

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: **A36-00075**  
Date Received: 9/19/1988  
Receipt No: S002274  
Received By: \_\_\_\_\_

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

1. Name: ROBERT L HARNEY 208-837-9152  
Address: PO BOX 548  
HAGERMAN ID 83332

AND/OR

Name: BETTY JO HARNEY 208-837-9152  
Address: PO BOX 548  
HAGERMAN ID 83332

2. Date of Priority: JUN 26, 1881

3. Source: SPRING NO. FOUR Trib. to: SNAKE RIVER

4. Point of Diversion:

| Township | Range | Section | 1/4 of | 1/4 of | 1/4 | Lot | County  |
|----------|-------|---------|--------|--------|-----|-----|---------|
| 07S      | 13E   | 2       | NE     | SE     | SE  |     | GOODING |

5. Description of diverting works:  
SPRING IRRIGATES 14 ACRES.

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  |      |        |
| DOMESTIC   | 01/01 | 12/31 | 0.020  |      |        |

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

8. Total consumptive use is 42.0 Acre Feet Per Annum.

9. Non-irrigation uses:  
DOMESTIC, 1 HOME

10. Place of Use:

| Township | Range | Section | 1/4 of | 1/4 | Lot | Use    | Acres |
|----------|-------|---------|--------|-----|-----|--------|-------|
| 07S      | 13E   | 2       | SE     | SE  |     | IRR    | 14.0  |
|          |       |         | SE     | SE  |     | DOMEST |       |

Section Acres 14.0

Total Acres 14.0

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:  
A36-00071A

14. Remarks:  
CHANGE OF OWNERSHIP FILED BY HARNEY. (5/17/96 SCC)

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

NEW INTERNATIONAL MORTGAGE BA  
Decree Plaintiff

IDAHO POWER COMPANY  
vs Decree Defendant

16. Signature(s)

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

Number of attachments: \_\_\_\_\_

**For Individuals:**

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

Signature of Claimant(s): \_\_\_\_\_ 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 \_\_\_\_\_



# NOTICE ( NEW PROPERTY OWNER CHANGE OF WATER RIGHT O WERSHIP

Please print or type

DATE OF CLOSING: 02-1996 (see instructions on back of page)

LEGAL DESCRIPTION OF PROPERTY: Township \_\_\_\_\_ Range \_\_\_\_\_  
 Section \_\_\_\_\_, 1/4 of \_\_\_\_\_ 1/4 of \_\_\_\_\_ 1/4, Govt. Lot \_\_\_\_\_, BM.  
 Lot \_\_\_\_\_, Block \_\_\_\_\_, Subdivision/Townsite \_\_\_\_\_  
 If you have additional legal descriptions, please attach separate sheet. *(see attached)*

[ ] Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)

[ ] Water Right Number(s) Assigned by IDWR: 36-00071A & 36-00075

[ ] Name and Address of Former Owner/Claimant(s)(Seller): IGNACIO NICK ZABALA  
MARIA CARMEN ZABALA HAGERMAN, ID.

[ ] New Owner/Claimant (Purchaser): ROBERT L. HAGENY and BETTY JO HAGENY

[ ] New Mailing Address: P.O. BOX 548  
HAGERMAN, IDAHO  
83337

[ ] New Telephone Number: (208) 837-9152

[ ] Does the change in ownership result in a splitting of the water right owned/claimed? yes ☒ no  
 If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

[ ] Attach proof of ownership, describe proof attached: WARRANTY DEED dated 02-20-1996  
 (proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

[ ] Signature of New Owner/Claimant(s): *Robert Hagney* Date 5-6-96

[ ] Signature of Former Owner/Claimant(s): \_\_\_\_\_ Date \_\_\_\_\_  
 \_\_\_\_\_ Date \_\_\_\_\_

(Signature of former claimant(s) is not required if proof of ownership is attached.)

## FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: 5-17-96 By: SEC

Further Action Needed:

Further Action Taken

Date: \_\_\_\_\_ By: \_\_\_\_\_

Final Review and Data-Entry

Date: \_\_\_\_\_ By: \_\_\_\_\_

Claim Numbers of Split, if any:

Original to be mailed to Idaho Department of Water Resources  
 Copies to Former Owner and New Owner

## WARRANTY DEED

#G-23195

For Value Received

IGNACIO NICK ZABALA and MARIA CARMEN ZABALA, HUSBAND AND WIFE

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

ROBERT L. HARNEY and BETTY JO HARNEY, HUSBAND AND WIFE

Address: P.O. BOX 368, TWIN FALLS, IDAHO 83301

Hereinafter called the Grantee, the following described premises situated in Gooding County, Idaho, to-wit:

SEE SCHEDULE A ATTACHED

TO HAVE AND TO HOLD, the said premises, with their appurtenances unto the said Grantee and to the successors heirs and assigns of the Grantee forever. The Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that they are free from all incumbrances except as above described and that Grantor will warrant and defend the same from all lawful claims whatsoever.

Dated: February 20, 1996

  
IGNACIO NICK ZABALA

  
MARIA CARMEN ZABALA

STATE OF IDAHO )  
COUNTY OF GOODING ) ss.

On this 20<sup>th</sup> day of February, 1996, before me, the undersigned, a Notary Public in and for said State, personally appeared IGNACIO NICK ZABALA and MARIA CARMEN ZABALA, known or identified to me to be the person whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

  
Notary Public  
BETTY FREDERICKS Residing at: GOODING, IDAHO  
NOTARY PUBLIC My Commission expires: 3-29-2000  
STATE OF IDAHO  
Gooding County, Idaho  
Commission Expires 3-29-2000

164445

STATE OF IDAHO COUNTY OF GOODING  
Filed for record at the request of Land Title & Escrow Inc  
10 min. past 4 o'clock A m. this 20<sup>th</sup>  
of February 19 96 6 00  
By Penny Watson Deputy

COPY

Lots 1, 2, 3, and 4 in Block 1 of Lake View Subdivision, being a portion of the SE1/4SE1/4 of Section 2, Township 7 South, Range 13 East, Boise Meridian, Gooding County, Idaho, according to the plat thereof, recorded December 21, 1992 as Instrument Number 151043 in the Office of the County Recorder of said County.

Subject to the following:

All reservations in patents or deeds in the chain of title.

Taxes for 1996 and subsequent years, which are a lien, but not yet due and payable.

Assessments of any local irrigation district.

The effect of Power Line Easement given by Roy Lewellen and Nettie M. Lewellen, husband and wife, to Idaho Power Company, a corporation, dated February 25, 1935, recorded March 29, 1935 in Book 3 Page 586 as Instrument Number 61216, Gooding County records, affecting a portion of Lot 2 of Section 2, Township 7 South, Range 13 East, Boise Meridian.

Power Line Easement given by Marjorie Justice Thomas and Daniel Thomas, her husband, to Idaho Power Company, a corporation, dated February 15, 1962, recorded August 17, 1962 as Instrument Number 5378, Gooding County records, affecting a portion of SE1/4SE1/4 of Section 2, Township 7 South, Range 13, East Boise Meridian.

Conditions and restrictions contained in Warranty Deed given by Marjorie Justice Thomas and Daniel Thomas, her husband, first parties, to the State of Idaho, second party, dated August 7, 1962, recorded August 29, 1962 as Instrument Number 5500, Gooding County records, pertaining to a portion of the SE1/4SE1/4 of Section 2 and the NE1/4NE1/4 of Section 11, Township 7 South, Range 13 East, Boise Meridian.

Easement given by Marjorie Justice Thomas and Daniel Thomas, her husband, Grantors, to the State of Idaho, Grantee, dated August 7, 1962, recorded August 29, 1962 as Instrument Number 5501, Gooding County records, pertaining to a portion of the SE1/4SE1/4 of Section 2 and the NE1/4NE1/4 of Section 11, Township 7 South, Range 13 East Boise Meridian.

Power Line Easement given by Marjorie Justice Thomas to Idaho Power Company, a corporation, dated July 5, 1973, recorded February 4, 1974 as Instrument Number 48661, Gooding County records, affecting a portion of the SE1/4SE1/4 of Section 2, Township 7 South, Range 13 East, Boise Meridian.

Power Line Easement given by Marvin L. Andersen and Anita G. Andersen, husband and wife, to Idaho Power Company, a corporation, dated June 21, 1973, recorded February 4, 1974 as Instrument Number 48663, Gooding County records, affecting a portion of the SE1/4SE1/4 of Section 2, Township 7 South, Range 13 East, Boise Meridian.

Right-of-Way Easement given by Anita G. Andersen, Sharon Dillon, Jackie Ray Andersen, and Terry Lynn Andersen, to Pacific Power & Light Company, a corporation, dated March 13, 1979, recorded March 20, 1979 as Instrument Number 75487, Gooding County records, affecting a portion of SE1/4SE1/4 of Section 2, Township 7 South, Range 13 East, Boise Meridian.

Subject to an Easement as set forth in Warranty Deed given by George R. Kneeland and Diane Kneeland, husband and wife, as to an undivided one-half interest, Grantor, to Karl Woodall & Sons, Inc., and John Kiser, Grantee, dated March 25, 1992, recorded April 20, 1992 as Instrument Number 148410, Gooding County records.

Easements and set back lines as shown on the recorded plat.

Restrictive Covenants for Lake View Subdivision as stated in document recorded February 17, 1993 as Instrument Number 151667, Gooding County records.

COPY



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033  
Fax (208) 736-3037

May 17, 1996

PHILIP E. BATT  
Governor

KARL J. DREHER  
Director

ROBERT L AND BETTY JO HARNEY  
PO BOX 548  
HAGERMAN ID 83332

RE: CHANGE OF OWNERSHIP SRBA CLAIM NOS. A36-00071A & A36-00075

DEAR MR. & MRS. HARNEY,

Pursuant to your request for a change in ownership and/or the notification that you presently own the property in which the above-referenced adjudication claim(s) is appurtenant, the department has changed the record of the current owners as you requested. Please find enclosed a copy of your adjudication claims, as they now appear in our records.

Please refer to the new SRBA claim number in future correspondence: A36-00071A & A36-00075.

I am still reviewing the matter we discussed earlier regarding the additional 6.0 acres to be added in your recommendation. At this point I see the current irrigation uses as being diverted from the John Bell Ditch since 1992, when Kiser installed the sprinkler system now in use. As Harry LeMoyné described it the earlier users also pumped from the ditch, so, the question remains, "When did the flume use end and the diversions from the ditch begin?"

If you will make efforts to provide some insight into these one or two dates, it will aid me to resolve the source and basis of the 6 acre irrigation.

If you have any further corrections or questions please contact our office.

Sincerely,

STEVE CLELLAND  
Water Resource Agent

ENC:  
CC: HARRY LEMOYNE

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: **A36-00075**  
Date Received: 9/19/1988  
Receipt No: S002274  
Received By: \_\_\_\_\_

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

1. Name: IGNACIO NICK ZABALA 208-837-6654  
Address: PO BOX 262  
HAGERMAN ID 83332

2. Date of Priority: JUN 26, 1881

3. Source: SPRING NO. FOUR Trib. to: SNAKE RIVER

4. Point of Diversion:

| Township | Range | Section | 1/4 of | 1/4 of | 1/4 of | Lot | County  |
|----------|-------|---------|--------|--------|--------|-----|---------|
| 07S      | 13E   | 2       | NE     | SE     | SE     |     | GOODING |

5. Description of diverting works:  
SPRING IRRIGATES 14 ACRES.

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 |      |        |
| DOMESTIC   | 01/01 | 12/31 | 0.020 |      |        |

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

8. Total consumptive use is 42.0 Acre Feet Per Annum.

9. Non-irrigation uses:  
DOMESTIC, 1 HOME

10. Place of Use:

| Township | Range | Section | 1/4 of | 1/4 of | Lot | Use    | Acres |
|----------|-------|---------|--------|--------|-----|--------|-------|
| 07S      | 13E   | 2       | SE     | SE     |     | IRR    | 14.0  |
|          |       |         | SE     | SE     |     | DOMEST |       |

10. Place of Use: Continued

| Township | Range | Section | 1/4 of 1/4 | Lot | Use           | Acres |
|----------|-------|---------|------------|-----|---------------|-------|
|          |       |         |            |     | Section Acres | 14.0  |
|          |       |         |            |     | Total Acres   | 14.0  |

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:  
A36-00071A

14. Remarks:

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

NEW INTERNATIONAL MORTGAGE BA  
Decree Plaintiff

IDAHO POWER COMPANY  
vs Decree Defendant

16. Signature(s)

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

Number of attachments: \_\_\_\_\_

**For Individuals:**

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

Signature of Claimant(s): \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_ Date: \_\_\_\_\_



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

25-Jun-1993

IGNACIO NICK ZABALA  
PO BOX 262  
HAGERMAN ID 83332

RE: ADJUDICATION CLAIM NO. 36-00075 -  
KARL WOODALL & SONS INC. AND JOHN KISER

Dear Mr. Zabala:

Pursuant to the notification that you now own the property with the above-referenced Adjudication Claim, the Department proposes to add your name as current owner to our records; however, before we make this change we need to know if you wish to continue to have Patrick Brown listed for notice of appearance on your behalf. Please note that the Director's Report presently filed with the court recommends that 36-00075 be **disallowed**. Please note that Patrick D. Brown, Attorney, HEPWORTH NUGNESTER & LEZAMIZ has filed an Objection to this recommendation with the Court on behalf of Mr. Kiser.

We will take no further action to update our records until we hear from you, regarding whether or not Mr. Brown is to represent you in this matter.

If you should have any questions, please feel free to contact this office.

Sincerely,

Judy Givens  
Adjudication Secretary

/jg  
Enclosures

c.c. John Kiser, PO Box 64, Hagerman, ID 83332  
Patrick D. Brown, Attorney, HEPWORTH NUNGESTER & LEZAMIZ  
CHARTERED PO Box 389 Twin Falls, ID 83303-0389  
Nic Spencer, Attorney, Idaho Department of Water Resources,  
Adjudication Section, 1301 N Orchard, Boise, ID 83706

MICROFILMED

OCT 12 1994



# NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type  
(see instructions on back of page)

# RECEIVED

DATE OF CLOSING: June 7, 1993

JUN 08 1993

LEGAL DESCRIPTION OF PROPERTY: Township 7S Range 13E Department of Water Resources  
Section 2, NE 1/4 of SE 1/4 of SE 1/4, Govt. Lot       , BM. Southern Region Office

Lot       , Block,       , Subdivision/Townsite       .

If you have additional legal descriptions, please attach separate sheet.

(also known as Lots 1,2,3 and 4, Block 1, Lake View Subdivision, Gooding County, ID)  
[ ] Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)

[ ] Water Right Number(s) A36-00075  
Assigned by IDWR:       

*per letter  
A36-00071A 6/29/93*

[ ] Name and Address of Former Owner/Claimant(s)(Seller): Karl Woodall & Sons Inc. and John Kiser  
P.O. Box 64

[ ] New Owner/Claimant (Purchaser): Hagerman, ID 83332  
Ignacio Nick Zabala

[ ] New Mailing Address: P.O. Box 262  
Hagerman, ID 83332

[ ] New Telephone Number: (208) 837 - 6654

[ ] Does the change in ownership result in a splitting of the water right owned/claimed? yes X no  
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

[ ] Attach proof of ownership, describe proof attached: copy of Warranty Deed

(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

[ ] Signature of New Owner/Claimant(s) X Ignacio Nick Zabala Date 6-7-93

Marcia Corneil Zabala Date       

[ ] Signature of Former Owner/Claimant(s): John Kiser Date         
       Date       

(Signature of former claimant(s) is not required if proof of ownership is attached.)

## FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: 6/30/93 By: AL

Further Action Needed:

Further Action Taken

Date:        By:       

Final Review and Data-Entry

Date:        By:       

Claim Numbers of Split, if any:

Original to be mailed to Idaho Department of Water Resources  
Copies to Former Owner and New Owner

MICROFILMED

OCT 12 1994



## *First American Title Company*

P.O. BOX 446, 342 MAIN STREET, GOODING, IDAHO 83330  
TELEPHONE (208) 934-4427

RECEIVED

June 7, 1993

JUN 08 1993

Department of Water Resources  
Southern Region Office

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

Re: Water right transfer  
Kiser/Zabala

Gentlemen:

I have enclosed a notice of change of water right ownership form and a copy of the Warranty Deed. Please make the appropriate changes in your records and amil copies to the new owner.

I am mailing this form to you at the request of the new owner and I will not need any copies for my files.

Sincerely,

FIRST AMERICAN TITLE COMPANY

Susan M. Bolton  
Manager

Enclosures

MICROFILMED  
OCT 12 1994



WARRANTY DEED

RECEIVED

For Value Received

*E. W. Woodall*

Karl Woodall & Sons, Inc., an Idaho Corporation  
and John Kiser, a joint venture

JUN 08 1993

Department of Water Resources  
Southern Region Office

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

Ignacio Nick Zabala and Maria Carmen Zabala, husband and wife

hereinafter referred to as Grantee, whose current address is

P.O. Box 262  
Hagerman, Idaho 83332

the following described premises, to-wit:

Lots 1, 2, 3 and 4 in Block 1 of LAKE VIEW SUBDIVISION, being a portion of the Southeast Quarter of the Southeast Quarter of Section 2, Township 7 South, Range 13, East of the Boise Meridian, Gooding County, Idaho, according to the plat thereof, recorded December 21, 1992 as Instrument No. 151043 in the Office of the County Recorder of said County.

TOGETHER with all water rights appurtenant thereto.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, his heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U. S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

Dated: June 7, 1993.

KARL WOODALL & SONS, INC.

By: *Ernest W. Woodall*  
Ernest W. Woodall, President

By: *John K. Woodall*  
John K. Woodall, Secretary

*John Kiser*  
John Kiser

STATE OF IDAHO

COUNTY OF Gooding

On this 7<sup>th</sup> day of June, in the year 1993, before me, a Notary Public in and for said State, personally appeared John Kiser and , known or identified to me to be the persons whose names are subscribed to the within Instrument, and acknowledged to me that they executed the same.



*Susan M. Bolton*  
Notary Public for Idaho  
Residing at Gooding, Idaho  
Commission Expires: 10/16/98

First American Title Company of Idaho

MICROFILMED

001 12 1994

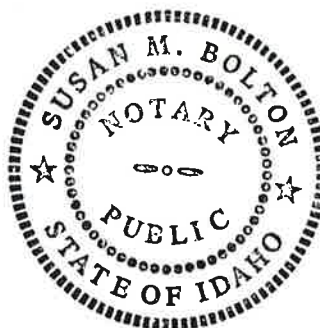


STATE OF IDAHO                    )  
                                          : SS  
COUNTY OF ADA                    )

On This 3rd day of June, in the year 1993, before me, a Notary Public in and for said State, personally appeared Ernest W. Woodall and John K. Woodall, known or identified to me to be the President and Secretary respectively of the Corporation that executed the instrument or the person who executed the instrument on behalf of said Corporation, and acknowledged to me that such Corporation executed the same.

*Susan M. Bolton*

Notary Public of Idaho  
Residing at Gooding, ID  
Commission Expires: 10-16-98



152919

STATE OF IDAHO COUNTY OF GOODING  
Filed for record at the request of FIRST AMERICAN TITLE

45 min. past 10 o'clock A m. this 7  
of June, 1993 6:00

JOHN A. MYERS Recorder

By *Alberta Solis* Deputy

MICROFILMED  
OCT 12 1994

June 29, 1993

RECEIVED

JUN 30 1993

Department of Water Resources  
Southern Region Office

State of Idaho  
Department of Water Resources  
Southern Region  
Attn: Judy Givens  
222 Shoshone Street East  
Twin Falls, Idaho 83301

RE: Adjudication Claim No. 36-00075 and No. 36-00071A  
Karl Woodall & Sons, Inc. and John Kiser

Dear Judy Givens:

I received your letter of June 25th concerning adjudication claim number 36-00075. I am not sure why adjudication claim number 36-00071A was not mentioned because both water rights were purchased with the property. There were problems with both claims as stated on the notice of error forms, which I have enclosed a copy of.

Please be advised that Mr. Patrick D. Brown, of the law firm of Hepworth, Nungester & Lezamiz, is to continue to be listed for notice of appearance on my behalf on both adjudication claim numbers and is to represent me in this matter as he has prior for Mr. Kiser.

Please add my name as the current owner on both claim numbers and if you have any questions, please contact me.

Sincerely,

Ignacio Nick Zabala



MICROFILMED  
OCT 12 1994

# NOTICE OF ERROR FORM

AUG-24-1992

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

**Idaho Department of Water Resources**

**Statehouse Mail**

**Boise, Idaho 83720-9000**

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

RECEIVED

JUN 30 1993

Department of Water Resources  
Southern Region Office

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

SEP-24-1992

1. Water right number: 36-00075
2. Name: JOHN KISER (KARL WOODALL & SONS, INC.)  
Address: P. O. Box #64, Hagerman, Idaho 83332

Weekday Telephone Number: 208-837-4703

## TEAR AT PERFORATIONS AND COMPLETE FORM ON OTHER SIDE

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

3. Describe the portion of proposed recommendation with which you disagree:  
The entire water right was recommended for disallowance, thus I disagree with the entire recommendation.
4. Describe the changes you wish to have made in the proposed recommendation:  
I wish to have the entire water right as filed for on the adjudication form. I am presently using the water for irrigation and wish to use it from March 15th to November 15th of each year, with a priority date of June 26, 1881.
5. Describe why you disagree with the proposed recommendation:  
This water right was decreed to the property by the 1932 Federal Court Decree and is in effect until, and if, another Court Decree supercedes said Decree.
6. Date: September 21, 1992

SIGNATURE

*John Kiser*

MICROFILMED  
OCT 12 1994

Water Right Number - 36-00075      Prefix Translation:      WATER RIGHT      Old (D) Number -

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

\*\*\* A - ATTORNEY \*\*\*  
BROWN      PATRICK D      1 - HEPWORTH NUNGESTER LEZAMIZ  
2 - 133 SHOSHONE ST N  
3 - PO BOX 389  
City- TWIN FALLS      State- ID Zip- 833030389  
Phone - 208-734-7510

\*\*\* C - CURRENT OWNER \*\*\*  
ZABALA      IGNACIO NICK      1 - PO BOX 262  
2 -  
3 -  
City- HAGERMAN      State- ID Zip- 83332  
Phone - 208-837-6654

\*\*\* D - DIR RPT OWNER \*\*\*  
KISER      JOHN      1 - PO BOX 64  
2 -  
3 -  
City- HAGERMAN      State- ID Zip- 83332  
Phone - 208-837-4703

WOODALL & SONS INC      KARL      1 - PO BOX 64  
2 -  
3 -  
City- HAGERMAN      State- ID Zip- 83332  
Phone - 208-837-4703

\*\*\* O - ORIGINAL OWNER \*\*\*  
SIMPSON      OWEN      1 - 17865 US HWY 30  
2 -  
3 -  
City- BLISS      State- ID Zip- 83314  
Phone - 208-837-6230

KNEELAND      GEORGE      1 - 117 SKYLANE DRIVE  
2 -  
3 -  
City- SUN VALLEY      State- ID Zip- 83353  
Phone - 208-726-9311

+ - - Priority Date - - +      + - - Region - - - +      + - - Stage - - - +      + - - Status - - - +  
06/26/1881      17 SOUTHERN      I - DISALLOWED

+ - - - - Source - - - - - +      + - - - - Tributary - - - - - +  
SPRING NO. FOUR      SNAKE RIVER

+ - - - - Point of Diversion - - - - - +  
Twn      Rng      Sec      Tract      Lot      RFlg      County  
07S      13E      2      NE SE SE      (47)      GOODING

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Water Right Number - 36-00075      Prefix Translation:      WATER RIGHT      Old (D) Number -

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

\*\*\* A - ATTORNEY \*\*\*  
BROWN      PATRICK D      1 - HEPWORTH NUNGESTER LEZAMIZ  
2 - 133 SHOSHONE ST N  
3 - PO BOX 389  
City- TWIN FALLS      State- ID Zip- 833030389  
Phone - 208-734-7510

\*\*\* C - CURRENT OWNER \*\*\*  
ZABALA      IGNACIO NICK      1 - PO BOX 262  
2 -  
3 -  
City- HAGERMAN      State- ID Zip- 83332  
Phone - 208-837-6654

\*\*\* D - DIR RPT OWNER \*\*\*  
KISER      JOHN      1 - PO BOX 64  
2 -  
3 -  
City- HAGERMAN      State- ID Zip- 83332  
Phone - 208-837-4703

WOODALL & SONS INC      KARL      1 - PO BOX 64  
2 -  
3 -  
City- HAGERMAN      State- ID Zip- 83332  
Phone - 208-837-4703

\*\*\* O - ORIGINAL OWNER \*\*\*  
SIMPSON      OWEN      1 - 17865 US HWY 30  
2 -  
3 -  
City- BLISS      State- ID Zip- 83314  
Phone - 208-837-6230

KNEELAND      GEORGE      1 - 117 SKYLANE DRIVE  
2 -  
3 -  
City- SUN VALLEY      State- ID Zip- 83353  
Phone - 208-726-9311

+ - - Priority Date - - +      + - - Region - - - +      + - - Stage - - - +      + - - Status - - - +  
06/26/1881      17 SOUTHERN      I - DISALLOWED

+ - - - - Source - - - - - +      + - - - - Tributary - - - - - +  
SPRING NO. FOUR      SNAKE RIVER

+ - - - - Point of Diversion - - - - - +  
Twn      Rng      Sec      Tract      Lot      RFlg      County  
07S      13E      2      NE SE SE      (47)      GOODING

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OCT 12 1994

Water right number - 36-00075

Prefix Translation: WATER RIGHT

| Code                      | Description | Period From | Water Use<br>Period To | Diversion Rate                | Diversion Volume |
|---------------------------|-------------|-------------|------------------------|-------------------------------|------------------|
| 01 - IRRIGATION           |             | 04/01       | 10/31                  | 0.280                         |                  |
| 43 - DOMESTIC             |             | 01/01       | 12/31                  | 0.020                         |                  |
| + - Total Div. Rate - +   |             |             |                        | + - Total Consumptive Use - + |                  |
| 0.300                     |             |             |                        | 42.0                          |                  |
| + - Total Div. Volume - + |             |             |                        | + - KW Usage - +              |                  |

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County       |
|-----|-----|-----|-------|-----|-------|------|-------------|--------------|
| 07S | 13E | 2   | SE SE |     | 14.0  | 01   | IRRIGATION  | (47) GOODING |
| 07S | 13E | 2   | SE SE |     |       | 43   | DOMESTIC    | (47) GOODING |

Total Acres: 14.0

+ - - Diversion Means - SPRING IRRIGATES 14 ACRES.

+ - - Non-Irrigation Use - DOMESTIC, 1 HOME

+ - - Other Rights for Same Use - 36-00071A

| Remarks              |
|----------------------|
| FORFEITED/ABANDONED. |

| Old Water Right Numbers - |
|---------------------------|
| 3600075                   |

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

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

| Comments                                                                                                                       |
|--------------------------------------------------------------------------------------------------------------------------------|
| Date: 03/08/1991 User Id: BEDKE Subject: SCC-STAFF REVIEW                                                                      |
| Date: 05/13/1992 User Id: CLELLAND Subject: CHANGE OF OWNERSHIP                                                                |
| CHANGE FORM RECEIVED 4-24-92 FROM JOHN KISER WITH WARRANTY DEED. CHANGE INCLUDED A36-00071A BUT NOT A36-00096A.                |
| Date: 05/13/1992 User Id: CLELLAND Subject: FORFEITURE/ABANDON                                                                 |
| THERE IS NO DIVERSION SYSTEM FOR THIS SPRING OR TO IRRIGATE THE LANDS ABOVE THE JOHN BELL DITCH. MATURE GROWTH OF 2-3 FT. HIGH |
| SAGEBRUSH INDICATES LONG PERIOD OF NON IRRIGATION.                                                                             |
| Date: 09/23/1992 User Id: SCHULTZ Subject: NOTICE OF ERROR (NOE)                                                               |
| RECEIVED NOE 9/22/92. CHANGED NOE FLAG FROM BLANK TO A. CLAIM VERIFIED 5/13/92. DID NOT REVERIFY ANY PART OF CLAIM.            |
| Date: 10/16/1992 User Id: CHRISTEN Subject: RESPONSE TO NOE                                                                    |
| NO EVIDENCE WAS SUBMITTED TO CHANGE RECOMMENDATION. NOTHING WAS CHANGED. KKC 10-16-92.                                         |

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Prefix Translation: WATER RIGHT

+ - - Audit Fields - - +  
06/30/93 GIVENS

| Adjudication Rights Dates and Flags Area |              |                       |              |                         |         |
|------------------------------------------|--------------|-----------------------|--------------|-------------------------|---------|
| Court Report Filing                      | - 11/02/1992 | Field Inspection Made | - 00/00/0000 | Civil Case Number       | - 39576 |
| Objection Filed Date                     | - 04/29/1993 | Field Inspection Flag | -            | Old Case Number         | -       |
| Response Filed Date                      | - 00/00/0000 | Verified Date         | - 00/00/0000 | Old Judicial District   | -       |
| Claim Received Date                      | - 09/19/1988 | Last Amended Date     | - 00/00/0000 | Temporary Right         | - P     |
|                                          |              | Receipt Number        | - S002274    | Water District          | - 36A   |
|                                          |              | POU Ownership Flag    | - Y          | Federal/State Indicator | - S     |
|                                          |              | Name Connector        | - OR         | Presumption Flag        | -       |
|                                          |              |                       |              | Notice of Error Flag    | - B     |

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OCT 12 1994



State of Idaho

# DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

01-Jul-1993 11:28

PATRICK D BROWN ATTORNEY  
HEPWORTH NUNGESTER & LEZAMIZ  
CHARTERED  
PO BOX 389  
TWIN FALLS ID 83303-0389

Re: Ownership Change for Adjudication Claim No.(s): 36-00075  
& 36-00071A

CLIENT: Ignacio Nick Zabala/Karl Woodall & Sons and John Kiser

Dear Mr. Brown:

Pursuant to the notification that you are representing the new claimant(s) on the above-referenced Adjudication Claim(s), we have changed the Department's record(s) for the current owner. Please note that the Director's Report for Basin 36 has been filed with the court and the recommendations for the above listed rights remain listed in the former owners name.

Please review the record(s) and should you have any questions, please feel free to call this office.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Judy Givens'.

Judy Givens  
Adjudication Secretary

/jg

Enclosures

C.C. Ignacio Nick Zabala

MICROFILMED  
OCT 12 1994

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

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

CIVIL CASE NUMBER: 39356

Ident. Number

A36-00075

Date Received

8-26-88

Receipt Number

5002274

**COPY**  
**FOR YOUR FILES**  
**DO NOT RETURN**

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

**RECEIVED**

AUG 30 1988

Department of Water Resources  
Southern Region Office

Please type or print clearly

1. Name of Claimant (s) OWEN SIMPSON and GEORGE KNEELAND Phone (208) 208-726-9311 (Kneeland)  
837-6230 (Simpson)  
Mailing Address 17865 U.S. Highway 30, Bliss, Idaho (Simpson)  
117 Skylane Drive, Sun Valley, Idaho (Kneeland) Zip 83314  
83353
2. Date of Priority (Only one (1) per claim) June 26, 1881
3. Source of water supply (a) Spring Number Four  
which is tributary to (b) Snake River
4. a. Location of existing point of diversion is: Township 7 South Range 13 East Section 2,  
NE 1/4 of SE 1/4 of SE 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 spring located on the property, the  
water is used for irrigation on 14 acres. At the present time, the property is irrigated  
by flood irrigation. The water is also used for domestic purposes.

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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 Domestic purposes from Jan. 1 to Dec. 31 amount 0.02 or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

7. Total quantity claimed (a) 0.30 (cfs) and/or (b) 56 (acre feet)

8. Total consumptive use claimed is 42 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 to be served.

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 | 2   |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       | D<br>14 | 14     |
|     |      |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |         |        |
|     |      |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |         |        |
|     |      |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |         |        |
|     |      |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |         |        |
|     |      |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |         |        |
|     |      |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |         |        |

Total number of acres irrigated 14 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.

Part of 36-0071 or None ( )

14. Remarks:

Last Name SIMPSON-KNEELAND Ident No. \_\_\_\_\_

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OCT 12 1994  
Copies: White-Store, Yellow-Claimant

Scale: 2 inches equals 1 mile

## TOWNSHIP 7 SOUTH, RANGE 13 EAST OF THE BOISE MERIDIAN

[illegible]

Last Name SIMPSON-KNEELAND

Ident No.

Copies: White-State, Yellow-Claimant

**MICROFILMED**  
1994  
State, Yellow-Claimant

15. Basis of Claim (check one) Bei al Use        Posted Notice        L        ise        Permit         
Decree X  
If applicable provide IDWR Water Right Number 36-0075  
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)

*Carroll Simpson*  
*George Kneeland*

Date

8-25-88

Date

8-25-88

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

Title

of        Organization       , that I have signed the foregoing

document in the space below as

Title

of

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

)

SS.

County of

Gooding

)

Subscribed and sworn (or affirmed) before me this

25<sup>th</sup>

day of

August

19 88

SEAL

Notary Public

*Clifton 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 SIMPSON-KNEELAND Ident. Number       

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Copies White-State, Yellow-Claimant

POOR ORIGINAL

MICROFILMED  
OCT 12 1994

SOURCE: SPRING NUMBER FOUR

TRIBUTARY: SNAKE RIVER

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES  
WATER RIGHTS ABSTRACT

WA NUMBER:  
36-8875

CURRENT OWNER:  
OWEN SIMPSON  
JOSEPHINE SIMPSON  
GEORGE KNEELAND  
ROUTE #2  
HAGERMAN, ID 83332

PRIORITY DATE:  
26-JUN-1981

STAGE:  
DECRESE

COUNTY: GOODING

SOURCE: SPRING NUMBER FOUR

TRIBUTARY: SNAKE RIVER

WATER DISTRICT: 36A

WATER USE:

DIVERSION-RATE:

DIVERSION-VOLUME:

IRRIGATION  
DOMESTIC

0.280 CFS  
0.020 CFS  
TOTAL RATE: 0.300 CFS

56.00 AF  
0.80 AF  
TOTAL VOLUME: 0.00 AF

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

REMARKS: P/U REDUCED + DOMESTIC USE ADDED BY TRANS. 2852.  
AC. IRRIG. = 14.2.

POINT OF DIVERSION: T97S R13E S02 SESE

PLACE OF USE: T97S R13E S02 SESE AC 14  
TOTAL ACRES: 14

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

TOTAL RECORDS IN SELECTION FILE: 116

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OCT 12 1994

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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)

9  
10  
11  
12  
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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

\* \* \* \* \*

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

12  
13 The State of Idaho, ex rel.  
14 R. Keith Higginson in his  
15 official capacity as director  
16 of the Idaho Department of  
17 Water Resources,

NOTICE OF APPEARANCE

15  
16  
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18  
19  
20  
21  
22  
23  
Petitioner,

vs.

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

Respondents.

\* \* \* \* \*

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



Hepworth,  
Nungester,  
& Lezamiz

NOTICE OF APPEARANCE - 1

MICROFILMED  
OCT 12 1994

1 Users, Inc. and its individual members:

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



Hepworth,  
Nungester,  
& Lezamiz

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OCT 12 1994

|    |                                                            |             |
|----|------------------------------------------------------------|-------------|
| 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/<br>Ruby Springs Water Company         | A36-15240   |
|    | Potter, Mark B. & Susan H.                                 | A36-07092A  |
| 17 | Rawson, Frank S. & Carol A.                                | A36-00039J  |
|    | Reese, Bruce W. & LaRose A.                                | A36-00123A  |
| 18 | Reese, Bruce W. & LaRose A.                                | A36-04091   |
|    | Rue, James O. & Beverly Jane                               | A36-10231   |
| 19 | Shaffer, Roger                                             | A36-07142A  |
|    | Simcoe, Doyt H. & Roxie J.                                 | A36-00034B  |
| 20 | Simpson, Michael, on behalf of<br>Josephine Simpson Estate | A36-00003F  |
|    | Simpson, Michael, on behalf of<br>Josephine Simpson Estate | A36-0123E   |
| 21 | Strange, Wm. (Penelope Turner-remainder man)               | A36-0096A   |
| 22 | Strange, Wm. (Penelope Turner-remainder man)               | A36-00006   |
|    | Strange, Wm. (Penelope Turner-remainder man)               | A36-00007   |
|    | Strange, Wm. (Penelope Turner-remainder man)               | A36-00008   |
| 23 | Veenendaal, Dick J.                                        | A36-00108A  |
|    | Veenendaal, Dick J.                                        | A36-00039C  |



Hepworth,  
Nungester,  
& Lezamiz

NOTICE OF APPEARANCE - 3

**MICROFILMED**  
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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   |
|   | Wiens, M.J., Jr.                | A36-07229   |
| 4 | 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   |
|   | Woolley, Max J. & Blanche       | A36-00039M  |
| 8 | 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



Hepworth,  
 Nungester,  
 & Lezamiz

**MICROFILMED**  
**OCT 12 1994**

1 February, 1993, to:

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

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

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

9 United States Department of Justice  
10 Environment and Natural Resources Division  
11 550 West Fort Street, Box 33  
Boise, ID 83734

12  
13   
14 Patrick D. Brown



Hepworth,  
Nungester,  
& Lezamiz

MICROFILMED  
OCT 12 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.<br>(no "A" prefix) |
|-----------------------------------------------------------------|---------------------------------------|
| Bybee, Gertrude B. Owsley                                       | 36-00042A<br>36-00041C                |
| Candy, Walter W. & Margaret                                     | 36-00135B                             |
| Crandlemire, Roger C.                                           | 36-00134C<br>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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OCT 12 1994

Mr. Patrick D. Brown  
March 1, 1993  
Page 2

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<br>as listed on<br>Notice of Appearance              | As Claimed/<br>As Recommended                                                        | Claim No. or<br>Claimant's Name in<br>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<br>(claim was split--"B" suffix)                  |
| Brooks, Allen L. & Andree                                            | A35-00060                                                                            | A36-00060/36-00060<br>(Basin 36 instead of Basin 35)                   |
| Crandlemire, Roger C. & George C.                                    | A36-00113J/36-00113J                                                                 | Crandlemire, Roger C.<br>(George C. not listed as claimant)            |
| Gisler, Harry R.                                                     | A36-00021B/36-00021B                                                                 | A36-00021/36-00021<br>(claim was renumbered)                           |
| Glauner, Frank L. & Joan                                             | A36-00039E/36-00039E                                                                 | Jean instead of Joan                                                   |
| Gustafson Family .<br>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.<br>(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<br>A36-00069/36-00069<br>A36-07071/36-07071<br>A36-00070/36-00070 | Jones, John W. Jr. & Deloris D. (Deloris D. is included as a claimant) |

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OCT 12 1994

Mr. Patrick D. Brown  
 March 1, 1993  
 Page 3

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

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

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

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**OCT 12 1994**

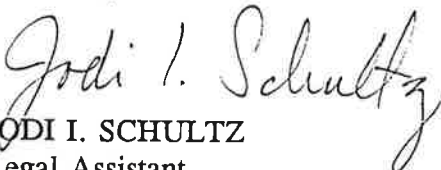
Mr. Patrick D. Brown  
March 1, 1993  
Page 4

| Claimant's Name             | Claim No.<br>as listed on<br>Notice of Appearance | Discrepancy Between<br>Notice of Appearance<br>and IDWR Records                                                            |
|-----------------------------|---------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|
| Ya-Ta-Hay Investments, Inc. | A36-07875/36-07875                                | No record of this claim no.,<br>nor any other claim no. for<br>claimant other than A36-<br>10283A/36-10283A (as<br>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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OCT 12 1994

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: **A36-00075**  
Date Received: 9/19/1988  
Receipt No: S002274  
Received By: \_\_\_\_\_

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

1. Name: KARL WOODALL & SONS INC 208-837-4703  
Address: PO BOX 64  
HAGERMAN ID 83332

OR

Name: JOHN KISER 208-837-4703  
Address: PO BOX 64  
HAGERMAN ID 83332

2. Date of Priority: JUN 26, 1881

3. Source: SPRING NO. FOUR Trib. to: SNAKE RIVER

4. Point of Diversion:

| Township | Range | Section | 1/4 of | 1/4 of | 1/4 | Lot | County  |
|----------|-------|---------|--------|--------|-----|-----|---------|
| 07S      | 13E   | 2       | NE     | SE     | SE  |     | GOODING |

5. Description of diverting works:  
SPRING IRRIGATES 14 ACRES.

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 |      |        |
| DOMESTIC   | 01/01 | 12/31 | 0.020 |      |        |

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

8. Total consumptive use is 42.0 Acre Feet Per Annum.

9. Non-irrigation uses:  
DOMESTIC, 1 HOME

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**JAN 21 1993**

10. Place of Use:

| Township | Range | Section | 1/4 of | 1/4 | Lot | Use    | Acres |
|----------|-------|---------|--------|-----|-----|--------|-------|
| 07S      | 13E   | 2       | SE     | SE  |     | IRR    | 14.0  |
|          |       |         | SE     | SE  |     | DOMEST |       |

Section Acres 14.0

Total Acres 14.0

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:  
A36-00071A

14. Remarks:

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

NEW INTERNATIONAL MORTGAGE BA  
Decree Plaintiff

IDAHO POWER COMPANY  
vs Decree Defendant

16. Signature(s)

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

Number of attachments: \_\_\_\_\_

**For Individuals:**

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

Signature of Claimant(s): \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_

**MICROFILMED**

**JAN 21 1993**

State of Idaho )  
 ) SS.  
County of \_\_\_\_\_ )

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

\_\_\_\_\_  
Notary Public

Seal

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

My Commission Expires \_\_\_\_\_

MICROFILMED

JAN 21 1993



# NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

RECEIVED

Please print or type  
(see instructions on back of page)

APR 24 1992

DATE OF CLOSING: 4-17-92

Department of Water Resources  
B. M. Northern Region Office

LEGAL DESCRIPTION OF PROPERTY: Township 7 South Range 13 East, B. M. Section 2, 1/4 of SE 1/4 of SE 1/4, Govt. Lot 1/4, BM. Lot, Block, Subdivision/Townsite.  
If you have additional legal descriptions, please attach separate sheet.

[ ] Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)

[ ] Water Right Number(s)  
Assigned by IDWR: A36-00071A & A36-00075

[ ] Name and Address of Former Owner/Claimant(s)(Seller): Owen Simpson & George Kneeland  
17865 U.S. Highway 30, Bliss, Idaho 83314 (Simpson)

[ ] New Owner/Claimant (Purchaser): 117 Skylane Drive, Sun Valley, Idaho 83353 (Kneeland)  
Karl Woodall & Sons Inc. or John Kiser

[ ] New Mailing Address: Box 64 Hagerman, ID 83332  
P. O. Box #64  
Hagerman, Idaho 83332

[ ] New Telephone Number: (208) 837 - 4703

[ ] Does the change in ownership result in a splitting of the water right owned/claimed? yes X no  
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

[ ] Attach proof of ownership, describe proof attached: Copy of the recorded Warranty Deed.

(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

[ ] Signature of New Owner/Claimant(s) John Kiser Date 4-17-92

[ ] Signature of Former Owner/Claimant(s): \_\_\_\_\_ Date \_\_\_\_\_

(Signature of former claimant(s) is not required if proof of ownership is attached.)

## FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: 4-29-92 By: su

Further Action Needed:

Further Action Taken

Date: \_\_\_\_\_ By: \_\_\_\_\_

Final Review and Data-Entry

Date: \_\_\_\_\_ By: \_\_\_\_\_

Claim Numbers of Split, if any:

MICROFILMED

JAN 21 1993

Original to be mailed to Idaho Department of Water Resources  
Copies to Former Owner and New Owner



# WARRANTY DEED

19 12 16 17 18 19

APR 27 1992

Department of State Resources  
Region Office

For Value Received

George R. Kneeland and Diane Kneeland, husband and wife,  
as to an undivided one-half interest

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

Karl Woodall & Sons, Inc. and John Kiser,

hereinafter referred to as Grantee, whose current address is

%John Kiser, 17894 US Highway 30, Hagerman, ID 83332

the following described premises, to-wit:

See attached Exhibit A, attached hereto and made a part hereof.

148410

STATE OF IDAHO COUNTY OF GOODING

Filed for record at the request of FIRST AMERICAN TITLE

14 min. past 3 o'clock p.m. this 20  
of April, 1992 per 9.00

JOHN A. MYERS Recorder

By C. K. Stiles Deputy

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, his heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U. S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

Dated: March 25, 1992.

George R. Kneeland  
George R. Kneeland

Diane Kneeland  
Diane Kneeland

STATE OF ~~IDAHO~~ Nevada )  
COUNTY OF Clark ) : ss

On This 25<sup>th</sup> day of March, in the year 1992, before me, a Notary Public in and for said State, personally appeared George R. Kneeland and Diane Kneeland, known or identified to me to be the persons whose names are subscribed to the within Instrument, and acknowledged to me that they executed the same.



NOTARY PUBLIC  
STATE OF NEVADA  
County of Clark  
Judy M. Albers  
My Appointment Expires FEB: 1, 1995

Judy M. Albers  
Notary Public for Idaho  
Residing at  
Commission Expires:  
Feb 1 1995

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JAN 21 1993

First American Title Company of Idaho

EXHIBIT A

That part of the Southeast Quarter of the Southeast Quarter of Section 2, Township 7 South, Range 13 East of the Boise Meridian, Gooding County, Idaho, described as follows:

COMMENCING at the Southeast corner of said Southeast Quarter of the Southeast Quarter;

Thence West 1235.90 feet along the Southerly boundary of said Southeast Quarter of the Southeast Quarter to the Easterly right of way boundary of U.S. Highway No. 30;

Thence North along said right of way boundary, 54.66 feet on the arc of a non-tangent curve to the left with a radius of 22,968.82 feet, a central angle of 0° 08' 11" and a chord which bears North 0° 09' 13" East, 54.66 feet to the True Point of Beginning;

Thence Northwesterly along said right of way boundary 113.78 feet on the arc of a curve to the left with a radius of 22,968.82 feet, a central angle of 0° 17' 02" and a chord which bears North 0° 03' 23" West, 113.78 feet;

Thence North 0° 11' 54" West, 407.27 feet along said right of way boundary to a point of curvature;

Thence Northwesterly along said right of way boundary 250.00 feet on the arc of a spiraled curve to the left, the radius of the circular curve being 3,869.72 feet and having a spiral angle of 1° 52' 30" and a chord which bears North 0° 40' 17" West a distance of 250.00 feet to the point of curve to spiral (P.C.S.);

Thence Northwesterly 262.93 feet on the arc of a curve to the left with a radius of 3869.72 feet, a central angle of 3° 53' 35" and a chord which bears North 4° 02' 56" West, 262.88 feet;

Thence North 87° 49' 47" East, 422.31 feet;

Thence South 1° 21' 21" East, 210.74 feet;

Thence North 89° 45' 52" East, 216.49 feet;

Thence South 3° 29' 41" East, 818.61 feet;

Thence South 88° 05' 22" West, 670.75 feet to the TRUE POINT OF BEGINNING.

TOGETHER WITH AN EASEMENT for ingress and egress over a 30.00 feet wide strip of land described as follows:

COMMENCING at the Southeast corner of said Southeast Quarter of the Southeast Quarter;

Thence West 1235.90 feet along the Southerly boundary of said Southeast Quarter of the Southeast Quarter to the Easterly right of way boundary of U.S. Highway No. 30;

Thence North along said right of way boundary, 24.64 feet on the arc of a non-tangent curve to the left with a radius of 22,968.82 feet, a central angle of 0° 03' 41" and a chord which bears North 0° 11' 24" East 24.64 feet to the TRUE POINT OF BEGINNING;

EXHIBIT A CONTINUED

MICROFILMED

JAN 21 1993



Thence North along said right of way boundary 30.02 feet on the arc of a non-tangent curve to the left with a radius of 22,968.82 feet, a central angle of 0° 04' 30" and a chord which bears North 0° 07' 23" East, 30.02 feet;

Thence North 88° 05' 22" East, 400.00 feet;

Thence South 1° 54' 38" East, 30.00 feet;

Thence South 88° 05' 22" West, 401.07 feet to the TRUE POINT OF BEGINNING.

SUBJECT TO the following described easement, a strip of land 12.5 feet on each side of the following described center line:

BEGINNING at the Northeast corner of said Southeast Quarter of the Southeast Quarter;

Thence South 88° 51' West, 488 feet;

Thence South 208.0 feet;

Thence South 88° 51' West, 170.43 feet;

Thence South 12.5 feet to the TRUE POINT OF BEGINNING;

Thence South 88° 51' West, 609.07 feet;

Thence Southeasterly adjacent and parallel with State of Idaho right of way of Project F-2361 (18), 209 feet, more or less, to a point opposite station 249/00 said Project F-2361 (18).

END OF EXHIBIT A

MICROFILMED  
JAN 21 1993

6-002017  
RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:

John Kiser  
17894 U.S. Hwy. 30  
Hagerman, ID 83332

MAIL TAX STATEMENTS TO:

John Kiser  
17894 U.S. Hwy. 30  
Hagerman, ID 83332

ORIGINAL

RECEIVED

APR 24 1992

Department of Water Resources  
Southern Region Office

---

(Space Above This Line For Recorder's Use)

PERSONAL REPRESENTATIVE'S DEED

THIS DEED made this 27 day of March, 1992, between JACK SIMPSON and MICHAEL SIMPSON, Co-Personal Representatives of the Estate of Josephine Simpson ("Grantors") and KARL WOODALL & SONS, INC., an Idaho corporation and JOHN KISER, Joint Venture ("Grantee").

WITNESSETH, that the Grantors by virtue of the power and authority given in and by the Last Will and Testament of Josephine Simpson, do hereby grant and release unto the Grantee, the heirs or successors and assigns of the Grantee forever, an undivided one-half interest in that certain property situated in the County of Gooding, State of Idaho, and more particularly described in Exhibit "A" attached hereto and incorporated herein.

TOGETHER with the appurtenances, including, without limitation, all water rights, if any, and also all the estate which the said decedent had at the time of decedent's death in said premises, and also the estate therein, which the Grantors have or have power to convey or dispose of, whether individually, or by virtue of said Will or otherwise. It is specifically provided, however, that Grantors make no warranties or representations with respect to ownership or status of water rights, if any, conveyed.

TO HAVE AND TO HOLD the premises herein granted unto Grantee, the heirs or successors and assigns of the Grantee forever.

The Grantors covenant that the Grantors have not done or suffered anything whereby the premises have been encumbered in any way whatsoever except as aforesaid.

PERSONAL REPRESENTATIVE'S DEED - 1

MICROFILMED

JAN 21 1993

IN WITNESS WHEREOF, the Grantors have duly executed this deed the day and year first above written.

✓ Jack Simpson  
Jack Simpson,  
Co-Personal Representative  
of the Estate of Josephine  
Simpson

Michael Simpson  
Michael Simpson,  
Co-Personal Representative  
of the Estate of Josephine  
Simpson

STATE OF Idaho )  
County of Blaine ) ss.

On this 4 day of April, 1992, before me, the undersigned, a Notary Public in and for said county and state, personally appeared JACK SIMPSON, known to me to or proved to me upon satisfactory evidence to be one of the Co-Personal Representatives of the Estate of Josephine Simpson and has acknowledged to me that he executed the same.

WITNESS my hand and official seal.

Shirley Carpenter  
Notary Public for  
Residing at Halley Idaho

STATE OF IDAHO )  
County of Blaine ) ss.

On this 27th day of March, 1992, before me, the undersigned, a Notary Public in and for said county and state, personally appeared MICHAEL SIMPSON, known to me to or proved to me upon satisfactory evidence to be one of the Co-Personal Representatives of the Estate of Josephine Simpson and has acknowledged to me that he executed the same.

WITNESS my hand and official seal.

Christine A. Roe  
Notary Public for Idaho  
Residing at Halley, Idaho

BLP/cr/simpson.prd

PERSONAL REPRESENTATIVE'S DEED - 2

MICROFILMED  
JAN 21 1993

EXHIBIT A

That part of the Southeast Quarter of the Southeast Quarter of Section 2, Township 7 South, Range 13 East of the Boise Meridian, Gooding County, Idaho, described as follows:

COMMENCING at the Southeast corner of said Southeast Quarter of the Southeast Quarter;  
Thence West 1235.90 feet along the Southerly boundary of said Southeast Quarter of the Southeast Quarter to the Easterly right of way boundary of U.S. Highway No. 30;  
Thence North along said right of way boundary, 54.66 feet on the arc of a non-tangent curve to the left with a radius of 22,968.82 feet, a central angle of 0° 08' 11" and a chord which bears North 0° 09' 13" East, 54.66 feet to the True Point of Beginning;  
Thence Northwesterly along said right of way boundary 113.78 feet on the arc of a curve to the left with a radius of 22,968.82 feet, a central angle of 0° 17' 02" and a chord which bears North 0° 03' 23" West, 113.78 feet;  
Thence North 0° 11' 54" West, 407.27 feet along said right of way boundary to a point of curvature;  
Thence Northwesterly along said right of way boundary 250.00 feet on the arc of a spiraled curve to the left, the radius of the circular curve being 3,869.72 feet and having a spiral angle of 1° 52' 30" and a chord which bears North 0° 40' 17" West a distance of 250.00 feet to the point of curve to spiral (P.C.S.);  
Thence Northwesterly 262.93 feet on the arc of a curve to the left with a radius of 3869.72 feet, a central angle of 3° 53' 35" and a chord which bears North 4° 02' 56" West, 262.88 feet;  
Thence North 87° 49' 47" East, 422.31 feet;  
Thence South 1° 21' 21" East, 210.74 feet;  
Thence North 89° 45' 52" East, 216.49 feet;  
Thence South 3° 29' 41" East, 818.61 feet;  
Thence South 88° 05' 22" West, 670.75 feet to the TRUE POINT OF BEGINNING.

TOGETHER WITH AN EASEMENT for ingress and egress over a 30.00 feet wide strip of land described as follows:

COMMENCING at the Southeast corner of said Southeast Quarter of the Southeast Quarter;  
Thence West 1235.90 feet along the Southerly boundary of said Southeast Quarter of the Southeast Quarter to the Easterly right of way boundary of U.S. Highway No. 30;  
Thence North along said right of way boundary, 24.64 feet on the arc of a non-tangent curve to the left with a radius of 22,968.82 feet, a central angle of 0° 03' 41" and a chord which bears North 0° 11' 24" East 24.64 feet to the TRUE POINT OF BEGINNING;

EXHIBIT A CONTINUED

MICROFILMED  
JAN 21 1993

Thence North along said right of way boundary 30.02 feet on the arc of a non-tangent curve to the left with a radius of 22,968.82 feet, a central angle of 0° 04' 30" and a chord which bears North 0° 07' 23" East, 30.02 feet;

Thence North 88° 05' 22" East, 400.00 feet;

Thence South 1° 54' 38" East, 30.00 feet;

Thence South 88° 05' 22" West, 401.07 feet to the TRUE POINT OF BEGINNING.

SUBJECT TO the following described easement, a strip of land 12.5 feet on each side of the following described center line:

BEGINNING at the Northeast corner of said Southeast Quarter of the Southeast Quarter;

Thence South 88° 51' West, 488 feet;

Thence South 208.0 feet;

Thence South 88° 51' West, 170.43 feet;

Thence South 12.5 feet to the TRUE POINT OF BEGINNING;

Thence South 88° 51' West, 609.07 feet;

Thence Southeasterly adjacent and parallel with State of Idaho right of way of Project F-2361 (18), 209 feet, more or less, to a point opposite station 249/00 said Project F-2361 (18).

END OF EXHIBIT A

148409

STATE OF IDAHO COUNTY OF GOODING

Filed for record at the request of FIRST AMERICAN TITLE

13 min. past 3 o'clock p m. this 20

of April, 1992 file 12.00

JOHN A. MYERS Recorder

By Subrata Sotes Deputy

MICROFILMED

JAN 21 1993

27

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: A36-00075  
Date Received: 8/26/1988  
Receipt No: S002274  
Received By: \_\_\_\_\_

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

1. Name: OWEN SIMPSON 208-837-6230  
Address: BOX 26  
HAGERMAN, ID 83332

AND

Name: GEORGE KNEELAND 208-726-9311  
Address: 117 SKYLINE DRIVE  
SUN VALLEY, ID 83353

2. Date of Priority: JUN 26, 1881

3. Source: SPRING Trib. to: SNAKE RIVER

4. Point of Diversion:

| Township | Range | Section | 1/4 of | 1/4 of | 1/4 of | Lot | County  |
|----------|-------|---------|--------|--------|--------|-----|---------|
| 07S      | 13E   | 2       | NE     | SE     | SE     |     | GOODING |

5. Description of diverting works:  
SPRING IRRIGATES 14 ACRES.

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  |      |        |
| DOMESTIC   | 01/01 | 12/31 | 0.020  |      |        |

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

A.F.A.

8. Total consumptive use is 42.0 Acre Feet Per Annum.

9. Non-irrigation uses:  
D/1 HOME

A36-00075

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   | 2       | SE     | SE  |     | IRR    | 14.0  |
|          |       |         | SE     | SE  |     | DOMEST |       |

Section Acres 14.0

Total Acres 14.0

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:

36-00071 (PARTIAL)

14. Remarks:

SOURCE LOCALLY KNOWN AS SPRING NUMBER FOUR

\*\*\*\*\* MEMO TO FILE \*\*\*\*\*  
P/U REDUCED & DOMESTIC USE ADDED BY TRANS. 2652.  
AC. IRRIG. = 14.2.  
\*\*\*\*\*

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 \_\_\_\_\_



State of Idaho

# DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS  
Governor

APRIL 29, 1992

R. KEITH HIGGINSON  
Director

JOHN KISER  
PO BOX 64  
HAGERMAN ID 83332

RE: CHANGE OF OWNERSHIP A36-00071A, A36-00075 ~~& A36-00086A~~

DEAR JOHN KISER,

PURSUANT TO YOUR REQUEST FOR A CHANGE IN OWNERSHIP OF THE ABOVE ADJUDICATION CLAIMS, PLEASE FIND ENCLOSED YOUR COPIES OF THE ADJUDICATION CLAIMS WITH THE CHANGES MADE.

IF YOU HAVE ANY QUESTIONS PLEASE CONTACT ME AT OUR OFFICE.

SINCERELY,

A handwritten signature in cursive script, appearing to read 'Steve Clelland', with a long horizontal line extending to the right.

STEVE CLELLAND  
WATER RESOURCE AGENT

ENC:

MICROFILMED  
JAN 21 1993

RECEIVED

MAY 28 1996

COPY

Department of Water Resources

1 Claimant:

Ignacio Nick Zabala

2 Attorney Name and Address:

HEPWORTH, LEZAMIZ & HOHNHORST,  
CHARTERED  
133 Shoshone St. North  
P.O. Box 389  
Twin Falls, ID 83303-0389  
Telephone: (208)734-7510

3  
4  
5  
6  
7  
8  
9 IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
10 STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

11 \* \* \* \* \*

12 In Re SRBA

) Subcase No. 36-00075

)

)

AFFIDAVIT OF SERVICE

)

)

13 Case No. 39576

14 \* \* \* \* \*

15  
16 STATE OF IDAHO )

) ss.

17 County of Twin Falls )

18 Kaylynne H. Rolig, being first duly sworn upon oath, deposes and says:

19 1. I am the office administrator for the law firm of Hepworth, Lezamiz &  
20 Hohnhorst, Chartered.

21 2. That on April 19, 1996 I mailed by certified mail, return receipt  
22 requested, a copy of the Order for Withdrawal of Attorney to the Claimant as evidenced by  
23 the receipt for certified mail attached as Exhibit "A."

HLH  
Chartered  
Hepworth,  
Lezamiz &  
Hohnhorst

AFFIDAVIT OF SERVICE - 1



P 076 108 832

US Postal Service

**Receipt for Certified Mail**

No Insurance Coverage Provided.

Do not use for International Mail (See reverse)

|                                                                                                        |                |
|--------------------------------------------------------------------------------------------------------|----------------|
| Sent to<br><i>James Pick Zahala</i>                                                                    |                |
| Street & Number<br><i>410 Cox Ave</i>                                                                  |                |
| Post Office, State, & ZIP Code<br><i>Chesapeake, Del 19332</i>                                         |                |
| Postage<br><i>76-000777</i>                                                                            | <i>\$ .32</i>  |
| Certified Fee                                                                                          | <i>1.10</i>    |
| Special Delivery Fee                                                                                   |                |
| Restricted Delivery Fee                                                                                |                |
| Return Receipt Showing to Whom & Date Delivered                                                        |                |
| Return Receipt Showing to Whom, Date, & Addressee's Address                                            | <i>1.10</i>    |
| TOTAL Postage & Fees                                                                                   | <i>\$ 2.52</i> |
| Postmark or Date<br> |                |

PS Form 3800, April 1995

**EXHIBIT "A"**

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Ignacio Hick Zabala  
P.O. Box 267  
Jagerman, Del 83332  
EZ Claim 46-00075

4a. Article Number

9076 108 832

4b. Service Type

- ☐ Registered ☒ Certified  
☐ Express Mail ☐ Insured  
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

4-22-96

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)

X Carmen Zabala

PS Form 3811, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

EXHIBIT "B"

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 COMPLETED  
ADMINISTRATIVE PROCEEDINGS

SUB CASE NO. 36-00071A  
36-00075

IDWR has completed the following Administrative proceeding: **SUBSTITUTION OF PARTY**

Does the change in "ownership" result in a splitting of the water right claimed? ☐ Yes ☒ No

**FROM: Claimant/Seller(s):**

Name and Address of Claimant/Seller(s):

Ignacio Nick Zabala  
PO Box 262  
Hagerman ID 83332

Phone: 837-6654

**TO: Claimant/Purchaser(s):**

Name and Address of Claimant/Purchaser(s):

Robert L Harney  
Betty Jo Harney  
PO Box 548  
Hagerman ID 83332

Phone: 837-9152

The Claimant has filed Objections or Responses to the following water rights: 36-00051C,  
36-00051E, 36-00071A, 36-00075

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

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

DATED: 2/21/97

  
Signature of IDWR Representative

## CERTIFICATE OF MAILING

I certify that on 2-24, 1997, I mailed the original and copies of this form to the following persons, postage prepaid and addressed as follows:

1. Original to:  
Clerk of the District Court  
Snake River Basin Adjudication  
253 Third Avenue North  
PO Box 2707  
Twin Falls ID 83303-2707
2. One Copy to:  
Claimant/Seller for Substitution of Party or attorney of record:  
Ignacio Nick Zabala  
PO Box 262  
Hagerman ID 83332
3. One Copy to:  
Claimant/Purchaser for Substitution of Party or attorney of record:  
Robert L Harney  
Betty Jo Harney  
PO Box 548  
Hagerman ID 83332
4. One Copy to:  
Each party in the subcase or attorney of record:
5. One Copy to:  
Chief Natural Resources Division  
Office of the Attorney General  
PO Box 44449  
Boise ID 83711-4449
6. One Copy to:  
United States Dept Of Justice  
Environment & Natural Resource Div  
550 West Fort Street MSC 033  
Boise ID 83724



Signature of person or attorney mailing the form

IDAHO DEPARTMENT OF WATER RESOURCES  
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: FEB-20-1997  
PAGE: A-1

-----  
RIGHTS FROM: SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER  
-----  
RIGHT NUMBER: 36-00071A  
  
NAME & ADDRESS: ROBERT L HARNEY  
BETTY JO HARNEY  
PO BOX 548  
HAGERMAN ID 83332  
  
SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER  
  
QUANTITY: 0.44 CFS  
  
PRIORITY DATE: 06/26/1881  
  
POINT OF DIVERSION: T07S R13E S11 NESENE Within GOODING County  
  
PURPOSE AND  
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY  
IRRIGATION Irrigation Season 0.44 CFS  
  
PLACE OF USE: IRRIGATION Within GOODING County  
T07S R13E S02 SESE 8.0  
8.0 ACRES TOTAL  
  
CONSUMPTIVE USE: 24.0 AFY

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

A DIVERSION RATE OF 0.38 CFS AT THE FIELD HEADGATE IS  
RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.

WATER IS DELIVERED THROUGH JOHN BELL DITCH.

0.06 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE  
LOSSES IN DELIVERY OF THIS RIGHT.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

W.R. NUMBER

NAME &amp; ADDRESS

CLAIM DISPOSITION

REASON

36-00075

HARNEY, ROBERT L  
HARNEY, BETTY JO  
PO BOX 548  
HAGERMAN ID 83332

DISALLOWED      FORFEITED/ABANDONED.

Water Right Number - 36-00075

Prefix Translation: WATER RIGHT

Old (D) Number -

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

+ - First Name - - +

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

\*\*\* C - CURRENT OWNER \*\*\*  
HARNEY

ROBERT L

1 - PO BOX 548

2 -

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-837-9152

HARNEY

BETTY JO

1 - PO BOX 548

2 -

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-837-9152

\*\*\* D - DIR RPT OWNER \*\*\*  
KISER

JOHN

1 - PO BOX 64

2 -

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-837-4703

WOODALL &amp; SONS INC

KARL

1 - PO BOX 64

2 -

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-837-4703

\*\*\* O - ORIGINAL OWNER \*\*\*  
KNEELAND

GEORGE

1 - 117 SKYLANE DRIVE

2 -

3 -

City- SUN VALLEY

State- ID Zip- 83353

Phone - 208-726-9311

ZABALA

IGNACIO NICK

1 - PO BOX 262

2 -

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-837-6654

SIMPSON

OWEN

1 - 17865 US HWY 30

2 -

3 -

City- BLISS

State- ID Zip- 83314

Phone - 208-837-6230

+ - - Priority Date - - +  
06/26/1881+ - - Region - - - +  
17 SOUTHERN

+ - - Stage - - - +

+ - - Status - - - +  
I - DISALLOWED+ - - Source - - - +  
SPRING NO. FOUR+ - - Tributary - - - +  
SNAKE RIVER+ - - Point of Diversion - - - +  
Twn Rng Sec Tract Lot RFlg County Diversion Name

07S 13E 2 NE SE SE (47) GOODING

Water right number - 36-00075

Prefix Translation: WATER RIGHT

| Code                    | Description | Period From               | Period To | Water Use<br>Diversion Rate   | Diversion Volume |
|-------------------------|-------------|---------------------------|-----------|-------------------------------|------------------|
| 01 - IRRIGATION         |             | 04/01                     | 10/31     | 0.280                         |                  |
| 43 - DOMESTIC           |             | 01/01                     | 12/31     | 0.020                         |                  |
| + - Total Div. Rate - + |             | + - Total Div. Volume - + |           | + - Total Div. Capacity - +   |                  |
| 0.300                   |             |                           |           | + - Total Consumptive Use - + |                  |
|                         |             |                           |           | 42.0                          |                  |

| Twn | Rng | Sec | Tract | Lot | Acres | Place of Use<br>Code | Description | County       |
|-----|-----|-----|-------|-----|-------|----------------------|-------------|--------------|
| 07S | 13E | 2   | SE SE |     | 14.0  | 01                   | IRRIGATION  | (47) GOODING |
| 07S | 13E | 2   | SE SE |     |       | 43                   | DOMESTIC    | (47) GOODING |

Total Acres: 14.0

+ - - Diversion Means - SPRING IRRIGATES 14 ACRES.

+ - - Non-Irrigation Use - DOMESTIC, 1 HOME

+ - - Other Rights for Same Use - 36-00071A

| Remarks                  |
|--------------------------|
| GEN FORFEITED/ABANDONED. |

| Old Water Right Numbers |
|-------------------------|
| 3600075                 |

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

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

| Audit Fields                                                                                                                                                                                                                                                                                                                       |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 03/08/91 BEDKE 02/06/92 CLELLAND 03/13/92 ROBERTSO 05/13/92 CLELLAND 07/10/92 CWU-PROD<br>07/18/92 POST-STD 08/28/92 PR-PROD 09/23/92 SCHULTZ 10/16/92 CHRISTEN 11/02/92 CPSHAW<br>12/05/92 ADT-SHAW 02/19/93 SCHULTZ 06/16/93 CMDATFIX 06/30/93 GIVENS 09/17/93 UPD-SCHU<br>03/29/95 POST-STD 05/17/96 SCLELLAN 02/20/97 TFAWCETT |

+ - - Certified Numbers &amp; Date Mailed - 258783 08/24/92

| Comments                                                                                                                                                                                                                                        |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Date: 03/08/1991 User Id: BEDKE Subject: SCC-STAFF REVIEW<br>Date: 05/13/1992 User Id: CLELLAND Subject: CHANGE OF OWNERSHIP<br>CHANGE FORM RECEIVED 4-24-92 FROM JOHN KISER WITH WARRANTY DEED. CHANGE INCLUDED A36-00071A BUT NOT A36-00096A. |

Water right number - 36-00075

Prefix Translation: WATER RIGHT

+ - - - - - Comments - - - - - +  
 Date: 05/13/1992 User Id: CLELLAN Subject: FORFEITURE/ABANDON  
 THERE IS NO DIVERSION SYSTEM FOR THIS SPRING OR TO IRRIGATE THE LANDS ABOVE THE JOHN BELL DITCH. MATURE GROWTH OF 2-3 FT. HIGH  
 SAGEBRUSH INDICATES LONG PERIOD OF NON IRRIGATION.  
 Date: 09/23/1992 User Id: SCHULTZ Subject: NOTICE OF ERROR (NOE)  
 RECEIVED NOE 9/22/92. CHANGED NOE FLAG FROM BLANK TO A. CLAIM VERIFIED 5/13/92. DID NOT REVERIFY ANY PART OF CLAIM.  
 Date: 10/16/1992 User Id: CHRISTEN Subject: RESPONSE TO NOE  
 NO EVIDENCE WAS SUBMITTED TO CHANGE RECOMMENDATION. NOTHING WAS CHANGED. KKC 10-16-92.  
 Date: 02/19/1993 User Id: SCHULTZ Subject: ADDED NEW ATTORNEY  
 RECEIVED NOTICE OF APPEARANCE FROM HEPWORTH NUNGESTER LEZAMIZ 2/10/93.  
 CLAIM VERIFIED 10/16/92. DID NOT REVERIFY CLAIM.  
 Date: 06/30/1993 User Id: GIVENS Subject: OWNERSHIP CHANGE  
 CHANGE OF OWNERSHIP RECEIVED 6/8/93 FORMER OWNERS KARL WOODALL & SONS INC. AND JOHN KISER NEW OWNER IGNACIO NICK ZABALA. COPY OF  
 WARRANTY DEED ATTACHED TO FORM.  
 Date: 05/17/1996 User Id: SCLELLAN Subject: CHANGE OF OWNERSHIP  
 OWNERSHIP CHANGE FORM FILED BY HARNEY'S ON 5/6/96. SF3 FORM SUP- PLIED TO CLAIMANT.  
 Date: 02/20/1997 User Id: TFAWCETT Subject: ATTORNEY REMOVED  
 PAT BROWN REMOVED AS ATTORNEY.

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

|                      |              |                       |              |                         |         |
|----------------------|--------------|-----------------------|--------------|-------------------------|---------|
| Court Report Filing  | - 11/02/1992 | Field Inspection Made | - 00/00/0000 | Civil Case Number       | - 39576 |
| Objection Filed Date | - 04/29/1993 | Field Inspection Flag | -            | Old Case Number         | -       |
| Response Filed Date  | - 09/10/1993 | Verified Date         | - 00/00/0000 | Old Judicial District   | -       |
| Claim Received Date  | - 09/19/1988 | Last Amended Date     | - 00/00/0000 | Temporary Right         | - P     |
| Proof Due Date       | - 00/00/0000 | Proof Made Date       | - 00/00/0000 | Water District          | - 36A   |
| Licensed Date        | - 00/00/0000 | Receipt Number        | - S002274    | Federal/State Indicator | - S     |
|                      |              | POU Ownership Flag    | - Y          | Presumption Flag        | -       |
|                      |              | Name Connector        | - AND        | Notice of Error Flag    | - B     |

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: **A36-00075**  
Date Received: 9/19/1988  
Receipt No: S002274  
Received By: \_\_\_\_\_

**COPY FOR  
YOUR FILES**

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

**COPY FOR  
YOUR FILES**

1. Name: ROBERT L HARNEY 208-837-9152  
Address: PO BOX 548  
HAGERMAN ID 83332

AND/OR

Name: BETTY JO HARNEY 208-837-9152  
Address: PO BOX 548  
HAGERMAN ID 83332

2. Date of Priority: JUN 26, 1881

3. Source: SPRING NO. FOUR Trib. to: SNAKE RIVER

4. Point of Diversion:

| Township | Range | Section | 1/4 of | 1/4 of | 1/4 of | Lot | County  |
|----------|-------|---------|--------|--------|--------|-----|---------|
| 07S      | 13E   | 2       | NE     | SE     | SE     |     | GOODING |

5. Description of diverting works:  
SPRING IRRIGATES 14 ACRES.

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 |      |        |
| DOMESTIC   | 01/01 | 12/31 | 0.020 |      |        |

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

8. Total consumptive use is 42.0 Acre Feet Per Annum.

9. Non-irrigation uses:  
DOMESTIC, 1 HOME

10. Place of Use:

| Township | Range | Section | 1/4 of | 1/4 | Lot | Use    | Acres |
|----------|-------|---------|--------|-----|-----|--------|-------|
| 07S      | 13E   | 2       | SE     | SE  |     | IRR    | 14.0  |
|          |       |         | SE     | SE  |     | DOMEST |       |

Section Acres 14.0

Total Acres 14.0

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:

A36-00071A

14. Remarks:

CHANGE OF OWNERSHIP FILED BY HARNEY. (5/17/96 SCC)

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

NEW INTERNATIONAL MORTGAGE BA  
Decree Plaintiff

IDAHO POWER COMPANY  
vs Decree Defendant

6/9/94

## COMMUNICATION DOCUMENTATION

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

**IDWR Employee/Agent** Douglas Jones

**DATE:**

June 7, 1996 3:57pm

**CUSTOMER:**

**NICK ZABALA**

**SUBJECT:** 36-00051C & E, 36-00075 & 71A  
phone call (FROM/TO) walk-in (.)

1) ZABALA WAS CONCERNED THAT THERE WASN'T AN SF-5 DONE YET ON THE 51C & E CLAIMS. HE EXPLAINED THAT HE HAS LEFT THE HWRO GROUP AND WAS SATISFIED WITH HIS RIGHTS. I TOLD HIM I DIDN'T KNOW WHAT HE COULD DO AND PROMISED TO CALL BOISE AND GET BACK TO HIM.

I SPOKE WITH BRENT KING AND HE WAS FAMILIAR WITH THE CASES AND SAID THAT HE HAD THE SF-5'S TO DO YET BUT WOULD TRY TO GET THEM DONE BY MID- TO END OF NEXT WEEK. HE DIDN'T THINK HE HAD A WITHDRAWAL OF ATTORNEY FORM FROM BROWN AND THAT IF NOT HE WOULD SEND THE SF-5'S TO BROWN. IF ZABALA HAS A FORM HE COULD SEND IT TO US AND BRENT COULD SEND THE SF-5'S TO HIM DIRECTLY. (ZABALA SO INFORMED)

2) HE WAS GETTING MAIL FROM THE COURT ON 71A & 75 AFTER SELLING THE PROPERTY TO HARNEY. OUR RECORDS ARE CHANGED, BUT THE COURTS APPARENTLY AREN'T. I TOLD HIM THIS AND THAT THE COURT HAS CHANGED PROCESS AND THIS COULD BE CAUGHT IN THE MIDDLE OF THE TRANSITION. I ASKED HIM TO GIVE THE MAIL TO THE HARNEYS IN THE INTERIM AND HOPEFULLY WE'LL HAVE A RESOLUTION ON HOW TO INFORM THE COURT SOON.

## COMMUNICATION DOCUMENTATION

**A36-00075**

IDWR Employee/Agent Steve Clelland

## BOB HARNEY REVIEW

CLAIMS: A36-00071A & A36-00075

6/9/94

## COMMUNICATION DOCUMENTATION

Claim No. A36-00071A

**A36-00075**

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

IDWR Employee/Agent Steve Clelland

May 28, 1996 9:41am

**NAME:**

**HARRY LEMOYNE**

**CAMEIN**

RE:

## HARNEY PARCEL INFO

HE DROPPED OFF AN AFFIDAVIT BY ANITA ANDERSON, UNNOTARIZED, AND A MAP HIGHLIGHTING THE JUSTUS RANCH. HE ASKED ME TO ADD IT TO THE FILE AND I MENTIONED I HAD NOT YET REVIEWED THE OSBORNE RIGHTS TO SEE HOW THESE RIGHTS MAY CO-MINGLE.

CLAIMS: A36-00071A & A36-00075.

# AFFIDAVIT

My name is Anita Andersen. I live at 18022 U.S. Highway 30, Hagerman, Idaho 83332. My husband and I purchased the old Justus Ranch in the late 1960s. This ranch was located in the SE1/4 of Section 1 and the NE1/4 of Section 11, Township 7 South, Range 13 EBM. Part of the land in Section 1 was irrigated from a large spring located above the main house on the ranch. In the mid-1970s, we dug a large pond to hold the spring water and by the early 1980s, we found that the spring flows were dropping, making it difficult to irrigate by gravity flow on the land in the SE1/4 of Section 1 above the John Bell Ditch. I rented some of the land to a Mr. Emmett Long of Bliss, Idaho for pasture and he irrigated the land by sprinkler from the lower spring and other lessees pumped water from the John Bell Ditch.

I sold the land in Section 1 to George Kneeland and Owen Simpson and I noted that they rented to third parties who occasionally sprinkler irrigated the land.

  
Anita Andersen

Dated: May 23, 1996

RECEIVED

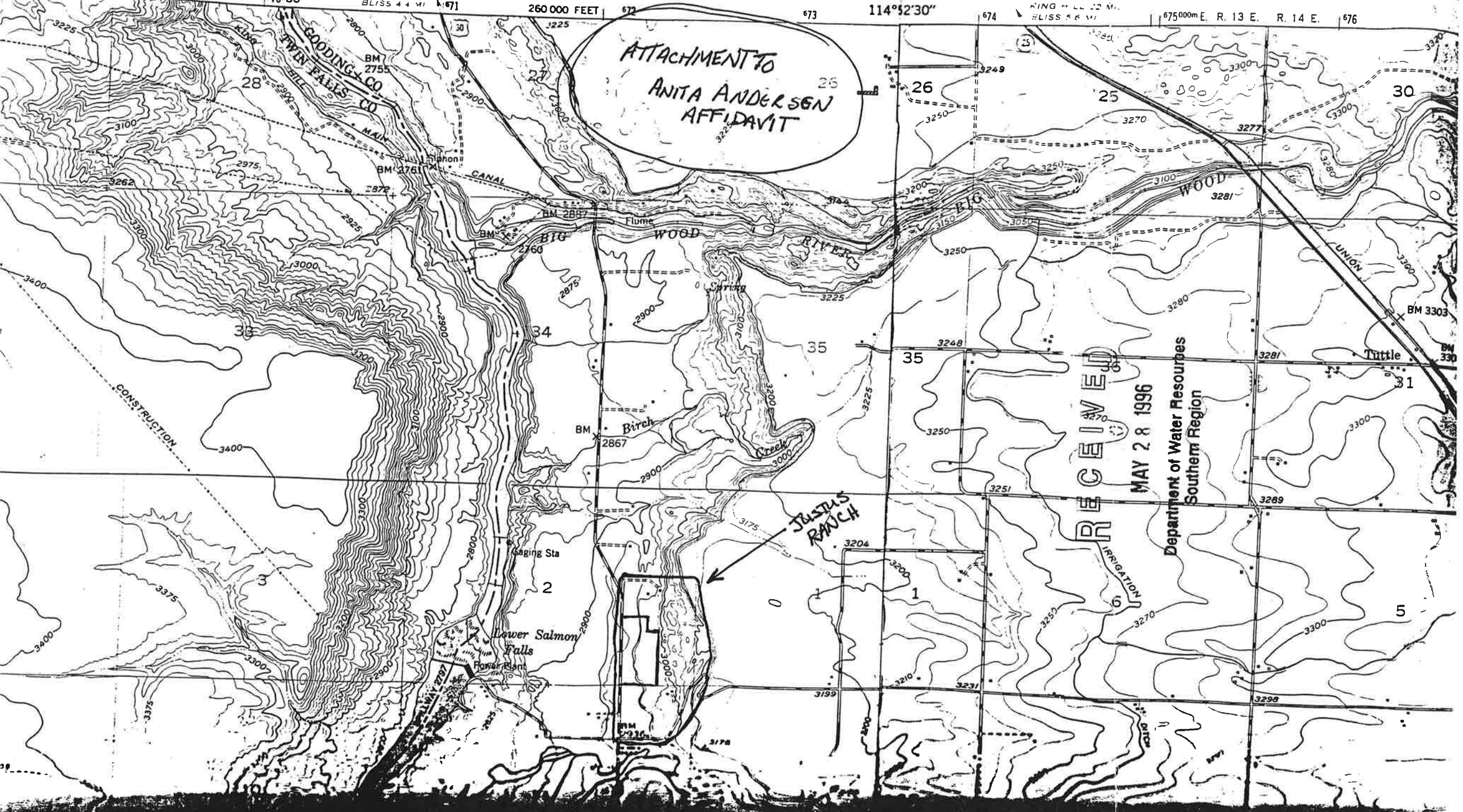
MAY 28 1996

Department of Water Resources  
Southern Region

ENGINEERS  
NW  
S

HAGERMAN QUADRANGLE  
IDAHO  
7.5 MINUTE SERIES (TOPOGRAPHIC)

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
GEOLOGICAL SURVEY



ATTACHMENT TO  
ANITA ANDERSEN  
AFFIDAVIT

RECEIVED

MAY 28 1996

Department of Water Resources  
Southern Region

JUSTUS  
RANCH



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033  
Fax (208) 736-3037

May 9, 1996

PHILIP E. BATT  
Governor

KARL J. DREHER  
Director

MR. HARRY F. LE MOYNE  
LE MOYNE REALTY  
1418 BLUE LAKES BOULEVARD NORTH  
TWIN FALLS, ID 83301

RE: MEETING AT IDWR MAY 6, 1996 WITH MR AND MRS ROBERT L. HARNEY  
TO REVIEW SRBA CLAIMS 36-00071A AND 36-00075.

Dear Mr. Le Moyne:

As you requested I enclose a copy of the file memorandum that I said I would do documenting our discussion last Monday morning here at the Southern Region office of IDWR.

Since I don't have secretarial support I must do letters as I have time and I have had numerous requests for service since you and the Harneys were in which has delayed my contacting you as promised.

Please note the carbon copy notation which indicates a copy sent to the claimants Mr. and Mrs. Harney so that they have the same information timely.

Again, please contact this office if we can be of further help in the future. Best wishes.

Sincerely Yours,

Francis G. Hitchcock  
Water Resources Agent Sr.

enclosure

cc: Mr. and Mrs. Robert L. Harney

COPY

May 6, 1996 2:07pm

NAME:  
HARRY LEMOYNE REPRESENTING  
HARNEY, ROBERT L. AND BETTY JO.

RE:  
OWNERSHIP CHANGE FOR 36  
0071A AND 36-00075. POD  
CHANGE FOR -00075.

APPOINTMENT MADE BY STEVE CLELLAND TO MEET WITH LEMOYNE AND "CLIENTS" AT 10 AM TODAY. STEVE WAS CALLED OUT OF THE OFFICE AND ASKED FRANK HITCHCOCK TO KEEP THE APPOINTMENT.

MR. LEMOYNE PRESENTED THE CLAIMS NOTED ABOVE AS NEEDING AN OWNERSHIP CHANGE TO THE HARNEYS FOR WHICH I PRINTED SOME PROOFS FOR REVIEW. HE ASKED ME TO REVIEW THE PROOF FOR 36-00075 AND TELL HIM WHAT I NOTICED WAS SIGNIFICANT ABOUT THE STATUS.

THE RECOMMENDATION WAS (IS) FOR DISALLOWAL BASED ON APPROVAL CONDITION P04 FORFEITED/ABANDONED. I PICKED UP ON THE CODE AND HE SAID THAT THEY WERE HERE TO SEE WHAT COULD BE DONE ABOUT CHANGING THE DESCRIPTION OF THE USAGE.

HE DESCRIBED THE ORIGINAL DIVERSION AS SERVED BY A FLUME WHICH HE SAID IS NO LONGER THERE. THE LEGAL DESCRIPTION FOR THE POD IN THE RECOMMENDED CLAIM IS THOUGHT TO BE WRONG. HE DEMONSTRATED WITH MR. HARNEY WHAT THE POD SHOULD BE USING A PLAT MAP OF THE SUBJECT PROPERTY PREPARED BY JUB ENGINEERS.

HE WANTED ME TO TELL HIM/THEM WHAT WOULD GO ON AT THE HEARING SCHEDULED FOR 06-26-1996 AS SHOWN ON A MAILING TO THE HAGERMAN WATER RIGHTS OWNERS GROUP. I SAID THAT I COULDN'T BECAUSE I DON'T ATTEND THE SCHEDULED HEARINGS/TRIALS AND THAT I COULDN'T SPECULATE ABOUT WHAT WOULD GO ON WITHOUT GETTING INTO GIVING LEGAL ADVICE.

I OFFERED TO PROVIDE A 1409 FORM TO CHANGE THE OWNERSHIP HERE AND THE SF3 FORM FOR THE COURT. I FILLED OUT THE 1409 AND MADE A COPY OF THE WARRANTY DEED. MR. LEMOYNE ASKED ME A QUESTION ABOUT THE SF3 AND I SAID THAT HE WOULD HAVE TO FILL IT OUT HIMSELF WHICH HE DIDN'T LIKE. I APOLOGIZED FOR NOT BEING OF MORE HELP BUT STATED AGAIN THAT I FELT THAT TO ADVISE HIM WOULD BE INAPPROPRIATE.

I GAVE HIM/THEM A COPY OF THE 1409 AFTER MR. HARNEY SIGNED IT AND SUGGESTED THAT THEY SPEAK TO JIM STANTON REGARDING THE CHANGE OF THE POINT OF DIVERSION. I SAID THAT THEY WERE WELCOME TO CALL ME IF ANYTHING I HAD TOLD THEM WAS COUNTERED BY ANYONE ELSE AND THAT I WOULD DO A MEMO TO THE FILE ABOUT OUR DISCUSSION. MR. LEMOYNE ASKED THAT HE RECIEVE A COPY. I SAID THAT I WOULD SEND HIM ONE AT HIS BUSINESS ADDRESS.

COPY

RECEIVED

APR 25 1996

Department of Water Resources  
Southern Region

RECEIVED

APR 24 1996

Department of Water Resources  
Adjudication Bureau

1996 APR 24 PM 1:45

DISTRICT COURT-SRBA  
TWIN FALLS CO. IDAHO  
FILED \_\_\_\_\_

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

In Re SRBA

Subcase: See Exhibits A and B

Case No. 39576

ORDER STAYING SUBCASES

IT IS ORDERED that litigation activity including discovery and motion practice in the subcases listed on Exhibits A and B is stayed pending further order from the Presiding Judge.

IT IS SO ORDERED.

DATED April 24, 1996.

  
DANIEL C. HURLBUTT, JR.

Presiding Judge

Snake River Basin Adjudication

|                  |            |         |           |            |   |
|------------------|------------|---------|-----------|------------|---|
| Post-it Fax Note | 7671       | Date    | 4/25      | # of pages | 2 |
| To               | Doug Jones | From    | Vicki     |            |   |
| Co. Dept         | Southern   | Co.     | State Ofc |            |   |
| Phone #          |            | Phone # |           |            |   |
| Fax #            |            | Fax #   |           |            |   |

F-9-I

ORDER STAYING SUBCASES  
4/24/96

COPY

RECEIVED

APR 24 1996

Department of Water Resources  
Adjudication Bureau

1996 APR 24 PM 1:45

DISTRICT COURT-SRBA  
TWIN FALLS COUNTY, IDAHO  
FILED

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

In Re SRBA

Case No. 39576

) Subcases: See Exhibits A and B  
)  
)  
)  
)  
)

AMENDED ORDER OF REFERENCE  
APPOINTING FRITZ X.  
HAEMMERLE SPECIAL MASTER

Terrence A. Dolan was appointed as special master for Reporting Area 3 (Basin 36) by *Order of Reference Appointing Terrence A. Dolan Special Master in Reporting Area 3 (Basin 36)* (November 4, 1993). Fritz X. Haemmerle was appointed as special master for all subcases in Basin 57 by *Order of Reference Appointing Fritz X. Haemmerle Special Master in Reporting Area 2 (Basin 57)* (November 1, 1995).

For purposes of judicial economy, IT IS ORDERED that Fritz X. Haemmerle is appointed as Special Master for those subcases listed on Exhibits A and B which shall proceed in accordance with *SRBA Administrative Order 1*.

IT IS SO ORDERED.

DATED April 24, 1996.



DANIEL C. HURLBUTT, JR.

Presiding Judge

Snake River Basin Adjudication

EXHIBIT A

Subcase Nos:

36-00003A  
36-00003C  
36-00003E  
36-00003F  
36-00034B  
36-00035J  
36-00039C  
36-00039E  
36-00039J  
36-00039N  
36-00047  
36-00051C  
36-00051E  
36-00061  
36-00062  
36-00063  
36-00064B  
36-00071A  
36-00075  
36-00079  
36-00085A  
36-00086C  
36-00089A  
36-00090D  
36-00092  
36-00103F  
36-00106  
36-00108B  
36-08099  
36-10283B  
36-10409  
36-10446  
36-15094  
36-15463

COPY

EXHIBIT B

Subcase Nos:

|            |           |
|------------|-----------|
| 36-00003J  | 36-00198A |
| 36-00004   | 36-02002  |
| 36-00006   | 36-02008  |
| 36-00007   | 36-02009  |
| 36-00008   | 36-02038  |
| 36-00022   | 36-02046  |
| 36-00023   | 36-02166  |
| 36-00029B  | 36-02178  |
| 36-00033D  | 36-02588  |
| 36-00033E  | 36-04071  |
| 36-00039F  | 36-04091  |
| 36-00039P  | 36-07081  |
| 36-00041C  | 36-07089  |
| 36-00042A  | 36-07142  |
| 36-00048C  | 36-07172  |
| 36-00050D  | 36-07229  |
| 36-00051D  | 36-07233  |
| 36-00054A  | 36-07298  |
| 36-00055AD | 36-07323  |
| 36-00055AF | 36-07369B |
| 36-00065   | 36-10033  |
| 36-00066B  | 36-10035  |
| 36-00067   | 36-10141  |
| 36-00068   | 36-10168  |
| 36-00069   | 36-10169  |
| 36-00070   | 36-10223  |
| 36-00077C  | 36-10588  |
| 36-00085B  | 36-10706  |
| 36-00089C  | 36-10906  |
| 36-00090E  | 36-15157  |
| 36-00090F  | 36-15176  |
| 36-00094A  | 36-15184  |
| 36-00096A  | 36-15384  |
| 36-00097   | 36-15461  |
| 36-00099   |           |
| 36-00100   |           |
| 36-00101   |           |
| 36-00110A  |           |
| 36-00110B  |           |
| 36-00111A  |           |
| 36-00111B  |           |
| 36-00112A  |           |
| 36-00112B  |           |
| 36-00113H  |           |
| 36-00123A  |           |
| 36-00134C  |           |
| 36-00135C  |           |
| 36-00136A  |           |
| 36-00136B  |           |
| 36-00194   |           |

COPY

TO: File

DATE: May 6, 1996

FROM: Jim Stanton

SUBJECT: Water Right 36-00075

Today I spoke with Harry LeMoyne & Robert Harney concerning this water right. Mr. Harney now owns this right and the associated 14 acres in Hagerman. According to Mr. Harder, the old ditch from Spring #4 has not been used for at least 20 years. However, the spring now flows west into the John Bell Ditch. The ditch then flows north thru the middle of the 14 acres. A pump in the ditch irrigates 6 acres above the ditch. Right 36-00071A has been recommended for the 8 acres below the ditch, but 36-00075 has been recommended for forfeiture for non-use. Mr. Harney's predecessor has objected to our recommendation, and a conference is scheduled for next month.

Mr. Harney wanted to apply for a water transfer to change the point of diversion to the John Bell Ditch. However, I recommended that they wait until after the conference before taking further action on this right. It appears to me that if we recognize this as a valid right on the 6 acres above the John Bell Ditch, we would also have to recognize the unrecorded change in the point of diversion. If this occurs, no transfer would be needed. If we still recommend the right for forfeiture, no transfer would be approved unless the SRBA court determines that the right is still valid. Again, no transfer should be needed, as the present point of diversion was supposedly in use prior to 1987. I say supposedly, as I am not personally knowledgeable about this water right. The aerial photo I saw did appear to support Mr. Harney's claim, however. I did not express an opinion on the validity of this right, however, as it was not my place to do so.

**6/9/94**

## COMMUNICATION DOCUMENTATION

**Claim No. 36-00071A ET AL.**

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IDWR Employee/Agent Frank Hitchcock

May 6, 1996 2:51pm

NAME:  
BRENT KING, ESQ.-LEGAL

RE:  
36-00071A & 36-00075.

TT AT S.O. AT 11:45 AM-PICKED UP BY JG WHO TOOK MSG. TF AT 1:15 PM-TCW RE: 10 AM APPT W/LEMOYNE AND MR/MRS ROBERT HARNEY.

REVIEWED CONVERSATION(SEE JCOM BY F. HITCHCOCK THIS DATE  
TRANSCRIBED AT 2:07) AND IDENTIFIED ISSUES.

I WILL REVIEW WITH STEVE CLELLAND AND GIVE HIM COPIES OF THE JCOMS AND THE AJQ REVIEW ALONG WITH THE 1409 FOR FILLED OUT BY FH AND SIGNED BY MR HARNEY.

6/9/94

## COMMUNICATION DOCUMENTATION

Claim No. A36-00071A

A36-00075

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IDWR Employee/Agent Steve Clelland

May 15, 1996 10:45am

NAME:

HARRY LEMOYNE & BOB HARNEY

CAMEIN

RE:

REVIEW OF CLAIMED RIGHTS

THEY PRESENTED ME WITH A LETTER FROM MR. LEMOYNE DESCRIBING THE HISTORY AND PREVIOUS OWNERS OF THE PROPERTY. THEY FIRST POINTED OUT THE DIVERSION AS CLAIMED IS INCORRECT AND SHOULD BE IN SECTION 11, NENE INSTEAD. THIS EXPLAINS WHY I DID NOT FIND THE SPRING SOURCE.

THE SPRING THEY IDENTIFIED WAS THE SAME SPRING RECOMMENDED TO OSBORNE AND THIS COULD ADD SUFFICIENT WATER TO THE JOHN BELL DITCH TO PROVIDE SOME WINTER STOCK USE.

THEY STATE THE ASCS PHOTO OF 1987 SHOWS IRRIGATION. I SHOWED THEM THE ASCS SLIDE PHOTO FROM JUNE 1980 WHICH SHOWS GOOD IRRIGATION ON THE PARCEL. THIS MUST HAVE BEEN THE USE DESCRIBED BY MR. EMMETT LONG AS PASTURE LAND. MR. SWENSON AND HE SAYS HE PUMPED FROM THE JOHN BELL DITCH TO IRRIGATE THIS LAND AFTER THAT INTO THE LATE '80'S.

MY EXAM CAME IN 7/24/90 AND FOUND NO DIVERSIONS OR USES OR IRRIGATION. THEN IN 1992 MR. JOHN KISER STATES HE INSTALLED THE PRESENT IRRIGATION SYSTEM. THIS SYSTEM IS STILL IN USE ON THE LAND BY THE CURRENT OWNER BOB HARNEY.

APPEARS THE LAND HAS BEEN IRRIGATED WITHOUT THE FULL 5 YEAR FORFEITURE BASED ON THIS LETTER. THE SOURCE OF THE RIGHT AND THE BASIS ARE STILL NOT CLEAR; MORE REVIEW IS NEEDED TO CONFIRM THE TWO OPTIONS 1. THE SPRING RIGHT IS THE SOURCE BUT HAS BEEN MOVED BY UN-RECORDED TRANSFER TO THE JOHN BELL DITCH, OR 2. THE SPRING RIGHT WAS ABANDONED AND THE RIGHT OF 36-00071 WAS EXPANDED TO INCLUDE THE LANDS PREVIOUSLY IRRIGATED BY THE SPRING.

*Harry Le Moyne*

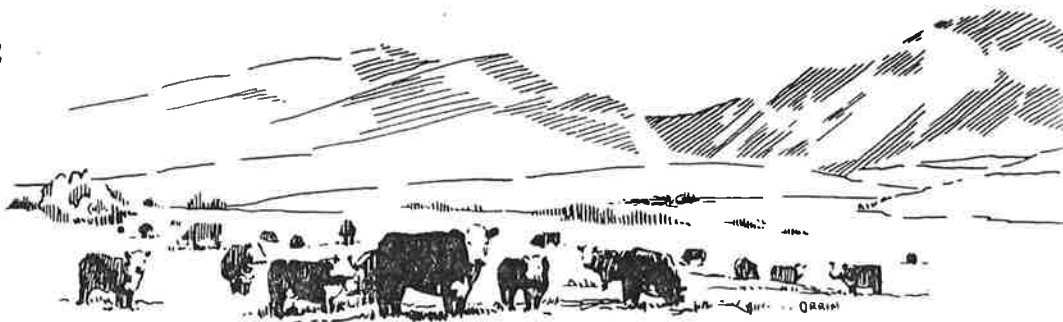
FARM MANAGEMENT CONSULTANT

1418 BLUE LAKES BLVD. NORTH

PHONE (208) 733-0874

TWIN FALLS, IDAHO

83301



May 13, 1996

RECEIVED

MAY 15 1996

Mr. Steve Clelland  
Department of Water Resources  
Twin Falls, Idaho

Department of Water Resources  
Southern Region

Dear Mr. Clelland:

Mr. Robert L. Harney of Twin Falls, Idaho has recently purchased a 14 acre parcel of land in Hagerman, Idaho that formerly belonged to Ignacio (Nick) Zabala. The owner prior to Mr. Zabala was Mr. John Kiser. Mr. Harney has retained me as an Accredited Land Consultant to help him with his water right problems. Mr. Harney has filed a change of ownership form with your office.

In futherance of Mr. Harney's claim, I am submitting a number of exhibits for your consideration. Exhibit No. 1 regards Water Right No. 36-00075. This was apparently submitted by Owen Simpson and the audit date shows May 20, 1985. The claim was for irrigation of 14 acres and under remarks it shows acres irrigated equals 14.2. The point of diversion is listed as being in the SE1/4 SE1/4 of Section 2, Township 7 South, Range 13 East. The record appears to show that on May 13, 1992 you declared the water right abandoned and forfeited.

Exhibit No. 2 is a letter to John Kiser dated 16 October 1992 signed by Kelly Christensen. I note that on Page 2 of this exhibit, which is dated August 24, 1992, John Kiser states that he was presently using the water for irrigation and wishes to have the record corrected. Also on the following page with is also listed as Page 2, the senior water agent, a Mr. Worstell, apparently noted that the stock water use by seven horses is incidental to your irrigation water use as there is no water in the John Bell ditch during the winter months for stock water. Apparently Mr. Worstell never visited this property during the winter months as the spring runs the year around and empties into the John Bell ditch and there is water all winter in the ditch which has historically been used for livestock.

Exhibit No. 3 is a copy of an aerial photo from the ASCS office in Gooding. One of the clerks in the Gooding office whose name is Jill informed me on May 13, 1996 that that aerial map was

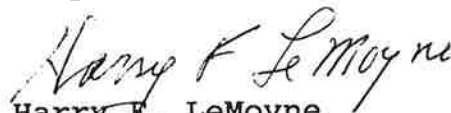
flown in the summer of 1987. This map shows rather conclusively that the property was being cleared and irrigated at that point in time.

Mr. Harney and I interviewed Mr. John Kiser on May 12, 1996 and he told us that he put the present irrigation system in the spring of 1992 and that several people had leased that property prior to his acquisition. Consequently, Mr. Harney and I visited with Mr. Gene Swenson who lives approximately 3/4 mile north of the Harney property. Mr. Swenson stated to us that he rented the property from Mr. Simpson who was a former owner and that he irrigated this property by putting a pump in the ditch and pumping water on the 6 acres located east of the John Bell ditch. Mr. Swenson further stated that he did this in the late 1980s and probably 1987 and '88.

Mr. Harney and I further interviewed a Mr. Emmett Long. Mr. Long lives in Bliss, Idaho and he stated that he leased the property from a Mrs. Anderson who was a former owner and that he irrigated the property with sprinkler irrigation in the early 1980s. He did not cultivate the property at that time as he used it for pasture and he has been a cattle buyer and operator all of his life. He indicated there were other people who had probably leased the property at other times.

Exhibit No. 4 is 36-0071A. This water right claim has apparently been approved by Water Resources for a total diversion rate of .44 cfs or 22 inches of water for only 8 acres of irrigated land. Mr. Harney plans to run livestock on the 14 acres of land and is building a home on it at the present time. The water right of 22 inches is sufficient for the 8 acres but Mr. Harney would like you to reconsider the action on the spring water right as the evidence shows that land has historically been irrigated by water from the spring. The portions of the old pipeline are still lying adjacent to the southeast quarter of this property. The aerial map, Exhibit No. 3, plainly shows a tree line where the old water right was delivered to the southeast corner of the property and after the pipeline was abandoned because it was hard to maintain the water from the spring went on down to the John Bell ditch and the various lessees pumped water from the ditch back on the land. In other words, it is Mr. Harney's contention that this water right has never been abandoned and it should be appurtenant to the property. Thank you for your consideration of this matter.

Very truly yours,



Harry F. LeMoyne  
Accredited Land Consultant

HFL:mlc  
enclosures

## COMMUNICATION DOCUMENTATION

A56-00071A & A56-00075  
This form is to be used to document public record information requests regarding any SRBA claim or claims. The form may also be used to document IDWR communications requesting information regarding any SRBA claim or claims when the request is not made in writing or the claim verification report is not readily available to document the request. This form is to be filed in all relevant claim files or a central office file.

IDWR Employee/Agent Steve Clelland

RE:  
REQUEST FOR SF5

MR. ZABALA INFORMED ME HE HAS SOLD THE OTHER TWO RIGHTS HE USED TO OWN, A36-00071A AND A36-00075. HE SAID THE BUYER WILL BE DEALING WITH THE NOTICE OF CHANGE IN OWNERSHIP. I AGREED THAT WAS PROPER PROCEDURE.

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

DATE: OCT-29-1997

PAGE: A-1

-----  
RIGHTS FROM: SOURCE: SPRING NO. FOUR TRIBUTARY: SNAKE RIVER  
-----

RIGHT NUMBER: 36-00075

NAME AND ADDRESS: ROBERT L HARNEY  
BETTY JO HARNEY  
PO BOX 548  
HAGERMAN ID 83332JOHN KISER  
KARY WOODAKY & SONS INC  
PO BOX 66  
HAGERMAN ID 83332SOURCE: SPRING NO. FOUR TRIBUTARY: SNAKE RIVERQUANTITY: 0.04 CFSPRIORITY DATE: 06/26/1881POINT OF DIVERSION: T07S R13E S02 SESESE Within GOODING County

## PURPOSE AND

| PERIOD OF USE: | PURPOSE OF USE         | PERIOD OF USE      | QUANTITY        |
|----------------|------------------------|--------------------|-----------------|
|                | <u>DOMESTIC 1 HOME</u> | <u>01-01 12-31</u> | <u>0.04 CFS</u> |

PLACE OF USE: DOMESTIC Within GOODING County  
T07S R13E S02 SESEEXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

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JAN 02 1998

OCT 31 1997

Department of Water Resources  
Southern Region

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 | ) | Subcase <u>36-00075</u>     |
|            | ) | (Insert Water Right Number) |
|            | ) |                             |
| Case 39576 | ) | STANDARD FORM 5             |
|            | ) |                             |
|            | ) | 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 Sept. 30, 1996), 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; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

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.

Elements where there have been no objections should be listed exactly as they appear in the Director's Report. The statement as to these uncontested elements shall state "as recommended in the Director's Report."

Contested elements that are the result of an objection filed with the court shall be accompanied by a statement fully describing all facts, documents, expert opinions, and law which support each element of the water right (attach additional pages if necessary).

### ELEMENTS

1. Name and address of the claimant:

Robert L. &/or Betty Jo Harney  
PO Box 578, Hagerman ID 83332

Required statement:

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2. Source of water:

Spring No. 4

Required statement:

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3. Quantity of water used:

0.04 cfs

Required statement:

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4. Priority date:

6/26/1881

Required statement:

5. Legal description of the point(s) of diversion (if the claim is for an instream flow, then a legal description of the beginning and ending points of the claimed instream flow):

T 7S R 13E S 02 SE SE SE

Required statement:

6. Purpose of use:

Domestic

1/1/31

Required statement:

7. Period of year when the water is to be used:

1/1 to 12/31

Required statement:

8. Legal description of the place of use or of the reservation:

T 7 S R 13 E S 02 SESE

Required statement:

9. Annual volume of consumptive use:

N/A

Required statement:

10. Other necessary matters:

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These matters are necessary because:

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These matters do not fall within the 9 elements listed above because:

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### Review By IDWR

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

When 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 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 IDWR and have made a good faith attempt to obtain its concurrence, but have failed.

Signatures and Addresses of Parties and their Attorney of Record (attach additional page if necessary):  
I have read this form, know its contents, and believe that the statements are true to the best of my knowledge.

Name:

Address:

City/State/Zip:

Attorney of Record:

Phone:

Robert M. Harney 10/27/97  
Party's Signature Date

Name:

Address:

City/State/Zip:

Attorney of Record:

Phone:

Letty J. Harney 10/27/97  
Party's Signature Date

\_\_\_\_\_  
Attorney's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney's Signature

\_\_\_\_\_  
Date

Name:

Address:

City/State/Zip:

Attorney of Record:

Phone:

\_\_\_\_\_  
Party's Signature

\_\_\_\_\_  
Date

Name:

Address:

City/State/Zip:

Attorney of Record:

Phone:

\_\_\_\_\_  
Party's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney's Signature

\_\_\_\_\_  
Date

IDWR concurrence:

Charles J. Forrester 11/6/97  
Signature Date  
Steve Caldwell 10/27/97

## INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court. FAX filings will not be accepted by the SRBA Clerk of the Court. You must also send a copy to all the parties listed below in the Certificate of Mailing.

### CERTIFICATE OF MAILING

I certify that on \_\_\_\_\_, 199\_\_\_\_, I mailed the original and copies of this form, including all attachments, postage prepaid and addressed as follows:

1. Original to:

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

2. Copy to:

Idaho Department of Water Resources  
Adjudication Bureau  
P O Box 83720  
Boise, ID 83720-0098

3. Copies to all parties to the subcase (insert names and addresses):

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Signature of person or attorney mailing the form

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

DATE: OCT-29-1997

PAGE: A-1

RIGHTS FROM: SOURCE: SPRING NO. FOUR TRIBUTARY: SNAKE RIVER

RIGHT NUMBER: 36-00075

NAME AND ADDRESS: ROBERT L HARNEY  
BETTY JO HARNEY  
PO BOX 548  
HAGERMAN ID 83332

JOHN KISER  
KARY WOODWALL & SONS INC  
PO BOX 64  
HAGERMAN ID 83332

SOURCE: SPRING NO. FOUR TRIBUTARY: SNAKE RIVER

QUANTITY: 0.04 CFS

PRIORITY DATE: 06/26/1881

POINT OF DIVERSION: T07S R13E S02 SESESE Within GOODING County

## PURPOSE AND

| PERIOD OF USE: | PURPOSE OF USE         | PERIOD OF USE      | QUANTITY        |
|----------------|------------------------|--------------------|-----------------|
|                | <u>DOMESTIC 1 HOME</u> | <u>01-01 12-31</u> | <u>0.04 CFS</u> |

PLACE OF USE: DOMESTIC Within GOODING County  
T07S R13E S02 SESE

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

6/9/94

## COMMUNICATION DOCUMENTATION

Claim No. 36-00071A &  
36-00075

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

IDWR Employee/Agent Steve Clelland

October 27, 1997 11:13am

NAME: BOB AND BETTY JO HARNEY APPT RE: SETTLE OBJECTION

THEY MET WITH ME AT 10 AM FOR OUR APPT TO SETTLE THE OBJECTIONS ON RIGHTS 36-00071A & 36-00075.

I HAD PREVIOUSLY REVIEWED THE FILES FOR THESE RIGHTS. THEY HAD SUBMITTED AFFIDAVITS AND MAPS TO SUPPORT THE CLAIM OF IRRIGATION. I ALSO REVIEWED OUR OWN MAPS IN THE FILES. THE COMBINATION OF THE MAPS, WHICH SHOW IRRIGATION, AND THE AFFIDAVITS ARE ENOUGH TO SWAY THE RECOMMENDATION TO ALLOW THE 14 ACRES CLAIMED. THIS INCLUDES THE FIELD ABOVE THE DITCH.

I ALSO HAD DISCUSSED THE OWEN SIMPSON PROPERTIES WITH MICHAEL SIMPSON DURING THE HEARINGS ON OCT. 20-22. MICHAEL IS OWEN'S GRANDSON AND HE EXPLAINED THE LACK OF MAINTENANCE OF THE PROPERTIES DUE TO OWENS FAILING HEALTH AND DEATH DURING THE TIMES OF FIELD EXAMINATIONS IN THE HAGERMAN AREA DURING 1990-1991.

THE USE OF THE SPRING WAS AGREED TO BE A DOMESTIC USE AND FLOW INSTEAD OF MAJOR SOURCE OF IRRIGATION WATER.

# **SUBCASE NO. 36-00075**

|                               | <b>CLAIM<br/>(8/26/88)</b>                          | <b>AMENDED CLAIM</b> | <b>RECOMMENDATION</b> | <b>OBJECTION</b>                               |
|-------------------------------|-----------------------------------------------------|----------------------|-----------------------|------------------------------------------------|
| <b>NAME</b>                   | Owen Simpson &<br>George Kneeland *                 | N/A                  | Disallowed.           | ** John Kiser/Karl<br>Woodall & Sons, Inc.     |
| <b>BASIS OF CLAIM</b>         | Decree                                              |                      |                       |                                                |
| <b>SOURCE</b>                 | Spring                                              |                      |                       |                                                |
| <b>QUANTITY</b>               | 0.30 cfs                                            |                      |                       |                                                |
| <b>PRIORITY DATE</b>          | 6/26/1881                                           |                      |                       |                                                |
| <b>PURPOSE OF USE</b>         | Irrigation<br>Domestic                              |                      |                       |                                                |
| <b>PERIOD OF USE</b>          | Irr.: 3/15 - 11/15<br>Dom.: 1/1 - 12/31             |                      |                       |                                                |
| <b>POINT OF<br/>DIVERSION</b> | T07S R13E S2                                        |                      |                       |                                                |
| <b>PLACE OF USE</b>           | T07S R13E S2<br>14.0 acres                          |                      |                       |                                                |
| remarks                       | "Source locally known<br>as spring number<br>four." |                      |                       | *** XX - water right<br>not being recommended. |
|                               |                                                     |                      |                       |                                                |

\* Change of Ownership filed 4/29/92 - Simpson/Kneeland to John Kiser & Karl Woodall & Sons, Inc.

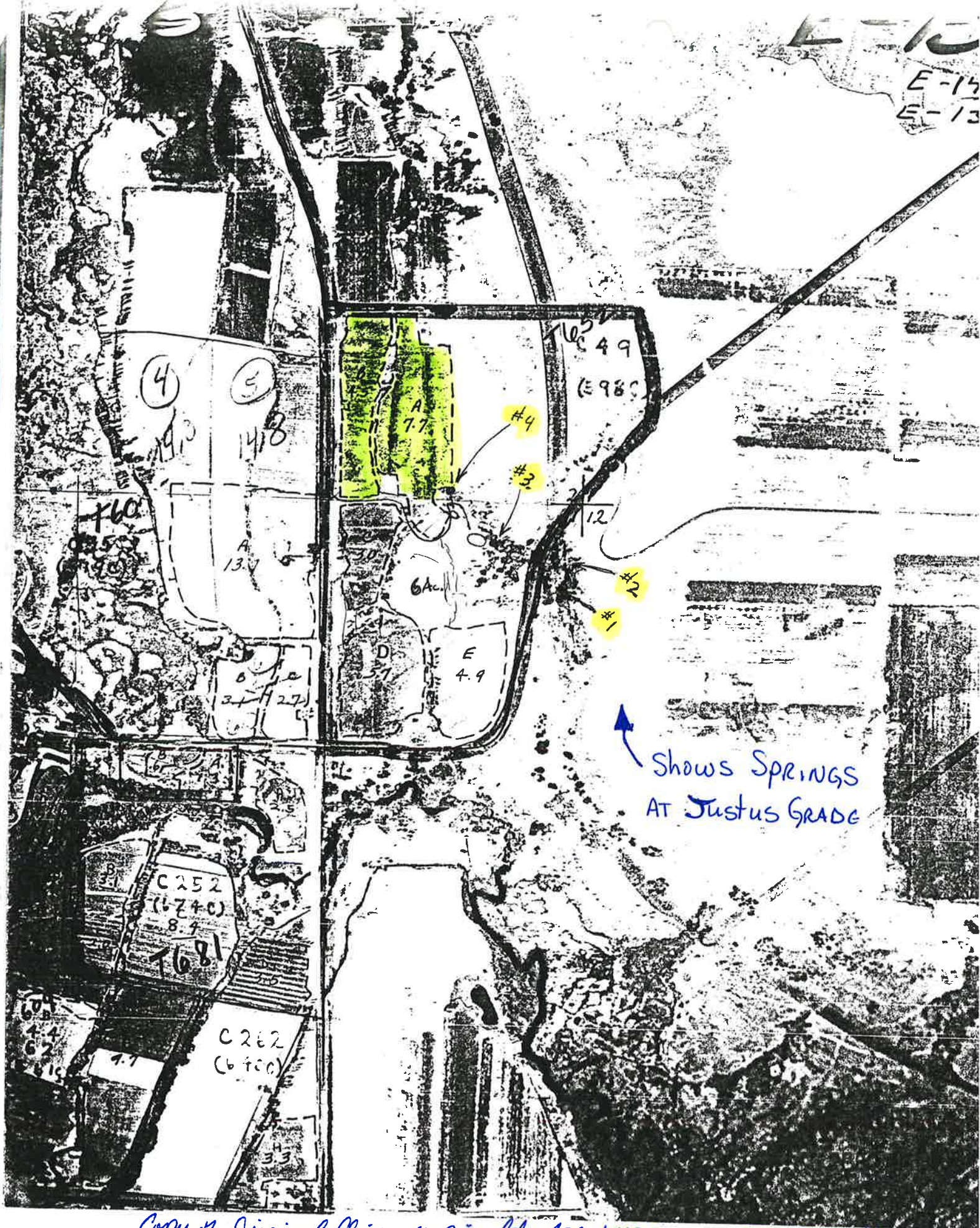
\* Change of Ownership filed 6/30/93 - Karl Woodall & Sons, Inc./John Kiser to Ignacio Nick Zabala

\*\* NCAP filed 2/21/97 - Ignacio Nick Zabala to Rober & Betty Jo Harney.

\*\*\* requests as claimed with irrigation, stockwater, aesthetic & subdivision development as purpose of use and year round season of use for all uses.

*No GIS created - Domestic Use*

*10/28/97 su*



Copy of Original Claim map in file A36-15184  
by SCC 10/23/97

36-00075

6/9/94

## COMMUNICATION DOCUMENTATION

Claim No. SEE BELOW

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

IDWR Employee/Agent Steve Clelland

October 23, 1997 3:48pm

NAME:  
BOB HARNEY

CALLBACK

RE:  
SETTLEMENT OF RIGHT

AFTER REVIEWING THE FILES AND THE EVIDENCE SUBMITTED IT APPEARS THE RIGHTS CAN BE RECOMMENDED CLOSER TO THAT CLAIMED; DETAILS WILL BE RESOLVED AT THE APPT. SET FOR OCT. 27, 1997, 10 AM.

CLAIMS: 36-00071A & 36-00075.

copy

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JAN 15 1985

CHANGE NATURE OF USE

Transfer No. 2652  
Water Right No. \_\_\_\_\_

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

APPROVED

APPLICATION FOR TRANSFER OF WATER RIGHT

To Change the Point of Diversion and/or the Place of Use  
Name of applicant George Kneeland, &/or Sharon Dillon, &/or Jackie Ray Andersen, &/or Terry Lynn Andersen  
Owen &/or Josephine Simpson & Anita Andersen Phone 837-4876  
Post Office address Rt. #2 Hagerman, Ida. 83332

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:  
36-0072 tru 0075  
a. Decree No. \_\_\_\_\_ Decreed to Willa A. Justice  
(Name)  
Banking  
in case of New International Mortgage vs Idaho Power Co., Inc.  
Southern Div.  
dated in March 22, 1932 in District Court county of Gooding  
(Name of court)  
b. License No. \_\_\_\_\_ issued by the Idaho Department of Water Resources  
c. Claim No. \_\_\_\_\_ on file with the Idaho Department of Water Resources
2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant Willa A. Justice To Marjorie Justice Thomas To Anita Andersen etal To Owen Simpson and George Kneeland (Conveyances Attached)

3. Source of water Springs #1, #2, #3, #4 tributary to Billingsley Creek
4. Date of priority June 26, 1881

5. Water is used for the following purposes:  
6-0072 amount 0.1 cfs for Domestic & Irrig. purposes from Period of use to \_\_\_\_\_  
6-0073 amount 0.2 cfs for Irrigation purposes from not listed on Decree to \_\_\_\_\_  
6-0074 amount 0.4 cfs for Irrigation purposes from \_\_\_\_\_ to \_\_\_\_\_  
6-0075 amount 0.3 cfs for Irrigation purposes from \_\_\_\_\_ to \_\_\_\_\_  
(month/day - both dates inclusive)

6. Total amount of water under right: a. 1.0 cubic feet per second  
&/or  
b. Spring #1, #2, #3 acre feet per annum
7. Location of original point of diversion is NE 1/4 of NE 1/4 of Section 11  
Township 7S. Range 13 E. R.M. in Gooding County  
Additional points of diversion, if any Spring #4, SE 1/4 SE 1/4  
Section 2, Twp. 7S. Rge. 13E.

8. Lands irrigated or place of use:

| TWP. | RANGE | SEC. | NE 1/4 |        |        |        | NW 1/4 |        |        |        | SW 1/4 |        |        |        | SE 1/4 |        |        |        | TOTALS |
|------|-------|------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
|      |       |      | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 |        |
| 7S.  | 13E.  | 2    |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        | 36     | 36     |
| 7S.  | 13E.  | 11   | 40     |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        | 40     |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |

Total number of acres to be irrigated 76

9. Describe any other water rights used for the same purpose as described above 36-0071 Billingsley Creek
10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? No If yes, describe in item D, REMARKS

A36-00075

Amount of water: a \_\_\_\_\_ cubic feet per second

b. \_\_\_\_\_ &/or \_\_\_\_\_ acre feet per annum

Point of diversion \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_ Township \_\_\_\_\_

Range \_\_\_\_\_, B.M., \_\_\_\_\_ County

Additional points \_\_\_\_\_

3. Place of use:

| TWP. | RANGE | SEC. | NE 1/4 |        |        |        | NW 1/4 |        |        |        | SW 1/4 |        |        |        | SE 1/4 |        |        |        | TOTALS |
|------|-------|------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
|      |       |      | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |
|      |       |      |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |

Total number of acres to be irrigated \_\_\_\_\_

C. DESCRIPTION OF RIGHT OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. General Information

0.7cfs from springs #1, #2, #3.

a. Amount of water to be diverted 0.3 cfs from spr. #4 c.f.s. &/or \_\_\_\_\_ acre feet

b. Description of diverting works Head box and pipeline for Domestic use  
Earth diversion ditch for irrigation.

c. Describe the reasons for the proposed changes Mrs. Andersen has sold 14.24 acres  
of the original place fo use to the Simpsons and desires to  
divide the water by giving them the total rights to spring #4  
while retaining the total rights to Springs #1, #2, &#3.  
The Simpsons also intend to use Spring #4 for Domestic use.

2. Change in point of diversion No change

Point of diversion \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_ Township \_\_\_\_\_

Range \_\_\_\_\_, B.M., \_\_\_\_\_ County

Additional points \_\_\_\_\_

3. Change in place of use

a. Are there liens, mortgages, or contracts on the lands from which you propose to transfer the water right which limit your authority to make the proposed change? Yes \_\_\_\_\_ No X If yes, provide a statement agreeing to the proposed change from the holder of the lien, mortgage or contract.

b. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer  
Very little affect as all previous lands will still be  
irrigated however all sources will no longer be combined

Sharon Dillon (a widow) has  $\frac{1}{2}$  interest in 76 acre Tract along  
Sharon Dillon 1/5 interest, Jackie Ray Andersen 1/5 interest and  
Terry Lynn Andersen 1/10 interest.

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willfull misrepresentations made in this application may result in voiding its approval.

Sharon Dillon  
(Signature of Applicant)

Subscribed and sworn to before me this 29th day of January, 19 82

Robert M. Carter  
(Notary Public)

My commission expires June

#### ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 36-0072, 36-0073, 36-0074  
36-0075 and said application is hereby APPROVED, subject to the following limitations and conditions:

1. Right 36-0075 is changed as follows: 0.28 cfs for irrigation of 14 acres  
and 0.02 cfs for domestic use located within SE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 2, Twp. 7S, Rge. 13E.  
No more than 56.0 acre feet per annum shall be diverted for irrigation nor more  
than 0.8 acre feet per annum shall be diverted for domestic use.

2. Use of water under these rights is subject to control by the watermaster of  
State Water District No. 36A, Billingsley Creek.

Witness my hand this 14th day of January, 19 83

L. Glen Sayton  
Chief, Operations Bureau

#### FOR DEPARTMENT USE ONLY

Received by mary Date 3/10/82 Protest filed by None

Prelim. check by mary Fee 50 # 52076

Received by mary Date 3/16/82

Published in Gooding Co. Leader Copies of protest forwarded by                     

Pub. dates 3/31 + 4/2/82 Hearing held by                      Date                     

Watermaster recommendation requested on 3/13/82 Recommended for approval denial

                     rec'd. 3/26/82 by 404 OK

RECEIVED  
FEB 14 1983

Analysis of Transfer  
by Allen Merritt  
3/15/82

| BEFORE TRANSFER |        |            |             |               |             |             |
|-----------------|--------|------------|-------------|---------------|-------------|-------------|
| Portion         | Acres  | Use        | Rate        | Rate/Acre     | Volume      | C.U.        |
| Parcel A        | (61.8) | Irrigation | 0.81        | 0.0132        | 247.2       | 162.8       |
|                 |        | Domestic   | <u>?</u>    | <u>NA</u>     | <u>?</u>    | <u>?</u>    |
| Total           |        |            | 0.81        |               | 247.2       | 162.8       |
| Parcel B        | (14.2) | Irrigation | <u>0.19</u> | <u>0.0132</u> | <u>56.8</u> | <u>37.4</u> |
| Total           |        |            | 0.19        | 0.0132        | 56.8        | 37.4        |

| TRANSFER REQUEST |        |            |             |           |            |            |
|------------------|--------|------------|-------------|-----------|------------|------------|
| Parcel A         | (61.8) | Irrigation | 0.70        | 0.0113    | 247.2      | 162.8      |
|                  |        | Domestic   | <u>?</u>    | <u>NA</u> | <u>?</u>   | <u>?</u>   |
| Total            |        |            | 0.70        |           | 247.2      | 162.8      |
| Parcel B         | (14.2) | Irrigation | 0.30        | 0.0211    | 56.8       | 37.4       |
|                  |        | Domestic   | <u>0.02</u> | <u>NA</u> | <u>0.6</u> | <u>0.6</u> |
| Total            |        |            | 0.30        |           | 57.4       | 38.0       |

| RECOMMENDED APPROVAL |        |            |             |           |            |            |
|----------------------|--------|------------|-------------|-----------|------------|------------|
| Parcel A             | (61.8) | Irrigation | 0.70        | 0.0113    | 247.2      | 162.8      |
|                      |        | Domestic   | <u>?</u>    | <u>NA</u> | <u>?</u>   | <u>?</u>   |
| Total                |        |            | 0.70        |           | 247.2      | 162.8      |
| Parcel B             | (14.0) | Irrigation | 0.28        | 0.0200    | 56.0       | 36.8       |
|                      |        | Domestic   | <u>0.02</u> | <u>NA</u> | <u>0.6</u> | <u>0.6</u> |
| Total                |        |            | 0.30        |           | 56.6       | 37.4       |

Note that that the Domestic Use for Parcel A was not defined in the calculation but is known to exist and may be covered in the Decree. The Domestic use in Parcel B does not yet exist and will be covered if transfer is approved.

Domestic use calculations based on 500 gal/day/household.

Irrigation C.U. based on 2.63 A.F./acre/annum.

Irrigation Vol. based on 4.00 A.F./acre/annum.

MICROFILM

FEB 09 1982

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Application For Transfer of Water Right  
Supplemental Information For  
CHANGE IN NATURE OF USE

1. Fully complete Form 222. Type or print in ink "CHANGE IN NATURE OF USE" at the top of page 1. If no change in point of diversion or place of use is desired, see note under items C.2 and/or C.3. C.
2. Describe fully the new use to which the water is intended to be applied (see sample calculations on reverse side):

a. Nature of use: Domestic use for one household from spring # 4.

In addition to irrigation of 14.2 acres.

b. Rate of flow: .02 cfs

c. Hours per day and days per year that the flow will be diverted:

365 days per year, hours per day are variable.

d. Season of use: The new use will be year round.

e. Return flows from the use: (quantity and quality of return flows, and location of discharge):

None

3. Describe positive and negative effects on other waterusers predicted to result from the proposed change in nature of use. Other water users will not be affected.

MICROFILM

FEB 09 1993

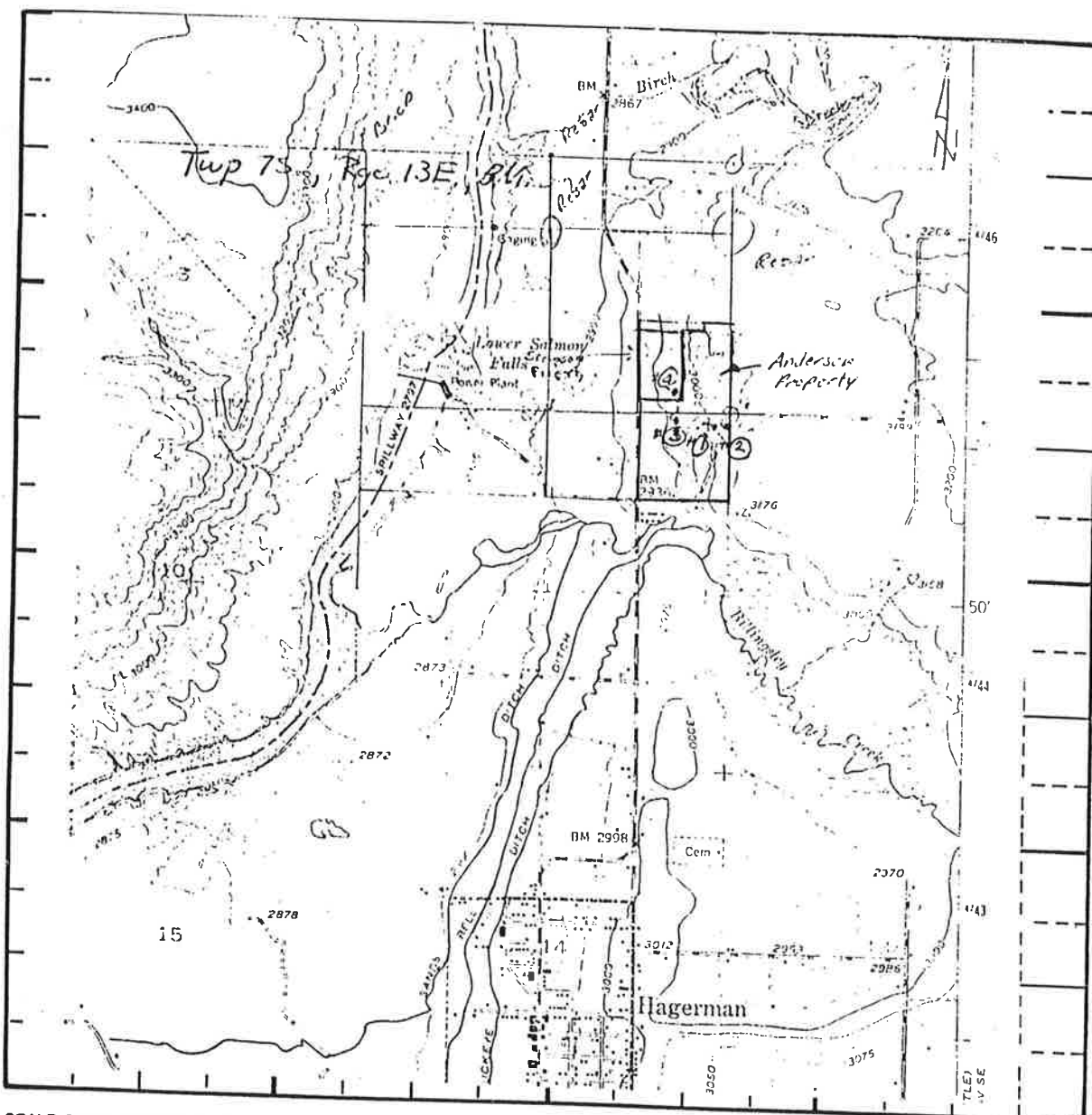
to which the right will be transferred:

|        |        |        | NW 1/4 |        |        |        | SW 1/4 |        |        |        | SE 1/4 |        |        |        | TOTALS    |
|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|-----------|
| NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 |           |
| 11     | 40     |        |        |        |        |        |        |        |        |        |        |        |        |        | 40        |
| 13E    | 2      |        |        |        |        |        |        |        |        |        |        |        |        |        | 21.8 21.8 |
|        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |           |
|        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |           |
|        |        |        |        |        |        |        |        |        |        |        |        |        |        |        |           |
| 7S     | 13E    | 2      |        |        |        |        |        |        |        |        |        |        |        |        | 14.2 14.2 |

pring  
4

Total number of acres to be irrigated 76

4. Describe any other water rights used for the same purpose as described above. 36-0071  
Billingsley Cr. via the John Bell ditch
5. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



SCALE: 2 inches equal 1 mile. Draw plan in ink.

WICRO

FEB U

6/9/94

## COMMUNICATION DOCUMENTATION

Claim No. 36-00075

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

IDWR Employee/Agent Steve Clelland

October 23, 1997 1:27pm

NAME:  
BOB HARNEY

CALLBACK

RE:  
RESOLVE CLAIM

HE WANTED TO KNOW HOW WE COULD RESOLVE THE DISPUTE OVER HIS CLAIM, IT WAS SUBJECT TO THE RECENT HEARINGS ON OCT. 20-22 AND HE NEVER GOT THE NOTICE OR OVERLOOKED IT AND MISSED THE HEARING. HE CALLED THE SRBA COURT AND THEY SAID IF HE COULD SETTLE THIS WITH ME THEN IT WOULD BE FINISHED.

I OFFERED TO REVIEW THE FILE AND DETERMINE WHAT THE ISSUES WERE AND WHAT PROOF THEY HAD SUBMITTED IN THE PAST MEETINGS WE HAD HELD. I WILL CALL BACK THEN. PHONE: 837-9152

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 COMPLETED  
ADMINISTRATIVE PROCEEDINGS

SUB CASE NO. 36-00071A  
36-00075

IDWR has completed the following Administrative proceeding: **SUBSTITUTION OF PARTY**

Does the change in "ownership" result in a splitting of the water right claimed? ☐ Yes ☒ No

**FROM: Claimant/Seller(s):**

Name and Address of Claimant/Seller(s):

Ignacio Nick Zabala  
PO Box 262  
Hagerman ID 83332

Phone: 837-6654

**TO: Claimant/Purchaser(s):**

Name and Address of Claimant/Purchaser(s):

Robert L Harney  
Betty Jo Harney  
PO Box 548  
Hagerman ID 83332

Phone: 837-9152

The Claimant has filed Objections or Responses to the following water rights: 36-00051C,  
36-00051E, 36-00071A, 36-00075

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

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

DATED: 2/21/97

  
Signature of IDWR Representative

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

DATE: FEB-20-1997

PAGE: A-1

-----  
RIGHTS FROM: SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER  
-----  
RIGHT NUMBER: 36-00071A  
  
NAME & ADDRESS: ROBERT L HARNEY  
BETTY JO HARNEY  
PO BOX 548  
HAGERMAN ID 83332  
  
SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER  
  
QUANTITY: 0.44 CFS  
  
PRIORITY DATE: 06/26/1881  
  
POINT OF DIVERSION: T07S R13E S11 NESENE Within GOODING County  
  
PURPOSE AND  
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY  
IRRIGATION Irrigation Season 0.44 CFS  
  
PLACE OF USE: IRRIGATION Within GOODING County  
T07S R13E S02 SESE 8.0  
8.0 ACRES TOTAL  
  
CONSUMPTIVE USE: 24.0 AFY

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

A DIVERSION RATE OF 0.38 CFS AT THE FIELD HEADGATE IS  
RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.  
WATER IS DELIVERED THROUGH JOHN BELL DITCH.  
0.06 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE  
LOSSES IN DELIVERY OF THIS RIGHT.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

W.R. NUMBER

NAME &amp; ADDRESS

CLAIM DISPOSITION

REASON

36-00075

HARNEY, ROBERT L  
HARNEY, BETTY JO  
PO BOX 548  
HAGERMAN ID 83332

DISALLOWED FORFEITED/ABANDONED.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

February 24, 1997

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

ROBERT L HARNEY  
BETTY JO HARNEY  
PO BOX 548  
HAGERMAN ID 83332

RE: SRBA Claim(s) 36-00071A and 36-00075

Dear Mr. and Mrs. Harney:

Pursuant to the change in ownership request that has been submitted to the Department, we have changed the record of current ownership to you. Please find the enclosed copies of the computer record of the claim(s) noting the change in claimant. Review these records and if there is an error, or you have any questions, please contact this office.

Also enclosed is your copy of the Notice of Completed Administrative Proceeding the department filed with the SRBA Court. This conforms with Administrative Order 11 which requires IDWR to report to the court all changes to claims in basins where a Director's Report has been filed.

Sincerely,

Trish Fawcett  
Technical Records Specialist

enc.

cc: Ignacio Nick Zabala

*Harry Le Moyne*

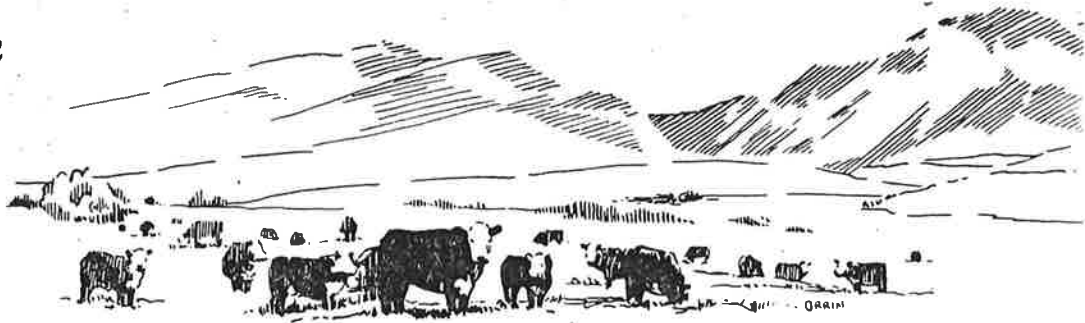
FARM MANAGEMENT CONSULTANT

1418 BLUE LAKES BLVD. NORTH

PHONE (208) 733-0874

TWIN FALLS, IDAHO

83301



May 13, 1996

RECEIVED

MAY 15 1996

Mr. Steve Clelland  
Department of Water Resources  
Twin Falls, Idaho

Department of Water Resources  
Southern Region

Dear Mr. Clelland:

Mr. Robert L. Harney of Twin Falls, Idaho has recently purchased a 14 acre parcel of land in Hagerman, Idaho that formerly belonged to Ignacio (Nick) Zabala. The owner prior to Mr. Zabala was Mr. John Kiser. Mr. Harney has retained me as an Accredited Land Consultant to help him with his water right problems. Mr. Harney has filed a change of ownership form with your office.

In futherance of Mr. Harney's claim, I am submitting a number of exhibits for your consideration. Exhibit No. 1 regards Water Right No. 36-00075. This was apparently submitted by Owen Simpson and the audit date shows May 20, 1985. The claim was for irrigation of 14 acres and under remarks it shows acres irrigated equals 14.2. The point of diversion is listed as being in the SE1/4 SE1/4 of Section 2, Township 7 South, Range 13 East. The record appears to show that on May 13, 1992 you declared the water right abandoned and forfeited.

Exhibit No. 2 is a letter to John Kiser dated 16 October 1992 signed by Kelly Christensen. I note that on Page 2 of this exhibit, which is dated August 24, 1992, John Kiser states that he was presently using the water for irrigation and wishes to have the record corrected. Also on the following page with is also listed as Page 2, the senior water agent, a Mr. Worstell, apparently noted that the stock water use by seven horses is incidental to your irrigation water use as there is no water in the John Bell ditch during the winter months for stock water. Apparently Mr. Worstell never visited this property during the winter months as the spring runs the year around and empties into the John Bell ditch and there is water all winter in the ditch which has historically been used for livestock.

Exhibit No. 3 is a copy of an aerial photo from the ASCS office in Gooding. One of the clerks in the Gooding office whose name is Jill informed me on May 13, 1996 that that aerial map was

flown in the summer of 1987. This map shows rather conclusively that the property was being cleared and irrigated at that point in time.

Mr. Harney and I interviewed Mr. John Kiser on May 12, 1996 and he told us that he put the present irrigation system in the spring of 1992 and that several people had leased that property prior to his acquisition. Consequently, Mr. Harney and I visited with Mr. Gene Swenson who lives approximately 3/4 mile north of the Harney property. Mr. Swenson stated to us that he rented the property from Mr. Simpson who was a former owner and that he irrigated this property by putting a pump in the ditch and pumping water on the 6 acres located east of the John Bell ditch. Mr. Swenson further stated that he did this in the late 1980s and probably 1987 and '88.

Mr. Harney and I further interviewed a Mr. Emmett Long. Mr. Long lives in Bliss, Idaho and he stated that he leased the property from a Mrs. Anderson who was a former owner and that he irrigated the property with sprinkler irrigation in the early 1980s. He did not cultivate the property at that time as he used it for pasture and he has been a cattle buyer and operator all of his life. He indicated there were other people who had probably leased the property at other times.

Exhibit No. 4 is 36-0071A. This water right claim has apparently been approved by Water Resources for a total diversion rate of .44 cfs or 22 inches of water for only 8 acres of irrigated land. Mr. Harney plans to run livestock on the 14 acres of land and is building a home on it at the present time. The water right of 22 inches is sufficient for the 8 acres but Mr. Harney would like you to reconsider the action on the spring water right as the evidence shows that land has historically been irrigated by water from the spring. The portions of the old pipeline are still lying adjacent to the southeast quarter of this property. The aerial map, Exhibit No. 3, plainly shows a tree line where the old water right was delivered to the southeast corner of the property and after the pipeline was abandoned because it was hard to maintain the water from the spring went on down to the John Bell ditch and the various lessees pumped water from the ditch back on the land. In other words, it is Mr. Harney's contention that this water right has never been abandoned and it should be appurtenant to the property. Thank your for your consideration of this matter.

Very truly yours,



Harry F. LeMoyne  
Accredited Land Consultant

HFL:mlc  
enclosures

**R PROOF**

**CVR**

**MAPS**

**PHOTOS**

**MISC**

**MICROFILMED**

**OCT 12 1984**

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. 36-00075 -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: JOHN KISER  
Address: KARL WOODALL & SONS INC  
PO BOX 64  
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

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

12b. ☒ This water right not being recommended.

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

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

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of Objection items 12 and 12b., and all allegations of the objection regarding these items, IDWR responds as follows: IDWR recommended the claim for disallowal because it found no evidence of a diversion works or beneficial use at the claimed place of use and no recent history of diversion or use for the claimed purposes. IDWR further responds that this right was claimed for irrigation and domestic use. By now asserting in the objection aesthetics and subdivision development as additional purposes of use, and by now asserting in the objection

a year around irrigation season of use, 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. However, because this right is recommended for disallowal for nonuse, the assertion of additional uses by means of an amended claim is irrelevant and would not cause IDWR to change its recommendation for disallowal. IDWR further responds as to the claimants' assertion of subdivision development as an additional use that under Idaho law water cannot be reserved for future use, but must be appropriated and put to beneficial use before the user can acquire a 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)

No. of  
Pages

Notice of Claim No. A36-00075  
IDWR's Rspnse to Answer, Affirmative Defenses and Prayer  
for Relief of Claimant

5  
4

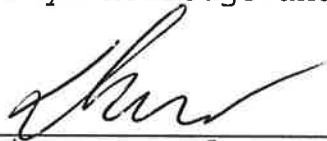
VERIFICATION (Must be Completed)

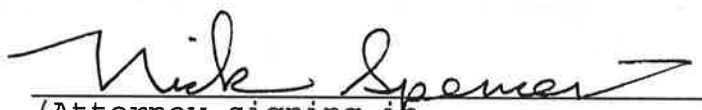
State of IDAHO

County of ADA

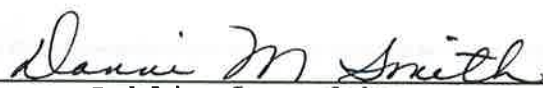
David B. Shaw, being first duly sworn, upon oath, deposes and says:

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 10<sup>th</sup> day of September,  
1993.

  
\_\_\_\_\_  
Notary Public for Idaho  
Residing at: \_\_\_\_\_  
My Commission expires \_\_\_\_\_  
Danni Smith, Notary Public  
Residing at Boise, Idaho  
My Commission Expires December 5, 1994

(Over)

CERTIFICATE OF MAILING

I hereby certify that on the 10<sup>th</sup> 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:

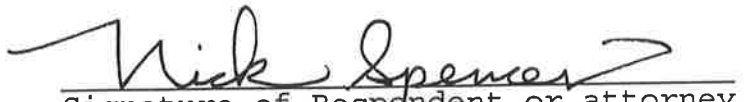
See No. 3

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 A36-00075

Date Received 8-26-88

Receipt Number 5002274

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) OWEN SIMPSON and GEORGE KNEELAND Phone (208) 208-726-9311 (Kneeland)  
Mailing Address 17865 U.S. Highway 30, Bliss, Idaho (Simpson) 837-6230 (Simpson)  
117 Skylane Drive, Sun Valley, Idaho (Kneeland) Zip 83314  
83353

2. Date of Priority (Only one (1) per claim) June 26, 1881

3. Source of water supply (a) Spring Number Four  
which is tributary to (b) Snake River

4. a. Location of existing point of diversion is: Township 7 South Range 13 East Section 2,  
NE 1/4 of SE 1/4 of SE 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 spring located on the property, the  
water is used for irrigation on 14 acres. At the present time, the property is irrigated  
by flood irrigation. The water is also used for domestic purposes.

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JAN 21 1993

OCT 12 1994

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 Domestic purposes from Jan. 1 to Dec. 31 amount 0.02 or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

7. Total quantity claimed (a) 0.30 (cfs) and/or (b) 56 (acre feet)

8. Total consumptive use claimed is 42 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 to be served.

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 | 2   |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       | D<br>14 | 14     |
|     |      |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |         |        |
|     |      |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |         |        |
|     |      |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |         |        |
|     |      |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |         |        |
|     |      |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |         |        |
|     |      |     |        |       |       |       |        |       |       |       |        |       |       |       |        |       |       |         |        |

Total number of acres irrigated 14 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.

Part of 36-0071 or None ( )

14. Remarks:

Last Name SIMPSON-KNEELAND Ident No. \_\_\_\_\_

MICROFILMED  
JAN 21 1993  
MICROFILMED  
Copies: White - State, Yellow - Claimant

OCT 12 1994

Scale: 2 inches equals 1 mile

TOWNSHIP 7 SOUTH, RANGE 13 EAST OF THE BOISE MERIDIAN

[illegible]

**MICROFILMED**  
**MICROFILMED**  
JAN 21 1993  
e-State, Yellow-Clairmont  
DEC 12 1994

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Bent ☐ Use ☐ Posted Notice ☐ License ☐ Permit ☐  
Decree ☒  
If applicable provide IDWR Water Right Number 36-0075  
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 ☒ 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)

*Steve Simpson*  
*George Kneeland*

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

Title

of

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 25<sup>th</sup> day of August 19 88

SEAL

Notary Public

*Clifton Jensen*

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 SIMPSON-KNEELAND Ident. Number \_\_\_\_\_

MICROFILMED  
JAN 21 1993  
Copies: White-State, Yellow-Claimant

SOURCE: SPRING NUMBER FOUR

TRIBUTARY: SNAKE RIVER

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES  
WATER RIGHTS ABSTRACT

WR-NUMBER:  
36-0075

CURRENT OWNER:  
OWEN SIMPSON  
JOSEPHINE SIMPSON  
GEORGE KNEELAND  
ROUTE #2  
HAGERMAN, ID 83332

PRIORITY DATE:  
25-JUN-1881

STAGE:  
DECREE

COUNTY: GOODING  
SOURCE: SPRING NUMBER FOUR

TRIBUTARY: SNAKE RIVER

WATER DISTRICT: 36A

WATER USE:

DIVERSION-RATE:

DIVERSION-VOLUME:

IRRIGATION  
DOMESTIC

0.280 CFS  
0.020 CFS  
0.300 CFS

56.00 AF  
0.80 AF  
0.00 AF

TOTAL RATE:

TOTAL VOLUME:

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

REMARKS: P/U REDUCED & DOMESTIC USE ADDED BY TRANS. 2652.  
AC. IRRIG. = 14.2.

POINT OF DIVERSION: T97S R13E S02 SESE

PLACE OF USE: T97S R13E S02 SESE AC 14  
TOTAL ACRES: 14

MICROFILMED

OCT 12 1994

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

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

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

- 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.

RECEIVED

NOV 10 1993

Department of Water Resources  
Southern Region Office

RECEIVED

NOV 04 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

FILE

DATA ENTRY  
DONE EARLIER

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

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

Petitioner,

vs.

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

Respondents.

)  
) Case No. 39576  
)  
) Water Right No. 36-00075  
)  
)  
)  
) Standard Form 3  
)  
) STANDARD FORM FOR NOTICE  
) OF CHANGE IN ADDRESS  
)  
) OR  
)  
)  
) CONSENT TO SUBSTITUTION  
) OF PARTY  
)  
)  
)  
)  
)  
)

DESCRIPTIVE SUMMARY

The following document is SRBA Standard Form 3, Consent to Substitution of Party which is being filed on behalf of Ignacio Nick Zabala for water right no. 36-00075 as the new owner for said water right.

**CONSENT TO SUBSTITUTION OF PARTY**

My name is: Ignacio Nick Zabala

My address is: P. O. Box 262, Hagerman, Idaho 83332.

My phone number is: Home: (208) 837-6554

The name and address of the party who I wish to be substituted for are: John Kiser, Karl Woodall & Sons, Inc.

I am the new claimant/purchaser of water right number 36-00075 *and* I am submitting proof of acquisition of the interest of the prior claimant/seller, *which is required by the court* to support my *Substitution*. Proof must contain a legal description of the property, including the water right numbers conveyed. You must describe the documents you are submitting.

Copy of Warranty Deed is attached

x John Kiser  
(Signature of prior  
claimant/seller)

Ignacio Nick Zabala  
(Signature of new claimant/  
purchaser)

RECEIVED  
JAN 11 2007

NOV 14 2007

RECEIVED

ATTORNEY OF RECORD COMPLETING FORM

My name is Patrick D. Brown.

I am the attorney of record for: Ignacio Nick Zabala, the new and present owner of water right no. 36-00075, as well as the attorney of record for John Kiser and/or Karl Woodall & Sons, Inc., the former owner of these water rights.

My address and telephone number are: 133 Shoshone Street North, P. O. Box 389, Twin Falls, Idaho 83303-0389, Telephone number (208) 734-7510.

VERIFICATION

(Must be completed for either a *Notice of Change in Address* or for *Consent for Substitution of Party*)

State of Idaho

County of Twin Falls

Patrick D. Brown, being first duly sworn upon oath, and says:  
(Insert name of party/claimant filing form)

That I am the person or entity filing this form, that I am a water right claimant or party or their successor in interest, defined by I.C. Sections 42-1401A(1), (7) or (10); and that I have read this form, know its contents and that the statements are true to the best of my knowledge and belief.

\_\_\_\_\_  
Signature of person filing form

By [Signature]  
Attorney signing in  
representative capacity

**MICROFILMED**

**OCT 12 1994** Page 3

Subscribed and sworn to before me on

Oct. 8, 1993  
(Insert Date)

Christ Hagerman  
Notary Public for

Residing at: Twin Falls, Idaho

My Commission Expires: 9.20.94

### INSTRUCTIONS FOR MAILING

You must mail the 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 \_\_\_\_\_, 1993, 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. A *Change of Address* must be served on each party, or their attorney, in each subcase in which you are a party at the following address(es):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. A *Consent to Substitution* of Party must be served on the prior claimant/seller or their attorney at the following address:

John Kiser  
P. O. Box 64  
Hagerman, ID 83332

4. A Consent to Substitution of Party must be served on each party, or their attorney, to each subcase in which the prior claimant/seller is a party at the following address(es):

---

---

---

4. One copy to:

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

5. One copy to:

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



---

(Signature of person or  
attorney mailing the form)



WARRANTY DEED

For Value Received

*E. W. Woodall*

Karl Woodall & Sons, Inc., an Idaho Corporation  
and John Kiser, a joint venture

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

[Ignacio Nick Zabala and Maria Carmen Zabala, husband and wife]

hereinafter referred to as Grantee, whose current address is

P.O. Box 262  
Hagerman, Idaho 83332

the following described premises, to-wit:

Lots 1, 2, 3 and 4 in Block 1 of LAKE VIEW SUBDIVISION, being a portion of the Southeast Quarter of the Southeast Quarter of Section 2, Township 7 South, Range 13, East of the Boise Meridian, Gooding County, Idaho, according to the plat thereof, recorded December 21, 1992 as Instrument No. 151043 in the Office of the County Recorder of said County.

TOGETHER with all water rights appurtenant thereto.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, his heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U. S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

Dated: June 7, 1993.

KARL WOODALL & SONS, INC.

By: *Ernest W. Woodall*  
Ernest W. Woodall, President

By: *John K. Woodall*  
John K. Woodall, Secretary

*John Kiser*  
John Kiser

STATE OF IDAHO

COUNTY OF Gooding

On this 7<sup>th</sup> day of June, in the year 1993, before me, a Notary Public in and for said State, personally appeared John Kiser and , known or identified to me to be the persons whose names are subscribed to the within Instrument, and acknowledged to me that they executed the same.



*Susan M. Bolton*  
Notary Public for Idaho  
Residing at Gooding, Idaho  
Commission Expires: 10/16/98

First American Title Company of Idaho

MICROFILMED  
OCT 12 1994



STATE OF IDAHO )

: ss

COUNTY OF ADA )

On This 3rd day of June, in the year 1993, before me, a Notary Public in and for said State, personally appeared Ernest W. Woodall and John K. Woodall, known or identified to me to be the President and Secretary respectively of the Corporation that executed the instrument or the person who executed the instrument on behalf of said Corporation, and acknowledged to me that such Corporation executed the same.

Notary Public of Idaho  
Residing at Gooding, ID  
Commission Expires: 10-16-98



152919

STATE OF IDAHO COUNTY OF GOODING

Filed for record at the request of FIRST AMERICAN TITLE

45 min. past 10 o'clock A m. this 7  
of June, 1993 6.00

JOHN A. MYERS Recorder

By Cibola Solis Deputy

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OCT 12 1994

RECEIPT  
For Monies Paid  
to the  
IDAHO DEPARTMENT OF WATER RESOURCES

RECEIVED

JAN 27 1993  
Department of Water Resources  
Southern Region Office

Receipt No:

5015317

Date:  
Time:

1/27/1993  
09:04:51

Received  
From:

KISER ARLENE

Type of Payment

Program Acct Class

Amount

FEE FOR COPY OF ADJUDICATION CLAIM

64100

229 21 1760

8.07

Total

CHECK

1787

\$8.07

Region: SOUTHERN

Signature:

*R. Foster*

MICROFILMED

OCT 12 1994



State of Idaho

# DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

19-Jan-1993

JOHN KISER  
PO BOX 64  
HAGERMAN ID 83332

RE: Copy of SRBA File(s): 36-00071A, 36-00075

Dear Mr. Kiser:

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:

\$8.07

Sincerely,

  
Jeanie Robertson  
Records Clerk

Encl:

*Kiser*  
*45*  
*54*  
*99x5 = 4.95*  
*post. 2.90*  
*env. .22*  
*\$8.07*

**MICROFILMED**

**OCT 12 1994**

RECEIVED

JAN 13 1993

Department of Water Resources  
Southern Region Office

January 12, 1993  
(Date)

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

Dear Idaho Department of Water Resources:

Please provide me with a copy of all information included in my file as it relates to water right number A36-00075.

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,

John Kiser  
(Name)

P. O. Box #64  
(Address)

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

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

MICROFILMED  
OCT 12 1994

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APR 30 1993

Department of Water Resources  
Adjudication Bureau

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

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

Case No. A36-00075

(You must insert the  
water right number you  
are objecting to)

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

OBJECTION

Petitioner,

vs.

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

36-00075 -0001/  
93-04-0076

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.

OBJECTION - 1

MICROFILMED

OCT 12 1994

(Over)

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: John Kiser &/or Karl Woodall & Sons, Inc.

Address: P. O. Box 64

Hagerman, Idaho 83332

Briefly describe your interest in this water right:

Water right decreed 3/22/32 in New

International Mortgage Bank v. Idaho Power

Company with a priority date of 06/26/1881

2. Owner of the water right:

Name: John Kiser &/or Karl Woodall & Sons, Inc.

Address: P. O. Box 64

Hagerman, Idaho 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)

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.

Irrigation, stockwater, aesthetic & subdivision development

from 1/1 to 12/31; total quantity as decreed &/or beneficially

used; place of use, point of diversion & source should conform

to information set forth in notice of claim; total acres: 14

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 ~~Twin Falls~~ Gooding

John Kiser

\_\_\_\_\_, 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.

John Kiser  
Signature of person filing objection

By: \_\_\_\_\_

(Attorney signing in  
representative capacity)

1993.

Subscribed and sworn to before me this 19th day of April,

Clifton Jensen  
Notary Public for Idaho

Residing at: HAGERMAN, IDAHO  
My Commission Expires: 5-10-97

(Over)

### INSTRUCTIONS FOR MAILING

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

### CERTIFICATE OF MAILING

I hereby certify that on the 23 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: John Kiser/Karl Woodall & Sons, Inc.

Owner's address: P. O. Box 64

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

CHANGES TO DIRECTOR'S REPORT, page 4

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

Question 14., page 4, Other

I.

GENERAL RESPONSE

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

II.

DESCRIPTIVE SUMMARY

(DIRECTOR'S REPORT PART I)

(hereinafter DRP-I)

(DRP-I at first unnumbered page)

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

III.

TABLE OF CONTENTS

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

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

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

#### IV.

##### INTRODUCTION

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

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

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

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

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

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

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

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

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

V.

DESCRIPTION OF THE WATER SYSTEM: BASIN 36

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

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

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

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

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

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

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

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

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

## VI.

### GENERAL PROVISIONS

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

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

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

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

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

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

The objectors admit paragraphs a. and b.

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

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

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

The objectors deny the averments within this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**I.**

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

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

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

**I.**

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

**VIII.**

**AFFIRMATIVE DEFENSES**

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

**AFFIRMATIVE DEFENSE NO. 1**

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

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.

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.

AFFIRMATIVE DEFENSE NO. 13

The Director's Report is a pleading subject to the provisions of the Idaho Rules of Civil Procedure, including, but not limited to the requirement of I.R.C.P. 8(a)(1) that such pleadings contain a clear and plain statement of the facts, demonstrating an entitlement to relief. The Director's Report violates such provision.

AFFIRMATIVE DEFENSE NO. 14

The Director's Report fails to state a claim upon which relief may be granted.

AFFIRMATIVE DEFENSE NO. 15

The Director's Report is subject to, and must comply with, the requirements of Idaho Code Section 42-1411. The Director's Report does not comply with the requirements of the statute.

AFFIRMATIVE DEFENSE NO. 16

In conducting the investigation and compiling the Director's Report, the Department and the Director have not complied with the requirements of Idaho Code Section 42-1410.

AFFIRMATIVE DEFENSE NO. 17

In conducting the investigation and compiling the Director's Report, the Department and the Director have not complied with the requirements of Idaho Code Section 42-1416.

AFFIRMATIVE DEFENSE NO. 18

The procedures specified in the authorizing legislation and procedural rules promulgated in accordance therewith serve to

deny objectors due process of law in violation of Amendment Fourteen to the Constitution of the United States and Art. 1, Section 13, Idaho Constitution.

AFFIRMATIVE DEFENSE NO. 19

The "General Provisions" and "Other Statements" contained in the Director's Report, along with the Claims Investigation Manual, Adjudication Memoranda and other materials of a similar nature used or employed by the Department, the Director and/or their agents, servants and/or employees constitute rules and regulations which were required to be proposed, promulgated, adopted and approved in conformity with the Administrative Procedures Act and other applicable statutory provisions. The Department, Director and their agents, servants and employees have failed to comply with such requirements, and accordingly, the "General Provisions," "Other Statements", Claims Investigation Manual and the like are invalid, void and of no force or effect.

AFFIRMATIVE DEFENSE NO. 20

Neither the "General Conditions," the Claims Adjudication Manual, Adjudication Memoranda or other promulgations, adoptions, policies, or the like have been submitted to or approved by the Legislature as required by Idaho Code Section 67-5217.

AFFIRMATIVE DEFENSE NO. 21

The relief requested by the Department and the Director in the Director's Report are beyond and in excess of the subject matter jurisdiction of the Court.

AFFIRMATIVE DEFENSE NO. 22

The actions of the Legislature, or the Department and the Director to enact, adopt, implement or enforce statutes, regulations, rules or policies subsequent to November 19, 1987, and to apply or enforce the same for the purpose of, or with the effect of recommending, diminishing or altering objectors' water rights, constitute a violation of Amendment Fourteen, United States Constitution; Art. 1, Section 13, Idaho Constitution; the SRBA authorization legislation; and Idaho Code Sections 73-101 and 73-106.

AFFIRMATIVE DEFENSE NO. 23

These proceedings are subject to the requirements and provisions of Idaho Code Sections 12-117, 12-121, 12-123 and I.R.C.P. 11, and the provisions of the private attorney general doctrine, and other related doctrines, and the Department, Director and State of Idaho are obligated to objectors for the payment and reimbursement of any and all reasonable costs or attorney fees incurred herein.

AFFIRMATIVE DEFENSE NO. 24

The Director's Report asserts what amounts to be a taking of private property by power of eminent domain as governed by Idaho Code Section 7-701 et seq., and as such, venue is therefore improper.

AFFIRMATIVE DEFENSE NO. 25

The Department and the Director are equitably estopped from seeking any reduction in the quantity, quality or priority of

objectors' water rights by virtue of prior statements, representations and actions of the Department, Director or their agents, servants and employees.

AFFIRMATIVE DEFENSE NO. 26

The Department and the Director are barred by laches and the applicable statutes of limitation, including, but not limited to, Idaho Code Sections 5-202, 5-203, 5-204, 5-206, 5-207, 5-208, 5-215, 5-218, 5-219(2), 5-224 and/or 5-241.

AFFIRMATIVE DEFENSE NO. 27

Objectors hereby reserve the right to assert any further affirmative defenses not expressly stated herein, but which subsequently become apparent.

WHEREFORE, the objectors pray for judgment as follows:

1. That the State of Idaho take nothing by reason of its Directors' Report, and that this action, and any claims asserted against objectors, be dismissed.
2. That a decree be entered adjudicating the existence, validity, amount and priority of objectors' water rights in accordance with objectors' claims.
3. That to the extent the acts of the Department or Director constitute a taking of objectors' property for public use, that objectors be allowed and awarded just compensation therefor.
4. That the objectors be allowed all costs of suit and reasonable attorney fees incurred herein.
5. For such further relief to which the Court finds objectors justly entitled.

(WATER\21530ANS)

**NOTICE OF ERROR**

**RESPONSE**

**CORRECTED R PROOF**



**MICROFILMED**

**JAN 21 1993**

## NOTICE OF ERROR FORM

UG-24-1992

RECEIVED

SEP 22 1992

Department of Water Resources

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

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

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

1. Water right number: 36-00075

RECEIVED

SEP 23 1992

2. Name: JOHN KISER (KARL WOODALL & SONS, INC.)

Address: P. O. Box #64, Hagerman, Idaho 83332

Weekday Telephone Number: 208-837-4703

MICROFILME

JAN 21 1993

**TEAR AT PERFORATIONS AND COMPLETE FORM ON OTHER SIDE**

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

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

The entire water right was recommended for disallowance, thus I disagree with the entire recommendation.

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

I wish to have the entire water right as filed for on the adjudication form. I am presently using the water for irrigation and wish to use it from March 15th to November 15th of each year, with a priority date of June 26, 1881.

5. Describe why you disagree with the proposed recommendation:

This water right was decreed to the property by the 1932 Federal Court Decree and is in effect until, and if, another Court Decree supercedes said Decree.

6. Date: September 21, 1992

SIGNATURE

John Kiser



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS  
Governor

16-Oct-1992

R. KEITH HIGGINSON  
Director

JOHN KISER  
PO BOX 64  
HAGERMAN ID 83332

RE: RESPONSE TO NOTICE OF ERROR FOR CLAIM 36-00075.

Dear Mr Kiser

This claim has been disallowed based on the non-use of the water right as described by the claim. Based upon currently available information I am unable to reinstate your claim. No diversion works or evidence of irrigation for the claimed place of use was found during a field examination of this claim.

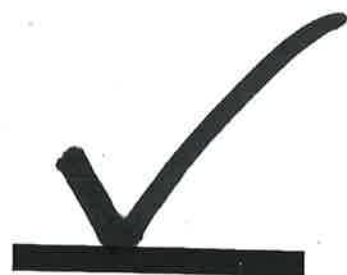
If you still do not agree with the proposed IDWR recommendations to the court, you may file an objection with the court after you receive the final recommendation of your water right. The objection process will be explained when you receive your final recommendation of your water right.

Sincerely

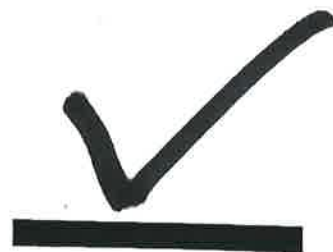
Kelly K Christensen  
Sr Water Resource Agent

MICROFILMED-D  
JAN 21 1993

**R PROOF**



**CVR**



**MAPS**



**PHOTOS**



**MISC**



**MICROFILMED**

**JAN 21 19**

VERIFIED BY

Scu

Water Right Number - R36-00075

Prefix Translation: RESEARCH

Old (D) Number -

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

\*\*\* C - CURRENT OWNER \*\*\*  
WOODALL & SONS INC

KARL

1 - PO BOX 64

2 -

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-837-4703

KISER

JOHN

1 - PO BOX 64

2 -

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-837-4703

\*\*\* O - ORIGINAL OWNER \*\*\*  
KNEELAND

GEORGE

1 - 117 SKYLANE DRIVE

2 -

3 -

City- SUN VALLEY

State- ID Zip- 83353

Phone - 208-726-9311

SIMPSON

OWEN

1 - 17865 US HWY 30

2 -

3 -

City- BLISS

State- ID Zip- 83314

Phone - 208-837-6230

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +  
06/26/1881 17 SOUTHERN I - DISALLOWED+ - - - - Source - - - - - + + - - - - Tributary - - - - - +  
SPRING NO. FOUR SNAKE RIVER+ - - - - Point of Diversion - - - - - +  
Twn Rng Sec Tract Lot RFlg County

07S 13E 2 NE SE SE (47) GOODING

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

01 - IRRIGATION

03/15

11/15

0.280

43 - DOMESTIC

01/01

12/31

0.020

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +  
0.300 42.0+ - - - - Place of Use - - - - - +  
Twn Rng Sec Tract Lot Acres Code Description County

07S

13E

2

SE SE

14.0

01

IRRIGATION

(47) GOODING

07S

13E

2

SE SE

43

DOMESTIC

(47) GOODING

MICROFILMED

JAN 21 1993

Water right number - R36-00075

Prefix Translation: RESEARCH

| Twn | Rng | Sec | Tract | Lot | Acres | Place of Use Code | Description | County |
|-----|-----|-----|-------|-----|-------|-------------------|-------------|--------|
|-----|-----|-----|-------|-----|-------|-------------------|-------------|--------|

Total Acres: 14.0

+ - - Diversion Means - SPRING IRRIGATES 14 ACRES.

+ - - Non-Irrigation Use - DOMESTIC, 1 HOME

+ - - Other Rights for Same Use - 36-00071A

| Remarks |
|---------|
|---------|

FORFEITED/ABANDONED.

| Old Water Right Numbers |
|-------------------------|
|-------------------------|

3600075

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

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

| Comments                                                                                                                                                                          |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Date: 03/08/1991 User Id: BEDKE Subject: SCC-STAFF REVIEW                                                                                                                         |
| Date: 05/13/1992 User Id: CLELLAND Subject: CHANGE OF OWNERSHIP                                                                                                                   |
| CHANGE FORM RECEIVED 4-24-92 FROM JOHN KISER WITH WARRANTY DEED. CHANGE INCLUDED A36-00071A BUT NOT A36-00096A.                                                                   |
| Date: 05/13/1992 User Id: CLELLAND Subject: FORFEITURE/ABANDON                                                                                                                    |
| THERE IS NO DIVERSION SYSTEM FOR THIS SPRING OR TO IRRIGATE THE LANDS ABOVE THE JOHN BELL DITCH. MATURE GROWTH OF 2-3 FT. HIGH SAGEBRUSH INDICATES LONG PERIOD OF NON IRRIGATION. |

| Audit Fields      |
|-------------------|
| 05/13/92 CLELLAND |

| 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         | - 05/13/1992 | Old Judicial District   | -       |
| Claim Received Date  | - 09/19/1988 | Last Amended Date     | - 00/00/0000 | Temporary Right         | - P     |
|                      |              | Receipt Number        | - S002274    | Water District          | - 36A   |
|                      |              | POU Ownership Flag    | - Y          | Federal/State Indicator | - S     |
|                      |              | Name Connector        | - OR         | Presumption Flag        | -       |
|                      |              |                       |              | Notice of Error Flag    | -       |

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STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
ADJUDICATION CLAIM VERIFICATION REPORT

14:51:10  
06/29/90

PAGE: 13  
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-00075

| WR ELEMENT                | FIELD EXAM<br>Y/N | CORRESPONDENCE<br>SENT/RECEIVED<br>BY WHOM/DATE | FIELD EXAM<br>BY WHOM/DATE | CHANGE<br>CLAIM<br>Y/N | VERIFIED BY<br>CODE | COMPLETED<br>REVIEW<br>WHOM/DATE | COMPLETED<br>DATA ENTRY<br>WHOM/DATE | VERIFIED<br>DATE<br>WHOM/DATE |
|---------------------------|-------------------|-------------------------------------------------|----------------------------|------------------------|---------------------|----------------------------------|--------------------------------------|-------------------------------|
| PRIORITY DATE             |                   |                                                 |                            | DISALLOW               | 1,2,4,5             | See<br>8-4-92                    | RD                                   |                               |
| POINT OF DIV              | Y                 |                                                 |                            |                        |                     |                                  |                                      |                               |
| SOURCE                    | Y                 |                                                 |                            |                        |                     |                                  |                                      |                               |
| PLACE OF USE              | Y                 |                                                 |                            |                        |                     |                                  |                                      |                               |
| DIV. AMOUNT<br>CFS/VOLUME |                   |                                                 |                            |                        |                     |                                  |                                      |                               |
| CONSUMPTIVE USE           | -                 |                                                 |                            |                        |                     |                                  |                                      |                               |
| PURPOSES                  |                   |                                                 |                            |                        |                     |                                  |                                      |                               |
| PERIOD OF USE             | Y                 |                                                 |                            |                        |                     |                                  |                                      |                               |
| BASIS OF CLAIM            |                   |                                                 |                            |                        |                     |                                  |                                      |                               |
| REMARKS                   |                   |                                                 |                            |                        |                     |                                  |                                      |                               |

"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.

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\* DISALLOW

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
ADJUDICATION CLAIM VERIFICATION REPORT

14:51:10  
06/29/90

PAGE: 1  
GENERAL INFORMATION

CLAIM NUMBER: A36-00075

LAST: KNEELAND  
ADDRESS: 117 SKYLANE DRIVE  
CITY: SUN VALLEY  
PHONE NUMBER: 208-726-9311

FIRST: GEORGE  
STATE: ID ZIP: 83353

OWNER CODE: C

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

FIRST: WILLA  
STATE: ID ZIP: 00000

OWNER CODE: O

LAST: SIMPSON  
ADDRESS: 17865 U.S. HWY. 30  
CITY: BLISS  
PHONE NUMBER: 208-837-6230

FIRST: OWEN  
STATE: ID ZIP: 83314

OWNER CODE: C

LAST: SIMPSON  
ADDRESS: RT. 2  
CITY: HAGERMAN  
PHONE NUMBER: 208-000-0000

FIRST: JOSEPHINE  
STATE: ID ZIP: 83332

OWNER CODE: O

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

NO REMARKS IN CLAIM

DATABASE  
N

FIELD  
EXAMINER

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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:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*See A36-00071 A*

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A. AJ CLAIM: # A36-00075 PRIORITY DATE: 06-26-1881 STAGE: D  
B. WR RECORD: # 36-00075 PRIORITY DATE: 06-26-1881 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:  
06-26-1881

REVIEWED BY See

DATE 10-2-90

=====

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A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

| RIGHT     | TWP. | RGE. | SEC. | 1/4 | 1/4 | 1/4 | LOT | CNTY    |
|-----------|------|------|------|-----|-----|-----|-----|---------|
| A36-00075 | 07S  | 13E  | 2    | NE  | SE  | SE  |     | GOODING |

OTHER AJ CLAIMS WITH SAME AJ POD  
A PREFIX R PREFIX  
NONE NONE

WR RECORDS IN SAME 40 ACRE TRACT

36-00054  
36-07089

SOURCE: SPRING NO. FOUR

TRIB: SNAKE RIVER

B. WR POINT OF DIVERSION AND SOURCE:

| RIGHT    | TWP. | RGE. | SEC. | 1/4 | 1/4 | 1/4 | LOT | CNTY    |
|----------|------|------|------|-----|-----|-----|-----|---------|
| 36-00075 | 07S  | 13E  | 2    |     | SE  | SE  |     | GOODING |

OTHER WR RECORDS WITH SAME WR POD

AJ CLAIMS IN SAME 40 ACRE TRACT  
A PREFIX R PREFIX

36-00054  
36-07089

A36-10356  
A36-00054B NONE

SOURCE: SPRING NUMBER FOUR

TRIB: SNAKE RIVER

C. FIELD EXAM REQUIRED?

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

REMARKS:

*No Diversion found - no delivery system or irrigation system.  
per. field exam 2-6-92  
see*

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RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

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

|       |       |       |       |       |       |       |       |
|-------|-------|-------|-------|-------|-------|-------|-------|
| _____ | _____ | _____ | _____ | _____ | _____ | _____ | _____ |
|-------|-------|-------|-------|-------|-------|-------|-------|

SOURCE: SPRING <sup>NO.</sup> FOUR  
REVIEWED BY: SEC

TRIB: SNAKE RIVER  
DATE: 10-2-90

as claimed

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A. ROOT WATER RIGHT NUMBERS: A36-00075

B. POU LISTING

| TWP         | RNG | SEC | 1/4 | 1/4 | LOT | NAME                  | AJ<br>#/ACRES    | WR<br>#/ACRES  | LANDSAT<br>DATA | FIELD<br>EXAM. | RECOMM.<br>ACRES |
|-------------|-----|-----|-----|-----|-----|-----------------------|------------------|----------------|-----------------|----------------|------------------|
| 07S         | 13E | 2   | SE  | SE  |     | KNEELAND , GEORGE     | A36-00075 /14.0  | 36-00075 /14.0 | 14.0            |                | 14.0             |
|             |     |     |     |     |     | LAUGHLIN , CRAIG J.   | A36-00051D / 3.0 | - /            |                 |                |                  |
|             |     |     |     |     |     | ANDERSON , ANITA      | A36-00073 /      | 36-00073 /22.0 |                 |                |                  |
|             |     |     |     |     |     | KISER , JOHN F.       | A36-10356 /      | - /            |                 |                |                  |
|             |     |     |     |     |     | SIMPSON , OWEN        | A36-00071A /14.0 | - /            |                 |                |                  |
|             |     |     |     |     |     | LAUGHLIN , CRAIG J.   | A36-07089 / 3.0  | 36-07089 /15.0 |                 |                |                  |
|             |     |     |     |     |     | ANDERSEN , ANITA      | A36-00074 / 1.5  | 36-00074 /22.0 |                 |                |                  |
|             |     |     |     |     |     | GLAUNER , JOHN        |                  | 36-00051 /     |                 |                |                  |
|             |     |     |     |     |     | GLAUNER , JOHN        |                  | 36-00054 /     |                 |                |                  |
|             |     |     |     |     |     | JUSTICE , WILLA       |                  | 36-00071 /     |                 |                |                  |
|             |     |     |     |     |     | ANDERSEN , JACKIE RAY |                  | 36-00072 /22.0 |                 |                |                  |
| 07S         | 13E | 2   | SE  | SE  |     | KNEELAND , GEORGE     | A36-00075 /      | 36-00075 /14.0 | 14.0            |                |                  |
|             |     |     |     |     |     | LAUGHLIN , CRAIG J.   | A36-00051D / 3.0 | - /            |                 |                |                  |
|             |     |     |     |     |     | ANDERSON , ANITA      | A36-00073 /      | 36-00073 /22.0 |                 |                |                  |
|             |     |     |     |     |     | KISER , JOHN F.       | A36-10356 /      | - /            |                 |                |                  |
|             |     |     |     |     |     | SIMPSON , OWEN        | A36-00071A /14.0 | - /            |                 |                |                  |
|             |     |     |     |     |     | LAUGHLIN , CRAIG J.   | A36-07089 / 3.0  | 36-07089 /15.0 |                 |                |                  |
|             |     |     |     |     |     | ANDERSEN , ANITA      | A36-00074 / 1.5  | 36-00074 /22.0 |                 |                |                  |
|             |     |     |     |     |     | GLAUNER , JOHN        |                  | 36-00051 /     |                 |                |                  |
|             |     |     |     |     |     | GLAUNER , JOHN        |                  | 36-00054 /     |                 |                |                  |
|             |     |     |     |     |     | JUSTICE , WILLA       |                  | 36-00071 /     |                 |                |                  |
|             |     |     |     |     |     | ANDERSEN , JACKIE RAY |                  | 36-00072 /22.0 |                 |                |                  |
| TOTAL ACRES |     |     |     |     |     |                       | A36-00075        | 14.00          | 28.00           | 28.00          |                  |

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

C. FIELD EXAM REQUIRED?

DUE TO POU DISCREPANCY? (Y/N)

DATABASE  
Y

FIELD  
EXAMINER

YES

NAPP (5)

RECEIVED  
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PRESUMPTION FLAG:

REMARKS:

No Use Found

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RECOMMENDATIONS:

TOTAL ACRES:

REVIEWED BY:

Ø  
SCL

DATE:

3-6-91

A. AJ CLAIMED USES:

| PURPOSES                            | MONTH/DAY           | DIVERSION QUANTITY |
|-------------------------------------|---------------------|--------------------|
| A36-00075 IRRIGATION                | FROM 03-15 TO 11-15 | .280 CFS           |
| A36-00075 DOMESTIC                  | FROM 01-01 TO 12-31 | .020 CFS           |
| TOTAL DIVERSION RATE/VOLUME CLAIMED |                     | .300 CFS           |

B. WR RECORDED USES:

| PURPOSES                            | MONTH/DAY           | DIVERSION QUANTITY  |
|-------------------------------------|---------------------|---------------------|
| 36-00075 IRRIGATION                 | FROM TO             | .280 CFS 56.00 AF/A |
| 36-00075 DOMESTIC                   | FROM 01-01 TO 12-31 | .020 CFS .80 AF/A   |
| TOTAL DIVERSION RATE/VOLUME CLAIMED |                     | .300 CFS            |

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

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

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

Y(✓) N( )

RECOMMEND TO WR STANDARDS OR OTHER?

Y( ) N(✓) Explain in remarks, below.

REMARKS:

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A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y( 1 ) N(    )

AJ TOTAL CLAIMED DIVERSION RATE: 0.300 CFS  
WR ROOT RIGHT TOTAL DIVERSION RATE: 0.300 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( Y ) N(    ) IF YES COMPLETE OVERLAP REVIEW.

OTHER RIGHTS LISTED IN CLAIM: A36-00071A

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

| CLAIM      | SOURCE            | NAME                | DIV. RATE | DIV. RATE/ACRE | DIV. VOL. | DIV. VOL./ACRE |
|------------|-------------------|---------------------|-----------|----------------|-----------|----------------|
| A36-00075  | SPRING NO. FOUR   | KNEELAND , GEORGE   | 0.300     | 0.021          |           |                |
| A36-00051D | BILLINGSLEY CREEK | LAUGHLIN , CRAIG J. | 0.600     | 0.040          |           |                |
| A36-00074  | SPRING NO. THREE  | ANDERSEN , ANITA    | 0.400     | 0.026          |           |                |

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

| CLAIM NO.  | PURPOSES   | NAME              | MONTH/DAY           | RATE     | VOLUME |
|------------|------------|-------------------|---------------------|----------|--------|
| A36-00075  | DOMESTIC   | KNEELAND , GEORGE | FROM 01-01 TO 12-31 | .020 CFS |        |
| A36-00073  | DOMESTIC   | ANDERSON , ANITA  | FROM 01-01 TO 12-31 | .200 CFS |        |
| A36-00073  | STOCKWATER | ANDERSON , ANITA  | FROM 01-01 TO 12-31 | .100 CFS |        |
| A36-10356  | DOMESTIC   | KISER , JOHN F.   | FROM 01-01 TO 12-31 | .040 CFS |        |
| A36-00071A | 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)

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

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

1b. CALCULATIONS

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 42.0 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.)

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RECOMMENDATIONS:

REC.  
PURPOSES

REC. PERIOD  
FROM TO

REC. DIV  
RATE CFS

REC. DIV  
VOL. AF/A

REC. CONS.  
USE

~~IRRIGATION~~

~~03-15 11-15~~

~~0.280~~

~~0.020~~

~~42.0~~

~~DOMESTIC~~

~~01-01 12-31~~

~~0.020~~

~~0.300~~

~~0.300~~

TOTAL FOR THIS RIGHT

REVIEWED BY:

DATE:

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A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP \_\_\_\_\_

FORFEIT/ABANDON \_\_\_\_\_

ADDITIONAL DIV. AMOUNT \_\_\_\_\_

ACCEPTED  
AS CLAIMED

( )  
( )  
( )

NEEDS  
REVIEW

( )  
( )  
( )

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-00075

TOTAL DIVERSION RATE OF WR SPLITS

DATABASE  
0.300

EXAMINER  
\_\_\_\_\_

CFS

SPLITS:

OLD RIGHT  
NUMBERS

CURRENT  
CLAIM NUMBERS

DIVERSION  
RATE

CURRENT "R"  
CLAIM NUM.

"R" DIV.  
RATE

WR RIGHT  
NUMBERS

DIVERSION  
RATE

-

A36-00075

0.300

-

36-00075

0.300

TOTAL CFS

0.300

0.300

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  
\_\_\_\_\_  
\_\_\_\_\_

REMARKS:

AUTHENTICATION:

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

DATE: \_\_\_\_\_

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

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

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A36-00075  
Simpson

JOHN BELL  
DITCH →



VIEW NORTH  
OWEN SIMPSON'S POU  
NO IRRIGATION - NO DIVERSION  
NO SYSTEM

PHOTO BY  
STEVE  
CLELLAND  
3-12-91

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