

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: ~~A36-10220~~ 000298
Date Received: 7/18/1988
Receipt No: S000981
Received By: lw

COPY

FOR YOUR FILES
DO NOT RETURN
NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: MYRTLE BOYER 208-837-4404
Address: 2777S 1050E
HAGERMAN, ID 83332

2. Date of Priority: FEB 12, 1916

3. Source: SPRING Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07S	13E	24	SE		NW		GOODING

5. Description of diverting works:
12' PIPE, GRAVITY FLOW

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
DOMESTIC	01/01	12/31	0.600		
IRRIGATION	03/15	11/15	0.600		

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

8. Total consumptive use is 115.0 Acre Feet Per Annum.

9. Non-irrigation uses:
D/1 HOUSE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	13E	24	SE	SW		DOMEST IRR	35.0
Section Acres							35.0

~~A36-10220~~

Page 1

Date: 07/18/88

A36-00029B

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10. Place of Use: Continued

Total Acres 35.0

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
YES, SEE REMARKS.

14. Remarks:
PART OF WR 36-2025, WHICH WAS SPLIT THE 1.2 CFS BETWEEN 2 FARMS.

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): Myrtle Boyer Date: July 18-88
Date:

State of Idaho)
County of T.F.) SS.

Subscribed and sworn (or affirmed) before me this 18th day
of July 19 88 Ken White
Notary Public

Seal

Residing at T.F.
My Commission Expires 5/95

AJ5514NP

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION ATTORNEY NAME ADD/UPDATE

DATE: 03/31/93
TIME: 23:15:11.4
PAGE:

INPUT: AJ_SELECTION:HHT-BROWN-NOA4.SEL

TYPE OF ACTION: ADD

MODIFY ALL FIELDS FLAG:

LAST NAME: BROWN

ADDRESS LINE 1: HEPWORTH NUNGESTER LEZAMIZ

ADDRESS LINE 3: PO BOX 389

CITY: TWIN FALLS

STATE: ID ZIP: 833030389

FIRST NAME: PATRICK D

ADDRESS LINE 2:133 SHOSHONE ST N

PHONE NUMBER: (208) 734-7510

36-00029B. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00039F. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00039P. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00051A. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00054A. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00125A. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-07323. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-10673. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00039F. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00039P. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00051A. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00054A. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00125A. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-07323. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-10220. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-10673. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A37-00792F. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A37-07852. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE

RECEIVED

APR 06 1993

Department of Water Resources
Southern Region Office

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OCT 11 1994

N.O.A.

S.O.

1 HEPWORTH, NUNGESTER & LEZAMIZ,
2 CHARTERED
3 133 Shoshone St. North
4 P.O. Box 389
5 Twin Falls, ID 83303-0389
6 Telephone: (208)734-7510
7 Attorneys for Claimant
8 (PPK\21530SUP.NO3\lmr)

RECEIVED

MAR 02 1993

Department of Water Resources
Adjudication Bureau

9
10 IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
11 STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

12 * * * * *

13 In Re the General Adjudication)
14 of Rights to the Use of Water)
15 from the Snake River Basin)
16 Water System)

Case No. 39576

17 The State of Idaho, ex rel.)
18 R. Keith Higginson in his)
19 official capacity as director)
20 of the Idaho Department of)
21 Water Resources,)

HAGERMAN WATER RIGHT OWNERS,
INC. AND ITS INDIVIDUAL
MEMBERS' THIRD SUPPLEMENTAL
NOTICE OF APPEARANCE

22 Petitioner,

23 vs.

United States; State of Idaho;
and all claimants to the use
of water from the Snake River
Basin Water System,

Respondents.

* * * * *

24 COMES NOW the law firm of Hepworth, Nungester & Lezamiz
25 and supplements it Notice of Appearance to add on behalf of

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OCT 11 1994.

THIRD SUPPLEMENTAL NOTICE OF APPEARANCE - 1



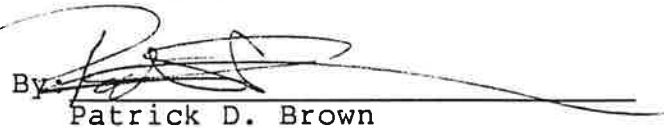
Hepworth,
Nungester,
& Lezamiz

1 Hagerman Water Right Owners, Inc. and its individual members, the
2 following individuals:

3
4 Mavencamp, John V. A36-00189A
Mavencamp, John V. A36-10766
5 Zabala, Ignacio Nick A36-08320

6 Dated this 1 day of March, 1993.

7 HEPWORTH, NUNGESTER & LEZAMIZ,
8 CHARTERED

9 By 
Patrick D. Brown
Attorneys for Respondents

10 CERTIFICATE OF MAILING

11
12 The undersigned, a resident attorney of the State of
13 Idaho, with offices at 133 Shoshone St. North, P.O. Box 389, Twin
14 Falls, Idaho 83303, and one of the attorneys for the respondents
15 in this matter, certifies that he caused to be mailed a copy of the
16 above and foregoing THIRD SUPPLEMENTAL NOTICE OF APPEARANCE on the
1 day of March, 1993, to:

17
18 Snake River Adjudication (original)
District Court
P.O. Box 27070
19 Twin Falls, ID 83303-0126

20 Chief, Natural Resources Division (1)
Office of Attorney General
21 State of Idaho
P.O. Box 44449
22 Boise, Idaho 83711-4449



Hepworth,
Nungester,
& Lezamiz

1
2 The United States Department of Justice (1)
3 Environment and Natural Resources Division
4 550 West Fort Street, Box 33
5 Boise, ID 83734
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Patrick D. Brown



Hepworth,
Nungester,
& Lezamiz

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OCT 11 1994

- 71 - 104
20060120

IDWR'S RESPONSE TO ANSWER, AFFIRMATIVE DEFENSES AND PRAYER FOR
RELIEF OF CLAIMANT

This portion of the response addresses the multi-page attachment to the objection (hereinafter "the attachment"), wherein the claimant admits or denies all sections of Parts I, II, and III of the director's report, asserts 27 affirmative defenses, and alleges a prayer for relief. The attachment contains the following sections, corresponding to the various sections of the director's report:

- (1) I. GENERAL RESPONSE
- (2) II. DESCRIPTIVE SUMMARY, (first unnumbered page of Part I of the director's report)
- (3) III. TABLE OF CONTENTS (second and third unnumbered pages of Part I of the director's report)
- (4) IV. 1. INSTRUCTIONS FOR USING THIS REPORT PART I (page 1 of Part I of the director's report)
- (5) IV. 2. SCOPE OF THE ADJUDICATION (pages 1-3 of Part I of the director's report)
- (6) IV. 3. PURPOSE OF THIS REPORT PART I (pages 3-4 of Part I of the director's report)
- (7) V. 1. BOUNDARIES OF BASIN (pages 4-6 of Part I of the director's report)
- (8) V. 2. WATER SOURCES (page 6 of Part I of the director's report)
- (9) V. 3. DEVELOPMENT OF WATER USE (pages 6-9 of Part I of the director's report)
- (10) VI. GENERAL PROVISIONS 1-8 APPLY TO ALL WATER RIGHTS IN BASIN 36 (page 9 of Part I of the director's report)
- (11) VI. General Provision 1. EFFECT OF ADJUDICATION (page 9 of Part I of the director's report)
- (12) VI. General Provision 2. GENERAL ADMINISTRATIVE PROVISIONS (pages 9-10 of Part I of the director's report)
- (13) VI. General Provision 3. CONJUNCTIVE ADMINISTRATION (page 10 of Part I of the director's report)
- (13) VI. General Provision 4. ADMINISTRATION OF GROUND WATER RIGHTS (page 10 of Part I of the director's report)
- (14) VI. General Provision 5. ADMINISTRATION OF BASIN 36 RELATIVE TO THE SNAKE RIVER (page 10 of Part I of the director's report)
- (15) VI. General Provision 6. ADMINISTRATION OF SMALL DOMESTIC AND STOCK WATER RIGHTS (page 11 of Part I of the director's report)
- (16) VI. General Provision 7. MEASURING DEVICES AND CONTROL

- WORKS (page 11 of Part I of the director's report)
- (17) VI. General Provision 8. FIRE FIGHTING PURPOSES (page 11 of Part I of the director's report)
 - (18) VI. General Provision 9. CONSUMPTIVE USE (page 12 of Part I of the director's report)
 - (19) VI. GENERAL PROVISION 10 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH DOMESTIC USE AS A PURPOSE OF USE (page 12 of Part I of the director's report)
 - (20) VI. General Provision 10. DOMESTIC USE (page 12 of Part I of the director's report)
 - (21) VI. GENERAL PROVISION 11 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH STOCK WATER USE AS A PURPOSE OF USE (page 13 of Part I of the director's report)
 - (22) VI. General Provision 11. STOCK WATER USE (page 13 of Part I of the director's report)
 - (23) VI. GENERAL PROVISIONS 12-16 APPLY TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH IRRIGATION AS A PURPOSE OF USE (page 13 of Part I of the director's report)
 - (24) VI. General Provision 12. IRRIGATION USE (pages 13-14 of Part I of the director's report)
 - (25) VI. General Provision 13. DIVERSION VOLUME FOR IRRIGATION (page 14 of Part I of the director's report)
 - (26) VI. General Provision 14. CONSUMPTIVE USE FOR IRRIGATION (pages 14-15 of Part I of the director's report)
 - (27) VI. General Provision 15. AMOUNT OF COMBINED WATER RIGHTS FOR IRRIGATION (page 15 of Part I of the director's report)
 - (28) VI. General Provision 16. DIVERSION RATES IN EXCESS OF .02 CFS PER ACRE (pages 15-16 of Part I of the director's report)
 - (30) VI. 17. INSTRUCTIONS FOR USE OF LIST OF RECOMMENDED WATER RIGHTS (pages A-i through A-iii of Part I of the director's report)
 - (31) VI. 18. IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW (pages A-1 through B-25 of Part I of the director's report)
 - (32) DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36), (DIRECTOR'S REPORT PART II)
 - (33) DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36), (DIRECTOR'S REPORT PART III)

The attachment also contains part VIII, AFFIRMATIVE DEFENSES (pp. 20 through 28) and a PRAYER FOR RELIEF (untitled, p. 28).

EX-104
ENCLOSURE

In response to each of the items enumerated above IDWR responds that pursuant to Section 4 a.(2)(c) of SRBA Administrative Order 1, Rules of Procedure, IDWR generally denies each and every allegation, if any, contained in each enumerated portion of the attachment. IDWR affirmatively responds that neither SRBA Administrative Order 1, Rules of Procedure, nor Title 42, Chapter 14, Idaho Code, make provision for IDWR to affirm, amplify, or otherwise respond to the claimant's admissions, or to deny the claimant's denials, and that IDWR therefore does not believe that it is required to do so. Title 42, Chapter 14, Idaho Code solely defines the content and scope of the director's report. It is to contain a description of the water system and is to provide a recommendation as to each water right claimed and as to those matters necessary for administration of those water rights. Therefore, the content and scope of the objection is limited to those same matters. The attachment to the present objection asserts or otherwise raises matters not directly addressing the elements of the water right as recommended, the description of the water system, or the general provisions. Rather, the attachment raises broad issues as to the constitutional, statutory and administrative efficacy of the entire adjudication process. All such issues should be raised by means of motions to designate basinwide issues and similar procedural vehicles specifically designed to provide for basinwide notice and participation. They should not be permitted to divert the focus of any individual subcase away from the issues directly connected to the elements of the water right and the administration thereof. Therefore, because the attachment to the present objection is not within the scope of the statutory purpose of an objection it should be stricken.

However, in the event that the court should determine that all or part of the attachment is properly within the scope of the objection, IDWR further responds as follows:

IDWR affirmatively responds that all statements within the director's report are properly included therein pursuant to Title 42, Chapter 14, Idaho Code, and in particular pursuant to Idaho Code §§ 42-1411 and 42-1412(8); and that the provisions of the Idaho Rules of Civil Procedure regarding pleadings are inapplicable to the extent that they are in conflict with the statutory requirements. Therefore IDWR denies all allegations directed at the contents of the director's report.

As to the enumerated portions of the attachment addressing the listings of recommended water rights, abstracts of federal reserved water right claims, or negotiated agreements, other than the individual recommendation that is the subject of this objection, IDWR responds that such claims or agreements are not brought before this court by this objection.

Responding to the 27 affirmative defenses asserted in the attachment, IDWR generally denies each and every affirmative defense asserted. IDWR further responds that affirmative defense numbers 1, 2, 4, 5, 10, 11, 12, 18, and 22, asserting various violations of civil or constitutional rights, fail to comply with the requirements I.R.C.P. 9(b) providing that in all averments of violation of civil or constitutional rights the factual circumstances constituting such violation must be stated with particularity. Accordingly, IDWR asserts that those affirmative defenses should be stricken.

In response to that portion of the multi-page attachment to the objection wherein the claimant asserts a prayer for relief, IDWR responds as follows:

1. IDWR denies that the director's report asserts any claims against the claimant; rather, the director's report contains only the recommendation of the director as to how the claimant's water right should be decreed and administered.
2. IDWR denies that the claimant is entitled to have the water right decreed as claimed unless in the director's report the water right has been recommended as claimed.
3. IDWR denies that any acts upon its part constitute the taking of private property for which just compensation should be allowed and awarded.
4. IDWR denies that the claimant is entitled to recover court costs and reasonable attorney fees.
5. IDWR denies that the claimant by this objection has raised any claims against IDWR entitling such claimant to any relief other than the eventual judicial determination and decree of the various elements of the claimant's water right, if any, and of those related matters necessary to describe and administer that water right.

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 the Rights to the Use of Water)
from the Snake River Basin)
Water System)

Case No. 36-00029B -0001

The State of Idaho, ex rel.)
R. Keith Higginson in his)
official capacity as Director)
of the Idaho Department of)
Water Resources,)

RESPONSE TO OBJECTION

Petitioner,)

vs.)

The United States; the State)
of Idaho; and all Claimants to)
the use of water from the Snake)
River Basin Water System,)

Respondents.)

I. GENERAL INFORMATION

1. Person responding to objection:

Name: R. KEITH HIGGINSON, DIRECTOR

Address: IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449

Briefly describe your interest in this water right:

IDWR is required to file a response to an objection to part
I of the director's report pursuant to I.C. section 42-1412(2).

(Over)

2. Person who filed objection:

Name: DANNY BRIAN & EVELYN PETERSON
Address: 745 N HAGERMAN ST
WENDELL ID 83355

3. If this response is filed by an attorney:

Attorney Name(s): NICHOLAS B. SPENCER
Attorney Address: DEPUTY ATTORNEY GENERAL(S)
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449
Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

1. ☒ Name and Address: I respond to the objection concerning the name and/or address of the owner of the water right.
3. ☒ Quantity: I respond to the objection concerning:
- 3a. ☒ The total quantity of water used in cubic feet per second.
8. ☒ Period of Year: I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.
10. ☒ Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.
14. ☒ Other: I respond to the objection concerning:
- ALL MATTERS RAISED IN THE CLAIMANTS' ANSWER,
AFFIRMATIVE DEFENSES, AND PRAYER FOR RELIEF.

NOTED

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection item 1, IDWR responds that it will change the claimant's address on its records to that shown on the objection. This, however, may not change the claimant's address on the records of the SRBA Court. The Court has developed its "Standard Form 3" to be used for reporting matters such as address changes and changes in ownership. The claimant may need to file this form with the SRBA Court.

In response to Statement of the Objection items 3 and 3.a, and all allegations of the objection regarding those items, IDWR responds as follows: (1) it recommended the amount of water it determined was being beneficially used; (2) the claimant is not entitled to any amount greater than that which is beneficially used (Idaho Code Secs. 42-104 and 42-1402); (3) the recommendation of the director to the SRBA Court as to how the right should be decreed does not constitute a taking because it is simply a recommendation and not a final determination of the right; and (4) the eventual decree by the SRBA Court of the amount of water beneficially used, even if less than the amount previously decreed, will not constitute a taking because the right is limited to that amount beneficially used. IDWR further responds that it recommended for irrigation the same quantity as claimed, and for irrigation and domestic the same total quantity as claimed.

In response to Statement of the Objection item 8, and all allegations of the objection regarding this item, IDWR responds as follows: The decree asserted by the claimant does not contain a period of use decreed for this water right. Idaho Code 42-1411(2)(g) requires the director to determine the period of use of each water right acquired under state law that is recommended in the director's report. IDWR has developed irrigation season of use standards for various climatic areas throughout the state based on a 75% chance of a 24 degree fahrenheit frost. The irrigation season of use cannot exceed the period in which water may be beneficially used. The period of the year during which this water right may be used is consistent with the standard irrigation season of use for the area in which the place of use of this water right is located. Water may be used for irrigation outside the standard season of use, subject to the conditions set forth in general provision 12b of the director's report. IDWR further responds that it recommended the same season of use as

(Over)

was claimed. By now seeking a longer irrigation season of use than was claimed, the claimant improperly seeks to use the objection process to amend amend the claim. A claimant must obtain leave of the court to amend a claim after a director's report is filed, just as a party must obtain leave of the court to file a late claim after the director's report is filed. Once leave of the court is granted, IDWR can investigate the amended claim and make an appropriate recommendation to the court.

In response to Statement of the Objection item 10 and all allegations of the objection regarding this item, IDWR responds as follows: (1) The decree asserted by the claimant did not set an annual volume of consumptive use for this water right. (2) Idaho Code Sec. 42-1411(2)(i) requires the director to determine the annual volume of consumptive use for each water right acquired under state law and recommended in the director's report. (3) Idaho Code Sec. 42-1401A(2) provides that the quantification of consumptive use "is included as a rebuttable presumption in a decree only for the purpose of transfers pursuant to section 42-222, Idaho Code"; therefore, the consumptive use recommended for this water right is included solely for use in future transfer proceedings. (4) The annual volume of consumptive use recommended for this right is 3 acre feet per acre. This is the maximum volume of water consumed by the most water consumptive crop (pasture) that can be grown in the area during the period of year when water is used for irrigation, as provided for by Idaho Code Sec. 42-1401A(2). (5) The recommendation of the director to the SRBA Court as to how the right should be decreed does not constitute a taking because it is simply a recommendation and not a final determination of the right. (6) The eventual decree by the SRBA Court of the amount of water beneficially used, even if less than the amount previously decreed, will not constitute a taking because the right is limited to that amount beneficially used.

In response to Statement of the Objection item 14, and all allegations of the objection regarding that item, see attached "IDWR's Response to Answer Affirmative Defenses and Prayer for Relief of Claimant".

In response to the sentence listed in Changes to the Director's Report, whereby the claimant attempts to "reserve the right to claim all purposes of use and quantities of use as shown by the evidence at trial," IDWR responds as follows: Insofar as this purported reservation of rights may constitute an attempt to reserve the right to amend at trial the claimant's notice of claim, the claimant improperly seeks to use the objection process

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OCT 11 1994

to amend the claim. A claimant must obtain leave of the court to amend a claim just as a party must obtain leave of the court to file a late claim after the director's report is filed.

CHANGES TO THE DIRECTOR'S REPORT

The director proposes no changes to the description of this claim in the Director's Report.

☒ Check here if you are submitting documents. Please list each document by the title and number of pages. You may use additional pages if necessary:

	No. of Pages
Notice of Claim No. A36-00029B	2
IDWR's Response to Answer, Affirmative Defenses and Prayer for Relief of Claimant	3

(Over)

VERIFICATION (Must be Completed)

State of IDAHO

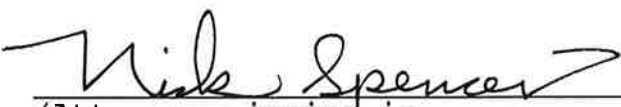
County of ADA

David B. Shaw, being first duly sworn, upon oath, deposes and says:

That R. Keith Higginson, in his official capacity as director of the Idaho Department of Water Resources, is a party to this proceeding, as defined by I.C. 42-1401A(1) and (7); that I am the Adjudication Bureau Chief for IDWR and am authorized by R. Keith Higginson, in his official capacity as director of IDWR, to verify this response; and that I have read the foregoing response, know its contents and that the statements contained therein are true to the best of my knowledge and belief.

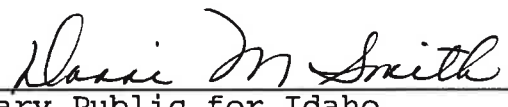


Signature of person filing response

By: 

(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 30th day of August,
1993.



Notary Public for Idaho
Residing at: _____
My Commission Expires _____
Danni Smith, Notary Public
Residing at Boise, Idaho
My Commission Expires December 5, 1994

CERTIFICATE OF MAILING

I hereby certify that on the 31st day of AUGUST, 1993, I mailed the original and copies of the foregoing response, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepared and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

2. One copy to the owner of the water right, and you must fill in the following information:

See No. 3

3. One copy to the party who filed the objection, or if represented by an attorney, to their attorney; and you must fill in the following information:

Name: HEPWORTH NUNGESTER & LEZAMIZ
Address: PATRICK D BROWN
& PENELOPE PARKER
PO BOX 389
TWIN FALLS ID 83303

4. One copy to:

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, Idaho 83734



Signature of Respondent or attorney
mailing on Respondent's 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 THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: ~~A36-10220~~ ^{A36-00029B}
Date Received: 7/18/1988
Receipt No: S000981
Received By: lw

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: MYRTLE BOYER
Address: 2777S 1050E
HAGERMAN, ID

208-837-4404

83332

2. Date of Priority: FEB 12, 1916

3. Source: SPRING

Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07S	13E	24	SE	SE	NW		GOODING

5. Description of diverting works:
12' PIPE, GRAVITY FLOW

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
DOMESTIC	01/01	12/31	0.600		
IRRIGATION	03/15	11/15	0.600		

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

A.F.A.

8. Total consumptive use is 115.0 Acre Feet Per Annum.

9. Non-irrigation uses:
D/1 HOUSE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	13E	24	SE	SW		DOMESTIC IRR	35.0

Section Acres 35.0

~~A36-10220~~

Page

1

Date: 07/18/88

MICROFILMED
OCT 11 1994
JAN 20 1993

Total Acres	35.0
-------------	------

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

14. Remarks:
PART OF WR 36-2025, WHICH WAS SPLIT THE 1.2 CFS BETWEEN 2 FARMS.

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): Myrtle Boyer Date: July 18-88
Date: _____

State of Idaho)
County of T. F.) SS.

County of Y.F.
Subscribed and sworn (or affirmed) before me this 18th day
of July 19 88
Ben White
Notary Public

Seal

Residing at T.F.
My Commission Expires 5/95

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: **A36-10220**
Date Received: 7/18/1988
Receipt No: S000981
Received By: _____

R36-00029B S. C. H.

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

1. Name: BRIAN PETERSON 208-536-2468
Address: RT. 1 BOX 8
WENDELL ID 83355
AND/OR
Name: DANNY T. PETERSON 208-536-2468
Address: RT. 1 BOX 8
WENDELL ID 83355
AND/OR
Name: EVELYN M. PETERSON 208-536-2468
Address: RT. 1 BOX 8
WENDELL ID 83355

2. Date of Priority: FEB 12, 1916

3. Source: SPRING Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
07S	13E	24		SE	NW		GOODING

5. Description of diverting works:
12' PIPE, GRAVITY FLOW

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
DOMESTIC	01/01	12/31	0.600		
IRRIGATION	03/15	11/15	0.600		

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

8. Total consumptive use is 115.0 Acre Feet Per Annum.

9. Non-irrigation uses:
DOMESTIC, 1 HOME

MICROFILMED

JAN 20 1993

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	13E	24	SE	SW		DOMEST	
			SE	SW		IRR	35.0
					Section Acres		35.0
					Total Acres		35.0

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
NONE

14. Remarks:

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): _____ Date: _____
_____ Date: _____

MICROFILMED

JAN 20 1993

State of Idaho)
County of _____) SS.

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

Notary Public

Seal

Residing at _____

My Commission Expires _____

MICROFILMED

JAN 20 1993



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

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

RECEIVED

OCT 28 1991

Department of Water Resources
Southern Region Office

DATE OF CLOSING: 8-27-1991

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

- [] Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)
- [] Water Right Number(s)
Assigned by IDWR: A36-10220
- [] Name and Address of Former Owner/Claimant(s)(Seller): Myrtle Boyer
2777 S. 1050 E., Hagerman, ID 83332.
- [] New Owner/Claimant (Purchaser): Brian &/or Danny T. &/or Evelyn M. Peterson
- [] New Mailing Address: Rt. 1 Box 8
Wendell, ID 83355
- [] New Telephone Number: () 536 - 2468
- [] Does the change in ownership result in a splitting of the water right owned/claimed? yes X no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

- [] Attach proof of ownership, describe proof attached: memorandum agreement

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

- [] Signature of New Owner/Claimant(s) Nancy Peterson Date 10-27-91
Date _____
- [] Signature of Former Owner/Claimant(s): _____ Date _____
Date _____

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

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: 10/29/91 By: SC

Further Action Needed:

Further Action Taken

Date: _____ By: _____

Final Review and Data-Entry

Date: 10/21/91 By: SC

Claim Numbers of Split, if any:

FOR YOUR FILES
DO NOT RETURN
MICROFILMED
JAN 20 1993

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

WARRANTY DEED

For value received, MYRTLE AGNES BOYER, a single woman, hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto DANNY T. PETERSON and EVELYN M. PETERSON, husband and wife, and BRIAN K. PETERSON, a single man, hereinafter called the Grantee, the following described premises situated in Gooding County, Idaho, to wit:

Parcel 1:

TOWNSHIP 7 SOUTH, RANGE 13 EAST OF THE BOISE MERIDIAN

Section 24: SE $\frac{1}{4}$ SW $\frac{1}{4}$

TOGETHER with all water rights appurtenant thereto.

SUBJECT TO any existing encroachments; and

SUBJECT TO and reserving to Grantor a life estate in and to a square one acre parcel of land located in the Northeast corner of the premises, together with the dwelling house located thereon.

Parcel 2:

The West thirty-three feet (33') of Lot 1 and all of Lots 2 and 3 of Block H, City of Hagerman, Idaho, according to the official plat thereof recorded in the official records of Gooding County, Idaho.

TO HAVE AND TO HOLD, the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that they are free from all incumbrances except as above described and that Grantor will warrant and defend the same from all lawful claims whatsoever.

DATED: August 27th, 1991.

Myrtle Agnes Boyer
Myrtle Agnes Boyer

STATE OF IDAHO)
County of Gooding) ss.

On this 27th day of August, 1991, before me a Notary Public in and for said State, personally appeared MYRTLE AGNES BOYER, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

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

Wendell J. Wells
Notary Public for Idaho
residing at Gooding, Idaho

146142

STATE OF IDAHO, COUNTY OF GOODING

Filed for record at the request of Danny Peterson

19 min. past 11 o'clock A.M. on

1 Sept 1991 11:30

JOHN A. MYERS Recorder

Alveta Sells

MICROFILMED

IAN 20 1993

SD-33	Last Name: BOYER		STATE	
S	O			
E	W	Water	Priority	Total
L	N	Right No.	Date	Diversion
			Source	Use
				Code Desc
BOYER				
ALICE	O	A36-00029	02/17/1896	SPLIT RIGHT 2.000
DALE E.	C	A36-00079	04/01/1888	BILLINGSLEY 1.400
				01 IRR
				04 STOCK
ELAINE	C	A36-00079	04/01/1888	BILLINGSLEY 1.400
				01 IRR
				04 STOCK
MYRTLE	C	A36-10220	02/12/1916	SPRING 0.600
				43 DOMEST
				01 IRR
DALE E.	C	R36-07129	05/22/1970	BILLINGSLEY 11.570
ELAINE	C	R36-07129	05/22/1970	BILLINGSLEY 11.570
ALAN K.	C	R36-00029A	02/17/1896	THREE SPRIN 0.400
				01 IRR
				43 DOMEST
VALORIE K.	C	R36-00029A	02/17/1896	THREE SPRIN 0.400
				01 IRR
				43 DOMEST
EMERSON	O	A36-00028	10/01/1908	RILEY CREEK 0.300
ETHEL	O	A36-00028	10/01/1908	RILEY CREEK 0.300
				01 IRR

(Enter=Continue) (GOLD7=This Query) (MENU _____)

MICROFILMED

JAN 20 1993

SD-33	Last Name: BOYER		STATE				
S	O						
E	W	Water	Priority		Total	Use	
L	N	Right No.	Date	Source	Diversion	Code	Desc
-	-	-	-	-	-	-	-
-	BOYER						
-	DALE E.	C A36-10289	01/01/1980	GROUNDWATER	0.040	43	DOMEST
-	ELAINE	C A36-10289	01/01/1980	GROUNDWATER	0.040	43	DOMEST
-	MYRTLE	C R36-10220	02/12/1916	THREE SPRIN	0.740	43	DOMEST
-						01	IRR
-	DALE E.	C R36-10289	01/01/1980	GROUNDWATER	0.040	43	DOMEST
-	ELAINE	C R36-10289	01/01/1980	GROUNDWATER	0.040	43	DOMEST
-	ALAN K.	C A36-00029A	02/17/1896	THREE SPRIN	1.000	01	IRR
-						43	DOMEST
-	VALORIE K.	C A36-00029A	02/17/1896	THREE SPRIN	1.000	01	IRR
-						43	DOMEST
-	LEE	O A36-02025	02/12/1916	SPRING	1.200	01	IRR
-				SPLIT RIGHT		43	DOMEST
-	DALE E.	C A36-07129	05/22/1970	BILLINGSLEY	11.570	19	FISH
-	ELAINE	C A36-07129	05/22/1970	BILLINGSLEY	11.570	19	FISH
-	ALICE	O A36-00029	02/17/1896	THREE SPRIN	2.000	01	IRR

(Enter=Continue)

(GOLD7=This Query)

(MENU _____)

MICROFILMED

JAN 20 1993

SD-36	Township: 07S	Range: 13E	Section: 24	Tract:	Lot:
S	L	STATE	O	S	Max # Records 72
E	O	Water	Name	T	Priority Use
L	Tract T	Right No.	Last, First	N	AC G
					Date
					Code Desc
---	---	---	---	---	---
---	SWSW	A36-00022	BIG SPRING WATER USERS	O	03/21/1901
---			COMBINED RIGHT	C	
---	SWSW	A36-15166	BIG SPRING WATER USERS	C	04/01/1911
---				D	
---					01 IRR
---					40 MUNI
---					01 IRR
---					43 DOMEST
---					19 FISH
---					04 STOCK
---	SWSW	R36-00004	SPRING VALLEY RANCH IN	C 25	09/10/1884
---			CURREN, MARY	O	
---	SESW	A36-10220	BOYER, MYRTLE	C	02/12/1916
---				J	
---					01 IRR
---	SESW	A36-10220	BOYER, MYRTLE	C 35	02/12/1916
---				J	
---					43 DOMEST
---					01 IRR
---	SESW	R36-00029B	BOYER, MYRTLE	C	02/12/1916
---				D	
---					43 DOMEST
---					01 IRR
---	SESW	R36-00029B	BOYER, MYRTLE	C 35	02/12/1916
---				D	
---					43 DOMEST
---					01 IRR

(Enter=Continue)

(GOLD7=This Query)

(MENU _____)

MICROFILMED

JAN 20 1993

SD-36	Township: 07S	Range: 13E	Section: 24	Tract:	Lot:		
S	L	STATE	O	S	Max # Records 72		
E	O	Water	W	T	Priority Use		
L	Tract T	Right No.	N	AC	Date Code Desc		
SES	W	A36-02025	BOYER, LEE	O	35	02/12/1916	01 IRR
			SPLIT RIGHT	C			43 DOMEST
SES	W	A36-00029	SPLIT RIGHT	C		02/17/1896	01 IRR
			BOYER, ALICE	O			
SES	W	R36-02025	BOYER, LEE	C	35	02/12/1916	01 IRR
							43 DOMEST
SES	W	R36-10220	BOYER, MYRTLE	C		02/12/1916	43 DOMEST
							01 IRR
SES	W	R36-10220	BOYER, MYRTLE	C	35	02/12/1916	43 DOMEST
							01 IRR
NESE	W	A36-00022	BIG SPRING WATER USERS	O	20	03/21/1901	01 IRR
			COMBINED RIGHT	C			40 MUNI
NESE	W	A36-15166	BIG SPRING WATER USERS	C	20	D 04/01/1911	01 IRR
							43 DOMEST
							19 FISH
							04 STOCK

(Enter=Continue)

(GOLD7=This Query)

(MENU _____)

MICROFILMED

JAN 20 1993

2002 APR 11 AM 10:41

FILED
TWIN FALLS, IDAHO

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	)	SECOND AMENDED SPECIAL
	)	MASTER'S REPORT
Case No. 39576	)	
	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHT 36-00029B

I. FINDINGS OF FACT

Danny, Evelyn and Brian Peterson filed a notice of claim for this water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources 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 May 10, 1999, then Special Master Fritz X. Haemmerle issued a *Special Master's Report and Recommendation* in subcase 36-00029B. The *Special Master's Report* was based on an *Amended Standard Form 5/Stipulated Elements of a Water Right* changing "address", "quantity" and the "priority date" from "1916" to "1896". However, the *Special Master's Report and Recommendation* incorrectly listed the priority date as "1916."

On June 28, 1999, North Snake Ground Water District filed a *Motion to Alter or Amend*. Subsequently, on December 21, 2000, a *Second Amended Standard Form 5 (Second Amended SF5)* was filed. All parties and IDWR are signatures to the *Second Amended SF5*.

On December 27, 2000, an *Amended Master's Report and Recommendation* was issued. The *Amended Master's Report and Recommendation* incorrectly listed the priority date as "1916." Ultimately an *Order of Partial Decree* was issued on February 7, 2001, listing the priority date as "1916."

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein and pursuant to I.R.C.P. 60(a), IT IS RECOMMENDED that water right claim 36-00029B be decreed in accordance with the *Standard Form 5* with the elements as set forth in the *Second Amended Special Master's Recommendation for Partial Decree for Water Right 36-00029B*, with priority date as "1896."

DATED: April 11, 2002.



THOMAS R. CUSHMAN
Special Master
Snake River Basin Adjudication

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

In Re SRBA

Case No. 39576

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

Water Right 36-00029B

2002 APR 11 AM 10:41

FILED
TWIN FALLS, IDAHO

NAME AND ADDRESS: DANNY & BRIAN PETERSEN
EVELYN PETERSEN
P O BOX 614
WENDELL, ID 83355

SOURCE: THREE SPRINGS TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 1.00 CFS

THE PORTION OF THIS RIGHT IN EXCESS OF 0.70 CFS IS
SUBORDINATED TO ALL GROUND WATER AND SURFACE WATER RIGHTS WITH
PRIORITY DATES OF DECEMBER 31, 1999 OR EARLIER.

PRIORITY DATE: 02/17/1896

POINT OF DIVERSION: T07S R13E S24 SESENW Within Gooding County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Domestic 1 HOME	01-01 TO 12-31	0.04 CFS
	Irrigation	02-15 TO 11-30	1.00 CFS

THE IRRIGATION USE UNDER THIS RIGHT IN EXCESS OF 0.70 CFS IS
SUBORDINATED TO ALL WATER RIGHTS WITH PRIORITY DATES OF
DECEMBER 31, 1999 OR EARLIER.

PLACE OF USE: Irrigation Within Gooding County
T07S R13E S24 SESW 35.0
35.0 Acres Total

Domestic Within Gooding County
T07S R13E S24 SESW

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

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

THE SUBORDINATED PORTION OF THIS WATER RIGHT SHALL NOT BE
ASSERTED, DELIVERED, HONORED, USED, ENFORCED, EFFECTIVE OR
OTHERWISE RECOGNIZED AS VALID IF IT WOULD CAUSE OR REQUIRE EITHER
DIRECTLY OR INDIRECTLY, CURTAILMENT OF, INJURY TO, OR MITIGATION
FROM ANY WATER RIGHTS WITH PRIORITY DATES EARLIER THAN
DECEMBER 31, 1999. THE SUBORDINATION SHALL RUN WITH AND BE
PERPETUAL SERVITUDES UPON THIS WATER RIGHT AND THE ASSOCIATED
LANDS, INCLUDING ANY NEW LANDS TO WHICH ALL OR ANY PORTIONS OF
THIS WATER RIGHT IS TRANSFERRED.

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.

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication



2002 APR 11 AM 10:41

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)

Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 36-00029B

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 April 11, 2002, with sufficient first-class postage prepaid to the following:

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

STATE OF IDAHO

Represented by:
CLIVE STRONG
NATURAL RESOURCES
DEP AG OFFICE OF ATTY GEN
STATEHOUSE MAIL
BOISE, ID 83720-0010
Phone: 208-334-2400

JOSEPHINE BEEMAN
NORTH SNAKE GROUND WATER DIST

Represented by:
JOSEPHINE P. BEEMAN
409 WEST JEFFERSON STREET
BOISE, ID 83702
Phone: 208-331-0950

CERTIFICATE OF MAILING

PAGE 1
04/11/02

DANNY & BRIAN PETERSEN
EVELYN PETERSEN
P O BOX 614
WENDELL, ID 83355

DANNY & BRIAN PETERSEN
EVELYN PETERSEN
P O BOX 614
WENDELL, ID 83355



DEBBIE LASH
Deputy Clerk

02/28/2002

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

RIGHT NUMBER: 36-29B

NAME AND ADDRESS: EVELYN M PETERSON
PO BOX 614
WENDELL ID 83355

BRIAN PETERSON
PO BOX 614
WENDELL ID 83355

DANNY T PETERSON
PO BOX 614
WENDELL ID 83355

SOURCE: THREE SPRINGS

TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 1.00 CFS

THE PORTION OF THIS RIGHT IN EXCESS OF 0.70 CFS IS SUBORDINATED TO ALL
GROUND WATER AND SURFACE WATER RIGHTS WITH PRIORITY DATES OF
DECEMBER 31, 1999 OR EARLIER.

PRIORITY DATE: 02/17/1896

POINT OF DIVERSION:

T07S R13E S24 SESENW Within GOODING County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	2/15 11/30	1.000 CFS
DOMESTIC	1/01 12/31	0.040 CFS

THE IRRIGATION USE UNDER THIS RIGHT IN EXCESS OF 0.70 CFS IS SUBORDINATED
TO ALL WATER RIGHTS WITH PRIORITY DATES OF DECEMBER 31, 1999 OR
EARLIER.

PLACE OF USE: IRRIGATION Within GOODING County

T07S R13E S24 SESW 35.0

DOMESTIC Within GOODING County

T07S R13E S24 SESW

35 ACRES TOTAL

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

02/28/2002

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

THE SUBORDINATED PORTION OF THIS WATER RIGHT SHALL NOT BE ASSERTED, DELIVERED, HONORED, USED, ENFORCED, EFFECTIVE OR OTHERWISE RECOGNIZED AS VALID IF IT WOULD CAUSE OR REQUIRE EITHER DIRECTLY OR INDIRECTLY, CURTAILMENT OF, INJURY TO, OR MITIGATION FROM ANY WATER RIGHTS WITH PRIORITY DATES EARLIER THAN DECEMBER 31, 1999. THE SUBORDINATION SHALL RUN WITH AND BE PERPETUAL SERVITUDES UPON THIS WATER RIGHT AND THE ASSOCIATED LANDS, INCLUDING ANY NEW LANDS TO WHICH ALL OR ANY PORTIONS OF THIS WATER RIGHT IS TRANSFERRED.

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 DOMESTIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: Decreed

COPY

RECEIVED

DEC 22 2000

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 36-00029B

(Insert Water Right Number)

Case 39576

SECOND AMENDED STANDARD FORM 5

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

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

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

Date: 2000

Kyrene Phoron 12-18-00
IDWR Concurrence

Danny Peterson
Claimant - Danny Peterson

Brian Peterson
Claimant - Brian Peterson

Josephine P. Coeman
Attorney for North Snake Ground
Water District
Evelyn Peterson
Claimant - Evelyn Peterson

APPROVED AS TO FORM

Wade Spencer 12-18-00
Attorney for IDWR

STANDARD FORM 5

1002

12/18/00 FAX 208 536 6103

12/18/00 FAX 208 536 6103

1002

US BANK - WENDELL

12/08/00 FRI 07:51 FAX 208 536 6103

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

DATE: APR 18, 2000
PAGE: A-1

RIGHTS FROM: SOURCE: THREE SPRINGS TRIBUTARY: BILLINGSLEY CREEK

RIGHT NUMBER: 34-000296

NAME AND ADDRESS: DANNY T PETERSON
EVELYN M PETERSON
BRIAN PETERSON
P. O. BOX 616
WENDELL ID 83683

SOURCE: THREE SPRINGS

TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 1.0 CFS

THE PORTION OF THIS RIGHT IN EXCESS OF 0.70 CFS IS
SUBORDINATED TO ALL GROUND WATER AND SURFACE WATER RIGHTS WITH
PRIORITY DATES OF DECEMBER 31, 1999 OR EARLIER.

PRIORITY DATE: 02/17/1896 ✓

POINT OF DIVERSION: TOTS R13E S24 SECTION Within GOODING County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
IRRIGATION
DOMESTIC 1 HOME

PERIOD OF USE
02/15 - 11/30
01-01 12-31

QUANTITY
1.0 CFS
0.06 CFS

THE IRRIGATION USE UNDER THIS RIGHT IN EXCESS OF 0.70 CFS IS
SUBORDINATED TO ALL WATER RIGHTS WITH PRIORITY DATES OF DECEMBER
31, 1999 OR EARLIER.

PLACE OF USE: IRRIGATION Within GOODING County
TOTS R13E S24 SE1/4 35
35 ACRES TOTAL
DOMESTIC Within GOODING County
TOTS R13E S24 SE1/4

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

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE, SECTION 62-1412(6) IDAHO CODE.

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

THE SUBORDINATED PORTION OF THIS WATER RIGHT SHALL NOT BE
ASSERTED, DELIVERED, NONWOMED, USED, ENFORCED, EFFECTIVE, OR
OTHERWISE RECOGNIZED IF IT WOULD CAUSE OR REQUIRE, EITHER
DIRECTLY OR INDIRECTLY, CURTAILMENT OF, INJURY TO, OR MITIGATION
FROM ANY SURFACE WATER OR GROUND WATER RIGHTS WITH PRIORITY
DATES OF DECEMBER 31, 1999 OR EARLIER. THE SUBORDINATION SHALL
RUN WITH AND BE A PERPETUAL SERVITUDE UPON THIS WATER RIGHT AND
THE ASSOCIATED LANDS, INCLUDING ANY NEW LANDS TO WHICH ALL OR
ANY PORTIONS OF THIS WATER RIGHT IS TRANSFERRED.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

Handwritten signatures and initials: JP, Q, JPB, NBS

0002

US BANK WENDELL

12 01 00 FRI 15:49 FAX 208 536 6103

0002

US BANK WENDELL

12/08/00 FRI 07:52 FAX 208 536 6103

208 536 6103 -> BEEMAN & HOFSTETTER; Page 2

Received: 12/8/00 7:56PM

CERTIFICATE OF SERVICE

I certify that on 12-20, 2000, I caused to be served true and correct copies of this Second Amended Standard Form 5, to the following persons, in the manner indicated and addressed as follows:

1. Original to:

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

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

2. Copies to:

IDWR Document Repository
P.O. Box 83720
Boise, ID 83720-0098

☐ Overnight Mail
☐ Regular Mail
☒ Hand-Delivered
☐ Facsimile

Josephine P. Beeman
P.O. Box 1427
Boise, ID 83701-1427

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Danny, Brian & Evelyn Petersen
P.O. Box 614
Wendell, ID 83355

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile


Signature of person or attorney mailing the form

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

In Re SRBA

Case No. 39576

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

Water Right 36-000298

2001 FEB -7 AM 8:50

FILED
TWIN FALLS CO., IDAHO

NAME AND ADDRESS: DANNY & BRIAN PETERSEN
EVELYN PETERSEN
P O BOX 614
WENDELL, ID 83355

SOURCE: THREE SPRINGS TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 1.00 CFS

THE PORTION OF THIS RIGHT IN EXCESS OF 0.70 CFS IS
SUBORDINATED TO ALL GROUND WATER AND SURFACE WATER RIGHTS WITH
PRIORITY DATES OF DECEMBER 31, 1999 OR EARLIER.

PRIORITY DATE: 02/12/1916

POINT OF DIVERSION: T07S R13E S24 SESEW Within Gooding County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Domestic 1 HOME	01-01 TO 12-31	0.04 CFS
	Irrigation	02-15 TO 11-30	1.00 CFS

THE IRRIGATION USE UNDER THIS RIGHT IN EXCESS OF 0.70 CFS IS
SUBORDINATED TO ALL WATER RIGHTS WITH PRIORITY DATES OF
DECEMBER 31, 1999 OR EARLIER.

PLACE OF USE: Irrigation Within Gooding County
T07S R13E S24 SESW 35.0
35.0 Acres Total

Domestic Within Gooding County
T07S R13E S24 SESW

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

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

THE SUBORDINATED PORTION OF THIS WATER RIGHT SHALL NOT BE
ASSERTED, DELIVERED, HONORED, USED, ENFORCED, EFFECTIVE OR
OTHERWISE RECOGNIZED AS VALID IF IT WOULD CAUSE OR REQUIRE EITHER
DIRECTLY OR INDIRECTLY, CURTAILMENT OF, INJURY TO, OR MITIGATION
FROM ANY WATER RIGHTS WITH PRIORITY DATES EARLIER THAN
DECEMBER 31, 1999. THE SUBORDINATION SHALL RUN WITH AND BE
PERPETUAL SERVITUDES UPON THIS WATER RIGHT AND THE ASSOCIATED
LANDS, INCLUDING ANY NEW LANDS TO WHICH ALL OR ANY PORTIONS OF
THIS WATER RIGHT IS TRANSFERRED.

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).



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

RECEIVED

DEC 12 2001

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

December 3, 2001

BRIAN PETERSON
PO BOX 600
WENDELL ID 83355

RE: Snake River Basin Adjudication (SRBA)
Water Rights #36-29B, 36-10220

re and modified 12/12/01
supercedes

Dear Water Right Holder:

The Postal Service has advised us your address has changed to the above address.

Although we have reached you at the address above, we need your written confirmation this is your correct mailing address before we can change our records.

Please sign your name at the bottom of this letter and return it to this office. Make corrections to your name and address if necessary before returning this letter, list **any other water rights you have**, and return this letter by December 28, 2001. Thank you for your help.

If your mail delivery address changes in any form, please contact us in writing so we can update our records. Be sure to list your water right numbers.

If there has been a change in ownership of the property connected with the water rights referenced above, please call this office toll-free at 1/800-451-4129 to obtain a form to make this required change to the water right records.

Sincerely,

Sally
Sally Sherman
Technical Records Specialist
Adjudication Bureau

SS:region

#####

The address is correct as shown above or as otherwise changed.

[Signature]
Water Right Holder's Signature

208/536-2468
Telephone No.

P.O. Box 600

PETERSON, BRIAN
RT 1 BOX 8
WENDELL ID 83355

36-10220

36-29 B 80

Mrs. Brian Peterson (there are 2 Brian
Petersons in Wendell, co-claimant of
Brian ~ Sm Danny. told me 12-21-01
there P.O. Box is 614. P.O. is
mistaken.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 12, 2001

BRIAN PETERSON
PO BOX 600
WENDELL ID 83355

RE: Snake River Basin Adjudication (SRBA)
Notice of Claim to a Water Right #36-29B
Change of Address

Dear Mr. Peterson:

Thank you for signing and returning my address change letter. I have modified our records to reflect your current address. I need your assistance once again.

Evelyn Peterson and Danny Peterson are also current owners of the water right referenced above, and have the same address as you did (P.O. Box 614). Did their P.O. Box also change to 600 or is it still 614?

Please jot a note on this letter and return it to me so I know what to do.

Thank you,

Sally Sherman
Technical Records Specialist
Adjudication Technical Section

ss:region

12-21-01

I called - Evelyn Peterson answered - and confirmed P.O. Box is 614 for her, her husband Brian, & son Danny. I unmodified record & put Brian's P.O. Box back to 614, updated Evelyn & Danny from P.O. Box 8 to P.O. Box 614.

RECEIVED

JAN -2 2001

Department of Water Resources

RECEIVED

JAN 08 2001

Department of Water Resources
Southern Region

200 DEC 27 AM 10:49

FILED
JAN 10 2001
TWIN FALLS CO., IDAHO

Search
File

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

ORDER ON MOTION TO ALTER OR
AMEND

AMENDED SPECIAL MASTER'S
REPORT AND RECOMMENDATION

FOR WATER RIGHT: 36-00029B

I. FINDINGS OF FACT

A notice of claim was filed for this water right pursuant to I.C. § 42-1409 (1990). The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation for the elements of this water right.

All objections to this water right were resolved with the filing of a *Standard Form 5*. All parties to the subcase and IDWR are signatories to the *Standard Form 5*.

A *Special Master's Report and Recommendation* was issued May 10, 1999. North Snake Ground Water District filed *Motion to Alter or Amend and Motion for Stay* on June 28, 1999. On August 21, 2000, counsel for North Snake Ground Water District waived oral argument. Subsequently, a *Second Amended Standard Form 5* was filed. All parties to the subcase and IDWR are signatories to the *Standard Form 5*.

II. CONCLUSIONS OF LAW

Therefore, IT IS RECOMMENDED that water right 36-00029B be decreed with the elements as set forth in the *Partial Decree Pursuant to I.R.C.P. 54(b) for Water Right 36-00029B*.

DATED: December 22, 2000.



THOMAS R. CUSHMAN, Special Master
Snake River Basin Adjudication

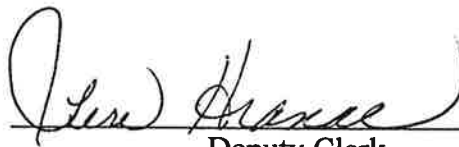
CERTIFICATE OF MAILING

I certify that a true and correct copy of the *Order of Motion to Alter or Amend; Amended Special Master's Report and Recommendation* was mailed on December 27, 2000, with sufficient first-class postage prepaid to the following:

Director of IDWR
PO Box 83720
Boise, ID 83701-0098

Josephine Beeman
Dana Hofstetter
PO Box 1427
Boise, ID 83701-1427

Danny, Brian & Evelyn Petersen
PO Box 614
Wendell, ID 83355

A handwritten signature in cursive script, appearing to read "L. H. Haxel", is written over a horizontal line.

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

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

Water Right 36-00029B

200 DEC 27 AM 10:49

FILED
TWIN FALLS, IDAHO

NAME AND ADDRESS: DANNY & BRIAN PETERSEN
EVELYN PETERSEN
P O BOX 614
WENDELL, ID 83355

SOURCE: THREE SPRINGS TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 1.00 CFS

THE PORTION OF THIS RIGHT IN EXCESS OF 0.70 CFS IS
SUBORDINATED TO ALL GROUND WATER AND SURFACE WATER RIGHTS WITH
PRIORITY DATES OF DECEMBER 31, 1999 OR EARLIER.

PRIORITY DATE: 02/12/1916

POINT OF DIVERSION: T07S R13E S24 SESENW Within Gooding County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Domestic 1 HOME	01-01 TO 12-31	0.04 CFS
	Irrigation	02-15 TO 11-30	1.00 CFS

THE IRRIGATION USE UNDER THIS RIGHT IN EXCESS OF 0.70 CFS IS
SUBORDINATED TO ALL WATER RIGHTS WITH PRIORITY DATES OF
DECEMBER 31, 1999 OR EARLIER.

PLACE OF USE: Irrigation Within Gooding County
T07S R13E S24 SESW 35.0
35.0 Acres Total

Domestic Within Gooding County
T07S R13E S24 SESW

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

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

THE SUBORDINATED PORTION OF THIS WATER RIGHT SHALL NOT BE
ASSERTED, DELIVERED, HONORED, USED, ENFORCED, EFFECTIVE OR
OTHERWISE RECOGNIZED AS VALID IF IT WOULD CAUSE OR REQUIRE EITHER
DIRECTLY OR INDIRECTLY, CURTAILMENT OF, INJURY TO, OR MITIGATION
FROM ANY WATER RIGHTS WITH PRIORITY DATES EARLIER THAN
DECEMBER 31, 1999. THE SUBORDINATION SHALL RUN WITH AND BE
PERPETUAL SERVITUDES UPON THIS WATER RIGHT AND THE ASSOCIATED
LANDS, INCLUDING ANY NEW LANDS TO WHICH ALL OR ANY PORTIONS OF
THIS WATER RIGHT IS TRANSFERRED.

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.



Roger Burdick
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

Subcase 36-00029B

(Insert Water Right Number)

Case 39576

SECOND AMENDED STANDARD FORM 5

RECEIVED

DEC 22 2000

Department of Water Resources
Southern Region

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

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

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

Date: _____, 2000

Rexanne Phoron 12-18-00
IDWR Concurrence

Danny Peterson
Claimant - Danny Peterson

Brian Peterson
Claimant - Brian Peterson

Josephine P. Beeman
Attorney for North Snake Ground
Water District

Evelyn Peterson
Claimant - Evelyn Peterson

APPROVED AS TO FORM
Wade Spencer 12-18-00
Attorney for IDWR

STANDARD FORM 5

2002

US BANK WENDELL

12-01-00 FRI 15:49 FAX 208 536 6103

36-00029B

2001

US BANK WENDELL

12/08/00 FRI 07:51 FAX 208 536 6103

Received: 12/8/00 7:54PM; 208 536 6103 - BEEMAN & HOSKIN; Page 1

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

DATE: AUG 18, 2000
PAGE: A-1

RIGHTS FROM: SOURCE: THREE SPRINGS TRIBUTARY: BILLINGSLEY CREEK

RIGHT NUMBER: 36-000298

NAME AND ADDRESS: DANNY T PETERSON
EVELYN M PETERSON
BRIAN PETERSON
P. O. BOX 416
WENDELL ID 83355

SOURCE: THREE SPRINGS

TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 1.0 CFS

THE PORTION OF THIS RIGHT IN EXCESS OF 0.70 CFS IS
SUBORDINATED TO ALL GROUND WATER AND SURFACE WATER RIGHTS WITH
PRIORITY DATES OF DECEMBER 31, 1999 OR EARLIER.

PRIORITY DATE: 02/17/1896

POINT OF DIVERSION: TOTS R13E S24 SESEW Within GOODING County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	DOMESTIC 1 HOME	02/15 - 11/30	1.0 CFS
		01-01 12-31	0.04 CFS

THE IRRIGATION USE UNDER THIS RIGHT IN EXCESS OF 0.70 CFS IS
SUBORDINATED TO ALL WATER RIGHTS WITH PRIORITY DATES OF DECEMBER
31, 1999 OR EARLIER.

PLACE OF USE: IRRIGATION Within GOODING County
TOTS R13E S24 SESU 35
35 ACRES TOTAL
DOMESTIC Within GOODING County
TOTS R13E S24 SESU

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

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE, SECTION 12-1612(6) IDAHO CODE.

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

THE SUBORDINATED PORTION OF THIS WATER RIGHT SHALL NOT BE
ASSERTED, DELIVERED, HONORED, USED, ENFORCED, EFFECTIVE, OR
OTHERWISE RECOGNIZED IF IT WOULD CAUSE OR REQUIRE, EITHER
DIRECTLY OR INDIRECTLY, CURTAILMENT OF, INJURY TO, OR MITIGATION
FROM ANY SURFACE WATER OR GROUND WATER RIGHTS WITH PRIORITY
DATES OF DECEMBER 31, 1999 OR EARLIER. THE SUBORDINATION SHALL
RUN WITH AND BE A PERPETUAL SERVITUDE UPON THIS WATER RIGHT AND
THE ASSOCIATED LANDS, INCLUDING ANY NEW LANDS TO WHICH ALL OR
ANY PORTIONS OF THIS WATER RIGHT IS TRANSFERRED.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

JPB UBS

CS BANK WENDELL

FRI 15:49 FAX 208 536 6103

US BANK WENDELL

FRI 07:52 FAX 208 536 6103

208 536 6103 -> BEEMAN & HOFSTETTER: Page 2

Received: 12/8/00 7:55PM

CERTIFICATE OF SERVICE

I certify that on 12-20, 2000, I caused to be served true and correct copies of this Second Amended Standard Form 5, to the following persons, in the manner indicated and addressed as follows:

1. Original to:

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

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

2. Copies to:

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☐ Overnight Mail
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☐ Facsimile

Josephine P. Beeman
P.O. Box 1427
Boise, ID 83701-1427

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Danny, Brian & Evelyn Petersen
P.O. Box 614
Wendell, ID 83355

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Sandy Egbert
Signature of person or attorney mailing the form

COMMUNICATION DOCUMENTATION

This form is to be used to document public record information requests regarding any SRBA claim or claims. The form may also be used to document IDWR communications requesting information regarding any SRBA claim or claims when the request is not made in writing or the claim verification report is not readily available to document the request. This form is to be filed in all relevant claim files or a central office file.

NAME:

RE:

DAN PETERSON

CALLOUT

QUERY ON DUTY RATE

Nick S. called and asked me to give Dan a call to discuss the duty of water as recommended as opposed to the rates being discussed in an ongoing "settlement". I studied the file and called him at work, Lower Salmon Dam phone 837-6431. I left a msg. and he called back. He wanted to know if I was going to the hearing tomorrow and would I be able to discuss some points for him, since he will not be there either. I told him I usually do not go to this type of hearing. He said if I am not going that is all he had to ask about.

RECEIVED

MAY 13 1999

Department of Water Resources

RECEIVED

MAY 21 1999

Department of Water Resources
Southern Region

SOUTH

FILE

1999 MAY 10 AM 11:53

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO

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): 36-00029B

On May 10, 1999, Special Master FRITZ X HAEMMERLE issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

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

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

DATED May 10, 1999.


TERI HRANAC
Deputy Clerk

1999 MAY 10 AM 11: 53
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: 36-00029B
	)	
Case No. 39576	)	SPECIAL MASTER'S REPORT
_____	)	

FINDINGS OF FACT AND CONCLUSIONS OF LAW

A notice of claim was filed for this water right pursuant to I.C. § 42-1409 (1990). The director of the State of Idaho Department of Water Resources examined the water system for areas 1, 2, and 3 and investigated and abstracted the notices of claims for those Reporting Areas. The Director of the Idaho Department of Water Resources then filed a *Director's Report* which asserted how the elements of this water right should be decreed by the court.

North Snake Ground Water District (NSGWD) intervened in this water right after the claimants, Danny and Brian Peterson, amended their claim. Subsequently, on April 26, 1999, the parties entered into a *Standard Form 5*. Under the quantity element, the parties agreed as follows:

The 1.0 cfs quantity for irrigation designated under this right is based on the reasonable amount that should be needed to supply a surface or "gravity" irrigation system. However, the actual means of irrigation may involve sprinkler or another irrigation method which requires a small rate or volume of diversion. In the event of a water shortage, and delivery call for water, or other action to administer water rights, the water right holder shall be entitled to divert no more than the quantity reasonably necessary for the method of irrigation actually employed at that time. This quantity may be less than and shall never be greater than the 1.0 cfs quantity designated in the SRBA decree. For this right, a reasonable quantity for sprinkler irrigation shall not exceed 0.70 cfs.

Standard Form 5.

A remark may be included under any element of the water right if it is "necessary" for the definition, clarification, or administration of the right. I.C. § 42-1411(2)(j). In this case, IDWR, the

independent expert, admitted during the pretrial conference that the proposed remark was not necessary for administration of the water right. Because the remark is not necessary, the court exercises its discretion in not including the remark under its recommendation.

Furthermore, the language is vague. The remark states that the diversion "may" include gravity or sprinkler irrigation and that the quantity "may" be less than the quantity designated for gravity or sprinkler irrigation. Most fatal to the proposed remark is the following language: "[t]his quantity may be less than and shall never be greater than the 1.0 cfs quantity designated in the SRBA decree." It would be negligent if this court were to include such vague language in the decree. When the court's jurisdiction is invoked in any dispute, the roll of the court is to settle the dispute by defining the parties' obligations and rights. All too often the court in a water adjudication perpetuates disputes by allowing vague and uncertain settlements. Allowing the proposed language would not end, but would perpetuate, any uncertainty with respect to water right 36-00029B.

For all these reasons, the court will not include the proposed language; now therefore,

IT IS THEREFORE RECOMMENDED that this water right be decreed as recommended in the attached *Partial Decree Pursuant to I.R.C.P. 54(b) for Water Right 36-00029B*.

DATED this ____ day of May, 1999.



FRITZ X. HAEMMERLE, Special Master
Snake River Basin Adjudication

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

In Re SRBA
Case No. 39576

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

Water Right 36-00029B

1999 MAY 10 AM 11:53
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

NAME AND ADDRESS: DANNY & BRIAN PETERSEN
EVELYN PETERSON
P O BOX 614
WENDELL, ID 83355

SOURCE: THREE SPRINGS TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 1.00 CFS

PRIORITY DATE: 02/12/1916

POINT OF DIVERSION: T07S R13E S24 SESEW Within Gooding County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Domestic 1 HOME	01-01 TO 12-31	0.04 CFS
	Irrigation	02-15 TO 11-30	1.00 CFS

PLACE OF USE: Irrigation T07S R13E S24 SESEW 35.0 Within Gooding County
35.0 Acres Total

Domestic T07S R13E S24 SESEW Within Gooding County

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

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

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.

RECOMMENDATION

MAY 10 1999

SPECIAL MASTER

Barry Wood
Administrative District Judge
Presiding Judge of the
Snake River Basin Adjudication

RECEIVED

MAY 13 1999

Department of Water Resources

1999 MAY 10 AM 11: 53
DISTRICT COURT-SRBA
TWINFALLS 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

Case No. 39576

)
)
)
)
CERTIFICATE OF MAILING

Water Right(s): 36-00029B

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on May 10, 1999, with sufficient first-class postage prepaid to the following:

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

STATE OF IDAHO
Represented by:
CLIVE STRONG
NATURAL RESOURCES
DEP AG OFFICE OF ATTY GEN
STATEHOUSE MAIL
BOISE, ID 83720-0010
Phone: 208-334-2400

JOSEPHINE BEEMAN
NORTH SNAKE GROUND WATER DIST
Represented by:
JOSEPHINE P. BEEMAN
PO BOX 1427
BOISE, ID 83701-1427
Phone: 208-388-8900

CERTIFICATE OF MAILING

PAGE 1
05/10/99

DANNY & BRIAN PETERSEN
EVELYN PETERSON
P O BOX 614
WENDELL, ID 83355

~~DANNY & BRIAN PETERSEN
PETERSEN, EVELYN
P O BOX 614
WENDELL, ID 83355~~



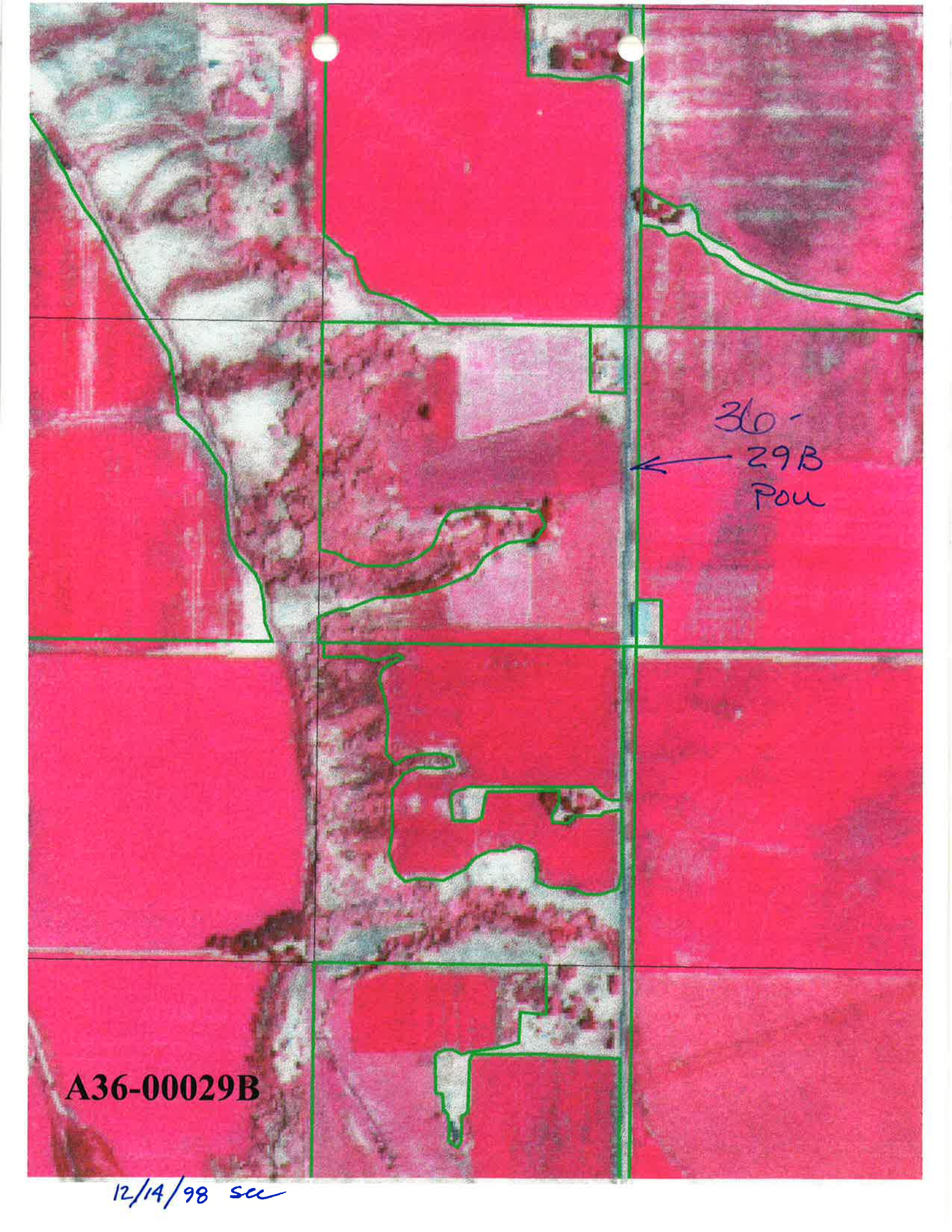
TERI HRANAC
Deputy Clerk

see file #

36-00029B

MICROFILMED

FEB 07 1993

An aerial photograph of a landscape, possibly a coastal or wetland area, with a green outline tracing a path or boundary. The image is divided into a grid by thin black lines. Handwritten annotations in blue ink are present. In the bottom left corner, the text 'A36-00029B' is printed. In the bottom center, the date '12/14/98' and the initials 'scu' are handwritten. On the right side, there is a handwritten label '360-29B' with 'POW' below it, and a blue arrow pointing left towards the green outline.

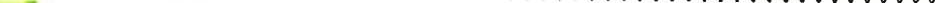
A36-00029B

12/14/98 scu

360-
29B
POW

COMMUNICATION DOCUMENTATION

This form is to be used to document public record information requests regarding any SRBA claim or claims. The form may also be used to document IDWR communications requesting information regarding any SRBA claim or claims when the request is not made in writing or the claim verification report is not readily available to document the request. This form is to be filed in all relevant claim files or a central office file.



QUESTIONS ON REC/D

MAD ANALYSIS

RECEIVED RECEIVED 1998 APR 14 PM 12:09

APR 15 1998

APR 17 1998

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

Department of Water Resources
Adjudication Bureau

Department of Water Resources
Southern Region

FILED _____

4-14
SOUTHERN

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. 36-00029B, 36-00077D
and 36-00086C.

Case No. 39576

ORDER SCHEDULING CHALLENGE
PROCEEDINGS AND ORDER
DISMISSING CHALLENGE

On March 31, 1998, North Snake Groundwater District filed a *Notice of Challenge* in the above subcases. A *Challenge* in the Snake River Basin Adjudication is properly filed after a *Motion to Alter or Amend* a final *Special Master's Report and Recommendation* has been denied. AO1 § 13(c). The three subcases *Challenged* by North Snake Groundwater District are not postured identically. Subcases 36-00077D and 36-00086C have had a final *Special Master's Report and Recommendation* filed and these subcases are ripe for a *Challenge* under AO1 § 13(c). The Special Master has allowed for further objection and response in subcase 36-00029B. *Notice Allowing For Further Objection and Response Period* (March 17, 1998). An interlocutory appeal is the only means by which the Presiding Judge may review a Special Master's decision prior to a final *Special Master's Report and Recommendation*. Therefore, the *Challenge* filed by North Snake Ground Water to Subcase 36-00029B is DISMISSED.

The *Challenge* to Subcases 36-00077D and 36-00086C shall adhere to the following schedule:

ORDER SCHEDULING CHALLENGE
PROCEEDINGS AND ORDER DISMISSING
CHALLENGE

5/5/98	5:00 pm	Reporter's Transcript Due
5/26/98	5:00 pm	Simultaneous Opening Briefs Due
6/9/98	5:00 pm	Rebuttal Briefs Due
6/17/98	1:30 pm	Hearing

Briefs shall be limited to 25 pages and shall be served on all parties to the subcases and the party filing the *Notice of Challenge*. Only those parties filing briefs will be allowed oral argument and each party will be limited to 30 minutes for oral argument.

IT IS SO ORDERED

DATED April 14, 1998



DANIEL C. HURLBUTT, JR.

Presiding Judge

Snake River Basin Adjudication

RIGHTS FROM:

SOURCE: THREE SPRINGS

TRIBUTARY: BILLINGSLEY CREEK

RIGHT NUMBER:

36-000298

NAME AND ADDRESS:

DANNY T PETERSON

EVELYN M PETERSON

BRIAN PETERSON

PO BOX 614

RT 1 BOX 8

WENDELL ID 83355

VERIFIED BY RB 11-14-97

SOURCE:

THREE SPRINGS

TRIBUTARY: BILLINGSLEY CREEK

QUANTITY:

1.00 CFS

0.16 CFS

THE QUANTITY FOR NON-IRRIGATION USE IS LIMITED TO THE AMOUNT BENEFICIALLY USED FOR DOMESTIC 1 HOME

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

PRIORITY DATE:

02/17/1896

02/12/1916

POINT OF DIVERSION:

T07S R13E S24

SESENW

Within GOODING County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE		QUANTITY	
		Irrigation Season		1.00	CFS
	IRRIGATION	03/18	11/18	0.16	CFS
	DOMESTIC 1 HOME	01-01	12-31	0.04	CFS

PLACE OF USE:

IRRIGATION

Within GOODING County

T07S R13E S24

SESW 35

35 ACRES TOTAL

DOMESTIC

Within GOODING County

T07S R13E S24

SESW

CONSUMPTIVE USE:

10310 AFY

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR

AJ5856NP

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

DATE: NOV-14-1997

PAGE: A-2

36-00029B (CONT.)

DOMESTIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

RECEIVED

JAN 02 1998

Department of Water Resources
Southern Region

OCT 22 1997

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

Case No. 39576

SUBCASE(S) 36-00029 B

SPECIAL MASTER'S REPORT

A notice of claim was filed for this water right pursuant to I.C. § 42-1409 (1990). The Director of the State of Idaho Department of Water Resources examined the claim and his *Report* contained a recommendation of the elements of this water right.

- ☐ There were no objections to this claim; however, this claim is used in combination with another claim which is the subject of an objection.
- ☒ All objections to this claim were resolved by stipulation of the parties at hearing or with a *Standard Form 5*. All parties to the subcase and IDWR have signed the *Standard Form 5*.
- ☐ All objections to this claim were resolved at trial. The court made oral findings of fact and conclusions of law at the trial and they are incorporated herein reference.

Therefore, based on the file and record herein, IT IS RECOMMENDED that this claim be decreed with the elements as set forth in the attached *Special Master's Recommendation for Partial Decree*.

DATED: October 22, 1997

J. X. H. H. H.
Special Master
Snake River Basin Adjudication

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JAN 02 1998

Department of Water Resources
Southern Region

OCT 22 1997

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

Case No. 39576

SUBCASE(S): 36-00029B

NOTICE OF ISSUANCE and SERVICE

Special Master FRITZ X. HAEMMERLE issued a *SPECIAL MASTER'S REPORT AND RECOMMENDATION* for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 9.

The documents were served only on parties to the subcase and IDWR. They were not served on the Presiding Judge. Parties to this subcase may file a *Motion to Alter or Amend* with the Special Master, but must do so within 14 days of the date of the *SPECIAL MASTER'S REPORT AND RECOMMENDATION*.

I certify that a true and correct copy of the *SPECIAL MASTER'S REPORT AND RECOMMENDATION* were hand delivered to the following:

Representative of IDWR:

Nick Spencer

Danny Petersen
Claimant/Attorney

Brian Petersen (mailed)
Claimant/Attorney

Evelyn Petersen (mailed)

Representative of U.S. Dept. of Justice

DATED October 22, 1997

Jim Albrecht
Deputy Clerk

RECEIVED

JAN 02 1998

Department of Water Resources
Southern Region

OCT 22 1997

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(s) 36-00029B

STANDARD FORM 5

Case 39576

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

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

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

Date: 10-22-97

Douglas Jones
IDWR Concurrence

Douglas J. Spencer
Claimant

Claimant/Attorney

Claimant/Attorney

APPROVED AS TO FORM -
Nick Spencer

Objector

Objector/Attorney

Objector/Attorney

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

DATE: OCT-17-1997

PAGE: A-1

RIGHTS FROM: SOURCE: THREE SPRINGS TRIBUTARY: BILLINGSLEY CREEK

RIGHT NUMBER: 36-00029B

NAME AND ADDRESS: DANNY T PETERSON
EVELYN M PETERSON
BRIAN PETERSON
~~RT 1 BOX 8~~ P.O. Box 614
WENDELL ID 83355

SOURCE: THREE SPRINGS TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 1.0
~~0.6~~ CFS

THE QUANTITY FOR NON-IRRIGATION USE IS LIMITED TO THE AMOUNT BENEFICIARILY
USED FOR DOMESTIC 1 HOME

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

PRIORITY DATE: 2-17-1896
~~02/12/1916~~

POINT OF DIVERSION: T07S R13E S24 SESENW Within GOODING County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION		<u>Irrigation Season</u>	1.0 ~~0.6~~ CFS
		03/13 11/13	
DOMESTIC 1 HOME		01-01 12-31	0.04 CFS

PLACE OF USE: IRRIGATION Within GOODING County
T07S R13E S24 SESW 35
35 ACRES TOTAL

DOMESTIC Within GOODING County
T07S R13E S24 SESW

CONSUMPTIVE USE: 100% KFY

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

RECOMMENDATION
OCT 22 1997
[Signature]
SPECIAL MASTER

[Handwritten initials]
NBS

RECEIVED

JAN 02 1998

Department of Water Resources
Southern Region

OCT 22 1997

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

Case No. 39576

Subcase(s) 36-00029B

ORDER GRANTING MOTION TO
FILE AN AMENDED NOTICE OF
CLAIM

A Motion to File an Amended Notice of Claim was filed on October 22, 1997, a hearing was held before the Special Master. Leave to amend a claim shall be freely given when justice so requires. For good cause appearing, the Motion to File an Amended Notice of Claim is granted.

DATED October 22, 1997.

Fritz X. Haemmerle
FRITZ X. HAEMMERLE
Special Master
Snake River Basin Adjudication

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the ORDER GRANTING MOTION TO FILE AN AMENDED NOTICE OF CLAIM was hand delivered on October 22, 1997, to the following:

Danny Petersen

Evelyn Petersen (mailed)

Brian Peterson (mailed)

IDWR
Nick Spencer

Ami Alkandri
Deputy Clerk

RECEIVED

JAN 02 1998

Department of Water Resources
Southern Region

OCT 22 1997

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

Case No. 39576

Subcase(s) 36-00029 B

MOTION TO FILE AN AMENDED
NOTICE OF CLAIM

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

- ☐ I must amend my Notice of Claim to the use of water in the SRBA because.

Amend previously del. to 2/17/1896 and
grant to 1.0 cfs.

- ☐ I am providing legal and factual documentation to support my amended Notice of Claim.

I have attached:

- ☐ An amended Notice of Claim (available from IDWR).
☐ Payment of the following additional fees required by IDWR.

DATED October 22, 1997.

VERIFICATION

State of Idaho
County of Twin Falls

Danny T Peterson, being first duly sworn, upon oath, deposes and says:
That I am the party/claimant filing this motion for an amended claim (as listed on this form) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Danny T Peterson
Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on 10-22-97
(Insert Date)

Debbie Lash
Notary Public for the State of Idaho
Residing at: Jerome
My Commission expires: 6-26-2002

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JAN 02 1998

Department of Water
Southern Region

OCT 22 1997

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(s) 36-0002913

Case No. 39576

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the MOTION TO FILE AN AMENDED NOTICE
OF CLAIM was hand delivered on October 22, 1997, to the following:

1. Original to:

Brian Peterson (mailed)

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

Evelyn Peterson (mailed)

2. Copies to:

Director of IDWR
P O Box 83720
Boise, Idaho 83720-0098

Danny Peterson

Ali Albedi

Signature of person delivering form

HAGERMAN

Surface Irrigation Diversion Rate Analysis Sheet

WR#'s 36-00029B

SOIL	SOIL AC.	% ROW	ROW AC.	FIR ROW	CFS ROW	% FOR.	FOR. AC.	FIR FOR.	CFS FOR.
FKE	15.00	60	9	0.046	0.414	40	6	0.030	0.180
KOB	6.66	60	4	0.037	0.148	40	2.66	0.027	0.072
KOC	13.39	60	8.03	0.037	0.297	40	5.36	0.027	0.145
TOTALS	35.05		21.03		0.859		14.02		0.397

REC.
FIR

1.25 *

CFS

=

SUM

1.256

CFS

X

35

REC. AC.

35.05

GIS AC.

DATE 10/22/97

INIT. *[Signature]*

*ADD CONVEYANCE LOSS (IF APPLICABLE) FOR
TOTAL IRRIGATION DIVERSION REQUIREMENT

DIVERSION CAPACITY OR LIC./DEC. AMOUNT MAY LIMIT

IDAHO DEPARTMENT OF WATER RESOURCES SURFACE IRRIGATION ANALYSIS WORKSHEET

WATER RIGHT NOS. No 36-00029B

The following information is submitted to the Idaho Department of Water Resources to allow it to form an opinion regarding the amount of water needed to irrigate my fields using a surface water irrigation system.

My fields were historically irrigated using a surface water system: ☒ Yes ☐ No

My typical cropping pattern, based upon the percentage of my total acreage, is as follows:

FORAGE/GRAIN/OTHER (hay, pasture, grain, mint)

40 %

ROW CROPS (beans, potatoes, sugar beets, corn)

60 %

My total acreage is 35 acres.

Danny G. Peterson
Signature of Claimant

10-22-97
Date

Signature of Claimant

Date

T. Douglas Jones
Signature of IDWR agent

10/22/97
Date

SUBCASE NO. 36-00029B

	CLAIM (7/18/88)	AMENDED CLAIM	RECOMMENDATION	OBJECTION
NAME	Brian, Danny &/or Evelyn Peterson	N/A	Brian, Danny, Evelyn Peterson	XX 745 N. Hagerman St. Wendell, ID 83355
BASIS OF CLAIM	Decree		Decree	
SOURCE	Spring		Three Springs	
QUANTITY	0.600 cfs		0.600 cfs	XX maximum quantity & consumptive use as decreed
PRIORITY DATE	2/12/1916		2/12/1916	
PURPOSE OF USE	Domestic Irrigation		Domestic Irrigation	
PERIOD OF USE	Dom.: 1/1 - 12/31 Irr.: 3/15 - 11/15		Dom.: 1/1 - 12/31 Irr.: 3/15 - 11/15	XX 1/1 - 12/31
POINT OF DIVERSION	T07S R13E S24		T07S R13E S24	
PLACE OF USE	T07S R13E S24 35.0 acres		T07S R13E S24 35.0 acres	

Note: Beneficial use claim 36-10220 recommended as 36-00029B.

CLAIM NUMBERS 36-00029BDATE 10/1/97

TRANSFER NUMBER _____

OBJECTION FILED _____

AGENT [Signature]TOTAL ACRES FROM RECOMMENDATION 35GEOGRAPHIC INFO SYSTEM 35

RIGHT NO				NE				NW				SW				SE			
	TNS	RNG	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
RECOM	<u>7S</u>	<u>13E</u>	<u>24</u>												<u>35</u>				<u>35</u>
GIS															<u>35</u>				<u>35</u>
RECOM																			
GIS																			
RECOM																			
GIS																			
RECOM																			
GIS																			

UPDATED

POLYGON #

UPDATED

B36-DBPOU.DBF

POLYGON CREATED ON 604

()

ATTRIBUTES OF B36-POU.SHP

50310/1/97

B36-DBPOD.DBF

ATTRIBUTES OF B36-POD.SHP

45910/1/97

Legal for Three Springs in recommendation
is not consistent
Should be = SESE 1/2 S30 7S 14E

P/U CONFLICT yes () no (X)

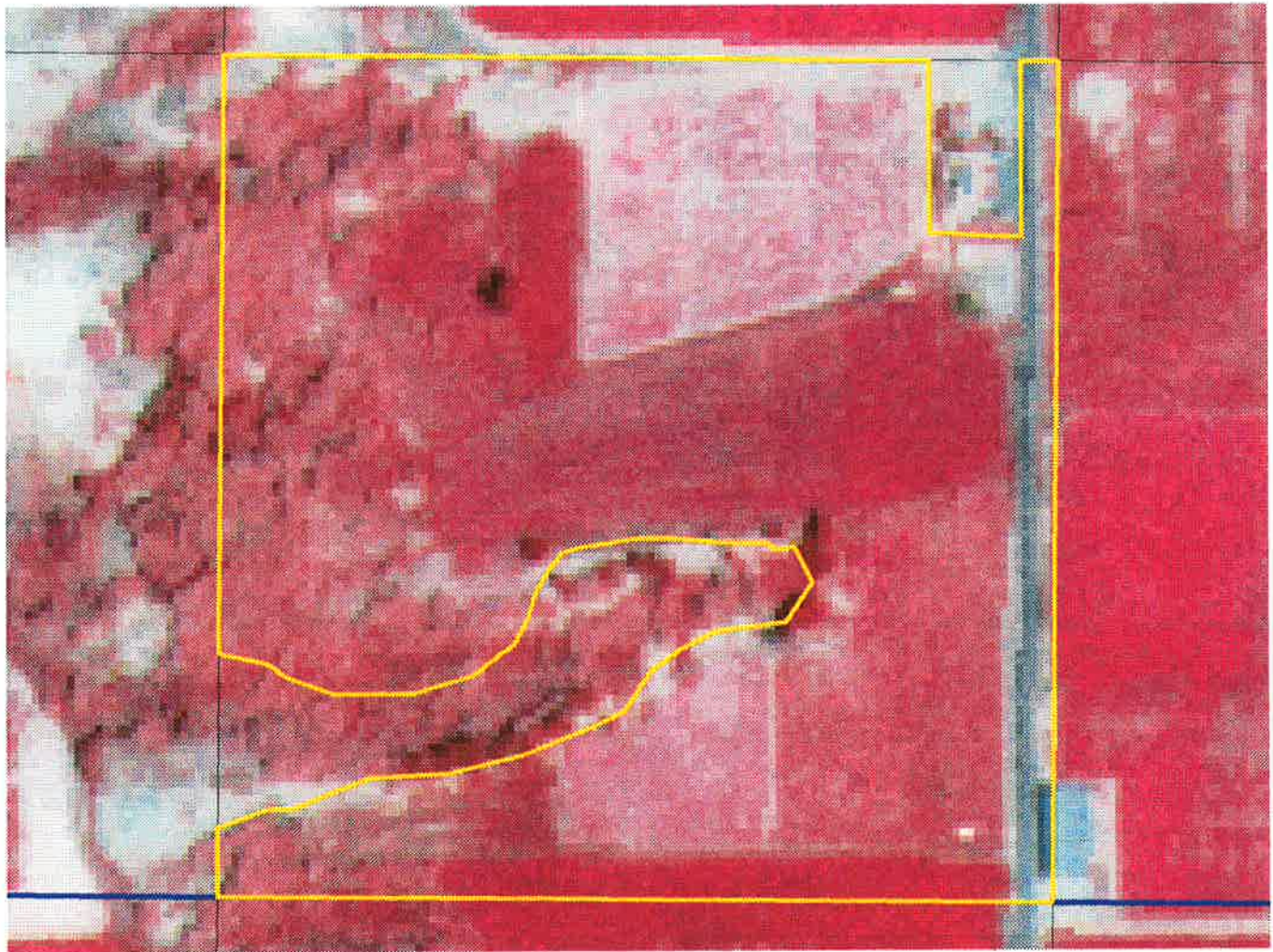
P/D CONFLICT yes (X) no ()

READY FOR DECREE yes () no ()

SENT FOR DECREE yes () no ()

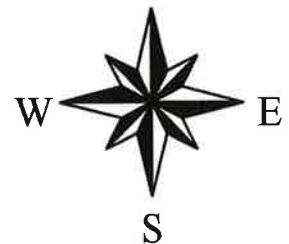
IDAHO DEPARTMENT OF WATER RESOURCES

36-00029B
PETERSON



660 0 660 Feet

TNS 7S, RNG 13E, SEC 24 SESW



⊙ RECOMMENDED POINT OF DIVERSION



RECOMMENDED PLACE OF USE



SECTION LINES &/OR TRACT LINES

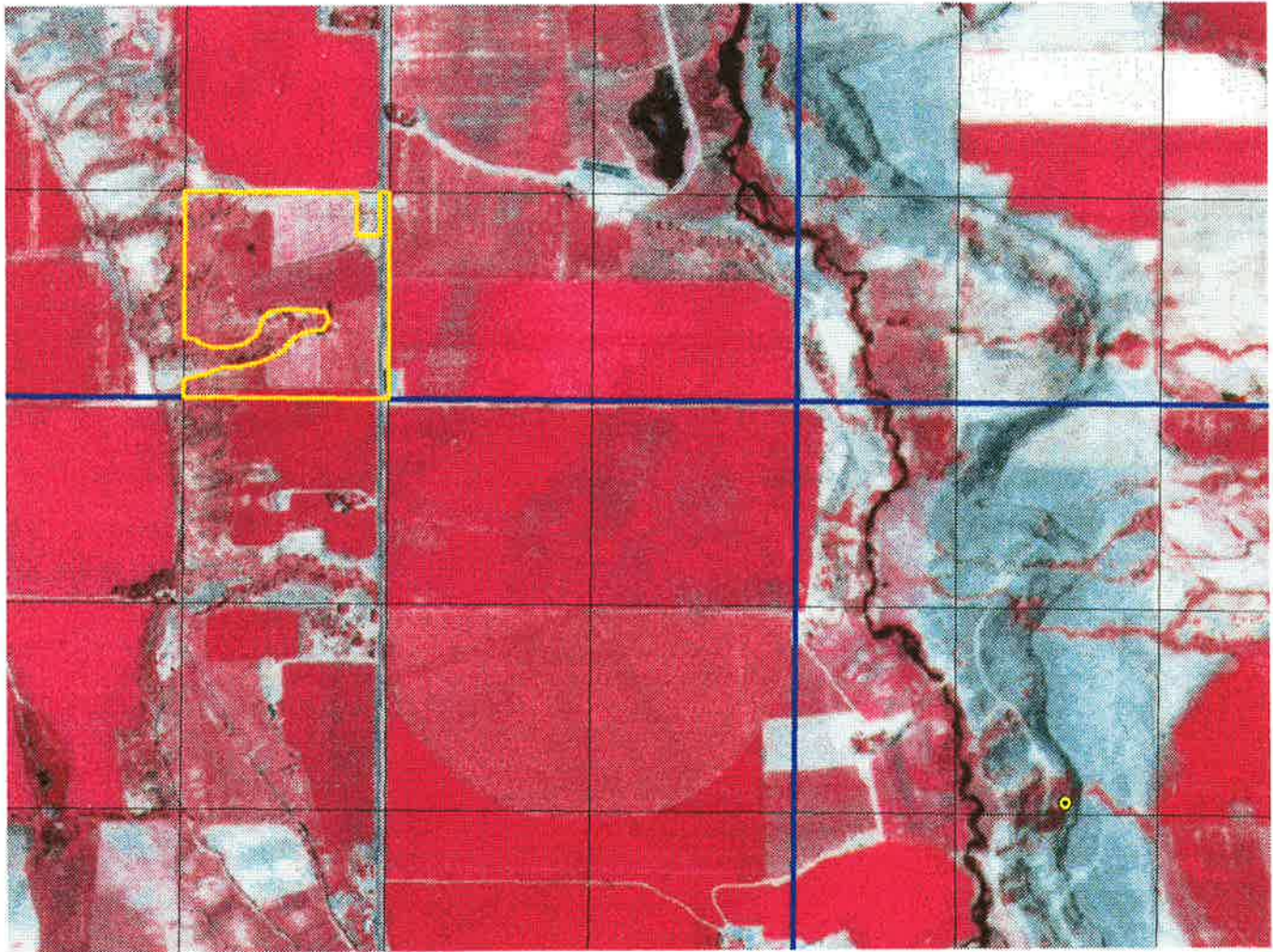


QUARTER/QUARTER LINES

GIS PLACE OF USE PRESENTATION
1987 and/or 1988 NAPP PHOTOGRAPHY
DATA ENTRY OCTOBER 1997
BY DOUGLAS JONES

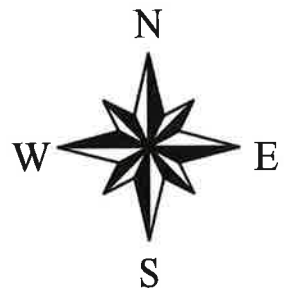
IDAHO DEPARTMENT OF WATER RESOURCES

36-00029B
PETERSON



660 0 660 Feet

TNS 7S, RNG 13E, SEC 24 SESW



⊙ RECOMMENDED POINT OF DIVERSION



RECOMMENDED PLACE OF USE



SECTION LINES &/OR TRACT LINES



QUARTER/QUARTER LINES

GIS PLACE OF USE PRESENTATION
1987 and/or 1988 NAPP PHOTOGRAPHY
DATA ENTRY OCTOBER 1997
BY DOUGLAS JONES

R PROOF

CVR

MAPS

PHOTOS

MISC

MICROFILMED

04

RECEIVED

APR 30 1993

Department of Water Resources
Adjudication Bureau

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

Case No. A36-00029B
(You must insert the
water right number you
are objecting to)

The State of Idaho, ex rel.
R. Keith Higginson in his
official capacity as Director
of the Idaho Department of
Water Resources,

OBJECTION

Petitioner,

vs.

36-00029B -0001/
93-04-0027

The United States; the State
of Idaho; and all Claimants to
the use of water from the Snake
River Basin Water System,

Respondents.

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in the Director's Report. You may object to one water right per objection form. The water right number you are objecting to must be indicated above in the blank space following "Case No." To object to more than one water right, you must file a separate objection form for each. Forms may be obtained from the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form, as long as it is identical to the court's form. You must file your objection by the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

Any party physically filing 25 (twenty-five) or more objections must make an appointment with the Clerk of the Adjudication Court and arrange for an appointment to file multiple objections.

(Over)

OBJECTION - 1

MICROFILMED
OCT 11 1994

By filing an objection form, you are certifying that the objection is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and that it is not filed for any improper purpose, such as to harass, cause unnecessary delay or needless increase in the cost of litigation.

I. GENERAL INFORMATION

Please fill in the following information:

1. Person objecting:

Name: Danny, Brian and Evelyn Peterson

Address: 745 No. Hagerman St.

Wendell, ID 83355

Briefly describe your interest in this water right:

Decreed water right pursuant to New

International Mortgage Bank v. Idaho Power Co.

dated 3/22/1932 with a priority date of

2/12/1916

2. Owner of the water right:

Name: Danny, Brian and Evelyn Peterson

Address: 745 No. Hagerman St.

Wendell, ID 83355

3. If this objection is filed by an attorney:

Attorney Name: Patrick D. Brown & Penelope Parker

Attorney Address: Hepworth, Nungester & Lezamiz

P.O. Box 389, Twin Falls, ID 83303

Attorney Phone No.: (208) 734-7510

If filed by an attorney, notice of pending court proceedings will be sent to the attorney only.

II. STATEMENT OF THE OBJECTION

Please check each "box" which states your objection to the recommendation in the Director's Report.

1. ☒ Name and Address: I object to the name and/or address of the owner of the water right.
2. ☐ Source: I object to the source of water.
3. ☒ Quantity: I object to:
 - a. ☒ the total quantity of water used in cubic feet per second; or
 - b. ☐ the total quantity of water stored in acre-feet per year; or
 - c. ☐ the total quantity of water reserved for each and every purpose, including all present and future uses.
4. ☐ Priority Date: I object to the priority date.
5. ☐ Points of Diversion: I object to the legal description of the point(s) of diversion.
6. ☐ Instream Flow: I object to the legal description of the beginning and ending points of the instream flow.
7. ☐ Purpose(s) of Use: I object to the purpose(s) of use.
8. ☒ Period of Year: I object to the period of year when water is used or is necessary for the purpose stated.
9. ☐ Place of Use: I object to:
 - a. ☐ the legal description of the place of use; or
 - b. ☐ the number of irrigated acres within each forty (40) acre subdivision.
10. ☒ Consumptive Use: I object to the annual volume of consumptive use.
11. ☐ Remarks: I object to the "remarks" listed with the water right.

(Over)

MICROFILMED
OCT 11 1994

12. ☐ Water Right Recommendation: I object to:
- a. ☐ this water right being recommended at all; or
- b. ☐ this water right not being recommended.
13. ☐ Description of Reservation: I object to the legal description of the reservation.
14. ☒ Other: I object to: See attached
- _____
- _____
- _____
- _____

REASONS SUPPORTING EACH BOX CHECKED

In the space following, you must state the reason(s) by number for each box checked. You may use additional pages if necessary.

See page 7

CHANGES TO THE DIRECTOR'S REPORT

Specifically describe how you want the Director's Report to be changed. You may use additional pages if necessary.

Address: see paragraph 2, page 2: maximum quantity & consumptive

use: as decreed; period of use: 1/1 to 12/31

Please note: You should attach copies of documents which support your objection. Note on each document the "box number" it supports.



Check here if you are submitting documents. Please list each document by the title and number of pages. You may use additional pages if necessary.

See Hagerman Water Right Owners, Inc.'s

Compendium "A"

VERIFICATION (Must be Completed)

State of Idaho

County of Gooding

Danny Peterson

(Name of person filing objection)

, being first duly sworn, upon oath, deposes and says:

That I am the person or entity filing this objection, that I am a water claimant or party in this proceeding, as defined by I.C. Sec 42-1401A(1) and (7), and that I have read the foregoing objection, know its contents and that the statements contained therein are true to the best of my knowledge and belief.

Danny Peterson

Signature of person filing objection

By: [Signature]

(Attorney signing in representative capacity)

1993. Subscribed and sworn to before me this 20th day of April,

[Signature]

Notary Public for Idaho

Residing at: HAGERMAN, Idaho

My Commission Expires: 5-10-97

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(Over)

INSTRUCTIONS FOR MAILING

You must mail the objection, including all attachments, to the Clerk of the Court. **FAX filings will not be accepted by the Clerk of the Court.** You must also send a copy to the owner of the water right, if other than yourself; to the Office of the Attorney General, State of Idaho; and to the United States Department of Justice, as set out below in the Certificate of Mailing. Finally, you must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I hereby certify that on the 28 day of April, 1993, I mailed the original and copies of the foregoing objection, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

2. One copy to the owner of the water right, and you must fill in the following information:

Owner name: Danny, Brian and Evelyn Peterson

Owner's address: 745 No. Hagerman St.

Wendell, ID 83355

3. One copy to:

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

4. One copy to:

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, ID 83724



Signature of Objector or attorney
mailing on Objector's behalf

REASONS SUPPORTING EACH BOX CHECKED, page 4

Box 1 - See Paragraph 2, page 2 for correct name and/or address.

Box 3, 3a and 10 - IDWR recommends an amount less than decreed and/or beneficially used. A reduction in water right would constitute a taking.

Box 8 - IDWR recommends a period of use less than decreed and/or beneficially used. A reduction in water right would constitute a taking.

CHANGES TO DIRECTOR'S REPORT, page 4

Objectors reserve the right to claim all purposes of use and quantities of use as shown by the evidence at trial.

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Question 14., page 4, Other

I.

GENERAL RESPONSE

Except as specifically admitted herein, objectors deny each and every allegation contained in the Director's Report, any related or subsidiary pleadings, and/or any attachments thereto.

II.

DESCRIPTIVE SUMMARY

(DIRECTOR'S REPORT PART I)

(hereinafter DRP-I)

(DRP-I at first unnumbered page)

The objectors admit that Part I of the Director's recommendation contains some claims to water rights appropriated under state law from Reporting Area 3. The objectors deny all other averments because the objectors lack sufficient knowledge or information upon which to form a belief as to the truth of the averments.

III.

TABLE OF CONTENTS

(DRP-I at 2nd and 3rd unnumbered pages)

The objectors admit that the Table of Contents reflects the page numbers of the referenced sections and deny all other averments based upon the objectors' lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments and because any averment, expressed or implied, is so

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indefinite that it prevents the objectors from knowing what would be admitted or denied.

IV.

INTRODUCTION

1. INSTRUCTIONS FOR USING THIS REPORT PART I. (DRP-I at page 1)

The objectors admit that Part I consists of seven sections; that the description of the water system includes a brief description of Reporting Area 3 and an illustration of the boundaries of the reporting area; that the water rights and the list of the recommended rights are grouped alphabetically by source and listed chronologically by priority date; that the rights or claims in the list of claims/rights not recommended are listed numerically by water right number; and that brief instructions are found at the beginning of the applicable sections. The objectors deny that any description or any implication that the description of the water system or the illustrations are true and accurate due to lack of knowledge or information regarding the truth of the averment; deny that the general provisions apply to all water rights or define or limit classes of water rights; and deny that the general provisions "will affect your water right," based upon insufficient knowledge or information upon which to form a belief as to the truth of the averments.

2. SCOPE OF THE ADJUDICATION. (DRP-I at page 1 - 3)

The objectors deny all averments in paragraph a., due to lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments.

Regarding paragraph b., the objectors lack sufficient information or knowledge upon which to form a belief as to whether water rights which are not claimed in the adjudication will or will not exist upon entry of the court's decree and, therefore, deny such averment. The objectors admit that the court entered an order dated January 17, 1989, but presently lack sufficient knowledge to know whether any of the other averments concerning the court's order are true or accurate and, therefore, deny the same. The objectors deny that a right must be adjudicated before water may be distributed by the director. The objectors deny all other averments in paragraph b.

3. PURPOSE OF THIS REPORT PART I. (DRP-I at page 3 - 4)

The objectors admit that portion of the first sentence which states "This report contains the Director's recommendations to the SRBA District Court as to the nature and extent of water rights," but deny that such recommendations "are necessary for administration of water rights in Reporting Area 3," and further deny the Director has authority to "administer" such rights.

Regarding the second paragraph, the objectors admit that all water rights remain subject to the applicable law generally, but deny the remainder of the second paragraph.

Regarding the third paragraph of this section, the objectors deny all averments therein based upon lack of knowledge or information upon which to form a belief as to the truthfulness of the averments.

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V.

DESCRIPTION OF THE WATER SYSTEM: BASIN 36

1. **BOUNDARIES OF BASIN.** (DRP-I at pages 4 - 6)

Regarding the first paragraph of this section, the objectors deny all averments due to a lack of knowledge or information upon which to admit or deny.

Regarding the second, third and fourth paragraphs of this section, the objectors admit that as broad statements, those paragraphs are generally accurate but the statements are so broad and attenuated from any matter relevant to the objectors' water right that the objectors are unable to know what would be implicitly admitted or denied and therefore, deny the same.

With respect to the fifth paragraph of this section, the objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred and, therefore, deny the averments.

2. **WATER SOURCES.** (DRP-I at page 6)

The objectors admit that the Snake River Plain Aquifer is the source of outflows of springs located along the Snake River Canyon Wall in the Hagerman Valley. The objectors presently lack sufficient knowledge or information upon which to form an opinion as to the truth of the other averments set out in this section and, therefore, deny the same.

3. **DEVELOPMENT OF WATER USE.** (DRP-I at pages 6 - 9)

The objectors admit that numerous factual and historical averments are set out in this section, which may be accurate, but

these objectors have no basis for knowing whether some or all of the averments are intended to relate to the objectors' claims and, thus, are prevented from knowing what would be admitted or denied. Therefore, the averments are denied.

VI.

GENERAL PROVISIONS

GENERAL PROVISIONS 1 - 8 APPLY TO ALL WATER RIGHTS IN BASIN 36.
(DRP-I at page 9)

The objectors deny that "General Provisions 1 - 8" apply to all water rights in Basin 36 as the statements are so broad and attenuated from any matter relevant to the objectors' water rights, that the objectors are unable to know what would be explicitly admitted or denied. The objectors also specifically deny that general provisions 1-8 apply to the objectors' right.

1. **EFFECT OF ADJUDICATION.** (DRP-I at page 9)

With respect to paragraph a., the objectors presently have no knowledge or information upon which to form a belief as to the truth of whether a future decree would supersede prior decrees, or whether unclaimed rights would cease to exist and, therefore, deny the same.

Regarding paragraph b., the objectors deny that the Director has any powers to administer water rights other than those specifically delegated by the Legislature of the State of Idaho, and which do not violate the objectors' state and federal constitutional rights, and therefore the averments are denied.

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2. GENERAL ADMINISTRATIVE PROVISIONS. (DRP-I at pages 9 - 10)

The objectors admit paragraphs a. and b.

3. CONJUNCTIVE ADMINISTRATION (DRP-I at page 10)

The objectors deny the conjunctive administration provisions based upon the objectors' lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments and because any averment expressed or implied is so indefinite that it prevents the objectors from fairly understanding what would be admitted or denied. Additionally, the objectors deny that the Department of Water Resources has any statutory or regulatory authority for the "conjunctive administration" as therein described.

4. ADMINISTRATION OF GROUND WATER RIGHTS (DRP-I at page 10)

The objectors deny the averments within this section.

5. ADMINISTRATION OF BASIN 36 RELATIVE TO THE SNAKE RIVER (DRP-I at page 10)

The objectors admit that the springs are hydrologically interconnected with the Snake River Aquifer, but deny all other averments based upon the objectors' lack of sufficient information or knowledge upon which to form a belief as to the averments herein. The objectors additionally deny any said averments expressed or implied because the averments are so indefinite and generalized as to prevent the objectors from fairly understanding what would be admitted or denied.

6. ADMINISTRATION OF SMALL DOMESTIC AND STOCK WATER RIGHTS (DRP-I at page 11)

The objectors admit that part of the first sentence of subparagraph a. to the effect that "small domestic and stock water rights from surface water are not subject to administration," but deny the balance of said sentence and said paragraph.

The objectors admit the first sentence of paragraph b., and deny the balance of that paragraph because the criteria set forth therein ("if the director determines that administration is necessary") is so ambiguous, indefinite and uncertain that it prevents the objectors from knowing what would be admitted or denied, and by further reason of the fact that no statutory or regulatory authority exists conferring such sweeping and unlimited authority upon the Director or the Department.

The objectors deny the averments in paragraph c. as the averments are inaccurate and because the objectors lack sufficient knowledge or information upon which to form a belief as to the truth of the matters averred.

7. MEASURING DEVICES AND CONTROL WORKS (DRP-I at page 11)

The objectors deny all averments contained herein as such averments are based upon an indeterminate subjective standards which are so ambiguous and indefinite as to prevent the objectors from fairly knowing what would be admitted or denied. Additionally, no statutory or regulatory authority exists conferring such sweeping and unlimited authority upon the Director or the Department as is alleged in this paragraph.

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8. FIRE FIGHTING PURPOSES (DRP-I at page 11)

The objectors admit that subparagraph a. and subparagraph b. are generally accurate statements of present law, but deny the averments are in any way relevant to defining the objectors' right.

9. CONSUMPTIVE USE (DRP-I at page 12)

The objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred and, therefore, deny the same.

GENERAL PROVISION 10 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH DOMESTIC USE AS A PURPOSE OF USE (DRP-I at page 12)

The objectors deny that "General Provision 10" applies to all water rights in Basin 36 shown with domestic use as a purpose of use as the statements are so broad and attenuated from any matter relevant to the objectors' water rights, that the objectors are unable to fairly understand what would be explicitly admitted or denied and, therefore, deny the same.

10. DOMESTIC USE (DRP-I at page 12)

The objectors deny that the definition of "domestic use" contained in paragraphs a., b., and c. is consistent or in conformity with the definition of such term for purposes of the Idaho Constitution, or statutory definition contained in I.C. Section 42-111 as now, or as heretofore in effect at relevant times. The objectors further deny that the limitations set forth therein exist, are in force, or apply or serve in any way to limit objectors' rights.

GENERAL PROVISION 11 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH STOCK WATER USE AS A PURPOSE OF USE. (DRP-I at page 13)

The objectors deny that "General Provision 11" applies to all water rights in Basin 36 shown with stock water use as a purpose of use as the statements are so broad and attenuated from any matter relevant to the objectors' water right, that the objectors are unable to fairly understand what would be admitted or denied and, therefore, deny the same.

11. STOCK WATER USE (DRP-I at page 13)

The objectors deny the averments herein as beyond the scope and applicability of the definition as provided by Idaho law as now, or as heretofore in effect at relevant times. The objectors further deny that the limitations set forth therein limit the objectors' right or are relevant to the right.

GENERAL PROVISIONS 12 - 16 APPLY TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH IRRIGATION AS A PURPOSE OF USE (DRP-I at page 13)

The objectors deny that "General Provisions 12 - 16" apply to all water rights in Basin 36 shown with irrigation as a purpose of use as the statements are so broad and attenuated from any matter relevant to the objectors' water right that the objectors are unable to fairly understand what would be admitted or denied.

12. IRRIGATION USE. (DRP-I at pages 13 - 14)

The objectors deny all averments based upon the objectors' lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments and because

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prevent the objectors from fairly knowing what would be admitted or denied; because the standard utilized ("as determined by the director") is ambiguous, subjective and indefinite so as to prevent objectors from knowing what would be admitted or denied; and because it is both expressly and implicitly in excess of the power and authority conferred upon the State of Idaho, the Director or the Department by the Constitutions of the United States and State of Idaho, pertinent provisions of the Idaho Code or valid applicable regulations, if any, adopted by the Department in conformity with law. Therefore, the objectors deny the same.

13. DIVERSION VOLUME FOR IRRIGATION. (DRP-I at page 14)

The objectors admit that Figure 1 generally depicts certain lands in Basin 36; however, the objectors deny all other averments including that the amounts set forth are the maximum annual volume of water reasonably required at the field headgate for irrigation, either within Basin 36 in general, or upon objectors' real property in particular. The objectors additionally deny that the maximum annual volumes per acre set forth is that which is "reasonably required for irrigation unless a higher annual diversion volume is reasonably required due to conveyance losses, method of irrigation or field conditions;" because the standard utilized ("as determined by the director") is ambiguous, subjective and indefinite so as to prevent objectors from knowing what would be admitted or denied; and because it is both expressly and implicitly in excess of the power and authority conferred upon the State of Idaho, the Director or the Department

by the Constitutions of the United States and State of Idaho, pertinent provisions of the Idaho Code or valid applicable regulations, if any, adopted by the Department in conformity with law. Therefore, the objectors deny the same.

14. CONSUMPTIVE USE FOR IRRIGATION. (DRP-I at page 14 and 15)

The objectors admit that the recommended water rights contained within the Director's Report show only the irrigation use listed unless otherwise indicated in "Remarks." The objectors deny all other averments contained within this section, including the amount of maximum annual volume of consumptive use per acre in the northern and southern portions of the basin, all of which is beyond the scope of any power or authority vested in the Director or the Department, and contrary to fact; historical use; established, vested, decreed, licensed or permitted rights.

15. AMOUNT OF COMBINED WATER RIGHTS FOR IRRIGATION. (DRP-I at page 15)

The specific averments have no relationship to or basis in fact relating to the individual needs or rights of the objectors, and accordingly, objectors deny this section in its entirety. In addition, no statutory or regulatory authority exists conferring upon the Director, or the Department, the power to limit use and ownership of objectors' private property rights as alleged.

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16. DIVERSION RATES IN EXCESS OF .02 CFS PER ACRE. (DRP-I at page 15 - 16)

The objectors deny the averments contained in this section in its entirety.

17. INSTRUCTIONS FOR USE OF LIST OF RECOMMENDED WATER RIGHTS. (DRP-I at page A-i, A-ii and A-iii)

The objectors admit that each water right in the list of recommended water rights includes a description including right number, name and address, source, maximum quantity, consumptive use, priority date, point of diversion, purpose of use, period of use, place of use, basis of right and others. The objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred in said descriptions other than that the descriptions allegedly include the Director's or Department's version of the facts as they relate to the matters identified. Objectors deny the accuracy of the substantive allegations or information set forth with regard to the objectors' right.

18. IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW. (DRP-I, pages A-1 - B-25)

The objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred in said recommended water rights other than those specific admissions contained in Questions 1 - 12 of the attached individual objection, and therefore deny the same.

DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36)

(DIRECTOR'S REPORT PART II)

I.

Objectors do not understand the allegations, averments or contents of Part II of the Director's Report for Reporting Area 3 (Basin 36) to pertain or relate to objectors or their claims, and do not believe any response is required. To the extent a response is required, objectors deny the same in its entirety.

DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36)

(DIRECTOR'S REPORT PART III)

I.

No report denominated as Part III of the Director's Report for Reporting Area 3 (Basin 36) has been filed, and accordingly objectors are unable to admit, deny or otherwise response to the same. Objectors do not understand that the contemplated subject matter of such Part III will relate or pertain to objectors or their claims, and no response is required in any case. To the extent any response is required, objectors deny the same in its entirety.

VIII.

AFFIRMATIVE DEFENSES

Pursuant to I.R.C.P. 8(c), objectors herewith state the following matters of affirmative defense or avoidance:

AFFIRMATIVE DEFENSE NO. 1

The objectors' water right is an incorporeal form of real property (as defined by Idaho Code Sections 7-703, 73-114, 55-101,

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and like statutes) protected by Section 14, Article 1, of the Idaho Constitution, and the Fifth Amendment to the United States Constitution, and allege that the actions of the Director in recommending, limiting and/or regulating said rights is an unconstitutional infringement upon and a taking of private property, without just compensation and violation thereof.

AFFIRMATIVE DEFENSE NO. 2

The adjudication authorization legislation, I.C. Section 42-1401, et seq., on its face and as applied by the Director and the Department constitutes an improper delegation of constitutional power and authority conferred upon the executive, legislative and/or judicial branches of government and as such violate the provisions governing separation of powers set forth in Article 2, Section 1, Idaho Constitution.

AFFIRMATIVE DEFENSE NO. 3

The procedure set forth in the adjudication authorization legislation, statutes, I.C. Section 42-1401, et seq., and any rules, regulations, procedures, policies or standards promulgated by the Director and/or the Department, if any, are vague and so lacking in reasonable specificity so as to render them impossible of reasonable comprehension, or consistent and meaningful application.

AFFIRMATIVE DEFENSE NO. 4

The procedures, rules, regulations, policies or standards, if any, adopted, implemented and applied by the Department and/or the Director violate the equal protection and due

process clauses of the Fourteenth Amendment, United States Constitution, and Article 1, Sections 2 and 13, Idaho Constitution.

AFFIRMATIVE DEFENSE NO. 5

The adjudication authorization legislation, Idaho Code Section 42-1401, et seq., and the actions of the Director and Department in recommending, limiting and/or regulating the objectors' water right constitutes a violation of 42 U.S.C. Section 1983.

AFFIRMATIVE DEFENSE NO. 6

The water right owned by the objectors is the subject of valid existing decrees issued by the Director and Department, which decrees are binding upon the State of Idaho, the Department and the Director. As a result, the State of Idaho, the Department and the Director are precluded by the doctrines of res judicata, collateral estoppel, judicial estoppel and the like from relitigating or questioning the validity, existence or priority of such right, and/or from taking any position in the Director's Report, or otherwise, which is inconsistent with such decrees.

AFFIRMATIVE DEFENSE NO. 7

The Director's recommendations are contrary to decreed rights, historical use and extent licenses and permits issued by the Department. There has been no forfeiture nor abandonment of the objectors' water rights, nor have the objectors' water rights been prescriptively or adversely possessed, nor have such decrees been vacated or such licenses and permits revoked.

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AFFIRMATIVE DEFENSE NO. 8

The Directors' Report fails to state a claim to the extent the same asserts a forfeiture, abandonment, prescriptive or adverse acquisition or loss, or loss resulting from estoppel, of the objectors' water right in the absence of any fact upon which forfeiture, abandonment, prescriptive or adverse acquisition for loss, or loss resulting from estoppel, may be based or asserted.

AFFIRMATIVE DEFENSE NO. 9

The objectors' water right is an incorporeal form of real property, as defined by Idaho Code Sections 7-703, 73-114, 55-101, and like statutes, and, as such, pursuant to Idaho Code Section 7-904, et. seq., the actions of the Director in attempting to limit, reduce and/or regulate such rights, and the assertion of some inconsistent proprietary ownership or right to use or control by the State of Idaho, constitutes an unauthorized and invalid taking of private property without the payment of just compensation, or compliance with statutory requirements, all in violation of Title 7, Chapter 7, Idaho Code.

AFFIRMATIVE DEFENSE NO. 10

The actions of the Director, the Department and their agents, servants and employees in recommending, limiting, reducing and/or regulating objector's water rights, either as alleged in the Director's Report or as in fact applied, violates objectors' rights as secured by Art. 1, Section 1; Art. 15, Sections 3, 4 and/or 5; and/or as otherwise provided in the Constitution of the State of Idaho.

AFFIRMATIVE DEFENSE NO. 11

The various allegations, statements and assertions contained in the Director's Report concerning the Department and/or the Director's position or intentions with regard to the adjudication, as well as the implementation of statutes and/or regulations, as well as the administration of water or management of water rights or claims to the beneficial uses of water, if implemented, constitute a violation of various provisions the United States and Idaho constitutions, and/or a violation of the letter, spirit and/or intent of various statutes enacted by the legislature, and/or constitute an exercise of purported authority or powers either in excess of those conferred by law, or in a manner inconsistent with those conferred by law, or both.

AFFIRMATIVE DEFENSE NO. 12

The individual recommendations relating to the specific water right of the objectors as set forth in the Director's Report are (1) not based upon substantial evidence and/or are not, in fact, the product of any reasonable, complete or accurate investigation as required by law; (2) are the product of arbitrary and capricious action on the part of the Department or the Director; (3) have been made in excess of the constitutional and statutory authority of the Department and the Director; (4) have been made upon an unlawful and invalid procedure; (5) are affected by various and sundry errors of law; and/or (6) are clearly erroneous in view of the reliable, probative and substantial evidence.

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AFFIRMATIVE DEFENSE NO. 13

The Director's Report is a pleading subject to the provisions of the Idaho Rules of Civil Procedure, including, but not limited to the requirement of I.R.C.P. 8(a)(1) that such pleadings contain a clear and plain statement of the facts, demonstrating an entitlement to relief. The Director's Report violates such provision.

AFFIRMATIVE DEFENSE NO. 14

The Director's Report fails to state a claim upon which relief may be granted.

AFFIRMATIVE DEFENSE NO. 15

The Director's Report is subject to, and must comply with, the requirements of Idaho Code Section 42-1411. The Director's Report does not comply with the requirements of the statute.

AFFIRMATIVE DEFENSE NO. 16

In conducting the investigation and compiling the Director's Report, the Department and the Director have not complied with the requirements of Idaho Code Section 42-1410.

AFFIRMATIVE DEFENSE NO. 17

In conducting the investigation and compiling the Director's Report, the Department and the Director have not complied with the requirements of Idaho Code Section 42-1416.

AFFIRMATIVE DEFENSE NO. 18

The procedures specified in the authorizing legislation and procedural rules promulgated in accordance therewith serve to

deny objectors due process of law in violation of Amendment Fourteen to the Constitution of the United States and Art. 1, Section 13, Idaho Constitution.

AFFIRMATIVE DEFENSE NO. 19

The "General Provisions" and "Other Statements" contained in the Director's Report, along with the Claims Investigation Manual, Adjudication Memoranda and other materials of a similar nature used or employed by the Department, the Director and/or their agents, servants and/or employees constitute rules and regulations which were required to be proposed, promulgated, adopted and approved in conformity with the Administrative Procedures Act and other applicable statutory provisions. The Department, Director and their agents, servants and employees have failed to comply with such requirements, and accordingly, the "General Provisions," "Other Statements", Claims Investigation Manual and the like are invalid, void and of no force or effect.

AFFIRMATIVE DEFENSE NO. 20

Neither the "General Conditions," the Claims Adjudication Manual, Adjudication Memoranda or other promulgations, adoptions, policies, or the like have been submitted to or approved by the Legislature as required by Idaho Code Section 67-5217.

AFFIRMATIVE DEFENSE NO. 21

The relief requested by the Department and the Director in the Director's Report are beyond and in excess of the subject matter jurisdiction of the Court.

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AFFIRMATIVE DEFENSE NO. 22

The actions of the Legislature, or the Department and the Director to enact, adopt, implement or enforce statutes, regulations, rules or policies subsequent to November 19, 1987, and to apply or enforce the same for the purpose of, or with the effect of recommending, diminishing or altering objectors' water rights, constitute a violation of Amendment Fourteen, United States Constitution; Art. 1, Section 13, Idaho Constitution; the SRBA authorization legislation; and Idaho Code Sections 73-101 and 73-106.

AFFIRMATIVE DEFENSE NO. 23

These proceedings are subject to the requirements and provisions of Idaho Code Sections 12-117, 12-121, 12-123 and I.R.C.P. 11, and the provisions of the private attorney general doctrine, and other related doctrines, and the Department, Director and State of Idaho are obligated to objectors for the payment and reimbursement of any and all reasonable costs or attorney fees incurred herein.

AFFIRMATIVE DEFENSE NO. 24

The Director's Report asserts what amounts to be a taking of private property by power of eminent domain as governed by Idaho Code Section 7-701 et seq., and as such, venue is therefore improper.

AFFIRMATIVE DEFENSE NO. 25

The Department and the Director are equitably estopped from seeking any reduction in the quantity, quality or priority of

objectors' water rights by virtue of prior statements, representations and actions of the Department, Director or their agents, servants and employees.

AFFIRMATIVE DEFENSE NO. 26

The Department and the Director are barred by laches and the applicable statutes of limitation, including, but not limited to, Idaho Code Sections 5-202, 5-203, 5-204, 5-206, 5-207, 5-208, 5-215, 5-218, 5-219(2), 5-224 and/or 5-241.

AFFIRMATIVE DEFENSE NO. 27

Objectors hereby reserve the right to assert any further affirmative defenses not expressly stated herein, but which subsequently become apparent.

WHEREFORE, the objectors pray for judgment as follows:

1. That the State of Idaho take nothing by reason of its Directors' Report, and that this action, and any claims asserted against objectors, be dismissed.
2. That a decree be entered adjudicating the existence, validity, amount and priority of objectors' water rights in accordance with objectors' claims.
3. That to the extent the acts of the Department or Director constitute a taking of objectors' property for public use, that objectors be allowed and awarded just compensation therefor.
4. That the objectors be allowed all costs of suit and reasonable attorney fees incurred herein.
5. For such further relief to which the Court finds objectors justly entitled.

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(WATER\21530ANS)



Department of Water Resources
222 Shoshone Street E.
Twin Falls, ID 83301

Date April 20, 1993

Name HEPWORTH NUNGESTER & LEZAMIZ
133 SHOSHONE N
Address TWIN FALLS ID 83301

No. of Copies	Material	Cost
120	copies of RED FILE Documents as requested by Hagerman Water Right Owners @ .05 ea.	\$ 6.00
TOTAL		\$ 6.00

Please find enclosed the form(s) and/or information you requested. The charge, if any, is indicated above.

If we may be of further assistance, please contact us.

Sincerely,

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OCT 11 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

20-Apr-1993

HEPWORTH NUNGESTER & LEZAMIZ
133 SHOSHONE N
TWIN FALLS ID 83301
ATTN: CHRIS HERNANDEZ

Dear Chris:

Enclosed please find the copies of the contents from the RED FILES in the adjudication folders, as requested by the Hagerman Water Right Owners. If I can be of any further assistance, please give me a call at the office.

Sincerely,


Jeanie Robertson
Records Clerk

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OCT 11 1994

RECEIPT
For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES

POOR ORIGINAL

Receipt No: 6015655

RECEIVED

APR 22 1993

Department of Water Resources
Southern Region Office

Date: 4/22/1993
Time: 10:28:53

Received

From: HEPPORTH HUNGERFORD CHART.

Type of Payment	Program Acct Class	Amount
COPIES OF ADJUDICATION FILES	64100 229 21 1/60	47.50

Total

CHECK 10362

\$47.50

Region: SOUTHERN

Signature: R. Foster

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OCT 11 1994

HEPWORTH, NUNGESTER AND LEZAMIZ, CHARTERED

10362

DATE	DESCRIPTION	INVOICE #	CHECK		NET AMOUNT
			AMOUNT	DEDUCTION	
04/13/93	Department of Water Resources Hagerman/921530 - CPY		47.60		47.60

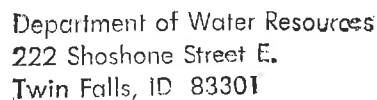
RECEIVED

APR 28 1993

Department of Water Resources
Southern Region Office

CHECK DATE 04/20/93	CONTROL NUMBER 10362	TOTALS ► GROSS:	47.60	DED:	0.00	NET:	47.60
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MICROFILMED
OCT 11 1994



MICROFILMED
OCT 11 1994

Don Peterson
Wendell, Id 83555



Department of Water Resources
Southern Region
222 Shoshone St. East
Twin Falls, ID 83301

OCT 11 1994

MICROFILMED

MICROFILMED

OCT 11 1994

**RECEIPT
For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES**

Receipt No: 8015437

Date: 3/ 2/1993
Time: 11:06:15

Received

From: PETERSON, DANNY

Type of Payment	Program Acct Class	Amount
COPIES ADJ/FILES 36-00029B, 36-10220 64100	229 21 1760	5.25

Total

CHECK 4636

\$5.25

Region: SOUTHERN

Signature: Janie Robertson

**MICROFILMED
OCT 11 1994**

For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES

POOR ORIGINAL

Receipt No: S015437

Date: 3/ 2/1993
Time: 11:06:12

Received
From: PETERSON, DANNY

Type of Payment	Program Acct Class	Amount
COPIES ADJ/FILES 36-00029B, 36-10220 64100	229 21 1760	5.25

Total

CHECK 4636

\$5.25

Region: SOUTHERN

Signature:

Jamie Robertson

MICROFILMED

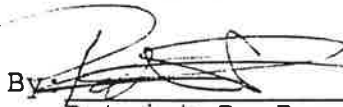
OCT 11 1994

1 Hagerman Water Right Owners, Inc. and its individual members, the
2 following individuals:

3
4 Mavencamp, John V. A36-00189A
Mavencamp, John V. A36-10766
5 Zabala, Ignacio Nick A36-08320

6 Dated this 1 day of March, 1993.

7 HEPWORTH, NUNGESTER & LEZAMIZ,
8 CHARTERED

9 By 
Patrick D. Brown
Attorneys for Respondents

10 CERTIFICATE OF MAILING

11
12 The undersigned, a resident attorney of the State of
13 Idaho, with offices at 133 Shoshone St. North, P.O. Box 389, Twin
14 Falls, Idaho 83303, and one of the attorneys for the respondents
15 in this matter, certifies that he caused to be mailed a copy of the
16 above and foregoing THIRD SUPPLEMENTAL NOTICE OF APPEARANCE on the
1 day of March, 1993, to:

17
18 Snake River Adjudication (original)
District Court
P.O. Box 27070
19 Twin Falls, ID 83303-0126

20 Chief, Natural Resources Division (1)
Office of Attorney General
21 State of Idaho
P.O. Box 44449
22 Boise, Idaho 83711-4449

1
2 The United States Department of Justice (1)
3 Environment and Natural Resources Division
4 550 West Fort Street, Box 33
5 Boise, ID 83734
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23


Patrick D. Brown

R PROOF



CVR



MAPS



PHOTOS



MISC

MICROFILMED

JAN 20 199

ED



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

25-Feb-1993

DANNY PETERSON
745 N HAGERMAN ST
WENDELL ID 83355

RE: Copy of SRBA File(s): 36-00029B, 36-10220

Dear Mr. Peterson:

Please find enclosed the copies of documents you recently requested contained in the above referenced SRBA file(s) as of this date. Please note that copies of orthophoto quad maps or NAPP photography or aerial slides which may have been used in the review of your claim(s) have not been included since they are not easily reproduced. These items are however available for your review at our office. Please also note that in some situations some water rights may have other associated files which contain privileged information between IDWR staff and our legal council which has not been copied.

Please remit the following for the cost of the copies and postage:

\$5.25

Sincerely,

Jeanie Robertson
Records Clerk

Encl:

Peterson
45
10
55 x 5 = 2.75
Post. 2.36
encl. .14
5.25

MICROFILMED
OCT 11 1994

Feb 23, 1993
(Date)

IDAHO DEPARTMENT OF WATER RESOURCES
222 SHOSHONE ST. EAST
TWIN FALLS, IDAHO 83301

Dear Idaho Department of Water Resources:

Please provide me with a copy of all information included in
my file as it relates to water right number 36-10220 * 36-00029B

Please advise me of any documents in my file which you are not
releasing to me and why they are not being released.

Please bill me for the copy charge.

Sincerely,

Danny C. Peterson
(Name)

745 North Hagerman St.
(Address)

Wendell, Ida 83355
(City, State, Zip Code)

cc: David B. Shaw, Adjudication Bureau Chief
Idaho Department of Water Resources
1301 North Orchard Street
Statenshouse Mail
Boise, Idaho 83720-9000

MICROFILMED
OCT 11 1994

DIRECTOR'S REPORT CONVERSATION MEMO

1. PERSON(S) MAKING THE ENQUIRY:

Include address and phone no.
in case follow-up is needed.

Danny Peterson

2. SUBJECT OF INQUIRY:

wanted copies of related claims for

75 13E Sec 24 SE SW.

3. RESPONSE TO INQUIRY:

I found 36-00029B as a valid claim
and 36-10220 as recommended 36-00029B. He wanted
copies of both files. I told him that the Dept would
copy them and then mail them to him.

4. IDWR STAFF AND DATE:

Kelly K. Christensen 2-24-93

Print name and initial

WATER RIGHT CLAIM (Nos.):

36-00029B ; 36-10220

MICROFILMED

OCT 11 1994

AJ5514NP

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION ATTORNEY NAME ADD/UPDATE

DATE: 03/31/93
TIME: 23:15:11.4
PAGE: 1

INPUT: AJ_SELECTION:HHT-BROWN-NOA4.SEL

TYPE OF ACTION: ADD

MODIFY ALL FIELDS FLAG:

LAST NAME: BROWN

ADDRESS LINE 1: HEPWORTH NUNGESTER LEZAMIZ

ADDRESS LINE 3: PO BOX 389

CITY: TWIN FALLS

STATE: ID ZIP: 833030389

FIRST NAME: PATRICK D

ADDRESS LINE 2:133 SHOSHONE ST N

PHONE NUMBER: (208) 734-7510

36-00029B. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00039F. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00039P. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00051A. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00054A. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00125A. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-07323. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-10673. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00039F. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00039P. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00051A. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00054A. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00125A. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-07323. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-10220. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-10673. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A37-00792F. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A37-07852. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE

RECEIVED

APR 06 1993

Department of Water Resources
Southern Region Office

MICROFILMED
OCT 11 1994

N.C.A.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

25-Feb-1993

DANNY PETERSON
745 N HAGERMAN ST
WENDELL ID 83355

RE: Copy of SRBA File(s): 36-00029B, 36-10220

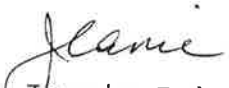
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Please remit the following for the cost of the copies and postage:

\$5.25

Sincerely,


Jeanie Robertson
Records Clerk

Encl:

MICROFILMED
OCT 11 1994

DIRECTOR'S REPORT CONVERSATION MEMO

1. PERSON(S) MAKING THE ENQUIRY:

Include address and phone no.

In case follow-up is needed.

Danny Peterson

2. SUBJECT OF INQUIRY:

wanted copies of related claims for

75 13E Sec 24 SESW.

3. RESPONSE TO INQUIRY:

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4. IDWR STAFF AND DATE:

Kelly K. Christensen 2-24-93

Print name and initial

WATER RIGHT CLAIM (Nos.):

36-00029B ; 36-10220

MICROFILMED

OCT 11 1994

Feb 23, 1993
(Date)

IDAHO DEPARTMENT OF WATER RESOURCES
222 SHOSHONE ST. EAST
TWIN FALLS, IDAHO 83301

Dear Idaho Department of Water Resources:

Please provide me with a copy of all information included in
my file as it relates to water right number 36-10220 * 36-000298

Please advise me of any documents in my file which you are not
releasing to me and why they are not being released.

Please bill me for the copy charge.

Sincerely,

Danny L. [unclear]
(Name)

746 North Hayden St.
(Address)

Wendell Id. 83346
(City, State, Zip Code)

cc: David B. Shaw, Adjudication Bureau Chief
Idaho Department of Water Resources
1301 North Orchard Street
Statenhouse Mail
Boise, Idaho 83720-9000

MICROFILMED
OCT 11 1994

Water Right Number R36-10220

Prefix Translation: RESEARCH

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***

PETERSON

BRIAN

1 - RT 1 BOX 8

2 -

3 -

City- WENDELL

State- ID Zip- 83355

Phone - 208-536-2468

PETERSON

DANNY T

1 - RT 1 BOX 8

2 -

3 -

City- WENDELL

State- ID Zip- 83355

Phone - 208-536-2468

PETERSON

EVELYN M

1 - RT 1 BOX 8

2 -

3 -

City- WENDELL

State- ID Zip- 83355

Phone - 208-536-2468

*** O - ORIGINAL OWNER ***

BOYER

MYRTLE

1 - 2777 S 1050 E

2 -

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-837-4404

+ - - Priority Date - - +
02/12/1916+ - - - Region - - - +
ERROR IN REGION

+ - - - Stage - - - +

+ - - - Status - - - +
Z - SEE REMARKS+ - - - - Source - - - - - +
THREE SPRINGS+ - - - - Tributary - - - - - +
BILLINGSLEY CREEK+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County

07S 13E 24 SE SE NW (47) GOODING

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume43 - DOMESTIC
01 - IRRIGATION01/01 12/31
03/15 11/150.040
0.700 140.00+ - Total Div. Rate - + + - Total Div. Volume - +
0.740 140.00+ - Total Consumptive Use - + + - KW Usage - +
105.0+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County07S 13E 24 SE SW 35.0 01 IRRIGATION
07S 13E 24 SE SW 43 DOMESTIC(47) GOODING
(47) GOODING

MICROFILMED

FEB 07 1993

Water right number - R36-10220

Prefix Translation: RESEARCH

Tw	Rng	Sec	Tract	Lot	Acres	Code	Description	County
----	-----	-----	-------	-----	-------	------	-------------	--------

Total Acres: 35.0

+ - - Diversion Means - 12' PIPE, GRAVITY FLOW

+ - - Non-Irrigation Use - DOMESTIC, 1 HOME

+ - - Other Rights for Same Use - NONE

+ - - - - - Remarks - - - - -
SEE NO. 36-000298.

+ - - - - - Old Water Right Numbers - - - - -
3602025
3600029

+ - - - - - Conditions of Approval - - - - -
No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - + + - - - - Decree Defendant - - - + + - Decree Date - +
00/00/0000

+ - - - - - Comments - - - - -
Date: 10/29/1991 User Id: GIVENS Subject: OWNERSHIP CHANGE
OWNERSHIP CHANGE 10/29/91 BY JG.

+ - - Audit Fields - - +
02/05/92 CLELLAND

+ - - - - - Adjudication Rights Dates and Flags Area - - - - -

Court Report Filing	- 00/00/0000	Field Inspection Made	- 09/11/1990	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 02/05/1992	Old Judicial District	-
Claim Received Date	- 07/18/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S000981	Water District	-
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- AND/OR	Presumption Flag	-
				Notice of Error Flag	-

MICROFILMED
FEB 07 1993

Water Right Number - R36-10220

Prefix Translation: RESEARCH

Old (D) Number -

+ - - - - Last Name - - - + + - First Name - - + + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***

BOYER

MYRTLE

1 - 2777 S. 1050 E.

2 -

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-837-4404

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
02/12/1916 ERROR IN REGION Z - SEE REMARKS+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
THREE SPRINGS BILLINGSLEY CREEK+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County

07S 13E 24 SE SE NW (47) GOODING

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
43 - DOMESTIC 01/01 12/31 0.040
01 - IRRIGATION 03/15 11/15 0.700 140.00+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.740 140.00 105.0+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
07S 13E 24 SE SW 35.0 01 IRRIGATION (47) GOODING
07S 13E 24 SE SW 43 DOMESTIC (47) GOODING

Total Acres: 35.0

+ - - Diversion Means - 12' PIPE, GRAVITY FLOW

+ - - Non-Irrigation Use - DOMESTIC, 1 HOME

+ - - Other Rights for Same Use - NONE

+ - - - - Remarks - - - - - +
RECOMMENDED AS RIGHT NO. 36-00029B.+ - - - - Old Water Right Numbers - - - - - +
A3602025

Water right number - R36-10220

Prefix Translation: RESEARCH

+ - - - - Conditions of Approval - - - - - +
No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - + + - - - - Decree Defendant - - - + + - Decree Date - +
00/00/0000

+ - - - - Comments - - - - - +
No Comments Found

+ - - Audit Fields - - +
00/00/00

+ - - - - Adjudication Rights Dates and Flags Area - - - - - +

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 07/17/1991	Old Judicial District	-
Claim Received Date	- 07/18/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S000981	Water District	-
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	-	Presumption Flag	-
				Notice of Error Flag	-

*Revised
see
2-5-92*

Water Right Number - R36-10220

Prefix Translation: RESEARCH

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***
PETERSON

BRIAN

1 - RT. 1 BOX 8

2 -

3 -

City- WENDELL

State- ID Zip- 83355

Phone - 208-536-2468

PETERSON

DANNY T.

1 - RT. 1 BOX 8

2 -

3 -

City- WENDELL

State- ID Zip- 83355

Phone - 208-536-2468

PETERSON

EVELYN M.

1 - RT. 1 BOX 8

2 -

3 -

City- WENDELL

State- ID Zip- 83355

Phone - 208-536-2468

*** O - ORIGINAL OWNER ***
BOYER

MYRTLE

1 - 2777 S. 1050 E.

2 -

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-837-4404

+ - - Priority Date - - +
02/12/1916+ - - Region - - - +
ERROR IN REGION

+ - - Stage - - - +

+ - - Status - - - +
Z - SEE REMARKS ✓+ - - Source - - - - - +
THREE SPRINGS+ - - Tributary - - - - - +
BILLINGSLEY CREEK+ - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County

07S 13E 24 SE SE NW (47) GOODING

+ - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume43 - DOMESTIC
01 - IRRIGATION01/01 12/31
03/15 11/150.040
0.700 140.00+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.740 140.00 105.0+ - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County07S 13E 24 SE SW 35.0 01 IRRIGATION
07S 13E 24 SE SW 43 DOMESTIC(47) GOODING
(47) GOODING

Water right number - R36-10220

Prefix Translation: RESEARCH

Tw	Rng	Sec	Tract	Lot	Acres	Code	Description	County
----	-----	-----	-------	-----	-------	------	-------------	--------

Total Acres: 35.0

+ - - Diversion Means - 12' PIPE, GRAVITY FLOW

+ - - Non-Irrigation Use - DOMESTIC, 1 HOME

+ - - Other Rights for Same Use - NONE

Remarks

~~RECOMMENDED AS RIGHT NO. 36-00029B.~~

SEE NO.

Old Water Right Numbers

A3602025

36-00029

Conditions of Approval

No Conditions of Approval found.

Decree Plaintiff	Decree Defendant	Decree Date
------------------	------------------	-------------

00/00/0000

Comments

Date: 10/29/1991 User Id: GIVENS Subject: OWNERSHIP CHANGE
OWNERSHIP CHANGE 10/29/91 BY JG.+ - - Audit Fields - - +
10/29/91 GIVENS

Adjudication Rights Dates and Flags Area
--

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 10/29/1991	Old Judicial District	-
Claim Received Date	- 07/18/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S000981	Water District	-
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- AND/OR	Presumption Flag	-
				Notice of Error Flag	-

Water Right Number - R36-10220

Prefix Translation: RESEARCH

Old (D) Number -

+ - - - - Last Name - - - - +

+ - First Name - - +

+ - - - - Address - - - - -

*** C - CURRENT OWNER ***
BOYER

MYRTLE

1 - 2777 S. 1050 E.

2 -

3 -

City- HAGERMAN

Phone - 208-837-4404

State- ID Zip- 83332

VERIFIED ADM

+ - - Priority Date - - +
02/12/1916

+ - - Region - - - +
ERROR IN REGION

+ - - - Stage - - - +

+ - - - Status - - - +
Z - SEE REMARKS

+ - - - - Source - - - - - +
THREE SPRINGS

+ - - - - Tributary - - - - - +
BILLINGSLEY CREEK

+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County

07S 13E 24 SE SE NW (47) GOODING

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

43 - DOMESTIC	01/01	12/31	0.040	
01 - IRRIGATION	03/15	11/15	0.700	140.00

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.740 140.00 105.0

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

07S	13E	24	SE SW		35.0	01	IRRIGATION	(47) GOODING
07S	13E	24	SE SW			43	DOMESTIC	(47) GOODING

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+ - - Non-Irrigation Use - DOMESTIC, 1 HOME

+ - - Other Rights for Same Use - NONE

+ - - - - Remarks - - - - - +
RECOMMENDED AS RIGHT NO. 36-00029B.

+ - - - - Old Water Right Numbers - - - - - +
A3602025

Water right number - R36-10220

Prefix Translation: RESEARCH

+ - - - - Conditions of Approval - - - - -
No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - + + - - - - Decree Defendant - - - + + - Decree Date - +
00/00/0000

+ - - - - Comments - - - - -
No Comments Found

+ - - Audit Fields - - +
07/17/91 CHRISTEN

+ - - - - Adjudication Rights Dates and Flags Area - - - - -

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 07/17/1991	Old Judicial District	-
Claim Received Date	- 07/18/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S000981	Water District	-
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	-	Presumption Flag	-



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

29-Oct-1991

BRIAN &/OR DANNY T. &/OR
EVELYN M. PETERSON
RT. 1 BOX 8
WENDELL ID 83355

Re: Ownership Change for Adjudication Claim NO.(S): A36-10220 -
MYRTLE BOYER

Dear Claimant(s):

Pursuant to the notification that you presently own the property in which the above referenced Adjudication Claim is appurtenant, the Department has changed the record of the current owner as you requested. Please find enclosed a copy of the computer record of the claim noting the change in claimant.

Please review the record and if you have any corrections or questions, please feel free to call this office.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Judy Givens'.

Judy Givens
Adjudication Secretary

/jg

Enclosures

MICROFILMED

JAN 20 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

October 3, 1990

A36-10220
MYRTLE BOYER
2777 S. 1050 E.

HAREYMAN

ID 83332

Dear Claimant(s):

In the past you submitted the claim(s) identified with the number(s) shown above your name and address at the top of this letter. You indicated on the claim(s) that the basis for establishing the water right(s) was Beneficial Use, meaning the water right was not previously confirmed by a decree, water right license or permit before you filed the claim(s).

The purpose of this letter is to request evidence supporting the priority date(s) you have claimed. The enclosed pamphlet describes what this means. While I encourage you to read all of the pamphlet, I direct your attention to the right-hand half of the pamphlet after you open it. There you will find two sections: What Kind of Evidence is Required, and Some Examples of Documents which May Be Evidence of the Priority Date. These sections tell you what must be submitted. The other sections tell you why the evidence is necessary and what the consequences of not submitting the evidence could be.

Please submit the requested evidence by November 1, 1990. When returning to the Department please reference all documents with the claim(s) identification number(s) listed above.

If you have questions not addressed by the pamphlet or need other technical assistance, please feel free to contact this office. For advice on your water right(s), please contact your attorney.

Sincerely,

Allen Merritt, P.E.
Water Rights Supervisor

Enclosure

MICROFILMED
JAN 20 1993

VERIFIED BY

Sc

Water Right Number R36-000298

Prefix Translation: RESEARCH

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***
PETERSON

BRIAN

1 - RT 1 BOX 8
2 -
3 -

State- ID Zip- 83355

PETERSON

DANNY T

City- WENDELL
Phone - 208-536-2468
1 - RT 1 BOX 8
2 -
3 -

State- ID Zip- 83355

PETERSON

EVELYN M

City- WENDELL
Phone - 208-536-2468
1 - RT 1 BOX 8
2 -
3 -

State- ID Zip- 83355

*** O - ORIGINAL OWNER ***
BOYER

MYRTLE

City- WENDELL
Phone - 208-536-2468
1 - 2777 S 1050 E
2 -
3 -
City- HAGERMAN
Phone - 208-837-4404

State- ID Zip- 83332

+ - - Priority Date - - +
02/12/1916

+ - - Region - - - +
ERROR IN REGION

+ - - Stage - - - +
D - DECREED

+ - - Status - - - +

+ - - Source - - - - - +
THREE SPRINGS

+ - - Tributary - - - - - +
BILLINGSLEY CREEK

Point of Diversion						
Twn	Rng	Sec	Tract	Lot	RFlg	County
07S	13E	24	SE SE NW		(47)	GOODING

Code	Description	Period From	Period To	Water Use	Diversion Rate	Diversion Volume
43 - DOMESTIC		01/01	12/31		0.040	
01 - IRRIGATION		04/01	10/31		0.700	

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

~~0.700~~ .60 105.0

Place of Use								
Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
07S	13E	24	SE SW		35.0	01	IRRIGATION	(47) GOODING
07S	13E	24	SE SW			43	DOMESTIC	(47) GOODING

No Ditch
No Conveyance
No excess
No Remarks.
HHS

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JAN 20 1993

Add water
District
→

Water right number - R36-00029B

Prefix Translation: RESEARCH

Tw	Rng	Sec	Tract	Lot	Acres	Code	Description	County
----	-----	-----	-------	-----	-------	------	-------------	--------

Total Acres: 35.0

- - - Diversion Means - COLLECTION BOX TO PIPELINE, GRAVITY FLOW

- - - Non-Irrigation Use - DOMESTIC, 1 HOME

- - - Other Rights for Same Use - NONE

- - - Remarks -
No Remarks found.

- - - Old Water Right Numbers -
3602025
3600029

- - - Conditions of Approval -
No Conditions of Approval found.

- - - Decree Plaintiff - - - + - - - Decree Defendant - - - + - - Decree Date - -
00/00/0000

- - - Comments -
Date: 07/17/1991 User Id: CHRISTEN Subject: BASIS OF CLAIM
THIS CLAIM IS BASED UPON THE DECREED RIGHT. ORIGINALLY THE USE WAS CLAIMED UNDER A36-10220 WITH LICENSE 36-2025 AS THE BASIS
OF THE CLAIM. ONLY A PORTION WAS CLAIMED AND THE BALANCE OF 25 ACRES IN SEC. 25 HAS NOT BEEN CLAIMED AS OF THIS DATE.
THE DECREED RIGHT 36-00029B SUPERCEDES THE OTHER RIGHTS.

- - - Audit Fields - - +

VERIFIED BY 02/05/92 CLELLAND

- - - Adjudication Rights Dates and Flags Area - - - +

Court Report Filing	- 00/00/0000	Field Inspection Made	- 09/11/1990	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 02/05/1992	Old Judicial District	-
Claim Received Date	- 07/18/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S000981	Water District	- 36 A
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- AND/OR	Presumption Flag	- D
				Notice of Error Flag	-

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JAN 20 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

01:44:33
07/03/90

PAGE: 10
QUICKLOOK INFORMATION

CLAIM NUMBER: ~~A36-10220~~ ^{Renumbered to} **A36-00029B**

WR ELEMENT	FIELD EXAM Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	VERIFIED BY CODE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE	~~Y~~ N		9-11-90 SCC/AHT	N		HHT 8/6/92	DB 10-5-90	
POINT OF DIV	Y			Y 10 Ac.	1,5			
SOURCE	Y			Y	1,5,6 Abstract			
PLACE OF USE	Y	Appt. @ OFFICE 9-21-90 SCC		N	5,4,			
DIV. AMOUNT CFS/VOLUME	~~Y~~ N			Y	6 License			
CONSUMPTIVE USE				Y				
PURPOSES	Y			N				
PERIOD OF USE	Y N			N				
BASIS OF CLAIM	Y N			N				
REMARKS				N				

SCC
8-28-90
SCC
9-4-90

"VERIFIED BY" CODES

TOPO MAP/ORTHO-PQ = 1
ASCS MAP = 2
WATERMASTER RECORDS = 3
NAPP PHOTOS = 4
FIELD EXAM = 5
OTHER (SEE REMARKS) = 6

THESE CODES ARE USED TO INDICATE HOW THE FIELD EXAMINER VERIFIED THE INFORMATION
USED FOR THIS FIELD EXAMINATION. INDICATED ARE ALL CODES WHICH APPLY.

* No Claimant Contact necessary
I explained this Recommendation to Mrs. Bayer + Mr. Peterson 9-21-90 SCC.

MICROFILMED

JAN 20 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

01:44:33
07/03/90

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-10220

LAST: BOYER
ADDRESS: 2777 S. 1050 E.
CITY: HAGERMAN
PHONE NUMBER: 208-837-4404

FIRST: MYRTLE
STATE: ID ZIP: 83332

OWNER CODE: C

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

DATABASE
N

FIELD
EXAMINER

NO REMARKS IN CLAIM

FIELD EXAMINATION INFORMATION

CONTACT PERSON: Myrtle Boyer

PHONE NUMBER: () -

DATE OF FIELD EXAM: 9/11/90

APPOINTMENT MADE: Y() N()

TIME: : A() P()

ACCOMPANIED BY: HHT/SCC

PHONE NUMBER: () -

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / REMARKS:

Spoke w/ Mrs. Boyer. Confirmed irrigated acres & discussed source -
Confirmed that source is Three Springs (pipeline from Bill Jones).

MICROFILMED

JAN 20 1993

A. AJ CLAIM: # A36-10220 PRIORITY DATE: 02-12-1916 STAGE: J

B. WR RECORD: NO WATER RIGHT RECORD TO MATCH THIS AJ CLAIM

C. FIELD EXAM REQUIRED?

DUE TO PRIORITY DATE DISCREPANCY? (Y/N)

DATABASE
Y

FIELD
EXAMINER

Y N

ARE THERE OBVIOUS REASONS TO QUESTION THE PRIORITY DATE CLAIMED? Y(X) N(X)
IF YES EXPLAIN.

REMARKS:

Proof Required OK

part of WR 36-2025

superceded by Decree
Renumber to 36-00029 B.
(see 5/2/91)

RECOMMENDED PRIORITY DATE:

2-12-1916

REVIEWED BY

sc

DATE

8-28-90

MEMO TO FILE:

This WR was thought to be based on the
License ³⁶2025 However, the Priority date places the
License in the 1932 Decree this should be
Renumbered 36-00029 B.

Sc
5-2-91

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1932 N 1000

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A36-10220	07S	13E	24		SE	NW		GOODING

OTHER AJ CLAIMS WITH SAME AJ POD
A PREFIX R PREFIX
NONE NONE

WR RECORDS IN SAME 40 ACRE TRACT
NONE

SOURCE: SPRING

TRIB:

B. WR POINT OF DIVERSION AND SOURCE:

A36-02025

THERE IS NO WATER RIGHT RECORD WITH THE SAME CLAIM NUMBER

7S. 14E. 30

SE NW

47

SOURCE: NO SOURCE FOR RECORD

TRIB: NO TRIBUTARY FOR RECORD

SPRING

C. FIELD EXAM REQUIRED?

DUE TO POD DISCREPANCY? (Y/N)
DUE TO SOURCE DISCREPANCY? (Y/N)

DATABASE
Y
Y

FIELD
EXAMINER
Y
Y

REMARKS:

10 Ac. 1/4 + JENIFY.

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	COUNTY
<i>Same</i>		<i>SE</i>					

change

SOURCE: *THREE SPRINGS*

TRIB: *BILLINGSLEY CREEK*

REVIEWED BY: *9-21-90*

DATE: *see*

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JAN 20 1993

A. ROOT WATER RIGHT NUMBERS: A36-10220

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
07S	13E	24	SE	SW		BOYER, MYRTLE	A36-10220 /	- /	38.0	35.0	35.0
						BOYER, LEE		36-00029 /			
						BOYER, LEE		36-02025 /35.0			
07S	13E	24	SE	SW		BOYER, MYRTLE	A36-10220 /35.0	- /	38.0		
						BOYER, LEE		36-00029 /			
						BOYER, LEE		36-02025 /35.0			
TOTAL ACRES							A36-10220	35.00	76.00	35.0	

ARE IRRIGATED ACRES FOUND IN TRACTS OTHER THAN INDICATED ABOVE, Y() N(X)
IF YES SEE ATTACHED SHEET:

C. FIELD EXAM REQUIRED?

DUE TO POU DISCREPANCY? (Y/N)

DATABASE
Y

FIELD
EXAMINER
YES

PRESUMPTION FLAG:

REMARKS:

Some Pasture is irrigated among the trees on the West & South edge of the Property.

RECOMMENDATIONS:

TOTAL ACRES: 35.0

REVIEWED BY: SCC

DATE: 9-21-90

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JAN 20 1993

A. AJ CLAIMED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
A36-10220 DOMESTIC	FROM 01-01 TO 12-31	.600 CFS
A36-10220 IRRIGATION	FROM 03-15 TO 11-15	.600 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		.600 CFS

B. WR RECORDED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
TOTAL DIVERSION RATE/VOLUME CLAIMED		

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

	DATABASE	FIELD EXAMINER
DUE TO WATER-USE DISCREPANCY? (Y/N)	Y	<u>Y</u>
DUE TO DIVERSION RATE DISCREPANCY? (Y/N)	Y	<u>Y</u>
DUE TO PERIOD FROM/TO DISCREPANCY? (Y/N)	Y	<u>Y</u>

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

Y(X) N()

RECOMMEND TO WR STANDARDS OR OTHER?

Y() N(X) Explain in remarks, below.

REMARKS:

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JAN 20 1993

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y() N(X)

AJ TOTAL CLAIMED DIVERSION RATE: 0.600 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: CFS

*** IF NO or IF STATUTORY CLAIM or BENEFICIAL USE then flow measurement required. ***
** If an amount smaller than the original diversion rate is **
** claimed and an exam is NOT required, explain in remarks. **

FLOW MEASUREMENT REQUIRED?

FIELD
DATABASE EXAMINER

DUE TO STAGE OR DIVERSION RATE DISCREPANCY? (Y/N)

Y

N

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JAN 20 1993

B.

FLOW MEASUREMENT

MEASUREMENT METHOD N/A, SEE ATTACHED CALCULATIONS.

*Sonic measurement on
siphon over Billingsley Creek
Total 9.9 cfs*

C. ARE OTHER WATER RIGHTS USED? Y() N(X) IF YES COMPLETE OVERLAP REVIEW.

OTHER RIGHTS LISTED IN CLAIM: NONE

NO CLAIMS FOUND WITH SAME POU AND IRRIGATION USAGE

NO RIGHTS WITH SAME POU BUT NOT USED FOR IRRIGATION

D.

RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE

ACRES 35 x 0.02 CFS/ACRE = 0.70 CFS
(Taken from p/u review)

1b. CALCULATIONS

DOES AMOUNT CLAIMED EXCEED 0.02 CFS/ACRE? Y() N(X)

*** IF YES ADDITIONAL WATER USE FORM FILED AND ATTACHED? Y() N() ***

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 115.0 AF/A

ACRES 35 x CONSUMPTIVE VOL. AF/A FOR AREA 3.0 =

TOTAL CONSUMPTIVE USE 105 AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

ACRES 35 x DIVERSION VOL. AF/A FOR AREA 4.0 =

TOTAL DIVERSION VOLUME 140 AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y() N()

REMARKS: (Include limitations on CONSUMPTIVE USE for combined rights.)

per conversation w/ Myrtle Boyer + future Buyer they understand they are
entitled 35" of this right as shown above. (see 9-28-90)

claimed 0.60
therefor
rec. as claimed
no conveyance loss

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JAN 20 1993

RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD		REC. DIV		REC. DIV		REC. CONS.	
	FROM	TO	RATE	CFS	VOL.	AF/A	USE	
			DATABASE	EXAMINER	DATABASE	EXAMINER	DATABASE	EXAMINER
<u>IRRIGATION</u>	<u>3-15</u>	<u>11-15</u>		<u>0.70</u>		<u>140</u>		<u>105</u>
<u>DOMESTIC</u>	<u>1-1</u>	<u>12-31</u>		<u>0.04</u>				
TOTAL FOR THIS RIGHT								
REVIEWED BY: <u>SCC</u>	DATE: <u>9-21-90</u>							

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JAN 20 1993

A. CHECK ONLY THE FOLLOWING THAT APPLY:

	ACCEPTED AS CLAIMED	NEEDS REVIEW
OWNERSHIP _____	(☒)	()
FORFEIT/ABANDON _____	(☒)	()
ADDITIONAL DIV. AMOUNT _____	(☒)	()

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-10220

TOTAL DIVERSION RATE OF WR SPLITS

DATABASE
1.200

EXAMINER

CFS

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
A36-02025	A36-10220	0.600	-		36-02025	1.200
TOTAL CFS		0.600				1.200

DIVERSION RATE REVIEW

DO THE SUM CFS RATE OF THE SPLITS EQUAL THE ROOT RIGHT CFS RATE? (Y/N)
IF NO, is the written review sheet attached? (Y/N)

DATABASE
N

FIELD
EXAMINER

REMARKS:

- at this time Allan Boyer has not claimed the other portion of this Right (see 9-21-90)

8/6/92 Boyer did claim. Split Review: 36-00029

<i>A</i>	<i>.6</i>	<i>2.0</i>	<i>← limited by claim</i>
<i>B</i>	<i>1.0</i>	<i>.32</i>	

AUTHENTICATION:

SIGNATURE: *Steve Cell*

DATE: *9-21-90*

NAME OF FIELD EXAMINER: _____ TITLE: _____

MICROFILMED

JAN 20 1993



CONVERSATION MEMORANDUM

NAME OF PARTY MYRTLE BOYER
EMPLOYEE: STEVE CLELLAND

DATE 9-21-90 1:15 pm -
FILE A36-10220 2:15 pm

RE: _____

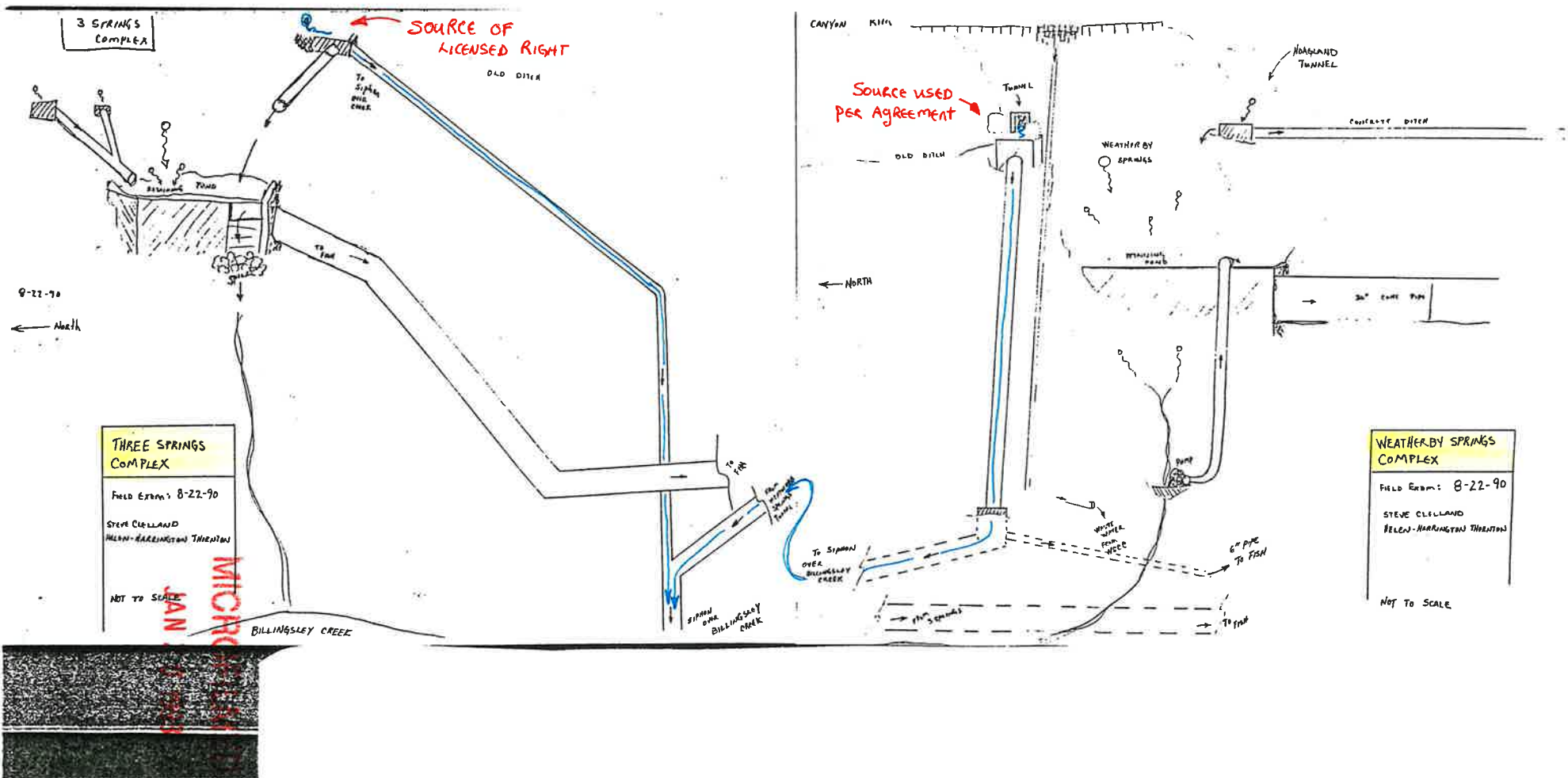
She is planning to sell the Farm and wanted to know that her water rights were correct as filed.
Prospective Buyer: Lee Petersen

We confirmed the source of her water is Three Springs and in particular the 3RD or South Spring due to the Diversion works (see map.) It is the only spring that can be siphoned across Billingsley Creek. She uses Weatherby Springs water most often by an agreement between Bill Jones & other water users. They trade Three Springs water for Weatherby Springs water which is more potable and the delivery system is better managed under this agreement.

Her right is based on the License 36-02025 and she says she gets the 35 Acre portion which is 35" of water. Based on this discussion and our Field Exam I believe she irrigates the full 35 Acres and therefore she understands she is entitled to 35" or 0.70 cfs.

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JAN 20 1993

A36-10220



No.5.
Fred A. Wilkie, State
Engineer,

to

Lee Boyer.

WATER LICENSE No.11981.District No.63.
LICENSE AND CERTIFICATE OF WATER RIGHT
Dated Dec.21, 1918.
Recorded Jan.6, 1919, 10:30 A.M.
Book 1 Water Rights Page 186

This is to certify: That Lee Boyer made application for permit to appropriate public waters of State of Idaho, dated Feb.12, 1916; that Permit No.11981 was issued; that certificate of completion of works with carrying capacity of 1.6 second feet was issued on May 17, 1916 showing said works were completed on April 20, 1916, and that on May 27, 1916, Lee Boyer made proof to the satisfaction of State Engineer of Idaho of a right to the use of the waters of a spring for the purpose of irrigation and fomestic use under Use Permit No.11981, and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the State Engineer and recorded in Vol.5 of Licenses at Page 2391 on Dec.21, 1918.

The right hereby confirmed dates from Feb.12, 1916. The point of diversion is located in the SE $\frac{1}{4}$ of NW $\frac{1}{4}$, Sec.30, Twp.7-S., R.14 E.B.M. That the amount of water to which said right is entitled is limited to an amount actually needed and beneficially used for said purposes and shall not exceed 1.2 cubic feet per second.

Description of use SE $\frac{1}{4}$ -SW $\frac{1}{4}$, Sec.24 and NE $\frac{1}{4}$ -NW $\frac{1}{4}$, Sec.25, T.7-S., R.13 E. The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

No.6.

Emerson Lee Boyer and
Sarah Alice Boyer, husband and
wife,

to

New World Life Insurance
Company of Spokane, Washington.

REAL ESTATE MORTGAGE

Dated Dec.12, 1918.

Recorded Dec.17, 1918, 3:25 P.M.

Book 6 Mortgages, Page 215.

Consideration \$1000.00.

Acknowledged before a Notary Public(Seal)

3-1064.

Grants the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 24 and the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 25, all in Twp.7-S., Range 13 E.B.M., together with 80 inches of water from Conklin Springs (or Three Springs.)

Secures payment of one note of even date herewith payable on the 15th day of November 1923.

MICROFILMED

JAN 20 1993

A36-10220





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

MODE SELECT
INPUT

OUTER DIAMETER
20.1169 IN

PIPE MATERIAL
? CS,SS

WALL THICKNESS
.11500 IN

INNER LINING
? NO LING.

KIND OF FLUID
? WATER

SENSOR MOUNTING
? U

TYPE OF SENSOR
? SMALL

DATA CHANGE
? NO

SPACING
16.240 IN U

08-22 13:0500 *R
+449.885E 16PM

ZERO MODE
CLEAR

ZERO MODE
AUT ZERO

ZERO MODE
ZERO OPR

08-22 13:0700 *R
+003.00 % A12

MODE SELECT
T0 CHECK

0748.5 MMSEC
100.72 % T0

08-22 13:0800 *R
+445.129E 16PM

*Weatherby Springs Tunnel
Pipeline siphon*

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JAN 20 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

8-22-90

AT THE TIME OF THIS
MEASUREMENT, MR. JONES
EXPLAINED HE IS USING THE
WATER THAT NORMALLY FLOWS
TO MCFADDEN, FUEL, BOYER +
OTHERS FROM THE THREE SPRINGS
SOURCE. IN RETURN HE HAS
REPLACED THIS WATER WITH
HIS RIGHT FROM WEATHERBY
SPRINGS VIA THE TUNNEL
& PIPELINE.

SCC/HHT

3 spgs Pipeline to Bill Jones Fish Prop. Use

MODE SELECT
INPUT
OUTER DIAMETER
24.0323 IN
PIPE MATERIAL
? CS,SS
WALL THICKNESS
0.1100 IN
INNER LINING
? NO LING.
KIND OF FLUID
? WATER
SENSOR MOUNTING
? U
TYPE OF SENSOR
? SMALL
DATA CHANGE
? NO
SPACING
19.602 IN U
08-22 12:3800 *R
+597.028E 1GPM
ZERO MODE
CLEAR
ZERO MODE
AUT ZERO
ZERO MODE
ZERO OPR
MODE SELECT
T0 CHECK
0897.6 MMSEC
100.88 % T0
08-22 12:4100 *R
+002.90 % AI2
08-22 12:4100 *R
+712.472E 1GPM
08-22 12:4100 *R
+714.849E 1GPM
08-22 12:4300 *I
+711.151E 1GPM

MICROFILMED

JAN 20 1993

CONVERSATION MEMORANDUM

NAME OF PARTY BILL JONES
EMPLOYEE: _____DATE 8-22-90
FILE _____RE: WEATHERBY SPRINGS & THREE SPRINGS COMPLEX

Helen Harrington and I made Ultrasonic Measurements on the 24" pipe from 3 Springs and the 20" pipe from the Weatherby Springs Tunnel. Mr. Jones explained that water from 3 Springs is exchanged for water from Weatherby Springs. Water users west of the Jones Farm and Mr. McFadden are in agreement with this system. The other users are able to use Weatherby Tunnel water for domestic uses which is a closed source. Mr Jones is able to use their 3 Springs water and allows for better use of the facilities & water. Due to Fluctuations in water use the water is better controlled under this exchange. The Original water rights can still be used as defined and are not permanently changed or revised.

I have made 2 maps of the 2 sources above to help describe the systems.

Steve Collins
8-23-90

MICROFILMED

JAN 20 1993

1114

MICROFILM

A36-10220