

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: 39356

Ident. Number A36-00062Date Received 8-26-88Receipt Number 5002275

COPY

FOR YOUR FILES
DO NOT RETURN

NOTICE OF CLAIM

TO A

WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED

AUG 26 1988

Department of Water Resources
Salem Region Office

Please type or print clearly

1. Name of Claimant (s) HOWARD L. MORRIS and RHONDA K. MORRIS Phone (208) 837-6213Mailing Address 1101 East 2900 South, Rt. #1, Hagerman, Idaho Zip 833322. Date of Priority (Only one (1) per claim) May 1, 19123. Source of water supply (a) Weatherby Springs
which is tributary to (b) Billingsley Creek4. a. Location of existing point of diversion is: Township 7 South Range 14 East Section 30,
SE 1/4 of NE 1/4 of SW 1/4, Govt. Lot, _____ B.M., County of Gooding

Additional points of diversion if any: _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____
_____ 1/4, Govt. Lot _____ B.M., County of _____5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. From the diversion at the head of the Springs,
the water is transported to the subject property through a steel pipeline to a concrete
box where the water is pressurized by the use of a pump and motor. The property is
irrigated by a sprinkler system.

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6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from Mar. 15 to Nov. 15 amount 0.28 or _____
For Stockwater purposes from Jan. 1 to Dec. 31 amount 0.07 or _____
For Domestic purposes from Jan. 1 to Dec. 31 amount 0.04 or _____
For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.28 (cfs) and/or (b) 500 (acre feet)

8. Total consumptive use claimed is 375 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) One household and the lawn and garden area around the home and there are from 200 to 300 head of cattle on the property at times.

10. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
7 S	13 E	36	S&D 30		S 5	S 40									S 15				90
7 S	14 E	31					Lot1 S-5	Lot2 S-30											35

Total number of acres irrigated 125 acres

11. In which county (ies) are lands listed above as place of use located? Gooding County

12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
36-0061 & 36-0063 or None ()

14. Remarks:
This amount of water is needed to irrigate the property because it is very sandy in nature.

Last Name MORRIS Ident No. _____

Copies: White State, Yellow Claimant

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Scale: 2 inches equals 1 mile

TOWNSHIP 7 SOUTH, RANGE 14 EAST, B.M.

SECTION 25

SECTION 30

POINT OF DIVERSION

PIPELINE

PLACE OF USE

SECTION 36

SECTION 31

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Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Be Special Use Posted Notice L Use Permit
Decree X
If applicable provide IDWR Water Right Number 36-0062
Court U.S. District Court Case Number 1602 Decree Date March 22, 1932
Plaintiff vs Defendant New International Mortgage Bank vs Idaho Power Company

16. Signature (s)
(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled
"How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do do not X
wish to receive and pay a small annual fee for monthly copies of the docket sheet.
Number of attachments One (1)

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s)

Phonda K Morris

Date 8-25-88

Date 8-25-88

For Organizations: I do solemnly swear or affirm that I am

Title

of _____, that I have signed the foregoing
Organization

document in the space below as _____ of _____
Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent

Title and Organization

Date

State of Idaho/or _____)
County of Gooding) SS.

Subscribed and sworn (or affirmed) before me this 25th day of August 19 88

SEAL

Notary Public

Residing at Hagerman, Idaho

My Commission Expires 5-10-91

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

Last Name MORRIS Ident. Number _____

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Copies White-State, Yellow-Claimant

00XN12119963

POINT OF DIVERSION: T07S R14E S30 NESW
PLACE OF USE: T07S R13E S36 NWNE

POINT OF DIVERSION:	T07S	R14E	S10	NEWM	
PLACE OF USE:	T07S	R14E	S11	SWNW	L702
	T07S	R13E	S10	HEMZ	
	T07S	R13E	S10	SWNE	
	T07S	R13E	S10	SENE	
	T07S	R13E	S10	SESE	

WR-NUMBER: 38-0120
CURRENT OWNER: FRANK J. WAGER
ENTIRE PAGER
COUNTY: GOODING
SOURCE: WEATHERBY SPRINGS
WATER USE: IRRIGATION
DIVERSION RATE: 8.500 CFS
TOTAL RATE: 0.500 CFS
PRIORITY DATE: 8-JUL-1975
STAGE: DECREE
WATER DISTRICT: 36A
TRIBUTARY: BILLINGSLEY CREEK
DIVERSION VOLUME: 0.00 AF
TOTAL VOLUME: 0.00 AF
DECREE PLANTIFF: NEW INTERNATIONAL FERTILIZER BANK
DECREE DEFENDANT: IDOMO POWER COMPANY

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

TOTAL RECORDS IN SELECTION FILE: 116

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FEB 10 1993
Department of Water Resources

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

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23
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

* * * * *

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

Case No. 39576

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

NOTICE OF APPEARANCE

19 Petitioner,

20 vs.

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

Respondents.

* * * * *

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



Hepworth,
Nungester,
& Lezamiz

NOTICE OF APPEARANCE - 1

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1 Users, Inc. and its individual members:

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



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



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NOTICE OF APPEARANCE - 3

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

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

12 DATED This 9 day of February, 1993.

13 HEPWORTH, NUNGESTER & LEZAMIZ

14
 15 By 
 16 PATRICK D. BROWN
 Attorneys for Respondents

17
 18 CERTIFICATE OF MAILING

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



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 & Lezamiz

NOTICE OF APPEARANCE - 4

MICROFILMED
 OCT 11 1994

1 February, 1993, to:

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

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

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

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

21 
22 Patrick D. Brown



Hepworth,
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& Lezamiz

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OCT 11 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 1, 1993

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

Re: Notice of Appearance

Dear Mr. Brown:

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

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

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

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

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

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

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

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

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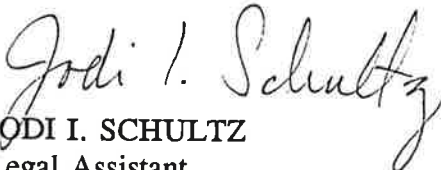
Mr. Patrick D. Brown
March 1, 1993
Page 4

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

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

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

Sincerely,


JODI I. SCHULTZ
Legal Assistant
Idaho Department of Water Resources

cc: IDWR Southern Region

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CA

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: A36-00062
Date Received: ~~12/12/1988~~ 8-26-88
Receipt No: S002275
Received By: _____

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

1. Name: HOWARD L. MORRIS 208-837-6213
Address: 1101 EAST 2900 SOUTH
RT. 1
HAGERMAN, ID 83332

AND

Name: RHONDA K. MORRIS 208-837-6213
Address: 1101 EAST 2900 SOUTH
RT. 1
HAGERMAN, ID 83332

2. Date of Priority: MAY 01, 1912

3. Source: SPRINGS Trib. to: BILLINGSLEY CREEK

4. Point of Diversion:

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

5. Description of diverting works:
DIVERSION AT SPRINGS, STEEL PIPELINE, PUMP & MOTOR, SPRINKLERS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.280		
STOCKWATER	01/01	12/31	0.070		
DOMESTIC	01/01	12/31	0.040		

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

8. Total consumptive use is 375.0 Acre Feet Per Annum.

9. Non-irrigation uses:
D/1 HOME, S/300 CATTLE

A36-00062

Page 1

Date: 02/07/89

MICROFILMED
JAN 21 1993

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
07S	13E	36	NE		NE		IRR	30.0
			NE		NE		DOMEST	
			NE		NE		STOCK	
			SW		NE		IRR	5.0
			SW		NE		STOCK	
			SE		NE		IRR	40.0
			SE		NE		STOCK	
			NE		SE		IRR	15.0
			NE		SE		STOCK	
	14E	31	NW		NW	1	IRR	5.0
			NW		NW	1	STOCK	
			SW		NW	2	IRR	30.0
			SW		NW	2	STOCK	
							Section Acres	35.0
							Total Acres	125.0

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
36-00061, 36-00063

14. Remarks:
SOURCE LOCALLY KNOW AS WEATHERBY SPRINGS
THIS AMOUNT OF WATER IS NEEDED TO IRRIGATE THE PROPERTY BECAUSE
IT IS VERY SANDY IN NATURE.

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

NEW INTERNATIONAL MORTGAGE BAN
Decree Plaintiff

vs

IDAHO POWER COMPANY
Decree Defendant

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ 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)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____
My Commission Expires _____

RECEIVED

AUG 31 1998

Department of Water Resources
Southern Region

36-00062 SOUTH
DJ

North Snake Ground Water District

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
(208) 388-8400 (Facsimile)
beehof@micron.net

RECEIVED

AUG 17 1998

Department of Water Resources

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

In Re SRBA	)	Subcase Nos. 36-00061, 36-00062,
	)	and 36-00063
Case No. 39576	)	
	)	NOTICE OF CHANGE OF
_____	)	HEARING DATE AND TIME

PLEASE TAKE NOTICE that the August 24, 1998 hearing on the *Motion to Alter or Amend* previously set for 10:00 a.m. has been changed to **September 2, 1998 at 1:30 p.m.**

Undersigned counsel certifies that all parties to these subcases have indicated they do not oppose this change in date and time.

DATED this 14th day of August, 1998.

BEEMAN & HOFSTETTER, P.C.

By Josephine P. Beeman
Josephine P. Beeman

RECEIVED

MAY 01 1998

Department of Water Resources
Southern Region

RECEIVED

MAR 23 1998

Department of Water Resources
Adjudication Bureau

1998 MAR 19 PM 3:02

FILED
F-5821
IDAHO

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 36-00062

Case No. 39576

)
)
) SPECIAL MASTER'S REPORT
)

FINDINGS OF FACT AND CONCLUSIONS OF LAW

A notice of claim was filed for this water right pursuant to I.C. § 42-1409 (1990). The director of the State of Idaho Department of Water Resources examined the water system for areas 1, 2, and 3 and investigated and abstracted the notices of claims for those Reporting Areas. The Director of the Idaho Department of Water Resources then filed a *Director's Report* which asserted how the elements of this water right should be decreed by the court.

An objection to the *Director's Report* for water right 36-00062 was filed. Subsequently, a *Standard Form 5* was filed as to how the elements of this water right should be decreed. The *Standard Form 5* was accepted by the court; now therefore,

IT IS THEREFORE RECOMMENDED that subcase 36-00062 be decreed as recommended in the attached *Special Master's Report and Recommendation for Partial Decree*.

DATED March 19, 1998.


FRITZ X. HAEMMERLE
Special Master, Snake River Basin Adjudication

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

In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 36-00062

1998 MAR 19 PM 3:02

FILED
TWIN FALLS, IDAHO

NAME & ADDRESS: HOWARD L MORRIS
RHONDA K MORRIS
1101 E 2900 S
HAGERMAN ID 83332

SOURCE: HOAGLAND TUNNEL TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 0.28 CFS

PRIORITY DATE: 05/01/1912

POINT OF DIVERSION: T07S R14E S30 SENESW Within GOODING County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	Irrigation Season	0.28 CFS

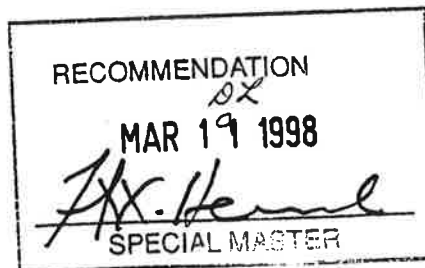
PLACE OF USE:	IRRIGATION	Within GOODING County			
	T07S R13E S36	NENE 30	SWNE 5	SENE 40	NESE 15
	R14E S31	Lot 1 (NWNW) 3	Lot 2 (SWNW)30		
	123 ACRES TOTAL				

USE OF THIS RIGHT WITH RIGHT NOS. 36-00061 & 36-00063 IS
LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 123 ACRES IN A
SINGLE IRRIGATION SEASON.

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication



1998 MAR 19 PM 3:02

DISTRICT COURT
TWIN FALLS
FILED
T-SRBA
IDAHO

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)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

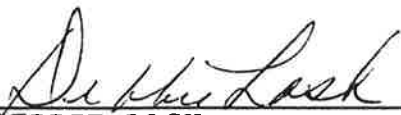
Water Right(s): 36-00062

On March 19, 1998, Special Master FRITZ X HAEMMERLE issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION shall constitute a waiver of the right to challenge it before the Presiding Judge.

DATED March 19, 1998.


DEBBIE LASH
Deputy Clerk

1998 MAR 19 PM 3:02

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

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

In Re SRBA)

Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 36-00062

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on March 19, 1998, with sufficient first-class postage prepaid to the following:

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

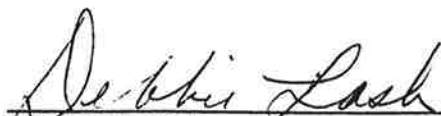
STATE OF IDAHO

Represented by:

CLIVE STRONG
OFFICE OF ATTORNEY GENERAL
STATE OF IDAHO
PO BOX 44449
BOISE, ID 83711-4449
Phone: 208-334-2400

HOWARD L. MORRIS
MORRIS, RHONDA K.
1101 EAST 2900 SOUTH
HAGERMAN, ID 83332

CERTIFICATE OF MAILING


DEBBIE LASH
Deputy Clerk

PAGE 1

03/19/98

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

DATE: NOV-26-1997

PAGE: A-3

RIGHTS FROM: SOURCE: HOAGLAND TUNNEL TRIBUTARY: BILLINGSLEY CREEK

RIGHT NUMBER: 36-00062

NAME AND ADDRESS: HOWARD L MORRIS
RHONDA K MORRIS
1101 E 2900 S
R7 1
HAGERMAN ID 83332

SOURCE: HOAGLAND TUNNEL TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 0.28 CFS
012 078

PRIORITY DATE: 05/01/1912

POINT OF DIVERSION: T07S R14E S30 SENESW Within GOODING County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION		<u>Irrigation Season</u>	<u>0.28 CFS</u>
		<u>03/13 11/13</u>	<u>012 078</u>

PLACE OF USE:	IRRIGATION	Within GOODING County		
	T07S R13E S36	NENE 30	SWNE 5	SENE 40
	R14E S31	Lot 1 (NWNW) 3	Lot 2 (SWNW) 30	NESE 15
		<u>Lot 1 (NWNW) 1</u>		

123 ACRES TOTAL121 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NOS. 36-00061 & 36-00063 IS
LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 123 ACRES IN A
SINGLE IRRIGATION SEASON.

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

WATER IS DELIVERED THROUGH THE HOAGLAND DITCH.
USE OF THIS RIGHT WITH RIGHT NO. 36-00061 IS LIMITED TO A
TOTAL COMBINED CONSUMPTIVE USE VOLUME OF 363 AF, AND TO THE
IRRIGATION OF A COMBINED TOTAL OF 121 ACRES IN A SINGLE
IRRIGATION SEASON.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

WATER IS DELIVERED THROUGH THE HOAGLAND DITCH.

RECEIVED

JAN 02 1998

Department of Water Resources
Southern Region

RECEIVED 12-12

DEC 15 1997

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	)	STANDARD FORM 5
	)	
Case No. 39576	)	
	)	SUBCASE NO: 36-00062
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

THIS FORM MAY ONLY BE USED IF ALL PARTIES HAVE STIPULATED TO ALL ELEMENTS OF ONE WATER RIGHT AND MAY BE SUBMITTED AT ANY TIME FOLLOWING THE CLOSE OF THE STATUTORY RESPONSE PERIOD.

INSTRUCTIONS

This form has been adopted by the court in SRBA Administrative Order 1, Rules of Procedure (amended Oct. 16, 1997), Section 4, which may be consulted for further information.

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; and 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.

A copy of this water right as recommended in the Director's Report shall be submitted with this form. A statement shall accompany each element of a water right.

Statement and Stipulation of Parties and IDWR

Parties/Claimants and IDWR agree that the above referenced water right should be as described in the attached printout entitled Recommended Water Rights Under State Law.

Review By IDWR

To speed up entry of a decree, the parties are encouraged to talk to the Idaho Department of Water Resources about their proposed settlement and have IDWR indicate its concurrence by signing the Standard Form 5.

Where all parties have signed, a Standard Form 5 may be filed with the court without the concurrence of IDWR. However, the parties must certify that they have served IDWR with a copy of the Standard Form 5 and that they have made a good faith attempt to resolve the matter with IDWR.

Within 14 days of filing a Standard Form 5 not containing an IDWR concurrence, IDWR shall file a statement of its position with the court.

If IDWR has not concurred by signing below, signing parties certify that they have served a copy of this document on the Idaho Department of Water Resources and have made a good faith attempt to obtain IDWR'S concurrence, but have failed.

Signatures and Addresses of Parties and their Attorney of Record (attach additional page if necessary):

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

Name: Howard Morris

Address: 1101 East 2900 South

City/State/Zip: Hagerman, ID 83332

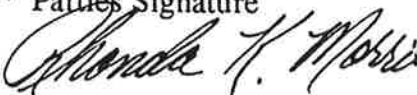
Attorney of Record: N/A

Name: Idaho Dept. of Water Resources

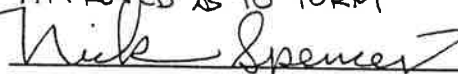
Address: P.O. Box 83720

City/State/Zip: Boise, ID 83720-0098

Attorney of Record: Charles L. Honsinger


Parties Signature 12-11-97

Date 12-11-97


IDWR Concurrence 11-26-97
Date

APPROVED AS TO FORM

Attorney's Signature 11-26-97
FOR CHARLES L. HONSINGER Date

INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court and to the parties identified in the Certificate of Mailing. **FAX filings will not be accepted by the SRBA Clerk of the Court.**

You must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I certify that on Dec 11, 1999~~2~~, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

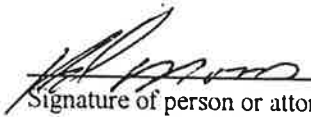
1. Original to:

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

2. Copies to:

Charles L. Honsinger
Idaho Dept. of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Howard Morris
1101 East 2900 South
Hagerman, ID 83332



Signature of person or attorney mailing the form

AJ0749NP
No. R36-00062

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

DATE: 11/24/97
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	HOWARD L MORRIS	05/01/1912	IRRIGATION	03-15 11-15	0.28 CFS	
C	RHONDA K MORRIS					
	1101 E 2900 S					
	HAGERMAN ID 83332					
	(208) 837-6213					
				TOTAL DIVERSION:	0.28 CFS	

Water Source: HOAGLAND TUNNEL

Tributary to: BILLINGSLEY CREEK

Stage: DECREED

Point(s) of Diversion:

T07S R14E S30

SENESEW

GOODING County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE					
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	SUM
07S	13E	36	:	30				05		40								15		:	90.0
07S	14E	31	:									01-03	02-30							:	33.0
																			TOTAL ACRES	:	123.0

POU County: GOODING

Other Rights: 36-00061 & 36-00063

Remarks: POU1 USE OF THIS RIGHT WITH RIGHT NOS. 36-00061 & 36-00063 IS
LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 123 ACRES IN A
SINGLE IRRIGATION SEASON.

EXP WATER IS DELIVERED THROUGH THE HOAGLAND DITCH.

Dates: Exam Made Date: 08/21/1990

Verified Date:

Objection Filed Date:

Misc: Water District Number: 36A

Field Inspection Flag:
Presumption Flag: C

"DO NOT FILM"

IDAHO DEPARTMENT OF WATER RESOURCES SURFACE IRRIGATION ANALYSIS WORKSHEET

WATER RIGHT NOS. 36-00061
36-00062
36-00063

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

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

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

FORAGE/GRAIN/OTHER (hay, pasture, grain, mint)

100 %

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

100 %

My total acreage is 128 acres.

[Signature]
Signature of Claimant

11-19-97
Date

[Signature]
Signature of Claimant

11-19-97
Date

[Signature]
Signature of IDWR agent

11/19/97
Date

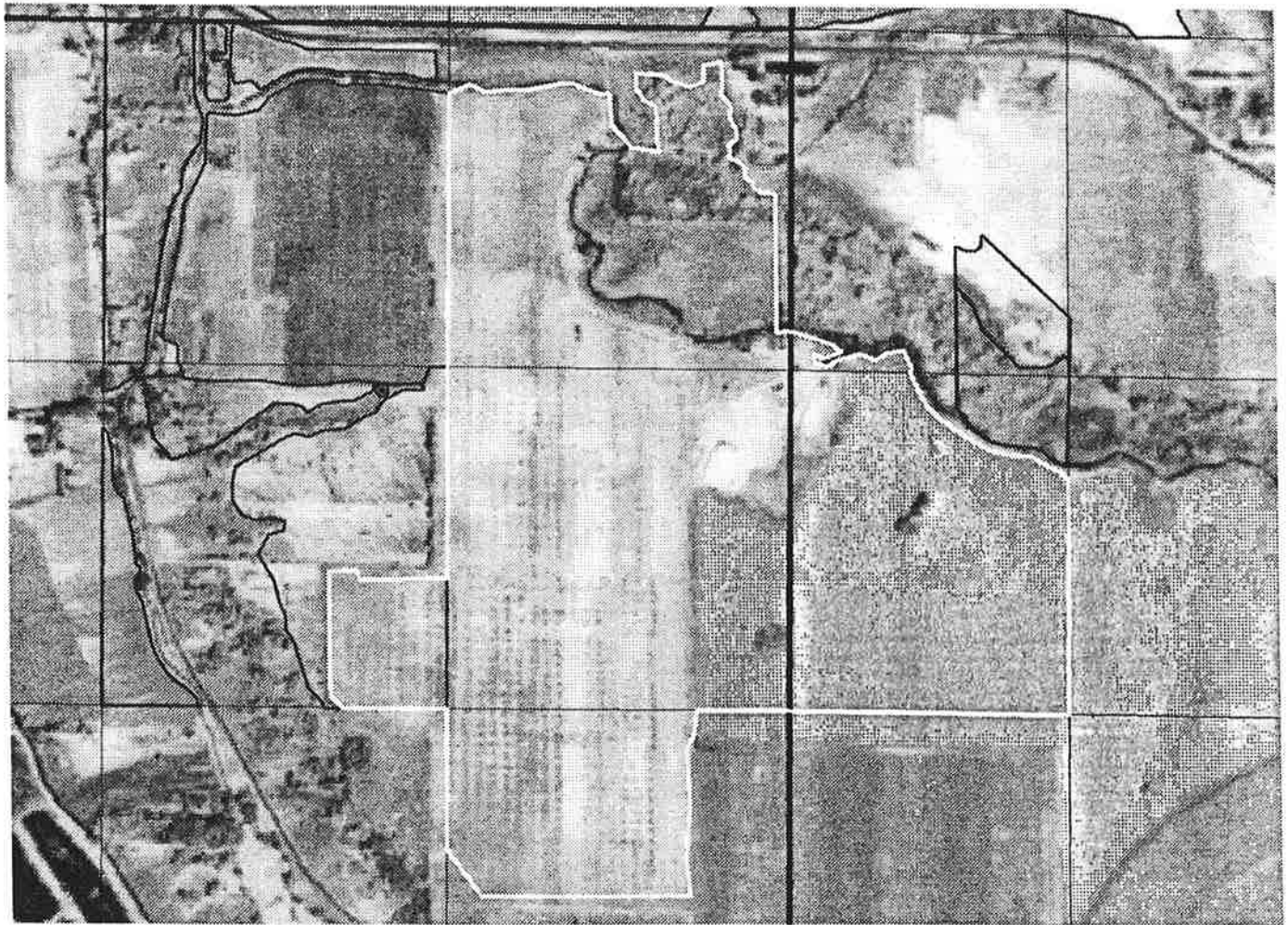
SUBCASE NO. 36-00062

	CLAIM (8/26/88)	AMENDED CLAIM	RECOMMENDATION	OBJECTION
NAME	Howard & Rhonda Morris	N/A	Howard & Rhonda Morris	Howard & Rhonda Morris
BASIS OF CLAIM	Decree		Decree	
SOURCE	Springs		Hoagland Tunnel	
QUANTITY	0.280 cfs		0.20 cfs	XX - requests maximum quantity as decreed and/or beneficially used
PRIORITY DATE	5/1/1912		5/1/1912	
PURPOSE OF USE	Irrigation Stockwater Domestic		Irrigation	XX - requests that stockwater and domestic be included. MSJ requests irrigation,, stockwater, wildlife, recreation, aesthetics, domestic and "diversion system maintenance"
PERIOD OF USE	Irr.: 3/15 - 11/15 S.W.: 1/1 - 12/31 Domestic: 1/1 - 12/31		3/15 - 11/15	XX - requests that all uses be year round. MSJ requests Irrigation Season for irrigation and year round for other uses
POINT OF DIVERSION	T07S R14E S30		T07S R14E S30	
PLACE OF USE	T07S R13E S36 T07S R14E S31 125.0 acres		T07S R13E S36 T07S R14E S31 121.0 acres	XX - requests 125.0 acres

remarks	"Source locally known as Weatherby Springs. This amount of water is needed to irrigate the property because it is very sandy in nature."		"Water is delivered through the Hoagland Ditch. Use of this right with right no. 36-00061 is limited to a total combined consumptive use volume of 363 af, and to the irrigation of a combined total of 121 acres in a single irrigation season."	XX - requests that all remarks after "Hoagland Tunnel" [sic] be deleted. MSJ requests that all remarks be deleted.

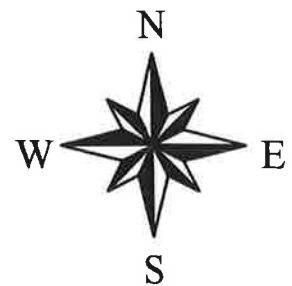
IDAHO DEPARTMENT OF WATER RESOURCES

36-00061 & 36-00062
HOWARD & RHONDA MORRIS



660 0 660 1320 Feet

TNS 7S, RNG 13E, SEC 36
TNS 7S, RNG 14E, SEC 31



⊙ 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

M NUMBERS 36-00061
6-00063

36-00062

DATE 10/16/97
 AGENT R

TRANSFER NUMBER _____

OBJECTION FILED ☒

TOTAL ACRES FROM RECOMMENDATION 121

GEOGRAPHIC INFO SYSTEM 119.44

RIGHT NO				NE				NW				SW				SE			
	TNS	RNG	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
RECOM	07S	13E	36	30		5	40									15			90
GIS				29.57		5.16	39.93									15.18			89.84
RECOM																			
GIS	07S	14E	31					1	30										31
								.85	28.75										29.6
RECOM				Ac Rnd per 11/19/97				3											3
GIS																			
RECOM																			
GIS																			

UPDATED

POLYGON #

UPDATED 123 Ac

B36-DBPOU.DBF 587 ✓
 B36-DBPOD.DBF 469 ✓

POLYGON CREATED ON 604 (4)
 ATTRIBUTES OF B36-POU.SHP (587)
 ATTRIBUTES OF B36-POD.SHP (469) SENE SW-30

(Hoagland Tunnel)

Added 2 acres in S. 31 NWNW @ settlement. 11/19/97

#36-00063 → disallowed (recommended as 36-00061)

P/U CONFLICT yes () no ☒

P/D CONFLICT yes () no ☒

READY FOR DECREE yes ☒ no ()

SENT FOR DECREE yes () no ()

MEMORANDUM

TO: Claim Files, see below
FROM: Douglas Jones, Water Rights Supervisor, Adjudication Bureau
DATE: July 12, 1996
RE: "706" reports submitted to court

In response to an order from the court, resulting from the Motions for Summary Judgement filed on the subcases, IDWR has prepared the following documents:

- 1) DIRECTOR'S SUPPLEMENTAL REPORT
- 2) REPORT REGARDING QUANTIFICATION OF SMALL DOMESTIC AND STOCKWATER USES
- 3) REPORT REGARDING CONSUMPTIVE USE IN THE HAGERMAN AREA
- 4) REPORT REGARDING EVALUATION OF IRRIGATION DIVERSION RATES
- 5) HAZEN, W; GIBSON, G; NEIBLING, H; CROP WATER REQUIREMENTS IN THE HAGERMAN VALLEY; IN A REPORT TO HAGERMAN WATER RIGHT OWNERS ASSOCIATION
- 6) GUIDELINES FOR THE EVALUATION OF IRRIGATION DIVERSION RATES ("HUBBLE REPORT") IN A REPORT TO IDWR
- 7) EVALUATION WORKBOOK FOR IRRIGATION DIVERSION RATES
- 8) AFFIDAVITS FROM:
 - a. David B. Shaw
 - b. Steve Clelland: As to investigation of claims in the Hagerman area
 - c. Helen Harrington-Thornton: Regarding investigation of claims in the Hagerman area
 - d. Marci Sterling
 - e. Jeff Peppersack
 - f. David R. Tuthill, Jr
 - g. Carter Fritschle: Regarding planimeter measurements of claims 36-00064B and 36-00079
- 9) REPORTS REGARDING ... (each specific claim, 24 in all)

Submittals 1-8 can be referenced in the file cabinet section titled "SPECIAL REPORTS" which follows the irrigation claims within Basin 36. The reports regarding specific rights can found in the file jacket for that right.

CLAIMS

36-00003A	36-00003C	36-00003E	36-00003F	36-100034B
36-00035J	36-00039C	36-00039E	36-00039J	36-00039N
36-00047	36-00061	36-00062	36-00063	36-00064B
36-00079	36-00085A	36-00086C	36-00092	36-00103F
36-00106	36-00108B	36-10283B	36-10409	

MICROFILMED
DEC 04 1996

DEC 1 1996 -1 PM 3:17
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

REPORT REGARDING CLAIM TO WATER RIGHT NO. 36-00062

In Re SRBA
Twin Falls County Civil Case No. 39576
Sub-Case No. 36-00062

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources
Karl J. Dreher, Director
David B. Shaw, Adjudication Bureau Chief
David R. Tuthill Jr., Acting Adjudication Bureau Chief

July 1, 1996

COPY

MICROFILMED
DEC 04 1996

REPORT REGARDING CLAIM TO WATER RIGHT NO. 36-00062

The Director of the Idaho Department of Water Resources (IDWR) submits this report regarding claim to water right no. 36-00062 in response to the request of Special Master Haemmerle, pursuant to Idaho Code §42-1412(4) and the court's Order Re: Contested Claims for Amounts Claimed in Excess of .02 CFS. This report was prepared under the supervision of Karl J. Dreher, Director, David B. Shaw, Adjudication Bureau Chief, and David R. Tuthill Jr., Acting Adjudication Bureau Chief for IDWR. The following persons assisted in the preparation of the following portions of this report:

David B. Shaw, Adjudication Bureau Chief, reviewed and verified this Report Regarding Claim to Water Right No. 36-00062. Mr. Shaw reviewed and verified IDWR's Report Regarding Quantification of Small Domestic and Stockwater Rights, which is incorporated by reference herein. The Affidavit of David B. Shaw describes Mr. Shaw's education and work experience, and is incorporated by reference herein. Mr. Shaw also reviewed IDWR's Report Regarding Evaluation of Irrigation Diversion Rates, described below.

Jeff Peppersack, Adjudication Engineer, prepared and verified IDWR's Report Regarding Evaluation of Irrigation Diversion Rates, which is incorporated by reference herein. The Affidavit of Jeff Peppersack describes Mr. Peppersack's education and work experience, and is incorporated by reference herein. Mr. Peppersack also reviewed IDWR's Report Regarding Consumptive Use for Irrigation in the Hagerman Area, described below.

David R. Tuthill Jr., Acting Adjudication Bureau Chief, prepared IDWR's Report Regarding Consumptive Use for Irrigation in the Hagerman Area, which is incorporated by reference herein. Mr. Tuthill also reviewed this Report Regarding Claim To Water Right No. 36-00062. The Affidavit of David R. Tuthill Jr. describes Mr. Tuthill's education and work experience, and is incorporated by reference herein.

Steven C. Clelland, Senior Water Resource Agent, investigated and prepared the preliminary recommendation for claim no. 36-00062, and prepared Appendix C, which is attached hereto and incorporated herein by reference. The Affidavit of Steven C. Clelland describes Mr. Clelland's education and work experience, and is incorporated by reference herein. The affidavit also includes a general description of his investigation of claims in the Hagerman area. The Affidavit of Steven C. Clelland Regarding Claim Nos. 36-00061, 36-00062 and 36-00063 describes Mr. Clelland's investigation of the quantity and place of use of this water right; it is attached hereto and incorporated by reference herein.

Helen L. Harrington-Thornton, formerly Senior Water Resource Agent and currently Hydrogeologist, participated in the field examination for claim no. 36-00062. The Affidavit of Helen L. Harrington-Thornton describes Ms. Thornton's education and work experience, and is incorporated by reference herein. The Affidavit of Helen L. Harrington-Thornton Regarding Claim Nos. 36-00061, 36-00062, and 36-00063 describes her investigation of the quantity and place of use of this water right, and is attached hereto and incorporated by reference herein.

I. INVESTIGATION AND RECOMMENDATION OF CLAIMS GENERALLY

IDWR's general methodology for the investigation and recommendation of claims is described in Appendix A, which is incorporated herein by reference.

II. WATER RIGHT NO. 36-00062

A. Basis of Claim

Claim no. 36-00062 was filed with IDWR by Howard L. and Rhonda K. Morris on August 26, 1988.¹ The claim is to a one of three rights decreed to Mr. and Mrs. L.W. Hoffman in the *New International Mortgage* decree, entered in 1932.² The water rights decreed to the Hoffmans are numbered in IDWR's files as water right nos. 36-00061, 36-00062, and 36-00063. All three were decreed for use on the same lands; all three were decreed, along with numerous others, for "irrigation, domestic, power and other purposes." The claimants also claimed right nos. 36-00061 and 36-00063, filed objections to the director's recommendations as to these claims, and filed motions for summary judgment in the subcases as to these claims. IDWR's Report Regarding Claim to Water Right No. 36-00061 and IDWR's Report Regarding Claim to Water Right No. 36-00063 are incorporated herein by reference.

B. Name and Address of Claimant

The name and address of the claimant set forth in the claimant's motion for summary judgment is the same as recommended in the director's report.

¹ The original notice of claim is currently located in the files of the SRBA District Court, attached to IDWR's response to the claimant's objection.

² *New International Mortgage Bank v. Idaho Power Co., et al.*, Equity No. 1602 (D.S.Id. 1932), at pp. 3-4.

C. Source of Water

The source of water is described in the director's report as Hoagland Tunnel, tributary to Billingsley Creek. The claimant's objection does not contest the source. The claimant's motion for summary judgment describes the source as Weatherby Springs.

Hoagland Tunnel is a source distinct from the source known as Weatherby Springs. The two sources are hydrologically related, in that they are both part of an area known as the Weatherby Springs Complex, and are in close proximity to each other (both in the same 10 acre tract). They are nonetheless distinguishable in that each has a distinct location, in that the flow of each is diverted by different systems and delivered pursuant to different water rights, and in that the tunnel was created and/or augmented through the construction of a concrete-lined tunnel, while the source known as Weatherby Springs is not so constructed. Hoagland Tunnel tributary to Billingsley Creek is therefore the more accurate description of the source of this right, and description of the source in this manner helps to distinguish the various rights diverted from the Weatherby Springs Complex.³

D. Date of Priority

The priority date set forth in the claimant's motion for summary judgment is the same as recommended in the director's report.

E. Point of Diversion

The point of diversion set forth in the claimant's motion for summary judgment is the same as recommended in the director's report.

F. Purpose of Use

The purposes of use stated on the notice of claim were irrigation, stockwater and domestic. The purposes of use recommended in the director's report is irrigation. The objection seeks to add domestic and stockwater. The claimant's motion for

³ The director's report includes the body of water to which the source of the right is tributary for each water right in the director's report, except for rights to ground water. IDWR adopted this standard for the description of the source of water rights because there are so many instances, sometimes in the same administrative basin, where different surface water sources bear the same name. IDWR relied upon the following in reaching its conclusion: Idaho Code §42-1411(2) (which provides that the director shall determine the source of the right to the extent the director deems appropriate and proper to define and administer water rights acquired under state law).

summary judgment now seeks to add wildlife, recreation, aesthetics, and "diversion system maintenance."⁴

The description of the purposes of use of this right in the decree is ambiguous in that it describes the purposes of use for the three Hoffman rights and others in the same list collectively as irrigation, domestic, power and other purposes," rather than specifically identifying each purpose of use for each right.⁵ IDWR's investigation confirmed the use of water for irrigation, stockwater and domestic purposes, as further described below in the sections addressing quantity and place of use. Neither the claimant nor IDWR's investigation has yielded information that would confirm the beneficial use of water for the other purposes listed in the motion, either pursuant to the right as originally appropriated or as currently used.⁶ Such information is necessary not only to confirm the use but to quantify the amount of water beneficially used for that purpose.

G. Quantity of Water Used

The notice of claim states a quantity of 0.28 cfs for irrigation, 0.07 cfs for stockwater, 0.04 cfs for domestic, and a total quantity of 0.28 cfs. The quantity recommended in the director's report is 0.20 cfs for irrigation. The objection contests quantity, but does not state an amount. The claimant's motion for summary judgment states a total quantity of 0.28 cfs, but does not state a quantity for each

⁴ The filing fee for claims other than small domestic and stockwater claims consists of a flat \$50.00 fee, plus a variable fee of \$1.00 per acre for any claimed irrigation use, plus a per cfs variable fee for other claimed purposes of use. The filing fee for small domestic and stockwater claims is \$25.00; no filing fee is required for portions of rights for small domestic and stockwater uses. The filing fee paid for this claim was limited to the purposes of use claimed in the notice of claim, and no filing fee was paid for the domestic and stockwater portion.

⁵ IDWR relied upon the following in reaching its conclusion: *Morgan v. Udy*, 58 Idaho 670, 79 P.2d 295 (1938) (a water right decree that omitted the description of the point of diversion necessarily determined the point of diversion but was ambiguous as to its location).

⁶ IDWR relies upon the following in reaching this conclusion: Idaho Code §42-1427 (which allows an ambiguity in a prior decree or license to be resolved based on current beneficial use); the statement of the Presiding Judge that this section "cannot change or exceed the previously decreed or recorded element of the decreed or licensed right" nor "be used to claim an expansion of use beyond the beneficial use existing at the time the right was originally memorialized in a decree or license," Revised Memorandum Decision and Order on Basin-Wide Issue 4, dated May 17, 1995, at page 9; and the statement of the Presiding Judge that, "the purpose of use is defined by the intentional application of water to an intended beneficial use of water," Memorandum Decision and Order Re: Basin-Wide Issue 5, dated April 26, 1996, at page 8.

purpose of use. The quantity decreed for right no. 36-00062 in the *New International Mortgage* decree is 0.28 cfs.

2. Quantity for irrigation

As noted above, the claimant claimed right nos. 36-00061, 36-00062, and 36-00063 from the same source for the same uses on the same lands. The claimant claimed 2.22 cfs for irrigation under right no. 36-00061, 0.28 cfs for irrigation under right no. 36-00062, and 0.80 cfs for irrigation under right no. 36-00063. These are the same amounts for which each right is decreed in the *New International Mortgage* decree. The claimant thus claims a total of 3.3 cfs for the irrigation of the claimant's lands. IDWR recommended a total of 2.42 cfs, which includes 2.22 cfs pursuant to 36-00061, which has the earliest priority, and 0.20 cfs pursuant to 36-00062, which has the next earliest priority, and recommended 36-00063 for disallowal.

IDWR recommended a total of 2.42 cfs, or 0.02 cfs per acre, as the quantity beneficially used. This is based in part on the fact that the land is irrigated with a sprinkler system. At the time of its original recommendation, it was IDWR's experience that the on-farm requirement for sprinkler systems is rarely greater than 0.02 cfs per acre; indeed, many sprinkler systems are designed with an application rate of 5/8 or 3/4 inch to an acre (0.0125 or 0.015 cfs per acre). In addition, because water is delivered to the place of use through a concrete ditch and pipeline, there was no information indicating that conveyance losses between the point of diversion and place of use were sufficiently significant to warrant recommendation of an additional amount for conveyance losses. Subsequent to the filing of the director's report, IDWR obtained further information indicating that some of those rare instances in which the on-farm requirement for sprinkler systems may be more than 0.02 cfs may exist in some cases in the Hagerman area. IDWR therefore requested, and the claimant has agreed to provide, the information necessary for IDWR to conduct further analysis of the irrigation requirements for the claimant's lands. This information has not been received; IDWR will supplement this report with the results of that analysis as soon as the information is received and it can complete the analysis.

3. Quantity for stockwater

As noted above, the claimant claimed right nos. 36-00061, 36-00062, and 36-00063 from the same source for the same uses on the same lands. IDWR recommended 0.07 cfs for stockwater as part of right no. 36-00061, which has an

earlier priority date.⁷ The basis for IDWR's recommendation of this amount is described in IDWR's Report Regarding Claim to Water Right No. 36-00061. Neither the claimant nor IDWR's investigation has yielded information which would confirm the beneficial use of a greater quantity for stockwater.

4. Quantity for domestic purposes

As noted above, the claimant claimed right nos. 36-00061, 36-00062, and 36-00063 from the same source for the same uses on the same lands. IDWR recommended 0.04 cfs for domestic use as part of right no. 36-00061, which has an earlier priority date.⁸ The basis for IDWR's recommendation of this amount is described in IDWR's Report Regarding Claim to Water Right No. 36-00061. Neither the claimant nor IDWR's investigation has yielded information which would confirm the beneficial use of a greater quantity for domestic use.

5. Quantity for other purposes

As to the quantity for other purposes of use stated in the claimant's motion for summary judgment, neither the claimant nor IDWR's investigation has yielded information that would confirm the beneficial use of water for other purposes, as noted in section F above. Therefore, IDWR does not have information that would confirm the quantity used for the other purposes.

6. Other rights delivered through same ditch

Water rights from Hoagland Tunnel are all diverted through the same concrete-lined ditch, which limits the total quantity of water used pursuant to all rights from the springs. For this reason, IDWR previously proposed that contested water rights in the Hagerman area be grouped by diversion system for scheduling purposes to facilitate resolution of quantity issues for those rights. Appendix C is a schematic which shows the water rights delivered from Hoagland Tunnel, and which includes a variety of information as to the water rights listed.

⁷ If this amount were instead recommended as part of the later priority right, and water were unavailable pursuant to the priority of that right, then the claimant would have no water for stock. Recommendation of this amount in the earlier priority right avoids that possibility.

⁸ If this amount were instead recommended as part of the later priority right, and water were unavailable pursuant to the priority of that right, then the claimant would have no water for domestic use. Recommendation of this amount in the earlier priority right avoids that possibility.

H. Period of Year Water is Used for Each Purpose of Use

Both the notice of claim and director's report state a period of use of 3/15 to 11/15 for irrigation. The claimant's objection states a period of use of 1/1 to 12/31. The claimant's motion for summary judgment states the period of use as "the irrigation season." The *New International Mortgage* decree does not state a period of use for irrigation.

The recommended season of use is consistent with season of use standards for irrigation developed by IDWR for various climatic regions throughout the state, which are based on a 75% chance of a 24 degree Fahrenheit frost. In addition, the director's report included general provision 12b, which allowed use of water for irrigation outside the season of use stated in the description of the individual right subject to certain conditions. In the Memorandum Decision and Order Re: Basin-Wide Issue 5, the Presiding Judge concluded that general provision 12 is not necessary and would not be decreed. This decision further provided that "all decrees for irrigation in the SRBA shall set the period of use as the "irrigation season." Order, pp. 15-16. The district court denied a subsequent motion for permission to appeal the decision. Pending any further proceedings on the decision, any further statement of the basis for IDWR's recommendation as to the season of use for irrigation appears to be unnecessary.

As to the season of use for other purposes of use stated in the claimant's motion for summary judgment, neither the claimant nor IDWR's investigation has yielded information that would confirm the beneficial use of water for other purposes, as noted in section F above. Therefore, IDWR does not have information that would confirm the season of use for the other purposes.

I. Legal Description of the Place of Use

The legal description of the place of use for irrigation recommended in the director's report is the same as the notice of claim, except that the director's report recommends 4 irrigated acres less than claimed in one quarter-quarter section. The objection contests the recommended place of use only as to the difference in the number of irrigated acres. The legal description of the place of use for irrigation in the claimant's motion for summary judgment nonetheless differs from the description in the director's report in the following respect, in that the two tracts in section 31 are described in the claimant's motion for summary judgment as the NWNW and the SWNW. These tracts are described in the director's report as Lot 1 (NWNW) and Lot 2 (SWNW). The legal description of these tracts as shown by U.S. government plat maps of the public land survey system are the government lot numbers. (The

description of the claimant's lands in the deed attached to the motion for summary judgment also describe the claimant's lands as portions of these two government lots.) The quarter-quarter descriptions in the parentheses are not the actual legal descriptions; these designations are provided for the convenience of those who do not have ready access to U.S. government plat maps.

As to the difference in the number of irrigated acres, the claimant's lands as described in the deed include those portions of Lot 1 and Lot 2 "south of the North Bank of John Curran Irrigation Ditch." The claimant's lands thus include the ditch. The irrigated acres recommended in the director's report include all of the lands in Lots 1 and 2 south of the Curran ditch. The recommended irrigated acres thus exclude the ditch. The recommendation and the claimant's motion for summary judgment both state 30 acres for Lot 2; the difference is between the 5 acres claimed and the 1 acre recommended in Lot 1. One acre is IDWR's best estimation of the size of the lands south of Curran ditch in Lot 1. IDWR Senior Water Resource Agents Steve Clelland and Helen Thornton confirmed the irrigation of lands south of Curran ditch by personal observation and aerial photography. The examination of the place of use for this claim is described in the Affidavit of Steven C. Clelland Regarding Claim Nos. 36-00061, 36-00062 and 36-00063, and the Affidavit of Helen L. Harrington-Thornton Regarding Claim Nos. 36-00061, 36-00062, and 36-00063.

As to the legal description of the place of use for other purposes of use stated in the claimant's motion for summary judgment, neither the claimant nor IDWR's investigation has yielded information that would confirm the beneficial use of water for other purposes, as noted in section F above. Therefore, IDWR does not have information that would confirm the place of use for the other purposes.

J. Annual Volume of Consumptive Use

The notice of claim states an annual volume of consumptive use of 375 AFY, or 3.0 AFY per irrigated acre. The annual volume of consumptive use recommended in the director's report is 363 AFY, or 3.0 AFY per acre. The claimant's objection contests the recommended consumptive use, but does not state an amount. The claimant's motion for summary judgment states an amount of 562.5 AFY, or 4.5 AFY per acre. The Affidavit of Charles E. Brockway, submitted by the claimant in support of the motion for summary judgment, states "that 3.75 acre feet per acre per annum is the amount of consumptive use that is reasonable [in the Hagerman area] based upon a yield of ten tons [of alfalfa] per acre." Applying this standard, the total annual consumptive use volume would be 453.75 AFY for the 121 recommended acres, or 468.75 AFY for the 125 claimed acres.

IDWR developed standards for annual volume of consumptive use for the various climatic areas throughout the state. The standard for the area in which the claimant's place of use is located is 3.0 AFY. IDWR's recommendation is based on this standard. The development of IDWR's standards for annual volume of consumptive use is described in IDWR's Report Regarding Evaluation of Irrigation Diversion Rates. IDWR has conducted further analysis of the annual volume of consumptive use based on further information IDWR received subsequent to its original analysis. The further analysis is described in IDWR's Report Regarding Consumptive Use for Irrigation in the Hagerman Area. Based on this further analysis, IDWR recommends an annual volume of consumptive use of 3.5 AFY per acre, for a total of 423.5 AFY for the 121 recommended acres. (This is the total annual consumptive use volume for this right and right no. 36-00062, as further described in section K below.)

K. Conditions on the Exercise of the Right and Other Necessary Matters

The recommendation of this right in the director's report includes the following remarks:

WATER IS DELIVERED THROUGH THE HOAGLAND DITCH.
USE OF THIS RIGHT WITH RIGHT NO. 36-00062 IS LIMITED TO A TOTAL ANNUAL CONSUMPTIVE USE VOLUME OF 363 AF, AND TO THE IRRIGATION OF A COMBINED TOTAL OF 121 ACRES IN A SINGLE IRRIGATION SEASON.

The claimant's objection seeks deletion of remarks except the remark identifying the common name of the ditch. The claimant's motion for summary judgment seeks deletion of all the remarks.

1. Ditch name (first sentence)

In response to the request of the Presiding Judge, IDWR submitted IDWR's Report for September 19, 1995 Status Conference. In this report, IDWR indicated that it had reviewed its use of remarks in the description of the individual water right, both to address concerns identified by the court, and to separate explanatory material from material the Director recommends be included in the decree of water rights pursuant to the 1994 amendments to the adjudication statute.⁹ The remark identifying the common name of the ditch through which the water right is delivered is explanatory material.

⁹ See Idaho Code §42-1411 (which addresses the form and content of director's reports).

2. Combined use (second sentence)

As noted above, IDWR submitted IDWR's Report for September 19, 1995 Status Conference, in which IDWR indicated that it had reviewed its use of remarks in the description of the individual water right to address concerns identified by the court. One of the concerns identified by the court was the need to move remarks under the description of the individual elements of the water right to the extent possible. As also noted above, IDWR filed an Amended Director's Report for Reporting Area 3 (Basin 36), which substantially reduced the number of general provisions. Attachment 2 to the amended report explains the changes made to the general provisions, and further explains changes to the list of recommended rights necessitated by the changes to the general provisions. Attachment 3 to the amended report included samples of uncontested water rights, which were amended as explained in Attachment 2. One of the changes illustrated in these samples was the rephrasing and relocation of combined use remarks. The combined use remark listed above should similarly be rephrased and relocated as follows:

The following language should be included under the description of the place of use:

USE OF THIS RIGHT WITH RIGHT NO. 36-00061 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 121 ACRES IN A SINGLE IRRIGATION SEASON.

The following language should be included under the description of annual volume of consumptive use:

USE OF THIS RIGHT WITH RIGHT NO. 36-00061 IS LIMITED TO A TOTAL ANNUAL CONSUMPTIVE USE VOLUME OF 423.5 AF. (The number of acre feet is higher than stated in the director's report, as described in section J above.)

Both remarks are appropriate and necessary to define and administer water rights, as further described below.¹⁰

¹⁰ IDWR relies upon the following in reaching its conclusion: Idaho Code §42-1411(2), which provides that the director shall determine the place of use and the annual volume of consumptive use to the extent the director deems *appropriate and proper* to define and administer water rights acquired under state law, and Idaho Code §42-1412(6), which provides that the decree shall contain or incorporate a statement of each element of a water right as stated in section 42-1411, as contrasted with language later in section 42-1412 providing for the inclusion of general provisions to the extent *necessary* to define and administer water rights.

a. Irrigated acres

The description of the place of use of each right (nos. 36-00061 and 36-00062) describes the irrigated acres for that right as 121 acres. Inclusion of the additional language noted above in the description of the place of use for each right establishes that the two rights are used for the irrigation of the *same* 121 acres. Recommendation of the right in this manner accurately reflects actual use. More importantly, it avoids the possible misconception that the appropriator is entitled to use water on the sum of the irrigated acres pursuant to the two rights (121 plus 121, for a total of 242), which would be double the actual beneficial use, and would constitute an enlargement and would presumptively cause injury to other rights by increasing the total consumptive use under the two rights.¹¹

b. Consumptive use

With multiple rights for irrigation of the same parcel, IDWR does not state the annual volume of consumptive use for each right. Rather, IDWR includes a remark in each right stating the total annual volume of consumptive use under both rights. IDWR does not state a consumptive use for each right individually because the portion of the total annual volume of consumptive use that is actually consumed under each water right cannot reasonably be determined. The consumptive use volume provided by each right will vary from year to year depending on the portion of the total water supply provided under each water right in any given year. But because the rights are used in combination, the essential limit is the total annual consumptive use volume from both rights.

¹¹ IDWR relied upon the following in reaching its conclusion: *Hall v. Blackmun*, 22 Idaho 556, 126 P. 1047 (1912); Idaho Code §42-222 (prohibiting injury or enlargement from changes in use).

State of Idaho)
) ss.
County of Ada)

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

That I am the Adjudication Bureau Chief for IDWR, that I have read the foregoing report, know its contents, and that the statements contained therein are true to the best of my knowledge and belief.



David B. Shaw

Subscribed and sworn to before me this 1st day of July, 1996.



Notary Public for Idaho
Residing at: Boise ID
My commission expires: 11-14-1998

Certificate of Service

I certify that on the 1st day of July, 1996, I hand-delivered copies of the foregoing document, including all attachments, to the following:

Patrick D. Brown
133 Shoshone St North
Twin Falls, ID 83303



Person mailing document(s)

APPENDIX A

A. INVESTIGATION AND RECOMMENDATION OF CLAIMS GENERALLY

To promote the accuracy and consistency of water right decrees, and to minimize the burden on the court and the claimants in a water right adjudication, the state has made the specialized expertise of IDWR available through IDWR's investigation and reporting function.¹

The resources the state has made available for this function, however, are limited. IDWR has the duty to conduct a reasonable investigation within the spending authority granted by legislative appropriation. Those resources are not sufficient for IDWR to exhaustively investigate each and every potentially relevant fact regarding each and every claim and to make a conclusive determination of the water right. Rather, IDWR reviews the claim and the information already available to IDWR, and conducts such further investigation as is reasonable to determine whether there is sufficient information to support recommendation of the water right to be decreed.

To make the most efficient use of the available resources, IDWR must make determinations as to what is a reasonable level of investigation for various classes of claims prior to making a recommendation to the court regarding any particular claim. IDWR has employed two primary mechanisms to identify a reasonable level of investigation. First, the statutes set criteria and IDWR has developed standards for various types of uses, requiring less information to support a claim to water within those standards and more information to support a claim outside those standards. Second, IDWR has adopted a "tier" approach, identifying classes of claims which for various reasons merit further investigation.

Generally, with claims based on beneficial use², IDWR conducts a "licensing type" field exam, which includes confirmation of the source, point(s) of diversion, purpose(s) of use, place(s) of use, and an examination of the water delivery system and the quantity of water beneficially used. IDWR also contacts the claimant to obtain information supporting the priority date claimed. This level of examination is conducted because there has been no prior administrative or judicial

¹ Idaho Code §§ 42-1410 and 42-1411.

² Water rights based on beneficial use are sometimes referred to as constitutional rights or grandfather rights.

confirmation of the existence and extent of a water right based on beneficial use.³

Generally, for water rights that have been previously confirmed by license or decree, IDWR begins its examination by comparing the claim to information already available to IDWR. Other information includes, for example, IDWR's decree files; license, permit and transfer files; remotely sensed data, including Landsat imagery of irrigated acres and aerial photography; watermaster reports; applicable laws and IDWR's interpretation of those laws in light of the water resource policies of the state; etc. If there are discrepancies between the claim and information already available to IDWR, IDWR conducts further investigation to resolve the discrepancy, which generally includes a field exam and/or contacting the claimant for further information. Thus, where there has been a prior judicial or administrative confirmation of the existence and extent of a water right, IDWR uses information already available to IDWR to limit its review to issues identified by its discrepancy analysis.

Finally, IDWR uses both the court-ordered notice of error process⁴ and the statutory objection process to identify claims which merit further review. If this further review yields new information that supports a different description of the water right, then IDWR will revise its recommendation (in the case of a notice of error) or submit a supplemental director's report or offer a standard form 5 (in the case of an objection), consistent with the new information.⁵

Further information as to IDWR's standards and procedures for the investigation and recommendation is set forth in IDWR's Claim Investigation Manual, Field Examiner's Handbook, Administrative Memorandums, and

³ IDWR conducts a more summary investigation of beneficial use claims limited to domestic and/or stockwater use up to 0.24 cfs.

⁴ The notice of error process, as originally conceived and implemented, was limited to disagreements between the claimant and IDWR as to fairly straight-forward "errors", such as clerical errors or other readily verifiable matters. Based on its experience in the test basins, IDWR has subsequently recommended that the notice of error process be expanded to address any type of perceived error, as well as to address disagreements between claimants.

⁵ This "tiered" approach to determining a reasonable level of investigation is embodied in the statutory framework for water right adjudications. See §42-1410 (which provides for the discretion of the director in determining the level of IDWR's investigation, and allows but does not require the agency to conduct hearings), and §42-1412 (which authorizes IDWR to submit supplemental reports, and authorizes the court or the parties to request further investigation by IDWR in contested subcases). The tiered approach embodied in the statutory framework promotes efficiency and minimizes the burden on the court and the claimants by providing a report/objection process to identify disputed matters, and reserving the highest level of investigation for disputed matters.

B. METHODOLOGY TO DETERMINE IRRIGATED ACREAGE

The area of irrigated acreage can be determined by information obtained from scaled and non-scaled photographs of the place of use supplied by one of several U.S. government agencies. The use of aerial photography by the U.S. government dates back to 1937, when the U.S. Department of Agriculture, Agricultural Stabilization and Conservation Service (ASCS, now known as the Farm Service Agency, or FSA) began photographing selected counties of the United States on a repetitive basis. This coverage continues today and aerial photos are used by the ASCS (FSA) to figure acreage planted on farms for purposes of managing farm programs. Photos used by IDWR typically include: ASCS photos and 35 mm color slides⁷; NAPP photos⁸; ortho-photoquads⁹; and U2

⁶ These documents set forth general standards and procedures and do not address all possible exceptions to the general standards and procedures. In addition, as a result of its experience in the test basins, statutory changes, judicial decisions, etc., IDWR has identified refinements and revisions to its standards and procedures for the investigation and recommendation of claims that have not yet been included in these documents.

⁷ Both the photos and slides are high oblique and vertical aerial photography. The ASCS photos are scaled and have selected features, such as roads, section lines, ditches, and field acreage superimposed on them by the ASCS. The color slides are simply color slides frequently taken with hand-held 35mm equipment. IDWR staff typically obtain copies (which are not scaled) of maps for lands claimed as the place of use during the investigation of the claims, either from the claimant or from the local ASCS office. Color slides may also be checked-out from the local ASCS office as needed; IDWR sometimes obtains the color slides as they are discarded by the local ASCS office.

⁸ NAPP (National Aerial Photography Program) photos are all color-infrared aerial photography. IDWR obtained coverage for most of the Snake River Basin, including all of the test basins; the photos are primarily from flights during 1987 and 1988, though some are from 1986 or 1989. The date of the flight is shown on the photo. NAPP photography is available from the U.S. Geological Survey Earth Resources Observation Systems (EROS) data center in Sioux Falls, South Dakota.

⁹ The full name for an ortho-photoquad is "orthographic photograph quadrangle." These are black and white photoimages prepared from aerial photographs that have been rectified to eliminate image displacement due to terrain relief that cover a systematically subdivided area of latitude and longitude. IDWR obtained coverage for most of the Snake River Basin, including all the test basins; the photos are primarily from flights during the 1970's. The date of the flight is shown on the quad sheet. Most of the orthophotos were obtained from the U.S. Geological Survey National Cartographic Information Center (NCIC) in Menlo Park, California. In some areas, maps were not available from U.S.G.S. but were available from other agencies, such as the United States Department of Agriculture, Forest Service.

aerial photos¹⁰.

A photographic "scale," like a map scale, is an expression that states that one unit of distance on a photograph represents a specific number of units of actual ground distance.

$$S = \text{Photo scale} = \frac{\text{Photo distance } d}{\text{Ground distance } D}$$

The scale may be expressed as unit equivalents, representative fractions, or ratios. For example, if 1 mm on a photo represents 25 m on the ground, the scale of the photo can be expressed as 1 mm = 25 m (unit equivalents), or 1/25,000 (representative fraction), or 1:25,000 (ratio).

The photo(s) used by IDWR personnel have varying scales. The ASCS photographs have map features drawn in by the ASCS. These photos are stated to be "not to scale," but do include the field acreage as determined by ASCS written on the places of use. NAPP photography is at a nominal scale of 1:40,000; U2 aerial photography is at a nominal scale of 1:120,000; and ortho-photoquads have a scale of 1:24,000.

To determine the area used, IDWR staff employed various transparent overlays, known as grid templates. These templates are available at most blueprint supply stores: One type consists of lines forming rectangles or squares of known area in the same scale that is utilized in the scaled photograph. The grid is placed over a scaled photograph and the area of a ground unit is estimated by counting grid units that fall within the unit to be measured.

Another commonly used grid is the dot grid, which is composed of uniformly spaced dots on a transparent overlay. The grid is placed over the photograph and the dots falling within the region to be measured are counted. The value assigned to each dot is dependent on the scale of the photograph. First, the number of acres per centimeter (or other measuring unit) is computed. This figure is then divided by the number of dots per measuring unit on the grid to obtain the acreage represented by each dot. For instance, a square 3.4 cm on each side containing 640 dots will cover 160 acres on a photo with a nominal

¹⁰ These photos are color-infrared aerial photography obtained by the National Aeronautics and Space Administration (NASA) Airborne Instrumentation Research Project, and available from EROS. IDWR obtained coverage of most of the southern portion of the Snake River Basin, most of which was flown in 1977. In addition, because the State of Idaho was part of an ongoing project with NASA to photograph selected areas, photography from various areas in various years is also available. The date of the flight is shown on the photo.

scale of 1:24000; 640 dots divided by 160 acres equals 4 dots to the acre, thus 1 dot equals 0.25 acres.

Because of its simplicity, the grid system is a practical method to determine the size of irrigated areas; it nonetheless requires some training and experience to be used effectively.

For non-scaled photos, such as the ASCS 35 mm photos, IDWR did not directly make acreage determinations. Instead, these photos were used to confirm whether the place of use and amount of irrigated acreage had changed for that year according to common landmarks visible in the photographs.

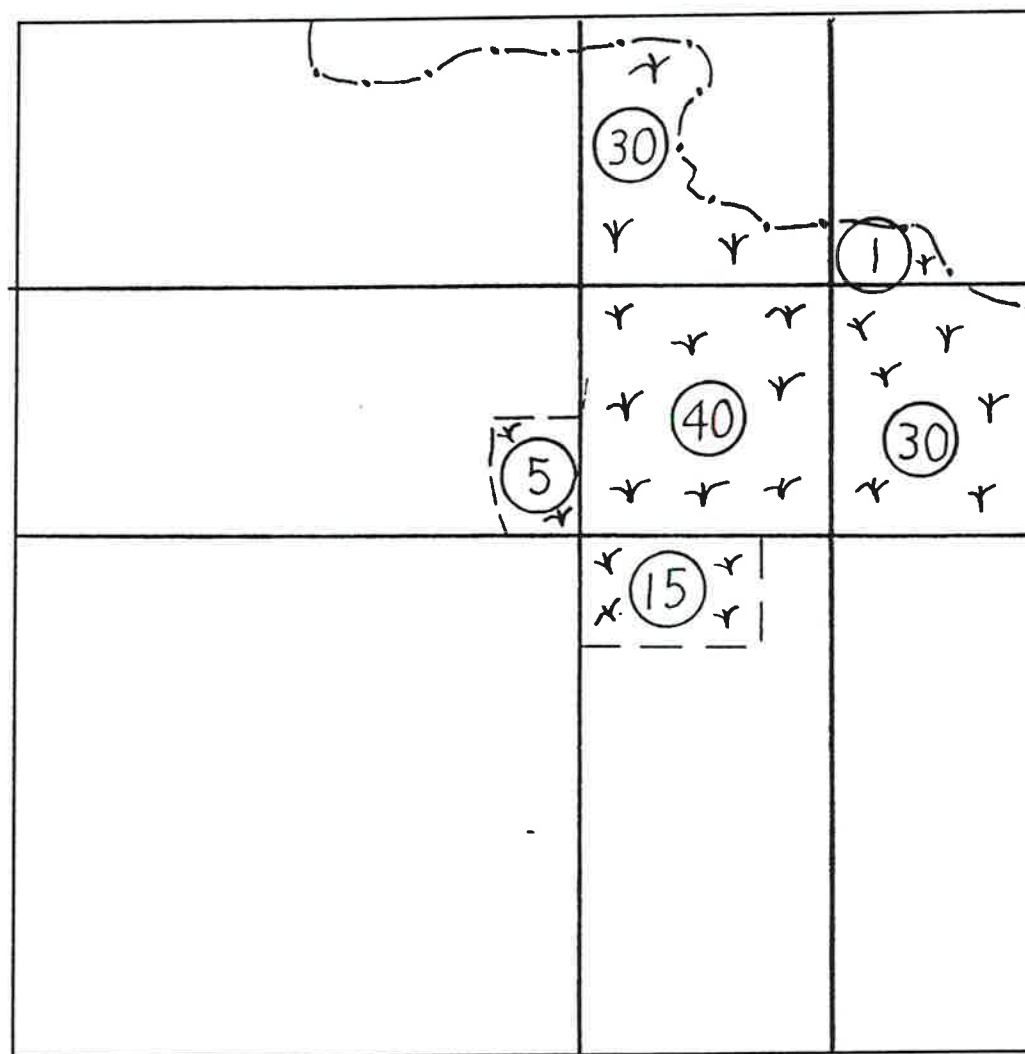
FIGURE 1

T. 7 S., R. 13 E.
 NENE, SWNE, SENE, NESE
 Section 36
 T. 7 S., R. 14 E.
 NWNW, SWNW
 Section 31
 Gooding County

Legend

— · — Current ditch

— — ○ irrigated land



Water Right No. 36-00061/62/63

MICROFILMED
 DEC 04 1995

IDWR QUAD AA-69

ALAN G. LANCE
Attorney General
State of Idaho

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

BRENT KING
CHARLES L. HONSINGER
Deputy Attorneys General
Department of Water Resources
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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	)	Subcase No. 36-00061, 36-00062, 36-00063
	)	
Case No. 39576	)	AFFIDAVIT OF STEVE CLELLAND
	)	REGARDING CLAIM NO. 36-00061,
_____	)	36-00062, 36-00063

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

I, STEVE CLELLAND, being first duly sworn on oath, depose and state as follows:

1. I am a Senior Water Resource Agent with the Idaho Department of Water Resources (IDWR).
2. My work address is Idaho Department of Water Resources (IDWR), Southern Regional Office, 222 Shoshone St. East, Twin Falls, ID 83301-6105. I reside in Twin

AFFIDAVIT OF STEVE CLELLAND REGARDING CLAIM NOS. 36-00061, 36-00062, AND 36-00063,
Page 1

MICROFILMED

DEC 04 1996

Falls, Idaho.

3. My educational background and work history both outside and within IDWR are detailed in my Affidavit of Steve Clelland as to the Investigation of Claims in the Hagerman Area.

4. As part of my duties as a senior water rights agent, I investigated the acreage claimed as irrigated pursuant to claim nos. 36-00061, 36-00062 and 36-00063. The pertinent details of that investigation are as follows:

A. On August 21, 1990, IDWR water agent Helen Thornton and I conducted a field examination to verify the irrigated acreage claimed in claim nos. 36-00061, 36-00062 and 36-00063.

B. I observed that the water delivered pursuant to these claims had as its source the Hoagland tunnel. I observed that water delivered from the Hoagland tunnel was applied to acreage claimed as irrigated by the claimant.

C. I observed the existence of one home on the property. Using aerial photography, I confirmed the location of that home as being in the NENE quarter-quarter of Section 36.

D. I observed that stockwater was used only at the corrals. Using aerial photography, I confirmed the location of those corrals as being in the SENE quarter-quarter of Section 36.

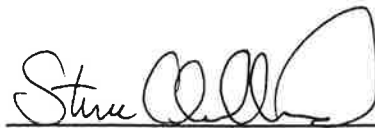
E. Upon my return to the office, I used an orthophoto quad from 1974 with the grid system described in Appendix A to IDWR's Report Regarding Claim to Water

Right No. 36-00061 to measure the irrigated area and determined that acreage irrigated with water pursuant to these claims totaled 121 acres. My best estimate of the irrigated acreage south of the Curran ditch in Lot 1 was one acre. I also observed the pertinent NAPP photograph that showed as irrigated those areas I had observed were actually irrigated.

4. As part of my duties as a senior water agent, I also investigated the quantity of water delivered pursuant to claim nos. 36-00061, 36-00062, and 36-00063. The pertinent details of that investigation are as follows:

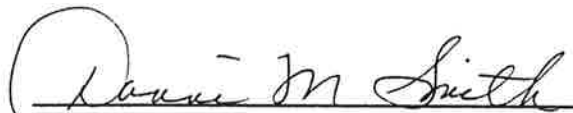
A. I observed that water pursuant to these claims was delivered from the source to the claimed place of use through a concrete lined ditch and a pipeline and pumped directly into a sprinkler system. Because of my observations, I concluded that conveyance losses to deliver water pursuant to this claim were insignificant due to the impermeable nature of the delivery system.

DATED this 15th day of July, 1996.



STEVE CLELLAND

SUBSCRIBED AND SWORN to before me this 1st day of July, 1996.



Notary Public for the State of Idaho

Residing at Horse

My commission expires: 12-5-2000

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

BRENT KING
CHARLES L. HONSINGER
Deputy Attorneys General
Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098
Telephone: (208)327-5458
Fax: (208)327-5400

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 Nos. 36-00061, 36-00062, 36-00063
	)	
Case No. 39576	)	AFFIDAVIT OF HELEN THORNTON
	)	REGARDING CLAIM NOS. 36-00061,
	)	36-00062, 36-00063

STATE OF IDAHO	)
	) ss.
County of Ada	)

I, HELEN THORNTON, being first duly sworn on oath, depose and state as follows:

1. I am currently a Hydrogeologist with the Idaho Department of Water Resources (IDWR). At the relevant time for purposes of this affidavit, I was employed as a Senior Water Resource Agent with IDWR.

2. My work address is Idaho Department of Water Resources (IDWR), 1301 N. Orchard, Boise, ID 83706. I reside in Boise, Idaho.

3. My educational background and work history both outside and within IDWR

are detailed in my Affidavit of Helen Thornton as to the Investigation of Claims in the Hagerman Area.

4. As part of my duties as a senior water rights agent, I investigated the acreage claimed as irrigated pursuant to claim nos. A36-00061, A36-00062 and A36-00063. The pertinent details of that investigation are as follows:

A. On August 21, 1990, IDWR water agent Steve Clelland and I conducted a field examination to verify the irrigated acreage claimed in claim nos. A36-00061, A36-00062 and A36-00063.

B. I observed that the water delivered pursuant to these claims had as its source the Hoagland tunnel. I observed that water delivered from the Hoagland tunnel was applied to acreage claimed as irrigated by the claimant.

C. I observed the existence of one home on the property.

D. I observed that stockwater was used only at the corrals.

5. As part of my duties as a senior water agent, I also investigated the quantity of water delivered pursuant to claim nos. A36-00061, A36-00062, and A36-00063. The pertinent details of that investigation are as follows:

A. I observed that water pursuant to these claims was delivered to the claimed place of use through a concrete lined ditch and a pipeline. Conveyance losses pursuant to these claims were calculated as insignificant. Through my observations, I concluded that the insignificant conveyance losses were due to the impermeable nature of the delivery system.

DATED this 14th day of July, 1996.

Helen L. Harrington-Thornton
HELEN L. HARRINGTON-THORNTON

SUBSCRIBED AND SWORN to before me this 15th day of July, 1996.

A. Sherman
Notary Public for the State of Idaho
Residing at: Boise ID
My commission expires: 11-14-1998

R PROOF

CVR

MAPS

PHOTOS

MISC

MICROFILMED

OCT 11 1994

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

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

Case No. 36-00062 -0001

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

RESPONSE TO OBJECTION

Petitioner,)

vs.)

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

Respondents.)

I. GENERAL INFORMATION

1. Person responding to objection:

Name: R. KEITH HIGGINSON, DIRECTOR

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

Briefly describe your interest in this water right:

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

(Over)

2. Person who filed objection:

Name: HOWARD L & RHONDA K MORRIS
Address: 1101 E 2900 SO
HAGERMAN ID 83332

3. If this response is filed by an attorney:

Attorney Name(s): NICHOLAS B. SPENCER

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

Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

3. ☒ Quantity: I respond to the objection concerning:
- 3a. ☒ The total quantity of water used in cubic feet per second.
7. ☒ Purposes of Use: I respond to the objection concerning the purpose(s) of use.
8. ☒ Period of Year: I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.
9. ☒ Place of Use: I respond to the objection concerning:
- 9a. ☒ The legal description of the place of use.
10. ☒ Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.
11. ☒ Remarks: I respond to the objection concerning the "remarks" listed with the water right.

14. |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 7, and all allegations of the objection regarding that item, IDWR responds that it recommended the irrigation purpose of use that was identified on the notice of claim and that was found when the claim was investigated.

In further response to this objection item, IDWR responds that the domestic and stockwater purposes of use claimed for this water right duplicated these uses claimed and recommended on water right 36-00061 which is from the same source and has the senior date of priority.

In response to Statement of the Objection item 8, and all allegations of the objection regarding that item, IDWR responds as follows: (1) The decree asserted by the claimant does not contain a period of use decreed for this water right. (2) Idaho Code Sec. 42-1411(2)(g) requires the director to determine the period of use of each water right acquired under state law that is recommended in the director's report. (3) IDWR has developed irrigation season of use standards for various climatic areas throughout the state based on a 75% chance of a 24 degree fahrenheit frost. (4) The irrigation season of use cannot exceed the period in which water may be beneficially used. (5) The period of the year during which this water right may be used is

(Over)

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OCT 11 1994

consistent with the standard irrigation season of use for the area in which the place of use of this water right is located. (6) Water may be used for irrigation outside the standard season of use, subject to the conditions set forth in general provision 12b of the director's report. (7) The recommendation of the director to the SRBA Court as to how the right should be decreed does not constitute a taking because it is simply a recommendation and not a final determination of the right. (8) The eventual decree by the SRBA Court of the irrigation season of use will not constitute a taking because the right is limited to the period in which water may be beneficially used.

In further response to this objection item, IDWR responds that it recommended this element of the water right as claimed. By now seeking to include 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 that item, IDWR responds as follows: (1) The decree asserted by the claimant did not set an annual volume of consumptive use for this water right. (2) Idaho Code Sec. 42-1411(2)(i) requires the director to determine the annual volume of consumptive use for each water right acquired under state law and recommended in the director's report. (3) Idaho Code Sec. 42-1401A(2) provides that the quantification of consumptive use "is included as a rebuttable presumption in a decree only for the purpose of transfers pursuant to section 42-222, Idaho Code"; therefore, the consumptive use recommended for this water right is included solely for use in future transfer proceedings. (4) The annual volume of consumptive use claimed and recommended 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.

☒ 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:

(Over)

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No. of
Pages

Notice of Claim No. A36-00062

5

IDWR's Response to Answer, Affirmative Defenses and Prayer
for Relief of Claimant

4

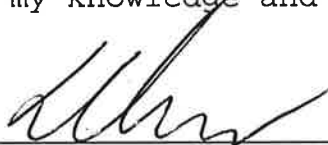
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

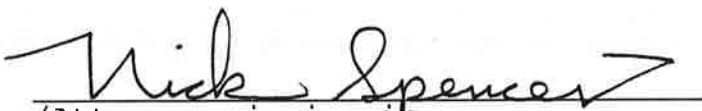
David B. Shaw, being first duly sworn, upon oath, deposes and says:

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



Signature of person filing response

By:



(Attorney signing in
representative capacity)

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



Notary Public for Idaho

Residing at: Boise, Idaho

My Commission expires: July 31, 1997

(Over)

CERTIFICATE OF MAILING

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

1. Original to:

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

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

See No. 3

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

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

4. One copy to:

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



Signature of Respondent or attorney
mailing on Respondent's behalf

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

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

CIVIL CASE NUMBER: 39356

Ident. Number

A36-00062

Date Received

8-26-88

Receipt Number

5002275

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED

AUG 26 1988

Department of Water Resources
Southern Region Office

Please type or print clearly

1. Name of Claimant (s) HOWARD L. MORRIS and RHONDA K. MORRIS Phone (208) 837-6213Mailing Address 1101 East 2900 South, Rt. #1, Hagerman, Idaho Zip 833322. Date of Priority (Only one (1) per claim) May 1, 19123. Source of water supply (a) Weatherby Springs
which is tributary to (b) Billingsley Creek4. a. Location of existing point of diversion is: Township 7 South Range 14 East Section 30,
SE 1/4 of NE 1/4 of SW 1/4, Govt. Lot, _____ B.M., County of Gooding

Additional points of diversion if any: _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of

_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. From the diversion at the head of the Springs,
the water is transported to the subject property through a steel pipeline to a concrete
box where the water is pressurized by the use of a pump and motor. The property is
irrigated by a sprinkler system.

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JAN 21 1993

Copies: White-State, Yellow-Claimant

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from Mar. 15 to Nov. 15 amount 0.28 or _____
For Stockwater purposes from Jan. 1 to Dec. 31 amount 0.07 or _____
For Domestic purposes from Jan. 1 to Dec. 31 amount 0.04 or _____
For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.28 (cfs) and/or (b) 500 (acre feet)

8. Total consumptive use claimed is 375 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) One household and the lawn and garden area around the home and there are
from 200 to 300 head of cattle on the property at times.

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
7 S	13 E	36	S&D 30		S 5	S 40									S 15				90
7 S	14 E	31					Lot1 S-5	Lot2 S-30											35

Total number of acres irrigated 125 acres

11. In which county (ies) are lands listed above as place of use located? Gooding County

12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
36-0061 & 36-0063 or None ()

14. Remarks:

This amount of water is needed to irrigate the property because it is very sandy in
nature.

Last Name MORRIS Ident No. _____

Copies: White -State, Yellow-Claimant

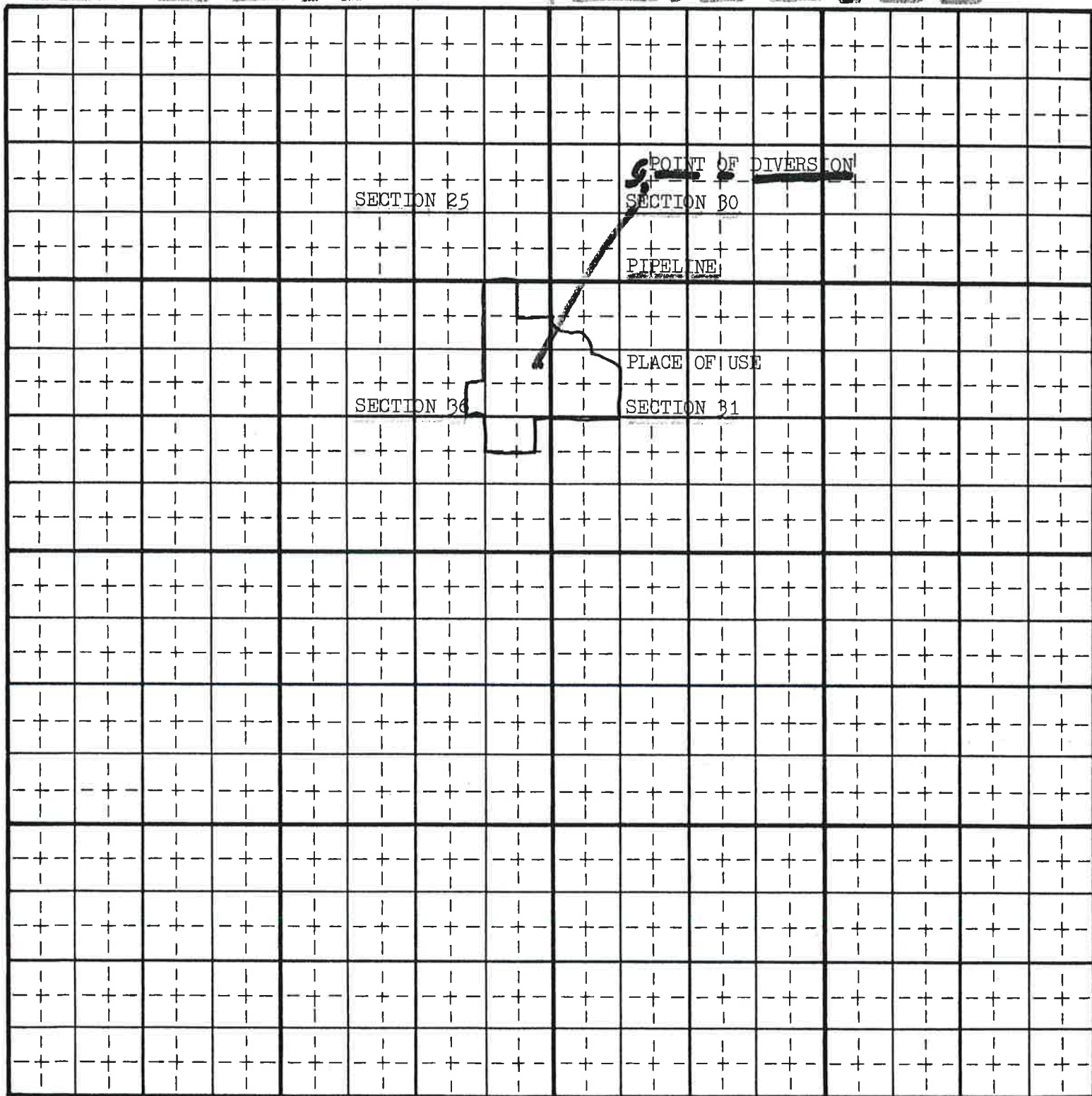
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JAN 21 1993 11 1994

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

TOWNSHIP 7 SOUTH, RANGE 13 EAST, B.M.

TOWNSHIP 7 SOUTH, RANGE 14 EAST, B.M.



MICROFILMED

OCT 11 1994

Last Name MORRIS Ident No. _____

Copies: White-State, Yellow-Chairman

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____
Decree X
If applicable provide IDWR Water Right Number 36-0062
Court U.S. District Court Case Number 1602 Decree Date March 22, 1932
Plaintiff vs Defendant New International Mortgage Bank vs Idaho Power Company

16. Signature (s)

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

Number of attachments One (1)

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s)

Phonda K Morris

Date 8-25-88

Date 8-25-88

For Organizations: I do solemnly swear or affirm that I am _____

Title

of _____, that I have signed the foregoing
Organization

document in the space below as _____ of _____
Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____

Date _____

State of Idaho/or _____)
County of Gooding) SS.

Subscribed and sworn (or affirmed) before me this 25th day of August 19 88

SEAL

Notary Public

Clifton J. Jones

Residing at Hagerman, Idaho

My Commission Expires 5-10-91

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

Last Name MORRIS Ident. Number _____

MICROFILMED
JAN 21 1993

Copies White-State, Yellow-Claimant

T07S	R13E	S26	NWNE
T07S	R13E	S26	SWNE
T07S	R13E	S26	SENE
T07S	R13E	S26	NWNW
T07S	R13E	S26	SENE
T07S	R13E	S26	NESW
T07S	R13E	S26	SWSW
T07S	R13E	S26	SESW
T07S	R13E	S26	NWSE
T07S	R13E	S26	SWSE
T07S	R13E	S26	SESE

POOR ORIGINAL

MICROFILMED
OCT 1 1994
OCT 2 1993

WR-NUMBER:
36-0042

CURRENT OWNER:
ARMEDIA ELIASON
COUNTY: GOODING
SOURCE: WEATHERBY SPRINGS
WATER USE:

PRIORITY DATE:
4-Apr-1918

STAGE:
DECREE
WATER DISTRICT: 36A

TRIBUTARY: BILLINGSLEY CREEK

DIVERSION-RATE:

DIVERSION-VOLUME:

IRRIGATION

0.400 CFS

0.00 AF

TOTAL RATE:

0.400 CFS

TOTAL VOLUME:

0.00 AF

DECREE PLAINTIFF: NEW INTERNATIONAL MORTGAGE BANK
DECREE DEFENDANT: IDAHO POWER COMPANY

REMARKS: P/U INCOMPLETE. SEE FILE.

POINT OF DIVERSION: T07S R14E S30 NESW

PLACE OF USE: T07S R13E S36 NWNE

WR-NUMBER:
36-0062

CURRENT OWNER:
L. W. HOFFMAN
MRS. L. W. HOFFMAN
COUNTY: GOODING
SOURCE: WEATHERBY SPRINGS
WATER USE:

PRIORITY DATE:
1-May-1912

STAGE:
DECREE
WATER DISTRICT: 36A

TRIBUTARY: BILLINGSLEY CREEK

DIVERSION-RATE:

DIVERSION-VOLUME:

IRRIGATION

0.280 CFS

0.00 AF

TOTAL RATE:

0.280 CFS

TOTAL VOLUME:

0.00 AF

DECREE PLAINTIFF: NEW INTERNATIONAL MORTGAGE BANK
DECREE DEFENDANT: IDAHO POWER COMPANY

REMARKS: P/U INCOMPLETE. SEE FILE.
AC. IRRIG. NOT SPECIFIED. FARM = 157.85 AC.

POINT OF DIVERSION: T07S R14E S30 NESW

PLACE OF USE: T07S R13E S31 SWNW LT02

T07S R13E S31 NENE

T07S R13E S36 SWNE

T07S R13E S36 SESE

T07S R13E S36 NENE

WR-NUMBER:
36-0120

CURRENT OWNER:
FRANK J. WADEN
ETATIE WADEN
COUNTY: GOODING
SOURCE: WEATHERBY SPRINGS
WATER USE:

PRIORITY DATE:
8-Jul-1915

STAGE:
DECREE
WATER DISTRICT: 36A

TRIBUTARY: BILLINGSLEY CREEK

DIVERSION-RATE:

DIVERSION-VOLUME:

IRRIGATION

0.000 CFS

0.00 AF

TOTAL RATE:

0.000 CFS

TOTAL VOLUME:

0.00 AF

DECREE PLAINTIFF: NEW INTERNATIONAL MORTGAGE BANK
DECREE DEFENDANT: IDAHO POWER COMPANY

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.

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.

For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES

S01537

Receipt No:

RECEIVED

FEB 10 1993

Department of Water Resources
Southern Region Office

Date:
Time:

2/10/1993
10:48:15

Received MORRIS HOWARD
From:

Type of Payment	Program Acct Class	Amount
FEE FOR COPY OF ADJUDICATION CLAIM		
64100	229 21 1760	8.32

Total

CHECK 9594

\$8.32

Region: SOUTHERN

Signature:

R. Foster

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State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

15-Dec-1992

HOWARD MORRIS
1101 E 2900 S
HAGERMAN ID 83332

RE: Copy of SRBA File(s): 36-00061, 36-00062, 36-00063

Dear Mr. Morris:

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:

\$8.32

Sincerely,


Jeanie Robertson
Records Clerk

Encl:

Morris
38
33
33
104 x 5 = 5.20
post 2.90
env. .22
8.32

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RECEIVED

DEC 14 1992

Department of Water Resources
Southern Region Office

12-12-92
(Date)

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

Dear Idaho Department of Water Resources:

Please provide me with a copy of all information included in
my file as it relates to water right number 36-00061 36-00062
36-00063

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,

Howard Morris
(Name)

1101 F 2900 S
(Address)

Hailey, Idaho 83332
(City, State, Zip Code)

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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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. A36-00062
(You must insert the
water right number you
are objecting to)

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

OBJECTION

Petitioner,)

vs.)

36-00062 -0001/
93-04-0065

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

Respondents.)

INSTRUCTIONS

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

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

(Over)

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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: Howard L. & Rhonda K. Morris

Address: 1101 E 2900 S

Hagerman, ID 83332

Briefly describe your interest in this water right:

Decreed water right pursuant to New

International Mortgage Bank v. Idaho Power Co.

dated 3/22/1932 with priority date of May

1, 1912

2. Owner of the water right:

Name: Howard L. and Rhonda K. Morris

Address: 1101 E. 2900 S.

Hagerman, ID 83332

3. If this objection is filed by an attorney:

Attorney Name: Patrick D. Brown & Penelope Parker

Attorney Address: Hepworth, Nungester & Lezamiz

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

Attorney Phone No.: (208) 734-7510

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

II. STATEMENT OF THE OBJECTION

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

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

(Over)

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

REASONS SUPPORTING EACH BOX CHECKED

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

See page 7

CHANGES TO THE DIRECTOR'S REPORT

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

Maximum quantity: as decreed with corresponding change in consumptive use; period of use: 1/1 to 12/31; purposes of use: add stock water & domestic; place of use: 125 acres; remarks:
strike all appearing after "Hoagland Tunnel"

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



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

See Hagerman Water Right Owners, Inc.'s

Compendium "A"

VERIFICATION (Must be Completed)

State of Idaho

County of Gooding

Howard L. Morris, 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.

[Signature]
Signature of person filing objection

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

Subscribed and sworn to before me this 28 day of April,
1993.

Suzanne K. Jensen
Notary Public for Idaho
Residing at: Hagerman
My Commission Expires: 8-4-98

(Over)

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INSTRUCTIONS FOR MAILING

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

CERTIFICATE OF MAILING

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

1. Original to:

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

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

Owner name: Howard L. and Rhonda K. Morris

Owner's address: 1101 E 2900 S

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.

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

EX-101
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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.

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

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

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

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

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

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

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

(DIRECTOR'S REPORT PART II)

I.

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

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

(DIRECTOR'S REPORT PART III)

I.

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

VIII.

AFFIRMATIVE DEFENSES

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

AFFIRMATIVE DEFENSE NO. 1

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

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

AFFIRMATIVE DEFENSE NO. 2

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

AFFIRMATIVE DEFENSE NO. 3

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

AFFIRMATIVE DEFENSE NO. 4

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

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

AFFIRMATIVE DEFENSE NO. 5

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

AFFIRMATIVE DEFENSE NO. 6

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

AFFIRMATIVE DEFENSE NO. 7

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

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AFFIRMATIVE DEFENSE NO. 8

The Directors' Report fails to state a claim to the extent the same asserts a forfeiture, abandonment, prescriptive or adverse acquisition or loss, or loss resulting from estoppel, of the objectors' water right in the absence of any fact upon which forfeiture, abandonment, prescriptive or adverse acquisition for loss, or loss resulting from estoppel, may be based or asserted.

AFFIRMATIVE DEFENSE NO. 9

The objectors' water right is an incorporeal form of real property, as defined by Idaho Code Sections 7-703, 73-114, 55-101, and like statutes, and, as such, pursuant to Idaho Code Section 7-904, et. seq., the actions of the Director in attempting to limit, reduce and/or regulate such rights, and the assertion of some inconsistent proprietary ownership or right to use or control by the State of Idaho, constitutes an unauthorized and invalid taking of private property without the payment of just compensation, or compliance with statutory requirements, all in violation of Title 7, Chapter 7, Idaho Code.

AFFIRMATIVE DEFENSE NO. 10

The actions of the Director, the Department and their agents, servants and employees in recommending, limiting, reducing and/or regulating objector's water rights, either as alleged in the Director's Report or as in fact applied, violates objectors' rights as secured by Art. 1, Section 1; Art. 15, Sections 3, 4 and/or 5; and/or as otherwise provided in the Constitution of the State of Idaho.

AFFIRMATIVE DEFENSE NO. 11

The various allegations, statements and assertions contained in the Director's Report concerning the Department and/or the Director's position or intentions with regard to the adjudication, as well as the implementation of statutes and/or regulations, as well as the administration of water or management of water rights or claims to the beneficial uses of water, if implemented, constitute a violation of various provisions the United States and Idaho constitutions, and/or a violation of the letter, spirit and/or intent of various statutes enacted by the legislature, and/or constitute an exercise of purported authority or powers either in excess of those conferred by law, or in a manner inconsistent with those conferred by law, or both.

AFFIRMATIVE DEFENSE NO. 12

The individual recommendations relating to the specific water right of the objectors as set forth in the Director's Report are (1) not based upon substantial evidence and/or are not, in fact, the product of any reasonable, complete or accurate investigation as required by law; (2) are the product of arbitrary and capricious action on the part of the Department or the Director; (3) have been made in excess of the constitutional and statutory authority of the Department and the Director; (4) have been made upon an unlawful and invalid procedure; (5) are affected by various and sundry errors of law; and/or (6) are clearly erroneous in view of the reliable, probative and substantial evidence.

EXHIBIT
INCORPORATED

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.

12. 185
ENCLOSURE

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.

(WATER\21530ANS)

NOTICE OF ERROR

RESPONSE

CORRECTED R PROOF

*No change
recommended.
10-14-92
KRC*



MICROFILMED
JAN 21 1993

NOTICE OF ERROR FORM

AUG-24-1992

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

Idaho Department of Water Resources

Statehouse Mail

Boise, Idaho 83720-9000

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

YOUR DEADLINE FOR FILING A NOTICE OF ERROR IS:

SEP-24-1992

1. Water right number: 36-00062
2. Name: HOWARD L. MORRIS & RHONDA K. MORRIS

Address: 1101 East 2900 South, Route #1, Hagerman, Idaho 83332

Weekday Telephone Number: 208-837-6213

TEAR AT PERFORATIONS AND COMPLETE FORM ON OTHER SIDE

RECEIVED

SEP 23 1992

Department of Water Resources
Southern Region Office

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JAN 21 1993

(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:
We disagree with the period of use, the amount of water and the elimination of both stockwater & domestic uses that has been recommended.

4. Describe the changes you wish to have made in the proposed recommendation:
We wish to have the period of use from March 15th to November 15th of each year as filed on the adjudication form, as well as the amount of water increased to 0.28 cfs. We wish to have the right to use the water for domestic and stockwater purposes as in the past as also stated on the adjudication form.

5. Describe why you disagree with the proposed recommendation:
The extended period of use is needed because of the climate, growing season, crops grown, the ability of double cropping & etc. of the Hagerman Valley area. The additional water is needed because of the soil type, growing season & crops raised. The domestic and stockwater is needed to provide water for our home, outbuildings & livestock.

6. Date: September 23, 1992

SIGNATURE


Rhonda F. Morris



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-Oct-1992

HOWARD L MORRIS
1101 E 2900 S RT 1
HAGERMAN ID 83332

RE: RESPONSE TO NOTICE OF ERROR FOR CLAIMS 36-00061 &
36-00062.

Dear Mr Morris

As your claims are from the same source and for the same uses they have been evaluated as a combined right system. The department's recommendation for your claimed uses is based upon the legal limit for each use.

The combined irrigation recommendation is an inch to the acre. We have recognized the claimed rate for 36-00061 and the balance required to equal the inch to the acre under 36-00062.

The legal limit for stockwater is recommended under 36-00061 which has the earlier priority date. Any additional rate recommended under 36-00062 would exceed the legal limit established by the department for the number of cattle you claimed.

Based upon my phone conversation with Ms Morris, I am reinstating the domestic portion of 36-00061. We were under the impression that only Ms Omohundro used water from the Hoagland Tunnel.

The Director has reviewed the Period of Use for the Hagerman Valley and has changed that area to 3-15 to 11-15. This change is being made to all irrigation claims in the Valley.

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

Sincerely

Kelly K Christensen
Sr Water Resource Agent

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JAN 21 1993

R PROOF



CVR



MAPS



PHOTOS



MISC



MICROFILM

JAN 2 1993

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

Water Right Number - R36-00062

Prefix Translation: RESEARCH

Old (D) Number -

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

+ - First Name - - +

+ - - - - Address - - - - -

*** C - CURRENT OWNER ***
MORRIS

HOWARD L

1 - 1101 E 2900 S
2 - RT 1
3 -

State- ID Zip- 83332

MORRIS

RHONDA K

City- HAGERMAN
Phone - 208-837-62131 - 1101 E 2900 S
2 - RT 1
3 -

State- ID Zip- 83332

City- HAGERMAN

Phone - 208-837-6213

+ - - Priority Date - - +
05/01/1912+ - - - Region - - - +
17 SOUTHERN+ - - - Stage - - - +
D - DECREED

+ - - - Status - - - - +

+ - - - - Source - - - - - +
HOAGLAND TUNNEL+ - - - - Tributary - - - - - +
BILLINGSLEY CREEK+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County

07S 14E 30 SE NE SW (47) GOODING

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

01 - IRRIGATION

04/01

10/31

0.200

+ - Total Div. Rate - + + - Total Div. Volume - +
0.200+ - Total Consumptive Use - + + - KW Usage - +
0.0+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County

07S 13E 36 NE NE 30.0 01 IRRIGATION (47) GOODING

07S 13E 36 SW NE 5.0 01 IRRIGATION (47) GOODING

07S 13E 36 SE NE 40.0 01 IRRIGATION (47) GOODING

07S 13E 36 NE SE 15.0 01 IRRIGATION (47) GOODING

07S 14E 31 NW NW 1 1.0 01 IRRIGATION (47) GOODING

07S 14E 31 SW NW 2 30.0 01 IRRIGATION (47) GOODING

Total Acres: 121.0

+ - - Diversion Means - DIVERSION AT SPRINGS, STEEL PIPELINE, PUMP & MOTOR, SPRINKLERS

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - 36-00061

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JAN 21 1993

Water right number - R36-00062

Prefix Translation: RESEARCH

+ - - - - Remarks - - - - -

WATER IS DELIVERED THROUGH THE H0AGLAND DITCH.
USE OF THIS RIGHT WITH RIGHT NO. 36-00061 IS LIMITED TO A
TOTAL COMBINED CONSUMPTIVE USE VOLUME OF 363 AF, AND TO THE
IRRIGATION OF A COMBINED TOTAL OF 121 ACRES IN A SINGLE
IRRIGATION SEASON.

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

3600062

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

No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - +

NEW INTERNATIONAL MORTGAGE BANK

+ - - - - Decree Defendant - - - +

IDAHO POWER COMPANY

+ - Decree Date - +

00/00/0000

+ - - - - Comments - - - - -

Date: 07/31/1992 User Id: WORSTELL Subject: COPIED FROM REMARKS

SOURCE LOCALLY KNOW AS WEATHERBY SPRINGS
IT IS VERY SANDY IN NATURE.

THIS AMOUNT OF WATER IS NEEDED TO IRRIGATE THE PROPERTY BECAUSE

+ - - Audit Fields - - +

08/18/92 THORNTON

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

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 08/18/1992	Old Judicial District	-
Claim Received Date	- 09/19/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S002275	Water District	- 36A
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- AND	Presumption Flag	- C
				Notice of Error Flag	-

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

11:02:28
06/29/90

PAGE: 15
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-00062

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				N				
POINT OF DIV	Y			(Y)				
SOURCE	Y		8-22-90 SCC/HHT	(Y)				
PLACE OF USE	(Y)		8-21-90 SCC/HHT	(Y)				
DIV. AMOUNT CFS/VOLUME	Y							
CONSUMPTIVE USE	-			N				
PURPOSES	Y			N				
PERIOD OF USE	Y			N				
BASIS OF CLAIM				N				
REMARKS	Y			N				

See
7-19-90

"VERIFIED BY" CODES

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

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

See A36-00061 for Complete Review.

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JAN 21 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

11:02:28
06/29/90

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-00062

LAST: HOFFMAN
ADDRESS:
CITY: N/A
PHONE NUMBER: 208-000-0000

FIRST: MRS. L.W.
STATE: ID ZIP: 00000

OWNER CODE: O

LAST: MORRIS
ADDRESS: 1101 E. 2900 S.
RT. 1
CITY: HAGERMAN
PHONE NUMBER: 208-837-6213

FIRST: HOWARD L.
STATE: ID ZIP: 83332

OWNER CODE: C

LAST: MORRIS
ADDRESS: 1101 E. 2900 S.
RT. 1
CITY: HAGERMAN
PHONE NUMBER: 208-837-6213

FIRST: RHONDA K.
STATE: ID ZIP: 83332

OWNER CODE: C

LAST: HOFFMAN
ADDRESS:
CITY: N/A
PHONE NUMBER: 208-000-0000

FIRST: L.W.
STATE: ID ZIP: 00000

OWNER CODE: O

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

DATABASE
Y

FIELD
EXAMINER

CLAIM REMARKS: SOURCE LOCALLY KNOW AS WEATHERBY SPRINGS
THIS AMOUNT OF WATER IS NEEDED TO IRRIGATE THE PROPERTY BECAUSE
IT IS VERY SANDY IN NATURE.

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JAN 21 1993

CONTACT PERSON: _____

PHONE NUMBER: (____) ____-____

DATE OF FIELD EXAM: ____/____/____

APPOINTMENT MADE: Y(____) N(____)

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

ACCOMPANIED BY: _____

PHONE NUMBER: (____) ____-____

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / REMARKS:

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JAN 21 1993

A. AJ CLAIM: # A36-00062 PRIORITY DATE: 05-01-1912 STAGE: D
B. WR RECORD: # 36-00062 PRIORITY DATE: 05-01-1912 STAGE: D

C. FIELD EXAM REQUIRED?

DUE TO PRIORITY DATE DISCREPANCY? (Y/N) DATABASE N FIELD EXAMINER N

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

REMARKS:

RECOMMENDED PRIORITY DATE:
05-01-1912

REVIEWED BY su

DATE 7-19-90

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JAN 21 1993

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A36-00062	07S	14E	30	SE	NE	SW		GOODING

OTHER AJ CLAIMS WITH SAME AJ POD

A PREFIX	R PREFIX
A36-00086G	NONE
A36-00119	
A36-00033D	
A36-00063	
A36-00116	
A36-00086F	
A36-00086H	
A36-00011B	
A36-00011A	
A36-00011C	
A36-00105	
A36-00120	
A36-00061	

WR RECORDS IN SAME 40 ACRE TRACT

36-00009
36-00010
36-00011
36-00015
36-00016
36-00017
36-00033
36-00041
36-00042
36-00044
36-00045
36-00060
36-00061
36-00063
36-00068
36-00069
36-00086A
36-00086B
36-00105
36-00116
36-00118
36-00119
36-00120
36-02029
36-07071
36-07740

SOURCE: SPRINGS

TRIB: BILLINGSLEY CREEK

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
36-00062	07S	14E	30		NE	SW		GOODING

OTHER WR RECORDS WITH SAME WR POD

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

AJ CLAIMS IN SAME 40 ACRE TRACT

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

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36-00041
36-00042
36-00044
36-00045
36-00060
36-00061
36-00063
36-00068
36-00069
36-00086A
36-00086B
36-00105
36-00116
36-00118
36-00119
36-00120
36-02029
36-07071
36-07740

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

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SOURCE: WEATHERBY SPRINGS

TRIB: BILLINGSLEY CREEK

C. FIELD EXAM REQUIRED?

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

DATABASE
Y
Y

FIELD
EXAMINER
N
N

REMARKS:

DATA ENTRY ERROR ON SOURCE - NO - see A36-00061

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP. RGE. SEC. 1/4 1/4 1/4 LOT COUNTY

SAME AS CLAIM

SOURCE: ~~WEATHERBY SPRINGS~~

TRIB:

BILLINGSLEY CREEK

REVIEWED BY:

DATE:

7-19-90

HOAGLAND TUNNEL

8-24-90 see

change claim

A. ROOT WATER RIGHT NUMBERS: A36-00062

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
07S	13E	36	NE	NE		MORRIS , HOWARD L.	A36-00062 /	36-00062 /	35.0		
						MORRIS , HOWARD L.	A36-00061 /	36-00061 /			
						MORRIS , HOWARD L.	A36-00063 /30.0	36-00063 /			
						JOHNSON , CHARLES P.	A36-00123F /	- /			
						VADER , HARVEY W.		36-00123 /			
						JOHNSON , CHARLES P.		36-07278 /			
						JOHNSON , CHARLES P.		36-08392 / 1.0			
07S	13E	36	SW	NE		MORRIS , HOWARD L.	A36-00062 /	36-00062 /	39.0		
						WISE , SHELBY	A36-00084 / 7.0	36-00084 /			
						BROOKS , ALLEN L.	A36-10715 /	- /			
						WISE , GLEN A.	A36-10191 /	- /			
						MORRIS , HOWARD L.	A36-00061 / 5.0	36-00061 /			
						BROOKS , ANDREE G.	A36-00060 /14.0	36-00060 /			
						MORRIS , HOWARD L.	A36-00063 / 5.0	36-00063 /			
						BROOKS , ALLEN L.	A36-07346 / 4.0	36-07346 /18.0			
						JENKINS , COLUMBUS E.		36-00180 /			
07S	13E	36	NE	NE		MORRIS , HOWARD L.	A36-00062 /30.0	36-00062 /	35.0		
						MORRIS , HOWARD L.	A36-00061 /	36-00061 /			
						MORRIS , HOWARD L.	A36-00063 /30.0	36-00063 /			
						JOHNSON , CHARLES P.	A36-00123F /	- /			
						VADER , HARVEY W.		36-00123 /			
						JOHNSON , CHARLES P.		36-07278 /			
						JOHNSON , CHARLES P.		36-08392 / 1.0			
07S	13E	36	NE	NE		MORRIS , HOWARD L.	A36-00062 /	36-00062 /	35.0		
						MORRIS , HOWARD L.	A36-00061 /	36-00061 /			
						MORRIS , HOWARD L.	A36-00063 /30.0	36-00063 /			
						JOHNSON , CHARLES P.	A36-00123F /	- /			
						VADER , HARVEY W.		36-00123 /			
						JOHNSON , CHARLES P.		36-07278 /			
						JOHNSON , CHARLES P.		36-08392 / 1.0			
07S	13E	36	SW	NE		MORRIS , HOWARD L.	A36-00062 / 5.0	36-00062 /	39.0		
						WISE , SHELBY	A36-00084 / 7.0	36-00084 /			
						BROOKS , ALLEN L.	A36-10715 /	- /			
						WISE , GLEN A.	A36-10191 /	- /			
						MORRIS , HOWARD L.	A36-00061 / 5.0	36-00061 /			
						BROOKS , ANDREE G.	A36-00060 /14.0	36-00060 /			
						MORRIS , HOWARD L.	A36-00063 / 5.0	36-00063 /			
						BROOKS , ALLEN L.	A36-07346 / 4.0	36-07346 /18.0			
						JENKINS , COLUMBUS E.		36-00180 /			
07S	13E	36	SE	NE		MORRIS , HOWARD L.	A36-00062 /40.0	36-00062 /	39.0		
						MORRIS , HOWARD L.	A36-00061 /40.0	36-00061 /			
						MORRIS , HOWARD L.	A36-00063 /40.0	36-00063 /			
07S	13E	36	NE	SE		MORRIS , HOWARD L.	A36-00062 /15.0	36-00062 /	37.0		

See
A36-00061

* Place of Use
and acres same
as given in
A36-0061

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					MORRIS , HOWARD L.	A36-00061	/15.0	36-00061	/	
					MORRIS , HOWARD L.	A36-00063	/15.0	36-00063	/	
					MUSSEY , J. ALVIN	A36-00116	/11.0	-	/	
					STEWART , JENNY	A36-11205	/	-	/	
					STEWART , JENNY	A36-07034	/12.0	36-07034	/ 7.0	
					STEWART , JENNY			36-07347	/12.0	
07S 13E 36	SE	NE			MORRIS , HOWARD L.	A36-00062	/	36-00062	/	39.0
					MORRIS , HOWARD L.	A36-00061	/40.0	36-00061	/	
					MORRIS , HOWARD L.	A36-00063	/40.0	36-00063	/	
07S 14E 31	NW	NW	1		MORRIS , HOWARD L.	A36-00062	/ 5.0	-	/	
					WOLINE , HAROLD V.	A36-10305	/ 1.1	-	/	
					MORRIS , HOWARD L.	A36-00061	/ 5.0	-	/	
					RAWSON , CAROL A.	A36-00123A	/ 7.0	-	/	
					MEEK , CLARK D.	A36-00123B	/ 2.9	-	/	
					SUMMERS , RONALD OWEN	A36-00123C	/ 5.0	-	/	
					SUMMERS , RONALD OWEN	A36-00123D	/ 3.5	-	/	
					SIMPSON , OWEN	A36-00123E	/ 6.0	-	/	
					JOHNSON , CHARLES P.	A36-00123F	/13.0	-	/	
					MORRIS , HOWARD L.	A36-00063	/ 5.0	-	/	
					VADER , HARVEY W.			36-00123	/	
					VADER , VERNON			36-00124	/	
					GROVER , GEORGE H.			36-00182	/	
					GROVER , GEORGE H.			36-00197	/	
07S 14E 31	NW	NW	1		MORRIS , HOWARD L.	A36-00062	/	-	/	
					WOLINE , HAROLD V.	A36-10305	/ 1.1	-	/	
					MORRIS , HOWARD L.	A36-00061	/ 5.0	-	/	
					RAWSON , CAROL A.	A36-00123A	/ 7.0	-	/	
					MEEK , CLARK D.	A36-00123B	/ 2.9	-	/	
					SUMMERS , RONALD OWEN	A36-00123C	/ 5.0	-	/	
					SUMMERS , RONALD OWEN	A36-00123D	/ 3.5	-	/	
					SIMPSON , OWEN	A36-00123E	/ 6.0	-	/	
					JOHNSON , CHARLES P.	A36-00123F	/13.0	-	/	
					MORRIS , HOWARD L.	A36-00063	/ 5.0	-	/	
					VADER , HARVEY W.			36-00123	/	
					VADER , VERNON			36-00124	/	
					GROVER , GEORGE H.			36-00182	/	
					GROVER , GEORGE H.			36-00197	/	
07S 14E 31	SW	NW	2		MORRIS , HOWARD L.	A36-00062	/	36-00062	/	
					MORRIS , HOWARD L.	A36-00061	/30.0	36-00061	/	
					MORRIS , HOWARD L.	A36-00063	/30.0	36-00063	/	
07S 13E 36	NE	SE			MORRIS , HOWARD L.	A36-00062	/	36-00062	/	37.0
					MORRIS , HOWARD L.	A36-00061	/15.0	36-00061	/	
					MORRIS , HOWARD L.	A36-00063	/15.0	36-00063	/	
					MUSSEY , J. ALVIN	A36-00116	/11.0	-	/	
					STEWART , JENNY	A36-11205	/	-	/	
					STEWART , JENNY	A36-07034	/12.0	36-07034	/ 7.0	
					STEWART , JENNY			36-07347	/12.0	
07S 14E 31	SW	NW	2		MORRIS , HOWARD L.	A36-00062	/30.0	36-00062	/	
					MORRIS , HOWARD L.	A36-00061	/30.0	36-00061	/	
					MORRIS , HOWARD L.	A36-00063	/30.0	36-00063	/	
TOTAL ACRES						A36-00062	125.00			335.00

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

C. FIELD EXAM REQUIRED?

DUE TO POU DISCREPANCY? (Y/N)

DATABASE
Y

FIELD
EXAMINER
YES

PRESUMPTION FLAG: C

REMARKS:

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JAN 21 1993

RECOMMENDATIONS:

TOTAL ACRES:

121.0

REVIEWED BY:

SC

DATE:

8-24-90

A. AJ CLAIMED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
A36-00062 IRRIGATION	FROM 03-15 TO 11-15	.280 CFS
A36-00062 STOCKWATER	FROM 01-01 TO 12-31	.070 CFS
A36-00062 DOMESTIC	FROM 01-01 TO 12-31	.040 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		.280 CFS

B. WR RECORDED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
36-00062 IRRIGATION	FROM TO	.280 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		.280 CFS

PRESUMPTION FLAG: C

C. FIELD EXAM REQUIRED?

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

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

Y(~~X~~) N()

RECOMMEND TO WR STANDARDS OR OTHER?

Y() N(~~X~~)

Explain in remarks, below.

REMARKS:

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JAN 21 1993

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y(☒) N(☐)

AJ TOTAL CLAIMED DIVERSION RATE: 0.280 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 0.280 CFS

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

FLOW MEASUREMENT REQUIRED?

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

FIELD
DATABASE EXAMINER
Y N

B.

FLOW MEASUREMENT

MEASUREMENT METHOD _____, SEE ATTACHED CALCULATIONS.

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

OTHER RIGHTS LISTED IN CLAIM: A36-00061, A36-00063

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

SEE
A36-00061

CLAIM	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
<u>00061</u> A36-00062	SPRINGS	MORRIS , HOWARD L.	0.280	0.002		
A36-00063	SPRINGS	MORRIS , HOWARD L.	0.800	0.006		
A36-00060	HOAGLAND TUNNEL	BROOKS , ANDREE G.	0.500	0.035		
A36-07346	SPRINGS	BROOKS , ALLEN L.	0.200	0.050		
A36-00116	WEATHERBY SPRINGS	MUSSER , J. ALVIN	1.610	0.028	224.00	3.92
	HOAGLAND TUNNEL					
A36-07034	GROUNDWATER	STEWART , JENNY	0.160	0.013	29.20	2.43
A36-10305	SPRING	WOLINE , HAROLD V.	0.040	0.036		
A36-00123A	SPRING	RAWSON , CAROL A.	0.200	0.028		
A36-00123B	SPRING	MEEK , CLARK D.	0.240	0.082		
A36-00123C	SPRING	SUMMERS , RONALD OWEN	0.144	0.028		
A36-00123D	SPRING	SUMMERS , RONALD OWEN	0.113	0.032		
A36-00123E	SPRING ALONG SPRING CREEK	SIMPSON , OWEN	0.400	0.066		
A36-00123F	SPRING	JOHNSON , CHARLES P.	0.290	0.022	13.60	1.04

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

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A36-00062	STOCKWATER	MORRIS , HOWARD L.	FROM 01-01 TO 12-31	.070 CFS	
A36-00062	DOMESTIC	MORRIS , HOWARD L.	FROM 01-01 TO 12-31	.040 CFS	
A36-00061	STOCKWATER	MORRIS , HOWARD L.	FROM 01-01 TO 12-31	.070 CFS	
A36-00061	DOMESTIC	MORRIS , HOWARD L.	FROM 01-01 TO 12-31	.040 CFS	
A36-00063	STOCKWATER	MORRIS , HOWARD L.	FROM 01-01 TO 12-31	.070 CFS	
A36-00063	DOMESTIC	MORRIS , HOWARD L.	FROM 01-01 TO 12-31	.040 CFS	
A36-00123F	DOMESTIC	JOHNSON , CHARLES P.	FROM 01-01 TO 12-31	.040 CFS	
A36-10715	DOMESTIC	BROOKS , ALLEN L.	FROM 01-01 TO 12-31	.040 CFS	
A36-10191	DOMESTIC	WISE , GLEN A.	FROM 01-01 TO 12-31	.060 CFS	
A36-11205	DOMESTIC	STEWART , JENNY	FROM 01-01 TO 12-31	.040 CFS	
A36-11205	STOCKWATER	STEWART , JENNY	FROM 01-01 TO 12-31	.020 CFS	
A36-10305	DOMESTIC	WOLINE , HAROLD V.	FROM 01-01 TO 12-31	.040 CFS	
A36-00123E	DOMESTIC	SIMPSON , OWEN	FROM 01-01 TO 12-31	.200 CFS	
A36-00123E	STOCKWATER	SIMPSON , OWEN	FROM 01-01 TO 12-31	.020 CFS	

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D.

RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE

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

1b. CALCULATIONS

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

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

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 375.0 AF/A

ACRES _____ x CONSUMPTIVE VOL. AF/A FOR AREA _____ =

TOTAL CONSUMPTIVE USE _____ AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = _____ AF/A

ACRES _____ x DIVERSION VOL. AF/A FOR AREA _____ =

TOTAL DIVERSION VOLUME _____ AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y(____) N(____)

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

See A36-00061

Sprinklers -

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RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD		REC. DIV		REC. DIV		REC. CONS.	
	FROM	TO	RATE	CFS	VOL.	AF/A	USE	
			DATABASE	EXAMINER	DATABASE	EXAMINER	DATABASE	EXAMINER
<u>IRRIGATION</u>	<u>3-15</u>	<u>11-15</u>		<u>0.28</u>		<u>484</u>		<u>363</u>
<u>STOCK WATER</u>	<u>1-1</u>	<u>12-31</u>		<u>0.07</u>		<u>—</u>		<u>—</u>
<u>DOMESTIC</u>	<u>1-1</u>	<u>12-31</u>		<u>0.04</u>		<u>—</u>		<u>—</u>
TOTAL FOR THIS RIGHT				<u>0.28</u>		<u>484</u>		<u>363</u>

REVIEWED BY: SC

DATE: 12-31-90

add limits

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A. CHECK ONLY THE FOLLOWING THAT APPLY:

	ACCEPTED AS CLAIMED	NEEDS REVIEW
OWNERSHIP _____	(X)	()
FORFEIT/ABANDON _____	()	(X)
ADDITIONAL DIV. AMOUNT _____	(X)	()

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-00062

TOTAL DIVERSION RATE OF WR SPLITS	DATABASE 0.280	EXAMINER _____	CFS
-----------------------------------	-------------------	-------------------	-----

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
-	A36-00062	0.280	-		36-00062	0.280
TOTAL CFS		0.280				0.280

DIVERSION RATE REVIEW

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

DATABASE
Y

FIELD
EXAMINER

OK

REMARKS:

AUTHENTICATION:

SIGNATURE: Steve Callahan

DATE: 12-31-90

NAME OF FIELD EXAMINER: _____ TITLE: _____

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JAN 21 1993

REMARK AND CONDITION CODE WORKSHEET

SYSTEM CLAIM NUMBERS

R36 000 62

R36 000 61

AGENT

INITIALS

SC

DATE

7-30-92

CLAIM NO.
OR ENTRY
ORDERREMARK
CODE

ENTRY DATA

CONDITION
CODESTAGE
OR
STATUSPRESUMPTION
CODE

F01

Hoagland Ditch

K06

10 acrs

E09

36-00061

363 AF C.U.

121 Acus

NOTICE:

Delete the reference to a combined
diversion amount.Delete all Stock use from this right
(all the beneficial use is covered in 36-00061)

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