

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: **A36-00011C**
Date Received: 8/02/1989
Receipt No: S008740
Received By: _____

R36-00033F

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: IVAN GUSTAFSON 208-837-6411
Address: P.O. BOX 209
HAGERMAN, ID 83332

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	SE	NE	SW		GOODING

5. Description of diverting works:
PIPE LINE FLUMES ETC.

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 63.0 Acre Feet Per Annum.

9. Non-irrigation uses:
STOCK

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	13E	27	SE	NE		IRR	9.0
			NE	SE		IRR	9.0

~~A36-00011C~~

Page 1

Date: 11/06/90

A36-00033F

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JAN 21 1993

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	18.0
					Total Acres	18.0

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:
OWNERSHIP CHANGE 11/6/90 BY JG.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

Decree Plaintiff

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): _____ Date: _____

_____ Date: _____

CHANGE IN OWNERSHIP

Page 1

This form is solely for purposes of notifying IDWR of a change in ownership of an adjudication claim.

[] Water Right Number(s): A36-00011C, (A37-12518) *Basin change*

[] Name and Address of Former Claimant(s): GENE L. JONES

P.O. Box 789

WENDOVER, UT 84083

[] New Claimant(s): IVAN GUSTAFSON

[] New Mailing Address: P.O. Box 209

HAGERMAN, ID 83332

New Telephone Number: (208) 837-6411

[] Does the change in ownership result in a splitting of the water right claimed? yes X no
If yes, then describe the portion of the water right that is now claimed by the new owner:

[X] Attach proof of ownership
Describe proof attached: Deed
(Proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former claimant.)

[] Signature of New Claimant(s): Ivan Gustafson

Date: 10/30/90

RECEIVED

OCT 30 1990

Department of Water Resources
Southern Region Office

MICROFILMED

JAN 21 1993

CHANGE IN OWNERSHIP

Page 2

[] Signature of Former Claimant(s): _____

Date: _____

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

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: 11/6/90 By: JG

Further Action Needed:

Further Action Taken

Date: By:

Final Review and Data-Entry

Date: 11/6/90 By: JG

Claim Numbers of Split, if any:

After form has been completed, please return to the nearest IDWR office below:

~~WESTERN REGIONAL OFFICE~~

~~2735 AIRPORT WAY~~

~~BOISE, IDAHO 83705~~

~~(208) 334-2190~~

~~EASTERN REGIONAL OFFICE~~

~~150 SHOUP SUITE #15~~

~~IDAHO FALLS, IDAHO 83402~~

~~(208) 525-7161~~

~~STATE OFFICE~~

~~1301 N. ORCHARD ST.~~

~~STATEHOUSE MAIL~~

~~BOISE, IDAHO 83720~~

~~(208) 327-7906~~

SOUTHERN REGIONAL OFFICE

222 SHOSHONE STREET EAST

TWIN FALLS, ID 83301

(208) 734-3578

~~NORTHERN REGIONAL OFFICE~~

~~1910 NORTHWEST BLVD. SUITE 210~~

~~COEUR D'ALENE, IDAHO 83814~~

~~(208) 765-4639~~



WARRANTY DEED

For Value Received

Gene L. Jones, a single man,

the grantor, does hereby grant, bargain, sell, and convey unto

IVAN JOHN GUSTAFSON AND LUCILLE ELLEN GUSTAFSON, CO-TRUSTEES, OR THEIR SUCCESSORS IN TRUST, OF THE GUSTAFSON FAMILY TRUST, UNDER TRUST AGREEMENT DATED THE 21ST DAY OF FEBRUARY, 1989, AND ANY AMENDMENTS THERETO

the grantees, whose current address is

the following described premises, 'to-wit:

Parcel I

The South 495 feet of the Southeast Quarter of the Northeast Quarter of Section 27 Township 7 South Range 13 East of the Boise Meridian, County of Gooding, State of Idaho.

Parcel II

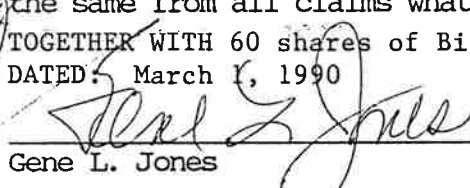
The Northeast Quarter of the Southeast Quarter of Section 27 Township 7 South Range 13 East of the Boise Meridian, County of Gooding, State of Idaho.

Parcel III

Lots 22, 23, 41 and 42 of the BUCKEYE RANCH SUBDIVISION as shown on the official map filed August 18, 1910 in the office of the Gooding County Recorder in the State of Idaho.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, its heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantees, that he is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U. S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that he will warrant and defend the same from all claims whatsoever.

TOGETHER WITH 60 shares of Big Bend Water and 20% of Weatherby Springs water.
DATED: March 1, 1990



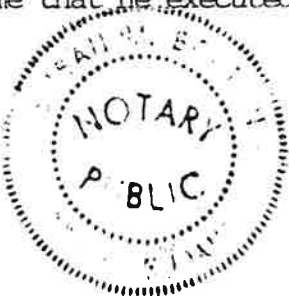
Gene L. Jones

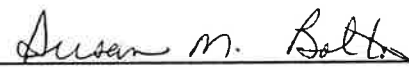
STATE OF IDAHO)

: ss

COUNTY OF GOODING)

On This 1st day of March, in the year 1990, before me, a Notary Public in and for said State, personally appeared Gene L. Jones, known or identified to me to be the person(s) whose name(s) is subscribed to the within Instrument, and acknowledged to me that he executed the same.





Notary Public of Idaho
Residing at Gooding, Idaho
Commission Expires: 10-16-92

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

Scale: 2 inches equals 1 mile

TWP 7S RNG 13E SEC 27 SE 1/4 NE 1/4 SW 1/4

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32
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SD-36		TOWNSHIP: 07S		RANGE: 13E		SECTION: 27		TRACT:		LOT:	
S	L	TATE		NAME		O	S	MAX #	RECORDS	103	
E	O	WATER		NAME		W	T	PRIORITY	USE		
L	TRACT	T	RIGHT NO.	LAST, FIRST		N	AC	G	DATE	CODE	DESC
NESE			A36-00034	MC CORKLE, ELVIRA E.		O			03/30/1884		
				SMITH, ETHEL C.		O					
				CLIFFORD, WILLIAM H.		O					
				SPLIT RIGHT		C					
NESE			A36-00133	BIG BEND IRRIGATION &		C	40	D	12/17/1903	01	IRR
										43	DOMEST
										04	STOCK
NESE			A36-00011C	JONES, GENE L.		C	9	D	03/08/1902	01	IRR
SWSE			A36-00001	BUCKEYE FARMS INC.		C	40	D	05/01/1883	01	IRR
				ROSHOLT, JOHN A.		A					
SWSE			A36-00002	ROSHOLT, JOHN A.		A	40	D	10/01/1908	01	IRR
				BUCKEYE FARMS INC.		C					
SESE			A36-00001	BUCKEYE FARMS INC.		C	40	D	05/01/1883	01	IRR
				ROSHOLT, JOHN A.		A					
SESE			A36-00002	ROSHOLT, JOHN A.		A	40	D	10/01/1908	01	IRR
				BUCKEYE FARMS INC.		C					

(ENTER=CONTINUE)

(GOLD 7=THIS QUERY)

(MENU _____)

MICROFILMED

JAN 21 1993

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: A36-00011C
Date Received: 8/02/1989
Receipt No: S008740
Received By: *[Signature]*

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: GENE L. JONES 702-664-2292
Address: P.O. BOX 789
WENDOVER, UT 84083

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	SE	NE	SW		GOODING

5. Description of diverting works:
PIPE LINE FLUMES ETC.

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 63.0 Acre Feet Per Annum.

9. Non-irrigation uses:
STOCK

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
07S	13E	27	SE	NE		IRR	9.0
			NE	SE		IRR	9.0

Section Acres 18.0

10. Place of Use: Continued

Total Acres 18.0

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
NONE

14. Remarks:

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

Decree Plaintiff

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): _____ 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 _____

Modified
8-29-94
A. Shema

36-00033F

1994 JUN 16 PM 12:02

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED

Ivan J. Gustafson
Box 209
Hagerman, Idaho 83332
June 14, 1994

RECEIVED

AUG 25 1994

Department of Water Resources
Adjudication Bureau

Hepworth, Nungester and Lezamiz
133 Shoshone St. N.
Box 389
Twin Falls, Idaho 83303

Attention: Patrick D. Brown, Attorney at Law

Dear Sir:

This is to inform you that as of this date I will no longer need your services in the Snake River Basin Adjudication, Subcase No. 36-00F. I will be representing myself in all the court proceedings.

I will arrange to pick up my file at your office.

Very truly yours,

Ivan J. Gustafson

Ivan J. Gustafson

C.C.
Judge Daniel C. Hurlbutt, Jr.
Terrence A. Dolan
Hagerman Water Rights Owners, Inc.

RECEIVED

SEP 1 1994

Department of Water Resources
Northern Region Office

1410
SC

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
Ident. Number A 36-00011C
Date Received 8-02-1989
Receipt Number 5008740

NOTICE OF CLAIM TO A WATER RIGHT

ACQUIRED UNDER STATE LAW

COPY
FOR YOUR FILES **ACQU**
DO NOT RETURN

Please type or print clearly

1. Name of Claimant (s) Gene L. Jones Phone (702) 664-2292

Mailing Address P. O. Box 789, Wendover, Utah Zip 84083

2. Date of Priority (Only one (1) per claim) March 8, 1902

3. Source of water supply (a) WEATHERBY SPRINGS
which is tributary to (b) BILLINGSLEY CREEK

4. a. Location of existing point of diversion is: Township 7S Range 14E Section 30,
SE 1/4 of NE 1/4 of SW 1/4, Govt. Lot, _____ B.M., County of GOODING

Additional points of diversion if any: _____

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

Township _____ Range _____ Section _____ , _____ 1/4 of _____ 1/4 of _____ 1/4,
Govt. Lot _____ B.M., County of _____
ending point is: Township _____ Range _____ Section _____ , _____ 1/4 of _____ 1/4 of _____
_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates , Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. PIPE LINE FLUMES ETC.

MICROFILMED
OCT 11 1994

6. Water is claimed for the following uses:

(both dates are inclusive)

(cfs)

(acre feet)

For IRRIGATION purposes from 3/15 to 11/15 amount 0.500 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.500 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 63.0 acre feet per annum.

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

10. Description of place of use:

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

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

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
7S	13E	27				X									X				18.0

Total number of acres irrigated 18.0

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

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

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

14. Remarks:

Last Name Jones Ident No. _____

Copies: White -State, Yellow -Claimant

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SD-0601-2 Last Name: GUST

STATE

S E L	First Name	O W N	Water Right No.	Priority Date	Source	Total Diversion	Use Code Desc

-	GUSTAFSON						
-	IVAN	C	A36-00011C	03/08/1902	WEATHERBY S	0.500	01 IRR
-	IVAN	C	36-00033F	03/08/1902	WEATHERBY S	0.390	01 IRR
-	IVAN	C	36-00011C	03/08/1902	WEATHERBY S	0.050	01 IRR
-					RENUMBERED		
-	IVAN	C	36-15104	06/01/1945	GROUNDWATER	0.060	43 DOMEST
-							04 STOCK
-	IVAN	C	A36-15104	06/01/1945	GROUNDWATER	0.100	43 DOMEST
-							04 STOCK
-	IVAN	C	A36-15457	06/01/1982	GROUNDWATER	0.040	43 DOMEST
-	IVAN	C	36-15457	06/01/1982	GROUNDWATER	0.040	43 DOMEST
-							
-							
-							
-							
-							

(Enter=Continue)

(GOLD7=This Query)

(Menu _____)

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Water Right Number - 36-00033F Prefix Translation: WATER RIGHT Old (D) Number -

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

*** C - CURRENT OWNER ***
GUSTAFSON IVAN 1 - PO BOX 209
2 -
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-837-6411

*** O - ORIGINAL OWNER ***
JONES GENE L 1 - PO BOX 789
2 -
3 -
City- WENDOVER State- UT Zip- 84083
Phone - 702-664-2292

+ - - 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 0.390

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.390 9.0

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

07S 13E 27 NE SE 3.0 01 IRRIGATION (47) GOODING

Total Acres: 3.0

+ - - Diversion Means - PIPELINE, FLUMES, DITCHES, GATED PIPE; FLOOD IRRIGATION

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - NONE

+ - - - - Remarks - - - - - +
A DIVERSION RATE OF 0.29 CFS AT THE FIELD HEADGATE IS
RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.
0.10 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE

Water right number - 36-00033F

Prefix Translation: WATER RIGHT

+ - - - - Remarks - - - - - +
LOSSES IN DELIVERY OF THIS RIGHT.
WATER IS DIVERED THROUGH THE BAR S DITCH, CURREN DITCH AND
NORTH PIPELINE.

+ - - - - Old Water Right Numbers - - - - - +
3600033

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

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

+ - - - - Comments - - - - - +

Date: 08/05/1992 User Id: THORNTON Subject: RENUMBERED RIGHT
THE CORRECT OWNERSHIP FOR THE BASIS OF THIS CLAIM IS 36-00033. NO BASIS FOR CLAIMING 36-00011 PORTION.
ORIGINALLY CLAIMED UNDER A36-00011C.
Date: 09/22/1992 User Id: SCHULTZ Subject: NOTICE OF ERROR (NOE)
RECEIVED NOE 9/21/92. CHANGED NOE FLAG FROM BLANK TO A. CLAIM VERIFIED 8/6/92. DID NOT REVERIFY ANY PART OF CLAIM.
Date: 10/19/1992 User Id: SOUTH3 Subject: NO CHANGE TO RECOMMENDATION
A LETTER OF EXPLANATION HAS BEEN SENT. RMC
Date: 02/18/1993 User Id: SCHULTZ Subject: ADDED NEW ATTORNEY
RECEIVED NOTICE OF APPEARANCE 2/10/93 FROM HEPWORTH NUNGESTER LEZAMIZ.
CLAIM VERIFIED 10/19/92. DID NOT REVERIFY ANY PART OF CLAIM.
Date: 08/29/1994 User Id: SSHERMAN Subject: NOTICE OF APPEARANCE
COURT ACCEPTED LETTER FORM OF NOTICE OF APPEARANCE TERMINATING THE SERVICES OF PATRICK D BROWN AS ATTORNEY REPRESENTING CLAIMANT
IVAN J GUSTAFSON.

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

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

Court Report Filing	- 11/02/1992	Field Inspection Made	- 08/20/1990	Civil Case Number	- 39576
Objection Filed Date	- 04/29/1993	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 09/10/1993	Verified Date	- 00/00/0000	Old Judicial District	-
Claim Received Date	- 08/02/1989	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S008740	Water District	- 36A
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- AND/OR	Presumption Flag	-
				Notice of Error Flag	- B

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OCT 11 1994

Scale: 2 inches equals 1 mile

TWP 7S RNG 13E SEC 27 SE 1/4 NE 1/4 SW 1/4

Handwritten numbers and symbols on the grid:

- Top-left quadrant: 11, 22, 18, 27, 25, 27, 33, 34
- Top-right quadrant: 22, 23, 27, 26, 27, 26, 34, 35
- Bottom-left quadrant: 25, 27, 33, 34
- Bottom-right quadrant: 27, 26, 34, 35

Last Name Jones Ident No. _____

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 JAN 11 1994
 Copies: White-State, Yellow-Claimant

Basis of Claim (check one) ☒ Beneficial Use ☐ Posted Notice ☐ License ☐ Permit ☐ Decree

If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. Signature (s)

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

Number of attachments _____

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

Signature of Claimant (s) *Sam Jones* Date 7-27-89

Date _____

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

Title
of _____, that I have signed the foregoing
Organization

document in the space below as _____ of _____
Title Organization

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

Signature of Authorized Agent _____

Title and Organization _____ Date _____

State of Idaho/or _____)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 2nd day of August 19 89

SEAL

Notary Public *Robert V. Horstall*

Residing at Twin Falls, Idaho

My Commission Expires January 16, 1995

Please Print Name

17. Notice of Appearance:

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

Signature _____

Address _____

Date _____

Last Name Jones Ident. Number _____

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OCT 11 1994

Copies White-State, Yellow-Claimant

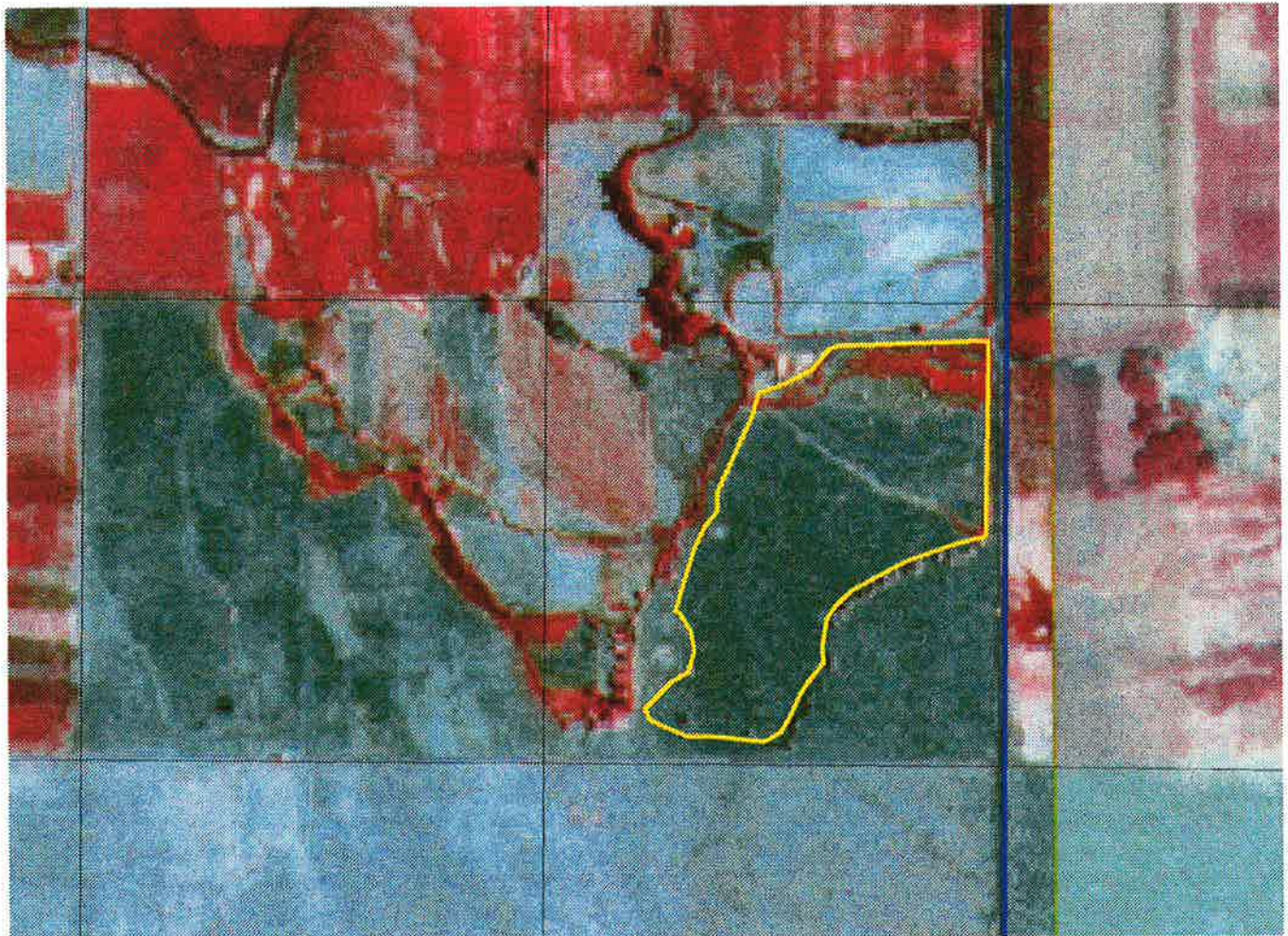
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A36-00022	A36-00023	A36-00033F	A36-00034B	A36-00035J	A36-00039C	A36-00039D	A36-00039E	A36-00039J	A36-00039M
A36-00039N	A36-00041A	A36-00041C	A36-00042A	A36-00048A	A36-00049	A36-00050D	A36-00051D	A36-00055AF	A36-00055BC
A36-00060	A36-00061	A36-00062	A36-00063	A36-00064B	A36-00068	A36-00069	A36-00070	A36-00071A	A36-00075
A36-00077C	A36-00079	A36-00086C	A36-00089A	A36-00090A	A36-00090F	A36-00092	A36-00094A	A36-00096A	A36-00097
A36-00098	A36-00099	A36-00100	A36-00101	A36-00103C	A36-00103F	A36-00106	A36-00108A	A36-00108B	A36-00110A
A36-00110B	A36-00111A	A36-00111B	A36-00112A	A36-00112B	A36-00113H	A36-00113J	A36-00119	A36-00120	A36-00121
A36-00123A	A36-00123E	A36-00133	A36-00134A	A36-00134C	A36-00135B	A36-00135C	A36-00141	A36-00192	A36-02002
A36-02038	A36-02169	A36-04091	A36-04142	A36-04260	A36-07071	A36-07081	A36-07089	A36-07092A	A36-07142
A36-07142A	A36-07172	A36-07229	A36-07233	A36-07346	A36-07658	A36-07875	A36-08099	A36-08317	A36-10055
A36-10119	A36-10120	A36-10140	A36-10141	A36-10168	A36-10231	A36-10249	A36-10283	A36-10283B	A36-10405
A36-10520	A36-10906	A36-15166	A36-15168	A36-15240	A36-15463				

TOTAL RECORDS IN SELECTION FILE: 116

MICROFILMED
OCT 11 1994

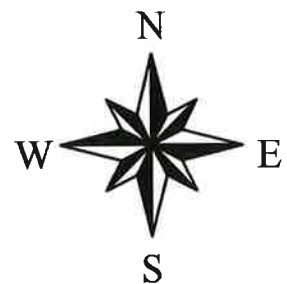
IDAHO DEPARTMENT OF WATER RESOURCES

36-00033F



660 0 660 Feet

TNS 7S, RNG 13E
SEC 27, NESE



⊙ Recommended Point of Diversion

 Recommended Place of use

 Section lines

 Quarter/Quarter Lines

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

CLAIM NUMBERS 36-00033 F

DATE 10/24/97

AGENT Scu

TRANSFER NUMBER _____

OBJECTION FILED yes

TOTAL ACRES FROM RECOMMENDATION #1.0

GEOGRAPHIC INFO SYSTEM

RIGHT NO				NE				NW				SW				SE			
	TNS	RNG	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
RECOM	<u>7s</u>	<u>13E</u>	<u>27</u>													<u>#1</u>			<u>#1</u>
GIS																<u>15</u>			<u>15</u>
RECOM																			
GIS																			
RECOM																			
GIS																			
RECOM																			
GIS																			

UPDATED

POLYGON #

UPDATED

B36-DBPOU.DBF _____

B36-DBPOD.DBF _____

POLYGON CREATED ON 604 (✓) 10/24/97 scu

ATTRIBUTES OF B36-POU.SHP (682) 10/28/97 scu

ATTRIBUTES OF B36-POD.SHP (463) _____

P/U CONFLICT yes () no (X)

P/D CONFLICT yes () no (X)

READY FOR DECREE yes (X) no ()

SENT FOR DECREE yes (X) no ()

KKC: 8/13/97



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-0001
 Phone: (208) 327-7900 FAX: (208) 327-7866

RECEIVED

SEP 15 1995

Department of Water Resources
 Southern Region

September 15, 1995

PHILIP E. BATT
 GOVERNOR

KARL J. DREHER
 DIRECTOR

Dr. Ivan J. Gustafson
 P.O. Box 209
 Hagerman, Idaho 83332

Re: SRBA Subcase No. 36-00033F
 Gustafson Family Trust

Dear Dr. Gustafson:

Post-it* Fax Note	7671	Date	9/15	# of pages	3
To	Steve Clelland	From	Nick Spencer		
Co./Dept.		Co.	State Office		
Phone #		Phone #			
Fax #		Fax #			

Thank you for your August 15th letter and accompanying materials. I have reviewed them and discussed them with Steve Clelland. The information you provided will enable us to change the recommendation of your water right in several particulars, addressed in turn below.

PLACE OF USE AND DIVERSION RATE

The affidavit of Mr. Cleverly provides us sufficient documentation of irrigated acreage to alleviate most of our concerns about the possibility of forfeiture of a portion of your water right. Based upon the affidavit we are prepared to amend our recommendation of the irrigated acreage to the full eleven acres sworn to by Mr. Cleverly. I recognize that this is less than the 18 acres you claimed. However, applying the maximum potential field irrigation requirement of 0.09 cfs per acre, as previously determined by the department for your place of use, to a total of eleven acres results in a total diversion rate exceeding the 0.50 cfs claimed by you. Therefore, we also are prepared to amend our recommendation to recommend that entire 0.50 cfs you claimed.

However, we do have a concern about the irrigation of the eleven acres that Mr. Cleverly's affidavit does not expressly address. Mr. Cleverly does not state that the source of water for the irrigation of the eleven acres was this particular right. We raise this point because we are aware that in the early 1980's some irrigation of a portion of the place of use was done using a pivot apparently supplied with water from the Big Bend Ditch. Nonetheless, our understanding of this situation is as follows: (1) absent evidence to the contrary we presume that Mr. Cleverly irrigated the eleven acres pursuant to this right and not under some other right out of the Big Bend Ditch; (2) we understand that the use of water from the Big Bend Ditch for the pivot was water use supplemental to the use of this right; and (3) we accept that the use of supplemental water was necessary because, this right being taken out at the end of the ditch, the availability of water under it is both uncertain and unreliable.

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DEC 04 1996

Dr. Ivan J. Gustafson
September 15, 1995
Page 2

However, should the department subsequently be called upon to explain the basis of its decision to amend its recommendation of this right, it would help us greatly if you could confirm in writing that our understanding is correct. Your confirmation need not be in affidavit form--a short note from you that we could keep in the files would suffice. We could then contact you to request an affidavit or other document admissible in evidence if such were to become necessary later on.

SEASON OF USE

My understanding of our discussion in the June 12th settlement conference was that you are willing to drop your objection to the March 15 - November 15 recommended irrigation season of use. About two weeks ago I sent you a letter detailing the department's current proposal for revising general provision 12.b. in the director's report, which provides for pre-season and post-season irrigation use. We will be interested in hearing your comments on the proposal and any suggestions you may have for improving it further.

CONVEYANCE LOSS

At this juncture I do not see how the department can amend its recommendation to include for conveyance loss an additional over and above the 0.50 cfs that we are now prepared to recommend. I have reviewed both the 1918 agreement you sent me and the 1911 Jones et al. v. Cook et al. decree (which is the decree referred to in the agreement). As recited in the agreement, the 1911 decree does indeed decree 150 inches of water to W. H. Clifford for the irrigation of a place of use containing 160 acres. The 1911 decree makes no reference to conveyance loss. The New International Mortgage Decree carries over the same right to 150 inches for the irrigation of the same place of use. It also makes no reference to conveyance loss. I agree that the 1918 agreement could be construed as recognizing that a conveyance loss of 50 inches would be incurred in delivering 100 inches to the field headgate. But if that is the case, it is evidence that conveyance loss was intended to be included within the total quantity decreed in the 1911 decree. Since the 1911 decreed right was carried over unchanged into the New International Mortgage decree, that likewise is evidence that the total quantity decreed therein to that right was intended to encompass a conveyance loss of 50 inches, or one-third of the total quantity decreed. If that in turn is true, then one-third of your portion of the original right decreed in the New International Mortgage likewise was intended to be used for conveyance loss.

MICROFILMED
DEC 04 1998

Dr. Ivan J. Gustafson
September 15, 1995
Page 3

I can find no recognition in the New International Mortgage decree of conveyance losses over and above the quantities decreed. The decree contains no language that can be construed as intending that the quantities decreed therein were to be measured at the field headgate rather than at the point of diversion. In fact, the careful descriptions of the locations of the various points of diversion leads to a contrary conclusion, viz. that the quantities were to be measured at the points of diversion and that conveyance losses were subsumed within them.

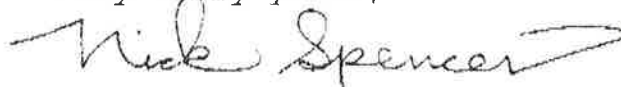
I recognize that the department has recommended a number of water rights containing a separate conveyance loss component over and above the field headgate requirement. However, where this is done the total quantity decreed and claimed is used as a cap-- that is, the total of the field headgate requirement plus the conveyance loss cannot exceed the total quantity decreed or claimed.

However, please do not read this explanation as suggesting that the department's position on this point is chiseled in stone. We presently are re-examining our records of all the other rights that have at any time been delivered through the diversion system serving your property to determine if a conveyance loss attributable to the delivery of your water right might somehow have been included as a component of some other right. There also may be ways to recognize your conveyance loss as a separate beneficial use right. I suggest that these are matters we should plan on discussing at the September 19th settlement conference. I would very much appreciate it if you could bring with you all other documents you have that you think will shed more light on the subject of conveyance loss. We are anxious to consider them.

I am not certain yet whether I will be meeting with you on Tuesday, or whether Mr. Brent King, another Deputy Attorney General representing the department, will be there instead. In any event Steve Clelland will be there, and the department's representatives will be prepared to discuss the results to date of our re-investigation of the conveyance loss question, possible alternatives for recognizing conveyance loss, and any other matters of concern to you.

Thank you very much for your consideration.

Very truly yours,



NICHOLAS B. SPENCER
Deputy Attorney General

MICROFILMED

DEC 04 1996

A36-00033 F

6-13-95
DCC

claim: (25") 0.50 cfs
18 Acres

$$= 0.0277 \text{ cfs/AC} \left(1.38''/\text{AC} \right)$$

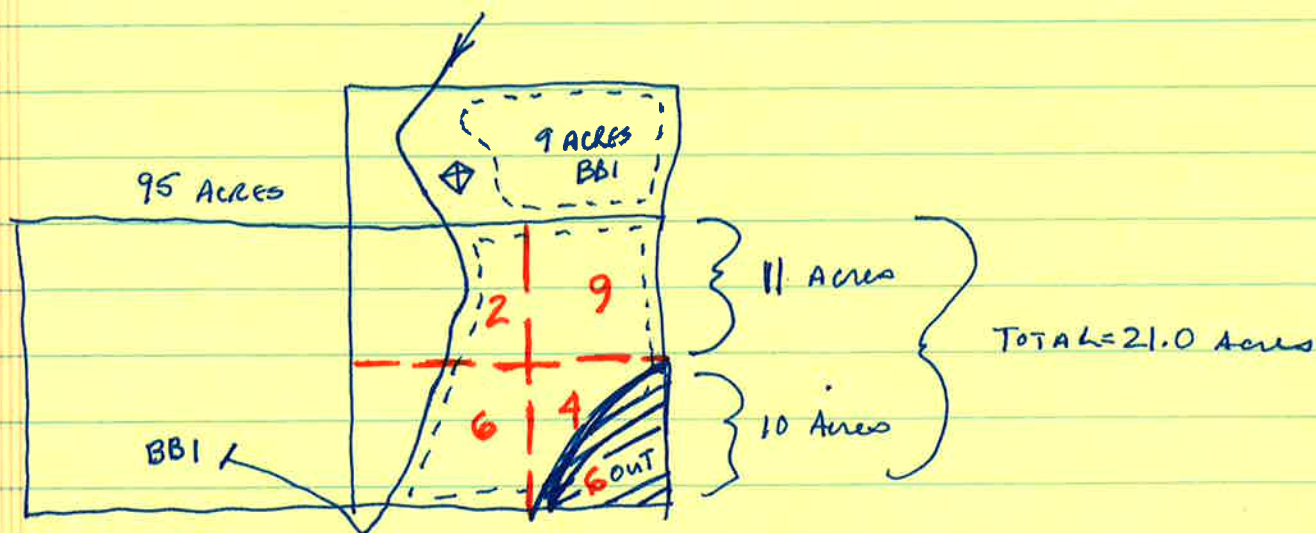
DR:

0.29 cfs	F.I.R.
0.10 cfs	C.Loss
<u>0.39</u>	TOTAL cfs

$$0.0967 \text{ cfs/AC} \left(4.8'' \right)$$

3 ACRES

* see also ASCS slide #58 for June 1980 Aerial



ASCS SLIDE #58

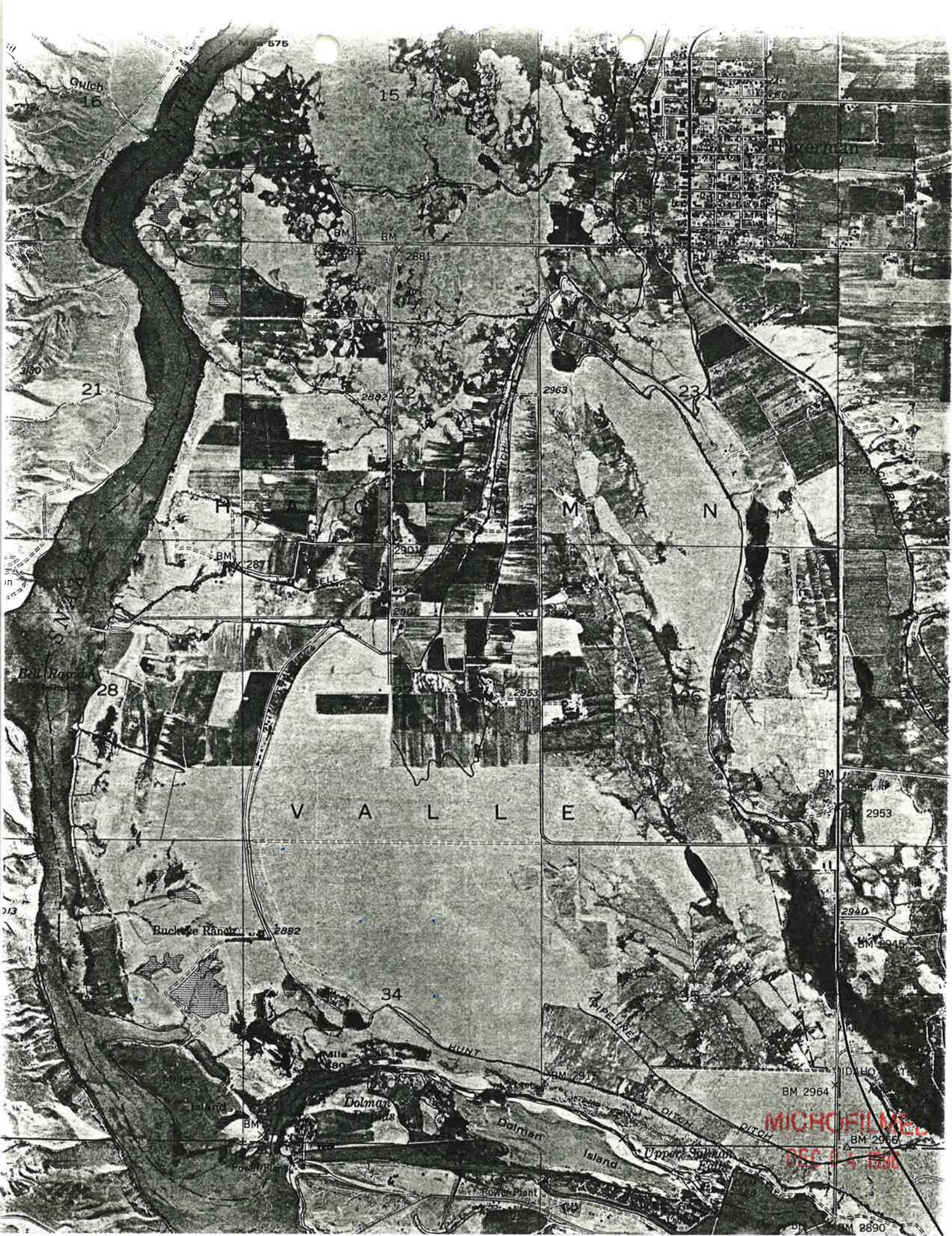
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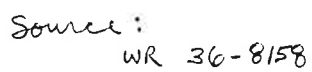
DEC 04 1996



CLAIM A36-00033F INIT SW
T. R. S. Q/Q 6-13-95
P/D _____
PHOTO OPQ AA69
DT.&ID. AUG. 4, 1974

WICKHAM 1955
DEC 4 1955





DEC 04 199

RECEIVED

MAY 15 1995

INITIAL DISCLOSURE

Department of Water Resources
Southern Region

Subcase No. 36-00033E

Name: IVAN J. GUSTAFSON

Address: Box 209

City/State/Zip: HAGERMAN, IDAHO 83332

Phone #: 208-837-6411

Attorney of Record: NONE

Note: Your attorney must file a written notice of appearance with the SRBA court in the subcase, if one has not already been filed.

THIS FORM SHALL NOT BE SENT TO THE SETTLEMENT MODERATOR. You must send a copy of this form to all parties to the subcase. You must bring the documents you identified in #3 and #4 to the Settlement Conference.

1. Identify the full name, title, work or home address and telephone number of each person with relevant information about this subcase.

- A. IVAN J. GUSTAFSON - CO-TRUSTEE of GUSTAFSON FAMILY
837-6411 TRUST. Box 209, HAGERMAN, ID. 833
B. GALEN CLEVERLY, 1960 BITTERROOT, TWIN FALL
ID. 82301

2. For each person identified in #1 above, describe or summarize their expected testimony if this subcase goes to trial.

- A. ① PURCHASE OF PROPERTY 3/1/90 WITH DISCREPANCY
② INSTALLATION OF GATED PIPE AND BENEFIT
USE ③ FIELD INSPECTION JUNE 1990 IN ERROR
④ AIRPLANE PHOTOS 1982-87 SCIENTIFICALLY
INACCURATE.
B. GALEN CLEVERLY - LAND IN QUESTION
WAS IRRIGATED 1984-1989

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DEC 04 1996

3. List the documents that support your position in this case. You must bring the originals (if available) of these documents to the Settlement Conference. List the title, date and description of the contents of each document. You do not have to send copies of these documents with the initial disclosure.

① WARRANTY DEED 3/5/90 - PROOF PURCHASE
② IDWR DOCUMENTS SUPPORTING PRIORITY
DATE

4. Identify any exhibit or other evidence that supports your position and identify those which you expect to offer at trial.

PHOTOS BY IDWR DATED 8/16/90
PHOTOS SHOWING BENEFICIAL USE

5. Give the full name, title and work or home address and telephone number of each person you expect to call as an expert witness at trial.

NONE

6. For each person identified in #5, summarize the facts and opinions you expect the expert to give.

I certify that I have read *Amended SRBA Administrative Order 9* and that I have fully complied with its requirements.

Dated: 5/12/95

Dean J. Gustafson
(Signature)

You must mail copies of this document to the following:

One Copy to:

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

One Copy to:

All Other Parties to the Subcase

R PROOF

CVR

MAPS

PHOTOS

MISC

MICROFILMED

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

Case No. 36-00033F -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)

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OCT 11 1994

DO NOT
RECHARGE

2. Person who filed objection:

Name: GUSTAFSON FAMILY TRUST
Address: C/O IVAN GUSTAFSON
PO BOX 209
HAGERMAN ID 83332

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.
7. ☒ Purposes of Use: I respond to the objection concerning the purpose(s) of use.
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.
9. ☒ Place of Use: I respond to the objection concerning:
 - 9b. ☒ The number of irrigated acres within each forty (40) acre subdivision.
10. ☒ Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.

11. |X| Remarks: I respond to the objection concerning the "remarks" listed with the water right.

14. |X| 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 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, 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 7, and all allegations of the objection regarding that item, IDWR responds that it recommended the purpose of use as claimed. The right includes stockwatering incidental to irrigation as set forth in General Provision 12.a. of the director's report.

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

(Over)

of use standards for various climatic areas throughout the state based on a 75% chance of a 24 degree fahrenheit frost. The irrigation season of use cannot exceed the period in which water may be beneficially used. The period of the year during which this water right may be used is consistent with the standard irrigation season of use for the area in which the place of use of this water right is located. Water may be used for irrigation outside the standard season of use, subject to the conditions set forth in general provision 12b of the director's report.

In further response to this objection item, IDWR responds that it recommended this element of the water right as claimed. By now seeking 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 9 and 9.b, and all allegations of the objection regarding those items, IDWR responds that the recommended water right accurately describes the total number of acres within each 40 acre subdivision upon which IDWR found water was beneficially used for irrigation under this water right.

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

it is simply a recommendation and not a final determination of the right. (6) The eventual decree by the SRBA Court of the amount of water beneficially used, even if less than the amount previously decreed, will not constitute a taking because the right is limited to that amount beneficially used.

In response to Statement of the Objection item 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:

(Over)

DEC 1 1991
UNRECORDED
No. of
Pages

Notice of Claim No. A36-00033F

5

IDWR's Response to Answer, Affirmative Defenses and Prayer
for Relief of Claimant

4

VERIFICATION (Must be Completed)

State of IDAHO

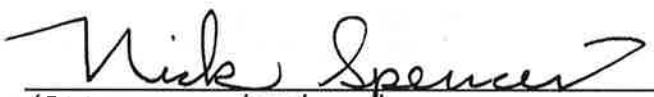
County of ADA

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 9th day of September,
1993.





Notary Public for Idaho
Residing at: Boise, Idaho
My Commission expires: July 31, 1997

(Over)

DOE & ADV
WICKBOLTING

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

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

A36-00011C

Date Received

8-02-1989

Receipt Number

S008740

R36-00033F

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

COPY

Please type or print clearly

1. Name of Claimant (s) Gene L. Jones Phone (702) 664-2292Mailing Address P. O. Box 789, Wendover, Utah Zip 840832. Date of Priority (Only one (1) per claim) March 8, 19023. Source of water supply (a) WEATHERBY SPRINGSwhich is tributary to (b) BILLINGSLEY CREEK4. a. Location of existing point of diversion is: Township 7S Range 14E Section 30,
SE 1/4 of NE 1/4 of SW 1/4, Govt. Lot, B.M., County of GOODING

Additional points of diversion if any: _____

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

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

Govt. Lot _____ B.M., County of _____

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

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

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. PIPE LINE FLUMES ETC.

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JAN 21 1995

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For IRRIGATION purposes from 3/15 to 11/15 amount 0.500 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.500 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 63.0 acre feet per annum.

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

10. Description of place of use:

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

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

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
7S	13E	27				X									X				18.0

Total number of acres irrigated 18.0

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

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

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

14. Remarks:

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Last Name Jones Ident No. _____

Copies: White 2 Yellow 1 1993

Scale: 2 inches equals 1 mile

TWP 7S RNG 13E SEC 27 SE 1/4 NE 1/4 SW 1/4

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JAN 21 1993

Last Name Jones Ident No.

Copies: White-State, Yellow-Claimant

Basis of Claim (check one) ☒ Special Use ☐ Posted Notice ☐ License ☐ Permit ☐ Decree

If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. Signature (s)

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

Number of attachments _____

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

Signature of Claimant (s) X Alan Jones Date 7-27-89

Date _____

For Organizations: I do solemnly swear or affirm that I am _____ Title _____
of _____ Organization _____, that I have signed the foregoing
document in the space below as _____ Title _____ of _____ Organization _____
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____
Title and Organization _____ Date _____

State of Idaho/or _____)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 2nd day of August 19 89

SEAL

Notary Public Robert V. Horstall

Residing at Twin Falls, Idaho

My Commission Expires January 16, 1995

Please Print Name

17. Notice of Appearance:

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

Signature _____

Address _____

Date _____

Last Name Jones Ident. Number _____

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JAN 21 1993
Copies White-State, Yellow-Glaurant

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.

RECEIVED

APR 30 1993

Department of Water Resources
Adjudication Bureau

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

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

Case No. A36-00033F
(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,)

36-00033F -0001/
93-04-0032

Respondents.

INSTRUCTIONS

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

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

(Over)

1993 OCT 11
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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: Gustafson Family Trust, c/o Ivan Gustafson

Address: P. O. Box 209

Hagerman, Idaho 83332

Briefly describe your interest in this water right:

Water right decreed 3/22/32 in New

International Bank v. Idaho Power Company

with a priority date of 3/18/1902

2. Owner of the water right:

Name: Gustafson Family Trust, c/o Ivan Gustafson

Address: P. O. Box 209

Hagerman, Idaho 83332

3. If this objection is filed by an attorney:

Attorney Name: Patrick D. Brown & Penelope Parker

Attorney Address: Hepworth, Nungester & Lezamiz

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

Attorney Phone No.: (208) 734-7510

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

II. STATEMENT OF THE OBJECTION

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

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

(Over)

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2011-10-10
UNCLASSIFIED

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.

Maximum quantity: as decreed; name: see paragraph 2, page 2;

purpose of use: add stockwater; period of use: 1/1 - 12/31;

place of use: 18 acres; remarks: strike everything other than

last sentence "water is diverted. . ."

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



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

See Hagerman Water Right Owners, Inc.'s

Compendium "A"

VERIFICATION (Must be Completed)

State of Idaho

County of ~~Twin Falls~~ Gooding

Ivan Gustafson & Lucille E. Gustafson, 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.

Lucille E. Gustafson Co-Trustee
Ivan Gustafson - Co-Trustee
Signature of person filing objection

By: [Signature]

(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 19th day of April,
1993.

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

(Over)

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OCT 11 1994

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: Gustafson Family Trust
Owner's address: c/o Ivan Gustafson, P. O. Box 209
Hagerman, Idaho 83332

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 7 - Beneficially used for purposes set forth in notice of claim.

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 9 - Director's Report fails to accurately state the place of use.

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

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.

V.

DESCRIPTION OF THE WATER SYSTEM: BASIN 36

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

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

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

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

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

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

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

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

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

VI.

GENERAL PROVISIONS

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

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

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

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

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

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

The objectors admit paragraphs a. and b.

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

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

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

The objectors deny the averments within this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(DIRECTOR'S REPORT PART II)

I.

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

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

(DIRECTOR'S REPORT PART III)

I.

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

VIII.

AFFIRMATIVE DEFENSES

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

AFFIRMATIVE DEFENSE NO. 1

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

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

AFFIRMATIVE DEFENSE NO. 2

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

AFFIRMATIVE DEFENSE NO. 3

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

AFFIRMATIVE DEFENSE NO. 4

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

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

AFFIRMATIVE DEFENSE NO. 5

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

AFFIRMATIVE DEFENSE NO. 6

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

AFFIRMATIVE DEFENSE NO. 7

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

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AFFIRMATIVE DEFENSE NO. 8

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

AFFIRMATIVE DEFENSE NO. 9

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

AFFIRMATIVE DEFENSE NO. 10

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

AFFIRMATIVE DEFENSE NO. 11

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

AFFIRMATIVE DEFENSE NO. 12

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

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AFFIRMATIVE DEFENSE NO. 13

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

AFFIRMATIVE DEFENSE NO. 14

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

AFFIRMATIVE DEFENSE NO. 15

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

AFFIRMATIVE DEFENSE NO. 16

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

AFFIRMATIVE DEFENSE NO. 17

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

AFFIRMATIVE DEFENSE NO. 18

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

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

AFFIRMATIVE DEFENSE NO. 19

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

AFFIRMATIVE DEFENSE NO. 20

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

AFFIRMATIVE DEFENSE NO. 21

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

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AFFIRMATIVE DEFENSE NO. 22

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

AFFIRMATIVE DEFENSE NO. 23

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

AFFIRMATIVE DEFENSE NO. 24

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

AFFIRMATIVE DEFENSE NO. 25

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

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

AFFIRMATIVE DEFENSE NO. 26

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

AFFIRMATIVE DEFENSE NO. 27

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

WHEREFORE, the objectors pray for judgment as follows:

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

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(WATER\21530ANS)



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 1, 1993

Patrick D. Brown
Hepworth, Nungester and Lezamiz
133 Shoshone St. N.
P.O. Box 389
Twin Falls, ID 83303-0389

Re: Notice of Appearance

Dear Mr. Brown:

We received your Notice of Appearance on behalf of Hagerman Water Owners, Inc. and its individual members on February 10, 1993. The records listed on the notice were updated with some exceptions.

Claim numbers with "A" prefixes identify claims filed in the SRBA. Claim numbers without prefixes identify recommendations in the Director's Report. The following table identifies claimants for which you filed a notice of appearance, but the number you referred to is actually the identification of the recommendation. They have been updated with the notice information.

Claimant's Name	Recommendation No. (no "A" prefix)
Bybee, Gertrude B. Owsley	36-00042A 36-00041C
Candy, Walter W. & Margaret	36-00135B
Crandlemire, Roger C.	36-00134C 36-00135C
Gustafson Family Trust/Gustafson, Ivan J. & Lucille co-trustees	36-00033F
McFaddan, Dan H. & Irma R.	36-00048A
Muller, Manfred	36-00035J
Zink, Basil Lester & Myrle Hyde	36-00103F

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The following is a list of claims that have been updated with the notice information, however, there is a discrepancy between IDWR records and the notice list (see third column).

Claimant's Name as listed on Notice of Appearance	As Claimed/ As Recommended	Claim No. or Claimant's Name in IDWR's Records
Anderson, Anita G.	A36-00050D/36-00050D	Andersen (name spelling is different)
Brailsford, Robert H.	A36-04260/36-04260	A36-04260B/36-04260B (claim was split--"B" suffix)
Brooks, Allen L. & Andree	A35-00060	A36-00060/36-00060 (Basin 36 instead of Basin 35)
Crandlemire, Roger C. & George C.	A36-00113J/36-00113J	Crandlemire, Roger C. (George C. not listed as claimant)
Gisler, Harry R.	A36-00021B/36-00021B	A36-00021/36-00021 (claim was renumbered)
Glauner, Frank L. & Joan	A36-00039E/36-00039E	Jean instead of Joan
Gustafson Family. Trust/Gustafson, Ivan J. & Lucille co-trustees	A36-00011C/36-00033F	Gustafson, Ivan J. (not listed as a trust)
Johnson, Ira L. & Hugnette M.	A36-07142/36-07142	Johnson, Ira L. (Hugnette M. not listed as claimant)
Joint Hagerman School Dist. 233	A36-15463/36-15463	Original claim & IDWR records show school dist. as #3.
Jones, John W., Jr.	A36-00068/36-00068 A36-00069/36-00069 A36-07071/36-07071 A36-00070/36-00070	Jones, John W. Jr. & Deloris D. (Deloris D. is included as a claimant)

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Claimant's Name as listed on Notice of Appearance	As Claimed/ As Recommended	Claim No. or Claimant's Name in IDWR's Records
Mueller, Manfred	A36-00034D/36-00035J	Muller (name spelling is different in IDWR records)
Strange, Wm. (Penelope Turn- er-remainder man)	A36-00006/36-00006 A36-00007/36-00007 A36-00008/36-00008	Strange, Wm. & Louise (Louise is included as a claimant, Penelope Turner is not in records)
Veenendaal, Dick J.	A36-00108A/36-00108A A36-00039C/36-00039C	Veenendaal, Dick J. & Sigrid E. (Sigrid E. is included as a claimant)
Wiens, M. J., Jr.	A36-80317	A36-08317/36-08317 (no. was transposed on notice)
Wiens, M. J., Jr.	A36-00098/36-15384	36-15384 (claim was combined with no. 36-00141 into no. 36- 15384)
Wiens, M. J., Jr.	A36-00141/36-15384	36-15384 (claim was combined with no. 36-00098 into no. 36- 15384)

The following claims have not been updated with the notice information because of the discrepancies listed in the third column.

Claimant's Name	Claim No. as listed on Notice of Appearance	Discrepancy Between Notice of Appearance and IDWR Records
Hagerman Gun Club	A36-00100/36-00100 A36-00099/36-00099 A36-07233/36-07233 A36-07172/36-07172 A36-10249/36-10249	Owners are listed as Bob Porter and Fred Surbaugh

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OCT 11 1994

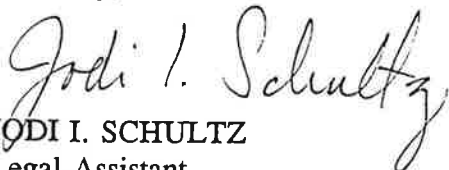
Mr. Patrick D. Brown
March 1, 1993
Page 4

Claimant's Name	Claim No. as listed on Notice of Appearance	Discrepancy Between Notice of Appearance and IDWR Records
Ya-Ta-Hay Investments, Inc.	A36-07875/36-07875	No record of this claim no., nor any other claim no. for claimant other than A36- 10283A/36-10283A (as listed)

Please review the claimants and claim numbers and let me know if you have any questions or problems with the claims as listed in IDWR's records. Also, please review the claims in the last table. We need to solve these discrepancies before IDWR's records are updated with the notice information. My phone number is 327-5444.

Please note we have received your supplemental and second supplemental notices of appearance and are currently working to update those records. We will inform you if there are any discrepancies.

Sincerely,


JODI I. SCHULTZ
Legal Assistant
Idaho Department of Water Resources

cc: IDWR Southern Region

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RECEIVED
FEB 10 1993
Department of Water Resources

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\HAGERMAN.NOA\lmr)

9
10
11
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18
19
20
21
22
23
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

* * * * *

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

Case No. 39576

12
13 The State of Idaho, ex rel.
14 R. Keith Higginson in his
15 official capacity as director
16 of the Idaho Department of
17 Water Resources,

NOTICE OF APPEARANCE

15 Petitioner,

16 vs.

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

19 Respondents.

* * * * *

21
22 PLEASE BE NOTIFIED that the firm of Hepworth, Nungester
23 & Lezamiz, Chartered, hereby appears on behalf of Hagerman Water



Hepworth,
Nungester,
& Lezamiz

NOTICE OF APPEARANCE - 1

MICROFILMED
OCT 11 1994

1 Users, Inc. and its individual members:

2	Anderson, Anita G.	A36-00050D
	Babington Lynn J. & Kathy	A36-00003C
3	Banbury Pipe Co., Inc.	A36-10906
	Banbury Pipe Co., Inc.	A36-02038
4	Big Bend Irrigation & Mining Co.	A36-00192
	Big Bend Irrigation & Mining Co.	A36-00133
	Big Spring Water User's Assoc.	A36-00022
5	Big Springs Water User's Assoc.	A36-00023
	Big Springs Water User's Assoc.	A36-15166
6	Blastock, Alma E.	A36-00108B
	Bolduc, Mark E.	A36-00103C
7	Boyer, Dale E. & Elaine M.	A36-00079
	Brailsford, Robert H.	A36-04260
8	Brooks, Allen L. & Andree	A35-00060
	Brooks, Allen L. & Andree	A36-07346
9	Bybee, Gertrude B. Owsley	A36-00042A
	Bybee, Gertrude B. Owsley	A36-00041C
	Candy, Walter W. & Margaret	A36-00135B
10	Candy, Walter W. & Margaret	A36-00134A
	Clouser, Doris H. & John F.	A36-00090A
11	Clouser, Doris H. & John F.	A36-00089A
	Crandlemire, Roger C. & George C.	A36-00113H
12	Crandlemire, Roger C. & George C.	A36-00112B
	Crandlemire, Roger C. & George C.	A36-00111B
	Crandlemire, Roger C. & George C.	A36-00113J
13	Crandlemire, Roger C. & George C.	A36-00110B
	Crandlemire, Roger C.	A36-00134C
14	Crandlemire, Roger C.	A36-00135C
	Crandlemire, Roger C.	A36-10140
15	Crandlemire, Roger C.	A36-10141
	DeVries, Abraham & Hermina	A36-00055AF
16	Dice, Philip F. & Judith A.	A36-00041A
	Dice, Philip F. & Judith A.	A36-10405
	Erwin, Frank C. & Peggy	A36-00092
17	Fleming, Michael J. & Paul F.	A36-00064B
	Flint, William E. and Vera C.	A36-00110A
18	Flint, William E. and Vera C.	A36-00111A
	Flint, William E. and Vera C.	A36-00112A
19	Flint, William E. and Vera C.	A36-10168
	Fuell, Keith L. & Jolene	A36-00086C
20	Gardner, Barbara & Robert B.	A36-00003B
	Gardner, Barbara	A36-00003J
21	Gisler, Harry R.	A36-00021B
	Gisler, Bradley	A36-00077C
22	Glauner, Frank L. & Joan	A36-00039E
	Grigg, Mattie P. & Golden T.	A36-10283B
	Gustafson Family Trust/Gustafson	A36-00033F
23	Ivan J. & Lucille co-trustees	
	Hagerman Gun Club	A36-00100



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& Lezamiz

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OCT 11 1994

1	Hagerman Gun Club	A36-00099
	Hagerman Gun Club	A36-07233
2	Hagerman Gun Club	A36-07172
	Hagerman Gun Club	A36-10249
3	Hagerman Water Users Assoc.	A36-15168
	Jensen, Alice	A36-00055BC
	Johnson, Ira L. & Huguetta M.	A36-07142
4	Joint Hagerman School Dist 233	A36-15463
	Jones, John W., Jr.	A36-00068
5	Jones, John W., Jr.	A36-00069
	Jones, John W., Jr.	A36-07071
6	Jones, John W., Jr.	A36-00070
	Kipp, Rudy B. & Elberta M.	A36-10119
7	Kipp, Rudy B. & Elberta M.	A36-10120
	Kipp, Rudy B. & Elberta M.	A36-07658
	Kiser, John & Karl Woodall & Sons, Inc	A36-00071A
8	Kiser, John & Karl Woodall & Sons, Inc	A36-00075
	Korbis, George J. & Nellie W.	A36-00039N
9	Laughlin, Craig J. & Rita D.	A36-7089
	Laughlin, Craig J. & Rita D.	A36-00051D
10	Littlefair, Larry & Tara	A36-0121
	Littlefair, Larry & Tara	A36-10055
11	Littlefair, Larry & Tara	A36-00119
	Littlefair, Larry & Tara	A36-00120
12	Lloyd, Cleave C.	A36-04142
	Lloyd, Cleave C.	A36-00003G
	McFaddan, Dan H. & Irma R.	A36-2169
13	McFaddan, Dan H. & Irma R.	A36-00048A
	McFaddan, Dan H. & Irma R.	A36-00049
14	Morris, Howard & Rhonda	A36-00063
	Morris, Howard & Rhonda	A36-00061
15	Morris, Howard & Rhonda	A36-00062
	Mueller, Manfred	A36-00035J
16	Norwood Subdivision/	A36-15240
	Ruby Springs Water Company	A36-07092A
17	Potter, Mark B. & Susan H.	A36-00039J
	Rawson, Frank S. & Carol A.	A36-00123A
18	Reese, Bruce W. & LaRose A.	A36-04091
	Reese, Bruce W. & LaRose A.	A36-10231
19	Rue, James O. & Beverly Jane	A36-07142A
	Shaffer, Roger	A36-00034B
	Simcoe, Doyt H. & Roxie J.	A36-00003F
20	Simpson, Michael, on behalf of	A36-0123E
	Josephine Simpson Estate	
21	Simpson, Michael, on behalf of	A36-0096A
	Josephine Simpson Estate	
22	Strange, Wm. (Penelope Turner-remainder man)	A36-00006
	Strange, Wm. (Penelope Turner-remainder man)	A36-00007
	Strange, Wm. (Penelope Turner-remainder man)	A36-00008
23	Veenendaal, Dick J.	A36-00108A
	Veenendaal, Dick J.	A36-00039C



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OCT 11 1994

1	Vernon, Edith L.	A36-00003E
	Walmsley, Fred J. & Susan K.	A36-00039D
2	Ward, John P. & Rush, Ruth E.	A36-00094-A
	Ward, John P. & Rush, Ruth E.	A36-00090F
3	Watkins, Paul E. & Inez S.	A36-00106
	Watkins, Paul E. & Inez S.	A36-08099
4	Wiens, M.J., Jr.	A36-07229
	Wiens, M.J., Jr.	A36-07081
	Wiens, M.J., Jr.	A36-80317
5	Wiens, M.J., Jr.	A36-00098
	Wiens, M.J., Jr.	A36-00097
6	Wiens, M.J., Jr.	A36-02002
	Wiens, M.J., Jr.	A36-00101
7	Wiens, M.J., Jr.	A36-00141
	Wiens, M.J., Jr.	A36-10520
	Woolley, Max J. & Blanche	A36-00039M
8	Ya-Ta-Hay Investments, Inc.	A36-10283A
	Ya-Ta-Hay Investments, Inc.	A36-07875
9	Zink, Basil Lester & Myrle Hyde	A36-00103F

10 the respondents in the above-entitled action, as counsel of record
 11 for said Hagerman Water Users, Inc. and said individuals.

12 DATED This 9 day of February, 1993.

13 HEPWORTH, NUNGESTER & LEZAMIZ

14
 15 By Patrick D. Brown
 16 PATRICK D. BROWN
 Attorneys for Respondents

17
 18 CERTIFICATE OF MAILING

19 The undersigned, a resident attorney of the State of
 20 Idaho, with offices at 133 Shoshone St. North, P.O. Box 389, Twin
 21 Falls, Idaho 83303, and one of the attorneys for the respondents
 22 in this matter, certifies that she caused to be mailed a copy of
 23 the above and foregoing NOTICE OF APPEARANCE on the 9 day of



Hepworth,
 Nungester,
 & Lezamiz

MICROFILMED
OCT 11 1994

1 February, 1993, to:

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

6 Clive Strong
7 Chief Natural Resources Division
8 Office of Attorney General
9 Statehouse
10 Room 210
11 Boise, Idaho 83720

12 David Shaw
13 Adjudications Bureau Chief
14 Department of Water Resources
15 1301 North Orchard
16 Boise, Idaho 83706

17 United States Department of Justice
18 Environment and Natural Resources Division
19 550 West Fort Street, Box 33
20 Boise, ID 83734

21 
22 Patrick D. Brown
23



Hepworth,
Nungester,
& Lezamiz

NOTICE OF APPEARANCE - 5

MICROFILMED
OCT 11 1994

Dean J. Hagerman
Box 209
Hagerman, ID 83332



MICROFILMED
OCT 11 1993

RECEIVED

JAN 19 1993

Department of Water Resources
Southern Region Office

Idaho Dept. of Water Resources
222 Shoshone St. East
Twin Falls, Idaho 83301

Samuel Hagerman
Box 209
Hagerman, Idaho 83332



Idaho Dept. of Water Resources
222 Shoshone St. E.
Twin Falls, Idaho 83308

RECEIVED
JAN 11 1993
Department of Water Resources
Southern Region Office

MICROFILMED
OCT 11 1994

RECEIPT
For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES

Receipt No: 6015285

RECEIVED

Date: 1/19/1993
Time: 11:40:32

JAN 19 1993

Department of Water Resources
Southern Region Office

Received
From:

GUSTAFSON IVAN

Type of Payment

Program Acct Class

Amount

FEE FOR COPIES OF ADJUDICATION CLAIM
64100

229 21 1760

5.87

Total

\$5.87

CHECK 2569

Region: SOUTHERN

Signature: R. Foster

MICROFILMED
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

12-Jan-1993

IVAN J GUSTAFSON
PO BOX 209
HAGERMAN ID 83332

RE: Copy of SRBA File(s): 36-00033F

Dear Mr. Gustafson:

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

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

\$5.87

Sincerely,


Jeanie Robertson
Records Clerk

Encl:


63 x 5 3.15
encl. .14
post. 2.58
4 5.87

MICROFILMED
OCT 11 1994

1/7/93
(Date)

RECEIVED

JAN 11 1993
Department of Water Resources
Southern Region Office

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 36-60033F.

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,

Lynn J. Gustafson
(Name)

Box 209
(Address)

Hagerman, Idaho 83332
(City, State, Zip Code)

Phone 837-6411

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

MICROFILMED
OCT 11 1994

NOTICE OF ERROR

RESPONSE

CORRECTED R PROOF

MICROFILMED

JAN 21 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

R. KEITH HIGGINSON
Director

October 19, 1992

IVAN J GUSTAFSON
BOX 209
HAGERMAN ID 83332

Re: Snake River Basin Adjudication (SRBA)
Notice of Error Response
Recommended Right No. 36-00033F

Dear Mr. Gustafson,

You recently filed a Notice of Error with IDWR concerning the water right referenced above. No change to our recommendation has been made at this time.

At the time of our field investigation, it was determined that three acres were currently irrigated. It was noted by the field agent that you intended to irrigate more than this in the future. Our recommendations are intended to represent the extent of your right as of November 19, 1987.

Also, you have requested an increase in the amount of water recommended for diversion under this right. Our investigation included consideration of your soil types, irrigation methods and the established weather and crop correlations as identified by local research. The amount of water recommended for your water right is the amount determined to be adequate for the beneficial use you have described. No further increase will be recommended without evidence to support the beneficial use of additional flows.

After reviewing our explanation, you may still disagree with the proposed IDWR recommendations. You may file an objection with the Court after you receive the final recommendation of your water right. The objection process will be explained at the time you receive this final recommendation.

MICROFILMED

JAN 21 1993

Please contact this office if you have other questions or concerns.

Sincerely,

A handwritten signature in cursive script, reading "Roxanne McCarthy".

Roxanne McCarthy
Sr. Water Resource Agent
Adjudication Bureau

RM:rm

MICROFILMED
JAN 21 1993

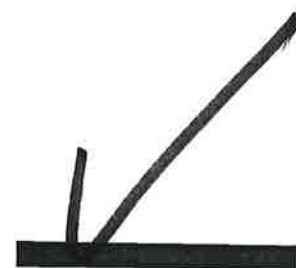
R PROOF

CVR

MAPS

PHOTOS

MISC



MICRO LIVED

JAN 2 1993

AUG-24-1992

NOTICE OF ERROR FORM

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

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

RECEIVED

SEP 21 1992

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: 019-04-1992

1. Water right number: 36-00033 F

2. Name: IVAN J. GUSTAFSON

Address: BOX 209
HABERMAN, IDAHO 83332

Weekday Telephone Number: 837-6411

MICROFILMED

JAN 21 1992

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 copy.)

3. Describe the portion of proposed recommendation with which you disagree:

DECREASE of C.F.S. FROM 0.500 TO
0.29 CFS. AT FIELD HEADGATE
3 ACRES IRRIGATED IS INCORRECT. I AM IRRIGATING
APPROX 18 ACRES.

4. Describe the changes you wish to have made in the proposed recommendation:

RESTORE C.F.S. TO 0.5 WHICH HAS BEEN
ALLOWED FOR YEARS AT THE FIELD HEADGATE
CHANGE ACRES IRRIGATED TO 18 A. I
DON'T KNOW WHERE 3 A CAME FROM.

5. Describe why you disagree with the proposed recommendation:

① I WAS ADJUDICATED 0.5 CFS BY DISTRICT COURT IN
1990. ALSO 18 ACRES.
② 0.5 CFS HAS BEEN ALLOWED ON THIS PROPERTY FOR YEARS.
③ ALL THE WATER HAS BEEN PUT TO BENEFICIAL USE. I
HAVE INSTALLED 1470 FT. OF BURIED 8" PIPE AND 1500 FEET OF

6. Date: 9/11/92
SURFACE GATED PIPE. I CANNOT IRRIGATE THIS
PROPERTY ON 0.29 CFS. ALL THE 0.5 CFS
HAS BEEN PUT TO BENEFICIAL USE.

SIGNATURE

Ivan J. Gustafson

Water Right Number - R36-00033F

Prefix Translation: RESEARCH

Old (D) Number -

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

*** C - CURRENT OWNER ***
GUSTAFSON

IVAN

1 - PO BOX 209
2 -
3 -
City- HAGERMAN
Phone - 208-837-6411

State- ID Zip- 83332

*** O - ORIGINAL OWNER ***
JONES

GENE L

1 - PO BOX 789
2 -
3 -
City- WENDOVER
Phone - 702-664-2292

State- UT Zip- 84083

+ - - 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 0.390
+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.390 9.0+ - - - - - - - - - - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
07S 13E 27 NE SE 3.0 01 IRRIGATION (47) GOODING

Total Acres: 3.0

+ - - Diversion Means - PIPELINE, FLUMES, DITCHES, GATED PIPE; FLOOD IRRIGATION

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - NONE

+ - - - - - - - - - - - - - Remarks - - - - - +
A DIVERSION RATE OF 0.29 CFS AT THE FIELD HEADGATE IS
RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.
0.10 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE

MICROFILMED

JAN 21 1993

Water right number - R36-00033F

Prefix Translation: RESEARCH

+ - - - - - Remarks - - - - - +

LOSSES IN DELIVERY OF THIS RIGHT.
WATER IS DIVERED THROUGH THE BAR S DITCH, CURREN DITCH AND
NORTH PIPELINE.

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

3600033

+ - - - - - Conditions of Approval - - - - - +

No Conditions of Approval found.

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

00/00/0000

+ - - - - - Comments - - - - - +

Date: 08/05/1992 User Id: THORNTON Subject: RENUMBERED RIGHT
THE CORRECT OWNERSHIP FOR THE BASIS OF THIS CLAIM IS 36-00033. NO BASIS FOR CLAIMING 36-00011 PORTION.
ORIGINALLY CLAIMED UNDER A36-00011C.

+ - - Audit Fields - - +

08/06/92 CHRISTEN

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

| | | | | | |
|----------------------|--------------|-----------------------|--------------|-------------------------|---------|
| Court Report Filing | - 00/00/0000 | Field Inspection Made | - 08/20/1990 | Civil Case Number | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | - | Old Case Number | - |
| Response Filed Date | - 00/00/0000 | Verified Date | - 08/06/1992 | Old Judicial District | - |
| Claim Received Date | - 08/02/1989 | Last Amended Date | - 00/00/0000 | Temporary Right | - P |
| | | Receipt Number | - S008740 | Water District | - 36A |
| | | POU Ownership Flag | - Y | Federal/State Indicator | - S |
| | | Name Connector | - AND/OR | Presumption Flag | - |
| | | | | Notice of Error Flag | - |

MICROFILMED
JAN 21 1993

Verify see

MICROFILMED
JAN 21 1993

Water Right Number **R36-00011C**

Prefix Translation: RESEARCH

Old (D) Number -

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

*** C - CURRENT OWNER ***
GUSTAFSON

IVAN

1 - PO BOX 209
2 -
3 -
City- HAGERMAN
Phone - 208-837-6411

State- ID Zip- 83332

RENUMBERED RIGHT

1 -
2 -
3 -
City- X
Phone - 208-000-0000

State- ID Zip- 0

*** O - ORIGINAL OWNER ***
JONES

GENE L

1 - PO BOX 789
2 -
3 -
City- WENDOVER
Phone - 702-664-2292

State- UT Zip- 84083

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
03/08/1902 ERROR IN REGION Z - SEE REMARKS

+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
WEATHERBY SPRINGS BILLINGSLEY CREEK
RENUMBERED RIGHT

+ - - - - 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 0.050 12.00

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.050 12.00 9.0

+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
07S 13E 27 NE SE 3.0 01 IRRIGATION (47) GOODING

Total Acres: 3.0

+ - - Diversion Means - PIPE LINE FLUMES ETC.

+ - - Non-Irrigation Use - STOCK

| | | | | | |
|----------------------|--------------|-----------------------|--------------|-------------------------|---------|
| Court Report Filing | - 00/00/0000 | Field Inspection Made | - 08/05/1992 | Civil Case Number | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | - | Old Case Number | - |
| Response Filed Date | - 00/00/0000 | Verified Date * | - 08/05/1992 | Old Judicial District | - |
| Claim Received Date | - 08/02/1989 | Last Amended Date | - 00/00/0000 | Temporary Right | - P |
| | | Receipt Number | - S008740 | Water District | - |
| | | POU Ownership Flag | - Y | Federal/State Indicator | - S |
| | | Name Connector | - AND/OR | Presumption Flag | - |
| | | | | Notice of Error Flag | - |

JAN 21 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

Renumbered

15:35:25
06/28/90

R36-00033 F

CLAIM NUMBER: A36-000116

| 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 | | See
8-5-92 | DB | |
| POINT OF DIV | Y | | | N | | | | |
| SOURCE | | | | N | | | | |
| PLACE OF USE | Y | | 8-16-90 SCW
8-20-90 SCW/HHT | Y | 1,4,5,6 | | | |
| DIV. AMOUNT
CFS/VOLUME | Y | | | Y | 6. Decrease | | | |
| CONSUMPTIVE USE | - | | | N | | | | |
| PURPOSES | | | | N | | | | |
| PERIOD OF USE | Y | | | Y | | | | |
| BASIS OF CLAIM | Y | | | Y | Renumbered | | | |
| REMARKS | | | | | | | | |

"VERIFIED BY" CODES

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

Renumbered:

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

R36-00033 F

MICROFILMED
JAN 21 1998

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

15:35:25
06/28/90

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-00011C

LAST: JONES
ADDRESS: P.O. BOX 789
CITY: WENDOVER
PHONE NUMBER: 702-664-2292

FIRST: GENE L.
STATE: UT ZIP: 84083

NEW OWNER:
IVAN GUSTAFSON
P.O. BOX 209
HAGERMAN, ID 83332

OWNER CODE: C

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

DATABASE
N

FIELD
EXAMINER

NO REMARKS IN CLAIM

FIELD EXAMINATION INFORMATION

CONTACT PERSON: IVAN GUSTAFSON

PHONE NUMBER: () -

DATE OF FIELD EXAM: 8/16/90

APPOINTMENT MADE: Y() N(X)

TIME: 1:45 A() P(X)

ACCOMPANIED BY: 8/20/90 SAME

PHONE NUMBER: () -

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / REMARKS:

Photos taken. 8/20/90 spoke to new owner (see memo)
It appears previous owners have allowed the water rights on this place
to lapse in use - periods over 5 years. The allowed irrigation for this right
is based largely on the NAPP photo results. Since this is the end of the ditch
it naturally irrigated portions of this pasture. Current owner is in process
of expanding the use of the water and the possibility exists he will try to
irrigate the entire farm based on this Decree & BBI.

(7-17-92) Based on conversation w/ Mr. Gustafson, it sounds like he has
scu Expanded the use of this right to include all the land over to the Burkage Ranch.
(see 1-9-91)

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JAN 21 1993

A. AJ CLAIM: # A36-00011C PRIORITY DATE: 03-08-1902 STAGE: D
B. WR RECORD: # 36-00011 PRIORITY DATE: 03-08-1902 STAGE: D

C. FIELD EXAM REQUIRED?
DUE TO PRIORITY DATE DISCREPANCY? (Y/N) DATABASE FIELD
N EXAMINER

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

REMARKS:

RECOMMENDED PRIORITY DATE:
03-08-1902

REVIEWED BY

DATE

8-16-90

MICROFILMED

JAN 21 1993

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

| RIGHT | TWP. | RGE. | SEC. | 1/4 | 1/4 | 1/4 | LOT | CNTY |
|------------|------|------|------|-----|-----|-----|-----|---------|
| A36-00011C | 07S | 14E | 30 | SE | NE | SW | | GOODING |

OTHER AJ CLAIMS WITH SAME AJ POD

| A PREFIX | R PREFIX |
|------------|----------|
| A36-00086G | NONE |
| A36-00119 | |
| A36-00033D | |
| A36-00063 | |
| A36-00116 | |
| A36-00086F | |
| A36-00086H | |
| A36-00011B | |
| A36-00011A | |
| A36-00105 | |
| A36-00120 | |
| A36-00061 | |
| A36-00062 | |

WR RECORDS IN SAME 40 ACRE TRACT

36-00009
36-00010
36-00015
36-00016
36-00017
36-00033
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 |
|----------|------|------|------|-----|-----|-----|-----|---------|
| 36-00011 | 07S | 14E | 30 | | NE | SW | | GOODING |

OTHER WR RECORDS WITH SAME WR POD

36-00009
36-00010
36-00015
36-00016
36-00017
36-00033
36-00041

AJ CLAIMS IN SAME 40 ACRE TRACT

| A PREFIX | R PREFIX |
|------------|----------|
| A36-00009 | NONE |
| A36-00033C | |
| A36-00060 | |
| A36-00086G | |
| A36-00119 | |
| A36-00033D | |
| A36-00063 | |

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JAN 21 1993

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
A36-00105
A36-00120
A36-00061
A36-00062

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JAN 21 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> |

REMARKS:

Springs Water passes thru Jones fish farm to 325" Bar S Ditch to Curren Ditch to North Pipeline and open ditch to final POI. Due to limited Delivery head the water users have established a Rotational use with the water. (per Mr. Gene Loranger)

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

| TWP. | RGE. | SEC. | 1/4 | 1/4 | 1/4 | LOT | COUNTY |
|------|------|------|-----|-----|-----|-----|--------|
|------|------|------|-----|-----|-----|-----|--------|

as claimed

No. 1

SOURCE: WEATHERBY SPRINGS

TRIB: BILLINGSLEY CREEK

REVIEWED BY: SCC DATE: 8-24-90

A. ROOT WATER RIGHT NUMBERS: A36-00011A
A36-00011B
A36-00011C

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~~ | | JONES, GENE L. | A36-00011C / 9.0 | - / | 37.0 | ~~0~~ | ~~0~~ |
| | | | | | | BIG BEND IRRIGATION & MINING | CA36-02007 / 40.0 | - / | | | |
| | | | | | | BIG BEND IRRIGATION & MINING | CA36-00192 / 40.0 | 36-00192 / | | | |
| | | | | | | REA, EDNA M. | A36-00033E / 17.0 | - / | | | |
| | | | | | | 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 | | | |
| 07S | 13E | 27 | NE | SE | | JONES, GENE L. | A36-00011C / 9.0 | - / | 23.0 | 3 | 3 |
| | | | | | | BIG BEND IRRIGATION & MINING | CA36-02007 / 40.0 | 36-02007 / | | | |
| | | | | | | BIG BEND IRRIGATION & MINING | CA36-00192 / 40.0 | 36-00192 / | | | |
| | | | | | | 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 | | | | | | | A36-00011C | 18.00 | 60.00 | | 3.0 |

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

C. FIELD EXAM REQUIRED?

DUE TO POU DISCREPANCY? (Y/N)

DATABASE
Y

FIELD
EXAMINER

YES

change claim

*Water right needs to reflect
this bases of claim, no ownership
found for portion of 36-00011.*

8-5-92

SC

JAN 21 1993

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PRESUMPTION FLAG:

REMARKS:

Currently Expanding POU acres.

RECOMMENDATIONS:

TOTAL ACRES: 3.0

REVIEWED BY: See

DATE: 8-24-90

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JAN 21 1993

A. AJ CLAIMED USES:

PURPOSES
A36-00011C IRRIGATION

MONTH/DAY
FROM 03-15 TO 11-15

4-1 10-31

DIVERSION QUANTITY
.500 CFS

TOTAL DIVERSION RATE/VOLUME CLAIMED

.500 CFS

B. WR RECORDED USES:

PURPOSES
36-00011 IRRIGATION

MONTH/DAY
FROM TO

DIVERSION QUANTITY
1.300 CFS

TOTAL DIVERSION RATE/VOLUME CLAIMED

1.300 CFS

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

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

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

Y(~~X~~) N()

RECOMMEND TO WR STANDARDS OR OTHER?

Y() N(~~X~~)

Explain in remarks, below.

REMARKS:

MICROFILMED
JAN 21 1993

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y() N(~~X~~)

AJ TOTAL CLAIMED DIVERSION RATE: 0.500 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 1.300 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?

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

FIELD
DATABASE EXAMINER
Y N

B.

FLOW MEASUREMENT

MEASUREMENT METHOD _____, SEE ATTACHED CALCULATIONS.

C. ARE OTHER WATER RIGHTS USED? Y() N(~~X~~) 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 |
|------------|-----------------------|--------------------------------|-----------|----------------|-----------|----------------|
| A36-00011C | WEATHERBY SPRINGS | JONES , GENE L. | 0.500 | 0.027 | | |
| A36-02007 | TUCKER SPRINGS, UPPER | BIG BEND IRRIGATION & MINING C | 4.000 | 0.006 | 2895.90 | 4.58 |
| A36-00033E | WEATHERBY SPRINGS | REA , EDNA M. | 0.750 | 0.044 | | |
| 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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JAN 21 1993

D.

RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE 0.03
ACRES 3.0 x 0.02 CFS/ACRE = 0.06 CFS
(Taken from p/u review)

1b. CALCULATIONS

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 = 63.0 AF/A

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

TOTAL CONSUMPTIVE USE 9.0 AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

ACRES 3.0 x DIVERSION VOL. AF/A FOR AREA 4.0 =

TOTAL DIVERSION VOLUME 12.0 AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y() N()

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

per Hubble analysis
allow 0.29 cfs

Conveyance
losses = 0.10 cfs

TOTAL = 0.39 cfs

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RECOMMENDATIONS:

| REC. PURPOSES | REC. PERIOD FROM TO | REC. DIV RATE CFS | REC. DIV VOL. AF/A | REC. CONS. USE |
|----------------------|---|---|---|---|
| IRRIGATION | <u>4-1</u>
~~03-15~~ <u>10-31</u>
~~11-15~~ | DATABASE EXAMINER
~~0.500~~ <u>0.05</u> | DATABASE EXAMINER
~~18.0~~ <u>N/A</u> | DATABASE EXAMINER
~~63.0~~ <u>9.0</u> |
| TOTAL FOR THIS RIGHT | | ~~0.500~~ <u>0.39</u> | | ~~63.0~~ |

REVIEWED BY: SC

DATE: 1-9-91

MICROFILMED

JAN 21 1993

~~was proportional use $\frac{1.3 \text{ cfs}}{80 \text{ Ac.}} = 0.016 \text{ cfs/Ac.}$~~
(allowed rate)

Revised per Hubble Irrigation analysis 7/16/92
HHR

F01

D02

SHR

MICROFILMED
JAN 21 1993

A. CHECK ONLY THE FOLLOWING THAT APPLY:

| | ACCEPTED
AS CLAIMED | NEEDS
REVIEW |
|------------------------------|------------------------|-----------------|
| OWNERSHIP _____ | () | (X) <i>OK</i> |
| FORFEIT/ABANDON _____ | () | (X) |
| ADDITIONAL DIV. AMOUNT _____ | () | (X) |

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-00011

| TOTAL DIVERSION RATE OF WR SPLITS | DATABASE
1.300 | EXAMINER
_____ | CFS |
|-----------------------------------|-------------------|-------------------|-----|
|-----------------------------------|-------------------|-------------------|-----|

SPLITS:

| OLD RIGHT
NUMBERS | CURRENT
CLAIM NUMBERS | DIVERSION
RATE | CURRENT "R"
CLAIM NUM. | "R" DIV.
RATE | WR RIGHT
NUMBERS | DIVERSION
RATE |
|----------------------|--------------------------|-------------------|---------------------------|------------------|---------------------|-------------------|
| A36-00011 | A36-00011A | 0.800 | - | | 36-00011 | 1.300 |
| A36-00011 | A36-00011B | 0.500 | - | | 36-00011 | 1.300 |
| A36-00011 | A36-00011C | 0.500 | - | | 36-00011 | 1.300 |
| TOTAL CFS | | 1.800 | | | | 1.300 |

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
N

REMARKS:

See A36-00011 for Review

AUTHENTICATION:

SIGNATURE: _____

DATE: *1-9-91*

NAME OF FIELD EXAMINER: _____

TITLE: _____

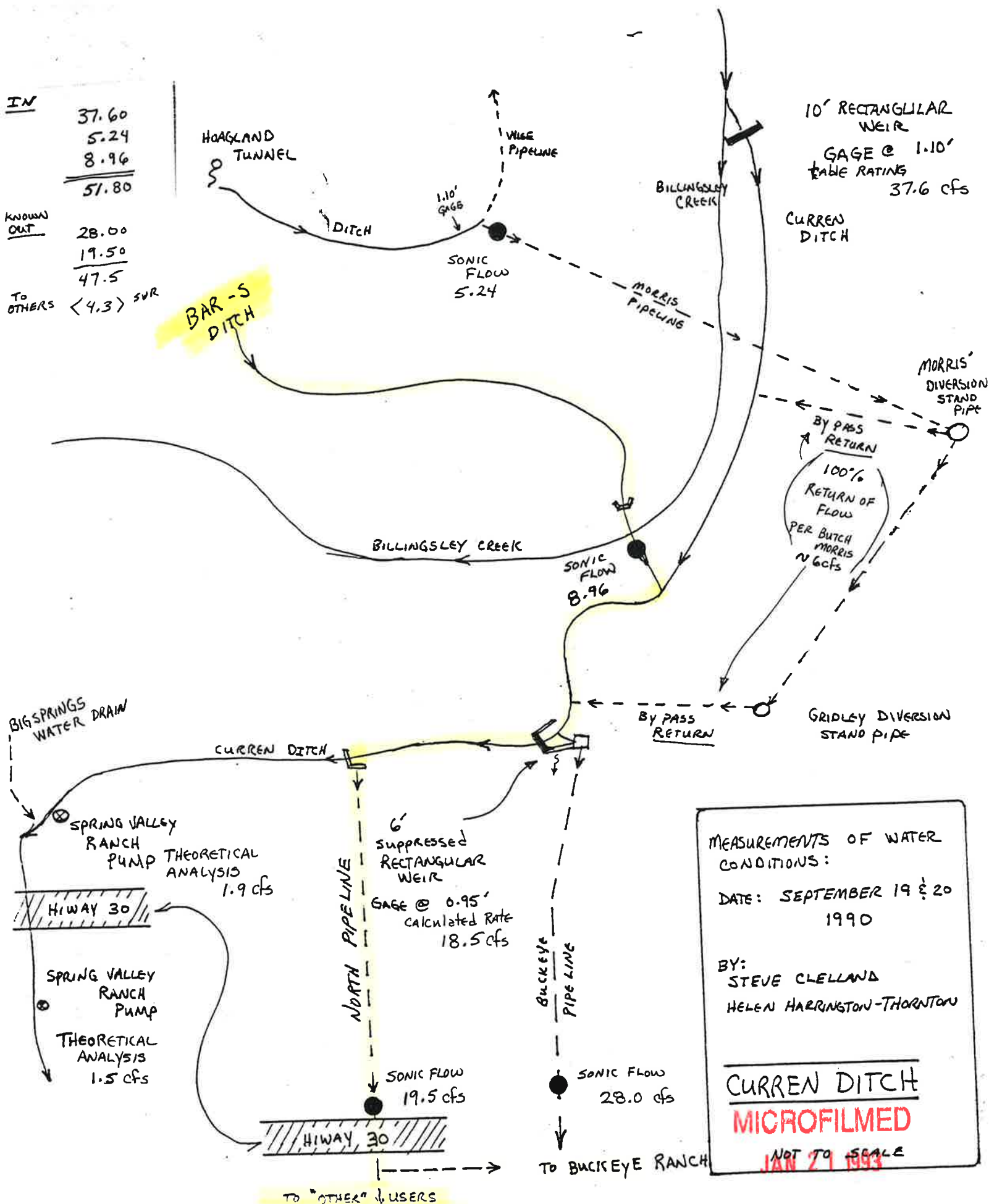


IN
 37.60
 5.24
 8.96

 51.80

KNOWN
 OUT
 28.00
 19.50
 47.5

TO
 OTHERS <4.3> SVR



MEASUREMENTS OF WATER CONDITIONS:

DATE: SEPTEMBER 19 & 20 1990

BY: STEVE CLELLAND
 HELEN HARRINGTON-THORNTON

CURREN DITCH
 MICROFILMED

NOT TO SCALE
 JAN 21 1993



FLOOD IRRIGATION



FLOOD IRRIGATION



PHOTOS
8-16-90
By SCC

MICROFILMED

JAN 21 1993

GUSTAFSON
A36-00011C



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JAN 21 1993

NON - IRRIGATION

END OF
BIG BEND
DITCH



GUSTAFSON

A36-00011C

GRADED BORDER EVALUATION

Job name: GUSTAFSON
By: SCC

Location: A36-00011C BAR-S DITCH
Date: Jul 22, 1992

Roughness coefficient (n)= 0.250 Intake family (If)=2.00
Slope (S)= 0.0200 ft/ft Border width (W)= 15 ft
Net application (Fn)= 1.84 inches Border length (L)= 402 ft
Inflow time (Ti)= 8 hours, 0 minutes

| Flow per
Border
(cfs) | Unit
Flow
(cfs/ft) | Gross
Application
(in) | Deep
Percolation
(in) | Runoff
(in) | Application
Efficiency
(percent) | Notes |
|-----------------------------|-----------------------------------|------------------------------|-----------------------------|----------------|--|-------|
| 0.09 | Gross depth is less than required | gross application depth | | | | |
| 0.10 | Gross depth is less than required | gross application depth | | | | |
| 0.11 | Gross depth is less than required | gross application depth | | | | |
| 0.12 | Gross depth is less than required | gross application depth | | | | |
| 0.13 | Gross depth is less than required | gross application depth | | | | |
| 0.14 | Gross depth is less than required | gross application depth | | | | |
| 0.15 | Gross depth is less than required | gross application depth | | | | |
| 0.16 | Gross depth is less than required | gross application depth | | | | |
| 0.17 | Gross depth is less than required | gross application depth | | | | |
| 0.18 | Gross depth is less than required | gross application depth | | | | |
| 0.19 | Gross depth is less than required | gross application depth | | | | |
| 0.20 | Gross depth is less than required | gross application depth | | | | |
| 0.21 | Gross depth is less than required | gross application depth | | | | |
| 0.22 | Gross depth is less than required | gross application depth | | | | |
| 0.23 | Gross depth is less than required | gross application depth | | | | |
| 0.24 | Gross depth is less than required | gross application depth | | | | |
| 0.25 | Gross depth is less than required | gross application depth | | | | |
| 0.26 | Gross depth is less than required | gross application depth | | | | |
| 0.27 | Gross depth is less than required | gross application depth | | | | |
| 0.28 | Gross depth is less than required | gross application depth | | | | |
| 0.29 | 0.019 | 16.62 | 14.45 | 0.33 | 11.1 | |

allow 0.29 cfs

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JAN 21 1993

CONVERSATION MEMORANDUM

EMPLOYEE: STEVE CLELAND

FILE A36-00011 C

RE: irrigation methods

DATE 7-17-92

NAME OF PARTY

IVAN GUSTAFSON

837-6411

He said he runs a 14 day rotation with
24 Hour sets. Using gated pipe he opens about
25-30 gates per set

He Says he runs all the way over to the Bucheye Ranch
and that's why it takes 14 days to cover the land.

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JAN 21 1993

IRRIGATION ANALYSIS WORKSHEET

CLAIM NO. A36-00011C
 DATE 7/16/92
 AGENT HHT

CLAIMANT/SYSTEM DESCRIPTION Gustafson
 IRRIGATION SYSTEM ----- Gravity - Flood
 ANALYSIS METHOD ----- BORDER ~~FURROW~~
 TYPE OF CROP ----- Pasture
 MAXIMUM PROFILE DEPTH ----- 36" INCHES
 INTAKE FAMILY ----- 2.0

 SOIL TYPE KEC ----- SYSTEM TOTAL
 ACRES PER TYPE 3 ----- 3 ACRES
 SOIL PROFILE WHC 3.68 -----
 DESIGN IRR $\frac{1}{2}$ WHC 1.84 -----

 CROP REQUIREMENT:

REPORT AREA & FIGURE NO. ----- Bliss 10-8

DAILY CROP REQUIREMENT:

6.44 (MM/DAY) / 25.4 (FACTOR IN MM/IN) ----- 0.25 IN/DAY

ACTUAL ROTATION PRACTICED ----- 14 DAYS

DRY DAY ROTATION ϕ IRR DAY ROTATION 14

THEORETICAL ROTATION:

1.84 DESIGN IRR 10.25 CROP REQ = 7.36 DAYS *allowed 7 days since the 14 day rate includes Expanded Area.*

 DESCRIPTION OF FIELD:

AVERAGE LENGTH RUN ----- 402

TOTAL WIDTH OF FIELD ----- 325

CHECK 402 L * 325 W / 43,560 = 3 ACRES

% SLOPE ----- 2%

BORDER WIDTH -----

325 WIDTH OF FIELD / 7 DAYS OF ROTATION (46)

~~FURROW / CORRUGATION WIDTH~~ -----

SET TIME ----- 24 Hrs

15' @ 8 hour sets

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JAN 21 1993



ate of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

16-Nov-1990 09:35

Ivan Gustafson
P O Box 209
Hagerman, ID 83332

Re: Change of OWNERSHIP Claim(s) A36-00011C & A37-12518 (New Number) A36-15104

Dear Applicant(s):

The Department has changed the name of the above-listed adjudication water right(s) as you have requested.

Please review the enclosed copy(s), should you have any questions, please contact this office.

Sincerely,

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

Judy Givens
Secretary

/jg

Enclosures

MICROFILMED

JAN 21 1993

CONVERSATION MEMORANDUM

NAME OF PARTY IVAN GUSTAFSON
EMPLOYEE: SCC/HHT

DATE 8-20-90
FILE A36-00011 C

RE: _____

He recently purchased this property from Gene Jones.
Need to send Change of Ownership:

IVAN GUSTAFSON, P.O. Box 209, Sent
HAGERMAN, ID 83332 8-24-90

In Fall of 1989, pvc pipe was installed to eliminate ditches
along the road side. Gated pipe now irrigates a ^{3 ACRE} piece of the
pasture South of the Driveway. That is all that is irrigated
by Weatherby Springs Water. Other irrigation is from Big Buck
Irrigation.

* NOTE: MR. GUSTAFSON Plans to Expand Acres irrigated,
as money allows, to include all the 20 Acre parcel. This
has never been irrigated and is not irrigated now.

MICROFILMED

JAN 21 1993

CONVERSATION MEMORANDUM

NAME OF PARTY Ivan Gustafson
EMPLOYEE: SEC/HHT

DATE 8/20/90
FILE A36-00011C

RE: Gustafson purchased property belonging to Gene Jones
(Sec. 27) last spring.

Ran buried pipe from corner of NE⁴NE⁴, Sec. 27 to
SE⁴NE⁴ last fall.

Pumps water from Big Bend Ditch to field in NE⁴NE⁴
§ Nolan of road in SE⁴NE⁴

→ from Weatherby Springs.

See NAPP photo; except for small corner in SE⁴NE⁴ all
it has never been irrigated in SW⁴NE⁴ & SE⁴NE⁴ from
Weatherby Spgs.

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JAN 21 1993

RECEIVED

JAN 23 1979

APR 21 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

Case 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 20 1993
21

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

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

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

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

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

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

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

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

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JAN 21 1993
21

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,

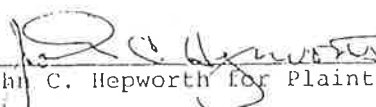
6 (b) in the event said open ditch is not enclosed
7 as set out in subparagraph (a) immediately above, that plaintiffs
8 shall continuously allow 325 miners inches of water from Weatherby
9 Springs to be delivered into the Bar S ditch from the outlet of
10 its fish hatchery operation from March 1 until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

1 PARRY, ROBERTSON, DALY & LARSON

2 AND

3 BENOIT AND ALEXANDER

4
5 By *Robert Alexander*
6 Bob Alexander for Defendants
7 Buckeye Land Company and Reservoir
Land Company

8 CHURCH, CHURCH, & SNOW

9
10 By *Thomas H. Church*
11 For Defendants
12 Ellis & Weir, Inc. *by Paul H. Weir*

13 JAMES HOBDEY & VARIN

14
15 By *Clifford Peterson*
16 For Defendants
17 Clifford Peterson; Omer E. Loranger
18 and Beverly B. Loranger; Wallace W.
19 Bates; Richard P. Sauer and Lucille B.
Sauer; Sheldon G. Carleton and Bar-
bara S. Carleton; Edna M. Rea;
Stanely J. Hoskovec and Betty
Hoskovec; and Alfred H. Cole.

20
21 O R D E R

22 IT IS SO ORDERED.

23 *1-22-79*
24 *151 Douglas D. Kramer*
District Judge

25
26
27
28 STIPULATION OF FACTS -4-

MICROFILMED

JAN 24 1993

21

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

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.

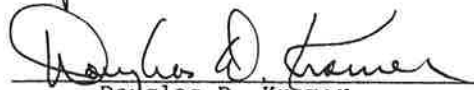
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JAN 28 1983

21

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

MICROFILMED

JAN 28 1993

21

P36-00033F

DECREED RIGHT SPLIT ANALYSIS

PARENT RIGHT NO. 36-00033TOTAL DIVERSION RATE 3.00 cfsPREPARATION 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 |

MICROFILMED

JAN 21 1993

R36-00033 F

SC 8-3-92

CONVEYANCE LOSS - WORSTELL

| REACH | LENGTH
(FT) | AVE
WIDTH
(FT) | SEEPAGE
(FT/DAY) | WORSTELL DELIVERY
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:

these rights share in the
 conveyance loss:

36-00011B
 36-00044 339
 36-00033B
 36-00105
 36-00189A

36-00011A 36-00198A
36-00044 33F 36-15157
 36-00033C 36-00044
 36-00033D 36-00042A
 36-00033E 36-11142

36-00015

- But their portions are not
 identified in the Decree.

Total conveyance
 losses
 0.03
 0.05
 0.02
 0.10 cfs

MICROFILMED
 JAN 21 1993

UPPER BAR-S DITCH

5-3-92

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 21 1993

* THESE RIGHTS SHARE THIS PORTION:

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
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REPRESENTS THE LOSSES ASSIGNED TO THE DELIVERIES IN THE REACH
FLOW = TOTAL FLOW AT BEGINNING OF EACH REACH

36-00015
36-00189A
36-11142
36-00198A
36-15157
36-00011B
36-00011C 33F
36-00011D 33G
36-00033B
36-00033C
36-00033D
36-00033E

$$0.61 \div 12 = 0.05 \text{ cfs per RIGHT}$$

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

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 | |

LOWER BAR-S DITCH

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

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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 REPRESENTS THE LOSSES ASSIGNED TO THE DELIVERIES IN THE REACH
 FLOW = TOTAL FLOW AT BEGINNING OF EACH REACH

THESE RIGHTS SHARE THIS
CONVEYANCE LOSS:

~~36-00011B *~~ ~~36-00033B *~~
 36-0004C33F 36-00033C
~~36-0004B *~~ 36-00033D
 33G
 36-00033E

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

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JAN 21 1993