

06/17/2009

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

RIGHT NUMBER: 29-13779

NAME AND ADDRESS: SHOSHONE BANNOCK TRIBES
PO BOX 306
FORT HALL ID 83203

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.580 CFS
117.28 AFY

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

PRIORITY DATE: 11/22/1919

POINT OF
DIVERSION:

T06S R33E S19 SWNW Lot 2 Within POWER County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	0.580 CFS 116.80 AFY
STOCKWATER	01/01 12/31	0.020 CFS 0.48 AFY

PLACE OF USE:

IRRIGATION in POWER County

T06S R33E S19 Lot 1 NWNW 2.20 T06S R33E S19 Lot 2 SWNW 27.00

STOCKWATER same as IRRIGATION

29.2 ACRES TOTAL

Right Nos. 29-13779 and 29-13781 are limited to the irrigation of a combined total of 59 acres in a single irrigation season.

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

The quantity of water decreed for this water right for stockwater use 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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Stockwater use is for 36 range cattle.

SCANNED

NOV 03 2009

06/17/2009

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

RIGHT NUMBER: 29-13781

NAME AND ADDRESS: SHOSHONE BANNOCK TRIBES
PO BOX 306
FORT HALL ID 83203

SOURCE: BANNOCK CREEK

TRIBUTARY: SNAKE RIVER

QUANTITY: 1.180 CFS

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

PRIORITY DATE: 11/22/1919

POINT OF
DIVERSION:

T06S R33E S19 SWNE Within POWER County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	1.180 CFS
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: IRRIGATION in POWER County

T06S R33E S19 Lot 1 NWNW 21.00 T06S R33E S19 Lot 2 SWNW 38.00

STOCKWATER same as IRRIGATION

59 ACRES TOTAL

Right Nos. 29-13779 and 29-13781 are limited to the irrigation of a combined total of 59 acres in a single irrigation season.

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

The quantity of water decreed for this water right for stockwater use 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. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Stockwater use is for 36 range cattle.

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NOV 03 2009



Idaho Department of Water Resources

SRBA Recommendation

29-13781

(IRRIGATION)

Legend

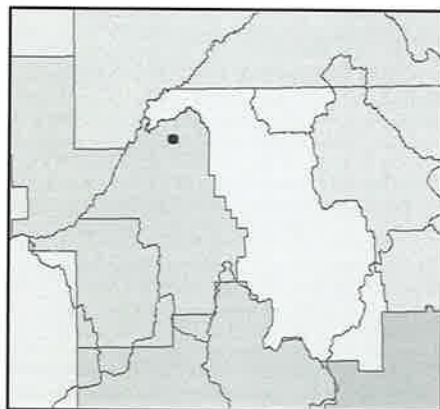
⊙ Point of Diversion

□ Place of Use

▭ Townships

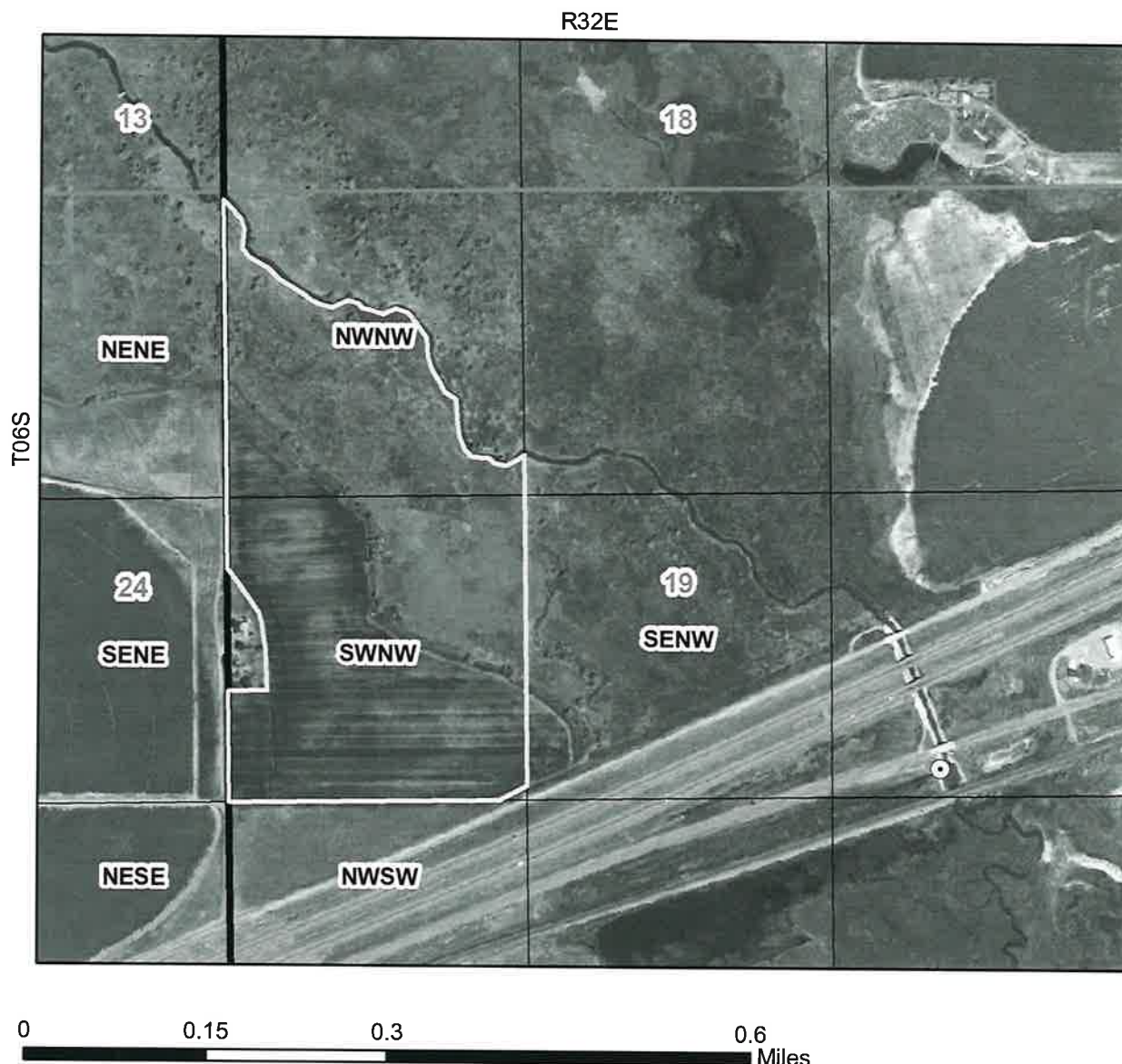
▭ PLS Sections

▭ Quarter Quarters



Power County
IDWR Basin 29

Prepared by Denise Kidman
On Friday, April 18, 2008
2004 Aerial Photography



APR 18 2008

SCANNED

PROFILED



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

October 9, 2007

COLMAN S PANIOGUE
22 COLGATE
POCATELLO ID 83201

RE: Snake River Basin Adjudication (SRBA)
Late Notices of Claim to a Water Right #29-13779 and 29-13781

Dear Mr. Paniogue:

Your Notices of Claim to a Water Right referenced above were received from the SRBA Court recently. I have enclosed your receipt #C085049 for the fees you paid.

These Notices of Claim will be investigated and reported to the Court in a future supplemental Director's Report. Please contact me at 208/287-4916 if you have any questions.

Sincerely,

Craig L. Saxton
Water Rights Supervisor
Adjudication Bureau

CLS:ss:region

Enclosure:

Receipt Referenced Above

SCANNED

OCT - 9 2007



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

EASTERN REGION

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

June 30, 2009

SHOSHONE-BANNOCK TRIBES
PO BOX 306
FORT HALL ID 83203

RE: Notice of Change of Water Right Ownership (NCO) for 29-13779
& 29-13781 and Notice of Completed Administrative Proceeding (NCAP)

Dear Sir/Madam:

The Idaho Department of Water Resources (IDWR) acknowledges receipt of an NCO changing the right holder for the above referenced water right(s). Based on this NCO, IDWR water right records for the Snake River Basin Adjudication (SRBA) have been updated.

Furthermore, as directed by the SRBA Court, this office mailed a copy of the updated water right record(s) to each party listed on the enclosed NCAP. The intent of this mailing is to ensure each party has a current record of water right(s) as recorded in the SRBA.

Please feel free to contact me if you have any questions concerning this matter.

Respectfully,

Bobby Kern
Office Specialist II

Enclosure

cc Paniogue, Colman S.

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NOV 03 2009

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

Water Rights: 29-13779 & 29-13781

Case No. 39576

NOTICE OF COMPLETED
ADMINISTRATIVE
PROCEEDING

IDWR has completed the following Administrative proceeding:

- ☐ Address change
- ☒ Substitution of Party PANIOGUE - SHOSHONE
- ☐ I.C. § 42-222 transfer
 - ☐ point of diversion ☐ place of use
 - ☐ period of use ☐ nature of use
 - ☐ split of water right ☐ change in ownership

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

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

DATED: 15 July 2009

Ernest Carlson

Signature of IDWR Representative

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NOV 03 2009

CERTIFICATE OF MAILING

I certify that on July 17, 2009, I mailed the original and copies of this form to the following persons, postage prepaid by regular mail and addressed as follows:

1. Original to:
Clerk of the District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls ID 83303-2707
2. One copy to:
Claimant/Seller for Substitution of Party or attorney of record:
COLMAN S PANIOGUE
22 COLGATE
POCATELLO ID 83201
3. One copy to:
Claimant/Purchaser for Substitution of Party, or attorney of record:
SHOSHONE-BANNOCK TRIBES
PO BOX 306
FORT HALL ID 83203
4. One copy to:
Each party in the subcase, or attorney of record
5. One copy each to:
Chief Natural Resources Division
Office of the Attorney General
PO Box 44449
Boise ID 83711-4449
6. One Copy to:
United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724



Signature of person or attorney mailing the form

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NOV 03 2009

DEV ✓

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

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

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

Water Right No(s)	Adjudication Claim No(s)	Split(s)	Water Right No(s)	Adjudication Claim No(s)	Split(s)
ADJ 29-13779	same				
ADJ 29-13781	same				

RECEIVED

JUN 10 2009

Department of Water Resources
Eastern Region

2. The following **REQUIRED** information must be submitted with this form:
- A. The appropriate **FILING FEE**. See instructions for fee amounts.
 - B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
 - C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are on file with the county Planning and Zoning or Recorder's Office).
- OR**
- D. If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency or equivalent **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The AERIAL PHOTO should be submitted in place of the PLAT OF PROPERTY or SURVEY MAP.

3.	Name and Address of Former Owner/Claimant(s)	Colman S. Paniogue 22 Colgate Pocatello, ID 83201
4.	New Owner/Claimant(s)	Shoshone-Bannock Tribes Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
	New Mailing Address	PO Box 306
	City, State and ZIP Code	Fort Hall, ID 83203
	New Telephone Number	(208) 239-4580 Email: eteton@sbtribes.com

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5. Date you acquired the property 02/13/2009
6. **If the change in ownership affects the entire water right for each water right or adjudication claim number listed in line 1, then skip this line and go to line 7.** If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (you may copy this page, if necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right will not be split, skip this area and proceed to line 7)		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Water Right and/or Adjudication Claim Number <u>29-13779</u>		
Irrigation	.580 CFS/116.8 AFY	29.2 acres
Stock	.020 CFS/.048 AFY	36 range cattle
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number <u>29-13781</u>		
Irrigation	1.180 CFS	59 acres
Stock	.020 CFS	36 range cattle
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number _____		
Irrigation		
Stock		
Domestic		
Other		
Totals		

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

7. Signature(s) of New Owner(s) or Claimant(s)  (title if applicable)
Alonzo A. Coby
 Fort Hall Business Council Chairman (title if applicable)

IT IS IMPORTANT TO FILE THIS COMPLETED FORM AT THE APPROPRIATE IDWR OFFICE, WITH PAYMENT OF THE FILING FEE AND THE OWNERSHIP DOCUMENT(S), AS REFERRED TO IN LINE 2.

For IDWR Office Use Only:

Received by _____ Date _____ Receipt Amt. _____
 Received by _____ Date _____ Receipt No. _____
 Processed by AJ Date _____ WR _____ Date _____

SCANNED
NOV 03 2009



Pioneer Title Co.

GOING BEYOND

135 N. Arthur Ave. / Pocatello, Idaho 83204 / (208) 233-9595

Shoshone-Bannock Tribes
PO Box 306
Fort Hall, ID 83203

Re: Escrow No.: 20080125 SMK CG
Policy No.: OX 308787
Seller: Coleman S. Paniogue and Janet M. Paniogue, husband and wife
Buyer: Shoshone-Bannock Tribes
Property:

The closing of your purchase of the above-noted property has now been completed. Enclosed is your Original Recorded Warranty Deed and Title Insurance Policy. These documents contain important information about the property you have just purchased. If you have not elected to apply for the homeowner's exemption at the time of closing, the Warranty Deed will need to be taken to the County Assessors Office to apply. The policy is your guarantee of ownership, please read it and retain it with your other valuable papers.

A complete and permanent file of the records concerning your transaction will be maintained in our office under the assigned Policy and File number. These records will assure prompt processing of future work and save much valuable time should you wish to sell or obtain a loan on your property.

We appreciate having had this opportunity to be of service to you and will be glad to assist you in any way in regard to your future escrow or title service needs.

Sincerely,

Celeste Gunn
Title Officer
PIONEER TITLE COMPANY OF BANNOCK COUNTY

Enclosures

RECEIVED

MAR 23 2009

SHOSHONE-BANNOCK TRIBES
TRIBAL ADMINISTRATION DEPARTMENT

Received By lit

Index No. 600

Refer to RESOLUTION, CAC, WARR

Disposition (3)✓

SCANNED

NOV 03 2009

Orig. to resolution

received
3/24/09

Parcel 1

Lots 1 and 2 in Section 19, Township 6 South, Range 33 East, Boise Meridian, Power County, Idaho, except the following described parcels:

Beginning at the West 1/4 corner of Section 19, Township 6 South, Range 33 East, Boise Meridian; thence North 658.72 feet to the POINT OF BEGINNING; thence North 255.0 feet; thence South 89°38' East 170.60 feet; thence South 255.0 feet; thence North 89°38' West 170.6 feet to the TRUE POINT OF BEGINNING, all within the NW 1/4 of Section 19, Township 6 South, Range 33 East, Boise Meridian, Power County, Idaho

Also except that portion conveyed to the State of Idaho under Warranty Deed recorded February 18, 1971 under instrument no. 96672 described as follows:

A parcel of land being on the Northwesterly side of the centerline of Interstate 15W, Project No. I-15W-4(12)81 Highway Survey as shown on the plans thereof, now on file in the office of the Department of Highways of the State of Idaho, and being a portion of Government Lot 2 of Section 19, Township 6 South, Range 33 East, Boise Meridian, described as follows, to wit:

Commencing at the Southwest corner of Government Lot 2 of Section 19, Township 6 South, Range 33 East, Boise Meridian; thence South 89°33'51" East along the South line of said Government Lot 2, a distance of 1,229.0 feet, more or less, to a point in a line parallel with and 240.0 feet Northwesterly from the centerline and bears North 21°48'53" West from Station 372+82.51 of said Interstate 15W, Project No. I-15W-4(12)81 Highway Survey and being the REAL POINT OF BEGINNING; thence Northeasterly along said parallel line being an 28,427.90 feet radius curve left 101.70 feet to a point in the East line of said Government Lot 2 and bears North 22°01'11" West from Station 373+85 of said Highway Survey; thence Southerly along said East line 40.0 feet, more or less, to the Southeast corner of said Government Lot 2; thence North 89°33'51" West along the South line of said Government Lot 2, a distance of 100.0 feet, more or less, the REAL POINT OF BEGINNING.

Said land is located within the Fort Hall Reservation of the Shoshone-Bannock Tribes

Parcel 2

The West 1/2 of the East 1/2 of the Northwest Quarter, Township 6 South, Range 33 East, Boise Meridian, Power County, Idaho, except that portion conveyed to the State of Idaho under Warranty Deed recorded February 18, 1971 under instrument no. 96673 described as follows:

A parcel of land being on both sides of the centerline of Interstate 15W, Project No. I-15W-4(12)81 Highway Survey as shown on the plans thereof now on file in the office of the Department of Highways of the State of Idaho, and being a portion of the Southeast Quarter of the Northwest Quarter of Section 19, Township 6 South, Range 33 East, Boise Meridian, described as follows, to-wit:

Beginning at the Southeast corner of the Southeast 1/4 Northwest 1/4 of Section 19, Township 6 South, Range 33 East, Boise Meridian; thence North 0°16'38" East along the East line of said SE1/4NW1/4, a distance of 664.0 feet, more or less, to a point in a line parallel with and 260.0 feet Northwesterly from the centerline and opposite Station 388+53.91 of said Interstate 15W, Project No. I-15W-4(12)81 Highway Survey; thence along said parallel line as follows; South 66°24'08" West 679.93 feet to a point opposite Station 381+73.98 of said Highway Survey; thence Southwesterly along a 28,387.90 foot radius curve right 618.32 feet to a point that bears North 22°20'59" West from Station 375+50 of said Highway Survey; thence South 52°42'05" West leaving said parallel line 154.33 feet to a point in a line parallel with and 220.0 feet Northwesterly from the centerline and bears North 22°02'59" West from Station 374+00 of said Highway Survey; thence Southwesterly along a 28,427.90 foot radius curve right 14.88 feet to a point in the West line of said SE1/4NW1/4 and bears North 22°01'11" West from Station 373+85 of said Highway Survey; thence Southerly along said West line 40.0 feet, more or less, to the Southwest corner of said SE1/4NW1/4; thence South 89°33'51" East along the South line of said SE1/4NW1/4, a distance of 1320.0 feet, more or less, to the PLACE OF BEGINNING.

Said land is located within the Fort Hall Reservation of the Shoshone-Bannock Tribes

Parcel 3

The East 1/2 of the East 1/2 of the Northwest Quarter, Township 6 South, Range 33 East, Boise Meridian, Power County, Idaho, except that portion conveyed to the State of Idaho under Warranty Deed recorded February 18, 1971 under instrument no. 96673 described as follows:

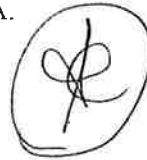
A parcel of land being on both sides of the centerline of Interstate 15W, Project No. I-15W-4(12)81 Highway Survey as shown on the plans thereof now on file in the office of the Department of Highways of the State of Idaho, and being a portion of the Southeast Quarter of the Northwest Quarter of Section 19, Township 6 South, Range 33 East, Boise Meridian, described as follows, to-wit:

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 [Handwritten initials and signatures]

EXHIBIT B

Shoshone Bannock Tribes of the Fort Hall Indian Reservation, by and through its governing body of the Fort Hall Business Council (the Tribe), used funds from the United States of America, acting through the Department of Energy, Bonneville Power Administration (BPA), to acquire real property pursuant to the Southern Idaho Wildlife Mitigation Agreement (the MOA) between the Tribes and BPA dated December 1997. A copy of the Memorandum of Agreement can be obtained from Bonneville Power Administration, Manager, Real Property Services TER-3, P.O. BOX 3621, Portland, OR 97208 or 905 NE 11th Avenue, Portland, OR, 97232. The Tribes agree to use this property for wildlife habitat protection permanently and that title to this property shall vest in BPA (1) upon determination by BPA that this real property is not being managed for wildlife habitat protection as described in the MOA and (2) BPA choosing to accept conveyance of the property. The BPA and the Tribes may revoke this executor interest to permit a sale or trade of this real property interest pursuant to Section 0 of the MOA.



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NOV 03 2009

SOUTHERN IDAHO WILDLIFE MITIGATION

MEMORANDUM OF AGREEMENT

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Attachments

SOUTHERN IDAHO WILDLIFE MITIGATION

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Properties within the Project may vary from time to time as parcels are acquired or sold as provided under this Agreement.

E. BPA funding under this Agreement will be provided in a manner consistent with section 4(h)(10)(D) of the Act after BPA receives a recommendation from the Council that the measure be funded at a particular level and BPA accepts that recommendation. This process is referred to as prioritization.

F. The underlying purpose of the Agreement is to protect, mitigate, and enhance wildlife and wildlife habitat permanently, through the acquisition, protection and management of lands.

NOW THEREFORE IT IS AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. BPA Obligations (a) In consideration of the promises and covenants made and set out herein, BPA shall make monetary transfers to the Tribe in amounts agreed upon by the parties within 10 days of receipt of a signed Intergovernmental Contract and invoice from the Tribe.

(b) In addition, BPA shall reimburse the Tribe's costs of complying with federal real property acquisition law, including the Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. §§ 4601-4655; provided, for any acquisition involving potential relocation costs of \$5,000 or more, the Tribe shall enlist the assistance and follow the direction of BPA's Manager, Real Property Services, before taking any action or making any commitments that will necessitate reimbursement by BPA under this paragraph.

2. Operation and Maintenance (a) On or before the beginning of fiscal year 1999 (October 1, 1998), BPA shall start providing a reasonable amount of additional funds for continued operation and maintenance (O&M) of the mitigation to maintain or provide positive wildlife and/or wildlife habitat benefits.

(i) For properties acquired in fee with BPA funds, reasonable may be defined as sufficient funding to, among other things, maintain the staffing and equipment needed to protect habitat through limiting grazing trespass, maintain the property boundary fences, suppress noxious weed infestations, perform habitat improvement and monitoring activities as delineated in the Management Plans, performing Habitat Evaluation Procedures (HEPs), and where necessary, paying in-lieu property taxes, county weed assessments, and fire suppression costs.

in-lieu of property taxes, county weed assessments, operation and maintenance, or fire suppression on lands that were not purchased for purposes of Southern Idaho wildlife mitigation or that the Tribe owned or operated prior to this Agreement. Nor may the Fund be used for any activities on lands owned or managed by a person or entity having a wildlife mitigation agreement with BPA calling for that person or entity to be responsible for operation and maintenance or habitat improvement costs.

(c) The Tribe will use the Fund to implement wildlife mitigation activities as outlined in the Intergovernmental Contracts and within the area delineated in Attachment A of this Agreement. The Tribe may utilize its own processes in conducting any and all pre-acquisition activities, that include, by way of example, appraisals, drafting and presenting to sellers earnest money agreements, purchase and sale agreements, hazardous materials audits, and conducting surveys; provided, the Tribe will comply with federal real property acquisition laws, such as the Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. §§ 4601-4655. Where the Tribe has no established procedure, it will follow BPA or federal procedures.

(d) The Tribe shall protect the properties in the Project as wildlife habitat permanently on behalf of BPA, preventing any and all uses of the properties that are inconsistent with this Agreement, the Council's Program, and the Management Plans.

(e) Property acquired pursuant to this Agreement is subject to the condition that it be managed for wildlife under this Agreement. If BPA determines that a Property is not being managed for wildlife, as evidenced by a twenty percent drop in the highest documented HEP values, then the Property shall vest in BPA in fee simple absolute, unless BPA provides written consent to such cessation of use or lack of compliance. To allow the Property to vest in BPA, the Tribe shall take title to real property it purchases under this Agreement by a Deed Conveying Fee Simple With an Executory Limitation Over including the language provided in Attachment C. This provision is inapplicable if the twenty percent drop in HEP values is proximately caused by force majeure as described in section 6 or BPA's failure to provide additional funds for operation and maintenance as described in section 2.

4. Management Plans (a) The Tribe shall use the Fund to develop an inventory of the resources existing on the Properties. Based on the information obtained from the inventories the Tribe shall develop a site specific management plan (Management Plan) for each mitigation site within two years of the date of acquisition. The Management Plans will describe the mitigation in

10/32

sensitive sites if at all possible in implementing habitat improvement actions. Only ground-disturbing activities approved in the Management Plans may be undertaken. The Tribe may use the Fund, or if it is exhausted seek additional monies through the prioritization process, for the surveys or any cultural or historic resource mitigation necessitated as a result of the Tribe's actions under this Agreement.

8. Recording by Shoshone-Bannock Tribe (a) For any real property the Tribe acquires under this Agreement, the Tribe shall have a deed with an executory interest over and this Agreement acknowledged and recorded with all appropriate authorities under Idaho law, and if the property is placed in trust, under Bureau of Indian Affairs recording regulations. Recording will be done when the Tribe takes title to or assumes control of such property. Within 30 days of recording(s), the Tribe shall submit to the BPA contracting officer a copy of the recorded documents showing the recording information. In the event the Tribe exercises its option to sell or exchange any of the lands acquired for mitigation, as authorized in Section 9 of this Agreement, the parties will release the Deed Conveying Fee Simple with an Executory Limitation Over on the property to be sold and the Tribe shall lawfully acknowledge and record a Deed Conveying Fee Simple with an Executory Limitation Over with the newly acquired property within 30 days of assuming control of that property.

(b) For properties the Tribe acquires in less than fee interest under this Agreement, the Tribe shall ensure (i) the restrictions on the deeds include third party enforcement language approved by BPA, and (2) the deeds are acknowledged and recorded under Idaho and, if appropriate, federal law.

9. Acquisition, Trade, Sale If a sale or trade of a property would provide a net gain in HUs or aid in the fulfillment of the management objectives as stated in this Agreement and the Management Plan, then the Tribe may sell or trade any Property after meeting the following conditions:

(a) obtaining written concurrence by the BPA Manager, Fish and Wildlife Division, and

(b) demonstrating that the new real property interests are of equal or greater wildlife habitat value, as measured by a habitat evaluation procedure, to the species targeted in this Agreement, or aid in fulfillment of the Management Plan or facilitate management of real property already acquired.

14. BPA Credit: The Tribe shall support BPA's taking of the following protection, mitigation, and enhancement credit:

(a) For having used BPA funds to purchase and manage Properties BPA shall receive as a credit to wildlife mitigation under the Act, at a minimum, the HUs agreed upon in the Intergovernmental Contracts, and as a maximum, the actual HUs achieved or acquired.

(b) The Tribe will conduct HEPs for breeding bald eagle, wintering bald eagle, Canada goose, mallard, black-capped chickadee, mink, ruffed grouse, mule deer/elk, pheasant, sharp-tailed grouse, sage grouse, river otter, and yellow warbler. The results of the HEPs shall be used to evaluate the credit due on each specific mitigation site. For mitigation actions involving partnerships, BPA shall receive full credit proportional to its investment in the acquisition, improvement costs, or operations and maintenance.

(c) For all Properties: The parties may agree to conduct subsequent HEP studies at any time. The party requesting the study shall fund it unless the parties agree otherwise.

(d) The Tribe agrees that BPA's expenditure of money is consistent with section 4(h) of the Act. The Tribe shall support BPA's obtaining full credit for its expenditures with respect to protecting and managing existing habitat on the Properties, and for habitat improvements when implemented on the Properties, so long as BPA complies with the terms of this Agreement.

(e) BPA shall use the credit recognized by the Tribe under this Agreement toward satisfaction of BPA's wildlife mitigation responsibility for Palisades, Anderson Ranch, Black Canyon, and Minidoka Dams and Reservoirs and any other hydroelectric projects amended into the Council's Program for Southern Idaho and agreed to by the parties. Provided, if another crediting methodology is imposed by applicable law or by judicial decision, agreed to between BPA and the Tribe, or adopted by BPA through rulemaking, that formula shall be used to recompute the credit provided in this part and the recomputed credit shall be used for all purposes, including the final determination of BPA's ultimate obligation to provide wildlife mitigation, protection, and enhancement; however, in no event will any such recalculation affect BPA's obligations under this Agreement.

the Properties. The Tribe shall also immediately convey to BPA all personal property acquired with funding provided by BPA under this Agreement, and remit any remainder sums in the Fund to BPA, after which time the parties will have no further obligations to each other under this Agreement. Provided, that unless agreed to by the parties, the parties shall use their best efforts to enter into a new and binding agreement that carries out the intent of this Agreement. Either party may invoke the dispute resolution provisions of this Agreement to facilitate the negotiation of a new agreement.

20. Modification The parties by mutual agreement may modify the terms of this Agreement. Any such modification shall be in writing signed by both parties.

21. Enforcement of Agreement This Agreement is enforceable in any court of competent jurisdiction, whether for equitable relief or damages. The Tribe grants a limited waiver of its sovereign immunity if the claim 1) is made by the BPA or its successors or assigns, 2) alleges a breach of an obligation or duty assumed by the Tribe under this Agreement, and 3) seeks specific action to bring the Tribe into compliance with this Agreement and/or payment of a monetary obligation arising from noncompliance with this Agreement.

22. Attorney Fees In the event of litigation involving this Agreement each party shall bear its own costs and attorney fees, including those incurred on appeal.

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23. Waiver: The failure of any party to require strict performance of any term of this Agreement or a party's waiver of performance shall not be a waiver of any future performance or of a party's right to require strict performance in the future.

IN WITNESS WHEREOF, the parties have signed this Agreement below.

By: 
Chairman
Fort Hall Business Council

ATTACHMENT A

DESCRIPTION OF PROJECT AREA

The project area includes wildlife mitigation project sites in southern Idaho associated with Palisades, Anderson Ranch, Minidoka, Black Canyon hydroelectric projects and any other hydroelectric projects amended into the Council's program and agreed to by the parties.

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DRAFT PROGRAMMATIC AGREEMENT
among
**THE BONNEVILLE POWER ADMINISTRATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AND THE IDAHO STATE HISTORIC PRESERVATION OFFICER**
regarding implementation of
SOUTHERN IDAHO WILDLIFE MITIGATION PROJECTS

WHEREAS, the Bonneville Power Administration is a Federal Power Marketing Agency (PMA), created under the authority of the Bonneville Project Act (16 U.S.C. §§ 832-832I);

WHEREAS, the Advisory Council on Historic Preservation (Council) was established as an independent agency by the National Historic Preservation Act (NHPA) at 16 U.S.C. § 470I. Pursuant to Section 106 of the NHPA, the Council provides comments to an Agency Official on the effects of undertakings on historic properties in accordance with its implementing regulations, "Protection of Historic Properties," 36 CFR Part 800.

WHEREAS, the role of the state historic preservation officer (SHPO) in regard to programmatic agreements is set out in 36 C.F.R. § 800.1(c)(1)(ii);

WHEREAS, the Bonneville Power Administration (BPA) and other potential managing entities such as the Idaho Department of Fish and Game (IDFG); the Bureau of Land Management (BLM); the United States Forest Service (USFS); and the Shoshone-Bannock Tribes (Tribes) propose to protect, mitigate and enhance wildlife and wildlife habitat adversely affected by the development of the Federal Columbia River Hydrosystem in accordance with the South Fork Snake River/Palisades Wildlife Mitigation Project Final Environmental Assessment and Finding of No Significant Impact and the Wildlife Programmatic Environmental Impact Statement;

WHEREAS, BPA recognizes that mitigation efforts related to the development of the Federal Columbia River Hydrosystem could possibly affect historic properties. For the purposes of this PA, the term "historic properties" means any prehistoric or historic district, site, building, structure, or object, or any property of traditional religious and cultural importance to an Indian tribe, that is included in, or eligible for inclusion in, the National Register. This term includes artifacts, records, and remains that are related to and located within such properties;

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accordance with 36 C.F.R. part 63, "Determination of Eligibility for Inclusion in the National Register of Historic Places." The managing entity shall forward survey and evaluation results to BPA for review, after which BPA will forward the results to the SHPO and Tribes for a 30-day review.

(b) If cultural material is discovered during any surveys or evaluations, the materials will be noted but left in place unless, in the judgement of the surveying archaeologist, collection is necessary for protection purposes.

(c) If no historic properties are identified during the survey, the project may proceed after the 30-day review by the SHPO and Tribes described in stipulation 1(a).

(d) Other land management activities (those listed in Appendix A) are generally exempt from the need for advance survey and evaluation. However, the managing entity shall promptly report to BPA, Tribes and the SHPO any potential historic properties encountered during implementation of these activities, and shall consult with the SHPO, BPA, and the Tribes about the need to survey and evaluate such properties.

2. Historic Properties Management Plan (HPMP)

In order to fulfill BPA's Section 106 obligations, the managing entity shall prepare an HPMP for projects with historic properties discovered through implementation of stipulation 1 (above).

(a) The HPMP shall be developed in consultation with BPA, the Tribes and the SHPO within one year of the determination of eligibility, and amended as warranted by changing conditions and discovery of additional historic properties. A single HPMP may be prepared for each parcel of land within contiguous boundaries, or where the managing entity is managing other properties similarly situated, and it may include multiple historic properties.

(b) In preparing HPMPs, they shall be prepared by or under the supervision of an individual who possesses the qualifications recommended by the Interior Secretary's "Professional Qualifications Standards" (48 Fed. Reg. 44,716, 44,738).

(c) The HPMP shall include the following:

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3. Discoveries

If cultural material that is not covered by the HPMP (Stipulation 2) is discovered during the implementation of the Project, the managing entity will ensure that all work in the area of the discovery will immediately cease and the managing entity will contact BPA, the Tribes, and the SHPO. BPA, in consultation with the SHPO and Tribes, will determine if the cultural material represents an historic property which is eligible to the National Register of Historic Places. If the material does represent an historic property, BPA will determine the appropriate treatment of the historic property in consultation with the SHPO and the Tribes, as appropriate.

4. Curation

The parties recognize that Tribal traditions do not normally support curation. However, if curation of non-burial materials is deemed necessary as discussed under stipulation 1(b), BPA and the managing entity shall ensure that all curation of records and other items resulting from identification, evaluation, and data recovery efforts proceeds in accordance with 36 CFR 79 and, where applicable, the provisions of the Native American Graves Protection and Repatriation Act (PL101-601). Collections and records will be curated at an appropriate repository. Materials shall be maintained in accordance with 36 CFR 79 until any specified analyses are complete and they are curated or returned to their owners.

5. Human Remains

BPA and the land-managing entity shall ensure that any human remains encountered during the course of this undertaking are treated in a respectful manner. No construction activities will be allowed in the vicinity of the discovery until a Notice to Proceed is provided by BPA and/or the land managing entity. A reasonable and good-faith effort shall be made to identify the appropriate ancestors, Native American or otherwise, related to the burial, and consult with them concerning the treatment of remains. If human remains are encountered on Federal lands, the land-managing entity shall consult with Native Americans, or other groups related to the burial, to determine treatment and disposition measures consistent with applicable Federal law (such as the Native American Graves Protection and Repatriation Act). BPA, SHPO and the Shoshone-Bannock Tribe will address specific NAGPRA procedures regarding the discovery of human skeletal remains in an MOA.

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to consider such amendment. Any amendment or addendum to this agreement shall be executed in the same manner as the original.

9. **Dispute Resolution**

Should BPA, the SHPO, or the Tribes be unable to resolve a dispute regarding implementation of this PA, they may consult with the Council staff. If the dispute is still not resolved after a period of 60 day, the SHPO shall request the further comments of the Council pursuant to 36 C.F.R. § 800.6(b).

10. **Termination**

BPA or the SHPO may terminate this PA by providing 120 days' notice, in writing, to the other parties, including concurring parties, provided that the parties will meet during the period prior to termination to seek agreement, amendment, or other action that would avoid termination. It is the intent of the parties that this agreement last for the duration of the South Fork Snake River Programmatic Management Plan. In the event of termination, BPA and the land management entity will comply with 36 C.F.R. §§ 800.4-800.6 with regard to land management activities.

11. **Other Indian Tribes**

Nothing in this agreement is intended to affect the interests or rights of any other Indian tribe.

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APPENDIX "A"

Land Management Activities Normally Exempt from Prior Survey and Evaluation

- * Acquisition of a conservation easement (survey and evaluation normally will be required prior to implementation of Appendix B activities funded by BPA or the managing agency within the easement)
- * Management of vegetation not associated with structural landscaping (i.e., non-mechanical weed control or tree topping)
- * Maintenance of fences not requiring excavation
- * Construction and/or preparation of wildlife mitigation structures, facilities or alterations to land where such activities or their use will not involve excavation or ground disturbance, nor create a risk of unearthing historical items or resources

APPENDIX "B"

Examples of Land Management Activities Normally Requiring Prior Survey and Evaluation

- * Acquisition of land in fee (survey and evaluation would be limited to an overview-type survey for informational purposes only, with no testing) [SHPO wanted moved to here, BPA added qualifying parenthetical]
- * Construction of buildings, including site preparation
- * Removal of buildings more than 50 years old
- * Modification of buildings more than 50 years old

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ATTACHMENT C

SAMPLE EXECUTORY LIMITATION OVER LANGUAGE

The Deeds Conveying Fee Simple With an Executory Limitation Over shall include the following provision:

Title to this property shall vest in the United States, Bonneville Power Administration (BPA), upon (1) determination by BPA that this real property is not being managed for wildlife, as described in the December 1997 Shoshone-Bannock Tribes/BPA Southern Idaho Wildlife Mitigation Agreement recorded with this deed, and (2) BPA's choosing to accept conveyance of the property.

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RESOLUTION

WHEREAS, Bonneville Power Administration has agreed to mitigate for the loss of wildlife Habitat Units through the purchase of off-site Habitat Units; and

WHEREAS, In 1996 the Tribes and the Idaho Department of Fish & Game entered into a funding agreement regarding implementation of Southern Idaho Wildlife Mitigation under the Northwest Power Planning Act, for the loss of wildlife habitat units due to the construction of Palisades, Minidoka, Anderson ranch, and Black Canyon Dams; and

WHEREAS, This agreement outlined Tribal/State funding percentages of which the Tribes received 30% and the State receives 30%. It also identified the concept of "Common Share" projects, which will receive 40% of the funding for mutually agreeable projects; and

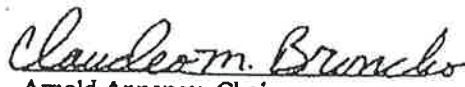
WHEREAS, There is a need for the Tribes to sign a Memorandum of Agreement with Bonneville Power Administration in order to utilize these funds; and

NOW, THEREFORE BE IT RESOLVED BY THE FORT HALL BUSINESS COUNCIL OF THE SHOSHONE-BANNOCK TRIBES, that the FHBC approves the signing of the Southern Idaho Wildlife Mitigation Memorandum of Agreement between the Tribes and Bonneville Power Administration.

BE IT FURTHER RESOLVED, the hold harmless clause will be applicable and included in this document.

Authority for the foregoing resolution is found in the Indian Reorganization Act of June 18, 1934 (48 Stat., 984) as amended and under Article VI, Section 1 (r) of the Constitution and Bylaws of the Shoshone-Bannock Tribes, Fort Hall Indian Reservation.

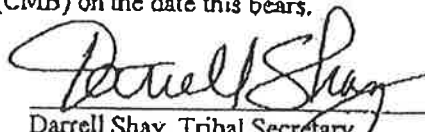
Dated this 03rd day of February, 1998.


Claude M. Brunch
Arnold Appency, Chairman
Fort Hall Business Council

SEAL

CERTIFICATION

I HEREBY CERTIFY, that the foregoing resolution was passed while a quorum of the Fort Hall Business Council was present by a vote of 5 in favor, 1 absent (AA), and 1 not voting (CMB) on the date this bears.


Darrell Shay, Tribal Secretary
Fort Hall Business Council

GAME-98-0049

cc: Chad Colter, Fisheries Dept.

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6. An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.
7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.
8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without Knowledge.
9. Title being vested other than as stated in Schedule A or being defective

(a) as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction vesting Title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or
(b) because the instrument of transfer vesting Title as shown in Schedule A constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records

- (i) to be timely, or
- (ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.

10. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this Policy, but only to the extent provided in the Conditions.

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
(b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;

(b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
(c) resulting in no loss or damage to the Insured Claimant;
(d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
(e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.

4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
 - (a) a fraudulent conveyance or fraudulent transfer; or
 - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

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File No.: 20080125

Policy No.: OX 308787

Exceptions from Coverage

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees or expenses that arise by reason of:

General Exceptions:

- (1) Rights or claims of parties in possession not shown by the public records.
- (2) Encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey or inspection of the premises including, but not limited to, insufficient or impaired access or matters contradictory to any survey plat shown by the public records.
- (3) Easements, or claims or easements, not shown by the public records.
- (4) Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
- (5) (a) Unpatented mining claims; (b) reservations or exceptions in patents or Acts authorizing the issuance thereof; (c) water rights, claims to title to water, whether or not the matters excepted under (a), (b), (c) are shown by the public records.
- (6) Taxes or special assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices to such proceedings, whether or not shown by the records of such agency or by the public records.

END OF GENERAL EXCEPTIONS

1. Said real property is presently assessed as exempt from taxation. Any change in the status thereof either in ownership or otherwise, shall cause a re-assessment of said premises as more fully set forth in section 63-602Y of the Idaho Code.

Parcel No.: RPD0325-00 and RPD0327-00 (Parcel 1)

2. General taxes for the year 2009, which are liens, are not yet due and payable.

3. Reservations contained in Deed

Dated: December 5, 1919

Executed by: Edmo Pocatello and Tamatse Pocatello (heirs of Frank P. Pocatello)

In Favor of: Raphael Lavatta

Recorded: February 16, 1925

Instrument No.: 34761 (Book 46 of Deeds, page 553)

As Follows: "And there is reserved from the land hereby granted a right of way thereon for ditches or canals constructed by authority of the United States."

SCANNED

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OWNER'S POLICY

EXHIBIT A

Parcel 1

Lots 1 and 2 in Section 19, Township 6 South, Range 33 East, Boise Meridian, Power County, Idaho, except the following described parcels:

Beginning at the West 1/4 corner of Section 19, Township 6 South, Range 33 East, Boise Meridian; thence North 658.72 feet to the POINT OF BEGINNING; thence North 255.0 feet; thence South 89°38' East 170.60 feet; thence South 255.0 feet; thence North 89°38' West 170.6 feet to the TRUE POINT OF BEGINNING, all within the NW 1/4 of Section 19, Township 6 South, Range 33 East, Boise Meridian, Power County, Idaho

Also except that portion conveyed to the State of Idaho under Warranty Deed recorded February 18, 1971 under instrument no. 96672 described as follows:

A parcel of land being on the Northwestern side of the centerline of Interstate 15W, Project No. I-15W-4(12)81 Highway Survey as shown on the plans thereof, now on file in the office of the Department of Highways of the State of Idaho, and being a portion of Government Lot 2 of Section 19, Township 6 South, Range 33 East, Boise Meridian, described as follows, to wit:

Commencing at the Southwest corner of Government Lot 2 of Section 19, Township 6 South, Range 33 East, Boise Meridian; thence South 89°33'51" East along the South line of said Government Lot 2, a distance of 1,229.0 feet, more or less, to a point in a line parallel with and 240.0 feet Northwesterly from the centerline and bears North 21°48'53" West from Station 372+82.51 of said Interstate 15W, Project No. I-15W-4(12)81 Highway Survey and being the REAL POINT OF BEGINNING; thence Northeasterly along said parallel line being an 28,427.90 feet radius curve left 101.70 feet to a point in the East line of said Government Lot 2 and bears North 22°01'11" West from Station 373+85 of said Highway Survey; thence Southerly along said East line 40.0 feet, more or less, to the Southeast corner of said Government Lot 2; thence North 89°33'51" West along the South line of said Government Lot 2, a distance of 100.0 feet, more or less, the REAL POINT OF BEGINNING.

Said land is located within the Fort Hall Reservation of the Shoshone-Bannock Tribes

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Angela P
Butterfield
Trustee
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2108
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2108

2304
2304
2304

Gas Plant
Road

Old Crow
Road

Shay Road

Bell Road

Schiller
Road

Elevator
Loop

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2304

Gas Plant
Road

Old Crow
Road

Shay Road

Bell Road

Schiller
Road

Elevator

6. DUTY OF INSURED CLAIMANT TO COOPERATE

(a) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding and any appeals, the Insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the Insured for this purpose. Whenever requested by the Company, the Insured, at the Company's expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses, prosecuting or defending the action or proceeding, or effecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title or any other matter as insured. If the Company is prejudiced by the failure of the Insured to furnish the required cooperation, the Company's obligations to the Insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.

(b) The Company may reasonably require the Insured Claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, disks, tapes, and videos whether bearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Insured Claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. All information designated as confidential by the Insured Claimant provided to the Company pursuant to this Section shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Insured Claimant to submit for examination under oath, produce any reasonably requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY

In case of a claim under this policy, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Insurance.

To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay.

Upon the exercise by the Company of this option, all liability and obligations of the Company to the Insured under this policy, other than to make the payment required in this subsection, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

(b) To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant.

(i) To pay or otherwise settle with other parties for or in the name of an Insured Claimant any claim insured against under this

policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay; or

(ii) To pay or otherwise settle with the Insured Claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees, and expenses incurred by the Insured Claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.

Upon the exercise by the Company of either of the options provided for in subsections (b)(i) or (ii), the Company's obligations to the Insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

8. DETERMINATION AND EXTENT OF LIABILITY

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the Insured Claimant who has suffered loss or damage by reason of matters insured against by this policy.

(a) The extent of liability of the Company for loss or damage under this policy shall not exceed the lesser of

(i) the Amount of Insurance; or

(ii) the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy.

(b) If the Company pursues its rights under Section 5 of these Conditions and is unsuccessful in establishing the Title, as insured,

(i) the Amount of Insurance shall be increased by 10%, and

(ii) the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.

(c) In addition to the extent of liability under (a) and (b), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

9. LIMITATION OF LIABILITY

(a) If the Company establishes the Title, or removes the alleged defect, lien, or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of Unmarketable Title, all as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.

(b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title, as insured.

(c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY

All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment.

SCANNED

NOV 03 2003

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-13781 V1

WATER RIGHT NUMBER: 29-13781 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	COLMAN S PANIOGUE 22 COLGATE POCATELLO, ID 83201 (208) 232-8437

Priority Date: 11/22/1919
Basis: Beneficial Use
Status: Active

<u>Source</u>	<u>Tributary</u>
BANNOCK CREEK	

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/01 to 10/31	1.180 CFS	
STOCKWATER	01/01 to 12/31	0.020 CFS	
	<u>Total Diversion:</u>	1.180 CFS	

Location of Point(s) of Diversion

BANNOCK CREEK	SW 1/4NE1/4	Sec. 19, Twp 06S, Rge 33E, B.M.
POWER County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	33E	19						21.0	38.0										59.0
								L 1	L 2										

Total Acres: 59

STOCKWATER same as IRRIGATIONConditions of Approval:

1. N08 The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
2. X02 Stockwater use is for 36 range cattle.
3. N05 The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
4. E55 Right Nos. 29-13779 and 29-13781 are limited to the irrigation of a combined total of 59 acres in a single irrigation season.
5. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 29-13781 V1

Remarks:

Comments:

1. dkidman 4/17/2008 Recommendation
Comment: Created to update POD and POU.
2. dkidman 4/18/2008 Recommendation
Comment: Updating use, quantity, and comments.

Dates and Other Information:

Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Defendant:
Plaintiff:
Civil Case Number:
Judicial District:
Notice of Error Flag:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
		59

Combined Water Rights: 29-13779 , 29-13781

Water Supply Bank:

Notes

Tolson. - Coleman - Bannock Creek water was pumped from canal until about 3 years ago. Pump was located mid point along canal. Did not need pump after well was drilled.

Canal was used to irrigate meadow via pump & was sub-irrigation. Bannock Creek is not a dependable source. which was a reason for drilling the well.

Bannock Creek

- Sub-irrigation between canal & Bannock Creek.
- Pumped up hill to mainline.
- Recommend P.O.U west of Bannock Creek.

- Clairmont is tribal member who owns deed land. He negotiated the priority date with the tribal water resource staff.

- Headgate is on Bannock Creek just north of railroad tracks.

Memo

Date: October 10, 2007

To: Ernie Carlsen

From: Craig L. Saxton

Subject: Late claims 29-13779 and 29-13781

These claims were originally filed as **reserved rights** because the POU is on reservation ground. Later, the claimant amended the claims to change the basis of claim to **beneficial use**.

At least some evidence of priority does appear to have been submitted with the claims.

I am sending you the claims for your review as it appears some sort of field exam will be needed.

Claim No(s). 29-13781

Claim No(s). 29-13781

[illegible]

RECEIVED

OCT 02 2007

IN THE DISTRICT COURT OF THE FIRST 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 29-13781
DATE RECEIVED: 2/13/2007
RECEIPT NO:
RECEIVED BY:

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

2007 JUN 29 PM 3 05
FILED
TWIN FALLS CO., IDAHO
DISTRICT COURT - SNAKE

1. NAME OF CLAIMANT(S)

COLMAN S PANIOGUE PHONE: (208) 232-8437

22 COLGATE
POCATELLO ID USA 83201

2. DATE OF PRIORITY: 11/22/1919

3. SOURCE: BANNOCK CREEK TRIB. TO:

4. POINT OF DIVERSION:

TOWNSHIP	RANGE	SECTION	1/4 OF 1/4 OF 1/4	LOT	COUNTY	TYPE
06S	33E	19	SW	NE		POWER

5. DESCRIPTION OF DIVERTING WORKS:

41 IN HEADGATE 100 FT NORTH OF RAILROAD OF BANNOCK CREEK UNDERPASS. DIVERTS WATER FROM BANNOCK CREEK INTO IRRIGATION CANAL. CANAL RUNS PARALLEL TO RAILROAD APPROX. 1/4 MILE WESTERLY. CANAL PASSES UNDER INTERSTATE HIGHWAY 86. DELIVERS WATER TO SE CORNER OF LOTS 1 AND 2 T6S R33E SEC19.

6. WATER IS USED FOR THE FOLLOWING PURPOSES:

PURPOSE	FROM	TO	C.F.S.	(OR) A.F.A	
IRRIGATION		01/01	12/31	1.6	418.7
STOCKWATER		01/01	12/31	0.2	0.48

7. TOTAL QUANTITY APPROPRIATED IS:
1.6 C.F.S.

8. TOTAL CONSUMPTIVE USE:

SCANNED

OCT 03 2007

9. NON-IRRIGATION USES:
NUMBER OF OTHER USES: 36

10. PLACE OF USE:

TOWNSHIP	RANGE	SECTION	1/4 OF 1/4	LOT	USE	ACRES
06S	33E	19	NW	NW	1	IRRIGATION 40
			SW	NW	2	IRRIGATION 39
SECTION ACRES						79
TOTAL ACRES						79

11. PLACE OF USE IN COUNTIES: POWER

12. DO YOU OWN THE PROPERTY LISTED ABOVE AS PLACE OF USE? YES

13. OTHER WATER RIGHTS USED:

14. REMARKS:

RIGHT NOS. 29-13779 AND 29-13781 ARE LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME 418.7 AF.

15. BASIS OF CLAIM: BENEFICIAL USE

16. SIGNATURE(S)

(A.) BY SIGNING BELOW, I/WE ACKNOWLEDGE THAT I/WE HAVE RECEIVED, READ AND UNDERSTAND THE FORM ENTITLED "HOW YOU WILL RECEIVE NOTICE IN THE SNAKE RIVER BASIN ADJUDICATION." (B.) I/WE DO _____ DO NOT _____ WISH TO RECEIVE AND PAY A SMALL ANNUAL FEE FOR MONTHLY COPIES OF THE DOCKET SHEET.

NUMBER OF ATTACHMENTS: _____

FOR INDIVIDUALS:

I/WE DO SOLEMNLY SWEAR OR AFFIRM THAT THE STATEMENTS CONTAINED IN THE FOREGOING DOCUMENT ARE TRUE AND CORRECT.

SIGNATURE OF CLAIMANT(S): Colman J. Ramirez DATE: 6/27/07

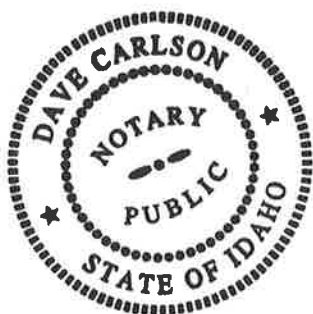
STATE OF IDAHO)
) SS.

SCANNED
OCT 03 2007

COUNTY OF Bonneville

SUBSCRIBED AND SWORN (OR AFFIRMED) BEFORE ME THIS

27 OF June 2007



Dave Carlson

NOTARY PUBLIC

RESIDING AT Regby, Id

MY COMMISSION EXPIRES 2/26/2008

SCANNED

OCT 6 3 2007

AMENDED

06/29/07

NOTICE OF CLAIM TO A WATER RIGHT

**Colman S. Paniogue
Janet M. Paniogue**

Addendum # 1

Statement:

The property, for which this claim for water rights is submitted, is located at Bannock Creek, on the Fort Hall Indian Reservation, Power County, Idaho. It is identified as Indian Allotment 1437, originally containing 158.20 acres, mol. It was purchased by my grandfather Raphael LaVatta, an enrolled Shoshone-Bannock Indian, in 1919. (Exhibit # 2). He bought it from his cousin, Frank P. Pocatello, an enrolled Shoshone-Bannock Indian. My mother, Dolores LaVatta Paniogue, an enrolled Shoshone-Bannock Indian, and my father, Salvadore M. Paniogue, an un-enrolled Indian, inherited eighty (80) acres of the original allotment and my sisters inherited the remaining eighty acres when my grandfather died, in about 1946.

I, Colman S. Paniogue, an enrolled Shoshone-Bannock Indian, inherited my parent's home and land (79 acres) when my mother died in 2002. The subject property has been held by our family continuously since my grandfather purchased it in 1919.

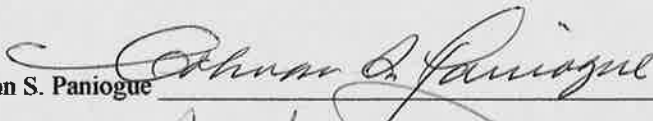
We have never 'filed' for water rights, per se; we have always considered that it being "*Indian Land*" owned by "*Enrolled Shoshone-Bannock Tribal members*", it thereby qualified for a superior water right. The Tribal authorities have never advised Indian land owners of a need to file a claim for water rights on their property. The State of Idaho has never advised Indian land owners to file a claim for water rights on their property.

I am submitting this Claim to a Water Right to protect the value of my property. I am considering selling the property, and on the assumption that a 'non-Indian' makes the purchase, a portion of the value of the property will be based on having a documented water right.

ITEM # 15 of my initial Claim to a Water Right was 'RESERVED', mainly because I didn't understand the various categories of water claims. Our Tribal Water Resources Commission advised me that the Tribes would have to object to my claim of Reserved right. I have worked cooperatively with the Tribal Water Commission and the Tribal Water Engineer so I can present a Claim that the Tribes could support and not object to. This AMENDED Claim is the result of our collaboration.

Thank you for your consideration.

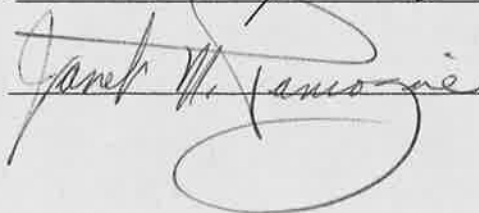
Colman S. Paniogue



Date:

6/29/07

Janet M. Paniogue



Date:

6/29/07

PANIOGUE

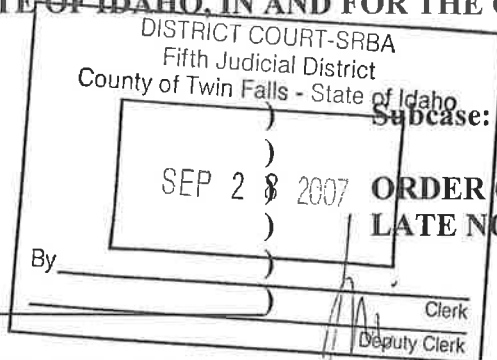
SCANNED

OCT 03 2007

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: 29-13779 & 29-13781

ORDER GRANTING MOTIONS TO FILE
LATE NOTICE OF CLAIM

On April 26, 2007, Colman S. Paniogue filed a *Motion to File Late Notice of Claim* for each of the above-captioned water rights. Hearing was held on the *Motions* on July 17, 2007, and the matter was referred to Special Master Brigette Bilyeu.

On September 28, 2007, a *Special Master's Report and Recommendation* was filed for the above-captioned water rights. Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report and Recommendation* and wholly adopts them as its own. Because of the limited nature of the *Order of Reference* the Court finds no reason to delay entry of this *Order*.

THEREFORE, IT IS ORDERED, that the *Motions to File a Late Notice of Claim* for the above-captioned water rights are **granted**.

The original Notices of Claim, as well as any attached filing fees, and a copy of this *Order* will be forwarded to the Idaho Department of Water Resources for further action. Following investigation by the Idaho Department of Water Resources, recommendation for the claim will be reported in the next *Late Claims Director's Report* which is issued on an annual basis. This modifies the provisions of *SRBA Administrative Order 1* 4d(2)(h).

IT IS SO ORDERED.

Dated September 28, 2007.


JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTIONS TO FILE LATE NOTICE OF CLAIM was mailed on September 28, 2007, with sufficient first-class postage to the following:

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

COLMAN S PANIOGUE
22 COLGATE
POCATELLO, ID 83201
Phone: 208-232-8437

ORDER

Page 7 9/28/07

FILE COPY FOR 00498

Deputy Clerk

Julie Murphy
SCANNED

OCT 03 2007

RECEIVED

MAY 01 2007

DEPARTMENT OF
WATER RESOURCES

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

In Re SRBA

Subcase 29-13781
(Insert water right number)

Case 39576

STANDARD FORM 4

MOTION TO FILE:

☒ LATE NOTICE OF CLAIM

☐ AMENDED NOTICE OF CLAIM

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

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

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

☒ I have read **SRBA Administrative Order 1, Rules of Procedure** (amended Sept. 30, 1996).

My name is Colman S. Paniogue

My address is 22 Colgate
Pocatello, Idaho 83201

My phone number is: ~~Cell:~~ 241-8342 Home 232-8437

I am an attorney representing _____

My name is _____

My address is _____

My phone number is _____

MOTION TO FILE A LATE NOTICE OF CLAIM

A *Motion to File a Late Notice of Claim* will require a hearing before the Presiding Judge.

☒ I did not file a Notice of claim to the use of water in the SRBA because:

SEE ENCLOSED DOCUMENTS specifically
addendum #1 - claimant's statement.

☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

☒ I am providing legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

13981
Notice of Claim - Ident # 29-13779 (2/13/07); Exhibit #1 -
Aerial photo of property; Addendum #1 - Claimant's state-
ment; Exhibit #2 - MEMO of SALE of ALLOTTED LAND (11/22/1919)

I have attached:

- ☐ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.
- ☒ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ 200⁰⁰.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on _____
(Insert Date and Time)
at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A *Motion to File an Amended Notice of Claim* may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

- ☐ I must amend my Notice of Claim to the use of water in the SRBA because:

VERIFICATION (Must be completed)

State of IDAHO

County of BANNOCK

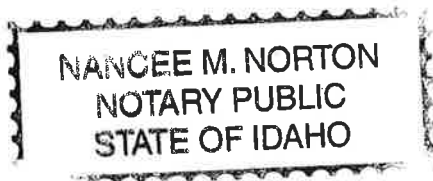
Calman S. Paniogue, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Calman S. Paniogue
Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on April 25, 2007
(Insert Date)



Nancee M. Norton
Notary Public for Idaho
Residing at: Pocatello
My Commission expires Sept. 29, 2009

INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court. **FAX filings will not be accepted by the SRBA Clerk of the Court.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on April 26, ~~199~~²⁰⁰⁷, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

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

2. Copies to:

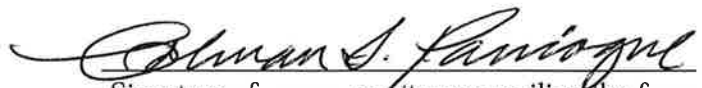
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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

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

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that subcase.

(Insert Names/address of parties)


Signature of person or attorney mailing the form

FEE 100
LATE 100
~~200~~

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 29-13781
DATE RECEIVED: 2/13/2007
RECEIPT NO:
RECEIVED BY:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. NAME OF CLAIMANT(S)

COLMAN S PANIOGUE PHONE: (208) 232-8437

22 COLGATE
POCATELLO ID USA 83201

2. DATE OF PRIORITY: 06/14/1867

3. SOURCE: BANNOCK CREEK TRIB. TO:

4. POINT OF DIVERSION:

TOWNSHIP	RANGE	SECTION	1/4 OF 1/4 OF 1/4	LOT	COUNTY	TYPE
06S	33E	19	SW	NE		POWER

5. DESCRIPTION OF DIVERTING WORKS:

41 IN HEADGATE 100 FT NORTH OF RAILROAD OF BANNOCK CREEK UNDERPASS. DIVERTS WATER FROM BANNOCK CREEK INTO IRRIGATION CANAL. CANAL RUNS PARALLEL TO RAILROAD APPROX. 1/4 MILE WESTERLY. CANAL PASSES UNDER INTERSTATE HIGHWAY 86. DELIVERS WATER TO SE CORNER OF LOTS 1 AND 2 T6S R33E SEC19.

6. WATER IS USED FOR THE FOLLOWING PURPOSES:

PURPOSE	FROM	TO	C.F.S.	(OR) A.F.A
IRRIGATION		01/01	12/31 1.6	

7. TOTAL QUANTITY APPROPRIATED IS:
1.6 C.F.S.

8. TOTAL CONSUMPTIVE USE:

9. NON-IRRIGATION USES:

10. PLACE OF USE:

TOWNSHIP	RANGE	SECTION	1/4 OF 1/4	LOT	USE	ACRES
06S	33E	19	NW	NW	1	IRRIGATION 40
			SW	NW	2	IRRIGATION 39
SECTION ACRES						79
TOTAL ACRES						79

11. PLACE OF USE IN COUNTIES: POWER

12. DO YOU OWN THE PROPERTY LISTED ABOVE AS PLACE OF USE? YES

13. OTHER WATER RIGHTS USED:

14. REMARKS:

15. BASIS OF CLAIM: BENEFICIAL USE

16. SIGNATURE(S)

(A.) BY SIGNING BELOW, I/WE ACKNOWLEDGE THAT I/WE HAVE RECEIVED, READ AND UNDERSTAND THE FORM ENTITLED "HOW YOU WILL RECEIVE NOTICE IN THE SNAKE RIVER BASIN ADJUDICATION." (B.) I/WE DO _____ DO NOT _____ WISH TO RECEIVE AND PAY A SMALL ANNUAL FEE FOR MONTHLY COPIES OF THE DOCKET SHEET.

NUMBER OF ATTACHMENTS: 3

FOR INDIVIDUALS:

I/WE DO SOLEMNLY SWEAR OR AFFIRM THAT THE STATEMENTS CONTAINED IN THE FOREGOING DOCUMENT ARE TRUE AND CORRECT.

SIGNATURE OF CLAIMANT(S): Blanca O. Pamiagne DATE: 4/25/07

DATE:

STATE OF IDAHO)
COUNTY OF Bonneville) SS.

SUBSCRIBED AND SWORN (OR AFFIRMED) BEFORE ME THIS

25 OF April 2007

Dave Carlson

NOTARY PUBLIC

RESIDING AT Rigby, Id

MY COMMISSION EXPIRES 2/26/2008



NOTICE OF CLAIM TO A WATER RIGHT

Colman S. Paniogue
Janet M. Paniogue

Addendum # 1

Statement:

The property, for which this claim for water rights is submitted, is located at Bannock Creek, on the Fort Hall Indian Reservation, Power County, Idaho. It is identified as Indian Allotment 1437, originally containing 158.20 acres, mol. It was purchased by my grandfather Raphael LaVatta, an enrolled Shoshone-Bannock Indian, in 1919. (Exhibit # 2). He bought it from his cousin, Frank P. Pocatello, an enrolled Shoshone-Bannock Indian. My mother, Dolores LaVatta Paniogue, an enrolled Shoshone-Bannock Indian, and my father, Salvadore M. Paniogue, an un-enrolled Indian, inherited eighty (80) acres of the original allotment and my sisters inherited the remaining eighty acres when my grandfather died, in about 1946.

I, Colman S. Paniogue, an enrolled Shoshone-Bannock Indian, inherited my parent's home and land (79 acres) when my mother died in 2002. The subject property has been held by our family continuously since my grandfather purchased it in 1919.

We have never 'filed' for water rights, per se; we have always considered that it being "Indian Land" owned by "Enrolled Shoshone-Bannock Tribal members", it thereby qualified for a superior water right. The Tribal authorities have never advised Indian land owners of a need to file a claim for water rights on their property. The State of Idaho has never advised Indian land owners to file a claim for water rights on their property.

I am submitting this Claim to a Water Right to protect the value of my property. I am considering selling the property, and on the assumption that a 'non-Indian' makes the purchase, a portion of the value of the property will be based on having a documented water right.

Thank you for your consideration.

Colman S. Paniogue Colman S. Paniogue Date: 2/13/07
Janet M. Paniogue Janet M. Paniogue Date: 2/13/07

Paniogue

SCANNED

MAY - 1 2007



S19 T6S R33E Lots 1+2
 Tract# 95
 GOLDMAN S. + JANET M.
 PANIQUÉ
 2/12/07

Bannock Creek
 FORT HALL INDIAN RESERVATION
 POWER COUNTY

0.05 0 0.05 0.1 0.15 0.2 Miles



SCANNED

Map Printed: Nov 4, 2005

MAY - 1 2007

5-110h

DUPLICATE



MEMORANDUM OF SALE OF ALLOTTED LAND.

The undersigned Raphael Lavatta
 having on November 22, 1919, 1919, purchased
Lots 1 & 2: E $\frac{1}{2}$ NW $\frac{1}{4}$ Section 19, Township 8 South, Range 33 EBN.,
Idaho, containing 158.30 acres more or less
allotment No. 1437 of Frank P. Pocastello
 for \$ 7100.00, and having made a payment of \$ 1775.00,
 being 25 per cent thereof, and agreed to pay the balance thereof,
 being \$ 5325.00 in deferred payments as evidenced by three
 promissory notes of even date herewith for \$ 1775.00 each,
 numbered from 1 to 3, payable to the Superintendent or
 other officer in charge of the Fort Hall
 Indian Reservation, on or before three years after date,
 with interest at the rate of 7 per cent per annum, payable
annually;

NOW THIS MEMORANDUM WITNESSETH: That upon the payment in
 full by said Raphael Lavatta of said
 sum of \$ 5325.00, being the balance of said consideration
 of \$ 7100.00, with interest thereon, according to the tenor
 and effect of said notes, then and in such case a patent shall be
 issued to said Raphael Lavatta, giv-
 ing and granting said land to him and his heirs pursuant
 to law;

6-2871

PANIOGUE

SCANNED

MAY - 1 2007

407

(2)

And said _____ agree
that upon default by Raphael Lavatta
him in the payment of said notes or either
of them or the interest thereon, the sale of said land to _____
him may, at the option of the Secretary of the Interior, be canceled
and said land re-advertised for sale, and in such case the sum of
\$ 1775.00, being 25 per cent of the amount agreed to be paid
by said _____ shall
Raphael Lavatta
be forfeited as provided by law for the use of _____
the heirs

_____ shall,
Raphael Lavatta
in case the same is not repaid to _____
Raphael Lavatta

_____ by the vendors, be repaid to
_____ out of the proceeds of such
Raphael Lavatta
subsequent sale, or from such other sources as may be applicable
and advisable, in the discretion of the Secretary of the Interior.

Signed at _____ this
_____ day of Fort Hall, Idaho
5th day of December, 1919.

Department of the Interior
Washington, D. C., APR 30 1920

APPROVED
De Kaphors
Assistant Secretary.

H. N. Miller
Supt. and Disb. Agent.

Raphael Lavatta

Purchaser.

6-2371

SCANNED

MAY - 1 2007

PANIOQUE

RECEIVED

OCT 02 2007

DEPARTMENT OF
WATER RESOURCES

FEE 100
LATE 100
200

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 29-13781
DATE RECEIVED: 2/13/2007
RECEIPT NO: C095049
RECEIVED BY: kmw

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. NAME OF CLAIMANT(S)

COLMAN S PANIOGUE PHONE: (208) 232-8437

22 COLGATE
POCATELLO ID USA 83201

2. DATE OF PRIORITY: 06/14/1867

3. SOURCE: BANNOCK CREEK TRIB. TO:

4. POINT OF DIVERSION:

TOWNSHIP	RANGE	SECTION	1/4 OF 1/4 OF 1/4	LOT	COUNTY	TYPE
06S	33E	19	SW	NE		POWER

5. DESCRIPTION OF DIVERTING WORKS:

41 IN HEADGATE 100 FT NORTH OF RAILROAD OF BANNOCK CREEK UNDERPASS. DIVERTS WATER FROM BANNOCK CREEK INTO IRRIGATION CANAL. CANAL RUNS PARALLEL TO RAILROAD APPROX. 1/4 MILE WESTERLY. CANAL PASSES UNDER INTERSTATE HIGHWAY 86. DELIVERS WATER TO SE CORNER OF LOTS 1 AND 2 T6S R33E SEC19

6. WATER IS USED FOR THE FOLLOWING PURPOSES:

PURPOSE	FROM	TO	C.F.S.	(OR) A.F.A
IRRIGATION		01/01	12/31 1.6	

7. TOTAL QUANTITY APPROPRIATED IS:
1.6 C.F.S.

8. TOTAL CONSUMPTIVE USE:

9. NON-IRRIGATION USES:

10. PLACE OF USE:

TOWNSHIP	RANGE	SECTION	1/4 OF 1/4	LOT	USE	ACRES
06S	33E	19	NW	NW	1	IRRIGATION 40
			SW	NW	2	IRRIGATION 39
SECTION ACRES						79
TOTAL ACRES						79

11. PLACE OF USE IN COUNTIES: POWER

12. DO YOU OWN THE PROPERTY LISTED ABOVE AS PLACE OF USE? YES

13. OTHER WATER RIGHTS USED:

14. REMARKS:

15. BASIS OF CLAIM: ~~BENEFICIAL USE~~ *RESERVED CRR 4/27/07*

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.

SNAKE RIVER BASIN ADJUDICATION (SRBA)

DISTRICT COURT OF THE STATE OF IDAHO
PO BOX 2707
253 3RD AVENUE NORTH
TWIN FALLS, IDAHO 83303-2707
1-208-736-3011

***** RECEIPT # 2349

* REPRINT *
4-26-2007

RECEIVED FROM: PANIOGUE, COLMAN S

FOR: LATE FEES 29-13779 & 29-13781

		TYPE OF PAYMENT	
AMOUNT PAID:	558.00	CHECK:	558.00 14154
		CASH:	.00
		COIN:	.00
AMOUNT RETURNED:	.00	CHARGED:	.00

ISSUED BY: JM AUTHORIZED BY: DRD

HELD: PENDING HEARING ON MOTIONS TO FILE LATE CLAIM

Fee Pd.

29-13779 \$358.00

29-13781 \$200.00

SCANNED

OCT 03 2007

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

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

SEP 28 2007

By _____ Clerk
Deputy Clerk

Subcase: 29-13779 & 29-13781

ORDER GRANTING MOTIONS TO FILE
LATE NOTICE OF CLAIM

On April 26, 2007, Colman S. Paniogue filed a *Motion to File Late Notice of Claim* for each of the above-captioned water rights. Hearing was held on the *Motions* on July 17, 2007, and the matter was referred to Special Master Brigitte Bilyeu.

On September 28, 2007, a *Special Master's Report and Recommendation* was filed for the above-captioned water rights. Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order I*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report and Recommendation* and wholly adopts them as its own. Because of the limited nature of the *Order of Reference* the Court finds no reason to delay entry of this *Order*:

THEREFORE, IT IS ORDERED, that the *Motions to File a Late Notice of Claim* for the above-captioned water rights are **granted**.

The original Notices of Claim, as well as any attached filing fees, and a copy of this *Order* will be forwarded to the Idaho Department of Water Resources for further action. Following investigation by the Idaho Department of Water Resources, recommendation for the claim will be reported in the next *Late Claims Director's Report* which is issued on an annual basis. This modifies the provisions of *SRBA Administrative Order 1* 4d(2)(h).

IT IS SO ORDERED.

Dated September 28, 2007.


JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING
MOTIONS TO FILE LATE NOTICE OF CLAIM was mailed on September
28, 2007, with sufficient first-class postage to the following:

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

COLMAN S PANIOGUE
22 COLGATE
POCATELLO, ID 83201
Phone: 208-232-8437

ORDER

Page 7 9/28/07

FILE COPY FOR 00498


Deputy Clerk

SCANNED

OCT 03 2007

RECEIVED

OCT 02 2007

FEE 100
LATE 100
\$200

IN THE DISTRICT COURT OF THE FIFTH 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 29-13781
DATE RECEIVED: 2/13/2007
RECEIPT NO: C085049
RECEIVED BY: km

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

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POCATELLO ID USA 83201

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PURPOSE	FROM	TO	C.F.S.	(OR) A.F.A
IRRIGATION		01/01	12/31 1.6	

7. TOTAL QUANTITY APPROPRIATED IS:
1.6 C.F.S.

8. TOTAL CONSUMPTIVE USE:

9. NON-IRRIGATION USES:

2007 APR 26 PM 10 48
FILED
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO

10. PLACE OF USE:

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NUMBER OF ATTACHMENTS: 3

FOR INDIVIDUALS:

I/WE DO SOLEMNLY SWEAR OR AFFIRM THAT THE STATEMENTS CONTAINED IN THE FOREGOING DOCUMENT ARE TRUE AND CORRECT.

SIGNATURE OF CLAIMANT(S): Edman S. Parnigone DATE: 4/25/07

DATE:

STATE OF IDAHO)

COUNTY OF Bonneville) SS.

SUBSCRIBED AND SWORN (OR AFFIRMED) BEFORE ME THIS

25 OF April 2007



Dave Carlson

NOTARY PUBLIC

RESIDING AT

Risky, Id

MY COMMISSION EXPIRES

2/26/2008

NOTICE OF CLAIM TO A WATER RIGHT

Colman S. Paniogue
Janet M. Paniogue

Addendum # 1

Statement:

The property, for which this claim for water rights is submitted, is located at Bannock Creek, on the Fort Hall Indian Reservation, Power County, Idaho. It is identified as Indian Allotment 1437, originally containing 158.20 acres, mol. It was purchased by my grandfather Raphael LaVatta, an enrolled Shoshone-Bannock Indian, in 1919. (Exhibit # 2). He bought it from his cousin, Frank P. Pocatello, an enrolled Shoshone-Bannock Indian. My mother, Dolores LaVatta Paniogue, an enrolled Shoshone-Bannock Indian, and my father, Salvadore M. Paniogue, an un-enrolled Indian, inherited eighty (80) acres of the original allotment and my sisters inherited the remaining eighty acres when my grandfather died, in about 1946.

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Thank you for your consideration.

Colman S. Paniogue

Colman S. Paniogue

Date:

2/13/07

Janet M. Paniogue

Janet M. Paniogue

Date:

2/13/07

Paniogue

SCANNED
OCT 03 2007



S19 T6S R33E Lots 1+2
 Tract# 95
 GOIMAN S. + JANET M.
 PANIOQUE
 2/12/07

BANNOCK Creek
 FORT HALL INDIAN RESERVATION
 POWER COUNTY

0.05 0 0.05 0.1 0.15 0.2 Miles



Map Printed: Nov 4, 2005

OCT 03 2007

5-110h

DUPLICATE



MEMORANDUM OF SALE OF ALLOTTED LAND.

The undersigned Raphael Lavatta
 having on November 22, 1919, 19 , purchased
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 ing and granting said land to him and his heirs pursuant
 to law;

6-2871

PANIOGUE

SCANNED

OCT 03 2007

And said _____ agree
that upon default by Raphael Lavatta
_____ in the payment of said notes or either
of them or the interest thereon, the sale of said land to _____
may, at the option of the Secretary of the Interior, be canceled
and said land re-advertised for sale, and in such case the sum of
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be forfeited as provided by law for the use of _____
the heirs

vendors, and any balance remaining of the amount paid by said
_____ shall,
Raphael Lavatta
in case the same is not repaid to _____

Raphael Lavatta
by the vendors, be repaid to
_____ out of the proceeds of such
subsequent sale, or from such other sources as may be applicable
and advisable, in the discretion of the Secretary of the Interior.

Signed at _____ this
_____ day of Fort Hall, Idaho, 19____
5th December 19____

Department of the Interior
Washington, D. C., APR 31 1920

APPROVED

[Signature]
Assistant Secretary.

[Signature]

Supt. and Disb. Agent.

Raphael Lavatta

Purchaser....

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

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

SEP 28 2007

By _____ Clerk
Deputy Clerk

Subcase: 29-13779 & 29-13781

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Presiding Judge
Snake River Basin Adjudication

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PO BOX 83720
BOISE, ID 83720-0098

COLMAN S PANIOGUE
22 COLGATE
POCATELLO, ID 83201
Phone: 208-232-8437

ORDER

Page 7 9/28/07

FILE COPY FOR 00498

Deputy Clerk

Julie Murphy

SCANNED

OCT 01 2007