

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: A36-00108F
Date Received: 8/15/1988
Receipt No: S001440
Received By: CW

COPY
FOR YOUR FILES
DO NOT RETURN

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: BASIL LESTER ZINK 208-837-6384
Address: P.O. BOX 455
HAGERMAN, ID 83332

AND/OR

Name: MYRLE HYDE ZINK 208-837-6384
Address: P.O. BOX 455
HAGERMAN, ID 83332

2. Date of Priority: SEP 10, 1884

3. Source: BILLINGSLEY CREEK Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07S	13E	11	NE	SE	NE		GOODING

5. Description of diverting works:
VIA BUCKEYE DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
DOMESTIC	03/15	11/15	0.020		

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

8. Total consumptive use is 3.0 Acre Feet Per Annum.

9. Non-irrigation uses:
D/LAWN & GARDEN

10. Place of Use:

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

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
SEE REMARKS

14. Remarks:
SPLIT PORTION OF 36-00108 DECREE.

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

Decree Plaintiff

vs

Decree Defendant

16. Signature(s)

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

Number of attachments: 1

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): Myrtle H. Zink Date: 8-15-88
Date:

State of Idaho)
County of TF) SS.

Subscribed and sworn (or affirmed) before me this 15th day
of August 19 88 Lori White
Notary Public

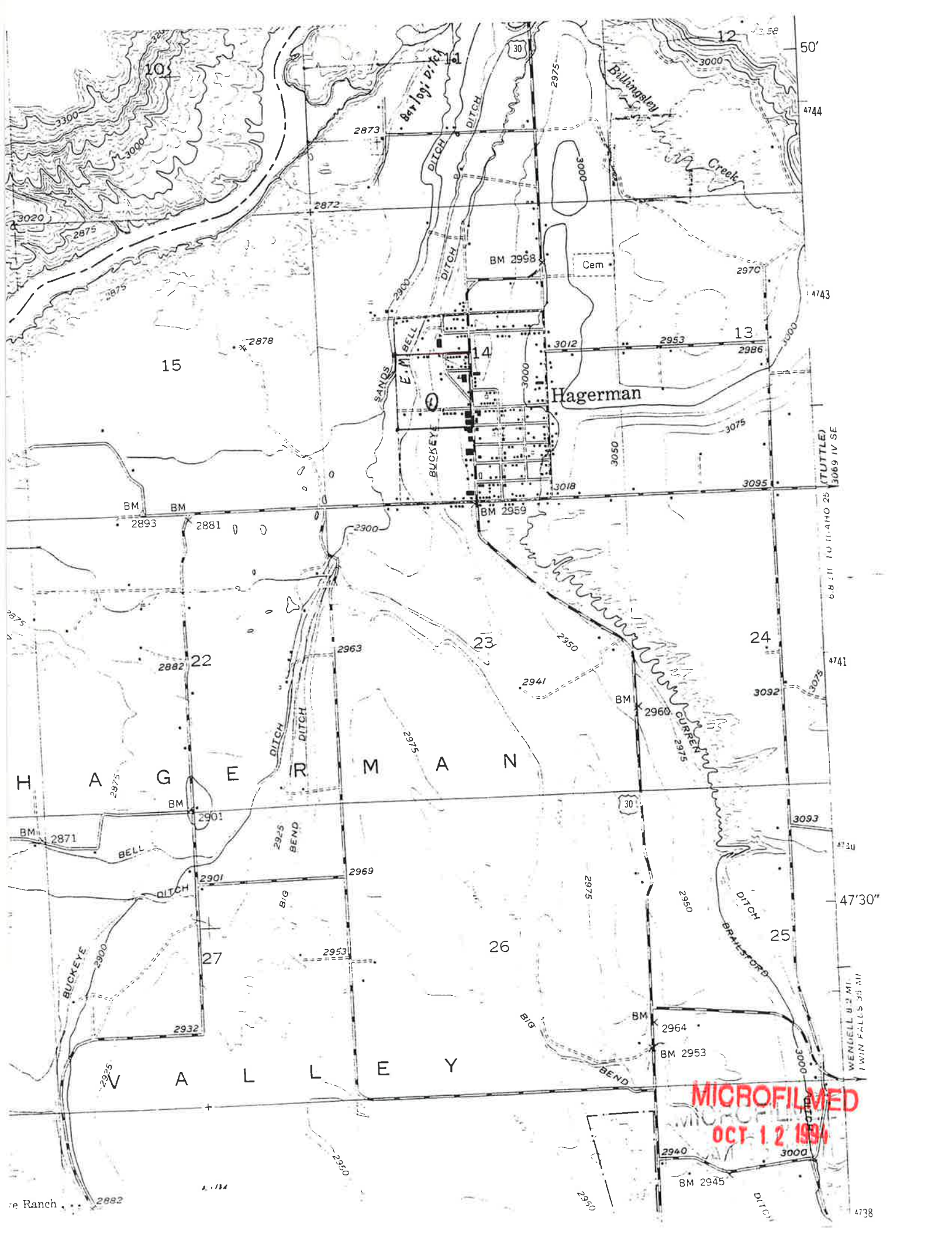
Seal

Residing at TF
My Commission Expires 5/95

MICROFILMED

OCT 12 1994

JAN 11 1995



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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

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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

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

NOTICE OF APPEARANCE

15
16
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18
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22
23
Petitioner,

vs.

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

Respondents.

* * * * *

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



Hepworth,
Nungester,
& Lezamiz

NOTICE OF APPEARANCE - 1

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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



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



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

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

12 DATED This 9 day of February, 1993.

13 HEPWORTH, NUNGESTER & LEZAMIZ

14
 15 By 
 16 PATRICK D. BROWN
 Attorneys for Respondents

17
 18 CERTIFICATE OF MAILING

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



Hepworth,
 Nungester,
 & Lezamiz

MICROFILMED
OCT 12 1994

1 February, 1993, to:

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

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

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

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

12
13 
14 Patrick D. Brown



Hepworth,
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

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

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

MICROFILMED
 OCT 12 1994

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

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

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

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

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OCT 12 1994

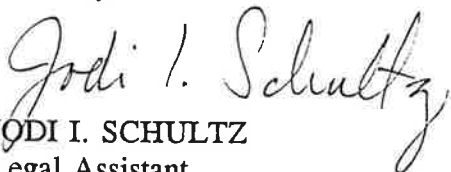
Mr. Patrick D. Brown
March 1, 1993
Page 4

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

VERIFIED BY

SCC

Water Right Number - R36-00108F

Prefix Translation: RESEARCH

Old (D) Number -

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

*** C - CURRENT OWNER ***
ZINK

MYRLE HYDE

1 - PO BOX 455

2 -

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-837-6384

ZINK

BASIL LESTER

1 - PO BOX 455

2 -

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-837-6384

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
09/10/1884 ERROR IN REGION Z - SEE REMARKS+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
BILLINGSLEY CREEK SNAKE RIVER
RENUMBERED+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County
07S 13E 11 SE SE NE (47) GOODING+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
43 - DOMESTIC 03/15 11/15 0.020+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.020 3.0+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
07S 13E 14 SE NW 43 DOMESTIC (47) GOODING

Total Acres:

+ - - Diversion Means - VIA BUCKEYE DITCH

+ - - Non-Irrigation Use - DOMESTIC 1 HOUSE

+ - - Other Rights for Same Use - NONE

+ - - - - Remarks - - - - - +
SEE NO. 36-00103F.

MICROFILMED

JAN 25 1993

Water right number - R36-00108F

Prefix Translation: RESEARCH

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

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

3600103

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

No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - +

+ - - - - Decree Defendant - - - +

+ - Decree Date - +
00/00/0000

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

Date: 02/22/1991 User Id: SRBA Subject: COPIED FROM REMARKS
SPLIT PORTION OF 36-00108 DECREE.

PARCEL NO. RP07S13E142924

Date: 03/05/1991 User Id: CLELLAND Subject: RENUMBERED

THIS WATER RIGHT IS NOT A PORTION OF 36-00108. IT IS BASED ON THE WATER RIGHT 36-00103 AND RECOMMENDED AS SUCH HERE.

+ - - Audit Fields - - +

02/05/92 CLELLAND

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

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 02/05/1992	Old Judicial District	-
Claim Received Date	- 08/15/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S001440	Water District	-
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- AND/OR	Presumption Flag	-
				Notice of Error Flag	-

VERIFIED BY SC

Water Right Number - R36-00103F

Prefix Translation: RESEARCH

Old (D) Number -

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

*** C - CURRENT OWNER ***
ZINK

MYRLE HYDE

1 - PO BOX 455

2 -

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-837-6384

ZINK

BASIL LESTER

1 - PO BOX 455

2 -

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-837-6384

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

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

+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County

07S 13E 11 SE SE NE (47) GOODING

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
43 - DOMESTIC 04/01 10/31 0.020

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.020 0.0

+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
07S 13E 14 SE NW 43 DOMESTIC (47) GOODING

Total Acres:

+ - - Diversion Means - VIA BUCKEYE DITCH

+ - - Non-Irrigation Use - DOMESTIC, 1 HOUSE LAWN

+ - - Other Rights for Same Use - NONE

+ - - - - Remarks - - - - - +
PARCEL NO. RP07S13E142924 *to Comments*
WATER IS DELIVERED THROUGH BUCKEYE DITCH.

MICROFILMED
JAN 25 1993

Water right number - R36-00103F

Prefix Translation: RESEARCH

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

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

3600103

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

No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - +

+ - - - - Decree Defendant - - - +

+ - Decree Date - +

00/00/0000

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

Date: 03/05/1991 User Id: CLELLAND Subject: RENUMBERED

THIS WATER RIGHT WAS PREVIOUSLY NUBMERED R36-00108F BUT HAS BEEN RENUMBERED TO CORRECTLY SHOW THE BASIS OF CLAIM.

+ - - Audit Fields - - +

02/05/92 CLELLAND

VERIFIED BY

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

Court Report Filing - 00/00/0000
Objection Filed Date - 00/00/0000
Response Filed Date - 00/00/0000
Claim Received Date - 08/15/1988

Field Inspection Made - 07/26/1990
Field Inspection Flag -
Verified Date - 02/05/1992
Last Amended Date - 00/00/0000
Receipt Number - S001440
POU Ownership Flag - Y
Name Connector - AND/OR

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

MICROFILMED
JAN 25 1992

Water Right Number - R36-00103F Prefix Translation: RESEARCH Old (D) Number -

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

*** C - CURRENT OWNER ***

ZINK BASIL LESTER 1 - PO BOX 455
2 -
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-837-6384

ZINK MYRLE HYDE 1 - PO BOX 455
2 -
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-837-6384

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - - +

09/10/1884 ERROR IN REGION D - DECREED

+ - - - - Source - - - - - + + - - - - Tributary - - - - - +

BILLINGSLEY CREEK SNAKE RIVER

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

| Twn | Rng | Sec | Tract | Lot | Rflg | County |
|-----|-----|-----|----------|-----|------|---------|
| 07S | 13E | 11 | SE SE NE | | (47) | GOODING |

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

| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume |
|---------------|-------------|-------------|-----------|----------------|------------------|
| 43 - DOMESTIC | | 04/01 | 10/31 | 0.020 | |

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

0.020 0.0

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

| Twn | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|-----|-----|-----|-------|-----|-------|------|-------------|--------------|
| 07S | 13E | 14 | SE NW | | | 43 | DOMESTIC | (47) GOODING |

Total Acres:

+ - - Diversion Means - VIA BUCKEYE DITCH

+ - - Non-Irrigation Use - DOMESTIC, 1 HOUSE LAWN

+ - - Other Rights for Same Use - NONE

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

WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.
A DIVERSION RATE OF 0.02 CFS AT THE FIELD HEADGATE IS
RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.

MICROFILMED
JAN 2 1994

Water right number - R36-00103F

Prefix Translation: RESEARCH

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

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

3600103

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

No Conditions of Approval found.

+ - - - Decree Plaintiff - - - +

+ - - - Decree Defendant - - - +

+ - Decree Date - +

00/00/0000

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

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

PARCEL NO. RP07S13E142924

+ - - Audit Fields - - +

08/06/92 WORSTELL

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

Court Report Filing - 00/00/0000
Objection Filed Date - 00/00/0000
Response Filed Date - 00/00/0000
Claim Received Date - 08/15/1988

Field Inspection Made - 07/26/1990
Field Inspection Flag -
Verified Date - 08/06/1992
Last Amended Date - 00/00/0000
Receipt Number - S001440
POU Ownership Flag - Y
Name Connector - AND/OR

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

MICROFILMED
JAN 2 1993

WEST

MAP
per Exam
1-23-91
SCC

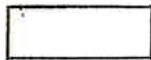
VALLEY ROAD

~~A36-00103F~~

~~A36-00108F~~

DOMESTIC

ZINK



A36-00103D

~~A36-10316~~
(PART - 00103)

OLESEN

(HEATON)
IRRIGATION



~~R36-00103E~~

~~A36-0065A~~

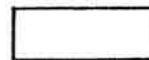
ROBINSON



POND

A36-00103C

BOLDUC



BELL DITCH

BUCKEYE DITCH

NORTH

headgate
to delivery ditches

headgate
to delivery ditches

+ LINCOLN + CO., + IDAHO. +

Scale 1"=200'

Owens & Kippay
Eng'rs.

Lot corners are marked by stakes 2"x2" 12" driven into ground, and block are marked by stakes 3"x3" 15" long driven 12" into ground. Stone monuments at intersection of street centers as shown on plat contain at least 500 cu. in. and are at least 6" below surface of ground.

RECEIVED

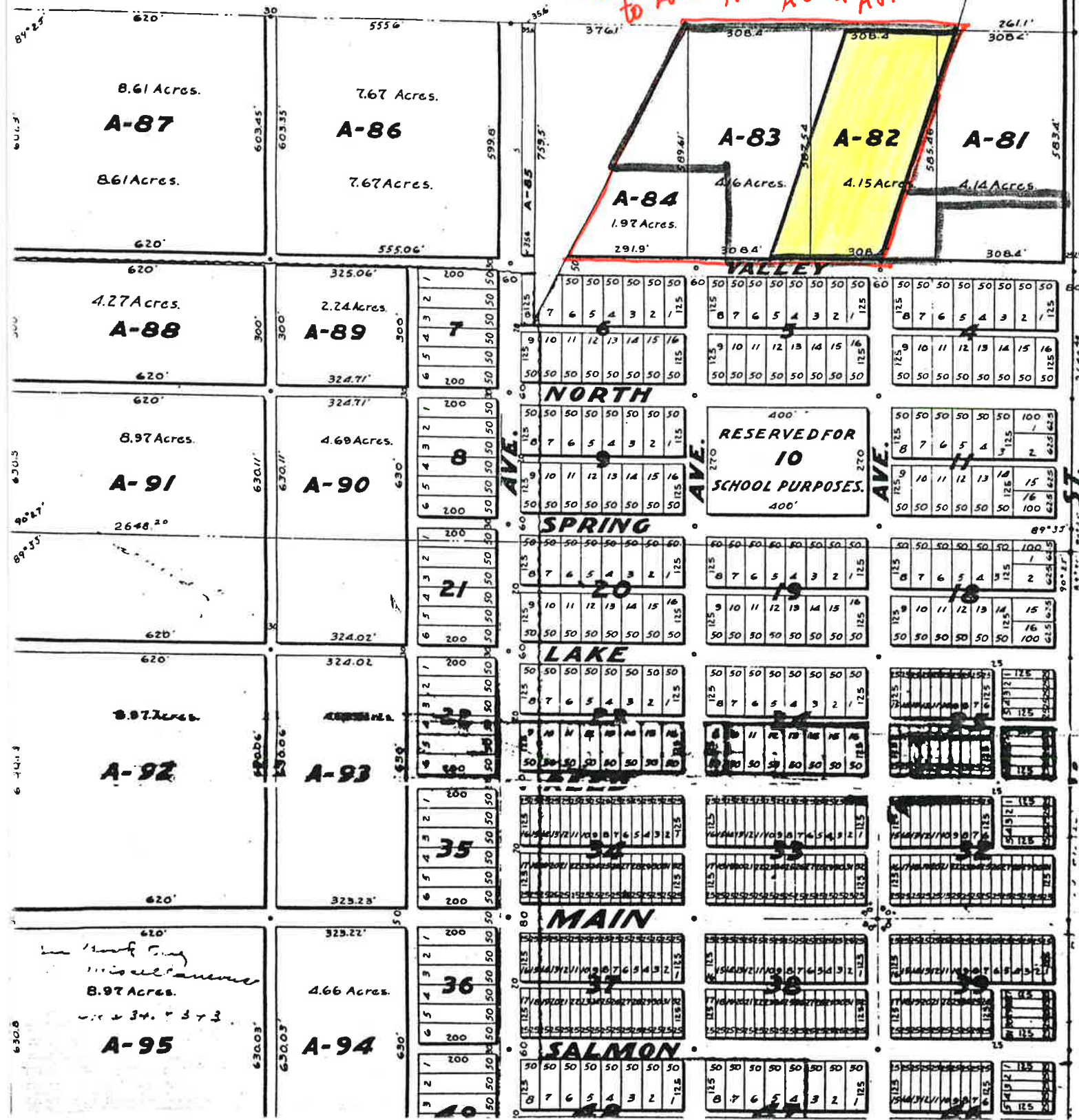
FEB 26 1991

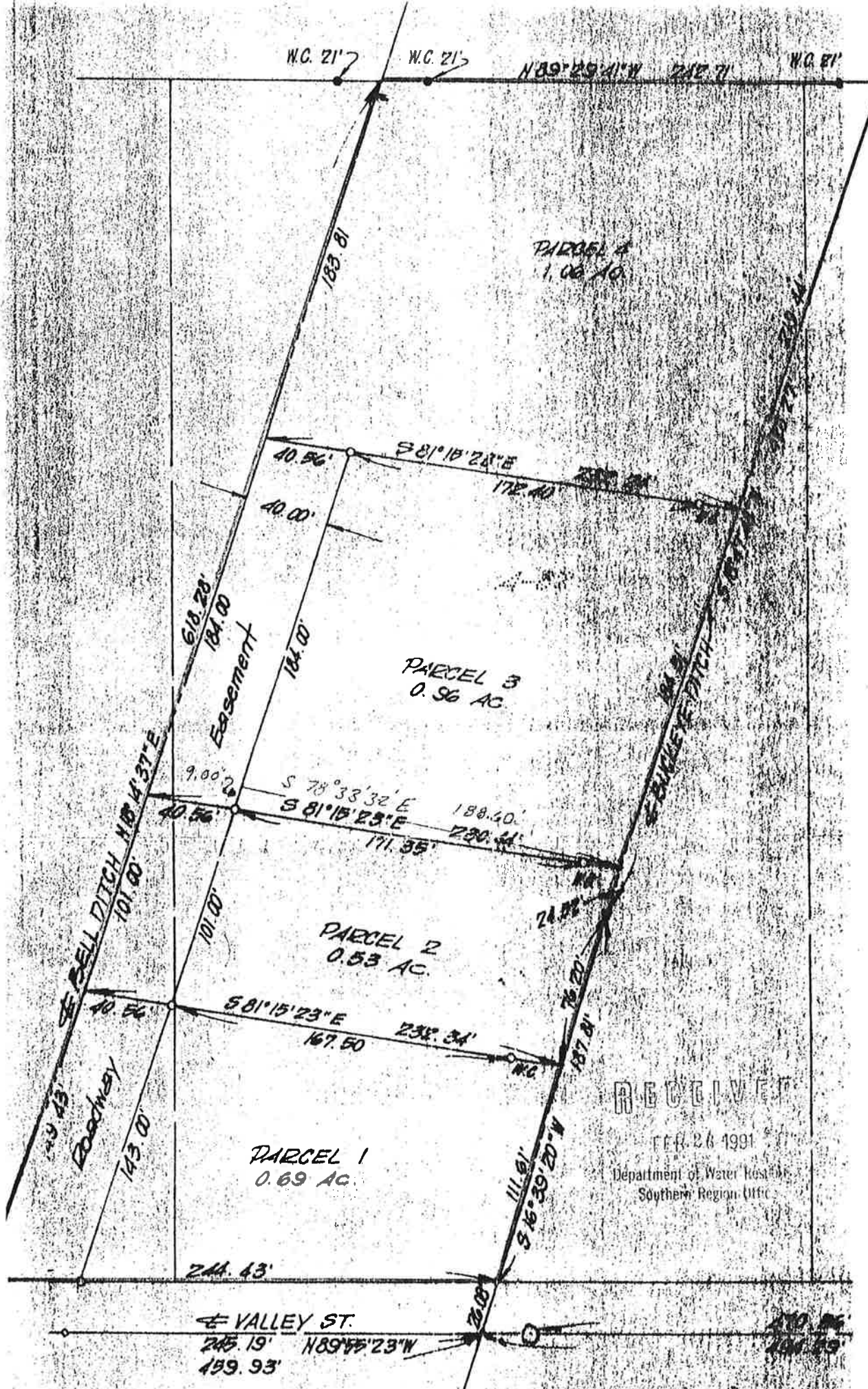
Department of Water Resources
Southern Region Office

36-00103
"decreed
to lots

A82, A83 & A84"

A-74





IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: NOV-14-1997
PAGE: A-1

RIGHTS FROM: SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

RIGHT NUMBER: 36-00103F

NAME AND ADDRESS: MYRLE HYDE ZINK
BASIL LESTER ZINK
PO BOX 455
HAGERMAN ID 83332

SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 0.02 CFS

THE QUANTITY FOR NON-IRRIGATION USE IS LIMITED TO THE AMOUNT BENEFICIALLY
USED FOR DOMESTIC / HOUSE LAWNTHE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 09/10/1884

POINT OF DIVERSION: T07S R13E S11 SESENE Within GOODING County

PURPOSE AND
PERIOD OF USE:

| PURPOSE OF USE | PERIOD OF USE | QUANTITY |
|---------------------------------|--------------------------|-----------------|
| <u>DOMESTIC LAWN IRRIGATION</u> | <u>Irrigation Season</u> | <u>0.02 CFS</u> |
| <u>DOMESTIC</u> | <u>03/18 11/18</u> | <u>0.02 CFS</u> |

PLACE OF USE: DOMESTIC Within GOODING County
T07S R13E S14 SENWDOMESTIC Within GOODING County
T07S R13E S14 SENW

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.
WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE
WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.

VERIFIED BY RB 11-14-97

RECEIVED

JAN 02 1998

Department of Water Resources
Southern Region

OCT 21 1997

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA

Case No. 39576

SUBCASE(S) 36-00103F
SPECIAL MASTER'S REPORT

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

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

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

DATED: 10-21-97

[Signature]
Special Master
Snake River Basin Adjudication

RECEIVED

JAN 02 1998

Department of
Southern Region

OCT 21 1997
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA

Case No. 39576

SUBCASE(S): 36-00103F

NOTICE OF ISSUANCE and SERVICE

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

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

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

Representative of IDWR:

Charles Hunsinger

Representative of U.S. Dept. of Justice

Basil Lester Zink / Myrtle Zink
Claimant/Attorney

Party/Attorney

Claimant/Attorney

Party/Attorney

DATED 10-21-97

Debbie Lash
Deputy Clerk

RECEIVED

JAN 02 1998

Special Water Resources
Southern Region

OCT 21 1997

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA

Subcase(s) 36-00103F

STANDARD FORM 5

Case 39576

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

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

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

Date: 10/21/97

Charles Z. Honsinger, Roxanne Brown
IDWR Concurrence

Basil Lester Zink
Claimant

Tracy Hyde Zink
Claimant/Attorney

Claimant/Attorney

Basil Lester Zink
Objector

Tracy Hyde Zink
Objector/Attorney

Objector/Attorney

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

DATE: OCT-17-1997

PAGE: A-1

RIGHTS FROM: SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

RIGHT NUMBER: 36-00103F

NAME AND ADDRESS: MYRLE HYDE ZINK
BASIL LESTER ZINK
PO BOX 455
HAGERMAN ID 83332

SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 0.02 CFS

THE QUANTITY FOR NON-IRRIGATION USE IS LIMITED TO THE AMOUNT BENEFICIARILY
USED FOR DOMESTIC 1 HOUSE LAWN

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

PRIORITY DATE: 09/10/1884

POINT OF DIVERSION: T07S R13E S11 SESENE Within GOODING County

PURPOSE AND

| PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE | QUANTITY |
|-----------------------|----------------|--|----------|
| DOMESTIC 1 HOUSE LAWN | | ~~03-15~~ ~~11-15~~
Irrigation Season | 0.02 CFS |

PLACE OF USE: DOMESTIC Within GOODING County
T07S R13E S14 SENW

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

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

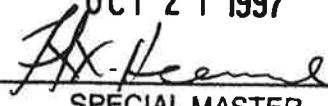
WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.

EXPLANATORY MATERIAL: BASIS OF CLAIM - DECREE

WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.

RECOMMENDATION

OCT 21 1997


SPECIAL MASTERC.2.7.
RB
In. #2
BZ

CLAIM NUMBERS 36-00103F *-domestic*

DATE 10/9/97
AGENT *JR*

TRANSFER NUMBER _____

OBJECTION FILED _____

TOTAL ACRES FROM RECOMMENDATION _____

GEOGRAPHIC INFO SYSTEM _____

| 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>07S</u> | <u>13E</u> | <u>14</u> | | | | | | | | <u>D</u> | | | | | | | | |
| GIS | | | | | | | | | | | | | | | | | | | |
| RECOM | | | | | | | | | | | | | | | | | | | |
| GIS | | | | | | | | | | | | | | | | | | | |
| RECOM | | | | | | | | | | | | | | | | | | | |
| GIS | | | | | | | | | | | | | | | | | | | |
| RECOM | | | | | | | | | | | | | | | | | | | |
| GIS | | | | | | | | | | | | | | | | | | | |

UPDATED

POLYGON #

UPDATED

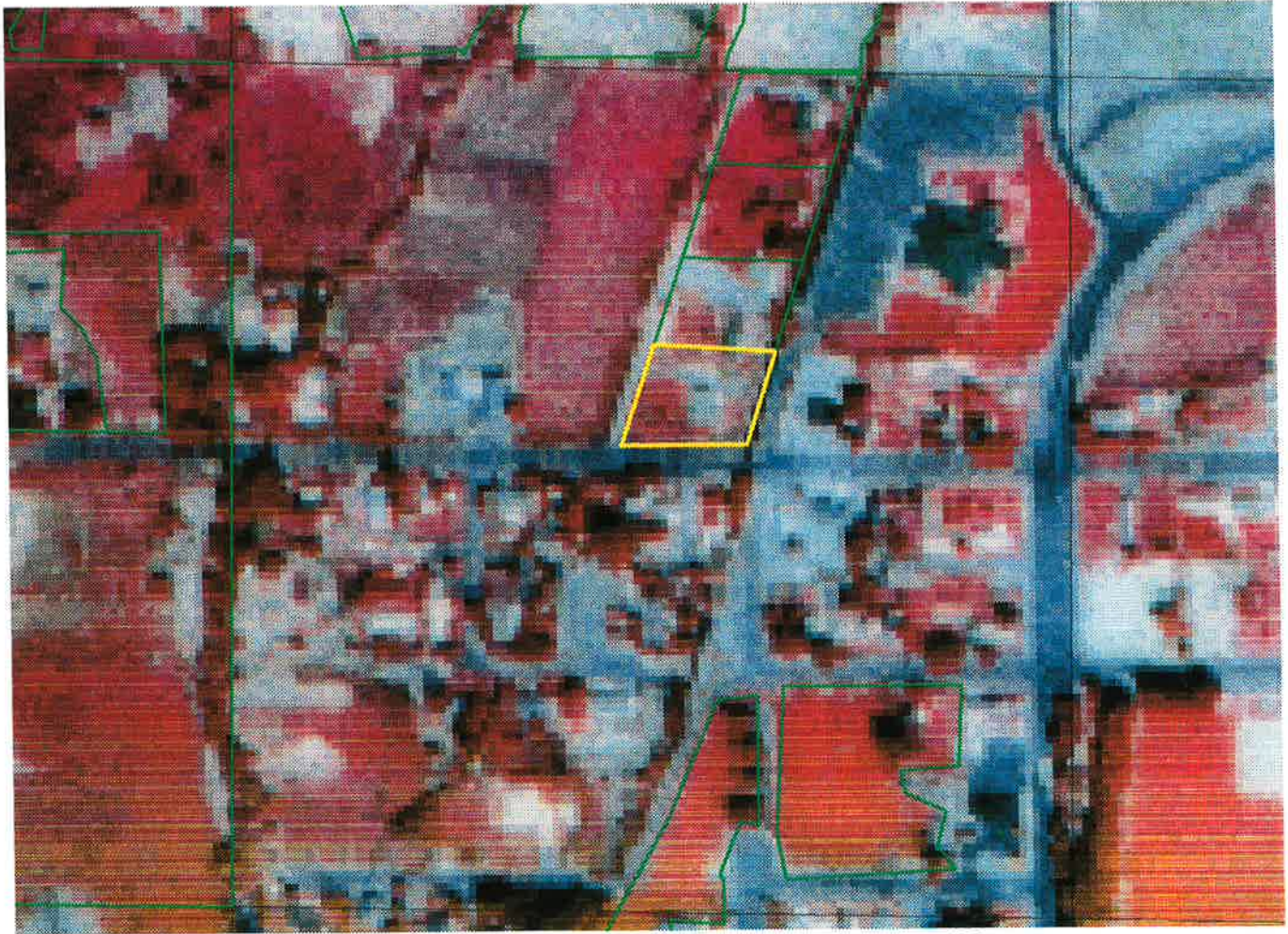
B36-DBPOU.DBF 562 ✓
B36-DBPOD.DBF 454 ✓

POLYGON CREATED ON 604 () _____
ATTRIBUTES OF B36-POU.SHP 568
ATTRIBUTES OF B36-POD.SHP 454 SESENE-11
(Buckeye Ditch)

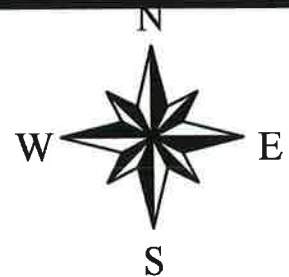
P/U CONFLICT yes () no (✓)
P/D CONFLICT yes () no (✓)
READY FOR DECREE yes (✓) no ()
SENT FOR DECREE yes () no ()

IDAHO DEPARTMENT OF WATER RESOURCES

36-00103F
BASIL & MYRLE ZINK



TNS 7S, RNG 13E, SEC 14



⊙ RECOMMENDED POINT OF DIVERSION

 RECOMMENDED PLACE OF USE

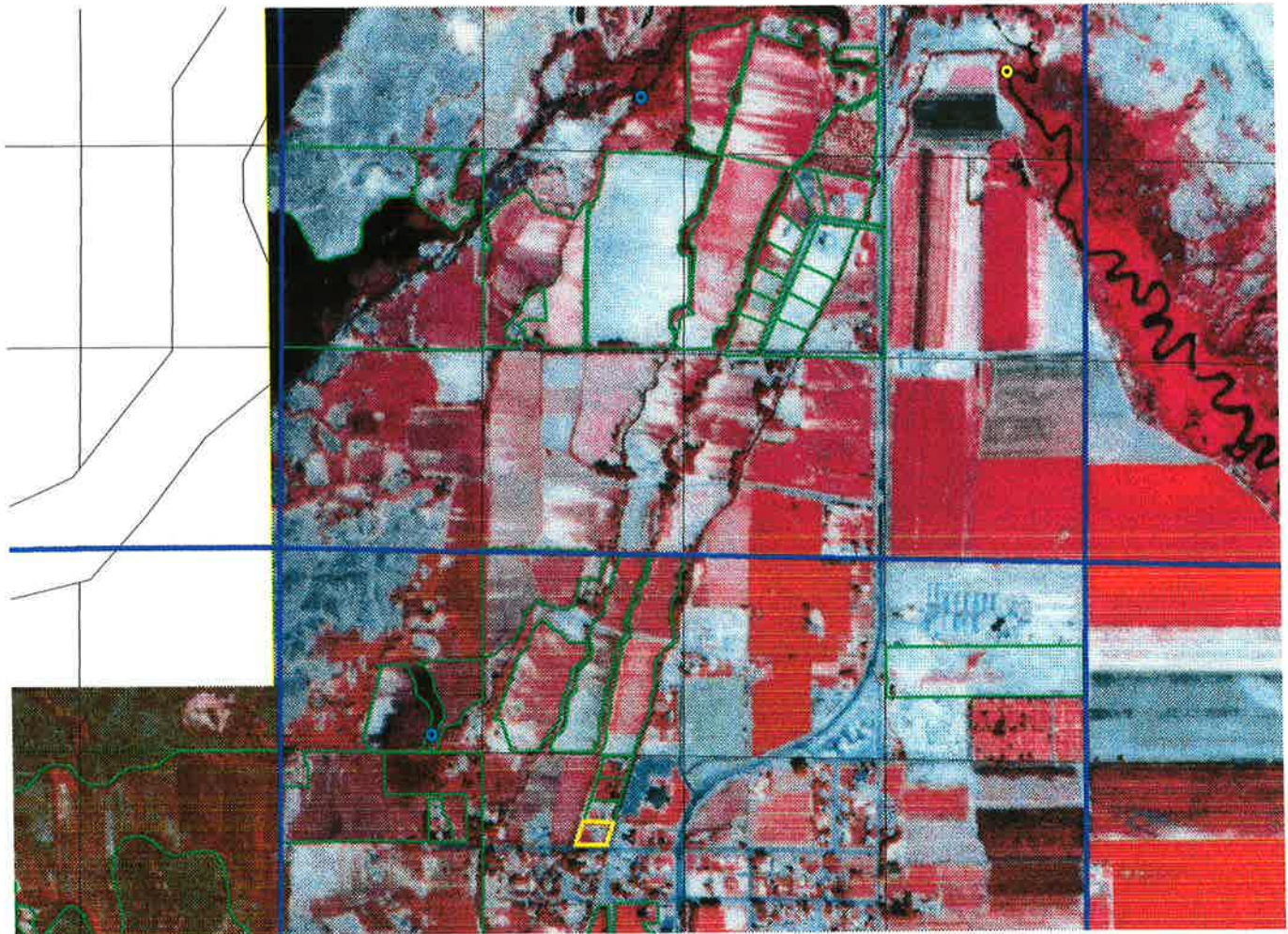
 SECTION LINES

 QUARTER/QUARTER LINES

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

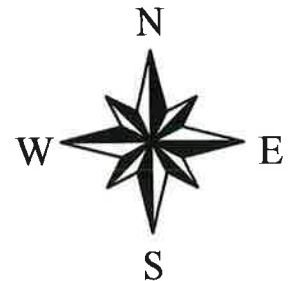
IDAHO DEPARTMENT OF WATER RESOURCES

36-00103F
BASIL & MYRLE ZINK



660 0 660 1320 Feet

TNS 7S, RNG 13E, SEC 14



⊙ RECOMMENDED POINT OF DIVERSION

RECOMMENDED PLACE OF USE

SECTION LINES

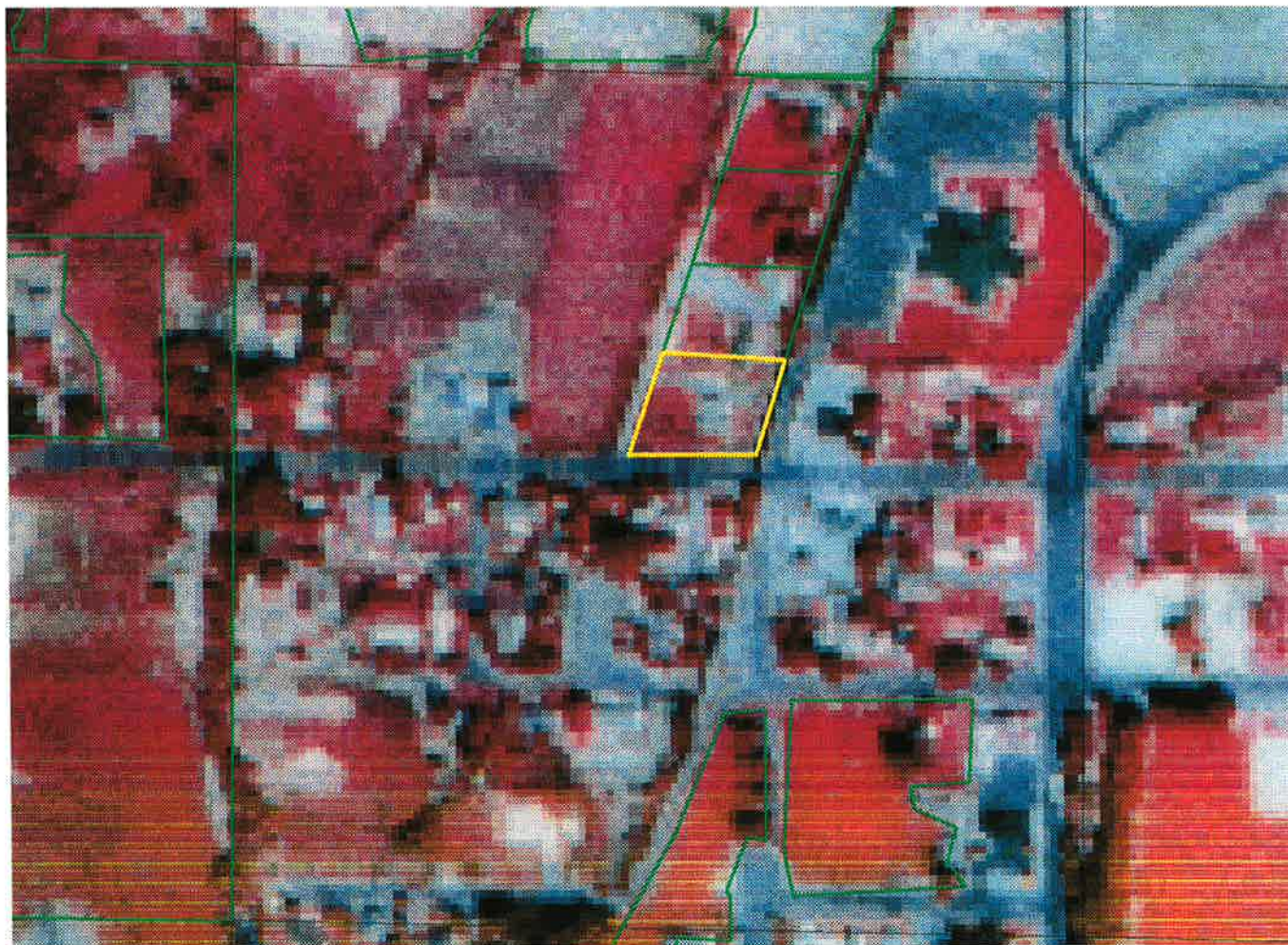
QUARTER/QUARTER LINES

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

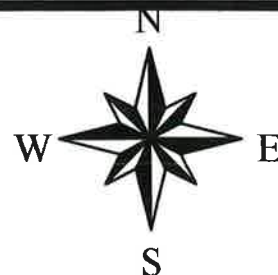
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IDAHO DEPARTMENT OF WATER RESOURCES

36-00103F
BASIL & MYRLE ZINK



TNS 7S, RNG 13E, SEC 14



⊙ RECOMMENDED POINT OF DIVERSION

 RECOMMENDED PLACE OF USE

 SECTION LINES

 QUARTER/QUARTER LINES

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

"DO NOT FILM"

SUBCASE NO. 36-00103F

| | CLAIM (8/15/88) | AMENDED CLAIM | RECOMMENDATION | OBJECTION |
|-------------------------------|--------------------------------|----------------------|---|---|
| NAME | Basil &/or Myrle Zink | N/A | Basil Zink
Myrle Zink | |
| BASIS OF CLAIM | Decree | | Decree | |
| SOURCE | Billingsley Creek | | Billingsley Creek | |
| QUANTITY | 0.020 cfs | | .02 cfs | XX maximum quantity
as decreed &/or
beneficially used |
| PRIORITY DATE | 09/10/1884 | | 09/10/1884 | |
| PURPOSE OF USE | Domestic
Dom./Lawn & Garden | | Domestic
Domestic, 1 house lawn | MSJ
Irrigation/Stockwater/
Wildlife/Recreation/
Aesthetics/Domestic/
Diversion System
Maintenance |
| PERIOD OF USE | 3/15 - 11/15 | | 3/15 - 11/15 | 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 S11 | | T07S R13E S11 | |
| PLACE OF USE | T07S R13E S14 | | T07S R13E S14 | MSJ .69 acres |
| REMARKS | | | Water is delivered
through the Buckeye
Ditch. | MSJ delete |
| | | | | |

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 | |

MICROFILMED

DEC 03 1996

1996 JUL -1 PM 3:17
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

REPORT REGARDING CLAIM TO WATER RIGHT NO. 36-00103F

In Re SRBA
Twin Falls County Civil Case No. 39576
Sub-Case No. 36-00103F

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

COPY

MICROFILMED
DEC 03 1996

REPORT REGARDING CLAIM TO WATER RIGHT NO. 36-00103F

The Director of the Idaho Department of Water Resources (IDWR) submits this report regarding claim to water right no. 36-00103F 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. 36-00103F. 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.

David R. Tuthill Jr., Acting Adjudication Bureau Chief, also reviewed this Report Regarding Claim To Water Right No. 36-00103F. The Affidavit of David R. Tuthill Jr. describes Mr. Tuthill'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. A36-00103F. 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. 36-00103F describes Mr. Clelland's investigation of the place of use of this water right; it is attached hereto and incorporated herein by reference.

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. 36-00103F describes her investigation of the 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. 36-00103F

A. Basis of Claim

This claim, originally numbered A36-00108F, was filed with IDWR by Basil Lester and Myrle Hyde Zink on August 15, 1988.¹ As a result of its investigation of this claim, IDWR recommended the claim as 36-00103F, as further described in section I below. The claim is to a portion of a right decreed to Charles and Iva E. Skinner in the *New International Mortgage* decree, entered in 1932.² The water right decreed to the Skinners is numbered in IDWR's files as water right nos. 36-00103. This right was decreed, along with numerous other rights, for "irrigation, domestic power and other purposes." Portions of right no. 36-00103 were claimed by and recommended to various claimants.

B. Name and Address of Claimant

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

C. Source of Water

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

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

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.

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).

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

The description of the purposes of use of this right in the decree is ambiguous in that it describes the purposes of use for the Skinner 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.⁴ IDWR's investigation confirmed the use of water for domestic purposes, as further described below in the section addressing 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.⁵ Such information is necessary not only to confirm the use but to quantify the amount of water beneficially used for that purpose.

⁴ 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).

⁵ 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.

G. Quantity of Water Used

The quantity claimed in the notice of claim and recommended in the director's report is 0.02 cfs. The objection contests the quantity element, but does not state the quantity claimed. The motion for summary judgment states a quantity of 0.02 cfs, the same as recommended. Any further information as to the basis for IDWR's recommendation of 0.02 cfs therefore appears to be unnecessary.

The director's report includes a further description of non-irrigation uses, which states: DOMESTIC, 1 HOUSE LAWN. The objection did not contest the further description of non-irrigation uses, but it is omitted 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: DOMESTIC, 1 HOUSE LAWN. The basis for this rephrasing is also described in IDWR's Report Regarding Quantification of Small Domestic and Stockwater Rights.⁶

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

Both the notice of claim and the director's report state a period of use of 3/15 to 11/15 for domestic use. 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" for the irrigation purpose of use asserted in the claimant's motion for summary judgment, and "year around" for the claimed and recommended domestic use as well as other purposes listed in the motion for summary judgment. The *New International Mortgage* decree does not state a period of use for this right.

This right was claimed and recommended for domestic use, which consists of household lawn and garden watering. Recommendation of an irrigation season of use for this right is therefore consistent both with the claim and with the actual use of the right. In addition, limitation of this right to an irrigation season of use is necessary to prevent enlargement and injury to other water rights from an expansion in the season of use. The claimant's lands consist of a portion of the original decreed place of use for right no. 36-00103, which portion was historically used for irrigation. The

⁶ Special Master Haemmerle has issued his recommendation regarding Basin Wide Issue 12; a motion by the United States for reconsideration is pending.

original decreed place of use was later divided into smaller lots, and a home was later built on the portion now owned by the claimant. A year-round season of use for this portion of right no. 36-00103 would therefore constitute an enlargement in use and would result in injury to junior water users. Injury would result to junior water rights outside the irrigation season because they would be subject to a priority to which they were not previously subject.⁷

The irrigation season of use claimed and recommended for this right is 3/15 to 11/15. The recommended season of use is consistent with season of use standards for irrigation developed by IDWR for various climatic regions throughout the state, which are based on a 75% chance of a 24 degree Fahrenheit frost. In addition, the director's report included general provision 12b, which allowed use of water for irrigation outside the season of use stated in the description of the individual right subject to certain conditions. In the Memorandum Decision and Order Re: Basin-Wide Issue 5, the Presiding Judge concluded that general provision 12 is not necessary and would not be decreed. This decision further provided that "all decrees for irrigation in the SRBA shall set the period of use as the "irrigation season." Order, pp. 15-16. The district court denied a subsequent motion for permission to appeal the decision. Pending any further proceedings on the decision, any further statement of the basis for IDWR's recommendation as to the season of use for irrigation appears to be unnecessary.

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

I. Legal Description of the Place of Use

The legal description under item 8 in the claimant's motion for summary judgment is the same as the legal description of the place of use for domestic recommended in the director's report. As part of its investigation of the claim, IDWR discovered that there was an error in the legal description of the place of use for domestic. The correct legal description coincided with the decreed place of use for

⁷ IDWR relies upon the following in reaching this conclusion: Idaho Code §42-222 (prohibiting injury *or* enlargement) and §42-1425 (permitting accomplished transfers to be claimed in the adjudication where there is no injury *or* enlargement). *See also* Idaho Code §42-1426 (allowing enlargements in violation of the mandatory permit statute to be claimed in the SRBA with a priority as of the date of the enlargement).

water right no. 36-00103. Therefore, although the claim was originally filed as claim no. 36-00108F, IDWR recommended the claim as 36-00103F.

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.

As noted in subsection F above, the only purpose of use claimed for this right is domestic. This claim was filed as a small domestic claim for which a \$25.00 filing fee was required and was paid by the claimant. The filing fee for other claims is a flat \$50.00 fee, plus a variable of \$1.00 per acre for any claimed irrigation use, plus a per cfs variable fee for other claimed purposes of use.⁸ A small domestic right includes irrigation of up to ½ one-half acre of lawn and garden.⁹ Although irrigation was not claimed, the claimant's motion for summary judgment seeks a right for irrigation of 0.69 acres. A claim to water for irrigation of an area greater than ½ acre must be filed as an irrigation claim, and is subject to the greater filing fees described above. The size of the lot described in the deed attached to the claimant's motion for summary judgment is approximately 0.69 acres. However, once unirrigated areas such as the house, roadway, and ditch are accounted for, the irrigated area is less than ½ acre. The examination of the place of use for this claim is described in the Affidavit of Steven C. Clelland Regarding Claim No. 36-00103F and the Affidavit of Helen L. Harrington-Thornton Regarding Claim No. 36-00103F.

J. Annual Volume of Consumptive Use

The notice of claim states an annual volume of consumptive use of 3 AFY. 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 3.105 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 2.59 AFY.

⁸ The filing fee schedule is set forth at Idaho Code §42-1414.

⁹ Domestic use, for purposes of the adjudication statute, is defined at Idaho Code §42-111.

The director's report recommended the annual volume of consumptive use as "de minimis" in General Provision 9. 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 9. In 1996, the legislation was adopted amending the adjudication statute, which provides that annual volume of consumptive use need not be determined for rights other than irrigation unless reported in the director's report. IDWR continues to recommend that this right be decreed as a domestic right; IDWR therefore recommends that determination of the annual volume of consumptive use for this right is not necessary.

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

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

WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.

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 pursuant to the 1994 amendments to the adjudication statute.¹⁰ The remark identifying the common name of the ditch through which the water right is delivered is explanatory material.

¹⁰ See Idaho Code §42-1411 (which addresses the form and content of director's reports).

REPORT REGARDING CLAIM TO WATER RIGHT NO. 36-00103F

State of Idaho)
) ss.
County of Ada)

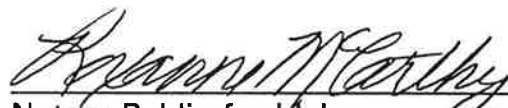
David B. Shaw, being first duly sworn, upon oath, deposes and says:

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: 5-16-2007

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 delivering 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.

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. 36-00103F |
| |) | |
| Case No. 39576 |) | AFFIDAVIT OF STEVE CLELLAND |
| |) | REGARDING CLAIM NO. 36-00103F |
| |) | |
| 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 claim no. 36-00103F. The pertinent details of that investigation are as follows:

A. On July 26, 1990, IDWR water agent Helen Thornton and I conducted a field examination to verify certain aspects of claim no. 36-00103F.

B. I observed that the claimants used water pursuant to claim no. 36-00103F solely for the purpose of watering their lawn and garden.

C. I observed that within the claimed place of use there were present the following: a house, a portion of a roadway, and a portion of a ditch.

D. I observed that according to the plat map, the size of the lot claimed as the place of use was .69 acres in size. I concluded from my observations of the plat map and the claimed place of use during the field exam that the actual place of use pursuant to claim no. 36-00103F was less than .50 acres in size. I based this conclusion on an estimate of the watered lawn and garden areas arrived at by subtracting the size of an area comprising the house, roadway and ditch from the size of the lot.

DATED this 1st day of July, 1996.

Steve Clelland
STEVE CLELLAND

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

Dorrie M. Smith
Notary Public for the State of Idaho

Residing at: BRISE

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
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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. 36-00103F |
| |) | |
| Case No. 39576 |) | AFFIDAVIT OF HELEN THORNTON |
| |) | REGARDING CLAIM NO. 36-00103F |
| |) | |

| | |
|----------------|-------|
| 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 claim no. 36-00103F. The pertinent details of that investigation are as follows:

A. On July 26, 1990, IDWR water agent Steve Clelland and I conducted a field examination to verify certain aspects of claim no. 36-00103F.

B. I observed that the claimants used water pursuant to claim no. 36-00103F solely for the purpose of watering their lawn and garden.

C. I observed that within the claimed place of use there were present the following: a house, a portion of a roadway, and a portion of a ditch.

DATED this 1st day of July, 1996.

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

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

Ronnie McCarthy
Notary Public for the State of Idaho
Residing at: Base 36
My commission expires: 5-16-2002

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. A36-00108F

AKA 36-00103F

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

IDWR Employee/Agent Steve Clelland

2ND ITEM:

May 30, 1996 4:49pm

NAME:

KAYLYNNE @ HEPWORTH'S

RE:

ZINK

A36-00108F = 36-00103F

ZINK: SHE THEN ASKED ABOUT THE CLAIM BY ZINK, FILED AS A36-00108F AND RECOMMENDED AS 36-00103F. WHY DID THE RECOMMENDATION LIST DOMESTIC WHEN IT IS USED FOR IRRIGATION? UPON CHECKING THE RECORDS IT SHOWS IT WAS CLAIMED THAT WAY BY THE CLAIMANTS. I TOLD HER IF THE LOT IS 0.69 ACRES, AS SHE STATED, THEN I WAS SURE, FROM MY EXAM OF THE SITE, THAT NO MORE THAN 1/2 ACRE IS BEING IRRIGATED AND THEY HAVE NO POSSIBILITY TO EXPAND. REMINDED HER THAT THE CLAIMANT CAN CLAIM WHAT EVER USE THEY WISH.

MICROFILMED
DEC 03 1996

R PROOF

CVR

MAPS

PHOTOS

MISC

MICROFILMED
OCT 12 1994

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

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

Case No. 36-00103F -0001

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

RESPONSE TO OBJECTION

Petitioner,

vs.

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

Respondents.

I. GENERAL INFORMATION

1. Person responding to objection:

Name: R. KEITH HIGGINSON, DIRECTOR

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

Briefly describe your interest in this water right:

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

(Over)

MICROFILMED
OCT 12 1994

2. Person who filed objection:

Name: BASIL L & MYRLE H ZINK
Address: PO BOX 455
HAGERMAN ID 83332

3. If this response is filed by an attorney:

Attorney Name(s): NICHOLAS B. SPENCER

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

Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

3. ☒ Quantity: I respond to the objection concerning:
- 3a. ☒ The total quantity of water used in cubic feet per second.
8. ☒ Period of Year: I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.
10. ☒ Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.
14. ☒ Other: I respond to the objection concerning:

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

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection items 3 and 3.a, and all allegations of the objection regarding those items, IDWR responds as follows: (1) it recommended the amount of water it determined was being beneficially used; (2) the claimant is not entitled to any amount greater than that which is beneficially used (Idaho Code Secs. 42-104 and 42-1402); (3) the recommendation of the director to the SRBA Court as to how the right should be decreed does not constitute a taking because it is simply a recommendation and not a final determination of the right; and (4) the eventual decree by the SRBA Court of the amount of water beneficially used, even if less than the amount previously decreed, will not constitute a taking because the right is limited to that amount beneficially used. In further response to this objection item, IDWR responds that it recommended this element of the water right as claimed. If the claimant now seeks to change the quantity of water claimed, the claimant improperly seeks to use the objection process to amend the claim. A claimant must obtain leave of the court to amend a claim after a director's report is filed, just as a party must obtain leave of the court to file a late claim after the director's report is filed. Once leave of the court is granted, IDWR can investigate the amended claim and make an appropriate recommendation to the court.

In response to Statement of the Objection item 8, and all allegations of the objection regarding that item, IDWR responds as follows: IDWR recommended this element of the water right as claimed. By now seeking a year-round season of use, the claimant improperly seeks to use the objection process to amend the notice of claim. A claimant must obtain leave of the court to amend a claim after the director's report is filed, just as a party must obtain leave of court to file a late claim after the director's report is filed. Once leave to amend is granted, IDWR can investigate the amended claim and make an appropriate recommendation to the court. The recommendation of the director to the SRBA Court does not constitute a taking because it is simply a recommendation and not a final determination of the right; and the eventual decree by the SRBA Court will not constitute a taking because the right is limited to the period of year in which water is beneficially used.

In response to Statement of the Objection item 10 and all allegations of the objection regarding this item, IDWR responds as follows: (1) The decree asserted by the claimant did not set

(Over)

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) General provision 9 of the director's report states: "Where consumptive use is not stated for a right or a portion of a right, the consumptive use for that right or that portion of the right is so small that it is deemed de minimus." (4) IDWR did not include a consumptive use volume in its recommendation for this right because the consumptive use for this water right is deemed to be de minimus. (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

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

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

No. of
Pages

Notice of Claim No. A36-00103F

4

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

4

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(Over)

RESPONSE TO OBJECTION NO. 36-00103F -0001 - PAGE 5

MICROFILMED
OCT 12 1994

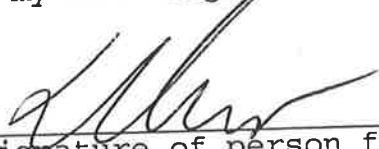
VERIFICATION (Must be Completed)

State of IDAHO

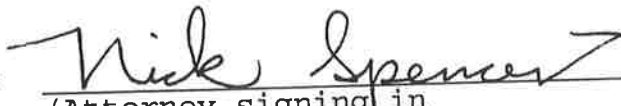
County of ADA

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

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



Signature of person filing response

By: 

(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 10th day of September,
1993.



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

Danni Smith
Residing **Boise Idaho**
My Commission Expires **December 5, 1994**

CERTIFICATE OF MAILING

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

1. Original to:

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

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

See No. 3

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

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

4. One copy to:

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



Signature of Respondent or attorney
mailing on Respondent's behalf

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: ~~A36-00108F~~ *A36-00103F*
Date Received: 8/15/1988
Receipt No: S001440
Received By: CW

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: BASIL LESTER ZINK 208-837-6384
Address: P.O. BOX 455
HAGERMAN, ID 83332

AND/OR
Name: MYRLE HYDE ZINK 208-837-6384
Address: P.O. BOX 455
HAGERMAN, ID 83332

2. Date of Priority: SEP 10, 1884

3. Source: BILLINGSLEY CREEK Trib. to: SNAKE RIVER

4. Point of Diversion:

| Township | Range | Section | 1/4 of | 1/4 of | 1/4 | Lot | County |
|----------|-------|---------|--------|--------|-----|-----|---------|
| 07S | 13E | 11 | NE | SE | NE | | GOODING |

5. Description of diverting works:
VIA BUCKEYE DITCH

6. Water is used for the following purposes:

| Purpose | From | To | C.F.S. | (or) | A.F.A. |
|----------|-------|-------|--------|------|--------|
| DOMESTIC | 03/15 | 11/15 | 0.020 | | |

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

8. Total consumptive use is 3.0 Acre Feet Per Annum.

9. Non-irrigation uses:
D/LAWN & GARDEN

10. Place of Use:

| Township | Range | Section | 1/4 of | 1/4 | Lot | Use | Acres |
|----------|-------|---------|--------|-----|-----|--------|-------|
| 07S | 13E | 14 | NE | SW | | DOMEST | |

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
SEE REMARKS

14. Remarks:
SPLIT PORTION OF 36-00108 DECREE.

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

Decree Plaintiff

vs

Decree Defendant

MICROFILMED

JAN 25 1991

OCT 12 1994

16. Signature(s)

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

Number of attachments: 1

For Individuals:

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

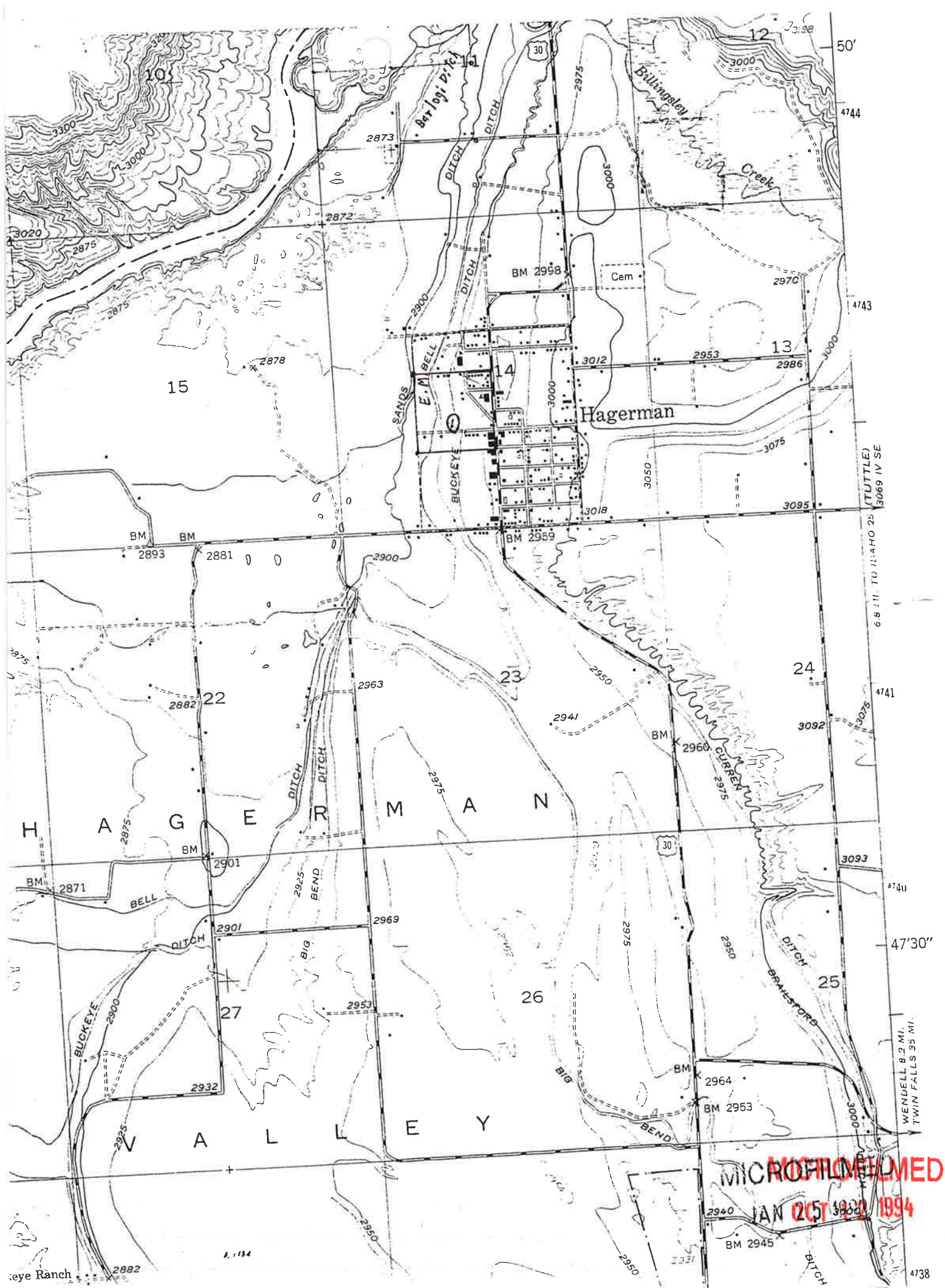
Signature of Claimant(s): Myrtle H. Zink Date: 8-15-88
_____ Date: _____

State of Idaho)
County of TF) SS.

Subscribed and sworn (or affirmed) before me this 15th day
of August 19 88 Lori White
Notary Public

Seal

Residing at TF
My Commission Expires 5/95



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

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

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

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

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

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

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

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

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

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

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

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



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

13-Jan-1993

BASIL & MYRLE ZINK
PO BOX 455
HAGERMAN ID 83332

S015281
pd ck# 3314
1-15-93
RF

RE: Copy of SRBA File(s): 36-00103F

Dear Mr. and Mrs. Zink:

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:

\$3.56

Sincerely,


Jeanie Robertson
Records Clerk

Encl:

RECEIVED

JAN 15 1993

Department of Water Resources
Southern Region Office

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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

13-Jan-1993

BASIL & MYRLE ZINK
PO BOX 455
HAGERMAN ID 83332

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

\$3.56

Sincerely,


Jeanie Robertson
Records Clerk

Encl:

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OCT 12 1994

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JAN 12 1993

Jan. 11, 1993
(Date)

Department of Water Resources
Southern Region Office

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

Dear Idaho Department of Water Resources:

Please provide me with a copy of all information included in
my file as it relates to water right number 36-00103F.

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,

Baril Linn, Myrtle Linn
(Name)

P.O. Box 455
(Address)

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

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

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OCT 12 1994

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APR 30 1993

Department of Water Resources
Adjudication Bureau

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

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

Case No. A36-00103F
(You must insert the
water right number you
are objecting to)

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

OBJECTION

Petitioner,

vs.

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

Respondents.

36-00103F -0001/
93-04-0097

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)

MICROFILMED

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: Basil Lester Zink & Myrle Hyde Zink

Address: P.O. Box 455

Hagerman, ID 83332

Briefly describe your interest in this water right:

Decreed water right pursuant to New

International Mortgage Bank v. Idaho Power

Company with a priority date of 9/10/1884

2. Owner of the water right:

Name: Basil Lester Zink & Myrle Hyde Zink

Address: P.O. Box 455

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.

Maximum quantity as decreed and/or beneficially used; Period
of Use- 1/1 through 12/31;

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

Basil Lester Zink & Myrle Hyde Zink 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.

Myrle Hyde Zink

Basil Lester Zink

Signature of person filing objection

By: [Signature]

(Attorney signing in
representative capacity)

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



Gloria M. Jazwick
Notary Public for Idaho
Residing at: HAGERMAN, IDAHO
My Commission Expires: 7-2-93

(Over)

MICROFILMED

OCT 12 1994

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: Basil Lester Zink & Myrle Hyde Zink

Owner's address: P.O. Box 455

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.

MICROFILMED
OCT 12 1994

(WATER\21530ANS)

R PROOF

CVR

MAPS

PHOTOS

MISC



MICROFILMED
JAN 9 1981

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT
(REGIONAL)VERIFIED BY WJT 08/17/92 13:19:02
VERIFIED BY WJT Page 1

Water Right Number - R36-00103F

Prefix Translation: RESEARCH

Old (D) Number -

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

+ - First Name - - +

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

*** C - CURRENT OWNER ***

ZINK

BASIL LESTER

1 - PO BOX 455

2 -

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-837-6384

ZINK

MYRLE HYDE

1 - PO BOX 455

2 -

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-837-6384

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

+ - - - Status - - - - +

+ - - - - Source - - - - +
BILLINGSLEY CREEK+ - - - - Tributary - - - - - +
SNAKE RIVER+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County

07S 13E 11 SE SE NE (47) GOODING

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

43 - DOMESTIC 04/01 10/31 0.020

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.020 0.0+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County

07S 13E 14 SE NW 43 DOMESTIC (47) GOODING

Total Acres:

+ - - Diversion Means - VIA BUCKEYE DITCH

+ - - Non-Irrigation Use - DOMESTIC, 1 HOUSE LAWN

+ - - Other Rights for Same Use - NONE

+ - - - - Remarks - - - - - +
WATER IS DELIVERED THROUGH THE BUCKEYE DITCH.

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT
(REGIONAL)

Water right number - R36-00103F

Prefix Translation: RESEARCH

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

+ - - - - Old Water Right Numbers - - - - - +
3600103

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

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

+ - - - - -Comments- - - - - +
Date: 08/06/1992 User Id: WORSTELL Subject: COPIED FROM REMARKS
PARCEL NO. RP07S13E142924

+ - - Audit Fields - - +
08/17/92 THORNTON

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

| | | | | | |
|----------------------|--------------|-----------------------|--------------|-------------------------|---------|
| Court Report Filing | - 00/00/0000 | Field Inspection Made | - 07/26/1990 | Civil Case Number | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | - | Old Case Number | - |
| Response Filed Date | - 00/00/0000 | Verified Date | - 08/17/1992 | Old Judicial District | - |
| Claim Received Date | - 08/15/1988 | Last Amended Date | - 00/00/0000 | Temporary Right | - P |
| | | Receipt Number | - S001440 | Water District | - 36A |
| | | POU Ownership Flag | - Y | Federal/State Indicator | - S |
| | | Name Connector | - AND/OR | Presumption Flag | - |
| | | | | Notice of Error Flag | - |

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

00:00:13
08/24/90

A36-00103F

PAGE: 11
QUICKLOOK INFORMATION

CLAIM NUMBER: ~~A36-00108F~~

| 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 | | | 7-26-90 | N | | HAT
8/5/92 | DB | |
| POINT OF DIV | | | | Y | 1,5 | | | |
| SOURCE | | | | N | | | | |
| PLACE OF USE | | | | Y | 1,2,5 | | | |
| DIV. AMOUNT
CFS/VOLUME | | | | N | | | | |
| CONSUMPTIVE USE | | | | Y | | | | |
| PURPOSES | | | | N | | | | |
| PERIOD OF USE | | | | N | | | | |
| BASIS OF CLAIM | | | | N | Renumber | 3-5-1991 | | |
| REMARKS | Y | | | N | | | | |

"VERIFIED BY" CODES

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

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

RENUMBER RT TO A36-00103F

RECEIVED
JAN 2 1991

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

00:00:13
08/24/90

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-00108F

LAST: ZINK
ADDRESS: P.O. BOX 455
CITY: HAGERMAN
PHONE NUMBER: 208-837-6384

FIRST: BASIL LESTER
STATE: ID ZIP: 83332

OWNER CODE: C

LAST: ZINK
ADDRESS: P.O. BOX 455
CITY: HAGERMAN
PHONE NUMBER: 208-837-6384

FIRST: MYRLE HYDE
STATE: ID ZIP: 83332

OWNER CODE: C

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

DATABASE
Y

FIELD
EXAMINER

CLAIM REMARKS: SPLIT PORTION OF 36-00108 DECREE.



MICROFILMED
JAN 25 1993

CONTACT PERSON: _____

PHONE NUMBER: (____) ____ - ____

DATE OF FIELD EXAM: 7/26/90

APPOINTMENT MADE: Y(____) N(____)

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

ACCOMPANIED BY: _____

PHONE NUMBER: (____) ____ - ____

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / REMARKS: _____

CONVERSATION MEMORANDUM

NAME OF PARTY Mrs. Zink
EMPLOYEE: SCC/HTT

DATE 7-26-90
FILE A36-00108F

RE: Legal Description of Place of Use

On this day during field investigation, we met with Mrs. Zink and noted that the above referenced claim does not correctly identify the place of use

The correct place of use, confirm by field visit, shall be identified as SE¹ NW⁴, Sec. 14, T7S, R13E.

glt/HT

MICROFILMED
JAN 25 1993

MICROFILMED
JAN 25 1993

A. AJ CLAIM: # A36-00108F PRIORITY DATE: 09-10-1884 STAGE: D

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

REMARKS:

MICROFILMED
JAN 25 1993

=====

RECOMMENDED PRIORITY DATE:

9-10-1884

REVIEWED BY

SC

DATE

12-17-90

=====

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

| RIGHT | TWP. | RGE. | SEC. | 1/4 | 1/4 | 1/4 | LOT | CNTY |
|------------|------|------|------|-----|-----|-----|-----|---------|
| A36-00108F | 07S | 13E | 11 | NE | SE | NE | | GOODING |

OTHER AJ CLAIMS WITH SAME AJ POD

A PREFIX R PREFIX
A36-00051D NONE

WR RECORDS IN SAME 40 ACRE TRACT

| | |
|------------|-----------|
| A36-00051D | 36-00003 |
| A36-10119 | 36-00005 |
| A36-10120 | 36-00019 |
| A36-10751 | 36-00021 |
| A36-10752 | 36-00024 |
| A36-10755 | 36-00025 |
| A36-10061 | 36-00026 |
| A36-00103B | 36-00027 |
| A36-00108A | 36-00034 |
| A36-00003G | 36-00035A |
| A36-00027 | 36-00035B |
| A36-00039C | 36-00039A |
| A36-00090E | 36-00039B |
| A36-00051B | 36-00040 |
| A36-00076A | 36-00051 |
| A36-00089B | 36-00052 |
| A36-00089D | 36-00064 |
| A36-10283 | 36-00065 |
| A36-10312 | 36-00067 |
| A36-00090A | 36-00071 |
| A36-00003D | 36-00076 |
| A36-00090B | 36-00077 |
| A36-00090C | 36-00082 |
| A36-00090D | 36-00083 |
| A36-00090F | 36-00085 |
| A36-00125A | 36-00087 |
| A36-00026 | 36-00088 |
| A36-00051C | 36-00089 |
| A36-00071A | 36-00090 |
| A36-00089A | 36-00091 |
| A36-00108C | 36-00094 |
| A36-00108D | 36-00095 |
| A36-00108E | 36-00096 |
| A36-00108H | 36-00103 |
| A36-04008 | 36-00112A |
| | 36-00112B |
| | 36-00113B |
| | 36-00113C |
| | 36-00113D |
| | 36-00125 |
| | 36-04008 |
| | 36-04115 |
| | 36-04261 |
| | 36-07271 |
| | 36-07658 |
| | 36-07739 |

MICROFILMED

JAN 25 1993

36-07834
36-07840
36-07853
36-07875
36-07957
36-08058
36-08319
36-08335

SOURCE: BILLINGSLEY CREEK

TRIB: SNAKE RIVER

REMARKS:

MICROFILMED

JAN 25 1993

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

| TWP. | RGE. | SEC. | 1/4 | 1/4 | 1/4 | LOT | COUNTY |
|------|------|------|---------------|-----|-----|-----|---------|
| 07S | 13E | 11 | ~~NE~~ | SE | NE | | GOODING |

SE

SOURCE: BILLINGSLEY CREEK

TRIB: SNAKE RIVER

REVIEWED BY: SCC DATE: 12-17-90

VIA Buckeye Ditch

A. ROOT WATER RIGHT NUMBERS: A36-00108A
A36-00108B
A36-00108C
A36-00108D
A36-00108E
A36-00108F
A36-00108G
A36-00108H

MICROFILMED
JAN 25 1993

B. POU LISTING

CHANGE TRACT TO: SE NW

| WP | RNG | SEC | 1/4 | 1/4 | LOT | NAME | AJ
#/ACRES | WR
#/ACRES | LANDSAT
DATA | FIELD
EXAM. | RECOMM.
ACRES |
|-------------|-----|-----|-----|-----|-----|--------------------|---------------|---------------|-----------------|----------------|------------------|
| 07S | 13E | 14 | NE | SW | | ZINK, BASIL LESTER | A36-00108F / | - | / | | |
| TOTAL ACRES | | | | | | A36-00108F | | | | | |

PRESUMPTION FLAG:

REMARKS:

Domestic Use For LAWN & GARDEN IRRIGATION
Limit to 1/2 Acre

RECOMMENDATIONS:

TOTAL ACRES: 8

REVIEWED BY: SC

DATE: 12-17-90

A. AJ CLAIMED USES:

| PURPOSES | MONTH/DAY | DIVERSION QUANTITY |
|-------------------------------------|---------------------|--------------------|
| A36-00108F DOMESTIC | FROM 03-15 TO 11-15 | .020 CFS |
| TOTAL DIVERSION RATE/VOLUME CLAIMED | | .020 CFS |

PRESUMPTION FLAG:

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

Y(☒) N(☐)

RECOMMEND TO WR STANDARDS OR OTHER?

Y(☐) N(☒) Explain in remarks, below.

REMARKS:

MICROFILMED
JAN 25 1993

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y() N(~~X~~)

AJ TOTAL CLAIMED DIVERSION RATE: 0.020 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 5.400 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

3. FLOW MEASUREMENT
MEASUREMENT METHOD _____, SEE ATTACHED CALCULATIONS.

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

OTHER RIGHTS LISTED IN CLAIM: ~~SEE REMARKS~~ NONE

NO RIGHTS WITH SAME POU BUT NOT USED FOR IRRIGATION

CHANGE CLAIM

MICROFILMED

JAN 25 1993

RECOMMENDATIONS:

| REC.
PURPOSES | REC. PERIOD
FROM TO | REC. DIV
RATE CFS | REC. DIV
VOL. AF/A | REC. CONS.
USE |
|----------------------|------------------------|----------------------------|-------------------------------------|-------------------------------------|
| DOMESTIC | 03-15 11-15 | DATABASE EXAMINER
0.020 | DATABASE EXAMINER
~~3.0~~ | DATABASE EXAMINER
~~3.0~~ |
| TOTAL FOR THIS RIGHT | | 0.020 | | ~~3.0~~ |

REVIEWED BY: SC DATE: 12-17-90

MICROFILMED
JAN 25 1993

A. CHECK ONLY THE FOLLOWING THAT APPLY:

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

Possible discrepancy?

OWNERSHIP _____
FORFEIT/ABANDON _____
ADDITIONAL DIV. AMOUNT _____

AUTHENTICATION:

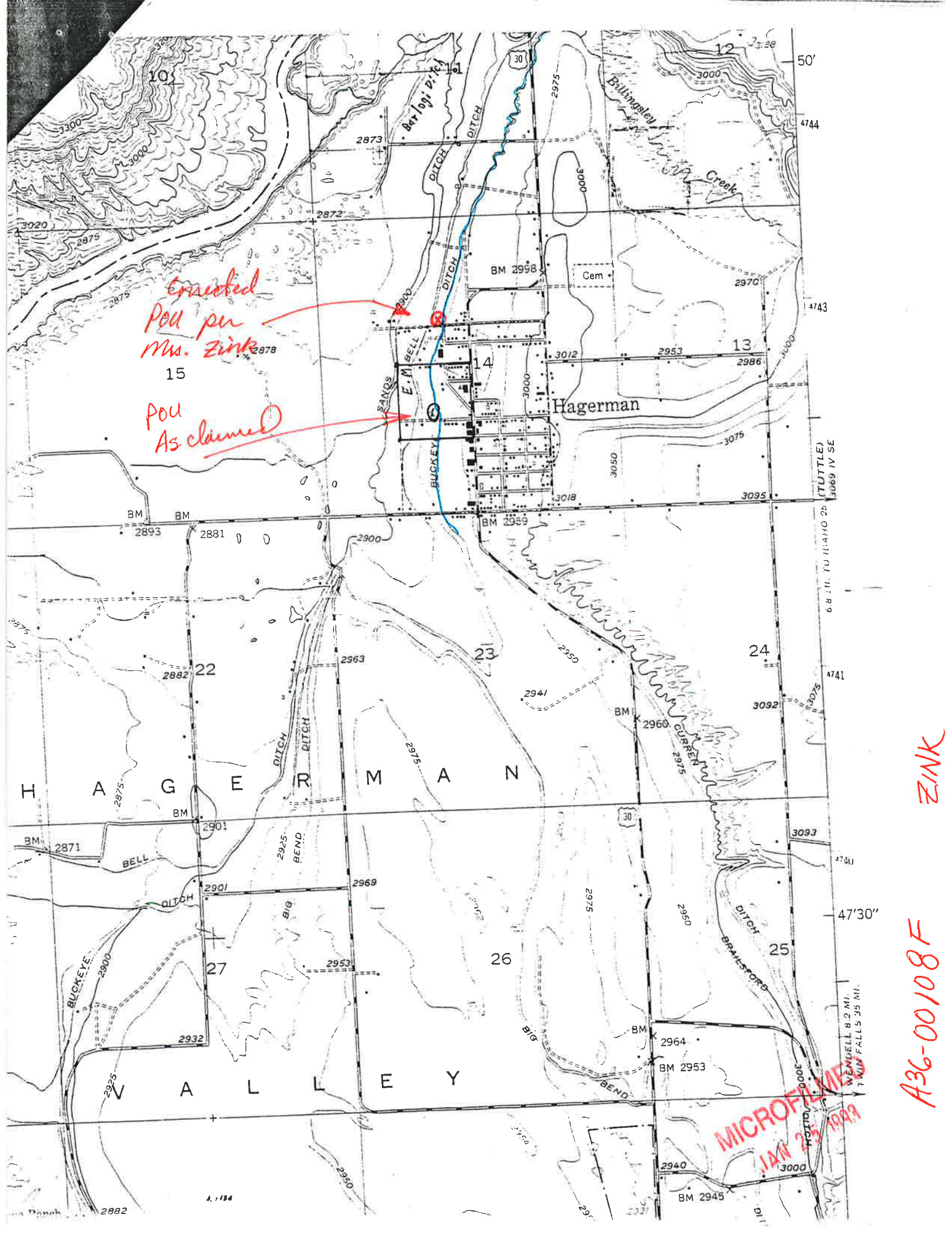
SIGNATURE: *Steve Celli*

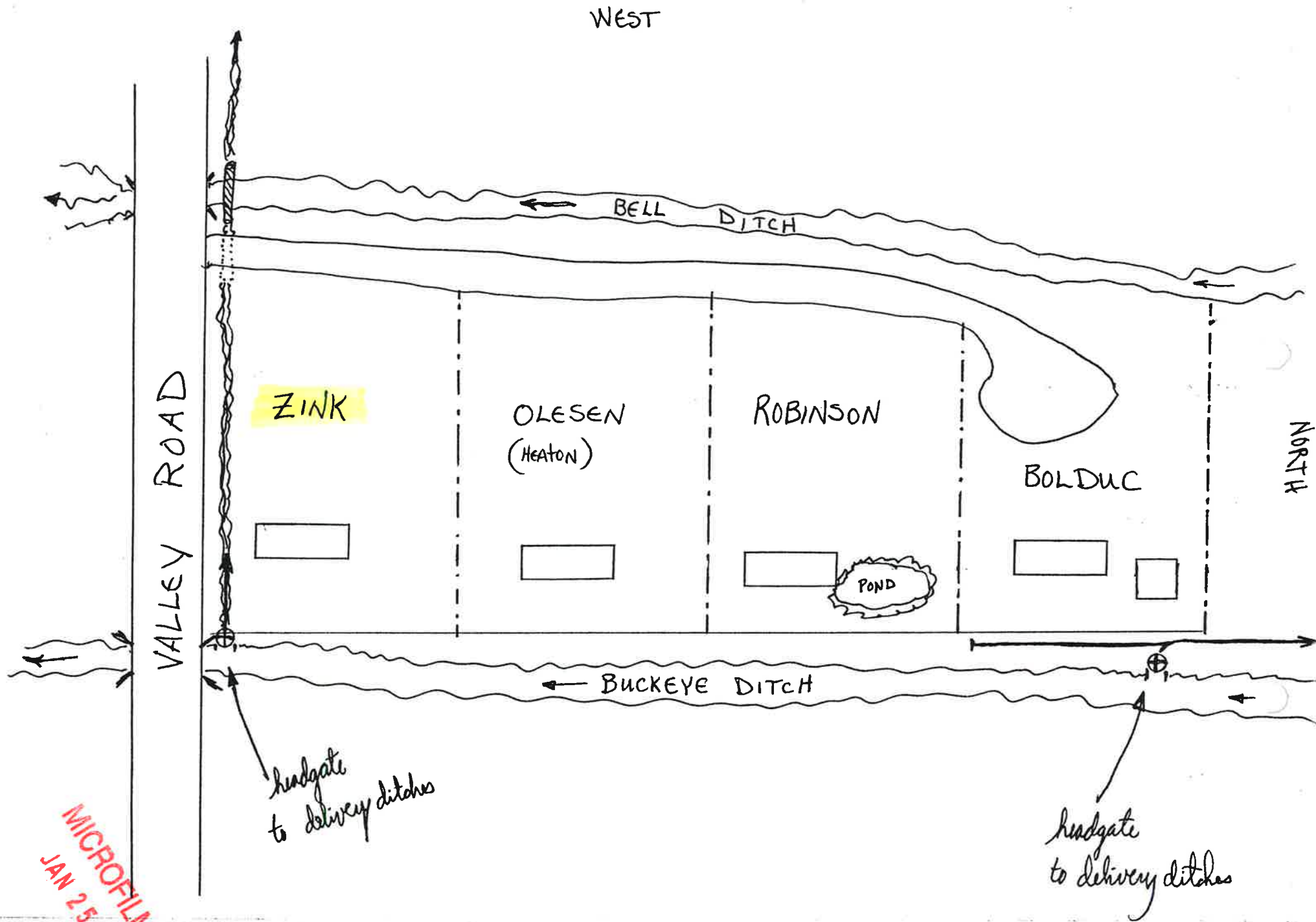
DATE: 12-17-90

NAME OF FIELD EXAMINER: _____ TITLE: _____

MICROFILMED
JAN 25 1993

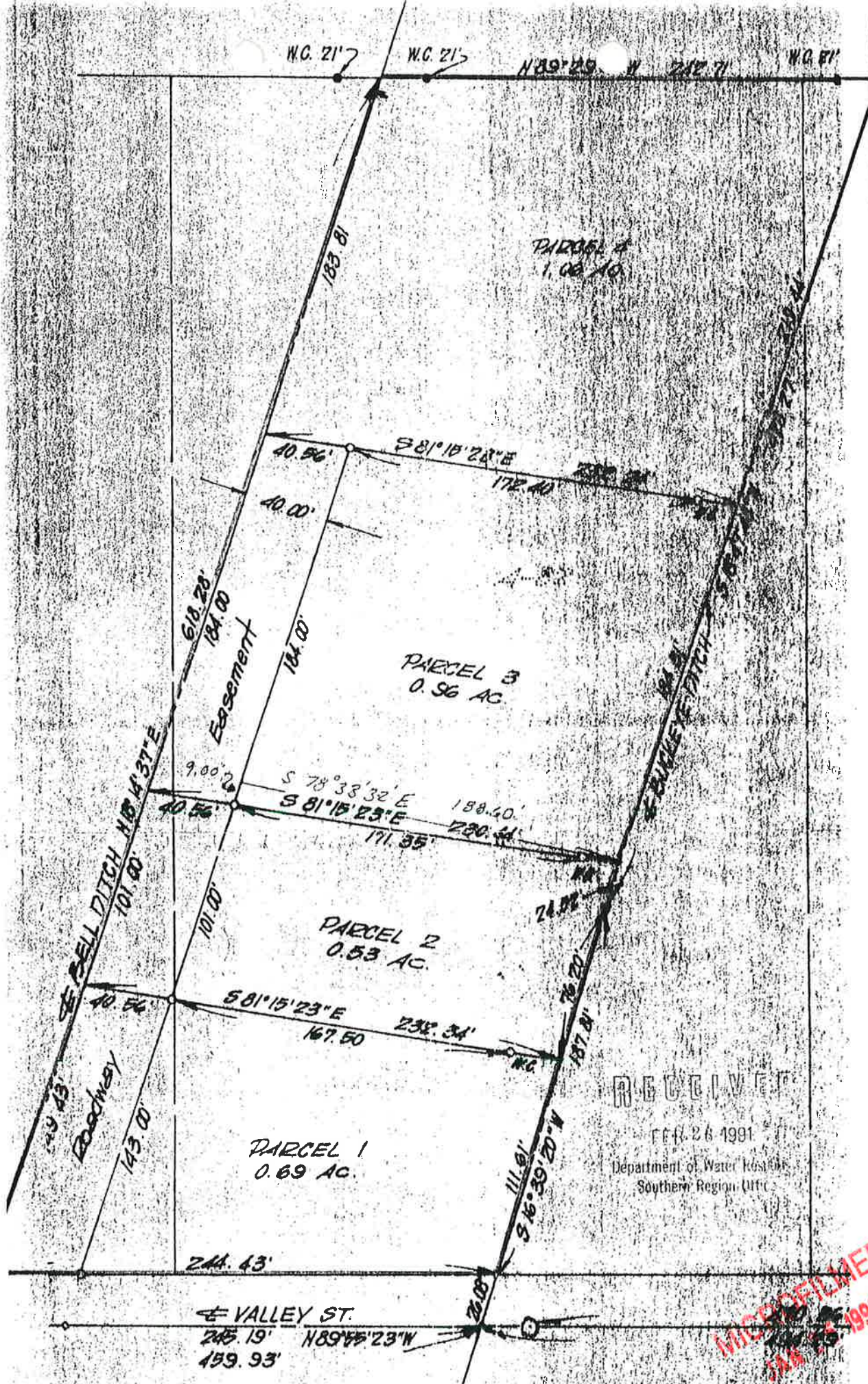
*Zink Pou now in use
was not listed in Demand
water Right.*





MICROFILMED
JAN 25 1993

A36-00108 F



✦ LINCOLN ✦ CO. ✦ IDAHO ✦

Scale 1" = 20'

Owens & Kipp
Eggs

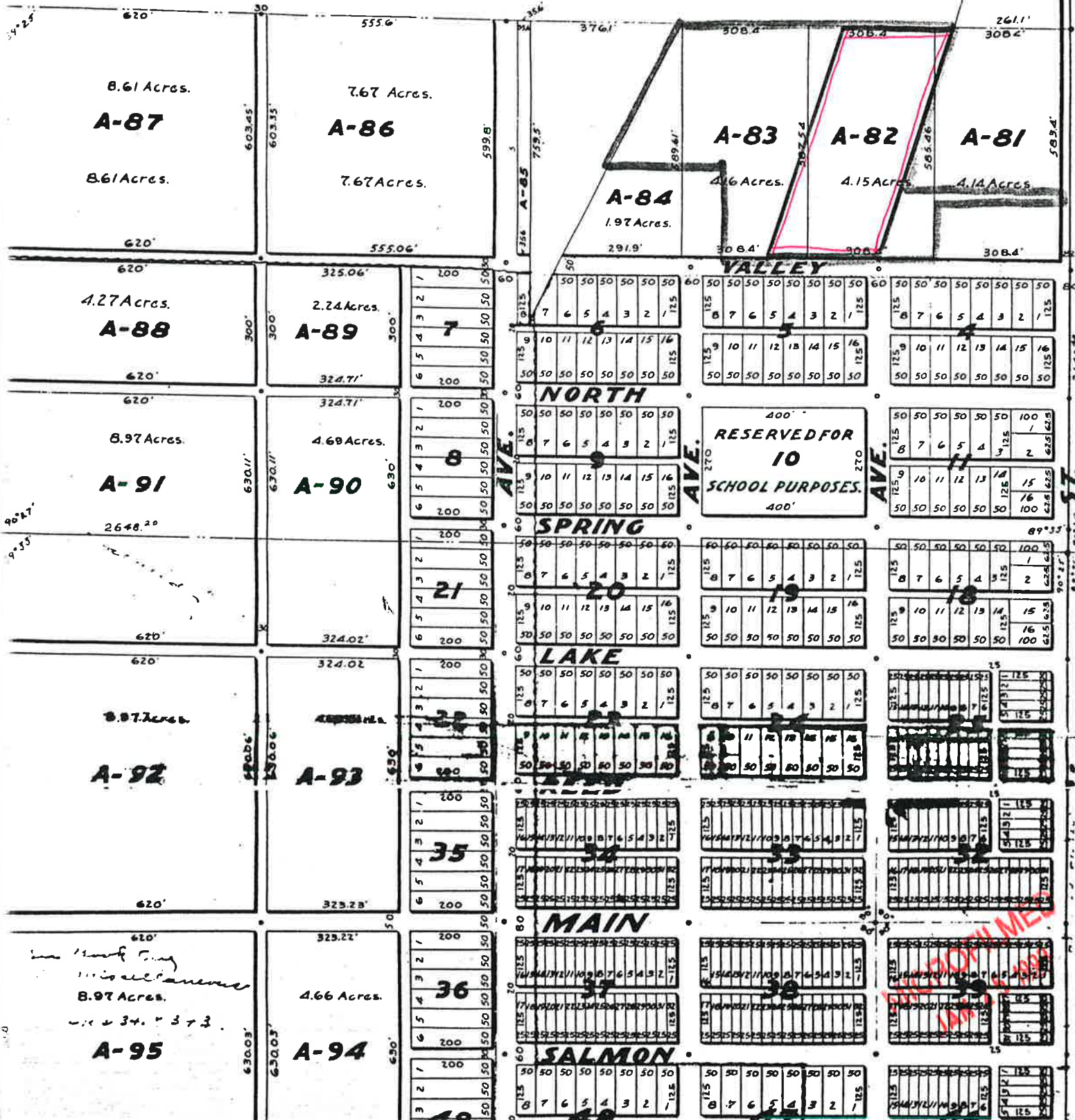
Lot corners are marked by stakes 2"x2" 12" driven into ground, and block
are marked by stakes 3"x3" 15" long driven 12" into ground. Stone monuments
at intersection of street centers as shown on plat contain at least 500 cu.in.
and are at least 6" below surface of ground.

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FEB 26 1991

Department of Water Resources
Southern Region Office

A-74



6-102

Seven H. L. 4.8
Sheep
Company

Spring

April 1, 1892

Martin Curran Tunnel and
Curran Ditch

(Said Martin Curran Tunnel is located at the head of Billingsley Creek.)

The SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, SE $\frac{1}{4}$ of the NW $\frac{1}{4}$, W $\frac{1}{2}$ of the SE $\frac{1}{4}$, E $\frac{1}{2}$ of the SW $\frac{1}{4}$ all in Sec. 31,
Twp. 7 S. R. 14 E. B. M.

103

Skinner,
Charles
and Iva
E. Skinner

1 Billingsley Creek Sept. 10, 1884 Buckeye Ditch;

Outlots A82, A83, and A84 of Hagerman Townsite, according to the Plat thereof on
file in the office of the Recorder of Gooding County, Idaho.

104

Stroud
Florence

4 Len Lewis Spring Sept. 1, 1889 Brailsford-Owens Ditch;

105

Owens

1 Spring March 8, 1902 Weatherby Springs;

SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ and W $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Sec. 25, Twp. 7 S. R. 13 E. B. M. less a 12
foot in width right of way on the north side of the SW $\frac{1}{4}$ of said Sec. 25; and less
that certain piece and parcel of land described as follows:Beginning at a point on the east line of the SW $\frac{1}{4}$ of said Sec. 25, 1590 feet north
of the southeast corner of the SW $\frac{1}{4}$ of said Section 25; thence running north 34
degrees west 468 feet; thence North 20 degrees west 685 feet to within 15 feet of
the North boundary of said SW $\frac{1}{4}$ of said Section 25; thence 39 degrees 13 minutes
east 500 feet, thence south 1035 feet to the place of beginning.

106

Terry,
John D.,
and Sarah
F. Terry2 Billingsley Creek April 1, 1880 Barlogi Ditch;
1 Billingsley Creek April 30, 1887 Terry Ditch;(Said Terry Ditch diverts on the north side of Billingsley Creek at a point
immediately below the diversion point of said Barlogi Ditch.)NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Sec. 11, Twp. 7 S. R. 13 E. B. M.

108

Thompson,
T. E., and
Mabel
Thompson

5.4 Billingsley Creek Sept. 10, 1884 Buckeye Ditch;

W $\frac{1}{2}$ of the SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 11, Twp. 7 South R. 13 E. B. M.

109

RECEIVED

FEB 26 1991

Department of Water Resources
Southern Region OfficeNOT RECORDED
FEB 25 1993

Billingsley Creek Sept. 10, 1884 Buckeye Ditch;

CONVERSATION MEMORANDUM

EMPLOYEE: Helen Harrington-Thornton

FILE A36-00103 F

RE: Water Use from Buckeye Ditch

DATE 7/17/92, 11:55 a.m.

NAME OF PARTY

Zink, Basil

Type of Irrigation System - Sprinkler? No

It is flood irrigated from open ditches.

**** IDWR NOTE ****

see 7-22-92

allow as claimed 0.02 cfs

Are conveyance losses significant?

**MICROFILMED
JAN 25 1993**

DECREED RIGHT SPLIT ANALYSIS

PARENT RIGHT NO. 36-00103 TOTAL DIVERSION RATE 1.0 PREPARATION DATE 8/5/92 HHT

| CLAIM
PORTION | CLAIMED
RATE | RECOMMENDED
RATE | IS CLAIMED
RATE EXCEEDED
BY ANALYSIS | CONVEYANCE
LOSS | DOES DIV RATE +
CALC. C.L. EXCEED
CLAIMED RATE | TOTAL
RECOMMENDED
DIV. RATE |
|------------------|-------------------|---------------------|--|--------------------|--|-----------------------------------|
| A | <u>disallowed</u> | | <u>—</u> | <u>—</u> | <u>—</u> | <u>—</u> |
| B | <u>0.04</u> | <u>0.04</u> | <u>X</u> | <u>NA (0.01)</u> | <u>—</u> | <u>0.04</u> |
| C | <u>0.04</u> | <u>0.04</u> | <u>Y</u> | <u>NA (0.01)</u> | <u>—</u> | <u>0.04</u> |
| D | <u>disallowed</u> | | <u>—</u> | <u>—</u> | <u>—</u> | <u>—</u> |
| E | <u>0.18</u> | <u>0.06</u> | <u>N</u> | <u>0.01</u> | <u>—</u> | <u>0.07</u> |
| F | <u>0.02</u> | <u>0.02</u> | <u>Y</u> | <u>0.01 NA</u> | <u>—</u> | <u>6.02</u> |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |

MICROFILMED
8/15/92

See 8-3-92

CONVEYANCE LOSS - WORSTELL

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

Buckeye Ditch
3 ft. @ 0.01 each
A36-00 103F
0.01 C.L.

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

MICROFILMED
JAN 25 1993

AJ5808NP
(00-26)

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT

11/22/90 00:19:13
PAGE 1

WATER RIGHT NUMBER - *A36-103F (Renumbered)* ADJ. FLAG TRANSLATION: ADJUDICATION TEMPORARY WORK AREA OLD (D) NUMBER -

[illegible]

*** C - CURRENT OWNER ***
ZINK

BASIL LESTER

1 - P.O. BOX 455

2 -

3 -

CITY- HAGERMAN

STATE- 10 ZIP- 83332

PHONE - 208-837-6284

ZINK

MYRLE HYDE

1 - F.O. BOX 455

2 -

3 -

CITY- HAGERMAN

STATE- ID ZIP- 83332

PHONE - 208-837-6384

| + - - PRIORITY DATE - - + | + - - - REGION - - - + | + - - - STAGE - - - + | + - - - STATUS - - - - + |
|---------------------------|------------------------|-----------------------|--------------------------|
| 09/10/1884 | ERROR IN REGION | D - DECREED | |

| | | |
|----------------------------|--|-------------------------------|
| + - - - - SOURCE - - - - + | | + - - - - TRIBUTARY - - - - + |
| BILLINGSLEY CREEK | | SNAKE RIVER |

[illegible]

07S 13E 11 NE SE NE (47) GOODING

| CODE | DESCRIPTION | PERIOD FROM | PERIOD TO | WATER USE | DIVERSION RATE | DIVERSION VOLUME |
|------|-------------|-------------|-----------|-----------|----------------|------------------|
| 1 | 1 | 1 | 1 | 1 | 1 | 1 |

43 - DOMESTIC

03/15

11/15

0.020

| + - TOTAL DIV. RATE - + | | + - TOTAL DIV. VOLUME - + | | + - TOTAL DIV. CAPACITY - + | | + - TOTAL CONSUMPTIVE USE - + | | + - KW USAGE - + | |
|-------------------------|-------|---------------------------|--|-----------------------------|--|-------------------------------|-----|------------------|--|
| | 0.020 | | | | | | 3.0 | | |

| TWN | RNG | SEC | TRACT | LOT | ACRES | PLACE OF USE
CODE | DESCRIPTION | COUNTY |
|-----|-----|-----|-------|-----|-------|----------------------|-------------|---------|
| 14N | 10E | 36 | 36 | 1 | 0.10 | IND | INDUSTRIAL | CLATSOP |

075

13E

14

NE SW

43 DOMESTIC

(47) GOODING

TOTAL ACRES:

+ - - DIVERSION MEANS - VIA BLCKEYE DITCH

+ - - NON-IRRIGATION USE - D/LAWN & GARDEN

+ - - OTHER RIGHTS FOR SAME USE - SEE REMARKS

| | REMARKS |
|-----------------------------------|---------|
| SPLIT PORTION OF 36-00108 DECREF. | |

REFILED

+ - - - - - OLD WATER RIGHT NUMBERS - - - - -
A3600108

MICROFILMED
JAN 25 1993

WATER RIGHT NUMBER - A36-00108F

ADJ. FLAG TRANSLATION: ADJUDICATION TEMPORARY WORK AREA

+ - - - - CONDITIONS OF APPROVAL - - - - -
NO CONDITIONS OF APPROVAL FOUND.

+ - - - - DECREE PLAINTIFF - - - + + - - - - DECREE DEFENDANT - - - + + - DECREE DATE - +
00/00/0000

+ - - - - COMMENTS - - - - -
NO COMMENTS FOUND

+ - - AUDIT FIELDS - 08/15/88 WHITE 10/03/89 REFUNDML 06/07/90 HARRINGT

+ - - - - 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 | - 00/00/0000 | OLD JUDICIAL DISTRICT | - |
| CLAIM RECEIVED DATE | - 08/15/1988 | LAST AMENDED DATE | - 00/00/0000 | TEMPORARY RIGHT | - P |
| CLAIMS TAPE ERROR FLG | - | RECEIPT NUMBER | - S001440 | WATER DISTRICT | - |
| FEE EXEMPT FLAG | - | POU OWNERSHIP FLAG | - Y | FEDERAL/STATE INDICATOR | - S |
| | | NAME CONNECTOR | - AND/OR | PRESUMPTION FLAG | - |

RP 07513E142924

DATA ENTRY

ENTERED 3-5-92 *AWB*

CHECKED 3/6/92 *Renumbered to 36-00103F*

DATA ENTRY 2/22/91

ENTERED 12/31/90 *SW*

CHECKED 3/14/92 *AWB*

"Verified By"
Topo Map/Ortho-PQ
ASCS Map
Watermaster Records
NAPP Photos
Field Exam
Other (See Remarks)
County Records
Witness Statement
Project Records
IDWR Records

CERTIFIED

DEC 27 1990 *AWB*

WATER EXAMINER

VERIFIED

NOV 30 1990

AB 2/21/91

Basil + Myrle Zink
P.O. Box 455
Hagerman, Id. 83332



ALWAYS
USE ZIP

Idaho Department of Water Resources
222 Shoshone St. East.

Twin Falls Idaho 83301

Basil + Myrle Zink
P.O. Box 455
Hagerman, Id. 83332



ALWAYS
USE ZIP

RECEIVED

JAN 15 1993

Department of Water Resources
Southern Region Office

State of Idaho
Department of Water Resources
Southern Region
222 Shoshone St. East.
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