

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: A36-10664
Date Received: 8/26/1988
Receipt No: S001765
Received By: lw

COPY
NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW
FOR YOUR FILES
DO NOT RETURN

1. Name: PERRY PATTERSON 208-536-2025
Address: 1745E 3100S
WEDELL, ID 83355

AND/OR

Name: MARGARET PATTERSON 208-536-2025
Address: 1745E 3100S
WEDELL, ID 83355

2. Date of Priority: JUN 23, 1976

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
08S	15E	7	SE	NE			GOODING

5. Description of diverting works:
WELL & PUMP

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.760		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
08S	15E	7	NW NE		IRR	38.0
Section Acres						38.0
Total Acres						38.0

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:
36-7409, 36-7631

14. Remarks:
PORTION OF EACH WR, SEE TRANSFER #2741. CLAIMANT COMBINED
CFS PORTION FROM BOTH, CHOSE LATER PRIORITY, AND FILED AS
ON CLAIM ON THE 38 ACRES.

15. Basis of Claim: LICENSE

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): Perry Patterson Date: 8-26-88
_____ Date: _____

State of Idaho)
County of TF) SS.

Subscribed and sworn (or affirmed) before me this 26th day
of August 19 88 Lori White
Notary Public

Seal

Residing at TF
My Commission Expires 5/95

Log for claim 36-10664

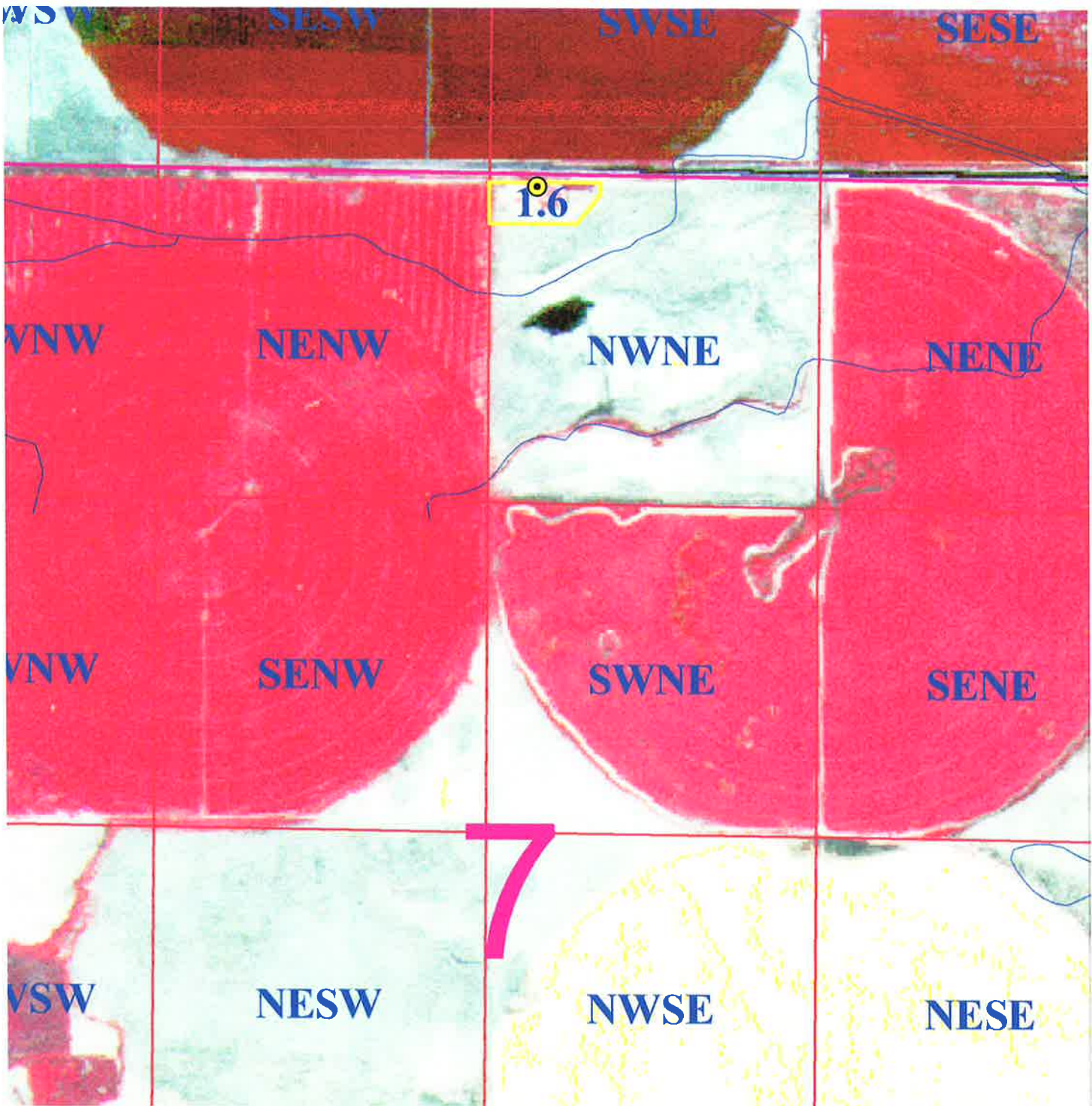
Spatial Dynamics LTD

12/13/01

TR	SEC	QQ	Acres Recommended	Acres Shaped	COMMENT
08s15e	7	NWNE	1.6	1.6	
Totals:			1.6	1.6	

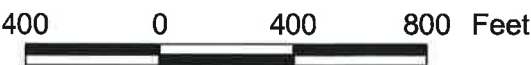
Water Right Number 36-10664
Township , 8S15E

12/13/2001



Legend

 Irrigated Area	 Section Line	 Roads
 Place of Diversion	 Quarter Section Line	 Streams and Canals



He called and spoke with Trish who then handed the call off to me. I affirmed what she had said, that he had a right for 1.6 acres. He wanted to know how to get more water. (He stated he has not even begun to irrigate the 1.6 acres.) I offered three options; 1) file a Permit which will be held due to the Moratorium, 2) buy water somewhere and transfer it to his place, or 3) see if he can use water from the canal company.

AJ5809NP
No. 36-10664

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 05/11/00
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	PERRY PATTERSON	06/23/1976	IRRIGATION	04-01 10-31	0.050 CFS	
C	MARGARET PATTERSON 1745 E 3100 S WENDELL ID 83355 (208) 536-2025					
				TOTAL DIVERSION:	0.050 CFS	6.40 AFA
				CONSUMPTIVE USE:		4.80 AFA

Water Source: GROUNDWATER

Tributary to:

Stage: LICENSE

Point(s) of Diversion: T08S R15E S07 NW/4NE

GOODING County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE				
T	R	S	:	NE/4	NW/4	SW/4	SE/4	:	NE/4	NW/4	SW/4	SE/4	:	NE/4	NW/4	SW/4	SE/4	:	SUM	
				Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac			
08S	15E	7	:		01			:					:					:	1.6	
																			TOTAL ACRES	1.6

POU County: GOODING

Other Rights: NONE

Conditions of Approval:

- C03 - RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
- PURSUANT TO SECTION 42-1425, IDAHO CODE.

Remarks: GEN RIGHT NO. 36-10664 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE, AND THE TOTAL COMBINED RATE OF DIVERSION OF THESE RIGHTS IS LIMITED TO 0.05 CFS.
THIS RIGHT IS A COMBINATION OF PORTIONS OF OLD RIGHT NOS. 36-07409 & 36-07631.

Dates: Exam Made Date: Verified Date: 09/25/1992 Objection Filed Date: 04/30/1993

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

Comments: Date: 12/11/1991 User-ID: WORSTELL Subject: COPIED FROM REMARKS
PORTION OF EACH WR, SEE TRANSFER #2741. CLAIMANT COMBINED
CFS PORTION FROM BOTH 36-07409 & 36-07631 WITH LATER PRIORITY.

Date: 06/12/1992 User-ID: CHRISTEN Subject: BASIS FOR DISALLOWAL

AJ5809NP
No. 36-10664

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 05/11/00
PAGE: 2

Comments: Date: 06/12/1992 User-ID: CHRISTEN Subject: BASIS FOR DISALLOWAL
FIELD VERIFICATION CONDUCTED ON 11-30-90 BY NORM BROWN. NO PUMP,
WELL, OR POWER CONNECTIONS FOUND AT THE CLAIMED P/D. P/U SHOWS NO
SIGN OF IRRIGATION. SEE FILE FOR PICTURES. (COMMENTS ENTERED
BY KKC)

Date: 09/25/1992 User-ID: MERRITT Subject: NOTICE OF ERROR RECEIVED AND RESOLVED.
ALLOW 1.6 ACRES IRRIGATED FROM THE DOMESTIC WELL FOR LANDS
IN THIS TRACT BASED ON UN-RECORDED TRANSFER OF P/D. THE BULK
OF THE WATER RIGHT HAS BEEN FORFEITED DUE TO NONE USE.

Audit: 12/26/90 BECKE 12/11/91 WORSTELL 12/31/91 MERRITT 03/17/92 ROBERTSO
06/12/92 CHRISTEN 07/15/92 CMU-PROD 07/21/92 POST-STD 08/28/92 PR-PROD
09/25/92 MERRITT 11/02/92 CPSHAW 12/05/92 ADT-SHAW 06/09/93 CN1-SEIF
06/09/93 CN2-SEIF 09/17/93 UPD-SCHU 03/29/95 POST-STD

05/11/2000 16:18

2087363037

IDWR SOUTHERN REGION

PAGE 04

COPY

200 JUN 23 PM 1:56

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 COMPLETED
ADMINISTRATIVE PROCEEDINGS
Water Right 36-10664

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): 36-10664

NOTICE OF COMPLETED
ADMINISTRATIVE PROCEEDING
6/20/2000

36-10664

PAGE 1

From (Claimant/Seller):

Name of Claimant: PERRY PATTERSON
MARGARET PATTERSON
Address: 1745 E 3100 S
WENDELL ID 83355
Phone: (208) 536-2025

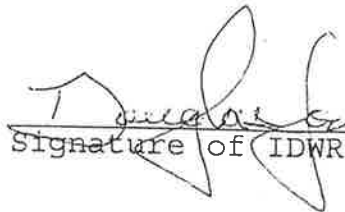
To (Claimant/Purchaser):

Name of Claimant: JOHN PIRES
LUCIA PIRES
Address: 1745 E 3100 S
WENDELL ID 83355
Phone: (208) 536-4681

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: 6/22/00



Signature of IDWR Representative

NOTICE OF COMPLETED
ADMINISTRATIVE PROCEEDING
6/20/2000

36-10664

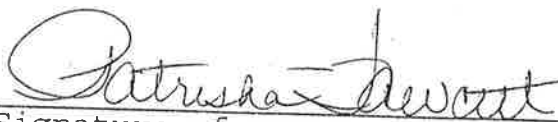
PAGE 2

5024

CERTIFICATE OF MAILING

I certify that on 6/23/2000 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:
PERRY PATTERSON
MARGARET PATTERSON
1745 E 3100 S
WENDELL ID 83355
3. One Copy to:
Claimant/Purchaser for Substitution of Party or attorney of record:
JOHN PIRES
LUCIA PIRES
1745 E 3100 S
WENDELL ID 83355
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

NOTICE OF COMPLETED
ADMINISTRATIVE PROCEEDING
6/20/2000

36-10664

PAGE 3

AJ5856NP

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

DATE: JUN-21-2000

PAGE: A-13

RIGHT NUMBER: 36-10664

NAME & ADDRESS: JOHN PIRES
LUCIA PIRES
1745 E 3100 S
WENDELL ID 83355

SOURCE: GROUNDWATER

QUANTITY: 0.05 CFS
6.4 AFY

PRIORITY DATE: 06/23/1976

POINT OF DIVERSION: T08S R15E S07 NWNWNE

Within GOODING County

PURPOSE AND

PERIOD OF USE: PURPOSE OF USE
IRRIGATION

PERIOD OF USE
03-15 11-15

QUANTITY
0.05 CFS

PLACE OF USE: IRRIGATION Within GOODING County
T08S R15E S07 NWNE 1.6
1.6 ACRES TOTAL

CONSUMPTIVE USE: 4.8 AFY

EXPLANATORY MATERIAL: BASIS OF CLAIM - LICENSE

RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
PURSUANT TO SECTION 42-1425, IDAHO CODE.

RIGHT NO. 36-10665 IS ALSO DIVERTED THROUGH POINT OF DIVERSION
DESCRIBED ABOVE, AND THE TOTAL COMBINED RATE OF DIVERSION OF
THESE RIGHTS IS LIMITED TO 0.05 CFS.

THIS RIGHT IS A COMBINATION OF PORTIONS OF OLD RIGHT NOS.
36-07409 & 36-07631.



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

SOUTHERN REGION

June 23, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

JOHN PIRES
LUCIA PIRES
1745 E 3100 S
WENDELL ID 83355

RE: SRBA Claim(s) 36-10664
Decreed Water Right 36-10665

Dear Claimant:

Please find the enclosed copy of the Notice of Completed Administrative Proceeding, which the department has filed with the SRBA Court regarding the above referenced claims. You have received this notice pursuant to SRBA Court Administrative Order 11 requiring IDWR to report to the court and interested parties any pending changes to adjudication claims in basins for which a Director's Report has been filed with the court.

Enclosed you will also find a printout of decreed water right 36-10665 showing you as the current owner. Please contact this office if you have any questions about the notice or the administrative process.

Sincerely,

Trish Fawcett
Technical Records Specialist

cc: Perry and Margaret Patterson

36-10665 - Addecree
36-10664 - NCAP
RECEIVED

MAY 15 2000

Department of Water Resource
Southern RegionSTATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are on the back of this page.
Incomplete forms will be returned.

1. Water Right No(s).: 36-10665 & 36-10664
Adjudication Claim No(s).: _____
2. The following **REQUIRED** information must be submitted with this form:
 - A. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.
AND
 - B. **PLAT OF PROPERTY** or **SURVEY MAP** for parcel of ten acres or less. (These are usually attached to your deed or on file with the county.)
OR
 - C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.
3. Name and Address of Former Owner/Claimant Perry Patterson & Margaret Patterson
1745 E. 3100 S., Wendell, ID 83355
4. New Owner/Claimant(s) John Pires and Lucia Pires
Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
New Mailing Address 1745 E. 3100 S.
City, State and ZIP Code Wendell, ID 83355
New Telephone Number (208) 536-4681
5. Date you acquired the property May 12, 2000
6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.
Number of acres you irrigate _____ Number and type of stock _____
Diversion rate in CFS _____ Number of homes _____ Other uses _____
If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.
7. Signature of New Owner or Claimant(s) John Pires Lucia Pires
(Corporations or other organizations must submit a list of directors and/or officers demonstrating authority to sign form.)
8. For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him or her for all matters related to your claims..

Order No. G000128

WARRANTY DEED

For Value Received

Perry Patterson And Margaret Patterson, husband and wife,

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

John Pires, ~~and~~ Lucia Pires, ~~another~~ a single woman
a single man

the grantee(s), whose current address is

1761, East, 3100 South, Wendell, ID 83355

the following described premises, to-wit:

See Attached Exhibit "A"

Together with State of Idaho Dept. of Water Resources adjudication Claim # 36-10665
And Claim # 36-10664

Instrument # 186781

GOODING GOODING, IDAHO

2000-05-12

10:13:29 No. of Pages: 3

Recorded for : GOODING TITLE

HELEN EDWARDS

Fee: 8.00

Ex-Officio Recorder Deputy *Lenny Archuleta*

Index to: DEED, WARRANTY

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

Dated: May 12, 2000

Perry Patterson
PERRY PATTERSON*Margaret Patterson*
MARGARET PATTERSON

STATE OF IDAHO

COUNTY OF LINCOLN

On This 12TH day of MAY, in the year 2000, before me, a Notary Public in and for said State, personally appeared Perry Patterson And Margaret Patterson, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within Instrument, and acknowledged to me that he/she/they executed the same.

WITNESS my hand and official seal.

Gwen A. Sherman
Notary Public of Idaho
Residing at SHOSHONE, Idaho
Commission Expires: 03/27/06TITLE & ESCROW
COMPANIES

EXHIBIT A
G000128/PIRES

RPOSS15E070787

Township 8 South, Range 15 East of the Boise Meridian, Gooding County, Idaho.

Section 7: The Northwest Quarter of the Northeast Quarter

EXCEPT

A parcel of land located in the Northwest Quarter of the Northeast Quarter more particularly described as follows;

COMMENCING at the North One Quarter (N1/4) corner of said Section 7;

Thence South 89°40'12" East along the North boundary of the Northeast Quarter of Section 7 for a distance of 786.81 feet;

Thence South 00°01'37" East for a distance of 660.00 feet to the TRUE POINT OF BEGINNING;

Thence continuing South 00°01'37" East along the East boundary for a distance of 662.07 feet to the Southeast corner;

Thence North 89°43'23" West along the South boundary of the Northwest Quarter of the Northeast Quarter of Section 7 for a distance of 786.81 feet;

Thence North 00°01'37" West along the West boundary of the Northwest Quarter of the Northeast Quarter of Section 7 for a distance of 662.80 feet;

Thence South 89°40'12" East parallel with the North boundary of the Northwest Quarter of the Northeast Quarter of Section 7 for a distance of 786.81 feet to the TRUE POINT OF BEGINNING.

AND EXCEPT

A parcel of land located in the Northwest Quarter of the Northeast Quarter more particularly described as follows;

COMMENCING at the North One Quarter (N1/4) corner of said Section 7;

Thence South 89°40'12" East along the North boundary of the Northeast Quarter of Section 7 for a distance of 786.81 feet to the TRUE POINT OF BEGINNING;

Thence continuing South 89°40'12" East along the North boundary of the Northeast Quarter of Section 7 for a distance of 525.00 feet to the Northeast corner of the Northwest Quarter of the Northeast Quarter;

Thence South 00°07'26" East along the East boundary of the Northwest Quarter of the Northeast Quarter of Section 7 for a distance of 660.00 feet;

Thence North 89°40'12" West parallel with the North boundary of the Northwest Quarter of the Northeast Quarter of Section 7 for a distance of 526.12 feet;

Thence North 00°01'37" West parallel with the East boundary of the Northwest Quarter of the Northeast Quarter of Section 7 for a distance of 660.00 feet to the TRUE POINT OF BEGINNING.

EXHIBIT A continued
G000128 / Pires

AND ALSO EXCEPT

A parcel of land located in the Northwest Quarter of the Northeast Quarter more particularly described as follows;

COMMENCING at the North One Quarter (N1/4) corner of said Section 7;

Thence South 89°40'12" East along the North boundary of the Northeast Quarter of Section 7 for a distance of 1311.81 feet to the Northeast corner of the Northwest Quarter of the Northeast Quarter of Section 7;

Thence South 00°07'26" East along the East boundary of the Northwest Quarter of the Northeast Quarter of Section 7 for a distance of 660.00 feet to the TRUE POINT OF BEGINNING;

Thence continuing South 00°07'26" East along the East boundary of the Northwest Quarter of the Northeast Quarter of Section 7 for a distance of 661.59 feet to the Southeast corner of the Northwest Quarter of the Northeast Quarter of Section 7;

Thence North 89°43'23" West along the South boundary of the Northwest Quarter of the Northeast Quarter of Section 7 for a distance of 527.24;

Thence North 00°01'37" West parallel with the West boundary of the Northwest Quarter of the Northeast Quarter of Section 7 for a distance of 662.07 feet;

Thence South 89°40'12" East parallel with the North boundary of the Northwest Quarter of the Northeast Quarter of Section 7 for a distance of 526.12 feet to the TRUE POINT OF BEGINNING.

CLAIM NUMBERS 36-10664

DATE _____

AGENT KKC

TRANSFER NUMBER _____

OBJECTION FILED _____

TOTAL ACRES FROM RECOMMENDATION 1.6

GEOGRAPHIC INFO SYSTEM _____

RIGHT NO				NE				NW				SW				SE			
	TNS	RNG	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
RECOM	<u>BS</u>	<u>15E</u>	<u>7</u>		<u>1.6</u>														<u>1.6</u>
GIS																			
RECOM																			
GIS																			
RECOM																			
GIS																			
RECOM																			
GIS																			

UPDATED

POLYGON #

UPDATED

B36-DBPOU.DBF _____

POLYGON CREATED ON 604 () _____

ATTRIBUTES OF B36-POU.SHP () _____

B36-DBPOD.DBF _____

ATTRIBUTES OF B36-POD.SHP () _____

P/U CONFLICT yes () no ()P/D CONFLICT yes () no ()READY FOR DECREE yes () no ()SENT FOR DECREE yes () no ()

RECEIVED

SEP 12 1996

Department of Water Resources

SEP 10 PM 4:35

DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
FILED Thy

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

) MEMORANDUM DECISION ON
) CHALLENGE TO SUBCASE 36-10664
)
)
)
)
)
)

Case No. 39576

Challenge to Special Master's Report and Recommendation. Report and Recommendation Adopted and partial decree entered as recommended.

Appearing: Perry Patterson, *Pro se*

This is a challenge to the Report and Recommendation of the Special Master in Subcase 36-10664 brought by the water right claimant, Perry Patterson, appearing *pro se*. Patterson challenges the Special Master's findings and recommendation that his water right be decreed at a quantity of water used at .05 cfs.

The standard of review for a challenge to a *Special Master's Report and Recommendation* is that findings of fact shall be accepted by this court, unless clearly erroneous, and that rulings of law will be given free review.

First, Patterson contests the Special Master's finding that he has two partially valid licenses, 36-07409 and 36-07631, which only allow him to irrigate 1.6 acres at .05 cfs. Patterson cites the finding that the original licenses were incorrectly granted by the Idaho Department of Water Resources (IDWR) to cover the 40 acres now owned by Patterson, when the applicant for

those licenses never held title to the Patterson land. Therefore, he argues, his right to irrigate the entire 40 acres cannot be circumscribed under those improvidently issued licenses.

Patterson's argument in this regard would only result in his being denied any water right under the licenses contrary to the finding of the Special Master. If it was concluded that the licenses could not confer any water right whatsoever on the Patterson land, then it would follow that the Special Master's finding of partial validity of the licenses would similarly have to fail, resulting in Patterson's having no water right on his lands.

The Special Master found that in 1982 Patterson applied to IDWR for a transfer under the two licenses to add a well to supply water to property separated from the original place of use occasioned by a sale. The transfer was granted. However, Patterson admits that from 1983, the time the transfer was approved, to the present the only water use on his 40 acres was the irrigation of 1.6 acres from his domestic well. He further admits that at no time since the original permits were issued was the remaining 38 acres of his property irrigated or even irrigable. The Special Master found, and the record fully supports, that the 38 acres in question were completely cleared of topsoil by a prior owner and were, therefore, rendered nonirrigable. The Special Master's findings of partial validity of the licenses (36-07409 and 36-07631) is well supported in the record and is not clearly erroneous.

Secondly, Patterson challenges the Special Master's finding that the 1992 application to IDWR was for a transfer of a water right rather than application for a new water right. He claims that the application was for an entirely new water right. Here the record is clear that, whatever Patterson's intention, he filed an "Application for Transfer of Water Right" dated October 8, 1982. As part of that application, Patterson confirmed that no portion of the water right had undergone a period of five or more consecutive years of nonuse. This statement clearly implies the intention to transfer an existing water use rather than to apply for an entirely new water right. The record fully supports the Special Master's finding and is not clearly erroneous.

Ultimately, Patterson's challenge must fail because the fact remains that only 1.6 acres of his land is even irrigable. Patterson acknowledges that only 1.6 acres has ever been irrigated. Therefore, whatever the basis for decreeing his right, Patterson has only beneficially used water for the irrigation of 1.6 acres.

The challenge to the *Special Master's Report and Recommendation* is denied. The Report and Recommendation of the Special Master in subcase 36-10664 is adopted by this court and water right 36-10664 shall be decreed consistent with the Special Master's recommendation.

This court adopts the findings of fact and conclusions of law in the *Special Master's Report and Recommendation* as its own and they are incorporated herein by reference. This Memorandum Decision constitutes the court's findings of fact and conclusions of law.

IT IS SO ORDERED.

DATED September 10, 1996.



DANIEL C. HURLBUTT, JR.

Presiding Judge

Snake River Basin Adjudication

CERTIFICATE OF MAILING

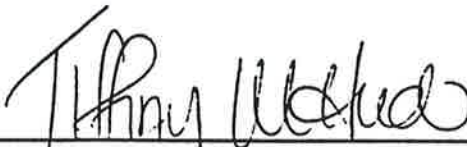
I certify that a true and correct copy of the MEMORANDUM DECISION ON CHALLENGE TO SUBCASE 36-10664 was mailed on September 10, 1996, with sufficient first-class postage to the following:

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

The United States Department of Justice
Environment and Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724

Idaho Department of Water Resources
Post Office Box 83720
Boise, ID 83720-0098

Perry and Margaret Patterson
1745 East 3100 South
Wendell, ID 83355



Deputy Clerk

From: DWR60::GFUNDERB 12-FEB-1996 08:42:04.23
To: DWR60::AMERRITT
CC:
Subj: PERRY PATERSON 2/9/96

ALLEN,

MR. PATERSON CAME INTO THE OFFICE FRI. TO DISCUSS THE FIELD EXAM ON THE GROUND THAT HE OWNS. DOUG JONES AND I TALKED WITH HIM ABOUT THE FIELD EXAM AND I INFORMED HIM THAT I WAS STANDING ON THE FIELD EXAM AS IT WAS WRITTEN. AFTER A FEW WORDS ABOUT THE PROCEDURE OF THE EXAM, I LEFT AND LET DOUG TO CONTINUE THE CONVERSATION. I DID NOT FEEL THAT WE SHOULD SAY ANY MORE THAT WHAT WAS ALREADY SAID. HE JUST WANTED TO FIND OUT WHY HE COULDN'T GET HIS WATER AND WHAT WAS NEEDED TO CLEAR THE MISTAKE.

GARY

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6/9/94

COMMUNICATION DOCUMENTATION

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 Douglas Jones

DATE:

February 9, 1996 11:29am

CUSTOMER:

Parry Patterson

A36-10664
36-0748B
36-07631B

SUBJECT: Water right on his 40 acre piece
phone call (.) walk-in (X)

Mr Patterson came in to talk to agent about license exam done 20 years ago. Gary Funderberg did the exam and was available so Gary, Parry and I visited in the IDWR-Southern Office conference room. Mr Patterson wanted to understand error that licensed water on land it hadn't been used on and which wasn't owned by permittee. Gary indicated that he had done the exam and had perhaps taken the word of the permittee as well as perhaps interpreting a stand of crested wheat grass as an irrigated crop. Mr Patterson went on to assert that he knew he didn't have water on the land and that he came in to the office in 1982 to get a water right, "signed and notarized" an application for water right, and wondered what became of it. I did some computer searching and found that there were only parts of two licenses appurtenant to his tract. I then researched the microfiche for the most recent priority license and made copies of the license and the first and last pages of an approved transfer which I have given to Mr Patterson. The license showed that it was signed in 1979. The transfer showed that Mr Patterson signed and had notarized an application to transfer water in 1982. I explained that there was only the transfer filed and that no app for permit to appropriate water was ever filed as far as our records show. I understood Mr Patterson to say that we had put his signature page onto the transfer which he knew was useless at that time. After this Mr Patterson wondered why he didn't get approval notice for his permit and why he didn't have five years to complete his development after he signed up for a right in 1988, the man came out in three years. My research showed that the SRBA claim was filed in 1988, and explained that the claim wasn't an application for which a permit would be issued. He insisted that

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he had made an application and that a mistake was made and why couldn't someone give a good answer why he doesn't get to irrigate more. I suggested that he find out if Northside Canal Co had shares to transfer to that area. He said that he would like straighten out this mistake and he could get on with finding water. Gary suggested that he talk with Allen or Norm Young, our boss in Boise.

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COMMUNICATION DOCUMENTATION

Claim No. 36-10664

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 D Jones Date 5/5/95Contact Person(s) Perry Patterson

Nature of Contact Inquired of claim status, wanted meeting scheduled, frustrated with system.

Substance of Communication After finding claim w/ computer system down I explained how the situation evolved. I read aloud letters & memos in file. Claimant/Objctor wants acres recommended so subdivision lot buyers could drill own wells & irr. I pointed out land hadn't been irrigated since before '83 when transfer approved. I explained the matter is a contested case and that the court ~~is~~ makes scheduling for conferences. He said he had a mtg. scheduled in '94, but BWT's got in way & no one will talk to him now. I indicated that he might try asking court to schedule conf. I told him to have subcase number when he calls. IDWR can not talk about issues without court participation.

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2

7.
5 acres

11+ acres
✓ 5 acres

canal

330'

5 acres

7+

3 acres
✓

3 acres
✓

660'

5 acres
✓

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Sketch of subd.
of orig. 38 ac.
36-10664
Patterson

HERE IS A photocopy OF 1977 ASCS
Aerial photo. scale $\approx 1"$ -660'. Heightlighted
is NW $\frac{1}{4}$, NE $\frac{1}{4}$ S7, T8S, R15E. THIS MAP
WAS FROM ASCS Archives. Our Archives
Search revealed no further information
regarding this tract. THE
MAP IS 1987 flight

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Southern Region

hines Our Archives
RECEIVED
 further information
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 Department of Water Resources
 Southern Region

[illegible]

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40.6

HEL

9

8
1.4

6	1.2	2.8
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22.6

9
15.9

9
33.5
HCL

HEL

10
5.2

1.2

4.0

3
5.4

4.2

10
20.1
HEL

20.1
HEL

25

1987

Transferred to Jerome

98.9

Vanderbilt

5.7

5.7

3.6

5.0

— — —
2

5.3

6

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DEC 05 1988

UNITED STATES DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

211 UNIVERSITY AVENUE
GOODING, ID 83330-6155

AN EQUAL OPPORTUNITY EMPLOYER



OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, \$300

IDWR
ATT: TERRY BLAU
222 Shoshone
Twin Falls, Id
83301

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Department of Water Resources
Southern Region

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application of water to beneficial use for both permits. Both proofs stated that water was being beneficially used on all the land described in the permits, including the Patterson land. IDWR's Gary Funderberk (sp?) field inspected the land both times and reported that water was being beneficial used in accordance with the permits.⁵ Mr. Merritt surmised that if water was not actually being applied to the Patterson land during both licensure examinations, the inspector was probably satisfied that the system *could* irrigate the land. In other words, the center-pivot was capable of sweeping over the Patterson land.

The Pattersons bought their 40 acre tract from the Rodes in 1981.⁶ Sometime before the sale, the Rodes drilled a domestic well near where the Pattersons' home is now located. There was no evidence of when the Pattersons' 1.6 acres were first irrigated from the domestic well. Because IDWR recommended that this portion of the claim be allowed, the court must presume the irrigation began some time before any statutory forfeiture period.

In 1982, Mr. Patterson said he went to IDWR "to apply for a water right."⁷ He did not recall applying for a *transfer* of water rights because he knew his land was never irrigated. However, his notarized signature appears on an *Application for Transfer of Water Right* dated October 8, 1982. In paragraph 10 of the application, Mr. Patterson represented that no portions of 36-07409 and 36-07631 have "undergone a period of five or more consecutive years of nonuse."

The purpose of the application was "to add a well to supply water to property separated from the original place of use by sale." That language from the application meant that a well would be drilled on the Patterson land to irrigate their land, but also suggested that the Patterson land was sold by Hill Valley Farms. Remember that Hill Valley Farms never owned nor irrigated the Patterson land.

The Pattersons' application was duly advertised in the *Gooding County Leader* and on March 14, 1983, IDWR approved the application. It also assigned two new water right numbers,

⁵ Mr. Funderberk inspected 36-07409 on July 16, 1975, and 36-07631 on August 16, 1977.

⁶ The LeMoynes (sp?) bought the Patterson land from the State of Idaho at auction in 1972. They sold the land in 1975 to the Rodes who, in turn, sold it to the Pattersons.

⁷ Allen Merritt testified that he found no evidence of any application for a water right filed by the Pattersons, other than the application for transfer and the Pattersons' SRBA claims.

MEMO

TO: ALLEN MERRITT

FROM: FUNDERBURG, GARY

DATE: FEBRUARY 2, 1996

I HAVE SPENT SOMETIME REVIEWING THE FIELD EXAMS FOR LIC. 36-07409 & 36-07631 THROUGH THE MICRO FISH WE HAVE HERE IN OUR OFFICE. AT THIS TIME I DO NOT REMEMBER COMPLETING THE EXAM. I DON'T FEEL THAT I WOULD HAVE RECOMMENDED THAT PARCEL OF GROUND TO BE LIC. IF IT WAS NOT IRRIGATED AT THE TIME THE FIELD EXAM WAS MADE, I MAY HAVE BEEN MISS LED BY THE OWNER THAT THIS GROUND WAS IRRIGATED.

I HAVE CONTACTED THE IDAHO TRANSPORTATION DEPT., AND THEY HAVE INFORMED ME THAT THIS PARCEL OF GROUND NORTH OF THE CANAL WAS USED FOR THE ON RAMP TO THE FREEWAY. THE PROCEDURE THEY USE WHEN REMOVING THE MATERIAL WAS TO STOCK PILE THE ORIGINAL TOP SOIL DOWN TO 1 FOOT, THEN REMOVE THE MATERIAL THEY NEEDED FOR THEIR USE AND THEN REDISTRIBUTE THE TOP SOIL BACK ON THE PARCEL AND SEED THIS WITH CRESTED WHEAT. THERE IS A CHANCE THIS GROUND WAS IN THE APPEARANCE OF BEING CULTIVATED AT TIME THE FIELD EXAM WAS COMPLETED.

IT IS MY UNDERSTANDING THE SOUTH END OF THE PROPERTY DID SHOW THERE IS PIVOT TIRE TRACTS RUNNING ACROSS THE FIELD.

I HAVE SPENT THIS MORNING CONTACTING THE WATERMASTER FOR THE GOODING WENDELL CANAL CO. I WAS ABLE TO TALK WITH IVAN HOBNEY WHO WAS THE WATER MASTER 20 YEARS AGO. HE HAS INDICATED TO ME THIS GROUND WAS AT ONE TIME IRRIGATED BY THE CANAL CO. THE WATER HAD BEEN SOLD OFF OF THE 1/4 IN QUESTION. HE SAID HE DOES NOT RECALL THE GROUND BEING IRRIGATED BY THE WELL ON TOP OF THE HILL. WHEN THEY DID INSTALL THE PIPELINE THAT THE PIVOT WAS SETTING IN THE WEST CORNER BUT NEVER SAW IT DISTIBUTE WATER ON THE GROUND.

I MADE A TRIP OUT TO THE GROUND THIS MORNING AND I AM SORRY TO SAY I STILL CAN'T RECALL THE EXAM. FROM LOOKING AT THE LOCATION OF THE 40 ACRE TRAC, THERE IS NO WAY YOU COULD MISTAKE THIS PIECE OF GROUND BEING IRRIGATED OR NOT, AS CLOSE AS IT IS TO THE HIGHWAY. THE ONLY REASON THIS GROUND COULD SHOW UP ON THE EXAM AS BEING IRRIGATED IS THAT I WAS INFORMED THAT IT WAS BEING IRRIGATED.

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MEMORANDUM

JAN 1996

Department of Water Resources
Southern Region

TO: ALLEN MERRITT

FROM: NORM YOUNG *NY*

SUBJECT: FIELD EXAMS FOR LICENSES 36-07409 AND 36-07631

DATE: January 31, 1996

=====

Attached is a copy of a decision issued by the Special Master for Basin 36 in the SRBA concerning the above referenced licensed rights. The Special Master found that the department made several mistakes in licensing and in processing a transfer involving these rights. (See the paragraph that begins at the bottom of Page 6 of the decision.) Testimony at the Special Master's hearing on this matter indicates that the 38 acres licensed in the NW1/4NE1/4 of Section 7, T8S, R15E, had never been irrigated and, in fact, had been stripped of topsoil making the land unusable for irrigated agriculture.

Unlike most field examinations reports, the reports in the files for these licenses do not include photographs or aerial photos to document irrigation of the fields. A review of four aerial photographs of the area taken at various times from 1975 to 1985 seem to confirm that the 40 acre subdivision was not irrigated.

I am concerned that this field examination reflects badly upon the accuracy and validity of our licenses. While I am sure that this must be an isolated case, I would like to have the examiner, Gary Funderburg, review the files and provide any information that might help explain the discrepancies. Please have Gary review the files and send me a written report on this matter by February 12, 1996.

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JAN 24 1996
Department of Water Resources
Adjudication Bureau

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JAN 22 1996

OFFICE OF THE
ATTORNEY GENERAL

JAN 19 PM 3:50

C. J. H. S. L. S. S.
JAN 19 1996

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

SPECIAL MASTER'S PRELIMINARY
REPORT AND RECOMMENDATION

Subcase No. 36-10664

STATEMENT OF THE SUBCASE

On August 26, 1988, Perry and Margaret Patterson, 1745 E, 3100 S, Wendell, Idaho, filed their *Notice of Claim to a Water Right Acquired Under State Law* for 36-10664. Their claim is for .76 cfs of groundwater to irrigate 38 acres in T 8S, R 15E, §7, NW¼NE¼, B.M., Gooding County, Idaho, from April 1 to November 1, with a priority date of June 23, 1976. The Pattersons base their claim on portions of water rights transferred from two licensed water rights-- 36-07409 and 36-07631.¹

Early in the error correction process, IDWR proposed recommending the Pattersons' claim for "disallowal" because of forfeiture. However, during that process, Mr. Patterson said they were irrigating 1.6 acres of lawn and garden from their domestic well (36-10665), not 38 acres. On the *Notice of Error* form dated September 24, 1992, Mr. Patterson wrote:

I believe it [36-10664] should be allowed with at least some irrigation for my large lawn & garden & trees from my domestic well.... I did not develop [sic] the full 40 acres but I have irrigated area described above.

On November 2, 1992, IDWR filed with the SRBA Court its Director's Report for Reporting Area 3 (Basin 36). The Director recommended adjudication of 1.6 acres with the

¹ For some reason not apparent from the record, the Pattersons claimed a shorter period of use than licensed and approved for transfer. Both 36-07409 and 36-07631 have a period of use from March 15 to November 15. The approved transfer (36-07409B and 36-07631B) has the same longer period of use.

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diversion rate (quantity), when combined with domestic use under 36-10665, limited to .05 cfs, the system capacity.² The recommended season of use was from April 1 to October 31. Essentially, IDWR changed its view of the claim from total forfeiture to partial forfeiture.

On April 30, 1993, the Pattersons filed objections to the Director's Report concerning quantity, points of diversion, purpose of use, consumptive use, remarks and the water right recommendation. In the section marked "other", Mr. Patterson wrote:

I came here in 1981, had a house to finish, ditch to change, leveling to do & fences & had a water right that was already a part of an existing right from 1976 approved then before I realize what is happening, the drought & adjudication & I am allowed 1.6 acres I did nothing wrong to deserve such a fine. Please consider my water right.

On September 10, 1993, IDWR filed its *Response to Objection* reaffirming its recommendation. The *Response* added that, since the licenses upon which the Pattersons' claim is based do not contain an annual volume of consumptive use, IDWR recommended 4.8 afy based on IDWR's uniform standard of consumptive use in the Pattersons' area (3 afy/acre).³

The Special Master for Reporting Area 3 was appointed on November 4, 1993. Efforts to settle the subcase were unsuccessful and the matter was tried on November 1, 1995, at the SRBA Courthouse, Twin Falls, Idaho. Mr. Patterson appeared in person *pro se* and Nicholas B. Spencer appeared for IDWR. IDWR called Allen D. Merritt, southern region manager for IDWR, to present the factual basis for the Director's recommendations. Mr. Merritt was deemed qualified as an expert in water rights examination. A complete copy of the claims investigation file for claim no. 36-10664 was admitted into evidence as IDWR Exhibit 100. Mr. Patterson called Acie Clements as his witness and offered into evidence assorted documents marked Claimant Exhibits 1-4.

² The instantaneous diversion rate of .05 cfs also derives from IDWR's standard of .03 cfs per acre applied to "small irrigated tracts". That would yield an annual diversion volume of 6.4 afy based on IDWR's standard of 4 afy/acre for the Pattersons' area.

³ IDWR attached to its *Response* an "amendment" to the Director's Report correcting a typo error for the domestic well number. The amendment also listed three "remarks" about (1) the accomplished change in point of diversion, (2) the combined diversion rate and (3) the derivation of 36-10664. These remarks were later described as (1) a legal issue, (2) an overall limit on the combined rights and (3) necessary for "tracking purposes."

On November 3, 1995, the Special Master viewed the Pattersons' property at their request. Present during the inspection were Perry Patterson, Nicholas Spencer and Allen Merritt. The matter was then taken under advisement.

FINDINGS OF FACT

The essential facts in this case begin with two water right licenses to which an additional point of diversion (a well) on the Pattersons' land was added by administrative transfer proceedings. IDWR issued water right license nos. 36-07409 and 36-07631 to Hill Valley Farms, owned by Acie Clements, in 1976 and 1979. Both licenses included overlapping rights to irrigate parts of the 40 acre parcel now owned by the Pattersons-- T 8S, R 15E, §7, NW¼NE¼ (Patterson land). One license included 30 acres of the Patterson land and the other 38 acres. *Claimant Exhibits 3 and 4.*

The permit application for 36-07631 recited that Hill Valley Farms owned both the point of diversion and all the land to be irrigated. *Claimant Exhibit 4.* However, it came out during Mr. Clements' testimony that Hill Valley Farms never owned the Patterson land. Mr. Clements filed his applications for water on his own land and included the Patterson land at IDWR's suggestion, "because the land might come up for sale some day."

Hill Valley Farms operated a center-pivot sprinkler near the south-east corner of the Patterson land. To illustrate, its sprinkler would swing in a 270° arc from its twelve o'clock position clockwise to the nine o'clock position and then reverse direction. This arc would irrigate Hill Valley Farm land but none of the Patterson land. Mr. Clements said that the center-pivot *could* reach the Patterson land, but never did because the land was not suitable to irrigate for crops. The State of Idaho had scraped off all the top soil for construction on the interstate highway when it owned the property. Mr. Patterson agreed that the land has never been irrigated under either 36-07409 or 36-07631 or any other permit, except for the 1.6 acres from his domestic well.⁴ He also agreed that the land is not irrigable.

During trial, the question was asked how IDWR could issue two licenses that included land that was never irrigated. Mr. Merritt testified that Hill Valley Farms submitted proofs of

⁴ The Pattersons' claim for their domestic well, 36-10665, is uncontested.

application of water to beneficial use for both permits. Both proofs stated that water was being beneficially used on all the land described in the permits, including the Patterson land. IDWR's Gary Funderberk (sp?) field inspected the land both times and reported that water was being beneficial used in accordance with the permits.⁵ Mr. Merritt surmised that if water was not actually being applied to the Patterson land during both licensure examinations, the inspector was probably satisfied that the system *could* irrigate the land. In other words, the center-pivot was capable of sweeping over the Patterson land.

The Pattersons bought their 40 acre tract from the Rodes in 1981.⁶ Sometime before the sale, the Rodes drilled a domestic well near where the Pattersons' home is now located. There was no evidence of when the Pattersons' 1.6 acres were first irrigated from the domestic well. Because IDWR recommended that this portion of the claim be allowed, the court must presume the irrigation began some time before any statutory forfeiture period.

In 1982, Mr. Patterson said he went to IDWR "to apply for a water right."⁷ He did not recall applying for a *transfer* of water rights because he knew his land was never irrigated. However, his notarized signature appears on an *Application for Transfer of Water Right* dated October 8, 1982. In paragraph 10 of the application, Mr. Patterson represented that no portions of 36-07409 and 36-07631 have "undergone a period of five or more consecutive years of nonuse."

The purpose of the application was "to add a well to supply water to property separated from the original place of use by sale." That language from the application meant that a well would be drilled on the Patterson land to irrigate their land, but also suggested that the Patterson land was sold by Hill Valley Farms. Remember that Hill Valley Farms never owned nor irrigated the Patterson land.

The Pattersons' application was duly advertised in the *Gooding County Leader* and on March 14, 1983, IDWR approved the application. It also assigned two new water right numbers,

⁵ Mr. Funderberk inspected 36-07409 on July 16, 1975, and 36-07631 on August 16, 1977.

⁶ The LeMoynes (sp?) bought the Patterson land from the State of Idaho at auction in 1972. They sold the land in 1975 to the Rodes who, in turn, sold it to the Pattersons.

⁷ Allen Merritt testified that he found no evidence of any application for a water right filed by the Pattersons, other than the application for transfer and the Pattersons' SRBA claims.

36-07409B and 36-07631B.⁸ The approval gave the Pattersons the right to drill a new well and divert .76 cfs or 152 afy to irrigate 38 acres from March 15 to November 15, presumably with dual priority dates of November 21, 1973, and June 23, 1976.⁹

The Pattersons agreed that from 1983, when the transfer application was approved, until the present, they had not drilled the irrigation well nor irrigated any of their land, other than the 1.6 acres from their domestic well. An SRBA field exam by Norm Brown on November 30, 1990, confirmed such limited use. IDWR argued that this gap of over seven years from 1983 until 1990 constituted partial forfeiture of the Pattersons' claim under 36-10664.

Mr. Patterson testified that he has subdivided his land and is now selling parcels. So far, he has sold one parcel in the southeast corner and the new owner has installed a modular home. Mr. Patterson wants "enough water to make the parcels look nice." The reasons he gave for not drilling an irrigation well on his land since 1983 are IDWR's moratorium on well-drilling and the SRBA Court's "gag order" preventing him from talking with IDWR. "Someone" at IDWR told Mr. Patterson that he could not drill a well on his property because of the moratorium. He spoke with a well driller in Wendell, maybe D&G Drilling, and was told the same thing. When Mr. Patterson filed his SRBA claim in 1988, he said IDWR told him, "You lost your water right. It's the law."

Mr. Merritt testified that there is a moratorium on well drilling in the Pattersons' area since at least 1983. However, the moratorium has always applied only to *new* water right permits. It does not apply to approved transfers of points of diversion, domestic wells or replacement wells. Mr. Merritt said that if the Pattersons' claim were not partially forfeited, he could still get a permit and drill an irrigation well on his property as approved in the transfer application back in 1983.

⁸ There is no indication in the record why IDWR did not recommend the Pattersons' claim under either or both of these water right numbers since IDWR argued that the licenses are *partially* forfeited.

⁹ Mr. Merritt testified where a claimant elects to file a single SRBA claim based on two licenses with different priority dates, IDWR recommends the latter date to avoid injury to other water users.

CONCLUSIONS OF LAW

IDWR maintains the critical issue in this subcase is whether the Pattersons' claim has been forfeited. It alleges that partial forfeiture occurred when the Pattersons failed to apply their full water right to beneficial use between 1983 and 1990. The Pattersons' transfer application was approved on March 14, 1983, and the SRBA field exam was done on November 30, 1990. That would amount to over seven years, eight months. One might argue that when the Pattersons filed their SRBA claim on August 26, 1988, it tolled the running of any statutory forfeiture period. However, that would still equal more than 5 years, 5 months after the transfer approval.

Idaho Code § 42-222(2) states in relevant part:

All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated and when any right to the use of water shall be lost through nonuse or forfeiture such rights to such water shall revert to the state and be again subject to appropriation under this chapter.

During trial, Mr. Patterson asked how could he lose or forfeit a water right he never had. His argument seems to be as follows. Hill Valley Farms never owned the Patterson land and water was never applied to the Patterson land under license nos. 36-07409 and 36-07631. Therefore, since the water was never appurtenant to the Patterson land, how can IDWR claim it has been partially forfeited?

The SRBA Court is charged with determining the nature, extent and priority of the rights of all users of surface and ground water from the Snake River Basin. The Court takes claims as they were filed, together with their history and facts and sometimes they are "messy." The Pattersons elected to file their claim here based on two licenses issued by IDWR and those licenses are "messy." But in the final analysis, the Pattersons' claim in subcase no. 36-10664 depends solely on whether license nos. 36-07409 and 36-07631 (and their progeny, 36-07409B and 36-07631B) are at least partially valid.

Without laying blame, there were a number of mistakes leading up to the Pattersons' claim. In the end, those mistakes compounded one another. First, Hill Valley Farms applied for water rights on some land it did not own and IDWR never asked for proof of ownership. Second, Hill Valley Farms filed two proofs of beneficial use stating it was irrigating certain land when it was not. Third, two separate licensure field exams confirmed the land was being irrigated when

it was not even irrigable. Fourth, Mr. Patterson signed a transfer application without understanding its meaning. For all practical purposes, Mr. Patterson thereby agreed license nos. 36-07409 and 36-07631 were appurtenant to his land and they were not then subject to a claim of forfeiture. Fifth, Mr. Patterson did not look further into IDWR's well drilling moratorium. If he had, he would have learned that the moratorium did not apply to his approved transfer.

Having said that, the fact remains that the Pattersons did nothing to apply water to their land within five years after 1983, other than irrigate 1.6 acres from their domestic well. They did not drill the irrigation well approved in the transfer. From all appearances, the Pattersons want to keep their licensed water rights to the full 38 acres for some future use without having used the water for more than five consecutive years. Looked at another way, the Pattersons want to keep a right to use water that was never applied to their land which is not irrigable anyway. Ironically, the Pattersons' claim rests on licenses they proved should not have been issued for their land and a transfer which should not have been approved.

By statute, the state must presume that the licenses upon which the Pattersons base their claim are valid and the licenses are entitled to *prima facie* weight before the court.¹⁰ Therefore, there are actually two questions before the court. Do the facts supporting the Director's recommendations prove partial statutory forfeiture of those rights after the licenses were issued and the transfer approved? Alternatively, do those facts overcome the *prima facie* weight given to the licenses and prove the licenses are partially invalid?

Forfeiture is predicated upon a statutory declaration that all rights to use water are lost where an appropriator fails to make beneficial use of water for a continuous period. *Crow v. Carlson*, 107 Idaho 461, 690 P.2d 916 (1984). Proof of intent is not required. *Carrington v. Crandall*, 65 Idaho 525, 147 P.2d 1009 (1944). Where an appropriator fails to apply his water to a beneficial use for a continuous five year period, he loses all rights to the use of such water, with some exceptions: (1) an extension granted under I.C. §42-222(2) upon a showing of good and sufficient reason for non-use; (2) where cessation is involuntary or due to

¹⁰

I.C. § 42-220 states in relevant part: "Such license shall be binding upon the state as to the right of such licensee to use the amount of water mentioned therein, and shall be *prima facie* evidence as to such right; and all rights to water conferred under the provisions of this chapter, or by any decree of court, shall become appurtenant to, and shall pass with the conveyance of, the land for which the right of use is granted."

the unlawful acts of others; (3) where there is resumption of use prior to subsequent appropriation; and (4) where Indian reserved rights are involved. *Gilbert v. Smith*, 97 Idaho 735, 552 P.2d 1220 (1976).

The general rule in Idaho may be stated this way. There can be no forfeiture "if the non-user is prevented from exercising his right to the water by circumstances over which he has no control, or where claimant to the water to which such user is entitled is prevented from using it by the wrongful acts of another." *Hodges v. Trail Creek Irrigation Co.*, 78 Idaho 10, 16, 297 P.2d 524 (1956).

Other western states also recognize "sufficient cause" to exempt certain rights from forfeiture: (1) drought or other unavailability of water; (2) active service in the armed forces of the United States during military crisis; (3) nonvoluntary services in the armed forces of the United States; (4) the operation of legal proceedings; and (5) federal laws imposing land or water use restrictions or acreage limitations or production quotas.¹¹

Forfeitures are not favored, and clear and convincing proof is required to support a forfeiture. *Jenkins v. State Dept. Of Water Resources*, 103 Idaho 384, 647 P.2d 1256 (1982). All intendments are to be indulged in against a forfeiture. *Hodges v. Trail Creek Irrigation Co.*, *supra*.

Although the law concerning forfeiture is well defined in Idaho, the same cannot be said of partial forfeiture. The Special Master is not aware of any statutory authority or case law in Idaho recognizing such. That issue is currently before the Presiding Judge in the SRBA on a request for designation as a basin-wide issue.

Alaska explicitly provides for whole or partial forfeiture by statute "if the appropriator voluntarily fails or neglects, without sufficient cause, to make use of all or a part of the appropriated water for a period of five successive years." Alaska Stat. §46.15.140. California recognizes partial statutory forfeiture by case law. *Erickson v. Queen Valley Ranch Co.*, 22 Cal.App.3d 578, 99 Cal.Rptr. 446 (1971). The Utah Supreme Court is struggling with the concept:

¹¹

Lynn B. Squires, "Unused Riparian Water Rights in Washington, *Department of Ecology v. Abbott*," 103 WN.2d 686, 694 P.2d 1071 (1985)", 60 Wash. L. Rev. 787, 802 (footnote 88), June, 1985.

The question of partial forfeiture is not addressed in our statutes and has never been directly before this court, with regard to a city or any other entity. A 1943 case did, however, intimate-- without squarely deciding-- that partial forfeiture is possible.... As a matter of law, the trial court in this case held that partial forfeiture does not apply in the state of Utah. Such a result would mean that the use of any part of a water right, no matter how small, would preserve the whole. As a matter of public policy, it might be prudent to allow partial forfeiture; all of the policy reasons that support forfeiture as a general principle would be furthered by, and hindered without, partial forfeiture. *Eskelsen v. Town of Perry*, 819 P.2d 770, 774 (footnote 9) (1991).

The court could determine this subcase based on IDWR's recommendation that the Pattersons' claim has been partially forfeited. However, that approach would require a presumption that the two underlying licenses were wholly valid, and therefore, the Patterson land at one time had an appurtenant right to irrigate 38 acres. Only then could the court address the issue of whether that right has been partially forfeited. But that approach would put the court squarely behind a continuing charade. The central facts are that the Patterson land is not irrigable now and was not irrigable when the licenses were issued, except for 1.6 acres. The court must not perpetuate a fiction that non-irrigable land can have appurtenant water rights just because of past mistakes.

It is generally said that beneficial use is the basis, the measure and the limit of an appropriative water right. In Idaho, no holder of a water license "shall at any time be entitled to the use of more water than can be beneficially applied to the lands for the benefit of which such right may be confirmed...." I.C. §42-220. When water rights are adjudicated in Idaho, the amount of water allotted "shall never be in excess of the amount actually used for beneficial purposes for which such right is claimed...." I.C. §42-1402.

The evidence in this subcase, submitted by both IDWR and the Pattersons, has overcome the *prima facie* effect of license nos. 36-07409 and 36-07631 and the approved transfer (36-07409B and 36-07631B). Both licenses are partially invalid. The Patterson land should never have been included in either license in the first place. However, there is evidence that some water was applied to beneficial use on the Patterson land in accordance with the terms of the licenses, even though the point of diversion was not approved. Under the circumstances, and in the interests of justice, the court can "indulge in" at least one intendment. The Pattersons or their

predecessors in interest beneficially used water under the licenses, enough to irrigate 1.6 acres.

The Pattersons are entitled to no more water than can be beneficially applied to their land. They are entitled to enough water to irrigate 1.6 acres under the two licenses and the approved transfer, but no more.

RECOMMENDATION

Therefore, it is recommended that Perry and Margaret Patterson be adjudicated the following water right under claim number 36-10664:

Name and address of claimants:

Perry and Margaret Patterson
1745 E, 3100 S
Wendell, ID 83355

Source of water:

Ground water

Quantity of water used:

.05 cfs

Right No. 36-10665 is also diverted through same point of diversion and the total combined rate of diversion of these rights is limited to .05 cfs.

Date of priority:

June 23, 1976

Point of diversion:

T 8S, R 15E, §7, B.M., Gooding County, Idaho,
NW¼NW¼NE¼

Purpose of use:

Irrigation

• Period of use:

April 1 to October 31

Place of use:

T 8S, R 15E, §7, B.M., Gooding County, Idaho,
NW¼NE¼- 1.6 acres

Annual volume of consumptive use:

4.8 afy

Conditions on exercise of water right:

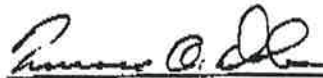
None

Remarks or other matters necessary for definition of the right, for clarification of any element of the right, or for administration of the right by the director:

None

No general provisions are included pending the resolution of Basin-Wide Issue No. 5.

DATED January 19, 1996.



TERRENCE A. DOLAN

Special Master, Reporting Area 3
Snake River Basin Adjudication



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866CECIL D. ANDRUS
GOVERNORR. KEITH HIGGINSON
DIRECTOR

RECEIVED

SEP 06 1995

TRANSMITTAL COVER SHEET

Department of Water Resources
Southern Region

FAX NUMBER: (208) 327-7866

DATE: 9-6-95

TO: ALLEN MERRITT
@ SOUTHERN

FROM:

NICK SPENCER

DOCUMENT DESCRIPTION: ORDER SETTING TRIAL DATE

COVER SHEET + 2 PAGES

CONTACT: 327-7930 IF YOU DO NOT RECEIVE ALL THE PAGES

PLEASE REMIT \$ ((# pages) x .25 ea) TO THE ADDRESS LISTED BELOW.

DEPARTMENT OF WATER RESOURCES
PO BOX 83720
BOISE ID 83720-0098

THANK YOU!

ALLEN, I'M SURE YOU'LL BE OVERJOYED TO LEARN THAT THE VERY FIRST TRIAL IN A SUBCASE APPARENTLY WILL BE WITH PERRY PATTERSON. I DON'T KNOW IF WE'LL ACTUALLY BE GOING TO TRIAL ON THIS, OR - IF WE DO - HOW THE TRIAL WE BE CONDUCTED. BUT I SUSPECT IT WILL BE INTERESTING. PLEASE CIRCLE NOVEMBER 1ST ON YOUR CALENDAR, BECAUSE IF WE DO GO TO TRIAL YOUR TESTIMONY WILL BE ESSENTIAL.

THANKS,

NBS

MICROFILMED

DEC 05 1996

A36-10664

RECEIVED

SEP 06 1995

Department of Water Resources
Southern Region

RECEIVED

SEP 01 1995

Department of Water Resources

1995 AUG 31 PM 3:42

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHOIN 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 No.: 36-10664

Case No. 39576

) ORDER SETTING TRIAL DATE
)
)
)

On August 18, 1995, a scheduling conference was held before the Special Master in Twin Falls, Idaho. One of the co-claimants, Perry Patterson, appeared in person *pro se*. Deputy Attorney General Nicholas B. Spencer appeared by telephone on behalf of IDWR. During the conference, Mr. Patterson presented comments by his witness, Danny Rodriguez.

The Director's Report noted that the claimed water right "includes accomplished change in point of diversion pursuant to I.C. § 42-1416A." During the conference, Mr. Patterson presented a document entitled "State of Idaho, Department of Water Resources, Application for Transfer of Water Right", Transfer No. 2741, marked "Approved" and dated March 14, 1983. The approved change corresponds with the Pattersons' claim in the SRBA.

The Special Master is satisfied that the subcase may proceed despite the change in point of diversion because the transfer was duly approved by IDWR through administrative proceedings. Further, it is apparent that additional settlement negotiations will not likely be successful. Therefore, the subcase should be set for a one-day trial after October 23, 1995, as agreed to by the claimants and IDWR.

ORDER SETTING TRIAL DATE
8/31/95MICROFILMED
DEC 05 1996
Page 1

The following dates shall govern the trial of this case and no further order shall issue:

October 6, 1995	5:00 p.m.	Discovery Cutoff Date. All discovery shall be completed by this date.
October 13, 1995	5:00 p.m.	Deadline for filing summary judgment or other dispositive motion.
October 25, 1995	10:00 a.m.	Pretrial Conference. All parties or their counsel shall be present. Location: SRBA Courthouse 253 Third Avenue North Twin Falls, Idaho
November 1, 1995	10:00 a.m.	Trial. Location: SRBA Courthouse 253 Third Avenue North Twin Falls, Idaho

Pretrial motions shall proceed in accordance with the Idaho Rules of Civil Procedure. All dates are final and may only be reset on motion, hearing and order of the court. The hearing on a Motion to Rest will be held with all parties present including those represented by an attorney. The moving party may be held responsible for the costs of the resulting delay.

DATED August 31, 1995.



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

PARTIAL

DECREE

FILM LAST

MICROFILMED

DEC 11 5 1996

SEP 25 1996

Department of Water Resources

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 36-10664

DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
TWIN FALLS CO., IDAHO
FILED - *ms*

SEP 20 PM 3:29

NAME & ADDRESS: PERRY PATTERSON
MARGARET PATTERSON
1745 E 3100 S
WENDELL ID 83355

SOURCE: GROUNDWATER

QUANTITY: 0.05 CFS
6.4 AFY

PRIORITY DATE: 06/23/1976

POINT OF DIVERSION: T08S R15E S07 NWNWNE

Within GOODING County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE
IRRIGATIONPERIOD OF USE
Irrigation SeasonQUANTITY
0.05 CFSPLACE OF USE: IRRIGATION
T08S R15E S07
1.6 ACRES TOTALWithin GOODING County
NWNWNE 1.6

CONSUMPTIVE USE: 4.8 AFY

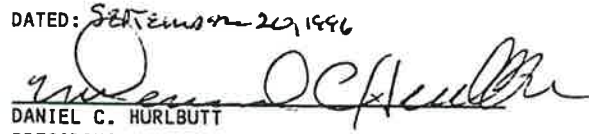
DATED: September 29, 1996


DANIEL C. HURLBUTT
PRESIDING JUDGE
Snake River Basin Adjudication

RULE 54(b) CERTIFICATE

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

DATED: September 29, 1996


DANIEL C. HURLBUTT
PRESIDING JUDGE
Snake River Basin Adjudication

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

PAGE 1
SEP-17-1996MICROFILMED
DEC 05 1996

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SEP 25 1996

Department of Water Resources

OCT 15 1996

Department of Water Resources
Southern Region

SEP 24 PM 1:46

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED *efuf*

**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

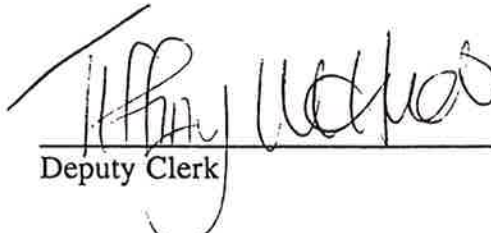
CERTIFICATE OF MAILING

For Water Right 36-10664

I hereby certify that a true and correct copy of the *Order on Partial Decree for Water Right 36-10664* and *Partial Decree Pursuant to I.R.C.P. 54(b) for Water Right 36-10664* were mailed on September 24, 1996 with sufficient first-class postage prepaid to the following:

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

Perry Patterson
Margaret Patterson
1745 E 3100 S
Wendell, ID 83355



Deputy Clerk

MICROFILMED

DEC 05 1996

R PROOF

CVR

MAPS

PHOTOS

MISC

MICROFILMED

11-26-1994

07/15/94

COMMUNICATION DOCUMENTATION

Claim No.: A36-10664

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: Carter Fritschle

Date: July 25, 1994

Contact Person(s): Perry Patterson

Nature of Contact and Substance of Communication: Mr. Patterson was aware of the stay and "gag order" so communication was for the most part limited to discussion the of the contents of the WR vault file for water right nos. 36-07409 and 36-07631. I explained to him the dates on the application for permit, when the field exam was conducted, when the license was issued, and the place of use covered by the licenses. I also reviewed the transfer application he filed in 1982 to change the p.o.d. for a portion of the rights.

Then Mr. Patterson asked why was the transfer approved for 38 acres, yet when the adjudication came along we denied him the right to irrigate his land. I checked the data base and saw that the majority of the irrigation claimed was not recommended. I told Mr. Patterson that water rights in general were subject to forfeiture if there has been a five year period of continuous nonuse, and that I could not "negotiate" the p.o.u. shown on the recommendation. He stated that he understood that, but when we granted the transfer there had already been a five year period of continuous nonuse by the previous owner. I showed him the field exam for 36-07631 which indicated the place of use was being irrigated in 1977.

I made copies of Application for Permit 36-07631, License Numbers 36-07409 and 36-07631, and Transfer Number 2741 for him. Mr. Patterson also asked if I knew when the stay would be lifted, to which I responded that I did not know.

MICROFILMED
OCT 20 1994

DIRECTOR'S REPORT CONVERSATION MEMO

1. PERSON(S) MAKING THE ENQUIRY:

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

536-2025

PERRY PATTERSON

1745 E. 3100 S

WENDLE, ID. 83355

2. SUBJECT OF INQUIRY:

"received material from the department"
"meeting on the 18th" "in Goshute"

Court sent me to you to explain... (asked for
me by name)

3. RESPONSE TO INQUIRY:

reviewed claim file with claimant
and contacted SRBA court.

Turns out, per SRBA court staff,
he got material as sent to all operators in 36
of the public meeting to outline procedure for
hearing schedule

Write out (printed) hearing information

4. IDWR STAFF AND DATE:

Print name and initial

WATER RIGHT CLAIM (Nos.):

F. Hitchcock 01-12-1994

F. Hitchcock (F)

36-10664

MICROFILMED

OCT 20 1994

DIRECTOR'S REPORT CONVERSATION MEMO

1. PERSON(S) MAKING THE ENQUIRY:

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

Perry Patterson

2. SUBJECT OF INQUIRY:

wanted to know date of next action
on his objection to a claim.

3. RESPONSE TO INQUIRY:

I identified the claim in question
as 36-10664 and let him look over the Sept
response to his objection. I made copies of
pg 3 & 4 for his use & told him that the
court would determine the next date for action
on his claim & suggested that he check with
them.

4. IDWR STAFF AND DATE:

Print name and initial

WATER RIGHT CLAIM (Nos.):

Kelly K. Christensen

10-29-1993

36-10664

MICROFILMED

OCT 20 1994

DIRECTOR'S REPORT CONVERSATION MEMO

1. PERSON(S) MAKING THE ENQUIRY:

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

Mr. Peterson

A36-10664

A36-10665

2. SUBJECT OF INQUIRY:

Came in with objection form
and wanted help filling. ~~I told him~~
He also wanted info about getting a stock
well.

3. RESPONSE TO INQUIRY:

I generally discussed with him
that we could not fill it out for him but
went thru the form and showed him what
the various items was talking about. I confirmed
that he had a copy of his two recommendations so
he could follow along with the various items that
have been recommended. I gave him some more
blank forms (2) and gave him a copy of
order #1. Regarding to stock well I gave
him a drilling permit application with instructions.

4. IDWR STAFF AND DATE:

Print name and initial

WATER RIGHT CLAIM (Nos.):



4/27/93

MICROFILMED

OCT 20 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 27, 1994

RECEIVED

JAN 31 1994

Perry Patterson
1745 E. 3100 S.
Wendell, ID 83355

RE: Snake River Basin Adjudication (SRBA) Department of Water Resources
Gooding County - Notice of Claim to a Water Right #36-10664

Dear Mr. Patterson:

After your visit to the Snake River Adjudication courthouse in Twin Falls on January 18, Mr. Shaw in this office asked me to write to summarize for you the processing status of your water right claim in the SRBA.

You filed your objection to inform the court you did not agree with the way the recommendation for your irrigation water right was described in the Director's Report. The Department filed with the court a response to your objection. The response stated the reasons the Department recommended your water right the way it did. Barring a settlement, the court must hold a hearing to hear the evidence in order to determine your water right. Your objection put your water right in a contested category.

Special Master Dolen will notify you in the future of the date, time and place of a scheduling conference on your contested water right. I presume the conversation you had with Special Master Dolen satisfied you as to the timing of a scheduling conference on your objection.

Unless you proceed first, the Department will use that scheduled time as an opportunity to explore partial or full settlement of your contested water right. Our purpose will be to settle the contest without the time and expense for all parties of a hearing. Before the scheduling if you would like, the Department staff would be willing to explore a settlement with you. Please call Mr. Spencer here, or you can leave a message with our toll-free number (1/800-451-4129) for Mr. Spencer to return your call.

The contest or disagreement appears to focus on the number of acres irrigated from your well with a corresponding amount of water for that use and the period of time that irrigation has or

MICROFILMED

OCT 20 1994

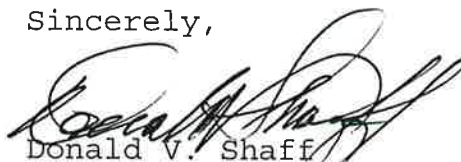
Perry Patterson
January 27, 1994
Page 2 - Gooding County

has not taken place. Prior to the Director's Report, you talked about your claim with IDWR people in Twin Falls. Apparently, as our response stated, you indicated the entire 38 acres was not irrigated, but you are irrigating your large lawn and garden of trees from your domestic well. The corrected recommendation attached to our response is enclosed. The correction is to water right number in remarks.

The Department takes the position a water right may be partially or wholly lost with a period of non-use greater than five years. You may take the opposite position as to a partial loss of a water right. The court will act like a referee listening to the facts and arguments to decide how your water right should be described.

The staff within the Department looks forward to working with you to resolve this matter. I am encouraged by the time and effort you took to travel to Twin Falls seeking information about the status of your contested water right. If I can help you further, please feel free to contact me.

Sincerely,



Donald V. Shaff
Manager, Adjudication Section

DVS:sf:state:region
Enclosure:

Copy of Corrected Recommendation
cc: N. Spencer

MICROFILMED

OCT 20 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. 36-10664 -0001

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

RESPONSE TO OBJECTION

Petitioner,

vs.

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

Respondents.

I. GENERAL INFORMATION

1. Person responding to objection:

Name: R. KEITH HIGGINSON, DIRECTOR

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

Briefly describe your interest in this water right:

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

(Over)

MICROFILMED
OCT 20 1994

2. Person who filed objection:

Name: PERRY & MARGARET PATTERSON
Address: 1745 E 3100 S
WENDELL ID 83355

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.
5. ☒ Points of Diversion: I respond to the objection concerning the legal description of the point(s) of diversion.
7. ☒ Purposes of Use: I respond to the objection concerning the purpose(s) of use.
9. ☒ Place of Use: I respond to the objection concerning:
- 9b. ☒ The number of irrigated acres within each forty (40) acre subdivision.
10. ☒ Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.
11. ☒ Remarks: I respond to the objection concerning the "remarks" listed with the water right.

12. ☒ Water Right Recommendation: I respond to the objection concerning:
- 12b. ☒ This water right not being recommended.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection items 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).

In response to Statement of the Objection item 5, and all allegations of the objection regarding this item, IDWR responds as follows: During its investigation, IDWR determined that the well that is used for irrigation of the acreage recommended pursuant to this right is the same well that is used for domestic purposes pursuant to right no. 36-10665. Therefore, the legal description of the point of diversion for 36-10664 is the same legal description used for the domestic well recommended in 36-10665.

In response to Statement of the Objection item 7, and all allegations of the objection regarding that item, IDWR responds that it recommended this element of the right as claimed.

In response to Statement of the Objection 9 and 9.b, and all allegations of the objection regarding those items, IDWR responds that the recommended water right accurately describes the total number of acres within each 40 acre subdivision upon which IDWR found water was beneficially used for irrigation under this water right. In further response to these items, IDWR notes that this water right claim was initially recommended for disallowal. However, during the Notice of Error procedure the claimant indicated to IDWR that he had not irrigated the 38.0 acre parcel he had claimed, but was irrigating "...my large lawn and garden of trees from my domestic well." The claimant provided to IDWR the dimensions of the irrigated area and, after confirmation of the irrigation, the water right was recommended for the irrigation of 1.6 acres.

(Over)

IN REPLY TO STATEMENT OF THE OBJECTION ITEM 10 AND ALL
allegations of the objection regarding this item, IDWR responds
as follows: The license upon which the claimant's claim is based
does not set an annual volume of consumptive use for this water
right. Idaho Code Sec. 42-1411(2)(i) requires the director to
determine the annual volume of consumptive use for each water
right acquired under state law and recommended in the director's
report. IDWR has developed uniform standards of consumptive use
for various climatic areas throughout the state, based upon the
definition of consumptive use contained in Idaho Code Sec. 42-
1401A(2), which is the maximum volume of water consumed by "the
most water consumptive crop that can be grown in the area during
the period of year when water is used for irrigation." The
consumptive use recommended for this water right is based upon
the maximum volume of water consumed by the most water
consumptive crop (pasture) that can be grown in the area during
the irrigation season. Idaho Code Sec. 42-1401A(2) provides that
the quantification of consumptive use "is included as a
rebuttable presumption in a decree only for the purpose of
transfers pursuant to section 42-222, Idaho Code." Therefore,
the consumptive use recommended for this water right is included
solely for use in future transfer proceedings, and not as a
limitation on the quantity of water that the claimant may divert
pursuant to this recommended right.

In response to Statement of the Objection item 11, and all
allegations of the objection regarding that item, IDWR responds
that the remarks should be changed as shown in the attachment
entitled "Recommended Water Rights Acquired Under State Law".
In further response to this item, IDWR responds that it has
authority pursuant to Idaho Code Sec. 42-1411(2)(j) to include in
its recommendations of water rights acquired under state law and
recommended in the director's report "such other matters as are
necessary to define the right". The remark or remarks objected
to are necessary to adequately describe and define this water
right.

In response to Statement of the Objection 12 and 12b., and
all allegations of the objection regarding those items, IDWR
responds as follows: The purpose of item 12b. is to allow an
objector to object to the disallowal of a claim. This objection
is inappropriate here because the claim was not disallowed.

CHANGES TO THE DIRECTOR'S REPORT

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

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

	No. of Pages
Notice of Claim No. A36-10664	3
Recommended Water Rights Acquired Under State Law	1

(Over)

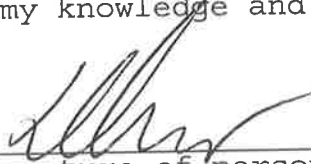
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

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

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



Signature of person filing response

By: 

(Attorney signing in
representative capacity)

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





Notary Public for Idaho
Residing at: Boise Idaho
My Commission expires: 6/25/1999

CERTIFICATE OF MAILING

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

1. Original to:

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

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

See No. 3

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

Name: PERRY & MARGARET PATTERSON
Address: 1745 E 3100 S
WENDELL ID 83355

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: A36-10664
Date Received: 8/26/1988
Receipt No: S001765
Received By: lw

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: PERRY PATTERSON 208-536-2025
Address: 1745E 3100S
WEDELL, ID 83355
AND/OR
Name: MARGARET PATTERSON 208-536-2025
Address: 1745E 3100S
WEDELL, ID 83355

2. Date of Priority: JUN 23, 1976

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
08S	15E	7	SE	NE			GOODING

5. Description of diverting works:
WELL & PUMP

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.760		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

A36-10664

Page 1

Date: 08/26/88

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10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
08S	15E	7	NW NE		IRR	38.0
Section Acres						38.0
Total Acres						38.0

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:
36-7409, 36-7631

14. Remarks:
PORTION OF EACH WR, SEE TRANSFER #2741. CLAIMANT COMBINED
CFS PORTION FROM BOTH, CHOSE LATER PRIORITY, AND FILED AS
ON CLAIM ON THE 38 ACRES.

15. Basis of Claim: LICENSE

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): Perry Patterson Date: 8-26-88
_____ Date: _____

State of Idaho)
County of TF) SS.

Subscribed and sworn (or affirmed) before me this 26th day
of August 19 88 Lori White
Notary Public

Seal

Residing at TF
My Commission Expires 5/99

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: ⁸⁴
PAGE: A-1

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: GROUNDWATER						
36-10664	PERRY PATTERSON MARGARET PATTERSON 1745 E 3100 S WENDELL ID 83355	06/23/1976	IRRIGATION	04-01 10-31	.05 CFS	LICENSE

TOTAL QUANTITY: .05 CFS
6.4 AFY
CONSUMPTIVE USE: 4.8 AFY

POINT OF DIVERSION:
T08S R15E S07 NWNWNE
PLACE OF USE: IRRIGATION
T08S R15E S07 NWNE 1.6
1.6 ACRES TOTAL

REMARKS: RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
PURSUANT TO IDAHO CODE 42-1416A.
RIGHT NO. 36-10664 IS ALSO DIVERTED THROUGH POINT OF DIVERSION
DESCRIBED ABOVE, AND THE TOTAL COMBINED RATE OF DIVERSION OF
THESE RIGHTS IS LIMITED TO 0.05 CFS.
THIS RIGHT IS A COMBINATION OF PORTIONS OF OLD RIGHT NOS.
36-07409 & 36-07631.

MICROFILMED
OCT 20 1994

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: SEP-9-1993
PAGE: A-1

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: GROUNDWATER						
36-10664	PERRY PATTERSON MARGARET PATTERSON 1745 E 3100 S WENDELL ID 83355	06/23/1976	IRRIGATION	04-01 10-31	.05 CFS	LICENSE
					TOTAL QUANTITY:	.05 CFS
						6.4 AFY
					CONSUMPTIVE USE:	4.8 AFY
POINT OF DIVERSION:						
T08S R15E S07		NWNWNE				
PLACE OF USE: IRRIGATION						
T08S R15E S07		NWNE 1.6				
1.6 ACRES TOTAL						
REMARKS:	RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO IDAHO CODE 42-1416A. RIGHT NO. 36-10664 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE, AND THE TOTAL COMBINED RATE OF DIVERSION OF THESE RIGHTS IS LIMITED TO 0.05 CFS. THIS RIGHT IS A COMBINATION OF PORTIONS OF OLD RIGHT NOS. 36-07409 & 36-07631.					

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RECEIVED

APR 30 1993

Department of Water Resources
Adjudication Bureau

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

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

Case No. 36-10664
(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,

36-10664 -0001/
93-04-0398

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.

OBJECTION - 1

(Over)

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OCT 20 1994

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: Perry Patterson

Address: 1745 E 3100 S.

Wendell, Idaho

Briefly describe your interest in this water right:

I am the owner & have
done much work on my property
& need to complete a reasonable
finish to having a presentable
property

2. Owner of the water right:

Name: Perry Patterson

Address: 1745 E 3100 S

Wendell, Idaho

3. If this objection is filed by an attorney:

Attorney Name: _____

Attorney Address: _____

Attorney Phone No.: _____

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

RECEIVED
JUL 1 1987
FBI/DOJ

II. STATEMENT OF THE OBJECTION

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

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

12. ☐ Water Right Recommendation: I object to:

a. ☐ this water right being recommended at all; or

b. ☒ this water right not being recommended.

13. ☐ Description of Reservation: I object to the legal description of the reservation.

14. ☐ Other: I object to: I came here in 1981, had a house to finish, ditch to change, leveling to do & fences & had a water right that was already a part of a existing right from 1956 approved then before I realize what is happening, the Drought & adjudication & I am allowed 1.6 ac. I did nothing wrong to deserve such a fine. Please consider my water right.

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.

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.

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

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

VERIFICATION (Must be Completed)

State of Idaho

County of Gooding

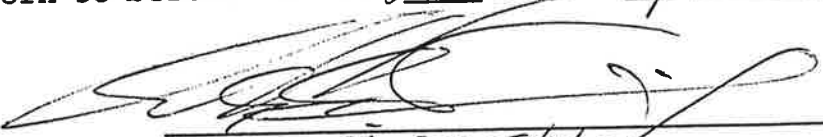
_____, being first duly
(Name of person filing objection)
sworn, upon oath, deposes and says:

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

Perry Patterson
Perry Patterson
Signature of person filing objection

By: _____
(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 29th day of Apr. 'L,
1993.


Notary Public for Idaho
Residing at: Bozeman, Idaho
My Commission expires: 10/02/98

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 _____, 199____, 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:

Perry Patterson

Owner's address:

1745 E 3100 S.

Wendell, Id. 83355

3. One copy to:

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

4. One copy to:

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

Perry Patterson
Signature of Objector or attorney
mailing on Objector's behalf

NOTICE OF ERROR

RESPONSE

CORRECTED R PROOF

MICROFILMED
FEB 07 1993

NOTICE OF ERROR FORM

AUG-24-1992

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

Idaho Department of Water Resources

Statehouse Mail

Boise, Idaho 83720-9000

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: 36-10664
2. Name: Perry & /or Margaret Patterson
Address: 1745 E 3100 S
Wendell, ID 83355
Weekday Telephone Number:

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FEB 07 1993

TEAR AT PERFORATIONS AND COMPLETE FORM ON OTHER SIDE

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

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

I believe it should be allowed with at least some irrigation for my large lawn & garden & trees from my domestic well.

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

Allow irrigation for 2nd 2nd house.

5. Describe why you disagree with the proposed recommendation:

I did not develop the full 40 acres but I have irrigated 2nd described above.

6. Date:

9/24/92

SIGNATURE

Denny Patterson

RESPONSE TO NOTICE OF ERROR
IN THE SNAKE RIVER BASIN ADJUDICATION

Water Right No: 36-10664 Contact Date: 9/24/92

IDWR Contact Person: (print and initial) Allen Newitt

Claimant Contact Person Perry Patterson

Others Present None

Contact By (give date) _____

Meeting (location): Twih Felly IDWR office,

Phone Call (no.) _____

Letter (attach letter): _____

IDWR USE ONLY	
Date	Initials
Date Entered	<u>9/25/92 AD</u>
Verified	<u>9/25/92 AD</u>

I. Issues identified by claimant: Irrigation of 2acs around house has been developed and the 2ac is more than 1/2 acre allowed under the domestic claim. This should be recognized.

II. Reasons provided claimant for original recommendation: Our field review did not find a well located as claimed and the 40 acre tract in which the home site is located was not found to be cultivated or irrigated.

* NAPP photo does show limited irrigation around the home site supporting claim of Mr. Patterson. This 2ac would be no more that 2 acres.

III. Additional information provided by claimant: Claimant provided dimensions of irrigated 2ac for 1.6 acres of irrigation which includes lawn, garden & trees. Domestic well has 1 1/2 H.P. pump.

IV. Changes to be made in final recommendation (if any): Change recommendation to allow 1.6 acres of irrigation from domestic well. Limit 36-10664 & 36-10665 when combined to 0.05 cfs

V. Action taken (date): Changed 36-10664 & 36-10665

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FEB 07 1993

GROUNDWATER MEASUREMENT REQUIREMENT ANALYSIS

FILE: A36-10664
 DATE: 9/25/92
 BY: AD

THEORETICAL RATE OF FLOW: $Q = \frac{(8.8) \times (H.P.) \times (EFF.)}{TDH}$

Q = CFS
 H.P. = Total Brake Horsepower of pumping plant (including booster)
 EFF. = Pumping plant efficiency (ASSUME 70% OR 0.70)
 TDH = total dynamic head = [(LIFT) + (PSI X 2.31)]
 LIFT = depth to water in FEET from land surface to pumping water level
 PSI = pumping pressure measured in psi near pump (if open discharge assume zero [0])

$$Q = \frac{(8.8) \times (1.5) \times (0.70)}{[(90) + (40 \times 2.31)]} = 0.05 \text{ cfs}$$

<u>LIFT FROM:</u>	<u>PSI FROM:</u>	<u>NOTES ON PUMP:</u>
measurement ()	measurement ()	Motor Make, Serial or ID
owner ()	owner ()	
area estimate (X)	estimate (X)	Pump Make, Serial or ID, rating
well logs ()	owner gage ()	
Booster (Y) (N)		
REMARKS <u>This is the diversion for 36-10664 & 36-10665</u>		

ANNUAL VOLUME ANALYSIS

POTENTIAL Acre Feet/Acre/Annum = $\frac{(\text{DAYS IN SEASON}) \times (1.98) \times (Q)}{(\text{RECOMMENDED ACRES IRRIGATED})}$

(season)	(days)	CV-DV	
5/01-09/30	153	2-3	
4/15-10/15	184	2.5-3.5	POTENTIAL =
4/01-10/31	214	3-4	
3/01-11/30	275	VARIES	
3/15-11/15	246	VARIES	

POTENTIAL =

REQUIRED Acre Feet/Acre/Annum =
 (AF/Ann/Ac irrigation requirement from chart for area)
 NOTE that this is NOT Consumptive use

IF POTENTIAL IS GREATER THAN REQUIRED THEN NO MEASUREMENT NECESSARY ()
 IF POTENTIAL IS LESS THAN REQUIRED THEN MEASUREMENT IS NECESSARY ()

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 FEB 07 1993

N-IRRIGATION USES:
DOMESTIC 1 HOUSE
2/2 NW/4 & BAR/2M

SOURCE: GROUNDWATER

POINT OF DIVERSION:

T08S R15E S07

FACE OF USE: DOMESTIC

T08S R15E S07

MARKS: PARCEL NO. RP08S15E070600

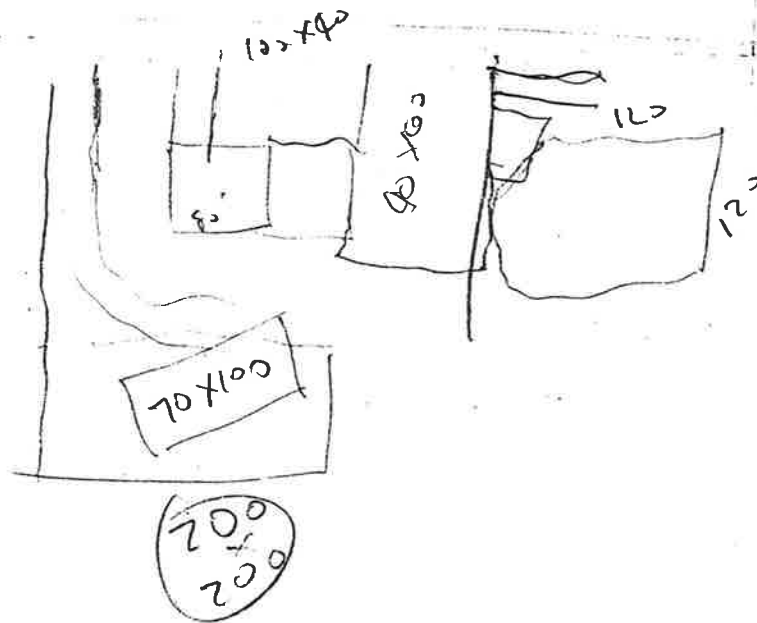
TRIBUTARY:

NWNWNE

NWNE

TOTAL QUANTITY:

0.04 CFS



$$\frac{67800 \text{ square ft.}}{1.6 \text{ acres}} = 42375 \text{ square ft.}$$

Map provided by
client 9/24/92

100x40
40x60
120x120
70x100
200x200

$$67800 \text{ sq. ft.} \Rightarrow 1.6 \text{ acres}$$

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FEB 07 1993

Water Right Number - R36-10664

Prefix Translation:

RESEARCH

Old (D) Number -

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

*** C - CURRENT OWNER ***

PATTERSON

PERRY

1 - 1745 E 3100 S

2 -

3 -

City- WENDELL

State- ID Zip- 83355

Phone - 208-536-2025

PATTERSON

MARGARET

1 - 1745 E 3100 S

2 -

3 -

City- WENDELL

State- ID Zip- 83355

Phone - 208-536-2025

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - - +
06/23/1976 ERROR IN REGION L - LICENSE+ - - - - Source - - - - - + + - - - - - Tributary - - - - - +
GROUNDWATER+ - - - - - - - - - - - - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County
08S 15E 7 NW NW NE (47) GOODING+ - - - - - - - - - - - - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 04/01 10/31 0.050+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.050 6.40 4.8+ - - - - - - - - - - - - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
08S 15E 7 NW NE 1.6 01 IRRIGATION (47) GOODING

Total Acres: 1.6

+ - - Diversion Means - WELL & 1 1/2 HP PUMP SERVING 1 HOUSE & IRRIG. OF 1.6 ACRES

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - NONE

+ - - - - - - - - - - - - - - - Remarks - - - - - +
RIGHT NO. 36-10664 IS ALSO DIVERTED THROUGH POINT OF DIVERSION
DESCRIBED ABOVE, AND THE TOTAL COMBINED RATE OF DIVERSION OF
THESE RIGHTS IS LIMITED TO 0.05 CFS.
THIS RIGHT IS A COMBINATION OF PORTIONS OF OLD RIGHT NOS.NOTIFIED
FEB 07 1993

Water right number - R36-10664

Prefix Translation: RESEARCH

+ - - - - - Remarks - - - - - +
36-07409 & 36-07631.

+ - - - - - Old Water Right Numbers - - - - - +
A3607409
A3607631

+ - - - - - Conditions of Approval - - - - - +
C03 - RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
- PURSUANT TO IDAHO CODE 42-1416A.

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

+ - - - - - Comments- - - - - +
Date: 12/11/1991 User Id: WORSTELL Subject: COPIED FROM REMARKS
PORTION OF EACH WR, SEE TRANSFER #2741. CLAIMANT COMBINED CFS PORTION FROM BOTH 36-07409 & 36-07631 WITH LATER PRIORITY.
Date: 06/12/1992 User Id: CHRISTEN Subject: BASIS FOR DISALLOWAL
FIELD VERIFICATION CONDUCTED ON 11-30-90 BY NORM BROWN. NO PUMP, WELL, OR POWER CONNECTIONS FOUND AT THE CLAIMED P/D. P/U SHOWS NO
SIGN OF IRRIGATION. SEE FILE FOR PICTURES. {COMMENTS ENTERED BY KKC}
Date: 09/25/1992 User Id: MERRITT Subject: NOTICE OF ERROR RECEIVED AND RESOLVED.
ALLOW 1.6 ACRES IRRIGATED FROM THE DOMESTIC WELL FOR LANDS IN THIS TRACT BASED ON UN-RECORDED TRANSFER OF P/D. THE BULK
OF THE WATER RIGHT HAS BEEN FORFEITED DUE TO NONE USE.

+ - - Audit Fields - - +
09/25/92 MERRITT

+ - - - - - Adjudication Rights Dates and Flags Area - - - - - +
Court Report Filing - 00/00/0000 Field Inspection Made - 00/00/0000 Civil Case Number - 39576
Objection Filed Date - 00/00/0000 Field Inspection Flag - Old Case Number -
Response Filed Date - 00/00/0000 Verified Date - 09/25/1992 Old Judicial District -
Claim Received Date - 08/26/1988 Last Amended Date - 00/00/0000 Temporary Right - P
Receipt Number - S001765 Water District -
POU Ownership Flag - Y Federal/State Indicator - S
Name Connector - AND/OR Presumption Flag -
Notice of Error Flag - C

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FEB 07 1993

R PROOF

CVR

MAPS

PHOTOS

MISC

MICROFILMED

FEB 07 1993

Water Right Number - R36-10664

Prefix Translation: RESEARCH

Old (D) Number -

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

*** C - CURRENT OWNER ***
PATTERSON

PERRY

1 - 1745 E. 3100 S.
2 -
3 -

VERIFIED BY

KKC

6-12-92

State- ID Zip- 83355

PATTERSON

MARGARET

City- WENDELL
Phone - 208-536-2025
1 - 1745 E. 3100 S.
2 -
3 -
City- WENDELL
Phone - 208-536-2025

State- ID Zip- 83355

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
06/23/1976 ERROR IN REGION I - DISALLOWED+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
GROUNDWATER+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County
08S 15E 7 SE NE (47) GOODING+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 04/01 11/01 0.760+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.760 114.0+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
08S 15E 7 NW NE 38.0 01 IRRIGATION (47) GOODING

Total Acres: 38.0

+ - - Diversion Means - WELL & PUMP

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - NONE

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

FEB 07 1993

Water right number - R36-10664

Prefix Translation: RESEARCH

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

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

A3607409
A3607631

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

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

+ - - - Decree Plaintiff - - - +

+ - - - Decree Defendant - - - +

+ - Decree Date - +
00/00/0000

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

Date: 12/11/1991 User Id: WORSTELL Subject: COPIED FROM REMARKS
PORTION OF EACH WR, SEE TRANSFER #2741. CLAIMANT COMBINED CFS PORTION FROM BOTH 36-07409 & 36-07631 WITH LATER PRIORITY.
Date: 06/12/1992 User Id: CHRISTEN Subject: BASIS FOR DISALLOWAL
FIELD VERIFICATION CONDUCTED ON 11-30-90 BY NORM BROWN. NO PUMP, WELL, OR POWER CONNECTIONS FOUND AT THE CLAIMED P/D. P/U SHOWS NO
SIGN OF IRRIGATION. SEE FILE FOR PICTURES. {COMMENTS ENTERED BY KKC}

+ - - Audit Fields - - +

06/12/92 CHRISTEN

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

| | | | | | |
|----------------------|--------------|-----------------------|--------------|-------------------------|---------|
| Court Report Filing | - 00/00/0000 | Field Inspection Made | - 00/00/0000 | Civil Case Number | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | - | Old Case Number | - |
| Response Filed Date | - 00/00/0000 | Verified Date | - 06/12/1992 | Old Judicial District | - |
| Claim Received Date | - 08/26/1988 | Last Amended Date | - 00/00/0000 | Temporary Right | - P |
| | | Receipt Number | - S001765 | Water District | - |
| | | POU Ownership Flag | - Y | Federal/State Indicator | - S |
| | | Name Connector | - AND/OR | Presumption Flag | - |
| | | | | Notice of Error Flag | - |

NOTIFIED

FEB 07 1993

DISALLOW

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

00:18:56
08/30/90

PAGE: 12
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-10664

| NR 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 | 6 | R.V.-W
12/11/91 | DB | R.V.-W
12/11/91 |
| POINT OF DIV | Y | | | | | | | |
| SOURCE | Y | | | | | | | |
| PLACE OF USE | Y | | | | | | | |
| DTU AMOUNT
CES/VOLUME | Y | | | | | | | |
| CONSUMPTIVE USE | - | | | | | | | |
| PURPOSES | Y | | | | | | | |
| PERIOD OF USE | Y | | | | | | | |
| BASIS OF CLAIM | Y | | | | | | | |
| REMARKS | Y | | | | | | | |

"VERIFIED BY" CODES

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

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

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

00:18:56
08/30/90

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-10664

LAST: PATTERSON
ADDRESS: 1745 E. 3100 S.
CITY: WENDELL
PHONE NUMBER: 208-536-2025
OWNER CODE: C

FIRST: PERRY
STATE: ID ZIP: 83355

LAST: PATTERSON
ADDRESS: 1745 E. 3100 S.
CITY: WENDELL
PHONE NUMBER: 208-536-2025

FIRST: MARGARET
STATE: ID ZIP: 83355

OWNER CODE: C

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

DATABASE
Y

FIELD
EXAMINER

CLAIM REMARKS: PORTION OF EACH WR. SEE TRANSFER 42741. CLAIMANT COMBINED
CRS PORTION FROM BOTH 36-07409 & 36-07631 WITH LATER PRIORITY.

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CONTACT PERSON: _____

PHONE NUMBER: () - - -

DATE OF FIELD EXAM: / / -

APPOINTMENT MADE: Y() N()

TIME: : A() P()

ACCOMPANIED BY: _____

PHONE NUMBER: () - - -

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / REMARKS:

A. AJ CLAIM: # A36-10664 PRIORITY DATE: 06-23-1976 STAGE: 1

B. MR RECORD: NO WATER RIGHT RECORD TO MATCH THIS AJ CLAIM

C. FIELD EXAM REQUIRED?

DUE TO PRIORITY DATE DISCREPANCY? (Y/N)

DATABASE

Y

FIELD
EXAMINER

N

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

REMARKS:

*combined 36-07409B + 07631B using later
priority*

RECOMMENDED PRIORITY DATE:

6-23-1976

REVIEWED BY

lw

DATE

10/15/90

NOTIFIED

FEB 07 1993

A. AT CLAIM POINT OF DIVERSION AND SOURCE:

| RIGHT | TWP. | RGE. | SEC. | 1/4 | 1/4 | 1/4 | LOT | CNTY |
|-----------|------|------|------|-----|-----|-----|-----|---------|
| 436-10664 | 08S | 15E | 7 | | SE | NE | | GOODING |

OTHER AT CLAIMS WITH SAME AT POD:

A PREFIX R PREFIX
436-07409A NONE
436-07631A

WR RECORDS IN SAME 40 ACRE TRACT

36-07409A
36-07631A
36-08152

SOURCE: GROUNDWATER

TRIB:

B. WR POINT OF DIVERSION AND SOURCE:

THERE IS NO WATER RIGHT RECORD WITH THE SAME CLAIM NUMBER

SOURCE: NO SOURCE FOR RECORD

TRIB: NO TRIBUTARY FOR RECORD

C. FIELD EXAM REQUIRED?

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

DATABASE
Y
Y

FIELD
EXAMINER

X
Y

REMARKS:

"11/30/90 No POD found that would irrigate NW NE as claimed
POD'S are found in SW SE, and SE NE only, and do not
irrigate the NW NE quarter as claimed.

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

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

SOURCE: _____ TRIB: _____

REVIEWED BY: _____ DATE: _____

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A. FOOT WATER RIGHT NUMBERS: A36-10664

B. POB LISTING

| TWP | RNG | SEC | 1/4 | 1/4 | LOT | NAME | AJ
#/ACRES | MP
#/ACRES | LANDSAT
DATA | FIELD
EXAM | RECOMM
ACRES |
|-------------|-----|-----|-----|-----|-----------|-------|-----------------|-----------------|-----------------|---------------|-----------------|
| 08S | 15E | 7 | NW | NE | PATTERSON | PERRY | A36-10664 /38.0 | - / | 38.0 | | |
| | | | | | PATTERSON | PERRY | A36-10665 / | - / | | | |
| | | | | | PATTERSON | PERRY | | 36-07409B /30.0 | | | |
| | | | | | PATTERSON | PERRY | | 36-07631B /38.0 | | | |
| TOTAL ACRES | | | | | | | A36-10664 | 38.00 | | 38.00 | |

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

C. FIELD EXAM REQUIRED?

DUE TO POB DISCREPANCY? (Y/N)

DATABASE
Y

FIELD
EXAMINER

PRESUMPTION FLAG:

REMARKS:

RECOMMENDATIONS:

TOTAL ACRES:

0

REVIEWED BY:

lw + NB

DATE:

12/27/90

A. AJ CLAIMED USES:

| PURPOSES | MONTH/DAY | DIVERSION QUANTITY |
|-------------------------------------|---------------------|--------------------|
| A36-10664 IRRIGATION | FROM 04-01 TO 11-01 | .760 CFS |
| TOTAL DIVERSION RATE/VOLUME CLAIMED | | .760 CFS |

B. WR RECORDED USES:

| PURPOSES | MONTH/DAY | DIVERSION QUANTITY |
|----------|-----------|--------------------|
|----------|-----------|--------------------|

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

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

DATABASE
Y
Y
Y

FIELD
EXAMINER


D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

Y(☒) NO ☐

RECOMMEND TO WR STANDARDS OR OTHER?

Y(☐) NO(☐) Explain in remarks, below.

REMARKS:

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A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y(/) N()

AJ TOTAL CLAIMED DIVERSION RATE: 0.760 CES
WS ROOT RIGHT TOTAL DIVERSION RATE: 0.260 CES

*** IF NO or IS 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)

DATABASE EXAMINER
Y

FIELD

EXAMINER
N

B.

FLOW MEASUREMENT

MEASUREMENT METHOD, SEE ATTACHED CALCULATIONS.

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

OTHER RIGHTS LISTED IN CLAIM: NONE

NO CLAIMS FOUND WITH SAME PCU AND IRRIGATION USAGE

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

| CLAIM NO. | PURPOSES | NAME | MONTH/DAY | RATE | VOLUME |
|-----------|----------|------------------|---------------------|----------|--------|
| A36-10665 | DOMESTIC | PATTERSON, PERRY | FROM 01-01 TO 12-31 | .040 CES | |

0.

RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE

ACRES $\times$ 0.02 CFS/ACRE = CFS
(Taken from p/u review)

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

1b. CALCULATIONS

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

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 114.0 AF/A

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

TOTAL CONSUMPTIVE USE AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

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

TOTAL DIVERSION VOLUME AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y() N()

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

Found no acres irrigated

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RECOMMENDATIONS:

REC.
PURPOSES

REC. PERIOD
FROM TO

REC. DIV
RATE CFS

REC. DIV
VOL. AF/A

REC. CONS.
USE

DATABASE EXAMINER

DATABASE EXAMINER

DATABASE EXAMINER

TOTAL FOR THIS RIGHT

REVIEWED BY:

DATE:

A. CHECK ONLY THE FOLLOWING THAT APPLY:

ACCEPTED
AS CLAIMED

NEEDS
REVIEW

OWNERSHIP
FORFEIT/ABANDON
ADDITIONAL DEV. AMOUNT

N/A

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-10664

DATABASE

EXAMINER

CES

TOTAL DIVERSION RATE OF WR SPLITS

SPLITS:

OLD RIGHT
NUMBERS

CURRENT
CLAIM NUMBERS

DIVERSION
RATE

CURRENT "R"
CLAIM NUM.

"R" DIV.
RATE

WR RIGHT
NUMBERS

DIVERSION
RATE

36-07409
36-07631

36-10664
36-10664

0.760
0.760

2

36-07409
36-07631

TOTAL CES

1.520

DIVERSION RATE REVIEW

DATABASE
N

FIELD
EXAMINER

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

REMARKS:

Claim based on transfers # 2741 approved
Mar 14, 1983. Disallow due to 5 yrs non-use.

AUTHENTICATION:

SIGNATURE:

L.W. + N.B

DATE:

12/27/90

NAME OF FIELD EXAMINER:

TITLE:

R.V. 12/11/91

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8S-15E-7

12
20.1

1.2

4.0

3

5.4

T-834

4
CH2nd
POB

6.5

25

99

Transferred to Jerome

8S-15E-7 NWNE

Perry Patterson

No migration found
12/1/90 NOB

No POD found in
NW 8 NE

PATTERSON
#10664

3.6

T-892

4

5.7

7

5.3

5

5.0

6

4.2

12675
T-1392
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212

12-5-90
Murray Patterson Claim
A 36-10664

To the Records

On Nov. 30, 1990 I took pictures of the property on which waters are purportedly being put to beneficial use. I found and the pictures demonstrate that there is no irrigation as claimed of the subject lands.

At the point of claimed ^{diversion} on this 40 acre tract no pump, well or power was found. A single pole stands in the field at that point.

In the center of the 40 acres there are several old wrecked or junked cars. There is no sign of recent irrigation or cultivation on the subject property.

A domestic well is assumed to be at the residence seen in the pictures. No other diversion is in the 40 acre parcel.

Norman D. Brown W.R. Agent
attachments: Photographs Exposures #10-12.
Misc notes and records on subject.

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Adjudication Claim A36-10664
Perry Patterson, Claimant
T8S R15E Section 7
38.0 acres Claimed



Exp. #10
Taken 11/30/90

Picture taken at gated entrance to subject property on paved road on North property boundary, approx 1000 ft. East of house, looking South East across property. NOTE lack of cultivation, crops or irrigation.

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Photographs 2 pages

Pg 1 of 2

Exp # 11
Taken 11/30/90



Looking N.W. across property to house in N.W. Corner of 40 acre tract. Note: Total Lack of irrigation, cultivation or crops. Picture taken from SE Corner of fenced tract. (SE corner of NW NE 1/4)

Exp # 12
Taken 11/30/90



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Looking N.W. across property from fence on East Side Subject Property. NOTE: ground cover is weeds and wild grasses. No irrigation or diverting works were found on this property.

Photographs
pg 2 of 2

Transfer No. 2741Water Right No. 36-7409
36-7631

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

To Change the Point of Diversion and/or the Place of Use

APPROVED

Name of applicant Perry Patterson Phone 536-2025
Post Office address Rt. 2 Box 340A Wendell, Idaho 83355

A. DESCRIPTION OF RIGHT AS RECORDED**1. Right evidenced by:**

a. Decree No. _____ Decreed to _____
in case of _____ (Name)
dated in 1) 36-7409 in _____ county of _____
b. License No. 2) 36-7631 (Name of court)
issued by the Idaho Department of Water Resources

c. Claim No. _____ on file with the Idaho Department of Water Resources
2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant
by purchase

3. Source of water groundwater tributary to _____
4. Date of priority 1) November 21, 1973 2) June 23, 1976
5. Water is used for the following purposes:
1) amount 2.45 for irrigation purposes from 3-15- to 11-15
2) amount 3.67 for irrigation purposes from 3-15 to 11-15
amount _____ for _____ purposes from _____ to _____
(month/day — both dates inclusive)

6. Total amount of water under right: a. 6.12 cubic feet per second
b. 1224 &/or acre feet per annum

7. Location of original point of diversion is 1) SE % of NE % of Section 7
Township 8S Range 15E B.M. in Gonding County
Additional points of diversion, if any 2) SE1NE1, SW1SE1, Sec. 7, T8S, R15E

8. Lands irrigated or place of use:

| TWP. | RANGE | SEC. | NE1/4 | | | | NW1/4 | | | | SW1/4 | | | | SE1/4 | | | | TOTALS |
|------|-------|------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|--------|
| | | | NE1/4 | NW1/4 | SW1/4 | SE1/4 | NE1/4 | NW1/4 | SW1/4 | SE1/4 | NE1/4 | NW1/4 | SW1/4 | SE1/4 | NE1/4 | NW1/4 | SW1/4 | SE1/4 | |
| 1) | 8S | 15E | 7 | 32 | 30 | 40 | 39 | | | | | | | | | | | | |
| 2) | | | | 35 | 38 | 40 | 40 | | | | | | | | 39 | 40 | 32 | 32 | 284 |
| | | | | | | | | | | | | | | | 40 | 40 | 38 | 35 | 306 |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total number of acres to be irrigated 306

9. Describe any other water rights used for the same purpose as described above
Permit 36-7630 from a wastewater source; not used on land owned by applicant

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? no
If yes, describe in item D. REMARKS.

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174

B. DESCRIPTION OF PORTION OF RIGHT OWNED BY APPLICANT (If the entire right is owned by the applicant, omit part B).

- 1) .26 JJ 3/11/83
 1. Amount of water: a. 2) .46 cubic feet per second &/or
 b. 152 acre feet per annum
 2. Point of diversion SE 1/4 NE 1/4, Section 7 Township 8S
 Range 15E B.M., Gooding County
 Additional points SW 1/4 Sec. 7, T8S, R15E

3. Place of use:

| TWP. | RANGE | SEC. | NE 1/4 | | | | NW 1/4 | | | | SW 1/4 | | | | SE 1/4 | | | | TOTALS |
|------|-------|------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| | | | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | NE 1/4 | NW 1/4 | SW 1/4 | SE 1/4 | |
| 1) | 8S | 15E | 7 | | | 30 | | | | | | | | | | | | | |
| 2) | 8S | 15E | 7 | | | 38 | | | | | | | | | | | | | 30 |
| | | | | | | | | | | | | | | | | | | | 38 |
| | | | | | | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | | | | | | |

Total number of acres to be irrigated 38

C. DESCRIPTION OF RIGHT OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. General Information

- a. Amount of water to be diverted .76 JJ 3/11/83
 b. Description of diverting works .72 c.f.s. &/or 152 acre feet
 well & pump
 c. Describe the reasons for the proposed changes To add a well to supply water to property separated from the original place of use by sale

2. Change in point of diversion

Point of diversion NW 1/4 NE 1/4, Section 7 Township 8S
 Range 15E B.M., Gooding County
 Additional points

3. Change in place of use No change

- a. Are there liens, mortgages, or contracts on the lands from which you propose to transfer the water right which limit your authority to make the proposed change? Yes No ☒ If yes, provide a statement agreeing to the proposed change from the holder of the lien, mortgage or contract.
 b. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer
 No change - other land is irrigated under center pivots from the other two wells

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D. REMARKS

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in voiding its approval.

Subscribed and sworn to before me this 8 day of October, 1982

Perry Patterson
(Signature of Applicant)

Loren O. Halmer
(Notary Public)

My commission expires Life

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 36-7409B and 36-7631B and said application is hereby APPROVED, subject to the following limitations and conditions:

1. Water used under this transfer shall not exceed 152.0 acre feet per annum.
2. The rate of flow for 36-7409B is 0.26 cfs, and for 36-7631 is 0.50 cfs.

Witness my hand this 14 day of March, 1983

A. Glen Saxton
Chief, Operations Bureau

FOR DEPARTMENT USE ONLY

Received by sh Date 10/9/82 Protest filed by None
Prelim. check by ITGB Fee 50.00
Received by manyp Date 10/15/82 # 20990
Published in Granding Co. leader
Pub. dates 10/27 + 11/1/82
Watermaster recommendation requested on _____
rec'd. _____
Copies of protest forwarded by _____
Hearing held by _____ Date _____
Recommended for approval denial
by AMS Jim DA

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Exposure #10

11/30/90 NDB
Patterson, Perry
A36-10664

Looking N.W. across property from
SE corner of fenced land. White
house is in NW corner of subject
property. Note, ground cover
as wild native grasses, and
no sign of irrigation on 40 ac.
tract.

A36-10664
PATTERSON

11/30/90

Exp. #10

Looking South West across property
from gate on paved road on
North boundary Approx 1000 ft.
East of house

- NDB Brown

Exposure #12

NDB 11/30/90
Patterson, Perry
A36-10664

Looking N.W. across property
from fence on East side. Note
weeds and wild grasses and
no irrigation or Point of
Division on the property.