

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
~~39396~~

Ident. Number

A36-00085A

Date Received

8/29/1988

Receipt Number

5001891 *ca*

COPY
FOR YOUR FILES
DO NOT RETURN

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

Please type or print clearly

1. Name of Claimant (s) Marilyn J. (Waite) Miller Phone (208) 733-8003
Mailing Address 2134 Highland, Twin Falls, Idaho Zip 83301
2. Date of Priority (Only one (1) per claim) Sept. 20, 1884
3. Source of water supply (a) Buckeye Creek
which is tributary to (b) Billingsley Creek
4. a. Location of existing point of diversion is: Township 07S Range 13E Section 14,
1/4 of SE 1/4 of NW 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.
Via Buckeye Ditch

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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 3/15 to 11/15 amount 0.200 or _____
- For _____ purposes from _____ to _____ amount _____ or _____
- For _____ purposes from _____ to _____ amount _____ or _____
- For _____ purposes from _____ to _____ amount _____ or _____
7. Total quantity claimed (a) 0.200 (cfs) and/or (b) _____ (acre feet)
8. Total consumptive use claimed is _____ acre feet per annum.
9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____
10. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
 - 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	
07S	13E	14								4.3									4.3

Total number of acres irrigated 4.3

11. In which county (ies) are lands listed above as place of use located? Gooding
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.
See remarks. or None ()
14. Remarks:

Portion of the 36-0085 Decree - Block A-82, A-83 & A-84

Last Name Miller Ident No. A36-00085A

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

of said section, township and range aforesaid; thence east along the south boundary of said subdivision 433 feet to the center of the said "Brailsford Ditch; thence following the center channel of said ditch north 19 degrees 34' west 170 feet; thence north 46 degrees 14' west 165 feet; thence north 9 degrees 29' west 722 feet; thence north 20 degrees 15' west 360 feet to the northwest corner of said subdivision; thence south along the west boundary line of said subdivision 1330 feet to the place of beginning."

Also the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 35, Twp. 7 S. R. 13 less the north 2 $\frac{1}{2}$ acres thereof now belonging to one W. C. Barton, said exception being that portion of said tract of land lying north of the public highway.

36-0085 PARROTT,
MRS. FLOR-
ENCE.

1.2 Billingsley Creek Sept. 10, 1884 Buckeye Ditch;

A certain tract of land commencing 204.3 feet west of the southeast corner of Block No. 10 and continuing along said line west 195.7 feet to the southwest corner of said Block, thence north along said block line 269.3 feet to the northwest corner of said block; thence east along said block line 297 feet; thence in a south-westerly direction 287.7 feet to the point of beginning containing 1.52 acres more or less, all in Block No. 10, of the Townsite of Hagerman, according to the map or plat on file in the office of the Recorder of Gooding County, Idaho;

Also Lots 1 to 7 inclusive and 10 to 16 inclusive of Block 9, Lots 3, 4, 7, 10, 11, 12, 14, 15, 16, in Block 8, Lots 9, 10, 11, 12, 13, 14, 15 and 16 in Block 5 of Hagerman Townsite, according to the map or plat thereof on file in the office of the Recorder of Gooding County, Idaho.

PENFOLD,
JOHN T.,
AND EMMA
PENFOLD

2 Spring Feb. 1, 1888 Weatherby Springs;

The SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 25, Twp. 7 S. R. 13 E. B. M. and that portion of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 25, known as Tax No. 3, and more particularly described as follows, to-wit: Beginning at a point on the East line of the southwest quarter of Sec. 25, Twp. 7 S. R. 13 E. B. M. 1590 feet north of the southeast corner of said SW $\frac{1}{4}$ of Sec. 25, thence running north 34 degrees West 463 feet; thence North 20 degrees, west 685 feet to within 15 feet of the North boundary of said SW $\frac{1}{4}$ 18 minutes east 500 feet

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JAN 2 1955

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OCT 12 1994

15. Basis of Claim (check one) Be ☐ Special Use ☐ Posted Notice ☐ L ☐ se ☐ Permit ☐
Decree ☒
If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____
Plaintiff vs 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 do solemnly swear or affirm that the statements contained in the foregoing document are true
and correct.

Signature of Claimant (s) *Thelma J. Miller* Date 8/28/88

Date _____

For Organizations: I do solemnly swear or affirm that I am _____ Title _____
of _____, that I have signed the foregoing
Organization
document in the space below as _____ of _____
Title Organization
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____
Title and Organization _____ Date _____

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

Subscribed and sworn (or affirmed) before me this 28th day of AUGUST 19 88
SEAL Notary Public *Lawrence A. McLean*
Residing at STARLEY, IDAHO
My Commission Expires APRIL 24, 1991

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 _____

MICROFILMED

JAN 2 1989
MICROFILMED

Last Name Miller Ident. Number A36-00085A

Copies White State, Yellow Claimant
OCT 12 1991

INPUT: AJ_SELECTION:HHT-NOA-BROWN1.SEL

TYPE OF ACTION: ADD

MODIFY ALL FIELDS FLAG:

LAST NAME: BROWN

ADDRESS LINE 1: HEPWORTH NUNGESTER LEZAMIZ

ADDRESS LINE 3: PO BOX 389

CITY: TWIN FALLS

STATE: ID ZIP: 833030389

FIRST NAME: PATRICK D

ADDRESS LINE 2:133 SHOSHONE ST N

PHONE NUMBER: (208) 734-7510

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

MICROFILMED
OCT 12 1994

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

RECEIVED

FEB 22 1993

Department of Water Resources
Adjudication Bureau

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

12 * * * * *

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

Case No. 39576

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

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

23 Petitioner,)

24 vs.)

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

29 Respondents.)
30 _____)

31 * * * * *

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



Hepworth,
Nungester,
& Lezamiz

SUPPLEMENTAL NOTICE OF APPEARANCE - 1

MICROFILMED
OCT 12 1994

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

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

DATED This 19 day of February, 1993.

HEPWORTH, NUNGESTER & LEZAMIZ

By 
PATRICK D. BROWN
Attorneys for Respondents

CERTIFICATE OF MAILING

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



Hepworth,
Nungester,
& Lezamiz

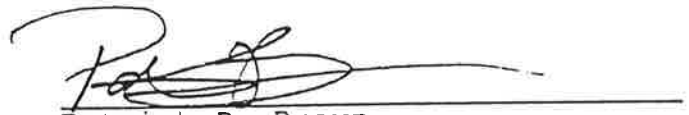
SUPPLEMENTAL NOTICE OF APPEARANCE - 2

MICROFILMED
OCT 12 1994

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

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

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

14 
15 Patrick D. Brown



Hepworth,
Nungester,
& Lezamiz

SUPPLEMENTAL NOTICE OF APPEARANCE - 3

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: 39576

Ident. Number: A36-00085A
Date Received: 8/30/1988
Receipt No: S001891
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: MARILYN J. MILLER 208-733-8003
Address: 2134 HIGHLAND
TWIN FALLS, ID 83301

2. Date of Priority: SEP 20, 1884

3. Source: BUCKEYE CREEK Trib. to: BILLINGSLEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07S	13E	14	SE		NW		GOODING

5. Description of diverting works:
VIA BUCKEYE DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.200		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	13E	14	SE	NW		IRR	4.3

Section Acres 4.3

Total Acres 4.3

A36-00085A

Page 1

Date: 08/30/88

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JAN 21 1993

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
SEE REMARKS

14. Remarks:
PORTION OF THE 36-0085 DECREE. BLOCK A-82, A-83, & A-84

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

Decree Plaintiff

vs

Decree Defendant

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): _____ 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 _____

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

In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 36-00085A

200 DEC 13 PM 3:25

FILED
TWIN FALLS CO., IDAHO

NAME AND ADDRESS: MARILYN J. MILLER
2593 E 3700 N
TWIN FALLS, ID 83301

SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 0.20 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE
SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 09/10/1884

POINT OF DIVERSION: T07S R13E S11 SESENE Within Gooding County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	02-15 TO 11-30	0.20 CFS
	Stockwater	02-15 TO 11-30	0.02 CFS
	Stockwater	12-01 TO 02-14	0.03 CFS

PLACE OF USE: Irrigation Within Gooding County
T07S R13E S14 SENW 4.3
4.3 Acres Total

Stockwater Within Gooding County
T07S R13E S14 SENW

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
USE.

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

RULE 54(b) CERTIFICATE

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

B Wood

Barry Wood
Administrative District Judge
Presiding Judge of the
Snake River Basin Adjudication

MAD ANALYSIS

36-00085A
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DEC 08 1998

MAIL



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Department of Water Resources
Southern Region

DEC 07 1998

Department of Water Resources
Adjudication Bureau

1998 DEC -2 PM 2:05

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 36-00085A
	)	Amended
Case No. 39576	)	SPECIAL MASTER'S REPORT
_____	)	

FINDINGS OF FACT

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

An objection to the *Director's Report* for water right 36-00085A was filed. Subsequently, a *Standard Form 5* was filed as to how the elements of this water right should be decreed. The *Standard Form 5* was accepted by the court.

After the *Standard Form 5* was filed, the court issued a *Special Master's Report and Recommendation for Partial Decree*. Subsequently, a *Motion to Alter or Amend* was filed by the North Snake Ground Water District (NSGWD) after which the court issued an *Order Granting, in Part, and Denying, in Part, Motions to Alter or Amend* (Mar. 17, 1998), adopted herein by reference. In that order, the court determined that the *Standard Form 5* would be treated as a Supplemental Director's Report to which all parties to the SRBA could object. No parties filed objections.

Furthermore, NSGWD was required to file objections to those portions of the Supplemental Director's's Report to which it took exception, or, in the alternative, it was required to file a voluntary dismissal of the action under I.R.C.P. 41(a)(1). NSGWD did not file either an objection or voluntary dismissal. All time for filing objections has expired.

CONCLUSIONS OF LAW

IT IS THEREFORE RECOMMENDED that water right 36-00085A be decreed as recommended in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED December ____, 1998.



FRITZ X. HAEMMERLE
Special Master, Snake River Basin Adjudication

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

In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 36-00085A

1998 DEC -2 PM 2:05
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

NAME AND ADDRESS: MARILYN J. MILLER
2593 E 3700 N
TWIN FALLS, ID 83301

SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 0.20 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE
SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 09/10/1884

POINT OF DIVERSION: T07S R13E S11 SESENE Within Gooding County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	0.20 CFS
	Stockwater	03-15 TO 11-15	0.02 CFS
	Stockwater	11-16 TO 03-14	0.03 CFS

PLACE OF USE: Irrigation Within Gooding County
T07S R13E S14 SENW 4.3
4.3 Acres Total

Stockwater Within Gooding County
T07S R13E S14 SENW

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
USE.

RULE 54(b) CERTIFICATE

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

Daniel C. Hurlbutt, JR.
Presiding Judge
Snake River Basin Adjudication

RECOMMENDATION

DEC - 2 1998

[Signature]
SPECIAL MASTER

1998 DEC -2 PM 2: 06

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA)

CERTIFICATE OF MAILING

Case No. 39576)

Water Right(s): 36-00085A

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on December 02, 1998, with sufficient first-class postage prepaid to the following:

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

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

NORTH SNAKE GROUNDWATER DIST
Represented by:
JOSEPHINE P. BEEMAN
PO BOX 1427
BOISE, ID 83701-1427
Phone: 208-388-8900

CERTIFICATE OF MAILING

PAGE 1
12/02/98

1998 DEC -2 PM 2: 05

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO

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

In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 36-00085A

On December 02, 1998, Special Master FRITZ X HAEMMERLE issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (A01), Section 13a.

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

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

DATED December 02, 1998.


TERI HRANAC
Deputy Clerk

RECEIVED

MAR 02 1998

Department of Water Resources
Southern Region

NOTICE OF DIRECTOR'S REPORT FOR AMENDED CLAIM NO. 36-00085A

Attached to this notice is the Idaho Department of Water Resources' (IDWR) Director's Report in the Snake River Basin Adjudication (SRBA) for the amended claim listed above. IDWR provides individual reports like this one to claimants amending their claims or asserting late claims in your area. In addition this notice is reported on the Court's monthly docket sheet. The originals of both this notice and the director's recommendation of this amended claim are available at the SRBA Courthouse in Twin Falls for review by any water right claimant, other party to the SRBA, or other member of the public. Copies are also available for review at the locations listed at the end of this notice. Copies of the notice and recommendation can be made, but you may be charged for copying and mailing.

INSTRUCTIONS FOR REVIEWING THIS WATER RIGHT CLAIM

The water right description that is attached to this notice is only IDWR's recommendation to the SRBA Court as to how this claim should be decreed. The claimant of this water right had previously objected to IDWR's recommendation of it. At the initial hearing on the claimant's objection, the court granted the claimant leave to file an amended claim. IDWR and the claimant have already agreed that the amended claim should be decreed as described in the attached recommendation. You are free to agree or disagree with IDWR's recommendation. If you disagree with the recommendation, you need to file an objection to it, as described below. If someone else files an objection to this recommendation, and you disagree with the objection, you may file a response to the objection, as described below.

INSTRUCTIONS FOR TAKING THESE WATER RIGHT CLAIMS TO COURT

What do I do if I disagree with IDWR's recommendation of this amended claim?

If you disagree with any element of the recommendation of this water right claim and want to be heard in court, file an objection with the SRBA Court. Objections must be made on the standard objection form available from any IDWR office or from the SRBA Court. You must use a separate objection form for each water right you object to. According to the court order entered by the SRBA Special Master who granted the claimant leave to file this amended claim, your objection must be received by the SRBA Court by no later than 60 days after this notice appears on the monthly court docket sheet.

What do I do if someone else objects to this water right recommendation?

If you are the claimant of this water right and somebody else objects to it, you will receive a copy of the objection. If you are not the claimant, but wish to know if somebody else has objected, you must contact the SRBA Court after the objection deadline to find out if objections have been filed. If somebody has filed an objection, you may file a response to the objection. Responses to objections must be made on the standard response form available from any IDWR office or from the SRBA Court. According to the court order entered by the SRBA Special Master who granted the claimant leave to file this amended claim, your response must be received by the SRBA Court by **no later than 90 days after this notice appears on the monthly court docket sheet.** (This is 30 days after the due date for filing objections.)

What happens if there are no objections to this water right recommendation?

After the deadline for filing objections, if no objections have been filed to this water right recommendation, the Special Master will issue his recommendation to the SRBA Presiding Judge as to how this amended claim should be decreed. A partial decree will be issued after the Special Master has made his recommendation to the Presiding Judge.

How will I know about the proceedings on water right recommendations to which objections were filed?

If you file either an objection or a response to an objection to this water right recommendation you will mailed a notice of upcoming court dates. If you are the claimant of this water right claim, and somebody else has filed either an objection or a response, you also will be mailed a notice of upcoming court dates.

NOTE: The SRBA Court publishes a monthly Docket Sheet listing all objections and responses filed. It does not list court dates for individual water right cases, but provides general information helpful to all participants in the SRBA.

The Docket Sheet is available at your county courthouse and all IDWR offices, or you may subscribe by contacting the SRBA Court or IDWR. The annual subscription fee is \$7.50.

ADDITIONAL INFORMATION

If you have questions about the SRBA, public information brochures are available at any IDWR office. Maps and aerial photography of your reporting area, as well as assistance in using the maps and the photography, are available at the IDWR office in your area. You are also welcome to call IDWR at any of its offices or the SRBA Court. You may also want to consider contacting an attorney to assist you. Copies of this notice and IDWR's attached recommendation are available for inspection and copying at any of the locations listed on the following page.

Snake River Basin Adjudication*District Court*

253 Third Avenue North

P.O. Box 2707

Twin Falls, Idaho 83303-2707

Telephone (208) 736-3011

Idaho Department of Water Resources*Southern Region*

1341 Fillmore Street Suite 200

Twin Falls, Idaho 83301-3380

Telephone (208) 736-3033

Idaho Department of Water Resources*Western Region*

2735 Airport Way

Boise, Idaho 83705-5082

Telephone (208) 334-2190

Idaho Department of Water Resources*Eastern Region*

900 North Skyline Suite A

Idaho Falls, Idaho 83402-3653

Marilyn J. Miller

2134 Highland

Twin Falls, ID 83301

Office of Attorney General**State of Idaho**

P.O. Box 44449

Boise, ID 83711-4449

**Clive Strong, Chief Natural
Resources Div.****Minidoka County Courthouse***Minidoka County Clerk's Office*

715 G Street

Rupert, ID 83350

Telephone (208) 436-9511

Idaho Department of Water Resources*State Office*

1301 North Orchard Street

P.O. Box 83720

Boise, Idaho 83720-0098

Telephone (208) 327-7900

(800) 451-4129

Idaho Department of Water Resources*Northern Region*

1910 Northwest Blvd. Suite 210

Coeur d'Alene, Idaho 83814-2615

Telephone (208) 765-1450

U.S. Dept. of Justice

Environment & Natural Resources Div.

550 West Fort Street, MSC 033

Boise, ID 83724

Josephine Beeman

608 West Franklin Street

P.O. Box 1427

Boise, ID 83701-1427

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

DATE: FEB-23-1998

PAGE: A-1

RIGHTS FROM: SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

RIGHT NUMBER: 36-00085A

NAME AND ADDRESS: MARILYN J MILLER
2593 E 3700 N
~~2134 N 1800 W~~
TWIN FALLS ID 83301

SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 0.2 CFS
~~0.175 0.75~~

THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE
SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 09/10/1884
~~09/20/1884~~

POINT OF DIVERSION: T07S R13E S11 SESENE Within GOODING County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION		<u>Irrigation Season</u>	<u>0.2 CFS</u>
		~~03/13 11/13~~	~~0.175 0.75~~
STOCKWATER		<u>Irrigation Season</u>	<u>0.02 CFS</u>
STOCKWATER		<u>Non-Irrigation Season</u>	<u>0.03 CFS</u>

PLACE OF USE: IRRIGATION Within GOODING County
T07S R13E S14 SENW 4.3
4.3 ACRES TOTAL

Place of use for STOCKWATER is same as IRRIGATION

Place of use for STOCKWATER is same as IRRIGATION

CONSUMPTIVE USE: 1219 AFD

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
USE.

WATER IS DELIVERED THROUGH THE BUCKEYE DITCH

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

DATE: FEB-23-1998

PAGE: A-2

36-00085A (CONT.)

A DIVERSION RATE OF 0.174 CFS AT THE FIELD HEADGATE IS
RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.

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

PROPERTY IS ALSO KNOWN AS A PORTION OF BLK A-82, A-83 AND
A-84 OF THE HAGERMAN TOWNSITE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

PROPERTY IS ALSO KNOWN AS A PORTION OF BLK A-82, A-83 AND
A-84 OF THE HAGERMAN TOWNSITE.

WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.

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

DATE: NOV-14-1997

PAGE: A-1

RIGHTS FROM: SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

RIGHT NUMBER: 36-00085A

NAME AND ADDRESS: MARILYN J MILLER
2593 E 3700 N
2134 HIGHWAY
TWIN FALLS ID 83301

VERIFIED BY RB 11-14-97

SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 0.2 CFS
0.175 CFSTHE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE
SHALL NOT EXCEED 13,000 GALLONS PER DAY.PRIORITY DATE: 09/10/1884
09/20/1884

POINT OF DIVERSION: T07S R13E S11 SESENE Within GOODING County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	<u>Irrigation Season</u>	0.2 CFS
		03/15 11/15	0.175 CFS
	<u>STOCKWATER</u>	<u>Irrigation Season</u>	0.02 CFS
	<u>STOCKWATER</u>	<u>Non-Irrigation Season</u>	0.03 CFS

PLACE OF USE: IRRIGATION Within GOODING County
T07S R13E S14 SENW 4.3
4.3 ACRES TOTALPlace of use for STOCKWATER is same as IRRIGATIONPlace of use for STOCKWATER is same as IRRIGATION

CONSUMPTIVE USE: 1219 APY

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
USE.

WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.

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

DATE: NOV-14-1997

PAGE: A-2

36-00085A (CONT.)

A DIVERSION RATE OF 0.174 CFS AT THE FIELD HEADGATE IS
RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.

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

PROPERTY IS ALSO KNOWN AS A PORTION OF BLK A/82, A/83 AND
A/84 OF THE HAGERMAN TOWNSITE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

PROPERTY IS ALSO KNOWN AS A PORTION OF BLK A-82, A-83 AND
A-84 OF THE HAGERMAN TOWNSITE.

WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.

RECEIVED

JAN 02 1998

Department of Water Resources
Southern Region

OCT 21 1997

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA

Case No. 39576

SUBCASE(S) 36-00085A

SPECIAL MASTER'S REPORT

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

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

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

DATED: 10-21-97



Special Master
Snake River Basin Adjudication

RECEIVED

JAN 02 1998

Department of Water Resources
Southern Region

OCT 21 1997

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA

Case No. 39576

SUBCASE(S): 36-00085A

NOTICE OF ISSUANCE and SERVICE

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

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

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

Representative of IDWR:

Charles Hunsinger

Marilyn Miller
Claimant/Attorney

Claimant/Attorney

Representative of U.S. Dept. of Justice

Party/Attorney

Party/Attorney

DATED 10-21-97

Debbie Lash
Deputy Clerk

RECEIVED

JAN 02 1998

Department of Water Resources
Southern Region

OCT 21 1997

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA

Subcase(s) 36-00085A

Case 39576

STANDARD FORM 5

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

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

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

Date: 10/21/97

Charles Z. Honsinger
IDWR Concurrence

Pauline J. White Miller
Claimant

Pauline J. White Miller
Objector

Claimant/Attorney

Objector/Attorney

Claimant/Attorney

Objector/Attorney

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

DATE: OCT-16-1997

PAGE: A-1

RIGHTS FROM: SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

RIGHT NUMBER: 36-00085A

NAME AND ADDRESS: MARILYN J MILLER
~~2134 HIGHLAND~~ 2593 E 3700 N
TWIN FALLS ID 83301

SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 0.18 CFS
.20PRIORITY DATE: 09/10/1884
09/20/1884

POINT OF DIVERSION: T07S R13E S11 SESENE Within GOODING County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	<u>Irrigation Season</u>	0.1820 CFS
	Stockwater	03/13 11/13 Irrigation Season	.02 CFS
	Stockwater	Non-Irrigation Season	.03 CFS

PLACE OF USE: IRRIGATION Within GOODING County
T07S R13E S14 SENW 4.3
4.3 ACRES TOTAL

CONSUMPTIVE USE: 12/9 AFY

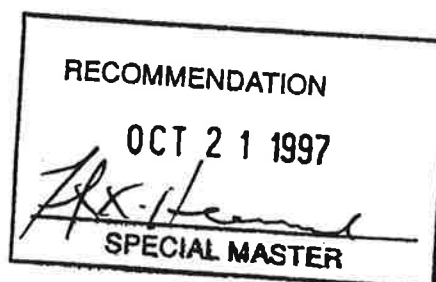
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

WATER IS DELIVERED THROUGH THE BUCKEYE DITCH/
A DIVERSION RATE OF 0.18 CFS AT THE FIELD HEADGATE IS
RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE/
0.01 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF THIS RIGHT/
PROPERTY IS ALSO KNOWN AS A PORTION OF BLK A/B2, A/B3 AND
A/B4 OF THE HAGERMAN TOWNSITE/

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

PROPERTY IS ALSO KNOWN AS A PORTION OF BLK A-82, A-83 AND
A-84 OF THE HAGERMAN TOWNSITE.

WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.
.01 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE LOSSES
IN DELIVERY OF THIS RIGHT.



[Signature] RB
C.2.H.

RECEIVED

JAN 02 1998

Department of Water Resources
Southern Region

OCT 21 1997

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA

Case No. 39576

Subcase(s) 36-00085A

ORDER GRANTING MOTION TO
FILE AN AMENDED NOTICE OF
CLAIM

A Motion to File an Amended Notice of Claim was filed on Oct 21, 1997, a hearing was held before the Special Master. Leave to amend a claim shall be freely given when justice so requires. For good cause appearing, the Motion to File an Amended Notice of Claim is granted.

DATED 10-21-97

Fritz X. Haemmerle
FRITZ X. HAEMMERLE

Special Master
Snake River Basin Adjudication

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the ORDER GRANTING MOTION TO FILE AN AMENDED NOTICE OF CLAIM was hand delivered on _____, to the following:

Marilyn Miller

IDWR

Debbie Lash

Deputy Clerk

RECEIVED

JAN 02 1998

Department of Water Resources
Southern Region

OCT 21 1997

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA

) Subcase 36-00085A

) (Insert water right number)

Case 39576

) STANDARD FORM 4

) MOTION TO FILE:

) ☐ LATE NOTICE OF CLAIM

) ☒ AMENDED NOTICE OF CLAIM

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a separate form for each late or amended Notice of Claim.

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.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it 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 is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

☒ I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

My name is MARILYN J. WAITE MILLER

My address is 2593 E 3700 N
TWIN FALLS ID 83301

My phone number is: Work 208-774-8265 Home 208-734-1204

I am an attorney representing _____

My name is _____

My address is _____

My phone number is _____

MOTION TO FILE A LATE NOTICE OF CLAIM

A Motion to File a Late Notice of Claim will require a hearing before the Presiding Judge.

☐ I did not file a Notice of claim to the use of water in the SRBA because:

☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

☐ I am providing legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you must attach a copy of your Notice of Claim.)

I have attached:

- ☐ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.
- ☐ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on _____
(Insert Date and Time)
at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A Motion to File an Amended Notice of Claim may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

- ☒ I must amend my Notice of Claim to the use of water in the SRBA because:

year-round stock water use was omitted in
original claim; stock use is historic for
this property

- ☐ I am providing legal and factual documentation to support my amended Notice of Claim.
You must describe these documents and attach a readable copy.

I have attached:

- ☐ An amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

VERIFICATION (Must be completed)

State of Idaho

County of Twin Falls

Marilyn Miller, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Marilyn Miller
Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on _____
(Insert Date)

Suphia Lash
Notary Public for State of Idaho
Residing at: Jerome
My Commission expires: 6-26-2002

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, 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
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

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

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

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

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that subcase.

(Insert Names/address of parties)

Signature of person or attorney mailing the form

SUBCASE NO. 36-00085A

	CLAIM (8/29/88)	AMENDED CLAIM	RECOMMENDATION	OBJECTION
NAME	Marilyn (Waite) Miller	N/A	Marilyn Miller	Marilyn Miller
BASIS OF CLAIM	Decree		Decree	
SOURCE	Buckeye Creek		Billingsley Creek	
QUANTITY	0.20 cfs		0.15 cfs	XX - requests that quantity be "increased to reflect the amount decreed and/or beneficially used if greater"
PRIORITY DATE	9/20/1884		9/20/1884	
PURPOSE OF USE	Irrigation		Irrigation	XX - requests irrigation and stockwater MSJ requests irrigation, stockwater, wildlife, recreation, aesthetics and "diversion system maintenance"
PERIOD OF USE	3/15 - 11/15		3/15 - 11/15	XX - requests year round use for both uses. MSJ requests irrigation season for irrigation and year round for other uses.
POINT OF DIVERSION	T07S R13E S14		T07S R13E S11	
PLACE OF USE	T07S R13E S14 4.3 acres		T07S R13E S14 4.3 acres	

remarks	"Portion of the 36-00085 decree. Block A-82, A83, & A84."		"Water is delivered through the Buckeye Ditch. A diversion rate of 0.14 cfs at the field headgate is recommended for the place of use described above. 0.01 cfs of this right is limited to use for conveyance losses in delivery of this right. Property is also known as a portion of blk A-82, A83 and A-84 of the Hagerman townsite."	XX - requests that all remarks be deleted after Buckeye Ditch. MSJ requests that all remarks be deleted.

**IDAHO DEPARTMENT OF WATER RESOURCES
SURFACE IRRIGATION ANALYSIS WORKSHEET**

WATER RIGHT NOS. 36-00085A

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

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

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

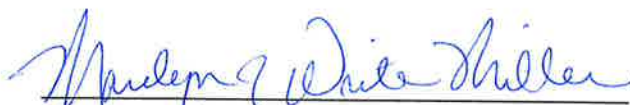
FORAGE/GRAIN/OTHER (hay, pasture, grain, mint)

90 %

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

10 %

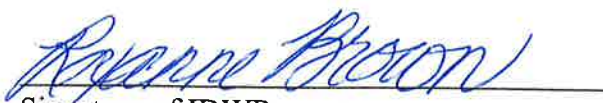
My total acreage is 4.3 acres.


Signature of Claimant

10/21/97
Date

Signature of Claimant

Date


Signature of IDWR agent

10/21/97
Date

HAGERMAN

Surface Irrigation Diversion Rate Analysis Sheet

WR#'s 36-00085A

SOIL	SOIL AC.	% ROW	ROW AC.	FIR ROW	CFS ROW	% FOR.	FOR. AC.	FIR FOR.	CFS FOR.
KOB	1.01	10	0.10	0.037	0.004	90	0.91	0.027	0.025
394	2.59	10	0.26	0.054	0.014	90	2.33	0.045	0.105
QUB	0.79	10	0.08	0.044	0.004	90	0.71	0.029	0.021
TOTALS	4.39		0.44		0.022		3.95		0.151

REC.
FIR

0.17 *

CFS

=

SUM

0.173

CFS

X

4.3

REC. AC.

4.39

GIS AC.

DATE

10/21/97

INIT.

[Signature]

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

DIVERSION CAPACITY OR LIC./DEC. AMOUNT MAY LIMIT

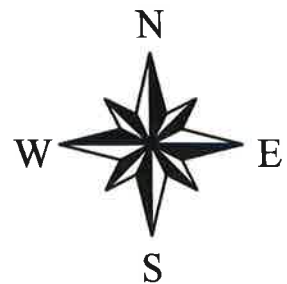
IDAHO DEPARTMENT OF WATER RESOURCES

36-00085A & 36-00085B



660 0 660 Feet

TNS 7S, RNG 13E
SEC 14, SENW



⊙ Recommended Point of Diversion

 Recommended Place of use

 Section lines

 Quarter/Quarter Lines

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

CLAIM NUMBERS 36-00085ADATE 10/14/97

TRANSFER NUMBER _____

OBJECTION FILED ☒AGENT [Signature]TOTAL ACRES FROM RECOMMENDATION 4.3GEOGRAPHIC INFO SYSTEM 4.4

RIGHT NO				NE				NW				SW				SE			
	TNS	RNG	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
RECOM	075	13E	14								4.3								4.3
GIS											4.39								4.39
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POLYGON #

UPDATED

B36-DBPOU.DBF 572 ✓

POLYGON CREATED ON 604 (✓)

ATTRIBUTES OF B36-POU.SHP (572)

B36-DBPOD.DBF 454 ✓ATTRIBUTES OF B36-POD.SHP (454) SESENE-11

(Buckeye Ditch)

Revised acres & shape file in Settlement meeting w/ claimants.
Settlement on 10/21/97. see 10/29/97

P/U CONFLICT yes () no (✓)

P/D CONFLICT yes () no (✓)

READY FOR DECREE yes (X) no ()

SENT FOR DECREE yes (X) no ()

Settled 10/21/97

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DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

REPORT REGARDING CLAIM TO WATER RIGHT NO. 36-00085A

In Re SRBA

Twin Falls County Civil Case No. 39576

Sub-Case No. 36-00085A

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources

Karl J. Dreher, Director

David B. Shaw, Adjudication Bureau Chief

David R. Tuthill Jr., Acting Adjudication Bureau Chief

July 1, 1996

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DEC 03 1996

REPORT REGARDING CLAIM TO WATER RIGHT NO. 36-00085A

The Director of the Idaho Department of Water Resources (IDWR) submits this report regarding claim to water right no. 36-00085A in response to the request of Special Master Haemmerle, pursuant to Idaho Code §42-1412(4) and the court's Order Re: Contested Claims for Amounts Claimed in Excess of .02 CFS. This report was prepared under the supervision of Karl J. Dreher, Director, David B. Shaw, Adjudication Bureau Chief, and David R. Tuthill Jr., Acting Adjudication Bureau Chief for IDWR. The following persons assisted in the preparation of the following portions of this report:

David B. Shaw, Adjudication Bureau Chief, reviewed and verified this Report Regarding Claim to Water Right No. 36-00085A. The Affidavit of David B. Shaw describes Mr. Shaw's education and work experience, and is incorporated by reference herein. Mr. Shaw also reviewed IDWR's Report Regarding Evaluation of Irrigation Diversion Rates, described below.

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

David R. Tuthill Jr., Acting Adjudication Bureau Chief, prepared IDWR's Report Regarding Consumptive Use for Irrigation in the Hagerman Area, which is incorporated by reference herein. Mr. Tuthill also reviewed this Report Regarding Claim To Water Right No. 36-00085A. The Affidavit of David R. Tuthill Jr. describes Mr. Tuthill's education and work experience, and is incorporated by reference herein.

Marci S. Sterling, Adjudication Engineer, prepared and verified Appendix B, which describes the application of IDWR's methodology for evaluation of irrigation diversion rates to claim no. 36-00085A. Appendix B is incorporated by reference herein. The Affidavit of Marci S. Sterling describes Ms. Sterling's education and work experience, and is incorporated by reference herein.

Steven C. Clelland, Senior Water Resource Agent, investigated and prepared the preliminary recommendation for claim no. 36-00085A, and prepared Appendix C. The Affidavit of Steven C. Clelland describes Mr. Clelland's education and work experience, and is incorporated by reference herein. The affidavit also includes a general description of his investigation of claims in the Hagerman area.

I. INVESTIGATION AND RECOMMENDATION OF CLAIMS GENERALLY

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

II. WATER RIGHT NO. 36-00085A

A. Basis of Claim

Claim no. 36-00085A was filed with IDWR by Marilyn J. (Waite) Miller on August 29, 1988.¹ The claim is to a portion of a right decreed to Florence Parrott in the *New International Mortgage* decree, entered in 1932.² The water right decreed to Mrs. Parrott is numbered in IDWR's files as water right no. 36-00085. This right, along with numerous others in the decree, was decreed for "irrigation, domestic, power and other purposes thereon." Portions of right no. 36-00085 were claimed by and recommended to various claimants and are further described below.

B. Name and Address of Claimant

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

C. Source of Water

The source of water set forth in the claimant's motion for summary judgment is Billingsley Creek. The source of water is described in the director's report as Billingsley Creek tributary to Snake River.

The director's report includes the body of water to which the source of the right is tributary for each water right in the director's report, except for rights to ground water. IDWR adopted this standard for the description of the source of water

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

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

rights because there are so many instances, sometimes in the same administrative basin, where different surface water sources bear the same name.³

D. Date of Priority

The priority date claimed in the notice of claim and recommended in the director's report is 09/20/1884. The claimant's objection does not contest the priority date. The priority date stated in the claimant's motion for summary judgment is 09/10/1884. The priority date decreed in the *New International Mortgage* decree is 09/10/1884.

E. Point of Diversion

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

F. Purpose of Use

The purposes of use stated on the notice of claim and recommended in the director's report is irrigation. The objection does not contest the purpose of use. The claimant's motion for summary judgment now seeks to add wildlife, recreation, aesthetics, and "diversion system maintenance."⁴

The description of the purposes of use of this right in the decree is ambiguous in that it describes the purposes of use for this right and others in the same list collectively as "irrigation, domestic, power and other purposes," rather than specifically identifying each purpose of use for each right.⁵ IDWR's investigation confirmed the use of water for irrigation purposes, as further described below in the section addressing quantity. Neither the claimant nor IDWR's investigation has

³ IDWR relied upon the following in reaching its conclusion: Idaho Code §42-1411(2) (which provides that the director shall determine the source of the right to the extent the director deems appropriate and proper to define and administer water rights acquired under state law).

⁴ The filing fee for claims other than small domestic and stockwater claims consists of a \$50.00 flat fee, plus a variable fee of \$1.00 per acre for any claimed irrigation use, plus a per cfs variable fee for other claimed purposes of use. The filing fee paid for this claim was limited to the purposes of use claimed in the notice of claim. Filing fees are set forth in Idaho Code §42-1414 and IDWR's Adjudication Rules, IDAPA 37.03.01 *et seq.*

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

yielded information that would confirm the beneficial use of water for the other purposes listed in the motion, either pursuant to the right as originally appropriated or as currently used.⁶ Such information is necessary not only to confirm the use but to quantify the amount of water beneficially used for that purpose.

G. Quantity of Water Used

The notice of claim states a quantity of 0.20 cfs for irrigation. The quantity recommended in the director's report is 0.15 cfs for irrigation. The objection does not state the quantity claimed. The claimant's motion for summary judgment states a quantity of 0.20 cfs.

1. Splits of Water Right No. 36-00085

As noted above, various portions of right no. 36-00085 were claimed by and recommended to various claimants. The splits are listed below. The first column shows the quantity claimed; the second column shows the quantity recommended in the director's report. Water rights listed with an asterisk are contested.

<u>Right no.</u>	<u>Claim</u>	<u>Report</u>	
36-00085A*	0.20	0.15	
36-00085B*	0.04	0.04	This right is part of the group for which 706 reports are due 09/01/1996.
36-00085C	0.40	0.34	
Total	0.64	0.53	

The quantity decreed for right no. 36-00085 in the *New International Mortgage* decree is 1.2 cfs. The total quantity of water claimed in all claims based on the decree is 0.64 cfs, which does not exceed the decreed amount. IDWR recommended a total of 0.53 cfs pursuant to the various claims to portions of right no. 36-00085; this amount has not changed as a result of further proceedings in the subcases.

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

The deed attached to the claimant's motion for summary judgment purports to convey "10 shares of stock of Buckeye Water." IDWR does not have information indicating to what this language refers. In addition, the lands described in the deed are not within the place of use described in the decree. IDWR does not have information indicating whether or how any portion of right no. 36-00085 came to be appurtenant to the claimant's lands. IDWR did not previously request this information from the claimants of the portions of right no. 36-00085 because the total amount IDWR found to be beneficially used under all the claimed portions of right no. 36-00085 did not exceed the decreed 1.2 cfs.⁷

2. Quantity for irrigation

As noted above, the director's report recommended a quantity of 0.15 cfs for irrigation. This includes 0.14 cfs (about 0.033 cfs per acre) for the on-farm diversion requirement (the amount of water needed at the place of use), and 0.01 cfs for conveyance losses (an additional amount of water needed at the point of diversion to deliver the amount needed at the place of use). IDWR has conducted further analysis of the quantity for irrigation due to further information IDWR received subsequent to its original analysis. IDWR's recommendation as to the quantity for irrigation has not changed as a result of this analysis.

IDWR's methodology for investigating and recommending claims to water for irrigation in excess of 0.02 cfs per acre is described in IDWR's Report Regarding Evaluation of Irrigation Diversion Rates.⁸ The application of that methodology to this claim is described in Appendix B.

As described in Appendix B, IDWR's analysis shows that the amount of water reasonably required at the place of use (the on-farm requirement) is 0.019 cfs per acre, and recommendation of an additional 0.01 cfs is warranted due to conveyance losses. Thus, neither the claimant nor IDWR's investigation has yielded information which would confirm the beneficial use of a quantity for irrigation greater than IDWR's standard of 0.03 cfs for irrigation systems up to 5 acres.

⁷ IDWR does not require all claimants to submit information showing a "chain of title" demonstrating ownership of all or part of a previously decreed or licensed right in its investigation of the claims. Generally, IDWR requires information as to ownership as part of the investigation of claims only where there are competing claims to the same water right.

⁸ IDWR relied upon the following in reaching its conclusions: Idaho Code §42-220 (which provides that no license or decree will be issued confirming a right to more than 0.02 cfs per acre for irrigation unless it can be shown that a greater amount is necessary) and Idaho Code §42-1402 (which limits the amount of water allotted by a decree to the amount of water beneficially used).

As noted in Appendix B, the application of IDWR's methodology for evaluation of irrigation diversion rates resulted in the recommendation of an additional 0.01 cfs for conveyance losses. IDWR determined the total conveyance losses for the ditch through which this water right is delivered, and allocated that total among the various rights to water delivered through the same ditch. Further information as to the other rights delivered through the same ditch is described in subsection 4 below.

3. Quantity for other purposes

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

4. Other rights delivered through same ditch

As noted in Appendix B, IDWR determined the total conveyance losses for the ditch through which this right is delivered, and allocated that total among the various rights to water delivered through the same ditch. For this reason, IDWR previously proposed that contested water rights in the Hagerman area be grouped by ditch for scheduling purposes to facilitate resolution of quantity issues for those rights. Water right 36-00085A is delivered through the Buckeye ditch. Appendix C is a schematic which shows the water rights delivered through the Buckeye ditch, and which includes a variety of information as to the water rights listed.

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

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

The recommended season of use is consistent with season of use standards for irrigation developed by IDWR for various climatic regions throughout the state, which are based on a 75% chance of a 24 degree Fahrenheit frost. In addition, the director's report included general provision 12b, which allowed use of water for irrigation outside the season of use stated in the description of the individual right subject to certain conditions. In the Memorandum Decision and Order Re: Basin-Wide

Issue 5, the Presiding Judge concluded that general provision 12 is not necessary and would not be decreed. This decision further provided that "all decrees for irrigation in the SRBA shall set the period of use as the "irrigation season." Order, pp. 15-16. The district court denied a subsequent motion for permission to appeal the decision. Pending any further proceedings on the decision, any further statement of the basis for IDWR's recommendation as to the season of use for irrigation appears to be unnecessary.

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

I. Legal Description of the Place of Use

The legal description under item 8 in the claimant's motion for summary judgment is the same as the legal description of the place of use for irrigation recommended in the director's report. The number of acres following the legal description is the same as the number of irrigated acres per 40-acre subdivision recommended in the director's report; both list the number of irrigated acres as 4.3.

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

J. Annual Volume of Consumptive Use

The notice of claim does not state an annual volume of consumptive use. The annual volume of consumptive use recommended in the director's report is 12.9 AFY, or 3.0 AFY per acre. The objection contests the recommended consumptive use, but does not state an amount. The claimant's motion for summary judgment states an amount of 19.35 AFY, or 4.5 AFY per acre. The Affidavit of Charles E. Brockway, submitted by the claimant in support of the motion for summary judgment, states "that 3.75 acre feet per acre per annum is the amount of consumptive use that is reasonable [in the Hagerman area] based upon a yield of ten tons [of alfalfa] per acre." Applying this standard, the total annual consumptive use volume would be 16.13 AFY.

IDWR developed standards for annual volume of consumptive use for the various climatic areas throughout the state. The standard for the area in which the claimant's place of use is located is 3.0 AFY. IDWR's recommendation is based on this standard. The development of IDWR's standards for annual volume of consumptive use is described in IDWR's Report Regarding Evaluation of Irrigation Diversion Rates. IDWR has conducted further analysis of the annual volume of consumptive use based on further information IDWR received subsequent to its original analysis. The further analysis is described in IDWR's Report Regarding Consumptive Use for Irrigation in the Hagerman Area. Based on this further analysis, IDWR recommends an annual volume of consumptive use of 3.5 AFY per acre, for a total of 15.05 AFY for this right (rounded up to 15.10).

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

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

WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.

A DIVERSION RATE OF 0.14 CFS AT THE FIELD HEADGATE IS RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.

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

PROPERTY IS ALSO KNOWN AS A PORTION OF BLK A-82, A-83 AND A-84 OF THE HAGERMAN TOWNSITE.

The claimant's objection seeks deletion of the three remarks. The claimant's motion for summary judgment seeks deletion of all the remarks.

In response to the request of the Presiding Judge, the director filed an Amended Director's Report for Reporting Area 3 (Basin 36), which substantially reduced the number of general provisions in the director's report. Attachment 2 to the amended report explains the changes made to the general provisions, and further explains changes to the list of recommended rights necessitated by the changes to the general provisions. The amended report deleted General Provision 16, which set forth certain provisions as to conveyance losses. The conveyance loss remark in the description of the individual right was a corollary to the general provision. As a result, the remark in the description of this right as to conveyance losses is no longer necessary. (Deletion of the remark does not change IDWR's recommendation as to the quantity for this right.)

REPORT REGARDING CLAIM TO WATER RIGHT NO. 36-00085A

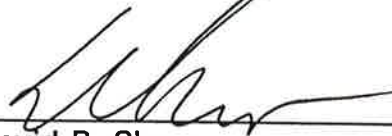
In response to the request of the Presiding Judge, IDWR submitted IDWR's Report for September 19, 1995 Status Conference. In this report, IDWR indicated that it had reviewed its use of remarks in the description of the individual water right, both to address concerns identified by the court, and to separate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

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

State of Idaho)
) ss.
County of Ada)

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

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



David B. Shaw

Subscribed and sworn to before me this 15th day of July, 1996.



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

Certificate of Service

I certify that on the 15th day of July, 1996, I hand-delivered copies of the foregoing document, including all attachments, to the following:

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



Person mailing document(s)

APPENDIX A

A. INVESTIGATION AND RECOMMENDATION OF CLAIMS GENERALLY

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

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

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

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

¹ Idaho Code §§ 42-1410 and 42-1411.

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

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

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

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

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

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

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

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

B. METHODOLOGY TO DETERMINE IRRIGATED ACREAGE

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

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

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

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

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

aerial photos¹⁰.

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

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

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

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

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

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

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

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

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

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

APPENDIX B

EVALUATION OF IRRIGATION DIVERSION RATE

WATER RIGHT NUMBER: 36-00085A

INTRODUCTION

This water right was recommended in the Director's Report with a diversion rate of 0.15 cfs. A portion of that total amount was recognized as the on-farm diversion requirement, and the remaining amount as conveyance loss. Based on IDWR's methodology to evaluate irrigation diversion rates, the quantity required on-farm was recommended as 0.14 cfs, or approximately 0.033 cfs per acre for 4.3 acres, with an additional 0.01 cfs for conveyance loss. The total, 0.15 cfs, is equivalent to a total per acre rate of diversion of approximately 0.035 cfs per acre.

Because IDWR has received new information and has refined the methodology since the time of the original analysis of irrigation diversion requirement, a revised analysis has been completed. The revised analysis is based upon information already contained in the claim file and the new information detailed in this report. An expanded explanation of the methodology used is contained in the report entitled Report Regarding Evaluation of Irrigation Diversion Rates, dated July, 1996. Hereinafter, that report will be referred to as IDWR's Methodology Report.

Several factors must be considered when determining the necessity of an irrigation diversion rate greater than 0.02 cfs per acre. Those factors are crop types, irrigated acres, types of irrigation systems used, evapotranspiration estimates, field application efficiencies, and conveyance loss. These items are discussed in the following paragraphs, along with the results of the analysis.

IRRIGATED ACRES/CROPS

The property described on the claim as the place of use was found to have 4.3 acres of irrigated land, planted in pasture. As shown in Figure 1 of the Attachments, the property in question has an irregular shape, bounded on the west by the Sands Ditch and on the east by the Bell Ditch. The available aerial photography¹ indicates

¹Photos used are all color-infrared aerial photography. They were obtained through projects coordinated by the federal government, including the National Aerial Photography Program (NAPP) and the National Aeronautics and Space Administration (NASA) Airborne Instrumentation Research Project.

NAPP photos used are: Photo No. 439-43, dated 8/1/1988; Photo No. 419-59, dated 6/25/1987; and Photo No. 419-61, dated 6/25/1987.

NASA photos used are: Photo No. 6134, Flight No. 75-131, FSR 706, dated 6/8/1975; Photo

that there is a small ditch running north-south which separates the property into two distinct fields. In this report, the west field is referred to as Field 1 and the east field as Field 2. The fields are irrigated using a corrugation system.²

EVAPOTRANSPIRATION

Evapotranspiration is the amount of water evaporated from the soil plus the amount used by a crop during crop growth. IDWR's estimate used for evapotranspiration (ET) for the Hagerman area has been refined since the original analysis of required diversion rate was completed. Originally, the monthly consumptive irrigation requirements for the Bliss weather station were used, based on consumptive irrigation data estimated by Allen and Brockway³. IDWR has since obtained information allowing adjustments to the values that more accurately represent conditions in the Hagerman area. This process is outlined in the section of IDWR's Methodology Report titled EVAPOTRANSPIRATION (CROP CONSUMPTIVE USE) and the resulting ET values are summarized in Table 1 of the Attachments.

The ET values used in calculations for pasture are shown under the column titled PAST. in the table. For each month of the irrigation season, the values in the row titled 80PCT ET are used. This represents the 80th percentile value for ET. The reasoning behind the use of these particular ET numbers is further explained in the EVAPOTRANSPIRATION section of IDWR's Methodology Report.

FIELD APPLICATION EFFICIENCY

In order to calculate the field application efficiency, several elements must first be considered. Among these elements are the slope, approximate furrow lengths, furrow spacings, and set time for each field. Additionally, the soil information described below is necessary.

Soil Information

Some data unique to each soil type are required for the analysis, including the management allowed deficit (MAD) and intake family. The MAD is based on the maximum soil moisture deficit which will not cause the crop to exceed its stress point. Intake family is a classification of soils with similar water intake rate characteristics. The Natural Resources Conservation Service (NRCS), formerly Soil Conservation

No. 2471, Flight No. 77-134, FSR 1049, dated 10/8/1977; Photo No. 3472, Flight No. 80-152, FSR 1462, dated 9/17/1980; and Photo No. 2314, Flight No. 83-095, FSR 1760, dated 6/7/1983.

²Information as to crop types and irrigation method was provided by IDWR Senior Agent Steve Clelland and confirmed by aerial photography.

³Allen, R.G. and C.E. Brockway, Appendix E (unpublished)

Service (SCS), compiles soil surveys describing the various soil types within the state and the locations where those soils may be found. The procedure used to determine the value of MAD and intake family using SCS data is described in the sections of IDWR's Methodology Report titled NET IRRIGATION APPLICATION and IRRIGATION APPLICATION SYSTEMS. In order to use the correct values for MAD and intake family, it is necessary to determine the worst-case significant soil for each field if more than one soil type is present in that field.

There are two different soil types on the property described as the place of use for this water right. These soils are Ephrata Fine Sandy Loam (EPC) and Kecko Fine Sandy Loam (KOB). Field 1, as shown in Figure 1, consists entirely of one soil type, EPC, while Field 2 contains both soil types. These soil types have similar MAD values and the same intake family. The soil type with the lower MAD value, EPC, was used for analysis of Field 2 because the field is small and slight variations in MAD values would have a negligible effect on the diversion requirement for the entire field.

The MAD for both fields was the same since they are both pasture and were both being analyzed using soil type EPC. That MAD value for EPC and pasture is 1.84 inches. The MAD values are provided in Tables 2 and 3 of the Attachments. These tables were created using a spreadsheet developed by IDWR to simplify calculations to determine MAD and intake family.

There are two procedures described in the section of IDWR's Methodology Report entitled IRRIGATION APPLICATION SYSTEMS for determining intake family. The alternative procedure is considered a refinement for some soil conditions and is used where available. The furrow intake family for EPC was found to be 0.55 using either procedure, so this value was used. The intake families are also shown in Tables 2 and 3.

Field Slope

Field slopes were determined based on USGS topographic maps. An estimate of the average slope from top end to bottom end of furrows was calculated for each field. To calculate these slopes, it was necessary to make a determination as to the direction of furrows. Those determinations were based on the available aerial photography and information in the claim file, where available. The field slopes of both Field 1 and Field 2 were estimated to be approximately 4.0 percent.

Furrow Lengths

The furrow lengths were determined using the same topographic maps and aerial photos. If fields appeared to have a rectangular shape, an average length was used. Furrow lengths for Field 1 were scaled from the map to be approximately 275 feet. That field was not rectangular, but there was little enough variation in furrow lengths throughout the field that the maximum scaled furrow length was used. The furrow lengths for Field 2 were scaled to be approximately 200 feet. That field is

somewhat rectangular in shape.

Use of cross-ditches or gated pipe to reduce the furrow length is an alternative irrigation practice which will improve the efficiencies of fields with high intake rate soils if set times and inflow rates are adjusted appropriately. This alternative is not considered reasonable if it would result in furrow lengths less than 300 feet. A length of 300 feet is considered by IDWR to be a minimum practical length for farm cultivation practices.

Furrow Spacing/Set Times

When the system efficiencies were calculated, 30 inch furrow spacings were used. Information as to actual furrow spacings was not available, but 30 inches is a common spacing and is a standard used by IDWR for consistency. In addition, both 8 hour and 12 hour set times were analyzed and compared to determine which would result in the optimum overall efficiency of the system. Eight hour and twelve hour set times are considered acceptable irrigation practices which can be used during the peak water use period to improve application efficiencies.

Results

Field application efficiencies are estimated using a computer program developed by SCS for use with furrow irrigation and provided with the Hubble Report⁴. Efficiencies less than 15 percent or greater than 70 percent are outside the practical limits of the program. In cases where efficiency is estimated to be greater than 70 percent, an efficiency of 70 percent is used. In addition, the program does not recognize erosive flows or furrow carrying capacities. The limiting erosive flow is dependent on the slope of a particular field and must be calculated for each field. In this case, the limiting erosive flow for both fields would be 10 gpm. The practical carrying capacity limit of corrugations is 10 gpm. The term identified in the program as design application is equivalent to the MAD, as determined above. Refer to the section FIELD APPLICATION EFFICIENCY in IDWR's Methodology Report for more information regarding the methodology used in determining field application efficiency.

The furrows for both Field 1 and Field 2 are less than 600 feet in length. Splitting these fields for analysis purposes would result in furrow lengths less than 300 feet; thus the full furrow length was considered for each field. Set times of 8 and 12 hours were considered, and an irrigation method using 8 hour set times and an appropriate inflow rate provided an efficiency greater than 70 percent in both cases, substantially larger than the efficiencies estimated using 12 hour set times. For Field 1, the program estimated an efficiency of 82 percent using an 8 hour set time and an efficiency of 55 percent using a 12 hour set time. For Field 2, the

⁴The Hubble Report is a common name given to a pair of reports developed for IDWR in July, 1990 by Hubble Engineering, Inc. and Associated Earth Sciences, Inc. entitled "Guidelines for the Evaluation of Irrigation Diversion Rates" and "Evaluation Workbook for Irrigation Diversion Rates".

program estimated an efficiency of 80 percent using 8 hour set times and 53 percent using 12 hour set times. Therefore, an efficiency of 70 percent was used for each field. See Table 4 of the Attachments for results.

ON-FARM IRRIGATION DIVERSION REQUIREMENT

The on-farm irrigation diversion requirement is the amount of water needed on the farm itself to provide adequate water to the crop(s) being grown. The procedure used to determine that amount is described in detail in the section of IDWR's Methodology Report titled ON-FARM IRRIGATION REQUIREMENT. The results of that procedure are provided in Table 5 of the Attachments. Table 5 was created using a spreadsheet developed by IDWR which utilizes the information detailed above and calculates the irrigation diversion requirement. The resulting maximum diversion rate requirement for the entire 4.3 acres was determined to be 0.09 cfs, or 0.020 cfs per acre.

CONVEYANCE LOSS

When water is conveyed through an earthen delivery ditch, a certain portion of the total flow is lost through seepage into the ground. The method used to estimate seepage losses is referred to as the Worstell method, which is further explained in the CONVEYANCE LOSS section of IDWR's Methodology Report. The Worstell method relies on the characteristics of the soil, the ditch width, and the ditch length to estimate the actual seepage losses of the ditch. IDWR has developed a spreadsheet which calculates the total conveyance loss estimate on a ditch and prorates that loss among the reaches of the ditch based on the total amount of water removed from each reach of the ditch and the location of each reach.

In the original analysis of conveyance loss for the Buckeye Ditch, delivery locations were identified along the entire ditch. In some cases, more than one right is supplied from a single reach of the ditch. The total conveyance loss estimate for all water use from that reach of the ditch was calculated using the spreadsheet based upon the Worstell method. If there were found to be multiple users removing water from the same reach of the ditch, the conveyance loss estimate for that reach was divided equally among those users. This approach was used along the entire length of the Buckeye Ditch.

It would not be practical or meaningful for IDWR to re-evaluate the conveyance loss attributable to this right for two primary reasons. First, because the Worstell method does not depend on total flow in a ditch, but rather the top width of the water surface and the ditch length, the total conveyance loss estimate for the ditch would not change even if the determinations of individual water rights were to vary from IDWR's recommendations. The only change might be the allocation of the total conveyance loss among the individual water rights. However, not all of the water

rights on the ditch are contested, and of those that are contested, not all are presently before the special master. In addition, no historical method for allocation of conveyance loss exists to use as a basis for distribution of conveyance losses for water rights along this ditch. For all these reasons, the recommended conveyance loss amount remains at 0.01 cfs.

IRRIGATION DIVERSION REQUIREMENT

The total irrigation diversion requirement is the sum of the on-farm irrigation diversion requirement and the conveyance loss. For this right, the total amount is 0.09 cfs + 0.01 cfs, or 0.10 cfs.

REFERENCES

- Allen, R.G., and C.E. Brockway, 1983, Estimating Consumptive Irrigation Requirements for Crops in Idaho, Idaho Water and Energy Resources Research Institute, University of Idaho, Appendix E (unpublished).
- Hubble Engineering, Inc. and Associated Earth Sciences, Inc., 1991, Guidelines for the Evaluation of Irrigation Diversion Rates, Idaho Department of Water Resources.
- Hubble Engineering, Inc. and Associated Earth Sciences, Inc., 1991, Evaluation Workbook for Irrigation Diversion Rates, Idaho Department of Water Resources.
- Idaho Department of Water Resources, 1996, Report Regarding Evaluation of Irrigation Diversion Rates, also referred to as IDWR's Methodology Report.
- National Aerial Photography Program, Color-infrared aerial photography, Flight dates June 25, 1987, August 1, 1988.
- Soil Conservation Service (now Natural Resources Conservation Service) - Gooding, Idaho office, 1992, Unpublished soil survey data.

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ATTACHMENTS

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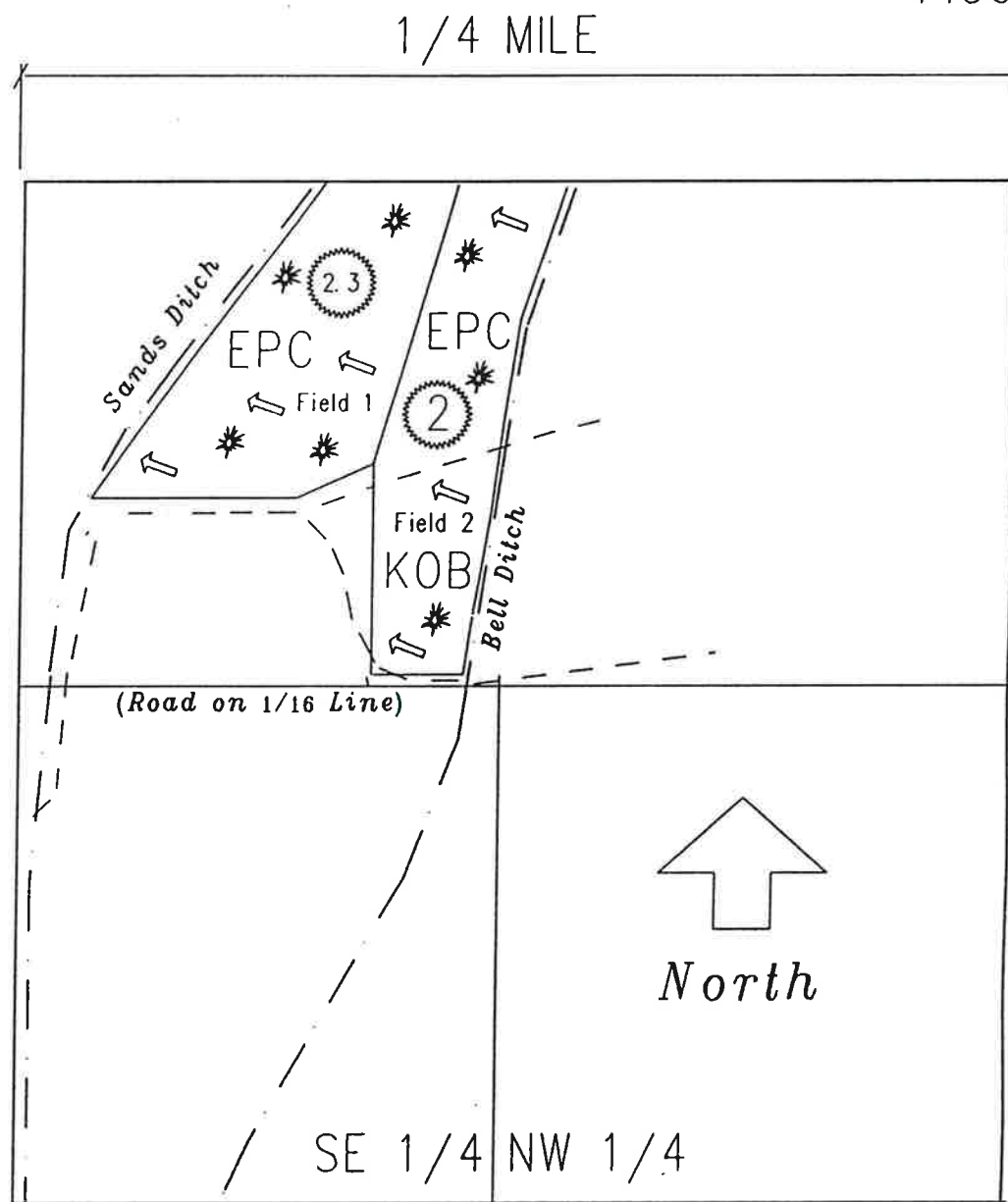
DEC 03 1996

T. 7 S., R. 13 E.
 Section 14
 Gooding County

FIGURE 1

Legend:

- ↔ Furrow Direction
- EPC Soil Type
- - - Soil Type Division Line
- . - Ditch
- 1/4 1/4 Line
- ② Irrigated Acres
- * Pasture



Water Right No. 36-00085A

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IDWR QUAD AA-69

Table 1

80th Percentile values of monthly ET estimated for
the Hagerman Valley adjusted from the Bliss Station
(mm/day)

	MO	ETR	ALFH.	BEANS	F.CRN	SILGE	S.CRN	PEAS	POTAT	SBEET	SGRAN	WGRAN	PAST.	VEGES
AVE ET	4	5.28	3.30					1.60	1.58	1.58	1.65	4.82	3.27	
TMP ADJ	4	5.68	3.55					1.72	1.70	1.70	1.77	5.18	3.52	
ALT ADJ	4	5.75	3.59					1.74	1.72	1.72	1.80	5.25	3.56	
STDD ET	4	0.47	0.29					0.14	0.14	0.14	0.15	0.43	0.29	
ADJ STDD	4	0.80	0.49					0.24	0.24	0.24	0.26	0.73	0.49	
80PCT ET	4	6.42	4.01					1.94	1.92	1.92	2.01	5.86	3.97	
AVE ET	5	6.79	6.29	2.04	2.04	2.04	2.04	3.85	2.19	2.04	5.11	6.79	5.23	2.07
TMP ADJ	5	7.18	6.65	2.16	2.16	2.16	2.16	4.07	2.31	2.16	5.40	7.18	5.53	2.19
ALT ADJ	5	7.27	6.73	2.18	2.18	2.18	2.18	4.12	2.34	2.18	5.47	7.27	5.60	2.21
STDD ET	5	0.49	0.46	0.15	0.15	0.15	0.15	0.28	0.16	0.15	0.37	0.49	0.38	0.15
ADJ STDD	5	0.80	0.75	0.25	0.25	0.25	0.25	0.46	0.26	0.25	0.61	0.80	0.62	0.25
80PCT ET	5	7.94	7.37	2.39	2.39	2.39	2.39	4.51	2.56	2.39	5.98	7.94	6.12	2.42
AVE ET	6	8.41	7.32	3.26	3.66	3.66	3.53	6.82	5.77	3.91	8.39	8.41	6.47	4.40
TMP ADJ	6	8.82	7.68	3.42	3.84	3.84	3.70	7.15	6.05	4.10	8.80	8.82	6.79	4.62
ALT ADJ	6	8.93	7.77	3.46	3.89	3.89	3.75	7.24	6.13	4.15	8.91	8.93	6.87	4.67
STDD ET	6	0.47	0.41	0.18	0.21	0.21	0.20	0.38	0.32	0.22	0.47	0.47	0.36	0.25
ADJ STDD	6	1.27	1.11	0.49	0.57	0.57	0.54	1.03	0.86	0.59	1.27	1.27	0.97	0.68
80PCT ET	6	10.00	8.71	3.87	4.36	4.36	4.20	8.11	6.85	4.65	9.98	10.00	7.69	5.24
AVE ET	7	8.54	6.94	7.37	7.68	7.68	7.47	2.99	7.17	8.14	7.05	6.80	6.57	6.57
TMP ADJ	7	8.89	7.22	7.67	7.99	7.99	7.78	3.11	7.46	8.47	7.34	7.08	6.84	6.84
ALT ADJ	7	9.00	7.31	7.77	8.09	8.09	7.87	3.15	7.56	8.58	7.43	7.17	6.92	6.92
STDD ET	7	0.26	0.21	0.23	0.24	0.24	0.23	0.09	0.22	0.25	0.22	0.21	0.20	0.20
ADJ STDD	7	0.58	0.47	0.51	0.53	0.53	0.51	0.20	0.49	0.56	0.49	0.47	0.44	0.44
80PCT ET	7	9.49	7.71	8.20	8.54	8.54	8.30	3.32	7.97	9.05	7.84	7.56	7.30	7.30
AVE ET	8	7.18	5.41	4.97	6.63	6.63	6.38		5.57	7.06	1.47	1.32	5.53	5.72
TMP ADJ	8	7.50	5.65	5.19	6.92	6.92	6.66		5.82	7.37	1.53	1.38	5.77	5.97
ALT ADJ	8	7.59	5.72	5.25	7.01	7.01	6.74		5.89	7.46	1.55	1.40	5.84	6.05
STDD ET	8	0.33	0.25	0.23	0.30	0.30	0.29		0.26	0.32	0.07	0.06	0.25	0.26
ADJ STDD	8	0.70	0.53	0.49	0.64	0.64	0.62		0.55	0.68	0.15	0.13	0.53	0.55
80PCT ET	8	8.18	6.17	5.66	7.54	7.54	7.26		6.35	8.04	1.68	1.50	6.29	6.51
AVE ET	9	5.60	3.67	0.77	4.19	4.19			3.29	4.86			4.32	3.83
TMP ADJ	9	5.90	3.87	0.81	4.42	4.42			3.47	5.12			4.55	4.04
ALT ADJ	9	5.97	3.92	0.82	4.47	4.47			3.51	5.19			4.61	4.09
STDD ET	9	0.41	0.27	0.06	0.31	0.31			0.24	0.36			0.32	0.28
ADJ STDD	9	0.66	0.43	0.10	0.50	0.50			0.39	0.58			0.52	0.45
80PCT ET	9	6.53	4.28	0.90	4.89	4.89			3.84	5.67			5.04	4.47
AVE ET	10	3.73	1.26		1.04					2.48			2.88	
TMP ADJ	10	4.02	1.36		1.12					2.67			3.10	
ALT ADJ	10	4.07	1.37		1.13					2.70			3.14	
STDD ET	10	0.35	0.12		0.10					0.24			0.27	
ADJ STDD	10	0.47	0.16		0.14					0.32			0.36	
80PCT ET	10	4.46	1.51		1.25					2.98			3.45	

ET and standard deviation data (AVE ET and STDD ET) for Bliss weather station taken from Appendix E (unpublished) of Brockway, C.E., and R.G. Allen, 1983, Estimating Consumptive Irrigation Requirements for Crops in Idaho, Idaho Water and Energy Resources Research Institute.

Adjustments to standard deviation (ADJ STDD) based on Allen & Brockway Report, pp. 18, and Allen, R.G., and J.L. Wright, 1983, Variation Within Measured and Estimated Consumptive Use Requirements, Proceedings of the Irrigation and Drainage Specialty Conference of the American Society of Agricultural Engineers, Jackson Hole, Wyoming, July 20-22, 1983, pp. 1-12.

Temperature adjustment (TMP ADJ) based on temperature differences between Bliss and Hagerman and temperature sensitivity of ET estimates given in Brockway, C.E., G.S. Johnson, J.L. Wright, and A.L. Coiner, 1985, Remote Sensing for Irrigated Crop Water Use - Phase 1, Water Resources Research Institute, pp. 101-107.

Altitude adjustment (ALT ADJ) based on Doorenbos, J., and W.O. Pruitt, 1977, Crop Water Requirements, Food and Agriculture Organization of the United Nations, p. 59.

80th percentile ET values (80PCT ET) calculated based on Walpole, R.E., and R.H. Meyers, 1985, third edition, PROBABILITY AND STATISTICS FOR ENGINEERS AND SCIENTISTS, New York: Macmillan Publishing Company, pp. 132-144 and 574.

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Table 2

SOIL CHARACTERISTICS

initials: JP

date: 11/20/92

Soil Type = EPB + EPC

FSL

Source of Soils Data = SCS - GOODING

soil depth (inches)		AWC (in/in)		PH		organic (%)		soil depth (ft)	AWC (inches)	intake family	
lower	upper	lower	upper	lower	upper	lower	upper			flood	furrow
0	5	0.1	0.14	6.6	7.3	0.5	1	1	1.48	2	0.55
5	26	0.1	0.15					2	2.98		
26	61	0.03	0.06					3	3.68		
								4	4.22	alternate	
								5	4.76	method	
										2	0.55

Management Allowed Deficit (MAD)

crop	root depth (ft)	stress point	MAD (inches)
alfalfa (hay or seed)	5	0.5	2.38
corn (field or silage)	4	0.5	2.11
grain (winter or spring)	4	0.5	2.11
pasture (or grass hay)	3	0.5	1.84
other (enter below)			
beets	5	0.5	2.38
mint	3	0.5	1.84
beans	2	0.4	1.19
potatoes	3	0.35	1.29

For definition of terms, refer to the sections called NET IRRIGATION APPLICATION and IRRIGATION APPLICATION SYSTEMS of the IDWR report titled Report Regarding Evaluation of Irrigation Diversion Rates, dated July, 1996.

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Table 3

SOIL CHARACTERISTICS initials: JP date: 11/23/92
 Soil Type = KOB ← KOC FSL
 Source of Soils Data = SCS - GOODING

soil depth (inches)		AWC (in/in)		PH		organic (%)		soil depth (ft)	AWC (inches)	intake family	
lower	upper	lower	upper	lower	upper	lower	upper			flood	furrow
0	9	0.12	0.14	7.4	8.4	1	2	1	1.59	2	0.55
9	21	0.13	0.15					2	3.08		
21	60	0.03	0.12					3	3.98		
								4	4.88	alternate	
								5	5.77	method	
										2	0.55

Management Allowed Deficit (MAD)

crop	root depth (ft)	stress point	MAD (inches)
alfalfa (hay or seed)	5	0.5	2.89
corn (field or silage)	4	0.5	2.44
grain (winter or spring)	4	0.5	2.44
pasture (or grass hay)	3	0.5	1.99
other (enter below)			
beets	5	0.5	2.89
mint	3	0.5	1.99
beans	2	0.4	1.23
potatoes	3	0.35	1.39

For definition of terms, refer to the sections called NET IRRIGATION APPLICATION and IRRIGATION APPLICATION SYSTEMS of the IDWR report titled Report Regarding Evaluation of Irrigation Diversion Rates, dated July, 1996.

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 DEC 03 1996

Table 4

	INTAKE FAMILY	DESIGN APPLIC. Inches	FURROW SLOPE Ft/Ft	FURROW SPACING Feet	FURROW LENGTH Feet	INFLOW RATE Gpm	APPROXIMATE INFLOW TIME Hours	ADVANCE TIME Minutes	GROSS	NET	DEEP	IRRIGATION			
									IRRIGATION	IRRIGATION			RUNOFF	PERC.	EFFICIENCY
									APPLICATION	APPLICATION					
Field 1	0.55	1.84	.040	2.50	275	2.0	12	25.7	3.36	2.88	0.43	1.09	54.76		
	0.55	1.84	.040	2.50	275	2.0	8	25.7	2.24	2.12	0.06	0.34	82.15 *		
Field 2	0.55	1.84	.040	2.50	200	1.5	12	18.2	3.46	2.81	0.62	1.01	53.10		
	0.55	1.84	.040	2.50	200	1.5	8	18.2	2.31	2.08	0.19	0.28	79.66 *		

Use of this program and input requirements are described in the FIELD APPLICATION EFFICIENCY section of the IDWR report titled Report Regarding Evaluation of Irrigation Diversion Rates, dated July, 1996.

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DEC 03 1996

FIELD IRRIGATION REQUIREMENT

initials: MS Claimant = Miller
 date: 06/25/96 Weather Station = Bliss/Hagerman

crop	acres	irrig. system	eff. (%)	Monthly ET (mm/day)								AVE IR season (mm/yr)	net irrig. app. (in)	ET ratio	irrig. freq. (days)	Gross Irrigation Application (peak period ET/eff. in mm/day)								season oct (mm/yr)
				mar	apr	may	jun	jul	aug	sep	oct					mar	apr	may	jun	jul	aug	sep	oct	
past	2.3	cor	70		3.97	6.12	7.69	7.3	6.29	5.04	3.45		1.84	1.11	5.5		6.30	9.70	12.19	11.58	9.97	7.99	5.47	
past	2	cor	70		3.97	6.12	7.69	7.3	6.29	5.04	3.45		1.84	1.11	5.5		6.30	9.70	12.19	11.58	9.97	7.99	5.47	

Summary 4.3

6.30 9.70 12.19 11.58 9.97 7.99 5.47

Peak Gross Irrigation Application (mm/day) = 12.19
 On-Farm Irrigation Requirement (cfs/acre) = 0.020
 Total On-Farm Irrigation Requirement (cfs) = 0.09
 Irrigation Diversion Volume (ft/yr) = 0.00
 Total Irrigation Diversion Volume (ac-ft/yr) = 0

Table 5

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State of Idaho)
) ss.
County of Ada)

Marci S. Sterling, being first duly sworn, upon oath, deposes and says:

That I am an Engineer for the Adjudication Bureau of IDWR, that I prepared the foregoing appendix, know its contents, and that the statements contained therein are true to the best of my knowledge and belief.

Marci S. Sterling
Marci S. Sterling

Subscribed and sworn to before me this 15th day of July, 1996.

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

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BUCKEYE DITCH (upp. ditch)

82A- OBJ. Shokal- 11/17/1972
 claimed- irr.- 1.64 for 37.8 ac.
 rec'd- irr.- 0.25 for 12 ac.
 C.L. = 0.01

727B- go obj. (Martin/King)- 11/17/1972
 claimed- irr.- 0.60
 fish- 0.96
 rec'd- irr.- 0.60
 fish- 0.96

727A- OBJ. (Shokal)- 11/17/1972
 claimed- irr.- 2.28
 fish- 3.68
 rec'd- irr.- 2.28
 fish- 3.68

39K- go obj. (Easterday)- 1/2/1891
 claimed- irr.- 0.20 for 13 ac.
 stock- 0.02 (25 range)
 rec'd- irr.- 0.20 for 13 ac.
 stock- 0.02 (25 range)

85C- no obj. (Howard)- 9/10/1884
 HUBBLE
 claimed- irr.- 0.40 for 3.5 ac.
 rec'd- irr.- 0.34 for 3.5 ac.
 D.R. = 0.33
 C.L. = 0.01

125A- no obj. (Beutler)- 9/10/1884
 (Brown, atty)
 claimed- dom.- 0.12
 rec'd- dom.- 0.03

85B- OBJ. Waite- 9/10/1884
 (Brown, atty)
 claimed- irr.- 0.04 for 1.1 ac.
 rec'd- irr.- 0.04 for 1.1 ac.
 C.L. = 0.01

no obj. (Moore)- 9/10/1884
 HUBBLE
 claimed- irr.- 0.04 for 0.7 ac.
 rec'd- irr.- 0.04 for 0.5 ac.
 D.R. = 0.04

85A- OBJ. Miller- 9/10/1884
 HUBBLE
 (Brown, atty)
 claim- irr.- 0.20 for 4.3 ac.
 rec'd- irr.- 0.15 for 4.3 ac.
 D.R. = 0.14
 C.L. = 0.01

108P- no obj. (Veenendaal)- 9/10/1884
 HUBBLE
 (Brown, atty)
 claimed- 0.10 for 1.7 ac.
 stock- incidental
 rec'd- irr.- 0.10 for 1.7 ac.
 D.R. = 0.10

108Q- no obj. (Fetter)- 9/10/1884
 HUBBLE
 claimed- irr.- 0.20 for 3.3 ac.
 stock- 0.02 summer
 stock- 0.03 winter
 rec'd- irr.- 0.20 for 3.3 ac.
 stock- 0.02 summer
 stock- 0.03 winter
 D.R. = 0.20
 C.L. = 0.01

108R- no obj. (Moore)- 9/10/1884
 (Brown, atty)
 claimed- irr.- 1.00 for 20 ac.
 rec'd- irr.- 0.51 for 11 ac.
 D.R. = 0.50
 C.L. = 0.01

108H- no obj. (Jones)- 9/10/1884
 HUBBLE
 claimed- irr.- 0.12 for 3 ac.
 stock- 0.02 (10 range)
 rec'd- irr.- 0.12 for 3 ac.
 stock- 0.02 summer
 stock- 0.03 winter
 D.R. = 0.12
 C.L. = 0.01 winter

108C- no obj. (Myers)- 9/10/1884
 claimed- irr.- 0.30 for 5 ac.
 stock- 0.02
 rec'd- irr.- 0.07 for 2 ac.
 stock- 0.02 summer
 stock- 0.03 winter
 C.L. = 0.01

48B- go obj. (Robinson)- 11/14/1885
 AMNESTY PRESUMPTION
 claimed- irr.- 0.18 for 3.0 ac.
 rec'd- irr.- 0.06 for 3.0 ac.

765B- go obj. (Kipp)- 11/16/1976
 (Brown, atty)
 claimed- dom.- 0.04 (1 home)
 rec'd- dom.- 0.04 (1 home)

82B- no obj. (McKenzie)- 1/2/1891
 HUBBLE
 claimed- irr.- 0.12 for 3 ac.
 rec'd- irr.- 0.12 for 3 ac.
 D.R. = 0.12

82C- no obj. (Martin)- 4/1/1910
 claim- (for 82) irr.- 2.0 for ?
 rec'd- irr.- 0.12 for 7 ac.

65 OBJ.- Beckstead/Coates- 9/10/1884
 HUBBLE
 (Brown, atty)
 claim- irr.- 0.70 for 35.4 ac.
 rec'd- irr.- 0.18 for 7.5 ac.
 C.L. = 0.01
 D.R. = 0.17

103C- OBJ.- Bolduc- 9/10/1884
 HUBBLE
 AMNESTY- 142-1425
 (Brown, atty)
 claimed- irr.- 0.04 for 2 ac.
 rec'd- irr.- 0.04 for 0.5 ac.
 D.R. = 0.04

103E- no obj. (Robinson)- 9/10/1884
 AMNESTY/PRESUMPTION
 claimed- (65)- irr.- 0.70 for 35.4
 rec'd- aesthetic 0.07 (stream & pond)
 C.L. = 0.01
 (claimed as 65; split)

103F- OBJ.- Zink- 9/10/1884
 (Brown, atty)
 claim- irr.- 0.40 for 3.5 ac.
 rec'd- irr.- 0.34 for 3.5 ac.
 D.R. = 0.33
 C.L. = 0.01

108D- no obj. (Blandford)- 9/10/1884
 HUBBLE
 claimed- irr.- 0.14 for 2 ac.
 rec'd- irr.- 0.14 for 2 ac.
 D.R. = 0.14

108G- no obj. (Tussey)- 9/10/1884
 claimed- irr.- 0.02 for 1 ac.
 rec'd- irr.- 0.02 for 1 ac.

15463- OBJ.- Hagerman School Dist.- 10/12/1954
 (Brown, atty.)
 claimed- irr.- 0.20 for 4.0 ac.
 rec'd- irr.- 0.14 for 4.5 ac.

108J- no obj. (Easterday)- 9/10/1884
 Amnesty/Presumption
 claim- record not found
 rec'd- irr.- 0.50 for 8 ac.
 stock- 0.02 summer (15 range)
 stock- 0.08 winter

112A- OBJ. Flint- 1/2/1891
 HUBBLE
 (Brown, atty)
 claimed- irr.- 0.30 for 12
 rec'd- irr.- 0.31 for 12
 D.R. = 0.31

112B- OBJ.- Crandlemire- 1/2/1891
 HUBBLE
 (Brown, atty)
 claimed- irr.- 1.20 for 40
 stock- incidental
 rec'd- irr.- 0.43 for 13
 D.R. = 0.43

39E- OBJ.- Glauser- 1/2/1891
 (Brown, atty)
 claimed- irr.- 0.04 for 1
 rec'd- irr.- 0.03 for 1

39F- OBJ.- Bolduc- 1/2/1891
 (Brown, atty)
 claimed- irr.- 0.12 for 1
 rec'd- irr.- 0.03 for 1

39C- no obj. (McFadden)- 1/2/1891
 claimed- irr.- 0.10 for 1
 stock- 0.02 (6 ran.
 rec'd- irr.- 0.04 for 1
 stock- 0.02 (6 bec

39H- no obj. (Roemer)- 1/2/1891
 claimed- irr.- 0.28 for 2
 rec'd- dom.- 0.04 (1 bec

39J- OBJ.- Potter- 1/2/1891
 (Brown, atty)
 claimed- irr.- 0.08 for 2
 stock- 0.02 (2 bor
 aesthetic 0.20 (3 ponds)
 rec'd- dom.- 0.04 (1 bec

39L- no obj. (Evans)- 1/2/1891
 claim- irr.- 0.12 for 1
 rec'd- irr.- 0.03 for 1

39M- OBJ.- Woolley- 1/2/1891
 (Brown)
 claimed- stock- 0.02 (1 hor
 irr.- 0.04 for 1
 aesthetic 0.12 (open str
 rec'd- dom.- 0.04 (1 hor

39N- OBJ.- Korbis- 1/2/1891
 (Brown, atty)
 claimed- irr.- 0.04 for
 stock- 0.02 (2 b
 aesthetic 0.12 (open st
 rec'd- dom.- 0.04 (1 b

39P- OBJ.- Bothwell- 1/2/1891
 (Brown, atty)
 claim- irr.- 0.04 for
 stock- 0.02 (2 b
 aesthetic 0.14 (open s
 rec'd- dom.- 0.04 (1 b

39B- no obj. (Beck)- 1/2/1891
 claimed- irr.- 0.12 for
 rec'd- irr.- 0.03 for

39C- OBJ.- Veenendaal- 1/2/1891
 (Brown, atty)
 claim- irr.- 0.28 for
 rec'd- irr.- 0.06 for

39D- OBJ.- Walmsley- 1/2/1891
 (Brown, atty)
 claimed- irr.- 0.26 for
 stock- 0.01 (10
 rec'd- irr.- 0.06 for
 stock- 0.01 (10

64B- OBJ.- Fleming- 9/10/1884

Brown, atty.
claimed- 4.52 for 31 ac.
stock- incidental
rec'd- irr.- 0.72 for 19 ac.
D.R. = 0.56
C.L. = 0.16

3E- OBJ.- Vargo- 9/10/1884

HUBBLE
(Brown, atty.)
claimed- irr.- 0.20 for 10 ac.
rec'd- irr.- 0.20 for 5 ac.
D.R. = 0.20

**BUCKEYE
DITCH
(lower)**

(cont'd from sheet)

91A no obj. (Elston)- 9/10/1884

HUBBLE
claim- irr.- 0.64 for 16 ac.
rec'd- irr.- 0.64 for 12 ac.
D.R. = 0.64

91B- no obj. (Fobes)- 9/10/1884

HUBBLE
claimed- irr.- 0.16 for 4 ac.
rec'd- irr.- 0.16 for 4 ac.
D.R. = 0.13
C.L. = 0.03

108M- Messersmith/Bothwell- 9/10/1884

HUBBLE
claimed- no records found
rec'd- irr.- 2.95 for 53.2
D.R. = 2.81
C.L. = 0.41

108N- Brooks- 9/10/1884

HUBBLE
claimed- irr.- 0.06 for 2.3
rec'd- irr.- 0.16 for 2.3
D.R. = 0.15
C.L. = 0.01

108L- Gridlev- 9/10/1884

HUBBLE
claimed- irr.- 1.46 for 5 ac.
rec'd- irr.- 0.17 for 3 ac.
D.R. = 0.16
C.L. = 0.01

3J- OBJ.- Simcoe- 9/10/1884

(Brown, atty.)
claimed- irr.- 0.40 for 20 ac.
rec'd- irr.- 0.12 for 3 ac.
C.L. = 0.03

35J- OBJ.- Simcoe- 9/10/1884

(Brown, atty.)
claimed- no record found
rec'd- irr.- 0.40 for 9 ac.
D.R. = 0.34
C.L. = 0.06

36- OBJ.- Brown- 3/30/1884

HUBBLE
claimed- irr.- 2.40 for 40 ac.
stock- 0.05 (125 range)
rec'd- irr.- 1.05 for 40 ac.
stock- 0.05 summer
0.24 winter
C.L. = 0.19
D.R. = 0.86

34- no obj. (Peterson)- 3/30/1884

HUBBLE
claimed- irr.- 2.40 for 34 ac.
rec'd- irr.- 0.87 for 34 ac.
C.L. = 0.19

3C- OBJ.- Babington- 9/10/1884

(Brown, atty.)
claimed- irr.- 0.30 for 10 ac.
rec'd- irr.- 0.30 for 10 ac.
C.L. = 0.10

34- OBJ.- Simcoe- 9/10/1884

(Brown, atty.)
claimed- irr.- 0.30 for 40 ac.
rec'd- irr.- 0.80 for 40 ac.

35E- OBJ.- Brown- 9/10/1884

AMNESTY
claimed- 3/8/1902
irr.- 0.24 for 8 ac.
rec'd- irr.- 0.10 for 3 ac.
C.L. = 0.04
(combined with 34E)
(8 ac. place of use)

35C- no obj. (Vargo)- 9/10/1884

claimed- 3/8/1902
irr.- 0.02 for 0.5 ac.
rec'd- dom.- 0.02

35C- no obj. (Hoffman)- 9/10/1884

claimed- 9/4/1884
dom.- 0.02
rec'd- dom.- 0.02

35H- no obj. (Drage)- 9/10/1884

claimed- records not found
rec'd- irr.- 0.20 for 5 ac.
C.L. = 0.10

87- no obj. (Peterson)- 3/30/1884

HUBBLE
claimed- irr.- 2.40 for 31 ac.
rec'd- irr.- 2.40 for 31 ac.
D.R. = 1.55
C.L. = 0.85

3A- OBJ.- Rea- 9/10/1884

(Brown, atty.)
claimed- irr.- 1.60 for 13 ac.
stock- 0.04 (19 range)
rec'd- irr.- 0.41 for 13 ac.
stock- 0.02 summer
0.17 winter
C.L. = 0.15

35B- OBJ.- Sturtevant- 9/10/1884

claimed- irr.- 0.60 for 13 ac.
rec'd- irr.- 0.30 for 13 ac.
C.L. = 0.04

3B- OBJ.- Kingston- 9/10/1884

(Brown)
claimed- irr.- 7.16 for 129 ac.
stock- 0.05 (200 range)
fish- 7.16
rec'd- irr.- 5.00 for 129 ac.
stock- 0.05 summer
1.80 winter
D.R. = 3.25
C.L. = 1.75

3K- no obj. (Gardner)- 9/10/1884

(Brown, atty.)
claimed- irr.- 0.71 for 10 ac.
rec'd- record not found

3L- no obj. (Babington)- 9/10/1884

(Brown, atty.)
claimed- irr.- 1.97 for 27.5 ac.
stock- 0.04
fish- 4.00
rec'd- record not found

3M- no obj. (Simcoe)- 9/10/1884

(Brown, atty.)
claimed- irr.- 1.32 for 18.5 ac.
rec'd- record not found

3D- no obj. (Harrison)- 9/10/1884

HUBBLE
claimed- irr.- 0.24 for 10 ac.
rec'd- irr.- 0.24 for 2 ac.
D.R. = 0.24

3H- OBJ.- Buckeye Farms- 9/10/1884

(Rosholt, atty.)
claimed- irr.- 12.0 for 445
rec'd- irr.- 8.37 for 224
C.L. = 3.89
(combined with I)

ALAN G. LANCE
Attorney General
State of Idaho

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

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

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

In Re SRBA	)	Subcase No. 36-00085A
	)	
Case No. 39576	)	AFFIDAVIT OF STEVE CLELLAND
	)	REGARDING CLAIM NO. 36-00085A
	)	

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

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

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

DATED this 1st day of July, 1996.

Steve Clelland
STEVE CLELLAND

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

Danni M. Smith

Notary Public for the State of Idaho

Residing at Boise

My commission expires: 12-5-2002

R PROOF

CVR

MAPS

PHOTOS

MISC

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 the Rights to the Use of Water)
from the Snake River Basin)
Water System)

Case No. 36-00085A -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: MARILYN J MILLER
Address: 2134 HIGHLAND
TWIN FALLS ID 83301

3. If this response is filed by an attorney:

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

Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

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

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

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection items 3 and 3.a, and all allegations of the objection regarding those items, IDWR responds as follows: (1) it recommended the amount of water it determined was being beneficially used; (2) the claimant is not entitled to any amount greater than that which is beneficially used (Idaho Code Secs. 42-104 and 42-1402); (3) the recommendation of the director to the SRBA Court as to how the right should be decreed does not constitute a taking because it is simply a recommendation and not a final determination of the right; and (4) the eventual decree by the SRBA Court of the amount of water beneficially used, even if less than the amount previously decreed, will not constitute a taking because the right is limited to that amount beneficially used.

In response to Statement of the Objection item 7, and all allegations of the objection regarding that item, IDWR responds that it recommended the same purpose of use that was identified on the notice of claim and that was found when the claim was investigated. By identifying in the objection stockwater as an additional use that the claimant did not list on the notice of claim, the claimant improperly seeks to use the objection process to amend the claim. A claimant must obtain leave of the court to amend a claim after a director's report is filed, just as a party must obtain leave of the court to file a late claim after the director's report is filed. Once leave of the court is granted, IDWR can investigate the amended claim and make an appropriate recommendation to the court.

In response to Statement of the Objection item 8, and all allegations of the objection regarding that item, IDWR responds as follows: The decree asserted by the claimant does not contain a period of use decreed for this water right. Idaho Code Sec. 42-1411(2)(g) requires the director to determine the period of use of each water right acquired under state law that is recommended in the director's report. IDWR has developed irrigation season of use standards for various climatic areas throughout the state based on a 75% chance of a 24 degree fahrenheit frost. The irrigation season of use cannot exceed the period in which water may be beneficially used. The period of the year during which this water right may be used is consistent with the standard irrigation season of use for the area in which the place of use of this water right is located. Water may be used for irrigation outside the standard season of use, subject to the conditions set forth in general provision 12b of the

(Over)

director's report.

In further response to this objection item, IDWR responds that it recommended this element of the water right as claimed. By now seeking 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.

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

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

In response to Statement of the Objection item 14, and all

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

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

CHANGES TO THE DIRECTOR'S REPORT

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

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

No. of
Pages

Notice of Claim No. A36-00085A

5

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

4

(Over)

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OCT 12 1994

VERIFICATION (Must be Completed)

State of IDAHO

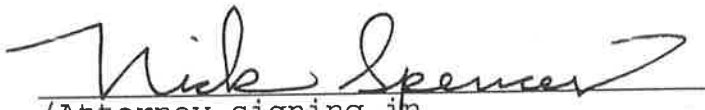
County of ADA

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

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



Signature of person filing response

By: 

(Attorney signing in
representative capacity)

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



Notary Public for Idaho
Residing at: _____
My Commission expires _____

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

CERTIFICATE OF MAILING

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

1. Original to:

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

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

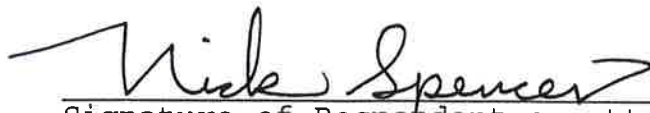
See No. 3

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

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

4. One copy to:

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



Signature of Respondent or attorney
mailing on Respondent's behalf

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

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

CIVIL CASE NUMBER:

39576
~~39356~~Ident. Number A36-00085ADate Received 8/29/1988Receipt Number 5001891 ct

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Marilyn J. (Waite) Miller Phone (208) 733-8003Mailing Address 2134 Highland, Twin Falls, Idaho Zip 833012. Date of Priority (Only one (1) per claim) Sept. 20, 18843. Source of water supply (a) Buckeye Creek
which is tributary to (b) Billingsley Creek4. a. Location of existing point of diversion is: Township 07S Range 13E Section 14,
1/4 of SE 1/4 of NW 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.

Via Buckeye Ditch _____

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JAN 21 1993

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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 3/15 to 11/15 amount 0.200 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.200 (cfs) and/or (b) _____ (acre feet)

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

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

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	
07S	13E	14								4.3									4.3

Total number of acres irrigated 4.3

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

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.
See remarks. or None ()

14. Remarks:

Portion of the 36-0085 Decree - Block A-82, A-83 & A-84

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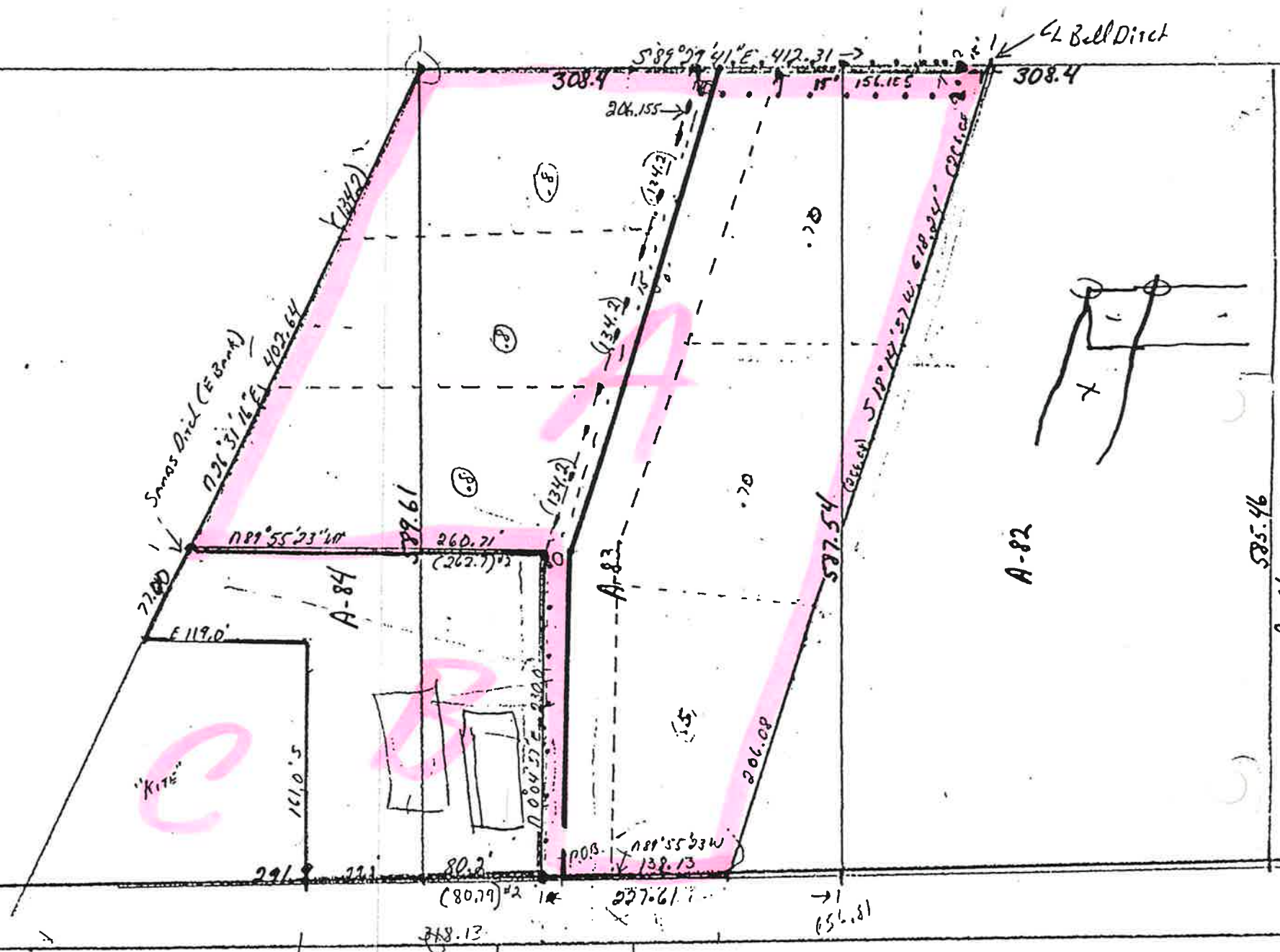
Copies: White - State, Yellow - Claimant

OCT 12 1994

Last Name Miller Ident No. A36-00085A

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JAN 21 1993
OCT 12 1994

- Dick White
- Kids
- R.O.W



of said section, township and range aforesaid; thence east along the south boundary of said subdivision 433 feet to the center of the said "Brailsford Ditch;" thence following the center channel of said ditch north 19 degrees 34' west 170 feet; thence north 46 degrees 14' west 165 feet; thence north 9 degrees 29' west 722 feet; thence north 20 degrees 15' west 360 feet to the northwest corner of said subdivision; thence south along the west boundary line of said subdivision 1330 feet to the place of beginning."

Also the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 36, Twp. 7 S. R. 13 less the north 2 $\frac{1}{2}$ acres thereof now belonging to one W. C. Barton, said exception being that portion of said tract of land lying north of the public highway.

36-0085 PARROTT,
MRS. FLOR-
ENCE.

1.2 Billingsley Creek Sept. 10, 1884 Buckeye Ditch;

A certain tract of land commencing 204.3 feet west of the southeast corner of Block No. 10 and continuing along said line west 195.7 feet to the southwest corner of said Block, thence north along said block line 269.3 feet to the northwest corner of said block; thence east along said block line 297 feet; thence in a south-westerly direction 287.7 feet to the point of beginning containing 1.52 acres more or less, all in Block No. 10, of the Townsite of Hagerman, according to the map or plat on file in the office of the Recorder of Gooding County, Idaho;

Also Lots 1 to 7 inclusive and 10 to 16 inclusive of Block 9, Lots 3, 4, 7, 10, 11, 12, 14, 15, 16, in Block 8, Lots 9, 10, 11, 12, 13, 14, 15 and 16 in Block 5 of Hagerman Townsite, according to the map or plat thereof on file in the office of the Recorder of Gooding County, Idaho.

PENFOLD,
JOHN T.,
AND EMMA
PENFOLD

2 Spring

Feb. 1, 1888 Weatherby Springs;

The SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 25, Twp. 7 S. R. 13 E. B. M. and that portion of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 25, known as Tax No. 3, and more particularly described as follows, to-wit: Beginning at a point on the East line of the southwest quarter of Sec. 25, Twp. 7 S. R. 13 E. B. M. 1590 feet north of the southeast corner of said SW $\frac{1}{4}$ of Sec. 25, thence running north 34 degrees West 468 feet; thence North 20 degrees, west 685 feet to within 15 feet of the North boundary of said SW $\frac{1}{4}$ 22 degrees 18 minutes east 500 feet

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15. Basis of Claim (check one) Benefi Use _____ Posted Notice _____ Lice. _____ Permit _____
Decree x
If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____
Plaintiff vs 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 do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) Therese J. Miller Date 8/28/88

Date _____

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

Title
of _____, that I have signed the foregoing
Organization
document in the space below as _____ of _____
Title Organization
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____ Date _____

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

Subscribed and sworn (or affirmed) before me this 28th day of AUGUST 19 88

SEAL

Notary Public Barbara C. McCay

Residing at STANLEY, IDAHO

My Commission Expires APRIL 24, 1991

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 _____

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JAN 21 1993

MICROFILMED

Last Name Miller Ident. Number A36-00085A

Copies White, State, Yellow, Claimant
OCT 12 1991

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

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

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

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OCT 12 1994

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

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

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

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

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

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

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

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

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

RECEIPT
For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES

Receipt No: S015384

RECEIVED

FEB 12 1993

Department of Water Resources
Southern Region Office

Date: 2/12/1993
Time: 10:51:44

Received From: WAITE RICHARD H

Type of Payment	Program Acct Class	Amount
FEE FOR COPY OF ADJUDICATION CLAIM 64100	229 21 1760	7.57

Total

\$7.57

CHECK 594

Region: SOUTHERN

Signature: R. Foster

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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

05-Feb-1993

RECEIVED
FEB 12 1993
Department of Water Resources
Southern Region Office

JENSEN REAL ESTATE
PO BOX 201
HAGERMAN ID 83332

RE: Copy of SRBA File(s): 36-00085A, 36-00085B, 36-07369B

Dear Mr. Jensen:

Please find enclosed the copies of documents you recently requested contained in the above referenced SRBA file(s) as of this date. Please note that copies of orthophoto quad maps or NAPP photography or aerial slides which may have been used in the review of your claim(s) have not been included since they are not easily reproduced. These items are however available for your review at our office. Please also note that in some situations some water rights may have other associated files which contain privileged information between IDWR staff and our legal council which has not been copied.

Please remit the following for the cost of the copies and postage:

\$7.57

Sincerely,


Jeanie Robertson
Records Clerk

Encl:

cc: MARILYN J MILLER
RICHARD H WAITE
2134 HIGHLAND AVE E
TWIN FALLS ID 83301

MICROFILMED
OCT 12 1994



ate 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

05-Feb-1993

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HAGERMAN ID 83332

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\$7.57

Sincerely,


Jeanie Robertson
Records Clerk

Encl:

cc: MARILYN J MILLER
RICHARD H WAITE
2134 HIGHLAND AVE E
TWIN FALLS ID 83301

MICROFILMED

OCT 12 1994

RECEIVED

FEB 05 1993

Department of Water Resources
Southern Region Office

Feb. 4, 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 A36-00085A.

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.

NOTE: Please send the requested information Sincerely,
to: Jensen Real Estate
P. O. Box #201
Hagerman, Idaho 83332

Marilyn J. Miller
(Name)

2134 Highland Avenue East
(Address)

Twin Falls, Idaho 83301
(City, State, Zip Code)

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

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OCT 12 1994

RECEIVED

APR 30 1993

Department of Water Resources
Adjudication Bureau

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

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

Case No. A36-00085A
(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,

36-00085A -0001/
93-04-0080

Respondents.

INSTRUCTIONS

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

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

(Over)

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OCT 12 1994

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

I. GENERAL INFORMATION

Please fill in the following information:

1. Person objecting:

Name: Marilyn J. Miller

Address: 2134 Highland

Twin Falls, Idaho 83301

Briefly describe your interest in this water right:

Decreed water right pursuant to March 22,

1932 decision in New International Mortgage

Bank vs. Idaho Power Co. with a priority

date of September 20, 1884.

2. Owner of the water right:

Name: Marilyn J. Miller

Address: 2134 Highland

Twin Falls, Idaho 83301

3. If this objection is filed by an attorney:

Attorney Name: Hepworth, Nungester & Lezamiz

Attorney Address: P. Parker & Patrick D. Brown

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

Attorney Phone No.: (208)734-7510; Fax: (208)734-4115

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.

See page 7

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 Blaine

Marilyn J. Miller, 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.

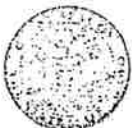
Marilyn J. Miller
Signature of person filing objection

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

Subscribed and sworn to before me this 27 day of April,
1993.

Linda M. Rousseau
Notary Public for Idaho
Residing at: Blaine, ID
My Commission Expires: 9-11-93

LINDA M. ROUSSEAU
NOTARY PUBLIC - STATE OF IDAHO
Residing at: _____



(Over)

INSTRUCTIONS FOR MAILING

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

CERTIFICATE OF MAILING

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

1. Original to:

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

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

Owner name: Marilyn J. Miller
Owner's address: 2134 Highland
Twin Falls, Idaho 83301

3. One copy to:

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

4. One copy to:

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, ID 83724



Signature of Objector or attorney
mailing on Objector's behalf

REASONS SUPPORTING EACH BOX CHECKED, page 4

Box 3, 3a and 10 - IDWR recommends an amount less than decreed and/or beneficially used. A reduction in water right would constitute a taking.

Box 7 - Beneficially used for purposes set forth in notice of claim.

Box 8 - IDWR recommends a period of use less than decreed and/or beneficially used. A reduction in water right would constitute a taking.

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

CHANGES TO DIRECTOR'S REPORT, page 4

The quantity and consumptive use should be increased to reflect the amount decreed and/or beneficially used if greater; the purpose of use should be amended to reflect irrigation and stockwater; and the period of use should be amended to run from 1-1 to 12-31. Remarks should be stricken after the words "Buckeye Ditch."

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)

R PROOF



CVR



MAPS



PHOTOS



MISC



MICROFILME

JAN 21 1993

Water Right Number - R36-00085A

Prefix Translation: RESEARCH

Old (D) Number -

VERIFIED BY

See

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

*** C - CURRENT OWNER ***
MILLER

MARILYN J

1 - 2134 HIGHLAND

2 -

3 -

City- TWIN FALLS

State- ID Zip- 83301

Phone - 208-733-8003

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
09/20/1884 ERROR IN REGION D - DECREED+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
BILLINGSLEY CREEK SNAKE RIVER+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County
07S 13E 11 SE SE NE (47) GOODING+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 04/01 10/31 0.150+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.150 12.9+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
07S 13E 14 SE NW 4.3 01 IRRIGATION (47) GOODING

Total Acres: 4.3

+ - - Diversion Means - VIA BUCKEYE DITCH

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - NONE

+ - - - - Remarks - - - - - +
WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.
A DIVERSION RATE OF 0.14 CFS AT THE FIELD HEADGATE IS
RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.
0.01 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF THIS RIGHT.
PROPERTY IS ALSO KNOWN AS A PORTION OF BLK A-82, A-83 AND
A-84 OF THE HAGERMAN TOWNSITE.

MICROFILMED

JAN 21 1993

Water right number - R36-00085A

Prefix Translation: RESEARCH

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

+ - - - - Old Water Right Numbers - - - - - +
3600085

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

+ - - - - Decree Plaintiff - - - + + - - - - Decree Defendant - - - + + - Decree Date - +
00/00/0000

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

Date: 08/06/1992 User Id: CHRISTEN Subject: COPIED FROM REMARKS

BLOCK A-82, A-83, & A-84

SOURCE CHANGED TO BILLINGSLEY CREEK

P/D SHOULD BE HEAD OF BUCKEYE DITCH.

Date: 10/14/1992 User Id: CLELLAND Subject: RECOMMENDATION CHANGED

THE POINT OF DIVERSION FOR THIS RIGHT INCORRECTLY READ SEC. 14

ORIGINALLY LISTED AS BUCKEYE CREEK. ADM 6/21/90

INSTEAD OF THE SEC. 11 AS CORRECTED.

+ - - Audit Fields - - +

10/14/92 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	- 10/14/1992	Old Judicial District	-
Claim Received Date	- 08/30/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S001891	Water District	- 36A
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	-	Presumption Flag	-
				Notice of Error Flag	- D

MICROFILMED

JAN 2 1 1993

Water Right Number - R36-00085A Prefix Translation: RESEARCH Old (D) Number -

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

*** C - CURRENT OWNER ***
MILLER MARILYN J 1 - 2134 HIGHLAND
2 -
3 -
City- TWIN FALLS State- ID Zip- 83301
Phone - 208-733-8003

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
09/20/1884 ERROR IN REGION D - DECREED

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

+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County
07S 13E 14 SE SE NE (47) GOODING

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 04/01 10/31 0.150

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.150 12.9

+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
07S 13E 14 SE NW 4.3 01 IRRIGATION (47) GOODING

Total Acres: 4.3

+ - - Diversion Means - VIA BUCKEYE DITCH

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - NONE

+ - - - - Remarks - - - - - +
WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.
A DIVERSION RATE OF 0.14 CFS AT THE FIELD HEADGATE IS
RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.
0.01 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF THIS RIGHT.
PROPERTY IS ALSO KNOWN AS A PORTION OF BLK A-82, A-83 AND
A-84 OF THE HAGERMAN TOWNSITE.

MICROFILMED

JAN 21 1993

Water right number - R36-00085A

Prefix Translation: RESEARCH

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

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

3600085

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

No Conditions of Approval found.

+ - - - Decree Plaintiff - - - +

+ - - - Decree Defendant - - - +

+ - Decree Date - +
00/00/0000

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

Date: 08/06/1992 User Id: CHRISTEN Subject: COPIED FROM REMARKS

BLOCK A-82, A-83, & A-84

SOURCE CHANGED TO BILLINGSLEY CREEK

P/D SHOULD BE HEAD OF BUCKEYE DITCH.

ORIGINALLY LISTED AS BUCKEYE CREEK. ADM 6/21/90

+ - - Audit Fields - - +

08/06/92 CHRISTEN

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

Court Report Filing - 00/00/0000
Objection Filed Date - 00/00/0000
Response Filed Date - 00/00/0000
Claim Received Date - 08/30/1988

Field Inspection Made - 00/00/0000
Field Inspection Flag -
Verified Date - 08/06/1992
Last Amended Date - 00/00/0000
Receipt Number - S001891
POU Ownership Flag - Y
Name Connector -

Civil Case Number - 39576
Old Case Number -
Old Judicial District -
Temporary Right - P
Water District - 36A
Federal/State Indicator - S
Presumption Flag -
Notice of Error Flag -

MICROFILMED
JAN 21 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

16:35:30
06/29/90

PAGE: 12
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-00085A

WR ELEMENT	FIELD EXAM Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	VERIFIED BY CODE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE	Y			N		HAT 8/5/92	OB	KKC 8-6-92
POINT OF DIV	(Y)			(Y)	1.5			
SOURCE				N				
PLACE OF USE	(Y)		SCC/HAT 7-26-90	N				
DIV. AMOUNT CFS/VOLUME	(Y)			(Y)	6. DARE			
CONSUMPTIVE USE	-			N				
PURPOSES				N				
PERIOD OF USE	Y			N				
BASIS OF CLAIM	Y			N				
REMARKS	Y			N				

MICROFILMED

JAN 21 1993

"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.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

16:35:30
06/29/90

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-00085A

LAST: MILLER FIRST: MARILYN J.
ADDRESS: 2134 HIGHLAND
CITY: TWIN FALLS STATE: ID ZIP: 83301
PHONE NUMBER: 208-733-8003

OWNER CODE: C

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

DATABASE
Y

FIELD
EXAMINER

CLAIM REMARKS: BLOCK A-82, A-83, & A-84

SOURCE CHANGED TO BILLINGSLEY CREEK
ORIGINALLY LISTED AS BUCKEYE CREEK. ADM 6/21/90
P/D SHOULD BE HEAD OF BUCKEYE DITCH.

FIELD EXAMINATION INFORMATION

CONTACT PERSON: _____

PHONE NUMBER: (____) ____-____

DATE OF FIELD EXAM: 7/26/90

APPOINTMENT MADE: Y(____) N(____)

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

ACCOMPANIED BY: _____

PHONE NUMBER: (____) ____-____

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / REMARKS:

see / HHT Confirmed Acres + use.

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JAN 21 1993

A. AJ CLAIM: # A36-00085A PRIORITY DATE: 09-20-1884 STAGE: D

B. WR RECORD: # 36-00085 PRIORITY DATE: 09-10-1884 STAGE: D

C. FIELD EXAM REQUIRED?

DUE TO PRIORITY DATE DISCREPANCY? (Y/N)

DATABASE
Y

FIELD
EXAMINER
N

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

REMARKS:

=====

RECOMMENDED PRIORITY DATE:

9-10-1884

REVIEWED BY

SC

DATE

9-4-90

=====

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JAN 21 1993

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A36-00085A	07S	13E	14		SE	NW		GOODING

OTHER AJ CLAIMS WITH SAME AJ POD
A PREFIX R PREFIX
A36-00085B NONE

WR RECORDS IN SAME 40 ACRE TRACT

36-07840

SOURCE: BILLINGSLEY CREEK

TRIB: SNAKE RIVER

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
36-00085	07S	13E	11		SE	NE		GOODING

OTHER WR RECORDS WITH SAME WR POD

AJ CLAIMS IN SAME 40 ACRE TRACT
A PREFIX R PREFIX

36-00003	A36-00025	NONE
36-00005	A36-00087	
36-00019	A36-07658	
36-00021	A36-10409	
36-00024	A36-00051D	
36-00025	A36-10119	
36-00026	A36-10120	
36-00027	A36-10751	
36-00034	A36-10752	
36-00035A	A36-10755	
36-00035B	A36-10061	
36-00039A	A36-00103B	
36-00039B	A36-00108A	
36-00040	A36-00003G	
36-00051	A36-00027	
36-00052	A36-00039C	
36-00064	A36-00090E	
36-00065	A36-00051B	
36-00067	A36-00076A	
36-00071	A36-00089B	
36-00076	A36-00089D	
36-00077	A36-10283	
36-00082	A36-10312	
36-00083	A36-00090A	
36-00087	A36-00003D	
36-00088	A36-00090B	
36-00089	A36-00090C	
36-00090	A36-00090D	
36-00091	A36-00090F	
36-00094	A36-00108F	
36-00095	A36-00125A	
36-00096	A36-00026	

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JAN 21 1993

36-00103
36-00108
36-00112A
36-00112B
36-00113B
36-00113C
36-00113D
36-00125
36-04008
36-04115
36-04261
36-07271
36-07658
36-07739
36-07834
36-07840
36-07853
36-07875
36-07957
36-08058
36-08319
36-08335

A36-00051C
A36-00071A
A36-00089A
A36-00108C
A36-00108D
A36-00108E
A36-00108H
A36-04008
A36-04115
A36-04261
A36-00113B
A36-10316
A36-10588
A36-00039J
A36-00096A
A36-00113F
A36-00113G
A36-10559
A36-00048B
A36-00048C
A36-10223
A36-00103A
A36-00003B
A36-00003C
A36-00003E
A36-00003F
A36-00003J
A36-00039G

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JAN 21 1993

SOURCE: BILLINGSLEY CREEK

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)	N	<u>N</u>

REMARKS:

Buckeye ditch is flumed across the Bell next to the Road

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	COUNTY
<u>7S.</u>	<u>13E.</u>	<u>14</u>	<u>SE</u>	<u>SE</u>	<u>NE</u>	<u> </u>	<u>47</u>

change claim

SOURCE: BILLINGSLEY CREEK

TRIB: SNAKE RIVER

REVIEWED BY: SC

DATE: 9-4-90

MICROFILMED
JAN 21 1993

A. ROOT WATER RIGHT NUMBERS: A36-00085A
A36-00085B

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
07S	13E	14	SE	NW		MILLER, MARILYN J.	A36-00085A / 4.3	- /			
						WAITE, RICHARD H.	A36-00085B / 1.1	- /			
						BIG SPRING WATER USER'S ASSN.	A36-00022 /	- /			
						HAGERMAN WATER USERS ASSOCIATION	A36-00057 / 4.0	- /			
						BECKSTEAD, FRED A.	A36-00066 / 0.5	36-00066 /			
						BRUHN, MARLENE M.	A36-00066A / 4.0	- /			
						COATES, FAYE	A36-00067 / 0.5	36-00067 /			
						CITY OF HAGERMAN	A36-02465 /	36-02465 /			
						ROBINSON, GORDON	A36-00065A /	- /			
						MOORE, KAYE M.	A36-00103B / 0.7	- /			
						BECKSTEAD, FRED A.	A36-00065 / 0.5	36-00065 /			
						PARROTT, FLORENCE		36-00085 /			
						SKINNER, CHARLES		36-00103 /			
						WEACH, WILLIAM		36-00125 /			
TOTAL ACRES							A36-00085A	4.30		35.00	4.3

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
X

PRESUMPTION FLAG:

REMARKS:

Confirmed POU & acres.

RECOMMENDATIONS:

TOTAL ACRES:

4.3

REVIEWED BY:

SCC

DATE:

9-4-90

MICROFILMED 43
JAN 21 1993

A. AJ CLAIMED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
A36-00085A IRRIGATION	FROM 03-15 TO 11-15	.200 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		.200 CFS

B. WR RECORDED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
36-00085 IRRIGATION	FROM TO	1.200 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		1.200 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)	Y	<u>N</u>
DUE TO PERIOD FROM/TO DISCREPANCY? (Y/N)	Y	<u>N</u>

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

Y(~~X~~) N()

RECOMMEND TO WR STANDARDS OR OTHER?

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

REMARKS:

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JAN 21 1993

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y() N(~~X~~)

AJ TOTAL CLAIMED DIVERSION RATE: 0.200 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 1.200 CFS

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

FLOW MEASUREMENT REQUIRED?

FIELD
DATABASE EXAMINER
Y N

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

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JAN 21 1993

B. FLOW MEASUREMENT

MEASUREMENT METHOD _____, SEE ATTACHED CALCULATIONS.

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

OTHER RIGHTS LISTED IN CLAIM: NONE

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

CLAIM	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A36-00085A	BILLINGSLEY CREEK	MILLER , MARILYN J.	0.200	0.046		
A36-00085B	BILLINGSLEY CREEK	WAITE , RICHARD H.	0.040	0.036		
A36-00066	BILLINGSLEY CREEK	BECKSTEAD , FRED A.	1.400	0.039		
A36-00066A	BILLINGSLEY CREEK	BRUHN , MARLENE M.	0.240	0.030		
A36-00067	BILLINGSLEY CREEK	COATES , FAYE	0.500	0.014		
A36-00103B	BILLINGSLEY CREEK	MOORE , KAYE M.	0.040	0.057		
A36-00065	BILLINGSLEY CREEK	BECKSTEAD , FRED A.	0.700	0.019		

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

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A36-00022	DOMESTIC	BIG SPRING WATER USER'S ASSN. FROM	01-01 TO 12-31	5.860 CFS	
A36-00022	FISH PROPAGATION	BIG SPRING WATER USER'S ASSN. FROM	01-01 TO 12-31	7.000 CFS	
A36-00022	STOCKWATER	BIG SPRING WATER USER'S ASSN. FROM	01-01 TO 12-31	5.860 CFS	
A36-00057	STOCKWATER	HAGERMAN WATER USERS ASSOCIATIFROM	01-01 TO 12-31	.300 CFS	
A36-02465	MUNICIPAL	CITY OF HAGERMAN FROM	01-01 TO 12-31	4.000 CFS	
A36-00065A	AESTHETIC	ROBINSON , GORDON FROM	01-01 TO 12-31	.180 CFS	

D. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE

ACRES 4.3 x 0.02 CFS/ACRE = 0.086 CFS
(Taken from p/u review)

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

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

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 12.9 AF/A

ACRES 4.3 x CONSUMPTIVE VOL. AF/A FOR AREA 3.0 =

TOTAL CONSUMPTIVE USE 12.9 AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

ACRES 4.3 x DIVERSION VOL. AF/A FOR AREA 4.0 =

TOTAL DIVERSION VOLUME 17.2 AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y() N()

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

See attached conveyance loss sheet.

1b. CALCULATIONS

*See attached Irrigation Analysis
sheet for
basis of recommendation -*

*Rec. Div. Rate 0.14
Conveyance Loss 0.01
Total Rec. 0.15*

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RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD		REC. DIV		REC. DIV		REC. CONS.	
	FROM	TO	RATE	CFS	VOL.	AF/A	USE	
IRRIGATION	03-15	11-15	DATABASE ~~0.200~~	EXAMINER ~~0.14~~ 0.15	DATABASE	EXAMINER ~~12.8~~	DATABASE	EXAMINER
TOTAL FOR THIS RIGHT			~~0.200~~	0.15			12.9	

REVIEWED BY: SEC DATE: 9-4-90

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JAN 21 1993

~~WR proportional Rate~~

$$\frac{\cancel{1.2 \text{ cfs}}}{\cancel{40 \text{ Ac.}}} = \cancel{0.03 \text{ cfs/Ac.}}$$

A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP _____
FORFEIT/ABANDON _____
ADDITIONAL DIV. AMOUNT _____

ACCEPTED
AS CLAIMED

(X)
()
()
()

NEEDS
REVIEW

()
(X)
(X) ✓ *see*

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-00085

TOTAL DIVERSION RATE OF WR SPLITS

DATABASE
1.200

EXAMINER

CFS

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
A36-00085	A36-00085A	0.200	-		36-00085	1.200
A36-00085	A36-00085B	0.040	-		36-00085	1.200
TOTAL CFS		0.240				1.200

DIVERSION RATE REVIEW

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

DATABASE
N

FIELD
EXAMINER

REMARKS:

*attached
see A36-00085 split
for Review.*

AUTHENTICATION:

SIGNATURE:

Steve Clelland

DATE:

9-4-90

NAME OF FIELD EXAMINER:

STEVE CLELLAND

TITLE:

MICROFILMED

JAN 21 1993

REMARK AND CONDITION CODE WORKSHEET

SYSTEM CLAIM NUMBERS R36 00085A _____

AGENT
INITIALS HHH
DATE 8/5/92

[illegible]

Add Water District 36A

MICROFILMED

JAN 21 1993

See 8-3-92

CONVEYANCE LOSS - WORSTELL

REACH	LENGTH (FT)	AVE WIDTH (FT)	SEEPAGE (FT/DAY)	WORSTELL LOSS (CFS)	DELIVERY (CFS)	DELIVERY LEFT (CFS)	LOSS FACTOR	DELIVERY LOSS (CFS)	FLOW (CFS)
1	800	10.0	2.00	0.20	0.06	18.83	0.0107	0.00	26.81
2	600	10.0	2.00	0.15	1.02	18.77	0.0081	0.02	26.55
3	1400	10.0	2.00	0.35	0.24	17.75	0.0199	0.01	25.38
4	800	10.0	2.00	0.20	0.44	17.51	0.0115	0.02	24.79
5	1100	10.0	2.00	0.28	0.17	17.07	0.0163	0.01	24.14
6	1200	10.0	2.00	0.30	0.10	16.90	0.0179	0.01	23.70
7	300	10.0	2.00	0.08	1.22	16.80	0.0045	0.11	23.29
8	1000	10.0	2.00	0.25	0.16	15.58	0.0162	0.02	22.00
9	500	10.0	2.00	0.13	0.50	15.42	0.0082	0.06	21.58
10	2200	10.0	2.00	0.56	4.13	14.92	0.0373	0.62	20.96
11	5500	10.0	2.00	1.39	0.20	10.79	0.1288	0.06	16.27
12	1700	10.0	2.00	0.43	0.09	10.59	0.0406	0.03	14.68
13	3900	10.0	2.00	0.99	0.34	10.50	0.0938	0.14	14.16
14	600	10.0	2.00	0.15	0.27	10.16	0.0149	0.12	12.84
15	1500	10.0	2.00	0.38	0.62	9.89	0.0383	0.29	12.42
16	1600	10.0	2.00	0.40	1.00	9.27	0.0436	0.51	11.42
17	600	10.0	2.00	0.15	0.30	8.27	0.0183	0.16	10.01
18	300	10.0	2.00	0.08	3.25	7.97	0.0095	1.75	9.56
19	3000	10.0	2.00	0.76	0.24	4.72	0.1606	0.17	6.24
20	3000	10.0	2.00	0.76	4.48	4.48	0.1692	3.89	5.24
TOTALS	31600			7.98	18.83			7.98	

Buckeye Ditch

8 rts @ 0.01 each

A36-00085A - 0.01 conveyance loss

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JAN 21 1993

REACH = SECTION OF CHANNEL
 LENGTH = LENGTH OF REACH, THE CHANNEL CAN BE DIVIDED INTO EQUAL LENGTH REACHES
 OR ACTUAL LENGTHS BETWEEN DELIVERY POINTS
 AVE WIDTH = AVERAGE TOP WIDTH OF REACH
 SEEPAGE = SOIL SEEPAGE RATE OF REACH
 WORSTELL LOSS = CONVEYANCE LOSS IN REACH BASED ON WORSTELL METHOD
 DELIVERY = TOTAL DELIVERIES IN REACH
 DELIVERY LEFT = SUM(DELIVERIES OF CURRENT AND REMAINING REACHES)
 LOSS FACTOR = WORSTELL LOSS/DELIVERY LEFT
 DELIVERY LOSS = SUM(LOSS FACTORS OF CURRENT AND PREVIOUS REACHES) X DELIVERY,
 REPRESENTS THE LOSSES ASSIGNED TO THE DELIVERIES IN THE REACH
 FLOW = TOTAL FLOW AT BEGINNING OF EACH REACH

DECREED RIGHT SPLIT ANALYSIS

PARENT RIGHT NO. 36-00085 TOTAL DIVERSION RATE 1.2 PREPARATION DATE 8/5/92 HHT

CLAIM PORTION	CLAIMED RATE	RECOMMENDED RATE	IS CLAIMED RATE EXCEEDED BY ANALYSIS	CONVEYANCE LOSS	DOES DIV RATE + CALC. C.L. EXCEED CLAIMED RATE	TOTAL RECOMMENDED DIV. RATE
<u>A</u>	<u>0.20</u>	<u>0.14</u>	<u>N</u>	<u>0.01</u>	<u>N</u>	<u>0.15</u>
<u>B</u>	<u>0.04</u>	<u>0.03</u>	<u>N</u>	<u>0.01</u>	<u>N</u>	<u>0.04</u>
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

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EFFICIENCY <E> = 32.16 %

TO CHANGE: PRESS (EXISTING)

Design Application	<1>	1.84 in
Furrow Slope	<2>	0.040 ft/ft
Furrow Spacing	<3>	2.50 ft
Furrow Length	<4>	323 ft
Furrow Intake Family	<5>	0.80
Inflow Rate	<6>	4 gpm/furrow
Inflow Time	<7>	12 hours <ANALYSIS MODE>

TO PRINT: DATA/WITH HEADING PRESS:<8/9>

NEW DESIGN PRESS <10>, NEW ANALYSIS PRESS <11>, QUIT PRESS <12>?

INFLOW RATE? 3

GROSS APPLICATION CANNOT BE LESS THAN AVERAGE DEPTH OF APPLICATION!!! TRY INCREASE ASING 'Q'

TO CHANGE: PRESS (EXISTING)

Design Application	<1>	1.84 in
Furrow Slope	<2>	0.040 ft/ft
Furrow Spacing	<3>	2.50 ft
Furrow Length	<4>	323 ft
Furrow Intake Family	<5>	0.80
Inflow Rate	<6>	3 gpm/furrow
Inflow Time	<7>	12 hours <ANALYSIS MODE>

TO PRINT: DATA/WITH HEADING PRESS:<8/9>

NEW DESIGN PRESS <10>, NEW ANALYSIS PRESS <11>, QUIT PRESS <12>?

INTAKE FAMILY	DESIGN APPLIC. Inches	FURROW SLOPE Ft/Ft	FURROW SPACING Feet	FURROW LENGTH Feet	INFLOW RATE Gpm	APPROXIMATE INFLOW TIME Hours	ADVANCE TIME Minutes	GROSS IRRIGATION APPLICATION Inches	NET IRRIGATION APPLICATION Inches	RUNOFF Inches	DEEP PERC. In.	IRRIGATION EFFICIENCY %
0.80	1.84	.040	2.50	323	5	12	20.1	7.15	4.56	2.53	2.78	25.73
0.80	1.84	.040	2.50	323	4	12	23.1	5.72	4.40	1.25	2.63	32.16
0.80	1.84	.040	2.50	323	3	12	29.0	4.29	4.40	1.25	2.63	32.16

$$FIR = 4.2 \frac{C. U.}{EFF}$$

$$= 4.2 \frac{.25}{32.16}$$

$$= 0.033 \text{ CFS/ACRE}$$

$$\times 4.3$$
$$0.14 \text{ CFS (div rate.)}$$

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JAN 21 1993

IRRIGATION ANALYSIS WORKSHEET

CLAIM NO. A36 - 00085ADATE 7-27-92AGENT KKC

CLAIMANT/SYSTEM DESCRIPTION

IRRIGATION SYSTEM ----- Flood
 ANALYSIS METHOD ----- BORDER / FURROW
 TYPE OF CROP ----- Pasture
 MAXIMUM PROFILE DEPTH ----- 36 INCHES
 INTAKE FAMILY -----

SOIL TYPE	<u>KEC</u>	_____	_____	_____	_____	_____	SYSTEM TOTAL
ACRES PER TYPE	<u>4.3</u>	_____	_____	_____	_____	_____	ACRES
SOIL PROFILE WHC	<u>3.68</u>	_____	_____	_____	_____	_____	
DESIGN IRR $\frac{1}{2}$ WHC	<u>1.84</u>	_____	_____	_____	_____	_____	

CROP REQUIREMENT:

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

DAILY CROP REQUIREMENT:

6.44 (MM/DAY) / 25.4 (FACTOR IN MM/IN) ----- .25 IN/DAY

ACTUAL ROTATION PRACTICED ----- DAYS

DRY DAY ROTATION ----- IRR DAY ROTATION -----

THEORETICAL ROTATION:

1.84 DESIGN IRR / .25 CROP REQ = 7.36 DAYS

DESCRIPTION OF FIELD:

AVERAGE LENGTH RUN ----- 323
 TOTAL WIDTH OF FIELD ----- 580
 CHECK 323 L * 580 W / 43,560 = _____ ACRES
 % SLOPE ----- .04
 BORDER WIDTH ----- N/A
 _____ WIDTH OF FIELD / _____ DAYS OF ROTATION
 FURROW / CORRUGATION WIDTH -----
 SET TIME ----- 12

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JAN 21 1993

RICHARD H. WAITE
2134 HIGHLAND AVENUE EAST
TWIN FALLS, IDAHO 83301



RECEIVED

FEB 05 1993

Department of Water Resources
Southern Region Office

IDAHO DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION
222 SHOSHONE STREET EAST
TWIN FALLS, IDAHO 83301



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