

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: A36-02008
Date Received: 4/25/1990
Receipt No: S012200
Received By: [Signature]

COPY

FOR YOUR FILES
DO NOT RETURN

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: FOOTHILL RANCHES 208-423-4444
Address: 3851 NORTH 3500 EAST
KIMBERLY, ID 83341

Name: FLORA LARSEN 208-733-1200
Address: RT 1
KIMBERLY, ID 83341

2. Date of Priority: DEC 03, 1910

3. Source: UNNAMED STREAM Trib. to: GOOSE LAKE

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
09S	19E	27	NE	NW	NW		JEROME

5. Description of diverting works:
CONCRETE HEADGATE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/01	10/31	0.740		
STOCKWATER	01/01	12/31	0.030		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
S/80 BEEF CATTLE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
09S	19E	22	SW	SW		IRR	37.0
			SW	SW		STOCK	

Section Acres 37.0

Total Acres 37.0

11. Place of use in counties: JEROME

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

13. Other Water Rights Used:
A36-02009 ALSO FROM THIS DIVERSION

14. Remarks:
TRANS. 2484.

15. Basis of Claim: LICENSE

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 Organizations:

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

Neil Larson
Title

X Foothill Ranches, that I have signed the foregoing
Organization
document in the space below as X President of

President
Title

X Foothill Ranches and that the statements contained in the
Organization
foregoing document are true and correct.

X Neil Larson
Signature of Authorized Agent

X President of Foothill Ranches
Title and Organization

X 4/25/90
Date

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 25th day

of April 19 90

Robert V. Hostell
Notary Public

Seal

Residing at Twin Falls, Idaho

My Commission Expires January 18, 1993

INPUT: AJ SELECTION:HHT-NOA-BROWN2.SEL

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION ATTORNEY NAME ADD/UPDATE

DATE: 03/15/93
TIME: 23:19:17.8
PAGE: 1

TYPE OF ACTION: ADD

MODIFY ALL FIELDS FLAG:

LAST NAME: BROWN

ADDRESS LINE 1: HEPWORTH NUNGESTER LEZAMIZ

ADDRESS LINE 3: PO BOX 389

CITY: TWIN FALLS

FIRST NAME: PATRICK D

ADDRESS LINE 2:133 SHOSHONE ST N

STATE: ID ZIP: 833030389

PHONE NUMBER: (208) 734-7510

36-00003A ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00011A ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00033D ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00033E ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00051C ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00051E ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00055AA ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00064A ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00090D ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00090E WATER RIGHT HAS ONE ATTORNEY OWNER CODE - NOT
36-00104A ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-02008 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-02009 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-02588 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-10308 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-10309 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-10310 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-10314 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-10409 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-10588 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-10706 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00003A ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00011A ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00033D ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00033E ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
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A36-10309 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-10310 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-10312 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-10314 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-10409 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-10588 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-10706 ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE

ADDED / added on first supplement

ADDED / added on first supplement

MICROFILMED

OCT 12 1994

1 HEPWORTH, NUNGESTER & LEZAMIZ,
2 CHARTERED
3 133 Shoshone St. North
4 P.O. Box 389
5 Twin Falls, ID 83303-0389
6 Telephone: (208)734-7510
7 Attorneys for Claimant
8 (PPK\21530SUP.NO2\lmr)

RECEIVED

FEB 25 1993

Department of Water Resources
Adjudication Bureau

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

12 * * * * *

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

Case No. 39576

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

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

22 Petitioner,

23 vs.

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

Respondents.

* * * * *

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



Hepworth,
Nungester,
& Lezamiz

SECOND SUPPLEMENTAL NOTICE OF APPEARANCE - 1

MICROFILMED

OCT 12 1994

Hagerman Water Right Owners, Inc. and its individual members, the following individuals:

Mallane, Thomas	A36-00055AA
Mavencamp, John V.	A36-00104A
Pothier, Norman	A36-00064A
Vader, Loren	A36-10706
Vader, Loren	A36-02588
Culbertson, Stowe Allen & Mildred Sue	A36-00090D
Culbertson, Stowe Allen & Mildred Sue	A36-10409
Barnard, Clifton R.	A36-02008
Barnard, Clifton R.	A36-02009
Rea, Edna Mae & Bell, Verl C.	A36-00003A
Rea, Edna Mae & Bell, Verl C.	A36-000033E
Sauer, Roy E.	A36-00033D
Jensen, Darrell W.	A36-10308
Jensen, Darrell W.	A36-10309
Jensen, Darrell W.	A36-10310
Jensen, Darrell W.	A36-00011A
Robinson, Creed & Saundra	A36-00090E
Robinson, Creed & Saundra	A36-10588
Zabala, Ignacio Nick	A36-00051C
Zabala, Ignacio Nick	A36-10312-00051E
Zabala, Ignacio Nick	A36-10314

Dated this 24 day of February, 1993.

HEPWORTH, NUNGESTER & LEZAMIZ,
CHARTERED

By: 

Patrick D. Brown

Attorneys for Respondents

CERTIFICATE OF MAILING

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



Hepworth,
Nungester,
& Lezamiz

MICROFILMED

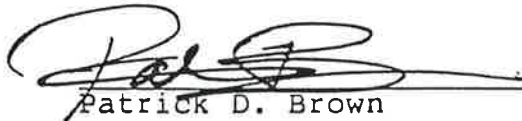
OCT 12 1994

1 24 day of February, 1993, to:

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

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

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

10 
11 Patrick D. Brown



Hepworth,
Nungester,
& Lezamiz

MICROFILMED
OCT 12 1994

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: A36-02008
Date Received: 4/25/1990
Receipt No: S012200
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: CLIFTON BARNARD
Address: GEN. DEL.
EDEN, ID 83325

Name: MICHELE BARNARD 208-825-5085
Address: GEN. DEL.
EDEN, ID 83325
2. Date of Priority: DEC 03, 1910
3. Source: UNNAMED STREAM Trib. to: GOOSE LAKE
4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
09S	19E	27	NE	NW	NW		JEROME
5. Description of diverting works:
CONCRETE HEADGATE
6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/01	10/31	0.740		
STOCKWATER	01/01	12/31	0.030		
7. Total Quantity Appropriated is:
0.740 C.F.S. (and/or) A.F.A.
8. Total consumptive use is 111.0 Acre Feet Per Annum.
9. Non-irrigation uses:
STOCKWATER, 80 RANGE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
09S	19E	22	SW	SW		IRR	37.0
			SW	SW		STOCK	

Section Acres 37.0

Total Acres 37.0

11. Place of use in counties: JEROME

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

13. Other Water Rights Used:
A36-02009

14. Remarks:
TRANS. 2484.
OWNERSHIP CHANGE 12/6/90 BY JG.

15. Basis of Claim: LICENSE

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

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

State of Idaho)
County of) SS.

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

Notary Public

Seal

Residing at _____

My Commission Expires _____

CHANGE IN OWNERSHIP

Page 1

This form is solely for purposes of notifying IDWR of a change in ownership of an adjudication claim.

[] Water Right Number(s): A36-02008 & A36-02009

[] Name and Address of
Former Claimant(s): _____

[] New Claimant(s): Foothill Ranches or Floz Larsen

[] New Mailing Address: _____

New Telephone Number: () 825-5085

[] Does the change in ownership result in a splitting of the
water right claimed? yes no
If yes, then describe the portion of the water right that is
now claimed by the new owner:

[] Attach proof of ownership
Describe proof attached:
(Proof of ownership must describe either the property
conveyed or include the claim number. Proof of ownership is
not required if this form is signed by the former claimant.)

[] Signature of New Claimant(s): Clifton H. Leonard

RECEIVED

Date: 11-20-90

NOV 20 1990

Department of Water Resources
Southern Region Office

MICROFILMED
JAN 25 1993

CHANGE IN OWNERSHIP

Page 2

[] Signature of Former Claimant(s): _____

Date: _____

(Signature of former claimant(s) is not required if proof of ownership is attached.)

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: 12/7/98

By: IG

36-02008

Further Action Needed:

AD

36-02009

Further Action Taken

Date:

By:

Final Review and Data-Entry

Date: 12/7/98

By: IG

AD

Claim Numbers of Split, if any:

After form has been completed, please return to the nearest IDWR office below:

WESTERN REGIONAL OFFICE

2735 AIRPORT WAY

BOISE, IDAHO 83705

(208) 334-2190

EASTERN REGIONAL OFFICE

150 SHOUP SUITE #15

IDAHO FALLS, IDAHO 83402

(208) 525-7161

STATE OFFICE

1301 N. ORCHARD ST.

STATEHOUSE MAIL

BOISE, IDAHO 83720

(208) 327-7906

SOUTHERN REGIONAL OFFICE

222 SHOSHONE STREET EAST

TWIN FALLS, ID 83301

(208) 734-3578

NORTHERN REGIONAL OFFICE

1910 NORTHWEST BLVD. SUITE 210

COEUR D'ALENE, IDAHO 83814

(208) 765-4639

WARRANTY DEED

For Value Received Neil Larsen, Flora C. Larsen and Vicki Patrick, also known as Vicki Rinehart, individuals, and as Trustees of the Contract and Declaration of Trust, under the name of FOOTHILL RANCHES,

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

CLIFTON BARNARD and MICHELE BARNARD, Husband and Wife

Whose address is: General Delivery, Eden, Idaho 83325

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

SEE ATTACHED EXHIBIT "A"

321544

RECORDED
OF Land Title & Escrow, Inc.

JUL 2 4 09 PM '90

JEROME COUNTY, IDAHO

FEES \$9.00 DEPL. S.

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

Dated: June 27, 1990

Neil Larsen, Trustee
NEIL LARSEN, TRUSTEE

Flora C. Larsen, Trustee
FLORA C. LARSEN, TRUSTEE

Vicki Patrick, Trustee
VICKI PATRICK, TRUSTEE

Neil Larsen
NEIL LARSEN, Individual

Flora C. Larsen
FLORA C. LARSEN, Individual

Vicki Patrick
VICKI PATRICK, Individual

STATE OF IDAHO, COUNTY OF Jerome

On this 27th day of June, 1990

before me, a notary public in and for said State, personally appeared Neil Larsen, Flora C. Larsen,

and Vicki Patrick as Trustees of the Contract and Declaration of Trust and known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same as Trustees of the contract and Declaration of trust under the name of FOOTHILL RANCHES.

known to me to be the person s whose names are subscribed to the within instrument and acknowledged to me that they executed the same as Trustees of the contract and Declaration of trust under the name of FOOTHILL RANCHES.



Notary Public

Residing at

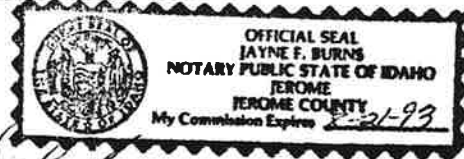
Jerome

, Idaho.

State of Idaho, County of Jerome

On this 27th day of June, 1990, before me,

a Notary Public in and for said State, personally appeared Neil Larsen, Flora C. Larsen and Vicki Patrick, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.



Notary Public

Residing at Jerome, Idaho

EXHIBIT "A"

TOWNSHIP 9 SOUTH, RANGE 19, EAST OF THE BOISE MERIDIAN,
JEROME COUNTY, IDAHO

Section 22: SW¼SW¼;

Section 27: NW¼NW¼, lying North of Railroad right-of-way.

EXCEPTING THEREFROM that portion lying and being in SW¼SW¼, Section 22, Township 9 South, Range 19, and NW¼NW¼, Section 27, Township 9 South, Range 19, described as follows:

Commencing at the Section corner common to Sections 21, 22, 27 and 28, Township 9 South, Range 19, East Boise Meridian;

Thence on a bearing of North a distance of 428.04 feet along the West boundary of Section 22;

Thence on a bearing of South 81°52'28" East a distance of 631.15 feet to THE REAL POINT OF BEGINNING;

Thence from this REAL POINT OF BEGINNING on a bearing of South 81°52'28" East a distance of 300.65 feet;

Thence on a bearing of South 8°07'32" West a distance of 646.01 feet to the Northerly boundary of the Union Pacific Railroad right-of-way;

Thence along the Northerly boundary of the Union Pacific Railroad right-of-way on a bearing of North 73°11'19" West a distance of 304.14 feet;

Thence on a bearing of North 8°07'32" East a distance of 600.08 feet to THE REAL POINT OF BEGINNING.

Together with all water rights appurtenant thereto

SUBJECT TO THE FOLLOWING:

Taxes for 1990 and subsequent years, which are not yet due and payable.

Assessments of the American Falls Reservoir District and the rights and powers of said District as by law provided.

Assessments of the North Side Canal Company and the rights and powers of said Company as by law provided.

Right of way for roads, canals, laterals and waste ditches as contained in an Agreement by and between the State of Idaho, and the Twin Falls North Side Land and Water Company, dated August 21, 1907, recorded in Book 15 Page 589, Jerome County records.

Power Line Easement given by C. Wayland Brooks and Mary T. Brooks, husband and wife, to Idaho Power Company, a corporation, dated September 1, 1950, recorded March 22, 1951 in Book 142 Page 446 as Instrument Number 112310, Jerome County records, granting to said corporation a right of way and easement for erection and maintenance of an electric transmission line over and across a

portion of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 22 and the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 27, Township 9 South, Range 19, East Boise Meridian.

Power Line Easement given by Flora C. Larsen, a widow, to Idaho Power Company, a corporation, dated September 22, 1960, recorded April 4, 1961 in Book 168 Page 77 as Instrument Number 146220, Jerome County records, granting to said corporation a right of way and easement for erection and maintenance of an electric transmission line over and across the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 22, Township 9 South, Range 19, East Boise Meridian.

Right of Way Easement given by Flora C. Larson, to The Mountain States Telephone and Telegraph Company, dated January 7, 1983, recorded January 10, 1983 as Instrument Number 270033, Jerome County records.

Power Line Easement given by Foothill Ranches, a partnership, to Idaho Power Company, a corporation, dated December 1, 1982, recorded February 11, 1983 as Instrument Number 270843, Jerome County records, affecting a portion of Section 22, Township 9 South, Range 19, East Boise Meridian.

WARRANTY DEED

For Value Received

FOOTHILL RANCHES

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

CLIFTON BARNARD , a single man

Hereinafter called the grantee, the following described premises, inJerome..... County, Idaho, to-wit:

A parcel of land in the SW¹/₄SW¹/₄, Section 22 and the NW¹/₄NW¹/₄, Section 27 all in T-9S., R-19E., B.M., Jerome County, Idaho and being more specifically describes as follows:

Commencing at the Section Corner common to Sections 21,22,27 and 28, T-9S., R-19E., B.M.; Thence on a bearing of NORTH A distance of 428.04 feet along the west boundary of Section 22; Thence on a bearing of South 81°52'28" East a distance of 631.15 feet to the REAL POINT OF BEGINNING;

Thence from this REAL POINT OF BEGINNING on a bearing of South 81°52'28" East a distance of 300.65 feet;

Thence on a bearing of South 8°07'32" West a distance of 646.01 feet to the northerly boundary of the Union Pacific Rail Road Right-of-Way;

Thence along the northerly boundary of the Union Pacific Rail Road Right-of-Way on a bearing of North 73°11'19" West a distance of 304.14 feet;

Thence on a bearing of North 8°07'32" East a distance of 600.08 feet to the REAL POINT OF BEGINNING.

The above described parcel of land contains an area of 4.30 acres more or less and has the right of ingress and egress over and across the west 632.00 feet of the SW¹/₄, Section 22, T-9S, R-19E., B.M.

SUBJECT TO: The access to and maintenance of an open ditch and/or sprinkler irrigation equipment.

All water rights appurtenant to above described land not to exceed 5 inches from water license No. 36-2667.

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

Dated: October 26, 1982

FOOTHILL RANCHES

By, Neil Larsen
Neil Larsen, Vice-President

STATE OF IDAHO, COUNTY OF Twin Falls
On this 26th day of October, 19 82,
before me, a notary public in and for said State, personally appeared

Neil Larsen, Vice-President

known to me to be the person whose name is
subscribed to the within instrument, and acknowledged to
me that he executed the same.

Vicki D. Rinehart

Notary Public

Residing at Twin Falls, Idaho
Comm. Expires Life

STATE OF IDAHO, COUNTY OF Jerome
I hereby certify that this instrument was filed for record at
the request of Clifton Barnard

at _____ minutes past _____ o'clock m.,
this _____ day of _____,
19 _____, in my office, and duly recorded in Book
of Deeds at page _____

Ex-Officio Recorder

By _____ Deputy.

Fees \$
Mail to: Clifton Barnard

Eden, Idaho 83325

INSTRUMENT NO.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

07-Dec-1990 09:39

Clifford Barnard
Michele Barnard
Gen. Del.
Eden, ID 83325

Re: Change of OWNERSHIP Claim(s) A36-02008

Dear Mr. & Mrs. Barnard:

The Department has changed the name of the above-listed adjudication water right(s) as you have requested.

Please review the enclosed copy(s), should you have any questions, please contact this office.

Sincerely,

Judy Givens
Secretary

/jg

Enclosures

MICROFILMED

JAN 25 1993

RECEIVED

MAY 01 1998

Department of Water Resources
Southern Region

RECEIVED

MAR 23 1998

Department of Water Resources
Adjudication Bureau

1998 MAR 19 PM 3:04

FILED

3-19

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 36-02008

Case No. 39576

SPECIAL MASTER'S REPORT

FINDINGS OF FACT AND CONCLUSIONS OF LAW

A notice of claim was filed for this water right pursuant to I.C. § 42-1409 (1990). The director of the State of Idaho Department of Water Resources examined the water system for areas 1, 2, and 3 and investigated and abstracted the notices of claims for those Reporting Areas. The Director of the Idaho Department of Water Resources then filed a *Director's Report* which asserted how the elements of this water right should be decreed by the court.

An objection to the *Director's Report* for water right 57-36-02008 was filed. Subsequently, a *Standard Form 5* was filed as to how the elements of this water right should be decreed. The *Standard Form 5* was accepted by the court; now therefore,

IT IS THEREFORE RECOMMENDED that subcase 36-02008 be decreed as recommended in the attached *Special Master's Report and Recommendation for Partial Decree*.

DATED March 19, 1998.


FRITZ X. HAEMMERLE
Special Master, Snake River Basin Adjudication

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

In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 36-02008

1998 MAR 19 PM 3:04

FILED
JAN 26 1998
JAN 26 1998

NAME & ADDRESS: CLIFTON BARNARD
MICHELE BARNARD
690 S 1500 E
EDEN ID 83325

SOURCE: UNNAMED STREAM TRIBUTARY: GOOSE LAKE

QUANTITY: 0.74 CFS

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

PRIORITY DATE: 12/03/1910

POINT OF DIVERSION: T09S R19E S27 NENWNW Within JEROME County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION		Irrigation Season	0.74 CFS
STOCKWATER		01-01 12-31	0.03 CFS

PLACE OF USE:	IRRIGATION	Within JEROME County
	T09S R19E S22	SWSW 37
	37 ACRES TOTAL	
	STOCKWATER	Within JEROME County
	T09S R19E S22	NWSW SWSW

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

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

RULE 54(b) CERTIFICATE

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

DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication

RECOMMENDATION

MAR 19 1998

SPECIAL MASTER

PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)
Water Right 36-02008

PAGE 1
JAN-26-1998

1998 MAR 19 PM 3:04

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

In Re SRBA)
Case No. 39576)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 36-02008

On March 19, 1998, Special Master FRITZ X HAEMMERLE issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

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

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

DATED March 19, 1998.


DEBBIE LASH
Deputy Clerk

1998 MAR 19 PM 3:04

FILED
TWIN FALLS
SRBA
03/19/98

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

In Re SRBA

CERTIFICATE OF MAILING

Case No. 39576

Water Right(s): 36-02008

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on March 19, 1998, with sufficient first-class postage prepaid to the following:

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

STATE OF IDAHO

Represented by:

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

CLIFTON BARNARD
BARNARD, MICHELE
GENERAL DELIVERY
EDEN, ID 83325

CERTIFICATE OF MAILING


DEBBIE LASH
Deputy Clerk

PAGE 1
03/19/98

RECEIVED

JAN 02 1998

Department of Water Resources
Southern RegionIN 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 No.: 36-02008

STANDARD FORM 5

STIPULATED ELEMENTS OF A
WATER RIGHT

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

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

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

Date: 12-15-97Clifton R. Barnard
Clifton Barnard, ClaimantCarla Fritsch
IDWR ConcurrenceApproved as to form: Chad 2. Horsman
Attorney for IDWR

AJ5856NP

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

DATE: DEC-15-1997

PAGE: A-1

RIGHTS FROM: SOURCE: UNNAMED STREAM TRIBUTARY: GOOSE LAKE

RIGHT NUMBER: 36-02008

NAME AND ADDRESS: CLIFTON BARNARD
MICHELE BARNARD
690 S 1500 E
BEN DEK
EDEN ID 83325

SOURCE: UNNAMED STREAM TRIBUTARY: GOOSE LAKE

QUANTITY: 0.74 CFS
0.39 CFS

THE QUANTITY FOR NON-IRRIGATION USE IS LIMITED TO THE AMOUNT BENEFICIALLY
USED FOR STOCKWATER/ BB RANGE

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

PRIORITY DATE: 12/03/1910

POINT OF DIVERSION: T09S R19E S27 NENWNW Within JEROME County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	IRRIGATION	<u>Irrigation Season</u>	0.74 CFS
		06/01 10/31	0.36 CFS
	STOCKWATER	01-01 12-31	0.03 CFS

PLACE OF USE: IRRIGATION Within JEROME County
T09S R19E S22 SWSW 37
SWSW 38

37 ACRES TOTAL
38 ACRES TOTAL

STOCKWATER Within JEROME County
T09S R19E S22 NWSW SWSW

CONSUMPTIVE USE: 38.10 AFT

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR

SF5 - 36-02008

C-27X CF

AJ5856NP

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

DATE: DEC-15-1997
PAGE: A-2

36-02008 (CONT.)

STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

RIGHT NO. 36-02009 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - LICENSE

RIGHT NO. 36-02009 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

STOCKWATER, 80 RANGE

INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court and to the parties identified in the Certificate of Mailing. **FAX filings will not be accepted by the SRBA Clerk of the Court.**

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

CERTIFICATE OF MAILING

I certify that on Dec 15, 1997, 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
P. O. Box 2707
Twin Falls, Idaho 83303-2707

2. Copies to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 83720
Boise, ID 83720-0010

Charles L. Honsinger
Idaho Dept of Water Resources
P. O. Box 83720
Boise, ID 83720-0098

Clifton Barnard
690 S 1500 E
Eden, ID 83325

Donna M Smith
Signature of person or attorney mailing the form

CLAIM NUMBERS 36-02008 36-02009 DATE Oct 97 TRANSFER NUMBER _____

OBJECTION FILED

TOTAL ACRES FROM RECOMMENDATION *see below*

AGENT **SCC**

GEOGRAPHIC INFO SYSTEM

RIGHT NO				NE				NW				SW				SE				
	TNS	RNG	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
36-02-008 RECOM	95	19E	22											18						18
GIS			22											17.9						17.9
36-02-009 RECOM	95	19E	22											3						3
GIS			22											2.4						2.4
RECOM	95	19E	22						9											9
GIS			22						6.2											6.2

UPDATED

POLYGON #

UPDATED

B36-DBPOU.DBF

ATTRIBUTES OF B36-POU.SHP ()

B36-DBPOD.DBF

ATTRIBUTES OF B36-POD.SHP ()

	36-02008	36-02009	
total acres Recom -	18	12	
GIS -	18	8	
B36-POU.SHP -	595	594	data entry in <u>Oct 97</u>
B36-POD.SHP -	587	587	

acre log prepared by KKC

12-10-97

P/U CONFLICT yes () no ()

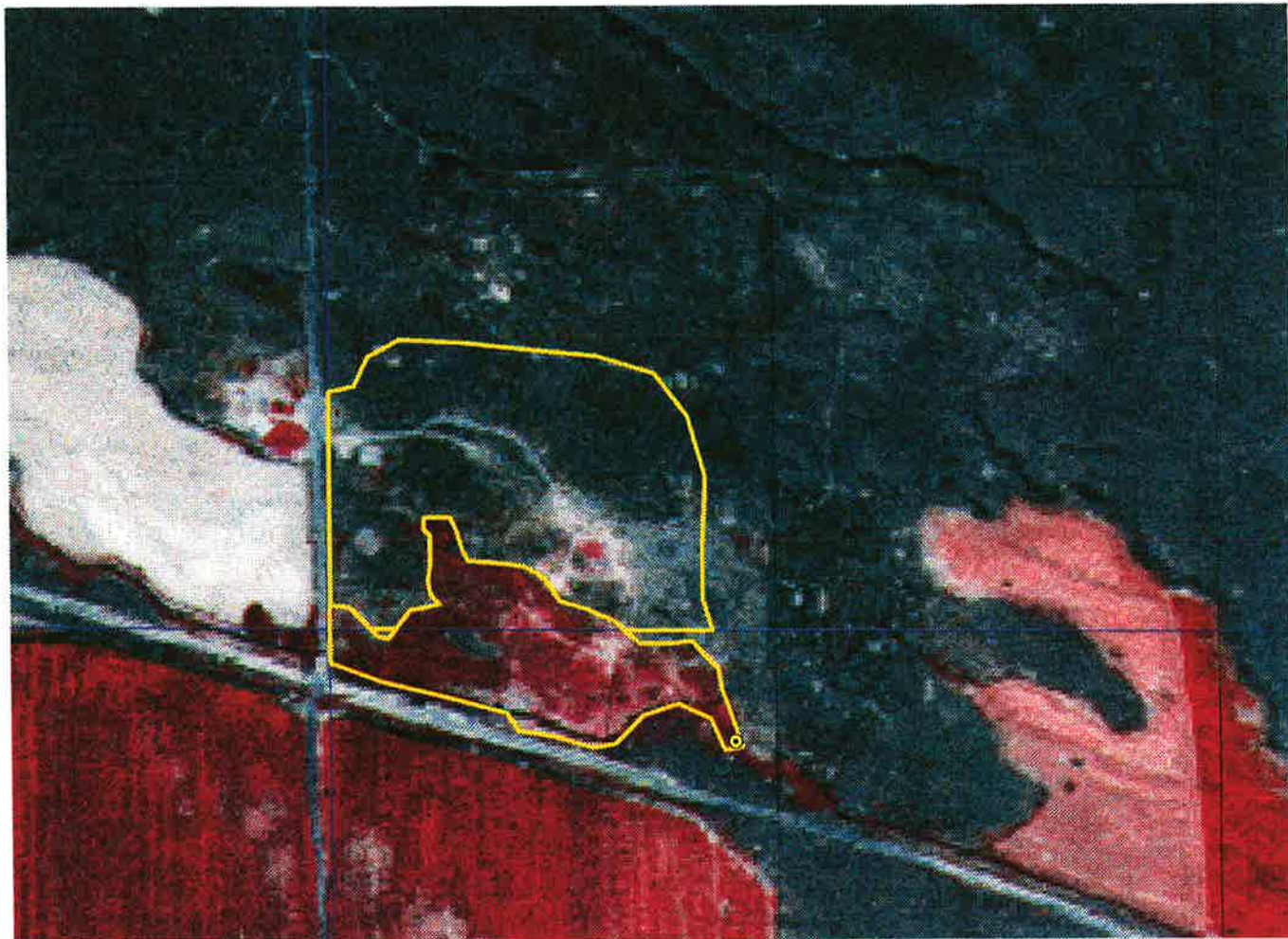
P/D CONFLICT yes () no ()

READY FOR DECREE yes () no ()

SENT FOR DECREE yes () no ()

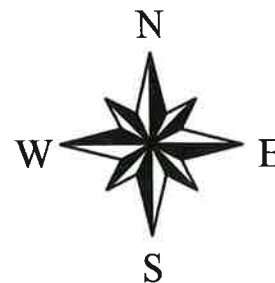
IDAHO DEPARTMENT OF WATER RESOURCES

36-02008 & 36-02009



660 0 660 Feet

TNS 9S, RNG 19E
SEC 22 & 27



⊙ Recommended Point of Diversion

 Recommended Place of use

 Section lines

 Quarter/Quarter Lines

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

SUBCASE NO. 36-02008

	CLAIM (4/25/1990)	AMENDED CLAIM	RECOMMENDATION	OBJECTION
NAME	Foothill Ranches/Flora Larsen *	N/A	Clifton & Michele Barnard	Clifton & Michele Barnard
BASIS OF CLAIM	License		License	
SOURCE	Unnamed Stream		Unnamed Stream	
QUANTITY	0.740 cfs		0.39 cfs	XX - requests maximum quantity as set forth in license
PRIORITY DATE	12/3/1910		12/3/1910	
PURPOSE OF USE	Irrigation Stockwater		Irrigation Stockwater	
PERIOD OF USE	Irr.: 3/1 - 10/31 S.W.: 1/1 - 12/31		Irr.: 4/1 - 10/31 S.W.: 1/1 - 12/31	XX -year round for both uses.
POINT OF DIVERSION	T09S R19E S27		T09S R19E S27	
PLACE OF USE	T09S R19E S22 37.0 acres		T09S R19E S22 18.0 acres	XX - requests 50.0 acres
remarks	"Transfer #2484."		"Right no. 36-02009 is also diverted through point of diversion described above."	

* Change in Ownership dated 11/20/90 - Foothill Ranches/Larsen to Clifton Barnard and Michele Barnard

R PROOF

CVR

MAPS

PHOTOS

MISC

MICROFILMED

OCT 12 1994

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

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

Case No. 36-02008 -0001

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

RESPONSE TO OBJECTION

Petitioner,

vs.

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

Respondents.

I. GENERAL INFORMATION

1. Person responding to objection:

Name: R. KEITH HIGGINSON, DIRECTOR

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

Briefly describe your interest in this water right:

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

(Over)

MICROFILMED
OCT 12 1994

2. Person who filed objection:

Name: CLIFTON & MICHELE BARNARD
Address: GENERAL DELIVERY
EDEN ID 83325

3. If this response is filed by an attorney:

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

Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

3. ☒ Quantity: I respond to the objection concerning:
- 3a. ☒ The total quantity of water used in cubic feet per second.
8. ☒ Period of Year: I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.
9. ☒ Place of Use: I respond to the objection concerning:
- 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.
14. ☒ Other: I respond to the objection concerning:
- ALL MATTERS RAISED IN THE CLAIMANTS' ANSWER,
AFFIRMATIVE DEFENSES AND PRAYER FOR RELIEF.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection items 3 and 3.a, and all allegations of the objection regarding those items, IDWR responds as follows: (1) it recommended the amount of water it determined was being beneficially used; (2) the claimant is not entitled to any amount greater than that which is beneficially used (Idaho Code Secs. 42-104 and 42-1402); (3) the recommendation of the director to the SRBA Court as to how the right should be decreed does not constitute a taking because it is simply a recommendation and not a final determination of the right; and (4) the eventual decree by the SRBA Court of the amount of water beneficially used, even if less than the amount previously licensed, 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 this item, IDWR responds as follows: Idaho Code Sec. 42-1411(2)(g) requires the director to determine the period of use of each water right acquired under state law that is recommended in the director's report. IDWR's irrigation season of use standards have evolved over time as better technical information has become available. A necessary consequence of this is that, depending on when a particular license was issued, water rights in the same area have been licensed inconsistently, some licenses being issued with different lengths of season listed and some being issued with no season of use listed. To remedy this problem 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 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. The director's report does not prohibit pre-season or post-season irrigation; subject to the conditions set forth in general provision 12b of the director's report, water may be used for irrigation outside the standard season of use. In further response to this item, IDWR states that 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; the eventual decree by the SRBA Court of the irrigation season of use will not constitute a taking because the right is limited to the period in which water may be beneficially used.

(Over)

In response to Statement of the Objection 9 and 9.b, and all allegations of the objection regarding those items, IDWR responds that the recommended water right accurately 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 by now seeking to include a larger place of use, the claimant improperly seeks to use the objection process to amend the claim. A claimant must obtain leave of the court to amend a claim after the 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 further response to this item 9b., IDWR states that there is an error in the description of the place of use for stockwater for this right in the director's report. The recommendation should be corrected as shown in the attachment entitled "Recommended Water Rights Acquired Under State Law."

In response to Statement of the Objection item 10 and all allegations of the objection regarding this item, IDWR responds as follows: The license upon which the claimant's claim is based does not set an annual volume of consumptive use for this water right. 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. IDWR has developed uniform standards of consumptive use for various climatic areas throughout the state, based upon the definition of consumptive use contained in Idaho Code Sec. 42-1401A(2), which is the maximum volume of water consumed by "the most water consumptive crop that can be grown in the area during the period of year when water is used for irrigation." The consumptive use recommended for this water right is based upon the maximum volume of water consumed by the most water consumptive crop (pasture) that can be grown in the area during the irrigation season. 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, and not as a limitation on the quantity of water that the claimant may divert pursuant to this recommended right. The recommendation of the director to the SRBA Court as to how a right should be decreed does not constitute a taking because it is simply a

recommendation and not a final determination of the right; and the eventual decree by the SRBA Court of the amount of water beneficially used will not constitute a taking because the right is limited to the amount beneficially used.

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

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

CHANGES TO THE DIRECTOR'S REPORT

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

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

	No. of Pages
Notice of Claim No. A36-02008	3
IDWR's Response to Answer, Affirmative Defenses and Prayer for Relief of Claimant	4
Recommended Water Rights Acquired under State Law	1

(Over)

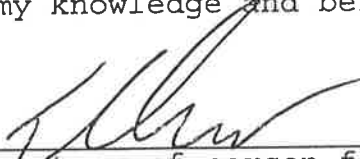
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

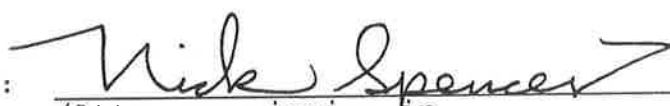
David B. Shaw, being first duly sworn, upon oath, deposes and says:

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



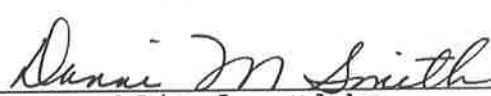
Signature of person filing response

By:



(Attorney signing in
representative capacity)

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



Notary Public for Idaho

Residing at: _____

My Commission expires _____

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

CERTIFICATE OF MAILING

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

1. Original to:

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

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

See No. 3

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

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

4. One copy to:

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


Signature of Respondent or attorney
mailing on Respondent's behalf

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: A36-02008
Date Received: 4/25/1990
Receipt No: S012200
Received By: [Signature]

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: FOOTHILL RANCHES 208-423-4444
Address: 3851 NORTH 3500 EAST
KIMBERLY, ID 83341

Name: FLORA LARSEN 208-733-1200
Address: RT 1
KIMBERLY, ID 83341

2. Date of Priority: DEC 03, 1910

3. Source: UNNAMED STREAM Trib. to: GOOSE LAKE

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
09S	19E	27	NE	NW	NW		JEROME

5. Description of diverting works:
CONCRETE HEADGATE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/01	10/31	0.740		
STOCKWATER	01/01	12/31	0.030		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
S/80 BEEF CATTLE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
09S	19E	22	SW	SW		IRR	37.0
			SW	SW		STOCK	

Section Acres 37.0

Total Acres 37.0

11. Place of use in counties: JEROME

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

13. Other Water Rights Used:
A36-02009 ALSO FROM THIS DIVERSION

14. Remarks:
TRANS. 2484.

15. Basis of Claim: LICENSE

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 Organizations:

I do solemnly swear or affirm that I am X President of Foothill Ranches Title President Organization Foothill Ranches, that I have signed the foregoing document in the space below as X President Title President Organization Foothill Ranches and that the statements contained in the foregoing document are true and correct.

X Neil Hansen
Signature of Authorized Agent

X President of Foothill Ranches
Title and Organization

X 4/25/90
Date

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 25th day

of April 19 90

Robert V. Horstall
Notary Public

Seal

Residing at Twin Falls, Idaho

My Commission Expires January 16, 1993

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

MICROFILMED
OCT 12 1994

- 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.

POOR ORIGINAL

ADM 7-20-93

BB75 NW
N2pp

36-02008

36-02009



MICROFILMED
OCT 12 1994

RECEIPT
For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES

POOR ORIGINAL

Receipt No: 8015658

RECEIVED

APR 22 1993

Department of Water Resources
Southern Region Office

Date: 4/22/1993
Time: 10:28:53

Received

From: HEPWORTH NUNGESTER CHART.

Type of Payment	Program Acct Class	Amount
COPIES OF ADJUDICATION FILES	64100 229 21 1/60	47.60

Total

CHECK 10362

47.60

Region: SOUTHERN

Signature:

R. Foster

MICROFILMED
OCT 12 1994

HEPWORTH, NUNGESTER AND LEZAMIZ, CHARTERED

10362

DATE	DESCRIPTION	INVOICE #	CHECK		NET AMOUNT
			AMOUNT	DEDUCTION	
04/13/93	Department of Water Resources Hagerman/921530 - CPY		47.60		47.60

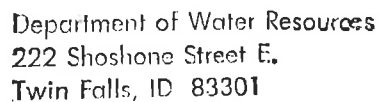
RECEIVED

APR 22 1993

Department of Water Resources
Southern Region Office

CHECK DATE 04/20/93	CONTROL NUMBER 10362	TOTALS ► GROSS:	47.60	DED:	0.00	NET:	47.60
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MICROFILMED
OCT 12 1994



Name HEPWORTH NUNGESTER & LEZAMIZ
 133 Shoshone N
 Address Twin Falls ID 83301

No. of Copies	Material	Cost
952	copies of adjudication files @ .05 ea.	\$ 47.60
TOTAL		\$ 47.60

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

Sincerely,

ely, Janie Robertson

A36-02008	50
A36-02009	45
A36-00125A	35
A36-10405	17
A36-10055	36
A36-10308	27
A36-10309	26
A36-10310	26
(A36-00029B)	14
(A36-10220)	14
A36-00011A	59
A36-00051C	43
(A36-00051E)	47
(A36-10312)	47
A36-00039F	39
A36-15461	17
A36-00121	53
A36-00119	58
A36-00120	57
A36-00103D	64
A36-00198A	45
A36-15157	48
A36-15176	64
A36-15184	82

$$\begin{array}{r} 952 \\ \times 15 \\ \hline 47.60 \end{array}$$

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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

16-Feb-1993

CLIFTON BARNARD
690 S 1500 E
EDEN ID 83325

RE: Copy of SRBA File(s): 36-02008, 36-02009

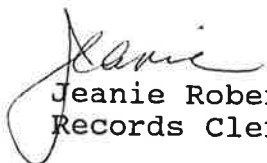
Dear Mr. Barnard:

Please find enclosed the copies of documents you recently requested contained in the above referenced SRBA file(s) as of this date. Please note that copies of orthophoto quad maps or NAPP photography or aerial slides which may have been used in the review of your claim(s) have not been included since they are not easily reproduced. These items are however available for your review at our office. Please also note that in some situations some water rights may have other associated files which contain privileged information between IDWR staff and our legal council which has not been copied.

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

\$7.19

Sincerely,


Jeanie Robertson
Records Clerk

Encl:

MICROFILMED

OCT 12 1994

RECEIVED

FEB 09 1993

Department of Water Resources
Southern Region Office

2-9-93
(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 36-02008! 36-02009.

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

Please bill me for the copy charge.

Sincerely,

Clifton BARNARD
(Name)

690S. 1500E.
(Address)

ENEW IDA. 83325
(City, State, Zip Code)

cc: David B. Shaw, Adjudication Bureau Chief
Idaho Department of Water Resources
1301 North Orchard Street
Statehouse 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. A36-02008
(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,

36-02008 -0001/
93-04-0133

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)

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: Clifton and Michele Barnard

Address: General Delivery

Eden, ID 83325

Briefly describe your interest in this water right:

License with priority date of 12/03/1910

2. Owner of the water right:

Name: Clifton and Michele Barnard

Address: General Delivery

Eden, ID 83325

3. If this objection is filed by an attorney:

Attorney Name: Patrick D. Brown & Penelope Parker

Attorney Address: Hepworth, Nungester & Lezamiz

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

Attorney Phone No.: (208) 734-7510

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

II. STATEMENT OF THE OBJECTION

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

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

(Over)

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

REASONS SUPPORTING EACH BOX CHECKED

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

See page 7

CHANGES TO THE DIRECTOR'S REPORT

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

Maximum quantity: as set forth in license with corresponding
change in consumptive use; place of use: 50 acres; period of
use: 1/1 to 12/31

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



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

VERIFICATION (Must be Completed)

State of Idaho

County of Blaine

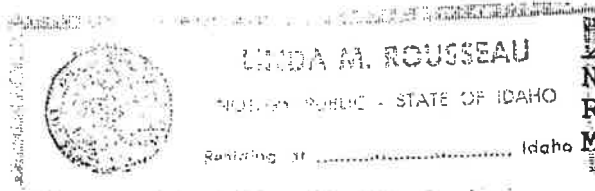
Clifton Bernard, being first duly
(Name of person filing objection)
sworn, upon oath, deposes and says:

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.

Clifton Bernard
Signature of person filing objection

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

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



Linda M. Rousseau
Notary Public for Idaho
Residing at: Blaine
My Commission Expires: 9-11-93

(Over)

INSTRUCTIONS FOR MAILING

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

CERTIFICATE OF MAILING

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

1. Original to:

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

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

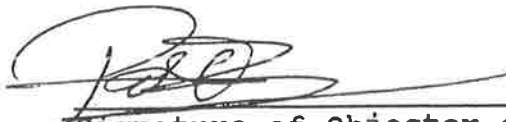
Owner name: Clifton and Michele Barnard
Owner's address: General Delivery
Eden, ID 83325

3. One copy to:

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

4. One copy to:

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



Signature of Objector or attorney
mailing on Objector's behalf

REASONS SUPPORTING EACH BOX CHECKED, page 4

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

Box 8 - IDWR recommends a period of use less than licensed 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.

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.

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

averments expressed and implied are so indefinite and vague as to 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 license issued by the Director and Department, which license is 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 license.

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\LICENSES.A)

NOTICE OF ERROR

RESPONSE

CORRECTED R PROOF



MICROFILMED

JAN 25 1993

AUG-24-1992

NOTICE OF ERROR FORM

RECEIVED

SEP 25 1992

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

Idaho Department of Water Resources

Statehouse Mail

Boise, Idaho 83720-9000

Department of Water Resources

The notice of error must be received at IDWR by the **deadline date** printed below with your proposed recommendation.

YOUR DEADLINE FOR FILING A NOTICE OF ERROR IS: SEP-24-1992

1. Water right number: 36-02008

2. Name: Clifton BARNARD
Michael BARNARD

Address: 6905. 1500 E.
EDEN, IDAHO. 83325

Weekday Telephone Number: 825-5085

RECEIVED

SEP 25 1992

Idaho Department of Water Resources
Boise, Idaho Office

MICROFILMED

TEAR AT PERFORATIONS AND COMPLETE FORM ON OTHER SIDE

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

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

I DISAGREE WITH TOTAL ACRES THAT ARE IRRIGATABLE,
ALSO MAXIMUM QUANTITY OF WATER.

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

TOTAL ACRES IRRIGATABLE CHANGED FROM 18 ACRES TO 37.0
MAXIMUM QUANTITY FROM .36 CFS TO .74 CFS
CONSUMPTIVE USE 54.0 AFY TO 111.0 AFY

5. Describe why you disagree with the proposed recommendation:

THIS 37 ACRES I BOUGHT TWO YEARS AGO IS IRRIGATABLE
AND HAS ~~HAD~~ BEEN WATER SINCE I BOUGHT IT. I
HAVE USED ALL WATER ALLOTTED TO ME.

6. Date: 9-24-92

SIGNATURE Clifton Barnard



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

05-Oct-1992 14:21

Clifton and Michele Bernard
690 S 1500 E
Eden, ID 83325

RE: Snake River Basin Adjudication
Notice of Error - A36-02008, A36-02009

Dear Mr. and Mrs. Bernard:

We are in receipt of the Notices of Error you filed on the above referenced claims. We are not making any changes to the recommendation at this time.

A field exam conducted in November, 1990, identified the acres irrigated. Additionally, landsat data of the tracts in question supported the total number of acres irrigated. You may provide evidence to IDWR which shows additional acres having been irrigated within the 5 year period prior to November 19, 1987 (date of commencement of adjudication). If no further evidence is provided or the evidence is not supportive, this claim will remain as proposed in the Director's Report.

The recommended rates of flow and consumptive use volumes are based on IDWR standards and determined to be adequate for the beneficial use you have claimed.

If you still do not agree with the proposed IDWR recommendations to the court, you may file an objection with the court after you receive the final recommendation of your water right. The objection process will be explained when you receive your final recommendation of your water right.

Sincerely,


Helen Harrington-Thornton
Water Resource Agent

HHT

MICROFILMED

JAN 25 1993

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

DATE: 10/05/92
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	CLIFTON BARNARD GEN DEL EDEN ID 83325	12/03/1910	IRRIGATION STOCKWATER	04-01 10-31 01-01 12-31	0.36 CFS 0.03 CFS	
				TOTAL DIVERSION:	0.39 CFS	
C	MICHELE BARNARD GEN DEL EDEN ID 83325 (208) 825-5085			CONSUMPTIVE USE:		54.0 AFA

Water Source: UNNAMED STREAM

Tributary to: GOOSE LAKE

Stage: LICENSE

Point(s) of Diversion:

T09S R19E S27

NENWNW

JEROME County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE							
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	SUM
09S	19E	22	:																			:	18.0
																						TOTAL ACRES	18.0

Place of use Legal Description for: STOCKWATER

				NE				NW				SW				SE							
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	
09S	19E	22	:																			:	

POU County: JEROME

Non-Irrigation Uses: STOCKWATER, 80 RANGE

Other Rights: NONE

Remarks: RIGHT NO. 36-02009 IS ALSO DIVERTED THROUGH POINT OF
DIVERSION DESCRIBED ABOVE.

Dates: Exam Made Date: Verified Date:

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

Comments: Date: 07/15/1991 User-ID: MERRITT Subject: COPIED FROM REMARKS
TRANS. 2484.
OWNERSHIP CHANGE 12/6/90 BY JG.

Date: 09/25/1992 User-ID: SCHULTZ Subject: NOTICE OF ERROR (NOE)
NOE RECEIVED 9/25/92. CHANGED NOE FLAG FROM BLANK TO A.
CLAIM VERIFIED 3/11/92. DID NOT REVERIFY ANY PART OF CLAIM.

MICROFILMED

JAN 25 1993

=====

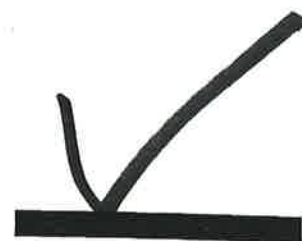
Date: 10/05/1992 User-ID: THORNTON Subject: NOTICE OF ERROR RECONCILIATION
CHANGED FLAG FROM A TO B.
NOE QUESTIONED NUMBER OF ACRES AND DIVERSION RATE. REVIEW OF
FILE FOUND THAT A FIELD EXAM CONDUCTED ON SITE DETERMINED THE
ACTUAL ACRES IRRIGATED. NO CHANGE MADE TO RECOMMENDATION; LETTER
SENT TO CLAIMANT.

Audit: 10/05/92 THORNTON

UNRECORDED

JAN 25 1993

R PROOF



CVR



MAPS



PHOTOS



MISC



MICROFILM

JAN 25 1983

Water Right Number - R36-02008

Prefix Translation: RESEARCH

Old (D) Number -

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

*** C - CURRENT OWNER ***
BARNARD

CLIFTON

1 - GEN. DEL.

2 -

3 -

City- EDEN

State- ID Zip- 83325

Phone - 208-000-0000

BARNARD

MICHELE

1 - GEN. DEL.

2 -

3 -

City- EDEN

State- ID Zip- 83325

Phone - 208-825-5085

*** O - ORIGINAL OWNER ***
LARSEN

FLORA C.

1 - RT. 1

2 -

3 -

City- KIMBERLY

State- ID Zip- 83341

Phone - 208-733-1200

FOOTHILL RANCHES

1 - 3851 N. 3500 E.

2 -

3 -

City- KIMBERLY

State- ID Zip- 83341

Phone - 208-423-4444

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - - +
12/03/1910 17 SOUTHERN L - LICENSE+ - - - - Source - - - - - + + - - - - - Tributary - - - - - +
UNNAMED STREAM GOOSE LAKE+ - - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County

09S 19E 27 NE NW NW (53) JEROME

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

01 - IRRIGATION

03/15

11/15

0.360

04 - STOCKWATER

01/01

12/31

0.030

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.390 54.0+ - - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County

09S 19E 22

SW SW

18.0

01 IRRIGATION

(53) JEROME

09S 19E 22

NW SW

04 STOCKWATER

(53) JEROME

09S 19E 22

SW SW

04 STOCKWATER

(53) JEROME

MICROFILMED
JAN 25 1993

Water right number - R36-02008

Prefix Translation: RESEARCH

```
+ - - - - - Place of Use - - - - - +
+   TwN   Rng   Sec   Tract   Lot   Acres   Code   Description   County   +
+ - - - - - Total Acres:      18.0   +

+ - - Diversion Means - CONCRETE HEADGATE
+ - - Non-Irrigation Use - STOCKWATER, 80 RANGE
+ - - Other Rights for Same Use - NONE

+ - - - - - Remarks - - - - - +
+   RIGHT NO. 36-02009 IS ALSO DIVERTED THROUGH POINT OF
+   DIVERSION DESCRIBED ABOVE.

+ - - - - - Old Water Right Numbers - - - - - +
+   No Old Water Right Numbers Found

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

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

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

+ - - Audit Fields - - +
+   03/11/92 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 -
Response Filed Date - 00/00/0000   Verified Date - 03/11/1992   Old Case Number -
Claim Received Date - 04/25/1990   Last Amended Date - 00/00/0000   Old Judicial District -
                                   Receipt Number - S012200   Temporary Right - P
                                   POU Ownership Flag - Y   Water District -
                                   Name Connector -   Federal/State Indicator - S
                                   Presumption Flag -
                                   Notice of Error Flag -
```

MICROFILMED
JAN 25 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

09:49:31
02/15/93

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-02008

LAST: LARSEN
ADDRESS: RT. 1
CITY: KIMBERLY
PHONE NUMBER: 208-733-1200
OWNER CODE: C

FIRST: FLORA_C.
STATE: ID ZIP: 83341

LAST: BOLLES
ADDRESS: XXX
CITY: XXX
PHONE NUMBER: 208-000-0000
OWNER CODE: C

FIRST: NED
STATE: ID ZIP: 000

LAST: FOOTHILL RANCHES
ADDRESS: 3951 N. 3500 E.
CITY: KIMBERLY
PHONE NUMBER: 208-423-4444
OWNER CODE: C

FIRST:
STATE: ID ZIP: 83341

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

CLAIM REMARKS: TRANS. 2484.

DATABASE
Y

FIELD
EXAMINER

MICROFILMED

JAN 25 1993

PAGE: 2
FIELD EXAMINATION INFORMATION

CLAIM NUMBER: A36-03008

CONTACT PERSON:

DATE OF FIELD EXAM: 11/20/90

APPOINTMENT MADE: Y() N()

PHONE NUMBER: () -

TIME: A() P()

ACCOMPANIED BY: Mr. Barnard

PHONE NUMBER: () -

RELATIONSHIP TO CLAIMANT:

DIRECTIONS TO PROPERTY / REMARKS:

Mr. Barnard new owner.

MICROFILMED
JAN 25 1993

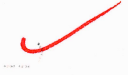
A. AI CLAIM: * A36-02008 PRIORITY DATE: 12-03-1910 STAGE: L
B. WR RECORD: * 36-02008 PRIORITY DATE: 12-03-1910 STAGE: L

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() 

REMARKS:

RECOMMENDED PRIORITY DATE:
12-03-1910

REVIEWED BY



DATE



MICROFILMED

JAN 25 1993

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	ONLY
A36-02009	09S	19E	27	NE	NW	NW		JURUME

OTHER AJ CLAIMS WITH SAME AJ POD
A PREFIX R PREFIX
A36-02009 NONE

WR RECORDS IN SAME 40 ACRE TRACT

36-02009
36-02667

SOURCE: UNNAMED STREAM

TRIB: GOOSE LAKE

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	ONLY
36-02008	09S	19E	27		NW	NW		JURUME

OTHER WR RECORDS WITH SAME WR POD

AJ CLAIMS IN SAME 40 ACRE TRACT
A PREFIX R PREFIX

36-02009
36-02667

A36-02667 NONE
A36-02009

SOURCE: UNNAMED STREAM

TRIB: GOOSE LAKE

C. FIELD EXAM REQUIRED?

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

DATABASE
Y
N

FIELD
EXAMINER

REMARKS:

Appears ok as claimed.

MICROFILMED

JAN 25 1993

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	COUNTY
------	------	------	-----	-----	-----	-----	--------

OK

SOURCE: UNNAMED STREAM

TRIB: GOOSE LAKE

REVIEWED BY:

AD

DATE:

12/21/90

MICROFILMED

JAN 25 1993

A. ROOT WATER RIGHT NUMBERS: A36-02008

B. PDU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WK #/ACRES	LANDSAT DATA	FIELD EXAM.	WATER ACRES
09S	19E	22	SW	SW		LARSEN, FLORA C. FOOTHILL RANCHES LARSEN, FLORA C.	A36-02008 / 37.0 A36-02009 / 3.0	36-02008 / 37.0 36-02009 / 3.0 36-02667 / 5.0	17.0	21	18
09S	19E	22	SW	SW		LARSEN, FLORA C. FOOTHILL RANCHES LARSEN, FLORA C.	A36-02008 / 37.0 A36-02009 / 3.0	36-02008 / 37.0 36-02009 / 3.0 36-02667 / 5.0	17.0		
TOTAL ACRES							A36-02008 37.00	74.00	34.00		

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

C. FIELD EXAM REQUIRED?

DUE TO PDU DISCREPANCY? (Y/N)

DATABASE

FIELD
EXAMINER

PRESUMPTION FLAG:

REMARKS:

Stock drink from ditch

Other 3 acres recommended
under A36-02009

RECOMMENDATIONS:

TOTAL ACRES:

REVIEWED BY:

DATE:

The northern portion of SWSW has not been irrigated for many years. The ground with dirt has been disked but not watered. Mr. Demand indicated that in the future he plans to sprinkle it.

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A. AI CLAIMED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
A36-02009 IRRIGATION	FROM 03-01 TO 10-31	.740 CFS
A36-02009 STOCKWATER	FROM 01-01 TO 12-31	.030 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		.740 CFS

B. WR RECORDED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
36-02009 IRRIGATION	FROM 03-01 TO 10-31	.740 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		.740 CFS

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

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

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

RECOMMEND TO WR STANDARDS OR OTHER?

Y() N()

Y() N()

Explain in remarks, below.

REMARKS:

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PART - B
DIVERSION AMOUNT REVIEW SHEET

CLAIM NUMBER: A36-02008

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y(☒) N(☐)

AT TOTAL CLAIMED DIVERSION RATE: 0.740 CFS
WE MOST RIGHT TOTAL DIVERSION RATE: 0.740 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?

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

FIELD
DATABASE EXAMINER
N

FLOW MEASUREMENT

MEASUREMENT METHOD N/A, SEE ATTACHED CALCULATIONS.

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

OTHER RIGHTS LISTED IN CLAIM: A36-02009

LIST ALL RIGHTS WITH A SAME POB AND IRRIGATION USAGE:

CLAIM	SOURCE	NAME	DIV. RATE	DTU RATE/ACRE	DIV. VOL.	DTU VOL./ACRE
A36-02008	UNNAMED STREAM	LARSEN, FLORA C.	0.740	0.020		
A36-02009	UNNAMED STREAM	FOOTHILL RANCHES	0.300	0.020		

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

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	DATE	VOLUME
A36-02008	STOCKWATER	LARSEN, FLORA C.	FROM 01-01 TO 12-31	0.020 CFS	
A36-02009	STOCKWATER	FOOTHILL RANCHES	FROM 01-01 TO 12-31	0.020 CFS	

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D.

RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE
ACRES 18 $\times$ 0.02 CFS/ACRE = 0.36 CFS
(Taken from p/u review)

1b. CALCULATIONS

DOES AMOUNT CLAIMED EXCEED 0.02 CFS/ACRE? Y() N()

AAA IF YES ADDITIONAL WATER USE FORM FILLED AND ATTACHED? Y() N() AAA

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 111.0 AF/A

ACRES 18 $\times$ CONSUMPTIVE VOL. AF/A FOR AREA 3.0 =

TOTAL CONSUMPTIVE USE 54 AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

ACRES 18 $\times$ DIVERSION VOL. AF/A FOR AREA 4.0 =

TOTAL DIVERSION VOLUME 72 AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y() N()

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

No overlap.

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RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD FROM TO	REC. DIV RATE CYS	REC. DIV VOL. AF/A	DIV. CONS. USE
		DATABASE EXAMINER	DATABASE EXAMINER	DATABASE EXAMINER
<i>Irrig.</i>	<i>7/15 11/15</i>			
<i>Stock</i>	<i>3/1 10/31</i>	<i>0.36</i>	<i>72</i>	<i>54</i>
	<i>1/1 12/31</i>	<i>0.03</i>	<i>—</i>	<i>—</i>
		<u><i>0.39</i></u>		
TOTAL FOR THIS RIGHT				

REVIEWED BY: *ADm*

DATE: *12/21/90*

** changed to standard
7/15/91
AD*

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A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP
FORFEIT/ABANDON
ADDITIONAL DIV. AMOUNT

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

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-02008

TOTAL DIVERSION RATE OF WR SPLITS

DATABASE
0.740

EXAMINER

CFS

N/A

SPLITS:

OLD RIGHT
NUMBERS

CURRENT
CLAIM NUMBERS

DIVERSION
RATE

CURRENT "R"
CLAIM NUM.

"R" DIV.
RATE

WR RIGHT
NUMBERS

DIVERSION
RATE

—

36-02008

0.740

—

36-02008

0.740

TOTAL CFS

0.740

0.740

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

REMARKS:

AUTHENTICATION:

SIGNATURE:

NAME OF FIELD EXAMINER:

DATE:

TITLE:

12/21/90

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JAN 25 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

09:39:21
09/15/90

PAGE: 12
QUICKLOOK INFORMATION

CLAIM NUMBER: 436-02008

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			AD	N			DB	
POINT OF DIV	Y			N	1, 5			
SOURCE				N				
PLACE OF USE	Y			Y	1, 5, 4			
DIV. AMOUNT CFS/VOLUME	Y			Y	6			
CONSUMPTIVE USE	-			Y	6			
PURPOSES	Y			N	6, 5			
PERIOD OF USE	Y			Y (Y)	6		7/13/91 AD	
BASIS OF CLAIM				N				
REMARKS	Y							

"VERIFIED BY" CODES

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

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

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JAN 25 1993

11/20/90
APM

A36-02008
A36-02009

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

114° 15' 12' 30"
726000m E 727 728

4722000m N

4721

4720

4719

35'



9S
10S

SYSTEM CLAIM NUMBERS

A36 02008A36 02009CLAIM
NO. OR
ENTRY

Remarks

Condition

ORDER | CODE | ENTRY DATA

ORDER | CODE | ENTRY DATA

02008F0502009C0902009F0502008C09

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JAN 25 1983

R. BARNARD
905.1500E.

EDEN IDAHO

83325

RECEIVED

FEB 09 1993

Department of Water Resources
Southern Region Office

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

83301

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