



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

September 11, 2001

GERTRUDE B OWSLEY BYBEE
1071 E 2900 S
HAGERMAN ID 83332

RECEIVED

SEP 19 2001

RE: Snake River Basin Adjudication (SRBA)
Water Rights #36-41C, 36-42A, 36-10385 and 36-10386

Department of Water Resources

Dear Water Right Holder:

+36-10384
records updated 9-19-01. ss

Mail sent to you by the SRBA Court was returned to the SRBA Court by the Postal Service. The Postal Service advised us your address has changed to the above address. We have enclosed the returned mail.

Although we have reached you at the address above, we need your written confirmation this is your correct mailing address before we can change our records.

Please sign your name at the bottom of this letter and return it to this office. Make corrections to your name and address if necessary before returning this letter, list any other water rights you have, and return this letter by October 28, 2001. Thank you for your help.

If your mail delivery address changes in any form, please contact us in writing so we can update our records. Be sure to list your water right numbers.

If there has been a change in ownership of the property connected with the water rights referenced above, please call this office toll-free at 1/800-451-4129 to obtain a form to make this required change to the water right records.

Sincerely,

Sally Sherman
Sally Sherman
Technical Records Specialist
Adjudication Bureau

SS:region

Enclosure:

Returned Mail

#####

The address is correct as shown above or as otherwise changed.

Gertrude B. Owsley Bybee
Water Right Holder's Signature

208-837-4853
Telephone No.

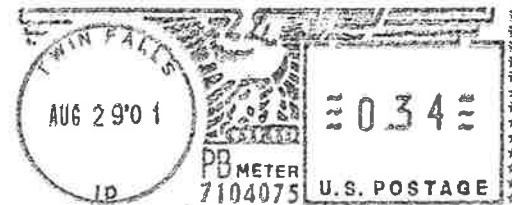
STATE OF IDAHO
District Court
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, ID 83303-2707

RETURNED TO SENDER

☐ MOVED, LEFT NO ADDRESS
☐ NOT DELIVERABLE AS ADDRESSED
☐ UNABLE TO FORWARD
☐ ATTEMPTED, NOT KNOWN
☐ UNCLAIMED ☐ REFUSED
☐ NO SUCH STREET
☐ DO NOT REMAIN IN THIS ENVELOPE
☒ INSUFFICIENT ADDRESS
☐ NO MAIL PERMITTED
☐ BOX CAUSED NO ORDER

GERTRUDE B OWSLEY BYBEE
RT 1 BOX 234
HAGERMAN, ID 83332

1071 E 2700 St



36-42A
36-41C
36-10386
36-10385



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

R36-00041C

Ident. Number: A36-10385

Date Received: 8/ 9/1988

Receipt No: M000925

Received By: _____

This Copy For Your Records
DO NOT RETURN

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: GERTRUDE B. OWSLEY BYBEE 208-837-4853
Address: RT. 1 BOX 234
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:
PIPE, 2 HP PUMP

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	10/01	0.100		

7. Total Quantity Appropriated is:
0.100 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	2.5

Section Acres 2.5

Total Acres 2.5

A36-10385

Page 1

Date: 07/29/91

MICROFILMED
JAN 21 1993

Anna Delia
To Southern 7/30/91

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
A36-10386

14. Remarks:

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

Decree Plaintiff

vs

Decree Defendant

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): Gertrude B. Quinsley Byler Date: 7-29-91

Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 29th day
of July 19 91

Anna Baumhoff
Notary Public

Seal

Residing at Anna Baumhoff, Notary Public
Residing at Boise, Idaho
My Commission My Commission Expires December 7, 1994

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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OCT 11 1994

RECEIVED
FEB 10 1993
Department of Water Resources

1 HEPWORTH, NUNGESTER & LEZAMIZ,
2 CHARTERED
3 133 Shoshone St. North
4 P.O. Box 389
5 Twin Falls, ID 83303-0389
6 Telephone: (208)734-7510
7 Attorneys for Claimant
8 (PPK\HAGERMAN.NOA\lmr)
9

10 IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
11 STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
12

13 * * * * *

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

Case No. 39576

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

NOTICE OF APPEARANCE

Petitioner,)

vs.)

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

Respondents.)
_____)

* * * * *

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



Hepworth,
Nungester,
& Lezamiz

NOTICE OF APPEARANCE - 1

MICROFILMED
OCT 11 1994

1 Users, Inc. and its individual members:

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



Hepworth,
Nungester,
& Lezamiz

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

MICROFILMED
OCT 11 1994

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

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

12 DATED This 9 day of February, 1993.

13 HEPWORTH, NUNGESTER & LEZAMIZ

14
 15 By Patrick D. Brown
 16 PATRICK D. BROWN
 Attorneys for Respondents

17
 18 CERTIFICATE OF MAILING

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

1 February, 1993, to:

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

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

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

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

21 
22 Patrick D. Brown



Hepworth,
Nungester,
& Lezamiz

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OCT 11 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 1, 1993

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

Re: Notice of Appearance

Dear Mr. Brown:

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

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

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

MICROFILMED
OCT 11 1994

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

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

MICROFILMED
 OCT 11 1994

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

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

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

MICROFILMED
 OCT 11 1994

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: A36-10385
Date Received: 8/09/1988
Receipt No: 1000925
Received By: lw

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: TRUDY B. BYBEE 208-837-4853
Address: RT 1 BOX 234
HAGERMAN, ID 83332

2. Date of Priority: DEC 12, 1901

3. Source: HOAGLAND TUNNEL Trib. to: BILLINSLEY 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:
PIPE, 2 HP PUMP

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	10/01	0.100		

7. Total Quantity Appropriated is:
0.100 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	2.5

Section Acres 2.5

Total Acres 2.5

A36-10385

Page 1

Date: 08/09/88

MICROFILMED

4 2 1 1988

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:

SEE REMARKS

14. Remarks:

PART OF 36-00041 DECREE. A36-00042 ALSO IRRIG SAME ACRES.

TOTAL CFS OF BOTH COMBINED = .26 CFS

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

Decree Plaintiff

vs

Decree Defendant

16. Signature(s)

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

Number of attachments: 1

For Individuals:

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

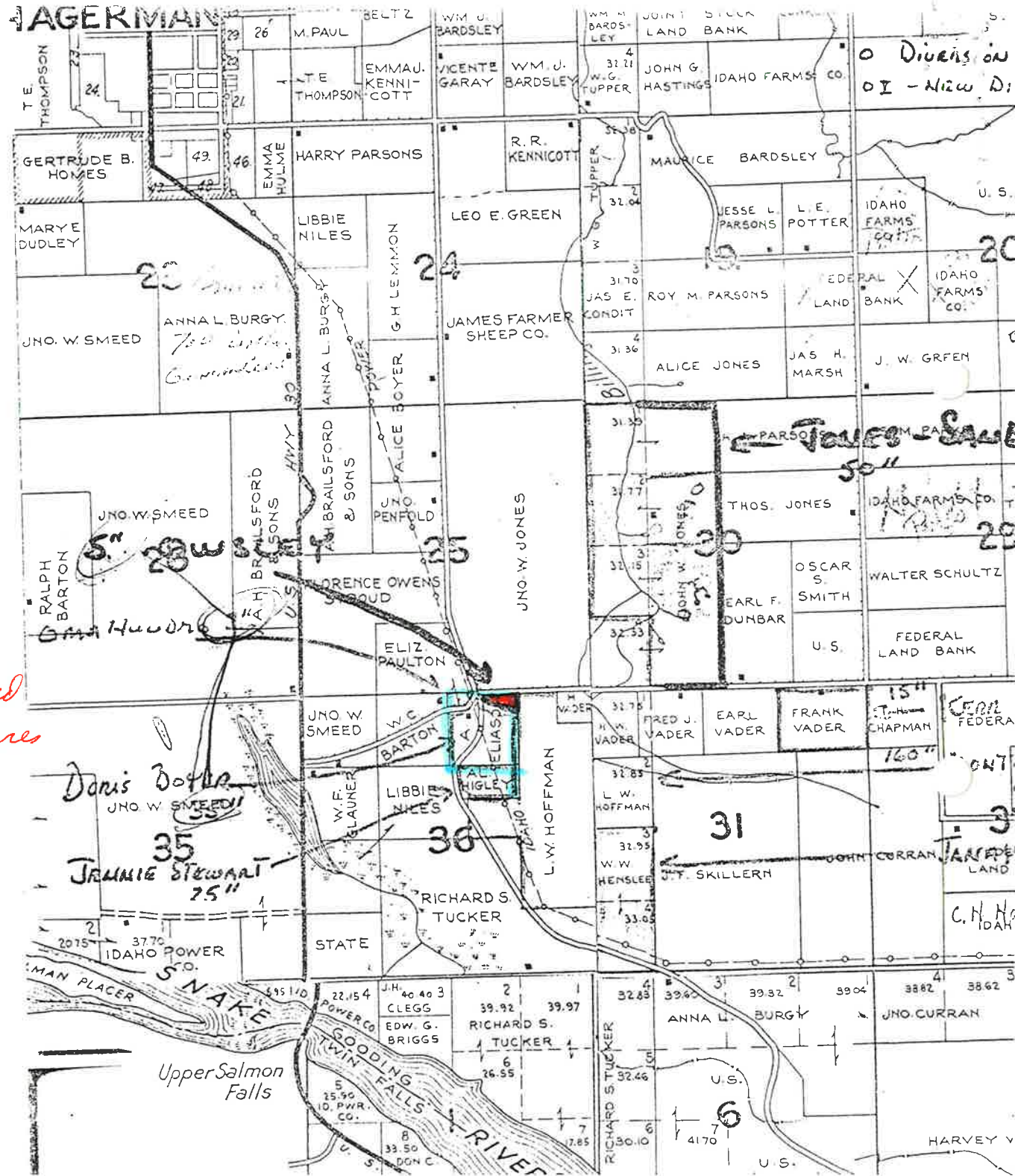
Signature of Claimant(s) Trudy B. Byrnes Date: 08-09-88
_____ Date: _____

State of Idaho)
County of T.F.) SS.

Subscribed and sworn (or affirmed) before me this 9th day
of August 19 88 Loni White
Notary Public

Seal

Residing at T.F.
My Commission Expires 5/95



portion in red
being 2.5 acres
average

Doris Boyer
JNO. W. SMEED

JENNIE STEWART
25"

Upper Salmon
Falls

MICROFILMED
JAN 21 1953

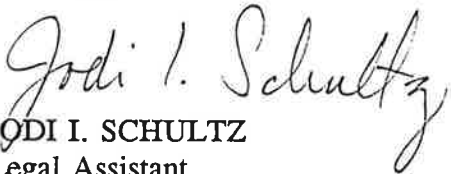
Mr. Patrick D. Brown
March 1, 1993
Page 4

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

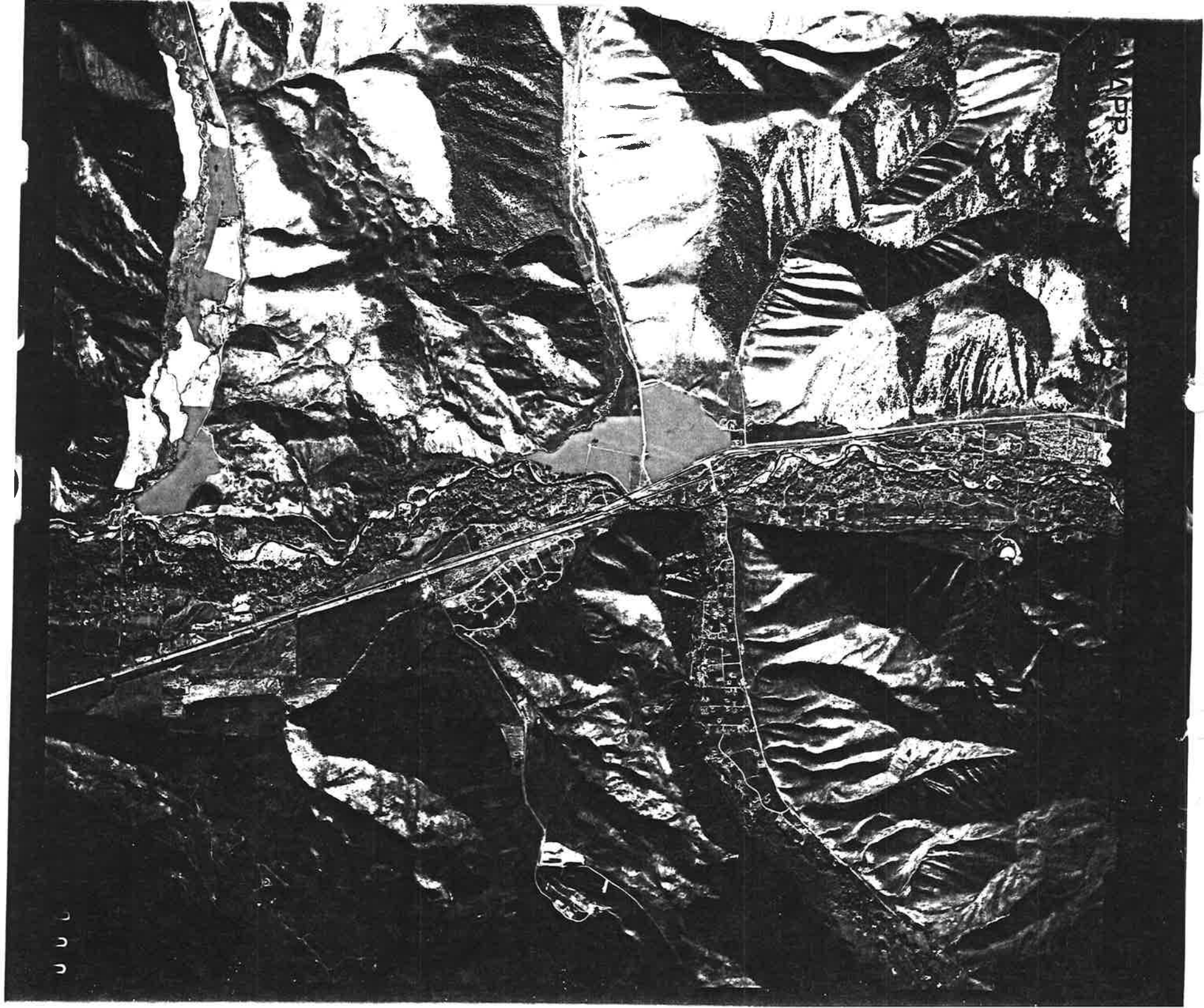
Please review the claimants and claim numbers and let me know if you have any questions or problems with the claims as listed in IDWR's records. Also, please review the claims in the last table. We need to solve these discrepancies before IDWR's records are updated with the notice information. My phone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

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

Sincerely,


JODI I. SCHULTZ
Legal Assistant
Idaho Department of Water Resources

cc: IDWR Southern Region



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

DATE: NOV-14-1997

PAGE: A-1

RIGHTS FROM: SOURCE: HOAGLAND TUNNEL TRIBUTARY: BILLINGSLEY CREEK

RIGHT NUMBER: 36-00041C

NAME AND ADDRESS: GERTRUDE B OWSLEY BYBEE
RT 1 BOX 234
HAGERMAN ID 83332VERIFIED BY RB 11-14-97

SOURCE: HOAGLAND TUNNEL TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 0.08 CFS

~~0.08 CFS~~USE OF THIS RIGHT WITH RIGHT NO. 36-00042A IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 0.11 CFS.

PRIORITY DATE: 12/12/1901

POINT OF DIVERSION: T07S R14E S30 SENESW Within GOODING Count

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE
IRRIGATIONPERIOD OF USE
Irrigation Season
~~03/13~~ 11/13QUANTITY
0.08 CFS
~~0.08 CFS~~This doc shld
be in claim
file
Z

PLACE OF USE: IRRIGATION Within GOODING County

T07S R13E S36

NWNE 2.5
~~NWNE 2~~2.5 ACRES TOTAL2 ACRES TOTALUSE OF THIS RIGHT WITH RIGHT NO. 36-00042A IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 2.5 ACRES IN A SINGLE
IRRIGATION SEASON.

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

WATER IS DELIVERED THROUGH THE HOAGLAND DITCH.
USE OF THIS RIGHT WITH RIGHT NO. 36-00042A IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 0.109 CFS, A TOTAL COMBINED
ANNUAL CONSUMPTIVE USE VOLUME OF 610 AF, AND TO THE IRRIGATION
OF A COMBINED TOTAL OF 2.5 ACRES IN A SINGLE IRRIGATION SEASON.
0.08 CFS OF RIGHT NO. 36-00042A IS LIMITED TO USE FOR
CONVEYANCE LOSSES IN DELIVERY OF RIGHT NO. 36-00042A.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

WATER IS DELIVERED THROUGH THE HOAGLAND DITCH.

AJ5856NP

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

DATE: NOV-14-1997

PAGE: A-2

36-00041C (CONT.)

RECEIVED

JAN 02 1998

Department of Water Resources
Southern Region

OCT 20 1997

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA

Case No. 39576

SUBCASE(S) 36-00041C + 36-00042A

SPECIAL MASTER'S REPORT

A notice of claim was filed for this water right pursuant to I.C. § 42-1409 (1990). The Director of the State of Idaho Department of Water Resources examined the claim and his Report contained a recommendation of the elements of this water right.

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

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

DATED: 10-20-97


Special Master
Snake River Basin Adjudication

RECEIVED

JAN 02 1998

Department of Water Resources
Southern Region

OCT 20 1997

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA

Case No. 39576

SUBCASE(S): 36-00041C + 36-000424

NOTICE OF ISSUANCE and SERVICE

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

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

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

Representative of IDWR:

John Marshall

Gertrude Bybee
Claimant/Attorney

Claimant/Attorney

Representative of U.S. Dept. of Justice

Party/Attorney

Party/Attorney

DATED October 20, 1997

Mr. Alferdi
Deputy Clerk

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

In Re SRBA

Case 39576

Subcase(s)

STANDARD FORM 5

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

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

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

Date: 10/20/97

IDWR Concurrence

Claimant

Objector

Claimant/Attorney

Objector/Attorney

Claimant/Attorney

Objector/Attorney

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

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

TS FROM: SOURCE: WEATHERBY SPRINGS TRIBUTARY: BILLINGSLEY CREEK

T NUMBER: 36-00042A

AND ADDRESS: GERTRUDE B OWSLEY BYBEE
RT 1 BOX 234
HAGERMAN ID 83332

RCE: WEATHERBY SPRINGS TRIBUTARY: BILLINGSLEY CREEK

NTITY: ^{0.11}
~~0.09~~ CFS
USE OF THIS RIGHT WITH RIGHT NO. 36-00041C IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF ~~0.09~~ CFS.
^{0.11}

ORITY DATE: 04/04/1910

NT OF DIVERSION: T07S R14E S30 SENESW Within GOODING County

POSE AND OD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	<u>Irrigation Season</u>	0.09 CFS
		<u>03/13 11/13</u>	^{0.11}

CE OF USE: IRRIGATION Within GOODING County
T07S R13E S36 NWNE 2 2.5
^{2.5} ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 36-00041C IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF ~~2~~ ACRES IN A SINGLE
IRRIGATION SEASON.
^{2.5}

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

WATER IS DELIVERED THROUGH THE BAR S DITCH & CURREN DITCH/
USE OF THIS RIGHT WITH RIGHT NO. 36/00041C IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 0.109 CFS; A TOTAL COMBINED
ANNUAL CONSUMPTIVE USE VOLUME OF 610 AF; AND TO THE IRRIGATION
OF A COMBINED TOTAL OF 2.5 ACRES IN A SINGLE IRRIGATION SEASON/
0.103 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF THIS RIGHT/

PLANATORY MATERIAL: BASIS OF CLAIM - DECREE
WATER IS DELIVERED THROUGH THE BAR S DITCH & CURREN DITCH.
~~0.03 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF THIS RIGHT.~~

☐ RECOMMENDATION

OCT 20 1997

[Signature]
SPECIAL MASTER

[Signature] 10/20/97

[Signature] 10/20/97

[Signature]

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

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

ITS FROM: SOURCE: HOAGLAND TUNNEL TRIBUTARY: BILLINGSLEY CREEK

AT NUMBER: 36-00041C

AND ADDRESS: GERTRUDE B OWSLEY BYBEE
RT 1 BOX 234
HAGERMAN ID 83332

RCE: HOAGLAND TUNNEL TRIBUTARY: BILLINGSLEY CREEK

NTITY: ~~0.06~~ ^{0.08} CFS
USE OF THIS RIGHT WITH RIGHT NO. 36-00042A IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF ~~0.09~~ CFS.
0.11

ORITY DATE: 12/12/1901

INT OF DIVERSION: T07S R14E S30 SENESW Within GOODING County

ROPOSE AND		PERIOD OF USE	QUANTITY
RIOD OF USE:	PURPOSE OF USE	<u>Irrigation Season</u>	0.06 CFS
	IRRIGATION	03/13 11/13	0.08

ACE OF USE: IRRIGATION Within GOODING County
T07S R13E S36 NWNE 2 2.5

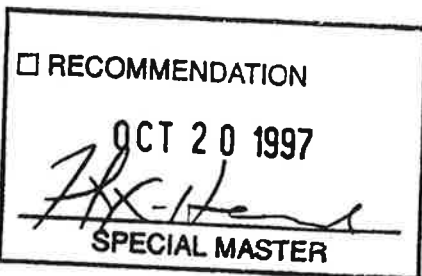
2.5 2 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 36-00042A IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 2 ACRES IN A SINGLE
IRRIGATION SEASON. 2.5

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

WATER IS DELIVERED THROUGH THE HOAGLAND DITCH/
USE OF THIS RIGHT WITH RIGHT NO. 36/00042A IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 0.109 CFS, A TOTAL COMBINED
ANNUAL CONSUMPTIVE USE VOLUME OF 610 AF, AND TO THE IRRIGATION
OF A COMBINED TOTAL OF 2.0 ACRES IN A SINGLE IRRIGATION SEASON.
0.103 CFS OF RIGHT NO. 36/00042A IS LIMITED TO USE FOR
CONVEYANCE LOSSES IN DELIVERY OF RIGHT NO. 36/00042A.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE
WATER IS DELIVERED THROUGH THE HOAGLAND DITCH.
~~0.03 CFS OF RIGHT NO. 36-00042A IS LIMITED TO USE FOR~~
~~CONVEYANCE LOSSES IN DELIVERY OF RIGHT NO. 36-00042A.~~



[Signature] 10/20/97

[Signature] 10/20/97

[Signature] Gertrude B. Owsley Bybee

HAGERMAN

Surface Irrigation Diversion Rate Analysis Sheet

WR#'s 36-00041C
42A

SOIL	SOIL AC.	% ROW	ROW AC.	FIR ROW	CFS ROW	% FOR.	FOR. AC.	FIR FOR.	CFS FOR.
FKE	2.75			0.046		100	2.75	0.030	0.083
TOTALS	2.75								0.083

orchard/pasture

REC.
FIR

0.08 *

CFS

=

SUM

0.083

CFS

X

2.5

REC. AC.

2.75

GIS AC.

DATE 10/20/97

INIT. JF

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

DIVERSION CAPACITY OR LIC./DEC. AMOUNT MAY LIMIT

36-00041C * 36-00042A

<i>Pow_id</i>	<i>Claim</i>	<i>Sum_Acres.Decimal</i>	<i>soil type</i>	<i>MAD row</i>	<i>MAD for</i>	<i>FIR row</i>	<i>FIR for</i>
547	3600041C	2.7500	FKE	0.91	1.71	0.046	0.030

TOTAL 2.75 AC

SUBCASE NO. 36-00041C

	CLAIM (8/9/88)	AMENDED CLAIM	RECOMMENDATION	OBJECTION
NAME	Gertrude Bybee	N/A	Gertrude Bybee	
BASIS OF CLAIM	Decree		Decree	
SOURCE	Hoagland Tunnel		Hoagland Tunnel	
QUANTITY	0.100 cfs		.06 cfs	XX maximum quantity: decreed amount
PRIORITY DATE	12/12/1901		12/12/1901	
PURPOSE OF USE	Irrigation		Irrigation	XX include stockwater
PERIOD OF USE	4/1 - 10/1		3/15 - 11/15	XX 1/1 - 12/31
POINT OF DIVERSION	T07S R14E S30		T07S R14E S30	
PLACE OF USE	T07S R13E S36 2.5 acres		T07S R13E S36 2.0 acres	XX 3 acres
REMARKS			Water is delivered through the Hoagland Ditch. Use of this right with right no. 36-00042A is limited to a total combined diversion rate of 0.09 cfs, a total combined annual consumptive use volume of 6.0 af, and to the irrigation of a combined total of 2.0 acres in a single irrigation season. 0.03 cfs of right no. 36-00042A is limited to use for conveyance losses in delivery of right no. 36-00042A	XX strike everything after "Hoagland Ditch"

Note: Originally claimed as 36-10385--recommended as 36-00041C.

SUBCASE NO. 36-00042A

	CLAIM (8/9/88)	AMENDED CLAIM	RECOMMENDATION	OBJECTION
NAME	Gertrude Bybee	N/A	Gertrude Bybee	
BASIS OF CLAIM	Decree		Decree	
SOURCE	Weatherby Springs		Weatherby Springs	
QUANTITY	0.160 cfs		.09 cfs	XX maximum quantity: as decreed
PRIORITY DATE	4/4/1910		4/4/1910	
PURPOSE OF USE	Irrigation		Irrigation	
PERIOD OF USE	4/1 - 10/1		3/15 - 11/15	XX 1/1 - 12/31
POINT OF DIVERSION	T07S R14E S30		T07S R14E S30	
PLACE OF USE	T07S R13E S36 2.5 acres		T07S R13E S36 2.0 acres	XX 3 acres
REMARKS			Water is delivered through the Bar S Ditch & Curren Ditch. Use of this right with right No. 36-00041C is limited to a total combined diversion rate of 0.09 cfs, a total combined annual consumptive use volume of 6.0 af, and to the irrigation of a combined total of 2.0 acres in a single irrigation season. 0.03 cfs of this right is limited to use for conveyance losses in delivery of this right.	XX strike everything after "Curren Ditch"

Note: Originally claimed as 36-10386--recommended as 36-00042A.

IDAHO DEPARTMENT OF WATER RESOURCES SURFACE IRRIGATION ANALYSIS WORKSHEET

WATER RIGHT NOS. 36-00041C
36-00042A

The following information is submitted to the Idaho Department of Water Resources to allow it to form an opinion regarding the amount of water needed to irrigate my fields using a surface water irrigation system.

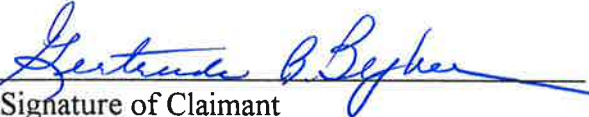
My fields were historically irrigated using a surface water system: ☒ Yes ___ No

My typical cropping pattern, based upon the percentage of my total acreage, is as follows:

ORCHARD
200 TREES
FORAGE/GRAIN/OTHER (hay, pasture, grain, mint) 100 %

ROW CROPS (beans, potatoes, sugar beets, corn) %

My total acreage is 2.5 acres.


Signature of Claimant

Date

Signature of Claimant

Date


Signature of IDWR agent

10/20/97
Date

CLAIM NUMBERS 36-00041C
36-00042A

DATE 10/7/97
 AGENT See

TRANSFER NUMBER _____
 OBJECTION FILED yes
 TOTAL ACRES FROM RECOMMENDATION 2.0

GEOGRAPHIC INFO SYSTEM

RIGHT NO				NE				NW				SW				SE			
	TNS	RNG	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
RECOM	<u>7S</u>	<u>13E</u>	<u>36</u>		<u>2</u>														
GIS					<u>2.76</u>														<u>2</u>
																			<u>2.76</u>
RECOM																			
GIS																			
RECOM																			
GIS																			
RECOM																			
GIS																			
RECOM																			
GIS																			

UPDATED

POLYGON #

UPDATED

B36-DBPOU.DBF _____

POLYGON CREATED ON 604

ATTRIBUTES OF B36-POU.SHP 547 10/7/97 See

B36-DBPOD.DBF _____

ATTRIBUTES OF B36-POD.SHP (*) see Below

Based on GIS review of acres, Recommend acres as Claimed = 2.5
* POD: (# 463) Weatherly Spr. on 36-00042A
(# 469) Hoagland Turn. on 36-00041C

P/U CONFLICT yes (X) no ()

P/D CONFLICT yes () no (X)

READY FOR DECREE yes () no (X)

SENT FOR DECREE yes () no ()

KKC: 8/13/97

SUBCASE NO. 36-00041C

	CLAIM (8/9/88)	AMENDED CLAIM	RECOMMENDATION	OBJECTION
NAME	Gertrude Bybee	N/A	Gertrude Bybee	
BASIS OF CLAIM	Decree		Decree	
SOURCE	Hoagland Tunnel		Hoagland Tunnel	
QUANTITY	0.100 cfs		.06 cfs	XX maximum quantity: decreed amount
PRIORITY DATE	12/12/1901		12/12/1901	
PURPOSE OF USE	Irrigation		Irrigation	XX include stockwater
PERIOD OF USE	4/1 - 10/1		3/15 - 11/15	XX 1/1 - 12/31
POINT OF DIVERSION	T07S R14E S30		T07S R14E S30	
PLACE OF USE	T07S R13E S36 2.5 acres		T07S R13E S36 2.0 acres	XX 3 acres
REMARKS			Water is delivered through the Hoagland Ditch. Use of this right with right no. 36-00042A is limited to a total combined diversion rate of 0.09 cfs, a total combined annual consumptive use volume of 6.0 af, and to the irrigation of a combined total of 2.0 acres in a single irrigation season. 0.03 cfs of right no. 36-00042A is limited to use for conveyance losses in delivery of right no. 36-00042A	XX strike everything after "Hoagland Ditch"

Note: Originally claimed as 36-10385--recommended as 36-00041C.

"DO NOT FILM"

IDAHO DEPARTMENT OF WATER RESOURCES

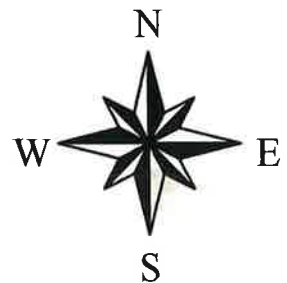
36-00041C & 36-00042A



660 0 660 Feet



TNS 7S, RNG 13E,
SEC 36, NWNE



⊙ Recommended Point of Diversion

 Recommended Place of use

 Section lines

 Quarter/Quarter Lines

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

R PROOF

CVR

MAPS

PHOTOS

MISC

MICROFILMED

OCT 11 1994

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

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

Case No. 36-00041C -0001

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

RESPONSE TO OBJECTION

Petitioner,

vs.

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

Respondents.

I. GENERAL INFORMATION

1. Person responding to objection:

Name: R. KEITH HIGGINSON, DIRECTOR

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

Briefly describe your interest in this water right:

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

(Over)

2. Person who filed objection:

Name: GERTRUDE B OWSLEY BYBEE
Address: ROUTE 1 BOX 234
HAGERMAN ID 83332

3. If this response is filed by an attorney:

Attorney Name(s): NICHOLAS B. SPENCER

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

Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

3. |☒| 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.
9. |☒| Place of Use: I respond to the objection concerning:
- 9a. |☒| The legal description of the place of use.
10. |☒| Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.
11. |☒| Remarks: I respond to the objection concerning the "remarks" listed with the water right.

14. ☒ Other: I respond to the objection concerning:

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

REASONS SUPPORTING EACH BOX CHECKED

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

In response to Statement of the Objection item 8, and all allegations of the objection regarding that item, IDWR responds as follows: The decree asserted by the claimant does not contain a period of use decreed for this water right. Idaho Code 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. IDWR has developed irrigation season of use standards for various climatic areas throughout the state based on a 75% chance of a 24 degree fahrenheit frost. The irrigation season of use cannot exceed the

(Over)

period in which water may be beneficially used. The period of the year during which this water right may be used is consistent with the standard irrigation season of use for the area in which the place of use of this water right is located. Water may be used for irrigation outside the standard season of use, subject to the conditions set forth in general provision 12b of the director's report.

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

In response to Statement of the Objection 9 and 9.a, and all allegations of the objection regarding those items, IDWR responds that the recommended water right accurately describes the place of use of the right.

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

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

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

(Over)

MICROFILMED
OCT 11 1994

RECEIVED
JAN 11 1941

☒ 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. A36-00041C	3
IDWR's Response to Answer, Affirmative Defenses and Prayer for Relief of Claimant	4

VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

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

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



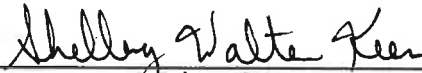
Signature of person filing response

By:



(Attorney signing in
representative capacity)

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



Notary Public for Idaho

Residing at: Boise, Idaho

My Commission expires: July 31, 1997

(Over)

CERTIFICATE OF MAILING

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

1. Original to:

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

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

See No. 3

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

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

4. One copy to:

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



Signature of Respondent or attorney
mailing on Respondent's behalf

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: **R36-00041C**
A36-10385
Date Received: 8/ 9/1988
Receipt No: M000925
Received By: _____

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: GERTRUDE B. OWSLEY BYBEE 208-837-4853
Address: RT. 1 BOX 234
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:
PIPE, 2 HP PUMP

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	10/01	0.100		

7. Total Quantity Appropriated is:
0.100 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	2.5

Section Acres

Total Acres

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2.5 JAN 21 1993

A36-10385

Page 1

Date: 07/29/91

MICROFILMED

Hand Delivered OCT 11 1994
to Southern 7/30/91

07/29/91
MICROFILMED
JAN 21 1993
OCT 11 1994

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 29th day
of July 19 91

Seal

Anna Baumhoff
Notary Public

Residing at Anna Baumhoff, Notary Public
Residing at Boise, Idaho
My Commission My Commission Expires December 7, 1994

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

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

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

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

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

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

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

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

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

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

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

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



Department of Water Resources
222 Shoshone Street E.
Twin Falls, ID 83301

Date April 20, 1993

Name HEPWORTH NUNGESTER & LEZAMIZ
133 SHOSHONE N
Address TWIN FALLS ID 83301

No. of Copies	Material	Cost
120	copies of RED FILE Documents as requested by Hagerman Water Right Owners @ .05 ea.	\$ 6.00
TOTAL		\$ 6.00

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

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

Sincerely,

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
Director

20-Apr-1993

HEPWORTH NUNGESTER & LEZAMIZ
133 SHOSHONE N
TWIN FALLS ID 83301
ATTN: CHRIS HERNANDEZ

Dear Chris:

Enclosed please find the copies of the contents from the RED FILES in the adjudication folders, as requested by the Hagerman Water Right Owners. If I can be of any further assistance, please give me a call at the office.

Sincerely,


Jeanie Robertson
Records Clerk

MICROFILMED
OCT 11 1994

RECEIPT
For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES

Receipt No:

5015315

RECEIVED

JAN 27 1993

Department of Water Resources
Southern Region Office

Date:
Time:

1/27/1993
09:02:54

Received
From:

BYBEE TRUDY

Type of Payment

Program Acct Class

Amount

FEE FOR COPY OF ADJUDICATION CLAIM

64100

229 21 1760

7.87

Total

CHECK

1172

\$7.87

Region: SOUTHERN

Signature: R. Foster

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DIRECTOR'S REPORT CONVERSATION MEMO

1. PERSON(S) MAKING THE ENQUIRY:

Include address and phone no.

in case follow-up is needed.

Penny Parker Attorney for HNL
Hagaman Water Right Owners, Inc.

2. SUBJECT OF INQUIRY:

Looked at files. Started to Ask
specific questions about maps, photos, notation
in file.

3. RESPONSE TO INQUIRY:

I told her I could not answer
specific questions but she could write them down
and submit them to our attorney. I told her
she was free to go thru the files and I
showed her the NAPP photos, ortho photo grids,
slides of Gooding Co. and the Country Rural
Address maps.

4. IDWR STAFF AND DATE:

Print name and initial

WATER RIGHT CLAIM (Nos.):

36-00003A

- 00041C

- 00042A

- 15461

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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

GERTRUDE B OWSLEY BYBEE
RT 1 BOX 234
HAGERMAN ID 83332

RE: Copy of SRBA File(s): 36-00041C, 36-00042A

Dear Ms. Bybee:

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:

\$7.87

Sincerely,


Jeanie Robertson
Records Clerk

Encl:

Bybee
47
~~48~~
 $95 \times 5 = 4.75$
post. 2.90
env. .22
7.87

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OCT 11 1994

~~36-00041C~~
RECEIVED

JAN 13 1993
Department of Water Resources
Southern Region Office

JANUARY 11, 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 36-00041C.

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,

GERTRUDE B OWSLEY BYBEE

Gertrude B. Owsley Bybee
(Name)

ROUTE # 1 BOX 234
(Address)

HAGERMAN, IDAHO 83332
(City, State, Zip Code)

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

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APR 30 1993

Department of Water Resources
Adjudication Bureau

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

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

Case No. A36-00041C
(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,

36-00041C -0001/
93-04-0045

Respondents.

INSTRUCTIONS

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

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

(Over)

OBJECTION - 1

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OCT 11 1994

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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: Gertrude B. Owsley Bybee

Address: Route 1, Box 234

Hagerman, ID 83332

Briefly describe your interest in this water right: _____

Decreed water right pursuant to

3/22/32 New International Mortgage Bank v.

Idaho Power with a priority date of 12/12/1901

2. Owner of the water right:

Name: Gertrude B. Owsley Bybee

Address: Route 1, Box 234

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.

Maximum quantity: decreed amount; purpose of use: to include
stock watering; period of use: 1/1-12/31; place of use: 3 acres;
consumptive use: to correspond with maximum quantity; remarks:
strike everything after "Hoagland Ditch".

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

GERTRUDE B. OWSLEY BYBEE, being first duly
(Name of person filing objection)

sworn, upon oath, deposes and says:

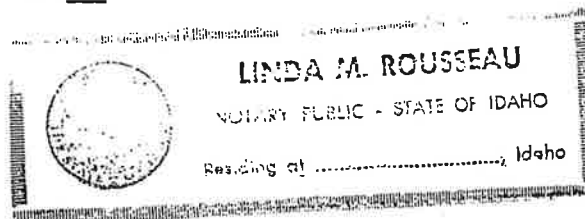
That I am the person or entity filing this objection, that I am a water claimant or party in this proceeding, as defined by I.C. Sec 42-1401A(1) and (7), and that I have read the foregoing objection, know its contents and that the statements contained therein are true to the best of my knowledge and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

Gertrude B. Owsley Bybee
Signature of person filing objection

By: [Signature]

(Attorney signing in
representative capacity)

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



Linda M. Rousseau
Notary Public for Idaho
Residing at: Summit Hills
My Commission Expires: 9-11-93

(Over)

MICROFILMED
OCT 11 1994

INSTRUCTIONS FOR MAILING

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

CERTIFICATE OF MAILING

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

1. Original to:

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

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

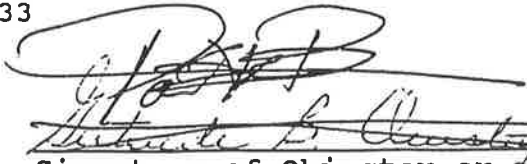
Owner name: Gertrude B. Owsley Bybee
Owner's address: Route 1, Box 234
Hagerman, ID 83332

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 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.

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

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

CHANGES TO DIRECTOR'S REPORT, page 4

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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OCT 11 1994

Question 14., page 4, Other

I.

GENERAL RESPONSE

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

II.

DESCRIPTIVE SUMMARY

(DIRECTOR'S REPORT PART I)

(hereinafter DRP-I)

(DRP-I at first unnumbered page)

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

III.

TABLE OF CONTENTS

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

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

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

IV.

INTRODUCTION

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

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

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

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

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

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

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

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

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

V.

DESCRIPTION OF THE WATER SYSTEM: BASIN 36

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

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

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

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

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

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

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

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

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

VI.

GENERAL PROVISIONS

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

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

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

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

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

EX-100
100-100000

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.

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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.

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

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

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

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

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

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

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

(DIRECTOR'S REPORT PART II)

I.

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

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

(DIRECTOR'S REPORT PART III)

I.

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

VIII.

AFFIRMATIVE DEFENSES

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

AFFIRMATIVE DEFENSE NO. 1

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

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

AFFIRMATIVE DEFENSE NO. 2

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

AFFIRMATIVE DEFENSE NO. 3

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

AFFIRMATIVE DEFENSE NO. 4

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

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

AFFIRMATIVE DEFENSE NO. 5

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

AFFIRMATIVE DEFENSE NO. 6

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

AFFIRMATIVE DEFENSE NO. 7

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

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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



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JAN 21 1993

CONVERSATION MEMORANDUM

EMPLOYEE: STEVE CLELLAND

FILE A36-00041C
A36-00042A

RE: NOE & Acres recommended

DATE 10-20-92

NAME OF PARTY

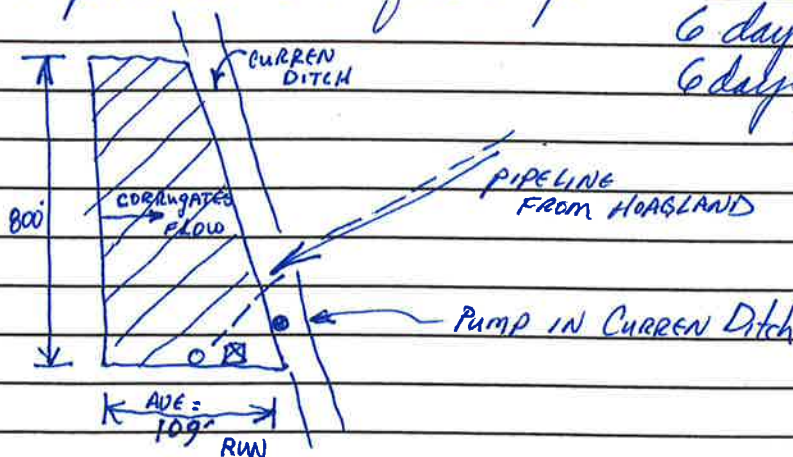
TRUDY B. ByBEE

(IN OFFICE VISIT)

She came in and wanted to know how we calculated her acreage. She was concerned because her tax notice lists 3.0 acres. I explained the ASCS and field exam studies and that we only report the existing irrigated acres.

We then analyzed the diversion rate used & recommended. She said it takes more than the 3" proposed. She corrected our findings of a sprinkles system saying most of the system is under corrugates.

She provided the following: 30" corrugates (ESTIMATED)
6 days irrigated
6 days off
Total 12 day Rotation
Orchard/Pasture



Analysis reveals required rate of 0.025 cfs/Ac.

Recommendation remains as proposed

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JAN 21 1993

NOTICE OF ERROR FORM

AUG-24-1992

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.

RECEIVED

SEP 25 1992

Department of Water Resources

YOUR DEADLINE FOR FILING A NOTICE OF ERROR IS: SEP-24-1992

1. Water right number: 36-0041C

2. Name: *Gertrude B. Quinsley Sykes*

Address: *Route # 1 Box 234*
Hagerman, Idaho, 83332

Weekday Telephone Number: 208-837-4853

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OCT 0 - 1992

Department of Water Resources
Southern Region Office

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TEAR AT PERFORATIONS AND COMPLETE FORM ON OTHER SIDE

(Instead of filling in items 3 and 4 below you may include a copy of your proposed recommendation with the changes marked on the copy.)

3. Describe the portion of proposed recommendation with which you disagree:

SEE ATTACHED LETTER

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

5. Describe why you disagree with the proposed recommendation:

6. Date: 9-23-92

SIGNATURE

Arthur B. Quisley, DVM

I R R I G A T I O N A N A L Y S I S W O R K S H E E T

CLAIM NO. A36-00042 A
A36-00041 C
 DATE 10-20-92
 AGENT SCC

CLAIMANT/SYSTEM DESCRIPTION

IRRIGATION SYSTEM ----- ORCHARD CORRUGATED
 ANALYSIS METHOD ----- BORDER / FURROW
 TYPE OF CROP ----- ORCHARD / PASTURE
 MAXIMUM PROFILE DEPTH ----- 60" INCHES
 INTAKE FAMILY ----- 0.65
.7-.85 .49 AVE.

 SOIL TYPE QUB (GR) FKE SYSTEM TOTAL
 ACRES PER TYPE 2.0 2.0 2.0 ACRES
 SOIL PROFILE WHC 5.99 6.71
 DESIGN IRR $\frac{1}{2}$ WHC 3.00 2.36
AVE = 3.18

CROP REQUIREMENT:

REPORT AREA & FIGURE NO. ----- BLISS-10-8

DAILY CROP REQUIREMENT:

6.79 (MM/DAY) / 25.4 (FACTOR IN MM/IN) ----- 0.267 IN/DAY

ACTUAL ROTATION PRACTICED ----- 12 DAYS

DRY DAY ROTATION 6 IRR DAY ROTATION 6

THEORETICAL ROTATION:

3.18 DESIGN IRR / 0.267 CROP REQ = 11.9 DAYS

DESCRIPTION OF FIELD:

AVERAGE LENGTH RUN ----- 109TOTAL WIDTH OF FIELD ----- 800CHECK _____ L * _____ W / 43,560 = 2.0 ACRES% SLOPE ----- 1%BORDER WIDTH ----- N/A

X WIDTH OF FIELD / X DAYS OF ROTATION

FURROW / CORRUGATION WIDTH ----- 30"SET TIME ----- 12

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JAN 21 1993

INTAKE FAMILY <If> = 0.65
 DESIGN APPLICATION <Fn> = 3.18 INCHES
 FURROW SLOPE <S> = 0.010 FEET/FOOT
 FURROW SPACING <W> = 1.50 FEET
 FURROW LENGTH <L> = 109 FEET
 INFLOW RATE <Q> = 1 GPM/FURROW
 APPLICATION TIME <Ti> = 12 HOURS

A36-00041c

A36-00042A

10-20-92

sc

 ADVANCE TIME <TT> = 20.1 MINUTES; OR 0.3 HOURS
 GROSS APPLICATION <FG> = 7.06 INCHES
 NET APPLICATION <Fx> = 5.59 INCHES
 RUNOFF <RO> = 1.39 INCHES
 DEEP PERCOLATION <DP> = 2.49 INCHES
 EFFICIENCY <E> = 45.02 %

TO CHANGE: PRESS (EXISTING)
 Design Application <1> 3.18 in
 Furrow Slope <2> 0.010 ft/ft
 Furrow Spacing <3> 1.50 ft
 Furrow Length <4> 109 ft
 Furrow Intake Family <5> 0.65
 Inflow Rate <6> 1 gpm/furrow
 Inflow Time <7> 12 hours <ANALYSIS MODE>

TO PRINT: DATA/WITH HEADING PRESS:<8/9>
 NEW DESIGN PRESS <10>, NEW ANALYSIS PRESS <11>, QUIT PRESS <12>?

INTAKE FAMILY	DESIGN APPLIC.	FURROW SLOPE	FURROW SPACING	FURROW LENGTH	INFLOW RATE	APPROXIMATE INFLOW TIME	ADVANCE TIME	GROSS IRRIGATION APPLICATION	NET IRRIGATION APPLICATION	RUNOFF	DEEP PERC.	IRRIGATION EFFICIENCY
	Inches	Ft/Ft	Feet	Feet	Gpm	Hours	Minutes	Inches	Inches	Inches	In.	%
0.65	3.18	.010	1.50	109	7	12	5.1	49.45	7.61	41.81	4.45	6.43
0.65	3.18	.010	1.50	109	6	12	5.3	42.38	7.39	34.97	4.23	7.50
0.65	3.18	.010	1.50	109	5	12	5.6	35.32	7.15	28.15	3.99	9.00
0.65	3.18	.010	1.50	109	4	12	6.0	28.26	6.88	21.35	3.72	11.25
0.65	3.18	.010	1.50	109	3	12	6.9	21.19	6.56	14.60	3.41	15.01
0.65	3.18	.010	1.50	109	2	12	9.0	14.13	6.17	7.92	3.02	22.51
0.65	3.18	.010	1.50	109	1	12	20.1	7.06	5.59	1.39	2.49	45.02

$$F.I.R. = 4.2 \frac{0.267}{45.02}$$

$$= 0.025 \text{ cfs/Ac}$$

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APR 21 1993

SEPTEMBER 23, 1992

IDAHO DEPARTMENT OF WATER RESOURCES

STATEHOUSE MAIL

BOISE, IDAHO 83720-9000

RECEIVED

SEP 25 1992

Department of Water Resources

1. WATER RIGHT NUMBER -36-0041

RECEIVED

OCT 01 1992

2. NAME: GERTRUDE B OWSLEY BYBEE

Department of Water Resources
Southern Region Office

ADDRESS: ROUTE # 1 BOX 234

HAGERMAN, IDAHO 83332

WEEKLEY TELEPHONE # 208-837-4853

3. THE PORTION OF THE PROPOSED RECOMMENDATION THAT I DISAGREE WITH IS THE TOTAL QUANTITY OF WATER. OF 0.60 CFS. THE DATE OF WATER USE. AND THE ACREAGE OF LAND LISTED.

4. THE CHANGE THAT I WISH TO HAVE MADE IN THE PROPOSED RECOMMENDATION IS AS FOLLOWS. I WOULD LIKE THE AMOUNT OF WATER RETURNED TO THE ORIGINAL FILING WHICH IS 0.100CFS. ALSO WOULD LIKE THE DATE OF THE IRRIGATION WATER TO RUN YEAR AROUND, NOT FROM -04-01 to 10-01. FOR THE SIMPLE REASON THAT ON THIS WATER SYSTEM PEOPLE HAVE LIVESTOCK TO WATER YEAR AROUND. I HAVE AN ORCHARD THAT NEEDS WATER LONG BEFORE APRIL 1st OF EACH YEAR.

5. I DISAGREE WITH THE PROPOSED RECOMMENDATION FOR SEVERAL REASONS. 1. CUTTING THE INCHES OF WATER PER ACRE WILL REDUCE THE SELLING PRICE OF THE LAND. 2. THIS PORTION OF IDAHO HAS SANDY SOIL AND IT TAKES MUCH MORE THAN AN INCH OF WATER PER ACRE. I HAVE AN ORCHARD TO IRRIGATE WHICH IS 2 ACRES MORE OF LESS. IT TAKES 5 DAYS TO IRRIGATE AND GET ALL THE TREES WET. I ALSO DISAGREE WITH THE DATES THE WATER WOULD RUN

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AS I HAVE MENTIONED IN ITEM 4. PEOPLE HAVE LIVESTOCK TO
WATER YEAR AROUND. AND THE AMOUNT OF WATER PEOPLE HAVE
PAID FOR SHOULD REMAIN THE SAME. THE IRRIGATION SYSTEM W E
HAVE HAS BEEN EXPENSIVE THROUGH THE YEARS WE ALL HAVE THOUBANDS
OF DOLLARS INVESTED IN THIS SYSTEM AND I FOR ONE DO NOT RELISH THE
THOUGHT OF GIVING THE WATER TO SOMEONE ELSE. ANOTHER THING I
DISAGREE WITH IS THE AMOUNT OF LAND LISTED ON YOUR RECOMMENDATION.
THE TOTAL ACRES IS 3.0 acres. I THINK IT WOULD BE HELPFUL IF
SOMEONE THAT IS QUALIFIED COULD COME AND INSPECT THIS SYSTEM

THEN WE COULD ALL DISCUSS THIS ISSUE INTELLIGENTLY.

SINCERELY,



GERTRUDE B. OWSLEY BYBEE
ROUTE # 1 BOX 234
HAGERMAN, IDAHO 83332

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JAN 21 1993



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

17-Oct-1992

GERTRUDE B AWSLEY BYBEE
RT 1 BOX 234
HAGERMAN ID 83332

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

Dear Ms Bybee

Your original claim did not include stockwater as a use on that claim. In your NOE you did not state if you were running stock in your orchard or not. Given the above information I am unable to recommend stockwater on this claim at this time.

Your NOE also indicates that you would like the recommendation to show a longer season of use for irrigation. The Director has approved extending the period of use for irrigation for the Hagerman Valley to be 3/15 to 11/15.

The proposed recommendation is based on irrigation season of use standards adopted by the Director for the various regions throughout the state. These standards are based on the period of the year in which there is less than a 75% chance of a 24 degree F. frost.

In addition, since there are some years in which water can be beneficially used for irrigation outside the irrigation season, the proposed Director's Report includes a general provision which provides for irrigation outside the irrigation season under certain conditions. The conditions are that the water is beneficially used, as determined by the director; that all water rights with a period of use outside the irrigation season, regardless of priority, are satisfied; and that the use does not conflict with the public interest as determined by the director. This proposed general provision will be included in the Director's Report.

Your NOE questions the basis for recommendation of an amount that is less than the amount shown in a previous decree.

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BYBEE
PAGE 2
17-Oct-1992

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 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.

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

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JAN 21 1993

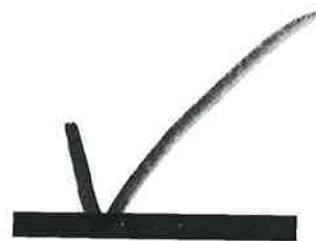
R PROOF



CVR



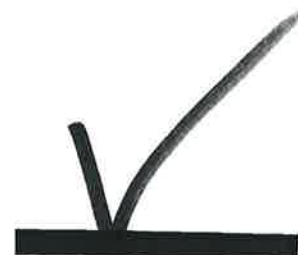
MAPS



PHOTOS



MISC



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Water Right Number - R36-00041C Prefix Translation: RESEARCH Old (D) Number -

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

*** C - CURRENT OWNER ***
BYBEE GERTRUDE B OWSLEY 1 - RT 1 BOX 234
2 -
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-837-4853

*** K - ALSO KNOWN AS ***
BYBEE TRUDY B 1 - RT 1 BOX 234
2 -
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-837-4853

+ - - 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 0.060

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.060 0.0

+ - - - - Place of Use - - - - - +
TwN Rng Sec Tract Lot Acres Code Description County
07S 13E 36 NW NE 2.0 01 IRRIGATION (47) GOODING

Total Acres: 2.0

+ - - Diversion Means - CONCRETE DITCH TO PIPELINES, SPRINKLERS

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - 36-00042B

+ - - - - Remarks - - - - - +
WATER IS DELIVERED THROUGH THE HOAGLAND DITCH.
USE OF THIS RIGHT WITH RIGHT NO. 36-00042A IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 0.09 CFS, A TOTAL COMBINED

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Water right number - R36-00041C

Prefix Translation: RESEARCH

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

ANNUAL CONSUMPTIVE USE VOLUME OF 6.0 AF, AND TO THE IRRIGATION
OF A COMBINED TOTAL OF 2.0 ACRES IN A SINGLE IRRIGATION SEASON.
0.03 CFS OF RIGHT NO. 36-00042A IS LIMITED TO USE FOR
CONVEYANCE LOSSES IN DELIVERY OF RIGHT NO. 36-00042A.

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

3600041

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

No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - + + - - - - Decree Defendant - - - + + - Decree Date - +

00/00/0000

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

No Comments Found

+ - - Audit Fields - - +

08/04/92 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	- 08/04/1992	Old Judicial District	-
Claim Received Date	- 08/09/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- M000925	Water District	- 36A
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	-	Presumption Flag	-
				Notice of Error Flag	-

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

PAGE: 11
QUICKLOOK INFORMATION

02:05:29
07/03/90

Renumber A36-0004/C
CLAIM NUMBER: A36-10385

WR ELEMENT	FIELD EXAM Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	VERIFIED BY CODE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE	Y N		9-20-90 SCC/AHT	N				
POINT OF DIV	Y N			(Y) 10 AC.	1, 5			
SOURCE	Y N			N				
PLACE OF USE	Y N			N	2, 4,			
DIV. AMOUNT CFS/VOLUME	Y (X) N			(Y) Reduce	1, 5			
CONSUMPTIVE USE	- N			N				
PURPOSES	Y N			N				
PERIOD OF USE	Y N			N				
BASIS OF CLAIM	Y N			N				
REMARKS	N			(Y)	6.			

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.

- See also A36-10386
- Split

MICROFILMED
JAN 21 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

02:05:29
07/03/90

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-10385

LAST: BYBEE
ADDRESS: RT. 1 BOX 234
CITY: HAGERMAN
PHONE NUMBER: 208-837-4853

FIRST: TRUDY B.
STATE: ID ZIP: 83332

OWNER CODE: C

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

NO REMARKS IN CLAIM

DATABASE
N

FIELD
EXAMINER

FIELD EXAMINATION INFORMATION

CONTACT PERSON: Philip Dice None

PHONE NUMBER: () -

DATE OF FIELD EXAM: 9/20/90

APPOINTMENT MADE: Y() N()

TIME: : A() P()

ACCOMPANIED BY: Philip Dice

PHONE NUMBER: () -

RELATIONSHIP TO CLAIMANT: Neighbor

DIRECTIONS TO PROPERTY / REMARKS:

Mr. Dice showed us the overflow/bypass for their leg of the Hoagland Tunnel pipeline. Also located the pump in the Curren Ditch to collect the weather by springs water,

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A. AJ CLAIM: # A36-10385 PRIORITY DATE: 12-12-1901 STAGE: D

B. WR RECORD: NO WATER RIGHT RECORD TO MATCH THIS AJ CLAIM

A36-0004#

12-12-1901

C. FIELD EXAM REQUIRED?

DATABASE
Y

FIELD
EXAMINER

DUE TO PRIORITY DATE DISCREPANCY? (Y/N)

N

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

Sec

DATE

7-20-90

=====

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A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A36-10385	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
36-00041
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:

THERE IS NO WATER RIGHT RECORD WITH THE SAME CLAIM NUMBER

A36-00041

"SAME AS CLAIMED"

SOURCE: NO SOURCE FOR RECORD

TRIB: NO TRIBUTARY FOR RECORD

C. FIELD EXAM REQUIRED?

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

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REMARKS:

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	COUNTY
7S.	14E	30	SE	NE	SW		47

SOURCE: HOAGAAND Tunnel TRIB: BILLINGSLEY CREEK

REVIEWED BY: SEL DATE: 7-20-90

change
claim

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A. ROOT WATER RIGHT NUMBERS: A36-10385

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		BYBEE , TRUDY B.	A36-10385 / 2.5 -	- /	38.0		
						BYBEE , TRUDY B.	A36-10386 / 2.5 -	- /			
						BYBEE , TRUDY B.	A36-10384 /	- /			
						DICE , PHILIP F.	A36-10405 /	- /			
						GRIDLEY , DORIS M.	A36-10762 /	- /			
						DICE , PHILIP F.	A36-00041A / 0.7	- /			
						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							A36-10385	2.50	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
N

PRESUMPTION FLAG:

REMARKS:

VERIFIED ON NAPP PHOTO Ases photo shows 1.8 Acres
Recommended 2.0 Acres

RECOMMENDATIONS:

TOTAL ACRES: 2.0

REVIEWED BY: SCC

DATE: 7-20-90

SCC 2-6-92

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2.0

A. AJ CLAIMED USES:

PURPOSES
A36-10385 IRRIGATION

MONTH/DAY
FROM 04-01 TO 10-31

31

DIVERSION QUANTITY
.100 CFS

TOTAL DIVERSION RATE/VOLUME CLAIMED

.100 CFS

B. WR RECORDED USES:

PURPOSES

MONTH/DAY

DIVERSION QUANTITY

TOTAL DIVERSION RATE/VOLUME CLAIMED

A36-00041

0.80 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
Y
Y
Y

FIELD
EXAMINER
N
N
N

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

Y(~~X~~) N()

RECOMMEND TO WR STANDARDS OR OTHER?

Y() N(~~X~~)

Explain in remarks, below.

REMARKS:

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A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y() N(☒)

AJ TOTAL CLAIMED DIVERSION RATE: 0.100 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 0.80 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 N

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: ~~A36-00042~~

~~A36-10386~~

changed claim 8-15-90 sec (36-00042 A)

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

CLAIM	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A36-10385	HOAGLAND TUNNEL	- BYBEE , TRUDY B.	0.100	0.040 -		
A36-10386	WEATHERBY SPRINGS	- BYBEE , TRUDY B.	0.160	0.064 -		
A36-00041A	HOAGLAND TUNNEL	DICE , PHILIP F.	0.040	0.057		
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	

Combine Total 0.104

Domestic is G.W. not the springs.

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D.

RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE ^{2.0}
ACRES 2.5 x ^{0.05} 0.02 CFS/ACRE = ^{0.06} 0.05 CFS
(Taken from p/u review)

1b. CALCULATIONS

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 = AF/A
ACRES 2.5 x CONSUMPTIVE VOL. AF/A FOR AREA 3.0 =
TOTAL CONSUMPTIVE USE 7.5 AF/A
6.0

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A
ACRES 2.5 x DIVERSION VOL. AF/A FOR AREA 4.0 =
TOTAL DIVERSION VOLUME 10.0 AF/A
8.0

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y() N(X)

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

WR proportional Rate = 0.02 cfs/Ac.

no conveyance loss
all lined ditch
+/- pipelines
to sprinkler or drip irrigation

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RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD FROM TO		REC. DIV RATE CFS		REC. DIV VOL. AF/A		REC. CONS. USE	
			DATABASE	EXAMINER	DATABASE	EXAMINER	DATABASE	EXAMINER
<u>IRRIGATION</u>	<u>4-1</u>	<u>10-31</u>	0.10	<u>0.05</u>		10.0		10.0
TOTAL FOR THIS RIGHT				<u>0.05</u>		10.0		10.0
REVIEWED BY: <u>SCC</u>	DATE: <u>12-18-90</u>							

SCC 7-30-92 ~~VS Flow Policy.~~

Hubble Analysis for Sprinkler = IDWR STD5

Recommend: 0.05 cfs for this source (0.025 cfs for A36-10386)

* Based on the proportional share of the two decreed rights claimed.

F01
E09

D04

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A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP _____
FORFEIT/ABANDON _____
ADDITIONAL DIV. AMOUNT _____

ACCEPTED
AS CLAIMED
(X)
()
()

NEEDS
REVIEW
()
(X)
()

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-10385

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	A36-10385	0.100	-		36-00041	0.800
TOTAL CFS		0.100				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
N

REMARKS:

SEE SPLIT RIGHT FILE A36-00041 FOR REVIEW.

AUTHENTICATION:

SIGNATURE:

Steve Clelland

DATE:

8-15-90

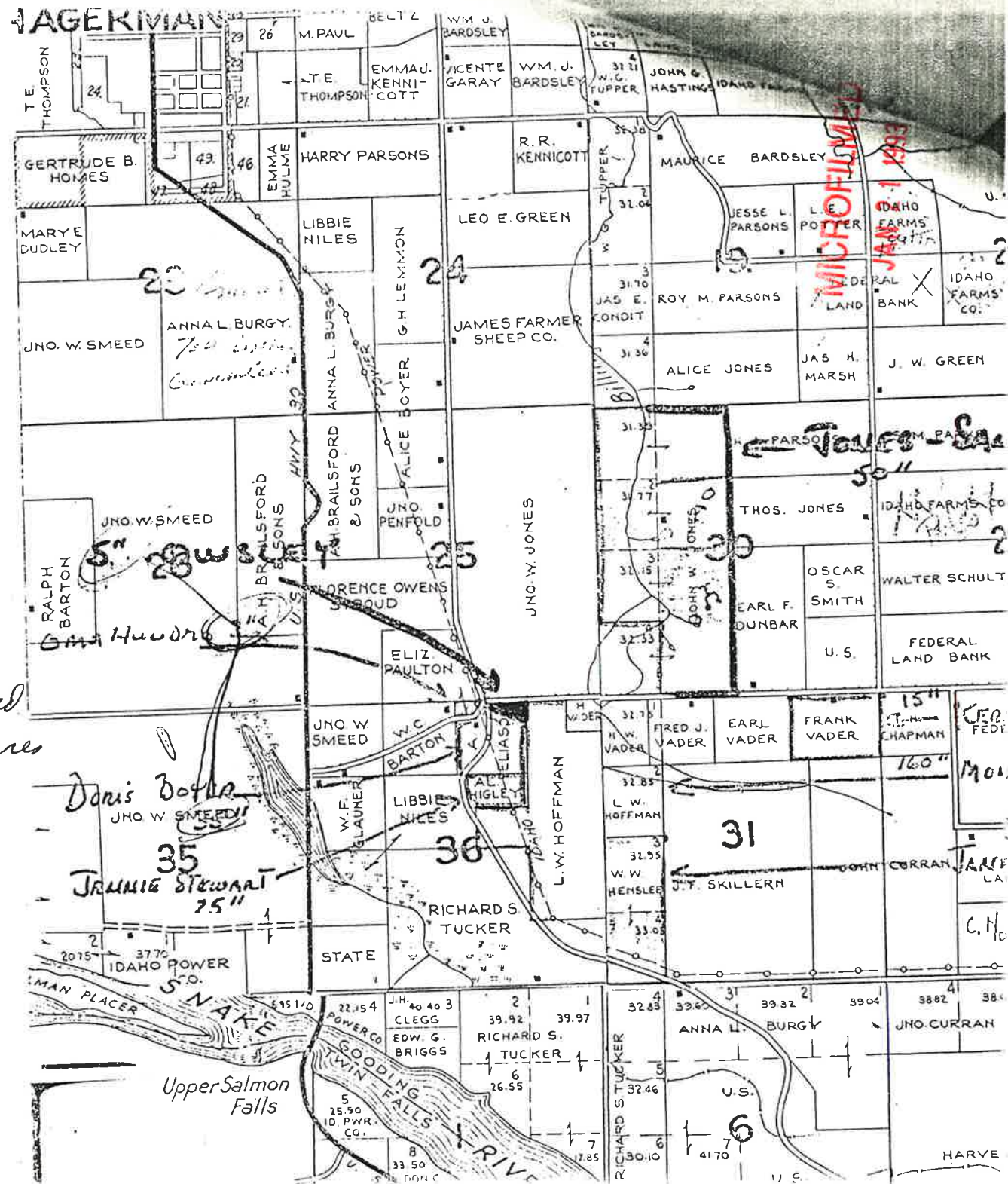
NAME OF FIELD EXAMINER:

Steve Clelland

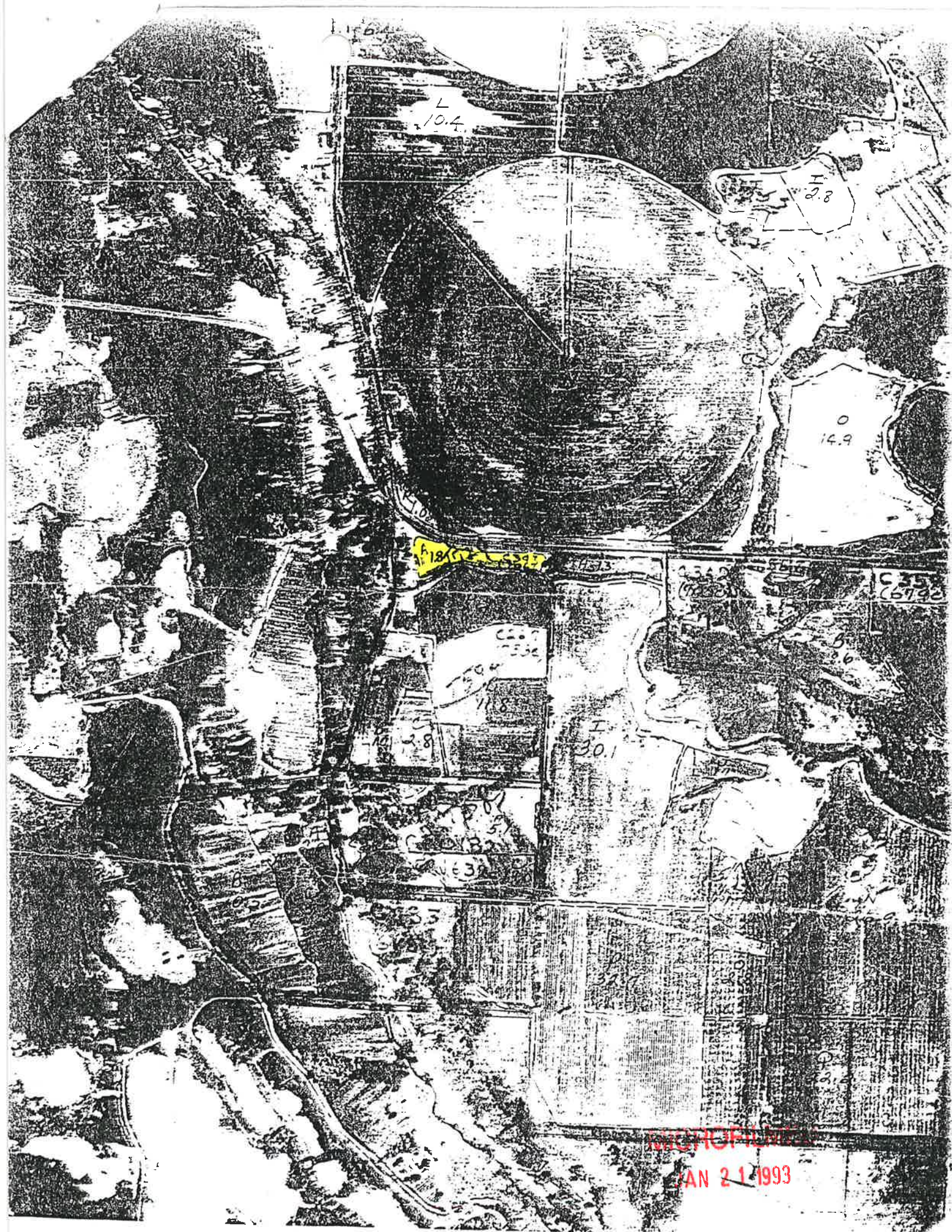
TITLE:

MICROFILMED

JAN 21 1993







DECREED RIGHT SPLIT ANALYSIS

PARENT RIGHT NO. 36-00041 TOTAL DIVERSION RATE 0.80 PREPARATION 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>

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VIA HOAGLAND DITCH

CONVERSATION MEMORANDUM

NAME OF PARTY TRUPY B. BYBEE
 EMPLOYEE: STEVE CLELLAND

DATE 12-19-90 10AM
 FILE A36-10385
A36-10386

RE: I called to confirm the two sources are used
& diverted independently. The Hoagland Tunnel water
comes through the pipeline system and redirected at
the Gridley farm.

The Weatherly springs water comes down the
Bar S Ditch to Cullen Ditch where it is pumped out.

These systems ~~were~~ confirmed by our field exam last
summer. (about 9-20-90)

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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

R36-00041c

HOAGLAND
TUNNEL

7-29-92

SCC

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Conveyance Loss is insignificant amount.

GERTRUDE B. OWSLEY BYBEE
ROUTE # 1 BOX 234
HAGERMAN, IDAHO 83332



RECEIVED

JAN 13 1993

Department of Water Resources
Southern Region Office

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

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OCT 11 1994

Trudy Bybee
Route #1, Box 234
Hagerman, ID 83332



Department of Water Resources
222 Shoshone St. East.

Twin Falls

Idaho

83301

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OCT 11 1994