

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: A36-00048C  
Date Received: 8/23/1988  
Receipt No: S001641  
Received By: SCC

**COPY**

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name: HERMAN W. PETRICK 208-837-4792  
Address: 17958A U.S. HWY 30  
BLISS, ID 83314  
OR  
Name: IRMA M. PETRICK 208-837-4792  
Address: 17958A U.S. HWY 30  
BLISS, ID 83314

2. Date of Priority: NOV 04, 1885

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

4. Point of Diversion:

| Township | Range | Section | 1/4 of | 1/4 of | 1/4 of | Lot | County  |
|----------|-------|---------|--------|--------|--------|-----|---------|
| 07S      | 13E   | 11      | SW     | SE     | NE     | R   | GOODING |
|          |       |         | SE     | SE     | NE     |     | GOODING |

5. Description of diverting works:  
VIA BUCKEYE DITCH AND PUMP

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S. | (or) | A.F.A. |
|------------|-------|-------|--------|------|--------|
| IRRIGATION | 03/15 | 11/15 | 0.030  |      |        |

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

8. Total consumptive use is 3.0 Acre Feet Per Annum.

9. Non-irrigation uses:

A36-00048C

Page 1

Date: 08/23/88

**MICROFILMED**  
OCT 11 1994

10. Place of Use:

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

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:  
NONE

14. Remarks:

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 3/22/1932

NEW INTERNATIONAL MORTGAGE BAN  
Decree Plaintiff

vs

IDAHO POWER COMPANY  
Decree Defendant

16. Signature(s)

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

Number of attachments: 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): Lena M. Petrich Date: 8/23/88  
\_\_\_\_\_  
Date: \_\_\_\_\_

State of Idaho )  
County of Twin Falls ) SS.

Subscribed and sworn (or affirmed) before me this 23rd day

of August 19 88

Roxanne Storey  
Notary Public

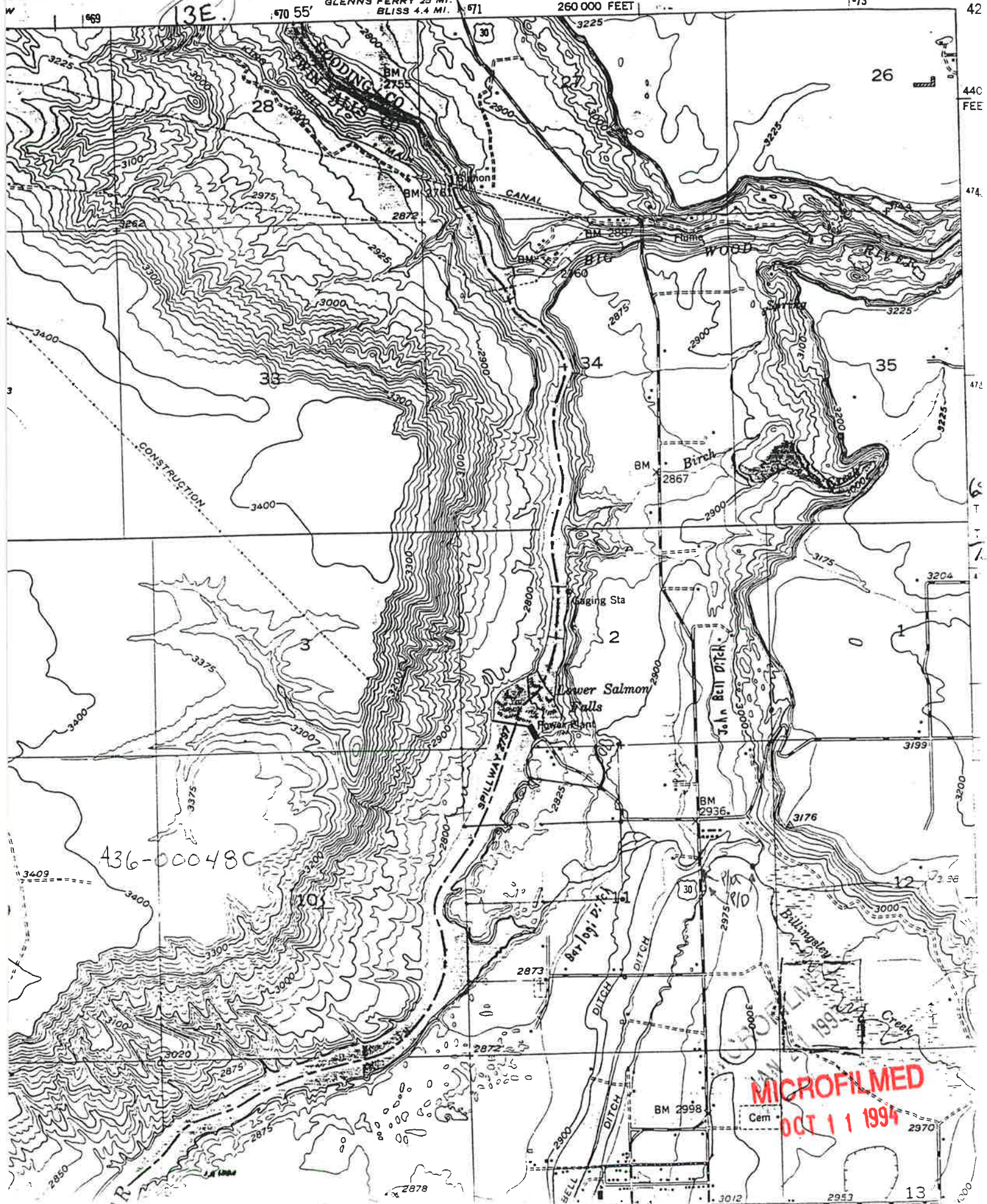
Seal

Residing at Buhl, Id

My Commission Expires 6-30-94

UNITED STATES  
THE ARMY  
ENGINEERS

IDAHO  
7.5 MI. SCALE  
TE SERIES (TOPOGRAPHIC)  
114°52'30" W  
42°



INPUT: AJ\_SELECTION:HHT-NOA-BROWN1.SEL

TYPE OF ACTION: ADD

MODIFY ALL FIELDS FLAG:

LAST NAME: BROWN

ADDRESS LINE 1: HEPWORTH NUNGESTER LEZAMIZ

ADDRESS LINE 3: PO BOX 389

CITY: TWIN FALLS

STATE: ID ZIP: 833030389

FIRST NAME: PATRICK D

ADDRESS LINE 2: 133 SHOSHONE ST N

PHONE NUMBER: (208) 734-7510

36-00048C ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
36-00055W ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
36-00085A ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
36-00085B ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
36-00089C ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
36-00090E ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
36-00103D ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
36-00198A ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
36-04071 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
36-07369B ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
36-10671 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
36-15157 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
36-15176 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
36-15184 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
36-15461 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
A36-00048C ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
A36-00055W ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
A36-00085A ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
A36-00085B ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
A36-00089C ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
A36-00090E ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
A36-00103D ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
A36-00198A ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
A36-04071 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
A36-07369B ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
A36-10671 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
A36-15157 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
A36-15176 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
A36-15184 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE  
A36-15461 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE

MICROFILMED  
OCT 11 1994

1 HEPWORTH, NUNGESTER & LEZAMIZ,  
2 CHARTERED  
3 133 Shoshone St. North  
4 P.O. Box 389  
5 Twin Falls, ID 83303-0389  
6 Telephone: (208)734-7510  
7 Attorneys for Claimant  
8 (PPK\21530sup.noa\lmr)

RECEIVED

FEB 22 1993

Department of Water Resources  
Adjudication Bureau

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

11 \* \* \* \* \*

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

Case No. 39576

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

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

21 Petitioner, )

22 vs. )

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

Respondents. )

\* \* \* \* \*

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



Hepworth,  
Nungester;  
& Lezamiz

SUPPLEMENTAL NOTICE OF APPEARANCE - 1

MICROFILMED  
OCT 11 1994

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

|                                  |            |
|----------------------------------|------------|
| 3 Irma M. & Herman W. Petrick    | A36-00048C |
| 4 Creed & Saundra Robinson       | A36-00090E |
| Creed & Saundra Robinson         | A36-00089C |
| Stanley E. Hoskovec              | A36-15461  |
| 5 Stanley E. Hoskovec            | A36-10671  |
| Stanley E. Hoskovec              | A36-15157  |
| 6 Stanley E. Hoskovec            | A36-00198A |
| Jack Martin                      | A36-00055W |
| 7 K. Gary Olesen                 | A36-00103D |
| Layne Osborne                    | A36-15184  |
| Layne Osborne                    | A36-15176  |
| 8 Marilyn Miller & Richard Waite | A36-00085A |
| Marilyn Miller & Richard Waite   | A36-00085B |
| 9 Marilyn Miller & Richard Waite | A36-07369B |
| Carl & Mary Lee Pothier          | A36-04071  |

10  
11 DATED This 19 day of February, 1993.

12 HEPWORTH, NUNGESTER & LEZAMIZ

13  
14 By   
PATRICK D. BROWN  
Attorneys for Respondents

15  
16 CERTIFICATE OF MAILING

17  
18 The undersigned, a resident attorney of the State of  
19 Idaho, with offices at 133 Shoshone St. North, P.O. Box 389, Twin  
20 Falls, Idaho 83303, and one of the attorneys for the respondents  
21 in this matter, certifies that he caused to be mailed a copy of the  
22 above and foregoing SUPPLEMENTAL NOTICE OF APPEARANCE on the 19  
day of February, 1993, to:



Hepworth,  
Nungester,  
& Lezamiz

SUPPLEMENTAL NOTICE OF APPEARANCE - 2

MICROFILMED  
OCT 11 1994

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

5 Chief, Natural Resources Division (1)  
6 Office of Attorney General  
7 State of Idaho  
8 P.O. Box 44449  
9 Boise, Idaho 83711-4449

10 The United States Department of Justice (1)  
11 Environment and Natural Resources Division  
12 550 West Fort Street, Box 33  
13 Boise, ID 83734

14   
15 \_\_\_\_\_  
16 Patrick D. Brown



Hepworth,  
Nungester,  
& Lezamiz

SUPPLEMENTAL NOTICE OF APPEARANCE - 3

MICROFILMED  
OCT 11 1994

IDAHO DEPARTMENT OF WATER RESOURCES  
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: NOV-14-1997  
PAGE: A-1RIGHTS FROM: SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

RIGHT NUMBER: 36-00048C

NAME AND ADDRESS: IRMA M PETRICK  
17958A US HWY 30  
BLISS ID 83314HERMAN W PETRICK  
17958A US HWY 30  
BLISS ID 83314DESIGNED BY RB 11-14-97SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 0.03 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000  
GALLONS PER DAY.PRIORITY DATE: 11/04/1885POINT OF DIVERSION: T07S R13E S11 SESENE Within GOODING County

## PURPOSE AND

| PERIOD OF USE: | PURPOSE OF USE         | PERIOD OF USE      | QUANTITY        |
|----------------|------------------------|--------------------|-----------------|
|                | <u>DOMESTIC 1 HOME</u> | <u>01-01 12-31</u> | <u>0.03 CFS</u> |

PLACE OF USE: DOMESTIC Within GOODING County  
T07S R13E S11 SENE

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A  
DETERMINATION OF HISTORICAL BENEFICIAL USE.EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREEWATER IS DELIVERED THROUGH THE BUCKEYE DITCH.

RECEIVED

JAN 02 1998

Department of Water Resources  
Southern Region

OCT 22 1997

DISTRICT COURT-SRBA  
TWIN FALLS CO., IDAHO  
FILED

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

In Re SRBA

SUBCASE(S) 36-00048C

Case No. 39576

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: October 22, 1997

J.H. Hearn  
Special Master  
Snake River Basin Adjudication

Receiv  
JAN 02 1998  
Seating Water Re.  
Southern Region

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

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

In Re SRBA )  
 )  
 ) Subcase(s) ~~36-000482~~ 36-000482  
 )  
 ) STANDARD FORM 5  
Case 39576 )  
 )  
 )  
 )

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

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

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

Date: 10/22/97

John Marshall  
IDWR Concurrence

Anna M. Petrick  
Claimant

\_\_\_\_\_  
Claimant/Attorney

\_\_\_\_\_  
Claimant/Attorney

\_\_\_\_\_  
Objector

\_\_\_\_\_  
Objector/Attorney

\_\_\_\_\_  
Objector/Attorney

AJ5808NP  
(00-26)

IDAHO DEPARTMENT OF WATER RESOURCES  
ADJUDICATION CLAIMS PROOF READING REPORT

10/17/97 12:48:13  
Page 1

Water Right Number - 36-00048C

Prefix Translation: WATER RIGHT

Old (D) Number -

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

\*\*\* A - ATTORNEY \*\*\*  
~~BROWN~~

~~PATRICK D~~

~~1 - HEPWORTH HUNGESTER LEZAMIZ~~  
~~2 - 133 SHOSHONE ST N~~  
~~3 - PO BOX 389~~  
~~City - TWIN FALLS~~ State- ID Zip- 833030389  
~~Phone - 208-734-7510~~

\*\*\* C - CURRENT OWNER \*\*\*  
~~PETRICK~~

~~HERMAN W~~

1 - 17958A US HWY 30  
2 -  
3 -  
City- BLISS State- ID Zip- 83314  
Phone - 208-837-4792

PETRICK

IRMA M

1 - 17958A US HWY 30  
2 -  
3 -  
City- BLISS State- ID Zip- 83314  
Phone - 208-837-4792

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +  
11/04/1885 ~~ERROR IN REGION~~ I - DISALLOWED

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

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

+ - - - - Water Use - - - - - +  
Code Description Period From Period To Diversion Rate Diversion Volume  
01 ~~IRRIGATION~~ Domestic 04/01 ~~10/31~~ 1/1 - 12/31 0.030

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

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

Total Acres: 4.0

Remarks: Water is delivered

~~Diversion Means~~ VIA BUCKEYE DITCH AND PUMP

~~Non Irrigation Use -~~

~~Other Rights for Same Use - NONE~~

RECOMMENDATION

OCT 22 1997

*AXH*  
SPECIAL MASTER

RECEIVED

JAN 02 1998

Department of Water Resources  
Southern Region

OCT 22 1997

DISTRICT COURT-SRBA  
TWIN FALLS CO., IDAHO  
FILED

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

In Re SRBA

Case No. 39576

SUBCASE(S): 36-00048 C

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

Irma Petrick  
Claimant/Attorney

\_\_\_\_\_  
Claimant/Attorney

Representative of U.S. Dept. of Justice

\_\_\_\_\_

\_\_\_\_\_  
Party/Attorney

\_\_\_\_\_  
Party/Attorney

DATED October 22, 1997

Am. Albadie  
Deputy Clerk

# **SUBCASE NO. 36-00048C**

|                           | <b>CLAIM (8/23/88)</b>    | <b>AMENDED CLAIM</b> | <b>RECOMMENDATION</b> | <b>OBJECTION</b>                        |
|---------------------------|---------------------------|----------------------|-----------------------|-----------------------------------------|
| <b>NAME</b>               | Herman & Irma Petrick     | N/A                  | Disallowed            | Herman & Irma Petrick                   |
| <b>BASIS OF CLAIM</b>     | Decree                    |                      |                       |                                         |
| <b>SOURCE</b>             | Billingsley Creek         |                      |                       |                                         |
| <b>QUANTITY</b>           | 0.03 cfs                  |                      |                       |                                         |
| <b>PRIORITY DATE</b>      | 11/4/1885                 |                      |                       |                                         |
| <b>PURPOSE OF USE</b>     | Irrigation                |                      |                       |                                         |
| <b>PERIOD OF USE</b>      | 3/15 - 11/15              |                      |                       |                                         |
| <b>POINT OF DIVERSION</b> | T07S R13E S11             |                      |                       |                                         |
| <b>PLACE OF USE</b>       | T07S R13E S11<br>1.0 acre |                      |                       |                                         |
| remarks                   |                           |                      |                       | * XX Water right not being recommended. |
|                           |                           |                      |                       |                                         |

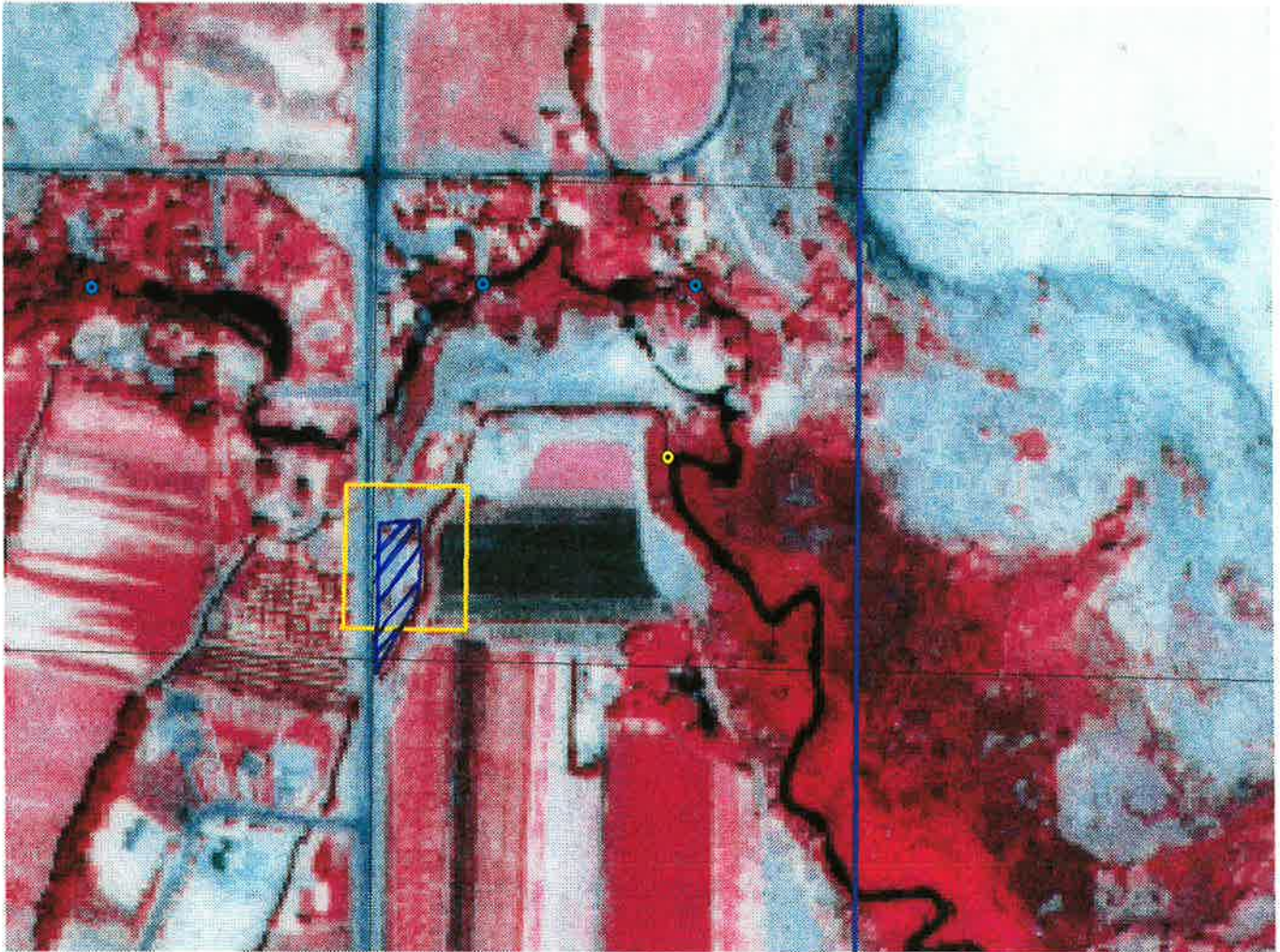
\* wants water right as claimed with year round season of use. Objection states that this water right was decreed in the New International Mortgage Bank Decree (3/22/1932) and the Florence Livestock Co. Decree (11/4/1885).

*Claim settled for 0.04 cfs Domestic Use  
from Buckeye Ditch.*

*10/22/97 see*

IDAHO DEPARTMENT OF WATER RESOURCES

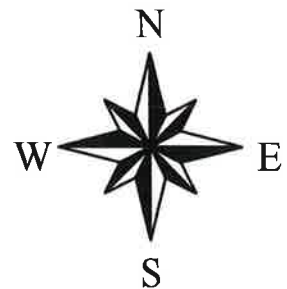
36-00048C  
PETRICK



Settled 10/22/97 see  
Domestic use on lot shown

660 0 660 Feet

TNS 7S, RNG 13E, SEC 11 SENE



⊙ RECOMMENDED POINT OF DIVERSION

□ VICINITY OF CLAIMED PLACE OF USE

▬ SECTION LINES &/OR TRACT LINES

□ QUARTER/QUARTER LINES

10/29/97 see  
No Longer Any GIS  
Record ~ Dom. Use.

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

FROM: Allen Merritt

DATE: September 18, 1996

TO: Transfer File No. 4910  
In the Name of: Irma Petrick

SUBJECT: Review and Recommendation

This transfer was filed back in 1988 and advertised without protest. It has been held pending SRBA review. The directors report recommended that the Petrick claim be disallowed. (See attached 36-00048C recommendation) Objections have been filed to the director's report and settlement conferences have been held.

As of this date nothing has been settled.

Based on Steve Clelland's understanding of the situation there is no present use of the water. It sounds like if the court decrees a right then the use will have to be re-established as the court decrees. It appears to me the application should either be denied or voided.

A36-00048C

## MEMO

TO: Allen Merritt  
FROM: Steve Clelland *SC*  
DATE: September 17, 1996

RE: Transfer of 36-00048B; SRBA Claim A36-00048C; Petrick

=====

I obtained this transfer file in preparation for Settlement Conferences to resolve the objections pertaining to this SRBA claim. No settlements were ever conducted and right was scheduled quickly for trial. The court later vacated the trials and this right \* included in a summary judgement motion. \*

Right was disallowed under the SRBA because the water was not being diverted or used by claimants. No evidence was found to support the requested "... pump in Billingsley Creek..." as stated on the transfer application. Conversation with claimant indicates she has never diverted the water here and hadn't up to the time of the SRBA exam in July 1990, but someday plans to use this water.

Recommend disallowing this transfer since right has been forfeited by non-use.

**R PROOF**

**CVR**

**MAPS**

**PHOTOS**

**MISC**

**MICROFILMED**  
1994

RECEIVED

APR 30 1993

Department of Water Resources  
Adjudication Bureau

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

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

Case No. A36-00048C  
(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,

36-00048C -0001/  
93-04-0054

Respondents.

INSTRUCTIONS

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

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

(Over)

OBJECTION - 1

MICROFILMED  
OCT 11 1994

By filing an objection form, you are certifying that the objection is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and that it is not filed for any improper purpose, such as to harass, cause unnecessary delay or needless increase in the cost of litigation.

I. GENERAL INFORMATION

Please fill in the following information:

1. Person objecting:

Name: Herman W. and Irma M. Petrick

Address: 17958A U.S. Hwy 30

Bliss, ID 83314

Briefly describe your interest in this water right:

Priority date 11/4/1885

Judicial decree 3/22/1932 New International

Mortgage Bank v. Idaho Power Co. and November

4, 1885 decree Florence Livestock Co.

2. Owner of the water right:

Name: Herman W. Petrick or Irma M. Petrick

Address: 17958A U.S. Highway 30

Bliss, ID 83314

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)

WICHITA

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.

Source Billingsley Creek, priority date 11/4/1885 - Point of  
diversion: 07S 13E 11SESENE & SWSENE. Irrigation from 1/1 to  
12/31 as decreed and/or beneficially used; place of use: 07S 13E  
11SENE 1.0 acres

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

Irma M. Petrick, 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.

Irma M. Petrick  
Signature of person filing objection

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

Subscribed and sworn to before me this 19<sup>th</sup> day of April,  
1993.

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

(Over)

INSTRUCTIONS FOR MAILING

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

CERTIFICATE OF MAILING

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

1. Original to:

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

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

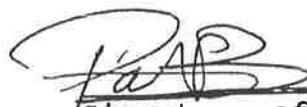
Owner name: Herman and Irma M. Petrick  
Owner's address: 17958A U.S. Hwy 30  
Bliss, ID 83314

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 12 - IDWR recommends a disallowance of a claim that has been decreed and/or beneficially used.

CHANGES TO DIRECTOR'S REPORT, page 4

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

Question 14., page 4, Other

I.

GENERAL RESPONSE

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

II.

DESCRIPTIVE SUMMARY

(DIRECTOR'S REPORT PART I)

(hereinafter DRP-I)

(DRP-I at first unnumbered page)

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

III.

TABLE OF CONTENTS

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

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

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

#### IV.

##### INTRODUCTION

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

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

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

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

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

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

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

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

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

**MICROFILMED**  
**OCT 11 1994**

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.

MICROFILMED  
OCT 11 1994

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

The objectors admit paragraphs a. and b.

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

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

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

The objectors deny the averments within this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**(DIRECTOR'S REPORT PART II)**

**I.**

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

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

**(DIRECTOR'S REPORT PART III)**

**I.**

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

**VIII.**

**AFFIRMATIVE DEFENSES**

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

**AFFIRMATIVE DEFENSE NO. 1**

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

**MICROFILMED**  
**OCT 11 1994**

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.

MICROFILMED  
OCT 11 1994

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.

MICROFILMED  
OCT 11 1994

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

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.

RECEIVED  
JAN 11 1961

(WATER\21530ANS)

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. 36-00048C -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: HERMAN W & IRMA M PETRICK  
Address: 17958 A US HWY 30  
BLISS ID 83314

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

12. ☒ Water Right Recommendation: I respond to the objection concerning:

12b. ☒ This water right not being recommended.

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

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

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection items 12 and 12b., and all of the allegations of the objection regarding those items, IDWR responds as follows: IDWR recommended this claim for disallowal because it found no diversion or beneficial use of water and no history of diversion for use. It therefore determined the right had been abandoned or forfeited for nonuse as provided for by Idaho Code Sec. 42-222 (2). IDWR further responds to this objection item as follows: The season of use sought by the objection is longer than the season of use stated on the notice of claim. The objector improperly seeks to use the

objection process to amend its notice of claim.

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

In response to the sentence listed in Changes to the Director's Report, whereby the claimant attempts to "reserve the right to claim all purposes of use and quantities of use as shown by the evidence at trial," IDWR responds as follows: Insofar as this purported reservation of rights may constitute an attempt to reserve the right to amend at trial the claimant's notice of claim, the claimant improperly seeks to use the objection process to amend the claim. A claimant must obtain leave of the court to amend a claim just as a party must obtain leave of the court to file a late claim after the director's report is filed.

#### CHANGES TO THE DIRECTOR'S REPORT

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

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

|                                                                                      | No. of<br>Pages |
|--------------------------------------------------------------------------------------|-----------------|
| Notice of Claim No. A36-00048C                                                       | 4               |
| IDWR's Response to Answer, Affirmative Defenses and Prayer<br>for Relief of Claimant | 4               |

(Over)

VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

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

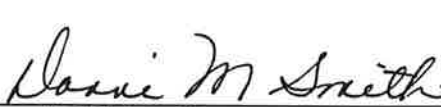
That R. Keith Higginson, in his official capacity as director of the Idaho Department of Water Resources, is a party to this proceeding, as defined by I.C. 42-1401A(1) and (7); that I am the Adjudication Bureau Chief for IDWR and am authorized by R. Keith Higginson, in his official capacity as director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

  
\_\_\_\_\_  
Signature of person filing response

By:

  
\_\_\_\_\_  
(Attorney signing in  
representative capacity)

Subscribed and sworn to before me this 30<sup>th</sup> day of August,  
1993.

  
\_\_\_\_\_  
Notary Public for Idaho

Residing at: \_\_\_\_\_

My Commission expires \_\_\_\_\_

Danni Smith, Notary Public  
Residing at Boise, Idaho  
My Commission Expires December 5, 1994

CERTIFICATE OF MAILING

I hereby certify that on the 31st day of AUGUST, 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: A36-00048C  
Date Received: 8/23/1988  
Receipt No: S001641  
Received By: SCC

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name: HERMAN W. PETRICK 208-837-4792  
Address: 17958A U.S. HWY 30  
BLISS, ID 83314

OR

Name: IRMA M. PETRICK 208-837-4792  
Address: 17958A U.S. HWY 30  
BLISS, ID 83314

2. Date of Priority: NOV 04, 1885

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

4. Point of Diversion:

| Township | Range | Section | 1/4 of | 1/4 of | 1/4 of | Lot | County  |
|----------|-------|---------|--------|--------|--------|-----|---------|
| 07S      | 13E   | 11      | SW     | SE     | NE     | R   | GOODING |
|          |       |         | SE     | SE     | NE     |     | GOODING |

5. Description of diverting works:  
VIA BUCKEYE DITCH AND PUMP

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S. | (or) | A.F.A. |
|------------|-------|-------|--------|------|--------|
| IRRIGATION | 03/15 | 11/15 | 0.030  |      |        |

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

8. Total consumptive use is 3.0 Acre Feet Per Annum.

9. Non-irrigation uses:

A36-00048C

Page 1

Date: 08/23/88

MICROFILMED  
JAN 21 1983  
OCT 11 1994

10. Place of Use:

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

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:  
NONE

14. Remarks:

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

NEW INTERNATIONAL MORTGAGE BAN  
Decree Plaintiff

vs

IDAHO POWER COMPANY  
Decree Defendant

MICROFILMED  
OCT 11 1994  
JAN 24 1993

16. Signature(s)

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

Number of attachments: 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): Anna M. Petrick Date: 8/23/88  
\_\_\_\_\_  
Date: \_\_\_\_\_

State of Idaho )  
County of Twin Falls ) SS.

Subscribed and sworn (or affirmed) before me this 23rd day  
of August 19 88

Roxanne Storey  
Notary Public

Seal

Residing at Buhl, Id  
My Commission Expires 6-30-94



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

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

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

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

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

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

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

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

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

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

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

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

**RECEIPT**  
**For Monies Paid**  
**to the**  
**IDAHO DEPARTMENT OF WATER RESOURCES**

**Receipt No:**

5015297

**RECEIVED**

JAN 21 1993

Department of Water Resources  
Southern Region Office

**Date:**

**Time:**

1/21/1993

**Received**

**From:**

PETRICK IRMA M

**Type of Payment**

**Program Acct Class**

**Amount**

FEE FOR COPY OF ADJUDICATION CLAIM

64100

229 21 1760

3.08

**Total**

CHECK

6745

\$3.08

Region: SOUTHERN

Signature: R. Foster

**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

13-Jan-1993

IRMA PETRICK  
17958A U S 30  
BLISS ID 83314

RE: Copy of SRBA File(s): 36-00048C

Dear Mrs. Petrick:

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:

\$3.08

Sincerely,

  
Jeanie Robertson  
Records Clerk

Encl:

*Petrack*  
30x5= 1.50  
post. 1.44  
env. .14  
3.08

**MICROFILMED**

**OCT 11 1994**

RECEIVED

JAN 12 1993

January 8, 1993

Department of Water Resources  
Southern Region Office

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

Dear Idaho Department of Water Resources:

Please provide me with a copy of all information included in my file as it relates to water right number A36-00048C.

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,



Irma M. Petrick  
17958A U.S. 30  
Bliss, ID 83314

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

MICROFILMED  
OCT 11 1994

**NOTICE OF ERROR**

**RESPONSE**

**CORRECTED R PROOF**



**MICROFILMED**  
**JAN 21 1993**

## NOTICE OF ERROR FORM

AUG-24-1992

RECEIVED

SEP 10 1992

Department of Water Resources

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

**Idaho Department of Water Resources**

**Statehouse Mail**

**Boise, Idaho 83720-9000**

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

**YOUR DEADLINE FOR FILING A NOTICE OF ERROR IS:**

SEP-24-1992

1. Water right number:

2. Name:

Address:

Weekday Telephone Number:

MICROFILMED  
JAN 21 1993

**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 made on the copy.)

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

Disallowance of our Claim No. 36-00048C due to forfeiture or abandonment.

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

Request our claim be allowed inasmuch as we have a pump, sprinkler systems, trees and shrubs in place that are watered by this claim.

We have spent several thousand dollars in this effort and have no intention of abandoning it.

5. Describe why you disagree with the proposed recommendation:

We were ~~never~~ <sup>NEVER</sup> contacted concerning the claim of forfeiture or abandonment and believe an error has been made. Inasmuch as we have invested several thousand dollars and much effort into landscaping our acre on the basis that we would have the water, we do not feel we can afford to have the claim disallowed.

6. Date: September 8, 1992

SIGNATURE

Irma M. Petrick



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

16-Oct-1992

HERMAN W PETRICK  
17958A US HWY 30  
BLISS ID 83314

RE: RESPONSE TO NOTICE OF ERROR FOR CLAIM 36-00048C

Dear Mr Petrick

This claim has been disallowed based on the non-use of the water right as described by the claim. Based upon currently available information I am unable to reinstate your claim.

If you still do not agree with the proposed IDWR recommendations to the court, you may file an objection with the court after you receive the final recommendation of your water right. The objection process will be explained when you receive your final recommendation of your water right.

Sincerely

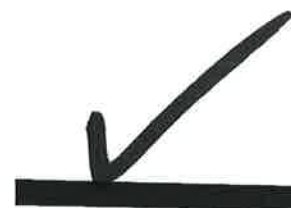
Kelly K Christensen  
Sr Water Resource Agent

MICROFILMED  
JAN 21 1993

**R PROOF**



**CVR**



**MAPS**



**PHOTOS**



**MISC**



**MICROFILMED**  
**JAN 2**

Water Right Number R36-00048C

Prefix Translation: RESEARCH

Old (D) Number -

+ - - - - Last Name - - - - +

+ - First Name - - +

+ - - - - Address - - - - - +

\*\*\* C - CURRENT OWNER \*\*\*  
PETRICK

IRMA M

1 - 17958A U S HWY 30

2 -

3 -

City- BLISS

Phone - 208-837-4792

VERIFIED BY KKC  
State- ID Zip- 83314

PETRICK

HERMAN W

1 - 17958A U S HWY 30

2 -

3 -

City- BLISS

Phone - 208-837-4792

State- ID Zip- 83314

+ - - Priority Date - - +  
11/04/1885+ - - Region - - - +  
ERROR IN REGION

+ - - Stage - - - +

+ - - Status - - - +  
I - DISALLOWED+ - - Source - - - - - +  
BILLINGSLEY CREEK+ - - Tributary - - - - - +  
SNAKE RIVER+ - - Point of Diversion - - - - - +  
TwN Rng Sec Tract Lot RFlg County

07S 13E 11 SE SE NE (47) GOODING

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

01 - IRRIGATION 04/01 10/31 0.030

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +  
0.030 3.0+ - - Place of Use - - - - - +  
TwN Rng Sec Tract Lot Acres Code Description County

07S 13E 11 SE NE 1.0 01 IRRIGATION (47) GOODING

Total Acres: 1.0

+ - - Diversion Means - VIA BUCKEYE DITCH AND PUMP

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - NONE

+ - - Remarks - - - - - +  
FORFEITED/ABANDONED.

Water right number - R36-00048C

Prefix Translation: RESEARCH

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

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

3600048

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

P04 - FORFEITED/ABANDONED: This is included for a claim based on a  
- decree or license that is PROPOSED to be disallowed on the basis  
- that the water right no longer exists because forfeiture of the  
- right by nonuse was confirmed and a defense to forfeiture was not  
- confirmed, or because abandonment of the right was confirmed.

+ - - - - Decree Plaintiff - - - +

NEW INTERNATIONAL MORTGAGE BANK

+ - - - - Decree Defendant - - - +

IDAHO POWER COMPANY

+ - Decree Date - +

03/22/1932

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

Date: 08/04/1992 User Id: CHRISTEN Subject: BASIS FOR DISALLOWAL  
NO IRRIGATION FOUND. NO DIVERSION FROM BUCKEYE DITCH AND NEVER HAS BEEN, TO DATE.

+ - - Audit Fields - - +

08/04/92 CHRISTEN

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

|                      |              |                       |              |                         |         |
|----------------------|--------------|-----------------------|--------------|-------------------------|---------|
| Court Report Filing  | - 00/00/0000 | Field Inspection Made | - 07/25/1990 | Civil Case Number       | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | -            | Old Case Number         | -       |
| Response Filed Date  | - 00/00/0000 | Verified Date         | - 08/04/1992 | Old Judicial District   | -       |
| Claim Received Date  | - 08/23/1988 | Last Amended Date     | - 00/00/0000 | Temporary Right         | - P     |
|                      |              | Receipt Number        | - S001641    | Water District          | - 36A   |
|                      |              | POU Ownership Flag    | - Y          | Federal/State Indicator | - S     |
|                      |              | Name Connector        | - OR         | Presumption Flag        | - D     |
|                      |              |                       |              | Notice of Error Flag    | -       |

MICROFILMED  
JAN 21 1993

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
ADJUDICATION CLAIM VERIFICATION REPORT

11:55:09  
06/29/90

PAGE: 14  
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-00048C

| WR ELEMENT                | FIELD EXAM<br>Y/N | CORRESPONDENCE<br>SENT/RECEIVED<br>BY WHOM/DATE | FIELD EXAM<br>BY WHOM/DATE | CHANGE<br>CLAIM<br>Y/N | VERIFIED BY<br>CODE | COMPLETED<br>REVIEW<br>WHOM/DATE | COMPLETED<br>DATA ENTRY<br>WHOM/DATE | VERIFIED<br>DATE<br>WHOM/DATE |
|---------------------------|-------------------|-------------------------------------------------|----------------------------|------------------------|---------------------|----------------------------------|--------------------------------------|-------------------------------|
| PRIORITY DATE             | N                 |                                                 |                            |                        |                     | SC                               | DB                                   | KKC                           |
| POINT OF DIV              | Y (Y)             |                                                 |                            |                        |                     | 2-6-92                           |                                      | 8-4-92                        |
| SOURCE                    | N                 |                                                 |                            |                        |                     | 8-4-92                           |                                      |                               |
| PLACE OF USE              | Y (Y)             |                                                 | 7-25-90<br>SCC/HHT         | *DISALLOW              | 1, 5, 4, 6          |                                  |                                      |                               |
| DIV. AMOUNT<br>CFS/VOLUME | Y *               |                                                 |                            |                        |                     |                                  |                                      |                               |
| CONSUMPTIVE USE           | N                 |                                                 |                            |                        |                     |                                  |                                      |                               |
| PURPOSES                  | N                 |                                                 |                            |                        |                     |                                  |                                      |                               |
| PERIOD OF USE             | Y N               |                                                 |                            |                        |                     |                                  |                                      |                               |
| BASIS OF CLAIM            | Y N               |                                                 |                            |                        |                     |                                  |                                      |                               |
| REMARKS                   | N                 |                                                 |                            | (Y) 6.                 |                     |                                  |                                      |                               |

"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.

\* DISALLOW

P04

\*Needs further review 7-25-90

RECEIVED  
JAN 12 1991

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
ADJUDICATION CLAIM VERIFICATION REPORT

11:55:09  
06/29/90

PAGE: 1  
GENERAL INFORMATION

CLAIM NUMBER: A36-00048C

LAST: PETRICK  
ADDRESS: 17958A U.S. HWY 30  
CITY: BLISS  
PHONE NUMBER: 208-837-4792

FIRST: HERMAN W.

STATE: ID ZIP: 83314

OWNER CODE: C

LAST: PETRICK  
ADDRESS: 17958A U.S. HWY 30  
CITY: BLISS  
PHONE NUMBER: 208-837-4792

FIRST: IRMA M.

STATE: ID ZIP: 83314

OWNER CODE: C

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

NO REMARKS IN CLAIM

DATABASE  
N

FIELD  
EXAMINER



CLAIMED POU NOT IRRIGATED BY  
BUCKEYE DITCH WATER

PHOTO BY STEVE CLELLAND 7-25-90

MICROFILMED  
JAN 21 1993

Lena Petrick  
17958A 4530  
Bliss, Id 83314

RECEIVED

JAN 21 1993

Department of Water Resources  
Southern Region Office

REPROFILMED  
JAN 11 1994

State of Idaho  
Dept of Water Resources  
222 Shoshone St East  
Twin Falls, Id

83301



CONTACT PERSON: Mrs. Petrick

PHONE NUMBER: ( ) -

DATE OF FIELD EXAM: 7/25/90

APPOINTMENT MADE: Y( ) N( )

TIME: : A( ) P( )

ACCOMPANIED BY: \_\_\_\_\_

PHONE NUMBER: ( ) -

RELATIONSHIP TO CLAIMANT: \_\_\_\_\_

DIRECTIONS TO PROPERTY / REMARKS:

MICROFILMED  
JAN 21 1993

Per Mrs. Petrick - Petrick originally owned McFadden Ranch - they sold it off and retained 3 acres. The Robinson land is a portion of these 3 acres.

This Petrick land retained by Petricks had a house built in 1980 - was sagebrush prior to that - no Buckeye water. She is trying to have a pipe pushed through the ditch to get access to it..

She stated the only water she is currently using is from her domestic well. KAT  
7/25/90

However - Mr Robinson stated that 12" was retained for this land when land sold to McFadden

NAPP photo does not show irrigation

Recommend forfeiture??

A. AJ CLAIM: # A36-00048C PRIORITY DATE: 11-04-1885 STAGE: D  
B. WR RECORD: # 36-00048 PRIORITY DATE: 11-04-1885 STAGE: D

C. FIELD EXAM REQUIRED?  
DUE TO PRIORITY DATE DISCREPANCY? (Y/N) DATABASE N FIELD EXAMINER N

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

REMARKS:

=====

RECOMMENDED PRIORITY DATE:  
11-04-1885

REVIEWED BY hht

DATE 7-17-90

=====

MICROFILMED  
JAN 21 1993

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

| RIGHT      | TWP. | RGE. | SEC. | 1/4 | 1/4 | 1/4 | LOT | CNTY    |
|------------|------|------|------|-----|-----|-----|-----|---------|
| A36-00048C | 07S  | 13E  | 11   | SE  | SE  | NE  |     | GOODING |
| A36-00048C | 07S  | 13E  | 11   | SW  | SE  | NE  |     | GOODING |

OTHER AJ CLAIMS WITH SAME AJ POD

A PREFIX R PREFIX  
A36-10223 NONE

WR RECORDS IN SAME 40 ACRE TRACT

36-00003  
36-00005  
36-00019  
36-00021  
36-00024  
36-00025  
36-00026  
36-00027  
36-00034  
36-00035A  
36-00035B  
36-00039A  
36-00039B  
36-00040  
36-00051  
36-00052  
36-00064  
36-00065  
36-00067  
36-00071  
36-00076  
36-00077  
36-00082  
36-00083  
36-00085  
36-00087  
36-00088  
36-00089  
36-00090  
36-00091  
36-00094  
36-00095  
36-00096  
36-00103  
36-00108  
36-00112A  
36-00112B  
36-00113B  
36-00113C  
36-00113D  
36-00125  
36-04008  
36-04115  
36-04261  
36-07271

MICROFILMED  
JAN 21 1993

A. ROOT WATER RIGHT NUMBERS: A36-00048  
A36-00048B  
A36-00048C

B. POU LISTING

| TWP         | RNG | SEC | 1/4 | 1/4 | LOT | NAME                 | AJ<br>#/ACRES    | WR<br>#/ACRES  | LANDSAT<br>DATA | FIELD<br>EXAM. | RECOMM.<br>ACRES |
|-------------|-----|-----|-----|-----|-----|----------------------|------------------|----------------|-----------------|----------------|------------------|
| 07S         | 13E | 11  | SE  | NE  |     | PETRICK , HERMAN W.  | A36-00048C / 1.0 | - /            | 29.0            |                |                  |
|             |     |     |     |     |     | HOLMES , H.L.        | A36-10588 / 1.5  | - /            |                 |                |                  |
|             |     |     |     |     |     | ROBINSON , GEORGE E. | A36-04068 /      | 36-04068 /     |                 |                |                  |
|             |     |     |     |     |     | TYLER , DENNY        | A36-04261 / 4.0  | 36-04261 / 4.0 |                 |                |                  |
|             |     |     |     |     |     | KIPP , RUDY B.       | A36-07658 / 0.5  | 36-07658 / 1.0 |                 |                |                  |
|             |     |     |     |     |     | KIPP , RUDY B.       | A36-10119 /      | - /            |                 |                |                  |
|             |     |     |     |     |     | KIPP , RUDY B.       | A36-10120 / 0.5  | - /            |                 |                |                  |
|             |     |     |     |     |     | PETRICK , HERMAN W.  | A36-10559 /      | - /            |                 |                |                  |
|             |     |     |     |     |     | SANDY , WILLIAM A.   | A36-10751 /      | - /            |                 |                |                  |
|             |     |     |     |     |     | SANDY , WILLIAM A.   | A36-10752 /      | - /            |                 |                |                  |
|             |     |     |     |     |     | TROUT-CO             | A36-10755 /      | - /            |                 |                |                  |
|             |     |     |     |     |     | WARD , JOHN P.       | A36-04008 / 1.0  | 36-04008 / 1.0 |                 |                |                  |
|             |     |     |     |     |     | HOLMES , ALICE M.    | A36-00090E /     | - /            |                 |                |                  |
|             |     |     |     |     |     | FISH & GAME          | A36-00048 / 6.0  | 36-00048 /     |                 |                |                  |
|             |     |     |     |     |     | WARD , JOHN P.       | A36-00090B /     | - /            |                 |                |                  |
|             |     |     |     |     |     | TYLER , BRUCE H.     | A36-00090C /     | - /            |                 |                |                  |
|             |     |     |     |     |     | CULBERTSON , S.A.    | A36-00090D /     | - /            |                 |                |                  |
|             |     |     |     |     |     | PAR-6 PARTNERSHIP    | A36-00090F /     | - /            |                 |                |                  |
|             |     |     |     |     |     | NORTHRUP , HAROLD N. | A36-00090G /     | - /            |                 |                |                  |
|             |     |     |     |     |     | CLOUSER , JOHN F.    | A36-00090A /     | - /            |                 |                |                  |
|             |     |     |     |     |     | BOTHWELL , MARY      | A36-00103A / 1.0 | - /            |                 |                |                  |
|             |     |     |     |     |     | ROBINSON , GEORGE E. | A36-00048B / 2.0 | - /            |                 |                |                  |
|             |     |     |     |     |     | MC FADDAN , DAN H.   | A36-00049 / 6.0  | 36-00049 /     |                 |                |                  |
|             |     |     |     |     |     | CLOUSER , DORIS H.   | A36-00089A / 1.5 | - /            |                 |                |                  |
|             |     |     |     |     |     | HOLMES , H.L.        | A36-00089C / 2.0 | - /            |                 |                |                  |
|             |     |     |     |     |     | NORTHRUP , HAROLD N. | A36-00089D / 1.0 | - /            |                 |                |                  |
|             |     |     |     |     |     | TROUT-CO             | A36-07834 /      | 36-07834 /     |                 |                |                  |
|             |     |     |     |     |     | TROUT-CO             | A36-08058 /      | 36-08058 /     |                 |                |                  |
|             |     |     |     |     |     | POPE , ELIJAH        |                  | 36-00089 /     |                 |                |                  |
|             |     |     |     |     |     | POPE , ELIJAH        |                  | 36-00090 /     |                 |                |                  |
|             |     |     |     |     |     | TROVILLO , D. C.     |                  | 36-00147 /     |                 |                |                  |
|             |     |     |     |     |     | PARKER , CHARLES     |                  | 36-07957 /     |                 |                |                  |
|             |     |     |     |     |     | STATE OF IDAHO       |                  | 36-08353 /     |                 |                |                  |
| TOTAL ACRES |     |     |     |     |     |                      | A36-00048C       | 1.00           | 29.00           |                |                  |

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  
Y

36-07658  
36-07739  
36-07834  
36-07840  
36-07853  
36-07875  
36-07957  
36-08058  
36-08319  
36-08335

MICROFILMED  
JAN 21 1993

SOURCE: BILLINGSLEY CREEK

TRIB: SNAKE RIVER

B. WR POINT OF DIVERSION AND SOURCE:

| RIGHT    | TWP. | RGE. | SEC. | 1/4 | 1/4 | 1/4 | LOT | CNTY    |
|----------|------|------|------|-----|-----|-----|-----|---------|
| 36-00048 | 07S  | 13E  | 13   |     | NE  | NE  |     | GOODING |

OTHER WR RECORDS WITH SAME WR POD

AJ CLAIMS IN SAME 40 ACRE TRACT  
A PREFIX R PREFIX

|           |            |      |
|-----------|------------|------|
| 36-00057  | A36-07725  | NONE |
| 36-02005  | A36-07731  |      |
| 36-02602  | A37-11259  |      |
| 36-07080  | A36-10855  |      |
| 36-07092A | A36-10856  |      |
| 36-07642  | A36-00057  |      |
| 36-07725  | A36-07080  |      |
| 36-07731  | A36-07092A |      |
| 36-08089  | A36-00048  |      |

SOURCE: BILLINGSLEY CREEK

TRIB: SNAKE RIVER

C. FIELD EXAM REQUIRED?

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

REMARKS:

Claim lists 2 PODs - correct for Buckeye Ditch, but other is probably latest

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

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

SOURCE: BILLINGSLEY CREEK

TRIB: SNAKE RIVER

REVIEWED BY: SCL DATE: 11-23-90

\* field Note: No means of Delivery exists from the Buckeye Ditch.



MICROFILMED  
JAN 21 1993

PRESUMPTION FLAG: D

REMARKS:

NAPP photo not able to confirm - field verify acms.  
No use of Creek water for any use!

MICROFILMED  
JAN 21 1993

RECOMMENDATIONS:

TOTAL ACRES: 0

REVIEWED BY: SC

DATE: 11-23-90

A. AJ CLAIMED USES:

| PURPOSES                            | MONTH/DAY           | DIVERSION QUANTITY |
|-------------------------------------|---------------------|--------------------|
| A36-00048C IRRIGATION               | FROM 03-15 TO 11-15 | .030 CFS           |
| TOTAL DIVERSION RATE/VOLUME CLAIMED |                     | .030 CFS           |

B. WR RECORDED USES:

| PURPOSES                            | MONTH/DAY | DIVERSION QUANTITY |
|-------------------------------------|-----------|--------------------|
| 36-00048 IRRIGATION                 | FROM TO   | 10.000 CFS         |
| TOTAL DIVERSION RATE/VOLUME CLAIMED |           | 10.000 CFS         |

PRESUMPTION FLAG: D

C. FIELD EXAM REQUIRED?

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

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

~~Y~~(~~X~~) N(~~X~~)

RECOMMEND TO WR STANDARDS OR OTHER?

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

REMARKS:

No Use

RECEIVED  
JAN 2 1988

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS? Y( ) N(X)

AJ TOTAL CLAIMED DIVERSION RATE: 0.030 CFS  
WR ROOT RIGHT TOTAL DIVERSION RATE: 10.000 CFS

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

FLOW MEASUREMENT REQUIRED?

FIELD  
DATABASE EXAMINER  
Y N

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

B. FLOW MEASUREMENT

MEASUREMENT METHOD theoretical, SEE ATTACHED CALCULATIONS.

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

OTHER RIGHTS LISTED IN CLAIM: NONE

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

| CLAIM      | SOURCE                    | NAME                 | DIV. RATE | DIV. RATE/ACRE | DIV. VOL. | DIV. VOL./ACRE |
|------------|---------------------------|----------------------|-----------|----------------|-----------|----------------|
| A36-00048C | BILLINGSLEY CREEK         | PETRICK , HERMAN W.  | 0.030     | 0.030          |           |                |
| A36-10588  | BILLINGSLEY CREEK         | HOLMES , H.L.        | 0.050     | 0.033          |           |                |
| A36-04008  | SPRING                    | WARD , JOHN P.       | 0.020     | 0.020          |           |                |
| A36-00048  | BILLINGSLEY CREEK         | FISH & GAME          | 10.000    | 0.056          |           |                |
| A36-00103A | BILLINGSLEY CREEK         | BOTHWELL , MARY      | 0.060     | 0.060          |           |                |
| A36-00048B | BILLINGSLEY CREEK         | ROBINSON , GEORGE E. | 0.180     | 0.090          | 8.00      | 4.00           |
| A36-00049  | FLORENCE LIVESTOCK SPRING | MC FADDAN , DAN H.   | 9.700     | 0.054          |           |                |
| A36-00089A | BILLINGSLEY CREEK         | CLOUSER , DORIS H.   | 0.030     | 0.020          |           |                |
| A36-00089C | BILLINGSLEY CREEK         | HOLMES , H.L.        | 0.060     | 0.030          |           |                |
| A36-00089D | BILLINGSLEY CREEK         | NORTHROP , HAROLD N. | 0.040     | 0.040          |           |                |

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

| CLAIM NO. | PURPOSES | NAME                 | MONTH/DAY           | RATE     | VOLUME |
|-----------|----------|----------------------|---------------------|----------|--------|
| A36-04068 | DOMESTIC | ROBINSON , GEORGE E. | FROM 01-01 TO 12-31 | .020 CFS |        |
| A36-07658 | DOMESTIC | KIPP , RUDY B.       | FROM 03-15 TO 11-15 | .040 CFS |        |
| A36-10119 | DOMESTIC | KIPP , RUDY B.       | FROM 01-01 TO 12-31 | .020 CFS |        |
| A36-10120 | DOMESTIC | KIPP , RUDY B.       | FROM 03-15 TO 11-15 | .030 CFS |        |
| A36-10559 | DOMESTIC | PETRICK , HERMAN W.  | FROM 01-01 TO 12-31 | .040 CFS |        |
| A36-10751 | DOMESTIC | SANDY , WILLIAM A.   | FROM 01-01 TO 12-31 | .040 CFS |        |
| A36-10752 | DOMESTIC | SANDY , WILLIAM A.   | FROM 01-01 TO 12-31 | .040 CFS |        |
| A36-10755 | DOMESTIC | TROUT-CO             | FROM 01-01 TO 12-31 | .040 CFS |        |

MICROFILMED  
JAN 21 1993

A36-00090E DOMESTIC  
A36-00090E COMMERCIAL  
A36-00090B DOMESTIC  
A36-00090C DOMESTIC  
A36-00090D DOMESTIC  
A36-00090F DOMESTIC  
A36-00090G DOMESTIC  
A36-00090A DOMESTIC  
A36-07834 POWER  
A36-08058 POWER

HOLMES , ALICE M.  
HOLMES , ALICE M.  
WARD , JOHN P.  
TYLER , BRUCE H.  
CULBERTSON , S.A.  
PAR-6 PARTNERSHIP  
NORTHRUP , HAROLD N.  
CLOUSER , JOHN F.  
TROUT-CO  
TROUT-CO

FROM 01-01 TO 12-31 .040 CFS  
FROM 01-01 TO 12-31 .100 CFS  
FROM 01-01 TO 12-31 .020 CFS  
FROM 01-01 TO 12-31 .020 CFS  
FROM 01-01 TO 12-31 .020 CFS  
FROM 01-01 TO 12-31 .080 CFS  
FROM 01-01 TO 12-31 .040 CFS  
FROM 01-01 TO 12-31 .020 CFS  
FROM 01-01 TO 12-31 100.000 CFS  
FROM 01-01 TO 12-31 100.000 CFS

MICROFILMED  
JAN 21 1993

D.

RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE

ACRES            x 0.02 CFS/ACRE =            CFS  
(Taken from p/u review)

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

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

1b. CALCULATIONS

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 3.0 AF/A

ACRES            x CONSUMPTIVE VOL. AF/A FOR AREA            =

TOTAL CONSUMPTIVE USE            AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

ACRES            x DIVERSION VOL. AF/A FOR AREA            =

TOTAL DIVERSION VOLUME            AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y( ) N( )

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

*Need policy decision re: excessive diversion rates*

REC.  
PURPOSES

REC.  
PURPOSES

# DISALLOW

~~IRRIGATION~~

REC. PERIOD  
FROM TO

~~03-15~~      ~~11-15~~

REC. DIV  
RATE CFS

**DATABASE EXAMINER**

~~0.030~~~~0.030~~

REC. DIV  
VOL. AF/A

**DATABASE EXAMINER**



REC. CONS.  
USE

**DATABASE EXAMINER**

~~3.0~~~~3.0~~

TOTAL FOR THIS RIGHT

REVIEWED BY: SCC

DATE: 11-23-90

PO 4

A. CHECK ONLY THE FOLLOWING THAT APPLY:

|                              | ACCEPTED<br>AS CLAIMED | NEEDS<br>REVIEW |
|------------------------------|------------------------|-----------------|
| OWNERSHIP _____              | ( )                    | (X)             |
| FORFEIT/ABANDON _____        | ( )                    | (X)             |
| ADDITIONAL DIV. AMOUNT _____ | ( )                    | (X)             |

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-00048

|                                   | DATABASE | EXAMINER | CFS |
|-----------------------------------|----------|----------|-----|
| TOTAL DIVERSION RATE OF WR SPLITS | 10.000   |          |     |

SPLITS:

| OLD RIGHT<br>NUMBERS | CURRENT<br>CLAIM NUMBERS | DIVERSION<br>RATE | CURRENT "R"<br>CLAIM NUM. | "R" DIV.<br>RATE | WR RIGHT<br>NUMBERS | DIVERSION<br>RATE |
|----------------------|--------------------------|-------------------|---------------------------|------------------|---------------------|-------------------|
| -                    | A36-00048                | 10.000            | -                         |                  | 36-00048            | 10.000            |
| A36-00048            | A36-00048B               | 0.180             | -                         |                  | 36-00048            | 10.000            |
| A36-00048            | A36-00048C               | <del>0.030</del>  | -                         | DISALLOW         | 36-00048            | 10.000            |
| TOTAL CFS            |                          | 10.210            |                           |                  |                     | 10.000            |

DIVERSION RATE REVIEW

DO THE SUM CFS RATE OF THE SPLITS EQUAL THE ROOT RIGHT CFS RATE? (Y/N)  
IF NO, is the written review sheet attached? (Y/N)

DATABASE  
N

FIELD  
EXAMINER  
\_\_\_\_\_  
\_\_\_\_\_

REMARKS:

AUTHENTICATION:

SIGNATURE: \_\_\_\_\_

DATE: 11-23-90

NAME OF FIELD EXAMINER: \_\_\_\_\_

TITLE: \_\_\_\_\_

[illegible]