

THIS RIGHT IS A SPLIT

PER APPROVED

TRANSFER NO. 67033

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

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

In Re SRBA

Case No. 39576

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

Water Right 36-15664

OCT 10 2002

By

Clerk

Deputy Clerk

NAME AND ADDRESS:

GWENDOLYN PEARSON TZANAKAKIS
NIKO TZANAKAKIS
2809 S 900 E
HAGERMAN, ID 83332

SOURCE:

WEATHERBY SPRINGS

TRIBUTARY: BILLINGSLEY CREEK

QUANTITY:

0.24 CFS
22.80 AFY

USE OF THIS RIGHT WITH RIGHT NO. 36-8158 IS LIMITED TO A TOTAL
COMBINED ANNUAL DIVERSION VOLUME OF 22.8 AF.

PRIORITY DATE:

03/08/1902

POINT OF DIVERSION:

T07S R14E S30

SENESEW

Within Gooding County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE
Irrigation

PERIOD OF USE
02-15 TO 11-30

QUANTITY
0.24 CFS
22.80 AFY

PLACE OF USE:

Irrigation

T07S R13E S27

NENE 5.7

5.7 Acres Total

Within Gooding County

USE OF THIS RIGHT WITH RIGHT NO. 36-8158 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 5.7 ACRES IN A SINGLE
IRRIGATION SEASON.

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

USE OF WATER UNDER THIS RIGHT MAY BE AFFECTED BY AN AGREEMENT
BETWEEN THE PROTESTANT AND THE RIGHT HOLDER.
THIS RIGHT IS SUBJECT TO REGULATION BY THE WATERMASTER OF WATER
DISTRICT 36-A, BILLINGSLEY CREEK.

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

RULE 54(b) CERTIFICATE

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

Roger Burdick

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

DISTRICT COURT SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
OCT 10 2002	
By _____	Clerk
_____	Deputy Clerk

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

In Re SRBA	)	
	)	ORDER OF PARTIAL DECREE
Case No. 39576	)	
	)	For Water Right 36-15664
_____	)	

On June 6, 2002, a *Special Master's Report and Recommendation* was filed for the above water right. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 36-15664 is hereby **decreed** as set forth in the attached *Partial Decree* Pursuant to I.R.C.P. 54(b).

DATED October 10, 2002



 ROGER S. BURDICK
 Presiding Judge
 Snake River Basin Adjudication

2002 OCT 10 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

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

In Re SRBA)

Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 36-15664

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 36-15664 was mailed
on October 10, 2002, with sufficient first-class postage prepaid
to the following:

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

GWENDOLYN PEARSON TZANAKAKIS
NIKO TZANAKAKIS
2809 S 900 E
HAGERMAN, ID 83332

ROBBIN HALL
Chief Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
10/10/02

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

Adjudication Recommendation 36-15664 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	RICHARD D SAVAGE 2809A S 900 E HAGERMAN, ID 83332 (916) 606-8349
Current Owner	RITA SAVAGE 2809A S 900 E HAGERMAN, ID 83332 (916) 606-8349
Original Owner	NIKO A TZANAKAKIS 2809 S 900 E HAGERMAN, ID 83332 (208) 837-6343
Original Owner	GWENDOLYN PEARSON TZANAKAKIS 2809 S 900 E HAGERMAN, ID 83332 (208) 837-6343

Priority Date: 3/8/1902

Basis: Decreed

Status: Closed

Source
WEATHERBY SPRINGS

Tributary
BILLINGSLEY CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	02/15	11/30	0.240 CFS	22.8 AF
	<u>Total Diversion</u>		0.240 CFS	22.8 AF

Source and Point(s) of Diversion

WEATHERBY SPRINGS SENESW Sec. 30, Twp 07S, Rge 14E, GOODING County

Place Of Use

IRRIGATION within GOODING County

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	13E	27	5.7																5.7

POU Total Acres: 5.7

Conditions of Approval:

- | | | | |
|----|-----|-------------|---|
| 1. | P21 | Explanatory | THIS RIGHT IS A SPLIT FROM FORMER RIGHT 36-33H. |
| 2. | B09 | General | THIS RIGHT IS SUBJECT TO REGULATION BY THE WATERMASTER OF WATER DISTRICT 36-A, BILLINGSLEY CREEK. |

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

3.	E53	Quantity	USE OF THIS RIGHT WITH RIGHT NO. 36-8158 IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 22.8 AF.
4.	E55	Place of Use - Irrigation	USE OF THIS RIGHT WITH RIGHT NO. 36-8158 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 5.7 ACRES IN A SINGLE IRRIGATION SEASON.
5.	C18	General	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.
6.	020	General	USE OF WATER UNDER THIS RIGHT MAY BE AFFECTED BY AN AGREEMENT BETWEEN THE PROTESTANT AND THE RIGHT HOLDER.

Comments:

1. jroberts 11/7/2001 Recommendation
This recommendation was created per approved Transfer #67033.

Dates and Other Information

Civil Case Number: 39576
Judicial District: FIFTH
State or Federal: S
Owner Name Connector: AND
Water District Number: 36A
Generic Max Volume Per Acre: 4.0
Mitigation Plan: False

Combined Use Limits

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
	22.8	5.7
36-8158 ,36-15664		

Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Summary	11/7/2001	jroberts	11/7/2001	jroberts	Closed

Verification Log

<u>Element</u>	<u>Date</u>	<u>User</u>	<u>Log Text</u>
Summary	11/7/2001	jroberts	(Yes) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (No) 2. Does any evidence indicate a five year period of continuous nonuse occurred that could result in recommending forfeiture or partial forfeiture? (Yes) 5. Is an additional remark and/or condition required? (Yes) 6. Would you like to view the recommended right? (Yes) 7. Is this a split or combined right? (No) 8. Do you have documents you would like to attach or link to the file? (Yes) 9. Would you like to set the verification date?

SubCase:

SubCaseNumber: 36-15664
Class: 1

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

SF5 Filed Date:
Special Master Recom Signed Date:
Attorney Assigned:
Adjudication Agent:
Basis of Claim: Decreed
Date Filed:
Objection Status:

Water Supply Bank:

N/A

COPY

2002 JAN 25 PM 2: 23

DISTRICT COURT-SRBA
TWINFALLS CO., IDAHO
FILED _____

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

In Re SRBA	)	Subcase No: 36-00033H, 36-00033J,
	)	36-0003K, 36-15663, 36-15564
Case No. 39576	)	
	)	NOTICE OF COMPLETED
_____	)	ADMINISTRATIVE PROCEEDING

IDWR has completed the following Administrative proceeding: **I.C. § 42-222 TRANSFER**

An Administrative Proceeding pursuant to I.C. § 42-222 has been completed. The following changes have been made to the water right(s):

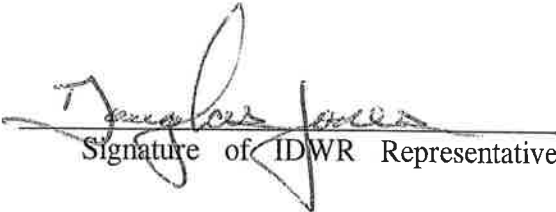
☒ Change in Ownership	☒ Split of Water Right
☐ Point of Diversion	☒ Place of Use
☐ Period of Use	☐ Nature of Use

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Reports* for said water rights. No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

Dated: _____

1/25/02



Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on 1/25, 2002, I mailed the original and copies of this form to the following persons, postage prepaid and addressed as follows:

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:

Claimant or attorney of record:

Niko Tzanakakis
Gwen Tzanakakis
2809 S 900 E
Hagerman ID 83332

William B Shappee
PO Box 358
Hagerman ID 83332

Charles Shappee
Brenda Shappee
PO Box 663
Bellevue ID 83313

3. One Copy to:

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

4. One Copy to:

United States Dept of Justice
Environment & Natural Resource Div
550 W Fort St MSC 033
Boise ID 83724



Signature of person or attorney mailing the form

1/25/02

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

COMBINED RIGHT NUMBERS: 36-00033H, 36-0033J, 36-0033K

These rights were combined in order to facilitate the filing of an Administrative Proceeding per I.C. §42-222.

The approved transfer then split the combined right. The new split right numbers are now known as:

SPLIT RIGHT NUMBERS: 36-15663 and 36-15664

01/25/2002

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

RIGHT NUMBER: 36-15663

NAME AND ADDRESS: WILLIAM B SHAPPEE
2805 S 900 E
PO BOX 358
HAGERMAN ID 83332-0358

SOURCE: WEATHERBY SPRINGS

TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 0.010 CFS
1.00 AFY

PRIORITY DATE: 03/08/1902

POINT OF
DIVERSION: T07S R14E S30 SENESW Within GOODING County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	02/15 11/30	0.010 CFS 1.00 AFY

PLACE OF USE: IRRIGATION Within GOODING County
T07S R13E S27 NENE 0.3

0.25 ACRES TOTAL

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

USE OF WATER UNDER THIS RIGHT MAY BE AFFECTED BY AN AGREEMENT
BETWEEN THE PROTESTANT AND THE RIGHT HOLDER.
THIS RIGHT IS SUBJECT TO REGULATION BY THE WATERMASTER OF WATER
DISTRICT 36-A, BILLINGSLEY CREEK..
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 - Decreed

01/25/2002

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

RIGHT NUMBER: 36-15664

NAME AND ADDRESS: NIKO TZANAKAKIS
2809 S 900 E
HAGERMAN ID 83332

GWENDOLYN PEARSON TZANAKAKIS
2809 S 900 E
HAGERMAN ID 83332

SOURCE: WEATHERBY SPRINGS

TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 0.240 CFS
22.80 AFY

USE OF THIS RIGHT WITH RIGHT NO. 36-8158 IS LIMITED TO A TOTAL COMBINED
ANNUAL DIVERSION VOLUME OF 22.8 AF.

PRIORITY DATE: 03/08/1902

POINT OF
DIVERSION:

T07S R14E S30 SENESW Within GOODING County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	02/15 11/30	0.240 CFS 22.80 AFY

PLACE OF USE: IRRIGATION Within GOODING County
T07S R13E S27, NENE 5.7

5.7 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 36-8158 IS LIMITED TO THE IRRIGATION OF A
COMBINED TOTAL OF 5.7 ACRES IN A SINGLE IRRIGATION SEASON.

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

USE OF WATER UNDER THIS RIGHT MAY BE AFFECTED BY AN AGREEMENT
BETWEEN THE PROTESTANT AND THE RIGHT HOLDER.
THIS RIGHT IS SUBJECT TO REGULATION BY THE WATERMASTER OF WATER
DISTRICT 36-A, BILLINGSLEY CREEK.
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 - Decreed



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

SOUTHERN REGION

January 25, 2002

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

NIKO TZANAKAKIS
GWEN TZANAKAKIS
1809 S 900 E
HAGERMAN ID 83332

RE: SRBA Claim(s) 36-00033H, 36-00033J, 36-00033K

Dear Claimant:

Please find the enclosed copy of the Notice of Completed Administrative Proceeding, which the department has filed with the SRBA Court regarding the above referenced claims. You have received this notice pursuant to SRBA Court Administrative Order 11 requiring IDWR to report to the court and interested parties any pending changes to adjudication claims in basins for which a Director's Report has been filed with the court.

Please contact this office if you have any questions about the notice or the administrative process.

Sincerely,

Trish Fawcett
Technical Records Specialist

cc: William Shappee
Charles and Brenda Shappee

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 67033

RECEIVED

MAY 22 2001

Department of Water Resources
Southern Region

This is to certify that: NIKO A TZANAKAKIS AND
GWENDOLYN PEARSON TZANAKAKIS
2809 S 900 E
HAGERMAN ID 83332
(208)837-6343

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document. The right holder shall accomplish the authorized change within one (1) year of the date of this approval. Failure of the right holder to comply with the conditions of approval for each water right affected by this transfer is cause for the Director to rescind approval of all or part of the transfer.

Summary of Water Rights Before the Proposed Change

Right	Origin/Basis	Priority	Rate	Volume	Acres	Total	Source
36-15662	AJC/Decreed	03/08/1902	0.25 cfs		9.5	9.5	WEATHERBY SPRINGS

Purpose of Transfer (Changes Proposed)

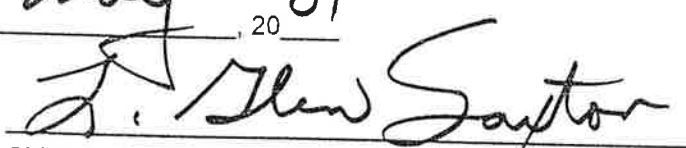
Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
36-15662	YES	NO	YES	NO	NO	NO

Summary of Water Rights After the Approved Change

Existing Right	New No. (changed portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
36-15662	36-15664	0.24 cfs	22.8 af	5.7	5.7	36-15663	0.01 cfs	1.0 af	.25	.25
TOTALS		0.24 cfs	22.8 af	5.7	5.7		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 14th day of May, 2001


Chief, Water Allocation Bureau

WATER RIGHT NO. 36-15663
As Modified by Transfer No. 67033

In accordance with the approval of Transfer No. 67033, Water Right No. 36-15663 is now described as follows.

Right Holder: WILLIAM B SHAPPEE
 PO BOX 358
 HAGERMAN ID 83332

Priority Date: 03/08/1902

Source: WEATHERBY SPRINGS **Tributary:** BILLINGSLEY CREEK

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	02/15	to 11/30	0.01 CFS	1.0 AF
			0.01 CFS	1.0 AF

LOCATION OF POINT(S) OF DIVERSION:

WEATHERBY SPRINGS SENESW Sec. 30 Twp 07S Rge 14E GOODING 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	
07S	13E	27	.25																.25

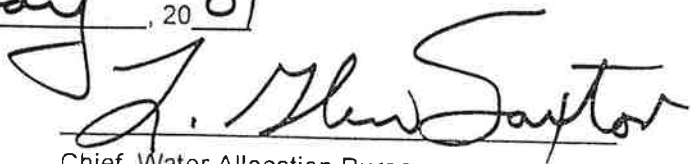
Total Acres: 0.25

CONDITIONS OF APPROVAL

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 36-A, Billingsley Creek.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
3. This right when combined with all other rights shall provide no more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
4. Use of water under this right may be affected by an agreement between the protestant and the right holder.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 14th day of May, 2001


 Chief, Water Allocation Bureau

WATER RIGHT NO. 36-15664
As Modified by Transfer No. 67033

In accordance with the approval of Transfer No. 67033, Water Right No. 36-15664 is now described as follows.

Right Holder: NIKO A TZANAKAKIS AND
GWENDOLYN PEARSON TZANAKAKIS
2809 S 900 E
HAGERMAN ID 83332

Priority Date: 03/08/1902

Source: WEATHERBY SPRINGS **Tributary:** BILLINGSLEY CREEK

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	02/15	11/30	0.24 CFS	22.8 AF
			0.24 CFS	22.8 AF

LOCATION OF POINT(S) OF DIVERSION:

WEATHERBY SPRINGS SENESW Sec. 30 Twp 07S Rge 14E GOODING County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
07S 13E 27	5.7																5.7

Total Acres: 5.7

CONDITIONS OF APPROVAL

1. Rights 36-15664 and 36-8158 when combined shall not exceed a total annual maximum diversion volume of 22.8 af at the field headgate and the irrigation of 5.7 acres.
2. Use of water under this water right will be regulated by the watermaster of State Water District No. 36-A, Billingsley Creek.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
4. This right when combined with all other rights shall provide no more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
5. Use of water under this right may be affected by an agreement between the protestant and the right holder.

WATER RIGHT NO. 36-15664
As Modified by Transfer No. 67033

CONDITIONS OF APPROVAL

6. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 14th day of May, 2001


Chief, Water Allocation Bureau

1/25/02

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

COMBINED RIGHT NUMBERS: 36-00033H, 36-0033J, 36-0033K

These rights were combined in order to facilitate the filing of an Administrative Proceeding per I.C. §42-222. (36-15662)

The approved transfer then split the combined right. The new split right numbers are now known as:

SPLIT RIGHT NUMBERS: 36-15663 and 36-15664

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: A36-00033H

Date Received: 9/19/1990

Receipt No: X777777

Received By: See

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

1. Name: NIKO A TZANAKAKIS 208-837-6343
Address: 2809 S 900 E
HAGERMAN ID 83332

AND/OR

Name: GWENDOLYN PEARSON TZANAKAKIS 208-837-6343
Address: 2809 S 900 E
HAGERMAN ID 83332

2. Date of Priority: MAR 8, 1902

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

4. Point of Diversion:

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

5. Description of diverting works:

BAR S DITCH TO CURREN DITCH TO NORTH PIPELINE; OPEN DITCH, FLOOD

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.130		

7. Total Quantity Appropriated is:

0.130 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	13E	27	NE	NE		IRR	4.9

10. Place of Use: Continued

Section Acres 4.9

Total Acres 4.9

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
NONE

14. Remarks:

WATER IS DELIVERED THROUGH BAR S DITCH, CURREN DITCH & NORTH
PIPELINE.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

NEW INTERNATIONAL MORTGAGE BA
Decree Plaintiff

IDAHO POWER COMPANY
vs Decree Defendant

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

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



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

March 12, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

NIKO A & GWENDOLYN P TZANAKAKIS
2809 S 900 E
HAGERMAN ID 83332

RE: CHANGE OF OWNERSHIP SRBA CLAIM NO. A36-00033H

DEAR MR. & MRS. TZANAKAKIS,

Recently it was discovered the water right claim A36-00033G was appurtenant to lands beyond the ownership of your parcel. This error occurred in 1994 when Marion King sold to Mr. Stringer; the claim should have been split at that time to show the correct ownership of a portion of the claim, not for the entire right. I apologize for any inconvenience this may have caused.

Therefore, pursuant to a request for a change in ownership and/or the notification that you presently own the property in which the above-referenced adjudication claim(s) is appurtenant, the department has changed the record of the current owners as requested. Please find enclosed a copy of your adjudication claims, as they now appear in our records.

Please refer to the above SRBA claim number in future correspondence.

If you have any further corrections or questions please contact our office.

Sincerely,

STEVE CLELLAND
Sr. Water Resource Agent

ENC:

P.S. I have enclosed a copy of the GIS map showing the parcel.

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: ~~A36-00011D~~ - 000336

Date Received: 9/19/1990

Receipt No: S012681

Received By: *address change JC*

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: NIKO A TZANAKAKIS 208-837-6343
Address: 2809 S 900 E
HAGERMAN ID 83332

Name: GWENDOLYN PEARSON TZANAKAKIS 208-837-6343
Address: 2809 S 900 E
HAGERMAN ID 83332

2. Date of Priority: MAR 8, 1902

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

4. Point of Diversion:

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

5. Description of diverting works:
PIPELINE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.250		

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

8. Total consumptive use is 30.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
07S	13E	27	NE	NE		IRR	10.0

MICROFILMED

A36-00011D-
000336

Page 1

Date: 01/05/95 4 1996

10. Place of Use: Continued

Section Acres 10.0

Total Acres 10.0

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
SHARES IN BIG BEND DITCH

14. Remarks:

THIS RIGHT IS A PORTION OF AN ORIGINAL DECREE OF 65 INCHES OR 1.30 CFS. THE DEED LISTS THE USE OF THIS WATER AS 125 INCHES OF WATER EVERY 10 DAYS FOR A PERIOD OF 24 HOURS. THIS WOULD BE EQUAL TO 12.5 INCHES FULL TIME OR 0.25 CFS.

OWNERSHIP CHANGE 1/18/91 BY JG.

OWNERSHIP CHANGE 4/15/94 BY JG.

ADDRESS CHANGE 1/18/95 BY JR.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

NEW INTERNATIONAL MORTGAGE BA
Decree Plaintiff

IDAHO POWER COMPANY
vs Decree Defendant

16. Signature(s)

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

Number of attachments: _____



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

CHANGE IN ADDRESS OF THE NOTICE OF CLAIM IN THE SNAKE RIVER BASIN ADJUDICATION

RECEIVED

[] Water Right Number(s): 36-000336 (A36-00011D) JAN 18 1995
36-08158 Department of Water Resources
Southern Region

[] Old Mailing Address: NIKO A. & GWENDOLYN P. TZANAKAKIS
4201 2ND AVE.
SACRAMENTO, CA. 95817

[] New Mailing Address: NIKO A. & GWENDOLYN P. TZANAKAKIS
2809 S 900 E
HAGERMAN ID. 83332

[] New Telephone Number: (208) 837 - 6343

[] Signature of Claimant(s): Niko A. Tzanakakis
Gwendolyn Pearson Tzanakakis
Date: 1-18-95

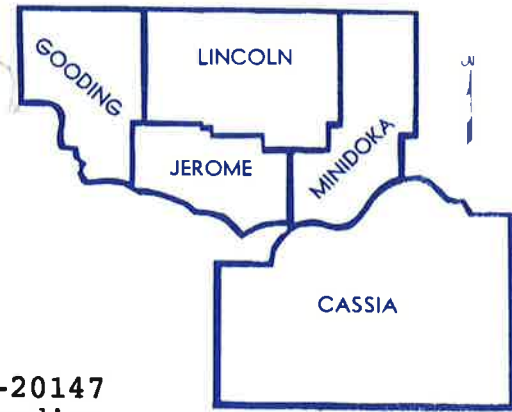
For IDWR use only:
Initial Review and Data Entry
Date: By:
Further Action Taken
Date: By:
Final Review and Data Entry
Date: By:

Further Action Needed:

MICROFILMED
DEC 04 1996

Land Title and Escrow, Inc.

A FULL SERVICE TITLE COMPANY



REFER TO:
OFFICE: G-20147
Gooding

April 8, 1994

State of Idaho
Department of Water Resources
Attn: Judy Givens
222 Shoshone Street East
Twin Falls, Idaho 83301

RECEIVED

APR 11 1994

Department of Water Resources
Southern Region Office

RE: Sale for Stringer to Tzanakakis
Transfer Water Right
Cert Mail #P137 637 342

Dear Judy Givens:

In connection with the above referenced transaction, please find Notice of Change of Water Right Ownership (form 42-1409(7)). Also enclosed, please find Standard Form 3 (there are several of these, each with an original signature, due to the parties all being in separate towns) and Copies of Deeds on the above transaction.

Please transfer right to Niko A. Tzanakakis and Gwendolyn Pearson Tzanakakis and provide this office with a copy.

Thank you for your assistance.

Sincerely,

LAND TITLE AND ESCROW, INC.

Betty Fredericksen
(208)934-8477
P.O. Box 473
Gooding, Idaho 83330

ENC

cc: Tzanakakis

BOX 177, BURLEY, IDAHO 83318
PHONE 678-3524 - FAX 678-4435

BOX 349, JEROME, IDAHO 83338
PHONE 324-3357 - FAX 324-8961

BOX 473, GOODING, IDAHO 83330
PHONE 934-8477 - FAX 934-5890

BOX 111, RUPERT, IDAHO 83350
PHONE 436-0606 - FAX 1199

MICROFILMED
OCT 11 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

18-Apr-1994 09:12

LAND TITLE & ESCROW INC
ATTN BETTY FREDERICKSEN
PO BOX 473
GOODING ID 83330

RE: ADJUDICATION CLAIM(S) A36-00011D CHANGED TO 36-00033G

Dear Ms. Fredericksen:

Pursuant to the notification that you are representing the Claimant(s) on the above-referenced Change of Ownership Adjudication Claim(s), I have changed the Department's record(s) as you have requested. Please note that the Report for Basin 36 has been filed with the court so the recommendations for the above claim is listed in the former owners name, also note the change of number (proof report enclosed). Should you have any questions concerning the print-outs, please feel free to contact me at this office.

The Standard Form 3s, I am returning to you, they will have to be submitted according to the mailing instructions on the back of each form. Any questions concerning these forms you can contact:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Ave North
PO Box 2707
Twin Falls ID 83303-2707
phone number 736-3011

Sincerely,

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

Judy Givens
Adjudication Secretary

/jg

Enclosures: Profile Copy & Proof Report

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OCT 11 1994

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: ~~A36-00011D~~ ⁻⁰⁰⁰³³⁶
Date Received: 9/19/1990
Receipt No: S012681
Received By: _____

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

1. Name: NIKO A TZANAKAKIS
Address: 4201 2ND AVE
SACRAMENTO CA 95817
- Name: GWENDOLYN PEARSON TZANAKAKIS
Address: 4201 2ND AVE
SACRAMENTO CA 95817
2. Date of Priority: MAR 8, 1902
3. Source: WEATHERBY SPRINGS Trib. to: BILLINGSLEY CREEK
4. Point of Diversion:

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

5. Description of diverting works:
PIPELINE
6. Water is used for the following purposes:
- | Purpose | From | To | C.F.S | (or) | A.F.A. |
|------------|-------|-------|-------|------|--------|
| IRRIGATION | 03/15 | 11/15 | 0.250 | | |
7. Total Quantity Appropriated is:
0.250 C.F.S. (and/or) A.F.A.
8. Total consumptive use is 30.0 Acre Feet Per Annum.
9. Non-irrigation uses:
10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
07S	13E	27	NE	NE		IRR	10.0

A36-00011D-
-000336

Page 1

Date: 04/15/94

MICROFILMED
OCT 11 1994

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	10.0
					Total Acres	10.0

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
SHARES IN BIG BEND DITCH

14. Remarks:

THIS RIGHT IS A PORTION OF AN ORIGINAL DECREE OF 65 INCHES OR 1.30 CFS. THE DEED LISTS THE USE OF THIS WATER AS 125 INCHES OF WATER EVERY 10 DAYS FOR A PERIOD OF 24 HOURS. THIS WOULD BE EQUAL TO 12.5 INCHES FULL TIME OR 0.25 CFS.

OWNERSHIP CHANGE 1/18/91 BY JG.

OWNERSHIP CHANGE 4/15/94 BY JG.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

NEW INTERNATIONAL MORTGAGE BA
Decree Plaintiff

IDAHO POWER COMPANY
vs Decree Defendant

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

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

State of Idaho)
County of _____) SS.

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

Notary Public

Seal

Residing at _____

My Commission Expires _____

MICROFILMED
OCT 11 1994

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

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

*** C - CURRENT OWNER ***

TZANAKAKIS NIKO A 1 - 4201 2ND AVE
2 -
3 -
City- SACRAMENTO State- CA Zip- 95817
Phone - 208-000-0000

TZANAKAKIS GWENDOLYN PEARSON 1 - 4201 2ND AVE
2 -
3 -
City- SACRAMENTO State- CA Zip- 95817
Phone - 208-000-0000

*** D - DIR RPT OWNER ***

STRINGER GENEVIEVE R 1 - 2809 A S 900 E
2 -
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-000-0000

STRINGER GEORGE M 1 - 2809 A S 900 E
2 -
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-837-4725

*** O - ORIGINAL OWNER ***

KING MARIAN E 1 - RT 1 BOX 46
2 -
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-837-6506

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - - +

03/08/1902 17 SOUTHERN D - DECREED

+ - - - - Source - - - - - + + - - - - Tributary - - - - - +

WEATHERBY SPRINGS BILLINGSLEY CREEK

+ - - - - Point of Diversion - - - - - +

TwN Rng Sec Tract Lot RFlg County

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

+ - - - - Water Use - - - - - +

Code Description Period From Period To Diversion Rate Diversion Volume

01 - IRRIGATION 03/15 11/15 0.250

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

0.250 28.5

Water right number - 36-00033G

Prefix Translation: WATER RIGHT

Tw	Rng	Sec	Tract	Lot	Acres	Place of Use Code	Description	County
07S	13E	27	NE NE		9.5	01	IRRIGATION	(47) GOODING

Total Acres: 9.5

+ - - Diversion Means - BAR S DITCH TO CURREN DITCH TO NORTH PIPELINE; OPEN DITCH, FLOOD

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - NONE

Remarks
WATER IS DELIVERED THROUGH BAR S DITCH, CURREN DITCH & NORTH PIPELINE. A DIVERSION RATE OF 0.25 CFS AT THE FIELD HEADGATE IS RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.

Old Water Right Numbers
3600033

Conditions of Approval
No Conditions of Approval found.

Decree Plaintiff	Decree Defendant	Decree Date
NEW INTERNATIONAL MORTGAGE BANK	IDAHO POWER COMPANY	00/00/0000

Comments
Date: 08/05/1992 User Id: THORNTON Subject: RENUMBERED RIGHT THE CORRECT OWNERSHIP FOR THE BASIS OF THIS RIGHT IS WATER RIGHT 36-00033. NO OWNERSHIP IS FOUND FOR PORTION OF 36-00011. ORIGINALLY CLAIMED AS A36-00011D. Date: 04/15/1994 User Id: GIVENS Subject: OWNERSHIP CHANGE CHANGE OF OWNERSHIP RECEIVED 8/11/93 FORMER OWNER MARION E KING NEW OWNERS NIKO A & GWENDOLYN PEARSON TZANAKAKIS. COPY OF WARRANTY DEED SUBMITTED WITH FORM. THIS WAS A NUMBER CHANGE FROM 36-00011D.

Audit Fields
04/15/94 GIVENS

Adjudication Rights Dates and Flags Area			
Court Report Filing	- 11/02/1992	Field Inspection Made	- 00/00/0000
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-
Response Filed Date	- 00/00/0000	Verified Date	- 00/00/0000
Claim Received Date	- 09/19/1990	Last Amended Date	- 00/00/0000
		Receipt Number	- S012681
		POU Ownership Flag	- Y
		Name Connector	- AND/OR
		Civil Case Number	- 39576
		Old Case Number	-
		Old Judicial District	-
		Temporary Right	- P
		Water District	- 36A
		Federal/State Indicator	- S
		Presumption Flag	-
		Notice of Error Flag	-

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OCT 11 1994



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

RECEIVED

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

DATE OF CLOSING: August 10, 1993

AUG 11 1993

Department of Water Resources
Southern Region Office

LEGAL DESCRIPTION OF PROPERTY: Township 07S Range 14 EBM
Section 30, SE 1/4 of 1/4 of 1/4 Govt. Lot , BM.
Lot , Block , Subdivision/Townsite .
If you have additional legal descriptions, please attach separate sheet.

- ☐ Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)
- ☐ Water Right Number(s)
Assigned by IDWR: A36-00011D 36-00033 S
- ☐ Name and Address of Former Owner/Claimant(s)(Seller): Marion E. King
Route # 1 Box 46
Hagerman, ID 83332
- ☐ New Owner/Claimant (Purchaser): Niko A. Tzanakakis and Gwendolyn Pearson Tzanakakis
- ☐ New Mailing Address: 4201 2nd Avenue, Sacramento, CA 95817
- ☐ New Telephone Number: () -
- ☐ Does the change in ownership result in a splitting of the water right owned/claimed? yesXX no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

- ☐ Attach proof of ownership, describe proof attached: COPY RECORDED WARRANTY DEEDS
(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)
- ☐ Signature of New Owner/Claimant(s) Niko A. Tzanakakis Date 8-4-93
Gwendolyn Pearson Tzanakakis Date 8-4-93
- ☐ Signature of Former Owner/Claimant(s): _____ Date _____
_____ Date _____

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

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: 4/18/94 By: IC

Further Action Needed:

Further Action Taken

Date: _____ By: _____

Final Review and Data-Entry

Date: 4/18/94 By: IC

Claim Numbers of Split, if any:

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

MICROFILMED
OCT 11 1994

WARRANTY DEED

COPY

For Value Received GEORGE LARAE STRINGER, a married man, and LOA STRINGER, an unmarried woman, as to an undivided one-half interest, dealing as their sole and separate property, and GENEVIEVE R. STRINGER, an unmarried woman, as to an undivided one-half interest

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto NIKO A. TZANAKAKIS and GWENDOLYN PEARSON TZANAKAKIS, husband and wife whose address is: 4201 2nd Avenue, Sacramento, CA 95817

Hereinafter called the Grantee, the following described premises situated in GOODING County, Idaho, to-wit:

SEE ATTACHED EXHIBIT "A"
(containing one page)

RECEIVED

AUG 11 1993

Department of Water Resources
Southern Region Office

153693

STATE OF IDAHO COUNTY OF GOODING

Filed for record at the request of *Land Title & Escrow, Inc.*

20 min. past 11 o'clock P m. this 10
of Aug, 1993

JOHN A. MYERS Recorder

By [Signature] Deputy

fee 6.00

MICROFILMED

OCT 11 1994

EXHIBIT "A"

TOWNSHIP 7 SOUTH, RANGE 13, EAST OF THE BOISE MERIDIAN,
GOODING COUNTY, IDAHO

Section 27: A tract of land in the N $\frac{1}{4}$ NE $\frac{1}{4}$, described as follows:

Beginning at the Northeast corner of said Section 27;

Thence South 328.93 feet along the East line of said Section 27, to THE TRUE POINT OF BEGINNING;

Thence continuing South, 361.57 feet;

Thence South 89°18' West, 761.15 feet;

Thence North 13°42' East, 371.35 feet;

Thence North 89°08' East, 673.11 feet to THE TRUE POINT OF BEGINNING.

TOGETHER WITH all water and water rights, ditches and ditch rights used thereon or appurtenant thereto, including but not limited to 125" from Pipe Line Canal.

SUBJECT TO THE FOLLOWING:

All reservations in patents or deeds in the chain of title.

Taxes for 1993 and subsequent years, which are not yet due and payable.

Assessments levied or to be levied by the Gooding County Solid Waste Department.

Assessments of the Big Bend Ditch Irrigation Company.

Assessments levied or to be levied by a local irrigation district.

Easement for conducting through ditch, pipelines and flume from Jones Springs as contained in Agreement dated April 25, 1918, recorded July 21, 1919 in Book 2 Page 47 as Instrument Number 20006, Gooding County records, and Deed dated June 10, 1919, recorded September 26, 1919 in Book 12 Page 172 as Instrument Number 20660, Gooding County records.

Rights and restrictions for use of an irrigation ditch as contained in Decree in the case of Buckeye Ranch Company, Limited, a corporation, Plaintiff, vs. Edward Thompson, et al., Defendants, dated December 1, 1919, recorded December 3, 1919 in Book 3 Page 299, Gooding County records.

Power Line Easement given by Dale Cady and Verne Cady, husband and wife, to Idaho Power Company, a corporation, dated August 31, 1945, recorded October 22, 1945 in Book 5 Page 602 as Instrument Number 94510, Gooding County records, affecting a portion of Section 27, Township 7 South, Range 13, East Boise Meridian.

Power Line Easement given by Herbert T. King and Marian E. King, husband and wife, dated May 18, 1979, recorded August 27, 1979 as Instrument Number 78497, Gooding County records, affecting a portion of Section 27, Township 7 South, Range 13, East Boise Meridian.

Subject to the unpaid balance of one certain Deed of Trust given by George M. Stringer and Genevieve R. Stringer, husband and wife, to Land Title and Escrow, Inc., as Trustee, for the benefit of Marian E. King, an unmarried woman, dated January 2, 1991, recorded January 2, 1991 as Instrument Number 143321, Gooding County records, which the grantees agree to assume and pay.

Land Title and Escrow, Inc.

P.O. BOX 473
GOODING, IDAHO 83330

MICROFILMED
OCT 11 1994



APR 11 1994
Department of Water Resources
Southern Region Office

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ATTN: JUDY GIVENS
222 SHOSHONE STREET EAST
TWIN FALLS, IDAHO 83301

NAME _____
1st Notice _____
2nd Notice _____
Return _____

RECEIVED

EXHIBIT "A"

AUG 11 1993

TOWNSHIP 7 SOUTH, RANGE 13, EAST OF THE BOISE MERIDIAN, Department of Water Resources
GOODING COUNTY, IDAHO Southern Region Office

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Power Line Easement given by Herbert T. King and Marian E. King, husband and wife, dated May 18, 1979, recorded August 27, 1979 as Instrument Number 78497, Gooding County records, affecting a portion of Section 27, Township 7 South, Range 13, East Boise Meridian.

Financing Statement from Marian E. King, as Debtors, to Shelter America Corporation, as Secured Party, filed February 10, 1988 as Instrument Number 130968, and filed in Real Estate Records February 10, 1988 as Instrument Number 130969, Gooding County records.

MICROFILMED
OCT 11 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

18-Apr-1994 09:12

LAND TITLE & ESCROW INC
ATTN BETTY FREDERICKSEN
PO BOX 473
GOODING ID 83330

RE: ADJUDICATION CLAIM(S) A36-00011D CHANGED TO 36-00033G

Dear Ms. Fredericksen:

Pursuant to the notification that you are representing the Claimant(s) on the above-referenced Change of Ownership Adjudication Claim(s), I have changed the Department's record(s) as you have requested. Please note that the Report for Basin 36 has been filed with the court so the recommendations for the above claim is listed in the former owners name, also note the change of number (proof report enclosed). Should you have any questions concerning the print-outs, please feel free to contact me at this office.

The Standard Form 3s, I am returning to you, they will have to be submitted according to the mailing instructions on the back of each form. Any questions concerning these forms you can contact:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Ave North
PO Box 2707
Twin Falls ID 83303-2707
phone number 736-3011

Sincerely,

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

Judy Givens
Adjudication Secretary

/jg

Enclosures: Profile Copy & Proof Report

MICROFILMED
OCT 11 1994

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

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

CIVIL CASE NUMBER: 39576

R36-00033G

Ident. Number: A36-00011D
Date Received: 9/19/1990
Receipt No: S012681
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: GEORGE M. STRINGER
Address: 2809 A S 900 E.
HAGERMAN, ID 83332

Name: GENEVIEVE R. STRINGER
Address: 2809 A S 900 E.
HAGERMAN, ID 83332

2. Date of Priority: MAR 8, 1902

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

4. Point of Diversion:

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

5. Description of diverting works:
PIPELINE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.250		

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

8. Total consumptive use is 30.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
07S	13E	27	NE	NE		IRR	10.0

A36-00011D

Page 1

Date: 01/18/91

MICROFILMED
JAN 21 1993

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	10.0
					Total Acres	10.0

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
SHARES IN BIG BEND DITCH

14. Remarks:
THIS RIGHT IS A PORTION OF AN ORIGINAL DECREE OF 65 INCHES OR
1.30 CFS. THE DEED LISTS THE USE OF THIS WATER AS 125 INCHES
OF WATER EVERY 10 DAYS FOR A PERIOD OF 24 HOURS. THIS WOULD BE
EQUAL TO 12.5 INCHES FULL TIME OR 0.25 CFS.

OWNERSHIP CHANGE 1/18/91 BY JG.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

NEW INTERNATIONAL MORTGAGE BAN
Decree Plaintiff

IDAHO POWER COMPANY
Decree Defendant

vs

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): _____ Date: _____

_____ Date: _____

State of Idaho)
County of _____) SS.

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

Notary Public

Seal

Residing at _____

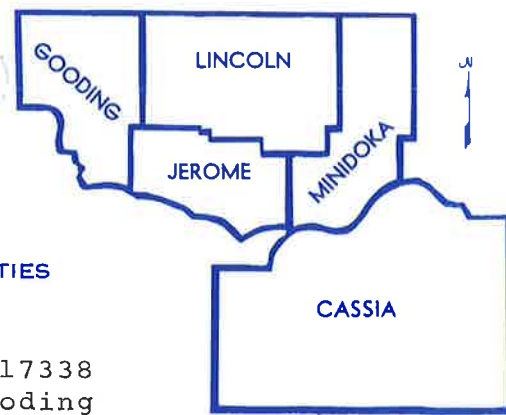
My Commission Expires _____

MICROFILMED
JAN 21 1993

Land Title and Escrow, Inc.

COMPLETE SERVICE

— 5 IDAHO COUNTIES



REFER TO: G-17338
OFFICE: Gooding

January 7, 1991

RECEIVED

JAN 8 1991

Department of Water Resources
Southern Region Office

Laurie White
Department of Water Resources
222 Shoshone Street East
Twin Falls, Idaho 83301

Re: Transfer of Ownership
King to Stringer

Dear Laurie:

In connection with the above referenced transaction, please
find enclosed the following:

1. Change in Ownership
2. Copy of Recorded Warranty Deed

Please transfer adjudication claim to George M. Stringer and
Genevieve R. Stringer and return a copy of transfer to this
office.

Thank you for your assistance.

Sincerely,

LAND TITLE AND ESCROW, INC.


Janet Gorrell
Manager-Gooding

Enclosures



BOX 177, BURLEY, IDAHO 83318
PHONE 678-3524 - FAX 678-4435

BOX 349, JEROME, IDAHO 83338
PHONE 324-4842 - FAX 324-8961

BOX 473, GOODING, IDAHO 83330
PHONE 934-8477 - FAX 934-5890

BOX 111, RUPERT, IDAHO 83350
PHONE 436-0606 - FAX 436-1199

LAND TITLE AND ESCROW, INC.
P. O. BOX 473
GOODING, IDAHO 83330

MICROFILMED
JAN 21 1993

RECEIVED

JAN 8 1991

CHANGE IN OWNERSHIP

Department of Water Page 1
Southern Region Office

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

[] Water Right Number(s): A-36-0011D

[] Name and Address of
Former Claimant(s): Marion E. King

Rte. # 1, Box 46

Hagerman, Idaho 83332

[] New Claimant(s): GEORGE M. AND GENEVIEVE R. STRINGER

2809-A S 900-E, Hagerman, Idaho 83332

[] New Mailing Address: 2809-A S 900 E, Hagerman, Idaho 83332

New Telephone Number: () -

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

[] Attach proof of ownership

Describe proof attached: COPY OF RECORDED WARRANTY DEED

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

[] Signature of New Claimant(s): George M Stringer

Genevieve R. Stringer

Date: January 2, 1991

MICROFILMED
JAN 21 1993

WARRANTY DEED

For Value Received

MARIAN E. KING, an unmarried woman

COPY

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

GEORGE M. STRINGER and GENEVIEVE R. STRINGER, husband and wife
whose address is: 2809-A South 900 East, Hagerman, Idaho 83332Hereinafter called the Grantee, the following described premises situated in Gooding County, Idaho,
to-wit:SEE ATTACHED EXHIBIT "A"
(containing one page)

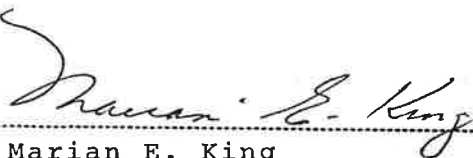
RECEIVED

JAN 8 1991

Department of Water Resources
Southern Region Office

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

Dated: January 2, 1991



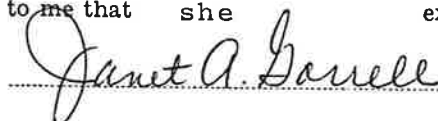
Marian E. King

STATE OF IDAHO, COUNTY OF GOODING

On this 2nd day of January, 1991
before me, a notary public in and for said State, personally appeared

Marian E. King

known to me to be the person whose name is
subscribed to the within instrument, and acknowledged
to me that she executed the same.



Notary Public

Residing at Gooding
Commission expires: 2-28-1993

, Idaho.

143320

STATE OF IDAHO, COUNTY OF GOODING

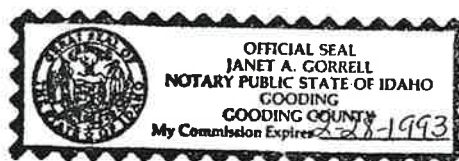
Land Title & Escrow Inc.

Filed for record at the request of

15 min. past 1 o'clock P.M. this 2
of Jan., 1991. Fee \$6.00

JOHN A. MYERS, Recorder

By Helen K. Piatt



WARRANTY DEED

COPY

For Value Received

MARIAN E. KING, an unmarried woman

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

GEORGE M. STRINGER and GENEVIEVE R. STRINGER, husband and wife
whose address is: 2809-A South 900 East, Hagerman, Idaho 83332Hereinafter called the Grantee, the following described premises situated in Gooding County, Idaho,
to-wit:SEE ATTACHED EXHIBIT "A"
(containing one page)

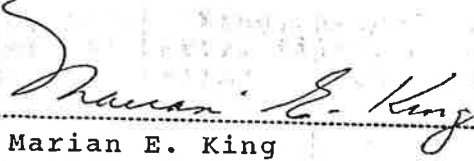
RECEIVED

AUG 11 1993

Department of Water Resources
Southern Region Office

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

Dated: January 2, 1991



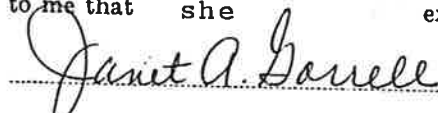
 Marian E. King

STATE OF IDAHO, COUNTY OF GOODING

On this 2nd day of January, 1991
before me, a notary public in and for said State, personally appeared

Marian E. King

known to me to be the person whose name is
subscribed to the within instrument, and acknowledged
to me that she executed the same.



 Janet A. Gorrell

Residing at Gooding
Commission expires: 2-28-1993

Notary Public
, Idaho.

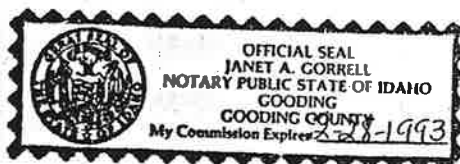
143320

STATE OF IDAHO, COUNTY OF GOODING

Filed for record at the request of *Land Title & Escrow Inc*

15 min. past 1 o'clock P.M. this 2
of Jan., 1991. Fee \$6.00

JOHN A. MYERS, Recorder

By: *Wileen K. Piatt*

RECEIVED

EXHIBIT "A"

JAN 8 1991

TOWNSHIP 7 SOUTH, RANGE 13, EAST OF THE BOISE MERIDIAN,
GOODING COUNTY, IDAHO

Department of Water Resources
Southern Region Office

Section 27: A tract of land in the N $\frac{1}{4}$ NE $\frac{1}{4}$, described as follows:

Beginning at the Northeast corner of said Section 27;

Thence South 328.93 feet along the East line of said Section 27, to THE TRUE POINT OF BEGINNING;

Thence continuing South, 361.57 feet;

Thence South 89°18' West, 761.15 feet;

Thence North 13°42' East, 371.35 feet;

Thence North 89°08' East, 673.11 feet to THE TRUE POINT OF BEGINNING.

TOGETHER WITH all water and water rights, ditches and ditch rights used thereon or appurtenant thereto, including but not limited to 125" from Pipe Line Canal

SUBJECT TO:

Taxes for 1991 and subsequent years, which are not yet due and payable.

Assessments levied or to be levied by a local irrigation district.

Easement for conducting through ditch, pipelines and flume from Jones Springs as contained in Agreement dated April 25, 1918, recorded July 21, 1919 in Book 2 Page 47 as Instrument Number 20006, Gooding County records, and Deed dated June 10, 1919, recorded September 26, 1919 in Book 12 Page 172 as Instrument Number 20660, Gooding County records.

Rights and restrictions for use of an irrigation ditch as contained in Decree in the case of Buckeye Ranch Company, Limited, a corporation, Plaintiff, vs. Edward Thompson, et al., Defendants, dated December 1, 1919, recorded December 3, 1919 in Book 3 Page 299, Gooding County records.

Power Line Easement given by Dale Cady and Verne Cady, husband and wife, to Idaho Power Company, a corporation, dated August 31, 1945, recorded October 22, 1945 in Book 5 Page 602 as Instrument Number 94510, Gooding County records, affecting a portion of Section 27, Township 7 South, Range 13, East Boise Meridian.

Power Line Easement given by Herbert T. King and Marian E. King, husband and wife, dated May 18, 1979, recorded August 27, 1979 as Instrument Number 78497, Gooding County records, affecting a portion of Section 27, Township 7 South, Range 13, East Boise Meridian.

Financing Statement from Marian E. King, as Debtors, to Shelter America Corporation, as Secured Party, filed February 10, 1988 as Instrument Number 130968, and filed in Real Estate Records February 10, 1988 as Instrument Number 130969, Gooding County records.

MICROFILMED

JAN 21 1993

SD-33	LAST NAME: KING					STATE	
S E L	FIRST NAME	O W N	WATER RIGHT NO.	PRIORITY DATE	SOURCE	TOTAL DIVERSION	USE CODE DESC
KING							
	MARION E.	C	R36-00011D	03/08/1902	WEATHERBY S	0.160	01 IRR
	HERBERT T.	O	R36-08158	06/05/1983	GROUNDWATER	0.040	01 IRR
							04 STOCK
	JOHN E.	C	A36-11735	03/20/1942	GROUNDWATER	0.040	43 DOMEST
							04 STOCK
	MILDRED	C	A36-11735	03/20/1942	GROUNDWATER	0.040	43 DOMEST
							04 STOCK
	FERRIL	C	A36-11736	12/31/1972	GROUNDWATER	0.040	43 DOMEST
							04 STOCK
	RENE'	C	A36-11736	12/31/1972	GROUNDWATER	0.040	43 DOMEST
							04 STOCK
	VERN W.	C	A36-11994	12/20/1955	GROUNDWATER	0.040	43 DOMEST
	ALYCE B.	C	A36-11994	12/20/1955	GROUNDWATER	0.040	43 DOMEST
	MARJORIE P.	C	A36-12410	02/01/1959	GROUNDWATER	0.040	43 DOMEST

(ENTER=CONTINUE) (GOLD 7=THIS QUERY) (MENU _____)

SD-36	TOWNSHIP: 07S	RANGE: 13E	SECTION: 27	TRACT:	LOT:
S E L	L O TRACT T	WATER RIGHT NO.	NAME LAST, FIRST	O W N AC	S T G MAX # RECORDS PRIORITY USE DATE CODE DESC
		A36-07252	STURTEVANT, JOYCE	C	L 07/10/1972 04 STOCK
			STURTEVANT, FRED I.	C	43 DOMEST
		A36-00003B	GARDNER, ROBERT B.	C	D 09/10/1884 01 IRR
			GARDNER, BARBARA	C	04 STOCK
		A36-00003J	GARDNER, BARBARA	C	D 09/10/1884 01 IRR
					04 STOCK
		A36-00003J	GARDNER, BARBARA	C	D 09/10/1884 01 IRR
					04 STOCK
					19 FISH
	NENE	R36-00011D	KING, MARION E.	C 10	D 03/08/1902 01 IRR
			BARTON, W.C.	O	
			BARTON, ELLA	O	
	NENE	R36-00033D	SAUER, ROY E.	C 1	D 03/08/1902 01 IRR
			SAUER, VIVA	C	

(ENTER=CONTINUE) (GOLD 7=THIS QUERY) (MENU _____)

MICROFILMED
JAN 21 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

18-Jan-1991 12:01

Janet Gorrell
Manager-Gooding
Land Title and Escrow, Inc.
P O Box 473
Gooding, ID 83330

RE: Adjudication Claim(s) No. A36-0011D

Dear Ms. Gorrell:

We have changed the name of the ownership on the above-listed Adjudication Claim(s) to a water right, as you have requested. Please review the computer generated claim(s) for accuracy. In a few instances clarifications may have been added by the Department at the time of data entry.

If you have any questions or objections regarding the computer record, please contact this office.

Sincerely,

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

Judy Givens
Adjudication Secretary

/jg

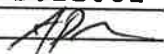
Enclosures:

MICROFILMED
JAN 21 1993

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: A36-00011D
Date Received: 9/19/1990
Receipt No: S012681
Received By: 

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: MARION E. KING 208-837-6506
Address: RT. 1 BOX 46
HAGERMAN, ID 83332

2. Date of Priority: MAR 08, 1902

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

4. Point of Diversion:

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

5. Description of diverting works:
PIPELINE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.250		

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

8. Total consumptive use is 30.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
07S	13E	27	NE	NE		IRR	10.0

Section Acres 10.0

Total Acres 10.0

A36-00011D

Page 1

Date: 09/19/90

MICROFILMED
JAN 21 1993

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
SHARES IN BIG BEND DITCH

14. Remarks:

THIS RIGHT IS A PORTION OF AN ORIGINAL DECREE OF 65 INCHES OR 1.30 CFS. THE DEED LISTS THE USE OF THIS WATER AS 125 INCHES OF WATER EVERY 10 DAYS FOR A PERIOD OF 24 HOURS. THIS WOULD BE EQUAL TO 12.5 INCHES FULL TIME OR 0.25 CFS.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

NEW INTERNATIONAL MORTGAGE BAN
Decree Plaintiff

vs

IDAHO POWER COMPANY
Decree Defendant

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

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

State of Idaho)
County of _____) SS.

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

Notary Public

Seal

Residing at _____

My Commission Expires _____

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

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

CIVIL CASE NUMBER: 39576

Ident. Number

A36-00011 D

Date Received

5012681

Receipt Number

✓

AP

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Marion E. King Phone (208) 837-6506Mailing Address Rt # 1 Box 46, Hagerman, Idaho Zip 833322. Date of Priority (Only one (1) per claim) March 08, 19023. Source of water supply (a) Weatherby Springswhich is tributary to (b) Billingsley Creek4. a. Location of existing point of diversion is: Township 07S Range 14E Section 30,
SE 1/4 of NE 1/4 of SW 1/4, Govt. Lot, B.M., County of GoodingAdditional points of diversion if any: Pipeline

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

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

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

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

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

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

MICROFILMED
JAN 21 1993

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from 03/15 to 11/15 amount _____ or 12.5 inches

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

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

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

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

10. Description of place of use:

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

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

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
07S	13E	27	X																10

Total number of acres irrigated 10

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

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

13. Describe any other water rights used at the same place and for the same purposes as described above.
5 Shares in Big Bend Ditch or None ()

14. Remarks:

MICROFILMED

JAN 21 1993

Last Name King Ident No. _____

Copies: White -State, Yellow-Claimant

Scale: 2 inches equals 1 mile

[illegible]

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____
Decree X
If applicable provide IDWR Water Right Number A portion of 36-0011
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

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

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

Signature of Claimant (s) Hawai E. King Date Sept. 18th 1990

Date _____

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

Signature of Authorized Agent _____
Title and Organization _____ Date _____

State of Idaho/or _____)
County of Gooding) SS.

Subscribed and sworn (or affirmed) before me this 18th day of September 1990

SEAL

Notary Public Robert H. Lawrason
Robert H. Lawrason
Residing at Hagerman

My Commission Expires March 28, 1994

Please Print Name

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

Signature _____

Address _____

Date _____

Last Name _____ Ident. Number _____

MICROFILMED
JAN 21 1993

Copies White-State, Yellow-Claimant

WARRANTY DEED

For Value Received

ALFRED H. COLE and PHYLLIS A. COLE, husband and wife

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

HERBERT T. KING and MARIAN E. KING, husband and wife,

Hereinafter called the Grantee, the following described premises situated in Gooding County, Idaho, to-wit:

A tract of land in the N $\frac{1}{2}$ NE $\frac{1}{4}$, Section 27, Township 7 South, Range 13 East, Boise Meridian, Gooding County, Idaho described as follows:

Beginning at the NE corner of said Section 27, THE TRUE POINT OF BEGINNING;
 Thence S 89° 52' W, 590.70 feet along the North line of said Section 27;
 Thence S 13° 42' W, 719.00 feet;
 Thence N 89° 18' E, 761.15 feet to a point on the East line of said Section 27;
 Thence North 690.50 feet along the East line of said Section 27, to THE TRUE POINT OF BEGINNING.

Together with ten inches of water out of Big Bend Canal and ~~one hundred twenty five inches of water out of Pipe Line Canal for a twenty four hour period every tenth day.~~

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

* Dated: 8 NOVEMBER, 1978



* *Alfred H. Cole*
 * *Phyllis A. Cole*

STATE OF IDAHO, COUNTY OF GOODING
 * On this EIGHTH day of November 19 78 before me, a notary public in and for said State, personally appeared
 ALFRED H. COLE and PHYLLIS A. COLE, husband and wife,

known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

Phillip R. Ihde
 Notary Public
 Residing at 465 E. CHASE AVE ELICABIE

STATE OF IDAHO, COUNTY OF GOODING

I hereby certify that this instrument was filed for record at the request of *Marian E. King* at 17 minutes past 11 o'clock A.M., this 8th day of December 19 78, in my office, and duly recorded in Book of Deeds at page

Margaret F. Clements

Ex-Officio Recorder

By

Helen K. Piatt

Fees \$ 2.00

Mail to:

MICROFILM

JAN 21 1979

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 67033

RECEIVED**MAY 22 2001**

Department of Water Resources
Southern Region

This is to certify that: NIKO A TZANAKAKIS AND
GWENDOLYN PEARSON TZANAKAKIS
2809 S 900 E
HAGERMAN ID 83332
(208)837-6343

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document. The right holder shall accomplish the authorized change within one (1) year of the date of this approval. Failure of the right holder to comply with the conditions of approval for each water right affected by this transfer is cause for the Director to rescind approval of all or part of the transfer.

Summary of Water Rights Before the Proposed Change

Right	Origin/Basis	Priority	Rate	Volume	Acres	Total	Source
36-15662	AJC/Decreed	03/08/1902	0.25 cfs		9.5	9.5	WEATHERBY SPRINGS

Purpose of Transfer (Changes Proposed)

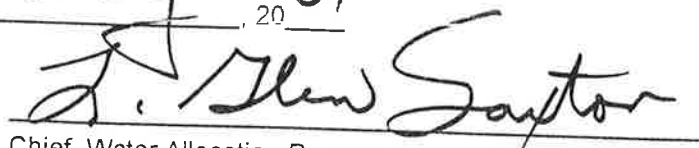
Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
36-15662	YES	NO	YES	NO	NO	NO

Summary of Water Rights After the Approved Change

Existing Right	New No. (changed portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
36-15662	36-15664	0.24 cfs	22.8 af	5.7	5.7	36-15663	0.01 cfs	1.0 af	.25	.25
TOTALS		0.24 cfs	22.8 af	5.7	5.7		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 14th day of May, 2001


Chief, Water Allocation Bureau

WATER RIGHT NO. 36-15663
As Modified by Transfer No. 67033

In accordance with the approval of Transfer No. 67033, Water Right No. 36-15663 is now described as follows.

Right Holder: WILLIAM B SHAPPEE
 PO BOX 358
 HAGERMAN ID 83332

Priority Date: 03/08/1902

Source: WEATHERBY SPRINGS **Tributary:** BILLINGSLEY CREEK

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	02/15 to 11/30		0.01 CFS	1.0 AF
			0.01 CFS	1.0 AF

LOCATION OF POINT(S) OF DIVERSION:

WEATHERBY SPRINGS SENESW Sec. 30 Twp 07S Rge 14E GOODING County

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
07S	13E	27	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	.25

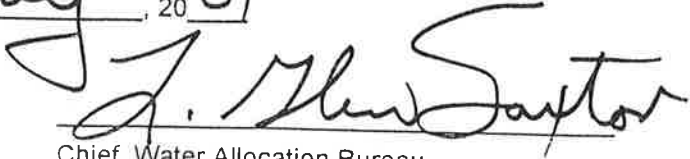
Total Acres: 0.25

CONDITIONS OF APPROVAL

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 36-A, Billingsley Creek.
2. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
3. This right when combined with all other rights shall provide no more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
4. Use of water under this right may be affected by an agreement between the protestant and the right holder.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 14th day of May, 2001


 Chief, Water Allocation Bureau

WATER RIGHT NO. 36-15664
As Modified by Transfer No. 67033

In accordance with the approval of Transfer No. 67033, Water Right No. 36-15664 is now described as follows.

Right Holder: NIKO A TZANAKAKIS AND
GWENDOLYN PEARSON TZANAKAKIS
2809 S 900 E
HAGERMAN ID 83332

Priority Date: 03/08/1902

Source: WEATHERBY SPRINGS

Tributary: BILLINGSLEY CREEK

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	02/15	to 11/30	0.24 CFS	22.8 AF
			0.24 CFS	22.8 AF

LOCATION OF POINT(S) OF DIVERSION:

WEATHERBY SPRINGS SENESW Sec. 30 Twp 07S Rge 14E GOODING 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	
07S 13E 27	5.7																5.7

Total Acres: 5.7

CONDITIONS OF APPROVAL

1. Rights 36-15664 and 36-8158 when combined shall not exceed a total annual maximum diversion volume of 22.8 af at the field headgate and the irrigation of 5.7 acres.
2. Use of water under this water right will be regulated by the watermaster of State Water District No. 36-A, Billingsley Creek.
3. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
4. This right when combined with all other rights shall provide no more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
5. Use of water under this right may be affected by an agreement between the protestant and the right holder.

WATER RIGHT NO. 36-15664
As Modified by Transfer No. 67033

CONDITIONS OF APPROVAL

6. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
7. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 14th day of May, 2001


Chief, Water Allocation Bureau

Clelland, Steve

From: Shaff, Don
Sent: Monday, May 14, 2001 10:58 AM
To: Fawcett, Trish
Cc: Jones, Doug; Clelland, Steve
Subject: FW: Approved Transfer 67033

Looks like Pam has supplied helpful notes to aid in the data entry of the Recomm to prepare the NCAP ultimately.

Don
dshaff@idwr.state.id.us
208/327-7932

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

From: Skaggs, Pam
Sent: Monday, May 14, 2001 9:12 AM
To: Shaff, Don
Subject: Approved Transfer 67033

Original Transfer application identified Rights 36-33H,J & K. These rights were recombined into Right 36-15662 per SRBA Court Order. Dave Grindle only modified the claims to reflect this change, not the recommendations.

Then Right 36-15662 was split into Rights 36-15663 & 36-15664 through the transfer to reflect the transfer protest agreement.

Rights associated with approved Transfer 67033
36-15663
36-15664



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

SOUTHERN REGION

December 22, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

Gwen Tzanakakis
2809 S 900 E
Hagerman, ID 83332-5619

RE: Transfer No. 5613 (36-00033H)

Dear Mrs. Tzanakakis:

The department has received and reviewed your December 8th letter requesting that the administrative process of transfer No. 5613 be somehow modified to include a wintertime stockwater use for your right.

The department has reviewed the original SRBA claim filed in this matter and finds it only includes irrigation use. The addition of wintertime stockwater use without proper notice to other parties is not appropriate. The addition of a wintertime stockwater use at this juncture requires that you amend the SRBA claim. To amend the SRBA claim requires that you petition the SRBA court. If allowed by the court and once your claim is amended then Transfer No. 5613 will need to be amended and re-advertised.

Transfer No. 5613 as originally filed is in its final stages of processing in the state office of IDWR. I have notified staff in the state office of your letter and they have suspended processing to allow you time to consider what action to take. The department will hold the processing of Transfer No. 5613 for 30 days pending your decision or your filing a motion before the SRBA court.

If you have questions, please feel free to contact this office.

Sincerely,

Allen Merritt, PE
Southern Region Manager

CC: Western Legends
Dale Shappee
Joseph James - Arkoosh Law Offices
Jeff Peppersack, Doug Jones, Steve Clelland, Nick Spencer, Dave Tuthill – IDWR

Gwendolyn Tzanakakis
2809 South 900 East
Hagerman, Idaho 83332-5619
Fax# 1-208-837-6494
Telephone 1-208-837-6343

RECEIVED
DEC 14 2000
Department of Water Resources
Southern Region

December 8, 2000

Allen D. Merritt
State of Idaho
Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, Id. 83301-3380

RE: Application for Transfer No. 5613 (36-000-33G)
Notice of Administrative proceeding

We are in receipt of letter dated January 31, 2000 issued by Doug Jones IDWR Representative referring to I.C. 42-222 transfer number 5613, which states IDWR projects the Administrative proceeding shall be completed not later than January 12, 2001.

On November 25, 2000 Western Legends L. C. informed us that Mr. Steve Clelland at IDWR, had provided them with a summary of rights in the **SRBA** that have stockwater rights from Weatherby Springs dated 11-24-2000. With this document in hand they shut down our stockwater at the headgate in section 26. Our argument was an agreement No. 20006 dated April 25, 1918, which states the party of first part "further agreed that the party of second part shall have the right to use said waters for either irrigation or domestic puposes or both, and shall be entitled to have the same delivered at any and all times of the year whenever required by him."

Since our water right is still in administrative proceeding and the Clifford WR#36-00033 has historically had the enjoyment of stockwater year around from 1902. Due to the fact that it will or could be an issue with our agreement instrument No. 187067. Being it has already become an issue with an other party on the stockwater, we are asking the IDWR to included or amend our still yet to be processed transaction of the water right. The amend issue being period of use and nature of use. Stockwater in the amount of 0.120 cfs to be used from 11-14 to a period of 03-14 for winter stockwater: sheep, goats, beef cattle and horses.

This issue needs to be addressed immediately. It appears the agreement dated April 25, 1918 has already been overlook in other issues of the water rights concerning Clifford usage within section 22 and 27 Rng 13. Thank you for taking the time to address this issue. I look forward to talking to you further about this matter.

Gwen Tzanakakis

cc/ Western Legends L.C.
Dale Shappee
Arkoosh Law Offices
900 East Share Ditch

RECEIVED

DEC 14 2000

Department of Water Resources
Southern Region

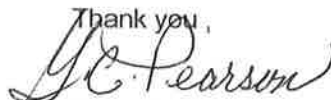
WEATHERBY SPRINGS
SHARE DITCH 900 EAST
POST OFFICE BOX 749
HAGERMAN, IDAHO 83332-5619
TEL 1-208-837-6343 FAX 837-6494

December 8, 2000

Allen D. Merritt
State of Idaho
Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, Id 83301-3380

Re: Agreement Instrument No, 187067
William B. Shappee, Charles Dale Shappee and Brenda S. Shappee
WR#36-00033J

Our governing body within the Share Ditch 900 East acknowledges the agreement recorded within Gooding County, Idaho. We are requesting for our records a Gis map of the .025 acre which we understand William B. Shappee will be placing a diversion in the Share Ditch capable of diverting no more than the .01 cfs for irrigation, which included stockwater rights within the water right know as 36-000-33J .

Thank you,

G.C. Pearson

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. _____

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

IDWR Employee/Agent: Steve Clelland

1/10/2000 11:00 AM

NAME:

BILL SHAPPEE

CALLIN

RE:

TZANAKAKIS TRANSFER

He called to ask about the status of the transfer and I told him the attorneys decided to give the water right to Nick Tz. He asked if there was anything he could do to protest the action and I told him he could file a protest on the transfer. I checked with Jim Stanton to find out where the advertising stood, he told me the protests can be filed anytime after the transfer is filed with IDWR. Bill said he will be in on 1/11/00; I told him I will be in court but that he can meet with any of the staff here and he may even want to meet with Jim S. He said he would be in to file the Protest. Claims: 36-00033H, J, K.

COPY

2000 FEB -4 PM 2:05

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

Water Rights: 36-00033G,
36-00033H, 36-00033J, 36-00033K

NOTICE OF ADMINISTRATIVE
PROCEEDING

IDWR has received an application for an Administrative Proceeding for the above water right(s).

The Administrative Proceeding contemplates a change in the water right(s) as indicated below:

☐ Substitution of Party (waiting for documentation)

☐ Substitution of Party/Split Water Right

☒ I.C. § 42-222 transfer 5613

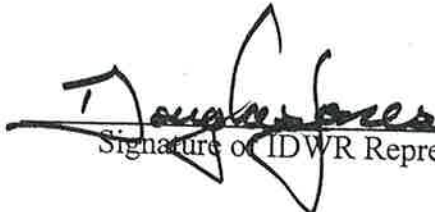
☐ point of diversion ☒ place of use

☐ period of use ☐ nature of use

IDWR projects the Administrative Proceeding shall be completed not later than: January 12, 2001.

Dated

1/31/00


Signature of IDWR Representative

INSTRUCTIONS FOR MAILING

Mail this form to the Clerk of the SRBA Court and to the parties identified in the Certificate of Mailing. **FAX filings will not be accepted by the SRBA Clerk of the Court.**

CERTIFICATE OF MAILING

I certify that on 2/4, 2000, I mailed the original and copies of this form to the following persons, postage prepaid, and addressed as follows:

1. Original to:
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls ID 83303-2707
2. One copy to:
Claimant or attorney of record:
Niko A Tzanakakis
Gwendolyn P Tzanakakis
2809A S 900 E
Hagerman ID 83332
3. One copy to:
Claimant or attorney of record:
William B Shappee
PO Box 358
Hagerman ID 83332
Charles D Shappee
Brenda S Shappee
PO Box 663
Bellevue ID 83313
4. One copy to:
Each party in the subcase, or attorney of record:



Signature of person or attorney mailing the form



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

SOUTHERN REGION

February 4, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

NIKO A TZANAKAKIS
GWENDOLYN P TZANAKAKIS
2809A S 900 E
HAGERMAN ID 83332

RE: SRBA Claim(s) 36-00033G, 36-00033H, 36-00033J, 36-00033K

Dear Claimant:

Please find the enclosed copy of the Notice of Administrative Proceeding, which the department has filed with the SRBA Court regarding the above referenced claims. You have received this notice pursuant to SRBA Court Administrative Order 11 requiring IDWR to report to the court and interested parties any pending changes to adjudication claims in basins for which a Director's Report has been filed with the court.

After IDWR completes the indicated administrative process, and has modified the SRBA claims, you will be forwarded a Notice of Completed Administrative Proceeding. Please contact this office if you have any questions about the notice or the administrative process.

Sincerely,

Trish Fawcett
Technical Records Specialist

Enc.

cc: William B. Shappee
Charles and Brenda Shappee

33 G
33 H
33 J
33 K

[illegible]



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP K. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 7, 1998

Niko and Gwendolyn Tzanakakis
2809 S 900 E
Hagerman, ID 83332

RE: Status of Claim in the SRBA

Dear Mr. And Mrs. Tzanakakis:

This morning you telephoned to request an update on the status of your claim in the SRBA. This letter provides an in-progress assessment for your use in the upcoming hearing before the Special Master in this matter.

As I described during our conversation, the present status of this matter is as follows:

1. On June 19, you both met with Mr. Steve Clelland and me at our Southern Regional Office. You described your concerns relative to our recommendations for water right claims 36-00033 (G, H, J and K). At the conclusion of our meeting I stated that I would explore some solutions in addition to those that had already been proposed by IDWR.
2. On June 30, 1998, IDWR staff conducted a meeting to discuss alternative solutions to your situation. Present at the meeting were Mr. Norm Young, Administrator of the Water Management Division, Mr. Glen Saxton, Water Allocation Bureau Chief, Mr. John Marshall, ID Office of the Attorney General, Mr. Clelland (by telephone) and myself. Based on our assessment of the situation we identified a mechanism for resolving this situation which would not require a water right transfer, if the solution was agreeable to all parties including the Shappee's. Mr. Clelland agreed to contact the Shappee's to determine their input in this matter before proceeding.
3. I have not yet been advised of the results of Mr. Clelland's contacts. It is possible that these contacts will result in another solution. The Shappee's input will assist in determining the next step in this matter.

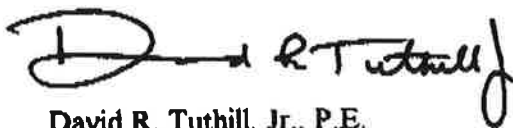
July 7, 1998

Page 2

Mr. And Mrs. Tzanakakis

I am sending copies of this letter to those who have been involved in this resolution process to date, as a means of distributing a status update in this matter. I anticipate that more information will be forthcoming from Mr. Clelland prior to the hearing that is scheduled with Special Master Haemmerle.

Sincerely,

A handwritten signature in dark ink, appearing to read "David R. Tuthill, Jr.", with a stylized flourish at the end.

David R. Tuthill, Jr., P.E.
Chief, Adjudication Bureau

cc: Steve Clelland
Norm Young
Glen Saxton
John Marshall

RECEIVED RECEIVED

JUL 28 1998

JUN 16 1998

Department of Water Resources
Southern Region

Department of Water Resources
Adjudication Bureau

RECEIVED

JUN 15 1998

Department of Water Resources

1998 JUN 10 AM 11:41

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED _____

6-10
South
D.V.

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

RECEIVED)

Subcase 36-00033H

JUL 24 1998)

(36-00033G, 36-00033J and 36-00033K)

Case No. 39576

WATER RESOURCES
WESTERN REGION)

REPORT AND RECOMMENDATION
FOR RE-APPOINTMENT OF SPECIAL
MASTER

REPORT

IDWR's Split and Recommendations

On March 18, 1998, IDWR filed with the SRBA Court a *Notice of Completed Administrative Proceedings* in the above four (4) subcases. The *Notice* stated that 36-00033G was split into 36-00033H, 36-00033J and 36-00033K. IDWR then recommended Niko and Gwendolyn Tzanakakis as the owners of 36-00033H, William B. Shappee as the owner of 36-00033J and Charles and Brenda Shappee as the owners of 36-00033K.¹

Motion to File Late Objection

On March 19, 1998, the Tzanakakis filed a *Motion to File Late Objection* in 36-00033H stating:

We would like to file a late objection to water right #36-00033H. We understand that we are late, but our right was just split and the amount of water and the number of acres is wrong.

¹ *Supplemental Report Regarding Claims to Water Right Nos. 36-00033G, 36-00033H, 36-00033J and 36-00033K, dated April 27, 1998.*

Hearing

A hearing on the Tzanakakis' *Motion* was convened before Special Master Terrence A. Dolan on April 28, 1998, at the SRBA Courthouse in Twin Falls, Idaho. The Tzanakakis appear *pro se* and John M. Marshall appeared for IDWR. Notice of the hearing was sent to the Shappees (36-00033J and 36-00033K) because their claims are related to the Tzanakakis' *Motion*. William and Charles Shappee appeared *pro se*.

During testimony given by IDWR agent Steve Clelland, it became clear that the Tzanakakis' *Motion* partially involved water right claims not then before the Special Master. Specifically, the Tzanakakis claimed that certain splits were made to 36-00033G, plus water rights recommended by IDWR in the name of the Big Bend Mining and Irrigation Company. Therefore, the hearing could not proceed further.

The hearing was adjourned to allow the parties additional time to consult with Big Bend, IDWR and each other. The parties then agreed to request that the hearing be reconvened when they were prepared to proceed and the necessary additional parties were joined. To date, no party has requested that the hearing be reconvened.

Motion for Disqualification

On June 3, 1998, Niko Tzanakakis filed with the Court a letter in the nature of a *Motion for Disqualification* under I.R.C.P. Rule 40(d)(2), in which he said:

I am writing this letter requesting that on my next unscheduled yet hearing before Water Master Dolan, the court appoint somebody else to hear my water right case NO. 36-00033G, (which has been split unlawfully by the IDWR into 36-00033H, 36-00033J and 36-00033K). I honestly believe, based on previous hearings I attended as a spectator. When Water Master Dolan was presiding, I found him partial to IDWR and it's employee Steve Clelland.

I believe that I have been targeted by Steve Clelland and Doug Jones of IDWR, they have been irresponsible and omitted vital information regarding my property and my water rights.

The documents that IDWR have received from the Land Title and Escrow Inc. of Gooding County for my change of ownership and documents from previous owners of the property including the water rights. The omission of correct acreage to Director's report is a clerical error in legal description. The IDWR's omitted information of documents they're receiving every day, has created hardship, burden of proof and frustration to the people, who are trying to make a descent living.

Idaho Rules of Civil Procedure

I.R.C.P. 53(a)(2), **Disqualification of master**, states that “[a]ny person appointed as a master in a trial of an action shall be disqualified upon the finding of the existence of a relation or a condition of such person which would be grounds for disqualification of a judge for cause as prescribed by statute or these rules.”

I.R.C.P. 53(a)(3), **Motion and notice for disqualification**, states:

At any time within fourteen (14) days from receipt of notice of the appointment of a master in an action, any party thereto may object to the qualification of such masters by filing a motion to disqualify the master and stating the grounds in support thereof. Such motion may be supported by affidavit and shall be noticed and determined by the court in the same manner as other motions under these rules. The court, in its discretion, may hear testimony on such motion or may determine the same upon the record including affidavits and counter affidavits filed by the parties or the master.

I.R.C.P. 40(d)(2), **Disqualification for cause**, states in relevant part:

(B) Motion for Disqualification. Any such disqualification for cause shall be made by a motion to disqualify accompanied by an affidavit of the party or the party’s attorney stating distinctly the grounds upon which disqualification is based and the facts relied upon in support of the motion. Such motion for disqualification for cause may be made at any time. The presiding judge or magistrate sought to be disqualified shall grant or deny the motion for disqualification upon notice and hearing in the manner prescribed by these rules for motions.

I.R.C.P. 40(d)(4), **Voluntary disqualification**, states that “[t]his rule shall not prevent any presiding judge in an action from making a voluntary disqualification without stating any reason therefore.”

Discussion

Under the old rule for disqualification of a judge, upon the filing of an affidavit charging bias or prejudice, the judge was automatically disqualified without any hearing on the truth or falsity of the affidavit and regardless of whether the judge was actually prejudiced as a matter of law. *Anderson v. Winstead*, 65 Idaho 161, 140 P.2d 233 (1943). The current rule no longer requires automatic disqualification and leaves it to the judge sought to be disqualified to grant or deny the motion upon notice and hearing.

Under I.R.C.P. 40(d)(2) which governs disqualifications for cause, the moving party bears the burden of providing facts to support the stated grounds for disqualification.

As we have previously held, “suspicion, surmise, speculation, rationalization, conjecture, innuendo, and statements of mere conclusions . . . may not be substituted for a statement of facts.

DesFosses v. DesFosses, 122 Idaho 634, 636, 836 P.2d 1095, 1097 (Ct. App. 1992).

Denial of a motion to disqualify a judge for cause is a matter within the sound discretion of the trial judge. *Id.*

From a technical standpoint, the Tzanakakises are currently the only parties to subcase 36-00033H. Hence, there can be no other “party” to oppose their *Motion*. The Shappees appeared at the hearing on the Tzanakakises’ *Motion to File a Late Objection* in 36-00033H simply because their rights will necessarily be impacted by any adjustment of the Tzanakakises’ claim. However, from a practical standpoint, the Shappees are “necessary parties” in every sense. Mr. Tzanakakis seems to have agreed with that assessment because in his *Motion for Disqualification*, he referred to “my water right case NO. 36-00033G”, the base right from which 36-00033H, 36-00033J and 36-00033K derive.

Nevertheless, given the circumstances of 36-00033H and the Tzanakakises’ *Motion for Disqualification* (a single-party subcase, *pro se* claimants, early stage of proceedings and the amorphous and highly subjective allegations of bias or prejudice), justice will be better served by referral of the subcase(s) to another special master without a hearing on the matter.

RECOMMENDATION

THEREFORE, IT IS RECOMMENDED that another special master be appointed in subcase 36-00033H and all overlapping and related subcases² at the Court’s earliest convenience.

Dated June 10, 1998.



TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

² The overlapping and related subcases include 36-00033G, 36-00033J and 36-00033K. At the hearing, Mr. Tzanakakis said that he “owns” water rights from the Big Bend Ditch.

CERTIFICATE OF MAILING

I certify that true and correct copies of the **REPORT AND RECOMMENDATION FOR RE-APPOINTMENT OF SPECIAL MASTER** were mailed on June 10, 1998, by first-class mail to the following:

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

Charles Shappee
PO Box 663
Bellevue, ID 83313

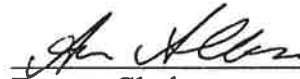
Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

Marian E. King
Route 1, Box 46
Hagerman, ID 83332

Niko & Gwendolyn Tzanakakis
2809 S 900 E
Hagerman, ID 83332

Genevieve & George Stringer
Trailer #54
1605 Grandview Ave N
Twin Falls, ID 83301

William Shappee
PO Box 358
Hagerman, ID 83332


Deputy Clerk

RECEIVED

JUL 28 1998

Department of Water Resources
Southern Region

RECEIVED

JUN 15 1998

Department of Water Resources

1998 JUN 10 PM 3:10

DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO

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

In Re SRBA

RECEIVED

JUL 24 1998

WATER RESOURCES
WESTERN REGION

Case No. 39576

Subcase 36-00033H
(36-00033G, 36-00033J and 36-00033K)

ORDER ADOPTING SPECIAL
MASTER'S RECOMMENDATION OF
DISQUALIFICATION AND ORDER OF
REFERENCE TO SPECIAL MASTER
HAMMERLE

On June 3, 1998, Mr. Niko A. Tzanakakis filed a *Motion for Disqualification* under I.R.C.P. Rule 40(d)(2). On June 10, 1998, Special Master Dolan issued his *Report and Recommendation for Re-appointment of Special Master*, Special Master Dolan recommended that this court appoint an alternative Special Master to resolve this subcase. Therefore, this court references the above subcase to Special Master Hammerle for resolution.

IT IS SO ORDERED

DATED: June 10, 1998.



DANIEL C. HURLBUTT, JR.

Presiding Judge

Snake River Basin Adjudication

ORDER ADOPTING SPECIAL MASTER'S
RECOMMENDATION OF DISQUALIFICATION
AND ORDER OF REFERENCE TO SPECIAL MASTER
HAMMERLE

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200
Twin Falls, Idaho 83301-3380

ADDRESS SERVICE REQUESTED

See
date



- ☐ MOVED, LEFT NO ADDRESS
- ☒ NOT DELIVERABLE AS ADDRESSED
- ☐ UNABLE TO FORWARD
- ☐ ATTEMPTED - NOT KNOWN
- ☐ UNCLAIMED ☐ REFUSED
- ☐ NO SUCH STREET - NUMBER
- ☐ DO NOT REMAIN IN THIS ENVELOPE
- ☐ INSUFFICIENT ADDRESS
- ☐ NO MAIL RECEIPTABLE
- ☐ BOX CLOSED NO ORDER

GEORGE M STRINGER
GENVEIL R STRINGER
2809A S 900 E
HAGERMAN ID



36-000336



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

March 18, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

NIKO A TZANAKAKIS
GWENDOLYN PEARSON TZANAKAKIS
2809A S 900 E
HAGERMAN ID 83332

RE: SRBA Claim(s) 36-00033G

Dear Claimant:

Please find the enclosed copy of the Notice of Completed Administrative Proceeding which the department has filed with the SRBA Court regarding the above referenced claims. You have received this notice pursuant to SRBA Court Administrative Order 11 requiring IDWR to report to the court and interested parties any pending changes to adjudication claims in basins for which a Director's Report has been filed with the court.

Please contact this office if you have any questions about the notice or the administrative process.

Sincerely,

Trish Fawcett
Technical Records Specialist

/tf

cc: William B. Shappee
Charles D. and Brenda S. Shappee

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

In Re SRBA)

Case No. 39576)

NOTICE OF COMPLETED
ADMINISTRATIVE PROCEEDINGS

SUB CASE NO. 36-00033G, 36-00033H,
36-00033J, 36-00033K

IDWR has completed the following Administrative proceeding: SUBSTITUTION OF PARTY

Does the change in "ownership" result in a splitting of the water right claimed? ☒ Yes ☐ No

FROM: Claimant/Seller(s):

Name and Address of Claimant/Seller(s):

Genevieve R Stringer
George M Stringer
2809A S 900 E
Hagerman ID 83332
Phone: 837-4725

TO: Claimant/Purchaser(s):

Name and Address of Claimant/Purchaser(s):

Niko A Tzanakakis
Gwendolyn Pearson Tzanakakis
2809A S 900 E
Hagerman ID 83332
Phone: 837-6343

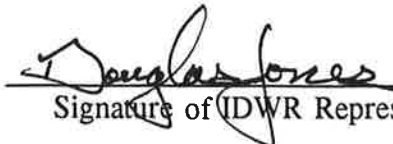
William B Shappee
PO Box 358
Hagerman ID 83332
Phone: 837-4640

Charles D Shappee
Brenda S Shappee
PO Box 663
Bellevue ID 83313
Phone: 788-3382

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Reports* for said water rights. No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: 3/16/98


Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on 3-18, 1998, I mailed the original and copies of this form to the following persons, postage prepaid and addressed as follows:

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:

Claimant/Seller for Substitution of Party or attorney of record:

Genevieve R Stringer
George M Stringer
2809A S 900 E
Hagerman ID 83332

3. One Copy to:

Claimant/Purchaser for Substitution of Party or attorney of record:

Niko A Tzanakakis	Charles D Shappee
Gwendolyn Pearson Tzanakakis	Brenda S Shappee
2809A S 900 E	PO Box 663
Hagerman ID 83332	Bellevue ID 83313

William B Shappee
PO Box 358
Hagerman ID 83332

4. One Copy to:

Each party in the subcase or attorney of record:

5. One Copy to:

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

6. One Copy to:

United States Dept Of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724



Signature of person or attorney mailing the form

AJ5859NP

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

DATE: MAR-13-1998

PAGE: A-1

RIGHT NUMBER: 36-00033G

SEE NOS. 36-00033H, 36-00033J & 36-00033K.

AJ5856NP

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

DATE: MAR-13-1998
PAGE: A-1

RIGHTS FROM: SOURCE: WEATHERBY SPRINGS TRIBUTARY: BILLINGSLEY CREEK

RIGHT NUMBER: 36-00033H

NAME & ADDRESS: NIKO A TZANAKAKIS
GWENDOLYN PEARSON TZANAKAKIS
2809 S 900 E
HAGERMAN ID 83332

SOURCE: WEATHERBY SPRINGS TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 0.13 CFS

PRIORITY DATE: 03/08/1902

POINT OF DIVERSION: T07S R14E S30 SENESW Within GOODING County

PURPOSE AND	PURPOSE OF USE	PERIOD OF USE	QUANTITY
PERIOD OF USE:	IRRIGATION	Irrigation Season	0.13 CFS

PLACE OF USE: IRRIGATION Within GOODING County
T07S R13E S27 NENE 4.9
4.9 ACRES TOTAL

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE
WATER IS DELIVERED THROUGH BAR S DITCH, CURREN DITCH & NORTH
PIPELINE.

AJ5856NP

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

DATE: MAR-13-1998

PAGE: A-2

RIGHTS FROM: SOURCE: WEATHERBY SPRINGS TRIBUTARY: BILLINGSLEY CREEK

RIGHT NUMBER: 36-00033J

NAME & ADDRESS: WILLIAM B SHAPPEE
PO BOX 358
HAGERMAN ID 83332

SOURCE: WEATHERBY SPRINGS TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 0.06 CFS

PRIORITY DATE: 03/08/1902

POINT OF DIVERSION: T07S R14E S30 SENESW Within GOODING County

PURPOSE AND			
PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	Irrigation Season	0.06 CFS

PLACE OF USE: IRRIGATION Within GOODING County
T07S R13E S27 NENE 2.4
2.4 ACRES TOTAL

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE
WATER IS DELIVERED THROUGH BAR S DITCH, CURREN DITCH & NORTH
PIPELINE.

AJ5856NP

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

DATE: MAR-13-1998

PAGE: A-3

RIGHTS FROM: SOURCE: WEATHERBY SPRINGS TRIBUTARY: BILLINGSLEY CREEK

RIGHT NUMBER: 36-00033K

NAME & ADDRESS: CHARLES D SHAPPEE
BRENDA S SHAPPEE
PO BOX 663
BELLEVUE ID 83313

SOURCE: WEATHERBY SPRINGS TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 0.06 CFS

PRIORITY DATE: 03/08/1902

POINT OF DIVERSION: T07S R14E S30 SENESW Within GOODING County

PURPOSE AND			
PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	Irrigation Season	0.06 CFS

PLACE OF USE: IRRIGATION Within GOODING County
T07S R13E S27 NENE 2.2
2.2 ACRES TOTAL

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE
WATER IS DELIVERED THROUGH BAR S DITCH, CURREN DITCH & NORTH
PIPELINE.

FAX COVER PAGE

RECEIVED

JUN 03 1998

Department of Water Resource
Southern Region

JUNE 3, 1998

FAX SENT TO SOUTHERN REGIONAL OFFICE DEPARTMENT OF WATER RESOURCES

ATTEN: SR. WATER RESOURCE AGENT

TELEPHONE NUMBER 1-208-736-3033

FAX NUMBER 1-208-736-3037

REGARDING NEW INTERNATIONAL MORTGAGE BANK DECREE

FROM GWENDOLYN TZANAKAKIS

TELEPHONE NUMBER 1-208-837-6343

FAX NUMBER 1-208-837-6494

NUMBER OF PAGES COVER AND PAGE 1

June 3, 1998

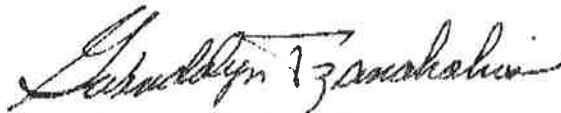
Southern Regional Office
Department of Water Resources
1341 Fillmore Street Suite 200
Twin Falls, Idaho 83301-3380
Steve Clelland
Sr. Water Resource Agent

Re: NEW INTERNATIONAL MORTGAGE BANK DECREE
PER OUR CONVERSATION ON APRIL 1, 1998.

It was stated that there was two decrees this was why on 08-05-1992 claim No. 36-00011D was changed to 36-00033G. Would you send us a copy of both decrees and explain the bases for the transaction? Could you send us some type of map showing acutal location of each section used to complete the renumber of water right claim.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gwendolyn Tzanakakis".

Gwendolyn Tzanakakis

cc :WEATHERBY SHAREHOLDERS

June 3, 1998

Southern Regional Office
Department of Water Resources
1341 Fillmore Street Suite 200
Twin Falls ,Idaho 83301-3380
Steve Clelland
Sr. Water Resource Agent

RECEIVED

JUN 05 1998

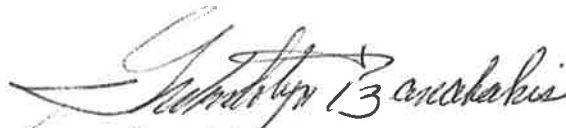
Department of Water Resources
Southern Region

Re: NEW INTERNATIONAL MORTGAGE BANK DECREE
PER OUR CONVERSATION ON APRIL 1, 1998 .

It was stated that there was two decrees this was why on 08-05-1992 claim No. 36-00011D was changed to 36-00033G . Would you send us a copy of both decrees and explain the bases for the transaction ? Could you send us some type of map showing acutal location of each section used to complete the renumber of water right claim .

Thank you for your assistance in this matter .

Sincerely,



Gwendolyn Tzanakakis

cc : WEATHERBY SHAREHOLDERS

FAX COVER PAGE

JUNE 3, 1998

REC'D
JUN 05 1998
Department of Water Resources
Southern Region

FAX SENT TO SOUTHERN REGIONAL OFFICE DEPARTMENT OF WATER RESOURCES

ATTEN; SR. WATER RESOURCE AGENT

TELEPHONE NUMBER 1-208-736-3033

FAX NUMBER 1-208-736-3037

REGARDING NEW INTERNATIONAL MORTGAGE BANK DECREE

~~FROM L. G. WENDT TO L. G. WENDT~~ REQUEST.

TELEPHONE NUMBER 1-208-837-6343

FAX NUMBER 1-208-837-6494

NUMBER OF PAGES COVER AND PAGE 1

SENT LETTER TO FOLLOW UP FAX REQUEST.

Fax Cover Page

RECEIVED

JUN 05 1998

June 5, 1998

Department of Water Resources
Southern Region

Fax to STEVE CLELLAND, SR. WATER RESOURCE AGENT
SOUTHERN REGIONAL OFFICE DEPARTMENT OF WATER RESOURCES

TELEPHONE NUMBER 1-208 < < 736-3033

FAX # 736-3037 <1-208>

Regarding telephone conversation of June 4, 1998

FROM GWENDOLYN TZANAKAKIS

TELEPHONE NUMBER 1-208- 837-6343

FAX # 837-6494 1-208

NUMBER OF PAGES 2
COVER / LETTER.

June 4, 1998

RECEIVED

Southern Regional office
Department of Water Resources
1341 Filmore Street, Suite 200
Twin Falls, Idaho 83301-3380
Steve Clelland
Sr. Water Resource Agent

JUN 05 1998

Department of Water Resource
Southern Region

RE: AIVE IDWR SCHEDULE OF A MEETING

notes from message log. >

June 3, 1998 Message from Steve Clelland, from IDWR Twin Falls office, call record at 3:15PM per message Mr. Clelland needs to schedule a meeting in response to Niko's request to Mr. Norm Young, with Boise IDWR office, May 28, 1998. After office hours when I check messages will mark appointment book to call Mr. Clelland on June 4, 1998.

Per our telephone conversation of June 4, 1998 at 10:20 AM (call from Steve Clelland) Steve called in response to a request made by Niko Tzanakakis with Mr. Norm Young, Deputy Director, Adjudication Department from the Boise office. During our discussion it was requested by you to meet on June 5, 1998. I stated Niko had requested the meeting would have to confirm with him. I also stated Niko had other commitments on June 5, 1998. I would try to reschedule those commitments and return your call after my attempt to do so. Our conversation consisted of information that yourself, John Marshall IDWR'S lawyer and David R. Tuthill would be attending the meeting. It was stated a possible meeting place other than the Twin Falls office would be consider. You stated next week would be impossible due to other commitments in court.

Per our telephone conversation of June 4, 1998 at 2:25 PM (return call to Steve) Returned your call from this morning. I stated it would not be possible to meet on June 5, 1998. During our conversation I inform you that I would try to confirm a meeting by Monday or some time next week. The need to reschedule other meetings and commitments would be needed. I understand other commitments works both ways. Hopefully we can clear the problems and correct the errors concerning our case.

We talk about the fax sent to you June 3, 1998, you stated the information on the decree was referring to several water rights using Weatherby Springs. There had been a confusion on correct claims areas, when people filed original claims. So my answer was IDWR is using the New International Mortgage Bank Decree of 1932 to adjudicated water rights of todays water users. If my understanding of this was incorrect, please advise.

As I told you the date will be confirm by next week with each party in agreement of time and place the meeting will take place.

Thank you,


Gwendolyn Tzanakakis

FAX COVER PAGE

RECEIVED

JUN 10 1998

Department of Water Resources
Southern Region

JUNE 10, 1998

TO STEVE CLELLAND - WATER RESOURCES

TELEPHONE # 736-3033

FAX 736-3037

NUMBER OF PAGES ONE

REGARDING: INFORMATION THAT WE SPOKE ABOUT YESTERDAY...

FROM: CHRISTINE DAVIS

COMPANY NAME:

FAX: 1-208-837-6494

TELEPHONE: 1-208-837-6494

COMMENTS: REGARDING OUR CONVERSATION YESTERDAY PLEASE
SEND THE ITEMS LISTED BELOW, OR CALL ME AND I WILL COME PICK THEM UP.
THANK YOU AGAIN FOR ALL YOUR HELP AND COOPERATION....

1. PRIORITY DATES OF INDIVIDUAL WATER RIGHTS, WHO HAD WATER FIRST ?
2. COPIES OF THE TWO COMPLETE FILES REQUESTED
3. COULD YOU ALSO MAKE ME COLOR COPIES OF MAPS, WITH YELLOW AND PURPLE BORDERS ?

YELLOW MAP - IRRIGATION AREA MAP...
PURPLE MAP - BOUNDARY MAP...

ALSO IS THE COURT DATE FOR JUNE 22, 1998 CANCELED ?
PLEASE CALL ME OF FAX ME ABOUT THE COURT DATE ?

MEMORANDUM

TO: DAVE TUTHILL
FROM: NORM YOUNG
RE: NIKO TZANAKAKIS TELEPHONE CALL
DATE: May 29, 1998

Mr. Tzanakakis called me on May 28, 1998, expressing his concern that:

1. IDWR staff were not using the latest documents regarding ownership changes and deeding of water rights and land in making recommendations to the SRBA Court. These documents show that the water rights were not split prorata with the land. Specifically asked that IDWR computer records be updated with this information.

2. He and others were being discriminated against. The President of the Big Bend Canal had his right adjudicated, while he and other such as Betty Huskovic(?) were having to fight with us over their claims.

3. We had accepted a claim from William Shappee on 1/2 of the water owned by Mr. Tzanakakis and were recommending it to the court. This resulted in Mr. Shappee having 3 inches to each of his acres while Mr. Tzanakakis would only have 1 inch per acre. This situation apparently results from not recognizing the deeds and notices of ownership changes.

In our discussions yesterday, you suggested getting the claims GISed, other information gathered up and go down and meet with Mr. Tzanakakis in a couple of weeks. I called him today and he is very willing to meet and expects us to call to set up a meeting at which either you or I will be present. Please arrange the meeting.

c. John Marshall
Allen Merritt✓

RECEIVED

JUN 02 1998

Department of Water Resources
Southern Region

PARCEL MASTER/HISTORY INQUIRY

PARCEL: RP 07S13E270112 A F1=SL

F9=MS F10=SW
F17=DD

NAME/ADDRESS	*TREND	LEGAL DESCRIPTION
TZANAKAKIS, NIKO A &		T 7S R 13E SEC 27
TZANAKAKIS, GWENDOLYN PEARSON		TAX 15 IN NE4 NE4
		"MH"

2809-A SOUTH, 900 EAST

CODE AREA	700	OWNER CODE	
PARC TYPE		LOC CODE	3
EFFDATE	3011998	EXPDATE	
PREV PARCEL	RP07S13E270112A		

HAGERMAN ID 83332
2809 -A S 900 E 83332

CAT	RY	QUANTITY	UN	VALUE	HO MRKT	HO EXMP	CB MRKT	OTHER
2	1998	4737	AC	1563				
10	1998	1000	AC	16527				
19	1998	250	AC					

TOTALS 5987 18090

ENTER NEXT PARCEL NUMBER

RP _____ A

FKeys: F2=TX F3=Exit F5=SS F6=NM F7=LG
F8=CT F13=TM F18=HS F20=SrcH F22=EU

5.987 Acres

Exhibits
Collected
By
Terry Dolan

SEVERT SWENSON, JR.
ATTORNEY AT LAW
122 FOURTH AVENUE WEST
GOODING, IDAHO 83330
Telephone (208) 934-8414

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

IN THE MATTER OF THE ESTATE OF

GEORGE STRINGER,

Deceased.

Probate Case No. _____

LETTERS TESTAMENTARY

George LaRae Stringer was duly appointed and qualified as
Personal Representative of the estate of the above named decedent
on the ____ day of October, 1992, by the Magistrate acting as
Registrar with all authority pertaining thereto.

Administration of the estate is unsupervised.

These letters are issued to evidence the appointment, quali-
fication, and authority of the said personal representative.

WITNESS, my signature and the Seal of this Court, this ____
day of October, 1992.

THOMAS R. CUSHMAN

Magistrate

FILED FOR RECORD }
I, the undersigned, do hereby certify that this is a true copy of
the original as the same appears in my office.
1992
JOHN A. MYERS
District Court Clerk
Thomas R. Cushman

150532

STATE OF IDAHO COUNTY OF GOODING

Filed for record at the request of *Swenson*

20 min. past *3* o'clock *P*. m. this *29*

of *Oct* 19 *92* *1:03.00*

JOHN A. MYERS Recorder

By *Richard Selig* Deputy

t. 3
t. 233
H Fire Dist. H

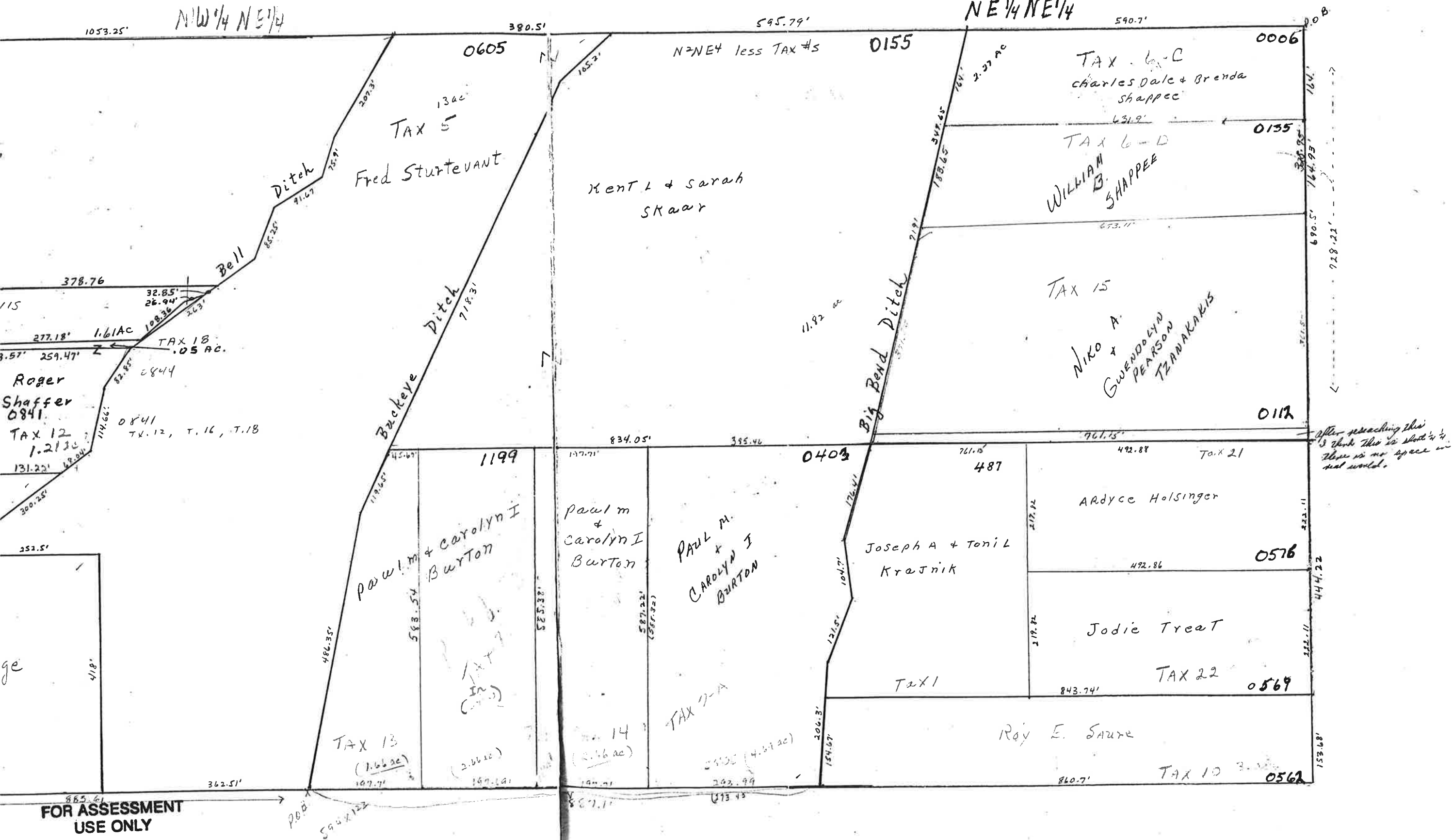
Sec. 27 Twp 7 Rng 13

N 1/2 NE 1/4

07S 13E 27

1/4 mile scale

NE 1/4 NE 1/4



WARRANTY DEED

For Value Received GEORGE LARAE STRINGER, a married man, and LOA STRINGER, an unmarried woman, as to an undivided one-half interest, dealing as their sole and separate property, and CENEVIEVE R. STRINGER, an unmarried woman, as to an undivided one-half interest

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto NIKO A. TZANAKAKIS and GWENDOLYN PEARSON TZANAKAKIS, husband and wife whose address is: 4201 2nd Avenue, Sacramento, CA 95817

Hereinafter called the Grantee, the following described premises situated in GOODING County, Idaho, to-wit:

SEE ATTACHED EXHIBIT "A"
(containing one page)

153693

STATE OF IDAHO COUNTY OF GOODING
Filed for record at the request of Land Title & Escrow, Inc.

20 min. past 11 o'clock A m. this 10

of Aug, 1993

JOHN A. MYERS Recorder

By [Signature] Deputy

fee 6.00

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

Dated: August 4, 1993

George La Rae Stringer
George La Rae Stringer
Cenevieve R. Stringer
Cenevieve R. Stringer

Loa Stringer
Loa Stringer

STATE OF IDAHO, COUNTY OF GOODING

On this 10th day of August, 1993,
before me, a notary public in and for said State, personally appeared

George La Rae Stringer and
Cenevieve R. Stringer

known to me to be the persons whose names are
subscribed to the within instrument, and acknowledged
to me that they executed the same.

Janet A. Dorrell Notary Public
Residing at Gooding, Idaho.
Commission expires: 2-28-1999

STATE OF UTAH, COUNTY OF Washington

On this 5th day of August, 1993, before me,
a notary public in and for said State, personally appeared Loa Stringer known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

Ann E. Eiden
Notary Public
Residing at:



EXHIBIT "A"

TOWNSHIP 7 SOUTH, RANGE 13, EAST OF THE BOISE MERIDIAN,
GOODING COUNTY, IDAHO

Section 27: A tract of land in the NINE, described as follows:

Beginning at the Northeast corner of said Section 27;
Thence South 328.93 feet along the East line of said Section 27, to THE TRUE POINT OF BEGINNING;
Thence continuing South, 361.57 feet;
Thence South 89°18' West, 761.15 feet;
Thence North 13°42' East, 371.35 feet;
Thence North 89°08' East, 673.11 feet to THE TRUE POINT OF BEGINNING.

TOGETHER WITH all water and water rights, ditches and ditch rights used thereon or appurtenant thereto, including but not limited to 125" from Pipe Line Canal.

SUBJECT TO THE FOLLOWING:

All reservations in patents or deeds in the chain of title.

Taxes for 1993 and subsequent years, which are not yet due and payable.

Assessments levied or to be levied by the Gooding County Solid Waste Department.

Assessments of the Big Bend Ditch Irrigation Company.

Assessments levied or to be levied by a local irrigation district.

Easement for conducting through ditch, pipelines and flume from Jones Springs as contained in Agreement dated April 25, 1918, recorded July 21, 1919 in Book 2 Page 47 as Instrument Number 20006, Gooding County records, and Deed dated June 10, 1919, recorded September 26, 1919 in Book 12 Page 172 as Instrument Number 20660, Gooding County records.

Rights and restrictions for use of an irrigation ditch as contained in Decree in the case of Buckeye Ranch Company, Limited, a corporation, Plaintiff, vs. Edward Thompson, et al., Defendants, dated December 1, 1919, recorded December 3, 1919 in Book 3 Page 299, Gooding County records.

Power Line Easement given by Dale Cady and Verne Cady, husband and wife, to Idaho Power Company, a corporation, dated August 31, 1945, recorded October 22, 1945 in Book 5 Page 602 as Instrument Number 94510, Gooding County records, affecting a portion of Section 27, Township 7 South, Range 13, East Boise Meridian.

Power Line Easement given by Herbert T. King and Marian E. King, husband and wife, dated May 18, 1979, recorded August 27, 1979 as Instrument Number 78497, Gooding County records, affecting a portion of Section 27, Township 7 South, Range 13, East Boise Meridian.

Subject to the unpaid balance of one certain Deed of Trust given by George M. Stringer and Genevieve R. Stringer, husband and wife, to Land Title and Escrow, Inc., as Trustee, for the benefit of Marian E. King, an unmarried woman, dated January 2, 1991, recorded January 2, 1991 as Instrument Number 143321, Gooding County records, which the grantees agree to assume and pay.

PERSONAL REPRESENTATIVE'S DEED

THIS DEED, made by GEORGE LARAE STRINGER, as personal representative of the estate of George M. Stringer, deceased, Grantor, to GEORGE LARAE STRINGER and LOA STRINGER, Grantees, whose address is Post Office Box 4733, Boise, Idaho 83711.

WHEREAS, Grantor is the qualified personal representative of said estate, filed as Probate Number 22193, in Gooding County, Idaho;

THEREFORE, in accordance with the will of the deceased filed herein and for valuable consideration received, Grantor sells and conveys to Grantees, all right, title and interest of the estate, being an undivided one-half interest, in the following described real property in Gooding County, Idaho:

Township 7 South, Range 13, East of the Boise Meridian, Gooding County, Idaho

Section 27: A tract of land in the N $\frac{1}{2}$ N $\frac{1}{2}$, described as follows:

Beginning at the Northeast corner of said Section 27;
thence South 328.93 feet along the East line of said Section 27, to THE TRUE POINT OF BEGINNING;
thence continuing South, 361.57 feet;
thence South 89°18' West, 761.15 feet;
thence North 13°42' East, 371.35 feet;
thence North 89°08' East, 673.11 feet to THE TRUE POINT OF BEGINNING.

with all appurtenances.

EXECUTED this 16 day of April, 1993.

George LaRae Stringer
Personal Representative of the
estate of George M. Stringer,
deceased.

STATE OF IDAHO

County of Ada

} ss.

On the 16 day of April, 1993, before me, a notary public in and for said State, personally appeared George LaRae Stringer, known to me or proved to me to be the person whose name is subscribed to the within instrument, as personal representative of the estate of George M. Stringer, deceased, and acknowledged to me that he executed the same as such personal representative.



Terri Paul
Notary Public for Idaho
Residing at Boise

153038, commission expires 12-8-94

STATE OF IDAHO COUNTY OF GOODING

Filed for record at the request of Sullivan
11 min. past 3 o'clock on this 14
of June 1993

JOHN A. MYERS Recorder

By *Curran Sides* Deputy

WARRANTY DEED

For Value Received

MARIAN E. KING, an unmarried woman

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

GEORGE M. STRINGER and GENEVIEVE R. STRINGER, husband and wife
whose address is: 2809-A South 900 East, Hagerman, Idaho 83332Hereinafter called the Grantee, the following described premises situated in Gooding County, Idaho,
to-wit:SEE ATTACHED EXHIBIT "A"
(containing one page)STATE OF IDAHO }
COUNTY OF GOODING } ss.I hereby certify that the foregoing is a true copy
of the original instrument on file in my office.Dated 6-4, 1998

HELEN P. EDWARDS

District Court Clerk

By

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

Dated: January 2, 1991

Marian E. King
Marian E. King

STATE OF IDAHO, COUNTY OF GOODING

On this 2nd day of January, 1991
before me, a notary public in and for said State, personally appeared

Marian E. King

known to me to be the person whose name is
subscribed to the within instrument, and acknowledged
to me that she executed the same.Janet A. DanvilleResiding at Gooding
Commission expires: 2-28-1993Notary Public
, Idaho.

143320

STATE OF IDAHO, COUNTY OF GOODING

Filed for record at the request of Land Title & Escrow, Inc.15 min. past 1 o'clock P.M. this 2nd
of Jan., 1991. Fee \$6.00

JOHN A. MYERS, Recorder

By Helen K. Pratt

EXHIBIT "A"

TOWNSHIP 7 SOUTH, RANGE 13, EAST OF THE BOISE MERIDIAN,
GOODING COUNTY, IDAHO

Section 27: A tract of land in the N1/4, described as follows:
Beginning at the Northeast corner of said Section 27;
Thence South 328.93 feet along the East line of said Section 27, to THE TRUE POINT OF BEGINNING;
Thence continuing South, 361.57 feet;
Thence South 89°18' West, 761.15 feet;
Thence North 13°42' East, 371.35 feet;
Thence North 89°05' East, 673.11 feet to THE TRUE POINT OF BEGINNING.

TOGETHER WITH all water and water rights, ditches and ditch rights used thereon or appurtenant thereto, including but not limited to 125' from Pipe Line Canal

SUBJECT TO:

Taxes for 1991 and subsequent years, which are not yet due and payable.

Assessments levied or to be levied by a local irrigation district.

Easement for conducting through ditch, pipelines and flume from Jones Springs as contained in Agreement dated April 25, 1918, recorded July 21, 1919 in Book 2 Page 47 as Instrument Number 20006, Gooding County records, and Deed dated June 10, 1919, recorded September 26, 1919 in Book 12 Page 172 as Instrument Number 20660, Gooding County records.

Rights and restrictions for use of an irrigation ditch as contained in Decree in the case of Buckeye Ranch Company, Limited, a corporation, Plaintiff, vs. Edward Thompson, et al., Defendants, dated December 1, 1919, recorded December 3, 1919 in Book 3 Page 299, Gooding County records.

Power Line Easement given by Dale Cady and Verne Cady, husband and wife, to Idaho Power Company, a corporation, dated August 31, 1945, recorded October 22, 1945 in Book 5 Page 602 as Instrument Number 94510, Gooding County records, affecting a portion of Section 27, Township 7 South, Range 13, East Boise Meridian.

Power Line Easement given by Herbert T. King and Marian E. King, husband and wife, dated May 18, 1979, recorded August 27, 1979 as Instrument Number 78497, Gooding County records, affecting a portion of Section 27, Township 7 South, Range 13, East Boise Meridian.

Financing Statement from Marian E. King, as Debtors, to Shelter America Corporation, as Secured Party, filed February 10, 1988 as Instrument Number 130968, and filed in Real Estate Records February 10, 1988 as Instrument Number 130969, Gooding County records.

For Value Received

ALFRED H. COLE and PHYLLIS A. COLE, husband and wife

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

HERBERT T. KING and MARIAN E. KING, husband and wife,

Hereinafter called the Grantee, the following described premises situated in Gooding County, Idaho, to wit:

A tract of land in the N $\frac{1}{2}$ NE $\frac{1}{4}$, Section 27, Township 7 South, Range 13 East, Boise Meridian, Gooding County, Idaho described as follows:

Beginning at the NE corner of said Section 27, THE TRUE POINT OF BEGINNING;

Thence S 89° 52' W, 590.70 feet along the North line of said Section 27;

Thence S 13° 42' W, 719.00 feet;

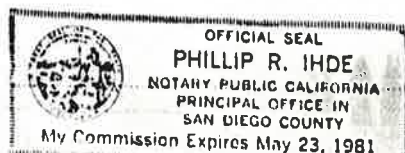
Thence N 89° 18' E, 761.15 feet to a point on the East line of said Section 27;

Thence North 690.50 feet along the East line of said Section 27, to THE TRUE POINT OF BEGINNING.

Together with ten inches of water out of Big Bend Canal and one hundred twenty five inches of water out of Pipe Line Canal for a twenty four hour period every tenth day.

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

Dated: 5 November, 1978



Alfred H. Cole
Phyllis A. Cole

STATE OF IDAHO, COUNTY OF GOODING

X On this 5th day of November 19 78 before me, a notary public in and for said State, personally appeared

ALFRED H. COLE and PHYLLIS A. COLE, husband and wife,

known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same

Residing at Gooding, Idaho

Notary Public

STATE OF IDAHO, COUNTY OF GOODING

I hereby certify that this instrument was filed for record at the request of Marian E. King at 17 minutes past 11 o'clock A.M. this 9th day of December 19 83, in my office, and duly recorded in Book of Deeds at page

Margaret F. Clements

Ex-Officio Recorder

By

Helen K. Piatt

Deputy

Fees \$ 2.00

Mail to:

105073

SCC
copy

**SUPPLEMENTAL REPORT REGARDING CLAIMS TO
WATER RIGHT NOS. 36-00033G, 36-00033H, 36-00033J and 36-00033K**

**In Re SRBA
Twin Falls County Civil Case No. 39576**

**Prepared by the Idaho Department of Water Resources
Karl J. Dreher, Director
David R. Tuthill Jr., Adjudication Bureau Chief**

April 27, 1998

The Director of the Idaho Department of Water Resources (IDWR) submits this Supplemental Report Regarding Claim to Water Right Nos. 36-00033G, 36-00033H, 36-00033J and 36-00033K in response to the Special Master's order of April 16, 1998, in accordance with § 42-1412(4), Idaho Code, and in accordance with Administrative Order 1. This supplemental director's report was prepared under the supervision of Karl J. Dreher, Director, and David R. Tuthill Jr., Adjudication Bureau Chief for IDWR.

**LEGAL PRINCIPLES UNDERLYING RECOMMENDATION
OF WATER RIGHT NUMBERS 36-00033H, 36-00033J, and 36-00033K**

IDWR's recommendation of this water right is based upon its application of the following legal principles. If IDWR's understanding of these principles is erroneous or inaccurate, the recommendations made in this report may change.

1. Any person who desires to change the point of diversion, place of use, period of use, or nature of use of all or part of the water under the right shall file an application to do so with IDWR. Idaho Code § 42-222.

2. Any change of place of use, point of diversion, nature or purpose of use or period of use of a water right by any person prior to November 19, 1987, the date of commencement of the Snake River basin adjudication, may be claimed in the adjudication even though the person has not complied with Idaho Code § 42-222. Idaho Code § 42-1425.

FACTUAL FINDINGS

1. Split of Water Right 36-00033G

IDWR's recommendations of water rights 36-00033H, 36-00033J, and 36-00033K are each portions of the old water right recommendation for water right 36-00033G. The basis of the recommendations for water rights 36-00033H, 36-00033J, and 36-00033K are therefore based upon the original recommendation for water right 36-00033G.

2. Recommendation for Water Right 36-00033G

Water Right 36-00033G was originally claimed as right number 36-00011D based upon a decreed right in the *New International Mortgage* decree¹. Steve Clelland renumbered the claim to water right number 36-00033G. The lands claimed do not fall under the land description listed under water right 36-00011 in the *New International Mortgage* decree but do fall under the description for water right 36-00033 in the *New International Mortgage* decree.

The original claim for water right 36-00011D, as subsequently renumbered to 36-00033G, was for 0.25 cfs on 10 acres. The claim stated that all 10 acres were irrigated with water taken from the Share Ditch² via a gravity irrigation system. IDWR's investigation of the claim confirmed that the claimed 10 acres were irrigated using water out of the Share Ditch using a gravity feed system. IDWR performed a Hubble analysis³ to confirm that 0.25 cfs could be beneficially used to irrigate the claimed acres. The analysis confirmed that 0.25 cfs was a reasonable quantity of water for irrigating the claimed lands.

Before the original Director's Report was issued, IDWR received information from the claimant⁴ indicating that only 9.5 acres were irrigated using water from the Share ditch and the other 0.5 acres was irrigated using a well which was covered under water right number 36-08158.

Based upon this information, in 1992 IDWR recommended 0.25 cfs on 9.5 acres using water from Weatherby Springs. No objection was filed to this recommendation. Subsequent to the original recommendation, IDWR received information indicating that the 10 acres originally claimed and recommended had been

¹ *New International Mortgage Bank v. Idaho Power Co., et al*, In Equity No. 1602 (D.S. Id. 1932).

² The Share Ditch delivers water which originates at Weatherby Springs, travels through the Bar S Ditch, then through the Curren Ditch, then the North Pipeline, and finally the Share Ditch

³ The Hubble analysis is a calculation used by IDWR to determine the amount of water expected to be necessary to irrigate specific types of crops on specific parcels of land. The details of the Hubble methodology are described in the Report Regarding Evaluation of Irrigation Diversion Rates filed in the SRBA court under subcase number 36-00003A on July 1, 1996

⁴ The original claimant for this right was Mrs. King. Mrs. King sold half of her property to the Stringers who replaced Mrs. King as the claimant for water right 36-00033G.

split into three parcels and sold to different three different parties⁵. Upon receiving this information, IDWR split the water right recommendation for water right number 36-00033G into three portions-36-00033H, 36-00033J, and 36-00033K. The recommendations for these water rights are attached to this report.

3. Information Received Since Splits Occurred

Since the time IDWR split the original recommendation for water right 36-00033G into 36-00033H, 36-00033J, and 36-00033K, IDWR has received information from the new owners indicating that the water originally claimed from the Share ditch has been supplemented with water from the Big Bend ditch and that the water has been apportioned in specific ways to the different parcels by agreement of the parties.

RECOMMENDATION FOR WATER RIGHT WATER RIGHT NO. 36-00003A

Based upon the foregoing, IDWR recommends that water rights 36-00033H, 36-00033J, and 36-00033K be decreed as shown in the attached recommendations. Any changes to the water rights which have occurred since November 19, 1987 can thereafter be addressed through the administrative process defined by Idaho Code § 42-222.

⁵ Several ownership transfers have taken place. Currently the Tzanakakis owns 4.9 acres and William Shappee owns 4.6 of the 9.5 acres recommended under water right 36-00033G.

AJ5856NP

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

DATE: APR-27-1998
PAGE: A-1

RIGHTS FROM:	SOURCE: WEATHERBY SPRINGS	TRIBUTARY: BILLINGSLEY CREEK	

RIGHT NUMBER:	36-00033H		
NAME & ADDRESS:	NIKO A TZANAKAKIS GWENDOLYN PEARSON TZANAKAKIS 2809 S 900 E HAGERMAN ID 83332		
SOURCE:	WEATHERBY SPRINGS	TRIBUTARY: BILLINGSLEY CREEK	
QUANTITY:	0.13 CFS		
PRIORITY DATE:	03/08/1902		
POINT OF DIVERSION:	T07S R14E S30	SENESEW	Within GOODING County
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE IRRIGATION	PERIOD OF USE Irrigation Season	QUANTITY 0.13 CFS
PLACE OF USE:	IRRIGATION T07S R13E S27 4.9 ACRES TOTAL	Within GOODING County NENE 4.9	
EXPLANATORY MATERIAL:	BASIS OF CLAIM - DECREE WATER IS DELIVERED THROUGH BAR S DITCH, CURREN DITCH & NORTH PIPELINE.		

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: APR-27-1998
PAGE: A-2

RIGHTS FROM:	SOURCE: WEATHERBY SPRINGS	TRIBUTARY: BILLINGSLEY CREEK
RIGHT NUMBER:	36-00033J	
NAME & ADDRESS:	WILLIAM B SHAPPEE PO BOX 358 HAGERMAN ID 83332	
SOURCE:	WEATHERBY SPRINGS	TRIBUTARY: BILLINGSLEY CREEK
QUANTITY:	0.06 CFS	
PRIORITY DATE:	03/08/1902	
POINT OF DIVERSION:	T07S R14E S30	SENESW Within GOODING County
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE IRRIGATION	PERIOD OF USE Irrigation Season
		QUANTITY 0.06 CFS
PLACE OF USE:	IRRIGATION T07S R13E S27 2.4 ACRES TOTAL	Within GOODING County NENE 2.4
EXPLANATORY MATERIAL:	BASIS OF CLAIM - DECREE WATER IS DELIVERED THROUGH BAR S DITCH, CURREN DITCH & NORTH PIPELINE.	

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: APR-27-1998
PAGE: A-3

RIGHTS FROM:	SOURCE: WEATHERBY SPRINGS	TRIBUTARY: BILLINGSLEY CREEK	
RIGHT NUMBER:	36-00033K		
NAME & ADDRESS:	CHARLES D SHAPPEE BRENDA S SHAPPEE PO BOX 663 BELLEVUE ID 83313		
SOURCE:	WEATHERBY SPRINGS	TRIBUTARY: BILLINGSLEY CREEK	
QUANTITY:	0.06 CFS		
PRIORITY DATE:	03/08/1902		
POINT OF DIVERSION:	T07S R14E S30	SENESEW Within GOODING County	
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE IRRIGATION	PERIOD OF USE Irrigation Season	QUANTITY 0.06 CFS
PLACE OF USE:	IRRIGATION T07S R13E S27 2.2 ACRES TOTAL	Within GOODING County NENE 2.2	
EXPLANATORY MATERIAL:	BASIS OF CLAIM - DECREE WATER IS DELIVERED THROUGH BAR S DITCH, CURREN DITCH & NORTH PIPELINE.		

TRANSMISSION VERIFICATION REPORT

TIME : 04/27/1998 16:50
NAME : IDWR
FAX : 3275400
TEL : 3277906

DATE, TIME
FAX NO./NAME
DURATION
PAGE(S)
RESULT
MODE

04/27 16:48
SRBA COURT
00:01:58
07
OK
STANDARD
ECM

36-00033G REVIEW

In response to the Order For Report by Special Master Dolan for the above right and associated rights, I have prepared this report to describe the factual events and observations considered resulting in the current description of the rights.

Specifically, the issues under question at this time appear to be primarily the ownership of portions of the right. To some degree the place of use and quantity may be affected as they relate to the ownership question. Other elements of the right such as legal descriptions, seasons, uses and point of diversion are unchallenged.

The following time line outlines the events as they occurred and my actions if any to those events.

1974 - Orthophoto Quad map illustrates irrigation pattern on the place of use (POU) claimed as gravity irrigation from the Share Ditch. Used to establish acreage, source and methods of irrigation.

11-8-78 - Alfred Cole to Marion King DEED. Lists 10" of Big Bend Irrigation (BBI) shares and 125" used 24 hours every 10 days. This rotation was used by Allen Merritt of IDWR to calculate the full time irrigation rate when the claim was filed.

6-80 - ASCS slide #60; shows irrigation of POU, N1/2 gravity irrigated from Share ditch, S1/2 sprinkler irrigation (?).

1987-88 - NAPP photos taken showing near infra-red aerial views of the area. Used to identify irrigated acres within the basin. Later used in preparing GIS mapping products by IDWR.

8-28-90 - SRBA Exam by Steve Clelland. No claim filed at this time but uses observed and confirmed; irrigation was from Share ditch in a gravity system.

9-18-90 - King files SRBA claim for 12.5" or .25 cfs on 10 acres.

1-2-91 - King to Stringer DEED. List generic statement including all water rights appurtenant and including 125" from the pipeline canal.

1-8-91 - Change of ownership form received from Land Title & Escrow (LTE), Gooding, for King to Stringer changes. Indicated no split in the water right on the form.

1-18-91 - Letter to LTE of Gooding confirming change of ownership.

3-20-92 - King to Atkinson DEED. No notice to IDWR on water rights.

4-92 - Stringer converts from gated pipe to big gun sprinkler system; per conversation memo dated 7/21/92 with SCC.

7-21-92 - Conversation with George Stringer confirming the POU as 9.5 acres irrigated from the share ditch and 0.5 acres irrigated from the well under water right 36-08158. (cvr p.6)

7-24-92 - Hubble analysis by SCC shows support of 0.03 cfs/acre for the 9.5 acres. Claim is limited to 0.25 cfs for total FIR of 0.29 cfs.

8-5-92 - Renumbered claim to correct basis of the right as 36-00033G instead of 36-00011D as claimed. Completed final recommendation for the right as reported in the Director's Report.

11-2-92 - Director's Report filed. Recommended 0.25 cfs on 9.5 acres to Stringer. No Notice of Error was received; No Objections were filed for this recommendation.

6-23-93 - Atkinson to Mathaney DEED. Lists BBI - 2 shares. No notice of water rights to IDWR.

8-4-93 - Stringer to Tzanakakis DEED. Lists same language as 1991 deed. Change of ownership form indicates no split in the right.

4-18-94 - After letter from LTE change is made to the ownership of the claim and letter of confirmation sent to LTE of Gooding.

1-18-95 - Change of address filed and processed for Tzanakakis. Unclear if IDWR sent confirming letter to claimant.

3-20-95 - Atkinson to Bill Shappee DEED. Lists BBI 3 shares. No notice to IDWR of water rights.

11-20-97 - Mathaney to Charles Shappee DEED. Lists BBI 2 shares. No notice to IDWR of water rights

2-27-98 - Bill Shappee calls Steve Clelland to resolve BBI POU questions at the request of Ivan Gustafson. I inform him no recommendation was made for his property and no use of BBI was found for his property.

3-6-98 - Appointment with Bill & Charles Shappee to review water rights on their properties. I state the water right for the property is 36-00033G portion as was claimed and found under the SRBA. No use of BBI was confirmed during my exam years of 1990-1991.

3-9-98 - Shappee's provide deeds to show the change of ownership in the properties from King to Shappees.

3-10-98 - Clelland splits the claim 36-00033G to correct error in POU split that appears to have occurred at the time King sold to Stringer. At this time the claim still lists the 9.5 acres, of which Shappees each own a portion. Water right is split proportionately between the three recorded owners of the land. GIS shape files are created to illustrate the three parcels involved in the split.

3-12-98 - Letter is sent to all parties to indicate the correction in change of ownership has been completed.

Since that letter has gone out I have talked with Mr. & Mrs. Tzanakakis several times about the actions I have taken. They have met with other IDWR staff members to gather information from the files at IDWR. I have received a letter from Mrs. King stating her intentions with the water rights.

While still under negotiations for settlement, the POU for the BBI does not include any of these acres under its recommendation. It does not appear to have been part of the original claimed POU and actual use of pumping the BBI water above the Big Bend ditch did not begin on these properties until after my SRBA examinations were completed in late 1991.

I have reviewed this situation with IDWR attorneys and the conclusion is there should be some review by a special master to resolve the ownership questions surrounding these claims.

The water right is correctly described in all aspects as developed, claimed and recommended. The one remaining question is to ownership of the water right that is appurtenant to the two Shappee parcels. Who should own the portions described as 36-00033J & 36-00033K? There is no dispute over the ownership of the portion already allocated to Tzanakakis as 36-00033H.

If ownership remains as shown on the recommendations no further action is required by either party. If the ownership is changed to show the right belongs to Tzanakakis as claimed, they will need to file an administrative Transfer to move the water right from the Shappee parcel to their parcel. No guarantee can be made as to approval of such a transfer by IDWR.

Steve Clelland

April 27, 1998

Post-it® Fax Note 7671		Date 4/16/98	# of pages
To Steve Chelland	From Debbie		
Co./Dept.	Co. SRBA		
Phone #	Phone #		
Fax #	Fax #		

1998 APR 16 PM 2:37

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

Subcases 36-00033G, 36-00033H, 36-
00033J and 36-00033K

Case No. 39576

ORDER FOR REPORT

A hearing on Niko and Gwendolyn Tzanakakis' *Motion to File Late Objection* is set for April 28, 1998, at 2:00 p.m., at the SRBA Courthouse, 253 3rd Avenue North, Twin Falls, Idaho. In order to complete the record *before* the hearing and to provide the parties and the court with a framework to review the matter,

IT IS ORDERED that no later than Monday, April 27, 1998, IDWR shall file with the SRBA Court a report presenting the basis for its recommendations in the *Director's Report* concerning the above four (4) claims, plus 36-00011D¹. IDWR shall attach to the report a complete set of relevant supporting documents. A copy of the report shall also be mailed to the Tzanakakis. In addition, IDWR shall make available for testimony and cross-examination at the hearing on April 28, 1998, the field agent most familiar with the contents of the report.

DATED April 16, 1998.

RECEIVED

APR 16 1998

Department of Water Resource
Southern Region


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

¹ Claim 36-00011D was described in the *Director's Report* as claimed by Marian E. King and Genevieve and George Stringer. In the explanatory material section, it states: "See No. 36-00033G." It is not clear from the record whether 36-00011D has been recommended as 36-00033G and, therefore, 36-00011D should be disallowed or the two claims are used together.

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER FOR REPORT was mailed on April 16, 1998, with sufficient first-class postage to the following:

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

Director of IDWR
Box 83720
Boise, Idaho 83720-0098

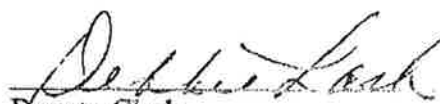
Marian E. King
Route 1, Box 46
Hagerman, ID 83332

Charles Shappee
Box 663
Bellevue, ID 83313

William Shappee
Box 358
Hagerman, ID 83332

Genevieve & George Stringer
2809-A S., 900 E.
Hagerman, ID 83332

Niko & Gwendolyn Tzanakakis
2809 S., 900 E.
Hagerman, ID 83332


Deputy Clerk

**ROSHOLT, ROBERTSON & TUCKER
ATTORNEYS AT LAW****142 THIRD AVENUE NORTH
P.O. BOX 1906
TWIN FALLS, ID 83303-1906
(208) 734-0700
FAX (208) 736-0041**

RECEIVED

~~APR 17 1998~~Department of Water Resources
Southern Region**MEMORANDUM**

TO: Steve Clelland
FROM: Gary D. Slette
DATE: April 17, 1998
RE: Tzanakakis

Steve, I have looked at some of the information in this file, and feel that there may have been some mistake made relative to the SRBA recommendation and the way the two water rights were split between the two parcels. I think the enclosed letter from Mrs. King fairly states what she intended to transfer, and in fact, reflect exactly what the deeds to the property purport to transfer. Rather than my getting involved and unnecessarily running up some fees, I would request that you help these folks make the necessary changes so that their parcel has the Weatherby Springs water right appurtenant to it, and the lower 4 acre parcel has the Big Bend water appurtenant to it. Please call me with your thoughts.

RECEIVED

APR 17 1998

Department of Water Resource
Southern Region

March 27th., 1998

Niko & Gwen Tzanakakis
2809 South 900 East
Hagerman, Idaho 83332RE: Big Bend Irrigation Co. and Weatherbe Springs Water Source Water
Shares "SPLIT"

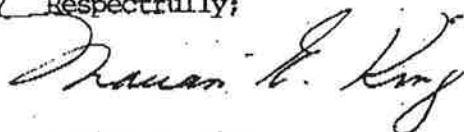
When my husband Herbert T. King and I (Marian E. King) purchased the total of 10.856 acres of land in 1978/79 we had water rights to both Big Bend and Weatherbe Springs Irrigation water.

When I sold the 4.826 (North Field) to Marquis Warren and Mary Alice Atkinson in 1992, the water rights to the acreage was split. The sale to the Atkinsons included the 5 shares I held in Big Bend Irrigation and Mining Co. with no water rights of usage to the Weatherbe Springs Water Source. The Weatherbe Water Source rights remained with the 6.03 acres that was purchased by George and Genevieve Stringer in 1990. Mr. & Mrs. Stringer had no water rights to Big Bend water.

Upon Mr. Stringers death the property was purchased by Niko & Gwen Tzanakakis and the Weatherbe Water Source rights went with that sale.

I hope that this explanation will help !! The Atkinson property has no rights to Weatherbe Springs Water Source (Top Ditch facing East) and the Tzanakakis property has no rights to Big Bend Water Supply (Lower Ditch facing West).

Respectfully;

Marian E. King
1550 E. River Rd. Apt. 101
Tucson, Az. 85718

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. SEE BELOW

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

IDWR Employee/Agent Steve Clelland

April 21, 1998 9:15am

NAME:

GARY SLETTE

CALLBACK/IN

RE:

TZANAKAKIS RIGHTS

HE SENT ME A FAX AND LETTER DESCRIBING THE SITUATION AND ASKED ME TO RESOLVE THE MATTER. I CALLED TO TELL HIM THE DETAILS OF THE REVIEW. THE CLAIM HAS BEEN RECOMMENDED AS CLAIMED, THE DEEDS SEEM TO SPLIT THE WATER SOURCES BUT ONE OF THE WATER SOURCES DOES NOT EXIST (BBI), THE COURT SHOULD RESOLVE THE AFFECT OF THE DEED STATEMENTS. IF GRANTED THE ONWERSHIP THE TZ'S WILL STILL HAVE TO FILE A TRANSFER TO CONSOLIDATE THE WATER RIGHT ON HALF THE RECOMMENDED ACRES.

CLAIM: 36-00033H,J,K

COMMUNICATION DOCUMENTATION

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

IDWR Employee/Agent Steve Clelland

April 1, 1998 1:00pm - 4:30 pm

SPLIT & OWNERSHIP OF RT.

CLAIMS: A36-00033G, H, J, K.

MOTION TO FILE LATE OBJECTION.

Subcase # 36-00033H

1998 MAR 19 PM 3:56
RECEIVED
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
MAR 23 1998

DEAR JUDGE HURBUTT,

Department of Water Resources

We would like to file a late objection to water right # 36-00033H. We understand that we are late, but our right was just split and the amount of water and the number of acres is wrong.

Niko A. Tzankakis
Lewandyn Pearson Tzankakis

3-19-98

RECEIVED

MAR 30 1998

Department of Water Resources
Eastern Region

APR 01 1998
Department of Water Resources
Southern Region

RECEIVED
MAR 30 1998
Department of Water Resources
Eastern Region

1998 MAR 19 PM 3:55
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

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

In Re SRBA

Case 39576

Subcase

36-00033 H

(Insert water right number)

STANDARD FORM 1

OBJECTION

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in a Director's Report. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR) or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number you are objecting to must be indicated above in the blank space following "Subcase." To object to multiple water right recommendations, you must use a separate form for each objection and there must be only one objector for each form.

You must file your objection by the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

This form has been adopted by the court in *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

Any party physically filing 25 or more objections must contact the Clerk of the SRBA Court no later than 14 days before the filing deadline and arrange an appointment to file multiple objections.

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

I. GENERAL INFORMATION

Please fill in the following information:

1. *Party/Claimant objecting:*

Name: NIKO AND GLOE~~EN~~DDOLYN TZANAKAKIS

Address: 2809 S 900 E
HAGERMAN, ID 83332

Phone: Work: _____ Home: 837-6343

Briefly describe your interest in this water right:

WE ARE THE OWNERS OF THE WATER
RIGHTS 36-000334

2. *If this objection is filed by an attorney:*

Attorney Name: _____

Attorney Address: _____

Attorney Phone No.: _____

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

II. STATEMENT OF THE OBJECTION

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

1. ☐ Name and Address: I object to the name and/or address of the owner of the water right.
2. ☐ Source: I object to the source of water.
3. Quantity: I object to:
 - ☒ a. the total quantity of water used in cubic feet per second; or
 - ☐ b. the total quantity of water stored in acre feet per year; or
 - ☐ c. the total quantity of water reserved for each and every purpose, including all present and future uses.
4. ☐ Priority Date: I object to the priority date.
5. ☐ Point(s) of Diversion: I object to the legal description of the point(s) of diversion.
6. ☐ Instream Flow: I object to the legal description of the beginning and ending points of the instream flow.
7. ☐ Purpose(s) of Use: I object to the purpose(s) of use.
8. ☐ Period of Year: I object to the period of year when water is used or is necessary for the purpose stated.
9. Place of Use: I object to:
 - ☐ a. the legal description of the place of use; or
 - ☐ b. the number of irrigated acres within each 40-acre subdivision.
10. ☐ Consumptive Use: I object to the annual volume of consumptive use.
11. Water Right Recommendation: I object to:
 - ☐ a. this water right being recommended at all; or
 - ☐ b. this water right not being recommended.
12. ☐ Description of Reservation: I object to the legal description of the reservation.

13. ☒ Other: I object to: NUMBER OF ACROS WERE REPORTED
WRONG WHEN RIGH WAS SPLIT.

REASONS SUPPORTING EACH BOX CHECKED

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

CHANGES TO THE DIRECTOR'S REPORT

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

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

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

VERIFICATION (Must be Completed)

State of _____

County of _____

_____, duly sworn, upon oath, deposes and says:

(Name of person filing objection)

That I am the party/claimant filing this objection (as listed on Page 2, Section 1, "Party/Claimant objecting") as defined by I.C. §§ 42-1401A(1) and (7) 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.

Wendolyn Pearson-Tzanakakis
Signature of person filing objection
Wendolyn Pearson-Tzanakakis 3-19-98

Attorney signing in representative capacity

Subscribed and sworn to before me on: 19th day of March

Notary Public for State of Idaho
Residing at: Perome
My Commission expires: 6-26-2007

INSTRUCTIONS FOR MAILING

You must mail the objection, including all attachments, 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.

CERTIFICATE OF MAILING

I certify that on _____, 199__, I mailed the original and copies of this objection, including all attachments, to the following persons, by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

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

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

Name: _____
Address: _____

3. Copies to:

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

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

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Signature of Objector or attorney
mailing on Objector's behalf

COPY

1998 MAR 18 PM 4:00

DISTRICT COURT - SRBA
TWIN FALLS CO. IDAHO

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

In Re SRBA

Case No. 39576

**NOTICE OF COMPLETED
ADMINISTRATIVE PROCEEDINGS**

**SUB CASE NO. 36-00033G, 36-00033H,
36-00033J, 36-00033K**

IDWR has completed the following Administrative proceeding: **SUBSTITUTION OF PARTY**

Does the change in "ownership" result in a splitting of the water right claimed? ☒ Yes ☐ No

FROM: Claimant/Seller(s):

Name and Address of Claimant/Seller(s):

Genevieve R Stringer
George M Stringer
2809A S 900 E
Hagerman ID 83332
Phone: 837-4725

TO: Claimant/Purchaser(s):

Name and Address of Claimant/Purchaser(s):

Niko A Tzanakakis
Gwendolyn Pearson Tzanakakis
2809A S 900 E
Hagerman ID 83332
Phone: 837-6343

William B Shappee
PO Box 358
Hagerman ID 83332
Phone: 837-4640

Charles D Shappee
Brenda S Shappee
PO Box 663
Bellevue ID 83313
Phone: 788-3382

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Reports* for said water rights. No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: 3/16/98


Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on 3-18, 1998, I mailed the original and copies of this form to the following persons, postage prepaid and addressed as follows:

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:

Claimant/Seller for Substitution of Party or attorney of record:
Genevieve R Stringer
George M Stringer
2809A S 900 E
Hagerman ID 83332

3. One Copy to:

Claimant/Purchaser for Substitution of Party or attorney of record:
Niko A Tzanakakis
Gwendolyn Pearson Tzanakakis
2809A S 900 E
Hagerman ID 83332
Charles D Shappee
Brenda S Shappee
PO Box 663
Bellevue ID 83313

William B Shappee
PO Box 358
Hagerman ID 83332

4. One Copy to:

Each party in the subcase or attorney of record:

5. One Copy to:

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

6. One Copy to:

United States Dept Of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724



Signature of person or attorney mailing the form

AJ5859NP

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

DATE: MAR-13-1998

PAGE: A-1

RIGHT NUMBER:

36-00033G

~~1998 MAR 18 PM 4:00~~

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

SEE NOS. 36-00033H, 36-00033J & 36-00033K.

FILED _____

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: MAR-13-1998
PAGE: A-1

1998 MAR 18 PM 4:00

RIGHTS FROM: SOURCE: WEATHERBY SPRINGS

TRIBUTARY: BILLINGSLEY CREEK

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

RIGHT NUMBER: 36-00033H

NAME & ADDRESS: NIKO A TZANAKAKIS
GWENDOLYN PEARSON TZANAKAKIS
2809 S 900 E
HAGERMAN ID 83332

FILED -

SOURCE: WEATHERBY SPRINGS

TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 0.13 CFS

PRIORITY DATE: 03/08/1902

POINT OF DIVERSION: T07S R14E S30

SENESEW

Within GOODING County

PURPOSE AND

PERIOD OF USE: PURPOSE OF USE
IRRIGATIONPERIOD OF USE
Irrigation SeasonQUANTITY
0.13 CFS

PLACE OF USE:

IRRIGATION

Within GOODING County

T07S R13E S27

NENE 4.9

4.9 ACRES TOTAL

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

WATER IS DELIVERED THROUGH BAR S DITCH, CURREN DITCH & NORTH
PIPELINE.

AJ5856NP

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

DATE: MAR-13-1998
PAGE: A-2

1998 MAR 18 PM 4:00

RIGHTS FROM: SOURCE: WEATHERBY SPRINGS

TRIBUTARY: BILLINGSLEY CREEK
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

RIGHT NUMBER: 36-00033J

NAME & ADDRESS: WILLIAM B SHAPPEE
PO BOX 358
HAGERMAN ID 83332

FILED

SOURCE: WEATHERBY SPRINGS

TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 0.06 CFS

PRIORITY DATE: 03/08/1902

POINT OF DIVERSION: T07S R14E S30

SENESEW

Within GOODING County

PURPOSE AND

PERIOD OF USE: PURPOSE OF USE
IRRIGATION

PERIOD OF USE
Irrigation Season

QUANTITY
0.06 CFS

PLACE OF USE: IRRIGATION
T07S R13E S27
2.4 ACRES TOTAL

Within GOODING County
NENE 2.4

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

WATER IS DELIVERED THROUGH BAR S DITCH, CURREN DITCH & NORTH
PIPELINE.

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: MAR-13-1998
PAGE: A-3

----- 1998 MAR 18 PM 4:00 -----
RIGHTS FROM: SOURCE: WEATHERBY SPRINGS TRIBUTARY: BILLINGSLEY CREEK

RIGHT NUMBER: 36-00033K DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

NAME & ADDRESS: CHARLES D SHAPPEE
BRENDA S SHAPPEE
PO BOX 663
BELLEVUE ID 83313
FILED -----

SOURCE: WEATHERBY SPRINGS TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 0.06 CFS

PRIORITY DATE: 03/08/1902

POINT OF DIVERSION: T07S R14E S30 SENESW Within GOODING County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
IRRIGATION Irrigation Season 0.06 CFS

PLACE OF USE: IRRIGATION Within GOODING County
T07S R13E S27 NENE 2.2
2.2 ACRES TOTAL

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE
WATER IS DELIVERED THROUGH BAR S DITCH, CURREN DITCH & NORTH
PIPELINE.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

March 18, 1998

**PHILIP E. BATT
GOVERNOR**

**KARL J. DREHER
DIRECTOR**

NIKO A TZANAKAKIS
GWENDOLYN PEARSON TZANAKAKIS
2809A S 900 E
HAGERMAN ID 83332

RE: SRBA Claim(s) 36-00033G

Dear Claimant:

Please find the enclosed copy of the Notice of Completed Administrative Proceeding which the department has filed with the SRBA Court regarding the above referenced claims. You have received this notice pursuant to SRBA Court Administrative Order 11 requiring IDWR to report to the court and interested parties any pending changes to adjudication claims in basins for which a Director's Report has been filed with the court.

Please contact this office if you have any questions about the notice or the administrative process.

Sincerely,

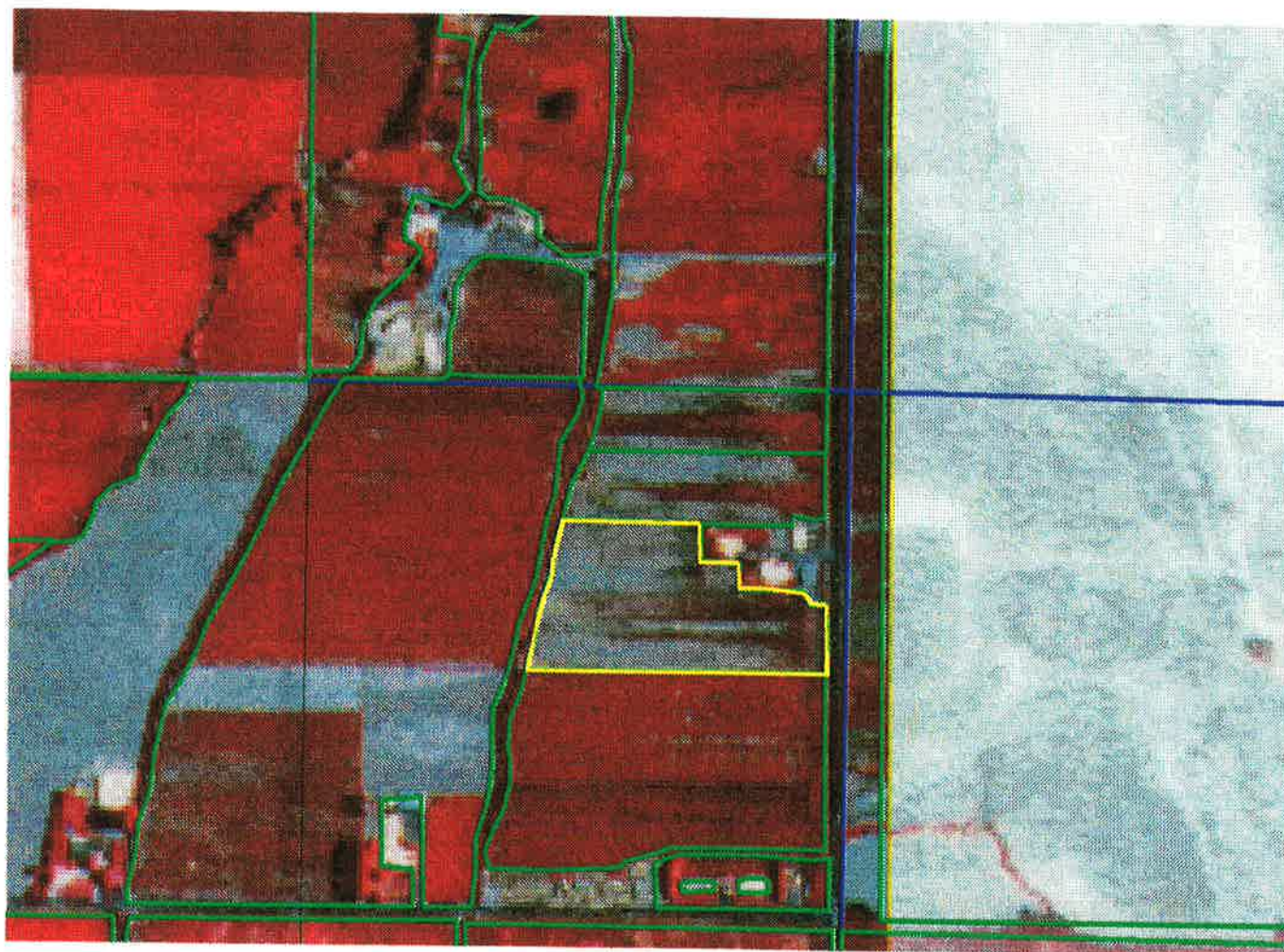
Trish Fawcett
Technical Records Specialist

/tf

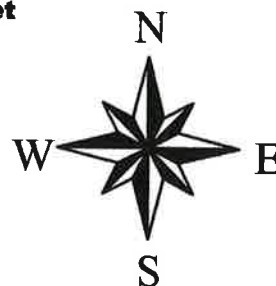
cc: William B. Shappee
Charles D. and Brenda S. Shappee

IDAHO DEPARTMENT OF WATER RESOURCES

36-00033H



660 0 660 1320 Feet



⊙ Recommended Point of Diversion

RECOMMENDED Place of use

Section lines

Quarter/Quarter Lines

GIS PLACE OF USE PRESENTATION
1987 and/or 1988 NAPP PHOTOGRAPHY
DATE: MARCH 12, 1998
BY: STEVE CLELLAND

Exhibit 1

COMMUNICATION DOCUMENTATION

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

March 13, 1998 12:30pm

QUESTIONS ON LETTER

CLAIM: A36-00033H

AJ0749NP
No. R36-00033H

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

DATE: 03/10/98
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	NIKO A TZANAKAKIS	03/08/1902	IRRIGATION	03-15 11-15	0.13 CFS	
C	GWENDOLYN PEARSON TZANAKAKIS 2809 S 900 E HAGERMAN ID 83332 (208) 837-6343			TOTAL DIVERSION:	0.13 CFS	
D	GENEVIEVE R STRINGER 2809 A S 900 E HAGERMAN ID 83332					
D	GEORGE M STRINGER 2809 A S 900 E HAGERMAN ID 83332 (208) 837-4725					

Water Source: WEATHERBY SPRINGS

Tributary to: BILLINGSLEY CREEK

Stage: DECREED

Point(s) of Diversion: T07S R14E S30 SENESW

GOODING County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE					
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	SUM
07S	13E	27	:	04																:	4.9
																				TOTAL ACRES	4.9

POU County: GOODING

Other Rights: NONE

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

Dates: Exam Made Date: Verified Date: Objection Filed Date:

Misc: Water District Number: 36A Field Inspection Flag:
Presumption Flag:

"DO NOT FILM"

"DO NOT FILM"

"DO NOT FILM"

CLAIM NUMBERS

36-000336
36-00011-D

DATE

10/24/97

AGENT

SC

TRANSFER NUMBER

OBJECTION FILED

TOTAL ACRES FROM RECOMMENDATION

9.5

GEOGRAPHIC INFO SYSTEM

9.1

RIGHT NO				NE				NW				SW				SE			
	TNS	RNG	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
RECOM	73	13E	27	9.5															
GIS				9.1															
RECOM																			
GIS																			
RECOM																			
GIS																			
RECOM																			
GIS																			
RECOM																			
GIS																			

UPDATED

POLYGON #

UPDATED

B36-DBPOU.DBF

POLYGON CREATED ON 604

(✓) 10/24/97 SC

B36-DBPOD.DBF

ATTRIBUTES OF B36-POU.SHP

(681) 10/28/97 SC

ATTRIBUTES OF B36-POD.SHP

(463) " "

3/12/98 Sec: SPLIT:

H - J - K

H = 4.7 acres

#681 - #770 - #771

J = 2.4 acres

K = 2.0 acres

9.1 total

P/U CONFLICT yes () no (X)

P/D CONFLICT yes () no (X)

READY FOR DECREE yes (X) no ()

SENT FOR DECREE yes (X) no ()

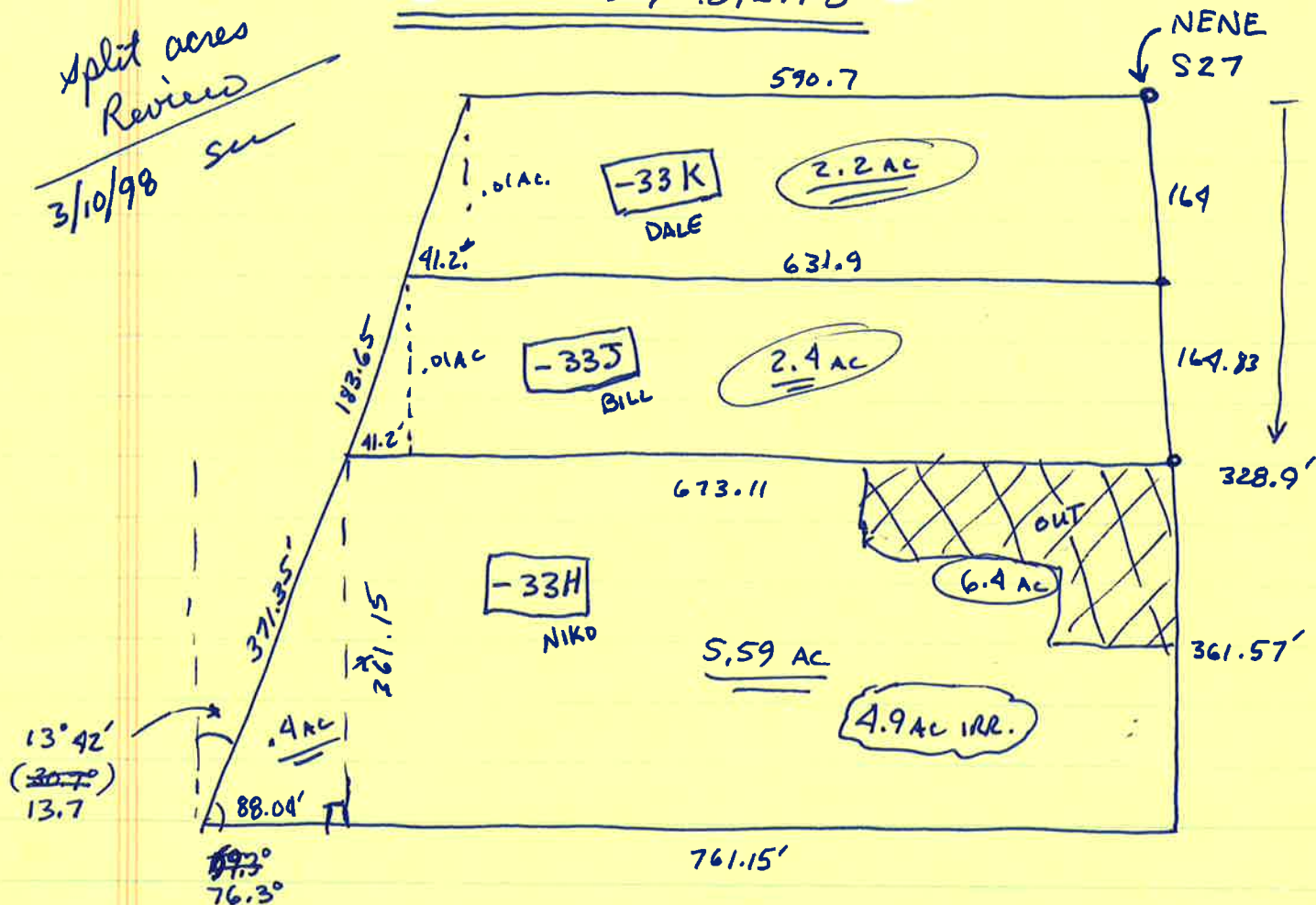
ASCS Slide #60

KRC: 8/13/97

A36-00033H

split acres
Reviewed
3/10/98 *sun*

6-000236 SPLITS



$$\tan \frac{76.3}{54.3} = \frac{\pi}{88.04'}$$

$$88.04' \tan \frac{76.3}{54.3} = \pi$$

$$x = 361.15$$

TOTAL ACRES: 11.0 AC.

IRR. ACRES: 9.5 AC

<located on -33H> <1.5 AC>

Claim
Pro rate
cfs = .25

$$= 0.026 \text{ cfs/AC}$$

WR reference
Deed:
Cole to King
11/8/78

(R)

33K — 2.2 AC 0.06 cfs

33J — 2.4 AC 0.06 cfs

33H — 4.9 AC 0.13 cfs
9.5 AC

07S 13E 27

~~N 1/2 NE 1/4~~

1/4 mile scale

"This plat is made solely for the purpose of assisting in locating the land, and the company assumes no liability for variations, if any, with an actual survey."

NE 1/4 NE 1/4

595.79'

590.7'

N 1/2 NE 1/4 less TAX #5

0155

0005

TAX 6-E

MARQUIS GARY ATKINSON

631.9'

0135

MARQUIS WARREN ATKINSON
AND
MARY ALICE ATKINSON

TAX 6-D

673.11'

TAX 15

GEORGE M. STRINGER

0112

834.05'

761.15'

0402

PETE, JR. + BARBARA C.

VEENSTRA

LeRoy Ellis

0575

TAX 1

843.74'

Roy E. Saur

TAX 10

0562

A36-00033 G

COMMUNICATION DOCUMENTATION

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

IDWR Employee/Agent Steve Clelland

March 9, 1998 1:00pm

DEEDS ON PARCELS

HE BROUGHT IN THE COPIES OF THE DEEDS TO SHOW THE LINE OF OWNERSHIP FROM KING TO SHAPPEE FOR THE WATER RIGHT 36-00033G. I FIND ENOUGH INFORMATION TO PROPERLY SPLIT THE OWNERSHIP OF THE CLAIM AND RIGHT AS DISCUSSED EARLIER WITH MR. SHAPPEE.

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. SEE BELOW

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

IDWR Employee/Agent Steve Clelland

March 6, 1998 10:28am

NAME:

BILL & DALE SHAPPEE

APPT.

RE:

IRRIGATION OF PARCEL

WHAT IS THE CORRECT WATER RIGHT FOR THEIR LANDS? THEY HAVE BEEN TOLD BY NEIGHBORS AND IN DEEDS THAT THEY SHOULD USE THE BIG BEND DITCH. I FOUND AND RECOMMENDED THE LANDS HAVE ALWAYS BEEN IRRIGATED BY THE "SHARE DITCH". BIG BEND USE DID NOT START UNTIL AFTER MY SRBA EXAMINATIONS IN 1990 & 1991. NONE OF THEIR PARCEL IS RECOMMENDED WITHIN THE BBI POU, WHICH IS WHY THEY CAME TO MEET WITH ME. I HAVE RECOMMENDED THE RIGHT 36-00033G TO THEIR PROPERTY, HOWEVER, THIS RIGHT IS SPLIT BETWEEN THEM AND A NEIGHBOR (CURRENTLY LISTED AS NIKO A. TZANAKAKIS).

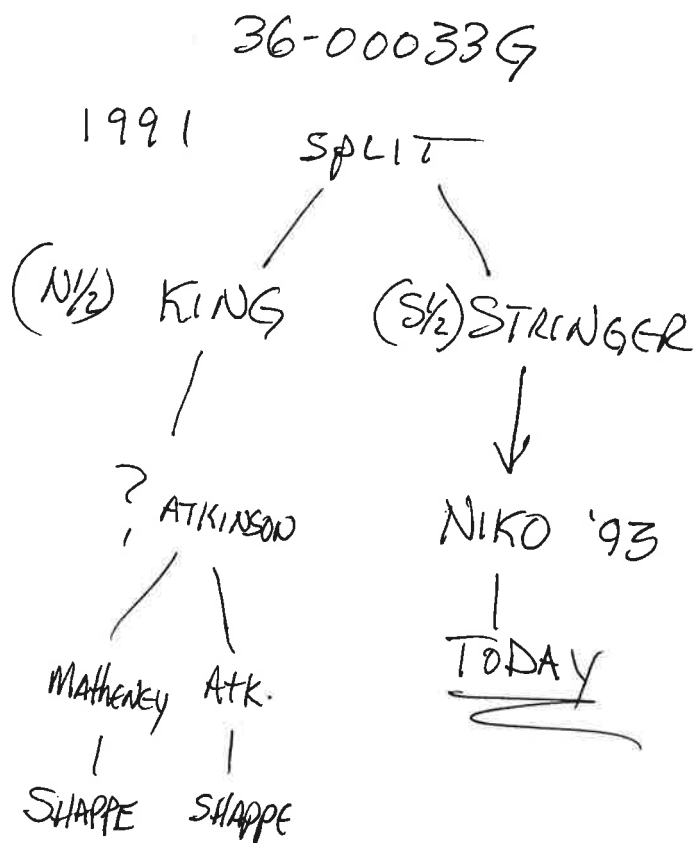
IN 1991 WHEN KING SOLD A PORTION TO STRINGER, IDWR MISTAKENLY CHANGED THE OWNERSHIP OF THE ENTIRE RIGHT TO SHOW STRINGER AS CURRENT OWNER; DIRECTORS REPORT WAS ISSUED AS SUCH. IN REVIEWING THE WARRANTY DEED DESCRIPTION SUBMITTED IT IS CLEAR THE WATER RIGHT WAS SPLIT AT THAT TIME. TZANAKAKIS IS OWNER OF ABOUT 1/2 THE RIGHT AND UPON PROOF OF DEEDS THE SHAPPEES WILL BE SHOWN AS OWNERS OF THE REMAINING 1/2.

I WILL SPLIT THE RIGHT TO SHOW THIS CORRECTION AND NOTIFY TZANAKAKIS OF THE CHANGES. THE OTHER PORTION WILL BE LISTED AS KING OWNERSHIP UNTIL I RECEIVE THE DEEDS FROM SHAPPEE.

CLAIMS: A36-00033G & BBI 36-00133

Notes from Meeting
3/6/98

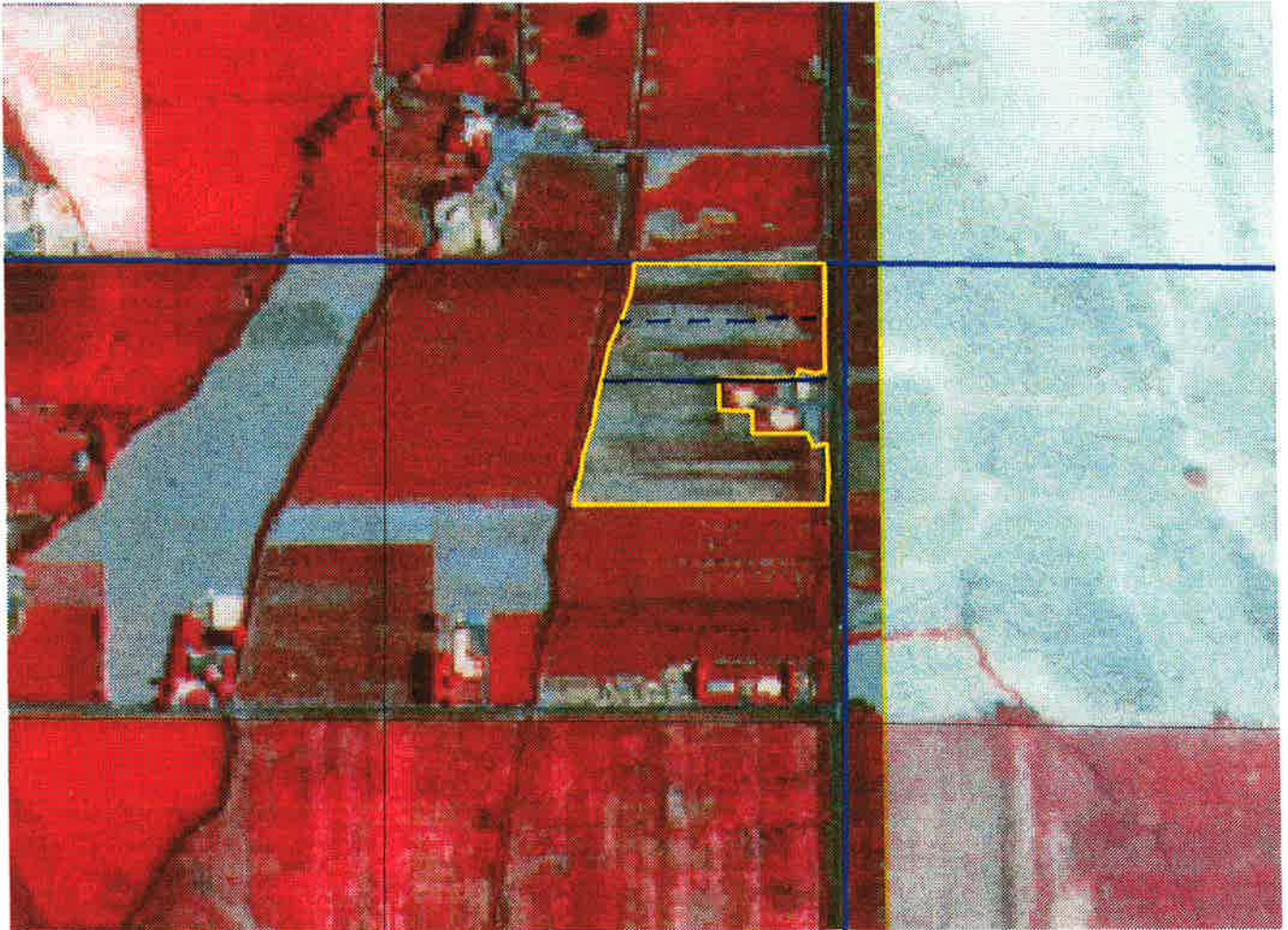
w/ Shappee
about split ownership
history of this Right-
Sec



A 36-00033G

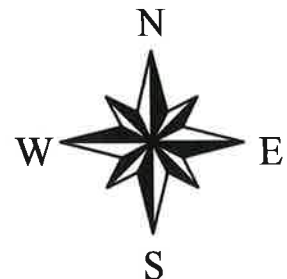
IDAHO DEPARTMENT OF WATER RESOURCES

36-00033G



660 0 660 Feet

TNS 7S, RNG 13E
SEC 27, NENE



⊙ Recommended Point of Diversion

□ Recommended Place of use

— Section lines

□ Quarter/Quarter Lines

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

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

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	NIKO A TZANAKAKIS	03/08/1902	IRRIGATION	03-15 11-15	0.25 CFS	
C	GWENDOLYN PEARSON TZANAKAKIS 2809 S 900 E HAGERMAN ID 83332 (208) 837-6343			TOTAL DIVERSION: CONSUMPTIVE USE:	0.25 CFS	28.50 AFA
D	GENEVIEVE R STRINGER 2809 A S 900 E HAGERMAN ID 83332					
D	GEORGE M STRINGER 2809 A S 900 E HAGERMAN ID 83332 (208) 837-4725					

Water Source: WEATHERBY SPRINGS

Tributary to: BILLINGSLEY CREEK

Stage: DECREED

Point(s) of Diversion: T07S R14E S30 SENESW

GOODING County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE										
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:	SUM		
			:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	
07S	13E	27	:	09				:					:					:						:	9.5	
																								TOTAL ACRES	9.5	

POU County: GOODING

Other Rights: NONE

Remarks:

WATER IS DELIVERED THROUGH BAR S DITCH, CURREN DITCH & NORTH PIPELINE.

A DIVERSION RATE OF 0.25 CFS AT THE FIELD HEADGATE IS RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.

Dates: Exam Made Date: Verified Date:

Misc: Water District Number: 36A Field Inspection Flag:
Presumption Flag:

Comments: Date: 08/05/1992 User-ID: THORNTON Subject: RENUMBERED RIGHT
THE CORRECT OWNERSHIP FOR THE BASIS OF THIS RIGHT IS WATER RIGHT

MICROFILMED
DEC 04 1996

=====

Comments: Date: 08/05/1992 User-ID: THORNTON Subject: RENUMBERED RIGHT
36-00033. NO OWNERSHIP IS FOUND FOR PORTION OF 36-00011.
ORIGINALLY CLAIMED AS A36-00011D.

Date: 04/15/1994 User-ID: GIVENS Subject: OWNERSHIP CHANGE
CHANGE OF OWNERSHIP RECEIVED 8/11/93 FORMER OWNER MARION E KING
NEW OWNERS NIKO A & GWENDOLYN PEARSON TZANAKAKIS. COPY OF
WARRANTY DEED SUBMITTED WITH FORM. THIS WAS A NUMBER CHANGE
FROM 36-00011D.

Date: 01/18/1995 User-ID: JROBERTS Subject: ADDRESS CHANGE
Form received 1/18/95. (A36-00011D also changed.) jr

Audit: 01/18/95 JROBERTS

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DEC 04 1996

CONVERSATION MEMORANDUM

NAME OF PARTY Mr. & Mrs. Tzanakakis
EMPLOYEE: Jeanie Robertson

DATE 1/18/95
FILE 36-00033G
(A36-00011D)

RE: address change

They brought in their address change form and I updated
our records.

MICROFILMED
DEC 04 1996

R PROOF

CVR

MAPS

PHOTOS

MISC

MICROFILMED

1994

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

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

SOURCE: WEATHERBY SPRINGS

TRIB: BILLINGSLEY CREEK

C. FIELD EXAM REQUIRED?

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

DATABASE
Y
N

FIELD
EXAMINER
N
N

REMARKS:

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:
TWP. RGE. SEC.

1/4

1/4

1/4

LOT

COUNTY

OK

same as claim

SOURCE: WEATHERBY SPRINGS

TRIB: BILLINGSLEY CREEK

REVIEWED BY:

see

DATE:

10-2-90

MICROFILMED
OCT 11 1994

R PROOF



CVR



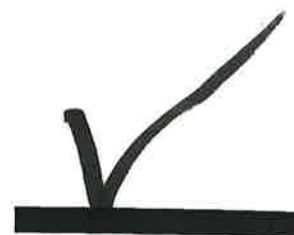
MAPS



PHOTOS



MISC



MICROFILMED

JAN 21

3

Water Right Number - R36-00033G Prefix Translation: RESEARCH Old (D) Number -
+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***
STRINGER

GENEVIEVE R

1 - 2809 A S 900 E
2 -
3 -

VERIFIED BY *RKC*

State- ID Zip- 83332

STRINGER

GEORGE M

City- HAGERMAN
Phone - 208-000-0000
1 - 2809 A S 900 E
2 -
3 -
City- HAGERMAN
Phone - 208-837-4725

State- ID Zip- 83332

*** O - ORIGINAL OWNER ***
KING

MARIAN E

1 - RT 1 BOX 46
2 -
3 -
City- HAGERMAN
Phone - 208-837-6506

State- ID Zip- 83332

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
03/08/1902 17 SOUTHERN D - DECREED

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

+ - - - - Point of Diversion - - - - - +
TwN Rng Sec Tract Lot RFlg County
07S 14E 30 SE NE SW (47) GOODING

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 04/01 10/31 0.250

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.250 28.5

+ - - - - Place of Use - - - - - +
TwN Rng Sec Tract Lot Acres Code Description County
07S 13E 27 NE NE 9.5 01 IRRIGATION (47) GOODING

Total Acres: 9.5

+ - - Diversion Means - BAR S DITCH TO CURREN DITCH TO NORTH PIPELINE; OPEN DITCH, FLOOD

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - NONE

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JAN 21 1993

Water right number - R36-00033G Prefix Translation: RESEARCH

+ - - - - Remarks - - - - - +
WATER IS DELIVERED THROUGH BAR S DITCH, CURREN DITCH & NORTH
PIPELINE.

A DIVERSION RATE OF 0.25 CFS AT THE FIELD HEADGATE IS
RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.

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

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

+ - - - - Decree Plaintiff - - - + + - - - - Decree Defendant - - - + + - Decree Date - +
NEW INTERNATIONAL MORTGAGE BANK IDAHO POWER COMPANY 00/00/0000

+ - - - - Comments - - - - - +
Date: 08/05/1992 User Id: THORNTON Subject: RENUMBERED RIGHT
THE CORRECT OWNERSHIP FOR THE BASIS OF THIS RIGHT IS WATER RIGHT 36-00033. NO OWNERSHIP IS FOUND FOR PORTION OF 36-00011.
ORIGINALLY CLAIMED AS A36-00011D.

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

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

Court Report Filing - 00/00/0000	Field Inspection Made - 00/00/0000	Civil Case Number - 39576
Objection Filed Date - 00/00/0000	Field Inspection Flag -	Old Case Number -
Response Filed Date - 00/00/0000	Verified Date - 08/06/1992	Old Judicial District -
Claim Received Date - 09/19/1990	Last Amended Date - 00/00/0000	Temporary Right - P
	Receipt Number - S012681	Water District - 36A
	POU Ownership Flag - Y	Federal/State Indicator - S
	Name Connector - AND/OR	Presumption Flag -
		Notice of Error Flag -

MICROFILMED
JAN 21 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

Remembered

13:45:30
10/02/90

R36-00033G

PAGE: 13
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-00011D

WR ELEMENT	FIELD EXAM Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	VERIFIED BY CODE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE			8-28-90			SW 8-5-92	DB	
POINT OF DIV	Y			N				
SOURCE				N				
PLACE OF USE	Y			N				
DIV. AMOUNT CFS/VOLUME	Y			N (Y)	6			
CONSUMPTIVE USE	-			(Y)	6 DEGREE			
PURPOSES				N				
PERIOD OF USE	Y			N				
BASIS OF CLAIM	Y			N (Y)	6			
REMARKS	Y			N (Y)	6			

MICROFILMED
JAN 21 1993

"VERIFIED BY" CODES

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

Remembered Right:
R36-00033G

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

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

13:45:30
10/02/90

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-00011D

LAST: KING
ADDRESS: RT. 1 BOX 46
CITY: HAGERMAN
PHONE NUMBER: 208-837-6506

FIRST: MARION E.
STATE: ID ZIP: 83332

OWNER CODE: C

~~LAST: BARTON~~
~~ADDRESS:~~
~~CITY: X~~
~~PHONE NUMBER: 208-000-0000~~

FIRST: W.C.
STATE: ID ZIP: 0

~~OWNER CODE: 0~~

~~LAST: BARTON~~
~~ADDRESS:~~
~~CITY: X~~
~~PHONE NUMBER: 208-000-0000~~

FIRST: ELLA
STATE: ID ZIP: 0

~~OWNER CODE: 0~~

FIELD EXAM REQUIRED?

DATABASE
Y

FIELD
EXAMINER

VERIFICATION REQUIRED DUE TO REMARKS?

CLAIM REMARKS: THIS RIGHT IS A PORTION OF AN ORIGINAL DECREE OF 65 INCHES OR
1.30 CFS. THE DEED LISTS THE USE OF THIS WATER AS 125 INCHES
OF WATER EVERY 10 DAYS FOR A PERIOD OF 24 HOURS. THIS WOULD BE
EQUAL TO 12.5 INCHES FULL TIME OR 0.25 CFS.

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JAN 21 1993

CONTACT PERSON: GENE LORANGER / BOB LAWSON

PHONE NUMBER: () -

DATE OF FIELD EXAM: 8/28/90

APPOINTMENT MADE: Y() N()

TIME: : A() P()

ACCOMPANIED BY: _____

PHONE NUMBER: () -

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / REMARKS:

This POE was discovered unclaimed during the review of other Weatherby Springs
rights in the area. (see)

MICROFILMED
JAN 21 1993

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

C. FIELD EXAM REQUIRED?

DUE TO PRIORITY DATE DISCREPANCY? (Y/N)

DATABASE
N

FIELD
EXAMINER
W

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

REMARKS:

=====

RECOMMENDED PRIORITY DATE:
03-08-1902

REVIEWED BY

See

DATE

10-2-90

MICROFILMED
JAN 21 1993

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

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

OTHER AJ CLAIMS WITH SAME AJ POD

A PREFIX	R PREFIX
A36-00086G	R36-00033C
A36-00119	R36-00060
A36-00033D	
A36-00063	
A36-00116	
A36-00086F	
A36-00086H	
A36-00011B	
A36-00011A	
A36-00011C	
A36-00105	
A36-00120	
A36-00061	
A36-00062	

WR RECORDS IN SAME 40 ACRE TRACT

36-00009
36-00010
36-00015
36-00016
36-00017
36-00033
36-00041
36-00042
36-00044
36-00045
36-00060
36-00061
36-00062
36-00063
36-00068
36-00069
36-00086A
36-00086B
36-00105
36-00116
36-00118
36-00119
36-00120
36-02029
36-07071
36-07740

SOURCE: WEATHERBY SPRINGS

TRIB: BILLINGSLEY CREEK

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
36-00011	07S	14E	30		NE	SW		GOODING

OTHER WR RECORDS WITH SAME WR POD

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

AJ CLAIMS IN SAME 40 ACRE TRACT

A PREFIX	R PREFIX
A36-00009	R36-00033C
A36-00033C	R36-00060
A36-00060	
A36-00086G	
A36-00119	
A36-00033D	
A36-00063	

MICROFILMED
JAN 21 1993

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

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
07S	13E	27	NE	NE		KING, MARION E.	A36-00011D /10.0	- /	41.0	10.0	10
						BIG BEND IRRIGATION & MINING	CA36-02007 /29.0	- /			9.5
						SAUER, ROY E.	A36-10622 /	- /			
						BIG BEND IRRIGATION & MINING	CA36-00192 /29.0	36-00192 /			
						ELLIS, LEROY E.	A36-00033C / 8.0	- /			
						SAUER, ROY E.	A36-00033D / 3.0	- /			
						BIG BEND IRRIGATION & MINING	CA36-00133 /29.0	36-00133 /			
						VEENSTRA, JR., PETE	A36-15106 /	- /			
						KING, MARION E.	A36-08158 / 1.0	36-08158 / 0.5			
						ELLIS, LEROY E.	R36-00033C / 8.0	- /			
						CLIFFORD, EDNA N.		36-00033 /			
						CLIFFORD, EDNA N.		36-00034 /			
						MC CARTY, JOHN		36-02029 /40.0			
TOTAL ACRES							A36-00011D	10.00	41.00	10	10

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

C. FIELD EXAM REQUIRED?

DUE TO POU DISCREPANCY? (Y/N)

DATABASE
Y

FIELD
EXAMINER
N

*Correct ownership for
Basis of this claim is WR
36-00033.*

*9.5 Acres under the Ditch water. RENUMBER RIGHT
0.5 acres under Domestic well (see A36-8158). see 8-5-92*

*(per conversation w/ Geo. Stringer)
see memo*

See 7-21-92

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JAN 21 1993

PRESUMPTION FLAG:

REMARKS:

RECOMMENDATIONS:

TOTAL ACRES:

~~10.0~~ 9.5

REVIEWED BY:

Sce

DATE:

10-2-90

MICROFILMED
JAN 21 1993

A. AJ CLAIMED USES:

PURPOSES
A36-00011D IRRIGATION

MONTH/DAY
FROM 03-15 TO 11-15 4-1 10-31

DIVERSION QUANTITY
.250 CFS

TOTAL DIVERSION RATE/VOLUME CLAIMED

.250 CFS

B. WR RECORDED USES:

PURPOSES
36-00011 IRRIGATION

MONTH/DAY
FROM TO

DIVERSION QUANTITY
1.300 CFS

TOTAL DIVERSION RATE/VOLUME CLAIMED

1.300 CFS

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

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

FIELD
DATABASE EXAMINER
N
Y
Y

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

Y(~~X~~) N()

RECOMMEND TO WR STANDARDS OR OTHER?

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

REMARKS:

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JAN 21 1993

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS? Y() N()

AJ TOTAL CLAIMED DIVERSION RATE: 0.250 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 1.300 CFS

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

FLOW MEASUREMENT REQUIRED?

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

FIELD
DATABASE EXAMINER
Y

B. FLOW MEASUREMENT

MEASUREMENT METHOD , SEE ATTACHED CALCULATIONS.

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

OTHER RIGHTS LISTED IN CLAIM: ~~SHARES IN BIG BEND DITCH~~ NONE

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

CLAIM	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A36-00011D	WEATHERBY SPRINGS	KING , MARION E.	0.250	0.025		
A36-02007	TUCKER SPRINGS, UPPER	BIG BEND IRRIGATION & MINING C	4.000	0.006	2895.90	4.58
A36-00033C	WEATHERBY SPRINGS	ELLIS , LEROY E.	3.000	0.375		
A36-00033D	WEATHERBY SPRINGS	SAUER , ROY E.	0.090	0.030		
A36-00133	TUPPER SPRINGS, UPPER	BIG BEND IRRIGATION & MINING C	20.000	0.022	14479.60	16.47
A36-08158	GROUNDWATER	KING , MARION E.	0.110	0.110		
R36-00033C	WEATHERBY SPRINGS	ELLIS , LEROY E.	0.160	0.020	32.00	4.00

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

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A36-10622	DOMESTIC	SAUER , ROY E.	FROM 01-01 TO 12-31	.060 CFS	
A36-10622	STOCKWATER	SAUER , ROY E.	FROM 01-01 TO 12-31	.040 CFS	
A36-15106	DOMESTIC	VEENSTRA, JR. , PETE	FROM 01-01 TO 12-31	.040 CFS	
A36-08158	STOCKWATER	KING , MARION E.	FROM 07-20 TO 08-30	.020 CFS	
A36-08158	DOMESTIC	KING , MARION E.	FROM 01-01 TO 12-31	.060 CFS	

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change claim

NO OVERLAP!

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D. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE

ACRES 10 x 0.02 CFS/ACRE = 0.20 CFS
(Taken from p/u review)

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

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

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 30.0 AF/A

ACRES 10 x CONSUMPTIVE VOL. AF/A FOR AREA 3.0 =

TOTAL CONSUMPTIVE USE 30.0 AF/A 9.5 x 3.0 =

28.5 AF

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

ACRES 10 x DIVERSION VOL. AF/A FOR AREA 4.0 =

TOTAL DIVERSION VOLUME 40.0 AF/A

N/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y() N()

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

1b. CALCULATIONS

See Hubble Analysis.
recommended 0.29 cfs

* limited by claim to 0.25 cfs
(F.I.R.)

No allowance derived for
conveyance loss of
0.10 cfs

~~WR proportional Rate based on Full Tract (80A) = $\frac{1.3 \text{ cfs}}{80 \text{ Ac.}} = 0.016 \text{ cfs/Ac.}$~~

RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD FROM TO		REC. DIV RATE CFS		REC. DIV VOL. AF/A		REC. CONS. USE	
			DATABASE	EXAMINER	DATABASE	EXAMINER	DATABASE	EXAMINER
IRRIGATION	03-15	11-15	0.250	0.16	40	40	30.0	30
TOTAL FOR THIS RIGHT			0.250	<u>0.25</u>	N/A		30.0	<u>28.5</u>
REVIEWED BY: <u>SCC</u> <u>SCC 8-5-92</u> DATE: <u>10-2-90</u>								

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** Rec. Based on proportional rate of Water Right*

FOI =
 SHR = 0.25

A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP _____
FORFEIT/ABANDON _____
ADDITIONAL DIV. AMOUNT _____

ACCEPTED
AS CLAIMED
(☒)
()
()

NEEDS
REVIEW
(☒)
(☒)
()

Legal review

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-00011

TOTAL DIVERSION RATE OF WR SPLITS

DATABASE
1.300

EXAMINER

CFS

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
A36-00011	A36-00011A	0.800	-		36-00011	1.300
A36-00011	A36-00011B	0.500	-		36-00011	1.300
A36-00011	A36-00011C	0.500	-		36-00011	1.300
-	A36-00011D	0.250	-		-	
TOTAL CFS		2.050				1.300

DIVERSION RATE REVIEW

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

DATABASE
N

FIELD
EXAMINER
N

REMARKS:

See A36-00011 for split review attached in file

AUTHENTICATION:

SIGNATURE: _____

Stan Oell

DATE: _____

10-2-90

NAME OF FIELD EXAMINER: _____

TITLE: _____

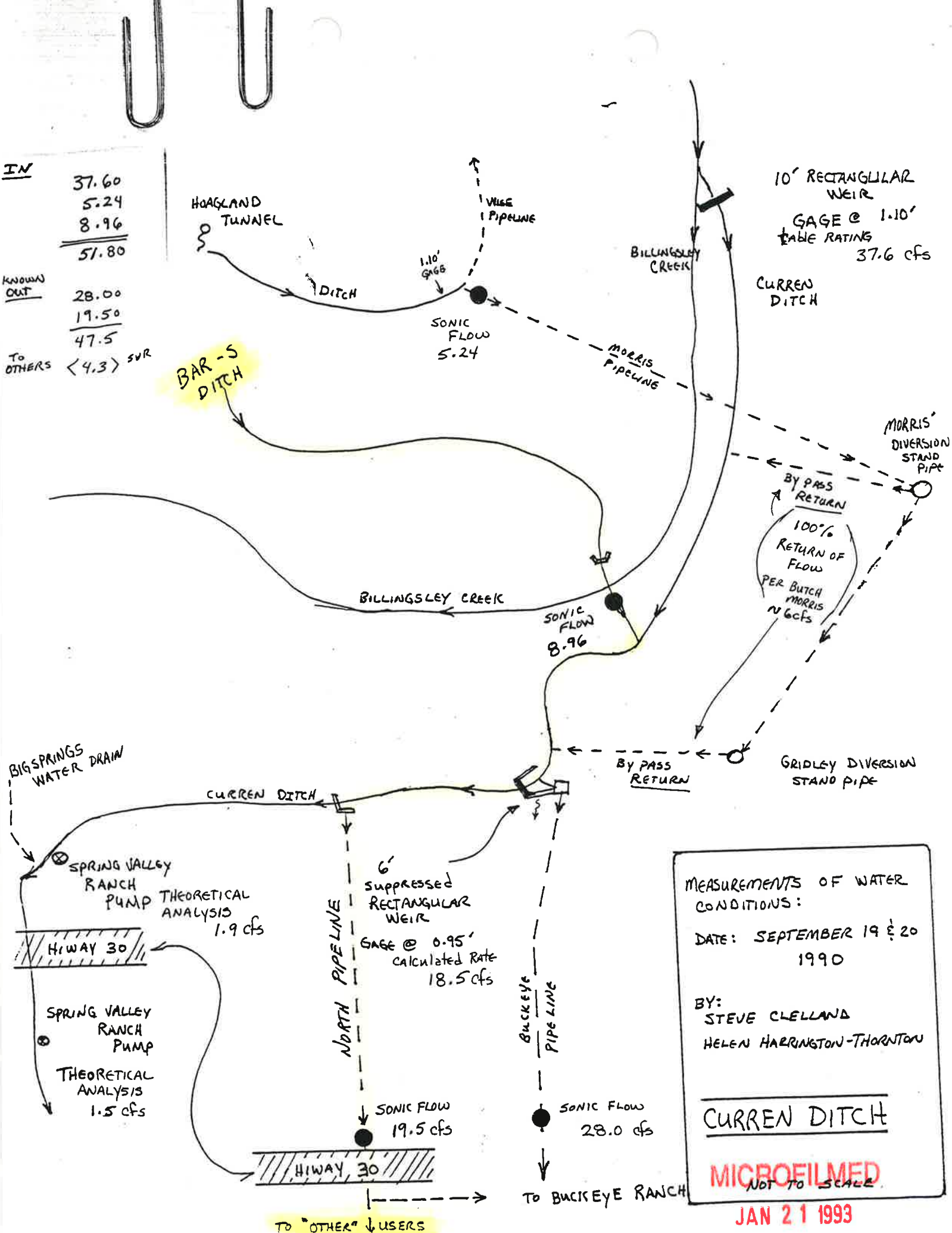
MICROFILMED

JAN 21 1993

IN
 37.60
 5.24
 8.96
51.80

KNOWN
 OUT
 28.00
 19.50
 47.5

TO OTHERS <4.3> SUR



MEASUREMENTS OF WATER
 CONDITIONS:
 DATE: SEPTEMBER 19 & 20
 1990
 BY:
 STEVE CLELLAND
 HELEN HARRINGTON-THORNTON
 CURREN DITCH
 MICROFILMED
 NOT TO SCALE
 JAN 21 1993

8-3-92

R36-00033 G

CONVEYANCE LOSS - WORSTELL

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

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

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

THESE RIGHTS SHARE THIS
 CONVEYANCE LOSS:

36-00011A 36-00198A
 36-00044C^{33F} 36-15157
 36-00033C 36-00044
 36-00033D 36-00042A
 36-00033E 36-11142
 36-00015

0.03 cfs
 0.05 cfs
 0.02 cfs
0.10 cfs

Total loss

these rights share in the
 conveyance loss:

36-00011B
36-00044D 33G
 36-00033B
 36-00105
 36-00189A

- But their portions are not
 identified in the Decree.

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JAN 21 1993

8-3-92

CONVEYANCE LOSS - WORSTELL

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

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

* THESE RIGHTS SHARE THIS PORTION:

36-00015

36-00011B

36-00189A

36-00011C

36-11142

36-00011D 339

36-00198A

36-00033B

36-15157

36-00033C

36-00033D

36-00033E

0.61 ÷ 12 = 0.05 cfs per RIGHT

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

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JAN 21 1993

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

8-3-92

CONVEYANCE LOSS - WORSTELL

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

LOWER BAR-S DITCH

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

PER RIGHT

REACH = SECTION OF CHANNEL

LENGTH = LENGTH OF REACH, THE CHANNEL CAN BE DIVIDED INTO EQUAL LENGTH REACHES
OR ACTUAL LENGTHS BETWEEN DELIVERY POINTS

AVE WIDTH = AVERAGE TOP WIDTH OF REACH

SEEPAGE = SOIL SEEPAGE RATE OF REACH

WORSTELL LOSS = CONVEYANCE LOSS IN REACH BASED ON WORSTELL METHOD

DELIVERY = TOTAL DELIVERIES IN REACH

DELIVERY LEFT = SUM(DELIVERIES OF CURRENT AND REMAINING REACHES)

LOSS FACTOR = WORSTELL LOSS/DELIVERY LEFT

DELIVERY LOSS = SUM(LOSS FACTORS OF CURRENT AND PREVIOUS REACHES) X DELIVERY,
REPRESENTS THE LOSSES ASSIGNED TO THE DELIVERIES IN THE REACH

FLOW = TOTAL FLOW AT BEGINNING OF EACH REACH

THESE RIGHTS SHARE THIS
CONVEYANCE LOSS:~~36-00011B~~ * ~~36-00033B~~ *

36-00011C 36-00033C

~~36-00011D~~ * 36-00033D

336

36-00033E

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

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JAN 21 1993

P36-00033 S

DECREED RIGHT SPLIT ANALYSIS

PARENT RIGHT NO. 36-00033TOTAL DIVERSION RATE 3.00 cfsPREPARATION DATE 8-5-92
SCU

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

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JAN 21 1993

RIGATION ANALYSIS WORKSHE

CLAIM NO. A36-00011DDATE 7/16/92AGENT HHTCLAIMANT/SYSTEM DESCRIPTION King / STRINGER @ Weatherby Springs WaterIRRIGATION SYSTEM GravityANALYSIS METHOD ~~BORDER~~ / FURROWTYPE OF CROP PastureMAXIMUM PROFILE DEPTH 36" INCHESINTAKE FAMILY .7

SOIL TYPE FAB _____ SYSTEM TOTALACRES PER TYPE 9.5 _____ 9.5 ACRESSOIL PROFILE WHC 3.42 _____DESIGN IRR $\frac{1}{2}$ WHC 1.71 _____

CROP REQUIREMENT:

REPORT AREA & FIGURE NO. Bliss 10-8

DAILY CROP REQUIREMENT:

6.44 (MM/DAY) / 25.4 (FACTOR IN MM/IN) 0.25 IN/DAYACTUAL ROTATION PRACTICED _____ 10 DAYSDRY DAY ROTATION 7 IRR DAY ROTATION 3

THEORETICAL ROTATION:

1.71 DESIGN IRR 10.25 CROP REQ = 6.84 DAYS

DESCRIPTION OF FIELD:

AVERAGE LENGTH RUN _____ 660TOTAL WIDTH OF FIELD _____ 660CHECK 660 L * 660 W / 43,560 = 10 ACRES% SLOPE _____ 3%BORDER WIDTH _____ N/A

_____ WIDTH OF FIELD / _____ DAYS OF ROTATION

FURROW / CORRUGATION WIDTH _____ 30"SET TIME _____ 24 Hrs

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JAN 21 1993

A36-00011D

KING / STRINGER

7-24-92

su

BAR S DITCH

INTAKE FAMILY <If> = 0.70
 DESIGN APPLICATION <Fh> = 1.71 INCHES
 FURROW SLOPE <S> = 0.030 FEET/FOOT
 FURROW SPACING <W> = 2.50 FEET
 FURROW LENGTH <L> = 660 FEET
 INFLOW RATE <Q> = 7 GPM/FURROW
 APPLICATION TIME <Ti> = 12 HOURS

ADVANCE TIME <TT> = 56.2 MINUTES; OR 0.9 HOURS
 GROSS APPLICATION <FG> = 4.90 INCHES
 NET APPLICATION <Fx> = 4.19 INCHES
 RUNOFF <RO> = 0.55 INCHES
 DEEP PERCOLATION <DP> = 2.64 INCHES
 EFFICIENCY <E> = 34.90 %

TO CHANGE: PRESS (EXISTING)
 Design Application <1> 1.71 in
 Furrow Slope <2> 0.030 ft/ft
 Furrow Spacing <3> 2.50 ft
 Furrow Length <4> 660 ft
 Furrow Intake Family <5> 0.70
 Inflow Rate <6> 7 gpm/furrow
 Inflow Time <7> 12 hours <ANALYSIS MODE>

TO PRINT: DATA/WITH HEADING PRESS:<8/9>

NEW DESIGN PRESS <10>, NEW ANALYSIS PRESS <11>, QUIT PRESS <12>?

INTAKE FAMILY	DESIGN APPLIC. Inches	FURROW SLOPE Ft/Ft	FURROW SPACING Feet	FURROW LENGTH Feet	INFLOW RATE Gpm	APPROXIMATE INFLOW TIME Hours	ADVANCE TIME Minutes	GROSS IRRIGATION APPLICATION Inches	NET IRRIGATION APPLICATION Inches	RUNOFF Inches	DEEP PERC. In.	IRRIGATION EFFICIENCY %
0.70	1.71	.030	2.50	660	10	12	43.6	7.00	4.52	2.35	2.94	24.43
0.70	1.71	.030	2.50	660	9	12	46.6	6.30	4.42	1.75	2.84	27.14
0.70	1.71	.030	2.50	660	7	12	56.2	4.90	4.19	0.55	2.64	34.90

$$F.I.R. = 4.2 \frac{CU}{EFF\%}$$

$$= 4.2 \frac{0.25}{34.90}$$

$$= 0.03 \text{ cfs/Ac}$$

$$9.5 \times 0.03 \text{ cfs/Ac} = \underline{\underline{0.29 \text{ cfs}}}$$

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JAN 21 1993

CONVERSATION MEMORANDUM

EMPLOYEE: STEVE CLELLAND

FILE A36-000110

RE: irrigation methods

King

DATE 7-21-92

NAME OF PARTY

GEORGE STRINGER

837-4725

7-17-92 No answer 3:35 pm See

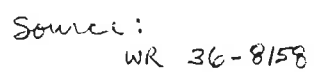
He told me he uses a Big gun sprinkler mounted on wheels. He has nine risers and runs the gun 4 hours on the ends and 3 hours on the middle risers. He covers the pasture in 1 1/2 days now. This change all occurred in April of 1992.

Historically, this place was irrigated by gated pipe with funny corrugations. Spacing was 30"! Due to his participation in a rotation with neighbors, his rotation schedule was 3 days irrigation and 7 days dry period. He was using 24 Hour sets.

The lawn & Garden covered under license 36-8158 is only irrigated by the Domestic well. No Ditch water is used for the lawn areas.

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JAN 21 1993



MICROFILME
JAN 21 1993

JAN 23 1979

RECEIVED

APR 21 1989

Department of Water Resources
Southern Region Office

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

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

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

* * * * *

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

Case No. 16676

Plaintiffs,

vs.

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

STIPULATION OF FACTS

Defendants.

* * * * *

STIPULATION OF FACTS -1-

MICROFILMED

JAN 21 1993

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

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

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

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

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

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

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

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

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

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

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

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

21 DATED this _____ day of January, 1979.

22
23 HEPWORTH, NUNGESTER & FELTON

24
25 By 
26 John C. Hepworth for Plaintiffs

27
28 STIPULATION OF FACTS -3-

1 PARRY, ROBERTSON, DALY & LARSON

2 AND

3 BENOIT AND ALEXANDER

4
5 By *Robert Alexander*

6 Bob Alexander for Defendants
7 Buckeye Land Company and Reservoir
Land Company

8 CHURCH, CHURCH, & SNOW

9
10 By *Thomas H. Church*

11 For Defendants
12 Ellis & Weir, Inc. *by*

13 JAMES HOBDEY & VARIN

14
15 By *Clifford Peterson*

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

20
21 O R D E R

22 IT IS SO ORDERED.

23 *1-22-79*

24 *151 Douglas D. Kramer*
District Judge

25
26
27
28 STIPULATION OF FACTS -4-

APR 27 AM 9:00

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

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

Plaintiffs,

vs.

RESERVOIR LAND COMPANY, INC.,
et al,

Defendants.

CASE NO. 16676

MEMORANDUM OPINION

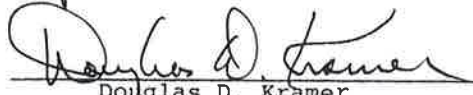
The matter before the court is defendants' motion to amend the order of this Court dated January 22, 1979 incorporating a stipulation by all parties concerning their respective water rights in Weatherby Springs. The defendants' contend that their attorneys signed the stipulation under the mistaken impression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

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JAN 20 1993

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

Dated this 24 day of April, 1979.


Douglas D. Kramer
District Judge

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JAN 20 1993

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JAN 23 1979

APR 21 1989

Department of Water Resources
Southern Region Office

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

Super No. _____
Case No. _____
Filed Jan. 22, 1979 CLM
_____ Deputy

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

* * * * *

JOHN W. JONES, JR., and DELORIS D.)
JONES, husband and wife; and W. A.)
SANDY and FLORENCE M. SANDY, husband)
and wife, dba, JONES AND SANDY)
LIVESTOCK,) Case No. 16676

Plaintiffs,

vs.

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

Defendants.

* * * * *

STIPULATION OF FACTS -1-

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

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

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

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

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

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

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

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

28 STIPULATION OF FACTS -2-

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

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

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

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

21 DATED this _____ day of January, 1979.

22
23 HEPWORTH, NUNGESTER & FELTON

24
25 By 
26 John C. Hepworth for Plaintiffs

27
28 STIPULATION OF FACTS -3-

1 PARRY, ROBERTSON, DALY & LARSON

2 AND

3 BENOIT AND ALEXANDER

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

9 CHURCH, CHURCH, & SNOW

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

13 JAMES HOBDEY & VARIN

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

24 O R D E R

25 IT IS SO ORDERED.

26
27 *1-22-79*
28 *151 Douglas D. Kramer*
District Judge

STIPULATION OF FACTS -4-

APR 27 AM 9:00

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

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

Plaintiffs,

vs.

RESERVOIR LAND COMPANY, INC.,
et al,

Defendants.

CASE NO. 16676

MEMORANDUM OPINION

1979 APR 27

1990

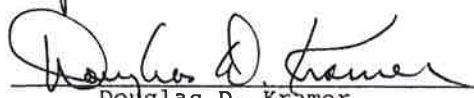
The matter before the court is defendants' motion to amend the order of this Court dated January 22, 1979 incorporating a stipulation by all parties concerning their respective water rights in Weatherby Springs. The defendants' contend that their attorneys signed the stipulation under the mistaken impression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

MICROFILMED

JAN 21 1993

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

Dated this 24 day of April, 1979.


Douglas D. Kramer
District Judge

** These rights do not assert
a year long stockwater use*

WATER RIGHT NO.	NAME	OWNER	PRIORITY	DATE	STG/STS	SOURCE	USE	DESC	SYSTEM
36-00033C	KRAJNIK, JOSEPH A	C	03/08/1902		D/	WEATHERBY SPRINGS	P	DECR	WR
	KRAJNIK, TONI L	C							
T36-00033H	TZANAKAKIS, GWENDOLYN	C	03/08/1902		D/	WEATHERBY SPRINGS	IRR		WR
	TZANAKAKIS, NIKO A.	C							
T36-00033J	TZANAKAKIS, NIKO A.	C	03/08/1902		D/	WEATHERBY SPRINGS	IRR		WR
	TZANAKAKIS, GWENDOLYN	C							
T36-00033K	TZANAKAKIS, NIKO A.	C	03/08/1902		D/	WEATHERBY SPRINGS	IRR		WR
	TZANAKAKIS, GWENDOLYN	C							
36-00033	SPLIT RIGHT	C	03/08/1902		/Z	WEATHERBY SPRINGS	IRR		AJ
						SPLIT RIGHT			
36-00033A	RENUMBERED CLAIM	C	03/08/1902		/Z	WEATHERBY SPRINGS	IRR		AJ
						RENUMBERED CLAIM			
36-00033B	HOSKOVEC, BETTY B	C	03/08/1902		D/	WEATHERBY SPRINGS	P	DECR	AJ
*36-00033C	ELLIS, LEROY E	C	03/08/1902		D/	WEATHERBY SPRINGS	P	DECR	AJ
	ELLIS, CONSTANCE L	C							
36-00033D	SAUER, VIVA	C	03/08/1902		D/	WEATHERBY SPRINGS	IRR		AJ
	SAUER, ROY E	C							
36-00033E	REA, EDNA M	C	03/08/1902		D/	WEATHERBY SPRINGS	IRR		AJ
36-00033F	GUSTAFSON FAMILY TRUST	C	03/08/1902		D/	WEATHERBY SPRINGS	P	DECR	AJ
36-00033G	STRINGER, GENEVIEVE R	C	03/08/1902		D/	WEATHERBY SPRINGS	IRR		AJ
	STRINGER, GEORGE M	C							
A36-00033	SPLIT RIGHT	C	03/08/1902		/Z	WEATHERBY SPRINGS	IRR		AJ
						SPLIT RIGHT			
A36-00033A	RENUMBERED CLAIM	C	03/08/1902		/Z	WEATHERBY SPRINGS	IRR		AJ
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*A36-00033H	TZANAKAKIS, NIKO A	C	03/08/1902		D/	WEATHERBY SPRINGS	IRR		AJ
	TZANAKAKIS, GWENDOLYN PEARSON	C							
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	SHAPPEE, BRENDA S	C							
R36-00033B	SPLIT CLAIM	C	03/08/1902		/Z	WEATHERBY SPRINGS	IRR		AJ
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	ELLIS, CONSTANCE L	C							
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	SHAPPEE, BRENDA S	C							
R36-00033L	HOSKOVEC, BETTY B	C	03/08/1902		D/	WEATHERBY SPRINGS	P	DECR	AJ
R36-00033M	SKAAR, KENT	C	03/08/1902		D/	WEATHERBY SPRINGS	P	DECR	AJ

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	KRAJNIK, TONI L	C							
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	TZANAKAKIS, NIKO A.	C							
T36-00033J	TZANAKAKIS, NIKO A.	C		03/08/1902	D/	WEATHERBY SPRINGS	IRR		WR
	TZANAKAKIS, GWENDOLYN	C							
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A36-00033C	ELLIS, LEROY E	C		03/08/1902	D/	WEATHERBY SPRINGS	IRR		AJ
	ELLIS, CONSTANCE L	C							
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R36-00033M	SKAAR, KENT	C		03/08/1902	D/	WEATHERBY SPRINGS	P	DECR	AJ

Basin	Sequence	Spl Basis	Status	Priority	Date	Diversion	Source List	Water Use List	Owner List	Ver	Source Table
36	68	Decreed	Valid	1888-02-01		10.74	WEATHERBY : DOMESTIC, IRRIGATION, STOCKWATER		DELORIS D JONES (Current Owner), JOHN V	2	wrAdjudicationRecommendation
36	68	Decreed	Valid	1888-02-01		8.25	WEATHERBY : DOMESTIC, IRRIGATION, STOCKWATER		DELORIS D JONES (Current Owner), JOHN V	1	wrAdjudicationRecommendation
36	105	Decreed	Valid	3/8/02		1	WEATHERBY : IRRIGATION, STOCKWATER		RONNIE D SMITH (Current Owner), SHARLE	1	wrAdjudicationRecommendation
36	15157	Decreed	Valid	3/8/02		1.2	WEATHERBY : IRRIGATION, STOCKWATER		BARBARA HOSKOVEC (Current Owner), PAT	1	wrAdjudicationRecommendation
36	11142	Decreed	Valid	3/8/02		1.58	WEATHERBY : IRRIGATION, STOCKWATER		FLYING TRIANGLE INC (Current Owner), JO	1	wrAdjudicationRecommendation
36	15454	Decreed	Valid	1/10/17		0.17	WEATHERBY : IRRIGATION, STOCKWATER		V JOHN MAVENCAMP (Current Owner), VER	1	wrAdjudicationRecommendation

Pam,

this is a summary of
Rights in the SRBA that
have 'Stockwater' from
Weatherby Springs.

Steve

11/24/00

11/27 09:38
98379165
00:00:32
01
OK
STANDARD

DATE, TIME
FILE NO./NAME
LOCATION
PROJECT(S)
SHEET

TIME : 11/27/2000 09:39
NAME : IDWR SOUTHERN REGION
FAX : 2087363037
TEL : 2087363033

TRANSMISSION VERIFICATION REPORT

I told him the decision of the state's attorneys that the WR was sufficiently transferred by the deed process and IDWR should go ahead with the transfer process. I gave him Jim Stanton's name if he wanted more details on the transfer.

RECEIVED

DEC 07 1998

Department of Water Resources
Adjudication Bureau

RECEIVED

DEC 08 1998

Department of Water Resources
Southern Region

1998 NOV 30 PM 03:55
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

) NOTICE SETTING SUBCASE
) FOR SCHEDULING CONFERENCE

) SUBCASE NOS: 36-00033G 36-00033H
36-00033J 36-00033K

The Scheduling Conference for this subcase will be
held as follows:

MONDAY, DECEMBER 21, 1998 at 01:30 PM
SRBA
DISTRICT COURT
253 3RD AVENUE NORTH
TWIN FALLS, ID

Parties and their attorneys, if any, shall attend the
Scheduling Conference and shall be prepared to discuss the
following matters:

1. Claimant representation and alignment of the parties;
2. Identification of the issues;
3. Admissions of facts and documents;
4. Amendment of pleadings, if required;
5. Discovery and discovery cut-off dates;
6. Expert witnesses, if planned;
7. Pre-trial conference dates;
8. Motions;
9. Settlement/alternative dispute resolution; and
10. Firm trial date.

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

Page 1 11/30/98

(continued)

The date for the scheduling conference will not be changed unless a Stipulation to Reset is received by the court fourteen (14) days before the date of the scheduling conference. Parties who wish to change the date of the scheduling conference must do the following:

1. Contact the clerk of the SRBA Court and obtain alternative dates and times (208-736-3011).
2. Contact each party to the subcase(s) or their attorney, if any, and reach an agreement on the alternative date(s) and time(s) provided by the clerk.
3. Prepare a Stipulation to Reset the hearing. The hearing must be reset on one of the dates and times provided by the clerk. The stipulation must specify the date(s) and time(s) agreed to and must contain a statement that you have contacted each party or their attorney and that all have agreed on the alternative date(s) and time(s). The court will send a notice resetting the hearing.
4. If the parties cannot agree on one of the alternative dates and times provided by the clerk, the party wishing to change the date and time must file an Expedited Motion to Reset with the court at least 21 days prior to the scheduled hearing.

Dated: NOVEMBER 30, 1998

/S/ TERI HRANAC
Deputy Clerk
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I Certify that a true and correct copy of the NOTICE SETTING SUBCASE FOR SCHEDULING CONFERENCE was mailed on NOVEMBER 30, 1998, with sufficient first-class postage to the following:

WILLIAM SHAPPEE
PO BOX 358
HAGERMAN, ID 83332
Phone: 208-837-4640

BRENDA S SHAPPEE
CHARLES D SHAPPEE
PO BOX 663
BELLEVUE, ID 83313
Phone: 208-788-3382

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

GENEVIEVE R & GEORGE STRINGER
1605 GRANDVIEW DR N
TWIN FALLS, ID 83301

NIKO & ~~GWENDOLYN~~ TZANAKAKIS
2809 S 900 E
HAGERMAN, ID 83332
Phone: 208-837-6343

GWENDOLYN PEARSON TZANAKAKIS
NIKO & GWENDOLYN TZANAKAKIS
NIKO TZANAKAKIS
2809A S 900 E
HAGERMAN, ID 83332
Phone: 208-837-6343

He asked if I would be bringing the dept. files and if I would be attending... I will. I briefly described the hearing as I have attended before, reminding him I cannot offer legal advice. I told him the evidence is usually not presented at this hearing it is simply to set the dates of all the legal protocols.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

November 6, 1998

Niko and Gwendolyn Tzanakakis
2809 S 900 E
Hagerman, ID 83332

RECEIVED

NOV 13 1998

Department of Water Resources
Southern Region

RE: Status of Claim in the SRBA

Dear Mr. And Mrs. Tzanakakis:

This week you telephoned to request an update on the status of your claim in the SRBA. This letter provides a response to our telephone conversation and to your letter to me dated September 26, 1998.

As I indicated to you, for the past month I have been working with the Idaho Mediation Association to develop a training course for certified mediators. The training is scheduled to be held in our offices on November 20, 1998, and we anticipate training 15 mediators regarding water resources issues. Our plan is to team a certified mediator with a water rights expert to conduct mediation processes in situations that might lend themselves to mediation.

As I read your letter dated September 26, and considered the report from our staff regarding the conference with Special Master Bilyeu, it seemed to me that your dispute with the Shappee's might possibly be resolved via a mediation process. As I explained in our telephone call this week, we have had success using this technique in the past. However, based on our conversation I understand that you are not interested in pursuing the mediation approach.

In my letter to you dated July 7, 1998, I indicated that our office had identified a mechanism for resolving this situation which would not require a water right transfer, if the solution was agreeable to all parties including the Shappee's. This solution was discussed during the conference with Special Master Bilyeu, whereby the Big Bend place of use would include the Shappee land, the Big Bend water would be placed on the Shappee land, and the share ditch water from Weatherby Springs would be placed on your land. This solution is still acceptable to the Department.

November 6, 1998

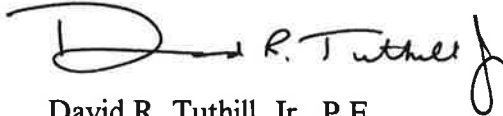
Page 2

Mr. and Mrs. Tzanakakis

In the absence of a mediation process, and given the fact that this matter has already been the subject of a Court-scheduled conference, I see no avenue for resolution other than a trial before the SRBA Court. As you are aware, this matter is presently before the Court, and further scheduling for your claim and that of the Shappee's is up to the Court.

I am sending copies of this letter to those who have been involved in this resolution process to date, as a means of distributing a status update in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "D. R. Tuthill, Jr.", with a stylized flourish at the end.

David R. Tuthill, Jr., P.E.
Chief, Adjudication Bureau

cf: Steve Clelland
 Norm Young
 Glen Saxton
 Nick Spencer

RECEIVED

SEP 09 1998

Department of Water Resources
Southern Region

RECEIVED

AUG 03 1998

Department of Water Resources
Adjudication Bureau

RECEIVED

JUL 31 1998

OFFICE OF THE
ATTORNEY GENERAL

1998 JUL 29 AM 9:23

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED 2X

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	)	Subcases 36-00033G, 36-00033H, 36-
	)	00033J and 36-00033K
Case No. 39576	)	
	)	ORDER GRANTING MOTION TO
	)	FILE LATE OBJECTIONS and
	)	ORDER SETTING SETTLEMENT
	)	CONFERENCE

A hearing on the Tzanakakis' *Motion to File Late Objection* in the above listed subcases was held on July 10, 1998, at the SRBA Courthouse in Twin Falls, Idaho. Niko and Gwendolyn Tzanakakis and William and Charles Shappee appeared *pro se*. John M. Marshall appeared by telephone for IDWR.

With good cause shown, the *Motion to File Late Objection* was granted. Special Master Haemmerle requested that a settlement conference be held in August 1998.

THEREFORE, IT IS ORDERED that the settlement conference will be held as follows:

Date: Thursday, August 20, 1998 at 10:00 am
Location: SRBA District Court
253 3rd Ave. North
Twin Falls, Idaho

DATED July 29, 1998.

MAIL16214




FRITZ/X. HAEMMERLE
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER SETTING SETTLEMENT CONFERENCE was mailed on July 22, 1998, with sufficient first-class postage to the following:

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

Director of IDWR
Box 83720
Boise, ID 83720-0098

Charles Shappee
Box 663
Bellevue, Idaho 83313

William Shappee
Box 358
Hagerman, Idaho 83332

Niko & Gwendolyn Tzanakakis
2809 S., 900 E.
Hagerman, Idaho 83332


Deputy Clerk

COMMUNICATION DOCUMENTATION

Claim No. _____

IDWR Employee/Agent Steve Clelland

NAME:

RE:

TRIAL PREP INFO

He wanted to inform me they are planning to proceed to trial with this share ditch issue. He asked me about using an attorney ... I told him that I couldn't give that type of advice. I told him the S.M. is very helpful to the pro se parties during the trial. I am available for information as well as the files here at IDWR. I recapped the events of the deed discussion and told him this was my original take of the deeds and the reason the split had occurred in March.

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: AUG-20-1998
PAGE: A-1

RIGHTS FROM:	SOURCE: WEATHERBY SPRINGS	TRIBUTARY: BILLINGSLEY CREEK	

RIGHT NUMBER:	36-00033H		
NAME & ADDRESS:	NIKO A TZANAKAKIS GWENDOLYN PEARSON TZANAKAKIS 2809 S 900 E HAGERMAN ID 83332		
SOURCE:	WEATHERBY SPRINGS	TRIBUTARY: BILLINGSLEY CREEK	
QUANTITY:	0.13 CFS		
PRIORITY DATE:	03/08/1902		
POINT OF DIVERSION:	T07S R14E S30	SENE SW	Within GOODING County
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE IRRIGATION	PERIOD OF USE 03-15 11-15	QUANTITY 0.13 CFS
PLACE OF USE:	IRRIGATION T07S R13E S27 4.9 ACRES TOTAL	Within GOODING County NENE 4.9	
EXPLANATORY MATERIAL:	BASIS OF CLAIM - DECREE WATER IS DELIVERED THROUGH BAR S DITCH, CURREN DITCH & NORTH PIPELINE.		

AJ5856NP

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

DATE: AUG-20-1998
PAGE: A-2

RIGHTS FROM:	SOURCE: WEATHERBY SPRINGS	TRIBUTARY: BILLINGSLEY CREEK	

RIGHT NUMBER:	36-00033J		
NAME & ADDRESS:	WILLIAM B SHAPPEE PO BOX 358 HAGERMAN ID 83332		
SOURCE:	WEATHERBY SPRINGS	TRIBUTARY: BILLINGSLEY CREEK	
QUANTITY:	0.06 CFS		
PRIORITY DATE:	03/08/1902		
POINT OF DIVERSION:	T07S R14E S30	SENESEW	Within GOODING County
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE IRRIGATION	PERIOD OF USE 03-15 11-15	QUANTITY 0.06 CFS
PLACE OF USE:	IRRIGATION T07S R13E S27 2.4 ACRES TOTAL	Within GOODING County NENE 2.4	
EXPLANATORY MATERIAL:	BASIS OF CLAIM - DECREE WATER IS DELIVERED THROUGH BAR S DITCH, CURREN DITCH & NORTH PIPELINE.		

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: AUG-20-1998
PAGE: A-3

RIGHTS FROM:	SOURCE: WEATHERBY SPRINGS	TRIBUTARY: BILLINGSLEY CREEK
RIGHT NUMBER:	36-00033K	
NAME & ADDRESS:	CHARLES D SHAPPEE BRENDA S SHAPPEE PO BOX 663 BELLEVUE ID 83313	
SOURCE:	WEATHERBY SPRINGS	TRIBUTARY: BILLINGSLEY CREEK
QUANTITY:	0.06 CFS	
PRIORITY DATE:	03/08/1902	
POINT OF DIVERSION:	T07S R14E S30	SENESW Within GOODING County
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE IRRIGATION	PERIOD OF USE 03-15 11-15
		QUANTITY 0.06 CFS
PLACE OF USE:	IRRIGATION T07S R13E S27 2.2 ACRES TOTAL	Within GOODING County NENE 2.2
EXPLANATORY MATERIAL:	BASIS OF CLAIM - DECREE WATER IS DELIVERED THROUGH BAR S DITCH, CURREN DITCH & NORTH PIPELINE.	

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

In Re SRBA

Case No. 39576

) Subcase _____
)
) (Insert Water Right Number)
)
)
)
)
)
)

STANDARD FORM 5

STIPULATED ELEMENTS OF A
WATER RIGHT

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

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

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

Date: _____

IDWR Concurrence

Claimant

Objector

Claimant/Attorney

Objector/Attorney

Claimant/Attorney

Objector/Attorney

INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court and to the parties identified in the Certificate of Mailing. **FAX filings will not be accepted by the SRBA Clerk of the Court.**

You must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I certify that on _____, 199__, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

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

2. Copies to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 83720
Boise, ID 83720-0098

Signature of person or attorney mailing the form

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

In Re SRBA

Case No. 39576

) Subcase _____
)
) (Insert Water Right Number)
)
)
)
)
)
)

STANDARD FORM 5

STIPULATED ELEMENTS OF A
WATER RIGHT

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

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

Date: _____

IDWR Concurrence

Claimant

Objector

Claimant/Attorney

Objector/Attorney

Claimant/Attorney

Objector/Attorney

INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court and to the parties identified in the Certificate of Mailing. **FAX filings will not be accepted by the SRBA Clerk of the Court.**

You must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I certify that on _____, 199____, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

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

2. Copies to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 83720
Boise, ID 83720-0098

Signature of person or attorney mailing the form

RECEIVED

AUG 05 1998

Department of Water Resources
Southern Region

RECEIVED

JUL 21 1998

Department of Water Resources
Adjudication Bureau

1998 JUL 29 AM 9:23

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED 22

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	)	Subcases 36-00033G, 36-00033H, 36-
	)	00033J and 36-00033K
Case No. 39576	)	
	)	ORDER GRANTING MOTION TO
	)	FILE LATE OBJECTIONS and
	)	ORDER SETTING SETTLEMENT
	)	CONFERENCE

A hearing on the Tzanakakis' *Motion to File Late Objection* in the above listed subcases was held on July 10, 1998, at the SRBA Courthouse in Twin Falls, Idaho. Niko and Gwendolyn Tzanakakis and William and Charles Shappee appeared *pro se*. John M. Marshall appeared by telephone for IDWR.

With good cause shown, the *Motion to File Late Objection* was **granted**. Special Master Haemmerle requested that a settlement conference be held in August 1998.

THEREFORE, IT IS ORDERED that the settlement conference will be held as follows:

Date: Thursday, August 20, 1998 at 10:00 am

Location: SRBA District Court
253 3rd Ave. North
Twin Falls, Idaho

DATED July 29, 1998.


FRITZ/X. HAEMMERLE
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER SETTING SETTLEMENT CONFERENCE was mailed on July 22²⁹, 1998, with sufficient first-class postage to the following:

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

Director of IDWR
Box 83720
Boise, ID 83720-0098

Charles Shappee
Box 663
Bellevue, Idaho 83313

William Shappee
Box 358
Hagerman, Idaho 83332

Niko & Gwendolyn Tzanakakis
2809 S., 900 E.
Hagerman, Idaho 83332



Deputy Clerk

STATE OF IDAHO
District Court
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, ID 83303-2707



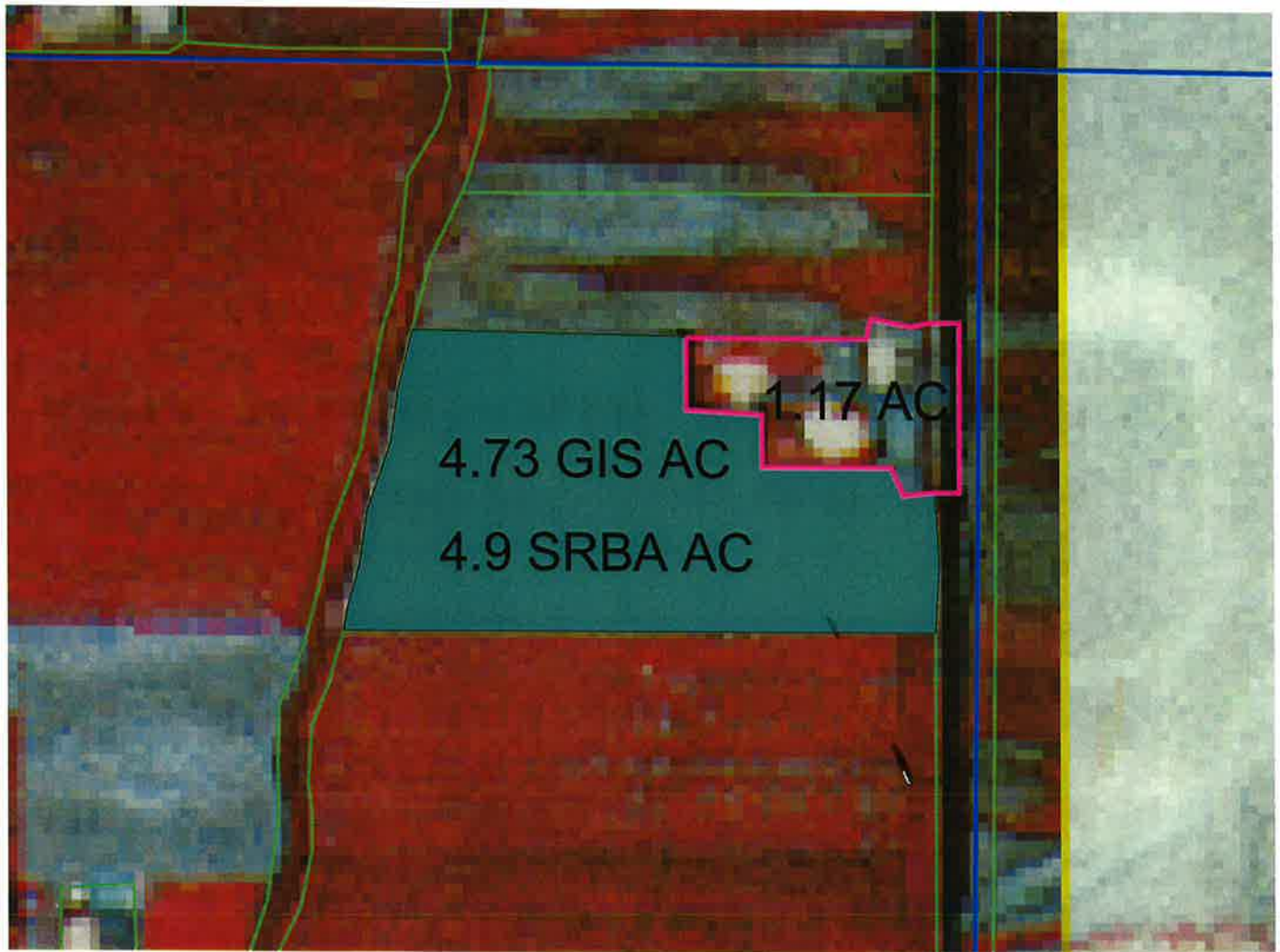
RECEIVED
JUL 23 1999
Department of Water Resources
Southern Region

Steve Clelland
IDWR
1341 Fillmore St, Ste 200
Twin Falls, ID 83301

83301X3380 18



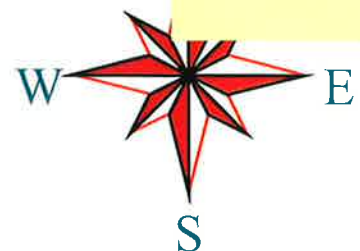
APP. FOR TRANSFER - NIKO TZANAKAKIS
NE/NE SEC. 27 T. 7S R. 13E



0.06 0 0.06 0.12 Miles

-  P/U Per SRBA
-  Additional Land Owned

*Steve - replace
my earlier map
w/this*



Prepared By J E Stanton
8-9-1999

DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
STATE OF IDAHO



(208) 736-3011
FAX (208) 736-2121

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

July 22, 1999

RECEIVED

JUL 23 1999

Department of Water Resources
Southern Region

Niko Tzanakakis
2809A South 900 East
Hagerman, ID 83332

Dear Mr. Tzanakakis,

My Deputy Clerk notified me of your interest in meeting with me. It is my understanding that you are currently involved in the Snake River Basin Adjudication as a claimant and an objector to water rights in the Hagerman area of Basin 36. It is my further understanding from the Deputy Clerks that you have pending administrative matters before the Idaho Department of Water Resources regarding transfers.

For your information, the CODE OF JUDICIAL CONDUCT for the State of Idaho, Canon 3(A)(4), prevents me, as presiding judge, from meeting with you or any other party to discuss any aspect of your claims or objections in the Snake River Basin Adjudication unless the formal rules are followed.

As for the administrative proceedings before IDWR, this Court has no involvement with those matters at this point in time.

While I clearly understand your wishes, you need to understand that the rules do not allow the meeting you request.

Sincerely,

A handwritten signature in cursive script, appearing to read "Barry Wood".

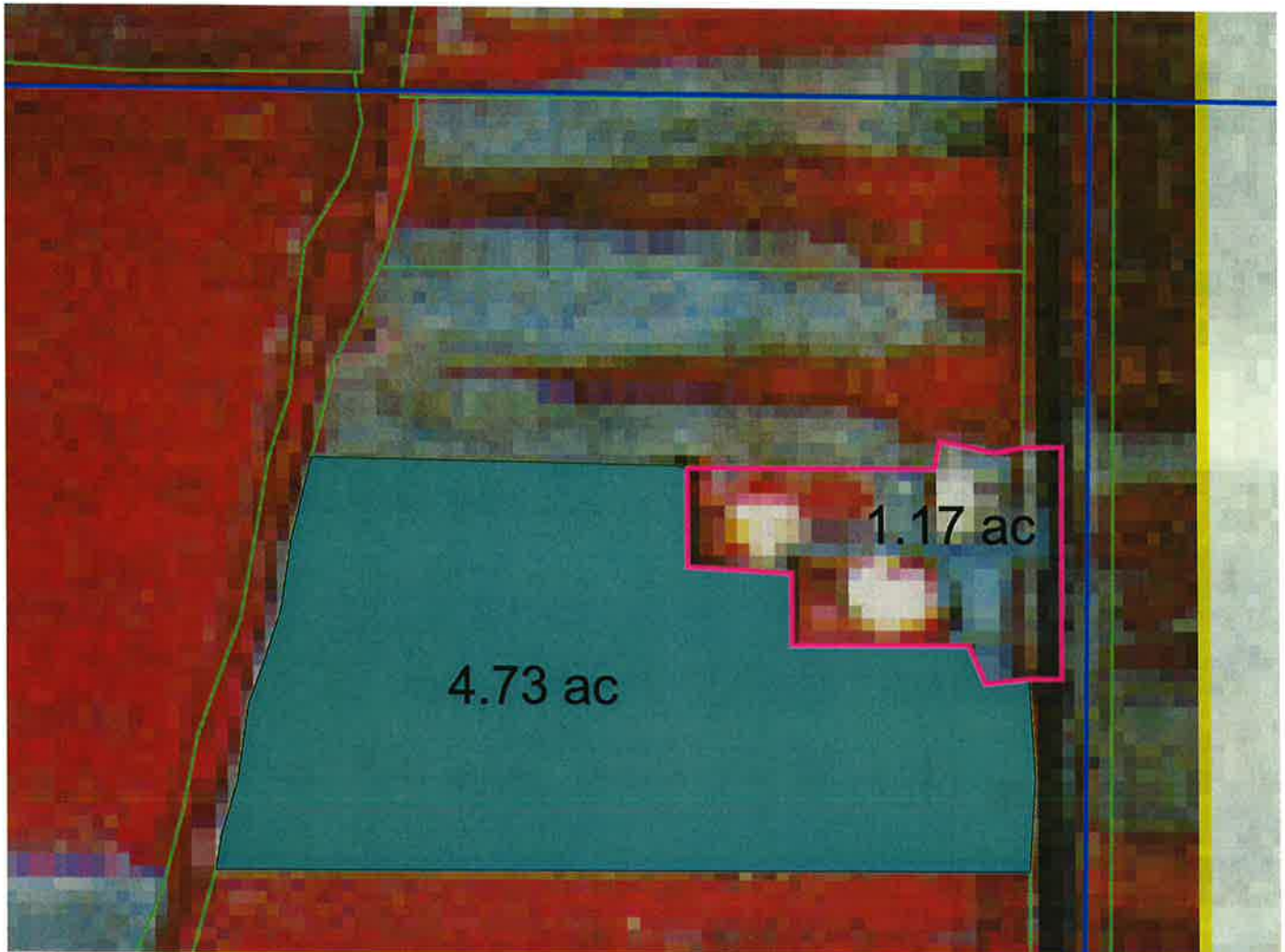
Barry Wood
Administrative District Judge and
Presiding Judge of the
Snake River Basin Adjudication

BW/dd

cc: Karl Dreher
Dave Tuthill
Steve Clelland

APP. FOR TRANSFER - NIKO TZANAKAKIS

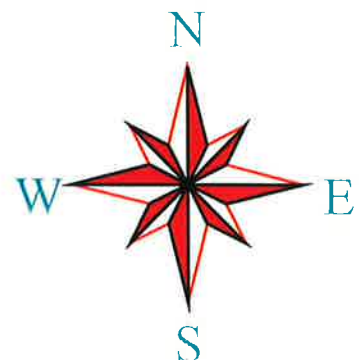
NE/NE SEC. 27 T. 7S R. 13E



0.08 0 0.08 Miles

 P/U Per SRBA

 Additional P/U Owned



Prepared By J E Stanton
8-5-1999

RECEIVED

JUN - 1 1999

Department of Water Resources

RECEIVED

JUL 08 1999

Department of Water Resources
Southeast Region

1999 MAY 27 AM 8:46

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

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

In Re SRBA	)	Subcases: 36-00033G, 36-00033H,
	)	36-00033J, and 36-00033K
Case No. 39576	)	
	)	
	)	ORDER DENYING MOTIONS FOR
	)	SUMMARY JUDGMENT; STAYING
	)	SUBCASES PENDING I.C. § 42-222
	)	TRANSFER; AND VACATING TRIAL

I. PROCEDURAL AND FACTUAL BACKGROUND

This matter is before the court on a *Motion for Summary Judgment* filed by Niko and Gwendolyn Tzanakakis, claimants in water right 36-00033H. Tzanakakis claims all water delivered from Weatherby Spring. The material facts relevant for this motion are as follows:

1. Water right 36-00033G was split into three water rights. Niko and Gwendolyn Tzanakakis are the claimants in water right 36-00033H. William Shappee is the claimant in water right 36-00033J. Charles Shappee is the claimant in water right 36-00033K.

2. All the property where the previously mentioned water rights are currently appurtenant originally belonged to Herbert and Marian King. The original parcel was 10.78 acres. The entire parcel was served by 10 inches of water out of the Big Bend Canal and 125 inches from the Pipe Line Canal (Weatherby Spring).

3. The 10.78 acre parcel was split into a 6.03 acre parcel and a 4.75 acre parcel. In 1991, the Kings conveyed the 6.03 acre parcel to George and Genevieve Stringer. In the addendum to the deed between King and Stringer, 125 inches of the Pipe Line Canal water is included in the conveyance. In 1993, the Stringers then conveyed the parcel to Tzanakakis. The deed between Stringer and Tzanakakis conveyed all the 125 inches of Weatherby Spring water.

4. Although all 125 inches of Weatherby water was transferred from Stringer to Tzanakakis for the 6.03 acres, there was never a transfer under I.C. § 42-222 of the Weatherby Spring water off of the 4.75 acre parcel retained by the Kings.

5. In 1992, the entire 4.75 acre parcel was conveyed from King to Warren and Mary Atkinson. The Atkinsons then divided that parcel into two parcels. William Shappee was deeded a 2.45 acre parcel, and Charles Shappee was deeded a 2.27 acre parcel.¹

II. STANDARD OF REVIEW

A motion for summary judgment shall be rendered if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. I.R.C.P. 56(c); *Olsen v. J.A. Freeman Co.*, 117 Idaho 706, 791 P.2d 1285 (1990). All controverted facts are liberally construed in favor of the nonmoving party. *Tusch Enterprises v. Coffin*, 113 Idaho 37, 740 P.2d 1022 (1987). The burden at all times is upon the moving party to prove the absence of a genuine issue of material fact. *Petricevich v. Salmon River Canal Company*, 92 Idaho 865, 452 P.2d 362 (1969). The moving party's case must be anchored on something more than speculation, and a mere scintilla of evidence is not enough to create a genuine issue. *R.G. Nelson, A.I.A. v. M. L. Steer*, 118 Idaho 409, 797 P.2d 117 (1990). If the record contains conflicting inferences or if reasonable minds might reach different conclusions, summary judgment must be denied. *Kline v. Clinton*, 103 Idaho 116, 645 P.2d 350 (1982). All doubts are to be resolved against the moving party, and the motion must be denied if the evidence is such that conflicting inferences may be drawn therefrom and if reasonable people might reach different conclusions. *Doe v. Durtschi*, 110 Idaho 466, 716 P.2d 1238 (1986).

The Director's Report constitutes *prima facie* evidence of the water right. I.C. § 42-1411(4). When a party relies on the Director's Report, that party is relieved from offering any facts in support of the summary judgment motion. Giving evidence *prima facie* status confers a presumption that sufficient proof has been made to prevail on an issue absent competent evidence to the contrary. *State v. Hagerman Water Right Owners (24 Hagerman Subcases)*, 130 Idaho 736, 746, 947 P.2d 409 (1997). On summary judgment, the party opposing any element in the Director's Report has the burden of raising an issue of material fact in order to defeat summary

¹ The total acres reflected here is off by .03 acres.

judgment. I.C. § 42-1411(5). Presumptions may support either the moving or nonmoving party on summary judgment. *See, e.g., Olsen v. J.A. Freeman Co.*, 117 Idaho 706, 791 P.2d 1285 (1990); *In the Matter of Estate of Keeven*, 126 Idaho 290, 882 P.2d 457 (1994).

IV. DECISION

Tzanakakis claims all water from Weatherby Spring. The basis of this claim is that the water from Weatherby Spring was conveyed to them by deed. However, Tzanakakis conceded during oral argument that there was never any proceeding instigated transferring the Weatherby Springs water off of the 4.75 acres which was ultimately deeded to the Shappees.

Under I.C. § 42-222, water right owners must make an application to the Idaho Department of Water Resources (IDWR) prior to changing the place of use. The purpose of proceedings under I.C. § 42-222 is to determine whether any junior rights are injured by a proposed change in place use. Furthermore, when a right is transferred, the use of the right must be examined to determine whether the use of the right constitutes a reasonable use of water. *See e.g., Pueblo West Metropolitan District v. Southeastern Colorado Water Conservancy District*, 717 P.2d 955, 958 (Colo. 1986) (the quantity for any water right is subject to reevaluation when the right is voluntarily submitted for a transfer). Here, there is no material issue of fact that the 125 inches of Weatherby Spring water was deeded to Tzanakakis. However, the change in use could constitute an injury to other users and the increased quantity of water used on a smaller parcel of land may not be a reasonable use of water.

For these reasons, the *Motion for Summary* is DENIED. All proceedings in this subcase are stayed. During the stay, Tzanakakis may file an application for a transfer under I.C. § 42-222. If the transfer does not cause injury, then the conveyances described in the deeds should be respected. *See e.g., Federal Land Bank of Spokane v. Union Central Life Insurance Company*, 490 Idaho 51, 6 P.2d 486 (1931) ("Plaintiff could bring action to quiet title to water allegedly transferred from defendant's ranch to plaintiff's ranch when both were owned by the same predecessor, notwithstanding predecessor never sought statutory authority to change appurtenacy"). In other words, even if King, as the predecessor in interest for all the parties involved in these water rights, failed to seek a transfer under I.C. § 42-222, that would not prevent Tzanakakis from bringing an action to quiet title to the water involved. *Id.* at 494.

Tzanakakis must file his application for transfer under I.C. 42-222 prior to June 24, 1999. If Tzanakakis does not file an application during this time period, the court will immediately set this matter for trial.

IT IS ORDERED that Trial set in the above subcases for June 2, 1999, is vacated.

DATED this 27 day of May, 1999.


FRITZ X. HAEMMERLE, Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the *Order Denying Motions for Summary Judgment; Staying Subcases Pending I.C. § 42-222 Transfer; and Vacating Trial* was mailed on May 27, 1999, with sufficient first-class postage prepaid as follows:

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

Thomas Arkoosh
John James
733 4th Ave E
Gooding, ID 83330

William Shappe
PO Box 358
Hagerman, ID 83332

Charles & Brenda Shappee
PO Box 663
Bellevue, ID 83313


Deputy Clerk

RECEIVED

APR 19 1999

Department of Water Resources

SERVICE
COPY

C. TOM ARKOOSH
JOSEPH F. JAMES
ARKOOSH LAW OFFICES
301 Main Street
Post Office Box 32
Gooding, Idaho 83330
Telephone: (208) 934-8872
Facsimile: (208) 934-8873
Attorneys for Tzanakakis
P:\Clients\Tzanakakis\JFJ Affidavit.wpd

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 Nos: 36-00033G;
	)	36-00033H 36-00033J; 36-00033K
	)	
Case No. 38576	)	AFFIDAVIT OF JOSEPH F. JAMES
_____	)	

STATE OF IDAHO)
 :SS.
County of Gooding)

COMES NOW, JOSEPH F. JAMES, of the firm of Arkoosh Law Offices,
Chartered, and upon his oath and by his personal knowledge deposes and says:

1. That I am one of the attorneys of record for Claimants Niko and Gwendolyn Tzanakakis in the above-entitled action;
2. That attached hereto as Exhibit "A" and incorporated herein by this

reference as though the same were set forth in full, is a true and correct copy of the Warranty Deed conveying described property from Alfred H. Cole and Phyllis A. Cole to Herbert T. King and Marian E. King as recorded in the County of Gooding, State of Idaho, as Instrument No. 105073.

3. That attached hereto as Exhibit "B" and incorporated herein by this reference as though the same were set forth in full, is a true and correct copy of the Warranty Deed conveying described property from Marian E. King, a widow, to Barton E. Sonner and Margaret L. Sonner, as recorded in the County of Gooding, State of Idaho, as Instrument No. 111701.

4. That attached hereto as Exhibit "C" and incorporated herein by this reference as though the same were set forth in full, is a true and correct copy of the Warranty Deed conveying described property from Barton E. Sonner and Margaret L. Sonner to Marian E. King, as recorded in the County of Gooding, State of Idaho, as Instrument No. 130137.

5. That attached hereto as Exhibit "D" and incorporated herein by this reference as though the same were set forth in full, is a true and correct copy of the Warranty Deed conveying described property from Marian E. King to George M. Stringer and Genevieve R. Stringer, as recorded in the County of Gooding, State of Idaho, as Instrument No. 143320.

6. That attached hereto as Exhibit "E" and incorporated herein by this

reference as though the same were set forth in full, is a true and correct copy of the Warranty Deed conveying described property from Marian E. King to Marquis Warren Atkinson and Mary Alice Atkinson, as recorded in the County of Gooding, State of Idaho, as Instrument No. 148298.

7. That, by knowledge and belief, attached hereto as Exhibit "F" and incorporated herein by this reference as though the same were set forth in full, is a true and correct copy of the sale agreement between Marian King and George and Genevieve Stringer.

8. That attached hereto as Exhibit "G" and incorporated herein by this reference as though the same were set forth in full, is a true and correct copy of the Warranty Deed conveying described property from Marquis Warren Atkinson and Mary Alice Atkinson to Joe Matheney and Doreen Matheney, as recorded in the County of Gooding, State of Idaho, as Instrument No. 153121.

9. That attached hereto as Exhibit "H" and incorporated herein by this reference as though the same were set forth in full, is a true and correct copy of the Warranty Deed conveying described property from George Larae Stringer, Loa Stringer and Genevieve R. Stringer, to Niko A. Tzanakakis and Gwendolyn Pearson Tzanakakis, as recorded in the County of Gooding, State of Idaho, as Instrument No. 153693.

10. That, by knowledge and belief, attached hereto as Exhibit "I" and incorporated herein by this reference as though the same were set forth in full, is a true

and correct copy of the Affidavit of Marian King.

11. That attached hereto as Exhibit "J" and incorporated herein by this reference as though the same were set forth in full, is a true and correct copy of the Warranty Deed conveying described property from Marquis W. Atkinson, Trustee and Mary A. Atkinson, Trustee, to William B. Shappee, as recorded in the County of Gooding, State of Idaho, as Instrument No. 160609.

12. That, by knowledge and belief, attached hereto as Exhibit "K" and incorporated herein by this reference as though the same were set forth in full, is a true and correct copy of Affidavit of Ray E. Saur.

13. That attached hereto as Exhibit "L" and incorporated herein by this reference as though the same were set forth in full, is a true and correct copy of an excerpt of the deposition of Ivan Gustafson of the Big Bend Canal Company.

14. That attached hereto as Exhibit "M" and incorporated herein by this reference as though the same were set forth in full, are true and correct copies of the retrieved stock certificates produced by Ivan Gustafson of the Big Bend Canal Company.

FURTHER YOUR AFFLIANT SAYETH NOT.

DATED this 16 day of April, 1999.


JOSEPH F. JAMES

SUBSCRIBED AND SWORN to before me this 16 day of April, 1999.



Della L. Hanson
NOTARY PUBLIC FOR IDAHO
Residing at: Gooding
My Commission Expires: 8/26/2004

CERTIFICATE OF MAILING

I hereby certify that on the 16 day of April, 1999, I served a true and correct copy of the foregoing document(s) on the person(s) listed below, in the manner indicated:

William Shappee
P.O. Box 358
Hagerman, Idaho 83332

☒ United States Mail, Postage Prepaid
☐ Overnight Courier
☐ Via Facsimile
☐ Hand Delivered

Brenda S. Shappee
Charles D. Shappee
P.O. Box 663
Bellevue, Idaho 83313

☒ United States Mail, Postage Prepaid
☐ Overnight Courier
☐ Via Facsimile
☐ Hand Delivered

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

☒ United States Mail, Postage Prepaid
☐ Overnight Courier
☐ Via Facsimile
☐ Hand Delivered


JOSEPH F. JAMES

WARRANTY DEED

For Value Received

ALFRED H. COLE and PHYLLIS A. COLE, husband and wife

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

HERBERT T. KING and MARIAN E. KING, husband and wife,

Hereinafter called the Grantee, the following described premises situated in Gooding County, Idaho, to-wit:

A tract of land in the N $\frac{1}{4}$ NE $\frac{1}{4}$, Section 27, Township 7 South, Range 13 East, Boise Meridian, Gooding County, Idaho described as follows:

Beginning at the NE corner of said Section 27, THE TRUE POINT OF BEGINNING;
 Thence S 89° 52' W, 590.70 feet along the North line of said Section 27;
 Thence S 13° 42' W, 719.00 feet;
 Thence N 89° 18' E, 761.15 feet to a point on the East line of said Section 27;
 Thence North 690.50 feet along the East line of said Section 27, to THE TRUE POINT OF BEGINNING.

Together with ten inches of water out of Big Bend Canal and ~~one hundred twenty five inches of water out of Pipe Line Canal for a twenty four hour period every tenth day.~~

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

Dated: 8 NOVEMBER, 1978



Alfred H. Cole
Phyllis A. Cole

STATE OF IDAHO, COUNTY OF GOODING

* On this EIGHTH day of November 19 78 before me, a notary public in and for said State, personally appeared

ALFRED H. COLE and PHYLLIS A. COLE, husband and wife,

known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

Phillip R. Hyde
 Notary Public
 Residing at 465 E. CHASE AVE. EL CAY, CALIF.

STATE OF IDAHO, COUNTY OF GOODING

I hereby certify that this instrument was filed for record at the request of *Marian E. King* at 17 minutes past 11 o'clock A.M., this 8th day of December 19 78, in my office, and duly recorded in Book of Deeds at page

Margaret F. Clements

Ex-Officio Recorder

By *Helen K. Pratt*

Fees \$ 2.00

Mail to:

EXHIBIT 'A'

MICROFILM

JAN 21 1979

For Value Received

WARRANTY DEED

MARIAN E. KING, a widow

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto
BARTON E. SONNER and MARGARET L. SONNER, husband and wife
Route #1
Buhl, Idaho 83316

Hereinafter called the Grantee, the following described premises situated in Gooding County, Idaho, to-wit:

A tract of land in the NW 1/4 of Section 27, Township 7 South, Range 13 East of the Boise Meridian, Gooding County, State of Idaho, described as follows:

Beginning at the Northeast corner of said Section 27;
thence South, 328.93 feet along the East line of said
Section 27 to the True Point of Beginning;
thence continuing South, 361.57 feet;
thence S 89° 18' W, 761.15 feet;
thence N 13° 42' E, 371.35 feet;
thence N 89° 03' E, 673.11 feet to the True Point of
Beginning.

IN THE COUNTY OF GOODING, STATE OF IDAHO

TOGETHER with five (5) shares of irrigation water from the Big Bend Canal and one hundred and twenty five (125) inches of irrigation water from the Pipe Line Canal for a twenty four hour period every tenth day. The Pipe Line Canal water is used in conjunction with a five acre parcel bordering subject property to the North.

STATE OF IDAHO
COUNTY OF GOODING, S.S.
RECORDED AT REQUEST
of the
BY NOV 28 PM 2 17
MARGARET L. SONNER, REC.
DEP. J. L. FEE 2-17

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

Dated: November 15, 1934

Marian E. King
MARIAN E. KING

STATE OF IDAHO, COUNTY OF Gooding

On this 15th day of Nov. 19 34
before me, a notary public in and for said State, personally appeared

MARIAN E. KING, a widow

known to me to be the person whose name is
subscribed to the within instrument, and acknowledged
to me that she executed the same.

Residing at Hagerman
5-10-85

Notary Public
Idaho.

STATE OF IDAHO, COUNTY OF

I hereby certify that this instrument was filed for record
at the request of
at _____ minutes past _____ o'clock m.,
this _____ day of _____
19 _____, in my office, and duly recorded in Book
of Deeds at page _____

Ex-Officio Recorder

By _____

Fees \$
Mail to:

Deputy.

Instrument No. 111701

Gooding Ledger Printing

EXHIBIT "B"

WARRANTY DEED

For Value Received

BARTON E. SONNER and MARGARET L. SONNER, husband and wife

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

MARIAN E. KING, a widow
7365 West Canterbury Drive, Peoria, Arizona 85345

Hereinafter called the Grantee, the following described premises situated in Gooding County, Idaho, to-wit:

Township 7 South, Range 13 East of the Boise Meridian

Section 27: A tract of land in the N¹/₄NE¹/₄ described as follows:

Beginning at the Northeast corner of said Section 27;
thence South, 328.93 feet along the East line of

Section 27 to the True Point of Beginning;

thence continuing South, 361.57 feet;

thence S 89° 18' W, 761.15 feet;

thence N 13° 42' E, 371.35 feet;

thence N 89° 08' E, 673.11 feet to the True Point of Beginning.

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

Dated: December 2, 1987

Barton E. Sonner
Barton E. Sonner

Margaret L. Sonner
Margaret L. Sonner

STATE OF IDAHO, COUNTY OF GOODING

On this 2nd day of December, 1987,
before me, a Notary Public in and for said State, personally appeared

Barton E. Sonner and Margaret L. Sonner

known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

[Signature]
Notary Public
Gooding, Idaho

FIRST AMERICAN TITLE COMPANY

87 DEC 2 PM 3 23

DEF. APT FEE \$2.00

EXHIBIT

STATE OF IDAHO
COUNTY OF GOODING, S.S.
RECORDED AT REQUEST

130137

Instrument No.

G-17338

WARRANTY DEED

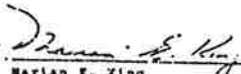
For Value Received MAXIAN E. KING, an unmarried woman

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

GEORGE M. STRINGER and GENEVIEVE R. STAINGER, husband and wife
whose address is: 2809-A South 900 East, Nagerman, Idaho 83332Hereinafter called the Grantee, the following described premises situated in Gooding County, Idaho,
to-wit:SEE ATTACHED EXHIBIT "A"
(containing one page)

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

Dated: January 2, 1991

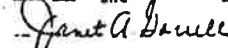

Maxian E. King

STATE OF IDAHO, COUNTY OF GOODING

On this 2nd day of January, 1991,
before me, a notary public in and for said State, personally appeared

Maxian E. King

known to me to be the person whose name is
subscribed to the within instrument, and acknowledged
to me that she executed the same



Notary at Gooding
Commission expires 7-18-1993

143320
STATE OF IDAHO, COUNTY OF GOODING
Filed for record at the recorder's office of

15 min. past 1 o'clock P.M. on
of Jan 11, 1991
JOHN A. MYERS, Recorder

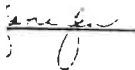
By Helen K. Platt



43318

Trans-
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J. E. L.



143318

and for record in the recorder's

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EXHIBIT "A"

TOWNSHIP 7 SOUTH, RANGE 13, EAST OF THE BOISE MERIDIAN,
GOODING COUNTY, IDAHO

Section 27: A tract of land in the NW1/4, described as follows:

Beginning at the Northeast corner of said Section 27;
Thence South 328.93 feet along the East line of said Section 27, to THE TRUE POINT OF BEGINNING;
Thence continuing South, 361.57 feet;
Thence South 89°18' West, 761.15 feet;
Thence North 13°42' East, 371.35 feet;
Thence North 69°08' East, 673.11 feet to THE TRUE POINT OF BEGINNING.

TOGETHER WITH all water and water rights, ditches and water power used thereon or appurtenant thereto, including but not limited to 125' from Pipe Line Canal

SUBJECT TO:

Taxes for 1991 and subsequent years, which are not yet due and payable.

Assessments levied or to be levied by a local irrigation district.

Easement for conducting through ditch, pipelines and flume from Jones Springs as contained in Agreement dated April 25, 1918, recorded July 21, 1919 in Book 2 Page 47 as Instrument Number 20006, Gooding County records, and Deed dated June 10, 1919, recorded September 26, 1919 in Book 12 Page 172 as Instrument Number 20560, Gooding County records.

✓ Rights and restrictions for use of an irrigation ditch as contained in Decree in the case of Buckeye Ranch Company, Limited, a corporation, Plaintiff, vs. Edward Thompson, et al., Defendants, dated December 1, 1919, recorded December 1, 1919 in Book 3 Page 299, Gooding County records.

Power Line Easement given by Dale Cady and Verne Cady, husband and wife, to Idaho Power Company, a corporation, dated August 31, 1945, recorded October 22, 1945 in Book 5 Page 602 as Instrument Number 94510, Gooding County records, affecting a portion of Section 27, Township 7 South, Range 13, East Boise Meridian.

Power Line Easement given by Herbert E. King and Marian E. King, husband and wife, dated May 18, 1979, recorded August 27, 1979 as Instrument Number 78497, Gooding County records, affecting a portion of Section 27, Township 7 South, Range 13, East Boise Meridian.

Financing Statement from Marian E. King, as Debtors, to Shelter America Corporation, as Secured Party, filed February 10, 1988 as Instrument Number 130968, and filed in Real Estate Records February 10, 1988 as Instrument Number 130969, Gooding County records.



WARRANTY DEED

Marian E. King, a widow,
hereinafter referred to as Grantor, does hereby grant, bargain, sell, and convey unto
Marquis Warren Atkinson and Mary Alice Atkinson, husband and wife,
hereinafter referred to as Grantee, whose current address is

P.O. Box 148, Hagerman, ID 83332
the following described premises, to-wit:

That part of the Northeast Quarter of the Northeast Quarter of
Section 27, Township 7 South, Range 13 East of the Boise Meridian,
Gooding County, Idaho, described as follows:

1. BEGINNING at the Northeast corner of Section 27;
Thence South 89° 52' West, 590.70 feet along the North line
of Section 27;
Thence South 13° 42' West, 719.00 feet;
Thence North 89° 18' East, 761.15 feet to the East line of
said Section 27;
Thence North along the East line of Section 27, 690.50 feet to
THE POINT OF BEGINNING.

LESS and EXCEPTING a tract of land in the North Half of the Northeast
Quarter of Section 27, Township 7 South, Range 13 East of the Boise
Meridian, Gooding County, Idaho, described as follows:

BEGINNING at the Northeast corner of said Section 27;
Thence South, 328.93 feet along the East line of Section 27 to
the True Point of Beginning;
Thence continuing South, 361.57 feet;
Thence South 89° 18' West, 761.15 feet;
Thence North 13° 42' East, 371.35 feet;
Thence North 89° 08' East, 673.11 feet to the TRUE POINT OF
BEGINNING.

TOGETHER with 5 shares of Big Bend and Mining Company water.
TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said
Grantee, his heirs and assigns forever. And the said Grantor does hereby covenant
to and with the said Grantee, that Grantor is the owner in fee simple of said
premises; that said premises are free from all encumbrances except current years
taxes, levies, and assessments, and except U. S. Patent reservations, restrictions,
easements of record, and easements visible upon the premises, and that Grantor will
warrant and defend the same from all claims whatsoever.

Dated: March 20, 1992.

Marian E. King
Marian E. King

STATE OF OREGON)
COUNTY OF MULTNOMAH) ss

On this 20 day of March 1992, in the year 1992, before me, a
Notary Public, in and for said State, personally appeared Marian E. King, known or
identified to me to be the person whose name is subscribed to the within Instrument,
and acknowledged to me that she executed the same.



[Signature]
Notary Public for Oregon
Residing at: *Bozeman, Oregon*
Commission Expires: *6-1-97*

First American Title Company of Idaho

148298

STATE OF IDAHO COUNTY OF GOODING
Filed for record at the request of FIRST AMERICAN TITLE

41 min past 2 o'clock P.m. this 10

of April 1992 Per 6.03

JOHN A. MATHIS Recorder

By Christa Siler Deputy

Part By	Appraisal	Inspection Fee	Inspection	Septic	Inspection	Fee	(add prem.)	(add prem.)	(add prem.)	(add prem.)	(add prem.)
	N/A	N/A	N/A	N/A	N/A	5/13	N/A	N/A	N/A	S	

or shall pay for fuel in tank, amount to be determined by the supplier at Seller's expense.

count points to be paid as agreed herein. As a result of any city or county inspections SELLER MAY BE REQUIRED TO MAKE REPAIRS to the property in order to comply with the housing code and Seller agrees to hold the Buyer, the Listing Broker, the Selling Broker, and/or their representatives harmless for any such required repairs or upgrade WHETHER A SALE IS COMPLETED UNDER THIS AGREEMENT OR NOT. Cost of agreed repairs, if any, not to exceed \$ None.

encumbrances or defects in title to the property which are to be discharged by Seller, assumed or waived by the Buyer or which title will be taken subject to by the Buyer (not otherwise set forth herein) are:

Land Title and Escrow Title Company shall provide the title policy and preliminary report of commitment required herein. If long term escrow/collection is involved, the escrow holder shall be N/A.

CLOSING. The "closing agent" shall be Land Title and Escrow. The Broker responsible for closing is Robert H. Lawrence - Lawrence Realty. On or before the closing date, Buyer and Seller shall deposit with the closing agent all funds and instruments necessary to complete the sale. The closing date shall be on or before December 3, 1990.

POSSESSION. Seller shall deliver possession to Buyer on or before December 31, 1990, and taxes and water assessments (using the most available assessment as a basis), rents, insurance premiums, interest and reserves on loans, liens, or obligations assumed or taken subject to, and utilities shall be prorated as of the closing date except:

The following additional terms and conditions apply to this agreement: to include refrigerator new in kitchen and windows
Common

AGENCY DISCLOSURE. At the time of the signing of this agreement the agent working with the Buyer represented Seller and the agent working with the Seller represented Seller. Each party signing this document confirms that prior written disclosure of agency was provided to him/her in this transaction. Each party to this transaction has read and understands the contents of the agency disclosure brochure previously received.

ACCEPTANCE. Seller shall have until the 10 day of Jan, 19 90, o'clock ☐ AM, ☐ PM, local time at the location of the subject property to accept this offer. Unless accepted, this offer shall lapse and the Broker shall return the Earnest Money to the Buyer.

BUYER'S SIGNATURE

Buyer George M. Stringer Address: RT 1 Box 241 Glen Ferry, Idaho
Buyer Genevieve R. Stringer Phone: (H) 366-2126 (W)

ACCEPTANCE BY SELLER. The undersigned Seller accepts Buyer's offer the 17 day of Nov, 19 90, o'clock ☐ AM, ☐ PM, and further agrees to pay a total brokerage fee of \$ 5400.00 to Lawrence Realty (Brokerage) for services; payable at closing.

Seller Robert H. Lawrence Address:
Seller Phone: (H) 877-6506 (W)

STATE OF Idaho

County of Bozeman ss.
On this 17 day of Nov, in the year of 19 90, before me, Robert H. Lawrence, personally appeared George M. Stringer known or identified to me, to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he executed the same in WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

804-A Selt
900 East
Bozeman
93332
NOTARY PUBLIC FOR State of Idaho
Residing at Bozeman My Bond Expires: March 28, 19 90

DOCUMENT RECEIPT: (Alternative A or B must be completed).

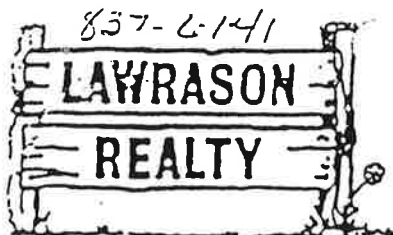
A I We acknowledge receipt of a complete copy of the foregoing Agreement bearing all signatures above this line.

SIGNATURE OF SELLER(S) Robert H. Lawrence Date 11-17-90 SIGNATURE OF BUYER(S) George M. Stringer

SIGNATURE OF SELLER(S) Robert H. Lawrence Date 11-17-90 SIGNATURE OF BUYER(S) George M. Stringer

B I personally caused a true, correct and complete copy of the foregoing agreement bearing all signatures to be mailed by Certified Mail, return receipt requested to the ☐ Seller, ☐ Buyer

EXHIBIT



ADDENDUM

Dated: December 13, 1990 Time: 10:45 am

The offer to purchase the real property commonly known as Massie King Property

Parcel #2 Township 7 S R 13 E B34 - Lanes

made by George M. S. King & Laverne R. Stringer n/w

dated November 17, 1990, is not accepted in its present form, but the following

is hereby submitted:

Item #2 Price \$70,000.00

2a Down payment \$15,000.00

2b Payment 20,000.00 Due before March 1, 1991

Balance 35,000.00 Amortized at 20 years 9%

Annual payment of \$3,834.25

Ballon payment 10 years 2000

Prepayment privilege

Item 6 125' from Pipe Line Canal for twenty five Lanes

perennial every tenth day.

Closing on January 2, 1991

Possession on January 5, 1991

OTHER TERMS: All other terms to remain the same.

SIGNATURE OF SELLER(S)

Lawrence E. King

Date

Date

12-13-90

SIGNATURE OF BUYER(S)

George M. S. King 12-13-90

Date

Date

Laverne R. Stringer Dec. 13-90

EXHIBIT F p2



WARRANTY

For Value Received

Marquis Warren Atkinson and Mary Alice Atkinson, husband and wife,
hereinafter referred to as Grantor, does hereby grant, bargain, sell, and convey unto
Joe Matheney and Doreen Matheney, husband and wife,
hereinafter referred to as Grantee, whose current address is

P. O. Box 54, Richfield, Idaho 83349

the following described premises, to-wit:

SEE ATTACHED EXHIBIT A, attached hereto and made a part hereof.

Together with 2 shares of Big Bend Company water.

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

Dated: June 23, 1993.

Marquis Warren Atkinson
Marquis Warren Atkinson

Mary Alice Atkinson
Mary Alice Atkinson

STATE OF IDAHO

COUNTY OF Gooding

On this 23rd day of June, in the year 1993, before me, a Notary Public in and for said State, personally appeared Marquis Warren Atkinson and Mary Alice Atkinson, 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.



153121

Susan M. Bolton
Notary Public for Idaho
Residing at Gooding, ID
Commission Expires: 10-16-98

STATE OF IDAHO COUNTY OF GOODING
Filed for record at the request of FIRST AMERICAN TITLE

22 min. past 1 o'clock p m. this 23
of June, 1993 Fee 46.00

JOHN A. MYERS Recorder

By Heleen K. Pratt Deputy

First American Title Company of Idaho

EXHIBIT "G"

EXHIBIT A

That part of the Northeast Quarter of the Northeast Quarter of Section 27, Township 7 South, Range 13 East of the Boise Meridian, Gooding County, Idaho, described as follows:

BEGINNING at the Northeast corner of said Section 27;
 Thence South 164 feet along the East line of Section 27;
 Thence South 89° 52' West, 631.9 feet;
 Thence North 13° 42' East, 164 feet;
 Thence North 89° 52' East, 590.7 feet along the Northern line
 of Section 27 to the POINT OF BEGINNING.



153121

Susan M. Bolton
 Notary Public for Idaho

Residing at *Gooding, ID*

Commission Expires: *10-16-98*

STATE OF IDAHO COUNTY OF GOODING

Filed for record at the request of FIRST AMERICAN TITLE

20 min. past 1 o'clock p m. this 23

of June, 1993 *See 46"*

JOHN A. MYERS Recorder

By Helen K. Peart Deputy

First American Title Company of Idaho

EXHIBIT "G"

WARRANTY DEED

For Value Received GEORGE LARAE STRINGER, a married man, and LOA STRINGER, an unmarried woman, as to an undivided one-half interest, dealing as their sole and separate property, and GENEVIEVE E. STRINGER, an unmarried woman, as to an undivided one-half interest.

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto FRED A. TEAMAKAKIS and GRENDOLENE PEARSON TEAMAKAKIS, husband and wife whose address is: 4201 2nd Avenue, Sacramento, CA 95817

Hereinafter called the Grantee, the following described premises situated in COOCHING County, Idaho, to-wit:

SEE ATTACHED EXHIBIT "A"
(containing one page)

153693

STATE OF IDAHO COUNTY OF COOCHING

Filed for record at the request of Land Title & Survey

20 min past 11 o'clock P.M. this 10

of Aug 1993

JOHN A. MYERS Recorder

By [Signature] Deputy

for Los

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

Dated: August 4, 1993

[Signature]

George Larae Stringer

[Signature]

Genevieve E. Stringer

[Signature]

Loa Stringer

STATE OF IDAHO, COUNTY OF COOCHING

On this 10th day of August, 1993,

before me, a Notary Public in and for said State, personally appeared

George Larae Stringer and

Genevieve E. Stringer

known to me to be the persons whose names are

described in the within instrument, and acknowledged

to me that they executed the same.

[Signature]

Notary Public

Residing at Cooching

Commenced 2-18-1977, Idaho.

STATE OF WASH. COUNTY OF Washington

On this 5th day of August, 1993, before me

a Notary Public in and for said State, personally

appeared Loa Stringer known to me to

be the person whose name is subscribed to the

within instrument, and acknowledged to me

that she executed the same.

[Signature]

Notary Public

Residing at

ANN EXHIBIT expires

THIS IS NOT A VALID INSTRUMENT

COMM. EXP. 11-4-98

EXHIBIT "A"

TOWNSHIP 7 SOUTH, RANGE 13, EAST OF THE BOISE MERIDIAN,
GOODING COUNTY, IDAHO

Section 27: A tract of land in the NW1/4, described as follows:

Beginning at the Northeast corner of said Section 27;
Thence South 328.93 feet along the East line of said Section 27, to THE TRUE POINT OF BEGINNING;
Thence continuing South, 361.57 feet;
Thence South 89°18' West, 761.15 feet;
Thence North 13°42' East, 371.35 feet;
Thence North 89°08' East, 673.11 feet to THE TRUE POINT OF BEGINNING.

TOGETHER WITH all water and water rights, ditches and ditch rights used thereon or appurtenant thereto, including but not limited to 125" from Pipe Line Canal.

SUBJECT TO THE FOLLOWING:

All reservations in patents or deeds in the chain of title.

Taxes for 1993 and subsequent years, which are not yet due and payable.

Assessments levied or to be levied by the Gooding County Solid Waste Department.

Assessments of the Big Bend Ditch Irrigation Company.

Assessments levied or to be levied by a local irrigation district.

Easement for conducting through ditch, pipelines and flume from Jones Springs as contained in Agreement dated April 25, 1918, recorded July 21, 1919 in Book 2 Page 47 as Instrument Number 20006, Gooding County records, and Deed dated June 10, 1919, recorded September 26, 1919 in Book 12 Page 171 as Instrument Number 20660, Gooding County records.

Rights and restrictions for use of an irrigation ditch as contained in Decree in the case of Buckeye Ranch Company, Limited, a corporation, Plaintiff, vs. Edward Thompson, et al., Defendants, dated December 1, 1919, recorded December 3, 1919 in Book 3 Page 299, Gooding County records.

Power Line Easement given by Dale Cady and Verne Cady, husband and wife, to Idaho Power Company, a corporation, dated August 31, 1945, recorded October 22, 1945 in Book 5 Page 602 as Instrument Number 94510, Gooding County records, affecting a portion of Section 27, Township 7 South, Range 13, East Boise Meridian.

Power Line Easement given by Herbert T. King and Marian E. King, husband and wife, dated May 18, 1979, recorded August 27, 1979 as Instrument Number 78497, Gooding County records, affecting a portion of Section 27, Township 7 South, Range 13, East Boise Meridian.

Subject to the unpaid balance of one certain Deed of Trust given by George M. Stringer and Genevieve R. Stringer, husband and wife, to Land Title and Escrow, Inc., as Trustee, for the benefit of Marian E. King, an unmarried woman, dated January 2, 1991, recorded January 2, 1991 as Instrument Number 143221, Gooding County records, which the grantees agree to assume and pay.



For Value

hereinafter

Derry T. P.

hereinafter

the follow

Lot 5
acres
Parcel

TO HAVE
Granted, to
to and with
premises;
Taxes, lev
assessments
warrant and

Dated:

John A. G.

STATE OF

COUNTY OF

On
in and for
or identical
Instrument

STATE OF

COUNTY OF

On
and for
to be
attorney
name of

AFFIDAVIT

BE IT ACKNOWLEDGED, that Marian E. King
of Tucson, Az. the undersigned

deponent, being of legal age, does hereby depose and say under oath as follows:

We purchase the property in 1978, and moved to Hagerman in May of 1979. During our ownership of the total eleven acres. We beneficially used our water rights from the Big Bend ditch (lower ditch facing west) and Pipe line canal (top ditch facing east) In 1984 I (Marian E. King), sold the south parcel of 6.03 acres with split water rights. Kept the North field acreage til 1992, selling it to Atkinsons with only the 5 shares (10 inches of water) from Big Bend irrigation water. The Pipe line Canal water 12.5 inches of water (top ditch facing east) was sold with the 6.03 acres in 1990 to Stringers. In 1993 Stringers sold the 6.03 acres with the Pipe line canal water 12.5 inches to Tzanakakis. I (Marian E. King) reposest the 6.03 acres December of 1987 and resolded the 6.03 acres in 1990. The split of water rights was, I kept the Big Bend water for my 4.826 acres; sold 12.5 inches Weatherbe Springs with 6.03 acres. And I affirm that the foregoing is true except as to statements made upon information and belief, and as to those I believe them to be true.

Witness my hand under the penalties of perjury this 5th day of Oct 1998

Marian E. King
Name

7887 W Le Cholla Blvd #1044
Address

Tucson, Az. 85741

STATE OF Arizona
COUNTY OF Pima

on 10/5/98 before me, Christine H. Felix personally appeared

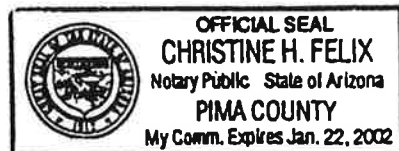
Marian E. King

, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. witness my hand and official seal.

signature Christine H. Felix

affiant Know ☒ Unknown
ID Produced Az. Notary License
(seal)

EXHIBIT



Atkinson-Shappe #160609

0-00347



WARRANTY DEED

For Value Received

Marjorie W. Atkinson, Trustee and Mary A. Atkinson, Trustee under the Marjorie W. and Mary A. Atkinson Trust, dated January 5, 1954,

hereinafter referred to as Grantor, does hereby grant, bargain, sell, and convey unto

William B. Shappee, a single man,

hereinafter referred to as Grantee, whose current address is

Box 86, Bellevue, ID, 83313

the following described premises, to-wit:

See attached Exhibit A attached hereto and made a part hereof.

TOGETHER with 3 shares of Big Bend water.

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

Dated: March 30, 1955.

Marjorie W. Atkinson
Marjorie W. Atkinson, Trustee

Mary A. Atkinson
Mary A. Atkinson, Trustee

STATE OF IDAHO

COUNTY OF COCADO

On this 30th day of March, in the year 1955, before me, a Notary Public in and for said State, personally appeared Marjorie W. Atkinson, Trustee and Mary A. Atkinson, Trustee, known or identified to me to be the Trustees of the Marjorie W. and Mary A. Atkinson Living Trust, dated January 5, 1954 and the parties whose names are subscribed to the within instrument, and a Notary Public for me that they executed the same as their Trustees of the Marjorie W. and Mary A. Atkinson Living Trust, dated January 5, 1954.



Susan L. Lofgren
Notary Public for Idaho
Residing at Coeur d'Alene, Idaho
Commission Expires 1956

First American Title Company of Idaho

First American Title Company of Idaho

10/16/79

STATE OF CALIF. COUNTY OF SUTTER
FIRST AMERICAN TITLE
21 - on par 18 - no SF
is Chasch MSB & CV
ELENA PACI PERALTA
Civilista Silva : 20

EXHIBIT J p2

AFFIDAVIT

BE IT ACKNOWLEDGED , that Roy E. Sauer

of 2830 South 898 East Hagerman, Idaho the undersigned

deponent, being of legal age, does hereby depose and say under oath as follows:

The property, North of my property, was owned by Herbert and Marian King from 1978 till 1984. During the king's ownership, I was irrigating his property pumping water from the Big Bend Canal using handlines. I was rotating the irrigating from my property to his property. We were using both the upper ditch, known as the pipeline canal, and the Big Bend Canal for irrigation. Mrs. King sold part of the property in 1984.

And I affirm that the foregoing is true except as to statements made upon information and belief, and as to those I believe them to be true.

Witness my hand under the penalties of perjury this 21st day of Sept. 1998

Roy E. Sauer
Name

898 F 2830 S
Address

Hagerman Idaho

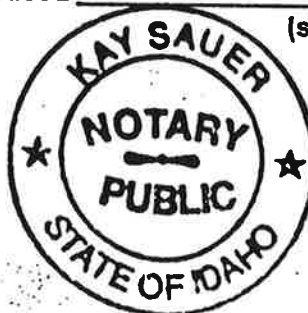
STATE OF Idaho
COUNTY OF Gooding

on 9/21/1998 before me, KAY SAUER personally appeared Roy E. Sauer

, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. witness my hand and official seal.

signature Kay Sauer
Residing in Gooding County
my Commission Expires
on 4-16-2002

affiant ☒ Know ☐ Unknown
ID Produced _____ (seal)



Page 1

[1] GOODING, IDAHO

[2] Monday, March 1, 1999, 1:45 p.m.

[3]

[4] IVAN GUSTAFSON,

[5] produced as a witness at the instance of the
[6] plaintiff, being first duly sworn, was examined
[7] and testified as follows:

[8]

[9]

EXAMINATION

[10]

BY MR. JAMES:

[11] Q: Just for the record, Mr. Gustafson, my

[12] name is Joe James. This is Tom Arkoosh. We're

[13] from the Arkoosh Law Office. We represent in this

[14] case Gwendolyn and Niko Tzanakakis. And what I'm

[15] going to do is I am going to ask you some

[16] questions concerning ownership and delivery of Big

[17] Bend Canal Company water. You are going to be

[18] under oath. Your statements will be recorded.

[19] The court reporter will take down your words and

[20] everything you say today. My first question is we

[21] asked you to bring some documents here today, did

[22] you bring those documents with you?

[23] A: Yes.

[24] Q: This is just for the record. I know we

[25] have gone over it. I just need to get your

Page 2

[1] response. Could you begin with the stock

[2] certificates and tell us what you brought with you

[3] concerning these parcels starting with the latest

[4] and just coming forward.

[5] A: Start the with Al Kapo in 1973 and that

[6] went through Glenn and Maryann Waldorf of 1977 and

[7] they were transferred to Marion King on November

[8] 16th, 1978.

[9] Q: And if I can interrupt you just for a

[10] second. You are reading from the stock

[11] certificates?

[12] A: Yes. And then in 1990 Mary King

[13] transferred five shares to Marcus and Mary

[14] Atkinson. And then in 1993 Marcus and Mary

[15] Atkinson transferred three shares to William

[16] Shappee. And I don't have anything beyond that.

[17] Q: By your calculation currently how many

[18] shares in Big Bend Canal Company do the

[19] Shappees, including the son and daughter have?

[20] A: Between them, they have five.

[21] Q: And you mentioned that you were missing

[22] some documents as to two shares. Do you have

[23] anything addressing those two shares?

[24] A: No, I don't.

[25] MR. JAMES: Anything else you wanted to add,

Page 3

[1] Tom?

[2] (Discussion off the record.)

[3] Q: BY MR. JAMES: Sir, I noticed in some

[4] of our documents that you have made a claim to the

[5] acres of Big Bend and the adjudication and

[6] maintained some records of representation to them

[7] as to the use of your water. Can you go over

[8] those for us, please.

[9] A: I have gone — well, none of this has

[10] been officially accepted by the — the

[11] adjudication isn't over.

[12] Q: I understand that.

[13] A: But what I have done is gone to each

[14] owner and according to what I can understand —

[15] and we have to start all over again as soon as

[16] this new law was passed. From what I understand

[17] we have a right to the acreage that has been

[18] historically irrigated. So I've gone to every

[19] owner of the land that they own, the shares they

[20] have. And asked them how many acres they can

[21] historically justify in court that had been

[22] irrigated. It came out to 587 that last count and

[23] I don't think they counted — I'm not sure if they

[24] counted Shappees. I think they might have counted

[25] Shappees but I don't know if they counted some of

Page 4

[1] these in that. But it is about 587 shares.

[2] Q: When you say these, you mean Tzanakakis?

[3] A: No, no. He has never had any shares.

[4] Q: Doesn't include him?

[5] A: No, I mean, and I am not sure whether

[6] they included Shappee and didn't include Skaar.

[7] But anyhow it came out to 587. We have a couple

[8] of other Osborne Pierce that have four shares I

[9] think between them and I am not sure they counted

[10] those. It came out to 587.

[11] That last meeting with them and they

[12] have dropped everything now for awhile. I think

[13] they are fighting with the Indians. But the last

[14] meeting they were only willing to give us 400

[15] acres. They have drawn up our district and they

[16] moved the district up to 900 East. Where it today

[17] kind of goes like this, you know. So they put all

[18] this in the Big Bend District.

[19] Q: Just for the record, where was the

[20] previous border approximately?

[21] A: The previous border was — came from my

[22] place down through the Big Bend and — that is

[23] Ellis', that wasn't it. And then Shappee's

[24] according to the Big Bend was in it. But Skaar

[25] was not in it. Betty Hoskovec, the land that she

Page 13

(1) Q: Where do you get the power to make that
(2) denial? Is that in your by-laws or where else?

(3) A: Well, I think, I don't know. Where I
(4) got the power I called Boise and I asked them do
(5) we, the Department of Water Resources, I asked
(6) them, can they just sell these shares to who they
(7) want to? And I am not sure if it was Norm Young I
(8) talked to. It was someone down there.

(9) And they told me at that time you can
(10) sell your shares to whoever you want. You got
(11) shares in the corporation. You are entitled to
(12) sell. He said on the other hand if it is not to
(13) the advantage or if it is to the disadvantage of
(14) the Big Bend Irrigation Company you don't have to
(15) transfer them.

(16) Q: Okay.

(17) A: And that's what we went on and no one
(18) has challenged us on that.

(19) Q: The determining factor was that it
(20) wasn't to the disadvantage of the Big Bend?

(21) A: Yes.

(22) Q: And I want to take you back a little bit
(23) here. I think we discussed earlier making Gwen's
(24) parcel and Mr. Shappee's parcels at one time were
(25) by Mrs. Atkinson and she had five shares in the

Page 14

(1) Big Bend Canal. Is that correct?

(2) A: Yes.

(3) Q: And what I'm going to ask you now is I
(4) need to make a distinction here. At one time we
(5) had five shares going on the total acreage?

(6) A: Right. That's my understanding.

(7) Q: And I need to make the distinction of
(8) why you couldn't or why you wouldn't deny that
(9) transfer, in other words, you are transferring
(10) water that once was on a whole parcel and
(11) continuing.

(12) In other words, the stock shares were
(13) held by this entire three parcels and now it is
(14) only held by the one parcel. And distinguish that
(15) from the situation where you did deny the delivery
(16) at that place.

(17) A: For two reasons. At our knowledge at
(18) that time, I assume our knowledge. Now, I am
(19) talking before my time. They had a place for the
(20) water. And number two, it was not transferring it
(21) a mile downstream or something. It was right next
(22) to it. So we weren't losing water through
(23) evaporation, seepage, and so forth.

(24) And again this is before my time but
(25) that's how we interpret it. At the present time

Page 15

(1) someone come in — well, they are dividing that
(2) property up there all the time. In fact, it is
(3) getting to be a pain in the neck. And we have to
(4) — and so they say I divide. I give you an acre
(5) of land. I give you an acre of Big Bend Ditch or
(6) give you a share of the Big Bend Ditch.

(7) When they say it is in the deed so if it
(8) is in the deed we have to honor it. We are having
(9) some trouble as it is irritation to have to punch
(10) holes in a big ditch to give one share of
(11) waters. And one more is awful hard to monitor
(12) small amounts of water and we have no ears anyhow.

(13) Q: Let me ask this question. Does the
(14) place of delivery on the Shappees' parcels remain
(15) the same as it was when it was owned, the whole
(16) entire parcel was owned by Mrs. Atkinson?

(17) A: I think it is the same. To the best of
(18) my knowledge, it is the same.

(19) Q: Still delivered at the same place?

(20) A: Yes.

(21) MR. TZANAKAKIS: May I make a correction?
(22) That wasn't Mrs. Atkinson. That was Mrs. King.

(23) THE WITNESS: Mrs. King never had any
(24) delivery from Big Bend Ditch. No water was ever
(25) delivered.

Page 16

(1) (Discussion off the record.)

(2) Q: BY MR. JAMES: We were just talking
(3) about transfers and making the comparison as to
(4) when you did deny one transfer and let me ask you
(5) a hypothetical.

(6) If somebody sought to transfer
(7) water, transfer the point of delivery of the water
(8) to a place where they already had spring water or
(9) water from another source, would you approve that
(10) transfer? Would you deliver to that area?

(11) A: Probably not. Not unless they had
(12) additional acreage in addition to what they could
(13) supply from the spring. I can't say because it is
(14) the board's decision. But I would think in that
(15) case it would not and it has never come up.

(16) Q: If I am paraphrasing you correctly you
(17) only transfer if they had the ability to put that
(18) water to use?

(19) A: That's right.

(20) Q: So going back to when the Tzanakakis'
(21) parcels and the Shappees' parcels were one large
(22) parcel, I guess that was Mrs. King. And when they
(23) and Mrs. King had five shares in Big Bend Canal
(24) Company and then it was transferred down the
(25) Shappees' parcels only. Could you tell me why was

Page 17

[1] that approved?

[2] In other words, if they already were
[3] making and if they were making a claim on whether
[4] it would be spring water, would they, they
[5] wouldn't have a place to put it to use?

[6] A: To the best of my knowledge there has
[7] never been a claim on the Weatherby Spring water
[8] until recently when this adjudication came up.
[9] Prior to that time they had no Weatherby Spring
[10] water.

[11] Q: Why do you say that he didn't have any
[12] Weatherby Spring water? What is your source on
[13] that? Where do you get your understanding from?

[14] A: Well, that's a tough question. I was in
[15] charge of the Weatherby Spring water for quite
[16] awhile to. And so I had a list of people that had
[17] shares — inches, not shares of Weatherby Spring
[18] on inches of water. And at that time to the best
[19] of my knowledge the Shappee property had no
[20] shares — no inches from the shareholder's ditch.

[21] Q: Could you tell us when you were in
[22] charge of this Weatherby Spring water?

[23] A: Before you took over.

[24] MR. TZANAKAKIS: I took over after you last
[25] year.

Page 18

[1] THE WITNESS: Oh, two or three years before.
[2] It is a very lax thing, you know. I was in charge
[3] because no one else would do anything. We are not
[4] a corporation. We are not a legal entity.

[5] Q: BY MR. JAMES: And when you were in
[6] charge of it, you delivered. Was this prior to
[7] when Nick and Gwen had owned their parcel or was
[8] this after?

[9] A: After.

[10] Q: And did you deliver Weatherby Spring
[11] water to Nick and Gwen?

[12] A: Yes.

[13] Q: And at that time you weren't delivering
[14] any Weatherby Spring water?

[15] A: No, since I lived there, there had been
[16] no Weatherby Spring waters delivered to Shappee.

[17] Q: And how long have you lived there?

[18] A: Since 1990, March of 1990.

[19] Q: When you were in charge of the Weatherby
[20] Spring water or at this time, are you aware of any
[21] records of delivery or any records concerning the
[22] Weatherby Spring water?

[23] A: We had no records. There is no
[24] organization. This is really under the direction
[25] of the Department of Water Resources.

[1] MR. JAMES: Thank you.

[2] (Exhibit *-001 marked.)

[3] (Deposition concluded 2:45 p.m.)
[4]
[5]
[6]
[7]
[8]
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[24]
[25]

Page 19

EXHIBIT L₃

NAME: IVAN J. E. TAFSOLCHANGE/CORRECTION SHEET

PAGE	LINE	READS:	SHOULD BE:	REASON:
5	1	WAS ABOVE IT	ABOVE the Big Bend Ditch	Clarify.
5	1	Gene Soranger		
5	1	Gene Soranger	Gene Soranger above the Big Bend ditch. not on it.	Has been Big Bend ditch. but below the ditch.
5	10	To ditch lower	To ditch lower	typing error
12	3	We did turn down	we did not turn down	error
13	20	wasn't to the	was to the	error
15	9	it is irrigation	it is. irritating	error
15	17	no cars	no weirs	typing error
Error on map. Mr. Skar so far has no water rights above the B.B. ditch. At The transfer has not been approved by the Board.				

TUCKER AND ASSOCIATES
605 West Fort Street
P. O. Box 1625
Boise, Idaho 83701

EXHIBIT L 4

INCORPORATED UNDER THE LAWS OF THE

STATE OF IDAHO, FEBRUARY 2, 1904

97

Shares

BIG BEND IRRIGATION AND MINING COMPANY, Ltd.

CAPITAL STOCK \$2,000.00

This Certifies that *William J. & Maryann R. Walsdorf* is the owner of *Five* Shares of the Capital Stock of

Big Bend Irrigation and Mining Company, Ltd.

transferable only on the books of the Corporation by the holder hereof in person or by Attorney upon surrender of this Certificate properly endorsed

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and to be sealed with the Seal of the Corporation

at Hagerman, Idaho, this *28th* day of *February* A.D. 190*7*

Edith L. Vernon

Secretary

[Signature]

President

SHARES

\$10.00

EACH

EXHIBIT "M"

CERTIFICATE

FOR
5
SHARES

OF THE
Capital Stock

Big Bend Irrigation
and Mining Company

ISSUED TO

DATED

This Water Interest, we hereby sell assign and transfer
unto HERBERT T. & MARIAN E. KING 5 (Five)
shares of the Capital Stock, represented by the within
certificate, and do hereby irrevocably guarantee and warrant
Edith L. VERNON SECRETARY
to transfer the said Stock on the books of the within named
corporation with full power of substitution in the premises.
Witness my hand and seal this 16 day of NOVEMBER, 1918

NOTICE: THE SIGNATURE OF THIS ASSIGNMENT
MUST CORRESPOND WITH THE NAME AS WRITTEN ON THE
FACE OF THE CERTIFICATE IN EVERY PARTICULAR WITHOUT
ATTENTION OR CHANGE THEREFOR AND WITHOUT ANY FURTHER

in presence of
Joe E. Piche W. Blair D. Dole
Secretary President

INCORPORATED UNDER THE LAWS OF THE

STATE OF IDAHO, FEBRUARY 2, 1904



Big Bend Irrigation and Mining Co., Ltd.

CAPITAL STOCK \$2,000.00

This Certifies that 77 Carson King is the owner of 5 Shares of the Capital Stock of BIG BEND IRRIGATION and MINING COMPANY, Ltd.

transferable only on the Books of the Corporation by the holder hereof in person or by duly authorized Attorney; on surrender of this Certificate properly endorsed.

In Witness Whereof the duly authorized officers of this Corporation have hereunto subscribed their names and caused the corporate Seal to be hereunto affixed at this First day of April A.D. 1990

Catherine Saul

SECRETARY

Carl C. Bull

PRESIDENT

Shares

\$10.00

Each.

EXHIBIT "M"

CERTIFICATE

FOR

SHARES

OF THE
Capital Stock

BIG BEND IRRIGATION
and MINING COMPANY,
Ltd.

ISSUED TO

Marion King

EXAMINED

April 1-1990

For Value Received, I, hereby sell, assign and transfer
unto Marquis and Mary Alice Atkinson

(5)-five Shares
of the Capital Stock represented by the within
Certificate, and do hereby irrevocably constitute and appoint

First American Title Corp.

to transfer the said Stock on the books of the within named
Corporation with full power of substitution in the premises.

Dated April 1,

In witness whereof

Marion King

NOTICE: THE SIGNATURE OF THIS ASSOCIATE
MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE
FACE OF THE CERTIFICATE. IN EVERY PARTICULAR AND WITHOUT
ATTENTION TO DETAILS IN THE NAME, THE NAME MUST BE EXACTLY THE SAME.

INCORPORATED UNDER THE LAWS OF THE

STATE OF IDAHO, FEBRUARY 2, 1904



Big Bend Irrigation and Mining Co., Ltd.

CAPITAL STOCK \$2,000.00

This Certifies that *Margaret Warren and Mary Alice Atkins* is the owner of
(3) *Three* Shares of the Capital Stock of
BIG BEND IRRIGATION and MINING COMPANY, Ltd.

*transferable only on the Books of the Corporation by the
holder hereof in person or by duly authorized Attorney, on
surrender of this Certificate properly endorsed.*

In Witness Whereof the duly authorized officers of this Corporation have hereto subscribed
their names and caused the corporate seal to be hereon affixed at
this *22nd* day of *June* A.D. 19*93*

Catherine Saul

SECRETARY

Charles C. Floyd

PRESIDENT

Shares

\$10.00

Each.

CERTIFICATE

FOR

3-

SHARES

OF THE
Capital Stock

BIG BEND IRRIGATION
and MINING COMPANY,
Ltd.

Atkinson
ISSUED TO

Margaret Wilson
Maryland

DATED

June 23, 1925

For Value Received, we hereby sell, assign and transfer
unto William Shoppe

3- (three)

Shares
of the Capital Stock represented by the within
Certificate and do hereby irrevocably constitute and appoint

to transfer the said Stock on the books of the within named
Corporation with full power of substitution in the premises.

Given March 15 1925

NOTICE: THE SIGNATURE OF THIS ASSIGNMENT
MUST CORRESPOND WITH THE NAME AS WRITTEN ON THE
FACE OF THE CERTIFICATE. IN EXERCISE THEREOF, THE
ASSIGNMENT IS VOID UNLESS IT BE SIGNED BY THE
ASSIGNOR OR BY A PERSON AUTHORIZED BY HIM.

INCORPORATED UNDER THE LAWS OF THE

STATE OF IDAHO, FEBRUARY 2, 1904



102



5

SHARES

Big Bend Irrigation and Mining Co., Ltd.

CAPITAL STOCK \$2,000.00

This Certifies that Herbert T. & Marian E. King is the owner of Five

BIG BEND IRRIGATION and MINING COMPANY, Ltd.

transferable only on the Books of the Corporation by the holder hereof in person or by duly authorized Attorney, on surrender of this Certificate properly endorsed.

In Witness Whereof the duly authorized officers of this Corporation have hereunto subscribed their names and caused the corporate seal to be hereon affixed at Nagerman, Id. this fourth day of December, A.D. 1978

Edith A. Verner

SECRETARY

Walter W. Smith

PRESIDENT

Shares

\$10.00

Each.

EXHIBIT "M"

CERTIFICATE

FOR

5
SHARES

OF THE
Capital Stock

**BIG BEND IRRIGATION
and MINING COMPANY,
Ltd.**

CERTIFICATE

Herbert & Marion E

King
CERTIFICATE

Dec: 4, 1978

For Value Received, I hereby sell, assign and transfer
unto Marion King -
— 5 —

Shares
of the Capital Stock represented by the within
Certificate, and do hereby irrevocably constitute and appoint
Big Bend Irrig. & Mining Co. Ltd.
to transfer the said Stock in the books of the within named
Corporation with full power of substitution in the premises.

Dated April 1, 1990

In presence of

Gracy from Herbert King (deceased) to Marion King

NOTICE: THE SIGNATURE OF THIS ASSIGNMENT
MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE
FACE OF THE CERTIFICATE. IN EVERY PARTICULAR WITHOUT
ALLEGATION OR ENLARGEMENT OR ANY CHANGE WHATSOEVER

Certificate
No. 138

For 2 Shares

Issued to
Charles Dale Shoppee
and Brenda Shoppee

LISTED IN U.S.A.

Dated Jan 10 1998

Transferred from

Doreen Matheney

Dated Nov. 20 1997

No Original Certificate.	No Original Shares.	No of Shares Transferred.
<u>138</u>	<u>2</u>	<u>2</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

#138
orig certificates
lost

Received this Certificate

January 10 1998

INCORPORATED UNDER THE LAWS OF THE

STATE OF IDAHO, FEBRUARY 2, 1904

89

Shares

BIG BEND IRRIGATION AND MINING COMPANY, Ltd.

CAPITAL STOCK \$2,000.00

This Certifies that Alfred Cole is the owner of five Shares of the Capital Stock of

Big Bend Irrigation and Mining Company, Ltd.

transferable only on the books of the Corporation by the holder hereof in person or by Attorney upon surrender of this Certificate properly endorsed

In Witness Whereof, the said Corporation, has caused this Certificate to be signed by its duly authorized officers and to be sealed with the Seal of the Corporation at Hagerman, Idaho, this 27th day of February, A.D. 1904

Edith L. Vernon Secretary W. N. Brailsford President

SHARES

\$10.00

EACH

EXHIBIT "M"

CERTIFICATE

FOR

2
SHARES

OF THE

Capital Stock

Big Bend Irrigation
and Mining Company

ISSUED TO

DATED

For Value Received, I hereby sell, assign and transfer
unto William J. Walsdorf and Maryanne R. Walsdorf
Shares of the Capital Stock represented by the within
Certificate, and do hereby irrevocably constitute and appoint
Mrs. C. A. Vernon
to transfer the said Stock on the books of the within named
Corporation with full power of substitution in the premises.

Dated Jan 6 - 1917

Witness at

William J. Walsdorf

Alfred H. P.

NOTICE: THE SIGNATURE OF THIS ASSIGNED MEMBER MUST BE MADE WITHIN THE SPACE PROVIDED HEREON FOR THE PURPOSE OF THE CERTIFICATE OF STOCK. FAILURE TO DO SO WILL RENDER THE CERTIFICATE VOID AND INVALID.

Dave

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

Witness and Exhibit List

Case 39576

SUB CASE NO. 36-00033G, 36-00033H,
36-00033J, 36-00033K

LIST OF EXHIBITS

Letter from Philip Brown attorney on behalf of Nick Tanakakis demanding William Shappee stop using water from weatherby Springs. Dated 1, Dec. 1998

Objection to quantity of water and number of acres filed by Nick Tanakakis

Deeds of Tanakakis property from 1984 to present

Photographs of irrigation structures in weatherby springs ditch on shappee property

GIS place of use photos of 36-00033G 36-00033H 36-000033J and 36-00033K

IDWR administrative proceedings: Substitution of party

Profile report on claim 36-00033G

Supplemental report regarding claims to water rights # 36-00033G 36-00033H 36-00033J
36-00033K

LIST OF WITNESSES

Niko Tzanakakis

Gwendolyn Tzanakakis

Steve Clelland IDWR

Date *May 19, 1999* Signature

Charles D Shappee

cc Idaho dept. Water Resources, District Court SRBA, Joesph James attorney for
Tzanakakis

NICK

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

Witness and Exhibit List

Case 39576

SUB CASE NO. 36-00033G, 36-00033H,
36-00033J, 36-00033K

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36-00033K

LIST OF WITNESSES

Niko Tzanakakis

Gwendolyn Tzanakakis

Steve Clelland IDWR

Date May 19, 1999 Signature

Charles D Shappee

cc Idaho dept. Water Resources, District Court SRBA, Joseph James attorney for
Tzanakakis

Post-It Fax Note	7871	Date	5-20-99	# of pages	1
To	STEVE CLELLAND	From	NICK SPENCER		
Co./Dept.		Co.			
Phone #	FYI	Phone #			
Fax #		Fax #			

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

Witness and Exhibit List

Case 39576

RECEIVED

MAY 25 1999

SUB CASE NO. 36-00033G, 36-00033H,
36-00033J, 36-00033K

Department of Water Resources
Southern Region

LIST OF EXHIBITS

Letter from Philip Brown attorney on behalf of Nick Tanakakis demanding William Shappee stop using water from weatherby Springs. Dated 1, Dec. 1998

Objection to quantity of water and number of acres filed by Nick Tanakakis

Deeds of Tanakakis property from 1984 to present

Photographs of irrigation structures in weatherby springs ditch on shappee property

GIS place of use photos of 36-00033G 36-00033H 36-00033J and 36-00033K

IDWR administrative proceedings: Substitution of party

Profile report on claim 36-00033G

Supplemental report regarding claims to water rights # 36-00033G 36-00033H 36-00033J
36-00033K

LIST OF WITNESSES

Niko Tzanakakis

Gwendolyn Tzanakakis

Steve Clelland IDWR

Date May 19, 1999 Signature

Charles D Shappee

cc Idaho dept. Water Resources, District Court SRBA, Joseph James attorney for
Tzanakakis

RECEIVED

JAN 04 1999

Department of Water Resources

1998 DEC 31 AM 09:46
 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	)	TRIAL SCHEDULING ORDER	
	)		
Case No. 39576	)	SUBCASE NOS: 36-00033G	36-00033H
	)	36-00033J	36-00033K

THIS MATTER came before the special master at a scheduling conference on December 21, 1998.

1. The following dates shall govern the conduct of the subcase through the trial. No further order shall issue:

3/01/1999 5:00 p.m. Discovery Cutoff Date. All discovery shall
 (MONDAY) be completed by this date.

4/16/1999 5:00 p.m. Deadline for filing summary judgment
 (FRIDAY) or other dispositive motion.

5/17/1999 10:00 a.m. Pretrial Conference. All parties or
 (MONDAY) their counsel shall be present.

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

5/17/1999 5:00 p.m. Exhibit and Witnesses Cutoff Date. A list
 (MONDAY) of exhibits and a complete list of witnesses shall be exchanged by the parties and copies sent to the court.

6/02/1999 10:00 a.m. Trial. 2-DAY TRIAL
 (WEDNESDAY) Location: SRBA
 DISTRICT COURT
 253 3RD AVENUE NORTH
 TWIN FALLS, ID

Pretrial motions shall proceed in accordance with the Idaho Rules of Civil Procedure. All dates are final and may only be reset on motion, hearing and order of the court. The hearing on a Motion to Reset will be held with all parties present including those represented by an attorney. The moving party may be held responsible for the costs of the resulting delay.

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

Page 1 12/31/98

(dates continued)

2. At the scheduling conference the parties designated the following as trial counsel:

Party:	Trial Counsel:
BRENDA S SHAPPEE	PRO SE
CHARLES D SHAPPEE	PRO SE
GENEVIEVE R STRINGER	PRO SE
GEORGE STRINGER	PRO SE
GWENDOLYN PEARSON TZANAKAKIS	PRO SE
NIKO TZANAKAKIS	PRO SE
WILLIAM SHAPPEE	PRO SE

Dated: December 31, 1998

/S/ FRITZ X HAEMMERLE
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I Certify that a true and correct copy of the the TRIAL SCHEDULING ORDER was mailed on December 31, 1998, with sufficient first-class postage to the following:

NIKO TZANAKAKIS
GWENDOLYN PEARSON TZANAKAKIS
2809A S 900 E
HAGERMAN, ID 83332
Phone: 208-837-6343

WILLIAM SHAPPEE
PO BOX 358
HAGERMAN, ID 83332
Phone: 208-837-4640

BRENDA S SHAPPEE
CHARLES D SHAPPEE
PO BOX 663
BELLEVUE, ID 83313
Phone: 208-788-3382

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

GENEVIEVE R STRINGER
GEORGE STRINGER
1605 GRANDVIEW DR N
TWIN FALLS, ID 83301

GWENDOLYN PEARSON TZANAKAKIS
NIKO TZANAKAKIS
2809A S 900 E
HAGERMAN, ID 83332
Phone: 208-837-6343

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

Review of SRBA claims split from 36-00033.

Steve Clelland

April 29, 1999

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

Review of SRBA claims split from 36-00033.

Steve Clelland

April 29, 1999

COMMUNICATION DOCUMENTATION

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

RE:

QUESTIONS ON CASE

They had several questions on the case with Tzanakakis. I told them of the position of IDWR as outlined in the recommendations and nothing has really changed. I have discussed this case with many attorneys to be sure of my position and everyone to date has agreed with results. We talked about the basis of my recommendation and I reminded them not use my information as legal advice. I gave them the results of the Hubble (1992) calculations; 0.29 cfs but limited to the claimed amount of 0.25 cfs.

COMMUNICATION DOCUMENTATION

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

CALLIN REQUEST FOR COPIES

She called to get copies of some info sent to me by Rodney Moore regarding the Winding Brook sale. I had just received it by mail and agreed to make a copy for her to pickup.

G. 25 d3
9.5 AC

12-21-98

SARA DENNISTON - IDWR

	<u>CFS</u>	<u>ACRE</u>	
H	.13	4.9	AL
J	.06	2.4	
K	.06	2.2	

3-11-99 Discovery cutoff. (5pm)
Despositive motion (Summ. Judge)
TRIAL
4-16-99
6-~~14~~-99
(2 & 3)
pretrial conf. 5-17

→ Rights are useable as rec'd by IDWR as split
H-J-K

- unless further ordered by the Court.
- personal interference may result in Contempt of Court.

Claim Status	Claim Number	Owner	CFS	Acres
<Split>	36-00033A	<Split>		
Partial Decree	B	Hoskovec	0.75	14.0
Partial Decree	C	Ellis	0.26	8.0
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TOTALS:			2.85 cfs	60.5 acres

Review of SRBA claims split from 36-00033.
Steve Clelland
April 29, 1999

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JUN 10 1999

Department of Water Resources
Southern Region

RECEIVED

JUN - 1 1999

Department of Water Resources

1999 MAY 27 AM 8:46

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

South
D, SC

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

Subcases: 36-00033G, 36-00033H,
36-00033J, and 36-00033K

ORDER DENYING MOTIONS FOR
SUMMARY JUDGMENT; STAYING
SUBCASES PENDING I.C. § 42-222
TRANSFER; AND VACATING TRIAL

I. PROCEDURAL AND FACTUAL BACKGROUND

This matter is before the court on a *Motion for Summary Judgment* filed by Niko and Gwendolyn Tzanakakis, claimants in water right 36-00033H. Tzanakakis claims all water delivered from Weatherby Spring. The material facts relevant for this motion are as follows:

1. Water right 36-00033G was split into three water rights. Niko and Gwendolyn Tzanakakis are the claimants in water right 36-00033H. William Shappee is the claimant in water right 36-00033J. Charles Shappee is the claimant in water right 36-00033K.

2. All the property where the previously mentioned water rights are currently appurtenant originally belonged to Herbert and Marian King. The original parcel was 10.78 acres. The entire parcel was served by 10 inches of water out of the Big Bend Canal and 125 inches from the Pipe Line Canal (Weatherby Spring).

3. The 10.78 acre parcel was split into a 6.03 acre parcel and a 4.75 acre parcel. In 1991, the Kings conveyed the 6.03 acre parcel to George and Genevieve Stringer. In the addendum to the deed between King and Stringer, 125 inches of the Pipe Line Canal water is included in the conveyance. In 1993, the Stringers then conveyed the parcel to Tzanakakis. The deed between Stringer and Tzanakakis conveyed all the 125 inches of Weatherby Spring water.

4. Although all 125 inches of Weatherby water was transferred from Stringer to Tzanakakis for the 6.03 acres, there was never a transfer under I.C. § 42-222 of the Weatherby Spring water off of the 4.75 acre parcel retained by the Kings.

5. In 1992, the entire 4.75 acre parcel was conveyed from King to Warren and Mary Atkinson. The Atkinsons then divided that parcel into two parcels. William Shappee was deeded a 2.45 acre parcel, and Charles Shappee was deeded a 2.27 acre parcel.¹

II. STANDARD OF REVIEW

A motion for summary judgment shall be rendered if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. I.R.C.P. 56(c); *Olsen v. J.A. Freeman Co.*, 117 Idaho 706, 791 P.2d 1285 (1990). All controverted facts are liberally construed in favor of the nonmoving party. *Tusch Enterprises v. Coffin*, 113 Idaho 37, 740 P.2d 1022 (1987). The burden at all times is upon the moving party to prove the absence of a genuine issue of material fact. *Petricevich v. Salmon River Canal Company*, 92 Idaho 865, 452 P.2d 362 (1969). The moving party's case must be anchored on something more than speculation, and a mere scintilla of evidence is not enough to create a genuine issue. *R.G. Nelson, A.I.A. v. M. L. Steer*, 118 Idaho 409, 797 P.2d 117 (1990). If the record contains conflicting inferences or if reasonable minds might reach different conclusions, summary judgment must be denied. *Kline v. Clinton*, 103 Idaho 116, 645 P.2d 350 (1982). All doubts are to be resolved against the moving party, and the motion must be denied if the evidence is such that conflicting inferences may be drawn therefrom and if reasonable people might reach different conclusions. *Doe v. Durtschi*, 110 Idaho 466, 716 P.2d 1238 (1986).

The Director's Report constitutes *prima facie* evidence of the water right. I.C. § 42-1411(4). When a party relies on the Director's Report, that party is relieved from offering any facts in support of the summary judgment motion. Giving evidence *prima facie* status confers a presumption that sufficient proof has been made to prevail on an issue absent competent evidence to the contrary. *State v. Hagerman Water Right Owners (24 Hagerman Subcases)*, 130 Idaho 736, 746, 947 P.2d 409 (1997). On summary judgment, the party opposing any element in the Director's Report has the burden of raising an issue of material fact in order to defeat summary

¹ The total acres reflected here is off by .03 acres.

judgment. I.C. § 42-1411(5). Presumptions may support either the moving or nonmoving party on summary judgment. *See, e.g., Olsen v. J.A. Freeman Co.*, 117 Idaho 706, 791 P.2d 1285 (1990); *In the Matter of Estate of Keeven*, 126 Idaho 290, 882 P.2d 457 (1994).

IV. DECISION

Tzanakakis claims all water from Weatherby Spring. The basis of this claim is that the water from Weatherby Spring was conveyed to them by deed. However, Tzanakakis conceded during oral argument that there was never any proceeding instigated transferring the Weatherby Springs water off of the 4.75 acres which was ultimately deeded to the Shappees.

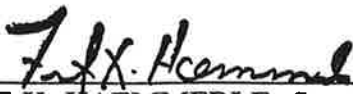
Under I.C. § 42-222, water right owners must make an application to the Idaho Department of Water Resources (IDWR) prior to changing the place of use. The purpose of proceedings under I.C. § 42-222 is to determine whether any junior rights are injured by a proposed change in place use. Furthermore, when a right is transferred, the use of the right must be examined to determine whether the use of the right constitutes a reasonable use of water. *See e.g., Pueblo West Metropolitan District v. Southeastern Colorado Water Conservancy District*, 717 P.2d 955, 958 (Colo. 1986) (the quantity for any water right is subject to reevaluation when the right is voluntarily submitted for a transfer). Here, there is no material issue of fact that the 125 inches of Weatherby Spring water was deeded to Tzanakakis. However, the change in use could constitute an injury to other users and the increased quantity of water used on a smaller parcel of land may not be a reasonable use of water. ?
wrong!

For these reasons, the *Motion for Summary* is DENIED. All proceedings in this subcase are stayed. During the stay, Tzanakakis may file an application for a transfer under I.C. § 42-222. If the transfer does not cause injury, then the conveyances described in the deeds should be respected. *See e.g., Federal Land Bank of Spokane v. Union Central Life Insurance Company*, 490 Idaho 51, 6 P.2d 486 (1931) ("Plaintiff could bring action to quiet title to water allegedly transferred from defendant's ranch to plaintiff's ranch when both were owned by the same predecessor, notwithstanding predecessor never sought statutory authority to change appurtenacy"). In other words, even if King, as the predecessor in interest for all the parties involved in these water rights, failed to seek a transfer under I.C. § 42-222, that would not prevent Tzanakakis from bringing an action to quiet title to the water involved. *Id.* at 494.

Tzanakakis must file his application for transfer under I.C. 42-222 prior to June 24, 1999. If Tzanakakis does not file an application during this time period, the court will immediately set this matter for trial.

IT IS ORDERED that Trial set in the above subcases for June 2, 1999, is vacated.

DATED this 27 day of May, 1999.


FRITZ X. HAEMMERLE, Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

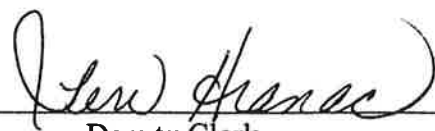
I certify that a true and correct copy of the *Order Denying Motions for Summary Judgment; Staying Subcases Pending I.C. § 42-222 Transfer; and Vacating Trial* was mailed on May 27, 1999, with sufficient first-class postage prepaid as follows:

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

Thomas Arkoosh
John James
733 4th Ave E
Gooding, ID 83330

William Shappe
PO Box 358
Hagerman, ID 83332

Charles & Brenda Shappee
PO Box 663
Bellevue, ID 83313


Deputy Clerk

Arkoosh Law Offices
Chartered

POST OFFICE BOX 32
301 MAIN STREET
GOODING, IDAHO 83330

C. TOM ARKOOSH, ESQ.
ERIC J. WILDMAN, ESQ.
JOSEPH F. JAMES, ESQ.
GERI L. BRENNAN, PARALEGAL
JULIE L. BLACKWELL, PARALEGAL

TELEPHONE: (208) 934-8872
FACSIMILE: (208) 934-8873
E-MAIL: alo@micron.net

June 11, 1999

RECEIVED

JUN 14 1999

Department of Water Resources
Southern Region

Steve Clelland
IDWR Southern Region
1341 Fillmore St., Ste. 200
Twin Falls, Idaho 83301

Re: Status of Claim in SRBA and Application for Transfer

Dear Mr. Clelland:

This office represents Niko and Gwendolyn Tzanakakis. It is my understanding that you are the IDWR agent who is most familiar with Mr. And Mrs. Tzanakakis' claim in the SRBA. Accordingly, I am providing you information on the status of their claim and their application for transfer pursuant to I.C. §42-222.

Concerning the SRBA claim, Special master Haemmerle recently ruled that there was no genuine issue of fact that the Weatherby Spring water was deeded to the Tzanakakis and stayed all proceeding in the subcase in order to allow Mr. And Mrs. Tzanakakis to file an application for transfer under I.C. §42-222. Special Master Haemmerle further ruled that if the transfer does not cause injury, the conveyance described in the deeds should be respected.

Accordingly, an application for transfer has been filed and a copy of the application has been enclosed for your convenience.

For your information, it should also be noted that the land adjoining the Tzanakakis' land is included in the presently defined boundaries of the Big Bend Canal Company.

I am requesting your assistance in the application process. We would certainly

Steve Clelland
June 11, 1999
Page 2

be happy to assist IDWR and provide any further information deemed necessary. Please feel free to contact me with any questions you may have. Thank you for your time and consideration in this matter.

Sincerely,

A handwritten signature in cursive script, reading "Joseph F. James". The signature is written in dark ink and is positioned above the printed name.

Joseph F. James

JFJ/dlh
enclosures
cc: client

RECEIVED
APPLICATION FOR TRANSFER OF WATER RIGHT

JUN 14 1999

PART 1

COPY

Department of Water Resources
Sandy BedanName of applicant NIKO A. Tzanakakis & Gwendolyn P. Tzanakakis Phone (208) 837-6343Post Office address 2809-A S. 900 E., Hagerman, Idaho, 83332

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe the reason for the proposed changes Of an original 11 acre parcel of land, .5 acres were irrigated by domestic right (A36-8158). The remaining 10.5 acres were irrigated by decree water (36-00033G) along with 10 inches of water from the Big Bend Canal. The 10.5 acres has been split with 5.9 acres now being irrigated exclusively with the decree water.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>36-00033G</u>	<u>March 8, 1902</u>	<u>0.250 cfs</u>	<u>irrigation</u>	<u>March 15 to Nov. 15</u>
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____

2. Total amount of water being transferred 0.250 cfs cubic feet per second and/or _____ acre-feet per annum.
3. Source of water Weatherby Springs tributary to Billingsley Creek
4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SE	NE	SW	30	075	143	Gooding	Bar S Ditch to Curren to North Pipeline Canal.

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
075	13E	27	5.9																5.9

Total acres 5.9

PART 1**6. General Information:**

a. Description of diversion system Unchanged (Bar S Ditch to Curren Ditch to North Pipeline Canal)

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes _____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes. N/A

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

A portion of the original parcel will be exclusively irrigated with the decree water while the remainder will be irrigated exclusively with water deriving from shares in the Big Bend Canal.

d. Remarks:

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19 _____.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
in case of New International Mortgage vs. Idaho Power Co.
dated 1932 in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☒ Warranty Deed ☒ Other Order of Special Master

3. Source of water Weatherby Springs tributary to Billingsley Creek

4. Date or priority March 8, 1902

5. Water is used for the following purpose:

amount 0.250 cfs for irrigation purposes from March 15 to Nov. 15
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right 0.250 cfs cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	SE	NE	SW	30	075	14E	Gooding	Bar S Ditch to Curren Ditch to North Pipeline Canal.

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals.
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
075	13E	27	10.5																10.5

Total acres 10.5

9. Describe any other water rights used for the same purpose as described above 5 shares in the Big Bend Canal Company

10. To your knowledge, has any port. of this water right undergone a period of _____ or more consecutive years of non-use?

No. _____

If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

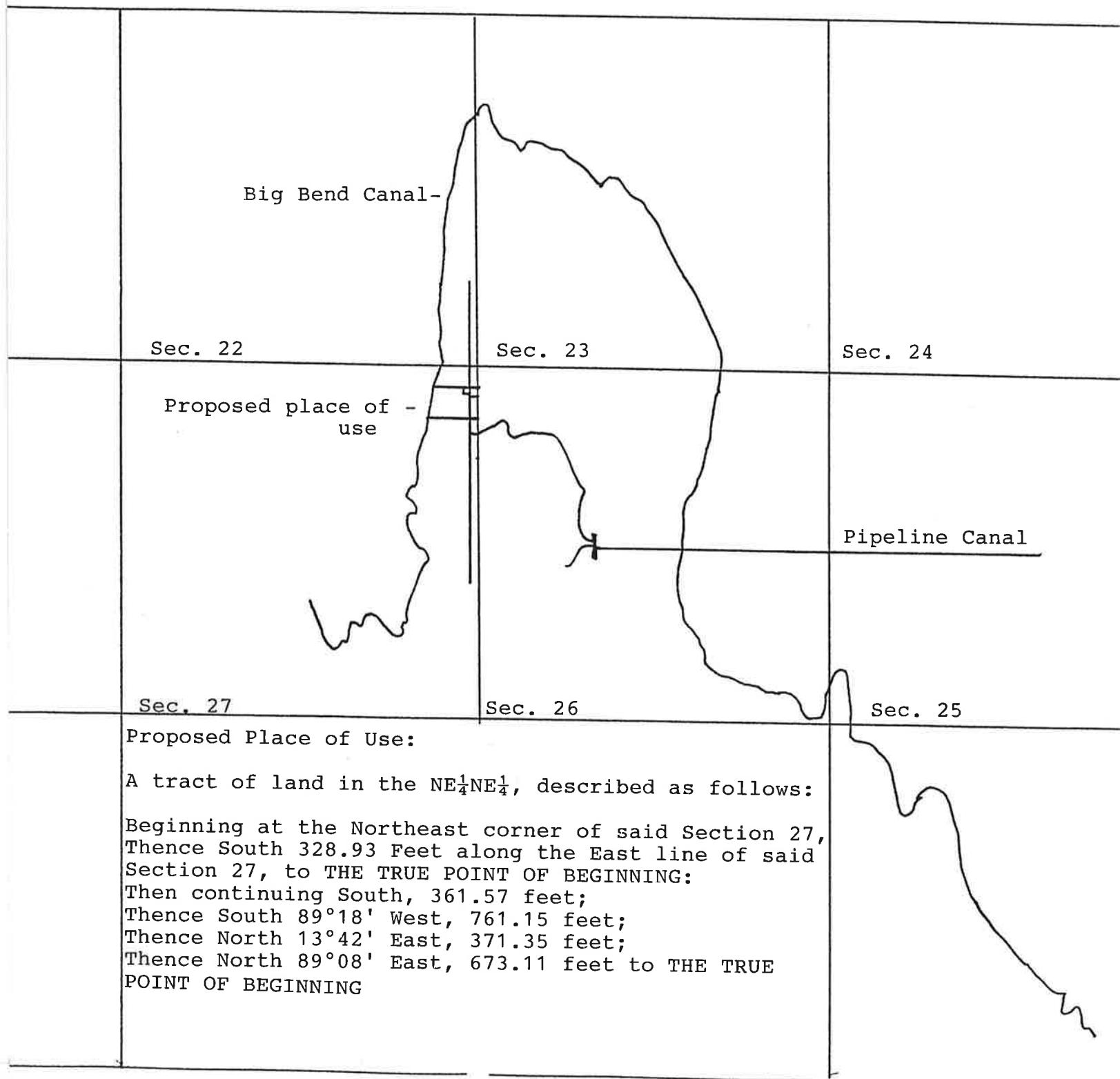
3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



PART 3**B. CHANGES IN NATURE OF USE**

1	<u>New Nature of Use</u>	<u>Amount</u> (cfs/ac-ft)	<u>Hours/days/year</u>	<u>Period of Use</u>
	_____	_____	_____	_____ to _____
	_____	_____	_____	_____ to _____

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

Subscribed and sworn to before me this 9th day of June, 1999.

DELLA L. HANSON
NOTARY PUBLIC
STATE OF IDAHO

(Signature of Applicant)

(Notary Public)

My commission expires 8/26/2004**FOR DEPARTMENT USE ONLY**

Transfer contains _____ pages and _____ attachments

Received by _____ Date _____ Protest filed by _____

Prelim. check by _____ Fee _____

Receipted by _____ Date _____

Published in _____ Copies of protest forwarded by _____

Pub. dates _____ Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

Attachment

A-1

1999 MAY 27 AM 8:46
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

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

In Re SRBA	)	Subcases: 36-00033G, 36-00033H,
	)	36-00033J, and 36-00033K
Case No. 39576	)	
	)	
	)	ORDER DENYING MOTIONS FOR
	)	SUMMARY JUDGMENT; STAYING
	)	SUBCASES PENDING I.C. § 42-222
	)	TRANSFER; AND VACATING TRIAL

I. PROCEDURAL AND FACTUAL BACKGROUND

This matter is before the court on a *Motion for Summary Judgment* filed by Niko and Gwendolyn Tzanakakis, claimants in water right 36-00033H. Tzanakakis claims all water delivered from Weatherby Spring. The material facts relevant for this motion are as follows:

1. Water right 36-00033G was split into three water rights. Niko and Gwendolyn Tzanakakis are the claimants in water right 36-00033H. William Shappee is the claimant in water right 36-00033J. Charles Shappee is the claimant in water right 36-00033K.

2. All the property where the previously mentioned water rights are currently appurtenant originally belonged to Herbert and Marian King. The original parcel was 10.78 acres. The entire parcel was served by 10 inches of water out of the Big Bend Canal and 125 inches from the Pipe Line Canal (Weatherby Spring).

3. The 10.78 acre parcel was split into a 6.03 acre parcel and a 4.75 acre parcel. In 1991, the Kings conveyed the 6.03 acre parcel to George and Genevieve Stringer. In the addendum to the deed between King and Stringer, 125 inches of the Pipe Line Canal water is included in the conveyance. In 1993, the Stringers then conveyed the parcel to Tzanakakis. The deed between Stringer and Tzanakakis conveyed all the 125 inches of Weatherby Spring water.

4. Although all 125 inches of Weatherby water was transferred from Stringer to Tzanakakis for the 6.03 acres, there was never a transfer under I.C. § 42-222 of the Weatherby Spring water off of the 4.75 acre parcel retained by the Kings.

5. In 1992, the entire 4.75 acre parcel was conveyed from King to Warren and Mary Atkinson. The Atkinsons then divided that parcel into two parcels. William Shappee was deeded a 2.45 acre parcel, and Charles Shappee was deeded a 2.27 acre parcel.¹

II. STANDARD OF REVIEW

A motion for summary judgment shall be rendered if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. I.R.C.P. 56(c); *Olsen v. J.A. Freeman Co.*, 117 Idaho 706, 791 P.2d 1285 (1990). All controverted facts are liberally construed in favor of the nonmoving party. *Tusch Enterprises v. Coffin*, 113 Idaho 37, 740 P.2d 1022 (1987). The burden at all times is upon the moving party to prove the absence of a genuine issue of material fact. *Petricevich v. Salmon River Canal Company*, 92 Idaho 865, 452 P.2d 362 (1969). The moving party's case must be anchored on something more than speculation, and a mere scintilla of evidence is not enough to create a genuine issue. *R.G. Nelson, A.I.A. v. M. L. Steer*, 118 Idaho 409, 797 P.2d 117 (1990). If the record contains conflicting inferences or if reasonable minds might reach different conclusions, summary judgment must be denied. *Kline v. Clinton*, 103 Idaho 116, 645 P.2d 350 (1982). All doubts are to be resolved against the moving party, and the motion must be denied if the evidence is such that conflicting inferences may be drawn therefrom and if reasonable people might reach different conclusions. *Doe v. Durtschi*, 110 Idaho 466, 716 P.2d 1238 (1986).

The Director's Report constitutes *prima facie* evidence of the water right. I.C. § 42-1411(4). When a party relies on the Director's Report, that party is relieved from offering any facts in support of the summary judgment motion. Giving evidence *prima facie* status confers a presumption that sufficient proof has been made to prevail on an issue absent competent evidence to the contrary. *State v. Hagerman Water Right Owners (24 Hagerman Subcases)*, 130 Idaho 736, 746, 947 P.2d 409 (1997). On summary judgment, the party opposing any element in the Director's Report has the burden of raising an issue of material fact in order to defeat summary

¹ The total acres reflected here is off by .03 acres.

judgment. I.C. § 42-1411(5). Presumptions may support either the moving or nonmoving party on summary judgment. *See, e.g., Olsen v. J.A. Freeman Co.*, 117 Idaho 706, 791 P.2d 1285 (1990); *In the Matter of Estate of Keeven*, 126 Idaho 290, 882 P.2d 457 (1994).

IV. DECISION

Tzanakakis claims all water from Weatherby Spring. The basis of this claim is that the water from Weatherby Spring was conveyed to them by deed. However, Tzanakakis conceded during oral argument that there was never any proceeding instigated transferring the Weatherby Springs water off of the 4.75 acres which was ultimately deeded to the Shappees.

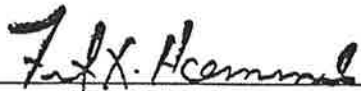
Under I.C. § 42-222, water right owners must make an application to the Idaho Department of Water Resources (IDWR) prior to changing the place of use. The purpose of proceedings under I.C. § 42-222 is to determine whether any junior rights are injured by a proposed change in place use. Furthermore, when a right is transferred, the use of the right must be examined to determine whether the use of the right constitutes a reasonable use of water. *See e.g., Pueblo West Metropolitan District v. Southeastern Colorado Water Conservancy District*, 717 P.2d 955, 958 (Colo. 1986) (the quantity for any water right is subject to reevaluation when the right is voluntarily submitted for a transfer). Here, there is no material issue of fact that the 125 inches of Weatherby Spring water was deeded to Tzanakakis. However, the change in use could constitute an injury to other users and the increased quantity of water used on a smaller parcel of land may not be a reasonable use of water.

For these reasons, the *Motion for Summary* is DENIED. All proceedings in this subcase are stayed. During the stay, Tzanakakis may file an application for a transfer under I.C. § 42-222. If the transfer does not cause injury, then the conveyances described in the deeds should be respected. *See e.g., Federal Land Bank of Spokane v. Union Central Life Insurance Company*, 490 Idaho 51, 6 P.2d 486 (1931) ("Plaintiff could bring action to quiet title to water allegedly transferred from defendant's ranch to plaintiff's ranch when both were owned by the same predecessor, notwithstanding predecessor never sought statutory authority to change appurtenacy"). In other words, even if King, as the predecessor in interest for all the parties involved in these water rights, failed to seek a transfer under I.C. § 42-222, that would not prevent Tzanakakis from bringing an action to quiet title to the water involved. *Id.* at 494.

Tzanakakis must file his application for transfer under I.C. 42-222 prior to June 24, 1999. If Tzanakakis does not file an application during this time period, the court will immediately set this matter for trial.

IT IS ORDERED that Trial set in the above subcases for June 2, 1999, is **vacated**.

DATED this 27 day of May, 1999.


FRITZ X. HAEMMERLE, Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

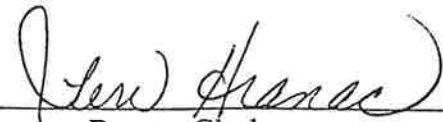
I certify that a true and correct copy of the *Order Denying Motions for Summary Judgment; Staying Subcases Pending I.C. § 42-222 Transfer; and Vacating Trial* was mailed on May 27, 1999, with sufficient first-class postage prepaid as follows:

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

Thomas Arkoosh
John James
733 4th Ave E
Gooding, ID 83330

William Shappe
PO Box 358
Hagerman, ID 83332

Charles & Brenda Shappee
PO Box 663
Bellevue, ID 83313


Deputy Clerk

Attachment

A-2

WARRANTY DEED

For Value Received GEORGE LARAE STRINGER, a married man, and LOA STRINGER, an unmarried woman, as to an undivided one-half interest, dealing as their sole and separate property, and GENEVIEVE R. STRINGER, an unmarried woman, as to an undivided one-half interest
 Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto NIKO A. TEANAKAKIS and GWENDOLYN PEARSON TEANAKAKIS, husband and wife whose address is: 4201 2nd Avenue, Sacramento, CA 95817

Hereinafter called the Grantee, the following described premises situated in GOODING County, Idaho, to-wit:

SEE ATTACHED EXHIBIT "A"
 (containing one page)

153693

STATE OF IDAHO COUNTY OF GOODING

Filed for record at the request of Land Title & Escrow Inc.on 20 day of Aug, 1993, at 11 o'clock A.M. this 12of 1993

JOHN A. MYERS, Recorder

By [Signature] Deputyfor Loa

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

Dated: August 4, 1993

[Signature]
 George Larae Stringer

[Signature]
 Loa Stringer

[Signature]
 Genevieve R. Stringer

Genevieve R. Stringer

STATE OF IDAHO, COUNTY OF GOODING
 On this 10th day of August, 1993,
 before me, a notary public in and for said State, personally appeared
 George Larae Stringer and
 Genevieve R. Stringer

known to me to be the persons whose names are
 subscribed to the within instrument, and acknowledged
 to me that they executed the same.

[Signature]
 Notary Public
 Residing at Gooding
 Commission expires 2-18-1999

STATE OF UTAH, COUNTY OF Washington
 On this 5th day of August, 1993, before me
 a notary public in and for said State, personally
 appeared Loa Stringer known to me to
 be the person whose name is subscribed to the
 within instrument, and acknowledged to me
 that she executed the same.

[Signature]
 Notary Public
 Residing at
 Commission Expires

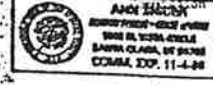


EXHIBIT "A"

TOWNSHIP 7 SOUTH, RANGE 13, EAST OF THE BOISE MERIDIAN,
GOODING COUNTY, IDAHO

Section 27: A tract of land in the N1/4, described as follows:

Beginning at the Northeast corner of said Section 27;

Thence South 328.93 feet along the East line of said Section 27, to THE TRUE POINT OF BEGINNING;

Thence continuing South, 361.57 feet;

Thence South 89°18' West, 761.15 feet;

Thence North 13°42' East, 371.35 feet;

Thence North 89°08' East, 673.11 feet to THE TRUE

POINT OF BEGINNING.

TOGETHER WITH all water and water rights, ditches and ditch rights used thereon or appurtenant thereto, including but not limited to 125" from Pipe Line Canal.

SUBJECT TO THE FOLLOWING:

All reservations in patents or deeds in the chain of title.

Taxes for 1993 and subsequent years, which are not yet due and payable.

Assessments levied or to be levied by the Gooding County Solid Waste Department.

Assessments of the Big Bend Ditch Irrigation Company.

Assessments levied or to be levied by a local irrigation district.

Easement for conducting through ditch, pipelines and flume from Jones Springs as contained in Agreement dated April 25, 1918, recorded July 21, 1919 in Book 2 Page 47 as Instrument Number 20006, Gooding County records, and Deed dated June 10, 1919, recorded September 26, 1919 in Book 12 Page 172 as Instrument Number 20660, Gooding County records.

Rights and restrictions for use of an irrigation ditch as contained in Decree in the case of Buckeye Ranch Company, Limited, a corporation, Plaintiff, vs. Edward Thompson, et al., Defendants, dated December 1, 1919, recorded December 3, 1919 in Book 3 Page 299, Gooding County records.

Power Line Easement given by Dale Cady and Verne Cady, husband and wife, to Idaho Power Company, a corporation, dated August 31, 1945, recorded October 22, 1945 in Book 5 Page 602 as Instrument Number 94510, Gooding County records, affecting a portion of Section 27, Township 7 South, Range 13, East Boise Meridian.

Power Line Easement given by Herbert T. King and Marian E. King, husband and wife, dated May 18, 1979, recorded August 27, 1979 as Instrument Number 78497, Gooding County records, affecting a portion of Section 27, Township 7 South, Range 13, East Boise Meridian.

Subject to the unpaid balance of one certain Deed of Trust given by George M. Stringer and Genevieve R. Stringer, husband and wife, to Land Title and Escrow, Inc., as Trustee, for the benefit of Marian E. King, an unmarried woman, dated January 2, 1991, recorded January 2, 1991 as Instrument Number 143221, Gooding County records, which the grantees agree to assume and pay.



For Value

hereinafter

Darryl T. King
a single man

hereinafter

the following

Lots 5
subdivided
Records

TO HAVE A
Grant, to and with
premises, taxes, levies,
assessments of
warrant and

Dated:

John A. King

STATE OF IDAHO

COUNTY OF GOODING

On and for
or identical
Instrument

STATE OF IDAHO

COUNTY OF GOODING

On and for
to be the
attorney-in-fact of

Post-It* Fax Note	7671	Date	6-1-99	# of pages	4
To	STEVE CLELLAND				
Co./Dept.	From NICK SPENKER				
Phone #	Co.				
Fax #	Phone #				
	Fax #				

RECEIVED

JUN - 1 1999

Department of Water Resources

 1999 JUN 27 AM 9:46
 DISTRICT COURT - SRBA
 TWIN FALLS CO. IDAHO

RECEIVED

JUN 01 1999

Department of Water Resources
Southern Region

**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

 Subcases: 36-00033G, 36-00033H,
36-00033J, and 36-00033K

 ORDER DENYING MOTIONS FOR
SUMMARY JUDGMENT; STAYING
SUBCASES PENDING I.C. § 42-222
TRANSFER; AND VACATING TRIAL

I. PROCEDURAL AND FACTUAL BACKGROUND

This matter is before the court on a *Motion for Summary Judgment* filed by Niko and Gwendolyn Tzanakakis, claimants in water right 36-00033H. Tzanakakis claims all water delivered from Weatherby Spring. The material facts relevant for this motion are as follows:

1. Water right 36-00033G was split into three water rights. Niko and Gwendolyn Tzanakakis are the claimants in water right 36-00033H. William Shappee is the claimant in water right 36-00033J. Charles Shappee is the claimant in water right 36-00033K.

2. All the property where the previously mentioned water rights are currently appurtenant originally belonged to Herbert and Marian King. The original parcel was 10.78 acres. The entire parcel was served by 10 inches of water out of the Big Bend Canal and 125 inches from the Pipe Line Canal (Weatherby Spring).

3. The 10.78 acre parcel was split into a 6.03 acre parcel and a 4.75 acre parcel. In 1991, the Kings conveyed the 6.03 acre parcel to George and Genevieve Stringer. In the addendum to the deed between King and Stringer, 125 inches of the Pipe Line Canal water is included in the conveyance. In 1993, the Stringers then conveyed the parcel to Tzanakakis. The deed between Stringer and Tzanakakis conveyed all the 125 inches of Weatherby Spring water.

4. Although all 125 inches of Weatherby water was transferred from Stringer to Tzanakakis for the 6.03 acres, there was never a transfer under I.C. § 42-222 of the Weatherby Spring water off of the 4.75 acre parcel retained by the Kings.

5. In 1992, the entire 4.75 acre parcel was conveyed from King to Warren and Mary Atkinson. The Atkinsons then divided that parcel into two parcels. William Shappee was deeded a 2.45 acre parcel, and Charles Shappee was deeded a 2.27 acre parcel.¹

II. STANDARD OF REVIEW

A motion for summary judgment shall be rendered if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. I.R.C.P. 56(c); *Olsen v. J.A. Freeman Co.*, 117 Idaho 706, 791 P.2d 1285 (1990). All controverted facts are liberally construed in favor of the nonmoving party. *Tusch Enterprises v. Coffin*, 113 Idaho 37, 740 P.2d 1022 (1987). The burden at all times is upon the moving party to prove the absence of a genuine issue of material fact. *Petricevich v. Salmon River Canal Company*, 92 Idaho 865, 452 P.2d 362 (1969). The moving party's case must be anchored on something more than speculation, and a mere scintilla of evidence is not enough to create a genuine issue. *R.G. Nelson, A.I.A. v. M. L. Steer*, 118 Idaho 409, 797 P.2d 117 (1990). If the record contains conflicting inferences or if reasonable minds might reach different conclusions, summary judgment must be denied. *Kline v. Clinton*, 103 Idaho 116, 645 P.2d 350 (1982). All doubts are to be resolved against the moving party, and the motion must be denied if the evidence is such that conflicting inferences may be drawn therefrom and if reasonable people might reach different conclusions. *Doe v. Durtschi*, 110 Idaho 466, 716 P.2d 1238 (1986).

The Director's Report constitutes *prima facie* evidence of the water right. I.C. § 42-1411(4). When a party relies on the Director's Report, that party is relieved from offering any facts in support of the summary judgment motion. Giving evidence *prima facie* status confers a presumption that sufficient proof has been made to prevail on an issue absent competent evidence to the contrary. *State v. Hagerman Water Right Owners (24 Hagerman Subcases)*, 130 Idaho 736, 746, 947 P.2d 409 (1997). On summary judgment, the party opposing any element in the Director's Report has the burden of raising an issue of material fact in order to defeat summary

¹ The total acres reflected here is off by .03 acres.

judgment. I.C. § 42-1411(5). Presumptions may support either the moving or nonmoving party on summary judgment. *See, e.g., Olsen v. J.A. Freeman Co.*, 117 Idaho 706, 791 P.2d 1285 (1990); *In the Matter of Estate of Keeven*, 126 Idaho 290, 882 P.2d 457 (1994).

IV. DECISION

Tzanakakis claims all water from Weatherby Spring. The basis of this claim is that the water from Weatherby Spring was conveyed to them by deed. However, Tzanakakis conceded during oral argument that there was never any proceeding instigated transferring the Weatherby Springs water off of the 4.75 acres which was ultimately deeded to the Shappees.

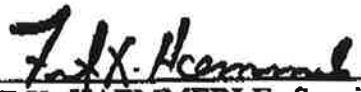
Under I.C. § 42-222, water right owners must make an application to the Idaho Department of Water Resources (IDWR) prior to changing the place of use. The purpose of proceedings under I.C. § 42-222 is to determine whether any junior rights are injured by a proposed change in place use. Furthermore, when a right is transferred, the use of the right must be examined to determine whether the use of the right constitutes a reasonable use of water. *See e.g., Pueblo West Metropolitan District v. Southeastern Colorado Water Conservancy District*, 717 P.2d 955, 958 (Colo. 1986) (the quantity for any water right is subject to reevaluation when the right is voluntarily submitted for a transfer). Here, there is no material issue of fact that the 125 inches of Weatherby Spring water was deeded to Tzanakakis. However, the change in use could constitute an injury to other users and the increased quantity of water used on a smaller parcel of land may not be a reasonable use of water.

For these reasons, the *Motion for Summary* is DENIED. All proceedings in this subcase are stayed. During the stay, Tzanakakis may file an application for a transfer under I.C. § 42-222. If the transfer does not cause injury, then the conveyances described in the deeds should be respected. *See e.g., Federal Land Bank of Spokane v. Union Central Life Insurance Company*, 490 Idaho 51, 6 P.2d 486 (1931) ("Plaintiff could bring action to quiet title to water allegedly transferred from defendant's ranch to plaintiff's ranch when both were owned by the same predecessor, notwithstanding predecessor never sought statutory authority to change appurtenacy"). In other words, even if King, as the predecessor in interest for all the parties involved in these water rights, failed to seek a transfer under I.C. § 42-222, that would not prevent Tzanakakis from bringing an action to quiet title to the water involved. *Id.* at 494.

Tzanakakis must file his application for transfer under I.C. 42-222 prior to June 24, 1999. If Tzanakakis does not file an application during this time period, the court will immediately set this matter for trial.

IT IS ORDERED that Trial set in the above subcases for June 2, 1999, is vacated.

DATED this 27 day of May, 1999.


FRITZ X. HAEMMERLE, Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the *Order Denying Motions for Summary Judgment; Staying Subcases Pending I.C. § 42-222 Transfer; and Vacating Trial* was mailed on May 27, 1999, with sufficient first-class postage prepaid as follows:

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

Thomas Arkoosh
John James
733 4th Ave E
Gooding, ID 83330

William Shappe
PO Box 358
Hagerman, ID 83332

Charles & Brenda Shappee
PO Box 663
Bellevue, ID 83313


Deputy Clerk

MEMO

FROM: Allen Merritt 
TO: Transfer File No. 5613
In the name of: Niko & Gwendolyn Tzanakakis

DATE: August 24, 2000

Water Right(s): 36-00033G split into H, J & K

SUBJECT: **Review and Recommendation**

The transfer was filed as a result of disputes in the SRBA. The transfer was protested by Dale Shappee but at issue was also William Shappee's interest. William is Dale's father. A conference was held and an agreement was ultimately finalized after several gyrations.

The agreement settles the SRBA issues and the protest. As a result Tzanakakis gets 0.24 cfs under H. William Shappee gets 0.01 cfs under J. Dale Shappee gets nothing and withdraws his claim K. The rights are subject to the agreement. It is further noted that the Tzanakakis right acreage is resolved to be 5.7 acres as shown in the shape file included in the file.

The watermaster is not opposed to the transfer.

Recommendation

I recommend that this transfer be approved subject to the following conditions:

- Subject to Agreement.
- Subject to watermaster of District 36-A.
- Subject to SRBA.
- Maintain diversion control works and measuring device at point of diversion.
- Right 36-00033H for 0.24 cfs for irrigation of 5.7 acres.
- Right 36-00033J for 0.01 cfs for irrigation of ¼ acre.
- Right 36-00033K is void or withdrawn.
- Water is diverted from Weatherby Springs through Bar S Ditch, Curren Ditch & North Pipeline to the Share Ditch.
- When rights are combined with other right they are limited to what can be beneficially used.
- When right 36-00033H is combined with 36-08158 total acres irrigated limited to 5.7 acres.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

August 21, 2000

JOSEPH F JAMES
ARKOOSH LAW OFFICES
PO BOX 32
GOODING ID 83330

Re: Application for Transfer No. 5613 (36-00033G)

Dear Mr. James:

This office acknowledges receipt of the Settlement Agreement on behalf of Mr. & Mrs. Tzanakakis regarding the above referenced application.

Since the issue of the protest has been resolved, the Department is now prepared to proceed with the normal processing of the application which includes regional review prior to being forwarded to our State Office.

The Department will continue review of the application without further contact with the parties unless information is requested.

Please feel free to contact this office if you have any questions regarding this procedure.

Very truly yours,

Allen D. Merritt, P.E.

Southern Region Manager

AM:mb

Cc:
NIKO TZANAKAKIS &/OR
GWENDOLYN TZANAKAKIS
2809-A SOUTH 900 E
HAGERMAN ID 83332

CHARLES DALE SHAPPEE
158 RIVERVIEW DR
BELLEVUE ID 83313

Arkoosh Law Offices
Chartered

POST OFFICE BOX 32
301 MAIN STREET
GOODING, IDAHO 83330

C. TOM ARKOOSH, ESQ.
JOSEPH F. JAMES, ESQ.
GERI L. BRENNAN, PARALEGAL
S. GALENE TAYLOR, PARALEGAL

RECEIVED

AUG 18 2000

**Department of Water Resources
Southern Region**

TELEPHONE: (208) 934-8872
FACSIMILE: (208) 934-8873
E-MAIL: alo@micron.net

August 17, 2000

Allen Merritt
Idaho Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, Idaho 83301-3380

Via facsimile 208-736-3037
Original to follow via U.S. Mail

Re: Transfer Application No. 5116

Dear Allen:

Please find enclosed a copy of the Agreement in this matter, which has been signed by all parties. We anticipate proceeding forward on the transfer application.

If you have any questions, please feel free to call.

Sincerely,

ARKOOSH LAW OFFICES, CHTD.

Transcribed and sent in Mr. James'
absence to avoid delay.

Joseph F. James

JFJ/sal
Enclosure
cc: Client
William Shappee
Dale and Brenda Shappee

AGREEMENTRECEIVED
AUG 18 2000Department of Water Resources
Southern Region

This Agreement, made and entered, this 14 ^{June} day of ~~May~~, 2000, by and between William Shappee, Charles Dale Shappee and Brenda S. Shappee, husband and wife and Niko A. Tzanakakis and Gwendolyn P. Tzanakakis, [Tzanakakis] husband and wife,

WHEREAS, the following:

1. Water Right No. 36-00033G was a right to .25 cfs of water from Weatherby Springs and delivered through the Pipe Line Canal and Share Ditch.
2. The Idaho Department of Water Resources [IDWR] recommended Water Right No. 36-00033G be split into three separate water rights and be redesignated Water Right No. 36-00033H, Water Right No. 36-00033J, and Water Right No. 36-00033K.
3. The Tzanakakis are claimants in the Snake River Basin Adjudication [SRBA] of Water Right No. 36-00033G, objecting to the split thereof, and claimants of resulting Water Right No. 36-00033H.
4. William Shappee is the claimant in the SRBA of resulting Water right No. 36-00033J.
5. Charles Dale Shappee and Brenda S. Shappee are the claimants in the SRBA of resulting Water Right No. 36-00033K.
6. The Special Master in the SRBA held that there was no genuine issue of fact that the subject water was deeded to the Tzanakakis and stayed all proceedings in the SRBA in order for the Tzanakakis to file an application for transfer with the IDWR.
7. The Tzanakakis filed an application for transfer with IDWR on June 11, 1999, seeking to recombine the three water rights back into Water Right 36-00033G and to change the place of use of said right.
8. Charles Dale Shappee protested the Tzanakakis application for transfer.

- May-19-00 2:14PM; Page 3/6
9. The parties hereto are desirous of settling their differences and reaching full settlement and compromise.

NOW THEREFORE, in and for consideration of the premises and the material covenants and agreements herein contained, the parties agree as follows:

10. That the Tzanakakis will not object to Water Right No. 36-00033J in the name of William Shappee being allowed to retain a quantity of water in the total amount of .01 cfs.
11. That William Shappee, Charles Dale Shappee and Brenda S. Shappee will withdraw all claims and will not assert claims in the future, other than a claim to Water Right No. 36-00033J as described in paragraph 10 of this Agreement, to water from Weatherby Springs as delivered through the Share Ditch.
12. That the purpose of use for Water Right No. 36-00033J shall include stock water and irrigation with the total amount of diversion for combined use not to exceed the quantity of water retained in Water Right No. 36-00033J.
13. That the place of use of Water Right No. 36-00033J for irrigation shall be limited to a .25 acre parcel within Gooding County located in the Northeast quarter of the Northeast quarter of Township 07S, Range 13E, Section 7.27
14. That William Shappee may place a diversion in the Share Ditch capable of diverting no more than the .01 cfs of water retained in Water Right No. 3600033J, as adjusted to .05 cfs pursuant to a five-day rotation with other users of the Share Ditch.
15. That William Shappee, Charles Dale Shappee, and Brenda S. Shappee shall remove all diversions from the Share Ditch located on their respective parcels of Real Property other than the diversion mentioned in paragraph 14 of this Agreement.
16. That William Shappee and the Tzanakakis will divert and water in their rotation on the same day and the Tzanakakis will allow sufficient water to pass down the Share Ditch in order for William Shappee to divert the water retained in Water Right No. 3600033J.

17. That Charles Dale Shappee shall dismiss his protest filed with the Idaho Department of Water Resources in the Matter of Application for Transfer No. 5613.
18. That the parties hereto shall cooperate with and abide by the rules promulgated by the users of the Share Ditch.
19. This Agreement shall be effective as of the day and year first above written, and this Agreement shall be binding upon the parties hereto and their respective heirs, personal representatives, and assigns.

DATED this 15 day of ^{Aug}~~May~~, 2000.

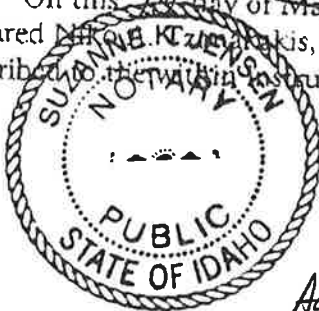

Niko A. Tzanakakis

STATE OF IDAHO

) SS_

County of Gooding

On this 16 day of May, in the year of 2000, before me, a notary public, personally appeared Nikola K. Zerkakis, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.



Joseph A. Jensen
Notary Public for Idaho
Residing at: Hagerman, Idaho
My Commission Expires: 08/04/2004

DATED this 15 day of ^{AUG}~~May~~, 2000.

Gwendolyn Iznakakis
Gwendolyn Iznakakis

STATE OF IDAHO

) 55.

County of Gooding

On this 15 day of May, in the year of 2000, before me, a notary public, personally appeared Gwendolyn Tzanakakis, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.



Jessie K. Jensen
Notary Public for Idaho
Residing at: Hagerman, Idaho
My Commission Expires: 08/04/2014

DATED this 14th day of June, 2000.

William B Shappee
William Shappee

STATE OF IDAHO)

) ss.

County of Gooding)

On this 14th day of June, in the year of 2000, before me, a notary public, personally appeared William Shappee, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.



Stacey Clark
Notary Public for Idaho
Residing at: Haarman, ID 83332
My Commission Expires: 1-14-2005

DATED this 6 day of June, 2000.

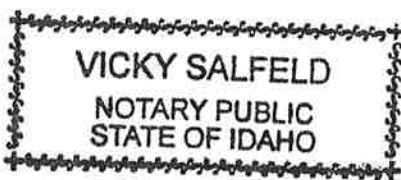
Charles D Shappee
Charles Dale Shappee

STATE OF IDAHO)

) ss.

County of Blaine)
~~Gooding~~

On this 6 day of June, in the year of 2000, before me, a notary public, personally appeared Charles Dale Shappee, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.



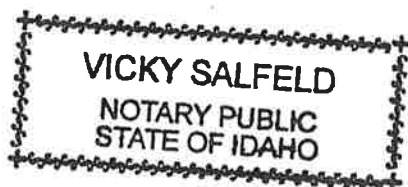
Vicky Salfeld
Notary Public for Idaho
Residing at: Haarman, ID
My Commission Expires: 7-26-2000

DATED this 6 day of ^{June}~~May~~, 2000.

Brenda S. Shappee
Brenda S. Shappee

STATE OF IDAHO)
County of ^{Blaine}~~Gooding~~) ss.

On this 6 day of ^{June}~~May~~, in the year of 2000, before me, a notary public, personally appeared Brenda S. Shappee, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.



Vicky Salfeld
Notary Public for Idaho
Residing at: Hailey, ID
My Commission Expires: 7-26-2000

Instrument # 187067

GOODING GOODING, IDAHO

2000-08-16 10:49:44 No. of Pages: 5

Recorded for : NIKO A. TZANAKAKIS

HELEN EDWARDS Fee: 15.00

Ex-Officio Recorder Deputy [Signature]

Index to: AGREEMENT

Arkoosh Law Offices
Chartered

POST OFFICE BOX 32
301 MAIN STREET
GOODING, IDAHO 83330

C. TOM ARKOOSH, ESQ.
JOSEPH F. JAMES, ESQ.
GERI L. BRENNAN, PARALEGAL
S. GALENE TAYLOR, PARALEGAL

RECEIVED

JUL 07 2000

**Department of Water Resources
Southern Region**

TELEPHONE: (208) 934-8872
FACSIMILE: (208) 934-8873
E-MAIL: alo@micron.net

July 6, 2000

Allen Merritt
Idaho Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, Idaho 83301-3380

Via facsimile 208-736-3037
Original to follow via U.S. Mail

Re: Niko and Gwendolyn Tzanakakis

Dear Allen:

Please find enclosed a copy of the Agreement which has been signed by the Shappees. Our office did not receive the signed Agreement until June 19, 2000, at which time we were unable to contact Mrs. Tzanakakis prior to her leaving on an extended vacation in Pasadena, California. Mrs. Tzanakakis is going to forward information as to where she can be reached in California.

In the meantime, we will proceed to prepare a synopsis of the subject water right to aid IDWR in its evaluation of the transfer application.

If you have any questions, please feel free to call.

Sincerely,

ARKOOSH LAW OFFICES, CHTD.


Joseph F. James

JFJ/sal
Enclosure
cc: Client

RECEIVED

JUL 07 2000

Department of Water Resources
Southern Region

AGREEMENT

COPY

This Agreement, made and entered, this ____ day of May, 2000, by and between William Shappee, Charles Dale Shappee and Brenda S. Shappee, husband and wife and Niko A. Tzanakakis and Gwendolyn P. Tzanakakis, [Tzanakakis] husband and wife,

WHEREAS, the following:

1. Water Right No. 36-00033G was a right to .25 cfs of water from Weatherby Springs and delivered through the Pipe Line Canal and Share Ditch.
2. The Idaho Department of Water Resources [IDWR] recommended Water Right No. 36-00033G be split into three separate water rights and be redesignated Water Right No. 36-00033H, Water Right No. 36-00033J, and Water Right No. 36-00033K.
3. The Tzanakakis are claimants in the Snake River Basin Adjudication [SRBA] of Water Right No. 36-00033G, objecting to the split thereof, and claimants of resulting Water Right No. 36-00033H.
4. William Shappee is the claimant in the SRBA of resulting Water right No. 36-00033J.
5. Charles Dale Shappee and Brenda S. Shappee are the claimants in the SRBA of resulting Water Right No. 36-00033K.
6. The Special Master in the SRBA held that there was no genuine issue of fact that the subject water was deeded to the Tzanakakis and stayed all proceedings in the SRBA in order for the Tzanakakis to file an application for transfer with the IDWR.
7. The Tzanakakis filed an application for transfer with IDWR on June 11, 1999, seeking to recombine the three water rights back into Water Right 36-00033G and to change the place of use of said right.
8. Charles Dale Shappee protested the Tzanakakis application for transfer.

9. The parties hereto are desirous of settling their differences and reaching full settlement and compromise.

NOW THEREFORE, in and for consideration of the premises and the material covenants and agreements herein contained, the parties agree as follows:

10. That the Tzanakakis will not object to Water Right No. 36-00033J in the name of William Shappee being allowed to retain a quantity of water in the total amount of .01 cfs.
11. That William Shappee, Charles Dale Shappee and Brenda S. Shappee will withdraw all claims and will not assert claims in the future, other than a claim to Water Right No. 36-00033J as described in paragraph 10 of this Agreement, to water from Weatherby Springs as delivered through the Share Ditch.
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18. That the parties hereto shall cooperate with and abide by the rules promulgated by the users of the Share Ditch.
19. This Agreement shall be effective as of the day and year first above written, and this Agreement shall be binding upon the parties hereto and their respective heirs, personal representatives, and assigns.

DATED this ____ day of May, 2000.

STATE OF IDAHO)
) ss.
 County of Gooding)

 Niko A. Tzanakakis

On this ____ day of May, in the year of 2000, before me, a notary public, personally appeared Niko A. Tzanakakis, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

 Notary Public for Idaho
 Residing at: _____
 My Commission Expires: _____

DATED this ____ day of May, 2000.

STATE OF IDAHO)
) ss.
 County of Gooding)

 Gwendolyn Tzanakakis

On this ____ day of May, in the year of 2000, before me, a notary public, personally appeared Gwendolyn Tzanakakis, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

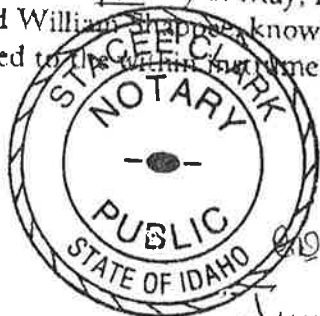
 Notary Public for Idaho
 Residing at: _____
 My Commission Expires: _____

DATED this 14th ^{June} day of ~~May~~, 2000.

William B Shappee
William Shappee

STATE OF IDAHO)
) ss.
County of Gooding)

On this 14th ^{June} day of ~~May~~, in the year of 2000, before me, a notary public, personally appeared William Shappee, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.



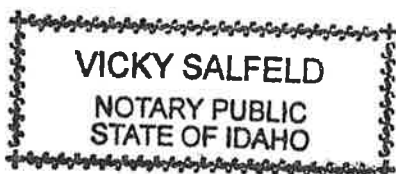
Stacy Clark
Notary Public for Idaho
Residing at: Hagerman, ID 83332
My Commission Expires: 1-14-2005

DATED this 6 ^{June} day of ~~May~~, 2000.

Charles D Shappee
Charles Dale Shappee

STATE OF IDAHO)
) ss.
County of ^{Blaine} ~~Gooding~~)

On this 6 ^{June} day of ~~May~~, in the year of 2000, before me, a notary public, personally appeared Charles Dale Shappee, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.



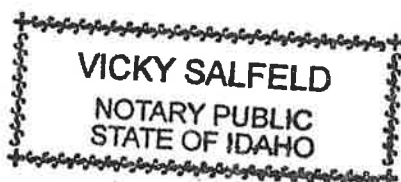
Vicky Salfeld
Notary Public for Idaho
Residing at: Hartley, Id
My Commission Expires: 7-26-2000

DATED this 6 day of ^{June}~~May~~, 2000.

Brenda S. Shappee
Brenda S. Shappee

STATE OF IDAHO)
County of ^{Blaine}~~Crook~~) ss.

On this 6 day of ^{June}~~May~~, in the year of 2000, before me, a notary public, personally appeared Brenda S. Shappee, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.



Vicky Salfeld
Notary Public for Idaho
Residing at: Hawley, ID
My Commission Expires: 7-26-2000