

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: **A36-04071**
Date Received: 6/24/1988
Receipt No: S000530
Received By: _____

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

1. Name: CARL R. POTHIER 208-837-6604
Address: 2614 SOUTH 1050 EAST
HAGERMAN ID 83332

Name: MARY LEE POTHIER 208-837-6604
Address: 2614 SOUTH 1050 EAST
HAGERMAN ID 83332

2. Date of Priority: JUN 1, 1970

3. Source: INDIAN SPRINGS Trib. to: BILLINGSLEY CREEK

4. Point of Diversion:

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

5. Description of diverting works:
CONCRETE HEADBOX WITH 1200' 4" PIPE, SOLID SET SPRINKLER SYSTEM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.260		

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

8. Total consumptive use is 15.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
07S	13E	12	NW	NE		IRR	5.0

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	5.0
					Total Acres	5.0

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:
PIPELINE TO SOLID SET SPRINKLER SYSTEM.

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

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



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

RECEIVED

Please print or type
(see instructions on back of page)

JUL 11 1991

DATE OF CLOSING: 7-5-91

Department of Water Resources
Southern Region Office

LEGAL DESCRIPTION OF PROPERTY: Township 7 South Range 13 East, B.M. Section 13, 1/4 of NW 1/4 of NE 1/4, Govt. Lot , BM.
Lot , Block, , Subdivision/Townsite .
If you have additional legal descriptions, please attach separate sheet.

- ☐ Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)
- ☐ Water Right Number(s)
Assigned by IDWR: A36-04071, A36-04072, A36-07655
- ☐ Name and Address of Former Owner/Claimant(s)(Seller):
Maurice M. Taylor
Route #1, Box #490
Hagerman, Idaho 83332
- ☐ New Owner/Claimant (Purchaser):
Carl R. Pothier and Mary Lee Pothier
- ☐ New Mailing Address:
2614 South 1050 East
Hagerman, ID 83332
- ☐ New Telephone Number: (208) 837- - 6604
- ☐ Does the change in ownership result in a splitting of the water right owned/claimed? yes ☒ no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

- ☐ Attach proof of ownership, describe proof attached: Copy of the recorded Warranty Deed.
(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

- ☐ Signature of New Owner/Claimant(s): Carl R. Pothier Date 7-5-91
Mary Lee Pothier Date 7-5-91
- ☐ Signature of Former Owner/Claimant(s): _____ Date _____
_____ Date _____

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

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: 9/14/91 By: SL

Further Action Needed:

Further Action Taken

Date: By:

Final Review and Data-Entry

Date: 9/17/91 By: SL

Claim Numbers of Split, if any:

Original to be mailed to Idaho Department of Water Resources
Copies to Former Owner and New Owner

MICROFILMED

FEB 05 1993



WARRANTY DEED

RECEIVED

JUL 11 1991

For Value Received

Department of Water Resources
Southern Region Office

Maurice M. Taylor, a single man,

hereinafter referred to as Grantor, does hereby grant, bargain, sell, and convey unto

Carl R. Pothier and Mary Lee Pothier, husband and wife,

hereinafter referred to as Grantee, whose current address is

~~18101 Box 1611, Hagerman, ID 83340~~

2614 South 1050 East, Hagerman, ID 83332
the following described premises, to-wit:

See Attached Exhibit A, attached hereto and made a part hereof.

145453

STATE OF IDAHO, COUNTY OF GOODING

Filed for record at the request of **FIRST AMERICAN TITLE**

55 min. past 1 o'clock P M. this 5th
of July, 1991.

JOHN A. MYERS, Recorder

By

Dept

fee
600

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

Dated: July 5th, 1991.

MICROFILMED
FEB 05 1993

EXHIBIT "A"

PARCEL I:

A part of the Northwest Quarter of the Northeast Quarter of Section 13, Township 7 South, Range 13 East, Boise meridian, Gooding County, Idaho, described as follows:

Beginning at the Northeast corner of the Northwest Quarter of the Northeast Quarter;
Thence South along the East boundary of said Northwest Quarter of the Northeast Quarter, 395.0 feet;
Thence South 82°02' West, 25.35 feet;
Thence South 46°25' West, 100.00 feet;
Thence South 83°58' West, 500.02 feet, more or less to the East right-of-way of said County road;
Thence following County road the following courses and distances:
North 17°06' East, 279.0 feet;
North 37°06' East, 166.2 feet;
North 55°00' East, 210.6 feet to the North boundary of said Northwest Quarter of the Northeast Quarter;
Thence South 89°40' East, 240.0 feet, more or less, to THE POINT OF BEGINNING.

PARCEL II:

That part of the Northeast Quarter of the Northeast Quarter of Section 13, Township 7 South, Range 13, East of the Boise Meridian, Gooding county, Idaho, described as follows:

Beginning at the Northwest corner of said subdivision;
Thence East along the North line thereof, 250 feet;
Thence South 350 feet;
Thence West 250 feet;
Thence North 350 feet along the West line of said subdivision to THE POINT OF BEGINNING.

MICROFILMED
FEB 05 1993

WARRANTY DEED

FOR VALUE RECEIVED

WILLIAM H. PARR AND DOROTHY E. PARR, husband and wife,

the Grantors , do hereby grant, bargain, sell and convey unto

MAURICE M. TAYLOR AND NONA TAYLOR, husband and wife,

the Grantees , whose address is Rt. 1, Box 490, Hagerman, Idaho 83332

the following described premises, to-wit:

Township 7 South, Range 13 East, Boise Meridian, Gooding County, Idaho
Section 13: Part of the NW1/4NE1/4, described as follows:

Beginning at the Northeast corner of the NW1/4NE1/4; Thence South along the East boundary of said NW1/4NE1/4, 395.0 feet; Thence South 82°02' West, 25.35 feet; Thence South 46°25' West, 100.00 feet; Thence South 83°58' West, 500.02 feet, more or less, to the East right-of-way of said County road; Thence following County road the following courses and distances: North 17°06' East, 279.0 feet; North 37°06' East, 166.2 feet; North 55°00' East, 210.6 feet to the North boundary of said NW1/4NE1/4; Thence South 89°40' East, 240.0 feet, more or less, to the point of beginning.

TOGETHER WITH 0.58 cfs of water from Springs tributary to Billingsley Creek; priority date November 11, 1976; issued under license no. 36-7655;

TOGETHER WITH 0.26 cfs of water for irrigation from Indian Springs tributary to Billingsley Creek; priority date June, 1970; issued under claim no. 36-4071;

TOGETHER WITH 0.26 cfs of water for domestic use from Indian Springs tributary to Billingsley Creek; priority date April, 1936; issued under claim no. 36-4072.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees , their heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantees , that they are the owners in fee simple of said premises; that said premises are free from all encumbrances ... except reservations and easements of record; general taxes for the year 1984, which are not yet due and payable;

and that they will warrant and defend the same from all lawful claims whatsoever.

Dated: May 21, 1984

William H Parr

WILLIAM H. PARR

Dorothy E Parr

DOROTHY E. PARR

108316

STATE OF IDAHO, COUNTY OF JEROME

On this 21st day of May, 1984, before me, a notary public in and for said State, personally appeared WILLIAM H. PARR AND DOROTHY E. PARR, husband and wife,

known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

Deborah Roth
Notary Public

Residing at Jerome, Idaho
Comm. Expires Life

STATE OF IDAHO, COUNTY OF Gooding

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

at 32 minutes past 4 o'clock p.m., this 21st day of May 1984, in my office, and duly recorded in Book of Deeds at page

Ex-Officio Recorder

By Helen K. Piatt Deputy.

Fees \$ 2.00
Mail to:

PIONEER TITLE COMPANY
OF JEROME COUNTY
161 East Main Street
Jerome, Idaho 83338 - 208 324-2341



State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

17-Sep-1991 14:15

CARL R. &/OR MARY LEE POTHIER
2614 SOUTH 1050 EAST
HAGERMAN ID 83332

Re: Ownership Change for Adjudication Claim NO.(S): A36-04071,
A36-04072, A36-07655 - TAYLOR -

Dear Claimant(s):

Pursuant to the notification that you presently own the property in which the above referenced Adjudication Claim is appurtenant, the Department has changed the record of the current owner as you requested. Please find enclosed a copy of the computer record of the claim noting the change in claimant.

Please review the record and if you have any corrections or questions, please feel free to call this office.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Judy Givens'.

Judy Givens
Adjudication Secretary

/jg

Enclosures

MICROFILMED
FEB 05 1993

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: A36-04071
Date Received: 6/24/1988
Receipt No: 5000530
Received By: TS

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

1. Name: MAURICE M. TAYLOR
Address: RT. 1 BOX 490
HAGERMAN, ID

208-837-6554

83332

2. Date of Priority: JUN 01, 1970

3. Source: INDIAN SPRINGS

Trib. to: BILLINGSLEY CR.

4. Point of Diversion:

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

5. Description of diverting works:

COCRETE HEADBOX WITH 1200' OF 4" PIPE TO SOLID SET SPRINKLER SYST

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.260		

7. Total Quantity Appropriated is:

0.260 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is

15.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
07S	13E	12	NW	NE		IRR	5.0

Section Acres 5.0

Total Acres 5.0

A36-04071

Page 1

Date: 06/24/88

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:
36-7655, 36-4072

14. Remarks:
PIPELINE TO SOLID SET SPRINKLER SYSTEM.

15. Basis of Claim: BENEFICIAL USE
Water Right Number:

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): *[Signature]* Date: 6-24-88
_____ Date: _____

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 24th day

of June 19 88

Mary A. Balderson
Notary Public

Seal

Residing at Gooding, Id

My Commission Expires 10/16/1992



State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

October 3, 1990

836-04071, 07655
MAURICE M. TAYLOR
RT. 1 BOX 490

HAGERMAN

ID 83332

Dear Claimant(s):

In the past you submitted the claim(s) identified with the number(s) shown above your name and address at the top of this letter. You indicated on the claim(s) that the basis for establishing the water right(s) was Beneficial Use, meaning the water right was not previously confirmed by a decree, water right license or permit before you filed the claim(s).

The purpose of this letter is to request evidence supporting the priority date(s) you have claimed. The enclosed pamphlet describes what this means. While I encourage you to read all of the pamphlet, I direct your attention to the right-hand half of the pamphlet after you open it. There you will find two sections: What Kind of Evidence is Required, and Some Examples of Documents which May Be Evidence of the Priority Date. These sections tell you what must be submitted. The other sections tell you why the evidence is necessary and what the consequences of not submitting the evidence could be.

Please submit the requested evidence by November 1, 1990. When returning to the Department please reference all documents with the claim(s) identification number(s) listed above.

If you have questions not addressed by the pamphlet or need other technical assistance, please feel free to contact this office. For advice on your water right(s), please contact your attorney.

Sincerely,

Allen Merritt, P.E.
Water Rights Supervisor

Enclosure

MICROFILMED
FEB 05 1993

October 30, 1990

Department of Water Resources
Southern Region
222 Shoshone Street East
Twin Falls, Idaho 83301

Dear Sirs:

REGARDING: Evidence supporting the priority date on claim identification
number A36-04071.

I, the undersigned, George H. Lemmon, hereby state that I have lived
in Hagerman Valley for 70 years, have been a water master for over 35
years and am very well acquainted with the subject property owned by Mr.
Maurice M. Taylor, commonly known as the CCC Camp.

There was a filing for .06 CFS by the CCC Camp with a priority date of
April 1, 1936 and an irrigation pipeline agreement dated December 4, 1961
between McCarter Cattle Company, Inc. and Clyde McFarland, both concerning
the subject property.

The property owned by Mr. Maurice M. Taylor was definitely irrigated
by the claimed priority date of June 1, 1970, if not before because of the
pipeline agreement dated December 4, 1961.

Thank you and if I can be of further assistance in this matter, please
contact me.

Sincerely,



George H. Lemmon

STATE OF IDAHO

County of Gooding

}
SS.

On this 30th day of October, in the year 1990, before me, a Notary
Public in and for said State, personally appeared George H. Lemmon, known
to me to be the person whose name is subscribed to the within instrument
and acknowledged to me that he executed the same.



Notary Public for State of Idaho
Residing at Hagerman, Idaho
My Bond Expires: 5-10-91

MICROFILMED
FEB 05 1993

AGREEMENT

THIS AGREEMENT Made and entered into this 4th day of December, 1961, by and between McCARTER CATTLE CO., INC., a corporation, and CLYDE McFARLAND, Witnesseth:

WHEREAS, the McCarter Cattle Co., Inc. is the owner of certain lands in Gooding County, Idaho, and situated in Sections 11, 12 and 13, Township 7 South, Range 13 E. B. M., through which lands a certain pipeline runs for the purpose of conveying irrigation water for the above mentioned parties, and other various uses,

WHEREAS, the parties desire to define and agree upon their interests in said pipeline and the maintenance thereof,

NOW, THEREFORE, IT IS AGREED that each of the parties shall contribute equally to the upkeep and maintenance of said pipeline, and each shall be entitled to one-half the water therefrom.

McCARTER CATTLE CO., INC., a corporation

By *J. M. Carter*

President

Attest:

J. M. Carter
Secretary

Clyde McFarland
Clyde McFarland

MICROFILMED
FBI 0 6 1963

STATE OF IDAHO)
County of Gooding) ss.

On this 18th day of April in the year 1972, before me,
a Notary Public in and for the said State, personally appeared
W. S. McCarter known to me to be the president of the corporation
that executed this instrument, and acknowledged to me that such
corporation executed the same.

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



David M. McArthur
Notary Public for the State of Idaho,
Residing at Boise, Idaho

040070

INDEXED

Direct ☒

Indirect ☒

STATE OF IDAHO, COUNTY OF GOODING, ss.

Filed for record of the request of Virginia O'Neil
_____ min. past 4 o'clock P.M. this 18 day
of April, 1972.

VIVIAN M. BURDEN, Recorder

By Dona Scott

Star Route
Bliss Idaho

FILMED

MICROFILMED

FEB 05 1993

SCHEDULE A

Order No. G-1203
Page 3

1. Effective date: **September 8, 1976**

2. Policy or policies to be issued: (check)

(a) Owners (☒) Purchasers () Lessees () Amount: \$ **62,500.00**

Name of proposed Insured:

**WILLIAM H. PARR and DOROTHY E. PARR,
HUSBAND and WIFE**

(b) Mortgage Standard () Mortgage Extended () Amount: \$
Coverage Coverage

Name of proposed Insured:

3. The estate or interest in the land described in this commitment and covered herein is:

Fee Simple

4. Title to the estate or interest referred to herein is at the effective date hereof vested in:

**NATHAN A. SCOTT and LEONA D. SCOTT,
HUSBAND and WIFE**

5. The land referred to in this Commitment is described as follows:

**Township 7 South, Range 13 East of the Boise Meridian
Section 13: Part of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ described as follows:
Beginning at the Northeast corner of the
NW $\frac{1}{4}$ NE $\frac{1}{4}$;
thence South along the East boundary of
said NW $\frac{1}{4}$ NE $\frac{1}{4}$, 395.0 feet;
thence S 82° 02' W, 25.35 feet;
thence S 46° 25' W, 100.00 feet;
thence S 83° 58' W, 500.02 feet more or
less to the East right-of-way of said county road;
thence following county road the following
courses and distances:
N 17° 06' E, 279.0 feet;
N 37° 06' E, 166.2 feet;
N 55° 00' E, 210.6 feet to the North boundary
of said NW $\frac{1}{4}$ NE $\frac{1}{4}$;
thence S 89° 40' E, 240.0 feet more or less
to the point of beginning.**

IN THE COUNTY OF GOODING, STATE OF IDAHO

**MICROFILMED
FEB 05 1993**

SCHEDULE B

Order No. **G-1203**
Page **4**

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment, including matters that may affect the title by reason of the proposed Insured acquiring title.
2. Rights or claims of persons in possession or claiming to be in possession, easements, liens or encumbrances including material or labor liens, which are not shown by the public records; reservations in patents or state grants; or in acts authorizing the issuance thereof; mineral rights, water rights, claims or title to minerals or water.*
3. Questions of location, boundary and areas; overlaps and encroachments by improvements belonging to these or adjoining premises; all dependent upon actual survey for determination.*
4. Assessments which are not shown as existing liens by the public records; taxes not yet payable; pending proceedings for vacating, opening or changing streets or highways preceding entry of the final ordinance or order therefor.*

*Paragraphs 2, 3 and 4 will not appear as printed exceptions on extended coverage policies, except as to such parts thereof which may be typed below.

**5. 1976 taxes which are a lien, but not yet due and payable.
1975 taxes and prior years have been paid.**

6. Any assessments levied by a local irrigation district, including but not limited to assessments for delivery of water which was adjudicated by Decree in the District Court of the United States for the District of Idaho Southern Division, dated March 22, 1932, recorded April 19, 1932 in Book 6 Judgments at page 31, records of Gooding County, Idaho.

7. Power line easements as granted to Idaho Power Company by instruments as follows, granting the right to construct, operate and maintain electric transmission, distribution and telephone circuits or any of them, together with rights of ingress and egress:

- a. Dated December 11, 1934, recorded March 18, 1936 in Book 4 Miscellaneous Page 35
 - b. Dated April 12, 1941, recorded November 12, 1941 in Book 4 Miscellaneous Page 622
 - c. Dated November 21, 1941, recorded November 5, 1942 in Book 5 Miscellaneous Page 210
 - d. Dated April 4, 1963 and recorded June 10, 1963 as micro-filmed instrument No. 8248
 - e. Dated June 20, 1968, recorded November 29, 1968 as Microfilmed instrument No. 27001
- records of Gooding County, Idaho.**

8. Existing easements for ditches and roads, including but not limited to that described in Book 8 Miscellaneous Page 197, records of Gooding County, Idaho. (See Abstract sheet attached hereto.)

continued

NOTE: If policy is to be issued in support of a mortgage loan, attention is directed to the fact that the Company can assume no liability under its policy, the closing instructions, or Insured Closing Service for compliance with the requirements of any consumer credit protection or truth in lending law in connection with said mortgage loan.

MICROFILMED
FEB 05 1993

SCHEDULE B CONTINUED

9. Agreement dated December 4, 1961 by and between McCarter Cattle Co., Inc., a corporation, first party, and Clyde McFarland, second party, agreeing parties shall contribute equally to upkeep and maintenance of pipeline running through 1st party's land. Each party shall be entitled to $\frac{1}{2}$ of water therefrom, recorded April 18, 1972 as microfilmed instrument No. 40070, records of Gooding County, Idaho.

~~10. Subject to the terms of the Trust as set forth in will filed in Probate #16562, Magistrate Division, Fifth Judicial District Court, Gooding County, Idaho.~~

9/10/76 sb

MICROFILMED

FEB 05 1993

INPUT: AJ_SELECTION:HHT-NOA-BROWN1.SEL

TYPE OF ACTION: ADD

MODIFY ALL FIELDS FLAG:

LAST NAME: BROWN

ADDRESS LINE 1: HEPWORTH NUNGESTER LEZAMIZ

ADDRESS LINE 3: PO BOX 389

CITY: TWIN FALLS

FIRST NAME: PATRICK D

ADDRESS LINE 2:133 SHOSHONE ST N

STATE: ID ZIP: 833030389

PHONE NUMBER: (208) 734-7510

36-00048C	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00055W	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00085A	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00085B	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00089C	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00090E	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00103D	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-00198A	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-04071	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-07369B	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-10671	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-15157	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-15176	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-15184	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
36-15461	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00048C	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00055W	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00085A	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00085B	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00089C	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00090E	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00103D	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-00198A	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-04071	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-07369B	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-10671	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-15157	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-15176	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-15184	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE
A36-15461	ATTORNEY NAME SUCCESSFULLY ADDED TO NAME FILE

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

RECEIVED

FEB 22 1993

Department of Water Resources
Adjudication Bureau

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

11 * * * * *

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

Case No. 39576

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

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

21 Petitioner,)

22 vs.)

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

Respondents.)

* * * * *

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



Hepworth,
Nungester;
& Lezamiz

SUPPLEMENTAL NOTICE OF APPEARANCE - 1

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

Irma M. & Herman W. Petrick	A36-00048C
Creed & Sandra Robinson	A36-00090E
Creed & Sandra Robinson	A36-00089C
Stanley E. Hoskovec	A36-15461
Stanley E. Hoskovec	A36-10671
Stanley E. Hoskovec	A36-15157
Stanley E. Hoskovec	A36-00198A
Jack Martin	A36-00055W
K. Gary Olesen	A36-00103D
Layne Osborne	A36-15184
Layne Osborne	A36-15176
Marilyn Miller & Richard Waite	A36-00085A
Marilyn Miller & Richard Waite	A36-00085B
Marilyn Miller & Richard Waite	A36-07369B
Carl & Mary Lee Pothier	A36-04071

DATED This 19 day of February, 1993.

HEPWORTH, NUNGESTER & LEZAMIZ

By 
PATRICK D. BROWN
Attorneys for Respondents

CERTIFICATE OF MAILING

The undersigned, a resident attorney of the State of Idaho, with offices at 133 Shoshone St. North, P.O. Box 389, Twin Falls, Idaho 83303, and one of the attorneys for the respondents in this matter, certifies that he caused to be mailed a copy of the above and foregoing SUPPLEMENTAL NOTICE OF APPEARANCE on the 19 day of February, 1993, to:



Hepworth,
Nungester,
& Lezamiz

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

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

10 The United States Department of Justice (1)
11 Environment and Natural Resources Division
12 550 West Fort Street, Box 33
13 Boise, ID 83734

14 
15 _____
16 Patrick D. Brown



Hepworth,
Nungester,
& Lezamiz

2 APR 08 1999

Water Resol

MAR 02 1999

MAR 08 1999

Department of Water Resources

1979 FEB 26 AM 11:55

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

Water Right(s): 36-04071

PAGE 1
02/26/99

1999 FEB 26 AM 11: 55

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA	)	SPECIAL MASTER'S REPORT
	)	
Case No. 39576	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
_____	)	FOR WATER RIGHT 36-04071

I. FINDINGS OF FACT

A notice of claim was filed for this water right pursuant to I.C. § 42-1409 (1990). The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

A trial was held in this subcase on March 2, 1998, where the parties stipulated that the quantity should be .12 cfs. The Special Master entered *Findings of Fact and Conclusions of Law* on March 19, 1998, which are incorporated herein by reference.

As to season of use, IDWR has informed the court that it intends to recommended February 15 through November 30 as the season of use in the Hagerman Valley in a forthcoming Director's Report. All parties, including the claimants, will be able to object to that recommendation when the Director's Report is filed. Until that time, the court will recommend February 15 through November 30 for the irrigation use in this water right, with the understanding that the season of use for the irrigation claims is not final.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein, IT IS RECOMMENDED that this water right be decreed with the elements as set forth in the *Partial Decree Pursuant to I.R.C.P. 54(b) for Water Right 36-04071*.

DATED: February 26, 1999.


FRITZ X. HAEMMERLE, Special Master
Snake River Basin Adjudication

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

In Re SRBA)

Case No. 39576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 36-04071

1999 FEB 26 AM 11:55

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

NAME AND ADDRESS: HAGERMAN RANCH LIMITED
PARTNERSHIP
759 S CORAL PL
BOISE, ID 83705

SOURCE: INDIAN SPRINGS

TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 0.12 CFS

PRIORITY DATE: 06/01/1970

POINT OF DIVERSION: T07S R13E S12 SWSESE Within Gooding County

PURPOSE AND

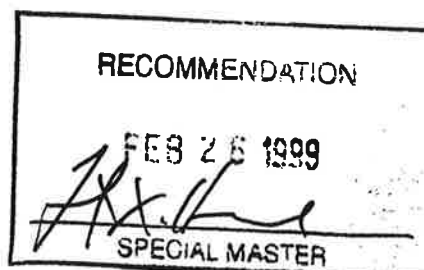
PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	02-15 TO 11-30	0.12 CFS

PLACE OF USE: Irrigation Within Gooding County
T07S R13E S13 NWNE 5.0
5.0 Acres Total

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.

Barry Wood
Administrative District Judge
Interim Presiding Judge of the
Snake River Basin Adjudication



1999 FEB 26 AM 11:55
DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
FILED

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

In Re SRBA)

Case No. 39576)
_____)

CERTIFICATE OF MAILING

Water Right(s): 36-04071

CERTIFICATE OF MAILING

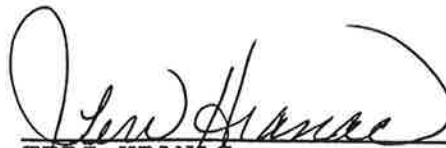
I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on February 26, 1999, with sufficient first-class postage prepaid to the following:

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

HAGERMAN RANCH LIMITED
PARTNERSHIP
759 S CORAL PL
BOISE, ID 83705
Phone: 208-385-9248

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

CERTIFICATE OF MAILING


TERI HRANAC
Deputy Clerk

PAGE 1
02/26/99

RECEIVED

MAR 16 1999

Department of Water Resources
Southern Region

1999 FEB 26 AM 11:55

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA)

Case No. 39576)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 36-04071

On February 26, 1999, Special Master FRITZ X HAEMMERLE issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

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

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

DATED February 26, 1999.


TERI HRANAC
Deputy Clerk

MAIL



23835

NOTICE OF ISSUANCE

PAGE 1
02/26/99

1999 FEB 26 AM 11:55

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA	)	SPECIAL MASTER'S REPORT
	)	
Case No. 39576	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
	)	
	)	FOR WATER RIGHT 36-04071

I. FINDINGS OF FACT

A notice of claim was filed for this water right pursuant to I.C. § 42-1409 (1990). The Director of the State of Idaho Department of Water Resources examined the water system for this reporting area. The *Director's Report* contained a recommendation or abstract for the elements of this water right.

A trial was held in this subcase on March 2, 1998, where the parties stipulated that the quantity should be .12 cfs. The Special Master entered *Findings of Fact and Conclusions of Law* on March 19, 1998, which are incorporated herein by reference.

As to season of use, IDWR has informed the court that it intends to recommend February 15 through November 30 as the season of use in the Hagerman Valley in a forthcoming Director's Report. All parties, including the claimants, will be able to object to that recommendation when the Director's Report is filed. Until that time, the court will recommend February 15 through November 30 for the irrigation use in this water right, with the understanding that the season of use for the irrigation claims is not final.

II. CONCLUSIONS OF LAW

Therefore, based on the file and record herein, IT IS RECOMMENDED that this water right be decreed with the elements as set forth in the *Partial Decree Pursuant to I.R.C.P. 54(b) for Water Right 36-04071*.

DATED: February 26, 1999.

MAIL



23836


FRITZ X. HAEMMERLE, Special Master
Snake River Basin Adjudication

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

In Re SRBA

Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 36-04071

1999 FEB 26 AM 11:55

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: HAGERMAN RANCH LIMITED
PARTNERSHIP
759 S CORAL PL
BOISE, ID 83705

SOURCE: INDIAN SPRINGS

TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 0.12 CFS

PRIORITY DATE: 06/01/1970

POINT OF DIVERSION: T07S R13E S12 SWSESE Within Gooding County

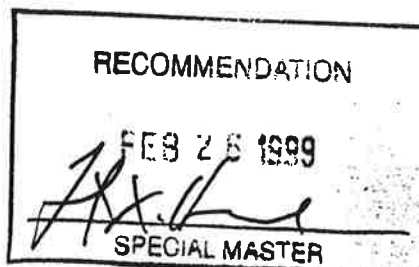
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	02-15 TO 11-30	0.12 CFS

PLACE OF USE: Irrigation Within Gooding County
T07S R13E S13 NWNE 5.0
5.0 Acres Total

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.

Barry Wood
Administrative District Judge
Interim Presiding Judge of the
Snake River Basin Adjudication



1999 FEB 26 AM 11: 55
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA

Case No. 39576

CERTIFICATE OF MAILING

Water Right(s): 36-04071

CERTIFICATE OF MAILING

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

HAGERMAN RANCH LIMITED
PARTNERSHIP
759 S CORAL PL
BOISE, ID 83705
Phone: 208-385-9248

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

CERTIFICATE OF MAILING



TERI HRANAC
Deputy Clerk

PAGE 1
02/26/99

RECEIVED

MAY 01 1998

Department of Water Resources
Southern Region

RECEIVED

MAR 23 1998

Department of Water Resources
Adjudication Bureau

1998 MAR 19 AM 9:26

SRBA
TWIN FALLS, IDAHO
FILED *SL 887*

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

In Re SRBA

Subcase 36-04071

Case No. 39576

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

Water right 36-04071 was originally claimed by Carl and Mary Pothier. Subsequently the water right was claimed by Hagerman Ranch Limited Partnership. The only dispute for the water right was quantity. The Director's Report recommended .10 cfs and .26 cfs was claimed.

On March 2, 1998, the court held a trial in this matter. At the trial the Idaho Department of Water Resources (IDWR) recommended .12 cfs. The basis of the recommendation was for a quantity to be diverted twenty four hours a day seven days a week. The claimant's did not dispute the Director's Recommendation based on a twenty four hour a day seven days a week diversion rate. However, the Claimants argue that a higher diversion rate is required because the Claimants irrigate only for a few hours a day at a rate of .26 cfs. IDWR agreed that the claimants could divert at a higher diversion rate so long as the quantity of water diverted at the shorter interval did not exceed the quantity of water allowed under the twenty four hour diversion rate of .12 cfs.

Given this understanding between the claimant and IDWR, it was agreed that the right should be decreed with a quantity of .12 cfs. All other elements should be decreed as recommended.

DATED March 19, 1998.

Fritz X. Haemmerle

FRITZ X. HAEMMERLE

Special Master

Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the FINDINGS OF FACT AND CONCLUSIONS OF LAW was mailed on March 19, 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
P O Box 83720
Boise, Idaho 83720-0098

Hagerman Ranch Limited Partnership
759 S. Coral Pl
Boise, Idaho 83705

Mary Lee Pothier
2614 S 1050 E
Hagerman, Idaho 83332

John and Valery Webster
759 S. Coral Pl
Boise, Idaho 83705


Deputy Clerk

RECEIVED RECEIVED

MAR 30 1998

APR 01 1998 MAR 23 1998

Department of Water Resources Eastern Region
Department of Water Resources Southern Region
Department of Water Resources Adjudication Bureau

1998 MAR 19 AM 9:26

FILED SRBA IDAHO 887

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

In Re SRBA

Subcase 36-04071

Case No. 39576

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

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DATED March 19, 1998.


FRITZ X. HAEMMERLE
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the FINDINGS OF FACT AND CONCLUSIONS OF LAW was mailed on March 19, 1998, with sufficient first-class postage to the following:

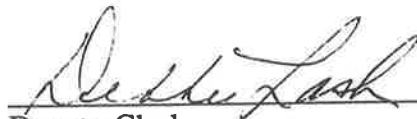
Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, ID 83711-4449

Director of IDWR
P O Box 83720
Boise, Idaho 83720-0098

Hagerman Ranch Limited Partnership
759 S. Coral Pl
Boise, Idaho 83705

Mary Lee Pothier
2614 S 1050 E
Hagerman, Idaho 83332

John and Valery Webster
759 S. Coral Pl
Boise, Idaho 83705



Deputy Clerk

RECEIVED

MAR 11 1998

Department of Water Resources
Southern Region

RECEIVED

FEB 13 1998

Department of Water Resources
Adjudication Bureau

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

In Re SRBA
Case No. 39576

) NOTICE OF COMPLETED
) ADMINISTRATIVE PROCEEDINGS
)
) Water Right 36-04071
)

IDWR has completed the following Administrative Proceeding:

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

SUBSTITUTION OF PARTY

Does the change in "ownership" result in a splitting of the water
right claimed? ☐ Yes ☒ No

If yes, does the split involve an I.C. 42-222 transfer? ☐ Yes ☐ No

Water Right(s): 36-04071

MAIL12581



NOTICE OF COMPLETED
ADMINISTRATIVE PROCEEDING
2/2/1998

36-04071

PAGE 1

From (Claimant/Seller):

Name of Claimant: CARL R AND MARY LEE POTHIER
Address: 2614 S 1050 E
HAGERMAN ID 83332
Phone: (208) -

To (Claimant/Purchaser):

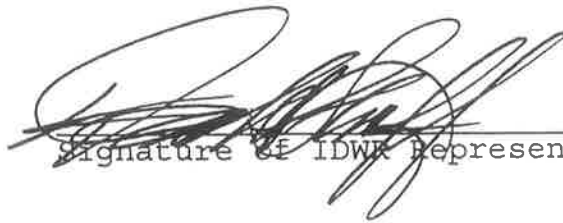
Name of Claimant: HAGERMAN RANCH LIMITED PARTNERSHIP
Address: 759 S CORAL PL
BOISE ID 83705
Phone: (208) 385-9248

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

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

DATED:

FEBRUARY 9, 1998



Signature of IDWR Representative

From (Claimant/Seller):

Name of Claimant: CARL R AND MARY LEE POTHIER
Address: 2614 S 1050 E
HAGERMAN ID 83332
Phone: (208) -

To (Claimant/Purchaser):

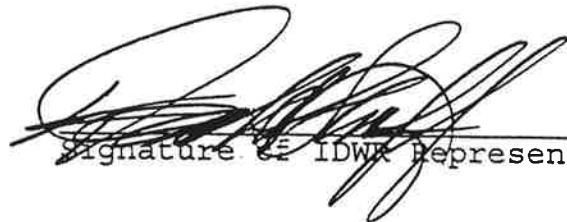
Name of Claimant: HAGERMAN RANCH LIMITED PARTNERSHIP
Address: 759 S CORAL PL
BOISE ID 83705
Phone: (208) 385-9248

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DATED:

FEBRUARY 9, 1998



Signature of IDWR Representative

NOTICE OF COMPLETED
ADMINISTRATIVE PROCEEDING
2/2/1998

36-04071

PAGE 2

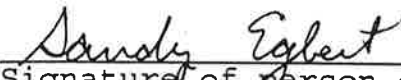
CERTIFICATE OF MAILING

I certify that on 2-9-98 I mailed the original and copies of this form to the following persons, postage prepaid and addressed as follows:

1. Original to:
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707
2. One Copy to:
Claimant/Seller for Substitution of Party or attorney of record:

CARL R AND MARY LEE POTHIER
2614 S 1050 E
HAGERMAN ID 83332
3. One Copy to:
Claimant/Purchaser for Substitution of Party or attorney of record:

HAGERMAN RANCH LIMITED PARTNERSHIP
759 S CORAL PL
BOISE ID 83705
4. One Copy to:
Chief, Natural Resources Division
Office of the Attorney General
P.O. Box 44449
Boise, Idaho 83711-4449
5. One Copy to:
United States Dept. of Justice
Environment & Natural Resource Div.
550 West Fort Street, MSC 033
Boise, ID 83724


Signature of person or attorney mailing the form

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: FEB-2-1998
PAGE: A-2

RIGHTS FROM: SOURCE: INDIAN SPRINGS TRIBUTARY: BILLINGSLEY CREEK

RIGHT NUMBER: 36-04071

NAME & ADDRESS: HAGERMAN RANCH LIMITED PARTNERSHIP
759 S CORAL PL
BOISE ID 83705

SOURCE: INDIAN SPRINGS TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 0.1 CFS

PRIORITY DATE: 06/01/1970

POINT OF DIVERSION: T07S R13E S12 SWSESE Within GOODING County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
IRRIGATION Irrigation Season 0.1 CFS

PLACE OF USE: IRRIGATION Within GOODING County
T07S R13E S13 NWNE 5
5 ACRES TOTAL

CONSUMPTIVE USE: 15.0 AFY

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

RIGHTS LISTED BELOW ARE ALSO DIVERTED THROUGH POINT OF DIVERSION
DESCRIBED ABOVE, AND THE TOTAL COMBINED RATE OF DIVERSION OF
THESE RIGHTS IS LIMITED TO 0.53 CFS.
OTHER RIGHT NOS.: 36-04072 & 36-04091.

EXPLANATORY MATERIAL: BASIS OF CLAIM - BENEFICIAL USE

In Re SRBA

SPECIAL MASTER'S RECOMMENDATION FOR

PARTIAL DECREE FOR

Water Right 36-04071

HAGERMAN RANCH LIMITED PARTNERSHIP
759 S CORAL PL
BOISE ID 83705

SOURCE:

INDIAN SPRINGS

TRIBUTARY: BILLINGSLEY CREEK

QUANTITY:

0.12 CFS

PRIORITY DATE:

06/01/1970

POINT OF DIVERSION:

T07S R13E S12

SHSESE

Within GOODING County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE
Irrigation Season

QUANTITY
0.12 CFS

PLACE OF USE:

IRRIGATION
T07S R13E S13
5 ACRES TOTAL

Within GOODING County
NWNE 5

DATED:

FRITZ X. HAEMMERLE
Special Master
Snake River Basin Adjudication

1/9/98

A36-04071

see

initial HEARINGS:

- Spec. M. VACATED the previous SF5
- HELD SETTLEMENT - unable to settle.
- TRIAL set MARCH 2ND 1:30pm
- IDWR offered proof to support .12 cfs
Court declined to USE AT TRIAL.

3/2/98

see

TRIAL HELD

- After all the evidence was shown, it was determined by the Special Master we were in agreement.

Claimants irrigate 4-6 hours per day but use a higher diversion rate.

IDWR recommends a 7 days/24 hours flow rate of 0.12 cfs.

I explained that under an informal rotation action, the claimants can divert and use at the higher rate for shorter periods of time. This is acceptable so long as the total rate of 0.12 cfs / 24 hr day is not exceeded. These findings were part of the Court's record.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

January 7, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

Valery M. Webster
759 S. Coral Place
Boise, Idaho 83705

RE: ADJUDICATION & WATER RIGHTS PROOFS

Dear Ms. Webster:

Enclosed find the proof reports and/or copies which you requested. Please remit the following amount to cover copies and postage. Thank you.

> 92 copies at \$.05 per copy = \$4.60
>

Vikie Hancock
S.R.B.A. Records Clerk

Encl.

November 21, 1997

RECEIVED

DEC 01 1997

Department of Water Resources
222 Shoshone St. East
Twin Falls, ID 83301

Department of Water Resources
Southern Region

RE; Claim NO. A36-04071

Adjudication Agent,

This letter is to advise you of the recent correspondence with The Fifth Judicial District of the State of Idaho, in and for the County of Twin Falls, Judge Fritz Hammerle.

A representative from your department paid a visit to my mother and convinced her to sign a settlement form relinquishing some of her rights to water use. As you can see by the attached documents, there is in question ownership authority with Mary's signature. The Limited Partners request a copy of the SF5 form from you as well as the name of the individual(s) who witnessed Mary Pothiers signing.

It is our intent to dispute the agreement based on the Articles of Limited Partnership. We, the Limited Partners, will defend our position to maintain what lawful claim has existed in the past recorded documents.

Thank you for your consideration in this matter.

Cordially,

John J. Webster
759 S. Coral Pl
Boise, ID 83705
(208)385-9248

Enclosures

Valery M. Webster

Valery M. Webster

November 19, 1997

District Court of the Fifth Judicial District
Of the State Of Idaho
For the County of Twin Falls

Attention Judge Hammerle

On October 10, 1996 the property at 2614 S. 1050 E. in Hagerman, ID was Quitclaim Deeded to the HAGERMAN LIMITED PARTNERSHIP. Said property was formerly owned by MARY LEE POTHIER.

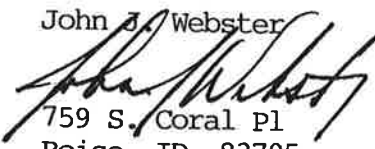
Being a Limited Partner of that property, I was recently informed that Mary Pothier signed a settlement agreement with the Department of Water Resources reducing the irrigation water consumption on FILE #36-04071 from 0.26 to 0.20.

According to the Articles of Limited Partnership of the Hagerman Ranch Limited Partnership, of which Mary Pothier is the General Partner, Mary has the power to make such agreements as long as they are to be in the best interests of the Partnership. See Article IV 4.1, 4.2

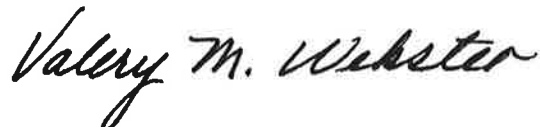
It is the contention of the Limited Partners (See Article II 2.1) that Mary acted in such a way that is NOT in the best interest of the Partnership by signing an SF5 settlement form with The Department of Water Resources.

We, the Limited Partners ask the Court to re-open Subcase No. 36-04071 for a fair hearing to defend our right to use water now and in the future.

John J. Webster


759 S. Coral Pl
Boise, ID 83705
(208) 385-9248

Valery Pothier Webster



167188

STATE OF IDAHO COUNTY OF GOODING

RECEIVED

Filed for record at the request of

John S. Chapman

22 min. past 9 o'clock A m. this 20th

DEC 01 1997

of October, 1996 3:00

Notary Public for Water Resource By

Penny Watson Deputy

QUITCLAIM DEED

FOR VALUE RECEIVED, **MARY L. POTHIER**, of Hagerman, County of Gooding, State of Idaho, the Grantor, does hereby convey, release, remise and forever quitclaim unto the **HAGERMAN RANCH LIMITED PARTNERSHIP**, the Grantee, whose current address is: 2614 S. 1050 East, Hagerman, Idaho 83332, the following described premises, located at 2614 S. 1050 E., Hagerman, Gooding County, State of Idaho, more particularly described as follows:

Tax 80 in NW4 NE4 and Tax 15 in NE4 NE4 S13-T7S-R13E
Gooding County, Idaho

together with their appurtenances.

DATED this 27th day of September, 1996.

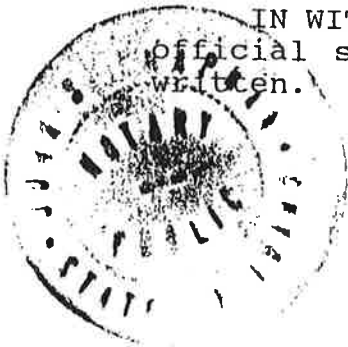
Mary L. Pothier
MARY L. POTHIER

STATE OF IDAHO)

County of Blaine)

On this 27th day of September, 1996, before me, a Notary Public in and for said State, personally appeared MARY L. POTHIER, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same.

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



John S. Chapman
Notary Public for Idaho
Residing at Hailey, Idaho
My Commission Expires: 2/15/97

tangible or intangible, wherever situated, and interests of every kind therein.

1.6.4 Own Account or for Others. Accomplish any of the foregoing purposes for its own account or as nominee, agent or trustee for other individuals, partnerships, corporations or other entities.

1.7 Effective Date and Term.

The effective date of this limited partnership agreement shall be the date of filing of the certificate as provided in Section 1.3 above. The term of the Partnership shall commence on the date of such filing and shall continue indefinitely thereafter until the Partnership is terminated as provided for herein, but in any case no later than December 31, 2030.

ARTICLE II

PARTNERS; CAPITAL ACCOUNTS

2.1 Names and Addresses of Partners.

General Partner:

Mary L. Pothier
2614 S. 1050 E.
Hagerman, ID 83332

Limited Partners:

Valerie M. Webster
759 S. Coral Place
Boise, Idaho 83705

John Webster
759 S. Coral Place
Boise, Idaho 83705

2.2 Partners Capital.

2.2.1 Initial Capital Contributions. Upon execution of this

the transferor and the transferee as follows: if the interest of a Partner in the Partnership or any part of such interest represented by a Capital Unit is disposed of pursuant to this Section, such Partners shall nevertheless be entitled to a fraction of the profits and be charged with a fraction of the losses in respect to such interests for the fiscal year of the Partnership in which such disposition occurs. The numerator of such fraction shall be the number of days of each year. Any predecessor or successor of such Partner in respect of such interest shall share in such profits and be charged with such losses on the same basis.

ARTICLE IV

MANAGEMENT; OTHER ACTIVITIES OF PARTNERS

4.1 General Partner as Manager.

The General Partner shall be responsible for the management of the Partnership business with all rights and powers generally conferred by law or necessary, advisable or consistent in connection therewith.

4.2 Rights and Powers of General Partner.

In addition to any other rights and powers which they may possess, the General Partner shall have all specific rights and powers required or appropriate to his management of the Partnership business which, by way of illustration but not by way of limitation, may include the following rights and powers:

- (i) To acquire, hold and dispose of any real property, interest therein, or appurtenance thereto, as well as personal or mixed property connected therewith, including the purchase, lease, development, improvement, maintenance, exchange, trade or sale of such properties, at such price, rental or amount, for cash, securities or other property, and upon such terms as

she deems, in her absolute discretion, to be in the best interests of the Partnership

(ii) To place record title to, or the right to use, Partnership assets in the name or names of a nominee or nominees for any purpose convenient or beneficial to the Partnership;

(iv) To acquire and enter into any contract of insurance which the General Partner deem necessary and proper for the protection of the Partnership, for the conservation of its assets, or for any purpose convenient or beneficial to the Partnership;

(v) To employ from time to time persons, firms or corporations for the operation and management of the Partnership business, including but not limited to, builders, building management agents, insurance brokers, real estate brokers and loan brokers, on such terms and for such compensation as the General Partner shall determine. The fact that the General Partner or members of his family is directly or indirectly interested in or connected with any person, firm or corporation employed or retained by the Partnership to render or perform a service or from which or whom the Partnership may buy or lease merchandise or other property shall not prohibit the General Partner from employing such person, firm or corporation or from otherwise dealing with him or it, so long as the transaction is a fair and disclosed transaction to each of the General Partner and limited Partners;

(vi) To pay any and all organizational expenses incurred in the creation of the partnership and, in the event the Partnership elects to offer additional ownership interests, to pay selling expenses incurred in the sale of such additional Limited Partnership interests to the public including, but not limited to, underwriter's commissions, printing costs, legal and accountant's fees and expenses, registration fees and "Blue Sky" qualification expenses;

(vii) To compromise, arbitrate, or otherwise adjust claims in favor of or against the Partnership and to commence or defend litigation with respect to the Partnership or any assets of the Partnership as the General Partner may deem advisable, all or any of the above matters being at the expense of the Partnership;

(viii) To execute, acknowledge and deliver any and all instruments to effectuate the foregoing and the business of the Partnership.

MEMORANDUM

TO: Doug Jones

FROM: Corey Skinner *CS*

DATE: November 19, 1997

SUBJECT: Inquiry Regarding 36-04071

This day I received a call from a Ms. Val Webster. She called inquiring about a recent settlement regarding claim/right 36-04071. She said that about a week ago, representatives from our office met her mom (Mary Pothier) in the field and her mom ended up "settling for less water". She wanted to know what her mom ended up settling for, and requested a copy of the SF5. She also stated that there is problems with the ownership of the claim, and she is involved in some sort of partnership with her mom. She thought that she should have also been involved in the settlement, instead of just her mom.

I took a look at SRBA recommendation 36-04071 and Ms. Webster was not listed as a claimant. I mentioned this to her during our phone conversation, and explained that any claim ownership changes must be recorded with our department. I explained that we were lacking in SRBA staff this week, and that I would pass the information on. She said that she would keep looking (I assumed she was going to call the SRBA court) to see what she could find out. Ms. Webster's phone number is 385-9248 in case you (or someone else) wanted to give her a call.

SUBCASE NO. 36-04071

	CLAIM (6/24/1988)	AMENDED CLAIM	RECOMMENDATION	OBJECTION
NAME	Carl & Mary Lee Pothier	N/A	Carl & Mary Lee Pothier	Carl & Mary Lee Pothier
BASIS OF CLAIM	Beneficial Use		Beneficial Use	
SOURCE	Indian Springs		Indian Springs	
QUANTITY	0.260 cfs		0.10 cfs	XX - requests as decreed and/or beneficially used, "whichever is greater"
PRIORITY DATE	6/1/1970		6/1/1970	
PURPOSE OF USE	Irrigation		Irrigation	
PERIOD OF USE	3/15 - 11/15		3/15 - 11/15	
POINT OF DIVERSION	T07S R13E S12		T07S R13E S12	
PLACE OF USE	T07S R13E S12 5.0 acres		T07S R13E S13 5.0 acres	
remarks	"Pipeline to solid set sprinkler system."		"Rights listed below are also diverted through point of diversion described above, and the total combined rate of diversion of these rights is limited to 0.53 cfs. Other right nos.: 36-07072 & 36-04091."	

Objection was made to "legal description of the reservation". This objection is not applicable since this is not a federal reserved water right.

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. 36-04071

This form is to be used to document public record information requests regarding any SRBA claim or claims. The form may also be used to document IDWR communications requesting information regarding any SRBA claim or claims when the request is not made in writing or the claim verification report is not readily available to document the request. This form is to be filed in all relevant claim files or a central office file.

IDWR Employee/Agent Steve Clelland

October 8, 1997 2:17pm

NAME:

MARY LEE POTHIER

CALLOUT

RE:

QUESTIONS ON HEARING

SHE CALLED OUR BOISE OFFICE AND SPOKE TO BECKY HARVEY WHO THEN CALLED ME AND ASKED ME TO CALL MRS. POTHIER AND ANSWER HER QUESTIONS. I CALLED HER AND WE SPOKE FOR 45 MINUTES. SHE STATED SEVERAL TIMES SHE DID NOT WANT TO BE INVOLVED IN ANY HEARINGS AND SHE DID NOT WANT TO FIGHT ANYONE ABOUT IT. I EXPLAINED THAT ACCORDING TO MY RECORDS SHE WAS STILL REPRESENTED BY PAT BROWN, ESQ. SHE SAID SHE NEVER HIRED HIM NOR HAD EVER MET HIM, SHE DID NOT WANT ANY ATTORNEY TO REPRESENT HER SINCE SHE DID NOT WANT TO SPEND THE MONEY FOR THE SERVICE. I SUGGESTED SHE CALL PAT BROWN'S OFFICE AND EXPLAIN TO THEM HER POSITION AND PERHAPS THEY CAN SEND HER A FORM TO CHANGE THE RECORDS IN COURT.

SHE SAID SHE DOES NOT UNDERSTAND WHAT ANY OF THIS IS ABOUT AND HER HUSBAND NEVER TOLD HER ANYTHING ABOUT THE WATER RIGHTS. SHE JUST WANTS TO BE LEFT ALONE ON HER PLACE. I EXPLAINED TO HER THE BASIC OBJECTION APPEARED TO BE THE QUANTITY OF WATER DESCRIBED IN HER RIGHT. THE CLAIM WAS FOR 13 INCHES AND WE RECOMMENDED 5 INCHES.

SHE SAID BECAUSE OF HEALTH REASONS SHE CANNOT ATTEND THE HEARING AND DOESN'T WANT TO BE BOTHERED WITH ANY OF IT. SHE IS PREPARING TO HAVE CATARACT SURGERY AT ABOUT THE SAME TIME AS THE HEARING.

BASICALLY, SHE WANTS THE RIGHT LEFT AS IS, SHE DOES NOT WANT TO PURSUE ANY FURTHER LEGAL PROCEDURES REGARDING THE WATER RIGHT, SHE DOES NOT WANT AN ATTORNEY TO REPRESENT HER IN THIS MATTER.

CLAIM NUMBERS 3-04071DATE 10/6/97

TRANSFER NUMBER _____

OBJECTION FILED _____

AGENT [Signature]TOTAL ACRES FROM RECOMMENDATION 5GEOGRAPHIC INFO SYSTEM 4.4

RIGHT NO				NE				NW				SW				SE			
	TNS	RNG	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
RECOM	<u>75</u>	<u>13E</u>	<u>13</u>		<u>5</u>														<u>5</u>
GIS					<u>4.4</u>														<u>4.4</u>
RECOM																			
GIS																			
RECOM																			
GIS																			
RECOM																			
GIS																			

UPDATED

POLYGON #

UPDATED

B36-DBPOU.DBF ✓B36-DBPOD.DBF ✓

POLYGON CREATED ON 604

()

ATTRIBUTES OF B36-POU.SHP

53710/6

ATTRIBUTES OF B36-POD.SHP

46410/6

P/U CONFLICT yes () no (X)

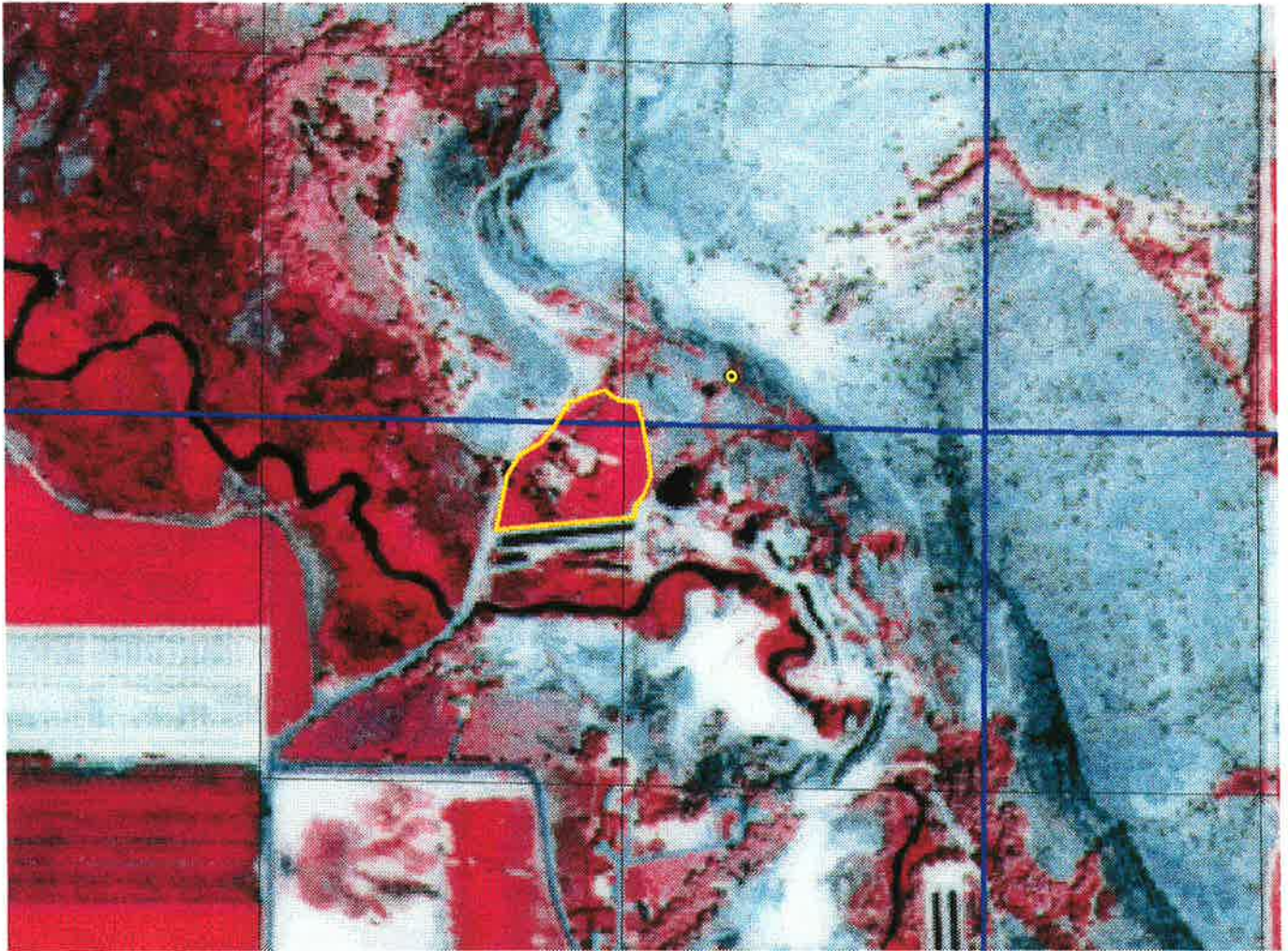
P/D CONFLICT yes () no (X)

READY FOR DECREE yes () no ()

SENT FOR DECREE yes () no ()

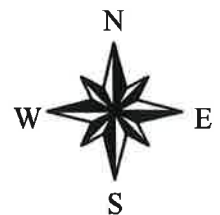
IDAHO DEPARTMENT OF WATER RESOURCES

36-04071
POTHIER



660 0 660 1320 Feet

TNS 7S, RNG 13E, SEC 13



⊙ RECOMMENDED POINT OF DIVERSION



RECOMMENDED PLACE OF USE



SECTION LINES &/OR TRACT LINES

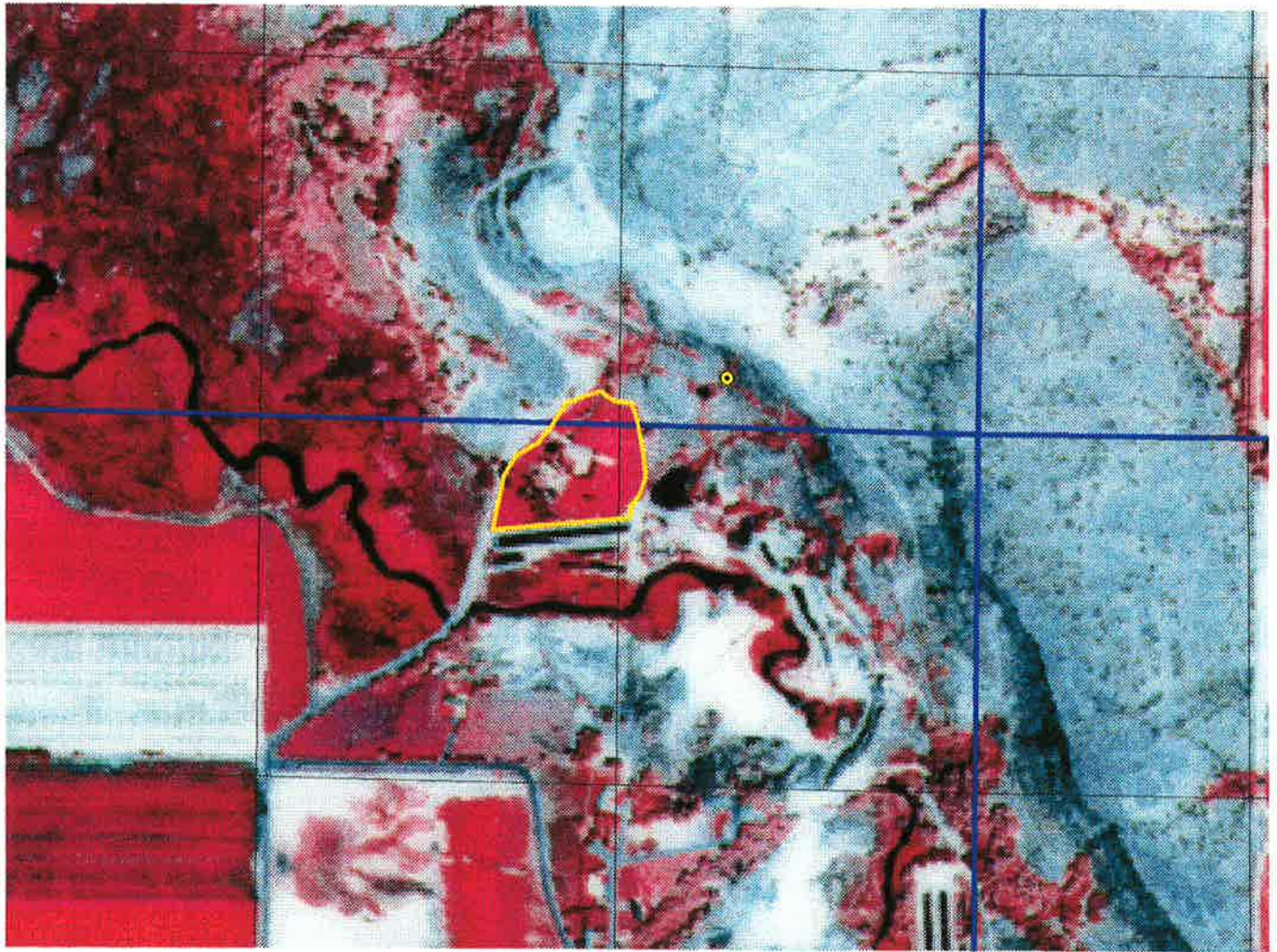


QUARTER/QUARTER LINES

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

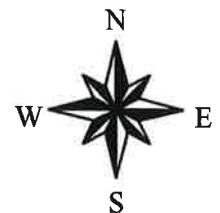
IDAHO DEPARTMENT OF WATER RESOURCES

**36-04071
POTHIER**



660 0 660 1320 Feet

TNS 7S, RNG 13E, SEC 13



⊙ RECOMMENDED POINT OF DIVERSION

 RECOMMENDED PLACE OF USE

 SECTION LINES &/OR TRACT LINES

 QUARTER/QUARTER LINES

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

R PROOF

CVR

MAPS

PHOTOS

MISC

MICROFILMED

OCT 18 1994

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

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

Case No. 36-04071 -0001

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

RESPONSE TO OBJECTION

Petitioner,)

vs.)

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

Respondents.)
_____)

I. GENERAL INFORMATION

1. Person responding to objection:

Name: R. KEITH HIGGINSON, DIRECTOR

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

Briefly describe your interest in this water right:

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

(Over)

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OCT 18 1994

2. Person who filed objection:

Name: CARL R & MARY LEE POTHIER
Address: 2614 SOUTH 1050 EAST
HAGERMAN ID 83332

3. If this response is filed by an attorney:

Attorney Name(s): NICHOLAS B. SPENCER

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

Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

3. ☒ Quantity: I respond to the objection concerning:
- 3a. ☒ The total quantity of water used in cubic feet per second.
10. ☒ Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.
13. ☒ Description of Reservation: I respond to the objection concerning the legal description of the reservation.
14. ☒ Other: I respond to the objection concerning:

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

REASONS SUPPORTING EACH BOX CHECKED

In response to the claimant's description of interest in the water right, IDWR responds as follows: This water right was both claimed and recommended as a beneficial use right with a June 1, 1970, priority date. In the objection the claimant now asserts the right as decreed; however the claimant does not object either

to the basis of the right as claimed and recommended or the priority date as claimed and recommended. To the extent that the claimant is now attempting to assert a different basis and/or different priority date for the claim, the claimant improperly seeks to use the objection process to amend the claim. A claimant must obtain leave of the court to amend a claim after a director's report is filed, just as a party must obtain leave of the court to file a late claim after the director's report is filed. Once leave of the court is granted, IDWR can investigate the amended claim and make an appropriate recommendation to the court.

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

In response to Statement of the Objection item 10 and all allegations of the objection regarding that item, IDWR responds as follows: (1) The decree asserted by the claimant did not set an annual volume of consumptive use for this water right. (2) Idaho Code Sec. 42-1411(2)(i) requires the director to determine the annual volume of consumptive use for each water right acquired under state law and recommended in the director's report. (3) Idaho Code Sec. 42-1401A(2) provides that the quantification of consumptive use "is included as a rebuttable presumption in a decree only for the purpose of transfers pursuant to section 42-222, Idaho Code"; therefore, the consumptive use recommended for this water right is included solely for use in future transfer proceedings. (4) The annual volume of consumptive use recommended for this right is 3 acre feet per acre. This is the maximum volume of water consumed by the most water consumptive crop (pasture) that can be grown in the area during the period of year when water is used for irrigation, as provided for by Idaho Code Sec. 42-1401A(2). (5) The recommendation of the director to the SRBA Court as to how the right should be decreed does not constitute a taking because it is simply a recommendation and not a final determination of the right.

(Over)

DEC 1 1984
MICROFILMED

(6) The eventual decree by the SRBA Court of the amount of water beneficially used, even if less than the amount previously decreed, will not constitute a taking because the right is limited to that amount beneficially used. IDWR further responds that it recommended the consumptive use volume as claimed.

In response to Statement of the Objection item 13, and all allegations of the objection regarding this item, IDWR responds as follows: Since this water right is not a federal reserved water right, this objection item is inapplicable and the claimant's objection to this item is in error. IDWR further responds that under Idaho law water cannot be reserved for future use, but must be appropriated and put to beneficial use before the user can acquire a water right.

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

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

CHANGES TO THE DIRECTOR'S REPORT

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

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

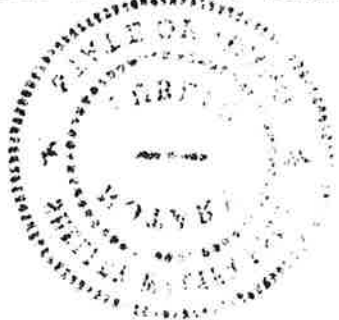
No. of
Pages

Notice of Claim No. A36-04071

2

IDWR's Response to Answer, Affirmative Defenses, and Prayer
for Relief of Claimant

4



(Over)

RESPONSE TO OBJECTION NO. 36-04071 -0001 - PAGE 5

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OCT 18 1994

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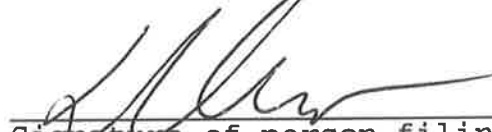
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

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

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



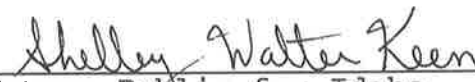
Signature of person filing response

By: 

(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 1st day of September,
1993.





Notary Public for Idaho
Residing at: Boise, Idaho
My Commission expires: July 31, 1997

CERTIFICATE OF MAILING

I hereby certify that on the 1st day of September, 1993, I mailed the original and copies of the foregoing response, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepared and addressed as follows:

1. Original to:

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

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

See No. 3

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

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

4. One copy to:

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


Signature of Respondent or attorney
mailing on Respondent's behalf

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: A36-04071
Date Received: 6/24/1988
Receipt No: 5000530
Received By: FB

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: MAURICE M. TAYLOR
Address: RT. 1 BOX 490
HAGERMAN, ID 83332
208-837-6554

2. Date of Priority: JUN 01, 1970

3. Source: INDIAN SPRINGS Trib. to: BILLINGSLEY CR.

4. Point of Diversion:

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

5. Description of diverting works:
COCRETE HEADBOX WITH 1200' OF 4" PIPE TO SOLID SET SPRINKLER SYST

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.260		

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

8. Total consumptive use is 15.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	13E	12	NW	NE		IRR	5.0

Section Acres 5.0

Total Acres 5.0

A36-04071

Page 1

Date: 06/24/88

MICROFILMED

UCI FEB 05 1993

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:

36-7655, 36-4072

14. Remarks:

PIPELINE TO SOLID SET SPRINKLER SYSTEM.

15. Basis of Claim: BENEFICIAL USE

Water Right Number:

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): *Mary A. Balderson* Date: 6-24-88
_____ Date: _____

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 24th day

of June 19 88

Mary A. Balderson
Notary Public

Seal

Residing at Gooding, Id

My Commission Expires 10/16/1992

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FEB 05 1993

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

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

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

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

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

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

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

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

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

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

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

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

RECEIVED

APR 30 1993

Department of Water Resources
Adjudication Bureau

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

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

Case No. A36-4071

(You must insert the
water right number you
are objecting to)

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

OBJECTION

Petitioner,

vs.

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

Respondents.

INSTRUCTIONS

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

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

(Over)

OBJECTION - 1

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

I. GENERAL INFORMATION

Please fill in the following information:

1. Person objecting:

Name: Carl R. Pothier & Mary Lee Pothier

Address: 2614 South 1050 East

Hagerman, Idaho 83332

Briefly describe your interest in this water right:

Priority date June 1, 1970

Judicial Decree dated March 22, 1932 in

New International Mortgage Bank v. Idaho

Power Company

2. Owner of the water right:

Name: Carl R. Pothier & Mary Lee Pothier

Address: 2614 South 1050 East

Hagerman, Idaho 83332

3. If this objection is filed by an attorney:

Attorney Name: Patrick D. Brown & Penelope Parker

Attorney Address: Hepworth, Nungester & Lezamiz

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

Attorney Phone No.: (208) 734-7510

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

II. STATEMENT OF THE OBJECTION

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

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

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

REASONS SUPPORTING EACH BOX CHECKED

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

See page 7

CHANGES TO THE DIRECTOR'S REPORT

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

See page 7

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



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

See Hagerman Water Right Owners, Inc.'s

Compendium "A"

VERIFICATION (Must be Completed)

State of Idaho

County of Gooding

Carl R. Pothier

(Name of person filing objection)

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

That I am the person or entity filing this objection, that I am a water claimant or party in this proceeding, as defined by I.C. Sec 42-1401A(1) and (7), and that I have read the foregoing objection, know its contents and that the statements contained therein are true to the best of my knowledge and belief.

Carl R. Pothier

Signature of person filing objection

By: [Signature]

(Attorney signing in representative capacity)

Subscribed and sworn to before me this 23rd day of April, 1993.

[Signature]

Notary Public for Idaho

Residing at: Hagerman, Id.

My Commission Expires: 5-10-97

(Over)

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INSTRUCTIONS FOR MAILING

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

CERTIFICATE OF MAILING

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

1. Original to:

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

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

Owner name: Carl R. & Mary Lee Pothier
Owner's address: 2614 South 1050 East
Hagerman, Idaho 83332

3. One copy to:

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

4. One copy to:

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



Signature of Objector or attorney
mailing on Objector's behalf

REASONS SUPPORTING EACH BOX CHECKED, page 4

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

CHANGES TO DIRECTOR'S REPORT, page 4

The report should be changed to increase the quantity to that which was decreed and/or beneficially used, whichever is greater;

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

Question 14., page 4, Other

I.

GENERAL RESPONSE

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

II.

DESCRIPTIVE SUMMARY

(DIRECTOR'S REPORT PART I)

(hereinafter DRP-I)

(DRP-I at first unnumbered page)

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

III.

TABLE OF CONTENTS

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

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

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

IV.

INTRODUCTION

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

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

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

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

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

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

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

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

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

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V.

DESCRIPTION OF THE WATER SYSTEM: BASIN 36

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

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

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

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

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

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

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

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

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

VI.

GENERAL PROVISIONS

GENERAL PROVISIONS 1 - 8 APPLY TO ALL WATER RIGHTS IN BASIN 36.

(DRP-I at page 9)

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

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

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

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

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

The objectors admit paragraphs a. and b.

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

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

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

The objectors deny the averments within this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(DIRECTOR'S REPORT PART II)

I.

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

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

(DIRECTOR'S REPORT PART III)

I.

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

VIII.

AFFIRMATIVE DEFENSES

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

AFFIRMATIVE DEFENSE NO. 1

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

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

AFFIRMATIVE DEFENSE NO. 2

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

AFFIRMATIVE DEFENSE NO. 3

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

AFFIRMATIVE DEFENSE NO. 4

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

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

AFFIRMATIVE DEFENSE NO. 5

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

AFFIRMATIVE DEFENSE NO. 6

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

AFFIRMATIVE DEFENSE NO. 7

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

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AFFIRMATIVE DEFENSE NO. 8

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

AFFIRMATIVE DEFENSE NO. 9

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

AFFIRMATIVE DEFENSE NO. 10

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

AFFIRMATIVE DEFENSE NO. 11

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

AFFIRMATIVE DEFENSE NO. 12

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

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AFFIRMATIVE DEFENSE NO. 13

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

AFFIRMATIVE DEFENSE NO. 14

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

AFFIRMATIVE DEFENSE NO. 15

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

AFFIRMATIVE DEFENSE NO. 16

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

AFFIRMATIVE DEFENSE NO. 17

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

AFFIRMATIVE DEFENSE NO. 18

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

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

AFFIRMATIVE DEFENSE NO. 19

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

AFFIRMATIVE DEFENSE NO. 20

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

AFFIRMATIVE DEFENSE NO. 21

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

AFFIRMATIVE DEFENSE NO. 22

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

AFFIRMATIVE DEFENSE NO. 23

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

AFFIRMATIVE DEFENSE NO. 24

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

AFFIRMATIVE DEFENSE NO. 25

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

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

AFFIRMATIVE DEFENSE NO. 26

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

AFFIRMATIVE DEFENSE NO. 27

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

WHEREFORE, the objectors pray for judgment as follows:

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

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

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

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

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

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(WATER\21530ANS)

MEMO TO OBJECTION FILE:

DATE: APRIL 30, 1993

THE FOLLOWING DOCUMENTS WERE FILED WITH 170 OBJECTIONS FROM
HEPWORTH, NUNGESTER, & LEZAMIZ CHARTERED OF TWIN FALLS:

1. AFFIDAVIT OF EILEEN ANN McDEVITT RE: HAGERMAN WATER RIGHT
OWNERS INC. COMPENDIUM A

SUPPORTING DOCUMENTS:

1. HAGERMAN WATER RIGHT OWNERS INC. COMPENDIUM A
2. FINDINGS OF FACT; DANIEL JONES & GUY LeMOOR
3. DECREE; SWINEHART, WOODY & SWINEHART VS VADAR DIST 63
4. DECREE; 1409
5. STIPULATION FOR DECREE; NEW INTERNATIONAL MORTGAGE BANK
VS IDAHO POWER CO
6. FINDINGS OF FACT; NEW INTERNATIONAL MORTGAGE BANK
VS IDAHO POWER CO
7. DECREE; NEW INTERNATIONAL MORTGAGE BANK
VS IDAHO POWER CO
8. JUDGEMENT & DECREE; DELBERT CLAMPITT AND DELSIE CLAMPITT
9. STIPULATION OF FACTS; DBA JONES & SANDY LIVESTOCK VS
RESERVOIR LAND COMPANY IC
10. MEMORANDUM OPINION; JOHN W JONES JR & DELORIS D JONES VS
RESERVOIR LAND COMPANY, INC
11. AMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW;
HAMILTON, MECHAM, HARRISON, REID VS NORMAN & ANITA
STANDAL

ALL OF THE ORIGINAL DOCUMENTS LISTED ABOVE ARE FILED IN OBJECTION
FILE NUMBER 36-00003A.

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APR 30 1993
Department of Water Resources
Adjudication Bureau

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

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

Case No. A36-4071
(You must insert the
water right number you
are objecting to)

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

OBJECTION

Petitioner,

36-04071 -0001/
93-04-0268

vs.

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

Respondents.

INSTRUCTIONS

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

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

(Over)

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

I. GENERAL INFORMATION

Please fill in the following information:

1. Person objecting:

Name: Carl R. Pothier & Mary Lee Pothier

Address: 2614 South 1050 East

Hagerman, Idaho 83332

Briefly describe your interest in this water right:

Priority date June 1, 1970

Judicial Decree dated March 22, 1932 in

New International Mortgage Bank v. Idaho

Power Company

2. Owner of the water right:

Name: Carl R. Pothier & Mary Lee Pothier

Address: 2614 South 1050 East

Hagerman, Idaho 83332

3. If this objection is filed by an attorney:

Attorney Name: Patrick D. Brown & Penelope Parker

Attorney Address: Hepworth, Nungester & Lezamiz

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

Attorney Phone No.: (208) 734-7510

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

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II. STATEMENT OF THE OBJECTION

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

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

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

REASONS SUPPORTING EACH BOX CHECKED

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

See page 7

CHANGES TO THE DIRECTOR'S REPORT

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

See page 7

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

☒

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

See Hagerman Water Right Owners, Inc.'s

Compendium "A"

VERIFICATION (Must be Completed)

State of Idaho

County of Gooding

Carl R. Pothier

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

That I am the person or entity filing this objection, that I am a water claimant or party in this proceeding, as defined by I.C. Sec 42-1401A(1) and (7), and that I have read the foregoing objection, know its contents and that the statements contained therein are true to the best of my knowledge and belief.

Carl R. Pothier

Signature of person filing objection

By: [Signature]

(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 23rd day of April,
1993.

[Signature]

Notary Public for Idaho

Residing at: Hagerman, Id.

My Commission Expires: 5-10-97

(Over)

Question 14., page 4, Other

I.

GENERAL RESPONSE

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

II.

DESCRIPTIVE SUMMARY

(DIRECTOR'S REPORT PART I)

(hereinafter DRP-I)

(DRP-I at first unnumbered page)

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

III.

TABLE OF CONTENTS

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

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

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

IV.

INTRODUCTION

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

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

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

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

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

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

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

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

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

V.

DESCRIPTION OF THE WATER SYSTEM: BASIN 36

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

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

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

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

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

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

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

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

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

VI.

GENERAL PROVISIONS

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

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

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

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

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

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

The objectors admit paragraphs a. and b.

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

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

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

The objectors deny the averments within this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(DIRECTOR'S REPORT PART II)

I.

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

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

(DIRECTOR'S REPORT PART III)

I.

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

VIII.

AFFIRMATIVE DEFENSES

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

AFFIRMATIVE DEFENSE NO. 1

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

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

AFFIRMATIVE DEFENSE NO. 2

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

AFFIRMATIVE DEFENSE NO. 3

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

AFFIRMATIVE DEFENSE NO. 4

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

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

AFFIRMATIVE DEFENSE NO. 5

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

AFFIRMATIVE DEFENSE NO. 6

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

AFFIRMATIVE DEFENSE NO. 7

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

AFFIRMATIVE DEFENSE NO. 8

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

AFFIRMATIVE DEFENSE NO. 9

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

AFFIRMATIVE DEFENSE NO. 10

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

AFFIRMATIVE DEFENSE NO. 11

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

AFFIRMATIVE DEFENSE NO. 12

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

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AFFIRMATIVE DEFENSE NO. 13

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

AFFIRMATIVE DEFENSE NO. 14

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

AFFIRMATIVE DEFENSE NO. 15

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

AFFIRMATIVE DEFENSE NO. 16

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

AFFIRMATIVE DEFENSE NO. 17

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

AFFIRMATIVE DEFENSE NO. 18

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

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

AFFIRMATIVE DEFENSE NO. 19

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

AFFIRMATIVE DEFENSE NO. 20

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

AFFIRMATIVE DEFENSE NO. 21

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

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AFFIRMATIVE DEFENSE NO. 22

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

AFFIRMATIVE DEFENSE NO. 23

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

AFFIRMATIVE DEFENSE NO. 24

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

AFFIRMATIVE DEFENSE NO. 25

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

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

AFFIRMATIVE DEFENSE NO. 26

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

AFFIRMATIVE DEFENSE NO. 27

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

WHEREFORE, the objectors pray for judgment as follows:

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

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

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

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

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

001 12 13N
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(WATER\21530ANS)

RECEIPT
For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES

Receipt No: 5015373

Date: 2/ 9/1993
Time: 10:46:25

Received

From: POTHIER, CARL

Type of Payment	Program Acct Class	Amount
COPIES/ADJ FILES 36-04071,04072,7655 64100	229 21 1760	9.92

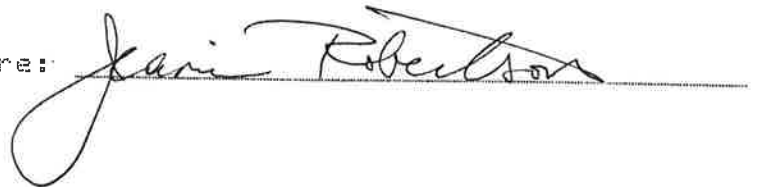
Total

CHECK 793

\$9.92

Region: SOUTHERN

Signature:



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OCT 18 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

01-Feb-1993

CARL R POTHIER
MARY LEE POTHIER
2614 S 1050 E
HAGERMAN ID 83332-5834

RE: Copy of SRBA File(s): 36-04071, 36-04072, 36-07655

Dear Mr. & Mrs. Pothier:

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

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

\$9.92

Sincerely,


Jeanie Robertson
Records Clerk

Encl:

Pothier
58
34
44

136 x 5 = 6.80
post. 2.90
env. .22

9.92

MICROFILMED
OCT 18 1994

2/8/93

Dear Sirs;

Our check is enclosed, in the amount of \$9.92 for the documents for our water rights.

We thank you for your prompt attention in sending them.

Sincerely

Carl R Pothier
Nagerman Sh
83332

RECEIVED

FEB 02 1993
MICROFILMED
Department of Water Resources
Southern Region Office
OCT 18 1994

RECEIVED

JAN 21 1993

Department of Water Resources
Southern Region Office

Please send us a copy of the file concerning our Water Rights claims:

Number 36-04071

" 36-04072

" 36-07655

If there is a charge for this service, please inform us and we will immediately remit by return mail.

Names and addresses for these claims are — Carl R Pothier

Mary Lee Pothier

2614 So. 10506

Nagerman, Sh

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OCT 18 1994

2614 So. 10506
Nagerman, Sh
83332

NOTICE OF ERROR

RESPONSE

CORRECTED R PROOF



MICROFILMED

FEB 05 1993

NOTICE OF ERROR FORM

AUG-24-1992

RECEIVED

SEP 22 1992

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

Idaho Department of Water Resources

Statehouse Mail

Boise, Idaho 83720-9000

Department of Water Resources

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

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

1. Water right number: 36-04071

2. Name: CARL R. POTHIER

Address: 2614 South 1050 East, Hagerman, Idaho 83332

Weekday Telephone Number: 208-837-6604

TEAR AT PERFORATIONS AND COMPLETE FORM ON OTHER SIDE

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FEB 05 1993

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

3. Describe the portion of proposed recommendation with which you disagree:
I disagree with the amount of irrigation water that has been recommended per irrigated acre and the period of use.
4. Describe the changes you wish to have made in the proposed recommendation:
The amount of water that should be recommended is that which was filed on in the amount of 0.26 cfs and the period of use should be from March 15th to November 15th of each year.
5. Describe why you disagree with the proposed recommendation:
Because of the sandy soil and the terrain of the property, one inch per irrigated acre is not enough. Because of the climate and longer growing season of the area, the additional period of use is needed.
6. Date: September 21, 1992

SIGNATURE

Carl Peterson



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

OCTOBER 14, 1992

R. KEITH HIGGINSON
Director

- MR + MRS CARL POTHIER
- 2614 S 1050 E
- HAGERMAN, ID 83332

RE: NOTICE OF ERROR FOR SEASON OF USE AND DIVERSION AMOUNTS
WATER RIGHT NO(S): 36-04071

DEAR MR. + MRS. POTHIER:

THIS LETTER IS IN RESPONSE TO THE NOTICE OF ERROR (NOE) YOU RECENTLY FILED WITH IDWR REGARDING THE DIRECTOR'S PROPOSED RECOMMENDATION OF THE CLAIM LISTED ABOVE. YOUR NOE QUESTIONS TWO POINTS; 1) YOUR NOE INDICATES THAT YOU WOULD LIKE THE RECOMMENDATION TO SHOW A LONGER SEASON OF USE FOR IRRIGATION. AND 2) THE BASIS FOR RECOMMENDATION OF AN AMOUNT THAT IS LESS THAN THE AMOUNT SHOWN IN A PREVIOUS ~~SECRET~~ CLAIM.

- 1) THE DIRECTOR HAS APPROVED EXTENDING THE PERIOD OF USE FOR THE HAGERMAN VALLEY TO 3/15 TO 11/15.

THE PROPOSED RECOMMENDATION IS BASED ON IRRIGATION SEASON OF USE STANDARDS ADOPTED BY THE DIRECTOR FOR THE VARIOUS REGIONS THROUGH THE STATE. THESE STANDARDS ARE BASED ON THE PERIOD OF THE YEAR IN WHICH THERE IS LESS THAN A 75% CHANCE OF A 24 DEGREE F. FROST.

IN ADDITION, SINCE THERE ARE SOME YEARS IN WHICH WATER CAN BE BENEFICIALLY USED FOR IRRIGATION OUTSIDE THE IRRIGATION SEASON, THE PROPOSED DIRECTOR'S REPORT INCLUDES A GENERAL PROVISION WHICH PROVIDES FOR IRRIGATION OUTSIDE THE IRRIGATION SEASON UNDER CERTAIN CONDITIONS. THE CONDITIONS ARE THAT THE WATER IS BENEFICIALLY USED, AS DETERMINED BY THE DIRECTOR; THAT ALL WATER RIGHTS WITH A PERIOD OF USE OUTSIDE THE IRRIGATION SEASON REGARDLESS OF PRIORITY, ARE SATISFIED; AND THAT THE USE DOES NOT CONFLICT WITH THE PUBLIC INTEREST AS DETERMINED BY THE DIRECTOR. THIS PROPOSED GENERAL PROVISION WILL BE INCLUDED IN THE DIRECTOR'S REPORT.

- 2) UNDER IDAHO LAW, A WATER RIGHT IS LIMITED TO THE AMOUNT OF WATER BENEFICIALLY USED FOR THE PURPOSES FOR WHICH THE WATER RIGHT WAS ESTABLISHED. THE AMOUNT OF WATER BENEFICIALLY USED IS LIMITED TO THE AMOUNT THAT IS ACTUALLY USED AND IS REASONABLY REQUIRED. FOR IRRIGATION PURPOSES, A REASONABLE AMOUNT IS THE

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FEB 05 1993

PAGE 2

AMOUNT REQUIRED USING IRRIGATION METHODS THAT ARE REASONABLY EFFICIENT UNDER CURRENT CIRCUMSTANCES. IF THE AMOUNT OF A WATER RIGHT SHOWN IN A DECREE IS GREATER THAN THE AMOUNT THAT IS BENEFICIALLY USED, THEN THE PORTION THAT IS NOT BENEFICIALLY USE FORFEITED.

THE AMOUNT PROPOSED TO BE RECOMMENDED FOR YOUR CLAIM IS BAS ON THE AMOUNT OF WATER DETERMINED TO BE BENEFICIALLY USED FOR TH RECOMMENDED USES, BASED ON AVAILABLE DATA AND CURRENT METHODS OF ANALYSIS.

IF YOU STILL DISAGREE WITH IDWR'S RECOMMENDATIONS YOU WILL AN OPPORTUNTIIY TO FILE AN OBJECTION TO THE DIRECTOR'S REPORT WIT THE COURT. WHEN THE DIRECTOR'S REPORT IS FILED WITH THE COURT, WILL BE MAILED A NOTICE THAT WILL CONTAIN MORE INFORMATION ABOUT OBJECTION PROCESS.

SINCERELY,

A handwritten signature in cursive script, reading "Robert V. Horstelf".

SENIOR WATER AGENT

MICROFILMED
FEB 05 1993

Water Right Number - R36-04071 Prefix Translation: RESEARCH Old (D) Number -

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

*** C - CURRENT OWNER ***
POTHIER CARL R 1 - 2614 SOUTH 1050 EAST
2 -
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-837-6604
POTHIER MARY LEE 1 - 2614 SOUTH 1050 EAST
2 -
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-837-6604

*** O - ORIGINAL OWNER ***
TAYLOR MAURICE M 1 - RT 1 BOX 490
2 -
3 -
City- HAGERMAN State- ID Zip- 83332
Phone - 208-837-6554

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - - +
06/01/1970 ERROR IN REGION J - BENEFICIAL USE

+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
INDIAN SPRINGS BILLINGSLEY CREEK

+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County
07S 13E 12 SW SE SE (47) GOODING

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 03/15 11/15 0.100

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.100 15.0

+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
07S 13E 13 NW NE 5.0 01 IRRIGATION (47) GOODING

Total Acres: 5.0

+ - - Diversion Means - CONCRETE HEADBOX WITH 1200' 4" PIPE, SOLID SET SPRINKLER SYSTEM

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - NONE

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FEB 05 1993

Water right number - R36-04071

Prefix Translation: RESEARCH

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

RIGHTS LISTED BELOW ARE ALSO DIVERTED THROUGH POINT OF DIVERSION
DESCRIBED ABOVE, AND THE TOTAL COMBINED RATE OF DIVERSION OF
THESE RIGHTS IS LIMITED TO 0.53 CFS.
OTHER RIGHT NOS.: 36-04072 & 36-04091.

+ - - - - 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: 01/28/1991 User Id: BEDKE Subject: SCC-STAFF REVIEW

Date: 09/17/1991 User Id: GIVENS Subject: OWNERSHIP CHANGE

OWNERSHIP CHANGE 9/17/91 BY JG.

Date: 10/01/1991 User Id: CLELLAND Subject: COPIED FROM REMARKS

PIPELINE TO SOLID SET SPRINKLER SYSTEM.

Date: 09/23/1992 User Id: SCHULTZ Subject: NOTICE OF ERROR (NOE)

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

CLAIM VERIFIED 10/01/92. DID NOT REVERIFY ANY PART OF CLAIM.

Date: 10/14/1992 User Id: WORSTELL Subject: NOTICE OF ERROR RECORD

PERIOD OF USE CHANGED TO 3/15 TO 11/15

+ - - Audit Fields - - +

10/14/92 WORSTELL

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

Court Report Filing	- 00/00/0000	Field Inspection Made	- 08/09/1990	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 10/14/1992	Old Judicial District	-
Claim Received Date	- 06/24/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S000530	Water District	-
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	-	Presumption Flag	-
				Notice of Error Flag	- C

MICROFILMED
FEB 05 1993

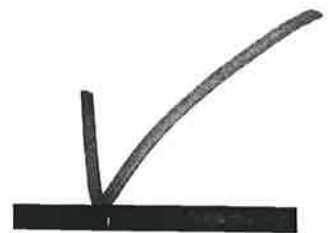
R PROOF

CVR

MAPS

PHOTOS

MISC



MICRO
FEB 0 1993

VERIFIED BY

See

MICROFILMED

FEB 05 1993

Water Right Number - R36-04071

Prefix Translation: RESEARCH

Old (D) Number -

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

*** C - CURRENT OWNER ***

POTHIER

CARL R

1 - 2614 SOUTH 1050 EAST

2 -

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-837-6604

POTHIER

MARY LEE

1 - 2614 SOUTH 1050 EAST

2 -

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-837-6604

*** O - ORIGINAL OWNER ***

TAYLOR

MAURICE M

1 - RT 1 BOX 490

2 -

3 -

City- HAGERMAN

State- ID Zip- 83332

Phone - 208-837-6554

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - +
06/01/1970 ERROR IN REGION J - BENEFICIAL USE+ - - - - Source - - - - + + - - - - - Tributary - - - - - +
INDIAN SPRINGS BILLINGSLEY CREEK+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County
07S 13E 12 SW SE SE (47) GOODING+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 03/15 11/15 0.100+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.100 15.0+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
07S 13E 13 NW NE 5.0 01 IRRIGATION (47) GOODING

Total Acres: 5.0

+ - - Diversion Means - CONCRETE HEADBOX WITH 1200' 4" PIPE, SOLID SET SPRINKLER SYSTEM

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - NONE

Water right number - R36-04071

Prefix Translation: RESEARCH

+ - - - - Remarks - - - - - +
RIGHTS LISTED BELOW ARE ALSO DIVERTED THROUGH POINT OF DIVERSION
DESCRIBED ABOVE, AND THE TOTAL COMBINED RATE OF DIVERSION OF
THESE RIGHTS IS LIMITED TO 0.53 CFS.
OTHER RIGHT NOS.: 36-04072 & 36-04091.

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

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No Conditions of Approval found.

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

+ - - - - Comments - - - - - +
Date: 01/28/1991 User Id: BEDKE Subject: SCC-STAFF REVIEW
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PIPELINE TO SOLID SET SPRINKLER SYSTEM.

+ - - Audit Fields - - +
10/01/91 CLELLAND

+ - - VERIFIED BY - - - - - Adjudication Rights Dates and Flags Area - - - - - +
Court Report Filing - 00/00/0000 Field Inspection Made - 08/09/1990 Civil Case Number - 39576
Objection Filed Date - 00/00/0000 Field Inspection Flag - Old Case Number -
Response Filed Date - 00/00/0000 Verified Date - 10/01/1991 Old Judicial District -
Claim Received Date - 06/24/1988 Last Amended Date - 00/00/0000 Temporary Right - P
Receipt Number - S000530 Water District -
POU Ownership Flag - Y Federal/State Indicator - S
Name Connector - Presumption Flag -
Notice of Error Flag -

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FEB 05 1992

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

02:30:13
06/30/90

PAGE: 11
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-04071

WR ELEMENT	FIELD EXAM Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	VERIFIED BY CODE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE	(Y)			N		SW 10-1-91		
POINT OF DIV	Y (Y)		8-9-90 SEC/HHT	(Y)	1,5			
SOURCE	(Y)			N				
PLACE OF USE	Y (Y)			N	1,2,6,4			
DIV. AMOUNT CFS/VOLUME	(Y)			(Y)	6. STDS.			
CONSUMPTIVE USE	(Y)			N				
PURPOSES	(Y)			N				
PERIOD OF USE	(Y)			N				
BASIS OF CLAIM	(Y)			N				
REMARKS	Y (Y)			(Y)	6.			

Lat
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.

RECEIVED
FEB 05 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

02:30:13
06/30/90

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-04071

LAST: TAYLOR
ADDRESS: RT. 1 BOX 490
CITY: HAGERMAN
PHONE NUMBER: 208-837-6554

FIRST: MAURICE M.
STATE: ID ZIP: 83332

OWNER CODE: C

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

DATABASE
Y

FIELD
EXAMINER

CLAIM REMARKS: PIPELINE TO SOLID SET SPRINKLER SYSTEM.

FIELD EXAMINATION INFORMATION

CONTACT PERSON: Maurice Taylor

PHONE NUMBER: () -

DATE OF FIELD EXAM: 8/9/90

APPOINTMENT MADE: Y() N(X)

TIME: 10:00 A(X) P()

ACCOMPANIED BY: same

PHONE NUMBER: () -

RELATIONSHIP TO CLAIMANT:

DIRECTIONS TO PROPERTY / REMARKS:

Poly Sonic flow measurement. Capacity of system 0.53 cfs

A. AJ CLAIM: # A36-04071 PRIORITY DATE: 06-01-1970 STAGE: J
B. WR RECORD: # 36-04071 PRIORITY DATE: 06-01-1970 STAGE: S

C. FIELD EXAM REQUIRED?
DUE TO PRIORITY DATE DISCREPANCY? (Y/N) DATABASE N FIELD EXAMINER YES

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

REMARKS: "Some PROOF"

- ① affidavit by Geo Lemmon (He definitely affirms the date claimed)
- ② Agreement w/ McCarter Cattle (vague information)

RECOMMENDED PRIORITY DATE:
06-01-1970

REVIEWED BY SCC

DATE 1-15-91

NOTE: WR CLAIM A36-04091 is part of this same system after much review it is believed this right and right 36-04091 were developed at the same time and the affidavit submitted by Geo. Lemmon is being used to support both claims with the same priority. SCC 10-1-91

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A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A36-04071	07S	13E	12	NE	NE	NE		GOODING

OTHER AJ CLAIMS WITH SAME AJ POD
A PREFIX R PREFIX
A36-04072 NONE

WR RECORDS IN SAME 40 ACRE TRACT
NONE

SOURCE: INDIAN SPRINGS

TRIB: BILLINGSLEY CREEK

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
36-04071	07S	13E	12		SE	SE		GOODING

OTHER WR RECORDS WITH SAME WR POD

AJ CLAIMS IN SAME 40 ACRE TRACT
A PREFIX R PREFIX

36-04072
36-04091
36-07080

A36-07080
A36-04091
A36-08308
A36-10231

SOURCE: INDIAN SPRINGS

TRIB: BILLINGSLEY CREEK

C. FIELD EXAM REQUIRED?

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

REMARKS:

Stat. claim identifies PD in Sec. 12, SE⁴ SE⁴. I believe a typographical error may exist. If correct '1/4' '4' is NONE, would be Sec. 13. Confirmed by field exam 8-9-90 (SCC/HHT)

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RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	COUNTY
<u>7S.</u>	<u>13E</u>	<u>12</u>	<u>SW</u>	<u>SE</u>	<u>SE</u>	<u> </u>	<u>47</u>

SOURCE: INDIAN SPRINGS

TRIB: BILLINGSLEY CREEK

REVIEWED BY: SCL

DATE: 8-13-90

*Change
Claim*

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FEB 05 '91

A. ROOT WATER RIGHT NUMBERS: A36-04071

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
07S	13E	~~12~~ 13	NW	NE		TAYLOR, MAURICE M. NORTH SIDE CANAL COMPANY LTD.	A36-04071 / 5.0 A01-0021220/35.0	- / - /	38.0	5.0	5.0
TOTAL ACRES							A36-04071	5.00	38.00		

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

C. FIELD EXAM REQUIRED?

DUE TO POU DISCREPANCY? (Y/N)

DATABASE
Y

FIELD
EXAMINER
Y

PRESUMPTION FLAG:

REMARKS:

Diversion from 4" Steel pipeline to solid set sprinklers in Pasture.

RECOMMENDATIONS:

TOTAL ACRES: 5.0

REVIEWED BY: SCC

DATE: 8-13-90

RECEIVED
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A. AJ CLAIMED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
A36-04071 IRRIGATION	FROM 03-15 TO 11-15	.260 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		.260 CFS

B. WR RECORDED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
36-04071 IRRIGATION	FROM 03-15 TO 11-15	.260 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		.260 CFS

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

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

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

Y(X) N()

RECOMMEND TO WR STANDARDS OR OTHER?

Y() N(X) Explain in remarks, below.

REMARKS:

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FEB 05 1993

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y(X) N()

AJ TOTAL CLAIMED DIVERSION RATE: 0.260 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 0.260 CFS

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

FLOW MEASUREMENT REQUIRED?

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

FIELD
DATABASE EXAMINER
Y YES

B.

FLOW MEASUREMENT

MEASUREMENT METHOD Poly Sonic, SEE ATTACHED CALCULATIONS.

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

OTHER RIGHTS LISTED IN CLAIM: NONE

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

CLAIM	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A36-04071	INDIAN SPRINGS	TAYLOR , MAURICE M.	0.260	0.052		
A01-0021220	SNAKE RIVER	NORTH SIDE CANAL COMPANY LTD.	2250.000	0.081		

NO RIGHTS WITH SAME POU BUT NOT USED FOR IRRIGATION

A36-04072 DLS TAYLOR

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RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD FROM TO	REC. DIV RATE CFS	REC. DIV VOL. AF/A	REC. CONS. USE
IRRIGATION	03-15 11-15	DATABASE EXAMINER ~~0.260~~ <u>0.10</u>	DATABASE EXAMINER ~~20.0~~	DATABASE EXAMINER 15.0 <u>15.0</u>
TOTAL FOR THIS RIGHT		~~0.260~~		15.0

REVIEWED BY: See

DATE: 8-13-90

PolySonic Total for Pipeline 239.6 GPM = 0.53 cfs = system Capacity

(pipeline is shared by Bruce Reese)

E07 < 36-4091
36-4072
0.53 cfs

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A. CHECK ONLY THE FOLLOWING THAT APPLY:

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

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-04071

TOTAL DIVERSION RATE OF WR SPLITS	DATABASE 0.260	EXAMINER _____	CFS
-----------------------------------	-------------------	-------------------	-----

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
-	A36-04071	0.260	-		36-04071	0.260
TOTAL CFS		0.260				0.260

DIVERSION RATE REVIEW

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

DATABASE
Y

FIELD
EXAMINER

OK

REMARKS:

AUTHENTICATION:

SIGNATURE:

Steve Clelland

DATE:

8-13-90

NAME OF FIELD EXAMINER:

STEVE CLELLAND

TITLE:

WR Agent

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D. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE
ACRES 5 x 0.02 CFS/ACRE = 0.10 CFS *a*
(Taken from p/u review)

1b. CALCULATIONS

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

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

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 15.0 AF/A
ACRES 5.0 x CONSUMPTIVE VOL. AF/A FOR AREA 3.0 =
TOTAL CONSUMPTIVE USE 15.0 AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A
ACRES 5.0 x DIVERSION VOL. AF/A FOR AREA 4.0 =
TOTAL DIVERSION VOLUME 20.0 AF/A

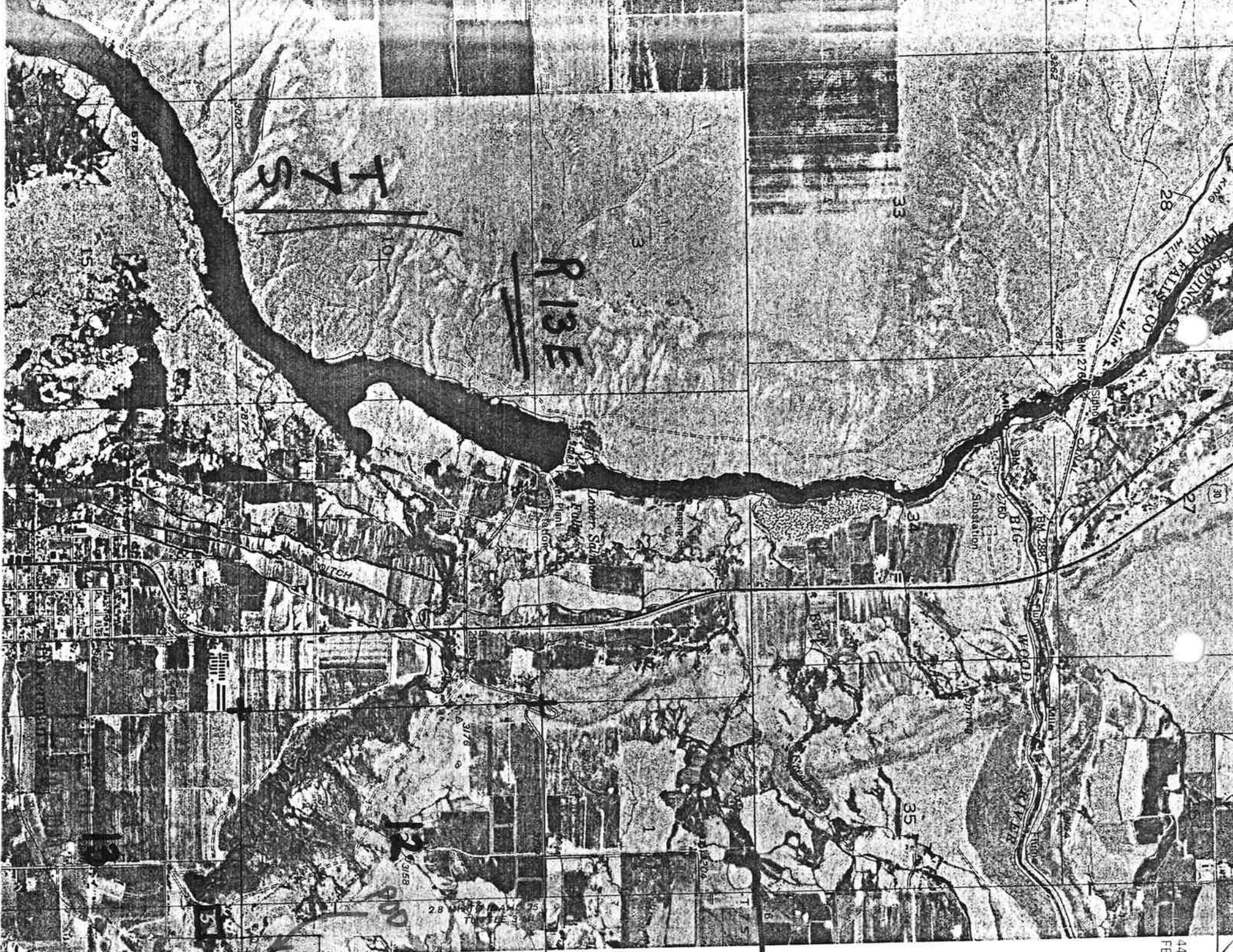
Volume not needed on surface water.

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y() N(X)

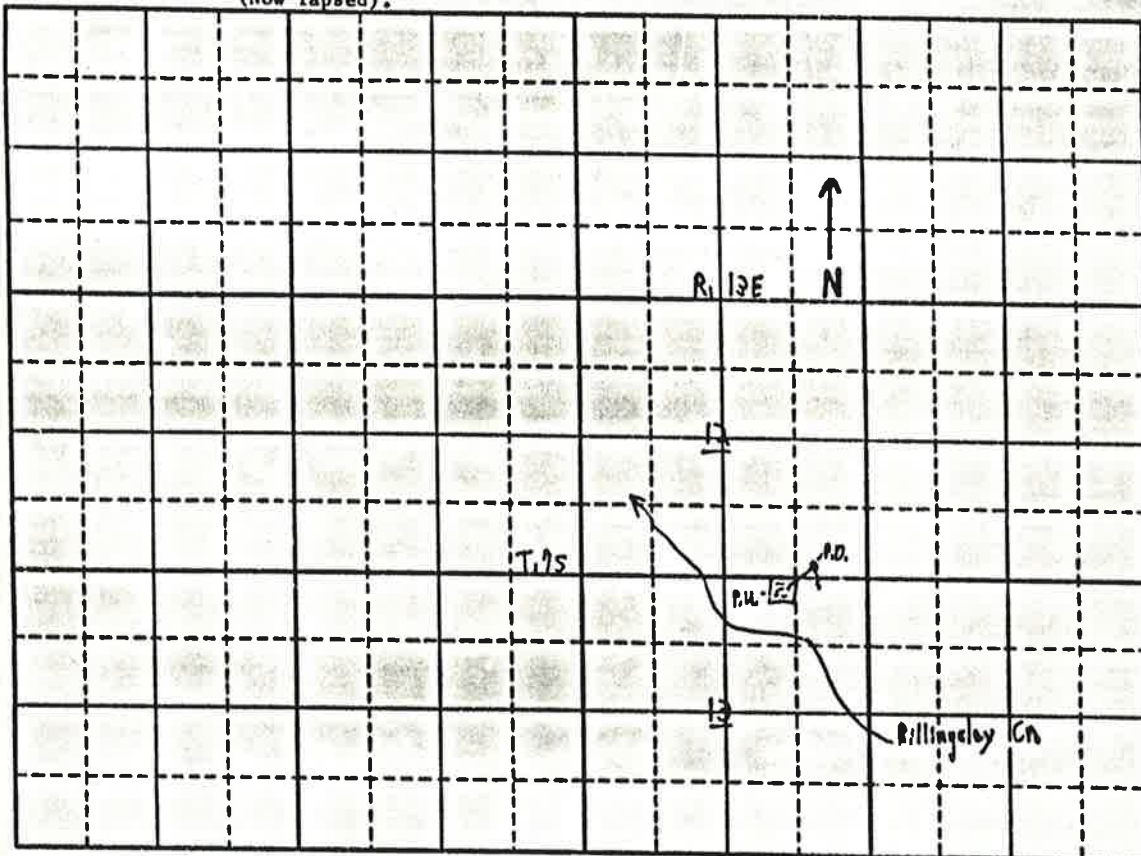
REMARKS: (Include limitations on CONSUMPTIVE USE for combined rights.)

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ROTULIVE
FEB 03 1993

(8) Remarks Amount filed on was calculated by Jim Stanton of Dept. of Water.
 Resources from pressures on 11 sprinkler heads. Pressures supplied
 by applicant using Ashcroft hand-held pressure gauge. About 117 gpm.
 Water was first used for irrigation by Nathan Scott under Permit 47-7101
 (Now lapsed).



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
) ss.
 County of Twin Falls)

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiants knowledge.

William H. Parr
 (Claimant)

Sworn to before me this 20th day of July, 1978.

Shirley H. Merritt
 Notary Public

Residing at 4101/2 Lewisville
Idaho

My commission expires 3/10/82

For Department Use Only

Received by JS Date 7-20-78 Exception filed by
 Prelim. check by JS Date 7-27-78
 \$20.00 fee received by JS Date 7/27/78 #1050-2
 Approved for publication by JS
 Published in Idaho County Leader
 Dates 8-5-78 8/10/78

Forwarded to
 claimant by

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 FEB 05 1993

Dick Linsell

Nothing from $qC \triangle$

 $B \subset M$

764 have no record which would indicate when the spring was developed.

7/19/73 ADM

4. Public Good



On 20/12/2012

SW: 100 - 100

SE⁷ SE⁴

10-99-ACR-2

G. Public Road

N 28° 41' E

14-1-67

SE 36
see
12

P.D

5 Acres
irrig. ()

TRACT IN SE¹ SE⁴ E⁴ S⁴ E⁴ B.M.
SPRING LOCATIONS IN SE¹ SE⁴
SE⁴ E⁴ S⁴ E⁴ B.M.

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FEB 05 1993



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FEB 05 199



State of Idaho
DEPARTMENT OF WATER RESOURCES
Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

MODE SELECT
INPUT

OUTER DIAMETER
4.7744 IN

PIPE MATERIAL
? CS,SS

WALL THICKNESS
0.1250 IN

INNER LINING
? NO LING.

KIND OF FLUID
? WATER

SENSOR MOUNTING
? U

TYPE OF SENSOR
? SMALL

DATA CHANGE
? NO

SPACING
3.048 IN U

08-09 10:0300 *R
+275.003E 0GPM

ZERO MODE
CLEAR

ZERO MODE
AUT ZERO

ZERO MODE
ZERO OPR

08-09 10:0500 *R
+003.00 % AI2

MODE SELECT
T0 CHECK

0163.1 MMSEC
096.48 % T0

08-09 10:0700 *R
+246.208E 0GPM

MODE SELECT
INPUT

OUTER DIAMETER
4.7744 IN

PIPE MATERIAL
? CS,SS

WALL THICKNESS
0.1248 IN

INNER LINING
? NO LING.

KIND OF FLUID
? WATER

SENSOR MOUNTING
? U

TYPE OF SENSOR
? SMALL

DATA CHANGE
? YES

CHANGE DATA
? END

SPACING
3.048 IN U

08-09 10:1300 *R
+244.095E 0GPM

ZERO MODE
CLEAR

ZERO MODE
AUT ZERO

ZERO MODE
ZERO OPR

08-09 10:1500 *R
+003.10 % AI2

MODE SELECT
T0 CHECK

0163.1 MMSEC
096.47 % T0

08-09 10:1600 *R
+235.905E 0GPM

MODE SELECT
INPUT

OUTER DIAMETER
4.7744 IN

PIPE MATERIAL
? CS,SS

WALL THICKNESS
0.1248 IN

INNER LINING
? NO LING.

* KIND OF FLUID
? ANOTHER

SOUND VELOCITY
1540 M/S-

SENSOR MOUNTING
? U

TYPE OF SENSOR
? SMALL

DATA CHANGE
? NO

SPACING
3.238 IN U

08-09 10:3000 *R
+242.245E 0GPM

ZERO MODE
CLEAR

ZERO MODE
AUT ZERO

08-09 10:3200 *R
+232.207E 0GPM

ZERO MODE
ZERO OPR

08-09 10:3300 *R
+003.00 % AI2

MODE SELECT
T0 CHECK

0164.3 MMSEC
100.35 % T0

08-09 10:3300 *R
+237.490E 0GPM

08-09 10:3400 *R
+239.604E 0GPM

INDIAN SPRINGS
REESE/TAYLOR PIPELINE

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FEB 05 1993

$\bar{X} = 238.5 \text{ gpm}$

0.53 cfs

INDIAN SPRINGS
PIPELINE

C. R. Pothier
2614 So. 1050 E.
Hagerman, Idaho
83332

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JAN 21 1993

Department of Water Resources
Southern Region Office



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Department of Water Resources
Southern Region

222 Shoreline St. East

Twin Falls, Idaho 83301

C. R. Pothier
2614 So 1050 E.
Hagerman Idaho
83332-5857

