

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: A36-00039F
Date Received: 8/26/1988
Receipt No: S001791
Received By: _____

COPY FOR
YOUR FILES

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

COPY FOR
YOUR FILES

1. Name: MARK E BOLDUC
Address: PO BOX 117
HAGERMAN ID 83332

AND/OR

Name: CHRISTINA J BOLDUC
Address: PO BOX 117
HAGERMAN ID 83332

RECEIVED

JAN 12 1994

Department of Water Resources
Southern Region Office

2. Date of Priority: JAN 2, 1891

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	11	SE	SE	NE		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	0.120		

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

8. Total consumptive use is 3.0 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	11	NW	SE		IRR	1.0

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	1.0
					Total Acres	1.0

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:
A36-00040A, A36-00103A

14. Remarks:
P/D IS LISTED AS GRANGER DITCH IN DECREE BUT IS NOW REPLACED
BY THE BUCKEYE DITCH.
PER SF3 REC'D 12/27/1994, OWNERSHIP CHANGE BOTHWELL TO BOLDUC. SF

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 3/22/1932

NEW INTERNATIONAL MORTGAGE BA
Decree Plaintiff

IDAHO POWER CO.
vs Decree Defendant

AJ0749NP
No. 36-00039F

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

DATE: 01/10/94
PAGE: 1

=====

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	MARK E BOLDUC	01/02/1891	IRRIGATION	03-15 11-15	0.03 CFS	
C	CHRISTINA J BOLDUC					
	PO BOX 117			TOTAL DIVERSION:	0.03 CFS	
	HAGERMAN ID 83332			CONSUMPTIVE USE:		3.0 AFA

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	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	SUM
07S	13E	11	:																	:	
																			01	:	1.0
																			TOTAL ACRES	:	1.0

POU County: GOODING

Other Rights: NONE

Remarks: WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.
PROPERTY IS ALSO KNOWN AS LOT 05, BLK 02, WILLOWBROOK SUBDIV.

Dates: Exam Made Date: Verified Date:

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

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.

Case No. 39576

STANDARD FORM 3

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

STANDARD FORM FOR NOTICE
OF CHANGE IN ADDRESS

OR

Petitioner.

CONSENT TO SUBSTITUTION OF
PARTY

vs.

1-03-94

The United States; the State of Idaho; and
all Claimants to the Use of Water From
the Snake River Basin Water System,

MAKE COPY

OR FILED

Respondents.

36-00039F

Modified A + blank
1-10-94. - Jf

INSTRUCTIONS FOR USE

This form must be used to provide notice of change in address or to substitute a party whose water right recommendation is in a director's report which has been filed with the court. The filing of Standard Form 3 cannot result in a contested matter. A hearing will not be scheduled.

This form has been adopted by the court in *SRBA Administrative Order 1* (amended June 21, 1993), Section 4A, which may be consulted for further information.

Standard Form 3 shall not operate to excuse compliance with the statutory requirements of I.C. § 42-1409(7) where a water right recommendation is not before the court.

As used in this form, the term "prior claimant/seller" means any person who, pursuant to I.C. § 42-1409(2), (3) and (6), filed a notice of claim asserting the right to the use of water or on whose behalf the right to the use of water was asserted. "New claimant/purchaser" means any successor in interest of a "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.

Check either the *Change in Address* or *Consent to Substitution of Party* box and fill in the requested 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 the court will not accept it for filing. The Verification and the Certificate of Mailing must be completed.

The standard form may be obtained from the Idaho Department of Water Resources and the court. You must provide a copy of this form to each party, or to their legal counsel, in any subcase in which you are a party.

☐ **CHANGE IN ADDRESS**

My name is _____

I am the claimant of _____

(Insert each water right number)

I have filed an objection/response to the following water right(s) _____

(Insert each water right number)

My new mailing address is _____

My phone number is: Work _____ Home _____

☒ **CONSENT TO SUBSTITUTION OF PARTY**

My name is Bruce Bothwell

My address is P. O. Box #444
Hagerman, Idaho 83332

My phone number is: Work 208-837-4436 Home 208-837-6402

The name and address of the party who I wish to be substituted for are:

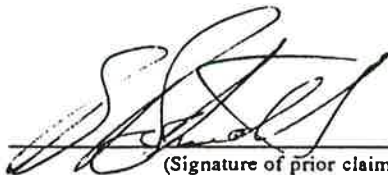
Mark E. Bolduc and/or Christina J. Bolduc
P. O. Box #117, Hagerman, Idaho 83332

I am the new claimant/purchaser of #A36-00039F *and*
(Insert each water right number)

I am submitting proof of acquisition of the interest of the prior claimant/seller, *which is required by the court* to support my *Substitution*. Proof must contain a legal description of the property, including the water right numbers conveyed. You must describe the documents you are submitting.

Copy of the recorded Warranty Deed.

Copy of what was recommended by the Department of Water Resources.


(Signature of prior claimant/seller)


(Signature of new claimant/purchaser)

☐ **ATTORNEY OF RECORD COMPLETING FORM**

My name is _____

I am the attorney of record for _____
(Identify party/claimant)

My address and phone number are _____

VERIFICATION

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

State of IDAHO

County of Gooding

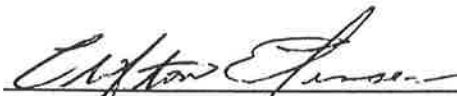
Mark E. Bolduc being first duly sworn, upon oath, deposes and says:
(Insert name of party/claimant filing form)

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); and that I have read this form, know its contents and that the statements are true to the best of my knowledge and belief.


Signature of person filing form

By: _____
Attorney signing in representative capacity

Subscribed and sworn to before me on Dec. 13, 1993
(Insert Date)


Notary Public for State of Idaho
Residing at: Hagerman, Idaho
My Commission expires: 5-10-97

INSTRUCTIONS FOR MAILING

You must 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 Dec. 23, 1993, 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* must be served on each party, or their attorney, in each subcase in which you are a party at the following address(es):

3. A *Consent to Substitution of Party* must be served on the prior claimant/seller or their attorney at the following address:

Hepworth, Nungester & Lezamiz
133 Shoshone Street North, P. O. Box #389
Twin Falls, Idaho 83303-0389

4. A *Consent to Substitution of Party* must be served on each party, or their attorney, in each subcase in which the prior claimant/seller is a party at the following address(es):

4. One copy to:

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

5. One copy to:

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

A handwritten signature in dark ink, appearing to be 'M. E. L.', written over a horizontal line.

(Signature of person or attorney mailing the form)



WARRANTY DEED

For Value Received

Bruce R. Bothwell and Mary L. Bothwell, husband and wife,
hereinafter referred to as Grantor, does hereby grant, bargain, sell, and convey unto

Mark E. Bolduc and Christina J. Bolduc, husband and wife,
hereinafter referred to as Grantee, whose current address is

P.O. Box 117, Hagerman, ID 83332
~~223 Willow Lane, Hagerman, ID, 83332~~

the following described premises, to-wit:

Lot 5 in Block 2 of **WILLOW BROOK SUBDIVISION**, Gooding County, Idaho,
being a part of Parcel "C" of Robert L. Justice Ranch, located in
part of the Northwest Quarter of the Southeast Quarter of Section 11,
Township 7 South, Range 13, East of the Boise Meridian, according to
the plat thereof, recorded August 13, 1979, as Instrument No. 78287,
in the Office of the County Recorder of said County.

152719

STATE OF IDAHO COUNTY OF GOODING

Filed for record at the request of **FIRST AMERICAN TITLE**

26 min. past 3 o'clock P.M. 18

of May, 1993 3.00

JOHN A. MYERS Recorder

By Gloria Sauer Deputy

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: May 17, 1993

Bruce R. Bothwell

Mary L. Bothwell
Mary L. Bothwell

STATE OF IDAHO

COUNTY OF Gooding

On this 17th day of May, in the year 1993, before me, a Notary Public
in and for said State, personally appeared Bruce R. Bothwell and Mary L. Bothwell,
known or identified to me to be the persons whose names are subscribed to the within
Instrument, and acknowledged to me that they executed the same.



Sam M. Bolton
Notary Public for Idaho
Residing at Gooding, Idaho
Commission Expires: 10/16/98

First American Title Company of Idaho

MICROFILMED

OCT 17 1994

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

DATE: NOV-2-1992

PAGE: A-79

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				
36-00039E	JEAN GLAUNER FRANK L GLAUNER PO BOX 235 HAGERMAN ID 83332	01/02/1891	IRRIGATION	03-15 11-15	.03	CFS DECREEED
		TOTAL QUANTITY:			.03	CFS
		CONSUMPTIVE USE:			3.0	AFY
POINT OF DIVERSION: T07S R13E S11		SESENE				
PLACE OF USE: IRRIGATION						
T07S R13E S14		NESW 1.0				
1.0 ACRES TOTAL						
REMARKS: WATER IS DELIVERED THROUGH THE BUCKEYE DITCH. PROPERTY IS ALSO KNOWN AS LOTS 13-16, BLK 24 HAGERMAN TOWNSITE.						
36-00039F	BRUCE BOTHWELL MARY BOTHWELL PO BOX 444 HAGERMAN ID 83332	01/02/1891	IRRIGATION	03-15 11-15	.03	CFS DECREEED
		TOTAL QUANTITY:			.03	CFS
		CONSUMPTIVE USE:			3.0	AFY
POINT OF DIVERSION: T07S R13E S11		SESENE				
PLACE OF USE: IRRIGATION						
T07S R13E S11		NWSE 1.0				
1.0 ACRES TOTAL						
REMARKS: WATER IS DELIVERED THROUGH THE BUCKEYE DITCH. PROPERTY IS ALSO KNOWN AS LOT 05, BLK 02, WILLOWBROOK SUBDIV.						

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: A36-00039F

Date Received: 8/26/1988

Receipt No: S001791

Received By: SCC

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

1. Name: BRUCE BOTHWELL 208-837-6402
Address: P.O. BOX 444
HAGERMAN, ID 83332

OR

Name: MARY BOTHWELL 208-837-6402
Address: P.O. BOX 444
HAGERMAN, ID 83332

2. Date of Priority: JAN 02, 1891

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	11	SE	SE	NE		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	0.120		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
07S	13E	11	NW SE		IRR	1.0
Section Acres						1.0
Total Acres						1.0

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:
A36-00040A, A36-00103A

14. Remarks:
P/D IS LISTED AS GRANGER DITCH IN DECREE BUT IS NOW REPLACED
BY THE BUCKEYE DITCH.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date: 3/22/1932

NEW INTERNATIONAL MORTGAGE BAN
Decree Plaintiff

IDAHO POWER CO.
Decree Defendant

vs

16. Signature(s)

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

Number of attachments: 1

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): Mary L. Bohannon Date: 8-26-88

Date: _____

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 26th day

of August 19 88

Roxanne Storey
Notary Public

Seal

Residing at Buhl, Id

My Commission Expires 6-30-94

POOR ORIGINAL

above mentioned;) thence north 80 degrees 28' west 198 feet to a point; thence south 23 degrees 40' west 2369 feet to a point 290 feet east from the quarter corner on the west boundary line of section 11, Twp. 7 S. R. 13 E. B. M.; thence east along the south boundary line of Lot 3 of said Section 11 to the southeast corner of said Lot 3; thence north along the east boundary line of said Lot 3 to the northeast corner thereof; thence east along the south boundary line of Lot 2, in said section 11 to the southeast corner of said Lot 2; thence north along the east boundary line of said Lot 2 to the place of beginning.

36-0037

CONDIT,
JAMES E.
AND JENNIE
M. CONDIT

.5 Spring April 1, 1930 Huitt Spring
(Said Huitt Spring is located on the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 19, Twp. 7 S. R. 14 E. B. M.)
The NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ (also known as Lot 3) of Section 19, Twp. 7 S. R. 14 E. B. M.

36-0039

DILATUSH,
E. W., AND
ALICE I.
DILATUSH,
AND
CHARLES C.
CAREY

2.4 Billingsley Creek Jan. 2, 1891 Granger Ditch
.3 Spring Jan. 2, 1891 Unnamed Spring
(Said unnamed spring arises in the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 11, Twp. 7 S. R. 13 E. B. M. at a point 1065 feet north 2 degrees 2' west from the southeast corner of said tract of land. That the point of diversion of said Granger Ditch is on the bank of Billingsley Creek about 100 feet below the diversion point of said Buckeye Ditch and from the diversion point of said Granger Ditch the quarter section corner common to secs. 11 and 12 Twp. 7 S. R. 13 E. B. M. bears south 31 degrees 27' east a distance of 833.4 feet
Beginning at the southeast corner of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 11, Twp. 7 S. R. 13 E. B. M.; thence west along the forty line 1075'; thence north 20 degrees 49' east 820 feet; thence north 24 degrees 34' east 450 feet; thence south 81 degrees 26' east 593 feet to the east forty line, thence south along the forty line 1122 feet to the point of beginning.

36-0041

ELIASON,
ARMEDIA

.8 Spring Dec. 12, 1901 Weatherby Springs;
.4 Spring April 4, 1910 (Hoagland Tunnel)
Weatherby Springs;

The NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 36, Twp. 7 S. R. 13 E. B. M. excepting therefrom, however, the following described tract of land: Beginning at the quarter corner between Sections 25 and 36 of said township and range, running thence east 399 feet to the center of the public highway, thence in a southwesterly direction in the center of said highway 278 feet, thence westerly along the north bank of the Clifford Ditch 370 feet, to the west boundary line of said NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section 36, thence north along said west boundary line 257 feet to the point of beginning, said tract of land excepted containing 2.2 acres, more or less, and the property herein described containing 37.8 acres, more or less.

MICROFILMED
MICROFILMED
JAN 2
OCT 11 1994

AJ5514NP

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION ATTORNEY NAME ADD/UPDATE

DATE: 03/31/93
TIME: 23:15:11.4
PAGE: 1

INPUT: AJ_SELECTION:HMT-BROWN-NOA4.SEL

TYPE OF ACTION: ADD
MODIFY ALL FIELDS FLAG:

LAST NAME: BROWN

ADDRESS LINE 1: HEPWORTH NUNGESTER LEZAMIZ

ADDRESS LINE 3: PO BOX 389

CITY: TWIN FALLS

STATE: ID ZIP: 833030389

FIRST NAME: PATRICK D

ADDRESS LINE 2:133 SHOSHONE ST N

PHONE NUMBER: (208) 734-7510

36-00029B. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00039F. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00039P. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00051A. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00054A. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00125A. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-07323. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-10673. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00039F. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00039P. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00051A. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00054A. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00125A. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-07323. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-10220. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-10673. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A37-00792F. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A37-07852. ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE

RECEIVED

APR 06 1993

Department of Water Resources
Southern Region Office

MICROFILMED
OCT 11 1994

N.C.A.

...

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\21530SUP.NO3\lmr)

RECEIVED

MAR 02 1993

Department of Water Resources
Adjudication Bureau

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

11 * * * * *

12 In Re the General Adjudication)
13 of Rights to the Use of Water)
14 from the Snake River Basin)
15 Water System)

Case No. 39576

16 _____)
17 The State of Idaho, ex rel.)
18 R. Keith Higginson in his)
19 official capacity as director)
20 of the Idaho Department of)
21 Water Resources,)

HAGERMAN WATER RIGHT OWNERS,
INC. AND ITS INDIVIDUAL
MEMBERS' THIRD SUPPLEMENTAL
NOTICE OF APPEARANCE

Petitioner,

vs.

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

Respondents.

* * * * *

24 COMES NOW the law firm of Hepworth, Nungester & Lezamiz
25 and supplements its Notice of Appearance to add on behalf of

— LAW OFFICES —

HNL

— Chartered —
Hepworth,
Nungester,
& Lezamiz

THIRD SUPPLEMENTAL NOTICE OF APPEARANCE - 1

MICROFILMED
OCT 11 1994

1 Hagerman Water Right Owners, Inc. and its individual members, the
2 following individuals:

3
4 Mavencamp, John V. A36-00189A
Mavencamp, John V. A36-10766
5 Zabala, Ignacio Nick A36-08320

6 Dated this 1 day of March, 1993.

7 HEPWORTH, NUNGESTER & LEZAMIZ,
8 CHARTERED

9 By 
Patrick D. Brown
Attorneys for Respondents

10 CERTIFICATE OF MAILING

11
12 The undersigned, a resident attorney of the State of
13 Idaho, with offices at 133 Shoshone St. North, P.O. Box 389, Twin
14 Falls, Idaho 83303, and one of the attorneys for the respondents
15 in this matter, certifies that he caused to be mailed a copy of the
16 above and foregoing THIRD SUPPLEMENTAL NOTICE OF APPEARANCE on the
17 1 day of March, 1993, to:

18 Snake River Adjudication (original)
District Court
P.O. Box 27070
19 Twin Falls, ID 83303-0126

20 Chief, Natural Resources Division (1)
Office of Attorney General
21 State of Idaho
P.O. Box 44449
22 Boise, Idaho 83711-4449

1
2 The United States Department of Justice (1)
3 Environment and Natural Resources Division
4 550 West Fort Street, Box 33
5 Boise, ID 83734

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22
23

Patrick D. Brown

CONVERSATION MEMORANDUM

NAME OF PARTY Mary Bothwell
 EMPLOYEE: Helen Harrington-Morton

Copy DATE 8/14/90
 From FILE A36-00103A

RE: I spoke with Mrs. Bothwell at her place of business (837-41436)
in order to clarify the place of use. The legal description
of the above referenced claim did not correspond with
"other rights" claimed (A36-00039F & 00040A).

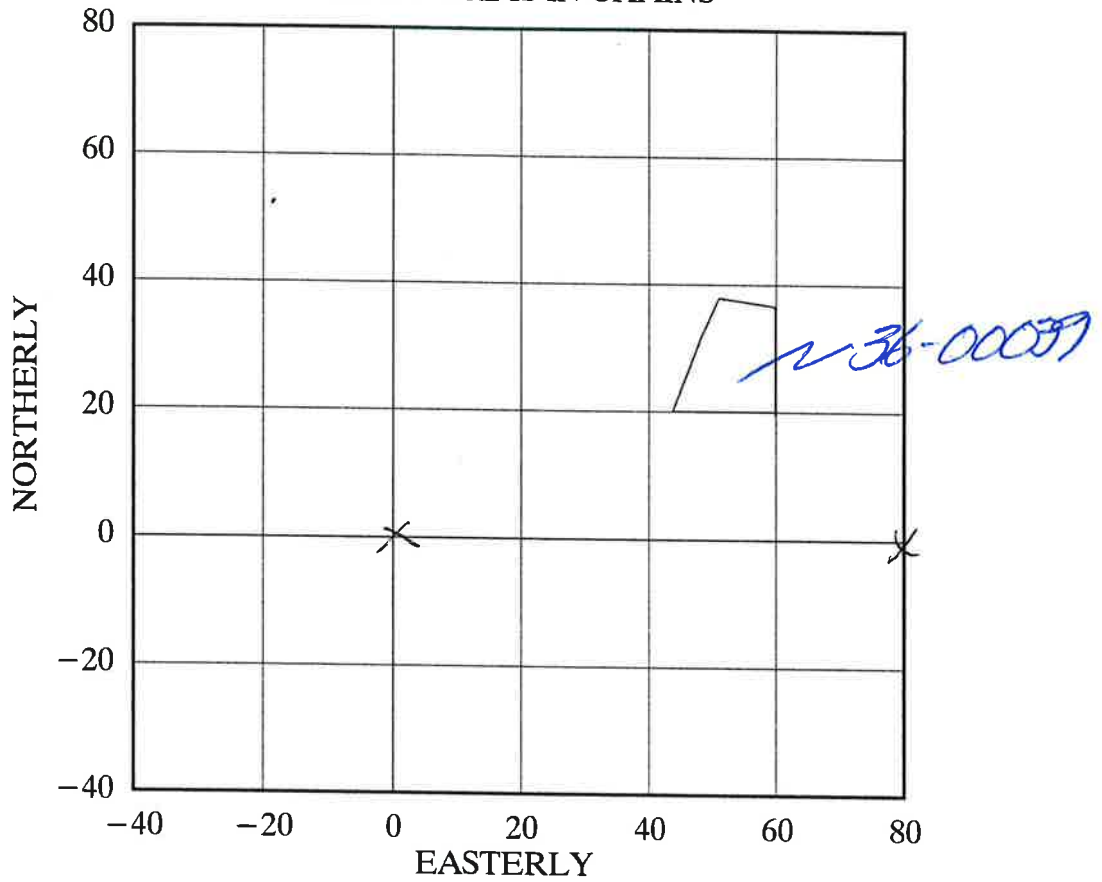
Mrs. Bothwell confirmed that all three claims apply
to the same 1 acre.

She stated that they had transferred water "shares"
from another piece of property they owned. She said
they sold off shares as they sold off portions of
the property. When they bought the current piece of
property, there were some "shares" left on the
other property, so they decided to transfer those
remaining shares to the property in Willow Brook
Subd.

This "transfer" is what is stated in Remarks as
having occurred in 10/87.

39-F

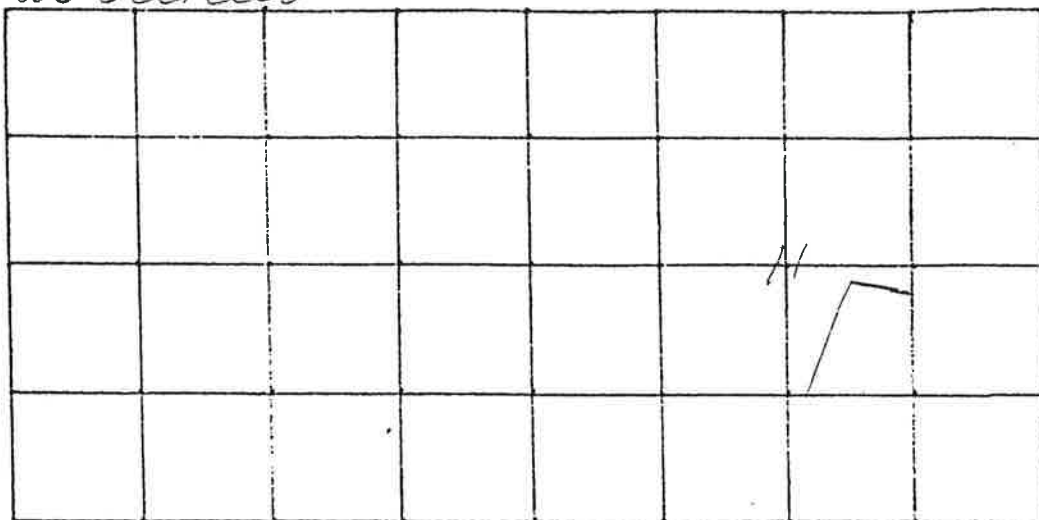
PARCEL PLOT - METES & BOUNDS
DISTANCE IS IN CHAINS



24.0 acres @ 0.10 cfs/acre

36-00037
T07S, R13E, S.11

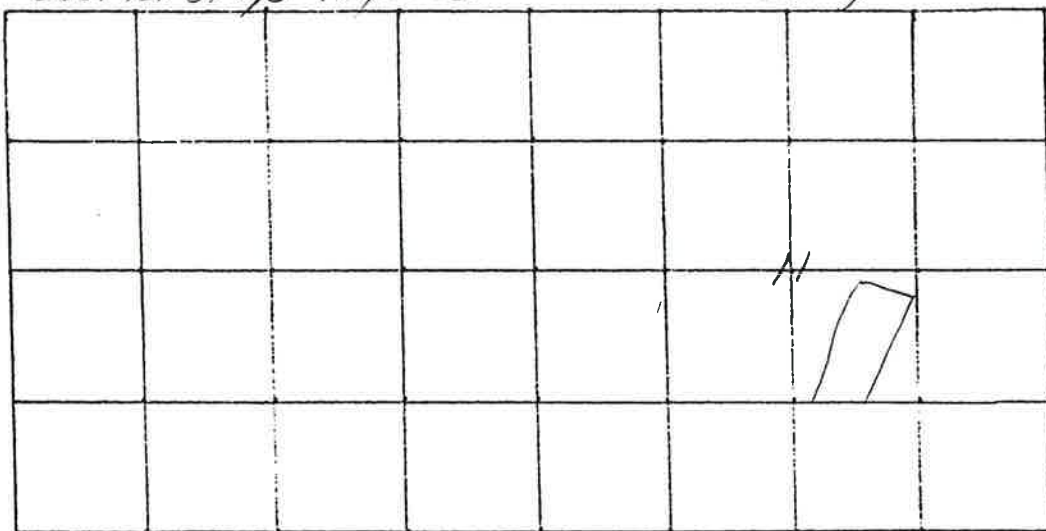
as decreed



2.4 cfs

~24.0 acres

ownership (splits of 36-00039A)



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

DATE: NOV-14-1997

PAGE: A-1

RIGHTS FROM: SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

RIGHT NUMBER: 36-00039F

NAME AND ADDRESS: PATRICK D BROWN
NEPHEW MUMFESTER KEZAMIZ
133 SHOSHONE ST W
PO BOX 389
TWIN FALLS ID 83303-0389

MARK E BOLDUC
CHRISTINA J BOLDUC
PO BOX 117
HAGERMAN ID 83332

BRUCE BOWMEY
MARY BOWMEY
PO BOX 444
HAGERMAN ID 83332

SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 0.04 CFS
0.03 CFS

PRIORITY DATE: 01/02/1891

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>	0.04 CFS
		03/13 11/13	0.03 CFS

PLACE OF USE: IRRIGATION Within GOODING County
T07S R13E S11 NWSE 1
1 ACRES TOTAL

CONSUMPTIVE USE: 3.0 ACRY

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

WATER IS DELIVERED THROUGH THE BUCKEYE DITCH/
PROPERTY IS ALSO KNOWN AS LOT 03, BLK 02, WILLOWBROOK SUBDIV.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

AJ5856NP

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

DATE: NOV-14-1997

PAGE: A-2

36-00039F (CONT.)

WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.

PROPERTY IS ALSO KNOWN AS LOT 05, BLK 02, WILLOWBROOK SUBDIV.

RECEIVED

JAN 02 1998

Department of Water Resources
Southern Region

OCT 20 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

Case No. 39576

SUBCASE(S) 36-00039F

SPECIAL MASTER'S REPORT

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 claim and his *Report* contained a recommendation of the elements of this water right.

- ☐ There were no objections to this claim; however, this claim is used in combination with another claim which is the subject of an objection.
- ☒ All objections to this claim were resolved by stipulation of the parties at hearing or with a *Standard Form 5*. All parties to the subcase and IDWR have signed the *Standard Form 5*.
- ☐ All objections to this claim were resolved at trial. The court made oral findings of fact and conclusions of law at the trial and they are incorporated herein reference.

Therefore, based on the file and record herein, IT IS RECOMMENDED that this claim be decreed with the elements as set forth in the attached *Special Master's Recommendation for Partial Decree*.

DATED: Oct 20, 1997

Ax Ham
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

SUBCASE(S): 36-00039 F

NOTICE OF ISSUANCE and SERVICE

Special Master FRITZ X. HAEMMERLE issued a **SPECIAL MASTER'S REPORT AND RECOMMENDATION** for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 9.

The documents were served only on parties to the subcase and IDWR. They were not served on the Presiding Judge. Parties to this subcase may file a *Motion to Alter or Amend* with the Special Master, but must do so within 14 days of the date of the **SPECIAL MASTER'S REPORT AND RECOMMENDATION**.

I certify that a true and correct copy of the **SPECIAL MASTER'S REPORT AND RECOMMENDATION** were hand delivered to the following:

Representative of IDWR:

IDWR

Mark E. Bolduc

Claimant/Attorney

Claimant/Attorney

Representative of U.S. Dept. of Justice

Party/Attorney

Party/Attorney

DATED 10-20-97

Debbie Lash
Deputy Clerk

RECEIVED

JAN 8 2 1998

Department of Resources
Southern Region

OCT 20 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) 76-00039F

STANDARD FORM 5

Case 39576

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 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: 10/29/97

Charles 2 Hanson

IDWR Concurrence

[Signature]

Claimant

[Signature]

Objector

Claimant/Attorney

Objector/Attorney

Claimant/Attorney

Objector/Attorney

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

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

RIGHTS FROM: SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

RIGHT NUMBER: 36-00039F

NAME AND ADDRESS: PATRICK D BROWN
NEPHEW RTH MUNRESTER KEZAMIZ
133 SHOSHONE ST W
PO BOX 389
TWIN FALLS ID 83303/0389

MARK E BOLDUC
CHRISTINA J BOLDUC
PO BOX 117
HAGERMAN ID 83332

BRUCE BOWMEY
MARY BOWMEY
PO BOX 444
HAGERMAN ID 83332

SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: *RB* *0.04* *RB* *C2.7*
0.05 CFS

PRIORITY DATE: 01/02/1891

POINT OF DIVERSION: T07S R13E S11 SESENE Within GOODING County

PURPOSE AND PERIOD OF USE: PURPOSE OF USE PERIOD OF USE
IRRIGATION Irrigation Season
03/13 11/13

QUANTITY
0.05 CFS

MS

RB

C.2.7.

PLACE OF USE: IRRIGATION Within GOODING County
T07S R13E S11 NWSE 1
1 ACRES TOTAL

CONSUMPTIVE USE: 3.0 AFY

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

WATER IS DELIVERED THROUGH THE BUCKEYE DITCH/
PROPERTY IS ALSO KNOWN AS LOT 03, BLK 02, WILLOWBROOK SUBDIV.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

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

DATE: OCT-16-1997
PAGE: A-2

36-00039F (CONT.)

WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.
PROPERTY IS ALSO KNOWN AS LOT 05, BLK 02, WILLOWBROOK SUBDIV.

☐ RECOMMENDATION

OCT 20 1997

Alexander
SPECIAL MASTER

HAGERMAN

Surface Irrigation Diversion Rate Analysis Sheet

WR#'s 36-00039F

SOIL	SOIL AC.	% ROW	ROW AC.	FIR ROW	CFS ROW	% FOR.	FOR. AC.	FIR FOR.	CFS FOR.
PAB	0.18			0.046		100	0.18	0.030	0.005
394	0.95			0.054		100	0.95	0.045	0.043
TOTALS	1.13						1.13		0.048

Based on 100% grass
per Doug Jones

REC.
FIR

0.04 *

CFS

=

SUM

0.048

CFS

X

1

REC. AC.

1.13

GIS AC.

DATE 10/20/97

INIT. JF

*ADD CONVEYANCE LOSS (IF APPLICABLE) FOR
TOTAL IRRIGATION DIVERSION REQUIREMENT

DIVERSION CAPACITY OR LIC./DEC. AMOUNT MAY LIMIT

36-00039 F

Pou_id	Claim	Acres_deci	Soil_type	Mad_row	Mad_for	Fir_row	Fir_for
504	3600039F	0.18	FAB	0.91	1.71	0.046	0.030
504	3600039F	0.95	394	0.75	0.94	0.054	0.045

TOTAL 1.13 Ac

SUBCASE NO. 36-00039F

	CLAIM (8/26/88)	AMENDED CLAIM	RECOMMENDATION	OBJECTION
NAME	Mark & Christina Bolduc	N/A	Bruce & Mary Bothwell	
BASIS OF CLAIM	Decree		Decree	
SOURCE	Billingsley Creek		Billingsley Creek	
QUANTITY	0.120 cfs		.03 cfs	XX change quantity to amount decreed or beneficially used whichever greater
PRIORITY DATE	1/2/1891		1/2/1891	
PURPOSE OF USE	Irrigation		Irrigation	
PERIOD OF USE	3/15 - 11/15		3/15 - 11/15	XX 1/1 - 12/31
POINT OF DIVERSION	T07S R13E S11		T07S R13E S11	
PLACE OF USE	T07S R13E S11 1 acre		T07S R13E S11 1 acre	
REMARKS			Water is delivered through the Buckeye Ditch. Property is also known as lot 05, blk 02, Willowbrook Subdiv.	

Note: Change of Ownership filed on 1/3/1994. There were two companion rights claimed with this one—36-00040A & 36-00103A. Both were disallowed. Neither disallowal was objected to.

"DO NOT FILM"

TABLE 98

SUBCASE NO. 36-00039F

	CLAIM (8/26/88)	AMENDED CLAIM	RECOMMENDATION	OBJECTION
NAME	Mark & Christina Bolduc	N/A	Bruce & Mary Bothwell	
BASIS OF CLAIM	Decree		Decree	
SOURCE	Billingsley Creek		Billingsley Creek	
QUANTITY	0.120 cfs		.03 cfs	XX change quantity to amount decreed or beneficially used whichever greater
PRIORITY DATE	1/2/1891		1/2/1891	
PURPOSE OF USE	Irrigation		Irrigation	
PERIOD OF USE	3/15 - 11/15		3/15 - 11/15	XX 1/1 - 12/31
POINT OF DIVERSION	T07S R13E S11		T07S R13E S11	
PLACE OF USE	T07S R13E S11 1 acre		T07S R13E S11 1 acre	
REMARKS			Water is delivered through the Buckeye Ditch. Property is also known as lot 05, blk 02, Willowbrook Subdiv.	

Note: Change of Ownership filed on 1/3/1994. There were two companion rights claimed with this one--36-00040A & 36-00103A. Both were disallowed. Neither disallowal was objected to.

10/20/97

Per J Peppersack:

MAD analysis provides for .04cfs/ac

CLAIM NUMBERS A36-00039 FDATE 10/1/97

TRANSFER NUMBER _____

OBJECTION FILED yesAGENT scTOTAL ACRES FROM RECOMMENDATION 1

GEOGRAPHIC INFO SYSTEM _____

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>7s</u>	<u>13E</u>	<u>11</u>														<u>1</u>		<u>1</u>
GIS																	<u>1</u>		<u>1</u>
RECOM																			
GIS																			
RECOM																			
GIS																			
RECOM																			
GIS																			
RECOM																			
GIS																			

UPDATED

POLYGON #

UPDATED

B36-DBPOU.DBF _____

POLYGON CREATED ON 604 () _____

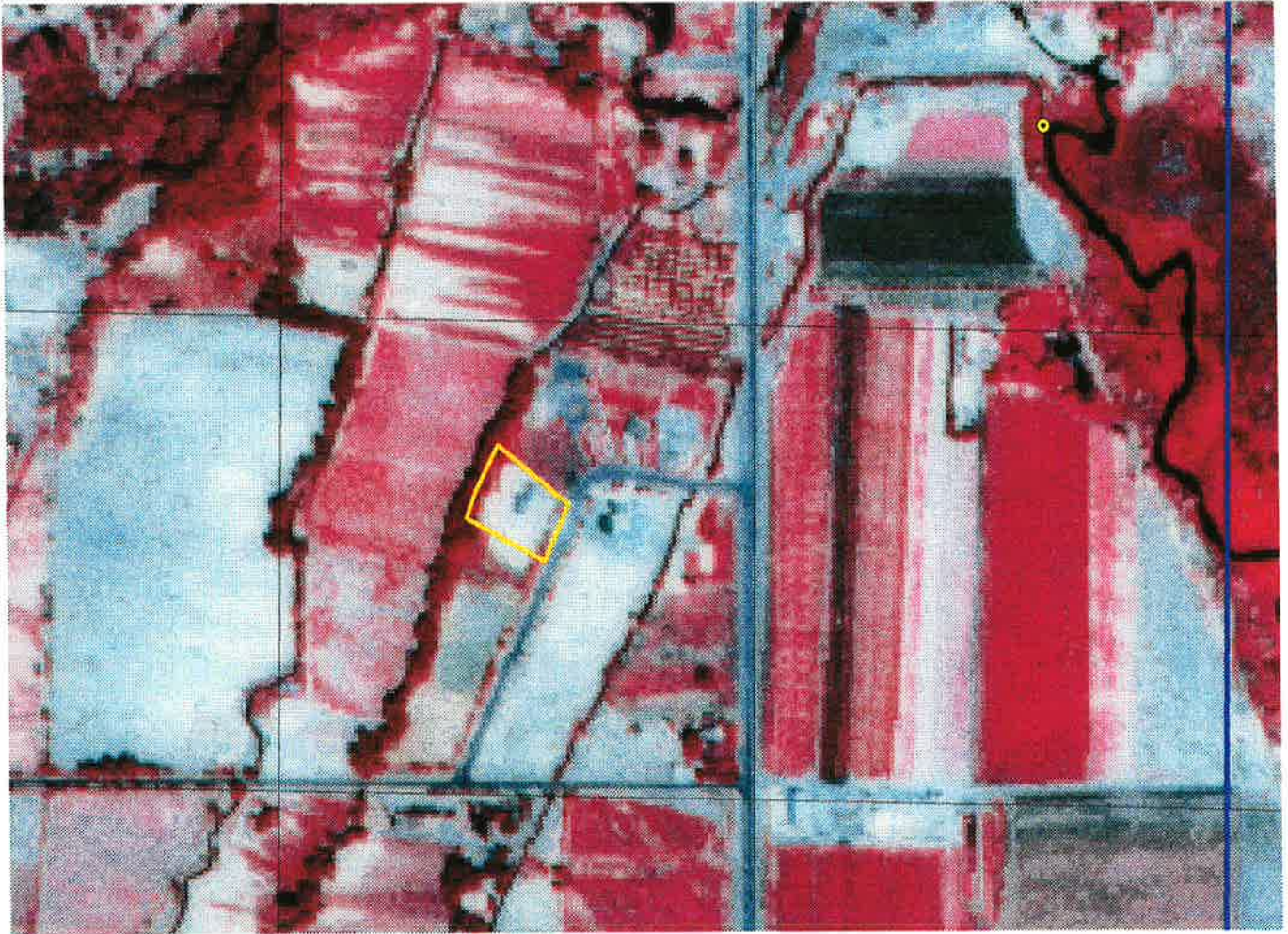
ATTRIBUTES OF B36-POU.SHP 509 sc 10/1/97

B36-DBPOD.DBF _____

ATTRIBUTES OF B36-POD.SHP 454 BuckeyeP/U CONFLICT yes () no (X)P/D CONFLICT yes () no (X)READY FOR DECREE yes (X) no ()SENT FOR DECREE yes () no ()

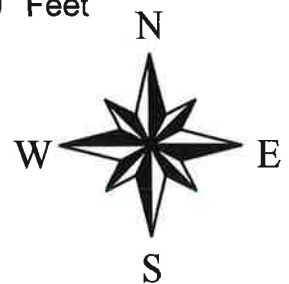
IDAHO DEPARTMENT OF WATER RESOURCES

36-00039F



1320 0 1320 Feet

TNS 7S, RNG 13E,
SEC 11, NWSE



⊙ Recommended Point of Diversion

□ Recommended Place of use

— Section lines

□ Quarter/Quarter Lines

GIS PLACE OF USE PRESENTATION
1987 and/or 1988 NAPP PHOTOGRAPHY
DATA ENTRY SEPTEMBER 1997
BY STEVE CLELLAND

NOTE TO FILE:

THERE WERE TWO
COMPANION RTS
CLAIMED WITH THIS
ONE

36-00040 A

36-00103 A .

BOTH WERE DISALLOWED.
NEITHER DISALLOWAL WAS
OBJECTED TO

R PROOF

CVR

MAPS

PHOTOS

MISC

MICROFILMED

84

RECEIVED

RECEIVED

DEC 27 1993

Department of Water Resources
Adjudication Bureau

MAR - 2 1994

Department of Water Resources
Southern Region Office

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

36-00039F

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

Case No. 39576

STANDARD FORM 3

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

STANDARD FORM FOR NOTICE
OF CHANGE IN ADDRESS

OR

Petitioner.

CONSENT TO SUBSTITUTION OF
PARTY

vs.

The United States; the State of Idaho; and
all Claimants to the Use of Water From
the Snake River Basin Water System,

Respondents.

previously modified by S. Truax
Note SF 3 is backwards
per Deed
(file on toss)

INSTRUCTIONS FOR USE

This form must be used to provide notice of change of address or to substitute a party whose water right recommendation is in a director's report which has been filed with the court. The filing of Standard Form 3 cannot result in a contested matter. A hearing will not be scheduled.

This form has been adopted by the court in SRBA Administrative Order 1 (amended June 21, 1993), Section 4A, which may be consulted for further information.

Standard Form 3 shall not operate to excuse compliance with the statutory requirements of I.C. § 42-1409(7) where a water right recommendation is not before the court.

As used in this form, the term "prior claimant/seller" means any person who, pursuant to I.C. § 42-1409(2), (3) and (6), filed a notice of claim asserting the right to the use of water or on whose behalf the right to the use of water was asserted. "New claimant/purchaser" means any successor in interest of a "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.

Check either the *Change in Address* or *Consent to Substitution of Party* box and fill in the requested 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 the court will not accept it for filing. The Verification and the Certificate of Mailing must be completed.

The standard form may be obtained from the Idaho Department of Water Resources and the court. You must provide a copy of this form to each party, or to their legal counsel, in any subcase in which you are a party.

☐ CHANGE IN ADDRESS

My name is _____

I am the claimant of _____

(Insert each water right number)

I have filed an objection/response to the following water right(s) _____

(Insert each water right number)

My new mailing address is _____

My phone number is: Work _____ Home _____

☒ **CONSENT TO SUBSTITUTION OF PARTY**

My name is Bruce Bothwell

My address is P. O. Box #444
Hagerman, Idaho 83332

My phone number is: Work 208-837-4436 Home 208-837-6402

The name and address of the party who I wish to be substituted for are:

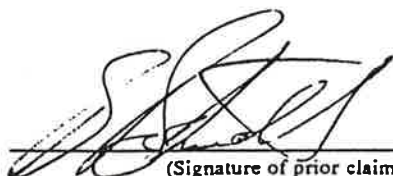
Mark E. Bolduc and/or Christina J. Bolduc
P. O. Box #117, Hagerman, Idaho 83332

I am the new claimant/purchaser of #A36-00039F and
(Insert each water right number)

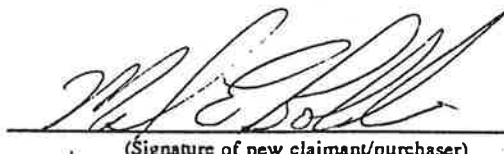
I am submitting proof of acquisition of the interest of the prior claimant/seller, *which is required by the court* to support my *Substitution*. Proof must contain a legal description of the property, including the water right numbers conveyed. You must describe the documents you are submitting.

Copy of the recorded Warranty Deed.

Copy of what was recommended by the Department of Water Resources.



(Signature of prior claimant/seller)



(Signature of new claimant/purchaser)

☐ **ATTORNEY OF RECORD COMPLETING FORM**

My name is _____

I am the attorney of record for _____
(Identify party/claimant)

My address and phone number are _____

VERIFICATION

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

State of IDAHO

County of Gooding

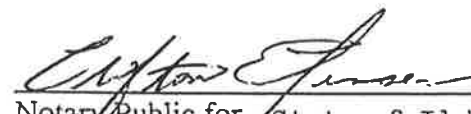
Mark E. Bolduc, being first duly sworn, upon oath, deposes and says:
(Insert name of party/claimant filing form)

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); and that I have read this form, know its contents and that the statements are true to the best of my knowledge and belief.


Signature of person filing form

By: _____
Attorney signing in representative capacity

Subscribed and sworn to before me on Dec. 13, 1993
(Insert Date)


Notary Public for State of Idaho
Residing at: Hagerman, Idaho
My Commission expires: 5-10-97

INSTRUCTIONS FOR MAILING

You must 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 Dec. 23, 1993, 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* must be served on each party, or their attorney, in each subcase in which you are a party at the following address(es):

3. A *Consent to Substitution of Party* must be served on the prior claimant/seller or their attorney at the following address:

Hepworth, Nungester & Lezamiz
133 Shoshone Street North, P. O. Box #389
Twin Falls, Idaho 83303-0389

4. A *Consent to Substitution of Party* must be served on each party, or their attorney, in each subcase in which the prior claimant/seller is a party at the following address(es):



WARRANTY DEED

For Value Received

Bruce R. Bothwell and Mary L. Bothwell, husband and wife,
hereinafter referred to as Grantor, does hereby grant, bargain, sell, and convey unto

Mark E. Bolduc and Christina J. Bolduc, husband and wife,
hereinafter referred to as Grantee, whose current address is
P.O. Box 117, Hagerman, ID 83332
~~223 FALLON LANE, HAGERMAN, ID, 83332~~

the following described premises, to-wit:

Lot 5 in Block 2 of WILLOW BROOK SUBDIVISION, Gooding County, Idaho,
being a part of Parcel "C" of Robert L. Justice Ranch, located in
part of the Northwest Quarter of the Southeast Quarter of Section 11,
Township 7 South, Range 13, East of the Boise Meridian, according to
the plat thereof, recorded August 13, 1979, as Instrument No. 78287,
in the Office of the County Recorder of said County.

152719

STATE OF IDAHO COUNTY OF GOODING

Filed for record at the request of FIRST AMERICAN TITLE

26 min. past 3 o'clock P.M. 18
of May, 1993 3.00

JOHN A. MYERS Recorder

By Christina J. Bolduc Deputy

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: May 17, 1993

Bruce R. Bothwell

Mary L. Bothwell
Mary L. Bothwell

STATE OF IDAHO

COUNTY OF Gooding

On This 17th day of May, in the year 1993, before me, a Notary Public
in and for said State, personally appeared Bruce R. Bothwell and Mary L. Bothwell,
known or identified to me to be the persons whose names are subscribed to the within
Instrument, and acknowledged to me that they executed the same.



Susan M. Bolton
Notary Public for Idaho
Residing at Gooding, Idaho
Commission Expires: 10/16/98

First American Title Company of Idaho

MICROFILMED
OCT 11 1994

AJ5856NP

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

DATE: NOV-2-1992

PAGE: A-79

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				
36-00039E	JEAN GLAUNER FRANK L GLAUNER PO BOX 235 HAGERMAN ID 83332	01/02/1891	IRRIGATION	03-15 11-15	.03 CFS	DECREED
				TOTAL QUANTITY:	.03 CFS	
				CONSUMPTIVE USE:	3.0 AFY	
	POINT OF DIVERSION: T07S R13E S11	SESENE				
	PLACE OF USE: IRRIGATION					
	T07S R13E S14	NESW 1.0				
	1.0 ACRES TOTAL					
	REMARKS: WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.					
	PROPERTY IS ALSO KNOWN AS LOTS 13-16, BLK 24 HAGERMAN TOWNSITE.					
36-00039F	BRUCE BOTHWELL MARY BOTHWELL PO BOX 444 HAGERMAN ID 83332	01/02/1891	IRRIGATION	03-15 11-15	.03 CFS	DECREED
				TOTAL QUANTITY:	.03 CFS	
				CONSUMPTIVE USE:	3.0 AFY	
	POINT OF DIVERSION: T07S R13E S11	SESENE				
	PLACE OF USE: IRRIGATION					
	T07S R13E S11	NWSE 1.0				
	1.0 ACRES TOTAL					
	REMARKS: WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.					
	PROPERTY IS ALSO KNOWN AS LOT 05, BLK 02, WILLOWBROOK SUBDIV.					

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. 36-00039F -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)

2. Person who filed objection:

Name: BRUCE & MARY BOTHWELL
Address: PO BOX 444
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

3. |X| Quantity: I respond to the objection concerning:
- 3a. |X| The total quantity of water used in cubic feet per second.
8. |X| Period of Year: I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.
10. |X| Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.
14. |X| Other: I respond to the objection concerning:

ALL MATTERS RAISED IN THE CLAIMANTS' ANSWER,
AFFIRMATIVE DEFENSES, AND PRAYER FOR RELIEF.

REASONS SUPPORTING EACH BOX CHECKED

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 response to Statement of the Objection item 8, and all allegations of the objection regarding that item, IDWR responds as follows: (1) The decree asserted by the claimant does not contain a period of use decreed for this water right. (2) Idaho Code Sec. 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. (3) 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. (4) The irrigation season of use cannot exceed the period in which water may be beneficially used. (5) 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. (6) 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. (7) 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. (8) The eventual decree by the SRBA Court of the irrigation season of use will not constitute a taking because the right is limited to the period in which water may be beneficially used.

In further response to this objection item, IDWR responds that it recommended the season of use as claimed. By now seeking a year round season of use, the claimant improperly seeks to use the objection process to amend the notice of claim. A claimant must obtain leave of court to amend a claim after the director's

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report is filed, just as a party must obtain leave of 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 10 and all allegations of the objection regarding that 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 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 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 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. A36-00039F	4
IDWR's Response to Answer, Affirmative Defenses, and Prayer for Relief of Claimant	4

(Over)

VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

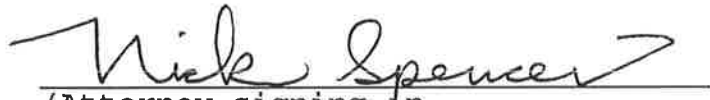
David B. Shaw, being first duly sworn, upon oath, deposes and says:

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.



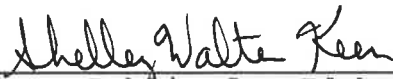
Signature of person filing response

By:



(Attorney signing in
representative capacity)

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



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

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

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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.

CIVIL CASE NUMBER: 39576

Ident. Number: A36-00039F
Date Received: 8/26/1988
Receipt No: S001791
Received By: SCC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: BRUCE BOTHWELL 208-837-6402
Address: P.O. BOX 444
HAGERMAN, ID 83332

OR

Name: MARY BOTHWELL 208-837-6402
Address: P.O. BOX 444
HAGERMAN, ID 83332

2. Date of Priority: JAN 02, 1891

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

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
07S	13E	11	SE	SE	NE		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	0.120		

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

A.F.A.

8. Total consumptive use is

Acre Feet Per Annum.

9. Non-irrigation uses:

A36-00039F

Page 1

Date: 08/26/88

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JAN 21 1993

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10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	13E	11	NW	SE		IRR	1.0
Section Acres							1.0
Total Acres							1.0

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:
A36-00040A, A36-00103A

14. Remarks:
P/D IS LISTED AS GRANGER DITCH IN DECREE BUT IS NOW REPLACED
BY THE BUCKEYE DITCH.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date: 3/22/1932

NEW INTERNATIONAL MORTGAGE BAN
Decree Plaintiff

vs

IDAHO POWER CO.
Decree Defendant

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JAN 21 1993
OCT 11 1994

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: 1

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): Margaret Bohannon Date: 8-26-88

Date: _____

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 26th day

of August 19 88

Seal

Roxanne Storey
Notary Public

Residing at Buhl, Id

My Commission Expires 6-30-94

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above mentioned;) thence north 80 degrees 28' west 199 feet to a point; thence south 23 degrees 40' west 2269 feet to a point 290 feet east from the quarter corner on the west boundary line of section 11, Twp. 7 S. R. 13 E. B. M.; thence east along the south boundary line of Lot 3 of said Section 11 to the southeast corner of said Lot 3; thence north along the east boundary line of said Lot 3 to the northeast corner thereof; thence east along the south boundary line of Lot 2, in said section 11 to the southeast corner of said Lot 2; thence north along the east boundary line of said Lot 2 to the place of beginning.

36-0037
CONDIT,
JAMES E.
AND JENNIE
M. CONDIT

.5 Spring April 1, 1930 Huitt Spring
(Said Huitt Spring is located on the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 19, Twp. 7 S. R. 14 E. B. M.)
The NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ (also known as Lot 3) of Section 19, Twp. 7 S. R. 14 E. B. M.

36-0039
DILATUSH,
E. W., AND
ALICE I.
36-0040
DILATUSH,
AND
CHARLES C.
CAREY

2.4 Billingsley Creek Jan. 2, 1891 Granger Ditch
.3 Spring Jan. 2, 1891 Unnamed Spring
(Said unnamed spring arises in the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 11, Twp. 7 S. R. 13 E. B. M. at a point 1065 feet north 2 degrees 2' west from the southeast corner of said tract of land. That the point of diversion of said Granger Ditch is on the bank of Billingsley Creek about 100 feet below the diversion point of said Buckeye Ditch and from the diversion point of said Granger Ditch the quarter section corner common to secs. 11 and 12 Twp. 7 S. R. 13 E. B. M. bears south 31 degrees 27' east a distance of 833.4 feet. Beginning at the southeast corner of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 11, Twp. 7 S. R. 13 E. B. M.; thence west along the forty line 1075'; thence north 20 degrees 49' east 820 feet; thence north 24 degrees 34' east 450 feet; thence south 81 degrees 26' east 593 feet to the east forty line, thence south along the forty line 1122 feet to the point of beginning.

36-0041
36-0042
ELIASON, 105 A
ARMEDIA 504 A

.8 Spring Dec. 12, 1901 Weatherby Springs;
.4 Spring April 4, 1910 (Hoagland Tunnel)
Weatherby Springs;

The NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 36, Twp. 7 S. R. 13 E. B. M. excepting therefrom, however, the following described tract of land: Beginning at the quarter corner between Sections 25 and 36 of said township and range, running thence east 399 feet to the center of the public highway, thence in a southwesterly direction in the center of said highway 278 feet, thence westerly along the north bank of the Clifford Ditch 370 feet, to the west boundary line of said NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said Section 36, thence north along said west boundary line 257 feet to the point of beginning, said tract of land excepted containing 2.2 acres, more or less, and the property herein described containing 37.8 acres, more or less.

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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

- 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.

RECEIPT
For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES

POOR ORIGINAL

Receipt No: 8015638

RECEIVED

APR 22 1993

Department of Water Resources
Southern Region Office

Date: 4/22/1993
Time: 10:28:53

Received

From: HEPWORTH NUNGESTER CHART.

Type of Payment	Program Acct Class	Amount
COPIES OF ADJUDICATION FILES	64100 229 21 1/60	\$47.00

Total

CHECK

10362

\$47.00

Region: SOUTHERN

Signature:

R. Foster

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HEPWORTH, NUNGESTER AND LEZAMIZ, CHARTERED

10362

DATE	DESCRIPTION	INVOICE #	CHECK		NET AMOUNT
			AMOUNT	DEDUCTION	
04/13/93	Department of Water Resources Hagerman/921530 - CPY		47.60		47.60

RECEIVED

APR 28 1993

Department of Water Resources
Southern Region Office

CHECK DATE 04/20/93	CONTROL NUMBER 10362	TOTALS ► GROSS:	47.60	DED:	0.00	NET:	47.60
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Department of Water Resources
222 Shoshone Street E.
Twin Falls, ID 83301

Date April 13, 1993

Name HEPWORTH NUNGESTER & LEZAMIZ

133 Shoshone N

Access Twin Falls ID 83301

No. of Copies	Material	Cost
952	copies of adjudication files @ .05 ea.	\$ 47.60
TOTAL		\$ 47.60

Please find enclosed the form(s) and/ or information you requested. The charge, if any, is indicated above.

If we may be of further assistance, please contact us.

Sincerely,

ely, Janie Robertson

A36-02008	-	50
A36-02009	-	45
A36-00125A	-	35
A36-10405	-	17
A36-10055	-	36
A36-10308	-	27
A36-10309	-	26
A36-10310	-	26
(R36-00029B)	-	14
(A36-10220)	-	
A36-00011A	-	59
A36-00051C	-	43
(R36-00051E)	-	47
(A36-10312)	-	
A36-00039F	-	39
A36-15461	-	17
A36-00121	-	53
A36-00119	-	58
A36-00120	-	57
A36-001030	-	64
A36-00198A	-	45
A36-15157	-	48
A36-15176	-	64
A36-15184	-	82

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$$\begin{array}{r} 95^2 \\ \times 05 \\ \hline 47.60 \end{array}$$

RECEIPT
For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES

36-00039F

Receipt No: 9015581

Date: 4/ 6/1993
Time: 11:58:46

Received

From: BOTHWELL, MARY

Type of Payment	Program Acct Class	Amount
COPIES ADJ/FILES	64100 229 21 1760	6.74

Total

\$6.74

CHECK 3039

Region: SOUTHERN

Signature:

Janie Robertson

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OCT 11 1994



ate 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

05-Feb-1993

BRUCE R BOTHWELL
PO BOX 444
HAGERMAN ID 83332

RE: Copy of SRBA File(s): 36-00039F, 36-00039P, 36-10673

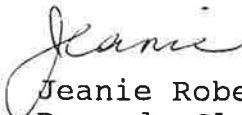
Dear Mr. Bothwell:

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:

\$6.74

Sincerely,


Jeanie Robertson
Records Clerk

Encl:

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FEB 03 1993

Department of Water Resources
Southern Region Office

1/14/93
(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 36-00039 P 36-106731

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,

James R. Stowell
(Name)

P.O. Box 444
(Address)

Hagerman ID 83332
(City, State, Zip Code)

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

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APR 30 1993

Department of Water Resources
Adjudication Bureau

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. A36-00039F
(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,

36-00039F -0001/
93-04-0039

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)

OBJECTION - 1

MICROFILMED

OCT 11 1994

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: Bruce Bothwell and Mary Bothwell

Address: P.O. Box 444

Hagerman, Idaho 83332

Briefly describe your interest in this water right:

Decreed water right pursuant to March 22,

1932 decision in New International Mortgage

Bank vs Idaho Power Co. with a priority

date of January 2, 1891.

2. Owner of the water right:

Name: Bruce Bothwell and Mary Bothwell

Address: P.O. Box 444

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.

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.

The report should be changed to increase the quantity of

water to that quantity decreed and/or beneficially used,

whichever is greater; period of use: 1/1 to 12/31

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

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)



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 Coeur d'Alene

Royce E. + Mary L. Boffman, 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.

Mary L. Boffman
Signature of person filing objection

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

1993.

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

Clifton Jensen
Notary Public for Idaho
Residing at: HAGERMAN, IDAHO
My Commission Expires: 5-10-97

(Over)

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: Bruce Bothwell and Mary Bothwell
Owner's address: P.O. Box 444
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 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 8 - IDWR recommends a period of use less than decreed and/or beneficially used. A reduction in water right would constitute a taking.

CHANGES TO DIRECTOR'S REPORT, page 4

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

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.

MICROFILMED

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.

02:11 AM
7/10/2014

(WATER\21530ANS)

NOTICE OF ERROR

RESPONSE

CORRECTED R PROOF

MICRO

JAN 21 1993

**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: 36-000 39 F

2. Name: Bruce Bothwell

Address: P.O. Box 444
Hagerman Id. 83332

Weekday Telephone Number: 208 837-6402

TEAR AT PERFORATIONS AND COMPLETE FORM ON OTHER SIDE

RECEIVED

SEP 23 1992

Department of Water Resources

RECEIVED

SEP 28 1992

Department of Water Resources
MICROFILMED
Water Resources Office

MICROFILMED

JAN 21 1993

RECEIVED

1960

Department of Water Resources
Southern Region
Office

DATA DEPT of water resources
222 Stone ST. East
Pum. Falls, Idaho
83304

MICROFILMED

(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 a 75% reduction in anything I have paid hard cash for.

4. Describe the changes you wish to have made in the proposed recommendation:

I want my water rights back.

5. Describe why you disagree with the proposed recommendation:

I need my original water right to irrigate my property

6. Date: 9/22/92

SIGNATURE

James R. Ethel

RESPONSE TO NOTICE OF ERROR
IN THE SNAKE RIVER BASIN ADJUDICATION

Water Right No: 36-00039F Contact Date: 10/1/92

IDWR Contact Person: (print and initial) ROBERT WORSTELL R.W.

Claimant Contact Person BRUCE BOTHWELL

Others Present —

Contact By (give date) 10/21/92

Phone Call (no.) 837-6402

Meeting (location): Phone

Letter (attach letter): —

IDWR USE ONLY

Date Initials

Date Entered 10/1 R.W.

Verified 10/1 R.W.

I. Issues identified by claimant: He disagrees with the 75% reduction in his claimed water use and wants the original amount restored.

II. Reasons provided claimant for original recommendation: The diversion ^{rate} ~~amount~~ of 0.03 cfs is the regular rate of diversion for a 1 acre lot. More water is permitted on small lots such as this (0.03 cfs/acre) than on larger acreages (0.02 cfs/acre). This decreed water has been claimed by 8 other claimants and is divided among them.

Mr. Bothwell asked for information on claim for lot 4 of this subdivision. He has just filled out a change of ownership claim and filed a Notice of error. I found this change under claim 36-00039P and told him he would receive a letter concerning it. The letter was sent 9/30/92

III. Additional information provided by claimant: He will file a notice of objection with the court.

IV. Changes to be made in final recommendation (if any): None

V. Action taken (date): Changed notice of error flag
Re-verified the claim

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APR 21 1993

10/1/92

Water Right Number - R36-00039F Prefix Translation: RESEARCH Old (D) Number -

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

*** C - CURRENT OWNER ***
BOTHWELL BRUCE 1 - PO BOX 444
2 -
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-837-6402
BOTHWELL MARY 1 - PO BOX 444
2 -
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-837-6402

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - +
01/02/1891 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 04/01 10/31 0.030

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.030 3.0

+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
07S 13E 11 NW SE 1.0 01 IRRIGATION (47) GOODING

Total Acres: 1.0

+ - - Diversion Means - VIA BUCKEYE DITCH

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - NONE

+ - - - - Remarks - - - - - +
WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.
PROPERTY IS ALSO KNOWN AS LOT 05, BLK 02, WILLOWBROOK SUBDIV.

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JAN 21 1993

Water right number - R36-00039F

Prefix Translation: RESEARCH

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

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

3600039

+ - - - - Conditions of Approval - - - - - +

No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - +
NEW INTERNATIONAL MORTGAGE BANK

+ - - - - Decree Defendant - - - +
IDAHO POWER CO.

+ - Decree Date - +
03/22/1932

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

Date: 07/30/1992 User Id: WORSTELL Subject: COPIED FROM REMARKS

P/D IS LISTED AS GRANGER DITCH IN DECREE BUT IS NOW REPLACED BY THE BUCKEYE DITCH.

Date: 09/24/1992 User Id: SCHULTZ Subject: NOTICE OF ERROR (NOE)

RECEIVED NOE 9/23/92. CHANGED NOE FLAG FROM BLANK TO A.

CLAIM VERIFIED 8/5/92. DID NOT REVERIFY ANY PART OF CLAIM.

+ - - Audit Fields - - +

10/01/92 WORSTELL

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

Court Report Filing - 00/00/0000
Objection Filed Date - 00/00/0000
Response Filed Date - 00/00/0000
Claim Received Date - 08/26/1988

Field Inspection Made - 00/00/0000
Field Inspection Flag -
Verified Date - 10/01/1992
Last Amended Date - 00/00/0000
Receipt Number - S001791
POU Ownership Flag - Y
Name Connector - OR

Civil Case Number - 39576
Old Case Number -
Old Judicial District -
Temporary Right - P
Water District - 36A
Federal/State Indicator - S
Presumption Flag -
Notice of Error Flag - B

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JAN 21 1993

R PROOF



CVR



MAPS



PHOTOS

MISC



MICROFILMED

JAN 21 1993

Water Right Number - R36-00039F Prefix Translation: RESEARCH Old (D) Number -

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

*** C - CURRENT OWNER ***
BOTHWELL BRUCE 1 - PO BOX 444
2 -
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-837-6402
BOTHWELL MARY 1 - PO BOX 444
2 -
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-837-6402

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - +
01/02/1891 ERROR IN REGION DECREEED

+ - - - - 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 04/01 10/31 0.030

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.030 3.0

+ - - - - Place of Use - - - - - +
TwN Rng Sec Tract Lot Acres Code Description County
07S 13E 11 NW SE 1.0 01 IRRIGATION (47) GOODING

Total Acres: 1.0

+ - - Diversion Means - VIA BUCKEYE DITCH

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - NONE

+ - - - - Remarks - - - - - +
WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.
PROPERTY IS ALSO KNOWN AS LOT 05, BLK 02, WILLOWBROOK SUBDIV.

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JAN 21 1993

Water right number - R36-00039F Prefix Translation: RESEARCH

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

+ - - - - Old Water Right Numbers - - - - - +
3600039

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

+ - - - - Decree Plaintiff - - - + + - - - - Decree Defendant - - - + + - Decree Date - +
NEW INTERNATIONAL MORTGAGE BANK IDAHO POWER CO. 03/22/1932

+ - - - - Comments - - - - - +
Date: 07/30/1992 User Id: WORSTELL Subject: COPIED FROM REMARKS
P/D IS LISTED AS GRANGER DITCH IN DECREE BUT IS NOW REPLACED BY THE BUCKEYE DITCH.

+ - - Audit Fields - - +
08/05/92 WORSTELL

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

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 08/05/1992	Old Judicial District	-
Claim Received Date	- 08/26/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S001791	Water District	- 36A
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- OR	Presumption Flag	-
				Notice of Error Flag	-

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JAN 21 1993

AGENT

DATE 8/5/92

Add water District 36A

MICROFILMED
JAN 21 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

17:30:06
06/28/90

PAGE: 14
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-00039F

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	Y N			N		HHT 8/5/92	DB	JAN 7 1993
POINT OF DIV	Y N			N				
SOURCE	Y N			N				
PLACE OF USE	Y (Y)		7-24-90 SCC/HHT	N	1,4,5			
DIV. AMOUNT CFS/VOLUME	Y (Y)		7-24-90 SCC/HHT	(Y)	1,4,5,6.			
CONSUMPTIVE USE	- N			N				
PURPOSES	Y N			N				
PERIOD OF USE	Y N			N				
BASIS OF CLAIM	Y N			N				
REMARKS	Y N			N				

HHT
7-12-90

"VERIFIED BY" CODES

TOPO MAP/ORTHO-PQ = 1
ASCS MAP = 2
WATERMASTER RECORDS = 3
NAPP PHOTOS = 4
FIELD EXAM = 5
OTHER (SEE REMARKS) = 6

THESE CODES ARE USED TO INDICATE HOW THE FIELD EXAMINER VERIFIED THE INFORMATION
USED FOR THIS FIELD EXAMINATION. INDICATED ARE ALL CODES WHICH APPLY.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

17:30:06
06/28/90

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-00039F

LAST: BOTHWELL
ADDRESS: P.O. BOX 444
CITY: HAGERMAN
PHONE NUMBER: 208-837-6402

FIRST: BRUCE
STATE: ID ZIP: 83332

OWNER CODE: C

LAST: BOTHWELL
ADDRESS: P.O. BOX 444
CITY: HAGERMAN
PHONE NUMBER: 208-837-6402

FIRST: MARY
STATE: ID ZIP: 83332

OWNER CODE: C

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

DATABASE
Y

FIELD
EXAMINER

CLAIM REMARKS: P/D IS LISTED AS GRANGER DITCH IN DECREE BUT IS NOW REPLACED
BY THE BUCKEYE DITCH.

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2 1 1

CONTACT PERSON: None

PHONE NUMBER: () -

DATE OF FIELD EXAM: __/__/__

APPOINTMENT MADE: Y() N()

TIME: __:__ A() P()

ACCOMPANIED BY: _____

PHONE NUMBER: () -

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / REMARKS:

MICROFILMED
JAN 21 1993

A. AJ CLAIM: # A36-00039F PRIORITY DATE: 01-02-1891 STAGE: D

B. WR RECORD: # 36-00039 PRIORITY DATE: - - STAGE:

C. FIELD EXAM REQUIRED?

DUE TO PRIORITY DATE DISCREPANCY? (Y/N)

DATABASE
Y

FIELD
EXAMINER
N

ARE THERE OBVIOUS REASONS TO QUESTION THE PRIORITY DATE CLAIMED? Y() N(X)
IF YES EXPLAIN.

REMARKS: Priority in agreement w/ decree

=====

RECOMMENDED PRIORITY DATE:

1-2-1891

REVIEWED BY

hht

DATE

7-12-90

=====

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JAN 21 1993

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A36-00039F	07S	13E	11	SE	SE	NE		GOODING

OTHER AJ CLAIMS WITH SAME AJ POD

A PREFIX R PREFIX

A36-10223 NONE

A36-00103A

A36-00003B

A36-00003C

A36-00003E

A36-00003F

A36-00003J

A36-00039G

WR RECORDS IN SAME 40 ACRE TRACT

36-00003
36-00005
36-00019
36-00021
36-00024
36-00025
36-00026
36-00027
36-00034
36-00035A
36-00035B
36-00039A
36-00039B
36-00040
36-00051
36-00052
36-00064
36-00065
36-00067
36-00071
36-00076
36-00077
36-00082
36-00083
36-00085
36-00087
36-00088
36-00089
36-00090
36-00091
36-00094
36-00095
36-00096
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

MICROFILMED
JAN 21 1994

36-07739
36-07834
36-07840
36-07853
36-07875
36-07957
36-08058
36-08319
36-08335

MICROFILMED
JAN 21 1993

SOURCE: BILLINGSLEY CREEK

TRIB: SNAKE RIVER

B. WR POINT OF DIVERSION AND SOURCE:

3600039 THERE IS NO POD ASSOCIATED WITH THIS WATER RIGHT NUMBER

C. FIELD EXAM REQUIRED?

	DATABASE	FIELD EXAMINER
DUE TO POD DISCREPANCY? (Y/N)	Y	<u>N</u>
DUE TO SOURCE DISCREPANCY? (Y/N)	Y	<u>N</u>

REMARKS:

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	COUNTY
<u>7S</u>	<u>13E</u>	<u>11</u>	<u>SE</u>	<u>SE</u>	<u>NE</u>	<u>---</u>	<u>Gooding</u>

same as claim

SOURCE: Billingsley Creek
REVIEWED BY: nnt

TRIB: Snake River
DATE: 7-12-90

A. ROOT WATER RIGHT NUMBERS:

A36-00039B
A36-00039C
A36-00039D
A36-00039E
A36-00039F
A36-00039G
A36-00039H
A36-00039J
A36-00039K
A36-00039L

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JAN 21 1993

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
07S	13E	11	NW	SE		BOTHWELL , BRUCE	A36-00039F / 1.0	- / 2.0	38.0	1	1
						VEENENDAAL , SIGRID E.	A36-10071 /	- /			
						WALMSLEY , FRED J.	A36-10083 /	- /			
						BOTHWELL , BRUCE	A36-10673 /	- /			
						MC FADDAN , MATTHEW D.	A36-00039G / 1.3	- /			
						BOTHWELL , BRUCE	A36-00040A / 1.0	- /			
						FLINT , WILLIAM E.	A36-00110A / 2.0	- /			
						SHOKAL , RUTH C.	A36-00039B / 0.9	36-00039B / 2.0			
						VEENENDAAL , DICK J.	A36-00039C / 2.0	- /			
						WALMSLEY , SUSAN K.	A36-00039D / 2.0	- /			
						JOHNSON , MILDRED A.	A36-00039H / 2.0	- /			
						POTTER , MARK B.	A36-00039J / 2.0	- /			
						EASTERDAY , RAY R.	A36-00039K /	- /			
						PUGMIRE , E. MARION	A36-00039L / 1.0	- /			
						CARY , RUTH E.	A36-02169 /	36-02169 / 8.0			
						MCFADDAN , MATTHEW D.	A36-00050A /	- /			
						FLINT , WILLIAM E.	A36-00112A /12.0	36-00112A /13.0			
						FLINT , WILLIAM E.	A36-00111A / 2.0	- /			
						DILATUSH , E. W.		36-00039A /14.0			
						DILATUSH , E. W.		36-00040 /			
						TROVILLO , D. C.		36-00110 /			
						TROVILLO , D. C.		36-00111 /			
						POPE , J. L.		36-00112B /			
TOTAL ACRES							A36-00039F	1.00	2.00	38.00	

ARE IRRIGATED ACRES FOUND IN TRACTS OTHER THAN INDICATED ABOVE, Y() N()
IF YES SEE ATTACHED SHEET:

C. FIELD EXAM REQUIRED?

DUE TO POU DISCREPANCY? (Y/N)

DATABASE
Y

FIELD
EXAMINER
XY

PRESUMPTION FLAG:

REMARKS:

Need to confirm location of pou

Lot 5, Willow Brook Subd.

RECOMMENDATIONS:

TOTAL ACRES: 1

REVIEWED BY: RAT

DATE: 8-14-90

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JAN 21 1991

A. AJ CLAIMED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
A36-00039F IRRIGATION	FROM 03-15 TO 11-15 4-1 10-31	.120 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		.120 CFS

B. WR RECORDED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
TOTAL DIVERSION RATE/VOLUME CLAIMED		

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

	DATABASE	FIELD EXAMINER
DUE TO WATER-USE DISCREPANCY? (Y/N)	Y	<u>N</u>
DUE TO DIVERSION RATE DISCREPANCY? (Y/N)	Y	<u>Y</u>
DUE TO PERIOD FROM/TO DISCREPANCY? (Y/N)	Y	<u>N</u>

Excessive water

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

Y(X) N()

RECOMMEND TO WR STANDARDS OR OTHER?

Y(X) N() Explain in remarks, below.

REMARKS:

MICROFILMED
JAN 21 1983

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y() N(X)

AJ TOTAL CLAIMED DIVERSION RATE: 0.120 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 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?

FIELD
DATABASE EXAMINER
Y N

DUE TO STAGE OR DIVERSION RATE DISCREPANCY? (Y/N)

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JAN 21 1989

B.

FLOW MEASUREMENT

MEASUREMENT METHOD theoretical, SEE ATTACHED CALCULATIONS.

C. ARE OTHER WATER RIGHTS USED? Y() N() IF YES COMPLETE OVERLAP REVIEW.

OTHER RIGHTS LISTED IN CLAIM: A36-00040A, A36-00103A

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

CLAIM	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A36-00039F	BILLINGSLEY CREEK	BOTHWELL , BRUCE	0.120	0.120		
A36-00039G	BILLINGSLEY CREEK	MC FADDAN , MATTHEW D.	0.100	0.076		
A36-00110A	BILLINGSLEY CREEK	FLINT , WILLIAM E.	1.160	0.061	76.00	4.00
A36-00039B	BILLINGSLEY CREEK	SHOKAL , RUTH C.	0.120	0.133		
A36-00039C	BILLINGSLEY CREEK	VEENENDAAL , DICK J.	0.280	0.140		
A36-00039D	BILLINGSLEY CREEK	WALMSLEY , SUSAN K.	0.260	0.130		
A36-00039H	BILLINGSLEY CREEK	JOHNSON , MILDRED A.	0.280	0.140		
A36-00039J	BILLINGSLEY CREEK	POTTER , MARK B.	0.280	0.140		
A36-00039K	BILLINGSLEY CREEK	EASTERDAY , RAY R.	0.200	0.015	50.80	3.90
A36-00039L	BILLINGSLEY CREEK	PUGMIRE , E. MARION	0.120	0.120	4.00	4.00
A36-02169	SPRING	CARY , RUTH E.	0.205	0.037		
A36-00112A	BILLINGSLEY CREEK	FLINT , WILLIAM E.	0.800	0.066	48.00	4.00
A36-00111A	BILLINGSLEY CREEK	FLINT , WILLIAM E.	0.380	0.020	76.00	4.00

LIST ALL RIGHTS WITH SAME POU BUT NOT USED FOR IRRIGATION.

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A36-10071	DOMESTIC	VEENENDAAL , SIGRID E.	FROM 01-01 TO 12-31	.040 CFS	
A36-10083	DOMESTIC	WALMSLEY , FRED J.	FROM 01-01 TO 12-31	.040 CFS	
A36-10673	DOMESTIC	BOTHWELL , BRUCE	FROM 01-01 TO 12-31	.040 CFS	
A36-00039J	STOCKWATER	POTTER , MARK B.	FROM 01-01 TO 12-31	.020 CFS	
A36-00039J	AESTHETIC	POTTER , MARK B.	FROM 01-01 TO 12-31	.200 CFS	
A36-00039K	STOCKWATER	EASTERDAY , RAY R.	FROM 01-01 TO 12-31	.020 CFS	
A36-02169	DOMESTIC	CARY , RUTH E.	FROM 01-01 TO 12-31	.040 CFS	
A36-00050A	DOMESTIC	MCFADDAN , MATTHEW D.	FROM 01-01 TO 12-31	.040 CFS	

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JAN 21 1993

D. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE 0.03
ACRES 1 x 0.02 CFS/ACRE = 0.02 CFS
(Taken from p/u review)

DOES AMOUNT CLAIMED EXCEED 0.02 CFS/ACRE? Y(X) N(X)

*** IF YES ADDITIONAL WATER USE FORM FILED AND ATTACHED? Y() N(X) ***

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 3.0 AF/A
ACRES 1 x CONSUMPTIVE VOL. AF/A FOR AREA 3.0 =
TOTAL CONSUMPTIVE USE 3.0 AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A
ACRES 1 x DIVERSION VOL. AF/A FOR AREA 4 =
TOTAL DIVERSION VOLUME 4 AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y() N(X)

1b. CALCULATIONS

*allow .03 cfs/acre
for < 5 Acres. Based
on the historical gravity
use of this right on pou.
see
7-7-92*

Insignificant ditch loss

N/A

REMARKS: (Include limitations on CONSUMPTIVE USE for combined rights.)

*This claim overlaps w/ A36-00039F, 00040A, 0003A
(.12 cfs, .02 cfs, .06 cfs)
Total combined rate = 0.20 cfs per acre*

disallowed

disallowed

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claim - 1/15/94

RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD FROM TO		REC. DIV RATE CFS		REC. DIV VOL. AF/A		REC. CONS. USE	
	DATABASE		EXAMINER		DATABASE		EXAMINER	
<u>Irrigation</u>	<u>3/15</u>	<u>4/15</u>	<u>0.03</u>		<u>4.0</u>		<u>3.0</u>	
TOTAL FOR THIS RIGHT	<u>4-1</u>	<u>10-31</u>			<u>N/A</u>			
REVIEWED BY: <u>hht</u>	DATE: <u>7-12-90</u>							

A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP _____
FORFEIT/ABANDON _____
ADDITIONAL DIV. AMOUNT _____

ACCEPTED AS CLAIMED	NEEDS REVIEW
(X)	()
(X)	()
(X)	()

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-00039

TOTAL DIVERSION RATE OF WR SPLITS

DATABASE
5.052

EXAMINER

CFS

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
-	A36-00039B	0.120	-		36-00039B	0.260
A36-00039A	A36-00039C	0.280	-		36-00039A	2.136
A36-00039B	A36-00039C	0.280	-		36-00039B	0.260
A36-00039	A36-00039D	0.260	-		36-00039	
A36-00039A	A36-00039E	0.040	-		36-00039A	2.136
A36-00039B	A36-00039E	0.040	-		36-00039B	0.260
A36-00039	A36-00039F	0.120	-		36-00039	
A36-00039	A36-00039G	0.100	-		36-00039	
A36-00039	A36-00039H	0.280	-		36-00039	
A36-00039	A36-00039J	0.280	-		36-00039	
A36-00039	A36-00039K	0.200	-		36-00039	
A36-00039	A36-00039L	0.120	-		36-00039	
TOTAL CFS		2.120				5.052

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:

attached
see split right review @ ~~A36-00039A~~

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AUTHENTICATION:

SIGNATURE: Steve Chell

DATE: 12-13-90

NAME OF FIELD EXAMINER: _____ TITLE: _____

=====

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DECREEED RIGHT SPLIT ANALYSIS

PARENT RIGHT NO. 36-00039 TOTAL DIVERSION RATE see below.PREPARATION DATE 8/5/92 HHT

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>Ø</u>		
B	<u>0.12</u>	<u>0.03</u>	<u>N</u>	<u>Ø</u>	<u>-</u>	<u>0.03</u>
C	<u>0.28</u>	<u>0.06</u>	<u>N</u>	<u>Ø</u>	<u>-</u>	<u>0.06</u>
D	<u>0.26</u>	<u>0.06</u>	<u>N</u>	<u>Ø</u>	<u>-</u>	<u>0.06</u>
E	<u>0.04</u>	<u>0.03</u>	<u>N</u>	<u>Ø</u>	<u>-</u>	<u>0.03</u>
<u>F</u>	<u>0.12</u>	<u>0.03</u>	<u>N</u>	<u>Ø</u>	<u>-</u>	<u>0.03</u>
G	<u>0.04</u>	<u>0.04</u>	<u>N</u>	<u>Ø</u>	<u>-</u>	<u>0.04</u>
H	<u>disallowed</u>			<u>Ø</u>		
J	<u>disallowed</u>			<u>Ø</u>		
K	<u>0.20</u>	<u>0.20</u>	<u>Y</u>	<u>0.01</u>	<u>Y</u>	<u>0.20</u>
L	<u>0.12</u>	<u>0.03</u>	<u>N</u>	<u>Ø</u>		<u>0.03</u>
M	<u>disallowed</u>			<u>Ø</u>		
N	<u>disallowed</u>			<u>Ø</u>		
P	<u>disallowed</u>			<u>Ø</u>		
						<u>0.48</u>

Parent rights:

36-00039A 2.136 14 ac.
 36-00039B 0.26 2 ac.

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Conveyance losses for the splits of this right in the subdivision
 are insignificant and minimal for each right.
 (except for 39K)

INTER-DEPARTMENT MEMO — 1

FROM Steve Clelland

DATE 12-13-90

TO A36-00039F, A36-00103A, A36-00040A

SUBJECT OVERLAP REVIEW

-0040A = I don't believe this spring exists or is used any more
Recommend claimant supply more info. DISALLOW

-00103A = unrecorded transfer in 10/87, claimant must show
ownership prior to transfer + may need to show trans.
because of injury + to justify beneficial use.

-00039F = allow IDWR standard rate 0.03 ~~CR~~ ~~MAC~~

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Steve Clelland

SIGNATURE

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	

9 rts.
insignificant loss

Buckeye Ditch

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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

AA65

HAGERMAN ORTHOPHOTOQUAD
IDAHO

260 000 FEET

114°52'30"

42°52'30"

440 000
FEET



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