

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: A36-02194
Date Received: 1/18/1989
Receipt No: 5007363
Received By: ADM

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ACEQUIA INC. 208-726-8474
Address: P.O. DRAWER 226
SUN VALLEY, ID 83353

2. Date of Priority: FEB 25, 1953

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
06S	23E	34	SE	SW	NW		MINIDOKA

5. Description of diverting works:
WELL & PUMP

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	3.180		

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

8. Total consumptive use is 720.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
06S	23E	34	SW	NW		IRR	40.0
			SE	NW		IRR	40.0
			NE	SW		IRR	40.0

A36-02194

Page 1

Date: 05/26/89

MICROFILMED
OCT 13 1994

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
06S	23E	34	NW	SW		IRR	40.0
			SW	SW		IRR	40.0
			SE	SW		IRR	40.0
						Section Acres	240.0
						Total Acres	240.0

11. Place of use in counties: MINIDOKA

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

13. Other Water Rights Used:
NONE

14. Remarks:
P/D LOCATED AT CENTER OF W 1/2 OF SEC.34.
THIS WATER RIGHT IS NOT PRESENTLY BEING USED AND AN EXTENSION
TO AVOID FORFEITURE HAS BEEN APPROVED WHEREBY THE USE MUST
RESUME BY NOVEMBER 1, 1992.

15. Basis of Claim: LICENSE
Water Right Number: 23809

16. Signature(s)

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

Number of attachments: 1

For Organizations:

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

Foreman Galey
Signature of Authorized Agent

president Arceutha Inc.
Title and Organization

5/26/89
Date

State of Idaho)
County of Thir Falls) SS.

Subscribed and sworn (or affirmed) before me this 26th day
of May 19 89

Del D Monti
Notary Public

Seal

Residing at Kimberly, ID
My Commission Expires 6/30/94

TATES
THE INTERIOR
SURVEY

POOR ORIGINAL

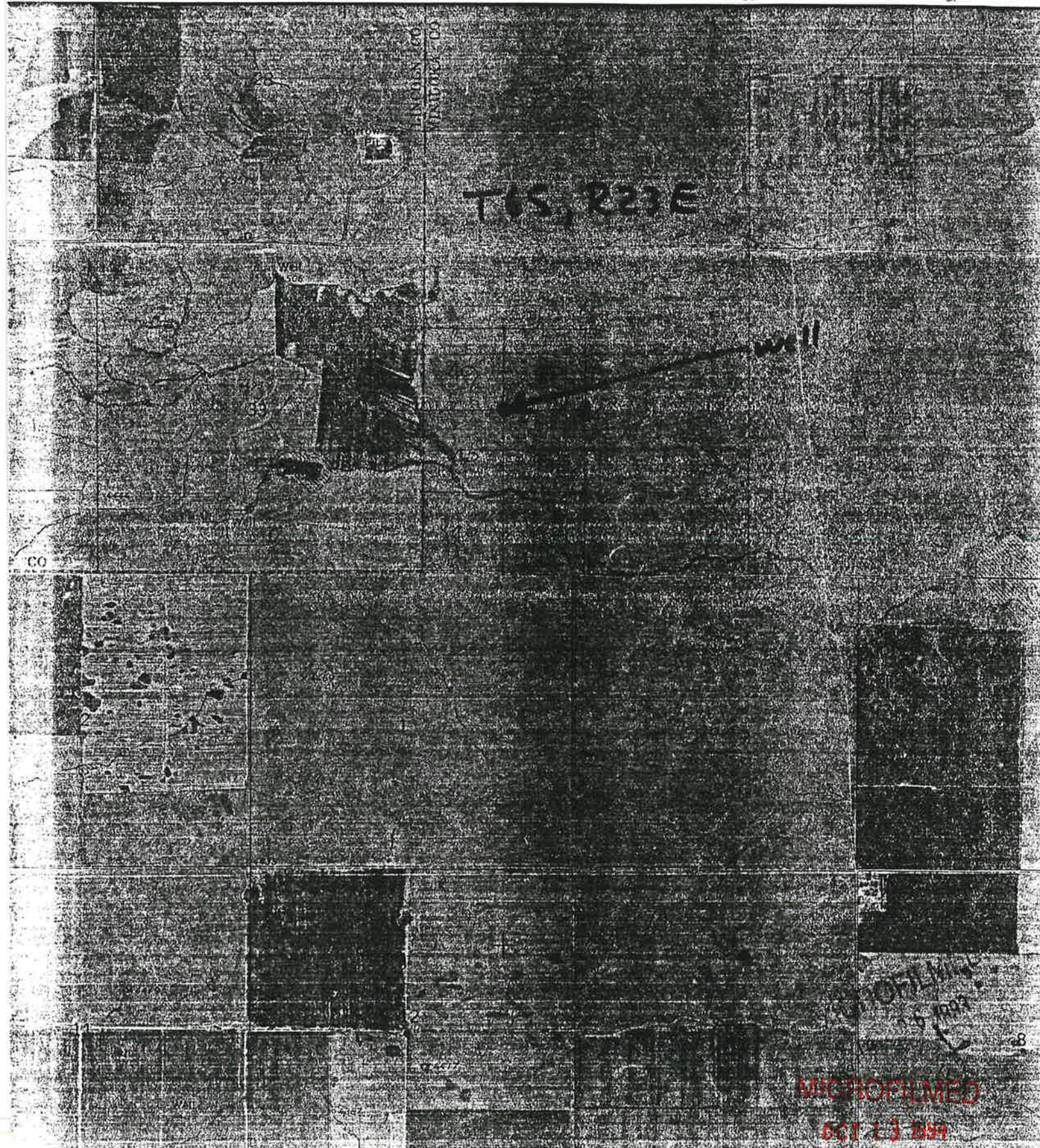
277

278

42' 30" 279

280

281





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

09-Oct-1992

James P. Speck
PO Box 987
Ketchum, ID 83340

*see # A36-02121 for
Original Powers of Attorney*

RE: Confirmation of Response to Notice of Error and Change of Address
for Acequia Inc. & Estate of Rosemary Haley SRBA Claims.

Dear Mr. Speck:

This letter is intended to confirm my responses to your Notices of Error discussed in our October 7th meeting with Miles Clinton at my office.

Regarding your general concern about the season of use, the proposed recommendations are 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. Additionally, 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 a conditioned irrigation use outside the general irrigation season.

Regarding your general concern about the language in the recommendations which talks about "right includes a change in point of diversion", the Department includes such language in rights where the proposed legal description for the point of diversion is different than the legal description of the base water right. This situation may exist if there has been a physical change in the point of diversion or if it has been determined that the base water right location was incorrect even if there has been no physical change in the point of diversion.

Regarding your concerns about disallowal of several of the rights, these rights were recommended for disallow because generally it was determined by field examination and information gathered from the ASCS that there was a period of 5 years of non-use for these rights or that the acres claimed irrigated consisted of lava out crops that have never been farmed.

I confirm that based on your change of ownership letter and the power of attorney documents submitted we have changed the address of Acequia Inc. and have added you as attorney for all claims in the name of Acequia Inc. Additionally we have changed the name of the Rosemary Haley claims to that of the Estate of Rosemary Haley and have changed

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: **A36-02194**
Date Received: 5/26/1989
Receipt No: S007363
Received By: _____

address change & NOA
R

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

1. Name: ACEQUIA INC 208-726-8474
Address: PO BOX 1678
KETCHUM ID 83340

2. Date of Priority: FEB 25, 1953

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
06S	23E	34	SE	SW	NW		MINIDOKA

5. Description of diverting works:
WELL & PUMP

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	3.180		

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

8. Total consumptive use is 720.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
06S	23E	34	SW	NW		IRR	40.0
			SE	NW		IRR	40.0
			NE	SW		IRR	40.0
			NW	SW		IRR	40.0
			SW	SW		IRR	40.0

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JAN 26 1993

~~10/08/92~~
~~OCT 13 1994~~

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
06S	23E	34	SE	SW		IRR	40.0

Section Acres 240.0

Total Acres 240.0

11. Place of use in counties: MINIDOKA

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

13. Other Water Rights Used:
NONE

14. Remarks:

P/D LOCATED AT CENTER OF W 1/2 OF SEC.34.
THIS WATER RIGHT IS NOT PRESENTLY BEING USED AND AN EXTENSION
TO AVOID FORFEITURE HAS BEEN APPROVED WHEREBY THE USE MUST
RESUME BY NOVEMBER 1, 1992.

15. Basis of Claim: LICENSE

Water Right Number: 23809

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: _____

MICROFILMED
JAN 20 1993

State of Idaho)
) SS.
County of _____)

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

Notary Public

Seal

Residing at _____

My Commission Expires _____

SD-0601-2 Last Name: ACEQUIA

STATE

S E L	First Name	O W N	Water Right No.	Priority Date	Source	Total Diversion	Use Code Desc

ACEQUIA INC							
A		C	A36-02193	02/25/1953	GROUNDWATER	4.260	01 IRR
A		C	A36-02194	02/25/1953	GROUNDWATER	3.180	01 IRR
A		C	A36-02195A	02/25/1953	GROUNDWATER	3.613	01 IRR
A		C	A36-02197	02/25/1953	GROUNDWATER	5.700	01 IRR
A		C	A36-02198	02/25/1953	GROUNDWATER	5.080	01 IRR
A		C	A36-02199	02/25/1953	GROUNDWATER	3.650	01 IRR
A		C	A36-02200	02/25/1953	GROUNDWATER	8.460	01 IRR
A		C	A36-11048	09/01/1954	GROUNDWATER	0.150	43 DOMEST 10 COMMER 04 STOCK
A		C	A36-11288	05/01/1983	GROUNDWATER	0.540	01 IRR
A		C	A36-11290	05/01/1983	GROUNDWATER	0.100	01 IRR
A		C	A36-11339	02/25/1953	GROUNDWATER	1.600	01 IRR
A		C	A36-02191	02/25/1953	GROUNDWATER	2.560	01 IRR
A		C	R36-07182	06/29/1971	GROUNDWATER	0.150	01 IRR

(Enter=Continue)

(GOLD7=This Query)

(Menu _____)

MICROFILMED
JAN 26 1993

Page 2
Oct 9, 1992

the address to that of Acequia Inc. and have also added you as attorney for all claims in the name of Rosemary Haley.

After our meeting and review of the files the following additional changes were made to the proposed recommendations:

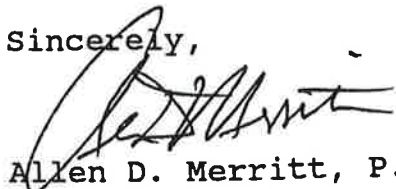
36-02127 None 36-07850A None
36-02195A None 36-11340 None
36-02130A None 36-07041 None
36-02191 None 36-08106A None
36-02192 None 36-02193 None
36-11290 None 36-11288 None
36-02121 None 36-02194 None

36-02129 Reference to point of diversion change deleted.
36-07403 Reference to point of diversion change deleted.

36-07192 Disallowed since acres originally recommended covered under
36-02122.
36-02122 Deleted reference to 36-07192 in remarks.
36-02124 Deleted reference to 36-07192 in remarks.
36-02190 Deleted reference to 36-07192 in remarks.
36-07193 Deleted reference to 36-07192 in remarks.
36-02123 Deleted reference to 36-07192 in remarks.

If you still disagree with IDWR's recommendations, you will have the opportunity to file an objection to the Director's Report with the court. If you have further questions please feel free to contact our office.

Sincerely,



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

MICROFILMED
JAN 26 1993

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION
ATTORNEYS

TERRY G. HOGUE
JAMES P. SPECK
DOUGLAS J. AANESTAD
J. STEPHEN CRABTREE
TRACY DUNLAP

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340
(208) 726-4421
FAX (208) 726-0752

HAILEY OFFICE:
16 WEST CROY STREET
SUITE K
POST OFFICE BOX 460
HAILEY, IDAHO 83333
(208) 788-3567
FAX (208) 788-4230

September 24, 1992

RECEIVED

CERTIFIED MAIL P 059 723 341
RETURN RECEIPT REQUESTED

OCT 01 1992

RECEIVED

SEP 25 1992

Mr. Dave Shaw
Idaho Department of Water Resources
Statehouse Mail
Boise, Idaho 83720-9000

Department of Water Resources
Statehouse Office

Department of Water Resources

Re: Acequia, Inc. - Estate of Rosemary Haley

Dear Dave:

Enclosed you will find Notices of Error for certain water rights claimed by Acequia, Inc. and the Estate of Rosemary Haley in the Snake River Basin Adjudication. I have also enclosed copies of the Special Powers of Attorney whereby Acequia, Inc. and the Estate of Rosemary Haley have designated me their attorney-in-fact to act in these matters. Please note that the address used by Acequia, Inc. in filing its claims should no longer be used. Instead, the corporation's new address is designated on the Notices of Error (P.O. Box 1678, Ketchum, Idaho 83340).

The period of use for all of my client's irrigation water rights has been changed from the traditional period of March 15 through November 15 to April 1 through October 31. Is this same change being made for every irrigation right in Basin 36? If so, why?

As I mentioned, Ms. Haley passed away in February, 1992 and her records are somewhat in a state of disarray. I have not yet been able to locate her copies of the claims filed in the Adjudication nor any notes or records on the claims based upon beneficial use. I know she worked closely with Gary Funderberg in the Southern Region on many of the water rights matters for Acequia, Inc. I would like to arrange a meeting with an appropriate representative of the Department to discuss the Notices of Error and hopefully resolve many of the questions before the Department must file the Basin 36 Report - I understand this deadline to be November 1, 1992.

MICROFILMED
JAN 20 1993

Mr. Dave Shaw
September 24, 1992
Page 2

I look forward to hearing from you. Thank you.

Sincerely yours,

HOGUE, SPECK & AANESTAD

Jms
James P. Speck

JPS\dmk
Enclosures
cc: Dr. Mike Haley (w/o encls.)

MICROFILMED
JAN 20 1993

DIRECTOR'S REPORT CONVERSATION MEMO

1. PERSON(S) MAKING THE ENQUIRY:

Include address and phone no.
in case follow-up is needed.

Helen Thornton
S.O.
1-4-93

2. SUBJECT OF INQUIRY:

req for copies.

3. RESPONSE TO INQUIRY:

I Faxed the orig ASCS Aerial photo
from this file for her & Glen Saffon's review.

4. IDWR STAFF AND DATE:

Print name and initial

WATER RIGHT CLAIM (Nos.):

Kelly K. Christensen
36-2194

MICROFILMED
Jan 10 1994

District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls, ID 83303-2707

Important Information About Your Water Right

December 3, 2001

Acequia Inc.
PO Box 226
Sun Valley, ID 83353

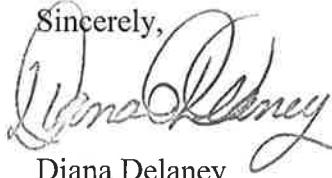
Dear Water Right Claimant(s):

The reverse side of this letter contains a copy of an ***Order Amending Irrigation Period of Use Element in Partial Decree, Nunc Pro Tunc*** (hereinafter "***Order***") for water right number 36-02194. According to Idaho Department of Water Resources (IDWR) records, you are the current owner of this water right. If you are not the current owner, please contact IDWR immediately at:

Idaho Department of Water Resources
1301 North Orchard
Boise, ID 83706
800-451-4129

The purpose of the ***Order*** is to set forth beginning and ending dates for the irrigation period of use for this water right. As stated in the face of the ***Order***, this action was necessary following the decision of the Idaho Supreme Court in *A&B Irrigation Dist. v. Idaho Conservation League*, 131 Idaho 411, 423, 958 P.2d 568, 580 (1998). This ***Order*** also incorporates into the ***Partial Decree*** an express statement that the ***Partial Decree*** is subject to such general provisions necessary for the definition or for the efficient administration of the water right. This express statement is necessary to comply with the requirements of Idaho Code section 42-1412(6). This ***Order***, in combination with the ***Partial Decree*** that was issued for this water right on October 20, 1997, sets forth all of the elements of your water right. The Snake River Basin Adjudication (SRBA) Court suggests that you keep this document in a safe location together with a copy of the ***Partial Decree*** to show evidence of this water right. The original of this ***Order*** and the original of the ***Partial Decree*** for this water right are on file with SRBA Court. If you do not have a copy of the original ***Partial Decree***, one can be obtained by contacting the SRBA Court at (208) 736-3011. Please note that the ***Order*** is entered ***Nunc Pro Tunc***, meaning that the ***Order*** will be treated as if it were issued on the same date that the ***Partial Decree*** was originally issued.

Sincerely,



Diana Delaney
Case Administrator

2001 DEC -3 PM 4: 31
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	)	Water Right 36-02194
	)	
	)	ORDER AMENDING IRRIGATION PERIOD OF USE
	)	ELEMENT IN PARTIAL DECREE and
Case No. 39576	)	INCORPORATING INTO PARTIAL DECREES AN
	)	EXPRESS STATEMENT REGARDING GENERAL
	)	PROVISIONS, <i>NUNC PRO TUNC</i>

A *Partial Decree* was entered for the above-captioned irrigation water right on October 20, 1997. The period of use element was decreed as "irrigation season." In *A&B Irrigation Dist. v. Idaho Conservation League*, 131 Idaho 411, 423, 958 P.2d 568, 580 (1998), the Idaho Supreme Court remanded with the directive to include specific dates for the period of use element. Following remand, on June 24, 1999, IDWR filed a *Supplemental Director's Report, Reporting Area 3, IDWR Basin 36, Regarding Revision of Period of Use (For Irrigation Water Uses) and Conjunctive Management General Provisions*, which included an irrigation period of use recommendation for this water right. No objections were filed to this *Supplemental Director's Report*

THEREFORE, IT IS ORDERED that the period of use element for the irrigation portion of the above-captioned water right is hereby amended and decreed as:

PERIOD OF USE: 03-15 to 11-15

IT IS FURTHER ORDERED that the *Partial Decree* for the above-captioned water right is hereby amended and decreed to contain the following:

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 a point in time no later than the entry of a final unified decree. I.C. section 42-1412(6).

This order is being entered *nunc pro tunc* as of the date the ***Partial Decree*** was issued and is not intended to modify subsequent administrative changes for the water right, if any, which occurred following entry of the ***Partial Decree***.

RULE 54(b) CERTIFICATE

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

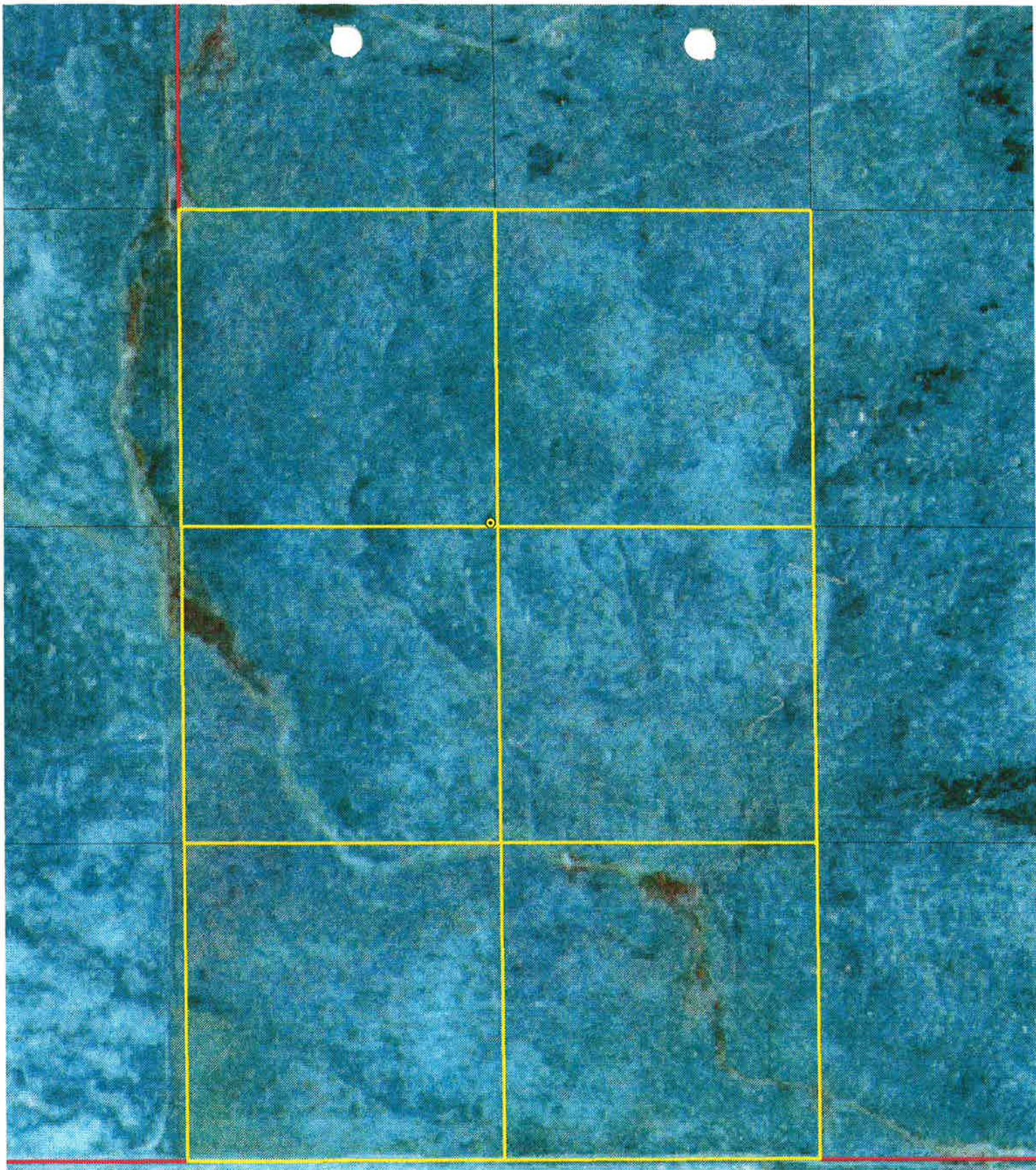
Dated December 3, 2001.



ROGER BURDICK

Presiding Judge

Snake River Basin Adjudication



36-02194

↑
NORTH

8/5/97 su

NO. OF CLAIMS IN POLYGON 1
 CLAIM NUMBERS 36-02194
 DATE 7/22/97
 AGENT SC
 TRANSFER NUMBER _____
 OBJECTION FILED yes
 TOTAL ACRES FROM RECOMMENDATION Ø
 GEOGRAPHIC INFO SYSTEM Ø

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																			
GIS																			
CLAIM	65	23E	34							40	40	40	40	40	40				240
RECOM																			
GIS																			
RECOM																			
GIS																			
RECOM																			
GIS																			
RECOM																			
GIS																			

UPDATED

B36-DBPOU.DBF _____
 B36-DBPOD.DBF _____

POLYGON # 579 UPDATED 7/22/97 (SC 10/15/97)
 ATTRIBUTES OF B36-POU.SHP (210)
 ATTRIBUTES OF B36-POD.SHP (222) 7/22/97 SC

No irrigation found - appears same as unirrigated desert.
 POD is located based on R-Record location: SESWN.
 * GIS lists a total for this parcel as 239 AC.
 Extension to Abio Prefecture was filed - valid until November 1992

* Right recommended as perfect.

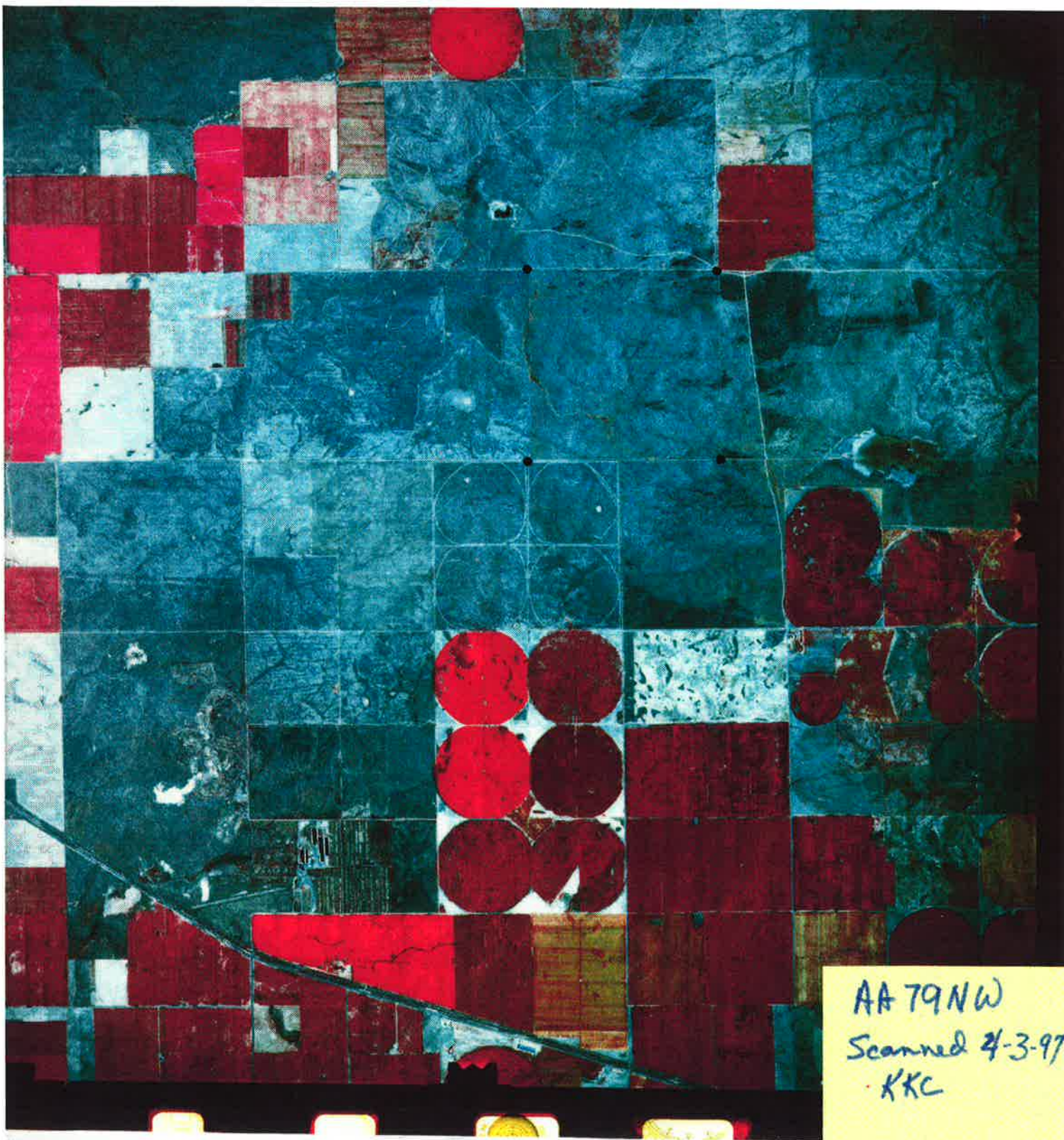
P/U CONFLICT yes (X) no ()

P/D CONFLICT yes (X) no ()

SENT FOR DECREE yes (X) no ()

DECREED: 10/20/97





AA 79NW
Scanned 4-3-97
KKE

Photo taken 7/15/87
NAPP

Post-It™ brand fax transmittal memo 7671		# of pages ▶ 4
To	Nick Spencer	From Allen Hewitt
Co.		Co.
Dept.		Phone #
Fax #		Fax #

To	Nick Spencer	From	Allen Hewitt
Co.		Co.	
Dept.		Phone #	
Fax #		Fax #	

10400 DEPARTMENT OF WATER RESOURCES
REMOTE SENSING REPORT OF IRRIGATED ACRES

HP0201M
(OD-15)

TRACT	LAT	TWR ACRES
-------	-----	--------------

NIHAP
9/84

MP0201ND
(00-15)

1	0.0
2	0.2
3	0.2
4	0.2

SE	NE	0.0
SE	NE	0.0
NE	SE	0.0

1000

1	0.0
2	0.0
3	0.0

THE UNIVERSITY OF CHICAGO

क

THP: 065 ENG: 29E SEC: 1
1
2

[illegible]

DATE: 10/12/09
PAGE: 13

HPB201N
(08-15)

TRACT	LOT	TAR ACRES
-------	-----	--------------

TRACT	LOT	SQ. FT.	ACRES
1	1	100	0.0023
2	2	200	0.0046
3	3	300	0.0069
4	4	400	0.0092
5	5	500	0.0115
6	6	600	0.0138
7	7	700	0.0161
8	8	800	0.0184
9	9	900	0.0207
10	10	1000	0.0230
11	11	1100	0.0253
12	12	1200	0.0276
13	13	1300	0.0299
14	14	1400	0.0322
15	15	1500	0.0345
16	16	1600	0.0368
17	17	1700	0.0391
18	18	1800	0.0414
19	19	1900	0.0437
20	20	2000	0.0460
21	21	2100	0.0483
22	22	2200	0.0506
23	23	2300	0.0529
24	24	2400	0.0552
25	25	2500	0.0575
26	26	2600	0.0598
27	27	2700	0.0621
28	28	2800	0.0644
29	29	2900	0.0667
30	30	3000	0.0690
31	31	3100	0.0713
32	32	3200	0.0736
33	33	3300	0.0759
34	34	3400	0.0782
35	35	3500	0.0805
36	36	3600	0.0828
37	37	3700	0.0851
38	38	3800	0.0874
39	39	3900	0.0897
40	40	4000	0.0920
41	41	4100	0.0943
42	42	4200	0.0966
43	43	4300	0.0989
44	44	4400	0.1012
45	45	4500	0.1035
46	46	4600	0.1058
47	47	4700	0.1081
48	48	4800	0.1104
49	49	4900	0.1127
50	50	5000	0.1150
51	51	5100	0.1173
52	52	5200	0.1196
53	53	5300	0.1219
54	54	5400	0.1242
55	55	5500	0.1265
56	56	5600	0.1288
57	57	5700	0.1311
58	58	5800	0.1334
59	59	5900	0.1357
60	60	6000	0.1380
61	61	6100	0.1403
62	62	6200	0.1426
63	63	6300	0.1449
64	64	6400	0.1472
65	65	6500	0.1495
66	66	6600	0.1518
67	67	6700	0.1541
68	68	6800	0.1564
69	69	6900	0.1587
70	70	7000	0.1610
71	71	7100	0.1633
72	72	7200	0.1656
73	73	7300	0.1679
74	74	7400	0.1702
75	75	7500	0.1725
76	76	7600	0.1748
77	77	7700	0.1771
78	78	7800	0.1794
79	79	7900	0.1817
80	80	8000	0.1840
81	81	8100	0.1863
82	82	8200	0.1886
83	83	8300	0.1909
84	84	8400	0.1932
85	85	8500	0.1955
86	86	8600	0.1978
87	87	8700	0.2001
88	88	8800	0.2024
89	89	8900	0.2047
90	90	9000	0.2070
91	91		

2007

TIME	IN	OUT	SEC
0.0	0.0	0.0	0.0
0.1	0.1	0.1	0.1
0.2	0.2	0.2	0.2
0.3	0.3	0.3	0.3
0.4	0.4	0.4	0.4
0.5	0.5	0.5	0.5
0.6	0.6	0.6	0.6
0.7	0.7	0.7	0.7
0.8	0.8	0.8	0.8
0.9	0.9	0.9	0.9
1.0	1.0	1.0	1.0
1.1	1.1	1.1	1.1
1.2	1.2	1.2	1.2
1.3	1.3	1.3	1.3
1.4	1.4	1.4	1.4
1.5	1.5	1.5	1.5
1.6	1.6	1.6	1.6
1.7	1.7	1.7	1.7
1.8	1.8	1.8	1.8
1.9	1.9	1.9	1.9
2.0	2.0	2.0	2.0
2.1	2.1	2.1	2.1
2.2	2.2	2.2	2.2
2.3	2.3	2.3	2.3
2.4	2.4	2.4	2.4
2.5	2.5	2.5	2.5
2.6	2.6	2.6	2.6
2.7	2.7	2.7	2.7
2.8	2.8	2.8	2.8
2.9	2.9	2.9	2.9
3.0	3.0	3.0	3.0
3.1	3.1	3.1	3.1
3.2	3.2	3.2	3.2
3.3	3.3	3.3	3.3
3.4	3.4	3.4	3.4
3.5	3.5	3.5	3.5
3.6	3.6	3.6	3.6
3.7	3.7	3.7	3.7
3.8	3.8	3.8	3.8
3.9	3.9	3.9	3.9
4.0	4.0	4.0	4.0
4.1	4.1	4.1	4.1
4.2	4.2	4.2	4.2
4.3	4.3	4.3	4.3
4.4	4.4	4.4	4.4
4.5	4.5	4.5	4.5
4.6	4.6	4.6	4.6
4.7	4.7	4.7	4.7
4.8	4.8	4.8	4.8
4.9	4.9	4.9	4.9
5.0	5.0	5.0	5.0
5.1	5.1	5.1	5.1
5.2	5.2	5.2	5.2
5.3	5.3	5.3	5.3
5.4	5.4	5.4	5.4
5.5	5.5	5.5	5.5
5.6	5.6	5.6	5.6
5.7	5.7	5.7	5.7
5.8	5.8	5.8	5.8
5.9	5.9	5.9	5.9
6.0	6.0	6.0	6.0
6.1	6.1	6.1	6.1
6.2	6.2	6.2	6.2
6.3	6.3	6.3	6.3
6.4	6.4	6.4	6.4
6.5	6.5	6.5	6.5
6.6	6.6	6.6	6.6
6.7	6.7	6.7	6.7
6.8	6.8	6.8	6.8
6.9	6.9	6.9	6.9
7.0	7.0	7.0	7.0
7.1	7.1	7.1	7.1
7.2	7.2	7.2	7.2
7.3	7.3	7.3	7.3
7.4	7.4	7.4	7.4
7.5	7.5	7.5	7.5
7.6	7.6	7.6	7.6
7.7	7.7	7.7	7.7
7.8	7.8	7.8	7.8
7.9	7.9	7.9	7.9
8.0	8.0	8.0	8.0
8.1	8.1	8.1	8.1
8.2	8.2	8.2	8.2
8.3	8.3	8.3	8.3
8.4	8.4	8.4	8.4
8.5	8.5	8.5	8.5
8.6	8.6	8.6	8.6
8.7	8.7	8.7	8.7
8.8	8.8	8.8	8.8
8.9	8.9	8.9	8.9
9.0	9.0	9.0	9.0
9.1	9.1	9.1	9.1
9.2	9.2	9.2	9.2
9.3	9.3	9.3	9.3

5	0.0
6	0.0
7	0.0

10	0.0
11	0.0
12	0.0
13	0.0

SE	NE	0.0
NE	SE	0.0
NW	SE	0.0

AA28C	09/87-	AA28D	00/87-
AA28C	09/87-	AA28D	00/87-
AA28C	09/87-	AA28D	00/87-
AA28C	09/87-	AA28D	00/87-

DATE: 10/12/89
PAGE: 7

[illegible]

DATE: 10/12/89
PAGE: 8

[illegible][illegible]

62

DATE: 10/12/85
PAGE: 22

IDAHO DEPARTMENT OF WATER RESOURCES
REMOTE SENSING REPORT OF IRRIGATED ACRES

TRACT		LOT	TOR ACRES	QUAD MAP INDICES		NAPP PHOTO	NAPP DATE & STATUS	NAPP PHOTO	NAPP DATES & STATUSES
TWP: 06S RNG: 2NE SECT: 25									
NE	NE		0.0	AA-17	AA-18	AA32	AA33	AA-17C	00-07-
SW	SW		0.0	AA-17	AA-18	AA32	AA33	AA-17C	00-07-
SE	SE		0.0	AA-17	AA-18	AA32	AA33	AA-17C	00-07-
NE	NE		0.0	AA-17	AA-18	AA32	AA33	AA-17C	00-07-
SW	SW		0.0	AA-17	AA-18	AA32	AA33	AA-17C	00-07-
SE	SE		0.0	AA-17	AA-18	AA32	AA33	AA-17C	00-07-
TWP: 06S RNG: 2NE SECT: 26									
NE	NE		0.0	AA-17	AA-18	AA32	AA33	AA-17C	00-07-
SW	SW		0.0	AA-17	AA-18	AA32	AA33	AA-17C	00-07-
SE	SE		0.0	AA33	AA32	AA33A	AA33B	AA-17C	00-07-
NE	NE		0.0	AA33	AA32	AA33A	AA33B	AA-17C	00-07-
SW	SW		0.0	AA-17	AA-18	AA32	AA33	AA-17C	00-07-
SE	SE		0.0	AA-17	AA-18	AA32	AA33	AA-17C	00-07-
NE	NE		0.0	AA33	AA32	AA33A	AA33B	AA-17C	00-07-
SW	SW		0.0	AA33	AA32	AA33A	AA33B	AA-17C	00-07-
SE	SE		0.0	AA33	AA32	AA33A	AA33B	AA-17C	00-07-
NE	NE		0.0	AA33	AA32	AA33A	AA33B	AA-17C	00-07-
SW	SW		0.0	AA33	AA32	AA33A	AA33B	AA-17C	00-07-
SE	SE		0.0	AA33	AA32	AA33A	AA33B	AA-17C	00-07-
TWP: 06S RNG: 2NE SECT: 27									
NE	NE		0.0	AA-17	AA-18	AA32	AA33	AA-17C	00-07-
SW	SW		0.0	AA-17	AA-18	AA32	AA33	AA-17C	00-07-
SE	SE		0.0	AA33	AA32	AA33A	AA33B	AA-17C	00-07-
NE	NE		0.0	AA33	AA32	AA33A	AA33B	AA-17C	00-07-
SW	SW		0.0	AA-17	AA-18	AA32	AA33	AA-17C	00-07-
SE	SE		0.0	AA-17	AA-18	AA32	AA33	AA-17C	00-07-
NE	NE		0.0	AA33	AA32	AA33A	AA33B	AA-17C	00-07-
SW	SW		0.0	AA33	AA32	AA33A	AA33B	AA-17C	00-07-
SE	SE		0.0	AA33	AA32	AA33A	AA33B	AA-17C	00-07-

NHAP Date
9/83

IN 2

DATE: 10/12/89
PAGE: 23

IDAHO DEPARTMENT OF WATER RESOURCES
REMOTE SENSING REPORT OF IRRIGATED ACRES

[illegible]

HPG20116
(00-15)

QTY: 67 TWP: 665 ENG:

TRACT	LOT	TBR	ACRES	D
NE NE		0.0	0.0	0.0
NE NE		0.0	0.0	0.0
SW NE		0.0	0.0	0.0
SE NE		0.0	0.0	0.0
NE SE		0.0	0.0	0.0
NE SE		0.0	0.0	0.0
SW SE		0.0	0.0	0.0
SE SE		0.0	0.0	0.0

```

TAP: 045      RING: ZSE      SECT: 31
      1      0.0      AR3:
      2      0.0      AR3:
      3      0.0      AR3:
      4      0.0      AR3:
      5      0.0      AR3:
      6      0.0      AR3:
      7      0.0      AR3:
      8      0.0      AR3:
      9      0.0      AR3:
     10      0.0      AR3:
     11      0.0      AR3:
     12      0.0      AR3:
NE NE      0.0      AR3:
NW NE      0.0      AR3:
SW NE      0.0      AR3:
NE SE      0.0      AR3:
NW SE      0.0      AR3:
SW SE      0.0      AR3:

```

TMP:	B6S	ENG:	ZSE	SECT:	32
	NE	NE	0.0	RA3	
	NI	NE	0.0	RA3	
	SH	NE	0.0	RA3	
	SE	NE	0.0	RA3	
	NI	NI	0.0	RA3	
	SH	NI	0.0	RA3	
	SE	NI	0.0	RA3	
	NI	SH	0.0	RA3	
	SH	SH	0.0	RA3	
	SE	SH	0.0	RA3	
	NI	SE	0.0	RA3	
	SH	SE	0.0	RA3	
	SE	SE	0.0	RA3	

TWP: 86S R14G: 29E SECT: 33

MP0201NP
(00-15) CNTY: 67 TWP: 065 RN:

TRACT	LOT	100 ACRES	AF
ME	ME	0.0	AF
MI	ME	0.0	AF
SH	ME	0.0	AF
SE	ME	0.0	AF
ME	MI	0.0	AF
MI	MI	0.0	AF
SH	MI	0.0	AF
SE	MI	0.0	AF
ME	SH	0.0	AF
MI	SH	0.0	AF
SE	SH	0.0	AF
ME	SE	0.0	AF
MI	SE	0.0	AF
SH	SE	0.0	AF
SE	SE	0.0	AF
ME	ME	0.0	AF
MI	ME	0.0	AF
SH	ME	0.0	AF
SE	ME	0.0	AF
ME	MI	0.0	AF
MI	MI	0.0	AF
SH	MI	0.0	AF
SE	MI	0.0	AF
ME	SH	0.0	AF
MI	SH	0.0	AF
SH	SH	0.0	AF
SE	SH	0.0	AF
ME	SE	0.0	AF
MI	SE	0.0	AF
SH	SE	0.0	AF
SE	SE	0.0	AF
ME	ME	0.0	AF
MI	ME	0.0	AF
SH	ME	0.0	AF
SE	ME	0.0	AF
ME	MI	0.0	AF
MI	MI	0.0	AF
SH	MI	0.0	AF
SE	MI	0.0	AF
ME	SH	0.0	AF
MI	SH	0.0	AF
SH	SH	0.0	AF
SE	SH	0.0	AF
ME	SE	0.0	AF
MI	SE	0.0	AF
SH	SE	0.0	AF
SE	SE	0.0	AF
ME	ME	0.0	AF
MI	ME	0.0	AF
SH	ME	0.0	AF
SE	ME	0.0	AF
ME	MI	0.0	AF
MI	MI	0.0	AF
SH	MI	0.0	AF
SE	MI	0.0	AF
ME	SH	0.0	AF
MI	SH	0.0	AF
SH	SH	0.0	AF
SE	SH	0.0	AF
ME	SE	0.0	AF
MI	SE	0.0	AF
SH	SE	0.0	AF
SE	SE	0.0	AF
ME	ME	0.0	AF
MI	ME	0.0	AF
SH	ME	0.0	AF
SE	ME	0.0	AF
ME	MI	0.0	AF
MI	MI	0.0	AF
SH	MI	0.0	AF
SE	MI	0.0	AF
ME	SH	0.0	AF
MI	SH	0.0	AF
SH	SH	0.0	AF
SE	SH	0.0	AF
ME	SE	0.0	AF
MI	SE	0.0	AF
SH	SE	0.0	AF
SE	SE	0.0	AF
ME	ME	0.0	AF
MI	ME	0.0	AF
SH	ME	0.0	AF
SE	ME	0.0	AF
ME	MI	0.0	AF
MI	MI	0.0	AF
SH	MI	0.0	AF
SE	MI	0.0	AF
ME	SH	0.0	AF
MI	SH	0.0	AF
SH	SH	0.0	AF
SE	SH	0.0	AF
ME	SE	0.0	AF
MI	SE	0.0	AF
SH	SE	0.0	AF
SE	SE	0.0	AF
ME	ME	0.0	AF
MI	ME	0.0	AF
SH	ME	0.0	AF
SE	ME	0.0	AF
ME	MI	0.0	AF
MI	MI	0.0	AF
SH	MI	0.0	AF
SE	MI	0.0	AF
ME	SH	0.0	AF
MI	SH	0.0	AF
SH	SH	0.0	AF
SE	SH	0.0	AF
ME	SE	0.0	AF
MI	SE	0.0	AF
SH			

TIME	LOC	NO.	SEC.
1	ME	ME	0.0
2	ME	ME	0.0
3	SH	ME	0.0
4	SH	ME	0.0
5	ME	ME	0.0
6	ME	ME	0.0
7	SH	ME	0.0
8	ME	ME	0.0
9	SH	ME	0.0
10	ME	ME	0.0
11	SH	ME	0.0
12	ME	ME	0.0
13	SH	ME	0.0
14	ME	ME	0.0
15	SH	ME	0.0
16	ME	ME	0.0
17	SH	ME	0.0
18	ME	ME	0.0
19	SH	ME	0.0
20	ME	ME	0.0
21	SH	ME	0.0
22	ME	ME	0.0
23	SH	ME	0.0
24	ME	ME	0.0
25	SH	ME	0.0
26	ME	ME	0.0
27	SH	ME	0.0
28	ME	ME	0.0
29	SH	ME	0.0
30	ME	ME	0.0
31	SH	ME	0.0
32	ME	ME	0.0
33	SH	ME	0.0
34	ME	ME	0.0
35	SH	ME	0.0
36	ME	ME	0.0
37	SH	ME	0.0
38	ME	ME	0.0
39	SH	ME	0.0
40	ME	ME	0.0
41	SH	ME	0.0
42	ME	ME	0.0
43	SH	ME	0.0
44	ME	ME	0.0
45	SH	ME	0.0
46	ME	ME	0.0
47	SH	ME	0.0
48	ME	ME	0.0
49	SH	ME	0.0
50	ME	ME	0.0
51	SH	ME	0.0
52	ME	ME	0.0
53	SH	ME	0.0
54	ME	ME	0.0
55	SH	ME	0.0
56	ME	ME	0.0
57	SH	ME	0.0
58	ME	ME	0.0
59	SH	ME	0.0
60	ME	ME	0.0
61	SH	ME	0.0
62	ME	ME	0.0
63	SH	ME	0.0
64	ME	ME	0.0
65	SH	ME	0.0
66	ME	ME	0.0
67	SH	ME	0.0
68	ME	ME	0.0
69	SH	ME	0.0
70	ME	ME	0.0
71	SH	ME	0.0
72	ME	ME	0.0
73	SH	ME	0.0
74	ME	ME	0.0
75	SH	ME	0.0
76	ME	ME	0.0
77	SH	ME	0.0
78	ME	ME	0.0
79	SH	ME	0.0
80	ME	ME	0.0
81	SH	ME	0.0
82	ME	ME	0.0
83	SH	ME	0.0
84	ME	ME	0.0
85	SH	ME	0.0
86	ME	ME	0.0
87	SH	ME	0.0
88	ME	ME	0.0
89	SH	ME	0.0
90	ME	ME	0.0
91	SH	ME	0.0
92	ME	ME	0.0
93	SH	ME	0.0
94	ME	ME	0.0
95	SH	ME	0.0
96	ME	ME	0.0
97	SH	ME	0.0
98	ME	ME	0.0
99	SH	ME	0.0
100	ME	ME	0.0



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
GOVERNORR. KEITH HIGGINSON
DIRECTOR

TRANSMITTAL COVER SHEET

FAX NUMBER: (208) 327-7866

RECEIVED

MAR 22 1995

Department of Water Resources
Southern Region

DATE: 3-22-95

TO: ALLEN MERRITT
@ SOUTHERN

FROM: NICK SPENCER

DOCUMENT DESCRIPTION: DISCOVERY RESPONSES

COVER SHEET + 32 PAGES

CONTACT: IF YOU DO NOT RECEIVE ALL THE PAGES

ALLEN, PLEASE LOOK THESE OVER AND CALL ME BACK WITH CHANGES, CONCERNS, ETC. I'M STILL WAITING FOR GARY FUNDERBURG TO CALL ME BACK SO I CAN FILL IN A COUPLE OF HOLES. I NEED TO MAIL THESE TO JIM SPECK. LATE THIS AFTERNOON.

THANKS,

NBS

MICROFILMED
DEC 03 1996

answers and responds to Claimant's First Set of Interrogatories and Request for Production of Documents to Idaho Department of Water Resources ("discovery requests"), regarding subcase no. 36-02121 and subcase no. 36-02194 served upon it by legal counsel for claimant/objector Acequia, Inc. ("claimant") on February 17, 1995.

OBJECTION TO SUPPLEMENTATION

IDWR objects to the language contained in the boldface paragraph immediately preceding Interrogatory No. 1 on page 7 of the discovery requests to the extent that it may be construed as attempting to impose a duty to supplement broader in scope than that provided for by Rule 26(e), Idaho Rules of Civil Procedure. Neither does IDWR agree to a broader duty to supplement than is provided for by Rule 26(e). However, IDWR will fully and timely supplement these discovery requests to the full extent required by Rule 26(e).

Answers to Interrogatories

INTERROGATORY NO. 1: Please identify the person responding to these Interrogatories, including in the answer the position held within IDWR and business telephone number.

IDWR ANSWER: The person responding to these interrogatories is David B. Shaw, Adjudication Bureau Chief, telephone (208) 327-7900. The person who prepared the interrogatory answers is Nicholas B. Spencer, Deputy Attorney General, telephone (208) 327-7920. Information used in preparing the interrogatory answers was provided by various IDWR employees who are identified in the

individual interrogatory answers for which one or more of them provided information.

INTERROGATORY NO. 2: Does IDWR allege the Water Right has been forfeited pursuant to the provisions of Idaho Code § 42-222(2)? If the answer is yes, please state all facts and identify all documents which support the allegations, including, but not limited to, the exact dates of the period of non-use of the Water Right upon which this allegation of forfeiture is based, and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting these allegations.

IDWR ANSWER: To the extent that IDWR's recommendation in the director's report for Reporting Area 3 (Basin 36), that the SRBA Court disallow the claims for water right nos. 36-02121 and 36-02194 (hereinafter "these water rights") on the basis of forfeiture, may be deemed as a matter of law to be an "allegation," the answer is yes.

Supporting facts and documents: The facts known to IDWR establish a period of nonuse of these water rights significantly exceeding five years. Within that larger time period IDWR does not identify, nor is it required to identify by exact beginning and ending dates, any particular discrete period of nonuse slightly exceeding five years. The facts establishing a period of nonuse of significantly greater than five years are as follows:

1. A map provided by the Minidoka County ASCS office showed no evidence of irrigation on the subject parcels in 1978.

2. A review of crop reporting data between 1980 and 1990 by an employee of the Minidoka County ASCS office showed no history of irrigation on the subject parcels.
3. LANDSAT satellite imagery showed no evidence of irrigation on the subject parcels in 1986.
4. NAPP aerial photography showed no evidence of irrigation on the subject parcels in 1987.
5. The on-site field investigation conducted by Allen Merritt in August, 1990, showed no evidence of irrigation on the subject parcels.

The documents evidencing these facts are the copy of the 1978 map provided by the ASCS; a note, by the ASCS employee providing the map, documenting her review of the crop reporting data; a summary memorandum by Allen Merritt, dated April 9, 1991;¹ and miscellaneous documentation of the field examination. All of these documents are contained in the claim file for this water right, which is housed at IDWR's Southern Region Office, 222 Shoshone Street North, Twin Falls, Idaho. The NAPP photography and LANDSAT data also is available for inspection at the Southern Region Office of IDWR. Additional documents providing circumstantial evidence of nonuse of this water right between 1984 and 1988 are the applications for extension executed by Rosemary Haley as president of the claimant on September 3, 1987. Those documents contain the

¹ This Memorandum incorrectly states that Landsat showed no irrigation in September 1983 for the place of use of water right no. 36-02121 and no irrigation in September 1994 for the place of use of water right no. 36-02194. In fact the Landsat data showed no irrigation use for either right in 1986 instead of 1983 and 1984 respectively. IDWR will obtain the aerial photographs that were in fact taken in September 1983 and September 1984 to determine whether they do show no irrigation of the subject parcels at that time.

sworn statement of Mrs. Haley that the water rights had last been used in 1984, which thereby evidences nonuse in 1985, 1986 and 1987. A copy of the applications for extension is contained in the claim files for these water rights. The original applications are contained in the water right and transfer files for these water rights, located in the IDWR's State Office, 1301 N. Orchard Street, Boise, Idaho.

Mr. Allen Merritt, IDWR Southern Regional Manager, could authenticate and lay foundation for the introduction into evidence of the documents contained in the claim file, the LANDSAT data and the NAPP aerial photography. Mr. Jim Johnson, Water Right Permits Section Manager, at IDWR's State Office in Boise, could authenticate and lay foundation for the introduction into evidence of the documents contained in the water right and transfer files for these water rights.

Persons Having Knowledge of the Facts: These individuals are as follows:

1. Mr. Allen Merritt has personal knowledge of his investigation and recommendation of these claims for disallowal, including the evidence he considered in making that recommendation.
2. Jo Anne [LAST NAME UNKNOWN], of the Minidoka County ASCS office, Rt. 2, Box 38, Rupert, Idaho 83350, has personal knowledge of her review of the 1978 maps, crop reports for the period 1980-1990, and any other information she may have reviewed concerning these water rights. [IDWR has no knowledge of whether this person is still employed by that office, but presumes that others at that office would have information as to her current location.]

Other IDWR employees have been involved to some extent in the

review and recommendation regarding these water rights, as evidenced by notations or initials on various documents in the claim files for these water rights. They are not identified above because their involvement was limited and any knowledge they possess regarding the facts in question is both limited and second-hand. However, IDWR will identify all such individuals on request. In addition, IDWR has not identified persons employed by or associated with the claimant itself, such as Gypsy Hall or legal counsel for claimant, as among those having knowledge of the facts. IDWR presumes that claimant already has knowledge of all information possessed by its own employees or legal counsel.

INTERROGATORY NO. 3: Does IDWR allege that the Water Right has been abandoned? If the answer is yes, please state all facts and identify all documents which support the allegations and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting these allegations.

IDWR ANSWER: See answer to Interrogatory no. 2, above, which is incorporated by reference. Additionally, IDWR notes that it recommended these water rights for disallowal on the bases of forfeiture or abandonment. It recommended disallowal on these two alternative bases because the evidence of nonuse that supports a finding of forfeiture likewise can be used to support a finding of abandonment. The only two significant areas of distinction between the two grounds are (1) abandonment does not require any minimum

period of nonuse, and (2) abandonment requires on the part of the water right owner an intent to abandon, which intent, because it is subjective in nature, may be proved by extrinsic evidence. Extrinsic evidence is of heightened importance in the present case because Rosemary Haley, the former president of the claimant, is deceased and thereby not available to testify as to the claimant's intent. The evidence in IDWR's possession of the long period of nonuse can be construed as extrinsic evidence supporting an intent to abandon. While the claimant's applications for extension can be construed as contradicting an intent on the part of the claimant to abandon, they also may just as easily be construed as evidencing an intent on the part of claimant to resume the use of previously abandoned water rights. Through discovery and examination at trial IDWR will determine the extent of other evidence supporting or negating a finding of abandonment.

INTERROGATORY NO. 4: I.C. § 42-222(2) requires IDWR to determine "that other rights will not be impaired by granting an extension of time within which to resume the use of the water. . . ." Please describe with specificity and state in detail the actions taken by IDWR in reviewing and approving the Application to determine if its approval would "impair" other water rights, including in the answer the identity of all persons involved and all documents relied upon in the review and approval process and the investigation made, if any, to determine that the Water Right had not been forfeited or abandoned prior to the filing of the

Application.

IDWR ANSWER: IDWR requires the applicant for an extension to complete a form, furnished by IDWR, explaining the reasons for requesting the extension of time and the reasons for nonuse. The statements made on the application form--including the applicant's assertion that no one will be injured by the extension--must be sworn to by the applicant. IDWR then publishes legal notice of the application. If no protests to the application are filed, and if IDWR is not otherwise aware of a dispute involving use of the water right in question, IDWR does not normally make further investigation of the application to determine if approval of the extension would impair other water rights or if the water right had been forfeited or abandoned; rather, it relies both upon the lack of filed protests and upon the veracity of the applicant's sworn statements on the application form.

Supporting Facts and Documents: In the case of these water rights, legal notice of the claimant's applications was published in the Southern Idaho Press. No protests were filed to them. The applications contained the sworn statement of Rosemary Haley, president of the claimant, that the water right had last been used in 1984 (less than five years prior to the date of filing the applications for extension) and that no one would be injured by the extension. The documents supporting these facts consist of the approved applications for extension, the legal notices of the applications, and routine transmittal and explanatory

correspondence to the Southern Idaho Press and to the claimant. The original approved applications and copies of the other documents are contained in the water right and transfer files for these water rights, housed at IDWR's State Office at 1301 N. Orchard Street, Boise, Idaho. Mr. Jim Johnson, Water Right Permits Section Manager, at IDWR's State Office in Boise, could authenticate and lay foundation for the introduction into evidence of the documents contained in the water right and transfer files for these water rights.

Persons Having Knowledge of the Facts: These individuals are as follows:

1. Mr. Gary Funderberg, _____, at IDWR's Southern Region Office in Twin Falls, took the applications and telephone _____
2. Mr. Jim Johnson, Water Right Permits Section Manager, at IDWR's State Office in Boise, telephone 327-7900, oversaw the processing of the applications for extension and made the determination to recommend its approval.
3. Mr. Glen Saxton, Chief of the Water Allocation Bureau, at IDWR's State Office in Boise, telephone 327-7900, approved the applications for extension.

Other IDWR employees have been involved to some extent in the review and approval of the applications for extension for these water rights, as evidenced by notations or initials on various documents in the water right and transfer files for these water rights. They are not identified above because their involvement was limited and any knowledge they possess regarding the facts in question is both limited and second-hand. However, IDWR will identify all such individuals on request. In addition, IDWR has

not identified persons employed by or associated with the claimant itself, such as Gypsy Hall or legal counsel for claimant, as among those having knowledge of the facts. IDWR presumes that claimant already has knowledge of all information possessed by its own employees or legal counsel.

INTERROGATORY NO. 5: Was IDWR required, in the course of determining whether or not the transfer of the Water Right pursuant to the Larsen Transfer would injure other water rights as provided by I. C. § 42-222, to determine whether or not the Water Right had been forfeited or abandoned? If your answer is yes, please describe with specificity and state in detail the effect, if any, of the approval of the Application on this duty imposed on IDWR.

IDWR ANSWER: No, pursuant to IDWR's interpretation of Idaho Code §42-222 verification of non-forfeiture is not a requirement. However, IDWR does undertake a limited review to attempt to confirm non-forfeiture even for uncontested transfer applications: viz, IDWR's SRBA adjudication database is reviewed to determine if a field investigation of the water right has been undertaken, and, if so, whether IDWR adjudication staff has recommended the water right for disallowal on the basis of forfeiture or abandonment. Moreover, even if IDWR were required pursuant to Idaho Code §42-222 to determine non-forfeiture prior to approval of a transfer, the approval of the Larsen transfers would have no effect upon such duty, since the Larsen transfers were temporary in nature, the priority dates of the transferred rights were temporarily advanced

to prevent injury, and IDWR retained jurisdiction to modify, amend or cancel the transfers at any time it should find that the diversion and use of water under them was causing injury.

INTERROGATORY NO. 6: Please describe with specificity and state in detail the actions taken by IDWR in reviewing and approving the Larsen Transfer to determine whether or not the Water Right had been forfeited including, without limitation, the identity of all persons involved and all documents relied upon in the forfeiture investigation.

IDWR ANSWER: As with an application for extension, the statements made on a transfer application form--including the applicant's assertion that no one will be injured by the extension--must be sworn to by the applicant. IDWR then publishes legal notice of the transfer application. If no protests to the application are filed, and if IDWR is not otherwise aware of a dispute involving use of the water right in question, IDWR's forfeiture investigation normally is limited to a review of the SRBA adjudication database to determine if the water right in question has been recommended for forfeiture or abandonment. Additionally, IDWR relies both upon the lack of filed protests and upon the veracity of the applicant's sworn statements on the application form.

Supporting Facts and Documents: No protests were filed to the Blaine Larsen transfer applications that asserted forfeiture of these water rights. Moreover, all protests that were filed were

subsequently withdrawn. Additionally, approved applications for extension of time to resume use of these water rights were on file with IDWR at the time the first Blaine Larsen transfers were filed. When the Larsen transfers for the 1989 irrigation season were under consideration by IDWR, as well as when the subsequent Larsen transfers for the 1990 and 1991 irrigation seasons were being considered, IDWR adjudication staff had not yet determined that these water rights would be recommended for disallowal on the ground of forfeiture or abandonment. When IDWR was considering a one year extension of the 1990 and 1991 Larsen transfers for use during the 1992 irrigation season, it was aware that IDWR adjudication staff had made a preliminary determination to recommend these water rights for disallowal. Since this recommendation was preliminary, the proposed recommended water rights had not yet been sent out for review by the claimant, the notice of error process had not yet been undertaken, and the director's report for Reporting Area 3 (Basin 36) had not yet been filed, the 1992 extension was approved. However, IDWR did inform the claimant that it would consider evidence of forfeiture in all future transfer proceedings involving these water rights.

The documents evidencing these facts consist of the Larsen transfer applications themselves, which contain the sworn statements of Mr. Larsen that to his knowledge these water rights had not undergone any periods of nonuse exceeding five years and that the transfers would not result in injury to anyone; the orders

granting conditional approval of the transfer applications and subsequently extending approval of the 1990 and 1991 transfers for use during the 1992 irrigation season; and correspondence notifying the claimant that IDWR would consider available evidence of the validity of these water rights in future transfer proceedings. The original Larsen transfer applications and orders, as well as copies of relevant correspondence, are contained in the water right and transfer files for these water rights. The withdrawn protests, hearing files and related documents are also on file with IDWR, as are the other transfer applications and orders concerning other water rights included in the Larsen transfers. Mr. Jim Johnson, Water Right Permits Section Manager, at IDWR's State Office in Boise, could authenticate and lay foundation for the introduction into evidence of these documents.

Persons Having Knowledge of the Facts: These individuals are as follows:

1. Mr. Jim Johnson, Water Right Permits Section Manager, at IDWR's State Office in Boise, telephone 327-7900, oversaw the processing of the Blaine Larsen transfer applications and made the determination to recommend their approval. Mr. Johnson also reviewed the SRBA adjudication data base and determined that these water rights had been preliminarily recommended for disallowal on the ground of forfeiture or abandonment. He confirmed this preliminary determination in a telephone conversation with Mr. Allen Merritt.
2. Mr. Glen Saxton, Chief of the Water Allocation Bureau, at IDWR's State Office in Boise, telephone 327-7900, conditionally approved the Blaine Larson transfer applications for 1990 and 1991. Mr. Saxton also entered the order extending approval of those transfers for use during the 1992 irrigation season. He also prepared the letter informing the claimant that evidence of the

validity of these water rights would be considered in future transfer proceedings.

3. Mr. Norm Young, Administrator of the Water Management Division, at IDWR's State Office in Boise, telephone 327-7900, conditionally approved the 1989 Blaine Larson transfer applications.
4. Mr. R. Keith Higginson, Director of the Department, at IDWR's State Office in Boise, telephone 327-7900, entered the orders approving the 1989 Blaine Larsen transfer applications.

Other IDWR employees have been involved to some extent in the review and approval of the Larsen transfer applications, as evidenced by notations or initials on various documents in the water right and transfer files for these water rights. They are not identified above because their involvement was limited and any knowledge they possess regarding the facts in question is both limited and second-hand. However, IDWR will identify all such individuals on request. In addition, IDWR has not identified persons employed by or associated with the claimant itself, such as Gypsy Hall or legal counsel for claimant, as among those having knowledge of the facts. IDWR presumes that claimant already has knowledge of all information possessed by its own employees or legal counsel. IDWR further presumes that Blaine Larsen, certain employees of Mr. Larsen, and Mr. Larsen's legal counsel also have general knowledge of the facts stated above, but IDWR has not listed these individuals above because it does not know specifically what knowledge they do possess.

IDWR also incorporates by reference its answers to interrogatory nos. 2, 3, 4 and 5, above.

INTERROGATORY NO. 7: In the Response, IDWR alleges the "[A]pplication falsely stated that the [Water Right] had been used within the five year period prior to the [A]pplication." Please state all facts and identify all documents which support the allegation and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting this allegation.

IDWR ANSWER: See answer to interrogatory no. 2, above, which IDWR incorporates by reference.

INTERROGATORY NO. 8: In the Response, IDWR alleges "IDWR is not estopped to (sic) from asserting that the [Water Right] has been forfeited and/or abandoned." Please state all facts and identify all documents which support the allegation and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting this allegation.

IDWR ANSWER: See answers to interrogatory nos. 2, 3, 4, 5 and 6, above, which IDWR incorporates by reference. Even if estoppel otherwise could be asserted against IDWR, it is IDWR's position that it cannot be estopped from asserting that this water right has been forfeited or abandoned, where (1) the claimant's applications for extension contained a sworn statement that IDWR now believes was false, and upon which false statement IDWR relied in approving the extensions, and (2) the resumption of use of the water rights pursuant to the Blaine Larsen transfers cannot work an estoppel

both because of the false statement in the extension applications and because IDWR expressly retained jurisdiction to modify, amend, or cancel the Larsen transfers if it found the diversion or use of water under the transfers caused injury to other water rights.

INTERROGATORY NO. 9: In the Response, IDWR alleges the "information currently available to IDWR does not support a finding that all elements of a defense to forfeiture by resumption of use in 1989 have been met." Please state all facts and identify all documents which support the allegation including, without limitation, a detailed description of the "information currently available to IDWR", and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting this allegation.

IDWR ANSWER: See answers to interrogatory nos. 2, 3, 4, 5, 6, 7, and 8, above, which IDWR incorporates by reference. It is IDWR's position that a valid resumption in use cannot be predicated upon a false statement in an application for extension relied upon by IDWR in approving the transfer application by which the use of the forfeited water right purportedly was resumed.

INTERROGATORY NO. 10: Were all of the maps, aerial photographs and other documents or information which IDWR asserts show non-use of the Water Right prior to 1987 available for inspection at the Minidoka County offices of the ASCS or elsewhere at the time IDWR reviewed and approved the Application and the Larsen Transfer? If not, describe in detail why they were not

available.

IDWR ANSWER: IDWR does not know what maps, aerial photographs, and other documents or information were available at the Minidoka County ASCS office in early 1989, early 1990, and early 1992, when it processed the Larsen transfer applications. However, because the maps and other information provided to Mr. Merritt during his investigation of this claimant's SRBA claims were available during the late summer of 1990, IDWR presumes that they were available at other times, and likely were available during the periods IDWR was processing the Larsen transfer applications.

INTERROGATORY NO. 11: Was the use of the Water Right by Larsen pursuant to the approved Larsen Transfer in 1990, 1991 and/or 1992 a beneficial use of the Water Right? If your answer is "no", please describe the legal basis for this position, state all facts and identify all documents which support this position, and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting this position.

IDWR ANSWER: IDWR does not know whether these water rights were beneficially used during the years specified, because it is difficult to confirm if all of the water rights identified in the Larsen transfers were actually used.

Supporting Facts and Documents: These water rights were combined with seven other rights under transfer no. 3668. This

transfer was combined with five other transfers, each also containing several water rights, that described a place of use totaling 4074.4 acres. IDWR has no knowledge if all these lands were in fact irrigated, or if all of the water rights identified on the transfer applications were in fact used in whole or in part. The documents evidencing these facts are the various Larsen transfer applications, orders approving the applications, and orders extending approval, all contained in the water right and transfer files of the water rights in question. Mr. Jim Johnson, Water Right Permits Section Manager, at IDWR's State Office in Boise, could authenticate and lay foundation for the introduction into evidence of these documents.

Persons Having Knowledge of the Facts: These individuals are as follows:

1. Mr. Jim Johnson, Water Right Permits Section Manager, at IDWR's State Office in Boise, telephone 327-7900, oversaw the processing of the Blaine Larsen transfer applications and made the determination to recommend their approval. Mr. Johnson also reviewed the SRBA adjudication data base and determined that these water rights had been preliminarily recommended for disallowal on the ground of forfeiture or abandonment. He confirmed this preliminary determination in a telephone conversation with Mr. Allen Merritt.
2. Mr. Glen Saxton, Chief of the Water Allocation Bureau, at IDWR's State Office in Boise, telephone 327-7900, conditionally approved the Blaine Larsen transfer applications for 1990 and 1991. Mr. Saxton also entered the order extending approval of those transfers for use during the 1992 irrigation season. He also prepared the letter informing the claimant that evidence of the validity of these water rights would be considered in future transfer proceedings.
3. Mr. Norm Young, Administrator of the Water Management

Division, at IDWR's State Office in Boise, telephone 327-7900, conditionally approved the 1989 Blaine Larsen transfer applications.

4. Mr. R. Keith Higginson, Director of the Department, at IDWR's State Office in Boise, telephone 327-7900, entered the orders approving the 1989 Blaine Larsen transfer applications.

Other IDWR employees have been involved to some extent in the review and approval of the Larsen transfer applications, as evidenced by notations or initials on various documents in the water right and transfer files for these water rights. They are not identified above because their involvement was limited and any knowledge they possess regarding the facts in question is both limited and second-hand. However, IDWR will identify all such individuals on request. In addition, IDWR has not identified persons employed by or associated with the claimant itself, such as Gypsy Hall or legal counsel for claimant, as among those having knowledge of the facts. IDWR presumes that claimant already has knowledge of all information possessed by its own employees or legal counsel. IDWR further presumes that Blaine Larsen, certain employees of Mr. Larsen, and Mr. Larsen's legal counsel also have general knowledge of the facts stated above, but IDWR has not listed these individuals above because it does not know specifically what knowledge they do possess.

INTERROGATORY NO. 12: Please identify all of the "junior ground water appropriators in the area" referred to in the May 23, 1991 memorandum from Lynn Krogh-Hampe to Allen Merritt which discusses the Water Right.

IDWR ANSWER: The phrase in question encompasses two meanings. Specifically it refers to the ground water rights, having priority dates junior to this water right, having points of diversion located in either the same sections as these water rights or the eight sections surrounding each of those sections. However, since the source of water for this right is ground water, the phrase more generally refers to all junior ground water rights in the eastern Snake Plain Aquifer. In the nine sections including and surrounding the point of diversion for water right number 36-02121, the junior rights all belong to the claimant. In the nine sections including and surrounding the point of diversion for water right number 36-02194 there are nine junior rights, excluding those belonging to the claimant, and two rights having the same priority date as number 36-02194. These nine water rights are as follows:

36-02454B	36-02619	36-02620
36-04006	36-07007B	36-07306
36-07493	36-08275B	36-15339

The two water rights having priority dates equal to the priority date of number 36-02194 are numbers 36-02195B and 36-02196. IDWR has not included a list of all the junior water rights in the eastern Snake Plain Aquifer because they numbers in the thousands. It will, however, prepare such a list on request.

INTERROGATORY NO. 13: Please identify all correspondence, conversations, communications or statements between or among any employees or agents of IDWR and any officer, employee, attorney or other agent of Claimant, including, but not limited to, Rosemary

Haley, the former president of Claimant, and Gypsy Hall, a former employee of Claimant, in which the Water Right was discussed, at any time from December 1, 1982 through December 31, 1991.

IDWR ANSWER: Objection. This interrogatory is oppressive and unduly burdensome. IDWR cannot identify every conversation, communication or statement made during a period of over ten years duration, particularly where IDWR does not require that a permanent written record of every conversation or communication of each of its employees or former employees be maintained.

Without waiving this objection IDWR asserts that to the extent such statements are contained in its records and such conversations or communications are recorded or memorialized in its records, the burden of deriving or ascertaining the answer to this interrogatory from IDWR's records is substantially the same for the claimant as for IDWR. Accordingly, pursuant to Rule 33(c), Idaho Rules of Civil Procedure, IDWR will afford claimant or its legal counsel full opportunity to inspect its records to discover, compile and copy all statements, if any, and references to all such conversations or communications. IDWR believes that there were in fact relatively few such conversations or communications, and that most, if not all, are likely documented in the claimant's SRBA claim files and water right and transfer files.

IDWR further answers that it believes that most, if not all, of the communication and conversation between IDWR and the claimant concerning the claimant's adjudication claims occurred between

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DEC 03 1996

Allen Merritt and Mrs. Rosemary Haley or Ms. Gypsy Hall. Mr. Merritt has reviewed his prior years' calendars for reference to meetings or conversations with Mrs. Haley or Ms. Hall. He does not remember the content of each such conversation, but based upon the dates recorded on his calendars he can generally determine the likely subject matter. His calendars reveal the following dates upon which he had conversations or meetings with Mrs. Haley or Ms. Hall:

DATE	LIKELY TOPIC
June 7, 1989	Preparing claims
June 16, 1989	Preparing claims
August 14, 1990	Review of claims
August 15, 1990	Review of claims
August 21, 1990	Review of claims
January 8, 1991	Discussing findings or problems
February 7, 1991	Discussing findings or problems
October 7, 1992	Conversation with Miles Clinton and Jim Speck regarding notice of error

The October 7, 1992, meeting is referenced in a letter dated October 9, 1992, from Mr. Merritt to Mr. Speck. The February 7, 1991, conversation with Mrs. Haley is referenced in a memo dated April 9, 1991, from Mr. Merritt to Ms. Krogh-Hampe. Copies of both documents are in the claim file for this water right. **DESCRIBE FUNDERBERG MEETING WITH ROSEMARY, TC FROM HER SON, AND ANY OTHER CONTACT HE MAY HAVE HAD.**

Answering further, IDWR states that it still is polling its employees who may have had conversations or communications with Mrs. Haley or Ms. Hall concerning this claim. At such

ANSWERS AND RESPONSES TO ACEQUIA, INC.'S
FIRST INTERROGATORIES AND REQUEST FOR PRODUCTION
OF DOCUMENTS TO IDAHO DEPARTMENT OF WATER RESOURCES, Page 22

MICROFILMED

DEC 03 1996

should discover the existence of additional communications it will supplement its answer to this interrogatory.

INTERROGATORY NO. 14: Please identify all correspondence, conversations, communications or statements between or among any employees or agents of IDWR and Larsen or any officer, employee, attorney or other agent of Larsen, in which the recommendation in the Report for disallowal of the Water Right on the basis of forfeiture or abandonment was discussed, at any time from January 1, 1991 to the present.

IDWR ANSWER: Objection. This interrogatory is oppressive and unduly burdensome. IDWR cannot identify every conversation, communication or statement made during a period of over ten years duration, particularly where IDWR does not require that a permanent written record of every conversation or communication of each of its employees or former employees be maintained.

Without waiving this objection IDWR asserts that to the extent such statements are contained in its records and such conversations or communications are recorded or memorialized in its records, the burden of deriving or ascertaining the answer to this interrogatory from IDWR's records is substantially the same for the claimant as for IDWR. Accordingly, pursuant to Rule 33(c), Idaho Rules of Civil Procedure, IDWR will afford claimant or its legal counsel full opportunity to inspect its records to discover, compile and copy all statements, if any, and references to all such conversations or communications.

Without waiving this objection, IDWR states that because of the complex nature of the Larsen transfers all aspects of their processing and determination were personally overseen by Mr. Jim Johnson, Water Right Permits Section Manager, at IDWR's state office in Boise, telephone 327-7900. Mr. Johnson had numerous conversations with Mr. Larsen, and especially with Mr. Larsen's legal counsel. He cannot recollect the date and subject matter of all such communications other than that they involved all aspects of the transfer review and determination process. He believes it is likely that after he learned that these two water rights had been preliminarily recommended for disallowal in the SRBA he would have communicated this fact to Mr. Larsen's legal counsel.

INTERROGATORY NO. 15: In the September 28, 1990 MEMO from Lynn Krogh-Hampe to Allen Merritt concerning the Water Right, it states "IDWR will generally not investigate possible forfeiture occurring prior to granting the application for extension for purposes of preparing the report." If the recommendation in the Report for disallowal of the Water Right is based upon forfeiture occurring prior to approval of the Application, please describe in detail the reasons IDWR pursued such an investigation for the Water Right and identify all persons responsible for making the decision to do so.

IDWR ANSWER: The statement referenced in this interrogatory is the general procedure of IDWR regarding investigation of licensed rights claimed in the SRBA. IDWR's policy is that a water

right license is presumed to be a valid description of the water right as of the time the license was issued. Therefore IDWR normally will not investigate possible forfeiture occurring prior to the issuance of the license. An approved application for extension of time to avoid forfeiture of a licensed right is treated similarly to a license, in that the water right as described in the license is presumed to be a correct description of the water right as of the date the application for extension was approved. However, where during IDWR's normal investigation of an SRBA claim it finds evidence of forfeiture occurring after the date of licensure it will conduct further investigation.

During the field examination of this right in August, 1990, Mr. Merritt's visual inspection of the places of use for these claims indicated a sufficiently lengthy period of nonuse of the rights as to suggest the possibility of forfeiture. Therefore he requested information from the Minidoka County ASCS office. Upon checking IDWR's water right and transfer files for these water rights he discovered that the extensions had been approved for them in 1988 and that they had been temporarily transferred as part of the Larsen transfers in 1989. However, the information provided by ASCS, NAPP Aerial Photography and LANDSAT data was evidence indicating that the water rights had been forfeited prior to the applications for extension and subsequent transfers. Per his request the situation was reviewed by adjudication legal counsel and administration at the State Office in Boise and Mr. Merritt was

directed to recommend the claims for disallowal on the basis of forfeiture or abandonment occurring prior to the applications for extension.

The persons responsible for making the determination to investigate the possibility of forfeiture were (1) Mr. Merritt to the extent that he requested information from ASCS and direction from the State Office, and (2) Mr. David Shaw, who upon the advice of department legal counsel ultimately determined that the claims should be recommended for disallowal.

INTERROGATORY NO. 16: Please identify all water rights recommended for disallowal in whole or in part in the Report, or in any other Director's Report filed or to be filed in the SRBA, on the basis of a forfeiture or abandonment occurring prior to the approval by IDWR of an Application for Extension of Time to Avoid Forfeiture of a Water Right for that water right.

IDWR ANSWER: Objection. This interrogatory is oppressive and unduly burdensome. IDWR cannot respond to it with regard to future director's reports because in some basins its recommendations have not yet been prepared, in other basins investigation of claims is still underway, and in yet other basins claims investigation has not yet begun. As regards only the three test basins, for which director's reports have been filed, a total of 15,437 claims were recommended: 14,931 were recommended as valid water rights and 506 were recommended for disallowal. Of the 14,931 claims recommended as valid water rights, IDWR does not know how many were reduced in

size on the ground of partial forfeiture or abandonment, let alone how many of those recommended for partial forfeiture or abandonment were based upon partial forfeiture or abandonment occurring prior to the approval of an application for extension. Mr. Don Shaff, Adjudication Bureau Technical Support Manager, telephone 327-7900 estimates that to reprogram IDWR's data processing system to electronically sort all water rights recommended in the three director's reports for less than was claimed would take a minimum of 80 hours and possibly over 120 hours. Once the recommendations were electronically sorted, the claim file for each right would have to be manually compared with the right as recommended to determine if the basis for recommending less than claimed was a partial forfeiture or abandonment. Once the recommended rights for which this was so had been sorted out, the water right and transfer file for each one would then need to be manually reviewed to determine if an application for extension had been approved subsequent to the forfeiture or abandonment covering that portion of the right that has been forfeited or abandoned. IDWR cannot even guess how many hundred employee hours that this would take to accomplish. However, IDWR is willing to discuss with claimant's legal counsel possible alternative methods for satisfying this discovery request.

Without waiving its objection, IDWR further states that it was able to electronically sort the 506 claims that had been recommended for disallowal in toto, to ascertain those that had

been recommended for disallowal on the basis of forfeiture or abandonment. A total of 51 such claims in the three test basins were found. The water right and transfer file for each of these, save those of this claimant, was then manually checked to determine if an application for extension had been approved after the right had been forfeited. Only one such right was found. Its number is 36-02654.

INTERROGATORY NO. 17: Please identify all water rights recommended for disallowal in whole or in part in the Report, or in any other Director's Report filed or to be filed in the SRBA, on the basis of a forfeiture or abandonment occurring prior to the approval by IDWR of an Application for Transfer of a Water Right for that water right.

IDWR ANSWER: Objection. This interrogatory is oppressive and unduly burdensome. IDWR cannot respond to it with regard to future director's reports because in some basins its recommendations have not yet been prepared, in other basins investigation of claims is still underway, and in yet other basins claims investigation has not yet begun. As regards only the three test basins, for which director's reports have been filed, a total of 15,437 claims were recommended: 14,931 were recommended as valid water rights and 506 were recommended for disallowal. Of the 14,931 claims recommended as valid water rights, IDWR does not know how many were reduced in size on the ground of partial forfeiture or abandonment, let alone how many of those recommended for partial forfeiture or abandonment

were based upon partial forfeiture or abandonment occurring prior to the approval of a transfer application. Mr. Don Shaff, Adjudication Bureau Technical Support Manager, telephone 327-7900, estimates that to reprogram IDWR's data processing system to electronically sort all water rights recommended in the three director's reports for less than was claimed would take a minimum of 80 hours and possibly over 120 hours. Once the recommendations were electronically sorted, the claim file for each right would have to be manually compared with the right as recommended to determine if the basis for recommending less than claimed was a partial forfeiture or abandonment. Once the recommended rights for which this was so had been sorted out, the water right and transfer file for each one would then need to be manually reviewed to determine if an application for transfer had been approved subsequent to the forfeiture or abandonment covering that portion of the right that has been forfeited or abandoned. IDWR cannot even guess how many hundred employee hours that this would take to accomplish. However, IDWR is willing to discuss with claimant's legal counsel possible alternative methods for satisfying this discovery request.

Without waiving its objection, IDWR further states that it was able to electronically sort the 506 claims that had been recommended for disallowal in toto, to ascertain those that had been recommended for disallowal on the basis of forfeiture or abandonment. A total of 51 such claims in the three test basins

were found. The water right and transfer file for each of these, save those of this claimant, was then manually checked to determine if a transfer had been approved after the right had been forfeited. Five such rights were found. Of these, three were not applicable because the forfeited right had been split from a larger right and the approved transfer covered a different portion of the original right. That left two rights that fall within the ambit of this interrogatory. They are water right numbers 36-00055AD and 36-00075.

REQUESTS FOR PRODUCTION OF DOCUMENTS

OBJECTION TO MANNER OF PRODUCTION

IDWR objects to the portion of the introductory paragraph of the claimant's request for production of documents that requests all documents be produced for inspection and copying at the law offices of the claimant's legal counsel in Ketchum, Idaho. The documents in question are public records which by law must be maintained by IDWR for inspection by the public generally, and available for use by IDWR staff who must routinely consult them in order to carry out IDWR's various statutory duties. Accordingly they cannot be removed from IDWR's offices and transported to a distant location for inspection for the convenience of the person who wishes to inspect them. Therefore those records IDWR maintains at its State Office in Boise will be made available for inspection and copying at that office, and those records it maintains at its Southern Region office in Twin Falls will be made available for

inspection and copying at that office.

REQUEST FOR PRODUCTION NO. 1: All documents which describe, mention, refer to or relate in any way to the application for and approval of the transfer of the Water Right pursuant to the Larsen Transfer from 1989 through the present date including, without limitation, all correspondence, and notes of any telephone conversations or meetings, with Larsen, his attorneys, agents, employees or other representatives.

IDWR RESPONSE: These documents are contained in the water right and transfer files for these water right. Additional documents that relate to the Larsen transfers of these water rights are contained in the water right and transfer files of the other water rights that were included in the Larsen transfers. Other related documents are contained in the protest and hearing files for the Larsen transfers. All of these files are maintained in IDWR's State Office in Boise, and will be produced for inspection and copying there at any reasonable time.

REQUEST FOR PRODUCTION NO. 2: All documents relating to the application for permit, issuance of permit, examination and licensing of the Water Right.

IDWR RESPONSE: All of these documents are contained in the water right and transfer files for these water rights. These files are maintained in IDWR's State Office in Boise, and will be produced for inspection and copying there at any reasonable time. Microfiche copies of the permit, license, and documents concerning

the licensing examination are available for inspection and copying at the Southern Region office in Twin Falls at any reasonable time.

REQUEST FOR PRODUCTION NO. 3: All documents relating to the Application and its approval by IDWR including, without limitation, all correspondence and notes of any telephone conversations or meetings with any officer, employee, attorney or other agent of Claimant.

IDWR RESPONSE: All of these documents are contained in the water right and transfer files for these water rights. These files are maintained in IDWR's State Office in Boise, and will be produced for inspection and copying there at any reasonable time.

REQUEST FOR PRODUCTION NO. 4: All documents which are part of the "evidence not previously in IDWR's possession that establishes nonuse of water from at least 1978" as stated in the Response.

IDWR RESPONSE: These documents consist of the maps and other information from the Minidoka County ASCS office, which is contained in the SRBA claim files for these water rights. It is IDWR's understanding that legal counsel for the claimant has already inspected these files and taken copies from them. Nonetheless, these files will be made available for further inspection and copying at the Southern Region office in Twin Falls at any reasonable time, or, with reasonable notice, they can be made available for inspection at the State Office in Boise at the same time the water right and transfer files and the related Larsen transfer files are inspected. Additional evidence consists of

LANDSAT data and NAPP photography. This can be inspected upon reasonable notice at the Twin Falls office.

REQUEST FOR PRODUCTION NO. 5: All documents which support the allegation in the Response that the Application "falsely stated that the [Water Right] had been used within the five year period prior to the [Application]."

IDWR RESPONSE: See response to request for production no. 4, above, which is incorporated by reference. Additionally this allegation is supported by the sworn statement on the extension applications described above. These applications are available in the water right and transfer files for these water rights maintained at IDWR's State Office in Boise. However, photocopies of them are contained in the SRBA claim files for these water rights.

REQUEST FOR PRODUCTION NO. 6: All documents which support the recommendation by IDWR in the Report that the Water Right be disallowed due to forfeiture or abandonment.

IDWR RESPONSE: See response to request for production nos. 1, 2, 3, 4 and 5, above, which are incorporated by reference. Additionally, the recommendation is supported by those portions of IDWR's Claim Investigation Handbook detailing the procedure for investigating and recommending forfeiture and abandonment in the SRBA. This handbook is available for inspection any copying at any reasonable time at either the Boise or Twin Falls office.

R 23 E

36-15339 6/20/72
 36-08275B 5/9/85
 36-07007B 9/11/67
 36-02454B 12/8/60 28

27

none

26

none other
 than Acequia

36-02619 10/14/65
 36-02620 8/6/65
 36-04006 7/14/1977

33

36-02194
 2/25/1953
 34

35

none

T6S

T7S

2

none

1

none

X36-02454B
 X36-07007B
 X36-07021B
 X36-08274A
 X36-08275B

Recently
 transferred
 to this
 section

6

36-07306 2/26/73
 36-02195B 2/25/53
 36-02196 2/25/53
 36-07493 8/8/74

5

R23E

R24E

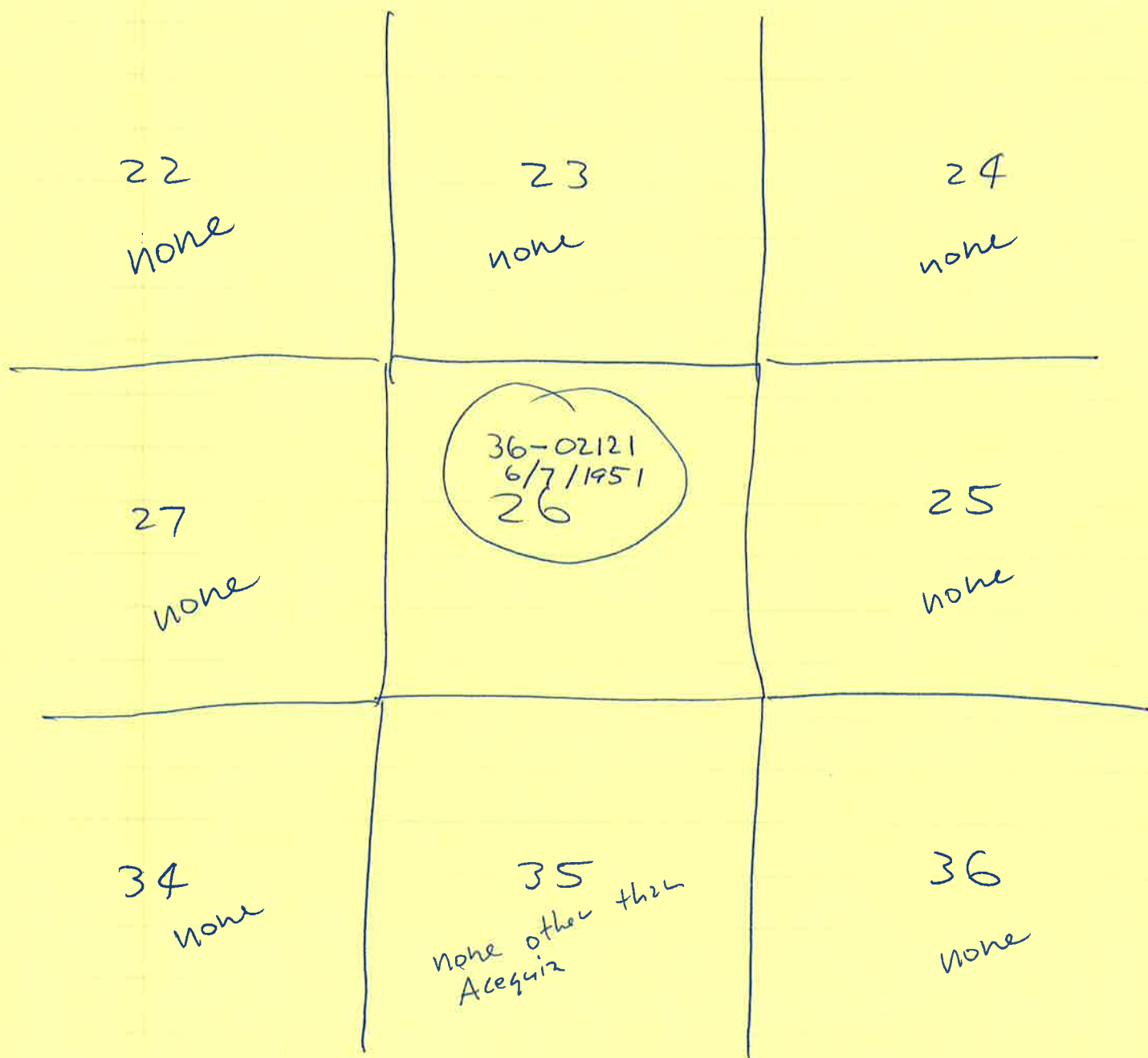
Based on P/D there are several junior rights
 found in surrounding sections as noted above

ADN 3/29/95

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T6S R24E



Based on P/D no junior rights found in surrounding sections other than those belonging to Aceguiz.

Adm 3/20/95

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DEC 03 1996



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
GOVERNORR. KEITH HIGGINSON
DIRECTORTRANSMITTAL COVER SHEET

RECEIVED

FAX NUMBER: (208) 327-7866

MAR 09 1995

Department of Water Resources
Southern RegionDATE: 3-9-95TO: ALLEN MERRITTFROM: NICK SPENCER@ SOUTHERNDOCUMENT DESCRIPTION: DISCOVERY REQUESTSCOVER SHEET + 13 PAGESCONTACT: Debbie Ellis - 7920 IF YOU DO NOT RECEIVE ALL THE PAGES

ALLEN, JIM SPECK HAS SERVED THESE DISCOVERY REQUESTS ON US, REGARDING OUR RECOMMENDATIONS OF FORFEITURE. THE ATTACHED SET IS FOR 36-02121; HE HAS SERVED A DUPLICATE SET FOR 36-02194. PLEASE LOOK THESE OVER AND BEGIN THINKING ABOUT HOW WE OUGHT TO ANSWER - AND ESPECIALLY WHAT DOCUMENTS YOU HAVE AT SOUTHERN IN ADDITION TO THE CLAIM FILES THAT MIGHT FALL WITHIN THE SCOPE OF HIS REQUESTS. I ALSO WILL NEED AT LEAST THESE TWO ACEQUIA CLAIM FILES; I PROBABLY WILL HAVE DAN AND/OR DAVE PICK THEM UP NEXT TUESDAY. I WILL CALL YOU TOMORROW (FRIDAY) TO TALK ABOUT THE SETS YOU'VE HAD THE OPPORTUNITY TO DIGEST IT. THANKS NBS

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DEC 03 1995

RECEIVED

FEB 23 1995

Department of Water Resources
Adjudication Bureau

RECEIVED

FEB 21 1995

OFFICE OF THE
ATTORNEY GENERALClaimant's Name:

Acequia, Inc.

Attorney Name & Address:James P. Speck
Hogue, Speck & Aanestad, P.A.
120 East Avenue
P. O. Box 987
Ketchum, Idaho 93340
(208) 726-4421
FAX: (208) 726-0752IN 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. 36-02121

§ 36-02194

CLAIMANT'S FIRST
INTERROGATORIES AND
REQUEST FOR PRODUCTION
OF DOCUMENTS TO IDAHO
DEPARTMENT OF WATER
RESOURCESDESCRIPTIVE SUMMARY

These are Claimant's first set of interrogatories and requests for production of documents to Idaho Department of Water Resources.

INTERROGATORIES

TO: DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES

Pursuant to Rule 33 of the Idaho Rules of Civil Procedure, Claimant, ACEQUIA, INC.

CLAIMANT'S FIRST INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS
TO IDAHO DEPARTMENT OF WATER RESOURCES - 1

("Claimant") hereby requests that you answer each of the following interrogatories, separately and fully in writing under oath, and within fifteen (15) days after service hereof.

A. Instructions:

1. In responding to these interrogatories and requests for production of documents, you are instructed to frame your responses in accordance with the instructions and definitions set forth herein, and you are required to furnish all information that is available to you, including information in the possession of your attorneys, or other persons directly or indirectly employed by or connected with you or your attorneys, and anyone else acting in your behalf or otherwise subject to your control.

2. In responding to these interrogatories, you must make a diligent search of your records and of other papers and materials in your possession or available to you or your representatives. If you cannot obtain the records or information to answer these interrogatories, you should explain in your answer the circumstances and what has been and is being done to obtain the information.

3. If any document is withheld under claim of privilege, so as to aid the Court and the parties hereto to determine the validity of the claim of privilege, furnish a list signed by the person supervising your response identifying each document for which the privilege is claimed, together with the following information with respect to each such document:

a. The identity of the person who signed it or over which whose name it was sent or issued, including his or her last known business and home address and phone number;

b. The business and home addresses and phone numbers of the person

to whom it was directed;

c. The nature and substance of the document with sufficient particularity to enable the Court and parties hereto to identify the document;

d. The date of the document;

e. The identity of the person who has custody of, or control over, the document and each copy thereof;

f. The identity of each other person to whom copies of the document were furnished, together with his or her job title at the time each obtained the document;

g. The number of pages;

h. The basis on which any privilege is claimed;

i. Whether any non-privileged matter is included in the document; and

j. The number of the interrogatory to which such document corresponds.

4. If any "communication," "conversation" or "statement" is withheld under claim of privilege, so as to aid the Court and the parties hereto to determine the validity of the claim of privilege, furnish a list signed by the person supervising your response identifying each "communication," "conversation" or "statement" for which the privilege is claimed, together with the following information with respect thereto:

a. The date of such conversation, communication or statement;

b. The place at which it occurred and the medium involved;

c. The persons involved, their last known business and home addresses and phone numbers and their business affiliations at the time and presently;

d. Identify any other person who was present or to whom information regarding the privileged matter was later communicated, and the person's last known business and home addresses and phone numbers;

e. The nature and subject matter of the conversation, communication or statement;

f. The basis on which the privilege is claimed;

g. Whether any nonprivileged matter was contained in the conversation, communication or statement; and

h. The number of the interrogatory to which such conversation, communication or statement corresponds.

B. Definitions:

1. The term "person" as used herein includes any individual, firm, corporation, partnership, receiver, joint venture, estate, trust, association, and all other forms of entities, including the parties to this suit and their officers, agents, employees, and representatives.

2. The term "witness" as used herein refers to any person or persons having or claiming to have knowledge of or pertaining to the matter in question.

3. The term "document" as used herein means any writing and any other tangible thing in your custody, possession or control or known to you, whether printed, recorded, reproduced by any process, or written or produced by hand, including but not limited to letters, reports, agreements, communications, including intra-department communications, correspondence, telegrams, maps, photographs, memoranda, summaries or records of personal conversations, diaries,

minutes or records of meetings, conferences, expressions or statements of policy, lists of persons attending meetings or conferences, reports and/or summaries of interviews, reports and/or summaries of investigations, opinions or reports or consultants, brochures, pamphlets, drafts of any documents, revisions of drafts of any documents, invoices, receipts and original or preliminary notes. As to each document, any comment or notation appearing on same but not a part of the original text is to be considered a separate document.

4. The words "identify" or "identity" when used herein in connection with a person means your answer should include the person's full name, last known business and home addresses, last known business and home telephone numbers, business position and title, if any, and description of his or her duties and responsibilities connected with this position.

5. The word "identify" when used herein in connection with a document means your answer should include, but not be limited to, the following:

- a. The identity of the present custodian of the document;
- b. The date of making of the document and the identity of each person

whose testimony could be used to authenticate such document and lay the foundation for its introduction into evidence.

6. The term "statement" as used herein refers to each recording of an interview or conversation with a witness, whether by a signed or unsigned document, recording, court reported statement or otherwise.

7. The term "conversation" as used herein refers to any manner of oral communication regardless of the medium by which such communication occurred.

8. The term "communication" as used herein refers to any contact, oral or written, formal or informal, at any time or place, and under any circumstances whatever in which information of any nature was transmitted, received or transferred, including all conversations, statements and document exchanges of any type.

9. In each case wherein you are requested to identify a "conversation," "communication," or "statement," or if the answer to an interrogatory refers to a "conversation," "communication," or "statement," you should state with respect thereto the date and place of such conversation, communication, or statement, the identities of each person participating in or witnessing such conversation, communication or statement, the contents and subject matter of such conversation, communication or statement, and the identity of any other person who, though not participating or present at the time, possesses or purports to possess information concerning the existence or nature of said conversation, communication or statement.

10. The word "you" as used herein includes you, your agents, employees, attorneys or other persons directly or indirectly employed by or connected with you or your attorneys, and anyone else acting in your behalf or otherwise subject to your control.

11. The term "SRBA" refers to the main case in which this action is a sub-case.

12. The term "IDWR" refers to the Idaho Department of Water Resources.

13. The term "Report" refers to the Director's Report filed in the SRBA for Reporting Area 3 (Basin 36).

14. The term "Water Right" refers to Water Right No. 36-02121 as recommended, defined and described in the Report.

15. The term "Objection" refers to the Objection filed herein by Claimant.

16. The term "Response" refers to the Response to Objection filed herein by

IDWR

17. The term "Application" refers to the Application for Extension of Time to Avoid Forfeiture of a Water Right for the Water Right which was approved by IDWR on May 31, 1988, a true and correct copy of which is identified as Document No. 1 submitted with the Objection.

18. The term "Larsen" refers to Blaine Larsen and/or Blaine Larsen Farms, Inc.

19. The term "Larsen Transfer" refers to the transfer of numerous water rights, including all or a portion of the Water Right, approved by IDWR Order on or about April 19, 1989, a true and correct copy of which is identified as Document No. 3 submitted with the Objection, and thereafter extended by subsequent orders of IDWR.

THESE INTERROGATORIES ARE CONTINUING, AND IF ANY ADDITIONAL INFORMATION IS RECEIVED BY YOU AFTER GIVING YOUR ANSWERS TO THE FOREGOING INTERROGATORIES, YOU ARE REQUIRED TO SUBMIT SUCH ADDITIONAL INFORMATION TO CLAIMANT.

INTERROGATORY NO. 1.

Please identify the person responding to these

Interrogatories, including in the answer the position held within IDWR and business telephone number.

INTERROGATORY NO. 2.

Does IDWR allege the Water Right has been forfeited

pursuant to the provisions of Idaho Code § 42-222(2)? If the answer is yes, please state all facts and identify all documents which support the allegations, including, but not limited to, the exact dates

See file (Info from ASCS)

**CLAIMANT'S FIRST INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS
TO IDAHO DEPARTMENT OF WATER RESOURCES - 7**

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DEC 6 1995

of the period of non-use of the Water Right upon which this allegation of forfeiture is based, and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting these allegations.

INTERROGATORY NO. 3.

Does IDWR allege the the Water Right has been

abandoned? If the answer is yes, please state all facts and identify all documents which support the allegations and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting these allegations.

INTERROGATORY NO. 4.

I.C. § 42-222(2) requires IDWR to determine "that

other rights will not be impaired by granting an extension of time within which to resume the use of the water" Please describe with specificity and state in detail the actions taken by IDWR in reviewing and approving the Application to determine if its approval would "impair" other water rights, including in the answer the identity of of all persons involved and all documents relied upon in the review and approval process and the investigation made, if any, to determine that the Water Right had not been forfeited or abandoned prior to the filing of the Application.

INTERROGATORY NO. 5.

Was IDWR required, in the course of determining

whether or not the transfer of the Water Right pursuant to the Larsen Transfer would injure other water rights as provided by I.C. § 42-222, to determine whether or not the Water Right had been forfeited or abandoned? If your answer is yes, please describe with specificity and state in detail the effect, if any, of the approval of the Application on this duty imposed on IDWR.

INTERROGATORY NO. 6.

Please describe with specificity and state in detail the

actions taken by IDWR in reviewing and approving the Larsen Transfer to determine whether or not the Water Right had been forfeited including, without limitation, the identity of all persons involved and all documents relied upon in the forfeiture investigation.

INTERROGATORY NO. 7.

In the Response, IDWR alleges the "[A]pplication falsely stated that the [Water Right] had been used within the five year period prior to the [A]pplication." Please state all facts and identify all documents which support the allegation and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting this allegation.

INTERROGATORY NO. 8.

In the Response, IDWR alleges "IDWR is not estopped to (sic) from asserting that the [Water Right] has been forfeited and/or abandoned." Please state all facts and identify all documents which support the allegation and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting this allegation.

INTERROGATORY NO. 9.

In the Response, IDWR alleges the "information currently available to IDWR does not support a finding that all elements of a defense to forfeiture by resumption of use in 1989 have been met." Please state all facts and identify all documents which support the allegation including, without limitation, a detailed description of the "information currently available to IDWR", and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting this allegation..

INTERROGATORY NO. 10.

Were all of the maps, aerial photographs and other

Answer by
Others

See Interrog. #2
Allen, Lynne,
Others

Answer by
Lynn

I believe injury
to other water rights
is the issue.
Further Answer by Lynne

documents or information which IDWR asserts show non-use of the Water Right prior to 1987 available for inspection at the Minidoka County offices of the ASCS or elsewhere at the time IDWR reviewed and approved the Application and the Larsen Transfer? If not, describe in detail why they were not available.

INTERROGATORY NO. 11.

Was the use of the Water Right by Larsen pursuant to the approved Larsen Transfer in 1990, 1991 and/or 1992 a beneficial use of the Water Right? If your answer is "no", please describe the legal basis for this position, state all facts and identify all documents which support this position, and identify each and every person known to you or your attorneys who has any knowledge of, or who purports to have any knowledge of, any of the facts supporting this position.

INTERROGATORY NO. 12.

Please identify all of the "junior ground water appropriators in the area" referred to in the May 23, 1991 memorandum from Lynn Krogh-Hampe to Allen Merritt which discusses the Water Right.

INTERROGATORY NO. 13.

Please identify all correspondence, conversations, communications or statements between or among any employees or agents of IDWR and any officer, employee, attorney or other agent of Claimant, including, but not limited to, Rosemary Haley, the former president of Claimant, and Gypsy Hall, a former employee of Claimant, in which the Water Right was discussed, at any time from December 1, 1982 through December 31, 1991.

INTERROGATORY NO. 14.

Please identify all correspondence, conversations, communications or statements between or among any employees or agents of IDWR and Larsen or any officer, employee, attorney or other agent of Larsen, in which the recommendation in the Report

I have no knowledge of this

CLAIMANT'S FIRST INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS
TO IDAHO DEPARTMENT OF WATER RESOURCES - 10

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DEC 03 1995

for disallowal of the Water Right on the basis of forfeiture or abandonment was discussed, at any time from January 1, 1991 to the present.

INTERROGATORY NO. 15.

In the September 28, 1990 MEMO from Lynn Krogh-Hampe to Allen Merritt concerning the Water Right, it states "IDWR will generally not investigate possible forfeiture occurring prior to granting the application for extension for purposes of preparing the report." If the recommendation in the Report for disallowal of the Water Right is based upon forfeiture occurring prior to approval of the Application, please describe in detail the reasons IDWR pursued such an investigation for the Water Right and identify all persons responsible for making the decision to do so.

INTERROGATORY NO. 16.

Please identify all water rights recommended for disallowal in whole or in part in the Report, or in any other Director's Report filed or to be filed in the SRBA, on the basis of a forfeiture or abandonment occurring prior to the approval by IDWR of an Application for Extension of Time to Avoid Forfeiture of a Water Right for that water right.

INTERROGATORY NO. 17.

Please identify all water rights recommended for disallowal in whole or in part in the Report, or in any other Director's Report filed or to be filed in the SRBA, on the basis of a forfeiture or abandonment occurring prior to the approval by IDWR of an Application for Transfer of a Water Right for that water right.

REQUESTS FOR PRODUCTION OF DOCUMENTS

Pursuant to Rule 34 of the Idaho Rules of Civil Procedure, Claimant hereby requests that you produce for inspection, examination and copying the documents hereinafter specified at the law

CLAIMANT'S FIRST INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS
TO IDAHO DEPARTMENT OF WATER RESOURCES - 11

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DEC 4 1996
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offices of Hogue, Speck & Aanestad, 120 East Avenue North, Ketchum, Idaho, within fifteen (15) days from the date of service of this First Request for Production of Documents upon you.

REQUEST FOR PRODUCTION NO. 1. All documents which describe, mention, refer to or relate in any way to the application for and approval of the transfer of the Water Right pursuant to the Larsen Transfer from 1989 through the present date including, without limitation, all correspondence, and notes of any telephone conversations or meetings, with Larsen, his attorneys, agents, employees or other representatives.

REQUEST FOR PRODUCTION NO. 2. All documents relating to the application for permit, issuance of permit, examination and licensing of the Water Right.

REQUEST FOR PRODUCTION NO. 3. All documents relating to the Application and its approval by IDWR including, without limitation, all correspondence and notes of any telephone conversations or meetings with any officer, employee, attorney or other agent of Claimant.

REQUEST FOR PRODUCTION NO. 4. All documents which are part of the "evidence not previously in IDWR's possession that establishes nonuse of water from at least 1978" as stated in the Response.

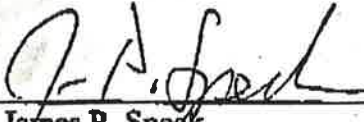
REQUEST FOR PRODUCTION NO. 5. All documents which support the allegation in the Response that the Application "falsely stated that the [Water Right] had been used within the five year period prior to the [Application]."

REQUEST FOR PRODUCTION NO. 6. All documents which support the recommendation by IDWR in the Report that the Water Right be disallowed due to forfeiture or

abandonment.

DATED this 17 day of February, 1995

HOGUE, SPECK & AANESTAD, P.A.
Attorneys for Acequia, Inc.

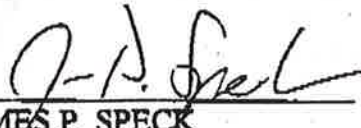
By: 

James P. Speck

CERTIFICATE OF MAILING

I hereby certify that on the 17 day of February, 1995, I served a true and correct copy of CLAIMANT'S FIRST INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS TO IDAHO DEPARTMENT OF WATER RESOURCES by depositing a copy of the same in the United States Mail, postage prepaid, to the following persons at their last known address as set forth below:

1. Nick Spencer, Esq., Idaho Department of Water Resources, P. O. Box 44449, Boise, Idaho 83711-4449.


JAMES P. SPECK

CLAIMANT'S FIRST INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS
TO IDAHO DEPARTMENT OF WATER RESOURCES - 13

MICROFILMED

DEC 03 1996

Nick

These are the dates on my old
calendars that have something to
do with Aceguiz or Mrs. Heley.

This probably does not represent all
dates which I talked with Mrs. Heley
or Ms. Hall but I do not have
records of other times.

6/7/89

6/16/89

) Preparing claims

8/14/90

8/15/90

8/21/90

) Review of Claims

1/8/91

2/7/91

) Discussing problems or findings.

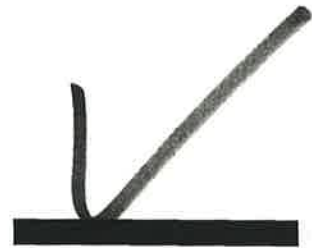
10/7/92

) with Speck

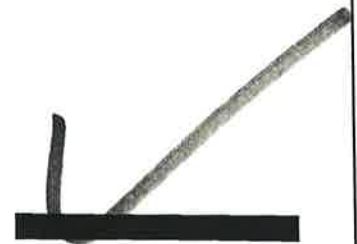
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R PROOF



CVR



MAPS



PHOTOS



MISC



MICROFILMED
JAN 26 1993

Water Right Number - R36-02194

Prefix Translation:

RESEARCH

Old (D) Number - 23809

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

+ - First Name - - +

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

*** C - CURRENT OWNER ***
ACEQUIA INC.

1 - P.O. DRAWER 226

2 -

3 -

City- SUN VALLEY

Phone - 208-726-8474

State- ID Zip- 83353

+ - - Priority Date - - +
02/25/1953+ - - Region - - - +
17 SOUTHERN

+ - - Stage - - - +

+ - - Status - - - +
I - DISALLOWED+ - - Source - - - - - +
GROUNDWATER

+ - - Tributary - - - - - +

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

06S 23E 34 SE SW NW (67) MINIDOKA

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

01 - IRRIGATION

03/15

11/15

3.180

960.00

+ - Total Div. Rate - + + - Total Div. Volume - +
3.180 960.00+ - Total Consumptive Use - + + - KW Usage - +
720.0+ - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County

06S	23E	34	SW NW	40.0	01	IRRIGATION	(67) MINIDOKA
06S	23E	34	SE NW	40.0	01	IRRIGATION	(67) MINIDOKA
06S	23E	34	NE SW	40.0	01	IRRIGATION	(67) MINIDOKA
06S	23E	34	NW SW	40.0	01	IRRIGATION	(67) MINIDOKA
06S	23E	34	SW SW	40.0	01	IRRIGATION	(67) MINIDOKA
06S	23E	34	SE SW	40.0	01	IRRIGATION	(67) MINIDOKA

Total Acres: 240.0

+ - - Diversion Means - WELL & PUMP

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - NONE

+ - - Remarks - - - - - +
FORFEITURE/ABANDONMENTRECEIVED
JUN 12 1992
JAN 2 1992

Water right number - R36-02194

Prefix Translation: RESEARCH

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

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

No Old Water Right Numbers Found

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

P04 - FORFEITED/ABANDONED: This is included for a claim based on a
- decree or license that is PROPOSED to be disallowed on the basis
- that the water right no longer exists because forfeiture of the
- right by nonuse was confirmed and a defense to forfeiture was not
- confirmed, or because abandonment of the right was confirmed.

+ - - - - Decree Plaintiff - - - +

+ - - - - Decree Defendant - - - +

+ - Decree Date - +
00/00/0000

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

Date: 02/08/1991 User Id: BEDKE Subject: ADM-STAFF REVIEW

Date: 06/12/1991 User Id: SOUTH1 Subject: COPIED FROM REMARKS

P/D LOCATED AT CENTER OF W 1/2 OF SEC.34.

TO AVOID FORFEITURE HAS BEEN APPROVED WHEREBY THE USE MUST

THIS WATER RIGHT IS NOT PRESENTLY BEING USED AND AN EXTENSION
RESUME BY NOVEMBER 1, 1992.

Date: 06/12/1992 User Id: CHRISTEN Subject: DISALLOWAL ANALYSIS

CLAIM RECOMMENDED FOR DISALLOWAL BASED UPON INFORMATION SUBMITTED BY MINIDOKA ASCS ON 8-28-90 WHICH STATED THAT IRRIGATION HAD
NEVER OR NOT FOR A LONG TIME OCCURED ON THE CLAIMED P/U. LEGAL REVIEW STATED THAT THE FORFETURE OCCURED BEFORE THE EXTENSION WAS
FILED THEREFORE RECOMMEND FOR DISALLOWAL. (COMMENTS ENTERED BY KC

+ - - Audit Fields - - +

06/12/92 CHRISTEN

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

Court Report Filing - 00/00/0000
Objection Filed Date - 00/00/0000
Response Filed Date - 00/00/0000
Claim Received Date - 05/26/1989

Field Inspection Made - 00/00/0000
Field Inspection Flag -
Verified Date - 06/12/1992
Last Amended Date - 00/00/0000
Receipt Number - S007363
POU Ownership Flag - Y
Name Connector -

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

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JAN 20 1993

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JAN 26 1995

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JAN 27 1995

Department of Water Resources
Southern Region

OFFICE OF THE
ATTORNEY GENERAL

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

) Water Right No. 36-02195A

) STANDARD FORM 1

) OBJECTION

INSTRUCTIONS

This form must be used to file an objection to a water right recommended in the director's report. ***Only one party/claimant may object to one water right per objection form.*** 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. If you do, the text must be on the front and back of each page exactly as it appears here. The objection must be **received** by the court on or before the deadline specified in the Notice of Filing the Director's Report that IDWR mailed to you. Follow the Instructions for Mailing this objection (Page 6) or the court will not accept it for filing. This form has been adopted by the court in ***SRBA Administrative Order 1*** (amended June 21, 1993), Section 4, which may be consulted for further information.

Any party filing 25 or more objections must make an appointment with the Clerk of the SRBA Court.

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 is not filed for any improper purpose, such as to harass, cause unnecessary delay or needlessly increase the cost of litigation.

I. GENERAL INFORMATION

Please fill in the following information:

1. ***Party/Claimant objecting:***

Name: Acequia, Inc.

Address: c/o James P. Speck
Hogue, Speck & Aanestad
P. O. Box 987
Ketchum, ID 83340

Phone: Work: (208) 726-4421
Home:

Briefly describe your interest in this water right: Claimant

If this objection is *filed by an attorney*:

Attorney Name: James P. Speck

Attorney Address: Hogue, Speck & Aanestad
P.O. Box 987
Ketchum, Idaho 83340

Attorney Phone No.: (208) 726-4421

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

2. ***Owner of the water right. You must identify the owner exactly as it appears in the Director's Report:***

Name: Acequia, Inc.

Address: P. O. Drawer 226
Sun Valley, ID 83353

II. STATEMENT OF THE OBJECTION

1. ☒ **Period of Year:** I object to the period of year when water is used or is necessary for the purpose stated.

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.

The Water Right is based upon a license issued by the Idaho Department of Water Resources ("IDWR") which did not specify or otherwise limit the period of use for the Water Right. The Water Right has historically been used from March 15 through November 15. Claimant and its predecessors have a vested interest in and have relied upon this period of use. IDWR is estopped from and has waived any right it may have had to change the period of use or recommend such change.

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.

The period of use should be changed to March 15 through November 15.

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

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

VERIFICATION (Must be completed)

State of Idaho)
)
County of Blaine) ss.

James P. Speck, being first duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this objection (as listed on Page 2, Section 1, "Party/Claimant Objecting"), as defined by I.C. § 42-1401A(1) and (7), and I have read this objection, know its contents and that the statements are true to the best of my knowledge and belief.

Signature of party/claimant filing objection

By: / s /
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: _____
(Insert Date)

 / s /
Notary Public for Idaho
Residing at _____
My Commission expires _____

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 all of the parties listed below in the Certificate of Mailing.

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

CERTIFICATE OF MAILING

I certify that on Jan. 25, 1995, I mailed the original and copies of this objection, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

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

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

Owner's name: Acequia, Inc.

Owner's address: c/o James P. Speck
Hogue, Speck & Aanestad
P. O. Box 987
Ketchum, ID 83340

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, Idaho 83734

151

Signature of party/claimant or attorney

R PROOF

CVR

MAPS

PHOTOS

MISC

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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 the Rights to the Use of Water)
from the Snake River Basin)
Water System)
_____)

Case No. 36-02194 -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: ACEQUIA INC
Address: POST OFFICE DRAWER 226
SUN VALLEY ID 83353

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

12. ☒ Water Right Recommendation: I respond to the objection concerning:

12b. ☒ This water right not being recommended.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection items 12 and 12.b, and all allegations of the objection regarding these items, IDWR responds as follows.

This claim was recommended for disallowal based on evidence not previously in IDWR's possession that establishes nonuse of water from at least 1978. On May 31, 1988, IDWR approved an application for extension of time to avoid forfeiture, which application falsely stated that the right had been used within the five year period prior to the application. On April 19, 1989, IDWR granted an application for transfer of this right. However, 1) the approval was limited to temporary transfer for one irrigation season, 2) the approval expressly provided that IDWR retained jurisdiction to cancel the transfer if other water rights are injured by the transfer, and the injury determination includes a determination whether the right has been forfeited

and/or abandoned, and 3) the approval provided that the priority date of the right would be advanced to January 6, 1989. On March 4, 1992, IDWR issued an order extending the temporary approval of the transfer of this right. However, 1) the extension was temporary, and expired on November 1, 1992, 2) the approval expressly provided that IDWR retained jurisdiction to cancel the transfer if other water rights are injured by the transfer, and the injury determination includes a determination whether the right has been forfeited and/or abandoned, and 3) the approval provided that the priority date of the right would be advanced to December 22, 1989. The right has been forfeited and/or abandoned, IDWR is not estopped to from asserting that the right has been forfeited and/or abandoned, and the information currently available to IDWR does not support a finding that all elements of a defense to forfeiture by resumption of use in 1989 have been met.

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. A36-02194	4

(Over)

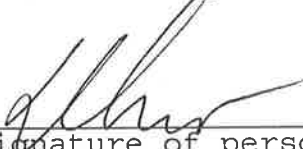
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

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

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



Signature of person filing response

By:



(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 31st day of August,
1993.



Notary Public for Idaho

Residing at: _____

My Commission expires _____

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

CERTIFICATE OF MAILING

I hereby certify that on the 31st day of AUGUST, 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: JAMES P SPECK
Address: PO BOX 987
KETCHUM ID 83340

4. One copy to:

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



Signature of Respondent or attorney
mailing on Respondent's behalf

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: A36-02194
Date Received: 1/18/1989
Receipt No: 5007363
Received By: ADM

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ACEQUIA INC. 208-726-8474
Address: P.O. DRAWER 226
SUN VALLEY, ID 83353

2. Date of Priority: FEB 25, 1953

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
06S	23E	34	SE	SW	NW		MINIDOKA

5. Description of diverting works:
WELL & PUMP

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	3.180		

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

8. Total consumptive use is 720.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
06S	23E	34	SW	NW		IRR	40.0
			SE	NW		IRR	40.0
			NE	SW		IRR	40.0

A36-02194

Page 1

Date: 05/26/89

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JAN 20 1993
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OCT 13 1994

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
06S	23E	34	NW	SW		IRR	40.0
			SW	SW		IRR	40.0
			SE	SW		IRR	40.0
						Section Acres	240.0
						Total Acres	240.0

11. Place of use in counties: MINIDOKA

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

13. Other Water Rights Used:
NONE

14. Remarks:
P/D LOCATED AT CENTER OF W 1/2 OF SEC.34.
THIS WATER RIGHT IS NOT PRESENTLY BEING USED AND AN EXTENSION
TO AVOID FORFEITURE HAS BEEN APPROVED WHEREBY THE USE MUST
RESUME BY NOVEMBER 1, 1992.

15. Basis of Claim: LICENSE
Water Right Number: 23809

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JAN 26 1993

MICROFILMED
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16. Signature(s)

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

Number of attachments: 1

For Organizations:

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

Jeremy Galey
Signature of Authorized Agent
president Acequia Inc.
Title and Organization
5/26/89
Date

State of Idaho

County of Thir Falls) SS.

Subscribed and sworn (or affirmed) before me this 26th day

of May 19 89

Dee D. Martin
Notary Public

Seal.

Residing at Kinseely, Id.

My Commission Expires 6/30/94

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THE INTERIOR
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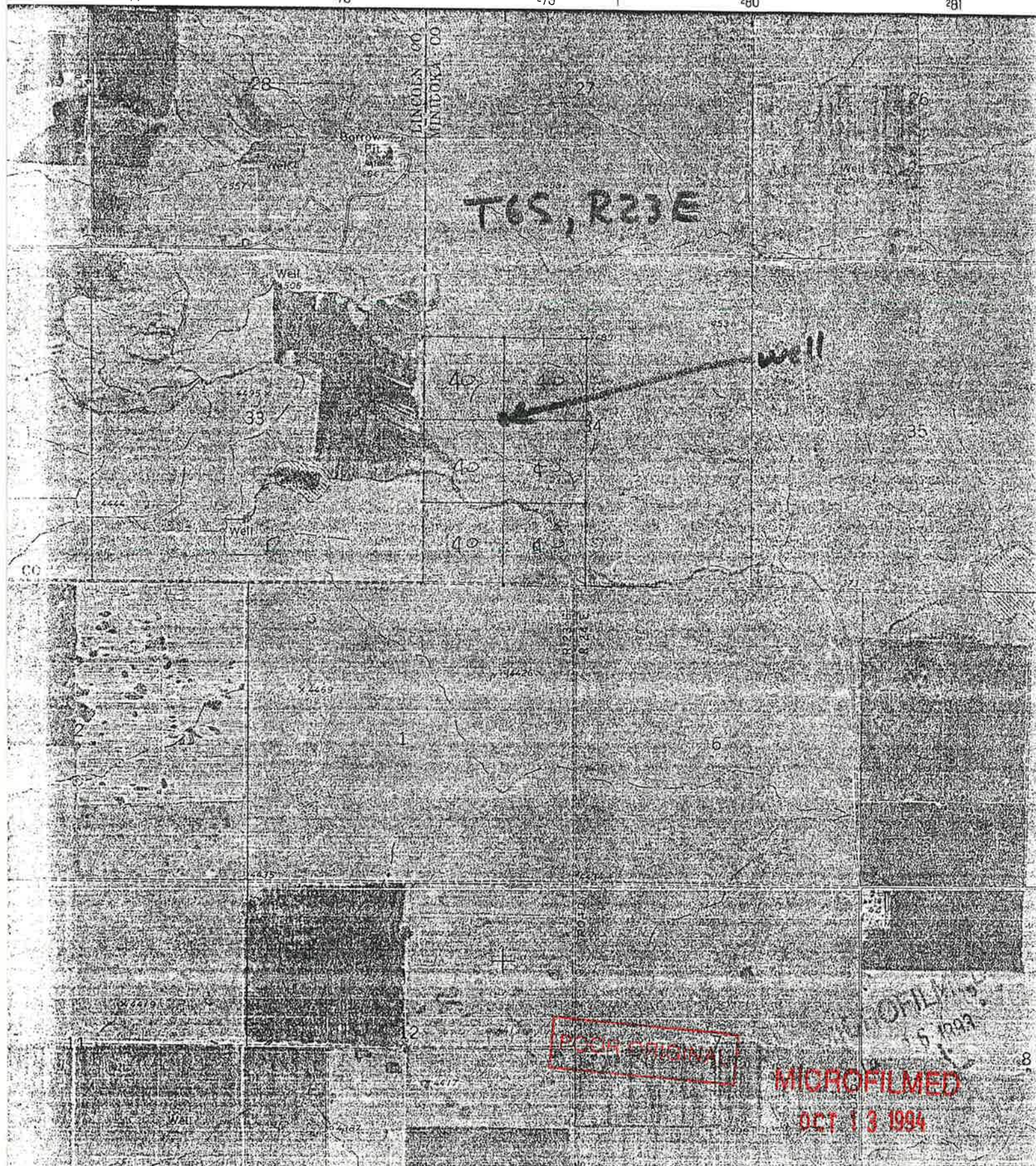
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MAY 03 1993

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. 36-02194
(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,

36-02194 -0001/
93-04-0180

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

MICROFILMED
OCT 13 1994

MSJ
PROCESSED

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: Acequia, Inc.

Address: Post Office Drawer 226

Sun Valley, Idaho 83353

Briefly describe your interest in this water right:

Owner

2. Owner of the water right:

Name: Acequia, Inc.

Address: Post Office Drawer 226

Sun Valley, Idaho 83353

3. If this objection is filed by an attorney:

Attorney Name: James P. Speck

Attorney Address: Post Office Box 987

Ketchum, Idaho 83340

Attorney Phone No.: 1-208-726-4421

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.

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: _____

REASONS SUPPORTING EACH BOX CHECKED

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

See Attached Addendum

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.

The Director's Report should be changed to recommend the right as
claimed.

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 Attached Addendum

VERIFICATION (Must be Completed)

State of IDAHO

County of Blaine

Michael Haley, 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. § 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.

ACEQUIA, INC.

By: Michael Haley
Signature of person filing objection

By: _____
(Attorney signing in
representative capacity)

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

J. D. Jacob
Notary Public for Idaho
Residing at: East Fork, ID
My Commission expires: 1/29/97

OBJECTION - 5

(Over)

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OCT 13 1994

14-067217-10

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 30th 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:

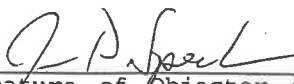
Owner name: Acequia, Inc.
Owner's address: Post Office Drawer 226
Sun Valley, Idaho 83353

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, Idaho 83734



Signature of Objector or attorney
mailing on Objector's behalf

RECEIVED

MAY 03 1993

Department of Water Resources
Adjudication Bureau

James P. Speck, Esq.
HOGUE, SPECK & AANESTAD
A Professional Association
120 East Avenue
Post Office Box 987
Ketchum, Idaho 83340
Telephone (208) 726-4421

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

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

Case No. 36-02194

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

ADDENDUM 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.

REASONS SUPPORTING EACH BOX CHECKED

12,b. In September, 1987, Acequia, Inc. (hereinafter referred to as "Acequia"), through its then president, Rosemary Haley, filed an application for extension of time to avoid forfeiture (hereinafter referred to as the "Application") of

ADDENDUM TO OBJECTION - 1

jps\acequia\water\2194objn.add
4/29/93

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OCT 13 1994

Water Right No. 36-02194 (hereinafter referred to as the "water right"). The appropriate fee was paid and notice according to the statute was published. No protests to the Application were filed. The Department then examined and approved the Application, subject to the condition the use of the water right be resumed prior to November 1, 1992.

In 1989, in reliance upon the approved Application, Acequia entered into a Lease of Water Rights with Blaine Larsen, Larsen Farms of Idaho and Larsen Farm (hereinafter collectively referred to as "Larsen"), making specific representations that the water right had not lapsed, been abandoned or forfeited. Larsen, in turn, filed a transfer application to move the point of diversion and place of use of the water right to his property for the 1989 irrigation season. This transfer application was properly advertised and timely protests were filed by numerous parties. On April 19, 1989, the Department issued its Order Approving Transfers wherein the Director specifically found and concluded the water right would not be "enlarged" as a result of the approved transfer. Larsen then used the water right to irrigate certain of his lands during the 1989 irrigation season.

Acequia and Larsen renewed the lease of the water right for the 1990, 1991 and 1992 irrigation seasons. In 1990 and 1992, Larsen again filed applications to transfer the water right and the Department issued orders extending temporary approval of the transfer for the renewal terms of the lease. Larsen used the water right to irrigate certain of his lands during the 1990, 1991 and 1992 irrigation seasons.

Acequia and Larsen again renewed the lease of the water right for the 1993 irrigation season. However, upon being informed the Department recommended the water right be disallowed in the Adjudication and the recommendation would be considered in its request for again extending temporary approval of the transfer of the water right, Larsen decided not to lease the water right for the 1993 irrigation season, causing Acequia to incur damages in the form of, inter alia, the loss of the rental income.

The Department should now be estopped from asserting the water right had been forfeited prior to Acequia filing the Application. The lease to and use by Larsen of the water right was a timely resumption of the use of the water right within the conditions imposed on the approval of the Application. No third parties were injured by the resumption of use.

ADDENDUM TO OBJECTION - 2

jps\acequia\water\2194objn.add
4/29/93

DOCUMENTS SUBMITTED

1. Approved Application for Extension of Time to Avoid Forfeiture and transmittal letter - 3 pages.
2. Renewal of Lease of Water Rights for 1992 - 17 pages.
3. Order Approving Transfers, dated April 19, 1989 - 8 pages.
4. Order Extending Temporary Approval of Transfers, dated March 4, 1992 - 4 pages.

ADDENDUM TO OBJECTION - 3

jps\acequia\water\2194objn.add
4/29/93

MICROFILMED

OCT 13 1994



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

RECEIVED

MAY 03 1993

Department of Water Resources
Adjudication Bureau

June 6, 1988

RE: Water Right No. 36-2194

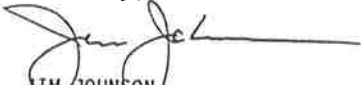
Acequia Inc.
P.O. Drawer 226
Sun Valley, ID 83353

Dear Water Right Holder(s):

Enclosed is a copy of the approved Application for Extension of Time to Avoid Forfeiture of the above referenced water right. Note that beneficial use of water under this right must resume on or before November 1, 1992.

If you have any questions concerning this matter, please feel free to contact our office.

Sincerely,


JIM JOHNSON
Water Rights Supervisor

JJ:sc

Enclosure

34-A

Water Right No. 36-2194STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

Application for Extension of Time to Avoid Forfeiture
of a Water RightMAY 03 1993
Department of Water Resources
Adjudication Bureau

Section 42-222 of the Idaho Code provides that a water right shall be lost and forfeited and the water revert to the state upon the failure of a water user to apply the water to beneficial use for a period of five (5) years. The Director may allow an additional five (5) year period of non-use without forfeiture upon a showing of reasonable cause.

Complete fully the following application and submit it to the Department of Water Resources, Statehouse, Boise, Idaho, 83720, with the statutory fee of \$30.00 if the application involves 0.2 cfs or 20 acre feet or \$50.00 if in excess of these amounts.

1. Name of water right holder Acequia Inc.
Post office address P.O. Drawer 226 Sun Valley, ID 83353
2. The right was obtained or is evidenced by:
 - a. Decree to _____ in Case of _____
(Name)
 - vs. _____, Dated _____ in _____
(Name of Court)
 - Court, County of _____ Fully describe decree _____
- b. License No. 36-2194 issued by the Department of Water Resources.
- c. Claim No. _____ on file with the Department of Water Resources.
3. Source of water groundwater tributary to _____
(Name of stream or source)
4. Date of priority of right February 25, 1953
5. Amount of water a. 3.18 c.f.s. and/or
b. _____ acre feet/annum
6. Water is used for Irrigation from _____ to _____
from _____ to _____
from _____ to _____
(Purpose) (Month-Day) (Month-Day)
7. Location of point of diversion is Near Center of 1/2 of Section 34
Township 6S, Range 23E, B.M., in Minidoka County;
Additional points of diversion, if any _____

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Totals
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
6S	23E	34						40	40	40	40	40	40						240

Total number of acres irrigated 240

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9. Give last date when water was applied to beneficial use September, 1984
Length of extension of time requested 5 years, until 1992 (Date)

10. Explain fully your reasons for requesting an extension of time within which to resume the use of your water right and reasons for non-use Economics

I hereby assert that no one will be injured by such extension. The information contained in this application is true to the best of my knowledge

[Signature]
(Signature of Applicant)

Subscribed and sworn to before me this 3rd day of September, 19 87.

Mary A. Baldwin
(Notary Public)

My commission expires 10/16/1992 Residing at Gooding, ID

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined this application for extension of time within which to resume the use of a water right and I hereby APPROVE said application subject to the following conditions or reasons.

Beneficial use of water under this right shall resume on or before November 1, 1992.

Witness my hand this _____ day of _____, 19 88.

Chief, Operations Bureau

For Department Use Only

Received by [Signature] Date 9/3/87 Time 11:00 AM Preliminary check by AD
Fee \$ 50.00 Receipted by M. Baldwin Date 1/2/88 Publication prepared by _____
Published in So ID. Press Dates 2/4 + 2/11
Publication approved by MB Date 2/25/88 Protests filed by: _____

Copies of protests forwarded by _____ Hearing held by _____ Date _____
Recommended for Approval // Denial by AD

RECEIVED
MAY 13 1993
Department of Water Resources
Adjudication Bureau

RENEWAL OF LEASE OF WATER RIGHTS FOR 1992

This Renewal, made and entered into on this 30th day of October, 1991, is an addendum to
(1) the "Lease of Water Rights Pertaining to 26A, 26C, 35B West, 2D, 26DW North, and 34A" dated January 9, 1990; and

(2) the "Lease of Water Rights Pertaining to 7AW" dated April 8, 1991,

which are collectively referred to herein as the "Leases", copies of which are attached hereto. Said Leases were executed by and between Acequia, Inc., Lessor and Blaine Larsen and Blaine Larsen Farms, Inc., Lessee.

1. The Lessee hereby exercises, and Lessor hereby accepts, Lessee's option to renew the Leases for a term of one additional year commencing April 1, 1992 with the amendment of the "Lease of Water Rights to 7AW" that the rate under the renewal of that lease shall be \$25.00 per acre.

2. The parties hereto contemplate the filing of a one-year transfer to the Lessee's property of the places of use and points of diversion of the water rights described in the Leases for the 1992 irrigation season (the "1992 Transfer"). This Renewal is contingent upon the approval of the 1992 Transfer by the Idaho Department of Water Resources.

3. The total rent to be paid for this Renewal shall be \$15,775.00. The Lessee shall pay such sum to the Lessors on April 1, 1992 or within 10 days following the approval of the 1992 Transfer by the Idaho Department of Water Resources, which ever is later.

4. All other terms of the Leases not expressly modified herein shall govern the rights and obligations of the parties during the period of this Renewal. (NOTE: This Renewal also corrects the name of the Lessee Blaine Larsen Farms, Inc.)

IN WITNESS WHEREOF, the parties executed this Renewal of the Lease on the day and year first above written.

LESSOR:

By Rosemary Haley
Rosemary Haley, Secretary

LESSEE:

Blaine Larsen
Blaine Larsen

BLAINE LARSEN FARMS, INC.

By Blaine Larsen
Blaine Larsen, President

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STATE OF IDAHO)

County of Blaine)

On this 18th day of October, 1991, before me, the undersigned, a Notary Public in and for said State, personally appeared Rosemary Haley, known to me to be the Secretary of Acequia, Inc., the corporation that executed the within instrument and the person whose name is subscribed to the within instrument and acknowledged 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.



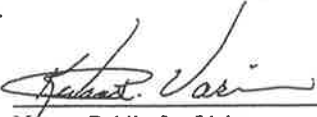
Notary Public for Idaho
Residing at East Fork Idaho
My commission expires: 1/29/97

STATE OF IDAHO)

County of Jefferson)

On this 30th day of October, 1991, before me, the undersigned, a Notary Public in and for said State, personally appeared Blaine Larsen, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he 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.



Notary Public for Idaho
Residing at Idaho Falls, Idaho
My commission expires: 8-16-97

STATE OF IDAHO)

)

County of Jefferson)

On this 30th day of October, 1991, before me, the undersigned, a Notary Public in and for said State, personally appeared Blaine Larsen, known to me to be the President of Blaine Larsen Farms, Inc., the corporation which executed the within instrument and the person whose name is subscribed to the within instrument and acknowledged to me that he 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.



Notary Public for Idaho

Residing at Idaho Falls, Idaho

My commission expires: 8-16-97

LEASE OF WATER RIGHTS

PERTAINING TO 7AW

THIS LEASE made and entered into this 5th day of April, 1991, by and between ACEQUIA, INC., hereinafter called the LESSOR, and BLAINE LARSEN, LARSEN FARMS OF IDAHO and LARSEN FARM, hereinafter called the LESSEE.

WITNESSETH:

PROPERTY LEASED: The Lessor does hereby lease to the Lessee, and the Lessee does hereby lease from the Lessor those certain water rights, licenses, and permits described on Exhibit "A". This Lease includes the complete use of said water rights, licenses, and permits.

TERMS OF LEASE: The term of this Lease shall be for one year commencing April 1, 1991. This Lease or any renewals thereof entered into in the future cannot be terminated except upon written agreement by the Lessor and Lessee, or in the event of default.

RENT: Lessee shall pay to the Lessor as rent for said water rights the sum of \$15.00 per year per acre for 147 acres, for a total of \$2,205.00. The rental amounts stated above shall be paid by April 1, 1991 or within ten (10) days of approval of temporary transfer and use of the above described water rights by the Idaho Department of Water Resources ("Department"), whichever occurs later.

OWNERSHIP OF WATER: Lessor covenants and represents that it is the true and lawful owner of the water rights and that these rights have not lapsed, been abandoned or forfeited either in whole or in part. Lessor makes no covenant or representation about the actual quantities of water that the Department may

recognize for transfer or diversion under the water rights, regardless of the amount stated in any permit, claim, or license.

APPLICATION FOR TRANSFER: Lessee shall at its sole expense file all necessary applications with the Department to transfer the places of use and points of diversion of the water rights on a temporary basis. Lessor shall cooperate in securing such transfers and processing such application (s) and shall execute any documents necessary to achieving the transfer.

APPROVAL OF TRANSFER: This Lease is conditioned upon the Department's approval of a transfer of the water rights from Lessor's present places of use and points of diversion to places of use and points of diversion located on the lands owned or leased by Lessee.

TRANSFER OF WATER RIGHTS UPON TERMINATION OF LEASE: Upon the termination of this Lease for any reason, the Lessee shall surrender the water licenses, water permits, and water rights covered by the Lease to the Lessor. Lessee shall pay such cost promptly and pursue any action necessary to transfer said water rights, water licenses, and water permits back to the Lessor's real property.

BENEFICIAL USE FOR IRRIGATION: Lessee's purpose in entering into this Lease is to obtain water for use upon land owned or leased by Lessee. During the term of the Lease and during any extension hereof, Lessee shall place to the beneficial use for irrigation purposes all water leased herein.

NON-LIABILITY OF LESSOR: Lessor shall not be liable for any damage to Lessee sustained by reason of any action of the Department in bringing about the curtailment of some or all irrigation operations by Lessee under the leased water rights to protect the water rights of other appropriators.

LEASE OF WATER RIGHTS PERTAINING TO LAW - 2

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JUL 1 3 1947
UNRECORDED

REMEDY ON DEFAULT: In the event Lessee defaults in the performance of any of the covenants or conditions of this Lease, and remains in default for a period of thirty (30) days after receiving written notice of said default from the Lessor, the Lessor may, at its option, terminate this Lease, repossess the leased water rights and transfer the same back to Lessor's property at the cost of the Lessee. This remedy is not exclusive and the Lessor shall have any other remedy available to it at law or in equity, including the right to recover rental payments and damages caused by the breach of the Lease.

NOTICES: Any notices required or desired to be given by one party to the other may be given by placing the same in a sealed envelope and mailing the same, postage prepaid, in the United States Mail to the other party at the address hereinafter set forth.

Lessor: Acequia, Inc.
P. O. Box 1678
Ketchum, Idaho 83340

Lessee: c/o Blaine Larsen
P. O. Box 188
Hamer, Idaho 83245

ATTORNEY FEES: In the event suit is instituted by either party to enforce any provisions of this Agreement, the successful party to said suit shall be entitled to recover their costs of the suit and a reasonable attorney fee in such amount as the Court may set.

SUCCESSORS AND ASSIGNS: This Agreement shall inure to the benefit of and be binding upon the heirs, personal representatives, successors, and assigns of each of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement the day
and year first above written.

LESSOR:

ACEQUILA, INC.

By *[Signature]*
Its Secretary

LESSEE:

Blaine Larsen
BLAINE LARSEN

LARSEN FARMS OF IDAHO

By *Blaine Larsen*

LARSEN FARMS

By *Blaine Larsen*

202.3.20
UNRECORDED

STATE OF IDAHO)
) ss.
County of Blaine)

On this 4th day of April, 1991, before me, the undersigned, a Notary Public in and for said State, personally appeared ROSEMARY HALEY, known or identified to me to be the Secretary of Acequia, Inc., the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation 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.


Notary Public for Idaho
Residing at Test Fork, ID
My commission expires: 1/29/97

STATE OF IDAHO)
) ss.
County of Jefferson)

On this 8th day of April, 1991, before me, the undersigned, a Notary Public in and for said State, personally appeared BLAINE LARSEN, 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.

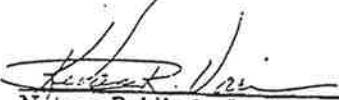
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.


Notary Public for Idaho,
Residing at Idaho Falls, Idaho
My commission expires: 8-19-91

STATE OF IDAHO)
) ss.
County of Jefferson,)

On this 5th day of April, 1991, before me, the undersigned, a Notary Public in and for said State, personally appeared BLAINE LARSEN, known or identified to me to be the owner of LARSEN FARMS OF IDAHO, the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation 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.


Notary Public for Idaho
Residing at Idaho Falls, ID
My commission expires: 8-19-91

STATE OF IDAHO)
) ss.
County of Jefferson)

On this 8th day of April, 1991, before me, the undersigned, a Notary Public in and for said State, personally appeared BLAINE LARSEN, known or identified to me to be the owner of LARSEN FARMS, the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation 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.


Notary Public for Idaho
Residing at Idaho Falls, ID
My commission expires: 8-19-91

EXHIBIT A

The Lease of Water Rights Pertaining to 7AW is for the following portion of Water Right License 36-02197 which has a priority date of February 25, 1953 and is owned by the Lessor:

Point of Diversion: Center of N1/2 Sec. 7, T.7S., R.24E., Minidoka Co.

Place of use: 147 acres located in the NE1/4, Sec. 7., T.7S., R.24E.

Type of use: Irrigation.

EXHIBIT A TO LEASE OF WATER RIGHTS PERTAINING TO 7AW

LEASE OF WATER RIGHTS

PERTAINING TO 26A, 26C, 35B WEST, 2D, 26DW NORTH, AND 34A

THIS LEASE made and entered into this 9th day of JAN, 1990 by and between ACEQUIA, INC., hereinafter called the LESSOR, and BLAINE LARSEN, LARSEN FARMS OF IDAHO and LARSEN FARM, hereinafter called the LESSEE.

WITNESSETH:

PROPERTY LEASED: The Lessor does hereby lease to the Lessee, and the Lessee does hereby lease from the Lessor those certain water rights, licences, and permits described on Exhibit "A." This Lease includes the complete use of said water rights, licenses, and permits.

TERM OF LEASE: The term of this Lease shall be for two years commencing April 1, 1990 and at Lessee's option may be extended for an additional year. Lessee shall notify Lessor in writing of Lessee's desire to extend this Lease for a one year period by no later than November 1, 1991. This Lease or an extension thereof entered into in the future cannot be terminated except upon written agreement by the Lessor and Lessee, or in the event of default.

RENT: Lessee shall pay to the Lessor as rent for said water rights a total of \$22,990.00 for the two year lease period, provided, however, that in the event the Idaho Department of Water Resources ("Department") grants permission to temporarily transfer the above described water rights for a one year period only, then Lessee shall pay to Lessor the sum of \$10.00 per acre per year for a total of \$12,100.00 for each year that this lease or any extension hereof is in effect. The rental amounts stated above for the two year period

LEASE OF WATER RIGHTS PERTAINING TO 26A, 26C, 35B WEST, 2D, 26DW
NORTH, AND 34A - Page 1

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OCT 13 1994

shall be paid by April 1, 1990 or within 10 days of approval of such temporary transfer and use by the Department whichever occurs later. In the event that lease payments are made on an annual basis because of the action of the Department as provided above, or in the event Lessee exercises its option to extend the lease for a third year, Lessee's annual rental payment shall be paid by April 1 of the crop year in which the water is to be used or within 10 days of the Department's approval of such temporary transfer and use.

OWNERSHIP OF WATER: Lessor covenants and represents that it is the true and lawful owner of the water rights and that these rights have not lapsed, been abandoned or forfeited either in whole or in part. Lessor makes no covenant or representation about the actual quantities of water that the Department may recognize for transfer or diversion under the water rights, regardless of the amount stated in any claim, or license.

APPLICATION FOR TRANSFER: Lessee shall at its sole expense file all necessary applications with the Department to transfer the places of use and points of diversion of the water rights on a temporary basis. Lessor shall cooperate in securing such transfers and processing such application(s) and shall execute any documents necessary to achieving the transfer. This Lease is conditioned upon the Department's approval of a transfer of the water rights from Lessor's present places of use and points of diversion to places of use and points of diversion located on lands owned or leased by Lessee.

APPROVAL OF TRANSFER: This Lease and any extension hereof is conditioned upon the Department's approval of a transfer of the water rights from Lessor's present places of use and points of diversion to places of use and points of diversion located on lands owned or leased by Lessee.

TRANSFER OF WATER RIGHTS UPON TERMINATION OF LEASE: Upon the termination of this Lease for any reason, the Lessee shall surrender the water licenses and water rights covered by this Lease to the Lessor. Lessee shall pay such cost promptly and pursue any action necessary to transfer said water rights and water licenses back to the Lessor's real property.

BENEFICIAL USE FOR IRRIGATION: Lessee's purpose in entering into this Lease is to obtain water for use upon land owned or leased by Lessee. During the term of the Lease and during any extension hereof, Lessee shall place to the beneficial use for irrigation purposes all water leased herein.

NON-LIABILITY OF LESSOR: Lessor shall not be liable for any damage to Lessee sustained by reason of any action of the Department effecting the shutdown of some or all irrigation operations by Lessee under the leased water rights to protect the water rights of other appropriators.

REMEDY ON DEFAULT: In the event Lessee defaults in the performance of any of the covenants or conditions of this Lease, and remains in default for a period of thirty (30) days after receiving written notice of said default from the Lessor, the Lessor may, at its option, terminate this Lease, repossess the leased water rights and transfer the same back to Lessor's property at the cost of the Lessee. This remedy is not exclusive and the Lessor shall have any other remedy available to it at law or in equity, including the right to recover rental payments and damages caused by the breach of the Lease.

NOTICES: Any notices required or desired to be given by one party to the other may be given by placing the same in a sealed envelope and mailing the same, postage prepaid, in the United States Mail to the other party at the address hereinafter set forth.

LEASE OF WATER RIGHTS PERTAINING TO 26A, 26C, 35B WEST, 2D, 26DW
NORTH, AND 34A - Page 3

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Lessor: Acequia, Inc.
P. O. Drawer 226
Sun Valley, Idaho 83353

Lessee: c/o Blaine Larsen
P. O. Box 188
Hamer, Idaho 83245

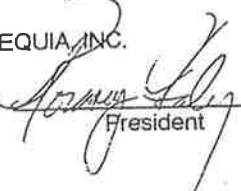
ATTORNEY FEES: In the event suit is instituted by either party to enforce any provisions of this Agreement, the successful party to said suit shall be entitled to recover their costs of the suit and a reasonable attorney fee in such amount as the Court may set.

SUCCESSORS AND ASSIGNS: This Agreement shall inure to the benefit of and be binding upon the heirs, personal representatives, successors, and assigns of each of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

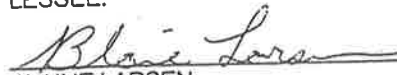
LESSOR:

ACEQUIA, INC.

By:  _____

President

LESSEE:

 _____
BLAINE LARSEN

LARSEN FARMS OF IDAHO

By:  _____

LARSEN FARM

By:  _____

STATE OF IDAHO

County of Blaine

) ss.

On this 11 day of January, 1990, before me, the undersigned, a Notary Public in and for said State personally appeared ROSEMARY HALEY, known to me to be the President of Acequia, Inc. who executed the foregoing instrument on behalf of said corporation and acknowledged to me that such corporation 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.

Carrie J. Rose

NOTARY PUBLIC FOR IDAHO

Residing at: Coarse Creek

My commission expires: 2-11-93

STATE OF IDAHO

County of Jefferson

) ss.

On this 9th day of January, 1990, before me, the undersigned, a Notary Public in and for said State personally appeared BLAINE LARSEN, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

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

Robert L. Van

NOTARY PUBLIC FOR IDAHO

Residing at: Idaho Falls, Idaho

My commission expires: 8-19-91

LEASE OF WATER RIGHTS PERTAINING TO 26A, 26C, 35B WEST, 2D, 26DW
NORTH, AND 34A - Page 5

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OCT 13 1994

STATE OF IDAHO

County of Jefferson

) ss.

On this 9th day of January, 1990, before me, the undersigned, a Notary Public in and for said State personally appeared BLAINE LARSEN, on behalf of Larsen Farms of Idaho, a corporation, known to me to be the person who executed the foregoing instrument on behalf of said corporation and acknowledged to me that such corporation 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.

Richard P. Van
NOTARY PUBLIC FOR IDAHO

Residing at: Idaho Falls, Idaho
My commission expires: 8-19-91

STATE OF IDAHO

County of Jefferson

) ss.

On this 9th day of JANUARY, 1990, before me, the undersigned, a Notary Public in and for said State personally appeared BLAINE LARSEN, on behalf of Larsen Farms, a corporation, known to me to be the person who executed the foregoing instrument on behalf of said corporation and acknowledged to me that such corporation 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.

Richard P. Van
NOTARY PUBLIC FOR IDAHO

Residing at: Idaho Falls, Idaho
My commission expires: 8-19-91

LEASE OF WATER RIGHTS PERTAINING TO 26A, 26C, 35B WEST, 2D, 26DW
NORTH, AND 34A - Page 6

Exhibit 'A'

WATER RIGHT(S)	LEGAL DESCRIPTION OF PLACE OF USE	PLACE OF USE	ACRES
36-02121	NW 1/4, W 1/2 NE 1/4, SEC 26, T 6S, R24E	(26A)	240
36-02122	SW 1/4, N 1/2 N1/2 SE 1/4, N 1/2 S1/2 N 1/2 SE 1/4, SW 1/4 SE 1/4, S 1/2 S1/2 NW 1/4 SE 1/4, SEC 26, T 6S, R 24E	(26C, 35B WEST)	270
36-02124	W 1/2 NW 1/4 NE 1/4 SEC 35, T 6S, R 24E	(35B WEST)	20
36-02190	W 1/2 NW 1/4, NE 1/4 NW 1/4, SEC 35, T 6S, R 24E	(35B WEST)	120
36-02127	SW 1/4, SEC 2, T 7S, R 24E	(2D)	160
36-02193	NW 1/4, SEC 26, T 6S, R 23E	(26 DW NORTH)	160
36-02194	SW 1/4, S 1/2 NW 1/4, SEC 34, T 6S, R 23E	(34A)	240
TOTAL			1,210

LEASE OF WATER RIGHTS PERTAINING TO 26A, 26C, 35B WEST, 2D, 26DW
NORTH, AND 34A - Page 7

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OCT 13 1994

RECEIVED

MAY 03 1993

Department of Water Resources
Adjudication BureauBEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
 TRANSFER NOS. 3500, 3502, 3503, 3504,)
 3505, 3506, 3507, 3508, 3512 PROPOSING)
 TRANSFER OF WATER RIGHTS NOS. 35-7390,)
 35-7391, 35-7630, 35-7605, 35-7586,)
 36-7015A, 36-2074, 36-7613, 36-2409A,)
 36-7495, 37-2652, 36-2121, 36-2122,)
 36-2127, 36-2193, 36-2194, 35-2821A,)
 35-2728, 35-2844, 35-7361, 21-7050)
 21-7051, 36-7022, 36-2632, 36-7272,)
 36-7897, 36-2300 IN THE NAME OF)
 BLAINE LARSEN.)

ORDER APPROVING
TRANSFERS

Blaine Larsen having applied to transfer the above-cited water rights, protests having been filed and withdrawn, Director of the Department of Water Resources, having reviewed the available information, finds and concludes and orders as follows:

FINDINGS OF FACTS

1. On January 6, 1989, Blaine Larsen ("Larsen") transferred application nos. 3502, 3503, 3504, 3505, 3506, 3508, 3512 with the Department of Water Resources ("department") proposing transfer of water right nos. 35-7390, 35-7391, 35-7605, 35-7586, 36-7015A, 36-2074, 36-7613, 36-2409A, 36-7495, 37-2652, 36-2121, 36-2122, 36-2127, 36-2193, 36-2194, 35-2821A, 35-2728, 35-2844, 35-7361, 36-7022, 36-2632, 36-7272, 36-7897 and 36-2300. On January 25, 1989, Larsen filed the application no. 3500 with the department proposing transfer of water right nos. 21-7050 and 21-7051.

2. The transfer applications propose irrigation water rights in Jefferson and Clark Counties, and the withdrawal

irrigation of 4894 acres in Bingham, Lincoln, Minidoka, Jefferson, and Fremont counties for the 1989 irrigation season.

3. The department published notice of the applications for transfer on February 2 and 9, 1989. Due to errors in some of the original transfer applications, the department republished notice of the applications on February 16 and 23, 1989.

4. Timely protests against approval of the application were filed by Burgess Canal Company; Great Feeder Canal Company; Lloyd R. Hicks; Owsley Canal Company; Jackett Canal Company; Holly Water Users Association; Jefferson Irrigation; Producers Canal Company; Montevue Canal Company; Level Canal Company; Independent Water Users of Mud Lake; U.S. Department of Interior, Fish and Wildlife Service; State of Idaho, Department of Fish & Game; and Ray Sanders.

5. A hearing was scheduled for March 29, 1989. Lloyd R. Hicks, Burgess Canal Company, and Great Feeder Canal Company withdrew their protests on February 27, 1989.

6. Protestant Ray Sanders withdrew his protest on March 16, 1989.

7. Two days prior to the hearing, Larsen informed the Department that the remaining protestants had agreed to withdraw their protests. As a result, the department vacated the scheduled hearing.

8. On April 6, 1989, the parties filed with the department a stipulation withdrawing the protests of the U.S. Fish & Wildlife Service, the Idaho Department of Fish & Game, and the other remaining protestants.

9. The applications for transfer do not propose an enlargement in the rights as originally defined.

10. The stipulation for withdrawal of protests calls for a three year study to determine the effects of groundwater pumping in the Mud Lake hydrologic basin.

11. Many of the transfer applications propose to transfer water rights from a considerable distance and from areas outside the Mud Lake basin. Information does not presently exist to determine the probable impact of pumping the transferred rights in the Mud Lake area.

12. If the original priority dates of the rights proposed to be changed are retained, later in time appropriators in the Mud Lake hydrologic basin could be injured.

CONCLUSIONS OF LAW

1. Idaho Code § 42-222 sets forth the criteria the department must consider in evaluating an application for transfer:

The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, and the change is in the local public interest as defined in section 42-203A, Idaho Code. . .

2. Approval of the applications for transfer will not result in an enlargement of the water rights sought to be transferred.

3. Approval of the applications for transfer will not conflict with the local public interest.

4. The department should retain jurisdiction over the transfer to modify, amend or cancel the transfer if it finds that other water rights are being injured by groundwater withdrawals authorized by the transfer.

5. The priority dates of water rights transferred under this transfer should be advanced to the date the transfer was filed to protect water users in the Mud Lake hydrologic basin from possible injury.

6. The transfers must be limited to one year as requested.

ORDER

IT IS HEREBY ORDERED that transfer nos. 3500, 3502, 3503, 3504, 3505, 3506, 3507, 3508, and 3512 proposing transfer of water right nos. 35-7390, 35-7391, 35-7630, 35-7605, 35-7586, 36-7015A, 36-2074, 36-7613, 36-2409A, 36-7495, 37-2652, 36-2121, 36-2122, 36-2127, 36-2193, 36-2194, 35-2821A, 35-2728, 35-2844, 35-7361, 21-7050, 21-7051, 36-7022, 36-2632, 36-7272, 36-7897, 36-2300 are APPROVED subject to the following conditions:

1. The department retains jurisdiction over the transfers to modify, amend or cancel the transfers if it finds that the diversion and use of water under the transfers injures other water rights.

2. The transfers are approved for a period of one year. On November 1, 1989, the water rights shall revert back to the original places of use and points of diversion with their original priority dates.

3. The priority of water right nos. 35-7390, 35-7391, 35-7630, 35-7605, 35-7586, 36-7015A, 36-2074, 36-7613, 36-2409A,

08-14-92 02:30PM FROM GIVENS PURSLEY

TO 17260752

P006/009

36-7495, 37-2652, 36-2121, 36-2122, 36-2127, 36-2193, 36-2194, 35-2821A, 35-2728, 25-2844, 35-7361, 36-7022, 36-2632, 36-7272, 36-7897, and 36-2300 shall be advanced to January 6, 1989. The priority of water right nos. 21-7050 and 21-7051 shall be advanced to January 25, 1989.

4. The place of use is limited to the 4594 acres listed on the summary attached hereto.

Dated this 19th day of April, 1989.



R. KEITH HIGGINSON, Director
Department of Water Resources

06-14-92 02:30PM

FROM GIVENS PURSLEY

TO 17260752

P008/009

MICROFILMED

OCT 13 1994

BLAINE LARSEN TRANSFERS 1989
PLACE OF USE
LISTED BY DIVERSION NUMBER

			N E				N W				S W				S E				TOTAL	DIV. NUMBER	DIV. TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
5N	15E	31	:	:	:	:	30.9	30.9	30.9	30.9	:	:	:	:	:	:	:	:	123.6	8	
6N	15E	31	:	:	:	:	:	:	:	:	30.5	30.5	30.4	30.4	:	:	:	:	121.6	9	
6N	15E	31	:	31.7	31.6	31.6	31.6	:	:	:	:	:	:	:	:	:	:	:	124.5	10	
6N	15E	31	:	:	:	:	:	:	:	:	30.9	30.9	30.9	30.9	:	:	:	:	123.6	11	
7N	16E	4	:	:	:	:	:	:	:	:	:	:	:	:	35	:	:	25	60.0	49	
7N	16E	9	:	25	:	15	:	:	:	:	:	:	:	:	:	:	:	:	60.0	49	100.0
8N	16E	11	:	:	:	:	:	2	5	:	:	:	:	:	40	27	27	34	139.0	49	
8N	16E	12	:	:	:	:	:	:	:	:	10	7	:	:	:	:	:	:	17.0	49	156.0
8N	16E	10	:	:	:	7	:	:	:	:	:	:	:	:	38	:	:	35	80.0	90	
8N	16E	11	:	:	:	:	:	12	5.3	:	12	40	36	13	:	:	:	:	114.3	90	198.3
8N	16E	3	:	:	:	:	:	:	:	:	:	:	14	:	:	:	:	:	14.0	93	
8N	16E	9	:	5	:	1.7	:	:	:	:	:	:	:	:	:	:	:	:	6.7	93	
8N	16E	10	:	:	8	6	:	40	40	31	36	:	:	:	:	:	:	:	161.0	93	181.7
8N	16E	3	:	:	2	:	:	33	33	40	40	18	18	:	:	4	:	:	188.0	94	
8N	16E	4	:	:	:	5	:	:	:	:	:	:	:	:	:	8	:	:	13.0	94	201.0
8N	16E	3	:	:	:	:	19	40	:	:	:	:	:	:	:	:	:	:	59.0	95	
8N	16E	4	:	10	:	:	:	:	:	:	:	:	:	:	:	:	:	:	10.0	95	
9N	16E	33	:	:	:	:	:	:	:	:	:	:	:	:	:	:	13	:	13.0	95	
9N	16E	34	:	:	:	:	:	:	:	:	:	36	6.7	:	:	:	:	:	42.7	95	124.7
9N	16E	33	:	:	18	:	:	:	:	:	:	:	:	:	10	:	:	:	28.0	96	
9N	16E	14	:	:	:	:	:	40	20	14.3	39	:	:	:	:	:	:	:	113.3	96	141.3
9N	16E	34	:	27	16	17	40	:	:	:	:	:	:	30	13	:	:	:	169.0	97	
9N	16E	35	:	:	:	:	:	8	20	:	10	:	:	:	:	:	:	:	38.0	97	207.0
9N	16E	26	:	:	:	:	:	:	:	:	20	18	:	:	:	15	:	:	71.0	98	
9N	16E	35	:	:	30	12	:	40	32	12	22.3	:	:	:	:	:	:	:	168.3	98	221.3
9N	16E	27	:	:	:	:	:	:	:	:	:	:	:	:	4	20	27	40	124.6	99	
9N	16E	34	:	4	8	:	:	:	:	:	:	:	:	:	:	:	:	:	12.0	99	136.6
9N	16E	26	:	:	:	:	:	4	5	:	:	:	:	:	:	:	:	:	9.0	100	
9N	16E	27	:	36	34	38	39	:	:	:	:	:	4.4	4	:	:	:	:	155.4	100	164.4
9N	16E	26	:	:	8	18	:	35	20	30	40	:	9	4.7	:	:	:	:	164.7	101	
9N	16E	25	:	:	:	:	:	12	16	:	:	:	:	:	:	:	:	:	24.0	102	
9N	16E	26	:	37	10.9	17	40	:	:	:	:	:	:	:	:	:	:	:	104.9	102	132.9
9N	16E	25	:	:	:	:	:	:	:	:	:	12	:	:	:	:	:	:	12.0	103	
9N	16E	26	:	:	:	:	:	:	:	:	:	:	:	:	:	4	31	:	35.0	103	
9N	16E	35	:	28	3	:	:	:	:	:	:	:	:	:	:	:	:	:	31.0	103	
9N	16E	36	:	:	:	:	:	5	:	:	:	:	:	:	:	:	:	:	5.0	103	81.0

POOR ORIGINAL

BLAINE LARSEN TRANSFERS 1949
PLACE OF USE
LISTED BY DIVISION NUMBER

		N E				N W				S W				S E				DIV			
		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	TOTAL	NUMBER	TOTAL	
6N	35E	31				30.9	10.9	30.9	30.9									123.6	8		
6N	35E	31								30.5	30.5	30.4	30.4					121.8	9		
6N	35E	31	31.7	31.6	31.6													126.5	10		
6N	35E	31												30.9	30.9	30.9	30.9	123.6	11		
7N	36E	4												35			25	60.0	49		
7N	36E	9	25		15													40.0	49	100.0	
8N	36E	11						2	5					60	27	27	30	139.0	89		
8N	36E	12									10	7						17.0	89	156.0	
8N	36E	10			7									30			35	80.0	90		
8N	36E	11						12	5.3	12	40	36	13					114.3	90	198.3	
8N	36E	3										14						14.0	93		
8N	36E	9	5		1.7													6.7	93		
8N	36E	10		8	6	40	40	31	36									161.0	93	181.7	
8N	36E	3			2			33	33	40	40	18	18					188.0	94		
8N	36E	4			5									8				13.0	94	201.0	
8N	36E	3					19	40										59.0	95		
8N	36E	4	10															10.0	95		
9N	36E	33																13.0	95		
9N	36E	34											36	6.7			13	62.7	95	124.7	
9N	36E	33			18									10				28.0	96		
9N	36E	34						40	20	14.3	29							113.3	96	141.3	
9N	36E	34	27	16	37	40							30	19				169.0	97		
9N	36E	35					8	20			10							28.0	97	207.0	
9N	36E	26										20	38				15	73.0	98		
9N	36E	35		30	12	40	32	12	22.3									144.3	98	221.3	
9N	36E	27								1.6				4	20	27	40	12	124.6	99	
9N	36E	34	4	8														12.0	99	136.6	
9N	36E	26					4	5										9.0	100		
9N	36E	27	36	34	38	39								6.4	4			155.4	100	164.4	
9N	36E	26		8	18		35	10	30	40	9	6.7						164.7	101		
9N	36E	25						12	16									28.0	102		
9N	36E	26	37	10.9	17	40												104.9	102	132.9	
9N	36E	25										12						12.0	103		
9N	36E	26														4	31	15.0	103		
9N	36E	25	24	3														31.0	103		
9N	36E	16																5.0	103		

08-14-92 02:30PM

FROM GIVENS PURSLEY

TO 17260752

FD07/009

08-14-92 02:30PM FROM GIVENS PURSLEY

TO 17260752

P009/009

9N	36E	25 :	3	:	6	:	:	:	:	:	9.0	104	198.6
9N	36E	24 :	:	:	:	:	:	:	:	:	22.5	105	
9N	36E	25 :	38	:	5	:	:	:	:	:	43.0	105	
5N	37E	19 :	:	:	:	:	:	19	:	:	19.0	105	
5N	37E	30 :	:	:	:	31	2	:	:	:	35.0	105	119.5
5N	36E	21 :	:	23	:	:	:	:	:	11	10	64.0	106
5N	36E	22 :	:	:	:	16	15	17	40	18	3.2	129.2	191.2
5N	36E	27 :	:	:	20	35	40	33	8	17	:	157.0	107
9N	36E	20 :	14	:	23	:	:	:	:	2	:	39.0	107
9N	36E	27 :	:	:	:	:	:	7	14	40	16	97.0	108
9N	36E	28 :	:	:	:	:	:	:	:	2.4	23	25.4	108
9N	36E	33 :	16	:	:	:	:	:	:	:	:	16.0	108
9N	36E	34 :	:	:	24	37	:	:	:	:	:	61.0	108
9N	36E	33 :	10.2	37	19	14	12	15	:	:	:	127.1	109
9N	36E	28 :	:	:	32	32	32	32	:	:	:	126.0	110
9N	36E	31 :	:	19	:	:	5	19	39	5	19	126.0	111
10N	36E	33 :	:	23.5	:	:	23	:	:	40	25	40	25
10N	36E	34 :	:	:	:	:	:	:	:	:	:	88.0	112
9N	36E	3 :	27	27	:	:	:	:	:	7	2.4	39	54.0
9N	36E	34 :	:	:	:	:	:	:	:	:	25	73.4	113
9N	36E	25 :	:	:	:	39.5	14	12	36	:	9	7	117.5
5N	36E	25 :	30	35	:	:	:	:	26	23.4	:	:	114.4
9N	36E	13 :	:	:	31.4	:	:	:	:	:	:	31.4	123
9N	36E	12 :	:	:	:	:	31.4	:	:	:	:	31.4	123
TOTAL												4594.9	62.8

MICROFILMED
OCT 13 1994

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

Larsen
'92 Trans
RECEIVED

MAR 05 1992

Givens, Pursley, Webb &
Huntley

IN THE MATTER OF TRANSFER NO'S	)	
3666, 3667, 3668, 3669, 3670, AND	)	ORDER EXTENDING
3671 ON WATER RIGHT NO.'S 35-2728	)	TEMPORARY APPROVAL
35-2821B/2844/7361/7586/7605/7632,	)	OF TRANSFERS
A35-10948, 36-2074/2121/2122/2124	)	
2127/2190/2193/2194/2300/2632/2727	)	
7015A/7022/7272/7495/7897	)	

Blaine Larsen, having received approved transfers from the Department of Water Resources in 1989, and having requested that the Department extend the two year approval period, the Director of the Department of Water Resource finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On January 6, 1989, Blaine Larsen (Larsen) filed transfer applications no's 3502, 3503, 3504, 3505, 3506, 3507, 3508, and 3512 with the Department of Water Resources (department) proposing transfer of water right no.'s 35-7390, 35-7391, 35-7630, 35-7605, 35-7586, 36-7015A, 36-2074, 36-7613, 36-2409A, 36-7495, 37-2652, 36-2121, 36-2122, 36-2127, 36-2193, 36-2194, 35-2821A, 35-2728, 35-2844, 35-7361, 36-7022, 36-2632, 36-7272, 36-7897, and 36-2300. On January 25, 1989, Larsen filed transfer application no. 3500 with the Department, proposing transfer water right no.'s 21-7050 and 21-7051.

2. The transfer applications proposed irrigation of 4,594 acres in Jefferson and Clark counties from groundwater and withdrawal from irrigation of 4,894 acres in Bingham, Lincoln, Minidoka, Jefferson and Fremont counties to compensate for the proposed water use.

3. Timely protests against the approval of the applications were filed by various parties. Two days before a scheduled hearing, the protestants withdrew their protests based on a stipulation between the parties. The parties agreed that Blaine Larsen should be allowed to temporarily transfer water rights to his existing places of use pending the completion of a study by United States Geological Survey (USGS). USGS predicted completion of its study in 1991. Blaine Larsen's pending transfers in 1989 were approved for one year. Blaine Larsen subsequently filed other applications for transfer, numbered 3666, 3667, 3668, 3669, 3670, and 3671, proposing transfer of water right no's 35-2728, 35-2821, 35-2844, 35-7361, 35-7586, 35-7605, 35-7632, A35-10948, 36-2074, 36-2121, 36-2122, 36-2124, 36-2127, 36-2190, 36-2193, 36-2194, 36-

2300, 36-2632, 36-2727, 36-7015A, 36-7022, 36-7272, 36-7495, and 36-7897.

4. The last set of applications for transfer were advertised properly, and the applications were not protested. The department approved the transfers in the spring of 1990 for a period of two irrigation seasons. The transfers authorized the irrigation of 4,075 acres listed on the summary attached, and labeled as Attachment 2.

5. In the spring of 1991, Blaine Larsen filed another application for transfer, numbered 3847, proposing to transfer water right no. 36-2197 for the irrigation of an additional 147 acres in Fremont County. The application was protested by some of the original protestants, but the protests were subsequently withdrawn. The application for transfer was approved for one year.

6. The approved transfer authorized the diversion of 1.47 cfs for irrigation of the following lands:

Township	Range	Section		Acres
08N	37E	32	NE NE	37
08N	37E	32	SE NE	37
08N	37E	32	NE SE	37
08N	37E	32	SE SE	36
			TOTAL	147

7. The transfers expired at the end of the 1991 irrigation season.

8. As the end of the transfer approval period approached, the USGS represented that it would not complete its study prior to the 1992 irrigation season. Larsen negotiated with and received consent from all the original protestants to extend the prior approved transfer for one more year.

CONCLUSIONS OF LAW

1. Idaho Code, Section 42-222 sets forth the criteria the department must consider in evaluation of an application for transfer:

The director of the Department of Water Resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, and the change is consistent with conservation of water resource within the state of Idaho and is in the local public interest.

2. All of the criteria listed above were considered in the prior applications for transfer listed above, which were approved by the Department of Water Resources.

3. The petition for renewal of the transfer approval does not propose any change in the points of diversion, places of use, or water rights which were originally approved in 1990. A one year extension of time will not change the Director's original analysis of the criteria of Idaho Code, § 42-222.

4. No additional notice to the public is required. The published notice of the applications described the present water use, and, at the time, the public had an opportunity to contest the applications.

5. The request for an extension of the transfer approval should be granted.

ORDER

IT IS HEREBY ORDERED that applications for transfer no.'s 3666, 3667, 3668, 3669, 3670, and 3671, are REAPPROVED, subject to the following conditions:

1. The department retains jurisdiction over the transfers to modify, amend or cancel the transfers if it finds that the diversion and use of water under the transfers injures other water rights.

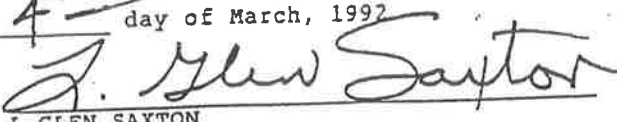
2. The transfers are approved for a period of one (1) year. On November 1, 1992, the water rights shall revert back to the original places of use and points of diversion with their original priority dates.

3. The priority of all water rights involved in these transfers shall be advance to December 22, 1989.

4. The place of use is limited to the 4221 acres listed in Attachment 2 and in finding of fact no.'s 4 through 6.

5. Any change in point of diversion, place of use, period of use, or nature of use, or any change in the water rights transferred to these lands for an additional years will require the filing of a new application of transfer.

Dated this 4th day of March, 1992


L. GLEN SAXTON

Chief, Water Allocation Bureau

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT on the 4th day of March
1992, a true and correct copy of the ORDER EXTENDING TEMPORARY
APPROVAL OF TRANSFERS was mailed, postage prepaid to:

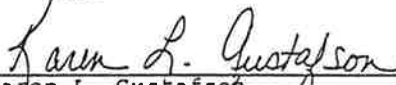
Blaine Larsen
P.O. Box 188
Hamer, ID 83425

Michael C. Creamer
Givens, Pursley, Webb, and Huntley
P.O. Box 2720
Boise, ID 83701

Kent Foster
Idaho First National Bank
P.O. Box 50130
Idaho Falls, ID 83405

Barbara Scott-Brier
Fish and Wildlife Service
500 N.E. Multnomah Street
Suite 607
Portland, OR 97232

Steven V. Goddard
Idaho Department of Fish and Game
P.O. Box 25
Boise, ID 83707


Karen L. Gustafson
Secretary/Records Manager

MICROFILMED
OCT 13 1994

W.R. NUMBER	NAME & ADDRESS	CLAIM DISPOSITION	REASON
36-02007	BIG BEND IRRIGATION & MINING CO C/O CATHERINE SAUL 2751 S 850 E HAGERMAN ID 83332	DISALLOWED	RECOMMENDED AS RIGHT NO. 36-00192.
36-02025	BOYER, LEE HAGERMAN ID 0	NOT CLAIMED	FUTURE CLAIM TO THIS RIGHT BARRED.
36-02054	DEVISSER, AILEEN DEVISSER, ARTHUR RT 2 3709 N 2300 E FILER ID 83328	DISALLOWED	NO BENEFICIAL USE FOUND.
36-02057	IRWIN, G F IRWIN, JEAN RT 4 BOX 149 RUPERT ID 83350	DISALLOWED	RECOMMENDED AS RIGHT NO. 36-02816.
36-02121	ACEQUIA INC PO BOX 1678 KETCHUM ID 83340	DISALLOWED	FORFEITED/ABANDONED.
36-02145B	TRAIL, FLOYD W MOSCOW ID 0	NOT CLAIMED	FUTURE CLAIM TO THIS RIGHT BARRED.
36-02160A	SMITH, RONNIE D 1046 E 2900 S HAGERMAN ID 83332	DISALLOWED	FORFEITED/ABANDONED.
36-02160B	MILLER, C R HAGERMAN ID 0	NOT CLAIMED	FUTURE CLAIM TO THIS RIGHT BARRED.
36-02194	ACEQUIA INC PO BOX 1678 KETCHUM ID 83340	DISALLOWED	FORFEITED/ABANDONED.
36-02222	HENSCHIELD, HERMAN 901 I ST RUPERT ID 83350	NOT CLAIMED	FUTURE CLAIM TO THIS RIGHT BARRED.
36-02223	MOLLER, WH MOLLER, VELVA 824 6TH ST RUPERT ID 83350	NOT CLAIMED	FUTURE CLAIM TO THIS RIGHT BARRED.

Jeff -
Sorry, but I forgot the
to enclose these in the
package I sent you the
other day...
jeanne

MICROFILMED
OCT 13 1994

AUG-24-1992

NOTICE OF ERROR FOR

RECEIVED

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

Idaho Department of Water Resources
Statehouse Mail
Boise, Idaho 83720-9000

OCT 01 1992
Department of Water Resources
Southern Region Office

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

YOUR DEADLINE FOR FILING A NOTICE OF ERROR IS:

SEP-24-1992

1. Water right number: 36-02194

RECEIVED

SEP 25 1992

2. Name: Acequia, Inc.

Department of Water Resources

Address: P.O. Box 1678

KETCHUM, ID 83340

Weekday Telephone Number:

208/726-4421

MICROFILMED
JAN 20 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 marked on the copy.)

N/C
File Objection

3. Describe the portion of proposed recommendation with which you disagree:
Claim should be allowed as filed. Right has NOT been forfeited or abandoned
4. Describe the changes you wish to have made in the proposed recommendation:
See above.
5. Describe why you disagree with the proposed recommendation:
Extension to resume use by Nov. 1, 1992 granted. Right leased to Blake Larsen 1989-92. Transfer approved by IDWR Order for each season. Water beneficially used.
6. Date: 9/23/92

SIGNATURE Jon A. Speck, attorney-in-fact
for Acquia, Inc.



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

15-Jan-1993

JEFF FEREDAY
PO BOX 2720
BOISE ID 83701

RE: Copy of SRBA File(s): 36-02121, 36-02122, 36-02194

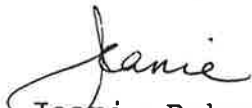
Dear Mr. Fereday:

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:

\$13.03

Sincerely,


Jeanie Robertson
Records Clerk

Encl:

Fereday
266
69
65
200 x 5 = 10.00
Post. 2.90
enc. .13
13.03

MICROFILMED
OCT 13 1994

36-02121

36-02122

36-02194

Jeff Fereday

PO 2720

Boise 83701

4 copied of pages out of
Boise Report.

MICROFILMED

OCT 13 1994

NOTICE OF ERROR



RESPONSE



CORRECTED R PROOF



MICROFILMED
JAN 26 1993

Water Right Number - R36-02194

Prefix Translation:

RESEARCH

Old (D) Number - 23809

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

*** A - ATTORNEY ***
SPECK

JAMES P

1 - PO BOX 987

2 -

3 -

City- KETCHUM

State- ID Zip- 83340

Phone - 208-726-4421

*** C - CURRENT OWNER ***
ACEQUIA INC

1 - PO BOX 1678

2 -

3 -

City- KETCHUM

State- ID Zip- 83340

Phone - 208-726-8474

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - - +
02/25/1953 17 SOUTHERN I - DISALLOWED+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
GROUNDWATER+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County

06S 23E 34 SE SW NW (67) MINIDOKA

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 04/01 10/31 3.180 960.00+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
3.180 960.00 720.0+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
06S 23E 34 SW NW 40.0 01 IRRIGATION (67) MINIDOKA
06S 23E 34 SE NW 40.0 01 IRRIGATION (67) MINIDOKA
06S 23E 34 NE SW 40.0 01 IRRIGATION (67) MINIDOKA
06S 23E 34 NW SW 40.0 01 IRRIGATION (67) MINIDOKA
06S 23E 34 SW SW 40.0 01 IRRIGATION (67) MINIDOKA
06S 23E 34 SE SW 40.0 01 IRRIGATION (67) MINIDOKA

Total Acres: 240.0

+ - - Diversion Means - WELL & PUMP

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - NONE

MICROFILMED
JAN 26 1993

Water right number - R36-02194

Prefix Translation: RESEARCH

+ - - - - - Remarks - - - - - +
FORFEITED/ABANDONED.

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

+ - - - - - Conditions of Approval - - - - - +
P04 - FORFEITED/ABANDONED: This is included for a claim based on a
- decree or license that is PROPOSED to be disallowed on the basis
- that the water right no longer exists because forfeiture of the
- right by nonuse was confirmed and a defense to forfeiture was not
- confirmed, or because abandonment of the right was confirmed.

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

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

Date: 02/08/1991 User Id: BEDKE Subject: ADM-STAFF REVIEW
Date: 06/12/1991 User Id: SOUTH1 Subject: COPIED FROM REMARKS
P/D LOCATED AT CENTER OF W 1/2 OF SEC.34.
TO AVOID FORFEITURE HAS BEEN APPROVED WHEREBY THE USE MUST
Date: 06/12/1992 User Id: CHRISTEN Subject: DISALLOWAL ANALYSIS
CLAIM RECOMMENDED FOR DISALLOWAL BASED UPON INFORMATION SUBMITTED BY MINIDOKA ASCS ON 8-28-90 WHICH STATED THAT IRRIGATION HAD
NEVER OR NOT FOR A LONG TIME OCCURED ON THE CLAIMED P/U. LEGAL REVIEW STATED THAT THE FORFETURE OCCURED BEFORE THE EXTENSION WAS
FILED THEREFORE RECOMMEND FOR DISALLOWAL. {COMMENTS ENTERED BY KC
Date: 09/28/1992 User Id: SCHULTZ Subject: NOTICE OF ERROR (NOE)
NOE RECEIVED 9/25/92. CHANGED NOE FLAG FROM BLANK TO A. CLAIM VERIFIED 8/10/92. DID NOT REVERIFY ANY PART OF CLAIM.
Date: 10/08/1992 User Id: ROBERTSO Subject: ADDRESS CHANGE & NOTICE OF APPEARANCE ENTERED
Date: 10/09/1992 User Id: MERRITT Subject: RESPONDED TO NOE
MET WITH SPECK 10/7. NO CHANGE.

+ - - Audit Fields - - +
10/09/92 MERRITT

+ - - - - - 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	- 10/09/1992	Old Judicial District	-
Claim Received Date	- 05/26/1989	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S007363	Water District	-
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	-	Presumption Flag	-
				Notice of Error Flag	- B

JAN 2 1993
MINIDOKA



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

09-Oct-1992

James P. Speck
PO Box 987
Ketchum, ID 83340

RE: Confirmation of Response to Notice of Error and Change of Address
for Acequia Inc. & Estate of Rosemary Haley SRBA Claims.

Dear Mr. Speck:

This letter is intended to confirm my responses to your Notices of Error discussed in our October 7th meeting with Miles Clinton at my office.

Regarding your general concern about the season of use, the proposed recommendations are 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. Additionally, 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 a conditioned irrigation use outside the general irrigation season.

Regarding your general concern about the language in the recommendations which talks about "right includes a change in point of diversion", the Department includes such language in rights where the proposed legal description for the point of diversion is different than the legal description of the base water right. This situation may exist if there has been a physical change in the point of diversion or if it has been determined that the base water right location was incorrect even if there has been no physical change in the point of diversion.

Regarding your concerns about disallowal of several of the rights, these rights were recommended for disallow because generally it was determined by field examination and information gathered from the ASCS that there was a period of 5 years of non-use for these rights or that the acres claimed irrigated consisted of lava out crops that have never been farmed.

I confirm that based on your change of ownership letter and the power of attorney documents submitted we have changed the address of Acequia Inc. and have added you as attorney for all claims in the name of Acequia Inc. Additionally we have changed the name of the Rosemary Haley claims to that of the Estate of Rosemary Haley and have changed

MR. HIGGINSON
JAN 26 1993

Page 2
Oct 9, 1992

the address to that of Acequia Inc. and have also added you as attorney for all claims in the name of Rosemary Haley.

After our meeting and review of the files the following additional changes were made to the proposed recommendations:

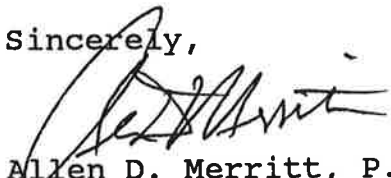
36-02127 None 36-07850A None
36-02195A None 36-11340 None
36-02130A None 36-07041 None
36-02191 None 36-08106A None
36-02192 None 36-02193 None
36-11290 None 36-11288 None
36-02121 None 36-02194 None

36-02129 Reference to point of diversion change deleted.
36-07403 Reference to point of diversion change deleted.

36-07192 Disallowed since acres originally recommended covered under
36-02122.
36-02122 Deleted reference to 36-07192 in remarks.
36-02124 Deleted reference to 36-07192 in remarks.
36-02190 Deleted reference to 36-07192 in remarks.
36-07193 Deleted reference to 36-07192 in remarks.
36-02123 Deleted reference to 36-07192 in remarks.

If you still disagree with IDWR's recommendations, you will have the opportunity to file an objection to the Director's Report with the court. If you have further questions please feel free to contact our office.

Sincerely,



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

MICROFILMED
JAN 20 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

00:00:44
08/04/90

PAGE: 11
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-02194

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			ADN				DB	Mike
POINT OF DIV	Y			1,5	1,5			
SOURCE								
PLACE OF USE	Y			1,5,6	1,5,6			
DIV. AMOUNT CFS/VOLUME				4				
CONSUMPTIVE USE								
PURPOSES								
PERIOD OF USE	Y				6			
BASIS OF CLAIM								
REMARKS	Y							

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JAN 26 1993

'VERIFIED BY' CODES

TOPO MAP/ORTHO-PQ = 1
ASCS MAP = 2
WATERMASTER RECORDS = 3
NAEP 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.

Disallow
see memo
5/23/91

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A36-02194	06S	23E	34	SE	SW	NW		MINIDOKA

OTHER AJ CLAIMS WITH SAME AJ POD
A PREFIX R PREFIX
A36-11339 NONE

WR RECORDS IN SAME 40 ACRE TRACT
NONE

SOURCE: GROUNDWATER

TRIB:

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
36-02194	06S	23E	34		SW	NW		MINIDOKA
36-02194	06S	23E	34		SE	NW		MINIDOKA

OTHER WR RECORDS WITH SAME WR POD

AJ CLAIMS IN SAME 40 ACRE TRACT
A PREFIX R PREFIX
A36-11339 NONE

SOURCE: GROUNDWATER

TRIB:

C. FIELD EXAM REQUIRED?

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

DATABASE
Y
N

FIELD
EXAMINER

REMARKS:

Appears as claimed. No pump in hole.

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184 25 133

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP. RGE. SEC.

1/4

1/4

1/4

LOT

COUNTY

As Claimed.

SOURCE: GROUNDWATER

TRIB:

REVIEWED BY:

ADN

DATE:

8/14/90

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JAN 26 1993

A. ROOT WATER RIGHT NUMBERS: A36-02194

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
06S	23E	34	SW	NW		ACEQUIA INC.	A36-02194 740.0	36-02194 740.0			
06S	23E	34	SE	NW		ACEQUIA INC.	A36-02194 740.0	36-02194 740.0			
06S	23E	34	NE	SW		ACEQUIA INC.	A36-02194 740.0	36-02194 740.0			
06S	23E	34	NW	SW		ACEQUIA INC.	A36-02194 740.0	36-02194 740.0			
06S	23E	34	SW	SW		ACEQUIA INC.	A36-02194 740.0	36-02194 740.0			
06S	23E	34	SE	SW		ACEQUIA INC.	A36-02194 740.0	36-02194 740.0			
TOTAL ACRES							A36-02194 240.00	240.00			

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

C. FIELD EXAM REQUIRED?

DUE TO POU DISCREPANCY? (Y/N)

DATABASE
Y

FIELD
EXAMINER

PRESUMPTION FLAG:

REMARKS:

*Recommend 2, licensed although lands presently
not irrigated. (See remarks under priority).*

RECOMMENDATIONS:

TOTAL ACRES:

240

REVIEWED BY:

AD

DATE:

8/21/90

MICROFILMED
JAN 26 1993

A. AJ CLAIMED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
A36-02194 IRRIGATION	FROM 03-15 TO 11-15	3.180 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		3.180 CFS

B. WR RECORDED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
36-02194 IRRIGATION	FROM TO	3.180 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		3.180 CFS

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

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

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

Y(✓) N(___)

RECOMMEND TO WR STANDARDS OR OTHER?

Y(✓) N(___) Explain in remarks, below.

REMARKS:

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JAN 26 1993

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y(☒) N(☐)

AJ TOTAL CLAIMED DIVERSION RATE: 3.180 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 3.180 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 ☒

B.

FLOW MEASUREMENT

MEASUREMENT METHOD N/A, SEE ATTACHED CALCULATIONS.

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

OTHER RIGHTS LISTED IN CLAIM: NONE

NO CLAIMS FOUND WITH SAME POI AND IRRIGATION USAGE

NO RIGHTS WITH SAME POI BUT NOT USED FOR IRRIGATION

D.

RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE

ACRES 240 x 0.02 CFS/ACRE = 4.80 CFS
(Taken from p/u review)

1b. CALCULATIONS

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

*** IF YES ADDITIONAL WATER USE FORM FILED AND ATTACHED? Y() N(☒) ***

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 720.0 AE/A

ACRES 240 x CONSUMPTIVE VOL. AE/A FOR AREA 3 =

TOTAL CONSUMPTIVE USE 720 AE/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AE/A

ACRES 240 x DIVERSION VOL. AE/A FOR AREA 4 =

TOTAL DIVERSION VOLUME 960 AE/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y() N(☒)

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

(A36-11339 out of same system.)

This claim is being disallowed since
no proof of priority, available.

(No Overlap)

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JAN 26 1993

RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD FROM TO	REC. DIV RATE CPS	REC. DIV VOL. AF/A	REC. CONS. USE
IRRIGATION	03-15 11-15	DATABASE 3.180 EXAMINER ✓	DATABASE 960 EXAMINER	DATABASE 720.0 EXAMINER
TOTAL FOR THIS RIGHT		3.180		720.0

REVIEWED BY: *AD~* DATE: *8/21/90*

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JAN 26 1993

A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP _____
FORFEIT/ABANDON _____
ADDITIONAL DIV. AMOUNT _____

ACCEPTED
AS CLAIMED ☒
NEEDS
REVIEW ☒

Reviewed 8/21/90

MICROFILMED

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-02194

TOTAL DIVERSION RATE OF WR SPLITS

DATABASE
3.180

EXAMINER

CFS

NA

SPLITS:

OLD RIGHT
NUMBERS

CURRENT
CLAIM NUMBERS

DIVERSION
RATE

CURRENT "R"
CLAIM NUM.

"R" DIV.
RATE

WR RIGHT
NUMBERS

DIVERSION
RATE

-

A36-02194

3.180

-

36-02194

3.180

TOTAL CFS

3.180

3.180

DIVERSION RATE REVIEW

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

DATABASE
Y

FIELD
EXAMINER

REMARKS:

Discontinue

AUTHENTICATION:

SIGNATURE:

[Signature]

DATE:

8/21/90 6/12/91

NAME OF FIELD EXAMINER:

TITLE:

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

00:00:44
08/04/90

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-02194

LAST: ACEQUIA INC.
ADDRESS: P.O. DRAWER 226
CITY: SUN VALLEY
PHONE NUMBER: 208-726-8474

FIRST:
STATE: ID ZIP: 83353

OWNER CODE: C

FIELD EXAM REQUIRED?

DATABASE FIELD
Y EXAMINER

VERIFICATION REQUIRED DUE TO REMARKS?

CLAIM REMARKS: P/D LOCATED AT CENTER OF W 1/2 OF SEC.34.
THIS WATER RIGHT IS NOT PRESENTLY BEING USED AND AN EXTENSION
TO AVOID FORFEITURE HAS BEEN APPROVED WHEREBY THE USE MUST
RESUME BY NOVEMBER 1, 1992.

FIELD EXAMINATION INFORMATION

CONTACT PERSON: _____

PHONE NUMBER: (____) ____-____

DATE OF FIELD EXAM: 8/14/90

APPOINTMENT MADE: Y(____) N(____)

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

ACCOMPANIED BY: None

PHONE NUMBER: (____) ____-____

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / REMARKS:

MICROFILMED

JAN 26 1993

A. AJ CLAIM: # A36-02194 PRIORITY DATE: 02-25-1953 STAGE: L

B. WR RECORD: # 36-02194 PRIORITY DATE: 02-25-1953 STAGE: L

C. FIELD EXAM REQUIRED?

DUE TO PRIORITY DATE DISCREPANCY? (Y/N)

DATABASE
N

FIELD
EXAMINER
N

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

REMARKS: CK. forfeiture. 2nd presently not investigated.

8/21/90 Rt. is covered under extension of time to
avoid forfeiture. Use must resume by 1992.

Rt. also included under transfer to Brian Censen and was
used in 1989.

6/12/91 Memo from Lynn indicates right should be disallowed.

RECOMMENDED PRIORITY DATE:
02-25-1953

REVIEWED BY

Adm
Adm

DATE

8/21/90
6/12/91

MICROFILMED
JAN 26 1993

NAPR 1

33 34

T412
2003
TRACT-HEL

200V

34

E

R-24

LINCOLN COUNTY

Well K₂
Section 34
Township 6
Range 33

No record of
this ground
ever having
been irrigated
or even farmed

33 34

6

REFERENCE SLIP

8-28-90

TO

Alan Merritt
Dept of Water Resources

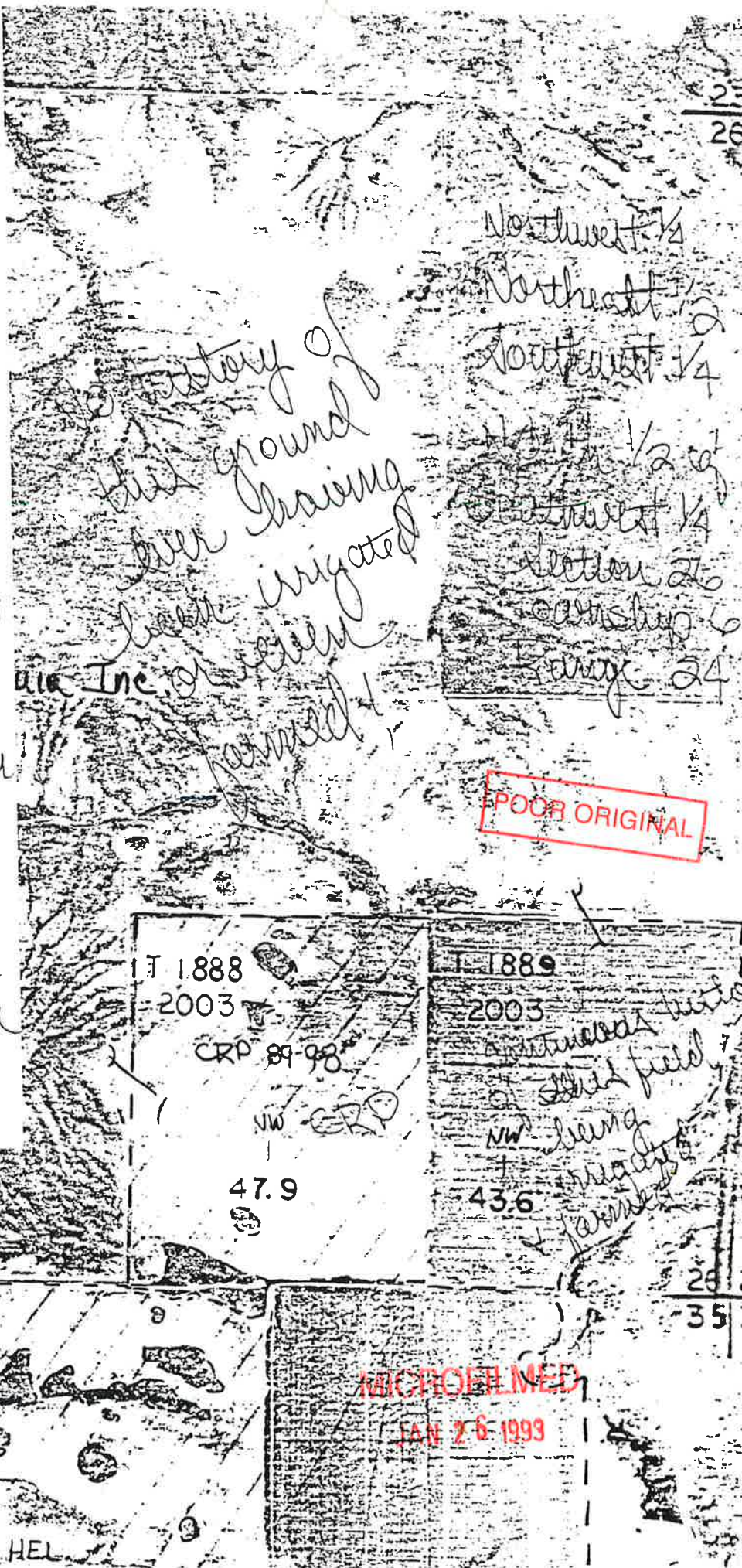
- ☐ ACTION ☐ NOTE AND RETURN
- ☐ APPROVAL ☐ PER PHONE CALL
- ☐ AS REQUESTED ☐ RECOMMENDATION
- ☐ FOR COMMENT ☐ REPLY FOR SIGNATURE OF
- ☐ FOR INFORMATION ☐ RETURNED
- ☐ INITIALS ☐ SEE ME
- ☐ NOTE AND FILE ☐ YOUR SIGNATURE

REMARKS

Attached are copies of maps of the 3 parcels of ground for Acquia Inc I checked crop reports back to 1980 & neither 34-6-23 or 26-6-24 have any history of irrigation except one corner in section 26 I also checked our 1978 maps & there was no indication of irrigation in the questioned areas if you need any more

U.S.G.P.O. 1985-525-216

FORM AD-514 (8-64)



A36-02199



8/14/90

MICROFILMED

JAN 26 1993

AD~

old well location.

pump removed
and not irrigated.

From: DWR02::KROGH HAM1 23-MAY-1991 16:13:21.39
To: DWR60::MERRITT
CC:
Subj: ACEQUIA

Allen, thanks for the message reminding me of the information you had obtained from ASCS about the Acequia claims, and thanks for your patience. Since we have ample information as to nonuse for the files (except for the portion of section 26), and since there are junior ground water appropriators in the area, the claims should be recommended for disallowal based on forfeiture occurring prior to the application for extension (except for the portion of section 26). Hopefully this is one memo you at last have a final answer for. The others will be on their way soon. Lynne

MICROFILMED
JAN 26 1993

From: DWR60::MERRITT 15-MAY-1991 17:03:03.77
To: DWR02::KROGH_HAMPE,DWR03::SHAW
CC: MERRITT
Subj: ACEQUIA FILES A36-02121, 02122 & 02194

IN RESPONSE TO YOUR MAIL MESSAGE THIS DAY FROM EASTERN I HAVE PULLED THE FILES AND BACK IN AUG. 1990 WHEN WE FIRST REVIEWED THESE CLAIM I STOPPED IN AT THE ASCS IN RUPERT AND THE LADY THERE PULLED THE INFO. FOR ME AND SEND ME MAPS IN THE MAIL. ATTACHED TO THE MAPS WAS A NOTE THAT SAYS:

ATTACHED ARE COPIES OF MAPS OF THE 3 PARCELS OF GROUND FOR ACEQUIA INC. I CHECKED CROP REPORTS BACK TO 1980 & NEITHER 34-6-23 OR 26-6-24 (LEGAL FOR SECTIONS) HAVE ANY HISTORY OF IRRIGATION EXCEPT ON CORNER IN SECTION 26. I ALSO CHECKED OUR 1978 MAPS & THERE WAS NO INDICATION OF IRRIGATION IN THE QUESTIONED AREAS. IF YOU NEED ANY MORE INFORMATION CONCERNING THESE PROPERTIES THE MINIDOKA COUNTY ASCS WILL BE GLAD TO HELP.
JO ANNE

ON THE MAPS SHE HAS WRITTEN IN RED " NO HISTORY OF THIS GROUND EVER HAVING BEEN IRRIGATED OR EVEN FARMED! "

IS THIS SUFFICIENT OR DO YOU NEED MORE?
WHAT DO YOU WANT DONE? DO YOU WANT TO:

DISALLOW CLAIM DUE TO FORFEITURE.
RECOMMEND CLAIM BECAUSE OF APPROVED EXTENSION.
RECOMMEND CLAIM WITH PRIORITY AS OF DATE OF RE-USE (JAN 25, 1989)

SEE YA LATER

ALLEN

MICROFILMED

JAN 26 1993

From: DWR60::MERRITT 9-APR-1991 17:10:02.98
To: DWR02::KROGH_HAMP
CC: MERRITT
Subj: RE-REVIEW OF ACEQUIA FILES

I PULLED ALL OF ACEQUIA'S CLAIMS AND IT APPEARS THAT FOUR FILES MAY BE AFFECTED.

A36-02121 MY 8/15/90 FIELD REVIEW FOUND NO ACRES IRRIGATED
LANDSAT 9/83 FOUND NO ACRES IRRIGATED
NAPP 87 SHOWS NO ACRES IRRIGATED.

EXTENSION FILED 9/3/87 GRANTED 5/31/88
EXTENSION STATES USE LAST MADE 1984

TRANSFER OF RIGHT APPROVED 4/19/1989 TO BLAIN LARSEN FOR
USE IN EASTERN IDAHO 1989 SEASON THEN REVERTED BACK TO
ORIGINAL PLACE OF USE.

PRESENTLY "R" RECORD CREATED RECOMMENDING RIGHT AS VALID.

A36-02122 MY 8/15/90 FIELD REVIEW FOUND ONLY A PORTION OF LANDS IRRIGATED.
(44 ACRES IRRIG; 48 ACRES IN CRP; 219 NOT IRRIGATED)
LANDSAT 9/83 FOUND 53 ACRES
NAPP 87 SHOWS AROUND 50 IRRIGATED.

EXTENSION FILED 9/3/87; GRANTED 5/31/88
EXTENSION INDICATES WATER LAST USED 1987

TRANSFER OF RIGHT APPROVED 4/19/1989 TO BLAIN LARSEN FOR
USE IN EASTERN IDAHO 1989 SEASON THEN REVERTED BACK TO
ORIGINAL PLACE OF USE.

PRESENTLY "R" RECORD CREATED RECOMMENDING RIGHT AS VALID.

A36-02194 MY 8/15/90 FIELD REVIEW FOUND NO ACRES IRRIGATED
LANDSAT 9/84 FOUND NO ACRES IRRIGATED
NAPP 87 SHOWS NO ACRES IRRIGATED.
CLAIMANT BROUGHT 1953 PHOTO SHOWING LANDS IRRIGATED

EXTENSION FILED 9/3/87 GRANTED 5/31/88
EXTENSION STATES USE LAST MADE 1984

TRANSFER OF RIGHT APPROVED 4/19/1989 TO BLAIN LARSEN FOR
USE IN EASTERN IDAHO 1989 SEASON THEN REVERTED BACK TO
ORIGINAL PLACE OF USE.

PRESENTLY "R" RECORD CREATED RECOMMENDING RIGHT AS VALID.

A36-11339 MY 8/15/90 FIELD REVIEW FOUND NO ACRES IRRIGATED
LANDSAT 9/84 FOUND NO ACRES IRRIGATED
NAPP 87 SHOWS NO ACRES IRRIGATED.

CLAIMANT CONTACTED FOR PROOF OF EVIDENCE OF PRIORITY.
CLAIMANT HAS CAME INTO THE OFFICE SEVERAL TIMES TO RESPOND AND
2/7/91 BROUGHT AN AERIAL PHOTO DATED 1953 SHOWING LAND NOT
IRRIGATED. SINCE PRIORITY CLAIMED IS 1953 CLAIMANT ASKED
IF SHE COULD PROVIDE ANY EVIDENCE LAND WAS IRRIGATED. SHE
INDICATED SHE COULD NOT SO SHE WAS ADVISED CLAIM WILL BE
DISALLOWED.

PRESENTLY "R" RECORD CREATED RECOMMENDING RIGHT DISALLOWED.

LYNN THE FIRST THREE CLAIMS WERE RECOMMENDED BASED ON YOUR MEMO 9/28/1990 AFTER THE FILES WERE SENT TO S.O. FOR REVIEW OF THESE ISSUES. AT THAT TIME YOU RESPONDED THAT WE SHOULD NOT INVESTIGATE FORFEITURE OCCURING PRIOR TO GRANTING EXTENSION OF TIME BUT MAY INVESTIGATE IF AN OBJECTION IS FILED RAISING THE FORFEITURE ISSUE. AFTER YOUR RESPONSE THE CLAIMANT WAS CONTACTED AND TOLD HER RIGHTS WERE BEING RECOMMENDED AND ALSO TOLD THAT THE USE OF HER WATER BY BLAIN LARSEN WAS SUFFICIENT FOR RE-STARTING USE AS REQUIRED BY THE EXTENSIONS.

IF YOU THINK WE SHOULD CHANGE THINGS LET ME KNOW. IF WE CHANGE THINGS I BELIEVE MRS. HALEY NEEDS TO BE CONTACTED AGAIN.

ALLEN

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JAN 26 1993

RECEIVED

OCT - 4 1990

Department of Water Resources
Southern Region Office

MEMO

TO: Allen Merritt
FROM: Lynne Krogh-Hampe
DATE: September 28, 1990
RE: Claim Nos. A36-2194, A36-11339, A36-2121, A36-2122

In reply to questions regarding the claims listed above:

1. As to the three claims for which there is an extension of time to avoid forfeiture on file, IDWR will generally not investigate possible forfeiture occurring prior to granting the application for extension for purposes of preparing the report. The issue may be investigated if an objection is filed raising the forfeiture issue.

2. As to the claim that is an expansion claimed under the second presumption, it will be deemed to "ride" with the original claim for which there is an extension. Note however that the claimant is going to have to come up with evidence that the expansion in fact occurred. The claimant will also have to come up with some evidence of the priority date, which cannot be the same as or earlier than the licensed priority date.

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JAN 20 1993

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
TRANSFER NOS. 3500, 3502, 3503, 3504,)
3505, 3506, 3507, 3508, 3512 PROPOSING)
TRANSFER OF WATER RIGHTS NOS. 35-7390,)
35-7391, 35-7630, 35-7605, 35-7586,)
36-7015A, 36-2074, 36-7613, 36-2409A,)
36-7495, 37-2652, 36-2121, 36-2122,)
36-2127, 36-2193, 36-2194, 35-2821A,)
35-2728, 35-2844, 35-7361, 21-7050)
21-7051, 36-7022, 36-2632, 36-7272,)
36-7897, 36-2300 IN THE NAME OF)
BLAINE LARSEN.)

ORDER APPROVING
TRANSFERS

Blaine Larsen having applied to transfer the above-captioned water rights, protests having been filed and withdrawn, and the Director of the Department of Water Resources, having reviewed the available information, finds concludes and orders as follows:

FINDINGS OF FACTS

1. On January 6, 1989, Blaine Larsen ("Larsen") filed transfer application nos. 3502, 3503, 3504, 3505, 3506, 3507, 3508, 3512 with the Department of Water Resources ("department") proposing transfer of water right nos. 35-7390, 35-7391, 35-7630, 35-7605, 35-7586, 36-7015A, 36-2074, 36-7613, 36-2409A, 36-7495, 37-2652, 36-2121, 36-2122, 36-2127, 36-2193, 36-2194, 35-2821A, 35-2728, 35-2844, 35-7361, 36-7022, 36-2632, 36-7272, 36-7897, and 36-2300. On January 25, 1989, Larsen filed transfer application no. 3500 with the department proposing transfer of water right nos. 21-7050 and 21-7051.

2. The transfer applications propose irrigation of 4594 acres in Jefferson and Clark Counties, and the withdrawal from

ORDER APPROVING TRANSFERS
Page 1

MICROFILMED

JAN 20 1989

irrigation of 4894 acres in Bingham, Lincoln, Minidoka, Jefferson, and Fremont counties for the 1989 irrigation season.

3. The department published notice of the applications for transfer on February 2 and 9, 1989. Due to errors in some of the original transfer applications, the department republished notice of the applications on February 16 and 23, 1989.

4. Timely protests against approval of the application were filed by Burgess Canal Company; Great Feeder Canal Company; Lloyd R. Hicks; Owsley Canal Company; Jackett Canal Company; Holly Water Users Association; Jefferson Irrigation; Producers Canal Company; Montevieu Canal Company; Level Canal Company; Independent Water Users of Mud Lake; U.S. Department of Interior, Fish and Wildlife Service; State of Idaho, Department of Fish & Game; and Ray Sanders.

5. A hearing was scheduled for March 29, 1989. Lloyd R. Hicks, Burgess Canal Company, and Great Feeder Canal Company withdrew their protests on February 27, 1989.

6. Protestant Ray Sanders withdrew his protest on March 16, 1989.

7. Two days prior to the hearing, Larsen informed the Department that the remaining protestants had agreed to withdraw their protests. As a result, the department vacated the scheduled hearing.

8. On April 6, 1989, the parties filed with the department a stipulation withdrawing the protests of the U.S. Fish & Wildlife Service, the Idaho Department of Fish & Game, and the other remaining protestants.

9. The applications for transfer do not propose an enlargement in the rights as originally defined.

10. The stipulation for withdrawal of protests calls for a three year study to determine the effects of groundwater pumping in the Mud Lake hydrologic basin.

11. Many of the transfer applications propose to transfer water rights from a considerable distance and from areas outside the Mud Lake basin. Information does not presently exist to determine the probable impact of pumping the transferred rights in the Mud Lake area.

12. If the original priority dates of the rights proposed to be changed are retained, later in time appropriators in the Mud Lake hydrologic basin could be injured.

CONCLUSIONS OF LAW

1. Idaho Code § 42-222 sets forth the criteria the department must consider in evaluating an application for transfer:

The director of the department of water resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, and the change is in the local public interest as defined in section 42-203A, Idaho Code. . .

2. Approval of the applications for transfer will not result in an enlargement of the water rights sought to be transferred.

3. Approval of the applications for transfer will not conflict with the local public interest.

4. The department should retain jurisdiction over the transfer to modify, amend or cancel the transfer if it finds that other water rights are being injured by groundwater withdrawals authorized by the transfer.

5. The priority dates of water rights transferred under this transfer should be advanced to the date the transfer was filed to protect water users in the Mud Lake hydrologic basin from possible injury.

6. The transfers must be limited to one year as requested.

ORDER

IT IS HEREBY ORDERED that transfer nos. 3500, 3502, 3503, 3504, 3505, 3506, 3507, 3508, and 3512 proposing transfer of water right nos. 35-7390, 35-7391, 35-7630, 35-7605, 35-7586, 36-7015A, 36-2074, 36-7613, 36-2409A, 36-7495, 37-2652, 36-2121, 36-2122, 36-2127, 36-2193, 36-2194, 35-2821A, 35-2728, 35-2844, 35-7361, 21-7050, 21-7051, 36-7022, 36-2632, 36-7272, 36-7897, 36-2300 are APPROVED subject to the following conditions:

1. The department retains jurisdiction over the transfers to modify, amend or cancel the transfers if it finds that the diversion and use of water under the transfers injures other water rights.

2. The transfers are approved for a period of one year. On November 1, 1989, the water rights shall revert back to the original places of use and points of diversion with their original priority dates.

3. The priority of water right nos. 35-7390, 35-7391, 35-7630, 35-7605, 35-7586, 36-7015A, 36-2074, 36-7613, 36-2409A,

ORDER APPROVING TRANSFERS
Page 4

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JAN 26 1993

36-7495, 37-2652, 36-2121, 36-2122, 36-2127, 36-2193, 36-2194, 35-2821A, 35-2728, 25-2844, 35-7361, 36-7022, 36-2632, 36-7272, 36-7897, and 36-2300 shall be advanced to January 6, 1989. The priority of water right nos. 21-7050 and 21-7051 shall be advanced to January 25, 1989.

4. The place of use is limited to the 4594 acres listed on the summary attached hereto.

Dated this 19th day of April, 1989.


R. KEITH HIGGINSON Director
Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

**Application for Extension of Time to Avoid Forfeiture
of a Water Right**

Section 42-222 of the Idaho Code provides that a water right shall be lost and forfeited and the water revert to the state upon the failure of a water user to apply the water to beneficial use for a period of five (5) years. The Director may allow an additional five (5) year period of non-use without forfeiture upon a showing of reasonable cause.

Complete fully the following application and submit it to the Department of Water Resources, Statehouse, Boise, Idaho, 83720, with the statutory fee of \$30.00 if the application involves 0.2 cfs or 20 acre feet or \$50.00 if in excess of these amounts.

1. Name of water right holder Acequia Inc.
Post office address P.O. Drawer 226 Sun Valley, ID 83353
2. The right was obtained or is evidenced by:
 - a. Decree to _____ in Case of _____
vs. _____, Dated _____ in _____
Court, County of _____ (Name of Court)
Fully describe decree _____
 - b. License No. 36-2194 issued by the Department of Water Resources,
 - c. Claim No. _____ on file with the Department of Water Resources.
3. Source of water groundwater tributary to _____
(Name of stream or source)
4. Date of priority of right February 25, 1953
5. Amount of water a. 3.18 c.f.s. and/or
b. _____ acre feet/annum
6. Water is used for Irrigation from _____ to _____
from _____ to _____
from _____ to _____
(Purpose) (Month-Day) (Month-Day)
7. Location of point of diversion is Near Center of W1/2 1 of Section 34
Township 6S, Range 23E, B.M., in Minidoka County;
Additional points of diversion, if any _____
8. Lands irrigated or place of use: _____

Twp.	Rge.	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Totals
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
6S	23E	34							40	40	40	40	40	40					240

Total number of acres irrigated 240

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JAN 26 1993

9. Give last date when was applied to beneficial use September, 1987
Length of extension of time requested 5 years, until 1992 (Date)
10. Explain fully your reasons for requesting an extension of time within which to resume the use of your water right and reasons for non-use Economics

I hereby assert that no one will be injured by such extension. The information contained in this application is true to the best of my knowledge.

[Signature]
(Signature of Applicant)

Subscribed and sworn to before me this 3rd day of September, 19 87.

Mary A. Baldwin
(Notary Public)

My commission expires 10/16/1992

Residing at Gooding, ID

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined this application for extension of time within which to resume the use of a water right and I hereby APPROVE said application subject to the following conditions or reasons.

Beneficial use of water under this right shall resume on or before November 1, 1992.

Witness my hand this _____ day of _____, 19 88.

Chief, Operations Bureau

For Department Use Only

Received by [Signature] Date 9/3/87 Time 11:00 AM Preliminary check by ADN
Fee \$ 50.00 Receipted by M. Baldwin Date 1/7/88 Publication prepared by _____
Published in 50 ID Rec. Dates 2/11 + 2/11
Publication approved by 1.3 Date 2/25/88 Protests filed by: _____

Copies of protests forwarded by _____ Hearing held by _____ Date _____
Recommended for /X Approval // Denial by ADN

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JAN 26 1993

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF TRANSFER NO'S	)	
3666, 3667, 3668, 3669, 3670, AND	)	ORDER EXTENDING
3671 ON WATER RIGHT NO.'S 35-2728	)	TEMPORARY APPROVAL
35-2821B/2844/7361/7586/7605/7632,	)	OF TRANSFERS
A35-10948, 36-2074/2121/2122/2124	)	
2127/2190/2193/2194/2300/2632/2727	)	
7015A/7022/7272/7495/7897	)	

Blaine Larsen, having received approved transfers from the Department of Water Resources in 1989, and having requested that the Department extend the two year approval period, the Director of the Department of Water Resource finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On January 6, 1989, Blaine Larsen (Larsen) filed transfer applications no's 3502, 3503, 3504, 3505, 3506, 3507, 3508, and 3512 with the Department of Water Resources (department) proposing transfer of water right no.'s 35-7390, 35-7391, 35-7630, 35-7605, 35-7586, 36-7015A, 36-2074, 36-7613, 36-2409A, 36-7495, 37-2652, 36-2121, 36-2122, 36-2127, 36-2193, 36-2194, 35-2821A, 35-2728, 35-2844, 35-7361, 36-7022, 36-2632, 36-7272, 36-7897, and 36-2300. On January 25, 1989, Larsen filed transfer application no. 3500 with the Department, proposing transfer water right no.'s 21-7050 and 21-7051.

2. The transfer applications proposed irrigation of 4,594 acres in Jefferson and Clark counties from groundwater and withdrawal from irrigation of 4,894 acres in Bingham, Lincoln, Minidoka, Jefferson and Fremont counties to compensate for the proposed water use.

3. Timely protests against the approval of the applications were filed by various parties. Two days before a scheduled hearing, the protestants withdrew their protests based on a stipulation between the parties. The parties agreed that Blaine Larsen should be allowed to temporarily transfer water rights to his existing places of use pending the completion of a study by United States Geological Survey (USGS). USGS predicted completion of its study in 1991. Blaine Larsen's pending transfers in 1989 were approved for one year. Blaine Larsen subsequently filed other applications for transfer, numbered 3666, 3667, 3668, 3669, 3670, and 3671, proposing transfer of water right no's 35-2728, 35-2821, 35-2844, 35-7361, 35-7586, 35-7605, 35-7632, A35-10948, 36-2074, 36-2121, 36-2122, 36-2124, 36-2127, 36-2190, 36-2193, 36-2194, 36-

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JAN 26 1993

2300, 36-2632, 36-2727, 36-7015A, 36-7022, 36-7272, 36-7495, and 36-7897.

4. The last set of applications for transfer were advertised properly, and the applications were not protested. The department approved the transfers in the spring of 1990 for a period of two irrigation seasons. The transfers authorized the irrigation of 4,075 acres listed on the summary attached, and labeled as Attachment 2.

5. In the spring of 1991, Blaine Larsen filed another application for transfer, numbered 3847, proposing to transfer water right no. 36-2197 for the irrigation of an additional 147 acres in Fremont County. The application was protested by some of the original protestants, but the protests were subsequently withdrawn. The application for transfer was approved for one year.

6. The approved transfer authorized the diversion of 1.47 cfs for irrigation of the following lands:

Township	Range	Section			Acres
08N	37E	32	NE	NE	37
08N	37E	32	SE	NE	37
08N	37E	32	NE	SE	37
08N	37E	32	SE	SE	36
			TOTAL		147

7. The transfers expired at the end of the 1991 irrigation season.

8. As the end of the transfer approval period approached, the USGS represented that it would not complete its study prior to the 1992 irrigation season. Larsen negotiated with and received consent from all the original protestants to extend the prior approved transfer for one more year.

CONCLUSIONS OF LAW

1. Idaho Code, Section 42-222 sets forth the criteria the department must consider in evaluation of an application for transfer:

The director of the Department of Water Resources shall examine all the evidence and available information and shall approve the change in whole, or in part, or upon conditions, provided no other water rights are injured thereby, the change does not constitute an enlargement in use of the original right, and the change is consistent with conservation of water resource within the state of Idaho and is in the local public interest.

2. All of the criteria listed above were considered in the prior applications for transfer listed above, which were approved by the Department of Water Resources.

3. The petition for renewal of the transfer approval does not propose any change in the points of diversion, places of use, or water rights which were originally approved in 1990. A one year extension of time will not change the Director's original analysis of the criteria of Idaho Code, § 42-222.

4. No additional notice to the public is required. The published notice of the applications described the present water use, and, at the time, the public had an opportunity to contest the applications.

5. The request for an extension of the transfer approval should be granted.

ORDER

IT IS HEREBY ORDERED that applications for transfer no.'s 3666, 3667, 3668, 3669, 3670, and 3671, are REAPPROVED, subject to the following conditions:

1. The department retains jurisdiction over the transfers to modify, amend or cancel the transfers if it finds that the diversion and use of water under the transfers injures other water rights.

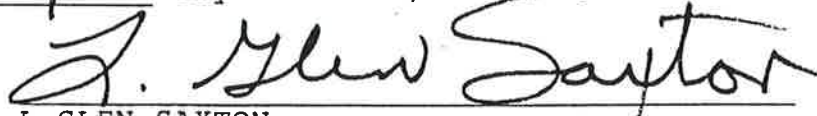
2. The transfers are approved for a period of one (1) year. On November 1, 1992, the water rights shall revert back to the original places of use and points of diversion with their original priority dates.

3. The priority of all water rights involved in these transfers shall be advance to December 22, 1989.

4. The place of use is limited to the 4221 acres listed in Attachment 2 and in finding of fact no.'s 4 through 6.

5. Any change in point of diversion, place of use, period of use, or nature of use, or any change in the water rights transferred to these lands for an additional years will require the filing of a new application of transfer.

Dated this 4th day of March, 1992



L.GLEN SAXTON

Chief, Water Allocation Bureau

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT on the 4th day of March 1992, a true and correct copy of the ORDER EXTENDING TEMPORARY APPROVAL OF TRANSFERS was mailed, postage prepaid to:

Blaine Larsen
P.O. Box 188
Hamer, ID 83425

Michael C. Creamer
Givens, Pursley, Webb, and Huntley
P.O. Box 2720
Boise, ID 83701

Kent Foster
Idaho First National Bank
P.O. Box 50130
Idaho Falls, ID 83405

Barbara Scott-Brier
Fish and Wildlife Service
500 N.E. Multnomah Street
Suite 607
Portland, OR 97232

Steven V. Goddard
Idaho Department of Fish and Game
P.O. Box 25
Boise, ID 83707



Karen L. Gustafson
Secretary/Records Manager

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JAN 20 1993

**SUMMARY OF
BLAINE TRANSFER APPLICATIONS 1990**

NUMBER	PRIORITY	CFS	ACRES
1. ACEQUIA			
36-2121	12-13-1948	2.44	240
36-2122B	12-24-1948	3.26	263.1
36-2124B	06-07-1951	0.40	20
36-2127B	05-04-1950	2.47	160
36-2190B	02-25-1953	1.20	120
36-2193B	12-23-1950	2.16	160
36-2194	02-19-1951	3.18	240
		=====	=====
TOTAL		15.11	1203.1
2. ANDERSON			
36-2632	01-07-1966	1.94	97
36-7022	04-12-1968	4.64	232
36-7272	11-07-1972	1.50	78.5
36-7897	02-25-1980	2.84	203
36-2300	05-15-1956	3.88	194
		=====	=====
TOTAL		14.80	804.5
3. KERBS			
36-7495		4.58	320
36-2727		5.10	320
		=====	=====
TOTAL		9.68	640
4. MCFARLAND			
35-7015A	02-14-1968	0.94	152.6
36-2074	07-27-1943	0.75*	80*
		=====	=====
TOTAL		0.94	152.6
	* Same land as in 35-7015A		
5. STEWART			
35-2821B	05-02-1960	0.60	30
35-2728	07-09-1963	3.40	170
35-2844	10-17-1966	3.30	165
35-7361	12-26-1973	0.54	27
35-7632	08-05-1976	4.40	264
A35-10948	04-01-1978	0.56	28
		=====	=====
TOTAL		12.80	684
6. TAYLOR			
35-7605	04-28-1976	4.00	200
35-7586	02-23-1976	6.41	391
		=====	=====
TOTAL		10.41	591
			4075.2

DEBRA ALSAKER-BURKE
REBECCA W. ARNOLD
J. RANDOLPH AYRE*
JOSEPH H. BAIRD
NANCY A. BASKIN
CHRISTOPHER J. BEESON
JOANN C. BUTLER
MICHAEL C. CREAMER
JEFFREY C. FEREDAY
ALAN R. GARDNER
RAYMOND D. GIVENS
JUDITH K. HOLCOMBE
ROBERT C. HUNTLEY, JR.
DAVID R. LOMBARDI
KENNETH R. MCCLURE
CHRISTOPHER H. MEYER†
L. EDWARD MILLER
PATRICK J. MILLER
TERRY L. MYERS
STEVEN L. OLSEN
KENNETH L. PURSLEY
MICHAEL T. SPINK
CONLEY WARD
JAY L. WEBB
STEPHANIE C. WESTERMEIER

† ADMITTED ONLY IN COLORADO
& WASHINGTON, D.C.
* ADMITTED ONLY IN UTAH
& WASHINGTON, D.C.

LAW OFFICES
GIVENS, PURSLEY, WEBB & HUNTLEY

SUITE 200, PARK PLACE
277 NO. 6TH STREET
POST OFFICE BOX 2720
BOISE, IDAHO 83701

JAMES A. MCCLURE
OF COUNSEL

TELEPHONE
(208) 342-6571

FACSIMILE
(208) 343-9492
(208) 342-8920

February 7, 1992



via Hand Delivery

Jim Johnson
Idaho Department of Water Resources
1301 Orchard
Boise, ID 83706

RE: Extension of Temporary Transfers of Blaine Larsen
Our File: 1207-25

Dear Mr. Johnson:

At your instruction, I am submitting this letter on behalf of Blaine Larsen to request that the Department of Water Resources grant an extension of the temporary transfers of groundwater rights that were approved for Blaine Larsen during the 1991 irrigation season. Mr. Larsen proposes to use these same water rights on the same places of use again in 1992. This request includes those water rights that were included in the group transfer application in 1991 and the portion of water right 36-02197, that was approved for temporary transfer as an individual application in 1991. Extension of the 1991 transfer approval through 1992 will not result in any changes from the previous year.

I am enclosing copies of the original lease agreements between Mr. Larsen and the water right lessors, together with copies of the extensions of the same lease agreements for the 1992 irrigation season. Also enclosed, is a copy of an extension of the 1989 Mud Lake Memorandum Agreement, executed by Blaine Larsen, the U.S. Fish and Wildlife Service, the Idaho Department of Fish and Game and the eight Mud lake area canal companies together with a stipulation by the same parties. This extension carries the 1989 Agreement forward through the 1992 irrigation season.

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JAN 26 1993

Jim Johnson
February 7, 1992
Page 2

Based upon my conversation with you, and upon the Director's position at the last U.S.G.S. status meeting regarding the Mud Lake Study, we understand that this request should be directed to the Boise office rather than the Eastern Region, and that the extension of the transfers for one additional year will not require submission of new transfer application forms or publication of notice. This seems appropriate since there will be no change from last year's situation.

Because we are anxious to move forward with this process as quickly as possible, please contact either me or Jeff Fereday immediately if you require additional information. Thank you in advance for your assistance.

Sincerely,



Michael C. Creamer

cc: R. Keith Higginson (w/o encl.)
Blaine Larsen c/o Kevan Varin (w/encl.)
Kent Foster, Esq. (w/encl.)
Barbara Scott-Brier, Esq. (w/encl.)
Stephen Goddard, Esq. (w/encl.)

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JAN 26 1993