

POOR ORIGINAL

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39356

Ident. Number

A36-02169

Date Received

Receipt Number

5006294

gcu

NOTICE OF CLAIM
TO A
WATER RIGHT

ACQUIRED UNDER STATE LAW

COPY
FOR YOUR FILES
DO NOT RETURN

RECORDED

ACG

Department of
Southern

Please type or print clearly

1. Name of Claimant (s) RUTH E. GARY Phone (208) 377-3913
Mailing Address c/o DALE E. GARY 1020 S. WILSON CIRCLE BOISE, IDA. Zip 837052. Date of Priority (Only one (1) per claim) JAN. 2, 18913. Source of water supply (a) UNNAMED SPRING
which is tributary to (b) BILLINGSLEY CREEK4. a. Location of existing point of diversion is: Township 7 Range 13 Section 12,
SE 1/4 of NW 1/4 of 1/4, Govt. Lot, E B.M., County of GOODINGAdditional points of diversion if any: NE 1/4 OF SW 1/4 SEC. 12 T/S 7 S. R. 13 N.B.M.

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

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

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

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

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

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. INITIAL DIVERSION OF UNNAMED SPRING IS
CONSOLIDATED WITH THE DIVERSION OF THE FLORENCE LIVESTOCK SPRING. NO SPECIAL INSTALLATION
NEEDED FOR THE UNNAMED SPRING. (SEE NO. 120455 BASEMENT ATTACHED). SECOND DIVERSION
CONSISTS OF A THREE INCH PIPELINE ATTACHED TO THE FLORENCE LIVESTOCK PIPELINE APPROXIMATELY
1800 FEET WEST OF THE INITIAL DIVERSION POINT. SECOND DIVERSION PIPELINE CONTINUES
IN A WESTERN DIRECTION TO THE PROPERTY DESCRIBED IN EXHIBIT. (SEE NO. 121344 ATTACHED TO CASE)
SECOND DIVERSION PIPELINE IS ENTIRELY UNDERGROUND.

MICROFILMED

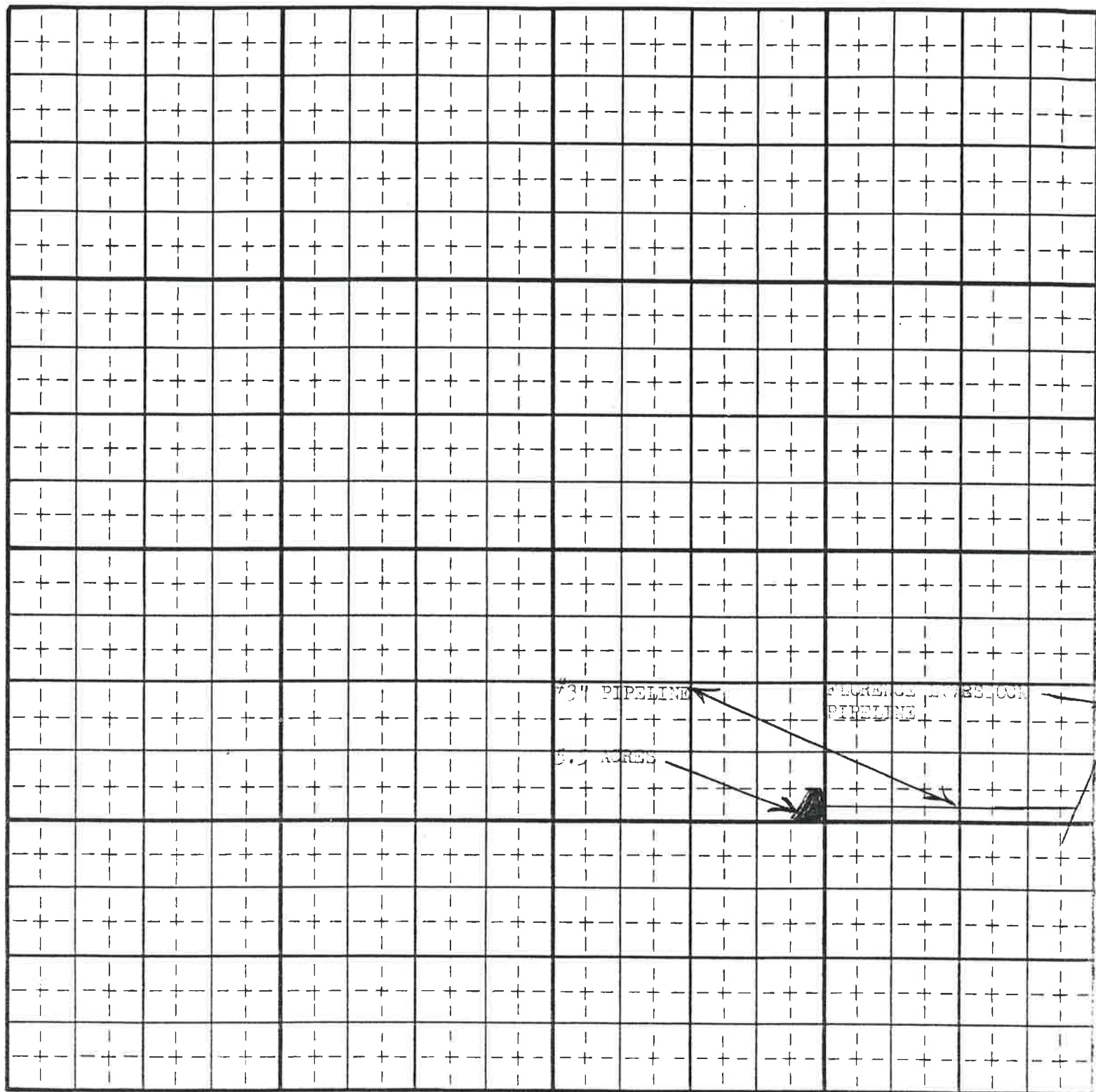
OCT 15 1994

Copies: White-State, Yellow-Claimant

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

Scale: 2 inches equals 1 mile

SECTION 11-TOWNSHIP 7-RANGE 13 EBM- GOODING COUNTY



THIS ATTAINED COPY OF PROPERTY AND LOCATION

MICROFILMED

OCT 15 1994

Last Name _____ Ident No. _____

Copies: White-State, Yellow-Claimant

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For IRRIGATION purposes from 3/15 to 11/15 amount .165 or _____

For DOMESTIC purposes from 1/1 to 12/31 amount .04 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) .205 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 16.5 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) DOMESTIC FOR HOUSEHOLD USE

10. Description of place of use:

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

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

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
7	12	11														5.5			5.5
7	13	11														D			D

Total number of acres irrigated 5.5

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

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

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

13. Describe any other water rights used at the same place and for the same purposes as described above.

_____ or None ()

14. Remarks:

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OCT 13 1994

Last Name Ident No.

Copies: White - State, Yellow - Claimant

15. Basis of Claim (check one) Be ☒ Special Use ☐ Posted Notice ☐ License ☒ Permit ☐

Decree

If applicable provide IDWR Water Right Number 22754

Court U.S. DIST. IDA. SO DIV

Case Number 1 602

Decree Date 3/23/32

Plaintiff vs Defendant NEW INTERNATIONAL MORTGAGE BANK VS IDAHO POWER COMPANY

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled

"How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do ☐ do not ☒ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments ten (10)

POOR ORIGINAL

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

Signature of Claimant (s)

Date

Date

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

Title

of _____, that I have signed the foregoing

Organization

document in the space below as

Title

of

Organization

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

Signature of Authorized Agent

Title and Organization

Date

State of Idaho/or _____)

County of Ada)

SS.

Subscribed and sworn (or affirmed) before me this 29th day of August 19 98

SEAL

Notary Public

Residing at

My Commission Expires

Please Print Name

17. Notice of Appearance:

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

Signature

Address

Date

Last Name Gray Ident. Number _____

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OCT 13 1994
Copies White-Steig, Yellow-Claimant

POOR ORIGINAL

GENERAL POWER OF ATTORNEY

Know All Men by These Presents: That Dale E. Cary

of Hagerman, County of Gooding, State of Idaho,
 has made, constituted and appointed, and by these presents does make, constitute, and appoint
Dale E. Cary, of Boise, County of
Ada, State of Idaho, her true and lawful attorney for
 and in her name, place and stead, and for her use and benefit, to ask, demand,
 sue for, recover, collect, and receive all such sums of money, debts, dues, accounts, legacies, bequests,
 interest, dividends, annuities, and demands whatsoever, as are now or shall hereafter become due, owing,
 payable, or belonging to her, and have, use, and take all lawful ways and means in her
 name or otherwise for the recovery thereof, by attachments, arrests, distress or otherwise, and to com-
 promise and agree for the same, and acquittances, or other sufficient discharges for the same, for her
 and in her name, to make, seal, and deliver; to bargain, contract, agree for, purchase, receive,
 and take lands, tenements, hereditaments, and accept the seisin and possession of all lands, and all deeds
 and other assurances in the law therefor, and to lease, let, demise, bargain, sell, remise, release, convey,
 mortgage, and hypothecate lands, tenements, and hereditaments upon such terms and conditions, and
 under such covenants as he shall think fit. Also, to bargain and agree for, buy, sell, mortgage,
 hypothecate, and in any and every way and manner deal in and with goods, wares, and merchandise,
 choses in action, and other property in possession or in action, and to make, do, and transact all and every
 kind of business of what nature or kind soever, and also for her and in her name
 and as her act and deed to sign, seal, execute, deliver, and acknowledge such deeds, leases, and
 assignment of leases, covenants, indentures, agreements, mortgages, hypothecations, bottomries, charter-
 parties, bills of lading, bills, bonds, notes, receipts, evidences of debt, releases, and satisfaction of mort-
 gages, judgments and other debts, and such other instruments in writing of whatever kind and nature as
 may be necessary or proper in the premises.

Giving and granting unto her said attorney full power and authority to do and perform all
 and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully
 to all intents and purposes as she might or could do if personally present (with full power of sub-
 stitution or revocation), hereby ratifying and confirming all that her said attorney (or his
 substitute or substitutes) shall lawfully do or cause to be done by virtue of these presents.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the
 day of October, 1985.

Signed, sealed and delivered in the presence of

Dale E. Cary

MICROFILMED
 OCT 13 1994
 (Seal)
 (Seal)

STATE OF IDAHO,

County of Ada

ss.

On this day of

the undersigned

, a Notary Public

in the year 19 85, before me

and State
in and for said County/personally appeared Ruth E. Cary
known to me to be the person whose name is subscribed to the within instrument, and
acknowledge to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year
in this certificate first above written.

Ruth E. Cary
Notary Public for Idaho
Residing at Boise, Idaho

No.

POWER OF ATTORNEY
GENERAL

TO

Dated, 19

STATE OF IDAHO,

ss.

County of

I hereby certify that this instrument
was filed for record at the request of

at minutes past
o'clock M., this day
of, A.D. 19,
in my office, and duly recorded in Book
..... of at page

Ex-Officio Recorder.

By, Deputy.

Fees, \$.....

SYMS-YORK CO., PRINTERS & BINDERS, BOISE

POOR ORIGINAL

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OCT 13 1994

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

TOTAL RECORDS IN SELECTION FILE: 116

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OCT 13 1994

RECEIVED
FEB 10 1993
Department of Water Resources

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

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

9 * * * * *

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

Case No. 39576

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

NOTICE OF APPEARANCE

15 Petitioner,)

16 vs.)

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

19 Respondents.)
20 _____)

21 * * * * *

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

23 NOTICE OF APPEARANCE - 1



Hepworth,
Nungester,
& Lezamiz

MICROFILMED
OCT 13 1994

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



Hepworth,
Nungester,
& Lezamiz

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



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

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

12 DATED This 9 day of February, 1993.

13 HEPWORTH, NUNGESTER & LEZAMIZ

14
 15 By 
 16 PATRICK D. BROWN
 Attorneys for Respondents

17
 18 CERTIFICATE OF MAILING

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



Hepworth,
 Nungester,
 & Lezamiz

1 February, 1993, to:

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

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

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

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

21 
22 Patrick D. Brown



Hepworth,
Nungester,
& Lezamiz



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 1, 1993

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

Re: Notice of Appearance

Dear Mr. Brown:

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

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

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

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OCT 13 1994

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

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

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

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

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

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

MICROFILMED
 OCT 13 1994

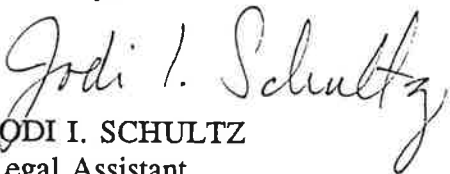
Mr. Patrick D. Brown
March 1, 1993
Page 4

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

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

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

Sincerely,



JODI I. SCHULTZ

Legal Assistant

Idaho Department of Water Resources

cc: IDWR Southern Region

MICROFILMED

OCT 13 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: A36-02169
Date Received: 2/15/1989
Receipt No: S006294
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: DAN MC FADDAN 208-837-6649
Address: RT. 1 BOX 406
HAGERMAN, ID 83332

AND/OR

Name: IRMA R. MC FADDAN 208-837-6649
Address: RT. 1 BOX 406
HAGERMAN, ID 83332

2. Date of Priority: JAN 02, 1891

3. Source: SPRING Trib. to: BILLINGSLEY CREEK

4. Point of Diversion:

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

5. Description of diverting works:
SAME DIVERSION AS FLORENCE LIVEST. SPR., PIPELINE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.165		
DOMESTIC	01/01	12/31	0.040		

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

8. Total consumptive use is 16.5 Acre Feet Per Annum.

9. Non-irrigation uses:
DOMESTIC/1 HOME

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	13E	11	NW	SE		DOMEST	
			NW	SE		IRR	5.5
						Section Acres	5.5
						Total Acres	5.5

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
NONE

14. Remarks:

DWR NOTE**

ACCORDING TO LIC. DATE OF PRIORITY IS 4-10-1952 AND TOTAL FLOW
IS 0.16 CFS.

OWNERSHIP CHANGE 9/4/90 BY JG.

15. Basis of Claim: LICENSE

Water Right Number: 22754

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 _____

RECEIVED

AUG 29 1990

CHANGE IN OWNERSHIP Department of Water Resources Page 1
Southern Region Office

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

- [] Water Right Number(s): A36-02169
- [] Name and Address of Former Claimant(s): Ruth E. CAREY
C/O DALE E. CAREY
1020 S. WILSON CIRCLE, BOISE, ID 83705
- [] New Claimant(s): Dan & Irma R. McFadden
- [] New Mailing Address: Rt. 1, Box 406
Hagerman, ID 83332

New Telephone Number: (208) 837-6649

- [] Does the change in ownership result in a splitting of the water right claimed? yes X 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: Our Tax Assessment on Cary Place
(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): Dan McFadden
Irma R. McFadden

Date: Aug. 27, 1990

MICROFILMED

JAN 26 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: _____ By: _____

Further Action Needed:

Further Action Taken

Date: _____ By: _____

Final Review and Data-Entry

Date: _____ By: _____

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

DOYLE PUGMIRE
Gooding County Assessor
626 Main Street
Gooding, Idaho 83330

THIS IS NOT A BILL

CATEGORY DESCRIPTION	LOTS/ACRES	MARKET VALUE
1 IRRGTD AG	4.500 AC	1,461
10 RURAL HOMESITE	1.000 AC	4,500
31 RURAL RES BLDG		13,372
32 RURAL IMP ON AG		1,728

**TAXPAYERS 1989
VALUATION ASSESSMENT NOTICE**

Taxes are based on the valuation
listed on this statement

IF THERE ARE ANY QUESTIONS
REGARDING THIS STATEMENT
NOTIFY THE ASSESSOR'S OFFICE BEFORE

JUNE 20, 1989

See the reverse side for further references

KEEP THIS COPY FOR YOUR RECORDS

TOTALS 5.500

21,061

Mail To:
MCFADDEN, DANIEL H &
MCFADDEN, IRMA
RT 1, BOX 406
HAGERMAN, ID 83332

T 7S R 13E SEC 11
TAX 41 IN PARCEL C (SE1/4)
JUSTICE RANCH

Cary Place

PROPERTY ADDRESS

PARCEL NO. RP 07S13E118361 A TAX CODE

7-00 PREVIOUS #

4

SD-36. TOWNSHIP: 07S		RANGE: 13E		SECTION: 12		TRACT:		LOT:	
S	L	ATE	O	S	MAX # RECORDS	25			
E	O	NAME	W	T	PRIORITY	USE			
L	TRACT T	RIGHT NO.	LAST, FIRST	N	AC	G	DATE	CODE	DESC
NWSW	A36-00049	MC FADDAN, DAN H.	C	1	D	04/01/1900	01	IRR	
		MC FADDAN, IRMA R.	C				43	DOMEST	
		FISH & GAME	K				10	COMMER	
							04	STOCK	
SWSW	A36-00048	FISH & GAME	K	18	D	11/04/1885	19	FISH	
		MC FADDAN, DAN H.	C				01	IRR	
		MC FADDAN, IRMA R.	C						
SWSW	A36-00049	MC FADDAN, DAN H.	C	18	D	04/01/1900	01	IRR	
		MC FADDAN, IRMA R.	C				43	DOMEST	
		FISH & GAME	K				10	COMMER	
							04	STOCK	
SESW	A36-00048	FISH & GAME	K	1	D	11/04/1885	19	FISH	
		MC FADDAN, DAN H.	C				01	IRR	
		MC FADDAN, IRMA R.	C						

(ENTER=CONTINUE)

(GOLD 7=THIS QUERY)

(MENU _____)

MICROFILMED

JAN 26 1993

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: A36-02169
Date Received: 2/15/1989
Receipt No: S006294
Received By: SCC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: RUTH E. CARY 208-377-3913
Address: C/O DALE E. CARY
1020 S. WILSON CIRCLE
BOISE, ID 83705

2. Date of Priority: JAN 02, 1891

3. Source: SPRING Trib. to: BILLINGSLEY CREEK

4. Point of Diversion:

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

5. Description of diverting works:
SAME DIVERSION AS FLORENCE LIVEST. SPR., PIPELINE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.165		
DOMESTIC	01/01	12/31	0.040		

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

8. Total consumptive use is 16.5 Acre Feet Per Annum.

9. Non-irrigation uses:
D/1 HOUSE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	13E	11	NW	SE		IRR	5.5
			NW	SE		DOMEST	
						Section Acres	5.5
						Total Acres	5.5

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
NONE

14. Remarks:

DWR NOTE**

ACCORDING TO LIC. DATE OF PRIORITY IS 4-10-1952 AND TOTAL FLOW
IS 0.16 CFS.

15. Basis of Claim: LICENSE
Water Right Number: 22754

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 _____



State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 2148 4th Ave. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

February 7, 1989

Ruth Cary
1020 S. Wilson Circle
Boise, ID 83705

RE: SRBA Claim

Dear Claimant:

Please find enclosed your claim and your check # 1137 for
\$ 25.00 which you submitted to our office. I am returning
these pursuant to Rule 10,4 of the Department's Adjudications Rules and
Regulations. In checking your claim it appears that the following
items need clarification:

- [] Item #2 Priority
- [] Item #4 Point of Diversion Legal Description
- [] Item #6 Uses descriptions
- [] Item #9 Description of Non-irrigation Uses
- [] Item #10 Place of Use Legal Description
- [] Item #16 Signature & Notorization
- [X] Improper fee (THE CORRECT FEE IS \$ 50.00 ^{Base} + 6.00 ^{Irrig} = \$ 56.00)
- [] Other or Remarks

If you wish to continue to press your claim please find enclosed
instructions and another claim form to use. If you will make the
necessary corrections and return your claim with the correct fee and a
copy of this letter within 30 DAYS of the date of this letter, your
filing will be considered timely and will not be assessed an additional
late fee of \$ 50.00.

~~BEFORE RETURNING THE CLAIM PLEASE READ THE ENCLOSED DRAFT TEXT FOR D&S
BROCHURE. Due to recent rulings by the court you may defer filing the
claim if you so desire but it is recommended by the Department that you
continue to press your claim. If you have any questions contact our
office.~~

Sincerely,

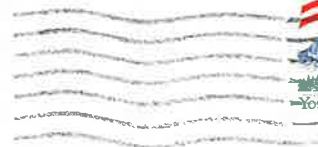
Allen Merritt
Allen Merritt, P.E.
Water Rights Supervisor

ADM:adm
Enclosures:

MICROFILMED

JAN 26 1993

Dan Mc Fadden
Emerald Valley Ranch
Route #1, Box 406
Hagerman, ID 83332



Idaho Dept. of Water Resources
222 Shoshone St. E.
Twin Falls, Id. 83301

MICROFILMED

Attn: Steve Clelland

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

Water Right: 36-2169

NOTICE OF COMPLETED
ADMINISTRATIVE
PROCEEDING

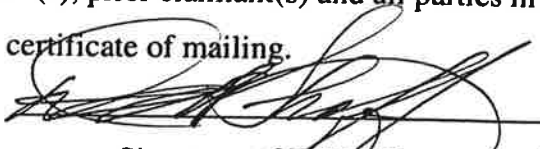
IDWR has completed the following administrative proceeding:

- ☐ Address change
- ☒ Substitution of Party
- ☐ IC § 42-222 transfer
- | | |
|---|--|
| ☐ Point of diversion | ☐ Place of use |
| ☐ Period of use | ☐ Nature of use |
| ☐ Split of water right | ☐ Change in ownership |
| ☐ Other | |

IDWR certifies that it has completed its investigation into the changes to the elements of the water right listed above as set forth in the attached *Amended Director's Report(s)* for said water right(s). No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: 10-10-02


Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on October 11, 2002, I delivered the original and copies of this form, including all attachments, to the following persons, postage prepaid if required and addressed as follows:

1. Original to:

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

2. Copies to:

Clive Strong
Off ice of the Attorney General
P.O. Box 44449
Boise, ID 83711-4449

United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724

3. Copies to all parties to the subcase:

Dan and Irma McFaddan
Family Limited Partnership
970 Pioneer Rd.
Hagerman, ID 83332


Signature of person mailing this document

10/10/2002

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

RIGHT NUMBER: 36-2169

NAME AND ADDRESS: DAN & IRMA MC FADDAN FAMILY LIMITED PARTNERSHIP
970 PIONEER RD
HAGERMAN ID 83332

SOURCE: FLORENCE LIVESTOCK SPRING

TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 0.160 CFS

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

PRIORITY DATE: 04/10/1952

POINT OF
DIVERSION: T07S R13E S12 SESENW Within GOODING County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	2/15 11/30	0.140 CFS
DOMESTIC	1/01 12/31	0.040 CFS

PLACE OF USE: IRRIGATION Within GOODING County

T07S R13E S11 NWSE 4.5

DOMESTIC Within GOODING County

T07S R13E S11 NWSE

4.5 ACRES TOTAL

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

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

THE FOLLOWING WATER RIGHTS ARE ALSO DIVERTED THROUGH THE
POINT OF DIVERSION DESCRIBED ABOVE. RIGHTS 36-00049, 36-02169,
36-15532, 36-15533 AND 36-15538.

Adjudication Recommendation Report 36-2169 V2

WATER RIGHT NUMBER: 36-2169 V2

<u>Owner Type</u>	<u>Name and Address</u>
Directors Report Owner	DAN MC FADDAN 17966 N HWY 30 HAGERMAN, ID 83332 (208)837-6649
Directors Report Owner	IRMA R MC FADDAN 17966 N HWY 30 HAGERMAN, ID 83332 (208)837-6649
Current Owner	IDAHO STATE BUILDING AUTHORITY PO BOX 2802 BOISE, ID 83701 (208)345-6057
Original Owner	RUTH E CARY C/O DALE E CARY 1020 S WILSON CIRCLE BOISE, ID 83705 (208)377-3913

Status: Active

Tributary

BILLINGSLEY CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	2/15 to 11/30	0.140 CFS	
DOMESTIC	1/01 to 12/31	0.040 CFS	
	Total Diversion:	0.160 CFS	

FLORENCE LIVESTOCK SPRING SE1/4SE1/4NW1/4 Sec. 12, Twp 07S, Rge 13E, B.M.
GOODING County

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				
			<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>Totals</u>
07S	13E	11														4.5			4.5

DOMESTIC

[illegible]

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 36-2169 V2

07S	13E	11	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
																X			

Conditions of Approval:

1. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
2. N10 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR DOMESTIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
3. N12 THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.

Remarks:

1. Explanatory THE FOLLOWING WATER RIGHTS ARE ALSO DIVERTED THROUGH THE POINT OF DIVERSION DESCRIBED ABOVE. RIGHTS 36-00049, 36-02169, 36-15532, 36-15533 AND 36-15538.

Comments:

1. CLELLAND 2/12/1992 COPIED FROM REMARKS
Comment: ***DWR NOTE***** ACCORDING TO LIC. DATE OF PRIORITY IS 4-10-1952 AND TOTAL FLOW IS 0.16 CFS. ***** OWNERSHIP CHANGE 9/4/90 BY JG.
2. THORNTON 8/11/1992 FROM NON-IRRIG. USES
Comment: THIS IS A BED AND BREAKFAST ESTABLISHMENT
3. SCHULTZ 9/22/1992 NOTICE OF ERROR (NOE)
Comment: RECEIVED NOE 9/22/92. CHANGED NOE FLAG FROM BLANK TO A. CLAIM VERIFIED 8/11/92. DID NOT REVERIFY ANY PART OF CLAIM.
4. CHRISTEN 10/17/1992 RESPONSE TO NOE
Comment: NO CHANGES RECOMMENDED. THE ONLY CHANGE MADE TO THE ORIGINAL LICENSE WAS TO REDUCE P/U BY ONE ACRE AND THE RELATED RATES. THE REST ARE THE SAME. KKC 10-17-92.
5. SCHULTZ 2/19/1993 ADDED NEW ATTORNEY
Comment: RECEIVED NOTICE OF APPEARANCE FROM HEPWORTH NUNGESTER LEZAMIZ 2/10/93. CLAIM VERIFIED 10/17/92--DID NOT REVERIFY ANY PART OF CLAIM.
6. DSHAFF 7/29/1999 SOU
Comment: THE SOU WAS MODIFIED AND THE RECORD REFORMATTED.

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 36-2169 V2

Dates and Other Information:

Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Defendant:
Plaintiff:
Civil Case Number:
Judicial District:
Notice of Error Flag: RECEIVED - NO CHANGE TO RECOMMENDATION
State or Federal:
Owner Name Connector: 0
Water District Number: 36A
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust: False
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan:

SubCase:

SubCase Number: 36-2169
Class: 1
SF5 Filed Date:
Special Master Recom Signed Date:
Attorney Assigned: NICHOLAS B SPENCER
Adjudication Agent:
Basis of Claim:
Date Filed: 4/29/1993 Objection Status: Active

RECEIVED

FEB 26 1999

Department of Water Resources
Southern Region

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

In Re SRBA	)	NOTICE OF COMPLETED
	)	ADMINISTRATIVE PROCEEDINGS
Case No. 39576	)	
	)	Water Right 36-02169

IDWR has completed the following Administrative Proceeding:

☒	Change of Address
☐	Substitution of Party
☐	I.C. 42-222 Transfer

CHANGE OF ADDRESS

Name of Claimant: IRMA R MC FADDAN
New Address: 17966 US HWY 30
HAGERMAN ID 83332
Phone: (208) 837-6649

Claimant's Water Rights: 36-02169

The Claimant has filed Objections or Responses to the following water
rights: 36-02169

NOTICE OF COMPLETED
ADMINISTRATIVE PROCEEDING
2/18/1999

36-02169

PAGE 1

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached Amended Director's Reports for said water rights. No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the Notice of Completed Administrative Transfer and Amended Director's Reports(s) on the claimant(s), prior claimants(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED:

2/18/99

A handwritten signature in black ink, appearing to be "R. D. Hoff", is written over a horizontal line.

Signature of IDWR Representative

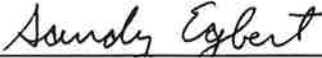
CERTIFICATE OF MAILING

I certify that on 2-23-99 I mailed the original
and copies of this form to the following persons, 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:
Each party in the subcase, or attorney of record:

IRMA R MC FADDAN
DAN MC FADDAN
17966 US HWY 30
HAGERMAN ID 83332

MICHAEL CREAMER
GIVENS PURSLEY HUNTLEY
PO BOX 2720
BOISE ID 83701-2720
3. One Copy to:
Chief, Natural Resources Division
Office of the Attorney General
P.O. Box 44449
Boise, Idaho 83711-4449
4. One Copy to:
United States Dept. of Justice
Environment & Natural Resource Div.
550 West Fort Street, MSC 033
Boise, ID 83724



Signature of person or attorney mailing the form

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

RIGHT NUMBER: 36-02169
NAME & ADDRESS: IRMA R MC FADDAN
DAN MC FADDAN
17966 US HWY 30
HAGERMAN ID 83332
SOURCE: FLORENCE LIVESTOCK SPRING TRIBUTARY: BILLINGSLEY CREEK
QUANTITY: 0.16 CFS
PRIORITY DATE: 04/10/1952
POINT OF DIVERSION: T07S R13E S12 SESENW Within GOODING County
PURPOSE AND PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
IRRIGATION 03-15 11-15 0.14 CFS
DOMESTIC DOMESTIC 1 HOME 01-01 12-31 0.04 CFS
PLACE OF USE: IRRIGATION Within GOODING County
T07S R13E S11 NWSE 4.5
4.5 ACRES TOTAL
DOMESTIC Within GOODING County
T07S R13E S11 NWSE
CONSUMPTIVE USE: 13.5 AFY
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:
RIGHT NO. 36-00049 AND OTHER RIGHTS LISTED THEREIN ARE ALSO
DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.
EXPLANATORY MATERIAL: BASIS OF CLAIM - LICENSE

DATE: 02/17/99
PAGE: 1

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

=====

Comments: Date: 02/12/1992 User-ID: CLELLAND Subject: COPIED FROM REMARKS
DWR NOTE**
ACCORDING TO LIC. DATE OF PRIORITY IS 4-10-1952 AND TOTAL FLOW
IS 0.16 CFS.

OWNERSHIP CHANGE 9/4/90 BY JG.

Date: 08/11/1992 User-ID: THORNTON Subject: FROM NON-IRRIG. USES
THIS IS A BED AND BREAKFAST ESTABLISHMENT

Date: 09/22/1992 User-ID: SCHULTZ Subject: NOTICE OF ERROR (NOE)
RECEIVED NOE 9/22/92. CHANGED NOE FLAG FROM BLANK TO A.
CLAIM VERIFIED 8/11/92. DID NOT REVERIFY ANY PART OF CLAIM.

Date: 10/17/1992 User-ID: CHRISTEN Subject: RESPONSE TO NOE
NO CHANGES RECOMMENDED. THE ONLY CHANGE MADE TO THE ORIG LICENSE
WAS TO REDUCE P/U BY ONE ACRE AND THE RELATED RATES. THE REST ARE
THE SAME. KKC 10-17-92.

Date: 02/19/1993 User-ID: SCHULTZ Subject: ADDED NEW ATTORNEY
RECEIVED NOTICE OF APPEARANCE FROM HEPWORTH NUNGESTER LEZAMIZ
2/10/93.
CLAIM VERIFIED 10/17/92--DID NOT REVERIFY ANY PART OF CLAIM.

Date: 11/21/1997 User-ID: SSHERMAN Subject: MOTION TO WITHDRAW
MOTION TO WITHDRAW FROM PAT BROWN DATED 10/06/1997

Date: 02/17/1999 User-ID: SSHERMAN Subject: ADDRESS CHANGE
ROUTE AND BOX TO GRID.

Audit: 02/17/99 SSHERMAN



Idaho Dept. of Water Resources
1301 N. Orchard
P.O. Box 83720
Boise, Id. 83720-0098

DAN MCFADDAN
17966 HIGHWAY 30
HAGERMAN ID 83332-5427



2/11/99

Change of mailing address

From:

Dan McFadden
Rt. 1, Box 406
Hagerman, ID 83332

To:

Dan & Irma McFadden
17966 US HWY 30
Hagerman, ID 83332

RECEIVED

FEB 16 1999

Thank you.

Department of Water Resources

36-02169
Record Modified. Both were
claimants already. NCAP
prepared.
- 102-17-99

RECEIVED

APR 10 2002

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

RECEIVED

MAR 29 2002

Department of Water Resources
Southern Region

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
 Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
36-2169					

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) Daniel H. McFaddan & Irma R. McFaddan
4. New Owner/Claimant(s) The Dan & Irma McFaddan Family Limited Partnership
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
- New Mailing Address 2575 S. 975 E.
- City, State and ZIP Code Hagerman, ID 83332
- New Telephone Number ()
5. Date you acquired the property March 27, 2002

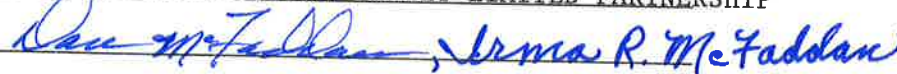
6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7. Signature of New Owner(s) or Claimant(s) THE DAN & IRMA MCFADDAN FAMILY LIMITED PARTNERSHIP
(include title if applicable)

By



For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by _____	Date _____	Fee _____
Received by _____	Date _____	Receipt No. _____
Processed by _____ AJ	Date _____	WR _____ Date _____

WARRANTY DEED

For Value Received

DANIEL H. MCFADDAN and IRMA R. MCFADDAN, Husband and Wife

the grantor(s), do(es) hereby grant, bargain, sell, and convey unto

THE DAN & IRMA MCFADDAN FAMILY LIMITED PARTNERSHIP

the grantee(s), whose current address is
970 Pioneer Road

2575 South 975 East, Hagerman, ID 83332

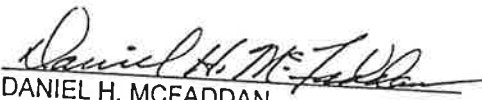
the following described premises, to-wit:

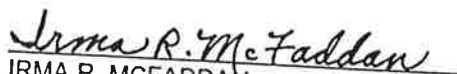
See Attached Exhibit "A"

Together with State of Idaho, Department of Water Resources Water
Right #36-2169.

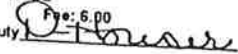
TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), his/her/their heirs and assigns forever. And the said Grantor(s) do(es) hereby covenant to and with the said Grantee(s), that he/she/they are the owner(s) in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U. S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that he/she/they will warrant and defend the same from all claims whatsoever.

Dated: March 27, 2002


DANIEL H. MCFADDAN

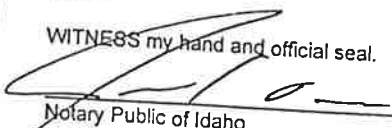

IRMA R. MCFADDAN

STATE OF IDAHO
COUNTY OF GOODING

Instrument # 194510
GOODING, GOODING, IDAHO
2002-03-27 02:11:51 No. of Pages: 2
Recorded for : GOODING TITLE
HELEN EDWARDS Fee: 5.00
Ex-Officio Recorder Deputy 

On This 27th day of March, in the year 2002, before me, a Notary Public in and for said State, personally appeared DANIEL H. MCFADDAN and IRMA R. MCFADDAN, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within Instrument, and acknowledged to me that he/she/they executed the same.

WITNESS my hand and official seal.


Notary Public of Idaho
Residing at Twin Falls, Idaho
Commission Expires: July 25, 2002

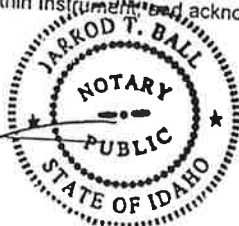


EXHIBIT A
G010427

Township 7 South, Range 13 East, Boise Meridian, Gooding County, Idaho

Section 11: A tract of land in Parcel "C" of Robert L. Justice Ranch in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, described as follows:

BEGINNING at the Southeast corner of said Parcel "C";
THENCE West along the South line of said Parcel "C" a distance of 535.00 feet;
THENCE North 31°12' East 574.10 feet;
THENCE North 78°42' East 192.70 feet to a point on the West right of way of State Highway No. 30;
THENCE South along the West right of way of State Highway No. 30, to the POINT OF BEGINNING.

EXCEPTING THEREFROM a parcel of land located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11, Township 7 South, Range 13 East, Boise Meridian, Gooding County, Idaho, and more particularly described as follows:

COMMENCING at the Southeast corner of said Section 11;
THENCE North 0°16'33" West along the East boundary of Section 11 for a distance of 1,318.69 feet to the Southeast corner of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11;
THENCE North 89°33'34" West along the South boundary of the N $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11 for a distance of 1,371.96 feet to a point on the Westerly right of way boundary of State Highway U.S. 30 and being the TRUE POINT OF BEGINNING;
THENCE continuing North 89°33'34" West along the South boundary of the N $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 11 for a distance of 236.39 feet;
THENCE North 0°15'28" East for a distance of 208.18 feet;
THENCE North 89°45'17" East for a distance of 234.77 feet to a point on the Westerly right of way boundary of State Highway U.S. 30;
THENCE South 0°11'06" East along the Westerly right of way boundary of State Highway U.S. 30 for a distance of 211.00 feet to the TRUE POINT OF BEGINNING.

SUBJECT TO an approximate 40.0 foot wide easement adjacent to and on the Northerly side of the South boundary for the existing county road called Pioneer Road.

Page 1

03/27/2002

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 36-2169 V2

WATER RIGHT NUMBER: 36-2169 V2

Owner Type Name and Address

Directors Report Owner DAN MC FADDAN
17966 N HWY 30
HAGERMAN, ID 83332
(208)837-6649

Directors Report Owner IRMA R MC FADDAN
17966 N HWY 30
HAGERMAN, ID 83332
(208)837-6649

Current Owner IDAHO STATE BUILDING AUTHORITY -
PO BOX 2802
BOISE, ID 83701
(208)345-6057

Original Owner RUTH E CARY
C/O DALE E CARY
1020 S WILSON CIRCLE
BOISE, ID 83705
(208)377-3913

36-2169 -

Priority Date: 04/10/1952

Basis: License

Status: Active

Post-It® Fax Note	7671	Date	# of pages <u>3</u>
To <u>Dynene</u>	From <u>Jim</u>		
Co./Dept.	Co. <u>IDWR</u>		
Phone #	Phone #		
Fax #	Fax #		

Source

FLORENCE LIVESTOCK SPRING

Tributary

BILLINGSLEY CREEK

Beneficial Use

IRRIGATION

From To

2/15 to 11/30

Diversion Rate

0.140 CFS

DOMESTIC

1/01 to 12/31

0.040 CFS

Total Diversion:

0.160 CFS

Location of Point(s) of Diversion

FLORENCE LIVESTOCK SPRING

SE1/4SE1/4NW1/4

Sec. 12, Twp 07S, Rge 13E, B.M.

GOODING County

Place of Use

IRRIGATION

Twp	Rge	Sec	NE	NW	SW	SE	Totals
07S	13E	11	NE NW SW SE	NE NW SW SE	NE NW SW SE	NE NW SW SE	4.5

Total Acres: 4.5

DOMESTIC

Twp	Rge	Sec	NE	NW	SW	SE	Totals
			NE NW SW SE	NE NW SW SE	NE NW SW SE	NE NW SW SE	

Page 2

03/27/2002

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 36-2169 V2

	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
07S 13E 11														X			

Conditions of Approval:

1. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
2. N10 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR DOMESTIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
3. N12 THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.

Remarks:

1. Explanatory THE FOLLOWING WATER RIGHTS ARE ALSO DIVERTED THROUGH THE POINT OF DIVERSION DESCRIBED ABOVE. RIGHTS 36-00049, 36-02169, 36-15532, 36-15533 AND 36-15538.

Comments:

1. CLELLAND 2/12/1992 COPIED FROM REMARKS
Comment: ***DWR NOTE***** ACCORDING TO LIC. DATE OF PRIORITY IS 4-10-1952 AND TOTAL FLOW IS 0.16 CFS. ***** OWNERSHIP CHANGE 9/4/90 BY JG.
2. THORNTON 8/11/1992 FROM NON-IRRIG. USES
Comment: THIS IS A BED AND BREAKFAST ESTABLISHMENT
3. SCHULTZ 9/22/1992 NOTICE OF ERROR (NOE)
Comment: RECEIVED NOE 9/22/92. CHANGED NOE FLAG FROM BLANK TO A. CLAIM VERIFIED 8/11/92. DID NOT REVERIFY ANY PART OF CLAIM.
4. CHRISTEN 10/17/1992 RESPONSE TO NOE
Comment: NO CHANGES RECOMMENDED. THE ONLY CHANGE MADE TO THE ORIG LICENSE WAS TO REDUCE P/U BY ONE ACRE AND THE RELATED RATES. THE REST ARE THE SAME. KKC 10-17-92.
5. SCHULTZ 2/19/1993 ADDED NEW ATTORNEY
Comment: RECEIVED NOTICE OF APPEARANCE FROM HEPWORTH NUNGESTER LEZAMIZ 2/10/93. CLAIM VERIFIED 10/17/92--DID NOT REVERIFY ANY PART OF CLAIM.
6. DSHAFF 7/29/1999 SOU
Comment: THE SOU WAS MODIFIED AND THE RECORD REFORMATTED.

Page 3

03/27/2002

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 36-2169 V2

Dates and Other Information:

Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Defendant:
Plaintiff:
Civil Case Number:
Judicial District:
Notice of Error Flag: RECEIVED - NO CHANGE TO RECOMMENDATION
State or Federal: S
Owner Name Connector:
Water District Number: 36A
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

SubCase:

SubCase Number: 36-2169
Class: 1
SF5 Filed Date:
Special Master Recom Signed Date:
Attorney Assigned: NICHOLAS B SPENCER
Adjudication Agent:
Basis of Claim:
Date Filed: 4/29/1993 Objection Status: Active



RECEIVED

APR 10 2002

Department of Water Resources

RECEIVED

MAR 29 2002

Department of Water Resources
Southern Region

March 28, 2002

G010427/McFadden

IDWR Southern Region
1341 Fillmore St. Suite 200
Twin Falls, Id 83301-3380
(208) 736-3033

Dear Sir or Madam,

Enclosed please find your copies of the Notice of change in water rights, and the recorded documents to be filed with your office. If you have any questions, please contact our office.

Sincerely,

Kristi L. Smith for Denene Dixon
Escrow Officer
Gooding Title and Escrow

RECEIVED

JUL - 5 2002

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Department of Water Resources

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
 Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
36-2169					

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).
OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) IDAHO BUILDING AUTHORITY
4. New Owner/Claimant(s) DAN & IRMA MCFADDAN FAMILY LIMITED PARTNERSHIP
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
- New Mailing Address RT 1 BOX 406, 17966 HWY. 30 N. 990 Pioneer Rd.
- City, State and ZIP Code HAGERMAN, ID 83332
- New Telephone Number (208) 837-4154 or 837-6649
5. Date you acquired the property 1/31/02

7/5/02
 su IBA never "owned" this right per the Connected Warr. Deed.
 This COO form does not apply. See April 10, 2002 form.

6. **If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7.** If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7. Signature of New Owner(s) or Claimant(s) Dan & Irma McFadden Family Limited Partnership by Dan McFadden G.P.
(include title if applicable)

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by _____ Date _____ Fee _____
 Receipted by _____ Date _____ Receipt No. _____
 Processed by _____ AJ Date _____ WR _____ Date _____



COPY

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
ALAN G. LANCE

May 23, 2002

Dan McFadden

~~Rt. 1 Box 406, 17966 Hwy. 30 N.~~ 970 PIONEER RD.
Hagerman, ID 83332

Dear Dan:

I am enclosing with this correspondence a State of Idaho, Department of Water Resources Notice of Change in Water Right Ownership. Please sign where appropriate on the second page of the form, and return the form to me in the enclosed self-addressed, stamped envelope. I will then file this form along with a copy of the Correction Warranty Deed with the SRBA Court to complete transfer of this water right back to your Family Trust Limited Partnership.

If you have any questions, please do not hesitate to contact me at (208) 334-4154. Thank you for your cooperation in this matter.

Very truly yours,

A handwritten signature in dark ink, appearing to read "C. Krema".

C. NICHOLAS KREMA
Deputy Attorney General
Natural Resources Division

CNK/olv
Enclosure

cc: Kent Nelson
Nick Spencer



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
ALAN G. LANCE

COPY

RECEIVED

JUL - 5 2002

Department of Water Resources

April 3, 2002

Gooding County Recorder
P.O. Box 417
Gooding, ID 83330

Re: Recording Correction Warranty Deeds

Dear Sir or Madam:

At the request of the State of Idaho, Office of Attorney General, please record the enclosed Correction Warranty Deeds in the real property records of Gooding County. Upon recording, please return the recorded documents to me. I have enclosed a self-addressed, stamped envelope for this purpose.

If you have any questions, please contact me at the telephone number set forth above.

Sincerely,

A handwritten signature in black ink, appearing to read "Kent E. Nelson", with a long horizontal flourish extending to the right.

KENT E. NELSON
Deputy Attorney General
Contracts & Administrative Law Division

KEN/js
Enclosures
c/enclosures: Nick Crema

CORRECTION WARRANTY DEED

THIS CORRECTION WARRANTY DEED AND INDENTURE is made by and between the DAN & IRMA MCFADDAN FAMILY LIMITED PARTNERSHIP, an Idaho limited partnership whose address is Rt. 1, Box 406, 17966 Highway 30 N., Hagerman, Idaho, hereinafter referred to as "Grantor," and the IDAHO STATE BUILDING AUTHORITY, P.O. Box 2802, Boise, Idaho 83701, hereinafter referred to as "Grantee", to correct an error contained in that certain WARRANTY DEED between the parties hereto which was recorded in Gooding County, Idaho on September 28, 2001 as instrument no. 192262 records of Gooding County Idaho, and thereafter re-recorded in Gooding County, Idaho, on November 16, 2001 as instrument no. 192895 records of Gooding County, Idaho, which deed, erroneously included water right 36-2169-Florence Livestock Spring in Exhibit "B" thereto as part of the water rights conveyed to Grantor. This CORRECTION WARRANTY DEED removes reference to said water right;

WITNESSETH, that the Grantor does hereby convey and confirm in fee unto the said Grantee and its successors and assigns forever the premises situated in Gooding County, Idaho and more particularly described on Exhibit "A" annexed hereto and by this reference incorporated herein, together with all water rights, ditch rights, rights of way, improvements, fixtures, tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining thereto, including but not limited to, the water rights identified on Exhibit "B" annexed hereto and by this reference incorporated herein.

TO HAVE AND TO HOLD the above-described premises and parcel of land and granted real property unto Grantor and its successors and assigns forever, subject only to the following:

1. Power line easement granted to Idaho Power Company, a corporation recorded June 14, 1934 in Book 3 of Miscellaneous, Page 546.
2. Water rights, ditch, flumes, and pipeline as disclosed in Warranty Deed recorded February 15, 1934 in Book 23 Deeds page 604, records of Gooding County, Idaho.
3. Power line easement granted to Idaho Power Company, a corporation recorded November 5, 1942 in Book 5 of Miscellaneous, Page 210 as Instrument No. 85341.
4. Easement for constructing and maintaining head and diversion works granted to Charles C. Cary recorded January 10, 1953 in Book 7 of Miscellaneous, Page 178 as Instrument No. 120155.
5. Easement for conveying water through a pipeline and maintenance thereof granted to K. Joo and Akio Joo & Ralph S. Bacon and Wanda Maxine Bacon recorded May 20, 1959 in Book 8 of Miscellaneous, Page 100 as Instrument No. 137751.
6. Power line easement granted to Idaho Power Company, a corporation recorded May 31, 1960 in Book 8 of Miscellaneous, Page 174 as Instrument No. 140977.

7. Easement in, to, upon and over all that certain road now in existence and which runs generally from the County road Easterly through the NW1/4NE1/4 to the NE1/4NE1/4 of Section 13, Township 7 South, Range 13, E.B.M. for ingress and egress to said NE1/4NE1/4, given to Bessie B. Abbott, a widow, and Ruth A. Letchworth, a widow, parties of the first part, to Virgil U. Norwood, party of the second part, recorded October 25, 1960 in Book 8 Page 197 as Instrument No. 141995, records of Gooding County, Idaho.
8. Covenants, conditions, restrictions and easements contained in deed to the State of Idaho recorded December 12, 1962 as Instrument No. 6402.
9. Easement for constructing and maintaining small ditches and irrigation facilities and the right of ingress and egress granted to the State of Idaho, recorded December 12, 1962 as Instrument No. 6403.
10. Agreement upon the terms, conditions and provisions contained therein for the purpose of upkeep and maintenance of an irrigation pipeline and sharing the water therefrom dated December 4, 1961 by and between McCarter Cattle Co., Inc., a corporation and Clyde McFarland recorded April 18, 1972 as Instrument No. 40070.
11. Power line easement granted to Idaho Power Company, a corporation recorded February 4, 1974 as Instrument No. 48666.
12. Power line easement granted to Idaho Power Company, a corporation recorded February 7, 1974 as Instrument No. 48668.
13. Power line easement granted to Idaho Power Company, a corporation recorded December 24, 1975 as Instrument No. 57498.

and that Grantor shall warrant and defend the premises from all other lawful claims whatsoever.

The Grantor further warrants to the Grantee that Grantor is lawfully seized of the above described real property in fee simple, that the same is free and clear of any and all encumbrances of every kind and description, except as herein specified, and that the Grantor has lawful right to convey the said real property.

[SIGNATURE PAGE FOLLOWS]

DATED This 31 day of January 2002.

DAN & IRMA MCFADDAN FAMILY LIMITED PARTNERSHIP:

By: Daniel H. McFaddan
Daniel H. McFaddan, General Partner

By: Irma R. McFaddan
Irma R. McFaddan, General Partner

By: Daniel H. McFaddan
Daniel H. McFaddan, Limited Partner

By: Irma R. McFaddan
Irma R. McFaddan, Limited Partner

By: Mark D. McFaddan
Mark D. McFaddan, Limited Partner

By: Linda Heinemann
Linda Heinemann, Limited Partner

By: Matthew D. McFaddan
Matthew D. McFaddan, Limited Partner

IDAHO STATE BUILDING AUTHORITY:

By: Patricia J. Story
Patricia J. Story, Chairman

By: Wayne V. Meuleman
Wayne V. Meuleman, Secretary

STATE OF IDAHO)
) ss.
County of GOODING

On this date before me, the undersigned notary public for such state, personally appeared **IRMA R. MCFADDAN**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she is both a General Partner and a Limited Partner of the Dan & Irma McFaddan Family Limited Partnership and that she executed the instrument on behalf of said partnership and that the Dan & Irma McFaddan Family Limited Partnership executed the same.

WITNESS my hand and seal on 01-31-, 2002.



Sharonne K. Jensen
NOTARY PUBLIC
Residing at: Lagerman, Idaho
Commission expires: 08/04/2004

STATE OF IDAHO)
) ss.
County of GOODING

On this date before me, the undersigned notary public for such state, personally appeared **DANIEL H. MCFADDAN**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he is both a General Partner and a Limited Partner of the Dan & Irma McFaddan Family Limited Partnership and that he executed the instrument on behalf of said partnership and that the Dan & Irma McFaddan Family Limited Partnership executed the same.

WITNESS my hand and seal on 01/31, 2002.

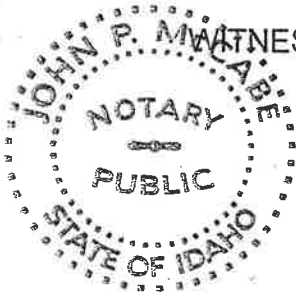


Sharonne K. Jensen
NOTARY PUBLIC
Residing at: Lagerman, Idaho
Commission expires: 08/04/2004

STATE OF IDAHO)
) ss.
County of Latah)

On this date before me, the undersigned notary public for such state, personally appeared **MARK D. MCFADDAN**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he is a Limited Partner of the Dan & Irma McFaddan Family Limited Partnership and that he executed the instrument on behalf of said partnership and that the Dan & Irma McFaddan Family Limited Partnership executed the same.

WITNESS my hand and seal on February 21, 2002.



John P. McCabe
NOTARY PUBLIC

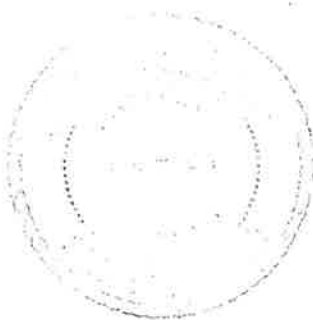
Residing at: Moscow, Idaho

Commission expires: 5-26-06

STATE OF IDAHO)
) ss.
County of Gooding)

On this date before me, the undersigned notary public for such state, personally appeared **MATTHEW D. MCFADDAN**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he is a Limited Partner of the Dan & Irma McFaddan Family Limited Partnership and that he executed the instrument on behalf of said partnership and that the Dan & Irma McFaddan Family Limited Partnership executed the same.

WITNESS my hand and seal on 01/31, 2002.



Dianne K. Jensen
NOTARY PUBLIC

Residing at: Hailey, Idaho

Commission expires: 08/04/2004

STATE OF IDAHO)
County of BOONVILLE) ss.

On this date before me, the undersigned notary public for such state, personally appeared **LINDA HEINEMANN**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she is a Limited Partner of the Dan & Irma McFaddan Family Limited Partnership and that she executed the instrument on behalf of said partnership and that the Dan & Irma McFaddan Family Limited Partnership executed the same.

WITNESS my hand and seal on 01/31, 2002.



Deanne K. Jensen
NOTARY PUBLIC
Residing at: Logan, Idaho
Commission expires: 08/04/2004

STATE OF IDAHO)
County of Ada) ss.

On this date before me, the undersigned, a Notary Public in and for said state, personally appeared **PATRICIA J. STORY** and **WAYNE V. MEULEMAN**, known or identified to me to be the Chairman and Secretary, respectively, of the Idaho State Building Authority, each of whom acknowledged to me that they executed the within Lease on behalf of the Idaho State Building Authority in their representative capacity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

WITNESS my hand and seal on 3/29, 2002.

Kathy Hall
NOTARY PUBLIC for Idaho
Residing at: Boise
My Commission Expires: 10/5/02

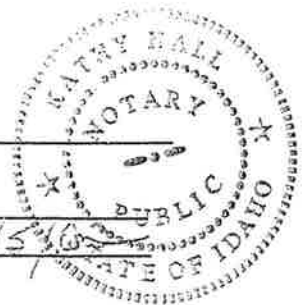


EXHIBIT A

Legal Description

See Attached.

Exhibit A

A Parcel of Land located in the East ¼ of Section 11, Southwest ¼ of Section 12 and North ¼ of Section 13 Township 7 South, Range 13 East, Boise Meridian, Gooding County, Idaho.

Commencing at the Southwest corner of said Section 12 thence North 89°14'29" East, 1520.23 feet along the South boundary of Section 12 to the REAL POINT OF BEGINNING.

Thence South 46°15'35" East, 3.91 feet

Thence South 46°15'41" East, 576.76 feet

Thence South 84°16'00" East, 461.26 feet

Thence North 74°25'01" East, 243.59 feet

Thence South 37°32'59" East, 232.96 feet

Thence South 06°07'30" East, 527.36 feet

Thence South 56°43'55" West, 73.70 feet along the North Right of Way of US Highway 30,

Thence South 43°25'08" West, 116.32 feet along the North Right of Way of US Highway 30,

Thence South 35°57'53" West, 70.72 along the North Right of Way of US Highway 30,

Thence South 00°11'03" East, 22.74 feet

Thence South 88°56'33" West, 2620.98 feet to the NW 1/16 corner of Section 13,

Thence North 00°54'24" West, 1317.16 feet along the West boundary of Section 13,

Thence South 89°47'37" West 1268.48 feet along the South boundary of Section 11,

Thence North 01°00'29" West, 1774.21 feet along the East Right of Way Line of US Highway 30,

Thence along a Curve C1

Δ 01°03'55"

Length 799.84

Radius 43021.85

Tangent 399.93

Chord 799.83

Chord Bearing North 01°32'26" West

Thence North 29°11'20" East, 67.77 feet

Thence North 22°43'35" East, 197.14 feet

Thence North 01°10'04" East, 157.89 feet

Thence North 22°00'10" East, 43.25 feet

Thence North 45°37'40" East, 52.80 feet

Thence North 84°27'35" East, 134.79 feet

Thence North 84°27'35" East, 111.05 feet

Thence North 00°26'59" West, 171.02 feet to the South edge of a Road Right of Way.

Thence North 00°26'59" West, 50.00 feet

Thence North 89°33'00" East, 124.83 feet

Thence South 29°23'00" East, 57.13 feet to a point on the South edge of a Road Right of Way.

Thence South 29°22'58" East, 386.58 feet

Thence South 22°52'56" East, 799.14 feet

Thence South 26°10'03" East, 519.95 feet

Thence South 23°24'52" East, 859.77 feet

Thence South 47°58'30" East, 482.48 feet

Thence North $84^{\circ}52'50''$ East, 233.99 feet

Thence South $46^{\circ}15'35''$ East, 853.00 feet to the REAL POINT OF BEGINNING.

LESS AND EXCEPTING THE FOLLOWING DESCRIBED PARCEL:

Township 7 South, Range 13 East of the Boise Meridian, Gooding County, Idaho

Section 11: That part of the North one-half of the Northeast Quarter of the Southeast Quarter, lying West of the following described line:

BEGINNING at a point on the North boundary line of the South one-half of the Southeast Quarter of the Northeast Quarter from which point the Northeast corner of said South one-half of the Southeast Quarter of the Northeast Quarter bears North $89^{\circ}33'$ East 734.0 feet;

Thence South $28^{\circ}25'$ East 444.0 feet;

Thence South $21^{\circ}55'$ East 800.00 feet;

Thence South $25^{\circ}12'$ East 520.00 feet to a point on the Section line common to Sections 11 and 12.

EXHIBIT B

McFaddan Water Rights Description

Record No.	Source	Priority Date	Basis	Use
36-15532	Florence Livestock Spring	06/01/1969	Beneficial Use	Fish Propagation
36-15533	Florence Livestock Spring	04/01/1958	Beneficial Use	Commercial
36-15538	Spring	04/01/1964	Beneficial Use	Irrigation
36-00049	Florence Livestock Spring	04/01/1900	Decreed	Commercial, Domestic, Fish Propagation, Irrigation, Stockwater
36-00048A	Billingsley Creek	11/04/1885	Decreed	Irrigation

RECEIVED

OCT 2nd 2001

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Department of Water Resources

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
 Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water RightNo(s).	Adjudication Claim No(s).	Split
✓ 36-15532	_____	_____	✓ 36-2169	_____	_____
✓ 36-15533	_____	_____	_____	_____	_____
✓ 36-15538	_____	_____	_____	_____	_____
✓ 36-00049	_____	_____	_____	_____	_____
✓ 36-00048A	_____	_____	_____	_____	_____

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).
OR
 If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) Dan and Irma McFaddan
17966 Hwy 30, Hagerman, Idaho 83332
4. New Owner/Claimant(s) Idaho State Building Authority
 Name Connector (Check One): [] and, [] or, [] and/or
 New Mailing Address P.O. Box 2802
 City, State and ZIP Code Boise, Idaho 83701
 New Telephone Number (208) 345-6057
5. Date you acquired the property September 28, 2001

OK to change *Shiff* 10/30/01
 records changed 11-07-01. ps
 & NCAP done.

7/5/02
 sec
 Corrected Warr. Deed
 to undo this Rt. 000

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet annum)	Description (acres, number and type of stock, homes, etc.)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet annum)	Description (acres, number and type of stock, homes, etc.)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7. Signature of New Owner(s) or Claimant(s)
(include title of applicable)

Idaho State Building Authority
Joe J. Meuleman, Executive Director

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only			
Received by <i>J. Meuleman</i>	Date <i>10-29-01</i>	Fee _____	
Receipted by <i>J. Meuleman</i>	Date <i>10-29-01</i>	Receipt No. <i>0057428</i>	
Processed by _____	AJ Date _____	WR _____	Date _____

36-48A, -49-15533, -15533, -15538
-2169



RECEIVED

OCT 29 2001

Department of Water Resources

STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

ALAN G. LANCE

October 26, 2001

Vicki Kelly
Department of Water Resources
STATEHOUSE MAIL

Re: Billingsley Creek - Notices of Change of Water Right Ownership

Dear Vicki:

Enclosed are two Notices of Change in Water Right Ownership, one for the AquaLife property and one for the McFadden property. Also enclosed is a check from Meuleman & Miller in the amount of \$125.00 for the filing fee required on the AquaLife property.

Sincerely,

Julie K. Weaver
Deputy Attorney General
Contracts & Administrative Law Division

JKW/js
Enclosures

36-2338

- 2414

✓ - 4011

✓ - 2734

late clm #36-15476

AquaLife

36-48A

- 49

✓ - 2169

✓ - 15532

✓ - 15533

✓ - 15538

McFadden

G0101861

WARRANTY DEED

THIS INDENTURE made by and between DANIEL H. MCFADDAN AND IRMA R. MCFADDAN, husband and wife, whose address is Rt. 1, Box 406, 17966 Highway 30 N., Hagerman, Idaho, collectively hereinafter referred to as "Grantor," and the IDAHO STATE BUILDING AUTHORITY, P.O. Box 2802, Boise, Idaho 83701, hereinafter referred to as "Grantee";

WITNESSETH, that the Grantor does hereby convey and confirm in fee unto the said Grantee and its successors and assigns forever the premises situated in Gooding County, Idaho and more particularly described on Exhibit "A" annexed hereto and by this reference incorporated herein, together with all water rights, ditch rights, rights of way, improvements, fixtures, tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining thereto, including but not limited to, the water rights identified on Exhibit "B" annexed hereto and by this reference incorporated herein.

TO HAVE AND TO HOLD the above-described premises and parcel of land and granted real property unto Grantor and its successors and assigns forever, subject only to the following:

1. Power line easement granted to Idaho Power Company, a corporation recorded June 14, 1934 in Book 3 of Miscellaneous, Page 546.
2. Water rights, ditch, flumes, and pipeline as disclosed in Warranty Deed recorded February 15, 1934 in Book 23 Deeds page 604, records of Gooding County, Idaho.
3. Power line easement granted to Idaho Power Company, a corporation recorded November 5, 1942 in Book 5 of Miscellaneous, Page 210 as Instrument No. 85341.
4. Easement for constructing and maintaining head and diversion works granted to Charles C. Cary recorded January 10, 1953 in Book 7 of Miscellaneous, Page 178 as Instrument No. 120155.
5. Easement for conveying water through a pipeline and maintenance thereof granted to K. Joo and Akio Joo & Ralph S. Bacon and Wanda Maxine Bacon recorded May 20, 1959 in Book 8 of Miscellaneous, Page 100 as Instrument No. 137751.
6. Power line easement granted to Idaho Power Company, a corporation recorded May 31, 1960 in Book 8 of Miscellaneous, Page 174 as Instrument No. 140977.
7. Easement in, to, upon and over all that certain road now in existence and which runs generally from the County road Easterly through the NW1/4NE1/4 to the NE1/4NE1/4 of Section 13, Township 7 South, Range 13, E.B.M. for ingress and egress to said NE1/4NE1/4, given to Bessie B. Abbott, a widow, and Ruth A. Letchworth, a widow, parties of the first

part, to Virgil U. Norwood, party of the second part, recorded October 25, 1960 in Book 8 Page 197 as Instrument No. 141995, records of Gooding County, Idaho.

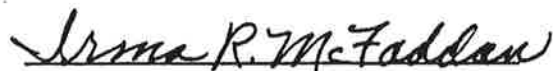
8. Covenants, conditions, restrictions and easements contained in deed to the State of Idaho recorded December 12, 1962 as Instrument No. 6402.
9. Easement for constructing and maintaining small ditches and irrigation facilities and the right of ingress and egress granted to the State of Idaho, recorded December 12, 1962 as Instrument No. 6403.
10. Agreement upon the terms, conditions and provisions contained therein for the purpose of upkeep and maintenance of an irrigation pipeline and sharing the water therefrom dated December 4, 1961 by and between McCarter Cattle Co., Inc., a corporation and Clyde McFarland recorded April 18, 1972 as Instrument No. 40070.
11. Power line easement granted to Idaho Power Company, a corporation recorded February 4, 1974 as Instrument No. 48666.
12. Power line easement granted to Idaho Power Company, a corporation recorded February 7, 1974 as Instrument No. 48668.
13. Power line easement granted to Idaho Power Company, a corporation recorded December 24, 1975 as Instrument No. 57498.

and that Grantor shall warrant and defend the premises from all other lawful claims whatsoever.

The Grantor further warrants to the Grantee that Grantor is lawfully seized of the above described real property in fee simple, that the same is free and clear of any and all encumbrances of every kind and description, except as herein specified, and that the Grantor has lawful right to convey the said real property.

DATED This 28th day of September 2001.


Daniel H. McFaddan


Irma R. McFaddan

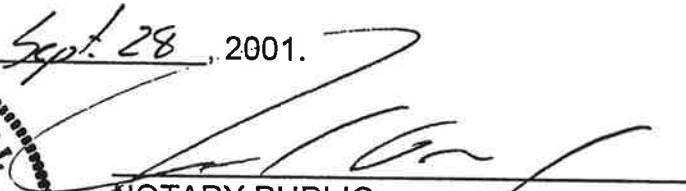
36-48A - 49, -15532, -15533, -15538
-2169

STATE OF IDAHO)
) ss.
County of Trin Falls

On this date before me, the undersigned notary public for such state personally appeared IRMA R. MCFADDAN, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

WITNESS my hand and seal on Sept. 28, 2001.




NOTARY PUBLIC

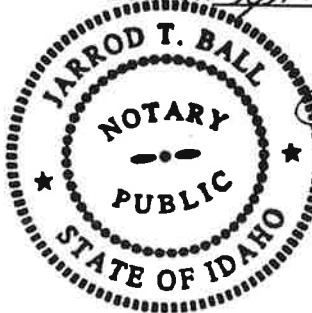
Residing at: Trin Falls

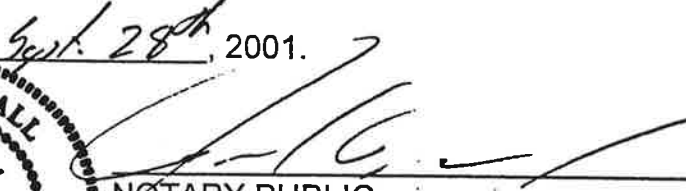
Commission expires: 7-25-2002

STATE OF IDAHO)
) ss.
County of Trin Falls

On this date before me, the undersigned notary public for such state personally appeared DANIEL H. MCFADDAN, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

WITNESS my hand and seal on Sept. 28th, 2001.




NOTARY PUBLIC

Residing at: Trin Falls

Commission expires: 7-25-2002

36-48A, - 49 -15533, -15533, -15534
-2169

EXHIBIT A

Legal Description

Township 7 South, Range 13 East of the Boise Meridian, Gooding County, Idaho

Section 11: That part of the North one-half of the Northeast Quarter of the Southeast Quarter, lying West of the following described line:

BEGINNING at a point on the North boundary line of the South one-half of the Southeast Quarter of the Northeast Quarter from which point the Northeast corner of said South one-half of the Southeast Quarter of the Northeast Quarter bears North 89°33' East 734.0 feet;

Thence South 28°25' East 444.0 feet;

Thence South 21°55' East 800.00 feet;

Thence South 25°12' East 520.00 feet to a point on the Section line common to Section 11 and 12.

36-48A, -49, -15532, -15533, -15534
-2169

EXHIBIT B

McFaddan Water Rights Description

Record No.	Source	Priority Date	Basis	Use
36-15532	Florence Livestock Spring	06/01/1969	Beneficial Use	Fish Propagation
36-15533	Florence Livestock Spring	04/01/1958	Beneficial Use	Commercial
36-15538	Spring	04/01/1964	Beneficial Use	Irrigation
36-00049	Florence Livestock Spring	04/01/1900	Decreed	Commercial, Domestic, Fish Propagation, Irrigation, Stockwater
36-00048A	Billingsley Creek	11/04/1885	Decreed	Irrigation
36-2169	Florence Livestock Spring	04/10/1952	License	Domestic, Irrigation

36-48A, -49, -15532, -15533, -15538
-2169

Instrument # 192262

GOODING, GOODING, IDAHO

2001-09-28

04:19:43 No. of Pages: 10

Recorded for : GOODING TITLE

HELEN EDWARDS

Fee: 80.00

Ex-Officio Recorder Deputy

Index to: DEED, WARRANTY

GD10184C

WARRANTY DEED

THIS INDENTURE made by and between the DAN & IRMA MCFADDAN FAMILY LIMITED PARTNERSHIP, an Idaho limited partnership whose address is Rt. 1, Box 406, 17966 Highway 30 N., Hagerman, Idaho, hereinafter referred to as "Grantor," and the IDAHO STATE BUILDING AUTHORITY, P.O. Box 2802, Boise, Idaho 83701, hereinafter referred to as "Grantee";

WITNESSETH, that the Grantor does hereby convey and confirm in fee unto the said Grantee and its successors and assigns forever the premises situated in Gooding County, Idaho and more particularly described on Exhibit "A" annexed hereto and by this reference incorporated herein, together with all water rights, ditch rights, rights of way, improvements, fixtures, tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining thereto, including but not limited to, the water rights identified on Exhibit "B" annexed hereto and by this reference incorporated herein.

TO HAVE AND TO HOLD the above-described premises and parcel of land and granted real property unto Grantor and its successors and assigns forever, subject only to the following:

1. Power line easement granted to Idaho Power Company, a corporation recorded June 14, 1934 in Book 3 of Miscellaneous, Page 546.
2. Water rights, ditch, flumes, and pipeline as disclosed in Warranty Deed recorded February 15, 1934 in Book 23 Deeds page 604, records of Gooding County, Idaho.
3. Power line easement granted to Idaho Power Company, a corporation recorded November 5, 1942 in Book 5 of Miscellaneous, Page 210 as Instrument No. 85341.
4. Easement for constructing and maintaining head and diversion works granted to Charles C. Cary recorded January 10, 1953 in Book 7 of Miscellaneous, Page 178 as Instrument No. 120155.
5. Easement for conveying water through a pipeline and maintenance thereof granted to K. Joo and Akio Joo & Ralph S. Bacon and Wanda Maxine Bacon recorded May 20, 1959 in Book 8 of Miscellaneous, Page 100 as Instrument No. 137751.
6. Power line easement granted to Idaho Power Company, a corporation recorded May 31, 1960 in Book 8 of Miscellaneous, Page 174 as Instrument No. 140977.
7. Easement in, to, upon and over all that certain road now in existence and which runs generally from the County road Easterly through the NW1/4NE1/4 to the NE1/4NE1/4 of Section 13, Township 7 South, Range 13, E.B.M. for ingress and egress to said NE1/4NE1/4, given to Bessie B. Abbott, a widow, and Ruth A. Letchworth, a widow, parties of the first

36-48A, -49, -15532, -15533, -15538
-2169

part, to Virgil U. Norwood, party of the second part, recorded October 25, 1960 in Book 8 Page 197 as Instrument No. 141995, records of Gooding County, Idaho.

8. Covenants, conditions, restrictions and easements contained in deed to the State of Idaho recorded December 12, 1962 as Instrument No. 6402.
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11. Power line easement granted to Idaho Power Company, a corporation recorded February 4, 1974 as Instrument No. 48666.
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13. Power line easement granted to Idaho Power Company, a corporation recorded December 24, 1975 as Instrument No. 57498.

and that Grantor shall warrant and defend the premises from all other lawful claims whatsoever.

The Grantor further warrants to the Grantee that Grantor is lawfully seized of the above described real property in fee simple, that the same is free and clear of any and all encumbrances of every kind and description, except as herein specified, and that the Grantor has lawful right to convey the said real property.

[SIGNATURE PAGE FOLLOWS]

36-48A, -49, -15533, -15533, -15538
-2169

DATED This 28th day of September 2001.

DAN & IRMA MCFADDAN FAMILY LIMITED PARTNERSHIP:

By: Daniel H. McFaddan By: Irma R. McFaddan
Daniel H. McFaddan, General Partner Irma R. McFaddan, General Partner

By: Daniel H. McFaddan By: Irma R. McFaddan
Daniel H. McFaddan, Limited Partner Irma R. McFaddan, Limited Partner

By: Mark D. McFaddan By: Linda Heinemann
Mark D. McFaddan, Limited Partner Linda Heinemann, Limited Partner

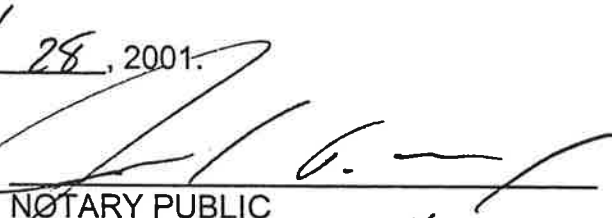
By: Matthew D. McFaddan
Matthew D. McFaddan, Limited Partner

STATE OF IDAHO)
) ss.
County of Tri Falls

On this date before me, the undersigned notary public for such state, personally appeared IRMA R. MCFADDAN, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she is a General Partner of the Dan & Irma McFaddan Family Limited Partnership and that she executed the instrument on behalf of said partnership and that the Dan & Irma McFaddan Family Limited Partnership executed the same.

WITNESS my hand and seal on Sept. 28, 2001.




NOTARY PUBLIC

Residing at: Tri Falls
Commission expires: 7-25-2002

STATE OF IDAHO)
) ss.
County of Tri Falls

On this date before me, the undersigned notary public for such state, personally appeared DANIEL H. MCFADDAN, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he is a General Partner of the Dan & Irma McFaddan Family Limited Partnership and that he executed the instrument on behalf of said partnership and that the Dan & Irma McFaddan Family Limited Partnership executed the same.

WITNESS my hand and seal on Sept. 28, 2001.



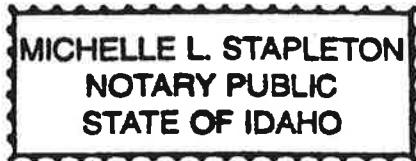

NOTARY PUBLIC

Residing at: Tri Falls
Commission expires: 7-25-2002

STATE OF IDAHO)
) ss.
County of Latah)

On this date before me, the undersigned notary public for such state, personally appeared **MARK D. MCFADDAN**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he is a Limited Partner of the Dan & Irma McFaddan Family Limited Partnership and that he executed the instrument on behalf of said partnership and that the Dan & Irma McFaddan Family Limited Partnership executed the same.

WITNESS my hand and seal on 9-26, 2001.



Michelle L Stapleton
NOTARY PUBLIC
Residing at: Moscow Id
Commission expires: 9-13-06

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

On this date before me, the undersigned notary public for such state, personally appeared **MATTHEW D. MCFADDAN**, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he is a Limited Partner of the Dan & Irma McFaddan Family Limited Partnership and that he executed the instrument on behalf of said partnership and that the Dan & Irma McFaddan Family Limited Partnership executed the same.

WITNESS my hand and seal on Sept. 28th, 2001.



[Signature]
NOTARY PUBLIC
Residing at: Trin Falls
Commission expires: 7-25-2002

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

On this date before me, the undersigned notary public for such state, personally appeared LINDA HEINEMANN, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she is a Limited Partner of the Dan & Irma McFaddan Family Limited Partnership and that she executed the instrument on behalf of said partnership and that the Dan & Irma McFaddan Family Limited Partnership executed the same.

WITNESS my hand and seal on Sept. 28, 2001.




NOTARY PUBLIC

Residing at: Tri Falls

Commission expires: 7-25-2002

36-48A, - 49, -15532, -15533, -15538.
-2169

EXHIBIT A

Legal Description

See Attached.

36-48A, -49, -15532, -15533, -15538
-2169

EXHIBIT A

EXHIBIT A

Legal Description

A Parcel of Land located in the East ½ of Section 11, Southwest ¼ of Section 12 and North ¼ of Section 13 Township 7 South, Range 13 East, Boise Meridian, Gooding County, Idaho.

Commencing at the Southwest corner of said Section 12 which is the REAL POINT OF BEGINNING.

Thence North 89°14'29" East, 1520.23 feet along the South boundary of Section 12.
Thence South 46°15'35" East, 3.91 feet
Thence South 46°15'41" East, 576.76 feet
Thence South 84°16'00" East, 461.26 feet
Thence North 74°25'01" East, 243.59 feet
Thence South 37°32'59" East, 232.96 feet
Thence South 06°07'30" East, 527.36 feet
Thence South 56°43'55" West, 73.70 feet along the North Right of Way of US Highway 30,
Thence South 48°25'08" West, 116.32 feet along the North Right of Way of US Highway 30,
Thence South 35°57'53" West, 70.72 along the North Right of Way of US Highway 30,
Thence South 00°11'03" East, 22.74 feet
Thence South 89°56'33" West, 2620.98 feet to the NW 1/16 corner of Section 13,
Thence North 00°54'24" West, 1317.16 feet along the West boundary of Section 13,
Thence North 89° 47'37" East, 1268.48 feet along the South boundary of Section 11,
Thence North 01°00'29" West, 1774.21 feet along the East Right of Way Line of US Highway 30

Thence along a Curve C1

Δ 01°03'55"
Length 799.84
Radius 43021.85
Tangent 399.93
Chord 799.83
Chord Bearing North 01°32'26" West

Thence North 29°11'20" East, 67.77 feet
Thence North 22°43'35" East, 197.14 feet
Thence North 01°10'04" East, 157.89 feet
Thence North 22°00'10" East, 43.25 feet
Thence North 45°37'40" East, 52.80 feet
Thence North 84°27'35" East, 134.79 feet
Thence North 84°27'35" East, 111.05 feet
Thence North 00°26'59" West, 171.02 feet to the South edge
of a Road Right of Way.
Thence North 00°26'59" West, 50.00 feet
Thence North 89°33'00" East, 124.83 feet
Thence South 29°23'00" East, 57.13 feet to a point on the South edge
of a Road Right of Way.
Thence South 29°22'58" East, 386.58 feet
Thence South 22°52'56" East, 799.14 feet
Thence South 26°10'03" East, 519.95 feet
Thence South 23°24'52" East, 859.77 feet
Thence South 47°58'30" East, 482.48 feet

36-48A, -49, -15532, -15533, -15538
-2169

Thence North 84°52'50" East, 233.99 feet

Thence South 46°15'35" East, 853.00 feet to the REAL POINT OF BEGINNING.

Said Parcel contains approximately 175.60 acres which excludes 0.16 acres of Right of Way in the East ½ of Section 11.

EXCEPTING THEREFROM the following parcel:

Township 7 South, Range 13 East of the Boise Meridian, Gooding County, Idaho

Section 11: That part of the North one-half of the Northeast Quarter of the Southeast Quarter, lying West of the following described line:

BEGINNING at a point on the North boundary line of the South one-half of the Southeast Quarter of the Northeast Quarter from which point the Northeast corner of said South one-half of the Southeast Quarter of the Northeast Quarter bears North 89°33' East 734.0 feet;

Thence South 28°25' East 444.0 feet;

Thence South 21°55' East 800.00 feet;

Thence South 25°12' East 520.00 feet to a point on the Section line common to Section 11 and 12.

36-48A -49 -15532, -15533 -15538
-2169

EXHIBIT B

McFaddan Water Rights Description

Record No.	Source	Priority Date	Basis	Use
36-15532	Florence Livestock Spring	06/01/1969	Beneficial Use	Fish Propagation
36-15533	Florence Livestock Spring	04/01/1958	Beneficial Use	Commercial
36-15538	Spring	04/01/1964	Beneficial Use	Irrigation
36-00049	Florence Livestock Spring	04/01/1900	Decreed	Commercial, Domestic, Fish Propagation, Irrigation, Stockwater
36-00048A	Billingsley Creek	11/04/1885	Decreed	Irrigation
36-2169	Florence Livestock Spring	04/10/1952	License	Domestic, Irrigation

EXHIBIT B

36-48A, -49, -15532, -15533, -15538
-2169

T - 200'

Located In
S2 SE4 & E2 SW4, Section 11,
&
SW4, Section 12,
&
N2 NW4 & W2 NW4 NE4, Section 13,
T. 7 S., R. 18 E., RM.
Gooding County, Idaho
2001

Legend:

ADJUSTED BOUNDARY LINE
LOT LINE / PARCEL LINE TO BE ABANDONED
ROUND 1/2" ROSSBY & CAP
SET 1/2" x 24" ROSSBY & CAP

I, Gary R. Burkett, do hereby certify that this plot is a true and accurate map of the land surveyed under my supervision and direction.

Record of Survey To
State Of Idaho
Gooding County, Idaho

The Idaho State Building Authority

ALAN G. LANCE
Attorney General, State of Idaho

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

C. NICHOLAS KREMA
Deputy Attorney General
700 W. Jefferson St., Rm. 210
P.O. Box 83720
Boise, ID 83720-0010
Telephone: (208) 334-2400
Fax: (208) 334-2690
Idaho State Bar No. 3471

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

In Re: SRBA
Case No. 39576

)
)
) Subcase Nos. 36-00048A, 36-00049,
) 36-02169, 36-15532, 36-15533, 36-15538

)
)
) NOTICE OF APPEARANCE
)
)
)

Notice is hereby given, in the above-captioned subcases, that the following counsel will
appear for Applicant, the Idaho State Building Authority:

ALAN G. LANCE
Attorney General, State of Idaho

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

COPY

C. NICHOLAS KREMA
Deputy Attorney General
700 W. Jefferson St., Rm. 210
P.O. Box 83720
Boise, ID 83720-0010
Telephone: (208) 334-2400
Fax: (208) 334-2690
Idaho State Bar No. 3471

DATED this 19th day of October 2001.

ALAN G. LANCE
Attorney General, State of Idaho

By: CJ. Krema
C. NICHOLAS KREMA
Deputy Attorney General

36-48A, -49, -2169, -15532, -15533, -15538

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of October I caused to be served copies of the foregoing **NOTICE OF APPEARANCE** by the method indicated bellow to the following:

Patrick D. Brown
109 S. Adams Street
Jerome, ID 83338

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

John Marshall
Givens Pursley LLP
P.O. Box 2720
Boise, ID 73701-2720

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

Nick Spencer
IDWR

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

IDWR
Document Depository

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

Josephine P. Beeman
Deborah E. Nelson
Beeman & Associates, P.C.
409 West Jefferson Street
Boise, ID 83702

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

US Department of Justice
Environment & Natural Res. Div.
550 West Fort Street, MSC 033
Boise, ID 83724

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

C.J. Krema
C. NICHOLAS KREMA

36-48A-49, 2169, -15532, -15533, -15538

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

12/21/99 15:01:33

Page 1

Water Right Number - R36-02169

Prefix Translation: RESEARCH

Old (D) Number - 22754

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

*** C - CURRENT OWNER ***
MC FADDAN

IRMA R

1 - 17966 N HWY 30
2 -
3 -City- HAGERMAN
Phone - 208-837-6649

State- ID Zip- 83332

MC FADDAN

DAN

1 - 17966 N HWY 30
2 -
3 -City- HAGERMAN
Phone - 208-837-6649

State- ID Zip- 83332

*** O - ORIGINAL OWNER ***
CARY

RUTH E

1 - C/O DALE E CARY
2 - 1020 S WILSON CIRCLE
3 -City- BOISE
Phone - 208-377-3913

State- ID Zip- 83705

BROWN

PATRICK D

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

State- ID Zip- 833030389

+ - - Priority Date - - +
04/10/1952+ - - Region - - - +
17 SOUTHERN+ - - Stage - - - +
L - LICENSE

+ - - Status - - - +

+ - - - - Source - - - - - +
FLORENCE LIVESTOCK SPRING+ - - - - Tributary - - - - - +
BILLINGSLEY CREEK+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County

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

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume01 - IRRIGATION 02/15 11/30 0.140
43 - DOMESTIC 01/01 12/31 0.040+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.160 0.0+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County07S 13E 11 NW SE 4.5 01 IRRIGATION (47) GOODING
07S 13E 11 NW SE 43 DOMESTIC (47) GOODING

Total Acres: 4.5

Water right number - R36-02169

Prefix Translation: RESEARCH

+ - - Diversion Means - SAME DIVERSION AS FLORENCE LIVESTOCK SPRING PIPELINE

+ - - Non-Irrigation Use - 1 HOME

+ - - Other Rights for Same Use - NONE

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

EXP RIGHT NO. 36-00049 AND OTHER RIGHTS LISTED THEREIN ARE ALSO
DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

+ - - - - - Old Water Right Numbers - - - - - +
3602169

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

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

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

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

Date: 02/12/1992 User Id: CLELLAND Subject: COPIED FROM REMARKS

DWR NOTE**

IS 0.16 CFS.

OWNERSHIP CHANGE 9/4/90 BY JG.

Date: 08/11/1992 User Id: THORNTON Subject: FROM NON-IRRIG. USES

THIS IS A BED AND BREAKFAST ESTABLISHMENT

Date: 09/22/1992 User Id: SCHULTZ Subject: NOTICE OF ERROR (NOE)

RECEIVED NOE 9/22/92. CHANGED NOE FLAG FROM BLANK TO A.

Date: 10/17/1992 User Id: CHRISTEN Subject: RESPONSE TO NOE

NO CHANGES RECOMMENDED. THE ONLY CHANGE MADE TO THE ORIG LICENSE
THE SAME. KKC 10-17-92.

Date: 02/19/1993 User Id: SCHULTZ Subject: ADDED NEW ATTORNEY

RECEIVED NOTICE OF APPEARANCE FROM HEPWORTH NUNGESTER LEZAMIZ

CLAIM VERIFIED 10/17/92--DID NOT REVERIFY ANY PART OF CLAIM.

Date: 07/29/1999 User Id: DSHAFF Subject: SOU

THE SOU WAS MODIFIED AND THE RECORD REFORMATTED.

ACCORDING TO LIC. DATE OF PRIORITY IS 4-10-1952 AND TOTAL FLOW

CLAIM VERIFIED 8/11/92. DID NOT REVERIFY ANY PART OF CLAIM.

WAS TO REDUCE P/U BY ONE ACRE AND THE RELATED RATES. THE REST ARE

2/10/93.

+ - - Audit Fields - - +

12/21/99 SCLELLAN

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

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 12/21/1999	Old Judicial District	-
Claim Received Date	- 02/15/1989	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S006294	Water District	- 36A
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- AND/OR	Presumption Flag	-

11/19/99

SCV

36-2169 (Carey)

→ wants Domestic component → should be okay!

12/21/99 final REVIEW for Settlement.

1) uses show:

IRRIG: 0.14 cfs

Dom: 0.04 cfs

0.16 cfs → Limited by
orig. license

2) No Season!
license is blank, allow
std IDWR Season 2/5 "30

RECEIVED

FEB 03 1999

RECEIVED

FEB 09 1999

Department of Water Resources
Southern Region

Department of Water Resources

1999 FEB 01 PM 03:06
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA)
Case No. 39576) NOTICE SETTING SUBCASE
FOR SCHEDULING CONFERENCE
SUBCASE NOS: 36-00048A 36-00049
36-02169

The Scheduling Conference for this subcase will be
held as follows:

WEDNESDAY, MARCH 10, 1999 at 10:00 AM
SRBA
DISTRICT COURT
253 3RD AVENUE NORTH
TWIN FALLS, ID

Parties and their attorneys, if any, shall attend the
Scheduling Conference and shall be prepared to discuss the
following matters:

1. Claimant representation and alignment of the parties;
2. Identification of the issues;
3. Admissions of facts and documents;
4. Amendment of pleadings, if required;
5. Discovery and discovery cut-off dates;
6. Expert witnesses, if planned;
7. Pre-trial conference dates;
8. Motions;
9. Settlement/alternative dispute resolution; and
10. Firm trial date.

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

(continued)

The date for the scheduling conference will not be changed unless a Stipulation to Reset is received by the court fourteen (14) days before the date of the scheduling conference. Parties who wish to change the date of the scheduling conference must do the following:

1. Contact the clerk of the SRBA Court and obtain alternative dates and times (208-736-3011).
2. Contact each party to the subcase(s) or their attorney, if any, and reach an agreement on the alternative date(s) and time(s) provided by the clerk.
3. Prepare a Stipulation to Reset the hearing. The hearing must be reset on one of the dates and times provided by the clerk. The stipulation must specify the date(s) and time(s) agreed to and must contain a statement that you have contacted each party or their attorney and that all have agreed on the alternative date(s) and time(s). The court will send a notice resetting the hearing.
4. If the parties cannot agree on one of the alternative dates and times provided by the clerk, the party wishing to change the date and time must file an Expedited Motion to Reset with the court at least 21 days prior to the scheduled hearing.

Dated: FEBRUARY 01, 1999

/S/ TERI HRANAC
Deputy Clerk
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I Certify that a true and correct copy of the NOTICE SETTING SUBCASE FOR SCHEDULING CONFERENCE was mailed on FEBRUARY 01, 1999, with sufficient first-class postage to the following:

STATE OF IDAHO

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

FAULKNER LAND & LIVESTOCK
FAULKNER LAND & LIVESTOCK CO.

Represented by:
JOSEPHINE P. BEEMAN
PO BOX 1427
BOISE, ID 83701-1427
Phone: 208-388-8900

CRANNEY BROS.

Represented by:
MICHAEL C. CREAMER
PO BOX 2720
BOISE, ID 83701
Phone: 208-388-1200

DAN H. MCFADDEN
MCFADDEN, IRMA
ROUTE 1, BOX 406
HAGERMAN, ID 83332

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

RECEIVED

FEB 09 1999

Department of Water Resources
Southern Region

36-02169
1999 FEB 01 PM 03:06
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA)
Case No. 39576) NOTICE SETTING SUBCASE
FOR SCHEDULING CONFERENCE
SUBCASE NOS: 36-00048A 36-00049
36-02169

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DISTRICT COURT
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5. Discovery and discovery cut-off dates;
6. Expert witnesses, if planned;
7. Pre-trial conference dates;
8. Motions;
9. Settlement/alternative dispute resolution; and
10. Firm trial date.

MAIL



CLIVE STRONG
NATURAL RESOURCES
DEP AG OFFICE OF ATTY GEN
STATEHOUSE MAIL
BOISE, ID 83720-0010

(continued)

The date for the scheduling conference will not be changed unless a Stipulation to Reset is received by the court fourteen (14) days before the date of the scheduling conference. Parties who wish to change the date of the scheduling conference must do the following:

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2. Contact each party to the subcase(s) or their attorney, if any, and reach an agreement on the alternative date(s) and time(s) provided by the clerk.
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Dated: FEBRUARY 01, 1999

/S/ TERI HRANAC
Deputy Clerk
Snake River Basin Adjudication

(continued)

The date for the scheduling conference will not be changed unless a Stipulation to Reset is received by the court fourteen (14) days before the date of the scheduling conference. Parties who wish to change the date of the scheduling conference must do the following:

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4. If the parties cannot agree on one of the alternative dates and times provided by the clerk, the party wishing to change the date and time must file an Expedited Motion to Reset with the court at least 21 days prior to the scheduled hearing.

Dated: FEBRUARY 01, 1999

/S/ TERI HRANAC

Deputy Clerk

Snake River Basin Adjudication

CERTIFICATE OF MAILING

I Certify that a true and correct copy of the NOTICE SETTING SUBCASE FOR SCHEDULING CONFERENCE was mailed on FEBRUARY 01, 1999, with sufficient first-class postage to the following:

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

FAULKNER LAND & LIVESTOCK
FAULKNER LAND & LIVESTOCK CO.

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CRANNEY BROS.

Represented by:
MICHAEL C. CREAMER
PO BOX 2720
BOISE, ID 83701
Phone: 208-388-1200

DAN H. MCFADDEN
MCFADDEN, IRMA
ROUTE 1, BOX 406
HAGERMAN, ID 83332

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

SUBCASE NO. 36-02169

	CLAIM (8/29/88)	AMENDED CLAIM	RECOMMENDATION	OBJECTION
NAME	Ruth Cary c/o Dale Cary *	N/A	Dan & Irma McFadden	Dan & Irma McFadden
BASIS OF CLAIM	License		License	
SOURCE	Spring		Florence Livestock Spring	
QUANTITY	0.205 cfs		0.16 cfs	XX - requests quantity as decreed and/or beneficially used, whichever is greater
PRIORITY DATE	1/2/1891		4/10/1952	XX - requests priority date "as decreed" ** or "date of first beneficial use"
PURPOSE OF USE	Irrigation Domestic		Irrigation Domestic	XX - requests that livestock be added
PERIOD OF USE	Irr.: 3/15 - 11/15 Dom.: 1/1 - 12/31		Irr.: Irrigation Season (re-format) Domestic: 1/1 - 12/31	XX - requests year round
POINT OF DIVERSION	T07S R13E S12		T07S R13E S12	XX - states that the point of diversion is incorrect
PLACE OF USE	T07S R13E S11 5.5 acres		T07S R13E S11 4.5 acres	XX - requests 5.0 acres
remarks	"According to license, date of priority is 4/10/1952 and total flow is 0.16 cfs.		"Right no. 36-00049 and other rights listed therein are also diverted through point of diversion described above."	XX - requests that all remarks be deleted - "beyond the statutory authority vested in the Director".

* Change of Ownership filed on 9/4/90 - Cary to Dan & Irma McFadden.

Motions to file Late Responses to the Mildren Objections were filed and granted by Special Master Dolan on 12/21/1995; thereafter, denied by Special Master Haemmerle on 7/8/1996. Permissive Appeal was granted on 8/29/1996 by Special Master Haemmerle (as to Cranney Bros., May Farms Limited, Sand Springs Ranch Partnership and Faulkner Land & Livestock Company, collectively the ground water users).

** IDWR recommended this right as a license with a priority date consistent with the licensed right. Objection states that this right is based upon a decree, however, IDWR had no evidence of the decreed right. Additionally, the decreed rights from the claimed source are decreed with the priority asserted by objector.

CLAIM NUMBERS 36-02169DATE 10/14/97

TRANSFER NUMBER _____

OBJECTION FILED _____

AGENT [Signature]TOTAL ACRES FROM RECOMMENDATION 4.5GEOGRAPHIC INFO SYSTEM 4.5

RIGHT NO				NE				NW				SW				SE			
	TNS	RNG	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
RECOM	07S	13E	11														4.5		4.5
GIS																	4.48		4.48
RECOM																			
GIS																			
RECOM																			
GIS																			
RECOM																			
GIS																			

UPDATED

POLYGON #

UPDATED

B36-DBPOU.DBF 570

POLYGON CREATED ON 604 (✓)

B36-DBPOD.DBF 461

ATTRIBUTES OF B36-POU.SHP (570)

ATTRIBUTES OF B36-POD.SHP (461) SESENW-12

(Florence Livestock Spring)

P/U CONFLICT yes () no (✓)

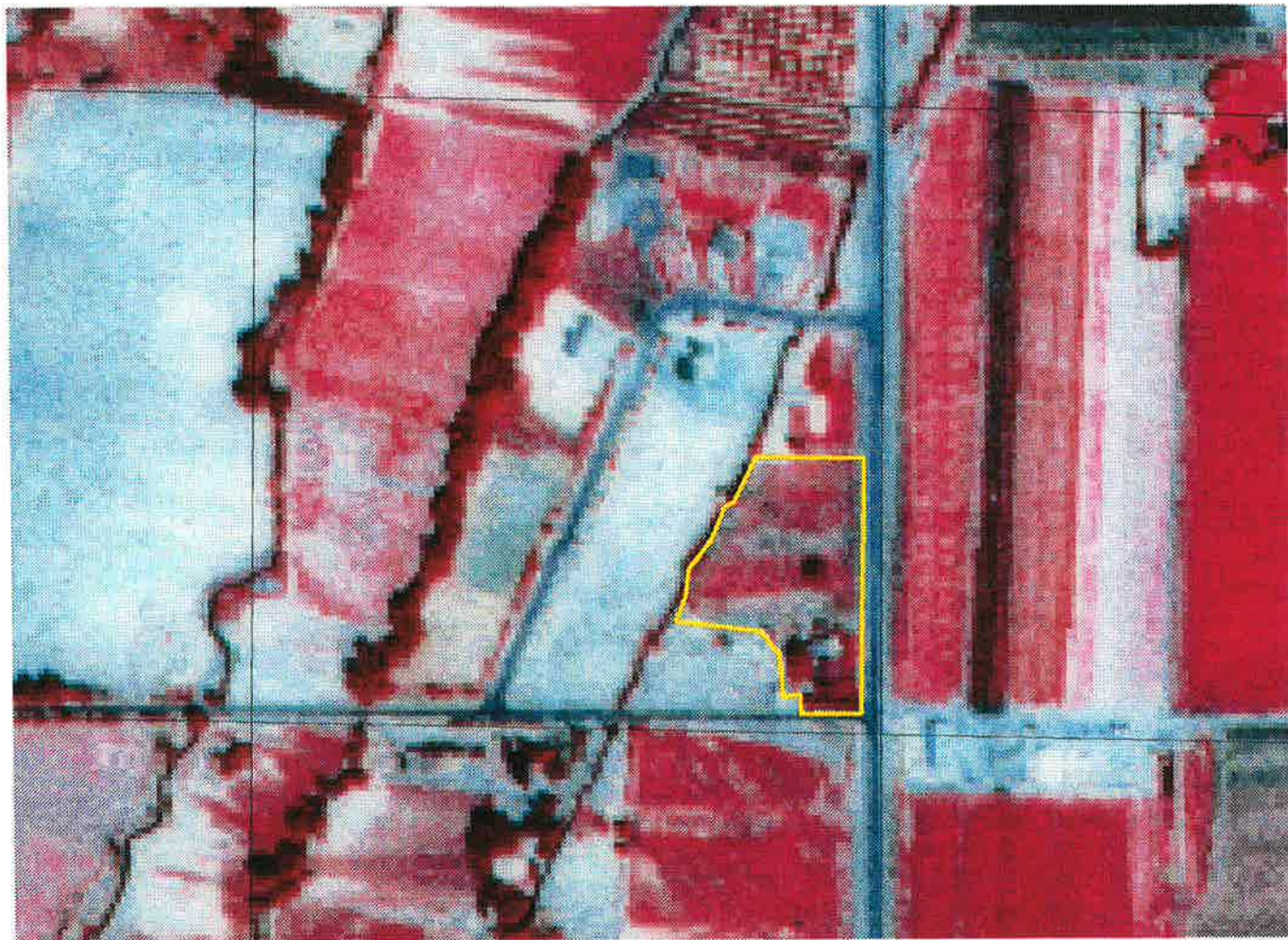
P/D CONFLICT yes () no (✓)

READY FOR DECREE yes (✓) no ()

SENT FOR DECREE yes () no ()

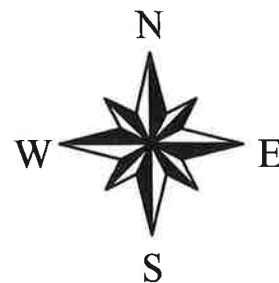
IDAHO DEPARTMENT OF WATER RESOURCES

36-02169



660 0 660 Feet

TNS 7S, RNG 13E
SEC 11, NWSE



⊙ Recommended Point of Diversion

 Recommended Place of use

 Section lines

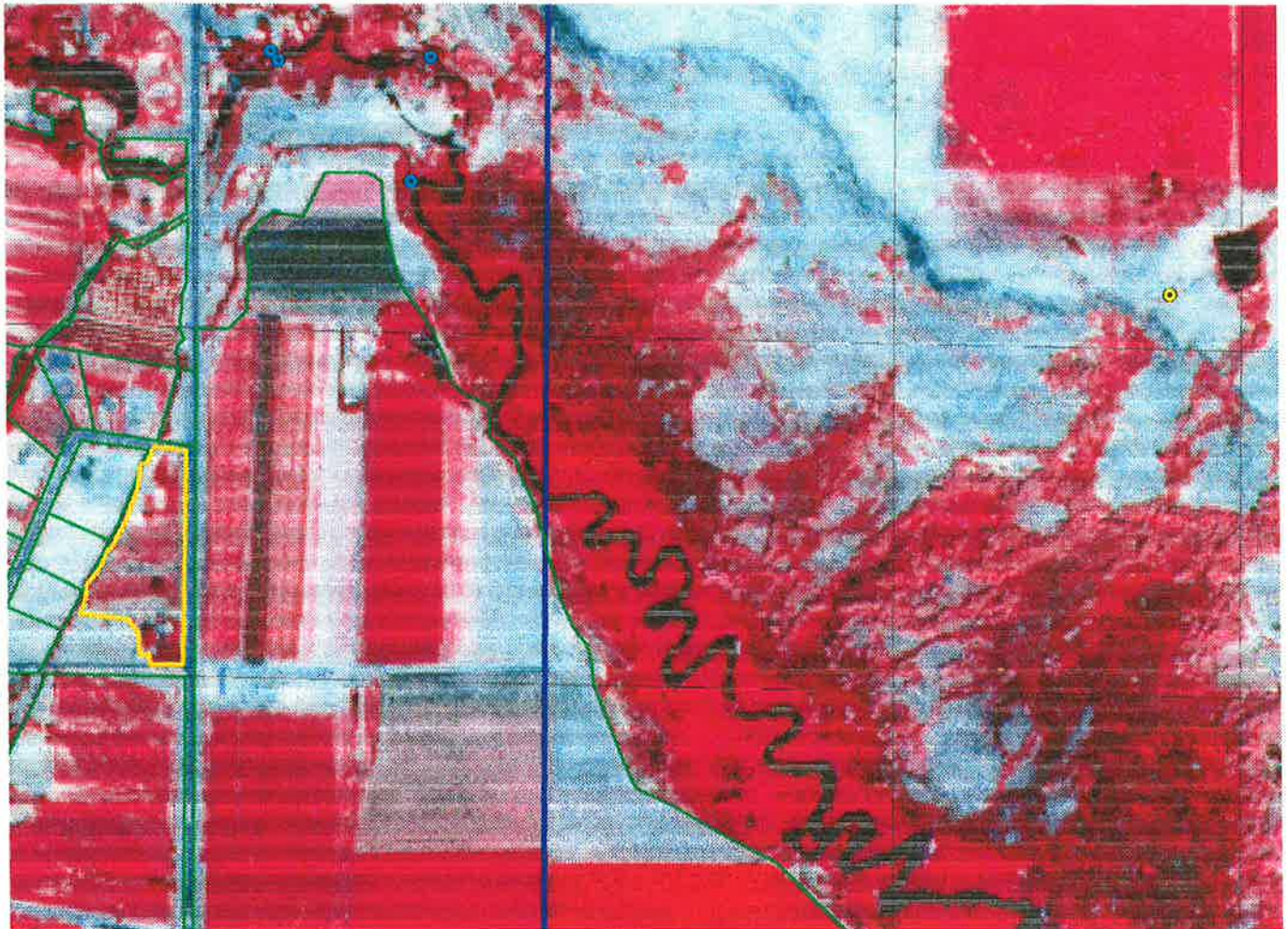
 Quarter/Quarter Lines

GIS PLACE OF USE PRESENTATION
1987 and/or 1988 NAPP PHOTOGRAPHY
DATA ENTRY OCTOBER 1997
BY STEVE CLELLAND
** Revised 10-29-97 **

IDAHO DEPARTMENT OF WATER RESOURCES

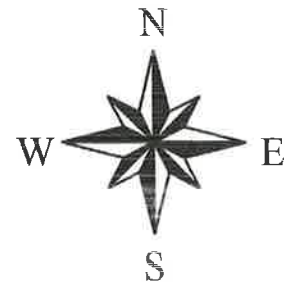
36-02169

DAN & IRMA MC FADDAN



660 0 660 1320 Feet

TNS 7S, RNG 13E, SEC 11



● RECOMMENDED POINT OF DIVERSION

RECOMMENDED PLACE OF USE

SECTION LINES

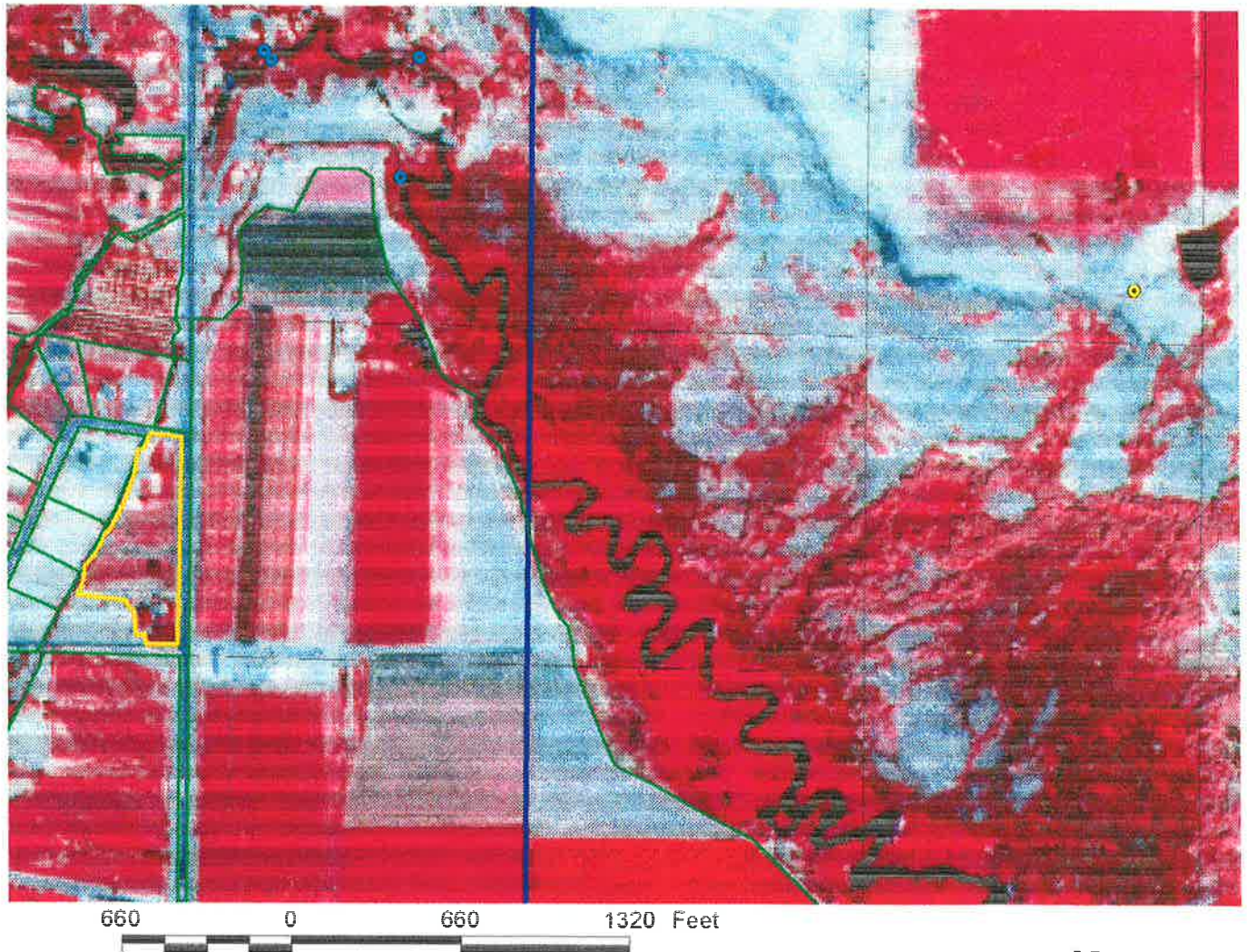
QUARTER/QUARTER LINES

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

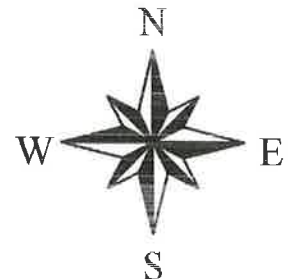
IDAHO DEPARTMENT OF WATER RESOURCES

36-02169

DAN & IRMA MC FADDAN



TNS 7S, RNG 13E, SEC 11



⊙ RECOMMENDED POINT OF DIVERSION

RECOMMENDED PLACE OF USE

SECTION LINES

QUARTER/QUARTER LINES

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

COMMUNICATION DOCUMENTATION

A36-00049 & A36-02169

IDWR Employee/Agent Steve Clelland

SHE IS PREPARING MOTION TO CONSOLIDATE AND HAD SOME QUESTIONS ON THE RELATIONSHIP BETWEEN 36-00048, 36-00049 & 36-02169. I SUGGESTED THE 48 & 49 RIGHTS BE COMBINED BUT THE 2169 IS FOR THE BED AND BREAKFAST HOUSE ACROSS THE HIWAY AND SHOULD BE SEPARATE. IT COMES FROM THE SAME SOURCE BUT WILL BE RESOLVED AFTER THE MAIN FARM ISSUES.

DEC 03 1996

Party's Name: Cranney Bros.

Attorneys' Names and Address

Jeffrey C. Fereday
Michael C. Creamer
GIVENS PURSLEY & HUNTLEY LLP
277 North 6th Street, Suite 200
P.O. Box 2720
Boise, Idaho 83701-2720
(208) 342-6571
(208) 343-9492 (facsimile)

RECEIVED

AUG 21 1995

OFFICE OF THE
ATTORNEY GENERAL

RECEIVED

JAN 10 1996

Department of Water Resources
Southern Region

RECEIVED

AUG 22 1995

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: SRBA

Case No. 39576

Subcase No. 36-02169

RESPONSE TO McFADDAN
OBJECTION

(Standard Form 2)

I. GENERAL INFORMATION

1. Person responding to objection:

Name: Cranney Bros.

Address: c/o Mike Cranney
Route 1, Box 44A
Oakley, ID 83346

Briefly describe your interest in this water right:

Cranney Bros. ("Cranney") is a holder of ground water rights in the Snake Plain Aquifer which may be affected by the exercise of the rights claimed by Dan H. and Irma R. McFaddan ("claimant") in this matter, and by the outcome of this case as to the factual and legal issues claimant asserts in its objection.

2. Person who filed objection:

Name: Dan H. and Irma R. McFaddan

Address: Route 1, Box 406
Hagerman, ID 83332

3. If this response is filed by an attorney:

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Attorney Name(s): Jeffrey C. Fereday
Attorney Address: GIVENS PURSLEY & HUNTLEY LLP
277 North 6th Street, Suite 200
P.O. Box 2720
Boise, Idaho 83701-2720
Attorney Phone No.: (208) 342-6571

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.
4. ☒ Priority Date: I respond to the objection concerning the priority date.
7. ☒ Purposes of Use: I respond to the objection concerning the purpose(s) of use.
8. ☒ Period of Year: I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.
9. ☒ Place of Use: I respond to the objection concerning:
- 9b. ☒ The number of irrigated acres within each forty (40) acre subdivision.
10. ☒ Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.
11. ☒ Remarks: I respond to the objection concerning the "remarks" listed with the water right.
14. ☒ Other: I respond to the objection concerning:

All matters raised in the claimant's answer, affirmative defenses, and prayer for relief.

REASONS SUPPORTING EACH BOX CHECKED

The following reasons are stated upon Cranney's information and belief:

In response to Statement of Objections 3 and 3.a., and all allegations of the objection regarding those items, Cranney responds as follows: (1) the Idaho Department of Water Resources ("IDWR") recommended the amount of water it

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DEC 3 1996

determined was being beneficially used; and (2) the claimant is not entitled to any amount greater than that which is beneficially used.

In response to Statement of Objection 4, Cranney responds as follows: The claimant did not identify which decreed right was the basis of this claim. This right is not based on a decree, because none of the decreed rights from the claimed source is decreed with the priority asserted by the claimant. The claimant did, however, identify the water right number for this claim as 22754 which is a licensed water right that was renumbered to 36-02169, and has a priority date of April 10, 1952. IDWR recommended the priority date of the licensed right.

In response to the claimant's allegations contained in Objection item 7, Cranney responds that IDWR recommended the same purpose or purposes of use that were identified on the notice of claim. By identifying in the objection an additional use (for stockwater) that the claimant did not list on the notice of claim, the claimant improperly seeks to use the objection process to amend the claim. Cranney further responds that fish propagation or commercial uses, if approved under this right, would be illegal enlargements or expansions of use under the decreed right claimed.

In response to the claimant's allegations contained in Objection item 8, Cranney responds as follows: The decree asserted by the claimant does not specify a period of use for this water right. Idaho law requires IDWR to determine the period of use of each water right acquired under state law that is recommended in the director's report. The irrigation season of use cannot exceed the period in which water may be beneficially used. IDWR has developed irrigation season of use standards for various climatic areas throughout the state based on certain determinations, and has concluded that 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. Cranney acknowledges that water may be used for irrigation outside the standard season of use, subject to beneficial use and the conditions set forth in general provision 12b of the director's report.

Cranney further responds that for each use recommended, IDWR has recommended a reasonable season of use. By now seeking to include a year-round season of use for irrigation, the claimant improperly seeks to use the objection process to amend the claim and asserts a period of use beyond which water can be beneficially used for irrigation.

In response to Statement of Objections 9 and 9.b., and all allegations of the objection regarding those items, Cranney responds that IDWR has stated, in the director's report, that the recommended water right accurately describes the place of use of the right.

In response to Statement of Objection 10 and all allegations of the objection regarding that item, Cranney responds as follows: (1) The decree asserted by the claimant did not set an annual volume of consumptive use for this water right. (2) Idaho law requires the director to determine the annual volume of consumptive use for each water right acquired under state law and recommended in the director's

report. (3) The annual volume of consumptive use recommended for this right is 3 acre feet per acre, which is the maximum volume of water consumed by the most water consumptive crop (pasture) that can be grown in the area during the period of year when water is used for irrigation, as provided for by Idaho Code Sec. 42-1401A(2).

In response to Statement of Objection 11, and all allegations of the objection regarding that item, Cranney responds that the Department of Water Resources has authority pursuant to Idaho Code § 42-1411 to include in its recommendations of water rights, and recommended in the director's report, remarks and other matters that are necessary to define, clarify, or administer the right, or other matters as are necessary to define the right.

In response to Statement of Objection 14, and all allegations of the objection regarding that item, see "Response to Claimant's Affirmative Defenses," below.

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," Cranney responds that, 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.

RESPONSE TO CLAIMANT'S AFFIRMATIVE DEFENSES

Responding to the 27 affirmative defenses asserted in the attachment to claimant's objection, Cranney notes that these are assertive against IDWR. To the extent these are still being pressed by the claimant, Cranney generally denies each affirmative defense asserted. Cranney further responds that those affirmative defenses asserting various violations of civil or constitutional rights, fail to comply with the requirements I.R.C.P. 9(b) providing that in all averments of violation of civil or constitutional rights the factual circumstances constituting such violation must be stated with particularity. Accordingly, Cranney asserts that those affirmative defenses should be stricken.

CHANGES TO THE DIRECTOR'S REPORT

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

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

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DEC 03 1996

VERIFICATION

STATE OF IDAHO)
 : SS
COUNTY OF ADA)

Mike Cranney, being first duly sworn, upon oath, deposes and says:

I am a principal in Cranney Bros., a party to this proceeding, as defined by I.C. 42-1401A(1) and (7); that Jeffrey C. Fereday is my attorney in fact for these matters and is authorized to verify this response; and 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.

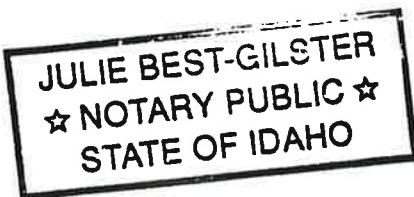
CRANNEY BROS.

By: _____

GIVENS PURSLEY & HUNTLEY LLP

By: Jeffrey C. Fereday
Jeffrey C. Fereday, Attorney signing
in representative capacity

Subscribed and sworn to before me this 17 day of August, 1995.



Julie Best Gilster
Notary Public for Idaho
Residing at: Nampa, Idaho
My commission expires: 4-21-2001

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DEC 03 1996

CERTIFICATE OF SERVICE

I certify that on August 17, 1995, I caused to be served a true and correct copy of the foregoing *RESPONSE TO McFADDAN OBJECTION (No. 36-02169)* to each of the persons named below by the method indicated below each of their names.

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

☒ U.S. Mail ☐ Fax ☐ By Hand ☐ Overnight

Environment & Natural Resources Div.
United States Department of Justice
550 West Fort Street, Box 033
Boise, ID 83724

☒ U.S. Mail ☐ Fax ☐ By Hand ☐ Overnight

Patrick D. Brown, Esq.
Hepworth, Lezamiz & Hornhorst, Chtd
133 Shoshone Street North
P. O. Box 389
Twin Falls, ID 83303-0389

☒ U.S. Mail ☐ Fax ☐ By Hand ☐ Overnight

Jeffrey C. Feilday

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DEC 03 1996

RECEIVED
DEC 26 1995
Department of Water Resources
Adjudication Bureau

REC'D
DEC 22 1995
OFFICE OF THE
ATTORNEY GENERAL

1995 DEC 21 PM 1:55
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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

RECEIVED

In Re SRBA

JAN 10 1996

Department of Water Resources
Southern Region

Case No. 39576

Subcase Nos.: 36-00021B (36-00021)
36-00039D, 36-00048A, 36-00049,
36-00051A, 36-02169, 36-04260B,
36-10283A and 36-15168

AMENDED ORDER DENYING
MOTIONS TO STRIKE AFFIDAVITS
and ORDER GRANTING MOTIONS TO
FILE LATE RESPONSES

On August 18, 1995, Cranney Bros. filed its *Motion to File Late Responses* (Cranney Motion) in five of the above subcases: 36-00039D, 36-00048A, 36-00049, 36-02169 and 36-04260B.¹ Attached to the Cranney Motion was its *Brief in Support of Motion to File Late Responses*. The same date, Cranney Bros. lodged responses to objections in each of the five subcases.

On August 18, 1995, May Farms, Ltd. (May Farms), Sand Springs Ranch Partnership (Sand Springs) and Faulkner Land & Livestock Company (Faulkner) filed their *Motions to File Late Responses*² (May Farms, Sand Springs and Faulkner Motions) in six of the above

¹ The claimants/objectors in these five subcases are: Fred and Susan Walmsley (36-00039D); Dan and Irma McFadden (36-00048A, 36-00049 and 36-02169); and Robert H. Brailsford (36-04260B).

² Amended May Farms Motions in Subcase Nos. 36-00021B and 36-10283A were filed on September 12, 1995.

subcases: 36-00021B, 36-00048A, 36-00049, 36-00051A, 36-10283A and 3615168.³ Attached to the May Farms, Sand Springs and Faulkner *Motions* were six separate but similar *Memoranda in Support of Motions to File Late Responses*.⁴ The same date, May Farms, Sand Springs and Faulkner lodged responses to objections in each of the six subcases.

Cranney Bros., May Farms, Sand Springs and Faulkner will sometimes be referred to collectively as Movants.

On November 21, 1995, the claimants in all nine of the above subcases (Claimants) filed their *Consolidated Memorandum Opposing Intervention*. The Claimants also filed their *Motion to Strike* the affidavit of attorney Michael C. Creamer and the attached portion of Mike Cranney's deposition (Subcase Nos. 36-00039D, 36-00048A, 36-00049, 36-02169 and 36-04260B). Finally, the Claimants filed six *Objections and Motions to Strike Affidavits* of Ralph L. May (36-00021B and 36-10283A), Mike Faulkner (36-00048A and 36-00049) and Tom Ambrose (36-00051A and 36-15168). Attached was the Claimants' *Memorandum in Support of Objection and Motion to Strike Affidavits and Preclude Intervention*.

On November 21, 1995, Cranney Bros. lodged its *Pre-Hearing Memorandum*.

A hearing was held on November 22, 1995, at the SRBA Courthouse in Twin Falls, Idaho. Jeffrey C. Fereday appeared for Cranney Bros.; Dana L. Hofstetter and Josephine P. Beeman for May Farms, Sand Springs and Faulkner; Patrick D. Brown for the Claimants; and Brent R. King for IDWR. The Cranney *Motion* was set for hearing the same day as the May Farms, Sand Springs and Faulkner *Motions*. However, because of similarities of the *Motions* and the Claimants' consolidated opposition, the hearings were combined. All counsel were present and participated throughout the hearing.

After the hearing, on December 1, 1995, Cranney Bros. filed its *Response to Motion to Strike*. The same day, the Claimants wrote to the Special Master asking that the pleading be disregarded and Cranney Bros.' counsel be admonished for submitting post-hearing briefs and

³ The claimants/objectors in four of the subcases are: Harry R. Gisler (36-00021B); Walten and Marjorie Mildren (36-00051A); Ya-Ta-Hay Investments, Inc. (36-10283A); and Hagerman Water Users Association (36-15168).

⁴ Amended Faulkner and Sand Springs *Memoranda* in Subcase Nos. 36-00049 and 36-00051A were filed on September 12, 1995.

evidence.

Motions to Strike

The Claimants moved to strike certain affidavits because the affidavits were not served with the *Motions* or they contain hearsay testimony, lack foundation and the affiants are not qualified as experts. While these criticisms are well taken for purposes of summary judgment or trial, they are less compelling in the context of these motions to file late pleadings -- particularly in these subcases. The Claimants and Movants have followed a particularly contentious motion practice and the court has been required to fashion its responses accordingly. On top of that, these are "test" subcases where fundamental and unique issues are being explored. Sweeping legislative changes in the midst of ongoing litigation only added to the challenges. The result has been a certain "flexible" application of *SRBA Administrative Order 1* and the Idaho Rules of Civil Procedure to accomplish the ends of justice.

Judge Daniel C. Hurlbutt's July 28, 1995 *Order*⁵ concerning late filings clearly intended to provide "special consideration" to some parties to the adjudication. The *Order* was made because of legislative changes in the party status of IDWR and its Director. Even now, over a year after the amendments to the SRBA statutes went into effect, the court and the partes continue to discover new implications.

Even though the affidavits complained of by the Claimants are flawed in certain respects, the timing of their filing and their contents are sufficient for purposes of these motions to file late pleadings. It must be remembered that the motions were filed by SRBA parties seeking to participate in subcases. The Movants have not had the opportunity to conduct discovery. It may reasonably be expected that their responses will be substantially refined and amended as they gather more information. The suggestion that the Movants will step into the shoes of the Director and defend the whole Director's Report is not reasonable. At this point, their burden is not to *prove* a case but to *plead* sufficient facts to support their motions. The affidavits meet that minimal burden and will not be stricken.

⁵ The full title of the Order is Order Granting in Part, and Denying in Part, Joint Motions for Amendment of Administrative Order 1.

Motions to File Late Responses

The Movants argue that they meet the criteria of Judge Hurlbutt's July 28, 1995 Order: (1) they filed their pending motions in a timely manner and attached completed responses; (2) they have shown good cause for not filing responses in a timely manner; (3) they have demonstrated the existence of a meritorious position; and (4) they do not seek to enlarge or add to existing issues. In support of their allegation of "good cause," all three Movants suggest that they chose not to file responses in a timely manner because they relied upon IDWR to "defend" the Director's Report. Now that the Director's Report is no longer a pleading and IDWR and the Director are no longer parties, they seek to file late responses in all nine subcases.

There is no question that the pending motions were filed in a timely manner and completed responses were attached. It is also clear that the Movants do not seek to enlarge nor add to existing issues. Almost any element they might have chosen to respond to was objected to by the Claimants. So, the issues are whether good cause and a meritorious position have been shown.

The court is satisfied that the Movants have shown both good cause for untimeliness and the existence of a meritorious position. It was reasonable for them to rely upon the Director to investigate all SRBA water claims and defend his findings in strict accord with Idaho water laws. When IDWR and its Director were removed as parties by the Legislature, it was also reasonable for the Movants to suspect that some claims might result in excessive rights. After all, at the time the *Motions* were filed, no subcase had proceeded to a full hearing before the Special Master.

The fact that the Movants chose these particular subcases to intervene is no accident. These subcases concern water claims in the Hagerman Valley where the *Musser*⁶ case arose. Right or wrong, the Movants were concerned that future "calls," as happened in that case, *might* impact their farm operations. Given the information generally available to water users, their concern was understandable. It made no difference that none of the Movants knew details in the Director's Report or specific facts about the Claimants' water uses.

Having said that, the court feels compelled to remind the Movants and Claimants of Rule 11(a)(1), Idaho Rules of Civil Procedure:

⁶ *Musser v. Higginson*, 125 Idaho 392, 871 P.2d 809 (1994).

CERTIFICATE OF MAILING

I certify that a true and correct copy of the (AMENDED) ORDER DENYING MOTIONS TO STRIKE AFFIDAVITS and ORDER GRANTING MOTIONS TO FILE LATE RESPONSES was mailed December 21, 1995, with sufficient first-class postage to the following:

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

Patrick D. Brown
Hepworth, Lezamiz & Hohnhorst
P.O. Box 389
Twin Falls, ID 83303-0389

Josephine P. Beeman
Dana L. Hofstetter
Dillon, Bosch, Daw & Bock, Chartered
Suite 200
242 North 8th Street
Boise, ID 83720

Jeffrey C. Fereday
Givens, Purlsey & Huntley
P.O. Box 2720
Boise, ID 83701

Brent R. King
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

Courtesy copies to:

Daria J. Zane
R. Lee Leininger
William M. Ferry
The United States Department of Justice
Environment & Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724-0663

Cheri C. Jacobus
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449


Deputy Clerk

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DEC 03 1996

The signature of an attorney or party constitutes a certificate that the attorney or party has read the pleading, motion or other paper; that to the best of the signer's knowledge, information, and belief after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, **and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation [emphasis added].**

Therefore, IT IS ORDERED that the Claimants' *Motions to Strike Affidavits* are denied. It is further ordered that the Cranney *Motion to File Late Responses* and the May Farms, Sand Springs and Faulkner *Motions and Amended Motions to File Late Responses* are granted. However, participation of Cranney Bros., May Farms, Sand Springs and Faulkner shall be limited to litigation of those elements in the Director's Report to which the Claimants have objected and to which IDWR has responded. They may not enlarge or add to existing issues. Responses previously lodged with the court by Cranney Bros., May Farms, Sand Springs and Faulkner are deemed filed as of December 12, 1995.

DATED December 21, 1995.



Terrence A. Dolan
Special Master, Reporting Area 3
Snake River Basin Adjudication

R PROOF

CVR

MAPS

PHOTOS

MISC

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

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

Case No. 36-02169 -0001

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

RESPONSE TO OBJECTION

Petitioner,)

vs.)

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

Respondents.)

I. GENERAL INFORMATION

1. Person responding to objection:

Name: R. KEITH HIGGINSON, DIRECTOR

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

Briefly describe your interest in this water right:

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

(Over)

2. Person who filed objection:

Name: DAN H & IRMA R MC FADDEN
Address: RT 1 BOX 406
HAGERMAN ID 83332

3. If this response is filed by an attorney:

Attorney Name(s): NICHOLAS B. SPENCER

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

Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

3. |X| Quantity: I respond to the objection concerning:
- 3a. |X| The total quantity of water used in cubic feet per second.
4. |X| Priority Date: I respond to the objection concerning the priority date.
5. |X| Points of Diversion: I respond to the objection concerning the legal description of the point(s) of diversion.
7. |X| Purposes of Use: I respond to the objection concerning the purpose(s) of use.
8. |X| Period of Year: I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.
9. |X| Place of Use: I respond to the objection concerning:
- 9b. |X| The number of irrigated acres within each forty (40) acre subdivision.

10. ☒ Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.
11. ☒ Remarks: I respond to the objection concerning the "remarks" listed with the water right.
14. ☒ Other: I respond to the objection concerning:

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

REASONS SUPPORTING EACH BOX CHECKED

In response to the claimant's description of interest in the water right, IDWR responds as follows: (1) The claimant did not identify on the claim which decreed right pursuant to the New International Mortgage Bank v. Idaho Power Company was being claimed. (2) In the investigation of this claim, IDWR was not able to identify a right decreed pursuant to New International Mortgage Bank v. Idaho Power Company that listed a spring with a point of diversion having the same legal description as the right claimed. (3) The claimant included a water right number on the claim that identified the right as licensed water right no. 36-02169. (4) IDWR recommended this water right as a license right with the licensed priority date. (5) The claimant continues to assert that the right is decreed, yet has failed to provide any evidence that the right is decreed.

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 4, IDWR responds as follows: The claimant did not identify which decreed right was the basis of this claim. This right is not based on a decree, because none of the decreed rights from the claimed

(Over)

source are decreed with the priority asserted by the claimant. The claimant did, however, identify the water right number for this claim as 22754 which is a licensed water right that was renumbered to 36-02169, and has a priority date of April 10, 1952. IDWR recommended the priority date of the licensed right.

In response to Statement of the Objection item 5, IDWR responds that the recommended water right accurately describes the point of diversion from which IDWR found water to be beneficially used for irrigation and domestic purposes under this water right.

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

In response to Statement of the Objection item 8, and all allegations of the objection regarding that item, IDWR responds as follows: (1) The license for this right does not contain a period of use decreed for this water right. (2) Idaho Code Sec. 42-1411(2)(g) requires the director to determine the period of use of each water right acquired under state law that is recommended in the director's report. (3) IDWR has developed irrigation season of use standards for various climatic areas throughout the state based on a 75% chance of a 24 degree fahrenheit frost. (4) The irrigation season of use cannot exceed the period in which water may be beneficially used. (5) The period of the year during which this water right may be used is consistent with the standard irrigation season of use for the area in which the place of use of this water right is located. (6) Water may be used for irrigation outside the standard season of use, subject to the conditions set forth in general provision 12b of the director's report. (7) The recommendation of the director to the SRBA Court as to how the right should be decreed does not constitute a taking because it is simply a recommendation and not a final determination of the right. (8) The eventual decree by the SRBA Court of the irrigation season of use will not constitute a taking because the right is limited to the period in which water may be beneficially used.

In further response to this objection item, IDWR responds that it recommended this element of the water right as claimed. By now seeking to include a year-round irrigation season of use, the claimant improperly seeks to use the objection process to amend the claim. A claimant must obtain leave of the court to amend a claim after a director's report is filed, just as a party must obtain leave of the court to file a late claim after the director's report is filed. Once leave of the court is granted, IDWR can investigate the amended claim and make an appropriate recommendation to the court.

In response to Statement of the Objection 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 response to Statement of the Objection item 10 and all allegations of the objection regarding that item, IDWR responds as follows: (1) 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. (2) 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 claimed and recommended for this water right is included solely for use in future transfer proceedings. (3) The annual volume of consumptive use claimed and recommended for this right is 3 acre feet per acre. This is the maximum volume of water consumed by the most water consumptive crop (pasture) that can be grown in the area during the period of year when water is used for irrigation, as provided for by Idaho Code Sec. 42-1401A(2). (4) 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. (5) 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 11, and all allegations of the objection regarding that item, IDWR responds that it has authority pursuant to Idaho Code Sec. 42-1411(2)(j) to include in its recommendations of water rights acquired under state law and recommended in the director's report "such other

(Over)

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matters as are necessary to define the right." The remark or remarks objected to are necessary to adequately describe and define this water right.

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

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

CHANGES TO THE DIRECTOR'S REPORT

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

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

	No. of Pages
Notice of Claim No. A36-02169	6
IDWR's Response to Answer, Affirmative Defenses, and Prayer for Relief of Claimant	4

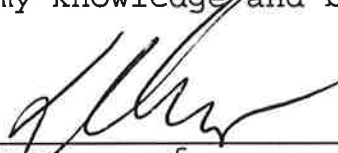
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

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

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



Signature of person filing response

By:



(Attorney signing in
representative capacity)

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



Notary Public for Idaho

Residing at: _____

My Commission expires _____

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

(Over)

CERTIFICATE OF MAILING

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

1. Original to:

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

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

See No. 3

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

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

4. One copy to:

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



Signature of Respondent or attorney
mailing on Respondent's behalf

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

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

CIVIL CASE NUMBER: 39356

Ident. Number A36-02169

Date Received

Receipt Number 5006294 gcu

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED

AUG 31 1993

Department of Water Resources
Southern Region Office

Please type or print clearly

1. Name of Claimant (s) RUTH E. CARY Phone (208) 377-3913
Mailing Address c/o DALE E. CARY 1020 S. WILSON CIRCLE POISE, IDA. Zip 83705

2. Date of Priority (Only one (1) per claim) JAN. 2, 1891

3. Source of water supply (a) UNNAMED SPRING
which is tributary to (b) BILLINGSLEY CREEK

4. a. Location of existing point of diversion is: Township 7 Range 13 Section 12,
SE 1/4 of NW 1/4 of 1/4, Govt. Lot, E B.M., County of GOODING

Additional points of diversion if any: NE 1/4 OF SW 1/4 SEC. 12 T/S 7 S. R. 13 E.B.M.

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

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

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

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

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

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. INITIAL DIVERSION OF UNNAMED SPRING IS CONSOLIDATED WITH THE DIVERSION OF THE FLORENCE LIVESTOCK SPRING. NO SPECIAL INSTALLATIONS ARE MADE FOR FOR THE UNNAMED SPRING. (SEE NO. 120155 EASEMENT ATTACHED). SECOND DIVERSION CONSISTS OF A THREE INCH PIPELINE ATTACHED TO THE FLORENCE LIVESTOCK PIPELINE APPROXIMATELY 1800 FEET WEST OF THE INITIAL DIVERSION POINT. SECOND DIVERSION PIPELINE CONTINUES IN A WESTERLY DIRECTION TO THE PROPERTY DESCRIBED IN EASEMENT. (SEE NO. 121344 RIGHT OF WAY). SECOND DIVERSION PIPELINE IS ENTIRELY UNDERGROUND.

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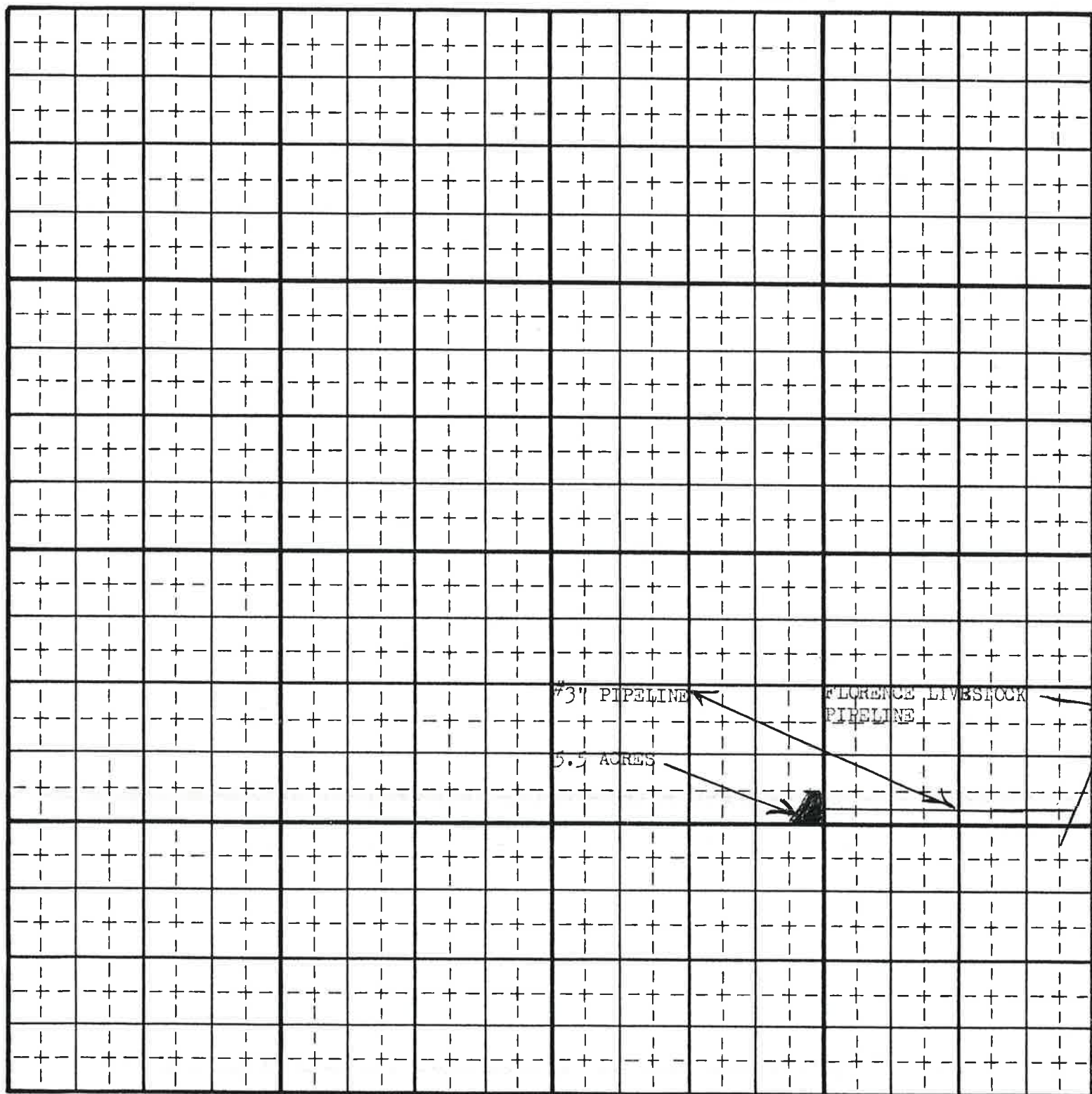
JAN 26 1993

Copies: White-State, Yellow-Claimant

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

Scale: 2 inches equals 1 mile

SECTION 11-TOWNSHIP 7-RANGE 13 EBM- GOODING COUNTY



SEE ATTACHED COPY OF PROPERTY AND LOCATION

Last Name CARY Ident No. _____

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Copies: White-State, Yellow-Claimant
JAN 26 1993

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For IRRIGATION purposes from 3/15 to 11/15 amount .165 or

For DOMESTIC purposes from 1/1 to 12/31 amount .04 or

For purposes from to amount or

For purposes from to amount or

7. Total quantity claimed (a) .205 (cfs) and/or (b) (acre feet)

8. Total consumptive use claimed is 16.5 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) DOMESTIC FOR HOUSEHOLD USE

10. Description of place of use:

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

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

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
7	13	11														5.5			5.5
7	13	11														D			D

Total number of acres irrigated 5.5

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

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

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

14. Remarks:

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Copies: White - State, Yellow - Claimant

JAN 26 1993

Last Name CARY Ident No.

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

Decree _____
If applicable provide IDWR Water Right Number 22754
Court U.S. DIST. IDA. SO DIV Case Number 1 602 Decree Date 3/23/32
Plaintiff vs Defendant NEW INTERNATIONAL MORTGAGE BANK VS IDAHO POWER COMPANY

16. Signature (s)

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

Number of attachments ten (10)

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

Signature of Claimant (s) _____ Date _____

_____ Date _____

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

of _____, that I have signed the foregoing

Organization

document in the space below as _____ of _____

Title

Organization

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

Signature of Authorized Agent Ruth E. Cary by Deb E. Cary

Title and Organization _____ Date 8-29-88

State of Idaho/or _____)

County of Adair) SS.

Subscribed and sworn (or affirmed) before me this 29th day of August 19 88

SEAL

Notary Public Marcia Meyer

Residing at Eagle, Idaho

My Commission Expires 9/3/93

Please Print Name

17. Notice of Appearance:

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

Signature Ruth E. Cary by Deb E. Cary

Address _____

Date _____

Last Name cary Ident. Number _____

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OCT 13 1994

MICROFILMED
Copies White-State, Yellow-Claimant

JAN 26 1993

POOR ORIGINAL

GENERAL POWER OF ATTORNEY

Know All Men by These Presents: That Ruth E. Cary
 of Hagerman, County of Gooding, State of Idaho
 has made, constituted and appointed, and by these presents does make, constitute, and appoint
Dale E. Cary, of Boise, County of
Ada, State of Idaho, her true and lawful attorney for
 and in her name, place and stead, and for her use and benefit, to ask, demand,
 sue for, recover, collect, and receive all such sums of money, debts, dues, accounts, legacies, bequests,
 interest, dividends, annuities, and demands whatsoever, as are now or shall hereafter become due, owing,
 payable, or belonging to her, and have, use, and take all lawful ways and means in her
 name or otherwise for the recovery thereof, by attachments, arrests, distress or otherwise, and to com-
 promise and agree for the same, and acquittances, or other sufficient discharges for the same, for her
 and in her name, to make, seal, and deliver; to bargain, contract, agree for, purchase, receive,
 and take lands, tenements, hereditaments, and accept the seisin and possession of all lands, and all deeds
 and other assurances in the law therefor, and to lease, let, demise, bargain, sell, remise, release, convey,
 mortgage, and hypothecate lands, tenements, and hereditaments upon such terms and conditions, and
 under such covenants as he shall think fit. Also, to bargain and agree for, buy, sell, mortgage,
 hypothecate, and in any and every way and manner deal in and with goods, wares, and merchandise,
 choses in action, and other property in possession or in action, and to make, do, and transact all and every
 kind of business of what nature or kind soever, and also for her and in her name
 and as her act and deed to sign, seal, execute, deliver, and acknowledge such deeds, leases, and
 assignment of leases, covenants, indentures, agreements, mortgages, hypothecations, bottomries, charter-
 parties, bills of lading, bills, bonds, notes, receipts, evidences of debt, releases, and satisfaction of mort-
 gages, judgments and other debts, and such other instruments in writing of whatever kind and nature as
 may be necessary or proper in the premises.

Giving and granting unto her said attorney full power and authority to do and perform all
 and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully
 to all intents and purposes as she might or could do if personally present (with full power of sub-
 stitution or revocation), hereby ratifying and confirming all that her said attorney (or his
 substitute or substitutes) shall lawfully do or cause to be done by virtue of these presents.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the
 day of _____, 1985.

Signed, sealed and delivered in the presence of

Ruth E. Cary (Seal)

MICROFILMED (Seal)

OCT 13 1984

STATE OF IDAHO,

County of Ada

ss.

On this _____ day of _____, in the year 19 85, before me
the undersigned _____, a Notary Public

and State _____
in and for said County/personally appeared _____ Ruth E. Cary
known to me to be the person whose name is _____ subscribed to the within instrument, and
acknowledge to me that She executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year
in this certificate first above written.

Ruth E. Cary
Notary Public for Idaho
Residing at Boise, Idaho

No. _____

POWER OF ATTORNEY
GENERAL

TO

Dated _____, 19 _____
STATE OF IDAHO, } ss.
County of _____

I hereby certify that this instrument
was filed for record at the request of

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

Ex-Officio Recorder.

By _____, Deputy.

Fees, \$ _____

STINE-YORK CO., PRINTERS & BINDERS, BOISE

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

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

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

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

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

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

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

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

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

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

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

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



ate 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

14-Dec-1992 15:24

DAN MC FADDAN
17966 U S HWY 30
HAGERMAN ID 83332

RE: Copy of SRBA File(s): 36-00048A, 36-00049, 36-02169

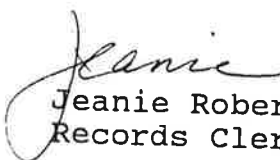
Dear Mr. Mc Faddan:

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:

\$8.92

Sincerely,


Jeanie Robertson
Records Clerk

Encl:

McFaddan
37
39
40
116 x 5 = 5.80
Post. 2.90
ent. .22
8.92

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December 10, 1992

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

RECEIVED
DEC 11 1992
Department of Water Resources
Southern Region Office

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(s) 36-02169, 36-00049, and 36-00048 A.

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,



Dan McFadden
17966 U. S. Highway 30
Hagerman, Idaho 83332

DM/skw

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

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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. A36-02169
(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,

36-02169 -0001/
93-04-0177

vs.

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

Respondents.

INSTRUCTIONS

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

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

(Over)

OBJECTION - 1

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

I. GENERAL INFORMATION

Please fill in the following information:

1. Person objecting:

Name: Dan H. and Irma R. McFadden

Address: Route 1, Box 406

Hagerman, ID 83332

Briefly describe your interest in this water right:

Decreed water right pursuant to New

International Mortgage Bank v. Idaho Power

Co. dated 3/22/1932. Licensed right, dated

4/10/1952 recorded in Gooding County Recorder's

office. Priority date prior to 3/22/1932

2. Owner of the water right:

Name: Dan and Irma McFadden

Address: Route 1, Box 406

Hagerman, ID 83332

3. If this objection is filed by an attorney:

Attorney Name: Patrick D. Brown & Penelope Parker

Attorney Address: Hepworth, Nungester & Lezamiz

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

Attorney Phone No.: (208) 734-7510

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

II. STATEMENT OF THE OBJECTION

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

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

(Over)

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

REASONS SUPPORTING EACH BOX CHECKED

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

See page 7

CHANGES TO THE DIRECTOR'S REPORT

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

Increase quantity to that decreed and/or beneficially used
whichever is greater; change consumptive use accordingly;
correct point of diversion; add livestock as a purpose of use;
Remarks: strike all; priority date: as decreed; place of use:
5 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.

See Hagerman Water Right Owners, Inc.'s

Compendium "A"

VERIFICATION (Must be Completed)

State of Idaho

County of Gooding

DAN Mc Fadden, 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.

Dan Mc Fadden
Signature of person filing objection

By:

[Signature]
(Attorney signing in
representative capacity)

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

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

(Over)

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INSTRUCTIONS FOR MAILING

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

CERTIFICATE OF MAILING

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

1. Original to:

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

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

Owner name: Dan H. and Irma R. McFadden

Owner's address: Route 1, Box 406

Hagerman, ID 83332

3. One copy to:

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

4. One copy to:

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



Signature of Objector or attorney
mailing on Objector's behalf

REASONS SUPPORTING EACH BOX CHECKED, page 4

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

Box 4 - IDWR recommends a junior priority date which is not supported by the previously decreed right or the date of first beneficial use.

Box 5 - Director's Report fails to accurately state the point of diversion.

Box 7 - Beneficially used for purposes set forth in notice of claim.

Box 8 - IDWR recommends a period of use less than decreed and/or beneficially used. A reduction in water right would constitute a taking.

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

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

CHANGES TO DIRECTOR'S REPORT, page 4

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

Question 14., page 4, Other

I.

GENERAL RESPONSE

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

II.

DESCRIPTIVE SUMMARY

(DIRECTOR'S REPORT PART I)

(hereinafter DRP-I)

(DRP-I at first unnumbered page)

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

III.

TABLE OF CONTENTS

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

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

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

IV.

INTRODUCTION

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

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

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

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

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

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

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

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

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

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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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(DIRECTOR'S REPORT PART II)

I.

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

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

(DIRECTOR'S REPORT PART III)

I.

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

VIII.

AFFIRMATIVE DEFENSES

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

AFFIRMATIVE DEFENSE NO. 1

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

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

AFFIRMATIVE DEFENSE NO. 2

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

AFFIRMATIVE DEFENSE NO. 3

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

AFFIRMATIVE DEFENSE NO. 4

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

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

AFFIRMATIVE DEFENSE NO. 5

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

AFFIRMATIVE DEFENSE NO. 6

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

AFFIRMATIVE DEFENSE NO. 7

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

AFFIRMATIVE DEFENSE NO. 10

AFFIRMATIVE DEFENSE NO. 11

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

AFFIRMATIVE DEFENSE NO. 12

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

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AFFIRMATIVE DEFENSE NO. 13

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

AFFIRMATIVE DEFENSE NO. 14

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

AFFIRMATIVE DEFENSE NO. 15

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

AFFIRMATIVE DEFENSE NO. 16

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

AFFIRMATIVE DEFENSE NO. 17

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

AFFIRMATIVE DEFENSE NO. 18

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

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

AFFIRMATIVE DEFENSE NO. 19

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

AFFIRMATIVE DEFENSE NO. 20

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

AFFIRMATIVE DEFENSE NO. 21

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

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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.

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OCT 13 1994

(WATER\21530ANS)

NOTICE OF ERROR

RESPONSE

CORRECTED R PROOF



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JAN 26 1993

DAN McFADDAN
17966 U. S. HIGHWAY 30
TAGERMAN, IDAHO 83332



PLEASE MAIL
EARLY FOR
CHRISTMAS

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

RECEIVED
DEC 11 1992
Department of Water
Southern Region

NOTICE OF ERROR FORM

AUG-24-1992

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

Idaho Department of Water Resources

Statehouse Mail

Boise, Idaho 83720-9000

RECEIVED

SEP 22 1992

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

Department of Water Resources
printed

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

1. Water right number: *36-02169*
2. Name: *Irma R. McFadden*
Dan McFadden
Address: *Rt 1 Box 406*
Hagerman, Id. 83332
Weekday Telephone Number: *837-6649*

RECEIVED

SEP 22 1992

Department of Water Resources
Boise, Idaho 83720-9000

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JAN 26 1993

TEAR AT PERFORATIONS AND COMPLETE FORM ON OTHER SIDE

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

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

Entire recommendation is grossly out of line with reality.

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

The recommendation should be changed to conform with the decreed rights as per Decree of U.S. Court in 1933.

5. Describe why you disagree with the proposed recommendation:

1. All purposes of use are not listed
2. Irrigation season is inadequate.
3. Total quantities are inadequate & discriminatory

6. Date:

9/7/92

SIGNATURE

Don McJadden



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

17-Oct-1992

DAN MC FADDAN
RT 1 BOX 406
HAGERMAN ID 83332

RE: RESPONSE TO NOTICE OF ERROR FOR CLAIMS 36-02169,
36-00048A, AND 36-00049

Dear Mr McFaddan

RESPONSE TO 36-02169;

All claimed purposes of use claimed were recommended, however, the field examiner found 4.5 acres rather than the claimed 5.5 acres. The rates and volume recommendations were reduced because of the acre reduction. Based upon currently information, I am unable to recommend a change in the proposed report.

RESPONSE TO 36-00048A AND 36-00094

As there is no evidence that a portion of the originally decreed right was abandoned to allow a change in the nature of use, the Commercial and Fish Propagation portions of 36-00049 were disallowed. It is our interpretation that you wished to maintain the 1900 priority date rather than advance the priority date of the irrigation portion of your claim to the date of the latest developed use.

Your NOE also questions the basis for the recommendation of an amount that is less than the amount shown in a previous decree.

Under Idaho law, a water right is limited to the amount of water beneficially used for the purposes for which the water right was established. The amount of water beneficially used is limited to the amount that is actually used and is reasonably required. For irrigation purposes, a reasonable amount is the amount required using irrigation methods that

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JAN 26 1993

MC FADDAN
PAGE 2
17-Oct-1992

are reasonably efficient under current circumstances. If the amount of a water right shown in a decree is greater than the amount that is beneficially used, then the portion that is not beneficially used is forfeited.

The amount proposed to be recommended for your claim is based on the amount of water determined to be beneficially used for the recommended uses, based on available data and current methods of analysis. To support recommendation of a greater amount, you will need to submit evidence of beneficial use of a greater amount to IDWR.

The Director has approved extending the period of use for the Hagerman valley to 3/15 to 11/15.

The proposed recommendation is based on irrigation season of use standards adopted by the Director for the various regions throughout the state. These standards are based on the period of the year in which there is less than a 75% chance of a 24 degree F. frost.

In addition, since there are some years in which water can be beneficially used for irrigation outside the irrigation season, the proposed Director's Report includes a general provision which provides for irrigation outside the irrigation season under certain conditions. The conditions are that the water is beneficially used, as determined by the director; that all water rights with a period of use outside the irrigation season, regardless of priority, are satisfied; and that the use does not conflict with the public interest as determined by the director. This proposed general provision will be included in the Director's Report.

If you still disagree with IDWR's recommendations, you will have an opportunity to file an objection to the Director's Report with the court. When the Director's Report is filed with the court. When the Director's Report is filed with the court, you will be mailed a notice that will contain more information about the process, IDWR will work with the claimants to resolve disputed issues, including efforts to obtain additional data which will be shared with the water users.

Sincerely

Kelly K Christensen
Sr Water Resource Agent

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JAN 26 1993

R PROOF



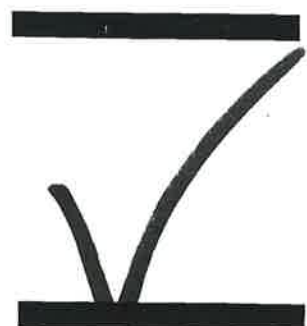
CVR



MAPS



PHOTOS



MISC

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JAN 26 1993

Water Right Number - R36-02169

Prefix Translation: RESEARCH

Old (D) Number - 22754

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

*** C - CURRENT OWNER ***
MC FADDAN

DAN

1 - RT 1 BOX 406

2 -

3 -

City- HAGERMAN

Phone - 208-837-6649

State- ID Zip- 83332

MC FADDAN

IRMA R

1 - RT 1 BOX 406

2 -

3 -

City- HAGERMAN

Phone - 208-837-6649

State- ID Zip- 83332

*** O - ORIGINAL OWNER ***
CARY

RUTH E

1 - C/O DALE E CARY

2 - 1020 S WILSON CIRCLE

3 -

City- BOISE

Phone - 208-377-3913

State- ID Zip- 83705

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - +
04/10/1952 17 SOUTHERN L - LICENSE+ - - - - Source - - - - - + + - - - - - Tributary - - - - - +
FLORENCE LIVESTOCK SPRING BILLINGSLEY CREEK+ - - - - Point of Diversion - - - - - +
TwN Rng Sec Tract Lot RFlg County
07S 13E 12 SE SE NW (47) GOODING+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 04/01 10/31 0.140
43 - DOMESTIC 01/01 12/31 0.040+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.160 13.5+ - - - - Place of Use - - - - - +
TwN Rng Sec Tract Lot Acres Code Description County
07S 13E 11 NW SE 4.5 01 IRRIGATION (47) GOODING
07S 13E 11 NW SE 43 DOMESTIC (47) GOODING

Total Acres: 4.5

+ - - Diversion Means - SAME DIVERSION AS FLORENCE LIVESTOCK SPRING PIPELINE

+ - - Non-Irrigation Use - DOMESTIC 1 HOME (BED & BREAKFAST)

VERIFIED BY KKC

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JAN 26 1993

Water right number - R36-02169

Prefix Translation: RESEARCH

+ - - Other Rights for Same Use - NONE

+ - - - - - Remarks - - - - - +
RIGHT NO. 36-00049 AND OTHER RIGHTS LISTED THEREIN ARE ALSO
DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

+ - - - - - Old Water Right Numbers - - - - - +
3602169

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

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

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

Date: 02/12/1992 User Id: CLELLAND Subject: COPIED FROM REMARKS

DWR NOTE**

IS 0.16 CFS.

OWNERSHIP CHANGE 9/4/90 BY JG.

ACCORDING TO LIC. DATE OF PRIORITY IS 4-10-1952 AND TOTAL FLOW

+ - - Audit Fields - - +

08/05/92 CHRISTEN

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

Court Report Filing	- 00/00/0000	Field Inspection Made	- 07/26/1990	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	08/05/1992	Old Judicial District	-
Claim Received Date	- 02/15/1989	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S006294	Water District	- 36A
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- AND/OR	Presumption Flag	-
				Notice of Error Flag	-

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JAN 26 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

01:53:40
06/30/90

PAGE: 12
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-02169

WR ELEMENT	FIELD EXAM Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	VERIFIED BY CODE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE	Y (Y)			Y	6. License	See 2-12-92	DB	KKC 8-4-92
POINT OF DIV	Y		7-26-90 SCC/HHT	Y	1,5	See 8-4-92		
SOURCE	N		7-26-90 SCC/HHT	Y	1,5			
PLACE OF USE	Y		L	N	1,4,5,6			
DIV. AMOUNT CFS/VOLUME	Y N			Y				
CONSUMPTIVE USE	N			N				
PURPOSES	N			N				
PERIOD OF USE	Y N			Y	6.			
BASIS OF CLAIM	Y N	CHANGE OWNER SENT 7-31-90 SCC		N				
REMARKS	Y N			Y	6			

See
7-19-90

"VERIFIED BY" CODES

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

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

Recommend as licensed; change of source + pod.

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JAN 26 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

01:53:40
06/30/90

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-02169

LAST: CARY
ADDRESS: C/O DALE E. CARY
1020 S. WILSON CIRCLE
CITY: BOISE
PHONE NUMBER: 208-377-3913

FIRST: RUTH E.

STATE: ID ZIP: 83705

OWNER CODE: C

FIELD EXAM REQUIRED?

DATABASE FIELD
Y EXAMINER

VERIFICATION REQUIRED DUE TO REMARKS?

CLAIM REMARKS: ***DWR NOTE*****
ACCORDING TO LIC. DATE OF PRIORITY IS 4-10-1952 AND TOTAL FLOW
IS 0.16 CFS.

FIELD EXAMINATION INFORMATION

CONTACT PERSON: Dan McFadden

PHONE NUMBER: () -

DATE OF FIELD EXAM: 7/26/90

APPOINTMENT MADE: Y() N()

TIME: : A() P()

ACCOMPANIED BY: _____

PHONE NUMBER: () -

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / REMARKS:

New Owner

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JAN 26 1993

A. AJ CLAIM: # A36-02169 PRIORITY DATE: 01-02-1891 STAGE: L
B. WR RECORD: # 36-02169 PRIORITY DATE: 04-10-1952 STAGE: L

C. FIELD EXAM REQUIRED?

DUE TO PRIORITY DATE DISCREPANCY? (Y/N) DATABASE Y FIELD EXAMINER N

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

REMARKS: FOR LICENSE.

RECOMMENDED PRIORITY DATE:

4-10-1952

REVIEWED BY

SC

DATE

7-31-90

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

C. FIELD EXAM REQUIRED?

DUE TO POU DISCREPANCY? (Y/N)

DATABASE
Y

FIELD
EXAMINER
YES

PRESUMPTION FLAG:

REMARKS:

VERIFY ACRES. ✓ see

RECOMMENDATIONS:

TOTAL ACRES: 4.5

REVIEWED BY: see

DATE: 7-31-90

See also Tax assessment Notice of 1989

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A. AJ CLAIMED USES:

	PURPOSES	FROM	MONTH/DAY	TO	DIVERSION QUANTITY
A36-02169	IRRIGATION	FROM 03-15	TO 11-15		.165 CFS
A36-02169	DOMESTIC	FROM 01-01	TO 12-31		.040 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED					.205 CFS

4-1 10-31

B. WR RECORDED USES:

	PURPOSES	FROM	MONTH/DAY	TO	DIVERSION QUANTITY
36-02169	IRRIGATION	FROM	TO		.160 CFS
36-02169	DOMESTIC	FROM	TO		.160 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED					.160 CFS

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

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

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

Y(☒) N(☐)

RECOMMEND TO WR STANDARDS OR OTHER?

Y(☒) N(☒) Explain in remarks, below.

REMARKS:

One Home Found. 4 License Rt.
Now a Bed & Breakfast

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A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y() N(~~X~~)AJ TOTAL CLAIMED DIVERSION RATE: 0.205 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 0.160 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
Y N

B.

FLOW MEASUREMENT

MEASUREMENT METHOD _____, SEE ATTACHED CALCULATIONS.

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

OTHER RIGHTS LISTED IN CLAIM: NONE

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

CLAIM	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A36-02169 -	SPRING	CARY , RUTH E.	0.205	0.037 -		
A36-00039G	BILLINGSLEY CREEK	MC FADDAN , MATTHEW D.	0.100	0.076		
A36-00039B	BILLINGSLEY CREEK	SHOKAL , RUTH C.	0.120	0.133		
A36-00039C	BILLINGSLEY CREEK	VEENENDAAL , DICK J.	0.280	0.140		
A36-00039D	BILLINGSLEY CREEK	WALMSLEY , SUSAN K.	0.260	0.130		
A36-00039F	BILLINGSLEY CREEK	BOTHWELL , BRUCE	0.120	0.120		
A36-00039H	BILLINGSLEY CREEK	JOHNSON , MILDRED A.	0.280	0.140		
A36-00039J	BILLINGSLEY CREEK	POTTER , MARK B.	0.280	0.140		
A36-00039K	BILLINGSLEY CREEK	EASTERDAY , RAY R.	0.200	0.015	50.80	3.90
A36-00039L	BILLINGSLEY CREEK	PUGMIRE , E. MARION	0.120	0.120	4.00	4.00
A36-00112A	BILLINGSLEY CREEK	FLINT , WILLIAM E.	0.800	0.066	48.00	4.00
A36-00111A	BILLINGSLEY CREEK	FLINT , WILLIAM E.	0.380	0.020	76.00	4.00

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

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A36-02169	DOMESTIC	CARY , RUTH E.	FROM 01-01 TO 12-31	.040 CFS	
A36-10071	DOMESTIC	VEENENDAAL , SIGRID E.	FROM 01-01 TO 12-31	.040 CFS	
A36-10083	DOMESTIC	WALMSLEY , FRED J.	FROM 01-01 TO 12-31	.040 CFS	
A36-10673	DOMESTIC	BOTHWELL , BRUCE	FROM 01-01 TO 12-31	.040 CFS	
A36-00039J	STOCKWATER	POTTER , MARK B.	FROM 01-01 TO 12-31	.020 CFS	
A36-00039J	AESTHETIC	POTTER , MARK B.	FROM 01-01 TO 12-31	.200 CFS	

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JAN 26 1993

REMARKS:

VERIFY + LOCATE 10Ac. 1/4
See attached comments - 1 POD - Florence Livestock Spring.
Unrecorded transfer of source. over 5 years ago.
Original POD abandoned; transfer source to FLS, original source no longer used.

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	COUNTY
7S.	13E	12	SE	SE	NW	—	47

SOURCE: ~~SPRING~~ FLORENCE LIVESTOCK SPRING TRIB: BILLINGSLEY CREEK

REVIEWED BY: SCC DATE: 7-31-90

SCC 12-28-90

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JAN 26 1993

D.

allow
0.03 → 0.135
1a. IRRIGATION RATE
ACRES 4.5 x 0.02 CFS/ACRE = 0.09 CFS
(Taken from p/u review)

RATE/VOLUME CALCULATIONS: (IRRIGATION)

$$0.16 \div 4.5 = 0.035 \text{ cfs/ac.}$$

1b. CALCULATIONS

DOES AMOUNT CLAIMED EXCEED 0.02 CFS/ACRE? Y(X) N()*** IF YES ADDITIONAL WATER USE FORM FILED AND ATTACHED? Y() N(X) ***

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 16.5 AF/A

ACRES 4.5 x CONSUMPTIVE VOL. AF/A FOR AREA 3.0 =
TOTAL CONSUMPTIVE USE 13.5 AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

ACRES 4.5 x DIVERSION VOL. AF/A FOR AREA 4.0 =
TOTAL DIVERSION VOLUME 18.0 AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y() N(X) 1 House = 0.04

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

See

0-12-92

(Licensed 8 ac @ 0.02 cfs/Ac = 0.16)

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JAN 26 1993

A. ROOT WATER RIGHT NUMBERS: A36-02169

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM ACRES
07S	13E	11	NW	SE		CARY, RUTH E.	A36-02169 /	36-02169 / 8.0	38.0		
						VEENENDAAL, SIGRID E.	A36-10071 /	- /			
						WALMSLEY, FRED J.	A36-10083 /	- /			
						BOTHWELL, BRUCE	A36-10673 /	- /			
						MC FADDAN, MATTHEW D.	A36-00039G / 1.3	- /			
						BOTHWELL, BRUCE	A36-00040A / 1.0	- /			
						FLINT, WILLIAM E.	A36-00110A / 2.0	- /			
						SHOKAL, RUTH C.	A36-00039B / 0.9	36-00039B / 2.0			
						VEENENDAAL, DICK J.	A36-00039C / 2.0	- /			
						WALMSLEY, SUSAN K.	A36-00039D / 2.0	- /			
						BOTHWELL, BRUCE	A36-00039F / 1.0	- /			
						JOHNSON, MILDRED A.	A36-00039H / 2.0	- /			
						POTTER, MARK B.	A36-00039J / 2.0	- /			
						EASTERDAY, RAY R.	A36-00039K /	- /			
						PUGMIRE, E. MARION	A36-00039L / 1.0	- /			
						MCFADDAN, MATTHEW D.	A36-00050A /	- /			
						FLINT, WILLIAM E.	A36-00112A / 12.0	36-00112A / 13.0			
						FLINT, WILLIAM E.	A36-00111A / 2.0	- /			
						DILATUSH, E. W.		36-00039A / 14.0			
						DILATUSH, E. W.		36-00040 /			
						TROVILLO, D. C.		36-00110 /			
						TROVILLO, D. C.		36-00111 /			
						POPE, J. L.		36-00112B /			
07S	13E	11	NW	SE		CARY, RUTH E.	A36-02169 / 5.5	36-02169 / 8.0	38.0		
						VEENENDAAL, SIGRID E.	A36-10071 /	- /			
						WALMSLEY, FRED J.	A36-10083 /	- /			
						BOTHWELL, BRUCE	A36-10673 /	- /			
						MC FADDAN, MATTHEW D.	A36-00039G / 1.3	- /			
						BOTHWELL, BRUCE	A36-00040A / 1.0	- /			
						FLINT, WILLIAM E.	A36-00110A / 2.0	- /			
						SHOKAL, RUTH C.	A36-00039B / 0.9	36-00039B / 2.0			
						VEENENDAAL, DICK J.	A36-00039C / 2.0	- /			
						WALMSLEY, SUSAN K.	A36-00039D / 2.0	- /			
						BOTHWELL, BRUCE	A36-00039F / 1.0	- /			
						JOHNSON, MILDRED A.	A36-00039H / 2.0	- /			
						POTTER, MARK B.	A36-00039J / 2.0	- /			
						EASTERDAY, RAY R.	A36-00039K /	- /			
						PUGMIRE, E. MARION	A36-00039L / 1.0	- /			
						MCFADDAN, MATTHEW D.	A36-00050A /	- /			
						FLINT, WILLIAM E.	A36-00112A / 12.0	36-00112A / 13.0			
						FLINT, WILLIAM E.	A36-00111A / 2.0	- /			
						DILATUSH, E. W.		36-00039A / 14.0			
						DILATUSH, E. W.		36-00040 /			
						TROVILLO, D. C.		36-00110 /			
						TROVILLO, D. C.		36-00111 /			
						POPE, J. L.		36-00112B /			
TOTAL ACRES							A36-02169	5.50	16.00	76.00	

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4.5

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A36-02169	07S	13E	12		SE	NW		GOODING
A36-02169	07S	13E	12		NE	SW		GOODING

OTHER AJ CLAIMS WITH SAME AJ POD
A PREFIX R PREFIX
A36-08294 NONE
A36-10047

WR RECORDS IN SAME 40 ACRE TRACT

36-00049
36-00050
36-00092
36-00093
36-08294
36-08353

Re-diversion?

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SOURCE: SPRING

TRIB: BILLINGSLEY CREEK

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
36-02169	07S	13E	12		SE	NW		GOODING

OTHER WR RECORDS WITH SAME WR POD

AJ CLAIMS IN SAME 40 ACRE TRACT
A PREFIX R PREFIX

36-00049
36-00050
36-00092
36-00093
36-08294

A36-08294 NONE
A36-10047
A36-10208
A36-00049
A36-00050A
A36-00050B
A36-00092

SOURCE: SPRING

TRIB: BILLINGSLEY CREEK

C. FIELD EXAM REQUIRED?

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

DATABASE
Y
N

FIELD EXAMINER
YES
N

~~7S. 13E. S. 12 NE NE SW~~

47

~~Florence Livestock Spring~~

~~BILLINGSLEY CREEK~~

~~by: SCC SCC~~

~~date: 7-31-90 12-28-90~~

RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD FROM TO	REC. DIV RATE CFS	REC. DIV VOL. AF/A	REC. CONS. USE
IRRIGATION	4-1 10-31	DATABASE 0.165 EXAMINER 0.14	DATABASE 18.0 EXAMINER 18.0	DATABASE 16.5 EXAMINER 13.5
DOMESTIC	03-15 11-15 01-01 12-31	0.040 0.04 0.205 0.16	N/A	

TOTAL FOR THIS RIGHT

REVIEWED BY:

DATE: 7-31-90

SCC
SCC
SCC 8-4-92

12-28-90

2-12-92

(Revised)
final Rev.

Lic. WR proportional rate: 0.16
8.0 ac. 0.02

allowed 0.03 cfs/ac
since less than
4.5 acres claimed
allowed

Fole " other to same Diversion "
limit cfs? No

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A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP _____
FORFEIT/ABANDON _____
ADDITIONAL DIV. AMOUNT _____

ACCEPTED
AS CLAIMED
(X)
()
()

NEEDS
REVIEW
(X)
(X)
()

New Owner: Dan/Irma McFadden
need change of ownership (OK)

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-02169

TOTAL DIVERSION RATE OF WR SPLITS

DATABASE
0.160

EXAMINER

CFS

SPLITS:

OLD RIGHT
NUMBERS

CURRENT
CLAIM NUMBERS

DIVERSION
RATE

CURRENT "R"
CLAIM NUM.

"R" DIV.
RATE

WR RIGHT
NUMBERS

DIVERSION
RATE

-

A36-02169

0.205

-

0.16

36-02169

0.160

TOTAL CFS

0.205

0.16

0.160

DIVERSION RATE REVIEW

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

DATABASE
N

FIELD
EXAMINER

OK

NONE

REMARKS:

AUTHENTICATION:

SIGNATURE:

James Callahan

DATE:

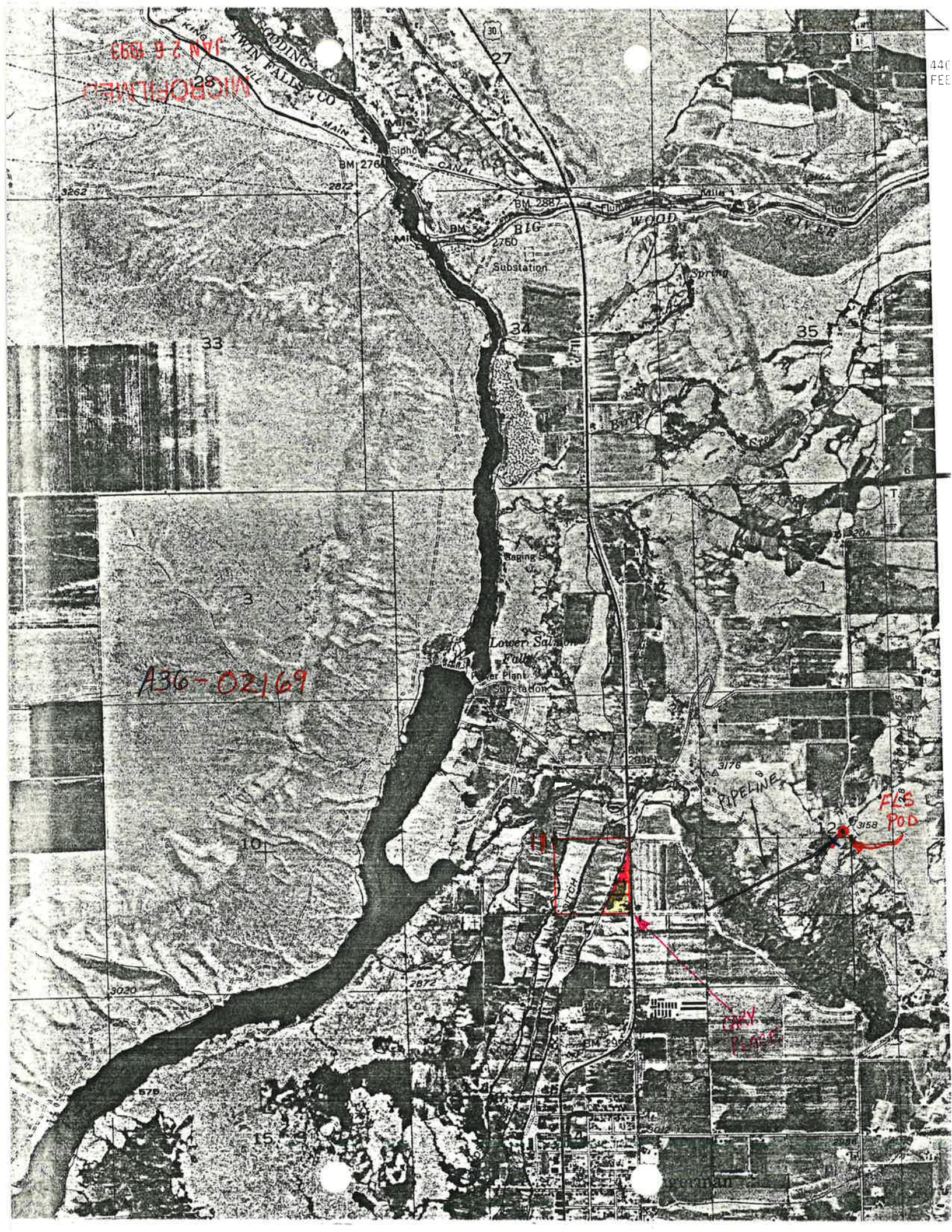
12-28-90

NAME OF FIELD EXAMINER:

TITLE:

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JAN 26 1993



Florence Livestock Spring (FLS)

Res. Mr. Dan McFadden (7-26-90)

originally appurtenant to Chicker Farm, & McFadden
— need to see ~~tracts~~ ^{tracts} identified as decreed

The Cary place was originally from a spring
near the FLS and a separate pipeline
joined the main pipeline & carried it over to POC
approx. 9 years ago, the ~~small~~ ^{of MAIN PIPELINE} pipeline ~~disse~~
fell apart and they never replaced the
small line — i.e. ^(THE MAIN DIVERSION LINE WAS REPLACED) source transferred for the
Cary property to the FLS.

==

STEVE CLELLAND
HELEN HARRINGTON

MICROFILMED

JAN 26 1993