

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: A36-00092
Date Received: 7/28/1988
Receipt No: S001159
Received By: SCC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: FRANK C. ERWIN 208-837-4433
Address: RT. 1 BOX 453
HAGERMAN, ID 83332

OR

Name: PEGGY ERWIN 208-837-4433
Address: RT. 1 BOX 453
HAGERMAN, ID 83332

2. Date of Priority: APR 01, 1901

3. Source: FLORENCE LIVESTOCK SPRING Trib. to: BILLINGSLEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
07S	13E	12	SE	SE	NW		GOODING

5. Description of diverting works:
CONCRETE DIVERSION WITH STEEL PIPELINE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.600		
STOCKWATER	01/01	12/31	0.020		
DOMESTIC	01/01	12/31	0.120		

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

8. Total consumptive use is 48.0 Acre Feet Per Annum.

9. Non-irrigation uses:
D/ 3 HOUSES S/ 10 RANGE

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
07S	13E	14	NE		NE		IRR	16.0
			NE		NE		DOMEST	
			NE		NE		STOCK	

Section Acres 16.0

Total Acres 16.0

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:
NONE

14. Remarks:

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 3/22/1932

NEW INTERNATIONAL MORTGAGE BAN
Decree Plaintiff

vs

IDAHO POWER COMPANY
Decree Defendant

MICROFILMED
JAN 21 1993

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): _____ Date: _____
_____ Date: _____

State of Idaho)
County of _____) SS.

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

Notary Public

Seal

Residing at _____

My Commission Expires _____

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

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

CIVIL CASE NUMBER:

39356

Ident. Number

A36-00092

Date Received

7-22-88

Receipt Number

5001159 sec

NOTICE OF CLAIM

TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

COPY
FOR YOUR FILES
DO NOT RETURN

Please type or print clearly

1. Name of Claimant (s) FRANK C. ERWIN and PEGGY ERWIN Phone (208) 837-4433Mailing Address Route #1, Box #453, Hagerman, Idaho Zip 833322. Date of Priority (Only one (1) per claim) April 1, 19013. Source of water supply (a) Florence Livestock Spring
which is tributary to (b) Billingsley Creek4. a. Location of existing point of diversion is: Township 7 South Range 13 East Section 12,
SE 1/4 of SE 1/4 of NW 1/4, Govt. Lot, _____ B.M., County of _____

Additional points of diversion if any: _____

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

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

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

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

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

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. From the existing concrete diversion, the
water is transported by use of steel pipeline and is used to irrigate approximately 16
acres.

MICROFILMED

Copies: White-State Yellow-Claimant
OCT 12 1994

6. Water is claimed for the following purposes:

(both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from Mar. 15 to Nov. 15 amount 0.6 or _____

For Livestock purposes from Jan. 1 to Dec. 31 amount 0.02 or _____

For Domestic purposes from Jan. 1 to Dec. 31 amount 0.12 or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.6 (cfs) and/or (b) 64 (acre feet)

8. Total consumptive use claimed is 48 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) There are three (3) households on the property and there has been up to 10 head of cattle.

10. Description of place of use:

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

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

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
7 S	13 E	14	D-S 16																16

Total number of acres irrigated 16 Acres

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

12. Do you own the property listed above as place of use? Yes X No _____

If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above. _____ or None (X)

14. Remarks:

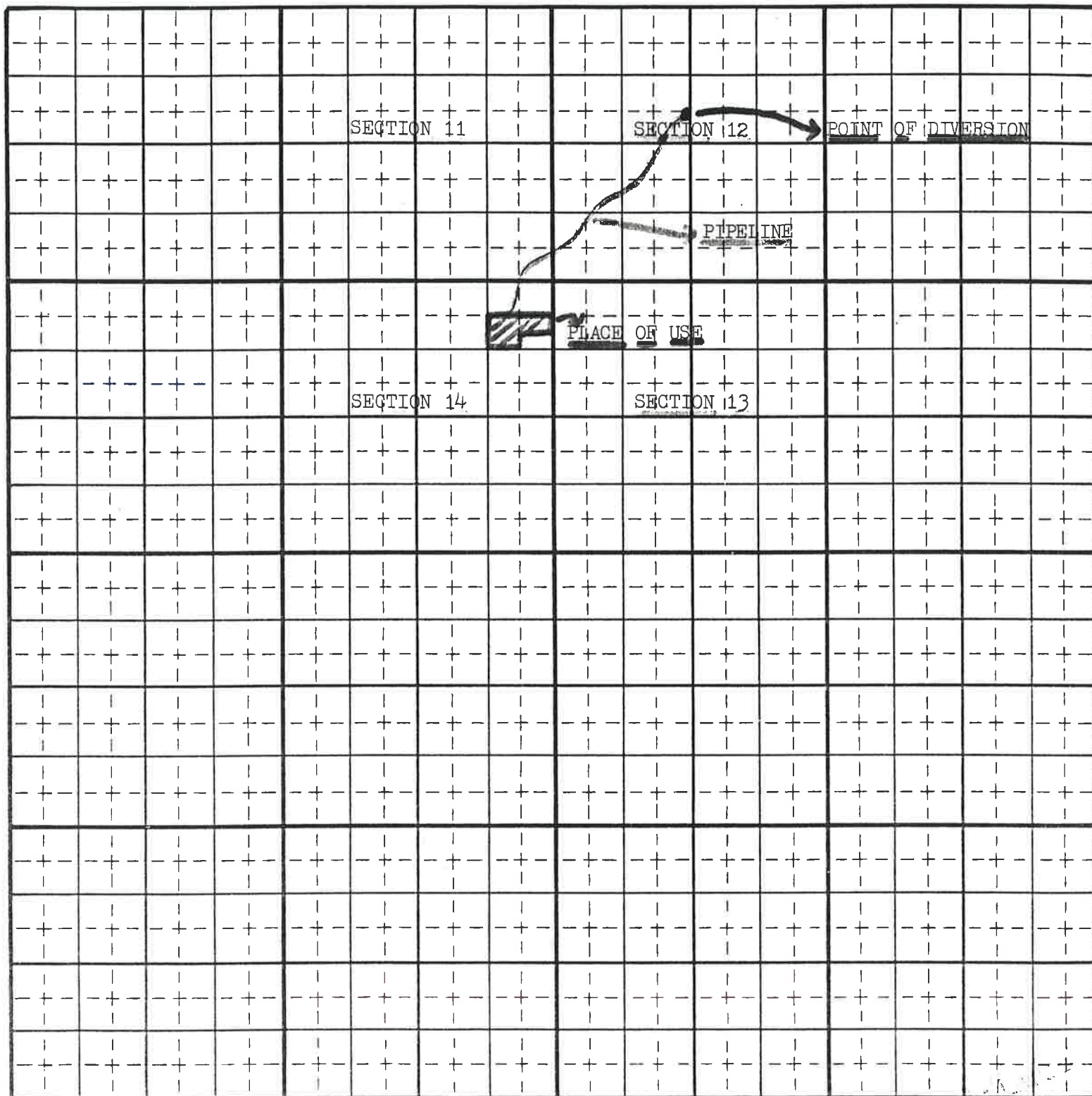
Last Name ERWIN Ident No. A36-00092

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

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

Scale: 2 inches equals 1 mile

TOWNSHIP 7 SOUTH, RANGE 13 EAST OF THE BOISE MERIDIAN



MICROFILMED

Last Name ERWIN

Ident No. A36-00092

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

15. Basis of Claim (check one) ☐ Beneficial Use ☐ Posted Notice ☐ License ☐ Permit ☒ Decree X

If applicable provide IDWR Water Right Number 36-0092

Court U.S. District Court Case Number 1602 Decree Date March 22, 1932

Plaintiff vs Defendant New International Mortgage Bank vs Idaho Power Company

16. Signature (s)

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

Number of attachments two (2)

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

Signature of Claimant (s)

Erwin Erwin

Date 7-18-88

Frank C. Erwin

Date 7-18-88

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

Title

of _____, that I have signed the foregoing

Organization

document in the space below as

Title

of

Organization

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

Signature of Authorized Agent

Title and Organization

Date

State of Idaho/or _____)

) SS.

County of Gooding)

Subscribed and sworn (or affirmed) before me this 18th day of July 19 88

SEAL

Notary Public

[Signature]

Residing at Hagerman, Idaho

My Commission Expires 5-10-91

Please Print Name

17. Notice of Appearance:

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

Signature _____

Address _____

Date _____

Last Name ERWIN Ident. Number A36-00092

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

POOR ORIGINAL

map or plat of Hagerman Townsite. Also Lots 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 of Block 61; Lots 1, 2, 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 15, 16 Block 48; Lots 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 of Block 52; Lots 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 of Block 47; Lots 1, 2, 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 15 and 16 of Block 53; Lots 1, 2, 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 15, 16 of Block 62 of the Village of Hagerman according to the Plat of Hagerman Townsite, in the office of the Recorder of Gooding County, Idaho.

092 Rawlings,
Walter and
Mrs. Walter
Rawlings

6 Spring

April 1, 1901

Florence Livestock
Spring

A certain parcel of land, described in metes and bounds as follows: Beginning at the southwest corner of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 14, Twp. 7 S. R. 13 E. B. 1., and running thence East 594 feet, thence north 400 feet, thence West 594 feet, thence South 400 feet to the place of beginning, containing 7.45 acres more or less.

A certain parcel of land, described in metes and bounds as follows: Beginning at a point 400 feet north of the southwest corner of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 14, Twp. 7 S. R. 13 E. B. 1., and running thence East 1320 feet, thence North 330 feet, thence West 1320 feet, thence South 330 feet to the place of beginning, containing 10 acres.

Rawlings,
Norma

3 Spring

April 1, 1901

Florence Livestock
Spring

A certain parcel of land situate in the Hagerman Valley, Gooding County, State of Idaho, and more particularly described as follows: Beginning at a point about 740 feet north of the Southwest corner of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 14,

093
OCT 12 1994
MICROFILMED

POOR ORIGINAL

WARRANTY DEED

FOR VALUE RECEIVED VERNON J. COX and TARA COX, husband and wife, hereinafter called the Grantor, hereby grant, bargain, sell and convey unto FRANK C. ERWIN and PEGGY J. ERWIN, husband and wife, of _____, hereinafter called the Grantee, the following described premises situated in Gooding County, Idaho, to-wit:

Township 7 South, Range 13 East of the Boise Meridian

Section 14: A tract of land in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ described as follows:

Beginning at the SE corner of the NE $\frac{1}{4}$ NE $\frac{1}{4}$; thence West along the South boundary line of said NE $\frac{1}{4}$ NE $\frac{1}{4}$, 776.11 feet;
thence North parallel to the East line 25 feet to the true point of beginning;
thence North parallel to the East line 392.45 feet;
thence East parallel to the South line 442.45 feet;
thence South 17.45 feet;
thence East parallel to the South line 333.96 feet to the East line of said tract;
thence North along the East line 330 feet;
thence West 1320 feet more or less to the West line of said NE $\frac{1}{4}$ NE $\frac{1}{4}$;
thence South along said West line 705 feet;
thence East parallel to the South line 543.89 feet, more or less, to the point of beginning.

EXCEPT highway right of way across part of NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 14 as set forth in Second Judgment and Decree of Condemnation recorded March 26, 1964 as microfilmed instrument No. 10977A and filed in Case No. 10341, records of Gooding County, Idaho.

And

EXCEPT therefrom the following described tract in the NE $\frac{1}{4}$ NE $\frac{1}{4}$:

Beginning at a point at or near the Southwest corner of said NE $\frac{1}{4}$ NE $\frac{1}{4}$ where the West line thereof intersects the Cemetery lane, (as now constructed along the South side of said NE $\frac{1}{4}$ NE $\frac{1}{4}$);
thence North along the West line of said NE $\frac{1}{4}$ NE $\frac{1}{4}$, 245 feet;
thence East approximately 10 feet to the center of the irrigation ditch of the Hagerman Water Users Association;
thence Southeasterly along the center of said ditch to its intersection with the North boundary of said Cemetery lane, which point of intersection is approximately 150 feet East of the point of beginning and thence West along the North side of said Cemetery lane to the point of beginning. (As set forth in Book 43 Deeds Page 318, records of Gooding County, Idaho.)

IN THE COUNTY OF GOODING, STATE OF IDAHO

Subject to a Mortgage with Federal Land Bank of Spokane in the amount of \$14,993.03.

Together with all water rights appurtenant thereto.

Hagerman - Ed

OCT 12 1977
MICROFILME

POOR ORIGINAL

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

DATED: April 4, 1977.

Vernon J. Cox Tara Cox
VERNON J. COX TARA COX

STATE OF IDAHO)
County of Gooding) ss.

On this 4th day of April, 1977, before me, a notary public in and for said State, personally appeared VERNON J. COX and TARA COX, husband and wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.



Robert P. Thibault
Notary Public for Idaho
Residing at Wendell, Idaho

STATE OF IDAHO)
County of Gooding) ss.

65292

FILED

I hereby certify that this instrument was filed for record at the request of Frank Brown at 11 minutes past 2 o'clock P m., this 20 day of April, 1977, in my office, and duly recorded in Book _____ of Deeds at page _____.

Margaret F. Clements
Ex-Officio Recorder
By Don Smith Deputy

Mail To:
Idaho First National Bank
Wendell, Idaho 83355

INDEXED
Direct ✓
Indirect ✓

WARRANTY DEED

For Value Received

CLEAVE LLOYD and BETTY LLOYD, husband and wife

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

FRANK C. ERWIN and PEGGY J. ERWIN, husband and wife

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

A triangular shaped tract of land situate in the SW corner of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 14, Twp. 7 S. R. 13 E. B. M., described as follows:
 Beginning at a point at or near the SW corner of said NE $\frac{1}{4}$ NE $\frac{1}{4}$ where the west line of said NE $\frac{1}{4}$ NE $\frac{1}{4}$ intersects the cemetery lane (as now constructed along the south line of said NE $\frac{1}{4}$ NE $\frac{1}{4}$); thence north along the west line of said NE $\frac{1}{4}$ NE $\frac{1}{4}$ a distance of 245 feet; thence east approximately 10 feet to the center of the irrigation ditch of the Hagerman Water users Association; thence Southeasterly along the center of said ditch to its intersection with the north boundary of said cemetery lane, which point of intersection is approximately 150 feet east of the point of beginning; and thence west along the North side of said cemetery lane to the point of beginning.

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

Dated: MAY 8, 1973

*Cleave C. Lloyd**Betty Lloyd*

STATE OF IDAHO, COUNTY OF GOODING

On this 8 day of May, 1973,
 before me, a notary public in and for said State, personally appeared

CLEAVE LLOYD & BETTY LLOYD,
 husband and wife

known to me to be the person(s) whose name(s) are
 subscribed to the within instrument, and acknowledged
 to me that they executed the same.

STATE OF IDAHO, COUNTY OF

Gooding
 I hereby certify that this instrument was filed for record
 at the request of *Erwin*
 at 50 minutes past 10 o'clock m..
 this 5th day of April
 1979 in my office, and duly recorded in Book
 of Deeds at page

Margaret F. Clements

Ex-Officio Recorder

By: *Judy**Dambner*

Instrument No.

MICROFILMED
OCT 12 1979

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)

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

* * * * *

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

Case No. 39576

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

NOTICE OF APPEARANCE

19 Petitioner,)

20 vs.)

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

Respondents.)

* * * * *

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



Hepworth,
Nungester,
& Lezamiz

NOTICE OF APPEARANCE - 1

MICROFILMED
OCT 12 1994

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



Hepworth,
Nungester,
& Lezamiz

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



Hepworth,
Nungester,
& Lezamiz

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 
 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

1 February, 1993, to:

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

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

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

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

21 
22 Patrick D. Brown



Hepworth,
Nungester,
& Lezamiz



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

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

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

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

MICROFILMED
 OCT 12 1994

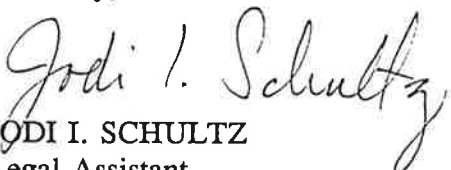
Mr. Patrick D. Brown
March 1, 1993
Page 4

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

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

MICROFILMED
OCT 12 1994



7-25-98

ERWIN

North View

To Egg Farm.

Pou WEST OF CEMETARY

RECEIVED

JUL 28 1998

Department of Water Resource
Southern Region

RECEIVED

JUL 24 1998

WATER RESOURCES
WESTERN REGION

July - 1 - 1998

Grant & Peggy Erwin
2628 South 975 East
Hagerman, Id. 83332

1998 JUL -1 AM 11:04

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

Our address has been changed from
Rt. 1 Box 453 to above address. Please
change your records accordingly.

Peggy Erwin

7/1/98 - Post office had warned claimants to chg immediately
so - Blank/R-record/CM System updated to
street address from Rt + Box. SRBA Court
(Debbie) chgd records. NO NCAP required
all mailed. Donna Smith

RECEIVED RECEIVED RECEIVED

MAR 30 1998

APR 01 1998

MAR 23 1998

Department of Water Resources
Eastern Region

Department of Water Resources
Southern Region

Department of Water Resources
Adjudication Bureau

3-1A
1998 MAR 19 AM 10:47
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA

Case No. 39576

) NOTICE SETTING HEARING

)

)

)

SUBCASE NOS: 36-00065 36-00067
36-00092

Please be advised that Special Master FRITZ X. HAEMMERLE
has set for hearing the MOTION TO ALTER OR AMEND SPECIAL MASTER'S
REPORT.

WEDNESDAY, APRIL 15, 1998 at 11:00 AM

SRBA
DISTRICT COURT
253 3RD AVENUE NORTH
TWIN FALLS, ID

Dated: MARCH 19, 1998

/S/ DEBBIE LASH

Deputy Clerk

Snake River Basin Adjudication

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

Southern

3-7

RECEIVED

MAR 03 1998

Department of Water Resources

North Snake Ground Water District

Josephine P. Beeman
Dana L. Hofstetter
BEEMAN & HOFSTETTER, P.C.
608 West Franklin Street
P. O. Box 1427
Boise, ID 83701-1427
(208) 388-8900
(208) 388-8400 (Facsimile)
beehof@micron.net

RECEIVED

MAR 06 1998

Department of Water Resources
Southern Region

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

In Re SRBA	)	Subcase Nos. 36-00065, 36-00067
	)	and 36-00092
Case No. 39576	)	
	)	Motion to Alter or Amend
_____	)	

The North Snake Ground Water District, on behalf of its members, including Faulkner Land & Livestock Company, May Farms, Ltd., and Sand Springs Ranch Partnership, and by and through its counsel of record, Josephine P. Beeman and Dana L. Hofstetter of Beeman & Hofstetter, P.C., hereby moves this Court, pursuant to SRBA Administrative Order No. 1, Section 13a, Rules 7(b)(1) and 7(b)(3), I.R.C.P., and *Idaho Code*, Title 42, Chapter 52, to alter or amend the Special Master's recommendations.

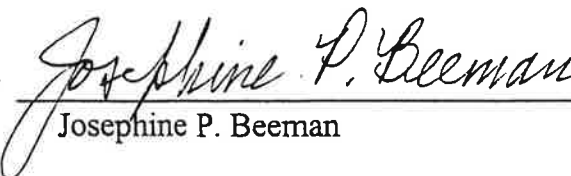
The grounds for this motion are as follows:

1. The quantities recommended in the Special Master's Reports and Recommendations are in excess of the amount actually used for beneficial purposes in violation of *Idaho Code* § 42-1402.
2. The Special Master's Reports and Recommendations provide for the use of more than 0.02 cubic feet per second ("cfs") of water per acre. However, it has not been adequately shown that the cfs per acre in the Special Master's recommendations are necessary as *Idaho Code* § 42-220 requires.
3. The claimants have not met their burdens of production and persuasion with respect to the quantity element of these water rights as required by *Idaho Code* § 42-1411(5).
4. The Director's Report as well as reports submitted by the Director as an independent expert, such as 706 Reports, were not weighed with other relevant facts.

In accordance with Rule 7(b)(3), a brief in support of this motion shall be filed within 14 days. This motion is supported by the Affidavits of David R. Tuthill, Jr. and Josephine P. Beeman filed simultaneously herewith and other matters of record. Oral argument is requested.

DATED this 2nd day of March, 1998.

BEEMAN & HOFSTETTER, P.C.

By 
Josephine P. Beeman

CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of March, 1998, I caused to be served copies of the foregoing **Motion to Alter or Amend** by depositing a copy thereof in the U.S. mail, postage prepaid, upon:

1. Original:

Clerk of the District Court
Snake River Basin Adjudication
P. O. Box 2707
Twin Falls, ID 83303-2707

2. Copy to claimants:

Faye and/or Coates (36-00065, 36-00067)
Beckstead, Fred
P. O. Box 359
Hagerman, ID 83332

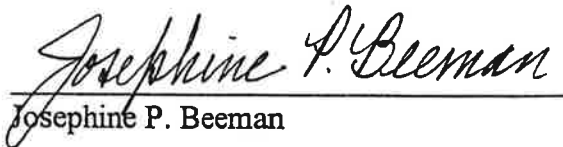
Frank C. Erwin (36-00092)
Erwin, Peggy
Route 1, 453
Hagerman, ID 83332

2. Copies to:

Idaho Department of Water Resources
Document Depository
P. O. Box 83720
Boise, Idaho 83720-0098

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

U.S. Dept. of Justice
Environment & Natural Resources
550 W. Fort St., MSC 033
Boise, ID 83724


Josephine P. Beeman

D:\1780\2\24\2013

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

DATE: DEC-29-1997

PAGE: A-1

 RIGHTS FROM: SOURCE: FLORENCE LIVESTOCK SPRING TRIBUTARY: BILLINGSLEY CREEK

RIGHT NUMBER: 36-00092

NAME AND ADDRESS: FRANK C ERWIN
 PEGGY ERWIN
 RT 1 BOX 453
 HAGERMAN ID 83332

SOURCE: FLORENCE LIVESTOCK SPRING TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 0.6 CFS
 0.12 CFS

THE QUANTITY FOR NON-IRRIGATION USE IS LIMITED TO THE AMOUNT BENEFICIARILY
 USED FOR DOMESTIC, 3 HOMES, STOCKWATER, 10 RANGERS

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

PRIORITY DATE: 04/01/1901

POINT OF DIVERSION: T07S R13E S12 SESENW Within GOODING County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION		<u>Irrigation Season</u>	<u>0.6 CFS</u>
		<u>03/13 11/13</u>	<u>0.12 CFS</u>
STOCKWATER		01-01 12-31	0.02 CFS
DOMESTIC 3 HOMES		01-01 12-31	0.08 CFS

PLACE OF USE: IRRIGATION Within GOODING County
 T07S R13E S14 NENE 10.5
WENE 10

10.5 ACRES TOTAL
10 ACRES TOTAL

Place of use for STOCKWATER is same as IRRIGATION

Place of use for DOMESTIC is same as IRRIGATION

CONSUMPTIVE USE: 3010 AFW

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR

36-00092 (CONT.)

DOMESTIC USE AND STOCKWATER USE IS NOT A DETERMINATION OF
HISTORICAL BENEFICIAL USE.

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF
DIVERSION DESCRIBED ABOVE: 36-00049, 36-00050A, 36-00050C,
36-00050D, 36-02169, 36-08294 & 36-10047.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF
DIVERSION DESCRIBED ABOVE: 36-00049, 36-00050A, 36-00050C,
36-00050D, 36-02169, 36-08294 & 36-10047.
STOCKWATER, 10 RANGE CATTLE.

TRIAL
36-00092

12/17/97 SA

SRBA Ruling: F. Hammerle

- ⑩ 10½ Acres 1 Rrig.
- ⑩ 0.6 cfs AS DECREED

CLAIM NUMBERS 36-00092DATE 10-2-97

TRANSFER NUMBER _____

OBJECTION FILED _____

AGENT KKCTOTAL ACRES FROM RECOMMENDATION 10GEOGRAPHIC INFO SYSTEM 10

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>14</u>	<u>10</u>															<u>10</u>
GIS				<u>9.88</u>															<u>10</u>
RECOM																			
GIS																			
RECOM																			
GIS																			
RECOM																			
GIS																			

UPDATED

POLYGON #

UPDATED

B36-DBPOU.DBF 10/2

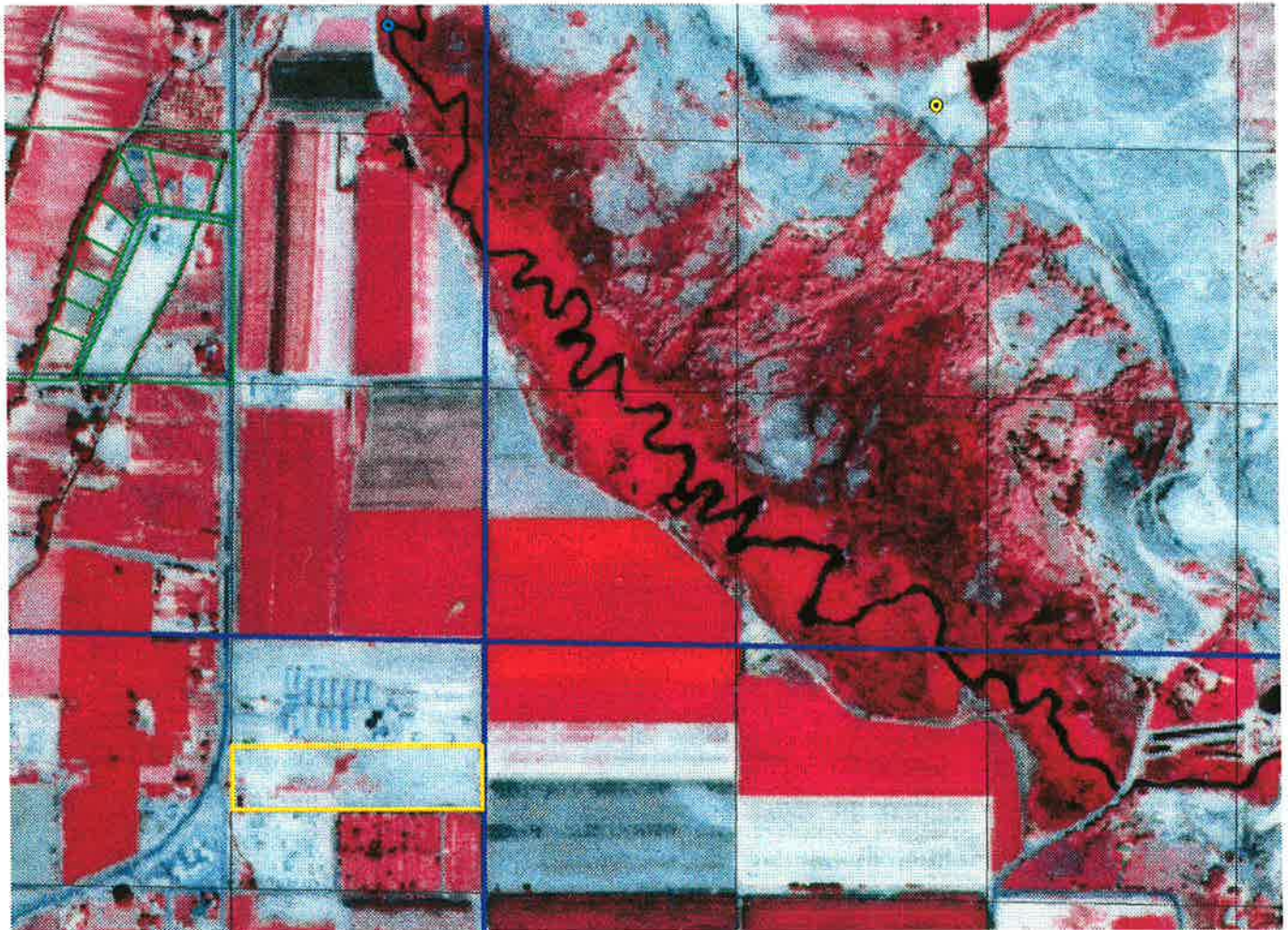
POLYGON CREATED ON 604 () _____

B36-DBPOD.DBF _____

ATTRIBUTES OF B36-POU.SHP (513)ATTRIBUTES OF B36-POD.SHP (461) 10-2P/D overlap with36-0004900050A00050C00050D021690829410047P/U CONFLICT yes () no ()P/D CONFLICT yes () no ()READY FOR DECREE yes () no ()SENT FOR DECREE yes () no ()

IDAHO DEPARTMENT OF WATER RESOURCES

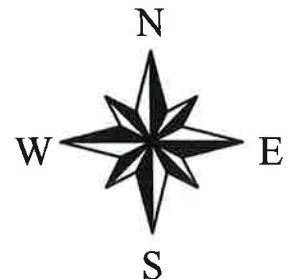
36-00092
FRANK & PEGGY ERWIN



660 0 660 1320 1980 2640 Feet



TNS 7S, RNG 13E,
SEC 14, NE1/4NE1/4



⊙ Recommended Point of Diversion

▭ Recommended Place of use

— Section lines

▭ Quarter/Quarter Lines

GIS PLACE OF USE PRESENTATION
1987 and/or 1988 NAPP PHOTOGRAPHY
DATA ENTRY OCTOBER 2, 1997
BY KELLY K CHRISTENSEN

SUBCASE NO. 36-00092

	CLAIM (7/22/88)	AMENDED CLAIM	RECOMMENDATION	OBJECTION
NAME	Frank & Peggy Erwin	N/A	Peggy Erwin Frank Erwin	
BASIS OF CLAIM	Decree		Decree	
SOURCE	Florence Livestock Spring		Florence Livestock Spring	
QUANTITY	0.600 cfs		.34 cfs see notes	XX maximum quantity: as decreed consumptive use should be changed to reflect decreed water. MSJ .60 cfs
PRIORITY DATE	04/01/1901		04/01/1901	
PURPOSE OF USE	Irrigation/Stockwater/ Domestic		Irrigation/Stockwater/ Domestic	MSJ Irrigation/Stockwater/ Wildlife/Recreation/ Aesthetics/Domestic/ Diversion System Maintenance
PERIOD OF USE	Irr.: 3/15 - 11/15 S.W.: 1/1 - 12/31 Dom.: 1/1 - 12/31		Irr.: 3/15 - 11/15 S.W.: 1/1 - 12/31 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 R13E S12		T07S R13E S12	
PLACE OF USE	T07S R13E S14 16 acres		T07S R13E S14 10 acres	MSJ 15.45 acres
REMARKS			+ see below	MSJ delete

Notes: IDWR, in its response, stated there was an error in the description of the amount of this right in the director's report and recommended the amount shown above in italics.

+ The following rights are also diverted through point of diversion described above: 36-00049, 36-00050A, 36-00050C, 36-00050D 36-02169, 36-08294 & 36-10047.

IDAHO DEPARTMENT OF WATER RESOURCES SURFACE IRRIGATION ANALYSIS WORKSHEET

WATER RIGHT NOS.

36-00092

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)

50 %

2ND EX

0

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

50 %

100%

Truck Garden - Vegetables

My total acreage is 10 acres.

[Signature]

Signature of Claimant

10-20-97

Date

Signature of Claimant

Date

[Signature]

Signature of IDWR agent

10/20/97
Date

HAGERMAN

Surface Irrigation Diversion Rate Analysis Sheet

WR#'s 36-00092

SOIL	SOIL AC.	% ROW	ROW AC.	FIR ROW	CFS ROW	% FOR.	FOR. AC.	FIR FOR.	CFS FOR.
KOB	9.39	50	4.70	0.037	.174	50	4.70	0.027	.127
EPB	0.59	50	.30	0.038	.011	50	.30	0.028	.008
KOB	9.39	100	9.39	0.037	0.347				
EPB	0.59	100	0.59	0.038	0.022				
TOTALS	9.98		9.98		0.369				

REC.
FIR

0.37 *

CFS

=

SUM

0.369

CFS

X

16.00

REC. AC.

9.98

GIS AC.

DATE

10/20/97

INIT.

[Signature]

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

DIVERSION CAPACITY OR LIC./DEC. AMOUNT MAY LIMIT

36-00092

<i>Pow_id</i>	<i>Claim</i>	<i>Acres_deci</i>	<i>Soil_type</i>	<i>Mad_row</i>	<i>Mad_for</i>	<i>Fir_row</i>	<i>Fir_for</i>
513	R3600092	9.39	KOB	1.23	1.99	0.037	0.027
513	R3600092	0.59	EPB	1.19	1.84	0.038	0.028

TOTAL 9.98 AC

SUBCASE NO. 36-00092

	CLAIM (7/22/88)	AMENDED CLAIM	RECOMMENDATION	OBJECTION
NAME	Frank & Peggy Erwin	N/A	Peggy Erwin Frank Erwin	
BASIS OF CLAIM	Decree		Decree	
SOURCE	Florence Livestock Spring		Florence Livestock Spring	
QUANTITY	0.600 cfs		<i>.34 cfs</i> see notes	XX maximum quantity: as decreed consumptive use should be changed to reflect decreed water. MSJ .60 cfs
PRIORITY DATE	04/01/1901		04/01/1901	
PURPOSE OF USE	Irrigation/Stockwater/ Domestic		Irrigation/Stockwater/ Domestic	MSJ Irrigation/Stockwater/ Wildlife/Recreation/ Aesthetics/Domestic/ Diversion System Maintenance
PERIOD OF USE	Irr.: 3/15 - 11/15 S.W.: 1/1 - 12/31 Dom.: 1/1 - 12/31		Irr.: 3/15 - 11/15 S.W.: 1/1 - 12/31 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 R13E S12		T07S R13E S12	
PLACE OF USE	T07S R13E S14 16 acres		T07S R13E S14 10 acres	MSJ 15.45 acres
REMARKS			+ see below	MSJ delete

Notes: IDWR, in its response, stated there was an error in the description of the amount of this right in the director's report and recommended the amount shown above in italics.

+ The following rights are also diverted through point of diversion described above: 36-00049, 36-00050A, 36-00050C, 36-00050D 36-02169, 36-08294 & 36-10047.

"DO NOT FILM"

TABLE mp

MEMORANDUM

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

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

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

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

CLAIMS

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

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DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

REPORT REGARDING CLAIM TO WATER RIGHT NO. 36-00092

In Re SRBA

Twin Falls County Civil Case No. 39576
Sub-Case No. 36-00092

Report to the SRBA District Court

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

July 1, 1996

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REPORT REGARDING CLAIM TO WATER RIGHT NO. 36-00092

The Director of the Idaho Department of Water Resources (IDWR) submits this report regarding claim to water right no. 36-00092 in response to the request of Special Master Haemmerle, pursuant to Idaho Code §42-1412(4) and the court's Order Re: Contested Claims for Amounts Claimed in Excess of .02 CFS. This report was prepared under the supervision of Karl J. Dreher, Director, David B. Shaw, Adjudication Bureau Chief, and David R. Tuthill Jr., Acting Adjudication Bureau Chief for IDWR. The following persons assisted in the preparation of the following portions of this report:

David B. Shaw, Adjudication Bureau Chief, reviewed and verified this Report Regarding Claim to Water Right No. 36-00092. Mr. Shaw reviewed and verified IDWR's Report Regarding Quantification of Small Domestic and Stockwater Rights, which is incorporated by reference herein. The Affidavit of David B. Shaw describes Mr. Shaw's education and work experience, and is incorporated by reference herein. Mr. Shaw also reviewed IDWR's Report Regarding Evaluation of Irrigation Diversion Rates, described below.

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

David R. Tuthill Jr., Acting Adjudication Bureau Chief, prepared IDWR's Report Regarding Consumptive Use for Irrigation in the Hagerman Area, which is incorporated by reference herein. Mr. Tuthill also reviewed this Report Regarding Claim To Water Right No. 36-00092. The Affidavit of David R. Tuthill Jr. describes Mr. Tuthill's education and work experience, and is incorporated by reference herein.

Marci S. Sterling, Adjudication Engineer, prepared and verified Appendix B, which describes the application of IDWR's methodology for evaluation of irrigation diversion rates to claim no. 36-00092. Appendix B is attached hereto and incorporated by reference herein. The Affidavit of Marci S. Sterling describes Ms. Sterling's education and work experience, and is incorporated by reference herein.

Steven C. Clelland, Senior Water Resource Agent, investigated and prepared the preliminary recommendation for claim no. 36-00092, and prepared Appendix C, which is attached hereto and incorporated herein by reference. The Affidavit of Steven C. Clelland describes Mr. Clelland's education and work experience, and is incorporated by reference herein. The affidavit also includes a general description of

his investigation of claims in the Hagerman area. The Affidavit of Steven C. Clelland Regarding Claim No. 36-00092 describes Mr. Clelland's investigation of the quantity and place of use of this water right; it is attached hereto and incorporated by reference herein.

Helen L. Harrington-Thornton, formerly Senior Water Resource Agent and currently Hydrogeologist, participated in the field examination for claim no. 36-00092. The Affidavit of Helen L. Harrington-Thornton describes Ms. Thornton's education and work experience, and is incorporated by reference herein. The Affidavit of Helen L. Harrington-Thornton Regarding Claim No. 36-00092 describes her investigation of the quantity and place of use of this water right, and is attached hereto and incorporated by reference herein.

I. INVESTIGATION AND RECOMMENDATION OF CLAIMS GENERALLY

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

II. WATER RIGHT NO. 36-00092

A. Basis of Claim

Claim no. 36-00092 was filed with IDWR by Frank C and Peggy Erwin on July 22, 1988.¹ The claim is to a right decreed to Mr. and Mrs. Walter Rawlings in the *New International Mortgage* decree, entered in 1932.² The water right decreed to the Rawlings is numbered in IDWR's files as water right no. 36-00092. This right, along with numerous others, was decreed for "irrigation, domestic, power and other purposes."

B. Name and Address of Claimant

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

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

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

C. Source of Water

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

The director's report includes the body of water to which the source of the right is tributary for each water right in the director's report, except for rights to ground water. IDWR adopted this standard for the description of the source of water rights because there are so many instances, sometimes in the same administrative basin, where different surface water sources bear the same name.³

D. Date of Priority

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

E. Point of Diversion

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

F. Purpose of Use

The purposes of use stated on the notice of claim were irrigation, domestic, and livestock (stockwater). The purposes of use recommended in the director's report include all three of the claimed purposes of use. The objection does not contest the purpose of use. The claimant's motion for summary judgment now seeks to add wildlife, recreation, aesthetics, and "diversion system maintenance."⁴

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

⁴ The filing fee for claims other than small domestic and stockwater claims consists of a flat \$50.00 fee, plus a variable fee of \$1.00 per acre for any claimed irrigation use, plus a per cfs variable fee for other claimed purposes of use. The filing fee for small domestic and stockwater claims is \$25.00; no filing fee is required for portions of rights for small domestic and stockwater uses. The filing fee paid for this claim was limited to the purposes of use claimed in the notice of claim, and no filing fee was paid for the domestic and stockwater portions of the claim. Filing fees are set forth in Idaho Code §42-1414 and IDWR's Adjudication Rules, IDAPA 37.03.01 *et seq.*

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

G. Quantity of Water Used

The notice of claim states a quantity of 0.60 cfs for irrigation, 0.02 cfs for stockwater, 0.12 cfs for domestic, and a total quantity of 0.60 cfs. The quantity recommended in the director's report is 0.20 cfs for irrigation, 0.02 cfs for stockwater, 0.08 cfs for domestic, with a total of 0.20 cfs. The objection does not state the quantity claimed. The claimant's motion for summary judgment states a total quantity of 0.60 cfs, but does not state a quantity for each purpose of use.

The quantity decreed for right no. 36-00092 in the *New International Mortgage* decree is 0.60 cfs, for use on 15.45 acres. The claimant's lands as described in the deed are the same as described in the decree.

1. Necessity for quantity for each purpose of use

The director's report includes a quantity for each purpose of use in addition to the total quantity. This information is necessary to indicate whether and to what

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

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

extent the total quantity or any portion of the total quantity is used for multiple purposes, or whether and to what extent the total quantity is allocated among the listed purposes of use. For example, if a claimant diverted one cfs through a hydropower facility and then used that same water for irrigation, the amount for each purpose of use would be 1 cfs, with a total diversion rate of 1 cfs. If a claimant diverted one cfs, but used one-half in a hydropower facility and the other half for irrigation, the amount for each purpose of use would be 0.5 cfs, with a total diversion rate of 1 cfs.

Omission of a quantity for each purpose of use would result in ambiguities in the definition of the right that could result in enlargements in use that would result in expansion of the right and injury to other water users. In the example above, assume the claimant who used one-half of a 1 cfs right in a hydropower facility and the other half for irrigation decided to start using the full cfs in a hydropower facility, followed by use of the full cfs for irrigation. If the hydropower use were a year-round use, then the use of the irrigation half outside the irrigation season for hydropower use would result in injury to junior water users outside the irrigation season who were previously subject to a prior use of one-half cfs who are now subject to a prior use of 1 cfs. In addition, if the half cfs formerly used only for hydropower were also used for irrigation, junior water users during the irrigation season would be injured by the use of this half cfs for a more consumptive purpose.⁷

2. Quantity for irrigation

As noted above, the director's report recommended a quantity of 0.20 cfs for irrigation, or 0.02 cfs per acre for the irrigation of ten acres. IDWR has conducted further analysis of the quantity for irrigation due to further information IDWR received subsequent to its original analysis. IDWR's recommendation as to the quantity for irrigation has not changed as a result of that analysis.

IDWR's methodology for investigating and recommending claims to water for irrigation in excess of 0.02 cfs per acre is described in IDWR's Report Regarding

⁷ This further quantification is provided pursuant to Idaho Code §42-1411(2) (which provides for IDWR to determine the quantity of water used to the extent the director deems appropriate to define and administer the water right).

Evaluation of Irrigation Diversion Rates.⁸ The application of that methodology to this claim is described in Appendix B.

As described in Appendix B, IDWR's analysis considers both the on-farm requirement (the amount of water needed at the place of use) and conveyance losses (an additional amount needed at the point of diversion to deliver the amount needed at the place of use). IDWR's analysis shows that the amount of water reasonably required at the place of use (the on-farm requirement) is 0.019 cfs per acre. Because water is delivered to the place of use through a pipeline, conveyance losses are insignificant. Thus, neither the claimant nor IDWR's investigation has yielded information which would confirm beneficial use of quantity for irrigation greater than the statutory standard of 0.02 cfs per acre recommended by IDWR.

3. Quantity for stockwater

As noted above, IDWR recommended 0.02 cfs for stockwater. In addition, the recommendation includes a further description of non-irrigation uses, which states: STOCKWATER, 10 RANGE [CATTLE].

This right was claimed for 0.02 cfs for stockwater for 10 head of range cattle. IDWR recommended 0.02 cfs based on the claim and its guidelines for quantity for stockwater use. 0.02 cfs is the standard for 0-50 head of range cattle. The guidelines for quantity for stockwater use are described in IDWR's Report Regarding Quantification of Small Domestic and Stockwater Rights. Neither the claimant nor IDWR's investigation has yielded information which would confirm beneficial use of a greater quantity for stockwater.

As noted above, the director's report includes a further description of non-irrigation uses by number and type of head, which is not contested and is not included in the claimant's motion for summary judgment. The further description of non-irrigation uses is based in part on the notice of claim. Additional information as to the basis for the further description of non-irrigation uses is described in IDWR's Report Regarding Quantification of Small Domestic and Stockwater Rights. As part of Basin Wide Issue 12, however, IDWR has proposed that the further description of non-irrigation uses be rephrased as: THE QUANTITY FOR NON-IRRIGATION USE IS LIMITED TO THE AMOUNT OF WATER BENEFICIALLY USED FOR: STOCKWATER,

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

10 RANGE CATTLE. The basis for this rephrasing is also described in IDWR's Report Regarding Quantification of Small Domestic and Stockwater Rights.⁹

4. Quantity for domestic

As noted above, IDWR recommended 0.08 cfs for domestic. In addition, the recommendation includes a further description of non-irrigation uses, which states: DOMESTIC: 3 HOMES.

This right was claimed for 0.12 cfs for domestic use in 3 homes. IDWR recommended 0.08 cfs based on the claim and its guidelines for quantity for domestic use. 0.08 cfs is the standard for 3 homes. The guidelines for quantity for domestic use are described in IDWR's Report Regarding Quantification of Small Domestic and Stockwater Rights. Neither the claimant nor IDWR's investigation has yielded information which would confirm beneficial use of a greater quantity for domestic.

As noted above, the director's report includes a further description of non-irrigation uses by number of homes, which is not contested and is not included in the claimant's motion for summary judgment. The further description of non-irrigation uses is based in part on the notice of claim. Additional information as to the basis for the further description of non-irrigation uses is set forth in IDWR's Report Regarding Quantification of Small Domestic and Stockwater Rights. As part of Basin Wide Issue 12, however, IDWR has proposed that the further description of non-irrigation uses be rephrased as: THE QUANTITY FOR NON-IRRIGATION USE IS LIMITED TO THE AMOUNT OF WATER BENEFICIALLY USED FOR: DOMESTIC: 3 HOMES. The basis for this rephrasing is also described in IDWR's Report Regarding Quantification of Small Domestic and Stockwater Rights.

5. Quantity for other purposes

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

⁹ Special Master Haemmerle has issued his recommendation regarding Basin Wide Issue 12; a motion by the United States for reconsideration is pending.

6. Other rights delivered through same ditch

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

7. Total quantity

As noted above, the director's report recommends 0.20 cfs for irrigation, 0.02 cfs for stockwater, and 0.08 cfs for domestic, for a total quantity of 0.20 cfs. As these numbers demonstrate, the quantities for each purpose of use are not additive; in other words, of the total amount recommended, all may be used for irrigation, or a portion may be used for irrigation and a portion may be used for domestic and/or stockwater. This is consistent with the manner in which water rights are used, where domestic and stockwater is provided from the irrigation system; it is also the manner in which this water right was claimed.

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

1. Irrigation

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

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

decision. Pending any further proceedings on the decision, any further statement of the basis for IDWR's recommendation as to the season of use for irrigation appears to be unnecessary.

2. Stockwater and domestic

Both the notice of claim and the director's report state a period of use 1/1 to 12/31 for domestic and stockwater. The claimant's motion for summary judgment states the period of use as year-round, which is for all intents and purposes the same as recommended in the director's report.

3. Other purposes

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

I. Legal Description of the Place of Use

1. Irrigation

The legal description under item 8 in the claimant's motion for summary judgment is the same as the legal description of the place of use for irrigation recommended in the director's report. The number of acres following the legal description is different than the number of irrigated acres per 40-acre subdivision recommended in the director's report. The notice of claim states 16 acres. The report lists 10 acres, and the objection does not contest the place of use. The claimant's motion for summary judgment states 15.45 acres.

The irrigation of not more than ten acres was confirmed by IDWR Senior Water Resource Agents Steve Clelland and Helen Thornton, by personal observation and aerial photography. The ten acres recommended in the director's report are in the northern portion of the claimant's lands; the remaining acres consist of a graveled construction yard in the southern portion of the claimant's lands. The examination of the place of use for this claim is described in the Affidavit of Steven C. Clelland Regarding Claim No. 36-00092 and the Affidavit of Helen L. Harrington Thornton Regarding Claim No. 36-00092.

2. Stockwater and domestic

The legal description of the place of use for stockwater and domestic recommended in the director's report is the same quarter-quarter section (40-acre tract) as the place of use for irrigation. The recommended place of use is the same as the claimed place of use, and the claimant did not object to the recommended place of use for domestic and stockwater. In the claimant's motion for summary judgment, the claimant asserts that domestic and stockwater is used in the same quarter section where there are irrigated acres. Neither the claimant nor IDWR's investigation has yielded information that would confirm the beneficial use of water for domestic or stockwater purposes pursuant to this right on the other three quarter-quarter sections within the quarter section.

3. Other purposes

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

J. Annual Volume of Consumptive Use

The notice of claim states an annual volume of consumptive use of 48 AFY, or 3.0 AFY per irrigated acre. The annual volume of consumptive use recommended in the director's report is 30 AFY, or 3.0 AFY per irrigated acre. The claimant's objection contests the recommended consumptive use, but does not state an amount. The claimant's motion for summary judgment states an amount of 69.53 AFY, or 4.5 AFY per acre. The Affidavit of Charles E. Brockway, submitted by the claimant in support of the motion for summary judgment, states "that 3.75 acre feet per acre per annum is the amount of consumptive use that is reasonable [in the Hagerman area] based upon a yield of ten tons [of alfalfa] per acre." Applying this standard, the total annual consumptive use volume would be 57.94 AFY for the 15.45 acres stated in the claimant's motion for summary judgment, or 37.50 AFY for the 10 recommended acres.

IDWR developed standards for annual volume of consumptive use for the various climatic areas throughout the state. The standard for the area in which the claimant's place of use is located is 3.0 AFY. IDWR's recommendation is based on this standard. The development of IDWR's standards for annual volume of consumptive use is described in IDWR's Report Regarding Evaluation of Irrigation

Diversion Rates. IDWR has conducted further analysis of the annual volume of consumptive use based on further information IDWR received subsequent to its original analysis. The further analysis is described in IDWR's Report Regarding Consumptive Use for Irrigation in the Hagerman Area. Based on this further analysis, IDWR recommends an annual volume of consumptive use of 3.5 AFY per acre, for a total of 35 AFY for the ten recommended acres.

In response to the request of the Presiding Judge, the director filed an Amended Director's Report for Reporting Area 3 (Basin 36), which substantially reduced the number of general provisions in the director's report. Attachment 2 to the amended report explains the changes made to the general provisions, and further explains the changes to the list of recommended rights necessitated by the changes to the general provisions. The amended report deleted General Provision 14, which established that the recommended consumptive use is for the irrigation portion of the right only. As a result, the description of the annual volume of consumptive use for this right should contain the following language:

THE CONSUMPTIVE USE VOLUME IS ONLY FOR THE IRRIGATION PORTION OF THIS RIGHT. ¹⁰

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

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

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 36-00049, 36-00050A, 36-00050C, 36-00050D, 36-02169, 36-08294 & 36-10047.

The claimant's objection does not contest the remark. The claimant's motion for summary judgment seeks deletion of the remark.

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

¹⁰ IDWR relied upon the following in reaching its conclusion: Idaho Code §42-1401A (Supp. 1996) (which provides that the determination of the annual volume of consumptive use for all uses of water other than irrigation need not be decreed unless reported in the director's report).

REPORT REGARDING CLAIM TO WATER RIGHT NO. 36-00092

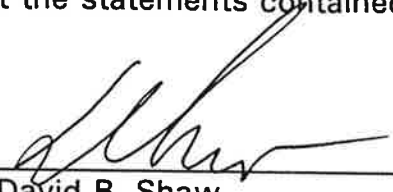
pursuant to the 1994 amendments to the adjudication statute.¹¹ The remark is explanatory material.

¹¹ See Idaho Code §42-1411 (which addresses the form and content of director's reports).

State of Idaho)
) ss.
County of Ada)

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

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



David B. Shaw

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

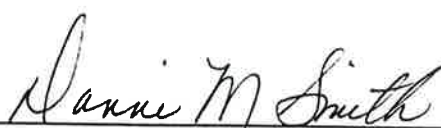


Notary Public for Idaho
Residing at: Boise ID
My commission expires: 11-14-1998

Certificate of Service

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

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



Person mailing document(s)

APPENDIX A

A. INVESTIGATION AND RECOMMENDATION OF CLAIMS GENERALLY

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

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

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

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

¹ Idaho Code §§ 42-1410 and 42-1411.

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

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

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

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

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

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

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

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

B. METHODOLOGY TO DETERMINE IRRIGATED ACREAGE

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

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

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

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

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

aerial photos¹⁰.

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

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

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

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

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

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

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

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

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

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

APPENDIX B

EVALUATION OF IRRIGATION DIVERSION RATE

WATER RIGHT NUMBER: 36-00092

INTRODUCTION

This water right was recommended in the Director's Report with a total diversion rate of 0.20 cfs; this amount was recognized as the on-farm diversion requirement. Based on IDWR's methodology to evaluate irrigation diversion rates, the quantity required on-farm was recommended at a rate of 0.02 cfs per acre for 10 acres, with no additional amount recommended for conveyance losses, since a pipeline is used for delivery of the right.

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

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

IRRIGATED ACRES/CROPS

The property described on the claim as the place of use was found to have 10 acres of irrigated land. The 10 irrigated acres are planted in vegetables. As shown in Figure 1 of the Attachments, the 10 acres of vegetables consists of four rectangular shaped fields bounded on the west by a road and on the south by the Hagerman Cemetery and a construction yard. Field 1 is a small field on the west edge of the property. Fields 2, 3, and 4 are all east of Field 1 and are approximately equal in size. The field boundaries were determined based on information provided by the

claimant¹ and available aerial photography². All four fields are irrigated using a furrow irrigation system.

EVAPOTRANSPIRATION

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

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

FIELD APPLICATION EFFICIENCY

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

¹Information as to crop types and irrigation method was verbally provided by Mr. Frank Erwin, the claimant, to IDWR Senior Agent Steve Clelland on August 5, 1992. The types of vegetables grown were not specified by the claimant. Irrigation method confirmed by Steve Clelland on June 28, 1996.

²Photos used are all color-infrared aerial photography. They were obtained through projects coordinated by the federal government, including the National Aerial Photography Program (NAPP) and the National Aeronautics and Space Administration (NASA) Airborne Instrumentation Research Project.

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

NASA photos used are: Photo No. 6134, Flight No. 75-131, FSR 706, dated 6/8/1975; Photo No. 2471, Flight No. 77-134, FSR 1049, dated 10/8/1977; Photo No. 3472, Flight No. 80-152, FSR 1462, dated 9/17/1980; and Photo No. 2314, Flight No. 83-095, FSR 1760, dated 6/7/1983.

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

Soil Information

Some data unique to each soil type are required for the analysis, including the management allowed deficit (MAD) and intake family. The MAD is based on the maximum soil moisture deficit which will not cause the crop to exceed its stress point. Intake family is a classification of soils with similar water intake rate characteristics. The Natural Resources Conservation Service (NRCS), formerly Soil Conservation Service (SCS), compiles soil surveys describing the various soil types within the state and the locations where those soils may be found. The procedure used to determine the value of MAD and intake family using SCS data is described in the sections of IDWR's Methodology Report titled NET IRRIGATION APPLICATION and IRRIGATION APPLICATION SYSTEMS. In order to use the correct values for MAD and intake family, it is necessary to determine the worst-case significant soil for each field if more than one soil type is present in that field.

Although there are three different soil types on the property described as the place of use for this water right, over 90% of the soil is of one type: Kecko Fine Sandy Loam (KOB). Because KOB is the only significant soil present, the values used in this analysis for MAD and intake family were based on KOB.

Because the precise type of vegetables grown was unknown, the MAD was based on an average value. First, the MAD value was calculated for several different types of vegetables, based on information found in the table following page 8 of the Hubble Report workbook.⁴ These MAD calculations were made using a spreadsheet developed by IDWR to simplify calculations for determining MAD and intake family. The values calculated for the various categories of vegetables were then averaged, producing an average vegetable MAD of 1.88 inches. The MAD values are provided in Table 2 of the Attachments, which is output from the spreadsheet described above.

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

Field Slope

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

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

Field 1 was estimated to be 5 percent; the slopes of Fields 2, 3, and 4 were estimated at 2.0 percent.

Furrow Lengths

The furrow lengths were determined using the same topographic maps and aerial photography. The fields appeared to have a rectangular shape, indicative of a consistent furrow length throughout each field. The furrow length of Field 1 was scaled from the map to be approximately 150 feet. The furrow lengths in Fields 2, 3, and 4 were scaled to be approximately 390 feet each.

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

Furrow Spacing/Set Times

When the system efficiencies were estimated, 36 inch furrow spacings were used. In addition, both 8 hour and 12 hour set times were analyzed and compared.⁵ Although the actual practice for these fields is to use 12 hour set times, 8 hour set times were also examined to determine whether that change would significantly increase the overall efficiency of the system. Eight hour set times are considered acceptable irrigation practices which can be used during the peak water use period to improve application efficiencies.

Results

Field application efficiencies are calculated using a computer program developed by SCS for use with furrow irrigation and provided with the Hubble Report. Efficiencies less than 15 percent or greater than 70 percent are outside the practical limits of the program. In cases where efficiency is calculated to be greater than 70 percent, an efficiency of 70 percent is used. In addition, the program does not recognize erosive flows or furrow carrying capacities. The limiting erosive flow is dependent on the slope of a particular field and must be calculated for each field. In this case, the limiting erosive flow for Field 1 would be 2 gpm and the limiting erosive flow for Fields 2, 3, and 4 would be 5 gpm. The practical carrying capacity limit of furrows is 50 gpm. The term identified in the program as design application is equivalent to the MAD, as determined above. Refer to the section FIELD APPLICATION EFFICIENCY in IDWR's Methodology Report for more information regarding the methodology used in determining field application efficiency.

⁵These furrow spacings and set times were based on information provided in a 1992 telephone conversation with Mr. Erwin, at which time he stated that the furrow spacings were 36 inches and the set times were 12 hours.

The furrows in each of the four fields are less than 600 feet in length. Splitting the fields for analysis purposes would result in furrow lengths less than 300 feet. Therefore, the full furrow length was considered for each field.

For Field 1, set times of 8 and 12 hours were considered, with appropriate inflow rates. Eight hour set times resulted in a furrow inflow rate that exceeded the limiting erosive inflow rate for the furrows, so this efficiency estimate was discarded. The irrigation method using 12 hour set times provided an efficiency of 73 percent, according to the SCS program computations. Therefore, an efficiency of 70 percent was used. The results of these calculations are shown in Table 3 of the Attachments, which is computer output generated by the SCS program.

Fields 2, 3, and 4 have approximately the same slopes and furrow lengths, and the furrow spacings and set times are equivalent. For this reason, a single analysis of irrigation efficiency was done for these fields. Efficiency estimates were made for set times of both 8 hours and 12 hours with appropriate inflow rates. Again, eight hour set times resulted in a furrow inflow rate that exceeded the limiting erosive inflow rate for the furrows, so this efficiency estimate was discarded. Twelve hour set times resulted in a 76 percent efficiency for these fields, so an efficiency of 70 percent was used. See Table 3 for results.

ON-FARM IRRIGATION DIVERSION REQUIREMENT

The on-farm irrigation diversion requirement is the amount of water needed on the farm itself to provide adequate water to the crop(s) being grown. The procedure used to determine that amount is described in detail in the section of IDWR's Methodology Report titled ON-FARM IRRIGATION REQUIREMENT. The results of that procedure are provided in Table 4 of the Attachments. Table 4 was created using a spreadsheet developed by IDWR which utilizes the information detailed above and calculates the irrigation diversion requirement. The resulting maximum diversion rate requirement for the entire 10 acres was determined to be 0.19 cfs, or 0.019 cfs per acre.

IRRIGATION DIVERSION REQUIREMENT

The total irrigation diversion requirement is the sum of the on-farm irrigation diversion requirement and the conveyance loss. Since there is no conveyance loss amount associated with this right, the total diversion requirement is 0.19 cfs.

REFERENCES

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

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ATTACHMENTS

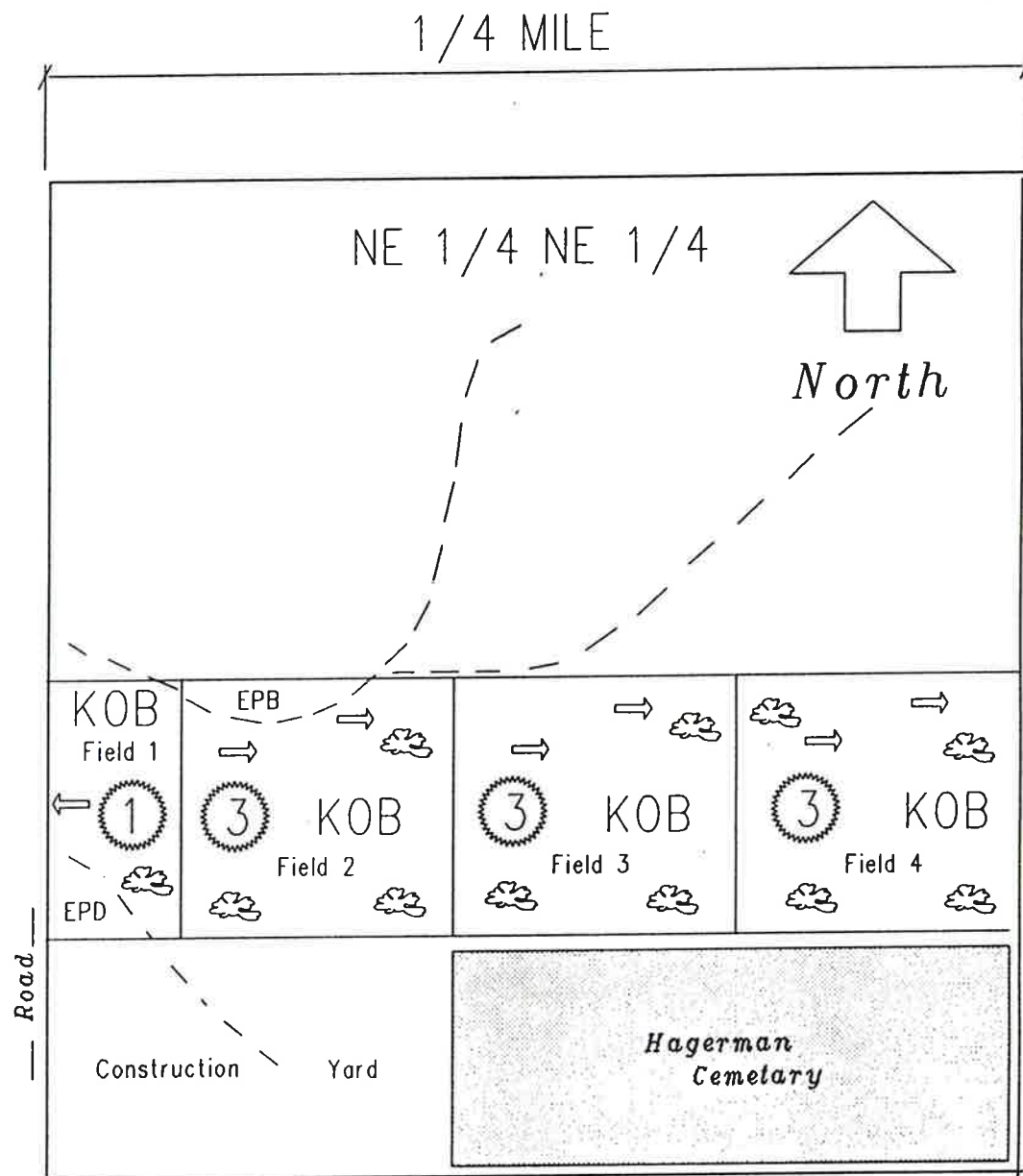
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T. 7 S., R. 13 E.
 Section 14
 Gooding County

FIGURE 1

Legend:

- ↔ Furrow Direction
- KOB Soil Type
- - - Soil Type Division Line
- 1/4 1/4 Line
- ④ Irrigated Acres
- ☁ Vegetables



Water Right No. 36-00092

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DWR QUAD AA-69

Table 1

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

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

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

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

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

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

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

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Table 2

SOIL CHARACTERISTICS initials: MS date: 06/25/96
 Soil Type = KOB
 Source of Soils Data = SCS - Gooding

soil depth (inches)		AWC (in/in)		PH		organic (%)		soil depth (ft)	AWC (inches)	intake family	
lower	upper	lower	upper	lower	upper	lower	upper			flood	furrow
0	9	0.12	0.14	7.4	8.4	1	2	1	1.59	2	0.55
9	21	0.13	0.15					2	3.08		
21	60	0.03	0.12					3	3.98		
								4	4.87	alternate	
								5	5.77	method	
										2	0.55

Management Allowed Deficit (MAD)

crop	root depth (ft)	stress point	MAD (inches)	
alfalfa (hay or seed)	5	0.5	2.89	
corn (field or silage)	4	0.5	2.44	
grain (winter or spring)	4	0.5	2.44	
pasture (or grass hay)	3	0.5	1.99	
other (enter below)				
tomatoes	5	0.5	2.89	} Avg. vegetable MAD: 1.88 inches
truck 1	1	0.35	0.56	
truck 2	2	0.35	1.08	
truck 3	3	0.5	1.99	
melon	5	0.5	2.89	

truck 1 - lettuce, radishes, onions
 truck 2 - cabbage, broccoli, cauliflower, spinach
 truck 3 - turnips, parsnips, carrots

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

Table 3

	INTAKE FAMILY	DESIGN APPLIC. Inches	FURROW SLOPE Ft/Ft	FURROW SPACING Feet	FURROW LENGTH Feet	INFLOW RATE Gpm	APPROXIMATE INFLOW TIME Hours	ADVANCE TIME Minutes	GROSS IRRIGATION APPLICATION Inches	NET IRRIGATION APPLICATION Inches	RUNOFF Inches	DEEP PERC. In.	IRRIGATION EFFICIENCY %	
Field 1	0.55	1.88	.050	3.00	150	7.5 <i>too high</i>	8	6.4	12.83	1.89	10.94	0.02	14.65	
	0.55	1.88	.050	3.00	150	1.0	12	13.7	2.57	2.10	0.45	0.23	73.25	*
Fields 2,3,4	0.55	1.88	.020	3.00	390	6.0 <i>too high</i>	8	27.0	3.95	1.88	2.02	0.05	47.61	
	0.55	1.88	.020	3.00	390	2.5	12	62.8	2.47	2.22	0.14	0.45	76.18	*

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

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DEC 03 1996

FIELD IRRIGATION REQUIREMENT

initials: MS Claimant = Erwin
 date: 06/28/96 Weather Station = Bliss/Hagerman

crop	acres	irrig. system	eff. (%)	Monthly ET (mm/day)							AVE IR season (mm/yr)	net irrig. app. (in)	ET ratio	irrig. freq. (days)	Gross Irrigation Application (peak period ET/eff. in mm/day)							season (mm/yr)
				mar	apr	may	jun	jul	aug	sep					oct	mar	apr	may	jun	jul	aug	
veges	1	fur	70			2.42	5.24	7.3	6.51	4.47		1.88	1.11	5.9			3.84	8.31	11.58	10.32	7.09	
veges	9	fur	70			2.42	5.24	7.3	6.51	4.47		1.88	1.11	5.9			3.84	8.31	11.58	10.32	7.09	

Summary 10

3.84 8.31 11.58 10.32 7.09

Peak Gross Irrigation Application (mm/day) = 11.58
 On-Farm Irrigation Requirement (cfs/acre) = 0.019
 Total On-Farm Irrigation Requirement (cfs) = 0.19
 Irrigation Diversion Volume (ft/yr) = 0.00
 Total Irrigation Diversion Volume (ac-ft/yr) = 0

Table 4

DEC 03 1996
 MICROFILMED

State of Idaho)
) ss.
County of Ada)

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

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

Marci S. Sterling
Marci S. Sterling

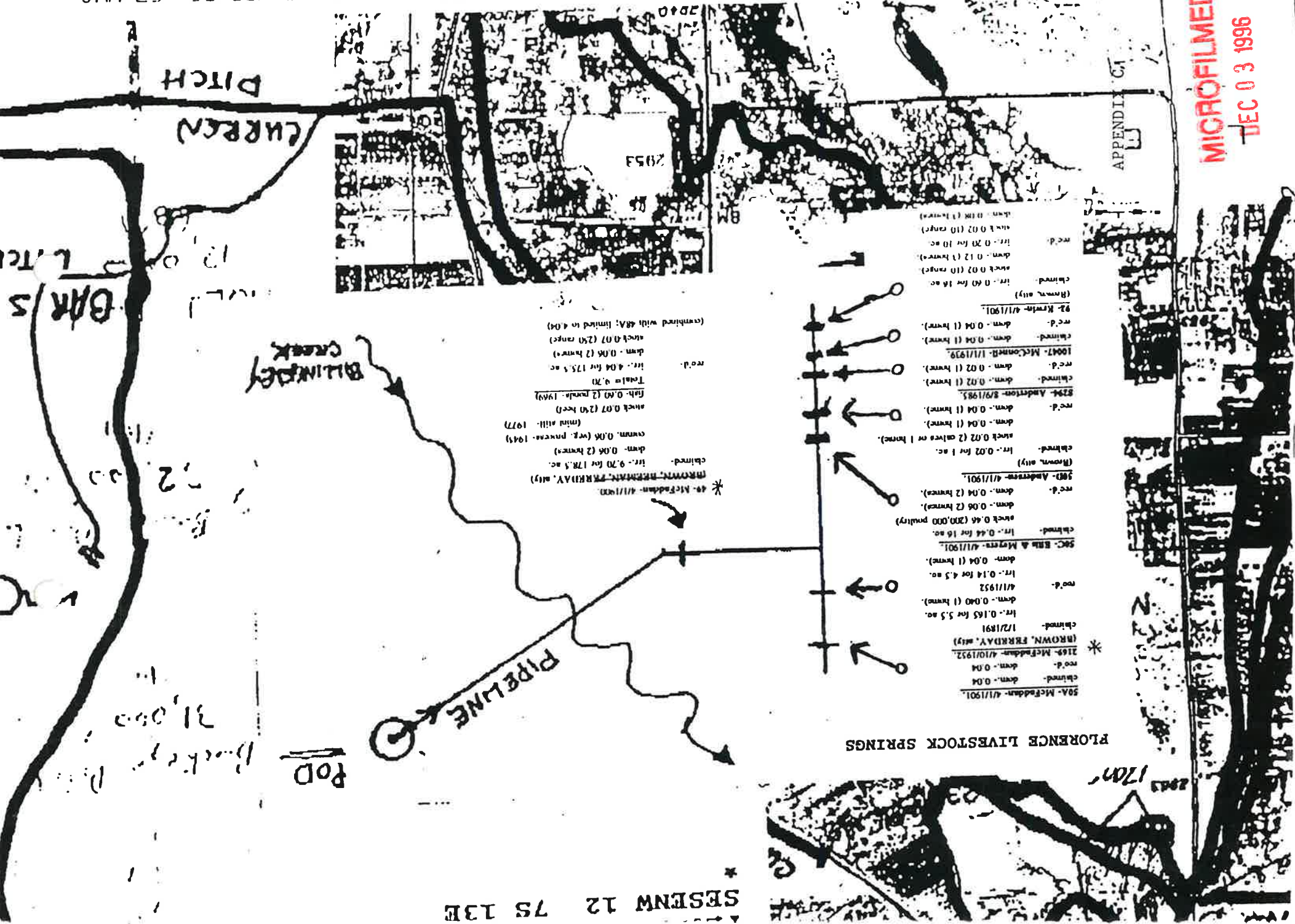
Subscribed and sworn to before me this 1st day of July, 1996.

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

MICROFILMED
DEC 03 1996

11.20.1 F02

DEC 03 1996



ALAN G. LANCE
Attorney General
State of Idaho

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

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

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

In Re SRBA	)	Subcase No. 36-00092
	)	
Case No. 39576	)	AFFIDAVIT OF STEVE CLELLAND
	)	REGARDING CLAIM NO. 36-00092
	)	

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

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

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

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

4. As part of my duties as a senior water agent, I investigated the acreage claimed as irrigated pursuant to claim no. 36-00092. The pertinent details of that investigation are as follows:

A. On July 25, 1990, IDWR water agent Helen Thornton and I conducted a field examination for the purpose of determining the irrigated acreage pursuant to claim no. 36-00092.

B. During that field examination, I observed that the southern parcel of land claimed as irrigated was actually occupied by a large, graveled construction yard. I observed that this southern parcel was not irrigated. I observed that the northern portion of land claimed as irrigated was actually irrigated.

C. I observed that an orthophoto quad from 1974 in combination with the grid measuring system described in described in Appendix A to IDWR's Report Regarding Claim to Water Right No. 36-00092 showed 16 acres as irrigated by water delivered pursuant to this claim.

D. I observed that the pertinent NAPP photograph was consistent with my observations from the field examination that six acres of the 16 shown as irrigated on the orthophoto quad (that area now occupied by the construction yard) were no longer irrigated.

5. As part of my duties as a senior water rights agent, I conducted an

investigation into the quantity of water delivered pursuant to claim no. 36-00092. The pertinent details of that investigation are as follows:

A. During the field examination on July 25, 1990, I observed that water pursuant to these claims was delivered from the source to the claimed place of use entirely through a pipeline. Because of my observations, I concluded that conveyance losses to deliver water pursuant to this claim were insignificant due to the impermeable nature of the delivery system.

B. On August 5, 1992, I spoke with the claimant, Mr. Frank Erwin, by telephone. He indicated to me that he grew vegetables on the land claimed as irrigated, and that he used furrows as the method of irrigation.

DATED this 1st day of July, 1996.

Steve Clelland

STEVE CLELLAND

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

Darri M Smith

Notary Public for the State of Idaho

Residing at: Boise

My commission expires: 12-5-2000

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

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

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

In Re SRBA	)	Subcase No. 36-00092
	)	
Case No. 39576	)	AFFIDAVIT OF HELEN THORNTON
	)	REGARDING CLAIM NO. 36-00092
	)	

STATE OF IDAHO	)
	) ss.
County of Ada	)

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

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

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

3. My educational background and work history both outside and within IDWR are detailed in my Affidavit of Helen Thornton as to the Investigation of Claims in the

Hagerman Area.

4. As part of my duties as a senior water agent, I investigated the acreage claimed as irrigated pursuant to claim no. 36-00092. The pertinent details of that investigation are as follows:

A. On July 25, 1990, IDWR water agent Steve Clelland and I conducted a field examination for the purpose of determining the irrigated acreage pursuant to claim no. 36-00092.

B. During that field examination, I observed that the southern parcel of land claimed as irrigated was actually occupied by a large, graveled construction yard. I observed that this southern parcel was not irrigated. I observed that the northern portion of land claimed as irrigated was actually irrigated.

5. As part of my duties as a senior water resource agent, I conducted an investigation into the quantity of water delivered pursuant to claim no. 36-00092. The pertinent details of that investigation are as follows:

A. During the field examination on July 25, 1990, I observed that water pursuant to these claims was delivered from the source to the claimed place of use entirely through a pipeline. Because of my observations, I concluded that conveyance losses to deliver water pursuant to this claim were insignificant due to the impermeable nature of the delivery system.

DATED this 25 day of July, 1996.

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

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

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

R PROOF

CVR

MAPS

PHOTOS

MISC

NOT FILMED

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. 36-00092 -0001

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

RESPONSE TO OBJECTION

Petitioner,

vs.

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

Respondents.

I. GENERAL INFORMATION

1. Person responding to objection:

Name: R. KEITH HIGGINSON, DIRECTOR

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

Briefly describe your interest in this water right:

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

(Over)

2. Person who filed objection:

Name: FRANK & PEGGY ERWIN
Address: ROUTE 1 BOX 453
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.
- 3c. |X| The total quantity of water reserved for each and every purpose, including all present and future uses.
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 further response to item 3a., there is an error in the description of the amount of this right in the director's report. The recommendation should be corrected as shown in the attachment entitled "Recommended Water Rights Acquired under State Law."

In response to Statement of the Objection item 3c., and all allegations of the objection regarding that item, IDWR responds as follows: Since this water right is not a federal reserved water right, this objection item is inapplicable and the claimant's assertion of it is in error. IDWR further responds that under Idaho law water cannot be reserved for future use, but must be appropriated and put to beneficial use before the user can acquire a water right.

In response to Statement of the Objection item 8, and all allegations of the objection regarding that item, IDWR responds as follows: (1) The decree asserted by the claimant does not contain a period of use decreed for this water right. (2) Idaho Code Sec. 42-1411(2)(g) requires the director to determine the period of use of each water right acquired under state law that is recommended in the director's report. (3) IDWR has developed irrigation season of use standards for various climatic areas throughout the state based on a 75% chance of a 24 degree fahrenheit frost. (4) The irrigation season of use cannot exceed the period in which water may be beneficially used. (5) The period of the year during which this water right may be used is consistent with the standard irrigation season of use for the area in which the place of use of this water right is located. (6) Water may be used for irrigation outside the standard season

(Over)

of use, subject to the conditions set forth in general provision 12b of the director's report. (7) The recommendation of the director to the SRBA Court as to how the right should be decreed does not constitute a taking because it is simply a recommendation and not a final determination of the right. (8) The eventual decree by the SRBA Court of the irrigation season of use will not constitute a taking because the right is limited to the period in which water may be beneficially used. IDWR further responds that it recommended the season of use as claimed. By now seeking a year around irrigation season of use the claimant improperly seeks to use the objection process to amend the claim. A claimant must obtain leave of the court to amend a claim after a director's report is filed, just as a party must obtain leave of the court to file a late claim after the director's report is filed. Once leave of the court is granted, IDWR can investigate the amended claim and make an appropriate recommendation to the court.

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

In response to Statement of the Objection item 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

See attached List of Recommended Water Rights Acquired under State Law.

☒ 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. A36-00092	8
IDWR's Response to Answer, Affirmative Defenses and Prayer for Relief of Claimant	4
Recommended Water Rights Acquired Under State Law	1

(Over)

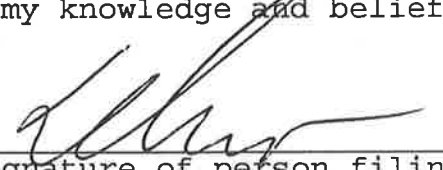
VERIFICATION (Must be Completed)

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 10th 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: 39356

Ident. Number

Date Received

Receipt Number

A36-00092
7-22-88
5001159 SCC

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) FRANK C. ERWIN and PEGGY ERWIN Phone (208) 837-4433Mailing Address Route #1, Box #453, Hagerman, Idaho Zip 833322. Date of Priority (Only one (1) per claim) April 1, 19013. Source of water supply (a) Florence Livestock Spring
which is tributary to (b) Billingsley Creek4. a. Location of existing point of diversion is: Township 7 South Range 13 East Section 12,
SE 1/4 of SE 1/4 of NW 1/4, Govt. Lot, _____ B.M., County of _____

Additional points of diversion if any: _____

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

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

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

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of
_____ 1/4, Govt. Lot _____ B.M., County of _____5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. From the existing concrete diversion, the
water is transported by use of steel pipeline and is used to irrigate approximately 16
acres.

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JAN 21 1993
OCT 12 1994

6. Water is claimed for the following purposes: (both dates are inclusive) (cfs) (acre feet)
- For Irrigation purposes from Mar. 15 to Nov. 15 amount 0.6 or _____
- For Livestock purposes from Jan. 1 to Dec. 31 amount 0.02 or _____
- For Domestic purposes from Jan. 1 to Dec. 31 amount 0.12 or _____
- For _____ purposes from _____ to _____ amount _____ or _____
7. Total quantity claimed (a) 0.6 (cfs) and/or (b) 64 (acre feet)
8. Total consumptive use claimed is 48 acre feet per annum.
9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) There are three (3) households on the property and there has been up to 10 head of cattle.
10. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
 - If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
7 S	13 E	14	D-S 16																16

Total number of acres irrigated 16 Acres

11. In which county (ies) are lands listed above as place of use located? Gooding County
12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.
13. Describe any other water rights used at the same place and for the same purposes as described above.
_____ or None (X)
14. Remarks:

Last Name ERWIN Ident No. A36-00092

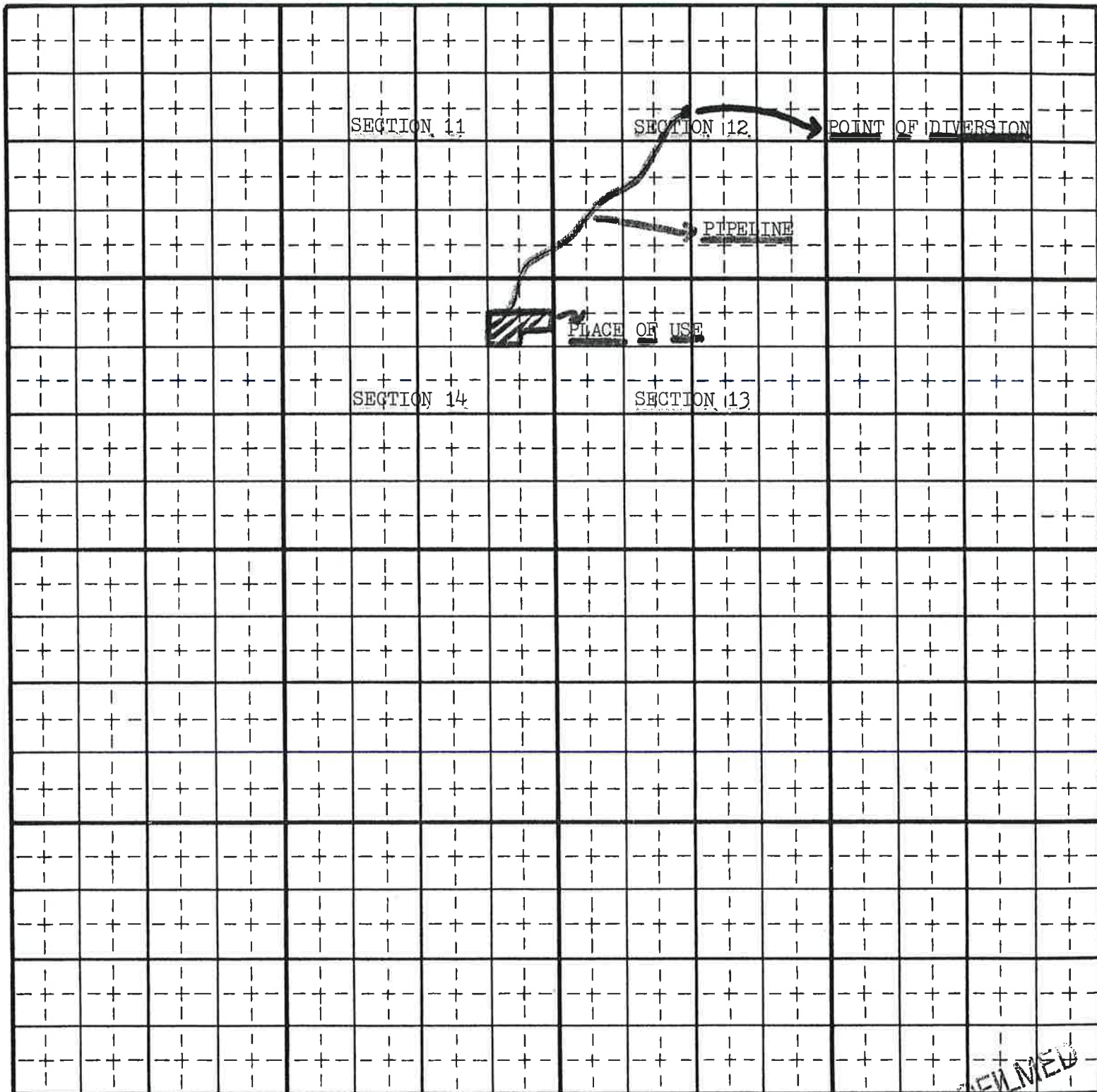
Copies: White State Yellow Claimant

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JAN 21 1993
MICROFILMED

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

Scale: 2 inches equals 1 mile

TOWNSHIP 7 SOUTH, RANGE 13 EAST OF THE BOISE MERIDIAN



MICROFILMED
OCT 12 1994

Last Name ERWIN

Ident No. A36-00092

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Being ☐ I Use ☐ Posted Notice ☐ Decree ☒ Permit ☐

If applicable provide IDWR Water Right Number 36-0092

Court U.S. District Court Case Number 1602 Decree Date March 22, 1932

Plaintiff vs Defendant New International Mortgage Bank vs Idaho Power Company

16. Signature (s)

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

Number of attachments two (2)

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

Signature of Claimant (s) Peggy Erwin Date 7-18-88

Frank C. Erwin Date 7-18-88

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

of _____, that I have signed the foregoing
Organization

document in the space below as _____ of _____
Title Organization

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

Signature of Authorized Agent _____

Title and Organization _____ Date _____

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

Subscribed and sworn (or affirmed) before me this 18th day of July 19 88

SEAL

Notary Public [Signature]

Residing at Hagerman, Idaho

My Commission Expires 5-10-91

Please Print Name

17. Notice of Appearance:

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

Signature _____

Address _____

Date _____

Last Name ERWIN Ident. Number A36-00092

MICROFILMED
JAN 21 1993
MICROFILMED
OCT 12 1994
Copies White-State, Yellow-Claimant

POOR ORIGINAL

map or plat of Hagerman Townsite. Also Lots 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 of Block 61; Lots 1, 2, 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 15, 16 Block 48; Lots 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 of Block 52; Lots 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 of Block 47; Lots 1, 2, 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 15 and 16 of Block 54; Lots 1, 2, 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 15, 16 of Block 52 of the Village of Hagerman according to the Plat of Hagerman Townsite, in the Office of the Recorder of Gooding County, Idaho.

092 Rawlings,
Walter and
Mrs. Walter
Rawlings

5 Spring

April 1, 1901

Florence Livestock
Spring

A certain parcel of land, described in metes and bounds as follows: Beginning at the southwest corner of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 14, Twp. 7 S. R. 13 E. B. 1., and running thence East 594 feet, thence north 400 feet, thence West 594 feet, thence South 400 feet to the place of beginning, containing 5.45 acres more or less.

A certain parcel of land, described in metes and bounds as follows: Beginning at a point 400 feet north of the southwest corner of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 14, Twp. 7 S. R. 13 E. B. 1. and running thence East 1320 feet, thence North 330 feet, thence West 1320 feet, thence South 330 feet to the place of beginning, containing 10 acres.

093 Rawlings,
Norma

3 Spring

April 1, 1901

Florence Livestock
Spring

A certain parcel of land situate in the Hagerman Valley, Gooding County, State of Idaho, and more particularly described as follows: Beginning at a point about 740 feet north of the Southwest corner of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 14,

093
MICROFILMED
8-11-2-1994
RECEIVED

WARRANTY DEED

For Value Received

CLEAVE LLOYD and BETTY LLOYD, husband and wife

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

FRANK C. ERWIN and PEGGY J. ERWIN, husband and wife

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

A triangular shaped tract of land situate in the SW corner of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 14, Twp. 7 S. R. 13 E. B. M., described as follows:
Beginning at a point at or near the SW corner of said NE $\frac{1}{4}$ NE $\frac{1}{4}$ where the west line of said NE $\frac{1}{4}$ NE $\frac{1}{4}$ intersects the cemetery lane (as now constructed along the south line of said NE $\frac{1}{4}$ NE $\frac{1}{4}$); thence north along the west line of said NE $\frac{1}{4}$ NE $\frac{1}{4}$ a distance of 245 feet; thence east approximately 10 feet to the center of the irrigation ditch of the Hagerman Water users Association; thence Southeasterly along the center of said ditch to its intersection with the north boundary of said cemetery lane, which point of intersection is approximately 150 feet east of the point of beginning; and thence west along the North side of said cemetery lane to the point of beginning.

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

Dated: May 8, 1973

Cleave C. Lloyd

Betty Lloyd

STATE OF IDAHO, COUNTY OF GOODING
On this 8 day of May, 1973,
before me, a notary public in and for said State, personally appeared

CLEAVE LLOYD & BETTY LLOYD,
husband and wife

known to me to be the person(s) whose name(s) are subscribed to the within instrument, and acknowledged to me that they executed the same.

Phyllis M. Becker

STATE OF IDAHO, COUNTY OF Gooding
I hereby certify that this instrument was filed for record at the request of *Erwin* at this 50 minutes past 10 o'clock on this 5th day of April 1979 in my office, and duly recorded in Book of Deeds at page

Margaret F. Clements

Ex-Officio Recorder

By *Judy Daubner*

Instrument No.

MICROFILMED
OCT 12 1994

POOR ORIGINAL

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

DATED: April 4, 1977.

Vernon J. Cox
VERNON J. COX

Tara Cox
TARA COX

STATE OF IDAHO)
County of Gooding) ss.

On this 4th day of April, 1977, before me, a notary public in and for said State, personally appeared VERNON J. COX and TARA COX, husband and wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.



Robert D. Thibault
Notary Public for Idaho
Residing at Wendell, Idaho

STATE OF IDAHO)
County of Gooding) ss.

65292

FILED

I hereby certify that this instrument was filed for record at the request of Frank Brown at 11 minutes past 2 o'clock P.m., this 20 day of June, 1977, in my office, and duly recorded in Book _____ of Deeds at page _____.

Margaret F. Clements
Ex-Officio Recorder

By Donna Scott
Deputy

Mail To:
Idaho First National Bank
Wendell, Idaho 83355

INDEXED
Direct ☒
Indirect ☐

MICROFILMED
OCT 12 1994

WARRANTY DEED

FOR VALUE RECEIVED VERNON J. COX and TARA COX, husband and wife, hereinafter called the Grantor, hereby grant, bargain, sell and convey unto FRANK C. ERWIN and PEGGY J. ERWIN, husband and wife, of _____ hereinafter called the Grantee, the following described premises situated in Gooding County, Idaho, to-wit:

Township 7 South, Range 13 East of the Boise Meridian

Section 14: A tract of land in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ described as follows:

Beginning at the SE corner of the NE $\frac{1}{4}$ NE $\frac{1}{4}$; thence West along the South boundary line of said NE $\frac{1}{4}$ NE $\frac{1}{4}$, 776.11 feet; thence North parallel to the East line 25 feet to the true point of beginning; thence North parallel to the East line 392.45 feet; thence East parallel to the South line 442.45 feet; thence South 17.45 feet; thence East parallel to the South line 333.96 feet to the East line of said tract; thence North along the East line 330 feet; thence West 1320 feet more or less to the West line of said NE $\frac{1}{4}$ NE $\frac{1}{4}$; thence South along said West line 705 feet; thence East parallel to the South line 543.89 feet, more or less, to the point of beginning.

EXCEPT highway right of way across part of NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 14 as set forth in Second Judgment and Decree of Condemnation recorded March 26, 1964 as microfilmed Instrument No. 10977A and filed in Case No. 10341, records of Gooding County, Idaho.

And

EXCEPT therefrom the following described tract in the NE $\frac{1}{4}$ NE $\frac{1}{4}$:

Beginning at a point at or near the Southwest corner of said NE $\frac{1}{4}$ NE $\frac{1}{4}$ where the West line thereof intersects the Cemetery lane, (as now constructed along the South side of said NE $\frac{1}{4}$ NE $\frac{1}{4}$); thence North along the West line of said NE $\frac{1}{4}$ NE $\frac{1}{4}$, 245 feet; thence East approximately 10 feet to the center of the irrigation ditch of the Hagerman Water Users Association; thence Southeasterly along the center of said ditch to its intersection with the North boundary of said Cemetery lane, which point of intersection is approximately 150 feet East of the point of beginning and thence West along the North side of said Cemetery lane to the point of beginning. (As set forth in Book 43 Deeds Page 318, records of Gooding County, Idaho.)

IN THE COUNTY OF GOODING, STATE OF IDAHO

Subject to a Mortgage with Federal Land Bank of Spokane in the amount of \$14,993.03.

Together with all water rights appurtenant thereto.

Hagerman, Id.

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OCT 12 1994

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

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

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

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

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

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

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

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

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

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OCT 12 1994

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.

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

DATE: SEP-1-1993

PAGE: A-1

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: FLORENCE LIVESTOCK SPRING		TRIBUTARY: BILLINGSLEY CREEK				
36-00092	FRANK C ERWIN	04/01/1901	IRRIGATION	03-15 11-15	.2 CFS	DECREED
	PEGGY ERWIN		STOCKWATER	01-01 12-31	.02 CFS	
	RT 1 BOX 453		DOMESTIC	01-01 12-31	00 12 CFS	
	HAGERMAN ID 83332					
TOTAL QUANTITY:					.2	34 CFS
CONSUMPTIVE USE:					30.0	AFY
NON-IRRIGATION-USES:						
DOMESTIC, 3 HOMES; STOCKWATER, 10 RANGE						
POINT OF DIVERSION:						
T07S R13E S12		SESENW				
PLACE OF USE: IRRIGATION						
T07S R13E S14		NENE 10.0				
10.0 ACRES TOTAL						
PLACE OF USE: STOCKWATER						
T07S R13E S14		NENE				
PLACE OF USE: DOMESTIC						
T07S R13E S14		NENE				
REMARKS: THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF						
DIVERSION DESCRIBED ABOVE: 36-00049, 36-00050A, 36-00050C,						
36-00050D, 3602169, 36-08294 & 36-10047.						

MICROFILMED
OCT 12 1993

RECEIPT
For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES

Receipt No: 6015326

Date: 1/26/1993
Time: 13:21:46

**Received
From:**

ERWIN FRANK

Type of Payment

Program Acct Class

Amount

FEE FOR COPY OF ADJUDICATION CLAIM

64100

229 21 1760

3.99

Total

CHECK

2565

\$3.99

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

21-Jan-1993

FRANK ERWIN
~~RT 1 BOX 453~~
HAGERMAN ID 83332

2628 So. 975 E.

RECEIVED

JAN 28 1993

Department of Water Resources
Southern Region Office

RE: Copy of SRBA File(s): 36-00092

Dear Mr. Erwin:

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:

\$3.99

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
Director

21-Jan-1993

FRANK ERWIN
RT 1 BOX 453
HAGERMAN ID 83332

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

\$3.99

Sincerely,


Jeanie Robertson
Records Clerk

Encl:

MICROFILMED
OCT 12 1994

RECEIVED

JAN 15 1993

Department of Water Resources
Southern Region Office

1-14-93
(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 A36-00092.

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,

Frank C. Ewing
(Name)

Route #1, Box #453
(Address)

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

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

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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. A36-00092
(You must insert the
water right number you
are objecting to)

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

OBJECTION

Petitioner,)

vs.)

36-00092 -0001/
93-04-0088

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

Respondents.)

INSTRUCTIONS

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

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

(Over)

OBJECTION - 1

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OCT 12 1994

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

I. GENERAL INFORMATION

Please fill in the following information:

1. Person objecting:

Name: Frank C. and Peggy Erwin

Address: Route 1, Box 453

Hagerman, ID 83332

Briefly describe your interest in this water right:

Decreed water right pursuant to New

International Mortgage Bank v. Idaho Power

Co. dated 3/22/32 with a priority date of

April 1, 1901

2. Owner of the water right:

Name: Frank C. and Peggy Erwin

Address: Route 1, Box 453

Hagerman, ID 83332

3. If this objection is filed by an attorney:

Attorney Name: Patrick D. Brown & Penelope Parker

Attorney Address: Hepworth, Nungester & Lezamiz

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

Attorney Phone No.: (208) 734-7510

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

II. STATEMENT OF THE OBJECTION

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

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

(Over)

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

REASONS SUPPORTING EACH BOX CHECKED

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

See page 7

CHANGES TO THE DIRECTOR'S REPORT

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

Period of use from 1/01 to 12/31; Maximum quantity: as decreed
consumptive use should be changed to reflect decreed water

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



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

See Hagerman Water Right Owners, Inc.'s

Compendium "A"

VERIFICATION (Must be Completed)

State of Idaho

County of Gooding

Thad C. Erwin & Peggy Erwin, being first duly
(Name of person filing objection)

sworn, upon oath, deposes and says:

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

Thad C. Erwin Peggy Erwin
Signature of person filing objection

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

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

[Signature]
Notary Public for Idaho
Residing at: HAGERMAN, IDAHO
My Commission Expires: 5-10-97

(Over)

INSTRUCTIONS FOR MAILING

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

CERTIFICATE OF MAILING

I hereby certify that on the 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: Frank C. and Peggy Erwin
Owner's address: Route 1, Box 453
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 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,

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

AFFIRMATIVE DEFENSE NO. 2

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

AFFIRMATIVE DEFENSE NO. 3

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

AFFIRMATIVE DEFENSE NO. 4

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

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

AFFIRMATIVE DEFENSE NO. 5

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

AFFIRMATIVE DEFENSE NO. 6

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

AFFIRMATIVE DEFENSE NO. 7

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

AFFIRMATIVE DEFENSE NO. 8

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

AFFIRMATIVE DEFENSE NO. 9

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

AFFIRMATIVE DEFENSE NO. 10

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

AFFIRMATIVE DEFENSE NO. 11

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

AFFIRMATIVE DEFENSE NO. 12

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

AFFIRMATIVE DEFENSE NO. 13

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

AFFIRMATIVE DEFENSE NO. 14

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

AFFIRMATIVE DEFENSE NO. 15

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

AFFIRMATIVE DEFENSE NO. 16

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

AFFIRMATIVE DEFENSE NO. 17

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

AFFIRMATIVE DEFENSE NO. 18

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

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

AFFIRMATIVE DEFENSE NO. 19

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

AFFIRMATIVE DEFENSE NO. 20

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

AFFIRMATIVE DEFENSE NO. 21

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

AFFIRMATIVE DEFENSE NO. 22

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

AFFIRMATIVE DEFENSE NO. 23

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

AFFIRMATIVE DEFENSE NO. 24

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

AFFIRMATIVE DEFENSE NO. 25

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

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

AFFIRMATIVE DEFENSE NO. 26

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

AFFIRMATIVE DEFENSE NO. 27

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

WHEREFORE, the objectors pray for judgment as follows:

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

(WATER\21530ANS)

R PROOF

✓

CVR

✓

MAPS

✓

PHOTOS

✓

MISC

✓

MICROFILMED

JAN 24 1983

Water Right Number - R36-00092

Prefix Translation: RESEARCH

Old (D) Number -

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

*** C - CURRENT OWNER ***
ERWIN

FRANK C

1 - RT 1 BOX 453

2 -

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-837-4433

ERWIN

PEGGY

1 - RT 1 BOX 453

2 -

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-837-4433

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
04/01/1901 17 SOUTHERN D - DECREED+ - - - - Source - - - - - + - - - - - Tributary - - - - - +
FLORENCE LIVESTOCK SPRING BILLINGSLEY CREEK

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

Twn Rng Sec Tract Lot RFlg County

07S 13E 12 SE SE NW (47) GOODING

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

Code Description Period From Period To Diversion Rate Diversion Volume

01 - IRRIGATION

04/01

10/31

0.200

04 - STOCKWATER

01/01

12/31

0.020

43 - DOMESTIC

01/01

12/31

0.080

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.200 30.0

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

Twn Rng Sec Tract Lot Acres Code Description County

07S 13E 14 NE NE 10.0 01 IRRIGATION (47) GOODING

07S 13E 14 NE NE 04 STOCKWATER (47) GOODING

07S 13E 14 NE NE 43 DOMESTIC (47) GOODING

Total Acres: 10.0

+ - - Diversion Means - CONCRETE DIVERSION WITH STEEL 16" PIPELINE, FURROW SYSTEM

+ - - Non-Irrigation Use - DOMESTIC, 3 HOMES; STOCKWATER, 10 RANGE

+ - - Other Rights for Same Use - NONE

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JAN 21 1993add
Conel
C100s
N01
N02
K/KC
10-21-92

Water right number - R36-00092

Prefix Translation: RESEARCH

+ - - - - Remarks - - - - - +
THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF
DIVERSION DESCRIBED ABOVE: 36-00049, 36-00050A, 36-00050C,
36-00050D, 3602169, 36-08294 & 36-10047.

+ - - - - Old Water Right Numbers - - - - - +
3600092

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

+ - - - - Decree Plaintiff - - - - + + - - - - Decree Defendant - - - - + + - Decree Date - +
NEW INTERNATIONAL MORTGAGE BANK IDAHO POWER COMPANY 03/22/1932

+ - - - - Comments - - - - - +
Date: 01/15/1991 User Id: BEDKE Subject: SCC-STAFF REVIEW

+ - - Audit Fields - - +
08/05/92 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	- 08/05/1992	Old Judicial District	-
Claim Received Date	- 07/28/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S001159	Water District	- 36A
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- OR	Presumption Flag	-
				Notice of Error Flag	-

MICROFILMED

JAN 21 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

17:03:44
06/29/90

PAGE: 13
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-00092

WR ELEMENT	FIELD EXAM Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	VERIFIED BY CODE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE	N					SCW 8-5-92	DB D	
POINT OF DIV	Y (Y)			N	1456			
SOURCE	N			N				
PLACE OF USE	Y (Y)		7-25-90 SCC/HHT	(Y)	12456			
DIV. AMOUNT CFS/VOLUME	Y *			(Y)	6.			
CONSUMPTIVE USE	- N			(Y)				
PURPOSES	Y N			N				
PERIOD OF USE	Y N			N	(Y) 6			
BASIS OF CLAIM	N			N				
REMARKS	N			N	(Y) 6.			

hht
7-18-90

"VERIFIED BY" CODES

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

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

* Further review

MICROFILMED
JAN 21 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

17:03:44
06/29/90

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-00092

LAST: ERWIN
ADDRESS: RT. 1 BOX 453
CITY: HAGERMAN
PHONE NUMBER: 208-837-4433

FIRST: FRANK C.
STATE: ID ZIP: 83332

OWNER CODE: C

LAST: ERWIN
ADDRESS: RT. 1 BOX 453
CITY: HAGERMAN
PHONE NUMBER: 208-837-4433

FIRST: PEGGY
STATE: ID ZIP: 83332

OWNER CODE: C

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

NO REMARKS IN CLAIM

DATABASE
N

FIELD
EXAMINER

MICROFILMED
JAN 21 1993

CONTACT PERSON: Frank Erwin

PHONE NUMBER: () -

DATE OF FIELD EXAM: 7/25/90

APPOINTMENT MADE: Y() N()

TIME: : A() P()

ACCOMPANIED BY: _____

PHONE NUMBER: () -

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / REMARKS:

"L" shaped property  10 acre tract irrigated
5 acre tract storage area for vehicles, etc.
(see photo)
maximum irrigable - 10 acres.

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JAN 21 1993

A. AJ CLAIM: # A36-00092 PRIORITY DATE: 04-01-1901 STAGE: D
B. WR RECORD: # 36-00092 PRIORITY DATE: 04-01-1901 STAGE: D

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

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

REMARKS:

=====

RECOMMENDED PRIORITY DATE:
04-01-1901

REVIEWED BY hht

DATE 7-18-90

=====

MICROFILMED
JAN 21 1993

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A36-00092	07S	13E	12	SE	SE	NW		GOODING

OTHER AJ CLAIMS WITH SAME AJ POD

A PREFIX R PREFIX

A36-10208

NONE

A36-00049

A36-00050A

A36-00050B

WR RECORDS IN SAME 40 ACRE TRACT

36-00049

36-00050

36-00093

36-02169

36-08294

SOURCE: FLORENCE LIVESTOCK SPRING

TRIB: BILLINGSLEY CREEK

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
36-00092	07S	13E	12		SE	NW		GOODING

OTHER WR RECORDS WITH SAME WR POD

AJ CLAIMS IN SAME 40 ACRE TRACT

A PREFIX

R PREFIX

36-00049

36-00050

36-00093

36-02169

36-08294

A36-08294

NONE

A36-10047

A36-10208

A36-00049

A36-00050A

A36-00050B

SOURCE: FLORENCE LIVESTOCK SPRING

TRIB: BILLINGSLEY CREEK

C. FIELD EXAM REQUIRED?

DUE TO POD DISCREPANCY? (Y/N)

DATABASE

Y

DUE TO SOURCE DISCREPANCY? (Y/N)

N

FIELD
EXAMINER

XY
N

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REMARKS:

Need to identify POD - may be either ~~SE NW or SW NE~~

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RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	COUNTY
<u>7S</u>	<u>13E</u>	<u>12</u>	<u>SE</u>	<u>SE</u>	<u>NW</u>	<u> </u>	<u> </u>

SOURCE: FLORENCE LIVESTOCK SPRING

TRIB: BILLINGSLEY CREEK

OK

REVIEWED BY: Sce DATE: 9-10-90

A. ROOT WATER RIGHT NUMBERS: A36-00092

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
07S	13E	14	NE	NE		ERWIN , FRANK C.	A36-00092 /16.0 -	36-00092 /	23.0	10.0	
						MEYERS , ROBERT	A36-10812 /	- /			
						HAGERMAN WATER USERS ASSOCIATIA	A36-00057 /15.0	- /			
						CITY OF HAGERMAN	A36-02465 /	- /			
						MEYERS , ROBERT	A36-00093 /17.0	36-00093 /			
						MEYERS , ROBERT	A36-00050B /17.0	- /			
						FLORENCE LIVESTOCK CO.		36-00050 /			
						STRANGER , WILLIAM		36-04028 /12.0			
07S	13E	14	NE	NE		ERWIN , FRANK C.	A36-00092 /	36-00092 /	23.0		
						MEYERS , ROBERT	A36-10812 /	- /			
						HAGERMAN WATER USERS ASSOCIATIA	A36-00057 /15.0	- /			
						CITY OF HAGERMAN	A36-02465 /	- /			
						MEYERS , ROBERT	A36-00093 /17.0	36-00093 /			
						MEYERS , ROBERT	A36-00050B /17.0	- /			
						FLORENCE LIVESTOCK CO.		36-00050 /			
						STRANGER , WILLIAM		36-04028 /12.0			
07S	13E	14	NE	NE		ERWIN , FRANK C.	A36-00092 /	36-00092 /	23.0		
						MEYERS , ROBERT	A36-10812 /	- /			
						HAGERMAN WATER USERS ASSOCIATIA	A36-00057 /15.0	- /			
						CITY OF HAGERMAN	A36-02465 /	- /			
						MEYERS , ROBERT	A36-00093 /17.0	36-00093 /			
						MEYERS , ROBERT	A36-00050B /17.0	- /			
						FLORENCE LIVESTOCK CO.		36-00050 /			
						STRANGER , WILLIAM		36-04028 /12.0			
TOTAL ACRES							A36-00092	16.00	69.00	10.0	

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

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PRESUMPTION FLAG:

REMARKS:

NAPP photo shows portions not irrigated - SW portion appears to be
businesses. field exam confirms portions not irrigated - see photos.

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RECOMMENDATIONS:

TOTAL ACRES: 10.0

REVIEWED BY: SCC

DATE: 9-10-90

A. AJ CLAIMED USES:

	PURPOSES	MONTH/DAY	DIVERSION QUANTITY
A36-00092	IRRIGATION	FROM 03-15 TO 11-15	.600 CFS
A36-00092	STOCKWATER	FROM 01-01 TO 12-31	.020 CFS
A36-00092	DOMESTIC	FROM 01-01 TO 12-31	.120 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED			.600 CFS

B. WR RECORDED USES:

	PURPOSES	MONTH/DAY	DIVERSION QUANTITY
36-00092	IRRIGATION	FROM TO	.600 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED			.600 CFS

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

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

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

Y(X) N()

RECOMMEND TO WR STANDARDS OR OTHER?

Y() N(X)

Explain in remarks, below.

REMARKS:

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A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y(☒) N(☐)

AJ TOTAL CLAIMED DIVERSION RATE: 0.600 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 0.600 CFS

*** IF NO or IF STATUTORY CLAIM or BENEFICIAL USE then flow measurement required. ***

** If an amount smaller than the original diversion rate is **

** claimed and an exam is NOT required, explain in remarks. **

FLOW MEASUREMENT REQUIRED?

FIELD

DATABASE EXAMINER

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

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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
A36-00092	FLORENCE LIVESTOCK SPRING	ERWIN , FRANK C.	0.600	0.037		
A36-00057	SPRINGS	HAGERMAN WATER USERS ASSOCIATI	36.200	0.073		

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

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A36-00092	STOCKWATER	ERWIN , FRANK C.	FROM 01-01 TO 12-31	.020 CFS	
A36-00092	DOMESTIC	ERWIN , FRANK C.	FROM 01-01 TO 12-31	.120 CFS	
A36-10812	DOMESTIC	MEYERS , ROBERT	FROM 01-01 TO 12-31	.080 CFS	
A36-10812	STOCKWATER	MEYERS , ROBERT	FROM 01-01 TO 12-31	.200 CFS	
A36-00057	STOCKWATER	HAGERMAN WATER USERS ASSOCIATI	FROM 01-01 TO 12-31	.300 CFS	
A36-02465	MUNICIPAL	CITY OF HAGERMAN	FROM 01-01 TO 12-31	4.000 CFS	
A36-00093	STOCKWATER	MEYERS , ROBERT	FROM 01-01 TO 12-31	.300 CFS	
A36-00093	DOMESTIC	MEYERS , ROBERT	FROM 01-01 TO 12-31	.080 CFS	
A36-00050B	STOCKWATER	MEYERS , ROBERT	FROM 01-01 TO 12-31	.460 CFS	
A36-00050B	DOMESTIC	MEYERS , ROBERT	FROM 01-01 TO 12-31	.080 CFS	

D. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE

ACRES 10.0 x 0.02 CFS/ACRE = 0.20 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 = 48.0 AF/A

ACRES 10 x CONSUMPTIVE VOL. AF/A FOR AREA 3.0 =

TOTAL CONSUMPTIVE USE 30.0 AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

ACRES 10 x DIVERSION VOL. AF/A FOR AREA 4.0 =

TOTAL DIVERSION VOLUME 40.0 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

$$\frac{0.60 \text{ cfs}}{10 \text{ Ac}} = 0.06 \text{ cfs/Ac claimed}$$

See Hubble Analysis.

allow 0.02 cfs/Acre rate

0.20 cfs

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RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD		REC. DIV		REC. DIV		REC. CONS. USE	
	FROM	TO	RATE	CFS	VOL.	AF/A	DATABASE	EXAMINER
IRRIGATION	4-1	10-31	DATABASE	EXAMINER	DATABASE	EXAMINER	DATABASE	EXAMINER
	3-15	11-15		0.15	0.20	40.0		30.0
STOCK WATER	1-1	12-31		0.02				
DOMESTIC	1-1	12-31		0.08				

TOTAL FOR THIS RIGHT

REVIEWED BY: SCC

DATE: 9-10-90

SCC 8-5-92

~~Proportional Rate 6 WA~~ ~~0.02 cfs~~ ~~40 ac.~~ ~~0.015~~

~~1/20/92~~

~~Claimed loss (Mon 1 1/2 ac) - recommended as claimed~~

F06

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A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP _____
FORFEIT/ABANDON _____
ADDITIONAL DIV. AMOUNT _____

ACCEPTED
AS CLAIMED

(/)
(/)
(/)

NEEDS
REVIEW

()
()
()

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-00092

TOTAL DIVERSION RATE OF WR SPLITS
0.600

DATABASE

EXAMINER

CFS

SPLITS:

OLD RIGHT
NUMBERS

CURRENT
CLAIM NUMBERS

DIVERSION
RATE

CURRENT "R"
CLAIM NUM.

"R" DIV.
RATE

WR RIGHT
NUMBERS

DIVERSION
RATE

-

A36-00092

0.600

-

36-00092

0.600

TOTAL CFS

0.600

0.600

DIVERSION RATE REVIEW

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

DATABASE
Y

FIELD
EXAMINER

OK

REMARKS:

*Ultra sonic measurement taken on FLS pipeline @ McFadden's. = (5.48 total CFS)
Pipe Capacity not exceed by claims.*

AUTHENTICATION:

SIGNATURE: Steve Miller

DATE: 9-10-90

NAME OF FIELD EXAMINER: _____ TITLE: _____

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7-25-90

ERWIN

A36-00092

View North

POU WEST OF
HAGERMAN Cemetery



REMARK AND CONDITION CODE WORKSHEET

SYSTEM CLAIM NUMBERS

R36 - 00092

AGENT

INITIALS Sc

DATE

85-92CLAIM NO.
OR ENTRY
ORDERREMARK
CODE

ENTRY DATA

CONDITION
CODESTAGE
OR
STATUSPRESUMPTION
CODEF0636-00049, 36-00050 A,
36-00050C, 36-00050D,
36-02069, 36-08294
& 36-10047.

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A36-00092

Erwin

8-5-92

See

INTAKE FAMILY <If> = 0.55
 DESIGN APPLICATION <Fn> = 1.99 INCHES
 FURROW SLOPE <S> = 0.020 FEET/FOOT
 FURROW SPACING <W> = 3.00 FEET
 FURROW LENGTH <L> = 484 FEET
 INFLOW RATE <Q> = 4 GPM/FURROW
 APPLICATION TIME <Ti> = 12 HOURS

ADVANCE TIME <TT> = 56.3 MINUTES; OR 0.9 HOURS
 GROSS APPLICATION <FG> = 3.18 INCHES
 NET APPLICATION <Fx> = 2.66 INCHES
 RUNOFF <RO> = 0.41 INCHES
 DEEP PERCOLATION <DP> = 0.78 INCHES
 EFFICIENCY <E> = 62.55 %

TO CHANGE: PRESS (EXISTING)
 Design Application <1> 1.99 in
 Furrow Slope <2> 0.020 ft/ft
 Furrow Spacing <3> 3.00 ft
 Furrow Length <4> 484 ft
 Furrow Intake Family <5> 0.55
 Inflow Rate <6> 4 gpm/furrow
 Inflow Time <7> 12 hours <ANALYSIS MODE>

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

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

INTAKE FAMILY	DESIGN APPLIC.	FURROW SLOPE	FURROW SPACING	FURROW LENGTH	INFLOW RATE	APPROXIMATE INFLOW TIME	ADVANCE TIME	GROSS IRRIGATION APPLICATION	NET IRRIGATION APPLICATION	RUNOFF	DEEP PERC.	IRRIGATION EFFICIENCY
	Inches	Ft/Ft	Feet	Feet	Gpm	Hours	Minutes	Inches	Inches	Inches	In.	%
0.55	1.99	.020	3.00	484	5	12	45.0	3.98	2.79	1.10	0.89	50.04
0.55	1.99	.020	3.00	484	4	12	56.3	3.18	2.66	0.41	0.78	62.55

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

$$= 4.2 \frac{0.25}{62.55}$$

$$= 0.017 \text{ cfs/Acre}$$

$$\underline{\text{allow } 0.02 \text{ cfs/Acre}}$$

$$10 \times 0.02 = \underline{0.20 \text{ cfs}}$$

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I. IRRIGATION ANALYSIS WORKSHEET

CLAIM NO. A36-00092
 DATE 8-5-92
 AGENT SCC

CLAIMANT/SYSTEM DESCRIPTION ERWIN @ FL Spring
 IRRIGATION SYSTEM Furrows
 ANALYSIS METHOD BORDER / FURROW
 TYPE OF CROP Vegetables
 MAXIMUM PROFILE DEPTH 36" INCHES
 INTAKE FAMILY 0.55

 SOIL TYPE KOB _____ SYSTEM TOTAL
 ACRES PER TYPE 10.0 _____ 10.0 ACRES
 SOIL PROFILE WHC 3.98 _____
 DESIGN IRR " WHC 1.99 _____

 CROP REQUIREMENT:
 REPORT AREA & FIGURE NO. Bliss 10-8
 DAILY CROP REQUIREMENT:
6.47 (MM/DAY) / 25.4 (FACTOR IN MM/IN) 0.25 IN/DAY

THEORETICAL ROTATION:
1.99 DESIGN IRR / 0.25 CROP REQ = 7.96 DAYS

ACTUAL ROTATION PRACTICED:

DRY DAYS 0 + IRR DAYS 7 = 7 DAYS

 DESCRIPTION OF FIELD:

AVERAGE LENGTH RUN 484'
 TOTAL WIDTH OF FIELD 900'
 CHECK 484 L * 900 W / 43,560 = 10 ACRES
 % SLOPE 2%

SET TIME:

24 HOUR/DAY / 12 SET HOURS/DAY _____ TIME FACTOR _____

BORDER WIDTH:

_____ WIDTH / _____ ROTATION DAYS / _____ TIME FACTOR N/A
 FURROW / CORRUGATION WIDTH 36"

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8 2 1 1992

CONVERSATION MEMORANDUM

EMPLOYEE: STEVE CLELLAND

FILE A36-00092

RE: irrigation methods

DATE 8-5-92

NAME OF PARTY

FRANK ERWIN

837-4433

I called to confirm irrigation uses.

He said he uses a 36" furrow system to raise vegetables. He generally runs a 7 day rotation and returns without any dry days. He said this will vary depending on the stage of the crop.
Averages 12 Hour sets.

- furrow runs east and west; gated pipe runs across the middle and irrigates both ways. The east end has another stretch of gated pipe due to the long runs.

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JAN 21 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

MODE SELECT
INPUT

OUTER DIAMETER
16.0953 IN

PIPE MATERIAL
? CS,SS

WALL THICKNESS
0.2189 IN

INNER LINING
? NO LING.

KIND OF FLUID
? WATER

SENSOR MOUNTING
? U

TYPE OF SENSOR
? SMALL

DATA CHANGE
? NO

SPACING
12.944 IN U

ZERO MODE
CLEAR

ZERO MODE
AUT ZERO

ZERO MODE
ZERO OPR

08-09 15:0100 *R
+002.60 % AI2

MODE SELECT
T0 CHECK

0586.2 MMSEC
100.20 % T0

08-09 15:0200 *R
+245.680E 1GPM

Florence Livestock Spring (ALL)

5.48 cfs

FLORENCE
LIVESTOCK
SPRING
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JAN 21 1993

FRANK C. ERWIN
ROUTE #1, BOX #453
HAGERMAN, IDAHO 83332



RECEIVED

JAN 15 1993

Department of Water Resources
Southern Region Office

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

*Frank Erwin
2628 So. 975 E.
Hagerman, Ida 83332*



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JAN 28 1993

Department of Water Resources
Southern Region Office

*Dept. of Water Resources
222 Shoshone St. East
Twin Falls, Ida. 83301*