

JUL 28 1998

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

Indent. Number: R36-00192
Date Received: 8/31/1988
Received By: S001972

SECOND AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

SECOND AMENDED

1. Name: BIG BEND IRRIGATION & MINING CO. 208-837-6622
Address: C/O IVAN GUS GUSTAFSON
P.O. Box 209
HAGERMAN, ID 83332

2. Date of Priority: April 1, 1906

3. Source: TUCKER SPRINGS, LOWER Trib. to: RILEY CREEK

4. Point of Diversion

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07S	13E	36	SE	NW	SE		GOODING

5. Description of diverting works:
CHECK DAM & WEIR TO BIG BEND DITCH, GRAVITY & SPRINKLER IRRIG.

6. Water is used for the following purposes:

Purpose	From	To	C.S.F.	(or)	A.F.A.
IRRIGATION	01/01	12/31	20.000		
DOMESTIC	01/01	12/31	0.500		
STOCKWATER	01/01	12/31	1.200		
WILDLIFE	03/15	11/15	6.340		
WILDLIFE STORAGE	01/01	12/31			2.50
STOCKWATER	11/16	03/14	1.030		
DOMESTIC	11/16	03/14	0.280		
WILDLIFE	11/16	03/14	11.600		

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

8. Total Consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
2 HOUSES

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
07S	13E	15	SW		SW		IRR	10.0
			SE		SW		IRR	10.0
			Section Acres					20.0
		16	NE		SE	3	IRR	10.0
			SW		SE		IRR	15.0
			SE		SE	6	IRR	40.0
			Section Acres					65.0
		21	NE		NE	1	IRR	35.0
			NW		NE	1	IRR	5.0
			SE		NE	5	IRR	18.0
			Section Acres					58.0
		22	NE		NE		IRR	40.0
			NW		NE		IRR	40.0
			SW		NE		IRR	40.0
			SE		NE		IRR	40.0
			NE		NW		IRR	37.0
			NW		NW		IRR	40.0
			SW		NW		IRR	40.0
			SE		NW		IRR	40.0
			NE		SW		IRR	4.0
			NE		SE		IRR	15.0
			NW		SE		IRR	40.0
			SE		SE		IRR	29.0
			Section Acres					405.0
		23	<i>SE</i>		<i>NE</i>		<i>IRR</i>	<i>40.0</i>
			SW		NE		IRR	40.0
			SE		NW		IRR	20.0
			SW		NW		IRR	40.0
			NE		SW		IRR	15.0
			NE		SE		IRR	40.0
			NW		SE		IRR	40.0
			SE		SE		IRR	40.0
			Section Acres					275.0
		26	NW		NE		IRR	40.0
			SW		NE		IRR	30.0
			NW		SE		IRR	19.0
			SW		SE		IRR	40.0
			SE		SE		IRR	40.0
			Section Acres					169.0
		27	NE		NE		IRR	40.0
			NW		NE		IRR	40.0
			Section Acres					80.0

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
07S	13E	27	SW		NE		IRR	40.0
			SE		NE		IRR	40.0
			NE		SE		IRR	40.0
			NW		SE		IRR	40.0
			Section Acres					200.0
		36	NW		NW		IRR	22.0
			SE		NW		IRR	3.0
			Section Acres					25.0
			Total Acres					1,177.0

11. Place of use in counties: GOODING

12. Do you own the property listed above as place of use? NO

13. Other Water Rights Used:
36-00133

14. Remarks:

USE OF THIS RIGHT WITH RIGHT NO. 36-00133 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 34.05 CFS FOR ALL USES IDENTIFIED DURING THE IRRIGATION SEASON AND IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 12.91 CFS DURING THE NON-IRRIGATION SEASON.

WATER IS DELIVERED THROUGH THE BIG BEND DITCH.
STOCK, 1000 MIXED; WILDLIFE, PONDS AND HABITAT.

ACRES SET OUT IN THE PLACE OF USE SECTION HEREOF IDENTIFY THE BOUNDARY OF THE APPLICANT'S SERVICE AREA. THE ACTUAL IRRIGATED ACRES ARE 567.

STOCKWATER USAGE SHOULD BE PERMITTED THROUGHOUT THE BOUNDARY AREA.

15. Basis of Claim: DECREED

Case Number: R3600192
Court :
Decree date: 3/22/1932

NEW INTERNATIONAL MORTGAGE BAN
Decree Plaintiff

vs.

IDAHO POWER COMPANY, ET.AL.
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 X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1

For Organizations:

I do solemnly swear or affirm that I am President of Big Bend Irrigation & Mining Co., that I have signed the foregoing document in the space below as President of Big Bend Irrigation and Mining Co. and that the statements Title Organization contained in the foregoing documents are true and correct.

Sam J. Gustafson Pres.
Signature of Authorized Agent

Big Bend Irrigation and Mining Co.
Title and Organization

7/21/98
Date

STATE OF IDAHO)
County of Twin Falls) ss.

Subscribed and sworn (or affirmed) before me this 21st day of July, 1998.

Seal

Bonnie Christensen
Notary Public

Residing at Twin Falls, Idaho

My Commission Expires: 6-8-2002

17. Notice of Appearance:

Notice is hereby given that I, CURTIS R Webb will be
Print Name

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

Signature Curtis R Webb

Address Box 1768 TWIN Falls, ID.

Date 7-28-98

4	3	2	1
9	10	11	12
16	15	14	13
21	22	23	24
28	27	26	25
33	34	35	36

Township

75

Range

13 E

Claim

A36-60192

RECEIVED

JUL 28 1998

Department of Water Resources
Southern Region

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

In Re SRBA

)

Subcase R36-00192

)

(Insert water right number)

)

Case 39576

)

STANDARD FORM 4

)

)

MOTION TO FILE:

)

☐ LATE NOTICE OF CLAIM

)

☒ AMENDED NOTICE OF CLAIM
(SECOND)

INSTRUCTIONS

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

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

This form has been adopted by the court in *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

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

My name is _____

My address is _____

My phone number is: Work _____ Home _____

I am an attorney representing Big Bend Irrigation & Mining Co.

My name is Curtis R. Webb

My address is P.O. Box 1768

Twin Falls, ID 83303-1768

My phone number is (208) 734-1616

MOTION TO FILE A LATE NOTICE OF CLAIM

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

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

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

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

I have attached:

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

Follow these instructions regarding the hearing on this motion.

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

This motion will be heard on _____
(Insert Date and Time)

at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

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

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

The claims filed 8-31-88 inadvertently omitted certain quarter
quarter sections of Place of Use (Application Sec. 10). The omitted areas
have enjoyed historical water usage and should be included in the areas of
use under the water rights identified.

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

I have attached:

- Second**
☒ An amended Notice of Claim (available from IDWR).

- ☐ Payment of the following additional fees required by IDWR:

VERIFICATION (Must be completed)

State of IDAHO

County of Twin Falls

CURTIS R. WEBB, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

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

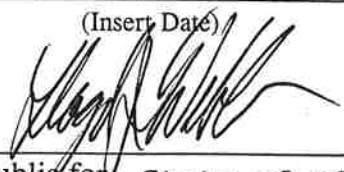
Signature of person filing motion



Attorney signing in representative capacity

Subscribed and sworn to before me on 7-28-98

(Insert Date)



Notary Public for State of Idaho
Residing at: Twin Falls, Idaho
My Commission expires: 6/8/2002

INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court. **FAX filings will not be accepted by the SRBA Clerk of the Court.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on July 28, 1998, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

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

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

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

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

(Insert Names/address of parties)



Signature of person or attorney mailing the form

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: A36-00192

Date Received: 8/31/1988

Receipt No: 500/972

Received By: [Signature]

COPY

**FOR YOUR FILES
DO NOT RETURN**

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

1. Name: BIG BEND IRRIGATION & MINING CO. 208-837-6622
Address: C/O CATHERINE SAUL
2751 S. 850 E.
HAGERMAN, ID 83332

2. Date of Priority: APR 01, 1906

3. Source: TUCKER SPRING, LOWER Trib. to: RILEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
07S	13E	36	NE	SW	SE		GOODING

5. Description of diverting works:
CHECK DAM & WEIR TO BIG BEND DITCH, GRAVITY & SPRINKLER IRRIG.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	01/01	12/31	15.000		

7. Total Quantity Appropriated is:
15.000 C.F.S. (and/or) 10859.70 A.F.A.

8. Total consumptive use is 10859.7 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
07S	13E	15	SW	SW		IRR	10.0
			SE	SW		IRR	10.0
Section Acres							20.0

A36-00192

Page 1

Date: 08/31/88

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10. Place of Use: Continued

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
07S	13E	16	NE		SE	3	IRR	10.0
			SW		SE		IRR	15.0
			SE		SE	6	IRR	15.0
			Section Acres					40.0
		21	NE		NE	1	IRR	35.0
			NW		NE	1	IRR	5.0
			SE		NE	5	IRR	18.0
			Section Acres					58.0
		22	NE		NE		IRR	9.0
			NW		NE		IRR	40.0
			SW		NE		IRR	40.0
			SE		NE		IRR	40.0
			NE		NW		IRR	37.0
			NW		NW		IRR	40.0
			SW		NW		IRR	40.0
			SE		NW		IRR	40.0
			NE		SW		IRR	4.0
			NE		SE		IRR	15.0
			NW		SE		IRR	40.0
			SE		SE		IRR	29.0
			Section Acres					374.0
		23	SW		NW		IRR	25.0
			SE		NW		IRR	20.0
			NE		SW		IRR	15.0
			Section Acres					60.0
		26	NW		NE		IRR	40.0
			SW		NE		IRR	30.0
			NW		SE		IRR	19.0
			SW		SE		IRR	40.0
			SE		SE		IRR	27.0
			Section Acres					156.0
		27	NE		NE		IRR	29.0
			SW		NE		IRR	40.0
			SE		NE		IRR	40.0

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
07S	13E	27	NE SE		IRR	40.0
					Section Acres	149.0
		36	NW NW		IRR	22.0
					Section Acres	22.0
					Total Acres	879.0

11. Place of use in counties: GOODING

12. Do you own the property listed above as place of use? NO

13. Other Water Rights Used:
36-0133, 36-2007

14. Remarks:

LAND CLAIMED IS APPROXIMATE BASED ON SHARES OWNED BY VARIOUS SHAREHOLDERS. SOME OF THE LAND IS ALSO IRRIGATED FROM OTHER DITCHES. DUE TO THE MILD CONDITIONS IN THE HAGERMAN VALLEY, SOME IRRIGATION OCCURS ALL YEAR. DITCH LOSS THRU 9 MILES OF THE BIG BEND DITCH IS ABOUT 50%, SO ALL THE WATER DIVERTED IS NEEDED TO INSURE DELIVERY TO ALL THE SHAREHOLDERS. EXCEPT FOR A FEW OTHER DIVERSIONS, ALL THE OUTPUT OF THE UPPER & LOWER TUCKER SPRINGS RUNS THRU THE BIG BEND DITCH ALL YEAR. SOME LAND IRRIGATED IS ABOVE THE DITCH, AND IS IRRIGATED BY PUMPS IN THE DITCH; EXPANSION IS CLAIMED UNDER SEC. 42-1416 OF THE IDAHO CODE. VOLUME CLAIMED IS 15 CFS FLOWING CONTINUOUSLY ALL YEAR. BETWEEN DITCH LOSS & BENEFICIAL USE, NEARLY ALL THE WATER IS CONSUMED. A LOT OF LAND IN THE HAGERMAN VALLEY WAS PUT UNDER SPRINKLERS FROM 1972 THRU 1985, POSSIBLY DOUBLING THE AMOUNT OF LAND IRRIGATED.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 3/22/1932

NEW INTERNATIONAL MORTGAGE BAN
Decree Plaintiff

vs

IDAHO POWER COMPANY, ET. AL.
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 x wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am President of _____

Title

Big Bend Mining & Irrigation Dist. that I have signed the foregoing

Organization

document in the space below as President of _____

Title

Big Bend Mining & Irrigation Dist. and that the statements contained in the

Organization

foregoing document are true and correct.

[Signature]
Signature of Authorized Agent

President Big Bend Dist.
Title and Organization

8-31-88
Date

State of Idaho)

County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 31st day

of August 19 88

Royanne Storey
Notary Public

Seal

Residing at Buhl, ID

My Commission Expires 6-30-94

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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FEB 10 1993
Department of Water Resources

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

5
6
7 IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
8 STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

9 * * * * *

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

Case No. 39576

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

NOTICE OF APPEARANCE

15 Petitioner,)

16 vs.)

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

19 Respondents.)
20 _____)

21 * * * * *

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

23
NOTICE OF APPEARANCE - 1



Hepworth,
Nungester,
& Lezamiz

MICROFILMED
OCT 12 1994

1 Users, Inc. and its individual members:

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



Hepworth,
Nungester,
& Lezamiz

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OCT 12 1994

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
16	Norwood Subdivision/	A36-15240
	Ruby Springs Water Company	A36-07092A
	Potter, Mark B. & Susan H.	A36-00039J
17	Rawson, Frank S. & Carol A.	A36-00123A
	Reese, Bruce W. & LaRose A.	A36-04091
18	Reese, Bruce W. & LaRose A.	A36-10231
	Rue, James O. & Beverly Jane	A36-07142A
19	Shaffer, Roger	A36-00034B
	Simcoe, Doyt H. & Roxie J.	A36-00003F
20	Simpson, Michael, on behalf of	A36-0123E
	Josephine Simpson Estate	
21	Simpson, Michael, on behalf of	A36-0096A
	Josephine Simpson Estate	
	Strange, Wm. (Penelope Turner-remainder man)	A36-00006
22	Strange, Wm. (Penelope Turner-remainder man)	A36-00007
	Strange, Wm. (Penelope Turner-remainder man)	A36-00008
23	Veenendaal, Dick J.	A36-00108A
	Veenendaal, Dick J.	A36-00039C



Hepworth,
Nungester,
& Lezamiz

NOTICE OF APPEARANCE - 3

MICROFILMED
OCT 12 1994

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
Office of Attorney General
6 Statehouse
Room 210
Boise, Idaho 83720

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

10 United States Department of Justice
Environment and Natural Resources Division
11 550 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

MICROFILMED
OCT 12 1994

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

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

MICROFILMED
 OCT 12 1994

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

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

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

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

MICROFILMED

OCT 12 1994

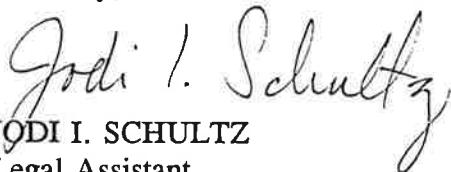
Mr. Patrick D. Brown
March 1, 1993
Page 4

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

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

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

Sincerely,



JODI I. SCHULTZ

Legal Assistant

Idaho Department of Water Resources

cc: IDWR Southern Region

MICROFILMED
OCT 12 1994

s/d

RECEIVED

MAY 20 1999

Department of Water Resources
Southern Region

RECEIVED

MAY 14 1999

Department of Water Resources
Adjudication Bureau

COPY

Movant: State of Idaho

ALAN G. LANCE
Attorney General

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

PETER J. AMPE
Deputy Attorney General
Natural Resources Division
P.O. Box 44449
Boise, ID 83711-4449
Telephone: (208) 334-2400
Facsimile: (208) 334-2690

**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. 36-00192
	)	
	)	MOTION TO AMEND OBJECTION
Case No. 39576	)	
	)	
_____	)	

Comes now Idaho Department of Fish and Game, through Counsel and pursuant to A.O.1, and respectfully requests the Special Master permit IDF&G to amend its objection previously filed in this subcase.

AS GROUNDS IN SUPPORT, IDF&G states as follows:

1. On or about April 29, 1999, IDF&G timely filed an Objection in the above captioned subcase. No responses have been filed to that objection.

2. IDF&G wishes to amend its April 29, 1999 Objection to clarify what it is objecting to and the basis thereof. It does not add any new objection or change the basis thereof. The Amended Objection is attached hereto as Exhibit A.

3. The following language is added to the Amended Objection, replacing the language in the Objection numbered below as it appears there:

D(4). Priority Date Should be: Where an accomplished transfer has transferred the purpose of use to a new use which includes use outside of the traditional irrigation season, the priority date for the new use **outside of the traditional irrigation season**, must be advanced in time to the date of the accomplished transfer. The priority date for any use within the traditional irrigation season should be as recommended.

D(7). Purposes of Use Should be: The quantity of water recommended for irrigation should be reduced by that amount that has been transferred to a wildlife purpose of use. The overall quantity need not be reduced.

D(8). Period of Use Should be: 2/15 to 11/15 for all uses within the traditional irrigation season. For the portion of any purpose of use outside of the traditional irrigation season, the priority date must be advanced as provided in paragraph D(4) above.

E. REASONS SUPPORTING OBJECTION(S): The right as recommended includes an accomplished change in purpose of use that extended the time in which the water right may be used. The priority date of those uses of

the water outside of the traditional irrigation season must be advanced to the date those uses began. This advanced priority date would be only for the use of water during the time it is used outside of the traditional irrigation season. The transfer of water from an irrigation purpose of use to wildlife during the irrigation season likely reduced the actual consumptive use of water and so the priority date for that use during the irrigation season does not need to be advanced.

3. No scheduling order has been entered regarding this Objection in the subcase. No party to the subcase will be prejudiced by this amendment. To the contrary, the Amended Objection will provide more and better information to the parties to this subcase regarding IDF&G's Objection.

4. Hearing on this motion is not requested.

WHEREFORE, IDF&G requests the Special Master to grant this Motion and order the Amended Objection attached hereto to be filed in this subcase.

DATED this 13th day of May 1999.

ALAN G. LANCE
Attorney General



PETER J. AMPE

Deputy Attorney General
Natural Resources Division

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of May, 1999, I caused to be served a true and correct copy of the foregoing MOTION TO AMEND OBJECTION to the following addressees by the method indicated:

Big Bend Irrigation and Mining Co.
c/o Curtis R. Webb
P.O. Box 2707
Twin Falls, ID 83303-2707

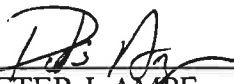
- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile:
- ☐ Statehouse Mail

Josephine P. Beeman
Beeman & Hofstetter, P.C.
P.O. Box 1427
Boise, ID 83701-1427

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile:
- ☐ Statehouse Mail

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile: _____
- ☒ Statehouse Mail



PETER J. AMPE
Deputy Attorney General
P9131naa.doc

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	)		A.	Subcase: 36-00192
	)			(Insert water right number)
Case No. 39576	)			
	)			
	)			AMENDED
	)			OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name:	State of Idaho	
	Dept. of Fish and Game	
Address:	P.O. Box 25	
	Boise, Idaho 83707	
Phone:	Work: (208) 334-2400	Home: N/A

Name and Address of Attorney, if any:

Attorney Name:	ALAN G. LANCE
	Attorney General
	CLIVE J. STRONG
	Deputy Attorney General
	Chief, Natural Resources Division
	PETER J. AMPE
	Deputy Attorney General
Attorney Address:	Office of the Attorney General
	700 W. Jefferson, Room 210
	P.O. Box 44449
	Boise, ID 83711-4449
Attorney Phone No.	(208) 334-2400

9. ☐ **Place of Use**

Should be: _____

11. **I object because:**

- ☐ This water right should not exist.
- ☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S): The right as recommended includes an accomplished change in purpose of use that extends the time in which the water right may be used. The priority date of those uses of the water outside of the traditional irrigation season must be advanced to the date those uses began. This advanced priority date would be only for the use of water during the time it is used outside of the traditional irrigation season. The transfer of water from an irrigation purpose of use to wildlife during the irrigation season likely reduced the actual consumptive use of water and so the priority date for that use during the irrigation season does not need to be advanced.

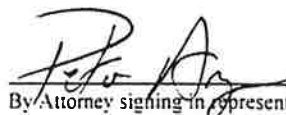
F. VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

Peter J. Ampe, Deputy Attorney General, being first duly sworn, upon oath, deposes and says:

That the State of Idaho, Department of Fish and Game, in its proprietary capacity, pursuant to I.C. § 42-1411A(16) is filing this objection and that I am a Deputy Attorney General authorized to represent the State of Idaho, Department of Fish and Game which is a party/claimant in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and I have read this objection, know its contents and that the statements are true to the best of my knowledge and belief.

ALAN G. LANCE
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
PETER J. AMPE
Deputy Attorney General


By: Attorney signing in representative capacity

Josephine P. Beeman
Beeman & Hofstetter, P.C.
P.O. Box 1427
Boise, ID 83701-1427

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



Signature of party claimant or attorney
P9131nae.doc

RECEIVED

MAY 01 1998

Department of Water Resources
Southern Region

RECEIVED
APR 10 1998
Department of Water Resources

SOUTH
FYI
JL

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

In Re SRBA	)	Subcase 36-00133 and 36-00192
	)	
Case No. 39576	)	TRIAL SCHEDULING ORDER
_____	)	

THIS MATTER came before the special master on April 7, 1998. The SRBA District Court received a letter from Lloyd Webb, counsel for the claimants, requesting pretrial and trial be set.

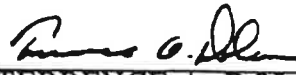
1. The following dates shall govern the conduct of the subcase through the trial. No further order shall issue:

Pretrial Date: Wednesday, May 13, 1998, 9:00 a.m.
Location: SRBA District Court
253 3rd Ave. N
Twin Falls, Idaho

Trial Date: Wednesday, May 27, 1998, 9:00 a.m.
Location: SRBA District Court
253 3rd Ave. N
Twin Falls, Id

These dates are final and may only be reset on motion, hearing and order of the court. The hearing on a Motion to reset will be held with all parties present including those represented by an attorney. The moving party may be held responsible for the costs of the resulting delay.

DATED April 8, 1998.


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

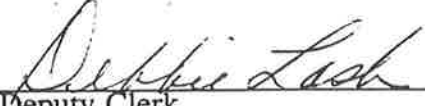
I certify that a true and correct copy of the TRIAL SCHEDULING ORDER was mailed on April 8, 1998, with sufficient first-class postage to the following:

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

Director of IDWR
Box 83720
Boise, Idaho 83720-0098

Lloyd J. Webb
Box 1768
Twin Falls, Idaho 83303-1768

Rinda Just
Idaho Fish & Game
Parks and Rec. Dept.
Statehouse
Boise, Idaho 83720


Deputy Clerk



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

December 26, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

KEN CRIST
260 E 2700 S
HAGERMAN ID 83332

RE: PLACE OF USE ACRES UNDER BIG BEND IRRIGATION CLAIMS 36-00133
& 36-00192

Dear Mr. Crist,

Enclosed is the revised GIS map as we discussed during our conversation on 12/12/97. I adjusted the boundaries to match closer to the place of use we had talked about. There will be an additional 4.0 acres added to the total acres as listed in the Big Bend rights; total is now 397.5 acres.

Total acres for your lands in T07S, R13E, S16, SE1/4 are 28.0 acres.

Please feel free to call me if you have any further questions.

Sincerely,

STEVE CLELLAND
Sr. Water Resource Agent

ENC:

CC: Big Bend Irrigation Co.
Charlie Honsinger, IDWR

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. A36-00133 &
A36-00192

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

September 17, 1997 11:45am

NAME:

PAUL BURTON

CAMEIN

RE:

LOCATION OF ACRES - BBI

HE WANTED TO KNOW WHERE HIS FARM FIT INTO THE RECOMMENDATION OF THE BBI RIGHTS. I SUGGESTED HE COME IN AND LOOK AT THE MAPS FOR THE BEST INFORMATION. I SHOWED HIM THE MAP OF THE REC'D ACRES FOR THE BBI RIGHTS AND THEN PROVIDED HIM WITH A COPY OF THE MAP ALSO. I ADDED THE SIMILAR COLOR MARKINGS SHOWING THE ACRES REC'D. CONFIRMED THAT HIS PROPERTY WAS FULLY COVERED BY THE BBI RIGHTS.

CLAIMS: A36-00133 & A36-00192

OR
LAT
12/5/95

RECEIVED

DEC 07 1995

Department of Water Resources
Adjudication Bureau

RECEIVED

DEC 08 1995

CLERK OF DISTRICT COURT
TWIN FALLS, IDAHO

1995 DEC -5 PM 2:19

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED sm

Water Resources
Region

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

In Re SRBA

Subcase Nos. 36-00133 and 36-00192

Case No. 39576

ORDER GRANTING MOTION TO
FILE LATE RESPONSES

On August 18, 1995, the Idaho Department of Fish and Game (Fish and Game) filed its *Motion to File Late Response, or in the Alternative, Motion to Participate (Motion)* in the above two subcases. The same date, Fish and Game lodged responses to objections in each subcase. Fish and Game seeks to file its late responses because its claims to year 'round wildlife use as a shareholder of the claimant, Big Bend Irrigation and Mining Co. (Big Bend), will not otherwise be protected. Fish and Game only recently discovered this lapse too late to file timely objections or responses.

A postponed hearing was held on December 4, 1995, at the SRBA Courthouse in Twin Falls, Idaho. Rinda R. Just appeared in person on behalf of Fish and Game. Lloyd J. Webb appeared in person on behalf of Big Bend which did not oppose the *Motion*. Nicholas B. Spencer appeared by telephone on behalf of IDWR. Daria Zane appeared by telephone on behalf of the United States to announce that it has completed and will soon cause to be filed a stipulation to withdraw its objections in both subcases.

After considering the pleadings and hearing arguments of counsel, it is clear that Fish and Game has (1) timely filed its *Motion*, (2) shown good cause to file late responses and (3) alleged facts which constitute a meritorious position.

ORDER GRANTING MOTION TO FILE
LATE RESPONSE
12/5/95

MICROFILMED

DEC 03 1996 Page 1

Therefore, IT IS ORDERED that the *Motion* is granted. Responses to the objections lodged with the *Motion* are deemed filed the date of this Order.

DATED December 5, 1995.


TERRENCE A. DOLAN
Special Master, Reporting Area 3
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the **ORDER GRANTING MOTION TO FILE LATE RESPONSES** was mailed on December 5, 1995, with sufficient first-class postage to the following:

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

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

Rinda R. Just
Deputy Attorney General
Parks and Recreation Department
Statehouse, ID 83720
Rep.: Idaho Department of Fish & Game

Lloyd J. Webb
P.O. Box 1768
155 2nd Avenue North
Twin Falls, ID 83303-1768
Rep.: Big Bend Irrigation & Mining

Laird Lucas
Land & Water Fund of Rockies
P.O. Box 1612
Boise, ID 83701


Deputy Clerk

RECEIVED

AUG 21 1995

Department of Water Resources
Adjudication Bureau

AUG 18 PM 1:04
DISTRICT COURT-5TH
TWIN FALLS CO., IDAHO
FILED

ALAN G. LANCE
ATTORNEY GENERAL

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

RINDA JUST
Deputy Attorney General
Natural Resources Division
Statehouse, Room 210
PO Box 83720
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Attorneys for Idaho Department of Fish and Game

**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 Nos. 36-00133, 36-00133A,
and 36-00192

**AFFIDAVIT OF
CYNTHIA ROBERTSON**

STATE OF IDAHO)
)
County of Ada) ss.

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

1. That I am a staff fishery biologist employed by the Idaho Department of Fish and Game (IDFG).

2. That my duties include monitoring proprietary water rights claimed by IDFG in the Snake River Basin Adjudication, and providing technical assistance to IDFG legal counsel regarding those rights.

3. That Department records show that IDFG acquired forty (40) shares of water stock in Big Bend Irrigation and Mining Co. (Big Bend) in 1951, as the result of purchasing property owned by N. S. and R. A. Corthell, and W. H. and I. B. Henslee. See, Warranty Deed dated August 23, 1951, attached as Exhibit A, and incorporated herein by reference, and letter dated March 13, 1961, attached as Exhibit B, and incorporated herein by reference. The 40 shares is equivalent to 1.6 cfs and has been used for wildlife purposes at the Hagerman Wildlife Management Area since 1951.

4. That IDFG records show that IDFG personnel contacted the Southern Region office of the Idaho Department of Water Resources (IDWR) on October 30, 1990, regarding the status of a water right claim made by Big Bend for water diverted out of Upper (Large) Tucker Springs. The discussion concerned the failure of Big Bend to claim any wildlife use for the water diverted from this source, and included a recommendation by IDWR staff that IDFG file a claim on its own behalf for its portion of shares in Big Bend. See Inter-Department Memo dated October 30, 1990, attached as Exhibit C, and incorporated herein by reference.

5. That in late 1990, as a result of the discussions between IDFG and IDWR staff, IDFG filed a Notice of Claim to water right no. 36-00133A. Said claim is part of the court record in this case. A copy of the claim as filed, but prior to signature, is attached as Exhibit D, and incorporated herein by reference.

6. That on August 24, 1992, IDFG received the proposed Director's Report recommendation disallowing IDFG claim no. 36-00133A for 1.6 cubic feet per second (cfs) for wildlife, and recommending the use under water right claim no. 36-00133. IDFG did not file a notice of error at that time. See Proposed Director's Report recommendation dated August 24, 1992, attached as Exhibit E, and incorporated herein by reference.

7. That on November 4, 1992, IDFG received a notice that the Director's Report had been filed with the SRBA Court recommending that 36-00133A be disallowed and recommended as part of 36-00133. See Director's Report recommendation dated November 2, 1992, attached as Exhibit F, and incorporated herein by reference.

8. That on April 21, 1993, IDFG received a facsimile copy of the Director's Report recommendation for water right claim no. 36-00133 from IDWR. The recommendation included 1.72 cfs from March 15 through November 15 for wildlife use, 2.5 acre feet per year from January 1 through December 31 for wildlife storage, and 7.60 cfs for wildlife use from November 16 through March 14. Based upon the recommendation, IDFG reasonably believed that its uses of the claimed water were protected and no objection to the recommendation appeared necessary, and no further discussions with either Big Bend or IDWR were necessary. See Director's Report recommendation dated November 2, 1992, and transmitted to IDFG by facsimile on April 21, 1993, attached as Exhibit G, and incorporated herein by reference.

9. That IDFG received no notice and had no knowledge that Big Bend had filed objections to the Director's Report, nor that IDWR had filed responses to those objections. Part of IDWR's response to the objections was to revise the recommendation for claim no. 36-00133. Wildlife uses were deleted from claim no. 36-00133 and transferred to water right no. 36-00192, a right used in combination with 36-00133 and diverted from the same source, but junior in priority. In addition to transferring the wildlife uses to a junior right, the use was restricted to the irrigation season only. The wildlife use during the non-irrigation season was eliminated completely. IDWR recommended revisions to the Director's Report recommendations in September 1993. Big Bend did not at any time advise IDFG that changes affecting its use of the water for wildlife had been proposed by IDWR. A record of the objections and responses is a part of the court file in this claim. See Objection filed by Big Bend, claim no. 36-00133, dated April 20, 1993; Response to Objection filed by IDWR, claim no. 36-00133, dated September 10, 1993, Objection filed by Big Bend, claim no. 36-00192, dated April 20, 1993; Response to Objection filed by IDWR, claim no. 36-00192, dated September 10, 1993.

10. That on January 11, 1994, IDFG received a copy of the information report "IDWR Report on Objections Filed in Reporting Area 3 (Basin 36)." IDFG noted that objections to water right claim no. 36-00133 had been made by Big Bend and the United States, but determined from the report that none of the objections were as to nature of use. In fact, the objections filed by the United States did include an objection to purpose of use. The United States objected to including non-irrigation uses under 36-00133 and recommended they be included in 36-00192. As IDFG remained unaware that IDWR had proposed revisions to the Director's Report which could negatively impact its interest, and believing that IDWR was representing its interest by defending

the initial Director's Report, it made no further investigation into the nature of the objections at that time. A record of the objections and responses is a part of the court file in this claim. See Objection filed by United States, claim no. 36-00133, dated April 29, 1993; Response to Objection filed by Big Bend, claim no. 36-00133, dated September 1, 1993; Response to Objection filed by IDWR, claim no. 36-00133, dated September 10, 1993.

11. That subsequent to the SRBA Court order of July 28, 1995, allowing motions for late objections and responses to be filed, IDFG reviewed its files regarding claims filed in Basin 36. At that time, IDFG determined that it should further investigate the nature of the objections to claim no. 36-00133 to determine if it needed to become a party to that proceeding.

12. That on August 15, 1995, I contacted IDWR regarding claim no. 36-00133. It was at that time that IDFG first became aware that IDWR proposed revisions to the 1992 Director's Report which deleted the wildlife use of water under claim no. 36-00133 and transferred it to claim no. 36-00192, limited the use of water to the irrigation season only, established a new, later priority date. See Objection filed by the United States, claim no. 36-00192, dated April 29, 1993; Response to Objection filed by Big Bend, claim no. 36-00192, dated September 1, 1993; Response to Objection filed by IDWR, claim no. 36-00192, dated September 10, 1993. Until August 15, 1995 IDFG reasonably believed that the uses of water claimed under 36-00133A were protected by the 1992 recommendations for claim no. 36-00133 and did not believe it was necessary to file an objection to IDWR's disallowance of claim no. 36-00133A, or to file objections and responses in claim nos. 36-00133 and 36-00192. In fact, a report issued by IDWR dated August 15, 1995, still shows that IDFG's claimed uses for wildlife are included and recommended in claim no. 36-00133. See Idaho

Department of Water Resources Adjudication Claim Profile Report dated August 15, 1995, attached as Exhibit H, and incorporated herein by reference.

FURTHER your Affiant saith not.

Cynthia Robertson
Cynthia Robertson, Staff Fishery Biologist
Idaho Department of Fish and Game

SUBSCRIBED AND SWORN to before me this 17th day of August, 1995.



Sheila Crawford
Notary Public for Idaho
Residing at Boise, Idaho
My commission expires 5-9-96

Entry No. 40
Nellis S. Corthell and Ruth
A. Corthell, husband and wife

-to-

The State of Idaho, for the
use and benefit of the Idaho
Fish and Game Department

116553

WARRANTY DEED.

Dated, August 23, 1951
Recorded, October 17, 1951, 3:45 PM
Book 45 Deeds Page 186
Consideration \$2000.00
\$2.20 I.R. Stamps

The first parties hereto, in consideration of \$2000.00, do hereby grant, bargain, sell, convey and confirm unto the second party hereto, the following real estate in Gooding County, Idaho:

Beginning at the northwest corner of the southwest quarter of the northwest quarter of Section 36, Township 7 South, Range 13 East, Boise Meridian, and running thence east 269 feet; thence directly south 1,320 feet across said forty acres to the south line; thence west 269 feet; thence directly north along the west line for a distance of 1,320 feet to the point of beginning, together with 9 shares of water stock in the Big Bend Mining and Irrigation Company.

Together with the tenements, hereditaments and appurtenances thereunto belonging, the reversions, remainders, rents, issues and profits thereof, and all estate, right, title and interest in and to said property as well in law as in equity, of the first parties.

Covenants: Regular Warranty.

Acknowledged: August 23, 1951, by the first parties as above written, before Perce Hall, Notary Public, State of Idaho (N.P. Seal)

Entry No. 41
W. H. Henslee and Ida B.
Henslee, husband and wife

-to-

State of Idaho for the use
and benefit of the Department of Fish and Game

116586

QUITCLAIM DEED.

Dated, October 4, 1951
Recorded, October 22, 1951, 9:25 AM
Book 42 Deeds Page 261
Consideration --

The first parties hereto, in consideration of --, do hereby remise, release and quitclaim unto the second party hereto, the following parcel of land in Gooding County, Idaho:

The westerly two hundred sixty-nine (269) feet of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$, Sec. 36, T. 7 S, R. 13 E. of Boise Meridian, containing 8 and 5/33 acres.

Together with the tenements, hereditaments and appurtenances thereto belonging, and the reversions, remainders, rents, issues and profits thereof.

Signed: W. W. Henslee
Ida B. Henslee

Acknowledged: October 4, 1951, by W. H. Henslee and Ida B. Henslee, husband and wife, before Emerson Pugmire, Notary Public, State of Idaho (N.P. Seal)

Security Title Company, Gooding, Idaho

Exhibit A

MICROFILMED

DEC 03 1998

March 13, 1961

Hagerman Refuge

Big Bend Irrigation and Mining Company, Ltd.
Hagerman, Idaho

Attention: Esther Stroud, Secretary

Gentlemen:

Enclosed herewith is Certificate No. 48 for 31 shares of the capital stock of the Big Bend Irrigation and Mining Company, Ltd. This certificate was assigned to the Idaho Department of Fish and Game in its purchase of a portion of the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 36, Township 7 South, Range 13 East, Boise Meridian, from W. W. Henslee.

It is respectfully requested that a new stock certificate be issued in the name of the State of Idaho, Department of Fish and Game, and that it be submitted to the Department of Fish and Game, 518 Front Street, Boise, Idaho, together with a certified billing for stock transfer fee.

Very truly yours,

Ross Leonard, Director

T. D. Biladeau, Land Agent

Enclosure

Exhibit B

MICROFILMED
DEC 03 1996

INTER-DEPARTMENT MEMO

DATE: 10/30/90

FROM: Dale Turnipseed

TO: Cindy Robertson

SUBJECT: A36-00133 (Large Tucker Springs)
Water Right

CC:

I contacted Steve Clelland, Water Rights agent, Department of Water Resources on 10/30/90 concerning the Big Bend ditch company filing on Large Tucker Springs water and failing to include the Department of Fish and Game's right of 1.6 cfs (40 shares) for wildlife life purposes. Steve recommended we file an adjudicated claim covering the 40 shares of water from Large Tucker Springs and allow the conflict to be resolved by the Department of Water Resources.

Exhibit C

OCT 31 1990

MICROFILMED
DEC 03 1996

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 A36-00133 (partial)
Date Received _____
Receipt Number _____

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

Please type or print clearly

1. Name of Claimant (s) Idaho Dept. Fish and Game Phone (208) 334-3700
Mailing Address 600 S. Walnut P.O. Box 25 Boise Zip 83707

2. Date of Priority (Only one (1) per claim) December 17, 1903

3. Source of water supply (a) Upper Tucker Springs (Thompson Springs)
which is tributary to (b) Riley Creek

4. a. Location of existing point of diversion is: Township 7S Range 13E Section 36,

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

Additional points of diversion if any: SW 1/4 NW 1/4 SE 1/4 Sect. 36 T7S R13E

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

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

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

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

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

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. Big Bend Ditch diversion

works consist of a concrete retaining wall diverting water into a
ditch

Scale: 2 inches equals 1 mile

[illegible]

Exhibit D, Page 2 of 4

MICROFILMED
e, Yellow-Claimant
DEC 03 1996

6. Water is claimed for the following purposes:

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

For wildlife purposes from 1/1 to 12/31 amount 1.6 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 1.6 (cfs) and/or (b) _____ (acre feet)

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

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

10. Description of place of use:

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

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
7S	13E	36									W	W	W	W		W	W		
8S	13E	1		W			W												

Total number of acres irrigated _____

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

12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
36-2056; 36-5012 or None ()

14. Remarks:
Water (20 cfs) was decreed to the Big Bend Ditch Co. in 1932. IDFG is a shareholder in the company (40 shares) for wildlife use. The ditch company filed on the water right (36-133) but did not include the IDFG's 1.6 cfs for wildlife purposes.

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DEC 03 1996

Last Name IDFG Ident No. 36-133 (partial)

Copies: White -State, Yellow-Claimant

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

If applicable provide IDWR Water Right Number 36-1333

Court U.S. District Court Case Number Equity # 1602 Decree Date 3/23/1932

Plaintiff vs Defendant New International Mortgage Bank vs Idaho Power

16. Signature (s)

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

Number of attachments _____

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

Signature of Claimant (s) _____ Date _____

_____ Date _____

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

of _____ Title _____

Organization _____, that I have signed the foregoing

document in the space below as _____ of _____

Title _____ Organization _____

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

Signature of Authorized Agent _____

Title and Organization _____ Date _____

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

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

SEAL

Notary Public _____

Residing at _____

My Commission Expires _____

Please Print Name

17. Notice of Appearance:

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

Signature _____

Address _____

Date _____

DISALLOWED*

RIGHT
NUMBER

NAME & ADDRESS

REASON FOR DISALLOWAL

Exhibit E

check on whether we find not

DEC 03 1996

MICROFILMED

YOUR WATER RIGHT AS RECOMMENDED IN THE SNAKE RIVER BASIN ADJUDICATION

NOV-2-1992

14554

RIGHT NUMBER	NAME & ADDRESS	REASON FOR DISALLOWAL
36-00133A	STATE OF IDAHO DEPT OF FISH & GAME PO BOX 25 BOISE ID 83720	RECOMMENDED AS RIGHT NO. 36-00133.

Exhibit F

MICROFILMED

DEC 03 1996

AJ5856NP

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

DATE: NOV-2-1992
PAGE: A-3884

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: TUCKER SPRINGS, UPPER		TRIBUTARY: RILEY CREEK				
36-00133	BIG BEND IRRIGATION & MINING CO C/O CATHERINE SAUL 2751 S 850 E HAGERMAN ID 83332	12/17/1903	IRRIGATION	03-15 11-15	20.00	CFS DECREE
			DOMESTIC	03-15 11-15	.06	CFS
			STOCKWATER	03-15 11-15	.23	CFS
			WILDLIFE	03-15 11-15	1.72	CFS
			WILDLIFE STORAGE	01-01 12-31	2.5	AFY
			STOCKWATER	11-16 03-14	1.03	CFS
			DOMESTIC	11-16 03-14	.28	CFS
			WILDLIFE	11-16 03-14	7.6	CFS
TOTAL QUANTITY:					20.00	CFS

NON-IRRIGATION USES:

DOMESTIC, 2 HOMES; STOCK, 1000 MIXED; WILDLIFE, PONDS AND HABITAT

POINT OF DIVERSION:

T07S R13E S36

NWSESE

PLACE OF USE: IRRIGATION

T07S R13E S15

SSW 10.0

S16

Lot 6

(SESE) 28.0

S21

Lot 5

(SENE) 15.0

S22

NWNE 4.0

SWNE 30.0

SENE 25.0

NENW 5.0

SWNW 37.0

SENE 27.0

NESE 15.5

NWSE 13.0

SESE 8.0

S23

SWNW 23.0

S26

NWNE 10.0

SWNE 17.0

NWSE 10.0

SWSE 7.0

SESE 10.0

S27

NENE 10.0

NWNE 7.0

SWNE 25.0

SENE 22.0

NESE 12.0

NWSE 15.0

393.5 ACRES TOTAL

PLACE OF USE: DOMESTIC

T07S R13E S21

Lot 5

(SENE)

S22

NENE

PLACE OF USE: STOCKWATER

T07S R13E S22

NWNE

SWNE

NENW

SENE

S23

SWNW

NWSE

Exhibit G, Page 1 of 2

Post-It™ and fax transmittal memo 7671 # of pages 2

To	Cathy Robertson	From	2 to 11/11/92
Co		Co	
Dept.		Phone #	(387) 7931
Fax #	334.2111	Fax #	

ID WATER RESOURCES

01 208 327 7866

14:41

DEC 03 1996

MICROFILMED

0001

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

DATE: NOV-2-1992

PAGE: A-3885

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: TUCKER SPRINGS, UPPER			TRIBUTARY: RILEY CREEK			
36-00133 CONTINUED						
	S26	NWNE SESE	SWNE	NWSE	SWSE	
	PLACE OF USE: WILDLIFE					
	T07S R13E S36	NESW	SESW	NWSE	SWSE	
	T08S R13E S01 Lot 2 (NWNE)					
	PLACE OF USE: WILDLIFE STORAGE					
	T07S R13E S22	NENW				
	PLACE OF USE: STOCKWATER					
	T07S R13E S22	NWNE	SWNE	NENW	SENW	
	S23	SWNW	NWSE			
	S26	NWNE	SWNE	NWSE	SWSE	
	PLACE OF USE: DOMESTIC					
	T07S R13E S21 Lot 5 (SENE)					
	S22	NENE				
	PLACE OF USE: WILDLIFE					
	T07S R13E S36	NESW	SESW	NWSE	SWSE	
	T08S R13E S01 Lot 2 (NWNE)					
REMARKS:	RIGHT INCLUDES ACCOMPLISHED CHANGE IN PURPOSE OF USE PURSUANT TO IDAHO CODE 42-1416A.					
	RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO IDAHO CODE 42-1416A.					
	WATER IS DELIVERED THROUGH BIG BEND DITCH.					
	USE OF THIS RIGHT WITH RIGHT NO. 36-00192 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 29.43 CFS FOR ALL USES IDENTIFIED DURING THE IRRIGATION SEASON. BOTH ARE ALSO LIMITED TO A TOTAL COMBINED FIELD HEADGATE REQUIREMENT OF 19.00 CFS, A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 1180.5 AF, AND TO THE IRRIGATION OF A COMBINED TOTAL OF 393.5 ACRES IN A SINGLE IRRIGATION SEASON.					
	THIS RIGHT WITH RIGHT NO. 36-00192 IS LIMITED TO A TOTAL OF 8.42 CFS FOR USE AS CONVEYANCE LOSS IN DELIVERY OF THE RIGHTS DELIVERED THROUGH THE BIG BEND DITCH DURING THE IRRIGATION SEASON; 6.28 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY OF THE RIGHTS DELIVERED THROUGH THE BIG BEND DITCH DURING THE NON-IRRIGATION SEASON.					

Exhibit G, Page 2 of 2

MICROFILMED
DEC 03 1996

AJ5809NP
No. 36-00133

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 08/15/95
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	BIG BEND IRRIGATION & MINING CO C/O CATHERINE SAUL 2751 S 850 E HAGERMAN ID 83332 (208) 837-6622	12/17/1903	IRRIGATION	03-15 11-15	20.00 CFS	
			STOCKWATER	03-15 11-15	0.23 CFS	
			STOCKWATER	11-16 03-14	1.03 CFS	
			WILDLIFE	03-15 11-15	1.72 CFS	
			WILDLIFE	11-16 03-14	7.60 CFS	
			WILDLIFE STORAGE	01-01 12-31		2.50 AFA
			DOMESTIC	11-16 03-14	0.28 CFS	
			DOMESTIC	03-15 11-15	0.06 CFS	
TOTAL DIVERSION:					20.00 CFS	

Water Source: TUCKER SPRINGS, UPPER

Tributary to: RILEY CREEK

Stage: DECREED

Point(s) of Diversion:

T07S R13E S36

NWSESE

GOODING County

Place of use Legal Description for: IRRIGATION

			NE								NW								SW								SE										
			NENE		NWNE		SWNE		SENE		NENW		NWNW		SWNW		SENW		NESW		NWSW		SWSW		SESW		NESE		NWSE		SWSE		SESE				
T	R	S	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	SUM				
07S	13E	15	:								:								:														10.0				
07S	13E	16	:								:								:														28.0				
07S	13E	21	:							05-15	:								:														15.0				
07S	13E	22	:			04		30		25	:	05				37		27	:							15		13			08		164.5				
07S	13E	23	:								:					23			:														23.0				
07S	13E	26	:			10		17			:								:								10		07		10		54.0				
07S	13E	27	:	18		07		25		22	:								:							12		15					99.0				
																																				TOTAL ACRES	393.5

Place of use Legal Description for: STOCKWATER

			NE								NW								SW								SE										
			NENE		NWNE		SWNE		SENE		:	NENW		NWNW		SWNW		SENW		:	NESW		NWSW		SWSW		SESW		:	NESE		NWSE		SWSE		SESE	
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	
07S	13E	22	:			S		S				:	S						S		:								:								
07S	13E	23	:									:				S					:								:			S					
07S	13E	26	:			S		S				:									:								:		S		S		S		

Place of use Legal Description for: STOCKWATER

			NE								NW								SW								SE											
			NENE		NWNE		SWNE		SENE		:	NENW		NWNW		SWNW		SENW		:	NESW		NWSW		SWSW		SESW		:	NESE		NWSE		SWSE		SESE		:
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	
---	---	---	:	---	---	---	---	---	---	---	---	:	---	---	---	---	---	---	---	---	:	---	---	---	---	---	---	:	---	---	---	---	---	---	---	---	:	
07S	13E	22	:			S		S				:	S						S		:							:									:	
07S	13E	23	:									:				S					:							:			S						:	
07S	13E	26	:			S		S				:									:							:			S		S		S		:	

Exhibit H, Page 1 of 5

DEC 03 1996
MICROFILMED

AJ5809NP
No. 36-00133

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 08/15/95
PAGE: 2

Place of use Legal Description for: WILDLIFE

				NE				NW				SW				SE							
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:
				Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac	
07S	13E	36	:					:					:	W			W	:			W	W	:
08S	13E	1	:			02-W		:					:					:					:

Place of use Legal Description for: WILDLIFE

				NE				NW				SW				SE							
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:
				Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac	
07S	13E	36	:					:					:	W			W	:			W	W	:
08S	13E	1	:			02-W		:					:					:					:

Place of use Legal Description for: WILDLIFE STORAGE

				NE				NW				SW				SE							
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:
				Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac	
07S	13E	22	:					:	W				:					:					:

Place of use Legal Description for: DOMESTIC

				NE				NW				SW				SE							
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:
				Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac	
07S	13E	21	:				05-D	:					:					:					:
07S	13E	22	:	D				:					:					:					:

Place of use Legal Description for: DOMESTIC

				NE				NW				SW				SE							
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:
				Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac	
07S	13E	21	:				05-D	:					:					:					:
07S	13E	22	:	D				:					:					:					:

POU County: GOODING

Non-Irrigation Uses: DOMESTIC, 2 HOMES; STOCK, 1000 MIXED; WILDLIFE, PONDS AND HABITAT

Other Rights: 36-00192

Conditions of Approval:

- C04 - RIGHT INCLUDES ACCOMPLISHED CHANGE IN PURPOSE OF USE PURSUANT TO IDAHO CODE 42-1416A.
- C05 - RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO IDAHO CODE 42-1416A.

Remarks: WATER IS DELIVERED THROUGH BIG BEND DITCH.

Exhibit H, Page 2 of 5

DEC 03 1996
MICROFILMED

AJ5809NP
No. 36-00133

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 08/15/95
PAGE: 3

Remarks: USE OF THIS RIGHT WITH RIGHT NO. 36-00192 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 29.43 CFS FOR ALL USES IDENTIFIED DURING THE IRRIGATION SEASON. BOTH ARE ALSO LIMITED TO A TOTAL COMBINED FIELD HEADGATE REQUIREMENT OF 19.00 CFS, A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 1180.5 AF, AND TO THE IRRIGATION OF A COMBINED TOTAL OF 393.5 ACRES IN A SINGLE IRRIGATION SEASON.

THIS RIGHT WITH RIGHT NO. 36-00192 IS LIMITED TO A TOTAL OF 8.42 CFS FOR USE AS CONVEYANCE LOSS IN DELIVERY OF THE RIGHTS DELIVERED THROUGH THE BIG BEND DITCH DURING THE IRRIGATION SEASON; 6.28 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY OF THE RIGHTS DELIVERED THROUGH THE BIG BEND DITCH DURING THE NON-IRRIGATION SEASON.

THIS RIGHT IS LIMITED TO A WILDLIFE STORAGE VOLUME OF 2.5 AFY.

Dates: Exam Made Date: 08/20/1990 Verified Date:

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

Comments: Date: 08/08/1992 User-ID: CLELLAND Subject: OTHER RIGHTS
THESE RIGHTS LISTED IN THE ADJUDICATION ARE OTHER USES OF THE SAME WATERS DESCRIBED HEREIN. OTHER RIGHT NOS.: 36-07865, 36-07237, 36-04142 & 36-08318.
THE FOLLOWING ARE CURRENT PERMITS FOR THE SAME WATERS BUT DIFFERENT USES: 36-08317, 36-08377, 36-08567 & 36-08571.

Date: 08/08/1992 User-ID: CLELLAND Subject: RECOMMENDATIONS
THIS RIGHT REPRESENTS ALL THE NON-IRRIGATION SEASON OF USE AS CLAIMED IN THIS CLAIM AND A36-00133A AND A36-10064.
ACTUAL IRRIGATION FIELD REQUIREMENT IS 19.00 CFS
TOTAL OF OTHER USES DURING IRRIGATION: 2.01 CFS
TOTAL: 21.01 CFS (1.01 CFS @192)
TOTAL IRRIGATION SEASON CONVEYANCE LOSS 8.42 CFS (36-00192)
TOTAL: 29.43 CFS
DURING NON-IRRIGATION SEASON THIS RIGHT CAN SUPPLY ALL THE WATER NEEDED FOR BENEFICIAL USES FOUND. USE OF THE LOWER SPRING

Exhibit H, Page 3 of 5

MICROFILMED
DEC 03 1996

Comments: Date: 08/08/1992 User-ID: CLELLAND Subject: RECOMMENDATIONS
WATER UNDER 36-00192 IS NOT NEEDED DURING THIS TIME.
THIS RIGHT DELIVERS THE FOLLOWING IN NON-IRRIGATION SEASON:
2.63 CFS HEADGATE REQ. + 6.28 CFS CONVEYANCE LOSS = 8.91 CFS.

Date: 08/08/1992 User-ID: CLELLAND Subject: COPIED FROM REMARKS
LAND CLAIMED IS APPROXIMATE BASED ON SHARES OWNED BY VARIOUS
SHAREHOLDERS. SOME OF THE LAND IS ALSO IRRIGATED FROM OTHER
DITCHES. SOME LAND IS ABOVE THE DITCH, AND IS IRRIGATED VIA
PUMPS IN THE DITCH; EXPANSION IS CLAIMED UNDER SEC. 42-1416 OF
THE IDAHO CODE. A LOT OF LAND IN THE HAGERMAN VALLEY WAS PUT
UNDER SPRINKLERS FROM 1972 THRU 1985, POSSIBLY DOUBLING THE
AMOUNT OF LAND IRRIGATED. THE VOLUME CLAIMED IS FOR 20 CFS FLOW-
ING CONTINUOUSLY ALL YEAR. BETWEEN A 50% DITCH LOSS THRU 9 MILES
OF THE BIG BEND DITCH & BENEFICIAL USE, ALMOST ALL OF THIS WATER
IS CONSUMED. DUE TO MILD CONDITIONS IN THE HAGERMAN VALLEY, SOME
IRRIGATION OCCURS ALL YEAR. EXCEPT FOR A FEW OTHER DIVERSIONS,
ALL THE WATER FROM UPPER & LOWER TUCKER SPRINGS FLOWS THRU THE
BIG BEND DITCH ALL YEAR.

Date: 09/21/1992 User-ID: MERRITT Subject: NOTICE OF ERROR RECEIVED FROM LEO RAY

Date: 09/22/1992 User-ID: SCHULTZ Subject: 1 NOTICE OF ERROR (NOE)
RECEIVED NOE 9/22/92 FROM CLEAVE C. LLOYD. LEFT NOE FLAG AS A.

Date: 09/23/1992 User-ID: SCHULTZ Subject: 3 NOTICES OF ERROR (NOE)
RECEIVED 3 NOE'S 9/22/92. LEFT NOE FLAG AS A.
1 NOE WAS FROM CLAIMANT.

Date: 09/24/1992 User-ID: SCHULTZ Subject: 7 NOTICES OF ERROR (NOE)
RECEIVED 7 NOE'S 9/23/92. LEFT NOE FLAG AS A.

Date: 09/25/1992 User-ID: SCHULTZ Subject: 5 NOTICES OF ERROR (NOE)
5 NOE'S RECEIVED 9/24/92. LEFT NOE FLAG AS A.

Date: 09/25/1992 User-ID: SCHULTZ Subject: 3 NOTICES OF ERROR (NOE)
3 NOE'S RECEIVED 9/25/92. LEFT NOE FLAG AS A.

Date: 09/29/1992 User-ID: MERRITT Subject: NOTICE OF ERROR (NOE) FILED BY ATTN. COLEMAN FOR SPRING VALLEY
RANCH

Date: 10/20/1992 User-ID: CLELLAND Subject: RESPONSE TO NOE
MET THIS DAY WITH IVAN GUSTAFSON, CLEAVE LLOYD AND LEO RAY AT
IDWR OFFICE. WE DISCUSSED MULTIPLE ITEMS AND RESOLVED THAT ALL

AJ5809NP
No. 36-00133

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 08/15/95
PAGE: 5

Comments: Date: 10/20/1992 User-ID: CLELLAND Subject: RESPONSE TO NOE
ISSUES SHOULD BE CARRIED TO THE OBJECTION PHASE. THEY WILL BE
COMPLETING THEIR OWN CONVEYANCE LOSS STUDIES. THEY ALSO WANT TO
BE RECOGNIZED AS A SERVICE AREA TYPE DELIVERY SYSTEM FOR 900 AC.

Date: 10/21/1992 User-ID: CHRISTEN Subject: CHANGE TO CLAIM 10-21-92
CHANGED SEASON OF USE FOR STOCKWATER TO AGREE WITH IRR SEASON.KKC

Date: 10/23/1992 User-ID: SHAFF Subject: SEASON OF USE
MADE DOM. & WILDL CONSISTENT IN SEASON WITH IRR. & STOCK SEASONS.

Date: 02/19/1993 User-ID: SCHULTZ Subject: ADDED NEW ATTORNEY
RECEIVED NOTICE OF APPEARANCE FROM HEPWORTH NUNGESTER LEZAMIZ
2/10/93.

Date: 02/25/1993 User-ID: SCHULTZ Subject: ADDED ATTORNEY (NOT UPDATED-SEE PREVIOUS COMMENT)
ADDED NEW ATTORNEY.

Audit: 12/14/90 BEDKE 01/14/92 CLELLAND 07/10/92 CWU-PROD 07/18/92 POST-STD
08/08/92 CLELLAND 08/17/92 THORNTON 08/19/92 THORNTON 08/28/92 PR-PROD
09/21/92 MERRITT 09/22/92 SCHULTZ 09/23/92 SCHULTZ 09/24/92 SCHULTZ
09/25/92 SCHULTZ 09/28/92 SCHULTZ 09/29/92 SCHULTZ 09/29/92 MERRITT
10/15/92 CWU-SHAF 10/20/92 CLELLAND 10/21/92 FRAZEE 10/21/92 CHRISTEN
10/23/92 SHAFF 11/02/92 CPSHAW 12/05/92 ADT-SHAW 02/19/93 SCHULTZ
02/25/93 SCHULTZ 06/16/93 CMDATFIX 09/17/93 UPD-SCHU 10/20/94 JGIVENS
03/29/95 POST-STD

Exhibit H, Page 5 of 5

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DEC 03 1996

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AUG 25 1994

Department of Water Resources
Adjudication Bureau

1994 JUN 27 PM 4:25

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED _____

OCT 19 1994

Department of Water Resources
Southern Region Office

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 Nos: 36-02007, 36-00192, 36-00133
)
) ORDER RE: WITHDRAWAL OF
) COUNSEL
)

A *Stipulation for Withdrawal of Counsel for Big Bend Irrigation & Mining Company* was filed with this Court on June 23, 1994. This stipulation was granted and the court issued an *Order Allowing Withdrawal of Counsel for Big Bend Irrigation & Mining Company (Order Allowing Withdrawal)* on June 23, 1994.

IT IS ORDERED that within 20 days from the date of service or mailing of the *Order Allowing Withdrawal*, Big Bend Irrigation & Mining Company shall appoint another attorney to appear or shall file a written notice with the court stating how they intend to proceed.

IT IS SO ORDERED.

DATED June 27, 1994


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

OCT 19 1994

Department of Water Resources
Southern Region Office

1994 JUN 23 PM 4:46

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED

RECEIVED

AUG 25 1994

Department of Water Resources
Adjudication Bureau

1 HEPWORTH, LEZAMIZ & HOHNHORST,
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 (PDB/crh/21530bb.ord)

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

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

) Case No. 39576

) Subcase Nos. ~~36-02007-0001~~
36-00192-0001
36-00192-0002
36-00133-0001
36-00133-0002

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

) ORDER ALLOWING
) WITHDRAWAL OF COUNSEL
) FOR BIG BEND IRRIGATION
) & MINING COMPANY

20 Petitioner,

21 vs.

22 The United States; the State of
23 Idaho; and all Claimants to
the Use of Water From the Snake
River Basin Water System,

Respondents.

24 BASED ON THE Stipulation for Withdrawal of Counsel for
25 Big Bend Irrigation & Mining Company filed by the parties in this

HEP
Chartered
Hepworth,
Lezamiz &
Hohnhorst

ORDER ALLOWING WITHDRAWAL OF COUNSEL FOR BIG BEND IRRIGATION
COMPANY - 1

SC

1245

MICROFILMED

DEC 03 1996

1 matter, and for good cause showing;

2 IT IS HEREBY ORDERED that the firm of Hepworth, Lezamiz
3 & Hohnhorst is withdrawn as counsel for Big Bend Irrigation &
4 Mining Company in subcase nos. 36-02007-0001, 36-00192-0001,
5 36-00192-0002, 36-00133-0001 and 36-00133-0002.

6 DATED this 23 day of June, 1994.

7
8 S/ DANIEL C. HURLBUTT JR.

9 Hon. Daniel C. Hurlbutt, Jr.
10 Presiding Judge
11 Snake River Basin Adjudication
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H_LH
Chartered
Hepworth,
Lezamiz &
Hohnhorst

ORDER ALLOWING WITHDRAWAL OF COUNSEL FOR BIG BEND IRRIGATION
COMPANY - 2

MICROFILMED

DEC 03 1996

CERTIFICATE OF MAILING

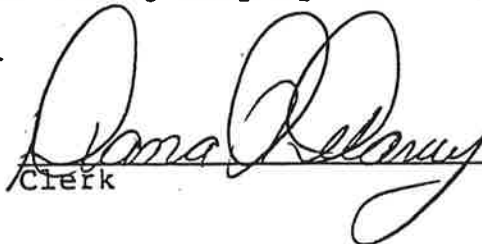
The undersigned, certifies that she caused to be mailed a copy of the above and foregoing ORDER ALLOWING WITHDRAWAL OF COUNSEL FOR BIG BEND IRRIGATION & MINING COMPANY on the 23 day of June, 1994, to:

Clerk of the SRBA Court (original)
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

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

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

Big Bend Irrigation and Mining Company
Route #1, Box 14
Hagerman, Idaho 83331


Clerk

ORDER ALLOWING WITHDRAWAL OF COUNSEL FOR BIG BEND IRRIGATION
COMPANY - 3

MICROFILMED

DEC 03 1996

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COPY

AUG 25 1994

Department of Water Resources
Adjudication Bureau

MAR 18 1994

RECEIVED

SEP 23 1994

Department of Water Resources
Southern Region Office

HEPWORTH, NUNGESTER & LEZAMIZ,
CHARTERED
133 Shoshone St. North
P.O. Box 389
Twin Falls, ID 83303-0389
Telephone: (208)734-7510
Attorneys for Claimant
(PDB/crh/21530bb.stp)

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. 39576

Subcase Nos. 36-02007-0001
36-00192-0001
36-00192-0002
36-00133-0001
36-00133-0002

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

STIPULATION FOR
WITHDRAWAL OF COUNSEL
FOR BIG BEND IRRIGATION
& MINING COMPANY

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.



Hepworth,
Nungester,
& Lezamiz

STIPULATION FOR WITHDRAWAL AS COUNSEL - 1

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DEC 03 1996

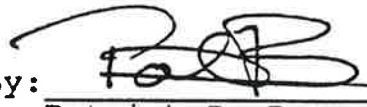
1
2 STIPULATION FOR WITHDRAWAL AS COUNSEL

3 COME NOW Patrick D. Brown of the firm Hepworth, Nungester
4 & Lezamiz, Nicholas B. Spencer, Deputy Attorney General, Daria J.
5 Zane, United States Department of Justice, Environment & Natural
6 Resources Division, the only parties to the subcases, and stipulate
7 and agree to an Order allowing Hepworth, Nungester & Lezamiz to
8 withdraw as counsel for Big Bend Irrigation & Mining Company in
9 subcase nos. 36-02007-0001, 36-00192-0001, 36-00192-0002,
10 36-00133-0001 and 36-00133-0002. This stipulation is entered
11 pursuant to I.R.C.P. 11(b) and Section 6 of SRBA Administrative
12 Order 1, Rules of Procedure.

13 This Stipulation is made because Big Bend Irrigation &
14 Mining Company is no longer employing the firm of Hepworth,
15 Nungester & Lezamiz as their counsel in the SRBA. Big Bend
16 Irrigation & Mining Company is also no longer a member of Hagerman
17 Water Right Owners, Inc.

18 DATED: March 2, 1994

19 HEPWORTH, NUNGESTER & LEZAMIZ,
20 CHARTERED

21 By: 
22 Patrick D. Brown

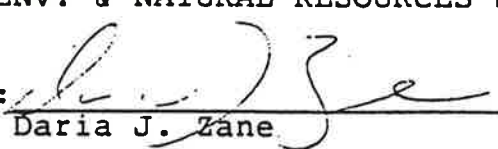
23 DATED: FEBRUARY 8, 1994

IDAHO DEPARTMENT OF WATER RESOURCES

By: 
Nicholas B. Spencer

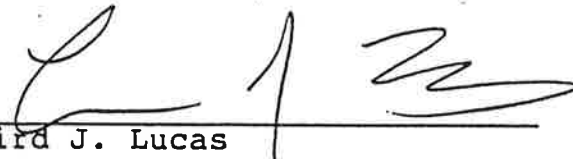
24 DATED: 2/22/94

25 U. S. DEPT. OF JUSTICE
26 ENV. & NATURAL RESOURCES DIV.

27 By: 
28 Daria J. Zane

29 DATED: 3/18/94

30 LAND & WATER FUND OF THE ROCKIES

31 By: 
32 Laird J. Lucas

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LAW OFFICES
HNL
Chartered

Hepworth,
Nungester,
& Lezamiz

LLOYD J. AND CURTIS R. WEBB
Attorneys at Law
155 2nd Avenue North
P.O. Box 1768
Twin Falls, ID 83303-1768
208/734-1616

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JUL 18 1994

Department of Water Resources
Adjudication Bureau

Service Copy

Attorneys for: Big Bend Mining and Irrigation Co.

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 NUMBERS:

) 36-00133

) 36-00192

) 36-02007

) NOTICE OF APPEARANCE

The undersigned attorneys now appear as counsel for BIG
BEND MINING AND IRRIGATION COMPANY in the above-entitled
action.

DATED this 8th day of July, 1994.

LLOYD J. and CURTIS R. WEBB, ATTORNEYS

By:

Lloyd J. Webb
LLOYD J. WEBB

by [signature]
Attorneys for Big Bend Mining and
Irrigation Company

CERTIFICATE OF MAILING

I certify that a true and correct copy of NOTICE OF APPEARANCE was mailed on July 8th, 1994, with sufficient first-class postage to the following:

Clive Strong/ Nicholas Spencer
Natural Resources Division
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environmental and Natural Resources Division
55 West Fort St., Box 33
Boise, ID 83724

Laird J. Lucas
Land & Water Fund of the Rockies
P.O. Box 1612
Boise, ID 83701


LLOYD J. WEBB

Water Right Number - 36-00192

Prefix Translation: WATER RIGHT

Old (D) Number -

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

*** A - ATTORNEY ***
WEBB

LLOYD J

1 - ATTORNEY AT LAW
2 - PO BOX 1768

3 -

City- TWIN FALLS
Phone - 208-734-1616

State- ID Zip- 833031768

*** C - CURRENT OWNER ***
BIG BEND IRRIGATION & MINING CO1 - C/O CATHERINE SAUL
2 - 2751 S 850 E

3 -

City- HAGERMAN
Phone - 208-837-6622

State- ID Zip- 83332

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - - +
04/01/1906 17 SOUTHERN D - DECREED+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
TUCKER SPRINGS, LOWER RILEY CREEK+ - - - - Point of Diversion - - - - - +
TwN Rng Sec Tract Lot RFlg County
07S 13E 36 SE NW SE (47) GOODING+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 03/15 11/15 15.000+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
15.000 0.0+ - - - - Place of Use - - - - - +
TwN Rng Sec Tract Lot Acres Code Description County
07S 13E 15 SW SW 10.0 01 IRRIGATION (47) GOODING
07S 13E 16 SE SE 6 28.0 01 IRRIGATION (47) GOODING
07S 13E 21 SE NE 5 15.0 01 IRRIGATION (47) GOODING
07S 13E 22 NW NE 4.0 01 IRRIGATION (47) GOODING
07S 13E 22 SW NE 30.0 01 IRRIGATION (47) GOODING
07S 13E 22 SE NE 25.0 01 IRRIGATION (47) GOODING
07S 13E 22 NE NW 5.0 01 IRRIGATION (47) GOODING
07S 13E 22 SW NW 37.0 01 IRRIGATION (47) GOODING
07S 13E 22 SE NW 27.0 01 IRRIGATION (47) GOODING
07S 13E 22 NE SE 15.5 01 IRRIGATION (47) GOODING
07S 13E 22 NW SE 13.0 01 IRRIGATION (47) GOODING
07S 13E 22 SE SE 8.0 01 IRRIGATION (47) GOODING
07S 13E 23 SW NW 23.0 01 IRRIGATION (47) GOODING
07S 13E 26 NW NE 10.0 01 IRRIGATION (47) GOODING
07S 13E 26 SW NE 17.0 01 IRRIGATION (47) GOODINGMICROFILMED
DEC 03 1998

Water right number - 36-00192

Prefix Translation: WATER RIGHT

Tw	Rng	Sec	Tract	Lot	Acres	Code	Description	County
07S	13E	26	NW SE		10.0	01	IRRIGATION	(47) GOODING
07S	13E	26	SW SE		7.0	01	IRRIGATION	(47) GOODING
07S	13E	26	SE SE		10.0	01	IRRIGATION	(47) GOODING
07S	13E	27	NE NE		18.0	01	IRRIGATION	(47) GOODING
07S	13E	27	NW NE		7.0	01	IRRIGATION	(47) GOODING
07S	13E	27	SW NE		25.0	01	IRRIGATION	(47) GOODING
07S	13E	27	SE NE		22.0	01	IRRIGATION	(47) GOODING
07S	13E	27	NE SE		12.0	01	IRRIGATION	(47) GOODING
07S	13E	27	NW SE		15.0	01	IRRIGATION	(47) GOODING

Total Acres: 393.5

+ - - Diversion Means - CHECK DAM & WEIR TO BIG BEND DITCH, GRAVITY & SPRINKLER IRRIG.

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - 36-00133

REMARKS

WATER IS DELIVERED THROUGH BIG BEND DITCH.
USE OF THIS RIGHT WITH RIGHT NO. 36-00133 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 29.43 CFS FOR ALL USES
IDENTIFIED DURING THE IRRIGATION SEASON. BOTH ARE ALSO LIMITED
TO A TOTAL COMBINED FIELD HEADGATE REQUIREMENT OF 19.00 CFS,
A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 1180.5 AF, AND
TO THE IRRIGATION OF A COMBINED TOTAL OF 393.5 ACRES IN A SINGLE
IRRIGATION SEASON.
THIS RIGHT WITH RIGHT NO. 36-00133 IS LIMITED TO A TOTAL OF
8.42 CFS FOR USE AS CONVEYANCE LOSS IN DELIVERY OF THE RIGHTS
DELIVERED THROUGH THE BIG BEND DITCH.

Old Water Right Numbers

3600192

Conditions of Approval

C04 - RIGHT INCLUDES ACCOMPLISHED CHANGE IN PURPOSE OF USE PURSUANT
- TO IDAHO CODE 42-1416A.
C05 - RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO
- IDAHO CODE 42-1416A.

+ - - - Decree Plaintiff - - - +
NEW INTERNATIONAL MORTGAGE BANK+ - - - Decree Defendant - - - +
IDAHO POWER COMPANY, ET. AL.+ - Decree Date - +
03/22/1932MICROFILMED
DEC 03 1996

Water right number - 36-00192

Prefix Translation: WATER RIGHT

+ - - - - - Comments - - - - - +
No Comments Found

+ - - Audit Fields - - +
10/20/94 JGIVENS

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

Court Report Filing	- 11/02/1992	Field Inspection Made	- 08/20/1990	Civil Case Number	- 39576
Objection Filed Date	- 04/29/1993	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 09/10/1993	Verified Date	- 00/00/0000	Old Judicial District	-
Claim Received Date	- 08/31/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S001972	Water District	- 36A
		POU Ownership Flag	- N	Federal/State Indicator	- S
		Name Connector	- AND/OR	Presumption Flag	- C
				Notice of Error Flag	- B

MICROFILMED
DEC 03 1996

Water Right Number - A36-00192

Prefix Translation: ADJUDICATION CLAIM

Old (D) Number -

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

*** A - ATTORNEY ***
WEBB

LLOYD J

1 - ATTORNEY AT LAW
2 - PO BOX 1768
3 -
City- TWIN FALLS
Phone - 208-734-1616

State- ID Zip- 833031768

*** C - CURRENT OWNER ***
BIG BEND IRRIGATION & MINING CO1 - C/O CATHERINE SAUL
2 - 2751 S 850 E
3 -
City- HAGERMAN
Phone - 208-837-6622

State- ID Zip- 83332

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
04/01/1906 17 SOUTHERN D - DECREED+ - - - - Source - - - - + + - - - - - Tributary - - - - - +
TUCKER SPRINGS, LOWER RILEY CREEK+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County
07S 13E 36 NE SW SE (47) GOODING+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 01/01 12/31 15.000+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
15.000 10859.70 2637.0+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
07S 13E 15 SW SW 10.0 01 IRRIGATION (47) GOODING
07S 13E 15 SE SW 10.0 01 IRRIGATION (47) GOODING
07S 13E 16 NE SE 3 10.0 01 IRRIGATION (47) GOODING
07S 13E 16 SW SE 15.0 01 IRRIGATION (47) GOODING
07S 13E 16 SE SE 6 15.0 01 IRRIGATION (47) GOODING
07S 13E 21 NE NE 1 35.0 01 IRRIGATION (47) GOODING
07S 13E 21 NW NE 1 5.0 01 IRRIGATION (47) GOODING
07S 13E 21 SE NE 5 18.0 01 IRRIGATION (47) GOODING
07S 13E 22 NE NE 9.0 01 IRRIGATION (47) GOODING
07S 13E 22 NW NE 40.0 01 IRRIGATION (47) GOODING
07S 13E 22 SW NE 40.0 01 IRRIGATION (47) GOODING
07S 13E 22 SE NE 40.0 01 IRRIGATION (47) GOODING
07S 13E 22 NE NW 37.0 01 IRRIGATION (47) GOODING
07S 13E 22 NW NW 40.0 01 IRRIGATION (47) GOODING
07S 13E 22 SW NW 40.0 01 IRRIGATION (47) GOODINGMICROFILMED
JUL 03 1995

Water right number - A36-00192

Prefix Translation: ADJUDICATION CLAIM

+ - - - - - Place of Use - - - - - +									
Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County	
07S	13E	22	SE NW		40.0	01	IRRIGATION	(47)	GOODING
07S	13E	22	NE SW		4.0	01	IRRIGATION	(47)	GOODING
07S	13E	22	NE SE		15.0	01	IRRIGATION	(47)	GOODING
07S	13E	22	NW SE		40.0	01	IRRIGATION	(47)	GOODING
07S	13E	22	SE SE		29.0	01	IRRIGATION	(47)	GOODING
07S	13E	23	SW NW		25.0	01	IRRIGATION	(47)	GOODING
07S	13E	23	SE NW		20.0	01	IRRIGATION	(47)	GOODING
07S	13E	23	NE SW		15.0	01	IRRIGATION	(47)	GOODING
07S	13E	26	NW NE		40.0	01	IRRIGATION	(47)	GOODING
07S	13E	26	SW NE		30.0	01	IRRIGATION	(47)	GOODING
07S	13E	26	NW SE		19.0	01	IRRIGATION	(47)	GOODING
07S	13E	26	SW SE		40.0	01	IRRIGATION	(47)	GOODING
07S	13E	26	SE SE		27.0	01	IRRIGATION	(47)	GOODING
07S	13E	27	NE NE		29.0	01	IRRIGATION	(47)	GOODING
07S	13E	27	SW NE		40.0	01	IRRIGATION	(47)	GOODING
07S	13E	27	SE NE		40.0	01	IRRIGATION	(47)	GOODING
07S	13E	27	NE SE		40.0	01	IRRIGATION	(47)	GOODING
07S	13E	36	NW NW		22.0	01	IRRIGATION	(47)	GOODING

Total Acres: 879.0

+ - - Diversion Means - CHECK DAM & WEIR TO BIG BEND DITCH, GRAVITY & SPRINKLER IRRIG.

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - A36-00133, A36-02007

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

LAND CLAIMED IS APPROXIMATE BASED ON SHARES OWNED BY VARIOUS SHAREHOLDERS. SOME OF THE LAND IS ALSO IRRIGATED FROM OTHER DITCHES. DUE TO THE MILD CONDITIONS IN THE HAGERMAN VALLEY, SOME IRRIGATION OCCURS ALL YEAR. DITCH LOSS THRU 9 MILES OF THE BIG BEND DITCH IS ABOUT 50%, SO ALL THE WATER DIVERTED IS NEEDED TO INSURE DELIVERY TO ALL THE SHAREHOLDERS. EXCEPT FOR A FEW OTHER DIVERSIONS, ALL THE OUTPUT OF THE UPPER & LOWER TUCKER SPRINGS RUNS THRU THE BIG BEND DITCH ALL YEAR. SOME LAND IRRIGATED IS ABOVE THE DITCH, AND IS IRRIGATED BY PUMPS IN THE DITCH; EXPANSION IS CLAIMED UNDER SEC. 42-1416 OF THE IDAHO CODE. VOLUME CLAIMED IS 15 CFS FLOWING CONTINUOUSLY ALL YEAR. BETWEEN DITCH LOSS & BENEFICIAL USE, NEARLY ALL THE WATER IS CONSUMED. A LOT OF LAND IN THE HAGERMAN VALLEY WAS PUT UNDER SPRINKLERS FROM 1972 THRU 1985, POSSIBLY DOUBLING THE AMOUNT OF LAND IRRIGATED.

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

No Old Water Right Numbers Found

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Water right number - A36-00192

Prefix Translation: ADJUDICATION CLAIM

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

+ - - - Decree Plaintiff - - - +
NEW INTERNATIONAL MORTGAGE BANK

+ - - - Decree Defendant - - - +
IDAHO POWER COMPANY, ET. AL.

+ - Decree Date - +
03/22/1932

+ - - - - Comments - - - - - +
No Comments Found

+ - - Audit Fields - - +
10/20/94 JGIVENS

+ - - - - 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	- 08/31/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S001972	Water District	- 36A
		POU Ownership Flag	- N	Federal/State Indicator	- S
		Name Connector	- AND/OR	Presumption Flag	- D
				Notice of Error Flag	-

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DEC 03 1996



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

October 20, 1994

LLOYD J WEBB
ATTORNEY AT LAW
PO BOX 1768
TWIN FALLS ID 83303-1768

Re: NOTICE OF APPEARANCE - 36-00133 - 36-00192 - 36-02007
BIG BEND MINING AND IRRIGATION CO
Case No. 39576

Dear Mr. Webb:

Pursuant to the notification that you are representing the Big Bend Mining and Irrigation Co. on the above-referenced Adjudication Claims, we have changed the Department's record(s).

Please review the record(s) and should you have any questions, please feel free to call this office.

Sincerely,

Judy Givens
Technical Records Specialists

Enclosure: Proof Reports

c.c. Patrick D. Brown
HEPWORTH NUNGESTER & LEZAMIZ
PO BOX 389
TWIN FALLS ID 83303-0389

c.c. BIG BEND IRRIGATION & MINING CO
C/O CATHERINE SAUL
2751 S. 850 E.
HAGERMAN ID 83332

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DEC 03 1996

A 37-04408

12931

12932

Hayden

Idaho Department of
Water Resources

SEP 1988

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Aug. 29, 1988.

A 36-00133

00192

02007

Big Bend

Idaho Department of
Water Resources,
2148 Fourth Ave. E.,
Twin Falls, Ida.

Would like to reserve the right to amend
adjudication filing of the Big Bend Canal Company,
Inc., Hagerman, Ida., in a separate filing.

Time extension necessary since the corporation
is not to file until the final hours.

So, at this time, I do not know what it states.

May filing would be to assure winter water
in adequate volume.

I irrigate practically throughout the winter
to get moisture down to the subsoil in order to make grass
(lease to cattlemen) sustain itself during the low water
delivery of summer.

Thus an all year irrigation use is necessary.

Original use of the Big Bend included mining,
a year around operation. (Title: Big Bend Irrigation and
Mining Company).

But, at this juncture, do not know whether the
corporation's last minute filing incorporated that phase.

Carl F. Hayden
RFD, South,
Bliss, Ida.

Would appreciate acknowledgement..... use
Postoffice box 528, Jackpot, Nev., 89825

C. F. Hayden

R PROOF

CVR

MAPS

PHOTOS

MISC

MICROFILM

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. 36-00192 -0002

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)

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2. Person who filed objection:

Name: US DEPT OF JUSTICE
Address: ENVT & NAT RESOURCES DIV
550 W FORT ST BOX 33
BOISE ID 83734

3. If this response is filed by an attorney:

Attorney Name(s): NICHOLAS B. SPENCER

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

Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

3. ☒ Quantity: I respond to the objection concerning:
- 3a. ☒ The total quantity of water used in cubic feet per second.
7. ☒ Purposes of Use: I respond to the objection concerning the purpose(s) of use.
11. ☒ Remarks: I respond to the objection concerning the "remarks" listed with the water right.
14. ☒ Other: I respond to the objection concerning:

GENERAL PROVISIONS

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection item 3 and 3.a, and all allegations of the objection regarding these items, IDWR responds as follows.

In response to that portion addressing combined rights, IDWR admits that there is an inconsistency between the combined

diversion rate stated in the remarks and the amounts for each purpose of use in right nos. 36-00133 and 36-00192. The recommendation should be corrected as shown in the attachment entitled "Recommended Water Rights Acquired Under State Law."

In response to that portion addressing diversion volume, IDWR admits that:

1. The recommendation of right 36-00133 states a maximum annual consumptive use volume of 3.0 AFY per acre.
2. The recommendation of this right does not state a maximum annual diversion volume.
3. General Provision 13 provides that the maximum annual volume of diversion required at the field headgate for irrigation of lands in Basin 36 is 4 acre feet per year (AFY) per acre.
4. General Provision 13 further provides that where diversion volume is not stated for water rights or portions of water rights for irrigation purposes, 4 AFY is the diversion volume measured at the point of diversion that is reasonably required for irrigation unless a higher annual diversion volume is reasonably required under currently existing conditions due to conveyance losses, method of irrigation, or field conditions, as determined by the director.
5. It is the intent of this general provision that: a) where maximum annual diversion volume is not stated for a right, and b) if determination of diversion volume becomes necessary at some later date for the administration of water rights, and c) the water right has a diversion rate in excess of .02 cfs per acre, then d) the maximum annual diversion volume will be proportionately in excess of 4.0 AFY per acre.

IDWR denies that determination of annual diversion volume of each surface water right is currently necessary for the administration of water rights, and further denies that administration of all surface water rights based on annual diversion volume is currently necessary or reasonable.

In response to that portion regarding conveyance loss methodology, IDWR responds that the conveyance loss remark identifies the portion of the total diversion rate that is in excess of .02 cfs per acre, and which was found to be beneficially used based on actual, reasonable conveyance losses. The conveyance loss limitation does not define the amount of water that is lost in conveyance between the point of diversion and place of use. IDWR's conveyance loss methodology is a reasonably accurate method to estimate conveyance losses based on typical values for the components of the methodology.

In response to that portion regarding diversion rates in excess of .02 cfs per acre, IDWR admits that the memo contains the language quoted in the objection. If the claimant desires to make a change in use of this right, the claimant is required to

(Over)

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OCT 12 1994

file an application for approval of the change with IDWR which describes the change sought. IDWR is then required to approve the application in whole or in part or upon conditions, provided certain statutory requirements are met. These includes requirements that the change be in the local public interest, not constitute an enlargement, and not result in injury to other water rights. Issues as to appropriate application of these standards are premature until an application seeking approval of a change in use and describing the change sought is filed with IDWR.

IDWR denies this portion of the objection and all allegations regarding this portion of the objection not expressly admitted herein.

In response to Statement of the Objection items 7 and 11 all allegations of the objection regarding these items, IDWR responds as follows.

IDWR admits that there is an inconsistency between the combined diversion rate stated in the remarks the amounts for each purpose of use of right nos. 36-00133 and 36-00192. The recommendation should be corrected as shown in the attachment entitled "Recommended Water Rights Acquired Under State Law." IDWR denies this portion of the objection and all allegations regarding this portion of the objection not expressly admitted herein.

In response to Statement of the Objection item 14 and all allegations of the objection regarding this item, IDWR responds as follows:

The matters raised in this portion of the objection are totally irrelevant to the water right being objected to. It is inappropriate for an objector to assert in an objection to another claimant's water right objections regarding the application of general provision upon the objector's own water rights. The objector should raise those matters in objections to its own water rights. This portion of the objection should therefore be stricken.

In further response to this objection item, IDWR responds as follows.

IDWR denies this portion of the objection.

CHANGES TO THE DIRECTOR'S REPORT

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

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

No. of
Pages

The notice of claim is attached to IDWR's response
to Objection No. 36-00192-0001

Recommended Water Rights Acquired under State Law

2

(Over)

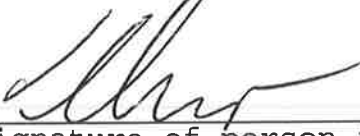
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

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

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



Signature of person filing response

By:



(Attorney signing in
representative capacity)

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



Notary Public for Idaho

Residing at: _____

My Commission expires _____

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

CERTIFICATE OF MAILING

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

1. Original to:

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

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

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

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: US DEPT OF JUSTICE
Address: ENVT & NAT RESOURCES DIV
550 W FORT ST BOX 33
BOISE ID 83734



Signature of Respondent or attorney
mailing on Respondent's behalf

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

DATE: SEP-9-1993
PAGE: A-1

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: TUCKER SPRINGS, LOWER			TRIBUTARY: RILEY CREEK			
36-00192	BIG BEND IRRIGATION & MINING CO C/O CATHERINE SAUL 2751 S 850 E HAGERMAN ID 83332	04/01/1906	IRRIGATION	03-15 11-15	15.00 7.42	CFS DECEED
			DOMESTIC	03-15 11-15	.06	CFS
			STOCKWATER	03-15 11-15	.23	CFS
			WILDLIFE	03-15 11-15	1.72	CFS
			WILDLIFE STORAGE	03-15 11-15	2.5	AFY
			TOTAL QUANTITY:		15.00 9.43	CFS
	NON-IRRIGATION USES:					
	DOMESTIC, 2 HOMES; STOCK, 1000 MIXED; WILDLIFE, PONDS AND HABITAT					
	POINT OF DIVERSION:					
	T07S R13E S36 SENWSE					
	PLACE OF USE: IRRIGATION					
	T07S R13E S15		SWSW 10.0			
	S16 Lot 6		(SESE) 28.0			
	S21 Lot 5		(SENE) 15.0			
	S22		NWNE 4.0	SWNE 30.0	SENE 25.0	NENW 5.0
			SWNW 37.0	SENW 27.0	NESE 15.5	NWSE 13.0
			SESE 8.0			
	S23		SWNW 23.0			
	S26		NWNE 10.0	SWNE 17.0	NWSE 10.0	SWSE 7.0
			SESE 10.0			
	S27		NENE 18.0	NWNE 7.0	SWNE 25.0	SENE 22.0
			NESE 12.0	NWSE 15.0		
	393.5 ACRES TOTAL					
	PLACE OF USE: DOMESTIC					
	T07S R13E S21 Lot 5		(SENE)			
			NENE			
	PLACE OF USE: STOCKWATER					
	T07S R13E S22		NWNE	SWNE	NENW	SENW
	S23		SWNW	NWSE		
	S26		NWNE	SWNE	NWSE	SWSE
			SESE			
	PLACE OF USE: WILDLIFE					
	T07S R13E S36		NESW	SESW	NWSE	SWSE
	T08S R13E S01 Lot 2		(NWNE)			
	PLACE OF USE: WILDLIFE STORAGE					

OCT 12 1994
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REMARKS: RIGHT INCLUDES ACCOMPLISHED CHANGE IN PURPOSE OF USE PURSUANT TO IDAHO CODE 42-1416A.

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO IDAHO CODE 42-1416A.

WATER IS DELIVERED THROUGH BIG BEND DITCH.

~~USE OF THIS RIGHT WITH RIGHT NO. 36-00133 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 29.43 CFS FOR ALL USES IDENTIFIED DURING THE IRRIGATION SEASON. BOTH ARE ALSO LIMITED TO A TOTAL COMBINED FIELD HEADGATE REQUIREMENT OF 19.00 CFS, A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 1180.5 AF, AND TO THE IRRIGATION OF A COMBINED TOTAL OF 393.5 ACRES IN A SINGLE IRRIGATION SEASON.~~

~~THIS RIGHT WITH RIGHT NO. 36-00133 IS LIMITED TO A TOTAL OF 8.42 CFS FOR USE AS CONVEYANCE LOSS IN DELIVERY OF THE RIGHTS DELIVERED THROUGH THE BIG BEND DITCH.~~

~~7.42 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY OF RIGHT NO. 36-00133.~~

~~RIGHTS LISTED BELOW ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE, AND THE TOTAL COMBINED RATE OF DIVERSION OF THESE RIGHTS IS LIMITED TO 35.0 CFS. OTHER RIGHT NOS.: 36-00133, 36-04142, 36-07237, 36-07865, 36-08318, 36-02056.~~

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SEP 01 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

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

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.

Case No. 36-00192

(The water right number
you are responding to
must be inserted)

STANDARD FORM 2

RESPONSE TO OBJECTION

INSTRUCTIONS

This form must be used to file a response to any objection filed against a water right recommended in a Director's Report. You may respond to all objections filed against one water right, using one response form. If you choose this option, your response should cover every issue raised in the objections. To respond to objections filed against more than one water right, you must file a separate response form for each water right. Forms may be obtained from the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you do, the text must be on the front and back of each page exactly as it appears here. The response must be received by the court on or before the deadline specified in the Notice of Filing the Director's Report that IDWR mailed to you. Follow the Instructions for Mailing this response (Page 5), or the court will not accept it for filing.

This form has been adopted by the court in SRBA Administrative Order 1 (amended June 21, 1993), Section 4, which may be consulted for further information.

Any party filing 25 (twenty-five) or more responses must make an appointment with the Clerk of the SRBA Court.

(Over)

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Page 1

By filing a response form, you are certifying that the response 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. Party/Claimant responding to objection:

Name: Big Bend Irrigation & Mining Company

Address: 2715 South 900 East
Hagerman, Idaho 83332

Phone: Work: (208) 837-6411 Home: _____

Briefly describe your interest in this water right:

Owner/claimant of water right

If this response is filed by an attorney:

Attorney Name: Patrick D. Brown

Attorney Address: Hepworth, Nungester & Lezamiz
P.O. Box 389, Twin Falls, ID 83303

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

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

2. Party/Claimant who filed objection:

Name: U.S. Dept. of Justice/Env. & Nat. Resources Div.

Address: 550 West Fort Street, Box 33
Boise, Idaho 83734

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DEPARTMENT OF AGRICULTURE

215 11 1983

II. STATEMENT OF THE RESPONSE

Please check each "box" which identifies your response.

1. ☐ **Name and Address:** I respond to the objection concerning the name and/or address of the owner of the water right.
2. ☐ **Source:** I respond to the objection concerning the source of water.
3. ☒ **Quantity:** I respond to the objection concerning:
 - 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 respond to the objection concerning the priority date.
5. ☐ **Points of Diversion:** I respond to the objection concerning the legal description of the point(s) of diversion.
6. ☐ **Instream Flow:** I respond to the objection concerning the legal description of the beginning and ending points of the instream flow.
7. ☒ **Purpose(s) of Use:** I respond to the objection concerning the purpose(s) of use.
8. ☐ **Period of Year:** I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.
9. ☐ **Place of Use:** I respond to the objection concerning:
 - 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 respond to the objection concerning the annual volume of consumptive use.
11. ☒ **Remarks:** I respond to the objection concerning the "remarks" listed with the water right.
12. ☐ **Water Right Recommendation:** I respond to the objection concerning:
 - a. ☐ this water right being recommended at all; or
 - b. ☐ this water right not being recommended.

13. ☐ **Description of Reservation:** I respond to the objection concerning the legal description of the reservation.

14. ☒ **Other:** I respond to the objection concerning: _____

(See Page 7)

REASONS SUPPORTING EACH BOX CHECKED

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

(See Page 7)

CHANGES TO THE DIRECTOR'S REPORT

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

See the Objection filed by this Claimant, a copy of which
is attached (Exhibit "A")

Please note that you should attach copies of documents which support your response. 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. Exhibit "A",
Claimant's Objection to the Director's Report concerning
the claim (15 pages).

VERIFICATION (Must be Completed)

State of Idaho

County of Twin Falls.

Patrick D. Brown, being first duly
(Name of person filing objection)
sworn, upon oath, deposes and says:

That I am the person or entity filing this response (as listed on Page 2, Section 1, "Person responding to objection"), as defined by I.C. Sec 42-1401A(1) and (7), and I have read this response, know its contents and that the statements are true to the best of my knowledge and belief.

Signature of party/claimant
filing response

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

Subscribed and sworn to before me this 15th day of September,
1993.

[Signature]

Notary Public for Idaho
Residing at: Subdivally
My Commission Expires: 9.27.97

INSTRUCTIONS FOR MAILING

You must mail the response, 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 all of the parties listed below in the Certificate of Mailing.

You must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I hereby certify that on the 1st 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 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:

Name: Big Bend Irrigation & Mining Co.

Address: 2715 South 900 East

Hagerman, Idaho 83332

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: U.S. Dept. of Justice

Address: 550 West Fort Street, Box 33

Boise, Idaho 83734

4 One copy to:

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

5 One copy to:

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



Signature of party/claimant
or attorney

REASONS SUPPORTING EACH BOX CHECKED

3. and 3a. Claimant denies the Director's calculations of the combined right quantities are correct and consequently denies that the combined right should be limited as the United States suggests. Claimant denies that the Director's Report "General Provisions" paragraph 13, page 14, have any applicability to this water right, or that the "General Provision" is valid or may be imposed upon the claimant. Claimant admits that the conveyance loss quantified by the Director is inaccurate and inappropriate, both for the reasons set out by the United States and on the grounds set out in the Claimant's Objection. Claimant admits that on March 14, 1983, the administrator of IDWR issued a memorandum addressing flows in excess of .02 cfs per acre. Claimant denies that the right should contain any remark similar to the quote from that memorandum or should be part of any court decree relating to the claimant's water right. Claimant denies all other averments concerning the quantity of use.

7. Claimant denies that the combined right should be limited to the irrigation rate only and specifically deny that the quantities recommended by IDWR are accurate. Claimant also denies that, unless all purposes are stated within the right, a combined right limit should be limited to the irrigation rate only. Claimant denies all other allegations regarding purpose of use made by the United States.

11. Claimant denies that the combined limit should be reduced to reflect only irrigation and all other averments concerning remarks.

14. The Claimant's Objection sets forth the Claimant's position regarding General Provisions, including the denial of all averments of the General Provisions in the Director's Report except as specifically admitted in Claimant's Objection. The Claimant's Objection is incorporated by reference into this Response and attached as Exhibit "A".

DISTRICT COURT-SRBA
 Fifth Judicial District
 County of Twin Falls - State of Idaho

By _____ Clerk
 _____ Deputy Clerk

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

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

Case No. A36-00192
 (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.

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 objec-
 tions must make an appointment with the Clerk of the Adjudication
 Court and arrange for an appointment to file multiple objections.

(Over)

EXHIBIT
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 OCT 12 1994

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

I. GENERAL INFORMATION

Please fill in the following information:

1. Person objecting:

Name: Big Bend Irrigation & Mining Co.

Address: c/o Cleve Lloyd - President

Route 1, Box 14, Hagerman, ID 83332

Briefly describe your interest in this water right:

Big Bend Irrigation & Mining Co. is an

irrigation company with priority date of

04/01/1906. Right Decreed on 3/22/32 - New

International Mortgage Bank v. Idaho Power Co.

2. Owner of the water right:

Name: Big Bend Irrigation & Mining Co.

Address: c/o Cleve Lloyd - President

Route 1, Box 14, 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.

Name and address: see paragraph 2, page 2; maximum quantity:
as claimed and/or decreed; period of use: 01/01 - 12/31;
remarks: strike all remarks after "water is delivered through
Big Bend Ditch"; place of use: as described in notice of claim
and in Spring Valley's notice of error for a total of 933.90
acres

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

CLEAVE C. LLOYD - IRAN J. GUSTAFSON, 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.

Big Bend Irrigation & Mining Co.
Cleave C. Lloyd - President
Iran J. Gustafson - Director
Signature of person filing objection

By: [Signature]

(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 20th day of April,
1993.

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

(Over)

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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: Big Bend Irrigation & Mining Co.

Owner's address: c/o Cleve Lloyd - President

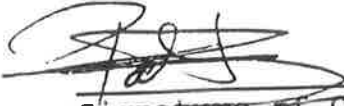
Route 1, Box 14, Hagerman, ID 83332

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 1 - See Paragraph 2, page 2 for correct name and/or address.

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.

Box 9 - Director's Report fails to accurately state the place of use.

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

CHANGES TO DIRECTOR'S REPORT, page 4

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

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.

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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

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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

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

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

The objectors admit that the recommended water rights
lined within the Director's Report show only the irrigation use
d unless otherwise indicated in "Remarks." The objectors deny
other averments contained within this section, including the
t of maximum annual volume of consumptive use per acre in the
ern and southern portions of the basin, all of which is beyond
scope of any power or authority vested in the Director or the
tment, and contrary to fact; historical use; established,
ed, decreed, licensed or permitted rights.

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

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

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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.

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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.

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AFFIRMATIVE DEFENSE NO. 13

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

AFFIRMATIVE DEFENSE NO. 14

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

AFFIRMATIVE DEFENSE NO. 15

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

AFFIRMATIVE DEFENSE NO. 16

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

AFFIRMATIVE DEFENSE NO. 17

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

AFFIRMATIVE DEFENSE NO. 18

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

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

AFFIRMATIVE DEFENSE NO. 19

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

AFFIRMATIVE DEFENSE NO. 20

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

AFFIRMATIVE DEFENSE NO. 21

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

AFFIRMATIVE DEFENSE NO. 22

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

AFFIRMATIVE DEFENSE NO. 23

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

AFFIRMATIVE DEFENSE NO. 24

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

AFFIRMATIVE DEFENSE NO. 25

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

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

AFFIRMATIVE DEFENSE NO. 26

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

AFFIRMATIVE DEFENSE NO. 27

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

WHEREFORE, the objectors pray for judgment as follows:

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

(WATER\21530ANS)

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. 36-00192 -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)

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2. Person who filed objection:

Name: BIG BEND IRRIGATION & MINING CO
Address: C/O CLEAVE LLOYD PRESIDENT
RT 1 BOX 14
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

1. |☒| Name and Address: I respond to the objection concerning the name and/or address of the owner of the water right.
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.
9. |☒| Place of Use: I respond to the objection concerning:
- 9a. |☒| The legal description of the place of use.
- 9b. |☒| The number of irrigated acres within each forty (40) acre subdivision.
10. |☒| Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.

11. |X| Remarks: I respond to the objection concerning the "remarks" listed with the water right.

14. |X| Other: I respond to the objection concerning:

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

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection item 1, IDWR responds that it will change the claimant's address on its records to that shown on the objection. This, however, may not change the claimant's address on the records of the SRBA Court. The Court has developed its "Standard Form 3" to be used for reporting matters such as address changes and changes in ownership. The claimant may need to file this form with the SRBA Court.

In response to Statement of the Objection items 3 and 3a., and all allegations of the objection regarding those items, IDWR responds as follows: There is an error in the description of the amount of this right in the director's report. The recommendation should be corrected as shown in the attachment entitled "Recommended Water Rights Acquired Under State Law."

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

In response to Statement of the Objection item 8, and all allegations of the objection regarding that item, IDWR responds as follows: The decree asserted by the claimant does not contain a period of use decreed for this water right. Idaho Code Sec. 42-1411(2)(g) requires the director to determine the period of use of each water right acquired under state law that is

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recommended in the director's report. IDWR has developed irrigation season of use standards for various climatic areas throughout the state based on a 75% chance of a 24 degree fahrenheit frost. The irrigation season of use cannot exceed the period in which water may be beneficially used. The period of the year during which this water right may be used is consistent with the standard irrigation season of use for the area in which the place of use of this water right is located. Water may be used for irrigation outside the standard season of use, subject to the conditions set forth in general provision 12b of the director's report.

In response to Statement of the Objection items 9, 9a. and 9b., and all allegations of the objection regarding those items, IDWR responds as follows: There is an error in the description of the place of use of this right in the director's report. The recommendation should be corrected as shown in the attachment entitled "Recommended Water Rights Acquired Under State Law."

In further response to items 9, 9a. and 9b., IDWR responds that the recommended water right accurately describes the place of use of the right and describes the total number of acres within each 40 acre subdivision upon which IDWR found water was beneficially used for irrigation under this water right. In further response to this objection item, IDWR responds that the objector originally claimed 879.0 irrigated acres and now wishes to assert the irrigation of 933.9 acres. By now seeking to include additional irrigated lands, the claimant improperly seeks to use the objection process to amend the claim. A claimant must obtain leave of the court to amend a claim after a director's report is filed, just as a party must obtain leave of the court to file a late claim after the director's report is filed. Once leave of the court is granted, IDWR can investigate the amended claim and make an appropriate recommendation to the court.

In response to Statement of the Objection item 10 and all allegations of the objection regarding that item, IDWR responds as follows: (1) The decree asserted by the claimant did not set an annual volume of consumptive use for this water right. (2) Idaho Code Sec. 42-1411(2)(i) requires the director to determine the annual volume of consumptive use for each water right acquired under state law and recommended in the director's report. (3) Idaho Code Sec. 42-1401A(2) provides that the quantification of consumptive use "is included as a rebuttable presumption in a decree only for the purpose of transfers pursuant to section 42-222, Idaho Code"; therefore, the consumptive use recommended for this water right is included

solely for use in future transfer proceedings. (4) The annual volume of consumptive use recommended for this right is 3 acre feet per acre. This is the maximum volume of water consumed by the most water consumptive crop (pasture) that can be grown in the area during the period of year when water is used for irrigation, as provided for by Idaho Code Sec. 42-1401A(2). (5) The recommendation of the director to the SRBA Court as to how the right should be decreed does not constitute a taking because it is simply a recommendation and not a final determination of the right. (6) The eventual decree by the SRBA Court of the amount of water beneficially used, even if less than the amount previously decreed, will not constitute a taking because the right is limited to that amount beneficially used.

In response to Statement of the Objection item 11, and all allegations of the objection regarding that item, IDWR responds that there is an error in the remarks in the description of this water right in the director's report. The recommendation should be corrected as shown in the attachment entitled "Recommended Water Rights Acquired Under State Law." IDWR further responds that it has authority pursuant to Idaho Code Sec 42-1411(2)(j) to include in its recommendations of water rights acquired under state law and recommended in the director's report "such other matters as are necessary to define the right." The remark or remarks objected to are necessary to adequately describe and define this water right.

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

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

(Over)

CHANGES TO THE DIRECTOR'S REPORT

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

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

	No. of Pages
Notice of Claim No. A36-00192	4
Recommended Water Rights Acquired under State Law	2
IDWR's Response to Answer, Affirmative Defenses and Prayer for Relief of Claimant	4

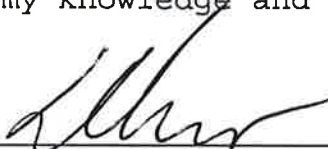
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

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

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



Signature of person filing response

By:



(Attorney signing in
representative capacity)

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



Notary Public for Idaho

Residing at: _____

My Commission expires _____

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

(Over)

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: A36-00192
Date Received: 8/31/1988
Receipt No: 500/1972
Received By: [Signature]

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: BIG BEND IRRIGATION & MINING CO. 208-837-6622
Address: C/O CATHERINE SAUL
2751 S. 850 E.
HAGERMAN, ID 83332

2. Date of Priority: APR 01, 1906

3. Source: TUCKER SPRING, LOWER Trib. to: RILEY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07S	13E	36	NE	SW	SE		GOODING

5. Description of diverting works:
CHECK DAM & WEIR TO BIG BEND DITCH, GRAVITY & SPRINKLER IRRIG.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	01/01	12/31	15.000		

7. Total Quantity Appropriated is:
15.000 C.F.S. (and/or) 10859.70 A.F.A.

8. Total consumptive use is 10859.7 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	13E	15	SW	SW		IRR	10.0
			SE	SW		IRR	10.0

Section Acres 20.0

A36-00192

Page 1

Date: 08/31/88

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10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	13E	16	NE	SE	3	IRR	10.0
			SW	SE		IRR	15.0
			SE	SE	6	IRR	15.0
			Section Acres				40.0
		21	NE	NE	1	IRR	35.0
			NW	NE	1	IRR	5.0
			SE	NE	5	IRR	18.0
			Section Acres				58.0
		22	NE	NE		IRR	9.0
			NW	NE		IRR	40.0
			SW	NE		IRR	40.0
			SE	NE		IRR	40.0
			NE	NW		IRR	37.0
			NW	NW		IRR	40.0
			SW	NW		IRR	40.0
			SE	NW		IRR	40.0
			NE	SW		IRR	4.0
			NE	SE		IRR	15.0
			NW	SE		IRR	40.0
			SE	SE		IRR	29.0
			Section Acres				374.0
		23	SW	NW		IRR	25.0
			SE	NW		IRR	20.0
			NE	SW		IRR	15.0
			Section Acres				60.0
		26	NW	NE		IRR	40.0
			SW	NE		IRR	30.0
			NW	SE		IRR	19.0
			SW	SE		IRR	40.0
			SE	SE		IRR	27.0
			Section Acres				156.0
		27	NE	NE		IRR	29.0
			SW	NE		IRR	40.0
			SE	NE		IRR	40.0

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	13E	27	NE	SE		IRR	40.0
						Section Acres	149.0
		36	NW	NW		IRR	22.0
						Section Acres	22.0
						Total Acres	879.0

11. Place of use in counties: GOODING

12. Do you own the property listed above as place of use? NO

13. Other Water Rights Used:
36-0133, 36-2007

14. Remarks:

LAND CLAIMED IS APPROXIMATE BASED ON SHARES OWNED BY VARIOUS SHAREHOLDERS. SOME OF THE LAND IS ALSO IRRIGATED FROM OTHER DITCHES. DUE TO THE MILD CONDITIONS IN THE HAGERMAN VALLEY, SOME IRRIGATION OCCURS ALL YEAR. DITCH LOSS THRU 9 MILES OF THE BIG BEND DITCH IS ABOUT 50%, SO ALL THE WATER DIVERTED IS NEEDED TO INSURE DELIVERY TO ALL THE SHAREHOLDERS. EXCEPT FOR A FEW OTHER DIVERSIONS, ALL THE OUTPUT OF THE UPPER & LOWER TUCKER SPRINGS RUNS THRU THE BIG BEND DITCH ALL YEAR. SOME LAND IRRIGATED IS ABOVE THE DITCH, AND IS IRRIGATED BY PUMPS IN THE DITCH; EXPANSION IS CLAIMED UNDER SEC. 42-1416 OF THE IDAHO CODE. VOLUME CLAIMED IS 15 CFS FLOWING CONTINUOUSLY ALL YEAR. BETWEEN DITCH LOSS & BENEFICIAL USE, NEARLY ALL THE WATER IS CONSUMED. A LOT OF LAND IN THE HAGERMAN VALLEY WAS PUT UNDER SPRINKLERS FROM 1972 THRU 1985, POSSIBLY DOUBLING THE AMOUNT OF LAND IRRIGATED.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 3/22/1932

NEW INTERNATIONAL MORTGAGE BAN
Decree Plaintiff

vs

IDAHO POWER COMPANY, ET. AL.
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 x wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am President of _____ Title

Big Bend Mining & Reclamation Dist. that I have signed the foregoing Organization document in the space below as President of Title

Big Bend Mining & Reclamation Dist. and that the statements contained in the Organization foregoing document are true and correct.

[Signature]
Signature of Authorized Agent

President Big Bend Dist.
Title and Organization

8-31-88
Date

State of Idaho

County of Twin Falls)
SS.

Subscribed and sworn (or affirmed) before me this 31st day
of August 19 88

Royanne Storey
Notary Public

Seal

Residing at Buhl, ID

My Commission Expires 6-30-94

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

DATE: SEP-9-1993

PAGE: A-1

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: TUCKER SPRINGS, LOWER			TRIBUTARY: RILEY CREEK			
36-00192	BIG BEND IRRIGATION & MINING CO C/O CATHERINE SAUL 2751 S 850 E HAGERMAN ID 83332	04/01/1906	IRRIGATION	03-15 11-15	15.00 7.42	CFS DECREED
			DOMESTIC	03-15 11-15	.06	CFS
			STOCKWATER	03-15 11-15	.23	CFS
			WILDLIFE	03-15 11-15	1.72	CFS
			WILDLIFE STORAGE	03-15 11-15	2.5	AFY
			TOTAL QUANTITY:		15.00 9.43	CFS
NON-IRRIGATION USES:						
DOMESTIC, 2 HOMES; STOCK, 1000 MIXED; WILDLIFE, PONDS AND HABITAT						
POINT OF DIVERSION:						
T07S R13E S36 SENWSE						
PLACE OF USE: IRRIGATION						
	T07S R13E S15		SWSW 10.0			
	S16 Lot 6		(SESE) 28.0			
	S21 Lot 5		(SENE) 15.0			
	S22		NWNE 4.0	SWNE 30.0	SENE 25.0	NENW 5.0
			SWNW 37.0	SENE 27.0	NESE 15.5	NWSE 13.0
			SESE 8.0			
	S23		SWNW 23.0			
	S26		NWNE 10.0	SWNE 17.0	NWSE 10.0	SWSE 7.0
			SESE 10.0			
	S27		NENE 18.0	NWNE 7.0	SWNE 25.0	SENE 22.0
			NESE 12.0	NWSE 15.0		
393.5 ACRES TOTAL						
PLACE OF USE: DOMESTIC						
	T07S R13E S21 Lot 5 (SENE)		NENE			
PLACE OF USE: STOCKWATER						
	T07S R13E S22		NWNE	SWNE	NENW	SENE
	S23		SWNW	NWSE		
	S26		NWNE	SWNE	NWSE	SWSE
			SESE			
PLACE OF USE: WILDLIFE						
	T07S R13E S36		NESW	SESW	NWSE	SWSE
	T08S R13E S01 Lot 2 (NWNE)					
PLACE OF USE: WILDLIFE STORAGE						

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T07S R13E S22

NENW

REMARKS: RIGHT INCLUDES ACCOMPLISHED CHANGE IN PURPOSE OF USE PURSUANT TO IDAHO CODE 42-1416A.
RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO IDAHO CODE 42-1416A.

WATER IS DELIVERED THROUGH BIG BEND DITCH.

~~USE OF THIS RIGHT WITH RIGHT NO. 36-00133 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 29.43 CFS FOR ALL USES IDENTIFIED DURING THE IRRIGATION SEASON. BOTH ARE ALSO LIMITED TO A TOTAL COMBINED FIELD HEADGATE REQUIREMENT OF 19.00 CFS, A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 1180.5 AF, AND TO THE IRRIGATION OF A COMBINED TOTAL OF 393.5 ACRES IN A SINGLE IRRIGATION SEASON.~~

~~THIS RIGHT WITH RIGHT NO. 36-00133 IS LIMITED TO A TOTAL OF 8.42 CFS FOR USE AS CONVEYANCE LOSS IN DELIVERY OF THE RIGHTS DELIVERED THROUGH THE BIG BEND DITCH.~~

~~7.42 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY OF RIGHT NO. 36-00133.~~

~~RIGHTS LISTED BELOW ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE, AND THE TOTAL COMBINED RATE OF DIVERSION OF THESE RIGHTS IS LIMITED TO 35.0 CFS. OTHER RIGHT NOS.: 36-00133, 36-04142, 36-07237, 36-07865, 36-08318, 36-02056.~~

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

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

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

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

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

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

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

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

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

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.

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. 36-00192

RECEIVED

MAY 04 1993

Department of Water Resources
Adjudication Bureau

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.

I. GENERAL INFORMATION

1. Person objecting:

Name: United States of America,
Environment and Natural Resources Division
550 West Fort Street
Box 33
Boise, Idaho 83734

Briefly describe your interest in this water right: The United States
holds water rights of many types in all reporting areas within the SRBA.

2. Owner of the water right:

Name: BIG BEND IRRIGATION & MINING CO.

Address: 2751 S 850 E
Hagerman, ID 83332

3. If this objection is filed by an attorney:

Attorney Name: David W. Harder
Attorney Address: United States Department of Justice
Environment and Natural Resources Division
550 West Fort Street
Box 33
Boise, Idaho 83734
Attorney Phone No.: (202) 272-5784

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

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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.
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 certain paragraphs of the general provisions in the Director's report as noted on the attached "Reasons Supporting Objections and Proposed Changes".

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 attached "Reasons Supporting Objections and Proposed Changes" numbered as per above check list.

CHANGES TO THE DIRECTOR'S REPORT

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

See attached "Reasons Supporting Objections and Proposed Changes" numbered as per above check list.

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

[X] 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.

REASONS SUPPORTING OBJECTIONS AND PROPOSED CHANGES - 5 Pages

VERIFICATION

In the District of Columbia,

The United States of America, being first duly sworn, upon oath, deposes and says:

That I am the entity filing this objection, that I am a water claimant in this proceeding, as defined by I.C. § 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.

By: David W. Harder

(attorney signing in representative capacity)

Subscribed and sworn to before me this 29th day of April, 1993.

Notary Public for: District of Columbia

Residing at: District of Columbia

My Commission Expires: July 14, 1994

CERTIFICATE OF MAILING

I hereby certify that on the 29th 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:

Name: BIG BEND IRRIGATION & MINING CO.

Address: 2751 S 850 E
Hagerman, ID 83332

3. One copy to:

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

David W. Harder

Signature of Objector or attorney mailing
on Objector's behalf

REASONS SUPPORTING OBJECTIONS AND PROPOSED CHANGES

BIG BEND IRRIGATION & MINING CO.

CASE NO. 36-00192

3. QUANTITY

a. The total quantity of water used in cubic feet per second

Combined Rights

Water rights 36-00133 and 36-00192 were combined by IDWR for analysis and recommendation purposes. The combined right limit, using IDWR calculations, should be 27.42 cfs instead of 29.43 cfs since in 36-00133 purposes other than irrigation are considered de minimus or concurrent.

Diversion Volume at Water Sources

The IDWR Director's Report fails to limit the total acre-feet of annual diversion from the water source for this right. The general provisions (Paragraph 13, Page 14) specify that the maximum acre-feet of water allowed annually at the field headgate is 4.0 acre-feet per acre. The only annual volume specified for this right is for consumptive use at the rate of 3.0 acre-feet per acre.

Since allowances are made in the peak diversion rate for (1) conveyance losses between the water source and field headgate and (2) the on-farm losses requiring more than 0.02 cfs/acre at the headgate, it can only be assumed that it is the Director's intention to allow similar unspecified increases in the annual diversion volume. The unquantified nature of the right, as described, is therefore unacceptable.

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Conveyance Losses

The conveyance loss quantified by IDWR is inaccurate because of inappropriate use of the following parameters in the Worstell formula:

- Seepage rate values were typically estimated at two feet per day throughout the Hagerman Valley. Readily available soils data demonstrate that widely varying seepage rates actually exist.
- Water surface top width values throughout the Hagerman Valley were typically estimated at ten feet. There are wide variations in size between the various ditches and along their lengths.

IDWR's computerized analysis used to calculate conveyance loss values for these ditch systems could have been performed using the variable seepage rates and widths.

Flows In Excess of 0.02 cfs/Acre

The IDWR has contemplated that potential problems could result from a water right being decreed with a flow in excess of 0.02 cfs per acre. On March 14, 1983, the Administrator of the IDWR issued a memorandum (Adjudications Procedure No. 2) which addressed decreed flows in excess of 0.02 cfs per acre. The memo stated, in part, as follows:

"If an excessive flow is eventually decreed by the court for a water right in the adjudication process, the diversion in excess of .02 cfs per acre will not be subject to transfer to additional or new lands separately or as a part of the original water right without a specific showing that total consumptive use and effect on other water rights will be the same. Transfers of

excessive flows to new lands will be reviewed under the same criteria as new applications for excessive flows. The amount beyond .02 cfs per acre cannot be changed to a new consumptive use. The excessive flow is appurtenant to specific land using the local historical irrigation practices and cannot through transfer or other means, be used to expand the water right beyond the original acreage and/or consumptive use."

If this right is granted with a maximum diversion rate in excess of 0.02 cfs per acre, a remark similar to the above quote should be included.

7. PURPOSE OF USE

Purposes of use, other than irrigation, are recommended for water right 36-00133, but not for 36-00192. The combined peak diversion limit of 29.43 cfs on both reports is greater than the combined rate calculated by IDWR for irrigation. Peak diversion limits (in 36-00133) for irrigation and for the total, for all purposes, were recommended as 20 cfs. This implies that uses, other than irrigation, are considered to be de minimus or concurrent uses. Therefore, all purposes should be stated in 36-00192 or the combined right be limited to the irrigation rate only (27.42 cfs by IDWR calculations).

11. REMARKS

Combined limit should be reduced to reflect only irrigation.

14. OTHER

General Provision, CONJUNCTIVE ADMINISTRATION, Section 3, Page 10; General Provision, ADMINISTRATION OF GROUND WATER, Section 4, Page 10; General Provision, ADMINISTRATION OF BASIN 36 RELATIVE TO THE SNAKE RIVER, Section 5, first paragraph, Page 10; General

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Provision, ADMINISTRATION OF SMALL DOMESTIC AND STOCK WATER RIGHTS, Section 6, Page 11: The U.S. objects to administration of federal water rights by the director to the extent that the director seeks authority beyond the scope of the waiver of sovereign immunity contained in the McCarran Amendment, 43 U.S.C. 666.

General Provision, ADMINISTRATION OF BASIN 36 RELATIVE TO THE SNAKE RIVER, Section 5, first paragraph, Page 1-10: Regarding the second sentence, which begins "(i)nformation presently available," the United States is without sufficient information or knowledge to form a belief as to the truth of the sentence, and therefore it is denied. Regarding the third sentence, which begins "(w)hen the director," it is denied.

General Provision, MEASURING DEVICES AND CONTROL WORKS, Section 7, Page 11: The U.S. objects to administration of federal water rights by the director inconsistent with the McCarran Amendment. The U.S. further asserts that the director may not prescribe measuring devices and control works to be installed and maintained on federal property and the director may not prohibit or prevent the diversion of water to federal property for federal uses.

General Provision, IRRIGATION USE, Section 12, Paragraphs b.i. - iii., Pages 13 & 14: all paragraphs are denied.

General Provision, IRRIGATION USE, Section 12, Paragraphs c.i. - iii., Page 14: all paragraphs are denied.

General Provision, DIVERSION VOLUME FOR IRRIGATION, Section 13, the last sentence is denied. The Director's Report fails to place a limit on the total quantity of water that can be diverted from the water source. Since the water commissioner is typically required to deliver water from the water source to the farm system, adequate allocation of available water cannot be accomplished without limits being set on the total annual diversion, as well as

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Water Right Number - X36-00192

Prefix Translation:

XFER OF RECOM. CLAIM

Old (D) Number -

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

*** A - ATTORNEY ***
BROWN

PATRICK D

1 - HEPWORTH NUNGESTER LEZAMIZ
2 - 133 SHOSHONE ST N
3 - PO BOX 389
City- TWIN FALLS State- ID Zip- 833030389
Phone - 208-734-7510*** C - CURRENT OWNER ***
BIG BEND IRRIGATION & MINING CO1 - C/O CATHERINE SAUL
2 - 2751 S 850 E
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-837-6622+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
04/01/1906 17 SOUTHERN D - DECREED+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
TUCKER SPRINGS, LOWER RILEY CREEK+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County
07S 13E 36 SE NW SE (47) GOODING+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 03/15 11/15 15.000+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
15.000 0.0+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
07S 13E 15 SE SE 10.0 01 IRRIGATION (47) GOODING
07S 13E 16 SE SE 6 28.0 01 IRRIGATION (47) GOODING
07S 13E 21 SE NE 5 15.0 01 IRRIGATION (47) GOODING
07S 13E 22 NW NE 4.0 01 IRRIGATION (47) GOODING
07S 13E 22 SW NE 30.0 01 IRRIGATION (47) GOODING
07S 13E 22 SE NE 25.0 01 IRRIGATION (47) GOODING
07S 13E 22 NE NW 5.0 01 IRRIGATION (47) GOODING
07S 13E 22 SW NW 37.0 01 IRRIGATION (47) GOODING
07S 13E 22 SE NW 27.0 01 IRRIGATION (47) GOODING
07S 13E 22 NE SE 15.5 01 IRRIGATION (47) GOODING
07S 13E 22 NW SE 13.0 01 IRRIGATION (47) GOODING
07S 13E 22 SE SE 8.0 01 IRRIGATION (47) GOODING
07S 13E 23 SW NW 23.0 01 IRRIGATION (47) GOODING
07S 13E 26 NW NE 10.0 01 IRRIGATION (47) GOODING
07S 13E 26 SW NE 17.0 01 IRRIGATION (47) GOODING

	Remarks
	WATER IS DELIVERED THROUGH BIG BEND DITCH.
	USE OF THIS RIGHT WITH RIGHT NO. 36-00133 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 29.43 CFS FOR ALL USES IDENTIFIED DURING THE IRRIGATION SEASON. BOTH ARE ALSO LIMITED TO A TOTAL COMBINED FIELD HEADGATE REQUIREMENT OF 19.00 CFS, A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 1180.5 AF, AND TO THE IRRIGATION OF A COMBINED TOTAL OF 393.5 ACRES IN A SINGLE IRRIGATION SEASON.
	THIS RIGHT WITH RIGHT NO. 36-00133 IS LIMITED TO A TOTAL OF 8.42 CFS FOR USE AS CONVEYANCE LOSS IN DELIVERY OF THE RIGHTS DELIVERED THROUGH THE BIG BEND DITCH. *****
	PURSUANT TO APPROVED TRANSFER NO. 3880:
	1. THE CHANGE AUTHORIZED BY THIS TRANSFER SHALL BE ACCOMPLISHED WITHIN ONE (1) YEAR OF THE DATE OF THIS APPROVAL.
	2. FAILURE TO COMPLY WITH THE CONDITIONS OF THIS TRANSFER IS CAUSE FOR THE DIRECTOR TO ISSUE AN ORDER TO SHOW CAUSE WHY THE APPROVAL OF THE TRANSFER SHOULD NOT RESCINDED.
	3. THE CHANGE APPROVED BY THIS TRANSFER IS SUBJECT TO THE TERMS OF THE COURT'S FINAL DECREE OF THIS RIGHT IN THE ONGOING SNAKE RIVER BASIN ADJUDICATION.
	4. USE OF WATER UNDER THIS WATER RIGHT WILL REGULATED BY THE WATERMASTER OF STATE WATER DISTRICT NO. 36A.
	5. THIS RIGHT WHEN COMBINED WITH ALL OTHER RIGHTS SHALL PROVIDE NO MORE THAN 4.0 AFA PER ACRE FOR THE LANDS ABOVE.

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Water right number - X36-00192

Prefix Translation: XFER OF RECOM. CLAIM

+ - - - - Old Water Right Numbers - - - - - +
+ - - - - Old Water Right Numbers - - - - - +
3600192
+ - - - - Conditions of Approval - - - - - +
C04 - RIGHT INCLUDES ACCOMPLISHED CHANGE IN PURPOSE OF USE PURSUANT
- TO IDAHO CODE 42-1416A.
C05 - RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO
- IDAHO CODE 42-1416A.

+ - - - - Decree Plaintiff - - - +
NEW INTERNATIONAL MORTGAGE BANK

+ - - - - Decree Defendant - - - +
IDAHO POWER COMPANY, ET. AL.

+ - Decree Date - +
03/22/1932

+ - - - - Comments - - - - - +
Date: 08/08/1992 User Id: CLELLAND Subject: COPIED FROM REMARKS
LAND CLAIMED IS APPROXIMATE BASED ON SHARES OWNED BY VARIOUS SHAREHOLDERS. SOME OF THE LAND IS ALSO IRRIGATED FROM OTHER
DITCHES. DUE TO THE MILD CONDITIONS IN THE HAGERMAN VALLEY, SOME IRRIGATION OCCURS ALL YEAR. DITCH LOSS THRU 9 MILES OF THE BIG
BEND DITCH IS ABOUT 50%, SO ALL THE WATER DIVERTED IS NEEDED TO INSURE DELIVERY TO ALL THE SHAREHOLDERS. EXCEPT FOR A FEW OTHER
DIVERSIONS, ALL THE OUTPUT OF THE UPPER & LOWER TUCKER SPRINGS RUNS THRU THE BIG BEND DITCH ALL YEAR. SOME LAND IRRIGATED IS
ABOVE THE DITCH, AND IS IRRIGATED BY PUMPS IN THE DITCH; EXPAN- SION IS CLAIMED UNDER SEC. 42-1416 OF THE IDAHO CODE.
VOLUME CLAIMED IS 15 CFS FLOWING CONTINUOUSLY ALL YEAR. BETWEEN DITCH LOSS & BENEFICIAL USE, NEARLY ALL THE WATER IS CONSUMED.
A LOT OF LAND IN THE HAGERMAN VALLEY WAS PUT UNDER SPRINKLERS FROM 1972 THRU 1985, POSSIBLY DOUBLING THE AMOUNT OF LAND IRRIG-
ATED.
Date: 09/21/1992 User Id: MERRITT Subject: NOTICE OF ERROR RECEIVED FROM LEO RAY
Date: 09/22/1992 User Id: SCHULTZ Subject: 1 NOTICE OF ERROR (NOE)
RECEIVED NOE 9/22/92 FROM CLEAVE C. LLOYD. LEFT NOE FLAG AS A.
Date: 09/23/1992 User Id: SCHULTZ Subject: 5 NOTICES OF ERROR (NOE)
RECEIVED 5 NOE'S 9/22/92. LEFT NOE FLAG AS A. 1 NOE WAS FROM CLAIMANT.
Date: 09/24/1992 User Id: SCHULTZ Subject: 7 NOTICES OF ERROR (NOE)
RECEIVED 7 NOE'S 9/23/92. LEFT NOE FLAG AS A.
Date: 09/25/1992 User Id: SCHULTZ Subject: 5 NOTICES OF ERROR (NOE)
RECEIVED 5 NOE'S 9/24/92. LEFT NOE FLAG AS A.
Date: 09/25/1992 User Id: SCHULTZ Subject: 3 NOTICES OF ERROR (NOE)
3 NOE'S RECEIVED 9/25/92. LEFT NOE FLAG AS A.
Date: 09/29/1992 User Id: MERRITT Subject: NOTICE OF ERROR FILED BY ATTORNEY COLEMAN FOR SPRING VALLEY
RANCH INC.
Date: 10/20/1992 User Id: CLELLAND Subject: RESPONSE TO NOE
SEE R36-00133. ALL ISSUES WILL NEED RESOLVED IN THE OBJECTION PHASE.
Date: 02/19/1993 User Id: SCHULTZ Subject: ADDED NEW ATTORNEY
RECEIVED NOTICE OF APPEARANCE FROM HEPWORTH NUNGESTER LEZAMIZ 2/10/93.
CLAIM VERIFIED 10/20/92--DID NOT REVERIFY ANY PART OF CLAIM.

+ - - Audit Fields - - +
12/13/93 ROBERTSO

+ - - - - 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 -

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OCT 12 1994

Water right number - X36-00192

Prefix Translation: XFER OF RECOM. CLAIM

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

Claim Received Date	- 08/31/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S001972	Water District	- 36A
		POU Ownership Flag	- N	Federal/State Indicator	- S
		Name Connector	- AND/OR	Presumption Flag	- C
				Notice of Error Flag	- B

MICROFILMED
OCT 12 1994

Water Right Number - 36-00192

Prefix Translation: WATER RIGHT

Old (D) Number -

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

*** A - ATTORNEY ***
BROWN

PATRICK D

1 - HEPWORTH NUNGESTER LEZAMIZ
2 - 133 SHOSHONE ST N
3 - PO BOX 389
City- TWIN FALLS State- ID Zip- 833030389
Phone - 208-734-7510

*** C - CURRENT OWNER ***

BIG BEND IRRIGATION & MINING CO

1 - C/O CATHERINE SAUL
2 - 2751 S 850 E
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-837-6622+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - - +
04/01/1906 17 SOUTHERN D - DECREED+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
TUCKER SPRINGS, LOWER RILEY CREEK+ - - - - Point of Diversion - - - - - +
TwN Rng Sec Tract Lot RFlg County
07S 13E 36 SE NW SE (47) GOODING+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 03/15 11/15 15.000+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
15.000 0.0+ - - - - Place of Use - - - - - +
TwN Rng Sec Tract Lot Acres Code Description County
07S 13E 15 SE SE 10.0 01 IRRIGATION (47) GOODING
07S 13E 16 SE SE 6 28.0 01 IRRIGATION (47) GOODING
07S 13E 21 SE NE 5 15.0 01 IRRIGATION (47) GOODING
07S 13E 22 NW NE 4.0 01 IRRIGATION (47) GOODING
07S 13E 22 SW NE 30.0 01 IRRIGATION (47) GOODING
07S 13E 22 SE NE 25.0 01 IRRIGATION (47) GOODING
07S 13E 22 NE NW 5.0 01 IRRIGATION (47) GOODING
07S 13E 22 SW NW 37.0 01 IRRIGATION (47) GOODING
07S 13E 22 SE NW 27.0 01 IRRIGATION (47) GOODING
07S 13E 22 NE SE 15.5 01 IRRIGATION (47) GOODING
07S 13E 22 NW SE 13.0 01 IRRIGATION (47) GOODING
07S 13E 22 SE SE 8.0 01 IRRIGATION (47) GOODING
07S 13E 23 SW NW 23.0 01 IRRIGATION (47) GOODING
07S 13E 26 NW NE 10.0 01 IRRIGATION (47) GOODING
07S 13E 26 SW NE 17.0 01 IRRIGATION (47) GOODING

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OCT 12 1994

Water right number - 36-00192

Prefix Translation: WATER RIGHT

Tw	Rng	Sec	Tract	Lot	Acres	Code	Description	County
07S	13E	26	NW SE		10.0	01	IRRIGATION	(47) GOODING
07S	13E	26	SW SE		7.0	01	IRRIGATION	(47) GOODING
07S	13E	26	SE SE		10.0	01	IRRIGATION	(47) GOODING
07S	13E	27	NE NE		18.0	01	IRRIGATION	(47) GOODING
07S	13E	27	NW NE		7.0	01	IRRIGATION	(47) GOODING
07S	13E	27	SW NE		25.0	01	IRRIGATION	(47) GOODING
07S	13E	27	SE NE		22.0	01	IRRIGATION	(47) GOODING
07S	13E	27	NE SE		12.0	01	IRRIGATION	(47) GOODING
07S	13E	27	NW SE		15.0	01	IRRIGATION	(47) GOODING

Total Acres: 393.5

+ - - Diversion Means - CHECK DAM & WEIR TO BIG BEND DITCH, GRAVITY & SPRINKLER IRRIG.

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - 36-00133

REMARKS

WATER IS DELIVERED THROUGH BIG BEND DITCH.
USE OF THIS RIGHT WITH RIGHT NO. 36-00133 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 29.43 CFS FOR ALL USES
IDENTIFIED DURING THE IRRIGATION SEASON. BOTH ARE ALSO LIMITED
TO A TOTAL COMBINED FIELD HEADGATE REQUIREMENT OF 19.00 CFS,
A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 1180.5 AF, AND
TO THE IRRIGATION OF A COMBINED TOTAL OF 393.5 ACRES IN A SINGLE
IRRIGATION SEASON.
THIS RIGHT WITH RIGHT NO. 36-00133 IS LIMITED TO A TOTAL OF
8.42 CFS FOR USE AS CONVEYANCE LOSS IN DELIVERY OF THE RIGHTS
DELIVERED THROUGH THE BIG BEND DITCH.

Old Water Right Numbers

3600192

Conditions of Approval

C04 - RIGHT INCLUDES ACCOMPLISHED CHANGE IN PURPOSE OF USE PURSUANT
TO IDAHO CODE 42-1416A.
C05 - RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO
IDAHO CODE 42-1416A.

+ - - - Decree Plaintiff - - - +
NEW INTERNATIONAL MORTGAGE BANK+ - - - Decree Defendant - - - +
IDAHO POWER COMPANY, ET. AL.+ - Decree Date - +
03/22/1932MICROFILMED
OCT 12 1994

Court Report Filing	- 11/02/1992	Field Inspection Made	- 08/20/1990	Civil Case Number	- 39576
Objection Filed Date	- 04/29/1993	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 09/10/1993	Verified Date	- 00/00/0000	Old Judicial District	-
Claim Received Date	- 08/31/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S001972	Water District	- 36A
		POU Ownership Flag	- N	Federal/State Indicator	- S
		Name Connector	- AND/OR	Presumption Flag	- C
				Notice of Error Flag	- B

OCT 12 1994

Adjudication
STATE OF IDAHOPage 1 of 12

DEPARTMENT OF WATER RESOURCES

Transfer No. 3880

RECEIVED APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

FEB 23 1993

APPROVED

Department of Water Resources Big Bend Mining & Irrigation Co. & Mining Co. Phone 837-6164
 Southern Region Office
 Post Office address c/o Richard L. Cook, Rt. 1 Box 22, Hagerman, ID 83332

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____

2. Describe the reason for the proposed changes Sale of water from one stockholder to another change
P/U has occurred so that some formerly-dry ground can now be irrigated. Original
P/U for 10 acres was sold without water shares.
* On as determined by SRBA

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>36-00133</u>	<u>12-17-1903</u>	<u>20.0*</u>	<u>Irrigation*</u>	<u>3-15</u> to <u>11-15</u>
<u>36-00192</u>	<u>4-1-1906</u>	<u>15.0*</u>	<u>Irrigation</u>	<u>3-15</u> to <u>11-15</u>
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____

2. Total amount of water being transferred 35.0* cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Upper & lower Tucker Springs tributary to Riley Creek

4. Point(s) of Diversion: No Change

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
<u>75</u>	<u>13E</u>	<u>15</u>												<u>10</u>			<u>10</u>		<u>20</u>
		<u>16</u>												<u>10</u>		<u>4</u>	<u>15</u>		<u>29</u>
		<u>21</u>				<u>15</u>													<u>15</u>
		<u>22</u>	<u>3</u>	<u>4</u>	<u>30</u>	<u>25</u>	<u>5</u>		<u>37</u>	<u>27</u>				<u>33</u>	<u>20</u>		<u>8</u>		<u>192</u>
		<u>23</u>							<u>25</u>										<u>25</u>
		<u>26</u>		<u>10</u>	<u>17</u>										<u>10</u>	<u>1</u>	<u>10</u>		<u>54</u>
		<u>27</u>	<u>18</u>	<u>7</u>	<u>25</u>	<u>22</u>								<u>12</u>	<u>5</u>	<u>12</u>			<u>434</u>

Total acres 434MICROFILMED
OCT 12 1994

PART 1**6. General Information:**

- a. Description of diversion system Existing diversions into Big Bend Ditch, re-diversion from Ditch
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes ✓ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.
- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:
Land will no longer be irrigated
- d. Remarks:

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 36-00133/00192

And said application is hereby APPROVED, subject to the following limitations and conditions:
SEE ATTACHED SHEET FOR CONDITIONS OF APPROVAL.

Witness my hand this 16th day of FEBRUARY, 19 93.

J. Glen Saylor
CHIEF, WATER ALLOCATION BUREAU

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CONDITIONS OF APPROVAL
Transfer of Water Rights
Nos. 36-00133/00192

1. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.
2. Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.
3. The change approved by this transfer is subject to the terms of the court's final decree of this right in the ongoing Snake River Basin Adjudication.
4. Use of water under this water right will be regulated by the watermaster of State Water District No. 36A.
5. This right when combined with all other rights shall provide no more than 4.0 afa per acre for the lands above.
6. The combined annual volume of water under these rights shall not exceed 1736.0 acre feet.

Dated this 16th day of February, 1993.

J. Glen Sauter
for Chief, Water Alloc. Bureau

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OCT 12 1994

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

PART 2 (Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. 36-00133 Decreed to Big Bend Irrigation & Mining Co.
in case of New International Mortgage Bank vs. Idaho Power Company, ET AL.
dated 3-22-1932 in U.S. District Court county of Southern District
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☐ Warranty Deed ☐ Other _____

3. Source of water Upper Tucker Springs tributary to Riley Creek

4. Date or priority 12-17-1903

5. Water is used for the following purpose:

amount 20.0 cfs for Irrigation purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right _____ cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	NW	SE	SE	36	7S	13E	Gooding	Big Bend Ditch

8. Lands irrigated or place of use: Historic P/U as determined by SRBA

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
7S	13E	15											10	10					20
		16													17 3/10		4	17 6/15	29
		21				17 5/15													15
		22	3	4	30	25	5		37	27					33	20		8	192
		23							25										25
		26		10	17											10			54

27 18 7 25 22

12 15 Total acres 11 434

9. Describe any other water rights used for the same purpose as described above

36-00192

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OCT 12 1994

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

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. 36-00192 Decreed to Big Bend Irrigation & Mining Co.
in case of New International Mortgage Bank vs. Idaho Power Company, ET AL.
dated 3-22-1932 in U.S. District Court county of Southern Division
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice

☐ Warranty Deed

☐ Other _____

3. Source of water Lower Tucker Springs tributary to Riley Creek
4. Date or priority 4-1-1906

5. Water is used for the following purpose:

amount 15.0 cfs for Irrig. purposes from _____ to _____
(cfs/ac-ft) _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) _____

6. Total amount of water under right 15.0 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion: As determined in SRBA

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	SE	NW	SE	36	7S	13E	Gooding	Big Bend Ditch

8. Lands irrigated or place of use: Historic P/U as determined in SRBA

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
7S	13E	15											10	10					20
		16													17 1/2		4	15	29
		21				17 1/2													15
		22	3	4	30	25	5		37	27					33	30		8	192
		23							25										25
		26		10	17														54
		27	18	7	25	22													

12 15 Total acres 89 434

9. Describe any other water rights used for the same purpose as described above

36-00192

OCT 12 1994

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

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. R36-00/33 on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice

☐ Warranty Deed

☐ Other _____

3. Source of water Tupper Springs, Upper tributary to Riley Creek

4. Date or priority 12-17-1903

5. Water is used for the following purpose:

amount 8.68 cfs for Irrigation purposes from 3-15 to 11-15
(cfs/ac-ft)
amount 0.06 cfs for Domestic purposes from 1-1 to 12-31
(cfs/ac-ft)
amount 0.23 cfs for Stockwater purposes from 1-1 to 12-31
(cfs/ac-ft)

6. Total amount of water under right 8.68 cubic feet per second and/or 1736 acre-feet per annum.

7. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	NW	SE	SE	36	7S	13E	Gooding	Big Bend Ditch

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
7S	13E	15											10	10					20
		16													14 3/4		4	14 3/4	29
		21				14 3/4													15
		22	3	4	30	25	5		37	27					33	20		8	192
		23							25										25
		26		10	17											10	10	10	54
			27	18	7	25	22								12	15			424

9. Describe any other water rights used for the same purpose as described above

R36-00/192

Total acres

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OCT 12 1994

the peak flow rates that are specified in the Director's Report. This is needed to insure that water is beneficially used. The peak rate of diversion should be based on peak irrigation requirements. Non-peak portions of the irrigation season typically require less water. Therefore, peak diversions made throughout the season cannot be considered beneficial use of water.

General Provision, DIVERSION RATES IN EXCESS OF .02 CFS PER ACRE, Section 16, Paragraph a, Page 15: Regarding the second sentence, which begins "For purposes," it is denied. Neither IDWR nor the claimant have demonstrated a reasonable and actual basis for a diversion rate in excess of .02 cfs per acre due to conveyance losses or field conditions.

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

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. R36-00192 on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☐ Warranty Deed ☐ Other _____

3. Source of water Tucker Springs, Lower tributary to Riley Creek

4. Date or priority 4-1-1906

5. Water is used for the following purpose:

amount 8.68 cfs for Irrigation purposes from 8-15 to 11-15
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right 8.68 cubic feet per second and/or 1736 acre-feet per annum.

7. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	SE	NW	SE	36	75	13E	Gooding	Rig Bend Ditch

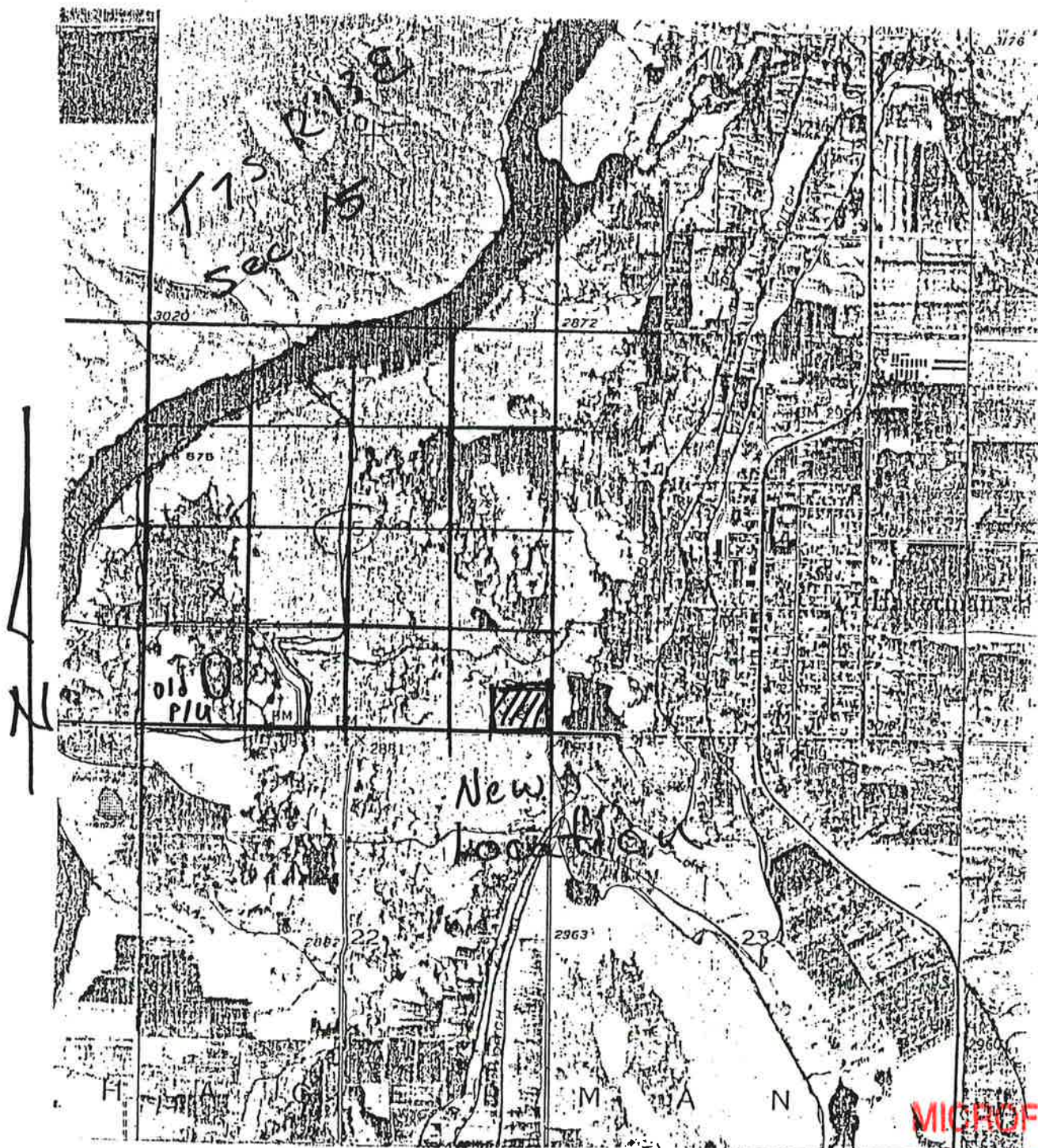
8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals.
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
75	13E	15											10	10					20
		16													10		4	15	29
		21				17.5													15
		22	3	4	30	25	5		37	27					33	20		8	192
		23							25										25
		26		10	17											10	7	10	54
		27	18	7	25	22									12	15			99
																			434

9. Describe any other water rights used for the same purpose as described above R36-00133 **OCT 12 1994**

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



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OCT 12 1994

PART 3**B. CHANGES IN NATURE OF USE**

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				to
				to

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

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

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

Richard L. Lloyd Clare C. Lloyd
(Signature of Applicant) President -
Subscribed and sworn to before me this 15th day of April, 19 91.
Mary G. Baldwin
(Notary Public)

My commission expires 10/16/1992**FOR DEPARTMENT USE ONLY**

Transfer contains 12 pages and 0 attachments
Received by M. Baldwin Date 4-15-91 Protest filed by _____
Prelim. check by J. F. Stanton Fee 50.00 5013232
Receipted by M. Baldwin Date 4-15-91
Published in Gooding Co. Leader Copies of protest forwarded by _____
Pub. dates 12/11 & 12/18/91 Hearing held by _____ Date _____
Watermaster recommendation requested on 11-26-91 Recommended for ☒ approval ☐ denial
_____ rec'd. 12-10-91 by LA
Copy of transfer sent to lien holder _____

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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

20-Apr-1993

HEPWORTH NUNGESTER & LEZAMIZ
133 SHOSHONE N
TWIN FALLS ID 83301
ATTN: CHRIS HERNANDEZ

Dear Chris:

Enclosed please find the copies of the contents from the RED FILES in the adjudication folders, as requested by the Hagerman Water Right Owners. If I can be of any further assistance, please give me a call at the office.

Sincerely,


Jeanie Robertson
Records Clerk

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OCT 12 1994



Department of Water Resources
222 Shoshone Street E.
Twin Falls, ID 83301

Date April 20, 1993

Name HEPWORTH NUNGESTER & LEZAMIZ
133 SHOSHONE N
Address TWIN FALLS ID 83301

No. of Copies	Material	Cost
120	copies of RED FILE Documents as requested by Hagerman Water Right Owners @ .05 ea.	\$ 6.00
TOTAL		\$ 6.00

Please find enclosed the form(s) and/or information you requested. The charge, if any, is indicated above.

If we may be of further assistance, please contact us.

Sincerely,

MICROFILMED
OCT 12 1994

RECEIPT
For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES

Receipt No:

6015305

RECEIVED

JAN 25 1993

Department of Water Resources
Southern Region Office

Date:
Time:

1/25/1993
11:26:25

Received
From:

BIG BEND DITCH CO.

Type of Payment

Program Acct Class

Amount

FEE FOR COPY OF ADJUDICATION CLAIM

64100

229 21 1760

17.58

Total

CHECK

285

\$17.58

Region: SOUTHERN

Signature:

R. Foster

MICROFILMED

OCT 12 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

19-Jan-1993

CLEVE C LLOYD, PRESIDENT
RT 1 BOX 14
HAGERMAN ID 83332

RE: Copy of SRBA File(s): 36-00133, 36-00192

Dear Mr. Lloyd:

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:

\$17.58

Sincerely,


Jeanie Robertson
Records Clerk

Encl:

Big Bend
231
34
265 x 5 = 13.25
post 4.10
env. .23
17.58

RECEIVED

JAN 14 1993

Department of Water Resources
Southern Region Office

1/11/93
(Date)

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

Dear Idaho Department of Water Resources:

Please provide me with a copy of all information included in
my file as it relates to water right number 36-00133, 36-00192

Please advise me of any documents in my file which you are not
releasing to me and why they are not being released. PIC BEND IRRIGATION & MINING COMPANY

Please bill me for the copy charge.

Sincerely,

Cleave C. Lloyd, PRESIDENT
(Name)

Rt. 1, Box 14
(Address)

HAGERMAN, IDAHO 83332
(City, State, Zip Code)

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

MICROFILMED

OCT 12 1994

RECEIVED

APR 30 1993

Department of Water Resources
Adjudication Bureau

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

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

Case No. A36-00192
(You must insert the
water right number you
are objecting to)

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

OBJECTION

Petitioner,

vs.

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

36-00192 -0001/
93-04-0125

Respondents.

INSTRUCTIONS

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

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

(Over)

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: Big Bend Irrigation & Mining Co.

Address: c/o Cleve Lloyd - President

Route 1, Box 14, Hagerman, ID 83332

Briefly describe your interest in this water right:

Big Bend Irrigation & Mining Co. is an

irrigation company with priority date of

04/01/1906. Right Decreed on 3/22/32 - New

International Mortgage Bank v. Idaho Power Co.

2. Owner of the water right:

Name: Big Bend Irrigation & Mining Co.

Address: c/o Cleve Lloyd - President

Route 1, Box 14, 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.

Name and address: see paragraph 2, page 2; maximum quantity:

as claimed and/or decreed; period of use: 01/01 - 12/31;

remarks: strike all remarks after "water is delivered through

Big Bend Ditch"; place of use: as described in notice of claim

and in Spring Valley's notice of error for a total of 933.90

acres

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

CLARENCE C. LLOYD - IRVAN J. GUSTAFSON, 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.

Big Bend Irrigation & Mining Co.
CLARENCE C. LLOYD - President
IRVAN J. GUSTAFSON - Director
Signature of person filing objection

By: _____

(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 20th day of April,
1993.

Clifton J. [Signature]
Notary Public for Idaho
Residing at: HAGERMAN Idaho
My Commission Expires: 5-10-97

MICROFILMED
OCT 12 1994

(Over)

INSTRUCTIONS FOR MAILING

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

CERTIFICATE OF MAILING

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

1. Original to:

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

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

Owner name: Big Bend Irrigation & Mining Co.

Owner's address: c/o Cleve Lloyd - President

Route 1, Box 14, 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 1 - See Paragraph 2, page 2 for correct name and/or address.

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.

Box 9 - Director's Report fails to accurately state the place of use.

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

CHANGES TO DIRECTOR'S REPORT, page 4

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

Question 14., page 4, Other

I.

GENERAL RESPONSE

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

II.

DESCRIPTIVE SUMMARY

(DIRECTOR'S REPORT PART I)

(hereinafter DRP-I)

(DRP-I at first unnumbered page)

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

III.

TABLE OF CONTENTS

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

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

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

IV.

INTRODUCTION

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

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

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

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

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

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

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

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

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

V.

DESCRIPTION OF THE WATER SYSTEM: BASIN 36

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

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

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

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

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

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

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

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

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

VI.

GENERAL PROVISIONS

GENERAL PROVISIONS 1 - 8 APPLY TO ALL WATER RIGHTS IN BASIN 36.
(DRP-I at page 9)

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

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

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

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

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

The objectors admit paragraphs a. and b.

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

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

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

The objectors deny the averments within this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(DIRECTOR'S REPORT PART II)

I.

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

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

(DIRECTOR'S REPORT PART III)

I.

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

VIII.

AFFIRMATIVE DEFENSES

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

AFFIRMATIVE DEFENSE NO. 1

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

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

AFFIRMATIVE DEFENSE NO. 2

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

AFFIRMATIVE DEFENSE NO. 3

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

AFFIRMATIVE DEFENSE NO. 4

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

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

AFFIRMATIVE DEFENSE NO. 5

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

AFFIRMATIVE DEFENSE NO. 6

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

AFFIRMATIVE DEFENSE NO. 7

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

AFFIRMATIVE DEFENSE NO. 8

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

AFFIRMATIVE DEFENSE NO. 9

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

AFFIRMATIVE DEFENSE NO. 10

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

AFFIRMATIVE DEFENSE NO. 11

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

AFFIRMATIVE DEFENSE NO. 12

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

AFFIRMATIVE DEFENSE NO. 13

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

AFFIRMATIVE DEFENSE NO. 14

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

AFFIRMATIVE DEFENSE NO. 15

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

AFFIRMATIVE DEFENSE NO. 16

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

AFFIRMATIVE DEFENSE NO. 17

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

AFFIRMATIVE DEFENSE NO. 18

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

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

AFFIRMATIVE DEFENSE NO. 19

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

AFFIRMATIVE DEFENSE NO. 20

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

AFFIRMATIVE DEFENSE NO. 21

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

AFFIRMATIVE DEFENSE NO. 22

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

AFFIRMATIVE DEFENSE NO. 23

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

AFFIRMATIVE DEFENSE NO. 24

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

AFFIRMATIVE DEFENSE NO. 25

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

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

AFFIRMATIVE DEFENSE NO. 26

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

AFFIRMATIVE DEFENSE NO. 27

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

WHEREFORE, the objectors pray for judgment as follows:

1. That the State of Idaho take nothing by reason of its Directors' Report, and that this action, and any claims asserted against objectors, be dismissed.

2. That a decree be entered adjudicating the existence, validity, amount and priority of objectors' water rights in accordance with objectors' claims.

3. That to the extent the acts of the Department or Director constitute a taking of objectors' property for public use, that objectors be allowed and awarded just compensation therefor.

4. That the objectors be allowed all costs of suit and reasonable attorney fees incurred herein.

5. For such further relief to which the Court finds objectors justly entitled.

(WATER\21530ANS)

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. 36-00192

RECEIVED

MAY 04 1993

Department of Water Resources
Adjudication Bureau

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

OBJECTION

Petitioner,

vs.

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

36-00192 -0002/
93-04-0126

Respondents.

I. GENERAL INFORMATION

1. Person objecting:

Name: United States of America,
Environment and Natural Resources Division
550 West Fort Street
Box 33
Boise, Idaho 83734

Briefly describe your interest in this water right: The United States
holds water rights of many types in all reporting areas within the SRBA.

2. Owner of the water right:

Name: BIG BEND IRRIGATION & MINING CO.

Address: 2751 S 850 E
Hagerman, ID 83332

3. If this objection is filed by an attorney:

Attorney Name: David W. Harder
Attorney Address: United States Department of Justice
Environment and Natural Resources Division
550 West Fort Street
Box 33
Boise, Idaho 83734
Attorney Phone No.: (202) 272-5784

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

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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.
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 certain paragraphs of the general provisions in the Director's report as noted on the attached "Reasons Supporting Objections and Proposed Changes".

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 attached "Reasons Supporting Objections and Proposed Changes" numbered as per above check list.

CHANGES TO THE DIRECTOR'S REPORT

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

See attached "Reasons Supporting Objections and Proposed Changes" numbered as per above check list.

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

[X] 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.

REASONS SUPPORTING OBJECTIONS AND PROPOSED CHANGES - 5 Pages

VERIFICATION

In the District of Columbia,

The United States of America, being first duly sworn, upon oath, deposes and says:

That I am the entity filing this objection, that I am a water claimant in this proceeding, as defined by I.C. § 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.

By: David W. Harker

(Attorney signing in representative capacity)

Subscribed and sworn to before me this 29th day of April, 1993.

Notary Public for: Snake Passers

Residing at: District of Columbia

My Commission Expires: July 14, 1997

CERTIFICATE OF MAILING

I hereby certify that on the 29th 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:

Name: BIG BEND IRRIGATION & MINING CO.

Address: 2751 S 850 E
Hagerman, ID 83332

3. One copy to:

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

David W. Harker
Signature of Objector or attorney mailing
on Objector's behalf

REASONS SUPPORTING OBJECTIONS AND PROPOSED CHANGES

BIG BEND IRRIGATION & MINING CO.

CASE NO. 36-00192

3. QUANTITY

a. The total quantity of water used in cubic feet per second

Combined Rights

Water rights 36-00133 and 36-00192 were combined by IDWR for analysis and recommendation purposes. The combined right limit, using IDWR calculations, should be 27.42 cfs instead of 29.43 cfs since in 36-00133 purposes other than irrigation are considered de minimus or concurrent.

Diversion Volume at Water Sources

The IDWR Director's Report fails to limit the total acre-feet of annual diversion from the water source for this right. The general provisions (Paragraph 13, Page 14) specify that the maximum acre-feet of water allowed annually at the field headgate is 4.0 acre-feet per acre. The only annual volume specified for this right is for consumptive use at the rate of 3.0 acre-feet per acre.

Since allowances are made in the peak diversion rate for (1) conveyance losses between the water source and field headgate and (2) the on-farm losses requiring more than 0.02 cfs/acre at the headgate, it can only be assumed that it is the Director's intention to allow similar unspecified increases in the annual diversion volume. The unquantified nature of the right, as described, is therefore unacceptable.

Conveyance Losses

The conveyance loss quantified by IDWR is inaccurate because of inappropriate use of the following parameters in the Worstell formula:

- Seepage rate values were typically estimated at two feet per day throughout the Hagerman Valley. Readily available soils data demonstrate that widely varying seepage rates actually exist.
- Water surface top width values throughout the Hagerman Valley were typically estimated at ten feet. There are wide variations in size between the various ditches and along their lengths.

IDWR's computerized analysis used to calculate conveyance loss values for these ditch systems could have been performed using the variable seepage rates and widths.

Flows In Excess of 0.02 cfs/Acre

The IDWR has contemplated that potential problems could result from a water right being decreed with a flow in excess of 0.02 cfs per acre. On March 14, 1983, the Administrator of the IDWR issued a memorandum (Adjudications Procedure No. 2) which addressed decreed flows in excess of 0.02 cfs per acre. The memo stated, in part, as follows:

"If an excessive flow is eventually decreed by the court for a water right in the adjudication process, the diversion in excess of .02 cfs per acre will not be subject to transfer to additional or new lands separately or as a part of the original water right without a specific showing that total consumptive use and effect on other water rights will be the same. Transfers of

excessive flows to new lands will be reviewed under the same criteria as new applications for excessive flows. The amount beyond .02 cfs per acre cannot be changed to a new consumptive use. The excessive flow is appurtenant to specific land using the local historical irrigation practices and cannot through transfer or other means, be used to expand the water right beyond the original acreage and/or consumptive use."

If this right is granted with a maximum diversion rate in excess of 0.02 cfs per acre, a remark similar to the above quote should be included.

7. PURPOSE OF USE

Purposes of use, other than irrigation, are recommended for water right 36-00133, but not for 36-00192. The combined peak diversion limit of 29.43 cfs on both reports is greater than the combined rate calculated by IDWR for irrigation. Peak diversion limits (in 36-00133) for irrigation and for the total, for all purposes, were recommended as 20 cfs. This implies that uses, other than irrigation, are considered to be de minimus or concurrent uses. Therefore, all purposes should be stated in 36-00192 or the combined right be limited to the irrigation rate only (27.42 cfs by IDWR calculations).

11. REMARKS

Combined limit should be reduced to reflect only irrigation.

14. OTHER

General Provision, CONJUNCTIVE ADMINISTRATION, Section 3, Page 10; General Provision, ADMINISTRATION OF GROUND WATER, Section 4, Page 10; General Provision, ADMINISTRATION OF BASIN 36 RELATIVE TO THE SNAKE RIVER, Section 5, first paragraph, Page 10; General

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Provision, ADMINISTRATION OF SMALL DOMESTIC AND STOCK WATER RIGHTS, Section 6, Page 11: The U.S. objects to administration of federal water rights by the director to the extent that the director seeks authority beyond the scope of the waiver of sovereign immunity contained in the McCarran Amendment, 43 U.S.C. 666.

General Provision, ADMINISTRATION OF BASIN 36 RELATIVE TO THE SNAKE RIVER, Section 5, first paragraph, Page 1-10: Regarding the second sentence, which begins "(i)nformation presently available," the United States is without sufficient information or knowledge to form a belief as to the truth of the sentence, and therefore it is denied. Regarding the third sentence, which begins "(w)hen the director," it is denied.

General Provision, MEASURING DEVICES AND CONTROL WORKS, Section 7, Page 11: The U.S. objects to administration of federal water rights by the director inconsistent with the McCarran Amendment. The U.S. further asserts that the director may not prescribe measuring devices and control works to be installed and maintained on federal property and the director may not prohibit or prevent the diversion of water to federal property for federal uses.

General Provision, IRRIGATION USE, Section 12, Paragraphs b.i. - iii., Pages 13 & 14: all paragraphs are denied.

General Provision, IRRIGATION USE, Section 12, Paragraphs c.i. - iii., Page 14: all paragraphs are denied.

General Provision, DIVERSION VOLUME FOR IRRIGATION, Section 13, the last sentence is denied. The Director's Report fails to place a limit on the total quantity of water that can be diverted from the water source. Since the water commissioner is typically required to deliver water from the water source to the farm system, adequate allocation of available water cannot be accomplished without limits being set on the total annual diversion, as well as

the peak flow rates that are specified in the Director's Report. This is needed to insure that water is beneficially used. The peak rate of diversion should be based on peak irrigation requirements. Non-peak portions of the irrigation season typically require less water. Therefore, peak diversions made throughout the season cannot be considered beneficial use of water.

General Provision, DIVERSION RATES IN EXCESS OF .02 CFS PER ACRE, Section 16, Paragraph a, Page 15: Regarding the second sentence, which begins "For purposes," it is denied. Neither IDWR nor the claimant have demonstrated a reasonable and actual basis for a diversion rate in excess of .02 cfs per acre due to conveyance losses or field conditions.

NOTICE OF ERROR

* SEE 36-00133

RESPONSE

CORRECTED R PROOF

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R PROOF



CVR



MAPS



PHOTOS



MISC



✓ by scc

Water Right Number - R36-00192

Prefix Translation: RESEARCH

Old (D) Number -

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

*** C - CURRENT OWNER ***

BIG BEND IRRIGATION & MINING CO

1 - C/O CATHERINE SAUL

2 - 2751 S 850 E

3 -

City- HAGERMAN

Phone - 208-837-6622

State- ID Zip- 83332

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
04/01/1906 17 SOUTHERN D - DECREED+ - - - - Source - - - - + + - - - - - Tributary - - - - - +
TUCKER SPRINGS, LOWER RILEY CREEK+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County

07S 13E 36 SE NW SE (47) GOODING

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 04/01 10/31 15.000+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
15.000 0.0+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
07S 13E 15 SW SW 10.0 01 IRRIGATION (47) GOODING
07S 13E 16 SE SE 6 28.0 01 IRRIGATION (47) GOODING
07S 13E 21 SE NE 5 15.0 01 IRRIGATION (47) GOODING
07S 13E 22 NW NE 4.0 01 IRRIGATION (47) GOODING
07S 13E 22 SW NE 30.0 01 IRRIGATION (47) GOODING
07S 13E 22 SE NE 25.0 01 IRRIGATION (47) GOODING
07S 13E 22 NE NW 5.0 01 IRRIGATION (47) GOODING
07S 13E 22 SW NW 37.0 01 IRRIGATION (47) GOODING
07S 13E 22 SE NW 27.0 01 IRRIGATION (47) GOODING
07S 13E 22 NE SE 15.5 01 IRRIGATION (47) GOODING
07S 13E 22 NW SE 13.0 01 IRRIGATION (47) GOODING
07S 13E 22 SE SE 8.0 01 IRRIGATION (47) GOODING
07S 13E 23 SW NW 23.0 01 IRRIGATION (47) GOODING
07S 13E 26 NW NE 10.0 01 IRRIGATION (47) GOODING
07S 13E 26 SW NE 17.0 01 IRRIGATION (47) GOODING
07S 13E 26 NW SE 10.0 01 IRRIGATION (47) GOODING
07S 13E 26 SW SE 7.0 01 IRRIGATION (47) GOODING
07S 13E 26 SE SE 10.0 01 IRRIGATION (47) GOODING
07S 13E 27 NE NE 18.0 01 IRRIGATION (47) GOODING
07S 13E 27 NW NE 7.0 01 IRRIGATION (47) GOODING
07S 13E 27 SW NE 25.0 01 IRRIGATION (47) GOODING

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JAN 25 1993

Water right number - R36-00192

Prefix Translation: RESEARCH

Tw	Rng	Sec	Tract	Lot	Acres	Code	Description	County
07S	13E	27	SE NE		22.0	01	IRRIGATION	(47) GOODING
07S	13E	27	NE SE		12.0	01	IRRIGATION	(47) GOODING
07S	13E	27	NW SE		15.0	01	IRRIGATION	(47) GOODING

Total Acres: 393.5

+ - - Diversion Means - CHECK DAM & WEIR TO BIG BEND DITCH, GRAVITY & SPRINKLER IRRIG.

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - 36-00133

REMARKS

WATER IS DELIVERED THROUGH BIG BEND DITCH.
USE OF THIS RIGHT WITH RIGHT NO. 36-00133 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 29.43 CFS FOR ALL USES
IDENTIFIED DURING THE IRRIGATION SEASON. BOTH ARE ALSO LIMITED
TO A TOTAL COMBINED FIELD HEADGATE REQUIREMENT OF 19.00 CFS,
A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 1180.5 AF, AND
TO THE IRRIGATION OF A COMBINED TOTAL OF 393.5 ACRES IN A SINGLE
IRRIGATION SEASON.
THIS RIGHT WITH RIGHT NO. 36-00133 IS LIMITED TO A TOTAL OF
8.42 CFS FOR USE AS CONVEYANCE LOSS IN DELIVERY OF THE RIGHTS
DELIVERED THROUGH THE BIG BEND DITCH.

Old Water Right Numbers -

3600192

Conditions of Approval -

C04 - RIGHT INCLUDES ACCOMPLISHED CHANGE IN PURPOSE OF USE PURSUANT
- TO IDAHO CODE 42-1416A.
C05 - RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO
- IDAHO CODE 42-1416A.

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

Comments-

Date: 08/08/1992 User Id: CLELLAND Subject: COPIED FROM REMARKS
LAND CLAIMED IS APPROXIMATE BASED ON SHARES OWNED BY VARIOUS
DITCHES. DUE TO THE MILD CONDITIONS IN THE HAGERMAN VALLEY, SOME
BEND DITCH IS ABOUT 50%, SO ALL THE WATER DIVERTED IS NEEDED TO
DIVERSIONS, ALL THE OUTPUT OF THE UPPER & LOWER TUCKER SPRINGS
ABOVE THE DITCH, AND IS IRRIGATED BY PUMPS IN THE DITCH; EXPAN-
VOLUME CLAIMED IS 15 CFS FLOWING CONTINUOUSLY ALL YEAR. BETWEEN
A LOT OF LAND IN THE HAGERMAN VALLEY WAS PUT UNDER SPRINKLERS
ATED.

SHAREHOLDERS. SOME OF THE LAND IS ALSO IRRIGATED FROM OTHER
IRRIGATION OCCURS ALL YEAR. DITCH LOSS THRU 9 MILES OF THE BIG
INSURE DELIVERY TO ALL THE SHAREHOLDERS. EXCEPT FOR A FEW OTHER
RUNS THRU THE BIG BEND DITCH ALL YEAR. SOME LAND IRRIGATED IS
SION IS CLAIMED UNDER SEC. 42-1416 OF THE IDAHO CODE.
DITCH LOSS & BENEFICIAL USE, NEARLY ALL THE WATER IS CONSUMED.
FROM 1972 THRU 1985, POSSIBLY DOUBLING THE AMOUNT OF LAND IRRIG-
ATED.

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JAN 25 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

01:30:29
06/30/90

PAGE: 19
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-00192

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			8-20-90 SEC/HWT	N		See 8-8-92		
POINT OF DIV	Y			Y	1,5			
SOURCE	Y	N		N	1,5			
PLACE OF USE	Y			Y	1,2,4,5,6			
DIV. AMOUNT CFS/VOLUME	Y			Y	6 STDS			
CONSUMPTIVE USE	-			Y				
PURPOSES	Y			N				
PERIOD OF USE	Y			Y	6. STDS			
BASIS OF CLAIM				N				
REMARKS	Y			Y	6.			

"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.

See A36-00133 for
Complete review.

RECORDED

JAN 25 1993

★ See A36-00133 MASTER FILE for complete Review

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

01:30:29
06/30/90

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-00192

LAST: BIG BEND IRRIGATION & MINING CO. FIRST:
ADDRESS: C/O CATHERINE SAUL
2751 S. 850 E.
CITY: HAGERMAN STATE: ID ZIP: 83332
PHONE NUMBER: 208-837-6622

OWNER CODE: C

FIELD EXAM REQUIRED?

DATABASE
Y

FIELD
EXAMINER

VERIFICATION REQUIRED DUE TO REMARKS?

CLAIM REMARKS: LAND CLAIMED IS APPROXIMATE BASED ON SHARES OWNED BY VARIOUS SHAREHOLDERS. SOME OF THE LAND IS ALSO IRRIGATED FROM OTHER DITCHES. DUE TO THE MILD CONDITIONS IN THE HAGERMAN VALLEY, SOME IRRIGATION OCCURS ALL YEAR. DITCH LOSS THRU 9 MILES OF THE BIG BEND DITCH IS ABOUT 50%, SO ALL THE WATER DIVERTED IS NEEDED TO INSURE DELIVERY TO ALL THE SHAREHOLDERS. EXCEPT FOR A FEW OTHER DIVERSIONS, ALL THE OUTPUT OF THE UPPER & LOWER TUCKER SPRINGS RUNS THRU THE BIG BEND DITCH ALL YEAR. SOME LAND IRRIGATED IS ABOVE THE DITCH, AND IS IRRIGATED BY PUMPS IN THE DITCH; EXPANSION IS CLAIMED UNDER SEC. 42-1416 OF THE IDAHO CODE. VOLUME CLAIMED IS 15 CFS FLOWING CONTINUOUSLY ALL YEAR. BETWEEN DITCH LOSS & BENEFICIAL USE, NEARLY ALL THE WATER IS CONSUMED. A LOT OF LAND IN THE HAGERMAN VALLEY WAS PUT UNDER SPRINKLERS FROM 1972 THRU 1985, POSSIBLY DOUBLING THE AMOUNT OF LAND IRRIGATED.

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JAN 25 1993

CONTACT PERSON: _____

PHONE NUMBER: (____) ____-____

DATE OF FIELD EXAM: ____/____/____

APPOINTMENT MADE: Y(____) N(____)

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

ACCOMPANIED BY: _____

PHONE NUMBER: (____) ____-____

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / REMARKS:

See A36-00133

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JAN 25 1993

A. AJ CLAIM: # A36-00192 PRIORITY DATE: 04-01-1906 STAGE: D
B. WR RECORD: # 36-00192 PRIORITY DATE: 04-01-1906 STAGE: D

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

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

REMARKS: _____

=====

RECOMMENDED PRIORITY DATE:
04-01-1906

REVIEWED BY SCC DATE 8-17-90

=====

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JAN 25 1993

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A36-00192	07S	13E	36	NE	SW	SE		GOODING

OTHER AJ CLAIMS WITH SAME AJ POD
A PREFIX R PREFIX
A36-07237 NONE
A36-07865

WR RECORDS IN SAME 40 ACRE TRACT

36-02007
36-02159
36-07237
36-07762
36-07865
36-08348

SOURCE: TUCKER SPRINGS, LOWER

TRIB: RILEY CREEK

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
36-00192	07S	13E	36		SW	SE		GOODING

OTHER WR RECORDS WITH SAME WR POD

AJ CLAIMS IN SAME 40 ACRE TRACT
A PREFIX R PREFIX

36-02007
36-02159
36-07237
36-07762
36-07865

A36-07762 NONE
A36-07237
A36-07865

SOURCE: LOWER TUCKER SPRING

TRIB: RILEY CREEK

C. FIELD EXAM REQUIRED?

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

DATABASE
Y
Y

FIELD
EXAMINER
YES
N

NOT RECORDED

JAN 25 1993

REMARKS:

Confirm Location of Lower Springs. Verified by field exam (SCC/HAT)

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	COUNTY
<u>7S.</u>	<u>13E</u>	<u>36</u>	<u>SE</u>	<u>NW</u>	<u>SE</u>	<u>—</u>	<u>47</u>

SOURCE: TUCKER SPRINGS, LOWER

TRIB: RILEY CREEK

REVIEWED BY: SCC

DATE: 12-12-90

MICROFILMED

JAN 25 1993

A. ROOT WATER RIGHT NUMBERS: A36-00192

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
07S	13E	22	NE	SW		BIG BEND IRRIGATION & MINING	CA36-00192 / 4.0	36-00192 /		12.0	
						BIG BEND IRRIGATION & MINING	CA36-02007 / 4.0	36-02007 /			
						BURLESON, LINDA	A36-00077A / 5.0	- /			
						GISLER, BRADLEY	A36-00021A / 27.0	- /			
						GISLER, HARRY R.	A36-00021B /	- /			
						BIG BEND IRRIGATION & MINING	CA36-00133 / 4.0	36-00133 /			
						MARINER, F. C.		36-00077 /			
07S	13E	22	NE	SE		BIG BEND IRRIGATION & MINING	CA36-00192 / 15.0	36-00192 /		34.0	
						BIG BEND IRRIGATION & MINING	CA36-02007 / 15.0	36-02007 /			
						BURLESON, EDWARD	A36-10413 /	- /			
						LORANGER, GENE E.	A36-10423 /	- /			
						LORANGER, GENE E.	A36-10426 /	- /			
						LORANGER, GENE E.	A36-00011B / 18.0	- /			
						BIG BEND IRRIGATION & MINING	CA36-00133 / 15.0	36-00133 /			
						BARTON, W. C.		36-00011 /			
						MC CARTY, JOHN		36-02029 / 40.0			
07S	13E	22	NW	SE		BIG BEND IRRIGATION & MINING	CA36-00192 / 40.0	36-00192 /		36.0	
						BIG BEND IRRIGATION & MINING	CA36-02007 / 40.0	36-02007 /			
						HAYDEN, CARL E.	A37-12932 / 8.0	- /			
						BIG BEND IRRIGATION & MINING	CA36-00133 / 40.0	36-00133 /			
07S	13E	23	SW	NW		BIG BEND IRRIGATION & MINING	CA36-00192 / 25.0	36-00192 /		32.0	
						VERNON, EDITH L.	A36-10125 /	- /			
						BIG BEND IRRIGATION & MINING	CA36-00133 / 25.0	36-00133 /			
						VERNON, EDITH L.	A36-00003E / 10.0	- /			
						BIG BEND IRRIGATION & MINING	C	36-02007 /			
						MC CARTY, JOHN		36-02029 / 20.0			
07S	13E	23	SE	NW		BIG BEND IRRIGATION & MINING	CA36-00192 / 20.0	36-00192 /		17.0	
						SPRING VALLEY RANCH INC.	A36-00004 / 40.0	36-00004 /			
						BIG SPRING WATER USER'S ASSN.	A36-00022 /	- /			
						BIG BEND IRRIGATION & MINING	CA36-00133 / 20.0	36-00133 /			
						SPRING VALLEY RANCH INC.		36-08423 / 40.0			
07S	13E	23	NE	SW		BIG BEND IRRIGATION & MINING	CA36-00192 / 15.0	- /		38.0	
						SPRING VALLEY RANCH INC.	A36-00004 / 40.0	- /			
						BUCKEYE FARMS INC.	A36-00015 / 40.0	36-00015 /			
						BUCKEYE FARMS INC.	A36-00016 / 40.0	36-00016 /			
						BIG BEND IRRIGATION & MINING	CA36-00133 / 15.0	- /			
						BUCKEYE FARMS INC.	A36-00017 / 40.0	36-00017 /			
						ROSHOLT, JOHN A.	A36-00018 / 40.0	36-00018 /			
						MC CARTY, JOHN		36-02029 / 40.0			
07S	13E	26	NW	NE		BIG BEND IRRIGATION & MINING	CA36-00192 / 40.0	36-00192 /		17.0	
						SPRING VALLEY RANCH INC.	A36-00004 / 18.3	- /			
						BUCKEYE FARMS INC.	A36-00015 / 30.0	36-00015 /			
						BUCKEYE FARMS INC.	A36-00016 / 30.0	36-00016 /			

See A36-00133 for Review of POU

List ACRES & TRACTS
SAME AS A36-00133

MICROFILMED

JAN 25 1993

BUCKEYE FARMS INC.	A36-00017	/30.0	36-00017	/	
UHLING , TERRY T.	A36-00030	/40.0	-	/	
ROSHOLT , JOHN A.	A36-11142	/15.0	-	/	
BIG BEND IRRIGATION & MINING	CA36-00133	/40.0	36-00133	/	
ROSHOLT , JOHN A.	A36-00018	/30.0	36-00018	/	
ORMSBY LAND & LIVESTOCK CO.			36-00186	/	
MC CARTY , JOHN			36-02029	/40.0	

07S 13E 26 SW NE	BIG BEND IRRIGATION & MINING	CA36-00192	/30.0	36-00192	/	34.0
	SPRING VALLEY RANCH INC.	A36-00004	/18.3	-	/	
	BUCKEYE FARMS INC.	A36-00015	/15.0	36-00015	/	
	BUCKEYE FARMS INC.	A36-00016	/15.0	36-00016	/	
	BUCKEYE FARMS INC.	A36-00017	/15.0	36-00017	/	
	ROSHOLT , JOHN A.	A36-11142	/15.0	-	/	
	BIG BEND IRRIGATION & MINING	CA36-00133	/30.0	36-00133	/	
	ROSHOLT , JOHN A.	A36-00018	/15.0	36-00018	/	
	UHLING , TERRY T.	A36-00030	/40.0	-	/	
	ORMSBY LAND & LIVESTOCK CO.			36-00186	/	
	MC CARTY , JOHN			36-02029	/40.0	

07S 13E 26 NW SE	BIG BEND IRRIGATION & MINING	CA36-00192	/19.0	36-00192	/	38.0
	SPRING VALLEY RANCH INC.	A36-00004	/18.3	-	/	
	BUCKEYE FARMS INC.	A36-00015	/10.0	36-00015	/	
	BUCKEYE FARMS INC.	A36-00016	/10.0	36-00016	/	
	BUCKEYE FARMS INC.	A36-00017	/10.0	36-00017	/	
	ROSHOLT , JOHN A.	A36-07762	/	36-07762	/	
	ROSHOLT , JOHN A.	A36-11142	/40.0	-	/	
	BIG BEND IRRIGATION & MINING	CA36-00133	/19.0	36-00133	/	
	ROSHOLT , JOHN A.	A36-00018	/10.0	36-00018	/	
	ORMSBY LAND & LIVESTOCK CO.			36-00186	/	
	MC CARTY , JOHN			36-02029	/40.0	
	FLYING TRIANGLE INC.			L36-07762	/	

07S 13E 26 SW SE	BIG BEND IRRIGATION & MINING	CA36-00192	/40.0	36-00192	/	35.0
	BUCKEYE FARMS INC.	A36-00015	/40.0	36-00015	/	
	BUCKEYE FARMS INC.	A36-00016	/40.0	36-00016	/	
	BUCKEYE FARMS INC.	A36-00017	/40.0	36-00017	/	
	BIG BEND IRRIGATION & MINING	CA36-00133	/40.0	36-00133	/	
	ROSHOLT , JOHN A.	A36-00018	/40.0	36-00018	/	
	ORMSBY LAND & LIVESTOCK CO.			36-00186	/	
	MC CARTY , JOHN			36-02029	/40.0	

07S 13E 26 SE SE	BIG BEND IRRIGATION & MINING	CA36-00192	/27.0	36-00192	/	37.0
	BUCKEYE FARMS INC.	A36-00015	/40.0	36-00015	/	
	BUCKEYE FARMS INC.	A36-00016	/40.0	36-00016	/	
	BUCKEYE FARMS INC.	A36-00017	/40.0	36-00017	/	
	MATHERS , ROBERT L.	A36-10147	/	-	/	
	UHLING , TERRY T.	A36-11145	/	-	/	
	BUCKEYE FARMS, INC.	A36-11146	/	-	/	
	BIG BEND IRRIGATION & MINING	CA36-00133	/27.0	36-00133	/	
	ROSHOLT , JOHN A.	A36-00018	/40.0	36-00018	/	
	ORMSBY LAND & LIVESTOCK CO.			36-00186	/	
	MC CARTY , JOHN			36-02029	/40.0	

07S 13E 27 NE NE	BIG BEND IRRIGATION & MINING	CA36-00192	/29.0	36-00192	/	41.0
	BIG BEND IRRIGATION & MINING	CA36-02007	/29.0	-	/	
	SAUER , ROY E.	A36-10622	/	-	/	
	ELLIS , LEROY E.	A36-00033C	/ 8.0	-	/	
	SAUER , ROY E.	A36-00033D	/ 3.0	-	/	

VEENSTRA, JR. , PETE	A37-10123	/	-	/
BIG BEND IRRIGATION & MINING	CA36-00133	/29.0	36-00133	/
KING , MARION E.	A36-08158	/ 1.0	36-08158	/ 0.5
CLIFFORD , EDNA N.			36-00033	/
CLIFFORD , EDNA N.			36-00034	/
MC CARTY , JOHN			36-02029	/40.0

07S 13E 27 SW NE	BIG BEND IRRIGATION & MINING	CA36-00192	/40.0	36-00192	/	42.0
	BIG BEND IRRIGATION & MINING	CA36-02007	/40.0	36-02007	/	
	REA , EDNA M.	A36-10334	/	-	/	
	BIG BEND IRRIGATION & MINING	CA36-00133	/40.0	36-00133	/	
	REA , EDNA M.	A36-00003A	/13.0	-	/	
	NEW INTERNATIONAL MORTGAGE BAN			36-00001	/	
	NEW INTERNATIONAL MORTGAGE BAN			36-00002	/	
	NEW INTERNATIONAL MORTGAGE BAN			36-00003	/	

07S 13E 27 SE NE	BIG BEND IRRIGATION & MINING	CA36-00192	/40.0	36-00192	/	37.0
	BIG BEND IRRIGATION & MINING	CA36-02007	/40.0	-	/	
	JONES , GENE L.	A36-00011C	/ 9.0	-	/	
	REA , EDNA M.	A36-00033E	/17.0	-	/	
	JONES , GENE L.	A37-12518	/	-	/	
	BIG BEND IRRIGATION & MINING	CA36-00133	/40.0	36-00133	/	
	CLIFFORD , EDNA N.			36-00033	/	
	CLIFFORD , EDNA N.			36-00034	/	
	MC CARTY , JOHN			36-02029	/40.0	

07S 13E 27 NE SE	BIG BEND IRRIGATION & MINING	CA36-00192	/40.0	36-00192	/	23.0
	BIG BEND IRRIGATION & MINING	CA36-02007	/40.0	36-02007	/	
	BIG BEND IRRIGATION & MINING	CA36-00133	/40.0	36-00133	/	
	JONES , GENE L.	A36-00011C	/ 9.0	-	/	
	CLIFFORD , EDNA N.			36-00033	/	
	CLIFFORD , EDNA N.			36-00034	/	
	MC CARTY , JOHN			36-02029	/40.0	

07S 13E 36 NW NW	BIG BEND IRRIGATION & MINING	CA36-00192	/22.0	36-00192	/	31.0
	RAY , LEO E.	A36-07237	/	36-07237	/	
	BIG BEND IRRIGATION & MINING	CA36-00133	/22.0	36-00133	/	
	RAY , LEO E.	A36-07865	/	36-07865	/	
	RAY , LEO E.	A36-07995	/	36-07995	/	
	BEDINGFIELD , J. C.			36-00015	/	
	BEDINGFIELD , J. C.			36-00016	/	
	MC CARTY , MARY			36-00017	/	
	BEDINGFIELD , J. C.			36-00018	/	
	ORMSBY , L. L.			36-00170	/	
	BIG BEND IRRIGATION & MINING C			36-02007	/	
	RAY , LEO			36-08348	/	

07S 13E 15 SW SW	BIG BEND IRRIGATION & MINING	CA36-00192	/10.0	36-00192	/	36.0
	COOK , RICHARD L.	A36-02002	/36.0	36-02002	/15.0	
	BIG BEND IRRIGATION & MINING	CA36-02007	/10.0	-	/	
	COOK , RICHARD L.	A36-10510	/	-	/	
	COOK , RICHARD L.	A36-00097	/36.0	-	/	
	COOK , RICHARD L.	A36-00098	/36.0	-	/	
	COOK , RICHARD L.	A36-00101	/36.0	36-00101	/	
	BIG BEND IRRIGATION & MINING	CA36-00133	/10.0	36-00133	/	
	COOK , RICHARD L.	A36-00141	/36.0	-	/	
	COOK , RICHARD L.	A36-08317	/	36-08317	/	
	COOK , RICHARD L.			L36-08317	/	

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JAN 25 1993

07S 13E 15	SE	SW		BIG BEND IRRIGATION & MINING	CA36-00192	/10.0	36-00192	/	9.0
				COOK , RICHARD L.	A36-02002	/ 9.0	36-02002	/10.0	
				BIG BEND IRRIGATION & MINING	CA36-02007	/10.0	-	/	
				PORTER , BOB	A36-07172	/	-	/	
				COOK , RICHARD L.	A36-00097	/ 9.0	-	/	
				COOK , RICHARD L.	A36-00098	/ 9.0	-	/	
				PORTER , BOB	A36-00099	/ 5.0	-	/	
				PORTER , BOB	A36-00100	/ 5.0	-	/	
				COOK , RICHARD L.	A36-00101	/ 9.0	36-00101	/	
				BIG BEND IRRIGATION & MINING	CA36-00133	/10.0	36-00133	/	
				COOK , RICHARD L.	A36-00141	/ 9.0	-	/	
				PORTER , BOB	A36-07233	/	-	/	
07S 13E 16	NE	SE	3	BIG BEND IRRIGATION & MINING	CA36-00192	/10.0	36-00192	/	
				BIG BEND IRRIGATION & MINING	CA36-02007	/10.0	-	/	
				BIG BEND IRRIGATION & MINING	CA36-00133	/10.0	36-00133	/	
				SANDS , BESSIE			36-00097	/	
				SANDS , MARTHA A.			36-00142	/	
07S 13E 16	SE	SE	6	BIG BEND IRRIGATION & MINING	CA36-00192	/15.0	36-00192	/	
				BIG BEND IRRIGATION & MINING	CA36-02007	/15.0	-	/	
				MILLER , MICHAEL K.	A36-11021	/	-	/	
				BIG BEND IRRIGATION & MINING	CA36-00133	/15.0	36-00133	/	
07S 13E 21	NE	NE	1	BIG BEND IRRIGATION & MINING	CA36-00192	/35.0	36-00192	/	
				BIG BEND IRRIGATION & MINING	CA36-02007	/35.0	36-02007	/	
				BIG BEND IRRIGATION & MINING	CA36-00133	/35.0	36-00133	/	
				TROUTNER , A. L.			36-08377	/	
07S 13E 21	NW	NE	1	BIG BEND IRRIGATION & MINING	CA36-00192	/ 5.0	36-00192	/	
				BIG BEND IRRIGATION & MINING	CA36-02007	/ 5.0	-	/	
				BIG BEND IRRIGATION & MINING	CA36-00133	/ 5.0	36-00133	/	
07S 13E 21	SE	NE	5	BIG BEND IRRIGATION & MINING	CA36-00192	/18.0	36-00192	/	
				BIG BEND IRRIGATION & MINING	CA36-02007	/18.0	36-02007	/	
				BIG BEND IRRIGATION & MINING	CA36-00133	/18.0	36-00133	/	
07S 13E 16	SW	SE		BIG BEND IRRIGATION & MINING	CA36-00192	/15.0	-	/	
				BIG BEND IRRIGATION & MINING	CA36-02007	/15.0	-	/	
				BIG BEND IRRIGATION & MINING	CA36-00133	/15.0	-	/	
				PADGETT , MARION E.			36-07228	/	
07S 13E 22	NE	NE		BIG BEND IRRIGATION & MINING	CA36-00192	/ 9.0	36-00192	/	2.0
				MADARIETA , FELIX	A36-10272	/	-	/	
				PETERSON , ORLAND	A36-10523	/	-	/	
				LLOYD , CLEAVE	A36-04142	/	36-04142	/	
				BIG BEND IRRIGATION & MINING	CA36-00133	/ 9.0	36-00133	/	
				LLOYD , CLEAVE	A36-00003G	/20.0	-	/	
				BIG BEND IRRIGATION & MINING	C		36-02007	/	
07S 13E 22	NW	NE		BIG BEND IRRIGATION & MINING	CA36-00192	/40.0	36-00192	/	4.0
				BIG BEND IRRIGATION & MINING	CA36-02007	/40.0	36-02007	/	
				BIG BEND IRRIGATION & MINING	CA36-00133	/40.0	36-00133	/	
07S 13E 22	SW	NE		BIG BEND IRRIGATION & MINING	CA36-00192	/40.0	36-00192	/	30.0
				BIG BEND IRRIGATION & MINING	CA36-02007	/40.0	36-02007	/	
				BURK , THOMAS H.	A36-10066	/	-	/	
				BIG BEND IRRIGATION & MINING	CA36-00133	/40.0	36-00133	/	

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07S 13E 22 SE NE	BIG BEND IRRIGATION & MINING	CA36-00192	/40.0	36-00192	/	25.0
	BIG BEND IRRIGATION & MINING	CA36-02007	/40.0	36-02007	/	
	BATES , BARRY B.	A36-10536	/	-	/	
	SCHUELER , VIRGINIA F.	A36-10537	/	-	/	
	BIG BEND IRRIGATION & MINING	CA36-00133	/40.0	36-00133	/	
07S 13E 22 NE NW	BIG BEND IRRIGATION & MINING	CA36-00192	/37.0	36-00192	/	5.0
	BIG BEND IRRIGATION & MINING	CA36-02007	/37.0	36-02007	/	
	COOK , VAY	A36-10062	/	-	/	
	COOK , VAY	A36-10063	/	-	/	
	BIG BEND IRRIGATION & MINING	CA36-00133	/37.0	36-00133	/	
	COOK , VAY	A36-10064	/	-	/	
07S 13E 22 NW NW	BIG BEND IRRIGATION & MINING	CA36-00192	/40.0	36-00192	/	5.0
	BIG BEND IRRIGATION & MINING	CA36-02007	/40.0	36-02007	/	
	BIG BEND IRRIGATION & MINING	CA36-00133	/40.0	36-00133	/	
	TROUTNER , A. L.			36-08377	/	
07S 13E 22 SW NW	BIG BEND IRRIGATION & MINING	CA36-00192	/40.0	36-00192	/	37.0
	BIG BEND IRRIGATION & MINING	CA36-02007	/40.0	36-02007	/	
	BIG BEND IRRIGATION & MINING	CA36-00133	/40.0	36-00133	/	
	CALLOW , LYLE W.	A36-08318	/	36-08318	/	
	CALLOW , LYLE W.			L36-08318	/	
07S 13E 22 SE NW	BIG BEND IRRIGATION & MINING	CA36-00192	/40.0	36-00192	/	27.0
	BIG BEND IRRIGATION & MINING	CA36-02007	/40.0	36-02007	/	
	PETERSEN , BERTHA A.	A36-10367	/	-	/	
	SAUL , DONALD V.	A36-10598	/	-	/	
	BIG BEND IRRIGATION & MINING	CA36-00133	/40.0	36-00133	/	
07S 13E 22 SE SE	BIG BEND IRRIGATION & MINING	CA36-00192	/29.0	-	/	42.0
	BIG BEND IRRIGATION & MINING	CA36-02007	/29.0	-	/	
	OSBORN , LARRY D.	A36-10368	/	-	/	
	HOSKOVEC , BETTY B.	A36-10468	/	-	/	
	HOSKOVEC , BETTY B.	A36-00033B	/38.0	-	/	
	HOSKOVEC , BETTY B.	A36-00034D	/38.0	-	/	
	BIG BEND IRRIGATION & MINING	CA36-00133	/29.0	-	/	
	CLIFFORD , EDNA N.			36-00033	/	
	CLIFFORD , EDNA N.			36-00034	/	
	CLIFFORD , EDNA N.			36-00035A	/ 7.0	
	MC CARTY , JOHN			36-02029	/40.0	
TOTAL ACRES		A36-00192	879.00			726.00

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

C. FIELD EXAM REQUIRED?

DUE TO POU DISCREPANCY? (Y/N)

DATABASE
Y

FIELD
EXAMINER
☒

MICROFILMED
JAN 25 1993

PRESUMPTION FLAG: D

REMARKS:

RECOMMENDATIONS:

TOTAL ACRES: 434.0

REVIEWED BY: See

DATE: 12-12-90

NOT COMPLETED

JAN 25 1993

A. AJ CLAIMED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
A36-00192 IRRIGATION	FROM 01-01 TO 12-31	15.000 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		15.000 CFS 10859.70 AF/A

B. WR RECORDED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
36-00192 IRRIGATION	FROM TO	15.000 CFS
36-00192 DOMESTIC	FROM TO	15.000 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		15.000 CFS

PRESUMPTION FLAG: D

C. FIELD EXAM REQUIRED?

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

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

Y() N(X)

RECOMMEND TO WR STANDARDS OR OTHER?

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

REMARKS:

if waters are combined in Ditch, this water has other uses.

RECORDED
JAN 5 1993

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y(☒) N(☐)AJ TOTAL CLAIMED DIVERSION RATE: 15.000 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 15.000 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

B.

FLOW MEASUREMENT

MEASUREMENT METHOD _____, SEE ATTACHED CALCULATIONS.

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

OTHER RIGHTS LISTED IN CLAIM: A36-00133, A36-02007

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

CLAIM	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A36-00192	TUCKER SPRINGS, LOWER	BIG BEND IRRIGATION & MINING C	15.000	0.017	10859.70	12.35
A36-02007	TUCKER SPRINGS, UPPER	BIG BEND IRRIGATION & MINING C	4.000	0.006	2895.90	4.58
A36-00021A	BILLINGSLEY CREEK	GISLER, BRADLEY	4.000	0.057		
A36-00021B	BILLINGSLEY CREEK	GISLER, HARRY R.	10.400	0.049		
A36-00133	TUPPER SPRINGS, UPPER	BIG BEND IRRIGATION & MINING C	20.000	0.022	14479.60	16.47
A36-00011B	WEATHERBY SPRINGS	LORANGER, GENE E.	0.500	0.027		
A37-12932	BILLINGSLEY CREEK	HAYDEN, CARL E.	0.700	0.087		
A36-00003E	GROUNDWATER	VERNON, EDITH L.	0.200	0.020		
A36-00004	BILLINGSLEY CREEK	SPRING VALLEY RANCH INC.	15.000	0.020		
A36-00015	WEATHERBY SPRINGS	BUCKEYE FARMS INC.	6.500	0.007	3315.00	3.81
A36-00016	WEATHERBY SPRINGS	BUCKEYE FARMS INC.	6.500	0.007	3315.00	3.81
A36-00017	WEATHERBY SPRINGS	BUCKEYE FARMS INC.	6.500	0.007	3315.00	3.81
A36-00018	BILLINGSLEY CREEK	ROSHOLT, JOHN A.	20.000	0.022		
A36-00030	LEN LEWIS SPRING	UHLING, TERRY T.	8.000	0.040		
A36-11142	WEATHERBY SPRINGS	ROSHOLT, JOHN A.	3.040	0.043		
	CURRAN SPRINGS					
A36-00033C	WEATHERBY SPRINGS	ELLIS, LEROY E.	3.000	0.375		
A36-00033D	WEATHERBY SPRINGS	SAUER, ROY E.	0.090	0.030		

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RIGHT	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A36-08158	GROUNDWATER	KING , MARION E.	0.110	0.110		
A36-00003A	BILLINGSLEY CREEK	REA , EDNA M.	1.600	0.123		
A36-00011C	WEATHERBY SPRINGS	JONES , GENE L.	0.500	0.027		
A36-00033E	WEATHERBY SPRINGS	REA , EDNA M.	0.750	0.044		
A36-02002	BILLINGSLEY CREEK	COOK , RICHARD L.	0.600	0.006		
A36-00097	BILLINGSLEY CREEK	COOK , RICHARD L.	1.500	0.016		
A36-00098	BILLINGSLEY CREEK	COOK , RICHARD L.	7.000	0.076		
A36-00101	BILLINGSLEY CREEK	COOK , RICHARD L.	2.000	0.021		
A36-00141	BILLINGSLEY CREEK	COOK , RICHARD L.	6.000	0.065		
A36-00099	BILLINGSLEY CREEK	PORTER , BOB	8.000	0.081		
A36-00100	BILLINGSLEY CREEK	PORTER , BOB	1.200	0.012		
A36-00003G	BILLINGSLEY CREEK	LLOYD , CLEAVE	0.400	0.020		
A36-00033B	WEATHERBY SPRINGS	HOSKOVEC , BETTY B.	0.500	0.013		
A36-00034D	BILLINGSLEY CREEK	HOSKOVEC , BETTY B.	0.400	0.010		

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

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A36-00021A	STOCKWATER	GISLER , BRADLEY	FROM 01-01 TO 12-31	.050 CFS	
A36-00021B	STOCKWATER	GISLER , HARRY R.	FROM 01-01 TO 12-31	.090 CFS	
A36-10413	DOMESTIC	BURLESON , EDWARD	FROM 01-01 TO 12-31	.040 CFS	
A36-10423	DOMESTIC	LORANGER , GENE E.	FROM 01-01 TO 12-31	.030 CFS	
A36-10426	DOMESTIC	LORANGER , GENE E.	FROM 01-01 TO 12-31	.020 CFS	
A36-10426	STOCKWATER	LORANGER , GENE E.	FROM 01-01 TO 12-31	.020 CFS	
A37-12932	STOCKWATER	HAYDEN , CARL E.	FROM 01-01 TO 12-31	.040 CFS	
A36-10125	DOMESTIC	VERNON , EDITH L.	FROM 01-01 TO 12-31	.040 CFS	
A36-10125	STOCKWATER	VERNON , EDITH L.	FROM 01-01 TO 12-31	.020 CFS	
A36-00022	DOMESTIC	BIG SPRING WATER USER'S ASSN.	FROM 01-01 TO 12-31	5.860 CFS	
A36-00022	FISH PROPAGATION	BIG SPRING WATER USER'S ASSN.	FROM 01-01 TO 12-31	7.000 CFS	
A36-00022	STOCKWATER	BIG SPRING WATER USER'S ASSN.	FROM 01-01 TO 12-31	5.860 CFS	
A36-11142	STOCKWATER	ROSHOLT , JOHN A.	FROM 01-01 TO 12-31	.140 CFS	
A36-00030	STOCKWATER	UHLING , TERRY T.	FROM 01-01 TO 12-31	.140 CFS	
A36-07762	FISH PROPAGATION	ROSHOLT , JOHN A.	FROM 01-01 TO 12-31	15.000 CFS	
A36-07762	FISH PROPAGATION	ROSHOLT , JOHN A.	FROM 01-01 TO 12-31	15.000 CFS	
A36-10147	DOMESTIC	MATHERS , ROBERT L.	FROM 01-01 TO 12-31	.040 CFS	
A36-10147	STOCKWATER	MATHERS , ROBERT L.	FROM 01-01 TO 12-31	.040 CFS	
A36-11145	DOMESTIC	UHLING , TERRY T.	FROM 01-01 TO 12-31	.500 CFS	
A36-11145	STOCKWATER	UHLING , TERRY T.	FROM 01-01 TO 12-31	.500 CFS	
A36-11146	DOMESTIC	BUCKEYE FARMS, INC.	FROM 01-01 TO 12-31	.040 CFS	
A36-10622	DOMESTIC	SAUER , ROY E.	FROM 01-01 TO 12-31	.060 CFS	
A36-10622	STOCKWATER	SAUER , ROY E.	FROM 01-01 TO 12-31	.040 CFS	
A37-10123	DOMESTIC	VEENSTRA, JR. , PETE	FROM 01-01 TO 12-31	.040 CFS	
A36-08158	STOCKWATER	KING , MARION E.	FROM 07-20 TO 08-30	.020 CFS	
A36-08158	DOMESTIC	KING , MARION E.	FROM 01-01 TO 12-31	.060 CFS	
A36-10334	DOMESTIC	REA , EDNA M.	FROM 01-01 TO 12-31	.040 CFS	
A36-10334	STOCKWATER	REA , EDNA M.	FROM 01-01 TO 12-31	.040 CFS	
A36-00003A	STOCKWATER	REA , EDNA M.	FROM 01-01 TO 12-31	.040 CFS	
A37-12518	DOMESTIC	JONES , GENE L.	FROM 01-01 TO 12-31	.040 CFS	
A36-07237	FISH PROPAGATION	RAY , LEO E.	FROM 01-01 TO 12-31	30.000 CFS	
A36-07865	FISH PROPAGATION	RAY , LEO E.	FROM 01-01 TO 12-31	30.000 CFS	

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A36-07995	COMMERCIAL	RAY , LEO E.	FROM 01-01 TO 12-31	.180 CFS	
A36-07995	DOMESTIC	RAY , LEO E.	FROM 01-01 TO 12-31	.020 CFS	
A36-10510	WILDLIFE STORAGE	COOK , RICHARD L.	FROM 03-15 TO 11-15		869.00 AF/A
A36-10510	DIVERSION TO STORAGE	COOK , RICHARD L.	FROM 03-15 TO 11-15	1.200 CFS	
A36-08317	WILDLIFE STORAGE	COOK , RICHARD L.	FROM 10-15 TO 03-15		12.00 AF/A
A36-08317	DIVERSION TO STORAGE	COOK , RICHARD L.	FROM 10-15 TO 03-15	3.000 CFS	
A36-07172	STOCKWATER	PORTER , BOB	FROM 01-01 TO 12-31	.020 CFS	
A36-07172	DOMESTIC	PORTER , BOB	FROM 01-01 TO 12-31	.020 CFS	
A36-07172	WILDLIFE	PORTER , BOB	FROM 01-01 TO 12-31	4.000 CFS	
A36-07233	WILDLIFE	PORTER , BOB	FROM 01-01 TO 12-31	9.200 CFS	
A36-11021	DOMESTIC	MILLER , MICHAEL K.	FROM 01-01 TO 12-31	.040 CFS	
A36-10272	DOMESTIC	MADARIETA , FELIX	FROM 01-01 TO 12-31	.040 CFS	
A36-10523	DOMESTIC	PETERSON , ORLAND	FROM 01-01 TO 12-31	.040 CFS	
A36-04142	POWER	LLOYD , CLEAVE	FROM 01-01 TO 12-31	11.000 CFS	
A36-10066	DOMESTIC	BURK , THOMAS H.	FROM 01-01 TO 12-31	.040 CFS	
A36-10536	DOMESTIC	BATES , BARRY B.	FROM 01-01 TO 12-31	.040 CFS	
A36-10537	DOMESTIC	SCHUELER , VIRGINIA F.	FROM 01-01 TO 12-31	.040 CFS	
A36-10062	DOMESTIC	COOK , VAY	FROM 01-01 TO 12-31	.030 CFS	
A36-10063	DOMESTIC	COOK , VAY	FROM 01-01 TO 12-31	.030 CFS	
A36-10064	WILDLIFE	COOK , VAY	FROM 01-01 TO 12-31	.740 CFS	
A36-08318	DIVERSION TO STORAGE	CALLOW , LYLE W.	FROM 10-15 TO 03-15	2.000 CFS	
A36-08318	WILDLIFE STORAGE	CALLOW , LYLE W.	FROM 10-15 TO 03-15		.80 AF/A
A36-10367	DOMESTIC	PETERSEN , BERTHA A.	FROM 01-01 TO 12-31	.040 CFS	
A36-10598	DOMESTIC	SAUL , DONALD V.	FROM 01-01 TO 12-31	.040 CFS	
A36-10368	DOMESTIC	OSBORN , LARRY D.	FROM 01-01 TO 12-31	.040 CFS	
A36-10468	DOMESTIC	HOSKOVEC , BETTY B.	FROM 01-01 TO 12-31	.080 CFS	

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D. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE

ACRES 434 x 0.02 CFS/ACRE = 8.68 CFS
(Taken from p/u review)

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

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

1b. CALCULATIONS

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 2637.0 AF/A

ACRES 434 x CONSUMPTIVE VOL. AF/A FOR AREA 3.0 =

TOTAL CONSUMPTIVE USE 1302 AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = 10859.70 AF/A

ACRES 434 x DIVERSION VOL. AF/A FOR AREA 4.0 =

TOTAL DIVERSION VOLUME 1736 AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y() N()

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

See A36-00133

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RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD FROM TO	REC. DIV RATE CFS	REC. DIV VOL. AF/A	REC. CONS. USE
		DATABASE EXAMINER	DATABASE EXAMINER	DATABASE EXAMINER
<u>IRRIGATION</u>	<u>3-15 11-15</u>	<u>8.68</u>	<u>1736</u>	<u>1302</u>
TOTAL FOR THIS RIGHT		<u>8.68</u>	<u>1736</u>	<u>1302</u>

REVIEWED BY:

Steve Celli

DATE:

12-12-90

$$WR \text{ proportional Rate} = \frac{15.0 \text{ cfs}}{1940 \text{ Acres}} = 0.007 \text{ cfs/Ac.}$$

Add:

Combine Limitations =

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A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP _____
FORFEIT/ABANDON _____
ADDITIONAL DIV. AMOUNT _____

ACCEPTED
AS CLAIMED

(X)
()
()

NEEDS
REVIEW

()
(X)
(X)

Legal Review

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-00192

TOTAL DIVERSION RATE OF WR SPLITS DATABASE
15.000

EXAMINER

CFS

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
-	A36-00192	15.000	-		36-00192	15.000
TOTAL CFS		15.000				15.000

DIVERSION RATE REVIEW

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

DATABASE
Y

FIELD
EXAMINER

OK

REMARKS:

AUTHENTICATION:

SIGNATURE:

John Bell

DATE:

12-12-90

NAME OF FIELD EXAMINER:

TITLE:

REPROFILMED

JAN 25 1993

