

MAR 1 - 2000

777 FEB 28 AM 10: 59

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

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 36-00086C

On February 28, 2000, Special Master THOMAS R CUSHMAN issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

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

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

DATED February 28, 2000.

TERI HRANAC
Deputy Clerk

2002 FEB 28 AM 10: 59

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	)	SPECIAL MASTER'S REPORT
	)	
Case No. 39576	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHT 36-00086C

I. FINDINGS OF FACT

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

All objections to this water right were resolved by stipulation of the parties with a *Standard Form 5* filed October 21, 1999. A *Special Master's Report and Recommendation* was issued on October 21, 1997. A *Motion to Alter or Amend* was filed by North Snake Ground Water District on November 28, 1997. After hearing, the *Motion to Alter or Amend* was denied. *Order on Motions to Alter or Amend* (Mar. 17, 1998). North Snake Ground Water District filed a *Notice of Challenge* on March 31, 1998. During the pendency of the proceedings before the Presiding Judge, an *Amended Standard Form 5* was filed on September 21, 1999. All parties to the subcase, including the Challengers, are signatories to the *Standard Form 5*. This subcase was then remanded to this Special Master for any additional proceedings, if necessary.

II. CONCLUSIONS OF LAW

Based on the file and record herein, IT IS RECOMMENDED that this water right be decreed with the elements as set forth in the *Partial Decree Pursuant to I.R.C.P. 54(b) for Water Right 36-00086C*.

DATED: February 28, 2000.



THOMAS R. CUSHMAN, Special Master
Snake River Basin Adjudication

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

In Re SRBA
Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 36-00086C

200 FEB 28 AM 10: 59
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: JOLENE FUELL
KEITH L. FUELL
2831 S 1050 E
HAGERMAN, ID 83332

SOURCE: WEATHERBY SPRINGS TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 1.56 CFS

THE 1.56 CFS QUANTITY FOR IRRIGATION DESIGNATED UNDER THIS RIGHT IS BASED ON THE REASONABLE AMOUNT THAT WOULD BE NEEDED TO SUPPLY A SURFACE OR GRAVITY IRRIGATION SYSTEM. HOWEVER, THE ACTUAL MEANS OF IRRIGATION INVOLVES SPRINKLERS OR ANOTHER IRRIGATION METHOD WHICH REQUIRES A SMALLER RATE OR VOLUME OF DIVERSION. IN THE EVENT OF A WATER SHORTAGE, A DELIVERY CALL, OR OTHER ACTION TO ADMINISTER WATER RIGHTS, THE WATER RIGHT HOLDER SHALL BE ENTITLED TO DIVERT NO MORE THAN THE QUANTITY REASONABLY NECESSARY AT THAT TIME. THE QUANTITY MAY BE LESS THAN, AND SHALL NEVER BE GREATER THAN, THE 1.56 CFS QUANTITY.

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

PRIORITY DATE: 02/01/1888

POINT OF DIVERSION: T07S R14E S30 SENESW Within Gooding County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	02-15 TO 11-30	1.56 CFS
	Domestic DOMESTIC, 1 HOME	01-01 TO 12-31	0.04 CFS

PLACE OF USE: Irrigation
T07S R13E S25 SENW 37.0 Within Gooding County
39.0 Acres Total NESW 2.0

Domestic
T07S R13E S25 SENW Within Gooding County

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

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

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

200 FEB 28 AM 10: 59

DISTRICT COURT-SRBA
TWIN FALLS, IDAHO

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

In Re SRBA

Case No. 39576

CERTIFICATE OF MAILING

Water Right(s): 36-00086C

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on February 28, 2000, with sufficient first-class postage prepaid to the following:

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

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

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

CERTIFICATE OF MAILING

PAGE 1
02/28/00

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: A36-00086C
Date Received: 7/13/1988
Receipt No: S000909
Received By:

COPY

**FOR YOUR FILES
DO NOT RETURN**

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

1. Name: KEITH L. FUELL 208-837-4563
Address: RT 1 BOX 225
2831S 1050E
HAGERMAN, ID 83332

AND/OR
Name: JOLENE FUELL 208-837-4563
Address: RT 1 BOX 225
2831S 1050E
HAGERMAN, ID 83332

2. Date of Priority: FEB 01, 1888

3. Source: WEATHERBY SPRINGS Trib. to: BILLINGSLEY CREEK

4. Point of Diversion:

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

5. Description of diverting works:
Y PIPELINE, 8"

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	1.600		
DOMESTIC	01/01	12/31	0.040		

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

8. Total consumptive use is 117.0 Acre Feet Per Annum.

9. Non-irrigation uses:
D/1 HOUSE

A36-00086C

Page 1

Date: 07/13/88

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OCT 12 1994**

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	13E	25	SE	NW		IRR	37.0
			NE	SW		IRR	2.0
Section Acres							39.0
Total Acres							39.0

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
YES, SEE REMARKS

14. Remarks:
PART OF 36-0086 DECREE

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

Decree Plaintiff

vs

Decree Defendant

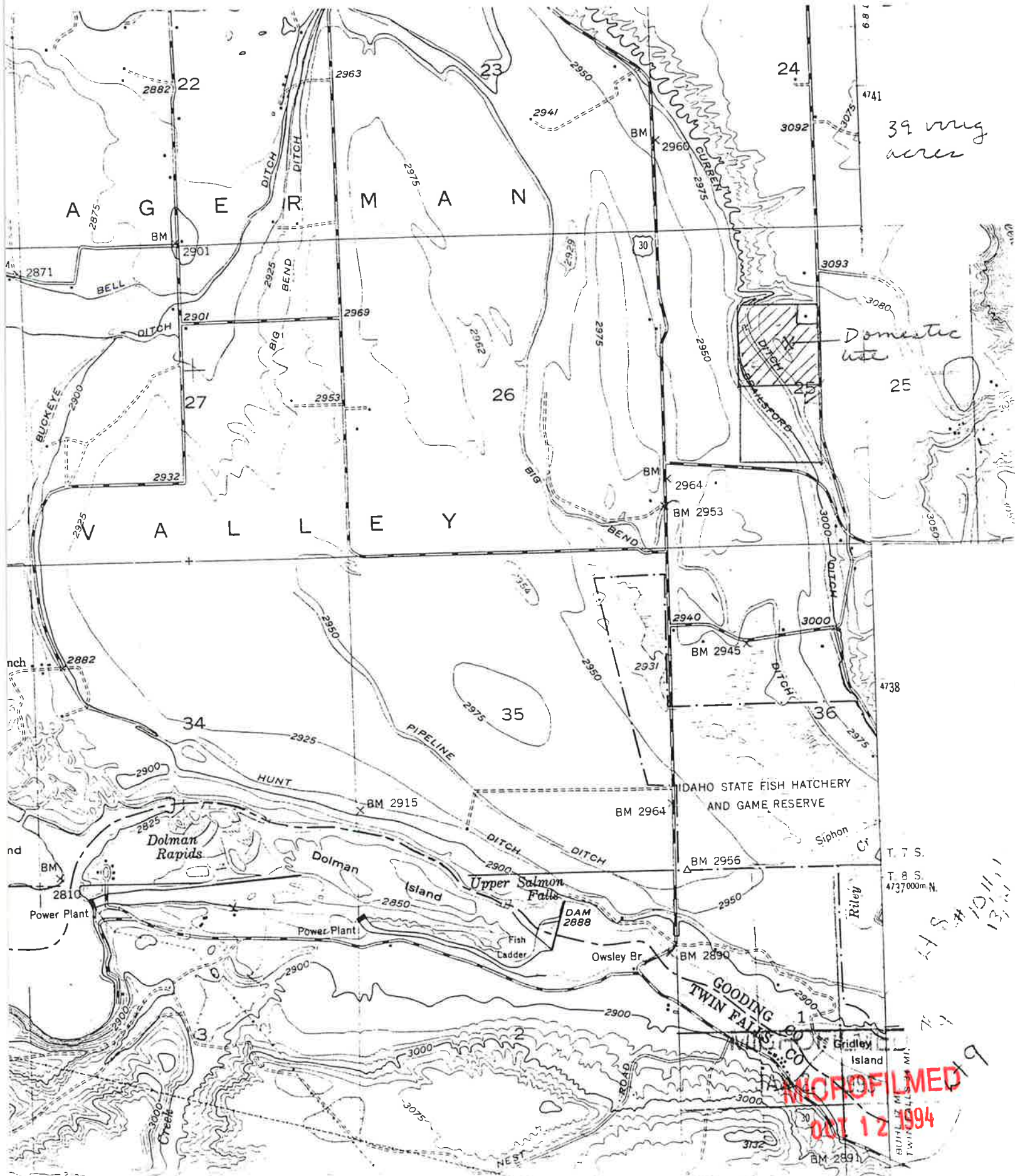
(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do do not / wish to receive and pay a small annual fee for monthly copies of the docket sheet.

For Individuals:

Signature of Claimant(s): Keith Paul Date: 7-13-00
Date: _____

Subscribed and sworn (or affirmed) before me this 13th day
of July 19 88 Tom White
Notary Public

Residing at T.F.
My Commission Expires 5/95



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

TOTAL RECORDS IN SELECTION FILE: 116

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OCT 12 1994

RECEIVED
FEB 10 1993
Department of Water Resources

1 HEPWORTH, NUNGESTER & LEZAMIZ,
2 CHARTERED
3 133 Shoshone St. North
4 P.O. Box 389
5 Twin Falls, ID 83303-0389
6 Telephone: (208)734-7510
7 Attorneys for Claimant
8 (PPK\HAGERMAN.NOA\lmr)
9

10 IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
11 STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
12

13 * * * * *

14 In Re the General Adjudication)
15 of Rights to the Use of Water) Case No. 39576
16 from the Snake River Basin)
17 Water System)
18

19 The State of Idaho, ex rel.)
20 R. Keith Higginson in his)
21 official capacity as director) NOTICE OF APPEARANCE
22 of the Idaho Department of)
23 Water Resources,)
24

25 Petitioner,)
26

27 vs.)
28

29 United States; State of Idaho;)
30 and all claimants to the use)
31 of water from the Snake River)
32 Basin Water System,)
33

34 Respondents.)
35

36 * * * * *

37 PLEASE BE NOTIFIED that the firm of Hepworth, Nungester
38 & Lezamiz, Chartered, hereby appears on behalf of Hagerman Water
39



Hepworth,
Nungester,
& Lezamiz

NOTICE OF APPEARANCE - 1

MICROFILMED
OCT 12 1994

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



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



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

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

12 DATED This 9 day of February, 1993.

13 HEPWORTH, NUNGESTER & LEZAMIZ

14
 15 By Patrick D. Brown
 16 PATRICK D. BROWN
 Attorneys for Respondents

17
 18 CERTIFICATE OF MAILING

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



Hepworth,
 Nungester,
 & Lezamiz

NOTICE OF APPEARANCE - 4

MICROFILMED
 OCT 12 1994

1 February, 1993, to:

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

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

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

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

12
13 
14 Patrick D. Brown



Hepworth,
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& Lezamiz

MICROFILMED
OCT 12 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 1, 1993

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

Re: Notice of Appearance

Dear Mr. Brown:

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

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

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

MICROFILMED
OCT 12 1994

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

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

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

MICROFILMED
OCT 12 1994

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

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

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

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

MICROFILMED
OCT 12 1994

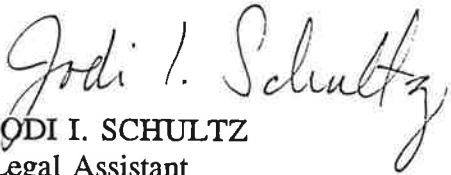
Mr. Patrick D. Brown
March 1, 1993
Page 4

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

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

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

Sincerely,


JODI I. SCHULTZ
Legal Assistant
Idaho Department of Water Resources

cc: IDWR Southern Region

MICROFILMED
OCT 12 1994

04/09/2002

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

RIGHT NUMBER: 36-86C
NAME AND ADDRESS: JOLENE FUELL
RT 1 BOX 225
2831S 1050E
HAGERMAN ID 83332

KEITH L FUELL
RT 1 BOX 225
2831S 1050E
HAGERMAN ID 83332

SOURCE: WEATHERBY SPRINGS TRIBUTARY: BILLINGSLEY CREEK
QUANTITY: 1.60 CFS

THE 1.56 CFS QUANTITY FOR IRRIGATION DESIGNATED UNDER THIS RIGHT IS BASED ON THE REASONABLE AMOUNT THAT WOULD BE NEEDED TO SUPPLY A SURFACE OR "GRAVITY" IRRIGATION SYSTEM. HOWEVER, THE ACTUAL MEANS OF IRRIGATION INVOLVES SPRINKLERS OR ANOTHER IRRIGATION METHOD WHICH REQUIRES A SMALLER RATE OR VOLUME OF DIVERSION. IN THE EVENT OF A WATER SHORTAGE, A DELIVERY CALL FOR WATER, OR OTHER ACTION TO ADMINISTER WATER RIGHTS, THE WATER RIGHT HOLDER SHALL BE ENTITLED TO DIVERT NO MORE THAN THE QUANTITY REASONABLY NECESSARY AT THAT TIME. THIS QUANTITY MAY BE LESS THAN, AND SHALL NEVER BE GREATER THAN, THE 1.56 CFS QUANTITY.

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

PRIORITY DATE: 02/01/1888

POINT OF DIVERSION:

T07S R14E S30 SENESW Within GOODING County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	2/15 11/30	1.560 CFS
DOMESTIC	1/01 12/31	0.040 CFS

PLACE OF USE:

IRRIGATION Within GOODING County

T07S R13E S25 SENW 37.0 T07S R13E S25 NESW 2.0

DOMESTIC Within GOODING County

T07S R13E S25 SENW

39 ACRES TOTAL

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

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

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

EXPLANATORY MATERIAL: Decreed

Water Right 36-86C

2002 APR 11 AM 10:40

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

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

In Re SRBA	)	AMENDED SPECIAL MASTER'S
	)	REPORT
Case No. 39576	)	
	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHT 36-00086C

I. FINDINGS OF FACT

Keith and Jolene Fuell filed a notice of claim for this water right pursuant to I.C. § 42-1409. The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

On October 21, 1997, then Special Master Fritz X. Haemmerle issued a *Special Master's Report and Recommendation* in subcase 36-00086C. The *Special Master's Report* was based on a *Standard Form 5/Stipulated Elements of a Water Right* changing quantity from .82 to 1.60 cfs.

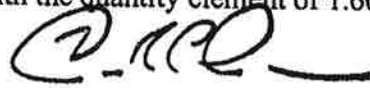
On November 28, 1997, North Snake Ground Water District filed a *Motion to Alter or Amend*. On March 17, 1998, an *Order on Motions to Alter or Amend* was issued. The Motion was denied. On March 31, 1998, a *Notice of Challenge* was filed by North Snake Ground Water District. Subsequently, on September 21, 1999, an *Amended Standard Form 5 (Amended SF5)* was filed listing the quantity as 1.60 cfs. All parties and IDWR are signatures to the *Amended SF5*.

On February 28, 2000, a *Second Master's Report and Recommendation* was issued. However, the *Second Master's Report and Recommendation* incorrectly listed the quantity as 1.56 cfs. Ultimately an *Order of Partial Decree* was issued on September 25, 2001, listing the quantity as 1.56 cfs.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein and pursuant to I.R.C.P. 60(a), IT IS RECOMMENDED that water right claim 36-00086C be decreed in accordance with the *Standard Form 5* with the elements as set forth in the *Amended Special Master's Recommendation for Partial Decree for Water Right 36-00086C*, with the quantity element of 1.60 cfs.

DATED: April 11, 2002.



THOMAS R. CUSHMAN
Special Master
Snake River Basin Adjudication

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

In Re SRBA

Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 36-00086C

2002 APR 11 AM 10:40

CLERK OF DISTRICT COURT - SRBA
TWIN FALLS, IDAHO
FILED

NAME AND ADDRESS: JOLENE FUELL
KEITH L. FUELL
2831 S 1050 E
HAGERMAN, ID 83332

SOURCE: WEATHERBY SPRINGS TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 1.60 CFS

THE 1.56 CFS QUANTITY FOR IRRIGATION DESIGNATED UNDER THIS RIGHT IS BASED ON THE REASONABLE AMOUNT THAT WOULD BE NEEDED TO SUPPLY A SURFACE OR GRAVITY IRRIGATION SYSTEM. HOWEVER, THE ACTUAL MEANS OF IRRIGATION INVOLVES SPRINKLERS OR ANOTHER IRRIGATION METHOD WHICH REQUIRES A SMALLER RATE OR VOLUME OF DIVERSION. IN THE EVENT OF A WATER SHORTAGE, A DELIVERY CALL, OR OTHER ACTION TO ADMINISTER WATER RIGHTS, THE WATER RIGHT HOLDER SHALL BE ENTITLED TO DIVERT NO MORE THAN THE QUANTITY REASONABLY NECESSARY AT THAT TIME. THE QUANTITY MAY BE LESS THAN, AND SHALL NEVER BE GREATER THAN, THE 1.56 CFS QUANTITY.

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

PRIORITY DATE: 02/01/1988

POINT OF DIVERSION: T07S R14E S30 SENESW Within Gooding County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	02-15 TO 11-30	1.56 CFS
Domestic DOMESTIC, 1 HOME	01-01 TO 12-31	0.04 CFS

PLACE OF USE:

Irrigation
T07S R13E S25 SENW 37.0 Within Gooding County
39.0 Acres Total NESW 2.0

Domestic
T07S R13E S25 SENW Within Gooding County

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

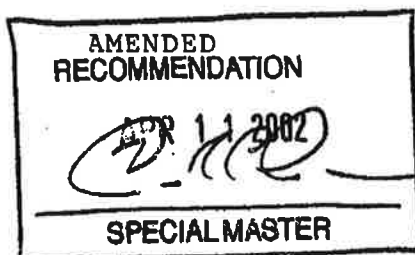
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR DOMESTIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

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

RULE 54(b) CERTIFICATE

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

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication



2002 APR 11 AM 10:40

DIST. COURT - SRBA
TWIN FALLS, IDAHO
FILED *[Signature]*

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): 36-00086C

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on April 11, 2002, with sufficient first-class postage prepaid to the following:

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

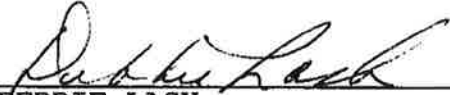
STATE OF IDAHO
Represented by:
CLIVE STRONG
NATURAL RESOURCES
DEP AG OFFICE OF ATTY GEN
STATEHOUSE MAIL
BOISE, ID 83720-0010
Phone: 208-334-2400

NORTH SNAKE GROUND WATER DIST
Represented by:
JOSEPHINE P. BEEMAN
409 WEST JEFFERSON STREET
BOISE, ID 83702
Phone: 208-331-0950

CERTIFICATE OF MAILING

PAGE 1
04/11/02

JOLENE FUELL
KEITH L. FUELL
2831 S 1050 E
HAGERMAN, ID 83332


DEBBIE LASH
Deputy Clerk

2002 APR 11 AM 10:40

FILED
TWIN FALLS CO., IDAHO
CLERK

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

In Re SRBA)

Case No. 39576)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

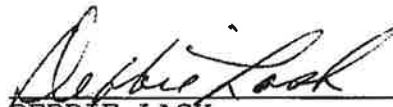
Water Right(s): 36-00086C

On April 11, 2002, Special Master THOMAS R CUSHMAN
issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s)
pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

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

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

DATED April 11, 2002.


DEBBIE LASH
Deputy Clerk

RECEIVED

SEP 26 2001

2001 SEP 25 PM 2:49

Department of Water Resources

DISTRICT COURT-SRBA
TWIN FALLS, IDAHO
FILED *SM*

**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 36-00086C

On February 28, 2000, 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.

On August 2, 1999, in response to the Idaho Supreme Court decision in *A&B Irrigation District v. Idaho Conservation League*, 131 Idaho 411, 423, 958 P.2d 568, 580 (1998), IDWR filed a *Supplemental Director's Report, Reporting Area 3, IDWR Basin 36, Regarding Revision of Period of Use (For Irrigation Water Uses) and Conjunctive Management General Provisions* which included a recommendation for the irrigation season of use for this water right. No objections to this Supplemental Report were filed and the time period for filing objections has now expired.

Therefore, IT IS ORDERED that water right 36-00086C is hereby decreed as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED September 12, 2001.

Roger Burdick

ROGER S. BURDICK
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 36-00086C

2001 SEP 25 PM 2:49

DISTRICT COURT-SRBA
TWIN FALLS, IDAHO
FILED *[Signature]*

NAME AND ADDRESS:

JOLENE FUELL
KEITH L. FUELL
2831 S 1050 E
HAGERMAN, ID 83332

SOURCE:

WEATHERBY SPRINGS

TRIBUTARY: BILLINGSLEY CREEK

QUANTITY:

1.56 CFS

THE 1.56 CFS QUANTITY FOR IRRIGATION DESIGNATED UNDER THIS RIGHT IS BASED ON THE REASONABLE AMOUNT THAT WOULD BE NEEDED TO SUPPLY A SURFACE OR GRAVITY IRRIGATION SYSTEM. HOWEVER, THE ACTUAL MEANS OF IRRIGATION INVOLVES SPRINKLERS OR ANOTHER IRRIGATION METHOD WHICH REQUIRES A SMALLER RATE OR VOLUME OF DIVERSION. IN THE EVENT OF A WATER SHORTAGE, A DELIVERY CALL, OR OTHER ACTION TO ADMINISTER WATER RIGHTS, THE WATER RIGHT HOLDER SHALL BE ENTITLED TO DIVERT NO MORE THAN THE QUANTITY REASONABLY NECESSARY AT THAT TIME. THE QUANTITY MAY BE LESS THAN, AND SHALL NEVER BE GREATER THAN, THE 1.56 CFS QUANTITY.

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

PRIORITY DATE:

02/01/1888

POINT OF DIVERSION:

T07S R14E S30

SENESEW

Within Gooding County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

Irrigation

02-15 TO 11-30

1.56 CFS

Domestic DOMESTIC, 1 HOME

01-01 TO 12-31

0.04 CFS

PLACE OF USE:

Irrigation

T07S R13E S25

SENEW 37.0

Within Gooding County

NESW 2.0

39.0 Acres Total

Domestic

T07S R13E S25

SENEW

Within Gooding County

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

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

RULE 54(b) CERTIFICATE

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



Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

700 FEB 28 AM 10:59

DISTRICT COURT-SRBA
TWIN FALLS COUNTY, IDAHO
FILED

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

In Re SRBA

Case No. 39576

) SPECIAL MASTER'S REPORT

) FINDINGS OF FACT AND
) CONCLUSIONS OF LAW

) FOR WATER RIGHT 36-00086C

I. FINDINGS OF FACT

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

All objections to this water right were resolved by stipulation of the parties with a *Standard Form 5* filed October 21, 1999. A *Special Master's Report and Recommendation* was issued on October 21, 1997. A *Motion to Alter or Amend* was filed by North Snake Ground Water District on November 28, 1997. After hearing, the *Motion to Alter or Amend* was denied. *Order on Motions to Alter or Amend* (Mar. 17, 1998). North Snake Ground Water District filed a *Notice of Challenge* on March 31, 1998. During the pendency of the proceedings before the Presiding Judge, an *Amended Standard Form 5* was filed on September 21, 1999. All parties to the subcase, including the Challengers, are signatories to the *Standard Form 5*. This subcase was then remanded to this Special Master for any additional proceedings, if necessary.

II. CONCLUSIONS OF LAW

Based on the file and record herein, IT IS RECOMMENDED that this water right be decreed with the elements as set forth in the *Partial Decree Pursuant to I.R.C.P. 54(b) for Water Right 36-00086C*.

DATED: February 28, 2000.



THOMAS R. CUSHMAN, Special Master
Snake River Basin Adjudication

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

In Re SRBA

Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 36-00086C

200 FEB 28 AM 10: 59

DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
FILED

NAME AND ADDRESS:

JOLENE FUELL
KEITH L. FUELL
2831 S 1050 E
HAGERMAN, ID 83332

SOURCE:

WEATHERBY SPRINGS

TRIBUTARY: BILLINGSLEY CREEK

QUANTITY:

1.56 CFS

THE 1.56 CFS QUANTITY FOR IRRIGATION DESIGNATED UNDER THIS RIGHT IS BASED ON THE REASONABLE AMOUNT THAT WOULD BE NEEDED TO SUPPLY A SURFACE OR GRAVITY IRRIGATION SYSTEM. HOWEVER, THE ACTUAL MEANS OF IRRIGATION INVOLVES SPRINKLERS OR ANOTHER IRRIGATION METHOD WHICH REQUIRES A SMALLER RATE OR VOLUME OF DIVERSION. IN THE EVENT OF A WATER SHORTAGE, A DELIVERY CALL, OR OTHER ACTION TO ADMINISTER WATER RIGHTS, THE WATER RIGHT HOLDER SHALL BE ENTITLED TO DIVERT NO MORE THAN THE QUANTITY REASONABLY NECESSARY AT THAT TIME. THE QUANTITY MAY BE LESS THAN, AND SHALL NEVER BE GREATER THAN, THE 1.56 CFS QUANTITY.

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

PRIORITY DATE:

02/01/1888

POINT OF DIVERSION:

T07S R14E S30

SENESEW

Within Gooding County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

Irrigation

02-15 TO 11-30

1.56 CFS

Domestic DOMESTIC, 1 HOME

01-01 TO 12-31

0.04 CFS

PLACE OF USE:

Irrigation

T07S R13E S25

SENEW 37.0

Within Gooding County

39.0 Acres Total

NESW 2.0

Domestic

T07S R13E S25

SENEW

Within Gooding County

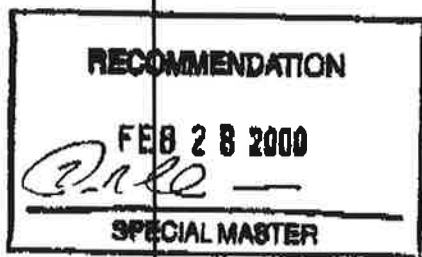
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

RULE 54(b) CERTIFICATE

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

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



03/08/1999 07:20 0078101

BELL RAPIDS SS2

PAGE 01

9-21

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

In Re SRBA

Subcase 36-00036C

(Insert Water Right Number)

Case 39576

AMENDED STANDARD FORM 5

This form is used to report the stipulated elements of one 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 to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

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

Date: 9-18-1999

IDWR Concurrence

Donna Hofstetter
Attorney for North Snake Ground
Water District

Keith L. Fuell
Claimant/Objector - Keith L. Fuell

Jolene Fuell
Claimant/Objector - Jolene Fuell

APPROVED AS TO FORM

Nick Spencer
DEPUTY ATTORNEY GENERAL

AMENDED SF5

SEP-20-99 MON 07:26 PM SALMON-FALLS-LIVESTOCK 208 337 4976

P.01

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: SEPT 17, 1999
PAGE: A-1

RIGHTS FROM: SOURCE: WEATHERBY SPRINGS TRIBUTARY: BILLINGSLEY CREEK

RIGHT NUMBER: 30-00066

NAME AND ADDRESS: KEITH L FUELL
JOLENE FUELL
RT 1 BOX 225
2831 S 1050 S
HAGERMAN ID 83332

SOURCE: WEATHERBY SPRINGS

TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 1.56 CFS

THE 1.56 CFS QUANTITY FOR IRRIGATION DESIGNATED UNDER THIS RIGHT IS BASED ON THE REASONABLE AMOUNT THAT WOULD BE NEEDED TO SUPPLY A SURFACE OR "GRAVITY" IRRIGATION SYSTEM. HOWEVER, THE ACTUAL MEANS OF IRRIGATION INVOLVES SPRINKLERS OR ANOTHER IRRIGATION METHOD WHICH REQUIRES A SMALLER RATE OR VOLUME OF DIVERSION. IN THE EVENT OF A WATER SHORTAGE, A DELIVERY CALL FOR WATER, OR OTHER ACTION TO ADMINISTER WATER RIGHTS, THE WATER RIGHT HOLDER SHALL BE ENTITLED TO DIVERT NO MORE THAN THE QUANTITY REASONABLY NECESSARY AT THAT TIME. THIS QUANTITY MAY BE LESS THAN, AND SHALL NEVER BE GREATER THAN, THE 1.56 CFS QUANTITY.

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

PRIORITY DATE: 02/01/1988

POINT OF DIVERSION: T07S R14E S33 SENESM Within GOODING County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE
IRRIGATION
DOMESTIC 1 HOMEPERIOD OF USE
Irrigation Season
01-01 12-31QUANTITY
1.56 CFS
0.04 CFSPLACE OF USE: IRRIGATION Within GOODING County
T07S R13E S25 SENE 37 SENE 2
37 ACRES TOTALDOMESTIC Within GOODING County
T07S R13E S25 SENE

CONSUMPTIVE USE:

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

AMENDED SF5

CERTIFICATE OF SERVICE

I certify that on 9-21, 19999, I caused to be served true and correct copies of the Amended Standard Form 5, to the following persons, in the manner indicated and addressed as follows:

Dana Hofstetter
Beeman Hofstetter
P.O. Box 1427
Boise, ID 83701-1427

☐ Overnight Mail
☐ Regular Mail
☐ Hand-Delivered
☒ Facsimile

Keith L. Fuell
Jolene Fuell
2831 South 1050 East
Hagerman, ID 83332

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Sandy Egbert
Signature of person or attorney mailing the form

AMENDED SF5

RECEIVED

N E C E I V E

1998 APR 14 PM 12:09

APR 15 1998

APR 17 1998

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHODepartment of Water Resources
Adjudication BureauDepartment of Water Resource
Southern Region

FILED _____

4-14
SOUTHERN

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

In Re SRBA

Subcase No. 36-00029B, 36-00077D
and 36-00086C.

Case No. 39576

ORDER SCHEDULING CHALLENGE
PROCEEDINGS AND ORDER
DISMISSING CHALLENGE

On March 31, 1998, North Snake Groundwater District filed a *Notice of Challenge* in the above subcases. A *Challenge* in the Snake River Basin Adjudication is properly filed after a *Motion to Alter or Amend* a final *Special Master's Report and Recommendation* has been denied. AOI § 13(c). The three subcases *Challenged* by North Snake Groundwater District are not postured identically. Subcases 36-00077D and 36-00086C have had a final *Special Master's Report and Recommendation* filed and these subcases are ripe for a *Challenge* under AOI § 13(c). The Special Master has allowed for further objection and response in subcase 36-00029B. *Notice Allowing For Further Objection and Response Period* (March 17, 1998). An interlocutory appeal is the only means by which the Presiding Judge may review a Special Master's decision prior to a final *Special Master's Report and Recommendation*. Therefore, the *Challenge* filed by North Snake Ground Water to Subcase 36-00029B is DISMISSED.

The *Challenge* to Subcases 36-00077D and 36-00086C shall adhere to the following schedule:

ORDER SCHEDULING CHALLENGE
PROCEEDINGS AND ORDER DISMISSING
CHALLENGE

5/5/98	5:00 pm	Reporter's Transcript Due
5/26/98	5:00 pm	Simultaneous Opening Briefs Due
6/9/98	5:00 pm	Rebuttal Briefs Due
6/17/98	1:30 pm	Hearing

Briefs shall be limited to 25 pages and shall be served on all parties to the subcases and the party filing the *Notice of Challenge*. Only those parties filing briefs will be allowed oral argument and each party will be limited to 30 minutes for oral argument.

IT IS SO ORDERED

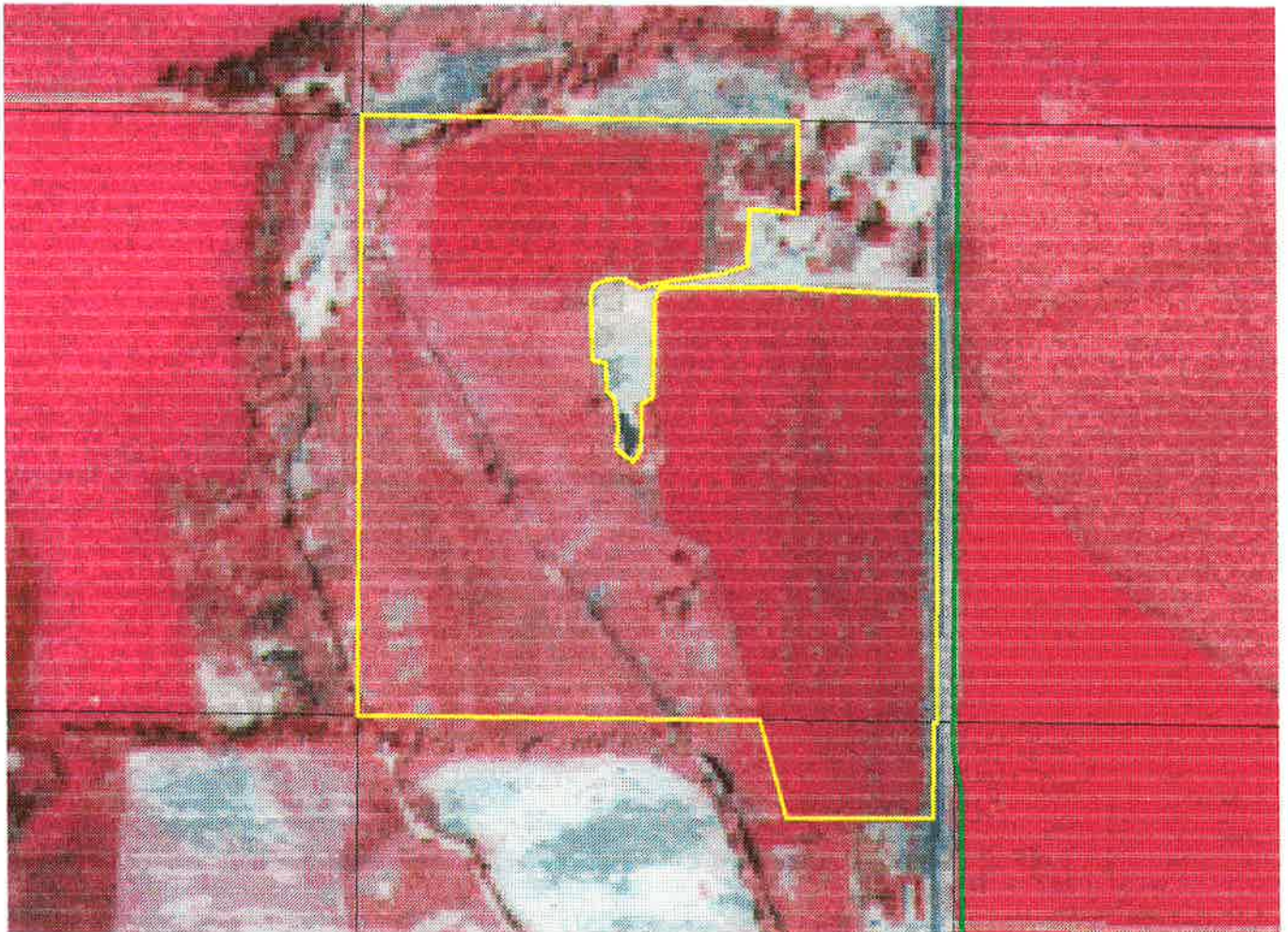
DATED April 14, 1998



DANIEL C. HURLBUTT, JR.
Presiding Judge
Snake River Basin Adjudication

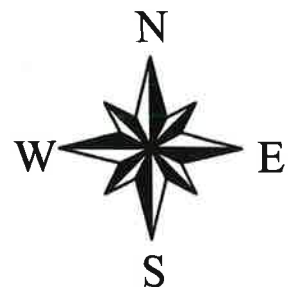
IDAHO DEPARTMENT OF WATER RESOURCES

36-00086C



660 0 660 Feet

TNS 7S, RNG 13E
SEC 25, SENW, NESW



⊙ Recommended Point of Diversion

 RECOMMENDED Place of use

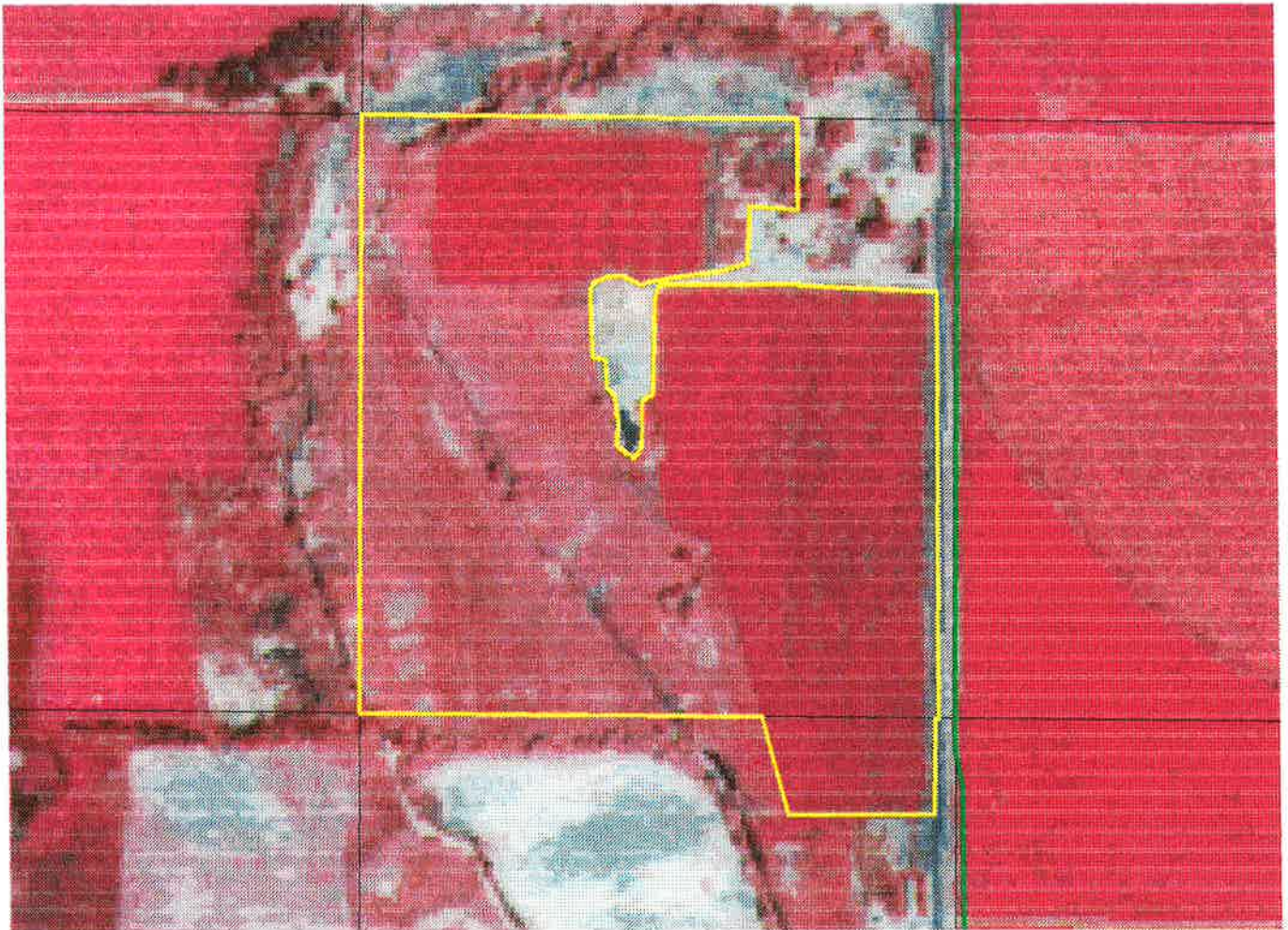
 Section lines

 Quarter/Quarter Lines

GIS PLACE OF USE PRESENTATION
1987 and/or 1988 NAPP PHOTOGRAPHY
DATE: FEBRUARY 13, 1998
BY: STEVE CLELLAND

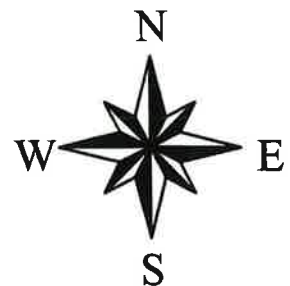
IDAHO DEPARTMENT OF WATER RESOURCES

36-00086C



660 0 660 Feet

TNS 7S, RNG 13E
SEC 25, SENW, NESW



⊙ Recommended Point of Diversion

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 Quarter/Quarter Lines

GIS PLACE OF USE PRESENTATION
1987 and/or 1988 NAPP PHOTOGRAPHY
DATE: FEBRUARY 13, 1998
BY: STEVE CLELLAND

AJ5809NP
No. R36-00086C

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 02/13/98
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	KEITH L FUELL	02/01/1888	IRRIGATION	03-15 11-15	1.56 CFS	
C	JOLENE FUELL		DOMESTIC	01-01 12-31	0.04 CFS	
	RT 1 BOX 225					
	2831S 1050E					
	HAGERMAN ID 83332					
	(208) 837-4563					
				TOTAL DIVERSION:	1.60 CFS	

Water Source: WEATHERBY SPRINGS

Tributary to: BILLINGSLEY CREEK

Stage: DECREED

Point(s) of Diversion:

T07S R14E S30

SENESEW

GOODING County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE																
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	SUM											
07S	13E	25	:																	:	39.0											
																				:	37	:	02	:					:	TOTAL ACRES	:	39.0

Place of use Legal Description for: DOMESTIC

				NE				NW				SW				SE																	
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:													
07S	13E	25	:																	:													
																				:	D	:					:					:	

POU County: GOODING

Non-Irrigation Uses: 1 HOME

Other Rights: NONE

Conditions of Approval:

- N10 - THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
- DOMESTIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
- N12 - THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC USE SHALL
- NOT EXCEED 13,000 GALLONS PER DAY.

Dates: Exam Made Date:

Verified Date:

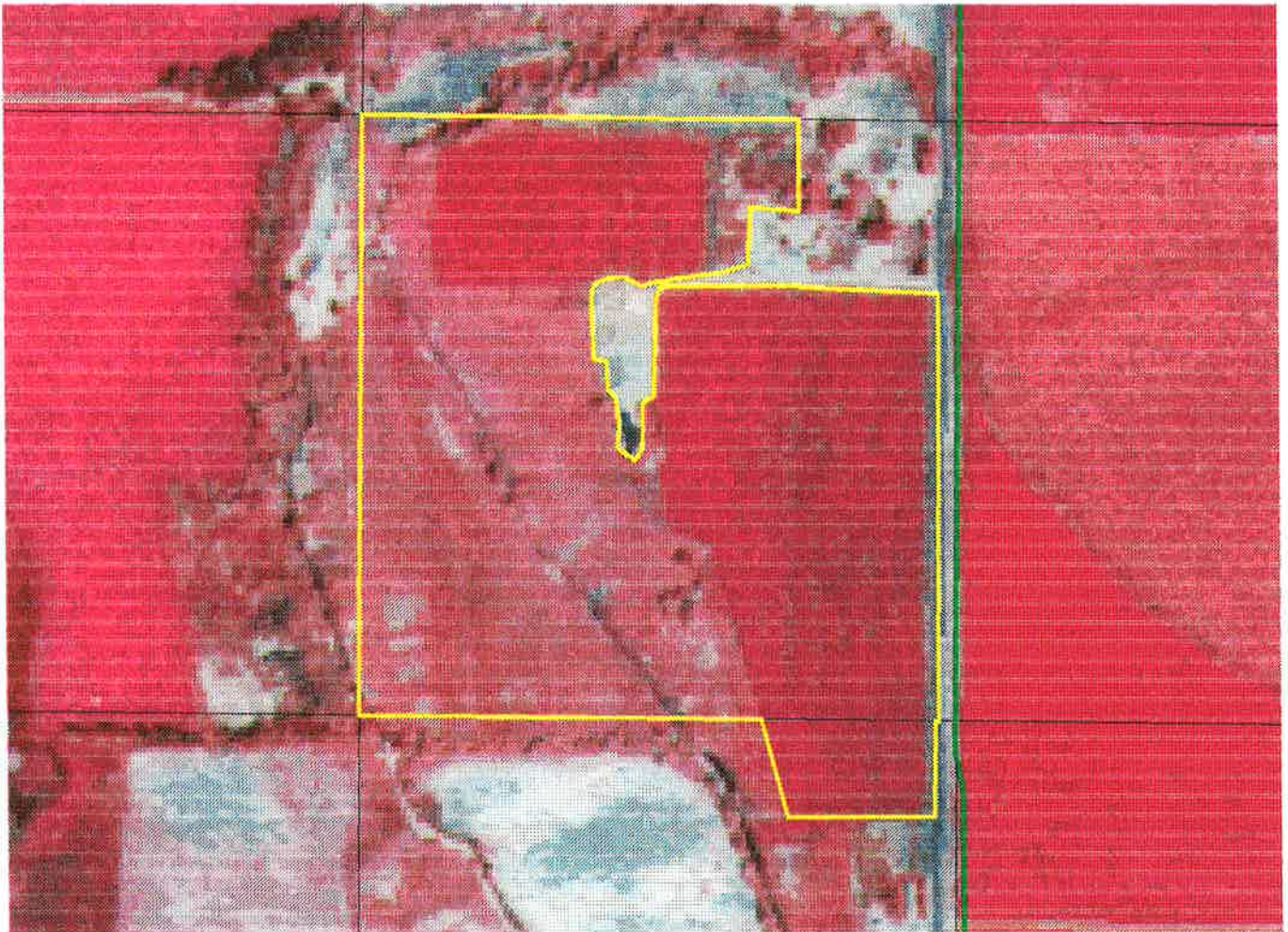
Objection Filed Date:

Misc: Water District Number: 36A

Field Inspection Flag:
Presumption Flag:

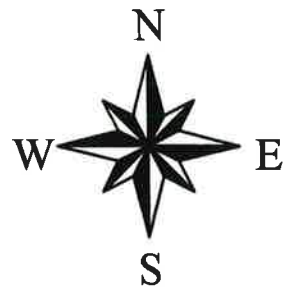
IDAHO DEPARTMENT OF WATER RESOURCES

36-00086C



660 0 660 Feet

TNS 7S, RNG 13E
SEC 25, SENW, NESW



⊙ Recommended Point of Diversion

 RECOMMENDED Place of use

 Section lines

 Quarter/Quarter Lines

GIS PLACE OF USE PRESENTATION
1987 and/or 1988 NAPP PHOTOGRAPHY
DATE: FEBRUARY 13, 1998
BY: STEVE CLELLAND

10/21/97

36-00086C

1/1

MAO calculation indicated 1.44 cfs for irrigation. Adding 0.04 cfs for domestic use gives a total of 1.48 cfs.

The Fuell's described their current irrigation system as follows:

spring box



pipeline

domestic use



20 Hp pump

POU



The domestic use and irrigation use had been determined to be additive; the difference between the MAO value and the claimed irrigation rate would be $(1.60 - 0.04) - 1.44 = 0.12$ cfs (or 0.003 cfs/acre). The case was settled by allowing the additional rate.

RB

HAGERMAN

Surface Irrigation Diversion Rate Analysis Sheet

WR#'s 36-00086C

SOIL	SOIL AC.	% ROW	ROW AC.	FIR ROW	CFS ROW	% FOR.	FOR. AC.	FIR FOR.	CFS FOR.
FKE	13.60	51	6.94	0.046	0.319	49	6.66	0.030	0.200
QUB	19.05	51	9.72	0.044	0.428	49	9.33	0.029	0.271
KEC	5.21	51	2.66	0.040	0.106	49	2.55	0.028	0.071
TOTALS	37.86		19.32		0.853		18.54		0.542

REC.
FIR

1.44 *

CFS

=

SUM

1.395

CFS

X

39

REC. AC.

37.86

GIS AC.

DATE 10/21/97

INIT. JP

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

DIVERSION CAPACITY OR LIC./DEC. AMOUNT MAY LIMIT

36-00086C

<i>Pbu_id</i>	<i>Claim</i>	<i>Acres_deci</i>	<i>Soil_type</i>	<i>Mad_row</i>	<i>Mad_for</i>	<i>Fit_row</i>	<i>Fit_for</i>
517	R3600086C	13.60	FKE	0.91	1.71	0.046	0.030
517	R3600086C	19.05	QUB	0.96	1.80	0.044	0.029
517	R3600086C	5.21	KEC	1.11	1.84	0.040	0.028

TOTAL 37.86 Ac

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

WATER RIGHT NOS.

36-00089C. sic 86C

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

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

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

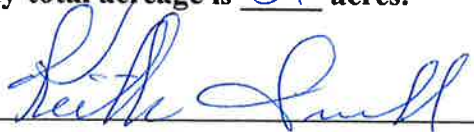
FORAGE/GRAIN/OTHER (hay, pasture, grain, mint)

42% 19%

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

31% 20%

My total acreage is 39 acres.


Signature of Claimant

10 21 97
Date

Signature of Claimant

Date


Signature of IDWR agent

10/21/97
Date

CLAIM NUMBERS 36-00086C

DATE _____

TRANSFER NUMBER _____

OBJECTION FILED _____

AGENT KHCTOTAL ACRES FROM RECOMMENDATION 39GEOGRAPHIC INFO SYSTEM 38

RIGHT NO				NE				NW				SW				SE			
	TNS	RNG	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
RECOM	<u>7S</u>	<u>13E</u>	<u>25</u>								<u>37</u>	<u>2</u>							<u>39</u>
GIS											<u>36</u>	<u>1.9</u>							<u>37.9</u>
											<u>34.5</u>	<u>1.8</u>							<u>36</u>
RECOM																			
GIS																			
RECOM																			
GIS																			
RECOM																			
GIS																			

UPDATED

POLYGON #

UPDATED

B36-DBPOU.DBF 10/9

POLYGON CREATED ON 604 ()

ATTRIBUTES OF B36-POU.SHP 517 10/9B36-DBPOD.DBF 10/9ATTRIBUTES OF B36-POD.SHP 463 10/9Revised shape file 2/13/98 see

P/U CONFLICT yes () no ()

P/D CONFLICT yes () no ()

READY FOR DECREE yes () no ()

SENT FOR DECREE yes () no ()

SUBCASE NO. 36-00086C

	CLAIM (7/13/88)	AMENDED CLAIM	RECOMMENDATION	OBJECTION
NAME	Keith &/or Jolene Fuell	N/A	Keith Fuell Jolene Fuell	
BASIS OF CLAIM	Decree		Decree	
SOURCE	Weatherby Springs		Weatherby Springs	
QUANTITY	1.600 cfs		.820 cfs	XX 1.60 cfs
PRIORITY DATE	02/01/1888		02/01/1888	
PURPOSE OF USE	Irrigation Domestic		Irrigation Domestic	XX add Stockwater MSJ Irrigation/Stock- water/ Wildlife/ Recreation/ Aesthetics/Domestic/ Diversion System Maintenance
PERIOD OF USE	Irr.: 3/15 - 11/15 Dom.: 1/1 - 12/31		Irr.: 3/15 - 11/15 Dom.: 1/1 - 12/31	XX 1/1 - 12/31 MSJ Irrigation season as the period of year for which water is used for irrigation. All other purposes, entire year as the period of year for which water is used.
POINT OF DIVERSION	T07S R14E S30		T07S R14E S30	
PLACE OF USE	T07S R13E S25 39 acres		T07S R13E S25 39 acres	
REMARKS				

TABLE mp

R PROOF

CVR

MAPS

PHOTOS

MISC

MICROFILMED

OCT 12 1994

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

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

Case No. 36-00086C -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: KEITH L & JOLENE FUELL
Address: 2831 S 1050 E
HAGERMAN ID 83332

3. If this response is filed by an attorney:

Attorney Name(s): NICHOLAS B. SPENCER

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

Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

3. |X| Quantity: I respond to the objection concerning:
- 3a. |X| The total quantity of water used in cubic feet per second.
7. |X| Purposes of Use: I respond to the objection concerning the purpose(s) of use.
8. |X| Period of Year: I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.
10. |X| Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.
14. |X| Other: I respond to the objection concerning:
- ALL MATTERS RAISED IN THE CLAIMANTS' ANSWER,
AFFIRMATIVE DEFENSES, AND PRAYER FOR RELIEF.

REASONS SUPPORTING EACH BOX CHECKED

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

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

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

(Over)

MICROFILMED
OCT 12 1994

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 include a year around season of use for irrigation, the claimant improperly seeks to use the objection process to amend the claim. A claimant must obtain leave of the court to amend a claim after a director's report is filed, just as a party must obtain leave of the court to file a late claim after the director's report is filed. Once leave of the court is granted, IDWR can investigate the amended claim and make an appropriate recommendation to the court.

In response to Statement of the Objection 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. (7) IDWR recommended this element of the water right as it was claimed.

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

In response to the sentence listed in Changes to the Director's Report, whereby the claimant attempts to "reserve the right to claim all purposes of use and quantities of use as shown by the

evidence at trial," IDWR responds as follows: Insofar as this purported reservation of rights may constitute an attempt to reserve the right to amend at trial the claimant's notice of claim, the claimant improperly seeks to use the objection process to amend the claim. A claimant must obtain leave of the court to amend a claim just as a party must obtain leave of the court to file a late claim after the director's report is filed.

CHANGES TO THE DIRECTOR'S REPORT

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

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

	No. of Pages
Notice of Claim No. A36-00086C	4
IDWR'S Response to Answer, Affirmative Defenses, and Prayer for Relief of Claimant	4

(Over)

NOT 13 1994
WIDOWED

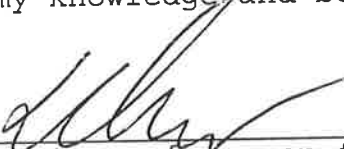
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

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

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



Signature of person filing response

By:



(Attorney signing in
representative capacity)

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



Notary Public for Idaho

Residing at: _____

My Commission expires _____

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

CERTIFICATE OF MAILING

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

1. Original to:

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

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

See No. 3

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

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

4. One copy to:

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


Signature of Respondent or attorney
mailing on Respondent's behalf

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: A36-00086C
Date Received: 7/13/1988
Receipt No: S000909
Received By: W

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: KEITH L. FUELL 208-837-4563
Address: RT 1 BOX 225
2831S 1050E
HAGERMAN, ID 83332

AND/OR

Name: JOLENE FUELL 208-837-4563
Address: RT 1 BOX 225
2831S 1050E
HAGERMAN, ID 83332

2. Date of Priority: FEB 01, 1888

3. Source: WEATHERBY SPRINGS Trib. to: BILLINGSLEY CREEK

4. Point of Diversion:

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

5. Description of diverting works:
Y PIPELINE, 8"

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	1.600		
DOMESTIC	01/01	12/31	0.040		

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

8. Total consumptive use is 117.0 Acre Feet Per Annum.

9. Non-irrigation uses:
D/1 HOUSE

A36-00086C

Page 1

Date: 07/13/88

MICROFILMED
JAN 21 1993
OCT 12 1994

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	13E	25	SE	NW		IRR	37.0
			NE	SW		IRR	2.0
Section Acres							39.0
Total Acres							39.0

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
YES, SEE REMARKS

14. Remarks:
PART OF 36-0086 DECREE

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

Decree Plaintiff

vs

Decree Defendant

MICROFILMED
JAN 21 1993
OCT 12 1994

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.

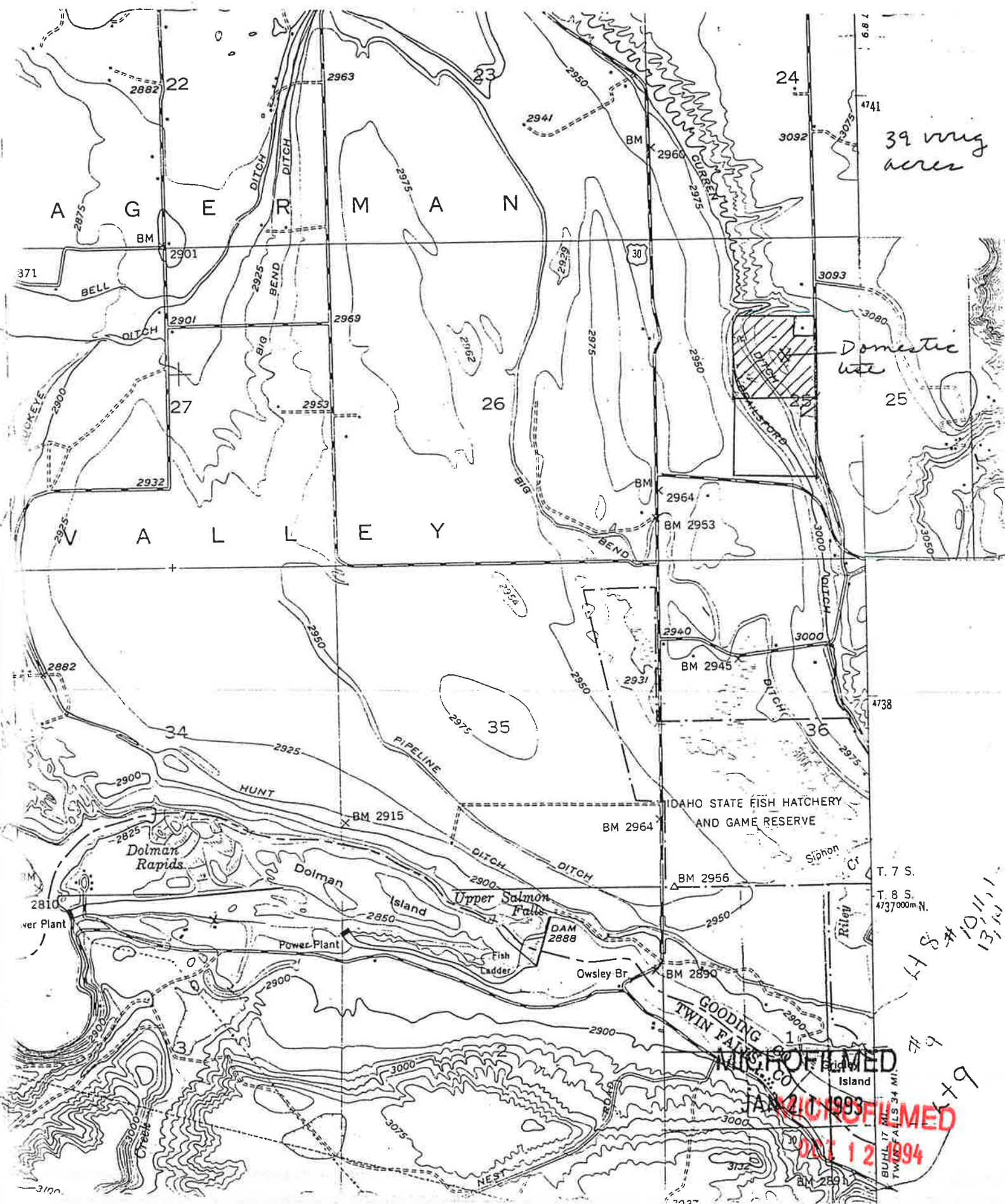
Signature of Claimant(s): *Keith E. Full* Date: 7-13 88
Date:

State of Idaho)
County of T.F.) SS.

Subscribed and sworn (or affirmed) before me this 13th day
of July 19 88 *Lon White*
Notary Public

Seal

Residing at T.F.
My Commission Expires 5/95



39 wing
acres

Domestic
use

T. 7 S.
T. 8 S.
4737 000m N.

48 #1011, 11, 13, 14, 15, 16, 17

MICROFILMED
JAN 21 1993
OCT 12 1994

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

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

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

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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.

RECEIPT
For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES

Receipt No:

0015337

RECEIVED

FEB 01 1993

Department of Water Resources
Southern Region Office

Date:

Time:

2/ 1/1993
11:30:39

Received
From:

FUELL JOLENE

Type of Payment

Program Acct Class

Amount

FEE FOR COPY OF ADJUDICATION CLAIM

64100

229 21 1760

4.19

Total

CHECK

1086

\$4.19

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

22-Jan-1993

RECEIVED

FEB 01 1993

KEITH FUELL
2831 S 1050 E
HAGERMAN ID 83332

Department of Water Resources
Southern Region Office

RE: Copy of SRBA File(s): 36-00086C

Dear Mr. Fuell:

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:

\$4.19

Sincerely,

Jeanie Robertson
Records Clerk

Encl:

MICROFILMED
OCT 12 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
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\$4.19

Sincerely,


Jeanie Robertson
Records Clerk

Encl:

MICROFILMED

OCT 12 1994

RECEIVED

JAN 20 1993

Department of Water Resources
Southern Region Office

1- 17- 93
(Date)

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

Dear Idaho Department of Water Resources:

Please provide me with a copy of all information included in my file as it relates to water right number 36-c-o-o 86C.

Please advise me of any documents in my file which you are not releasing to me and why they are not being released.

Please bill me for the copy charge.

Sincerely,

Keith Smith
(Name)

2831 South 1050 East.
(Address)

Hagerman Id. 83332.
(City, State, Zip Code)

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

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OCT 12 1994

RECEIVED

APR 30 1993

Department of Water Resources
Adjudication Bureau

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

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

Case No. A36-00086C
(You must insert the
water right number you
are objecting to)

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

OBJECTION

Petitioner,

vs.

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

Respondents.

36-00086C -0001/
93-04-0082

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: Keith L. and Jolene Fuell

Address: 2831 S 1050 E

Hagerman, ID 83332

Briefly describe your interest in this water right:

Priority date of February 1, 1888 pursuant
to decree dated March 22, 1932- New
International Mortgage Bank v. Idaho Power
Company.

2. Owner of the water right:

Name: Keith L. and Jolene Fuell

Address: 2831 S 1050 E

Hagerman, ID 83332

3. If this objection is filed by an attorney:

Attorney Name: Patrick D. Brown & Penelope Parker

Attorney Address: Hepworth, Nungester & Lezamiz

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

Attorney Phone No.: (208) 734-7510

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

II. STATEMENT OF THE OBJECTION

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

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

(Over)

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OCT 12 1994

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.

Quantity to 1.60 cfs; Period of Use from 1/1 to 12/31; Purpose
of Use- Irrigation, Domestic & Stockwater; Also see page 7.

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

☒

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

See Hagerman Water Right Owner's, Inc.'s

Compendium "A"

VERIFICATION (Must be Completed)

State of Idaho

County of Gooding

Keith L. and Wilene L. Lull
(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.

Keith L. Lull
Signature of person filing objection

By: [Signature]

(Attorney signing in representative capacity)

Subscribed and sworn to before me this 19 day of April, 1993.

Marcia Carpenter
Notary Public for Idaho

Residing at: Hagerman

My Commission Expires: 3/19/97

(Over)

INSTRUCTIONS FOR MAILING

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

CERTIFICATE OF MAILING

I hereby certify that on the 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:

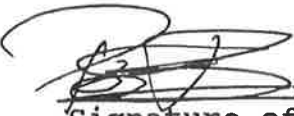
Owner name: Keith L. and Jolene Fuell
Owner's address: 2831 S 1050 E
Hagerman, ID 83332

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.

CHANGES TO DIRECTOR'S REPORT, page 4

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

Question 14., page 4, Other

I.

GENERAL RESPONSE

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

II.

DESCRIPTIVE SUMMARY

(DIRECTOR'S REPORT PART I)

(hereinafter DRP-I)

(DRP-I at first unnumbered page)

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

III.

TABLE OF CONTENTS

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

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

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

IV.

INTRODUCTION

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

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

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

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

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

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

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

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

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

V.

DESCRIPTION OF THE WATER SYSTEM: BASIN 36

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

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

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

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

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

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

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

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

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

VI.

GENERAL PROVISIONS

GENERAL PROVISIONS 1 - 8 APPLY TO ALL WATER RIGHTS IN BASIN 36.

(DRP-I at page 9)

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

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

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

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

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

The objectors admit paragraphs a. and b.

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

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

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

The objectors deny the averments within this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(DIRECTOR'S REPORT PART II)

I.

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

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

(DIRECTOR'S REPORT PART III)

I.

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

VIII.

AFFIRMATIVE DEFENSES

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

AFFIRMATIVE DEFENSE NO. 1

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

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OCT 12 1994

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

NOTICE OF ERROR FORM

AUG-24-1992

RECEIVED**SEP 10 1992**

Department of Water Resources

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

Idaho Department of Water Resources**Statehouse Mail****Boise, Idaho 83720-9000**The notice of error must be received at IDWR by the **deadline date** printed below with your proposed recommendation.**YOUR DEADLINE FOR FILING A NOTICE OF ERROR IS:** SEP-24-1992

1. Water right number: 36-00086C

2. Name: Keith L. Fuell

Address: 2831 South 1050 East

Hagerman Ida. 83332

Weekday Telephone Number:

837-4563

MICROFILMED**JAN 21 1993****TEAR AT PERFORATIONS AND COMPLETE FORM ON OTHER SIDE****NOTICE OF ERROR FORM**

AUG-24-1992

RECEIVED**SEP 16 1992**

Department of Water Resources

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

Idaho Department of Water Resources**Statehouse Mail****Boise, Idaho 83720-9000**The notice of error must be received at IDWR by the **deadline date** printed below with your proposed recommendation.**YOUR DEADLINE FOR FILING A NOTICE OF ERROR IS:** SEP-24-1992

1. Water right number:

36-00086C -

2. Name: Janice Fuell

Address: 2831 S 1050 E

Hagerman Idaho 83332

Weekday Telephone Number:

837-4563

MICROFILMED**JAN 21 1993****TEAR AT PERFORATIONS AND COMPLETE FORM ON OTHER SIDE**

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

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

Maximum Quantity

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

I don't think we should be cut in
half.

5. Describe why you disagree with the proposed recommendation:

We have a variety of crops in this sand.
and - 78 CFS in not enough water to sustain
the crops that we plant.

6. Date:

9-8-90-

SIGNATURE

[Signature]

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

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

period of time
& amount

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

leave our water alone

5. Describe why you disagree with the proposed recommendation:

we start water in this sand usually
in March & it requires a lot of water
we also water dunes & house.

6. Date:

9/13/92

SIGNATURE

[Signature]



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

OCTOBER 13, 1992

R. KEITH HIGGINSON
Director

- MR. + MRS. KEITH FUELL
- RT 1, 2831 S 1050 E
- HAGERMAN, ID 83332

RE: NOTICE OF ERROR FOR DIVERSION AMOUNT
WATER RIGHT NO.: 36-00086C

DEAR MR. and MRS. FUELL

THIS LETTER IS IN RESPONSE TO THE NOTICE(S) OF ERROR (NOE) YOU RECENTLY FILED WITH IDWR REGARDING THE DIRECTOR'S PROPOSED RECOMMENDATION OF THE CLAIM(S) LISTED ABOVE. YOUR NOE QUESTIONS THE BASIS FOR RECOMMENDATION OF AN AMOUNT THAT IS LESS THAN THE AMOUNT SHOWN IN A PREVIOUS DECREE.

UNDER IDAHO LAW, A WATER RIGHT IS LIMITED TO THE AMOUNT OF WATER BENEFICIALLY USED FOR THE PURPOSES FOR WHICH THE WATER RIGHT WAS ESTABLISHED. THE AMOUNT OF WATER BENEFICIALLY USED IS LIMITED TO THE AMOUNT THAT IS ACTUALLY USED AND IS REASONABLY REQUIRED. FOR IRRIGATION PURPOSES, A REASONABLE AMOUNT IS THE AMOUNT REQUIRED USING IRRIGATION METHODS THAT ARE REASONABLY EFFICIENT UNDER CURRENT CIRCUMSTANCES. IF THE AMOUNT OF A WATER RIGHT SHOWN IN A DECREE IS GREATER THAN THE AMOUNT THAT IS BENEFICIALLY USED, THEN THE PORTION THAT IS NOT BENEFICIALLY USED IS FORFEITED.

THE AMOUNT PROPOSED TO BE RECOMMENDED FOR YOUR CLAIM IS BASED ON THE AMOUNT OF WATER DETERMINED TO BE BENEFICIALLY USED FOR THE RECOMMENDED USES, BASED ON AVAILABLE DATA AND CURRENT METHODS OF ANALYSIS.

IF YOU STILL DISAGREE WITH IDWR'S RECOMMENDATIONS, YOU WILL HAVE AN OPPORTUNITY TO FILE AN OBJECTION TO THE DIRECTOR'S REPORT WITH THE COURT. WHEN THE DIRECTOR'S REPORT IS FILED WITH THE COURT, YOU WILL BE MAILED A NOTICE THAT WILL CONTAIN MORE INFORMATION ABOUT THE OBJECTION PROCESS. AS PART OF THE OBJECTION PROCESS, IDWR WILL WORK WITH THE CLAIMANTS TO RESOLVE DISPUTED ISSUES, INCLUDING EFFORTS TO OBTAIN ADDITIONAL DATA WHICH WILL BE SHARED WITH THE WATER USERS.

SINCERELY,

WATER AGENT

MICROFILMED

JAN 21 1993

Water Right Number - R36-00086C

Prefix Translation: RESEARCH

Old (D) Number -

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

*** C - CURRENT OWNER ***
FUELL

KEITH L

1 - RT 1 BOX 225

2 - 2831S 1050E

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-837-4563

FUELL

JOLENE

1 - RT 1 BOX 225

2 - 2831S 1050E

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-837-4563

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - - +
02/01/1888 ERROR IN REGION D - DECREED+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
WEATHERBY SPRINGS BILLINGSLEY CREEK

+ - - - - Point of Diversion - - - - - +

Twn Rng Sec Tract Lot RFlg County

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

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

01 - IRRIGATION

04/01

10/31

0.780

43 - DOMESTIC

01/01

12/31

0.040

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.820 117.0

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

Twn Rng Sec Tract Lot Acres Code Description County

07S 13E 25 SE NW 37.0 01 IRRIGATION (47) GOODING

07S 13E 25 NE SW 2.0 01 IRRIGATION (47) GOODING

Total Acres: 39.0

+ - - Diversion Means - SPRING TUNNEL, PIPELINE TO POU

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

+ - - Other Rights for Same Use - NONE

+ - - - - Remarks - - - - - +
No Remarks found.

MICROFILMED

JAN 2 1 1993

Water right number - R36-00086C

Prefix Translation: RESEARCH

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

+ - - - - Old Water Right Numbers - - - - - +
3600086A+ - - - - Conditions of Approval - - - - - +
No Conditions of Approval found.+ - - - - Decree Plaintiff - - - + + - - - - Decree Defendant - - - + + - Decree Date - - +
00/00/0000

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

Date: 09/14/1992 User Id: SCHULTZ Subject: NOTICE OF ERROR (NOE)
RECEIVED NOE 9/10/92. CHANGED NOE FLAG FROM BLANK TO A. CLAIM VERIFIED 8/7/92. DID NOT REVERIFY ANY PART OF CLAIM.
Date: 09/17/1992 User Id: SCHULTZ Subject: 2ND NOTICE OF ERROR (NOE)
RECEIVED 2ND NOE 9/16/92. LEFT NOE FLAG AS A.
Date: 10/13/1992 User Id: WORSTELL Subject: NOTICE OF ERROR RECORD
NO CHANGE IN RECOMMENDATION OF CLAIM

+ - - Audit Fields - - +
10/13/92 WORSTELL

+ - - - - 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	- 10/13/1992	Old Judicial District	-
Claim Received Date	- 07/13/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S000909	Water District	- 36A
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- AND/OR	Presumption Flag	-
				Notice of Error Flag	- B

MICROFILMED

JAN 2 1 1993

R PROOF



CVR



MAPS



PHOTOS



MISC



MICROFILMED

JAN 21 1993

Water Right Number - R36-00086C

Prefix Translation: RESEARCH

Old (D) Number -

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

*** C - CURRENT OWNER ***
FUELL

KEITH L

1 - RT 1 BOX 225

2 - 2831S 1050E

3 -

City- HAGERMAN

Phone - 208-837-4563

State- ID Zip- 83332

FUELL

JOLENE

1 - RT 1 BOX 225

2 - 2831S 1050E

3 -

City- HAGERMAN

Phone - 208-837-4563

State- ID Zip- 83332

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
02/01/1888 ERROR IN REGION D - DECREED+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
WEATHERBY SPRINGS BILLINGSLEY CREEK

+ - - - - Point of Diversion - - - - - +

TwN Rng Sec Tract Lot RFlg County

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

+ - - - - Water Use - - - - - +

Code Description Period From Period To Diversion Rate Diversion Volume

01 - IRRIGATION

04/01

10/31

0.780

43 - DOMESTIC

01/01

12/31

0.040

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.820 117.0

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

TwN Rng Sec Tract Lot Acres Code Description County

07S 13E 25 SE NW 37.0 01 IRRIGATION (47) GOODING

07S 13E 25 NE SW 2.0 01 IRRIGATION (47) GOODING

Total Acres: 39.0

+ - - Diversion Means - SPRING TUNNEL, PIPELINE TO POU

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

+ - - Other Rights for Same Use - NONE

+ - - - - Remarks - - - - - +
No Remarks found.

VERIFIED BY

MICROFILMED

JAN 21 1993

Water right number - R36-00086C

Prefix Translation: RESEARCH

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

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

3600086A

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

No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - +

+ - - - - Decree Defendant - - - +

+ - Decree Date - +

00/00/0000

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

No Comments Found

+ - - Audit Fields - - +

08/07/92 CHRISTEN

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

Court Report Filing - 00/00/0000
Objection Filed Date - 00/00/0000
Response Filed Date - 00/00/0000
Claim Received Date - 07/13/1988

Field Inspection Made - 00/00/0000
Field Inspection Flag -
Verified Date - 08/07/1992
Last Amended Date - 00/00/0000
Receipt Number - S000909
POU Ownership Flag - Y
Name Connector - AND/OR

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

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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: 14
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-00086C

WR ELEMENT	FIELD EXAM Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	VERIFIED BY CODE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE	Y			N		HHH 8/6/92	DB	KRC 8-29-92
POINT OF DIV	Y			(Y) 10 Ac.	1,5			
SOURCE	Y			N				
PLACE OF USE	(Y)		8-29-90 SC	N	1,4,5			
DIV. AMOUNT CFS/VOLUME	(Y)		I	(Y)	6. DECREE			
CONSUMPTIVE USE	-			N				
PURPOSES	(Y)		I	N				
PERIOD OF USE	(Y)			N				
BASIS OF CLAIM	Y			N				
REMARKS				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.

MICHOULID
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: A36-00086C

LAST: FUELL
ADDRESS: RT. 1 BOX 225
2831S 1050E
CITY: HAGERMAN
PHONE NUMBER: 208-837-4563

OWNER CODE: C

FIRST: KEITH L.

STATE: ID ZIP: 83332

LAST: FUELL
ADDRESS: RT. 1 BOX 225
2831S 1050E
CITY: HAGERMAN
PHONE NUMBER: 208-837-4563

OWNER CODE: C

FIRST: JOLENE

STATE: ID ZIP: 83332

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

NO REMARKS IN CLAIM

DATABASE
N

FIELD
EXAMINER

MICROFILMED
JAN 21 1993

CONTACT PERSON: _____

PHONE NUMBER: (____) ____-____

DATE OF FIELD EXAM: 8/29/90

APPOINTMENT MADE: Y(____) N(____)

TIME: 12:30 A(____) P(____)

ACCOMPANIED BY: _____

PHONE NUMBER: (____) ____-____

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / REMARKS:

I walked down into the pasture to the head of ^{North} Weatherby Pipeline. Confirmed irrigation below Curran Ditch.

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JAN 21 1993

A. AJ CLAIM: # A36-00086C PRIORITY DATE: 02-01-1888 STAGE: D
B. WR RECORD: # 36-00086A PRIORITY DATE: 2-1-1888 STAGE: D

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

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

REMARKS: Root WR 36-00086A

===== RECOMMENDED PRIORITY DATE: 2-1-1888

REVIEWED BY Sc

DATE 9-4-90
=====

MICROFILMED

JAN 21 1993

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A36-00086C	07S	14E	30		NE	SW		GOODING

OTHER AJ CLAIMS WITH SAME AJ POD
A PREFIX R PREFIX
A36-00009 NONE

WR RECORDS IN SAME 40 ACRE TRACT

36-00009
36-00010
36-00011
36-00015
36-00016
36-00017
36-00033
36-00041
36-00042
36-00044
36-00045
36-00060
36-00061
36-00062
36-00063
36-00068
36-00069
36-00086A
36-00086B
36-00105
36-00116
36-00118
36-00119
36-00120
36-02029
36-07071
36-07740

SOURCE: WEATHERBY SPRINGS

TRIB: BILLINGSLEY CREEK

B. WR POINT OF DIVERSION AND SOURCE:

3600086A THERE IS NO POD ASSOCIATED WITH THIS WATER RIGHT NUMBER

(WR IS SAME)

C. FIELD EXAM REQUIRED?

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

DATABASE
Y
Y

FIELD
EXAMINER
N
N

MICROFILMED
JAN 21 1993

REMARKS:

Add. 10 Ac.

MICROFILMED

JAN 21 1993

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	COUNTY
---	Same	---	SE	---	---	---	47

change claim

SOURCE: WEATHERBY SPRINGS

TRIB: BILLINGSLEY CREEK

REVIEWED BY: SL

DATE: 9-4-90

VIA SIPHON OVER B.CREEK TO PIPELINE DELIVERY

ACTUAL SOURCE IS WEATHERBY SPRINGS TUNNEL

A. ROOT WATER RIGHT NUMBERS:

A36-00086B
A36-00086C
A36-00086D
A36-00086E
A36-00086F
A36-00086G
A36-00086H

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B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
07S	13E	25	SE	NW		FUELL, KEITH L.	A36-00086C / 37.0	- /	39.0		37
						HURST, RONALD E.	A36-00086G / 3.0	- /			
						PENFOLD, JOHN T.		36-00086A / 40.0			
07S	13E	25	NE	SW		FUELL, KEITH L.	A36-00086C / 2.0	- /	40.0		2
						CRIST, LEROY D.	A36-00086H / 1.0	- /			
						SMITH, LANDON H.	A36-00086D /	- /			
						KNOTT, STEVEN T.	A36-00086E /	- /			
						HENDRIX, ALLEN E.	A36-00086F /	- /			
						SMITH, RONNIE D.	A36-00105 / 17.0	36-00105 /			
						PENFOLD, JOHN T.		36-00086A / 6.0			
						STROUD, FLORENCE OWENS		36-00104 /			
						OWENS, C. A.		36-00189 /			
TOTAL ACRES							A36-00086C	39.00	79.00		39

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

C. FIELD EXAM REQUIRED?

DUE TO POU DISCREPANCY? (Y/N)

DATABASE
Y

FIELD
EXAMINER

Y

PRESUMPTION FLAG:

REMARKS:

Sprinkler irrigation on all POU

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RECOMMENDATIONS:

TOTAL ACRES: 39.0

REVIEWED BY: SC

DATE: 9-4-90

A. AJ CLAIMED USES:

PURPOSES
A36-00086C IRRIGATION
A36-00086C DOMESTIC

MONTH/DAY
FROM ~~03-15~~ ~~TO 11-15~~
FROM 01-01 TO 12-31

d-1 10-31

DIVERSION QUANTITY
1.600 CFS
.040 CFS
1.600 CFS

TOTAL DIVERSION RATE/VOLUME CLAIMED

B. WR RECORDED USES:

PURPOSES

MONTH/DAY

DIVERSION QUANTITY

TOTAL DIVERSION RATE/VOLUME CLAIMED

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

DUE TO WATER-USE DISCREPANCY? (Y/N)
DUE TO DIVERSION RATE DISCREPANCY? (Y/N)
DUE TO PERIOD FROM/TO DISCREPANCY? (Y/N)

DATABASE
Y
Y
Y

FIELD
EXAMINER
N
N
N

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(☒)

AJ TOTAL CLAIMED DIVERSION RATE: 1.600 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: CFS

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

FLOW MEASUREMENT REQUIRED?

FIELD
DATABASE EXAMINER
Y N

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

B. FLOW MEASUREMENT

MEASUREMENT METHOD _____, SEE ATTACHED CALCULATIONS.

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

OTHER RIGHTS LISTED IN CLAIM: NONE

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

CLAIM	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A36-00086C	WEATHERBY SPRINGS	FUELL , KEITH L.	1.600	0.041		
A36-00086G	WEATHERBY SPRINGS	HURST , RONALD E.	0.200	0.066		
A36-00105	WEATHERBY SPRINGS	SMITH , RONNIE D.	1.000	0.058		

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

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A36-00086C	DOMESTIC	FUELL , KEITH L.	FROM 01-01 TO 12-31	.040 CFS	
A36-00086H	DOMESTIC	CRIST , LEROY D.	FROM 01-01 TO 12-31	.120 CFS	
A36-00086D	DOMESTIC	SMITH , LANDON H.	FROM 01-01 TO 12-31	.060 CFS	
A36-00086E	DOMESTIC	KNOTT , STEVEN T.	FROM 01-01 TO 12-31	.020 CFS	
A36-00086F	DOMESTIC	HENDRIX , ALLEN E.	FROM 01-01 TO 12-31	.020 CFS	
A36-00105	STOCKWATER	SMITH , RONNIE D.	FROM 01-01 TO 12-31	.050 CFS	

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D. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE

ACRES 39 x 0.02 CFS/ACRE = 0.78 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 = 117.0 AF/A

ACRES 39 x CONSUMPTIVE VOL. AF/A FOR AREA 3.0 =

TOTAL CONSUMPTIVE USE 117 AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

ACRES 39 x DIVERSION VOL. AF/A FOR AREA 4.0 =

TOTAL DIVERSION VOLUME 156 AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y() N()

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

1b. CALCULATIONS

Sprinkler use.

allow 0.02 cfs
A.

= 0.78 cfs

No conveyance loss.

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RECOMMENDATIONS:

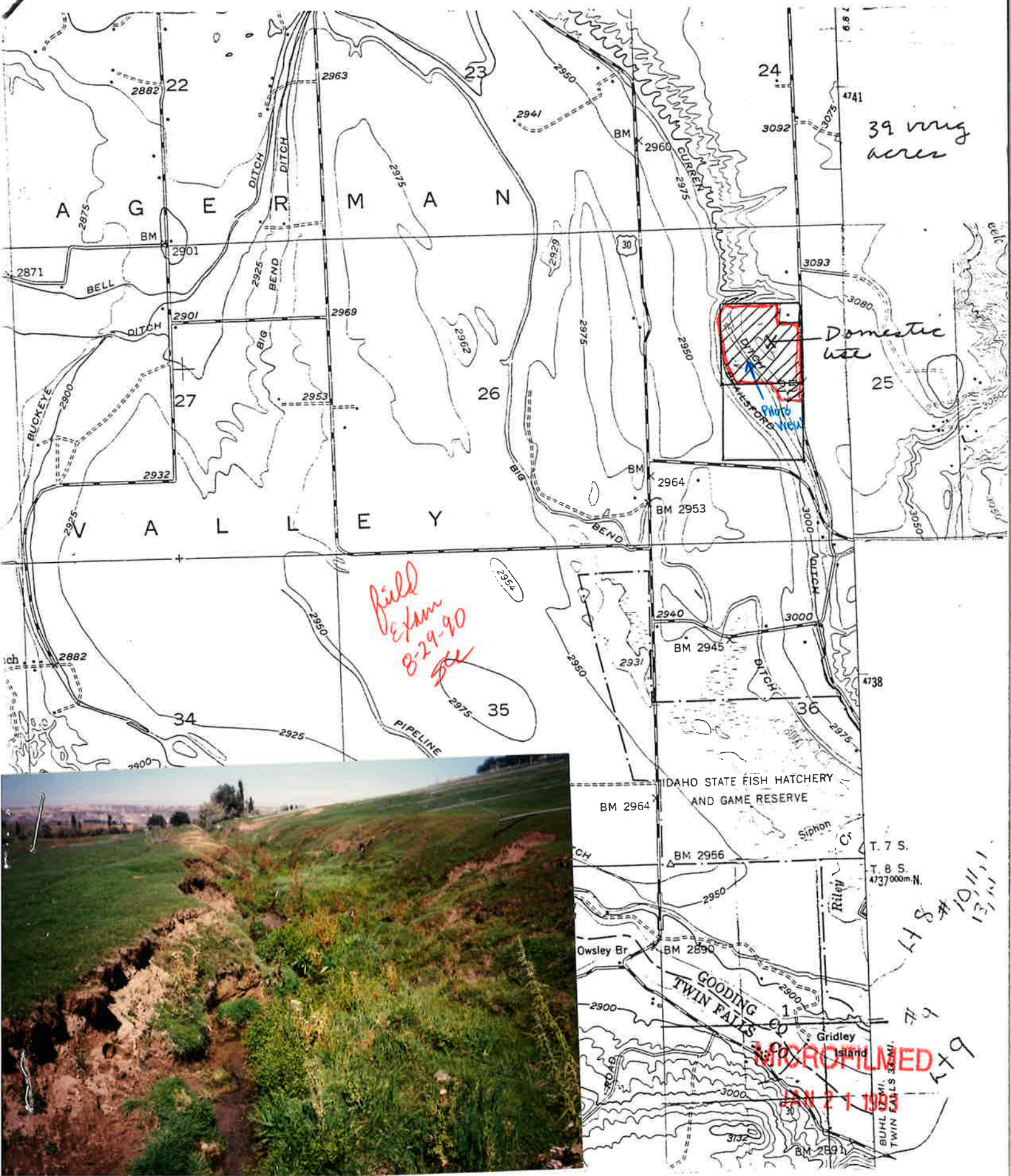
REC. PURPOSES	REC. PERIOD		REC. DIV		REC. DIV		REC. CONS.	
	FROM	TO	RATE	CFS	VOL.	AF/A	USE	
<u>IRRIGATION</u> <u>DOMESTIC</u>	<u>4-1</u>	<u>10-31</u>	DATABASE	EXAMINER	DATABASE	EXAMINER	DATABASE	EXAMINER
	<u>3-15</u>	<u>11-15</u>	<u>1.56</u>	<u>0.78</u>	<u>156</u>	<u>117</u>	<u>117</u>	<u>117</u>
	<u>1-1</u>	<u>12-31</u>	<u>0.04</u>		<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
TOTAL FOR THIS RIGHT			<u>1.56</u>	<u>0.82</u>	<u>156</u>	<u>117</u>		
REVIEWED BY: <u>SC</u>	DATE: <u>9-4-90</u>							

$$\cancel{WR \text{ Proportional Rate} = \frac{1.88 \text{ cfs}}{46} = 0.04 \text{ cfs/Ac.}}$$

E08

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=====

AUTHENTICATION:

SIGNATURE: _____

Steve Clelland

DATE: _____

9-4-90

NAME OF FIELD EXAMINER: _____

STEVE CLELLAND

TITLE: _____

=====

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A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP _____
FORFEIT/ABANDON _____
ADDITIONAL DIV. AMOUNT _____

ACCEPTED AS CLAIMED	NEEDS REVIEW
(X)	()
(X)	()
(X)	()

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-00086

TOTAL DIVERSION RATE OF WR SPLITS	DATABASE 2.000	EXAMINER _____	CFS
-----------------------------------	-------------------	-------------------	-----

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
A36-00086	A36-00086B	0.020	-		36-00086	
A36-00086	A36-00086C	1.600	-		36-00086	
A36-00086	A36-00086D	0.060	-		36-00086	
A36-00086	A36-00086E	0.020	-		36-00086	
A36-00086	A36-00086F	0.020	-		36-00086	
A36-00086	A36-00086G	0.200	-		36-00086	
A36-00086	A36-00086H	0.120	-		36-00086	
-	-	-	-		36-00086A	1.980
-	-	-	-		36-00086B	0.020
TOTAL CFS		2.040				2.000

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
N

REMARKS:

*attached
see A36-00086A for Review*

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DECREED RIGHT SPLIT ANALYSIS

PARENT RIGHT NO. 36-00086 TOTAL DIVERSION RATE 2.00 - split by transfer (see below)
 PREPARATION DATE 8/6/92 HHT

CLAIM PORTION	CLAIMED RATE	RECOMMENDED RATE	IS CLAIMED RATE EXCEEDED BY ANALYSIS	CONVEYANCE LOSS	DOES DIV RATE + CALC. C.L. EXCEED CLAIMED RATE	TOTAL RECOMMENDED DIV. RATE
A	Parent right for C-H (see below - total right 1.98)					
B	claimed portion in full - recommended for disallowal					
C	1.60	0.82	—	—	—	0.82
D	0.06	0.04	—	—	—	0.04
E	0.02	0.02	—	—	—	0.02
F	0.02	0.02	—	—	—	0.02
G	0.20	0.12	—	—	—	0.12
H	0.12	0.04	—	—	—	0.04
			—	—	—	
			—	—	—	
			—	—	—	
			—	—	—	
	1.90		—	—	—	1.06

Transfer No. 2687

36-00086 A

1.98

36-00086 B

0.02 (NENW)

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Water Right Number - A36-00086A

Adj. Flag Translation: ADJUDICATION CLAIM

Old (D) Number -

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

*** C - CURRENT OWNER ***
SPLIT RIGHT

1 -

2 -

3 -

City- X

State- ID Zip- 0

Phone - 208-000-0000

*** O - ORIGINAL OWNER ***
PENFOLD

JOHN T.

1 -

2 -

3 -

City- X

State- ID Zip- 0

Phone - 208-000-0000

PENFOLD

EMMA

1 -

2 -

3 -

City- X

State- ID Zip- 0

Phone - 208-000-0000

+ - - Priority Date - - +
02/01/1888+ - - Region - - - +
17 Error in Region

+ - - Stage - - - +

+ - - Status - - - +
Z - SEE REMARKS+ - - - - Source - - - - - +
WEATHERBY SPRINGS
SPLIT RIGHT+ - - - - Tributary - - - - - +
BILLINGSLEY CREEK+ - - - - Point of Diversion - - - - - +
TwN Rng Sec Tract Lot RFlg County (Blank if no Index Code)

07S 14E 30 NE SW (47) GOODING

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

01 - IRRIGATION

1.980

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

07S 13E 25 SE NW 40.0 01 IRRIGATION (47) GOODING

07S 13E 25 NE SW 6.0 01 IRRIGATION (47) GOODING

Total Acres: 46.0

+ - - Diversion Means - HEADBOX & PIPELINE

+ - - Non-Irrigation Use -

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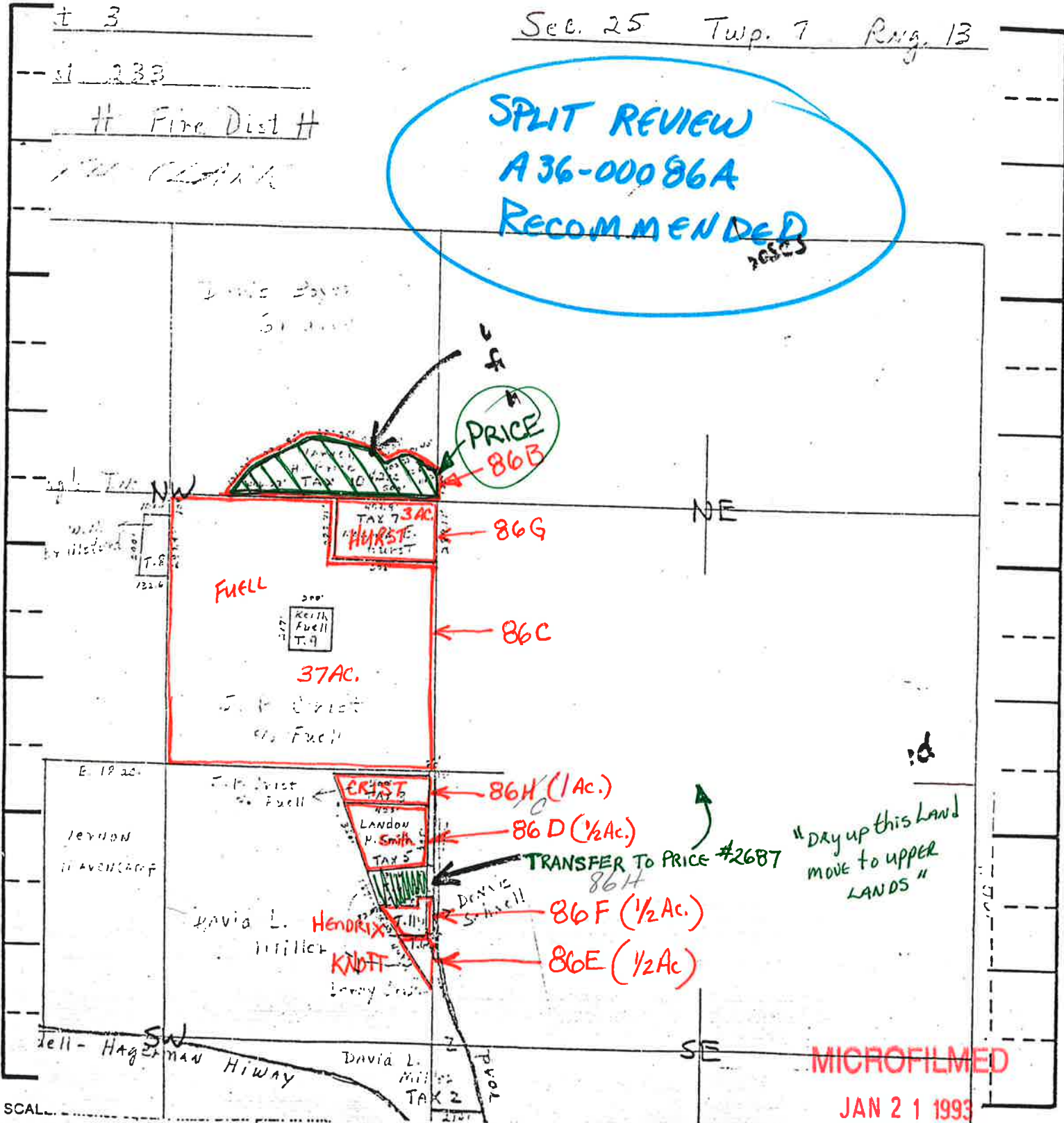
Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 00/00/0000	Old Judicial District	-
Claim Received Date	- 12/17/1990	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- X777777	Water District	- 36A
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	-	Presumption Flag	-

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Total number of acres to be irrigated

X

4. Describe any other water rights used for the same purpose as described above. 36-7861
however this water found unsuitable for drinking.
5. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



TRANSFER NO.	NAME	AMOUNT C.F.S.	BALANCE C.F.S.	RIGHT NO.
	Penfold, John T. & Emma		2.0	36-0086
2687	Price, Varnell H. &/or Sandra D.		0.02	36-0086B
	Penforld, John T. & Emma		1.98	36-0086A

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DEC 20 1982

Department of Water Resources
Southern District Office

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N

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SPLIT RIGHT REVIEW

A 36-00086.

36-0086 T# 2687

T

Transfer No. 2687Water Right No. 36-0086

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

APPROVED

To Change the Point of Diversion and/or the Place of Use

Name of applicant Varnell H. & Sandra D. Price Phone 487-2173
Post Office address P.O. Box 78, Shoshone, Idaho, 83352

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. 36-0086 Decreed to John T. & Emma Penfold
(Name)
in case of New International Mortgage Bank vs Idaho Power Company
dated in March 22, 1932 in District county of Gooding
(Name of court)
- b. License No. _____ issued by the Idaho Department of Water Resources
- c. Claim No. _____ on file with the Idaho Department of Water Resources

2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant _____

Copy of deed attached. Purchase of water only.

3. Source of water Weatherby Springs tributary to Billingsley Creek4. Date of priority 2/1/1888

5. Water is used for the following purposes:

amount 2.0 cfs for Irrigation & Domestic * Not Listed
purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(month/day — both dates inclusive)

6. Total amount of water under right: a. 2.0 cubic feet per second
&/or
b. _____ acre feet per annum7. Location of original point of diversion is NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 30
Township 7S. Range 14 E. B.M., in Gooding County
Additional points of diversion, if any _____

8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
<u>7S.</u>	<u>13E.</u>	<u>25</u>								<u>40</u>	<u>6.6</u>								<u>46.6</u>

Total number of acres to be irrigated 46.69. Describe any other water rights used for the same purpose as described above None**MICROFILMED**10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? No If yes, describe in item D, REMARKS.**JAN 21 1993**

B. DESCRIPTION OF PORTION OF RIGHT OWNED BY APPLICANT (If the entire right is owned by the applicant, omit part B).

1. Amount of water: a 0.02 cubic feet per second &/or

Point of diversion NE SW Section 25 Township 7S

Range 14E, B.M., Gooding County

Additional points Re-diverted NE 1/4 SW 1/4 Sec. 25, T.7S., R.13E., B.M. (Tax lot 6)

3. Place of use:

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
7S.	13E.	25																	1

Total number of acres to be irrigated 1

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

1. General Information

a. Amount of water to be diverted 0.02 c.f.s. &/or _____ acre feet

b. Description of diverting works diverted from spring thru existing pipeline to applicant's property

c. Describe the reasons for the proposed changes _____

2. Change in point of diversion No change in spring diversion

Point of diversion _____ 1/4 _____ 1/4, Section _____ Township _____

Range _____, B.M., _____ County

Additional points Re-diversion to be from pipeline in NE 1/4 NW 1/4 Sec 25, T.7S., R.13E., B.M. (Tax lot 10)

3. Change in place of use

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

b. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer
None Crist property retained 6" after lands were subdivided. Out of the 6", 1" is being sold to applicant. Applicant will use the 1" of water for domestic purposes.

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[illegible]

3
 233
 H Fire Dist H
 177 12/1/11

Sec. 25 Twp. 7 Rng. 13

Water to be used for Domestic Purposes here

NW NE
 SW SE

Tell-Hagerman Hiway

TAX 10
 TAX 7
 TAX 5
 TAX 2

VANDER
 LANDON P. SMITH
 DAVID L. MILLER

Prop. Water transferred from

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D. REMARKS

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

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

[Signature]
(Signature of Applicant)

Subscribed and sworn to before me this 19 day of MAY, 19 82

[Signature]
(Notary Public)

My commission expires Life

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 36-0086B and said application is hereby APPROVED, subject to the following limitations and conditions:

1. Use of water under this right is subject to control by the watermaster of State Water District No. 36, Billingsley Creek.
2. Water may be diverted under this transfer only if one-half acre of land is removed from irrigation within Tax Lot 6 in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 25, Twp. 7S, Rge. 13E, B.M.

Witness my hand this 30th day of November, 19 82

[Signature]
Chief, Operations Bureau

FOR DEPARTMENT USE ONLY

Received by [Signature] Date 5/35/82 Protest filed by None
Prelim. check by [Signature] Fee 30⁰⁰
Receipted by [Signature] Date 5/25/82 # 22195
Published in Boeding & Lada Copies of protest forwarded by _____
Pub. dates 6/2 + 6/2/82 Hearing held by _____ Date _____
Watermaster recommendation requested on 5/22/82 Recommended for approval denial
_____ rec'd. by ADM Jim DRT

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JAN 21 1993

X

- 36-7861

Sec. 25 Twp. 7 Rng. 13

i 3

51-233

Fire Dist

12/24/20

20523

2000 2000
60 1000

25

1. 1.1.1 NW

W. J.
y. W. J.

17.2.6	
--------	--

402.9
TAX 7
KONIG E-
HURST
508

27

Keith
Fuell
T. 9

J. R. O'Neil
c/o Fuchs

E. 18 22.

Levonon
H. A. V. 12. 1967

Ed. West
C. E. Ewell ←

500
TAX 3
425

ANDON
J. SMITH
TAYLOR

1992

Aravia L.
utiliter

Devin
Schell

SW
Tell-Hagerman Hwy

DAVID L. MILLER
TAX 2

57

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SCAL.

Fuell
2831 S 1050 E
Hagerman ID
83332



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JAN 20 1993

Department of Water Resources
Southern Region Office

Idaho Department of Water Resources
222 Shoshone St. East.

Twin Falls, Idaho 83301

Fuell
2831-South
1050 East
Hagerman Idaho
83332



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OCT 12 1993

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FEB 01 1993

Department of Water Resources
Southern Region Office

Department of Water Resources
Southern Region 222 Shoshone St. East.
Twin Falls Idaho
83301