

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: **A36-00033E**
Date Received: 8/ 4/1988
Receipt No: S001281
Received By: SEC

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: EDNA M REA 208-536-5741
Address: PO BOX 543
WENDELL ID 83355

2. Date of Priority: MAR 8, 1902

3. Source: WEATHERBY SPRINGS Trib. to: BILLINGSLEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07S	14E	30		NE	SW		GOODING

5. Description of diverting works:
VIA JONES DITCH TO CURRAN DITCH TO PIPELINE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.750		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	13E	27	SE	NE		IRR	17.0
Section Acres							17.0
Total Acres							17.0

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:
AMENDED CLAIM TO REVISE 0.75 CFS. 03/28/96

15. Basis of Claim: DECREEED

Case Number:

Court :

Decree date: 3/22/1932

NEW INTERNATIONAL MORTGAGE BA
Decree Plaintiff

IDAHO POWER COMPANY
vs Decree Defendant

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): Edna M. Bea Date: 3-28-96

Date: _____

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 28th day
of MARCH 19 96

Steve C. Allen
Notary Public

Seal

Residing at Twin Falls ID
My Commission Expires 12/7/2000

17. Notice of Appearance:

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

Signature _____

Address _____

Date _____

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.NO2\lmr)

RECEIVED

FEB 25 1993

Department of Water Resources
Adjudication Bureau

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

11 * * * * *

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

Case No. 39576

16 _____)
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' SECOND 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



Hepworth,
Nungester,
& Lezamiz

SECOND SUPPLEMENTAL NOTICE OF APPEARANCE - 1

MICROFILMED
OCT 11 1994

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

Mallane, Thomas	A36-00055AA
Mavencamp, John V.	A36-00104A
Pothier, Norman	A36-00064A
Vader, Loren	A36-10706
Vader, Loren	A36-02588
Culbertson, Stowe Allen & Mildred Sue	A36-00090D
Culbertson, Stowe Allen & Mildred Sue	A36-10409
Barnard, Clifton R.	A36-02008
Barnard, Clifton R.	A36-02009
Rea, Edna Mae & Bell, Verl C.	A36-00003A
Rea, Edna Mae & Bell, Verl C.	A36-000033E
Sauer, Roy E.	A36-00033D
Jensen, Darrell W.	A36-10308
Jensen, Darrell W.	A36-10309
Jensen, Darrell W.	A36-10310
Jensen, Darrell W.	A36-00011A
Robinson, Creed & Saundra	A36-00090E
Robinson, Creed & Saundra	A36-10588
Zabala, Ignacio Nick	A36-00051C
Zabala, Ignacio Nick	A36-10312-00051E
Zabala, Ignacio Nick	A36-10314

Dated this 24 day of February, 1993.

HEPWORTH, NUNGESTER & LEZAMIZ,
CHARTERED

By: 

Patrick D. Brown
Attorneys for Respondents

CERTIFICATE OF MAILING

The undersigned, a resident attorney of the State of Idaho, with offices at 133 Shoshone St. North, P.O. Box 389, Twin Falls, Idaho 83303, and one of the attorneys for the respondents in this matter, certifies that he caused to be mailed a copy of the above and foregoing SECOND SUPPLEMENTAL NOTICE OF APPEARANCE on the



Hepworth,
Nungester,
& Lezamiz

MICROFILMED
OCT 11 1994

1 24 day of February, 1993, to:

2 Snake River Adjudication (original)
3 District Court
4 P.O. Box 27070
5 Twin Falls, ID 83303-0126

6 Chief, Natural Resources Division (1)
7 Office of Attorney General
8 State of Idaho
9 P.O. Box 44449
10 Boise, Idaho 83711-4449

11 The United States Department of Justice (1)
12 Environment and Natural Resources Division
13 550 West Fort Street, Box 33
14 Boise, ID 83734

15 
16 Patrick D. Brown



Hepworth,
Nungester,
& Lezamiz

MICROFILMED
OCT 11 1994

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

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

CIVIL CASE NUMBER: 39576
claimed by Harold Smith
Ident. Number: A36-00033A/E
Date Received: 8/04/1988
Receipt No: S001281
Received By: SCC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: EDNA M. REA 208-536-5741
Address: BOX 543
WENDELL, ID 83355

2. Date of Priority: MAR 08, 1902

3. Source: WEATHERBY SPRINGS Trib. to: BILLINGSLEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
07S	14E	30	NE	SW			GOODING

5. Description of diverting works:
VIA JONES DITCH TO CURRAN DITCH TO PIPELINE.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.500		

7. Total Quantity Appropriated is:
A → .75 ~~0.500~~ C.F.S. (and/or) A.F.A.

8. Total consumptive use is 51.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
07S	13E	27	SE	NE		IRR	17.0

Section Acres 17.0

Total Acres 17.0

A36-00033A/E

Page 1

Date: 08/04/88

MICROFILMED

JAN 20 1993 MICROFILMED

OCT 11 1994

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:
THIS IS PART OF WR #36-00033 FOR 3.0 CFS

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date: 3/22/1932

NEW INTERNATIONAL MORTGAGE BAN
Decree Plaintiff

vs

IDAHO POWER COMPANY
Decree Defendant

16. Signature(s)

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

Number of attachments: 1

For Individuals:

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

Signature of Claimant(s): Edna M. Rea Date: 8-4-88

Date: _____

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 4th day
of August 19 88

Roxanne Storey
Notary Public

Seal

Residing at Buhl, Id
My Commission Expires 6-30-94

INPUT: AJ_SELECTION:HHT-NOA-BROWN2.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

FIRST NAME: PATRICK D

ADDRESS LINE 2:133 SHOSHONE ST N

STATE: ID ZIP: 833030389

PHONE NUMBER: (208) 734-7510

36-00003A ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00011A ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00033D ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00033E ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00051C ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00051E ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00055AA ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00064A ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00090D ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00090E WATER RIGHT HAS ONE ATTORNEY OWNER CODE - NOT ADDED
36-00104A ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-02008 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-02009 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-02588 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-10308 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-10309 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-10310 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-10314 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-10409 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-10588 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-10706 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
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A36-00011A ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00033D ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
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A36-10310 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-10312 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-10314 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-10409 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-10588 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-10706 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE

ADDED / added as first supplement

ADDED / added as first supplement

MICROFILMED

OCT 11 1994

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

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

CIVIL CASE NUMBER: 39576

claimed by Harold Smith

Ident. Number: A36-00033A

Date Received: 8/04/1988

Receipt No: S001281

Received By: SCC

COPY

**FOR YOUR FILES
DO NOT RETURN**

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

1. Name: EDNA M. REA 208-536-5741
Address: BOX 543
WENDELL, ID 83355

2. Date of Priority: MAR 08, 1902

3. Source: WEATHERBY SPRINGS Trib. to: BILLINGSLEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07S	14E	30	NE	SW			GOODING

5. Description of diverting works:
VIA JONES DITCH TO CURRAN DITCH TO PIPELINE.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.500		

7. Total Quantity Appropriated is:

4 → (175) ~~0.500~~ C.F.S. (and/or) A.F.A.

8. Total consumptive use is 51.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	13E	27	SE	NE		IRR	17.0

Section Acres 17.0

Total Acres 17.0

A36-00033A

Page 1

Date: 08/04/88

MICROFILMED

MICROFILMED

OCT 11 1994

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:
THIS IS PART OF WR #36-00033 FOR 3.0 CFS
15. Basis of Claim: DECREED
Case Number:
Court :
Decree date: 3/22/1932

NEW INTERNATIONAL MORTGAGE BAN
Decree Plaintiff

vs

IDAHO POWER COMPANY
Decree Defendant

16. Signature(s)

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

Number of attachments: 1

For Individuals:

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

Signature of Claimant(s): Edna M. Rea Date: 8-4-88

Date: _____

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 4th day
of August 19 88

Roxanne Storey
Notary Public

Seal

Residing at Buhl, Id
My Commission Expires 6-30-94



SOIL and CAPABILITY MAP

Prepared by UNITED STATES DEPARTMENT of AGRICULTURE ★ SOIL CONSERVATION SERVICE
cooperating with

S. C. DISTRICT AND AGENCIES COOPERATING IN SOIL SURVEY

OWNER _____
OPERATOR _____

FARM NO. _____ DATE _____

SCALE 8" = 1 MI. ACRES _____

PHOTO NO. G S - C / - 11 - 47

COUNTY _____

STATE _____

R. 13 Sec. 27



MICROFILMED
JAN 20 1993

A 36-00033A

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: A36-00033E
Date Received: 8/ 4/1988
Receipt No: S001281
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: EDNA M. REA 208-536-5741
Address: P.O. BOX 543
WENDELL, ID 83355

2. Date of Priority: MAR 8, 1902

3. Source: WEATHERBY SPRINGS Trib. to: BILLINGSLEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07S	14E	30	NE	SW			GOODING

5. Description of diverting works:
VIA JONES DITCH TO CURRAN DITCH TO PIPELINE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.500		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	13E	27	SE	NE		IRR	17.0

Section Acres 17.0

Total Acres 17.0

A36-00033E

Page 1

Date: 01/07/91

MICROFILMED

JAN 20 1993

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: DECREED

Case Number:

Court :

Decree date: 3/22/1932

NEW INTERNATIONAL MORTGAGE BAN
Decree Plaintiff

vs

IDAHO POWER COMPANY
Decree Defendant

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

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

State of Idaho)
County of _____) ss.

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

of _____ 19 _____

Notary Public

Seal

Residing at _____

My Commission Expires _____

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: A36-00033E
Date Received: 4/17/1989
Receipt No: S001281
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: EDNA M. REA 208-536-5741
Address: BOX 543
WENDELL, ID 83355

2. Date of Priority: MAR 08, 1902

3. Source: WEATHERBY SPRINGS Trib. to: BILLINGSLEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
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Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.500		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	13E	27	SE	NE		IRR	17.0

Section Acres 17.0

Total Acres 17.0

A36-00033E

Page 1

Date: 04/17/89

MICROFILMED

JAN 20 1993

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:
THIS IS PART OF WR #36-00033 FOR 3.0 CFS.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date: 3/22/1932

NEW INTERNATIONAL MORTGAGE BAN
Decree Plaintiff

vs

IDAHO POWER COMPANY
Decree Defendant

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

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

State of Idaho)
County of _____) SS.

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

Notary Public

Seal

Residing at _____
My Commission Expires _____

S001281

08/04/88
10:17:27

REA, EDNA M.

ADJUDICATION FEE

0410162 9337 6490

\$155.00

\$155.00

CHECK 1100

WR/NO: A36-00033A A36-00003A A36-10334

Δ to

A36-00033E

Idaho Department of Water Resources

Region: SOUTHERN

Signature: _____

MICROFILMED

JAN 20 1993

S001281

08/04/88
10:17:27

REA, EDNA M.

ADJUDICATION FEE

0410162 9337 6490

\$155.00

\$155.00

CHECK 1100

WR/NO: A36-00033E A36-00003A A36-10334

Idaho Department of Water Resources

Region: SOUTHERN

Signature: _____

*Checked
6/30/89
AD~*

MICROFILMED

JAN 20 1993

RECEIVED

OCT 23 2000

Department of Water Resources

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

In Re SRBA

Case No. 39576

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

Water Right 36-00033E

2000 OCT 20 AM 9:27

FILED
TWIN FALLS CO., IDAHO

NAME AND ADDRESS:

EDNA MAE REA
BELL, VERL
853 EAST 2830 SOUTH
HAGERMAN, ID 83332

SOURCE:

WEATHERBY SPRINGS

TRIBUTARY: BILLINGSLEY CREEK

QUANTITY:

0.75 CFS

PRIORITY DATE:

03/08/1902

POINT OF DIVERSION:

T07S R14E S30

SENESEW

Within Gooding County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
Irrigation

PERIOD OF USE
02-15 TO 11-30

QUANTITY
0.75 CFS

PLACE OF USE:

Irrigation

T07S R13E S27

SENE 17.0

17.0 Acres Total

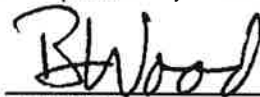
Within Gooding County

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

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

RULE 54(b) CERTIFICATE

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



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



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

April 29, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

VERL BELL
853 E 2830 S
HAGERMAN ID 83332

RE: 36-00033 Split Analysis

Dear Mr. Bell,

Enclosed you will find the split analysis for the right 36-00033. This is based upon the most current records I could find for each of the rights shown.

If you have further questions feel free to call me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Clelland'.

STEVE CLELLAND
Sr. Water Resource Agent

Enc:

A36-00033E

Claim Status	Claim Number	Owner	CFS	Acres
<Split>	36-00033A	<Split>		
Partial Decree	B	Hoskovec	0.75	14.0
Partial Decree	C	Ellis	0.26	8.0
SF5/SMR	D	Sauer	0.09	1.0
SF5/SMR	E	Rea	0.75	17.0
Partial Decree	F	Gustafson	0.75	11.0
<Split>	G	<Split>		
Set for Trial	H	Tzanakakis	0.13	4.9
Set for Trial	J	Shappee	0.06	2.4
Set for Trial	K	Shappee	0.06	2.2
TOTALS:			2.85 cfs	60.5 acres

Review of SRBA claims split from 36-00033.

Steve Clelland

April 29, 1999

RECEIVED

MAY 01 1998

Department of Water Resource
Southern Region

RECEIVED

MAR 23 1998

Department of Water Resources
Adjudication Bureau

1998 MAR 19 PM 3:03

FILED
TWIN FALLS, IDAHO
1998 MAR 19 PM 3:03

3-14

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 36-00033E

)

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.

An objection to the *Director's Report* for water right 36-00033E was filed. Subsequently, a *Standard Form 5* was filed as to how the elements of this water right should be decreed. The *Standard Form 5* was accepted by the court; now therefore,

IT IS THEREFORE RECOMMENDED that subcase 36-00033E be decreed as recommended in the attached *Special Master's Report and Recommendation for Partial Decree*.

DATED March 19, 1998.


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 36-00033E

1998 MAR 19 PM 3:03

DISTRICT COURT
TWIN FALLS, IDAHO
FILED

NAME & ADDRESS: EDNA M REA
PO BOX 543
WENDELL ID 83355

SOURCE: WEATHERBY SPRINGS

TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 0.75 CFS

PRIORITY DATE: 03/08/1902

POINT OF DIVERSION: T07S R14E S30

SENESW

Within GOODING County

PURPOSE AND

PERIOD OF USE: PURPOSE OF USE
IRRIGATION

PERIOD OF USE
Irrigation Season

QUANTITY
0.75 CFS

PLACE OF USE: IRRIGATION
T07S R13E S27
17 ACRES TOTAL

Within GOODING County
SENE 17

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.

DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication

RECOMMENDATION

MAR 19 1998

SPECIAL MASTER

1998 MAR 19 PM 3:03

DISTRICT F-SP2A
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): 36-00033E

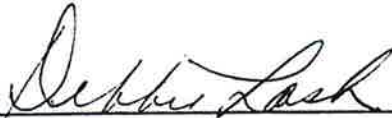
CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on March 19, 1998, 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
OFFICE OF ATTORNEY GENERAL
STATE OF IDAHO
PO BOX 44449
BOISE, ID 83711-4449
Phone: 208-334-2400

EDNA MAE REA
BELL, VERL
853 EAST 2830 SOUTH
HAGERMAN, ID 83332
Phone: 208-837-4405


Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
03/19/98

1998 MAR 19 PM 3:03

DIST. CLERK
TWIN FALLS, 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)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

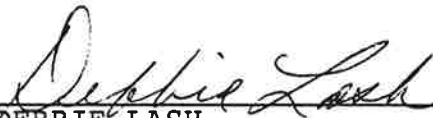
Water Right(s): 36-00033E

On March 19, 1998, Special Master FRITZ X HAEMMERLE issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (A01), Section 13a.

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

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

DATED March 19, 1998.


DEBBIE LASH
Deputy Clerk

HAGERMAN

Surface Irrigation Diversion Rate Analysis Sheet

WR#'s 36-00033E

SOIL	SOIL AC.	% ROW	ROW AC.	FIR ROW	CFS ROW	% FOR.	FOR. AC.	FIR FOR.	CFS FOR.
KOC	1.70	100	1.70	0.037	0.063	—	—	0.027	—
KEC	0.09	100	0.09	0.040	0.004	—	—	0.028	—
KOB	0.19	100	0.19	0.037	0.007	—	—	0.027	—
FAB	14.93	100	14.93	0.046	0.687	—	—	0.030	—
TOTALS	16.91		16.91		0.761		—		—

REC.
FIR

0.77*

CFS

=

SUM

0.761

CFS

X

17

REC. AC.

16.91

GIS AC.

DATE

11/20/97

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.

36-00033E

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)

100 %

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

100 %

alternates by year.

My total acreage is 17 acres.

Dorel T. Buel
Signature of Claimant

11-18-97
Date

Signature of Claimant

Date

John C. Bell
Signature of IDWR agent

11/19/97
Date

AJ0749NP
No. R36-00033E

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)

DATE: 11/24/97
PAGE: 1

=====

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	EDNA M REA PO BOX 543 WENDELL ID 83355 (208) 536-5741	03/08/1902	IRRIGATION	03-15 11-15	0.75 CFS	
TOTAL DIVERSION:					0.75 CFS	

Water Source: WEATHERBY SPRINGS

Tributary to: BILLINGSLEY CREEK

Stage: DECREEED

Point(s) of Diversion: T07S R14E S30

SENESEW

GOODING County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE					
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	SUM
07S	13E	27	:																	:	17.0
																				TOTAL ACRES	17.0

POU County: GOODING

Other Rights: NONE

Remarks: EXP WATER IS DELIVERED THROUGH THE BAR S DITCH, CURREN DITCH AND
NORTH PIPELINE.

Dates: Exam Made Date:

Verified Date:

Objection Filed Date:

Misc: Water District Number:

Field Inspection Flag:
Presumption Flag:

as reformatted
& SF5 ready
ser
11/24/97

SPLIT ANALYSIS

11/24/97 su

36-00033 splits

3.0 cfs Decead

PARTS:

"R"

Hoskovec	A	Ø - Remembered —
~~Ellis~~	B	.75
ELLIS	C	.26
Sauer	D	.09
Rea	E	.75 (SF5)
Gustafson	F	.75 (SF5)
Stringer	G	.25
		<u><u>2.85</u></u>

11/19/97

A36-00033E

Could not settle on the 0.44 cfs recommended. (FIR 0.34 + 0.10 CL)
Wants full 0.75 as claimed.

Supplied a statement from pump company stating flow rates at 200 gpm @ 100' head.

Plan to Submit Hubble analysis on crops and then offer the resulting figures.
Hopefully SF5 will be signed before Trial date of 12/9/97 @ 1:30 pm
Steve Collins

11/24/97

Charlie H. confirmed the Hubble Analysis supports the 0.75 cfs claimed for gravity system rate as per Directors decision.

AG IRRIGATION SUPPLY

BUHL, IDAHO 83316

Phone (208) 543-4777 • Fax (208) 543-8952 • I.D. Watts (800) 300-6313

Address 853 E. 2830 S. Hagerman, ID 83332

ORDER ☐ QUOTATION ☐

QUANTITY	DESCRIPTION	PRICE	AMOUNT
	TO: Whom it may Concern		
	From: Dennis Fransan, Pres. AIS, Inc.		
	RE: Vert Bell Pivot		
	During April of 1996, we installed a Two Tower Pierce Pivot on the Vert Bell Farm. This ground had been watered using a single phase 7½ HP pump and a wellline.		
	Our installation included removing the existing pump and replacing it with a 10HP 3 phase system. This new pump is designed to produce and the pivot is rigged to deliver 200 GPM at 100' of Head.		
	If there are any questions, I would be more than happy to address them.		
	Dennis Fransan Pres, AIS, Inc.		
	TOTAL \$		

TERMS:

SUBCASE NO. 36-00033E

	CLAIM (8/4/88)	AMENDED CLAIM	RECOMMENDATION	OBJECTION
NAME	Edna Rea Box 543 Wendell, ID 83355	N/A	Edna Rea PO Box 543 Wendell, ID 83355	XX 853 E. 2830 S. Hagerman, ID 83332- 5641
BASIS OF CLAIM	Decree		Decree	
SOURCE	Weatherby Springs		Weatherby Springs	
QUANTITY	0.750 cfs		.44 cfs	XX maximum quantity- as decreed
PRIORITY DATE	3/8/1902		3/8/1902	
PURPOSE OF USE	Irrigation		Irrigation	
PERIOD OF USE	3/15 - 11/15		3/15 - 11/15	
POINT OF DIVERSION	T07S R14E S30 NESW		T07S R14E S30 SENESEW	XX needs to be corrected according to notice of claim
PLACE OF USE	T07S R13E S27 17 acres		T07S R13E S27 17 acres	
REMARKS			0.10 cfs of this right is limited to use for conveyance losses in delivery of this right. Water is delivered through the Bar S Ditch, Curren Ditch and North Pipeline.	XX strike first two sentences regarding conveyance loss

Note: this claim is a portion of wr#36-00033 for 3.0 cfs.

CLAIM NUMBERS 36-00033EDATE 10/6/97

TRANSFER NUMBER _____

OBJECTION FILED _____

AGENT [Signature]TOTAL ACRES FROM RECOMMENDATION 17GEOGRAPHIC INFO SYSTEM 17

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	75	13E	27				17												17
GIS							16.9												16.9
RECOM																			
GIS																			
RECOM																			
GIS																			
RECOM																			
GIS																			

UPDATED

POLYGON #

UPDATED

B36-DBPOU.DBF



POLYGON CREATED ON 604 () _____

ATTRIBUTES OF B36-POU.SHP (523) 10/6

B36-DBPOD.DBF

ATTRIBUTES OF B36-POD.SHP (468) 10/6

P/U CONFLICT yes () no (X)

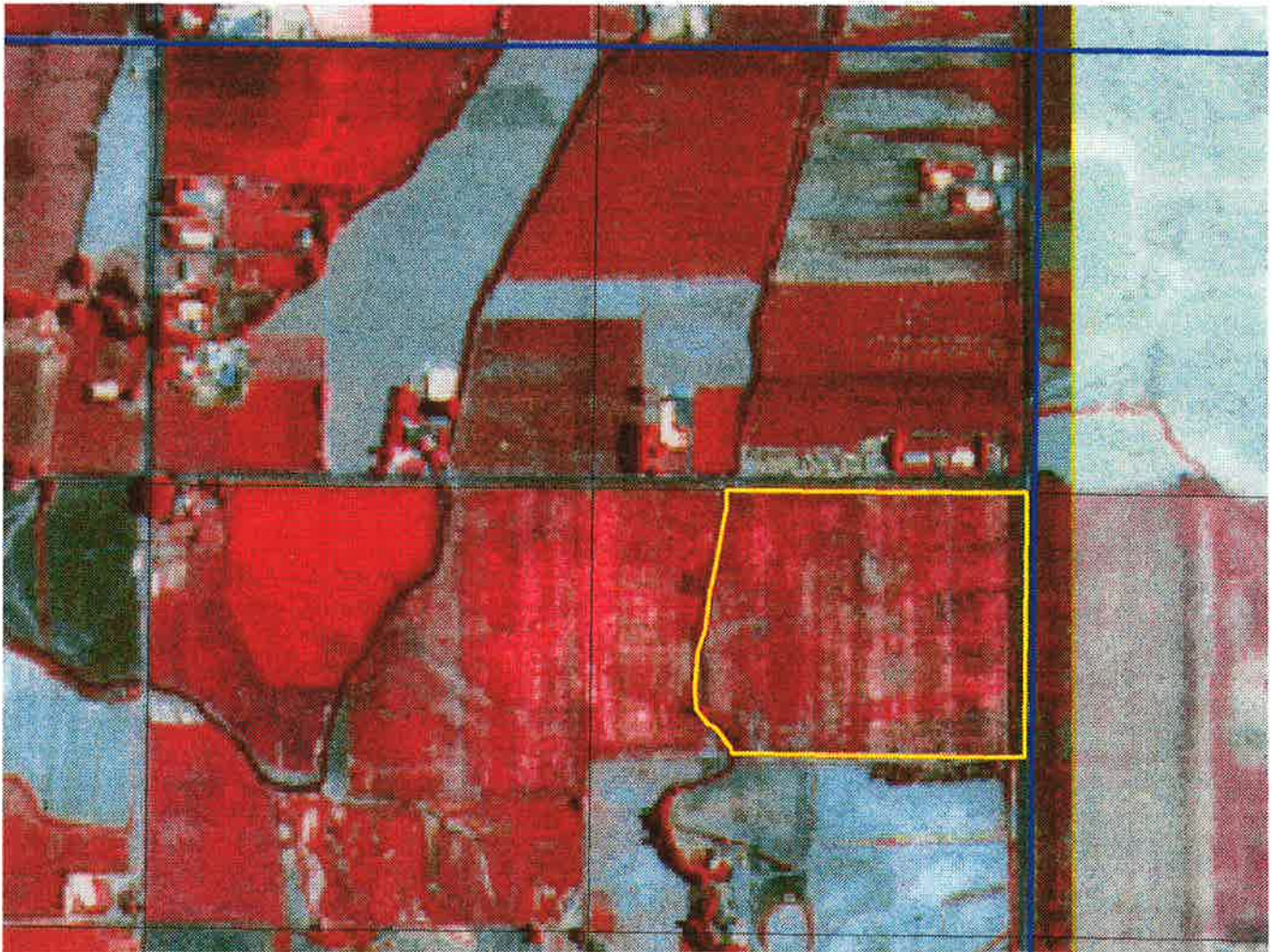
P/D CONFLICT yes () no (X)

READY FOR DECREE yes () no ()

SENT FOR DECREE yes () no ()

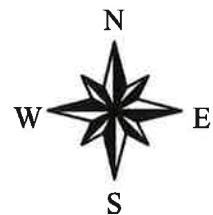
IDAHO DEPARTMENT OF WATER RESOURCES

36-00033A
EDNA REA



660 0 660 1320 Feet

TNS 7S, RNG 13E, SEC 27 SENE



⊙ 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

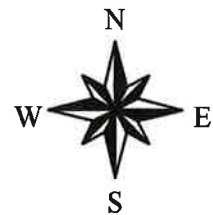
IDAHO DEPARTMENT OF WATER RESOURCES

36-00033A
EDNA REA



660 0 660 1320 Feet

TNS 7S, RNG 13E, SEC 27 SENE



⊙ RECOMMENDED POINT OF DIVERSION



RECOMMENDED PLACE OF USE



SECTION LINES &/OR TRACT LINES

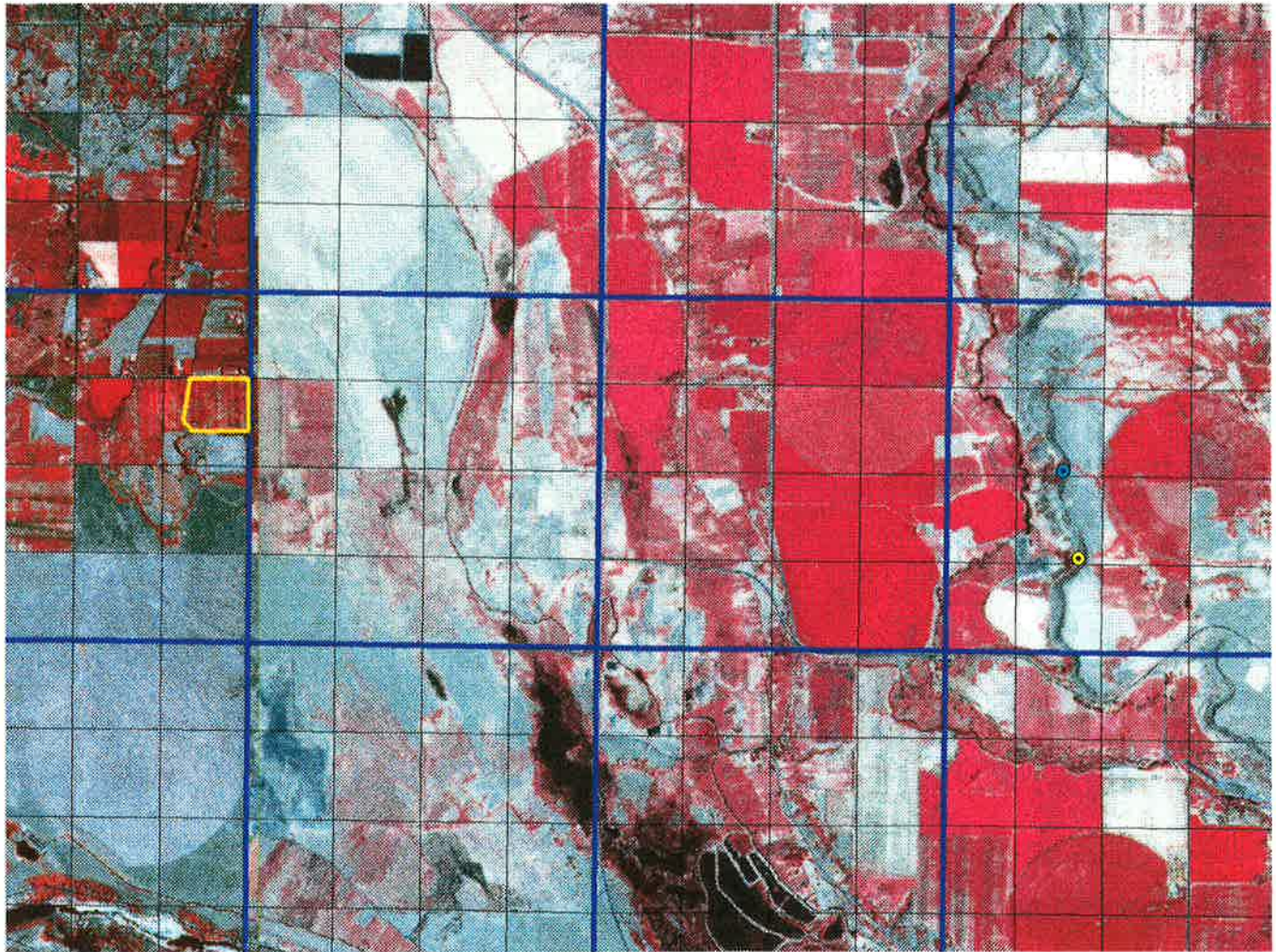


QUARTER/QUARTER LINES

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

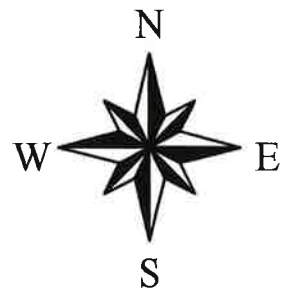
IDAHO DEPARTMENT OF WATER RESOURCES

36-00033A
EDNA REA



1320 0 1320 2640 3960 5280 Feet

TNS 7S, RNG 13E, SEC 27 SENE (POU)
TNS 7S, RNG 14E, SEC 30 NESW (POD)



⊙ 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

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. A36-00033E

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.

IDWR Employee/Agent Steve Clelland

October 9, 1997 3:26pm

NAME:

VERL BELL

APPT: 3 PM

RE:

36-00033E FLOW RATES

HE WANTED TO GET IT RESOLVED THAT THE CLAIM THEY WISHED TO FILE WAS FOR 37.5" AND NOT THE 25" AS ORIGINALLY RECORDED. I SAID WITH THE NOTES ON THE ORIGINAL CLAIM, THE AMENDED & SIGNED CLAIM, AND THE LETTER FROM SPECIAL MASTER TERRY DOLAN, THAT ISSUE IS SETTLED.

WE REVIEWED THE FLOW RATES OF HIS SURROUNDING NEIGHBORS (STURTEVANT 36-00035B, GUSTAFSON 36-00033F, BROWN 36-00026 36-00027) AND IT APPEARS HE IS IN A SIMILAR SITUATION AS THEY WERE. I SUGGESTED HE BRING ALL THE INFORMATION HE HAS SHOWING THE DIVERSION RATE HE HAS BEEN USING ALL THESE PAST YEARS AND HE SAID HE HAS THE PUMP COMPANY'S RECORDS TO SHOW THIS.

I MENTIONED THE DEPT. HAS MADE SOME REFINEMENTS IN THE METHODOLOGY USED IN THE HAGERMAN AREA TO CALCULATE THE FLOW RATES AND IT MAY BE POSSIBLE TO USE THIS TO INCREASE SOME OF THE FLOW IN QUESTION... I TOLD HIM I DO NOT HAVE THE INFORMATION HERE TO DETERMINE WHAT OPTIONS MAY BE AVAILABLE, WE WILL HAVE TO WAIT AND SEE WHAT IS PRESENTED BY THE REST OF IDWR STAFF ON THE DAY OF THE HEARING.

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. A36-00033E

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IDWR Employee/Agent Steve Clelland

October 9, 1997 10:23am

NAME:

VERL BELL

CALLIN

RE:

WANTS APPT.

HE WANTS TO GO OVER HIS RIGHTS AND THOSE OF HIS NEIGHBORS (FOR FLOW RATES) BEFORE THE HEARING LATER THIS MONTH. I SUGGESTED 3 PM TODAY AND HE AGREED. HE MENTIONED THE CLAIM A36-00033E AS NEEDING SOME AMENDMENT TO CORRECT THE FLOW RATE FROM 25" TO 37.5". HE SAID HE HAS EVEN DISCUSSED THIS WITH JUDGE HURLBUTT TO TRY AND RESOLVE THE MATTER.

DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
STATE OF IDAHO



DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
(208) 736-3011
FAX (208) 736-2121

SRBA CHAMBERS
P.O. BOX 2707
TWIN FALLS, IDAHO 83303-2707

April 1, 1996

Patrick D. Brown
Hepworth, Lezamiz & Hohnhorst
Box 389
Twin Falls, ID 83303

Re: Edna M. Rea (Verl Bell)
Subcase No. 36-00033E

Dear Mr. Brown:

On March 29, 1996, your client, Edna M. Rea, and her son, Verl E. Bell, stopped by the SRBA Court to file a *Motion to File Amended Notice of Claim*. Attached to the *Motion* was an Amended Notice of Claim evidently prepared for Ms. Rea and her son by IDWR. Enclosed are copies of both documents. As you will see, the *Motion* was lodged rather than filed because the issue of quantity is already before the court based on your Objection filed April 29, 1993.

You may recall that this subcase is one of the two subcases about which I wrote to you last week. The other subcase was 36-00003A. In that letter, I referred to 36-00033E as 36-00033A because that was the number provided by IDWR. There is no claim number 36-00033A. That confusion may relate back to the original Notice of Claim where the claim number was changed by someone marking the document in red ink. The copy enclosed has the alterations highlighted in green. The "A" was changed to "E", the words "claimed by Harold Smith" were added and the quantity (0.500 cfs) was altered with the delta symbol followed by an arrow and the figure .75 in a circle.

Letter to: Pat Brown

Page Two

April 1, 1996

Because of the alterations made on the original Notice of Claim, there is some uncertainty about what Ms. Rea claimed originally, .5 or .75 cfs. In either case, IDWR has recommended .44 cfs and there is no indication that recommendation has changed. Enclosed is a print-out of part of the Director's Report.

The important point is that the issue of quantity is before the court and there is no need for Ms. Rea to file a motion to amend her claim. If the matter proceeds to trial, the issue of amendment of pleadings can be addressed during a pre-trial hearing.

Because you represent the claimant, we will not proceed further with the *Motion* Ms. Rea and her son just lodged unless we hear further from you.

Sincerely,



Terrence A. Dolan
Special Master, Reporting Area 3
Snake River Basin Adjudication

Enclosures

cc: IDWR
Edna M. Rea, Box 543, Wendell, ID 83355
Verl E. Bell, 853 E., 2830 S., Hagerman, ID 83332

DEC 04 1996

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. A36-00003A

A36-00033E

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IDWR Employee/Agent Steve Clelland

March 25, 1996 8:44am

NAME:

VERL BELL (FOR EDNA RAE)

RE:

CALLIN

WANTS APPT. FOR TODAY

HE FIRST ASKED IF I COULD EXPLAIN IVAN GUSTAFSON'S SETTLEMENT SINCE THEY SHARE THE SAME WATER RIGHT (IVAN IS OUT OF TOWN OR VERL WOULD HAVE CALLED HIM). HE SAID HE NEEDS TO REVIEW THE CLAIMS 36-00003A AND 36-00033E TO SEE IF THEY WANT TO PURSUE REPRESENTATION BY PAT BROWN.

I TOLD HIM I WOULD BE HERE ALL DAY, COME IN ANYTIME... HE SAID HE WILL BE IN THIS AFTERNOON.

MICROFILMED

DEC 04 1996

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. A36-00003A

A36-00033E

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.

IDWR Employee/Agent Steve Clelland

March 25, 1996 1:30pm

NAME:
VERL AND MRS. BELL CAMEIN

RE:
SETTLEMENT QUESTIONS

THEY HAD SOME QUESTIONS ON THE RECOMMENDATION AS MADE AND HOW TO CORRECT AND RESOLVE THE OBJECTIONS. WE DISCUSSED THE CLAIMS AS FILED FOR A36-00003A & A36-00033E AND IDENTIFIED THE EFFORTS MADE BY THE CLAIMANTS TO GET THE CLAIMS CORRECT. (EDNA RAE IS VERL BELL'S MOTHER.)

WE DISCUSSED THE CONVEYANCE LOSSES ON THE BAR -S DITCH AND THE HUBBLE ANALYSIS FOR BOTH RIGHTS.

I PROVIDED THEM WITH COPIES OF THE NOTICE OF UP COMING HEARINGS ON THE RIGHT -00003A. THEY WERE NOT AWARE THIS WAS GOING TO TRIAL AND ASKED WHY THIS WAS HAPPENING INSTEAD OF THE SETTLEMENT PROCESS THAT OTHERS HAD USED. I TOLD THEM I DID NOT KNOW; ONLY THAT PAT BROWN HAS MOTIONED THE COURT TO MAKE IT SO AND WAS APPROVED. THEY SAID PAT BROWN DOES NOT EVEN REPRESENT THEM; ONLY THROUGH THE HWRO NOT THROUGH THEIR INDIVIDUAL RIGHTS.

I BEGAN TO CALL NICK SPENCER TO CHECK ON THE GUSTAFSON PROGRESS WHEN BRENT KING CAME IN TO MY OFFICE. I ASKED BRENT TO JOIN US AND EXPLAIN THE GUSTAFSON UPDATE; NO ADDITIONAL INFO WAS KNOWN HOWEVER, AND STILL NEEDS TO BE RESOLVED IN RELATION TO THE KRAMER CASE. BRENT WAS RELUCTANT TO SAY ANYTHING TO THE BELL'S DUE TO THE FACT THEY ARE POSSIBLY UNDER MR. BROWN'S REPRESENTATION. HE STATED HE COULD NOT ANSWER THEIR QUESTIONS ABOUT THE ORDERS FOR TRIAL BY PAT BROWN.

MICROFILMED

DEC 04 1996

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. 36-00033E -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)

WICHITON FILED

2. Person who filed objection:

Name: EDNA MAE REA
Address: 853 E 2830 S
HAGERMAN ID 83332-5641

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.
5. ☒ Points of Diversion: I respond to the objection concerning the legal description of the point(s) of diversion.
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.
11. ☒ Remarks: I respond to the objection concerning the "remarks" listed with the water right.
14. ☒ Other: I respond to the objection concerning:

ALL MATTERS RAISED IN THE CLAIMANT'S ANSWER,
AFFIRMATIVE DEFENSES, AND PRAYER FOR RELIEF.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection item 1, and all allegations regarding this item, IDWR responds as follows: No notice of change of ownership/address has been filed with IDWR by the owner of the right as required by Idaho Code Sec. 42-1409(7). IDWR therefore lacks sufficient information to form a belief as to the truth of the matter asserted. Upon the filing of a notice of change of ownership/address, IDWR will correct the name and address of the owner of this water right accordingly.

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.

In response to Statement of the Objection item 5, and all allegations of the objection regarding that item, IDWR responds that the recommended water right accurately describes the point of diversion of this right.

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

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outside the standard season of use, subject to the conditions set forth in general provision 12b of the director's report.

In further response to this objection item, IDWR responds that it recommended this element of the water right as claimed. By now seeking to include a year-round season of use for irrigation, the claimant improperly seeks to use the objection process to 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 further response to this objection item, IDWR responds that it recommended this element of the water right as claimed.

In response to Statement of the Objection item 11, and all allegations of the objection regarding that item, IDWR responds that it has authority pursuant to Idaho Code Sec. 42-1411(2)(j) to include in its recommendations of water rights acquired under state law and recommended in the director's report "such other

matters as are necessary to define the right." The remark or remarks objected to are necessary to adequately describe and define this water right.

In response to Statement of the Objection item 14 and all allegations of the objection regarding this 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 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. A36-00033E	4
IDWR's Response to Answer, Affirmative Defenses and Prayer for Relief of Claimant	4

(Over)

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UNRECORDED

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.

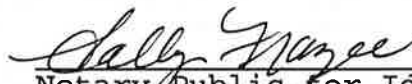


Signature of person filing response

By: 

(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 10th day of Sept,
1993.



Notary Public for Idaho
Residing at: Onie ID
My Commission expires: 11-14-1998

CERTIFICATE OF MAILING

I hereby certify that on the 10th day of September, 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

POO AL

SOIL and CAPABILITY MAP



Prepared by UNITED STATES DEPARTMENT of AGRICULTURE * SOIL CONSERVATION SERVICE
cooperating with

S. C. DISTRICT AND AGENCIES COOPERATING IN SOIL SURVEY

OWNER _____
OPERATOR _____

FARM NO. _____ DATE _____

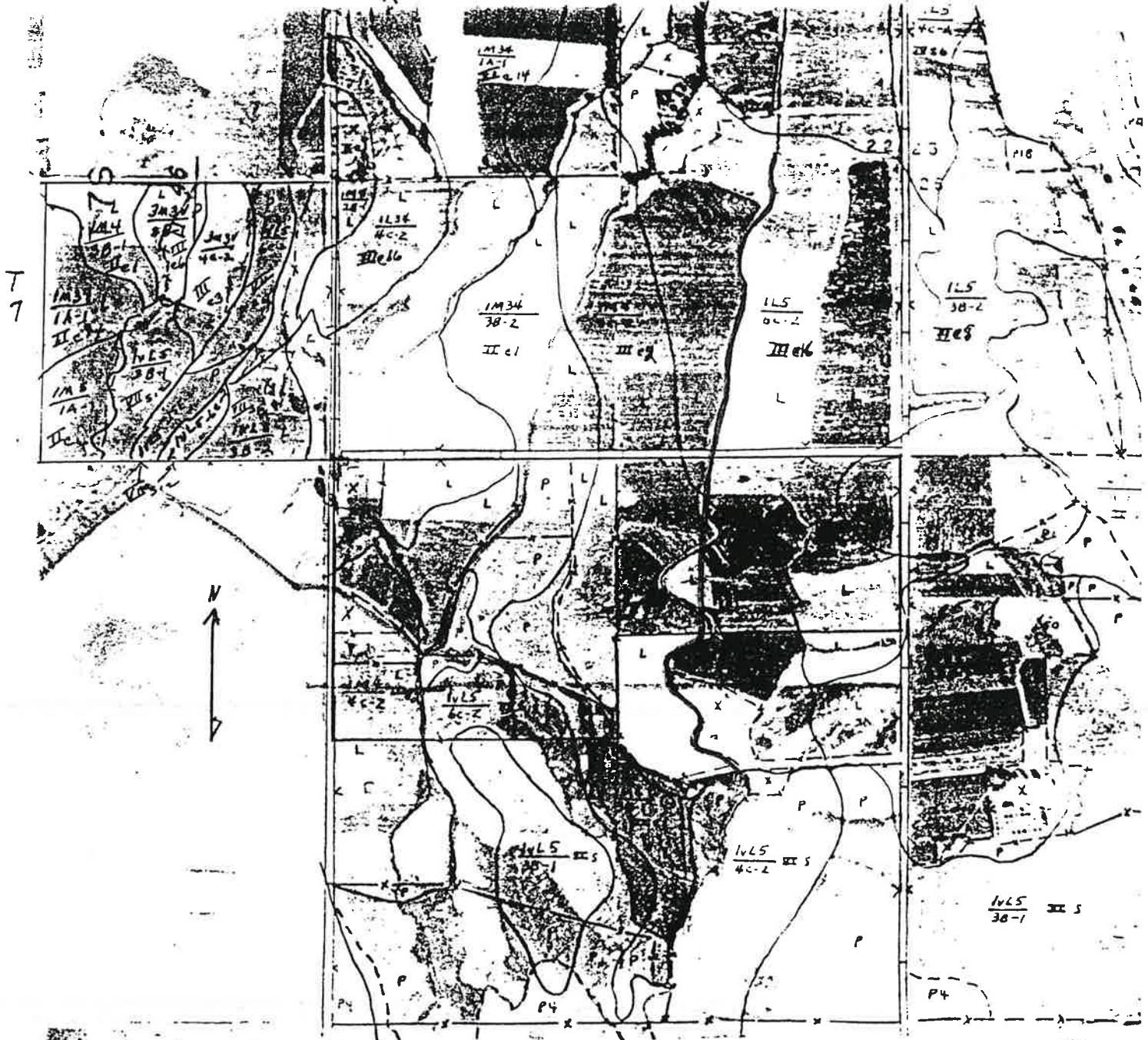
SCALE 1" = 1/4 MI. ACRES _____

PHOTO NO. G3-C1-11-47

COUNTY _____

STATE _____

R. 13 Sec. 27



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JAN 20 1993
OCT 11 1994

A36-00033AE

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).

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.

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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.

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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. A36-00033E

(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.

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

36-00033E -0001/
93-04-0031

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.

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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: Edna Mae Rea

Address: 853 E. 2830 S.

Hagerman, ID 83332-5641

Briefly describe your interest in this water right:

Priority date 3/08/1902; Judicial Decree

3/22/1932 pursuant to New International

Bank v. Idaho Power Company;

2. Owner of the water right:

Name: Edna Mae Rea

Address: 853 E. 2830 S.

Hagerman, ID 83332-5641

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.

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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.

Diversion point needs to be corrected according to notice of

claim; Purpose Used is irrigation from 1/01 to 12/31; Maximum

Quantity- as decreed; Remarks- strike 1st two sentences

regarding conveyance loss.

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 Owner's Inc.'s

Compendium "A"

VERIFICATION (Must be Completed)

State of Idaho

County of Gooding

Edna Mae Rea by VRA/Bell POA, being first duly
(Name of person filing objection)
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.

Edna Mae Rea by Dorel E. Bell
Signature of person filing objection
Power of Attorney

By: [Signature]
(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 21st day of April,
1993.

[Signature]
Notary Public for Idaho
Residing at: Hagerman Id.
My Commission Expires: 5-10-97

(Over)

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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: Edna Mae Rea
Owner's address: 853 E 2830 S
Hagerman, Idaho 83332-5641

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 5 - Director's Report fails to accurately state the point of diversion.

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

Box 11 - This is beyond the statutory authority vested in the Director.

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.

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.

UNCLASSIFIED

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.

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

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)

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

OBJECTION - 15

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

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.

EX-104
RECORDED

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.

OBJECTION
VIOLOGIZED

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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OCT 11 1994

001 1 1 1982
UNBOLETVED

(WATER\21530ANS)

RECEIPT
For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES

Receipt No:

5015314

RECEIVED

JAN 27 1993

Department of Water Resources
Southern Region Office

Date:
Time:

1/27/1993
08:01:22

Received
From:

BELL VERL

Type of Payment

Program Acct Class

Amount

FEE FOR ADJUDICATION CLAIM

64100

229 21 1760

4.85

Total

CASH

\$4.85

Region: SOUTHERN

Signature: _____

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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

25-Jan-1993

VERL BELL
853 E 2830 S
HAGERMAN ID 83332-5641

RE: Copy of SRBA File(s): 36-00003A, 36-00033E

Dear Mr. Bell:

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:

\$4.85

Sincerely,


Jeanie Robertson
Records Clerk

Encl:

Rea
41
86
97 x 5 = 4.85

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OCT 11 1994

January 25, 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 36-00003A, 36-00033E.

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,

Edna M. Rex
(Name)

Box 543
(Address)

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

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

9/16



mail to →

Ancie & Verl Bell
853 E 2830 S
Hagerman ID 83332-5641

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OCT 11 1994

NOTICE OF ERROR

RESPONSE

CORRECTED R PROOF

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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) 736-3033

CECIL D. ANDRUS
Governor

OCTOBER 14, 1992

R. KEITH HIGGINSON
Director

- Ms. EDNA REA
- PO Box 543
- WENDELL, ID 83355

RE: NOTICE OF ERROR FOR SEASON OF USE AND DIVERSION AMOUNTS
WATER RIGHT NO(S) : 36-00033E + 36-0003A

DEAR Ms. REA :

THIS LETTER IS IN RESPONSE TO THE NOTICE OF ERROR (NOE) YOU RECENTLY FILED WITH IDWR REGARDING THE DIRECTOR'S PROPOSED RECOMMENDATION OF THE CLAIM LISTED ABOVE. YOUR NOE QUESTIONS TWO POINTS; 1) YOUR NOE INDICATES THAT YOU WOULD LIKE THE RECOMMENDATION TO SHOW A LONGER SEASON OF USE FOR IRRIGATION. AND 2) THE BASIS FOR RECOMMENDATION OF AN AMOUNT THAT IS LESS THAN THE AMOUNT SHOWN IN A PREVIOUS DECREE.

1) THE DIRECTOR HAS APPROVED EXTENDING THE PERIOD OF USE FOR THE HAGERMAN VALLEY TO 3/15 TO 11/15.

THE PROPOSED RECOMMENDATION IS BASED ON IRRIGATION SEASON OF USE STANDARDS ADOPTED BY THE DIRECTOR FOR THE VARIOUS REGIONS THROUGH THE STATE. THESE STANDARDS ARE BASED ON THE PERIOD OF THE YEAR IN WHICH THERE IS LESS THAN A 75% CHANCE OF A 24 DEGREE F. FROST.

IN ADDITION, SINCE THERE ARE SOME YEARS IN WHICH WATER CAN BE BENEFICIALLY USED FOR IRRIGATION OUTSIDE THE IRRIGATION SEASON, THE PROPOSED DIRECTOR'S REPORT INCLUDES A GENERAL PROVISION WHICH PROVIDES FOR IRRIGATION OUTSIDE THE IRRIGATION SEASON UNDER CERTAIN CONDITIONS. THE CONDITIONS ARE THAT THE WATER IS BENEFICIALLY USED, AS DETERMINED BY THE DIRECTOR; THAT ALL WATER RIGHTS WITH A PERIOD OF USE OUTSIDE THE IRRIGATION SEASON REGARDLESS OF PRIORITY, ARE SATISFIED; AND THAT THE USE DOES NOT CONFLICT WITH THE PUBLIC INTEREST AS DETERMINED BY THE DIRECTOR. THIS PROPOSED GENERAL PROVISION WILL BE INCLUDED IN THE DIRECTOR'S REPORT.

2) UNDER IDAHO LAW, A WATER RIGHT IS LIMITED TO THE AMOUNT OF WATER BENEFICIALLY USED FOR THE PURPOSES FOR WHICH THE WATER RIGHT WAS ESTABLISHED. THE AMOUNT OF WATER BENEFICIALLY USED IS LIMITED TO THE AMOUNT THAT IS ACTUALLY USED AND IS REASONABLY REQUIRED. FOR IRRIGATION PURPOSES, A REASONABLE AMOUNT IS THE

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JAN 20 1993

PAGE 2

AMOUNT REQUIRED USING IRRIGATION METHODS THAT ARE REASONABLY EFFICIENT UNDER CURRENT CIRCUMSTANCES. IF THE AMOUNT OF A WATER RIGHT SHOWN IN A DECREE IS GREATER THAN THE AMOUNT THAT IS BENEFICIALLY USED, THEN THE PORTION THAT IS NOT BENEFICIALLY USED IS FORFEITED.

THE AMOUNT PROPOSED TO BE RECOMMENDED FOR YOUR CLAIM IS BASED ON THE AMOUNT OF WATER DETERMINED TO BE BENEFICIALLY USED FOR THE RECOMMENDED USES, BASED ON AVAILABLE DATA AND CURRENT METHODS OF ANALYSIS.

IF YOU STILL DISAGREE WITH IDWR'S RECOMMENDATIONS YOU WILL HAVE AN OPPORTUNITY TO FILE AN OBJECTION TO THE DIRECTOR'S REPORT WITH THE COURT. WHEN THE DIRECTOR'S REPORT IS FILED WITH THE COURT, YOU WILL BE MAILED A NOTICE THAT WILL CONTAIN MORE INFORMATION ABOUT THE OBJECTION PROCESS.

SINCERELY,



SENIOR WATER AGENT

Note: On claim 36-00003A-LOSSES in CONVEYANCE (Ditch Losses) ARE A LARGE PART OF THE ~~DITCH~~ STOCK WATER USES DURING THE WINTER MONTHS.

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JAN 20 1993

Water Right Number - R36-00033E

Prefix Translation: RESEARCH

Old (D) Number -

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

*** C - CURRENT OWNER ***

REA

EDNA M

1 - PO BOX 543

2 -

3 -

City- WENDELL

State- ID Zip- 83355

Phone - 208-536-5741

+ - - Priority Date - - + + - - Region - - - + + - - - Stage - - - + + - - Status - - - +
03/08/1902 ERROR IN REGION D - DECREED+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
WEATHERBY SPRINGS BILLINGSLEY CREEK+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County

07S 14E 30 SE NE SW (47) GOODING

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 03/15 11/15 0.440+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.440 51.0+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
07S 13E 27 SE NE 17.0 01 IRRIGATION (47) GOODING

Total Acres: 17.0

+ - - Diversion Means - VIA BAR S DITCH TO CURREN DITCH TO NORTH PIPELINE; SPRINKLER IRR

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - NONE

+ - - - - Remarks - - - - - +
0.10 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF THIS RIGHT.
WATER IS DELIVERED THROUGH THE BAR S DITCH, CURREN DITCH AND
NORTH PIPELINE.+ - - - - Old Water Right Numbers - - - - - +
3600033

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JAN 20 1993

Water right number - R36-00033E

Prefix Translation: RESEARCH

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

+ - - - Decree Plaintiff - - - + + - - - Decree Defendant - - - + + - Decree Date - +
NEW INTERNATIONAL MORTGAGE BANK IDAHO POWER COMPANY 03/22/1932

+ - - - - Comments - - - - - +
Date: 09/24/1992 User Id: SCHULTZ Subject: NOTICE OF ERROR (NOE)
RECEIVED NOE 9/23/92. CHANGED NOE FLAG FROM BLANK TO A. CLAIM VERIFIED 8/6/92. DID NOT REVERIFY ANY PART OF CLAIM.
Date: 10/14/1992 User Id: WORSTELL Subject: NOTICE OF ERROR RECORD
PERIOD OF USE CHANGED TO 3/15 TO 11/15

+ - - Audit Fields - - +
10/14/92 WORSTELL

+ - - - - 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	- 10/14/1992	Old Judicial District	-
Claim Received Date	- 08/04/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S001281	Water District	-
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	-	Presumption Flag	-
				Notice of Error Flag	- C

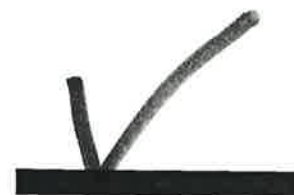
MICROFILMED

JAN 20 1993

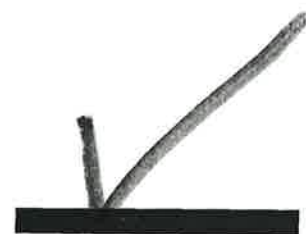
R PROOF



CVR



MAPS



PHOTOS



MISC



MICROFIL

JAN 20 19

AUG-24-1992

NOTICE OF ERROR FORM

RECEIVED

SEP 23 1992

Please type or print clearly, fill out completely, and return to:

**Idaho Department of Water Resources
Statehouse Mail
Boise, Idaho 83720-9000**

Department of Water Resources

The notice of error must be received at IDWR by the **deadline date** printed below with your proposed recommendation.

YOUR DEADLINE FOR FILING A NOTICE OF ERROR IS: SEP-24-1992

1. Water right number: 36-00033 E
2. Name: EDNA M REA
Address: P.O. Box 543
Wendell, Idaho 83355
Weekday Telephone Number: 536-5741 837-4405

RECEIVED

SEP 28 1992

Department of Water Resources
Southern Region

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TEAR AT PERFORATIONS AND COMPLETE FORM ON OTHER SIDE

(Instead of filling in items 3 and 4 below you may include a copy of your proposed recommendation with the changes marked on the cc,)

3. Describe the portion of proposed recommendation with which you disagree:
RECOMMENDED AMOUNT
PERIOD OF USE
4. Describe the changes you wish to have made in the proposed recommendation:
RESTORE MAXIMUM QUANTITY TO 0.625 CFS AT SOURCE
RESTORE PERIOD OF USE TO 03-15 TO 11-15
5. Describe why you disagree with the proposed recommendation:
Full amount of decreed has been beneficially used
since priority date
Water is needed prior to April 1st.
6. Date:

SIGNATURE

9-21-92

Edna M. Rea

Water Right Number - R36-00033E

Prefix Translation: RESEARCH

Old (D) Number -

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

*** C - CURRENT OWNER ***
REA

EDNA M

1 - PO BOX 543

2 -

3 -

City- WENDELL

Phone - 208-536-5741

State- ID Zip- 83355

VERIFIED BY KKC

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - - +
03/08/1902 ERROR IN REGION D - DECREED+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
WEATHERBY SPRINGS BILLINGSLEY CREEK+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County

07S 14E 30 SE NE SW (47) GOODING

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 04/01 10/31 0.440+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.440 51.0+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
07S 13E 27 SE NE 17.0 01 IRRIGATION (47) GOODING

Total Acres: 17.0

+ - - Diversion Means - VIA BAR S DITCH TO CURREN DITCH TO NORTH PIPELINE; SPRINKLER IRR

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - NONE

+ - - - - Remarks - - - - - +
0.10 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF THIS RIGHT.
WATER IS DELIVERED THROUGH THE BAR S DITCH, CURREN DITCH AND
NORTH PIPELINE.+ - - - - Old Water Right Numbers - - - - - +
3600033MICROFILMED
JAN 20 1993

Water right number - R36-00033E

Prefix Translation: RESEARCH

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

+ - - - - Decree Plaintiff - - - +
NEW INTERNATIONAL MORTGAGE BANK

+ - - - - Decree Defendant - - - +
IDAHO POWER COMPANY

+ - Decree Date - +
03/22/1932

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

+ - - Audit Fields - - +
08/06/92 CHRISTEN

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

Court Report Filing - 00/00/0000
Objection Filed Date - 00/00/0000
Response Filed Date - 00/00/0000
Claim Received Date - 08/04/1988

Field Inspection Made - 00/00/0000
Field Inspection Flag -
Verified Date - 08/06/1992
Last Amended Date - 00/00/0000
Receipt Number - S001281
POU Ownership Flag - Y
Name Connector -

Civil Case Number - 39576
Old Case Number -
Old Judicial District -
Temporary Right - P
Water District -
Federal/State Indicator - S
Presumption Flag -
Notice of Error Flag -

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.IAN 2 n 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

17:07:54
06/28/90

PAGE: 12
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-00033E

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				N		SC 8-5-92	OB	KK 8-6-92
POINT OF DIV	Y			Y	1,5			
SOURCE			8-22-90 SCC/HHT	N	1,5			
PLACE OF USE	Y		8-16-90 SCC	N	1,2,5			
DIV. AMOUNT CFS/VOLUME	Y			Y	6. DECREE			
CONSUMPTIVE USE	-			Y				
PURPOSES				N				
PERIOD OF USE	Y			N	6.			
BASIS OF CLAIM	Y			N				
REMARKS				N	6.			

"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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

17:07:54
06/28/90

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-00033E

LAST: REA
ADDRESS: P.O. BOX 543
CITY: WENDELL
PHONE NUMBER: 208-536-5741

FIRST: EDNA M.
STATE: ID ZIP: 83355

OWNER CODE: C

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

NO REMARKS IN CLAIM

DATABASE
N

FIELD
EXAMINER

FIELD EXAMINATION INFORMATION

CONTACT PERSON: Mrs. Verl Bell

PHONE NUMBER: () -

DATE OF FIELD EXAM: 8/16/90

APPOINTMENT MADE: Y() N(X)

TIME: 11:40 A(X) P()

ACCOMPANIED BY: _____

PHONE NUMBER: () -

RELATIONSHIP TO CLAIMANT: Daughter-in-Law

DIRECTIONS TO PROPERTY / REMARKS:

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A. AJ CLAIM: # A36-00033E PRIORITY DATE: 03-08-1902 STAGE: D

B. WR RECORD: # 36-00033 PRIORITY DATE: 03-08-1902 STAGE: D

C. FIELD EXAM REQUIRED?

DUE TO PRIORITY DATE DISCREPANCY? (Y/N)

DATABASE
N

FIELD
EXAMINER
N

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

REMARKS:

MICROFILMED
JAN 20 1993

=====

RECOMMENDED PRIORITY DATE:
03-08-1902

REVIEWED BY

SC

DATE

8-23-90

=====

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A36-00033E	07S	14E	30		NE	SW		GOODING

OTHER AJ CLAIMS WITH SAME AJ POD
A PREFIX R PREFIX
A36-00009 NONE

WR RECORDS IN SAME 40 ACRE TRACT

36-00009
36-00010
36-00011
36-00015
36-00016
36-00017
36-00041
36-00042
36-00044
36-00045
36-00060
36-00061
36-00062
36-00063
36-00068
36-00069
36-00086A
36-00086B
36-00105
36-00116
36-00118
36-00119
36-00120
36-02029
36-07071
36-07740

SOURCE: WEATHERBY SPRINGS

TRIB: BILLINGSLEY CREEK

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
36-00033	07S	14E	30		NE	SW		GOODING

OTHER WR RECORDS WITH SAME WR POD

AJ CLAIMS IN SAME 40 ACRE TRACT
A PREFIX R PREFIX

36-00009
36-00010
36-00011
36-00015
36-00016
36-00017
36-00041

A36-00009 NONE
A36-00033C
A36-00060
A36-00086G
A36-00119
A36-00033D
A36-00063

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36-00042
36-00044
36-00045
36-00060
36-00061
36-00062
36-00063
36-00068
36-00069
36-00086A
36-00086B
36-00105
36-00116
36-00118
36-00119
36-00120
36-02029
36-07071
36-07740

A36-00116
A36-00086F
A36-00086H
A36-00011B
A36-00011A
A36-00011C
A36-00105
A36-00120
A36-00061
A36-00062

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JAN 20 1993

SOURCE: WEATHERBY SPRINGS

TRIB: BILLINGSLEY CREEK

C. FIELD EXAM REQUIRED?

	DUE TO POD DISCREPANCY? (Y/N)	DUE TO SOURCE DISCREPANCY? (Y/N)	DATABASE	FIELD EXAMINER
	Y	N	Y	<u>N</u>
			N	<u>N</u>

REMARKS:

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

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

add to claim

SOURCE: WEATHERBY SPRINGS

TRIB: BILLINGSLEY CREEK

REVIEWED BY: See

DATE: 8-23-90

VIA BAR & DITCH TO
CURRENT DITCH TO
North Pipeline to
Delivery Ditches

A. ROOT WATER RIGHT NUMBERS: A36-00033A
A36-00033B
A36-00033C
A36-00033D
A36-00033E

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
07S	13E	27	SE	NE		REA , EDNA M.	A36-00033E /17.0	- /	37.0	17.0	17.0
						BIG BEND IRRIGATION & MINING	CA36-02007 /40.0	- /			
						JONES , GENE L.	A36-00011C / 9.0	- /			
						BIG BEND IRRIGATION & MINING	CA36-00192 /40.0	36-00192 /			
						JONES , GENE L.	A37-12518 /	- /			
						BIG BEND IRRIGATION & MINING	CA36-00133 /40.0	36-00133 /			
						CLIFFORD , EDNA N.		36-00033 /			
						CLIFFORD , EDNA N.		36-00034 /			
						MC CARTY , JOHN		36-02029 /40.0			
TOTAL ACRES							A36-00033E	17.00	37.00		17

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
N

PRESUMPTION FLAG:

REMARKS:

all sprinkler irrigated.

Correct ownership
for Basis of Claim

RECOMMENDATIONS:

TOTAL ACRES: 17.0

REVIEWED BY: SCC

DATE: 8-23-90

A. AJ CLAIMED USES:

PURPOSES
A36-00033E IRRIGATION

MONTH/DAY
FROM 03-15 TO 11-15 4-10-31

DIVERSION QUANTITY
.500 CFS

TOTAL DIVERSION RATE/VOLUME CLAIMED

.750 CFS

B. WR RECORDED USES:

PURPOSES
36-00033 IRRIGATION

MONTH/DAY
FROM TO

DIVERSION QUANTITY
3.000 CFS

TOTAL DIVERSION RATE/VOLUME CLAIMED

3.000 CFS

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

DUE TO WATER-USE DISCREPANCY? (Y/N)
DUE TO DIVERSION RATE DISCREPANCY? (Y/N)
DUE TO PERIOD FROM/TO DISCREPANCY? (Y/N)

DATABASE
N
Y
Y

FIELD
EXAMINER
N
YES
N

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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A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y() N(☒)

AJ TOTAL CLAIMED DIVERSION RATE: 0.750 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 3.000 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
Y ☒

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

B.

FLOW MEASUREMENT

MEASUREMENT METHOD _____, SEE ATTACHED CALCULATIONS.

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

OTHER RIGHTS LISTED IN CLAIM: NONE

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

CLAIM	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A36-00033E	WEATHERBY SPRINGS	REA , EDNA M.	0.750	0.044		
A36-02007	TUCKER SPRINGS, UPPER	BIG BEND IRRIGATION & MINING C	4.000	0.006	2895.90	4.58
A36-00192	TUCKER SPRINGS, LOWER	BIG BEND IRRIGATION & MINING C	15.000	0.017	10859.70	12.35
A36-00133	TUPPER SPRINGS, UPPER	BIG BEND IRRIGATION & MINING C	20.000	0.022	14479.60	16.47

LIST ALL RIGHTS WITH SAME POU BUT NOT USED FOR IRRIGATION.

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A37-12518	DOMESTIC	JONES , GENE L.	FROM 01-01 TO 12-31	.040 CFS	

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D. **SPRINKLERS** RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE
ACRES 17.0 x 0.02 CFS/ACRE = 0.34 CFS
(Taken from p/u review)

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

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

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = AF/A
ACRES 17 x CONSUMPTIVE VOL. AF/A FOR AREA 3.0 =
TOTAL CONSUMPTIVE USE 51 AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A
ACRES 17 x DIVERSION VOL. AF/A FOR AREA 4.0 =
TOTAL DIVERSION VOLUME 68 AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y() N()

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

1b. CALCULATIONS

= 0.34 cfs

Conveyance loss 0.10 cfs

TOTAL = 0.44 cfs

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allowed rate F.I.R.

RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD FROM TO	REC. DIV RATE CFS	REC. DIV VOL. AF/A	REC. CONS. USE
IRRIGATION	<u>4-1</u> <u>10-31</u> ~~8-15~~ ~~11-15~~	DATABASE EXAMINER ~~0.500~~ <u>0.26</u>	DATABASE EXAMINER ~~6.8~~ <u>N/A</u>	DATABASE EXAMINER 0.0 <u>1.49</u>
TOTAL FOR THIS RIGHT		~~0.750~~ <u>0.44</u>		0.0
REVIEWED BY: <u>See</u> <u>See 8-5-92</u>	DATE: <u>1-7-91</u>			

~~WR proportional Rate based on full tests = 0.015 = $\left(\frac{3.0 \text{ cfs}}{200 \text{ Ac.}} \right)$~~

~~pending review of pipeline capacity.~~

7/16/92
HHT Sprinkler irrigated - recommend $0.02 \text{ cfs/ac.} \rightarrow 17 \text{ ac.} \times 0.02 = \underline{0.34 \text{ cfs}}$

F01

D02

~~2~~

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JAN 10 1993

A. CHECK ONLY THE FOLLOWING THAT APPLY:

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

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-00033

TOTAL DIVERSION RATE OF WR SPLITS	DATABASE 3.000	EXAMINER _____	CFS
-----------------------------------	-------------------	-------------------	-----

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
A36-00033	A36-00033A	0.320	-		36-00033	3.000
A36-00033	A36-00033B	0.500	-		36-00033	3.000
A36-00033	A36-00033C	3.000	-		36-00033	3.000
A36-00033	A36-00033D	0.090	-		36-00033	3.000
A36-00033	A36-00033E	0.750	-		36-00033	3.000
TOTAL CFS		4.660				3.000

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 <u>N</u>
---------------	-------------------------------

REMARKS:

See Ref. Rt. A36-00033 for Review — attached

=====

AUTHENTICATION:

SIGNATURE: Steve Chell

DATE: 1-7-91

NAME OF FIELD EXAMINER: _____

TITLE: _____

=====

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JAN 20 1993



PRESUMPTION FLAG:

REMARKS:

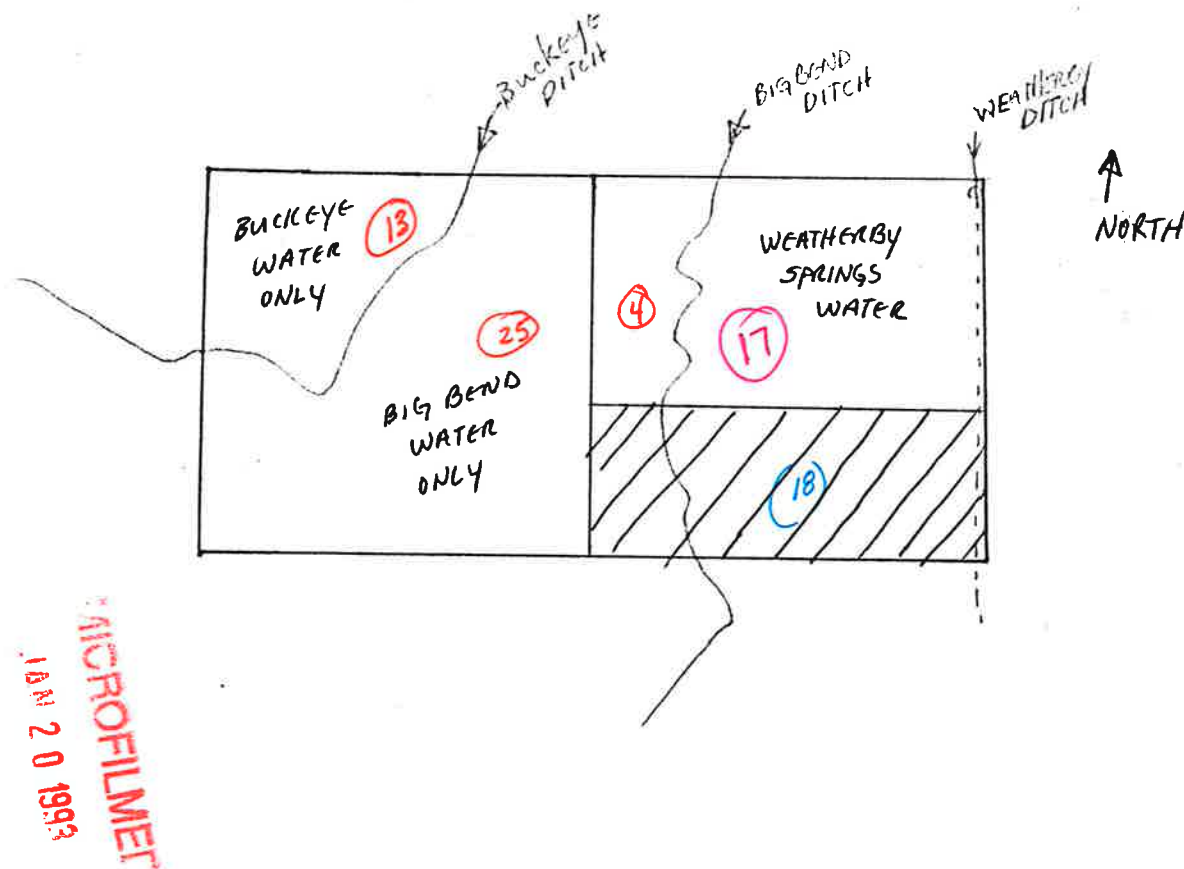
Water is not used above the Buckeye ditch

RECOMMENDATIONS:

TOTAL ACRES: 13.0

REVIEWED BY: su

DATE: 7-12-90



A36-00033 E
REA

POOR ORIGINAL

SOIL and CAPABILITY MAP

Prepared by UNITED STATES DEPARTMENT of AGRICULTURE * SOIL CONSERVATION SERVICE
cooperating with

3. C DISTRICT AND AGENCIES COOPERATING IN SOIL SURVEY

OWNER

FARM NO.

DATE _____

OPERATOR

SCALE 8" = 1 mi

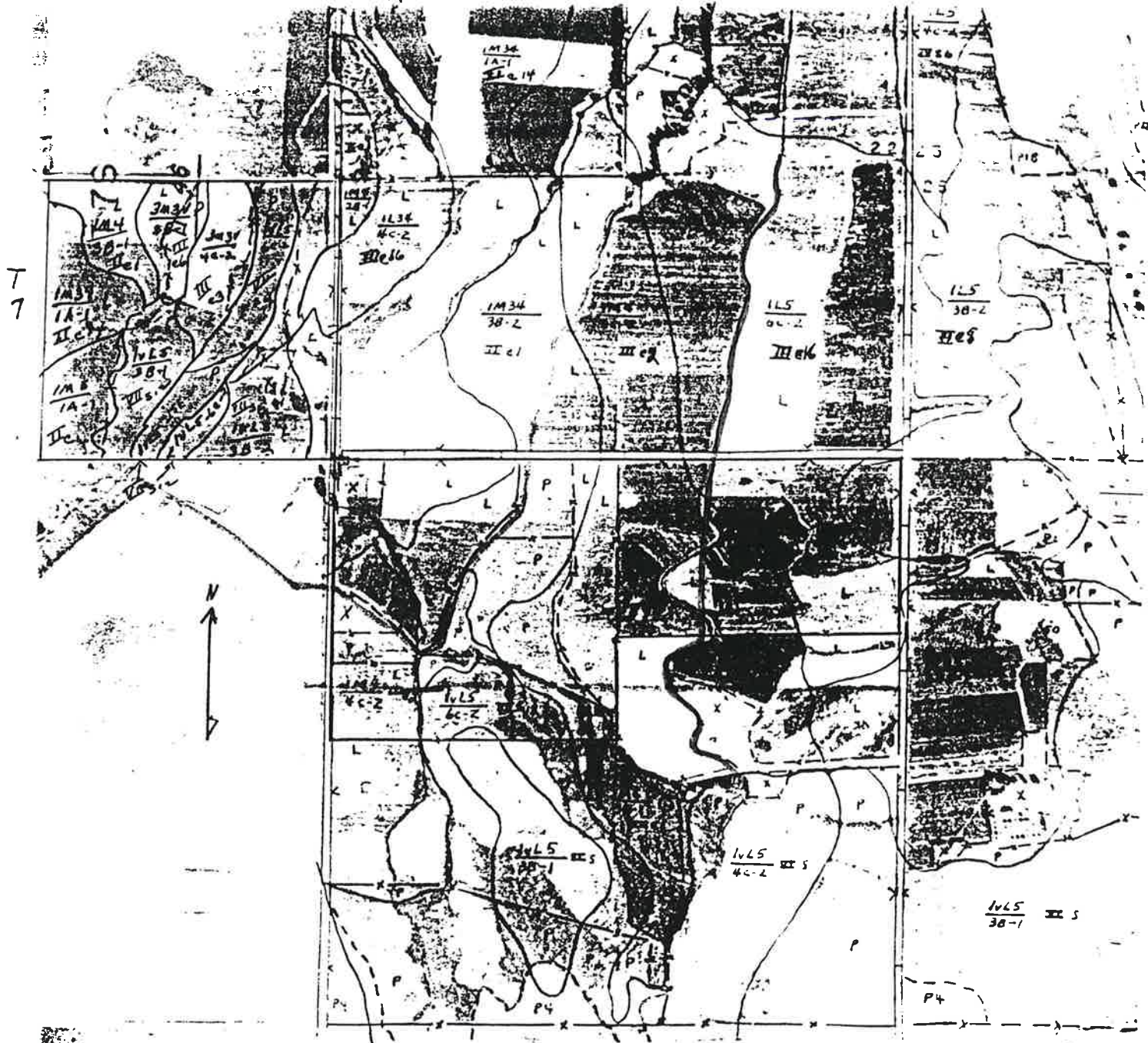
ACRES

PHOTO NO. G 3 - C / - 11 - 47

COUNTY

STATE

R. 13 Sec. 27



MICROFILMED
OCT 11 1994

100-200334

IN
 37.60
 5.24
 8.96
 51.80

KNOWN
 OUT
 28.00
 19.50
 47.5

TO
 OTHERS
 <4.3> SVR

HAGLAND
 TUNNEL

WILE
 PIPELINE

10' RECTANGULAR
 WEIR
 GAGE @ 1.10'
 TABLE RATINGS
 37.6 cfs

CURREN
 DITCH

1.10'
 GAGE
 SONIC
 FLOW
 5.24

BILLINGSLEY
 CREEK

DITCH

BAR-S
 DITCH

MORRIS
 PIPELINE

MORRIS'
 DIVERSION
 STAND
 PIPE

BY PASS
 RETURN

100%
 RETURN OF
 FLOW
 PER BUTCH
 MORRIS
 ~6 cfs

BILLINGSLEY CREEK

SONIC
 FLOW
 8.96

A36-00033E
 REA

BY PASS
 RETURN

GRIDLEY DIVERSION
 STAND PIPE

CURREN DITCH

BIG SPRINGS
 WATER DRAIN

SPRING VALLEY
 RANCH
 PUMP THEORETICAL
 ANALYSIS
 1.9 cfs

HIWAY 30

SPRING VALLEY
 RANCH
 PUMP

THEORETICAL
 ANALYSIS
 1.5 cfs

6'
 SUPPRESSED
 RECTANGULAR
 WEIR
 GAGE @ 0.95'
 CALCULATED RATE
 18.5 cfs

NORTH
 PIPELINE

BUCKEYE
 PIPELINE

SONIC
 FLOW
 19.5 cfs

SONIC
 FLOW
 28.0 cfs

HIWAY 30

TO BUCKEYE RANCH

TO OTHER USERS

MEASUREMENTS OF WATER
 CONDITIONS:

DATE: SEPTEMBER 19 & 20
 1990

BY:
 STEVE CLELAND
 HELEN HARRINGTON-THORNTON
 JAN 21 1991

CURREN DITCH

NOT TO SCALE

REMARK AND CONDITION CODE WORKSHEET

SYSTEM CLAIM NUMBERS

1336 000 33E

AGENT

INITIALS SCCDATE 8-5-92CLAIM NO.
OR ENTRY
ORDERREMARK
CODE

ENTRY DATA

CONDITION
CODESTAGE
OR
STATUSPRESUMPTION
CODEF01Bar S Ditch, Curren Ditch
& North Pipe.D020.10 cfsDist = (36A)

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JAN 20 1993

DECREED RIGHT SPLIT ANALYSIS

A36-00033E

PARENT RIGHT NO. 36-00033

TOTAL DIVERSION RATE

3.00 cfs

PREPARATION DATE

8-5-92
SC

CLAIM PORTION	CLAIMED RATE	RECOMMENDED RATE	IS CLAIMED RATE EXCEEDED BY ANALYSIS	CONVEYANCE LOSS	DOES DIV RATE + CALC. C.L. EXCEED CLAIMED RATE	TOTAL RECOMMENDED DIV. RATE
33A	X	Renumbered to A36-00035D		X	X	X X X
33B	0.75	1.38	Y	0.10 (1.48)	Y	0.75
33C	3.00	0.16	N	0.10	N	0.26
33D	0.09	0.03	N	0.10 (0.13)	Y	0.09
33E	0.50	0.34	N	0.10	N	0.44
33F	0.50	0.29	N	0.10	N	0.39
33G	0.25	0.29	Y	0.10 (0.39)	Y	0.25
TOTALS:	5.09	2.47		0.60 (3.07)		2.18

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SC 8-3-92

A36-00033 E

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JAN 20 1993

UPPER BAR-S DITCH

CONVEYANCE LOSS - WORSTELL

REACH	LENGTH (FT)	AVE WIDTH (FT)	SEEPAGE (FT/DAY)	WORSTELL LOSS (CFS)	DELIVERY (CFS)	DELIVERY LEFT (CFS)	LOSS FACTOR	DELIVERY LOSS (CFS)	FLOW (CFS)
1	2600	7.0	2.00	0.46	6.25	6.25	0.0736	0.46	6.71
2	0	0.0	0.00	0.00	0.00	0.00	0.0000	0.00	-0.00
3	0	0.0	0.00	0.00	0.00	0.00	0.0000	0.00	-0.00
4	0	0.0	0.00	0.00	0.00	0.00	0.0000	0.00	-0.00
5	0	0.0	0.00	0.00	0.00	0.00	0.0000	0.00	-0.00
6	0	0.0	0.00	0.00	0.00	0.00	0.0000	0.00	-0.00
7	0	0.0	0.00	0.00	0.00	0.00	0.0000	0.00	-0.00
8				0.00		0.00	0.0000	0.00	-0.00
9				0.00		0.00	0.0000	0.00	-0.00
10				0.00		0.00	0.0000	0.00	-0.00
11				0.00		0.00	0.0000	0.00	-0.00
12				0.00		0.00	0.0000	0.00	-0.00
13				0.00		0.00	0.0000	0.00	-0.00
14				0.00		0.00	0.0000	0.00	-0.00
15				0.00		0.00	0.0000	0.00	-0.00
16				0.00		0.00	0.0000	0.00	-0.00
17				0.00		0.00	0.0000	0.00	-0.00
18				0.00		0.00	0.0000	0.00	-0.00
19				0.00		0.00	0.0000	0.00	-0.00
20				0.00		0.00	0.0000	0.00	-0.00
TOTALS	2600			0.46	6.25			0.46	

REACH = SECTION OF CHANNEL
 LENGTH = LENGTH OF REACH, THE CHANNEL CAN BE DIVIDED INTO EQUAL LENGTH REACHES
 OR ACTUAL LENGTHS BETWEEN DELIVERY POINTS
 AVE WIDTH = AVERAGE TOP WIDTH OF REACH
 SEEPAGE = SOIL SEEPAGE RATE OF REACH
 WORSTELL LOSS = CONVEYANCE LOSS IN REACH BASED ON WORSTELL METHOD
 DELIVERY = TOTAL DELIVERIES IN REACH
 DELIVERY LEFT = SUM(DELIVERIES OF CURRENT AND REMAINING REACHES)
 LOSS FACTOR = WORSTELL LOSS/DELIVERY LEFT
 DELIVERY LOSS = SUM(LOSS FACTORS OF CURRENT AND PREVIOUS REACHES) X DELIVERY,
 REPRESENTS THE LOSSES ASSIGNED TO THE DELIVERIES IN THE REACH
 FLOW = TOTAL FLOW AT BEGINNING OF EACH REACH

$$0.46 \text{ cfs} \div 16 = 0.029 \text{ cfs per RIGHT}$$

THESE RIGHTS SHARE THIS
CONVEYANCE LOSS:

total conveyance
loss
= 0.10 cfs

these rights share in the
conveyance loss:

36-00011 B
 36-00011 D
 36-00033 B
 36-00105
 36-00189 A

36-00011 A 36-00198 A
 36-00011 C 36-15157
 36-00033 C 36-00044
 36-00033 D 36-00042 A
36-00033 E 36-11142
 36-00015

- But their portions are not
identified in the Decree.

50 8-3-92

CONVEYANCE LOSS - WORSTELL

REACH	LENGTH (FT)	AVE WIDTH (FT)	SEEPAGE (FT/DAY)	WORSTELL LOSS (CFS)	DELIVERY (CFS)	DELIVERY LEFT (CFS)	LOSS FACTOR	DELIVERY LOSS (CFS)	FLOW (CFS)
1	1600	10.0	2.00	0.40	0.06	31.06	0.0130	0.00	32.80
2	200	10.0	2.00	0.05	20.69	31.00	0.0016	0.30	32.34
3	1700	10.0	2.00	0.43	1.00	10.31	0.0417	0.06	11.60
4	1500	10.0	2.00	0.38	6.25	9.31	0.0407	0.61	10.17
5	6300	3.0	2.00	0.48	3.06	3.06	0.1561	0.77	3.54
6	0	0.0	0.00	0.00	0.00	0.00	0.0000	0.00	0.00
7	0	0.0	0.00	0.00	0.00	0.00	0.0000	0.00	0.00
8				0.00		0.00	0.0000	0.00	0.00
9				0.00		0.00	0.0000	0.00	0.00
10				0.00		0.00	0.0000	0.00	0.00
11				0.00		0.00	0.0000	0.00	0.00
12				0.00		0.00	0.0000	0.00	0.00
13				0.00		0.00	0.0000	0.00	0.00
14				0.00		0.00	0.0000	0.00	0.00
15				0.00		0.00	0.0000	0.00	0.00
16				0.00		0.00	0.0000	0.00	0.00
17				0.00		0.00	0.0000	0.00	0.00
18				0.00		0.00	0.0000	0.00	0.00
19				0.00		0.00	0.0000	0.00	0.00
20				0.00		0.00	0.0000	0.00	0.00
TOTALS	11300			1.74	31.06			1.74	

36-00042
36-00011A, 36-00044, 36-00018 (0.10 cfs @)
36-000105
* 36-00004
CURREN / BAR-S
DITCHES

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JAN 20 1993

REACH = SECTION OF CHANNEL
LENGTH = LENGTH OF REACH, THE CHANNEL CAN BE DIVIDED INTO EQUAL LENGTH REACHES
OR ACTUAL LENGTHS BETWEEN DELIVERY POINTS
AVE WIDTH = AVERAGE TOP WIDTH OF REACH
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DELIVERY LOSS = SUM(LOSS FACTORS OF CURRENT AND PREVIOUS REACHES) X DELIVERY,
REPRESENTS THE LOSSES ASSIGNED TO THE DELIVERIES IN THE REACH
FLOW = TOTAL FLOW AT BEGINNING OF EACH REACH

* THESE RIGHTS SHARE THIS PORTION:

- 36-00015
- 36-00189A
- 36-11142
- 36-00198A
- 36-15157
- 36-00011B
- 36-00011C
- 36-00011D
- 36-00033B
- 36-00033C
- 36-00033D
- 36-00033E

$0.161 \div 12 = 0.05 \text{ cfs per RIGHT}$

⊗ Some rights will not have their
conveyance loss identified in Deed.

5
8-3-92

CONVEYANCE LOSS - WORSTELL

REACH	LENGTH (FT)	AVE WIDTH (FT)	SEEPAGE (FT/DAY)	WORSTELL LOSS (CFS)	DELIVERY (CFS)	DELIVERY LEFT (CFS)	LOSS FACTOR	DELIVERY LOSS (CFS)	FLOW (CFS)
1	2900	2.0	2.00	0.15	2.32	2.32	0.0632	0.15	2.47
2	0	0.0	2.00	0.00	0.00	0.00	0.0000	0.00	0.00
3	0	0.0	0.00	0.00	0.00	0.00	0.0000	0.00	0.00
4	0	0.0	0.00	0.00	0.00	0.00	0.0000	0.00	0.00
5	0	0.0	0.00	0.00	0.00	0.00	0.0000	0.00	0.00
6	0	0.0	0.00	0.00	0.00	0.00	0.0000	0.00	0.00
7	0	0.0	0.00	0.00	0.00	0.00	0.0000	0.00	0.00
8				0.00		0.00	0.0000	0.00	0.00
9				0.00		0.00	0.0000	0.00	0.00
10				0.00		0.00	0.0000	0.00	0.00
11				0.00		0.00	0.0000	0.00	0.00
12				0.00		0.00	0.0000	0.00	0.00
13				0.00		0.00	0.0000	0.00	0.00
14				0.00		0.00	0.0000	0.00	0.00
15				0.00		0.00	0.0000	0.00	0.00
16				0.00		0.00	0.0000	0.00	0.00
17				0.00		0.00	0.0000	0.00	0.00
18				0.00		0.00	0.0000	0.00	0.00
19				0.00		0.00	0.0000	0.00	0.00
20				0.00		0.00	0.0000	0.00	0.00
TOTALS	2900			0.15	2.32			0.15	

REACH = SECTION OF CHANNEL
 LENGTH = LENGTH OF REACH, THE CHANNEL CAN BE DIVIDED INTO EQUAL LENGTH REACHES
 OR ACTUAL LENGTHS BETWEEN DELIVERY POINTS
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 DELIVERY LOSS = SUM(LOSS FACTORS OF CURRENT AND PREVIOUS REACHES) X DELIVERY,
 REPRESENTS THE LOSSES ASSIGNED TO THE DELIVERIES IN THE REACH
 FLOW = TOTAL FLOW AT BEGINNING OF EACH REACH

LOWER BAR-S DITCH

PER RIGHT

$$0.15 \div 7 = 0.02 \text{ cfs}$$

THESE RIGHTS SHARE THIS
CONVEYANCE LOSS:

~~36-00011D *~~ ~~36-00033B *~~
 36-00011C 36-00033C
~~36-00011D *~~ 36-00033D
36-00033E

* OTHER RIGHTS WILL NOT HAVE
CONVEYANCE LOSS LISTED IN DECREE.

INTER-DEPARTMENT MEMO — 1

FROM STEVE CLELLAND

DATE 1-7-91

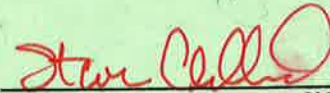
TO A36-00033E

SUBJECT INVALID AMENDMENT

I spoke with Lori W. and she could not recall specifics of this change in CFS. Since the signed copy is the valid version I changed the data base info back to the original claim.

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JAN 20 1993



SIGNATURE

RECEIVED

JAN 23 1979

APR 24 1989

Department of Water Resources
Southern Region Office

HEPWORTH, NUNGESTER & FELTON
Bank & Trust Building
Post Office Box 389
Twin Falls, Idaho 83301
Tel. No. 208-734-7510
Attorneys for Plaintiffs

Chapter No. _____
Case No. _____
Filed Jan. 22, 1979
CLERK
Deputy

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

* * * * *

JOHN W. JONES, JR., and DELORIS D.
JONES, husband and wife; and W. A.
SANDY and FLORENCE M. SANDY, husband
and wife, dba, JONES AND SANDY
LIVESTOCK,

Case No. 16676

Plaintiffs,

vs.

RESERVOIR LAND COMPANY, INC., an
Idaho corporation; KNAKE EYE LAND
& CATTLE CO. and VIEJO MANAGEMENT
CO.; dba BUCKEYE LAND CO.; BUCKEYE
LAND CO.; CLIFFORD PETERSON; OMER E.
LORANGER and BEVERLY B. LORANGER,
husband and wife; WALLACE W. BATES
and LOLEITA V. BATES, husband and
wife; RICHARD P. SAUER and LUCILLE B.
SAUER, husband and wife; SHELDON G.
CARLETON and BARBARA S. CARLETON,
husband and wife; EDNA M. (BELL) REA;
STANLEY J. HOSKOVEC and BETTY
HOSKOVEC, husband and wife; ALFRED
H. COLE and PHYLLIS A. COLE, husband
and wife; ELLIS & WEIR, INC., a
domestic corporation; HAROLD V.
WOLINE and LOIS C. WOLINE, husband
and wife; FRED STURTEVANT and JOYCE
E. STURTEVANT, husband and wife;
and DOES I THROUGH V,

STIPULATION OF FACTS

Defendants.

* * * * *

STIPULATION OF FACTS -1-

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JAN 24 1989

1 COMES NOW the parties through their attorneys of
2 record and stipulate as follows:

3 WHEREAS, the Bar S ditch carrying water from Weatherby
4 Springs across Billingsly Creek consists of an open ditch and a
5 series of metal pipes;

6 WHEREAS, on or about 1960 or 1961, a steel pipe with
7 an outside diameter of 24 inches was welded near the mouth or
8 inlet portion of the pipe or siphon crossing Billingsly Creek;

9 WHEREAS, at all times since 1960 or 1961, to the
10 present date, this pipe or siphon has been restricted at its
11 inlet by a section or sections of metal pipe having an outside
12 diameter of 24 inches;

13 WHEREAS, the maximum flow discharge for said original
14 pipe or siphon at all times since 1960 or 1961 has been 325
15 miners inches of water; and,

16 WHEREAS four other reputed or alleged diverters of
17 water from the Bar S ditch downstream from said crossing at
18 Billingsly Creek have been discovered, who have not been named
19 in the above-entitled proceeding and who, therefore, cannot be
20 bound by any judgment, decree, adjudication or stipulation
21 entered in the above-entitled proceeding;

22 All parties, by and through their attorneys of record,
23 agree and stipulate:

24 1. (a) that plaintiffs shall continuously, and on
25 a year round basis, allow 325 miners inches of water from
26 Weatherby Springs to be delivered into the Bar S ditch from the
27 outlet of its fish hatchery operation upon the express condition
28 STIPULATION OF FACTS -2-

1 precedent that defendant Buckeye Land Company enclose on or before
2 January 1, 1980, the existing open Bar S ditch with a suitable
3 enclosed pipeline along the entire reach of said Bar S ditch
4 located on the property presently owned by plaintiffs downstream
5 from plaintiffs fish hatchery operation; or in the alternative,

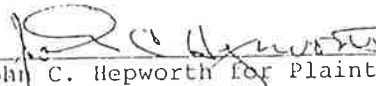
6 (b) in the event said open ditch is not enclosed
7 as set out in subparagraph (a) immediately above, that plaintiffs
8 shall continuously allow 325 miners inches of water from Weatherby
9 Springs to be delivered into the Bar S ditch from the outlet of
10 its fish hatchery operation from March 1 until November 1 of
11 each year, and plaintiffs shall continuously allow 200 miners
12 inches of water from Weatherby Springs to be delivered into the
13 Bar S ditch from the outlet of its fish hatchery operation from
14 November 1 until March 1 of each year.

15 2. that the trial date scheduled for this matter be
16 vacated to allow these individuals to be named so as to provide
17 for a full adjudication of the water rights of all individuals
18 diverting water along said stream;

19 3. that all other issues of law and fact not stipulated
20 by the parties herein are reserved until the time of trial.

21 DATED this _____ day of January, 1979.

22
23 HEPWORTH, NUNGESTER & FELTON

24
25 By 
26 John C. Hepworth for Plaintiffs

27
28 STIPULATION OF FACTS -3-

LAW OFFICES
HEPWORTH
NUNGESTER
And
FELTON

DISTRICT COURT
GOODING, IDAHO

APR 27 AM 9:00

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

JOHN W. JONES, JR., and
DELORIS D. JONES, et al

Plaintiffs,

vs.

RESERVOIR LAND COMPANY, INC.,
et al,

Defendants.

CASE NO. 16676

MEMORANDUM OPINION

1979 - 1980

The matter before the court is defendants' motion to amend the order of this Court dated January 22, 1979 incorporating a stipulation by all parties concerning their respective water rights in Weatherby Springs. The defendants' contend that their attorneys signed the stipulation under the mistaken impression that it called for 325 miner's inches of water to be delivered through the Billingsley Creek Siphon. In fact, the stipulation states that the water is to be delivered into the Bar S Ditch from the outlet of plaintiffs' fish hatchery operation. Though some comment was made at oral argument and in defendants' brief as to counsels' lack of authority to make the stipulation as worded, there is nothing in the affidavits filed with the Court to support that proposition. If there was a mistake in the formation of the stipulation it was unilateral, not mutual. Typically, a mutual mistake is required to make a contract voidable. Restatement, Contracts § 503. The stipulation explicitly deals with the problem of water loss in the Bar S Ditch. If the defendants place a suitable enclosed pipe line along the ditch by January 1, 1980 they are entitled to 325 miner's inches year round. If not, they are entitled to merely 200 inches from November 1 to March 1 of each year. The stipulation underscores the fact that the parties were well aware of the excessive water loss problem in the Bar S ditch at the time it was signed. It is well recognized in Idaho that only a reasonable loss in transport is allowed to the holder of a water right. Glenn Dale Ranches Inc. v. Shaub 94 Idaho 585, 494 P.2d 1029 (1972). The Court cannot believe that the dispute now before it centers around an amount of water which would constitute a reasonable loss. It must involve water substantially in excess of that amount. If so, the defendants are not entitled to the water under the Glenn Dale Ranches case. Accordingly, the Court sees no reason to exercise its discretion in favor of the defendants. The motion to alter or amend is denied. There appears no reason to order specific performance of the stipulation at this time.

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However, the Court will not hesitate to enforce its order should it be necessary to do so. No attorney's fees will be allowed.

Dated this 24 day of April, 1979.


Douglas D. Kramer
District Judge

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JAN 20 1993