

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 63-4256A
Date Received: 3/19/1990
Receipt No: W011460
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

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

2. Date of Priority: 04/01/1949

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	Type
04N	04W	35	SW SW	CANYON	

5. Description of diverting works:

SEE REMARKS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	3/15	11/15	1.84	

7. Total Quantity Appropriated is:
1.84 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

SCANNED
APR 22 2008

Township	Range	Section	1/4	of 1/4	Lot	Use	Acres
04N	04W	34	NE		NE	IRRIGATION	12
			SE		NE	IRRIGATION	40
			NE		SE	IRRIGATION	40
						Section Acres	92
						Total Acres	92

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:

14. Remarks:

DESC. OF DIVERTING WORKS - SCREENED 10" PIPE CONN. TO A CENTRIFUGAL PUMP WITH A 15 HP ELEC. MOTOR. DEL. THRU ANOTHER 10" PIPE 12' LONG TO A CENTRIFUGAL PUMP POWERED BY A 25 HP MOTOR. THE WATER IS THEN RUN THROUGH 1 SAND SEPARATOR AND 3 MEDIA FILTERS TO A 10" PVC PIPE WHICH RUNS 1485' TO A CENTRIFUGAL PUMP POWERED BY A 40 HP MOTOR WHICH PRESSURIZES A DRIP IRRIG.

SYSTEM ON 92 ACRES.

NOTE: THIS CLAIM IS A SPLIT OF THE ORIG. CLAIM NO. 63-04256 WHICH COVERED A TOTAL OF 110 ACRES. 80 OF THESE ACRES ARE REFLECTED HERE WITH AN ADDITIONAL 12 ACRES WHICH HAD BEEN IRRIGATED FROM ANOTHER SURFACE WATER SOURCE AND ARE NOW IRRIGATED FROM THIS SAME DRAIN. THEREFORE, THE SAME PRIORITY CAN BE USED & THE 12 ACRES ARE BEING ADDED LEAVING 30 ACRES ON THE ORIG. CLAIM.

PROCESSED CHANGE IN OWNERSHIP 9/29/2006 - KW

15. Basis of Claim: Statutory Claim

16. Signature(s)

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Rec'd at State office 9/14/06
RECEIVED
 SEP 12 2006
 WATER RESOURCES
 WESTERN REGION

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
 Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
63-4256A	63-4256A	☐			☐
		☐			☐
		☐			☐
		☐			☐
		☐			☐

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s)
Norman A Batt 1621 Idaho Caldwell ID 83605
Frederick C. Batt 1621 Idaho Caldwell, ID 83605
Ellen B. Batt Box 646 Wilder, ID 83676
4. New Owner/Claimant(s)
Ellen G. Batt Box 646 Wilder, ID 83676
- Name Connector (Check one): ☒ and, ☐ or, ☐ and/or
- New Mailing Address
Western Idaho Development, Inc
19630 Friends Rd.
- City, State and ZIP Code
Greenleaf, ID 83626
- New Telephone Number
(208) 453-9132
5. Date you acquired the property
8-11-05

6. **If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7.** If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7. Signature of New Owner(s) or Claimant(s) Wesley M. Porter
(include title if applicable) president, Western Idaho Development, Inc.

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by _____ Date _____ Fee N/A
 Received by _____ Date _____ Receipt No. _____
 Processed by KEW AJ Date 9-19-06 WR _____ Date _____

JPN. 4.2006-11:19PM PIONEER TITLE

NO. 550

P.2

INSTRUMENT NO. 200549009

PN 81542
CC6662

WARRANTY DEED

FOR VALUE RECEIVED Fred C. Batt and Ellen B. Batt, husband and wife

the Grantor, do hereby grant, bargain, sell and convey unto Western Idaho Development, Inc., an Idaho corporation

the Grantee, whose address is 19630 Friends Rd, Greenleaf, ID 83626

the following described premises, to-wit:

THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 34 TOWNSHIP 4 NORTH RANGE 4 WEST OF THE BOISE MERIDIAN, CANYON COUNTY, IDAHO.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, he heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantee, that they are the owners in fee simple of said premises; that said premises are free from all encumbrances, except for general taxes and assessments for the year 2004 and subsequent years, covenants, conditions, restrictions and assessments of record; and that they will warrant and defend the same from all lawful claims whatsoever.

DATED: August 1, 2005

Fred C. Batt

Ellen B. Batt

STATE OF IDAHO

COUNTY OF CANYON

On this 10th day of August in the year 2005, before me, a Notary Public, personally appeared Fred C. Batt & Ellen B. Batt known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

Notary Public
Resides at: Wilder
My commission expires 12-31-07



PIONEER TITLE COMPANY
OF CANYON COUNTY
"CANYON OFFICE"

3900 N. FRANKLIN, STE. 150
NAMPA, IDAHO 83656

TEL (208) 466-6666
FAX (208) 466-6816

REQUEST
TYPE: Full FEE: 7.00

CANYON COUNTY RECORDER
C. M. HALLS
4

SEP 11 PM 3:56

RECORDED

200549009

SCANNED

SEP 18 2006

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: **A63-04256A**
Date Received: 3/19/1990
Receipt No: W011460
Received By: _____

**COPY FOR
YOUR FILES**

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

**COPY FOR
YOUR FILES**

1. Name:	FREDERICK C BATT	208-482-6448
Address:	BOX 646	
	WILDER ID	83676
OR		
Name:	ELLEN B BATT	208-482-6448
Address:	BOX 646	
	WILDER ID	83676
OR		
Name:	NORMAN A BATT	208-482-6448
Address:	BOX 646	
	WILDER ID	83676
OR		
Name:	ELLEN G BATT	208-482-6448
Address:	BOX 646	
	WILDER ID	83676

2. Date of Priority: APR 1, 1949

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:
SEE REMARKS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	1.840		

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

8. Total consumptive use is 322.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE.

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	04W	34	NE	NE		IRR	12.0
			SE	NE		IRR	40.0
			NE	SE		IRR	40.0
						Section Acres	92.0
						Total Acres	92.0

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:
NONE.

14. Remarks:

DESC. OF DIVERTING WORKS - SCREENED 10" PIPE CONN. TO A CENTRIFUGAL PUMP WITH A 15 HP ELEC. MOTOR. DEL. THRU ANOTHER 10" PIPE 12' LONG TO A CENTRIFUGAL PUMP POWERED BY A 25 HP MOTOR. THE WATER IS THEN RUN THROUGH 1 SAND SEPARATOR AND 3 MEDIA FILTERS TO A 10" PVC PIPE WHICH RUNS 1485' TO A CENTRIFUGAL PUMP POWERED BY A 40 HP MOTOR WHICH PRESSURIZES A DRIP IRRIG. SYSTEM ON 92 ACRES.

NOTE: THIS CLAIM IS A SPLIT OF THE ORIG. CLAIM NO. 63-04256 WHICH COVERED A TOTAL OF 110 ACRES. 80 OF THESE ACRES ARE REFLECTED HERE WITH AN ADDITIONAL 12 ACRES WHICH HAD BEEN IRRIGATED FROM ANOTHER SURFACE WATER SOURCE AND ARE NOW IRRIGATED FROM THIS SAME DRAIN. THEREFORE, THE SAME PRIORITY CAN BE USED & THE 12 ACRES ARE BEING ADDED LEAVING 30 ACRES ON THE ORIG. CLAIM.

15. Basis of Claim: STATUTORY CLAIM

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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: A63-04256A

Date Received: 2/07/1990

Receipt No:

Received By: *[Signature]* WQ11460

RECEIVED

MAR 19 1990

Department of Water Resources
Western Regional Office

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

1. Name: FREDERICK C. BATT 208-482-6448
Address: BOX 646
WILDER, ID 83676
OR
Name: ELLEN B. BATT 208-482-6448
Address: BOX 646
WILDER, ID 83676
OR
Name: NORMAN A. BATT 208-482-6448
Address: BOX 646
WILDER, ID 83676
OR
Name: ELLEN G. BATT 208-482-6448
Address: BOX 646
WILDER, ID 83676

2. Date of Priority: APR 01, 1949

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

4. Point of Diversion:

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

5. Description of diverting works:
SEE REMARKS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	1.840		

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

A.F.A.

A63-04256A

Page 1

Date: 02/07/90

MICROFILMED

AUG 20 1992

8. Total consumptive use is 322.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE.

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	04W	34	NE	NE		IRR	12.0
			SE	NE		IRR	40.0
			NE	SE		IRR	40.0
Section Acres							92.0
Total Acres							92.0

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:
NONE.

14. Remarks:

DESC. OF DIVERTING WORKS - SCREENED 10" PIPE CONN. TO A CENTRIFUGAL PUMP WITH A 15 HP ELEC. MOTOR. DEL. THRU ANOTHER 10" PIPE 12' LONG TO A CENTRIFUGAL PUMP POWERED BY A 25 HP MOTOR. THE WATER IS THEN RUN THROUGH 1 SAND SEPARATOR AND 3 MEDIA FILTERS TO A 10" PVC PIPE WHICH RUNS 1485' TO A CENTRIFUGAL PUMP POWERED BY A 40 HP MOTOR WHICH PRESSURIZES A DRIP IRRIG. SYSTEM ON 92 ACRES.

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15. Basis of Claim: STATUTORY CLAIM

16. Signature(s)

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

Number of attachments: 2

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): [Signature] Date: 2-7-90
Date: _____

State of Idaho)
County of ADA) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of February 19 90
Seal

[Signature]
Notary Public

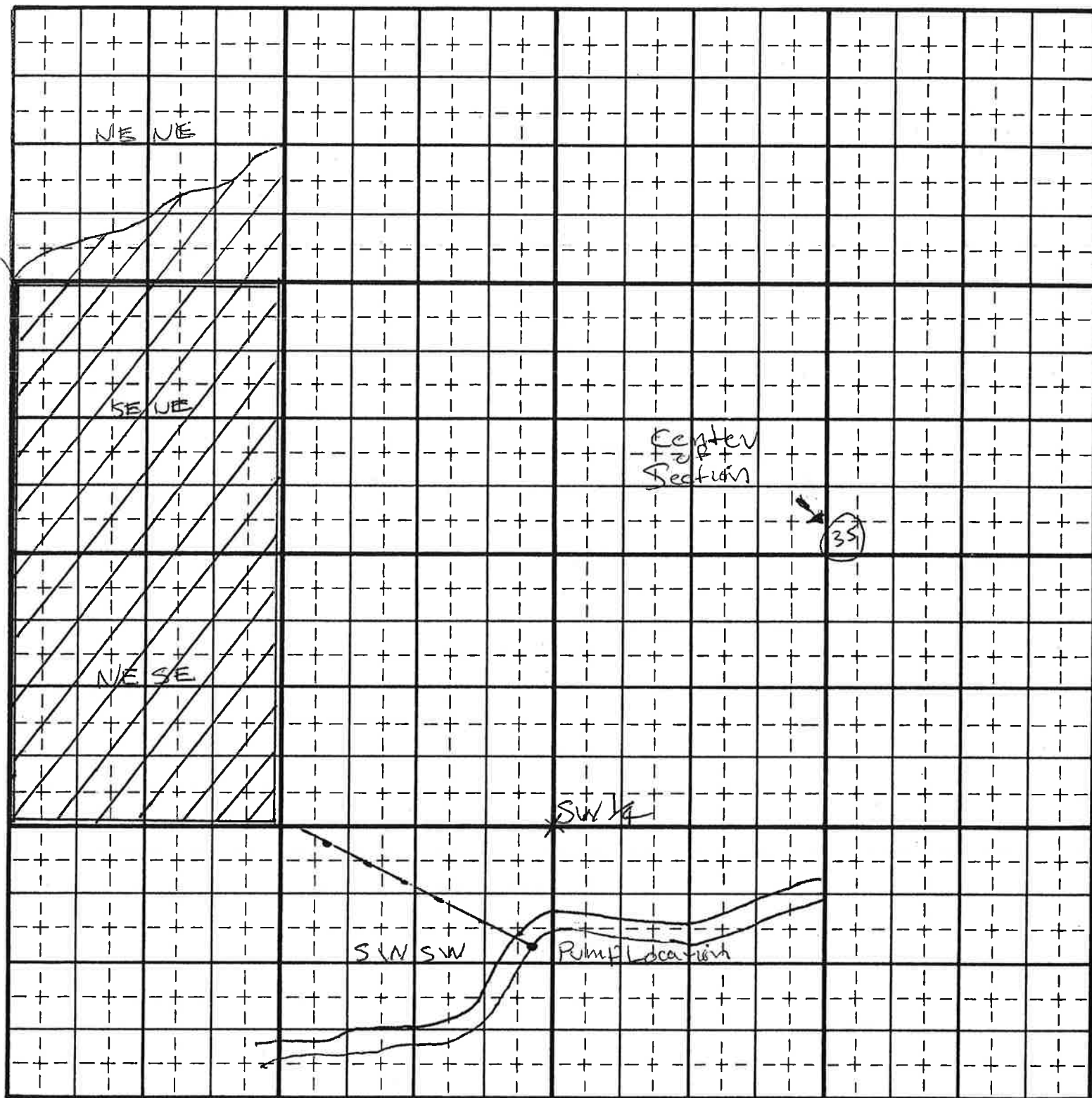
Residing at Meridian ID
My Commission Expires 9-14-94



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

Scale: 2 inches equals 1 mile

1" = 660'



Last Name _____ Ident No. _____

Copies: White-State, Yellow-County

MICROFILMED

AUG 20 1992

Walker, Kay

From: Ridgeway, Renea
Sent: Thursday, February 12, 2009 10:47 AM
To: Walker, Kay
Subject: RE: 63-4256A

ERG! I apologize! I have no record of that e-mail from Nick. That was the missing link. Sorry to have bothered you with this but the agents are the ones that know what's going on with these cases better than all of us over here at legal ☺.

Life's a journey. Roll down the window and enjoy the breeze!

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: Walker, Kay
Sent: Thursday, February 12, 2009 10:20 AM
To: Ridgeway, Renea
Cc: Spencer, Nick; Shurte, Jan
Subject: RE: 63-4256A

Renea: Pursuant to the e-mails below, we can't do an SF5 for 63-4256A either until Wilder & the claimant's come to an agreement. I have made changes to the priority date for this claim but it still is in limbo... Kay

FROM: NICK 10/7/08 @1:30 pm

Kay, use whatever system works best for you. **We can't do an SF-5 yet because as of the last status conference Wildwood and Arrington hadn't yet had a chance to discuss the irrigation district's objection.** So... you can either change the priority date in the database now in anticipation that resolution of the irrigation district objection will occur relatively soon, and then add whatever remarks they agree upon when they do settle. Or you can write yourself a note or leave another reminder to remind you to change the priority date down the road at the same time you add the remarks. NBS

From: Walker, Kay
Sent: Tuesday, October 07, 2008 1:10 PM
To: Spencer, Nick; Ridgeway, Renea
Cc: Walker, Kay
Subject: Claim 63-4256A

Susan Wildwood called me this morning in regard to Claim 63-4256A for Western Idaho Development. The claimants filed a late objection in regard to the recommended priority date on top of the Wilder Irrigation Objection. We have enough information to go ahead and change the recommendation for priority date. Shall I go ahead and make the change to priority date or wait until I hear from you in regard to resolution of Wilder's objection? Just let me know when to make the changes and I will get it done. Thanks. Kay

From: Ridgeway, Renea

2/12/2009

Sent: Thursday, February 12, 2009 10:09 AM
To: Walker, Kay
Cc: Shurte, Jan
Subject: RE: 63-4256C

Thank you for the clarification – I did not attend the last status conference and was just going off notes in the file wherein, I think, the two cases got mixed up. So, based on the information below I need the recommendation for 63-4256A – Western Idaho Development so that I can get this circulated.

And as for 63-4256C, you're right, there is nothing for us to do at this point until the parties come to an agreement regarding the language.

Thanks!

Life's a journey. Roll down the window and enjoy the breeze!

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: Walker, Kay
Sent: Thursday, February 12, 2009 9:41 AM
To: Ridgeway, Renea
Cc: Walker, Kay; Shurte, Jan
Subject: RE: 63-4256C

The Armenta's (63-4256C) have never requested an earlier priority date to my knowledge. A "sister" claim for Western Idaho Development requested a change in priority date which has been completed (63-4256A). The attorney for Western Idaho Development and Armenta submitted a letter stating she represented both parties and we added her to the claims. She also mentioned that Western Idaho Development wanted an earlier priority which, like I said above, has been done. If the Armenta's want an earlier priority date they need to submit an amended claim since we have recommended the claimed priority date which is the same date recommended to all the users under portions of original right 63-4256. As far as I know the Recommendation for 63-4256C should not be changed except for any agreement regarding the use of waste water objected to by Wilder Irrigation District. We have never received any direction from legal or Arrington that requests changes be made to the original recommendation.

I hope this answers your concerns.

From: Ridgeway, Renea
Sent: Thursday, February 12, 2009 8:27 AM
To: Shurte, Jan; Walker, Kay
Cc: Spencer, Nick
Subject: 63-4256C

Hi,
It was my understanding from the status conference back in December that this case was settled and that Kay had the necessary evidence of priority to change the priority date. If you can send over the new recommendation, I will gladly get it circulating so we can attempt to vacate the next status conference that is scheduled for the end of March. Let me know if there is anything else that I need to do. Thanks!

Life's a journey. Roll down the window and enjoy the breeze!

Renea Ridgeway

2/12/2009

Walker, Kay

From: Courtney, Andrea
Sent: Tuesday, August 12, 2008 4:50 PM
To: Williams, Ray; Walker, Kay
Cc: Spencer, Nick
Subject: RE: Claim 63-4256A

Kay~

We can go ahead and deal with Susan. Nick's notes from the initial hearing don't state whether she made an official appearance, but I agree with Ray's logic.

The status conf for this subcase is 9/30 so Susan has plenty of time to get her motion for late objection on file. Assuming it will be granted, it makes sense to have you prepare the revised rec now with the new priority so we have it on hand, but I don't know what the Wilder Irrigation Dist. issues are. At the initial hearing, did Shelley Davis discuss the easement/crossing agreement (the need for another remark to alleviate trespass)? If so, we are waiting for Al Barker to resolve that issue with Nick. If the easement issue didn't come up, then perhaps the WID obj can be resolved with just the wastewater remark that they prefer.

Andrea

From: Williams, Ray
Sent: Tuesday, August 12, 2008 3:52 PM
To: Walker, Kay
Cc: Courtney, Andrea
Subject: RE: Claim 63-4256A

Kay,

If I'm wrong, Andrea will correct me. Since I didn't see her at the initial hearing, I'm guessing she did a verbal objection. She needs to file a Motion to File Late Objection.

Thanks,

Ray

*call -
Susan
Wildwood*

*383-0390
left message 9:08
8/13 - needs to file
request for late
objection w/court*

appeared at the
I agree with you -
sue.

From: Walker, Kay
Sent: Tuesday, August 12, 2008 3:52 PM
To: Williams, Ray; Courtney, Andrea
Cc: Walker, Kay
Subject: Claim 63-4256A

I have received a request to change the priority date of this case. I will do this correctly.

1. We have never received a request from Western Idaho Deeds to add her to the list. We don't have official

2. The claimant has

*Per phone call
w/ Susan Wildwood
8/13/08 @ 3:08 pm -
She will file motion
for late OBJ w/court -
Kay*

ure I

Court
ugh we

by

8/13/2008

Wilder Irrigation District but that objection did not include the priority date. Can we make this change even though it is not part of the objection pending in front of the Court? (The claim was filed with a priority date of 4/01/1949 but with evidence received I recommended 3/01/1970.) I would think that the claimant should file a Notice of Late Objection with the Court but maybe I am thinking too much.

Any advice you can give me in regard to these questions would be appreciated!! Thanks. Kay

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

RIGHT NUMBER: 63-4256A

NAME AND ADDRESS: WESTERN IDAHO DEVELOPMENT INC
19630 FRIENDS RD
GREENLEAF ID 83626

SOURCE: LOWER EMBANKMENT DRAIN

TRIBUTARY: SNAKE RIVER

QUANTITY: 1.560 CFS

PRIORITY DATE: 04/01/1949 03/01/1970

POINT OF DIVERSION:

T04N R04W S35 NESWSW 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	1.560 CFS

PLACE OF USE: IRRIGATION in CANYON County

T04N R04W S34	SENE	39.00	T04N R04W S34	NESE	39.00
---------------	------	-------	---------------	------	-------

78 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.

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.~~

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-4256A V1

WATER RIGHT NUMBER: 63-4256A V1

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	TOBIAS BENDER RT 6 CALDWELL, ID 83605
Original Owner	FREDERICK C BATT 1621 IDAHO CALDWELL, ID 83605 (208)453-8588
Original Owner	ELLEN B BATT 1621 IDAHO CALDWELL, ID 83605 (208) 453-8588
Original Owner	NORMAN A BATT 1621 IDAHO CALDWELL, ID 83605 (208)453-8588
Original Owner	ELLEN G BATT 1621 IDAHO CALDWELL, ID 83605 (208) 453-8588
Current Owner	WESTERN IDAHO DEVELOPMENT INC 19630 FRIENDS RD GREENLEAF, ID 83626 (208) 453-9132

Priority Date: 04/01/1949 3-1-1970 F-HASHEP THRU

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
LOWER EMBANKMENT DRAIN	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/01 to 11/15	1.560 CFS	
	<u>Total Diversion:</u>	1.560 CFS	

Location of Point(s) of Diversion

LOWER EMBANKMENT DRAIN	NE1/4SW1/4SW1/4	Sec. 35, Twp 04N, Rge 04W, B.M.
CANYON County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE	NW	SW	SE	Totals
04N	04W	34	39.0			39.0	78.0

Total Acres: 78

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-4256A V1

Total Acres: 78

Conditions of Approval:

1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2. G16 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.

Remarks:

Comments:

1. kwalker 10/20/2008 Priority Date

Comment: The claimant filed a late Objection towards the recommended priority date of 3/1/1970. When creating recommendation of this claim the prior claimants submitted evidence of priority of their personal knowledge and I used that information for the original recommendation. The current owners got together with neighbors and found they could also obtain an earlier priority date. They gathered information from a previous owner and submitted that information with their objection. In review of the information submitted I have changed the recommendation to allow the same priority date as the owners of other portions of 63-4256.

SubCase:

SubCase Number: 63-4256A
Class: 1
SF5 Filed Date:
Special Master Recom Signed Date:
Attorney Assigned:
Adjudication Agent: kwalker
Basis of Claim: Beneficial Use
Date Filed: 8/16/2007 Objection Status: Active
Date Filed: 9/30/2008 Objection Status: Active
Date Filed: 6/18/2007 Objection Status: Active

Water Supply Bank:

STATUS CONFERENCE NOTES:

RIGHT NO. 63-4256 A* DATE: 3-31-08PREV.
STATUS

Western Idaho Dev. Inc. - Kay accepted earlier priority date. Still pending discussion on language between Wildwood & Harrington is pending.
Susan Wildwood - Attorney

* Paul Harrington has come up with a crossing agreement language. Sent to BOR, BOR sent to Paul w/changes, Paul changed & sent to BOR. He will send a copy to all parties now. Next status conf. is 7/7/09 at 1:30

10/20/2008

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

RIGHT NUMBER: 63-4256A

NAME AND ADDRESS: WESTERN IDAHO DEVELOPMENT INC
19630 FRIENDS RD
GREENLEAF ID 83626

SOURCE: LOWER EMBANKMENT DRAIN

TRIBUTARY: SNAKE RIVER

QUANTITY: 1.560 CFS

PRIORITY DATE: 04/01/1949

POINT OF DIVERSION:

T04N R04W S35 NESWSW Within CANYON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/01 11/15

1.560 CFS

PLACE OF USE: IRRIGATION in CANYON County

T04N R04W S34

SENE

39.00

T04N R04W S34

NESE

39.00

78 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

updated - see comments
in ECVR - kw
10/20/08

← change to be shown on
SF5 when we get the
language.

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-4256A V1

WATER RIGHT NUMBER: 63-4256A V1

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	TOBIAS BENDER
Original Owner	FREDERICK C BATT
Original Owner	ELLEN B BATT
Original Owner	NORMAN A BATT
Original Owner	ELLEN G BATT
<u>Current Owner</u>	WESTERN IDAHO DEVELOPMENT INC

Priority Date: 04/01/1949

Basis: Beneficial Use

Status: Active

*see comments attached -
kw
10/20/08*

<u>Source</u>	<u>Tributary</u>
LOWER EMBANKMENT DRAIN	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/01 to 11/15	1.560 CFS	
	<u>Total Diversion:</u>	1.560 CFS	

Location of Point(s) of Diversion

LOWER EMBANKMENT DRAIN NE1/4SW1/4SW1/4 Sec. 35, Twp 04N, Rge 04W, B.M.
CANYON County

Place of Use

IRRIGATION

Twp	Rge	Sec	NE	NW	SW	SE	Totals
04N	04W	34	NE	NW	SW	SE	
			39.0				78.0

Total Acres: 78

Conditions of Approval:

1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2. G16 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.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-4256A V1

Comments:

1. kwalker 10/20/2008 Priority Date

Comment: The claimant filed a late Objection towards the recommended priority date of 3/1/1970. When creating recommendation of this claim the prior claimants submitted evidence of priority of their personal knowledge and I used that information for the original recommendation. The current owners got together with neighbors and found they could also obtain an earlier priority date. They gathered information from a previous owner and submitted that information with their objection. In review of the information submitted I have changed the recommendation to allow the same priority date as the owners of other portions of 63-4256.

SubCase:

SubCase Number: 63-4256A

Class: 1

SF5 Filed Date:

Special Master Recom Signed Date:

Attorney Assigned:

Adjudication Agent: kwalker

Basis of Claim: Beneficial Use

Date Filed: 8/16/2007 Objection Status: Active

Date Filed: 9/30/2008 Objection Status: Active

Date Filed: 6/18/2007 Objection Status: Active

Water Supply Bank:

2008 SEP 30 AM 10:32
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: 63-04256A

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

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

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

RECEIVED

AUG 29 2008

DEPARTMENT OF 2008 AUG 28 PM 12:40
WATER RESOURCES 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 HEARING
Case No. 39576)
SUBCASE NO: 63-04256A

Please be advised that Special Master THEODORE R BOOTH
has set for hearing the MOTION TO FILE LATE OBJECTION.

TUESDAY, SEPTEMBER 30, 2008 at 10:00 AM (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: AUGUST 28, 2008

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

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

Page 1 8/28/08

CERTIFICATE OF MAILING

I Certify that a true and correct copy of the ORDER SETTING HEARING was mailed on AUGUST 28, 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

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

ATTENTION

Feb. 18, 2006

IN THE MATTER OF)
NOTICE OF CLAIM TO)
A WATER RIGHT NO. (S))
A63-4256C)

KIMBERLY
AFFIDAVIT

RECEIVED

FEB 28 2006

WATER RESOURCES
WESTERN REGION

State of Idaho)
County of Canyon)

Richard + Edna Britton and 1 child

deposes and says:

In reference to the use of water
at the lower embankment drain located
at T 04N, R 04W, S 35 for use on NESW

We moved onto this property in 1942.
A pump was already in the drain ditch pumping water
north of the ditch. (Richard installed another pump in 1949.)
We raised alfalfa, corn, beets, potatoes and "Dorset" strawberries
to sell. We and our 5 children moved into the "Sister Harris"
house in 1957 and we also pumped water on that
property with this same pump. We moved away
in 1966. Priscilla Armenta moved onto this property
in 1977. Richard passed away in 1978.

Edna M. Britton
(Signature)

Mrs. Richard Britton

additional info -
copy from
bill 63-4256C -
KW
10/4/08

RECEIVED

AUG 28 2008

DEPARTMENT OF
WATER RESOURCES

Susan Wildwood, ISB 3327
SUSAN WILDWOOD, CHARTERED
P.O. Box 6502 - 2533 N. 26th
Boise, Idaho 83707
Telephone: (208) 383-0390 - Fax 433-8365

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

In Re SRBA	)	SUBCASE NO. 63-04256A
	)	
Case No. 39576	)	REQUEST FOR LEAVE TO FILE
_____	)	LATE OBJECTION TO PRIORITY DATE

COMES NOW, Western Idaho Development, Inc, (Western Idaho), Claimant under the above referenced Subcase and requests leave of Court to file a late objection to the priority date recommended by the Director of the Idaho Department of Water Resources (Director).

The grounds for the request are that the original claimant, Thomas Bender, could not be located at the time that Western Idaho's predecessors in title, Frederick Batt, et al., submitted documentation to prove up the priority date. Mr. Bender's original claim listed a priority date of April 1, 1949. See Exhibit 1.

The earliest date that Batt's could provide was 1977. See Exhibit 2, Affidavit of Norman A. Batt. Therefore, the Director recommended the earliest date submitted by Batts - 1977, rather than the date listed in the Bender claim - 1949.

At the Status Conference called by the Court on June 19, 2008, the undersigned, who is now counsel for Mrs. Priscilla Armenta, Subcase 63-2456C, was provided a copy of an Affidavit by Mrs. Edna Britton, who stated that she and her husband were the original purchasers and irrigators of the properties the subject of both the referenced sub-cases.

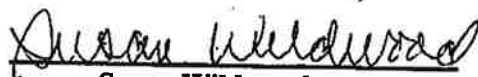
I met with Mrs. Britton on June 25, 2008 and obtained an Affidavit from her pertaining to the actual priority date for Subcase 63-2456C that indicates the original priority date was correctly listed as 1949. A copy of Mrs. Britton's Affidavit has been filed with the Idaho Department of Water Resources. The original is attached hereto as Exhibit 3.

At the same meeting, her son-in-law informed me that Mr. and Mrs. Bender were tragically killed in an automobile accident immediately after they sold the subject properties.

This information was not available to Western Idaho until the teleconference and the subsequent meeting with Mrs. Britton in June 2008.

Therefore, Western Idaho respectfully requests leave of Court to file the attached Late Objection to the priority date recommended by the Director. No party will be prejudiced thereby and the only other objector, Wilder Irrigation District (Wilder) did not object to the priority date recommended by the Director. As noted in the Certificate of Service attached hereto, Wilder has been served a copy of this Request for Leave to File Late Objection to Priority Date.

DATED this 27th day of August, 2008


Susan Wildwood
SUSAN WILDWOOD, CHARTERED

CLAIM TO A WATER RIGHT

Notice is hereby given that Mr. Tobias Bender

The extent and nature of said claim is as follows:

- | | | | | | | | | | |
|----|--------|----------------------|-----|-----------------------------|----------------|------|---------|----|------------------------|
| #1 | Amount | .60 | Use | Irrigation | Period of Use: | From | April 1 | To | Oct. 31 |
| #2 | Amount | 1.60 | Use | Irrigation | Period of Use: | From | April 1 | To | Oct. 31 |
| | Amount | | Use | | Period of Use: | From | | To | |
| | | (caf, gwn
or a/t) | | (dom, irri,
stock, etc.) | | | | | (both dates inclusive) |

- (4) Priority claimed: (the date water was first applied to beneficial use) April 1, 1949

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

- #1. SE ¼ SW ¼ Sec. 35 Twp. 4 N. Rge. 4 W. B.M. County of Canyon
Additional points of diversion: #2 - SW ¼ Sec. 35 T. 4 N. R. 4 W.

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. Pump from drain through pipeline to
property. Pipeline located on quarter section line.

- [illegible]

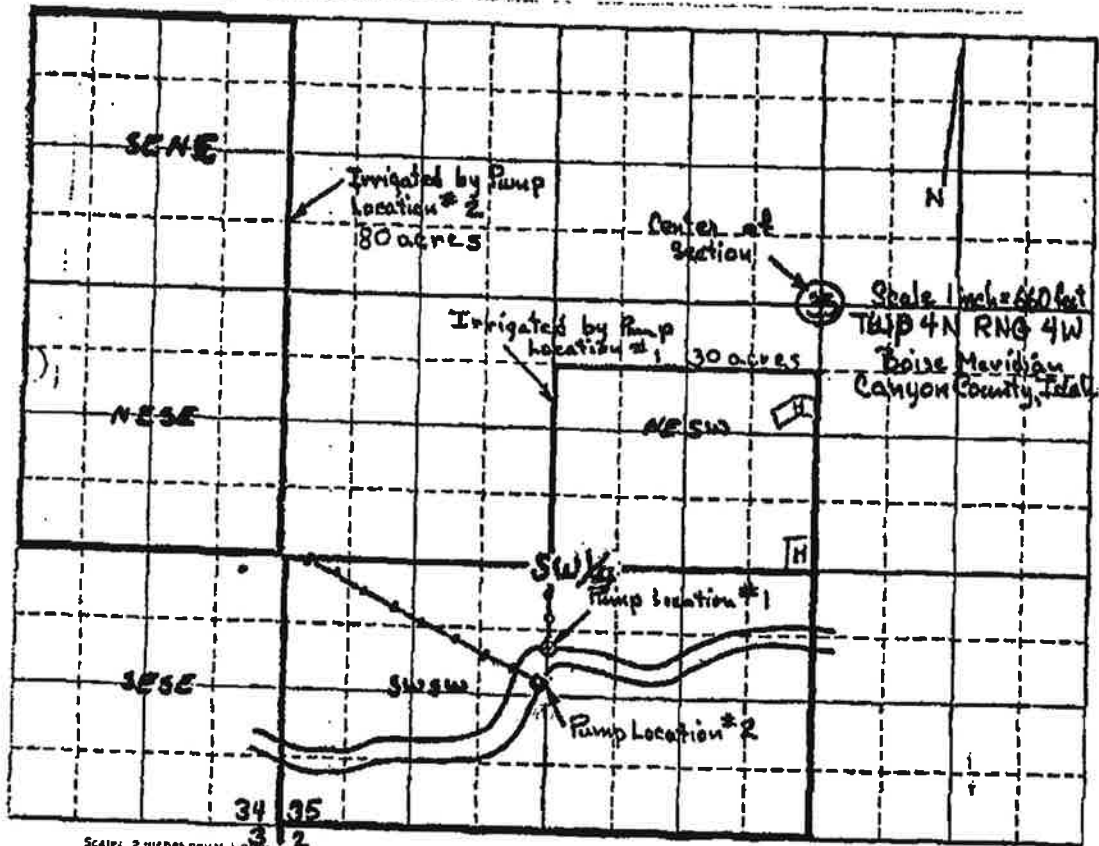
Total No. of cases 110

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

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

(8) Remarks

IN 1825-6;
63 4256



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 15 day of February, 1974.

Notary Public

Residing at Boise, Idaho

My commission expires June 15, 1977

For Department Use Only

Received by FOCB

Prelim. check by FOCB

\$10.00 fee received by FOCB

Approved for publication by FOCB

Published in FOCB

Dates 1 15 1 16 7-74

Date 2-15-74

Date 15 Feb. 1974

Date 2-15-74

Exception filed by:

Forwarded to

Date

claimant by:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-4256

WATER RIGHT NUMBER: 63-4256

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	TOBIAS BENDER RT 6 CALDWELL, ID 83605

Priority Date: 04/01/1949
 Basis: Statutory Claim
 Status: Active

<u>Source</u>	<u>Tributary</u>
LOWER EMBANKMENT DRAIN	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01 to 10/31		2.200 CFS	
	<u>Total Diversion:</u>		2.200 CFS	

<u>Location of Point(s) of Diversion</u>		
LOWER EMBANKMENT DRAIN	SE1/4SW1/4	Sec. 35, Twp 04N, Rge 04W, B.M.
CANYON County		
LOWER EMBANKMENT DRAIN	SW1/4SW1/4	Sec. 35, Twp 04N, Rge 04W, B.M.
CANYON County		

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	34				40.0										40.0			80.0
04N	04W	35								30.0									30.0

Total Acres: 110

Conditions of Approval:Remarks:Comments:

RECEIVED

FEB 24 2006

WATER RESOURCES
WESTERN REGION

IN THE MATTER OF
NOTICE OF CLAIM TO
A WATER RIGHT NO.(S)
A63-4256A

2-15-06

AFFIDAVIT

State of Idaho
County of Canyon

Norman A. Batt

deposes and says: We bought the water right of the 80
acres which it serves, in 1977, from Paul Munson.
The "Claim to a Water Right", however, was filed
by previous several owners BEFORE Munson, by Tobias Bender.
Mr. Bender filed the Claim in 1974, with a
priority claimed date of 1949. Bender had farmed there for years.

We know that this water diversion was used for
the specified 80 acres at least from 1970 on. We
believe that this usage existed from decades earlier,
but we can not prove that, & we do not have any
knowledge of the whereabouts of Tobias Bender.
A copy of the "Claim to a Water Right" by Tobias Bender
is enclosed.



(Signature)

Also of Note: We sold this property, & the water
right, in 2005 to Wesley Porter, dba Western Idaho
Development.



EXHIBIT 2

Jun 10 08 08:51a
Jun 09 08 12:29p

Batt

2084538588

p.2
p.1

WILDER HOP CO.
1621 Idaho Avenue, Caldwell, ID 83605
Phone/Fax: 208 453 8588

June 9, 2008

Subject: Water Right on Lower Embankment Drain

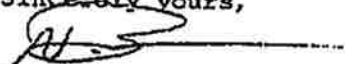
To Whom It May Concern:

I am writing this letter at the behest of James Porter, whose family now owns a piece of farm land, which my brother and I previously owned and farmed. The 80 acre piece of land in question is located in Section 34, Township 4 North, Range 4 West, Boise Meridian, Canyon County, Idaho. It has been irrigated for decades utilizing water from the Lower Embankment Drain, with a point of diversion located in SWSW, Section 35, T4N, R4W.

My brother and I purchased the 80 acres from Mr. Paul Munson in March of 1977. Mr. Munson had previously purchased the property from Mr. Walter Riess. To the best of my knowledge, Mr. Riess had purchased the farm from Mr. Tobias Bender. In February 1974, Mr. Bender filed a "Claim to a Water Right" with the Department of Water Administration, State of Idaho, claiming that water was first applied to this farm land from the Lower Embankment Drain in 1949.

As far as I know, Mr. Bender had continually farmed this 80 acres with water from above specified point of diversion. Certainly, my brother and I farmed the property from 1977 until we sold the property in 2005, always utilizing the water from the Lower Embankment Drain. If Mr. Bender's priority claim of 1949 is accurate, then the farm land and the Lower Embankment Drain have been physically and economically tied together for nearly 60 years.

Sincerely yours,


Norm Batt

STATE OF IDAHO)

COUNTY OF CANYON)

AFFIDAVIT OF Eona M. Britton
REGARDING PROPERTY HISTORY

I, Eona M. Britton being first duly sworn, deposes and states

that:

In approximately 1942, my husband Richard and I purchased 80 acres Northwest of Elsie, and Fred Lane. We lived on the property. The West Canyon Elementary School is located on the property (now).

There was a pump in the lower embankment drain for irrigation when we bought it. We pumped from the drain into an upper pond and gravity irrigated.

We bought a second adjacent 80, now owned by ~~Richard M. Britton~~ ^{Richard M. Britton}. It is West of what would be Boot Road. We bought in 1950.

We added another pump from the drain to get more water to the pond for the second 80.

We had to clean sagebrush from the second 80 and irrigated it from 1950 on.

We bought 30 acres in 1958. We irrigated it from the same system.

We sold all the property to Jorgensen in about 1965. He sold to Tobias Bender.

@ Western Idaho Development

DATED this 25th day of June 2008.

Edna M. Britton
(Signature)

SUBSCRIBED AND SWORN to before me this 25th day of June 2008.



Susan Wildwood
NOTARY PUBLIC FOR THE STATE OF IDAHO
Residing at Elise St, Idaho
My Commission expires: 01-31-13

Susan Wildwood, ISB 3327
SUSAN WILDWOOD, CHARTERED
P.O. Box 6502 - 2533 N. 26th
Boise, Idaho 83707
Telephone: (208) 383-0390 - Fax 433-8365

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

In Re SRBA	)	SUBCASE NO. 63-04256A
	)	
Case No. 39576	)	CERTIFICATE OF SERVICE
_____	)	

I, Susan Wildwood, hereby declare under penalty of perjury that I am not a party to the within action and am over the age of 18. On August 27, 2008, I served the following persons with the Request for Leave of Court to File Late Objection to Priority Date, as follows:

Mr. Albert P. Barker
Barker Rosholt & Simpson, LLP
P.O. Box 2139
Boise, ID 83707-2139
Facsimile: 344-6034
Attorneys for Wilder Irrigation District

☐ Facsimile
☒ Mailing
☐ Hand Delivery

United States Department of Justice
Environment & Natl' Resources
550 West Fort Street, MSC 033
Boise, ID 83712
Facsimile: 334-1413
Attorney for USDI Bureau of Reclamation

☐ Facsimile
☒ Mailing
☐ Hand Delivery

Director
Idaho Department of Water Resources
P.O. Box 83720
Facsimile: 287-6700
Boise, ID 83720-0098

☐ Facsimile
☒ Mailing
☐ Hand Delivery

DATED this 27th day of August, 2008.

Susan Wildwood
Susan Wildwood

RECEIVED
AUG 28 2008
DEPARTMENT OF
WATER RESOURCES

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

In Re SRBA)

Case No. 39576)

A. Subcase 63-0425A
(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Western Idaho Development, Inc.

Address: 19630 Friends Road
Greenleaf, ID 83626

Daytime Phone: (208) 989-9791- Wes Porter

Name & Address of Attorney, if any:
Susan Wildwood

P.O. Box 6502

Boise, ID 83707

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

Name: Western Idaho Development, Inc.

Address: 19630 Friends Road
Greenleaf, ID 83626

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: _____
3. ☐ **Quantity**
Should be: _____
4. ☒ **Priority Date** 04-01-49
Should be: _____
5. ☐ **Point of Diversion**
Should be: _____
6. ☐ **Instream Flow Beginning and Ending Point**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: _____
10. ☐ **I object because:**
☐ This water right Should not exist.
☐ This water right was not recommended, but Should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTIONS(S):** Please see Request for Leave to File Late Objection to Priority Date and Affidavit of Edna M. Britton.

F.

VERIFICATION (must be completed)

State of Idaho)
County of Ada) ss.

by and through Susan Wildwood
Western Idaho Development, Inc., 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)

Susan Wildwood
(Attorney signing in representative capacity)
Susan Wildwood

Subscribed and sworn to before me on:

August 27th, 2008



[Signature]
Notary Public for Ada, Idaho
Residing at: 433 N. 16th St Boise, ID 83702
My Commission Expires: 12/24/2013

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 August 27, 2008, 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: Western Idaho Development, Inc.

Address: 19630 Friends Road
Greenleaf, ID 83626

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

Susan Wilder
Signature of objector or attorney
mailing on Objector's behalf

***Susan Wildwood, Chartered
Attorney-At-Law***

*Post Office Box 6502
Boise, Idaho 83707
Office: (208) 383-0390
Fax: (208) 343-3756*

August 4, 2008

**Idaho Department of Water Resources
Western Region – Adjudication Section
2735 Airport Way
Boise, ID 83705-5082
Attention Liberty Gagnon, Office Specialist 1**

RECEIVED

AUG 06 2008

**WATER RESOURCES
WESTERN REGION**

**RE: Water Right 63-4256A, Western Idaho Development
Water Right 63-4256C, Priscilla Armenta**

Dear Office Specialist

I represent both Western Idaho Development and Priscilla Armenta, whose respective Water Rights are referenced above. I have enclosed herewith an affidavit of Edna M. Britton, a copy of which I am requesting be filed in both matters.

Western Idaho Development requests that you review the file in its matter and update the recommendation regarding the priority date to reflect the fact that Mrs. Britton and her husband were irrigating the parcel now owned by Western Idaho Development at least as of 1950. Western Idaho Development's predecessor in title, the Batts were not able to locate Tobias Bender who filed the original material in the adjudication for documentation supporting his original priority date of 1949. We were only informed as of June 25, 2008 by Mrs. Britton that Mr. Bender and his wife were killed in a car accident closely after they sold the property and never filed any supporting documentation. Mrs. Britton's affidavit supplies the missing information allowing for a correction of the priority date.

I have also included a copy of my Notice of Appearance on behalf of Mrs. Armenta for your records. Please telephone with any questions.

Very truly yours,

Susan Wildwood

Susan Wildwood

cc: File; clients

AUG 06 2008

**WATER RESOURCES
WESTERN REGION**

AFFIDAVIT OF Edn M. Britten
REGARDING PROPERTY HISTORY

COUNTY OF CANYON

I, Eona M. Britton being first duly sworn, deposes and states

In approximately 1942, my husband Richard and I purchased 80 Acres Northwest of Elstik, and Freda Lane. We lived on the property. The West Canyon Elementary School is located on the property, now.

There was a pump in the lower embankment drain for irrigation when we bought it. We pumped from the drain into an upper pond and gravity irrigated.

We bought a second adjacent 80, now owned by Betty. It is most of what would be Boot Road. We bought in 1950.

We added another pump from the
Drown to get more water to the pond for
the second 30.

We had to clean Sego brush from the second S₂ and irrigated it from 1950 on.

We bought 30 acres in 1958. We irrigated it from the same system.

He sold all the property to Jorgensen
in about 1965, he sold to Tobias Bender.

② Western Idaho Development

DATED this 25th day of June 2008.

Edna M. Britton
(Signature)

SUBSCRIBED AND SWORN to before me this 25th day of June 2008.



Susan Wildwood
NOTARY PUBLIC FOR THE STATE OF IDAHO
Residing at Elise, ID, Idaho
My Commission expires: 01-31-13

2008 JUL 17 PM 02:32
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: 63-04256A

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

WESTERN IDAHO DEVELOPMENT INC

Represented by:
SUSAN WILDWOOD
PO BOX 6502
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

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

Case No. 39576

) ORDER SETTING SUBCASE(S)
) FOR INITIAL HEARING

) 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 63-4256A

(Insert water right number)

Case No. 39576)

STANDARD FORM 1

OBJECTION

RECEIVED

Please fill in the following information:

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: Western Idaho Development Inc.

Address: 19630 Friends Rd.

Greenleaf, ID 83626

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)
)ss.

County of Ada)

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

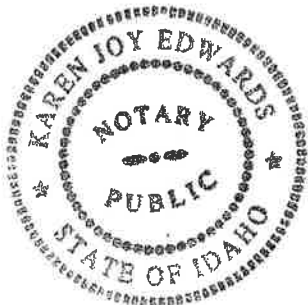
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and(6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(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:

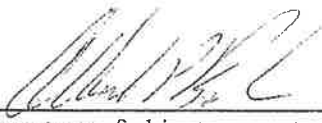
Name: Western Idaho Development Inc.
Address: 19630 Friends Rd.
Greenleaf, ID 83626

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: 63-4256A

NAME AND ADDRESS: WESTERN IDAHO DEVELOPMENT INC
19630 FRIENDS RD
GREENLEAF ID 83626

SOURCE: LOWER EMBANKMENT DRAIN

TRIBUTARY: SNAKE RIVER

QUANTITY: 1.560 CFS

PRIORITY DATE: 03/01/1970

POINT OF
DIVERSION: T04N R04W S35 NESWSW Within CANYON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/01 11/15

1.560 CFS

PLACE OF USE: IRRIGATION in CANYON County

T04N R04W S34

SENE

39.00

T04N R04W S34

NESE

39.00

78 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

09/19/2006

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

RIGHT NUMBER: 63-4256A

NAME AND ADDRESS: WESTERN IDAHO DEVELOPMENT INC
19630 FRIENDS RD
GREENLEAF ID 83626

SOURCE: LOWER EMBANKMENT DRAIN TRIBUTARY: SNAKE RIVER

QUANTITY: 1.560 CFS

PRIORITY DATE: 03/01/1970

POINT OF DIVERSION:

T04N R04W S35 NESWSW 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	1.560 CFS

PLACE OF USE: IRRIGATION Within CANYON County

T04N R04W S34	SENE	39.00	T04N R04W S34	NESE	39.00
---------------	------	-------	---------------	------	-------

78 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



Idaho Department of Water Resources

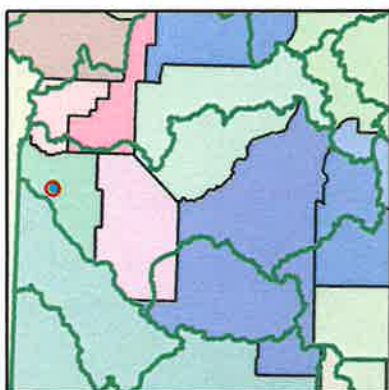
SRBA Recommendation:

63-4256A

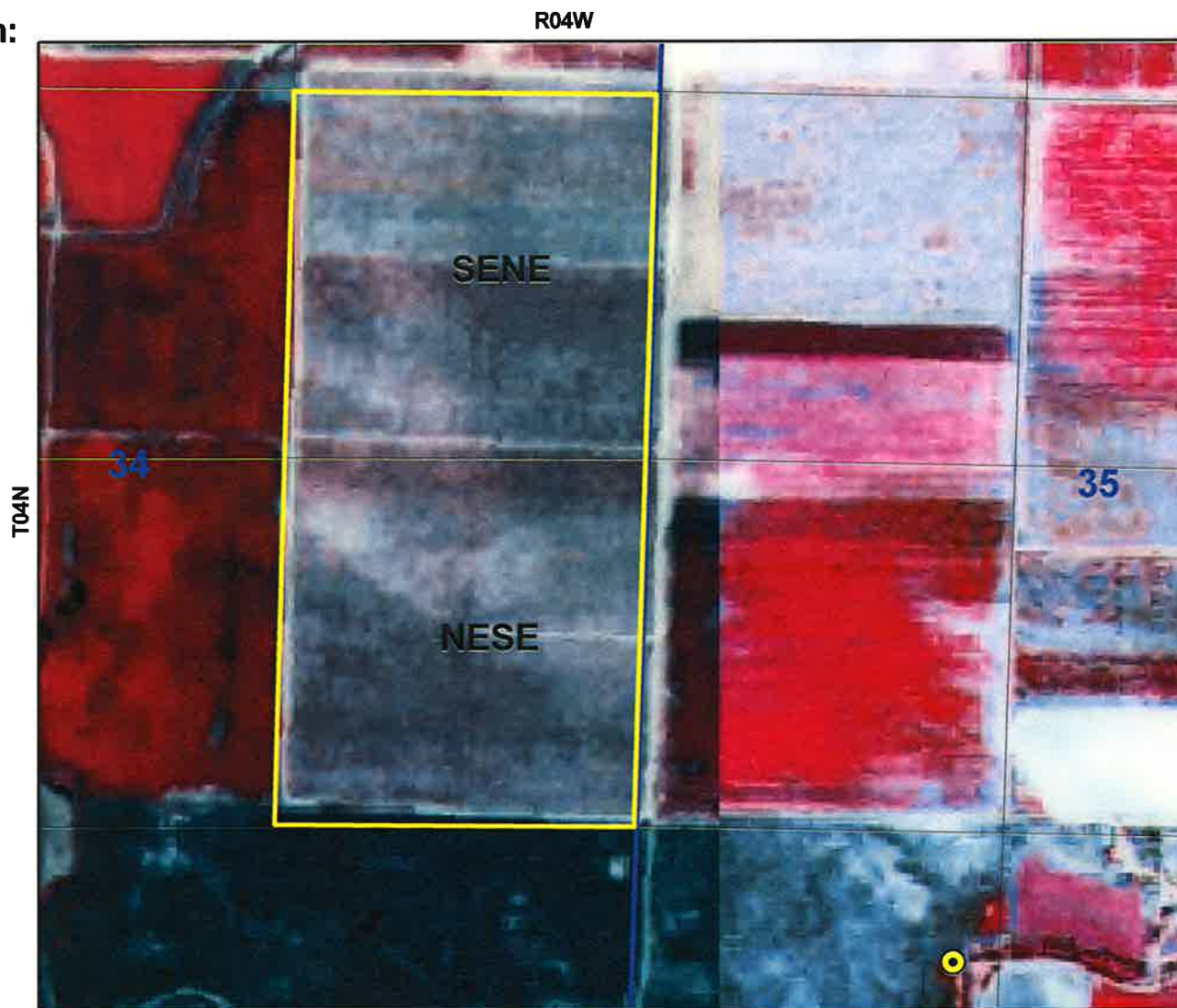
Acres = 78

Legend

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



Canyon County
IDWR Basin 63



0 0.3 0.6 Miles

Prepared by K. Walker
On Thursday, July 13, 2006
1987/88 Aerial Photography

To : Water Resources
From : Western Idaho Development, Inc.
Re : Water Right # 63-4256A
Warranty Deed

FAX 287-6700
ph 287-4953

Total pages 2

any problems: Please call 208-989-7090 cell
208-453-9132 home

Thank you
Carnie Porter

SCANNED

SEP 18 2006

MEMORANDUM

TO: File 63-4256A

FROM: KAY WALKER

RE: Ownership

Date: September 15, 2006

.....

Received a Notice of Change in Ownership of this claim on 9/14/2006 from our Western Regional Office. There was no deed attached to this request, called Liberty at Western to see if she had retained it for some reason but she had not. Called the phone number on ownership change form and left a voice mail requesting copy of deed. Voice mail also relayed that we could not process the change without a deed.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

RECEIVED

SEP 14 2006

DEPARTMENT OF
WATER RESOURCES

September 13, 2006

JAMES E. RISCH
Governor

KARL J. DREHER
Director

Western Idaho Development
Attn: Wesley Porter
19630 Friends Rd
Greenleaf, ID 83626

RE: Water Right No. 63-4256A

Dear Claimant(s):

This office has received your Notice of Change of Water Right Ownership recently submitted. We also received check number 2538 in the amount of \$25; however, we are returning it to you, as the ownership change fee is not required for this particular water right claim. This claim has not yet been decreed by the SRBA Court. The ownership change is being processed and a copy will be mailed to you upon completion.

Thank you for your patience and cooperation. If you have any questions regarding this letter, feel free to contact this office at (208) 334-2190

Sincerely,

Liberty Gagnon
Office Specialist 1
Adjudication Section
Western Region

LG: lg

Enclosures

WESTERN IDAHO DEVELOPMENT, INC
WESLEY M. PORTER AND CONNIE I. PORTER
19630 Friends Rd
Greenleaf, ID 83626

2538

92-7008/3241

9-11-06

Date

Pay to the Order of Idaho Department of Water Resources

\$25.00

Twentyfive and 00/100

Dollars



Security Features Details on Back



Washington Federal Savings
Nampa Office
223 11th Avenue South
Nampa, ID 83651

#63-4256A

For

MP



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

March 21, 2006

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

RECEIVED

SEP 12 2006

WATER RESOURCES
WESTERN REGION

WESTERN IDAHO DEVELOPMENT
ATTN: WESLEY PORTER
19630 FRIENDS RD
GREENLEAF ID 83626

RE: Snake River Basin Adjudication (SRBA) Claim No. 63-4256A

Dear Mr. Porter:

We have been advised you may be the new owner of the property with the water right referenced above (see enclosed report).

Before we can modify our records to reflect your ownership of this water right, we need to have the enclosed Notice of Change of Water Right Ownership form completed. Please follow the instructions included with this form and return to our office with all of the required information.

If you have any questions regarding this letter, please feel free to contact me at (208)287-4953.

Sincerely,

KAY WALKER
Sr. Water Resource Agent

KW:k
Enclosures

03/21/2006

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-4256A

RECEIVED

SEP 12 2006

WATER RESOURCES
WESTERN REGION

WATER RIGHT NUMBER: 63-4256A

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	NORMAN A BATT 1621 IDAHO CALDWELL, ID 83605
Current Owner	FREDERICK C BATT 1621 IDAHO CALDWELL, ID 83605
Current Owner	ELLEN B BATT BOX 646 WILDER, ID 83676 (208)482-6448
Current Owner	ELLEN G BATT BOX 646 WILDER, ID 83676 (208)482-6448
Original Owner	TOBIAS BENDER RT 6 CALDWELL, ID 83605

Priority Date: 04/01/1949

Basis: Statutory Claim

Status: Active

<u>Source</u>	<u>Tributary</u>
LOWER EMBANKMENT DRAIN	SNAKE RIVER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	3/15 to 11/15	1.840 CFS	
	<u>Total Diversion:</u>	1.840 CFS	

Location of Point(s) of Diversion

LOWER EMBANKMENT DRAIN	SW1/4SW1/4	Sec. 35, Twp 04N, Rge 04W, B.M.
CANYON County		

Place of Use

IRRIGATION

Not under this Source per Mr. Batt

Twp	Rge	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
04N	04W	34	19.0			40.0								40.0	92.0
															80

Total Acres: ~~92~~ 80Conditions of Approval:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-4256A

1. DESC. OF DIVERTING WORKS - SCREENED 10" PIPE CONN. TO A CENTRIFUGAL PUMP WITH A 15 HP ELEC. MOTOR. DEL. THRU ANOTHER 10" PIPE 12' LONG TO A CENTRIFUGAL PUMP POWERED BY A 25 HP MOTOR. THE WATER IS THEN RUN THROUGH 1 SAND SEPARATOR AND 3 MEDIA FILTERS TO A 10" PVC PIPE WHICH RUNS 1485' TO A CENTRIFUGAL PUMP POWERED BY A 40 HP MOTOR WHICH PRESSURIZES A DRIP IRRIG. SYSTEM ON 92 ACRES.

NOTE: THIS CLAIM IS A SPLIT OF THE ORIG. CLAIM NO. 63-04256 WHICH COVERED A TOTAL OF 110 ACRES. 80 OF THESE ACRES ARE REFLECTED HERE WITH AN ADDITIONAL 12 ACRES WHICH HAD BEEN IRRIGATED FROM ANOTHER SURFACE WATER SOURCE AND ARE NOW IRRIGATED FROM THIS SAME DRAIN. THEREFORE, THE SAME PRIORITY CAN BE USED & THE 12 ACRES ARE BEING ADDED LEAVING 30 ACRES ON THE ORIG. CLAIM.

Remarks:Dates and Other Information:

Claim Received Date: 3/19/1990

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

State or Federal: S

Owner Name Connector: OR

Water District Number:

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False

Combined Use Limits:Water Supply Bank:

07/13/2006

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

RIGHT NUMBER: 63-4256A

NAME AND ADDRESS: FREDERICK C BATT
1621 IDAHO
CALDWELL ID 83605

ELLEN B BATT
1621 IDAHO
CALDWELL ID 83605

NORMAN A BATT
1621 IDAHO
CALDWELL ID 83605

ELLEN G BATT
1621 IDAHO
CALDWELL ID 83605

SOURCE: LOWER EMBANKMENT DRAIN

TRIBUTARY: SNAKE RIVER

QUANTITY: 1.560 CFS

PRIORITY DATE: 03/01/1970

POINT OF DIVERSION:

T04N R04W S35 NESWSW 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	1.560 CFS

PLACE OF USE: IRRIGATION Within CANYON County

T04N R04W S34	SENE	39.00	T04N R04W S34	NESE	39.00
---------------	------	-------	---------------	------	-------

78 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

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-4256A

WATER RIGHT NUMBER: 63-4256A

*Review based on
Buckley's exam &
GIS shape. kw
7/13/06*

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	NORMAN A BATT 1621 IDAHO CALDWELL, ID 83605
Current Owner	FREDERICK C BATT 1621 IDAHO CALDWELL, ID 83605
Current Owner	ELLEN B BATT BOX 646 WILDER, ID 83676 (208)482-6448
Current Owner	~~ELLEN G BATT BOX 646 WILDER, ID 83676 (208)482-6448~~ <i>ok</i>
Original Owner	~~TOBIAS BENDER RT 6 CALDWELL, ID 83605~~

Priority Date: 04/01/1949

Basis: ~~Statutory Claim~~

Status: Active

*3/1/1970 ← per evidence submitted
B/U*

Source

LOWER EMBANKMENT DRAIN

SNAKE RIVER

Beneficial Use

IRRIGATION

From To
3/1 to 11/15

Diversion Rate

1.840 CFS

Annual Volume

N/A - surface water

Total Diversion:

1.840 CFS

Location of Point(s) of Diversion

LOWER EMBANKMENT DRAIN

CANYON County

NE SW1/4SW1/4

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

A0002407

Place of Use

IRRIGATION

*out per
map returned
by claimant*

Twp	Rge	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
04N	04W	34	12.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	92.0

Total Acres: 92

80

Conditions of Approval:

*change in 7th NO
GIS shape = 78 ac
x .02
1.58 cfs needed*

*A0510 - see exam
same plot as
63-4248A
(as that as
of com
tel)*

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-4256A

1.

delete
~~DESC. OF DIVERTING WORKS - SCREENED 10" PIPE CONN. TO A CENTRIFUGAL PUMP WITH A 15 HP ELEC. MOTOR. DEL. THRU ANOTHER 10" PIPE 12' LONG TO A CENTRIFUGAL PUMP POWERED BY A 25 HP MOTOR. THE WATER IS THEN RUN THROUGH 1 SAND SEPARATOR AND 3 MEDIA FILTERS TO A 10" PVC PIPE WHICH RUNS 1485' TO A CENTRIFUGAL PUMP POWERED BY A 40 HP MOTOR WHICH PRESSURIZES A DRIP IRRIG. SYSTEM ON 92 ACRES.~~

~~NOTE: THIS CLAIM IS A SPLIT OF THE ORIG. CLAIM NO. 63-04256 WHICH COVERED A TOTAL OF 110 ACRES. 80 OF THESE ACRES ARE REFLECTED HERE WITH AN ADDITIONAL 12 ACRES WHICH HAD BEEN IRRIGATED FROM ANOTHER SURFACE WATER SOURCE AND ARE NOW IRRIGATED FROM THIS SAME DRAIN. THEREFORE, THE SAME PRIORITY CAN BE USED & THE 12 ACRES ARE BEING ADDED LEAVING 80 ACRES ON THE ORIG. CLAIM.~~

Remarks:

Comments:

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM POU REVIEW REPORT
ADJUDICATION CLAIM NUMBER: 63-4256A

02/01/2006

1

Right #	Type	Twp	Rge	Sec	QQ	Q	Lot	Purpose of Use	Acres/Total	Name
1256A	Claim	04N	04W	34	~~NE~~	~~NE~~		IRRIGATION	12/92	NORMAN A BATT
20703	Water Right	04N	04W	34	~~NE~~	~~NE~~		DOMESTIC		ELLEN G BATT
1256A	Claim	04N	04W	34	SE	NE		IRRIGATION	40/92	NORMAN A BATT
4256	Water Right	04N	04W	34	SE	NE		IRRIGATION	40/110	TOBIAS BENDER
1256A	Claim	04N	04W	34	NE	SE		IRRIGATION	40/92	NORMAN A BATT
4256	Water Right	04N	04W	34	NE	SE		IRRIGATION	40/110	TOBIAS BENDER

0 OL

Receipt Details for ID W011460

Status	Adjustment Type	Version
	Adjusted Receipt	1

General Information:

Date Received	Date Deposited	Region	Total Amount	Payment Type
3/20/1990 11:29:04 AM	3/20/1990	Western	\$571.00	Check
Payer		WILDER HOP CO.		

Account Information:

Check #	Account #	Credit Card Name	Authorization #
4275			
Card Expiration Date	Credit Card Transaction #		

Comment APPLICATION FOR PERMIT

Fee Detail:

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$486.00	ADJUDICATION CLAIM FEE	410162	9337	0	0	6490
\$85.00	APPLICATION FOR PERMIT	620350	1238	0	0	6390

Refund(s):

Amount	Payee	Date	Document Number
--------	-------	------	-----------------

Water Right Information:

Basin Number	Sequence Number	Split Suffix	Amount	Type
63	20703		\$25.00	Claim
63	4428		\$147.00	Claim
63	4256	A	\$142.00	Claim
63	26901		\$122.00	Claim
63	26902		\$25.00	Claim
63	26922		\$25.00	Claim

ok

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

RECEIVED

JUN 06 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

JUN 13 2006

DEPARTMENT OF
WATER RESOURCES**CLAIMANT INFORMATION – verify contact information is complete**Claim No(s) A63-4256AOwner: NORM BATTBUSINESS PHONE 453-8588
Phone No. 459-3826Current Address: BUSINESS ADDRESS 1621 IDAHO CALDWELL ID 83605

- ☐ No change NAME IS THE SAME
- ☒ NEW OWNER AS OF FEB 2006 - SOLD TO WESLEY PORTER 989-9791 (CELL)
- ☐ No change Address
- ☒ NEW ADDRESS 19630 FRIENDS RD GREENLEAF ID 83626
- ☒ How long owned property? SINCE FEB. 2006

Accompanied by: NORM BATT**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: 4/1/1949

(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? _____

SITE TAG ~~AND~~ SERVICE POLE
NEAR LOWER EMBANKMENT DRAIN (P.O.D)

SITE TAG # A 0002407
GPS = 2275091
1385367

DIVERSION AND DELIVERY SYSTEM
Points of Diversion:

ID #	Govt Lot #	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks GPS ID
		NE	SW	SW	35	4N	4W		GPS# 87 NAPP PHOTO

Description of diverting works

20 HP VERTICAL MOUNT CENTRIFUGAL PUMP LIFTS WATER FROM DRAIN INTO A TURBULENT FOUNTAIN SCREEN BOX. A 25 HP CENTRIFUGAL PUMPS FROM THE BOX AND PRESSURIZES THE SPRINKLER SYSTEM IN SECTION 34. A PRESSURE PUMP IS INSTALLED AT THE SOUTHEAST CORNER OF THE FARM.

OVERLAP REVIEW

Other water rights with the same point of diversion: NONE

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 IRRIGATION From 3/15 To 11/15 Amount _____ CFS _____ AFA
Use _____ From _____ To _____ Amount _____ CFS _____ AFA
Use _____ From _____ To _____ Amount _____ CFS _____ AFA

TOTAL VOLUME – Groundwater only

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

NON-IRRIGATION USES:

- ☐ No change
☐ Changes Exam found: Domestic # of homes _____ 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	
4N	4W	34				40									40				80

LEAVE OUT THE 12 AC PARCEL TOTAL 80.0

Overlap with other water rights: NONE

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

Delivery System Narrative: IRRIGATION WATER IS PUMPED FROM THE LOWER EMBANKMENT DRAIN INTO A TURBULENT FOUNTAIN SCREEN (48" CMP STRUCTURE W/ 8' FOUNTAIN) THE WATER IS PUMPED FROM THE SCREEN BOX TO THE 80 AC FIELD VIA PIPELINE AND IS PRESSURIZED USING 4 - WHEELMOBILE LATERALS.

Well or Diversion Identification No GPS ID	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge size
LIFT Pump #1	GE	20	AGJ106358	CORNELL	10" SUCTION PIPE 6" → 10" DISCHARGE
LIFT Pump #2	U.S. MOTOR	25	1002576	NO NAME PLATE	10" SUCTION 8" DISCHARGE
PRESS. Pump	MARATHON	40	TDR-BCZ SN=77508	BERKELEY	7 1/8" SN 783-6655 B4EPEL

FLOW MEASUREMENTS:

Attach appropriate documents CALCULATION SHEET ATTACHED

NARRATIVE/REMARKS/COMMENTS

WITH THE INFORMATION GIVEN TO ME BY NORM BATT (LIFT PUMPS #1 & 2) I WAS UNABLE TO GET THIS SYSTEM TO WORK. I DETERMINED TO MAKE A SECONDED TRIP TO THE FARM. I WAS ABLE TO LOCATE PRESSURE PUMP @ THE TOP OF THE HILL. THESE ALL CALCULATED OUT TO BE ABLE TO GET THE W.R. FLOW RATE PRESSURIZED FOR THE 4 SPRINKLER LATERALS TO ABOUT 52 PSI. THIS IS A GOOD IRRIGATION SYSTEM WITH PORTABLE ALUMINUM MAINLINE AND 4 LATERALS. FOR THE EIGHTY ACRES HE SHOULD NOT NEED THE ENTIRE RIGHT.

SEE NAPP PHOTO FOR LAYOUT

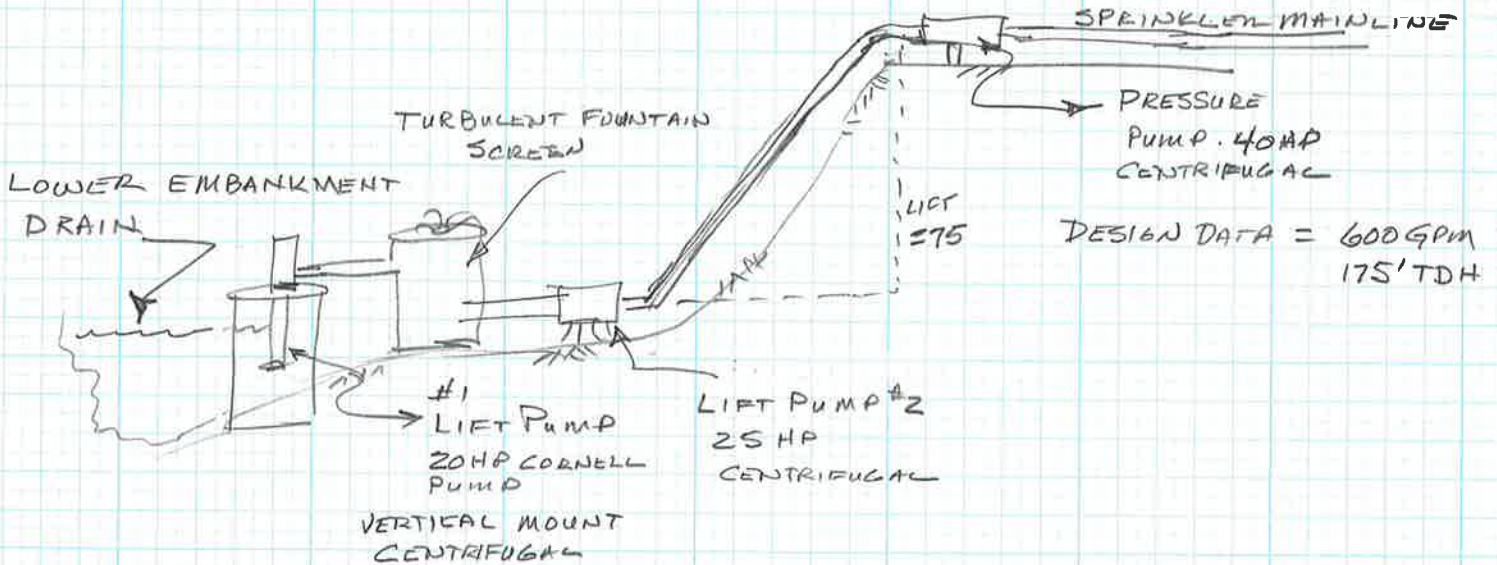
BHS 6/5/06

NORM BATT A-63-4256 A

PUMP CALCULATIONS

WATER RIGHT CFS = 1.84
= 826 GPM

Pump #1 LIFT PUMP - FROM



#1 LIFT
20 HP 70% EFF.

$$Q = \frac{(20)(.70)(3960)}{10' \text{ MAX TDH}} =$$

#2 LIFT PUMP

$$Q = \frac{(25)(.7)(3960)}{75} = 924 \text{ gpm}$$

#1 LIFT
REQ'D HP = $\frac{(826)(10)}{(3960)(.50)} = 4.2$
OK
PLENTY ADEQUATE

#2 LIFT PUMP
HP = $\frac{(826)(75)}{(3960)(.7)} = 22.4 \text{ HP}$ OK
62.5% = 25 HP

PRESSURE PUMP = 40 HP ^{HORZ.} CENTRIFUGAL

$$Q = \frac{(40)(.7)(3960)}{120' \text{ TDH}} = 924 \text{ gpm}$$

$$HP = \frac{(826)(120' \text{ TDH})(.52 \text{ PSI})}{(3960)(.7)} = 35.75 \text{ HP}$$

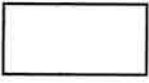
62.5% = 40 HP

Idaho Department of Water Resources

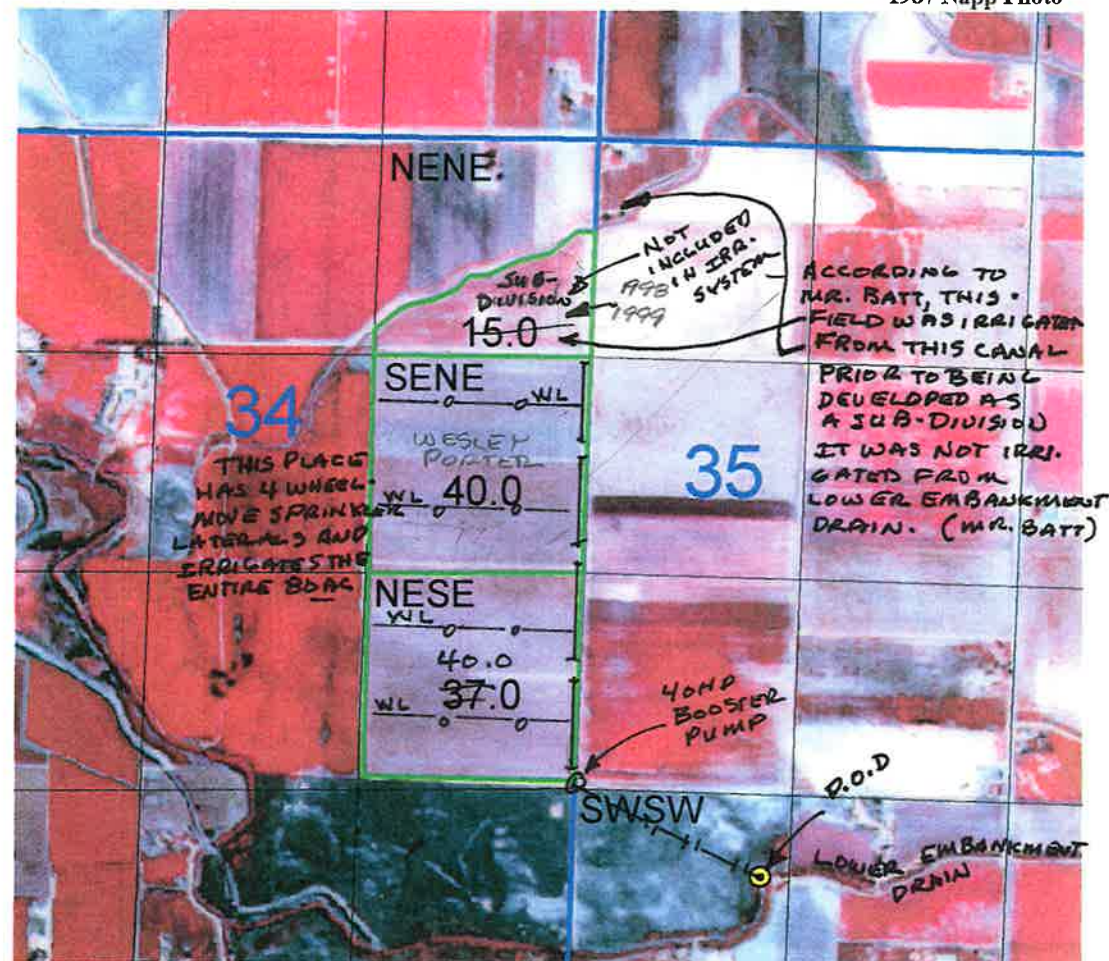
Claim Number: 63-04256A

Legal: T04N, R04W, S34

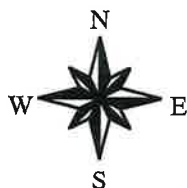
Reviewed By:

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

1987 Napp Photo



0 0.25 Miles



HW 4/19
FRIENDS RD
4:00 MON

Burke

A63-4256A - Batt
A63-4256C - Armenta
Field Exam Request:

Contact:

FRED 454-3122
NORM 459-3826

02/27/2006

Claim #63-4256 has been split into 3 claims. Only two of the splits require a field exam. Please contact **all** of the owners and set up a time when you can do all these split claims at **one time**, if possible.

Contact one of the various **Batts** @ #482-6448 and

Contact **Priscilla Armenta** @ #459-4090 to set up one field exam for the A and C portions.

I have attached a copy of the original claim.

Property Address:

0 Beet Lane
Caldwell

18369 Pride Lane
Caldwell

WESLEY PORTER
989-9791 (CELL)

Requests:

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

In addition, please verify:

- GPS the location of point of diversion on the **Lower Embankment Drain**.
- Is **Wilder Irrigation District** water used to supplement these two rights? **NONE**
- **1987 Aerial Photo:** Please draw the **appropriate acres** that are irrigated on the enclosed **1987 aerial photographs**. Draw the **diversion works** on the 1987 aerial photos also; along with the location of the **point of diversion**.
- **Capacity of System:** Please calculate the **capacity of this system** used from the Lower Embankment Drain.
- **Concerning the -C split for the Armentas:** only 17.2 acres are listed in the tax lot data as belonging to 18369 Pride Lane. However, the Armentas claimed 20.0 acres. In addition, the owner is listed as "Mond Garden Designs" for the -C portion. If the Armentas accompany you on the exam, please discuss these two issues with them.

Kimberly Brown
Sr. Water Resource Agent
IDWR - Western Region

(see back
for pump
info)

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-4256A

WATER RIGHT NUMBER: 63-4256A

Owner Type Name and Address

Current Owner NORMAN A BATT 459-3826
1621 IDAHO
CALDWELL, ID 83605

Current Owner FREDERICK C BATT 454-
1621 IDAHO ~~9888~~
CALDWELL, ID 83605

Current Owner ELLEN B BATT
BOX 646
WILDER, ID 83676
(208)482-6448

Current Owner ELLEN G BATT
BOX 646
WILDER, ID 83676
(208)482-6448

Original Owner TOBIAS BENDER
RT 6
CALDWELL, ID 83605

Priority Date: 04/01/1949

Basis: Statutory Claim

Status: Active

Source

LOWER EMBANKMENT DRAIN

Tributary

SNAKE RIVER

Beneficial Use

IRRIGATION

From To

3/15 to 11/15

Diversion Rate

1.840 CFS

Annual VolumeTotal Diversion:

1.840 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
04N	04W	34	12.0	40.0		40.0	92.0

Total Acres: 92

Conditions of Approval:

6008

STEVE WOODARD - 466-

MAURICE WOODARD

A-portion

Property Address:

Ø Beet Rd.
Caldwell



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

March 21, 2006

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

WESTERN IDAHO DEVELOPMENT
ATTN: WESLEY PORTER
19630 FRIENDS RD
GREENLEAF ID 83626

RE: Snake River Basin Adjudication (SRBA) Claim No. 63-4256A

Dear Mr. Porter:

We have been advised you may be the new owner of the property with the water right referenced above (see enclosed report).

Before we can modify our records to reflect your ownership of this water right, we need to have the enclosed Notice of Change of Water Right Ownership form completed. Please follow the instructions included with this form and return to our office with all of the required information.

If you have any questions regarding this letter, please feel free to contact me at (208)287-4953.

Sincerely,

KAY WALKER
Sr. Water Resource Agent

KW:k
Enclosures

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-4256

WATER RIGHT NUMBER: 63-4256

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	TOBIAS BENDER RT 6 CALDWELL, ID 83605

Priority Date: 04/01/1949
 Basis: Statutory Claim
 Status: Active

<u>Source</u>	<u>Tributary</u>
LOWER EMBANKMENT DRAIN	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01 to 10/31	2.200 CFS	
	<u>Total Diversion:</u>	2.200 CFS	

<u>Location of Point(s) of Diversion</u>		
LOWER EMBANKMENT DRAIN CANYON County	SE1/4SW1/4	Sec. 35, Twp 04N, Rge 04W, B.M.
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	34				40.0												40.0	80.0
04N	04W	35								30.0									30.0

Total Acres: 110

Conditions of Approval:Remarks:Comments:

STATE OF IDAHO

DEPARTMENT OF WATER ADMINISTRATION

Section 42-225a, Idaho Code

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. The filing of this claim does not confirm the water right but will serve for information purposes only. It may, however, become the basis for future adjudication of the water right by the Court.

Notice is hereby given that Mr. Tobias Bender (name of claimant)
of Route 6, Caldwell, Idaho 83605, claims a right to the diversion and beneficial use of
(mailing address)
ground water or surface water tributary to Snake River.

The extent and nature of said claim is as follows:

- (1) Describe source of water: (name of stream, lake, spring, etc., or ground water) Unnamed drain
(Sometimes recently referred to as the Lower Imbankment Drain)
- (2) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

#1	Amount	.60	Use	<u>Irrigation</u>	Period of Use:	From	<u>April 1</u>	To	<u>Oct. 31</u>
#2	Amount	1.60	Use	<u>Irrigation</u>	Period of Use:	From	<u>April 1</u>	To	<u>Oct. 31</u>
	Amount		Use		Period of Use:	From		To	
		(cfs, gpm or a/f)		(dom., irri., stock, etc.)					(both dates inclusive)

- (3) Total quantity of water claimed: 2.2 cubic feet per second, or _____ acre feet per annum, and/or _____ gallons per minute.

- (4) Priority claimed: (the date water was first applied to beneficial use) April 1, 1949
- A claim is not acceptable on a ground-water source with a priority later than March 25, 1963 or on a surface-water source with a priority later than May 20, 1971. An exception to this rule is that a claim may be filed on domestic use from a ground-water source.

- (5) A) Point of diversion: (give location of point where water is diverted from its source)
 #1 SE ¼ SW ¼, Sec. 35 Twp. 4 N. Rgt. 4 W B.M. County of Canyon
 Additional points of diversion: #2 - SW ¼ SW ¼, Sec. 35, T.4 N. R.4 W.

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. Pump from drain through pipeline to
property. Pipeline located on quarter section line.

- (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]

Total No. of acres 110

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

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



63-4256 A

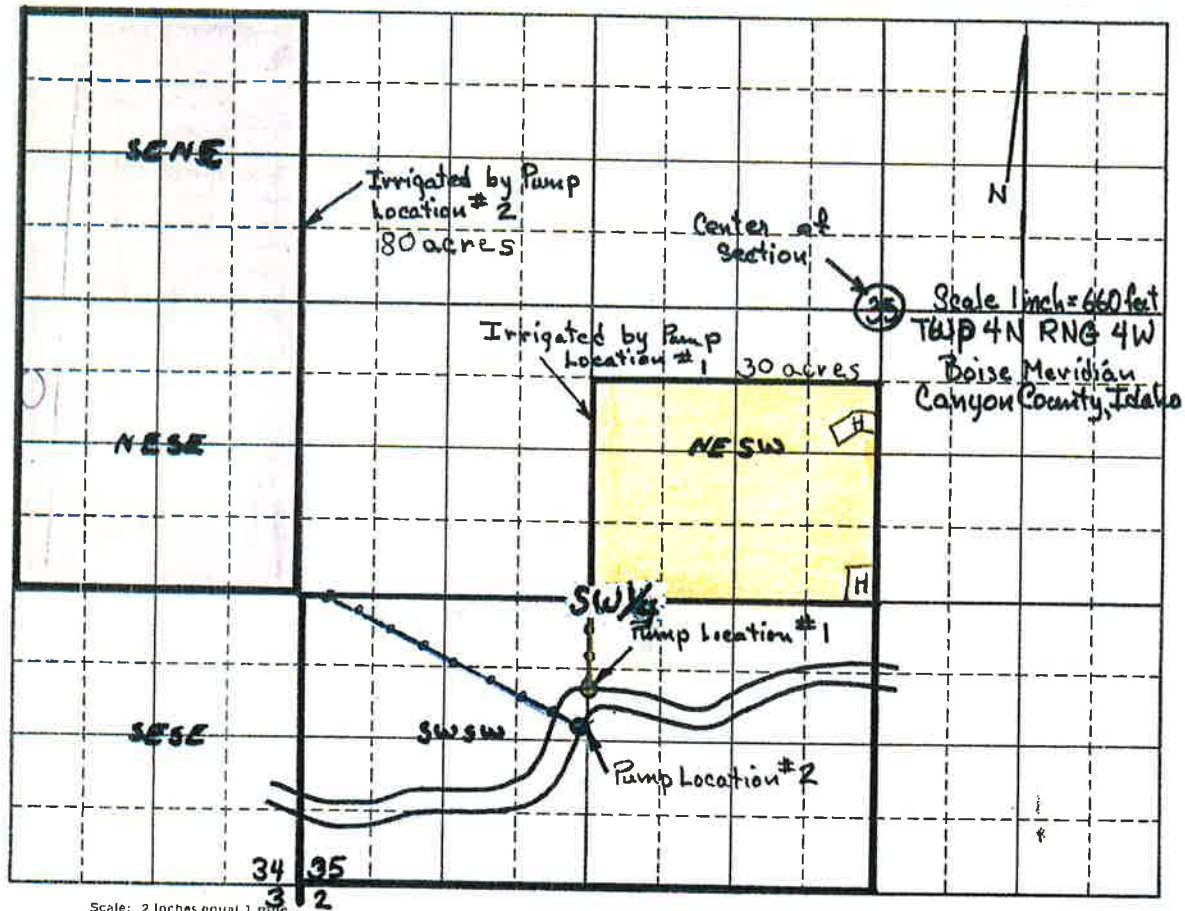




PRESSURE
PUMP @ THE
S.E. CORNER
OF FIELD
63-4256-A & C



(8) Remarks



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 affiants knowledge.

Sworn to before me this 15 day of February, 1974.

Notary Public

Residing at Boise, IdahoMy commission expires June 15, 1977

For Department Use Only

Received by <u>Y</u>	Date <u>2-15-74</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>CCB</u>	Date <u>15 Feb 1974</u>		claimant by:	
\$10.00 fee received by <u>Y</u>	Date <u>2-15-74</u>			
Approved for publication by <u>Y</u>				
Published in <u>Boise Tribune</u>				
Dates <u>2-28-74</u> <u>3-7-74</u>				

RECEIVED

FEB 24 2006

WATER RESOURCES
WESTERN REGION

IN THE MATTER OF)
NOTICE OF CLAIM TO)
A WATER RIGHT NO.(S))
A63 - 4256A)
_____)
_____))

2-15-06

AFFIDAVIT

State of Idaho)
County of Canyon)

Norman A. Batt

deposes and says: We bought the water right of the 80
acres which it serves, in 1977, from Paul Munson.
The "Claim to a Water Right", however, was filed
by ^{previous} several owners Before Munson, by Tobias Bender.
Mr. Bender filed the Claim in 1974, with a
priority claimed date of 1949. Bender had farmed there for years.

We know that this water diversion was used for
the specified 80 acres at least from 1970 on. We
believe that this usage existed from decades earlier,
but we can not prove that, & we do not have any
Knowledge of the whereabouts of Tobias Bender.

A copy of the "Claim to a Water Right" by Tobias Bender
is enclosed.



(Signature)

Also of Note: We sold this property, & the water
right, in 2005 to Wesley Porter, dba Western Idaho
Development.



Idaho Department of Water Resources

Claim Number: 63-04256A

Legal: T04N, R04W, S34

Reviewed By:

1987 Napp Photo



Point of Diversion



Place of Use

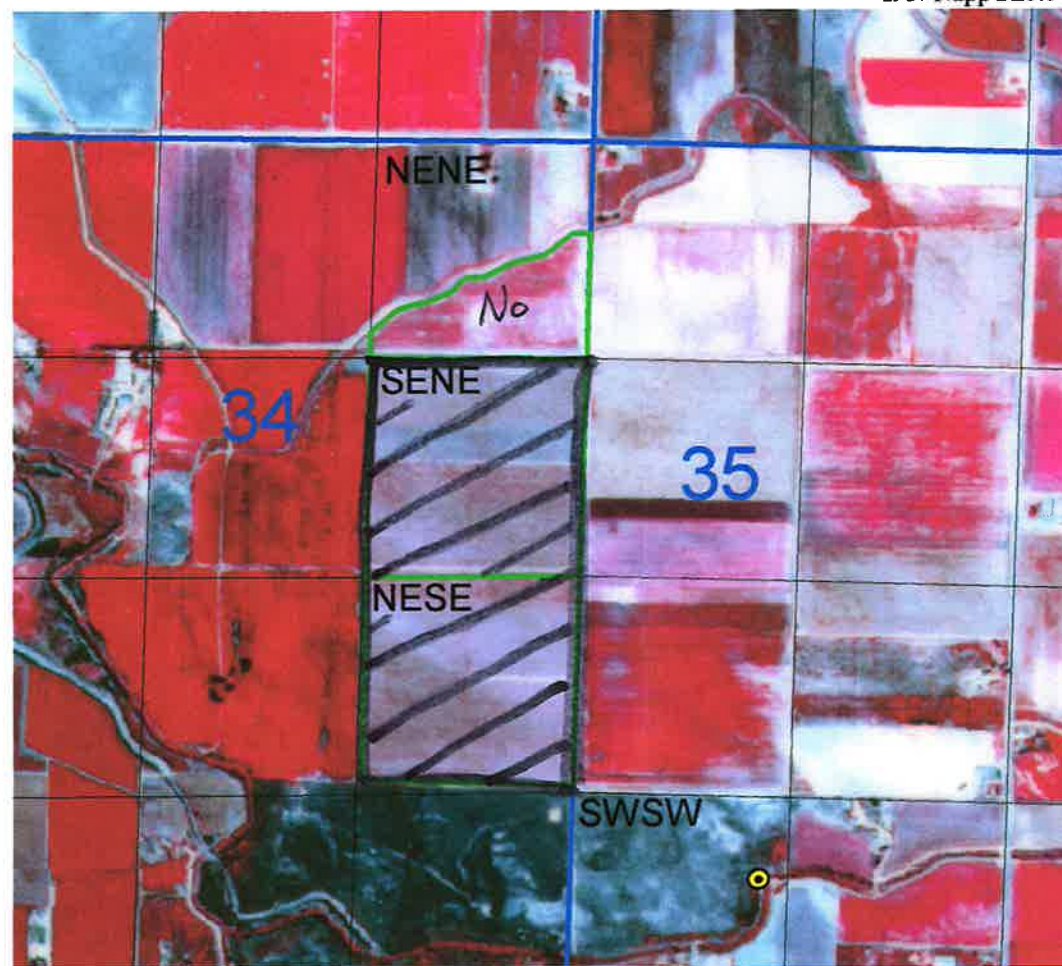


Section Lines

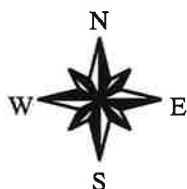


Quarter Quarter Lines

Correction



0 0.25 Miles



CLAIM TO A WATER RIGHT

Notice is hereby given that Mr. Tobias Bender

(name of claimant)

ground water or surface water tributary to Snake River

The extent and nature of said claim is as follows:

- (1) Describe source of water: (name of stream, lake, spring, etc., or ground water) Unnamed drain
(Sometimes recently referred to as the Lower Imbankment Drain)
- (2) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

#1	Amount	.60	Use	Irrigation	Period of Use:	From	April 1	To	Oct. 31
----	--------	-----	-----	------------	----------------	------	---------	----	---------

#2	Amount	1.60	Use	Irrigation	Period of Use:	From	April 1	To	Oct. 31
----	--------	------	-----	------------	----------------	------	---------	----	---------

Amount Use Period of Use: From To
(cf., gpm, or a/f) (dom., irr., stock, etc.) (both dates inclusive)

- (3) Total quantity of water claimed: 2.2 cubic feet per second, or _____ acre feet per annum, and/or _____ gallons per minute.

- (4) Priority claimed: (the date water was first applied to beneficial use) April 1, 1949

A claim is not acceptable on a ground-water source with a priority later than March 25, 1963 or on a surface-water source with a priority later than May 20, 1971. An exception to this rule is that a claim may be filed on domestic use from a ground-water source.

- (5) A) Point of diversion: (give location of point where water is diverted from its source)

#1 SE ¼ SW ¼, Sec. 35 Twp. 4 N Rge. 4 W B. M. County of Canyon

Additional points of diversion: #2 - SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 35, T.4 N, R.4 W.

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. Pump from drain through pipeline to property. Pipeline located on quarter section line.

- (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]

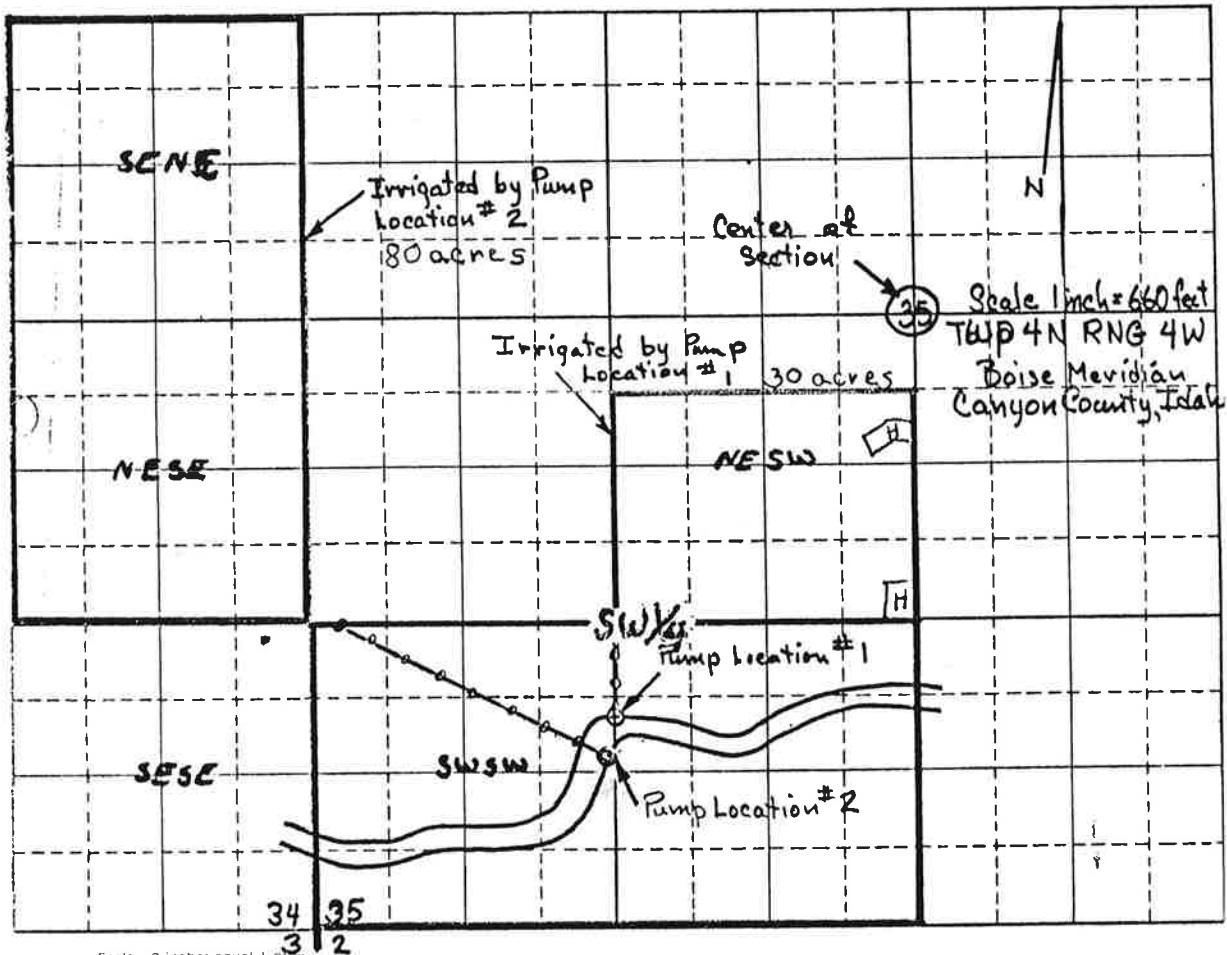
Total No. of acres 110

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

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

(8) Remarks

63 4256



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 affiants knowledge.

Sworn to before me this 15 day of February, 19 74.

Notary Public

Residing at Boise, Idaho

My commission expires June 15, 1977

For Department Use Only

Received by CSB

Date 2-15-74

Exception filed by:

Forwarded to

Date

Prelim. check by CSB

Date 15 Feb. 1974

claimant by:

\$10.00 fee received by CSB

Date 2-15-74

Approved for publication by CSB

Published in Boise

Dates 1-25-74

2-3-74

3-7-74



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

February 7, 2006

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

NORMAN, FREDERICK, ELLEN B, & ELLEN G BATT
1621 IDAHO
CALDWELL, ID 83605

+ sent slopefile

RE: EVIDENCE OF PRIORITY
Snake River Basin Claim No(s): A63-4256A

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 1, 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.