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: A36-00049
Date Received: 8/30/1988
Receipt No: S001892
Received By: tw

COPY
FOR YOUR FILES
DO NOT RETURN

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

1. Name: DAN H. MCFADDAN 208-837-6649
   Address: RT 1 BOX 406
   HAGERMAN, ID 83332
   AND/OR
   Name: IRMA R. MCFADDAN 208-837-6649
   Address: RT 1 BOX 406
   HAGERMAN, ID 83332

2. Date of Priority: APR 01, 1900

3. Source: FLORENCE LIVESTOCK SPRING Trib. to: BILLINGSLEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
07S	13E	12	SE SE NW		GOODING

5. Description of diverting works:
   HAND DUG TUNNEL, CONCRETE HEAD WORKS, 20" PIPE, 16" PIPE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGA					
DOMEST					
COMMER					
STOCKW					
FISH P					

Missing Original Claim

7. Total

8. Total ım.

9. Non-ir
   C/VE F, F/2 PONDS

A36-000 3/30/88

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10. Place of Use:

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
07S	13E	11	SE	NE		IRR	6.0
			NE	SE		IRR	36.5
			SE	SE		IRR	40.0
						Section Acres	82.5
		12	NW	SW		IRR	1.0
			SW	SW		IRR	18.0
			SE	SW		IRR	1.0
						Section Acres	20.0
		13	NW	NE		IRR	36.0
			NE	NW		IRR	40.0
						Section Acres	76.0
						Total Acres	178.5

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
A36-00048

14. Remarks:
BOTH DECREES COMBINE 19.7 CFS TO COVER ALL USES. COMMERCIAL USES DEVELOPED IN 1945 (VEG. PROC. PLANT), 1977 (MINT STILL). FISH PONDS WERE DEVELOPED IN 1969. CLAIMANT USES SAME WATER ON ALL USES AND WANTS TO COVER THEM ON ONE CLAIM, CONSIDERING THE ORIGINAL TERMS OF THE DECREE.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

NEW INTERNATIONAL MORTGAGE BAN
Decree Plaintiff

vs

IDAHO POWER COMPANY
Decree Defendant

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WARRANTY DEED

THIS INDENTURE, Made this 17th day of Sept, in the year of our Lord one thousand nine hundred and sixty-three, between McCARTER CATTLE CO., INC., an Idaho corporation, whose principal place of business is Corral, County of Camas, State of Idaho, the party of the first part, and THE STATE OF IDAHO for the use and benefit of the Fish and Game Department, of the County of Ada, State of Idaho, the party of the second part.

WITNESSETH, That the said party of the first part, for and in consideration of the sum of Sixty Thousand Dollars ($60,000.00), lawful money of the United States of America, to it in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained and sold, and by these presents does grant, bargain, sell, convey and confirm unto the said party of the second part, and to its successors and assigns forever, all of the following described real estate, situated in the County of Gooding, State of Idaho, to-wit:

All of the following described lands located in Township 7 South, Range 13 East of the Boise Meridian, Idaho:

Section 11, S½SE¼NE¼, NE¼SE¼; Section 12, SW¼NW¼, SW¼, W½SE¼; Section 13, NW¼NE¼, NE¼NW¼; EXCEPTING therefrom those portions lying south of the following described boundary line:

Beginning at a point on the north boundary line of the S½SE¼NE¼ of said Section 11, from which point the northeast corner of said S½SE¼NE¼ bears North 89° 33' East a distance of 734.0 feet; thence following said boundary line in Section 11 South 28° 25' East a distance of 444.0 feet; thence South 21° 55' East a distance of 800.0 feet; thence South 25° 12' East a distance of 520.0 feet to a point on the section line common to Sections 11 and 12; thence in Section 12, South 22° 31' East a distance of 865.0 feet; thence South 47° 01' East a distance of 482.0 feet; thence North 85° 29' East a distance of 231.0 feet; thence South 45° 18' East a distance of 856.5 feet to a point on the section line common to Sections 12 and 13; thence in Section 13, South 45° 18' East a distance of 574.5 feet; thence South 83° 18' East a distance of 461.0 feet; thence North 75° 27' East a distance of 244.0 feet; thence South 36° 33' East a distance of 232.0 feet; thence South 05° 18' East a distance of 539.0 feet to a point on the center line of an existing county road; thence following the center line of the existing county road North 61° 22' East a distance of 440.0 feet, thence North 33° 03' East a distance of 100.0 feet; thence North 17° 06' East a distance of 570.4 feet; thence North 37° 06' East a distance of 166.2 feet; thence North 55° 00' East a distance of 210.6 feet, more or less, to a point on the north boundary line of said Section 13.

ALSO EXCEPTING from the said SW¼SE¼ of Section 12 that portion lying east of the existing county road.

Said lands herein conveyed comprising 283.62 acres, more or less.

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TOGETHER with all water and water rights and ditches and ditch rights appurtenant thereto, including but not limited to the following designated water rights: 7.33 c.f.s. of that decreed right of 10.0 c.f.s. of the waters of Billingsley Creek, priority date of November 4, 1885, decreed to the Florence Livestock Company; and 4.6 c.f.s. of that decreed right of 9.7 c.f.s. of the flow of Florence Livestock Spring, priority date of April 1, 1900, decreed to Florence Livestock Company pursuant to that Decree of Equity No. 1602 entered by the U.S. District Court for the District of Idaho, Southern Division, on the 22nd day of March, 1932, in the case of New International Mortgage Bank, a corporation, Plaintiff, vs. Idaho Power Company, a corporation, et al, Defendants; reserving unto the party of the first part first priority use of 5.10 c.f.s., during irrigation seasons, of the flow of the waters emerging from an existing developed tunnel at Florence Livestock Spring, which said tunnel discharges into a certain 14 inch O.D. steel pipeline lying on and within a certain right-of-way and easement hereinafter reserved unto the party of the first part.

The party of the first part further grants and conveys unto the party of the second part, its successors and assigns, a permanent and perpetual easement and road right-of-way for public ingress and egress to and from the lands hereinbefore conveyed, on, over and across the lands owned by it, and situate and lying in Gooding County, State of Idaho, and more particularly described as follows:

A strip of land across the lands of the party of the first part extending easterly from the present U.S. Highway No. 30 to the lands hereinbefore conveyed, which said strip of land is bounded on the North side thereof by the Bell Ditch and the North boundary line of the South Half of the Southeast Quarter of the Northeast Quarter ($S\frac{1}{2}SE\frac{1}{4}NE\frac{1}{4}$) of Section 11, Township 7 South, Range 13 East of the Boise Meridian, that portion of which is bounded on the North by the Bell Ditch being 30 feet in width and that portion of which is bounded on the North by the North boundary line of the South Half of the Southeast Quarter of the Northeast Quarter ($S\frac{1}{2}SE\frac{1}{4}NE\frac{1}{4}$) of Section 11, Township 7 South, Range 13 East of the Boise Meridian being 50 feet in width.

There are hereby reserved to the party of the first part the following described easements on and over the hereinbefore described lands:

(1) A forty-foot (40') right-of-way for stock watering extending 20 feet on each side of the following described center line:

Beginning at the northeast corner of the $SE\frac{1}{4}SE\frac{1}{4}$ of Section 11, thence North 380.0 feet to a point on the southwesterly boundary line of the property hereinbefore conveyed to party of the second part; thence along said line North 25° 12' West a distance of 130.0 feet to a point, which point is the true point of beginning, thence East 220.0 feet, more or less, to the water's edge of the left bank of Billingsley Creek, being located within the $NE\frac{1}{4}SE\frac{1}{4}$, Section 11, and the $NW\frac{1}{4}SW\frac{1}{4}$, Section 12, Township 7 South, Range 13 East of the Boise Meridian.

(2) A forty-foot (40') right-of-way for stock watering extending 20 feet on each side of the following described center line:

Beginning at the southeast corner of the $SW\frac{1}{4}SW\frac{1}{4}$, Section 12, Township 7 South, Range 13 East of the Boise Meridian, thence North 205.0 feet to a point on the southwesterly boundary line of lands hereinbefore conveyed to the party of the second part;

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thence along said line North 45° 18' West a distance of 535.0 feet to the true point of beginning, thence extending North 60.0 feet, more or less, to the water's edge of the left bank of Billingsley Creek.

(3) A twenty-foot (20') right-of-way for an existing pipeline, being 10 feet on each side of said pipeline which is also the center line of said right-of-way, for the operation, maintenance, and replacement of a 14-inch O.D. water pipeline and the existing laterals therefrom; said pipeline right-of-way being located as follows:

Beginning at the northwest corner of the SW¼SW¼, Section 12, Township 7 South, Range 13 East of the Boise Meridian; thence East 154.0 feet, more or less, to a point on the southwesterly boundary line of the lands hereinbefore conveyed to the party of the second part; thence along said boundary line South 22° 31' East a distance of 450.0 feet to the point of intersection of said line with the existing pipeline, which point is the true point of beginning; thence North 45° 45' East a distance of 2430.0 feet to the waters of Florence Livestock Spring.

(4) A ten-foot (10') right-of-way for an existing domestic water line, being 5 feet on each side of the center line described as follows:

Beginning at the quarter corner common to Sections 11 and 12, Township 7 South, Range 13 East of the Boise Meridian; thence North a distance of 618.0 feet; thence North 88° 45' East a distance of 408.0 feet to a spring and the true place of beginning; thence South 88° 45' West a distance of 800.0 feet; thence South 83° 30' West a distance of 293.0 feet to a point on the southwesterly boundary line of the lands hereinbefore conveyed to the party of the second part.

(5) A twenty-foot (20') right-of-way for the operation, maintenance and replacement of an existing irrigation pump and pipeline for water carriage therefrom; said right-of-way being 10 feet on each side of the following described center line:

Beginning at the quarter corner common to Sections 12 and 13, Township 7 South, Range 13 East of the Boise Meridian; thence South 396.0 feet; thence North 75° 27' East a distance of 120.0 feet to the pump located on the left bank of Billingsley Creek, the true point of beginning; thence along the center line of the right-of-way South 05° 18' East a distance of 190.0 feet to a point on the southwesterly boundary line of the lands hereinbefore conveyed to the party of the second part.

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

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises, together with the appurtenances, unto the party of the second part, and to its successors and assigns forever and the said party of the first part, and its successors, the said premises in the quiet and peaceable possession

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of the said party of the second part, its successors and assigns, against the said party of the first part, and its successors, and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will WARRANT and by these presents forever DEFEND.

IN WITNESS WHEREOF, The said party of the first part has hereunto set its corporate name and affixed its corporate seal, the day and year first above written.

McCARTER CATTLE CO., INC.

Attest:

By W. S. McCarter
President

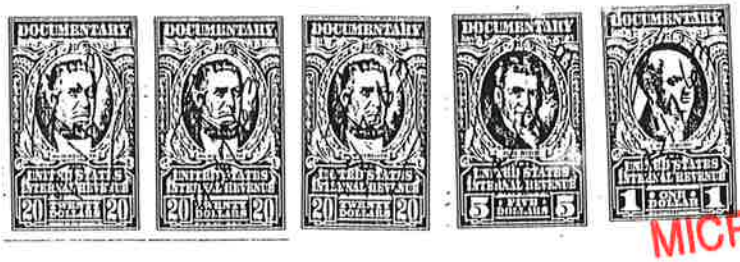
Joe T. McCarter
Secretary-Treasurer

STATE OF IDAHO)
: ss
County of Gooding)

On this 17th day of Sept, in the year 1963, before me, the undersigned Notary Public in and for said State, personally appeared W. S. McCarter Joe T. McCarter, known to me to be the Pres. & Secy of the corporation that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

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

Chas. S. Shaw
Notary Public for the State of Idaho
Residing at: Gooding



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IDAHO DEPARTMENT OF WATER RESOURCES
SELECTION FILE CONTENTS

A36-00003B	A36-00003C	A36-00003E	A36-00003F	A36-00003G	A36-00003J	A36-00006	A36-00007	A36-00008	A36-00021B
A36-00022	A36-00023	A36-00033F	A36-00034B	A36-00035J	A36-00039C	A36-00039D	A36-00039E	A36-00039J	A36-00039M
A36-00039N	A36-00041A	A36-00041C	A36-00042A	A36-00048A	A36-00049	A36-00050D	A36-00051D	A36-00055AF	A36-00055BC
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A36-00098	A36-00099	A36-00100	A36-00101	A36-00103C	A36-00103F	A36-00106	A36-00108A	A36-00108B	A36-00110A
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A36-02038	A36-02169	A36-04091	A36-04142	A36-04260	A36-07071	A36-07081	A36-07089	A36-07092A	A36-07142
A36-07142A	A36-07172	A36-07229	A36-07233	A36-07346	A36-07658	A36-07875	A36-08099	A36-08317	A36-10055
A36-10119	A36-10120	A36-10140	A36-10141	A36-10168	A36-10231	A36-10249	A36-10283	A36-10283B	A36-10405
A36-10520	A36-10906	A36-15166	A36-15168	A36-15240	A36-15463				

TOTAL RECORDS IN SELECTION FILE: 116

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FEB 10 1993
Department of Water Resources

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

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

* * * * * * * * * * *

In Re the General Adjudication of Rights to the Use of Water from the Snake River Basin Water System	Case No. 39576
The State of Idaho, ex rel. R. Keith Higginson in his official capacity as director of the Idaho Department of Water Resources, Petitioner, vs. United States; State of Idaho; and all claimants to the use of water from the Snake River Basin Water System, Respondents.	**NOTICE OF APPEARANCE**

* * * * * * * * * * *

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

LAW OFFICES HN&L Chartered
Hepworth, Nungester, & Lezamiz

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Users, Inc. and its individual members:

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

LAW OFFICES
HN&L
Chartered
Hepworth, Nungester, & Lezamiz

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

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

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

DATED This 9 day of February, 1993.

HEPWORTH, NUNGESTER & LEZAMIZ

By _____
PATRICK D. BROWN
Attorneys for Respondents

CERTIFICATE OF MAILING

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

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February, 1993, to:

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

Clive Strong
Chief Natural Resources Division
Office of Attorney General
Statehouse
Room 210
Boise, Idaho 83720

David Shaw
Adjudications Bureau Chief
Department of Water Resources
1301 North Orchard
Boise, Idaho 83706

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

Patrick D. Brown

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OCT 11 1994

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 1, 1993

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

Re: Notice of Appearance

Dear Mr. Brown:

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

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

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

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

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

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OCT 11 1994

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

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

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

MICROFILMED
OCT 11 1994

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

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

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

Sincerely,

Jodi I. Schultz

JODI I. SCHULTZ
Legal Assistant
Idaho Department of Water Resources

cc: IDWR Southern Region

MICROFILMED
OCT 1 1 1994

Water Right Number - A36-00049 Adj. Flag Translation: Adjudication Temporary Work Area Old (D) Number -

Last Name	First Name	Address
*** C - CURRENT OWNER ***		
MCFADDAN	DAN H.	1 - RT 1 BOX 406 2 - 3 - City- HAGERMAN State- ID Zip- 83332 Phone - 208-837-6649
MCFADDAN	IRMA R.	1 - RT 1 BOX 406 2 - 3 - City- HAGERMAN State- ID Zip- 83332 Phone - 208-837-6649
*** K - ALSO KNOWN AS ***		
FISH & GAME		1 - 2 - 3 - City- BOISE State- ID Zip- 83707 Phone - 208-000-0000

Priority Date	Region	Stage	Status
04/01/1900	17	D - DECREED	

Source	Tributary
FLORENCE LIVESTOCK SPRING	BILLINGSLEY CREEK

Point of Diversion

Twn	Rng	Sec	Tract	Lot	RFlg	County	Stream Index (Blank if no Index Code)
07S	13E	12	SE SE NW			(47) GOODING	

Water Use

Code	Description	Period From	Period To	Diversion Rate	Diversion Volume
01	IRRIGATION	03/01	11/15	9.700	
43	DOMESTIC	01/01	12/31	0.060	
10	COMMERCIAL	01/01	12/31	0.060	
04	STOCKWATER	01/01	12/31	0.070	
19	FISH PROPAGATION	01/01	12/31	0.600	

Total Div. Rate	Total Div. Volume	Total Div. Capacity	Total Consumptive Use	KW Usage
9.700			535.5	

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
07S	13E	11	SE NE		6.0	01	IRRIGATION	(47) GOODING
07S	13E	11	NE SE		36.5	01	IRRIGATION	(47) GOODING
07S	13E	11	SE SE		40.0	01	IRRIGATION	(47) GOODING
07S	13E	12	NW SW		1.0	01	IRRIGATION	(47) GOODING
07S	13E	12	SW SW		18.0	01	IRRIGATION	(47) GOODING
07S	13E	12	SE SW		1.0	01	IRRIGATION	(47) GOODING
07S	13E	13	NW NE		36.0	01	IRRIGATION	(47) GOODING

MICROFILMED
JAN 21 1993

Water right number - A36-00049 Adj. flag translation: Adjudication Temporary Work Area

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
07S	13E	13	NE NW		40.0	01	IRRIGATION	(47) GOODING

Total Acres: 178.5

Diversion Means - HAND DUG TUNNEL, CONCRETE HEAD WORKS, 20" PIPE, 16" PIPE

Non-Irrigation Use - C/VEG. PROC. PLANT, MINT STILL, D/2 HOUSES, S/250 BEEF, F/2 PONDS

IC change "/" to commas and leave as is.

Other Rights for Same Use - A36-00048

Remarks

BOTH DECREES COMBINE 19.7 CFS TO COVER ALL USES. COMMERCIAL USES DEVELOPED IN 1945 (VEG. PROC. PLANT), 1977 (MINT STILL). FISH PONDS WERE DEVELOPED IN 1969. CLAIMANT USES SAME WATER ON ALL USES AND WANTS TO COVER THEM ON ONE CLAIM, CONSIDERING THE ORIGINAL TERMS OF THE DECREE.

Old Water Right Numbers

No Old Water Right Numbers found.

Conditions of Approval

No Conditions of Approval found.

Decree Plaintiff	Decree Defendant	Decree Date
NEW INTERNATIONAL MORTGAGE BANK	IDAHO POWER COMPANY	00/00/0000

Comments

No Comments Found

Audit Fields - 08/30/88 WHITE 02/15/89 SRBA

Adjudication Rights Dates and Flags Area

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 01/14/1985	Old Judicial District	-
Claim Received Date	- 08/30/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
Claims Tape Error Flg	-	Receipt Number	- S001892	Water District	- 36A
Fee Exempt Flag	-	POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- AND/OR	Presumption Flag	- C

IC

MICROFILMED
JAN 21 1993

RECEIVED
SEP 29 2000
Department of Water Resources

RECEIVED
OCT 31 2000
Department of Water Resources
Southern Region

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)
)
)
)

A. Subcase 36-00049
(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Faulkner Land & Livestock Company
Address: 1989 South 1875 East
Gooding, ID 83330
Daytime Phone: 208-934-4956

Name & Address of Attorney, if any:

Josephine P. Beeman
Dana L. Hofstetter
Beeman & Hofstetter, P.C.
608 West Franklin Street
P. O. Box 1427
Boise, Idaho 83701-1427
(208) 388-8900
FAX - (208) 388-8400

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Dan H. McFaddan
Irma R. McFaddan
Address: 17966 N. Hwy 30
Hagerman, ID 83332

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
   Should be: _____

2. ☐ **Source**
   Should be: _____

3. ☒ **Quantity**
   Should be: Less than 6.58 cfs. Combined diversion rate should be less than 8.18 cfs

4. ☐ **Priority Date**
   Should be: _____

5. ☐ **Point(s) of Diversion**
   Should be: _____

6. ☐ **Instream Flow Description**
   Should be: _____

7. ☐ **Purpose(s) of Use**
   Should be: _____

8. ☐ **Period of Year**
   Should be: _____

9. ☐ **Place of Use**
   Should be: _____

11. **I object because:**

☐ This water right should not exist.

☐ This water right was not recommended, but should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTION(S):** Quantity exceeds decreed amount remaining after transfers to other parties. Quantity is in excess of amount actually beneficially used and the amount necessary.

F. **VERIFICATION** (Must be Completed)

State of Idaho)
)ss.
County of Ada)

Dana L. Hofstetter, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(i) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: September 28, 2000

JOYCE E. ANGEL NOTARY STATE OF IDAHO

Notary Public for the State of Idaho
Residing at: Boise, Idaho
My Commission Expires: 07-24-02

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted**. You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on September 28, 2000 , I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P0 Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Dan and Irma McFaddan
Route 1, Box 406
Hagerman, ID 83332

Patrick D. Brown
109 S. Adams Street
Jerome, ID 83338

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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

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

Signature of Objector or attorney
mailing on Objector's behalf

RECEIVED
SEP 29 2000
Department of Water Resources

RECEIVED
OCT 31 2000
Department of Water Resource
Southern Region

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)
)
)
)

A. **Subcase** 36-00049
(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. **NAME AND ADDRESS OF PERSON OBJECTING**

Name: North Snake Ground Water District
Address: 2092 East 3600 South
Wendell, ID 83355
Daytime Phone: 208-536-6553

Name & Address of Attorney, if any:

Josephine P. Beeman
Dana L. Hofstetter
Beeman & Hofstetter, P.C.
608 West Franklin Street
P. O. Box 1427
Boise, Idaho 83701-1427
(208) 388-8900
FAX - (208) 388-8400

C. **CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT**

Name: Dan H. McFaddan
Irma R. McFaddan
Address: 17966 N. Hwy 30
Hagerman, ID 83332

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
   Should be: _____

2. ☐ **Source**
   Should be: _____

3. ✖ **Quantity**
   Should be: Less than 6.58 cfs. Combined diversion rate should be less than 8.18 cfs

4. ☐ **Priority Date**
   Should be: _____

5. ☐ **Point(s) of Diversion**
   Should be: _____

6. ☐ **Instream Flow Description**
   Should be: _____

7. ☐ **Purpose(s) of Use**
   Should be: _____

8. ☐ **Period of Year**
   Should be: _____

9. ☐ **Place of Use**
   Should be: _____

11. **I object because:**

☐ This water right should not exist.

☐ This water right was not recommended, but should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTION(S):** Quantity exceeds decreed amount remaining after transfers to other parties. Quantity is in excess of amount actually beneficially used and the amount necessary.

F. **VERIFICATION** (Must be Completed)

State of Idaho)
)ss.
County of Ada)

Dana L. Hofstetter, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(i) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: September 28, 2000

JOYCE E ANGELI NOTARY PUBLIC STATE OF IDAHO

Notary Public for the State of Idaho
Residing at: Boise, Idaho
My Commission Expires: 07-24-02

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on September 28, 2000 , I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P0 Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Dan and Irma McFaddan
Route 1, Box 406
Hagerman, ID 83332

Patrick D. Brown
109 S. Adams Street
Jerome, ID 83338

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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

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

Signature of Objector or attorney
mailing on Objector's behalf

RECEIVED
OCT 31 2000
Department of Water Resource
Southern Regior

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)
)
)
)

A. Subcase 36-00049
(Insert water right number)

STANDARD FORM 1 OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Cranney Bros.

Address: 503 West 1300 South

Oakley, Idaho 83346

Daytime Phone: 208-862-3346

Name & Address of Attorney, if any:

Michael C. Creamer

Givens Pursley, LLP

P. O. Box 2720, Boise, Idaho 83701

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Dan H. and Irma R. McFaddan

Address: 17966 N. Highway 30

Hagerman, Idaho 83332

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
   Should be: _____

2. ☐ **Source**
   Should be: _____

3. ☒ **Quantity**
   Should be: 3.57 cfs or one inch per acre for irrigation purpose of use. No more than 0.02 cfs per irrigated acre, and less than 8.18 cfs as a combined rate when used with rights 36-00048A, 36-15538, 36-15532, and 36-15533.

4. ☐ **Priority Date**
   Should be: _____

5. ☐ **Point(s) of Diversion**
   Should be: _____

6. ☐ **Instream Flow Description**
   Should be: _____

7. ☐ **Purpose(s) of Use**
   Should be: _____

8. ☐ **Period of Year**
   Should be: _____

9. ☐ **Place of Use**
   Should be: _____

11. **I object because:**

☐ This water right should not exist.

☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S): Statutory duty of water and amount of water that can reasonably be beneficially used on the place of use for irrigation is .02 cfs per irrigated acre.

F. **VERIFICATION** (Must be Completed)

State of Idaho)
)
County of Ada)

Michael C. Creamer, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. § 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.



(Signature of person filing objection)

Michael C. Creamer

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: September 28, 2000

Carrine A. Wilson
Notary Public for Idaho
Residing at: Boise, Idaho
My Commission Expires: 11/27/03

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on Sept 28, 2000, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

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

2. One copy to the claimant of the water right at the following address:

   Name: Dan H. and Irma R. McFaddan

   Address: 17966 N. Highway 30

   Hagerman, Idaho 83332

3. Copies to:

   IDWR Document Depository
   PO Box 83720
   Boise, ID 83720-0098

   Chief, Natural Resources Division
   Office of the Attorney General
   State of Idaho
   PO Box 44449
   Boise, ID 83711-4449

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

Signature of Objector or attorney
mailing on Objector'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 SRBA	)	**A. Subcase No.: 36-00049**
	)	
Case No. 39576	)	**STANDARD FORM 1**
	)	**OBJECTION**
	)	
	)	

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Dan and Irma McFaddan

Address: 17966 Hwy 30

Hagerman, ID 83332

Daytime Phone: (208) 837-4872

Name & Address of Attorney, if any:

Patrick D. Brown, P.C.

109 South Adams Street

Jerome, ID 83338 (644-1967)

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT (Corrected Recommendation of 2-18-00)

Name: Dan and Irma McFaddan

Address: 17966 Hwy 30

Hagerman, ID 83332

COPY

D. I OBJECT TO THE FOLLOWING ELEMENTS AS RECOMMENDED IN THE DIRECTOR'S REPORT. [PLEASE CHECK THE APPROPRIATE BOX(ES).]

1. [ ] Name and Address
   Should be: _____

2. [ ] Source
   Should be: _____

3. [X] Quantity
   Should be: combined diversion rate should be 9.7 cfs

4. [ ] Priority Date
   Should be: _____

5. [ ] Point(s) of Diversion
   Should be: _____

6. [ ] Instream Flow Description
   Should be: _____

7. [ ] Purpose(s) of Use
   Should be: _____

8. [ ] Period of Use
   Should be: _____

9. [ ] Place of Use
   Should be: _____

10. I object because:

[ ] This water right should not exist.

[ ] This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S): The Department has apparently reduced the combined rate because the spring flows are below the 9.7 cfs historically used.

INSTRUCTIONS FOR MAILING

You must mail the objection to the Clerk of the SRBA Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on September 27, 2000, I mailed the original and copies of this Objection, including all attachments, to the following persons:

1. Original to:

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

2. One copy to the Claimant of the water right at the following address:

Name: n/a
Address: _____

3. Copies to:

Peter J. Ampe
Office of the Attorney General
P. O. Box 44449
Boise, ID 83711-4449

✓ U.S. Mail
___ Hand Delivered
___ Overnight Mail
___ Telecopy (Fax)

Idaho Dept. of Water Resources
Document Depository
P. O. Box 83720
Boise, ID 83701-0098

✓ U.S. Mail
___ Hand Delivered
___ Overnight Mail
___ Telecopy (Fax)

Nicholas Spencer
Idaho Department of Water Resources
1301 North Orchard Street
Boise, ID 83705
(208) 327-7866

✓ U.S. Mail
___ Hand Delivered
___ Overnight Mail
___ Telecopy (Fax)

Michael C. Creamer
Givens Pursley
277 North 6th Street, Suite 200
P.O. Box 2720
Boise, ID 83701-2720

✓ U.S. Mail
___ Hand Delivered
___ Overnight Mail
___ Telecopy (Fax)

Tricia J. Tolmen

(Signature of Objector or attorney mailing on Objector's behalf

F. VERIFICATION (Must be completed.)

State of Idaho)
:ss
County of Jerome)

Patrick D. Brown, duly sworn upon oath, deposes and says:

That I am the party/claimant filing this Objection, as defined by I.C. §§ 42-1401A(1) and (6), or that I am the attorney for the party/claimant objecting and that I have read this Objection, know its contents, and believe that the statements are true to the best of my knowledge.

(Signature of person filing Objection)

(Attorney signing in respresentative capacity)

SUBSCRIBED AND SWORN To before me on: September 25, 2000

PATRICIA J. FAHRENHOLZ NOTARY PUBLIC STATE OF IDAHO

Notary Public for: Idaho
Residing at: Twin Falls
My Commission Expires: 11-09-2004

COPY

RECEIVED
NOV 16 2001
Department of Water Resources

RECEIVED
NOV 21 2001
Department of Water Resources
Southern Region
2001 NOV 13 PM 1:26
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	**Water Rights:** 36-48A, 36-49, 36-2169, 36-15532, 36-15533 & 36-15538
Case No. 39576	**NOTICE OF COMPLETED ADMINISTRATIVE PROCEEDING**

IDWR has completed the following administrative proceeding:

- ☐ Address change
- ☑ Substitution of Party
- ☐ IC § 42-222 transfer
  - ☐ Point of diversion
  - ☐ Place of use
  - ☐ Period of use
  - ☐ Nature of use
  - ☐ Split of water right
  - ☐ Change in ownership
  - ☐ Other

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Report(s)* for said water right(s). No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: Nov 8, 2001

Signature of IDWR Representative

11/07/2001

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

2001 NOV 13 PM 1:26
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

RIGHT NUMBER: 36-49

NAME AND ADDRESS: IDAHO STATE BUILDING AUTHORITY
PO BOX 2802
BOISE ID 83701

SOURCE: FLORENCE LIVESTOCK SPRING TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 6.580 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC AND STOCKWATER USES SHALL NOT EXCEED 13,000 GALLONS PER DAY.
USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 8.18 CFS. COMBINED RIGHT NOS.: 36-00048A, 36-15538, 36-15532 & 36-15533.^^^

PRIORITY DATE: 04/01/1900

POINT OF DIVERSION:

T07S R13E S12 SESENW Within GOODING County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	02/15 11/30	6.580 CFS
STOCKWATER	01/01 12/31	0.070 CFS
DOMESTIC	01/01 12/31	0.060 CFS

PLACE OF USE:

IRRIGATION Within GOODING County

T07S R13E S11	SENE	6.0	T07S R13E S11	NESE	36.5
T07S R13E S11	SESE	40.0	T07S R13E S12	NWSW	1.0
T07S R13E S12	SWSW	18.0	T07S R13E S12	SESW	1.0
T07S R13E S13	NENW	36.0	T07S R13E S13	NWNW	40.0

STOCKWATER Within GOODING County

T07S R13E S11	NESE	T07S R13E S11	SESE

DOMESTIC Within GOODING County

T07S R13E S11	NESE	T07S R13E S11	SESE

178.5 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NOS. 36-00048A & 36-15538 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 178.5 ACRES IN A SINGLE IRRIGATION SEASON.^^^

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR DOMESTIC USE AND STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

RECEIVED
FEB 03 1999
Department of Water Resources

RECEIVED
FEB 09 1999
Department of Water Resources
Southern Region

1999 FEB 01 PM 03:06
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	)	NOTICE SETTING SUBCASE
	)	FOR SCHEDULING CONFERENCE
Case No. 39576	)	
	)	SUBCASE NOS: 36-00048A 36-00049
		36-02169

The Scheduling Conference for this subcase will be held as follows:

WEDNESDAY, MARCH 10, 1999 at 10:00 AM
SRBA
DISTRICT COURT
253 3RD AVENUE NORTH
TWIN FALLS, ID

Parties and their attorneys, if any, shall attend the Scheduling Conference and shall be prepared to discuss the following matters:

1. Claimant representation and alignment of the parties;
2. Identification of the issues;
3. Admissions of facts and documents;
4. Amendment of pleadings, if required;
5. Discovery and discovery cut-off dates;
6. Expert witnesses, if planned;
7. Pre-trial conference dates;
8. Motions;
9. Settlement/alternative dispute resolution; and
10. Firm trial date.

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

(continued)

The date for the scheduling conference will not be changed unless a Stipulation to Reset is received by the court fourteen (14) days before the date of the scheduling conference. Parties who wish to change the date of the scheduling conference must do the following:

1. Contact the clerk of the SRBA Court and obtain alternative dates and times (208-736-3011).

2. Contact each party to the subcase(s) or their attorney, if any, and reach an agreement on the alternative date(s) and time(s) provided by the clerk.

3. Prepare a Stipulation to Reset the hearing. The hearing must be reset on one of the dates and times provided by the clerk. The stipulation must specify the date(s) and time(s) agreed to and must contain a statement that you have contacted each party or their attorney and that all have agreed on the alternative date(s) and time(s). The court will send a notice resetting the hearing.

4. If the parties cannot agree on one of the alternative dates and times provided by the clerk, the party wishing to change the date and time must file an Expedited Motion to Reset with the court at least 21 days prior to the scheduled hearing.

Dated: FEBRUARY 01, 1999

/S/ TERI HRANAC
Deputy Clerk
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I Certify that a true and correct copy of the NOTICE SETTING SUBCASE FOR SCHEDULING CONFERENCE was mailed on FEBRUARY 01, 1999, with sufficient first-class postage to the following:

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

FAULKNER LAND & LIVESTOCK
FAULKNER LAND & LIVESTOCK CO.
Represented by:
JOSEPHINE P. BEEMAN
PO BOX 1427
BOISE, ID 83701-1427
Phone: 208-388-8900

CRANNEY BROS.
Represented by:
MICHAEL C. CREAMER
PO BOX 2720
BOISE, ID 83701
Phone: 208-388-1200

DAN H. MCFADDEN
MCFADDEN, IRMA
ROUTE 1, BOX 406
HAGERMAN, ID 83332

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

/S/ TERI HRANAC
Deputy Clerk

36-00049

RECEIVED
FEB 09 1999
Department of Water Resources
Southern Region

1999 FEB 01 PM 03:06
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	) NOTICE SETTING SUBCASE
	) FOR SCHEDULING CONFERENCE
Case No. 39576	)
	) SUBCASE NOS: 36-00048A 36-00049
	36-02169

The Scheduling Conference for this subcase will be held as follows:

WEDNESDAY, MARCH 10, 1999 at 10:00 AM
SRBA
DISTRICT COURT
253 3RD AVENUE NORTH
TWIN FALLS, ID

Parties and their attorneys, if any, shall attend the Scheduling Conference and shall be prepared to discuss the following matters:

1. Claimant representation and alignment of the parties;
2. Identification of the issues;
3. Admissions of facts and documents;
4. Amendment of pleadings, if required;
5. Discovery and discovery cut-off dates;
6. Expert witnesses, if planned;
7. Pre-trial conference dates;
8. Motions;
9. Settlement/alternative dispute resolution; and
10. Firm trial date.

MAIL
23303

CLIVE STRONG
NATURAL RESOURCES
DEP AG OFFICE OF ATTY GEN
STATEHOUSE MAIL
BOISE, ID 83720-0010

(continued)

The date for the scheduling conference will not be changed unless a Stipulation to Reset is received by the court fourteen (14) days before the date of the scheduling conference. Parties who wish to change the date of the scheduling conference must do the following:

1. Contact the clerk of the SRBA Court and obtain alternative dates and times (208-736-3011).

2. Contact each party to the subcase(s) or their attorney, if any, and reach an agreement on the alternative date(s) and time(s) provided by the clerk.

3. Prepare a Stipulation to Reset the hearing. The hearing must be reset on one of the dates and times provided by the clerk. The stipulation must specify the date(s) and time(s) agreed to and must contain a statement that you have contacted each party or their attorney and that all have agreed on the alternative date(s) and time(s). The court will send a notice resetting the hearing.

4. If the parties cannot agree on one of the alternative dates and times provided by the clerk, the party wishing to change the date and time must file an Expedited Motion to Reset with the court at least 21 days prior to the scheduled hearing.

Dated: FEBRUARY 01, 1999

/S/ TERI HRANAC
Deputy Clerk
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I Certify that a true and correct copy of the NOTICE SETTING SUBCASE FOR SCHEDULING CONFERENCE was mailed on FEBRUARY 01, 1999, with sufficient first-class postage to the following:

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

FAULKNER LAND & LIVESTOCK
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Represented by:
JOSEPHINE P. BEEMAN
PO BOX 1427
BOISE, ID 83701-1427
Phone: 208-388-8900

CRANNEY BROS.
Represented by:
MICHAEL C. CREAMER
PO BOX 2720
BOISE, ID 83701
Phone: 208-388-1200

DAN H. MCFADDEN
MCFADDEN, IRMA
ROUTE 1, BOX 406
HAGERMAN, ID 83332

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

/S/ TERI HRANAC
Deputy Clerk

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

In Re SRBA	)	Subcase No.: 36-00049
	)	
	)	STANDARD FORM 5
Case 39576	)	
	)	**STIPULATED ELEMENTS OF A WATER RIGHT**

RECEIVED
FEB 28 2002
Department of Water Resources
Southern Region

This form is used to report the stipulated elements of one water right acquired under state law and/or one 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 elements of this water right should be decreed as described in the attached Recommendation. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

C. Nicholas Krema 2/21/02
C. Nicholas Krema Date
Attorney for Idaho State Building Authority

John M. Marshall 02/19/02
John M. Marshall Date
Givens Pursley LLP
Attorney for Cranney Bros.

IDWR Concurrence 2/22/02
IDWR Concurrence Date

Deborah E. Nelson 2/19/02
Deborah E. Nelson Date
Beeman & Associates P.C.
Attorney for North Snake Ground Water District

RIGHTS FROM: SOURCE: FLORENCE LIVESTOCK SPRING TRIBUTARY: BILLINGSLEY CREEK

RIGHT NUMBER: 36-00049

NAME AND ADDRESS: IDAHO STATE BUILDING AUTHORITY
PO BOX 2802
BOISE ID 83701
(208) 345-6057

SOURCE: FLORENCE LIVESTOCK SPRING TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 6.58 CFS

THE 6.58 CFS QUANTITY FOR IRRIGATION DESIGNATED UNDER THIS RIGHT IS BASED ON THE REASONABLE AMOUNT THAT WOULD BE NEEDED TO SUPPLY A SURFACE OR GRAVITY IRRIGATION SYSTEM. HOWEVER, THE ACTUAL MEANS OF IRRIGATION INVOLVES SPRINKLERS OR ANOTHER IRRIGATION METHOD THAT REQUIRES A SMALLER AMOUNT OF WATER. IN THE EVENT OF A WATER SHORTAGE, A DELIVERY CALL FOR WATER, OR OTHER ACTION TO ADMINISTER WATER RIGHTS, THE WATER RIGHT HOLDER SHALL BE ENTITLED TO DIVERT NO MORE THAN THE QUANTITY REASONABLY NECESSARY AT THAT TIME. THIS QUANTITY MAY BE LESS THAN, AND SHALL NEVER BE GREATER THAN, THE 6.58 CFS QUANTITY. A DIVERSION SYSTEM THAT USES MORE THAN 0.026 CFS PER ACRE IS REASONABLE ONLY IF SUCH SYSTEM IS REQUIRED IN GOOD FAITH FOR AGRICULTURAL IRRIGATION OF THE DESCRIBED PLACE OF USE.

ck
Jnm
tpw
Scc

PRIORITY DATE: 04/01/1900

POINT OF DIVERSION: T07S R13E S12 SESENW Within GOODING County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	02-15 11-30	6.58 CFS
STOCKWATER	01-01 12-31	0.07 CFS
DOMESITC	01-01 12-31	0.06 CFS

PLACE OF USE: IRRIGATION Within GOODING County

T07S R13E S11	SENENE 06, NESESE 36.5, SESESE 40
T07S R13E S12	NWSWSW 01, SWSWSW 18, SESWSW 01
T07S R13E S13	NENWNW 36, NWNWNW 40

178.5 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NOs. 36-00048A & 36-15538 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 178.5 ACRES IN THE ABOVE-DESCRIBED PLACE OF USE IN A SINGLE IRRIGATION SEASON.

STOCKWATER Within GOODING County

T07S R13E S11 NESESE, SESESE

DOMESTIC Within GOODING County

T07S R13E S11 NESESE, SESESE

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

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 7.68 CFS. COMBINED RIGHT NOS.: 36-00048A & 36-15538.

DIVERSION OF THIS RIGHT AND THE DIVERSION OF THE RIGHTS LISTED BELOW IS LIMITED TO A COMBINED DIVERSION RATE OF 6.58 CFS DURING THE IRRIGATION SEASON. COMBINED RIGHT NOS.: 36-15532 & 36-15333.

A DIVERSION RATE OF NO MORE THAN 0.026 CFS PER ACRE OF THIS RIGHT MAY BE TRANSFERRED OR CHANGED SO AS TO CHANGE THE PLACE OF USE, PURPOSE OF USE, OR PERIOD OF USE THEREOF.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

CK
JMM
DSW
SCC

CERTIFICATE OF SERVICE

I certify that on February 25, 2002, I caused to be served true and correct copies of the Standard Form 5, to the following persons, in the manner indicated 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, ID 83303-2707

__Overnight Mail
✓Regular Mail
__Hand-Delivered
__Facsimile

2. Copies to:

Office of the Attorney General
C. Nicholas Krema
P.O. Box 83720, Room 207
Boise, ID 83720-0010

__Overnight Mail
__Regular Mail
✓Hand-Delivered
__Facsimile

Deborah E. Nelson
Beeman & Associates
409 W. Jefferson St.
Boise, ID 83702

__Overnight Mail
✓Regular Mail
__Hand-Delivered
__Facsimile

John M. Marshall
Givens Pursley
P.O. Box 2720
Boise, ID 83702

__Overnight Mail
✓Regular Mail
__Hand-Delivered
__Facsimile

IDWR Document Repository
P.O. Box 83720
Boise, ID 83720-0098

__Overnight Mail
__Regular Mail
✓Hand-Delivered
__Facsimile

Cathy Howard

COPY

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
ALAN G. LANCE

RECEIVED
JUL - 5 2002
Department of Water Resources

April 3, 2002

Gooding County Recorder
P.O. Box 417
Gooding, ID 83330

Re: Recording Correction Warranty Deeds

Dear Sir or Madam:

At the request of the State of Idaho, Office of Attorney General, please record the enclosed Correction Warranty Deeds in the real property records of Gooding County. Upon recording, please return the recorded documents to me. I have enclosed a self-addressed, stamped envelope for this purpose.

If you have any questions, please contact me at the telephone number set forth above.

Sincerely,

KENT E. NELSON
Deputy Attorney General
Contracts & Administrative Law Division

KEN/js
Enclosures
c/enclosures: Nick Krema

Contracts & Administrative Law Division
P.O. Box 83720, Boise, Idaho 83720-0010
Telephone: (208) 334-2400, FAX: (208) 334-3107
Located at 700 W. Jefferson Street, Suite 210

CORRECTION WARRANTY DEED

THIS CORRECTION WARRANTY DEED AND INDENTURE is made by and between the **DAN & IRMA MCFADDAN FAMILY LIMITED PARTNERSHIP**, an Idaho limited partnership whose address is Rt. 1, Box 406, 17966 Highway 30 N., Hagerman, Idaho, hereinafter referred to as "Grantor," and the **IDAHO STATE BUILDING AUTHORITY**, P.O. Box 2802, Boise, Idaho 83701, hereinafter referred to as "Grantee", **to correct an error contained in that certain WARRANTY DEED between the parties hereto which was recorded in Gooding County, Idaho on September 28, 2001 as instrument no. 192262 records of Gooding County Idaho, and thereafter re-recorded in Gooding County, Idaho, on November 16, 2001 as instrument no. 192895 records of Gooding County, Idaho, which deed, erroneously included water right 36-2169-Florence Livestock Spring in Exhibit "B" thereto as part of the water rights conveyed to Grantor. This CORRECTION WARRANTY DEED removes reference to said water right;**

WITNESSETH, that the Grantor does hereby convey and confirm in fee unto the said Grantee and its successors and assigns forever the premises situated in Gooding County, Idaho and more particularly described on Exhibit "A" annexed hereto and by this reference incorporated herein, together with all water rights, ditch rights, rights of way, improvements, fixtures, tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining thereto, including but not limited to, the water rights identified on Exhibit "B" annexed hereto and by this reference incorporated herein.

TO HAVE AND TO HOLD the above-described premises and parcel of land and granted real property unto Grantor and its successors and assigns forever, subject only to the following:

1. Power line easement granted to Idaho Power Company, a corporation recorded June 14, 1934 in Book 3 of Miscellaneous, Page 546.
2. Water rights, ditch, flumes, and pipeline as disclosed in Warranty Deed recorded February 15, 1934 in Book 23 Deeds page 604, records of Gooding County, Idaho.
3. Power line easement granted to Idaho Power Company, a corporation recorded November 5, 1942 in Book 5 of Miscellaneous, Page 210 as Instrument No. 85341.
4. Easement for constructing and maintaining head and diversion works granted to Charles C. Cary recorded January 10, 1953 in Book 7 of Miscellaneous, Page 178 as Instrument No. 120155.
5. Easement for conveying water through a pipeline and maintenance thereof granted to K. Joo and Akio Joo & Ralph S. Bacon and Wanda Maxine Bacon recorded May 20, 1959 in Book 8 of Miscellaneous, Page 100 as Instrument No. 137751.
6. Power line easement granted to Idaho Power Company, a corporation recorded May 31, 1960 in Book 8 of Miscellaneous, Page 174 as Instrument No. 140977.

7. Easement in, to, upon and over all that certain road now in existence and which runs generally from the County road Easterly through the NW1/4NE1/4 to the NE1/4NE1/4 of Section 13, Township 7 South, Range 13, E.B.M. for ingress and egress to said NE1/4NE1/4, given to Bessie B. Abbott, a widow, and Ruth A. Letchworth, a widow, parities of the first part, to Virgil U. Norwood, party of the second part, recorded October 25, 1960 in Book 8 Page 197 as Instrument No. 141995, records of Gooding County, Idaho.
8. Covenants, conditions, restrictions and easements contained in deed to the State of Idaho recorded December 12, 1962 as Instrument No. 6402.
9. Easement for constructing and maintaining small ditches and irrigation facilities and the right of ingress and egress granted to the State of Idaho, recorded December 12, 1962 as Instrument No. 6403.
10. Agreement upon the terms, conditions and provisions contained therein for the purpose of upkeep and maintenance of an irrigation pipeline and sharing the water therefrom dated December 4, 1961 by and between McCarter Cattle Co., Inc., a corporation and Clyde McFarland recorded April 18, 1972 as Instrument No. 40070.
11. Power line easement granted to Idaho Power Company, a corporation recorded February 4, 1974 as Instrument No. 48666.
12. Power line easement granted to Idaho Power Company, a corporation recorded February 7, 1974 as Instrument No. 48668.
13. Power line easement granted to Idaho Power Company, a corporation recorded December 24, 1975 as Instrument No. 57498.

and that Grantor shall warrant and defend the premises from all other lawful claims whatsoever.

The Grantor further warrants to the Grantee that Grantor is lawfully seized of the above described real property in fee simple, that the same is free and clear of any and all encumbrances of every kind and description, except as herein specified, and that the Grantor has lawful right to convey the said real property.

[SIGNATURE PAGE FOLLOWS]

DATED This 31 day of January 2002.

DAN & IRMA MCFADDAN FAMILY LIMITED PARTNERSHIP:

By: Daniel H. McFaddan
Daniel H. McFaddan, General Partner

By: Irma R. McFaddan
Irma R. McFaddan, General Partner

By: Daniel H. McFaddan
Daniel H. McFaddan, Limited Partner

By: Irma R. McFaddan
Irma R. McFaddan, Limited Partner

By: Mark D. McFaddan
Mark D. McFaddan, Limited Partner

By: Linda Heinemann
Linda Heinemann, Limited Partner

By: Matthew D. McFaddan
Matthew D. McFaddan, Limited Partner

IDAHO STATE BUILDING AUTHORITY:

By: Patricia J. Story
Patricia J. Story, Chairman

By:
Wayne V. Meuleman, Secretary

STATE OF IDAHO)
) ss.
County of GOODING)

On this date before me, the undersigned notary public for such state, personally appeared **IRMA R. MCFADDAN**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she is both a General Partner and a Limited Partner of the Dan & Irma McFaddan Family Limited Partnership and that she executed the instrument on behalf of said partnership and that the Dan & Irma McFaddan Family Limited Partnership executed the same.

WITNESS my hand and seal on 01-31-, 2002.

NOTARY PUBLIC
Residing at: Hagerman Idaho
Commission expires: 08/04/2004

STATE OF IDAHO)
) ss.
County of GOODING)

On this date before me, the undersigned notary public for such state, personally appeared **DANIEL H. MCFADDAN**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he is both a General Partner and a Limited Partner of the Dan & Irma McFaddan Family Limited Partnership and that he executed the instrument on behalf of said partnership and that the Dan & Irma McFaddan Family Limited Partnership executed the same.

WITNESS my hand and seal on 01/31/, 2002.

NOTARY PUBLIC
Residing at: Hagerman Idaho
Commission expires: 08/04/2004

STATE OF IDAHO)
) ss.
County of Latah)

On this date before me, the undersigned notary public for such state, personally appeared **MARK D. MCFADDAN**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he is a Limited Partner of the Dan & Irma McFaddan Family Limited Partnership and that he executed the instrument on behalf of said partnership and that the Dan & Irma McFaddan Family Limited Partnership executed the same.

WITNESS my hand and seal on February 21, 2002.

JOHN P. MCCABE NOTARY PUBLIC STATE OF IDAHO

NOTARY PUBLIC
Residing at: Moscow, Idaho
Commission expires: 5-26-06

STATE OF IDAHO)
) ss.
County of Bonner)

On this date before me, the undersigned notary public for such state, personally appeared **MATTHEW D. MCFADDAN**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he is a Limited Partner of the Dan & Irma McFaddan Family Limited Partnership and that he executed the instrument on behalf of said partnership and that the Dan & Irma McFaddan Family Limited Partnership executed the same.

WITNESS my hand and seal on 01/31/, 2002.

NOTARY PUBLIC
Residing at: Sagle, Idaho
Commission expires: 08/04/2004

STATE OF IDAHO)
) ss.
County of [illegible])

On this date before me, the undersigned notary public for such state, personally appeared **LINDA HEINEMANN**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she is a Limited Partner of the Dan & Irma McFaddan Family Limited Partnership and that she executed the instrument on behalf of said partnership and that the Dan & Irma McFaddan Family Limited Partnership executed the same.

WITNESS my hand and seal on 01/31/, 2002.

NOTARY PUBLIC
Residing at: Hagerman Idaho
Commission expires: 08/04/2004

STATE OF IDAHO)
) ss.
County of Ada)

On this date before me, the undersigned, a Notary Public in and for said state, personally appeared **PATRICIA J. STORY** and **WAYNE V. MEULEMAN**, known or identified to me to be the Chairman and Secretary, respectively, of the Idaho State Building Authority, each of whom acknowledged to me that they executed the within Lease on behalf of the Idaho State Building Authority in their representative capacity.

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

WITNESS my hand and seal on 3/29/, 2002.

NOTARY PUBLIC for Idaho
Residing at Boise
My Commission Expires: 10/5/[illegible]

KATHY HALL NOTARY PUBLIC STATE OF IDAHO

EXHIBIT A

Legal Description

See Attached.

Exhibit A

A Parcel of Land located in the East ½ of Section 11, Southwest ¼ of Section 12 and North ¼ of Section 13 Township 7 South, Range 13 East, Boise Meridian, Gooding County, Idaho.

Commencing at the Southwest corner of said Section 12 thence North 89°14'29" East, 1520.23 feet along the South boundary of Section 12 to the REAL POINT OF BEGINNING.
Thence South 46°15'35" East, 3.91 feet
Thence South 46°15'41" East, 576.76 feet
Thence South 84°16'00" East, 461.26 feet
Thence North 74°25'01" East, 243.59 feet
Thence South 37°32'59" East, 232.96 feet
Thence South 06°07'30" East, 527.36 feet
Thence South 56°43'55" West, 73.70 feet along the North Right of Way of US Highway 30,
Thence South 43°25'08" West, 116.32 feet along the North Right of Way of US Highway 30,
Thence South 35°57'53" West, 70.72 along the North Right of Way of US Highway 30,
Thence South 00°11'03" East, 22.74 feet
Thence South 88°56'33" West, 2620.98 feet to the NW 1/16 corner of Section 13,
Thence North 00°54'24" West, 1317.16 feet along the West boundary of Section 13,
Thence South 89°47'37" West 1268.48 feet along the South boundary of Section 11,
Thence North 01°00'29" West, 1774.21 feet along the East Right of Way Line of US Highway 30,
Thence along a Curve C1
- Δ 01°03'55"
- Length 799.84
- Radius 43021.85
- Tangent 399.93
- Chord 799.83
- Chord Bearing North 01°32'26" West

Thence North 29°11'20" East, 67.77 feet
Thence North 22°43'35" East, 197.14 feet
Thence North 01°10'04" East, 157.89 feet
Thence North 22°00'10" East, 43.25 feet
Thence North 45°37'40" East, 52.80 feet
Thence North 84°27'35" East, 134.79 feet
Thence North 84°27'35" East, 111.05 feet
Thence North 00°26'59" West, 171.02 feet to the South edge of a Road Right of Way.
Thence North 00°26'59" West, 50.00 feet
Thence North 89°33'00" East, 124.83 feet
Thence South 29°23'00" East, 57.13 feet to a point on the South edge of a Road Right of Way.
Thence South 29°22'58" East, 386.58 feet
Thence South 22°52'56" East, 799.14 feet
Thence South 26°10'03" East, 519.95 feet
Thence South 23°24'52" East, 859.77 feet
Thence South 47°58'30" East, 482.48 feet

Thence North 84°52'50" East, 233.99 feet
Thence South 46°15'35" East, 853.00 feet to the REAL POINT OF BEGINNING.

LESS AND EXCEPTING THE FOLLOWING DESCRIBED PARCEL:

Township 7 South, Range 13 East of the Boise Meridian, Gooding County, Idaho

Section 11: That part of the North one-half of the Northeast Quarter of the Southeast Quarter, lying West of the following described line:

BEGINNING at a point on the North boundary line of the South one-half of the Southeast Quarter of the Northeast Quarter from which point the Northeast corner of said South one-half of the Southeast Quarter of the Northeast Quarter bears North 89°33' East 734.0 feet;
Thence South 28°25' East 444.0 feet;
Thence South 21°55' East 800.00 feet;
Thence South 25°12' East 520.00 feet to a point on the Section line common to Sections 11 and 12.

EXHIBIT B

McFaddan Water Rights Description

Record No.	Source	Priority Date	Basis	Use
36-15532	Florence Livestock Spring	06/01/1969	Beneficial Use	Fish Propagation
36-15533	Florence Livestock Spring	04/01/1958	Beneficial Use	Commercial
36-15538	Spring	04/01/1964	Beneficial Use	Irrigation
36-00049	Florence Livestock Spring	04/01/1900	Decreed	Commercial, Domestic, Fish Propagation, Irrigation, Stockwater
36-00048A	Billingsley Creek	11/04/1885	Decreed	Irrigation

RECEIVED
OCT 2 2001
Department of Water Resources

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

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water RightNo(s).	Adjudication Claim No(s).	Split
36-15532			36-2169		
36-15533					
36-15538					
36-00049					
36-00048A					

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

   A. The appropriate **FILING FEE**. See instructions for fee amounts.

   B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION.**

   C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
   PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).
   OR
   If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The AERIAL PHOTO should be submitted in place of the PLAT OF PROPERTY or SURVEY MAP.

3. Name and Address of Former Owner/Claimant(s): Dan and Irma McFaddan
   17966 Hwy 30, Hagerman, Idaho 83332

4. New Owner/Claimant(s): Idaho State Building Authority
   Name Connector (Check One): [ ] and, [ ] or, [ ] and/or

   New Mailing Address: P.O. Box 2802

   City, State and ZIP Code: Boise, Idaho 83701

   New Telephone Number: (208) 345-6057

5. Date you acquired the property: September 28, 2001

OK to change [signature] 10/30/01
records changed 11-07-01. JD
& NCAP done.

6. **If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7.** If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet annum)	Description (acres, number and type of stock, homes, etc.)
Irrigation		
Stock		
Domestic		
Other		
Total		

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet annum)	Description (acres, number and type of stock, homes, etc.)
Irrigation		
Stock		
Domestic		
Other		
Total		

7. Signature of New Owner(s) or Claimant(s) (include title of applicable) Idaho State Building Authority
Joe J. Mueleman, Executive Director

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

For Office Use Only
Received by J. Mace Date 10.29.01 Fee _____
Receipted by J. Mace Date 10.29.01 Receipt No. 0057428
Processed by _____ AJ Date _____ WR _____ Date _____

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-2169

RECEIVED
OCT 29 2001
Department of Water Resources

STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL
ALAN G. LANCE

October 26, 2001

Vicki Kelly
Department of Water Resources
STATEHOUSE MAIL

Re: Billingsley Creek - Notices of Change of Water Right Ownership

Dear Vicki:

Enclosed are two Notices of Change in Water Right Ownership, one for the AquaLife property and one for the McFaddan property. Also enclosed is a check from Meuleman & Miller in the amount of $125.00 for the filing fee required on the AquaLife property.

Sincerely,

Julie K. Weaver
Deputy Attorney General
Contracts & Administrative Law Division

JKW/js
Enclosures

36-2338
-2414
-4011
-2734
late clm #36-15476
} AquaLife

36-48A
-49
-2169
-15532
-15533
-15538
} McFaddan

Contracts & Administrative Law Division
P.O. Box 83720, Boise, Idaho 83720-0010
Telephone: (208) 334-2400, FAX: (208) 334-3107
Located at 700 W. Jefferson Street, Suite 210

Instrument # [illegible]2261
GOODING, GOODIN[illegible] IDAHO
2001-09-28 04:19:27 No. of Pages: 5
Recorded for : GOODING TITLE
HELEN EDWARDS Fee: 15.00
Ex-Officio Recorder Deputy
Index to: DEED, WARRANTY

G010186 L

WARRANTY DEED

THIS INDENTURE made by and between **DANIEL H. MCFADDAN AND IRMA R. MCFADDAN**, husband and wife, whose address is Rt. 1, Box 406, 17966 Highway 30 N., Hagerman, Idaho, collectively hereinafter referred to as "Grantor," and the **IDAHO STATE BUILDING AUTHORITY**, P.O. Box 2802, Boise, Idaho 83701, hereinafter referred to as "Grantee";

WITNESSETH, that the Grantor does hereby convey and confirm in fee unto the said Grantee and its successors and assigns forever the premises situated in Gooding County, Idaho and more particularly described on Exhibit "A" annexed hereto and by this reference incorporated herein, together with all water rights, ditch rights, rights of way, improvements, fixtures, tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining thereto, including but not limited to, the water rights identified on Exhibit "B" annexed hereto and by this reference incorporated herein.

TO HAVE AND TO HOLD the above-described premises and parcel of land and granted real property unto Grantor and its successors and assigns forever, subject only to the following:

1. Power line easement granted to Idaho Power Company, a corporation recorded June 14, 1934 in Book 3 of Miscellaneous, Page 546.
2. Water rights, ditch, flumes, and pipeline as disclosed in Warranty Deed recorded February 15, 1934 in Book 23 Deeds page 604, records of Gooding County, Idaho.
3. Power line easement granted to Idaho Power Company, a corporation recorded November 5, 1942 in Book 5 of Miscellaneous, Page 210 as Instrument No. 85341.
4. Easement for constructing and maintaining head and diversion works granted to Charles C. Cary recorded January 10, 1953 in Book 7 of Miscellaneous, Page 178 as Instrument No. 120155.
5. Easement for conveying water through a pipeline and maintenance thereof granted to K. Joo and Akio Joo & Ralph S. Bacon and Wanda Maxine Bacon recorded May 20, 1959 in Book 8 of Miscellaneous, Page 100 as Instrument No. 137751.
6. Power line easement granted to Idaho Power Company, a corporation recorded May 31, 1960 in Book 8 of Miscellaneous, Page 174 as Instrument No. 140977.
7. Easement in, to, upon and over all that certain road now in existence and which runs generally from the County road Easterly through the NW1/4NE1/4 to the NE1/4NE1/4 of Section 13, Township 7 South, Range 13, E.B.M. for ingress and egress to said NE1/4NE1/4, given to Bessie B. Abbott, a widow, and Ruth A. Letchworth, a widow, parities of the first

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-2169

part, to Virgil U. Norwood, party of the second part, recorded October 25, 1960 in Book 8 Page 197 as Instrument No. 141995, records of Gooding County, Idaho.

8. Covenants, conditions, restrictions and easements contained in deed to the State of Idaho recorded December 12, 1962 as Instrument No. 6402.
9. Easement for constructing and maintaining small ditches and irrigation facilities and the right of ingress and egress granted to the State of Idaho, recorded December 12, 1962 as Instrument No. 6403.
10. Agreement upon the terms, conditions and provisions contained therein for the purpose of upkeep and maintenance of an irrigation pipeline and sharing the water therefrom dated December 4, 1961 by and between McCarter Cattle Co., Inc., a corporation and Clyde McFarland recorded April 18, 1972 as Instrument No. 40070.
11. Power line easement granted to Idaho Power Company, a corporation recorded February 4, 1974 as Instrument No. 48666.
12. Power line easement granted to Idaho Power Company, a corporation recorded February 7, 1974 as Instrument No. 48668.
13. Power line easement granted to Idaho Power Company, a corporation recorded December 24, 1975 as Instrument No. 57498.

and that Grantor shall warrant and defend the premises from all other lawful claims whatsoever.

The Grantor further warrants to the Grantee that Grantor is lawfully seized of the above described real property in fee simple, that the same is free and clear of any and all encumbrances of every kind and description, except as herein specified, and that the Grantor has lawful right to convey the said real property.

DATED This 28th day of September 2001.

Daniel H. McFaddan
Daniel H. McFaddan

Irma R. McFaddan
Irma R. McFaddan

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-2169

STATE OF IDAHO)
) ss.
County of Twin Falls)

On this date before me, the undersigned notary public for such state personally appeared **IRMA R. MCFADDAN**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

WITNESS my hand and seal on Sept. 28, 2001.

JARROD T. BALL NOTARY PUBLIC STATE OF IDAHO

NOTARY PUBLIC
Residing at: Twin Falls
Commission expires: 7-25-2002

STATE OF IDAHO)
) ss.
County of Twin Falls)

On this date before me, the undersigned notary public for such state personally appeared **DANIEL H. MCFADDAN**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

WITNESS my hand and seal on Sept. 28th, 2001.

JARROD T. BALL NOTARY PUBLIC STATE OF IDAHO

NOTARY PUBLIC
Residing at: Twin Falls
Commission expires: 7-25-2002

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-2169

EXHIBIT A

Legal Description

Township 7 South, Range 13 East of the Boise Meridian, Gooding County, Idaho

Section 11: That part of the North one-half of the Northeast Quarter of the Southeast Quarter, lying West of the following described line:

BEGINNING at a point on the North boundary line of the South one-half of the Southeast Quarter of the Northeast Quarter from which point the Northeast corner of said South one-half of the Southeast Quarter of the Northeast Quarter bears North 89°33' East 734.0 feet;

Thence South 28°25' East 444.0 feet;

Thence South 21°55' East 800.00 feet;

Thence South 25°12' East 520.00 feet to a point on the Section line common to Section 11 and 12.

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-2169

EXHIBIT B

McFaddan Water Rights Description

Record No.	Source	Priority Date	Basis	Use
36-15532	Florence Livestock Spring	06/01/1969	Beneficial Use	Fish Propagation
36-15533	Florence Livestock Spring	04/01/1958	Beneficial Use	Commercial
36-15538	Spring	04/01/1964	Beneficial Use	Irrigation
36-00049	Florence Livestock Spring	04/01/1900	Decreed	Commercial, Domestic, Fish Propagation, Irrigation, Stockwater
36-00048A	Billingsley Creek	11/04/1885	Decreed	Irrigation
36-2169	Florence Livestock Spring	04/10/1952	License	Domestic, Irrigation

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-2169

Instrument # 92262
GOODING, GOODING, IDAHO
2001-09-28 04:19:43 No. of Pages: 10
Recorded for : GOODING TITLE
HELEN EDWARDS Fee: 20.00
Ex-Officio Recorder Deputy
Index to: DEED, WARRANTY

GD10186C

WARRANTY DEED

THIS INDENTURE made by and between the **DAN & IRMA MCFADDAN FAMILY LIMITED PARTNERSHIP**, an Idaho limited partnership whose address is Rt. 1, Box 406, 17966 Highway 30 N., Hagerman, Idaho, hereinafter referred to as "Grantor," and the **IDAHO STATE BUILDING AUTHORITY**, P.O. Box 2802, Boise, Idaho 83701, hereinafter referred to as "Grantee";

WITNESSETH, that the Grantor does hereby convey and confirm in fee unto the said Grantee and its successors and assigns forever the premises situated in Gooding County, Idaho and more particularly described on Exhibit "A" annexed hereto and by this reference incorporated herein, together with all water rights, ditch rights, rights of way, improvements, fixtures, tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining thereto, including but not limited to, the water rights identified on Exhibit "B" annexed hereto and by this reference incorporated herein.

TO HAVE AND TO HOLD the above-described premises and parcel of land and granted real property unto Grantor and its successors and assigns forever, subject only to the following:

1. Power line easement granted to Idaho Power Company, a corporation recorded June 14, 1934 in Book 3 of Miscellaneous, Page 546.
2. Water rights, ditch, flumes, and pipeline as disclosed in Warranty Deed recorded February 15, 1934 in Book 23 Deeds page 604, records of Gooding County, Idaho.
3. Power line easement granted to Idaho Power Company, a corporation recorded November 5, 1942 in Book 5 of Miscellaneous, Page 210 as Instrument No. 85341.
4. Easement for constructing and maintaining head and diversion works granted to Charles C. Cary recorded January 10, 1953 in Book 7 of Miscellaneous, Page 178 as Instrument No. 120155.
5. Easement for conveying water through a pipeline and maintenance thereof granted to K. Joo and Akio Joo & Ralph S. Bacon and Wanda Maxine Bacon recorded May 20, 1959 in Book 8 of Miscellaneous, Page 100 as Instrument No. 137751.
6. Power line easement granted to Idaho Power Company, a corporation recorded May 31, 1960 in Book 8 of Miscellaneous, Page 174 as Instrument No. 140977.
7. Easement in, to, upon and over all that certain road now in existence and which runs generally from the County road Easterly through the NW1/4NE1/4 to the NE1/4NE1/4 of Section 13, Township 7 South, Range 13, E.B.M. for ingress and egress to said NE1/4NE1/4, given to Bessie B. Abbott, a widow, and Ruth A. Letchworth, a widow, parities of the first

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part, to Virgil U. Norwood, party of the second part, recorded October 25, 1960 in Book 8 Page 197 as Instrument No. 141995, records of Gooding County, Idaho.

8. Covenants, conditions, restrictions and easements contained in deed to the State of Idaho recorded December 12, 1962 as Instrument No. 6402.
9. Easement for constructing and maintaining small ditches and irrigation facilities and the right of ingress and egress granted to the State of Idaho, recorded December 12, 1962 as Instrument No. 6403.
10. Agreement upon the terms, conditions and provisions contained therein for the purpose of upkeep and maintenance of an irrigation pipeline and sharing the water therefrom dated December 4, 1961 by and between McCarter Cattle Co., Inc., a corporation and Clyde McFarland recorded April 18, 1972 as Instrument No. 40070.
11. Power line easement granted to Idaho Power Company, a corporation recorded February 4, 1974 as Instrument No. 48666.
12. Power line easement granted to Idaho Power Company, a corporation recorded February 7, 1974 as Instrument No. 48668.
13. Power line easement granted to Idaho Power Company, a corporation recorded December 24, 1975 as Instrument No. 57498.

and that Grantor shall warrant and defend the premises from all other lawful claims whatsoever.

The Grantor further warrants to the Grantee that Grantor is lawfully seized of the above described real property in fee simple, that the same is free and clear of any and all encumbrances of every kind and description, except as herein specified, and that the Grantor has lawful right to convey the said real property.

[SIGNATURE PAGE FOLLOWS]

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DATED This 28th day of September 2001.

DAN & IRMA MCFADDAN FAMILY LIMITED PARTNERSHIP:

By: Daniel H. McFaddan
Daniel H. McFaddan, General Partner

By: Irma R. McFaddan
Irma R. McFaddan, General Partner

By: Daniel H. McFaddan
Daniel H. McFaddan, Limited Partner

By: Irma R. McFaddan
Irma R. McFaddan, Limited Partner

By: Mark D. McFaddan
Mark D. McFaddan, Limited Partner

By: Linda Heinemann
Linda Heinemann, Limited Partner

By: Matthew D. McFaddan
Matthew D. McFaddan, Limited Partner

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-2169

STATE OF IDAHO)
) ss.
County of Twin Falls)

On this date before me, the undersigned notary public for such state, personally appeared **IRMA R. MCFADDAN**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she is a General Partner of the Dan & Irma McFaddan Family Limited Partnership and that she executed the instrument on behalf of said partnership and that the Dan & Irma McFaddan Family Limited Partnership executed the same.

WITNESS my hand and seal on Sept. 28, 2001.

JARROD T. BALL NOTARY PUBLIC STATE OF IDAHO

NOTARY PUBLIC
Residing at: Twin Falls
Commission expires: 7-25-2002

STATE OF IDAHO)
) ss.
County of Twin Falls)

On this date before me, the undersigned notary public for such state, personally appeared **DANIEL H. MCFADDAN**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he is a General Partner of the Dan & Irma McFaddan Family Limited Partnership and that he executed the instrument on behalf of said partnership and that the Dan & Irma McFaddan Family Limited Partnership executed the same.

WITNESS my hand and seal on Sept. 28, 2001.

JARROD T. BALL NOTARY PUBLIC STATE OF IDAHO

NOTARY PUBLIC
Residing at: Twin Falls
Commission expires: 7-25-2002

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-2169

STATE OF IDAHO)
) ss.
County of Latah)

On this date before me, the undersigned notary public for such state, personally appeared **MARK D. MCFADDAN**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he is a Limited Partner of the Dan & Irma McFaddan Family Limited Partnership and that he executed the instrument on behalf of said partnership and that the Dan & Irma McFaddan Family Limited Partnership executed the same.

WITNESS my hand and seal on 9-26, 2001.

MICHELLE L. STAPLETON
NOTARY PUBLIC
STATE OF IDAHO

Michelle L Stapleton
NOTARY PUBLIC
Residing at: Moscow Id
Commission expires: 9-13-06

STATE OF IDAHO)
) ss.
County of Twin Falls)

On this date before me, the undersigned notary public for such state, personally appeared **MATTHEW D. MCFADDAN**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he is a Limited Partner of the Dan & Irma McFaddan Family Limited Partnership and that he executed the instrument on behalf of said partnership and that the Dan & Irma McFaddan Family Limited Partnership executed the same.

WITNESS my hand and seal on Sept. 28th, 2001.

JARROD T. BALL
NOTARY PUBLIC
STATE OF IDAHO

NOTARY PUBLIC
Residing at: Twin Falls
Commission expires: 7-25-2002

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-2169

STATE OF IDAHO)
) ss.
County of Twin Falls)

On this date before me, the undersigned notary public for such state, personally appeared **LINDA HEINEMANN**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she is a Limited Partner of the Dan & Irma McFaddan Family Limited Partnership and that she executed the instrument on behalf of said partnership and that the Dan & Irma McFaddan Family Limited Partnership executed the same.

WITNESS my hand and seal on Sept. 28, 2001.

JARROD T. BALL NOTARY PUBLIC STATE OF IDAHO

NOTARY PUBLIC
Residing at: Twin Falls
Commission expires: 7-25-2002

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EXHIBIT A

Legal Description

See Attached.

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EXHIBIT A

Legal Description

A Parcel of Land located in the East ½ of Section 11, Southwest ¼ of Section 12 and North ¼ of Section 13 Township 7 South, Range 13 East, Boise Meridian, Gooding County, Idaho.

Commencing at the Southwest corner of said Section 12 which is the REAL POINT OF BEGINNING.

Thence North 89°14'29" East, 1520.23 feet along the South boundary of Section 12.
Thence South 46°15'35" East, 3.91 feet
Thence South 46°15'41" East, 576.76 feet
Thence South 84°16'00" East, 461.26 feet
Thence North 74°25'01" East, 243.59 feet
Thence South 37°32'59" East, 232.96 feet
Thence South 06°07'30" East, 527.36 feet
Thence South 56°43'55" West, 73.70 feet along the North Right of Way of US Highway 30,
Thence South 48°25'08" West, 116.32 feet along the North Right of Way of US Highway 30,
Thence South 35°57'53" West, 70.72 along the North Right of Way of US Highway 30,
Thence South 00°11'03" East, 22.74 feet
Thence South 89°56'33" West, 2620.98 feet to the NW 1/16 corner of Section 13,
Thence North 00°54'24" West, 1317.16 feet along the West boundary of Section 13,
Thence North 89° 47'37" East, 1268.48 feet along the South boundary of Section 11,
Thence North 01°00'29" West, 1774.21 feet along the East Right of Way Line of US Highway 30

Thence along a Curve C1

Δ 01°03'55"
Length 799.84
Radius 43021.85
Tangent 399.93
Chord 799.83
Chord Bearing North 01°32'26" West

Thence North 29°11'20" East, 67.77 feet
Thence North 22°43'35" East, 197.14 feet
Thence North 01°10'04" East, 157.89 feet
Thence North 22°00'10" East, 43.25 feet
Thence North 45°37'40" East, 52.80 feet
Thence North 84°27'35" East, 134.79 feet
Thence North 84°27'35" East, 111.05 feet
Thence North 00°26'59" West, 171.02 feet to the South edge of a Road Right of Way.
Thence North 00°26'59" West, 50.00 feet
Thence North 89°33'00" East, 124.83 feet
Thence South 29°23'00" East, 57.13 feet to a point on the South edge of a Road Right of Way.
Thence South 29°22'58" East, 386.58 feet
Thence South 22°52'56" East, 799.14 feet
Thence South 26°10'03" East, 519.95 feet
Thence South 23°24'52" East, 859.77 feet
Thence South 47°58'30" East, 482.48 feet

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Thence North 84°52'50" East, 233.99 feet
Thence South 46°15'35" East, 853.00 feet to the REAL POINT OF BEGINNING.
Said Parcel contains approximately 175.60 acres which excludes 0.16 acres of Right of Way in the East ½ of Section 11.

EXCEPTING THEREFROM the following parcel:

Township 7 South, Range 13 East of the Boise Meridian, Gooding County, Idaho

Section 11: That part of the North one-half of the Northeast Quarter of the Southeast Quarter, lying West of the following described line:

BEGINNING at a point on the North boundary line of the South one-half of the Southeast Quarter of the Northeast Quarter from which point the Northeast corner of said South one-half of the Southeast Quarter of the Northeast Quarter bears North 89°33' East 734.0 feet;

Thence South 28°25' East 444.0 feet;

Thence South 21°55' East 800.00 feet;

Thence South 25°12' East 520.00 feet to a point on the Section line common to Section 11 and 12.

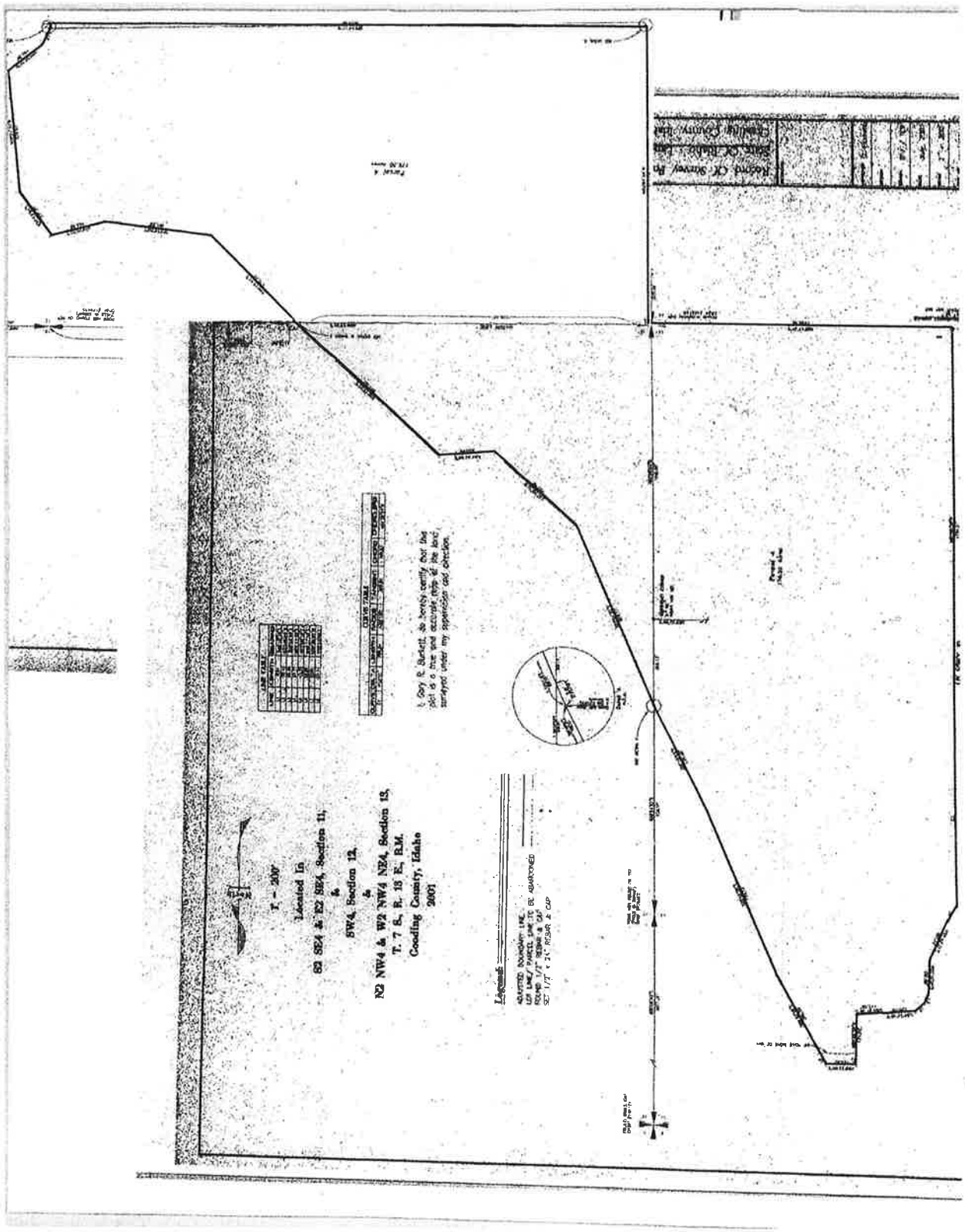
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-2169

EXHIBIT B

McFaddan Water Rights Description

Record No.	Source	Priority Date	Basis	Use
36-15532	Florence Livestock Spring	06/01/1969	Beneficial Use	Fish Propagation
36-15533	Florence Livestock Spring	04/01/1958	Beneficial Use	Commercial
36-15538	Spring	04/01/1964	Beneficial Use	Irrigation
36-00049	Florence Livestock Spring	04/01/1900	Decreed	Commercial, Domestic, Fish Propagation, Irrigation, Stockwater
36-00048A	Billingsley Creek	11/04/1885	Decreed	Irrigation
36-2169	Florence Livestock Spring	04/10/1952	License	Domestic; Irrigation

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-2169



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-2169

The Idaho State Building Authority

ALAN G. LANCE
Attorney General, State of Idaho

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

C. NICHOLAS KREMA
Deputy Attorney General
700 W. Jefferson St., Rm. 210
P.O. Box 83720
Boise, ID 83720-0010
Telephone: (208) 334-2400
Fax: (208) 334-2690
Idaho State Bar No. 3471

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

In Re: SRBA Case No. 39576	**Subcase Nos. 36-00048A, 36-00049, 36-02169, 36-15532, 36-15533, 36-15538** **NOTICE OF APPEARANCE**

Notice is hereby given, in the above-captioned subcases, that the following counsel will appear for Applicant, the Idaho State Building Authority:

ALAN G. LANCE
Attorney General, State of Idaho

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

COPY

C. NICHOLAS KREMA
Deputy Attorney General
700 W. Jefferson St., Rm. 210
P.O. Box 83720
Boise, ID 83720-0010
Telephone: (208) 334-2400
Fax: (208) 334-2690
Idaho State Bar No. 3471

DATED this 19th day of October 2001.

ALAN G. LANCE
Attorney General, State of Idaho

By: C.N.K.
C. NICHOLAS KREMA
Deputy Attorney General

36-48A, -49-2169, -5532, -5533, -5538

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of October I caused to be served copies of the foregoing **NOTICE OF APPEARANCE** by the method indicated bellow to the following:

Patrick D. Brown 109 S. Adams Street Jerome, ID 83338	☑ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: _____ ☐ Statehouse Mail
John Marshall Givens Pursley LLP P.O. Box 2720 Boise, ID 73701-2720	☑ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: _____ ☐ Statehouse Mail
Nick Spencer IDWR	☐ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: _____ ☑ Statehouse Mail
IDWR Document Depository	☐ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: _____ ☑ Statehouse Mail
Josephine P. Beeman Deborah E. Nelson Beeman & Associates, P.C. 409 West Jefferson Street Boise, ID 83702	☑ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: _____ ☐ Statehouse Mail
US Department of Justice Environment & Natural Res. Div. 550 West Fort Street, MSC 033 Boise, ID 83724	☑ U.S. Mail, postage prepaid ☐ Hand Delivery ☐ Federal Express ☐ Facsimile: _____ ☐ Statehouse Mail

C. NICHOLAS KREMA

36-48A -49, 2169, -15532, -15533, -15538

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)
)
)
)

A. Subcase No.: 36-00049

STANDARD FORM 1
OBJECTION

RECEIVED
OCT 31 2000
Department of Water Resource
Southern Region

MAIL
40193

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Dan and Irma McFaddan

Address: 17966 Hwy 30

Hagerman, ID 83332

Daytime Phone: (208) 837-4872

Name & Address of Attorney, if any:

Patrick D. Brown, P.C.

109 South Adams Street

Jerome, ID 83338 (644-1967)

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT
(Corrected Recommendation of 2-18-00)

Name: Dan and Irma McFaddan

Address: 17966 Hwy 30

Hagerman, ID 83332

COPY

D. I OBJECT TO THE FOLLOWING ELEMENTS AS RECOMMENDED IN THE DIRECTOR'S REPORT. [PLEASE CHECK THE APPROPRIATE BOX(ES).]

1. [ ] Name and Address
   Should be: _____

2. [ ] Source
   Should be: _____

3. [X] Quantity
   Should be: combined diversion rate should be 9.7 cfs

4. [ ] Priority Date
   Should be: _____

5. [ ] Point(s) of Diversion
   Should be: _____

6. [ ] Instream Flow Description
   Should be: _____

7. [ ] Purpose(s) of Use
   Should be: _____

8. [ ] Period of Use
   Should be: _____

9. [ ] Place of Use
   Should be: _____

10. I object because:

    [ ] This water right should not exist.

    [ ] This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S): The Department has apparently reduced the combined rate because the spring flows are below the 9.7 cfs historically used.

F. VERIFICATION (Must be completed.)

State of Idaho)
:ss
County of Jerome)

Patrick D. Brown, duly sworn upon oath, deposes and says:

That I am the party/claimant filing this Objection, as defined by I.C. §§ 42-1401A(1) and (6), or that I am the attorney for the party/claimant objecting and that I have read this Objection, know its contents, and believe that the statements are true to the best of my knowledge.

(Signature of person filing Objection)

(Attorney signing in respresentative capacity)

SUBSCRIBED AND SWORN To before me on: September 25, 2000

PATRICIA J. FAHRENHOLZ NOTARY PUBLIC STATE OF IDAHO

Notary Public for: Idaho
Residing at: Twin Falls
My Commission Expires: 11-09-2004

INSTRUCTIONS FOR MAILING

You must mail the objection to the Clerk of the SRBA Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on September 27, 2000, I mailed the original and copies of this Objection, including all attachments, to the following persons:

1. Original to:

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

2. One copy to the Claimant of the water right at the following address:

Name: n/a
Address: _____

3. Copies to:

Peter J. Ampe
Office of the Attorney General
P. O. Box 44449
Boise, ID 83711-4449

✓ U.S. Mail
___ Hand Delivered
___ Overnight Mail
___ Telecopy (Fax)

Idaho Dept. of Water Resources
Document Depository
P. O. Box 83720
Boise, ID 83701-0098

✓ U.S. Mail
___ Hand Delivered
___ Overnight Mail
___ Telecopy (Fax)

Nicholas Spencer
Idaho Department of Water Resources
1301 North Orchard Street
Boise, ID 83705
(208) 327-7866

✓ U.S. Mail
___ Hand Delivered
___ Overnight Mail
___ Telecopy (Fax)

Michael C. Creamer
Givens Pursley
277 North 6th Street, Suite 200
P.O. Box 2720
Boise, ID 83701-2720

✓ U.S. Mail
___ Hand Delivered
___ Overnight Mail
___ Telecopy (Fax)

Tricia J. Tolsen

(Signature of Objector or attorney mailing on Objector's behalf

Dan & Irma McFaddan

PATRICK D. BROWN, P.C.
Law Offices
109 South Adams
Jerome, ID 83338
Telephone: (208) 644-1967
Facsimile: (208) 633-1970
ISB #4413

RECEIVED
OCT 31 2000
Department of Water Resources
Southern Region

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	)	**A.** Subcase 36-00049
	)	
Case No. 39576	)	**STANDARD FORM 2**
	)	**RESPONSE TO OBJECTION**
	)	
	)	

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: Dan and Irma McFaddan
Address: 17966 Hwy 30
Hagerman, ID 83332
Phone: (208) 837-4872

Name & Address of attorney, if any:

Patrick D. Brown
Patrick D. Brown, P.C.
109 S. Adams St.
Jerome, Idaho 83338
ph: (208) 644-1967
fax: (208) 644-1970

C. NAME AND ADDRESS OF PERSON WHO FILED THE OBJECTION(S) TO WHICH YOU ARE RESPONDING:

Name: Faulkner Land & Livestock Co.
Address: 1989 South 1875 East
Gooding, ID 83330
Phone (day) (208) 934-4956

Name & Address of attorney, if any:
Josephine P. Beeman
Dana L. Hofstetter
Beeman & Hofstetter, P.C.
688 West Franklin Street
P.O. Box 1427
Boise, ID 83701-1427
Ph. (208) 388-8900
Fx. (208) 388-8400

D. I AM RESPONDING TO THE OBJECTIONS TO THE FOLLOWING ELEMENTS. (PLEASE CHECK THE APPROPRIATE BOX(ES)).

1. [ ] Name and Address
2. [ ] Source
3. **[X] Quantity Should be combined diversion rate of 9.7 cfs.**
4. [ ] Priority Date
5. [ ] Point(s) of Diversion
6. [ ] Instream Flow Description
7. [ ] Purpose(s) of Use
8. [ ] Period of Year
9. [ ] Place of Use
11. **Recommendation**
    - [ ] This water right should not exist.
    - [ ] This water right was not recommended, but should be recommended with the elements described above.

Comments: The department has apparently reduced the combined rate because the spring flows are below the 9.7 cfs historically used.

E. VERIFICATION (Must be Completed)

STATE OF IDAHO)
) ss.
County of Jerome)

PATRICK D. BROWN, duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this response, as defined by I.C. 42-1401A(1) and (6) or that I am the attorney for the party/claimant responding and that I have read this response, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing response)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: 10-17-00.

(Seal) PATRICIA J. FAHRENHOLZ NOTARY PUBLIC STATE OF IDAHO

Notary Public for Idaho
Residing at: Twin Falls
My Commission Expires: 11-9-04

INSTRUCTIONS FOR MAILING

You must mail the response to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

F. CERTIFICATE OF MAILING

I certify that on October 17, 2000, I mailed the original and copies of this response, including all attachments, to the following persons:

1. Original to:

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

2. One copy to the claimant of the water right at the following address:

   Name: Dan and Irma McFaddan
   Address: 17966 Hwy 30
   Hagerman, ID 83332

3. One copy to the party who filed the objection at the following address:

   Name: Faulkner Land & Livestock Co.
   Address: 1989 South 1875 East
   Gooding, ID 83330

4. Copies to:

   United States Department of Justice
   Environment and Natural Resource Div.
   5550 West Fort Street, MSC 033
   Boise, ID 83724

   ✓ U.S. Mail
   ___ Hand Delivered
   ___ Overnight Mail
   ___ Telecopy (Fax)

   Peter J. Ampe
   Office of the Attorney General
   P. O. Box 44449
   Boise, ID 83711-4449

   ✓ U.S. Mail
   ___ Hand Delivered
   ___ Overnight Mail
   ___ Telecopy (Fax)

Idaho Dept. of Water Resources Document Depository P. O. Box 83720 Boise, ID 83701-0098	✓ U.S. Mail ___ Hand Delivered ___ Overnight Mail ___ Telecopy (Fax)
Nicholas Spencer Idaho Department of Water Resources 1301 North Orchard Street Boise, ID 83705 (208) 327-7866	✓ U.S. Mail ___ Hand Delivered ___ Overnight Mail ___ Telecopy (Fax)
Michael C. Creamer Givens Pursley 277 North 6th Street, Suite 200 P.O. Box 2720 Boise, ID 83701-2720	✓ U.S. Mail ___ Hand Delivered ___ Overnight Mail ___ Telecopy (Fax)
Josephine Dana Hofstetter Beeman & Hofstetter 608 W. Franklin St. P. O. Box 1427 Boise, ID 83701-1427	✓ U.S. Mail ___ Hand Delivered ___ Overnight Mail ___ Telecopy (Fax)

Signature of person mailing document

Dan & Irma McFaddan

PATRICK D. BROWN, P.C.
Law Offices
109 South Adams
Jerome, ID 83338
Telephone: (208) 644-1967
Facsimile: (208) 633-1970
ISB #4413

RECEIVED
OCT 31 2000
Department of Water Resources
Southern Region

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	)	**A. Subcase 36-00049**
	)	
Case No. 39576	)	**STANDARD FORM 2**
	)	**RESPONSE TO OBJECTION**
	)	
	)	

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: Dan and Irma McFaddan
Address: 17966 Hwy 30
Hagerman, ID 83332
Phone: (208) 837-4872

Name & Address of attorney, if any:

Patrick D. Brown
Patrick D. Brown, P.C.
109 S. Adams St.
Jerome, Idaho 83338
ph: (208) 644-1967
fax: (208) 644-1970

C. NAME AND ADDRESS OF PERSON WHO FILED THE OBJECTION(S) TO WHICH YOU ARE RESPONDING:

Name: Cranney Bros.
Address: 503 West 1300 South
Oakley, ID 83346
Phone (day) (208) 862-3346

Name and Address of attorney, if any:
Michael C. Creamer
Givens Pursley
277 North 6th Street, Suite 200
P.O. Box 2720
Boise, ID 83701-2720

D. I AM RESPONDING TO THE OBJECTIONS TO THE FOLLOWING ELEMENTS. (PLEASE CHECK THE APPROPRIATE BOX(ES)).

1. [ ] Name and Address
2. [ ] Source
3. **[X] Quantity Should be combined diversion rate of 9.7 cfs.**
4. [ ] Priority Date
5. [ ] Point(s) of Diversion
6. [ ] Instream Flow Description
7. [ ] Purpose(s) of Use
8. [ ] Period of Year
9. [ ] Place of Use
11. **Recommendation**
    - [ ] This water right should not exist.
    - [ ] This water right was not recommended, but should be recommended with the elements described above.

Comments: The department has apparently reduced the combined rate because the spring flows are below the 9.7 cfs historically used.

E. VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Jerome)

PATRICK D. BROWN, duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this response, as defined by I.C. 42-1401A(1) and (6) or that I am the attorney for the party/claimant responding and that I have read this response, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing response)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: 10-17-00

Patricia J. Fahrenholz

Notary Public for Idaho
Residing at: Twin Falls
My Commission Expires: 11-29-04

PATRICIA J. FAHRENHOLZ NOTARY PUBLIC STATE OF IDAHO

INSTRUCTIONS FOR MAILING

You must mail the response to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

F. CERTIFICATE OF MAILING

I certify that on October 17, 2000, I mailed the original and copies of this response, including all attachments, to the following persons:

1. Original to:

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

2. One copy to the claimant of the water right at the following address:

Name: Dan and Irma McFaddan
Address: 17966 Hwy 30
Hagerman, ID 83332

3. One copy to the party who filed the objection at the following address:

Name: Cranney Bros.
Address: 503 West 1300 South
Oakley, ID 83346

4. Copies to:

United States Department of Justice Environment and Natural Resource Division 5550 West Fort Street, MSC 033 Boise, ID 83724	✓ U.S. Mail ___ Hand Delivered ___ Overnight Mail ___ Telecopy (Fax)
Peter J. Ampe Office of the Attorney General P. O. Box 44449 Boise, ID 83711-4449	✓ U.S. Mail ___ Hand Delivered ___ Overnight Mail ___ Telecopy (Fax)
Idaho Dept. of Water Resources Document Depository P. O. Box 83720 Boise, ID 83701-0098	✓ U.S. Mail ___ Hand Delivered ___ Overnight Mail ___ Telecopy (Fax)

Nicholas Spencer
Idaho Department of Water Resources
1301 North Orchard Street
Boise, ID 83705
(208) 327-7866

✓ U.S. Mail
___ Hand Delivered
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Michael C. Creamer
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277 North 6th Street, Suite 200
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✓ U.S. Mail
___ Hand Delivered
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Josephine Dana Hofstetter
Beeman & Hofstetter
608 W. Franklin St.
P. O. Box 1427
Boise, ID 83701-1427

✓ U.S. Mail
___ Hand Delivered
___ Overnight Mail
___ Telecopy (Fax)

Tricia J. Fabrenkuz
Signature of person mailing.

RECEIVED
OCT 2 0 2000
Department of Water Resources

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)
)
)
)
)

A. Subcase 36-00049
(Insert water right number From the Objection Form)

RECEIVED
OCT 3 1 2000
Department of Water Resource
Southern Region

STANDARD FORM 2
RESPONSE TO OBJECTION

Please **print or type** the following information:

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: Faulkner Land & Livestock Company
Address: 1989 South 1875 East
Gooding, ID 83330
Daytime Phone: 208-934-4956

Name & Address of Attorney, if any:

Josephine P. Beeman
Dana L. Hofstetter
Beeman & Hofstetter, P.C.
608 West Franklin Street
P. O. Box 1427
Boise, ID 83701-1427
208-388-8900
Fax - 208-388-8400

C. NAME AND ADDRESS OF PERSON WHO FILED THE OBJECTION TO WHICH YOU ARE RESPONDING

Name: Dan and Irma McFaddan
Address: 17966 Highway 30
Hagerman, ID 83332

D. I am responding to the objections to the following elements. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
2. ☐ **Source**
3. ☒ **Quantity**
4. ☐ **Priority Date**
5. ☐ **Point(s) of Diversion**
6. ☐ **Instream Flow Description**
7. ☐ **Purpose(s) of Use**
8. ☐ **Period of Year**
9. ☐ **Place of Use**
11. **Recommendation**

☐ This water right should not exist.

☐ This water right was not recommended, but should be recommended with the elements described above.

E. **VERIFICATION** (Must be Completed)

State of Idaho)
) ss:
County of Ada)

Dana L. Hofstetter, duly sworn, upon oath, deposes and says:
(Name of person filing response)

That I am the party/claimant filing this response as defined by I.C. § 42-1401A(1) and (6) or that I am the attorney for the party/claimant responding and that I have read this response, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing response)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: October 19, 2000

JOYCE E. ANGELL NOTARY STATE OF IDAHO

Notary Public for the State of Idaho
Residing at: Boise, Idaho
My Commission Expires: 07-24-02

INSTRUCTIONS FOR MAILING

You must mail the response, including all attachments, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the patties listed below in the Certificate of Mailing.

F. CERTIFICATE OF MAILING

I certify that on October 19, 2000, I mailed the original and copies of this response, including all attachments, to the following persons:

1. Original to:

(hand delivery)

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

2. One copy to the claimant of the water right at the following address:

Name: Dan and Irma McFaddan
Address: 17966 Highway 30
Hagerman, ID 83332

3. One copy to the party who filed the objection at the following address:

Name: Patrick D. Brown (Certified Mail)
Address: 109 S. Adams Street
Jerome, ID 83338

4. Copies to:

IDWR Document Depository
P. O. Box 83720
Boise, ID 83720-0098

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

United States Department of Justice
Environment & Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Michael Creamer
Givens Pursley LLP
P. O. Box 2720
Boise, ID 83701-2720

Dana Hofstetter

Your signature or signature of attorney mailing on your behalf

09/13/2000

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

RIGHT NUMBER: 36-49

NAME AND ADDRESS: DAN H MC FADDAN
IRMA R MC FADDAN
17966 N HWY 30
HAGERMAN, ID 83332

SOURCE: FLORENCE LIVESTOCK SPRING TRIBUTARY: Billingsley Creek

QUANTITY: 6.58 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 8.18 CFS. COMBINED RIGHT NOS.: 36-00048A, 36-15538, 36-15532 & 36-15533

PRIORITY DATE: 04/01/1900

POINT OF DIVERSION: T07S R13E S12 SESENW Within GOODING County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	02-15 11-30	6.58 CFS
DOMESTIC	01-01 12-31	0.06 CFS
STOCKWATER	01-01 12-31	0.07 CFS

PLACE OF USE:

DOMESTIC Within GOODING County

T07S R13E S11	NESE		T07S R13E S11	SESE	

IRRIGATION Within GOODING County

T07S R13E S11	SENE	6	T07S R13E S11	NESE	36.5
T07S R13E S11	SESE	40	T07S R13E S12	NWSW	1
T07S R13E S12	SWSW	18	T07S R13E S12	SESW	1
T07S R13E S13	NENW	36	T07S R13E S13	NWNW	40

STOCKWATER Within GOODING County

T07S R13E S11	NESE		T07S R13E S11	SESE	

178.5 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NOS. 36-00048A & 36-15538 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 178.5 ACRES IN A SINGLE IRRIGATION SEASON

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

THE FOLLOWING WATER RIGHTS ARE ALSO DIVERTED THROUGH THE POINT OF DIVERSION DESCRIBED ABOVE. RIGHTS 36-00049, 36-02169, 36-15532, 36-15533 AND 36-15538

15532 — fish

15533 — Comm.

EXAM COPY

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: **A36-00049**
Date Received: 8/30/1988
Receipt No: S001892
Received By: _____

Exam 3/25/99 w/DW

New address

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

1. Name: IRMA R MC FADDAN 208-837-6649
   Address: RT 1 BOX 406
   HAGERMAN ID 83332
   AND/OR
   Name: DAN H MC FADDAN 208-837-6649
   Address: RT 1 BOX 406
   HAGERMAN ID 83332

17966 N Hiway 30

837-4872 Garden Center

2. Date of Priority: APR 1, 1900

3. Source: FLORENCE LIVESTOCK SPRING Trib. to: BILLINGSLEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
07S	13E	12	SE SE NW		GOODING

5. Description of diverting works:
   HAND DUG TUNNEL, CONCRETE HEAD WORKS, 20" PIPE, 16" PIPE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/01	11/15	9.700		
DOMESTIC	01/01	12/31	0.060		
~~COMMERCIAL~~	01/01	12/31	0.060		
STOCKWATER	01/01	12/31	0.070		
FISH PROPAGATION	01/01	12/31	0.600		

6.0 Data Entry Error NO

Receipt? OK as 6

1955 Aff. from Dick Cook

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

8. Total consumptive use is 535.5 Acre Feet Per Annum.

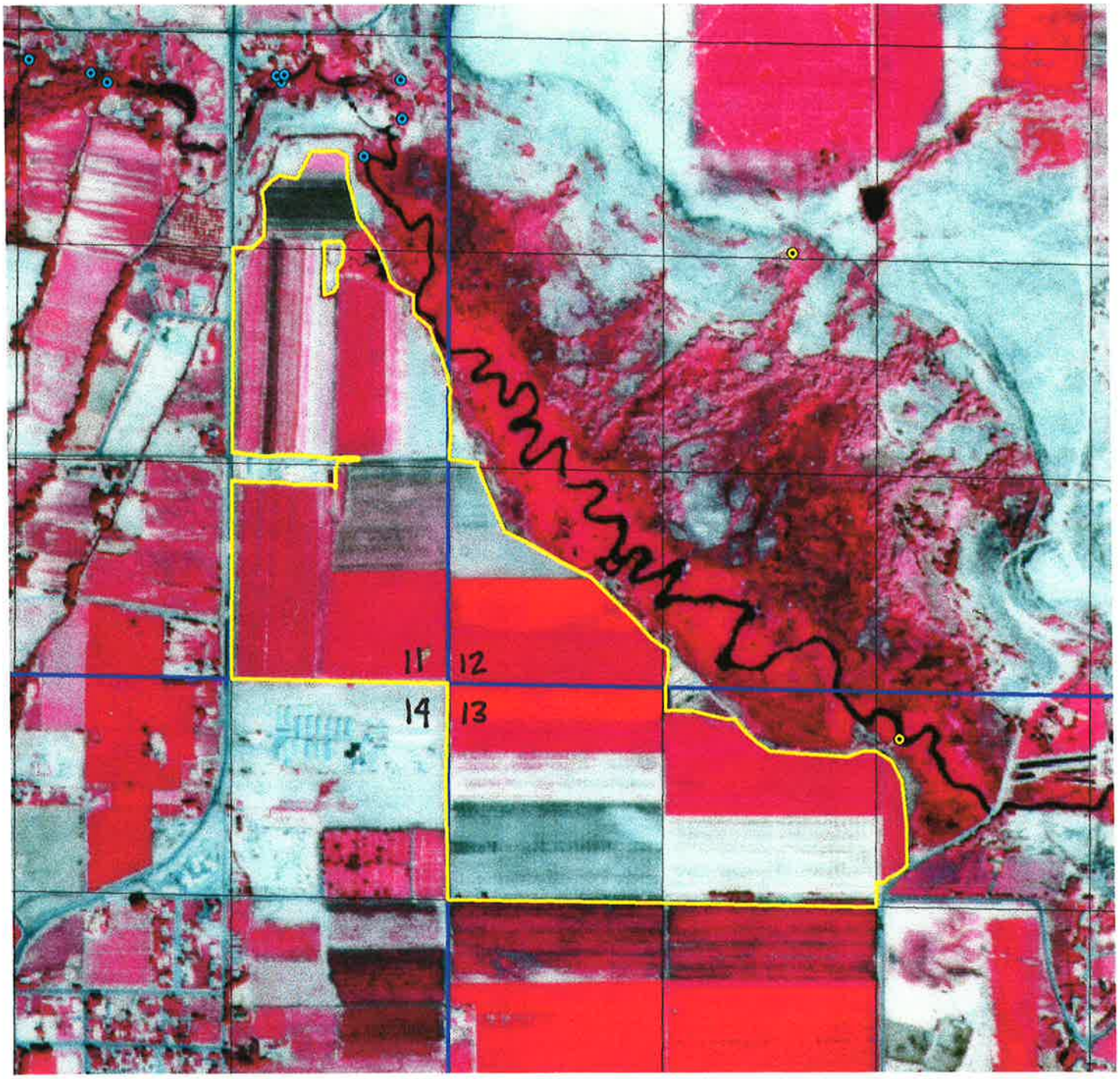
9. Non-irrigation uses:
   C,VEG. PROC. PLANT, MINT STILL; D,2 HOMES; S,250 BEEF; F,2 PONDS

Prof: 1967 aerial photo
Ken Ellis worked for clear Springs & used these ponds

Renumber to 10,000 series

IDAHO DEPT OF WATER RESOURCES

36-00048A & 36-00049



660 0 660 1320 Feet

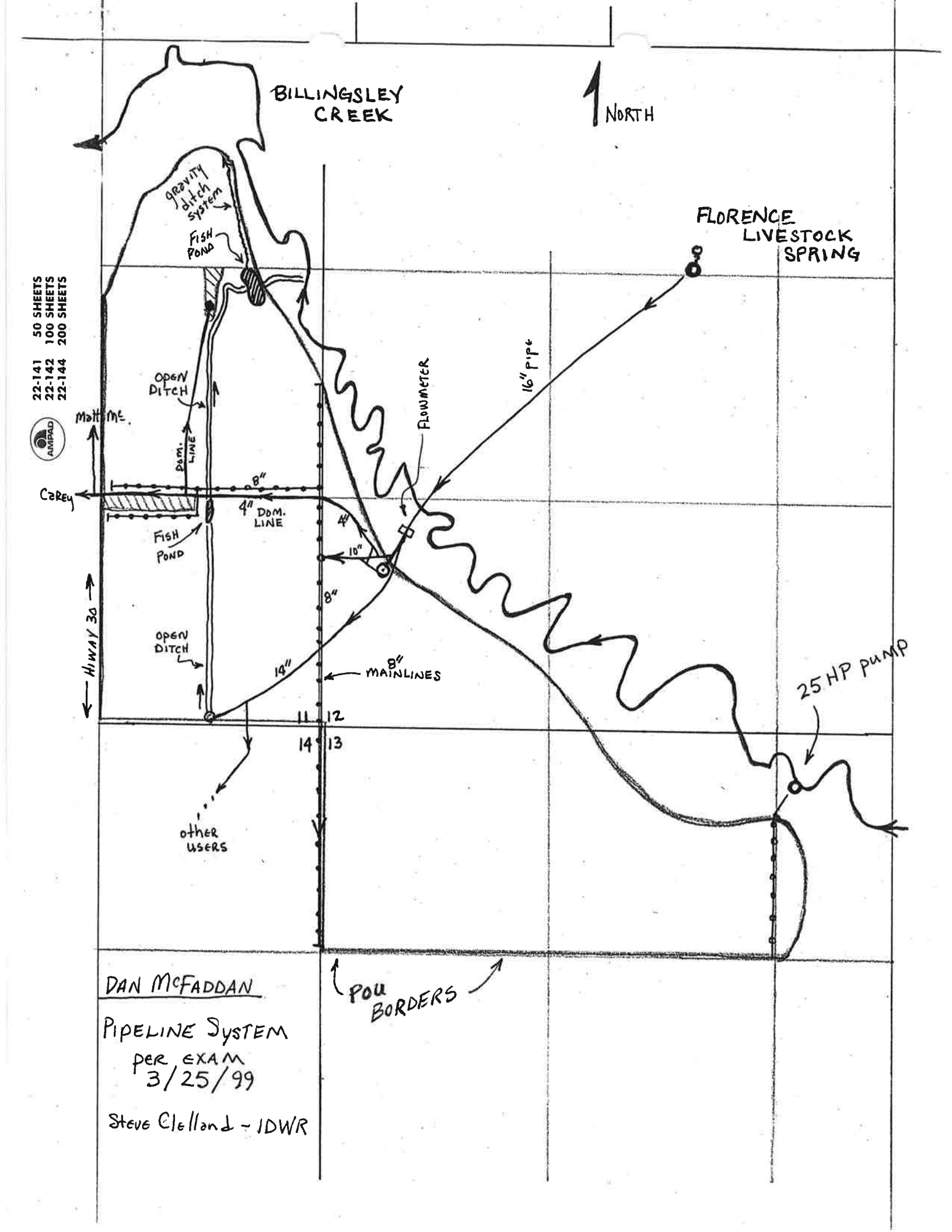
T07S R13E Sec. 11 & 12

N
W E
S

RECOMMENDED PLACE OF USE
POINT OF DIVERSION
SECTION LINES
1/4 - 1/4 LINES

GIS PLACE OF USE PRESENTATION
1987 &/OR 1988 NAPP PHOTOGRAPHY

DATA ENTRY BY: STEVE CLELLAND
DATE: MARCH 31, 1999


BILLINGSLEY CREEK
NORTH
gravity ditch system
FISH POND
FLORENCE LIVESTOCK SPRING
16" PIPE
FLOWMETER
OPEN DITCH
DOM. LINE
Matt Mc.
Carey
8"
4" DOM. LINE
4"
10"
FISH POND
8"
HIWAY 30
OPEN DITCH
14"
8" MAINLINES
25 HP PUMP
11
12
14
13
other USERS
POU BORDERS
DAN McFADDAN
PIPELINE SYSTEM
per EXAM
3/25/99
Steve Clelland - IDWR

CLAIM NUMBERS 36-00048A 36-00049 DATE 10/14/97

AGENT

TRANSFER NUMBER _____

OBJECTION FILED ✓

TOTAL ACRES FROM RECOMMENDATION 175.5

GEOGRAPHIC INFO SYSTEM 181.39

RIGHT NO	TNS	RNG	SEC	NE				NW				SW				SE				
				NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
RECOM	07S	13E	11				6									36.5			37	79.5
GIS							6.85									36.5			46.01	83.35
							+1												+3	
RECOM	07S	13E	12										1	18	1					20
GIS													1.14	23.99	.87					26
														+6						
RECOM	07S	13E	13					36	40											76
GIS								32.14	39.9											72.04
								-4												
RECOM																				
GIS																				

UPDATED

B36-DBPOU.DBF 569 ✓

B36-DBPOD.DBF 461, 577

POLYGON # UPDATED

POLYGON CREATED ON 604 (✓) _____

ATTRIBUTES OF B36-POU.SHP (569) _____

ATTRIBUTES OF B36-POD.SHP (577) NWNWNE-13

R36-00048A (461) SESENW-12

R36-00049 (7 Florence Tivistk Spr.)

P/U CONFLICT yes ( ) no (✓)

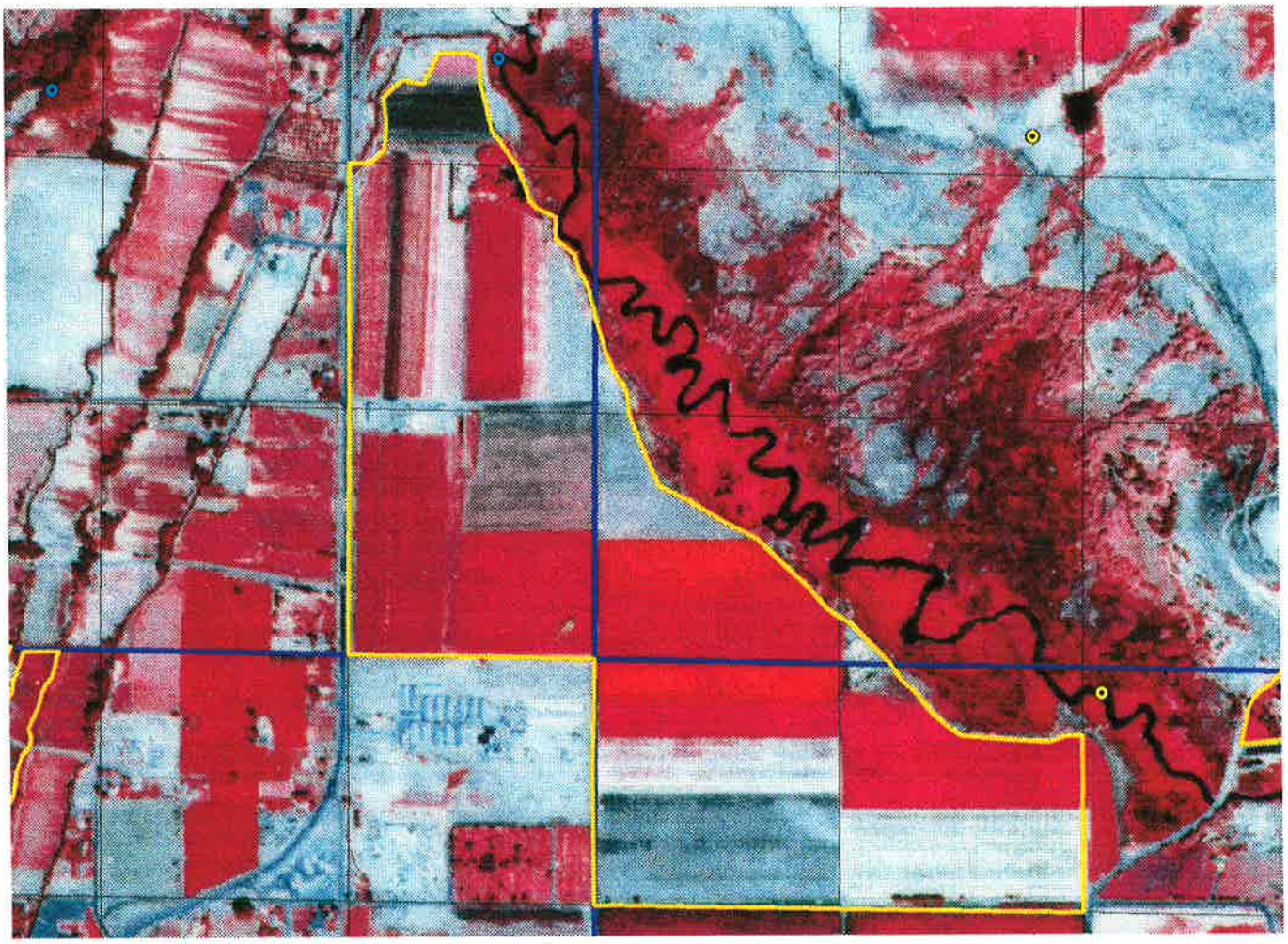
P/D CONFLICT yes ( ) no (✓)

READY FOR DECREE yes ( ) no ( )

SENT FOR DECREE yes ( ) no ( )

IDAHO DEPARTMENT OF WATER RESOURCES

36-00048A & 36-00049
DAN & IRMA MC FADDAN



TNS 7S, RNG 13E, SEC 11, 12, & 13

⊙ RECOMMENDED POINT OF DIVERSION

RECOMMENDED PLACE OF USE

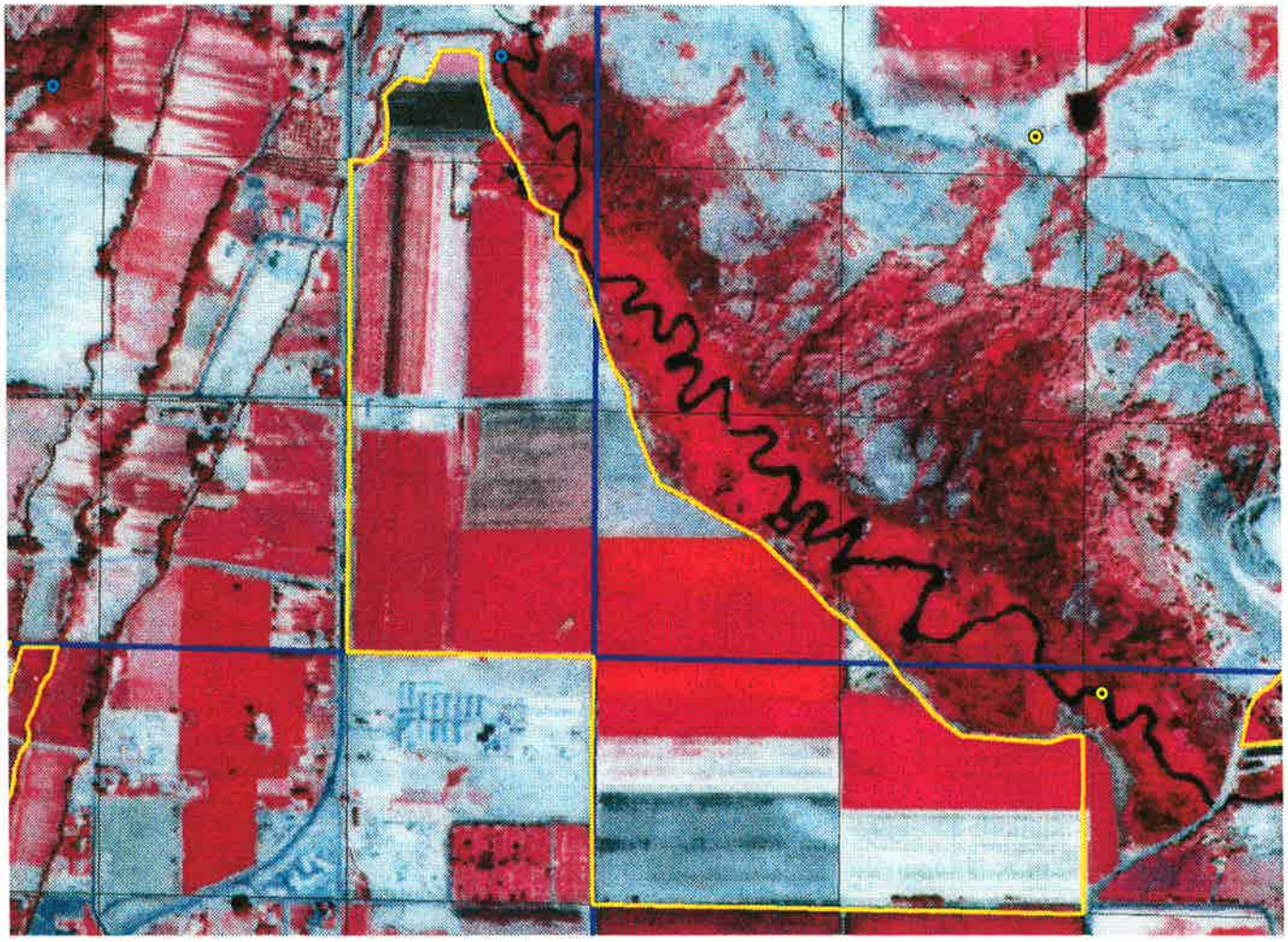
SECTION LINES

QUARTER/QUARTER LINES

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

IDAHO DEPARTMENT OF WATER RESOURCES

36-00048A & 36-00049
DAN & IRMA MC FADDAN



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W E
S

TNS 7S, RNG 13E, SEC 11, 12, & 13

RECOMMENDED POINT OF DIVERSION

RECOMMENDED PLACE OF USE

SECTION LINES

QUARTER/QUARTER LINES

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

SUBCASE NO. 36-00048A

	CLAIM (8/30/88)	AMENDED CLAIM	RECOMMENDATION	OBJECTION
NAME	Dan &/or Irma McFaddan	N/A	Dan McFaddan Irma McFaddan	
BASIS OF CLAIM	Decree		Decree	
SOURCE	Billingsley Creek		Billingsley Creek	
QUANTITY	10.000 cfs		1.04 cfs	XX Change to increase the quantity to that which was decreed &/or beneficially used, whichever greater.
PRIORITY DATE	11/04/1885		11/04/1885	
PURPOSE OF USE	Irrigation		Irrigation	
PERIOD OF USE	3/1 - 11/15		3/15 - 11/15	XX 1/1 -12/31
POINT OF DIVERSION	T07S R13E S13		T07S R13E S13	
PLACE OF USE	T07S R13E S11 T07S R13E S12 T07S R13E S13 178.5 acres		T07S R13E S11 T07S R13E S12 T07S R13E S13 175.5 acres	XX Add 3 acres.
REMARKS			+ see below	XX Strike all but first sentence.

Notes: IDWR, in its response, stated there was an error in the remarks and recommended the deletion of statements shown below in italics.

+ Right includes accomplished change in point of diversion pursuant to Idaho Code 42-1416A.
This right is limited to the irrigation of 104 acres within the place of use described above in a single irrigation season.
Use of this right with right no. 36-00049 is limited to a total combined diversion rate of 4.04 cfs, a total combined consumptive use volume of 526.5 af, and to the irrigation of a combined total of 175.5 acres in a single irrigation season.
The number of irrigated acres for this right was determined based on a diversion rate of 0.02 cfs per acre at the field headgate.

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. A36-00048 &
A36-00049 & A36-02169

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

IDWR Employee/Agent Steve Clelland

March 12, 1996 9:54am

NAME:		RE:
JULIE FISHER	**CALLIN - GIVENS/PURSLEY**	**MIKE CREAMER ACTIONS**

SHE IS PREPARING MOTION TO CONSOLIDATE AND HAD SOME QUESTIONS ON THE RELATIONSHIP BETWEEN **36-00048, 36-00049 & 36-02169.** I SUGGESTED THE 48 & 49 RIGHTS BE COMBINED BUT THE 2169 IS FOR THE BED AND BREAKFAST HOUSE ACROSS THE HIWAY AND SHOULD BE SEPARATE. IT COMES FROM THE SAME SOURCE BUT WILL BE RESOLVED AFTER THE MAIN FARM ISSUES.

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Department of Water Resources
Adjudication Bureau

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OFFICE OF THE ATTORNEY GENERAL

1995 DEC 21 PM 1:55
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

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JAN 10 1996
Department of Water Resources
Southern Region

In Re SRBA

Case No. 39576

Subcase Nos.: 36-00021B (36-00021) 36-00039D, 36-00048A, 36-00049, 36-00051A, 36-02169, 36-04260B, 36-10283A and 36-15168

AMENDED ORDER DENYING MOTIONS TO STRIKE AFFIDAVITS and ORDER GRANTING MOTIONS TO FILE LATE RESPONSES

On August 18, 1995, Cranney Bros. filed its *Motion to File Late Responses* (Cranney *Motion*) in five of the above subcases: 36-00039D, 36-00048A, 36-00049, 36-02169 and 36-04260B.[1] Attached to the Cranney *Motion* was its *Brief in Support of Motion to File Late Responses*. The same date, Cranney Bros. lodged responses to objections in each of the five subcases.

On August 18, 1995, May Farms, Ltd. (May Farms), Sand Springs Ranch Partnership (Sand Springs) and Faulkner Land & Livestock Company (Faulkner) filed their *Motions to FileLate Responses*[2] (May Farms, Sand Springs and Faulkner *Motions*) in six of the above

[1] The claimants/objectors in these five subcases are: Fred and Susan Walmsley (36-00039D); Dan and Irma McFaddan (36-00048A, 36-00049 and 36-02169); and Robert H. Brailsford (36-04260B).

[2] Amended May Farms *Motions* in Subcase Nos. 36-00021B and 36-10283A were filed on September 12, 1995.

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Motions to File Late Responses

The Movants argue that they meet the criteria of Judge Hurlbutt's July 28, 1995 Order: (1) they filed their pending motions in a timely manner and attached completed responses; (2) they have shown good cause for not filing responses in a timely manner; (3) they have demonstrated the existence of a meritorious position; and (4) they do not seek to enlarge or add to existing issues. In support of their allegation of "good cause," all three Movants suggest that they chose not to file responses in a timely manner because they relied upon IDWR to "defend" the Director's Report. Now that the Director's Report is no longer a pleading and IDWR and the Director are no longer parties, they seek to file late responses in all nine subcases.

There is no question that the pending motions were filed in a timely manner and completed responses were attached. It is also clear that the Movants do not seek to enlarge nor add to existing issues. Almost any element they might have chosen to respond to was objected to by the Claimants. So, the issues are whether good cause and a meritorious position have been shown.

The court is satisfied that the Movants have shown both good cause for untimeliness and the existence of a meritorious position. It was reasonable for them to rely upon the Director to investigate all SRBA water claims and defend his findings in strict accord with Idaho water laws. When IDWR and its Director were removed as parties by the Legislature, it was also reasonable for the Movants to suspect that some claims might result in excessive rights. After all, at the time the *Motions* were filed, no subcase had proceeded to a full hearing before the Special Master.

The fact that the Movants chose these particular subcases to intervene is no accident. These subcases concern water claims in the Hagerman Valley where the *Musser*[6] case arose. Right or wrong, the Movants were concerned that future "calls," as happened in that case, *might* impact their farm operations. Given the information generally available to water users, their concern was understandable. It made no difference that none of the Movants knew details in the Director's Report or specific facts about the Claimants' water uses.

Having said that, the court feels compelled to remind the Movants and Claimants of Rule 11(a)(1), Idaho Rules of Civil Procedure:

---

6 *Musser* v. *Higginson*, 125 Idaho 392, 871 P.2d 809 (1994).

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> The signature of an attorney or party constitutes a certificate that the attorney or party has read the pleading, motion or other paper; that to the best of the signer's knowledge, information, and belief after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, **and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation** [emphasis added].

Therefore, IT IS ORDERED that the Claimants' *Motions to Strike Affidavits* are **denied**. It is further ordered that the Cranney *Motion to File Late Responses* and the May Farms, Sand Springs and Faulkner *Motions* and *Amended Motions to File Late Responses* are **granted**. However, participation of Cranney Bros., May Farms, Sand Springs and Faulkner shall be limited to litigation of those elements in the Director's Report to which the Claimants have objected and to which IDWR has responded. They may not enlarge or add to existing issues. Responses previously lodged with the court by Cranney Bros., May Farms, Sand Springs and Faulkner are deemed filed as of December 12, 1995.

DATED December 21, 1995.

Terrence A. Dolan
Special Master, Reporting Area 3
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the **(AMENDED) ORDER DENYING MOTIONS TO STRIKE AFFIDAVITS** and **ORDER GRANTING MOTIONS TO FILE LATE RESPONSES** was mailed December 21, 1995, with sufficient first-class postage to the following:

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

Patrick D. Brown
Hepworth, Lezamiz & Hohnhorst
P.O. Box 389
Twin Falls, ID 83303-0389

Josephine P. Beeman
Dana L. Hofstetter
Dillon, Bosch, Daw & Bock, Chartered
Suite 200
242 North 8th Street
Boise, ID 83720

Jeffrey C. Fereday
Givens, Purlsey & Huntley
P.O. Box 2720
Boise, ID 83701

Brent R. King
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Courtesy copies to:

Daria J. Zane
R. Lee Leininger
William M. Ferry
The United States Department of Justice
Environment & Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724-0663

Cheri C. Jacobus
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

Deputy Clerk

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AUG 2 1 1995
OFFICE OF THE
ATTORNEY GENERAL

Party's Name: Cranney Bros.

Attorneys' Names and Address
Jeffrey C. Fereday
Michael C. Creamer
GIVENS PURSLEY & HUNTLEY LLP
277 North 6th Street, Suite 200
P.O. Box 2720
Boise, Idaho 83701-2720
(208) 342-6571
(208) 343-9492 (facsimile)

RECEIVED
JAN 10 1996
Department of Water Resources
Southern Region

RECEIVED
AUG 2 2 1995
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: SRBA	Subcase No. 36-00049
Case No. 39576	RESPONSE TO McFADDAN OBJECTION
	(Standard Form 2)

I. GENERAL INFORMATION

1. Person responding to objection:

Name: Cranney Bros.

Address: c/o Mike Cranney
Route 1, Box 44A
Oakley, ID 83346

Briefly describe your interest in this water right:

Cranney Bros. ("Cranney") is a holder of ground water rights in the Snake Plain Aquifer which may be affected by the exercise of the rights claimed by Dan H. and Irma R. McFaddan ("claimant") in this matter, and by the outcome of this case as to the factual and legal issues claimant asserts in its objection.

2. Person who filed objection:

Name: Dan H. and Irma R. McFaddan

Address: Route 1, Box 406
Hagerman, ID 83332

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3. If this response is filed by an attorney:

Attorney Name(s): Jeffrey C. Fereday

Attorney Address: GIVENS PURSLEY & HUNTLEY LLP
277 North 6th Street, Suite 200
P.O. Box 2720
Boise, Idaho 83701-2720

Attorney Phone No.: (208) 342-6571

II. STATEMENT OF THE RESPONSE

3. ☑ Quantity: I respond to the objection concerning:

3a. ☑ The total quantity of water used in cubic feet per second.

3b. ☑ The total quantity of water stored in acre feet per year.

7. ☑ Purposes of Use: I respond to the objection concerning the purpose(s) of use.

8. ☑ Period of Year: I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.

9. ☑ Place of Use: I respond to the objection concerning: -

9a. ☑ The legal description of the place of use.

10. ☑ Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.

11. ☑ Remarks: I respond to the objection concerning the "remarks" listed with the water right.

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

All matters raised in the claimant's answer, affirmative defenses, and prayer for relief.

REASONS SUPPORTING EACH BOX CHECKED

The following reasons are stated upon Cranney's information and belief:

In response to Statement of Objections 3 and 3.a., and all allegations of the objection regarding those items, Cranney responds as follows: (1) the Idaho Department of Water Resources ("IDWR") recommended the amount of water it

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determined was being beneficially used; and (2) the claimant is not entitled to any amount greater than that which is beneficially used.

In response to the claimant's allegations contained in Objection item 3.b, Cranney responds as follows: Although this item was identified as a basis for objection, no reason for the objection was stated. Cranney further responds that the recommended water right was not claimed, and therefore could not be recommended, as a storage right either in whole or in part. The claimant's objection to this item appears to be in error.

In response to the claimant's allegations contained in Objection item 7, Cranney responds that IDWR recommended the same purpose or purposes of use that were identified on the notice of claim. By identifying in the objection (under requested Changes to the Director's Report) an additional use (for aesthetics) that the claimant did not list on the notice of claim, the claimant improperly seeks to use the objection process to amend the claim. Cranney further responds that fish propagation or commercial uses, if approved under this right, would be illegal enlargements or expansions of use under the decreed right claimed.

In response to the claimant's allegations contained in Objection item 8, Cranney responds as follows: The decree asserted by the claimant does not specify a period of use for this water right. Idaho law requires IDWR to determine the period of use of each water right acquired under state law that is recommended in the director's report. The irrigation season of use cannot exceed the period in which water may be beneficially used. IDWR has developed irrigation season of use standards for various climatic areas throughout the state based on certain determinations, and has concluded that the period of the year during which this water right may be used is consistent with the standard irrigation season of use for the area in which the place of use of this water right is located. Cranney acknowledges that water may be used for irrigation outside the standard season of use, subject to beneficial use and the conditions set forth in general provision 12b of the director's report.

Cranney further responds that for each use recommended, IDWR has recommended a reasonable season of use. By now seeking to include a year-round season of use for irrigation, the claimant improperly seeks to use the objection process to amend the claim and asserts a period of use beyond which water can be beneficially used for irrigation.

In response to Statement of Objections 9 and 9.a., and all allegations of the objection regarding those items, Cranney responds that IDWR has stated, in the director's report, that the recommended water right accurately describes the place of use of the right.

In response to Statement of Objection 10 and all allegations of the objection regarding that item, Cranney responds as follows: (1) The decree asserted by the claimant did not set an annual volume of consumptive use for this water right. (2) Idaho law requires the director to determine the annual volume of consumptive use for each water right acquired under state law and recommended in the director's report. (3) The annual volume of consumptive use recommended for this right is 3

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acre feet per acre, which is the maximum volume of water consumed by the most water consumptive crop (pasture) that can be grown in the area during the period of year when water is used for irrigation, as provided for by Idaho Code Sec. 42-1401A(2).

In response to Statement of Objection 11, and all allegations of the objection regarding that item, Cranney responds that the Department of Water Resources has authority pursuant to Idaho Code § 42-1411 to include in its recommendations of water rights, and recommended in the director's report, remarks and other matters that are necessary to define, clarify, or administer the right, or other matters as are necessary to define the right.

In response to Statement of Objection 14, and all allegations of the objection regarding that item, see "Response to Claimant's Affirmative Defenses," below.

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," Cranney responds that, 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.

RESPONSE TO CLAIMANT'S AFFIRMATIVE DEFENSES

Responding to the 27 affirmative defenses asserted in the attachment to claimant's objection, Cranney notes that these are assertive against IDWR. To the extent these are still being pressed by the claimant, Cranney generally denies each affirmative defense asserted. Cranney further responds that those affirmative defenses 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, Cranney asserts that those affirmative defenses should be stricken.

CHANGES TO THE DIRECTOR'S REPORT

Cranney 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.

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VERIFICATION

STATE OF IDAHO)
: SS
COUNTY OF ADA)

Mike Cranney, being first duly sworn, upon oath, deposes and says:

I am a principal in Cranney Bros., a party to this proceeding, as defined by I.C. 42-1401A(1) and (7); that Jeffrey C. Fereday is my attorney in fact for these matters and is authorized to verify this response; and 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.

CRANNEY BROS.

By: _____

GIVENS PURSLEY & HUNTLEY LLP

By: Jeffrey C. Fereday
Jeffrey C. Fereday, Attorney signing in representative capacity

Subscribed and sworn to before me this 17 day of August, 1995.

JULIE BEST-GILSTER
☆ NOTARY PUBLIC ☆
STATE OF IDAHO

Julie Best-Gilster
Notary Public for Idaho
Residing at: Nampa, Idaho
My commission expires: 4-21-2001

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DEC 04 1996

CERTIFICATE OF SERVICE

I certify that on August 17, 1995, I caused to be served a true and correct copy of the foregoing *RESPONSE TO McFADDAN OBJECTION (No. 36-00049)* to each of the persons named below by the method indicated below each of their names.

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449
☒ U.S. Mail ☐ Fax ☐ By Hand ☐ Overnight

Environment & Natural Resources Div.
United States Department of Justice
550 West Fort Street, Box 033
Boise, ID 83724
☒ U.S. Mail ☐ Fax ☐ By Hand ☐ Overnight

Patrick D. Brown, Esq.
Hepworth, Lezamiz & Hornhorst, Chtd
133 Shoshone Street North
P. O. Box 389
Twin Falls, ID 83303-0389
☒ U.S. Mail ☐ Fax ☐ By Hand ☐ Overnight

Jeffrey C. Fereday

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OFFICE OF THE
ATTORNEY GENERAL

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JAN 10 1996
Department of Water Resources
Southern Region

Party's Name: Faulkner Land & Livestock Company

Attorney's Name and Address
Josephine P. Beeman
DILLION BOSCH DAW & BOCK Chtd.
Fidelity Building
242 N. 8th Street, Suite 200
Boise, Idaho 83702

RECEIVED
AUG 24 1995
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: SRBA	)	Subcase No. 36-00049
	)	
Case No. 39576	)	**MOTION TO FILE LATE RESPONSE TO McFADDEN OBJECTION**
	)	
	)	

DESCRIPTIVE SUMMARY

Faulkner Land & Livestock Company seeks to file a late response to the McFadden objection to water right 36-00049 as recommended in the Director's Report Part I for reporting area 3 (basin 36).

MOTION TO FILE LATE RESPONSE

Faulkner Land & Livestock Company seeks to participate as a full party in subcase 36-00049 and files this motion and the attached Response to McFadden Objection pursuant to the July 28, 1995 order of Judge Hurlbutt. The July 28 order states, "it is necessary to provide a mechanism for parties to participate in subcases where participation is required due to the removal of the Director and IDWR as a party and the change in the status of the Director's Report as a pleading."

The Motion is supported by a Memorandum in Support of Late Response (McFadden) and affidavits which accompany the Memorandum and Response.

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DATED this 16 day of August, 1995.

/S/
JOSEPHINE P. BEEMAN

CERTIFICATE OF MAILING

I hereby certify that on the 18th day of August, 1995, I mailed the original and copies of the foregoing motion, 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. Copies to:

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

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

Patrick D. Brown
HEPWORTH LEZAMIZ & HOHNHORST, Chtd.
P.O. Box 389
Twin Falls, ID 83303-0389

/S/
JOSEPHINE P. BEEMAN

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DEC 04 1996

Movant's Name
Faulkner Land & Livestock Company

Attorney's Name & Addresses
JOSEPHINE P. BEEMAN
C. A. DAW
Dillion, Bosch, Daw & Bock
Chartered
Fidelity Building
242 N. 8th St., Suite 200
Boise, ID 83702
Tel. (208) 344-8990
Fax. (208) 344-9140

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. 36-00049
	)	
Case No. 39576	)	**AFFIDAVIT OF JOSEPHINE BEEMAN**
	)	
	)	
	)	

Josephine Beeman, duly sworn on oath, states as follows:

1. I am the attorney for Faulkner Land & Livestock Company, the Movant in this matter

2. Attached are true and correct copies of documents maintained by the Idaho Department of Water Resources with respect to SRBA claim 36-00049.

DATED: August 18, 1995

/s/
Josephine Beeman

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STATE OF IDAHO)
) ss
County of Ada)

Subscribed and sworn before me on August 18, 1995.

/s/
Notary Public for Idaho
Residing at Boise, Idaho
Commission Expires: _____

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DEC 04 1996

Party's Name: Faulkner Land and Livestock Company

Attorney's Name and Address
Josephine P. Beeman
DILLION BOSCH DAW & BOCK Chtd.
Fidelity Building
242 N. 8th Street, Suite 200
Boise, Idaho 83702

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. 36-00049
Case No. 39576	)	
	)	RESPONSE TO McFADDEN
	)	OBJECTION

I. GENERAL INFORMATION

1. Person responding to objection:

   Name: Faulkner Land and Livestock Company

   Address: 1989 South 1875 East
   Gooding, Idaho 83330

   Briefly describe your interest in this water right:

   Faulkner Land and Livestock Company, an Idaho corporation, is a water claimant in reporting area 3 (Basin 36) who diverts from a common aquifer with McFadden.

2. Person who filed objection:

   Name: Dan H. And Irma R. McFadden

   Address: Route 1, Box 406
   Hagerman, ID 83332

3. If this response is filed by an attorney:

   Attorney Name: Josephine P. Beeman

MICROFILMED
DEC 04 1996

Attorney Address: DILLION BOSCH DAW & BOCK Chtd.
Fidelity Building
242 N. 8th Street, Suite 200
BOISE, ID 83702

Attorney Phone No.: (208) 344-8990

II. STATEMENT OF THE RESPONSE

3. ☒ Quantity: I respond to the objection concerning:

   a. ☒ the total quantity of water used in cubic feet per second; or

8. ☒ Period of Year: I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.

9. ☒ Place of Use: I respond to the objection concerning:

   a. ☒ the legal description of the place of use; or

10. ☒ Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.

11. ☒ Remarks: I respond to the objection concerning the "remarks" listed with the water right.

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

All matters raised in the claimant's answer, affirmative defenses, and prayer for relief.

REASONS SUPPORTING EACH BOX CHECKED

A. Statement of Objections 3 and 3a. In response to Statement of Objections 3 and 3.a., and all allegations of the objection regarding those items, Faulkner Land and Livestock Company responds as follows: (1) it recommended the amount of water it determined was being beneficially used; (2) the claimant is not entitled to any amount greater than that which is beneficially used (Idaho Code Secs. 42-104 and 42-1402); (3) the recommendation of the Director to the SRBA Court

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as to how the right shou.. ..e decreed does not constitute a taking b.. ..ause it is simply a recommendation and not a final determination of the right; and (4) the eventual decree by the SRBA Court of the amount of water beneficially used, even if less than the amount previously decreed, will not constitute a taking because the right is limited to that amount beneficially used.

B. Statement of Objection 3.b. In response to Statement of the Objection item 3.b, and all allegations of the objection regarding that item, Faulkner Land and Livestock Company responds as follows: Although this item was identified as an item being objected to, no reason for the objection was stated. Faulkner Land and Livestock Company further responds that the recommended water right was not claimed, and therefore could not be recommended, as a storage right either in whole or in part. The claimant's objection to this item is in error.

C. Statement of Objection 7. In response to Statement of the Objection item 7, and all allegations of the objection regarding that item, Faulkner Land and Livestock Company responds that it recommended irrigation, domestic, and stockwater uses that were identified on the notice of claim and that were found when the claim was investigated. By identifying in the objection aesthetics as an additional use that the claimant did not list on the notice of claim, the claimant improperly seeks to use the objection process to amend the claim. A claimant must obtain leave of the court to amend a claim after a Director's report is filed, just as a party must obtain leave of the court to file a late claim after the Director's report is filed. Once leave of the court is granted, Faulkner Land and Livestock Company can investigate the amended claim and make an appropriate recommendation to the court. Faulkner Land and Livestock further responds that it did not recommend fish propagation or commercial as purposes of use because those uses were found to constitute an expansion of use to which neither Idaho Code section 42-1416 nor 42-1416A apply.

D. Statement of Objection 8. In response to Statement of the Objection item 8, and all allegations of the objection regarding this item, Faulkner Land and Livestock Company responds as follows: The decree asserted by the claimant does not contain a period of use decreed for this water right. Idaho Code 42-1411(2)(g) requires the Director to determine the period of use of each water right acquired under state law that is recommended in the Director's report. Faulkner Land and Livestock Company has developed irrigation season of use standards for various climatic areas throughout the state based on a 75% chance of a 24 degree Fahrenheit frost. The irrigation season of use cannot exceed the period in which water may be beneficially used. The period of the year

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

Faulkner Land and Livestock Company further responds that for each use recommended it recommended the same season of use that was claimed. By now seeking a year around season of use for irrigation the claimant improperly seeks to use the objection processes to amend the claim. A claimant must obtain leave of the court to amend a claim after a Director's report is filed, just as a party must obtain leave of the court to file a late claim after the Director's report is filed. Once leave of the court is granted, Faulkner Land and Livestock Company can investigate the amended claim and make an appropriate recommendation to the court.

E. Statement of Objections 9 and 9a. In response to Statement of the Objection 9 and 9.a., and all allegations of the objection regarding those items, Faulkner Land and Livestock Company responds that the recommended water right accurately describes the place of use of the right.

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

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than the amount previously decreed, will not constitute a taking because the right is limited to that amount beneficially used.

G. Statement of Objection 11. In response to Statement of the Objection item 11, and all allegations of the objection regarding that item, Faulkner Land and Livestock Company responds as follows: There is an error in the remarks in description of this right in the Director's report. The recommendation should be corrected as shown in the attachment entitled "Recommended Water Rights Acquired under State Law". In further response to this objection item, Faulkner Land and Livestock Company responds as follows: As to the remaining remarks, it has authority pursuant to Idaho Code Sec. 42-1411(2)(j) to include in its recommendations of water rights acquired under state law and recommended in the Director's report "such other matters as are necessary to define the right." The remark or remarks objected to are necessary to adequately describe and define this water right.

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

I. General Objection. 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," Faulkner Land and Livestock Company 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. 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.

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CHANGES TO THE DIRECTOR'S REPORT

Faulkner Land and Livestock Company 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:

Faulkner Land and Livestock Company's Response to Answer, Affirmative Defenses and Prayer for Relief of Claimant.
Notice of Claim No. A36-0049 to the extent available to Faulkner Land and Livestock Company. The two photocopy pages remaining in the file show multiple staple marks indicting the claim may have been photocopied many times. The two photocopy pages were all that remained on January 21, 1993, when the documents in the file were microfilmed.

VERIFICATION

State of IDAHO)
: SS
County of ADA)

Mike Faulkner being first duly sworn, upon oath, deposes and says:

I am a principal in Faulkner Land and Livestock Company, a party to this proceeding, as defined by I.C. § 42-1401A(1) and (7); that Josephine P. Beeman is my attorney in fact for these matters and is authorized to verify this response; and 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.

FAULKNER LAND AND LIVESTOCK COMPANY

By: /s/

DILLION BOSCH DAW & BOCK, Chtd.

By: /s/
Josephine P. Beeman, Attorney signing in Representative capacity

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Subscribed and sworn to before me this 18th day of August, 1995.

/S/
Notary Public for _____
Residing at: _____
My Commission expires: _____

CERTIFICATE OF MAILING

I hereby certify that on the 18th day of August, 1995, 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 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. Copies to:

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

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

Patrick D. Brown
HEPWORTH LEZAMIZ & HONHORST, Chtd.
P.O. Box 389
Twin Falls, ID 83303-0389

/S/
JOSEPHINE P. BEEMAN

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MOVANT'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)

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(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).

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In response to each of the items enumerated above Movant responds that pursuant to Section 4 a.(2)(c) of SRBA Administrative Order 1, Rules of Procedure, Movant generally denies each and every allegation, if any, contained in each enumerated portion of the attachment. Movant affirmatively responds that neither SRBA Administrative Order 1, Rules of Procedure, nor Title 42, Chapter 14, Idaho Code, make provision for Movant to affirm, amplify, or otherwise respond to the claimant's admissions, or to deny the claimant's denials, and that Movant 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, Movant further responds as follows:

Movant 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 Movant 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, Movant 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, Movant generally denies each and every affirmative defense asserted. Movant further responds that affirmative

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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, Movant 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, Movant responds as follows:

1. Movant 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. Movant 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. Movant denies that any acts upon its part constitute the taking of private property for which just compensation should be allowed and awarded.

4. Movant denies that the claimant is entitled to recover court costs and reasonable attorney fees.

5. Movant denies that the claimant by this objection has raised any claims 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.

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Movant's Name
Faulkner Land & Livestock

Attorney's Name & Address
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	Case No. 36-00049
	)	
Case No. 39576	)	**MEMORANDUM IN SUPPORT**
	)	**OF MOTION TO FILE LATE**
	)	**RESPONSE (McFaddan)**
	)	

INTRODUCTION

Faulkner Land and Livestock Company, an Idaho corporation, (Faulkner) submits this memorandum in support of its Motion to File Late Response. The Motion seeks the Court's permission to enter a late response on the objection of Dan McFaddan ("McFaddan") to the Director's Report regarding WR # 36-00049. The Court's Order of July 28, 1995, ("July 28th Order") regarding the Joint Motions for Amending Administrative Order 1 and for Expedited Hearing indicates that such motions may be made within 21 days of the July 28th Order. Faulkner's motion is made within the 21 days and is accordingly timely.

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The Court's July 28th Order also indicates that such motions will be granted or not according to criteria similar to those prevailing under I.R.C.P. 55(c) for setting aside a default (i.e. showing both good cause for untimeliness and the existence of a meritorious position.).

FACTUAL SITUATION

The Court's July 28th Order states the factual situation with respect to the basis for entry of the late response to objection by Faulkner:

> The removal of IDWR and the Director as a party to the SRBA and all subcases necessitates special considerations for some parties to the adjudication. . . Based on the pleadings and party status of IDWR prior to the 1994 amendments to the SRBA statutes, some parties decided not to participate in certain subcases, choosing instead to rely on the Director's report and IDWR's defense of its pleading. . . Those parties who opted to rely on IDWR to litigate and advocate in favor of the Director's Report are unable to do so. Therefore it is necessary to provide a mechanism for parties to participate in subcases where participation is required due to the removal of the Director and IDWR as a party and the change in the status of the Director's Report as a pleading.

Movant is a party who relied on the IDWR to defend the Director's Report. See Affidavit of Mike Faulkner, _____ of Faulkner Land and Livestock Company.

The McFaddan case is one of the prototype contested subcases in the SRBA. However, there has been no significant progress in the case. There is no trial setting in the case and there has been no effort by any party to bring the McFaddan objection to trial. There is no discovery in the file and no indication that any progress has been made on the case by either McFaddan or the Department (prior to the 1994 statutory amendments removing the Department as a party.)

McFaddan has objected to the Director's Report with respect to its water right number 36-00049A in Basin 36. The source of the water is Billingsley Creek. The water right has a claimed

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priority date of April 1, 1900, 1881. The differences between the Director's Report and McFaddan's objection are significant. The IDWR file for 36-00049 shows that Dan H. Mc Faddan and Irma R. McFaddan (McFaddan) claimed 9.7 cfs ((50inches/cfsx9.7 cfs) = 485 inches) for irrigation of 178.5 acres. This is equivalent to 2.72 inches to the acre (485 inches/178.5 acres = 2.72 inches to the acre). Following a field examination of the McFaddan property and diversion works, the Director recommended 4.04 cfs ((50 inches/cfs x 4.04) = 202 inches) for irrigation of 175.5 acres. This is equivalent to 1.15 inches to the acre. (202 inches/175.5 acres = 1.15 inches to the acre). Mc Faddan claimed a season of use for irrigation from March 1 to November 15 and the Director recommended March 15 to November 15. The Mc Faddan objection asks that the period of use be year round for irrigation. McFaddan's claim is in excess of the beneficial use of the water, Cf: IDAHO CODE § 42-220.. Reputable studies, including the Department's, indicate that the statutory standard of one inch per acre is sufficient, on average, to irrigate property such as McFaddan's. These facts, if established, would consitute a meritorious defense to the McFaddan objection.

LEGAL BASIS FOR PERMITTING Faulkner' LATE RESPONSE

I. CRITERIA FOR PERMITTING LATE RESPONSE.

The Court's July 28th Order indicates that the criteria for determining whether to permit the late response will be similar to those under which motions under I.R.C.P. 55(c) to set aside a default will be determined. Such motions are within the sound discretion of the trial court and will not be reversed on appeal unless an abuse of discretion clearly appears. *Clear Springs Trout Company v. Anthony*, 123 Idaho 141, 845 P.2d 559 (1992). Judgments by default are not favored and there is a

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preference for setting them aside so that cases can be decided on the merits. *Baldwin v. Baldwin*, 114 Idaho 525, 757 P.2d 1244 (Ct. App. 1988) ("*Baldwin*"); *Gro-Mor, Inc. v. Butts,* 109 Idaho 1020, 712 P.2d 721 (Ct. App. 1985). Even in doubtful cases, relief from a default is favored. *Baldwin.* Since this response comes early in the history of this case, indeed, before any default has been entered, the motion should be granted.

II. NECESSARY ELEMENTS OF MOTION.

In order to set aside a default under rule 55(c), there must be a showing of reasonable cause for the late pleading and a factual showing that if granted, a meritorious basis supporting the pleading exists. See, e.g., *McFarland v. Curtis*, 123 Idaho 931, 854 P.2d 274 (Ct. App. 1988). Cf., Court's Order of July 28th, p. 2. However, this is not to say that the existence of the meritorious basis for the pleadings should be subject to trial at this point. It is only necessary to plead facts which, if established at trial, would support the motion. *Baldwin*. A final determination of the validity of the facts is not appropriate at this stage and the general rule, even in doubtful cases, is to grant relief in order to reach a judgment on the merits. *Johnson v. Pioneer Title Co.*, 104 Idaho 727, 626 P.2d 1171.

A. Reasonable Cause Exists to Support the Late Filing of the Response.

The affidavit submitted in favor of the motion shows that Faulkner reasonably relied on the IDWR to defend the Director's report. The facts of this subcase indicate that the Department's defense of the Report would be successful or would significantly reduce the rate of diversion from that claimed in the objection, without outside intervention.

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B. The Facts in the Supporting Affidavit, the Department's File and in the Proposed Response Provide a Meritorious Basis for Opposing the Objection. The Affidavit of Mike Faulkner establishes the factual basis for the proposed response to the McFaddan objection. This affidavit incorporates the Department's file on the objection. The facts outlined above, if established at trial, demonstrate good cause for the granting a water right according to the diversion rate recommended in the Director's Report and for rejecting the diversion rate claimed in the objection. There is a significant discrepancy between the Director's Report and McFaddan's in the amount of water necessary to irrigate the claimed acreage. Reputable studies indicate that the statutory standard of one inch per acre is sufficient, on average, to irrigate property such as McFaddan's. The Director's report recommends a generous allowance of 1.15 inches acre. Cf. IDAHO CODE § 42-220.

III. GRANTING THE MOTION WILL NOT PREJUDICE MCFADDAN.

The issue of whether to grant leave to file a late response involves a consideration of the prejudice to McFaddan if the motion is granted. *Traguth v. Zuck*, 710 F.2d 90 (2d Cir. 1983); *Meehan v. Snow*, 652 F.2d 1074 (2d Cir. 1981); *Cribb v. Matlock Communications, Inc.*, 236 Montana 27, 768 P.2d 337 (1989). However, the prejudice to be considered must based on some other ground than the mere allowance of the late response and the direct consequences flowing therefrom. See, *In re: General Determination of Rights to the Use of Surface and Ground Waters of the Payette River Drainage Basin*, 107 Idaho 221, 687 P.2d 1348 (1984); *Johnson v. Noland*, 78 Idaho 642, 308 P.2d 588 (1957); Otherwise no later response would ever be allowed.

Since no progress has been made in this subcase, there is no prejudice uniquely attributable

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to permitting the late response vis' a vis' a timely response of identical dimensions. Accordingly, Faulkner's motion for leave to enter a late response should be granted.

CONCLUSION

Faulkner's motion should be granted and Faulkner's Response to McFaddan's objection should be entered as a pleading in this matter.

Respectfully submitted,

Dillion, Bosch, Daw & Bock
Chartered

by: /s/
Josephine P. Beeman, of the firm

by: /s/
C. A. Daw, of the firm

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Movant's Name
Faulkner Land & Livestock Company

Attorney's Name & Addresses
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	Case No. 36-00049
	)	
Case No. 39576	)	**AFFIDAVIT OF MIKE**
	)	**FAULKNER IN SUPPORT**
	)	**OF MEMORANDUM**
	)	

Mike Faulkner, duly sworn on oath, states as follows:

1. I am an officer of Faulkner Land & Livestock Company, the Movant in this matter.

2. Faulkner Land & Livestock Company is the owner of water rights located in Basin 36 of the Snake River Basin Adjudication ("SRBA").

3. Dan McFaddan ("McFaddan") has objected to the Director's Report with respect to its water right number 36-00049A in Basin 36. The source of the water is Billingsley Creek. The water right has a claimed priority date of June 26, 1881. The differences between the Director's Report and McFaddan's objection are significant.The IDWR file for 36-00049 shows that Dan H.

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Mc Faddan and Irma R. McFaddan (McFaddan) claimed 9.7 cfs ((50inches/cfsx9.7 cfs) = 485 inches) for irrigation of 178.5 acres. This is equivalent to 2.72 inches to the acre (485 inches/178.5 acres = 2.72 inches to the acre). Following a field examination of the McFaddan property and diversion works, the Director recommended 4.04 cfs ((50 inches/cfs x 4.04) = `202 inches) for irrigation of 175.5 acres. This is equivalent to 1.15 inches to the acre. (202 inches/175.5 acres = 1.15 inches to the acre). Mc Faddan claimed a season of use for irrigation from March 1 to November 15 and the Director recommended March 15 to November 15. The Mc Faddan objection asks that the period of use be year round for irrigation. McFaddan's claim is in excess of the beneficial use of the water, Cf. IDAHO CODE § 42-220.. Reputable studies, including the Department's, indicate that the statutory standard of one inch per acre is sufficient, on average, to irrigate property such as McFaddan's. These facts, if established, would consitute a meritorious defense to the McFaddan objection.

4. Based on the pleadings and party status of IDWR prior to the 1994 amendments to the SRBA statutes, Faulkner Land & Livestock Company decided not to participate in this subcase, choosing instead to rely on the Director's report and IDWR's defense of its pleading. The facts of this situation show that the IDWR, had it remained a party to this subcase, would have been, without substantial outside assistance, able to defend its report and significantly reduce the claimed diversion rate by McFaddan.

5. With the removal of IDWR and the Director as a party to the SRBA and all subcases, parties such as Faulkner Land & Livestock Company who opted to rely on IDWR to litigate and advocate in favor of the Director's Report are unable to do so.

DATED: August 18, 1995

/s/
Mike Faulkner, officer

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STATE OF IDAHO)
) ss
County of Ada)

Subscribed and sworn before me on August 18, 1995.

/s/
Notary Public for Idaho
Residing at Boise, Idaho
Commission Expires: _____

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AJ5856NP

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

DATE: NOV 7 1997
PAGE A 147

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM	TO	MAXIMUM QUANTITY		BASIS OF CLAIM
SOURCE: FLORENCE LIVESTOCK SPRING			TRIBUTARY: BILLINGSLEY CREEK					
36-00049	DAN H MC FADDAN IRMA R MC FADDAN RT 1 BOX 406 HAGERMAN ID 83332	04/01/1900	IRRIGATION	03-15	11-15	4.04	CFS	DECREED
			DOMESTIC	01-01	12-31	.06	CFS	
			STOCKWATER	01-01	12-31	.07	CFS	
			TOTAL QUANTITY:			4.17	CFS	

NON-IRRIGATION-USES:
DOMESTIC, 2 HOMES; STOCK, 250 HEAD RANGE CATTLE
POINT OF DIVERSION:
T07S R13E S12 SESENW
PLACE OF USE: IRRIGATION

T07S R13E S11	SENE 6.0	NESE 36.5	SESE 37.0
S12	NWSW 1.0	SWSW 18.0	SESW 1.0
S13	NENW 36.0	NWNW 40.0	

175.5 ACRES TOTAL
PLACE OF USE: DOMESTIC

T07S R13E S11	NESE	SESE

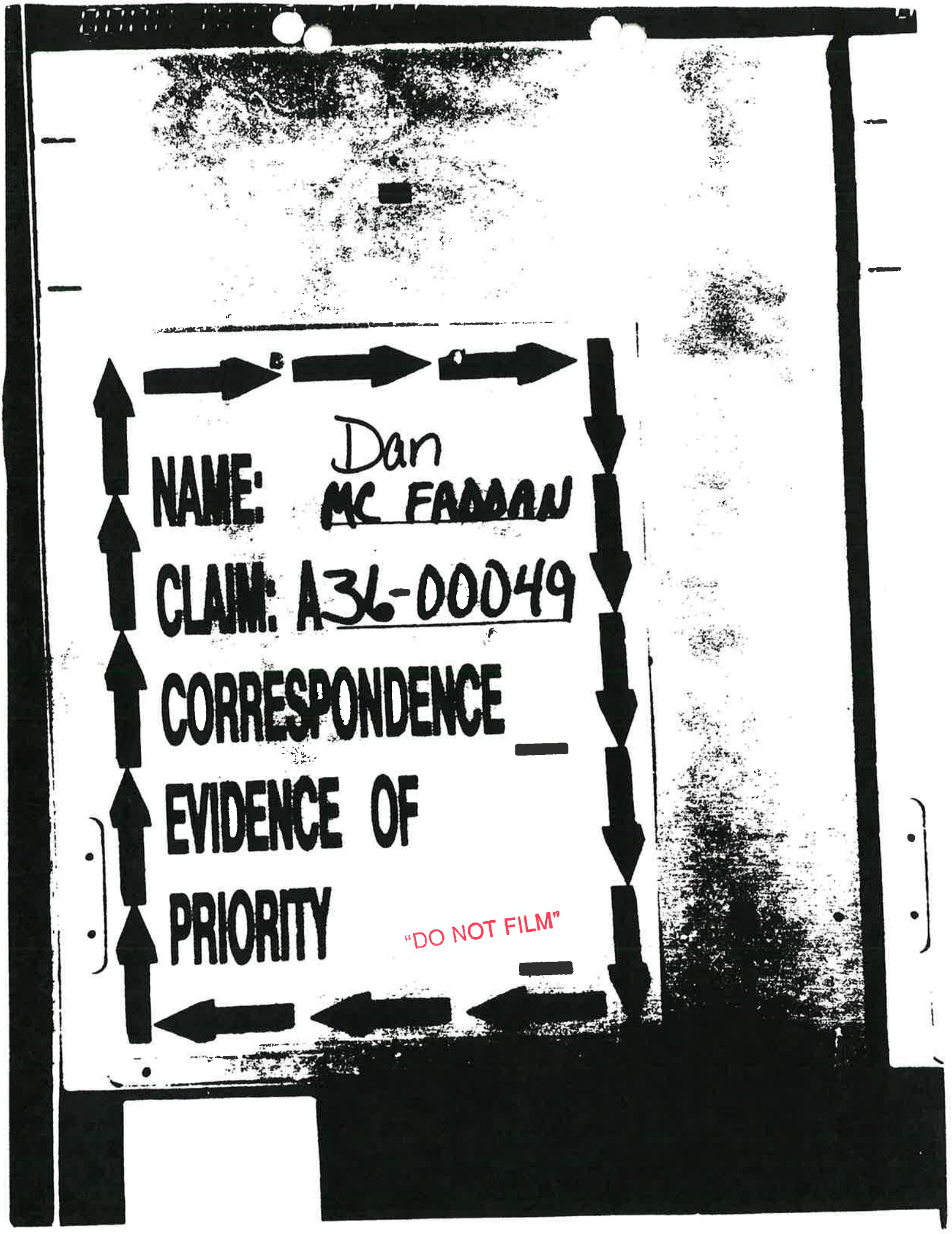
PLACE OF USE: STOCKWATER

T07S R13E S11	NESE	SESE

REMARKS: USE OF THIS RIGHT WITH RIGHT NO. 36-00048 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 4.04 CFS, A TOTAL COMBINED CONSUMPTIVE USE VOLUME OF 526.5 AF, AND TO THE IRRIGATION OF A COMBINED TOTAL OF 175.5 ACRES IN A SINGLE IRRIGATION SEASON. THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 36-00050A, 36-00050C, 36-00050D, 36-00092, 36-02169, 36-08294 & 36-10047.

"DO NOT FILM"

RECEIVED
AUG 25 1995
Department of Water Resources
Adjudication Bureau


NAME: Dan MC FADDAN
CLAIM: A36-00049
CORRESPONDENCE
EVIDENCE OF
PRIORITY
"DO NOT FILM"

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

Idwat. Number: A36-00049
Date Received: 8/30/1988
Receipt No: 8001892
Received By: [illegible]

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: DAN R. MCFADDAN 208-837-6649
Address: RT 1 BOX 406
[illegible] 83332
AND/OR
Name: IRMA R. MCFADDAN 208-837-6649
Address: RT 1 BOX 406
[illegible] 83332

2. Date of Priority: APR 01, 1900

3. Source: FLORENCE LIVESTOCK SPRING Trib. to: BILLINGSLEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
07S	13E	12	SE SE NW		GOODING

5. Description of diverting works:
HAND DUG TUNNEL, CONCRETE HEAD WORKS, 20" PIPE, 16" PIPE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	01/01	11/15	9.700		
DOMESTIC	01/01	12/31	0.060		
COMMERCIAL	01/01	12/31	0.060		
STOCKWATER	01/01	12/31	0.070		
FISH PROP[illegible]ATION	01/01	12/31	0.600		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
C/VEG. PROC. PLANT, MINT STILL, B/2 HOUSES, S/250 BEEF, F/2 PONDS

"DO NOT FILM"

10. Place of Use:

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
07S	13E	11	SE	NE		IRR	6.0
			NE	SE		IRR	36.5
			SE	SE		IRR	40.0
						Section Acres	82.5
		12	NW	SW		IRR	1.0
			SW	SW		IRR	18.0
			SE	SW		IRR	1.0
						Section Acres	20.0
		13	NW	NE		IRR	36.0
			NE	NW		IRR	40.0
						Section Acres	76.0
						Total Acres	178.5

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
A36-00048

14. Remarks:
BOTH DECREES COMBINE 19.7 CFS TO COVER ALL USES. COMMERCIAL USES DEVELOPED IN 1945 (VEG. PROC. PLANT), 1977 (MINT STILL). FISH PONDS WERE DEVELOPED IN 1969. CLAIMANT USES SAME WATER ON ALL USES AND WANTS TO COVER THEM ON ONE CLAIM, CONSIDERING THE ORIGINAL TERMS OF THE DECREE.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

NEW INTERNATIONAL MORTGAGE BAN
Decree Plaintiff

vs

IDAHO POWER COMPANY
Decree Defendant

"DO NOT FILM"

WARRANTY DEED

THIS INDENTURE, Made this 17th day of Sept, in the year of our Lord one thousand nine hundred and sixty-three, between McCARTER CATTLE CO., INC., an Idaho corporation, whose principal place of business is Corral, County of Camas, State of Idaho, the party of the first part, and THE STATE OF IDAHO for the use and benefit of the Fish and Game Department, of the County of Ada, State of Idaho, the party of the second part.

WITNESSETH, That the said party of the first part, for and in consideration of the sum of Sixty Thousand Dollars ($60,000.00), lawful money of the United States of America, to it in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained and sold, and by these presents does grant, bargain, sell, convey and confirm unto the said party of the second part, and to its successors and assigns forever, all of the following described real estate, situated in the County of Gooding, State of Idaho, to-wit:

All of the following described lands located in Township 7 South, Range 13 East of the Boise Meridian, Idaho:

Section 11, S½SE¼NE¼, NE¼SE¼; Section 12, SW¼NW¼, SW¼, W½SE¼; Section 13, NW¼NE¼, NE¼NW¼; EXCEPTING therefrom those portions lying south of the following described boundary line:

Beginning at a point on the north boundary line of the S½SE¼NE¼ of said Section 11, from which point the northeast corner of said S½SE¼NE¼ bears North 89° 33' East a distance of 734.0 feet; thence following said boundary line in Section 11 South 28° 25' East a distance of 444.0 feet; thence South 21° 55' East a distance of 800.0 feet; thence South 25° 12' East a distance of 520.0 feet to a point on the section line common to Sections 11 and 12; thence in Section 12, South 22° 31' East a distance of 865.0 feet; thence South 47° 01' East a distance of 482.0 feet; thence North 85° 29' East a distance of 231.0 feet; thence South 45° 18' East a distance of 856.5 feet to a point on the section line common to Sections 12 and 13; thence in Section 13, South 45° 18' East a distance of 574.5 feet; thence South 83° 18' East a distance of 461.0 feet; thence North 75° 27' East a distance of 244.0 feet; thence South 36° 33' East a distance of 232.0 feet; thence South 05° 18' East a distance of 539.0 feet to a point on the center line of an existing county road; thence following the center line of the existing county road North 61° 22' East a distance of 440.0 feet, thence North 33° 03' East a distance of 100.0 feet; thence North 17° 06' East a distance of 570.4 feet; thence North 37° 06' East a distance of 166.2 feet; thence North 55° 00' East a distance of 210.6 feet, more or less, to a point on the north boundary line of said Section 13.

ALSO EXCEPTING from the said SW¼SE¼ of Section 12 that portion lying east of the existing county road.

Said lands herein conveyed comprising 283.62 acres, more or less.

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A56-00099

32x10

32x10

TOGETHER with all water and water rights and ditches and ditch rights appurtenant thereto, including but not limited to the following designated water rights: 7.33 c.f.s. of that decreed right of 10.0 c.f.s. of the waters of Billingsley Creek, priority date of November 4, 1885, decreed to the Florence Livestock Company; and 4.6 c.f.s. of that decreed right of 9.7 c.f.s. of the flow of Florence Livestock Spring, priority date of April 1, 1900, decreed to Florence Livestock Company pursuant to that Decree of Equity No. 1602 entered by the U.S. District Court for the District of Idaho, Southern Division, on the 22nd day of March, 1932, in the case of New International Mortgage Bank, a corporation, Plaintiff, vs. Idaho Power Company, a corporation, et al, Defendants; reserving unto the party of the first part first priority use of 5.10 c.f.s., during irrigation seasons, of the flow of the waters emerging from an existing developed tunnel at Florence Livestock Spring, which said tunnel discharges into a certain 14 inch O.D. steel pipeline lying on and within a certain right-of-way and easement hereinafter reserved unto the party of the first part.

The party of the first part further grants and conveys unto the party of the second part, its successors and assigns, a permanent and perpetual easement and road right-of-way for public ingress and egress to and from the lands hereinbefore conveyed, on, over and across the lands owned by it, and situate and lying in Gooding County, State of Idaho, and more particularly described as follows:

A strip of land across the lands of the party of the first part extending easterly from the present U.S. Highway No. 30 to the lands hereinbefore conveyed, which said strip of land is bounded on the North side thereof by the Ball Ditch and the North boundary line of the South Half of the Southeast Quarter of the Northeast Quarter (S½SE¼NE¼) of Section 11, Township 7 South, Range 13 East of the Boise Meridian, that portion of which is bounded on the North by the Ball Ditch being 30 feet in width and that portion of which is bounded on the North by the North boundary line of the South Half of the Southeast Quarter of the Northeast Quarter (S½SE¼NE¼) of Section 11, Township 7 South, Range 13 East of the Boise Meridian being 50 feet in width.

There are hereby reserved to the party of the first part the following described easements on and over the hereinbefore described lands:

(1) A forty-foot (40') right-of-way for stock watering extending 20 feet on each side of the following described center line:

Beginning at the northeast corner of the SE¼SE¼ of Section 11, thence North 380.0 feet to a point on the southwesterly boundary line of the property hereinbefore conveyed to part; of the second part; thence along said line North 25° 12' West a distance of 130.0 feet to a point, which point is the true point of beginning, thence East 220.0 feet, more or less, to the water's edge of the left bank of Billingsley Creek, being located within the NE¼SE¼, Section 11, and the NW¼SW¼, Section 12, Township 7 South, Range 13 East of the Boise Meridian.

(2) A forty-foot (40') right-of-way for stock watering extending 20 feet on each side of the following described center line:

Beginning at the southeast corner of the SW¼SW¼, Section 12, Township 7 South, Range 13 East of the Boise Meridian, thence North 205.0 feet to a point on the southwesterly boundary line of lands hereinbefore conveyed to the party of the second part;

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thence along said line North 45° 18' West a distance of 535.0 feet to the true point of beginning, thence extending North 60.0 feet, more or less, to the water's edge of the left bank of Billingsley Creek.

(3) A twenty-foot (20') right-of-way for an existing pipeline, being 10 feet on each side of said pipeline which is also the center line of said right-of-way, for the operation, maintenance, and replacement of a 14-inch O.D. water pipeline and the existing laterals therefrom; said pipeline right-of-way being located as follows:

Beginning at the northwest corner of the SW¼SW¼, Section 12, Township 7 South, Range 13 East of the Boise Meridian; thence East 154.0 feet, more or less, to a point on the southwesterly boundary line of the lands hereinbefore conveyed to the party of the second part; thence along said boundary line South 22° 31' East a distance of 450.0 feet to the point of intersection of said line with the existing pipeline, which point is the true point of beginning; thence North 45° 45' East a distance of 2430.0 feet to the waters of Florence Livestock Spring.

(4) A ten-foot (10') right-of-way for an existing domestic water line, being 5 feet on each side of the center line described as follows:

Beginning at the quarter corner common to Sections 11 and 12, Township 7 South, Range 13 East of the Boise Meridian; thence North a distance of 618.0 feet; thence North 88° 45' East a distance of 488.0 feet to a spring and the true place of beginning; thence South 88° 45' West a distance of 800.0 feet; thence South 83° 30' West a distance of 293.0 feet to a point on the southwesterly boundary line of the lands hereinbefore conveyed to the party of the second part.

(5) A twenty-foot (20') right-of-way for the operation, maintenance and replacement of an existing irrigation pump and pipeline for water carriage therefrom; said right-of-way being 10 feet on each side of the following described center line:

Beginning at the quarter corner common to Sections 12 and 13, Township 7 South, Range 13 East of the Boise Meridian; thence South 396.0 feet; thence North 75° 27' East a distance of 130.0 feet to the pump located on the left bank of Billingsley Creek, the true point of beginning; thence along the center line of the right-of-way South 05° 18' East a distance of 190.0 feet to a point on the southwesterly boundary line of the lands hereinbefore conveyed to the party of the second part.

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

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises, together with the appurtenances, unto the party of the second part, and to its successors and assigns forever and the said party of the first part, and its successors, the said premises in the quiet and peaceable possession

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of the said party of the second part, its successors and assigns, against the said party of the first part, and its successors, and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will WARRANT and by these presents forever DEFEND.

IN WITNESS WHEREOF, The said party of the first part has hereunto set its corporate name and affixed its corporate seal, the day and year first above written.

McCARTER CATTLE CO., INC.

By W S McCarter
President

Attest:

L. T. McCarter
Secretary-Treasurer

STATE OF IDAHO)
: ss
County of Gooding)

On this 17th day of Sept, in the year 1963, before me, the undersigned Notary Public in and for said State, personally appeared W. S. McCarter and L. T. McCarter, known to me to be the Pres. & Secy of the corporation that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

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

Notary Public for the State of Idaho
Residing at: Gooding

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A:\SROHP
(08-24)

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT

06/12 08:38:17.59
Page 1

Water Right Number - A36-00049 Adj. Flag Translation: Adjudication Temporary Work Area Old ID Number -

Last Name	First Name	Address
*** C - CURRENT OWNER ***		
[redacted]	DAN E.	1 - [redacted] DRIVE 406 2 - 3 - City- [redacted] State- ID Zip- 83333 Phone - 208-837-6649
[redacted]	IRMA E.	1 - [redacted] DRIVE 406 2 - 3 - City- [redacted] State- ID Zip- 83333 Phone - 208-837-6649
*** E - ALSO KNOWN AS ***		
FIRE & GAME		1 - 2 - 3 - City- BOISE State- ID Zip- 83707 Phone - 208-669-0000

Priority Date	Source	Region	Stage	Status
06/01/1900	FLORENCE LIVESTOCK SPRING	17	B - RECEIVED	

Tributary: BILLINGSLEY CREEK

Point of Diversion

Twn	Rng	Sec	Tract	Lot	Mrlg	County	Stream Index (Blank if no Index Code)
07S	13E	12	SE SE SW		(47)	[redacted]	

Water Use

Code	Description	Period From	Period To	Diversion Rate	Diversion Volume
01	IRRIGATION	03/01	11/15	9.700	
02	DOMESTIC	01/01	12/31	0.040	
10	COMMERCIAL	01/01	12/31	0.040	
04	STOCKWATER	01/01	12/31	0.070	
19	FISH PROPAGATION	01/01	12/31	0.600	

Total Div. Rate	Total Div. Volume	Total Div. Capacity	Total Consumptive Use	DU Usage
9.700			535.5 AF	

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
07S	13E	11	[redacted]		6.0	01	IRRIGATION	(47) [redacted]
07S	13E	11	[redacted]		34.5	01	IRRIGATION	(47) [redacted]
07S	13E	11	[redacted]		40.0	01	IRRIGATION	(47) [redacted]
07S	13E	12	[redacted]		1.0	01	IRRIGATION	(47) [redacted]
07S	13E	12	[redacted]		10.0	01	IRRIGATION	(47) [redacted]
07S	13E	12	[redacted]		1.0	01	IRRIGATION	(47) [redacted]
07S	13E	13	[redacted]		36.0	01	IRRIGATION	(47) [redacted]

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AJ36 [illegible]
(00-16)

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT

06/13/96 06:07:50
Page 2

Water right number - A36-00049   Adj. flag translation: Adjudication Temporary Work Area

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

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
07S	13E	11	SE SW		40.0	01	IRRIGATION	(47) GOODING

Total Acres: 176.0

- - - Diversion Means - HAND DUG TUNNEL, CONCRETE LEAD WORKS, 30" PIPE, 16" PIPE

- - - Non-Irrigation Use - [illegible] F/S PONDS

change "/" to commas and leave as is.

- - - Other Rights for Same Use - A36-00048

- - - - - - - - - - - - - - - - - - Remarks - - - - - - - - - - - - - - - - - -

BOTH DECREES COMBINE 19.7 CFS TO COVER ALL USES. COMMERCIAL USES DEVELOPED IN 1945 (VEG. PROC. PLANT), 1977 ([illegible]). FISH PONDS WERE DEVELOPED IN 1960. CLAIMANT USES SAME WATER ON ALL USES AND WANTS TO COVER THEM ON ONE CLAIM, CONSIDERING THE ORIGINAL TERMS OF THE DECREE.

- - - - - - - - - - - - - - - - - - Old Water Right Numbers - - - - - - - - - - - - - - - - - -
No Old Water Right Numbers found.

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

Decree Plaintiff	Decree Defendant	Decree Date
[illegible] INTERNATIONAL MORTGAGE BANK	IDAHO POWER COMPANY	00/00/0000

- - - - - - - - - - - - - - - - - - -Comments- - - - - - - - - - - - - - - - - - -
No Comments Found

- - - Audit Fields - 06/30/06 [illegible]   01/15/99 [illegible]

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

Court Report Filing	- 00/00/0000	Field Inspection Date	- 00/00/0000	Civil Case Number	- [illegible]
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 01/14/1989	Old Judicial District	-
Claim Received Date	- 08/30/1984	Last Amended Date	- 00/00/0000	Temporary Right	- [illegible]
Claims Type Error Flg	-	Receipt Number	- [illegible]	Water District	- 36A
Fee Exempt Flag	-	POU Ownership Flag	- Y	Federal/State Indicator	- [illegible]
		Lake Connector	- [illegible]	[illegible] Flag	[illegible]

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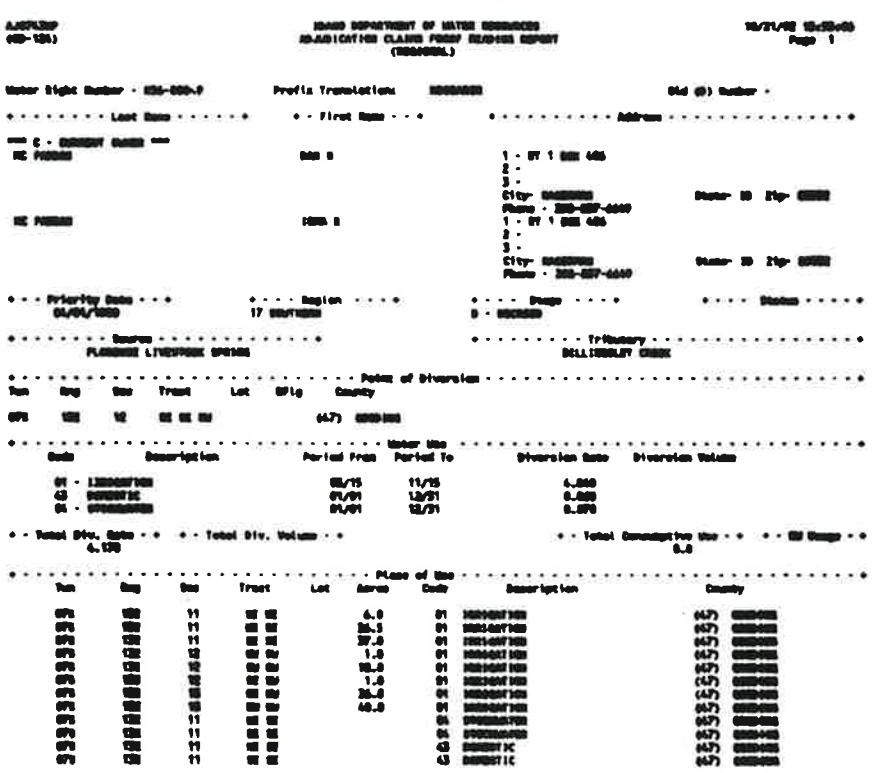
x10

NOTICE OF ERROR

RESPONSE

CORRECTED R PROOF

"DO NOT FILM"



"DO NOT FILM"

x10

"DO NOT FILM"

Water Right Number - 036-00049 Profit Translation: RESERVOIR

Adjudication Rights Dates and Flags Area

Court Report Filing	- 00/00/0000	Field Inspection Made	- 07/28/1990	Civil Case Number	- 39976
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 10/21/1992	Old Judicial District	-
Claim Received Date	- 00/20/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- 0001032	Water District	- 36A
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Converter	- ADD/CR	Presumption Flag	-
				Notice of Error Flag	- C

"DO NOT FILM"

NOTICE OF ERROR FORM

RECEIVED
SEP 22 1992
Department of Water Resources

Please type or print clearly, fill out completely, and return to:
Idaho Department of Water Resources
Statehouse Mail
Boise, Idaho 83720-9000

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

YOUR DEADLINE FOR FILING A NOTICE OF ERROR IS:

1 Water right number: 36-00049

2 Name: Don H. McFaddan
James R. McFaddan

Address: Rt 1 Box 406
Hagerman, Idaho 83332

Weekday Telephone Number: 537-1649

TEAR AT PERFORATIONS AND COMPLETE FORM ON OTHER SIDE

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

3 Describe the portion of proposed recommendation with which you disagree

The entire recommendation is grossly out of line with reality

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

The recommendation should be changed to conform with the decreed rights as per Decree of U.S. Court in 1942.

5 Describe why you disagree with the proposed recommendation

1. All Purposes of use are not listed
2. Irrigation season is inadequate
3. Total quantities are inadequate and discriminatory

6 Date 9/9/92

SIGNATURE Dan McJackson

"DO NOT FILM"

10

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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

17-Oct-1992

DAN MC FADDAN
RT 1 BOX 406
HAGERMAN ID 83332

RE: RESPONSE TO NOTICE OF ERROR FOR CLAIMS 36-02169, 36-00048A, AND 36-00049

Dear Mr McFaddan

RESPONSE TO 36-02169;

All claimed purposes of use claimed were recommended, however, the field examiner found 4.5 acres rather than the claimed 5.5 acres. The rates and volume recommendations were reduced because of the acre reduction. Based upon currently information, I am unable to recommend a change in the proposed report.

RESPONSE TO 36-00048A AND 36-00094

As there is no evidence that a portion of the originally decreed right was abandoned to allow a change in the nature of use, the Commercial and Fish Propagation portions of 36-00049 were disallowed. It is our interpretation that you wished to maintain the 1900 priority date rather than advance the priority date of the irrigation portion of your claim to the date of the latest developed use.

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

Under Idaho law, a water right is limited to the amount of water beneficially used for the purposes for which the water right was established. The amount of water beneficially used is limited to the amount that is actually used and is reasonably required. For irrigation purposes, a reasonable amount is the amount required using irrigation methods that

"DO NOT FILM"

2x10
2x10

are reasonably efficient under current circumstances. If the amount of a water right shown in a decree is greater than the amount that is beneficially used, then the portion that is not beneficially used is forfeited.

The amount proposed to be recommended for your claim is based on the amount of water determined to be beneficially used for the recommended uses, based on available data and current methods of analysis. To support recommendation of a greater amount, you will need to submit evidence of beneficial use of a greater amount to IDWR.

The Director has approved extending the period of use for the Hagerman valley to 3/15 to 11/15.

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

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

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

Sincerely

Kelly K Christensen
Sr Water Resource Agent

"DO NOT FILM"

R PROOF
CVR
MAPS
PHOTOS
MISC

"DO NOT F

[illegible]

[illegible]
(ID-184)

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

[illegible]
Page 1

Water Right Number - 536-00049 Prefix Translation: RESERVOIR Old WR Number

Last Name | First Name | Address

*** C - CURRENT OWNER ***
MC FARLAND DBA M
1 - RT 1 BOX 486
2 -
3 -
City- MADISON State ID Zip 83352
Phone - 208-837-6649

MC FARLAND TBA M
1 - RT 1 BOX 486
2 -
3 -
City- MADISON State ID Zip 83352
Phone - 208-837-6649

Priority Date: 04/01/1900 Region: 17 [illegible] Stage: 0 - RECORDED Status:

Source: PLEASANT LIVESTOCK SPRING Tributary: BILLINGSLEY CREEK

Point of Diversion

Twn	Rng	Sec	Tract	Lot	Qtrs	County
09N	43E	12	SE NE SW		(47) MADISON	

Water Use

Code	Description	Period From	Period To	Diversion Rate	Diversion Volume
01	IRRIGATION	04/01	10/31	3.510	
03	DOMESTIC	01/01	12/31	0.066	
05	STOCKWATER	01/01	12/31	0.079	

Total Div. Rate: 3.510 | Total Div. Volume: | Total Consumptive Use: 0.0 | Ck Usage:

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
09N	43E	11	[illegible]		6.0	01	IRRIGATION	[illegible]
09N	43E	11	[illegible]		36.5	01	IRRIGATION	[illegible]
09N	43E	12	[illegible]		37.0	01	IRRIGATION	[illegible]
09N	43E	12	[illegible]		1.0	01	IRRIGATION	[illegible]
09N	43E	13	[illegible]		16.0	01	IRRIGATION	[illegible]
09N	43E	13	[illegible]		1.0	01	IRRIGATION	[illegible]
09N	43E	13	[illegible]		36.0	01	IRRIGATION	[illegible]
09N	43E	13	[illegible]		60.0	01	IRRIGATION	[illegible]
09N	43E	11	[illegible]			05	STOCKWATER	[illegible]
09N	43E	11	[illegible]			05	STOCKWATER	[illegible]
09N	43E	11	[illegible]			03	DOMESTIC	[illegible]
09N	43E	11	[illegible]			03	DOMESTIC	[illegible]

code added (coal NFK) NFK 10-20-97

"DO NOT FILM"

Water Right Number - 036-00040 Profile Translations 00000000

Place of Use

Run	Dvg	Dec	Tract	Lot	Acres	Code	Description	County
					Total Acres: 179.5			

- Diversion Means - HAND DUG TUNNEL, CONCRETE HEAD WORKS, 20" PIPE, 16" PIPE
- Non-Irrigation Use - DOMESTIC, 2 HOMES; STOCK, 250 HEAD RANGE CATTLE
- Other Rights for Same Use - 36-00040

Remarks

USE OF THIS RIGHT WITH RIGHT NO. 36-00040 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.51 CFS, A TOTAL COMBINED CONSUMPTIVE USE VOLUME OF 536.5 AF, AND TO THE IRRIGATION OF A COMBINED TOTAL OF 179.5 ACRES IN A SINGLE GROWING SEASON. THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 36-00004A, 36-00004C, 36-00005B, 36-00009Z, 36-02169, 36-00014 & 36-10067.

Old Water Right Numbers

00000000

Conditions of Approval

No Conditions of Approval found.

Decree Plaintiff | Decree Defendant | Decree Date
00/00/0000

Comments

Date: 05/13/1992 User Id: CLELLAND Subject: COPIED FROM REMARKS
0000 DIVERSE CONSUME 10.7 CFS TO COVER ALL USES. COMMERCIAL USES DEVELOPED IS 1965 (VOL. PROC. PLANT), 1977 (DRAY STALL). FISH POINDS WERE DEVELOPED IN 1949. CLAIMANT USES SAME WATER ON ALL USES AND WANTS TO COVER THEM ON ONE CLAIM, CONSIDERING THE ORIGINAL TERMS OF THE DECREE.
Date: 05/13/1992 User Id: CLELLAND Subject: PORTION DISALLOWED
THE OTHER USES CLAIMED ARE NOT RECOMMENDED SINCE THEY ARE AN EXPANSION OF THE DECREED USE AND NOT A CHANGE IN NATURE OF USE.

Audit Fields
08/11/92 THOMPSON

Adjudication Rights Dates and Flags Area

Court Report Filing	00/00/0000	Field Inspection Made	07/26/1990	Civil Case Number	39876
Objection Filed Date	00/00/0000	Field Inspection Flag		Old Case Number	
Response Filed Date	00/00/0000	Verified Date	00/00/0000	Old Judicial District	
Claim Resolved Date	00/00/1900	Last Amended Date	00/00/0000	Temporary Right	P
		Receipt Number	0001002	Water District	36A
		POU Ownership Flag	Y	Federal/State Indicator	S
		Name Connector	AND/OR	Presumption Flag	
				Notice of Error Flag	

DO NOT FILM"

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

13:59:09
06/29/90

PAGE: 13
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-00049

WR ELEMENT	FIELD EXAM Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	VERIFIED BY CODE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE	Y (N)			N	6.	2-12-92	(W)	KKC 8-4-92
POINT OF DIV	Y (N)		7-26-90 SLL/BBS	N	1, 5, 6	See 8-4-92		
SOURCE	N			N				
PLACE OF USE	Y (N)		7-26-90 JCC/BBS	(Y) (N)	1, 5, 6, W			
DIV. AMOUNT CFS/VOLUME	Y (N)			(Y) (N)	6. STOCK			
CONSUMPTIVE USE	N			(Y) (N)	6.			
PURPOSE	Y (N)		7-26-90	(Y) (N)	b. DOMEST			
PERIOD OF USE	Y N			(Y) (N)	6.			
RATE OF CLAIM	N			N				
REMARKS	Y N			(Y) (N)	6.			

"VERIFIED BY" CODES

TOPO MAP/SECTION-TR	= 1
ASCS MAP	= 2
WATERMASTER RECORDS	= 3
AAPP 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.

to - further review

"DO NOT FILM"

2x10

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

11:05:09
06/20/90

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-00040

LAST: HC PADDAH
ADDRESS: RT. 1 BOX 606
CITY: [redacted]
PHONE NUMBER: 208-837-6640
STATE: ID ZIP: 83332
OWNER CODE: C

LAST: HC PADDAH
ADDRESS: RT. 1 BOX 606
CITY: [redacted]
PHONE NUMBER: 208-837-6640
STATE: ID ZIP: 83332
OWNER CODE: C

LAST: FISH & GAME
ADDRESS:
CITY: BOISE
PHONE NUMBER: 208-000-0000
STATE: ID ZIP: 83707
OWNER CODE: S

FIELD EXAM REQUIRED?

	DATABASE	FIELD EXAMINER
VERIFICATION REQUIRED DUE TO REMARKS?	Y	

CLAIM REMARKS: DOES RECORDS CONTAIN 19.7 CFS TO COVER ALL USES. COMMERCIAL USES DEVELOPED IN 1945 (TWO, POWER, PLANT), (10) (SEND OFFICE). FISH PONDS WERE DEVELOPED IN (19). CLAIMANT USES SAME WATER ON ALL USES AND WANTS TO COVER THEM ON ONE CLAIM, CONSIDERING THE ORIGINAL TERMS OF THE DECREE.

(10) Commercial 1945
Still 1977
(19) Fish 1969

} EXPANSION OF DECREE

SINCE NO ACREAGE CLAIMED IN NATURE OF USE.

SLW
2-12-92

"DO NOT FILM"

PAGE: 2
FIELD EXAMINATION INFORMATION

CLAIM NUMBER: A36-00048

CONTACT PERSON: Dan McFadden
PHONE NUMBER: (___) ___-____

DATE OF FIELD EXAM: 2/26/90 APPOINTMENT MADE: Y(__) N(__)
TIME: ___:___ A(__) P(__)

ACCOMPANIED BY: _____
PHONE NUMBER: (___) ___-____

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / REMARKS:

See Remarks on A36-00048.

EXPANSION of DIVERSION works from 14" pipe to 16" pipe occurred in about 1981 per conversation w/ Mr McFadden.

"DO NOT FILM"

32x10

32x10

PAGE: 1
PRIORITY DATE REVIEW PAGE

CLAIM NUMBER: A06-00040

A. AJ CLAIM: 0 A06-00040 PRIORITY DATE: 04-01-1900 STAGE: 0

B. WB RECORD: 0 06-00040 PRIORITY DATE: 04-01-1900 STAGE: 0

C. FIELD EXAM REQUIRED? DATABASE: 0 FIELD EXAMINER:

DUE TO PRIORITY DATE DISCREPANCY? (Y/N)

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

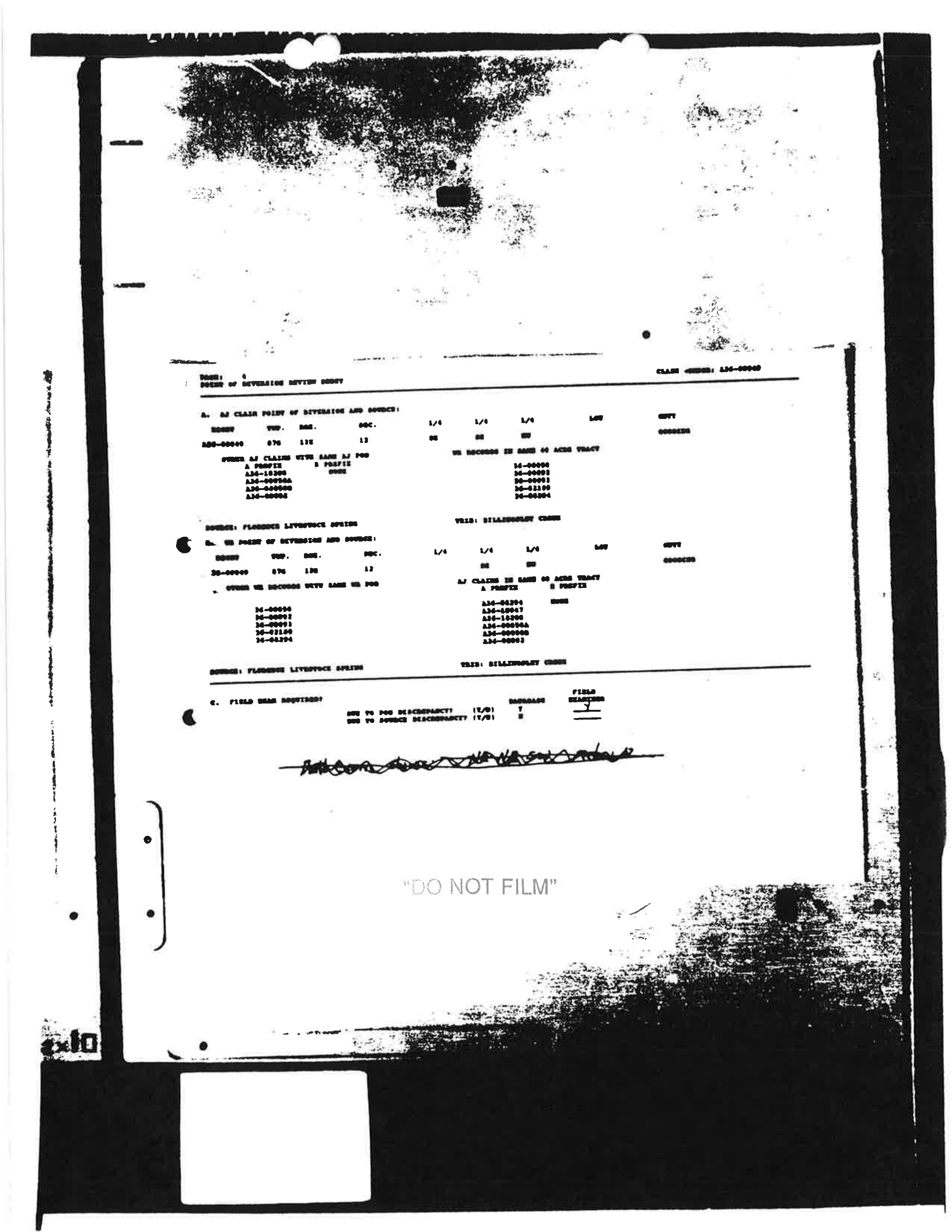
REMARKS: Remarks on claims specifically break out separate priority for each side -

RECOMMENDED PRIORITY DATE:
04-01-1900

REVIEWED BY: Sec DATE 12-28-90

"DO NOT FILM"

32×10



"DO NOT FILM"

PAGE: 1
POINT OF DIVERSION REVIEW SHEET CONTINUED

CLAIM NUMBER: A36-00049

REMARKS:
Confirm exact location of POD - may actually be in SW¼NE¼

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP.	RGE.	SEC.	QUARTERS	1/4	1/4	LOT	COUNTY
7S.	13E.	12	SW¼NE¼				

SOURCE: FLORENCE LIVESTOCK DRAIN TRIB: BILLINGSLEY CREEK

REVIEWED BY: SLC DATE: 12-28-90

SLC 2-12-92

"DO NOT FILM"

PAGE: 6
PLACE OF USE REVIEW SHEET

CLAIM NUMBER: A36-00049

A. ROOT WATER RIGHT NUMBERS: A36-00049

B. POU LISTING

TWP	RGE	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES		WR #/ACRES		LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
07S	13E	11	SE	SE		BC FISHER , SAM E.	A36-00049	/ 6.0-	36-00049	/	35.0	6	6
						BOLMES , H.L.	A36-10588	/ 1.0	-	/			
						BOSTROOM , GEORGE S.	A36-04065	/	36-04065	/			
						TYLER , DENNY	A36-04361	/ 4.0	36-04361	/ 4.0			
						KIPP , RUDY B.	A36-07650	/ 0.5	36-07650	/ 1.0			
						KIPP , RUDY B.	A36-10110	/	-	/			
						KIPP , RUDY B.	A36-10130	/ 0.5	-	/			
						PETRICK , BERNAR W.	A36-10559	/	-	/			
						SANDY , WILLIAM A	A36-10751	/	-	/			
						SANDY , WILLIAM	A36-10752	/	-	/			
						TROUT-CO	A36-10755	/	-	/			
						WARD , JOHN P.	A36-04068	/ 1.0	36-04068	/ 1.0			
						HOLMES , ALICE H.	A36-0000DE	/	-	/			
						FISH & GAME	A36-00046	/ 6.0-	36-00046	/			
						PETRICK , BERNAR W.	A36-00046C	/ 1.0	-	/			
						WARD , JOHN P.	A36-0000DB	/	-	/			
						TYLER , DENNY E.	A36-0000DC	/	-	/			
						CULBERTSON , S.A.	A36-0000DD	/	-	/			
						PAR-4 PARTNERSHIP	A36-0000DF	/	-	/			
						HOSTETLER , HAROLD H.	A36-0000DG	/	-	/			
						CLOUSER , JOHN F.	A36-0000DA	/	-	/			
						BOTTERILL , MARY	A36-00103A	/ 1.0	-	/			
						BOSTROOM , GEORGE S.	A36-00046B	/ 2.0	-	/			
						CLOUSER , DORIS H	A36-00039A	/ 1.5	-	/			
						HOLMES , H.L.	A36-00039C	/ 2.0	-	/			
						HOSTETLER , HAROLD H.	A36-00039D	/ 1.0	-	/			
						TROUT-CO	A36-07634	/	36-07634	/			
						TROUT-CO	A36-00058	/	36-00058	/			
						POPE , ELIJAH			36-00089	/			
						POPE , ELIJAH			36-00090	/			
						TROVILLO , B. C.			36-00147	/			
						PARKER , CHARLES			36-07957	/			
						STATE OF IDAHO			36-00353	/			
07S	13E	11	SE	SE		BC FISHER , SAM E.	A36-00049	/36.5	36-00049	/	35.0	36.5	36.5
						FISH & GAME	A36-00046	/36.5	36-00046	/			
						WARD , JOHN P.	A36-0000DB	/ 1.0	-	/			
						BOOGLE , DANIEL			36-00079	/			
						BOOGLE , JOHN			36-00154	/			
						BOOGLE , DANIEL			36-00131	/			
						STATE OF IDAHO			36-00153	/			
07S	13E	11	SE	SE		BC FISHER , SAM E.	A36-00049	/40.0	36-00049	/	37.0	37	37 (Pivot Pasture)
						FISH & GAME	A36-00046	/40.0	36-00046	/			
07S	13E	11	SW	SW		BC FISHER , SAM E.	A36-00049	/ 1.0	36-00049	/	33.0		
						FISH & GAME	A36-00046	/ 1.0	36-00046	/		1.0	1 (Stock)
						STATE OF IDAHO			36-00353	/			

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07S 15E 12 SW SW	BC FARRAR , RAE H. FISH & GAME STATE OF IDAHO	A36-00049 A36-00048	/10.0 /10.0	36-00049 36-00048 36-00393	/	36.0	19.0	10.0
07S 15E 12 NE NW	BC FARRAR , RAE H. FISH & GAME STATE OF IDAHO	A36-00049 A36-00048	/ 1.0 / 1.0	36-00049 36-00048 36-00393	/	17.0	1	1
07S 15E 12 NW NW	BC FARRAR , RAE H. TAYLOR , MAURICE H. REESE , BRUCE W. REESE , BRUCE W. BINDERT , W. F. FISH & GAME TAYLOR , MAURICE H. BINDERT , W.F. BINDERT , W.F. PARR , WILLIAM H. STATE OF IDAHO CLEAR LAKES TROUT CO. INC.	A36-00049 A36-00072 A36-10231 A36-00091 A36-07000 A36-00048 A36-07655 A36-07725 A36-07731	/10.0 / / /11.0 / /36.0 / / /	36-00049 36-00072 - - 36-07000 36-00048 36-07655 36-07725 36-07731 36-04871 36-00393 A36-07731	/ / / / / / / / / / 5.0 / /	36.0	40	40
07S 15E 13 NE NE	BC FARRAR , RAE H. FISH & GAME BINDERT , W.F. STATE OF IDAHO	A36-00049 A36-00048 A36-07731	/10.0 /10.0 /	36-00049 36-00048 36-07731 36-00393	/ / / /	36.0	36	26
TOTAL ACRES	A36-00048		175.00			183.00		175.5

ARE INDICATED ACRES FOUND IN TRACTS OTHER THAN INDICATED ABOVE, Y(X) N( )
~~SO-SEE-SEC-REVISION-SHEET~~ See ABOVE:

6. FIELD EXAM REQUIRED? DATABASE: Y FIELD EXAMINED: Y

DUE TO POU DISCREPANCY? (Y/N)

CONSUMPTION FLAG:

REMARKS:
See map @ A36-00048 - also - claim may incorrectly identify quarter-quarters in Sec. 13 - confirm with Dan Mc Sullivan

RECOMMENDATIONS:

TOTAL ACRES: 175.5 ✓ APPV.

REVIEWED BY: SCL DATE: 7-31-91

Delete No Acres This Tract

Should Be NW NW S. 13

Same POU as A36-00048 Combined APPV.

"DO NOT FILM"

PAGE: 6

CLAIM NUMBER: A36-00040

A. AS CLAIMED USES:

PURPOSES	FROM	TO	DIVERSION QUANTITY
A36-00040	[redacted]		9.700 CFS
A36-00040	[redacted]		.040 CFS
A36-00040	[redacted]		[redacted]
A36-00040	[redacted]		.070 CFS
A36-00040	[redacted]		[redacted]
A36-00040	[redacted]		

TOTAL DIVERSION RATE/VOLUME CLAIMED 9.700 CFS

4-1 10-31

Separate use. DISALLOW (when this claim)

B. AS RECORDED USES:

PURPOSES	FROM	TO	DIVERSION QUANTITY
36-00040	[redacted]		9.700 CFS

TOTAL DIVERSION RATE/VOLUME CLAIMED 9.700 CFS

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

	REQUIRED	FIELD EXAMINER
DOES THE RECORD CONTAIN SUFFICIENT (Y/N)	Y	[redacted] see Remarks at #3.
DOES THE DIVERSION RATE RECOMMENDED? (Y/N)	Y	
DOES THE PERIOD FROM/TO RECOMMENDED? (Y/N)	Y	

D. PERIOD OF USE:

RECOMMENDED AS CLAIMED? Y( ) N(X)

RECOMMENDED TO [redacted] OR OTHER? Y(X) N( ) Explain in remarks, below

+ Decree Usage

REMARKS:

"DO NOT FILM"

PAGE: 9
DIVERSION AMOUNT REVIEW SHEET

CLAIM NUMBER: A36-00049

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

A/ TOTAL CLAIMED DIVERSION RATE: 0.700 CFS
WR DOCU RIGHT TOTAL DIVERSION RATE: 0.700 CFS

*** IF NO or IF STATEMENT CLAIM or BENEFICIAL USE then flow measurement required. ***
** If an amount smaller than the original diversion rate is **
** claimed and no case is DOT required, explain in remarks. **

FLOW MEASUREMENT REQUIRED?

	DATABASE	FIELD EXAMINER
DUE TO STAFF OR DIVERSION RATE DISCREPANCY? (Y/N)	Y	N

B. FLOW MEASUREMENT

MEASUREMENT METHOD Staff flow . SEE ATTACHED CALCULATIONS.

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

OTHER RIGHTS LISTED IN CLAIM: A36-00048

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

CLAIM	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A36-00049	FLORENCE LIVESTOCK SPRING	MC FARDAN , DAN E.	0.700	0.056~		
A36-10966	BILLINGSLEY CREEK	HOLMS , R L.	0.050	0.033		
A36-00103A	BILLINGSLEY CREEK	DUTCHELL , MARY	0.060	0.060		
A36-00948B	BILLINGSLEY CREEK	ANDERSON , GEORGE E.	0.180	0.090	0.00	0.00
A36-00949A	BILLINGSLEY CREEK	CLOUSER , DORIS E.	0.030	0.020		
A36-00949C	BILLINGSLEY CREEK	HOLMS , R L	0.060	0.030		
A36-00949D	BILLINGSLEY CREEK	DUSTERDT , HAROLD E.	0.060	0.060		
A36-00950B	BILLINGSLEY CREEK	WARD , JOHN P	0.030	0.030		
A36-00951	SPRING	DEVOE , BRUCE W.	0.060	0.032	44.00	6.00

LIST ALL RIGHTS WITH SAME POU BUT NOT USED FOR IRRIGATION

CLAIM NO.	PURPOSE	NAME	MONTH/DAY			DATE	VOLUME
A36-00049	DOMESTIC	MC FARDAN , DAN E.	FROM	01-01	TO 12-31	.060 CFS	
A36-00049	COMMERCIAL	MC FARDAN , DAN E.	FROM	01-01	TO 12-31	.060 CFS	
A36-00049	STOCKWATER	MC FARDAN , DAN E.	FROM	01-01	TO 12-31	.670 CFS	
A36-00049	FISH PROPAGATION	MC FARDAN , DAN E.	FROM	01-01	TO 12-31	.660 CFS	
A36-00049	DOMESTIC	ANDERSON , GEORGE E.	FROM	01-01	TO 12-31	.020 CFS	
A36-07950	DOMESTIC	SIPP , DOUG E.	FROM	03-15	TO 11-15	.060 CFS	
A36-10119	DOMESTIC	SIPP , DOUG E.	FROM	01-01	TO 12-31	.020 CFS	
A36-10120	DOMESTIC	SIPP , DOUG E.	FROM	03-15	TO 11-15	.030 CFS	
A36-10950	DOMESTIC	PETRICH , GERALD V	FROM	01-01	TO 12-31	.060 CFS	

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A36-10751	DOMESTIC	BAGOT , WILLIAM A.	FROM	01-01	TO 12-31	.040 CFS
A36-10752	DOMESTIC	BAGOT , WILLIAM A.	FROM	01-01	TO 12-31	.040 CFS
A36-10753	DOMESTIC	TROUT-CO	FROM	01-01	TO 12-31	.040 CFS
A36-000906	DOMESTIC	HOLMES , ALICE H.	FROM	01-01	TO 12-31	.040 CFS
A36-000906	COMMERCIAL	HOLMES , ALICE H.	FROM	01-01	TO 12-31	.100 CFS
A36-000908	DOMESTIC	WARD , JOHN F.	FROM	01-01	TO 12-31	.020 CFS
A36-00090C	DOMESTIC	TYLER , BRUCE H.	FROM	01-01	TO 12-31	.020 CFS
A36-00090D	DOMESTIC	CHAMBERTAIN , E.A.	FROM	01-01	TO 12-31	.020 CFS
A36-000907	DOMESTIC	PAR-6 PARTNERSHIP	FROM	01-01	TO 12-31	.040 CFS
A36-000908	DOMESTIC	HOSTETTER , HAROLD E.	FROM	01-01	TO 12-31	.040 CFS
A36-00090A	DOMESTIC	CLAWSON , JOHN F.	FROM	01-01	TO 12-31	.020 CFS
A36-079136	POWER	TROUT-CO	FROM	01-01	TO 12-31	100.000 CFS
A36-00090B	POWER	TROUT-CO	FROM	01-01	TO 12-31	100.000 CFS
A36-04072	DOMESTIC	TAYLOR , MAURICE H.	FROM	01-01	TO 12-31	.040 CFS
A36-04072	STOCKWATER	TAYLOR , MAURICE H.	FROM	01-01	TO 12-31	.020 CFS
A36-10331	DOMESTIC	REESE , BRUCE W.	FROM	01-01	TO 12-31	.040 CFS
A36-07000	FISH PROPAGATION	BIBBERT , W. F.	FROM	01-01	TO 12-31	8.000 CFS
A36-07000	FISH PROPAGATION	TAYLOR , MAURICE H.	FROM	01-01	TO 12-31	.300 CFS
A36-07000	STOCKWATER	TAYLOR , MAURICE H.	FROM	01-01	TO 12-31	.020 CFS
A36-07729	FISH PROPAGATION	BIBBERT , W.F.	FROM	01-01	TO 12-31	100.000 CFS
A36-07731	FISH PROPAGATION	BIBBERT , W.F.	FROM	01-01	TO 12-31	10.000 CFS

B. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE
ACRES 175.5 x 0.02 CFS/ACRE = 3.51 CFS
(Taken from p/u review)

1b. CALCULATIONS

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

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

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 515.5 AF/A 3.0

ACRES 175.5 x CONSUMPTIVE VOL. AF/A FOR AREA 3.0 =

TOTAL CONSUMPTIVE USE 526.5 AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

ACRES 175.5 x DIVERSION VOL. AF/A FOR AREA 4.0 =

TOTAL DIVERSION VOLUME 702 AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

USE ATTACHED SHEET? Y( ) N( )

IWR: Stock = 0.07
Domestic = 0.06

*See A36-00048

limited to 1#/Ac = 3.51 cfs

"DO NOT FILM"

PAGE: 13
DIVERSION ABOVED REVIEW SHEET CONTINUED

CLAIM NUMBER: A36-00048

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

(See A36-00048)

RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD FROM	REC. PERIOD TO	REC. DIV RATE CFS DATABASE	REC. DIV RATE CFS EXAMINER	REC. DIV VOL. AF/A DATABASE	REC. DIV VOL. AF/A EXAMINER	REC. CONS. USE DATABASE	REC. CONS. USE EXAMINER
	4-1	10-31		~~3.26~~ 3.51		702 Ø		~~636.6~~ Ø
IRRIGATION	~~3-15~~	~~11-15~~						
DOMESTIC	1-1	12-31		0.06				
STOCK	1-1	12-31		0.07				
				~~3.26~~ 2.51				

TOTAL FOR THIS RIGHT

RECOMMENDED BY: JRC DATE: 7-31-90

WR proportional Rate = 9.7 cfs / (13240 / 520) = 0.186 cfs/Ac. 520 Ac.

KOL
EA
FOS (see Cert)

"DO NOT FILM"

PAGE: 12

BASIS OF CLAIM REVIEW REPORT — CLAIM NUMBER: A36-00040

4. CHECK ONLY THOSE FOLLOWING THAT APPLY:

	ACCEPTED AS CLAIMED	NEEDS REVIEW
OVERBASE?		
PURCHASE/EXCHANGE		
ADDITIONAL REV. REQUEST		

Unpk Reims
X3 Flow

5. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-00040

TOTAL DIVERSION RATE OF WR SPLITS — DATABASE: 0.700 — EXAMINER: _____ — CFS

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "B" CLAIM NUM.	"B" DIV. RATE	WR RIGHT NUMBER	DIVERSION RATE
-	A36-00040	0.700	-		36-00040	0.700
	TOTAL CFS	0.700				0.700

DIVERSION RATE REVIEW — DATABASE: T — FIELD EXAMINER: Y

DO THE SUM CFS RATE OF THE SPLITS EQUAL THE ROOT RIGHT CFS RATE? (Y/N)
IF NO, IS THE written review about adequate? (Y/N)

REMARKS:

ASSESSMENT/RECOMMENDATION: Steve Clark See — DATE: 2-12-92

EXAMINER: _____ — DATE: 12-28-91

NAME OF FIELD EXAMINER: _____ — TITLE: _____

"DO NOT FILM"



QT FILM"

x10

32x10

TT7s
PDI
PDI
9.37-6649
DO NOT FILM"
8x10
8x10

DAN MCFADDEN — IDAHO — 83 mile

GOOSING

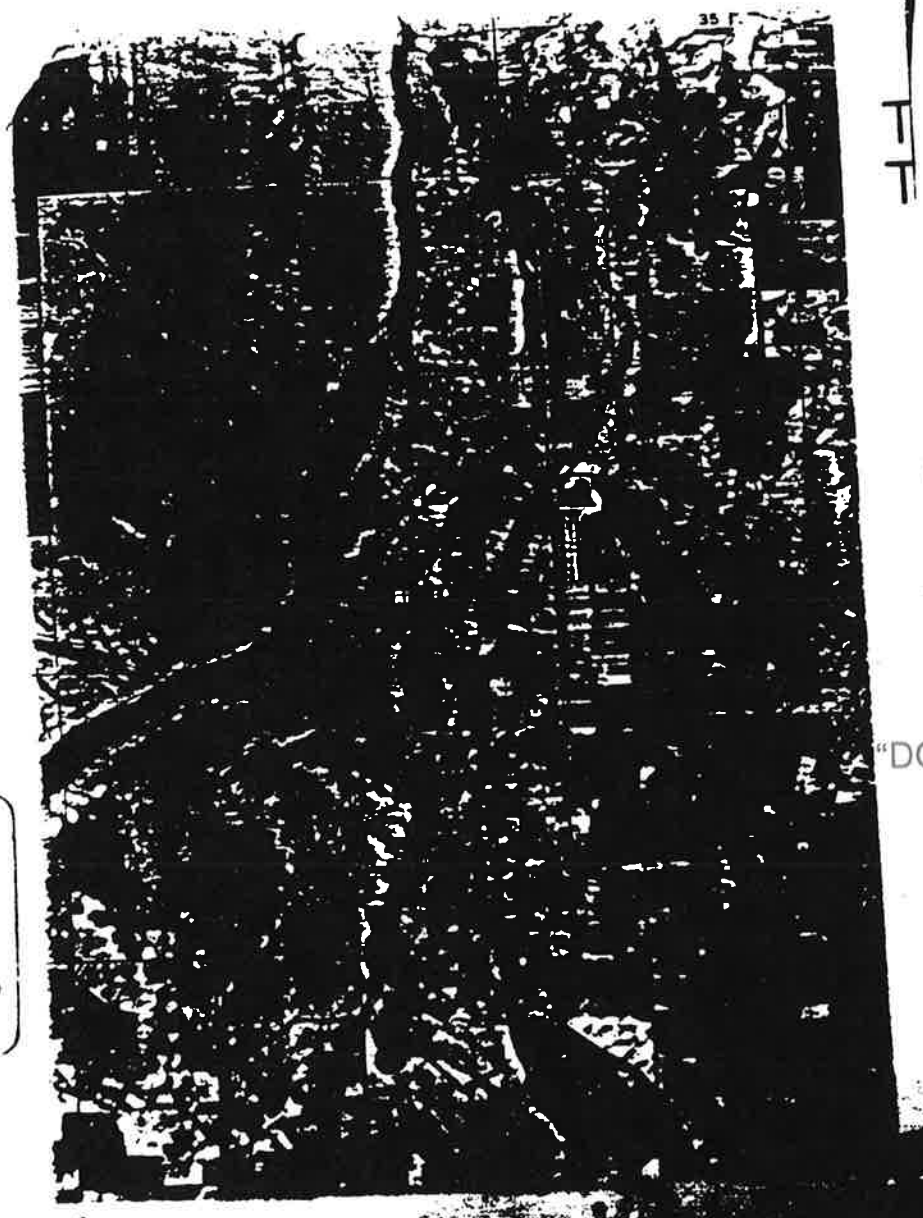
GOOSING



"DO NOT FILM"

32×10

32×10



"DO NOT FILM"

32×10

32×10

State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 734-2678

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

```
MODE SELECT
      INPUT

OUTER DIAMETER
16.0063   IN

PIPE MATERIAL
?         CS.SS

WALL THICKNESS
0.2189    IN

INNER LINING
?         NO LINR.

KIND OF FLUID
?         WATER

SENSOR MOUNTING
?         U

TYPE OF SENSOR
?         SMALL

DATA CHANGE
?         NO

SPACING
12.944    IN U

ZERO MODE
      CLEAR

ZERO MODE
      AUT ZERO

ZERO MODE
      ZERO OPR


08-09 15:0100 HR
+002.60 %  AI2

MODE SELECT
      TO CHECK

0004.2   MMSEC
100.20   % TO

08-09 15:0200 HR
+205.6008E 10PH
```

Florence Livestock Spring (ALL)

"DO NOT FILM"

= 5.47 Ga

FLORENCE
LIVESTOCK
SPRING

By STEVE CLELAND
HELEN HARRINGTON
8-9-90

2x10

2x10

A36-00549

```
MODE SELECT
        INPUT

OUTER DIAMETER
25.7000   IN

OUTER DIAMETER
0.1063    IN

PIPE MATERIAL
?         CS.SS

WALL THICKNESS
.11000    IN

INNER LINING
?         NO LINR.

KIND OF FLUID
?         WATER

SENSOR MOUNTING
?         U

TYPE OF SENSOR
?         SMALL

DATA CHANGE
?         YES

CHANGE DATA
?         PIPE

CHANGE DATA
?         PIPE

CHANGE DATA
?         END

SPACING
5.956     IN U

ZERO MODE
        CLEAR

ZERO MODE
        AUT ZERO

ZERO MODE
        ZERO OPR

88-09 15:34:00 AB
+083.88 %  AI2

MODE SELECT
        TO CHECK

8294.9  MMSEC
099.14  % TO

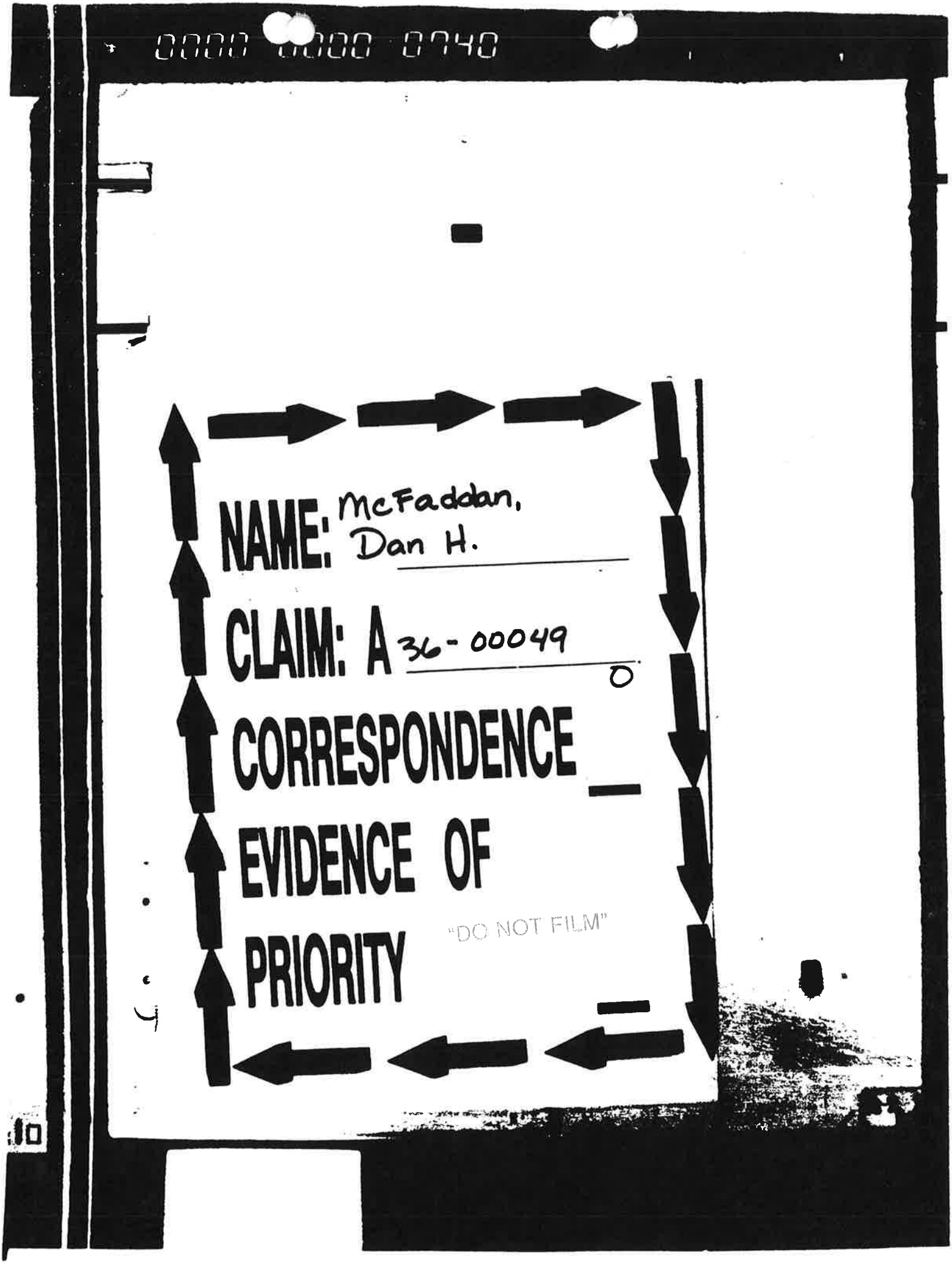
88-09 15:33:00 AB
+  1.1066 SDPH
```

Measure diameter from flat side

"DO NOT FILM"

Measurement made 8-9-90 by SEC, HHT

2.58 cfs


NAME: McFaddan, Dan H.
CLAIM: A 36-00049 0
CORRESPONDENCE
EVIDENCE OF
PRIORITY
"DO NOT FILM"

0000 0000 0741

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: A36-00049
Date Received: 8/30/1988
Receipt No: 8001892
Received By: [illegible]

COPY
FOR YOUR FILES
DO NOT RETURN

NOTICE OF CLAIM TO A WATER RIGHT
UNDER STATE LAW

1. Name: DAN R. MCFADDAN 208-837-6649
Address: RT 1 BOX 406
HAGERMAN, ID 83332

AND/OR

Name: IRMA R. MCFADDAN 208-837-6649
Address: RT 1 BOX 406
HAGERMAN, ID 83332

2. Date of Priority: APR 01, 1900

3. Source: FLORENCE LIVESTOCK SPRING Trib. to: BILLINGSLEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
07S	13E	12	SE SE NW		GOODING

5. Description of diverting works:
HAND DUG TUNNEL, CONCRETE HEAD WORKS, 20" PIPE, 16" PIPE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGA					
DOMEST					
COMMER					
STOCKW					
FISH P					

Missing Original Claim

7. Total

8. Total

9. Non-ir
C/VE

A36-000

LB.

F, F/2 PONDS

8/30/88

"DO NOT FILM"

10. Place of Use:

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
07S	13E	11	SE	NE		IRR	6.0
			NE	SE		IRR	36.5
			SE	SE		IRR	40.0
					Section Acres		82.5
		12	NW	SW		IRR	1.0
			SW	SW		IRR	18.0
			SE	SW		IRR	1.0
					Section Acres		20.0
		13	NW	NE		IRR	36.0
			NE	NW		IRR	40.0
					Section Acres		76.0
					Total Acres		178.5

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
A36-00048

14. Remarks:
BOTH DECREES COMBINE 19.7 CFS TO COVER ALL USES. COMMERCIAL USES DEVELOPED IN 1945 (VEG. PROC. PLANT), 1977 (MINT STILL). FISH PONDS WERE DEVELOPED IN 1969. CLAIMANT USES SAME WATER ON ALL USES AND WANTS TO COVER THEM ON ONE CLAIM, CONSIDERING THE ORIGINAL TERMS OF THE DECREE.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

NEW INTERNATIONAL MORTGAGE BAN (Decree Plaintiff) vs IDAHO POWER COMPANY (Decree Defendant)

"DO NOT FILM"

8888 0001 0743 00

WARRANTY DEED

THIS INDENTURE, Made this 17th day of Sept, in the year of our Lord one thousand nine hundred and sixty-three, between McCARTER CATTLE CO., INC., an Idaho corporation, whose principal place of business is Carrol, County of Canas, State of Idaho, the party of the first part, and THE STATE OF IDAHO for the use and benefit of the Fish and Game Department, of the County of Ada, State of Idaho, the party of the second part.

WITNESSETH, That the said party of the first part, for and in consideration of the sum of Sixty Thousand Dollars ($60,000.00), lawful money of the United States of America, to it in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained and sold, and by these presents does grant, bargain, sell, convey and confirm unto the said party of the second part, and to its successors and assigns forever, all of the following described real estate, situated in the County of Gooding, State of Idaho, to-wit:

All of the following described lands located in Township 7 South, Range 13 East of the Boise Meridian, Idaho:

Section 11, [illegible], Section 12, [illegible]; Section 13, [illegible]; EXCEPTING therefrom those portions lying south of the following described boundary line:

Beginning at a point on the north boundary line of the [illegible] of said Section 11, from which point the northeast corner of said [illegible] bears North 89° 33' East a distance of 734.0 feet; thence following said boundary line in Section 11 South 28° 25' East a distance of 664.0 feet; thence South 21° 35' East a distance of 880.0 feet; thence South 25° 12' East a distance of 520.0 feet to a point on the section line common to Sections 11 and 12; thence in Section 12, South 22° 30' East a distance of 865.0 feet; thence South 47° 04' East a distance of 482.0 feet; thence North 89° 20' East a distance of 231.0 feet; thence South 43° 10' East a distance of 856.5 feet to a point on the section line common to Sections 12 and 13; thence in Section 13, South 45° 18' East a distance of 574.5 feet; thence South 03° 18' East a distance of 461.0 feet; thence North 79° 37' East a distance of 344.0 feet; thence South 20° 33' East a distance of 232.0 feet; thence South 09° 10' East a distance of 539.0 feet to a point on the center line of an existing county road; thence following the center line of the existing county road North 61° 25' East a distance of 444.0 feet, thence North 27° 03' East a distance of 100.0 feet; thence North 17° 06' East a distance of 570.4 feet; thence North 37° 06' East a distance of 166.3 feet, thence North 59° 00' East a distance of 210.6 feet, more or less, to a point on the north boundary line of said Section 13.

ALSO EXCEPTING from the said [illegible] of Section 13 that portion lying east of the existing county road.

Said lands herein conveyed comprising 303.62 acres, more or less.

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0000 0000 0744

TOGETHER with all water and water rights and ditches and ditch rights appurtenant thereto, including but not limited to the following designated water rights: 7.33 c.f.s. of that decreed right of 10.0 c.f.s. of the waters of Billingsley Creek, priority date of November 4, 1885, decreed to the Florence Livestock Company; and 4.6 c.f.s. of that decreed right of 9.7 c.f.s. of the flow of Florence Livestock Spring, priority date of April 1, 1900, decreed to Florence Livestock Company pursuant to that Decree of Equity No. 1602 entered by the U.S. District Court for the District of Idaho, Southern Division, on the 22nd day of March, 1932, in the case of New International Mortgage Bank, a corporation, Plaintiff, vs. Idaho Power Company, a corporation, et al, Defendants; reserving unto the party of the first part first priority use of 5.10 c.f.s., during irrigation seasons, of the flow of the waters emerging from an existing developed tunnel at Florence Livestock Spring, which said tunnel discharges into a certain 14 inch O.D. steel pipeline lying on and within a certain right-of-way and easement hereinafter reserved unto the party of the first part.

The party of the first part further grants and conveys unto the party of the second part, its successors and assigns, a permanent and perpetual easement and road right-of-way for public ingress and egress to and from the lands hereinbefore conveyed, on, over and across the lands owned by it, and situate and lying in Gooding County, State of Idaho, and more particularly described as follows:

A strip of land across the lands of the party of the first part extending easterly from the present U.S. Highway No. 30 to the lands hereinabefore conveyed, which said strip of land is bounded on the North side thereof by the Bell Ditch and the North boundary line of the South Half of the Southeast Quarter of the Northeast Quarter (S½SE¼NE¼) of Section 11, Township 7 South, Range 13 East of the Boise Meridian, that portion of which is bounded on the North by the Bell Ditch being 30 feet in width and that portion of which is bounded on the North by the North boundary line of the South Half of the Southeast Quarter of the Northeast Quarter (S½SE¼NE¼) of Section 11, Township 7 South, Range 13 East of the Boise Meridian being 50 feet in width.

There are hereby reserved to the party of the first part the following described easements on and over the hereinbefore described lands:

(1) A forty-foot (40') right-of-way for stock watering extending 20 feet on each side of the following described center line:

Beginning at the northeast corner of the NE¼NE¼ of Section 11, thence North 300.0 feet to a point on the southeasterly boundary line of the property hereinabefore conveyed to party of the second part; thence along said line North 25° 12' West a distance of 130.0 feet to a point, which point is the true point of beginning, thence East 220.0 feet, more or less, to the water's edge of the left bank of Billingsley Creek, being located within the NE¼NE¼, Section 11, and the NW¼NW¼, Section 12, Township 7 South, Range 13 East of the Boise Meridian.

(2) A forty-foot (40') right-of-way for stock watering extending 20 feet on each side of the following described center line:

Beginning at the southeast corner of the SW¼SW¼, Section 12, Township 7 South, Range 13 East of the Boise Meridian, thence North 205.0 feet to a point on the southeasterly boundary line of lands hereinabefore conveyed to the party of the second part;

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thence along said line North 45° 18' West a distance of 515.0 feet to the true point of beginning, thence extending North 60.0 feet, more or less, to the water's edge of the left bank of Billingsley Creek.

(3) A twenty-foot (20') right-of-way for an existing pipeline, being 10 feet on each side of said pipeline which is also the center line of said right-of-way, for the operation, maintenance, and replacement of a 14-inch O.D. water pipeline and the existing laterals therefrom; said pipeline right-of-way being located as follows:

Beginning at the northwest corner of the SW¼NW¼, Section 12, Township 7 South, Range 13 East of the Boise Meridian; thence East 134.0 feet, more or less, to a point on the southwesterly boundary line of the lands hereinbefore conveyed to the party of the second part; thence along said boundary line South 22° 31' East a distance of 450.0 feet to the point of intersection of said line with the existing pipeline, which point is the true point of beginning; thence North 45° 45' East a distance of 2430.0 feet to the waters of Florence Livestock Spring.

(4) A ten-foot (10') right-of-way for an existing domestic water line, being 5 feet on each side of the center line described as follows:

Beginning at the quarter corner common to Sections 11 and 12, Township 7 South, Range 13 East of the Boise Meridian; thence North a distance of 618.0 feet; thence North 88° 45' East a distance of 608.0 feet to a spring and the true place of beginning; thence South 88° 45' West a distance of 800.0 feet; thence South 87° 30' West a distance of 293.0 feet to a point on the southwesterly boundary line of the lands hereinbefore conveyed to the party of the second part.

(5) A twenty-foot (20') right-of-way for the operation, maintenance and replacement of an existing irrigation pump and pipeline for water carriage therefrom; said right-of-way being 10 feet on each side of the following described center line:

Beginning at the quarter corner common to Sections 12 and 13, Township 7 South, Range 13 East of the Boise Meridian; thence South 396.0 feet; thence North 75° 27' East a distance of 120.0 feet to the pump located on the left bank of Billingsley Creek, the true point of beginning; thence along the center line of the right-of-way South 05° 18' East a distance of 190.0 feet to a point on the southwesterly boundary line of the lands hereinbefore conveyed to the party of the second part.

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

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises, together with the appurtenances, unto the party of the second part, and to its successors and assigns forever and the said party of the first part, and its successors, the said premises in the quiet and peaceable possession

of the said party of the second part, its successors and assigns, against the said party of the first part, and its successors, and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will WARRANT and by these presents forever DEFEND.

IN WITNESS WHEREOF, The said party of the first part has hereunto set its corporate name and affixed its corporate seal, the day and year first above written.

McCARTER CATTLE CO., INC.

By _____
President

Attest:

_____
Secretary-Treasurer

STATE OF IDAHO)
: ss
County of Gooding)

On this 17th day of Sept, in the year 1963, before me, the undersigned Notary Public in and for said State, personally appeared _____ known to me to be the _____ of the corporation that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

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

_____
Notary Public for the State of Idaho
Residing at: Gooding

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RECEIVED
FEB 10 1993
Department of Water Resources

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

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

* * * * * * * * * * *

In Re the General Adjudication of Rights to the Use of Water from the Snake River Basin Water System	Case No. 39576
The State of Idaho, ex rel. R. Keith Higginson in his official capacity as director of the Idaho Department of Water Resources, Petitioner, vs. United States; State of Idaho; and all claimants to the use of water from the Snake River Basin Water System, Respondents.	NOTICE OF APPEARANCE

"DO NOT FILM"

* * * * * * * * * * *

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

A:\B0190P
SELECTION FILE: WRT-USA-BROWN

IDAHO DEPARTMENT OF WATER RESOURCES
SELECTION FILE CONTENTS

DATE: 03/05/95
TIME: 12:00:19
PAGE: 1

A36-000030	A36-000EDC	A36-000038	A36-000054	A36-000056	A36-0000EJ	A36-00006	A36-00007	A36-00008	A36-000210
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A36-000774	A36-00079	A36-000BAC	A36-000894	A36-000904	A36-000909	A36-00092	A36-000944	A36-000964	A36-00097
A36-00098	A36-00099	A36-00100	A36-00101	A36-0010EC	A36-001034	A36-00106	A36-001084	A36-001088	A36-001104
A36-001108	A36-00111A	A36-001118	A36-001124	A36-001128	A36-001130	A36-00113J	A36-00119	A36-00120	A36-00121
A36-001234	A36-001238	A36-00133	A36-001344	A36-00134C	A36-001354	A36-00135C	A36-00141	A36-00192	A36-020002
A36-00000	A36-02140	A36-04091	A36-04142	A36-04364	A36-07071	A36-07081	A36-07089	A36-07090A	A36-07142
A36-07143A	A36-09172	A36-07279	A36-07233	A36-07346	A36-07600	A36-07875	A36-08099	A36-08317	A36-10095
A36-10119	A36-10128	A36-10140	A36-10141	A36-10160	A36-10231	A36-10249	A36-10283	A36-102830	A36-10405
A36-10539	A36-10986	A36-15146	A36-15148	A36-15340	A36-15463				

TOTAL RECORDS IN SELECTION FILE: 116

"DO NOT FILM"

Users, Inc. and its individual members:

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

DO NOT FILM"

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

"DO NOT FILM"

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

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

DATED This 9 day of February, 1993.

HEPWORTH, NUNGESTER & LEZAMIZ

By _____
PATRICK D. BROWN
Attorneys for Respondents

CERTIFICATE OF MAILING

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

Hwd

Hepworth Nungester & Lezamiz

"DO NOT FILM"

February, 1993, to:

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

Clive Strong
Chief Natural Resources Division
Office of Attorney General
Statehouse
Room 210
Boise, Idaho 83720

David Shaw
Adjudications Bureau Chief
Department of Water Resources
1301 North Orchard
Boise, Idaho 83706

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

Patrick J. Brown

OT FILM"

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 1, 1993

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

Re: Notice of Appearance

Dear Mr. Brown:

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

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

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

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

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

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

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

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

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

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

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

Sincerely,

Jodi I. Schultz

JODI I. SCHULTZ
Legal Assistant
Idaho Department of Water Resources

cc: IDWR Southern Region

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0001 0000 0753

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CVR
MAPS
PHOTOS
MISC

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0000 0760

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. A16-00049 (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, 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.	OBJECTION 38-00049 -0001/ 93-04-0055

INSTRUCTIONS

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

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

(Over)

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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: Dan H. and Irma R. McFadden

   Address: Route 1, Box 406

   Hagerman, ID 83332

   Briefly describe your interest in this water right:

   Decreed water right pursuant to New International Mortgage Bank v. Idaho Power Company dated 3/22/32 with a priority date of 4/1/1900

2. Owner of the water right:

   Name: Dan H. and Irma R. McFadden

   Address: Route 1, Box 406

   Hagerman, ID 83332

3. If this objection is filed by an attorney:

   Attorney Name: Patrick D. Brown & Penelope Parker

   Attorney Address: Hepworth, Duncaster & Lezamiz

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

   Attorney Phone No.: (208) 734-7810

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

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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.

Add additional purposes of use to include commercial, fish propagation, & aesthetic; expand period of use to 1/1 - 12/31; expand quantity to comply with decree and/or beneficial use, whichever is great; place of use; add 3 acres; remarks; strike all remarks

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

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☒ 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

Dan McFadden, 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.

Dan McFadden
Signature of person filing objection

By: _____
(Attorney signing in representative capacity)

Subscribed and sworn to before me this 19th day of April, 1991.

Notary Public for Idaho
Residing at: Hagerman Idaho
My Commission Expires: 5-10-97

(Over) "DO NOT FILM"

OBJECTION - 5

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 8th day of April, 1991, 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: Dan H. and Irma B. McFadden

   Owner's address: Route 1, Box 406

   Hagerman, ID 83332

3. One copy to:

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

4. One copy to:

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

Signature of Objector or attorney mailing on Objector's behalf

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REASONS SUPPORTING EACH BOX CHECKED, page 4

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

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

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

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

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

CHANGES TO DIRECTOR'S REPORT, page 4

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

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Question 14., page 4, Other

I.

GENERAL RESPONSE

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

II.

DESCRIPTIVE SUMMARY

(DIRECTOR'S REPORT PART I)

(hereinafter DRP-I)

(DRP-I at first unnumbered page)

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

III.

TABLE OF CONTENTS

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

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

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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. 36-00049 -0001
The State of Idaho, ex rel. R. Keith Higginson in his official capacity as Director of the Idaho Department of Water Resources, 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.	RESPONSE TO OBJECTION

I. GENERAL INFORMATION

1. Person responding to objection:

Name: R. KEITH HIGGINSON, DIRECTOR

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

Briefly describe your interest in this water right:

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

(Over)

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2. Person who filed objection:

Name: DAN H & IRMA R MC FADDEN
Address: RT 1 BOX 406
HAGERMAN ID 83332

3. If this response is filed by an attorney:

Attorney Name(s): NICHOLAS B. SPENCER

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

Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

3. [X] Quantity: I respond to the objection concerning:

3a. [X] The total quantity of water used in cubic feet per second.

3b. [X] The total quantity of water stored in acre feet per year.

7. [X] Purposes of Use: I respond to the objection concerning the purpose(s) of use.

8. [X] Period of Year: I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.

9. [X] Place of Use: I respond to the objection concerning:

9a. [X] The legal description of the place of use.

10. [X] Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.

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11. [X] Remarks: I respond to the objection concerning the "remarks" listed with the water right.

14. [X] Other: I respond to the objection concerning:

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

REASONS SUPPORTING EACH BOX CHECKED

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

In response to Statement of the Objection item 3.b, and all allegations of the objection regarding that item, IDWR responds as follows: Although this item was identified as an item being objected to, no reason for the objection was stated. IDWR further responds that the recommended water right was not claimed, and therefore could not be recommended, as a storage right either in whole or in part. The claimant's objection to this item is in error.

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

(Over)

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responds that it did not recommend fish propagation or commercial as purposes of use because those uses were found to constitute an expansion of use to which neither Idaho Code section 42-1416 nor 42-1416A apply.

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

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

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

In response to Statement of the Objection item 10 and all allegations of the objection regarding this item, IDWR responds as follows: (1) The decree asserted by the claimant did not set an annual volume of consumptive use for this water right. (2) Idaho Code Sec. 42-1411(2)(i) requires the director to determine the annual volume of consumptive use for each water right acquired under state law and recommended in the director's report. (3) Idaho Code Sec. 42-1401A(2) provides that the quantification of consumptive use "is included as a rebuttable presumption in a decree only for the purpose of transfers pursuant to section 42-222, Idaho Code"; therefore, the

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consumptive use recommended for this water right is included solely for use in future transfer proceedings. (4) The annual volume of consumptive use recommended for this right is 3 acre feet per acre. This is the maximum volume of water consumed by the most water consumptive crop (pasture) that can be grown in the area during the period of year when water is used for irrigation, as provided for by Idaho Code Sec. 42-1401A(2). (5) The recommendation of the director to the SRBA Court as to how the right should be decreed does not constitute a taking because it is simply a recommendation and not a final determination of the right. (6) The eventual decree by the SRBA Court of the amount of water beneficially used, even if less than the amount previously decreed, will not constitute a taking because the right is limited to that amount beneficially used.

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

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

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

CHANGES TO THE DIRECTOR'S REPORT

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

(Over)

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

	No. of Pages
IDWR's Response to Answer, Affirmative Defenses and Prayer for Relief of Claimant	4
Notice of Claim No. A36-00049 to the extent available to IDWR. The two photocopy pages remaining in the file show multiple staple marks indicating the claim may have been photocopied many times. The two photocopy pages were all that remained on January 21, 1993, when the documents in the file were microfilmed.	2

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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 1st day of September 1993.

Notary Public for Idaho
Residing at: _____
My Commission [illegible] Notary Public
Residing at Boise, Idaho
Commission Expires December 6, 1994

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(Over)

CERTIFICATE OF MAILING

I hereby certify that on the 1st day of September, 1993, I mailed the original and copies of the foregoing response, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepared and addressed as follows:

1. Original to:

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

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

   See No. 3

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

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

4. One copy to:

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

Mike Spencer
Signature of Respondent or attorney mailing on Respondent's behalf

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: A36-00049
Date Received: 8/30/1988
Receipt No: 8001892
Received By: [illegible]

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

1. Name: DAN H. MCFADDAN 208-837-6649
   Address: RT 1 BOX 406
   HAGERMAN, ID 83332
   AND/OR
   Name: IRMA R. MCFADDAN 208-837-6649
   Address: RT 1 BOX 406
   HAGERMAN, ID 83332

2. Date of Priority: APR 01, 1900

3. Source: FLORENCE LIVESTOCK SPRING Trib. to: BILLINGSLEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
07S	13E	12	SE SE NW		GOODING

5. Description of diverting works:
   HAND DUG TUNNEL, CONCRETE HEAD WORKS, 20" PIPE, 16" PIPE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/01	11/15	9.700		
DOMESTIC	01/01	12/31	0.060		
COMMERCIAL	01/01	12/31	0.060		
STOCKWATER	01/01	12/31	0.070		
FISH PROPAGATION	01/01	12/31	0.600		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
   C/VEG. PROC. PLANT, MINT STILL, D/2 HOUSES, S/250 BEEF, F/2 PONDS

"DO NOT FILM"
MICROFILMED JAN 21 1993

10. Place of Use:

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
07S	13E	11	SE	NE		IRR	6.0
			NE	SE		IRR	36.5
			SE	SE		IRR	40.0
					Section Acres		82.5
		12	NW	SW		IRR	1.0
			SW	SW		IRR	18.0
			SE	SW		IRR	1.0
					Section Acres		20.0
		13	NW	NE		IRR	36.0
			NE	NW		IRR	40.0
					Section Acres		76.0
					Total Acres		178.5

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
A36-00048

14. Remarks:
BOTH DECREES COMBINE 19.7 CFS TO COVER ALL USES. COMMERCIAL USES DEVELOPED IN 1945 (VEG. PROC. PLANT), 1977 (MINT STILL). FISH PONDS WERE DEVELOPED IN 1969. CLAIMANT USES SAME WATER ON ALL USES AND WANTS TO COVER THEM ON ONE CLAIM, CONSIDERING THE ORIGINAL TERMS OF THE DECREE.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

NEW INTERNATIONAL MORTGAGE BAN
Decree Plaintiff

vs

IDAHO POWER COMPANY
Decree Defendant

MICROFILMED
JAN 21 1993

"DO NOT FILM"

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

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

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

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WORKS (page 11 of Part I of the director's report

(17) VI. General Provision 8. FIRE FIGHTING PURPOSES (page 11 of Part I of the director's report)

(18) VI. General Provision 9. CONSUMPTIVE USE (page 12 of Part I of the director's report)

(19) VI. GENERAL PROVISION 10 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH DOMESTIC USE AS A PURPOSE OF USE (page 12 of Part I of the director's report)

(20) VI. General Provision 10. DOMESTIC USE (page 12 of Part I of the director's report)

(21) VI. GENERAL PROVISION 11 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH STOCK WATER USE AS A PURPOSE OF USE (page 13 of Part I of the director's report)

(22) VI. General Provision 11. STOCK WATER USE (page 13 of Part I of the director's report)

(23) VI. GENERAL PROVISIONS 12-16 APPLY TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH IRRIGATION AS A PURPOSE OF USE (page 13 of Part I of the director's report)

(24) VI. General Provision 12. IRRIGATION USE (pages 13-14 of Part I of the director's report)

(25) VI. General Provision 13. DIVERSION VOLUME FOR IRRIGATION (page 14 of Part I of the director's report)

(26) VI. General Provision 14. CONSUMPTIVE USE FOR IRRIGATION (pages 14-15 of Part I of the director's report)

(27) VI. General Provision 15. AMOUNT OF COMBINED WATER RIGHTS FOR IRRIGATION (page 15 of Part I of the director's report)

(28) VI. General Provision 16. DIVERSION RATES IN EXCESS OF .02 CFS PER ACRE (pages 15-16 of Part I of the director's report)

(30) VI. 17. INSTRUCTIONS FOR USE OF LIST OF RECOMMENDED WATER RIGHTS (pages A-i through A-iii of Part I of the director's report)

(31) VI. 18. IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW (pages A-1 through B-25 of Part I of the director's report)

(32) DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36), (DIRECTOR'S REPORT PART II)

(33) DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36), (DIRECTOR'S REPORT PART III)

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

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

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

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

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

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

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

1. IDWR denies that the director's report asserts any claims against the claimant; rather, the director's report contains only the recommendation of the director as to how the claimant's water right should be decreed and administered.

2. IDWR denies that the claimant is entitled to have the water right decreed as claimed unless in the director's report the water right has been recommended as claimed.

3. IDWR denies that any acts upon its part constitute the taking of private property for which just compensation should be allowed and awarded.

4. IDWR denies that the claimant is entitled to recover court costs and reasonable attorney fees.

5. IDWR denies that the claimant by this objection has raised any claims against IDWR entitling such claimant to any relief other than the eventual judicial determination and decree of the various elements of the claimant's water right, if any, and of those related matters necessary to describe and administer that water right.

DO NOT FILM"

From: DWB03::SHAN 8-APR-1993 17:52:28.78
To: DWB60::MERRITT
CC:
Subj: RE: [redacted] SHAN MC FADDEN UNSIGNED CLAIM

Allen - I will pass the word to the attorneys and have someone look here for the claim. It will be tomorrow (Friday) before we can do much so will be back to you then.

Dave

"DO NOT FILM"

From: DWR60::MERRITT 8-APR-1993 17:40:35.24
To: DWR03::SHAN,DWR03::SHAFF
CC: MERRITT
Subj: A36-00049 DAN MC FADDEN UNSIGNED CLAIM

THIS AFTERNOON SALLY CALLED AND ASKED THAT I PULL SEVERAL FILES ANL CONFIRM THAT WE HAD THEN AND THAT THE SIGNED CLAIMS WERE INCLUDED IN THE FILE.

TO MY DISMAY I FOUND THAT THIS CLAIM FILE ONLY CONTAINS PHOTOCOPIES OF THE FIRST TWO PAGES OF WHAT WOULD APPEAR TO BE THE ORIGINAL CLAIM. THE ORIGINAL CLAIM IS MISSING AS WELL AS A COMPLETE COPY OF SAME. IT WOULD APPEAR THAT THE ORIGINAL WAS THREE PAGES (A COPY OF THE SIGNATURE PAGE IS MISSING).

SINCE THIS FILE HAS BEEN OF INTEREST FOR SOME TIME I WAS WONDERING (HOPING) THAT MAYBE THE STATE-OFFICE MAY HAVE THE ORIGINAL CLAIM. IF INDEED THE ORIGINAL IS MISSING THE LAWYERS NEED TO BE AWARE OF THIS SO WE CAN OBTAIN A SIGNED PLEADING. AT PRESENT I CAN ONLY SPECULATE WHAT MAY HAVE HAPPENED TO THE ORIGINAL.

ALLEN

DO NOT FILM"

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: A36-00049
Date Received: 8/30/1988
Receipt No: 8001892
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

1. Name: IRMA R MC FADDAN 208-837-6649
   Address: RT 1 BOX 406
   HAGERMAN ID 83332
   AND/OR
   Name: DAN H MC FADDAN 208-837-6649
   Address: RT 1 BOX 406
   HAGERMAN ID 83332

2. Date of Priority: APR 1, 1900

3. Source: FLORENCE LIVESTOCK SPRING Trib. to: BILLINGSLEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
07S	13E	12	SE SE NW		GOODING

5. Description of diverting works:
   HAND DUG TUNNEL, CONCRETE HEAD WORKS, 20" PIPE, 16" PIPE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/01	11/15	9.700		
DOMESTIC	01/01	12/31	0.060		
COMMERCIAL	01/01	12/31	0.060		
STOCKWATER	01/01	12/31	0.070		
FISH PROPAGATION	01/01	12/31	0.600		

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

8. Total consumptive use is 535.5 Acre Feet Per Annum.

9. Non-irrigation uses:
   C,VEG. PROC. PLANT, MINT STILL; D,2 HOMES; S,250 BEEF; F,2 PONDS

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10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
07S	13E	11	SE NE		IRR	6.0
			NE SE		IRR	36.5
			SE SE		IRR	40.0
				Section Acres		82.5
		12	NW SW		IRR	1.0
			SW SW		IRR	18.0
			SE SW		IRR	1.0
				Section Acres		20.0
		13	NW NE		IRR	36.0
			NE NW		IRR	40.0
				Section Acres		76.0
				Total Acres		178.5

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
A36-00048

14. Remarks:
BOTH DECREES COMBINE 19.7 CFS TO COVER ALL USES. COMMERCIAL USES DEVELOPED IN 1945 (VEG. PROC. PLANT), 1977 (MINT STILL). FISH PONDS WERE DEVELOPED IN 1969. CLAIMANT USES SAME WATER ON ALL USES AND WANTS TO COVER THEM ON ONE CLAIM, CONSIDERING THE ORIGINAL TERMS OF THE DECREE.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

KBK INTERNATIONAL MORTGAGE BA
Decree Plaintiff

vs

IDAHO POWER COMPANY
Decree Defendant

"DO NOT FILM"

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): _____ Date: _____

_____ Date: _____

State of Idaho)
) ss.
County of _____)

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

_____
Notary Public

Seal

Residing at _____

My Commission Expires _____

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AJUDPLSUP
(ID-124)

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

04/09/98 09:13:37
Page 1

Water Right Number - A36-00049 Profile Translation ADJUDICATION CLAIM Old (D) Number -

Last Name	First Name	Address
*** A - ATTORNEY ***	PATRICK D	1 - [illegible] LEZAMIZ 2 - 153 [illegible] 3 - PO BOX 309 City- TWIN FALLS State- ID Zip- [illegible] Phone - 208-734-7510
*** C - CURRENT OWNER ***	IDAHO R	1 - RT 1 BOX 486 2 - 3 - City- [illegible] State- ID Zip- 83352 Phone - 208-837-6649
RC PADDOCK	DAN R	1 - RT 1 BOX 486 2 - 3 - City- [illegible] State- ID Zip- 83352 Phone - 208-837-6649
*** E - ELMO [illegible] AS *** FISH & GAME		1 - 2 - 3 - City- BOISE State- ID Zip- 83707 Phone - 208-000-0000

Priority Date	Region	Stage	Status
04/01/1900	17 SOUTHERN	0 - DECREED	

Source: PLUMMER LIVESTOCK SPRING

Tributary: BILLINGSLEY CREEK

Point of Diversion

Twn	Rng	Sec	Tract	Lot	Qtrs	County
09S	13E	12	SE SE NW		(47) [illegible]	

Water Use

Code	Description	Period From	Period To	Diversion Rate	Diversion Volume
01	[illegible]	05/01	11/15	9.700	
43	DOMESTIC	01/01	12/31	0.060	
10	COMMERCIAL	01/01	12/31	0.060	
04	[illegible]	01/01	12/31	0.070	
19	FISH PROPAGATION	01/01	12/31	0.600	

Total Div. Rate: 9.700
Total Div. Volume:
Total Consumptive Use: 535.5
CU Method:

"DO NOT FILM"

Water right number - A36-00049 Profile Translation: ADJUDICATION CLAIM

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
[illegible]		11	[illegible]		6.0	01	IRRIGATION	(67) [illegible]
		11			36.5	01	IRRIGATION	(67) [illegible]
		11			60.0	01	IRRIGATION	(67) [illegible]
		12			1.0	01	IRRIGATION	(67) [illegible]
		12			10.0	01	IRRIGATION	(67) [illegible]
		12			1.0	01	IRRIGATION	(67) [illegible]
		13			36.0	01	IRRIGATION	(67) [illegible]
		13			60.0	01	IRRIGATION	(67) [illegible]

Total Acres: 178.5

- - - Diversion Means - HAND DUG TUNNEL, CONCRETE HEAD WORKS, 28" PIPE, 16" PIPE

- - - Non-Irrigation Use - C,MOS. PROC. PLANT, MINT STILL; 9.2 HOMES; 8,250 BBLS; 7.2 PONDS

- - - Other Rights for Same Use - A36-00040

Remarks

DCFS DECREES CONSIDER 99.7 CFS TO COVER ALL USES. COMMERCIAL USES DEVELOPED IN 1945 (MOS. PROC. PLANT), 1977 (MINT STILL). FISH PONDS WERE DEVELOPED IN 1960. CLAIMANT USES SAME WATER ON ALL USES AND UNITS TO COVER THEM ON ONE CLAIM, CONSIDERING THE ORIGINAL TERMS OF THE DECREE.

Old Water Right Numbers

No Old Water Right Numbers Found

Conditions of Approval

No Conditions of Approval found.

- - - - Source Plaintiff - - - -
[illegible]

- - - - Source Defendant - - - -
IDAHO POWER COMPANY

- - Source Data - -
00/00/0000

Comments

No Comments Found

- - - Audit Fields - - -
00/00/00

Adjudication Rights Dates and Flags Area

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 00/00/0000	Old Judicial District	-
Claim Received Date	- 00/20/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- 0001002	Water District	- 36A
		FED Ownership Flag	- Y	Federal/State Indicator	- S

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AJ07R3RP
(ID-124)

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

06/09/95 09:13:37
Page 3

Water right number - A36-00040 Profile Translation: ADJUDICATION CLAIM

Adjudication Rights Dates and Flags Area

Name Connector - AND/OR

Presumption Flag
Notice of Error Flag

"DO NOT FILM"

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

Date April 20, 1993

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

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

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

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

Sincerely,

DO NOT FILM"

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

CECIL D ANDRUS
Governor

R. KEITH HIGGINSON
Director

20-Apr-1993

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

Dear Chris:

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

Sincerely,

Jeanie Robertson
Records Clerk

"DO NOT FILM"

A36-000 49

DIRECTOR'S REPORT CONVERSATION MEMO

1. PERSON(S) MAKING THE ENQUIRY: Include address and phone no. in case follow-up is needed.

DAN McFADDAN

A36-00049 A36-00048A

2. SUBJECT OF INQUIRY:

① He came in to ask if we had recommended the small pumping field separate from the spreading rates.

② He asked several questions about the objection process and follow up field work.

3. RESPONSE TO INQUIRY: ① We reviewed his file. While it was not specifically required or described the other pumping analysis done around his pump test showed that one inch per acre was the standard rate recommended. In this case the spreading rate of 0.023 cfs/ac should apply to his pumping ground also. To respond to his questions we ran the Hubble Report analysis while Mark McFadden was here in the office. (see attached data) As expected, the final numbers are equivalent to the recommended rates.

We discussed some of the background of the Hubble Report and how it differed from SCS info. We showed him the resource information that was SCS publications.

② We advised that we did not have any dat about the direction or timing of the obj. process.

4. IDWR STAFF AND DATE:

Print name and initial

Steve Clelland 12-16-92 Kelly K Christensen

STEVE CLELLAND See Kelly K Christensen

WATER RIGHT CLAIM (Nos.):

"DO NOT FILM"... us with complete information on these future issues.

INTAKE FAMILY	DESIGN APPLIC.	FURROW SLOPE	FURROW SPACING	ADV LENGTH	ADV RATE	APPROXIMATE INFLOW TIME	ADVANCE TIME	GROSS IRRIGATION APPLICATION	IRRIGATION APPLICATION	RUNOFF	DEEP PERC.	IRRIGATION EFFICIENCY
	Inches	Ft/Ft	Feet	Feet	Gpm	Hours	Minutes	Inches	Inches	Inches	In.	%
0.50	1.99	.020	2.60	500	10	12	28.1	8.88	3.70	5.12	1.70	22.40
0.55	1.99	.020	2.60	500	9	12	31.2	8.00	3.62	4.38	1.70	24.89
0.55	1.99	.020	2.60	500	7	12	36.7	6.22	3.44	2.78	1.52	32.00
0.72	1.99	.020	2.60	500	6	12	41.8	5.22	3.30	1.91	1.43	37.23
0.55	1.99	.020	2.60	500	6	12	41.8	5.22	3.30	1.91	1.43	37.23
0.55	1.99	.020	2.60	500	5	12	47.9	4.44	3.21	1.13	1.23	44.00
0.55	1.99	.020	2.60	500	4	12	60.4	3.52	3.06	0.36	1.20	56.00

$$4.2 \frac{cfs}{EFF} = cfs/Ac$$

$$4.2 \frac{0.32}{56} = .024 \; cfs/Ac$$

A36-00049
McFADDAN
12-16-92
cw/KKC

"DO NOT FILM"

December 10, 1992

RECEIVED
DEC 11 1992
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(s) 36-02104, 36-00047, and 36-00046 A.
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,

Dan McFaddan

Dan McFaddan
17966 U. S. Highway 30
Hagerman, Idaho 83332

DM/skw

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

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0000 0000 0817

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

14-Dec-1992 15:24

DAN MC FADDAN
17966 U S HWY 30
HAGERMAN ID 83332

RE: Copy of SRBA File(s): 36-00048A, 36-00049, 36-02169

Dear Mr. Mc Faddan:

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:

$8.92

Sincerely,

Jeanie Robertson
Records Clerk

Encl:

"DO NOT FILM"

R PROOF

CVR

MAPS

PHOTOS

MISC

MICROFILMED
OCT 1 1 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. A36-00049 (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, 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.	**OBJECTION** 36-00049 -0001/ 93-04-0055

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)

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: Dan H. and Irma R. McFadden

   Address: Route 1, Box 406

   Hagerman, ID 83332

   Briefly describe your interest in this water right:

   Decreed water right pursuant to New International Mortgage Bank v. Idaho Power Company dated 3/22/32 with a priority date of 4/1/1900

2. Owner of the water right:

   Name: Dan H. and Irma R. McFadden

   Address: Route 1, Box 406

   Hagerman, ID 83332

3. If this objection is filed by an attorney:

   Attorney Name: Patrick D. Brown & Penelope Parker

   Attorney Address: Hepworth, Nungester & Lezamiz

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

   Attorney Phone No.: (208) 734-7510

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

II. STATEMENT OF THE OBJECTION

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

1. ☐ Name and Address: I object to the name and/or address of the owner of the water right.

2. ☐ Source: I object to the source of water.

3. ☒ Quantity: I object to:

   a. ☒ the total quantity of water used in cubic feet per second; or

   b. ☒ the total quantity of water stored in acre-feet per year; or

   c. ☐ the total quantity of water reserved for each and every purpose, including all present and future uses.

4. ☐ Priority Date: I object to the priority date.

5. ☐ Points of Diversion: I object to the legal description of the point(s) of diversion.

6. ☐ Instream Flow: I object to the legal description of the beginning and ending points of the instream flow.

7. ☒ Purpose(s) of Use: I object to the purpose(s) of use.

8. ☒ Period of Year: I object to the period of year when water is used or is necessary for the purpose stated.

9. ☒ Place of Use: I object to:

   a. ☒ the legal description of the place of use; or

   b. ☐ the number of irrigated acres within each forty (40) acre subdivision.

10. ☒ Consumptive Use: I object to the annual volume of consumptive use.

11. ☒ Remarks: I object to the "remarks" listed with the water right.

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(Over)

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.

Add additional purposes of use to include commercial, fish propagation, & aesthetic; expand period of use to 1/1 - 12/31; expand quantity to comply with decree and/or beneficial use, whichever is great; place of use: add 3 acres; remarks: strike all remarks

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

[X] 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

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

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.

Dan McFaddan
Signature of person filing objection

By: _____
(Attorney signing in representative capacity)

Subscribed and sworn to before me this 19th day of April, 1993.

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

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(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 26 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: Dan H. and Irma R. McFadden

   Owner's address: Route 1, Box 406

   Hagerman, ID 83332

3. One copy to:

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

4. One copy to:

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

Signature of Objector or attorney mailing on Objector's behalf

REASONS SUPPORTING EACH BOX CHECKED, page 4

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

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

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

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

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

CHANGES TO DIRECTOR'S REPORT, page 4

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

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Question 14., page 4, Other

I.

GENERAL RESPONSE

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

II.

DESCRIPTIVE SUMMARY

(DIRECTOR'S REPORT PART I)

(hereinafter DRP-I)

(DRP-I at first unnumbered page)

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

III.

TABLE OF CONTENTS

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

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

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

IV.

INTRODUCTION

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

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

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

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

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

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

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

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

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

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V.

DESCRIPTION OF THE WATER SYSTEM: BASIN 36

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

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

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

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

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

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

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

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

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

VI.

GENERAL PROVISIONS

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

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

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

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

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

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

The objectors admit paragraphs a. and b.

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

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

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

The objectors deny the averments within this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(DIRECTOR'S REPORT PART II)

I.

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

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

(DIRECTOR'S REPORT PART III)

I.

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

VIII.

AFFIRMATIVE DEFENSES

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

AFFIRMATIVE DEFENSE NO. 1

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

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

AFFIRMATIVE DEFENSE NO. 2

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

AFFIRMATIVE DEFENSE NO. 3

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

AFFIRMATIVE DEFENSE NO. 4

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

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

AFFIRMATIVE DEFENSE NO. 5

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

AFFIRMATIVE DEFENSE NO. 6

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

AFFIRMATIVE DEFENSE NO. 7

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

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AFFIRMATIVE DEFENSE NO. 8

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

AFFIRMATIVE DEFENSE NO. 9

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

AFFIRMATIVE DEFENSE NO. 10

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

AFFIRMATIVE DEFENSE NO. 11

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

AFFIRMATIVE DEFENSE NO. 12

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

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AFFIRMATIVE DEFENSE NO. 13

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

AFFIRMATIVE DEFENSE NO. 14

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

AFFIRMATIVE DEFENSE NO. 15

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

AFFIRMATIVE DEFENSE NO. 16

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

AFFIRMATIVE DEFENSE NO. 17

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

AFFIRMATIVE DEFENSE NO. 18

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

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

AFFIRMATIVE DEFENSE NO. 19

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

AFFIRMATIVE DEFENSE NO. 20

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

AFFIRMATIVE DEFENSE NO. 21

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

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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.

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(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. 36-00049 -0001
The State of Idaho, ex rel. R. Keith Higginson in his official capacity as Director of the Idaho Department of Water Resources, 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.	**RESPONSE TO OBJECTION**

I. GENERAL INFORMATION

1. Person responding to objection:

Name: R. KEITH HIGGINSON, DIRECTOR

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

Briefly describe your interest in this water right:

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

(Over)

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2. Person who filed objection:

Name: DAN H & IRMA R MC FADDEN
Address: RT 1 BOX 406
HAGERMAN ID 83332

3. If this response is filed by an attorney:

Attorney Name(s): NICHOLAS B. SPENCER

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

Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

3. |X| Quantity: I respond to the objection concerning:

3a. |X| The total quantity of water used in cubic feet per second.

3b. |X| The total quantity of water stored in acre feet per year.

7. |X| Purposes of Use: I respond to the objection concerning the purpose(s) of use.

8. |X| Period of Year: I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.

9. |X| Place of Use: I respond to the objection concerning:

9a. |X| The legal description of the place of use.

10. |X| Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.

11. |X| Remarks: I respond to the objection concerning the "remarks" listed with the water right.

14. |X| Other: I respond to the objection concerning:

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

REASONS SUPPORTING EACH BOX CHECKED

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

In response to Statement of the Objection item 3.b, and all allegations of the objection regarding that item, IDWR responds as follows: Although this item was identified as an item being objected to, no reason for the objection was stated. IDWR further responds that the recommended water right was not claimed, and therefore could not be recommended, as a storage right either in whole or in part. The claimant's objection to this item is in error.

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

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responds that it did not recommend fish propagation or commercial as purposes of use because those uses were found to constitute an expansion of use to which neither Idaho Code section 42-1416 nor 42-1416A apply.

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

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

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

In response to Statement of the Objection item 10 and all allegations of the objection regarding this item, IDWR responds as follows: (1) The decree asserted by the claimant did not set an annual volume of consumptive use for this water right. (2) Idaho Code Sec. 42-1411(2)(i) requires the director to determine the annual volume of consumptive use for each water right acquired under state law and recommended in the director's report. (3) Idaho Code Sec. 42-1401A(2) provides that the quantification of consumptive use "is included as a rebuttable presumption in a decree only for the purpose of transfers pursuant to section 42-222, Idaho Code"; therefore, the

consumptive use recommended for this water right is included solely for use in future transfer proceedings. (4) The annual volume of consumptive use recommended for this right is 3 acre feet per acre. This is the maximum volume of water consumed by the most water consumptive crop (pasture) that can be grown in the area during the period of year when water is used for irrigation, as provided for by Idaho Code Sec. 42-1401A(2). (5) The recommendation of the director to the SRBA Court as to how the right should be decreed does not constitute a taking because it is simply a recommendation and not a final determination of the right. (6) The eventual decree by the SRBA Court of the amount of water beneficially used, even if less than the amount previously decreed, will not constitute a taking because the right is limited to that amount beneficially used.

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

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

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

CHANGES TO THE DIRECTOR'S REPORT

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

(Over)

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

	No. of Pages
IDWR's Response to Answer, Affirmative Defenses and Prayer for Relief of Claimant	4
Notice of Claim No. A36-00049 to the extent available to IDWR. The two photocopy pages remaining in the file show multiple staple marks indicating the claim may have been photocopied many times. The two photocopy pages were all that remained on January 21, 1993, when the documents in the file were microfilmed.	2

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: Nick Spence
(Attorney signing in representative capacity)

Subscribed and sworn to before me this 1st day of September 1993.

Danni M Smith
Notary Public for Idaho
Residing at: _____
My Commission expires: _____

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

(Over)

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CERTIFICATE OF MAILING

I hereby certify that on the 1st day of September, 1993, I mailed the original and copies of the foregoing response, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepared and addressed as follows:

1. Original to:

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

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

   See No. 3

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

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

4. One copy to:

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

Nick Spencer

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: A36-00049
Date Received: 8/30/1988
Receipt No: S001892
Received By: tw

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

1. Name: DAN H. MCFADDAN 208-837-6649
   Address: RT 1 BOX 406
   HAGERMAN, ID 83332
   AND/OR
   Name: IRMA R. MCFADDAN 208-837-6649
   Address: RT 1 BOX 406
   HAGERMAN, ID 83332

2. Date of Priority: APR 01, 1900

3. Source: FLORENCE LIVESTOCK SPRING Trib. to: BILLINGSLEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
07S	13E	12	SE SE NW		GOODING

5. Description of diverting works:
   HAND DUG TUNNEL, CONCRETE HEAD WORKS, 20" PIPE, 16" PIPE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/01	11/15	9.700		
DOMESTIC	01/01	12/31	0.060		
COMMERCIAL	01/01	12/31	0.060		
STOCKWATER	01/01	12/31	0.070		
FISH PROPAGATION	01/01	12/31	0.600		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
   C/VEG. PROC. PLANT, MINT STILL, D/2 HOUSES, S/250 BEEF, F/2 PONDS

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10. Place of Use:

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
07S	13E	11	SE	NE		IRR	6.0
			NE	SE		IRR	36.5
			SE	SE		IRR	40.0
					Section Acres		82.5
		12	NW	SW		IRR	1.0
			SW	SW		IRR	18.0
			SE	SW		IRR	1.0
					Section Acres		20.0
		13	NW	NE		IRR	36.0
			NE	NW		IRR	40.0
					Section Acres		76.0
					Total Acres		178.5

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
A36-00048

14. Remarks:
BOTH DECREES COMBINE 19.7 CFS TO COVER ALL USES. COMMERCIAL USES DEVELOPED IN 1945 (VEG. PROC. PLANT), 1977 (MINT STILL). FISH PONDS WERE DEVELOPED IN 1969. CLAIMANT USES SAME WATER ON ALL USES AND WANTS TO COVER THEM ON ONE CLAIM, CONSIDERING THE ORIGINAL TERMS OF THE DECREE.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

NEW INTERNATIONAL MORTGAGE BAN
Decree Plaintiff

vs

IDAHO POWER COMPANY
Decree Defendant

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

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

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

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WORKS (page 11 of Part I of the director's report)

(17) VI. General Provision **8. FIRE FIGHTING PURPOSES** (page 11 of Part I of the director's report)

(18) VI. General Provision **9. CONSUMPTIVE USE** (page 12 of Part I of the director's report)

(19) VI. **GENERAL PROVISION 10 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH DOMESTIC USE AS A PURPOSE OF USE** (page 12 of Part I of the director's report)

(20) VI. General Provision **10. DOMESTIC USE** (page 12 of Part I of the director's report)

(21) VI. **GENERAL PROVISION 11 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH STOCK WATER USE AS A PURPOSE OF USE** (page 13 of Part I of the director's report)

(22) VI. General Provision **11. STOCK WATER USE** (page 13 of Part I of the director's report)

(23) VI. **GENERAL PROVISIONS 12-16 APPLY TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH IRRIGATION AS A PURPOSE OF USE** (page 13 of Part I of the director's report)

(24) VI. General Provision **12. IRRIGATION USE** (pages 13-14 of Part I of the director's report)

(25) VI. General Provision **13. DIVERSION VOLUME FOR IRRIGATION** (page 14 of Part I of the director's report)

(26) VI. General Provision **14. CONSUMPTIVE USE FOR IRRIGATION** (pages 14-15 of Part I of the director's report)

(27) VI. General Provision **15. AMOUNT OF COMBINED WATER RIGHTS FOR IRRIGATION** (page 15 of Part I of the director's report)

(28) VI. General Provision **16. DIVERSION RATES IN EXCESS OF .02 CFS PER ACRE** (pages 15-16 of Part I of the director's report)

(30) VI. **17. INSTRUCTIONS FOR USE OF LIST OF RECOMMENDED WATER RIGHTS** (pages A-i through A-iii of Part I of the director's report)

(31) VI. **18. IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW** (pages A-1 through B-25 of Part I of the director's report)

(32) **DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36),** (DIRECTOR'S REPORT PART II)

(33) **DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36),** (DIRECTOR'S REPORT PART III)

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

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

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

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

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

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

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

1. IDWR denies that the director's report asserts any claims against the claimant; rather, the director's report contains only the recommendation of the director as to how the claimant's water right should be decreed and administered.

2. IDWR denies that the claimant is entitled to have the water right decreed as claimed unless in the director's report the water right has been recommended as claimed.

3. IDWR denies that any acts upon its part constitute the taking of private property for which just compensation should be allowed and awarded.

4. IDWR denies that the claimant is entitled to recover court costs and reasonable attorney fees.

5. IDWR denies that the claimant by this objection has raised any claims against IDWR entitling such claimant to any relief other than the eventual judicial determination and decree of the various elements of the claimant's water right, if any, and of those related matters necessary to describe and administer that water right.

From: DWR03::SHAW 8-APR-1993 17:52:28.78
To: DWR60::MERRITT
CC:
Subj: RE: A36-00049 DAN MC FADDEN UNSIGNED CLAIM

Allen - I will pass the word to the attorneys and have someone look here for the claim. It will be tomorrow (Friday) before we can do much so will be back to you then.

Dave

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From: DWR60::MERRITT 8-APR-1993 17:40:35.24
To: DWR03::SHAW,DWR03::SHAFF
CC: MERRITT
Subj: A36-00049 DAN MC FADDEN UNSIGNED CLAIM

THIS AFTERNOON SALLY CALLED AND ASKED THAT I PULL SEVERAL FILES AND CONFIRM THAT WE HAD THEM AND THAT THE SIGNED CLAIMS WERE INCLUDED IN THE FILE.

TO MY DISMAY I FOUND THAT THIS CLAIM FILE ONLY CONTAINS PHOTOCOPIES OF THE FIRST TWO PAGES OF WHAT WOULD APPEAR TO BE THE ORIGINAL CLAIM. THE ORIGINAL CLAIM IS MISSING AS WELL AS A COMPLETE COPY OF SAME. IT WOULD APPEAR THAT THE ORIGINAL WAS THREE PAGES (A COPY OF THE SIGNATURE PAGE IS MISSING).

SINCE THIS FILE HAS BEEN OF INTEREST FOR SOME TIME I WAS WONDERING (HOPING) THAT MAYBE THE STATE-OFFICE MAY HAVE THE ORIGINAL CLAIM. IF INDEED THE ORIGINAL IS MISSING THE LAWYERS NEED TO BE AWARE OF THIS SO WE CAN OBTAIN A SIGNED PLEADING. AT PRESENT I CAN ONLY SPECULATE WHAT MAY HAVE HAPPENED TO THE ORIGINAL.

ALLEN

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: **A36-00049**
Date Received: 8/30/1988
Receipt No: S001892
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

1. Name: IRMA R MC FADDAN 208-837-6649
   Address: RT 1 BOX 406
   HAGERMAN ID 83332
   AND/OR
   Name: DAN H MC FADDAN 208-837-6649
   Address: RT 1 BOX 406
   HAGERMAN ID 83332

2. Date of Priority: APR 1, 1900

3. Source: FLORENCE LIVESTOCK SPRING Trib. to: BILLINGSLEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07S	13E	12	SE	SE	NW		GOODING

5. Description of diverting works:
   HAND DUG TUNNEL, CONCRETE HEAD WORKS, 20" PIPE, 16" PIPE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/01	11/15	9.700		
DOMESTIC	01/01	12/31	0.060		
COMMERCIAL	01/01	12/31	0.060		
STOCKWATER	01/01	12/31	0.070		
FISH PROPAGATION	01/01	12/31	0.600		

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

8. Total consumptive use is 535.5 Acre Feet Per Annum.

9. Non-irrigation uses:
   C,VEG. PROC. PLANT, MINT STILL; D,2 HOMES; S,250 BEEF; F,2 PONDS

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10. Place of Use:

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
07S	13E	11	SE	NE		IRR	6.0
			NE	SE		IRR	36.5
			SE	SE		IRR	40.0
						Section Acres	82.5
		12	NW	SW		IRR	1.0
			SW	SW		IRR	18.0
			SE	SW		IRR	1.0
						Section Acres	20.0
		13	NW	NE		IRR	36.0
			NE	NW		IRR	40.0
						Section Acres	76.0
						Total Acres	178.5

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
A36-00048

14. Remarks:
BOTH DECREES COMBINE 19.7 CFS TO COVER ALL USES. COMMERCIAL USES DEVELOPED IN 1945 (VEG. PROC. PLANT), 1977 (MINT STILL). FISH PONDS WERE DEVELOPED IN 1969. CLAIMANT USES SAME WATER ON ALL USES AND WANTS TO COVER THEM ON ONE CLAIM, CONSIDERING THE ORIGINAL TERMS OF THE DECREE.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

NEW INTERNATIONAL MORTGAGE BA
Decree Plaintiff

vs

IDAHO POWER COMPANY
Decree Defendant

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16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): _____ Date: _____

_____ Date: _____

State of Idaho)
) SS.
County of _____)

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

of _____ 19 _____ _____
Notary Public

Seal

Residing at _____

My Commission Expires _____

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

Water Right Number - A36-00049 Prefix Translation: ADJUDICATION CLAIM Old (D) Number -

Last Name	First Name	Address
*** A - ATTORNEY ***		
BROWN	PATRICK D	1 - HEPWORTH NUNGESTER LEZAMIZ 2 - 133 SHOSHONE ST N 3 - PO BOX 389 City- TWIN FALLS State- ID Zip- 833030389 Phone - 208-734-7510
*** C - CURRENT OWNER ***		
MC FADDAN	IRMA R	1 - RT 1 BOX 406 2 - 3 - City- HAGERMAN State- ID Zip- 83332 Phone - 208-837-6649
MC FADDAN	DAN H	1 - RT 1 BOX 406 2 - 3 - City- HAGERMAN State- ID Zip- 83332 Phone - 208-837-6649
*** K - ALSO KNOWN AS ***		
FISH & GAME		1 - 2 - 3 - City- BOISE State- ID Zip- 83707 Phone - 208-000-0000

Priority Date	Region	Stage	Status
04/01/1900	17 SOUTHERN	D - DECREED	

Source	Tributary
FLORENCE LIVESTOCK SPRING	BILLINGSLEY CREEK

Point of Diversion

Twn	Rng	Sec	Tract	Lot	RFlg	County
07S	13E	12	SE SE NW		(47)	GOODING

Water Use

Code	Description	Period From	Period To	Diversion Rate	Diversion Volume
01	IRRIGATION	03/01	11/15	9.700	
43	DOMESTIC	01/01	12/31	0.060	
10	COMMERCIAL	01/01	12/31	0.060	
04	STOCKWATER	01/01	12/31	0.070	
19	FISH PROPAGATION	01/01	12/31	0.600	

Total Div. Rate	Total Div. Volume	Total Consumptive Use	KW Usage
9.700		535.5	

MICROFILMED
OCT 1 1 1994

Water right number - A36-00049 Prefix Translation: ADJUDICATION CLAIM

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
07S	13E	11	SE NE		6.0	01	IRRIGATION	(47) GOODING
07S	13E	11	NE SE		36.5	01	IRRIGATION	(47) GOODING
07S	13E	11	SE SE		40.0	01	IRRIGATION	(47) GOODING
07S	13E	12	NW SW		1.0	01	IRRIGATION	(47) GOODING
07S	13E	12	SW SW		18.0	01	IRRIGATION	(47) GOODING
07S	13E	12	SE SW		1.0	01	IRRIGATION	(47) GOODING
07S	13E	13	NW NE		36.0	01	IRRIGATION	(47) GOODING
07S	13E	13	NE NW		40.0	01	IRRIGATION	(47) GOODING

Total Acres: 178.5

Diversion Means - HAND DUG TUNNEL, CONCRETE HEAD WORKS, 20" PIPE, 16" PIPE

Non-Irrigation Use - C,VEG. PROC. PLANT, MINT STILL; D,2 HOMES; S,250 BEEF; F,2 PONDS

Other Rights for Same Use - A36-00048

Remarks

BOTH DECREES COMBINE 19.7 CFS TO COVER ALL USES. COMMERCIAL USES DEVELOPED IN 1945 (VEG. PROC. PLANT), 1977 (MINT STILL). FISH PONDS WERE DEVELOPED IN 1969. CLAIMANT USES SAME WATER ON ALL USES AND WANTS TO COVER THEM ON ONE CLAIM, CONSIDERING THE ORIGINAL TERMS OF THE DECREE.

Old Water Right Numbers

No Old Water Right Numbers Found

Conditions of Approval

No Conditions of Approval found.

Decree Plaintiff	Decree Defendant	Decree Date
NEW INTERNATIONAL MORTGAGE BANK	IDAHO POWER COMPANY	00/00/0000

Comments

No Comments Found

Audit Fields

00/00/00

Adjudication Rights Dates and Flags Area

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 00/00/0000	Old Judicial District	-
Claim Received Date	- 08/30/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S001892	Water District	- 36A
		POU Ownership Flag	- Y	Federal/State Indicator	- S

MICROFILMED
OCT 1 1 1994

Water right number - A36-00049 Prefix Translation: ADJUDICATION CLAIM

+ - Adjudication Rights Dates and Flags Area - +

Name Connector - AND/OR Presumption Flag -
Notice of Error Flag -

MICROFILMED
OCT 1 1 1994

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

Date April 20, 1993

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

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

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

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

Sincerely,

MICROFILMED
OCT 11 1994

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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

20-Apr-1993

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

Dear Chris:

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

Sincerely,

Jeanie Robertson
Records Clerk

MICROFILMED
OCT 1 1 1994

A-36-0004/9

DIRECTOR'S REPORT CONVERSATION MEMO

1. PERSON(S) MAKING THE ENQUIRY:
   Include address and phone no.
   in case follow-up is needed.

   DAN McFADDAN

   A36-00049 A36-00048A

2. SUBJECT OF INQUIRY:

① He came in to ask if we had recommended the small furrow field separate from the sprinkler rates.

② He asked several questions about the objection process and follow up field work.

3. RESPONSE TO INQUIRY: ① We reviewed his file. While it was not specifically reviewed or described the other furrow analysis done around his farm had shown that one inch per acre was the standard rate recommended. In this case the sprinkler rate of 0.023 cfs/Ac should apply to his furrow ground also. To respond to his question we ran the Hubble Report analysis while Mr. D McFaddan was here in the office. (see attached data) As expected, the final numbers are equivalent to the recommended rates.

We discussed some of the background of the Hubble Report and how it differed from SCS info. We showed him the resource references that were SCS publications.

② We admitted that we did not know alot about the Direction or Timing of the Obj. process. The court hasn't provided us with complete information on these future issues.

4. IDWR STAFF AND DATE: Steve Clelland 12-16-92 Kelly K. Christensen

   Print name and initial: STEVE CLELAND Sec KELLY K. CHRISTENSEN KKC

   WATER RIGHT CLAIM (Nos.):

MICROFILMED
OCT 11 1994

INTAKE FAMILY	DESIGN APPLIC. Inches	FURROW SLOPE Ft/Ft	FURROW SPACING Feet	ROW LENGTH Feet	INFLOW RATE Gpm	APPROXIMATE INFLOW TIME Hours	ADVANCE TIME Minutes	GROSS IRRIGATION APPLICATION Inches	NET IRRIGATION APPLICATION Inches	RUNOFF Inches	DEEP PERC. In.	IRRIGATION EFFICIENCY %
0.55	1.99	.020	2.60	500	10	12	30.1	8.88	3.70	5.12	1.78	22.40
0.55	1.99	.020	2.60	500	9	12	31.7	8.00	3.62	4.30	1.70	24.89
0.55	1.99	.020	2.60	500	7	12	36.7	6.22	3.44	2.70	1.53	32.00
0.55	1.99	.020	2.60	500	6	12	41.0	5.33	3.34	1.91	1.43	37.33
0.55	1.99	.020	2.60	500	6	12	41.0	5.33	3.34	1.91	1.43	37.33
0.55	1.99	.020	2.60	500	5	12	47.9	4.44	3.21	1.13	1.33	44.80
0.55	1.99	.020	2.60	500	4	12	60.4	3.55	3.06	0.36	1.20	56.00

$$4.2 \frac{\text{cu.}}{\text{EFF}} = \text{cfs/Ac}$$

$$4.2 \frac{0.32}{56} = .024 \text{ cfs/Ac}$$

A36-00049

MCFADDAN

12-16-92

SE/IRC

MICROFILMED
OCT 11 1994

(6-92 306)

IRRIGATION ANALYSIS WORKSHEET

CLAIM NO. A36-00049
DATE 12-16-92
AGENT SCC/KKC

CLAIMANT/SYSTEM DESCRIPTION Dan McFadden
IRRIGATION SYSTEM ---------- Furrow
ANALYSIS METHOD ---------- BORDER / (FURROW)
TYPE OF CROP ---------- Mint
MAXIMUM PROFILE DEPTH ---------- 36.0 INCHES
INTAKE FAMILY ---------- 0.55

****

SOIL TYPE	KOB						SYSTEM TOTAL
ACRES PER TYPE	5.5						ACRES
SOIL PROFILE WHC	3.98						
DESIGN IRR ½ WHC	1.99						

****

CROP REQUIREMENT:
REPORT AREA & FIGURE NO. ---------- Bliss 10-8 & IDWR ENG.
DAILY CROP REQUIREMENT:
_____ (MM/DAY) / 25.4 (FACTOR IN MM/IN) --------- 0.32 IN/DAY

ACTUAL ROTATION PRACTICED ---------- 5 DAYS
DRY DAY ROTATION 1 IRR DAY ROTATION 4
THEORETICAL ROTATION:
1.99 DESIGN IRR / 0.32 CROP REQ = 6.2 DAYS

****

DESCRIPTION OF FIELD:
AVERAGE LENGTH RUN ---------- 500
TOTAL WIDTH OF FIELD ---------- 480
CHECK _____ L * _____ W /43,560 = 5.5 ACRES
% SLOPE ---------- ~~0~~ 2%
BORDER WIDTH ---------- N/A
_____ WIDTH OF FIELD / _____ DAYS OF ROTATION
FURROW / CORRUGATION WIDTH ---------- 32"
SET TIME ---------- 24

MICROFILMED
2.6 OCT 1 1 1994

December 10, 1992

RECEIVED
DEC 11 1992
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(s) 36-02169, 36-00049, and 36-00048 A.
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,

Dan McFaddan

Dan McFaddan
17966 U. S. Highway 30
Hagerman, Idaho 83332

DM/skw

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

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

14-Dec-1992 15:24

DAN MC FADDAN
17966 U S HWY 30
HAGERMAN ID 83332

RE: Copy of SRBA File(s): 36-00048A, 36-00049, 36-02169

Dear Mr. Mc Faddan:

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:

$8.92

Sincerely,

Jeanie Robertson
Records Clerk

Encl:

Mc Faddan
37
39
40
116 x 5 = 5.80
post. 2.90
env.
8.92

MICROFILMED
OCT 1 1 1994

NOTICE OF ERROR



RESPONSE



CORRECTED R PROOF



MICROFILMED
JAN 21 1993

WARRANTY DEED

THIS INDENTURE, Made this 17th day of Sept, in the year of our Lord one thousand nine hundred and sixty-three, between McCARTER CATTLE CO., INC., an Idaho corporation, whose principal place of business is Corral, County of Camas, State of Idaho, the party of the first part, and THE STATE OF IDAHO for the use and benefit of the Fish and Game Department, of the County of Ada, State of Idaho, the party of the second part.

WITNESSETH, That the said party of the first part, for and in consideration of the sum of Sixty Thousand Dollars ($60,000.00), lawful money of the United States of America, to it in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained and sold, and by these presents does grant, bargain, sell, convey and confirm unto the said party of the second part, and to its successors and assigns forever, all of the following described real estate, situated in the County of Gooding, State of Idaho, to-wit:

All of the following described lands located in Township 7 South, Range 13 East of the Boise Meridian, Idaho:

Section 11, S½SE¼NE¼, NE¼SE¼; Section 12, SW¼NW¼, SW¼, W½SE¼; Section 13, NW¼NE¼, NE¼NW¼; EXCEPTING therefrom those portions lying south of the following described boundary line:

Beginning at a point on the north boundary line of the S½SE¼NE¼ of said Section 11, from which point the northeast corner of said S½SE¼NE¼ bears North 89° 33' East a distance of 734.0 feet; thence following said boundary line in Section 11 South 28° 25' East a distance of 444.0 feet; thence South 21° 55' East a distance of 800.0 feet; thence South 25° 12' East a distance of 520.0 feet to a point on the section line common to Sections 11 and 12; thence in Section 12, South 22° 31' East a distance of 865.0 feet; thence South 47° 01' East a distance of 482.0 feet; thence North 85° 29' East a distance of 231.0 feet; thence South 45° 18' East a distance of 856.5 feet to a point on the section line common to Sections 12 and 13; thence in Section 13, South 45° 18' East a distance of 574.5 feet; thence South 83° 18' East a distance of 461.0 feet; thence North 75° 27' East a distance of 244.0 feet; thence South 36° 33' East a distance of 232.0 feet; thence South 05° 18' East a distance of 539.0 feet to a point on the center line of an existing county road; thence following the center line of the existing county road North 61° 22' East a distance of 440.0 feet; thence North 33° 03' East a distance of 100.0 feet; thence North 17° 06' East a distance of 570.4 feet; thence North 37° 06' East a distance of 166.2 feet; thence North 55° 00' East a distance of 210.6 feet, more or less, to a point on the north boundary line of said Section 13.

ALSO EXCEPTING from the said SW¼SE¼ of Section 12 that portion lying east of the existing county road.

Said lands herein conveyed comprising 283.62 acres, more or less.

A36-00049

TOGETHER with all water and water rights and ditches and ditch rights appurtenant thereto, including but not limited to the following designated water rights: 7.33 c.f.s. of that decreed right of 10.0 c.f.s. of the waters of Billingsley Creek, priority date of November 4, 1885, decreed to the Florence Livestock Company; and 4.6 c.f.s. of that decreed right of 9.7 c.f.s. of the flow of Florence Livestock Spring, priority date of April 1, 1900, decreed to Florence Livestock Company pursuant to that Decree of Equity No. 1602 entered by the U.S. District Court for the District of Idaho, Southern Division, on the 22nd day of March, 1932, in the case of New International Mortgage Bank, a corporation, Plaintiff, vs. Idaho Power Company, a corporation, et al, Defendants; reserving unto the party of the first part first priority use of 5.10 c.f.s., during irrigation seasons, of the flow of the waters emerging from an existing developed tunnel at Florence Livestock Spring, which said tunnel discharges into a certain 14 inch O.D. steel pipeline lying on and within a certain right-of-way and easement hereinafter reserved unto the party of the first part.

The party of the first part further grants and conveys unto the party of the second part, its successors and assigns, a permanent and perpetual easement and road right-of-way for public ingress and egress to and from the lands hereinbefore conveyed, on, over and across the lands owned by it, and situate and lying in Gooding County, State of Idaho, and more particularly described as follows:

A strip of land across the lands of the party of the first part extending easterly from the present U.S. Highway No. 30 to the lands hereinbefore conveyed, which said strip of land is bounded on the North side thereof by the Bell Ditch and the North boundary line of the South Half of the Southeast Quarter of the Northeast Quarter ($S\frac{1}{2}SE\frac{1}{4}NE\frac{1}{4}$) of Section 11, Township 7 South, Range 13 East of the Boise Meridian, that portion of which is bounded on the North by the Bell Ditch being 30 feet in width and that portion of which is bounded on the North by the North boundary line of the South Half of the Southeast Quarter of the Northeast Quarter ($S\frac{1}{2}SE\frac{1}{4}NE\frac{1}{4}$) of Section 11, Township 7 South, Range 13 East of the Boise Meridian being 50 feet in width.

There are hereby reserved to the party of the first part the following described easements on and over the hereinbefore described lands:

(1) A forty-foot (40') right-of-way for stock watering extending 20 feet on each side of the following described center line:

Beginning at the northeast corner of the $SE\frac{1}{4}SE\frac{1}{4}$ of Section 11, thence North 380.0 feet to a point on the southwesterly boundary line of the property hereinbefore conveyed to party of the second part; thence along said line North 25° 12' West a distance of 130.0 feet to a point, which point is the true point of beginning, thence East 220.0 feet, more or less, to the water's edge of the left bank of Billingsley Creek, being located within the $NE\frac{1}{4}SE\frac{1}{4}$, Section 11, and the $NW\frac{1}{4}SW\frac{1}{4}$, Section 12, Township 7 South, Range 13 East of the Boise Meridian.

(2) A forty-foot (40') right-of-way for stock watering extending 20 feet on each side of the following described center line:

Beginning at the southeast corner of the $SW\frac{1}{4}SW\frac{1}{4}$, Section 12, Township 7 South, Range 13 East of the Boise Meridian, thence North 205.0 feet to a point on the southwesterly boundary line of lands hereinbefore conveyed to the party of the second part;

thence along said line North 45° 18' West a distance of 535.0 feet to the true point of beginning, thence extending North 60.0 feet, more or less, to the water's edge of the left bank of Billingsley Creek.

(3) A twenty-foot (20') right-of-way for an existing pipeline, being 10 feet on each side of said pipeline which is also the center line of said right-of-way, for the operation, maintenance, and replacement of a 14-inch O.D. water pipeline and the existing laterals therefrom; said pipeline right-of-way being located as follows:

Beginning at the northwest corner of the SW¼SW¼, Section 12, Township 7 South, Range 13 East of the Boise Meridian; thence East 154.0 feet, more or less, to a point on the southwesterly boundary line of the lands hereinbefore conveyed to the party of the second part; thence along said boundary line South 22° 31' East a distance of 450.0 feet to the point of intersection of said line with the existing pipeline, which point is the true point of beginning; thence North 45° 45' East a distance of 2430.0 feet to the waters of Florence Livestock Spring.

(4) A ten-foot (10') right-of-way for an existing domestic water line, being 5 feet on each side of the center line described as follows:

Beginning at the quarter corner common to Sections 11 and 12, Township 7 South, Range 13 East of the Boise Meridian; thence North a distance of 618.0 feet; thence North 88° 45' East a distance of 408.0 feet to a spring and the true place of beginning; thence South 88° 45' West a distance of 800.0 feet; thence South 83° 30' West a distance of 293.0 feet to a point on the southwesterly boundary line of the lands hereinbefore conveyed to the party of the second part.

(5) A twenty-foot (20') right-of-way for the operation, maintenance and replacement of an existing irrigation pump and pipeline for water carriage therefrom; said right-of-way being 10 feet on each side of the following described center line:

Beginning at the quarter corner common to Sections 12 and 13, Township 7 South, Range 13 East of the Boise Meridian; thence South 396.0 feet; thence North 75° 27' East a distance of 120.0 feet to the pump located on the left bank of Billingsley Creek, the true point of beginning; thence along the center line of the right-of-way South 05° 18' East a distance of 190.0 feet to a point on the southwesterly boundary line of the lands hereinbefore conveyed to the party of the second part.

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

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises, together with the appurtenances, unto the party of the second part, and to its successors and assigns forever and the said party of the first part, and its successors, the said premises in the quiet and peaceable possession

of the said party of the second part, its successors and assigns, against the said party of the first part, and its successors, and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will WARRANT and by these presents forever DEFEND.

IN WITNESS WHEREOF, The said party of the first part has hereunto set its corporate name and affixed its corporate seal, the day and year first above written.

McCARTER CATTLE CO., INC.

By W. S. McCarter
President

Attest:

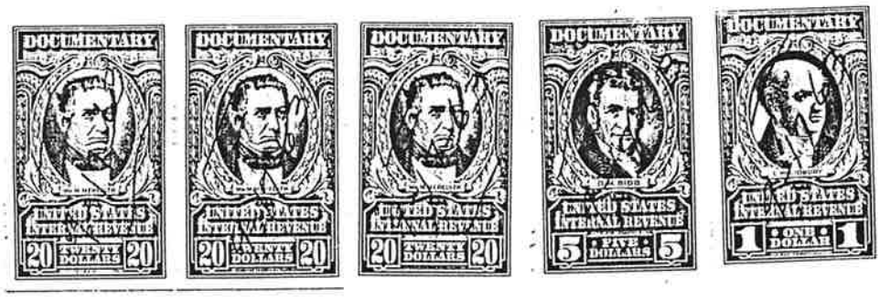
Joe T. McCarter
Secretary-Treasurer

STATE OF IDAHO)
: ss
County of Gooding)

On this 17th day of Sept, in the year 1963, before me, the undersigned Notary Public in and for said State, personally appeared W. S. McCarter Joe T McCarter, known to me to be the Pres. & Secy of the corporation that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

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

Chas. L. Shaw
Notary Public for the State of Idaho
Residing at: Gooding



MICROFILMED JAN 21 1993

Water Right Number - R36-00049 Prefix Translation: RESEARCH Old (D) Number -

Last Name	First Name	Address
*** C - CURRENT OWNER ***		
MC FADDAN	DAN H	1 - RT 1 BOX 406 2 - 3 - City- HAGERMAN State- ID Zip- 83332 Phone - 208-837-6649
MC FADDAN	IRMA R	1 - RT 1 BOX 406 2 - 3 - City- HAGERMAN State- ID Zip- 83332 Phone - 208-837-6649

Priority Date	Region	Stage	Status
04/01/1900	17 SOUTHERN	D - DECREED	

Source	Tributary
FLORENCE LIVESTOCK SPRING	BILLINGSLEY CREEK

Point of Diversion

Twn	Rng	Sec	Tract	Lot	RFlg	County
07S	13E	12	SE SE NW		(47)	GOODING

Water Use

Code	Description	Period From	Period To	Diversion Rate	Diversion Volume
01	IRRIGATION	03/15	11/15	4.040	
43	DOMESTIC	01/01	12/31	0.060	
04	STOCKWATER	01/01	12/31	0.070	

Total Div. Rate	Total Div. Volume	Total Consumptive Use	KW Usage
4.170		0.0	

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
07S	13E	11	SE NE		6.0	01	IRRIGATION	(47) GOODING
07S	13E	11	NE SE		36.5	01	IRRIGATION	(47) GOODING
07S	13E	11	SE SE		37.0	01	IRRIGATION	(47) GOODING
07S	13E	12	NW SW		1.0	01	IRRIGATION	(47) GOODING
07S	13E	12	SW SW		18.0	01	IRRIGATION	(47) GOODING
07S	13E	12	SE SW		1.0	01	IRRIGATION	(47) GOODING
07S	13E	13	NE NW		36.0	01	IRRIGATION	(47) GOODING
07S	13E	13	NW NW		40.0	01	IRRIGATION	(47) GOODING
07S	13E	11	NE SE			04	STOCKWATER	(47) GOODING
07S	13E	11	SE SE			04	STOCKWATER	(47) GOODING
07S	13E	11	NE SE			43	DOMESTIC	(47) GOODING
07S	13E	11	SE SE			43	DOMESTIC	(47) GOODING

MICROFILMED
JAN 21 1993

Water right number - R36-00049 Prefix Translation: RESEARCH

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
			Total Acres:		175.5			

Diversion Means - HAND DUG TUNNEL, CONCRETE HEAD WORKS, 20" PIPE, 16" PIPE

Non-Irrigation Use - DOMESTIC, 2 HOMES; STOCK, 250 HEAD RANGE CATTLE

Other Rights for Same Use - 36-00048

Remarks

USE OF THIS RIGHT WITH RIGHT NO. 36-00048 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 4.04 CFS, A TOTAL COMBINED CONSUMPTIVE USE VOLUME OF 526.5 AF, AND TO THE IRRIGATION OF A COMBINED TOTAL OF 175.5 ACRES IN A SINGLE IRRIGATION SEASON. THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 36-00050A, 36-00050C, 36-00050D, 36-00092, 36-02169, 36-08294 & 36-10047.

Old Water Right Numbers

3600049

Conditions of Approval

No Conditions of Approval found.

Decree Plaintiff | Decree Defendant | Decree Date
00/00/0000

Comments

Date: 02/12/1992 User Id: CLELLAND Subject: PORTION DISALLOWED
THE OTHER USES CLAIMED ARE NOT RECOMMENDED SINCE THEY ARE AN EXPANSION OF THE DECREED USE AND NOT A CHANGE IN NATURE OF USE.

Date: 02/12/1992 User Id: CLELLAND Subject: COPIED FROM REMARKS
BOTH DECREES COMBINE 19.7 CFS TO COVER ALL USES. COMMERCIAL USES DEVELOPED IN 1945 (VEG. PROC. PLANT), 1977 (MINT STILL). FISH PONDS WERE DEVELOPED IN 1969. CLAIMANT USES SAME WATER ON ALL USES AND WANTS TO COVER THEM ON ONE CLAIM, CONSIDERING THE ORIGINAL TERMS OF THE DECREE.

Date: 09/22/1992 User Id: SCHULTZ Subject: NOTICE OF ERROR (NOE)
RECEIVED NOE 9/22/92. CHANGED NOE FLAG FROM BLANK TO A. CLAIM VERIFIED 8/11/92. DID NOT REVERIFY ANY PART OF CLAIM.

Date: 10/17/1992 User Id: CHRISTEN Subject: RESPOND TO NOE
NO CHANGES RECOMMENDED AT THIS TIME. NO REDUCTION IN IRR ACRES FOUND TO ALLOW ADDED USES DEVELOPED AT A LATER DATE. OVERALL RATES REDUCED BASED UPON ANALYSIS. KKC 10-17-92.

Date: 10/21/1992 User Id: MERRITT Subject: FURTHER REVIEW OF ADDITIONAL INFO ANALYSED IN BOISE BY
JEFF PEPPERSACK CONFIRMS THAT BASED ON MINT CROP GROWN THE ALLOWABLE RATE PER ACRE WOULD BE 0.023 CFS. CLAIM WAS CHANGED TO ALLOW INCREASE IN DIVERSION RATE.

Audit Fields

10/21/92 MERRITT

NOTICE OF ERROR FORM

AUG-24-1992

RECEIVED
SEP 22 1992
Department of Water Resources

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

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

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

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

RECEIVED
MICROFILMED
JAN 21 1993
Department of Water Resources
Southern Region Office

1. Water right number: 36-00049

2. Name: Dan H. McFaddan
Irma R. McFaddan

Address: Rt 1 Box 406
Hagerman, Idaho 83332

Weekday Telephone Number: 837-6649

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:

The entire recommendation is grossly out of line with reality

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

The recommendations should be changed to conform with the decreed rights as per Decree of U.S. Court in 1932.

5. Describe why you disagree with the proposed recommendation:

1. All purposes of use are not listed
2. Irrigation season is inadequate
3. Total quantities are inadequate and discrimitory

6. Date: 9/7/92

SIGNATURE Dan McFadden

Water right number - R36-00049 Prefix Translation: RESEARCH

+ - Adjudication Rights Dates and Flags Area - +

Court Report Filing	- 00/00/0000	Field Inspection Made	- 07/26/1990	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 10/21/1992	Old Judicial District	-
Claim Received Date	- 08/30/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S001892	Water District	- 36A
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- AND/OR	Presumption Flag	-
				Notice of Error Flag	- C

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JAN 2 1 1993

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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

17-Oct-1992

DAN MC FADDAN
RT 1 BOX 406
HAGERMAN ID 83332

RE: RESPONSE TO NOTICE OF ERROR FOR CLAIMS 36-02169, 36-00048A, AND 36-00049

Dear Mr McFaddan

RESPONSE TO 36-02169;

All claimed purposes of use claimed were recommended, however, the field examiner found 4.5 acres rather than the claimed 5.5 acres. The rates and volume recommendations were reduced because of the acre reduction. Based upon currently information, I am unable to recommend a change in the proposed report.

RESPONSE TO 36-00048A AND 36-00094

As there is no evidence that a portion of the originally decreed right was abandoned to allow a change in the nature of use, the Commercial and Fish Propagation portions of 36-00049 were disallowed. It is our interpretation that you wished to maintain the 1900 priority date rather than advance the priority date of the irrigation portion of your claim to the date of the latest developed use.

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

Under Idaho law, a water right is limited to the amount of water beneficially used for the purposes for which the water right was established. The amount of water beneficially used is limited to the amount that is actually used and is reasonably required. For irrigation purposes, a reasonable amount is the amount required using irrigation methods that

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JAN 21 1993

are reasonably efficient under current circumstances. If the amount of a water right shown in a decree is greater than the amount that is beneficially used, then the portion that is not beneficially used is forfeited.

The amount proposed to be recommended for your claim is based on the amount of water determined to be beneficially used for the recommended uses, based on available data and current methods of analysis. To support recommendation of a greater amount, you will need to submit evidence of beneficial use of a greater amount to IDWR.

The Director has approved extending the period of use for the Hagerman valley to 3/15 to 11/15.

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

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

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

Sincerely

Kelly K Christensen
Sr Water Resource Agent

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JAN 21 1993

R PROOF

CVR

MAPS

PHOTOS

MISC

MICROFILMED

VERIFIED BY HHT

MICROFILMED JAN 21 1993

Water Right Number - R36-00049 Prefix Translation: RESEARCH Old (D) Number -

*** C - CURRENT OWNER ***

Last Name	First Name	Address
MC FADDAN	DAN H	1 - RT 1 BOX 406 2 - 3 - City- HAGERMAN State- ID Zip- 83332 Phone - 208-837-6649
MC FADDAN	IRMA R	1 - RT 1 BOX 406 2 - 3 - City- HAGERMAN State- ID Zip- 83332 Phone - 208-837-6649

Priority Date	Region	Stage	Status
04/01/1900	17 SOUTHERN	D - DECREED	

Source	Tributary
FLORENCE LIVESTOCK SPRING	BILLINGSLEY CREEK

Point of Diversion

Twn	Rng	Sec	Tract	Lot	RFlg	County
07S	13E	12	SE SE NW		(47)	GOODING

Water Use

Code	Description	Period From	Period To	Diversion Rate	Diversion Volume
01	IRRIGATION	04/01	10/31	3.510	
43	DOMESTIC	01/01	12/31	0.060	
04	STOCKWATER	01/01	12/31	0.070	

Total Div. Rate	Total Div. Volume	Total Consumptive Use	KW Usage
3.510		0.0	

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
07S	13E	11	SE NE		6.0	01	IRRIGATION	(47) GOODING
07S	13E	11	NE SE		36.5	01	IRRIGATION	(47) GOODING
07S	13E	11	SE SE		37.0	01	IRRIGATION	(47) GOODING
07S	13E	12	NW SW		1.0	01	IRRIGATION	(47) GOODING
07S	13E	12	SW SW		18.0	01	IRRIGATION	(47) GOODING
07S	13E	12	SE SW		1.0	01	IRRIGATION	(47) GOODING
07S	13E	13	NE NW		36.0	01	IRRIGATION	(47) GOODING
07S	13E	13	NW NW		40.0	01	IRRIGATION	(47) GOODING
07S	13E	11	NE SE			04	STOCKWATER	(47) GOODING
07S	13E	11	SE SE			04	STOCKWATER	(47) GOODING
07S	13E	11	NE SE			43	DOMESTIC	(47) GOODING
07S	13E	11	SE SE			43	DOMESTIC	(47) GOODING

Code added cond Nbr Nbr KKC 10-20-92

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JAN 21 1993

Water right number - R36-00049 Prefix Translation: RESEARCH

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
					Total Acres:	175.5		

Diversion Means - HAND DUG TUNNEL, CONCRETE HEAD WORKS, 20" PIPE, 16" PIPE

Non-Irrigation Use - DOMESTIC, 2 HOMES; STOCK, 250 HEAD RANGE CATTLE

Other Rights for Same Use - 36-00048

Remarks

USE OF THIS RIGHT WITH RIGHT NO. 36-00048 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 3.51 CFS, A TOTAL COMBINED CONSUMPTIVE USE VOLUME OF 526.5 AF, AND TO THE IRRIGATION OF A COMBINED TOTAL OF 175.5 ACRES IN A SINGLE IRRIGATION SEASON. THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 36-00050A, 36-00050C, 36-00050D, 36-00092, 36-02169, 36-08294 & 36-10047.

Old Water Right Numbers

3600049

Conditions of Approval

No Conditions of Approval found.

Decree Plaintiff	Decree Defendant	Decree Date
		00/00/0000

Comments

Date: 02/12/1992 User Id: CLELLAND Subject: COPIED FROM REMARKS
BOTH DECREES COMBINE 19.7 CFS TO COVER ALL USES. COMMERCIAL FISH PONDS WERE DEVELOPED IN 1969. CLAIMANT USES SAME WATER THE ORIGINAL TERMS OF THE DECREE. USES DEVELOPED IN 1945 (VEG. PROC. PLANT), 1977 (MINT STILL). ON ALL USES AND WANTS TO COVER THEM ON ONE CLAIM, CONSIDERING

Date: 02/12/1992 User Id: CLELLAND Subject: PORTION DISALLOWED
THE OTHER USES CLAIMED ARE NOT RECOMMENDED SINCE THEY ARE AN EXPANSION OF THE DECREED USE AND NOT A CHANGE IN NATURE OF USE.

Audit Fields

08/11/92 THORNTON

Adjudication Rights Dates and Flags Area

Court Report Filing	- 00/00/0000	Field Inspection Made	- 07/26/1990	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 08/11/1992	Old Judicial District	-
Claim Received Date	- 08/30/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S001892	Water District	- 36A
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- AND/OR	Presumption Flag	-
				Notice of Error Flag	-

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

11:55:09
06/29/90

PAGE: 13
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-00049

MICROFILMED

WR ELEMENT	FIELD EXAM Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	VERIFIED BY CODE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE	Y N			N	6.	scc 2-12-92	DB	KKC 8-4-92
POINT OF DIV	Y N		7-26-90 scc/HHT	N	1,5,6	scc B-4-92		
SOURCE	N			N				
PLACE OF USE	Y Y		7-26-90 SCC/HHT	YES Y	1,5,6,4			
DIV. AMOUNT CFS/VOLUME	Y *XS FLOW			Y Y	6. STOS ~~DECREE~~			
CONSUMPTIVE USE	- N			N Y	6.			
PURPOSES	Y Y		scc/HHT 7-26-90	YES	6. Decree			
PERIOD OF USE	Y N			N Y	6.			
BASIS OF CLAIM	N			N				
REMARKS	Y 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.

*XS - further review

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

11:55:09
06/29/90

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-00049

MICROFILMED JAN 21 1993

LAST: MC FADDAN FIRST: DAN H.
ADDRESS: RT. 1 BOX 406
CITY: HAGERMAN STATE: ID ZIP: 83332
PHONE NUMBER: 208-837-6649

OWNER CODE: C

LAST: MC FADDAN FIRST: IRMA R.
ADDRESS: RT. 1 BOX 406
CITY: HAGERMAN STATE: ID ZIP: 83332
PHONE NUMBER: 208-837-6649

OWNER CODE: C

LAST: FISH & GAME FIRST:
ADDRESS:
CITY: BOISE STATE: ID ZIP: 83707
PHONE NUMBER: 208-000-0000

OWNER CODE: K

	DATABASE	FIELD EXAMINER
FIELD EXAM REQUIRED?		
VERIFICATION REQUIRED DUE TO REMARKS?	Y	

CLAIM REMARKS: BOTH DECREES COMBINE 19.7 CFS TO COVER ALL USES. COMMERCIAL USES DEVELOPED IN 1945 (VEG. PROC. PLANT), 1977 (MINT STILL). FISH PONDS WERE DEVELOPED IN 1969. CLAIMANT USES SAME WATER ON ALL USES AND WANTS TO COVER THEM ON ONE CLAIM, CONSIDERING THE ORIGINAL TERMS OF THE DECREE.

(10) Commercial 1945
Still 1977
(19) Fish 1969

EXPANSION OF DECREE

SINCE NO ACRES CHANGED IN NATURE OF USE.

SLL
2-12-92

FIELD EXAMINATION INFORMATION

CLAIM NUMBER: A36-00049

CONTACT PERSON: Dan McFadden

PHONE NUMBER: (____) ____-_____

DATE OF FIELD EXAM: 7/26/90

APPOINTMENT MADE: Y(___) N(___)

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

ACCOMPANIED BY: _____

PHONE NUMBER: (____) ____-_____

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / REMARKS:

MICROFILMED JAN 21 1993

See Remarks on A36-00048

EXPANSION OF DIVERSION works from 14" pipe to 16" pipe occured in about 1981 per conversation w/ Mr McFadden.

PRIORITY DATE REVIEW PAGE

CLAIM NUMBER: A36-00049

MICROFILMED JAN 21 1993

A. AJ CLAIM: # A36-00049 PRIORITY DATE: 04-01-1900 STAGE: D

B. WR RECORD: # 36-00049 PRIORITY DATE: 04-01-1900 STAGE: D

C. FIELD EXAM REQUIRED?

	DATABASE	FIELD EXAMINER
DUE TO PRIORITY DATE DISCREPANCY? (Y/N)	N	✓

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

REMARKS: Remarks on claim specifically break out separate priority for each use –

RECOMMENDED PRIORITY DATE:
04-01-1900

REVIEWED BY SCL DATE 12-28-90

CLAIM NUMBER: A36-00049

MICROFILMED JAN 2 1 1993

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A36-00049	07S	13E	12	SE	SE	NW		GOODING

OTHER AJ CLAIMS WITH SAME AJ POD

A PREFIX	R PREFIX
A36-10208	NONE
A36-00050A	
A36-00050B	
A36-00092	

WR RECORDS IN SAME 40 ACRE TRACT

36-00050
36-00092
36-00093
36-02169
36-08294

SOURCE: FLORENCE LIVESTOCK SPRING

TRIB: BILLINGSLEY CREEK

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
36-00049	07S	13E	12		SE	NW		GOODING

OTHER WR RECORDS WITH SAME WR POD

36-00050
36-00092
36-00093
36-02169
36-08294

AJ CLAIMS IN SAME 40 ACRE TRACT

A PREFIX	R PREFIX
A36-08294	NONE
A36-10047	
A36-10208	
A36-00050A	
A36-00050B	
A36-00092	

SOURCE: FLORENCE LIVESTOCK SPRING

TRIB: BILLINGSLEY CREEK

C. FIELD EXAM REQUIRED?

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

Field Exam shows: NE NE SW Section 12

POINT OF DIVERSION REVIEW SHEET CONTINUED CLAIM NUMBER: A36-00049

MICROFILMED JAN 21 1993

REMARKS:

Confirm exact location of POD - may actually be in SW¼NE¼

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP.	RGE.	SEC.		1/4	1/4	1/4	LOT	COUNTY
7S.	13E.	12	OK same					

SOURCE: FLORENCE LIVESTOCK SPRING TRIB: BILLINGSLEY CREEK

REVIEWED BY: SCC DATE: 12-28-90

SCC 2-12-92

CLAIM NUMBER: A36-00049

MICROFILMED JAN 21 1993

A. ROOT WATER RIGHT NUMBERS: A36-00049

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
07S	13E	11	SE	NE		MC FADDAN , DAN H.	A36-00049 / 6.0	36-00049 /	29.0	6	6
						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 /			
						PETRICK , HERMAN W.	A36-00048C / 1.0	- /			
						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	- /			
						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 /			
07S	13E	11	NE	SE		MC FADDAN , DAN H.	A36-00049 /36.5	36-00049 /	31.0	36.5	36.5
						FISH & GAME	A36-00048 /36.5	36-00048 /			
						WARD , JOHN P.	A36-00089B / 1.0	- /			
						MOORE , DANIEL		36-00079 /			
						MOORE , JOHN		36-00150 /			
						MOORE , DANIEL		36-00151 /			
						STATE OF IDAHO		36-08353 /			
07S	13E	11	SE	SE		MC FADDAN , DAN H.	A36-00049 /40.0	36-00049 /	37.0	37	37 (Hrse Facilities)
						FISH & GAME	A36-00048 /40.0	36-00048 /			
07S	13E	12	NW	SW		MC FADDAN , DAN H.	A36-00049 / 1.0	36-00049 /	32.0		
						FISH & GAME	A36-00048 / 1.0	36-00048 /		1.0	1 Sw
						STATE OF IDAHO		36-08353 /			

07S 13E	12	SW	SW	MC FADDAN , DAN H. FISH & GAME STATE OF IDAHO	A36-00049 A36-00048	/18.0 /18.0	36-00049 36-00048 36-08353	/ / /		34.0	18.0	18.0
07S 13E	12	SE	SW	MC FADDAN , DAN H. FISH & GAME STATE OF IDAHO	A36-00049 A36-00048	/ 1.0 / 1.0	36-00049 36-00048 36-08353	/ / /		17.0	1	1
07S 13E	13	~~NW~~	~~NE~~	MC FADDAN , DAN H. TAYLOR , MAURICE M. REESE , BRUCE W. REESE , BRUCE W. RINGERT , W. F. FISH & GAME TAYLOR , MAURICE M. RINGERT , W.F. RINGERT , W.F. PARR , WILLIAM H. STATE OF IDAHO CLEAR LAKES TROUT CO. INC.	A36-00049 A36-04072 A36-10231 A36-04091 A36-07800 A36-00048 A36-07655 A36-07725 A36-07731	/36.0 / / /11.0 / /36.0 / / /	36-00049 36-04072 - - 36-07800 36-00048 36-07655 36-07725 36-07731 36-04071 36-08353 L36-07731	/ / / / / / / / / / 5.0 / /		28.0	40	40
07S 13E	13	NE	NW	MC FADDAN , DAN H. FISH & GAME RINGERT , W.F. STATE OF IDAHO	A36-00049 A36-00048 A36-07731	/40.0 /40.0 /	36-00049 36-00048 36-07731 36-08353	/ / / /		34.0	36	36
			TOTAL ACRES	A36-00049		178.50				242.00		175.5

Delete
No Acres This Tract
ERROR
change Claim
Should Be NW NW S. 13
MICROFILMED JAN 21 1993

ARE IRRIGATED ACRES FOUND IN TRACTS OTHER THAN INDICATED ABOVE, Y(X) N( )

~~IF YES SEE ATTACHED SHEET:~~ SEE ABOVE:

C. FIELD EXAM REQUIRED?

DUE TO POU DISCREPANCY? (Y/N)

DATABASE	FIELD EXAMINER
Y	Y

Same POU as A36-00048 Combined P.P.U.

PRESUMPTION FLAG:

REMARKS:

See map @ A36-00048 - also - claim may incorrectly identify quarter-quarters in Sec. 13. ← Confirmed with Dan McFadden

RECOMMENDATIONS:

TOTAL ACRES: 175.5 ✓ P.P.U.

REVIEWED BY: Scc DATE: 7-31-90

CLAIM NUMBER: A36-00049

A. AJ CLAIMED USES:

	PURPOSES	MONTH/DAY	DIVERSION QUANTITY
A36-00049	IRRIGATION	FROM ~~03-01~~ TO ~~11-15~~ 4-1 10-31	9.700 CFS
A36-00049	DOMESTIC	FROM 01-01 TO 12-31	.060 CFS
A36-00049	~~COMMERCIAL~~	~~FROM 01-01 TO 12-31~~	~~.060 CFS~~
A36-00049	STOCKWATER OK	FROM 01-01 TO 12-31	.070 CFS
A36-00049	~~FISH PROPAGATION~~	~~FROM 01-01 TO 12-31~~	~~.600 CFS~~
	TOTAL DIVERSION RATE/VOLUME CLAIMED		9.700 CFS

SEPARATE WR. DISALLOW (under this claim)

B. WR RECORDED USES:

	PURPOSES	MONTH/DAY	DIVERSION QUANTITY
36-00049	IRRIGATION	FROM TO	9.700 CFS
	TOTAL DIVERSION RATE/VOLUME CLAIMED		9.700 CFS

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

	DATABASE	FIELD EXAMINER
DUE TO WATER-USE DISCREPANCY? (Y/N)	Y	Y — see remarks at pg. 3
DUE TO DIVERSION RATE DISCREPANCY? (Y/N)	Y	
DUE TO PERIOD FROM/TO DISCREPANCY? (Y/N)	Y	

D. PERIOD OF USE:

RECOMMEND AS CLAIMED? Y(___) N(X)

RECOMMEND TO WR STANDARDS OR OTHER? Y(X) N(___) Explain in remarks, below.

REMARKS: + DECREE USES

MICROFILMED JAN 21 1993

DIVERSION AMOUNT REVIEW SHEET

CLAIM NUMBER: A36-00049

MICROFILMED JAN 21 1993

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

AJ TOTAL CLAIMED DIVERSION RATE: 9.700 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 9.700 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?

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

B. FLOW MEASUREMENT

MEASUREMENT METHOD Sonic flow, SEE ATTACHED CALCULATIONS.

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

OTHER RIGHTS LISTED IN CLAIM: A36-00048

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

CLAIM	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A36-00049	FLORENCE LIVESTOCK SPRING	MC FADDAN , DAN H.	9.700	0.054		
A36-10588	BILLINGSLEY CREEK	HOLMES , H.L.	0.050	0.033		
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
A36-00089A	BILLINGSLEY CREEK	CLOUSER , DORIS H.	0.030	0.020		
A36-00089C	BILLINGSLEY CREEK	HOLMES , H.L.	0.060	0.030		
A36-00089D	BILLINGSLEY CREEK	NORTHRUP , HAROLD N.	0.040	0.040		
A36-00089B	BILLINGSLEY CREEK	WARD , JOHN P.	0.030	0.030		
A36-04091	SPRING	REESE , BRUCE W.	0.360	0.032	44.00	4.00

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

CLAIM NO.	PURPOSES	NAME	MONTH/DAY			RATE	VOLUME
A36-00049	DOMESTIC	MC FADDAN , DAN H.	FROM	01-01	TO 12-31	.060 CFS	
A36-00049	COMMERCIAL	MC FADDAN , DAN H.	FROM	01-01	TO 12-31	.060 CFS	
A36-00049	STOCKWATER	MC FADDAN , DAN H.	FROM	01-01	TO 12-31	.070 CFS	
A36-00049	FISH PROPAGATION	MC FADDAN , DAN H.	FROM	01-01	TO 12-31	.600 CFS	
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
A36-00090E	DOMESTIC	HOLMES , ALICE M.	FROM	01-01	TO 12-31	.040 CFS
A36-00090E	COMMERCIAL	HOLMES , ALICE M.	FROM	01-01	TO 12-31	.100 CFS
A36-00090B	DOMESTIC	WARD , JOHN P.	FROM	01-01	TO 12-31	.020 CFS
A36-00090C	DOMESTIC	TYLER , BRUCE H.	FROM	01-01	TO 12-31	.020 CFS
A36-00090D	DOMESTIC	CULBERTSON , S.A.	FROM	01-01	TO 12-31	.020 CFS
A36-00090F	DOMESTIC	PAR-6 PARTNERSHIP	FROM	01-01	TO 12-31	.080 CFS
A36-00090G	DOMESTIC	NORTHRUP , HAROLD N.	FROM	01-01	TO 12-31	.040 CFS
A36-00090A	DOMESTIC	CLOUSER , JOHN F.	FROM	01-01	TO 12-31	.020 CFS
A36-07834	POWER	TROUT-CO	FROM	01-01	TO 12-31	100.000 CFS
A36-08058	POWER	TROUT-CO	FROM	01-01	TO 12-31	100.000 CFS
A36-04072	DOMESTIC	TAYLOR , MAURICE M.	FROM	01-01	TO 12-31	.040 CFS
A36-04072	STOCKWATER	TAYLOR , MAURICE M.	FROM	01-01	TO 12-31	.020 CFS
A36-10231	DOMESTIC	REESE , BRUCE W.	FROM	01-01	TO 12-31	.040 CFS
A36-07800	FISH PROPAGATION	RINGERT , W. F.	FROM	01-01	TO 12-31	8.000 CFS
A36-07655	FISH PROPAGATION	TAYLOR , MAURICE M.	FROM	01-01	TO 12-31	.580 CFS
A36-07655	STOCKWATER	TAYLOR , MAURICE M.	FROM	01-01	TO 12-31	.020 CFS
A36-07725	FISH PROPAGATION	RINGERT , W.F.	FROM	01-01	TO 12-31	100.000 CFS
A36-07731	FISH PROPAGATION	RINGERT , W.F.	FROM	01-01	TO 12-31	18.000 CFS

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D. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE

ACRES 175.5 x 0.02 CFS/ACRE = 3.51 CFS
(Taken from p/u review)

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

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

1b. CALCULATIONS

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 535.5 AF/A

ACRES 175.5 x CONSUMPTIVE VOL. AF/A FOR AREA ~~526.5~~ 3.0 =

TOTAL CONSUMPTIVE USE 526.5 AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

ACRES 175.5 x DIVERSION VOL. AF/A FOR AREA 4.0 =

TOTAL DIVERSION VOLUME 702 AF/A

*See A36-00048

limited to 1"/Ac = 3.51 cfs

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y(____) N(____)

IDWR: Stock = 0.07
Domestic = 0.06

DIVERSION AMOUNT REVIEW SHEET CONTINUED

CLAIM NUMBER: A36-00049

MICROFILMED JAN 21 1993

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

(SEE A36-00048)

RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD FROM	REC. PERIOD TO	REC. DIV RATE CFS DATABASE	REC. DIV RATE CFS EXAMINER	REC. DIV VOL. AF/A DATABASE	REC. DIV VOL. AF/A EXAMINER	REC. CONS. USE DATABASE	REC. CONS. USE EXAMINER
	4-1	10-31						
IRRIGATION	~~3-15~~	~~11-15~~		~~3.26~~ 3.51		~~702~~ Ø		~~526.5~~ Ø
DOMESTIC	1-1	12-31		0.06				
STOCK	1-1	12-31		0.07				
TOTAL FOR THIS RIGHT				~~3.26~~ 3.51				

REVIEWED BY: SCC DATE: 7-31-90

WR ~~proportional Rate~~ allowed Rate = 9.7 cfs / 520 Ac. = 0.0186 cfs/Ac.

(13 x 40 = 520)

SCC 12-28-90

KOL
E09
F06 (see list)

BASIS OF CLAIM REVIEW SHEET

CLAIM NUMBER: A36-00049

A. CHECK ONLY THE FOLLOWING THAT APPLY:

	ACCEPTED AS CLAIMED	NEEDS REVIEW
OWNERSHIP	(X)	( )
FORFEIT/ABANDON	( )	( )
ADDITIONAL DIV. AMOUNT	( )	( )

Legal Review
XS FLOW

MICROFILMED JAN 21 1992

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-00049

TOTAL DIVERSION RATE OF WR SPLITS — DATABASE 9.700 — EXAMINER _____ — CFS

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
-	A36-00049	9.700	-		36-00049	9.700
	TOTAL CFS	9.700				9.700

DIVERSION RATE REVIEW

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

REMARKS:

AUTHENTICATION:

SIGNATURE: Steve Cobb Sue — DATE: 2-12-92 / 12-28-90

NAME OF FIELD EXAMINER: _____ — TITLE: _____

(7-91)

REMARK AND CONDITION CODE WORKSHEET

SYSTEM CLAIM NUMBERS R36-00049

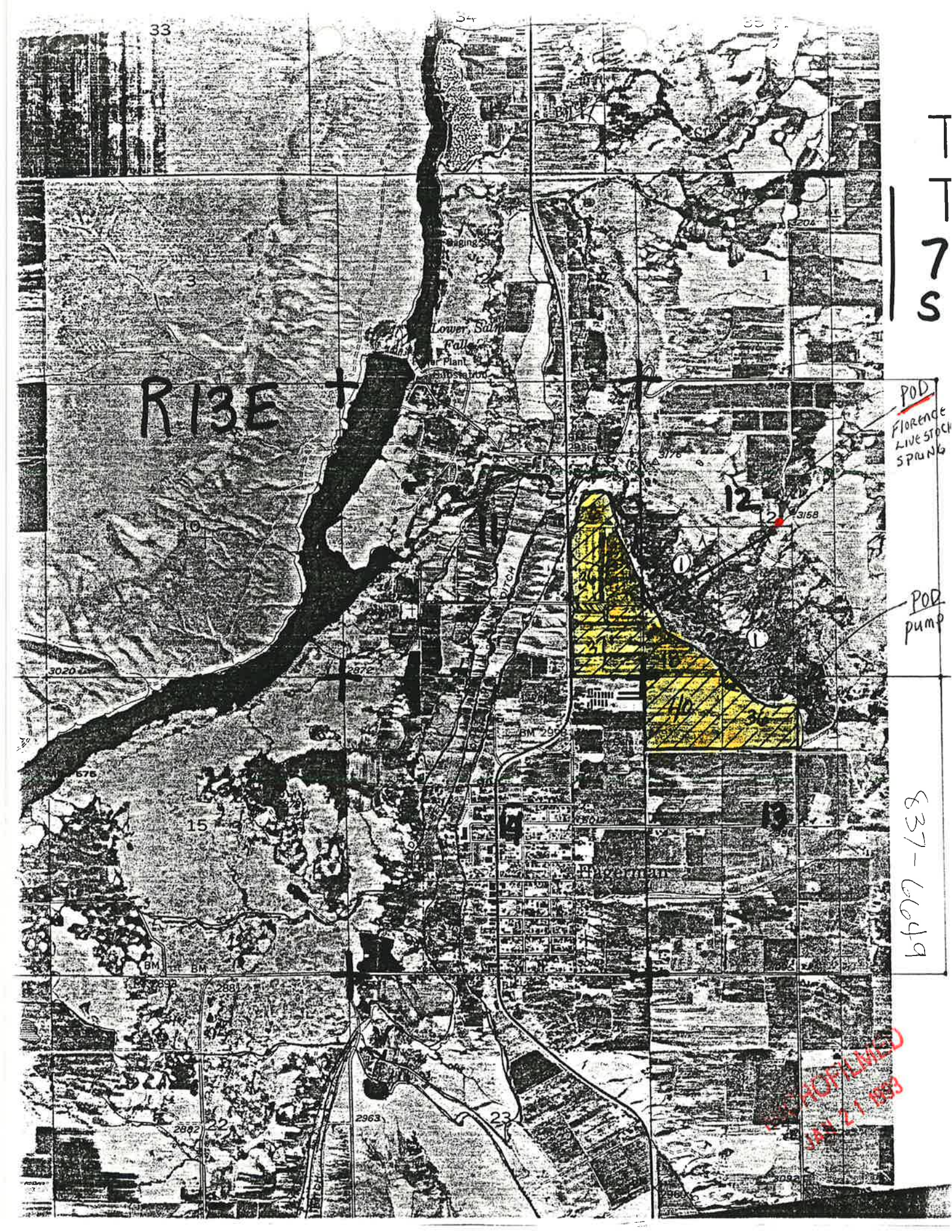
R36-00048

AGENT INITIALS SCC

DATE 8-4-92

CLAIM NO. OR ENTRY ORDER	REMARK CODE	ENTRY DATA	CONDITION CODE	STAGE OR STATUS	PRESUMPTION CODE
	K06	175.5			
	E09	36-00048			
		3.51 cfs			
		526.5 AF CU.			
		175.5 Ac.			
	F06	36-00050A, 36-00050C,			
		36-00050D, 36-00092			
		36-02169, 36-08294 &			
		36-10047			

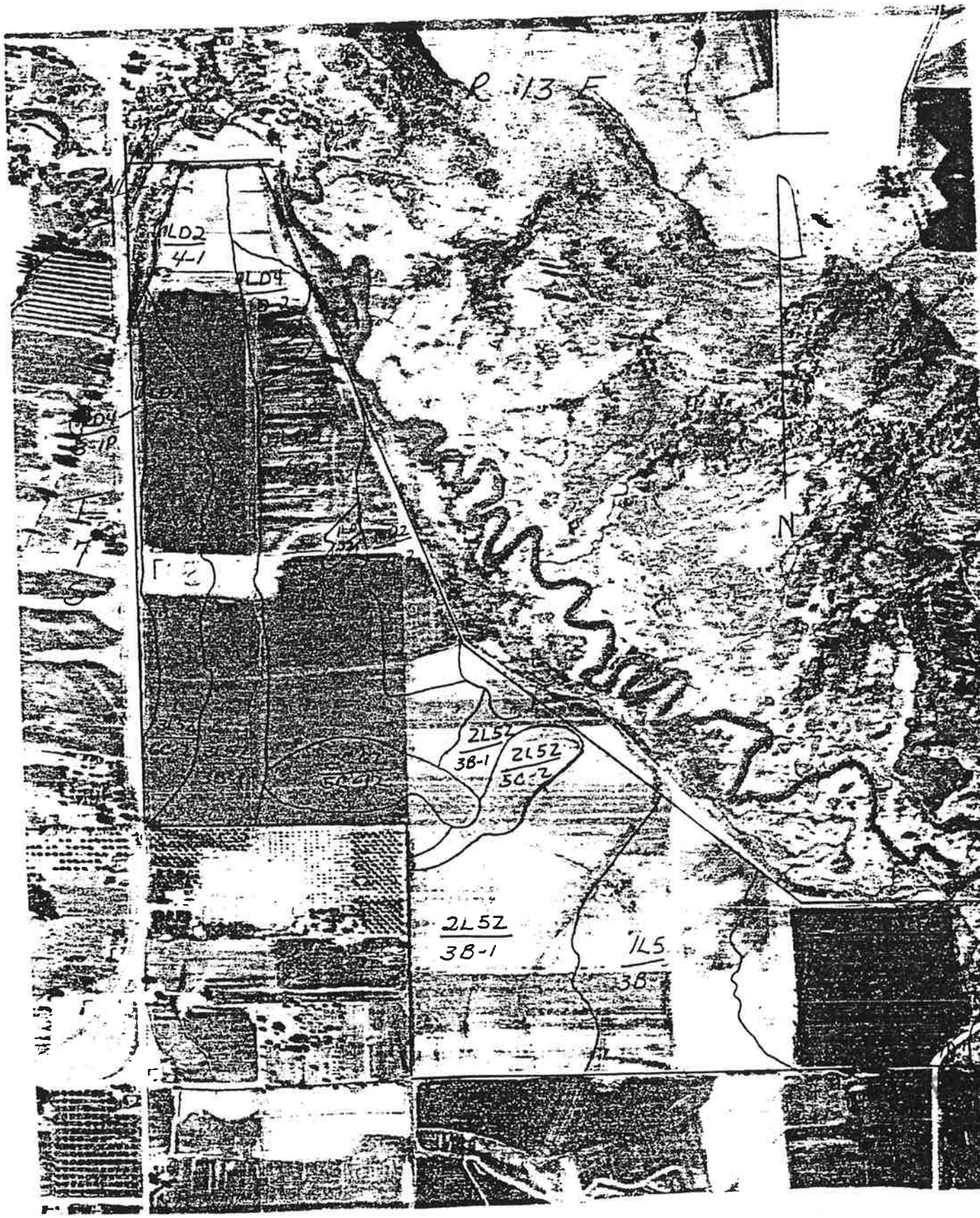
MICROFILMED
JAN 21 1993


R13E
T
7
S
POD
Florence
Live Stock
Spring
POD
pump
12
2
3158
1
1
10
15
13
4
40
36
21
Hagerman
Ditch
BM
BM
BM 2906
3020
2872
2963
2862
2881
2892
3204
3178
2936
2880
3092
2960
23
22
Lower, Salmon
Falls
Gaging Sta.
Plant
Substation
637-6049
RECEIVED
JAN 21 1993

DAN MC FADDEN

Gooding Idaho 8" = 1 mile

Gooding




33
34
35
3
1
10
15
22
23
Lower Salm
Falls
Power Plant
Substation
Gagine
DITCH
3204
3176
3158
3020
2872
2963
2892
2881
BM
BM
BM 299

State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

```
MODE SELECT
        INPUT

OUTER DIAMETER
16.0953   IN

PIPE MATERIAL
?       CS,SS

WALL THICKNESS
0.2189    IN

INNER LINING
?       NO LING.

KIND OF FLUID
?       WATER

SENSOR MOUNTING
?       V

TYPE OF SENSOR
?       SMALL

DATA CHANGE
?       NO

SPACING
12.944    IN V

ZERO MODE
        CLEAR

ZERO MODE
        AUT ZERO

ZERO MODE
        ZERO OPR



08-09 15:0100 *R
+002.60 %  AI2

MODE SELECT
        T0 CHECK

0586.2   MMSEC
100.20   % T0


08-09 15:0200 *R
+245.680E 1GPM
```

Florence Livestock Spring (ALL)

= 5.47 cfs

FLORENCE
LIVESTOCK
SPRING

MICROFILMED

By STEVE CLELLAND
HELEN HARRINGTON
8-9-90

A36-00049

```
MODE SELECT
        INPUT

OUTER DIAMETER
25.7000   IN

OUTER DIAMETER
8.1803    IN

PIPE MATERIAL
?         CS,SS

WALL THICKNESS
.11000    IN

INNER LINING
?         NO LING.

KIND OF FLUID
?         WATER

SENSOR MOUNTING
?         V

TYPE OF SENSOR
?         SMALL

DATA CHANGE
?         YES

CHANGE DATA
?         PIPE

CHANGE DATA
?         PIPE

CHANGE DATA
?         END

SPACING
5.956     IN V

ZERO MODE
        CLEAR

ZERO MODE
        AUT ZERO

ZERO MODE
        ZERO OPR

08-09 15:3400 *R
+003.00 %  AI2

MODE SELECT
        T0 CHECK

0294.9   MMSEC
099.14   % T0

08-09 15:3500 *R
+   1.156E 3GPM
```

McFadden diversion from Ft. Lusk S/A

Measurement made 8-9-90 by SCC HHT

2.58 cfs

MICROFILMED
JAN 21 1993