

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: A36-02414
Date Received: 8/31/1988
Receipt No: _____
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: AQUA LIFE CORP. 208-543-4312
Address: RT. 5 BOX 5053
BUHL, ID 83316
2. Date of Priority: DEC 21, 1959
3. Source: UNNAMED STREAM Trib. to: BILLINGSLEY CREEK
4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07S	14E	18	SE	SW	SW	4	GOODING
5. Description of diverting works:
CONCRETE HEADWORKS TO EARTH DITCH TO CONCRETE PONDS.
6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
FISH PROPAGATION	01/01	12/31	4.000		
7. Total Quantity Appropriated is:
4.000 C.F.S. (and/or) A.F.A.
8. Total consumptive use is Acre Feet Per Annum.
9. Non-irrigation uses:
COMMERCIAL FISH RAISING. 4-80'X10' AND 4-80'X20' RACEWAYS
10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	14E	18	SW	SW	4	FISH	
11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
NONE

14. Remarks:

15. Basis of Claim: LICENSE
Water Right Number: 28339

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 X do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

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

Samuel Ellis
Signature of Authorized Agent

President
Title and Organization

8-31-88
Date

State of Idaho)
County of Twin Falls) SS.

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

of August 19 88

Seal

Mary A. Baldwin
Notary Public

Residing at Gooding Id

My Commission Expires 10/16/1992

2001 NOV 13 PM 1:25

FILED
TWIN FALLS, IDAHO

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 Rights: 36-2338, 36-2414,
36-4011, 36-2734 &
(late claim) 36-15476

NOTICE OF COMPLETED
ADMINISTRATIVE
PROCEEDING

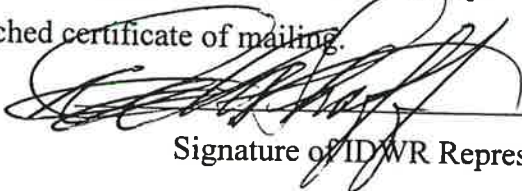
IDWR has completed the following administrative proceeding:

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

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

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

DATED: Nov 8, 2001


Signature of IDWR Representative

2001 NOV 13 PM 1:25
11/08/2001

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW
EST. FALLS CO., IDAHO
FILED

RIGHT NUMBER: 36-2414

NAME AND ADDRESS: IDAHO STATE BUILDING AUTHORITY
PO BOX 2802
BOISE ID 83701

SOURCE: UNNAMED STREAM

TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 4.000 CFS

USE OF THIS RIGHT WITH RIGHT NO. 36-02338 IS LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 58.68 CFS.^^^

PRIORITY DATE: 12/21/1959

POINT OF
DIVERSION:

T07S R14E S18 SESWSW Lot 4 Within GOODING County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
FISH PROPAGATION	1/01 12/31	4.000 CFS

PLACE OF USE: FISH PROPAGATION Within GOODING County

T07S R14E S18 Lot 4 SWSW

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - License
FACILITY VOLUME 381,656 CUBIC FEET.

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OCT 29 2001

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

Department of Water Resources

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

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

Water Right No(s).	Adjudication Claim No(s).	Split	Water RightNo(s).	Adjudication Claim No(s).	Split
✓ 36-4011					
✓ 36-2734					
✓ 36-15476					
✓ 36-2414					
✓ 36-2338					

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NOV 13 2001

Department of Water Resources
Southern Region

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

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

3. Name and Address of Former Owner/Claimant(s) AquaLife, Inc.
RT 5 Box 5053, Buhl, Idaho 83316
4. New Owner/Claimant(s) Idaho State Building Authority
 Name Connector (Check One): [] and, [] or, [] and/or
- New Mailing Address P.O. Box 2802
- City, State and ZIP Code Boise, Idaho 83701
- New Telephone Number (208) 345-6057
5. Date you acquired the property September 28, 2001

OK to Change *Shuff* 10/20/01
 Records changed 11-7-01. m
 INCAP prepared.

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

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

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

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

Snake River Building Authority
John McNeelma, Executive Director

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

For Office Use Only

Received by J. McNeel Date 10-29-01 Fee _____
Receipted by J. McNeel Date 10-29-01 Receipt No. 1057428
Processed by _____ AJ Date _____ WR _____ Date _____

36-4011, -2734, -15476, -2414, -2338

Aqua Life Corp.

Jason R. Miciak
ROLIG & PETERSON, L.L.P.
Attorneys at Law
P.O. Box 2749
102 Main Avenue South, Suite 6
Twin Falls, Idaho 83303-2749
Telephone: (208) 733-5500
FAX: (208) 733-5553

RECEIVED

OCT 22 1999

Department of Water Resources

COPY

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OCT 27 1999

Department of Water Resources
Southern Region

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

In Re SRBA Case No.)

Case No. 39576)

NOTICE OF APPEARANCE

COMES NOW Aqua Life Corp., as Claimant in Subcase Nos. 36-02338, 36-02414, 36-02734 and 36-04011 and declares its intent to participate in issues filed in In Re. SRBA, Case No. 39576 commonly referred to as the "main case." This Notice of Appearance is intended to include a request to be included in the Court's Certificate of Mailing for Expedited Issues and Hearings.

DATED This 20th day of October, 1999.

ROLIG & PETERSON, L.L.P.

By: Jason R. Miciak
Jason R. Miciak

*Blank prefix records changed 5-99,
'R's' changed 10-22-99.*

CERTIFICATE OF MAILING

I, the undersigned, hereby certify that I am a resident attorney of the State of Idaho and that on the _____ day of October, 1999, I served a copy of the foregoing document upon the following:

C. Thomas Arkoosh
ARKOOSH LAW OFFICES
P.O. Box 32
Gooding, ID 83330

Douglas R. Whipple
BYINGTON, HOLLOWAY, WHIPPLE
& JONES, CHTD.
P.O. Box 188
Burley, ID 83318

J.R. Simplot Company
c/o Terry T. Uhling
P.O. Box 27
Boise, ID 83707-0027

Daniel Steenson
Charlie Honsinger
RINGERT, CLARK CHTD.
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Boise, ID 83701-2773

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DONOHUE LAW OFFICE
2213 Grant Avenue
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ELAM & BURKE, P.A.
P.O. Box 1539
Boise, ID 83701

U.S. Department of Justice
Environment & Natl. Resources
550 West Fort Street, MSC 033
Boise, ID 83724

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FILLMORE BELLISTON & ISRAELSEN
4692 North 300 West, Ste. 200
Provo, UT 84604

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HOLDEN, KIDWELL, HAHN & CRAPO
P.O. Box 50130
Idaho Falls, ID 83405

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FLETCHER LAW OFFICE
P.O. Box 248
Burley, ID 83318

Christopher H. Meyer
Jeffrey C. Fereday
GIVENS PURSLEY, LLC
P.O. Box 2720
Boise, ID 83701

William T. Goodman
GOODMAN & BOLLAR
P.O. Box D
717 7th Street
Rupert, ID 83350

Michael Mirande
GRAHAM & DUNN
1420 Fifth Ave., 33 Floor
Seattle, WA 98101-2390

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GROVER & ARCHIBALD
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Rigby, ID 83442-0036

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Richard B. Burleigh
HAWLEY, TROXELL, ENNIS & HAWLEY
P.O. Box 1617
Boise, ID 83701

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P.O. Box 460
Hailey, ID 83333

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Boise, ID 83702

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Boise, ID 83701

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Twin Falls, ID 83303-0066

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John D. Hansen
HOPKINS, RODEN, CROCKETT, et al.
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Idaho Falls, ID 83405-1219

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J.R. SIMPLOT COMPANY
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NATIVE AMERICAN RIGHTS FUND
1506 Broadway
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K. Heidi Gudgeon
NEZ PERCE TRIBAL EXEC. COMM.
P.O. Box 305
Lapwai, ID 83540

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

Ron Leydet
P.O. Box 521
Mountain Home, ID 83647

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

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109 S. Adams
Jerome, ID 83338

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P.O. Box 6009
Pocatello, ID 83205

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SHOSHONE-BANNOCK TRIBES
P.O. Box 306
Fort Hall, ID 83203

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P.O. Box 1391
Pocatello, ID 83204-1391

Gregory W. Moeller
RIGBY, THATCHER, ANDRUS,
RIGBY, KAM & MOELLER, CTD.
P.O. Box 250
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Cliff S. Bentz
YTURRI, ROSE, BURNHAM,
EBERT & BENTZ
P.O. Box S
Ontario, OR 97914

Matt J. Howard
216 W. State St.
Boise, ID 83702

Larry A. Sullivan
280 A Street East
Vale, OR 97918

William J. Brockman
3500 East 2900 North
Kimberly, ID 83341

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608 W. Franklin Street
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REID, PEYTON, CHAMBERS, SONOSKY,
CHAMBERS, SACHSE & ENDRESON
1250 Eye Street N.W., Ste. 1000
Washington, DC 20005

James P. Speck
SPECK & AANESTAD
P.O. Box 987
120 East Ave.
Ketchum, ID 83340

Brad A. Flinders
STUNZ, FONDA, NICHOLS, KIYUNA,
HORTON & FLINDERS LLP
106 Main St., P.O. Box 1565
Nyssa, OR 97913

Mark Potter
Susan Potter
220 Willow Lane
Hagerman, ID 83332

by depositing a true copy thereof in the United States mail, postage prepaid.


JASON R. MICIAK

Water right number - 36-02414

Prefix Translation: WATER RIGHT

+ - - - - - Remarks - - - - - +
FACILITY VOLUME OF 381,656 CUBIC FEET.

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

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

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

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

Date: 05/19/1992 User Id: THORNTON Subject: SOURCE

THE SOURCE OF THIS UNNAMED STREAM IS TUPPER SPRINGS.

Date: 05/19/1992 User Id: THORNTON Subject: ASSOCIATED RIGHTS

ANOTHER WATER RIGHT USED AT THIS FISH OPERATION IS OWNED BY
THE LAND WHERE THE SPRING ORIGINATES. THE WATER FROM BOTH OF

Date: 05/10/1999 User Id: SSHERMAN Subject: ATTORNEY CHANGE

MICIAK REPLACED ARKOOSH FOR AQUA LIFE.

OPAL FISHER. THAT WATER RIGHT IS LEASED FROM FISHER, OWNER OF
THESE RIGHTS CO-MINGLES IN A COMMON DITCH (CANAL).

+ - - Audit Fields - - +

05/10/99 SSHERMAN

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

Court Report Filing	- 11/02/1992	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 02/05/1997	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 00/00/0000	Old Judicial District	-
Claim Received Date	- 08/31/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S001995	Water District	-
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	-	Presumption Flag	-
				Notice of Error Flag	-

RECEIVED

MAY - 7 1999

COPY

Aqua Life Corp.

Department of Water Resources

1999 APR 30 PM 4: 03

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED _____

Jason R. Miciak
ROLIG & PETERSON, L.L.P.
Attorneys at Law
P.O. Box 2749
102 Main Avenue South, Suite 6
Twin Falls, Idaho 83303-2749
Telephone: (208) 733-5500
FAX: (208) 733-5553

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.	)	Subcase Nos. 36-02338, 36-02414,
	)	36-02734, and 36-04011
Case No. 39576	)	
	)	<u>NOTICE OF SUBSTITUTION</u>
	)	<u>OF COUNSEL</u>
_____	)	

TO: The above-entitled court and to the parties and their counsel:

YOU ARE HEREBY NOTIFIED that pursuant to Rule 11(b)(1), Idaho Rules of Civil Procedure, the firm of Rolig and Peterson, L.L.P., is hereby substituted as counsel for Aqua Life Corp., in place of Arkoosh Law Office.

DATED This ____ day of April, 1999.

ARKOOSH LAW OFFICE

By: _____
C. Tom Arkoosh

DATED This 29 day of April, 1999.

ROLIG & PETERSON, L.L.P.

By: 
Jason R. Miciak

DATED This 29 day of April, 1999.

ARKOOSH LAW OFFICE

By: [Signature]
C. Tom Arkoosh

DATED This ____ day of April, 1999.

ROLIG & PETERSON, L.L.P.

By: _____
Jason R. Miciak

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SEP 09 1998

Department of Water Resources
Southern Region

RECEIVED

AUG 27 1998

Department of Water Resources

1998 AUG 25 AM 8:34

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

DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
FILED

In Re SRBA

Case No. 39576

Subcases 36-02338, 36-02414, 36-02734
and 36-04011

ORDER GRANTING MOTION TO
VACATE AND RESET HEARING

On August 18, 1998, the North Snake Ground Water District filed its *Motion to Vacate and Reset Hearing*. The hearing is currently set for August 27, 1998. The *Motion* stated that claimant Aqua Life, Inc., wished to vacate the hearing to engage in settlement discussions. Objector Buckeye Farms, Inc., does not oppose the *Motion*.

THEREFORE, it is ordered that the District's *Motion* is **granted**. The hearing on the District's *Motion to Alter or Amend* is **reset** to **Friday, October 23, 1998, 10:00 a.m.**, at the SRBA Courthouse, 253 3rd Avenue North, Twin Falls, Idaho.

DATED August 25, 1998.


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO VACATE AND RESET HEARING was mailed on August 25, 1998, with sufficient first-class postage to the following:

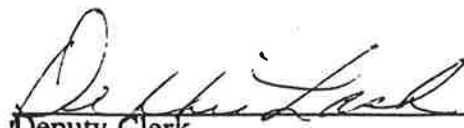
Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, ID 83711-4449

Director of IDWR
Box 83720
Boise, Idaho 83720-0098

Josephine Beeman
Box 1427
Boise, Idaho 83701-1427

John K. Simpson
Box 2139
Boise, Idaho 83701-2139

C. Thomas Arkoosh
Box 32
Gooding, Idaho 83330-0032


Deputy Clerk



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1341 FILLMORE STREET, SUITE 200
TWIN FALLS, ID 83301-3380
PH. (208) 736-3033

Date 10/15/98

Name TERRY SCANLAN, SCANLAN ENGINEERING

Address 600 E RIVER PARK LN SUITE 105, BOISE

Phone 383-4140

ID 83706

No. of Copies	Materials	Cost
537	@.05	\$26.85
	FILES #36-02338	
	36-02414	
	36-02734	
	36-04011	
TOTAL		\$26.85

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

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

Sincerely,

Cheryl Cather, SRBA RECORDS CLERK

INFORMATION REQUEST

NAME:

Matt Howard

DATE:

5-13-98

ADDRESS:

Beeman & Hyskett

CITY/ZIP:

Boise

PHONE:

(please print)

I HAVE REQUESTED TO REVIEW AND/OR OBTAIN COPIES OF THE FOLLOWING DOCUMENTS ON FILE WITH THE DEPARTMENT OF WATER RESOURCES.

ADJUDICATION
CLAIM NUMBERSALLOCATION WATER
RIGHT NUMBERSOTHER
DOCUMENTSA36-04011A36-02734A36-2414A-36 2338

RESEARCH SUBJECT:

Agua life

COPIES MADE OF:

all the above claims10 COPIES OR LESS: FREENUMBER OF COPIES MADE: 435FEES DUE @ \$0.05 PER COPY: 21.75

OTHER FEES: _____

RECEIPT NUMBER: _____

ASSISTING AGENT: WA

Phone in to Vicki Kelly
(customer signature)

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RECEIVED

APR 10 1998

1998 APR -8 AM 11: 06

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 36-02338
2414 36-02734 36-04011

On April 08, 1998, Special Master TERRENCE A. DOLAN issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

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

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

DATED April 08, 1998.

TERI HRANAC
Deputy Clerk

1998 APR -8 AM 11:06
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA	)	Subcases 36-02338, 36-02414,
	)	36-02734 and 36-04011
Case No. 39576	)	
_____	)	SPECIAL MASTER'S REPORT

Findings of Fact

36-02338

Opal H. Fisher filed a *Notice of Claim to a Water Right* under 36-02338 on August 31, 1988, claiming 54.68 cfs from "unnamed springs" for year 'round fish propagation with a priority date of August 31, 1988, based on a license. On November 2, 1992, the Director of the Idaho Department of Water Resources filed his *Director's Report for Reporting Area 3* (Basin 36) recommending the claim as filed.

36-02414

Aqua Life Corporation, Route 5, Box 5053, Buhl, Idaho 83316, filed a claim under 36-02414 on August 31, 1988, claiming 4 cfs from "unnamed stream" for year 'round fish propagation with a priority date of December 21, 1959, based on a license. The *Director's Report* recommended the claim as filed.

36-02734

Clear Springs Trout Company filed a claim under 36-02734 on August 26, 1988, for 100 cfs from Billingsley Creek for year 'round fish propagation with a priority date of October 5, 1965, based on a license. The *Director's Report* recommended the claim as filed.

36-04011

Aqua Life, Inc., filed a claim under 36-04011 on September 1, 1988, for 50 cfs from Billingsley Creek for year 'round fish propagation with a priority date of December 1, 1965, based on beneficial use. The *Director's Report* recommended 12 cfs.

Proceedings

Buckeye Farms, Inc., was granted leave to file late objections to all four (4) of Aqua Life's claims on March 24, 1997, objecting to quantity and the water rights being recommended at all. On July 8, 1997, Aqua Life Corporation was granted leave to file a late objection to quantity in 36-04011. Just before trial on all objections, the parties filed a joint *Stipulation and Motion to Dismiss*. On February 26, 1998, an *Order Granting Motion to Dismiss* was entered dismissing all objections.

Conclusions of Law

Aqua Life, Inc., or Aqua Life Corporation, is entitled to partial decrees adjudicating water rights under 36-02338, 36-02414, 36-02734 and 36-04011 as described in the attached *Special Master's Recommendations for Partial Decrees for Water Rights 36-02338, 36-02414, 36-02734 and 36-04011*.

DATED April 8, 1998.



TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

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

In Re SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 36-02414

1998 APR -8 AM 11:06

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME & ADDRESS: AQUA LIFE CORP
RT 5 BOX 5053
BUHL ID 83316

SOURCE: UNNAMED STREAM

TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 4.00 CFS

USE OF THIS RIGHT WITH RIGHT NO. 36-02338 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 58.68 CFS.

PRIORITY DATE: 12/21/1959

POINT OF DIVERSION: T07S R14E S18 LOT 4 (SESWSW)

Within GOODING County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
FISH PROPAGATION

PERIOD OF USE
01-01 12-31

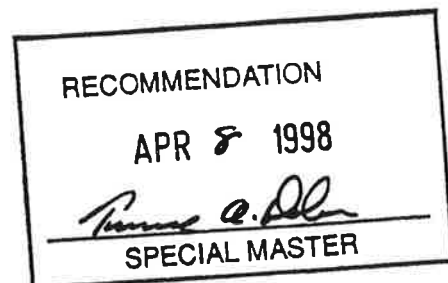
QUANTITY
4.00 CFS

PLACE OF USE: FISH PROPAGATION Within GOODING County
T07S R14E S18 Lot 4 (SWSW)

RULE 54(b) CERTIFICATE

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

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



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MAR 06 1998

Department of Water Resources
Southern Region

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MAR 03 1998
Department of Water Resources

1998 FEB 26 PM 2:00

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	)	Subcases 36-02338, 36-02414, 36-02734
	)	and 36-04011
Case No. 39576	)	
	)	ORDER GRANTING MOTION
	)	TO DISMISS and ORDER
	)	VACATING TRIAL

Trial on late objections filed by claimant Aqua Life, Inc., and by Buckeye Farms was set for February 26, 1998. However, on February 25, 1998, Buckeye Farms filed with the SRBA Court a *Motion to Dismiss*.

The *Motion* seeks dismissal of Buckeye Farms' objections based on an attached *Stipulation* signed by both parties. In the *Stipulation*, the parties said they "desire to bring an end to the litigation among them and reach final understanding and agreement concerning the exercise of their respective rights."

What then followed in the *Stipulation* was a rotation agreement specifying how the parties would exercise their respective water rights. Finally, the parties agreed that: "All the provisions of this agreement, including all benefits and burdens shall run with the water right claims, permits and applications described herein."

Several issues were not addressed in the *Stipulation*. For instance, there was no mention of the claimant's objections, the matter of costs and attorney fees and the concurrence of IDWR in final resolution of the subcases.

It is clear from the *Stipulation*, plus representations of the parties at the pre-trial conference held on February 17, 1998, that the parties intend to seek dismissal of *all* objections in the subcases with each party to bear their own expenses. Further, such dismissal will result in the claims being decreed as they were recommended in the *Director Report*.

John K. Simpson
Rosholt, Robertson & Tucker
1221 West Idaho Street, Suite 600
Boise, ID 83702
(208) 336-0700
(208) 344-6034 Facsimile

Attorney for Buckeye Farms

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MAR 06 1998

Department of Water Resources
Southern Region

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SOUTHERN
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FEB 27 1998

OFFICE OF THE
ATTORNEY GENERAL

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	)	Subcases	36-02338, 36-02734
	)		36-02414, 36-04011
Case No. 39576	)		
	)	MOTION TO DISMISS	
	)		
	)		

COMES NOW Buckeye Farms, by and through its attorneys of record, Rosholt, Robertson & Tucker, hereby moves this Court for an order dismissing the objections filed in the above captioned subcases. In support of this motion Buckeye Farms attaches the stipulation agreed to by the parties to the subcase. Attached to this motion is an Order for the Courts consideration and signature, dismissing the objections of Buckeye Farms in this matter.


John K. Simpson

MAIL12884



MOTION TO DISMISS

CERTIFICATE OF MAILING

I certify that a true and correct copy of the MOTION TO DISMISS was mailed on February 17, 1998, postage pre-paid to the following:

C. Thomas Arkoosh
Aqua Life
Box 32
Gooding, ID 83330

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

Director of IDWR
Box 83720
Boise, ID 83720-0098



John K. Simpson

25

SOUTHERN

Creek at or above the AquaLife facility as follows:

1. The parties recognize that Buckeye Farms owns an irrigation water right identified as SRBA Claim No. 36-00018, senior in priority to the water rights claimed by AquaLife.
2. The parties agree that as of the date of this agreement Buckeye Farms has additional claims to water diverted from Billingsley Creek via the Curren ditch in the form of permits and applications.
3. Buckeye Farms and AquaLife agree that in compromise and settlement of Buckeye Farms' objections to SRBA Claims Nos. 36-02338, 36-02734, 36-02414, and 36-04011, AquaLife will subordinate its water rights, SRBA Claims Nos. 36-02734 and 36-04011, to Buckeye Farms' non-irrigation SRBA Claims, permits and applications up to the amount mutually agreed upon of 35 cubic feet per second ("cfs") during the months October, November, December, and January of 1998 and 1999. Following the expiration of this time period, AquaLife will continue to subordinate the above stated rights, if the parties are successful in acquiring a substitute source of water for Buckeye Farms' Billingsley Creek water claims identified in Paragraph 2 above and Buckeye is able to leave water in Billingsley Creek in accordance with Paragraph 4 below.
4. If at the end of calendar year 1999 the parties have been unable to procure a substitute source of water in accordance with the terms and conditions set forth herein, this agreement will continue in force from year to year until the parties are successful in obtaining substitute water, or the parties mutually

agree to terminate the agreement. This agreement shall be terminated only by the express consent of both parties in writing.

5. Buckeye Farms and AquaLife agree that in compromise and settlement of Buckeye Farms' objections to SRBA Claims Nos. 36-02338, 36-02734, 36-02414, and 36-04011, Buckeye Farms agrees to leave 15 cfs of water right #36-00018 in Billingsley Creek during the period February 1- June 1 for the water years 1998 and 1999 to allow the parties sufficient time to cooperate in efforts to obtain substitute water in order to mitigate for reduced water flows in Billingsley Creek. If the parties are successful in acquiring a substitute source of water for Buckeye Farms' Billingsley Creek water claims, Buckeye Farms will continue to leave water in Billingsley Creek given the following conditions: (1) the parties recognize that it is reasonably necessary to provide a sufficient amount of water for the continued operation and maintenance of Buckeye Farms' pipeline, and thereby agree that a flow of 5 cfs at the Curren ditch headgate is sufficient to meet these needs under Buckeye Farms' water rights from Billingsley Creek; (2) that a reliable, continuous substitute flow of at least 20cfs is available; and (3) the water is provided at no additional cost to Buckeye Farms or AquaLife.
6. The parties further agree that in seeking a substitute source of water for Buckeye Farms' water rights out of Billingsley Creek via the Curren Ditch, the parties will cooperate in assessing a potential call on junior groundwater rights impacting the flows from the Curren Tunnel. If the parties determine that their respective rights are impaired, and substitute water or other forms

of mitigation is not available, the parties will work together in seeking the appropriate administrative or legal relief.

This agreement shall be effective and binding upon the parties hereto and shall be binding upon and inure to the benefit of the successors, heirs, assignees or personal representatives of the parties hereto upon the signature of all of the parties. All the provisions of this agreement, including all benefits and burdens shall run with the water rights claims, permits and applications described herein.

This agreement may be signed in counterpart, all of which together, will all purposes, constitute one agreement, binding on the parties, notwithstanding that all parties may not have signed the same copy of the stipulation.

This agreement shall be filed in the records of the Clerk and Recorder for Gooding County.

DATED this 17th day of February 1998.

For: AquaLife


By: Ken Ellis

STATE OF IDAHO)

County of Gooding)

ss.

On the 17th day of February, 1998, before me, the undersigned, a Notary Public in and for said State, personally appeared Ken Ellis, known to me to be the person whose name is subscribed in the instrument, and acknowledged to me that he executed the same.

STIPULATION

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

Brenda S. Butler
A Notary Public in and for
the County of Gooding
State of Idaho.

For Buckeye Farms, Inc.

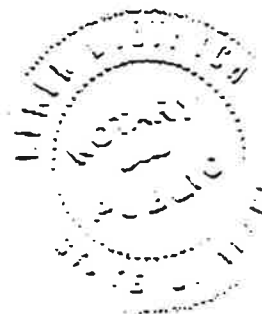
Brian Barsotti
By: Brian Barsotti

STATE OF IDAHO)
County of Blaine) ss.

On the 21st day of Feb., 1998, before me, the undersigned,
a Notary Public in and for said State, personally appeared Brian Barsotti, known to me to be
the person whose name is subscribed in the 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.

Herbert Dietrich
A Notary Public in and for
the County of Blaine
State of Idaho.



John K. Simpson
 Rosholt, Robertson & Tucker
 1221 West Idaho Street, Suite 600
 Boise, ID 83702
 (208) 336-0700
 (208) 344-6034 Facsimile

Attorney for Buckeye Farms

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	)	Subcases	36-02338, 36-02734
	)		36-02414, 36-04011
Case No. 39576	)		
	)	MOTION TO DISMISS	
	)		
	)		

COMES NOW Buckeye Farms, by and through its attorneys of record, Rosholt, Robertson & Tucker, hereby moves this Court for an order dismissing the objections filed in the above captioned subcases. In support of this motion Buckeye Farms attaches the stipulation agreed to by the parties to the subcase. Attached to this motion is an Order for the Courts consideration and signature, dismissing the objections of Buckeye Farms in this matter.


 John K. Simpson

MOTION TO DISMISS

10-3275400
PAGE 003

CERTIFICATE OF MAILING

I certify that a true and correct copy of the MOTION TO DISMISS was mailed on February 17, 1998, postage pre-paid to the following:

C. Thomas Arkoosh
Aqua Life
Box 32
Gooding, ID 83330

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

Director of IDWR
Box 83720
Boise, ID 83720-0098



John K. Simpson

John K. Simpson
Rosholt, Robertson & Tucker
1221 West Idaho Street, Suite 600
Boise, ID 83702
(208) 336-0700
(208) 344-6034 Facsimile

Attorney for Buckeye Farms

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	)	Subcases	36-02338, 36-02734
	)		36-02414, 36-04011
Case No. 39576	)		
	)	ORDER GRANTING BUCKEYE FARMS'	
	)	MOTION TO DISMISS	
	)		
	)		

On February ____, 1998, Buckeye Farms, by and through its attorneys of record, Rosholt, Robertson & Tucker, filed a Motion to Dismiss its objections in subcase nos. 36-02338, 36-02414, 36-02734, and 36-04011. Attached to this Motion was a Stipulation signed by the parties regarding a shared use of water from Billingsley Creek. At the pre-trial conference held February 17, 1998, the parties represented that this agreement resolved all differences between the parties with respect to these subcases.

Therefore, it is ordered that Buckeye Farms' Motion to Dismiss its objections is granted.

DATED this ____ day of February, 1998.

Terrance A. Dolan
Special Master
Snake River Basin Adjudication

ORDER GRANTING BUCKEYE FARMS'
MOTION TO DISMISS

TO 3273400 PAGE 181371

CERTIFICATE OF MAILING

I certify that a true and correct copy of the MOTION TO DISMISS was mailed on _____ day of February, 1998, postage pre-paid to the following:

C. Thomas Arkoosh
Aqua Life
Box 32
Gooding, ID 83330

John K. Simpson
Buckeye Farms
P.O. Box 2139
Boise, ID 83701-2139

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

Director of IDWR
Box 83720
Boise, ID 83720-0098

Deputy Clerk

**ORDER GRANTING BUCKEYE FARMS'
MOTION TO DISMISS**

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Department of Water Resources
Southern Region

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Department of Water Resources

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DISTRICT 1-1-0034

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

Subcases 36-02338, 36-02414,
36-02734 and 36-04011ORDER GRANTING MOTION TO
FILE LATE OBJECTIONS**Motion**

On February 5, 1997, Buckeye Farms filed its *Motion to File Late Objections* in the above four subcases. Aqua Life, Inc., is the claimant in each subcase.¹ The *Motion* alleged that Buckeye Farms holds irrigation water rights senior to Aqua Life's fish propagation claims from Billingsley Creek- 36-02734 and 36-04011. However, in the non-irrigation season, Buckeye Farms' various non-irrigation claims are junior to Aqua Life's claims.

The *Motion* also included two other of Aqua Life's fish propagation claims- 36-02338 and 36-02414. Instead of Billingsley Creek, these two claims were to water from Tupper Springs and Big Springs/Fisher Springs. The two claims were included in the *Motion* because water from Billingsley Creek and the springs is allegedly "intermixed for purposes of discharge."

All four of Aqua Life's claims were recommended for adjudication in the *Director's Report for Reporting Area 3 (Basin 36)*, filed November 2, 1992. No objections were filed within the objection period.

Buckeye Farms stated that the Director's recommendations were based on IDWR's investigations between 1988 and 1990 or 1991. Since then, at least five years have elapsed. Buckeye Farms then alleged: "It is during this time period [1992-1996] that actual use at the facility

¹ Aqua Life, Inc., or Aqua Life Corp. were listed as the claimants for three of the claims. Opal H. Fisher was reported as the claimant of 36-02338. During the hearing on the *Motion*, it was stated that the correct claimant in all four subcases is Aqua Life, Inc. Presumably, then, Aqua Life is the successor in interest to Ms. Fisher.

gives rise to forfeiture of certain rights or portions of rights."

Buckeye Farms based its allegation of forfeiture or partial forfeiture on monthly discharge monitoring reports (DMR's) filed by Aqua Life with EPA and DEQ. David B. Shaw's affidavit attached to the *Motion* concluded that discharge figures for the period 1992-1996, indicate only a small portion of Aqua Life's four claims were being put to beneficial use (60 cfs of the total 170.6 cfs recommended).

Finally, Buckeye Farms argued that it had shown good cause to file late objections because: 1) its failure to object was not wilful; 2) evidence of forfeiture was "newly discovered" after the objection period; 3) allowing a late claim will not prejudice Aqua Life; and 4) Buckeye Farms has alleged a meritorious position.

Hearing

Buckeye Farms' *Motion to File Late Objections* was heard on March 14, 1997, at the SRBA Court, Twin Falls, Idaho. John K. Simpson appeared for Buckeye Farms and C. Tom Arkoosh for Aqua Life. Charles L. Honsinger appeared by telephone for IDWR.

Counsel for Aqua Life presented testimony by Kenneth Ellis, president of Aqua Life, and Rick Eggleston. Mr. Eggleston is the operator of Gold Springs which leases the facilities from Aqua Life. Aqua Life also offered into evidence Aqua Life Exhibits 1-3, plus a copy of *Fort Hall Water Users Ass'n v. U.S.*, 129 Idaho 39, 921 P.2d 739 (1996).

Mr. Ellis testified that he has been involved with operation of the facility from 1980 until June, 1994, as lessee and then owner. Water from Billingsley Creek is *not* intermixed with water from Tupper Springs and Big Springs, as Mr. Shaw stated in his affidavit. Creek water and spring water are measured and reported separately even though there is one permit for both sites. Mr. Ellis said that Aqua Life's use of spring rights does not affect Buckeye Farms. In the last ten years, there was never a five year period when all the available creek water was not used when water quality (temperature and oxygen) was acceptable. Further, there was only one month when all the water available from Big Springs was not used. Between 1989 and 1994, water flows dropped and water temperatures increased. Mr. Ellis' efforts to get more water from George Lemmon, the water master, got no direct results.

Rick Eggleston testified that he took over operation of the facilities in June, 1994, under the name "Gold Springs." Upstream water users, such as Buckeye Farms, have no lockdown devices

at their diversions along Billingsley Creek. As a result of diversions by junior appropriators during 1994-1995, the facility never used more than 80 cfs. Since Aqua Life's successful "call" on Billingsley Creek in December, 1996, Gold Springs has used over 100 cfs- sometimes as high as 156 cfs.²

The Law

1. Good Cause

SRBA Administrative Order 1, Rules of Procedure(AO-1), does not provide guidance for review of motions to file late *objections*. AO-1 only refers to late *claims* which are reviewed under the criteria of I.R.C.P. 55(c), "Setting aside default judgment."³ However, customary practice in the SRBA court has been to apply the same criteria to both late claims and late objections. Hence, Buckeye Farms' *Motion* will be considered under Rule 55(c):

For good cause shown the court may set aside an entry of default and, if a judgment by default has been entered, may likewise set it aside in accordance with Rule 60(b).

Idaho courts follow a dual-track standard to determine when a party is entitled to relief from default. A party wanting to set aside a clerk's entry of default need only show "good cause" under Rule 55(c). If a final judgment by default has been entered, then a party must, in addition to good cause, satisfy the requirements of Rule 60(b). That is, the party must show some basis such as newly discovered evidence.

A motion to set aside a default judgment presents the trial court with a factual determination. *Reeves v. Wisenor*, 102 Idaho 271, 629 P.2d 667 (1981). In determining whether to set aside a default judgment, a standard of liberality must be applied rather than one of strictness and the party moving to vacate a default judgment must be given the benefit of any genuine doubt. *Johnson v. Pioneer Title Co. of Ada County*, 104 Idaho 727, 662 P.2d 1171 (App. 1983). A motion to set aside a default judgment is addressed to the sound discretion of the trial court whose decision will not be reversed in the absence of abuse of that discretion. However, it would be an abuse of discretion for the trial court to grant such a motion without an adequate legal basis for doing so. *Newbold v.*

² The recommendations in the Director's Report for Aqua Life's diversions from Billingsley Creek (36-02734 and 36-04011) total 112 cfs.

³ AO-1 (amended 9/30/96), 4, e, (2), (e), p. 7.

Arvidson, 105 Idaho 663, 672 P.2d 231 (1983).

The very language in Rule 55(c) and Rule 60(b) suggests a different standard to set aside an entry of default versus a default judgment. The Idaho Court of Appeals recognized that the Rule 55(c) "good cause" standard may be more lenient than the Rule 60(b) standard. *McFarland v. Curtis*, 123 Idaho 931, 854 P.2d 274 (App. 1993).

Whether part of good cause or in addition to it, Idaho courts have imposed further requirements. First, a party must show that he or she has acted in good faith and exercised due diligence in the prosecution of his or her rights, such as an ordinarily prudent person would exercise under similar conditions. *Council Improvement Co. v. Draper*, 16 Idaho 541, 102 P. 7 (1909), and *Kovachy v. DeLeusomme*, 122 Idaho 973, 842 P.2d 309 (App. 1992). Second, a party must show a meritorious defense to set aside a default. *Thomas v. Stevens*, 78 Idaho 266, 300 P.2d 811 (1956).

A party who seeks to set aside a default has the burden of supplying detailed facts of the proposed defense. *Smith Electric, Inc. v. Crandlemire*, 100 Idaho 172, 595 P.2d 321 (1979). At a hearing on the motion, a party need not produce documents to *prove* a defense. It is sufficient if the movant *pleads* with particularity facts which, if proven, would constitute a meritorious defense. *State v. One 1990 Geo Metro*, 126 Idaho 675, 889 P.2d 109 (App. 1995). The policy of requiring a showing of a meritorious defense is founded on the doctrine that it would be an idle exercise for a court to set aside a default if, in fact, there is no real justiciable controversy. *Reeves v. Wisenor*, 102 Idaho 271, 629 P.2d 667 (1981).

2. Standing

In the SRBA, "claimant" means anyone asserting ownership of rights, and who has filed a claim, to the use of water in Idaho. I.C. § 42-1401A (1), and AO-1, 2, d, p. 1. A claimant is also a "party to the adjudication." AO-1, 2, p, p. 2. Any claimant may file an objection to a water right. I.C. § 42-1412 (1). When a party to the adjudication files an objection, they become an "objector" and a "party to a subcase." AO-1, 2, m, and o, p. 2. Any water right which is the subject of a post-Director's Report pleading, like an objection, becomes a "subcase." AO-1, 2, x, p. 2.

Discussion

Aqua Life argued that, while Buckeye Farms may have standing to object to Aqua Life's creek rights (36-02734 and 36-04011), it lacks standing to object to the spring rights (36-02338 and 36-02414). After all, Aqua Life diverts its spring water a considerable distance downstream from

Buckeye Farms and that water is not intermixed with creek water. Therefore, as Mr. Ellis said, Aqua Life's use of water from Tupper Springs and Big Springs does not affect Buckeye Farms. In support of that argument, Aqua Life offered the Idaho Supreme Court's holding in the *Fort Hall* case.

In *Fort Hall*, the court held that a non-Indian water users' association was not a "claimant" in the SRBA because it did not assert ownership of water rights. The United States claimed ownership of the water rights on its own behalf. The association was merely contractually permitted to have *use* of the water. Therefore, because the association was not a claimant in the SRBA, it lacked standing to object to the 1990 Fort Hall Indian Water Rights Agreement.

Fort Hall does not stand for the proposition that one must prove their water right is affected to have standing to object in the SRBA. Rather, one must show that they are a *claimant* as defined by I.C. § 42-1401A, (1). That is, one must have asserted ownership of rights to use water in Idaho or be someone on whose behalf such ownership was asserted.

Buckeye Farms has standing to object to Aqua Life's spring and creek claims because it has claimed ownership of rights to use water in Idaho. Court records show that Buckeye Farms is the claimant in eight contested subcases. It may also be a claimant in uncontested claims not now before the court.

The court is satisfied that Buckeye Farms has acted in good faith and exercised due diligence in the prosecution of its rights based on evidence not available during the objection period. However, there remains the matter of whether Buckeye Farms has alleged facts which, if proven, constitute a meritorious position.

Buckeye Farms was correct in stating that the hearing on its *Motion to File Late Objections* was not a trial on the evidence. In other words, the purpose of the hearing was not try the matter of Aqua Life's alleged forfeiture or partial forfeiture of its claims to water rights. Rather, the hearing was to determine whether Buckeye Farms has shown good cause to have its *Motion* granted. The court is satisfied that Buckeye Farms has shown good cause.

Buckeye Farms alleged that Aqua Life used less than its licensed or claimed amounts of water during a five year period from 1992 until 1996.⁴ That allegation, if proven, supports a finding of forfeiture:

⁴ Three of Aqua Life's claims are based on licenses. Claim 36-04011 is based on beneficial use.

All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated....

I.C. § 42-222, (2).

Unlike abandonment which requires intent, statutory forfeiture provides that all rights to water are lost where the appropriator fails to make beneficial use of the water for a continuous five year period regardless of intent. *McAtee v. Faulkner Land & Livestock, Inc.*, 113 Idaho 393, 744 P.2d 121 (App. 1987).

As the parties are aware, the Presiding Judge in the SRBA has held that there is no "partial" forfeiture in Idaho.⁵ That ruling is now pending on appeal before the Idaho Supreme Court. That being the law of the case, Buckeye Farms' allegations of partial forfeiture cannot support its *Motion*. However, Buckeye Farms also alleged forfeiture without specifying which claims may be wholly forfeited.

Admittedly, Aqua Life presented testimony by Messrs Ellis and Eggleston to rebut Mr. Shaw's affidavit. Essentially, they said that there was no five year period when water was not used when water quality was good enough to raise fish. They both told of impaired water quantity and quality because of upstream junior appropriators. Their testimony aided the court in identifying the essential issues yet to be determined. However, the court withheld judgment on whether their testimony established defenses to the allegations of forfeiture. That will be determined at a trial on the merits, should the subcases proceed that far. Buckeye Farms will have to prove forfeiture at trial, but not to file objections to Aqua Life's claims.

THEREFORE, it is ordered that Buckeye Farms' *Motion to File Late Objections* in these four subcases is **granted**. Responses, if any, to Buckeye Farms' objections must be filed no later than April 18, 1997.

DATED March 24, 1997.



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

⁵ See Memorandum Decision on Basin-Wide Issue 10, Partial Forfeiture, entered April 26, 1996.

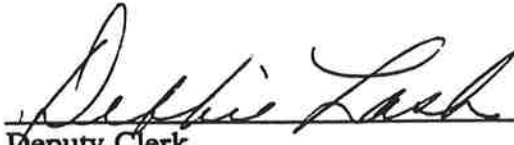
CERTIFICATE OF MAILING

I certify that a true and correct copy of the **ORDER GRANTING MOTION TO FILE LATE OBJECTIONS** was mailed on March 24, 1997, with sufficient first-class postage to the following:

Director of IDWR
P. O. Box 83720
Boise, ID 83720-0098

C. Thomas Arkoosh
P O Box 32
Gooding, Idaho 83330
Rep: Aqua Life Inc.

John K. Simpson
P O Box 2139
Boise, Idaho 83701-2139
Rep: Buckeye Farms, Inc.


Deputy Clerk

John K. Simpson
Rosholt, Robertson & Tucker
1221 W. Idaho Street, Suite 600
P.O. Box 2139
Boise, Idaho 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034

RECEIVED
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Department of Water Resources
Adjudication Bureau

RECEIVED
FEB - 5 1997
OFFICE OF THE
ATTORNEY GENERAL

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. 35976

)
) Subcase Nos. 36-02734
) 36-04011
) 36-02414
) 36-02338
)

) BUCKEYE FARMS' MOTION TO FILE
) LATE OBJECTIONS
)

DESCRIPTIVE SUMMARY

This document is a Motion to File Late Objection in claims nos. 36-02734, 36-04011, 36-02414 and 36-02338 on behalf of Buckeye Farms.

MOTION

Buckeye Farms (hereinafter referenced as "Movant"), hereby moves for leave to file a late objection to water right claims 36-02734, 36-04011, 36-02414 and 36-02338. This motion is supported by the argument below, the Affidavit of David Shaw, attached as Exhibit "A" and the proposed objections attached.

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BUCKEYE FARMS' MOTION TO FILE LATE OBJECTIONS - 1

ARGUMENT

Aqua Life, Inc.'s predecessor filed two fish propagation claims for water out of Billingsley Creek. Claim no. 36-02734 is a licensed right for 100 cfs and was recommended as claimed by IDWR. Claim no. 36-04011 is a beneficial use claim for 50 cfs. IDWR recommended 12 cfs. Neither of these claims were objected to and therefore, no subcases exist. These claims are junior to the Movant's irrigation rights. However, in the non-irrigation season, the rights are senior to various non-irrigation rights held by the Movant. Aqua Life also filed claims for water from Tupper Springs and Big Springs or Fisher Springs, claim nos. 36-02338 for 54.6 cfs and 36-02414 for 4 cfs. The Aqua Life facility operates a number of raceways, with distinct and separate raceways served by the two sources, the springs and Billingsley Creek. Water is not co-mingled in the raceways and is only intermixed for purposes of discharge.

IDWR issued its recommendations for 36-02734, 36-02414, 36-04011 and 36-02338 in 1992 as a part of the Basin 36 Director's Report. At the close of the objection period no objections were made with respect to the recommendations. Therefore, these unobjected to recommendations are ready pursuant to Administrative Order 1 for partial decree. The partial decrees for each of these rights would have been based upon IDWR's investigation conducted during the period 1988 to 1990 or 1991. No partial decrees have been issued. Moreover, at least five years have passed since the rights were last analyzed. It is during this time period that actual use at the facility gives rise to forfeiture of certain rights or portions of rights.

Commercial fish propagation facilities that discharge water from their facilities to a public water source (waters of the United States) are normally required to obtain an NPDES discharge permit and submit monthly discharge monitoring reports (DMR's) as a condition of the permit. The DMR's are filed with EPA by the facility operator/permit holder and a copy is subsequently placed on file with the Division of Environmental Quality (DEQ) regional office in the vicinity of the facility. In this case the Twin Falls office of DEQ contains the pertinent files.

The Movant has reviewed the discharge amount portions of the DMR's for the Aqua Life facility. See **Affidavit of David Shaw**. For the period 1992-1996 the discharge figures indicate that only a small portion of the water claimed through the rights depicted above were being put to beneficial use. In fact for this period approximately 60 cfs of the total 170.6 cfs recommended was diverted and discharged according to Aqua Life records.

I. Good Cause Exists to Grant the Movant's Leave to File Late Objections.

The decision to set aside an entry of default or a default judgment, to allow a late notice of claim to be filed, and presumably, to allow a late objection to be filed, is within the sound discretion of the court. Clear Springs Trout Co. v. Anthony, 123 Idaho 141, 143 (1992). I.R.C.P. 60(b) provides that relief from a judgment may be granted on the grounds that ". . . (2) newly discovered evidence which by due diligence could not have been discovered in time for a new trial under Rule 59(b)" is discovered. This discovery standard also provides a basis for a new trial pursuant to I.R.C.P. 59(a). In addition to the discovery standard the court may also consider whether the failure to file an objection was wilful,

whether allowing a late objection would prejudice a party and whether a meritorious objection has been presented.

In the present case a judgment or partial decree has not been entered. Here, where no subcase has been established, the claims remain within the Court's jurisdiction, simply await a partial decree. Therefore, the discovery of new evidence which contradicts IDWR's recommendations, should be considered by the Court to ensure that the elements of any claim ultimately decreed are valid as of the date of the decree.

The Aqua Life discharge data obviously was not available during the original objection period in 1993. In fact the data was not available until after the close of the objection period. The newly discovered data impacts the validity of the Aqua Life claims as they are now recommended before the Court and awaiting the partial decree. The import of this motion is that if claims are decreed as recommended without consideration of this new evidence, the movant will lose the opportunity to rely upon this data. Arguably, the movant would not be able to go behind the decree to rely upon factual data prior to the date of the decree.

Moreover, at the time of the designated objection period, the Movant did have sufficient basis to file an objection. Only after the 1996 data period did the five year period provide the basis for filing this motion. Additionally, factual basis for this motion as enumerated in the affidavit of David Shaw, is premised upon information submitted to DEQ by the claimant. Again, this information gives rise to a forfeiture claim by the Movant.

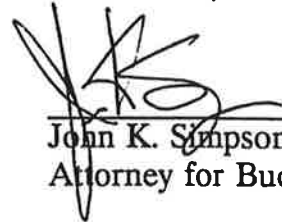
The significance of this motion is further exemplified by the fact that by letter to the IDWR on April 9, 1996, Aqua Life made a call for delivery of the Billingsley Creek water

as against junior upstream users on Billingsley Creek and tributaries. Because the call was for non-irrigation season water, IDWR informed Aqua Life that the call would have to be renewed at the end of the irrigation season. In November, Aqua Life verbally renewed the call and submitted a written call in December, 1996 pursuant to an additional IDWR request.

Finally, the Movant recognizes that with Basin-wide #10 (Partial Forfeiture) on appeal the status of partial forfeiture is uncertain. Once the Supreme Court resolves this appeal then the facts of this case as supplemented by the affidavit contained herein, can be applied to the law. In the interim the Movant should be granted the opportunity to file its objections.

DATED this 4th day of February, 1997.

ROSHOLT, ROBERTSON & TUCKER



John K. Simpson
Attorney for Buckeye Farms

CERTIFICATE OF MAILING

I hereby certify that on the 4th day of February, 1997, 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 at the following address:

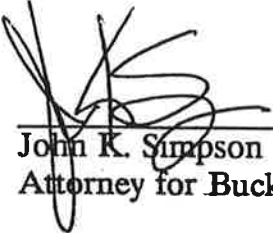
Name: Aqua Life, Inc.
Address: Route 5, Box 5053
Buhl, Idaho 83316

3. Copies to:

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

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

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



John K. Simpson
Attorney for Buckeye Farms

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AFFIDAVIT OF DAVID B. SHAW DATED FEBRUARY 4, 1997

DAVID B. SHAW, being first duly sworn deposes and states:

1. My name is David B. Shaw, and my work address is ERO Resources Corporation, 2309 N. Mountain View Drive, Suite 174, Boise, ID 83706-1065. My home address is 802 S. Plaza Road, Emmett, ID 83617.

2. My educational background includes bachelor's and master's degrees in Agricultural Engineering from the University of Idaho in 1966 and 1972, respectively. I am a registered professional engineer and land surveyor in the State of Idaho.

3. My work experience includes five years of teaching at the University of Idaho in the College of Engineering from 1968 to 1973. I was with the Idaho Department of Water Resources (department) and its predecessor agencies from November 1973 until July 1996. With the department, I served in a number of technical and administrative positions including Regional Supervisor for the department's western region from 1978 to 1985 and Adjudication Bureau Chief from 1985 to 1996. My experience with the department includes successfully managing a variety of water right, water supply and water delivery situations. Since July 1996 I have been employed by ERO Resources Corporation providing consulting services to clients in the areas of water rights, water right adjudication, and water distribution and management.

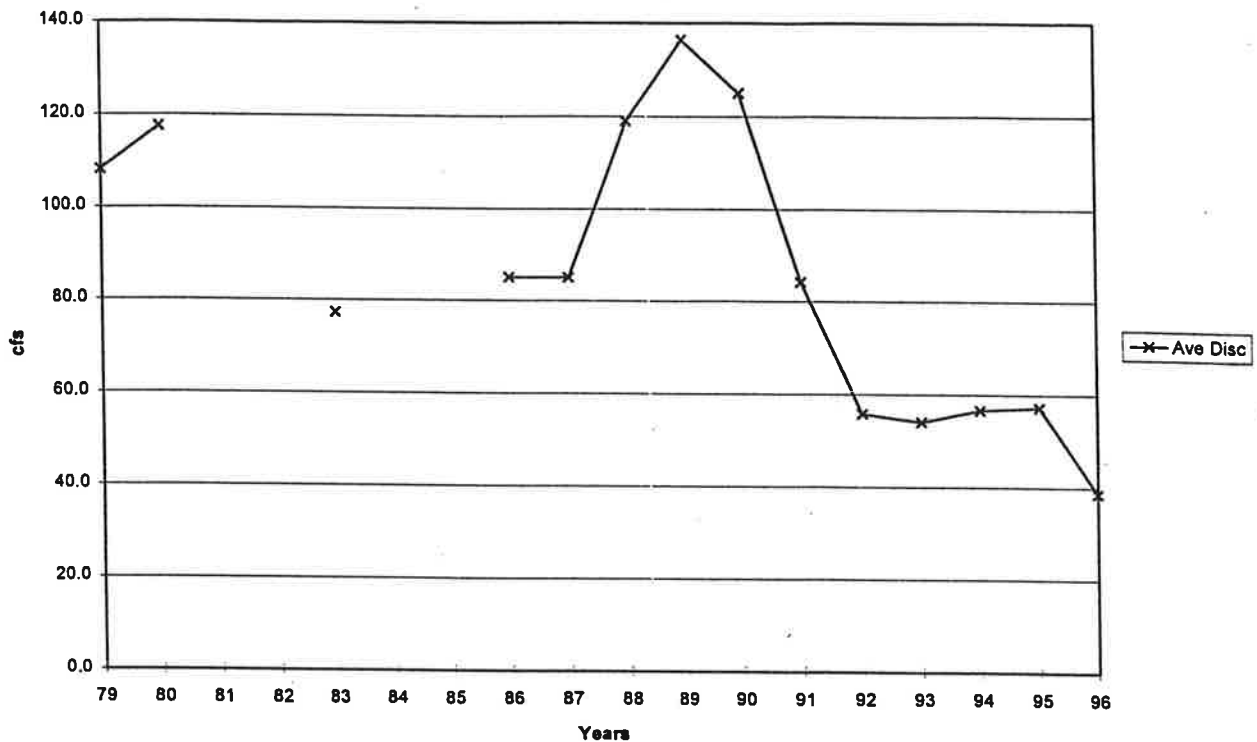
4. I have been engaged by Buckeye Ranch to examine the water rights of Aqua Life, Inc. (Aqua Life) for the facility once known as Idaho Springs Trout Farm and currently operated as Gold Springs, Inc. (Gold Springs), particularly with reference to Aqua Life's water rights from Billingsley Creek. The water rights for the Gold Springs are numbered 36-02338, 36-02414, 36-02734 and 36-04011 in the records of the Idaho Department of Water Resources (IDWR).

5. I have examined the public records of IDWR regarding these water rights including the SRBA claim files and the 1995 water diversion records. I also examined the public records of the Idaho Department of Health and Welfare, Division of Environmental Quality (DEQ) for Gold Springs numbered ID-000073-6 in DEQ's records, and observed the facility on October 8 and December 5, 1996.

6. DEQ's records include Discharge Monitoring Reports (DMR's) which are to be submitted on a monthly basis by the operator of a fish raising facility operating under the requirements of a National Pollutant Discharge Eliminating System (NPDES) permit. Among other information, the quantity of discharged water is supposed to be reported on the DMR's for Gold Springs. DEQ's records contain some DMR's for the period 1979 through 1996 for Gold Springs. Figure 1, below, shows the average annual discharge, in cubic feet per second (cfs), based upon the DMR's on file with DEQ for Gold Springs. This figure shows an annual average discharge for Gold Springs of less than 60 cfs for the five year period from 1992 through 1996.

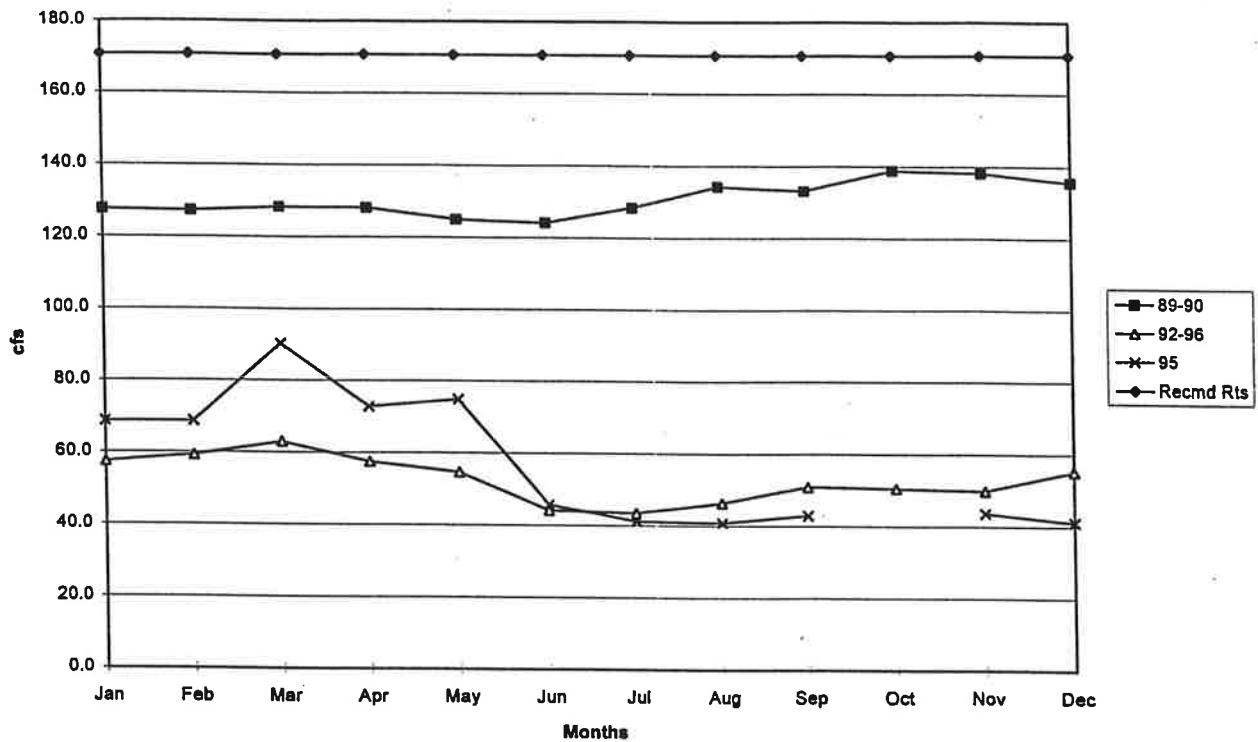
7. The quantity and source of the Aqua Life water rights for Gold Springs are 36-02338 for 54.6 cfs from Big Springs or Fisher Springs, 36-02414 for 4 cfs from Tupper Springs, and 36-02734 and 36-04011 for 100 cfs and 12 cfs, respectively, from Billingsley Creek.

Figure 1
GOLD SPRINGS AVERAGE ANNUAL DISCHARGE



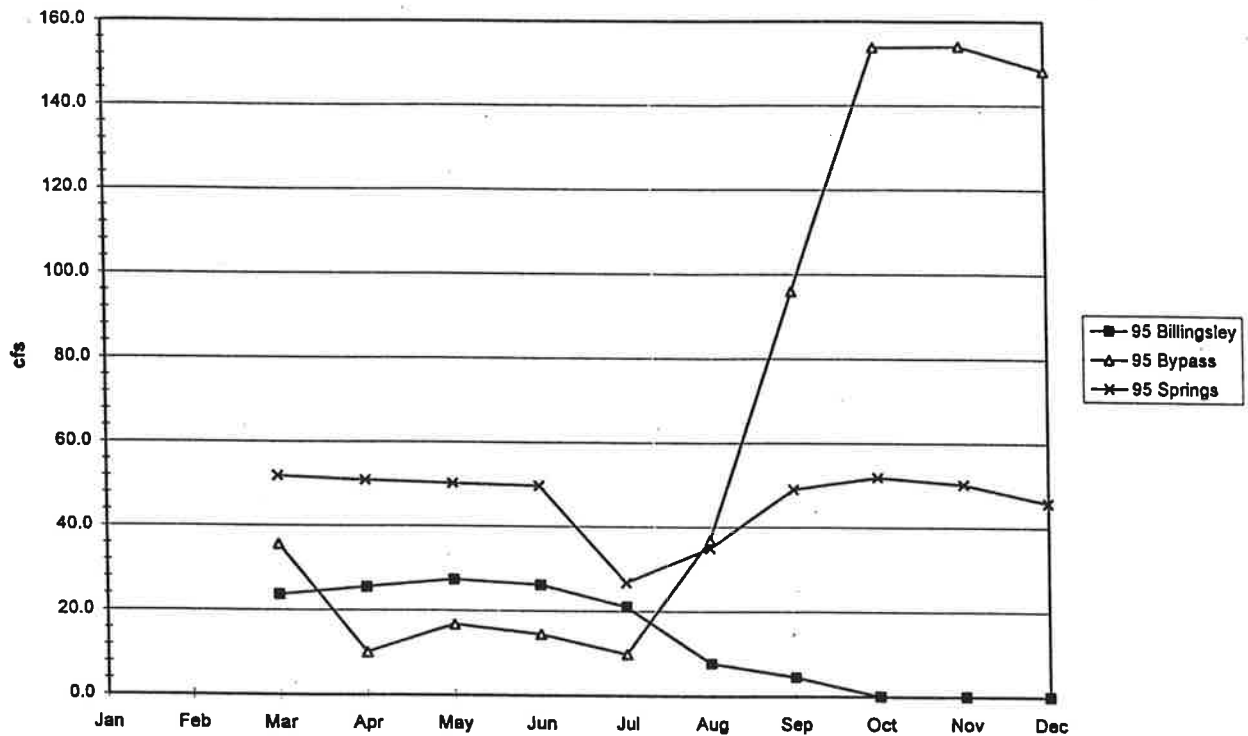
8. The monthly discharge amounts reported on the DMR's for the period 1992 through November 1996 are shown in Figure 2, below, compared to the monthly discharge amounts reported on the DMR's for the 1989 through 1990 period and the amount of the water rights recommended to the SRBA Court by IDWR. In addition, Figure 2 shows the monthly discharge amounts reported on the DMR's for 1995. The DMR's do not provide a readily identifiable means of correlating discharge amounts to the source from which the water is diverted.

Figure 2
GOLD SPRINGS DISCHARGE



9. Figure 3, below, shows the diversion data for 1995 for these water rights as reported to IDWR. These curves show the diversion from Billingsley Creek separate from the diversion from the springs. The bypass amount shown in the figure is the amount of water reported to have bypassed the diversion for water rights 36-02734 and 36-04011 in Billingsley Creek. Figure 3 shows water being bypassed in Billingsley Creek during times when water was not being diverted from Billingsley Creek and also shows that when water was available to satisfy the 112 cfs water rights from Billingsley Creek it was not diverted. The figure also shows the diversion from Billingsley Creek was always less than the diversion from the springs. Diversion data was reported to IDWR for the first time in 1995.

Figure 3
GOLD SPRINGS 1995 DIVERSIONS



10. Figure 2, above, shows that while these water rights have been more fully exercised in the past during the period 1992 through November 1996 the water rights from Billingsley Creek were not fully utilized.

11. I prepared the above figures from the sources of information noted. No water was being diverted from Billingsley Creek by Gold Springs either day that I observed the facility.

Dated this 4 day of February, 1997.



David B. Shaw

SUBSCRIBED and SWORN to before me this 4th day of February, 1997.



NOTARY PUBLIC FOR IDAHO

Residing at: Boise

My Commission Expires: 9/26/2000

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. Case 39576

)
) Subcase No. 36-02734
)
)
)
)
)
)

STANDARD FORM 1

OBJECTION

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in the Director's Report. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR) or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number you are objecting to must be indicated above in the blank space following "Subcase." To object to multiple water right recommendations, you must use a **separate form for each objection** and there must be **only one objector** for each 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.

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

Any party physically filing 25 or more objections must contact the Clerk of the SRBA Court no later than 14 days before the filing deadline and arrange an appointment to file multiple objections.

By filing an objection form, you are certifying that the objection is well-grounded in fact; that it 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 needlessly increase the cost of litigation.

I. GENERAL INFORMATION

Please fill in the following information:

1. *Party/Claimant objecting:*

Name: **Buckeye Farms, Inc.**

Address: **Buckeye Farms, Inc.
18335 U.S. Highway 30
Hagerman, ID 83332**

Phone: Work: (208) 622-4100 Home: _____

Briefly describe your interest in this water right:

Buckeye Farms has water rights from the same source.

2. If this objection is filed by an attorney:

Attorney Name: **John K. Simpson**

Attorney Address: **Rosholt, Robertson & Tucker
1221 W. Idaho Street, Suite 1200
P.O. Box 2139
Boise, ID 83701-2139**

Attorney Phone No. (208) 336-0700

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. ☐ **Point(s) 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. **Water Right Recommendation:** I object to:
 - ☒ a. this water right being recommended at all; or
 - ☐ b. this water right not being recommended.
12. ☐ **Description of Reservation:** I object to the legal description of the reservation.

13. ☐ Other: I object to: _____

REASONS SUPPORTING EACH BOX CHECKED

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

This water has not been beneficially used.

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.

This claim should be denied.

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

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

**Affidavit of David Shaw
Motion To File Late Objection**

INSTRUCTIONS FOR MAILING

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

CERTIFICATE OF MAILING

I hereby certify that on February 4, 1997, 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:

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Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

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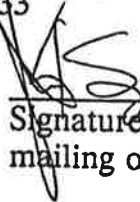
Name: Aqua Life, Inc.
Address: Route 5, Box 5053
Buhl, Idaho 83316

3. Copies to:

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PO Box 83720
Boise, ID 83720-0098

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

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



Signature of party/claimant or attorney
mailing on Objector's behalf

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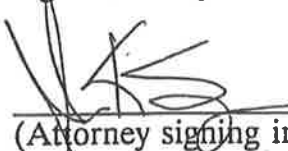
VERIFICATION (Must be Completed)

State of Idaho)
) .ss
County of Ada)

John K. Simpson, 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 that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Signature of person filing objection



(Attorney signing in representative capacity)

Subscribed and sworn to before me on Feb. 4, 1997.



NOTARY PUBLIC FOR IDAHO
Residing at: Boise.
My commission expires: 9/26/2000

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. Case 39576

Subcase No. 36-04011

STANDARD FORM 1

OBJECTION

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Any party physically filing 25 or more objections must contact the Clerk of the SRBA Court no later than 14 days before the filing deadline and arrange an appointment to file multiple objections.

By filing an objection form, you are certifying that the objection is well-grounded in fact; that it 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 needlessly increase the cost of litigation.

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Address: Buckeye Farms, Inc.
18335 U.S. Highway 30
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Phone: Work: (208) 622-4100 Home: _____

Briefly describe your interest in this water right:

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Attorney Name: John K. Simpson

Attorney Address: Rosholt, Robertson & Tucker
1221 W. Idaho Street, Suite 1200
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Motion To File Late Objection**

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State of Idaho)
) ss
County of Ada)

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Signature of person filing objection



(Attorney signing in representative capacity)

Subscribed and sworn to before me on Feb 4, 1997.



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Residing at: Boise
My commission expires: 9/26/2000

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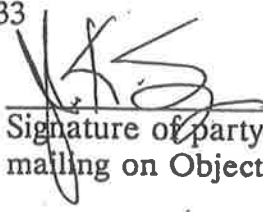
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P.O. Box 44449
Boise, Idaho 83711-4449

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



Signature of party/claimant or attorney
mailing on Objector's behalf

\\wpdata\bucket\objection

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. Case 39576

Subcase No. 36-02414

STANDARD FORM 1

OBJECTION

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Attorney Name: **John K. Simpson**

Attorney Address: **Rosholt, Robertson & Tucker
1221 W. Idaho Street, Suite 1200
P.O. Box 2139
Boise, ID 83701-2139**

Attorney Phone No. **(208) 336-0700**

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. ☐ **Point(s) 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. **Water Right Recommendation:** I object to:
 - ☒ a. this water right being recommended at all; or
 - ☐ b. this water right not being recommended.
12. ☐ **Description of Reservation:** I object to the legal description of the reservation.

13. ☐ Other: I object to: _____

REASONS SUPPORTING EACH BOX CHECKED

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

This water has not been beneficially used.

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.

This claim should be denied.

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

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

**Affidavit of David Shaw
Motion To File Late Objection**

VERIFICATION (Must be Completed)

State of Idaho)
) ss
County of Ada)

John K. Simpson, 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 that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Signature of person filing objection



(Attorney signing in representative capacity)

Subscribed and sworn to before me on Feb 4, 1997.



NOTARY PUBLIC FOR IDAHO
Residing at: Bolse
My commission expires: 9/26/2000

INSTRUCTIONS FOR MAILING

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

CERTIFICATE OF MAILING

I hereby certify that on February 4, 1997, 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 at the following address:

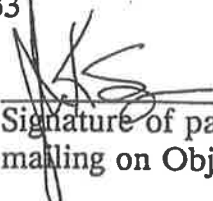
Name: Aqua Life, Inc.
Address: Route 5, Box 5053
Buhl, Idaho 83316

3. Copies to:

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

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

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



Signature of party/claimant or attorney
mailing on Objector's behalf

\\wpdata\bucketye\objectio

13. ☐ Other: I object to: _____

REASONS SUPPORTING EACH BOX CHECKED

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

This water has not been beneficially used.

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.

This claim should be denied.

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

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

**Affidavit of David Shaw
Motion To File Late Objection**

VERIFICATION (Must be Completed)

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) .ss
County of Ada)

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Signature of person filing objection



(Attorney signing in representative capacity)

Subscribed and sworn to before me on Feb. 4, 1997

Gera Carneal
NOTARY PUBLIC FOR IDAHO
Residing at: Boise
My commission expires: 9/26/2000

INSTRUCTIONS FOR MAILING

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2. One copy to the owner of the water right at the following address:

Name: Aqua Life, Inc.
Address: Route 5, Box 5053
Buhl, Idaho 83316

3. Copies to:

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PO Box 83720
Boise, ID 83720-0098

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

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



Signature of party/claimant or attorney
mailing on Objector's behalf

\\wpdata\bucket\objection

C. TOM ARKOOSH
116 4th Ave. W.
P.O. Box 32
Gooding, ID 83330
Telephone: 208-934-8872

ATTORNEY FOR AQUA LIFE, INC.

RECEIVED

MAR 04 1997

Department of Water Resources
Adjudication Bureau

RECEIVED

MAR - 3 1997

OFFICE OF THE
ATTORNEY GENERAL

RECEIVED

MAR 07 1997

Department of Water Resources
Southern Region

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In RE SRBA

Case No. 39576

Subcase No. 36-02414

already in data base.

NOTICE OF APPEARANCE *3-5-97*

PLEASE TAKE NOTICE that the party in the above entitled action, Aqua Life, Inc., hereby makes an appearance by and through its attorney, C. Tom Arkoosh, and hereby requests all further notices and pleadings in the above entitled action be sent to said attorney.

DATED this 28th day of February, 1997.

Theresa B. ... for C. Tom Arkoosh
C. TOM ARKOOSH

NOTICE OF APPEARANCE

-1-

MAIL4125



CERTIFICATE OF MAILING

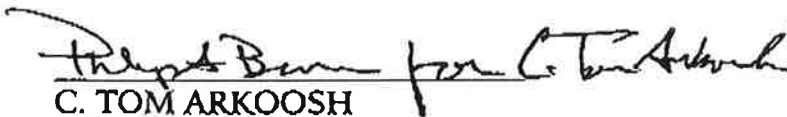
I hereby certify that on the 28th day of February, 1997, I served a true and correct copy of the foregoing document upon the following person, by causing to be deposited a copy thereof in the United States Mail, first class postage prepaid and via facsimile transmission:

Clerk of the District Court
Snake River Basic Adjudication
253 Third Avenue N.
P.O. Box 2707
Twin Falls, ID 83303-2707

John K. Simpson
ROSHOLT ROBERTSON & TUCKER
1211 W. Idaho Street, Suite 600
P.O. Box 2139
Boise, Idaho 83701-2139

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

US Dept. of Justice
Environment and Natural Resource Division
550 W. Fort Street, Box 33
Boise, ID 83724


C. TOM ARKOOSH

RECEIVED

MAR - 3 1997

LSAL

OFFICE OF THE ATTORNEY GENERAL

RECEIVED

MAR 0 4 1997

Department of Water Resources
Adjudication Bureau

C. TOM ARKOOSH
116 4th Ave. W.
P.O. Box 32
Gooding, ID 83330
Telephone: 208-934-8872

obj ✓

RECEIVED

MAR 0 7 1997

Department of Water Resources
Adjudication Bureau

ATTORNEY FOR AQUA LIFE, INC.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In RE SRBA

Case No. 39576

Subcase No. 36-02734

already indate base. - do 3-5-97

NOTICE OF APPEARANCE

PLEASE TAKE NOTICE that the party in the above entitled action, Aqua Life, Inc., hereby makes an appearance by and through its attorney, C. Tom Arkoosh, and hereby requests all further notices and pleadings in the above entitled action be sent to said attorney.

DATED this 28th day of February, 1997.

Philip A. Bui for C. Tom Arkoosh
C. TOM ARKOOSH

NOTICE OF APPEARANCE -1-

MAIL4123



CERTIFICATE OF MAILING

I hereby certify that on the 28th day of February, 1997, I served a true and correct copy of the foregoing document upon the following person, by causing to be deposited a copy thereof in the United States Mail, first class postage prepaid and via facsimile transmission:

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State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

US Dept. of Justice
Environment and Natural Resource Division
550 W. Fort Street, Box 33
Boise, ID 83724


C. TOM ARKOOSH

INFORMATION REQUEST

NAME: JO Freeman DATE: 5/21/96
 ADDRESS: _____
 CITY/ZIP: Boise, ID PHONE: _____
 (please print)

I HAVE REQUESTED TO REVIEW AND/OR OBTAIN COPIES OF THE FOLLOWING DOCUMENTS ON FILE WITH THE DEPARTMENT OF WATER RESOURCES.

ADJUDICATION CLAIM NUMBERS	ALLOCATION WATER RIGHT NUMBERS	OTHER DOCUMENTS
<u>36-02414</u>	_____	_____
<u>36-2734</u>	_____	_____
<u>36-04011</u>	_____	_____
<u>36-02338</u>	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

RESEARCH SUBJECT: ~~Q~~ Aqua Life

COPIES MADE OF: _____
 10 COPIES OR LESS: FREE

NUMBER OF COPIES MADE: 262
 FEES DUE @ \$0.05 PER COPY: \$13.10
 OTHER FEES: _____

Jennifer Vansant
 (customer signature)

RECEIPT NUMBER: _____
 ASSISTING AGENT: HL

MICROFILMED
DEC 04 1996

C. TOM ARKOOSH
116 4th Ave. W.
P.O. Box 32
Gooding, ID 83330
Telephone: 208-934-8872

RECEIVED

JAN 30 1996

Department of Water Resources
Adjudication Bureau

RECEIVED

JAN 29 1996

OFFICE OF THE
ATTORNEY GENERAL

ATTORNEY FOR AQUA LIFE, INC.

A36-02414

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

In RE SRBA

Case No. 39576

NOTICE OF APPEARANCE

PLEASE TAKE NOTICE that the party in the above entitled action, Aqua Life, Inc., hereby makes an appearance by and through its attorney, C. Tom Arkoosh, and hereby requests all further notices and pleadings in the above entitled action be sent to said attorney.

DATED this 26th day of January, 1996.


C. TOM ARKOOSH

NOTICE OF APPEARANCE

-1-

COPY
MICROFILMED
DEC 8 4 1996

CERTIFICATE OF MAILING

I hereby certify that on the 26th day of January, 1996,
I served a true and correct copy of the foregoing document upon the
following person, by causing to be deposited a copy thereof in the
United States Mail, first class postage prepaid:

Clerk of the District Court
Snake River Basic Adjudication
253 Third Avenue N.
P.O. Box 2707
Twin Falls, ID 83303-2707

Scott Campbell
Elam & Burke
702 W. Idaho, P.O. Box 1539
Boise, ID 83701

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

US Dept. of Justice
Environment and Natural Resource Division
550 W. Fort Street, Box 33
Boise, ID 83724



C. TOM ARKOOSH

R PROOF

CVR

MAPS

PHOTOS

MISC

MICROFILMED

OCT 18 1994

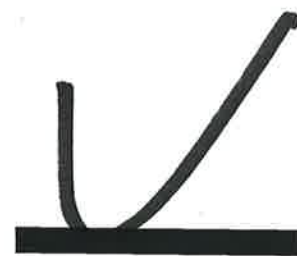
R PROOF

CVR

MAPS

PHOTOS

MISC



UNRECORDED

JAN 28 1993

^{phone}
DIRECTOR'S REPORT CONVERSATION MEMO

1. PERSON(S) MAKING THE ENQUIRY:

Include address and phone no.

In case follow-up is needed.

Ken Ellis

phone no. 837-6686

2. SUBJECT OF INQUIRY: Wanted to know the status of A36-10842, A36-02338, A36-02414

I told him with the Gag Order on - I could not tell him much.

3. RESPONSE TO INQUIRY: read to him the status of each file. Could not understand
why A36-10842 had been disallowed. He said he would be in the office some time
this week to talk to me about it. He will need to see KKC - the agent who
reviewed this right.

4. IDWR STAFF AND DATE:

6/28/94 10:30 am

Print name and initial

Judy Givens

JG

WATER RIGHT CLAIM (Nos.):

A36-10842, A36-02338, A36-02414

MICROFILMED

OCT 18 1994

Water Right Number - R36-02414 Prefix Translation: RESEARCH Old (D) Number - 28339

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

*** C - CURRENT OWNER ***
AQUA LIFE CORP.

1 - RT. 5 BOX 5053
2 -
3 -
City- BUHL State- ID Zip- 83316
Phone - 208-543-4312

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
12/21/1959 17 SOUTHERN L - LICENSE

+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
UNNAMED STREAM BILLINGSLEY CREEK

+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County
07S 14E 18 SE SW SW 4 (47) GOODING

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
19 - FISH PROPAGATION 01/01 12/31 4.000

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
4.000 0.0

+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
07S 14E 18 SW SW 4 19 FISH PROPAGATION (47) GOODING

Total Acres:

+ - - Diversion Means - CONCRETE HEADWORKS TO EARTH DITCH TO CONCRETE PONDS.

+ - - Non-Irrigation Use - FISH/ FISH HATCHERY

+ - - Other Rights for Same Use - 36-02338

+ - - - - Remarks - - - - - +
FACILITY VOLUME 381,656 CUBIC FEET.
USE OF THIS RIGHT WITH RIGHT NO. 36-02338 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 58.68 CFS AND TO A TOTAL
FACILITY VOLUME OF 381,656 CUBIC FEET.

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

MICROFILMED

JAN 28 1993

Water right number - R36-02414

Prefix Translation: RESEARCH

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

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

+ - - - - Comments - - - - -

Date: 05/19/1992 User Id: THORNTON Subject: SOURCE
THE SOURCE OF THIS UNNAMED STREAM IS TUPPER SPRINGS.

Date: 05/19/1992 User Id: THORNTON Subject: ASSOCIATED RIGHTS
ANOTHER WATER RIGHT USED AT THIS FISH OPERATION IS OWNED BY
THE LAND WHERE THE SPRING ORIGINATES. THE WATER FROM BOTH OF

OPAL FISHER. THAT WATER RIGHT IS LEASED FROM FISHER, OWNER OF
THESE RIGHTS CO-MINGLES IN A COMMON DITCH (CANAL).

+ - - Audit Fields - - +
05/22/92 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	- 05/22/1992	Old Judicial District	-
Claim Received Date	- 08/31/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S001995	Water District	-
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	-	Presumption Flag	-
				Notice of Error Flag	-

MICROFILMED

JAN 28 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

02:01:46
06/30/90

PAGE: 11
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-02414

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	N		Drive-By 7-27-90 SCC/HHT			SCC 8-14-90	HHT 5/19/92	HHT 5/19/92
POINT OF DIV	Y N		HHT/MS-2/26/92					
SOURCE	N							
PLACE OF USE	Y N							
DIV. AMOUNT CFS/VOLUME	N							
CONSUMPTIVE USE	N							
PURPOSES	N							
PERIOD OF USE	Y N							
BASIS OF CLAIM	N							
REMARKS	N					HHT 5/19/92		

HHT
7-20-90

"VERIFIED BY" CODES

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

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

Remark: DOB: 8.76 AF
EOL: 58.68 cfs combined

JAN 28 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

02:01:46
06/30/90

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-02414

LAST: AQUA LIFE CORP.
ADDRESS: RT 5 BOX 5053
CITY: BUHL
PHONE NUMBER: 208-543-4312

FIRST:
STATE: ID ZIP: 83316

OWNER CODE: C

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

DATABASE
N

FIELD
EXAMINER

NO REMARKS IN CLAIM

FIELD EXAMINATION INFORMATION

CONTACT PERSON: Ken Ellis

PHONE NUMBER: (208) 543-4312

DATE OF FIELD EXAM: 2/26/92

APPOINTMENT MADE: Y() N(☒)

TIME: ____:____ A() P()

ACCOMPANIED BY: Marci Sterling

PHONE NUMBER: () -

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / REMARKS:

While working on Fisher claim (36-02338) for same development identified information related to this claim.

RECEIVED
JAN 29 1993

A. AJ CLAIM: # A36-02414 PRIORITY DATE: 12-21-1959 STAGE: L
B. WR RECORD: # 36-02414 PRIORITY DATE: 12-21-1959 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:

=====

RECOMMENDED PRIORITY DATE:
12-21-1959

REVIEWED BY WAT

DATE

7-20-90

RECORDED
JAN 28 1993

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A36-02414	07S	14E	18	SE	SW	SW	4	GOODING

OTHER AJ CLAIMS WITH SAME AJ POD
A PREFIX R PREFIX
NONE NONE

WR RECORDS IN SAME 40 ACRE TRACT
36-02338

SOURCE: UNNAMED STREAM

TRIB: BILLINGSLEY CREEK

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
36-02414	07S	14E	18		SW	SW	4	GOODING

OTHER WR RECORDS WITH SAME WR POD
36-02338

AJ CLAIMS IN SAME 40 ACRE TRACT
A PREFIX R PREFIX
A36-02338 NONE
A36-10842

SOURCE: UNNAMED STREAM

TRIB: BILLINGSLEY CREEK

C. FIELD EXAM REQUIRED?

	DUE TO POD DISCREPANCY? (Y/N)	DUE TO SOURCE DISCREPANCY? (Y/N)	DATABASE	FIELD EXAMINER
			Y	<u>N</u>
			N	<u>N</u>

REMARKS:

Identified during 2/92 field work.

RECORDED
JAN 28 1993

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

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

Same as claim

SOURCE: UNNAMED STREAM

TRIB: BILLINGSLEY CREEK

REVIEWED BY: hat DATE: 7-20-90

HAT

25/18/92

RECORDED

JAN 28 1993

A. ROOT WATER RIGHT NUMBERS: A36-02414

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
07S	14E	18	SW	SW	4	AQUA LIFE CORP.	A36-02414 /—	36-02414 /			
						FISHER , OPAL HOLMES	A36-10842 /20.0	- /			
						CLEAR SPRINGS TROUT CO.	A36-04011 /	36-04011 /			
						TUPPER , ROBERT E.	A36-04073 / 4.0	36-04073 / 4.0			
						FISHER , OPAL HOLMES	A36-02338 /	- /			
						CLEAR SPRINGS TROUT CO.	A36-02734 /	36-02734 /			
						TUPPER , ROBERT E.	A36-07841 /	36-07841 /			
						CLEAR SPRINGS TROUT CO.	A36-04014 /	36-04014 /			
						TUPPER , W. G.		36-00115 /			
TOTAL ACRES							A36-02414				

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
N

PRESUMPTION FLAG:

REMARKS:

FISH

RECOMMENDATIONS:

TOTAL ACRES: 0

REVIEWED BY: lat

DATE: 7-20-90
5/18/92

JAN 28 1993

A. AJ CLAIMED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
A36-02414 FISH PROPAGATION	FROM 01-01 TO 12-31	4.000 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		4.000 CFS

B. WR RECORDED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
36-02414 FISH PROPAGATION	FROM TO	4.000 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		4.000 CFS

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

	DATABASE	FIELD EXAMINER
DUE TO WATER-USE DISCREPANCY? (Y/N)	N	<u>2</u>
DUE TO DIVERSION RATE DISCREPANCY? (Y/N)	N	<u>2</u>
DUE TO PERIOD FROM/TO DISCREPANCY? (Y/N)	Y	<u>2</u>

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

Y(☒) N(☐)

RECOMMEND TO WR STANDARDS OR OTHER?

Y(☐) N(☒) Explain in remarks, below.

REMARKS:

RECORDED
JAN 28 1993

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y(☒) N(☐)

AJ TOTAL CLAIMED DIVERSION RATE: 4.000 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 4.000 CFS

*** IF NO or IF STATUTORY CLAIM or BENEFICIAL USE then flow measurement required. ***
** If an amount smaller than the original diversion rate is **
** claimed and an exam is NOT required, explain in remarks. **

FLOW MEASUREMENT REQUIRED?

FIELD
DATABASE EXAMINER
Y N

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

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

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

CLAIM	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A36-10842	SPRING	FISHER , OPAL HOLMES	0.480	0.024		

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

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A36-02414	FISH PROPAGATION	AQUA LIFE CORP.	FROM 01-01 TO 12-31	4.000 CFS	
A36-10842	DOMESTIC	FISHER , OPAL HOLMES	FROM 01-01 TO 12-31	.080 CFS	
A36-04011	FISH PROPAGATION	CLEAR SPRINGS TROUT CO.	FROM 01-01 TO 12-31	50.000 CFS	
A36-02338	FISH PROPAGATION	FISHER , OPAL HOLMES	FROM 01-01 TO 12-31	54.680 CFS	
A36-02734	FISH PROPAGATION	CLEAR SPRINGS TROUT CO.	FROM 01-01 TO 12-31	100.000 CFS	
A36-07841	FISH PROPAGATION	TUPPER , ROBERT E.	FROM 01-01 TO 12-31	1.000 CFS	
A36-04014	FISH PROPAGATION	CLEAR SPRINGS TROUT CO.	FROM 01-01 TO 12-31	65.000 CFS	

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D. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE

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

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 = _____ AF/A

ACRES _____ x CONSUMPTIVE VOL. AF/A FOR AREA _____ =

TOTAL CONSUMPTIVE USE _____ AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = _____ AF/A

ACRES _____ x DIVERSION VOL. AF/A FOR AREA _____ =

TOTAL DIVERSION VOLUME _____ AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y() N(X) *as licensed*

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

1b. CALCULATIONS

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RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD FROM TO	REC. DIV RATE CFS	REC. DIV VOL. AF/A	REC. CONS. USE
		DATABASE EXAMINER	DATABASE EXAMINER	DATABASE EXAMINER
FISH PROPAGATION	01-01 12-31	4.000 ✓	✓	0.0 ✓
TOTAL FOR THIS RIGHT		4.000		0.0

REVIEWED BY: kat

DATE: 7-20-90 / 5/18/92

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A. CHECK ONLY THE FOLLOWING THAT APPLY:

	ACCEPTED AS CLAIMED	NEEDS REVIEW
OWNERSHIP _____	()	()
FORFEIT/ABANDON _____	()	()
ADDITIONAL DIV. AMOUNT _____	()	()

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-02414

TOTAL DIVERSION RATE OF WR SPLITS	DATABASE 4.000	EXAMINER <u>ok</u>	CFS
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SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
-	A36-02414	4.000	-		36-02414	4.000
TOTAL CFS		4.000				4.000

DIVERSION RATE REVIEW

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

DATABASE
Y

FIELD
EXAMINER
ok

REMARKS:

Facility Volume = 8.76 AF (see attached map & sheet for calculations)

AUTHENTICATION:

SIGNATURE: Helen Harrington-Thorn

DATE: 7-20-90

NAME OF FIELD EXAMINER:

Helen Harrington-Thorn TITLE: Senior Water Agent

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