

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: **A63-04248A**
Date Received: 12/29/1992
Receipt No: W015780
Received By: SRW

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

1. Name: DANIEL J SILVERIA 208-455-1128
Address: 19850 W USTICK
CALDWELL ID 83605

OR

Name: CANDACE K SILVERIA 208-455-1128
Address: 19850 W USTICK
CALDWELL ID 83605

2. Date of Priority: MAY 25, 1948

3. Source: LOWER EMBANKMENT DRAIN Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
04N	04W	35	SW	SW			CANYON

5. Description of diverting works:
PUMP, PIPELINE & SPRINKLERS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.440		

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

8. Total consumptive use is 77.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	04W	35	SW	SW		IRR	22.0

SCANNED

APR 22 2008

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	22.0
					Total Acres	22.0

11. Place of use in counties: CANYON

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

13. Other Water Rights Used:
BOISE PROJECT-7 ACRES

14. Remarks:

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): *Daniel J. Silver* Date: 12-28-92

Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 29 day
of Dec. 19 92

Linda Werner
Notary Public

Seal

Residing at LINDA WERNER
RESIDING AT EAGLE, IDAHO
My Commission Expires MY COMMISSION EXPIRES DEC. 8, 1994

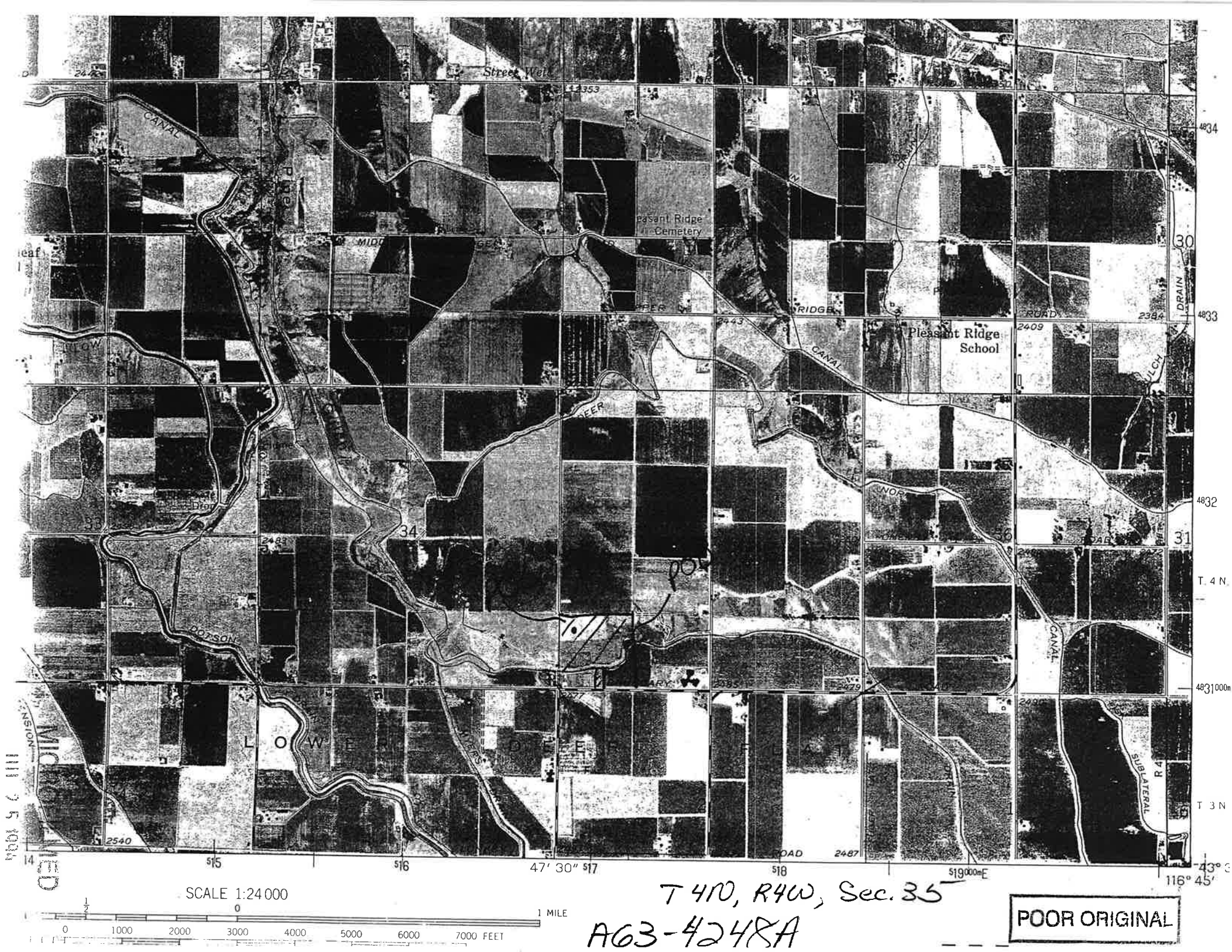


EXHIBIT "A"

A part of the Southwest Quarter of the Southwest Quarter of Section 35, Township 4 North, Range 4 West of the Boise Meridian in Canyon County, Idaho, more particularly described to wit:

Commencing at the Northwest corner of the said Southwest Quarter of the Southwest Quarter, the INITIAL POINT of this description; thence

South 89° 59' 01" East 1318.79 feet, along the North line of the said Southwest Quarter of the Southwest Quarter, to the Northeast Quarter thereof; thence

South 0° 04' 37" East 509.85 feet, along the East line of the said Southwest Quarter of the Southwest Quarter, to a point on the South bank of the Lower Embankment Drain; thence meandering along said South bank

South 83° 17' 48" West 47.15 feet, to a point on a curve; thence curving to the left 92.08 feet along a curve having a radius of 68.12 feet, a central angle of 77° 27' 05" a tangent of 54.62 feet and a chord bearing

South 44° 34' 16" West 85.23 feet; thence

South 5° 50' 43" West 199.20 feet, to a point on a curve; thence curving to the right 84.68 feet along a curve having a radius of 101.15 feet, a central angle of 47° 57' 54", a tangent of 45.00 feet and a chord bearing

South 29° 49' 40" West 82.23 feet; thence

South 53° 48' 38" West 156.88 feet, to a point on a curve; thence curving to the right 97.27 feet along a curve having a radius of 170.34 feet, a central angle of 32° 43' 01" a tangent of 50.00 feet and a chord bearing

South 70° 10' 08" West 95.95 feet; thence

South 86° 31' 39" West 154.41 feet; thence leaving said South bank

South 0° 05' 46" East 345.91 feet, to a point on the South line of the said Southwest Quarter of the Southwest Quarter; thence

North 90° 00' 00" West 50.00 feet along the said South line; thence

North 0° 05' 46" West 342.88 feet, to a point on the said South bank; thence

South 82° 24' 06" West 271.32 feet, along said South bank; thence

North 0° 05' 46" West 25.00 feet, to a point on the centerline of the said Lower Embankment Drain; thence meandering along said centerline South 80° 04' 31" West 272.34 feet; thence

North 84° 10' 09" West 192.68 feet, to a point on the West line of the said Southwest Quarter of the Southwest Quarter; thence leaving said centerline North 0° 05' 47" West 1021.76 feet along the said West line to the INITIAL POINT of this description.

MICROFILMED

JUL 25 1994

**PIONEER TITLE COMPANY
OF CANYON COUNTY**

100 10TH AVE. SOUTH
NAMPA, IDAHO 83651
(208) 466-6100

**MR. & MRS. DANIEL J. SILVERIA
8595 STYNBROOK DRIVE
BOISE, ID 83704**

ESCROW NO. PN23957
RE: **BLACK/MURDOCK** TO
SILVERIA
DATE: 7-9-92

RECEIVED BY _____ DATE _____

In connection with the above numbered Escrow, we enclose the following:

(XX) Closing Statement COPIES AND COPIES OF ALL CLOSING DOCUMENTS FOR YOUR FILE,
INCLUDING THE ORIGINAL DEED AND DEED OF TRUST

- () Our Check # in the sum of \$
- () Deed recorded Instrument No.
- () Deed of Trust recorded Instrument No.
- () Note dated in the sum of \$
- () Title Insurance Policy No.
- () Fire Insurance Policy in the amount \$

()
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()

Any other documents to which you are entitled will be forwarded as soon as they are available.

Yours Very Truly,
PIONEER TITLE COMPANY
OF CANYON COUNTY

By: Blanca Acosta
BLANCA ACOSTA

MICROFILMED

JUL 25 1994

Shurte, Jan

From: Jarvis, David (ENRD) [David.Jarvis2@usdoj.gov]
Sent: Thursday, January 28, 2010 9:42 AM
To: Ridgeway, Renea
Cc: Williams, Ray; Shurte, Jan; Spencer, Nick
Subject: RE: Proposed Language - 63-4248A, et al

Renea, I just wanted to let you know that we filed our motion to withdraw today. Dave

From: Ridgeway, Renea [mailto:Renea.Ridgeway@idwr.idaho.gov]
Sent: Monday, January 25, 2010 10:54 AM
To: Jarvis, David (ENRD)
Cc: Williams, Ray; Shurte, Jan; Spencer, Nick
Subject: FW: Proposed Language - 63-4248A, et al

Hi David,

The last of the SF5s for the rights listed below, namely, 63-4248A has been returned to our office. I am sending it in tomorrow's mail to the Court for filing. Just giving you a heads up so you can prepare BOR's withdrawal notice.

63-31633
63-4248A
63-4256A
63-4256C
63-4256E
63-9212

Please let me know if you require any additional assistance on our end. Thanks!

Renea Ridgeway
Paralegal
Office of the Attorney General
Natural Resources Division
Idaho Department of Water Resources
(208) 287-4814 office
(208) 287-6700 fax

Sent to S.O. on 1-21-10

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

In Re SRBA

Case No. 39576

) Subcase No. 63-04248A
)
)
)
)
)
)
)

STANDARD FORM 5

**STIPULATED ELEMENTS OF A
WATER RIGHT**

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

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

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

CLAIMANTS

Daniel J. & Candace K. Silveria

OBJECTOR

Wilder Irrigation District


Matthew Johnson, Attorney

11-12-2009
Date


Albert P. Barker, Attorney

1-4-10
Date

STANDARD FORM 5 – 63-04248A

United States on behalf of
Bureau of Reclamation

IDWR Concurrence:

Date _____

Date _____

CERTIFICATE OF MAILING

I certify that on _____, 2009, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

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

2. Copies to:

CANDACE K SILVERIA
DANIEL J SILVERIA
Represented by:
MATTHEW A JOHNSON
5700 E FRANKLIN RD, STE 200
NAMPA, ID 83687-7901

WILDER IRRIGATION DISTRICT
Represented by:
PAUL L ARRINGTON
113 MAIN AVE W, STE 303
PO BOX 485
TWIN FALLS, ID 83303-0485

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

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

Signature of person or attorney mailing the form

SF5 Right No. 63-4248A

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

RIGHT NUMBER: 63-4248A

NAME AND ADDRESS: DANIEL J SILVERIA
19850 W USTICK
CALDWELL ID 83607

CANDACE K SILVERIA
19850 W USTICK
CALDWELL ID 83607

SOURCE: LOWER EMBANKMENT DRAIN TRIBUTARY: SNAKE RIVER

QUANTITY: 0.440 CFS

PRIORITY DATE: 05/25/1948

POINT OF DIVERSION:
T04N R04W S35 SWSW Within CANYON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	03/01 11/15	0.440 CFS

PLACE OF USE: IRRIGATION in CANYON County

T04N R04W S35	NWSW	2.00	T04N R04W S35	SWSW	20.00
---------------	------	------	---------------	------	-------

22 ACRES TOTAL

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

While the Lower Embankment Drain is a natural water way, it is also a federal facility and has been utilized as part of the Boise Project since 1908 as invoked by the United States through its reservation authority provided by the Act of August 30, 1890 (43 U.S.C. 945). As a federal facility, the Lower Embankment Drain, to the extent allowed by law, may be rerouted, piped, or its flow of water interrupted if determined appropriate to better serve Boise Project purposes.

The source of this water right includes waste water. The right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

This right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

This right when combined with all other rights shall not exceed 0.02 cfs per acre.

SF5 Right No. 63-4248A

may
O/B
NBS
J

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

RIGHT NUMBER: 63-4248A

NAME AND ADDRESS: DANIEL J SILVERIA
19850 W USTICK
CALDWELL ID 83607CANDACE K SILVERIA
19850 W USTICK
CALDWELL ID 83607

SOURCE: LOWER EMBANKMENT DRAIN

TRIBUTARY: SNAKE RIVER

QUANTITY: 0.440 CFS

PRIORITY DATE: 05/25/1948

POINT OF DIVERSION:

T04N R04W S35 SWSW Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.440 CFS

PLACE OF USE: IRRIGATION in CANYON County

T04N R04W S35	NWSW	2.00	T04N R04W S35	SWSW	20.00
---------------	------	------	---------------	------	-------

22 ACRES TOTAL

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

While the Lower Embankment Drain is a natural water way, it is also a federal facility and has been utilized as part of the Boise Project since 1908 as invoked by the United States through its reservation authority provided by the Act of August 30, 1890 (43 U.S.C. 945). As a federal facility, the Lower Embankment Drain, to the extent allowed by law, may be rerouted, piped, or its flow of water interrupted if determined appropriate to better serve Boise Project purposes.

The source of this water right includes waste water. The right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

This right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

This right when combined with all other rights shall not exceed 0.02 cfs per acre.

Shurte, Jan

From: KATHLEENMARION.CARR@sol.doi.gov
Sent: Thursday, September 03, 2009 12:06 PM
To: Shurte, Jan
Cc: pla@idahowaters.com; emcgarry@usbr.gov
Subject: Lower Embankment Drain = 1908
Attachments: Document.pdf

Jan,

Our information shows that the lower embankment drain was completed in 1908. So, that would be the date you should plug-in to the remark.

Thanks!

Kathleen

----- Forwarded by KATHLEEN MARION CARR/BOI/SOL/DOI on 09/03/2009 12:02 PM -----

"Martinson, John P" <JMartinson@usbr.gov>

To KATHLEEN MARION CARR/BOI/SOL/DOI@SOL

cc

09/03/2009 11:58 AM

Subject Lower Embankment Drain

Kathleen,

The Lower Embankment Drain was completed the same time as the Embankment in 1908. I also attached a map. Weirs on the dam collect water and sent it to a cement weir near the top of the embankment. It is then sent down to a collection point (I circled). There use to be an open drain almost running the extent of the embankment, but it is now in piped. It feeds into that collection point also. Then on the photo you can see two other drains also going into the Lower Embankment Drain.

I hope this helps.

John

-----Original Message-----

From: MARTINSON [mailto:jmartinson@pn.usbr.gov]
 Sent: Thursday, September 03, 2009 11:52 AM
 To: Martinson, John P
 Subject:

9/3/2009

Shurte, Jan

From: Paul Arrington [pla@idahowaters.com]
Sent: Thursday, September 03, 2009 7:58 AM
To: KATHLEENMARION.CARR@sol.doi.gov; Shurte, Jan
Cc: susan wildwood; David.Gehlert@usdoj.gov; emcgarry@usbr.gov; Matthew A. Johnson; Spencer, Nick; Williams, Ray; Ron & Pam Gastelecutto; Western Idaho Wes Porter; David.Jarvis2@usdoj.gov
Subject: RE: Proposed Language - 63-4248A, et al

Just to be clear, the rights that need the 2 comments (and to which BOR will withdraw its response) are:

63-31633
 63-4248A
 63-4256A
 63-4256C
 63-4256E
 63-9212

63-9212 may have fallen off the radar a little. This is a right from a different area than the groups. The Kanders are represented by Mr. Johnson and, if I recall correctly, we agreed that the resolution of that would follow along the same lines as this right – however, the comment will need tweaked a little because the Kanders divert out of the Christian Gulch Wasteway.

Paul L. Arrington
Barker Rosholt & Simpson LLP
 (208) 733-0700 - telephone
 (208) 404-9436 - mobile

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From: KATHLEENMARION.CARR@sol.doi.gov [mailto:KATHLEENMARION.CARR@sol.doi.gov]
Sent: Wednesday, September 02, 2009 4:29 PM
To: Shurte, Jan
Cc: susan wildwood; David.Gehlert@usdoj.gov; emcgarry@usbr.gov; Matthew A. Johnson; Spencer, Nick; Paul Arrington; Williams, Ray; Ron & Pam Gastelecutto; Western Idaho Wes Porter; David.Jarvis2@usdoj.gov
Subject: RE: Proposed Language - 63-4248A, et al

Thanks! We will prepare the withdrawal notices of our responses. I have the following water right numbers, if I have missed one, let me know:

63-04248A
 63-04256A
 63-31633
 63-04256
 63-04256

Kathleen

"Shurte, Jan" <Jan.Shurte@idwr.idaho.gov>

To "Paul Arrington" <pla@idahowaters.com>, "Ron & Pam Gastelecutto"
 <rpgast@clearwire.net>, KATHLEEN MARION CARR/BOI/SOL/DOI@SOL

9/3/2009

09/02/2009 04:23 PM

cc "susan wildwood" <darkfire@spro.net>, <David.Gehlert@usdoj.gov>,
<emcgarry@usbr.gov>, "Matthew A. Johnson"
<mjohnson@WHITEPETERSON.com>, "Spencer, Nick"
<Nick.Spencer@idwr.idaho.gov>, "Williams, Ray"
<Raymond.Williams@idwr.idaho.gov>, "Western Idaho Wes Porter" <wcjli@aol.com>
Subject RE: Proposed Language - 63-4248A, et al

Thank you all for your responses. We will prepare the revised SF5's and distribute them. If you have any questions, please feel free to let me know.

Thanks again,

Jan

From: Paul Arrington [mailto:pla@idahowaters.com]
Sent: Wednesday, September 02, 2009 4:09 PM
To: Ron & Pam Gastelecutto; KATHLEENMARION.CARR@sol.doi.gov
Cc: susan wildwood; David.Gehlert@usdoj.gov; emcgarry@usbr.gov; Shurte, Jan; Matthew A. Johnson; Spencer, Nick; Williams, Ray; Western Idaho Wes Porter
Subject: RE: Proposed Language - 63-4248A, et al

Wilder will agree to the remark as amended. Jan, go ahead and get the revised SF5's out to all the claimants. Include the revised crossing agreement language as well as the Janicek waste water language.

Thanks.

PaulL.Arrington

Barker Rosholt & Simpson LLP

(208) 733-0700- telephone

(208) 404-9436- mobile

9/3/2009

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From: Ron & Pam Gastelecutto [mailto:rpgast@clearwire.net]

Sent: Wednesday, September 02, 2009 3:54 PM

To: KATHLEENMARION.CARR@sol.doi.gov

Cc: susan wildwood; David.Gehlert@usdoj.gov; emcgarry@usbr.gov; Shurte, Jan; Matthew A. Johnson; Spencer, Nick; Paul Arrington; Williams, Ray; Western Idaho Wes Porter

Subject: RE: Proposed Language - 63-4248A, et al

Kathleen, this agreement works for us. Thanks for your time.

Ron & Pam Gastelecutto

rpgast@clearwire.net

-----Original Message-----

From: KATHLEENMARION.CARR@sol.doi.gov [mailto:KATHLEENMARION.CARR@sol.doi.gov]

Sent: Tuesday, September 01, 2009 7:25 PM

To: KATHLEENMARION.CARR@sol.doi.gov

Cc: susan wildwood; David.Gehlert@usdoj.gov; emcgarry@usbr.gov; Shurte, Jan; Matthew A. Johnson; Spencer, Nick; pla@idahowaters.com; Williams, Ray; Ron & Pam Gastelecutto; Western Idaho Wes Porter

Subject: Re: Proposed Language - 63-4248A, et al

All,

I have a proposal for your consideration. That is the claimants and the objector agree to sign the SF-5's with the attached stipulated remark as drafted and, subsequently agreed to by IDWR. Reclamation will not sign, but instead will withdraw its responses to the objections to the water right claims. That way, the settlement can occur, but without Reclamation as a party since the added language is problematic for us.

Let me know if this works for you or your client. Otherwise, I believe we will be having a meeting next week (hopefully, earlier than the time set as I have a conflict).

Regards,

Kathleen

Kathleen Marion Carr

KathleenMarion.Carr@sol.doi.gov

208-334-1911

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KATHLEEN MARION CARR/BOI/SOL/DOI

To susan wildwood <darkfire@spro.net>

9/3/2009

09/01/2009 01:18 PM

cc David.Gehlert@usdoj.gov, emcgarry@usbr.gov, "Shurte, Jan" <Jan.Shurte@idwr.idaho.gov>, "Matthew A. Johnson" <mjohnson@WHITEPETERSON.com>, "Spencer, Nick" <Nick.Spencer@idwr.idaho.gov>, pla@idahowaters.com, "Williams, Ray" <Raymond.Williams@idwr.idaho.gov>, Ron & Pam Gastelecutto <rpghost@clearwire.net>, Western Idaho Wes Porter <wcjlj@aol.com>

Subject Re: Proposed Language - 63-4248A, et al [Link](#)

I can't yet report that we are okay with it. Sorry.

Kathleen

Kathleen Marion Carr
KathleenMarion.Carr@sol.doi.gov
208-334-1911

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susan wildwood <darkfire@spro.net>

To "Matthew A. Johnson" <mjohnson@WHITEPETERSON.com>

09/01/2009 01:14 PM

cc "Shurte, Jan" <Jan.Shurte@idwr.idaho.gov>, KATHLEEN MARION CARR/BOI/SOL/DOI@SOL, "Spencer, Nick" <Nick.Spencer@idwr.idaho.gov>, "Williams, Ray" <Raymond.Williams@idwr.idaho.gov>, David.Gehlert@usdoj.gov, emcgarry@usbr.gov, pla@idahowaters.com, Ron & Pam Gastelecutto <rpghost@clearwire.net>, Western Idaho Wes Porter <wcjlj@aol.com>

Subject Re: Proposed Language - 63-4248A, et al

9/3/2009

Jan, this appears a good settlement. So send the respective SF-5s out to me for Armenta and Western Development. It looks like Kathleen won't have to change our meeting time!

Susan Wildwood

Matthew A. Johnson wrote:

Jan –

We're okay on this language for Silveria and Kushlan. Please send the SF-5s.

Matthew A. Johnson

WHITE PETERSON GIGRAY ROSSMAN NYE & NICHOLS, P.A.

CanyonPark at the Idaho Center

5700 E. Franklin Rd., Ste. #200

Nampa, ID 83687-7901

208.466.9272 (tel)

208.466.4405 (fax)

mjohnson@whitepeterson.com

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From: Shurte, Jan [mailto:Jan.Shurte@idwr.idaho.gov]

Sent: Monday, August 31, 2009 12:55 PM

To: susan wildwood; KATHLEENMARION.CARR@sol.doi.gov; Spencer, Nick; Williams, Ray

Cc: David.Gehlert@usdoj.gov; emcgarry@usbr.gov; Matthew A. Johnson; pla@idahowaters.com; Ron & Pam Gastelecutto; Western Idaho Wes Porter

Subject: RE: Proposed Language - 63-4248A, et al

Good afternoon,

9/3/2009

Nick and I have come up with proposed language that we feel satisfies the Department's concerns for the administration side of this language along with clarifying that the remark itself does not constitute a grant of legal authority to modify the drain, but rather that modification can only occur in accordance with whatever laws govern the particular circumstances. Our proposed language adds the underlined and bolded portion of this remark as follows:

"While the Lower Embankment Drain is a natural water way, it is also a federal facility and has been utilized as part of the Boise Project since 19XX as invoked by the United States through its reservation authority provided by the Act of August 30, 1890 (43 U.S.C. 945). As a federal facility, the Lower Embankment Drain, **to the extent allowed by law**, may be rerouted, piped, or its flow of water interrupted if determined appropriate to better serve Boise Project purposes."

If everyone agrees, please let me know and we can get the SF5s on their way as soon as possible. I do have a spot reserved in the conference room here at Western for September 10, 2009, at 3:00 pm just in case. I will also need the date when the Lower Embankment Drain began being utilized by the Boise Project. We passed this by the allocation section and their main concern would be covered by the above modification.

Thank you,

Jan Shurte

Adjudication Supervisor

IDWR, Western Regional Office

(208)334-2190

From: susan wildwood [mailto:darkfire@spro.net]

Sent: Monday, August 31, 2009 11:37 AM

To: KATHLEENMARION.CARR@sol.doi.gov

Cc: Shurte, Jan; David.Gehlert@usdoj.gov; emcgarry@usbr.gov; Matthew A. Johnson; pla@idahowaters.com; Ron & Pam Gastelecutto; Western Idaho Wes Porter

Subject: Re: Proposed Language

9/3/2009

Jan, your end seems to be the one we are waiting for. Can you please update us on status?

Susan Wildwood

KATHLEENMARION.CARR@sol.doi.gov wrote:

All,

If we need to meet about this issue, I'll have to move it either earlier or later on September 9. I apologize but I have a meeting at 3:00 that will likely go until 4:15 that I have to attend. Alternatively, we could meet at the same time on either Tuesday or Thursday of next week.

Kathleen

Kathleen Marion Carr
KathleenMarion.Carr@sol.doi.gov
208-334-1911

"Shurte, Jan"
[<Jan.Shurte@idwr.idaho.gov>](mailto:Jan.Shurte@idwr.idaho.gov)

08/25/2009 03:02 PM

To "susan wildwood" [<darkfire@spro.net>](mailto:darkfire@spro.net)

cc KATHLEEN MARION
CARR/BOI/SOL/DOI@SOL,
[<pla@idahowaters.com>](mailto:pla@idahowaters.com),
[<emcgarry@usbr.gov>](mailto:emcgarry@usbr.gov),
[<David.Gehlert@usdoj.gov>](mailto:David.Gehlert@usdoj.gov), "Western Idaho
Wes Porter" [<wcjlj@aol.com>](mailto:wcjlj@aol.com), "Matthew A.
Johnson"
[<mjohnson@WHITEPETERSON.com>](mailto:mjohnson@WHITEPETERSON.com), "Ron
& Pam Gastelecutto" [<rpgast@clearwire.net>](mailto:rpgast@clearwire.net)

Subject RE: Proposed Language

9/3/2009

Susan,

I had sent the language to Nick Spencer to look at. We have not had a meeting with the allocation section concerning the remark's affect on IDWR administration of the right (if it is ever needed). I will send out a meeting invite for IDWR employees involved to get everyone together asap. I will let you know what happens and will try to avoid another meeting as planned in September.

Jan

-----Original Message-----

From: susan wildwood [mailto:darkfire@spro.net]

Sent: Tuesday, August 25, 2009 11:26 AM

To: susan wildwood

Cc: KATHLEENMARION.CARR@sol.doi.gov; pla@idahowaters.com; Shurte, Jan; emcgarry@usbr.gov; David.Gehlert@usdoj.gov; Western Idaho Wes Porter;

Matthew A. Johnson; Ron & Pam Gastelecutto

Subject: Re: Proposed Language

Jan,

Can you please tell me what the status is of the IDWR review of the proposed language in the SRBA cases re Wilder Irrigation and the Lower Embankment Drain?

Susan Wildwood

9/3/2009

Shurte, Jan

From: Paul Arrington [pla@idahowaters.com]
Sent: Thursday, May 28, 2009 9:16 AM
To: Shurte, Jan; Ridgeway, Renea
Cc: Harris, Lori
Subject: RE: Basin 63 stuff

I believe that we will be entering a stipulation on the Obendorf right. There is a trial schedule that is coming up pretty quickly on the objection and I don't want to have to worry about the matter should the subcase go to trial.

Paul L. Arrington
Barker Rosholt & Simpson LLP
 (208) 733-0700 - telephone
 (208) 404-9436 - mobile

CONFIDENTIALITY NOTICE: This e-mail and its attachments are confidential and may be privileged. If you believe this e-mail has been sent to you in error, please notify the sender immediately and delete this email. Do not deliver, distribute or copy this transmission.

From: Shurte, Jan [mailto:Jan.Shurte@idwr.idaho.gov]
Sent: Thursday, May 28, 2009 9:07 AM
To: Ridgeway, Renea
Cc: Harris, Lori; Paul Arrington
Subject: RE: Basin 63 stuff

We will forward an SF5 to you for 63-4233B, however, 63-21616 has several other objections by Obendorf/Hofstetter that are not yet resolved, so Paul can either do a stip to resolve his objection now, or just wait for the others to resolve and we include his with the final SF5. Some attorneys do not like to wait and some do. I remember how long it took to get the changes of ownership from the Redmon's, so it may be difficult getting the SF5s, I'm not sure. Guess we'll find out.
 Thanks, Jan

From: Ridgeway, Renea
Sent: Thursday, May 28, 2009 8:54 AM
To: Shurte, Jan
Cc: Spencer, Nick
Subject: FW: Basin 63 stuff

I received the e-mail below from Paul Arrington this morning. I left another voice mail message with the Redmon's yesterday and there's not much else I can do other than to continue to bother them. As for his # 2 and #3 requests if you can get me those recommendations (providing you're good with the proposed language), I will circulate. Thanks!

Renea Ridgeway
 Paralegal
 Office of the Attorney General
 Natural Resources Division
 Idaho Department of Water Resources
 (208) 287-4814 office
 (208) 287-6700 fax

From: Paul Arrington [mailto:pla@idahowaters.com]
Sent: Thursday, May 28, 2009 8:48 AM
To: Ridgeway, Renea
Subject: Basin 63 stuff

9/3/2009

Renea:

1. Any word on the Redmon SF5's? Are we going to be forced to wait FOREVER to get those back as well?
2. Please prepare an SF5 for 63-4233B (Coggins) using the following remark (it's a little different than the Janiceck language):

The source of this water right includes waste water. All waste water remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

3. For 63-21616 (Obendorf), we have agreed to the same language, but there are other objections. We will have to submit a stipulation or something for that right.

Paul L. Arrington

Barker Rosholt & Simpson LLP

113 Main Avenue West, Suite 303

Twin Falls, Idaho 83301

(208) 733-0700 - telephone

(208) 404-9436 - mobile

(208) 735-2444 - facsimile

CONFIDENTIALITY NOTICE: This e-mail and its attachments are confidential and may be privileged. If you believe this e-mail has been sent to you in error, please notify the sender immediately and delete this email. Do not deliver, distribute or copy this transmission.

9/3/2009

Shurte, Jan

From: Shurte, Jan
Sent: Monday, August 31, 2009 12:55 PM
To: 'susan wildwood'; KATHLEENMARION.CARR@sol.doi.gov; Spencer, Nick; Williams, Ray
Cc: David.Gehlert@usdoj.gov; emcgarry@usbr.gov; Matthew A. Johnson; pla@idahowaters.com; Ron & Pam Gastelecutto; Western Idaho Wes Porter
Subject: RE: Proposed Language - 63-4248A, et al

Good afternoon,

Nick and I have come up with proposed language that we feel satisfies the Department's concerns for the administration side of this language along with clarifying that the remark itself does not constitute a grant of legal authority to modify the drain, but rather that modification can only occur in accordance with whatever laws govern the particular circumstances. Our proposed language adds the underlined and bolded portion of this remark as follows:

"While the Lower Embankment Drain is a natural water way, it is also a federal facility and has been utilized as part of the Boise Project since 19XX as invoked by the United States through its reservation authority provided by the Act of August 30, 1890 (43 U.S.C. 945). As a federal facility, the Lower Embankment Drain, **to the extent allowed by law**, may be rerouted, piped, or its flow of water interrupted if determined appropriate to better serve Boise Project purposes."

If everyone agrees, please let me know and we can get the SF5s on their way as soon as possible. I do have a spot reserved in the conference room here at Western for September 10, 2009, at 3:00 pm just in case. I will also need the date when the Lower Embankment Drain began being utilized by the Boise Project. We passed this by the allocation section and their main concern would be covered by the above modification.

Thank you,

Jan Shurte
Adjudication Supervisor
IDWR, Western Regional Office
(208)334-2190

From: susan wildwood [mailto:darkfire@spro.net]
Sent: Monday, August 31, 2009 11:37 AM
To: KATHLEENMARION.CARR@sol.doi.gov
Cc: Shurte, Jan; David.Gehlert@usdoj.gov; emcgarry@usbr.gov; Matthew A. Johnson; pla@idahowaters.com; Ron & Pam Gastelecutto; Western Idaho Wes Porter
Subject: Re: Proposed Language

Jan, your end seems to be the one we are waiting for. Can you please update us on status?

Susan Wildwood

KATHLEENMARION.CARR@sol.doi.gov wrote:

All,

If we need to meet about this issue, I'll have to move it either earlier or later on September 9. I apologize but I have a meeting at 3:00 that will likely go until 4:15 that I have to attend. Alternatively, we could meet at the same time on either Tuesday or Thursday of next week.

Kathleen

8/31/2009

Kathleen Marion Carr
KathleenMarion.Carr@sol.doi.gov
208-334-1911

"Shurte, Jan" <Jan.Shurte@idwr.idaho.gov>

08/25/2009 03:02 PM

To "susan wildwood" <darkfire@spro.net>

cc KATHLEEN MARION CARR/BOI/SOL/DOI@SOL, <pla@idahowaters.com>, <emcgarry@usbr.gov>, <David.Gehlert@usdoj.gov>, "Western Idaho Wes Porter" <wcjll@aol.com>, "Matthew A. Johnson" <mjohnson@WHITEPETERSON.com>,

"Ron & Pam Gastelecutto" <rpgast@clearwire.net>

Subject RE: Proposed Language

Susan,

I had sent the language to Nick Spencer to look at. We have not had a meeting with the allocation section concerning the remark's affect on IDWR administration of the right (if it is ever needed). I will send out a meeting invite for IDWR employees involved to get everyone together asap. I will let you know what happens and will try to avoid another meeting as planned in September.

Jan

-----Original Message-----

From: susan wildwood [<mailto:darkfire@spro.net>]

Sent: Tuesday, August 25, 2009 11:26 AM

To: susan wildwood

Cc: KATHLEENMARION.CARR@sol.doi.gov; pla@idahowaters.com; Shurte, Jan; emcgarry@usbr.gov; David.Gehlert@usdoj.gov; Western Idaho Wes Porter;

Matthew A. Johnson; Ron & Pam Gastelecutto

Subject: Re: Proposed Language

Jan,

Can you please tell me what the status is of the IDWR review of the proposed language in the SRBA cases re Wilder Irrigation and the Lower Embankment Drain?

Susan Wildwood

8/31/2009

Shurte, Jan

From: Spencer, Nick
Sent: Monday, August 31, 2009 11:12 AM
To: Shurte, Jan
Subject: RE: Proposed Language for 63-4248A, et al - Crossing agreement language

No, what with my back issues, etc., I haven't sent out that e-mail yet. I will try to do so as soon as possible. Can you refresh my recollection as to whom the language should be sent to? Also, is Vicky Music in today? I thought that the big Terteling scheduling conference was next week, but just discovered to my horror that it is tomorrow, so I am scrambling to pull stuff together.

-----Original Message-----

From: Shurte, Jan
Sent: Monday, August 31, 2009 11:06 AM
To: Spencer, Nick
Cc: Peppersack, Jeff; Williams, Ray
Subject: RE: Proposed Language for 63-4248A, et al - Crossing agreement language

Nick,

Did you ever hear back from anyone on this? I have no problem with the language, it actually alleviates my concerns. Kathleen Carr is trying to reschedule the meeting. If we get this language out to them, then it will give them time to review and we may not need to have the meeting next week.

Thanks,
Jan

-----Original Message-----

From: Spencer, Nick
Sent: Friday, August 28, 2009 10:37 AM
To: Shurte, Jan
Cc: Peppersack, Jeff; Williams, Ray
Subject: RE: Proposed Language for 63-4248A, et al - Crossing agreement language

Jan, I have been reviewing the e-mail thread involving Jeff and the stream channel protection folks. I think everybody's fears can be alleviated by modifying the last sentence of the remark to include a clause right after the words "Lower Embankment Drain" reading "to the extent allowed by law" or similar wording to clarify that the remark itself does not constitute a grant of legal authority to modify the drain, but rather that modification can only occur in accordance with whatever laws govern the particular circumstance. NBS

-----Original Message-----

From: Shurte, Jan
Sent: Tuesday, August 25, 2009 4:44 PM
To: Spencer, Nick; Williams, Ray; Peppersack, Jeff
Cc: Shurte, Jan
Subject: FW: Proposed Language for 63-4248A, et al - Crossing agreement language

Hi Nick,

I sent you the language on the 12th, and I think we spoke about it on the phone, but I can't remember the outcome. Old age. I have to write everything down now or it's a tough one. Anyway, here is the language again:

"While the Lower Embankment Drain is a natural water way, it is also a federal facility and has been utilized as part of the Boise Project since 19XX as invoked by the United States through its reservation authority provided by the Act of August 30, 1890 (43 U.S.C. 945). As a federal facility, the Lower Embankment Drain may be rerouted, piped, or its flow of water interrupted if determined appropriate to better serve Boise Project purposes."

I was worried that if they state it is a natural waterway and the flow is interrupted, we may be brought into the situation in some regulatory fashion. If all of you think that because it states it is also a federal facility ya da ya da ya da, that we would be off the hook, then let's slap this on and get these 6 objections out of our way.

All of the objectors and their attorneys are in agreement on this language.

What do you folks think?

Jan

-----Original Message-----

From: Shurte, Jan

Sent: Tuesday, August 25, 2009 3:02 PM

To: 'susan wildwood'

Cc: KATHLEENMARION.CARR@sol.doi.gov; pla@idahowaters.com; emcgarry@usbr.gov; David.Gehlert@usdoj.gov; Western Idaho Wes Porter; Matthew A. Johnson; Ron & Pam Gastelecutto

Subject: RE: Proposed Language

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Cc: KATHLEENMARION.CARR@sol.doi.gov; pla@idahowaters.com; Shurte, Jan; emcgarry@usbr.gov; David.Gehlert@usdoj.gov; Western Idaho Wes Porter; Matthew A. Johnson; Ron & Pam Gastelecutto

Subject: Re: Proposed Language

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Can you please tell me what the status is of the IDWR review of the proposed language in the SRBA cases re Wilder Irrigation and the Lower Embankment Drain?

Susan Wildwood

Shurte, Jan

From: Peppersack, Jeff
Sent: Wednesday, August 26, 2009 11:17 AM
To: Shurte, Jan
Cc: Spencer, Nick; Williams, Ray; Galloway, Chuck; Golart, Aaron
Subject: FW: Proposed Language for 63-4248A, et al - Crossing agreement language

Jan,
Aaron's comments warrant some caution in considering this issue. Section 42-3806 relieves some of the SCA requirements for water users, but I wonder if rerouting a natural channel is included. In addition, it wouldn't excuse Federal requirements if there are any. I'm not an authority on this subject, just raising some questions.

Jeff

From: Galloway, Chuck
Sent: Wednesday, August 26, 2009 10:18 AM
To: Peppersack, Jeff
Cc: Golart, Aaron
Subject: FW: Proposed Language for 63-4248A, et al - Crossing agreement language

From: Golart, Aaron
Sent: Wednesday, August 26, 2009 10:04 AM
To: Galloway, Chuck
Subject: RE: Proposed Language for 63-4248A, et al - Crossing agreement language

Chuck,
I feel that I did have comments, but was not provided enough information on this specific issue. Therefore, I summarized the issue of maintenance by irrigation districts on natural drains. Maybe you could explore the option of working with allocation and adjudication to place conditions on WR's to limit what the irrigators can do as far as rerouting, piping, maintenance, etc on natural drains?
Aaron

From: Galloway, Chuck
Sent: Wednesday, August 26, 2009 9:46 AM
To: Peppersack, Jeff
Cc: Golart, Aaron
Subject: FW: Proposed Language for 63-4248A, et al - Crossing agreement language

Jeff, as you can see from Aaron's email, this issue is in somewhat a state of flux right now and may experience a level of increased regulations but until it does, RPB doesn't have any comment. Chuck

From: Golart, Aaron
Sent: Wednesday, August 26, 2009 9:30 AM
To: Galloway, Chuck
Cc: Westra, John
Subject: RE: Proposed Language for 63-4248A, et al - Crossing agreement language

Chuck,

8/27/2009

It is difficult to comment not having all the details and not being completely familiar with Lower Embankment Drain. At a glance, if a natural drain, some regulatory oversight would exist even for irrigation districts. At a minimum maintenance in a natural drain by the irrigators could require a floodplain development permit and maybe a USACE 404 permit. I am meeting September 1, 2009 with EPA and USACE to review irrigation ditches and streams in the Boise Valley to conduct a field review of several streams where the issue of irrigation exemption has come up. The Feds are evaluating a guidance letter that, in my understanding, states that natural drains are jurisdictional under the Clean Water Act and would require a 404 permit to reroute, pipe, etc. This would even apply to irrigation entities. A lot of conflict exists between irrigators, municipalities and landowners because they can have conflicting views regarding the value of natural drains. Cities may want to restore some natural values to improve water quality, fish and wildlife habitat, aesthetic beauty and recreation. Wilson Drain, Tenmile Creek and Indian Creek for example. Piping Wilson Drain would be a huge economic and resource loss to the city of Nampa because it is one of the best quality urban coldwater fisheries in the state. But could Nampa Meridian Irrigation District tile it without permits? At this point they would certainly need a floodplain development permit, but they do not apply for them. I will fill you in on the outcome of my meeting. Thanks for the opportunity to comment and let me know if you have any more questions. This is a complicated issue to address. More to come...

Aaron

From: Galloway, Chuck

Sent: Wed 8/26/2009 8:04 AM

To: Golart, Aaron

Subject: FW: Proposed Language for 63-4248A, et al - Crossing agreement language

Aaron, do we need to comment on this? Chuck

-----Original Message-----

From: Peppersack, Jeff

Sent: Tuesday, August 25, 2009 4:52 PM

To: Galloway, Chuck

Subject: FW: Proposed Language for 63-4248A, et al - Crossing agreement language

Chuck,

Here's one that your staff may want to look at.

Jeff

-----Original Message-----

From: Shurte, Jan

Sent: Tuesday, August 25, 2009 4:44 PM

To: Spencer, Nick; Williams, Ray; Peppersack, Jeff

Cc: Shurte, Jan

Subject: FW: Proposed Language for 63-4248A, et al - Crossing agreement language

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8/27/2009

What do you folks think?

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Sent: Tuesday, August 25, 2009 3:02 PM

To: 'susan wildwood'

Cc: KATHLEENMARION.CARR@sol.doi.gov; pla@idahowaters.com; emcgarry@usbr.gov; David.Gehlert@usdoj.gov; Western Idaho Wes Porter; Matthew A. Johnson; Ron & Pam Gastelecutto

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Subject: Re: Proposed Language

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Can you please tell me what the status is of the IDWR review of the proposed language in the SRBA cases re Wilder Irrigation and the Lower Embankment Drain?

Susan Wildwood

STATUS CONFERENCE NOTES:

RIGHT NO. 63-4248A

DATE: 7-7-09

Paul Brington - Needs final agreement ~~needed~~ from BOR for crossing agreement language. Everyone is making changes to this language & no one seems able to agree to it. ~~BOR & Wilder ID have come~~

Paul rec'd a copy of an agreement with edits - came back w/ some changes & now Wilder needs to look at the language and then pass it on to the individuals claimants

* All of these are the source of Lower Embankment Drain -
August 10th thru 21st - Will schedule a meeting with all the claimants & attorneys at BOR's room.
Oct 6th at 3:00 PM - Status Conf.
IDWR will not be there, however, we will need to sign off on the remark.

RECEIVED

JUL 08 2009

DEPARTMENT OF
WATER RESOURCES

2009 JUL 07 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA

Case No. 39576

) ORDER SETTING HEARING
)
)

) SUBCASE NOS: 63-04248A 63-04256A
63-04256C 63-04256E 63-31633

Please be advised that Special Master THEODORE R. BOOTH
has set for hearing the CONTINUED SCHEDULING CONFERENCE.

TUESDAY, OCTOBER 06, 2009 at 02:00 PM (MT)

SRBA
253 - 3RD AVENUE NORTH
TWIN FALLS, ID

Parties may participate by telephone by dialing the number
225-383-1099 and when prompted entering the code 675342.

IT IS SO ORDERED.

Dated: JULY 07, 2009

/S/ THEODORE R. BOOTH
Special Master
Snake River Basin Adjudication

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

Page 1 7/07/09

CERTIFICATE OF MAILING

I Certify that a true and correct copy of the ORDER SETTING HEARING was mailed on JULY 07, 2009, with sufficient first-class postage to the following:

CANDACE K SILVERIA
DANIEL J SILVERIA
LORRAINE S KUSHLAN
RICHARD E KUSHLAN

Represented by:
MATTHEW A JOHNSON
5700 E FRANKLIN RD, STE 200
NAMPA, ID 83687-7901
Phone: 208-466-9272

WILDER IRRIGATION DISTRICT

Represented by:
PAUL L ARRINGTON
113 MAIN AVE W, STE 303
PO BOX 485
TWIN FALLS, ID 83303-0485
Phone: 208-733-0700

PRISCILLA ARMENTA
SANTIAGO ARMENTA
WESTERN IDAHO DEVELOPMENT INC

Represented by:
SUSAN WILDWOOD
PO BOX 6502
2533 N 26TH
BOISE, ID 83707-6502
Phone: 208-383-0390

USDI BUREAU OF RECLAMATION

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

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

PAM GASTELECUTTO
RON GASTELECUTTO
18401 PRIDE LN
CALDWELL, ID 83605
Phone: 208-459-1992

STATUS CONFERENCE NOTES:

RIGHT NO. 63-4248A

DATE: *8/31/09

PREVIOUS STATUS: Arington reports agreement w/ parties (BOR owns) chain & he needs to work with them on language.

Matthew Johnson - Silveria attorney
BOR, Arington

* Paul Arington - BOR's crossing agreement language sent to Paul & he sent them back. He has not heard back from BOR, so he has not sent these out to the attorneys. BOR's chain supposedly, and likely. Paul will send around the current remarks all

Next status conf. is 7/~~31~~³/09 at 1:30

RECEIVED

OCT 02 2008

DEPARTMENT OF
WATER RESOURCES

2008 SEP 30 AM 10:28
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

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

In Re SRBA	)	ORDER SETTING STATUS
	)	CONFERENCE
Case No. 39576	)	
_____	)	SUBCASE NO: 63-04248A

Please be advised that Special Master THEODORE R. BOOTH
has set a Status Conference in the above subcase(s)
as follows:

TUESDAY, DECEMBER 09, 2008 at 02:30 PM (MT)

SRBA
253 - 3RD AVENUE NORTH
TWIN FALLS, ID

Parties may participate by telephone by dialing the number
225-383-1099 and when prompted entering the code 675342.

IT IS SO ORDERED.

Dated: SEPTEMBER 30, 2008

/S/ THEODORE R. BOOTH
Special Master
Snake River Basin Adjudication

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

Page 1 9/30/08

CERTIFICATE OF MAILING

I Certify that a true and correct copy of the ORDER SETTING STATUS CONFERENCE was mailed on SEPTEMBER 30, 2008, with sufficient first-class postage to the following:

WILDER IRRIGATION DISTRICT

Represented by:
ALBERT P BARKER
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

CANDACE K SILVERIA

DANIEL J SILVERIA
Represented by:
MATTHEW A JOHNSON
5700 E FRANKLIN RD, STE 200
NAMPA, ID 83687-7901
Phone: 208-466-9272

USDI BUREAU OF RECLAMATION

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

DIRECTOR OF IDWR

PO BOX 83720
BOISE, ID 83720-0098

2008 JUL 17 PM 02:28
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
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In Re SRBA	)	ORDER SETTING STATUS
	)	CONFERENCE
Case No. 39576	)	
_____	)	SUBCASE NO: 63-04248A

Please be advised that Special Master THEODORE R. BOOTH
has set a Status Conference in the above subcase(s)
as follows:

TUESDAY, SEPTEMBER 30, 2008 at 10:00 AM (MT)

SRBA
DISTRICT COURT
253 3RD AVENUE NORTH
TWIN FALLS, ID

Parties may participate by telephone by dialing the number
225-383-1099 and when prompted entering the code 675342.

IT IS SO ORDERED.

Dated: JULY 17, 2008

/S/ THEODORE R. BOOTH
Special Master
Snake River Basin Adjudication

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

Page 1 7/17/08

CERTIFICATE OF MAILING

I Certify that a true and correct copy of the ORDER SETTING STATUS CONFERENCE was mailed on JULY 17, 2008, with sufficient first-class postage to the following:

WILDER IRRIGATION DISTRICT

Represented by:
ALBERT P BARKER
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

CANDACE K SILVERIA
DANIEL J SILVERIA

Represented by:
MATTHEW A JOHNSON
5700 E FRANKLIN RD, STE 200
NAMPA, ID 83687-7901
Phone: 208-466-9272

USDI BUREAU OF RECLAMATION

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

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

DEPARTMENT OF
WATER RESOURCES

Attorneys for Claimants
Daniel K. Silveria and Candace K. Silveria

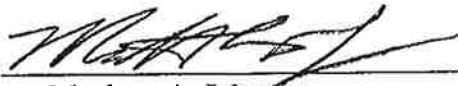
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

**NOTICE OF APPEARANCE OF
LEGAL COUNSEL**

COME NOW the Claimants, DANIEL J. SILVERIA and CANDACE K. SILVERIA, by and through their undersigned attorneys of record, and give notice of appearance herein, and said law firm hereby appears in this matter as counsel on behalf of Claimants Daniel J. Silveria and Candace K. Silveria

DATED this 13th day of June, 2008.

WHITE PETERSON, P.A.

By: 
Matthew A. Johnson
Attorneys for Daniel J. & Candace K. Silveria

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 13th day of June, 2008, a true and correct copy of the NOTICE OF APPEARANCE OF LEGAL COUNSEL was served upon the following by the method indicated below:

Albert P. Barker
1010 W. Jefferson, Ste. 102
P.O. Box 2139
Boise, Idaho 83701-2139
Attorneys for Wilder Irrigation District

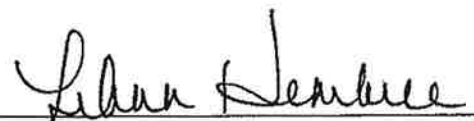
☒ U.S. Mail
☐ Overnight Mail
☐ Hand Delivery
☐ Facsimile

U.S. Department of Justice
Environment & National Resources
550 West Fort Street, MSC 033
Boise, Idaho 83724
Attorneys for USDI Bureau of Reclamation

☒ U.S. Mail
☐ Overnight Mail
☐ Hand Delivery
☐ Facsimile

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

☒ U.S. Mail
☐ Overnight Mail
☐ Hand Delivery
☐ Facsimile


for WHITE PETERSON, P.A.

W:\Work\Silveria, Dan #23133\water rights .000\PLEADINGS\Appearance.NOT 06-12-08 lh.doc

WHITE PETERSON

ATTORNEYS AT LAW

WM. F. GIGRAY, III
MATTHEW A. JOHNSON
WILLIAM F. NICHOLS *
CHRISTOPHER S. NYE

WHITE PETERSON, P.A.
CANYON PARK AT THE IDAHO CENTER
5700 E. FRANKLIN RD., SUITE 200
NAMPA, IDAHO 83687-7901

TEL (208) 466-9272
FAX (208) 466-4405

EMAIL: mjohnson@whitepeterson.com

RECEIVED

JUN 16 2008

DEPARTMENT OF
WATER RESOURCES

PHILIP A. PETERSON
TODD A. ROSSMAN
TERRENCE R. WHITE **

* Also admitted in OR
** Also admitted in WA

June 13, 2008

CLERK OF THE SRBA COURT
Fifth Judicial District
P.O. Box 2707
Twin Falls, Idaho 83303-2707

RE: *In Re SRBA Case No. 39576*
Subcase No.: 63-04248A
Claimants: Daniel J. Silveria & Candace K. Silveria

Dear Clerk:

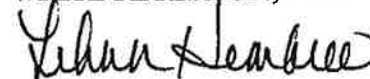
Enclosures:

1. (Original + 1 copy) *Notice of Appearance of Legal Counsel*; and
2. Postage prepaid return envelope.

Please file the original of the *Notice of Appearance of Legal Counsel* with the court and return a conformed copy to this office in the enclosed envelope. It is our understanding there is no filing fee due in connection with the filing of the Notice.

Thank you for your assistance. If you have any questions, please do not hesitate to call.

Sincerely,
WHITE PETERSON, P.A.



LeAnn Hembree

Legal Assistant to Matthew A. Johnson

Encls.

Cc: Albert P. Barker
U.S. Dept. of Justice - Env. & Nat'l Resources for BOR
IDWR Director
Daniel & Candace Silveria

W:\Work\Silveria, Dan #23133\water rights .000\ltr SRBA Clerk re appearance 06-13-08 lh.doc

RECEIVED

MAY 26 2008

DEPARTMENT OF
WATER RESOURCES

2008 MAY 23 PM 12:36
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

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

In Re SRBA	)	ORDER SETTING SUBCASE(S)
	)	FOR INITIAL HEARING
Case No. 39576	)	
_____	)	SUBCASE NOS: 63-04248A 63-04256A
		63-04256C 63-04256E 63-31633
		63-31634

The Initial Hearing for this subcase will be held before
Special Master THEODORE R. BOOTH

THURSDAY, JUNE 19, 2008 at 11:30 AM (MT)
IDAHO SUPREME COURT BUILDING
451 WEST STATE STREET
BOISE, ID

ATTENDANCE IS MANDATORY. All parties are required to
attend and must have full settlement authority.

At the Initial Hearing you will have an opportunity
to meet with a representative of the Idaho Department of
Water Resources (IDWR) and/or the objector in an attempt
to reconcile any difference between the claim and the
Director's Report. Bring any and all information you
believe is relevant to your claim and/or objection. If
the claim cannot be reconciled at the Initial Hearing,
the court will set the subcase(s) for trial within 45
days of the Initial Hearing. IF YOU INTEND TO AMEND YOUR
CLAIM, YOU MUST DO SO AT OR BEFORE THE INITIAL HEARING.

Settlement documents must be filed with the court by
JUNE 16, 2008 or hearing will not be vacated.

IT IS SO ORDERED.

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

Page 1 5/22/08

(continued)

Dated: MAY 23, 2008

/S/ THEODORE R. BOOTH
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I Certify that a true and correct copy of the ORDER SETTING
SUBCASE(S) FOR INITIAL HEARING was mailed on MAY 23, 2008 ,
with sufficient first-class postage to the following:

WILDER IRRIGATION DISTRICT
Represented by:
ALBERT P BARKER
1010 W JEFFERSON, STE 102
PO BOX 2139
BOISE, ID 83701-2139
Phone: 208-336-0700

CANDACE K SILVERIA
DANIEL J SILVERIA
19850 W USTICK
CALDWELL, ID 83607
Phone: 208-455-1128

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

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

JOHNNY L WILSON
18393 PRIDE LN
CALDWELL, ID 83607
Phone: 208-459-4494

LORRAINE S KUSHLAN
RICHARD E KUSHLAN
18397 PRIDE LN
CALDWELL, ID 83607
Phone: 208-459-6225

PAM GASTELECUTTO
RON GASTELECUTTO
18401 PRIDE LN
CALDWELL, ID 83605
Phone: 208-459-1992

PRISCILLA ARMENTA
SANTIAGO ARMENTA
19515 SANTIAGO PL
CALDWELL, ID 83607
Phone: 208-459-4090

WESTERN IDAHO DEVELOPMENT INC
19630 FRIENDS RD
GREENLEAF, ID 83626
Phone: 208-453-9132

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

In Re SRBA) A. Subcase 63-4248A
(Insert water right number)
)
Case No. 39576)
STANDARD FORM 1
OBJECTION

Please fill in the following information:

RECEIVED

JUN 19 2007

DEPARTMENT OF
WATER RESOURCES

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Wilder Irrigation District
Address: 709 Cleveland Blvd
Caldwell, ID 83605
Daytime Phone: 208-459-3421

Name & Address of Attorney, if any:

Albert P. Barker
Barker Rosholt & Simpson, LLP
1010 W. Jefferson, Ste. 102, Boise ID 83702

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Daniel and Candace Silveria
Address: 19850 W Ustick
Caldwell, ID 83607

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**

Should be: _____

2. ☒ **Source**

Should be: The source should be described as waste waters, and waste waters belong to the Wilder Irrigation District.

3. ☐ **Quantity** ☐

Should be: _____

4. ☐ **Priority Date**

Should be: _____

5. ☐ **Point of Diversion**

Should be: _____

6. ☐ **Instream Flow Beginning and Ending Point**

Should be: _____

7. ☐ **Purpose(s) of Use**

Should be: _____

8. ☐ **Period of Year**

Should be: _____

9. ☒ **Place of Use**

Should be: Land Subject to Wilder Irrigation Water Right

10 ☐ **I object because:**

☒ This water right Should not exist.

☐ This water right was not recommended, but Should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTIONS(S): There has been no lawful appropriation of this right. The description of the source should have been waste water. The waste waters belong to the Wilder Irrigation District and are not available for private development and appropriation. Further, any attempted development of this right constitutes a trespass against the drains of the Wilder Irrigation District. The place of use is covered by an existing Wilder Irrigation District water right, which is the primary water right for the place of use. Proposed wastewater remark does not sufficiently protect original appropriator.

F. VERIFICATION (must be completed)

State of Idaho)
County of Ada)ss.

Albert P. Barker, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

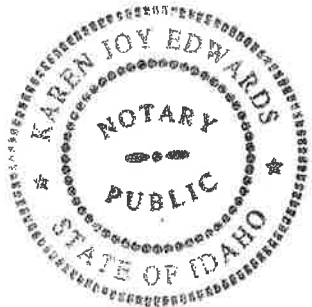
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and(6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)

[Signature]

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: 6/18/07



Notary Public for Idaho
Residing at: Boise, Idaho
My Commission Expires: 8/2/2012

Karen Joy Edwards

INSTRUCTIONS FOR MAILING

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

G. CERTIFICATE OF MAILING

I certify that on JUN 18 2007, 200__, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

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

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

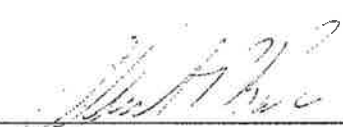
Name: Daniel and Candace Silveria
Address: 19850 W Ustick
Caldwell, ID 83607

3. Copies to:

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

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

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



Signature of objector or attorney
mailing on Objector's behalf

12/10/2006

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

RIGHT NUMBER: 63-4248A

NAME AND ADDRESS: DANIEL J SILVERIA
19850 W USTICK
CALDWELL ID 83607

CANDACE K SILVERIA
19850 W USTICK
CALDWELL ID 83607

RECEIVED
DEC 12 2006
DEPARTMENT OF
WATER RESOURCES

SOURCE: LOWER EMBANKMENT DRAIN

TRIBUTARY: SNAKE RIVER

QUANTITY: 0.440 CFS

PRIORITY DATE: 05/25/1948

POINT OF

DIVERSION: T04N R04W S35 SWSW Within CANYON County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/01 11/15

0.440 CFS

PLACE OF USE: IRRIGATION in CANYON County

T04N R04W S35

NWSW

2.00

T04N R04W S35

SWSW

20.00

22 ACRES TOTAL

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

This right remains subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place or manner of wasting it, or to recapture it.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

This right when combined with all other rights shall not exceed 0.02 cfs per acre.

06/28/2006

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

RIGHT NUMBER: 63-4248A

NAME AND ADDRESS: DANIEL J SILVERIA
19850 W USTICK
CALDWELL ID 83607

CANDACE K SILVERIA
19850 W USTICK
CALDWELL ID 83607

SOURCE: LOWER EMBANKMENT DRAIN

TRIBUTARY: SNAKE RIVER

QUANTITY: 0.440 CFS

PRIORITY DATE: 05/25/1948

POINT OF DIVERSION:

T04N R04W S35 SWSW Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	0.440 CFS

PLACE OF USE: IRRIGATION Within CANYON County

T04N R04W S35	NWSW	2.00	T04N R04W S35	SWSW	20.00
---------------	------	------	---------------	------	-------

22 ACRES TOTAL

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

This right when combined with all other rights shall not exceed 0.02 cfs per acre.



Idaho Department of Water Resources

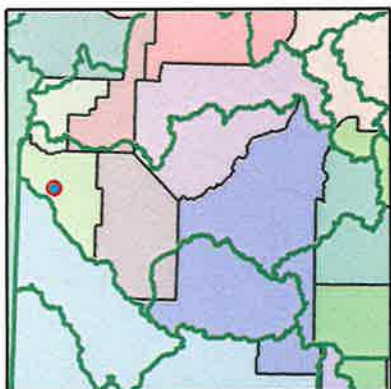
SRBA Recommendation:

63-4248A

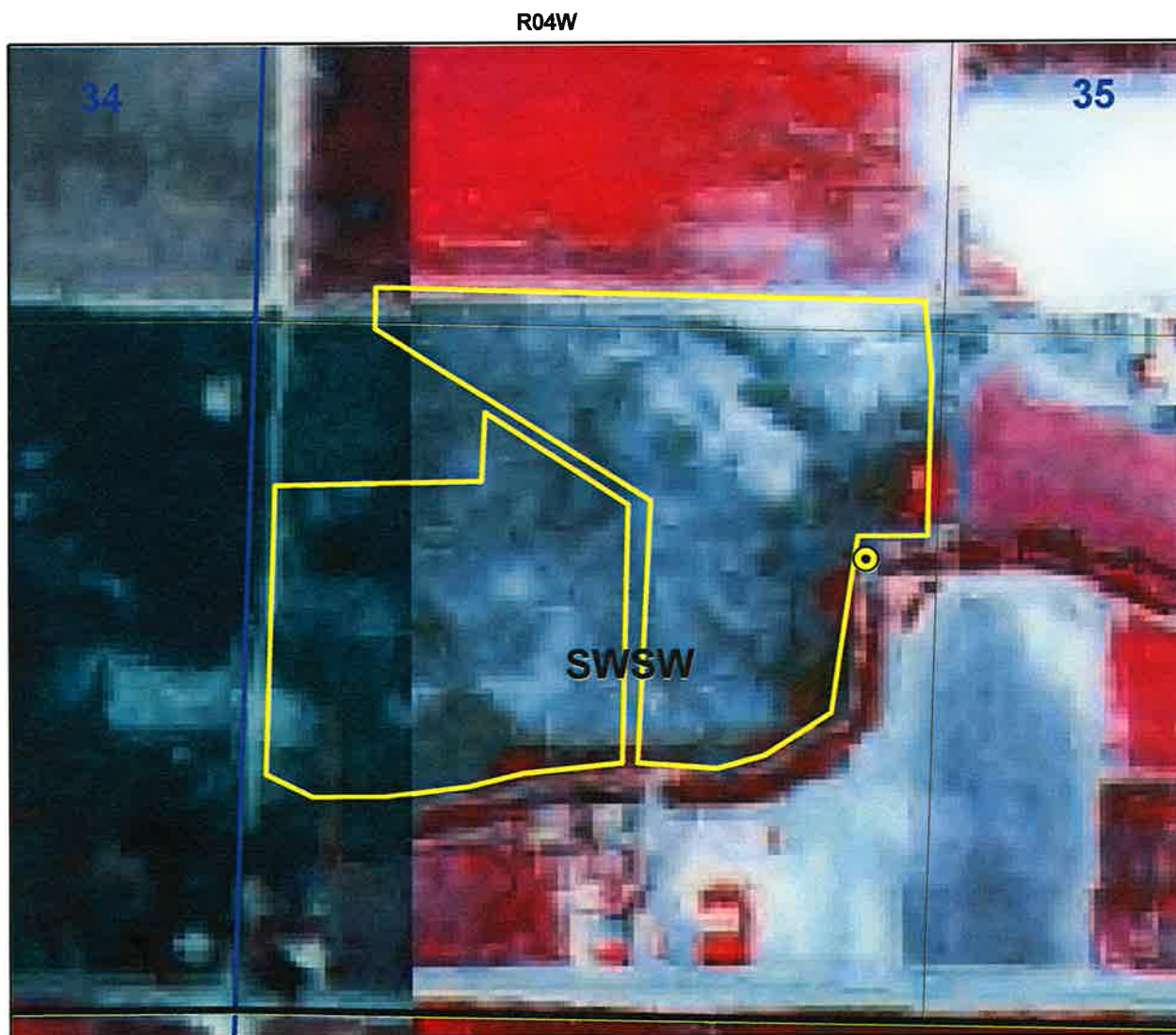
Acres = 22

Legend

-  Point of Diversion
-  Place of Use
-  Townships
-  PLS Sections
-  Quarter Quarters



Canyon County
IDWR Basin 63



0 0.1 0.2 Miles



Prepared by K. Walker
On Wednesday, June 28, 2006
1987/88 Aerial Photography

WP
Field Exam Date 5/10/2006

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION FIELD REPORT

RECEIVED

MAY 22 2006

WATER RESOURCES
WESTERN REGION

Prior to Field Exam

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

RECEIVED

MAY 25 2006

DEPARTMENT OF
WATER RESOURCES

CLAIMANT INFORMATION – verify contact information is complete

Claim No(s) A6304248A

Owner: Daniel J. or Candace K. Silveria Phone No. (208) 455-1128

Current Address: 19850 W. Ustick, Caldwell, Id 83605

- ☒ No change NAME IS THE SAME
- ☐ NEW OWNER
- ☒ No change Address
- ☐ NEW ADDRESS
- ☐ How long owned property? 1992

Accompanied by: Daniel Silveria

PRIORITY DATE

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

Priority date, per claimant, is: 5/25/1948

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

Source: Lower Embankment Drain Tributary to Snake River

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

POINT OF DIVERSION

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

DIVERSION AND DELIVERY SYSTEM

Points of Diversion:

A0002114

ID #	Govt Lot #	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks GPS ID
—	—	—	SW	SW	35	4N	4W	Canyon	N 43° 38.124
									W 116° 47.287
									clear. 2464

Description of diverting works from lower Embankment drain, 2 Hp pump, 6" steel discharge to 6" main, 100' lift, 16 hook ups on main for hand line to attached

OVERLAP REVIEW

Other water rights with the same point of diversion: (No overlap - Batt pump in embankment drain 25' to SW down stream.)

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

WATER USES

☒ No change

☐ Different Uses

Use _____ From _____ To _____ Amount _____ CFS _____ AFA

Use _____ From _____ To _____ Amount _____ CFS _____ AFA

Use _____ From _____ To _____ Amount _____ CFS _____ AFA

TOTAL VOLUME – Groundwater only NA

☐ Incomplete on claim, the total is, Amount _____ CFS _____ AFA

☐ Changes found, the new total is, Amount _____ CFS _____ AFA

☐ More than 1" per Acre? Yes _____ (claimant must complete excess flow sheet)

NON-IRRIGATION USES:

☒ No change

☐ Changes Exam found: Domestic # of homes _____ Stock # _____

Types _____ Additional comments: _____

PLACE OF USE:

☒ No Change

☐ Changes shown below:

Place of Use			NE				NW				SW				SE				Totals
TWP	RGE	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
No changes.																			

Overlap with other water rights: None

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

Delivery System Narrative:

2HP pump, 60 psi, 100' lift, 6" steel discharge & 6" steel main running east to west through the center of the property (buried). There are 16 hook ups off the main to attach hand line, 10 sections per hand line running north & south, 1/8" rainbird nozzles, 4 lines run at a time. Owner said they usually have 40 psi at the top in the system.

Well or Diversion Identification No GPS ID	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge size
A0002114	no tag (not able to read)	20	no tag (not able to read)	no tag (not able to read)	6"

FLOW MEASUREMENTS:

Attach appropriate documents

NARRATIVE/REMARKS/COMMENTS

No other supplemental water used.

Directions: I-84, Greenleaf exit, west on Simplot Blvd, South (left) on Farmway Rd, west (right) on Ustick. Approximately 1/4 mile past the Ustick - Pride Rd. intersection (after West Canyon Elementary) turn north at mailbox 19850 Ustick, & go up the hill.

Batt PDD is located <25' downstream from this claim.

AFTER EXAM THE FILE SHOULD CONTAIN:

- DATE EXAM CONDUCTED:

FIELD EXAMINER:

Sandy Hemerway

Claim No. and Name: A63-04248A Silveria

Date: 3/27/2006

Field Inspector: Sandy Hemenway

Measurements/Calculations:

Irrigation:

Confirmed acres irrigated: 22.0 acres x 0.02cfs = **0.440 cfs**

Season 3/15 - 11/15 = 246 days

Required V.i.r = allowable acres under permit x requirement IDWR chart (figure 2)=

22.0 acres x 3.5 = 77.0 afa

Potential V.d.r. = max. allowable cfs x permit season x 1.9835 =

0.44 x 246 x 1.9835 = 214.694 = 214.7 = 215.0 afa

Sprinkler Nozzle Measurement: (unable to use University of Idaho Hydraulic Relationship and Performance Fact Sheet, due to system not being on during the inspection, and an average of from nozzles actually on the system not being taken; going with the pressure the owner stated of 40psi in the actual system):

Information Gathered:

1/8" rainbird nozzle; 4 lines run @ 1 time; 10 sections per hand-line; 40 psi in system (per owner, and going with the standard of 40 psi for irrigation)

Nozzle Formula (University of Idaho Fact Sheet):

$30.0 \times D(\text{in.})^2 \times P(\text{psi})^{0.5} = Q(\text{gpm})$

$30.0 \times (1/8)^2 \times (40)^{0.5} = Q$

$30.0 \times (0.15625) \times (6.32455532) = 29.64635306 = 1 \text{ cfs } (29.64635306) / 448.8\text{gpm} = 0.066$

$(40 \text{ nozzles}) \times (0.066) = \mathbf{2.64 \text{ cfs system capacity}}$

*****With the variation of terrain, I would recommend allowing the 0.44 cfs for the 22.0 acres.**

Pumpback Computation Spreadsheet (DRT 1/24/1995)

Data Entered By: Sandy Hemenway

Project: Flow Computation for A63-04248A Silveria

Given: See Data Table

Compute head losses with the Williams and Hazen Formula:

$$f = 0.2083 \cdot (100/\text{roughness})^{1.85} \cdot ((\text{cfs} \cdot 448.8)^{1.852} / \text{ID}^4 \cdot 8655 \cdot \text{Length} / 100)$$

To Find: Compute Rate of Flow for a Pumpback System

Data Table

Vertical Lift: 100.00 feet

Pressure Req'd: 60.00 psi

Required Head: 238.60 feet

Pump Horsepower: 20.00 horsepower

Pipe Roughness: 100.00 Note: pvc = 150, smooth and straight pipe = 140
aluminum - joint length 20' = 125, joint length
30' = 130, joint length 40' = 132, joint length
50' = 134, new riveted steel = 100
old riveted steel = 100, old cast iron = 95,
old pipes in poor condition = 60 to 80

Inside Diameter in Inches	Equivalent Length in Feet	Unit Head Loss	Total Friction Head Loss from Pipe Friction	Head Loss per 100 ft
5.50	500.00	5.88		1.18
1.50	0.00	0.00		#DIV/0!
1.00	0.00	0.00		#DIV/0!
			5.88	

Initial Estimate of Rate of Flow: 0.500 CFS

Computation of Rate of Flow: 0.50

2004 Naip

SWSW S35 4N 4W



 = POW



63-4248A



SWSW
S35
T4N
R4W

1987
Aerial

N↑

27.76
Total
acres
shown
POU = 
(need to
subtract
out
driveway)

Lower
Embankment
Drain



POD



20HP
pump,
6" steel
discharge
to 6" buried
main,
60psi,
100' lift

A63-04248A Silveria 5/10/2006 SH.



1/8" rainbird nozzle

16 hook ups for hand-line

10/05/2006

POU



6" steel buried main with 16 hook ups for risers for 1/8" rainbird on hand-line (10 sections per line) 4 lines ran at 1 time at 40 psi

10/05/2006

A63-04248A Silveria

5/10/2006 S.H.

A63-4248A Field Exam Request:
Dan Silveria

Copy
to Sandy
4/13/06

Contact:

04/12/2006

Contact **Dan Silveria** at #455-1128 to set up a field exam.

Property Address:

Get directions from Mr. Silveria when you call to set up appointment.

(Bc'd to
Merlaine
cuz no
Sandy in
Barcode)

Requests:

*Please verify **all the elements** of this right.

In addition, please verify:

- **GPS the location of the diversion point.**
- **1987 Aerial Photo:** Please draw the **22 acres** that are irrigated from the drain in 1987 on the enclosed **1987 aerial photograph**. Draw the **diversion works** on the 1987 aerial photo.
- **Capacity of System:** Verify that the claimed **0.44 cfs** is possible/applicable.

Kay Walker
Sr. Water Resource Agent
IDWR – State Office via Western Region

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report 63-4248A

RECEIVED
APR 05 2006
DEPARTMENT OF
WATER RESOURCES

WATER RIGHT NUMBER: 63-4248A

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CANDACE K SILVERIA 19850 W USTICK CALDWELL, ID 83607 (208)455-1128
Original Owner	REX D PHILSON RT 6 BOX 127 CALDWELL, ID 83605
Original Owner	BARBARA A PHILSON RT 6 BOX 127 CALDWELL, ID 83605
Current Owner	DANIEL J SILVERIA 19850 W USTICK CALDWELL, ID 83607 (208)455-1128

Priority Date: 05/25/1948

Basis: Beneficial Use

Status: Active

Source

LOWER EMBANKMENT DRAIN

Tributary

SNAKE RIVER

Beneficial Use

IRRIGATION

From To

3/15 to 11/15

Diversion Rate

0.440 CFS

Annual VolumeTotal Diversion:

0.440 CFS

Location of Point(s) of Diversion

LOWER EMBANKMENT DRAIN
CANYON County

SW1/4SW1/4

Sec. 35, Twp 04N, Rge 04W, B.M.

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	04W	35																	22.0
																			22.0

Total Acres: 22

Conditions of Approval:Remarks:

Rec'd
4/5/06 -

IN THE MATTER OF)
NOTICE OF CLAIM TO)
A WATER RIGHT NO. (S))
A63-4248A)

AFFIDAVIT

State of Idaho)
County of Canyon)

George W. Carson & Clarence McJunkin

deposes and says: George W. Carson - 20566 Homedale Rd. Caldwell, ID, 459-1370

I have lived in this area since 1946. I have witnessed the property in question since that time. The property was put into production by Richard Britton in the early 1950's. It has been into production up to and including the time Dan Silveria took it over in 1992. The property has been growing hay and grain crops and has also supported cattle from time to time.

Clarence McJunkin - 20028 Lonkey Ln. Caldwell, ID 459-7319

I have lived on Lonkey Lane since 1962. My property is about 1/2 mile from Dan Silveria's property. Dan's property has been growing crops since I moved here.

Dan Silveria - 19850 Ustick, Caldwell ID 455-1128. I have farmed

this property since 1992. It has been in hay and grain. The pump in the lower Embankment drain is the same pump used by previous landowners.

George W. Carson

Clarence McJunkin
(Signature)

Dan Silveria

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-4248A

WATER RIGHT NUMBER: 63-4248A

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CANDACE K SILVERIA 19850 W USTICK CALDWELL, ID 83607 (208)455-1128
Original Owner	REX D PHILSON RT 6 BOX 127 CALDWELL, ID 83605
Original Owner	BARBARA A PHILSON RT 6 BOX 127 CALDWELL, ID 83605
Current Owner	DANIEL J SILVERIA 19850 W USTICK CALDWELL, ID 83607 (208)455-1128

Priority Date: 05/25/1948 ✓
 Basis: Beneficial Use ✓
 Status: Active

Source

LOWER EMBANKMENT DRAIN

Tributary

SNAKE RIVER

Beneficial Use

IRRIGATION ✓

From To

3/15 to 11/15

Diversion Rate

0.440 CFS ✓

Annual VolumeTotal Diversion:

0.440 CFS ✓

Location of Point(s) of DiversionLOWER EMBANKMENT DRAIN
CANYON County

SW1/4SW1/4 ✓

Sec. 35, Twp 04N, Rge 04W, B.M. ✓

Place of Use

IRRIGATION ✓

Twp	Rge	Sec	NE	NW	SW	SE	Totals
04N	04W	35	✓				22.0
							22.0

Total Acres: 22

Conditions of Approval:Remarks:

4-3-2006 Dan Silveria called.
 has shares for Boise Project -
 cannot use shares - no
 delivery point - will try
 to find someone to
 document priority date -
 all "oldtimers" gone - fw



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

March 1, 2006

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

CANCACE & DANIEL SILVERIA
19850 W USTICK
CALDWELL ID 83605

RE: EVIDENCE OF PRIORITY

Snake River Basin Claim No(s): A63-4248A

Dear Claimants,

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

Enclosed is a pamphlet entitled "Evidence of Priority" which describes why evidence of the priority date is necessary, along with examples of types of evidence that can be submitted to fulfill this requirement. While I encourage you to read the entire pamphlet, I direct your attention to the two sections entitled. **"What Kind of Evidence is Required"** and **"Some Examples of Documents Which May Be Evidence of the Priority Date."**

It is important that each element of the Notice of Claim be substantiated. For instance, regarding claims for irrigation, the evidence should tend to show that diversion works were in place, that they were capable of diverting the claimed diversion rate, and that the diverted water was beneficially used on the entire claimed place of use on or before the claimed priority date.

If no evidence is submitted, or we do not hear from you within the time limit below, your priority date, as claimed, may not be recommended to the SRBA court for decree. This could jeopardize your water use under this right(s) if water availability problems arise in the future.

The required evidence supporting the priority date(s) requested needs to be submitted by **March 23, 2006**. Please let me know if you may not be able to submit proof of priority or have any questions not covered by this letter and the enclosed pamphlet, by the date indicated above.

In addition, since it is our goal to decree the historical water right within the Snake River Basin as accurately as possible, field exams are now being conducted by Department water resource agents to verify claims in this area. In the near future, you will be receiving a call from us in order to set-up an appointment for a field exam.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

(Name of Claimant)

Telephone No. 208-459-6783

(Mailing Address)

(Zip Code)

(1) Date of priority: (When was the water first applied to a beneficial use) May 25, 1948

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)

Lower Embankment Drain tributary to Riverside Canal

(cfs, af)		(Domestic, Irrigation, Stock, Etc.)	(Both dates inclusive) (Mo., Day)	
Quantity	<u>.72 Cfs</u>	Use <u>Irrigation</u>	Period of Use From <u>4/1</u>	To <u>10/31</u>
Quantity	_____	Use _____	Period of Use From _____	To _____
Quantity	_____	Use _____	Period of Use From _____	To _____
Quantity	_____	Use _____	Period of Use From _____	To _____
Quantity	_____	Use _____	Period of Use From _____	To _____

(4) .72 Cfs TOTAL QUANTITY USED.
(cfs. of)

(5) **A) Point of diversion:** (Location of point where water is diverted from its source)

SW 1/4 SW 1/4 Sec. 35 Twp. 4N Rge. 4W B.M., County of Canyon

Additional points of diversion: SE SW, Section 35, T4N, R4W.

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Pump, pipeline, and sprinkler system.

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

No. of acres 36

B) If water is used for other than irrigation, fully describe that use, being as specific as possible:

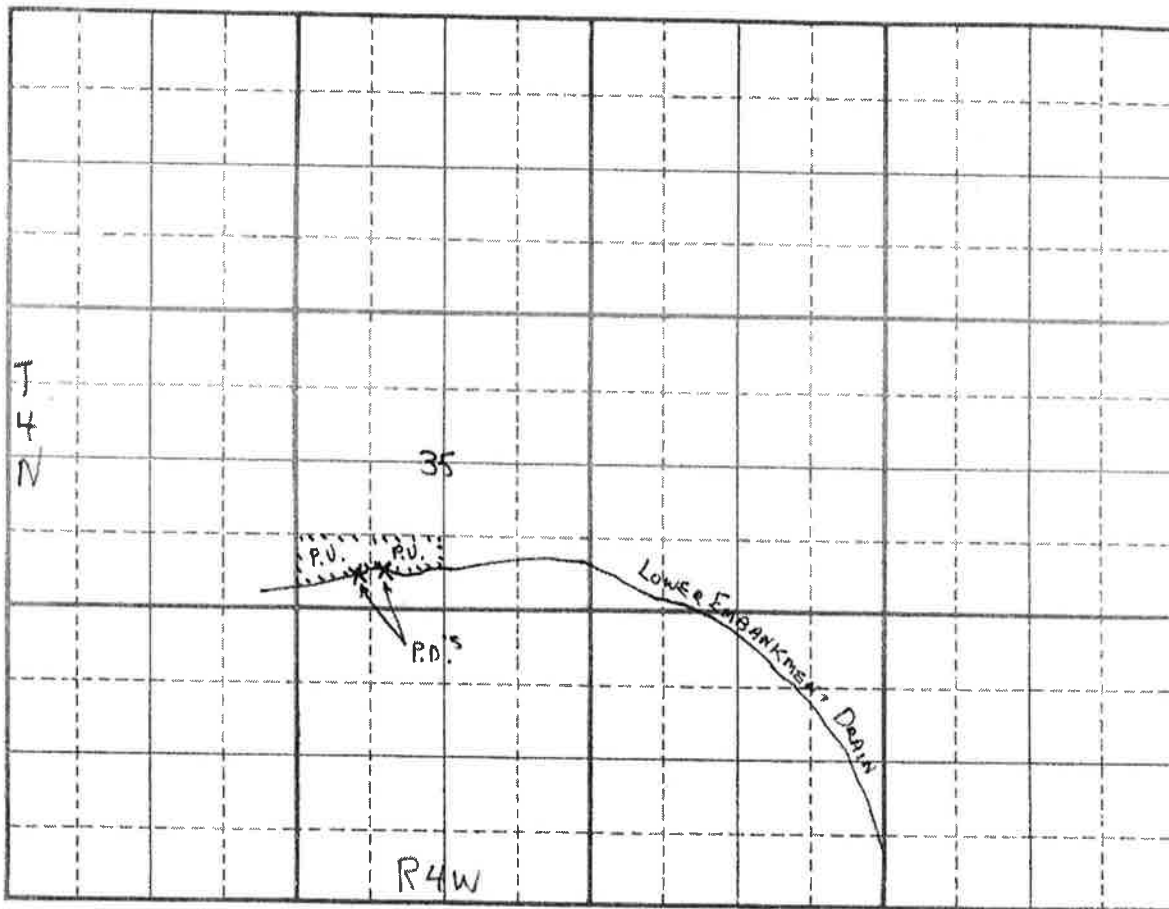
NOTE: Include here the type and number of stock watered:

(7) If you are claiming water as a member of an organization, list name of organization:

MICROFILMED

MACROFILMED

(8) Remarks This amended claim is filed to claim 9 acres historically irrigated in the SE1/4 Section 35, T4N, R4W, inadvertently omitted from the original filing. Partial substantiating evidence is available in file for cancelled permit 63-2687.



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of ADA) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 25 day of May

[Signature]
(Claimant)
19 83
[Signature]
Notary Public
Residing at BOISE, ID

My commission expires LIFE

FOR DEPARTMENT USE ONLY
Received by [Signature] Date 5/26/83 Exception filed by: _____ Forwarded to _____ Date _____
Prelim. check by _____ Date _____
\$30.00 fee received by JP Date 6/1
Published in Boise Tribune
Dates 6/20 & 7/7/83

January 11, 1974

To Whom Concerned:

I hereby verify that I started to pump on this piece of ground in the spring of 1948. This is land above the drain ditch which is approximately 22 acres.

State of Idaho

County of Ada

} ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiants knowledge.

Richard Britton
Claimant

Sworn to before me this 11th day of January, 1974.

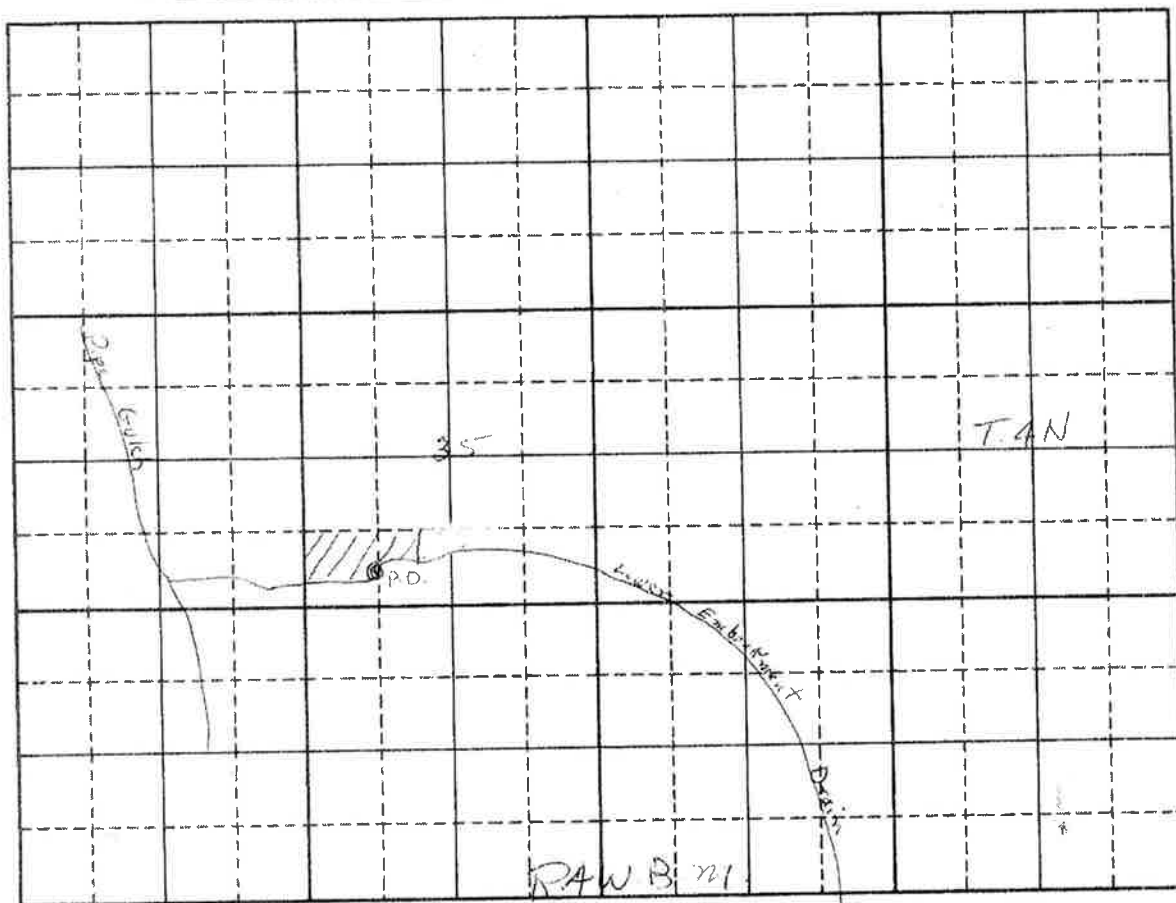
Glenn Felt
Notary Public

Residing at Boise, Idaho

My commission expires June 15, 1977

63 42*8

(8) Remarks Approx. 8 acres has water right under Boise Project. Quinn Canal, Filing supplemental to this water.



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho

ss.

County of Ada

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this

11

day of

January, 1974
Ray D. Philome
(Claimant)

Notary Public

Residing at

Boise, Idaho

My commission expires

Jan 15, 1977

For Department Use Only

Received by RW 4

Date 1-11-74

Exception filed by:

Forwarded to
claimant by:

Date

Prelim. check by RW 4

Date 1-11-74

Roll no. 13548

\$10.00 fee received by RW 4

Date 1-11-74

Approved for publication by

Published in Boise Tribune

Dates 1-11-74 to 3-1-74

63 4218