

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: A36-00041A
Date Received: 8/10/1988
Receipt No: M000965
Received By: SCC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: PHILIP F. DICE 208-837-6657
Address: RT. 1 BOX 236
HAGERMAN, ID 83332

OR

Name: JUDITH A. DICE 208-837-6657
Address: RT. 1 BOX 236
HAGERMAN, ID 83332

2. Date of Priority: DEC 12, 1901

3. Source: HOAGLAND TUNNEL Trib. to: BILLINGSLEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07S	14E	30	NE	SW			GOODING

5. Description of diverting works:
OPEN DITCHES AND PIPELINE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	01/01	12/31	0.040		

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

A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

A36-00041A

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Date: 08/10/88

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10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
07S	13E	36	NW NE		IRR	0.7
Section Acres						0.7
Total Acres						0.7

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:

NONE

14. Remarks:

PART OF WR #36-00041 FOR 0.8 CFS.

TOTAL DIVERSION IS EQUAL TO THE FLOW THROUGH A TWO INCH PIPELINE
AS DESCRIBED IN WARRANTY DEED.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 3/22/1932

NEW INTERNATIONAL MORTGAGE BAN
Decree Plaintiff

vs

IDAHO POWER COMPANY
Decree Defendant

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

TOTAL RECORDS IN SELECTION FILE: 116

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1 Users, Inc. and its individual members:

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



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NOTICE OF APPEARANCE - 2

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



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NOTICE OF APPEARANCE - 3

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

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

DATED This 9 day of February, 1993.

HEPWORTH, NUNGESTER & LEZAMIZ

By Patrick D. Brown
PATRICK D. BROWN
Attorneys for Respondents

CERTIFICATE OF MAILING

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



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NOTICE OF APPEARANCE - 4

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1 February, 1993, to:

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

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

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

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

21 
22 Patrick D. Brown



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NOTICE OF APPEARANCE - 5

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State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 1, 1993

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

Re: Notice of Appearance

Dear Mr. Brown:

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

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

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

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

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

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

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

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

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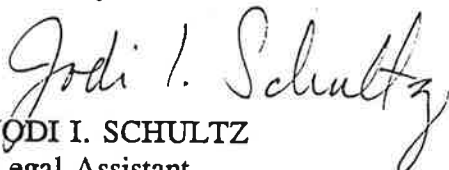
Mr. Patrick D. Brown
March 1, 1993
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Claimant's Name	Claim No. as listed on Notice of Appearance	Discrepancy Between Notice of Appearance and IDWR Records
Ya-Ta-Hay Investments, Inc.	A36-07875/36-07875	No record of this claim no., nor any other claim no. for claimant other than A36-10283A/36-10283A (as listed)

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

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

Sincerely,


JODI I. SCHULTZ
Legal Assistant
Idaho Department of Water Resources

cc: IDWR Southern Region

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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 X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 3

For Individuals:

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

Signature of Claimant(s): Judith A. Dice Date: 10 Aug 1988

Date: _____

State of Idaho)
County of Gooding) SS.

Subscribed and sworn (or affirmed) before me this 10 day
of Aug 19 88

John D. Carter
Notary Public

Seal

Residing at Boin Id

My Commission Expires 4/3/94

T7S

T8S

400 000
FEET

436-00041 A

42°45'



114°52'30" 13E 14E

270 000 FEET

Produced by the Geological Survey

between DORIS BOYE, RIDLEY, A married woman, (ling with the hereinafte
described p erty as her sole and sepa te property,
of Hagerman, County of Gooding, State of Idaho
hereinafter referred to as "grantor", and PHILIP F. DICE and JUDITH A. DICE, Husband
and Wife
of Hagerman, County of Gooding, State of Idaho
hereinafter referred to as "grantee".

WITNESSETH, that grantor, for and in consideration of the sum of Ten and no/100 (\$10.00) and other good and valuable consideration-----dollars, in lawful money of the United States, to grantor in hand paid by grantee, the receipt of which is hereby acknowledged, has granted, bargained and sold, and by these presents does grant, bargain, sell, convey and confirm unto grantee, and to grantee's heirs and assigns forever, all of the following described property situate in Gooding County, State of Idaho:

Township 7 South, Range 13 East of the Boise Meridian
Section 36: Part of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ described as follows:
Beginning at the point of intersection with the East boundary of County road and the Centerline of the Clifford ditch as they are now constructed:
thence South along the East boundary of county road, 40.0 feet to the True Point of Beginning.
thence East parallel with the North boundary of said NW $\frac{1}{4}$ NE $\frac{1}{4}$, 110.0 feet;
thence South parallel with the East boundary of said NW $\frac{1}{4}$ NE $\frac{1}{4}$, 200.0 feet;
thence West parallel with the North boundary of said NW $\frac{1}{4}$ NE $\frac{1}{4}$, 145.0 feet more or less to the East boundary of said County Road;
thence Northeasterly along the East boundary of said County Road, 200.0 feet more or less to the True Point of Beginning.

Together with a water right, which right consists of the gravity flow of the waters of unnamed spring, situate on lands owned by Vendor in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 36, Township 7 South, Range 13 E.B.M., through a two (2) inch pipeline, and together with an easement for maintenance and operation of said pipeline.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any-wise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all estate, right, title and interest in and to the said property, as well in law as in equity, of the grantor.

TO HAVE AND TO HOLD all and singular the above mentioned and described premises, together with the appurtenances, unto the grantee, and to the grantee's heirs and assigns forever. And the grantor, and the grantor's heirs, the said premise in the quiet and peaceable possession of the grantee, and the grantee's heirs and assigns, against the grantor, and the grantor's heirs, and against all and every person and persons whomsoever lawfully claiming the same, shall and will WARRANT and by these presents forever DEFEND.

IN WITNESS WHEREOF, the grantor has subscribed this deed the day and year first above written.

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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

IDWR'S RESPONSE TO ANSWER, AFFIRMATIVE DEFENSES AND PRAYER FOR
RELIEF OF CLAIMANT, Page 1

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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.

MICROFILMED
OCT 11 1994

RECEIPT
For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES

RECEIVED

JAN 22 1993

Department of Water Resources
Southern Region Office

Receipt No:

3015302

Date:
Time:

1/22/1993
11:34:41

Received
From:

DICE JUDITH

Type of Payment

Program Acct Class

Amount

FEE FOR COPY OF ADJUDICATION CLAIM

64100

229 21 1760

4.72

Total

\$4.72

CHECK

3110

Region: SOUTHERN

Signature:

R. Foster

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OCT 11 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

19-Jan-1993

PHILIP DICE
2912 S 1050 E
HAGERMAN ID 83332

RE: Copy of SRBA File(s): 36-00041A

Dear Mr. Dice:

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:

\$4.72

Thank you.

Sincerely,

Jeanie
Jeanie Robertson
Records Clerk

Encl:

MICROFILMED
OCT 11 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
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Please remit the following for the cost of the copies and postage:

\$4.72

Sincerely,

Jeanie
Jeanie Robertson
Records Clerk

Encl:

Dice
49 x 5 = 245
Post. 2.13
encl. .14
4.72

MICROFILMED
OCT 11 1994

RECEIVED

JAN 12 1993

Department of Water Resources
Southern Region Office

12 January 1993

(Date)

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

Dear Idaho Department of Water Resources:

Please provide me with a copy of all information included in
my file as it relates to water right number 36-00041A.

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,

Philip F. Dice
Judith A. Dice

(Name) Philip F. & Judith A. Dice
2912 South 1050 East

(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

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: A36-00041A
Date Received: 8/10/1988
Receipt No: M000965
Received By: SCC

COPY

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: PHILIP F. DICE 208-837-6657
Address: RT. 1 BOX 236
HAGERMAN, ID 83332

OR

Name: JUDITH A. DICE 208-837-6657
Address: RT. 1 BOX 236
HAGERMAN, ID 83332

2. Date of Priority: DEC 12, 1901

3. Source: HOAGLAND TUNNEL Trib. to: BILLINGSLEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07S	14E	30	NE	SW			GOODING

5. Description of diverting works:
OPEN DITCHES AND PIPELINE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	01/01	12/31	0.040		

7. Total Quantity Appropriated is:
0.040 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	36	NW NE		IRR	0.7
Section Acres						0.7
Total Acres						0.7

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:
NONE

14. Remarks:

PART OF WR #36-00041 FOR 0.8 CFS.
TOTAL DIVERSION IS EQUAL TO THE FLOW THROUGH A TWO INCH PIPELINE
AS DESCRIBED IN WARRANTY DEED.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 3/22/1932

NEW INTERNATIONAL MORTGAGE BAN
Decree Plaintiff

vs

IDAHO POWER COMPANY
Decree Defendant

16. Signature(s)

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

Number of attachments: 3

For Individuals:

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

Signature of Claimant(s): Judith A. Luce Date: 10 Aug 1988

Date: _____

State of Idaho)
County of Gooding) SS.

Subscribed and sworn (or affirmed) before me this 10 day
of Aug. 19 88

John D. Carter
Notary Public

Seal

Residing at Boia Tel
My Commission Expires 4/3/94

MICROFILMED
JAN 21 1993

ph

T7S

T8S

400 000
FEET

436-00041A

42°45'



114°52'30" 13E 14E

270 000 FEET

JAN 2 1955

Produced by the Geological Survey

Water Right Number - 36-00041 Adj. Flag Translation: Standard Water Right Number Old (D) Number -

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

*** C - CURRENT OWNER *** ARMEDIA 1 -
ELIASON 2 -
3 -
City- State- Zip-
Phone -

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
12/12/1901 17 D - DECREED

+ - - - - Source - - - - + + - - - - Tributary - - - - - +
HOAGLAND TUNNEL BILLINGSLEY CREEK

+ - - - - Point of Diversion - - - - - +
+ - - - - Stream Index (Blank if no Index Code)

Twn	Rng	Sec	Tract	Lot	RFlg	County
07S	14E	30	NE SW		(47)	GOODING

+ - - - - Water Use - - - - - +
+ - - - - Diversion Rate Diversion Volume

Code Description Period From Period To 0.800

01 - IRRIGATION

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
0.800

+ - - - - Place of Use - - - - - +
+ - - - - Description County

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
07S	13E	36	NW NE			01	IRRIGATION	(47) GOODING

Total Acres:

+ - - Diversion Means -
+ - - Non-Irrigation Use -
+ - - Other Rights for Same Use -

+ - - - - Remarks - - - - - +
P/U INCOMPLETE. SEE FILE.

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

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

+ - - Microfilm Rolls -

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. 36-00041A -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)

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OCT 11 1994

2. Person who filed objection:

Name: PHILIP F & JUDITH A DICE
Address: 2912 S 1050 E
HAGERMAN ID 83332

3. If this response is filed by an attorney:

Attorney Name(s): NICHOLAS B. SPENCER
Attorney Address: DEPUTY ATTORNEY GENERAL(S)
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449
Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

1. ☒ Name and Address: I respond to the objection concerning the name and/or address of the owner of the water right.
3. ☒ Quantity: I respond to the objection concerning:
- 3a. ☒ The total quantity of water used in cubic feet per second.
7. ☒ Purposes of Use: I respond to the objection concerning the purpose(s) of use.
8. ☒ Period of Year: I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.
10. ☒ Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.
14. ☒ Other: I respond to the objection concerning:
- ALL MATTERS RAISED IN THE CLAIMANT'S ANSWER,
AFFIRMATIVE DEFENSES, AND PRAYER FOR RELIEF.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection item 1, IDWR responds that it will change the claimant's address on its records to that shown on the objection. This, however, may not change the claimant's address on the records of the SRBA Court. The Court has developed its "Standard Form 3" to be used for reporting matters such as address changes and changes in ownership. The claimant may need to file this form with the SRBA Court.

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

In response to Statement of the Objection item 8, and all allegations of the objection regarding 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

(Over)

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OCT 11 1994

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 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. A36-00041A	5
IDWR's Response to Answer, Affirmative Defenses, and Prayer for Relief of Claimant	4

(Over)

MICROFILMED
OCT 11 1994

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.

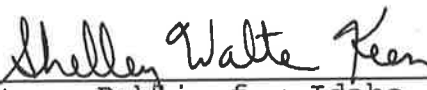


Signature of person filing response

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:

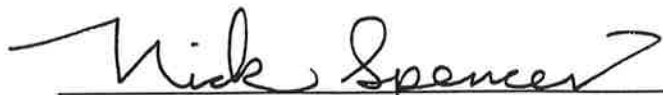
See No. 3

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

R PROOF

CVR

MAPS

PHOTOS

MISC

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OCT 1 1 1

RECEIVED

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. A36-00041A
(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,

36-00041A -0001/
93-04-0044

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)

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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: Philip F. and Judith A. Dice

Address: 2912 So. 1050 E

Hagerman, ID 83332

Briefly describe your interest in this water right:

Decreed water right pursuant to New

International Mortgage Bank v. Idaho Power

Company dated 3/22/32 with a priority date

of 12/12/1901.

2. Owner of the water right:

Name: Philip F. and Judith A. Dice

Address: 2912 So. 1050 E.

Hagerman, ID 83332

3. If this objection is filed by an attorney:

Attorney Name: Patrick D. Brown & Penelope Parker

Attorney Address: Hepworth, Nungester & Lezamiz

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

Attorney Phone No.: (208) 734-7510

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

II. STATEMENT OF THE OBJECTION

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

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

(Over)

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OCT 11 1994

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

REASONS SUPPORTING EACH BOX CHECKED

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

See page 7

CHANGES TO THE DIRECTOR'S REPORT

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

Address: change as shown Paragraph 2, page 2; Maximum quantity:
as decreed; Purpose of use: irrigation, stock water & domestic;
Period of use: 01/01 to 12/31; Consumptive use: to reflect
maximum quantity

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

☒

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

See Hagerman Water Right Owners, Inc.'s

Compendium "A"

VERIFICATION (Must be Completed)

State of Idaho

County of Gooding

Philip F. & Judith A. Dice, 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.

Philip F. Dice Judith A. Dice
Signature of person filing objection

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

Subscribed and sworn to before me this 16th day of April,
1993.

[Signature]
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: Philip F. and Judith A. Dice

Owner's address: 2912 So. 1050 E.

Hagerman, ID 83332

3. One copy to:

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

4. One copy to:

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


Signature of Objector or attorney
mailing on Objector's behalf

REASONS SUPPORTING EACH BOX CHECKED, page 4

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

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

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

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

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.

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Question 14., page 4, Other

I.

GENERAL RESPONSE

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

II.

DESCRIPTIVE SUMMARY

(DIRECTOR'S REPORT PART I)

(hereinafter DRP-I)

(DRP-I at first unnumbered page)

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

III.

TABLE OF CONTENTS

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

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

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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.

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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,

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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.

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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.

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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.

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

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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.

NOTICE OF ERROR

RESPONSE

CORRECTED R PROOF

no changes made at this
time 10-14-92 KKC

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JAN 21 1993
OCT 11 1994

RECEIVED

23 September 1992

OCT 01 1992

Idaho Department of Water Resources
Statehouse Mail
Boise, ID 83720-9000

Department of Water Resources
Southern Region Office

Re: Water Right #
36-00041A

To Whom It May Concern:

1. On 8/10/88, we filed on 2 inches of water with the adjudication and paid a fee for 2 inches of water.
2. On Warranty Deed #85303 dated 1/27/78, we were granted a water right as follows:

"Together with a water right, which right consists of the gravity flow of the waters of unnamed spring, situate on lands owned by Vendor in the NW 1/4 NE 1/4, Section 36, Township 7 South, Range 13 E.B.M., through a two (2) inch pipeline, and together with an easement for maintenance and operation of said pipeline."
3. We subsequently purchased additional land on 4/17/91, making our total acreage 2.31 acres. We did not purchase additional water rights with this addition, having sufficient water through the 2-inch pipeline.
4. We have installed a water reservoir, pump and motor, and sprinklers for irrigation of our property, to increase efficiency of water usage.
5. Our soil is very sandy. It requires the full amount of water we have to irrigate our land.
6. On the water right dated 8/24/92 from IDWR, the dates of use were changed from January 1 through December 31 to April 1 through October 31. In addition to irrigation, this water is used for stock, and must be available the full year.
7. On the water right dated 8/24/92 from IDWR, the CFS was decreased from 0.04 to 0.02. We strongly disagree with this reduction. Our deed clearly states that we have the flow through a 2-inch pipeline. Also as stated above, this amount is necessary to irrigate our property.
8. Reduction of the water right as stated in the IDWR notice of 8/24/92 will reduce the value of our property.
9. We would suggest that qualified personnel from IDWR inspect our irrigation system.

Philip F. Dice Judith A. Dice

Philip F. Dice Judith A. Dice
Rt. 1, Box 236 (2912 S 1050 E)
Hagerman ID 83332

Enc: Warranty deed dated 1/27/78
Warranty deed dated 4/17/91
Receipt IDWR #M000965 dated 8/10/88
Copy of Water Right A36-00041A as filed on 8/10/88

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JAN 21 1993

AUG-24-1992

NOTICE OF ERROR FORM

RECEIVED

SEP 25 1992

Department of Water Resources

Please type or print clearly, fill out completely, and return to:

Idaho Department of Water Resources

Statehouse Mail

Boise, Idaho 83720-9000

The notice of error must be received at IDWR by the **deadline date** printed below with your proposed recommendation.

YOUR DEADLINE FOR FILING A NOTICE OF ERROR IS:

1. Water right number: *36-00041A*
2. Name: *Philip F. Dice / Judith A. Dice*
Address: *Rt. 1, Box 236 (2912 S 1050 E)*
Hagerman, ID 83332
Weekday Telephone Number: *837-6657*

TEAR AT PERFORATIONS AND COMPLETE FORM ON OTHER SIDE

(Instead of filling 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:

see attached

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

see attached

5. Describe why you disagree with the proposed recommendation:

See attached letter dated 23 Sept 92

6. Date: *23 Sept 92*

SIGNATURE

Philip F. Dice Judith A. Dice

THIS IS A COPY OF YOUR WATER RIGHT AS IDWR PROPOSES TO RECOMMEND IT TO THE DISTRICT COURT*

*THIS IS NOT A FINAL DETERMINATION OF YOUR CLAIM. YOU MUST FILE A NOTICE OF ERROR WITH IDWR
IF YOU DISAGREE WITH THE PROPOSED RECOMMENDATION.

RT SER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	EASIS OF CLAIM
41A	PHILIP F DICE JULIETH A DICE RT 1 BOX 235 (2912 S 1050E) HAGERMAN ID 83332	12/12/1991	IRRIGATION + STOCK	01-01 12-31	0.04 CFS	DECLARED 2 in pipeline
				TOTAL QUANTITY:	0.04 CFS	
				CONSUMPTIVE USE:	0.04 CFS	

SOURCE: FLAGLAND TUNNEL
POINT OF DIVERSION:
TOTAL PIPE S&D
PLACE OF USE: IRRIGATION + STOCK
TOTAL PIPE S&D
0.7 ACRES TOTAL
REMARKS: WATER IS DELIVERED THROUGH THE FLAGLAND DITCH.

TRIBUTARY: COLLINGSLEY CREEK

2.31 add. purchase of land

This WARRANTY DEED made this 27th day of January, 1978.

between DORIS BOYER GRIDLEY, A married woman, dealing with the hereinafter described property as her sole and separate property, of Hagerman, County of Gooding, State of Idaho, hereinafter referred to as "grantor", and PHILIP F. DICE and JUDITH A. DICE, Husband and Wife of Hagerman, County of Gooding, State of Idaho, hereinafter referred to as "grantee".

WITNESSETH, that grantor, for and in consideration of the sum of Ten and no/100 (\$10.00) and other good and valuable consideration-----dollars, in lawful money of the United States, to grantor in hand paid by grantee, the receipt of which is hereby acknowledged, has granted, bargained and sold, and by these presents does grant, bargain, sell, convey and confirm unto grantee, and to grantee's heirs and assigns forever, all of the following described property situate in Gooding County, State of Idaho:

Township 7 South, Range 13 East of the Boise Meridian
Section 36: Part of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ described as follows:
Beginning at the point of intersection with the East boundary of County road and the Centerline of the Clifford ditch as they are now constructed:
thence South along the East boundary of county road, 40.0 feet to the True Point of Beginning.
thence East parallel with the North boundary of said NW $\frac{1}{4}$ NE $\frac{1}{4}$, 110.0 feet;
thence South parallel with the East boundary of said NW $\frac{1}{4}$ NE $\frac{1}{4}$, 200.0 feet;
thence West parallel with the North boundary of said NW $\frac{1}{4}$ NE $\frac{1}{4}$, 145.0 feet more or less to the East boundary of said County Road;
thence Northeasterly along the East boundary of said County Road, 200.0 feet more or less to the True Point of Beginning.

Together with a water right, which right consists of the gravity flow of the waters of unnamed spring, situate on lands owned by Vendor in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 36, Township 7 South, Range 13 E.B.M., through a two (2) inch pipeline, and together with an easement for maintenance and operation of said pipeline.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all estate, right, title and interest in and to the said property, as well in law as in equity, of the grantor.

TO HAVE AND TO HOLD all and singular the above mentioned and described premises, together with the appurtenances, unto the grantee, and to the grantee's heirs and assigns forever. And the grantor, and the grantor's heirs, the said premise in the quiet and peaceable possession of the grantee, and the grantee's heirs and assigns, against the grantor, and the grantor's heirs, and against all and every person and persons whomsoever lawfully claiming the same, shall and will WARRANT and by these presents forever DEFEND.

IN WITNESS WHEREOF, the grantor has subscribed this deed the day and year first above written.

Doris Boyer Gridley

Grantor

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: A36-00041A
Date Received: 8/10/1988
Receipt No: M000965
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: PHILIP F. DICE
Address: RT. 1 BOX 236
HAGERMAN, ID

208-837-6657

OR

Name: JUDITH A. DICE
Address: RT. 1 BOX 236
HAGERMAN, ID

83332

208-837-6657

83332

2. Date of Priority: DEC 12, 1901

3. Source: HOAGLAND TUNNEL

Trib. to: BILLINGSLEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
07S	14E	30	NE SW		GOODING

5. Description of diverting works:
OPEN DITCHES AND PIPELINE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	01/01	12/31	0.040	(2 inches)	

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

A.F.A.

8. Total consumptive use is

Acre Feet Per Annum.

9. Non-irrigation uses:

A36-00041A

Page

1

Date: 08/10/88

MICROFILMED

JAN 21 1988

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
07S	13E	36	NW NE		IRR	0.7
Section Acres						0.7
Total Acres						0.7

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:
NONE

14. Remarks:

PART OF WR #36-00041 FOR 0.8 CFS.
TOTAL DIVERSION IS EQUAL TO THE FLOW THROUGH A TWO INCH PIPELINE
AS DESCRIBED IN WARRANTY DEED.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 3/22/1932

NEW INTERNATIONAL MORTGAGE BAN
Decree Plaintiff

vs

IDAHO POWER COMPANY
Decree Defendant

A36-00041A

Page 2

Date: 08/10/88

JAN 21 1989



WARRANTY DEED

For Value Received

^{D.B.}
unmarried
Doris Boyer Gridley, a ~~married~~ woman,
dealing as her sole and separate property,

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

Philip F. Dice and Judith A. Dice, husband and wife,

hereinafter referred to as Grantee, whose current address is
Route 1, Box 236
Hagerman, ID 83332

the following described premises, to-wit:

See attached Exhibit "A" attached hereof and made a part hereof.

144481

STATE OF IDAHO, COUNTY OF GOODING

Filed for record at the request of FIRST AMERICAN TITLE

50 min. past 4 o'clock P. M. this 17th

of April, 1991.

JOHN A. MYERS, Recorder

By Debra S. Siler Feb 00

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: April 17th, 1991.

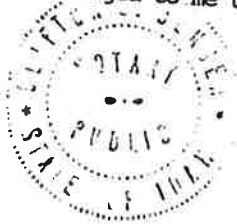
Doris Boyer Gridley
Doris Boyer Gridley

STATE OF IDAHO

COUNTY OF Gooding

)
: ss
)

On This 17th day of April, in the year 1991, before me, a Notary Public in and for said State, personally appeared Doris Boyer Gridley, known or identified to me to be the person whose name is subscribed to the within Instrument, and acknowledged to me that she executed the same.



Clifford E. Jensen
Notary Public for Idaho
Residing at Gooding, Idaho Hagerman, ID
Commission Expires: 10/10/92 5/10/97

First American Title Company of Idaho

MAILED
JAN 21 1993

EXHIBIT A

A parcel of land located in the Northwest Quarter of the Northeast Quarter of Section 36, Township 7 South, Range 13 East, Boise Meridian, Gooding County, Idaho and more particularly described as follows:

Commencing at the North Quarter corner of said Section 36;
Thence South $0^{\circ}03'46''$ West along the West boundary of the Northeast Quarter of Section 36 for a distance of 299.21 feet;
Thence North $89^{\circ}54'$ East parallel with the North boundary of Section 36 for a distance of 435.25 feet to THE TRUE POINT OF BEGINNING, said True Point of Beginning is a point in the center of a County Road and approximately 40.0 feet Southerly from the Center of the Clifford Ditch;
Thence North $89^{\circ}54'$ East parallel with the North boundary of Section 36 for a distance of 200.00 feet;
Thence South $0^{\circ}00'20''$ East parallel with the East boundary of the Northwest Quarter of the Northeast Quarter of Section 36 for a distance of 300.00 feet;
Thence South $89^{\circ}54'$ West parallel with the North boundary of Section 36 for a distance of 282.16 feet to a point in the center of a County Road;
Thence along the center of the County Road on the following courses:
North $19^{\circ}14'23''$ East, 161.97 feet;
North $16^{\circ}24'10''$ East, 51.19 feet;
North $11^{\circ}26'50''$ East, 50.29 feet;
North $5^{\circ}03'32''$ East for a distance of 49.01 feet to THE TRUE POINT OF BEGINNING.

LESS AND EXCEPTING

Part of the Northwest Quarter of the Northeast Quarter of Section 36, Township 7 South, Range 13 East of the Boise Meridian, described as follows:

Beginning at the point of intersection with the East boundary of County Road and the centerline of the Clifford ditch as they are now constructed;
Thence South along the East boundary of County Road, 40.0 feet to THE TRUE POINT OF BEGINNING;
Thence East parallel with the North boundary of said Northwest Quarter of the Northeast Quarter, 110.0 feet;
Thence South parallel with the East boundary of said Northwest Quarter of the Northeast Quarter, 200.0 feet;
Thence West parallel with the North boundary of said Northwest Quarter of the Northeast Quarter, 145.0 feet more or less to the East boundary of said County Road;
Thence Northeasterly along the East boundary of said County Road, 200.0 feet more or less to THE TRUE POINT OF BEGINNING.

RECORDED

JAN 21 1993



WARRANTY D E E

For Value Received

Doris Boyer Gridley, a married woman,
dealing as her sole and separate property,
hereinafter referred to as Grantor, does hereby grant, bargain, sell, and convey unto
Philip F. Dice and Judith A. Dice, husband and wife,
hereinafter referred to as Grantee, whose current address is

the following described premises, to-wit:

See attached Exhibit "A" attached hereof and made a part hereof.

REVIEWED & APPROVED

By: Philip F. Dice
Judith A. Dice

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: April __, 1991.

Doris Boyer Gridley

STATE OF IDAHO

COUNTY OF Gooding

)
: ss
)

On This ____ day of April, in the year 1991, before me, a Notary Public in and for said State, personally appeared Doris Boyer Gridley, known or identified to me to be the person whose name is subscribed to the within Instrument, and acknowledged to me that she executed the same.

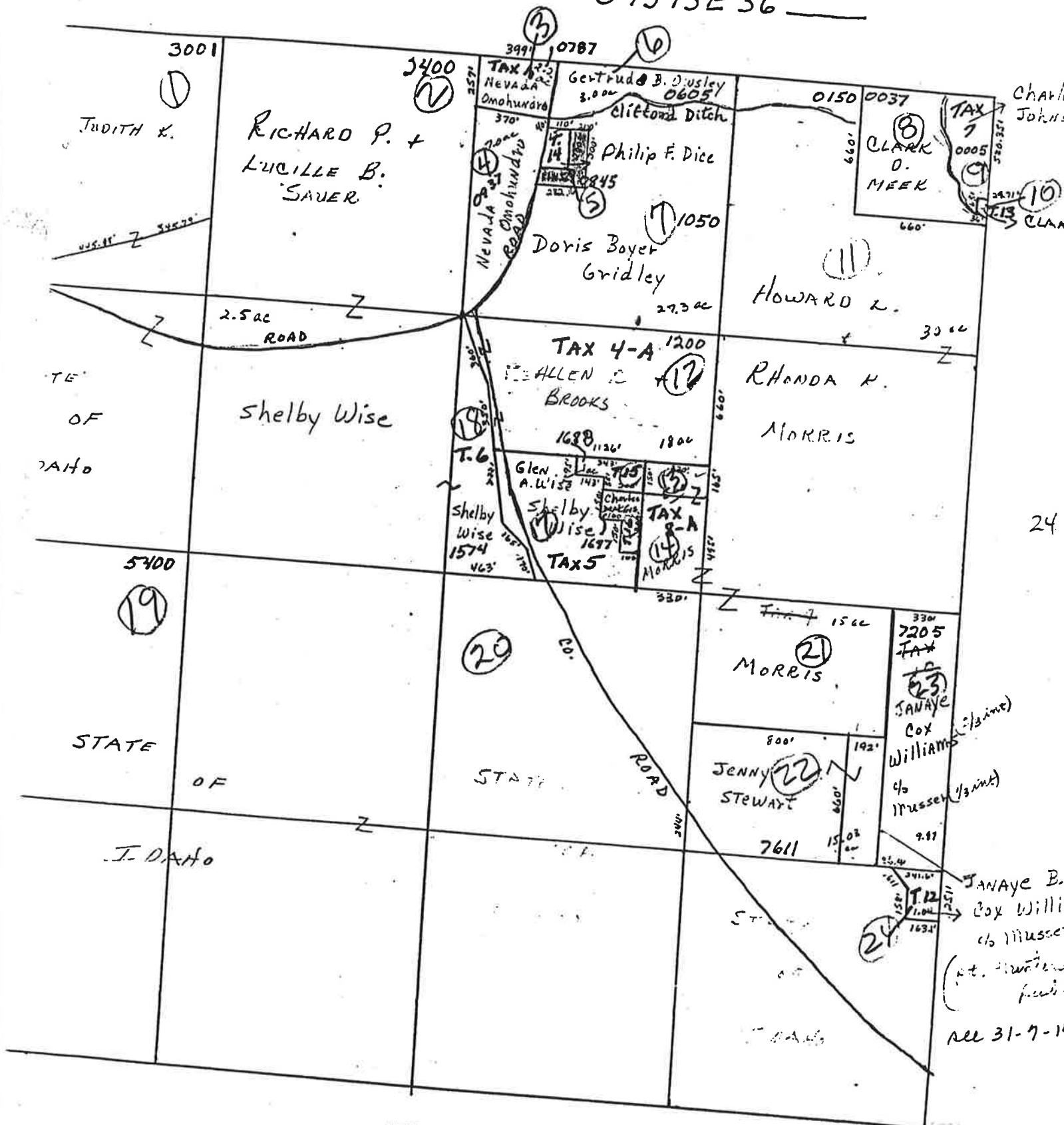
Notary Public for Idaho
Residing at Gooding, Idaho
Commission Expires: 10/16/92

First American Title Company of Idaho

JAN 21 1992

1st. H Fire Dist. H

07513E36



"This plat is made solely for the purpose of assisting in locating the land, and the company assumes no liability for variations, if any, with an actual survey."

JAN 21 1999

RECEIPT
For Monies Paid
to the
Idaho Department of Water Resource

Receipt No: M00096

Date: 08/10/8.
Time: 12:11:08

Received
From: DICE, JUDITH A.

Type of Payment
ADJUDICATION FEE

Program Acct
0410162 9337 6490

Amount
\$76.00

Total
\$76.00

CHECK 1068

WR/NO: A36-00041A A36-10405

Idaho Department of Water Resources

Region:

Signature: Steve C. Allen

RECEIVED

AUG 21 1988



State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

14-Oct-1992

R. KEITH HIGGINSON
Director

PHILIP F DICE
RT 1 BOX 236
HAGERMAN ID 83332

RE: RESPONSE TO NOTICE OF ERROR FOR CLAIM 36-00041A

Dear Mr Dice

In response to your letter point by point;

1. The fee you paid to the department was for an irrigation claim for 0.7 acres not for two inches. Fees are based upon the type of claim and, in the case of irrigation, the number of acres. The claimed diversion rate did not affect the fee.
2. A Warranty Deed does not grant a water right, it may however, identify any appurtenant water rights as they were originally issued and recognize that the seller is not withholding the water right from the property being sold.
3. The water appurtenant to the property purchased in 1991 was either on that property in 1991 as a portion of the seller's right or had been abandoned since 1978 when you started using that water on your original 0.7 acres.
4. This is your system description and is treated as a statement of fact.
5. Under Idaho law, a water right is limited to the amount of water beneficially used for the purposes for which the water right was established. The amount of water beneficially used is limited to the amount that is actually used and is reasonably required. For irrigation purposes, a reasonable amount is the amount required using irrigation methods that are reasonably efficient under current circumstances. If the amount of a water right shown in a decree is greater than the amount that is beneficially used, then the portion that is not beneficially used is forfeited.

The amount proposed to be recommended for your claim is based on the amount of water determined to be beneficially used for

10-21-1992

the recommended uses, based on available data and current methods of analysis. To support recommendation of a greater amount, you will need to submit evidence of beneficial use of a greater amount to IDWR.

6. A change in the season of use for irrigation has been approved by the Director to now read 3-15 to 11-15. This will be reflected for your right as it is for irrigation. Stockwater was not a portion of your original filing and the department cannot recommend a claim for more than was originally claimed.

7. See items 2 and 5.

8. The change in property value is an issue beyond the analysis of your water right claim(s).

9. Your irrigation practice is not being questioned, however, how the development of the use as related to Idaho Code as interpreted by the department is a primary function of the current adjudication process.

OPTIONS AVAILABLE TO YOU BASED UPON CURRENT INFORMATION

Your original filing is for what you owned at the time of adjudication filing in 1987 and is a valid claim which was recommended as discussed in item 5 above.

If the water for the irrigation of the additional acres purchased in 1991 has been allowed to go through your 2" line since 1978 and not be applied to the ground in questioned then the use of that water is subject to forfeiture for non use since 1978.

If that ground has been continuously irrigated by the seller through their system or even through your 2" line then they should sell that ground with its proportionate share of the base right unless they elect to sell that ground dry. This acreage appears to currently be a portion of the seller's claim and if so should be identified as a separate right through an ownership change.

JAN 21 1993

DICE
PAGE 3
14-Oct-1992

If you still disagree with IDWR's recommendations, you will have an opportunity to file an objection to the Director's Report with the court. When the Director's Report is filed with the court, you will be mailed a notice that will contain more information about the objection process. As part of the objection process, IDWR will work with the claimants to resolve disputed issues, including efforts to obtain additional data which will be shared with the water users.

Sincerely

Kelly K Christensen
Sr Water Resource Agent

RECEIVED
JAN 21 1993

R PROOF

CVR

MAPS

PHOTOS

MISC



MICROFILM

JAN

Water Right Number - R36-00041A Prefix Translation: RESEARCH Old (D) Number -
+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***
DICE

PHILIP F

1 - RT 1 BOX 236

2 -

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-837-6657

DICE

JUDITH A

1 - RT 1 BOX 236

2 -

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-837-6657

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - +
12/12/1901 ERROR IN REGION D - DECREED

+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
HOAGLAND TUNNEL BILLINGSLEY CREEK

+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County
07S 14E 30 SE NE SW (47) GOODING

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 04/01 10/31 0.020

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.020 2.1

+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
07S 13E 36 NW NE 0.7 01 IRRIGATION (47) GOODING

Total Acres: 0.7

+ - - Diversion Means - OPEN DITCHES AND PIPELINE, SPRINKLERS

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - NONE

+ - - - - Remarks - - - - - +
WATER IS DELIVERED THROUGH THE HOAGLAND DITCH.

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

Water right number - R36-00041A

Prefix Translation: RESEARCH

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

+ - - - - Old Water Right Numbers - - - - - +
3600041

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

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

+ - - - - Decree Defendant - - - +
IDAHO POWER COMPANY

+ - Decree Date - +
03/22/1932

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

Date: 08/01/1992 User Id: WORSTELL Subject: COPIED FROM REMARKS
TOTAL DIVERSION IS EQUAL TO THE FLOW THROUGH A TWO INCH PIPELINE AS DESCRIBED IN WARRANTY DEED.

+ - - Audit Fields - - +
08/01/92 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	- 08/01/1992	Old Judicial District	-
Claim Received Date	- 08/10/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- M000965	Water District	- 36A
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- OR	Presumption Flag	-
				Notice of Error Flag	-

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

09:08:45
06/29/90

PAGE: 12
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-00041A

WR ELEMENT	FIELD EXAM Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	VERIFIED BY CODE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE								
POINT OF DIV	Y			(Y) 10	7-30-92	7-30-92		
SOURCE								
PLACE OF USE	Y							
DIV. AMOUNT CFS/VOLUME	Y (X)			(Y)	1,4			
CONSUMPTIVE USE	-				6 DECREE			
PURPOSES								
PERIOD OF USE	Y			(Y)	6 STANDARD			
BASIS OF CLAIM	Y							
REMARKS	Y							

see
7-20-90

"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.

Split Review

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

09:08:45
06/29/90

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-00041A

LAST: DICE
ADDRESS: RT. 1 BOX 236
CITY: HAGERMAN
PHONE NUMBER: 208-837-6657

FIRST: PHILIP F.
STATE: ID ZIP: 83332

OWNER CODE: C

LAST: DICE
ADDRESS: RT. 1 BOX 236
CITY: HAGERMAN
PHONE NUMBER: 208-837-6657

FIRST: JUDITH A.
STATE: ID ZIP: 83332

OWNER CODE: C

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

DATABASE
Y

FIELD
EXAMINER

CLAIM REMARKS: TOTAL DIVERSION IS EQUAL TO THE FLOW THROUGH A TWO INCH PIPELINE
AS DESCRIBED IN WARRANTY DEED.

RECORDED
JAN 21 1991

FIELD EXAMINATION INFORMATION

CLAIM NUMBER: A36-00041A

CONTACT PERSON: _____

PHONE NUMBER: (____) ____ - ____

DATE OF FIELD EXAM: ____/____/____

APPOINTMENT MADE: Y(____) N(____)

TIME: ____:____ A(____) P(____)

ACCOMPANIED BY: _____

PHONE NUMBER: (____) ____ - ____

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / REMARKS:

RECEIVED
JAN 21 1992

A. AJ CLAIM: # A36-00041A PRIORITY DATE: 12-12-1901 STAGE: D
B. WR RECORD: # 36-00041 PRIORITY DATE: 12-12-1901 STAGE: D

C. FIELD EXAM REQUIRED?

DUE TO PRIORITY DATE DISCREPANCY? (Y/N)

DATABASE
N

FIELD
EXAMINER
JP

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

REMARKS:

=====

RECOMMENDED PRIORITY DATE:
12-12-1901

REVIEWED BY

gu

DATE

7-20-90

=====

RECEIVED
JAN 2 1993

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A36-00041A	07S	14E	30		NE	SW		GOODING

OTHER AJ CLAIMS WITH SAME AJ POD
A PREFIX R PREFIX
A36-00009 NONE

WR RECORDS IN SAME 40 ACRE TRACT

36-00009
36-00010
36-00011
36-00015
36-00016
36-00017
36-00033
36-00042
36-00044
36-00045
36-00060
36-00061
36-00062
36-00063
36-00068
36-00069
36-00086A
36-00086B
36-00105
36-00116
36-00118
36-00119
36-00120
36-02029
36-07071
36-07740

SOURCE: HOAGLAND TUNNEL

TRIB: BILLINGSLEY CREEK

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
36-00041	07S	14E	30		NE	SW		GOODING

OTHER WR RECORDS WITH SAME WR POD

AJ CLAIMS IN SAME 40 ACRE TRACT
A PREFIX R PREFIX

36-00009
36-00010
36-00011
36-00015
36-00016
36-00017
36-00033

A36-00009 NONE
A36-00033C
A36-00060
A36-00086G
A36-00119
A36-00033D
A36-00063

RECORDED
JAN 21 1988

36-00042
36-00044
36-00045
36-00060
36-00061
36-00062
36-00063
36-00068
36-00069
36-00086A
36-00086B
36-00105
36-00116
36-00118
36-00119
36-00120
36-02029
36-07071
36-07740

A36-00116
A36-00086F
A36-00086H
A36-00011B
A36-00011A
A36-00011C
A36-00105
A36-00120
A36-00061
A36-00062

INFORMATION

JAN 21 1993

SOURCE: HOAGLAND TUNNEL

TRIB: BILLINGSLEY CREEK

C. FIELD EXAM REQUIRED?

DUE TO POD DISCREPANCY? (Y/N)
DUE TO SOURCE DISCREPANCY? (Y/N)

DATABASE
Y
N

FIELD
EXAMINER
N

REMARKS:

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:
TWP. RGE. SEC.

TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	COUNTY
			SE	NE	SW		

CLAIM

SOURCE: HOAGLAND TUNNEL

TRIB: BILLINGSLEY CREEK

REVIEWED BY:

SW

DATE:

7-20-90

change claim

A. ROOT WATER RIGHT NUMBERS: A36-00041A
A36-00041B

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
07S	13E	36	NW	NE		DICE, PHILIP F.	A36-00041A / 0.7	- /	38.0	0.7	0.7
						BYBEE, TRUDY B.	A36-10385 / 2.5	- /			
						BYBEE, TRUDY B.	A36-10386 / 2.5	- /			
						BYBEE, TRUDY B.	A36-10384 /	- /			
						DICE, PHILIP F.	A36-10405 /	- /			
						GRIDLEY, DORIS M.	A36-10762 /	- /			
						GRIDLEY, DORIS M.	A36-00042 / 27.0	36-00042 /			
						OMOHUNDRO, NEVADA B.	A36-00044 / 8.0	36-00044 /			
						ELIASON, ARMEDIA		36-00041 /			
						ELIASON, JACOB		36-00043 /			
						MCKNIGHT, JOHN O.		36-00179 /			
						JENKINS, COLUMBUS E.		36-00180 /			
						JENKINS, COLUMBUS E.		36-00181 /			
TOTAL ACRES							A36-00041A	0.70	38.00		

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

C. FIELD EXAM REQUIRED?

DUE TO POU DISCREPANCY? (Y/N)

DATABASE
Y

FIELD
EXAMINER
AJ

PRESUMPTION FLAG:

REMARKS:

RECOMMENDATIONS:

TOTAL ACRES: 0.70

REVIEWED BY: scu

DATE: 7-20-90

A. AJ CLAIMED USES:

PURPOSES
A36-00041A IRRIGATION

MONTH/DAY
FROM 01-01 TO 12-31

4-1 10-31

DIVERSION QUANTITY
.040 CFS

TOTAL DIVERSION RATE/VOLUME CLAIMED

.040 CFS

B. WR RECORDED USES:

PURPOSES
36-00041 IRRIGATION

MONTH/DAY
FROM TO

DIVERSION QUANTITY
.800 CFS

TOTAL DIVERSION RATE/VOLUME CLAIMED

.800 CFS

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

DUE TO WATER-USE DISCREPANCY? (Y/N)
DUE TO DIVERSION RATE DISCREPANCY? (Y/N)
DUE TO PERIOD FROM/TO DISCREPANCY? (Y/N)

DATABASE
N
Y
Y

FIELD
EXAMINER
N
YES
N

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

Y() N(X)

RECOMMEND TO WR STANDARDS OR OTHER?

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

REMARKS:

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y() N(☒)

AJ TOTAL CLAIMED DIVERSION RATE: 0.040 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 0.800 CFS

*** IF NO or IF STATUTORY CLAIM or BENEFICIAL USE then flow measurement required. ***
** If an amount smaller than the original diversion rate is **
** claimed and an exam is NOT required, explain in remarks. **

FLOW MEASUREMENT REQUIRED?

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

FIELD
DATABASE EXAMINER
Y

B.

FLOW MEASUREMENT

MEASUREMENT METHOD _____, SEE ATTACHED CALCULATIONS.

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

OTHER RIGHTS LISTED IN CLAIM: NONE

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

CLAIM	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A36-00041A	HOAGLAND TUNNEL	DICE , PHILIP F.	0.040	0.057		
A36-10385	HOAGLAND TUNNEL	BYBEE , TRUDY B.	0.100	0.040		
A36-00042	WEATHERBY SPRINGS	GRIDLEY , DORIS M.	0.400	0.014		
A36-00044	WEATHERBY SPRINGS	OMOHUNDRO , NEVADA B.	0.700	0.058		

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

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A36-10384	DOMESTIC	BYBEE , TRUDY B.	FROM 01-01 TO 12-31	.040 CFS	
A36-10405	DOMESTIC	DICE , PHILIP F.	FROM 01-01 TO 12-31	.040 CFS	
A36-10762	DOMESTIC	GRIDELY , DORIS M.	FROM 01-01 TO 12-31	.040 CFS	

NOTED
IN 2 1 1993

D. RATE/VOLUME CALCULATIONS: (IRRIGATION) 1b. CALCULATIONS

1a. IRRIGATION RATE
ACRES 0.7 x 0.02 CFS/ACRE = 0.02 CFS
(Taken from p/u review)

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

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

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 2.1 AF/A

ACRES 0.7 x CONSUMPTIVE VOL. AF/A FOR AREA 3.0 =

TOTAL CONSUMPTIVE USE 2.1 AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

ACRES 0.7 x DIVERSION VOL. AF/A FOR AREA 4.0 =

TOTAL DIVERSION VOLUME 2.8 AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION: N/A

SEE ATTACHED SHEET? Y() N()

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

~~WR proportional rate = 0.02 cfs/acre~~

sprinkler irrigation — recommend at 1"/ac.

IDWR STDS
for sprinkler irrigation
↓ less than 5 acres.

$$0.03 \text{ cfs/Ac} \times 0.7 \text{ Ac} =$$

$$\underline{\underline{0.021 \text{ cfs}}}$$

JAN 21 1999

RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD FROM TO	REC. DIV RATE CFS	REC. DIV VOL. AF/A	REC. CONS. USE
IRRIGATION	01-01 12-31	DATABASE EXAMINER 0.040 0.02	DATABASE EXAMINER N/A	DATABASE EXAMINER 2.1
TOTAL FOR THIS RIGHT	2-15 11-15	0.040		2.1
REVIEWED BY: <u>SCU</u>	4-1 10-31	DATE: <u>8-14-90</u>		

F01 = Hoagland Ditch

JAN 21 1993

A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP _____
FORFEIT/ABANDON _____
ADDITIONAL DIV. AMOUNT _____

ACCEPTED
AS CLAIMED

(X)
(X)
(X)

NEEDS
REVIEW

()
()
(X)

XS FLOW

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-00041

TOTAL DIVERSION RATE OF WR SPLITS

DATABASE
0.800

EXAMINER

CFS

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
A36-00041	A36-00041A	0.040 —	—		36-00041	0.800
A36-00041	A36-00041B	0.020	—		36-00041	0.800
TOTAL CFS		0.060				0.800

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

REMARKS:

SEE SPLIT A36-00041 FOR REVIEW FILE.

AUTHENTICATION:

SIGNATURE:

Steve Cieland

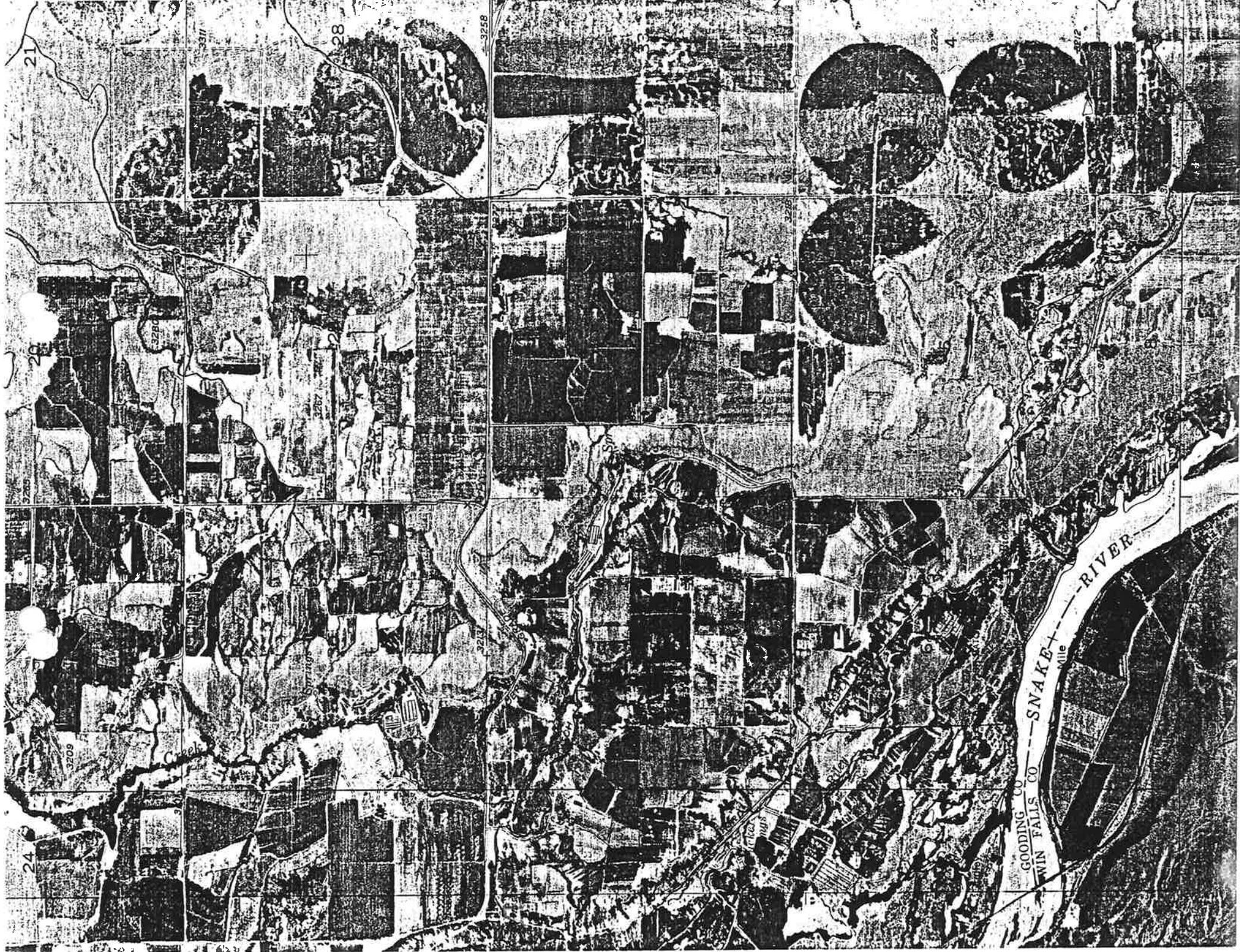
DATE:

8-14-90

NAME OF FIELD EXAMINER:

STEVE CIELAND

TITLE:



REMARK AND CONDITION CODE WORKSHEET

SYSTEM CLAIM NUMBERS

R36 00041A

AGENT

INITIALS

SCC

DATE

7-30-92

CLAIM NO.
OR ENTRY
ORDERREMARK
CODE

ENTRY DATA

CONDITION
CODESTAGE
OR
STATUSPRESUMPTION
CODE

* Move to Comments

FOI

Hoagland Ditch

Water Dist # 36A

MICROFILMED

JAN 21 1993

DECREED RIGHT SPLIT ANALYSIS

PARENT RIGHT NO. 36-00041TOTAL DIVERSION RATE 0.80PREPARATION DATE 7-30-92 sec

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
<u>41A</u>	<u>0.04</u>	<u>0.02</u>	<u>N</u>	<u>Ø</u>	<u>N</u>	<u>0.02</u>
<u>41B</u>	<u>0.02</u>	<u>0.02</u>	<u>N</u>	<u>Ø</u>	<u>N</u>	<u>0.02</u>
<u>41C</u>	<u>0.10</u>	<u>0.06</u>	<u>N</u>	<u>Ø</u>	<u>N</u>	<u>0.06</u>
<u>41D</u>	<u>0.70</u>	<u>0.54</u>	<u>N</u>	<u>Ø</u>	<u>N</u>	<u>0.54</u>
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
<u>TOTALS</u>	<u>0.86</u>	<u>0.64</u>		<u>Ø</u>		<u>0.64</u>

JIA HOAGLAND DITCH

MICROFILMED

JAN 21 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

MODE SELECT
INPUT

OUTER DIAMETER
25.0827 IN

PIPE MATERIAL
? CS,SS

WALL THICKNESS
0.2500 IN

INNER LINING
? NO LING.

KIND OF FLUID
? WATER

SENSOR MOUNTING
? U

TYPE OF SENSOR
? SMALL

DATA CHANGE
? NO

SPACING
20.729 IN U

ZERO MODE
CLEAR

ZERO MODE
AUT ZERO

ZERO MODE
ZERO OPR

MODE SELECT
T0 CHECK

0920.4 MMSEC
100.19 % T0

09-20 13:5000 *R
+002.40 % AI2

09-20 13:5000 *R
+236.698E 16PM

09-20 13:5100 *R
+233.792E 16PM

09-20 13:5200 *R
+232.471E 16PM

09-20 13:5200 *R
+237.226E 16PM

Gage Reading: 1.10'
Taken 7 feet upstream from Pipe Head of Hoagland D.

MEASUREMENT TAKEN ON
PIPELINE, FROM HOAGLAND
TUNNEL DITCH, TO MORRIS
STAND PIPE.

GAGE READING: 1.10'
TAKEN 7 feet back from
HEAD OF PIPELINE.

THIS WATER MEASUREMENT
DOES NOT INCLUDE THE
DIVERSION TO THE SHELBYWISE
PLACE.

$\bar{X} = 2350.5 \text{ GPM}$ MICROFILMED
JAN 21 1993
 $\bar{X} \text{ cfs} = 5.24 \text{ cfs}$

DICE

R36-00041A

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	2300	3.0	0.24	0.02	5.40	5.40	0.0039	0.02	5.42
2	0	0.0	0.00	0.00	0.00	0.00	0.0000	0.00	0.00
3	0	0.0	0.00	0.00	0.00	0.00	0.0000	0.00	0.00
4	0	0.0	0.00	0.00	0.00	0.00	0.0000	0.00	0.00
5	0	0.0	0.00	0.00	0.00	0.00	0.0000	0.00	0.00
6	0	0.0	0.00	0.00	0.00	0.00	0.0000	0.00	0.00
7	0	0.0	0.00	0.00	0.00	0.00	0.0000	0.00	0.00
8				0.00		0.00	0.0000	0.00	0.00
9				0.00		0.00	0.0000	0.00	0.00
10				0.00		0.00	0.0000	0.00	0.00
11				0.00		0.00	0.0000	0.00	0.00
12				0.00		0.00	0.0000	0.00	0.00
13				0.00		0.00	0.0000	0.00	0.00
14				0.00		0.00	0.0000	0.00	0.00
15				0.00		0.00	0.0000	0.00	0.00
16				0.00		0.00	0.0000	0.00	0.00
17				0.00		0.00	0.0000	0.00	0.00
18				0.00		0.00	0.0000	0.00	0.00
19				0.00		0.00	0.0000	0.00	0.00
20				0.00		0.00	0.0000	0.00	0.00
TOTALS	2300			0.02	5.40			0.02	

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

HOAGLAND
TUNNEL

7-29-92

S c c

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JAN 21 1993

Conveyance Loss is insignificant amount.