

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: A36-00085B  
Date Received: 8/29/1988  
Receipt No: 5001890  
Received By: ct

COPY

FOR YOUR FILES  
DO NOT RETURN  
NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name: RICHARD H. WAITE 208-733-8003  
Address: RT 1 BOX 433  
HAGERMAN, ID 83332

2. Date of Priority: SEP 10, 1884

3. Source: BUCKEYE DITCH 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 BUCHEYE DITCH

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S | (or) | A.F.A. |
|------------|-------|-------|-------|------|--------|
| IRRIGATION | 03/15 | 11/15 | 0.040 |      |        |

7. Total Quantity Appropriated is:  
0.040 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 | 1.1   |

Section Acres 1.1

Total Acres 1.1

A36-00085B

Page 1

Date: 08/29/88

MICROFILMED  
OCT 12 1994

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 36-0085 DECREE. BLOCK A-83 & BLOCK A-84

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

---

Decree Plaintiff

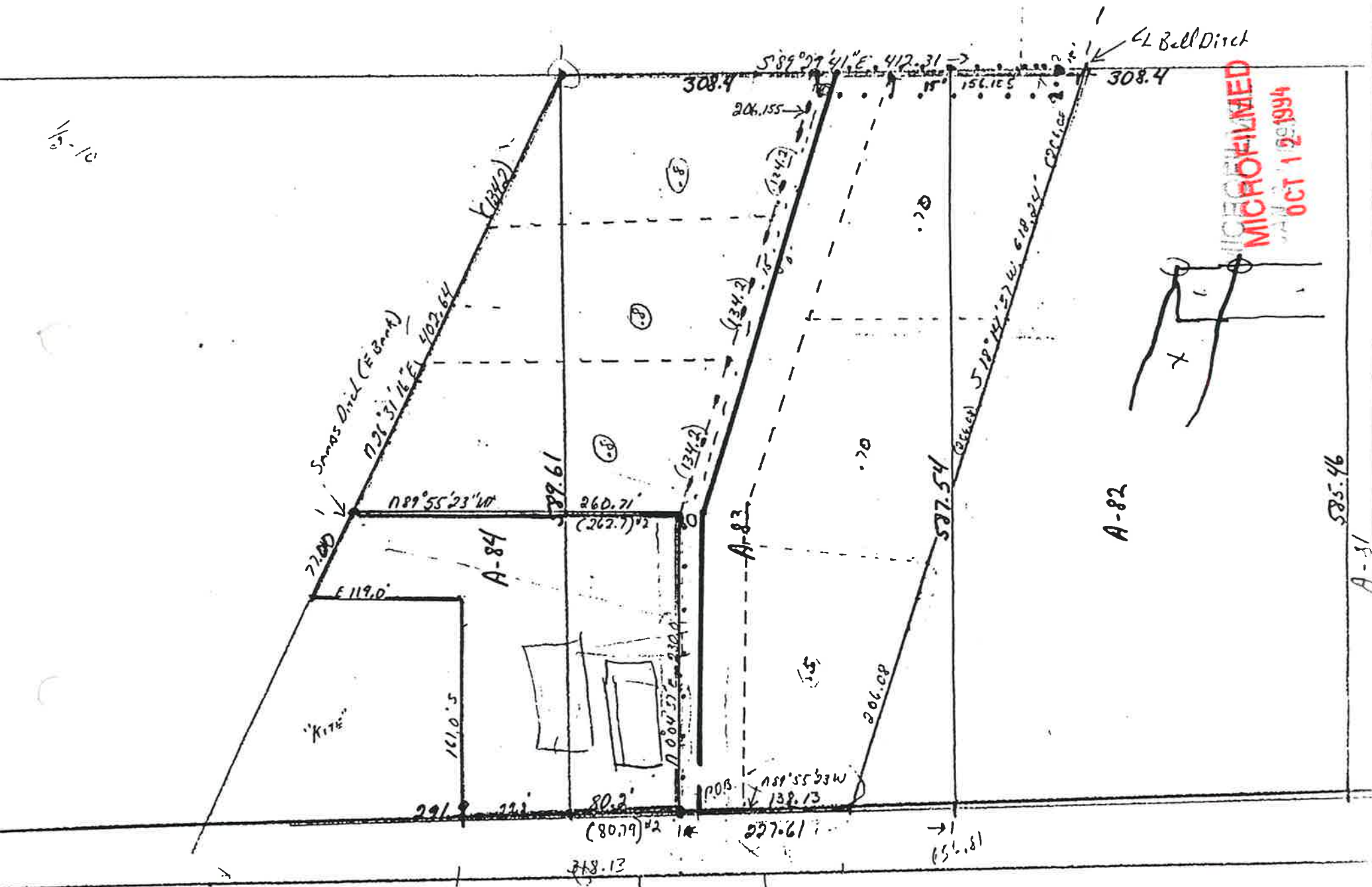
vs

---

Decree Defendant

9-22-81

- 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. 15 less the north 2 $\frac{1}{2}$  acres thereof now belonging to one J. 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 6, 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 $\frac{1}{4}$  to within 15 feet of the North boundary of said SW $\frac{1}{4}$  20 degrees 18 minutes east 500 feet

MICROFILMED

OCT 12 1994

(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.

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

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

11 \* \* \* \* \*

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

Case No. 39576

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

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

22 Petitioner, )

23 vs. )

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

Respondents. )

\* \* \* \* \*

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



Hepworth,  
Nungester,  
& Lezamiz

SUPPLEMENTAL NOTICE OF APPEARANCE - 1

MICROFILMED

OCT 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

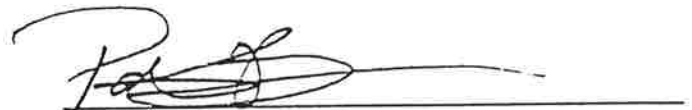
SUPPLEMENTAL NOTICE OF APPEARANCE - 2

**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

Water Right Number - A36-00085B

Adj. Flag Translation: Adjudication Temporary Work Area Old (D) Number -

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

\*\*\* C - CURRENT OWNER \*\*\*  
WAITE

RICHARD H.

Rt.  
1 - RT 1 BOX 433  
2 -  
3 -  
City- HAGERMAN  
Phone - 208-733-8003

State- ID Zip- 83332

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - +  
09/10/1884 D - DECREED

+ - - - - Source - - - - + + - - - - - Tributary - - - - - +  
BUCKEYE DITCH to be corrected BILLINGSLEY CREEK

+ - - - - Point of Diversion - - - - - +  
Twn Rng Sec Tract Lot RFlg County Stream Index (Blank if no Index Code)

07S 13E 14 SE NW (47) GOODING

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

01 - IRRIGATION

4/1 10/31  
03/15 11/15

0.040

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +  
0.040 3.3

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

07S 13E 14 SE NW 1.1 01 IRRIGATION (47 ) GOODING

Total Acres: 1.1

+ - - Diversion Means - VIA BUCKEYE DITCH

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - SEE REMARKS NONE None

+ - - - - Remarks - - - - - +  
PORTION OF 36-0085 DECREE. BLOCK A-83 & BLOCK A-84 3 ~~Handwritten comments~~

+ - - - - Old Water Right Numbers - - - - - +  
A3600085

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

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

MICROFILMED  
JAN 21 1993

Jan 21 1993

MAIL11517



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JAN 02 1998

OFFICE OF THE  
ATTORNEY GENERAL

1997 DEC 29 AM 9:50

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

ORDER OF PARTIAL DECREE

For Water Right 36-00085B

RECEIVED

JAN 08 1998

Department of Water Resources  
Adjudication Bureau

On October 21, 1997, a *Special Master's Report and Recommendation* was filed for the above water right. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 36-00085B is hereby **decreed** as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED December 29, 1997.

DANIEL C. HURLBUTT, JR.

Presiding Judge

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 36-00085B

1997 DEC 29 AM 9:50

DISTRICT COURT - SRBA  
TWIN FALLS CO., IDAHO

FILED

NAME & ADDRESS: RICHARD H WAITE  
RT 1 BOX 433  
HAGERMAN ID 83332

SOURCE: BILLINGSLEY CREEK

TRIBUTARY: SNAKE RIVER

QUANTITY: 0.04 CFS

PRIORITY DATE: 09/10/1884

POINT OF DIVERSION: T07S R13E S11

SESENE

Within GOODING County

PURPOSE AND

PERIOD OF USE: PURPOSE OF USE  
IRRIGATION

PERIOD OF USE  
Irrigation Season

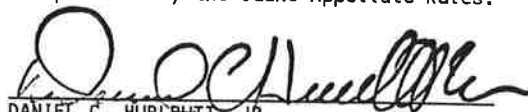
QUANTITY  
0.04 CFS

PLACE OF USE: IRRIGATION  
T07S R13E S14  
1.1 ACRES TOTAL

Within GOODING County  
SENE 1.1

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

1997 DEC 29 PM 02:00  
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): 36-00085B

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE  
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 36-00085B was mailed  
on December 29, 1997, with sufficient first-class postage prepaid  
to the following:

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

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

RICHARD H. WAITE  
ROUTE 1, BOX 433  
HAGERMAN, ID 83332

DIANA DELANEY  
Chief Deputy Clerk

RECEIVED

DEC 30 1999

Department of Water Resources  
Southern Region

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

In Re SRBA

Case No. 39576

)  
)  
)  
)  
)  
)  
)

NOTICE OF  
COMPLETED  
ADMINISTRATIVE  
PROCEEDINGS

Water Rights 36-00085B, 36-02366B  
and 36-07369C

IDWR has completed the following Administrative Proceedings:

CHANGE OF ADDRESS and TRANSFER

Name of Claimant:

Richard H. Waite

Claimant's Water Rights:

See Above

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Reports* for said water rights.

An Administrative Proceeding pursuant to I.C. 42-222 has been completed for water right 36-07369C and all appeal times have run. The following changes have been made to the water right:

Point of Diversion      Place of Use

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

DATED:

11/04/99

  
Signature of IDWR Representative

## CERTIFICATE OF MAILING

I certify that on 11-29-99, 1999, I mailed the original and copies of this form, to the following persons, postage prepaid and addressed as follows:

1. Original to:  
Clerk of the District Court  
Snake River Basin Adjudication  
253 Third Avenue North  
P.O. Box 2707  
Twin Falls, ID 83303-2707
2. One copy to:  
Chief, Natural Resources Division  
Office of the Attorney General  
P.O. Box 44449  
Boise, ID 83711-4449
3. One copy to:  
United States Dept. Of Justice  
Environment & Natural Resource Div.  
550 West Fort Street, MSC 033  
Boise, ID 83724
4. One copy to:  
Richard H. Waite  
321 W. Valley Rd.  
Hagerman, ID 83332-5005

  
\_\_\_\_\_  
Signature of Person or Attorney Mailing the Form

AJ0749NP  
No. R36-00085B

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

DATE: 10/04/99  
PAGE: 1

| OWNER<br>CODE    | NAME & ADDRESS                                                                | PRIORITY<br>DATE | WATER USE  | USE PERIOD<br>FROM TO | DIVERSION<br>RATE | DIVERSION<br>VOLUME |
|------------------|-------------------------------------------------------------------------------|------------------|------------|-----------------------|-------------------|---------------------|
| C                | RICHARD H WAITE<br>321 W VALLEY RD<br>HAGERMAN ID 833325005<br>(208) 837-4719 | 09/10/1884       | IRRIGATION | 02-15 11-30           | 0.040 CFS         |                     |
| TOTAL DIVERSION: |                                                                               |                  |            |                       | 0.040 CFS         |                     |

Water Source: BILLINGSLEY CREEK

Tributary to: SNAKE RIVER

Stage: DECREED

Point(s) of Diversion:

T07S R13E S11

SESENE

GOODING County

Place of use Legal Description for: IRRIGATION

|             |     |    |   | NE   |      |      |      | NW |      |      |      | SW   |    |      |      | SE   |      |    |      |      |      |      |     |     |   |
|-------------|-----|----|---|------|------|------|------|----|------|------|------|------|----|------|------|------|------|----|------|------|------|------|-----|-----|---|
| T           | R   | S  | : | NENE | NWNE | SWNE | SENE | :  | NENW | NWNW | SWNW | SENW | :  | NESW | NWSW | SWSW | SESW | :  | NESE | NWSE | SWSE | SESE | :   | SUM |   |
|             |     |    | : | Lt   | Ac   | Lt   | Ac   | Lt | Ac   | Lt   | Ac   | Lt   | Ac | :    | Lt   | Ac   | Lt   | Ac | Lt   | Ac   | Lt   | Ac   | Lt  | Ac  | : |
| 07S         | 13E | 14 | : |      |      |      |      | :  |      |      |      | 01   | :  |      |      |      |      | :  |      |      |      |      |     |     | : |
| TOTAL ACRES |     |    |   |      |      |      |      |    |      |      |      |      |    |      |      |      |      |    |      |      |      |      | 1.1 |     |   |

POU County: GOODING

Other Rights: NONE

Remarks: EXP WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.  
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-83 AND A-84  
HAGERMAN TOWNSITE.

Dates: Exam Made Date: Verified Date: Objection Filed Date:

Misc: Water District Number: 36A Field Inspection Flag:  
Presumption Flag:

Comments: Date: 08/06/1992 User-ID: CHRISTEN Subject: COPIED FROM REMARKS  
PORTIONS OF BLOCK A-83 & BLOCK A-84

Date: 10/14/1992 User-ID: CLELLAND Subject: RECOMMENDATION CHANGED  
THE POINT OF DIVERSION WAS INCORRECTLY LISTED AS SEC. 14 AND  
SHOULD HAVE BEEN SEC. 11 AS SHOWN.

Date: 10/04/1999 User-ID: SSHERMAN Subject: ADDRESS CHANGE  
ADDRESS CHANGE BY CLAIMANT LETTER.

Audit: 10/04/99 SSHERMAN

AJ0749NP  
No. 36-00085B

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

DATE: 10/04/99  
PAGE: 1

=====

| OWNER<br>CODE | NAME & ADDRESS                                                                | PRIORITY<br>DATE | WATER USE  | USE PERIOD<br>FROM TO | DIVERSION<br>RATE | DIVERSION<br>VOLUME |
|---------------|-------------------------------------------------------------------------------|------------------|------------|-----------------------|-------------------|---------------------|
| C             | RICHARD H WAITE<br>321 W VALLEY RD<br>HAGERMAN ID 833325005<br>(208) 837-4719 | 09/10/1884       | IRRIGATION | 03-15 11-15           | 0.040 CFS         |                     |
|               |                                                                               |                  |            | TOTAL DIVERSION:      | 0.040 CFS         |                     |

Water Source: BILLINGSLEY CREEK      Tributary to: SNAKE RIVER      Stage: DECREED

Point(s) of Diversion:      T07S R13E S11      SESENE      GOODING County

Place of use Legal Description for: IRRIGATION

| NE  |     |    |                           | NW |      |      |      | SW   |   |      |      | SE   |      |   |      |      |      |      |   |             |     |
|-----|-----|----|---------------------------|----|------|------|------|------|---|------|------|------|------|---|------|------|------|------|---|-------------|-----|
| T   | R   | S  | : Lt Ac Lt Ac Lt Ac Lt Ac | :  | NENW | NWNW | SWNW | SENW | : | NESW | NWSW | SWSW | SESW | : | NESE | NWSE | SWSE | SESE | : | SUM         |     |
| 07S | 13E | 14 | :                         | :  | :    | :    | :    | :    | : | :    | :    | :    | :    | : | :    | :    | :    | :    | : | :           | 1.1 |
|     |     |    |                           |    |      |      |      |      |   |      |      |      |      |   |      |      |      |      |   | TOTAL ACRES | 1.1 |

POU County: GOODING

Other Rights: NONE

Remarks: EXP      WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.  
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-83 AND A-84  
HAGERMAN TOWNSITE.

Dates:      Exam Made Date:      Verified Date:      Objection Filed Date:

Misc:      Water District Number: 36A      Field Inspection Flag:  
Presumption Flag:

Comments:      Date: 08/06/1992      User-ID: CHRISTEN      Subject: COPIED FROM REMARKS  
PORTIONS OF BLOCK A-83 & BLOCK A-84

Date: 10/14/1992      User-ID: CLELLAND      Subject: RECOMMENDATION CHANGED  
THE POINT OF CIVERSION WAS INCORRECTLY LISTED AS SEC. 14 AND  
SHOULD HAVE BEEN SEC. 11 AS SHOWN.

Date: 10/04/1999      User-ID: SSHERMAN      Subject: ADDRESS CHANGE  
ADDRESS CHANGE BY CLAIMANT LETTER.

Audit:      10/04/99 SSHERMAN



State of Idaho

# DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

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

RECEIVED  
OCT 01 1999

Department of Water Resources

August 4, 1999

DIRK KEMPTHORNE  
GOVERNOR

KARL J. DREHER  
DIRECTOR

208/ 837-4719  
RICHARD H WAITE  
321 W VALLEY RD  
HAGERMAN ID 83332-5005

RE: Snake River Basin Adjudication (SRBA) Water Rights #36-00085B, 36-02366B, 36-07369A, 36-07369B, 36-10561, 37-11194 & 71-10120 are these last two yours as well? We have three different addresses for you....)

Dear Mr. Waite:

Mail recently sent to you was returned to us by the Postal Service. They also advised us your address has changed to the above address. We have enclosed the returned mail.

Although we have reached you at the address above, we need your written confirmation this is your correct mailing address before we can change our records.

Please sign your name at the bottom of this letter and return it to this office. Make corrections to your name and address if necessary before returning this letter, list any other water rights you have, and return this letter by August 17, 1999. Thank you for your help.

If your mail delivery address changes in any form, please contact us in writing so we can update our records. Be sure to list your water right numbers.

If there has been a change in ownership of the property connected with the water right referenced above, please call this office toll-free at 1/800-451-4129 to obtain a form to make this required change to the water right record.

Sincerely,

Sally Sherman  
Technical Records Specialist  
Adjudication Bureau

SS:region  
Enclosure:

Returned Mail

#####

The address is correct as shown above or as otherwise changed.

Richard H Waite  
Claimant Signature

208-837-4719  
Telephone No.

DEPARTMENT OF WATER RESOURCES  
1301 N. ORCHARD ST.  
BOISE, ID 83706-2237

ADDRESS SERVICE  
REQUESTED



WAIT001 833322014 1498 03 08/03/99  
FORWARD TIME EXP RTN TO SEND  
WAITE  
321 W VALLEY RD  
HAGERMAN ID 83332-5005

RETURN TO SENDER

RECEIVED  
AUG 04 1999  
Department of Water Resources

~~Wait~~ 321  
R36-00085B  
RICHARD H WAITE  
RT 1 BOX 433  
HAGERMAN

ID 83332

+ 36-02366B  
✓ - 07369A  
✓ - 07369B  
✓ - 10561

3di ff.  
addresses...

Lesson? 37-11194

~~71-10120~~

~~Lesson? 71-10120~~  
Sally

2

AJ5856NP

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

DATE: OCT-21-1999  
PAGE: A-30

RIGHT NUMBER: 36-000858

NAME & ADDRESS: RICHARD H WAITE  
321 W VALLEY RD  
HAGERMAN ID 83332-5005

SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 0.04 CFS

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 11-30   | 0.04 CFS |

PLACE OF USE: IRRIGATION Within GOODING County  
T07S R13E S14 SENW 1.1  
1.1 ACRES TOTAL

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE  
WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.  
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-83 AND A-84  
HAGERMAN TOWNSITE.

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) 36-00085B

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

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): 36-00085 B

## 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

Richard White  
Claimant/Attorney

**Claimant/Attorney**

Representative of U.S. Dept. of Justice

Party/Attorney

Party/Attorney

DATED 10-21-97

Debbie Lash  
Deputy Clerk

OCT 21 1997

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

Subcase(s)

36-00085B

STANDARD FORM 5

Case 39576

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

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according 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

Robert Brown Chamber 2.7 Horsing  
IDWR Concurrence

Richard Howard  
Claimant

Richard Howard  
Objector

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

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

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

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

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

DATE: OCT-17-1997

PAGE: A-1

RIGHTS FROM: SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

RIGHT NUMBER: 36-000858

NAME AND ADDRESS: RICHARD H WAITE  
RT 1 BOX 433  
HAGERMAN ID 83332

SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 0.04 CFS

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     | <u>Irrigation Season</u> | 0.04 CFS |
|                            |                | 03/13 11/13              |          |

PLACE OF USE: IRRIGATION Within GOODING County  
T07S R13E S14 SENW 1.1  
1.1 ACRES TOTAL

CONSUMPTIVE USE: 3/3 APY

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

WATER IS DELIVERED THROUGH THE BUCKEYE DITCH/  
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/B3 AND A/B4  
HAGERMAN TOWNSITE/

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.  
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-83 AND A-84  
HAGERMAN TOWNSITE.

RECOMMENDATION

OCT 21 1997

SPECIAL MASTER

G.2.7.  
R. H. W. R. H.

**SUBCASE NO. 36-00085B**

|                           | <b>CLAIM<br/>(8/29/88)</b>                                 | <b>AMENDED CLAIM</b> | <b>RECOMMENDATION</b>                                                                                                                                                                                                 | <b>OBJECTION</b>                                                       |
|---------------------------|------------------------------------------------------------|----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|
| <b>NAME</b>               | Richard Waite                                              | N/A                  | Richard Waite                                                                                                                                                                                                         | Richard Waite                                                          |
| <b>BASIS OF CLAIM</b>     | Decree                                                     |                      | Decree                                                                                                                                                                                                                |                                                                        |
| <b>SOURCE</b>             | Buckeye Ditch                                              |                      | Billingsley Creek                                                                                                                                                                                                     |                                                                        |
| <b>QUANTITY</b>           | 0.04 cfs                                                   |                      | 0.04 cfs                                                                                                                                                                                                              | XX requests as decreed and or beneficially used "whichever is greater" |
| <b>PRIORITY DATE</b>      | 9/10/1884                                                  |                      | 9/10/1884                                                                                                                                                                                                             |                                                                        |
| <b>PURPOSE OF USE</b>     | Irrigation                                                 |                      | Irrigation                                                                                                                                                                                                            | XX - requests stockwater be added                                      |
| <b>PERIOD OF USE</b>      | 3/15 - 11/15                                               |                      | 3/15 - 11/15                                                                                                                                                                                                          | XX year round for all uses                                             |
| <b>POINT OF DIVERSION</b> | T07S R13E S14                                              |                      | T07S R13E S11                                                                                                                                                                                                         |                                                                        |
| <b>PLACE OF USE</b>       | T07S R13E S14<br>1.1 acres                                 |                      | T07S R13E S14<br>1.1 acres                                                                                                                                                                                            |                                                                        |
| remarks                   | "Portion of no. 36-00085 decree. Block A-83 & Block A-84." |                      | "Water is delivered through the Buckeye Ditch. 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-83 and A-83 Hagerman Townsite." | XX - requests remarks pertaining to conveyance losses be deleted.      |
|                           |                                                            |                      |                                                                                                                                                                                                                       |                                                                        |

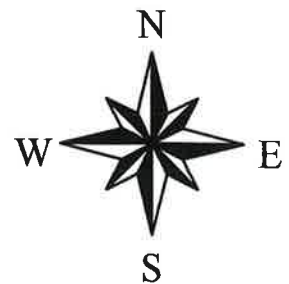
IDAHO DEPARTMENT OF WATER RESOURCES

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 36-00085BDATE 10-16-97

TRANSFER NUMBER \_\_\_\_\_

OBJECTION FILED yesAGENT KRETOTAL ACRES FROM RECOMMENDATION 1.1GEOGRAPHIC INFO SYSTEM .7

| RIGHT<br>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       | <u>7S</u> | <u>13E</u> | <u>14</u> |    |    |    |    |    |    |    | <u>1.1</u> |    |    |    |    |    |    |    | <u>1.1</u> |
| GIS         |           |            |           |    |    |    |    |    |    |    | <u>1.0</u> |    |    |    |    |    |    |    | <u>1.0</u> |
| RECOM       |           |            |           |    |    |    |    |    |    |    |            |    |    |    |    |    |    |    |            |
| GIS         |           |            |           |    |    |    |    |    |    |    |            |    |    |    |    |    |    |    |            |
| RECOM       |           |            |           |    |    |    |    |    |    |    |            |    |    |    |    |    |    |    |            |
| GIS         |           |            |           |    |    |    |    |    |    |    |            |    |    |    |    |    |    |    |            |
| RECOM       |           |            |           |    |    |    |    |    |    |    |            |    |    |    |    |    |    |    |            |
| GIS         |           |            |           |    |    |    |    |    |    |    |            |    |    |    |    |    |    |    |            |

UPDATED

POLYGON #

UPDATED

B36-DBPOU.DBF

10/

POLYGON CREATED ON 604 ( )

ATTRIBUTES OF B36-POU.SHP 58510/

B36-DBPOD.DBF

16ATTRIBUTES OF B36-POD.SHP 45416Delivery exp is Buckeye DitchRevised shape file after Settlement Discussions w/ Claimant  
on 10/21/97. Revised acreage = 1.0 ac. 10/29/97

P/U CONFLICT yes ( ) no (X)

P/D CONFLICT yes ( ) no (X)

READY FOR DECREE yes (X) no ( )

SENT FOR DECREE yes (X) no ( )

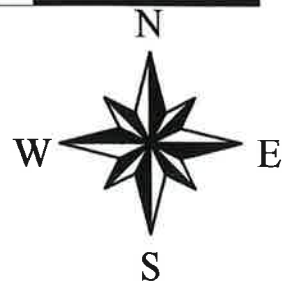
IDAHO DEPARTMENT OF WATER RESOURCES

**36-00085B**  
**RICHARD WAITE**



660 0 660 1320 1980 2640 Feet

TNS 7S, RNG 13E,  
SEC 14, SE1/4NW1/4



⊙ 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 16, 1997  
BY KELLY K CHRISTENSEN

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. 36-00085B -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)

MICROFILMED  
OCT 12 1994

2. Person who filed objection:

Name: RICHARD H WAITE  
Address: ROUTE 1 BOX 433  
HAGERMAN ID 83332

3. If this response is filed by an attorney:

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

Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

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

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

REASONS SUPPORTING EACH BOX CHECKED

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 director's recommendation 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. IDWR further responds that it recommended this element of the water right as claimed. The objection does not state a different amount sought; this portion of the objection should therefore be stricken.

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

(Over)

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

In further response to this objection item, IDWR responds that it recommended this element of the water right as claimed. By now seeking to claim 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<br>Pages |
|--------------------------------------------------------------------------------------|-----------------|
| Notice of Claim No. A36-00085B                                                       | 5               |
| IDWR's Response to Answer, Affirmative Defenses and Prayer<br>for Relief of Claimant | 4               |

(Over)

MICROFILMED  
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 9<sup>th</sup> day of September,  
1993.



Notary Public for Idaho

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

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

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

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

Ident. Number: A36-00085B  
Date Received: 8/29/1988  
Receipt No: 5001890  
Received By: ct

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name: RICHARD H. WAITE 208-733-8003  
Address: RT 1 BOX 433  
HAGERMAN, ID 83332

2. Date of Priority: SEP 10, 1884

3. Source: BUCKEYE DITCH 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 BUCHEYE DITCH

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S | (or) | A.F.A. |
|------------|-------|-------|-------|------|--------|
| IRRIGATION | 03/15 | 11/15 | 0.040 |      |        |

7. Total Quantity Appropriated is:  
0.040 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 | 1.1   |

Section Acres 1.1

Total Acres 1.1

A36-00085B

Page 1

Date: 08/29/88

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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 36-0085 DECREE. BLOCK A-83 & BLOCK A-84

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

---

Decree Plaintiff

vs

---

Decree Defendant

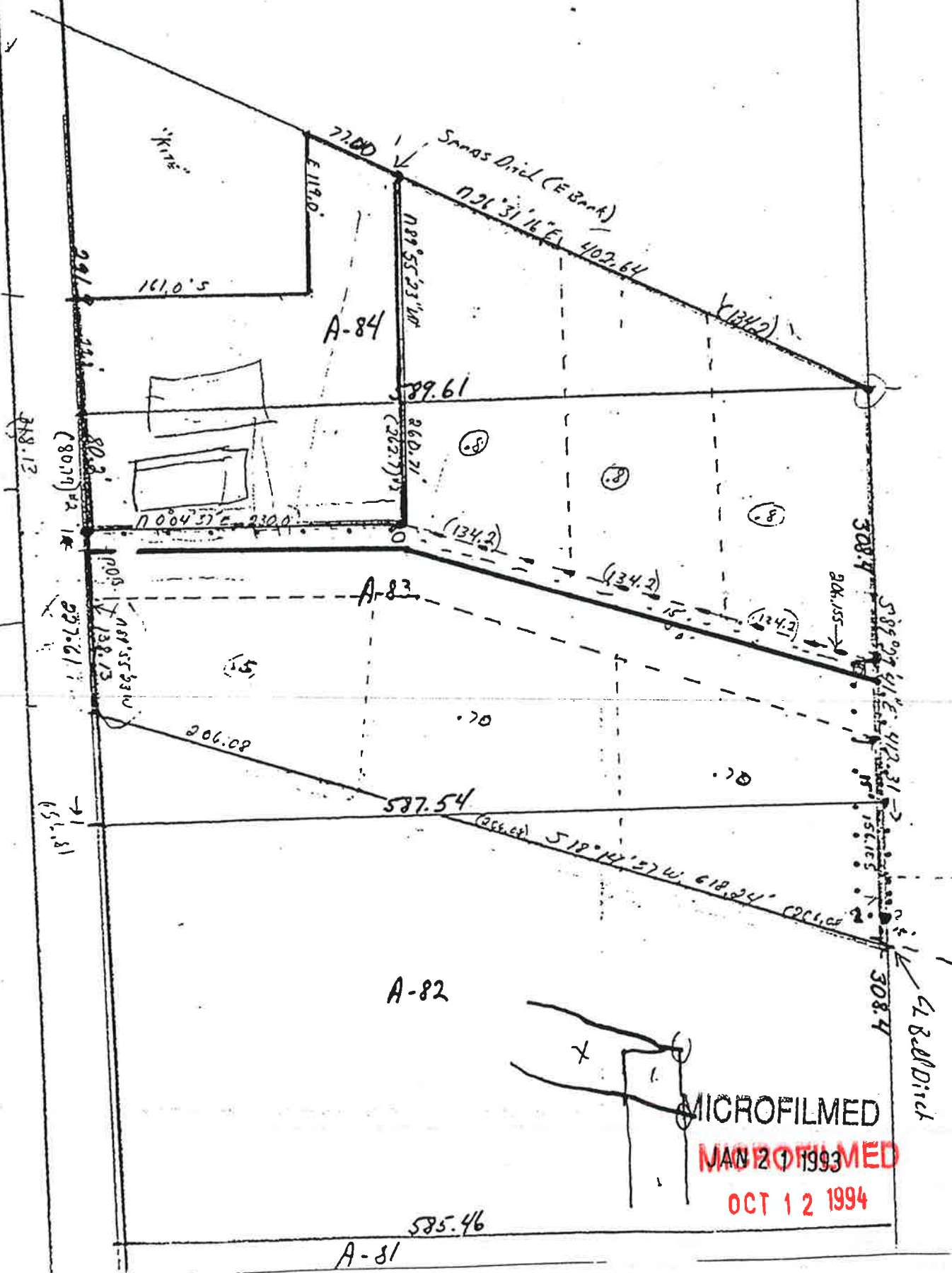
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- Dick White
- Kids

10/10/10



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.

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 southerly 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.

6-0085 PARROTT,  
MRS. FLOR-  
ENCE.

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 $\frac{1}{4}$  of Sec. 25, thence 18 minutes east 500 feet

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16. Signature(s)

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

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

For Individuals:

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

Signature of Claimant(s): Richard H. Hart Date: 8-29-88  
\_\_\_\_\_  
Date: \_\_\_\_\_

State of Idaho )  
County of Twin Falls ) SS.

Subscribed and sworn (or affirmed) before me this 29th day  
of August 19 88

Judy Linda Smiley  
Notary Public

Seal

Residing at Twin Falls  
My Commission Expires 7/15/93

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

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

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

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

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

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

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

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

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

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

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

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

For Monies Paid  
to the  
IDAHO DEPARTMENT OF WATER RESOURCES

RECEIVED

FEB 12 1993

Department of Water Resources  
Southern Region Office

Receipt No:

S015384

Date:  
Time:

2/12/1993  
10:51:44

Received From: WAITE RICHARD H

| Type of Payment                             | Program Acct Class | Amount |
|---------------------------------------------|--------------------|--------|
| FEE FOR COPY OF ADJUDICATION CLAIM<br>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

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

  
33  
30  
26  
8985 = 4.45  
Post. 2.40  
env. .22  
7.57

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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 A36-00085B & A36-07369B.

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

Richard H. Waite  
(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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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. A36-00085B  
(You must insert the  
water right number you  
are objecting to)

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

OBJECTION

Petitioner,

vs.

36-00085B -0001/  
93-04-0081

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

Respondents.

INSTRUCTIONS

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

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

(Over)

OBJECTION - 1

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

I. GENERAL INFORMATION

Please fill in the following information:

1. Person objecting:

Name: Richard H. Waite

Address: Route 1, Box 433

Hagerman, ID 83332

Briefly describe your interest in this water right:

Decreed water right pursuant to New

International Mortgage Bank v. Idaho Power

Company dated 3/22/32 with a priority date

of 9/20/1884

2. Owner of the water right:

Name: Richard H. Waite

Address: Route 1, Box 433

Hagerman, ID 83332

3. If this objection is filed by an attorney:

Attorney Name: Patrick D. Brown & Penelope Parker

Attorney Address: Hepworth, Nungester & Lezamiz

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

Attorney Phone No.: (208) 734-7510

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

## II. STATEMENT OF THE OBJECTION

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

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

(Over)

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.

The report should be changed to add stock water as a purpose;  
to extend the period of use to 1/1 through 12/31 and delete  
remarks regarding conveyance losses. Maximum quantity: as  
decreed and/or beneficially used, whichever is greater with  
corresponding consumptive use changed.

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 Sun Valley

Richard H. Waite

(Name of person filing objection)

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

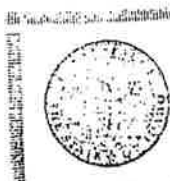
That I am the person or entity filing this objection, that I am a water claimant or party in this proceeding, as defined by I.C. Sec 42-1401A(1) and (7), and that I have read the foregoing objection, know its contents and that the statements contained therein are true to the best of my knowledge and belief.

Richard H. Waite  
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 - STATE OF IDAHO

Residing at \_\_\_\_\_, Idaho

Linda M. Rousseau  
Notary Public for Idaho

Residing at: Sun Valley, ID

My Commission Expires: 9-11-93

(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: Richard H. Waite  
Owner's address: Route 1, Box 433  
Hagerman, ID 83332

3. One copy to:

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

4. One copy to:

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



Signature of Objector or attorney  
mailing on Objector's behalf

REASONS SUPPORTING EACH BOX CHECKED, page 4

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

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

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

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

CHANGES TO DIRECTOR'S REPORT, page 4

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

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Question 14., page 4, Other

I.

GENERAL RESPONSE

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

II.

DESCRIPTIVE SUMMARY

(DIRECTOR'S REPORT PART I)

(hereinafter DRP-I)

(DRP-I at first unnumbered page)

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

III.

TABLE OF CONTENTS

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

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

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**



**MICROFILM**

**JAN 21 1993**

VERIFIED BY SC

Water Right Number - R36-00085B

Prefix Translation: RESEARCH

Old (D) Number -

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

\*\*\* C - CURRENT OWNER \*\*\*  
WAITE

RICHARD H

1 - RT 1 BOX 433

2 -

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-733-8003

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - - +  
09/10/1884 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

0.040

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +  
0.040 3.3+ - - - - Place of Use - - - - - +  
Twn Rng Sec Tract Lot Acres Code Description County

07S

13E

14

SE NW

1.1

01 IRRIGATION

(47) GOODING

Total Acres: 1.1

+ - - Diversion Means - VIA BUCKEYE DITCH

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - NONE

+ - - - - Remarks - - - - - +

WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.  
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-83 AND A-84  
HAGERMAN TOWNSITE.+ - - - - Old Water Right Numbers - - - - - +  
3600085

MICROFILMED

JAN 21 1993

Water right number - R36-00085B

Prefix Translation: RESEARCH

+ - - - - 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  
PORTIONS OF BLOCK A-83 & BLOCK A-84

Date: 10/14/1992 User Id: CLELLAND Subject: RECOMMENDATION CHANGED  
THE POINT OF CIVERSION WAS INCORRECTLY LISTED AS SEC. 14 AND SHOULD HAVE BEEN SEC. 11 AS SHOWN.

+ - - 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        | - S001890    | Water District          | - 36A   |
|                      |              | POU Ownership Flag    | - Y          | Federal/State Indicator | - S     |
|                      |              | Name Connector        | -            | Presumption Flag        | -       |
|                      |              |                       |              | Notice of Error Flag    | - D     |

MICROFILMED

JAN 21 1993

Water Right Number - R36-00085B

Prefix Translation: RESEARCH

Old (D) Number -

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

+ - First Name - - +

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

\*\*\* C - CURRENT OWNER \*\*\*  
WAITE

RICHARD H

1 - RT 1 BOX 433

2 -

3 -

City- HAGERMAN

Phone - 208-733-8003

State- ID Zip- 83332

VERIFIED BY

KRC

+ - - Priority Date - - +  
09/10/1884+ - - Region - - - +  
ERROR IN REGION+ - - Stage - - - +  
D - DECREED

+ - - Status - - - +

+ - - Source - - - - - +  
BILLINGSLEY CREEK+ - - Tributary - - - - - +  
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 0.040

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +  
0.040 3.3

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

+ - - Twn Rng Sec Tract Lot Acres Code Description County

07S 13E 14 SE NW 1.1 01 IRRIGATION (47) GOODING

Total Acres: 1.1

+ - - Diversion Means - VIA BUCKEYE DITCH

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - NONE

+ - - Remarks - - - - - +

WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.  
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-83 AND A-84  
HAGERMAN TOWNSITE.

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

3600085

MICROFILMED

JAN 21 1993

Water right number - R36-00085B

Prefix Translation: RESEARCH

+ - - - - 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  
PORTIONS OF BLOCK A-83 & BLOCK A-84

+ - - Audit Fields - - +  
08/06/92 CHRISTEN

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

|                      |              |                       |              |                         |         |
|----------------------|--------------|-----------------------|--------------|-------------------------|---------|
| Court Report Filing  | - 00/00/0000 | Field Inspection Made | - 00/00/0000 | Civil Case Number       | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | -            | Old Case Number         | -       |
| Response Filed Date  | - 00/00/0000 | Verified Date         | - 08/06/1992 | Old Judicial District   | -       |
| Claim Received Date  | - 08/30/1988 | Last Amended Date     | - 00/00/0000 | Temporary Right         | - P     |
|                      |              | Receipt Number        | - S001890    | Water District          | - 36A   |
|                      |              | POU Ownership Flag    | - Y          | Federal/State Indicator | - S     |
|                      |              | Name Connector        | -            | 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: A36-00085B

| WR ELEMENT                | FIELD EXAM<br>Y/N | CORRESPONDENCE<br>SENT/RECEIVED<br>BY WHOM/DATE | FIELD EXAM<br>BY WHOM/DATE | CHANGE<br>CLAIM<br>Y/N | VERIFIED BY<br>CODE | COMPLETED<br>REVIEW<br>WHOM/DATE | COMPLETED<br>DATA ENTRY<br>WHOM/DATE | VERIFIED<br>DATE<br>WHOM/DATE |
|---------------------------|-------------------|-------------------------------------------------|----------------------------|------------------------|---------------------|----------------------------------|--------------------------------------|-------------------------------|
| PRIORITY DATE             |                   |                                                 |                            |                        |                     | SCC                              |                                      |                               |
| POINT OF DIV              |                   |                                                 |                            | N                      |                     | 9-4-90                           | QB                                   |                               |
| SOURCE                    | Y                 |                                                 |                            | (Y)                    | 1,5                 | HHT<br>8/5/92                    |                                      | KKC<br>8-6-92                 |
| PLACE OF USE              |                   |                                                 |                            | N                      |                     |                                  |                                      |                               |
| DIV. AMOUNT<br>CFS/VOLUME | (Y)               |                                                 | SCC/HHT<br>7-26-90         | N                      | 1,4,5               |                                  |                                      |                               |
| CONSUMPTIVE USE           | Y                 |                                                 |                            | N                      |                     |                                  | Y                                    |                               |
| PURPOSES                  | -                 |                                                 |                            | N                      |                     |                                  |                                      |                               |
| PERIOD OF USE             |                   |                                                 |                            | N                      |                     |                                  |                                      |                               |
| BASIS OF CLAIM            | Y                 |                                                 |                            | N                      |                     |                                  |                                      |                               |
| REMARKS                   | Y                 |                                                 |                            | N                      |                     |                                  |                                      |                               |
|                           | Y                 |                                                 |                            | N                      |                     |                                  |                                      |                               |

"VERIFIED BY" CODES

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

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

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JAN 21 1993

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
ADJUDICATION CLAIM VERIFICATION REPORT

16:35:30  
06/29/90

PAGE: 1  
GENERAL INFORMATION

CLAIM NUMBER: A36-00085B

LAST: WAITE  
ADDRESS: RT. 1 BOX 433  
CITY: HAGERMAN  
PHONE NUMBER: 208-733-8003

FIRST: RICHARD H.  
STATE: ID ZIP: 83332

OWNER CODE: C

FIELD EXAM REQUIRED?

DATABASE  
Y

FIELD  
EXAMINER

VERIFICATION REQUIRED DUE TO REMARKS?

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

FIELD EXAMINATION INFORMATION

CONTACT PERSON: \_\_\_\_\_

PHONE NUMBER: (\_\_\_\_) \_\_\_\_-\_\_\_\_

DATE OF FIELD EXAM: 7/26/90

APPOINTMENT MADE: Y(\_\_\_\_) N(X)

TIME: \_\_\_\_:\_\_\_\_ A(\_\_\_\_) P(\_\_\_\_)

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

PHONE NUMBER: (\_\_\_\_) \_\_\_\_-\_\_\_\_

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

DIRECTIONS TO PROPERTY / REMARKS:

SCC/HHT confirmed use + place of use.

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JAN 21 1993

A. AJ CLAIM: # A36-00085B PRIORITY DATE: 09-10-1884 STAGE: D  
B. WR RECORD: # 36-00085 PRIORITY DATE: 09-10-1884 STAGE: D

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

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

REMARKS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

=====

RECOMMENDED PRIORITY DATE:  
09-10-1884

REVIEWED BY scu 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    |
|------------|------|------|------|-----|-----|-----|-----|---------|
| A36-00085B | 07S  | 13E  | 14   |     | SE  | NW  |     | GOODING |

(R)

OTHER AJ CLAIMS WITH SAME AJ POD  
A PREFIX R PREFIX  
A36-00085A 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  |      |

MICROFILMED  
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?

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

DATABASE  
Y  
N

FIELD  
EXAMINER  
N  
N

REMARKS:

*Rediversion goes to Remains*

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

| TWP.      | RGE.       | SEC.      | 1/4       | 1/4       | 1/4       | LOT      | COUNTY    |
|-----------|------------|-----------|-----------|-----------|-----------|----------|-----------|
| <u>7S</u> | <u>13E</u> | <u>11</u> | <u>SE</u> | <u>SE</u> | <u>NE</u> | <u>—</u> | <u>47</u> |

SOURCE: BILLINGSLEY CREEK

TRIB: SNAKE RIVER

REVIEWED BY: SC DATE: 9-4-90

*change claim*

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<br>#/ACRES    | WR<br>#/ACRES | LANDSAT<br>DATA | FIELD<br>EXAM. | RECOMM.<br>ACRES |
|-------------|-----|-----|-----|-----|-----|----------------------------------|------------------|---------------|-----------------|----------------|------------------|
| 07S         | 13E | 14  | SE  | NW  |     | WAITE, RICHARD H.                | A36-00085B / 1.1 | - /           | 35.0            |                | 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 /    |                 |                |                  |
|             |     |     |     |     |     | MILLER, MARILYN J.               | A36-00085A / 4.3 | - /           |                 |                |                  |
|             |     |     |     |     |     | PARROTT, FLORENCE                |                  | 36-00085 +    |                 |                |                  |
|             |     |     |     |     |     | SKINNER, CHARLES                 |                  | 36-00103 /    |                 |                |                  |
|             |     |     |     |     |     | WEACH, WILLIAM                   |                  | 36-00125 /    |                 |                |                  |
| TOTAL ACRES |     |     |     |     |     |                                  | A36-00085B       | 1.10          | 35.00           |                |                  |

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

C. FIELD EXAM REQUIRED?

DUE TO POU DISCREPANCY? (Y/N)

DATABASE  
Y

FIELD  
EXAMINER  
N

PRESUMPTION FLAG:

REMARKS:

*For Steve Clelland method of irr is Gated Pipe / Flood irr. analysis  
based upon 30" furrow irr @ 12hr sets.*

RECOMMENDATIONS:

TOTAL ACRES: 1.1

REVIEWED BY: SEC

DATE: 9-4-90

MICROFILMED 1.1

JAN 21 1993

A. AJ CLAIMED USES:

| PURPOSES                            | MONTH/DAY           | DIVERSION QUANTITY |
|-------------------------------------|---------------------|--------------------|
| A36-00085B IRRIGATION               | FROM 03-15 TO 11-15 | .040 CFS           |
| TOTAL DIVERSION RATE/VOLUME CLAIMED |                     | .040 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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A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y( ) N(~~X~~)

AJ TOTAL CLAIMED DIVERSION RATE: 0.040 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

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

Y

~~N~~

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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 |
|------------|-------------------|--------------------------------|-----------|----------------|-----------|----------------|
| A36-00085B | BILLINGSLEY CREEK | WAITE , RICHARD H.             | 0.040     | 0.036          |           |                |
| A36-00057  | SPRINGS           | HAGERMAN WATER USERS ASSOCIATI | 36.200    | 0.073          |           |                |
| 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          |           |                |
| A36-00085A | BILLINGSLEY CREEK | MILLER , MARILYN J.            | 0.200     | 0.046          |           |                |

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 1.1 x 0.02 CFS/ACRE = 0.022 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 = 3.3 AF/A

ACRES 1.1 x CONSUMPTIVE VOL. AF/A FOR AREA 3.0 =

TOTAL CONSUMPTIVE USE 3.3 AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

ACRES 1.1 x DIVERSION VOL. AF/A FOR AREA 4.0 =

TOTAL DIVERSION VOLUME 4.4 AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y(  ) N(  )

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

See conveyance loss sheet.

1b. CALCULATIONS

*See Irrigation Analysis sheet -  
for Basis of Div. Recommendation*

*Div. Rate Rec. 0.03*

*Conveyance Loss 0.01*

*Total*

*0.04*

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## RECOMMENDATIONS:

| REC.<br>PURPOSES     | REC. PERIOD<br>FROM TO                      | REC. DIV<br>RATE CFS                         | REC. DIV<br>VOL. AF/A               | REC. CONS.<br>USE                          |
|----------------------|---------------------------------------------|----------------------------------------------|-------------------------------------|--------------------------------------------|
| IRRIGATION           | <del>03-15</del> 4/1 <del>11-15</del> 10/31 | DATABASE EXAMINER<br>0.040 <u>          </u> | DATABASE EXAMINER<br><del>4.8</del> | DATABASE EXAMINER<br>3.3 <u>          </u> |
| TOTAL FOR THIS RIGHT |                                             | 0.040                                        |                                     | 3.3                                        |

REVIEWED BY:

See

DATE:

9-4-90

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JAN 21 1993

A. CHECK ONLY THE FOLLOWING THAT APPLY:

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

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-00085

| TOTAL DIVERSION RATE OF WR SPLITS | DATABASE<br>1.200 | EXAMINER<br>_____ | CFS |
|-----------------------------------|-------------------|-------------------|-----|
|-----------------------------------|-------------------|-------------------|-----|

SPLITS:

| OLD RIGHT<br>NUMBERS | CURRENT<br>CLAIM NUMBERS | DIVERSION<br>RATE | CURRENT "R"<br>CLAIM NUM. | "R" DIV.<br>RATE | WR RIGHT<br>NUMBERS | DIVERSION<br>RATE |
|----------------------|--------------------------|-------------------|---------------------------|------------------|---------------------|-------------------|
| A36-00085            | 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  
OK

REMARKS:

*See Review Rpt. A36-00085*  
*See attached split review.*

AUTHENTICATION:

SIGNATURE: Steve Clelland

DATE: 9-4-90

NAME OF FIELD EXAMINER: STEVE CLELLAND

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

## REMARK AND CONDITION CODE WORKSHEET

SYSTEM CLAIM NUMBERS E36 00085B \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

AGENT  
INITIALS HHH  
DATE 8/5/92

[illegible]

Add water Distriot 36A

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

PREPARATION DATE 8/5/92 HHT

JAN 21 1993

See 8-3-92

# CONVEYANCE LOSS - WORSTELL

| REACH  | LENGTH<br>(FT) | AVE<br>WIDTH<br>(FT) | SEEPAGE<br>(FT/DAY) | WORSTELL<br>LOSS<br>(CFS) | DELIVERY<br>(CFS) | DELIVERY<br>LEFT<br>(CFS) | LOSS<br>FACTOR | DELIVERY<br>LOSS<br>(CFS) | FLOW<br>(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

A36-00085B - 0.01 conveyance loss

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

MICROFILMED  
JAN 21 1993

## IRRIGATION ANALYSIS WORKSHEET

CLAIM NO. \_\_\_\_\_

DATE \_\_\_\_\_

AGENT \_\_\_\_\_

CLAIMANT/SYSTEM DESCRIPTION \_\_\_\_\_

IRRIGATION SYSTEM ----- FloodANALYSIS METHOD ----- BORDER / FURROWTYPE OF CROP ----- PastureMAXIMUM PROFILE DEPTH ----- 36 INCHESINTAKE FAMILY ----- 7 - .85

\*\*\*\*\*

SOIL TYPE QUB \_\_\_\_\_ SYSTEM TOTALACRES PER TYPE 1.1 \_\_\_\_\_ 1.1 ACRESSOIL PROFILE WHC 3.59 \_\_\_\_\_DESIGN IRR  $\frac{1}{2}$  WHC 1.79 \_\_\_\_\_

\*\*\*\*\*

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:

1.79 DESIGN IRR / .25 CROP REQ = 7.16 DAYS

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DESCRIPTION OF FIELD:

AVERAGE LENGTH RUN ----- 217TOTAL WIDTH OF FIELD ----- 200

CHECK \_\_\_\_\_ L \* \_\_\_\_\_ W / 43,560 = \_\_\_\_\_ ACRES

% SLOPE ----- 4%

BORDER WIDTH -----

\_\_\_\_\_ WIDTH OF FIELD / \_\_\_\_\_ DAYS OF ROTATION

FURROW / CORRUGATION WIDTH ----- 30"SET TIME ----- 12h

MICROFILMED

JAN 21 1993

Backlog Ditch?

| INTAKE<br>FAMILY | DESIGN<br>APPLIC.<br><br>Inches | FURROW<br>SLOPE<br>Ft/Ft | FURROW<br>SPACING<br>Feet | FURROW<br>LENGTH<br>Feet | INFLOW<br>RATE<br>Gpm | APPROXIMATE<br>INFLOW TIME<br>Hours | ADVANCE<br>TIME<br>Minutes | GROSS       | NET         | DEEP   | IRRIGATION   |        |
|------------------|---------------------------------|--------------------------|---------------------------|--------------------------|-----------------------|-------------------------------------|----------------------------|-------------|-------------|--------|--------------|--------|
|                  |                                 |                          |                           |                          |                       |                                     |                            | IRRIGATION  | IRRIGATION  |        |              |        |
|                  |                                 |                          |                           |                          |                       |                                     |                            | APPLICATION | APPLICATION |        |              | RUNOFF |
|                  |                                 |                          |                           |                          |                       |                                     |                            | Inches      | Inches      | Inches | PERC.<br>In. | %      |
| 0.80             | 1.79                            | .040                     | 2.50                      | 217                      | 5                     | 12                                  | 11.3                       | 10.64       | 4.60        | 6.01   | 2.85         | 16.82  |
| 0.80             | 1.79                            | .040                     | 2.50                      | 217                      | 4                     | 12                                  | 12.4                       | 8.52        | 4.46        | 4.03   | 2.70         | 21.02  |
| 0.80             | 1.79                            | .040                     | 2.50                      | 217                      | 3                     | 12                                  | 14.4                       | 6.39        | 4.28        | 2.07   | 2.53         | 28.03  |
| 0.80             | 1.79                            | .040                     | 2.50                      | 217                      | 2                     | 12                                  | 19.6                       | 4.26        | 4.05        | 0.15   | 2.32         | 42.04  |
| 0.80             | 1.79                            | .040                     | 2.50                      | 217                      | 2                     | 12                                  | 19.6                       | 4.26        | 4.05        | 0.15   | 2.32         | 42.04  |

$$\begin{aligned}
 FIR &= 4.2 \frac{C.U.}{EFF} \\
 &= 4.2 \frac{.25}{42} \\
 &= 0.025 \text{ CFS/ACRE}
 \end{aligned}$$

Recommend Dept Standard of 0.03 CFS/Acre for P/U.  
less than 5 acres.

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