaho 83709

RE: Subcase No. 63-17246B

Dear Stephen:

I received the Notice Setting Subcase for Initial Hearing on Tuesday, December 5th at the Idaho Supreme Court Building in Boise. I have some concerns concerning that date. Both myself and Roger Ling, the other attorney in this office who practices in the water law arena, are involved in a three-day trial in Twin Falls on December 4-6, 2006. At the initial hearings, a resolution of the case is not normally found; however, it is an important stage in the lawsuit. Because I will be unable to attend, I think it might be best if we obtained for you, or you yourself retained, local counsel in Boise at this time. I suggest this, not based upon the merits of your case, but because there is no one else in our office who will be able to attend the initial hearing who practice in that area, and I know that Barker, Rosholt and Simpson can't be a part of it as they have conflicts in your case.

There are several other good, natural resource firms and attorneys in the Boise area. I would recommend two at Givens Pursley—there is actually a whole group of attorneys who practice water law there. The two that I am familiar with are John Marshall and Christopher Meyer. Their phone number is (208) 388-1200. Also, a law firm by the name of Ringert Clark has a group of natural resources attorneys who focus on water law. Specifically, I am familiar with Charlie Honsinger, but I also understand that Laura Burri is an excellent attorney. That number is (208) 342-4591. Since the hearing is not until December 5th, you should have plenty of time to retain a new attorney and get them up to speed on the matter. I hesitate to even write this letter, but I think it would be in your best interest to retain counsel in the Boise area. I appreciate getting to know you. I appreciate the gift you brought to me and wear it proudly. Feel free to give me a call when you receive this letter. I just don't see any way it can be worked out for you to be represented as well as you need to be. If you do retain new counsel, we will provide the new attorney with all the information we have to help your case.

Sincerely

/S/ MICHAEL P. TRIBE

Michael P. Tribe

MPT:jb

EXHIBIT "A"

2006 AUG 16 AM 9:07

DISTRICT COURT SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA	) Subcase 63-17246B
	)
Case No. 39576	) ORDER GRANTING MOTION TO
	) AMEND STANDARD FORM 1
	) OBJECTION

On May 15, 2006, the New York Irrigation District, by and through their attorneys of record McDevitt & Miller, LLP, filed a *Motion to Amend Standard Form 1 Objection*, together with a proposed *Amended Standard Form 1 Objection*. Pursuant to Idaho Rule of Civil Procedure 15(a), and good cause appearing, the *Motion* is hereby **granted**.

The Clerk of the Court is instructed to file the *Amended Objection*, which shall replace the objection previously filed on April 21, 2006.

Dated August 14, 2006



THEODORE R. BOOTH
Special Master
Snake River Basin Adjudication

SCANNED
OCT 05 2006

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO AMEND STANDARD FORM 1 OBJECTION was mailed on August 16, 2006, with sufficient first-class postage to the following:

NEW YORK IRRIGATION DISTRICT

Represented by:
CHARLES F MC DEVITT
420 W BANNOCK ST
PO BOX 2564
BOISE, ID 83701
Phone: 208-343-7500

MARILYN A & STEPHEN J GRACE

Represented by:
MICHAEL P TRIBE
MICHAEL P. TRIBE
615 H STREET
PO BOX 396
RUPERT, ID 83350-0396
Phone: 208-436-4717

USDI BUREAU OF RECLAMATION

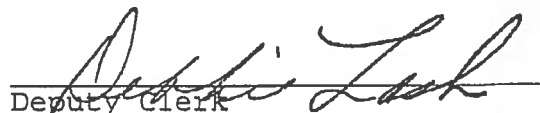
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

DIRECTOR OF IDWR

PO BOX 83720
BOISE, ID 83720-0098

MARILYN A GRACE

STEPHEN J GRACE
8440 W VICTORY RD
BOISE, ID 83709
Phone: 208-362-6726





RECEIVED

JUN 26 2006

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

Case No. 39576

A. Subcase No. 63-17246B

STANDARD FORM 2
RESPONSE TO OBJECTION

Please print or type the following information:

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: Marilyn A. Grace
Stephen J. Grace
Address: 8440 W. Victory Road
Boise, Idaho 83709
Daytime Phone: (208) 362-6726

Name & Address of Attorney, if any:
Attorney Name: Michael P. Tribe
Ling, Robinson & Walker
Address: P. O. Box 396
Rupert, Idaho 83350
Phone Number: (208) 436-4717

**C. NAME AND ADDRESS OF PERSON WHO FILED THE OBJECTION TO
WHICH YOU ARE RESPONDING**

Name: New York Irrigation District
Address: 6616 Overland Road
Boise, Idaho 83709

D. I am responding to the objections to the following elements. (Please check the appropriate box(es).)

1. ☐ Name and Address
2. ☒ Source
3. ☐ Quantity
4. ☐ Priority Date
5. ☐ Point(s) of Diversion
6. ☐ Instream Flow Description
7. ☐ Purpose(s) of Use
8. ☐ Period of Year
9. ☐ Place of Use
11. **Recommendation:**
 - ☐ This water right should not exist.
 - ☐ This water right was not recommended, but should be recommended with the elements described above.

E. **VERIFICATION** (Must be Completed)

State of Idaho)
) ss.
County of Minidoka)

Michael P. Tribe, duly sworn, upon oath, deposes and says:

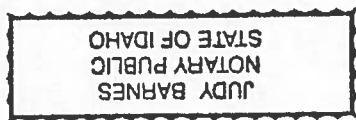
(Name of person filing response)

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

(Signature of person filing response)

Michael P. Tribe
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: June 22, 2006



Judy Barnes
Notary Public for the State of Idaho
Residing at: Rupert, Idaho
My Commission expires: 02/12/2011

INSTRUCTIONS FOR MAILING

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

F.

CERTIFICATE OF MAILING

I hereby certify that on June 22nd, 2006, I mailed the original and copies of this response, including all attachments, to the following persons:

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

Name Marilyn A. Grace and Stephen J. Grace
Address: 8440 W. Victory Road
Boise, Idaho 83709

3. One copy to the party who filed the objection at the following address:

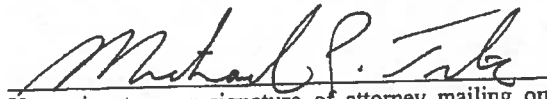
Name: New York Irrigation District
Address: 6616 Overland Road
Boise, Idaho 83709

4. Copies to:

IDWR Document Depository
P. O. Box 83720
Boise, Idaho 83720-0098

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

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


Your signature or signature of attorney mailing on
your behalf

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

A. Subcase 63-17246B

(Insert water right number
from the Objection Form)

STANDARD FORM 2
RESPONSE TO OBJECTION

Please print or type the following information:

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: E. Gail McGarry
United States of America acting through the Department of Interior,
Bureau of Reclamation, Regional Director, PN Code-3100
Address: 1150 N. Curtis Rd. Suite 100
Boise, ID 83706 -1234
Daytime Phone: (208) 378-5306

Name & Address of Attorney, if any:

David W. Gehlert (303) 844-1386 Trial Attorney,
Natural Resources Section
Environment and Natural Resource Division
U.S. Department of Justice
1961 Stout Street – 8th Floor
Denver, CO 80294

C. NAME AND ADDRESS OF PERSON WHO FILED THE OBJECTION TO
WHICH YOU ARE RESPONDING

Name: New York Irrigation District
C/O Chas F. McDevitt
McDevitt & Miller LLP
Address: 420 W. Bannock
P.O. Box 2564-83701
Boise, ID 83702

D. I am responding to the objections to the following elements. (Please check the appropriate box (es)).

1. ☐ Name and Address
2. ☒ Source
3. ☐ Quantity
4. ☐ Priority Date
5. ☐ Point(s) of Diversion
6. ☐ Instream Flow Description
7. ☐ Purpose(s) of Use
8. ☐ Period of Year
9. ☐ Place of Use
10. **Recommendation**
 - ☒ This water right should not exist.
 - ☐ This water right was not recommended, but should be recommended with the elements described above.

E. **VERIFICATION (Must be Completed)**

State of Idaho)
County of Ada) ss.
)

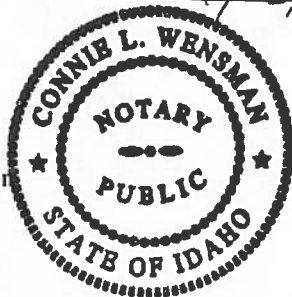
Jerrold D. Gregg, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

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

Jerrold D. Gregg
(Signature of person filing response)

Connie L. Wensman
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: 6/23/06



SF. 2 – Response to Objection
Amended 10/16/97

Notary Public for: Idaho
Residing at: Meridian
My Commission Expires: 10/06/10

INSTRUCTIONS FOR MAILING

You must mail the response, including all attachments, 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.

F. CERTIFICATE OF MAILING

I certify that on 6-23, 2006, I mailed the original and copies of this response, 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:

Current Owner:

Name: Marilyn & Stephen Grace
Address: 8440 W. Victory Road
Boise, ID 83713

3. One copy to the party who filed the objection at the following address:

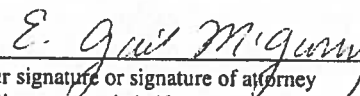
Name: Name: New York Irrigation District
C/O Chas F. McDevitt, McDevitt & Miller LLP
Address: P.O. Box 2564-83701, Boise, ID 83702

4. Copies to:

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

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

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


Your signature or signature of attorney
mailing on your behalf

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

NAME AND ADDRESS OF PERSON OBJECTING

Name & Address of Attorney, if any:
Chas F. McDevitt & Miller LLP
McDevitt & Miller LLP
420 W. Bannock
P.O. Box 2564-83701
Boise, ID 83702

CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Current Owner:

Name: Marilyn A. Grace
Stephen J. Grace
Address: 8440 W. Victory Road
Boise, ID 83713

Original Owner:

Name: Jessie Acorda
Address: 8440 W. Victory Rd.
Boise, ID 83709

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

1. ☐ **Name and Address**
Should be: _____
2. ☒ **Source**
Should be: The waste waters claimed belong to the Boise-Kuna Irrigation District.

Objection-1

3. ☐ **Quantity**
Should be: _____
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Point of Diversion**
Should be: _____
6. ☐ **Instream Flow Beginning and Ending Point**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: _____
10. ☐ **I object because:**
☒ This water right Should not exist.
☐ This water right was not recommended, but Should be recommended with
the elements described above.

REASONS SUPPORTING OBJECTIONS(S):

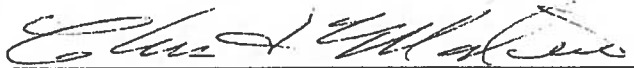
There has been no lawful appropriation of this right. The waste waters belong to the Boise-Kuna Irrigation District and are not available for private development and appropriation. Further, any attempted development of this right constitutes a trespass against the drains of the Boise-Kuna Irrigation District.

VERIFICATION

State of Idaho)
)ss.
County of Ada)

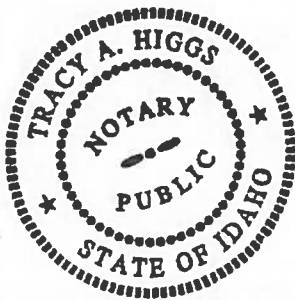
Chas F. McDevitt, duly sworn, upon oath, deposes and says:

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.



Chas F. McDevitt
McDEVITT & MILLER LLP

Subscribed and sworn to before me on: 4-21-06 Tracy A. Higgs



Notary Public for State of ID
Residing at: Boise ID
My Commission Expires: 6/2007

CERTIFICATE OF MAILING

I certify that on April 21st, 2006, 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:

Current Owner:

Name: Marilyn A. Grace
Stephen J. Grace
Address: 8440 W. Victory Road
Boise, ID 83713

Original Owner:

Name: Jessie Acorda
Address: 8440 W. Victory Rd.
Boise, ID 83709

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

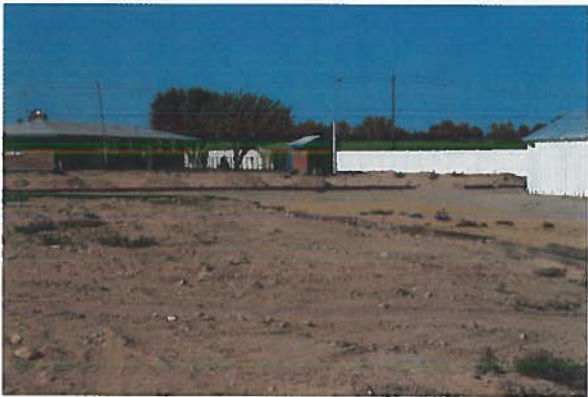
Heather Horne, Legal Assistant
McDEVITT & MILLER LLP



Ditch as it comes into property.
Photo taken facing N. Water at this
point is mingled with New York Irr
water.



POU looking N. Claimant owns land to
the end of white fence. Area to the S was
not irrigated at time of exam, however has
been irrigated in the past and shows
irrigated on the 1987 NAPP



POU facing south towards the house. This
area did have irrigation line in place at time
of exam.

9:00 AM

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION FIELD REPORT**

Prior to Field Exam

- ☒ Copy of Claim, claim has been signed, sealed, and dated by notary?
- ☒ Check fees paid
- ☒ Well logs (if needed)
- ☒ Copy of topo or NAPP
- ☒ Check of Govt. Lots, if needed, Govt. Plat/Tax lot information
- ☒ Check POD & POU overlap, see below – include overlapping right for exam *See A File*
- ☐ Evidence of Priority – if none, talk with claimant

CLAIMANT INFORMATION – verify contact information is completeClaim No(s) Stephen Marilyn Grace 63-1724BOwner: _____ Phone No. 362-6260Current Address: Same as Accord?

- ☒ No change NAME IS THE SAME
- ☐ NEW OWNER _____
- ☐ No change Address _____
- ☐ NEW ADDRESS _____
- ☐ How long owned property? _____

Accompanied by: Stephen Grace**PRIORITY DATE**

- ☐ No change – Complete evidence submitted or not necessary
- ☐ Incomplete – Claimant should be asked when water was first used and submit proof of date.
- ☐ Priority date is acceptable/within mandatory filing dates?

Priority date, per claimant, is: _____

(If priority date, based on your exam, seems questionable, explain below.)

Told claimant priority date information needed

Source: _____ Tributary to _____

- ☒ No Change – SAME SOURCE
- ☐ Source found is different than claimed: _____

POINT OF DIVERSION P.O.D different than "A" when did change occur?

- ☒ No change
- ☐ POD found is different than claimed: _____
- ☐ If different, when did POD change? _____

As claimed additional pod used in 1980
because of subdivision

DIVERSION AND DELIVERY SYSTEM

Points of Diversion:

ID #	Govt Lot #	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks GPS ID

Description of diverting works

Detail with 3 mile creek water coming in also**OVERLAP REVIEW**Other water rights with the same point of diversion: 63-17246A, 63-17243

Does overlap add acres or uses to existing system, increase rate of flow or volume, or other? Explain:

WATER USES☒ No change☐ Different Uses

Use _____ From _____ To _____ Amount _____ CFS _____ AFA
Use _____ From _____ To _____ Amount _____ CFS _____ AFA
Use _____ From _____ To _____ Amount _____ CFS _____ AFA

TOTAL VOLUME – Groundwater only

- ☒ Incomplete on claim, the total is, Amount _____ CFS _____ AFA
☐ Changes found, the new total is, Amount _____ CFS _____ AFA
☐ More than 1" per Acre? Yes _____ (claimant must complete excess flow sheet)

NON-IRRIGATION USES:☒ No change

☐ Changes Exam found: Domestic # of homes X Stock # 7 horses
Types _____ Additional comments: _____

PLACE OF USE:☒ No Change☐ Changes shown below:

Place of Use			NE				NW				SW				SE				Totals
TWP	RGE	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Overlap with other water rights: New York IRR water used also

Does overlap increase rate of flow, volume, additional acres, different source for same acres? Explain:

Delivery System Narrative: Ditch flows through property - backed up and gravity flows

Well or Diversion Identification No GPS ID	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge size

FLOW MEASUREMENTS:

Attach appropriate documents

NARRATIVE/REMARKS/COMMENTS

Tried to get flow measurement & manning's. Neither worked as water was not moving and backed up in ditch. Visually ditch has capacity to serve rights.

AFTER EXAM THE FILE SHOULD CONTAIN:

- ☐ Completed claim checklist
- ☐ Photographs of POD's and POU
- ☐ GPS readings
- ☐ Completed map and or GIS layout showing POD's and POU

DATE EXAM CONDUCTED: 6/12/02

DATE EXAM CONDUCTED: 01/21/06

FIELD EXAMINER: D. J. B. B.

06/18/2002

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

RIGHT NUMBER: 63-17246B

NAME AND ADDRESS: STEPHEN J GRACE
8440 W VICTORY RD
BOISE ID 83709

MARILYN A GRACE
8440 W VICTORY RD
BOISE ID 83709

SOURCE: FIVEMILE CREEK

TRIBUTARY: FIFTEENMILE CREEK

QUANTITY: 0.07 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 03/15/1922

POINT OF DIVERSION:

T03N R01E S24 SESW Within ADA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	03/01 11/15	0.020 CFS
IRRIGATION	03/01 11/15	0.050 CFS

PLACE OF USE: STOCKWATER Within ADA County

T03N R01E S24 SESW

IRRIGATION Within ADA County

T03N R01E S24 SESW 2.5

2.5 ACRES TOTAL

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

STOCKWATER USE IS FOR 7 HORSES OR RANGE CATTLE.
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: Beneficial Use

USE OF THIS RIGHT IS COMBINED WITH WATER FROM NEW YORK
IRRIGATION DISTRICT.
RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
PURSUANT TO SECTION 42-1425, IDAHO CODE.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-17246B V1

WATER RIGHT NUMBER: 63-17246B V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	STEPHEN J GRACE 8440 W VICTORY RD BOISE, ID 83709 (208)362-6726
Current Owner	MARILYN A GRACE 8440 W VICTORY RD BOISE, ID 83709 (208)362-6726
Original Owner	JESSIE ACORDA 8440 W VICTORY BOISE, ID 83709 (208)362-1778

Priority Date: 03/15/1922

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
FIVEMILE CREEK	FIFTEENMILE CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	03/01 to 11/15	0.020 CFS	
IRRIGATION	03/01 to 11/15	0.050 CFS	
	<u>Total Diversion:</u>	0.070 CFS	

Location of Point(s) of Diversion

FIVEMILE CREEK	SE1/4SW1/4	Sec. 24, Twp 03N, Rge 01E, B.M.
ADA County		

Place of Use

STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
03N	01E	24												X					

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
03N	01E	24												2.5					2.5

Total Acres: 2.5

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-17246B V1

Conditions of Approval:

1. USE OF THIS RIGHT IS COMBINED WITH WATER FROM NEW YORK IRRIGATION DISTRICT.
2. C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.
3. 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.
4. N05 THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.
5. N08 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

Remarks:

1. General STOCKWATER USE IS FOR 7 HORSES OR RANGE CATTLE.

Comments:

1. sbock 6/17/2002 FIELD EXAM

Comment: No measurements were obtained as the water created a back flow in the ditch, therefore no open channel or mannings reading could be obtained.

2. sbock 8/27/2002 priority date

Comment: Claimant provided 3 affidavits from Jessie Acordas brothers and sister. This also serves as the evidence for the A file.

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:
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>
Priority Date	6/17/2002 12:54:57 PM	sbock			Active
POU	6/17/2002 1:13:00 PM	sbock			Active

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-17246B V1

Use	6/17/2002 1:13:28 PM	sbock	Active
Summary		06/17/2002	sbock Active
POD	6/17/2002 1:19:34 PM	sbock	Active
Season	6/17/2002 1:19:35 PM	sbock	Active
Source	6/17/2002 1:19:35 PM	sbock	Active
Quantity	6/17/2002 1:19:36 PM	sbock	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
POD	6/17/2002 12:55:15 PM	sbock	Edited point location
Priority Date	6/17/2002 12:54:58 PM	sbock	(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? (No) 9. Is the Priority Date claimed after the date a permit is required for the source and the water use? (No) 12. Does the claim file contain sufficient evidence of Priority Date? (Yes) 13. Has additional evidence of priority date been submitted? (Yes) 15. Is the basis of claim coded correctly?
Use	6/17/2002 1:13:28 PM	sbock	(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? (No) 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?
Summary	6/17/2002 1:17:27 PM	sbock	(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? (Yes) 5. Is an additional remark and/or condition required?
POU	6/17/2002 1:12:06 PM	sbock	Edited shape boundary
POU	6/17/2002 1:13:00 PM	sbock	(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? Description for Question 13 - Field exam on 6/12/02

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-17246B V1

POD	6/17/2002 1:19:34 PM	sbock	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (Yes) 6. Is there evidence that there has been a change in the POD? (Yes) 7. Can the change be verified as an accomplished transfer? (Yes) 9. Does the file contain all the necessary information to verify the POD? (Yes) 10. Is a POD remark and/or condition required? Description for Question 6 - pod was changed to current location at least by 1980 according to claimants. They do not know why Acorda filed it in location that she did.
Source	6/17/2002 1:19:35 PM	sbock	(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?
Season	6/17/2002 1:19:36 PM	sbock	(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 administrativly determined? (Yes) 15. Is irrigation claimed as a Purpose of Use? (No) 18. Is a Period of Use remark and/or condition required?
POD	6/17/2002 1:19:36 PM	sbock	(No) 1. Is the basis of this claim a Decree or License?

AFFIDAVIT

RECEIVED

AUG 27 2002

WATER RES.
WESTERN REGION

IN THE MATTER OF)
NOTICE OF CLAIM TO)
A WATER RIGHT NO.(S))
Jessie Acorda & Stephen & Mairlyn Grace)
Idaho Department Of Water Resources)
A63-17246A & A63-17246B)
State of Idaho)

County of ADA)

We, Stephen & Marilyn Grace being first duly sworn,

deposes and says: That from the Priority Date of March 15, 1922 Thru June 01, 1963 Thru July 31, 1998 Thru Todays Date of August 28, 2002. That this property and water rights have been used for growing crops, and for the raising of farm animals such as sheep, cows, and horses from the date of March 15, 1922 Thru to Todays Date of August 28, 2002.

This Adjudication Claim No(S): (#AJ0749NP) have been used consistently , thru these years for the irrigation of crops and for the stockwater of many types of animals, and lawn & garden.

Please accept this information, not only from the current owners but also from the (2) brothers and one Sister still here in Boise , Id.

Gloria Trubbe
(Signature)

Subscribed and sworn to before me this

day _____ of _____, 20 ____.

(Notary Public)

Residing at _____.

My Commission Expires _____.

SEAL

AFFIDAVIT

RECEIVED

AUG 27 2002

WATER RESOURCES
WESTERN REGION

IN THE MATTER OF)
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Please accept this information, not only from the current owners but also from the (2) brothers and one Sister still here in Boise , Id.

Edward F Asparto
(Signature)

Subscribed and sworn to before me this

day _____ of _____, 20____.

(Notary Public)

Residing at _____.

My Commission Expires _____.

SEAL

AFFIDAVIT

IN THE MATTER OF)
NOTICE OF CLAIM TO)
A WATER RIGHT NO.(S))
Jessie Acorda & Stephen & Mairlyn Grace)
Idaho Department Of Water Resources)
A63-17246A & A63-17246B)
State of Idaho)

RECEIVED

AUG 27 2002

WATER RESOURCES
WESTERN REGION

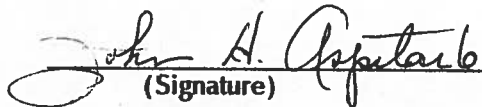
County of ADA)

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(Signature)

Subscribed and sworn to before me this

day _____ of _____, 20____.

(Notary Public)

Residing at _____.

My Commission Expires _____.

SEAL

Idaho Dept of Water Resources

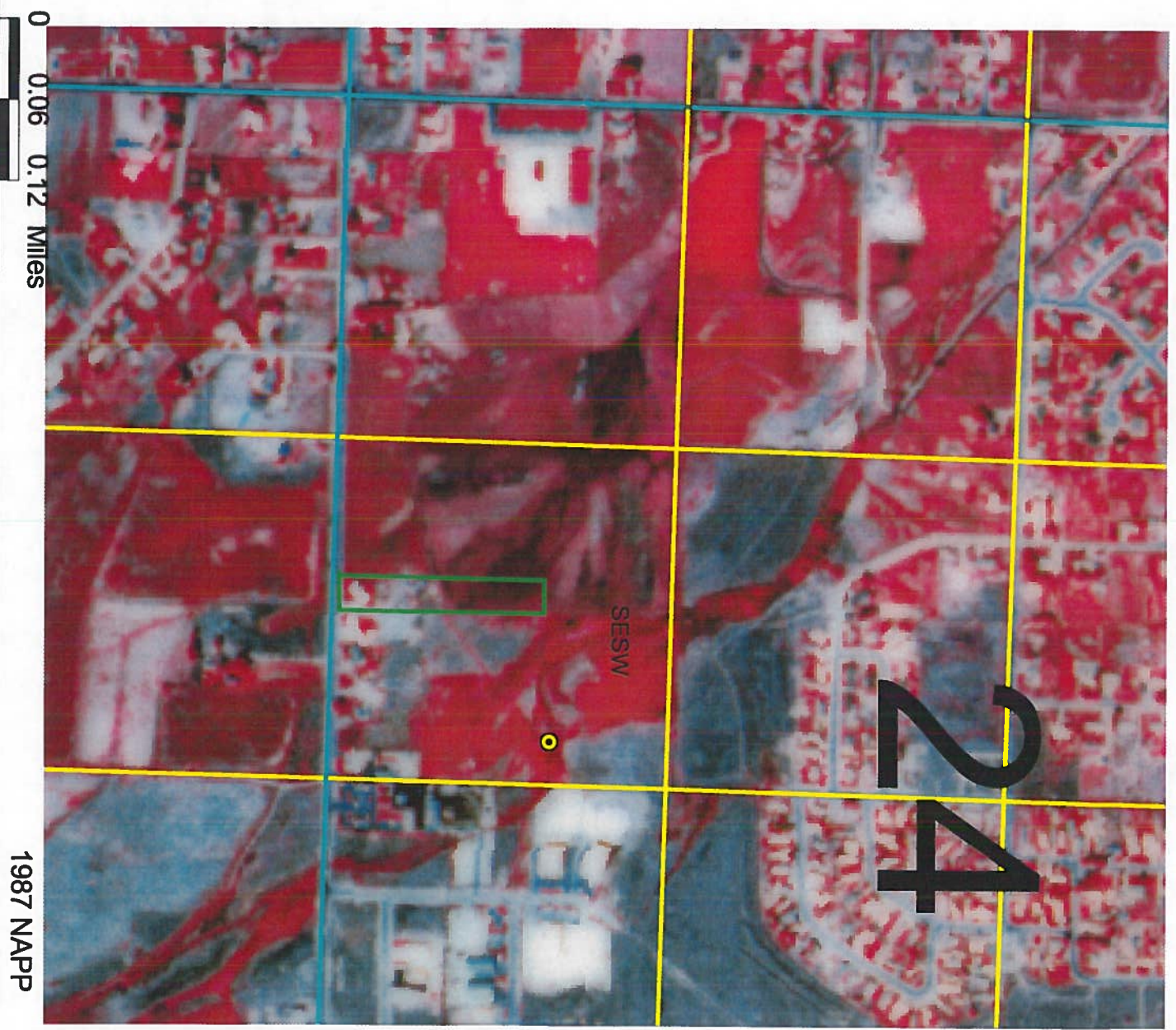
Calim No. 63-17246B

T03N, R01E, S 24

Prepared by: Sue Bock

Date: 06/17/2002

-  Point of Diversion
-  Place of Use
-  Section Lines
-  Quarter Quarter Lines



ROSHOLT, ROBERTSON & TUCKER

Chartered

ATTORNEYS AT LAW

JOHN A. ROSHOLT
J. EVAN ROBERTSON
JAMES C. TUCKER
GARY D. SLETTE
JERRY V. JENSEN
BRUCE M. SMITH
JOHN K. SIMPSON
PATRICK D. MADIGAN
TIMOTHY J. STOVER
NORMAN M. SEMANKO

Boise Office
1221 W. IDAHO, SUITE 600
P.O. BOX 2139
BOISE, IDAHO 83701-2139
TELEPHONE (208) 336-0700
FAX (208) 344-6034

Twin Falls Office
142 3rd AVENUE NORTH
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE (208) 734-0700
FAX (208) 736-0041

RECEIVED

JAN 15 1999

WATER RESOURCES
WESTERN REGION

January 14, 1999

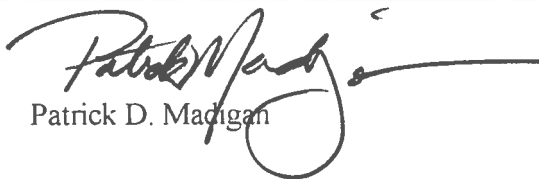
Lori Graves
IDWR Western Regional Office
2735 Airport Way
Boise, ID 83705

Re: *Basin 63 Water Right Claim*
Stephen and Marilyn Grace
No. A63-17246B

Dear Lori:

Here is the Graces' amended notice of claim for A63-17246B. Thanks for your assistance in this matter.

Sincerely,



Patrick D. Madigan

PDM:jtb
Enclosure



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

September 14, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

Stephen J Grace
Marilyn A Grace
8440 W Victory Rd
Boise ID 83709

Re: Original Notice of Claim to a Water Right No. A63-17246

Renumbered Notice of Claim to a Water Right No. A63-17246B

Dear Mr. & Mrs. Grace:

We have received and processed a Change of Ownership for a portion of the original Claim to a Water Right Number as referenced above. This Change of Ownership required a split of the original claim resulting in renumbering this claim by adding alpha suffixes to represent each split. The new Notice of Claim to a Water Right number for your portion is referenced above and a copy is enclosed.

Your portion of this claim has a specified point of diversion, nature of use and place of use. If you plan on changing the nature of use, place of use, or point of diversion under this right, including adding a new point of diversion, then an Application for Transfer on your portion of this right is required. Please contact this office for further information on the Application for Transfer form. If you do not plan on changing any items on your claim, then no further action is required at this time. You will be notified of any future action taken on this claim.

The remaining portion will remain in the name of Jesse Acorda. We are unable to change that information without further documentation from First Security Bank, indicating that the bank is the current owner of the property.

Thank you for your patience in bringing this to our attention. Please feel free to contact this office if you have any questions concerning your claim or this letter.

Sincerely,

Denise Buffington
Records Clerk
Adjudication Section
Western Region

DB:d

Enclosure