

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: *R36-00035J*
A36-00034D
Date Received: 8/16/1988
Receipt No: S001476
Received By: *[Signature]*

Owner Change.

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: MANFRED MULLER 208-837-4947
Address: 2795-A SOUTH 900 EAST
HAGERMAN, ID 83332

2. Date of Priority: MAR 30, 1884

3. Source: BILLINGSLEY CREEK Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07S	13E	22	SE	SE			GOODING

5. Description of diverting works:
VIA BUCKEYE DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.400		

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

8. Total consumptive use is 114.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	13E	22	SE	SE		IRR	38.0

Section Acres 38.0

Total Acres 38.0

A36-00034D

Page 1

Date: 12/04/90

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JAN 21 1993

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
BIG BEND IRRIG., A36-00033B

14. Remarks:

THIS PROPERTY WAS SOLD BY MRS. HOSKOVEC TO MR. MULLER ON 10/26/90
RVW - 12/4/90

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

Decree Plaintiff

vs

Decree Defendant

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

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

State of Idaho)
County of) SS.
_____)

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

Notary Public

Seal

Residing at _____

My Commission Expires _____

CHANGE IN OWNERSHIP OF NOTICE OF CLAIM

[] Water Right Number(s): #A36-10468 & #A36-00034D

[] Name and Address of
Former Claimant: Betty B. Hoskovec

2795-A South 900 East

Hagerman, Idaho 83332

[] New Claimant(s): Manfred Muller

[] New Mailing Address: 2795-A South 900 East

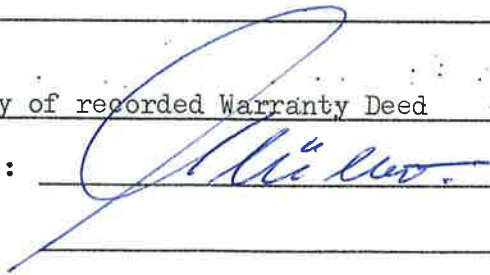
Hagerman, Idaho 83332

New Telephone Number: (208) 837 - 4947

[] Does the change in ownership result in a splitting of the
water right claimed? yes X no

If yes, then describe the portion of the water right that is
now claimed by the new owner:

[] Attach proof of ownership
Describe proof attached: Copy of recorded Warranty Deed

[] Signature of New Claimant(s): 

Date: November 7, 1990

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: By:

Further Action Needed:

Further Action Taken

Date: By:

Final Review and Data-Entry

Date: By:

Claim Numbers of Split, if any:

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JAN 21 1993



WARRANTY DEED

For Value Received

Betty B. Hoskovec, a widow,

hereinafter referred to as Grantor, does hereby grant, bargain, sell, and convey unto

Manfred Muller, a married man dealing with his sole and separate property,

hereinafter referred to as Grantee, whose current address is

KalbergroGhandel ' Im - und Export
 Eldern 16, 8942 Ottobeuren, West Germany

the following described premises, to-wit:

The Southeast Quarter of the Southeast Quarter of Section 22,
 Township 7 South, Range 13, East of the Boise Meridian, Gooding
 County, Idaho.

EXCEPTING THEREFROM that part of the Southeast Quarter of the
 Southeast Quarter of said Section 22, described as follows:

Beginning at the Northeast corner of said Southeast Quarter
 of the Southeast Quarter;

Thence South along of the East boundary of the Southeast
 Quarter of the Southeast Quarter, 836.0 feet;

Thence West parallel with the North boundary of the Southeast
 Quarter of the Southeast Quarter, 550.0 feet more or less to
 the centerline of the Big Bend Irrigation Ditch as now
 constructed;

Thence Northerly along the centerline of the Big Bend Irrigation
 Ditch, 836.0 feet more or less to the North boundary of said
 Southeast Quarter of the Southeast Quarter;

Thence East 550.0 feet to the True Point of Beginning.

TOGETHER WITH 20 shares of water from Buckeye Ditch and 19 shares of Big Bend
 Ditch water.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said
 Grantee, his heirs and assigns forever. And the said Grantor does hereby covenant
 to and with the said Grantee, that Grantor is the owner in fee simple of said
 premises; that said premises are free from all encumbrances except current years
 taxes, levies, and assessments, and except U. S. Patent reservations, restrictions,
 easements of record, and easements visible upon the premises, and that Grantor will
 warrant and defend the same from all claims whatsoever.

Dated: October 26, 1990.

Betty B. Hoskovec
 Betty B. Hoskovec

STATE OF IDAHO)
) SS
 COUNTY OF Gooding)

142716

STATE OF IDAHO, COUNTY OF GOODING

Filed for record at the request of FIRST AMERICAN TITLE

19 min. past 10 o'clock A M. this 27
 of Oct, 1990.

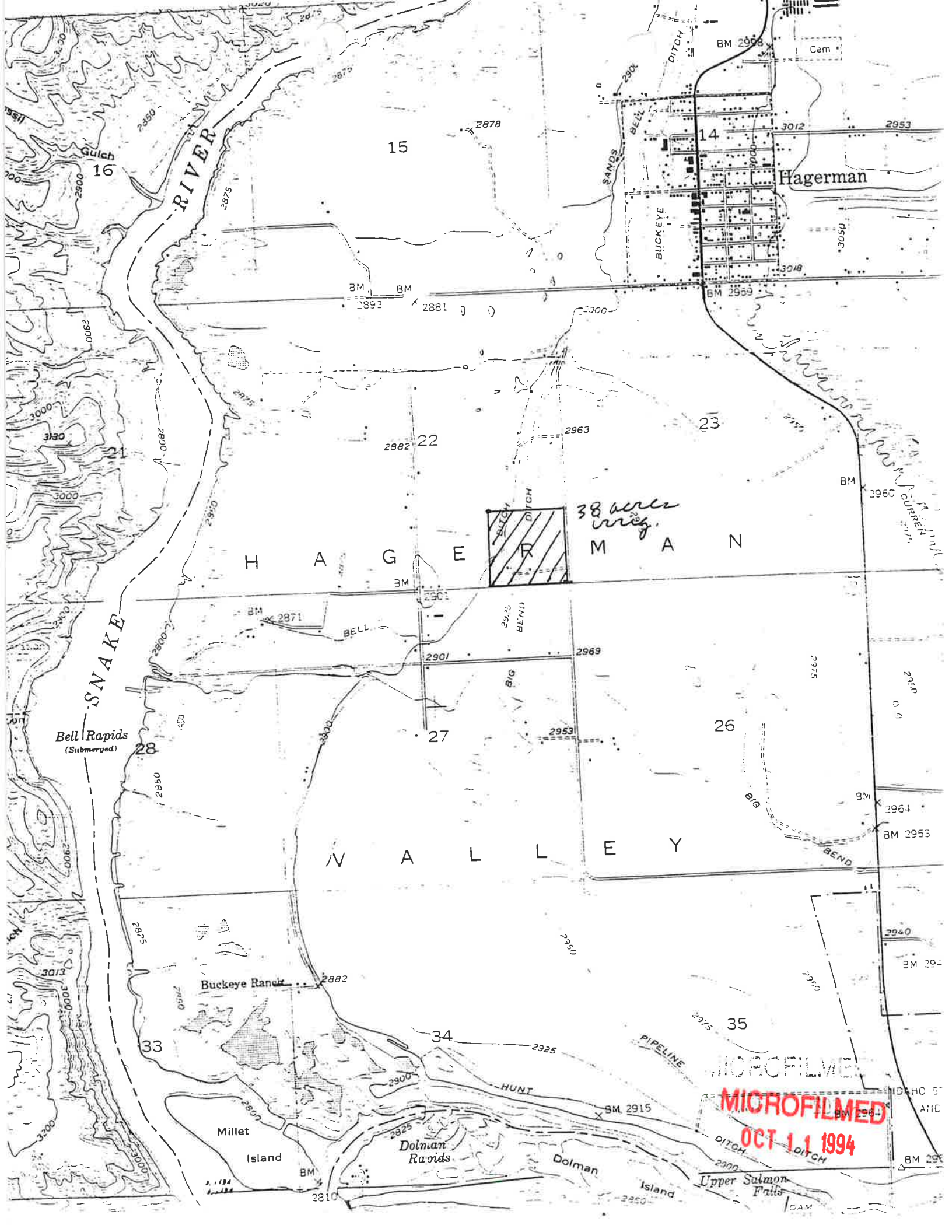
JOHN A. MYERS, Recorder

By [Signature] fee 3.00 Dep.

On This 26th day of October, in the year 1990, before me, a Notary Public
 in and for said State, personally appeared Betty B. Hoskovec, a widow, known or
 identified to me to be the person whose name is subscribed to the within Instrument,
 and acknowledged to me that he executed the same.



[Signature]
 Notary Public for Idaho
 Residing at Gooding, Idaho
 Commission Expires: 10-16-92



MICROFILMED
OCT 11 1994

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: ~~A36-00034D~~ ^{R36-00035J}
Date Received: 8/16/1988
Receipt No: S001476
Received By: EW

COPY

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: BETTY B. HOSKOVEC 208-837-4878
Address: 2795-A S, 900 E
RT 1
HAGERMAN, ID 83332

2. Date of Priority: MAR 30, 1884

3. Source: BILLINGSLEY CREEK Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07S	13E	22	SE	SE			GOODING

5. Description of diverting works:
VIA BUCKEYE DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.400		

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

8. Total consumptive use is 114.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	13E	22	SE	SE		IRR	38.0
Section Acres							38.0

A36-00034D

Page 1

Date: 08/16/88

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OCT 11 1994

10. Place of Use: Continued

Total Acres 38.0

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:

29 SHARES-BIG BEND IRRIG., A36-00033B

14. Remarks:

ALL 3 SOURCES OF WATER IRRIGATE THE 38 ACRES.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

Decree Plaintiff

vs

Decree Defendant

MICROFILMED
MICROFILMED
OCT 11 1994

(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.

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A36-00003B	A36-00003C	A36-00003E	A36-00003F	A36-00003G	A36-00003J	A36-00006	A36-00007	A36-00008	A36-00021B
A36-00022	A36-00023	A36-00033F	A36-00034B	A36-00035J	A36-00039C	A36-00039D	A36-00039E	A36-00039J	A36-00039M
A36-00039N	A36-00041A	A36-00041C	A36-00042A	A36-00048A	A36-00049	A36-00050D	A36-00051D	A36-00055AF	A36-00055BC
A36-00060	A36-00061	A36-00062	A36-00063	A36-00064B	A36-00068	A36-00069	A36-00070	A36-00071A	A36-00075
A36-00077C	A36-00079	A36-00086C	A36-00089A	A36-00090A	A36-00090F	A36-00092	A36-00094A	A36-00096A	A36-00097
A36-00098	A36-00099	A36-00100	A36-00101	A36-00103C	A36-00103F	A36-00106	A36-00108A	A36-00108B	A36-00110A
A36-00110B	A36-00111A	A36-00111B	A36-00112A	A36-00112B	A36-00113H	A36-00113J	A36-00119	A36-00120	A36-00121
A36-00123A	A36-00123E	A36-00133	A36-00134A	A36-00134C	A36-00135B	A36-00135C	A36-00141	A36-00192	A36-02002
A36-02038	A36-02169	A36-04091	A36-04142	A36-04260	A36-07071	A36-07081	A36-07089	A36-07092A	A36-07142
A36-07142A	A36-07172	A36-07229	A36-07233	A36-07346	A36-07658	A36-07875	A36-08099	A36-08317	A36-10055
A36-10119	A36-10120	A36-10140	A36-10141	A36-10168	A36-10231	A36-10249	A36-10283	A36-10283B	A36-10405
A36-10520	A36-10906	A36-15166	A36-15168	A36-15240	A36-15463				

TOTAL RECORDS IN SELECTION FILE: 116

MICROFILMED
OCT 11 1994

RECEIVED
FEB 10 1993
Department of Water Resources

1 HEPWORTH, NUNGESTER & LEZAMIZ,
2 CHARTERED
3 133 Shoshone St. North
4 P.O. Box 389
5 Twin Falls, ID 83303-0389
6 Telephone: (208)734-7510
7 Attorneys for Claimant
8 (PPK\HAGERMAN.NOA\lmr)

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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)

Case No. 39576

The State of Idaho, ex rel.
R. Keith Higginson in his
official capacity as director
of the Idaho Department of
Water Resources,

NOTICE OF APPEARANCE

Petitioner,

vs.

United States; State of Idaho;
and all claimants to the use
of water from the Snake River
Basin Water System,

Respondents.

* * * * *

PLEASE BE NOTIFIED that the firm of Hepworth, Nungester
& Lezamiz, Chartered, hereby appears on behalf of Hagerman Water



Hepworth,
Nungester,
& Lezamiz

NOTICE OF APPEARANCE - 1

MICROFILMED
OCT 11 1994

1 Users, Inc. and its individual members:

2	Anderson, Anita G.	A36-00050D
	Babington Lynn J. & Kathy	A36-00003C
3	Banbury Pipe Co., Inc.	A36-10906
	Banbury Pipe Co., Inc.	A36-02038
	Big Bend Irrigation & Mining Co.	A36-00192
4	Big Bend Irrigation & Mining Co.	A36-00133
	Big Spring Water User's Assoc.	A36-00022
5	Big Springs Water User's Assoc.	A36-00023
	Big Springs Water User's Assoc.	A36-15166
6	Blastock, Alma E.	A36-00108B
	Bolduc, Mark E.	A36-00103C
7	Boyer, Dale E. & Elaine M.	A36-00079
	Brailsford, Robert H.	A36-04260
	Brooks, Allen L. & Andree	A35-00060
8	Brooks, Allen L. & Andree	A36-07346
	Bybee, Gertrude B. Owsley	A36-00042A
9	Bybee, Gertrude B. Owsley	A36-00041C
	Candy, Walter W. & Margaret	A36-00135B
10	Candy, Walter W. & Margaret	A36-00134A
	Clouser, Doris H. & John F.	A36-00090A
11	Clouser, Doris H. & John F.	A36-00089A
	Crandlemire, Roger C. & George C.	A36-00113H
12	Crandlemire, Roger C. & George C.	A36-00112B
	Crandlemire, Roger C. & George C.	A36-00111B
	Crandlemire, Roger C. & George C.	A36-00113J
13	Crandlemire, Roger C. & George C.	A36-00110B
	Crandlemire, Roger C.	A36-00134C
14	Crandlemire, Roger C.	A36-00135C
	Crandlemire, Roger C.	A36-10140
15	Crandlemire, Roger C.	A36-10141
	DeVries, Abraham & Hermina	A36-00055AF
16	Dice, Philip F. & Judith A.	A36-00041A
	Dice, Philip F. & Judith A.	A36-10405
	Erwin, Frank C. & Peggy	A36-00092
17	Fleming, Michael J. & Paul F.	A36-00064B
	Flint, William E. and Vera C.	A36-00110A
18	Flint, William E. and Vera C.	A36-00111A
	Flint, William E. and Vera C.	A36-00112A
19	Flint, William E. and Vera C.	A36-10168
	Fuell, Keith L. & Jolene	A36-00086C
20	Gardner, Barbara & Robert B.	A36-00003B
	Gardner, Barbara	A36-00003J
21	Gisler, Harry R.	A36-00021B
	Gisler, Bradley	A36-00077C
	Glauner, Frank L. & Joan	A36-00039E
22	Grigg, Mattie P. & Golden T.	A36-10283B
	Gustafson Family Trust/Gustafson	A36-00033F
23	Ivan J. & Lucille co-trustees	
	Hagerman Gun Club	A36-00100



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OCT 11 1994

1	Hagerman Gun Club	A36-00099
	Hagerman Gun Club	A36-07233
2	Hagerman Gun Club	A36-07172
	Hagerman Gun Club	A36-10249
3	Hagerman Water Users Assoc.	A36-15168
	Jensen, Alice	A36-00055BC
	Johnson, Ira L. & Huguette M.	A36-07142
4	Joint Hagerman School Dist 233	A36-15463
	Jones, John W., Jr.	A36-00068
5	Jones, John W., Jr.	A36-00069
	Jones, John W., Jr.	A36-07071
6	Jones, John W., Jr.	A36-00070
	Kipp, Rudy B. & Elberta M.	A36-10119
7	Kipp, Rudy B. & Elberta M.	A36-10120
	Kipp, Rudy B. & Elberta M.	A36-07658
	Kiser, John & Karl Woodall & Sons, Inc	A36-00071A
8	Kiser, John & Karl Woodall & Sons, Inc	A36-00075
	Korbis, George J. & Nellie W.	A36-00039N
9	Laughlin, Craig J. & Rita D.	A36-7089
	Laughlin, Craig J. & Rita D.	A36-00051D
10	Littlefair, Larry & Tara	A36-0121
	Littlefair, Larry & Tara	A36-10055
11	Littlefair, Larry & Tara	A36-00119
	Littlefair, Larry & Tara	A36-00120
12	Lloyd, Cleave C.	A36-04142
	Lloyd, Cleave C.	A36-00003G
	McFaddan, Dan H. & Irma R.	A36-2169
13	McFaddan, Dan H. & Irma R.	A36-00048A
	McFaddan, Dan H. & Irma R.	A36-00049
14	Morris, Howard & Rhonda	A36-00063
	Morris, Howard & Rhonda	A36-00061
15	Morris, Howard & Rhonda	A36-00062
	Mueller, Manfred	A36-00035J
16	Norwood Subdivision/	A36-15240
	Ruby Springs Water Company	A36-07092A
	Potter, Mark B. & Susan H.	A36-00039J
17	Rawson, Frank S. & Carol A.	A36-00123A
	Reese, Bruce W. & LaRose A.	A36-04091
18	Reese, Bruce W. & LaRose A.	A36-10231
	Rue, James O. & Beverly Jane	A36-07142A
19	Shaffer, Roger	A36-00034B
	Simcoe, Doyt H. & Roxie J.	A36-00003F
20	Simpson, Michael, on behalf of	A36-0123E
	Josephine Simpson Estate	
21	Simpson, Michael, on behalf of	A36-0096A
	Josephine Simpson Estate	
22	Strange, Wm. (Penelope Turner-remainder man)	A36-00006
	Strange, Wm. (Penelope Turner-remainder man)	A36-00007
	Strange, Wm. (Penelope Turner-remainder man)	A36-00008
23	Veenendaal, Dick J.	A36-00108A
	Veenendaal, Dick J.	A36-00039C



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NOTICE OF APPEARANCE - 3

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OCT 11 1994

1	Vernon, Edith L.	A36-00003E
	Walmsley, Fred J. & Susan K.	A36-00039D
2	Ward, John P. & Rush, Ruth E.	A36-00094-A
	Ward, John P. & Rush, Ruth E.	A36-00090F
3	Watkins, Paul E. & Inez S.	A36-00106
	Watkins, Paul E. & Inez S.	A36-08099
	Wiens, M.J., Jr.	A36-07229
4	Wiens, M.J., Jr.	A36-07081
	Wiens, M.J., Jr.	A36-80317
5	Wiens, M.J., Jr.	A36-00098
	Wiens, M.J., Jr.	A36-00097
6	Wiens, M.J., Jr.	A36-02002
	Wiens, M.J., Jr.	A36-00101
7	Wiens, M.J., Jr.	A36-00141
	Wiens, M.J., Jr.	A36-10520
	Woolley, Max J. & Blanche	A36-00039M
8	Ya-Ta-Hay Investments, Inc.	A36-10283A
	Ya-Ta-Hay Investments, Inc.	A36-07875
9	Zink, Basil Lester & Myrle Hyde	A36-00103F

10 the respondents in the above-entitled action, as counsel of record
11 for said Hagerman Water Users, Inc. and said individuals.

12 DATED This 9 day of February, 1993.

13 HEPWORTH, NUNGESTER & LEZAMIZ

14
15 By 
16 PATRICK D. BROWN
Attorneys for Respondents

17
18 CERTIFICATE OF MAILING

19 The undersigned, a resident attorney of the State of
20 Idaho, with offices at 133 Shoshone St. North, P.O. Box 389, Twin
21 Falls, Idaho 83303, and one of the attorneys for the respondents
22 in this matter, certifies that she caused to be mailed a copy of
23 the above and foregoing NOTICE OF APPEARANCE on the 9 day of



Hepworth,
Nungester,
& Lezamiz

MICROFILMED
OCT 11 1994

1 February, 1993, to:

2 Snake River Adjudication
3 District Court
4 P.O. Box 27070
5 Twin Falls, ID 83303-0126

6 Clive Strong
7 Chief Natural Resources Division
8 Office of Attorney General
9 Statehouse
10 Room 210
11 Boise, Idaho 83720

12 David Shaw
13 Adjudications Bureau Chief
14 Department of Water Resources
15 1301 North Orchard
16 Boise, Idaho 83706

17 United States Department of Justice
18 Environment and Natural Resources Division
19 550 West Fort Street, Box 33
20 Boise, ID 83734

21 
22 Patrick D. Brown



Hepworth,
Nungester,
& Lezamiz

NOTICE OF APPEARANCE - 5

MICROFILMED
OCT 11 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 1, 1993

Patrick D. Brown
Hepworth, Nungester and Lezamiz
133 Shoshone St. N.
P.O. Box 389
Twin Falls, ID 83303-0389

Re: Notice of Appearance

Dear Mr. Brown:

We received your Notice of Appearance on behalf of Hagerman Water Owners, Inc. and its individual members on February 10, 1993. The records listed on the notice were updated with some exceptions.

Claim numbers with "A" prefixes identify claims filed in the SRBA. Claim numbers without prefixes identify recommendations in the Director's Report. The following table identifies claimants for which you filed a notice of appearance, but the number you referred to is actually the identification of the recommendation. They have been updated with the notice information.

Claimant's Name	Recommendation No. (no "A" prefix)
Bybee, Gertrude B. Owsley	36-00042A 36-00041C
Candy, Walter W. & Margaret	36-00135B
Crandlemire, Roger C.	36-00134C 36-00135C
Gustafson Family Trust/Gustafson, Ivan J. & Lucille co-trustees	36-00033F
McFaddan, Dan H. & Irma R.	36-00048A
Muller, Manfred	36-00035J
Zink, Basil Lester & Myrle Hyde	36-00103F

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OCT 11 1994

The following is a list of claims that have been updated with the notice information, however, there is a discrepancy between IDWR records and the notice list (see third column).

Claimant's Name as listed on Notice of Appearance	As Claimed/ As Recommended	Claim No. or Claimant's Name in IDWR's Records
Anderson, Anita G.	A36-00050D/36-00050D	Andersen (name spelling is different)
Brailsford, Robert H.	A36-04260/36-04260	A36-04260B/36-04260B (claim was split--"B" suffix)
Brooks, Allen L. & Andree	A35-00060	A36-00060/36-00060 (Basin 36 instead of Basin 35)
Crandlemire, Roger C. & George C.	A36-00113J/36-00113J	Crandlemire, Roger C. (George C. not listed as claimant)
Gisler, Harry R.	A36-00021B/36-00021B	A36-00021/36-00021 (claim was renumbered)
Glauner, Frank L. & Joan	A36-00039E/36-00039E	Jean instead of Joan
Gustafson Family Trust/Gustafson, Ivan J. & Lucille co-trustees	A36-00011C/36-00033F	Gustafson, Ivan J. (not listed as a trust)
Johnson, Ira L. & Huguette M.	A36-07142/36-07142	Johnson, Ira L. (Huguette M. not listed as claimant)
Joint Hagerman School Dist. 233	A36-15463/36-15463	Original claim & IDWR records show school dist. as #3.
Jones, John W., Jr.	A36-00068/36-00068 A36-00069/36-00069 A36-07071/36-07071 A36-00070/36-00070	Jones, John W. Jr. & Deloris D. (Deloris D. is included as a claimant)

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Mr. Patrick D. Brown
 March 1, 1993
 Page 3

Claimant's Name as listed on Notice of Appearance	As Claimed/ As Recommended	Claim No. or Claimant's Name in IDWR's Records
Mueller, Manfred	A36-00034D/36-00035J	Muller (name spelling is different in IDWR records)
Strange, Wm. (Penelope Turner- remainder man)	A36-00006/36-00006 A36-00007/36-00007 A36-00008/36-00008	Strange, Wm. & Louise (Louise is included as a claimant, Penelope Turner is not in records)
Veenendaal, Dick J.	A36-00108A/36-00108A A36-00039C/36-00039C	Veenendaal, Dick J. & Sigrid E. (Sigrid E. is included as a claimant)
Wiens, M. J., Jr.	A36-80317	A36-08317/36-08317 (no. was transposed on notice)
Wiens, M. J., Jr.	A36-00098/36-15384	36-15384 (claim was combined with no. 36-00141 into no. 36- 15384)
Wiens, M. J., Jr.	A36-00141/36-15384	36-15384 (claim was combined with no. 36-00098 into no. 36- 15384)

The following claims have not been updated with the notice information because of the discrepancies listed in the third column.

Claimant's Name	Claim No. as listed on Notice of Appearance	Discrepancy Between Notice of Appearance and IDWR Records
Hagerman Gun Club	A36-00100/36-00100 A36-00099/36-00099 A36-07233/36-07233 A36-07172/36-07172 A36-10249/36-10249	Owners are listed as Bob Porter and Fred Surbaugh

MICROFILMED
OCT 11 1994

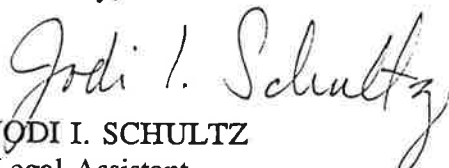
Mr. Patrick D. Brown
March 1, 1993
Page 4

Claimant's Name	Claim No. as listed on Notice of Appearance	Discrepancy Between Notice of Appearance and IDWR Records
Ya-Ta-Hay Investments, Inc.	A36-07875/36-07875	No record of this claim no., nor any other claim no. for claimant other than A36- 10283A/36-10283A (as listed)

Please review the claimants and claim numbers and let me know if you have any questions or problems with the claims as listed in IDWR's records. Also, please review the claims in the last table. We need to solve these discrepancies before IDWR's records are updated with the notice information. My phone number is 327-5444.

Please note we have received your supplemental and second supplemental notices of appearance and are currently working to update those records. We will inform you if there are any discrepancies.

Sincerely,


JODI I. SCHULTZ
Legal Assistant
Idaho Department of Water Resources

cc: IDWR Southern Region

MICROFILMED
OCT 11 1994

03/05/2002

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

RIGHT NUMBER: 36-35J
NAME AND ADDRESS: KENT SKAAR
2795 SOUTH 900 EAST
HAGERMAN ID 83332

SARAH SKAAR
2795 S 900 E
HAGERMAN ID 83332

SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER
QUANTITY: 0.40 CFS

THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER DESCRIBED FOR STOCKWATER PURPOSES DURING THE NON-IRRIGATION SEASON AT A POINT OF MEASUREMENT WHERE THE DELIVERY DITCH ENTERS THE PLACE OF USE DESCRIBED.

THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 09/10/1884

POINT OF DIVERSION:
T07S R13E S11 SESENE Within GOODING County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.020 CFS
IRRIGATION	02/15 11/30	0.400 CFS

PLACE OF USE: STOCKWATER Within GOODING County

T07S R13E S22 SESE

IRRIGATION Within GOODING County

T07S R13E S22 SESE 9.0

9 ACRES TOTAL

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

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

EXPLANATORY MATERIAL: Decreed

WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.
.06 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY OF THIS RIGHT.

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

In Re SRBA)
Case No. 39576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 36-00035J

2001 DEC 13 PM 3:08

FILED
TWIN FALLS CO., IDAHO

NAME AND ADDRESS: KENT SKAAR
SARAH SKAAR
2795 SOUTH 900 EAST
HAGERMAN, ID 83332

SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 0.40 CFS

THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER
DESCRIBED FOR STOCKWATER PURPOSES DURING THE NON-IRRIGATION
SEASON AT A POINT OF MEASUREMENT WHERE THE DELIVERY DITCH ENTERS
THE PLACE OF USE DESCRIBED.

THE QUANTITY OF WATER DECREED FOR THIS RIGHT FOR STOCKWATER
USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 09/10/1884

POINT OF DIVERSION: T07S R13E S11 SESE Within Gooding County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	02-15 TO 11-30	0.40 CFS
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE: Irrigation Within Gooding County
T07S R13E S22 SESE 9.0
9.0 Acres Total

Stockwater Within Gooding County
T07S R13E S22 SESE

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

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

RULE 54(b) CERTIFICATE

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

Barry Wood

Barry Wood
Administrative District Judge
Presiding Judge of the
Snake River Basin Adjudication

RECEIVED

FEB 17 1998

Department of Water Resources

COPY

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

FEB 13 1998

By

Clerk

Deputy Clerk

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

In Re SRBA

Case No. 39576

) NOTICE OF COMPLETED
) ADMINISTRATIVE PROCEEDINGS) Water Right 36-00035J
)

IDWR has completed the following Administrative Proceeding:

- ☐ Change of Address
☒ Substitution of Party
☐ I.C. 42-222 Transfer

SUBSTITUTION OF PARTY

Does the change in "ownership" result in a splitting of the water
right claimed? ☐ Yes ☒ NoIf yes, does the split involve an I.C. 42-222 transfer? ☐ Yes ☐ No

Water Right(s): 36-00035J

NOTICE OF COMPLETED
ADMINISTRATIVE PROCEEDING
2/2/1998

36-00035J

PAGE 1

AJ5856NP

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

DATE: FEB-2-1998

PAGE: A-1

RIGHTS FROM:	SOURCE: BILLINGSLEY CREEK	TRIBUTARY: SNAKE RIVER
RIGHT NUMBER:	36-00035J	
NAME & ADDRESS:	KENT SKAAR SARAH SKAAR 2795 SOUTH 900 EAST HAGERMAN ID 83332	
SOURCE:	BILLINGSLEY CREEK	TRIBUTARY: SNAKE RIVER
QUANTITY:	0.4 CFS	
PRIORITY DATE:	09/10/1884	
POINT OF DIVERSION:	T07S R13E S11	SESENE Within GOODING County
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE IRRIGATION	PERIOD OF USE Irrigation Season
PLACE OF USE:	IRRIGATION T07S R13E S22 9 ACRES TOTAL	Within GOODING County SESE 9
CONSUMPTIVE USE:	27.0 AFY	
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:		
WATER IS DELIVERED THROUGH THE BUCKEYE DITCH. A DIVERSION RATE OF 0.34 CFS AT THE FIELD HEADGATE IS RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE. 0.06 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY OF THIS RIGHT.		
EXPLANATORY MATERIAL:	BASIS OF CLAIM - DECREE	

CERTIFICATE OF MAILING

I certify that on 2-9-98 I mailed the original
and copies of this form to the following persons, postage prepaid
and addressed as follows:

1. Original to:
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707
2. One Copy to:
Claimant/Seller for Substitution of Party or attorney of record:

SKAAR BROTHERS FARMS
421 N 3200 E
LEWISVILLE ID 83431
3. One Copy to:
Claimant/Purchaser for Substitution of Party or attorney of record:

KENT SKAAR
SARAH SKAAR
2795 SOUTH 900 EAST
HAGERMAN ID 83332
4. One Copy to:
Chief, Natural Resources Division
Office of the Attorney General
P.O. Box 44449
Boise, Idaho 83711-4449
5. One Copy to:
United States Dept. of Justice
Environment & Natural Resource Div.
550 West Fort Street, MSC 033
Boise, ID 83724

Sandy Egbert
Signature of person or attorney mailing the form

NOTICE OF COMPLETED
ADMINISTRATIVE PROCEEDING
2/2/1998

36-00035J

PAGE 3

RECEIVED

FEB 02 1998

Department of Water Resources

COPY

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(s) 36-00035J

Case 39576

STANDARD FORM 5

This form is used to report the stipulated elements of a water right acquired under state law and/or a federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the element of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

Date: 10/22/97

Charles L. Forsberg
IDWR Concurrence

Kent Haas Sarah Haas
Claimant

Kent Haas Sarah Haas
Objector

Claimant/Attorney

Objector/Attorney

Claimant/Attorney

Objector/Attorney

356NP

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

DATE: OCT-16-1997
PAGE: A-1

HTS FROM: SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

HT NUMBER: 36-00035J

E AND ADDRESS: MANFRED MUEKKE
2793/4 SOUTH 900 EAST
HAGERMAN ID 83332

SKAAR BROTHERS FARMS
421 N 3200 E
LEWISVILLE ID 83431

RCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

NTITY: 0.4 CFS

ORITY DATE: 09/10/1884

NT OF DIVERSION: T07S R13E S11 SESENE Within GOODING County

POSE AND

MOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	<u>Irrigation Season</u>	0.4 CFS
	Stockwater	03/25 11/25	.02 CFS
	Stockwater	Irrigation Season	.02 CFS
		Non-Irrigation Season	.02 CFS

ICE OF USE: IRRIGATION Within GOODING County The appropriator is entitled to the quantity of water described for stockwater purposes during the non-irrigation season at a point of measurement where the delivery ditch enters the place of use described.

T07S R13E S22 SESE 9

9 ACRES TOTAL

ISUMPTIVE USE: 2710 AFY

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

WATER IS DELIVERED THROUGH THE BUCKEYE DITCH/
A DIVERSION RATE OF 0.136 CFS AT THE FIELD MEASURE IS
RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE/
0.136 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF THIS RIGHT/

PLANATORY MATERIAL: BASIS OF CLAIM - DECREE

WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.
.06 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE LOSSES
IN DELIVERY OF THIS RIGHT.

FILED
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
JAN 30 AM 10:28

RB 58.
C.2.7.
KS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 29 day of January, 1998 I caused to be served a true and correct copy of the foregoing document, including all attachments, on the following person(s):

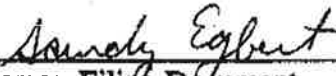
1. Original to:

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

2. Copies to:

Kent & Sara Skaar
Skaar Brothers Farms
421 N. 3200 E.
Lewisville, ID 83431

Nick Spencer
Idaho Department of Water Resources
Adjudication Bureau
P.O. Box 83720
Boise, ID 83720-0098



Person Filing Document

OCT 22 1997

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILEDIN 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(s) 26-00035 J

Case No. 39576

ORDER GRANTING MOTION TO
FILE AN AMENDED NOTICE OF
CLAIM

A Motion to File an Amended Notice of Claim was filed on October 22, 1997, a hearing was held before the Special Master. Leave to amend a claim shall be freely given when justice so requires. For good cause appearing, the Motion to File an Amended Notice of Claim is granted.

DATED October 22, 1997

Fritz X. Haemmerle
FRITZ X. HAEMMERLE
Special Master
Snake River Basin Adjudication

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the ORDER GRANTING MOTION TO FILE AN AMENDED NOTICE OF CLAIM was hand delivered on October 22, 1997 to the following:

Kent & Sarah SkaarCharles HonsingerDeputy Clerk

Deputy Clerk

OCT 22 1997

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILEDIN 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(s) 36-00035JMOTION 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.

The original Claimant failed to note the year-round stock water use, historically used.

☐ I am providing legal and factual documentation to support my amended Notice of Claim.

I have attached:

- ☐ An amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR.

DATED 10/22/97

VERIFICATION

State of Idaho
County of Twin Falls

Kent Skaar, being first duly sworn, upon oath, deposes and says:
That I am the party/claimant filing this motion for an amended claim (as listed on this form) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for 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.

Kent Skaar
Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on

Oct 22, 1997
(Insert Date)

Debbie Lash
Notary Public for the State of Idaho

Residing at: Jerome

My Commission expires: 6-26-2002

5856NP

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

DATE: OCT-16-1997

PAGE: A-1

GHYS FROM: SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

GHT NUMBER: 36-00035J

NAME AND ADDRESS: MANFRED MUEYKER
2795/A SOUTH 900 EAST
HAGERMAN ID 83332

SKAAR BROTHERS FARMS
421 N 3200 E
LEWISVILLE ID 83431

SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 0.4 CFS

PRIORITY DATE: 09/10/1884

POINT OF DIVERSION: T07S R13E S11 SESENE Within GOODING County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	<u>Irrigation Season</u>	0.4 CFS
	stockwater	03/28 11/28	.02 CFS
	Stockwater	<u>Irrigation Season</u>	
		<u>Non-Irrigation Season</u>	.02 CFS

PLACE OF USE: IRRIGATION Within GOODING County The appropriator is entitled to the quantity of water described for stockwater purposes during the non-irrigation season at a point of measurement where the delivery ditch enters the place of use described.
T07S R13E S22 SESE 9
9 ACRES TOTAL

CONSUMPTIVE USE: 2710 APY

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

WATER IS DELIVERED THROUGH THE BUCKEYE DITCH/
A DIVERSION RATE OF 0.134 CFS AT THE FIELD HEADGATE IS
RECOMMENDED FOR THE PERIOD OF USE DESCRIBED ABOVE.
0.100 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF THIS RIGHT.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.
.06 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE LOSSES
IN DELIVERY OF THIS RIGHT.

RD
C-2. H.

OCT 22 1997
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA

Subcase(s) 36-00035J

Case No. 39576

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the MOTION TO FILE AN AMENDED NOTICE
OF CLAIM was hand delivered on October 22, 1997, to the following:

1. Original to:

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

2. Copies to:

Director of IDWR
P O Box 83720
Boise, Idaho 83720-0098

Kent and Sarah Skaggs

Mr. M. M. M.

Signature of person delivering form

CERTIFICATE OF SERVICE

03/01/2002

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 36-35J V2

WATER RIGHT NUMBER: 36-35J V2

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	KENT SKAAR 2795 SOUTH 900 EAST ✓ HAGERMAN, ID 83332 (208)837-6122
Original Owner	RICHARD D SIMON 4646 SOUTH 500 WEST SALT LAKE CITY, UT 84123 (801)268-9100
Directors Report Owner	MANFRED MUELLER 2795-A SOUTH 900 EAST HAGERMAN, ID 83332 (208)837-4947
Original Owner	PATRICK D BROWN HEPWORTH LEZAMIZ & HOHNHORST 133 SHOSHONE ST N PO BOX 389 TWIN FALLS, ID 833030389 (208)734-7510
Current Owner	SARAH SKAAR ✓ 2795 S 900 E HAGERMAN, ID 83332 (208)837-6122
Original Owner	SKAAR BROTHERS FARMS 421 N 3200 E LEWISVILLE, ID 83431

Priority Date: 09/10/1884 ✓

Basis: Decreed ✓

Status: Active ✓

Source

BILLINGSLEY CREEK ✓

Tributary

SNAKE RIVER ✓

Beneficial Use

IRRIGATION

*stock water*From To

2/15 to 11/30 ✓

*1-1-12-31*Total Diversion:Diversion Rate

0.400 CFS

.02

0.400 CFS ✓

Annual Volume*Quant remarks*Location of Point(s) of Diversion

BILLINGSLEY CREEK

SE1/4SE1/4NE1/4

Sec. 11, Twp 07S, Rge 13E, B.M.

GOODING County

Place of Use

IRRIGATION

Twp	Rge	Sec	NE	NW	SW	SE	Totals
07S	13E	22	NE	NW	SW	SE	9.0
							9.0

X

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 36-35J V2

Total Acres: 9

Conditions of Approval:

C-18

Remarks:

1. Explanatory WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.
.06 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY OF THIS RIGHT.

Comments:

1. THORNTON 8/6/1992 RENUMBERED RIGHT
Comment: THE CORRECT BASIS OF DECREED RIGHT FOR THIS CLAIM IS 36-00035 AND NOT 36-00034. THIS RIGHT IS DELIVERED VIA BUCKEYE DITCH AS WAS 36-00035. THE OTHER RIGHT IS THROUGH THE BELL DITCH. ORIGINALLY CLAIMED AS A36-00034D. COPIED FROM REMARKS THIS PROPERTY WAS SOLD BY MRS. HOSKOVEC TO MR. MULLER ON 10/26/90 RVW - 12/4/90
2. SCHULTZ 9/23/1992 NOTICE OF ERROR (NOE)
Comment: RECEIVED NOE 9/22/92. CHANGED NOE FLAG FROM BLANK TO A. CLAIM VERIFIED 8/17/92. DID NOT REVERIFY ANY PART OF CLAIM.
3. SOUTH3 10/19/1992 NO CHANGE TO RECOMMENDATION
Comment: THE CLAIM WAS RENUMBERED AND THE CLAIMANT DISAGREES WITH THE PRIORITY DATE. AN EXPLANATORY LETTER HAS BEEN SENT. RMC
4. SCHULTZ 2/18/1993 ADDED NEW ATTORNEY
Comment: RECEIVED NOTICE OF APPEARANCE 2/10/93 FROM HEPWORTH NUNGESTER LEZAMIZ. CLAIM VERIFIED 10/19/92. DID NOT REVERIFY ANY PART OF CLAIM.
5. TFAWCETT 7/10/1995 NAME CHANGE
Comment: OWNERSHIP CHANGE MADE 7-10-95 TF. SF3 SENT TO NEW OWNER.
6. DSHAFF 2/28/1996 ATTORNEY NAME ADD
Comment: NOTICE OF APPEARANCE RECEIVED 2/23/96
7. CFRITSCH 6/29/1996 COPIED FROM REMARKS
Comment: 0.06 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY OF THIS RIGHT.
8. DTUTHILL 6/30/1996 COPIED FROM REMARKS
Comment: A DIVERSION RATE OF 0.34 CFS AT THE FIELD HEADGATE IS RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE. COPIED FROM REMARKS A DIVERSION RATE OF 0.34 CFS AT THE FIELD HEADGATE IS RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.
9. TFAWCETT 6/13/1997 OWNERSHIP CHANGE
Comment: OWNERSHIP CHANGED SIMON TO SKAAR BROS FARMS PER WARRANTY DEED.
10. SSHERMAN 1/30/1998 OWNERSHIP CHANGE
Comment: OWNERSHIP CHANGE CY COURT RECORD, SCHEDULE A OF DEED AND MAP. SKAAR BROTHERS FARMS TO KENT AND SARAH SKAAR.

OK
3/5/02

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 36-35J V1

Dates and Other Information:

Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Defendant:
Plaintiff:
Civil Case Number: 39576
Judicial District: FIFTH
Notice of Error Flag: RECEIVED - NO CHANGE TO RECOMMENDATION
State or Federal: S
Owner Name Connector: AND
Water District Number: 36A
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

SubCase:

SubCase Number: 3600035J
Class: 1
SF5 Filed Date: 10/22/1997
Special Master Recorn Signed Date: 2/26/1999
Attorney Assigned: NICHOLAS B SPENCER
Date Filed: 4/29/1993 Objection Status: Active

SF5 1-30-98
4-98 Amended claim
added stock

PD 12-13-2000

MAR 02 1999

RECEIVED

MAR 08 1990

Department of Water Resources
Southern Region

1999 FEB 26 AM 11: 58

DISTRICT COURT-SREA
THIRTEEN

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

Case No. 39576

Water Right(s): 36-00035J

PAGE 1
02/26/99

1999 FEB 26 AM 11: 58

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA	)	SPECIAL MASTER'S REPORT
	)	
Case No. 39576	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHT 36-00035J

I. FINDINGS OF FACT

A notice of claim was filed for this water right pursuant to I.C. § 42-1409 (1990). The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

All objections to this water right were resolved by stipulation of the parties with a *Standard Form 5*. All parties to the subcase and IDWR are signatories to the *Standard Form 5*.

As to season of use, IDWR has informed the court that it intends to recommend February 15 through November 30 as the season of use in the Hagerman Valley in a forthcoming Director's Report. All parties, including the claimants, will be able to object to that recommendation when the Director's Report is filed. Until that time, the court will recommend February 15 through November 30 for the irrigation use in this water right, with the understanding that the season of use for the irrigation claims is not final.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein, IT IS RECOMMENDED that this water right be decreed with the elements as set forth in the *Partial Decree Pursuant to I.R.C.P. 54(b) for Water Right 36-00035J*.

DATED: February 26, 1999.



FRITZ K. HAEMMERLE, Special Master
Snake River Basin Adjudication

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

In Re SRBA

Case No. 39576

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

Water Right 36-00035J

1999 FEB 26 AM 11:58

DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
FILED

NAME AND ADDRESS: KENT SKAAR
SARAH SKAAR
2795 SOUTH 900 EAST
HAGERMAN, ID 83332

SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 0.40 CFS

THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER
DESCRIBED FOR STOCKWATER PURPOSES DURING THE NON-IRRIGATION
SEASON AT A POINT OF MEASUREMENT WHERE THE DELIVERY DITCH ENTERS
THE PLACE OF USE DESCRIBED.

THE QUANTITY OF WATER DECREED FOR THIS RIGHT FOR STOCKWATER
USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 09/10/1884

POINT OF DIVERSION: T07S R13E S11 SESENE Within Gooding County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	02-15 TO 11-30	0.40 CFS
	Stockwater	01-01 TO 12-31	0.02 CFS

PLACE OF USE: Irrigation
T07S R13E S22 SESE 9.0 Within Gooding County
9.0 Acres Total

Stockwater
T07S R13E S22 SESE Within Gooding County

RULE 54(b) CERTIFICATE

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



Barry Wood
Administrative District Judge
Interim Presiding Judge of the
Snake River Basin Adjudication

1999 FEB 26 AM 11: 58

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO

FILED

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

In Re SRBA)

Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 36-00035J

CERTIFICATE OF MAILING

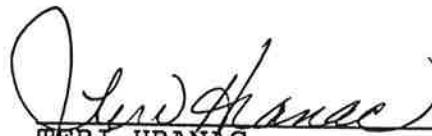
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on February 26, 1999, with sufficient first-class postage prepaid to the following:

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

STATE OF IDAHO
Represented by:
CLIVE STRONG
NATURAL RESOURCES
DEP AG OFFICE OF ATTY GEN
STATEHOUSE MAIL
BOISE, ID 83720-0010
Phone: 208-334-2400

KENT SKAAR
SARAH SKAAR
2795 SOUTH 900 EAST
HAGERMAN, ID 83332
Phone: 208-837-6122

CERTIFICATE OF MAILING


TERI HRANAC
Deputy Clerk

PAGE 1
02/26/99

SUBCASE NO. 36-00035J

	CLAIM (8/16/88)	AMENDED CLAIM	RECOMMENDATION	OBJECTION
NAME	Betty Hoskovec *	N/A	Manfred "Muller" (IDWR changed spelling in Response to Obj.) re-formatted 6/24/97: Skaar Brothers Farms	Manfred Mueller XX - objects to name and address - spelling of last name.
BASIS OF CLAIM	Decree	*	Decree	
SOURCE	Billingsley Creek		Billingsley Creek	
QUANTITY	0.40 cfs		0.40 cfs	XX - requests as "decreed and/or beneficially used if greater"
PRIORITY DATE	3/30/1884		9/10/1884	XX - requests priority date of 3/30/1884
PURPOSE OF USE	Irrigation		Irrigation	XX - requests that stockwater be added MSJ requests that irrigation, stockwater, wildlife, recreation, aesthetics and "diversion system maintenance" be included
PERIOD OF USE	3/15 - 11/15		3/15 - 11/15 Re-formatted 6/24/97: Irrigation Season	XX - requests year round MSJ requests Irrigation Season for Irrigation and year round for all other uses
POINT OF DIVERSION	T07S R13E S22		T07S R13E S11	
PLACE OF USE	T07S R13E S22 38.0 acres		T07S R13E S22 9.0 acres	XX - requests 12 acres

remarks	"All 3 sources of water irrigate the 38 acres."		"Water is delivered through the Buckeye Ditch. A diversion rate of 0.34 cfs at the field headgate is recommended for the place of use described above. 0.06 cfs of this right is limited to use for conveyance losses in delivery of this right." Re-formatted 6/24/97: All remarks deleted except for the first sentence.	XX - strike all remarks after Buckeye Ditch. MSJ requests that all remarks be deleted.

* Claimed in Hoskovec's name; changed to Manfred Mueller; quit claimed to Helma Monika Mueller Drown; then SF 3 filed from Drown-Mueller to Richard Simon.

NCAP filed on 6/24/97 - Simon to Skaar Brothers Farms

STATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are on the back of this page.
Incomplete forms will be returned.

1. Water Right No(s).: 36-00035J
Adjudication Claim No(s).: A36-00035J

2. The following REQUIRED information must be submitted with this form:
 - A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.
AND
 - B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually attached to your deed or on file with the county.)
OR
 - C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.

3. Name and Address of Former Owner/Claimant: Skaar Brothers Farms
421 N. 3200 E. Lewisville, ID

4. New Owner/Claimant(s): Kent Skaar and/or Sarah Skaar
Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
New Mailing Address: 413 N. 3200 E. Lewisville, ID
City, State and ZIP Code: 83431
New Telephone Number: () _____

5. Date you acquired the property: 5/20/1997

6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.

 Number of acres you irrigate _____ Number and type of stock _____
 Diversion rate in CFS _____ Number of homes _____ Other uses _____

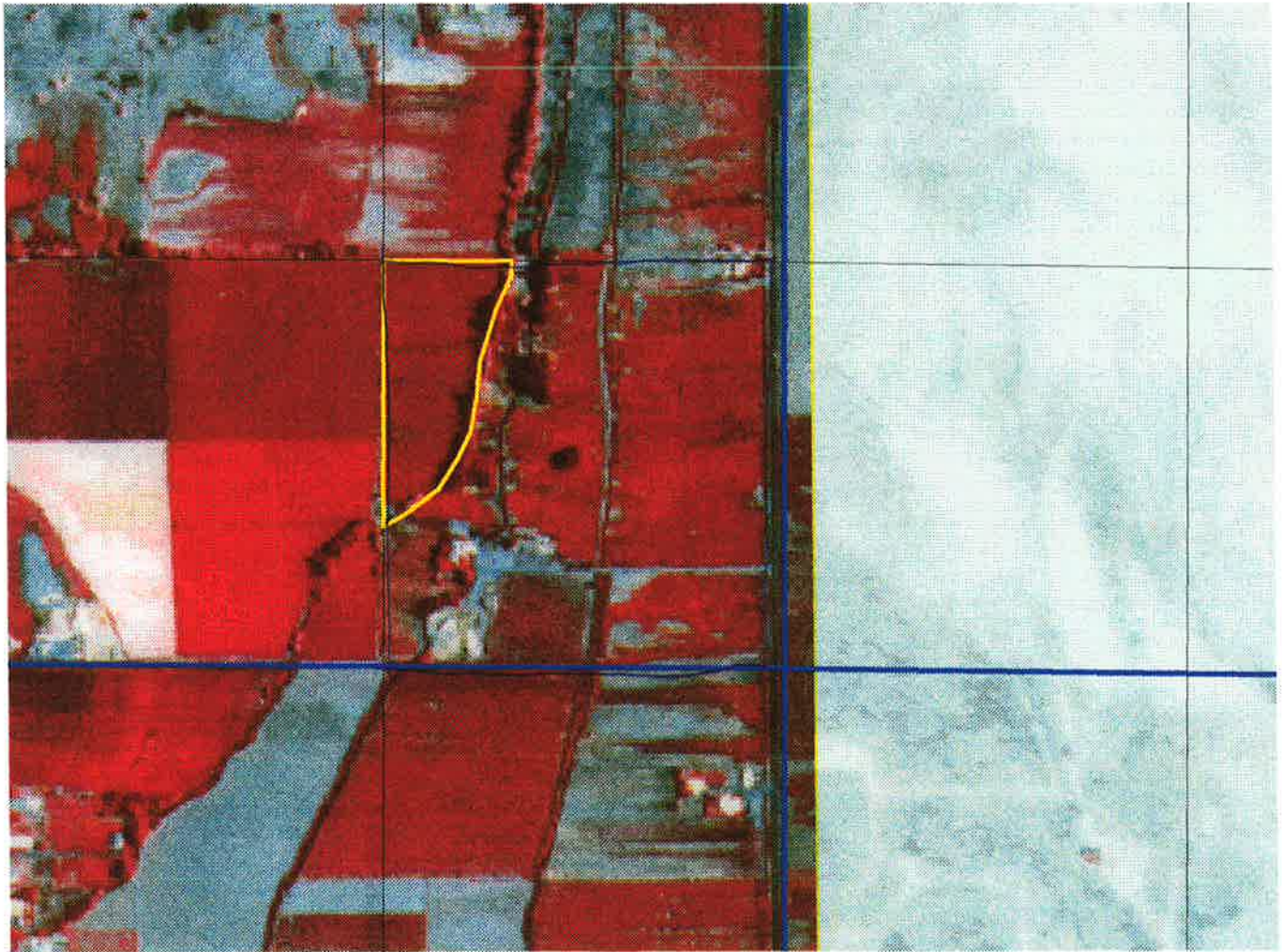
 If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.

7. Signature of New Owner or Claimant(s): X
X
(Corporations or other organizations must submit a list of directors and/or officers demonstrating authority to sign form.)

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

IDAHO DEPARTMENT OF WATER RESOURCES

36-00035J



660 0 660 Feet

TNS 7S, RNG 13E, SEC 22 SESE



⊙ RECOMMENDED POINT OF DIVERSION

RECOMMENDED PLACE OF USE

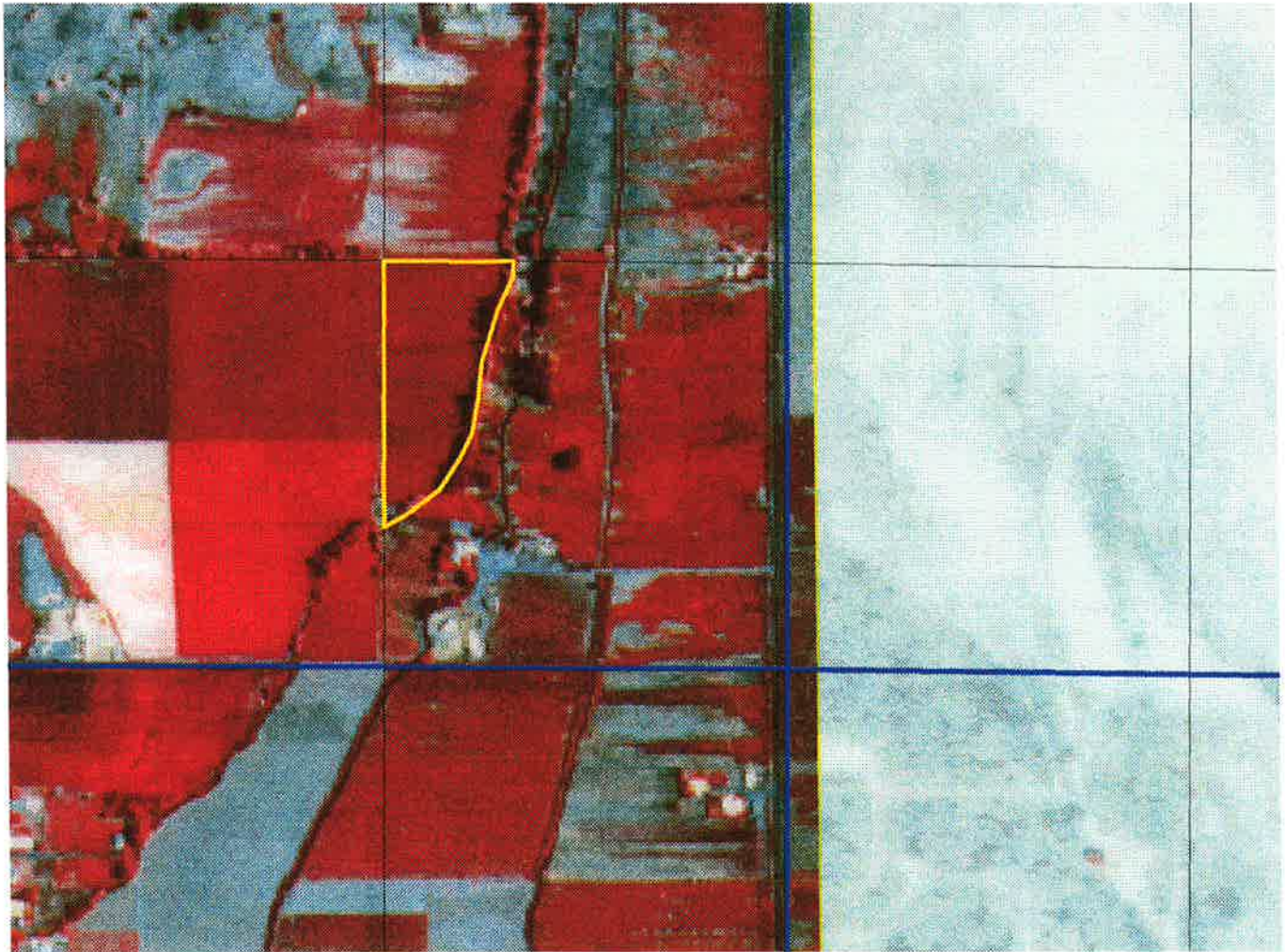
SECTION LINES &/OR TRACT LINES

QUARTER/QUARTER LINES

GIS PLACE OF USE PRESENTATION
1987 and/or 1988 NAPP PHOTOGRAPHY
DATA ENTRY OCTOBER 1997
BY FRANK HITCHCOCK

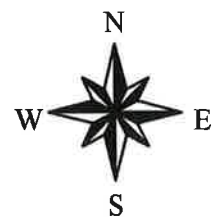
IDAHO DEPARTMENT OF WATER RESOURCES

36-00035J



660 0 660 Feet

TNS 7S, RNG 13E, SEC 22 SESE



⊙ RECOMMENDED POINT OF DIVERSION

RECOMMENDED PLACE OF USE

SECTION LINES &/OR TRACT LINES

QUARTER/QUARTER LINES

GIS PLACE OF USE PRESENTATION
1987 and/or 1988 NAPP PHOTOGRAPHY
DATA ENTRY OCTOBER 1997
BY FRANK HITCHCOCK

Scheduled: 10-20-1997 SUBCASE INITIAL HEARING 1 of 11

CLAIM NUMBERS 36-00035J

DATE 10-01-97

TRANSFER NUMBER

YES OBJECTION FILED 04-30-1993

AGENT 7H

TOTAL ACRES FROM RECOMMENDATION 9

GEOGRAPHIC INFO SYSTEM 6

RIGHT NO				NE				NW				SW				SE			
	TNS	RNG	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
RECOM	<u>075</u>	<u>13E</u>	<u>22</u>																<u>9</u>
GIS																			<u>6</u>
RECOM																			
GIS																			
RECOM																			
GIS																			
RECOM																			
GIS																			

UPDATED

POLYGON #

UPDATED

B36-DBPOU.DBF 499

POLYGON CREATED ON 604 ()

ATTRIBUTES OF B36-POU.SHP () 499

B36-DBPOD.DBF 454

ATTRIBUTES OF B36-POD.SHP () 454

Renumbered from A36-00034D;
Substitution of owner - currently Starr Brothers Farms.
Changed: 06-13-1997.

Welp'd the Bell ditch but not much of the NW. area
along the irregular appearing boundary 1/2 way up and
NO of there - see photos in file. (per CW SCC)

The difference in acreage should be considered in view
of SCC's information noted above.

Pod # already created by SCC
(see attached exhibit)

P/U CONFLICT yes () no (☒)

P/D CONFLICT yes () no (☒)

READY FOR DECREE HSC yes () no ()

SENT FOR DECREE HSC yes () no ()

1997 JUN 26 PM 2:38

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO

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

In Re SRBA

Case No. 39576

**NOTICE OF COMPLETED
ADMINISTRATIVE PROCEEDINGS**

SUB CASE NO. 36-00035J

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

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

FROM: Claimant/Seller(s):

Name and Address of Claimant/Seller(s):

Richard D Simon
4646 S 500 W
Salt Lake City UT 84123

Phone: (801) 837-4947

TO: Claimant/Purchaser(s):

Name and Address of Claimant/Purchaser(s):

Skaar Brothers Farms
421 N 3200 E
Lewisville ID 83431

Phone:

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:

6/24/97

[Signature]
Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on 6-26, 1997, I mailed the original and copies of this form to the following persons, postage prepaid and addressed as follows:

1. Original to:
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls ID 83303-2707
2. One Copy to:
Claimant/Seller for Substitution of Party or attorney of record:
Patrick D Brown
Hepworth Lezamiz & Hohnhorst
PO Box 389
Twin Falls ID 83303-0389
3. One Copy to:
Claimant/Purchaser for Substitution of Party or attorney of record:
Skaar Brothers Farms
421 N 3200 E
Lewisville ID 83431
4. One Copy to:
Each party in the subcase or attorney of record:
5. One Copy to:
Chief Natural Resources Division
Office of the Attorney General
PO Box 44449
Boise ID 83711-4449
6. One Copy to:
United States Dept Of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724


Signature of person or attorney mailing the form

AJ5856NP

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

DATE: JUN-24-1997

PAGE: A-1

RIGHTS FROM: SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

RIGHT NUMBER: 36-00035J

NAME & ADDRESS: SKAAR BROTHERS FARMS
421 N 3200 E
LEWISVILLE ID 83431

SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 0.4 CFS

PRIORITY DATE: 09/10/1884

POINT OF DIVERSION: T07S R13E S11 SESENE Within GOODING County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	Irrigation Season	0.4 CFS

PLACE OF USE: IRRIGATION Within GOODING County
T07S R13E S22 SESE 9
9 ACRES TOTAL

CONSUMPTIVE USE: 31.5 AFY

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE
WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

June 26, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

SKAAR BROTHERS FARMS
421 N 3200 E
LEWISVILLE ID 83431

RE: SRBA Claim(s) 36-00035J
Water Right 36-10468

Dear Claimant:

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

Also enclosed is a profile report of 36-10468 showing you as the current owner. This right was decreed on November 15, 1996, and does not require a NCAP be filed with the SRBA court.

Please review these documents and should you have any questions feel free to contact this office.

Sincerely,

Trish Fawcett
Technical Records Specialist

/tf

cc: Patrick D. Brown

AJ0743NP
(00-124)

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT
(REGIONAL)

06/13/97 11:48:10
Page 1

Water Right Number - R36-00035J

Prefix Translation: RESEARCH

Old (D) Number -

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

*** C - CURRENT OWNER ***
SKAAR BROTHERS FARMS

1 - 421 N 3200 E
2 -
3 -
City- LEWISVILLE State- ID Zip- 83431
Phone - 208-000-0000

*** D - DIR RPT OWNER ***
MUELLER

MANFRED

1 - 2795-A SOUTH 900 EAST
2 -
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-837-4947

*** O - ORIGINAL OWNER ***
BROWN

PATRICK D

1 - HEPWORTH LEZAMIZ & HOHNHORST
2 - PO BOX 389
3 -
City- TWIN FALLS State- ID Zip- 833030389
Phone - 208-734-7510

SIMON

RICHARD D

1 - 4646 SOUTH 500 WEST
2 -
3 -
City- SALT LAKE CITY State- UT Zip- 84123
Phone - 801-268-9100

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
09/10/1884 ERROR IN REGION D - DECREED

+ - - - - Source - - - - + + - - - - - Tributary - - - - - +
BILLINGSLEY CREEK SNAKE RIVER

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

Twn	Rng	Sec	Tract	Lot	RFlg	County
07S	13E	11	SE SE NE		(47)	GOODING BUCKEYE

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume

01 - IRRIGATION	03/15	11/15	0.400
-----------------	-------	-------	-------

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.400 31.5

+ - - - - Place of Use - - - - - +

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
07S	13E	22	SE SE		9.0	01	IRRIGATION	(47) GOODING

Total Acres: 9.0

"DO NOT FILM"

Water right number - R36-00035J

Prefix Translation: RESEARCH

+ - - Diversion Means - VIA BUCKEYE DITCH

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - NONE

+ - - - - - Remarks - - - - - +

EXP WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.

+ - - - - - Old Water Right Numbers - - - - - +
3600035

+ - - - - - Conditions of Approval - - - - - +
No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - + + - - - - Decree Defendant - - - + + - Decree Date - +
00/00/0000

+ - - - - - Comments - - - - - +

Date: 08/06/1992 User Id: THORNTON Subject: RENUMBERED RIGHT
THE CORRECT BASIS OF DECREED RIGHT FOR THIS CLAIM IS 36-00035 AND NOT 36-00034. THIS RIGHT IS DELIVERED VIA BUCKEYE DITCH AS WAS
36-00035. THE OTHER RIGHT IS THROUGH THE BELL DITCH. ORIGINALLY CLAIMED AS A36-00034D.

Date: 08/06/1992 User Id: THORNTON Subject: COPIED FROM REMARKS
THIS PROPERTY WAS SOLD BY MRS. HOSKOVEC TO MR. MULLER ON 10/26/90 RVW - 12/4/90

Date: 09/23/1992 User Id: SCHULTZ Subject: NOTICE OF ERROR (NOE)
RECEIVED NOE 9/22/92. CHANGED NOE FLAG FROM BLANK TO A. CLAIM VERIFIED 8/17/92. DID NOT REVERIFY ANY PART OF CLAIM.

Date: 10/19/1992 User Id: SOUTH3 Subject: NO CHANGE TO RECOMMENDATION
THE CLAIM WAS RENUMBERED AND THE CLAIMANT DISAGREES WITH THE PRIORITY DATE. AN EXPLANATORY LETTER HAS BEEN SENT. RMC

Date: 02/18/1993 User Id: SCHULTZ Subject: ADDED NEW ATTORNEY
RECEIVED NOTICE OF APPEARANCE 2/10/93 FROM HEPWORTH NUNGESTER LEZAMIZ.

Date: 07/10/1995 User Id: TFAWCETT Subject: NAME CHANGE

OWNERSHIP CHANGE MADE 7-10-95 TF. SF3 SENT TO NEW OWNER.

Date: 02/28/1996 User Id: DSHAFF Subject: ATTORNEY NAME ADD
NOTICE OF APPEARANCE RECEIVED 2/23/96

Date: 06/29/1996 User Id: CFRITSCH Subject: COPIED FROM REMARKS
0.06 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY OF THIS RIGHT.

Date: 06/30/1996 User Id: DTUTHILL Subject: COPIED FROM REMARKS
A DIVERSION RATE OF 0.34 CFS AT THE FIELD HEADGATE IS RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.

Date: 06/30/1996 User Id: DTUTHILL Subject: COPIED FROM REMARKS
A DIVERSION RATE OF 0.34 CFS AT THE FIELD HEADGATE IS RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.

Date: 06/13/1997 User Id: TFAWCETT Subject: OWNERSHIP CHANGE
OWNERSHIP CHANGED SIMON TO SKAAR BROS FARMS PER WARRANTY DEED.

+ - - Audit Fields - - +
06/13/97 TFAWCETT

+ - - - - - Adjudication Rights Dates and Flags Area - - - - - +

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 00/00/0000	Old Judicial District	-

"DO NOT FILM"

10/22/9,
36-00035J

Initial Hearing
Stkaar Bros. Farms

- I. Name - Stkaar Bros.
- II. Qty - Recommended as claimed - no more.
- III. Priority Date - ~~36~~
 - A. Claimed as 3/10/1884 - Rec'd as 9/10/1884.
 - B. Water Right Claimed as 000340 - Recommended as 00035J w/ 9/10/1884 P.D. because water right 00034 diverted from the Bell ditch, while this water right is diverted from the Buckeye ditch. So, water right was renumbered to 35J & the PD adjusted to match that of 00035 diverted from the Buckeye Ditch.
- IV. Purpose - Irrigation claimed & recommended with stockwater added:
 - A. Need to Amend claims.
- V. Season of Use - "Irrigation Season" - BWS.
- VI. Place of Use 28 v. 9. acres - MSJ requests 12 acres.
 - A. See Figure 1 from 706 Report
 - (*) B. See also Affidavit of Steve Clelland - #4
 - C. Water delivered from Buckeye ditch across the Bell Ditch via a flume by gravity only - No system to deliver H₂O above Buckeye Ditch.
 - D.

AJ0743NP
(00-124)

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT
(REGIONAL)

06/13/97 11:48:13
Page 3

Water right number - R36-00035J

Prefix Translation: RESEARCH

+ - - - - Adjudication Rights Dates and Flags Area - - - - - +

Claim Received Date	- 08/16/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S001476	Water District	- 36A
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- AND/OR	Presumption Flag	-
				Notice of Error Flag	- B

"DO NOT FILM"

RECEIVED

EXHIBIT "A"

MAY 08 1997

Department of Water Resources
Southern Region

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

Section 22: SE $\frac{1}{4}$ SE $\frac{1}{4}$; EXCEPTING THEREFROM that part of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 22, described as follows:

Beginning at the Northeast corner of said SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Thence South along the East boundary of the SE $\frac{1}{4}$ SE $\frac{1}{4}$, 836.0 feet;
Thence West parallel with the North boundary of the SE $\frac{1}{4}$ SE $\frac{1}{4}$, 550.0 feet
more or less to the centerline of the Big Bend Irrigation Ditch as now
constructed;
Thence Northerly along the centerline of the Big Bend Irrigation Ditch, 836.0
feet more or less to the North boundary of said SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Thence East 550.0 feet to THE TRUE POINT OF BEGINNING.

TOGETHER WITH ALL WATER AND WATER RIGHTS, DITCHES AND DITCH RIGHTS
USED THEREON OR APPURTENANT THERETO INCLUDING BUT NOT LIMITED TO
19 SHARES BIG BEND IRRIGATION AND MINING CO., LTD. STOCK AND
20 SHARES BUCKEYE DITCH.

SUBJECT TO THE FOLLOWING:

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

Taxes for 1997 and subsequent years, which are a lien, but
not yet due and payable.

Assessments, if any, levied or to be levied by the Big Bend
Irrigation District.

Assessments, if any, levied or to be levied by the Buckeye
Ditch Irrigation District.

Terms and conditions of an Agreement by and between F. D. Brown and Florence M. Brown, husband and wife, and L. L. Ormsby and Lillian F. Ormsby, husband and wife, parties of the first part, and W. H. Clifford, party of the second part, dated April 25, 1918, recorded July 21, 1919 in Book 2 Page 47 as Instrument Number 20006, Gooding County records, pertaining to an easement of conducting through that certain ditch, flumes and pipeline, affecting the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 22, Township 7 South, Range 13, East Boise Meridian, and other property.

Power Line Easement given by H. F. Clifford, a single man to Idaho Power Company, a corporation, dated October 29, 1930, recorded September 18, 1931 as Instrument Number 53118, Gooding County records, affecting SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 22, Township 7 South, Range 13 East, Boise Meridian.

Power Line Easement given by Dale Cady and Verne Cady, husband and wife, to Idaho Power Company, a corporation, dated August 31, 1945, recorded October 22, 1945 in Book 5 Page 602 as Instrument Number 94510, Gooding County records, affecting the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 27, SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 22, all of Township 7 South, Range 13, East Boise Meridian.

Subject to a perpetual easement for road right of way 30 feet wide as revealed in Warranty Deed dated February 6, 1991, recorded February 20, 1991 as Instrument Number 143749, Gooding County records.

WARRANTY DEED

#G-24898

For Value Received

RICHARD D. SIMON, A MARRIED MAN CONTRACTING WITH HIS SOLE AND SEPARATE PROPERTY

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

SKAAR BROTHER FARMS PARTNERSHIP

Address: 421 NORTH 3200 EAST, LEWISVILLE, IDAHO 83431

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

SEE EXHIBIT "A" ATTACHED

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

Dated: APRIL 30, 1997

Richard D Simon
RICHARD D. SIMON

STATE OF IDAHO)

) ss.

COUNTY OF GOODING)

On this 2nd day of MAY, 1997, before me, the undersigned, a Notary Public in and for said State, personally appeared RICHARD D. SIMON, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

Jayne Shepard
Notary Public
Residing at: Buhl, Idaho
My Commission expires: 8-21-99



170698

STATE OF IDAHO COUNTY OF GOODING

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

30 min. past 1 o'clock P m. this 2nd of May, 1997 6.00

By Penny Watson Deputy

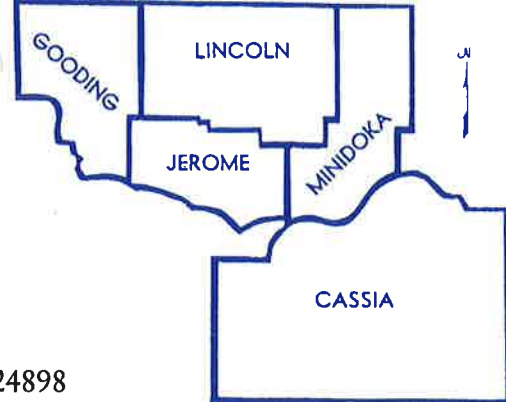
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MAY 08 1997

Department of Water Resources
Southern Region

Land Title and Escrow, Inc.

A FULL SERVICE TITLE COMPANY



REFER TO:
OFFICE: G-24898
Gooding

May 7, 1997

Idaho Department of Water Resources
1341 Fillmore Street
Ste. 200
Twin Falls, Idaho 83301

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MAY 08 1997

Department of Water Resources
Southern Region

RE: Notice of Change of Water Right Ownership

Dear Ladies and Gentlemen:

Enclosed please find a Notice of Change of Water Right Ownership along with a Warranty Deed from Simon to Skaar Brother Farms Partnership. I am also enclosing the two profile reports you had sent me.

Thank you.

Very Truly Yours,

LAND TITLE AND ESCROW, INC.


Jayne Shepard
(208)934-8477

P.O. Box 473, 546 Main Street
Gooding, Idaho 83330

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

BOX 348, JEROME, IDAHO 83338
PHONE 324-3357 - FAX 324-8961

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

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

10468 decreed.

06j
NCA

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

Please print or type. Attach pages with additional information. Instructions are on the back of this page.
Incomplete forms will be returned.

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Department of Water Resources
Southern Region

1. Water Right Number(s) 36-00035J; 36-10468

Adjudication Claim Number(s) _____

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

A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE, or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.

AND

B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually on file with the county.)

OR

C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency (formerly ASCS) AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.

3. Name and Address of Former Owner/Claimant(s) RICHARD D. SIMON

4. New Owner/Claimant(s) SKAAR BROTHERS FARMS

Name connector (Check one): ☐ AND, ☐ OR, ☐ AND/OR

New Mailing Address 421 North 3200 East, Lewisville, Idaho 83431

City, State and ZIP Code Lewisville, Idaho 83431

New Telephone Number () -

5. Date you acquired the property May 2, 1997

6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.

Number of acres actually irrigated _____ Number and type of stock _____

Diversion rate in CFS _____ Number of homes _____ Other uses _____
cubic feet per second

If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.

7. Signature of New Owner/Claimant(s)

Date 5-1-97

Date 5-1-97

(Corporations or other organizations must submit list of directors/officers demonstrating authority to sign form.)

8. For Snake River Basin Adjudication Claims: If you are represented by an attorney and you want IDWR to correspond directly with your attorney for all matters related to your claims, please attach a Notice of Appearance completed by your attorney.

AJ5809NP
No. 36-00035J

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 04/23/97
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	RICHARD D SIMON 4646 SOUTH 500 WEST SALT LAKE CITY UT 84123 (801) 268-9100	09/10/1884	IRRIGATION	03-15 11-15	0.40 CFS	
				TOTAL DIVERSION:	0.40 CFS	
				CONSUMPTIVE USE:		27.00 AFA
D	MANFRED MUELLER 2795-A SOUTH 900 EAST HAGERMAN ID 83332 (208) 837-4947					

Water Source: BILLINGSLEY CREEK

Tributary to: SNAKE RIVER

Stage: DECREED

Point(s) of Diversion: T07S R13E S11 SESENE

GOODING County

Place of use Legal Description for: IRRIGATION

NE				NW				SW				SE												
T	R	S		WENE	NWNE	SWNE	SENE	:	WENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:	SUM
				Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		
07S	13E	22	:					:					:					:					:	9.0
																							TOTAL ACRES	9.0

POU County: GOODING

Other Rights: NONE

Remarks: GEN WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.
A DIVERSION RATE OF 0.34 CFS AT THE FIELD HEADGATE IS
RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.
0.06 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF THIS RIGHT.

Dates: Exam Made Date: 08/16/1990

Verified Date:

Objection Filed Date: 04/29/1993

Misc: Water District Number: 36A

Field Inspection Flag:
Presumption Flag:

Department of Water Resources
Southern Region

MAY 08 1997

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To	Date	# of
Co Recd	4-23	pages
Phone #	From	
Fax #	Co	
	Phone #	
	Fax #	

AJ5809NP
No. 36-10468

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 04/23/97
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	RICHARD D SIMON 4646 S 500 W SALT LAKE CITY UT 84123 (801) 268-9100	01/01/1920	DOMESTIC	01-01 12-31	0.08 CFS	
TOTAL DIVERSION:					0.08 CFS	

Water Source: GROUNDWATER

Tributary to:

Stage: DECREED

Point(s) of Diversion:

T07S R13E S22

SESESE

GOODING County

Place of Use Legal Description for: DOMESTIC

NE				NW				SW				SE											
NENE		NWNE		SWNE		SENE		NENW		NWNW		SWNW		SESW		NESE		NWSE		SWSE		SESE	
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac
07S 13E 22 :																							

POU County: GOODING

Non-Irrigation Uses: 3 HOMES

Other Rights: NONE

Conditions of Approval:

- N11 - THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
- DETERMINATION OF HISTORICAL BENEFICIAL USE.
- N13 - THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
- GALLONS PER DAY.

Remarks: EXP PARCEL NO. RP07S13E229150

Dates: Exam Made Date:

Verified Date:

Objection Filed Date:

Misc: Water District Number:

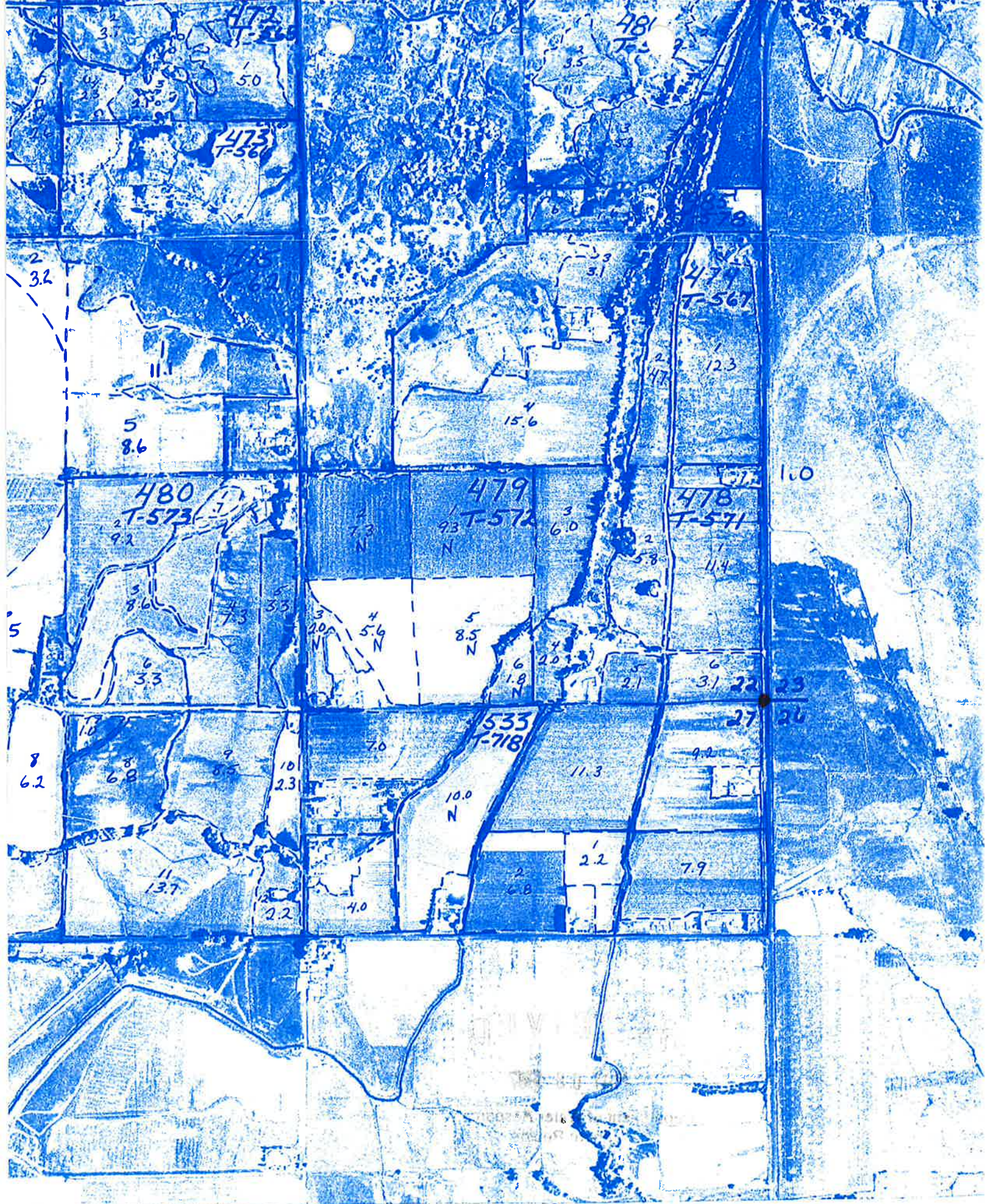
Field Inspection Flag:

Presumption Flag:

Department of Water Resources
Southern Region

MAY 08 1997

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T7S, R13E Sec. 22

1996 JUL -1 PM 3:18

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

REPORT REGARDING CLAIM TO WATER RIGHT NO. 36-00035J

In Re SRBA

Twin Falls County Civil Case No. 39576
Sub-Case No. 36-00035J

Report to the SRBA District Court

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

July 1, 1996

COPY

MICROFILMED
DEC 04 1996

REPORT REGARDING CLAIM TO WATER RIGHT NO. 36-00035J

The Director of the Idaho Department of Water Resources (IDWR) submits this report regarding claim to water right no. 36-00035J in response to the request of Special Master Haemmerle, pursuant to Idaho Code §42-1412(4) and the court's Order Re: Contested Claims for Amounts Claimed in Excess of .02 CFS. This report was prepared under the supervision of Karl J. Dreher, Director, David B. Shaw, Adjudication Bureau Chief, and David R. Tuthill Jr., Acting Adjudication Bureau Chief for IDWR. The following persons assisted in the preparation of the following portions of this report:

David B. Shaw, Adjudication Bureau Chief, reviewed and verified this Report Regarding Claim to Water Right No. 36-00035J. The Affidavit of David B. Shaw describes Mr. Shaw's education and work experience, and is incorporated by reference herein. Mr. Shaw also reviewed IDWR's Report Regarding Evaluation of Irrigation Diversion Rates, described below.

Jeff Peppersack, Adjudication Engineer, prepared and verified IDWR's Report Regarding Evaluation of Irrigation Diversion Rates, which is incorporated by reference herein. The Affidavit of Jeff Peppersack describes Mr. Peppersack's education and work experience, and is incorporated by reference herein. Mr. Peppersack also reviewed IDWR's Report Regarding Consumptive Use for Irrigation in the Hagerman Area, described below.

David R. Tuthill Jr., Acting Adjudication Bureau Chief, prepared IDWR's Report Regarding Consumptive Use for Irrigation in the Hagerman Area, which is incorporated by reference herein. Mr. Tuthill also reviewed this Report Regarding Claim To Water Right No. 36-00035J. The Affidavit of David R. Tuthill Jr. describes Mr. Tuthill's education and work experience, and is incorporated by reference herein.

Steven C. Clelland, Senior Water Resource Agent, investigated and prepared the preliminary recommendation for claim no. 36-00035J. The Affidavit of Steven C. Clelland describes Mr. Clelland's education and work experience, and is incorporated by reference herein. The affidavit also includes a general description of his investigation of claims in the Hagerman area. The Affidavit of Steven C. Clelland Regarding Claim No. 36-00035J describes Mr. Clelland's investigation of the place of use of this water right; it is attached hereto and incorporated by reference herein.

I. INVESTIGATION AND RECOMMENDATION OF CLAIMS GENERALLY

IDWR's general methodology for the investigation and recommendation of claims is described in Appendix A, which is incorporated herein by reference.

II. WATER RIGHT NO. 36-00035J

A. Basis of Claim

The claim, originally numbered 36-00034B, was filed with IDWR by Betty B. Hoskovec on August 16, 1988.¹ A notice of change in ownership signed November 7, 1990, was filed with IDWR informing IDWR of a change in ownership to Manfred Muller. As part of its investigation of this claim, IDWR renumbered the claim as 36-00035J, as further described in section D below. As a result, this claim was recommended in the director's report as right no. 36-00035J to Manfred Muller. The claimant filed an objection to the director's recommendation (noting that the claimant's name is spelled Mueller); subsequent to the filing of the objection a Standard Form 3 was filed with the court notifying the court of a change in ownership to Richard D. Simon.

The claim is to a portion of one of five rights decreed to Edna N. Clifford and others in the *New International Mortgage* decree, entered in 1932.² The water rights decreed to the Cliffords are numbered in IDWR's files as water right nos. 36-00033, 36-00034, 36-00035, 36-00036 and 36-00037. All were decreed for use on the same lands, and all were decreed for "irrigation, domestic, power and other purposes." These rights were claimed by and recommended to various claimants; all except 36-00036 involve numerous splits.

B. Name and Address of Claimant

The name of the claimant set forth in the claimant's motion for summary judgment is the same as shown on the Standard Form 3 filed with the court, but the claimant's address as shown on the motion for summary judgment appears to be new.

C. Source of Water

The source of water set forth in the claimant's motion for summary judgment is Billingsley Creek. The source of water is described in the director's report as Billingsley Creek tributary to Snake River.

¹ The original notice of claim is currently located in the files of the SRBA District Court, attached to IDWR's response to the claimant's objection.

² *New International Mortgage Bank v. Idaho Power Co., et al.*, Equity No. 1602 (D.S.Id. 1932), at pp. 3-4.

The director's report includes the body of water to which the source of the right is tributary for each water right in the director's report, except for rights to ground water. IDWR adopted this standard for the description of the source of water rights because there are so many instances, sometimes in the same administrative basin, where different surface water sources bear the same name.³

D. Date of Priority

The priority date stated on the notice of claim is 03/30/1884, which is the priority date in the *New International Mortgage* decree for right no. 36-00034. The priority date recommended in the director's report is September 10, 1884, which is the priority date in the *New International Mortgage* decree for right no. 36-00035. The objection contested the priority date, seeking the "previously decreed" priority. The claimant's motion for summary judgment states a priority date of 03/30/1884, the same as the notice of claim.

As noted above, five water rights were decreed to Edna N. Clifford in the *New International Mortgage* decree, all for use on the same lands, which are numbered in IDWR's files as water right nos. 36-00033, 36-00034, 36-00035, 36-00036 and 36-00037. Water right no. 36-00033 is to water from Weatherby Springs. The other four are to water from Billingsley Creek, and each is decreed with a different priority and for delivery through a different ditch. Water right number 36-00034 is decreed for delivery through the Bell ditch, with a priority of March 30, 1884; water right number 36-00035 is decreed for delivery through the Buckeye ditch, and has a decreed priority of September 10, 1884. Because this claim is to water delivered through the Buckeye ditch, IDWR renumbered the claim from 36-00034D to 36-00035J and recommended the priority decreed for right no. 36-00035.

E. Point of Diversion

The point of diversion set forth in the claimant's motion for summary judgment is the same as recommended in the director's report.

³ IDWR relied upon the following in reaching its conclusion: Idaho Code §42-1411(2) (which provides that the director shall determine the source of the right to the extent the director deems appropriate and proper to define and administer water rights acquired under state law.

F. Purpose of Use

The purpose of use stated on the notice of claim and recommended in the director's report is irrigation. The objection sought to add stockwater as a purpose of use. The claimant's motion for summary judgment now seeks to add wildlife, recreation, aesthetics, and "diversion system maintenance" in addition to stockwater.⁴

The description of the purposes of use of this right in the decree is ambiguous in that it describes the purposes of use for the five Clifford rights and others in the same list collectively as "irrigation, domestic, power and other purposes," rather than specifically identifying each purpose of use for each right.⁵ IDWR's investigation confirmed the use of water for irrigation, as further described below in the section place of use. Neither the claimant nor IDWR's investigation has yielded information that would confirm the beneficial use of water for the other purposes not listed in the claim, either pursuant to the right as originally appropriated or as currently used.⁶ Such information is necessary not only to confirm the use but to quantify the amount of water beneficially used for that purpose.

G. Quantity of Water Used

The quantity claimed in the notice of claim and recommended in the director's report is 0.40 cfs. The objection contests the quantity element, but does not state the quantity claimed. The motion for summary judgment states a quantity of 0.40

⁴ The filing fee for claims other than small domestic and stockwater claims consists of a \$50.00 flat fee, plus a variable fee of \$1.00 per acre for any claimed irrigation use, plus a per cfs fee for other claimed purposes of use. The filing fee paid for this claim was limited to the purposes of use claimed in the notice of claim. Filing fees are set forth in Idaho Code §42-1414 and IDWR's Adjudication Rules, IDAPA 37.03.01 *et seq.*

⁵ IDWR relied upon the following in reaching its conclusion: *Morgan v. UDC*, 58 Idaho 670, 79 P.2d 295 (1938) (a water right decree that omitted the description of the point of diversion necessarily determined the point of diversion but was ambiguous as to its location).

⁶ IDWR relies upon the following in reaching this conclusion: Idaho Code §42-1427 (which allows an ambiguity in a prior decree or license to be resolved based on current beneficial use); the statement of the Presiding Judge that this section "cannot change or exceed the previously decreed or recorded element of the decreed or licensed right" nor "be used to claim an expansion of use beyond the beneficial use existing at the time the right was originally memorialized in a decree or license," Revised Memorandum Decision and Order on Basin-Wide Issue 4, dated May 17, 1995, at page 9; and the statement of the Presiding Judge that, "the purpose of use is defined by the intentional application of water to an intended beneficial use of water," Memorandum Decision and Order Re: Basin-Wide Issue 5, dated April 26, 1996, at page 8.

cfs, the same as recommended. Any further information as to the basis for IDWR's recommendation as to quantity therefore appears to be unnecessary.

H. Period of Year Water is Used for Each Purpose of Use

Both the notice of claim and the director's report state a period of use of 3/15 to 11/15 for irrigation. The claimant's objection states a period of use of 1/1 to 12/31. The claimant's motion for summary judgment state the period of use as "the irrigation season." The *New International Mortgage* decree does not state a period of use for irrigation.

The recommended season of use is consistent with season of use standards for irrigation developed by IDWR for various climatic regions throughout the state, which are based on a 75% chance of a 24 degree Fahrenheit frost. In addition, the director's report included general provision 12b, which allowed use of water for irrigation outside the season of use stated in the description of the individual right subject to certain conditions. In the Memorandum Decision and Order Re: Basin-Wide Issue 5, the Presiding Judge concluded that general provision 12 is not necessary and would not be decreed. This decision further provided that "all decrees for irrigation in the SRBA shall set the period of use as the "irrigation season." Order, pp. 15-16. The district court denied a subsequent motion for permission to appeal the decision. Pending any further proceedings on the decision, any further statement of the basis for IDWR's recommendation as to the season of use for irrigation appears to be unnecessary.

As to the season of use for other purposes of use stated in the claimant's motion for summary judgment, neither the claimant nor IDWR's investigation has yielded information that would confirm the beneficial use of water for other purposes, as noted in section F above. Therefore, IDWR does not have information that would confirm the season of use for the other purposes

I. Legal Description of the Place of Use

The legal description under item 8 in the claimant's motion for summary judgment is the same as the legal description of the place of use for irrigation recommended in the director's report. The number of acres following the legal description is different than the number of irrigated acres per 40-acre subdivision recommended in the director's report. The notice of claim states 38 acres; the objection and motion for summary judgment state 12 acres. The director's report states 9 acres.

The irrigation of no more than 9 acres with water from the Buckeye ditch was confirmed by IDWR Senior Water Resource Agent Steve Clelland, by his personal observation and by aerial photography. The nine acres recommended in the director's report consist of the 6 irrigated acres below the Bell ditch, which are irrigated by gravity flow from the Buckeye ditch via a flume across the Bell ditch, and 3 acres between the Bell and Buckeye ditches where the ditches are further apart. There is a small strip of land where the area between the ditches is narrower, and that area has more vegetation than other non-irrigated lands in the vicinity, but there is no means to deliver water to that area for irrigation. The vegetation therefore appears to be the result of seepage from the two ditches. This area was not included in the recommended irrigated acreage because there is no intentional application of water for irrigation purposes pursuant to this right; if the water right were transferred to a different place of use the area would continue to be vegetated due to seepage from other water rights delivered through the ditch. The examination of the place of use for this claim is described in the Affidavit of Steven C. Clelland Regarding Claim No. 36-00035J. Figure 1, attached hereto and incorporated herein by reference, is an illustration of the recommended irrigated acreage.

As to the legal description of the place of use for other purposes of use stated in the claimant's motion for summary judgment, neither the claimant nor IDWR's investigation has yielded information that would confirm the beneficial use of water for other purposes, as noted in section F above. Therefore, IDWR does not have information that would confirm the place of use for the other purposes.

J. Annual Volume of Consumptive Use

The notice of claim states an annual volume of consumptive use of 114 AFY, or 3.0 AFY per irrigated acre. The annual volume of consumptive use recommended in the director's report is 27 AFY, or 3.0 AFY per irrigated acre. The claimant's objection contests the recommended consumptive use, but does not state an amount. The claimant's motion for summary judgment states an amount of 54 AFY, or 4.5 AFY per acre. The Affidavit of Charles E. Brockway, submitted by the claimant in support of the motion for summary judgment, states "that 3.75 acre feet per acre per annum per acre is the amount of consumptive use that is reasonable [in the Hagerman area] based upon a yield of ten tons [of alfalfa] per acre." Applying this standard, the total annual consumptive use volume would be 45 AFY for the 12 acres stated in the claimant's objection and motion for summary judgment, or 33.75 AFY for the 9 recommended acres.

IDWR developed standards for annual volume of consumptive use for the various climatic areas throughout the state. The standard for the area in which the

claimant's place of use is located is 3.0 AFY. IDWR's recommendation is based on this standard. The development of IDWR's standards for annual volume of consumptive use is described in IDWR's Report Regarding Evaluation of Irrigation Diversion Rates. IDWR has conducted further analysis of the annual volume of consumptive use based on further information IDWR received subsequent to its original analysis. The further analysis is described in IDWR's Report Regarding Consumptive Use for Irrigation in the Hagerman Area. Based on this further analysis, IDWR recommends an annual volume of consumptive use of 3.5 AFY per acre, for a total of 31.5 AFY for this right.

K. Conditions on the Exercise of the Right and Other Necessary Matters

The recommendation of this right in the director's report includes the following remarks:

WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.

A DIVERSION RATE OF 0.34 CFS AT THE FIELD HEADGATE IS RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.

0.15 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY OF THIS RIGHT.

The claimant's objection seeks deletion of the last two remarks. The claimant's motion for summary judgment seeks deletion of all three remarks.

In response to the request of the Presiding Judge, the director filed an Amended Director's Report for Reporting Area 3 (Basin 36), which substantially reduced the number of general provisions in the director's report. Attachment 2 to the amended report explains the changes made to the general provisions, and further explains changes to the list of recommended rights necessitated by the changes to the general provisions. The amended report deleted General Provision 16, which set forth certain provisions as to conveyance losses. The remark in the description of the individual right is a corollary to the deleted general provision. As a result, the remark in the description of this right as to conveyance losses is no longer necessary. (Deletion of the remark does not change IDWR's recommendation as to the quantity for this right.)

In response to the request of the Presiding Judge, IDWR submitted IDWR's Report for September 19, 1995 Status Conference. In this report, IDWR indicated that it had reviewed its use of remarks in the description of the individual water right, both to address concerns identified by the court, and to separate explanatory material from material the Director recommends be included in the decree of water rights

REPORT REGARDING CLAIM TO WATER RIGHT NO. 36-00035J

pursuant to the 1994 amendments to the adjudication statute.⁷ Both the remark identifying the common name of the ditch through which the water right is delivered and the remark identifying the quantity recommended at the field headgate are explanatory material.

⁷ See Idaho Code §42-1411 (which addresses the form and content of director's reports).

State of Idaho)
) ss.
County of Ada)

David B. Shaw, being first duly sworn, upon oath, deposes and says:

That I am the Adjudication Bureau Chief for IDWR, that I have read the foregoing report, know its contents, and that the statements contained therein are true to the best of my knowledge and belief.



David B. Shaw

Subscribed and sworn to before me this 1st day of July, 1996.



Notary Public for Idaho

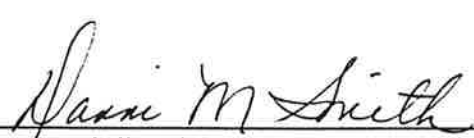
Residing at: Boise ID

My commission expires: 11-14-1998

Certificate of Service

I certify that on the 1st day of July, 1996, I hand-delivered copies of the foregoing document, including all attachments, to the following:

Patrick D. Brown
133 Shoshone St North
Twin Falls, ID 83303



Person delivering document(s)

APPENDIX A

A. INVESTIGATION AND RECOMMENDATION OF CLAIMS GENERALLY

To promote the accuracy and consistency of water right decrees, and to minimize the burden on the court and the claimants in a water right adjudication, the state has made the specialized expertise of IDWR available through IDWR's investigation and reporting function.¹

The resources the state has made available for this function, however, are limited. IDWR has the duty to conduct a reasonable investigation within the spending authority granted by legislative appropriation. Those resources are not sufficient for IDWR to exhaustively investigate each and every potentially relevant fact regarding each and every claim and to make a conclusive determination of the water right. Rather, IDWR reviews the claim and the information already available to IDWR, and conducts such further investigation as is reasonable to determine whether there is sufficient information to support recommendation of the water right to be decreed.

To make the most efficient use of the available resources, IDWR must make determinations as to what is a reasonable level of investigation for various classes of claims prior to making a recommendation to the court regarding any particular claim. IDWR has employed two primary mechanisms to identify a reasonable level of investigation. First, the statutes set criteria and IDWR has developed standards for various types of uses, requiring less information to support a claim to water within those standards and more information to support a claim outside those standards. Second, IDWR has adopted a "tier" approach, identifying classes of claims which for various reasons merit further investigation.

Generally, with claims based on beneficial use², IDWR conducts a "licensing type" field exam, which includes confirmation of the source, point(s) of diversion, purpose(s) of use, place(s) of use, and an examination of the water delivery system and the quantity of water beneficially used. IDWR also contacts the claimant to obtain information supporting the priority date claimed. This level of examination is conducted because there has been no prior administrative or judicial

¹ Idaho Code §§ 42-1410 and 42-1411.

² Water rights based on beneficial use are sometimes referred to as constitutional rights or grandfather rights.

confirmation of the existence and extent of a water right based on beneficial use.³

Generally, for water rights that have been previously confirmed by license or decree, IDWR begins its examination by comparing the claim to information already available to IDWR. Other information includes, for example, IDWR's decree files; license, permit and transfer files; remotely sensed data, including Landsat imagery of irrigated acres and aerial photography; watermaster reports; applicable laws and IDWR's interpretation of those laws in light of the water resource policies of the state; etc. If there are discrepancies between the claim and information already available to IDWR, IDWR conducts further investigation to resolve the discrepancy, which generally includes a field exam and/or contacting the claimant for further information. Thus, where there has been a prior judicial or administrative confirmation of the existence and extent of a water right, IDWR uses information already available to IDWR to limit its review to issues identified by its discrepancy analysis.

Finally, IDWR uses both the court-ordered notice of error process⁴ and the statutory objection process to identify claims which merit further review. If this further review yields new information that supports a different description of the water right, then IDWR will revise its recommendation (in the case of a notice of error) or submit a supplemental director's report or offer a standard form 5 (in the case of an objection), consistent with the new information.⁵

Further information as to IDWR's standards and procedures for the investigation and recommendation is set forth in IDWR's Claim Investigation Manual, Field Examiner's Handbook, Administrative Memorandums, and

³ IDWR conducts a more summary investigation of beneficial use claims limited to domestic and/or stockwater use up to 0.24 cfs.

⁴ The notice of error process, as originally conceived and implemented, was limited to disagreements between the claimant and IDWR as to fairly straight-forward "errors", such as clerical errors or other readily verifiable matters. Based on its experience in the test basins, IDWR has subsequently recommended that the notice of error process be expanded to address any type of perceived error, as well as to address disagreements between claimants.

⁵ This "tiered" approach to determining a reasonable level of investigation is embodied in the statutory framework for water right adjudications. See §42-1410 (which provides for the discretion of the director in determining the level of IDWR's investigation, and allows but does not require the agency to conduct hearings), and §42-1412 (which authorizes IDWR to submit supplemental reports, and authorizes the court or the parties to request further investigation by IDWR in contested subcases). The tiered approach embodied in the statutory framework promotes efficiency and minimizes the burden on the court and the claimants by providing a report/objection process to identify disputed matters, and reserving the highest level of investigation for disputed matters.

B. METHODOLOGY TO DETERMINE IRRIGATED ACREAGE

The area of irrigated acreage can be determined by information obtained from scaled and non-scaled photographs of the place of use supplied by one of several U.S. government agencies. The use of aerial photography by the U.S. government dates back to 1937, when the U.S. Department of Agriculture, Agricultural Stabilization and Conservation Service (ASCS, now known as the Farm Service Agency, or FSA) began photographing selected counties of the United States on a repetitive basis. This coverage continues today and aerial photos are used by the ASCS (FSA) to figure acreage planted on farms for purposes of managing farm programs. Photos used by IDWR typically include: ASCS photos and 35 mm color slides⁷; NAPP photos⁸; ortho-photoquads⁹; and U2

⁶ These documents set forth general standards and procedures and do not address all possible exceptions to the general standards and procedures. In addition, as a result of its experience in the test basins, statutory changes, judicial decisions, etc., IDWR has identified refinements and revisions to its standards and procedures for the investigation and recommendation of claims that have not yet been included in these documents.

⁷ Both the photos and slides are high oblique and vertical aerial photography. The ASCS photos are scaled and have selected features, such as roads, section lines, ditches, and field acreage superimposed on them by the ASCS. The color slides are simply color slides frequently taken with hand-held 35mm equipment. IDWR staff typically obtain copies (which are not scaled) of maps for lands claimed as the place of use during the investigation of the claims, either from the claimant or from the local ASCS office. Color slides may also be checked-out from the local ASCS office as needed; IDWR sometimes obtains the color slides as they are discarded by the local ASCS office.

⁸ NAPP (National Aerial Photography Program) photos are all color-infrared aerial photography. IDWR obtained coverage for most of the Snake River Basin, including all of the test basins; the photos are primarily from flights during 1987 and 1988, though some are from 1986 or 1989. The date of the flight is shown on the photo. NAPP photography is available from the U.S. Geological Survey Earth Resources Observation Systems (EROS) data center in Sioux Falls, South Dakota.

⁹ The full name for an ortho-photoquad is "orthographic photograph quadrangle." These are black and white photoimages prepared from aerial photographs that have been rectified to eliminate image displacement due to terrain relief that cover a systematically subdivided area of latitude and longitude. IDWR obtained coverage for most of the Snake River Basin, including all the test basins; the photos are primarily from flights during the 1970's. The date of the flight is shown on the quad sheet. Most of the orthophotos were obtained from the U.S. Geological Survey National Cartographic Information Center (NCIC) in Menlo Park, California. In some areas, maps were not available from U.S.G.S. but were available from other agencies, such as the United States Department of Agriculture, Forest Service.

aerial photos¹⁰.

A photographic "scale," like a map scale, is an expression that states that one unit of distance on a photograph represents a specific number of units of actual ground distance.

$$S = \text{Photo scale} = \frac{\text{Photo distance}}{\text{Ground distance}} = \frac{d}{D}$$

The scale may be expressed as unit equivalents, representative fractions, or ratios. For example, if 1 mm on a photo represents 25 m on the ground, the scale of the photo can be expressed as 1 mm = 25 m (unit equivalents), or 1/25,000 (representative fraction), or 1:25,000 (ratio).

The photo(s) used by IDWR personnel have varying scales. The ASCS photographs have map features drawn in by the ASCS. These photos are stated to be "not to scale," but do include the field acreage as determined by ASCS written on the places of use. NAPP photography is at a nominal scale of 1:40,000; U2 aerial photography is at a nominal scale of 1:120,000; and ortho-photoquads have a scale of 1:24,000.

To determine the area used, IDWR staff employed various transparent overlays, known as grid templates. These templates are available at most blueprint supply stores. One type consists of lines forming rectangles or squares of known area in the same scale that is utilized in the scaled photograph. The grid is placed over a scaled photograph and the area of a ground unit is estimated by counting grid units that fall within the unit to be measured.

Another commonly used grid is the dot grid, which is composed of uniformly spaced dots on a transparent overlay. The grid is placed over the photograph and the dots falling within the region to be measured are counted. The value assigned to each dot is dependent on the scale of the photograph. First, the number of acres per centimeter (or other measuring unit) is computed. This figure is then divided by the number of dots per measuring unit on the grid to obtain the acreage represented by each dot. For instance, a square 3.4 cm on each side containing 640 dots will cover 160 acres on a photo with a nominal

¹⁰ These photos are color-infrared aerial photography obtained by the National Aeronautics and Space Administration (NASA) Airborne Instrumentation Research Project, and available from EROS. IDWR obtained coverage of most of the southern portion of the Snake River Basin, most of which was flown in 1977. In addition, because the State of Idaho was part of an ongoing project with NASA to photograph selected areas, photography from various areas in various years is also available. The date of the flight is shown on the photo.

scale of 1:24000; 640 dots divided by 160 acres equals 4 dots to the acre, thus 1 dot equals 0.25 acres.

Because of its simplicity, the grid system is a practical method to determine the size of irrigated areas; it nonetheless requires some training and experience to be used effectively.

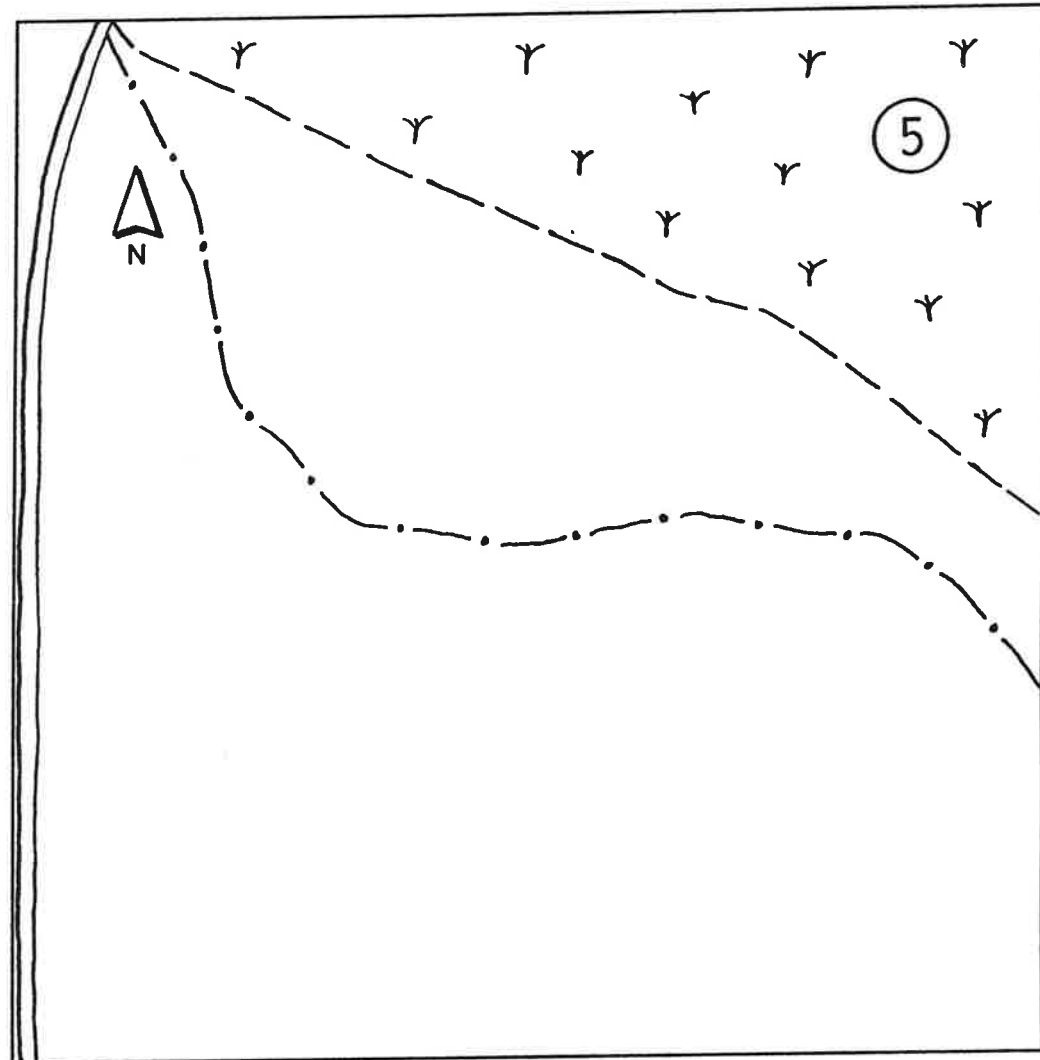
For non-scaled photos, such as the ASCS 35 mm photos, IDWR did not directly make acreage determinations. Instead, these photos were used to confirm whether the place of use and amount of irrigated acreage had changed for that year according to common landmarks visible in the photographs.

FIGURE 1

T. 7 S., R. 13 E.
Section 23
SW 1/4 NW 1/4
Gooding County

Legend

- — Buckeye ditch
- · — Big Bend ditch
- == road
- irrigated land



Water Right No. 36-00003E

MICROFILMED
DEC 04 1996

IDWR QUAD AA-69

ALAN G. LANCE
Attorney General
State of Idaho

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

BRENT KING
CHARLES L. HONSINGER
Deputy Attorneys General
Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098
Telephone: (208)327-5458
Fax: (208)327-5400

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

In Re SRBA	)	Subcase No. 36-00035J
	)	
Case No. 39576	)	AFFIDAVIT OF STEVE CLELLAND
	)	REGARDING CLAIM NO. 36-00035J
	)	
STATE OF IDAHO	)	
	) ss.	
County of Twin Falls	)	

I, STEVE CLELLAND, being first duly sworn on oath, depose and state as follows:

1. I am a Senior Water Resource Agent with the Idaho Department of Water Resources (IDWR).
2. My work address is Idaho Department of Water Resources (IDWR), Southern Regional Office, 222 Shoshone St. East, Twin Falls, ID 83301-6105. I reside in Twin Falls, Idaho.
3. My educational background and work history both outside and within IDWR

are detailed in my Affidavit of Steve Clelland as to the Investigation of Claims in the Hagerman Area.

4. As part of my duties as a senior water agent, I investigated the acreage claimed as irrigated pursuant to claim no. 36-00035J. The pertinent details of that investigation are as follows:

A. On August 16, 1990, I conducted a field examination to verify the acreage claimed as irrigated pursuant to claim no. 36-00035J.

B. During that examination, I observed that water was delivered from the Buckeye ditch to the irrigated acreage below and west of the Bell ditch via a flume across the Bell ditch.

C. During that examination, I observed that water from the Buckeye ditch was delivered to the claimant's land solely by means of gravity. On the date of the field exam, Mrs. Betty Hoskovec, the owner of the parcel at the time, indicated to me that no system was in place then nor had ever been in place to deliver water from the Buckeye ditch to land above the Buckeye ditch. I noted this conversation in the claim file on the point of diversion review sheet of the CVR.

D. During that examination, I observed one parcel below and west of the Bell ditch, and two parcels between the Bell and the Buckeye ditches in the southwest portion of claimant's property that were irrigated with water from the Buckeye ditch.

E. During that examination, I walked the narrow strip of land between the Buckeye and Bell ditches in the northwest portion of claimants property that had been claimed as irrigated by water from the Buckeye ditch. I observed that no delivery

system existed to apply water out of the Buckeye ditch to this area. I further observed that this area contained many very large boulders and was thus unirrigable.

F. Upon returning to the office, I observed that the pertinent ASCS maps showed as irrigated the parcel below and west of the Bell ditch that I had observed was actually irrigated, and the more southern of the two parcels between the Buckeye and the Bell ditches that I had observed was actually irrigated. The ASCS map from 1977 indicated that those parcels were 5.7 acres and 1.6 acres in size, respectively. However, neither the ASCS map from 1977 nor the ASCS map from 1987 showed as irrigated the more northern of the two parcels between the Buckeye and the Bell ditches that I had observed was also actually irrigated.

G. Using the relevant ortho photo quad from 1974 and the grid system described in described in Appendix A to IDWR's Report Regarding Claim to Water Right No. 36-00035J, I determined that the total area of land irrigated by this water right was 9.0 acres.

DATED this 1st day of July, 1996.

Steve Clelland
STEVE CLELLAND

SUBSCRIBED AND SWORN to before me this 1st day of July, 1996.

Danni M. Smith
Notary Public for the State of Idaho
Residing at: Douse
My commission expires: 6-5-2000

AJ0743NP
(00-124)

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT
(REGIONAL)

02/05/96 09:15:24
Page 1

Water Right Number - 36-10468

Prefix Translation: WATER RIGHT

Old (D) Number -

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

*** C - CURRENT OWNER ***
SIMON

RICHARD D

1 - 4646 SOUTH 500 WEST
2 -
3 -

City- SALT LAKE CITY State- UT Zip- 84123
Phone - 801-268-9100

*** D - DIR RPT OWNER ***
MULLER

MANFRED

1 - 2795-A SOUTH 900 EAST
2 -
3 -

City- HAGERMAN State- ID Zip- 83332
Phone - 208-837-4947

*** O - ORIGINAL OWNER ***
HOSKOVEC

BETTY B

1 - 2795-A S 900 E
2 - RT 1
3 -

City- HAGERMAN State- ID Zip- 83332
Phone - 208-837-4878

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - - +
01/01/1920 ERROR IN REGION J - BENEFICIAL USE

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

+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County
07S 13E 22 SE SE SE (47) GOODING

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
43 - DOMESTIC 01/01 12/31 0.080

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.080 0.0

+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
07S 13E 22 SE SE 43 DOMESTIC (47) GOODING

Total Acres:

+ - - Diversion Means - WELL & PUMP
+ - - Non-Irrigation Use - DOMESTIC 3 HOUSES
+ - - Other Rights for Same Use - NONE

DEC 04 1996
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AJ0743NP
(00-124)

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT
(REGIONAL)

02/05/96 09:15:24
Page 2

Water right number - 36-10468

Prefix Translation: WATER RIGHT

+ - - - - - Remarks - - - - - +
PARCEL NO. RP07S13E229150

+ - - - - - Old Water Right Numbers - - - - - +
No Old Water Right Numbers Found

+ - - - - - Conditions of Approval - - - - - +
No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - + + - - - - Decree Defendant - - - + + - Decree Date - +
00/00/0000

+ - - - - - Comments - - - - - +

Date: 02/28/1991 User Id: SRBA Subject: COPIED FROM REMARKS
MRS. HOSKOVEC SOLD THIS PROPERTY TO MR. MULLER ON 10/26/90. RVW - 12/4/90
PARCEL NO. RP07S13E229150

Date: 07/10/1995 User Id: TFAWCETT Subject: NAME CHANGE
OWNERSHIP CHANGE 7-10-95 TF. SF3 SENT TO NEW OWNER.

Date: 02/05/1996 User Id: TFAWCETT Subject: OWNER CODE CORRECTED
"D" AND "C" OWNER CODES CORRECTED.

+ - - Audit Fields - - +
02/05/96 TFAWCETT

+ - - - - - Adjudication Rights Dates and Flags Area - - - - - +

Court Report Filing	- 11/02/1992	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 00/00/0000	Old Judicial District	-
Claim Received Date	- 08/16/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S001476	Water District	-
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	-	Presumption Flag	-
				Notice of Error Flag	-

MICROFILMED
DEC 04 1996

Planimeter Tracing 36-00035J C# 6-20-96

Tracing from ASCS photo (scale 1" = 660') from
W.R. file 36-08158

Tracing of SESE of Sec. 22 T7S, R13E
42.2 ac.

Tracing of land west of Buckeye Ditch in SESE
Sec. 22 (includes ditches, roadways, and buildings)
12.2 ac.

ASCS "crop" acreage total in this area 9.1 ac
Tracing of ASCS crop acreage plus area occupied
by the Bell Ditch. 10.6 ac.

Tracing from O.Q. AA69 (scale 1:24,000 or 1" = 2000')

Tracing of SESE of Sec. 22 T7S, R13E 40.4 ac.

Tracing of land west of Buckeye Ditch in SESE
Sec. 22 (includes ditches, roadways, and buildings)

11.9 ac. (This is also area highlighted in yellow
on the copy of the O.Q. in the claim file)

Conclusions:

It appears that the claimant owns approximately
12 acres in the SESE of Sec. 22 that is west of the
Buckeye Ditch and this 12 acres is highlighted
in yellow on the map attached to the CVR. The
map indicates 9 acres of irrigation within this
highlighted area, but it doesn't identify which
9 acres are irrigated or where the 3 acres of
"dry" land are located. (Apparently the ASCS acreage
was used but I did not see that stated in the file)



36-00035E

O.Q. 11A69

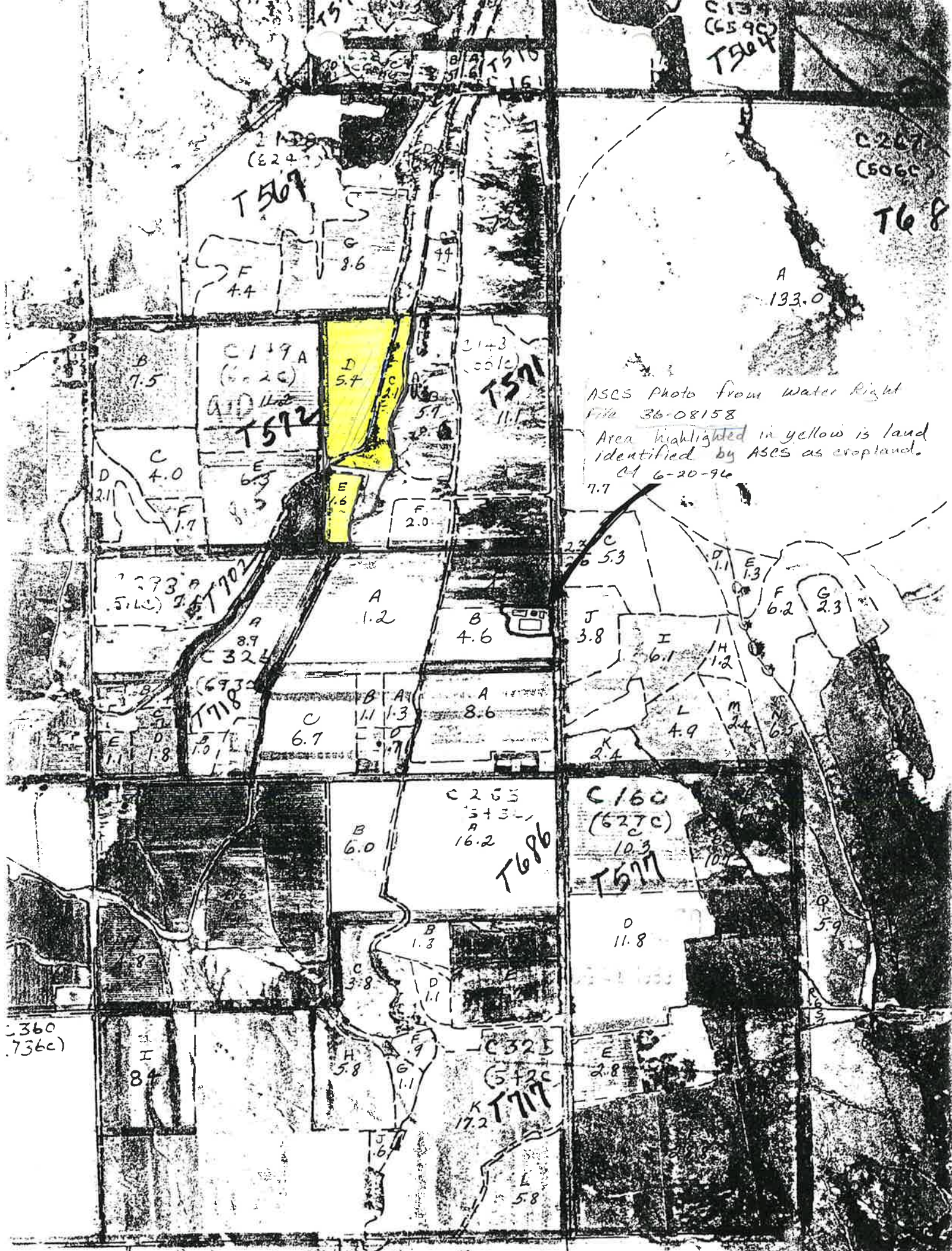
1974

Aerial Photo

Area highlighted
in pink is
area west
of Buckeye
Ditch.

14 6-20-96

T7
T8



ASCS Photo from Water Right
File 36-08158

Area highlighted in yellow is land
identified by ASCS as cropland.
01-6-20-94

7.7

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: **A36-00035J**
Date Received: 8/16/1988
Receipt No: S001476
Received By: _____

**COPY FOR
YOUR FILES**

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

**COPY FOR
YOUR FILES**

1. Name: RICHARD D SIMON 801-268-9100
Address: 4646 SOUTH 500 WEST
SALT LAKE CITY UT 84123

2. Date of Priority: MAR 30, 1884

3. Source: BILLINGSLEY CREEK Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07S	13E	22	SE	SE			GOODING

5. Description of diverting works:
VIA BUCKEYE DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.400		

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

8. Total consumptive use is 114.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	13E	22	SE	SE		IRR	38.0
Section Acres							38.0

10. Place of Use: Continued

Total Acres 38.0

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
BIG BEND IRRIG., A36-00033B

14. Remarks:
THIS PROPERTY WAS SOLD BY MRS. HOSKOVEC TO MR. MULLER ON 10/26/90
RVW - 12/4/90

4/5/96 TF; CLAIM WAS RENUMBERED FROM A36-00034D. R. SIMON
ADDED AS NEW OWNER.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

Decree Plaintiff

vs

Decree Defendant

COFY

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FEB 23 1996

Department of Water Resources
Adjudication Bureau

035
DATA ENTRY
2-28-96

Claimant:

Richard D. Simon

Attorney Name and Address:

RECEIVED

APR 18 1996

Department of Water Resources
Southern Region

HEPWORTH, LEZAMIZ & HOHNHORST,
CHARTERED
133 Shoshone St. North
P.O. Box 389
Twin Falls, ID 83303-0389
Telephone: (208)734-7510

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

In Re SRBA

)

) Subcase No. 36-00035)

)

Case No. 39576

)

NOTICE OF APPEARANCE

)

COMES NOW the firm of Hepworth, Lezamiz & Hohnhorst, Chartered, and
appears on behalf of Richard D. Simon, a member of Hagerman Water Right Owners, Inc.,
for the water right number listed above.

Dated this 20th day of February, 1996.

HEPWORTH, LEZAMIZ & HOHNHORST,
CHARTERED

By:

Patrick D. Brown for

Patrick D. Brown

H_LH

Chartered

Hepworth,
Lezamiz &
Hohnhorst

NOTICE OF APPEARANCE - 1

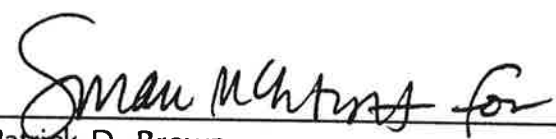
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CERTIFICATE OF MAILING

The undersigned, a resident attorney of the State of Idaho, with offices at 133 Shoshone St. North, P.O. Box 389, Twin Falls, Idaho 83303, and one of the attorneys for the claimant in this matter, certifies that he caused to be mailed a copy of the above and foregoing NOTICE OF APPEARANCE on the 20th day of February, 1996, to:

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

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


Patrick D. Brown

(WATER\21530NOA.RDS)llm

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT
(REGIONAL)

Water Right Number - A36-00034D

Prefix Translation: ADJUDICATION CLAIM

Old (D) Number -

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

*** C - CURRENT OWNER ***
RENUMBERED RIGHT

1 -
2 -
3 -
City- X State- ID Zip- 00000
Phone - 208-000-0000

*** O - ORIGINAL OWNER ***
HOSKOVEC

BETTY B

1 - 2795-A S 900 E
2 - RT 1
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-837-4878

MULLER

MANFRED

1 - 2795-A SOUTH 900 EAST
2 -
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-837-4947

+ - - Priority Date - - + + - - Region - - + + - - Stage - - + + - - Status - - - +
03/30/1884 ERROR IN REGION Z - SEE REMARKS

+ - - - - Source - - - - - + + - - - - - Tributary - - - - - +
BILLINGSLEY CREEK SNAKE RIVER
RENUMBERED RIGHT

+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County
07S 13E 22 SE SE (47) GOODING

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 03/15 11/15 0.400

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.400 114.0

+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
07S 13E 22 SE SE 38.0 01 IRRIGATION (47) GOODING

Total Acres: 38.0

+ - - Diversion Means - VIA BUCKEYE DITCH

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - BIG BEND IRRIG., A36-00033B

Court Report Filing	-	00/00/0000	Field Inspection Made	-	00/00/0000	Civil Case Number	-	39576
Objection Filed Date	-	00/00/0000	Field Inspection Flag	-		Old Case Number	-	
Response Filed Date	-	00/00/0000	Verified Date	-	00/00/0000	Old Judicial District	-	
Claim Received Date	-	08/16/1988	Last Amended Date	-	00/00/0000	Temporary Right	-	P
			Receipt Number	-	X777777	Water District	-	
			POU Ownership Flag	-	Y	Federal/State Indicator	-	S
			Name Connector	-		Presumption Flag	-	
						Notice of Error Flag	-	

6/9/94

COMMUNICATION DOCUMENTATION

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

IDWR Employee/Agent Kelly K Christensen

DATE

February 22, 1996 4:27pm

CUSTOMER

LeAnn Pat Brown's office

SUBJECT: CURRENT OWNERSHIP OF A36-00035J

phone call (X) walk-in (.)

She requested a copy of the claim that listed the current owner. I generated a profile report for her. She indicated that a runner would be over to collect the profile report.

6
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AUG 31 1995

Department of Water Resources
Southern Region

36-10468 " 36-00035J

accepted by court 7/5/95, only
36-00035J was updated in
CPI system because there is
no record for other #

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)

STANDARD FORM 3

(Check Appropriate Box)

☐ NOTICE OF CHANGE IN ADDRESS

OR

☒ CONSENT TO SUBSTITUTION OF
PARTY

INSTRUCTIONS FOR USE

This form is to be used to provide notice of a change in address of a party or to substitute a party whose water right was recommended in a director's report. *The filing of Standard Form 3 cannot result in a contested matter and a hearing will not be scheduled.* If completed as directed, the form will be accepted by the court and no further orders will issue. Standard Form 3 shall not operate to excuse compliance with the statutory requirements of I.C. § 42-1409(7) (1986) where a water right recommendation is not before the court.

This form has been adopted by the court in Re SRBA, Twin Falls County Case 39576, *SRBA Administrative Order 1 Rules of Procedure* (amended 6/21/93), Section 4Ac(3), which may be consulted for further information.

A party may copy or reproduce the standard form. The text of the form must be on the front and back of each page, exactly as it appears here. Follow the instructions on the form or it will not be accepted for filing. The Verification and the Certificate of Mailing must be completed.

Standard forms may be obtained from the Idaho Department of Water Resources or the SRBA Court.

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DEC 04 1996

right to the use of water was asserted. "New claimant/purchaser" means any successor in interest of the "prior claimant/seller," whether the interest is acquired by purchase, gift, inheritance or other means.

A *Consent to Substitution of Party (Substitution)* must be signed by the prior claimant/seller and the new claimant/purchaser. The Substitution shall be filed by the new claimant/purchaser.

I am the new claimant/purchaser of 36-10468 and 36-00035J
(Insert each water right number)

My name is RICHARD D. SIMON

My address is 4646 South 500 West, Salt Lake City, Utah 84123

My phone number is: Work 801-2689100 Home _____

The name and address of the prior claimant/seller who I wish to be substituted for are:

Manfred Mueller who Quit Claimed to Helma Monika Mueller Drown
Address: 3434 B East 4000 North, Kimberly, Idaho 83341

Manfred Mueller Drown
Signature of prior claimant/seller

Richard D Simon
Signature of new claimant/purchaser

If an attorney is filing this form on behalf of a water right claimant or party in the SRBA, the attorney must complete the following information, in addition to the information required above.

Attorney name _____

Attorney of record for _____
(Identify party/claimant)

Attorney address and phone number: _____

- ☐ I have filed a *Notice of Appearance* for the party on whose behalf I am filing this form.
- ☐ A *Notice of Appearance* accompanies this form indicating which party and water rights I represent.

VERIFICATION

(To be completed for either a *Notice of Change in Address* or for *Consent for Substitution of Party*)

State of Idaho

County of Gooding

RICHARD D. SIMON, being first duly sworn, upon oath, deposes and says:
(Insert name of party/claimant filing form)

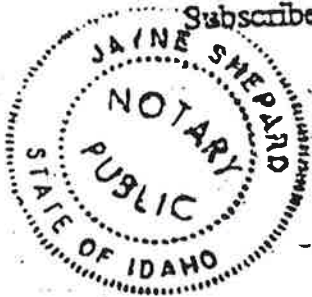
That I am the person or entity filing this form, that I am a water right claimant or party or their successor in interest, defined by I.C. §§ 42-1401A(1), (7) or (10) (1986); that the water right number I am asking the court to substitute a party on is a water right in a director's report filed with the court and that I have read this form and know its contents and that the statements are true to the best of my knowledge and belief.

Richard D Simon

Signature of person filing form

BY: _____
Attorney signing in representative capacity

Subscribed and sworn to before me on 6-29-95
(Insert Date)



Jaine Shepard
Notary Public for Idaho

Residing at: Buhl, Idaho

My Commission expires: 8-21-99

MICROFILMED

DEC 04 1996

INSTRUCTIONS FOR MAILING

Mail the form, including all attachments, to the Clerk of the SRBA Court and to the parties identified in the Certificate of Mailing. FAX filings will not be accepted by the SRBA Clerk of the Court.

You must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I certify that on June 29, 1995, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

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

2. A *Change of Address* was served on each party, or if they are represented by an attorney you must serve the attorney, in each subcase in which you are a party, at the following address(es):

3. A *Consent to Substitution of Party* was served on the prior claimant/seller, or if they are represented by an attorney you must serve the attorney, at the following address(es):

Helma Monika Mueller Drown

3434 S East 4000 North
Kimberly, Idaho 83341

4. A *Consent to Substitution of Party* was served on each party to each subcase, or if they are represented by an attorney you must serve the attorney, in which the prior claimant/seller is a party at the following address(es):

EXCEPTING THEREFROM that part of the Southeast Quarter of the Southeast Quarter of said Section 22, described as follows:

Beginning at the Northeast corner of said Southeast Quarter of the Southeast Quarter;

Thence South along the East boundary of the Southeast Quarter

of the Southeast Quarter, 836.0 feet;

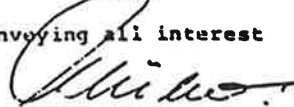
Thence West parallel with the North boundary of the Southeast Quarter of the Southeast Quarter, 550.0 feet more or less to the centerline of the Big Bend Irrigation Ditch as now constructed;

Thence Northerly along the centerline of the Big Bend Irrigation Ditch, 836.0 feet more or less to the North boundary of said Southeast Quarter of the Southeast Quarter;

Thence East 550.0 feet to the TRUE POINT OF BEGINNING.

together with their appurtenances, conveying all interest now owned.

DATED: December 5th, 1994.


MANFRED MUELLER

STATE OF IDAHO

County of Twin Falls

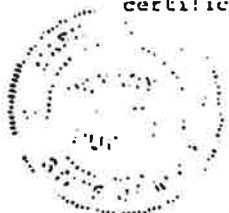
ss.

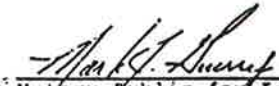
On this 5 day of December

, 1994, before me, the

undersigned, a Notary Public in and for said County and State, personally appeared MANFRED MUELLER, known to me to be the person who executed the foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.




Notary Public for Idaho
Residing at Buha, Idaho

LMED

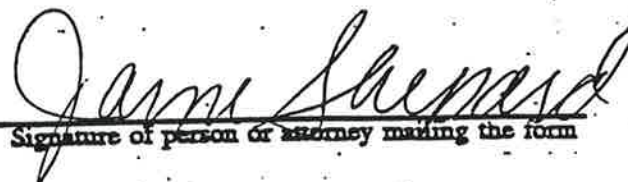
1996

5. One copy to:

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

6. One copy to:

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, Idaho 83724


Signature of person or attorney making the form

160451

STATE OF IDAHO COUNTY OF GOODING

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:Mark J. Guerry
Attorney at Law
130 North Broadway
Buhl, Idaho 83316Filed for record at the request of M. Guerry
51 min. past 10 o'clock A m. this 2
of Mar 1995 6:20
HELEN A. PAOLI, Recorder
By Christina Silva

(Space Above This Line For Recorder's Use)

QUITCLAIM DEED

For Value Received MANFRED MUELLER does hereby convey, release, remise and forever quitclaim unto MONIKA MUELLER whose current address is 2745A S 900 E, Hagerman, ID 83332 the following described premises, to-wit:

Tract I:

Beginning at the North Quarter corner of said Section 27;

Thence North 89°52' East, along the North line of said

Section 1433.75 feet to the TRUE POINT OF BEGINNING;

Thence continuing North 89°52' East, 595.79 feet;

Thence South 13°42' West, 719 feet;

Thence South 89°18' West, 834.05 feet;

Thence North 27°13' East, 718.30 feet;

Thence North 49°29' East 105.20 feet to the TRUE POINT OF BEGINNING.

Together with a perpetual easement for a road right of way, 30 feet wide, located in the Southeast Quarter of the Southeast Quarter of Section 22, Township 7 South, Range 13 East of the Boise Meridian, the centerline of which is described as follows:

Beginning at the southeast corner of said section 22;

Thence North 250 feet along the East line of said Section 22 to the TRUE POINT OF BEGINNING;

Thence West parallel to the South line of said Section 22 to the East bank of the Big Bend Ditch;

Thence Southerly along the East bank of said Big Bend Ditch to intersect the South line of said Section 22, which point is South 89°52' West 590.70 feet from the Southeast corner of Section 22.

TRACT II:

The Southeast Quarter of the Southeast Quarter of Section 22, Township 7 South, Range 13, East of the Boise Meridian, Gooding County, Idaho.

FILMED

4 1996

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT
(REGIONAL)07/10/95 15:45:47
Page 1

Water Right Number - 36-00035J Prefix Translation: WATER RIGHT Old (D) Number -

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

*** C - CURRENT OWNER ***
SIMON RICHARD D 1 - 4646 SOUTH 500 WEST
2 -
3 -
City- SALT LAKE CITY State- UT Zip- 84123
Phone - 801-268-9100

*** D - DIR RPT OWNER ***
MUELLER MANFRED 1 - 2795-A SOUTH 900 EAST
2 -
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-837-4947

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
09/10/1884 ERROR IN REGION D - DECREED

+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
BILLINGSLEY CREEK SNAKE RIVER

+ - - - - Point of Diversion - - - - - +
+ Twn Rng Sec Tract Lot RFlg County
07S 13E 11 SE SE NE (47) GOODING

+ - - - - Water Use - - - - - +
+ Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 03/15 11/15 0.400

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.400 27.0

+ - - - - Place of Use - - - - - +
+ Twn Rng Sec Tract Lot Acres Code Description County
07S 13E 22 SE SE 9.0 01 IRRIGATION (47) GOODING

Total Acres: 9.0

+ - - Diversion Means - VIA BUCKEYE DITCH

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - NONE

+ - - - - Remarks - - - - - +
WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.
A DIVERSION RATE OF 0.34 CFS AT THE FIELD HEADGATE IS
RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.
0.06 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF THIS RIGHT.

Water right number - 36-00035J

Prefix Translation: WATER RIGHT

+ - - - - Old Water Right Numbers - - - - - +
+ - - - - Old Water Right Numbers - - - - - +
3600035
+ - - - - Conditions of Approval - - - - - +
No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - + + - - - - Decree Defendant - - - + + - - Decree Date - +
00/00/0000

+ - - - - Comments - - - - - +
Date: 08/06/1992 User Id: THORNTON Subject: COPIED FROM REMARKS RVW - 12/4/90
THIS PROPERTY WAS SOLD BY MRS. HOSKOVEC TO MR. MULLER ON 10/26/90
Date: 08/06/1992 User Id: THORNTON Subject: RENUMBERED RIGHT
THE CORRECT BASIS OF DECREED RIGHT FOR THIS CLAIM IS 36-00035 AND NOT 36-00034. THIS RIGHT IS DELIVERED VIA BUCKEYE DITCH AS WAS
36-00035. THE OTHER RIGHT IS THROUGH THE BELL DITCH. ORIGINALLY CLAIMED AS A36-00034D.
Date: 09/23/1992 User Id: SCHULTZ Subject: NOTICE OF ERROR (NOE)
RECEIVED NOE 9/22/92. CHANGED NOE FLAG FROM BLANK TO A. CLAIM VERIFIED 8/17/92. DID NOT REVERIFY ANY PART OF CLAIM.
Date: 10/19/1992 User Id: SOUTH3 Subject: NO CHANGE TO RECOMMENDATION
THE CLAIM WAS RENUMBERED AND THE CLAIMANT DISAGREES WITH THE PRIORITY DATE. AN EXPLANATORY LETTER HAS BEEN SENT. RMC
Date: 02/18/1993 User Id: SCHULTZ Subject: ADDED NEW ATTORNEY
RECEIVED NOTICE OF APPEARANCE 2/10/93 FROM HEPWORTH NUNGESTER LEZAMIZ.
CLAIM VERIFIED 10/19/92. DID NOT REVERIFY ANY PART OF CLAIM.
Date: 07/10/1995 User Id: TFAWCETT Subject: NAME CHANGE
OWNERSHIP CHANGE MADE 7-10-95 TF. SF3 SENT TO NEW OWNER.

+ - - Audit Fields - - +
07/10/95 TFAWCETT

+ - - - - Adjudication Rights Dates and Flags Area - - - - - +
Court Report Filing - 11/02/1992 Field Inspection Made - 08/16/1990 Civil Case Number - 39576
Objection Filed Date - 04/29/1993 Field Inspection Flag - Old Case Number -
Response Filed Date - 09/10/1993 Verified Date - 00/00/0000 Old Judicial District -
Claim Received Date - 08/16/1988 Last Amended Date - 00/00/0000 Temporary Right - P
Receipt Number - S001476 Water District - 36A
POU Ownership Flag - Y Federal/State Indicator - S
Name Connector - AND/OR Presumption Flag -
Notice of Error Flag - B



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

July 10, 1995

PHILIP E. BATT
Governor

KARL J. DREHER
Director

RICHARD D SIMON
4646 SOUTH 500 WEST
SALT LAKE CITY UT 84123

RE: SRBA Claim(s) 36-00035J, A36-10468

Dear Mr. Simon:

Pursuant to the change in ownership request that has been submitted to the Department, we have changed the record of current ownership to you. Please find the enclosed copies of the computer record of the claim(s) noting the change in claimant. Review these records and if there is an error, or you have any questions, please contact this office.

This claim is listed on the Snake River Basin Adjudication Director's Report; consequently, a Standard Form #3 must be filed with the Adjudication Court in Twin Falls in order to receive any future mailings regarding the court proceedings. I am enclosing a copy of SF3 for your convenience.

Sincerely,

Trish Fawcett
Technical Records Specialist

enc.



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

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

RECEIVED

JUL 05 1995

Department of Water Resources
Southern Region

DATE OF CLOSING: 6-29-95

LEGAL DESCRIPTION OF PROPERTY: Township 7 South Range 13 East
Section 22, SE 1/4 of SE 1/4 of 1/4, Govt. Lot , BM.
Lot , Block , Subdivision/Townsite .
If you have additional legal descriptions, please attach separate sheet.

☐ Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)

☐ Water Right Number(s)
Assigned by IDWR: 36-00035J

☐ Name and Address of Former Owner/Claimant(s)(Seller): Helma Monika Mueller Drown
3434 B East 4000 North
Kimberly, Idaho 83341

☐ New Owner/Claimant (Purchaser): RICHARD D. SIMON

☐ New Mailing Address: 4646 South 500 West
Salt Lake City, Utah 84123

☐ New Telephone Number: (801) 268 9100

☐ Does the change in ownership result in a splitting of the water right owned/claimed? yes x no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

☐ Attach proof of ownership, describe proof attached: Deed attached

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

☐ Signature of New Owner/Claimant(s) Richard D Simon Date 6-29-95

Date

☐ Signature of Former Owner/Claimant(s) Helma Monika Mueller Drown Date 6-29-95

Date

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

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: By:

Further Action Needed:

Further Action Taken

Date: By:

Final Review and Data-Entry

Date: By:

Claim Numbers of Split, if any:

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

160451

STATE OF IDAHO COUNTY OF GOODING

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Filed for record at the request of M. Guerry
51 min. past 10 o'clock A m. this 2
of May, 1995 6 20

Mark J. Guerry
Attorney at Law
130 North Broadway
Buhl, Idaho 83316

HELEN A. PAOLI, Recorder
By Arlene Sosa

(Space Above This Line For Recorder's Use)

QUITCLAIM DEED

For Value Received MANFRED MUELLER does hereby convey,
release, remise and forever quitclaim unto MONIKA MUELLER
whose current address is 2785A S 900 E, Hagerman, ID 83332
the following described premises, to-wit:

Tract I:

Beginning at the North Quarter corner of said Section 27;
Thence North 89°52' East, along the North line of said
Section 1433.75 feet to the TRUE POINT OF BEGINNING;
Thence continuing North 89°52' East, 595.79 feet;
Thence South 13°42' West, 719 feet;
Thence South 89°18' West, 834.05 feet;
Thence North 27°13' East, 718.30 feet;
Thence North 49°29' East 105.20 feet to the TRUE POINT OF
BEGINNING.

Together with a perpetual easement for a road right of way,
30 feet wide, located in the Southeast Quarter of the
Southeast Quarter of Section 22, Township 7 South, Range 13
East of the Boise Meridian, the centerline of which is
described as follows:

Beginning at the southeast corner of said section 22;
Thence North 250 feet along the East line of said Section 22
to the TRUE POINT OF BEGINNING;
Thence West parallel to the South line of said Section 22
to the East bank of the Big Bend Ditch;
Thence Southerly along the East bank of said Big Bend Ditch
to intersect the South line of said Section 22, which
point is South 89°52' West 590.70 feet from the Southeast
corner of Section 22.

TRACT II:

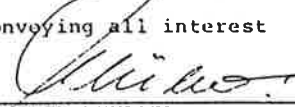
The Southeast Quarter of the Southeast Quarter of Section
22, Township 7 South, Range 13, East of the Boise Meridian,
Gooding County, Idaho.

EXCEPTING THEREFROM that part of the Southeast Quarter of the Southeast Quarter of said Section 22, described as follows:

Beginning at the Northeast corner of said Southeast Quarter of the Southeast Quarter;
Thence South along the East boundary of the Southeast Quarter of the Southeast Quarter, 836.0 feet;
Thence West parallel with the North boundary of the Southeast Quarter of the Southeast Quarter, 550.0 feet more or less to the centerline of the Big Bend Irrigation Ditch as now constructed;
Thence Northerly along the centerline of the Big Bend Irrigation Ditch, 836.0 feet more or less to the North boundary of said Southeast Quarter of the Southeast Quarter;
Thence East 550.0 feet to the TRUE POINT OF BEGINNING.

together with their appurtenances, conveying all interest now owned.

DATED: December 5th, 1994.


MANFRED MUELLER

STATE OF IDAHO

) ss. ✓

County of Twin Falls

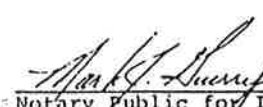
On this 5 day of December

, 1994, before me, the

undersigned, a Notary Public in and for said County and State, personally appeared MANFRED MUELLER, known to me to be the person who executed the foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.




Notary Public for Idaho
Residing at Buhl, Idaho

R PROOF

CVR

MAPS

PHOTOS

MISC

MICROFILMED

OCT 11 1994

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

In Re the General Adjudication)
of the Rights to the Use of Water)
from the Snake River Basin)
Water System)
_____)

Case No. 36-00035J -0001

The State of Idaho, ex rel.)
R. Keith Higginson in his)
official capacity as Director)
of the Idaho Department of)
Water Resources,)

RESPONSE TO OBJECTION

Petitioner,)

vs.)

The United States; the State)
of Idaho; and all Claimants to)
the use of water from the Snake)
River Basin Water System,)

Respondents.)
_____)

I. GENERAL INFORMATION

1. Person responding to objection:

Name: R. KEITH HIGGINSON, DIRECTOR

Address: IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449

Briefly describe your interest in this water right:

IDWR is required to file a response to an objection to part
I of the director's report pursuant to I.C. section 42-1412(2).

(Over)

FILED
NICHOLAS B. SPENCER

2. Person who filed objection:

Name: MANFRED MUELLER
Address: 2795 A SOUTH 900 EAST
HAGERMAN ID 83332

3. If this response is filed by an attorney:

Attorney Name(s): NICHOLAS B. SPENCER
Attorney Address: DEPUTY ATTORNEY GENERAL(S)
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449

Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

1. ☒ Name and Address: I respond to the objection concerning the name and/or address of the owner of the water right.
3. ☒ Quantity: I respond to the objection concerning:
- 3a. ☒ The total quantity of water used in cubic feet per second.
4. ☒ Priority Date: I respond to the objection concerning the priority date.
7. ☒ Purposes of Use: I respond to the objection concerning the purpose(s) of use.
8. ☒ Period of Year: I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.
9. ☒ Place of Use: I respond to the objection concerning:
- 9b. ☒ The number of irrigated acres within each forty (40) acre subdivision.

10. ☒ Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.
11. ☒ Remarks: I respond to the objection concerning the "remarks" listed with the water right.
14. ☒ Other: I respond to the objection concerning:
- ALL MATTERS RAISED IN THE CLAIMANT'S ANSWER,
AFFIRMATIVE DEFENSES, AND PRAYER FOR RELIEF.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection item 1, and all allegations regarding this item, IDWR responds that there is an error in the listing of the name of the claimant of this right in the director's report. The name and of the claimant should be changed as shown in the attachment entitled "Recommended Water Rights Acquired under State Law."

In response to Statement of the Objection items 3 and 3.a, and all allegations of the objection regarding those items, IDWR responds as follows: (1) it recommended the amount of water it determined was being beneficially used; (2) the claimant is not entitled to any amount greater than that which is beneficially used (Idaho Code Secs. 42-104 and 42-1402); (3) the recommendation of the director to the SRBA Court as to how the right should be decreed does not constitute a taking because it is simply a recommendation and not a final determination of the right; and (4) the eventual decree by the SRBA Court of the amount of water beneficially used, even if less than the amount previously decreed, will not constitute a taking because the right is limited to that amount beneficially used.

In further response to this objection item, IDWR responds that it recommended this element of the water right as claimed. The objection does not state the amount sought; this portion of the objection should therefore be stricken.

In response to Statement of the Objection item 4, and all allegations of the objection regarding this item, IDWR responds as follows: this right was claimed as a portion of decreed right no. 36-00034, which has a priority of March 30, 1884. IDWR found that the right claimed is actually a portion of decreed right 36-00035; the recommended and decreed priority for this right is September 10, 1884.

(Over)

In response to Statement of the Objection item 7, and all allegations of the objection regarding that item, IDWR responds that it recommended the same purpose or purposes of use that were identified on the notice of claim and that were found when the claim was investigated. By identifying in the objection an additional use or uses that the claimant did not list on the notice of claim, the claimant improperly seeks to use the objection process to amend the claim. A claimant must obtain leave of the court to amend a claim after a director's report is filed, just as a party must obtain leave of the court to file a late claim after the director's report is filed. Once leave of the court is granted, IDWR can investigate the amended claim and make an appropriate recommendation to the court.

In response to Statement of the Objection item 8, and all allegations of the objection regarding this item, IDWR responds as follows: The decree asserted by the claimant does not contain a period of use decreed for this water right. Idaho Code 42-1411(2)(g) requires the director to determine the period of use of each water right acquired under state law that is recommended in the director's report. IDWR has developed irrigation season of use standards for various climatic areas throughout the state based on a 75% chance of a 24 degree fahrenheit frost. The irrigation season of use cannot exceed the period in which water may be beneficially used. The period of the year during which this water right may be used is consistent with the standard irrigation season of use for the area in which the place of use of this water right is located. Water may be used for irrigation outside the standard season of use, subject to the conditions set forth in general provision 12b of the director's report.

In further response to this objection item, IDWR responds that it recommended this element of the water right as claimed. By now seeking to include a year around season of use for irrigation, the claimant improperly seeks to use the objection process to amend the claim. A claimant must obtain leave of the court to amend a claim after a director's report is filed, just as a party must obtain leave of the court to file a late claim after the director's report is filed. Once leave of the court is granted, IDWR can investigate the amended claim and make an appropriate recommendation to the court.

In response to Statement of the Objection 9 and 9.b, and all allegations of the objection regarding those items, IDWR responds that the recommended water right accurately describes the total number of acres within each 40 acre subdivision upon which IDWR found water was beneficially used for irrigation under this water

right. IDWR further responds that the notice of claim asserted irrigation of 38 acres; the objection asserts irrigation of 12 acres.

In response to Statement of the Objection item 10 and all allegations of the objection regarding this item, IDWR responds as follows: (1) The decree asserted by the claimant did not set an annual volume of consumptive use for this water right. (2) Idaho Code Sec. 42-1411(2)(i) requires the director to determine the annual volume of consumptive use for each water right acquired under state law and recommended in the director's report. (3) Idaho Code Sec. 42-1401A(2) provides that the quantification of consumptive use "is included as a rebuttable presumption in a decree only for the purpose of transfers pursuant to section 42-222, Idaho Code"; therefore, the consumptive use recommended for this water right is included solely for use in future transfer proceedings. (4) The annual volume of consumptive use claimed and recommended for this right is 3 acre feet per acre. This is the maximum volume of water consumed by the most water consumptive crop (pasture) that can be grown in the area during the period of year when water is used for irrigation, as provided for by Idaho Code Sec. 42-1401A(2). (5) The recommendation of the director to the SRBA Court as to how the right should be decreed does not constitute a taking because it is simply a recommendation and not a final determination of the right. (6) The eventual decree by the SRBA Court of the amount of water beneficially used, even if less than the amount previously decreed, will not constitute a taking because the right is limited to that amount beneficially used.

In response to Statement of the Objection item 11, and all allegations of the objection regarding that item, IDWR responds that it has authority pursuant to Idaho Code Sec. 42-1411(2)(j) to include in its recommendations of water rights acquired under state law and recommended in the director's report "such other matters as are necessary to define the right." The remark or remarks objected to are necessary to adequately describe and define this water right.

In response to Statement of the Objection item 14, and all allegations of the objection regarding that item, see attached "IDWR's Response to Answer Affirmative Defenses and Prayer for Relief of Claimant".

In response to the sentence listed in Changes to the Director's Report, whereby the claimant attempts to "reserve the right to claim all purposes of use and quantities of use as shown by the

(Over)

MICROFILMED

OCT 11 1994

evidence at trial," IDWR responds as follows: Insofar as this purported reservation of rights may constitute an attempt to reserve the right to amend at trial the claimant's notice of claim, the claimant improperly seeks to use the objection process to amend the claim. A claimant must obtain leave of the court to amend a claim just as a party must obtain leave of the court to file a late claim after the director's report is filed.

CHANGES TO THE DIRECTOR'S REPORT

The director proposes no changes to the description of this claim in the Director's Report.

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

	No. of Pages
Notice of Claim No. A36-00035J	4
IDWR's Response to Answer, Affirmative Defenses, and Prayer for Relief of Claimant	4
Recommended Water Rights Acquired Under State Law	1

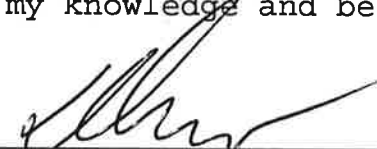
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

David B. Shaw, being first duly sworn, upon oath, deposes and says:

That R. Keith Higginson, in his official capacity as director of the Idaho Department of Water Resources, is a party to this proceeding, as defined by I.C. 42-1401A(1) and (7); that I am the Adjudication Bureau Chief for IDWR and am authorized by R. Keith Higginson, in his official capacity as director of IDWR, to verify this response; and that I have read the foregoing response, know its contents and that the statements contained therein are true to the best of my knowledge and belief.


Signature of person filing response

By:


(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 9th day of September,
1993.




Notary Public for Idaho
Residing at: Boise, Idaho
My Commission expires: July 31, 1997

(Over)

CERTIFICATE OF MAILING

I hereby certify that on the 10th day of SEPTEMBER, 1993, I mailed the original and copies of the foregoing response, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepared and addressed as follows:

1. Original to:

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

2. One copy to the owner of the water right, and you must fill in the following information:

See No. 3

3. One copy to the party who filed the objection, or if represented by an attorney, to their attorney; and you must fill in the following information:

Name: HEPWORTH NUNGESTER & LEZAMIZ
Address: PATRICK D BROWN
& PENELOPE PARKER
PO BOX 389
TWIN FALLS ID 83303

4. One copy to:

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, Idaho 83734



Signature of Respondent or attorney
mailing on Respondent's behalf

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: 236-00035 J
Date Received: 8/16/1988
Receipt No: 5001476
Received By: W

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: BETTY B. HOSKOVEC 208-837-4878
Address: 2795-A S, 900 E
RT 1
HAGERMAN, ID 83332

2. Date of Priority: MAR 30, 1884

3. Source: BILLINGSLEY CREEK Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07S	13E	22	SE	SE			GOODING

5. Description of diverting works:
VIA BUCKEYE DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.400		

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

8. Total consumptive use is 114.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	13E	22	SE	SE		IRR	38.0

Section Acres 38.0

A36-00034D

Page 1

Date:

08/16/88
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JAN 21 1993
OCT 11 1994

10. Place of Use: Continued

Total Acres 38.0

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:

29 SHARES-BIG BEND IRRIG., A36-00033B

14. Remarks:

ALL 3 SOURCES OF WATER IRRIGATE THE 38 ACRES.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

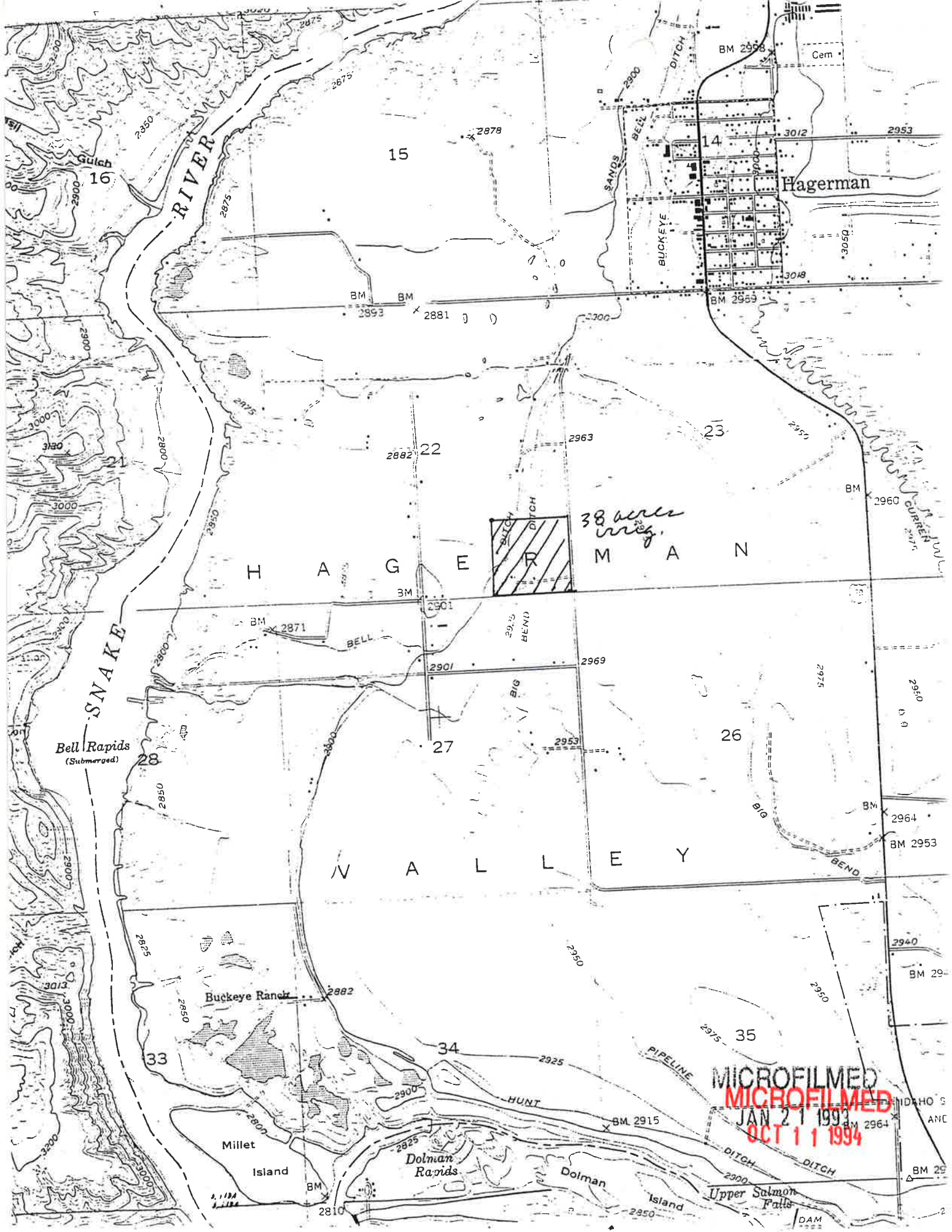
Decree Plaintiff

vs

Decree Defendant

(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.

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JAN 21 1993
OCT 11 1994



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JAN 20 1993

Department of Water Resources
Southern Region Office

January 19, 1993
(Date)

IDAHO DEPARTMENT OF WATER RESOURCES
222 SHOSHONE ST. EAST
TWIN FALLS, IDAHO 83301

Dear Idaho Department of Water Resources:

Please provide me with a copy of all information included in
my file as it relates to water right number A36-00035J.

Please advise me of any documents in my file which you are not
releasing to me and why they are not being released.

Please bill me for the copy charge.

Sincerely,

M. Lucelle
(Name)

2795-A South 900 East
(Address)

Hagerman, Idaho 83332
(City, State, Zip Code)

cc: David B. Shaw, Adjudication Bureau Chief
Idaho Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720-9000

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IDWR'S RESPONSE TO ANSWER, AFFIRMATIVE DEFENSES AND PRAYER FOR
RELIEF OF CLAIMANT

This portion of the response addresses the multi-page attachment to the objection (hereinafter "the attachment"), wherein the claimant admits or denies all sections of Parts I, II, and III of the director's report, asserts 27 affirmative defenses, and alleges a prayer for relief. The attachment contains the following sections, corresponding to the various sections of the director's report:

- (1) I. GENERAL RESPONSE
- (2) II. DESCRIPTIVE SUMMARY, (first unnumbered page of Part I of the director's report)
- (3) III. TABLE OF CONTENTS (second and third unnumbered pages of Part I of the director's report)
- (4) IV. 1. INSTRUCTIONS FOR USING THIS REPORT PART I (page 1 of Part I of the director's report)
- (5) IV. 2. SCOPE OF THE ADJUDICATION (pages 1-3 of Part I of the director's report)
- (6) IV. 3. PURPOSE OF THIS REPORT PART I (pages 3-4 of Part I of the director's report)
- (7) V. 1. BOUNDARIES OF BASIN (pages 4-6 of Part I of the director's report)
- (8) V. 2. WATER SOURCES (page 6 of Part I of the director's report)
- (9) V. 3. DEVELOPMENT OF WATER USE (pages 6-9 of Part I of the director's report)
- (10) VI. GENERAL PROVISIONS 1-8 APPLY TO ALL WATER RIGHTS IN BASIN 36 (page 9 of Part I of the director's report)
- (11) VI. General Provision 1. EFFECT OF ADJUDICATION (page 9 of Part I of the director's report)
- (12) VI. General Provision 2. GENERAL ADMINISTRATIVE PROVISIONS (pages 9-10 of Part I of the director's report)
- (13) VI. General Provision 3. CONJUNCTIVE ADMINISTRATION (page 10 of Part I of the director's report)
- (13) VI. General Provision 4. ADMINISTRATION OF GROUND WATER RIGHTS (page 10 of Part I of the director's report)
- (14) VI. General Provision 5. ADMINISTRATION OF BASIN 36 RELATIVE TO THE SNAKE RIVER (page 10 of Part I of the director's report)
- (15) VI. General Provision 6. ADMINISTRATION OF SMALL DOMESTIC AND STOCK WATER RIGHTS (page 11 of Part I of the director's report)
- (16) VI. General Provision 7. MEASURING DEVICES AND CONTROL

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- WORKS (page 11 of Part I of the director's report)
- (17) VI. General Provision 8. FIRE FIGHTING PURPOSES (page 11 of Part I of the director's report)
 - (18) VI. General Provision 9. CONSUMPTIVE USE (page 12 of Part I of the director's report)
 - (19) VI. GENERAL PROVISION 10 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH DOMESTIC USE AS A PURPOSE OF USE (page 12 of Part I of the director's report)
 - (20) VI. General Provision 10. DOMESTIC USE (page 12 of Part I of the director's report)
 - (21) VI. GENERAL PROVISION 11 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH STOCK WATER USE AS A PURPOSE OF USE (page 13 of Part I of the director's report)
 - (22) VI. General Provision 11. STOCK WATER USE (page 13 of Part I of the director's report)
 - (23) VI. GENERAL PROVISIONS 12-16 APPLY TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH IRRIGATION AS A PURPOSE OF USE (page 13 of Part I of the director's report)
 - (24) VI. General Provision 12. IRRIGATION USE (pages 13-14 of Part I of the director's report)
 - (25) VI. General Provision 13. DIVERSION VOLUME FOR IRRIGATION (page 14 of Part I of the director's report)
 - (26) VI. General Provision 14. CONSUMPTIVE USE FOR IRRIGATION (pages 14-15 of Part I of the director's report)
 - (27) VI. General Provision 15. AMOUNT OF COMBINED WATER RIGHTS FOR IRRIGATION (page 15 of Part I of the director's report)
 - (28) VI. General Provision 16. DIVERSION RATES IN EXCESS OF .02 CFS PER ACRE (pages 15-16 of Part I of the director's report)
 - (30) VI. 17. INSTRUCTIONS FOR USE OF LIST OF RECOMMENDED WATER RIGHTS (pages A-i through A-iii of Part I of the director's report)
 - (31) VI. 18. IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW (pages A-1 through B-25 of Part I of the director's report)
 - (32) DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36), (DIRECTOR'S REPORT PART II)
 - (33) DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36), (DIRECTOR'S REPORT PART III)

The attachment also contains part VIII, AFFIRMATIVE DEFENSES (pp. 20 through 28) and a PRAYER FOR RELIEF (untitled, p. 28).

In response to each of the items enumerated above IDWR responds that pursuant to Section 4 a.(2)(c) of SRBA Administrative Order 1, Rules of Procedure, IDWR generally denies each and every allegation, if any, contained in each enumerated portion of the attachment. IDWR affirmatively responds that neither SRBA Administrative Order 1, Rules of Procedure, nor Title 42, Chapter 14, Idaho Code, make provision for IDWR to affirm, amplify, or otherwise respond to the claimant's admissions, or to deny the claimant's denials, and that IDWR therefore does not believe that it is required to do so. Title 42, Chapter 14, Idaho Code solely defines the content and scope of the director's report. It is to contain a description of the water system and is to provide a recommendation as to each water right claimed and as to those matters necessary for administration of those water rights. Therefore, the content and scope of the objection is limited to those same matters. The attachment to the present objection asserts or otherwise raises matters not directly addressing the elements of the water right as recommended, the description of the water system, or the general provisions. Rather, the attachment raises broad issues as to the constitutional, statutory and administrative efficacy of the entire adjudication process. All such issues should be raised by means of motions to designate basinwide issues and similar procedural vehicles specifically designed to provide for basinwide notice and participation. They should not be permitted to divert the focus of any individual subcase away from the issues directly connected to the elements of the water right and the administration thereof. Therefore, because the attachment to the present objection is not within the scope of the statutory purpose of an objection it should be stricken.

However, in the event that the court should determine that all or part of the attachment is properly within the scope of the objection, IDWR further responds as follows:

IDWR affirmatively responds that all statements within the director's report are properly included therein pursuant to Title 42, Chapter 14, Idaho Code, and in particular pursuant to Idaho Code §§ 42-1411 and 42-1412(8); and that the provisions of the Idaho Rules of Civil Procedure regarding pleadings are inapplicable to the extent that they are in conflict with the statutory requirements. Therefore IDWR denies all allegations directed at the contents of the director's report.

As to the enumerated portions of the attachment addressing the listings of recommended water rights, abstracts of federal reserved water right claims, or negotiated agreements, other than the individual recommendation that is the subject of this objection, IDWR responds that such claims or agreements are not brought before this court by this objection.

Responding to the 27 affirmative defenses asserted in the attachment, IDWR generally denies each and every affirmative defense asserted. IDWR further responds that affirmative defense numbers 1, 2, 4, 5, 10, 11, 12, 18, and 22, asserting various violations of civil or constitutional rights, fail to comply with the requirements I.R.C.P. 9(b) providing that in all averments of violation of civil or constitutional rights the factual circumstances constituting such violation must be stated with particularity. Accordingly, IDWR asserts that those affirmative defenses should be stricken.

In response to that portion of the multi-page attachment to the objection wherein the claimant asserts a prayer for relief, IDWR responds as follows:

1. IDWR denies that the director's report asserts any claims against the claimant; rather, the director's report contains only the recommendation of the director as to how the claimant's water right should be decreed and administered.
2. IDWR denies that the claimant is entitled to have the water right decreed as claimed unless in the director's report the water right has been recommended as claimed.
3. IDWR denies that any acts upon its part constitute the taking of private property for which just compensation should be allowed and awarded.
4. IDWR denies that the claimant is entitled to recover court costs and reasonable attorney fees.
5. IDWR denies that the claimant by this objection has raised any claims against IDWR entitling such claimant to any relief other than the eventual judicial determination and decree of the various elements of the claimant's water right, if any, and of those related matters necessary to describe and administer that water right.

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

DATE: SEP-7-1993

PAGE: A-1

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: BILLINGSLEY CREEK		TRIBUTARY: SNAKE RIVER				
36-00035J	MANFRED MULLER MUELLER 2795-A SOUTH 900 EAST HAGERMAN ID 83332	09/10/1884	IRRIGATION	03-15 11-15	.4	CFS DECREE
					TOTAL QUANTITY:	.4 CFS
					CONSUMPTIVE USE:	27.0 AFY
POINT OF DIVERSION: T07S R13E S11 SESENE						
PLACE OF USE: IRRIGATION T07S R13E S22 SESE 9.0 9.0 ACRES TOTAL						
REMARKS: WATER IS DELIVERED THROUGH THE BUCKEYE DITCH. A DIVERSION RATE OF 0.34 CFS AT THE FIELD HEADGATE IS RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE. 0.06 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY OF THIS RIGHT.						

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RECEIPT
For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES

Receipt No:

0015325

RECEIVED

JAN 28 1993

Department of Water Resources
Southern Region Office

Date:

Time:

1/28/1993

13:19:04

Received
From:

MUELLER MANFRED

Type of Payment

Program Acct Class

Amount

FEE FOR COPY OF ADJUDICATION CLAIM

64100

229 21 1760

5.20

Total

CHECK

3196

\$5.20

Region: SOUTHERN

Signature:

R. Foster

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OCT 11 1994



Triple M Ranch

(208) 837-4947

2795 A South 900 East • Hagerman, Idaho 83332

RE: Copy of SRBA File: 36-00035J

RECEIVED

JAN 28 1993

Department of Water Resources
Southern Region Office

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OCT 11 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

22-Jan-1993

MANFRED MUELLER
2795-A S 900 E
HAGERMAN ID 83332

RE: Copy of SRBA File(s): 36-00035J

Dear Mr. Mueller:

Please find enclosed the copies of documents you recently requested contained in the above referenced SRBA file(s) as of this date. Please note that copies of orthophoto quad maps or NAPP photography or aerial slides which may have been used in the review of your claim(s) have not been included since they are not easily reproduced. These items are however available for your review at our office. Please also note that in some situations some water rights may have other associated files which contain privileged information between IDWR staff and our legal council which has not been copied.

Please remit the following for the cost of the copies and postage:

\$5.20

Sincerely,


Jeanie Robertson
Records Clerk

Encl:

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JAN 20 1993

Department of Water Resources
Southern Region Office

January 19, 1993
(Date)

IDAHO DEPARTMENT OF WATER RESOURCES
222 SHOSHONE ST. EAST
TWIN FALLS, IDAHO 83301

Dear Idaho Department of Water Resources:

Please provide me with a copy of all information included in
my file as it relates to water right number A36-00035J.

Please advise me of any documents in my file which you are not
releasing to me and why they are not being released.

Please bill me for the copy charge.

Sincerely,

M. Lucelle
(Name)

2795-A South 900 East
(Address)

Hagerman, Idaho 83332
(City, State, Zip Code)

cc: David B. Shaw, Adjudication Bureau Chief
Idaho Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720-9000

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OCT 11 1994

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

In Re the General Adjudication
of Rights to the Use of Water
from the Snake River Basin
Water System

Case No. A36-00035J
(You must insert the
water right number you
are objecting to)

The State of Idaho, ex rel.
R. Keith Higginson in his
official capacity as Director
of the Idaho Department of
Water Resources,

OBJECTION

Petitioner,

vs.

The United States; the State
of Idaho; and all Claimants to
the use of water from the Snake
River Basin Water System,

36-00035J -0001/
93-04-0035

Respondents.

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in the Director's Report. You may object to one water right per objection form. The water right number you are objecting to must be indicated above in the blank space following "Case No." To object to more than one water right, you must file a separate objection form for each. Forms may be obtained from the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form, as long as it is identical to the court's form. You must file your objection by the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

Any party physically filing 25 (twenty-five) or more objections must make an appointment with the Clerk of the Adjudication Court and arrange for an appointment to file multiple objections.

(Over)

By filing an objection form, you are certifying that the objection 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 that it is not filed for any improper purpose, such as to harass, cause unnecessary delay or needless increase in the cost of litigation.

I. GENERAL INFORMATION

Please fill in the following information:

1. Person objecting:

Name: Manfred Mueller

Address: 2795-A South 900 East

Hagerman, Idaho 83332

Briefly describe your interest in this water right:

Decreed water right pursuant to March 22,

1932 decree in New International Mortgage

Bank vs. Idaho Power Co. with a priority

date of March 30, 1884

2. Owner of the water right:

Name: Manfred Mueller

Address: 2795-A South 900 East

Hagerman, Idaho 83332

3. If this objection is filed by an attorney:

Attorney Name: Hepworth, Nungester & Lezamiz

Attorney Address: P. Parker & Patrick D. Brown

P.O. Box 389, Twin Falls, ID 83303

Attorney Phone No.: (208)734-7510; Fax: (208)734-4115

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

II. STATEMENT OF THE OBJECTION

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

1. ☒ Name and Address: I object to the name and/or address of the owner of the water right.
2. ☐ Source: I object to the source of water.
3. ☒ Quantity: I object to:
 - a. ☒ the total quantity of water used in cubic feet per second; or
 - b. ☐ the total quantity of water stored in acre-feet per year; or
 - c. ☐ the total quantity of water reserved for each and every purpose, including all present and future uses.
4. ☒ Priority Date: I object to the priority date.
5. ☐ Points of Diversion: I object to the legal description of the point(s) of diversion.
6. ☐ Instream Flow: I object to the legal description of the beginning and ending points of the instream flow.
7. ☒ Purpose(s) of Use: I object to the purpose(s) of use.
8. ☒ Period of Year: I object to the period of year when water is used or is necessary for the purpose stated.
9. ☒ Place of Use: I object to:
 - a. ☐ the legal description of the place of use; or
 - b. ☒ the number of irrigated acres within each forty (40) acre subdivision.
10. ☒ Consumptive Use: I object to the annual volume of consumptive use.
11. ☒ Remarks: I object to the "remarks" listed with the water right.

(Over)

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OCT 11 1994

12. ☐ Water Right Recommendation: I object to:
- a. ☐ this water right being recommended at all; or
- b. ☐ this water right not being recommended.
13. ☐ Description of Reservation: I object to the legal description of the reservation.
14. ☒ Other: I object to: See Attached
-
-
-
-

REASONS SUPPORTING EACH BOX CHECKED

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

See page 7

CHANGES TO THE DIRECTOR'S REPORT

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

See page 7

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



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

Right Owners, Inc.'s compendium "A".

VERIFICATION (Must be Completed)

State of Idaho

County of Gooding

Manfred Mueller, being first duly
(Name of person filing objection)
sworn, upon oath, deposes and says:

That I am the person or entity filing this objection, that I am a water claimant or party in this proceeding, as defined by I.C. Sec 42-1401A(1) and (7), and that I have read the foregoing objection, know its contents and that the statements contained therein are true to the best of my knowledge and belief.

M. Mueller
Signature of person filing objection

By: [Signature]
(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 20th day of April,
1993.

[Signature]
Notary Public for Idaho
Residing at: Hagerman, Idaho
My Commission Expires: 5-10-97

(Over)

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OCT 11 1994

INSTRUCTIONS FOR MAILING

You must mail the objection, including all attachments, to the Clerk of the Court. FAX filings will not be accepted by the Clerk of the Court. You must also send a copy to the owner of the water right, if other than yourself; to the Office of the Attorney General, State of Idaho; and to the United States Department of Justice, as set out below in the Certificate of Mailing. Finally, you must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I hereby certify that on the 28 day of April, 1993, I mailed the original and copies of the foregoing objection, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepaid and addressed as follows:

1. Original to:

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

2. One copy to the owner of the water right, and you must fill in the following information:

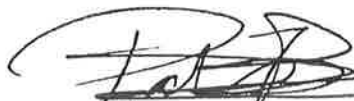
Owner name: Manfred Mueller
Owner's address: 2795-A South 900 East
Hagerman, Idaho 83332

3. One copy to:

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

4. One copy to:

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, ID 83724



Signature of Objector or attorney
mailing on Objector's behalf

REASONS SUPPORTING EACH BOX CHECKED, page 4

Box 1 - See Paragraph 2, page 2 for correct name and/or address.

Box 3, 3a and 10 - IDWR recommends an amount less than decreed and/or beneficially used. A reduction in water right would constitute a taking.

Box 4 - IDWR recommends a junior priority date which is not supported by the previously decreed right or the date of first beneficial use.

Box 7 - Beneficially used for purposes set forth in notice of claim.

Box 8 - IDWR recommends a period of use less than decreed and/or beneficially used. A reduction in water right would constitute a taking.

Box 9 - Director's Report fails to accurately state the place of use.

Box 11 - This is beyond the statutory authority vested in the Director.

CHANGES TO DIRECTOR'S REPORT, page 4

Last name is spelled Mueller. The report should be changed to correct the priority date to 3-30-1884; the purpose of use should be changed to add stock water as a purpose of use; and the acreage should be expanded to 12 acres; the period of use: 01/01 to 12/31; the maximum quantity and consumptive use should be changed to reflect the amount decreed and/or beneficially used if greater. Remarks: Strike all comments after "Buckeye Ditch."

Objectors reserve the right to claim all purposes of use and quantities of use as shown by the evidence at trial.

Question 14., page 4, Other

I.

GENERAL RESPONSE

Except as specifically admitted herein, objectors deny each and every allegation contained in the Director's Report, any related or subsidiary pleadings, and/or any attachments thereto.

II.

DESCRIPTIVE SUMMARY

(DIRECTOR'S REPORT PART I)

(hereinafter DRP-I)

(DRP-I at first unnumbered page)

The objectors admit that Part I of the Director's recommendation contains some claims to water rights appropriated under state law from Reporting Area 3. The objectors deny all other averments because the objectors lack sufficient knowledge or information upon which to form a belief as to the truth of the averments.

III.

TABLE OF CONTENTS

(DRP-I at 2nd and 3rd unnumbered pages)

The objectors admit that the Table of Contents reflects the page numbers of the referenced sections and deny all other averments based upon the objectors' lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments and because any averment, expressed or implied, is so

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OCT 11 1994

indefinite that it prevents the objectors from knowing what would be admitted or denied.

IV.

INTRODUCTION

1. INSTRUCTIONS FOR USING THIS REPORT PART I. (DRP-I at page 1)

The objectors admit that Part I consists of seven sections; that the description of the water system includes a brief description of Reporting Area 3 and an illustration of the boundaries of the reporting area; that the water rights and the list of the recommended rights are grouped alphabetically by source and listed chronologically by priority date; that the rights or claims in the list of claims/rights not recommended are listed numerically by water right number; and that brief instructions are found at the beginning of the applicable sections. The objectors deny that any description or any implication that the description of the water system or the illustrations are true and accurate due to lack of knowledge or information regarding the truth of the averment; deny that the general provisions apply to all water rights or define or limit classes of water rights; and deny that the general provisions "will affect your water right," based upon insufficient knowledge or information upon which to form a belief as to the truth of the averments.

2. SCOPE OF THE ADJUDICATION. (DRP-I at page 1 - 3)

The objectors deny all averments in paragraph a., due to lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments.

Regarding paragraph b., the objectors lack sufficient information or knowledge upon which to form a belief as to whether water rights which are not claimed in the adjudication will or will not exist upon entry of the court's decree and, therefore, deny such averment. The objectors admit that the court entered an order dated January 17, 1989, but presently lack sufficient knowledge to know whether any of the other averments concerning the court's order are true or accurate and, therefore, deny the same. The objectors deny that a right must be adjudicated before water may be distributed by the director. The objectors deny all other averments in paragraph b.

3. PURPOSE OF THIS REPORT PART I. (DRP-I at page 3 - 4)

The objectors admit that portion of the first sentence which states "This report contains the Director's recommendations to the SRBA District Court as to the nature and extent of water rights," but deny that such recommendations "are necessary for administration of water rights in Reporting Area 3," and further deny the Director has authority to "administer" such rights.

Regarding the second paragraph, the objectors admit that all water rights remain subject to the applicable law generally, but deny the remainder of the second paragraph.

Regarding the third paragraph of this section, the objectors deny all averments therein based upon lack of knowledge or information upon which to form a belief as to the truthfulness of the averments.

V.

DESCRIPTION OF THE WATER SYSTEM: BASIN 36

1. BOUNDARIES OF BASIN. (DRP-I at pages 4 - 6)

Regarding the first paragraph of this section, the objectors deny all averments due to a lack of knowledge or information upon which to admit or deny.

Regarding the second, third and fourth paragraphs of this section, the objectors admit that as broad statements, those paragraphs are generally accurate but the statements are so broad and attenuated from any matter relevant to the objectors' water right that the objectors are unable to know what would be implicitly admitted or denied and therefore, deny the same.

With respect to the fifth paragraph of this section, the objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred and, therefore, deny the averments.

2. WATER SOURCES. (DRP-I at page 6)

The objectors admit that the Snake River Plain Aquifer is the source of outflows of springs located along the Snake River Canyon Wall in the Hagerman Valley. The objectors presently lack sufficient knowledge or information upon which to form an opinion as to the truth of the other averments set out in this section and, therefore, deny the same.

3. DEVELOPMENT OF WATER USE. (DRP-I at pages 6 - 9)

The objectors admit that numerous factual and historical averments are set out in this section, which may be accurate, but

these objectors have no basis for knowing whether some or all of the averments are intended to relate to the objectors' claims and, thus, are prevented from knowing what would be admitted or denied. Therefore, the averments are denied.

VI.

GENERAL PROVISIONS

GENERAL PROVISIONS 1 - 8 APPLY TO ALL WATER RIGHTS IN BASIN 36.
(DRP-I at page 9)

The objectors deny that "General Provisions 1 - 8" apply to all water rights in Basin 36 as the statements are so broad and attenuated from any matter relevant to the objectors' water rights, that the objectors are unable to know what would be explicitly admitted or denied. The objectors also specifically deny that general provisions 1-8 apply to the objectors' right.

1. EFFECT OF ADJUDICATION. (DRP-I at page 9)

With respect to paragraph a., the objectors presently have no knowledge or information upon which to form a belief as to the truth of whether a future decree would supersede prior decrees, or whether unclaimed rights would cease to exist and, therefore, deny the same.

Regarding paragraph b., the objectors deny that the Director has any powers to administer water rights other than those specifically delegated by the Legislature of the State of Idaho, and which do not violate the objectors' state and federal constitutional rights, and therefore the averments are denied.

2. GENERAL ADMINISTRATIVE PROVISIONS. (DRP-I at pages 9 - 10)

The objectors admit paragraphs a. and b.

3. CONJUNCTIVE ADMINISTRATION (DRP-I at page 10)

The objectors deny the conjunctive administration provisions based upon the objectors' lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments and because any averment expressed or implied is so indefinite that it prevents the objectors from fairly understanding what would be admitted or denied. Additionally, the objectors deny that the Department of Water Resources has any statutory or regulatory authority for the "conjunctive administration" as therein described.

4. ADMINISTRATION OF GROUND WATER RIGHTS (DRP-I at page 10)

The objectors deny the averments within this section.

5. ADMINISTRATION OF BASIN 36 RELATIVE TO THE SNAKE RIVER (DRP-I at page 10)

The objectors admit that the springs are hydrologically interconnected with the Snake River Aquifer, but deny all other averments based upon the objectors' lack of sufficient information or knowledge upon which to form a belief as to the averments herein. The objectors additionally deny any said averments expressed or implied because the averments are so indefinite and generalized as to prevent the objectors from fairly understanding what would be admitted or denied.

6. ADMINISTRATION OF SMALL DOMESTIC AND STOCK WATER RIGHTS (DRP-I at page 11)

The objectors admit that part of the first sentence of subparagraph a. to the effect that "small domestic and stock water rights from surface water are not subject to administration," but deny the balance of said sentence and said paragraph.

The objectors admit the first sentence of paragraph b., and deny the balance of that paragraph because the criteria set forth therein ("if the director determines that administration is necessary") is so ambiguous, indefinite and uncertain that it prevents the objectors from knowing what would be admitted or denied, and by further reason of the fact that no statutory or regulatory authority exists conferring such sweeping and unlimited authority upon the Director or the Department.

The objectors deny the averments in paragraph c. as the averments are inaccurate and because the objectors lack sufficient knowledge or information upon which to form a belief as to the truth of the matters averred.

7. MEASURING DEVICES AND CONTROL WORKS (DRP-I at page 11)

The objectors deny all averments contained herein as such averments are based upon an indeterminate subjective standards which are so ambiguous and indefinite as to prevent the objectors from fairly knowing what would be admitted or denied. Additionally, no statutory or regulatory authority exists conferring such sweeping and unlimited authority upon the Director or the Department as is alleged in this paragraph.

8. FIRE FIGHTING PURPOSES (DRP-I at page 11)

The objectors admit that subparagraph a. and subparagraph b. are generally accurate statements of present law, but deny the averments are in any way relevant to defining the objectors' right.

9. CONSUMPTIVE USE (DRP-I at page 12)

The objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred and, therefore, deny the same.

GENERAL PROVISION 10 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH DOMESTIC USE AS A PURPOSE OF USE (DRP-I at page 12)

The objectors deny that "General Provision 10" applies to all water rights in Basin 36 shown with domestic use as a purpose of use as the statements are so broad and attenuated from any matter relevant to the objectors' water rights, that the objectors are unable to fairly understand what would be explicitly admitted or denied and, therefore, deny the same.

10. DOMESTIC USE (DRP-I at page 12)

The objectors deny that the definition of "domestic use" contained in paragraphs a., b., and c. is consistent or in conformity with the definition of such term for purposes of the Idaho Constitution, or statutory definition contained in I.C. Section 42-111 as now, or as heretofore in effect at relevant times. The objectors further deny that the limitations set forth therein exist, are in force, or apply or serve in any way to limit objectors' rights.

GENERAL PROVISION 11 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH STOCK WATER USE AS A PURPOSE OF USE. (DRP-I at page 13)

The objectors deny that "General Provision 11" applies to all water rights in Basin 36 shown with stock water use as a purpose of use as the statements are so broad and attenuated from any matter relevant to the objectors' water right, that the objectors are unable to fairly understand what would be admitted or denied and, therefore, deny the same.

11. STOCK WATER USE (DRP-I at page 13)

The objectors deny the averments herein as beyond the scope and applicability of the definition as provided by Idaho law as now, or as heretofore in effect at relevant times. The objectors further deny that the limitations set forth therein limit the objectors' right or are relevant to the right.

GENERAL PROVISIONS 12 - 16 APPLY TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH IRRIGATION AS A PURPOSE OF USE (DRP-I at page 13)

The objectors deny that "General Provisions 12 - 16" apply to all water rights in Basin 36 shown with irrigation as a purpose of use as the statements are so broad and attenuated from any matter relevant to the objectors' water right that the objectors are unable to fairly understand what would be admitted or denied.

12. IRRIGATION USE. (DRP-I at pages 13 - 14)

The objectors deny all averments based upon the objectors' lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments and because

prevent the objectors from fairly knowing what would be admitted or denied; because the standard utilized ("as determined by the director") is ambiguous, subjective and indefinite so as to prevent objectors from knowing what would be admitted or denied; and because it is both expressly and implicitly in excess of the power and authority conferred upon the State of Idaho, the Director or the Department by the Constitutions of the United States and State of Idaho, pertinent provisions of the Idaho Code or valid applicable regulations, if any, adopted by the Department in conformity with law. Therefore, the objectors deny the same.

13. DIVERSION VOLUME FOR IRRIGATION. (DRP-I at page 14)

The objectors admit that Figure 1 generally depicts certain lands in Basin 36; however, the objectors deny all other averments including that the amounts set forth are the maximum annual volume of water reasonably required at the field headgate for irrigation, either within Basin 36 in general, or upon objectors' real property in particular. The objectors additionally deny that the maximum annual volumes per acre set forth is that which is "reasonably required for irrigation unless a higher annual diversion volume is reasonably required due to conveyance losses, method of irrigation or field conditions;" because the standard utilized ("as determined by the director") is ambiguous, subjective and indefinite so as to prevent objectors from knowing what would be admitted or denied; and because it is both expressly and implicitly in excess of the power and authority conferred upon the State of Idaho, the Director or the Department

by the Constitutions of the United States and State of Idaho, pertinent provisions of the Idaho Code or valid applicable regulations, if any, adopted by the Department in conformity with law. Therefore, the objectors deny the same.

14. CONSUMPTIVE USE FOR IRRIGATION. (DRP-I at page 14 and 15)

The objectors admit that the recommended water rights contained within the Director's Report show only the irrigation use listed unless otherwise indicated in "Remarks." The objectors deny all other averments contained within this section, including the amount of maximum annual volume of consumptive use per acre in the northern and southern portions of the basin, all of which is beyond the scope of any power or authority vested in the Director or the Department, and contrary to fact; historical use; established, vested, decreed, licensed or permitted rights.

15. AMOUNT OF COMBINED WATER RIGHTS FOR IRRIGATION. (DRP-I at page 15)

The specific averments have no relationship to or basis in fact relating to the individual needs or rights of the objectors, and accordingly, objectors deny this section in its entirety. In addition, no statutory or regulatory authority exists conferring upon the Director, or the Department, the power to limit use and ownership of objectors' private property rights as alleged.

16. DIVERSION RATES IN EXCESS OF .02 CFS PER ACRE. (DRP-I at page 15 - 16)

The objectors deny the averments contained in this section in its entirety.

17. INSTRUCTIONS FOR USE OF LIST OF RECOMMENDED WATER RIGHTS. (DRP-I at page A-i, A-ii and A-iii)

The objectors admit that each water right in the list of recommended water rights includes a description including right number, name and address, source, maximum quantity, consumptive use, priority date, point of diversion, purpose of use, period of use, place of use, basis of right and others. The objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred in said descriptions other than that the descriptions allegedly include the Director's or Department's version of the facts as they relate to the matters identified. Objectors deny the accuracy of the substantive allegations or information set forth with regard to the objectors' right.

18. IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW. (DRP-I, pages A-1 - B-25)

The objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred in said recommended water rights other than those specific admissions contained in Questions 1 - 12 of the attached individual objection, and therefore deny the same.

DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36)

(DIRECTOR'S REPORT PART II)

I.

Objectors do not understand the allegations, averments or contents of Part II of the Director's Report for Reporting Area 3 (Basin 36) to pertain or relate to objectors or their claims, and do not believe any response is required. To the extent a response is required, objectors deny the same in its entirety.

DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36)

(DIRECTOR'S REPORT PART III)

I.

No report denominated as Part III of the Director's Report for Reporting Area 3 (Basin 36) has been filed, and accordingly objectors are unable to admit, deny or otherwise response to the same. Objectors do not understand that the contemplated subject matter of such Part III will relate or pertain to objectors or their claims, and no response is required in any case. To the extent any response is required, objectors deny the same in its entirety.

VIII.

AFFIRMATIVE DEFENSES

Pursuant to I.R.C.P. 8(c), objectors herewith state the following matters of affirmative defense or avoidance:

AFFIRMATIVE DEFENSE NO. 1

The objectors' water right is an incorporeal form of real property (as defined by Idaho Code Sections 7-703, 73-114, 55-101,

and like statutes) protected by Section 14, Article 1, of the Idaho Constitution, and the Fifth Amendment to the United States Constitution, and allege that the actions of the Director in recommending, limiting and/or regulating said rights is an unconstitutional infringement upon and a taking of private property, without just compensation and violation thereof.

AFFIRMATIVE DEFENSE NO. 2

The adjudication authorization legislation, I.C. Section 42-1401, et seq., on its face and as applied by the Director and the Department constitutes an improper delegation of constitutional power and authority conferred upon the executive, legislative and/or judicial branches of government and as such violate the provisions governing separation of powers set forth in Article 2, Section 1, Idaho Constitution.

AFFIRMATIVE DEFENSE NO. 3

The procedure set forth in the adjudication authorization legislation, statutes, I.C. Section 42-1401, et seq., and any rules, regulations, procedures, policies or standards promulgated by the Director and/or the Department, if any, are vague and so lacking in reasonable specificity so as to render them impossible of reasonable comprehension, or consistent and meaningful application.

AFFIRMATIVE DEFENSE NO. 4

The procedures, rules, regulations, policies or standards, if any, adopted, implemented and applied by the Department and/or the Director violate the equal protection and due

process clauses of the Fourteenth Amendment, United States Constitution, and Article 1, Sections 2 and 13, Idaho Constitution.

AFFIRMATIVE DEFENSE NO. 5

The adjudication authorization legislation, Idaho Code Section 42-1401, et seq., and the actions of the Director and Department in recommending, limiting and/or regulating the objectors' water right constitutes a violation of 42 U.S.C. Section 1983.

AFFIRMATIVE DEFENSE NO. 6

The water right owned by the objectors is the subject of valid existing decrees issued by the Director and Department, which decrees are binding upon the State of Idaho, the Department and the Director. As a result, the State of Idaho, the Department and the Director are precluded by the doctrines of res judicata, collateral estoppel, judicial estoppel and the like from relitigating or questioning the validity, existence or priority of such right, and/or from taking any position in the Director's Report, or otherwise, which is inconsistent with such decrees.

AFFIRMATIVE DEFENSE NO. 7

The Director's recommendations are contrary to decreed rights, historical use and extent licenses and permits issued by the Department. There has been no forfeiture nor abandonment of the objectors' water rights, nor have the objectors' water rights been prescriptively or adversely possessed, nor have such decrees been vacated or such licenses and permits revoked.

AFFIRMATIVE DEFENSE NO. 8

The Directors' Report fails to state a claim to the extent the same asserts a forfeiture, abandonment, prescriptive or adverse acquisition or loss, or loss resulting from estoppel, of the objectors' water right in the absence of any fact upon which forfeiture, abandonment, prescriptive or adverse acquisition for loss, or loss resulting from estoppel, may be based or asserted.

AFFIRMATIVE DEFENSE NO. 9

The objectors' water right is an incorporeal form of real property, as defined by Idaho Code Sections 7-703, 73-114, 55-101, and like statutes, and, as such, pursuant to Idaho Code Section 7-904, et. seq., the actions of the Director in attempting to limit, reduce and/or regulate such rights, and the assertion of some inconsistent proprietary ownership or right to use or control by the State of Idaho, constitutes an unauthorized and invalid taking of private property without the payment of just compensation, or compliance with statutory requirements, all in violation of Title 7, Chapter 7, Idaho Code.

AFFIRMATIVE DEFENSE NO. 10

The actions of the Director, the Department and their agents, servants and employees in recommending, limiting, reducing and/or regulating objector's water rights, either as alleged in the Director's Report or as in fact applied, violates objectors' rights as secured by Art. 1, Section 1; Art. 15, Sections 3, 4 and/or 5; and/or as otherwise provided in the Constitution of the State of Idaho.

AFFIRMATIVE DEFENSE NO. 11

The various allegations, statements and assertions contained in the Director's Report concerning the Department and/or the Director's position or intentions with regard to the adjudication, as well as the implementation of statutes and/or regulations, as well as the administration of water or management of water rights or claims to the beneficial uses of water, if implemented, constitute a violation of various provisions the United States and Idaho constitutions, and/or a violation of the letter, spirit and/or intent of various statutes enacted by the legislature, and/or constitute an exercise of purported authority or powers either in excess of those conferred by law, or in a manner inconsistent with those conferred by law, or both.

AFFIRMATIVE DEFENSE NO. 12

The individual recommendations relating to the specific water right of the objectors as set forth in the Director's Report are (1) not based upon substantial evidence and/or are not, in fact, the product of any reasonable, complete or accurate investigation as required by law; (2) are the product of arbitrary and capricious action on the part of the Department or the Director; (3) have been made in excess of the constitutional and statutory authority of the Department and the Director; (4) have been made upon an unlawful and invalid procedure; (5) are affected by various and sundry errors of law; and/or (6) are clearly erroneous in view of the reliable, probative and substantial evidence.

AFFIRMATIVE DEFENSE NO. 13

The Director's Report is a pleading subject to the provisions of the Idaho Rules of Civil Procedure, including, but not limited to the requirement of I.R.C.P. 8(a)(1) that such pleadings contain a clear and plain statement of the facts, demonstrating an entitlement to relief. The Director's Report violates such provision.

AFFIRMATIVE DEFENSE NO. 14

The Director's Report fails to state a claim upon which relief may be granted.

AFFIRMATIVE DEFENSE NO. 15

The Director's Report is subject to, and must comply with, the requirements of Idaho Code Section 42-1411. The Director's Report does not comply with the requirements of the statute.

AFFIRMATIVE DEFENSE NO. 16

In conducting the investigation and compiling the Director's Report, the Department and the Director have not complied with the requirements of Idaho Code Section 42-1410.

AFFIRMATIVE DEFENSE NO. 17

In conducting the investigation and compiling the Director's Report, the Department and the Director have not complied with the requirements of Idaho Code Section 42-1416.

AFFIRMATIVE DEFENSE NO. 18

The procedures specified in the authorizing legislation and procedural rules promulgated in accordance therewith serve to

deny objectors due process of law in violation of Amendment Fourteen to the Constitution of the United States and Art. 1, Section 13, Idaho Constitution.

AFFIRMATIVE DEFENSE NO. 19

The "General Provisions" and "Other Statements" contained in the Director's Report, along with the Claims Investigation Manual, Adjudication Memoranda and other materials of a similar nature used or employed by the Department, the Director and/or their agents, servants and/or employees constitute rules and regulations which were required to be proposed, promulgated, adopted and approved in conformity with the Administrative Procedures Act and other applicable statutory provisions. The Department, Director and their agents, servants and employees have failed to comply with such requirements, and accordingly, the "General Provisions," "Other Statements", Claims Investigation Manual and the like are invalid, void and of no force or effect.

AFFIRMATIVE DEFENSE NO. 20

Neither the "General Conditions," the Claims Adjudication Manual, Adjudication Memoranda or other promulgations, adoptions, policies, or the like have been submitted to or approved by the Legislature as required by Idaho Code Section 67-5217.

AFFIRMATIVE DEFENSE NO. 21

The relief requested by the Department and the Director in the Director's Report are beyond and in excess of the subject matter jurisdiction of the Court.

RECEIVED
NOV 10 1987

AFFIRMATIVE DEFENSE NO. 22

The actions of the Legislature, or the Department and the Director to enact, adopt, implement or enforce statutes, regulations, rules or policies subsequent to November 19, 1987, and to apply or enforce the same for the purpose of, or with the effect of recommending, diminishing or altering objectors' water rights, constitute a violation of Amendment Fourteen, United States Constitution; Art. 1, Section 13, Idaho Constitution; the SRBA authorization legislation; and Idaho Code Sections 73-101 and 73-106.

AFFIRMATIVE DEFENSE NO. 23

These proceedings are subject to the requirements and provisions of Idaho Code Sections 12-117, 12-121, 12-123 and I.R.C.P. 11, and the provisions of the private attorney general doctrine, and other related doctrines, and the Department, Director and State of Idaho are obligated to objectors for the payment and reimbursement of any and all reasonable costs or attorney fees incurred herein.

AFFIRMATIVE DEFENSE NO. 24

The Director's Report asserts what amounts to be a taking of private property by power of eminent domain as governed by Idaho Code Section 7-701 et seq., and as such, venue is therefore improper.

AFFIRMATIVE DEFENSE NO. 25

The Department and the Director are equitably estopped from seeking any reduction in the quantity, quality or priority of

objectors' water rights by virtue of prior statements, representations and actions of the Department, Director or their agents, servants and employees.

AFFIRMATIVE DEFENSE NO. 26

The Department and the Director are barred by laches and the applicable statutes of limitation, including, but not limited to, Idaho Code Sections 5-202, 5-203, 5-204, 5-206, 5-207, 5-208, 5-215, 5-218, 5-219(2), 5-224 and/or 5-241.

AFFIRMATIVE DEFENSE NO. 27

Objectors hereby reserve the right to assert any further affirmative defenses not expressly stated herein, but which subsequently become apparent.

WHEREFORE, the objectors pray for judgment as follows:

1. That the State of Idaho take nothing by reason of its Directors' Report, and that this action, and any claims asserted against objectors, be dismissed.

2. That a decree be entered adjudicating the existence, validity, amount and priority of objectors' water rights in accordance with objectors' claims.

3. That to the extent the acts of the Department or Director constitute a taking of objectors' property for public use, that objectors be allowed and awarded just compensation therefor.

4. That the objectors be allowed all costs of suit and reasonable attorney fees incurred herein.

5. For such further relief to which the Court finds objectors justly entitled.

MICROFILMED
OCT 11 1994

(WATER\21530ANS)

NOTICE OF ERROR

RESPONSE

CORRECTED R PROOF

MICROFILMED

JAN 21 1993

MANFRED MUELLER
2795-A SOUTH 900 EAST
HAGERMAN, IDAHO 83332



ALWAYS
USE ZIP CODE

MICROFILMED

RECEIVED

JAN 20 1993

Department of Water Resources
Southern Region Office

IDAHO DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION
222 SHOSHONE STREET EAST
TWIN FALLS, IDAHO 83301

AUG-24-1992

NOTICE OF ERROR FORM

RECEIVED

SEP 22 1992

Department of Water Resources

Please type or print clearly, fill out completely, and return to:

Idaho Department of Water Resources

Statehouse Mail

Boise, Idaho 83720-9000

The notice of error must be received at IDWR by the **deadline date** printed below with your proposed recommendation.

YOUR DEADLINE FOR FILING A NOTICE OF ERROR IS: SEP-24-1992

1. Water right number: 36-00035J
2. Name: MANFRED MUELLER (MULLER)

Address: 2795-A South 900 East, Hagerman, Idaho 83332

Weekday Telephone Number: 208-837-4947

TEAR AT PERFORATIONS AND COMPLETE FORM ON OTHER SIDE

RECEIVED

SEP 22 1992

Department of Water Resources
Southern Region Office

MICROFILMED

JAN 21 1993

(Instead of filling in items 3 and 4 below you may include a copy of your proposed recommendation with the changes marked on the copy.)

3. Describe the portion of proposed recommendation with which you disagree:

I disagree with the priority date and the period of use.

4. Describe the changes you wish to have made in the proposed recommendation:

The priority date should be March 30, 1884 and the period of use should be from March 15th to November 15th of each year.

5. Describe why you disagree with the proposed recommendation:

The original 1932 Decree had the priority date of March 30, 1884 and because of the climate in the Hagerman Valley, we need the additional period of use for our crops.

6. Date: September 21, 1992

SIGNATURE





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

October 19, 1992

MANFRED MULLER
2795A S 900 E
HAGERMAN ID 83332

Re: Snake River Basin Adjudication (SRBA)
Notice of Error Response
Recommended Right No. 36-00035J

Dear Mr. Muller,

You recently filed a Notice of Error with IDWR concerning the water right referenced above. After further review, changes have been made to the season-of-use portion of our recommendation.

During our investigation, it was determined that your water right was originally decreed with the priority date we have recommended: September 10, 1884. No change will be made to this recommendation without evidence to the contrary.

After reviewing our explanation, you may still disagree with the proposed IDWR recommendations. You may file an objection with the Court after you receive the final recommendation of your water right. The objection process will be explained at the time you receive this final recommendation.

Please contact this office if you have other questions or concerns.

Sincerely,

Roxanne McCarthy
Sr. Water Resource Agent
Adjudication Bureau

RM:rm

MICROFILMED
JAN 21 1993

DATE: 10/19/92
PAGE: 1

Date: 10/19/1992 User-ID: SOUTH3 Subject: NO CHANGE TO RECOMMENDATION
THE CLAIM WAS RENUMBERED AND THE CLAIMANT DISAGREES WITH THE
PRIORITY DATE. AN EXPLANATORY LETTER HAS BEEN SENT. RMC

MICROFILMED
JAN 21 1993

AJ0749NP
No. R36-00035J

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

DATE: 10/19/92
PAGE: 2

Audit: 10/19/92 SOUTH3

MICROFILMED
JAN 21 1993

R PROOF



CVR



MAPS



PHOTOS



MISC



MICROFILMED

JAN 21 1983

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT
(REGIONAL)

08/17/92 13:14:09

VERIFIED BY HHJ

Page 1

Water Right Number - R36-00035J Prefix Translation: RESEARCH Old (D) Number -

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

*** C - CURRENT OWNER ***

MULLER MANFRED 1 - 2795-A SOUTH 900 EAST
2 -
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-837-4947

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

09/10/1884 ERROR IN REGION D - DECREED

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

BILLINGSLEY CREEK SNAKE RIVER

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

Twn	Rng	Sec	Tract	Lot	RFlg	County
07S	13E	11	SE SE NE		(47)	GOODING

+ - - - - - Code - - - - - Description - - - - - Water Use - - - - - Diversion Rate - - - - - Diversion Volume - - - - - +

Code	Description	Period From	Period To	Diversion Rate	Diversion Volume
01 - IRRIGATION		04/01	10/31	0.400	

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

0.400 27.0

+ - - - - - Place of Use - - - - - +

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
07S	13E	22	SE SE		9.0	01	IRRIGATION	(47) GOODING

Total Acres: 9.0

+ - - Diversion Means - VIA BUCKEYE DITCH

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - NONE

+ - - - - - Remarks - - - - - +

WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.
A DIVERSION RATE OF 0.34 CFS AT THE FIELD HEADGATE IS
RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.
0.06 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF THIS RIGHT.

+ - - - - - Old Water Right Numbers - - - - - +

3600035

MICROFILMED
JAN 21 1993

Water right number - R36-00035J

Prefix Translation: RESEARCH

+ - - - - Conditions of Approval - - - - -
No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - + + - - - - Decree Defendant - - - + + - Decree Date - +
00/00/0000

+ - - - - Comments - - - - -

Date: 08/06/1992 User Id: THORNTON Subject: RENUMBERED RIGHT
THE CORRECT BASIS OF DECREED RIGHT FOR THIS CLAIM IS 36-00035 AND NOT 36-00034. THIS RIGHT IS DELIVERED VIA BUCKEYE DITCH AS WAS
36-00035. THE OTHER RIGHT IS THROUGH THE BELL DITCH. ORIGINALLY CLAIMED AS A36-00034D.
Date: 08/06/1992 User Id: THORNTON Subject: COPIED FROM REMARKS
THIS PROPERTY WAS SOLD BY MRS. HOSKOVEC TO MR. MULLER ON 10/26/90
RVW - 12/4/90

+ - - Audit Fields - - +
08/17/92 THORNTON

+ - - - - Adjudication Rights Dates and Flags Area - - - - -

Court Report Filing	- 00/00/0000	Field Inspection Made	- 08/16/1990	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 08/17/1992	Old Judicial District	-
Claim Received Date	- 08/16/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S001476	Water District	- 36A
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	-	Presumption Flag	-
				Notice of Error Flag	-

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

R36-00035J

17:07:54
06/28/90

PAGE: 12
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-00034D

WR ELEMENT	FIELD EXAM Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	VERIFIED BY CODE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE								
POINT OF DIV	Y		see 8-16-90	N Y	1,5	HAT 8/4/92		
SOURCE				N				
PLACE OF USE	Y		see 8-16-90	N Y	1,2,4,5			
DIV. AMOUNT CFS/VOLUME	Y	N		Y	6. DEGREE STDS			
CONSUMPTIVE USE	-			Y				
PURPOSES			see 8-16-90	N				
PERIOD OF USE	Y	N		N				
BASIS OF CLAIM	Y	N	8-6-92 see	N Y	Renumbered			
REMARKS		N		N				

see
7-11-90

"VERIFIED BY" CODES

TOPO MAP/ORTHO-PQ = 1
ASCS MAP = 2
WATERMASTER RECORDS = 3
NAPP PHOTOS = 4
FIELD EXAM = 5
OTHER (SEE REMARKS) = 6

Renumbered:

R36-00035J

THESE CODES ARE USED TO INDICATE HOW THE FIELD EXAMINER VERIFIED THE INFORMATION
USED FOR THIS FIELD EXAMINATION. INDICATED ARE ALL CODES WHICH APPLY.

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JAN 2 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

17:07:54
06/28/90

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-00034D

LAST: HOSKOVEC
ADDRESS: 2795-A S. 900 E.
RT 1
CITY: HAGERMAN
PHONE NUMBER: 208-837-4878

FIRST: BETTY B.

STATE: ID ZIP: 83332

OWNER CODE: C

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

NO REMARKS IN CLAIM

DATABASE
N

FIELD
EXAMINER

NEW OWNER:

MANFRED MULLER
2795-A S. 900 E.
HAGERMAN, ID

837-4947

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JAN 21 1993

FIELD EXAMINATION INFORMATION

CONTACT PERSON: BETTY Hoskovec

PHONE NUMBER: () -

DATE OF FIELD EXAM: 8/16/90

APPOINTMENT MADE: Y() N(x)

TIME: 4 : 30 A(x) P()

ACCOMPANIED BY: _____

PHONE NUMBER: () -

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / REMARKS:

See Remarks of A36-00033 B for details.
Three water rights are used on separate parcels.
Change in Owner ship

A. AJ CLAIM: # A36-00034D PRIORITY DATE: 03-30-1884 STAGE: D
B. WR RECORD: # 36-00034 PRIORITY DATE: 03-30-1884 STAGE: D

C. FIELD EXAM REQUIRED?
DUE TO PRIORITY DATE DISCREPANCY? (Y/N) DATABASE N FIELD EXAMINER N

ARE THERE OBVIOUS REASONS TO QUESTION THE PRIORITY DATE CLAIMED? Y() N(X)
IF YES EXPLAIN.

REMARKS:

Renumbered to R36-00035J Priority Date: 9-10-84

RECOMMENDED PRIORITY DATE:

~~03-30-1884~~

9-10-1884

REVIEWED BY

SC

DATE

7-11-90

SC 8-6-92

*MICROFILMED
Jan 21, 1993*

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A36-00034D	07S	13E	22		SE	SE		GOODING

OTHER AJ CLAIMS WITH SAME AJ POD
A PREFIX R PREFIX
A36-00033B NONE

WR RECORDS IN SAME 40 ACRE TRACT
NONE

SOURCE: BILLINGSLEY CREEK

TRIB: SNAKE RIVER

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
36-00034	07S	13E	11		SE	NE		GOODING

OTHER WR RECORDS WITH SAME WR POD

AJ CLAIMS IN SAME 40 ACRE TRACT
A PREFIX R PREFIX

36-00003	A36-00025	NONE
36-00005	A36-00087	
36-00019	A36-07658	
36-00021	A36-10409	
36-00024	A36-00051D	
36-00025	A36-10119	
36-00026	A36-10120	
36-00027	A36-10751	
36-00035A	A36-10752	
36-00035B	A36-10755	
36-00039A	A36-10061	
36-00039B	A36-00103B	
36-00040	A36-00108A	
36-00051	A36-00003G	
36-00052	A36-00027	
36-00064	A36-00039C	
36-00065	A36-00090E	
36-00067	A36-00051B	
36-00071	A36-00076A	
36-00076	A36-00089B	
36-00077	A36-00089D	
36-00082	A36-10283	
36-00083	A36-10312	
36-00085	A36-00090A	
36-00087	A36-00003D	
36-00088	A36-00090B	
36-00089	A36-00090C	
36-00090	A36-00090D	
36-00091	A36-00090F	
36-00094	A36-00108F	
36-00095	A36-00125A	
36-00096	A36-00026	

Redivision

POD

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JAN 21 1993

36-00103
36-00108
36-00112A
36-00112B
36-00113B
36-00113C
36-00113D
36-00125
36-04008
36-04115
36-04261
36-07271
36-07658
36-07739
36-07834
36-07840
36-07853
36-07875
36-07957
36-08058
36-08319
36-08335

A36-00051C
A36-00071A
A36-00089A
A36-00108C
A36-00108D
A36-00108E
A36-00108H
A36-04008
A36-04115
A36-04261
A36-00113B
A36-10316
A36-10588
A36-00039J
A36-00096A
A36-00113F
A36-00113G
A36-10559
A36-00048B
A36-00048C
A36-10223
A36-00103A
A36-00003B
A36-00003C
A36-00003E
A36-00003F
A36-00003J
A36-00039G

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JAN 21 1993

SOURCE: BILLINGSLEY CREEK

TRIB: SNAKE RIVER

C. FIELD EXAM REQUIRED?

DUE TO POD DISCREPANCY? (Y/N)
DUE TO SOURCE DISCREPANCY? (Y/N)

DATABASE
Y
N

FIELD
EXAMINER
YES
N

REMARKS:

Verify POD + Delivery System. ✓ SCC

Renumbered to 36-00035 J
pods match w/ old WR.

8-6-92

SCC

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	COUNTY
<u>75.</u>	<u>13E</u>	<u>11</u>	<u>SE</u>	<u>SE</u>	<u>NE</u>	<u>---</u>	<u>47</u>

SOURCE: BILLINGSLEY CREEK

TRIB: SNAKE RIVER

REVIEWED BY: SC DATE: 8-17-90

VIA Buckeye ditch.

Headgate in Buckeye ditch diverts water through a pipeline flume
across the Bell ditch to POU.

* No Diversion exists now nor has ever existed (per Mr. B. Hoshover)
to move & use this Buckeye Water above the Buckeye Ditch.
or

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A. ROOT WATER RIGHT NUMBERS: A36-00034A
A36-00034B
A36-00034C
A36-00034D

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JAN 21 1998

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
07S	13E	22	SE	SE		HOSKOVEC , BETTY B.	A36-00034D /38.0	-	/	42.0	
						BIG BEND IRRIGATION & MINING	CA36-02007 /29.0	-	/		
						OSBORN , LARRY D.	A36-10368 /	-	/		
						HOSKOVEC , BETTY B.	A36-10468 /	-	/		
						HOSKOVEC , BETTY B.	A36-00033B /38.0	-	/		
						BIG BEND IRRIGATION & MINING	CA36-00133 /29.0	-	/		
						BIG BEND IRRIGATION & MINING	CA36-00192 /29.0	-	/		
						CLIFFORD , EDNA N.		36-00033	/		
						CLIFFORD , EDNA N.		36-00034	/		
						CLIFFORD , EDNA N.		36-00035A	/ 7.0		
						MC CARTY , JOHN		36-02029	/40.0		
TOTAL ACRES							A36-00034D	38.00		42.00	

ARE IRRIGATED ACRES FOUND IN TRACTS OTHER THAN INDICATED ABOVE, Y() N(X)
IF YES SEE ATTACHED SHEET:

C. FIELD EXAM REQUIRED?

DUE TO POU DISCREPANCY? (Y/N)

DATABASE
Y

FIELD
EXAMINER
YES

PRESUMPTION FLAG:

REMARKS:

ARE ALL ACRES IRRIGATED? YES, But not above the delivery ditch by this Source.

There are 9 acres irrigated via Buckeye Ditch (see map). Those 9 acres are in the ~~field~~ westernmost field.

RECOMMENDATIONS:

TOTAL ACRES:

~~15.0~~ 9 ac.

REVIEWED BY:

SCC HHT

DATE:

8-17-90

A. AJ CLAIMED USES:

PURPOSES
A36-00034D IRRIGATION

MONTH/DAY
FROM 03-15 TO 11-15

41 10-31

DIVERSION QUANTITY
.400 CFS

TOTAL DIVERSION RATE/VOLUME CLAIMED

.400 CFS

B. WR RECORDED USES:

PURPOSES
36-00034 IRRIGATION

MONTH/DAY
FROM TO

DIVERSION QUANTITY
1.500 CFS

TOTAL DIVERSION RATE/VOLUME CLAIMED

1.500 CFS

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

DUE TO WATER-USE DISCREPANCY? (Y/N)
DUE TO DIVERSION RATE DISCREPANCY? (Y/N)
DUE TO PERIOD FROM/TO DISCREPANCY? (Y/N)

DATABASE
N
Y
Y

FIELD
EXAMINER
N
N
N

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

Y(☒) N(☐)

RECOMMEND TO WR STANDARDS OR OTHER?

Y(☐) N(☒)

Explain in remarks, below.

REMARKS:

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JAN 21 1993

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y() N(X)

AJ TOTAL CLAIMED DIVERSION RATE: 0.400 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 1.500 CFS

*** IF NO or IF STATUTORY CLAIM or BENEFICIAL USE then flow measurement required. ***
** If an amount smaller than the original diversion rate is **
** claimed and an exam is NOT required, explain in remarks. **

FLOW MEASUREMENT REQUIRED?

DUE TO STAGE OR DIVERSION RATE DISCREPANCY? (Y/N)

FIELD
DATABASE EXAMINER
Y X

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B.

FLOW MEASUREMENT

MEASUREMENT METHOD _____, SEE ATTACHED CALCULATIONS.

C. ARE OTHER WATER RIGHTS USED? Y N(X) IF YES COMPLETE OVERLAP REVIEW.

(No OVERLAP)

OTHER RIGHTS LISTED IN CLAIM: ~~BIG BEND IRRIG., A36-00033B~~

NONE

change claim

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

CLAIM	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A36-00034D	BILLINGSLEY CREEK	HOSKOVEC , BETTY B.	0.400	0.010		
A36-02007	TUCKER SPRINGS, UPPER	BIG BEND IRRIGATION & MINING C	4.000	0.006	2895.90	4.58
A36-00133	TUPPER SPRINGS, UPPER	BIG BEND IRRIGATION & MINING C	20.000	0.022	14479.60	16.47
A36-00192	TUCKER SPRINGS, LOWER	BIG BEND IRRIGATION & MINING C	15.000	0.017	10859.70	12.35

LIST ALL RIGHTS WITH SAME POU BUT NOT USED FOR IRRIGATION.

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A36-10368	DOMESTIC	OSBORN , LARRY D.	FROM 01-01 TO 12-31	.040 CFS	
A36-10468	DOMESTIC	HOSKOVEC , BETTY B.	FROM 01-01 TO 12-31	.080 CFS	

Combined Claimed adjusted Rate:

$$\frac{0.40 \text{ cfs}}{15 \text{ Acre}} = 0.027 \text{ cfs/Ac.}$$

D. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE 9
ACRES ~~15~~ x 0.02 CFS/ACRE = ~~0.30~~ CFS
(Taken from p/u review)

DOES AMOUNT CLAIMED EXCEED 0.02 CFS/ACRE? Y(X) N()

*** IF YES ADDITIONAL WATER USE FORM FILED AND ATTACHED? Y() N(X) ***

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 114.0 AF/A

ACRES ~~15~~ 9 x CONSUMPTIVE VOL. AF/A FOR AREA 3.0 =
TOTAL CONSUMPTIVE USE ~~45~~ AF/A 27

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

ACRES ~~15~~ x DIVERSION VOL. AF/A FOR AREA 4.0 =
TOTAL DIVERSION VOLUME ~~60~~ AF/A N/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y() N()

REMARKS: (Include limitations on CONSUMPTIVE USE for combined rights.)

See attached irrigation analysis sheets -

4 ac. @ 0.06/ac = .24

+ 5 ac. @ 0.02/ac = .10

= 0.34 cfs

~~Proportional Rate~~
~~on full Tracts~~

~~1.5 cfs~~
~~200 Ac.~~ = ~~0.0075 cfs/Ac.~~

Claimed 0.40
Recommended 0.34

actual
Conveyance loss = 0.14; limited by claim to 0.06 cfs

1b. CALCULATIONS

See attached Irrigation Analysis Sheet
for basis of recommendation

4 ac. @ .06/ac = 0.24
5 ac @ 0.02/ac = 0.10
Rec. Div. Ratio = 0.34
claimed. 0.40
C.L. allowable 0.06

See also attached
conveyance loss sheet

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RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD FROM TO	REC. DIV RATE CFS	REC. DIV VOL. AF/A	REC. CONS. USE
IRRIGATION	4-1 10-31 03-15 11-15	DATABASE EXAMINER 0.400 0.34 0.40	DATABASE EXAMINER 0.400 0.34 0.40	DATABASE EXAMINER 114.0 114.0
TOTAL FOR THIS RIGHT				

REVIEWED BY: SW DATE: 7-11-90

** pending split Review + policy of XS Flow.*
SW 8-6-92

FO1 = Buckeye
DO2 = 0.06
SHR = 0.34

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A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP _____
FORFEIT/ABANDON _____
ADDITIONAL DIV. AMOUNT _____

ACCEPTED
AS CLAIMED

()
()
()

NEEDS
REVIEW

()
(X)
(X)

Legal Review

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JAN 21 1993

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-00034

TOTAL DIVERSION RATE OF WR SPLITS

DATABASE
1.500

EXAMINER

CFS

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
A36-00034	A36-00034A <i>SPLIT</i>	0.160	<i>34E</i>	0.10	36-00034	1.500
A36-00034	A36-00034B	0.020	<i>- 34F</i>	0.06	36-00034	1.500
A36-00034	A36-00034C	0.200	<i>A36-00034B</i>	0.02	36-00034	1.500
A36-00034	A36-00034D	0.400	<i>- 34C</i>	0.10	36-00034	1.500
			<i>- 34D</i>	0.30	36-00034	1.500
	TOTAL CFS	0.780		<i>0.58</i>		1.500

as of 12/12/90

DIVERSION RATE REVIEW

DO THE SUM CFS RATE OF THE SPLITS EQUAL THE ROOT RIGHT CFS RATE? (Y/N)
IF NO, is the written review sheet attached? (Y/N)

DATABASE
N

FIELD
EXAMINER

N

REMARKS:

See attached split review sheet.

AUTHENTICATION:

SIGNATURE: *[Signature]*

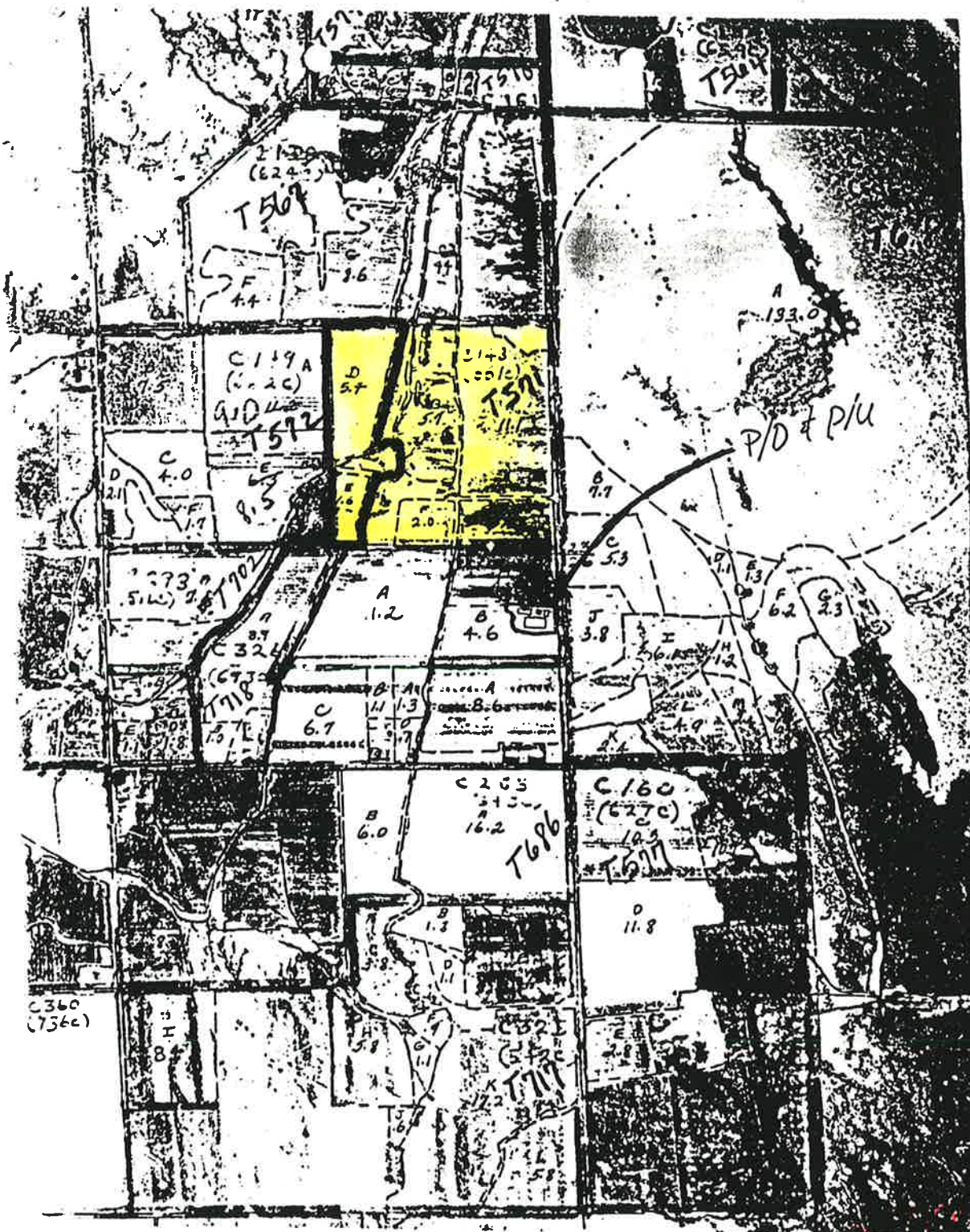
DATE: *12/13-90*

NAME OF FIELD EXAMINER: _____

TITLE: _____

B. Hoskovec
A36-00034-D
35J

IRR
ACRES
9
KKE
7-17



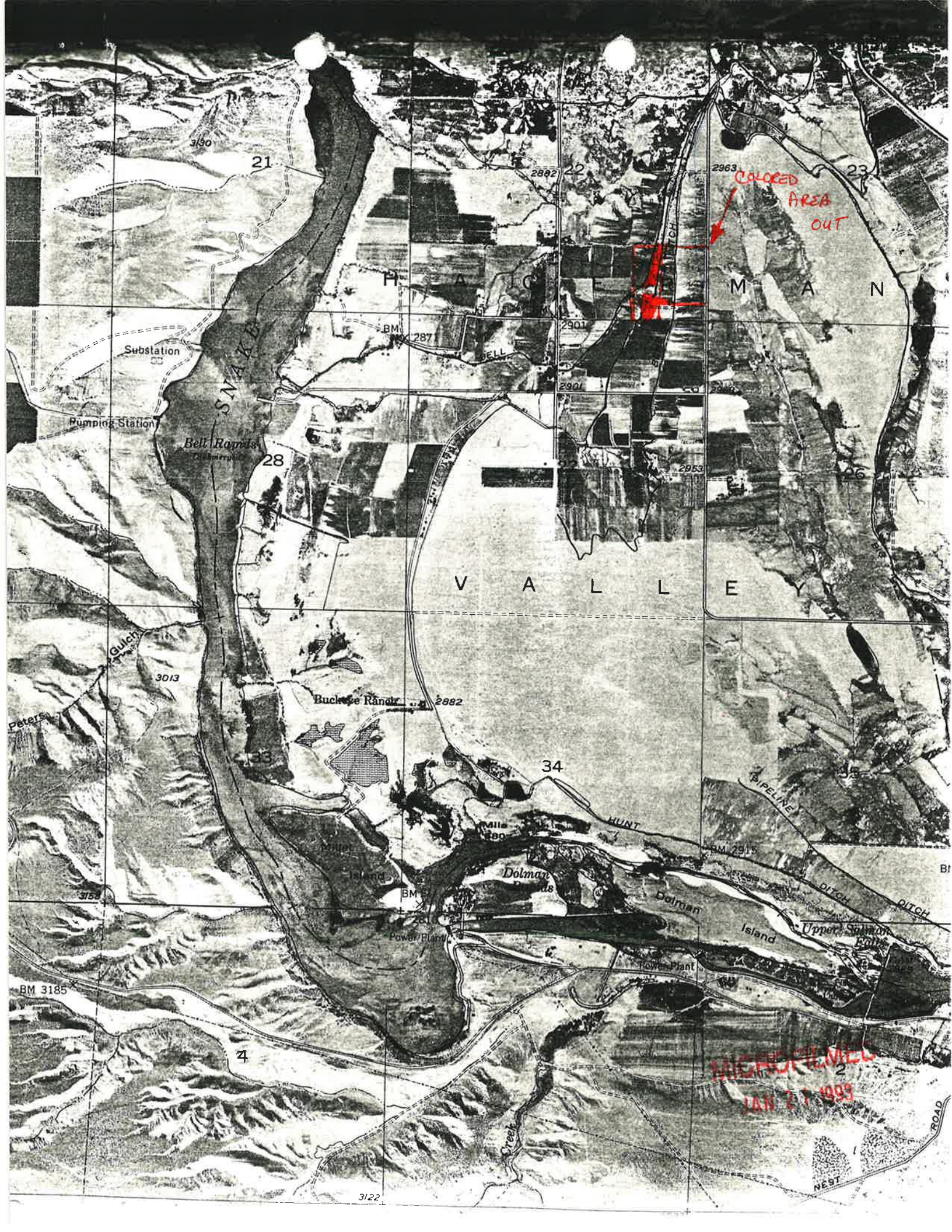
Source:
WR 36-8158

R36-00035J

MULLER

JAN 21 1994

UNCLASSIFIED



See 8-3-92

CONVEYANCE LOSS - WORSTELL

REACH	LENGTH (FT)	AVE WIDTH (FT)	SEEPAGE (FT/DAY)	WORSTELL LOSS (CFS)	DELIVERY (CFS)	DELIVERY LEFT (CFS)	LOSS FACTOR	DELIVERY LOSS (CFS)	FLOW (CFS)
1	800	10.0	2.00	0.20	0.06	18.83	0.0107	0.00	26.81
2	600	10.0	2.00	0.15	1.02	18.77	0.0081	0.02	26.55
3	1400	10.0	2.00	0.35	0.24	17.75	0.0199	0.01	25.38
4	800	10.0	2.00	0.20	0.44	17.51	0.0115	0.02	24.79
5	1100	10.0	2.00	0.28	0.17	17.07	0.0163	0.01	24.14
6	1200	10.0	2.00	0.30	0.10	16.90	0.0179	0.01	23.70
7	300	10.0	2.00	0.08	1.22	16.80	0.0045	0.11	23.29
8	1000	10.0	2.00	0.25	0.16	15.58	0.0162	0.02	22.00
9	500	10.0	2.00	0.13	0.50	15.42	0.0082	0.06	21.58
10	2200	10.0	2.00	0.56	4.13	14.92	0.0373	0.62	20.96
11	5500	10.0	2.00	1.39	0.20	10.79	0.1288	0.06	16.27
12	1700	10.0	2.00	0.43	0.09	10.59	0.0406	0.03	14.68
13	3900	10.0	2.00	0.99	0.34	10.50	0.0938	0.14	14.16
14	600	10.0	2.00	0.15	0.27	10.16	0.0149	0.12	12.84
15	1500	10.0	2.00	0.38	0.62	9.89	0.0383	0.29	12.42
16	1600	10.0	2.00	0.40	1.00	9.27	0.0436	0.51	11.42
17	600	10.0	2.00	0.15	0.30	8.27	0.0183	0.16	10.01
18	300	10.0	2.00	0.08	3.25	7.97	0.0095	1.75	9.56
19	3000	10.0	2.00	0.76	0.24	4.72	0.1606	0.17	6.24
20	3000	10.0	2.00	0.76	4.48	4.48	0.1692	3.89	5.24
TOTALS	31600			7.98	18.83			7.98	

Buckeye Ditch

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JAN 21 1993

~~A36-00034D~~

R36-00035J

REACH = SECTION OF CHANNEL
 LENGTH = LENGTH OF REACH, THE CHANNEL CAN BE DIVIDED INTO EQUAL LENGTH REACHES
 OR ACTUAL LENGTHS BETWEEN DELIVERY POINTS
 AVE WIDTH = AVERAGE TOP WIDTH OF REACH
 SEEPAGE = SOIL SEEPAGE RATE OF REACH
 WORSTELL LOSS = CONVEYANCE LOSS IN REACH BASED ON WORSTELL METHOD
 DELIVERY = TOTAL DELIVERIES IN REACH
 DELIVERY LEFT = SUM(DELIVERIES OF CURRENT AND REMAINING REACHES)
 LOSS FACTOR = WORSTELL LOSS/DELIVERY LEFT
 DELIVERY LOSS = SUM(LOSS FACTORS OF CURRENT AND PREVIOUS REACHES) X DELIVERY,
 REPRESENTS THE LOSSES ASSIGNED TO THE DELIVERIES IN THE REACH
 FLOW = TOTAL FLOW AT BEGINNING OF EACH REACH

IRRIGATION ANALYSIS WORKSH

(2 sheets)

CLAIM NO. A36-000340 35JDATE 7/28/92AGENT #115CLAIMANT/SYSTEM DESCRIPTION Muller - Wild Flooding.IRRIGATION SYSTEM ----- Gravity, Wild FloodingANALYSIS METHOD ----- BORDER / FURROWTYPE OF CROP ----- PastureMAXIMUM PROFILE DEPTH ----- 36" INCHESINTAKE FAMILY ----- 2

SOIL TYPE KOA ----- SYSTEM TOTALACRES PER TYPE 4 ----- 9 ACRESSOIL PROFILE WHC 4.94 ----- SeeDESIGN IRR $\frac{1}{2}$ WHC 2.97 ----- additionalanalysis
sheet

CROP REQUIREMENT:

REPORT AREA & FIGURE NO. ----- Bliss 10-8

DAILY CROP REQUIREMENT:

6.44 (MM/DAY) / 25.4 (FACTOR IN MM/IN) ----- 0.25 IN/DAYACTUAL ROTATION PRACTICED ----- 7 DAYSDRY DAY ROTATION 4 IRR DAY ROTATION 3

THEORETICAL ROTATION:

2.97 DESIGN IRR 10.25 CROP REQ = 11.88 DAYS

DESCRIPTION OF FIELD:

AVERAGE LENGTH RUN ----- 290TOTAL WIDTH OF FIELD ----- 600CHECK 290 L * 600 W / 43,560 = 3.99 ACRES% SLOPE ----- 2%BORDER WIDTH ----- 17600 WIDTH OF FIELD / 12 DAYS OF ROTATION = $50 \div 3 = 17'$ FURROW / CORRUGATION WIDTH ----- N/ASET TIME ----- 12 M.

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JAN 21 1993

GRADED BORDER EVALUATION

Job name: MULLER
By: HHT

Location: A36-00034D BUCKEYE
Date:

Roughness coefficient (n)= 0.250 Intake family (If)=2.00
Slope (S)= 0.0200 ft/ft Border width (W)= 17 ft
Net application (Fn)= 2.97 inches Border length (L)= 290 ft
Inflow time (Ti)= 8 hours, 0 minutes

Flow per Border (cfs)	Unit Flow (cfs/ft)	Gross Application (in)	Deep Percolation (in)	Runoff (in)	Application Efficiency (percent)	Notes
0.18		Gross depth is less than required gross application depth				
0.19		Gross depth is less than required gross application depth				
0.20		Gross depth is less than required gross application depth				
0.21		Gross depth is less than required gross application depth				
0.22		Gross depth is less than required gross application depth				
0.23		Gross depth is less than required gross application depth				
0.24	0.014	16.82	13.32	0.54	17.7	
0.25	0.015	17.53	13.32	1.24	16.9	
0.26	0.015	18.23	13.32	1.94	16.3	
0.27	0.016	18.93	13.32	2.64	15.7	
0.28	0.016	19.63	13.32	3.34	15.1	
0.29	0.017	20.33	13.32	4.04	14.6	

Rate for 4 acres. — $0.24 \div 4 = 0.06/\text{ac.}$

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JAN 21 1993

IRRIGATION ANALYSIS WORKSHEET

CLAIM NO. A36-00034D
 DATE 7/7/92
 AGENT HHT

CLAIMANT/SYSTEM DESCRIPTION Muller
 IRRIGATION SYSTEM ----- Gravity-Furrow
 ANALYSIS METHOD ----- BORDER / FURROW
 TYPE OF CROP ----- Alfalfa
 MAXIMUM PROFILE DEPTH ----- 48 INCHES
 INTAKE FAMILY ----- .55

SOIL TYPE KOA ----- SYSTEM TOTAL
 ACRES PER TYPE 5 ----- 9 ACRES
 SOIL PROFILE WHC 6.43 ----- see additional
 DESIGN IRR $\frac{1}{2}$ WHC 3.2 ----- analysis sheet

CROP REQUIREMENT:

REPORT AREA & FIGURE NO. ----- Bliss 10-8

DAILY CROP REQUIREMENT:

6.79 (MM/DAY) / 25.4 (FACTOR IN MM/IN) ----- 0.27 IN/DAY

ACTUAL ROTATION PRACTICED ----- DAYS

DRY DAY ROTATION 4 IRR DAY ROTATION 3

THEORETICAL ROTATION:

3.2 DESIGN IRR 10.27 CROP REQ = 11.9 DAYS

DESCRIPTION OF FIELD:

AVERAGE LENGTH RUN ----- 272
350 435.6
 TOTAL WIDTH OF FIELD ----- 800
 CHECK 350 L * 800 W / 43,560 = 6.43 ACRES
 % SLOPE ----- 2%
 BORDER WIDTH ----- N/A
 ----- WIDTH OF FIELD / ----- DAYS OF ROTATION
 FURROW / CORRUGATION WIDTH ----- 30"
 SET TIME ----- 12 hr.

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INTAKE FAMILY <If> = 0.55
 DESIGN APPLICATION <Fh> = 3.20 INCHES
 FURROW SLOPE <S> = 0.020 FEET/FOOT
 FURROW SPACING <W> = 2.50 FEET
 FURROW LENGTH <L> = 272 FEET
 INFLOW RATE <Q> = 3 GPM/FURROW
 APPLICATION TIME <Ti> = 12 HOURS

A36-00034D
 Muller
 Buckeye Ditch
 7-28-92
 HHT

 ADVANCE TIME <TT> = 23.9 MINUTES; OR 0.4 HOURS
 GROSS APPLICATION <FG> = 5.10 INCHES
 NET APPLICATION <Fx> = 3.17 INCHES NOTE: LESS THAN DESIGN APPL.
 RUNOFF <RO> = 1.87 INCHES TRY 80% FURROW LENGTH.
 DEEP PERCOLATION <DP> = 0.02 INCHES
 EFFICIENCY <E> = 62.75 %

TO CHANGE: PRESS (EXISTING)
 Design Application <1> 3.20 in
 Furrow Slope <2> 0.020 ft/ft
 Furrow Spacing <3> 2.50 ft
 Furrow Length <4> 272 ft
 Furrow Intake Family <5> 0.55
 Inflow Rate <6> 3 gpm/furrow
 Inflow Time <7> 12 hours <ANALYSIS MODE>

TO PRINT: DATA/WITH HEADING PRESS:<8/9>

NEW DESIGN PRESS <10>, NEW ANALYSIS PRESS <11>, QUIT PRESS <12>?

INTAKE FAMILY	DESIGN APPLIC. Inches	FURROW SLOPE Ft/Ft	FURROW SPACING Feet	FURROW LENGTH Feet	INFLOW RATE Gpm	APPROXIMATE INFLOW TIME Hours	ADVANCE TIME Minutes	GROSS IRRIGATION APPLICATION Inches	NET IRRIGATION APPLICATION Inches	RUNOFF Inches	DEEP PERC. In.	IRRIGATION EFFICIENCY %
0.55	3.20	.020	2.50	272	5	12	17.0	8.49	3.45	5.01	0.29	37.68
0.55	3.20	.020	2.50	272	4	12	19.4	6.79	3.32	3.43	0.16	47.10
0.55	3.20	.020	2.50	272	<u>3</u>	12	23.9	5.10	3.17	1.87	0.02	<u>62.75</u>
0.55	3.20	.020	2.50	272	2	12	36.4	3.40	2.97	1.87	0.02	62.75

$$\begin{aligned}
 Fir &= 4.2 \frac{cu}{eff\%} \\
 &= 4.2 \left(\frac{.27}{62.75} \right) \\
 &= 0.018 \rightarrow 0.02/ac.
 \end{aligned}$$

$$5 ac. \times 0.02 = 0.10$$

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CONVERSATION MEMORANDUM

A36-00034D

EMPLOYEE: KKC

FILE A36-00033B
Hos Kovec

RE: _____

DATE

NAME OF PARTY

Betty Hoskovec 837-4878

4 or 5 days
↩

no corrugates

tie in

so

B Bend 8 Acres Field

10 days 7 days to cross field

this claim
★

Buckeye 15 corrugated

5' below house
corrugated
hay/corn

3 behind house
normally pasture
flood irr.

total 7 day rotat
for both fields 3 day irr 4 day day

nothing

don't irr across bell water goes to Lloyd Brown
Peterson

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CONVERSATION MEMORANDUM

EMPLOYEE: K/K Helen Harrington-Thorn FILE 36-00034D

RE: Manfred Muller 837-4947

DATE 7/27/92

NAME OF PARTY

Mrs. Muller

9:30AM

7-8-92 called & left msg with wife that info is needed.

7-22-92 " " " " " again

7-27-92 7:59 spoke w/ Mrs. Muller HHO

12 ac. alfalfa

sprinklers → all the irrigated land
is sprinklers - per Mrs. Muller.

HHO 7/27/92

7/28/92 -

Per discussion w/ field examiner, the land was gravity
irrigated at time of commencement. Therefore irrigation
analysis is based on gravity irrigation practices as
described by prior owner, Betty Hoskovek (see
attached Conversation Memo.

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DECREED RIGHT SPLIT ANALYSIS

PARENT RIGHT NO. 36-00035 TOTAL DIVERSION RATE 1.60 cfs PREPARATION DATE 8/5/92 HNT
8-7-92 sa

CLAIM PORTION	CLAIMED RATE	RECOMMENDED RATE	IS CLAIMED RATE EXCEEDED BY ANALYSIS	CONVEYANCE LOSS	DOES DIV RATE + CALC. C.L. EXCEED CLAIMED RATE	TOTAL RECOMMENDED DIV. RATE
A — <u>split right</u>			<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
B	<u>0.60</u>	<u>0.26</u>	<u>N</u>	<u>0.04</u>	<u>N</u>	<u>0.30</u>
< C >	<u>0.02</u>	<u>< DISALLOW ></u>	<u>not a part of this water right.</u>			<u>X</u>
D — <u>split claim (.32)</u>			<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
E	<u>0.24</u>	<u>0.06</u>	<u>N</u>	<u>0.04</u>	<u>N</u>	<u>0.10</u>
F	<u>0.06</u>	<u>< DISALLOW ></u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
< G >	<u>0.02</u>	<u>< DISALLOW ></u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
R- 35 H	<u>0.20</u>	<u>0.10</u>	<u>N</u>	<u>0.15</u>	<u>Y (0.25)</u>	<u>0.20</u>
R- 35 J	<u>0.40</u>	<u>0.34</u>	<u>N</u>	<u>0.14</u>	<u>Y (0.48)</u>	<u>0.40</u>
TOTAL:	<u>1.54 cfs</u>			<u>0.37</u>		<u>1.00</u>

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AN 21 1003

CONVERSATION MEMORANDUM

EMPLOYEE: STEVE CLELLAND

FILE

A36-00034/D
A36-00034C

RE: Correct numbering of rights

DATE 3-19-92

NAME OF PARTY

CLIFF Jensen

Cliff came in to clarify some water right claim numbers for Brad Giesler.

While here he related some information that I feel needs reviewed and considered.

Cliff pointed out that the A36-00034C + D claims are based on a decree from the Bell ditch, but are actually diverted into the Buckeye ditch.

Upon initial check - this appears correct.

May need to renumber some of these rights.

The possible correct number would be A36-00035A.
(PART)

Both Renumbered: 8-6-92 sc

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JAN 21

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

16:49:52
06/28/90

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-00033B

LAST: HOSKOVEC
ADDRESS: 2795-A S. 900 E.
CITY: HAGERMAN
PHONE NUMBER: 208-837-4878

FIRST: BETTY B.
STATE: ID ZIP: 83332

OWNER CODE: C

FIELD EXAM REQUIRED?

DATABASE
N

FIELD
EXAMINER

VERIFICATION REQUIRED DUE TO REMARKS?

NO REMARKS IN CLAIM

FIELD EXAMINATION INFORMATION

CONTACT PERSON: BETTY HOSKOVEC

PHONE NUMBER: () -

DATE OF FIELD EXAM: 8/16/90

APPOINTMENT MADE: Y() N(X)

TIME: 4:30 A() P(X)

ACCOMPANIED BY: _____

PHONE NUMBER: () -

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / REMARKS:

She Claim All sources used on por, pumps, sprinklers & gravity.
Field Exam shows: (1) Weatherby Spr. used on Pasture between Road 4 - Big Bend Ditch (gravity)
(2) Big Bend used Down to the Buckeye via Sprinkler Hand lines & gated Pipe.
(3) Blockage to road below the Buckeye a Bell Ditch in gravity systems.
2nd conversation w/ claimant confirms - This finding
27Ac Portion has been sold w/ BB water only - No Weatherby Spring water rights. ??

Mrs. Hoskovec told me her Big Bend water is appurtenant to the entire 40 Acre tract and that she can use it anywhere on her place. She has never used it above the Big Bend Ditch via pump systems; also no pipeline or flume was available to carry Big Bend Ditch water over the Buckeye or Bell ditches.

A36-00034 D

MÜLLER



VIEW EAST

BIG BEND WATER

USED IN WILD FLOODING METHOD.

BETTY HOSKAJEC LANDS.
(New MULLER.)

SESE, S22
T07S, R13E

PHOTO BY SCC
8-20-90

71 1993
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Triple M Ranch

2795 A South 900 East
Hagerman, Idaho 83332



ALWAYS
USE ZIP CODE

RECEIVED

JAN 28 1993

Department of Water Resources
Southern Region Office

State of Idaho
DEPARTMENT OF WATER RESOURCES
222 Shosone St. East
Twin Falls, ID 83301

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