

08/29/2011

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

RIGHT NUMBER: 29-14000

NAME AND ADDRESS: ROWLANDS INC
1141 ROWLAND RD
POCATELLO ID 83204-7416

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.110 CFS
16.70 AFY

The rights listed below are limited to a total combined diversion rate of 0.11 cfs. Combined Right Nos.: 29-11278, 29-13956, and 29-14000.

PRIORITY DATE: 12/31/1976

This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.

POINT OF
DIVERSION:

T06S R34E S7 NWNE Lot 2 Within POWER County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
INDUSTRIAL	01/01 12/31	0.110 CFS 16.70 AFY
Industrial use is in a milk processing plant.		

PLACE OF USE: INDUSTRIAL in POWER County

T06S R34E S07 Lot 2 NWNE

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

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

This right is based upon an enlargement of Right No. 29-11278 pursuant to Section 42-1426, Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

The following rights are diverted through point of diversion described above: 29-4443, 29-11278, 29-13956, 29-13957, 29-13958, and 29-14000.

RECEIVED

SEP 02 2011

Department of Water Resources
Eastern Region

LATE CLAIM DIRECTOR'S REPORT

Subcase No. 29-14000

In Re SRBA

Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources
Gary Spackman, Interim Director
Carter Fritschle, Manager, Adjudication Section

August 31, 2011

DESCRIPTIVE SUMMARY

This is a Late Claim Director's Report submitted by the Interim Director of the Idaho Department of Water Resources.

DISCUSSION

Pursuant to Judge Eric Wildman's *Order Granting Late Notice of Claim; Order for Expedited Late Claim Director's Report and Setting Forth Procedures and Deadlines for Expedited Process* issued on August 17, 2011, the Interim Director submits the attached Late Claim Director's Report for filing with the Court.

A handwritten signature in dark ink, appearing to read "Carter Fritschle", is written over a horizontal line.

Carter Fritschle
Manager, Adjudication Section

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

RIGHT NUMBER: 29-14000

NAME AND ADDRESS: ROWLANDS INC
1141 ROWLAND RD
POCATELLO ID 83204-7416

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.110 CFS
16.70 AFY

The rights listed below are limited to a total combined diversion rate of 0.11 cfs. Combined Right Nos.: 29-11278, 29-13956, and 29-14000.

PRIORITY DATE: 12/31/1976

This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.

POINT OF
DIVERSION:

T06S R34E S7 NWNE Lot 2 Within POWER County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
INDUSTRIAL	01/01 12/31	0.110 CFS 16.70 AFY
Industrial use is in a milk processing plant.		

PLACE OF USE: INDUSTRIAL in POWER County

T06S R34E S07 Lot 2 NWNE

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

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

This right is based upon an enlargement of Right No. 29-11278 pursuant to Section 42-1426, Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

The following rights are diverted through point of diversion described above: 29-4443, 29-11278, 29-13956, 29-13957, 29-13958, and 29-14000.

CERTIFICATE OF SERVICE

I certify that on August 31, 2011, I served the original and/or copies of this form, including all attachments, to the following persons by delivering the original and/or copies, 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

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☒ Facsimile

2. Copies to:

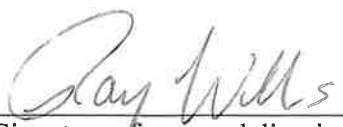
UNITED STATES OF AMERICA
Represented by:
U.S. DEPARTMENT OF JUSTICE
ENVIRONMENT & NATURAL RESOURCES
550 WEST FORT STREET, MSC O33
BOISE, ID 83724

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIVISION CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
P.O. BOX 44449
BOISE, ID 83711-4449

DIRECTOR OF IDWR
P.O. BOX 83720
BOISE, ID 83720-0098

ROWLANDS INC
Represented by:
THOMAS J. BUDGE
201 E. CENTER ST.
P.O. BOX 1391
POCATELLO, ID 83204-1391

POWER COUNTY COURTHOUSE
543 BANNOCK
AMERICAN FALLS, ID 83211



Signature of person delivering form

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

RIGHT NUMBER: 29-11278

NAME AND ADDRESS:

ROWLANDS INC
1141 ROWLAND RD
POCATELLO ID 83204-7416

SOURCE:

Source:
GROUND WATER

Tributary:

QUANTITY:

0.110 CFS
7.200 AFY

~~0.060 CFS~~

The rights listed below are limited to a total combined diversion rate of 0.11 cfs. Combined Right Nos.: 29-11278, 29-13956, and 29-14000.

The quantity of water under this right for domestic use shall not exceed 13,000 gallons per day.

~~The quantity of water under this right shall not exceed 13,000 gallons per day.~~

PRIORITY DATE:

12/31/1937
~~08/17/1949~~

POINT OF DIVERSION:

T06S R34E S7 Lot 2 NWNE
Within POWER County

PURPOSE AND
PERIOD OF USE:

Purpose of use:

Period of use:

Quantity:

INDUSTRIAL

01/01 12/31

0.110 CFS 7.20 AFY

DOMESTIC

01/01 12/31

0.060 CFS

Industrial use is in a milk processing plant.

Domestic use is for a duplex.

PLACE OF USE:

INDUSTRIAL within POWER County

T06S R34E S07 Lot 2 NWNE

DOMESTIC within POWER County

T06S R34E S07 Lot 2 NWNE

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

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

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

The quantity of water decreed for this water right for domestic use is not a determination of historical beneficial use.

~~The quantity of water decreed for this water right is not a determination of historical beneficial use.~~

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

The following rights are diverted through point of diversion described above: 29-4443, 29-11278, 29-13956, 29-13957, 29-13958, and 29-14000.

Right No. 29-14000 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.

~~The following rights are diverted through point of diversion described above: 29-4443, 29-11278, 29-13956, 29-13957, and 29-13958.~~

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

RIGHT NUMBER: 29-11278

NAME AND ADDRESS: ROWLANDS INC
1141 ROWLAND RD
POCATELLO ID 83204-7416

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.060 CFS

The quantity of water under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 08/17/1949

POINT OF
DIVERSION:

T06S R34E S7 NWNE Lot 2 Within POWER County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

DOMESTIC

01/01 12/31

0.060 CFS

Domestic use is for a duplex.

PLACE OF USE:

DOMESTIC in POWER County

T06S R34E S07 Lot 2 NWNE

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

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

The quantity of water decreed for this water right is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

The following rights are diverted through point of diversion described above: 29-4443, 29-11278, 29-13956, 29-13957, and 29-13958.

RECEIVED
MAY 11 2011

SRBA Form No.42-1409-1 (Internet 2/09)

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

CIVIL CASE NUMBER: 39576

Ident. Number 29-14000

Date Received: _____

Receipt No: _____

Received By: _____

NOTICE OF CLAIM
TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Rowlands, Inc. Phone (208) 238-1259

Mailing Address 1141 Rowlands Rd. Pocatello ID ZIP 83204
Street or Box City State

2. Date of Priority (Only one (1) per claim) 04/14/1964
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water (✓) or Other () (a) _____

which is tributary to (b) _____

4. a. Location of Point of Diversion is: Township 6S, Range 34E, Section 7,
NW, 1/4 of NE, 1/4 Govt. Lot 2, BM., County of Power

Parcel (PIN) no. _____

Additional points of diversion if any: _____

If available, GPS Coordinates _____

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

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

Govt. Lot _____, BM., County of _____

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

Govt. Lot _____, BM., 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. well with pump

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For Industrial purposes from 01/01 to 12/31 amount 0.3 or

For purposes from to amount or

For purposes from to amount or

For purposes from to amount or

7. Total quantity claimed (a) 0.3 (cfs) and/or (b) (acre feet)

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

9. 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.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6S	34E	7		I															n/a

Parcel (PIN) no(s).

Total number of acres irrigated n/a

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

11. Do you own the property listed above as place of use? Yes (✓) No ()

If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.

29-11278, 29-4445 or None ()

13. Remarks: This is an enlargement of water right no. 29-11278

Last Name Identification No.

14. Basis of Claim (Check One) Beneficial Use (✓) Posted Notice () License () Permit () Decree ()

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number _____

15. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices 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 under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

_____ of _____,
Title Organization

that I have signed the foregoing 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 _____ Date _____

Title and Organization _____

16. Notice of Appearance:

Notice is hereby given that I, Thomas J. Budge, will be acting as attorney at law of 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 Thomas J. Budge Date 5-6-2011

Address PO Box 1391

Pocatello, Idaho 83204

Last Name _____ Identification No. _____

Evaluation of evidence for 29-11278

Source

The depositions of Ed Rowland and Gus Sahlberg, signed in 1912, were associated with water right license 29-2039. The depositions indicate that domestic use from the time of homesteading through at least 1912 was from Batiste Spring. When asked to what extent water was diverted and used on his property, other than the uses described in permit 29-2039, Ed Rowland answers, "I have used none."

The claimant believes that a milk plant was started in 1903. It seems strange that water use at the milk plant would not have been described in the Rowland and Sahlberg depositions if water was indeed being used in the milk plant at that time. If the milk plant was in operation 1903, it was likely getting water from the same source as the home, which at that time was Batiste Spring.

In Tom Sahlberg's affidavit, he recalls water use from a well inside the milk plant in the 1950's. In the claimant's third affidavit, he recalls the use of a groundwater well in the 1940's.

Diversion rate

During the field exam I explained that, since his claims are based on beneficial use, I would need additional documentation in support of the claims, especially as it relates to historical production at the milk plant. I explained that additional data would be needed in order to quantify rate and volume for claim 29-11278.

The rate claimed on statutory claim 29-4443 and amended AJ claim 29-11278 is 0.30 cfs. During the field exam, Mr. Rowland said that the current well was previously equipped with a 15 HP submersible pump, but was replaced with a 5 HP pump in about 2007. Water is currently pumped from the well to a tank and Mr. Rowland indicated that the pressure is maintained between 80 and 100 psi. He said that the static water level is about 40 feet. The theoretical capacity of the current pump in the current well is 0.15 cfs.

Mr. Rowland said that prior to the drilling of the current well, the homes and the milk plant were served by a shallow well in the milk plant. Mr. Rowland showed me the location of the former well, although it was covered over with concrete. In the former system, a diaphragm pump was used to pump water into a 5000 gallon storage tank located near the triplex. Mr. Rowland said that the diaphragm pump produced a smaller flow than the current electric pump, but he did not know how much the diaphragm pump could produce. In his May 2011 affidavit, he estimated that the diaphragm pump could produce 50 gpm (0.11 cfs), which is very close to the capacity of the system that is currently in place.

Annual volume

Mr. Rowland said during the field exam that wastewater from the milk plant was pumped across the Portneuf River to a series of three settling ponds. After some evaporation the excess was sent to the city treatment facility which processed 25,000 gallons per day in 1968. Mr. Rowland said that prior to the construction of the settling ponds the wastewater went directly into the Portneuf River.

During the field exam Mr. Rowland said they reached peak production in about 1988, processing about 40,000 gallons of milk per day. In his February 2011 affidavit he said that production peaked in 2005. He said that today a gallon of water is required to process a gallon of milk, but that in earlier times more was required (he estimated about 1.5 gallons of water per gallon of

milk). He said that water was used primarily for cleanup. The 125 dairy cows (200 cows on his third affidavit) got their drinking water directly from Batiste Spring rather than from the well. During peak production, the Rowlands processed milk they bought from 68 dairy farmers in addition to the milk from their own cows.

In his first affidavit the claimant indicated that "the plant typically operated 5 days per week." If the 600 gallon per hour homogenizer operated 10 hours a day, that would yield 6000 gallons of milk per day. 9000 gallons of water per day would be needed to process 6000 gallons of milk (based on the Mr. Rowland's statement during the field exam that 1.5 gallons of water was required per gallon of milk). Mr. Rowland makes the argument for increased efficiencies, going from 5 gallons of water per gallon of milk in 1965 to 1 gallon of water per gallon of milk in 1982. Mr. Rowland provided no basis for his estimate of 30,000 gpd, nor for a five-fold increase in efficiency over a 17 year span. To get to 30,000 gpd would require that the pump run constantly during the hours of operation. He said in his February 2011 affidavit that the pump did not run constantly.

Priority date

On statutory claim 29-4443, which he filed in 1983, Mr. Rowland swore that the water from the well was first applied to beneficial use in the milk plant on 8/17/1949. In 2009 he filed a late AJ claim that reflected the same priority date that appeared on the statutory claim. In 2010 he moved to set aside 29-11278, then amended the claim to include the industrial use originally claimed under 29-4443, but with a 1905 priority date. On more than one occasion I asked the claimant via his attorney why he originally claimed the 1949 date. I received no reply.

If we completely ignore the statutory claim, and base the recommendation solely on the three affidavits provided by the claimant, the best priority we could recommend would be 1937. In his third affidavit, Mr. Rowland said that in about 1945, he remembers watching his father repair the diaphragm pump in the milk plant. He said that the pump was also used to supply culinary water to the house that was built in 1937. He has a picture of the milk plant that was taken in 1932. He argues that because the milk plant was there in 1932, it must have received water from the well at that time. However, the issue before us is not the time that the milk plant came into existence, but the time when ground water was first used as the source for the plant. Based on the data found in the source section of this document, it is likely that Batiste Spring was the source originally used in the milk plant, if it existed near the time of homesteading.

Point of diversion

The original well was replaced by the currently used well in 1964. Both wells are located in the same QQ. The recommended pod is based on a gps point gathered during the field exam.

Thomas J. Budge, ISB No. 7465
RACINE OLSON NYE BUDGE &
BAILEY, CHARTERED
Post Office Box 1391
201 E. Center Street
Pocatello, Idaho 83204-1391
208-232-6101 - Telephone
208-232-6109 - 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

Case No. 39576

Subcase Nos. 29-14000

**SECOND AFFIDAVIT OF
ROBERT ROWLAND**

STATE OF IDAHO)
 : SS
County of Bannock)

ROBERT ROWLAND, being first duly sworn, deposes and states as follows:

1. I am over the age of 18, competent to testify, and state the following based on my own personal knowledge.

2. This affidavit supplements my prior affidavit filed in this subcase on May 10, 2011.

3. I was born on August 17, 1939, and grew up in a home near a milk plant operated by my family north of Pocatello, Idaho, in Section 7, Township 6 South, Range 34 East, Boise Meridian, Power County, Idaho. I have lived on the property all of my life with the exception of military service from 1961-1964. I still live there today.

4. The milk plant has been in operation for as long as I can remember, so I would say at least since 1945. My father, Ben Rowland, told me that the milk plant was started by his father (my grandfather) in the year 1903. My father was born February 14, 1906, and raised on the family farm like myself. He told me stories of milking cows and working at the milk plant from when he was young. Attached hereto as Exhibit A is a photograph taken in the year 1932 that shows the milk plant as it appeared then. My father is on the very left and would have been 26 years old at the time. For these reasons, I believe the milk plant has been in operation since 1903.

5. When I was a teenager my family milked around 200 Guernsey cows and we processed that milk in the milk plant. We also processed milk from other dairy farmers in the area. I first began working in the milk plant when I was in junior high school; which would have been in 1952. At that time the milk plant utilized a homogenizer with capacity to process 600 gallons of milk per hour. The plant typically operated 8-10 hours per day, processing up to 6,000 gallons of milk daily. That homogenizer was installed during World War II so that the milk plant could supply homogenized milk to the Army Air Base located at the present site of the Pocatello Regional Airport. I don't know the exact date when it was installed, but I would estimate 1943.

6. As explained in my prior affidavit, a diaphragm pump was used to divert water from a groundwater well inside the milk plant to an elevated 5,000 gallon storage tank on the hill next to the plant. I was aware of the diaphragm pump from about the age of six because I remember being with my father and watching him repair the pump at that age. I am quite certain, however, that the pump was in operation long before then. It was used to supply culinary water to the home that I grew up in which was constructed in 1937, so the pump must have been in operation by then. Since it also supplied water for the milk plant, it must have been in operation by 1932 when the picture attached as Exhibit A was taken of the milk plant. Since the milk plant was in operation long before 1932 I suspect the diaphragm pump was as well.

7. As explained in my prior affidavit, in 1964 a new well was drilled outside of the milk plant on the hill near my home to replace the old well and diaphragm pump.

FURTHER YOUR AFFIANT SAITH NAUGHT.

DATED this 19 day of AUGUST, 2011.


ROBERT ROWLAND

SUBSCRIBED AND SWORN TO before me this 19 day of August, 2011.



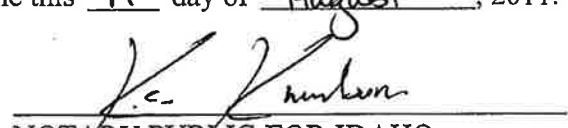

NOTARY PUBLIC FOR IDAHO
Residing at: Pocatello, ID
My Commission Expires: 04-16-2016



EXHIBIT "A"

Thomas J. Budge, ISB No. 7465
RACINE OLSON NYE BUDGE &
BAILEY, CHARTERED
Post Office Box 1391
201 E. Center Street
Pocatello, Idaho 83204-1391
208-232-6101 - Telephone
208-232-6109 - 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

Case No. 39576

Subcase Nos. 29-14000

**AFFIDAVIT OF
TOM SAHLBERG**

STATE OF IDAHO)
 : SS
County of Bannock)

TOM SAHLBERG, being first duly sworn, deposes and states as follows:

1. I am over the age of 18, competent to testify, and state the following based on my own personal knowledge.
2. I am a resident of Pocatello, Idaho, and am personally acquainted with the history of the Rowland family and Rowland's, Inc.
3. From 1949 through 1959, I leased and farmed property owned by Ben, Margaret and V.C. Rowland north of Pocatello. The Rowlands operated a milk plant adjacent to the property that they leased to me to farm.
4. From my time farming the Rowland property and speaking regularly with Ben Rowland about various matters, I became familiar with the milk plant operated by the Rowlands, then known as Rowland Brothers Dairy. During the 1950s they used a large diaphragm pump to pump water from a well inside the milk plant to a storage tank located up the hill west of the milk plant near the Rowland home. The storage tank was an open-top, elevated wooden tank. At that time the tank was very weathered. It looked like it had been in use for decades. I understood from speaking with the Rowlands that the milk plant was started in the early 1900s, and the tank looked like it could have been that old.

5. In the early 1950s the wooden storage tank was replaced with a larger 5,000 gallon, elevated steel water storage tank. I witnessed the Rowlands taking down of the old wooden tank and putting up the steel tank. I recall the Rowlands also installing a new underground water line from storage tank to the milk plant.

6. Although I stopped farming the Rowland property in 1959, I still talked with Ben Rowland periodically about various matters. I recall Ben telling me in the early 1960s that he had drilled a new well near the elevated steel water tank to replace the diaphragm pump in the milk plant.

FURTHER YOUR AFFIANT SAITH NAUGHT.

DATED this 19 day of August, 2011.


TOM SAHLBERG

SUBSCRIBED AND SWORN TO before me this 19 day of August, 2011.




NOTARY PUBLIC FOR IDAHO
Residing at: Pocatello, ID
My Commission Expires: 04-16-2016

RECEIVED 5-11
MAY 11 2011
DEPARTMENT OF
WATER RESOURCES

Thomas J. Budge, ISB No. 7465
RACINE OLSON NYE BUDGE &
BAILEY, CHARTERED
Post Office Box 1391
201 E. Center Street
Pocatello, Idaho 83204-1391
208-232-6101 - Telephone
208-232-6109 - 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

Case No. 39576

Subcase Nos. 29-14000

AFFIDAVIT OF ROBERT ROWLAND

STATE OF IDAHO)
 : SS
County of Bannock)

ROBERT ROWLAND, being first duly sworn, deposes and states as follows:

1. I am a Director and the registered agent of Rowland's, Inc., an Idaho corporation.
2. Rowland's, Inc., was incorporated in 1962 for the purpose of operating a milk plant that my family had owned and operated since the early 1900s northwest of Pocatello in Section 7, Township 6 South, Range 34 East, Boise Meridian, Power County, Idaho.
3. I grew up and have lived on the property all of my life with the exception of military service from 1961-1964. I still live there today.
4. I am very familiar with the operation of the milk plant. I worked at various jobs in the plant as a teenager and continuing through my adult life. I became the manager in 1967 and continued in that position until September 1988 when the business was sold to Meadow Gold Dairy. Meadow Gold Dairy continued the milk processing operation until August 2005, but continues to utilize the facility for a distribution center.
5. The milk plant was used primarily to process milk, but also in the manufacturing of juice products and bottled water.

6. A groundwater well located outside of the milk plant was used to produce steam through a boiler which in turn was used for both heating milk and cleaning equipment. Water from the well was also used in producing reconstituted orange juice and other flavored fruit drinks.

7. The milk plant operated five days per week. The amount of milk processed at the plant varied over time depending on demand and other factors.

8. ? Up until 1965 the milk plant utilized a homogenizer with capacity to process 600 gallons of milk per hour. The plant typically operated 8-10 hours per day, processing up to 6,000 gallons of milk daily. In 1965 the homogenizer was replaced at which time the processing speed increased to 1,000 gallons per hour, thereby increasing daily milk processing to 10,000 gallons. In 1976 Rowlands, Inc., began processing milk for Meadowgold Dairy and installed a new homogenizer that processed up to 3,000 gallons per hour. In 1982 the processing speed was increased to 3,500 gallons per hour, processing up to 40,000 gallons per day, five days per week. BAD MATH

9. In recent years, approximately 1 gallon of water was needed to process 1 gallon of milk. Therefore, I estimate that we diverted up 40,000 gallons per day from the groundwater well into the milk plant for milk processing purposes in recent years. Additional water was used in the production of juices and bottled water, but this was a relatively minimal use of water that I believe did not exceed more than 400 gallons per day.

10. While the volume of milk that was processed at the plant increased over time, so did the efficiencies involved in milk processing. I have been unable to locate records of the amount of water diverted into the milk plant historically, but I expect that the amount of water diverted into the milk plant remained relatively constant. Even before the new homogenizer was installed in 1965 I estimate that up to 30,000 gallons were used in the milk plant daily from the well.

BASIS FOR
BECOMING
6X MORE
EFFICIENT?

11. Rowland's, Inc., originally used a diaphragm pump to divert water from the well to an elevated 5,000 storage tank. My understanding is that the diaphragm pump could divert water at up to 50 gallons per minute (GPM). In 1964 the diaphragm pump was replaced with submersible pump with a 25 horse power motor that was able to pump up to 150 GPM. Under both pumps, water was pumped to the elevated storage tank, and from there water was delivered to the milk plant.

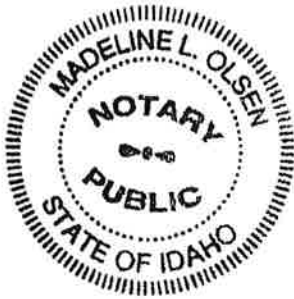
12. A portion of the water diverted into the milk plant from the groundwater well was consumed by evaporation, cleaning, and flavored drink production. The remainder left the milk plant through a pipe that spanned the Portneuf River and was discharged into the first of a series of three holding ponds on the other side of the River. Water from the upper pond flowed into the second pond which is lower in elevation, and from there into the lowest pond. Wastewater from the lowest pond was measured & discharged to the City of Pocatello wastewater treatment plant. The records attached hereto as Appendix A show up to 25,000 gallons per day being discharged to the City of Pocatello wastewater treatment plant. Given that some of the water in the ponds evaporated or seeped into the ground, and that some water was consumed within the milk plant before being piped across the River, these discharge records are consistent with my calculation that up to 40,000 gallons per day were diverted into the milk plant from the groundwater well.

FURTHER YOUR AFFIANT SAITH NAUGHT.

DATED this 5th day of May, 2011.

Robert Rowland
ROBERT ROWLAND

SUBSCRIBED AND SWORN TO before me this 5th day of May, 2011.



Madeline L. Olsen
NOTARY PUBLIC FOR IDAHO
Residing at: Pocatello, ID
My Commission Expires: April 22, 2016

Randall C. Budge, ISB No. 1949
Thomas J. Budge, ISB No. 7465
RACINE OLSON NYE BUDGE &
BAILEY, CHARTERED
Post Office Box 1391
201 E. Center Street
Pocatello, Idaho 83204-1391
208-232-6101 - Telephone
208-232-6109 - 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

Case No. 39576

Subcase Nos. 29-11278, 29-4445

AFFIDAVIT OF ROBERT ROWLAND

STATE OF IDAHO)
 : SS
County of Bannock)

ROBERT ROWLAND, being first duly sworn, deposes and states as follows:

1. I am a Director and the registered agent of Rowland's, Inc., an Idaho corporation.
2. Rowland's, Inc., was incorporated in 1962 for the purpose of operating a milk plant that my family had owned and operated since the early 1900s northwest of Pocatello in Section 7, Township 6 South, Range 34 East, Boise Meridian, Power County, Idaho.
3. I grew up and have lived next to the milk plant all of my life with the exception of military service from 1961-1964. I still live there today.
4. The milk plant operated continuously from 1903 until 2005 when processing was discontinued. The milk plant was used primarily to process milk, but also in the manufacturing of juice products and bottled water.
5. I am very familiar with the operation of the milk plant. I worked at various jobs in the plant as a teenager and continuing through my adult life. I became the manager in 1967 and continued in that position until September 1988 when the business was sold to Meadow Gold Dairy. Meadow Gold Dairy continued the milk processing operation until August 2005, and still uses the facility for a distribution center.

6. The processing of milk, juice, and bottled water required a substantial amount of water. Water that was used within the plant came from two different sources. A spring located within the plant was used for both cooling purposes and bottled water. A groundwater well located outside of the milk plant provided water for all other purposes within the plant.

WHEN?

POST
1963

Use of Spring Water Within Plant

7. Water from the spring was pumped into the plant and into an ammonia condenser for refrigeration purposes, and was then discharged into Batiste Spring adjacent to the plant. Three compressors were used to compress ammonia gas and send it into the condenser where it would cool into liquid form and provide refrigeration. Water was pumped through the ammonia condenser constantly, 24-hours a day, 7 days a week. Water from this spring was also bottled into one-gallon containers and sold commercially.

How
MUCH?
WHEN?

8. In 1983 I filed a Claim to a Water Right with the Idaho Department of Water Resources (IDWR), a copy of which is attached hereto as Exhibit A, stating that water was pumped from the spring at the rate of 0.25 cfs. At that time the plant was in full operation. Therefore, I believe that 0.25 cfs is an accurate calculation of the maximum rate at which water was diverted from the spring into the plant for cooling and water bottling purposes.

Use of Ground Water Within Plant

9. Groundwater from the well outside the milk plant was diverted into the plant for use in the boiler to produce steam and for cleaning and other industrial purposes. Groundwater from the well was also used in producing reconstituted orange juice and flavored fruit drinks.

DRILLED IN 1964

10. The amount of water used in the various juices and packaged gallon bottles of water varied throughout the year but at times averaged more 2,000 gallons or per week (285 gal/day).

11. The amount of water used for milk processing also varied over time depending on demand and other factors. The plant typically operated 5 days per week. Milk processing peaked in 2005 at approximately 200,000 gallons per week, or 40,000 gallons per day.

1988@
FIELD EXAM

12. In recent years, approximately 1 gallon of water was needed to process 1 gallon of milk. Thus, during peak production I estimate that we diverted up to 200,000 gallons per week (40,000 gal/day) into the plant for milk processing purposes. This is in addition to the water from the spring inside the plant that was used for cooling and bottling purposes.

13. While the volume of milk that was processed in the plant increased over time, so did the efficiencies involved in milk processing. I have been unable to locate records of the amount of water diverted into the milk plant historically, but I expect that it remained relatively constant. Therefore, I believe that 40,000 gal/day is a fair estimate of the amount of groundwater historically utilized in the milk plant for industrial purposes.

?

14. A portion of the water diverted into the milk plant from the groundwater well was consumed by evaporation, cleaning, and flavored drink production. The remainder left the plant through a pipe that spanned the Portneuf River and was discharged into a series of three holding ponds on the other side of the River. Water from the upper pond flowed into the second pond,

which is lower in elevation, and from there into the third and lowest pond. Wastewater from the lowest pond was measured and discharged to the City of Pocatello wastewater treatment plant. The records attached hereto as Appendix B show up to 25,000 gallons per day being discharged to the City of Pocatello wastewater treatment plant. Given that some of the water in the ponds evaporated or seeped into the ground, and that some water was consumed within the milk plant before being piped across the River, these discharge records are consistent with my calculation that up to 40,000 gallons per day were used in the milk plant from the groundwater well.

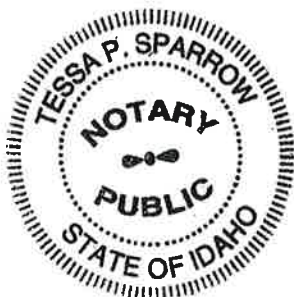
15. While I estimate that up to 40,000 gal/day were used in the milk plant, water was not pumped into the plant at a constant rate during the day. Rather, a centrifugal pump was used to provide water to the plant on demand. The well maintained pressure in the system at all times so that water would be delivered to the plant on demand when it was needed. In 1983 I filed a Claim to a Water Right with the IDWR, a copy of which is attached hereto as Exhibit C, stating that the maximum rate of diversion from the groundwater well for industrial purposes was 0.3 cfs. I still believe this is an accurate calculation of the maximum rate at which water was diverted from the well into the plant for industrial purposes.

FURTHER YOUR AFFIANT SAITH NAUGHT.

DATED this 9th day of February, 2011.


ROBERT ROWLAND

SUBSCRIBED AND SWORN TO before me this 9th day of February, 2011.



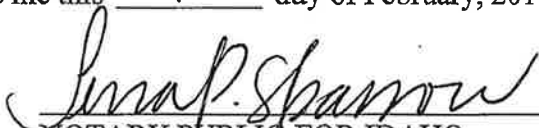

NOTARY PUBLIC FOR IDAHO
Residing at: Pocatello, Idaho
My Commission Expires: 10/5/2015

Exhibit A

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT



Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

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

Notice is hereby given that Rowland's, Inc.

(Name of Claimant)

P. O. Box 700, Pocatello, Idaho 83204

(Mailing Address)

(Zip Code)

Telephone No 208-237-1880

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- (1) Date of priority: (When was the water first applied to a beneficial use) June 1, 1930

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

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

Unnamed spring tributary to Portneuf River

- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

Quantity	(cfs, af)	Use	(Domestic, Irrigation, Stock, Etc.)	(Both dates inclusive)	
				(Mo., Day)	(Mo., Day)
Quantity <u>.25 CFS</u>		Use <u>Industrial</u>		Period of Use From <u>1-1</u>	To <u>12-31</u>
Quantity _____		Use _____		Period of Use From _____	To _____
Quantity _____		Use _____		Period of Use From _____	To _____
Quantity _____		Use _____		Period of Use From _____	To _____
Quantity _____		Use _____		Period of Use From _____	To _____

- (4) .25 CFS TOTAL QUANTITY USED.

(cfs, af)

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

1NW 1/4 NE 1/4, Sec. 7 Twp. 6S Rge. 34E B.M., County of Power

Additional points of diversion: _____

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. 20 H.P. centrifugal pump from shallow spring inside building pumped through 2" line.

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

T	R	SEC.	NE1/4				NW1/4				SW1/4				SE1/4				TOTAL
			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	
6S	34E			X															

No. of acres _____

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

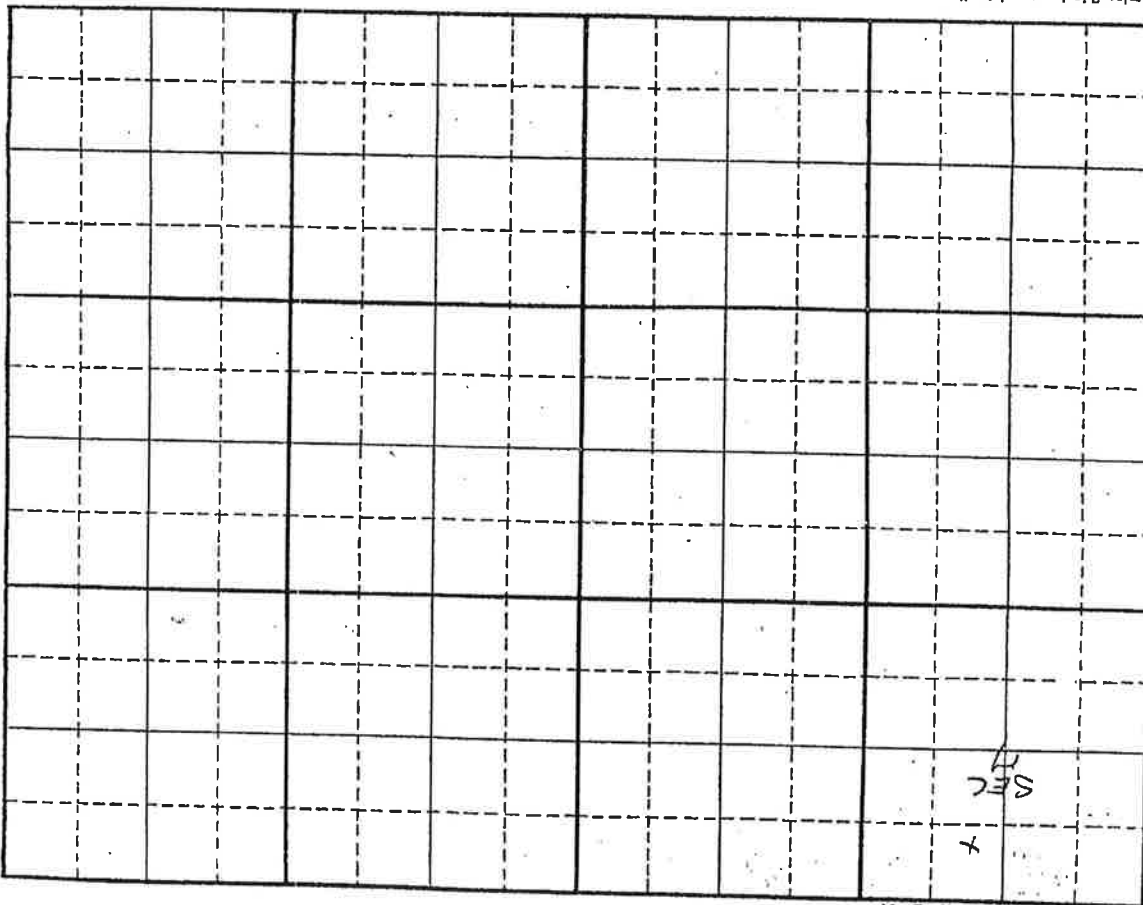
Water used as added ingredient to processed products and other industrial uses.

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

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

(8) Remarks

T 6 S R 3 4 E B M



Scale: 2 inches equal 1 mile.

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

State of Idaho

County of Bannock

ss.

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

Sworn to before me this 28th day of June

Rowland's, Inc.
(Claimant)

19 83

Notary Public
Residing at Pocatello, Idaho

My commission expires May 20, 1987

FOR DEPARTMENT USE ONLY

Forwarded to
claimant by:
Date

Exception filed by:

Date

6-29-83

Date

6-29-83

Prelim. check by

S.M.

Received by

S.M.

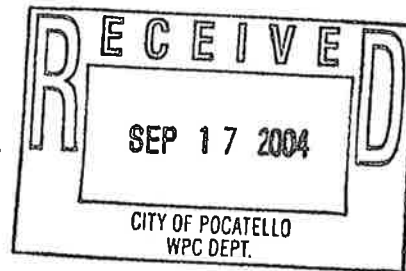
Published in

10/6, 10/13/83

Dates

Exhibit B

CITY OF POCA TELLO
WATER POLLUTION CONTROL DEPARTMENT
(208) 234-6254



INDUSTRIAL WASTEWATER SELF-MONITORING REPORT FORM

PERMITEE Rowland's Inc.

Flow Measuring Equipment

PERMIT NO. RD 965491

Calibration Last Verified

Date: March 16, 2004

DISCHARGE LOCATION: Adjacent to Wastewater Treatment plant

Monitoring Period From August 1, 2004

To August 31, 2004

INDUSTRIAL FLOW

COMMENTS:

METER READINGS:

Contact Andy Rowland at

719-567-4634 with questions

BEGINNING: 6,149,400

ENDING: 6,804,200

TOTAL FLOW: 654,800

AVERAGE FLOW: 21,123

MAXIMUM FLOW:

MINIMUM FLOW:

I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person(s) who manage the system or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations

Andrew B. Rowland

Print Name of Individual Completing Form

A handwritten signature in black ink, appearing to read "Andrew B. Rowland".

Signature

13-Sep-04

CITY OF POCA TELLO
WATER POLLUTION CONTROL DEPARTMENT
(208) 234-6254

INDUSTRIAL WASTEWATER SELF-MONITORING REPORT FORM

PERMITEE Rowland's Inc.

Flow Measuring Equipment
Calibration Last Verified
Date: May 13, 2003

PERMIT NO. RD 965491

DISCHARGE LOCATION: Adjacent to Wastewater Treatment plant

Monitoring Period From July 1, 2003 To July 31, 2003

INDUSTRIAL FLOW

METER READINGS:	
BEGINNING:	1,527,859
ENDING:	300,881

TOTAL FLOW:	773,002
AVERAGE FLOW:	24,936
MAXIMUM FLOW:	
MINIMUM FLOW:	

COMMENTS:

Total flow reported is greater than actual flow due to blockage at weir which raised the water level and resulted in a false flow rate. Blockage was cleared. Contact Andy Rowland at 719-567-4634 with questions

I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person(s) who manage the system or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations

Andrew B. Rowland

Print Name of Individual Completing Form

CPY

Signature

August 12, 2003

SENT VIA MAIL 13 AUG 03

CITY OF POCA TELLO
WATER POLLUTION CONTROL DEPARTMENT
(208) 234-6254

INDUSTRIAL WASTEWATER SELF-MONITORING REPORT FORM

PERMITEE Rowland's Inc.

Flow Measuring Equipment

PERMIT NO. RD 965491

Calibration Last Verified

Date: May 13, 2003

DISCHARGE LOCATION: Adjacent to Wastewater Treatment plant

Monitoring Period From June 1, 2003

To June 30, 2003

INDUSTRIAL FLOW

COMMENTS:

METER READINGS:	
BEGINNING:	902,870
ENDING:	1,527,859

TOTAL FLOW:	624,989
AVERAGE FLOW:	20,833
MAXIMUM FLOW:	
MINIMUM FLOW:	

Total flow reported is greater than actual flow due to blockage at weir which raised the water level and resulted in a false flow rate. Blockage was cleared.

I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person(s) who manage the system or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations

BOB ROWLAND

Print Name of Individual Completing Form

Copy
Signature

July 7, 2003

CITY OF POCA TELLO
WATER POLLUTION CONTROL DEPARTMENT
(208) 234-6254

INDUSTRIAL WASTEWATER SELF-MONITORING REPORT FORM

PERMITEE Rowland's Inc.

Flow Measuring Equipment

PERMIT NO. RD 965491

Calibration Last Verified

Date: May 13, 2003

DISCHARGE LOCATION: Adjacent to Wastewater Treatment plant

Monitoring Period From May 1, 2003

To May 31, 2003

INDUSTRIAL FLOW

COMMENTS:

METER READINGS:	
BEGINNING:	351,569
ENDING:	902,870

TOTAL FLOW:	551,301
AVERAGE FLOW:	18,377
MAXIMUM FLOW:	
MINIMUM FLOW:	

I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person(s) who manage the system or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

BOB ROWLAND

Print Name of Individual Completing Form


Signature

June 6, 2003

CITY OF POCA TELLO
WATER POLLUTION CONTROL DEPARTMENT
(208) 234-6254

INDUSTRIAL WASTEWATER SELF-MONITORING REPORT FORM

PERMITEE Rowland's Inc.

Flow Measuring Equipment

PERMIT NO. RD 965491

Calibration Last Verified

Date: February 8, 2003

DISCHARGE LOCATION: Adjacent to Wastewater Treatment plant

Monitoring Period From April 1, 2003

To April 30, 2003

INDUSTRIAL FLOW

COMMENTS:

METER READINGS:	
BEGINNING:	795,518
ENDING:	1,351,569

TOTAL FLOW:	556,051
AVERAGE FLOW:	18,535
MAXIMUM FLOW:	
MINIMUM FLOW:	

I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person(s) who manage the system or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations

BOB ROWLAND

Print Name of Individual Completing Form

Cope
Signature

May 7, 2003

CITY OF POCA TELLO
WATER POLLUTION CONTROL DEPARTMENT
(208) 234-6254

INDUSTRIAL WASTEWATER SELF-MONITORING REPORT FORM

PERMITEE Rowland's Inc.

PERMIT NO. RD 965491

Flow Measuring Equipment
Calibration Last Verified
Date: February 8, 2003

DISCHARGE LOCATION: Adjacent to Wastewater Treatment plant

Monitoring Period From: March 1, 2003	To March 31, 2003
---------------------------------------	-------------------

INDUSTRIAL FLOW

COMMENTS:

METER READINGS:	
BEGINNING:	241,703
ENDING:	795,518

TOTAL FLOW:	553,815
AVERAGE FLOW:	18,461
MAXIMUM FLOW:	
MINIMUM FLOW:	

"I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person(s) who manage the system or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations"

BOB ROWLAND

Print Name of Individual Completing Form


Signature

April 9, 2003

CITY OF POCA TELLO
WATER POLLUTION CONTROL DEPARTMENT
(208) 234-6254

INDUSTRIAL WASTEWATER SELF-MONITORING REPORT FORM

PERMITEE Rowland's Inc.

PERMIT NO. RD 965491

Flow Measuring Equipment
Calibration Last Verified
Date: February 8, 2003

DISCHARGE LOCATION: Adjacent to Wastewater Treatment plant

Monitoring Period From: February 1, 2003

To February 28, 2003

INDUSTRIAL FLOW

COMMENTS:

METER READINGS:	
BEGINNING:	654,520
ENDING:	1,241,703

TOTAL FLOW:	587,183
AVERAGE FLOW:	19,573
MAXIMUM FLOW:	
MINIMUM FLOW:	

I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person(s) who manage the system or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations

BOB ROWLAND

Print Name of Individual Completing Form


Signature

March 3, 2003

CITY OF POCA TELLO
WATER POLLUTION CONTROL DEPARTMENT
(208) 234-6254

INDUSTRIAL WASTEWATER SELF-MONITORING REPORT FORM

PERMITEE Rowland's Inc.

Flow Measuring Equipment

PERMIT NO. RD 965491

Calibration Last Verified

Date: November 5, 2002

DISCHARGE LOCATION: Adjacent to Wastewater Treatment plant

Monitoring Period From: January 1, 2003 To January 31, 2003

INDUSTRIAL FLOW

COMMENTS:

METER READINGS:	
BEGINNING:	39,112
ENDING:	654,520

TOTAL FLOW:	615,408
AVERAGE FLOW:	20,514
MAXIMUM FLOW:	
MINIMUM FLOW:	

I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person(s) who manage the system or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations

BOB ROWLAND

Print Name of Individual Completing Form

Signature

Bob Rowland

February 4, 2003

CITY OF POCA TELLO
WATER POLLUTION CONTROL DEPARTMENT
(208) 234-6254

INDUSTRIAL WASTEWATER SELF-MONITORING REPORT FORM

PERMITEE Rowland's Inc.

PERMIT NO. RD 965491

Flow Measuring Equipment
Calibration Last Verified
Date: November 5, 2002

DISCHARGE LOCATION: Adjacent to Wastewater Treatment plant

Monitoring Period From: December 1, 2002 To December 31, 2002

INDUSTRIAL FLOW

COMMENTS:

METER READINGS:	
BEGINNING:	328,562
ENDING:	1,039,112

TOTAL FLOW:	710,550
AVERAGE FLOW:	23,685
MAXIMUM FLOW:	
MINIMUM FLOW:	

I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person(s) who manage the system or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations

BOB ROWLAND

Print Name of Individual Completing Form

Signature
Bob Rowland

January 10, 2003

CITY OF POCATELLO
WATER POLLUTION CONTROL DEPARTMENT
(208) 234-6254

INDUSTRIAL WASTEWATER SELF-MONITORING REPORT FORM

PERMITEE Rowland's Inc.

Flow Measuring Equipment
Calibration Last Verified
Date: November 5, 2002

PERMIT NO. RD 965491

DISCHARGE LOCATION: Adjacent to Wastewater Treatment plant

Monitoring Period From: November 1, 2002	To November 30, 2002
--	----------------------

INDUSTRIAL FLOW

COMMENTS:

METER READINGS:	
BEGINNING:	701,315
ENDING:	1,328,562

TOTAL FLOW:	627,247
AVERAGE FLOW:	20,908
MAXIMUM FLOW:	
MINIMUM FLOW:	

I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person(s) who manage the system or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations

BOB ROWLAND

Print Name of Individual Completing Form


Signature

December 10, 2002

Exhibit C

PLACE OF USE AND POINT OF DIVERSION.

T. 61 SOUTH

R. 34 EAST.

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

County of Bannock

the matters and facts therein are true to the best of the
Robert W Rowland
 for Rowland's, Inc
 (Claimant)

Sworn to before me this 31st day of October, 1983

Notary Public
Residing at

My commission expires MAY 20, 1967

FOR DEPARTMENT USE ONLY

Received by CW Date 6-29-83 Exception filed by: _____

Prelim. check by S.M. Date 12-1-1983

\$30.00 fee received by CW Date 6-29-83 #25640

Published in Lower County Press

Dates 12/15 & 12/22/89

Forwarded to _____ Date _____
claimant by: _____

proceeding
plant
agency

AS claim
29-2039
1990

any claim - commercial 0.56 for milk processing
source - latitude app
12/7/1905

10 HP pumps

1912

"due falling deposit" not used for other purposes

1912

Ed Freeland deposit - 10 ac + home, other uses - "none"

well 1983

Beta 8th claim 29-4443 8/17/1949 quantity
0.3 cfs individual

well 1990

Beta 15 claim 29-11278 same quantity and 2 ac
at claim 29-4443

2010

amended claim 29-11278 for commercial 0.30 cfs + 0.06 domestic
priority 1/1/1905

proceed

proceeding

proceed milk for four main food of cattle?
have farm at 1/1/1905 to 5000 gallons
as) dryhouse pump? shallow well
note + unknown 29-11278

- 29-11278 / DAY PROCESSED

1968 25,000 GPD

1988 40,000 GPD

PEAK

THEORETICAL PUMP FLOW CALCULATIONS

Formula:

$$Q_{cfs} = [(Hp)(8.814)(Eff)] \div [Lift + (psi \times 2.308)]$$

Hp = Horsepower = 15

Eff = Efficiency = 0.70 (Usually 70%)

Lift: (Static Level + Assumed Draw down)

Static Water Level = 24 ft.

Assumed Draw down = + ft.

Lift =

OR

Measured Dynamic Water Level = ft.

psi = Operating Pressure = 80 psi

$$Q_{cfs} = [\frac{\quad}{Hp} \times 8.814 \times \frac{\quad}{Eff}] \div [\frac{\quad}{Lift} + (\frac{\quad}{psi} \times 2.308)]$$

$$Q_{cfs} = [\frac{\quad}{\quad}] \div [\frac{\quad}{\quad}]$$

$$Q_{cfs} = \underline{0.44} \text{ cfs}$$

PERMIT NO.

Thursday, September 23, 2010

Field exam for Rowland's claims 29-4443, 29-11278, 29-13956, 29-13957, and 29-13958

Weather conditions: sunny, windy, temp near 60 degrees F

Accompanied by: Bob Rowland and T. J. Budge

Took photo and gps location of current well (drilled in 1964), which previously supplied water to the milk plant, a triplex, a duplex, and two other homes. GPS tag A0007764 was found strapped to the well casing.

The milk plant is currently being used for milk storage and as a Meadow Gold delivery depot. The triplex is still being used, but Mr. Rowland said the other domestic dwellings were torn down a couple years ago. Mr. Rowland said that the well was previously equipped with a 15 HP submersible pump, but was replaced with a 5 HP pump about 3 years ago. Water is currently pumped from the well to a tank and Mr. Rowland indicated that the pressure is maintained between 80 and 100 psi. He said that the static water level is about 40 feet.

Mr. Rowland said that the duplex was built in 1905, was moved northward within the same QQ in the 1920's, and a triplex was built in the same location in about 1924 or 1925. This is the house in which Mr. Rowland grew up. Mr. Rowland was born in 1939.

Prior to the drilling of the 1964 well, the homes and the milk plant were served by a shallow well in the milk plant. Mr. Rowland showed me the location of the former well, although it is now covered over with concrete. In the former system, a diaphragm pump was used to pump water into a 5000 gallon storage tank located near the triplex. Mr. Rowland said that the diaphragm pump produced a smaller flow than the current electric pump, but he did not know how much the diaphragm pump could produce.

Mr. Rowland said that the 2 acres claimed under 29-13956 were irrigated by the shallow well before the 1964 well was drilled.

Since these claims are based on beneficial use I explained that I would need additional documentation in support of the claims, especially as it relates to historic production at the milk plant. I explained that additional data is needed in order to quantify rate and volume for claim 29-11278.

Mr. Rowland said that wastewater from the milk plant was pumped across the Portneuf River to a series of 3 settling ponds. After some evaporation the excess was sent to the city treatment facility which processed 25,000 gallons per day in 1968. Mr. Rowland said that prior to the construction of the settling ponds the wastewater went directly into the Portneuf River.

Mr. Rowland said they reached peak production in about 1988, processing about 40,000 gallons of milk per day. He said that 1.5 gallons of water was required to process a gallon of milk. Water was used primarily for cleanup. The 125 dairy cows got their drinking water directly from Batiste Spring rather than from the well. During peak production, the Rowlands processed milk they bought from 68 dairy farmers in addition to the milk from their own cows.

MWH

810

RECEIVED

AUG 19 2010

DEPARTMENT OF
WATER RESOURCES

Thomas J. Budge, ISB No. 7465
RACINE, OLSON, NYE, BUDGE
& BAILEY, CHARTERED
201 E. Center Street
Post Office Box 1391
Pocatello, Idaho 83204-1391
208-232-6101 - Telephone
208-232-6109 - Facsimile

Attorneys for the Movant, Rowlands, Inc.

**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 Nos. 29-11278, 29-4443A

**MOTION TO SET ASIDE PARTIAL
DECREES, FILE LATE OBJECTION,
AND AMEND CLAIM**

Rowlands, Inc. (the "Movant") respectfully moves the Court pursuant to rules 11 and 14(d) of SRBA Administrative Order 1 ("AO1") and rules 7(b)(1) and 60(b) of the Idaho Rules of Civil Procedure for an order setting aside the Partial Decree and allowing a late objection to SRBA Claim No. 29-4443A, and setting aside the Partial Decree and allowing amendment of SRBA Claim No. 29-11278. It would be fair, just and reasonable to set aside both Partial Decrees and to allow an objection to Claim No. 29-4443A and amendment of Claim No. 29-11278, as explained below.

LEGAL STANDARD FOR MOTIONS TO SET ASIDE PARTIAL DECREES

"In the SRBA, a motion to set aside a partial decree is treated similar to a motion to set aside a default judgment and determined in accordance with the criteria set forth in I.R.C.P. 60(b)." *Memo. Decision and Order on Mot. to Set Aside Partial Decree* at 7, SRBA Subcase No. 55-02373 et al. (May 1, 2001); *see also* Administrative Order 1 ("AO1") at 21. Rule 60(b) identifies six reasons that justify the setting aside of a Partial Decree, but the first three apply only within six months after the Partial Decree(s) is entered. I.R.C.P. 60(b). The Partial Decrees

for SRBA Claim Number 29-4443A and 29-11278 were uncontested, resulting in default judgments without any presentation of evidence and without scrutiny by the court.. However, since the judgments were entered more than six months ago, only the fourth, fifth and sixth justifications for setting aside the partial decrees are relevant to this motion. They are: "... (4) the judgment is void; (5) the judgment has been satisfied, released or discharged; or (6) any other reason justifying relief from the operation of the judgment." *Id.* In this case, the Movants contend that there are other reasons to justify setting aside the Partial Decrees.

In addition to stating a reason that justifies setting aside a Partial Decree, the moving party must "allege facts which, if established, would constitute a meritorious defense." *Memo. Decision and Order on Mot. to Set Aside Partial Decree* at 8, SRBA Subcase No. 55-02373 et al. (May 1, 2001). The facts supporting the defense must be detailed "beyond the mere general notice requirement that would ordinarily be sufficient if pled prior to default." *Id.* (citing *Reeves v. Wisenor*, 102 Idaho 271 (1981)).

Determining whether to set aside a default judgment requires that the court "apply a standard of liberality rather than strictness and give the party moving to vacate the default the benefit of genuine doubt." *Johnson v. Pioneer Title Co.*, 104 Idaho 727, 733 (Ct. App. 1983). The court's decision must "take into account the overriding preference for having a case decided on its merits." *Order Conditionally Granting Mot. to Set Aside Partial Decrees* at 7, SRBA Subcase Nos. 37-07454 and 37-07602 (December 3, 2003) (citing *Reeves*, 102 Idaho at 272). In making that determination,

the Court must take into consideration that judgments by default are not favored, the general rule in doubtful cases is to grant relief from the default in order to reach a judgment on the merits, and procedural rules other than those which are jurisdictional should be applied to promote disposition on the merits.

Id. "This is a factual determination and is discretionary with the Court." *Id.* (citing *Johnson*, 104 Idaho at 732).

ARGUMENT

SRBA claim number 29-11278 was prepared by the Movant who was not represented by counsel at the time. SRBA claim number 29-4443A was filed by a prior owner of a portion of the Movant's property. Last year the Movant discovered a need to file additional SRBA claims in order to obtain water rights for the all of the water uses on the Movant's property (including domestic, irrigation, and industrial use). Therefore, the Movant, acting *pro se*, filed a motion to

file late claim nos. 29-4443, 29-4444 and 29-4445, which was granted. After filing these late claims, the Movant hired counsel to assist it. The late claims also triggered further investigation by the Movant's counsel and by the IDWR into the historical use of water by the Movant. After substantial further investigation, it has become known that the water use on the Movant's property began over a century ago and increased in stages. It has also become clear that the Partial Decree for water right nos. 29-11278 and 29-4443A do not accurately reflect the staged development of Movant's water rights.

Movant's property contains a water system that provides industrial water use for a milk plant, irrigation water for yard area, and domestic water use for four residential structure—one of which is a triplex and one of which is a duplex. Water right number 29-11278 was claimed in the SRBA for domestic use for seven homes and the milk processing plant with a total quantity of 0.3 cfs and a 1949 priority date. Water right no. 29-4443A was claimed for one of the units within the triplex that is served by claimed under 29-11278. Water right no. 29-4443A should not exist because it duplicates a portion of water right no. 29-11278. Toward that end, the Movant asks the court to set aside the Partial Decree for water right no. 29-4443A and allow the filing of the late objection attached hereto as Exhibit A.

The Partial Decree for water right no. 29-11278 should also be set aside for three reasons: First, although the water right was claimed for seven homes, it was decreed for only four homes. While there are only four residential structures on the Movant's property, the Movant must have sufficient water to supply all seven residential units contained in those structures. Second, while the right was claimed for 0.30 cfs, it was recommended for 0.15 cfs in what appears to have been an error that carried over into the Partial Decree. Third, the four residential structures were constructed at different times, with the first building constructed as early as 1905. Water use in the milk plant also increased over time as demand and capabilities increased. The second problem with the Partial Decree for water right no. 29-11278 is that it does not reflect the staged development of water use at the Movant's property. Therefore, the Movant asks the court to set aside the Partial Decree for water right no. 29-11278 and allow the filing of the amended claim attached hereto as Exhibit B.

The Movant is committed to having its water rights accurately decreed to reflect the staged development of its milk plant and residential structures. Part of that requires setting aside the Partial Decree for water right nos. 29-4443A and 29-11278, having 29-4442A disallowed,

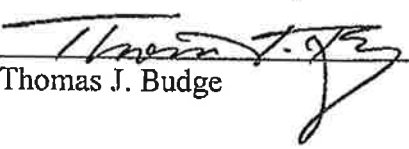
and amending 29-11278. The other part is filing additional claims to reflect the other stages of industrial, domestic, and irrigation development at the Movant's property. The Movant has acted accordingly, having already been granted a motion to file late claim nos. 29-4443, 29-4444 and 29-4445, and having pending before the court a motion to file late claim nos. 29-13955, 29-13956, 29-13957 and 29-13958.

CONCLUSION

The Movant has worked closely with the Idaho Department of Water Resources (IDWR) to investigate the historical development of water use on its property, and to determine how the Movant's water rights need to be claimed to accurately reflect the staged development. It is evident to the Movant and the IDWR agent with whom the Movant has worked that in order to accurately report and decree all of the rights owned by the Movant, the Partial Decrees for water right nos. 29-4443A and 29-11278 must be set aside, an objection must be filed for disallowance of SRBA claim no. 29-4443A, and SRBA claim no. 29-11278 must be amended. It is in the best interest of justice and in the interest of proper administration of Idaho's water resources to have these actions take place.

RESPECTFULLY SUBMITTED this 16th day of August, 2010.

RACINE OLSON NYE BUDGE &
BAILEY, CHARTERED


Thomas J. Budge

CERTIFICATE OF MAILING

I certify that on this 17th day of August, 2010, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

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

2. Copy to Claimant:

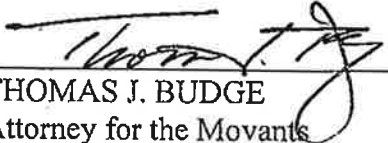
Rowland's Inc.
1141 Rowland Lane
Pocatello, Idaho 83204

3. Copies to:

IDWR Document Depository
P.O. Box 83720
Boise, Idaho 83720-0098

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

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


THOMAS J. BUDGE
Attorney for the Movants

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

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

Water Right 29-11278

NAME AND ADDRESS: ROWLANDS INC
1141 ROWLAND RD
POCAHELLO ID 83204-7416

SOURCE: GROUND WATER

QUANTITY: 0.15 CFS

PRIORITY DATE: 08/17/1949

POINT OF DIVERSION: 106S R34E S07 SENWNE Within Power County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Domestic 01-01 TO 12-31 0.15 CFS

Domestic use is for 4 homes and milk processing plant

PLACE OF USE: Domestic Within Power County
106S R34E S07 NWNE

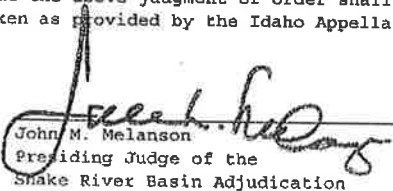
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

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.


John M. Melanson

Presiding Judge of the
Snake River Basin Adjudication

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

80.00
DATE FEE \$6.00
130.00

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 A29-11278
Date Received 4-11-90
Receipt Number 5013082

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED

APR 11 1990

Department of Water Resources
Eastern District Office

Please type or print clearly

1. Name of Claimant (s) Rowland's, Inc. Phone (208) 237-1880
Mailing Address P. O. Box 700, Pocatello, Idaho Zip 83204
2. Date of Priority (Only one (1) per claim) August 17, 1949
3. Source of water supply (a) well
which is tributary to (b) _____
4. a. Location of existing point of diversion is: Township 6S Range 34E Section 7,
SE 1/4 of NW 1/4 of NE 1/4, Govt. Lot, _____ B.M., County of Power
Additional points of diversion if any: None
- 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.
Well, 160' deep with 10" diameter casing using 25 HP submersible pump.

MICROFILMED

NOV 16 1992

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Domestic purposes from 1-1 to 12-31 amount .3 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) .3 (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.) Seven households

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	
6S	34E	7		D															

Total number of acres irrigated --

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

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

13. Describe any other water rights used at the same place and for the same purposes as described above.

or None (X)

14. Remarks:

MICROFILMED

NOV 16 1992

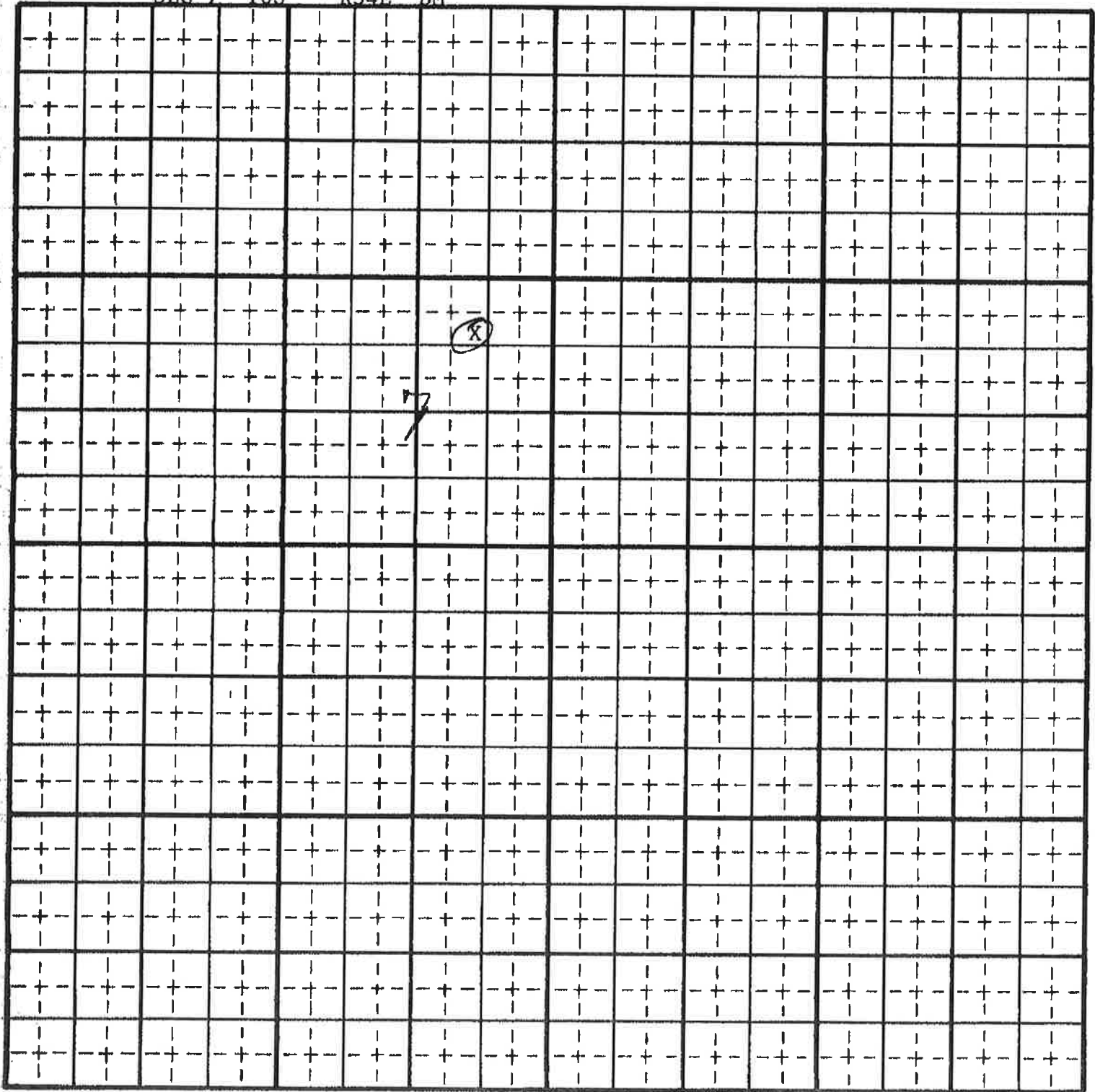
Last Name _____ Ident No. _____

Copies: White -State, Yellow-Claimant

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

Scale: 2 Inches equals 1 mile

SEC 7 T6S R34E BM



MICROFILMED

NOV 16 1992

Last Name Rowland's, Inc. Ident No. _____

Copies: White-State, Yellow-Claimant

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

16. Signature (s)

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

Number of attachments _____

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

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

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

of _____ Rowland's, Inc. _____, that I have signed the foregoing
Organization Title

document in the space below as _____ President _____ of _____ Rowland's, Inc. _____
Title Organization

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

Signature of Authorized Agent Bob Rowland

Title and Organization _____ President, Rowland's, Inc. _____ Date _____ 4-5-90

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

Subscribed and sworn (or affirmed) before me this 5th day of April 19 90

SEAL

Notary Public Zina Magee

Residing at Pocatello, Idaho

My Commission Expires May 20, 1991

Please Print Name Zina Magee

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
NOV 16 1992

Copies White-State, Yellow-Claimant

verified by phone with Klen, Assessor's Office
computer printout alw 8-20-97

AJ5856NP

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

DATE: AUG-19-1997
PAGE: A-41

RIGHT NUMBER: 29-11278

NAME & ADDRESS: ROWLANDS INC
1141 ROWLAND RD
POCATELLO ID 83204-7416

SOURCE: GROUNDWATER

QUANTITY: 0.3 CFS

PRIORITY DATE: 08/17/1949

POINT OF DIVERSION: T06S R34E S07 SENWNE Within POWER County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	DOMESTIC DOMESTIC, 7 HOMES	01-01 12-31	0.3 CFS

PLACE OF USE: DOMESTIC Within POWER County
T06S R34E S07 NWNE

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

ADDRESS CHANGE BY CLAIMANT LETTER.

EXPLANATORY MATERIAL: BASIS OF CLAIM - BENEFICIAL USE

parcel # D0403-00 Rowland 196.5A 1 Home (labor camps) maybe
" D0403-01 Robert N Rowland m-
" D0404-02 OPAL Rowland & 1 Home
margaret Rowland trust TRI-PLEX

EXHIBIT "B"

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 29-11278

Date Received: _____

Receipt No: _____

Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Rowlands Inc. Phone (208) 238-1259

Mailing Address 1141 Rowland Rd Pocatello ID 83204-7416
Street or Box City State ZIP

2. Date of Priority (Only one (1) per claim) 1 / 1 / 1905
Month Day Year (YYYY)

3. Source of water supply (Check one) Ground Water (✓) or Other () (a) _____

which is tributary to (b) _____

4. a. Location of Point of Diversion is: Township 6S, Range 34E, Section 7,
NW, 1/4 of NW, 1/4 Govt. Lot _____, BM., County of Power

Parcel (PIN) no. _____

Additional points of diversion if any: _____

If available, GPS Coordinates _____

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

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

Govt. Lot _____, BM., County of _____

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

Govt. Lot _____, BM., 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. 160' deep; 10" casing; 25 hp sub pump

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For Domestic purposes from 1/1 to 12/31 amount .06 or

For Commercial purposes from 1/1 to 12/31 amount .30 or

For purposes from to amount or

For purposes from to amount or

7. Total quantity claimed (a) .30 (cfs) and/or (b) (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) Domestic for 2 households; commercial use is a milk plant

9. 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.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6S	34E	7		D/C															

Parcel (PIN) no(s).

Total number of acres irrigated n/a

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

11. Do you own the property listed above as place of use? Yes (✓) No ()

If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.

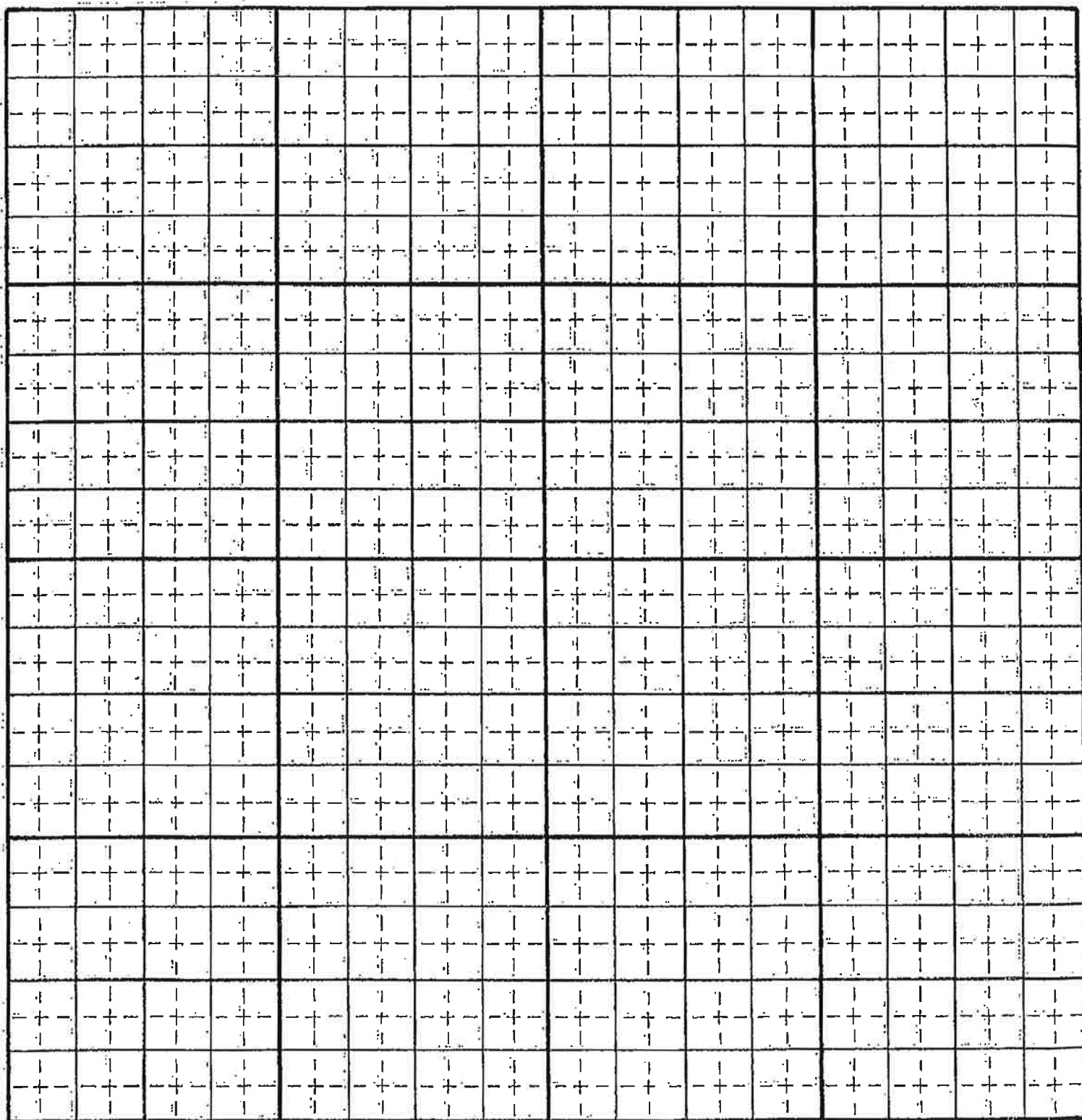
29-4445 or None ()

13. Remarks:

Last Name Identification No.

Map of Project: Attach aerial photograph or topographic map showing clearly the point of diversion, place of use, section number, township, and range number, unless unavailable. Otherwise sketch the elements above on the grid below.

Scale: 2 Inches equals 1 mile



Last Name _____ Identification No. _____

14. Basis of Claim (Check One) Beneficial Use (✓) Posted Notice () License () Permit () Decree ()

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number 29-11278

15. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices 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 under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

_____ of _____
Title Organization

that I have signed the foregoing 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 Thomas J. Budge Date 8-16-10

Title and Organization Attorney for Claimant

16. Notice of Appearance:

Notice is hereby given that I, Thomas J. Budge, will be acting as attorney at law of 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 Thomas J. Budge Date 8-16-10

Address 201 East Center St., PO Box 1391

Pocatello, ID 83204-1921

Last Name _____ Identification No. _____