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FEB 14 2019

DEPARTMENT OF
WATER RESOURCES

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

In Re CSRBA)

Case No. 49576)

A. Subcase 95-17513

(Insert water right number)

STANDARD FORM 1
OBJECTION

Please print or type the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Varela Family Trust

Address: 7919 S Hilby Rd.

Spokane, WA 99223

Daytime Phone: 509-990-0707

Name & Address of Attorney, if any:

Candice McHugh, McHugh Bromley

380 S 4th St., Ste 103

Boise, ID 83704

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

Name: Chris Varela

Address: 5803 W Riverview Dr.

Coeur d'Alene, ID 83814

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

1. ☒ **Name and Address**
Should be: SPLIT - SEE ATTACHED
2. ☐ **Source**
Should be: _____
3. ☒ **Quantity**
Should be: 0.03 CFS
4. ☐ **Priority Date**
Should be: _____
5. ☒ **Point of Diversion**
Should be: _____
6. ☐ **Instream Flow Beginning and Ending Point**
Should be: _____
7. ☒ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☒ **Place of Use**
Should be: SPLIT - SEE ATTACHED
10. ☐ **General Provision** ☐ Individual Water Right ☐ All Water Rights
☐ Should not be recommended.

☐ This general provision was not recommended but should be recommended as described below.
Should be: _____

☐ General provision was recommended but should be modified as described below.
Should be: _____

11. ☐ I object because the recommendation contains an accomplished transfer under Idaho Code § 42-1425 resulting in injury to my water right(s) and/or enlargement of the original right.

12. ☒ I object because:

☒ This water right should not exist. The Claimant does not own the full place of use or the well location. See attachment.

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

E. REASONS SUPPORTING OBJECTION(S): see attachment

The Claimant uses the well for commercial operation of an event venue which is not an authorized use under a small domestic residential water right. The Claimant does not own nor is authorized by the owner to seek a water right for Parcel No. 50N04W097000.

(Signature of person filing objection)

Canalia M. Hughes

(Attorney signing in representative capacity)

INSTRUCTIONS FOR MAILING

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

F. CERTIFICATE OF MAILING

I certify that on 2/14, 20 19, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to: Clerk of the District Court
Coeur d'Alene-Spokane 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: Chris Varela

Address: 5803 W Riverview Dr.
Coeur d'Alene, ID 83814

3. Copies to:

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

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

Chief, Natural Resources Division
Office of Attorney General
State of Idaho
PO Box 83720
Boise, ID 83720-0010



Signature of Objector or attorney
mailing on Objector's behalf

ATTACHMENT
OBJECTION TO WATER RIGHT 95-17513

E. REASONS SUPPORTING OBJECTIONS (SEE ATTACHED DOCUMENTATION)

1. NAME AND ADDRESS: SPLIT OWNERSHIP

Claimant does not own and has never owned parcel no. 50N04W097000. This parcel is solely owned by The Varela Family Trust and the Claimant had no authority to apply for a water right on the Trust property. See attached certification by The Trust's legal counsel and authorization of Trustee for Water Rights Matters. The Trust objects to the claimant's incorrect statement on the Notice of Claim that he owns this parcel and therefore requests that the water right be split between the two parcels.

3. QUANTITY: 0.03 CFS

Should be limited to 0.03 cfs for domestic residential use for each parcel.

4. PRIORITY DATE: IS FOR RESIDENTIAL DOMESTIC USE ONLY

5. POINT OF DIVERSION: WELL LOCATION

The source claimed is a well located on the objecting party's property, Parcel 50N04W097000.

7. PURPOSE OF USE: RESIDENTIAL DOMESTIC USE ONLY

Use of water from the well is shared by the claimant's parcel and the Trust's parcel under a 1981 Agreement for Water.

The claimant now operates a significant event venue business known as Settler's Creek on the 10.1 acre parcel owned by him, parcel no. 50N04W096200 under a Kootenai County Conditional Use Permit for Commercial Resort (CUP 08-0004). The CUP allows up to 500 participants and onsite parking up to 200 cars. The claimant has stated that the venue hosts generally between 25-30 events per season. The 1981 agreement for shared use of the well pre-dates the claimant's 2008 conversion of the parcel to a Commercial Resort/Use. Water use by the claimant has resulted in the well being over drafted as evidenced by loss of water supply at the Trust owned residence on Parcel No. 50N04W097000. The Trust objects to the issuance of a residential water right for use from the Trust's well on the parcel on which the Settler's Creek event business is located for anything other than 1 residential home.

9. PLACE OF USE: SPLIT OWNERSHIP (SEE REASONS FOR 1. ABOVE)

January 28, 2019

Fifth Judicial District Court
Coeur d'Alene – Spokane River Basin Adjudication
Idaho Department of Water Resources

Re: Certification of Varela Family Trust

The undersigned serves as legal counsel for the Varela Family Trust, dated December 28, 1987, as amended and restated on April 6, 2007 ("Trust"), with such representation commencing in 2007.

As such, the undersigned opines to each of the following:

1. The Trust is the sole owner and taxpayer of real property consisting of approximately 140 acres of agricultural, pasture and forest land located in Kootenai County, Idaho (Parcel No. 50N04W09700), and other assets.
2. The Trustor, Elizabeth C. Varela, is surviving, and the other Trustor, M. R. Varela, is deceased.
3. The surviving Trustor, Elizabeth C. Varela, resigned as Trustee on April 24, 2008, and pursuant to a retained power, appointed each of her children as successor Trustees, namely, Monica Donegan, Mark J. Varela, Andrew A. Varela, Luke J. Varela, Peter M. Varela, and Christopher J. Varela. The six (6) children currently constitute the board of trustees for the Trust.
4. The Trust has not been revoked, modified, or amended in any manner that would cause the representations contained in this Certification of Trust to be incorrect.
5. Pursuant to Idaho law (I.C. § 68-109), a majority of the trustees is both required and sufficient to effectuate trust action. The authorization of Mark J. Varela, as Trustee, to act on behalf of the Trust in matters involving water and well rights on Trust real property, under the approval of a majority of the Trustees, is a valid Trust action, resulting in Mark J. Varela, as Trustee, having such authority to act on behalf of the Trust. Mark J. Varela's engineering background and experience with water systems of municipalities qualifies him to so serve the Trust in this regard.

Please contact the undersigned with any questions or if a copy of all or part of the Trust is required.

Very truly yours,



Terry M. Kelly
Lee & Hayes, PLLC
Email: TKelly@leehayes.com
Direct Line: (509) 944-4718

cc: Mark J. Varela, Trustee

**AUTHORIZATION OF TRUSTEE
OF
VARELA FAMILY TRUST
For Water Rights Matters**

The undersigned Trustees, constituting a majority of the Trustees of the VARELA FAMILY TRUST ("Trust"), dated December 28, 1987, and amended and restated on April 6, 2007 authorize the following resolution ("Authorization"):

RESOLVED, that Mark J. Varela, Trustee, is authorized and directed on behalf of the Varela Family Trust to execute and deliver documents and instruments in connection with water rights related to or potentially affecting land owned by the Trust or well owned by the Trust. Such documents and instruments shall include but not be limited to Notice of Claim(s) to a Water Right, Objections to Water Rights, Responses to Objections, Stipulated Elements to a Water Right, Notice to File Amended Notice of Claim, Motion to File a Late Notice of Claim, applications, and all related attachments, exhibits and documentation. This Authorization is granted solely to Mark J. Varela, as Trustee, and no other Trustee of the Trust is authorized to address the above-described matters on behalf of the Trust.

This Authorization may be executed in counterparts and the electronic delivery of a signature shall be legally sufficient to bind the Trust, the same as delivery of an original signature. Under Idaho law a majority of the below named Trustees are required to authorize the stated action.

x  7/31/18
Monica Donegan, Trustee Andrew A. Varela, Trustee

Date:

Date:

 x 
Mark J. Varela, Trustee Luke J. Varela, Trustee

Date: 7/31/18

Date:

x 
Peter M. Varela, Trustee Christopher J. Varela, Trustee

Date:

Date:

**AUTHORIZATION OF TRUSTEE
OF
VARELA FAMILY TRUST
For Water Rights Matters**

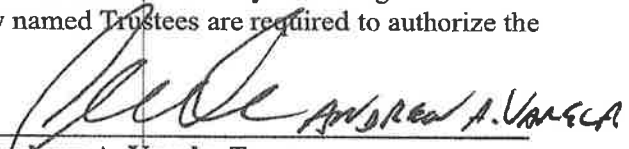
The undersigned Trustees, constituting a majority of the Trustees of the VARELA FAMILY TRUST ("Trust"), dated December 28, 1987, and amended and restated on April 6, 2007 authorize the following resolution ("Authorization"):

RESOLVED, that Mark J. Varela, Trustee, is authorized and directed on behalf of the Varela Family Trust to execute and deliver documents and instruments in connection with water rights related to or potentially affecting land owned by the Trust or well owned by the Trust. Such documents and instruments shall include but not be limited to Notice of Claim(s) to a Water Right, Objections to Water Rights, Responses to Objections, Stipulated Elements to a Water Right, Notice to File Amended Notice of Claim, Motion to File a Late Notice of Claim, applications, and all related attachments, exhibits and documentation. This Authorization is granted solely to Mark J. Varela, as Trustee, and no other Trustee of the Trust is authorized to address the above-described matters on behalf of the Trust.

This Authorization may be executed in counterparts and the electronic delivery of a signature shall be legally sufficient to bind the Trust, the same as delivery of an original signature. Under Idaho law a majority of the below named Trustees are required to authorize the stated action.

Monica Donegan, Trustee

Date: _____



Andrew A. Varela, Trustee

Date: 31 July, 2018

Mark J. Varela, Trustee

Date: _____

Luke J. Varela, Trustee

Date: _____

Peter M. Varela, Trustee

Date: _____

Christopher J. Varela, Trustee

Date: _____

