

COPY

Should questions arise during the processing of this application please contact:
Jo Beeman at the Beeman and Associates, P.C. 208-331-0950

RECEIVED

AUG 9 2007

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 37-892

Date Received: _____

Receipt No: _____

Received By: _____

AMENDED - NOTICE OF CLAIM - AMENDED
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant(s) Upper Wood River Water Users Association, Inc. Phone () 208-731-5114Mailing Address c/o Bill Sherbine, 153 Baseline Rd. Bellevue, Idaho Zip 83313
Street or Box City State2. Date of Priority (Only one (1) per claim) September 1, 1920 (See Remark No. 1)
Month Day Year (YYYY)3. Source of water supply (Check one) Ground Water () or Other ☒ (a) Big Wood Riverwhich is tributary to (b) Malad River4. a. Location of Point of Diversion is: Township 01N, Range 18E, Section 12,
1/4 of SE 1/4 of SW 1/4, Govt. Lot _____, BM., County of BlaineAdditional points of diversion if any: See Remark No. 2.

If available, GPS Coordinates _____

b. If instream flow, beginning point of claimed instream flow is: Not ApplicableTownship _____, Range _____, Section _____, _____, 1/4 of _____, 1/4 of
_____, 1/4, Govt. Lot _____, BM., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc.), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. This water right is based upon water savings from constructing, maintaining and operating the Baseline Bypass Canal ("Canal") to circumvent a losing reach of the Big Wood River downstream from Bellevue. During the irrigation season, when the Canal can carry the entire flow of the river (up to about 200 cfs), Big Wood River water rights diverting in and downstream of the by-passed losing reach, then in priority without the savings afforded by operating the Canal, are delivered through the Canal. The court has determined that a flow rate of 18 cfs is saved whenever the Canal is operating. The shareholders of Upper Wood River Water Users Association, Inc. ("UWRWUA") take their portions of the 11.232 cfs of this saved water decreed to the UWRWUA from flows delivered through the Canal or from diversions located upstream of Magic Reservoir in the Big Wood River Basin as listed in Remark No. 2.

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Last Name Upper Wood River Water Users Ass'n, Inc. Ident. Number 37-892

6. Water is claimed for the following purposes:

For Irrigation purposes from April 15 to October 31 amount 11.232 (cfs) or (acre feet)

For purposes from to amount (cfs) or (acre feet)

7. Total quantity claimed (a) 11.232 (cfs) and/or (b) (acre feet)

8. Non-irrigation uses; describe fully. (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) N.A.

9. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below. (See Remark No. 3)

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

TWN	RNG	SEC	NE				NW				SW				SE				Total
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	17E	13																38.0	38.0
01S	17E	24	17.0																17.0
01S	18E	01			19.0 L.2	19.0 L.1				5.0 L.3	20.0		24.0	35.0	40.0	40.0	40.0	39.0	281.0
01S	18E	02											4.0				33.0	39.0	76.0
01S	18E	09				3.8									22.0		35.0	31.0	91.8
01S	18E	10	6.7	26.0	10.0		33.0	29.0	35.0	33.0									172.7
01S	18E	11																21.0	21.0
01S	18E	12	38.0	40.0	39.0		38.0	8.0	13.0	40.0	12.0	35.0	37.0						300.0
01S	18E	18											29.0	26.0			17.0		72.0
01S	18E	19					18.0	26.0 L.1											44.0
01S	19E	01											40.0	40.0					80.0
01S	19E	03							14.0 L.4										14.0
01S	19E	04			16.0 L.2	15.0 L.1			18.0 L.4	17.0 L.3	40.0	40.0	38.0	40.0				40.0	264.0
01S	19E	06				10.2 L.1									26.7			26.7	63.6
01S	19E	07	26.7			26.7													53.4
01S	19E	08					34.0	40.0	40.0	34.0									148.0
01S	19E	09	40.0	40.0	40.0	40.0	40.0	40.0	34.0	40.0	39.0	39.0	40.0	40.0	29.0	34.0	36.0	14.0	585.0
01S	19E	12					40.0	30.0								30.0			100.0
01S	19E	16						22.0											22.0
01S	20E	07							7.0	50.5									57.5
01S	20E	18					16.0			5.0	6.0								27.0
01N	19E	28			14.0	4.0	13.0	36.1	36.4	37.1	36.0	41.2	40.0	33.0	39.0	39.0	36.0	40.0	444.8
01N	19E	31													39.0	37.0	35.0	38.0	149.0
01N	19E	33	40.0	34.0	40.0	34.0	40.0	40.0	40.0	40.0					22.0	40.0	40.0	38.0	448.8
01N	19E	34		2				31.0	15.0			15.0	30.0	1.0					92.2
02N	18E	04						1.0				18.6	2.4						22.0
02N	18E	10					1.3			1.7									3.0
02N	18E	26												19.0			3.2		22.2
02N	18E	35		2.4			2.5												4.9
04N	17E	29							21.0	9.5 L.4		6.8 L.11	8.6						45.9

Last Name Upper Wood River Water Users Ass'n, Inc. Ident. Number 37-892

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TWN	RNG	SEC	NE				NW				SW				SE				Total
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	17E	30				4.1									11.0			19.0	34.1
04N	18E	05		13.0 L.2			12.0 L.3		1.8	31.0	22.0	31.0	39.0	20.0					169.8
04N	18E	06													2.2			32.0	34.2
04N	18E	07	37.0	6.0	35.0	39.0				2.0	9.2			17.0	37.0	40.0	35.0	15.0	272.2
04N	18E	08					16.0	39.0	36.0	1.1		8.0							100.1
04N	18E	18		8.4			19.0 L.1												27.4
04N	18E	19		0.3	27.0	3.0	25.0			27.5					9.7	15.0			107.5
04N	18E	31														40.0	40.0		80.0
04N	19E	29											11.0	28.0		10.4	37.0		86.4
04N	19E	32					8.3												8.3
05N	18E	32													1.9		12.0 L.2	11.0 L.1	24.9

Total number of acres irrigated 7646.7

4724.9

10. In which county (ies) are lands listed above as place of use located? Blaine County
11. Do you own the property listed above as place of use? Yes No (See Remark No. 3)
If your answer is No, describe in Remarks below the authority you have to claim this water right.
12. Describe any other water rights used at the same place and for the same purposes as described above.
(See Remark No. 3) or None ()
13. Remarks:
1. The court determined in the matter of "Upper Big Wood River Water Users' Association *et al* v. S. H Chapman, dated August 28, 1922, that the water saved under this right has a priority of September 1, 1920, but the water is the "sole and exclusive property of said plaintiffs as developed waters, regardless of the date of appropriation." Diversion and use of water under this right is not subject to regulation according to priority of rights in Big Wood River and Tributaries.
2. The point of diversion listed on Page 1 is for the Glendale Diversion. The Baseline Bypass Canal diverts to the east side of the river and the Glendale Canal diverts to the west side of the river at this point. Several canals re-divert saved water from the Baseline Bypass Canal and Extension Bypass Canal. Water is accounted as delivered at the point of re-diversion. The following is a list of the legal descriptions for the points of diversion from Big Wood River and tributaries used by shareholders and of the legal descriptions for the points of re-diversion used by the shareholders.
- T01S R18E S2 NESESE Re-diversion (Black 61 Canal)
 - T01S R18E S2 SWSWNE Lot 2.
 - T01S R18E S19 NWNENE.
 - T01N R18E S1 NENWSW.
 - T01N R18E S2 SWNESE
 - T01N R18E S12 NENWSW.
 - T01N R18E S12 NWSESW (Glendale Canal and Baseline Bypass Canal).
 - T01N R18E S25 NESWSW Re-diversion (Dittoe Canal).
 - T01N R18E S25 NWSESW Re-diversion (Baseline Canal).
 - T01N R18E S35 NESESE Re-diversion (Brown 57F Canal).
 - T02N R18E S26 NWSW.

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- T02N R18E S26 SWSE.
- T02N R18E S26 NESWSW Lot 1.
- T02N R18E S36 NESWNW Lot 3 (Head gate #45, District Canal).
- T03N R18E S20 SWNW.
- T04N R17E S31 NENWNE (Warm Springs Creek).
- T04N R18E S5 NENW (Trail Creek).
- T04N R18E S7 SESWSE (Trail Creek).
- T04N R19E S28 SENENW (East Fork Big Wood River).
- T04N R18E S29 SWNWSW.
- T05N R18E S32 NESE (Trail Creek)

3. The place of use for the saved water under this right is land owned by the shareholders of UWRWUA (Ref. Certificate of Approval for Transfer No. 184. All of the land receiving saved water under this right are covered by claims filed in the SRBA for natural flow rights from Big Wood River and tributaries. The UWRWUA operates under the provisions of § 42-219(6), Idaho Code, allowing a generally described place of use covering the places of use listed (Ref: Attached affidavit of William L. Sherbine). Primary rights held by the shareholders identifying the places of use are listed in Attachment No."I".

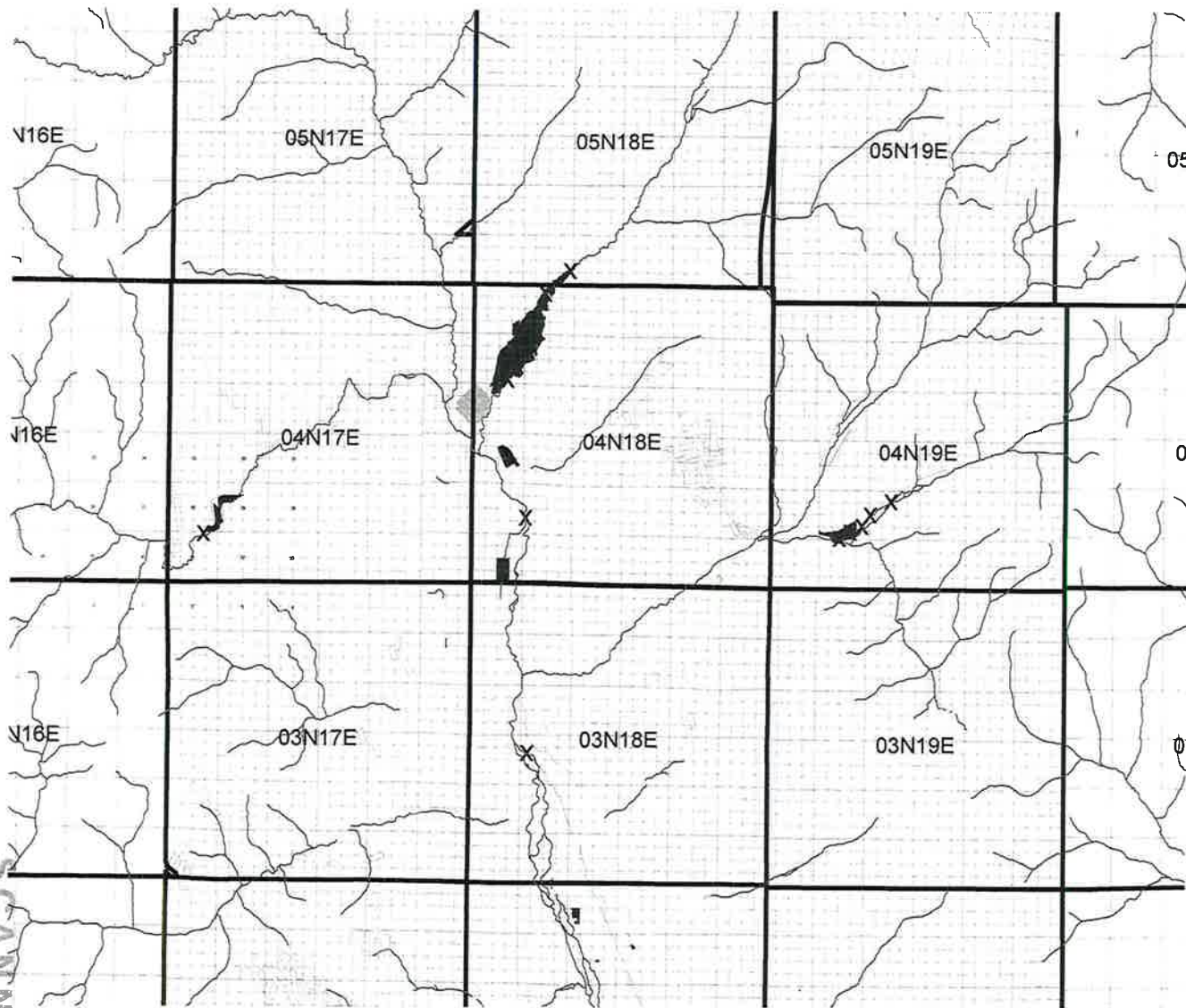
4. Copies of the following documents are attached:

- A. "Upper Big Wood River Water Users' Association, et al v. S.H. Chapman" decree, dated August 28, 1922, Fourth District Court of Idaho.
- B. Articles of Incorporation for UWRWUA.
- C. Certificate approving Transfer No. 184.
- D. "Saved Water in Bypass Area," spreadsheet 7/31/2002 by ADM.
- E. Memorandum prepared by Allen D. Merritt, IDWR, dated July 31, 2002.
- F. Affidavit of William L. Sherbine.
- G. NAIP photograph of the Baseline Bypass Canal Diversion location.
- H. Water District 37 records.
- I. List of Shareholders and primary rights identifying place of use for saved water.

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Map to Accompany Claim No. 37-892

(Northern Part)



- Stream
- Place of Use
- X Point of Diversion

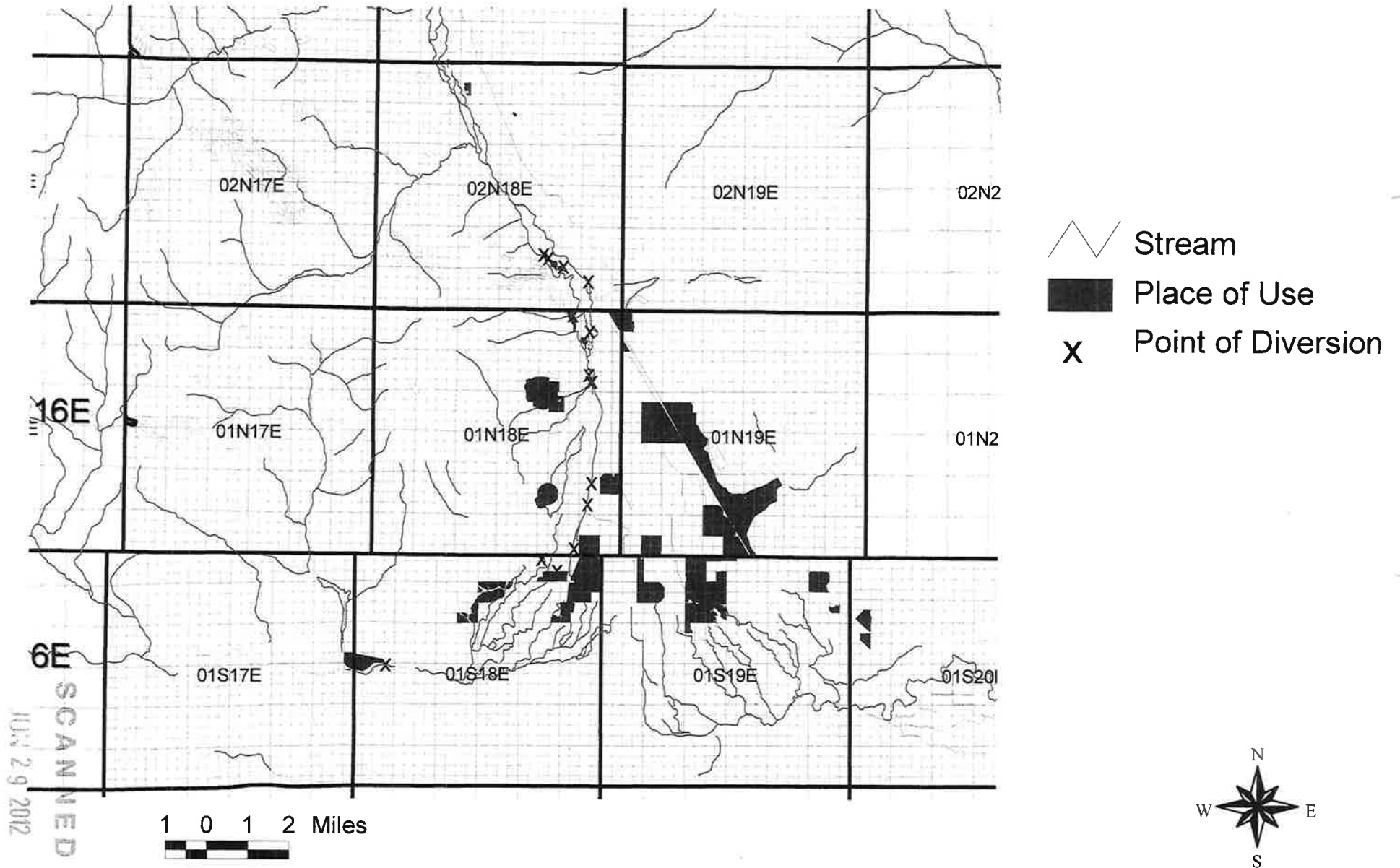
1 0 1 2 3 4 5 6 Miles



JUN 29 2012

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MAP TO ACCOMPANY AMENDED CLAIM 37-892
(Southern Part of Basin)



14. Basis of Claim (Check One) Beneficial Use _____ Posted Notice _____ License _____ Permit _____ Decree X _____
 Court Fourth District Court Decree Date August 28, 1922 Plaintiff vs Defendant Upper Big Wood River Water Users' Association, et al v. S.H. Chapman.

If applicable provide IDWR Water Right Number 37-892

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

Number of Attachments: N/A (0)
~~Eight (8)~~

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

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

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am
President Title of Upper Wood River Water Users Association, Inc. Organization

that I have signed the foregoing document in the space below as
 _____ of _____

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

Signature of Authorized Agent William L. Sherbine Date 8-1-07

William L. Sherbine

Title and Organization President, Upper Wood River Water Users Association, Inc.

Please Print Name

16. Notice of Appearance:

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

Signature

Josephine P. Beeman
 Address Beeman and Associates, P.C.; 409 W. Jefferson St., Boise, Idaho 83702

Date

August 3, 2007

Last Name Upper Wood River Water Users Ass'n, Inc. Ident. Number 37-892

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JUN 28 2012

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 COUNTY OF SUTTER
 SUPERVISOR'S OFFICE
(PRELIMINARY LIST)
UWRWUA SHAREHOLDERS AND THEIR ASSOCIATED
PRIMARY RIGHTS
IDENTIFYING PLACES OF USE AND POINTS OF DIVERSION
USED FOR "SAVED WATER" IN 2007

Shareholder (2007 Active List)	Claims Numbers for Primary Rights¹ (All are in Basin 37)
Barker, Patrick	21341, 21581, 21583 (Benson) ² , 21585 (Miller)
Beck, Thomas	11566
Board, Mill and Sunset Ranch (Decreed to Sun Valley Long Term Holding LLC)	2055
Cropper, David	577BS, 21956
Eakin, Grace (Estate of James Ivan Eakin)	111
Eccles, Spencer	158A, 20936 (Window Rock Ranch)
Gardner, Robert	115B, 665H, 666F, 667K, 11671
Idaho Foundation for Parks and Land, Inc.	457B
John Brown, Inc.	203
Knight, Mary Ann	4D
Lewis, Leroy	311
Molyneux, John	20570
MV Properties LLC (JRJ)	26
O'Connor, Gerry (Robbins Trust & O'Conner Trust)	21793, 21794
Redstone (Cove Ranch) (Redstone Partners LP)	481B
Rinker, Harry	113K
Rosekrans, Kate (Duininck)	21124
Sherbine, Rocky	11773
Sherbine, William	468
Silver Springs Ranch (Thomas M. O'Gara Family Trust)	20641
Spring of Gladness Ranch, Inc.	104
Sun Valley Co. (Decreed to Sinclair Oil Corp.)	415
The Meadows LLC	48A
Van der Muelen, Pete (Glendale Farms LLC)	29
Weyyakin Partners	289
Wise, George & Kathleen	579
Wood River Ranch (Decreed to Lakeside Industries)	11811, 11821
Yanke, Sheldon (Y 3 Ranch)	51, 663

1. The claims listed for each shareholder includes the points of diversion and places of use for use of "saved water." Other claims filed by a shareholder duplicating the points of diversion and place of use are not listed.

2. The name of persons other than the shareholder holding claims having a place of use identified by the shareholder for use of "saved water" are listed in parentheses.

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR LINCOLN COUNTY.

Upper Big Wood River Water Users'
Association, a corporation; Mutual
Wood River Water Users' Association,
a corporation; Big Wood Canal Company,
a corporation,

Plaintiff

vs.

S. H. Chapman, Watermaster,

Defendant.

D E C R E E

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DEPT OF WATER RESOURCES
SOUTHERN REGION

This cause came on for hearing before Honorable H. F. Ensign,
Judge of the Above entitled Court, at Chambers, in Hailey, Idaho,
on the 9th day of August, 1922, and the Plaintiffs appeared by Paul S.
Haddock, one of their attorneys, and the defendant appeared not. Thereupon,
proof of service and of publication as required
by statute was made and the default of the defendant was thereupon
duly entered. Thereupon, the plaintiffs introduced testimony, and the
court, having seen and heard the evidence, finds that the allegations
of plaintiffs' complaint are true.

Court further finds that during the year 1920, the plaintiffs
constructed certain ditches, dams and other devices for the purpose of
diverting all of the waters of the Big Wood River by and around that
portion of Big Wood River located in Blaine County, Idaho, known
as "the dry beds", where great and continuous loss of the waters of
said Big Wood River continually occurred by reason of the same sinking
and disappearing through gravel beds and subterranean outlets. That
the canal so diverting the waters of Big Wood River, hereinafter called
the "By-pass", has a capacity of from one hundred fifty (150) to two
hundred (200) second feet and is sufficient in size to divert all of
the waters of Big Wood River during its normal flow. The point of
diversion of said "By-pass" is at a point in the Southeast Quarter of the
Southwest quarter of Section 13, Township 1 North, Range 18 East, B. M., in
Blaine County, Idaho, about one thousand (1,000) feet north of the Section

PROFILED
DATE 2-27-03

line between sections 13 and 24, of said Township and Range. The "By-pass" follows old Canal #55 in a Southerly direction about six thousand seven hundred (6,700) feet, thence through an enlargement of the Black ditch to the section line between Sections 25 and 36 of said Township and Range, thence west through a new constructed section to an old slough, a distance of about two thousand seven hundred (2,700) feet, thence in a southerly direction for about two thousand seven hundred (2,700) feet, where it empties into the main channel of Big Wood River.

That from and after the 1st day of September 1920, the plaintiffs have diverted the waters of Big Wood River through said "By-pass", and that by reason of so diverting said waters through said "By-pass", the plaintiffs have saved and developed a continuous flow of eighteen (18) second feet of the water of said Big Wood River, being the waters which formerly sank, disappeared and were wasted in and through the river beds known as the "dry beds".

It is therefore ordered, adjudged and decreed that the plaintiffs are the owners of ^{land} sand entitled to the use of said eighteen (18) second feet of water of Big Wood River, being water saved and developed by said plaintiffs during the irrigation season of each year when the aforesaid "By-pass" is operated and that the various plaintiffs are entitled to the possession and use of the following proportions of said eighteen (18) second feet of water so saved and developed, to wit: The plaintiff, Upper Big Wood River Water Users' Association is the owner of and entitled to the use of five hundred ^{11,232 cfs} sixty-one and six-tenths (561.6) inches thereof; that the plaintiff 37-0893 Mutual Wood River Users' Association is the owner of and entitled to the use of one hundred seventy-four and six-tenths ^{3,492 cfs} (174.6) inches thereof; that 37-0894 the plaintiff Big Wood River Canal Company is the owner of and entitled to the use of one hundred sixty-three and eight-tenths ^{3,276 cfs} (163.8) inches thereof.

37-0895 That the said waters so saved and developed as aforesaid is, during the winter months, stored for irrigation in the Magic Reservoir in Blaine County, Idaho, the said reservoir being part of the said Big Wood Canal Company's irrigation system, and that said waters, so saved and developed during that portion of the year other than the irrigation season is hereby decreed to be the property of said Big Wood Canal Company.

PROFILED
DATE 2-27-03

That the waters decreed to the plaintiffs herein are the sole and exclusive property of said plaintiffs as developed waters, regardless of the date of appropriation. That the date of appropriation and priority in and to said waters is the 1st day of September, 1920.

Dated this 28th day of August, 1922

H. F. Ensign,

District Judge

Judgment rendered August 9, 1922.

Filed: August 30, 1922

E. A. Bowler, Clerk

By Buelah Guymon, Deputy

State of Idaho)
County of Lincoln } ss

I, E. A. Bowler, Clerk of the District Court, and Ex-Officio Recorder in and for the County of Lincoln, State of Idaho, do hereby certify that the annexed is a full, true and correct copy of the decree now on file in my office, as the same appears on the Records of said Lincoln County, State of Idaho, in Book 5 of Judgments at page 292.

IN TESTIMONY WHEREOF, I have set my hand and affixed my official seal this 7th day of June, A. D. 1922.

E. A. Bowler, Clerk, Ex-Officio Recorder

By /s/ Venetta Albert, Deputy

PROFILED
DATE 2-27-03

174
84
204
42

900
212
58

ARTICLES OF INCORPORATION
UPPER WOOD RIVER WATER USERS ASSOCIATION, INC.

KNOW ALL MEN BY THESE PRESENTS, That we, the undersigned, bona fide resident citizens of the State of Idaho, have this day voluntarily associated ourselves, and do hereby and by these articles of incorporation unite and associate ourselves for the purpose of forming a corporation under the laws of the said State of Idaho.

I

The name of this corporate association shall be "UPPER WOOD RIVER WATER USERS ASSOCIATION, Inc."

II

The period of the existence of this corporation shall be perpetual.

III

The location and postoffice address of said corporation's registered office in this state shall be in the city of Hailey, Blaine County, Idaho, and at such office therein as shall from time to time be fixed by its board of directors.

IV

The purposes for which this corporation is formed are as follows:

(1) To take over and carry on the suspended business and activities of a former corporation of similar name, The Upper Wood River Water Users' Association, whose charter has heretofore been forfeited, and of the voluntary association which succeeded it.

(2) To promote and protect the general welfare and rights and interests of the water users out of Big Wood River and

particularly of the stockholders of this corporation, with respect to the rights, use, delivery and distribution of water for irrigation and domestic purposes from Big Wood River and its tributaries, more especially that section of said river above Magic Dam; and to those ends to raise funds, employ counsel and other assistance, prosecute and defend suits, actions and proceedings and generally to operate and maintain a reclamation organization for the mutual protection and benefit of the Upper Big Wood River Valley.

(3) To study and survey various methods of reclaiming arid lands, of preventing waste of water, of distributing the same, and of beneficially applying water to such lands in the Big Wood River Valley; and by itself or in cooperation with other individuals, organizations, corporations, associations, municipal corporations, and governmental agencies to promote, construct, own and use irrigation works and services in, and for the benefit of the water users of, said valley.

(4) To own, hold, sell, lease, and transfer, either in its own name or in trust for its stockholders or Big Wood River water users generally, water rights, canal, ditch and lateral rights, reclamation works, and any form of real or personal property necessary or incidental to the carrying out of the corporate purposes.

(5) This corporation is not organized and shall not be conducted for profit. Any excess of income over expense, incident to its operations, shall be devoted to the promotion of the reclamation needs of the water users and particularly the stockholders.

(6) For the purpose of financing the association's needs, stock herein shall be subject to assessments.

V

The business and prudential affairs of this corporation shall be managed by a board of nine (9) directors, who shall be elected by the stockholders in such manner, at such times and for such terms as shall be provided by the by-laws.

VI

The amount of the authorized capital stock of this corporation shall be seventy-five thousand (\$75,000.00) Dollars, divided into seventy-five thousand (75,000) shares of the par value of One (\$1.00) Dollar each.

So far as practicable, each share of stock shall represent the equivalent of one miner's inch of water owned or controlled by a stockholder who is a user of water from upper Big Wood River Valley.

VII

The following named persons, with the postoffice address of each, are the incorporators hereof, and each has subscribed to the amount of capital stock of this corporation set opposite his name, respectively:

<u>Incorporators and Subscribers</u>	<u>Postoffice Address</u>	<u>Shares Subscribed</u>
James A. Wheeler	Gannett, Idaho	1
Dorothy L. Justus	Hailey, Idaho	1
Irvin E. Rockwell	Bellevue, Idaho	1

In addition the following persons, acting as a committee and as trustees, have subscribed for 42,500 shares of the capital stock of this corporation for the use and benefit of other shareholders in the former corporation of similar name hereinbefore referred to:

<u>Name</u>	<u>Postoffice Address</u>
James A. Wheeler	Gannett, Idaho
Dorothy L. Justus	Hailey, Idaho
Irvin E. Rockwell	Bellevue, Idaho

Witness our hands this 27th day of August, 1942.

James A. Wheeler
Dorothy L. Justus
Irvin E. Rockwell

James A. Wheeler
Dorothy L. Justus
Irvin E. Rockwell

ACKNOWLEDGMENT

State of Idaho, }
County of Blaine, } ss.

On this 27th day of August, 1942, before me B.W. Gannheim, a notary public in and for said state, personally appeared James A. Wheeler, Dorothy L. Justus, Irvin E. Rockwell

known to me to be the persons whose names are subscribed to the foregoing Articles of Incorporation of Upper Big Wood River Water Users Association, Inc., and acknowledged to me that they executed the same.

Witness my hand and notarial seal.

B. W. Gannheim

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1942 2607

DEPT. OF NATURAL RESOURCES
SOUTHERN REGION

21137

**ARTICLES OF
INCORPORATION OF
UPPER WOOD RIVER WATER
USERS ASSOCIATION, INC.**

STATE OF IDAHO
DEPARTMENT OF STATE
Secretary's Office
Boise, Idaho

Approved, filed, and admitted to
the records of Articles of Incorpor-
ation of the State of Idaho and
certificate issued.

this 31st day of
August, 1942
at 11 o'clock A.M.

FEES PAID

Filing \$ 40.00
License Tax exempt
Recording 2.00
Certificate 3.00

TOTAL \$45.00

Geo. H. Curtis

Secretary of State

By Ross A. Hawthorth
~~Secretary~~

Assistant Secretary

No. 84693

#####

ARTICLES OF INCORPORATION

#####

UPPER WOOD RIVER WATER USERS

ASSOCIATION, INC.

#####

State of Idaho, County of Blaine, ss.
I, Clerk of said County, do hereby certify that the foregoing instrument
was filed for record in my office at

the request of

B. W. Oppenheims

at 1:40 P. M.

Sept. 8 A. D. 1942

and duly filed in this office.

B. J. Leanne

By Donald L. Justice

For S. J. & J. J.

Card mailed 9-8-42

Entered ☒ Entered on Margin ☒
Recorded ☒ Indexed 1st Party ☒
Compared ☒ Indexed 2nd Party ☒

COPY

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

RECEIVED
MARCH 15 1946
STATE OF IDAHO
DEPARTMENT OF RECLAMATION

RECEIVED

2007

OFFICE OF THE ATTORNEY GENERAL
BOISE, IDAHO

In the Matter of the Application of

UPPER WOOD RIVER WATER-USER'S ASSOCIATION
Hailey, Idaho

ORDER GRANTING CHANGE

For a Change of Point of Diversion on Big Wood
River, in Water District No. 7-AB, Blaine County,
Idaho

No. 104

WHEREAS, on the 20th day of December, 1945, at the Department of Reclamation of the State of Idaho, at Boise, Idaho, the application of Upper Wood River Water-Users Association, of Hailey, Idaho, for a change of point of diversion on Big Wood River, came on regularly for hearing, pursuant to published notice, in due and statutory form; and,

WHEREAS, No protest has been filed against the application, and the evidence filed by the applicant with the application shows that it became necessary to change the point of diversion, and that no other decreed water right or water user will be injured thereby; and,

WHEREAS, The said change in point of diversion has been approved by the Watermaster of Water District No. 7-AB, Big Wood River; and,

WHEREAS, The proposed change in point of diversion is a more satisfactory arrangement, and will allow a more economical use of the water;

NOW, THEREFORE, IT IS HEREBY ORDERED That the said application be and the same is hereby granted, and that Certificate of Change in Point of Diversion be issued to the applicant herein, as provided by the laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the Department of Reclamation of the State of Idaho to be hereunto affixed, at Boise, Idaho, this 15th day of March, A. D. 1946.

MARK R. KULP
State Reclamation Engineer

FILED
DATE 2-27-03

RECEIVED

APR 5 1946

DEPT. OF RECLAMATION
BOISE, IDAHO

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

CERTIFICATE OF CHANGE ON POINT OF DIVERSION OF DECREED WATER RIGHT
No. 184

THIS IS TO CERTIFY THAT UPPER WOOD RIVER WATER-USERS ASSOCIATION, of Hailley, Idaho, is the owner of and using a certain water right, bearing date of priority of September 1, 1920, for 18 cubic feet per second of the waters of Big Wood River, County of Blaine, State of Idaho, decreed to said Upper Wood River Water-Users Association, by decree of Judge H. F. Ensign, of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Lincoln, in the case of

UPPER BIG WOOD RIVER WATER-USERS ASSOCIATION, et al.,

Plaintiffs,

vs.

S. H. CHAPMAN, WATERMASTER,

Defendant

said decree bearing date of August 23, 1922, and being appurtenant to lands in the Upper Big Wood River Valley, as evidenced by shares in said Association.

That the said decree has been entered in the records of the Department of Reclamation of the State of Idaho, in Volume 5 of Decrees, at Page 282.

That now, upon the application of the Upper Big Wood River Water-Users Association for a Certificate of Change in Point of Diversion, made before the State Reclamation Engineer of the State of Idaho, and said application having been granted, the right to change such point of diversion is hereby confirmed.

That said change in point of diversion shall not modify in effect said decree, water right, or place of use. Said water to be limited at any time to an amount actually needed and beneficially used for such purposes, and shall not exceed the following amount, to-wit:

18 cubic feet per second of the waters of Big Wood River, with priority of September 1, 1920.

That said water right is appurtenant to lands in the Upper Big Wood River Valley, as evidenced by shares in said Association.

That the water right above described has heretofore been diverted from Big Wood River, with point of diversion located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13, Township 1 North, Range 18 East, B.M.

That the water right above described will hereafter be diverted from Big Wood River, with point of diversion located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13, Township 1 North, Range 18 East, B.M.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the Department of Reclamation of the State of Idaho to be hereunto affixed, at Boise, Idaho, this 13th day of March, A. D. 1946.

MARK R. KULP

State Reclamation Engineer

FILED

DATE 2-27-03

RECEIVED

MAR 17 1946

DEPT OF RECLAMATION
BOISE, IDAHO

RECORDED

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

CERTIFICATE OF CHANGE OF POINT OF DIVERSION OF DECREED WATER RIGHT

No. 184

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UPPER BIG WOOD RIVER WATER-USERS ASSOCIATION, et al.,

Plaintiffs,

vs.

S. H. CHAPMAN, WATERMASTER,

Defendant

said decree bearing date of August 28, 1922, and being appurtenant to lands in the Upper Big Wood River Valley, as evidenced by shares in said Association;

That the said decree has been entered in the records of the Department of Reclamation of the State of Idaho, in Volume 5 of Decrees, at Page 282.

That now, upon the application of the Upper Big Wood River Water-Users Association for a Certificate of Change in Point of Diversion, made before the State Reclamation Engineer of the State of Idaho, and said application having been granted, the right to change such point of diversion is hereby confirmed.

That said change in point of diversion shall not modify in effect said decree, water right, or place of use. Said water to be limited at any time to an amount actually needed and beneficially used for such purposes, and shall not exceed the following amount, to-wit:

18 cubic feet per second of the waters of Big Wood River, with priority of September 1, 1920.

That said water right is appurtenant to lands in the Upper Big Wood River Valley, as evidenced by shares in said Association.

That the water right above described has heretofore been diverted from Big Wood River, with point of diversion located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13, Township 1 North, Range 18 East, B.M.

That the water right above described will hereafter be diverted from Big Wood River, with point of diversion located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 12, Township 1 North, Range 18 East, B.M.

IN WITNESS WHEREOF, I have hereto set my hand and caused the official seal of the Department of Reclamation of the State of Idaho to be hereunto affixed, at Boise, Idaho, this 13th day of March, A. D. 1946.

Mark R. Rulp
MARK R. RULP

State Reclamation Engineer

PROFILED

DATE 2-27-03

Saved Water in Bypass Area

7/31/2002 by ADM

Water Right Records

Chapman Decree 8/28/1922 (Bypass)

	Inches	cfs	
37-892	561.6	11.232	UBWRWUA
37-894B	159.2	3.184	Sprenger Land Inv Inc
37-894A	179.2	3.584	Big Wood Canal Co

900	18
-----	----

37-895	900	18	Big Wood Canal Co. (Winter Water)
--------	-----	----	--------------------------------------

Coffin Decree 7/18/1941 (Extension Bypass)

37-891A	525	10.5	UBWRWUA
37-891B	75	1.5	George Allred
37-891C	300	6	Baseline Canal Co

900	18
-----	----

Coffin Decree 12/31/942 (Dragline Ditch)

37-890	300	6	UBWRWUA
--------	-----	---	---------

300	6
-----	---

SRBA Records

	Inches	cfs	
NOT CLAIMED	561.6	11.232	UBWRWUA
37-892A	159.2	3.184	David Sellgren
37-11394	84.6	1.692	Spring of Gladness Ranch
37-893A	84.6	1.692	William Serbine
NOT CLAIMED	10	0.2	Koenig & Grabher

900	18
-----	----

NOT CLAIMED	900	18
-------------	-----	----

NOT CLAIMED	525	10.5	UBWRWUA
NOT CLAIMED	75	1.5	JRJ Inc
37-891B	300	6	Baseline Canal Co

900	18
-----	----

NOT CLAIMED	300	6	UBWRWUA
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300	6
-----	---

***7/16/2002 Watermaster indicates Dragline ditch has been filled in so no developed water delivered.

RECEIVED

JAN 16 1986

Department of Water Resources

Memorandum

Date: 1/14/86

From: Allen Merritt

To: File 37-0892

Subject: Review of rts 37-0892, 37-0893, 37-0894, 37-0895 & 37-0876 for verification of data base.

In reviewing the Upper Big Wood River Water Users' Assn. et. al. vs. Chapman dated 8/28/1922 it appears that by the construction of the 'Baseline By-pass' canal 18 cfs of saved water was awarded to the plaintiffs as follows:

{	37-0892	11,232 cfs	Upper Big Wood River Water Users
	37-0893	3,492 cfs	Mutual Wood River Users' Assn.
	37-0894	<u>3,276 cfs</u>	Big Wood River Canal Co.
		18,000 cfs	

{	37-0895	18,000 cfs	Big Wood Canal Co. for storage in Magic Res.
---	---------	------------	--

PROFILED

MICROFILMED

DATE 2-27-83 APR 6 200

On 6/27/1925 in decree of of Big Wood Canal Co.,
 Chapman 37-0892 was awarded to the plaintiffs as follows:

During Irrig.
SeasonDuri, Non-Irrig.
Season

In 1946 Trans 184 was granted in the Name of the Upper Wood River Water Users Assn. to change P/D for 18 cfs (37-0892, 37-0893, 37-0894) In a phone conversation with Reid Newby the watermaster on 1/13/86 Reid indicated that the 18 cfs is presently being delivered to various users above Magic. Reid indicated that he recalls the Big Wood Canal Co. rt. (37-0894) was traded to the UBWRWUA for maintenance of the by-pass which would allow the continue use of the winter right (37-0895). He indicated that the Mutual Wood River Users' Assn is no longer in existence with their rt. (37-089) being used by the UBWRWUA

In 1971 Trans. 1750 was granted on 37-0892 allowing Sprenger Land Invest. Co. to move 3,184 cfs upstream. A review of 1985 watermaster records indicate that the 18 cfs on 37-0892 (37-0893 & 37-0894 not listed) are delivered as follows:

River Rock Ltd.	3,184 cfs	3,184
Owen Simpson	0.200 cfs	
William Shoreline	1,692 cfs	
Spring of Gladness	1,692 cfs	
U.B.W.R.W.U.A	11,232	
	<u>18,000 cfs</u>	

MICROFILM
200521
37-089

PROFILED
DATE 2-27-03

It appears that Jim Stanton's memo regarding
Trans. 184 dated 9/16/83 is incorrect.

I propose to code the entire 18 cts in
37-0892 and have 37-0893, 37-0894,
and 37-0876 refer to 37-0892. Rt.
37-0895 will remain unchanged.

PROFILED
DATE 2-27-03

MICROFILMED

RECEIVED

AUG 9 2007

DEPT. OF WATER RESOURCES
SOUTHERN REGION

AFFIDAVIT OF WILLIAM SHERBINE

STATE OF IDAHO)
) ss:
COUNTY OF BLAINE)

I, William Sherbine, after first being duly sworn upon oath, states as follows:

1. I have lived in the Bellevue area and been acquainted with the existence and operation of the Baseline Bypass and Extension Bypass Canals since 1950, have been a shareholder in the Upper Wood River Water Users Association (UWRWUA) for 40 years, and have been the chairman of UWRWUA for 15 years.

2. The UWRWUA holds rights No. 37-891A, 37-891C and 37-892 for the benefit of its shareholders. Shareholders use saved water to "firm up" water supplies for land receiving water under natural flow water rights from Big Wood River and tributaries.

3. Some of the shareholders receive their portion of the saved water through the Baseline Bypass Canal and/or the Extension Bypass Canal. Other shareholders divert their portion of the saved water through other diversions from Big Wood River and tributaries above Magic Reservoir. Some of the saved water is used at and upstream from Ketchum.

4. The Baseline Bypass Canal and Extension Bypass Canals were operated in 1987 and every year prior to 1987 of which the affiant has knowledge and saved water has been used by shareholders during those years. Water is diverted into the Baseline Bypass Canal each summer when the flow of the river drops so that the entire flow can be carried in the canal. Diversions continue in the canal for the remainder of the irrigation season as long as the canal can carry the entire flow of the river.

5. The operation of the Baseline Bypass and Extension Bypass Canals and the diversion of saved water is coordinated with the Water District 37 Watermaster. UWRWUA shareholders have been allowed to rotate saved water with other shareholders and to move the point of diversion and place of use as they determine necessary within the Big Wood River basin upstream from Magic Reservoir without the requirement of processing a transfer under Section 42-222, Idaho Code.

6. The UWRWUA maintains and operates the Baseline Bypass Canal and Extension Bypass Canal to carry Big Wood River flows to achieve water savings as provided in "Upper Big Wood River Water Users' Association, et al v. S. H. Chapman," August 28, 1922 and "Tom Hughes, et al v Mans H. Coffin," July 18, 1941. Shareholders are assessed each year for the cost of maintenance of the canals and water district assessments.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

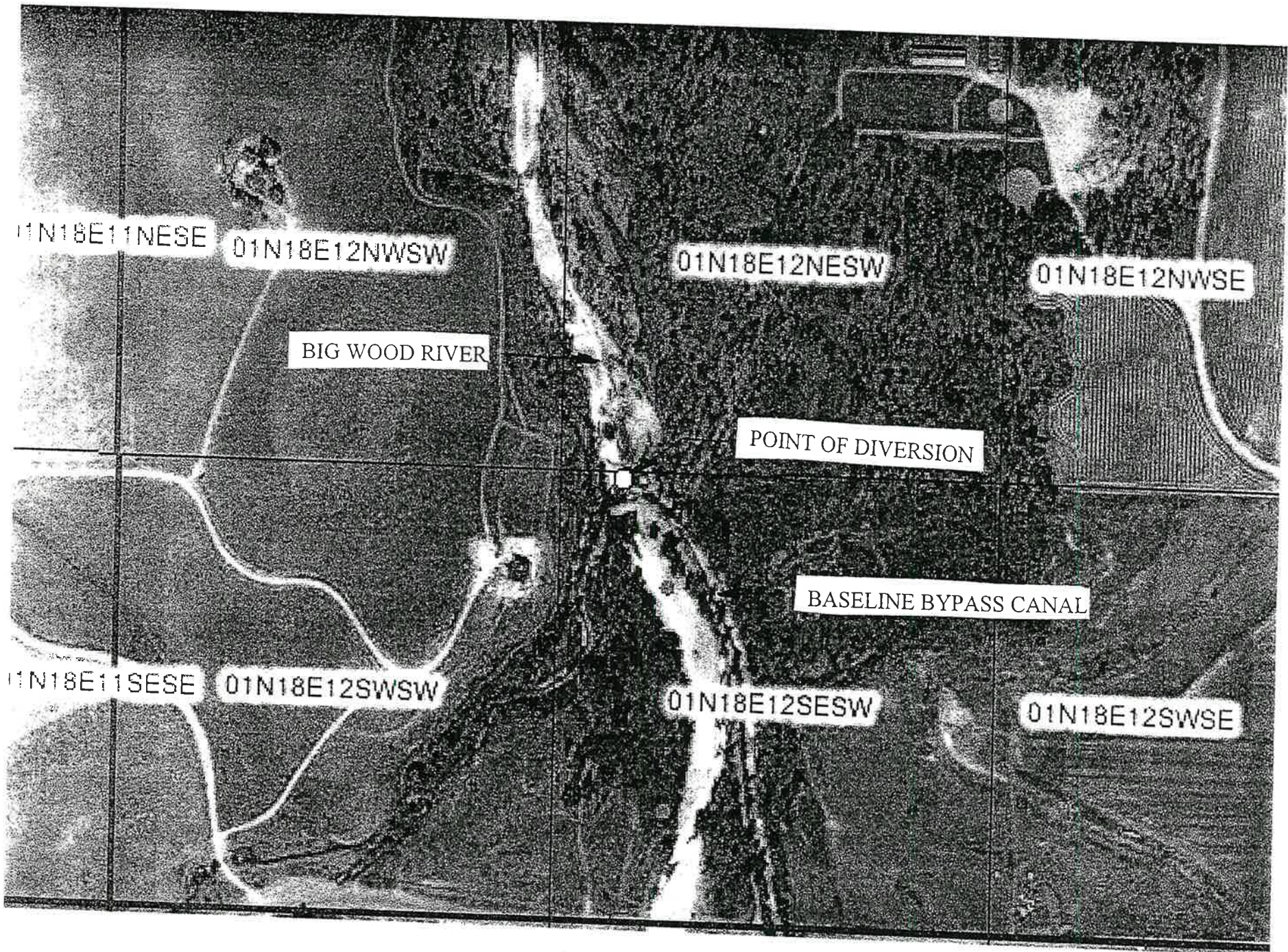
DATED this 20th day of November 2006.

William Sherbine
WILLIAM SHERBINE

2006. SUBSCRIBED AND SWORN to before me this 20 day of November

Rustin Miller
Notary Public in and for the State of Idaho
Residing at: Hailey ID
My Commission Expires: 12/26/06





WATER DISTRICT #37 & 37-M
DAILY DISCHARGE IN SECOND FEET OF BASELINE CANAL #55-C FOR THE YEAR ENDING SEPTEMBER 30, 1987

DAY	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER
1		52	97	48	24	6
2		52	88	46	21	6
3		42	89	51	20	6
4		35	86	46	19	7
5		48	85	42	16	7
6		61	89	41	15	7
7	35	72	89	33	13	6
8	42	82	50	30	11	6
9	40	78	109	28	10	6
10	39	80	97	30	10	6
11	46	79	89	33	12	6
12	48	78	80	28	16	6
13	45	76	64	26	20	6
14	45	83	118	27	22	6
15	48	85	111	34	21	6
16	54	83	104	30	10	7
17	57	65	72	37	6	7
18	50	59	63	68	6	7
19	38	61	53	73	6	7
20	31	72	56	60	6	7
21	38	72	55	56	6	7
22	41	50	51	71	6	7
23	38	74	45	73	6	7
24	35	98	35	61	7	6
25	38	121	33	50	8	6
26	44	126	33	42	7	6
27	50	123	34	35	7	8
28	56	124	38	35	7	9
29	59	121	45	37	6	9
30	55	114	48	34	6	9
31		109		30	6	
24 HOUR CFS	1072	2474	2106	1335	356	201
MEAN	44.7	79.8	70.2	43.0	11.0	7.0
ACRE FEET	2144	4948	4212	2670	712	402
TOTAL 24 HOUR CFS	7,544.0					
TOTAL NO. OF DAYS	177					
YEARLY MEAN	43.0					

13140955

WATER DISTRICT 37 & 37-M

=====

CANAL NAME BASELINE STATION NUMBER 55-C YEAR 1988

=====

DAILY DISCHARGE IN SECOND FEET

=====

DATE	APRIL	MAY	JUNE	JULY	AUG.	SEPT.	DATE
1		47.00	67.00	30.00			1
2		42.00	68.00	24.00			2
3		29.00	63.00	20.00	9.00		3
4		23.00	91.00	30.00	8.00		4
5	25.00	19.00	142.00	25.00	7.50		5
6	25.00	37.00	128.00	23.00	7.00		6
7	29.00	44.00	91.00	23.00	8.00		7
8	33.00	36.00	74.00	23.00	8.50		8
9	32.00	34.00	66.00	24.00	8.50		9
10	31.00	31.00	79.00	23.00	5.20		10
11	32.00	30.00	78.00	24.00	4.90		11
12	38.00	42.00	75.00	19.00	5.60		12
13	70.00	76.00	70.00	16.00	6.00		13
14	61.00	83.00	69.00	13.00	4.90		14
15	68.00	82.00	70.00	16.00	2.80		15
16	69.00	42.00	72.00	14.00	1.40		16
17	72.00	37.00	69.00	6.00	DRY		17
18	70.00	30.00	68.00	4.00			18
19	49.00	35.00	66.00	12.00			19
20	61.00	42.00	63.00	12.00			20
21	60.00	56.00	58.00	12.00			21
22	40.00	73.00	54.00	10.00		6.00	22
23	33.00	77.00	44.00	8.00		6.00	23
24	26.00	73.00	40.00	7.00		8.00	24
25	28.00	80.00	47.00	5.00		9.00	25
26	42.00	75.00	44.00	3.00		9.00	26
27	37.00	75.00	40.00	3.00		10.00	27
28	34.00	66.00	31.00	3.00		12.00	28
29	35.00	75.00	44.00	2.00		12.00	29
30	24.00	75.00	40.00	1.00		9.00	30
31		71.00		1.00			31

=====

TOTAL 1124.00 1637.00 2011.00 436.00 87.30 81.00

YEARLY C.F.S. 5376.30

YEARLY ACRE FEET 10663.35

TOTAL NUMBER OF DAYS 143.00

YEARLY MEAN 37.60

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 37-892
Date Received: 11/17/06
Receipt No: C082656
Received By:

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

1. Name of Claimant(s)

UPPER WOOD RIVER WATER USERS ASSOCIATION, INC. Phone:

153 BASELINE RD
BELLEVUE ID USA 83313

2. Date of Priority: 09/01/1920

3. Source: BIG WOOD RIVER Trib. to: MALAD RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
01N	18E	12	SE SW	BLAINE	

5. Description of diverting works:

This water right is based upon water savings from constructing, maintaining and operating the Baseline Bypass Canal ("Canal") to circumvent a losing reach of the Big Wood River downstream from Bellevue. During the irrigation season, when the Canal can carry the entire flow of the river (up to about 200 cfs), Big Wood River water rights diverting in and downstream of the by-passed losing reach, then in priority without the savings afforded by operating the Canal, are delivered through the Canal. The court has determined that a flow rate of 18 cfs is saved whenever the Canal is operating. The Shareholders of Upper Wood River Water Users Association, Inc. ("UWRWUA") take their portions of the 11.232 cfs of this saved water decreed to the UWRWUA from flows delivered through the Canal or from diversions upstream of Magic Reservoir in the Big Wood River Basin.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/15	10/31	11.232	

7. Total Quantity Appropriated is:
11.232 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
----------	-------	---------	------------	-----	-----	-------

11. Place of use in counties:

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

13. Other Water Rights Used:

14. Remarks:

SAVED & DEVELOPED RIGHT EXCLUSIVE OF PRIORITY DATE DUE TO CONSTRUCTION OF
BASELINE BYPASS CANAL.

P/U IS LANDS OF ASSOCIATION SHAREHOLDERS; NOT IN DECREE.

THIS WATER RIGHT APPEARS TO HAVE BEEN BROUGHT TO REGION TO USE AS A SPLIT. PART A
NOW EXISTS.

| THIS WR IS SPLIT.

A37-00892A FOR 3.184 CFS SEABOARD IDAHO INC.

A37-00892B FOR 1.72 CFS WILLIAM SHERBINE (DELETED AND RENUMBERED A37-00893A; THE
BIG WOOD RIVER WATERUSERS HAVE OWNERSHIP OF ALL OF 00892.

IT APPEARS THAT THE SEABOARD OR 00892A SHOULD BE 00893. ADM 5/10/90)

15. Basis of Claim: Decreed

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 Organizations:

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

Title and Organization

Date

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this
of _____ 20____

Notary Public

Residing at _____

My commission Expires _____

NOV 17 2006

DEPARTMENT OF
WATER RESOURCES

Should questions arise during the processing of this application please contact:
Jo Beeman at Beeman and Associates, P.C. 208-331-0950

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 37-892
Date Received 11-17-06
Receipt Number C082656

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED
DEC 01 2006
DEPT. OF WATER RESOURCES
SOUTHERN REGION

Please type or print clearly

1. Name of Claimant(s) Upper Wood River Water Users Association, Inc. Phone 208-731-5114
Mailing Address % Bill Sherbine, 153 Baseline Rd, Bellevue Idaho Zip 83313

2. Date of Priority (Only one (1) per claim) September 1, 1920 (See Remark No. 1)

3. Source of water supply (a) Big Wood River

Which is tributary to (b) Malad River

4. a. Location of point of diversion is: Township 01N Range 18E Section 12,
-- ¼ of SE ¼ of SW ¼, Govt. Lot _____, B.M., County of Blaine

Additional points of diversion if any: See Remark No. 2.

b. If instream flow, beginning point of claimed instream flow is: Not Applicable

Township _____ Range _____ Section _____, _____ ¼ of _____ ¼ of
_____ ¼, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc.), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well This water right is based upon water savings from constructing, maintaining and operating the Baseline Bypass Canal ("Canal") to circumvent a losing reach of the Big Wood River downstream from Bellevue. During the irrigation season, when the Canal can carry the entire flow of the river (up to about 200 cfs), Big Wood River water rights diverting in and downstream of the by-passed losing reach, then in priority without the savings afforded by operating the Canal, are delivered through the Canal. The court has determined that a flow rate of 18 cfs is saved whenever the Canal is operating. The shareholders of Upper Wood River Water Users Association, Inc. ("UWRWUA") take their portions of the 11.232 cfs of this saved water decreed to the UWRWUA from flows delivered through the Canal or from diversions upstream of Magic Reservoir in the Big Wood River Basin.

SCANNED

NOV 24 2006

6. Water is claimed for the following purposes:

For Irrigation purposes from April 15 to October 31 amount 11.232 (cfs) or _____ (acre feet)

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 11.232 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is N.A. acre feet per annum.

9. Non-irrigation uses; describe fully. (Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) _____

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below. **(See Remark No. 3)**

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

TWP	RNG	SEC	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
			¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	

Total number of acres irrigated _____

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

12. Do you own the property listed above as place of use? Yes _____ No _____ **(See Remark No. 3)**
If your answer is No, describe in Remarks below the authority you have to claim this water right.

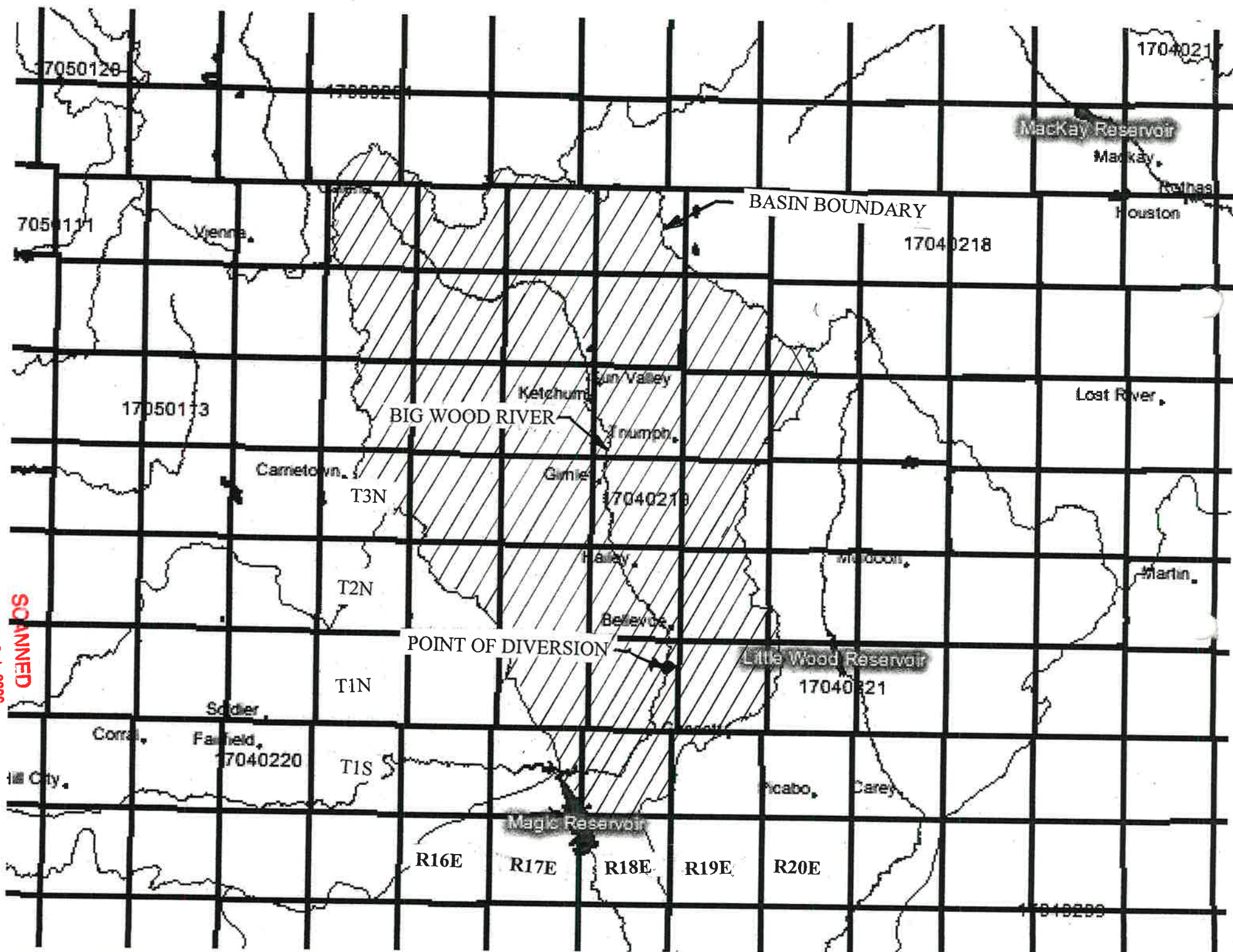
13. Describe any other water rights used at the same place and for the same purposes as described above.

(See Remark No. 3) _____ or None ()

14. Remarks:

1. The court determined in the matter of "Upper Big Wood River Water Users' Association et al v. S. H. Chapman, dated August 28, 1922, that the water saved under this right has a priority of September 1, 1920, but the water is the "sole and exclusive property of said plaintiffs as developed waters, regardless of the date of appropriation." Diversion and use of water under this right is not subject to regulation according to priority of rights in Big Wood River and Tributaries.

2. The legal description listed in Item 4 is for the present location of the diversion into the Baseline Bypass Canal as shown on the High Resolution Color NAIP map (copy attached) available from IDWR's website, using the Public Land Survey overlay. The recorded point of diversion is the NE¼ SE¼, Section 12, Township 1N, Range 18E. The saved water recognized under this right is diverted through the Baseline Bypass Canal and other points of diversion from Big Wood River and Tributaries above Magic Reservoir through which the shareholders divert and beneficially use water (Ref: Attached copy of Certificate of Approval for Transfer No. 184). Points of diversion/rediversion for using saved water under this right in 1987 are identified in Attachment "i."
3. The place of use for the saved water under this right is land owned by the shareholders of UWRWUA (Ref. Certificate of Approval for Transfer No. 184). All of the land receiving saved water under this right are covered by claims filed in the SRBA for natural flow rights from Big Wood River and tributaries. The UWRWUA operates under the provisions of § 42-219(6), Idaho Code, allowing a generally - described place of use covering the Big Wood River Basin above Magic Reservoir (Ref: Attached affidavit of William Sherbine). Places of use for the saved water in 1987 are identified in Attachment "i."
4. Copies of the following documents are attached:
 - a. "Upper Big Wood River Water Users' Association, et al v. S.H. Chapman decree, dated August 28, 1922, Fourth District Court of Idaho.
 - b. Articles of Incorporation for UWRWUA.
 - c. Certificate approving Transfer No. 184.
 - d. "Saved Water in Bypass Area," spreadsheet 7/31/2002 by ADM.
 - e. Memorandum prepared by Allen D. Merritt, IDWR, dated July 31, 2002.
 - f. Affidavit of William Sherbine.
 - g. NAIP photograph of the Baseline Bypass Canal Diversion location.
 - h. Water District 37 records.
 - i. List of UWRWUA shareholders in 1987, present ownership of those shares, and claims filed by or on behalf of the 1987 shareholders identifying points of diversion/re-diversion and places of use associated with the shareholders for that year.



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NOV 24 2006

15. Basis of Claim (Check One) ☐ Beneficial Use ☐ Posted Notice ☐ License ☐ Permit ☒ Decree X

If applicable provide IDWR Water Right Number 37-892

Court Fourth District Court Case Number _____ Decree Date August 28, 1922

Plaintiff vs Defendant Upper Big Wood River Water Users' Association, et al v. S.H. Chapman

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

Number of Attachments Eight (8)

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

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

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

of Upper Wood River Water Users Association, Inc., _____ that I have signed the foregoing
Organization

document in the space below as President of Upper Wood River Water Users Association, Inc.,
Title Organization

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

Signature of Authorized Agent _____

Title and Organization President, Upper Wood River Water Users Association, Inc.,

Date _____

State of Idaho/or _____)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day of _____ 20 _____

SEAL

Notary Public _____

Residing at _____

My Commission Expires _____

17. Notice of Appearance:

Please Print Name

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

Signature _____

Address Beeman and Associates, P.C.; 409 W. Jefferson St., Boise, Idaho 83702

Date _____

Last Name Upper Wood River Water Users Ass'n, Inc. Ident. Number 37-892

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NOV 24 2006

37-
37-0872
37-0875

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR LINCOLN COUNTY.

Upper Big Wood River Water Users'
Association, a corporation; Mutual
Wood River Water Users' Association,
a corporation; Big Wood Canal Company,
a corporation,

Plaintiff

vs.

S. H. Chapman, Watermaster,

Defendant.

D E C R E E

This cause came on for hearing before Honorable H. F. Ensign,
Judge of the Above entitled Court, at Chambers, in Hailey, Idaho,
on the 9th day of August, 1922, and the Plaintiffs appeared by Paul S.
Haddock, one of their attorneys, and the defendant appeared not. Thereupon,
proof of service and of publication as required
by statute was made and the default of the defendant was thereupon
duly entered. Thereupon, the plaintiffs introduced testimony, and the
court, having seen and heard the evidence, finds that the allegations
of plaintiffs' complaint are true.

Court further finds that during the year 1920, the plaintiffs
constructed certain ditches, dams and other devices for the purpose of
diverting all of the waters of the Big Wood River by and around that
portion of Big Wood River located in Blaine County, Idaho, known
as "the dry beds", where great and continuous loss of the waters of
said Big Wood River continually occurred by reason of the same sinking
and disappearing through gravel beds and subterranean outlets. That
the canal so diverting the waters of Big Wood River, hereinafter called
the "By-pass", has a capacity of from one hundred fifty (150) to two
hundred (200) second feet and is sufficient in size to divert all of
the waters of Big Wood River during its normal flow. The point of
diversion of said "By-pass" is at a point in the Southeast Quarter of the
Southwest quarter of Section 13, Township 1 North, Range 18 East, B. M., in
Blaine County, Idaho, about one thousand (1,000) feet north of the Section

PROFILED

DATE 2-27-03

SCANNED

NOV 24 2006

line between sections 13 and 24, of said Township and Range. The "By-pass" follows old Canal #55 in a Southerly direction about six thousand seven hundred (6,700) feet, thence through an enlargement of the Black ditch to the section line between Sections 25 and 36 of said Township and Range, thence west through a new constructed section to an old slough, a distance of about two thousand seven hundred (2,700) feet, thence in a southerly direction for about two thousand seven hundred (2,700) feet, where it empties into the main channel of Big Wood River.

That from and after the 1st day of September 1920, the plaintiffs have diverted the waters of Big Wood River through said "By-pass", and that by reason of so diverting said waters through said "By-pass", the plaintiffs have saved and developed a continuous flow of eighteen (18) second feet of the water of said Big Wood River, being the waters which formerly sank, disappeared and were wasted in and through the river beds known as the "dry beds".

It is therefore ordered, adjudged and decreed that the plaintiffs are the owners of ^{land} sand entitled to the use of said eighteen (18) second feet of water of Big Wood River, being water saved and developed by said plaintiffs during the irrigation season of each year when the aforesaid "By-pass" is operated and that the various plaintiffs are entitled to the possession and use of the following

37-0892 proportions of said eighteen (18) second feet of water so saved and developed, to wit: The plaintiff, Upper Big Wood River Water Users' Association is the owner of and entitled to the use of five hundred ^{11.232 cfs} sixty-one and six-tenths (561.6) inches thereof; that the plaintiff

37-0893 Mutual Wood River Users' Association is the owner of and entitled to the use of one hundred seventy-four and six-tenths (174.6) inches thereof; that

37-0894 the plaintiff Big Wood River Canal Company is the owner of and entitled to the use of one hundred sixty-three and eight-tenths (163.8) inches thereof.

37-0895 That the said waters so saved and developed as aforesaid is, during the winter months, stored for irrigation in the Magic Reservoir in Blaine County, Idaho, the said reservoir being part of the said Big Wood Canal Company's irrigation system, and that said waters, so saved and developed during that portion of the year other than the irrigation season is hereby decreed to be the property of said Big Wood Canal Company.

FILED
DATE 2-27-03

SCANNED
NOV 24 2006

That the waters decreed to the plaintiffs herein are the sole and exclusive property of said plaintiffs as developed waters, regardless of the date of appropriation. That the date of appropriation and priority in and to said waters is the 1st day of September, 1920.

Dated this 28th day of August, 1922

H. F. Ensign,

District Judge

Judgment rendered August 9, 1922.

Filed: August 30, 1922

E. A. Bowler, Clerk

By Buelah Guymon, Deputy

State of Idaho)
County of Lincoln } ss

I, E. A. Bowler, Clerk of the District Court, and Ex-Officio Recorder in and for the County of Lincoln, State of Idaho, do hereby certify that the annexed is a full, true and correct copy of the decree now on file in my office, as the same appears on the Records of said Lincoln County, State of Idaho, in Book 5 of Judgments at page 292.

IN TESTIMONY WHEREOF, I have set my hand and affixed my official seal this 7th day of June, A. D. 1922.

E. A. Bowler, Clerk, Ex-Officio Recorder

By /s/ Venetta Albert, Deputy

PROFILED
DATE 2-27-03

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NOV 24 2006

ARTICLES OF INCORPORATION

UPPER WOOD RIVER WATER USERS ASSOCIATION, INC.

-----:-----

KNOW ALL MEN BY THESE PRESENTS, That we, the undersigned, bona fide resident citizens of the State of Idaho, have this day voluntarily associated ourselves, and do hereby and by these articles of incorporation unite and associate ourselves for the purpose of forming a corporation under the laws of the said State of Idaho.

I

The name of this corporate association shall be "UPPER WOOD RIVER WATER USERS ASSOCIATION, Inc."

II

The period of the existence of this corporation shall be perpetual.

III

The location and postoffice address of said corporation's registered office in this state shall be in the city of Hailey, Blaine County, Idaho, and at such office therein as shall from time to time be fixed by its board of directors.

IV

The purposes for which this corporation is formed are as follows:

(1) To take over and carry on the suspended business and activities of a former corporation of similar name, The Upper Wood River Water Users' Association, whose charter has heretofore been forfeited, and of the voluntary association which succeeded it.

(2) To promote and protect the general welfare and rights and interests of the water users out of Big Wood River and

particularly of the stockholders of this corporation, with respect to the rights, use, delivery and distribution of water for irrigation and domestic purposes from Big Wood River and its tributaries, more especially that section of said river above Magic Dam; and to those ends to raise funds, employ counsel and other assistance, prosecute and defend suits, actions and proceedings and generally to operate and maintain a reclamation organization for the mutual protection and benefit of the Upper Big Wood River Valley.

(3) To study and survey various methods of reclaiming arid lands, of preventing waste of water, of distributing the same, and of beneficially applying water to such lands in the Big Wood River Valley; and by itself or in cooperation with other individuals, organizations, corporations, associations, municipal corporations, and governmental agencies to promote, construct, own and use irrigation works and services in, and for the benefit of the water users of, said valley.

(4) To own, hold, sell, lease, and transfer, either in its own name or in trust for its stockholders or Big Wood River water users generally, water rights, canal, ditch and lateral rights, reclamation works, and any form of real or personal property necessary or incidental to the carrying out of the corporate purposes.

(5) This corporation is not organized and shall not be conducted for profit. Any excess of income over expense, incident to its operations, shall be devoted to the promotion of the reclamation needs of the water users and particularly the stockholders.

(6) For the purpose of financing the association's needs, stock herein shall be subject to assessments.

V

The business and prudential affairs of this corporation shall be managed by a board of nine (9) directors, who shall be elected by the stockholders in such manner, at such times and for such terms as shall be provided by the by-laws.

VI

The amount of the authorized capital stock of this corporation shall be seventy-five thousand (\$75,000.00) Dollars, divided into seventy-five thousand (75,000) shares of the par value of One (\$1.00) Dollar each.

So far as practicable, each share of stock shall represent the equivalent of one miner's inch of water owned or controlled by a stockholder who is a user of water from upper Big Wood River Valley.

VII

The following named persons, with the postoffice address of each, are the incorporators hereof, and each has subscribed to the amount of capital stock of this corporation set opposite his name, respectively:

<u>Incorporators and Subscribers</u>	<u>Postoffice Address</u>	<u>Shares Subscribed</u>
James A. Wheeler	Gannett, Idaho	1
Dorothy L. Justus	Hailey, Idaho	1
Irvin E. Rockwell	Bellevue, Idaho	1

In addition the following persons, acting as a committee and as trustees, have subscribed for 42,500 shares of the capital stock of this corporation for the use and benefit of other shareholders in the former corporation of similar name hereinbefore referred to:

<u>Name</u>	<u>Postoffice Address</u>
James A. Wheeler	Cannett, Idaho
Dorothy L. Justus	Hailey, Idaho
Irvin E. Rockwell	Bellevue, Idaho

Witness our hands this 27th day of August, 1942.

James A. Wheeler
Dorothy L. Justus
Irvin E. Rockwell

James A. Wheeler
Dorothy L. Justus
Irvin E. Rockwell

ACKNOWLEDGMENT

State of Idaho, }
County of Blaine, } ss.

On this 27th day of August, 1942, before me B.W. Oppenheim, a notary public in and for said state, personally appeared James A. Wheeler, Dorothy L. Justus, Irvin E. Rockwell

known to me to be the persons whose names are subscribed to the foregoing Articles of Incorporation of Upper Big Wood River Water Users Association, Inc., and acknowledged to me that they executed the same.

Witness my hand and notarial seal.

B.W. Oppenheim
Notary Public for Idaho

SCANNED
NOV 26 2006

21137

**ARTICLES OF
INCORPORATION OF**
UPPER WOOD RIVER WATER
USERS ASSOCIATION, INC.

STATE OF IDAHO
DEPARTMENT OF STATE
Secretary's Office
Boise, Idaho

Approved, filed, and admitted to
the records of Articles of Incorpor-
ation of the State of Idaho and
certificate issued.

this 31st day of
August, 1942
at 11 o'clock A.M.

FEES PAID

Filing	\$ 40.00
License Tax	exempt
Recording	2.00
Certificate	3.00

TOTAL \$45.00

Geo. H. Curtis

Secretary of State

By Ross A. Hawthorth
Corporation Clerk
Assistant Secretary

SCANNED
NOV 7 4 2006

No. 84693

#####

ARTICLES OF INCORPORATION

#####

UPPER WOOD RIVER WATER USERS

ASSOCIATION, INC.

#####

State of Idaho, County of Blaine, ss.
I hereby certify that the foregoing document
was filed for record in my office at

the request of

B. W. Oppenheims

at 1:40 P. M.,

Sept. 8 A. D. 1943

Recorded in

and duly filed in this office.

B. W. Oppenheims

By Donald L. Justice

Per S. S. C. [Signature]

Entered ☒ Entered on Margin ☐
Recorded ☐ Indexed 1st Party ☒
Compared ☐ Indexed 2nd Party ☐

Card mailed 9-8-42

SCANNED
NOV 7 4 2006

C O P Y

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

In the Matter of the Application of

UPPER WOOD RIVER WATER-USER ASSOCIATION
Hailey, Idaho

For a Change of Point of Diversion on Big Wood
River, in Water District No. 7-AB, Blaine County,
Idaho

ORDER GRANTING CHANGE

No. 104

WHEREAS, On the 20th day of December, 1945, at the Department of Reclamation of the State of Idaho, at Boise, Idaho, the application of Upper Wood River Water-Users Association, of Hailey, Idaho, for a change of point of diversion on Big Wood River, came on regularly for hearing, pursuant to published notice, in due and statutory form; and,

WHEREAS, No protest has been filed against the application, and the evidence filed by the applicant with the application shows that it became necessary to change the point of diversion, and that no other decreed water right or water user will be injured thereby; and,

WHEREAS, The said change in point of diversion has been approved by the Watermaster of Water District No. 7-AB, Big Wood River; and,

WHEREAS, The proposed change in point of diversion is a more satisfactory arrangement, and will allow a more economical use of the water;

NOW, THEREFORE, IT IS HEREBY ORDERED That the said application be and the same is hereby granted, and that Certificate of Change in Point of Diversion be issued to the applicant herein, as provided by the laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the Department of Reclamation of the State of Idaho to be hereunto affixed, at Boise, Idaho, this 15th day of March, A. D. 1946.

MARK R. KULP
State Reclamation Engineer

PROFILED
DATE 2-27-03

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

CERTIFICATE OF CHANGE ON POINT OF DIVERSION OF DECREED WATER RIGHT

No. 154

THIS IS TO CERTIFY THAT UPPER WOOD RIVER WATER-USERS ASSOCIATION, of Hailley, Idaho, is the owner of and using a certain water right, bearing date of priority of September 1, 1920, for 18 cubic feet per second of the waters of Big Wood River, County of Blaine, State of Idaho, decreed to said Upper Wood River Water-Users Association, by decree of Judge H. F. Ensign, of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Lincoln, in the case of

UPPER BIG WOOD RIVER WATER-USERS ASSOCIATION, et al.,

Plaintiffs,

vs.

S. H. CHAPMAN, WATERMASTER,

Defendant

said decree bearing date of August 23, 1922, and being appurtenant to lands in the Upper Big Wood River Valley, as evidenced by shares in said Association.

That the said decree has been entered in the records of the Department of Reclamation of the State of Idaho, in Volume 5 of Decrees, at Page 282.

That now, upon the application of the Upper Big Wood River Water-Users Association for a Certificate of Change in Point of Diversion, made before the State Reclamation Engineer of the State of Idaho, and said application having been granted, the right to change such point of diversion is hereby confirmed.

That said change in point of diversion shall not modify in effect said decree, water right, or place of use. Said water to be limited at any time to an amount actually needed and beneficially used for such purposes, and shall not exceed the following amount, to-wit:

18 cubic feet per second of the waters of Big Wood River, with priority of September 1, 1920.

That said water right is appurtenant to lands in the Upper Big Wood River Valley, as evidenced by shares in said Association.

That the water right above described has heretofore been diverted from Big Wood River, with point of diversion located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13, Township 1 North, Range 18 East, B.M.

That the water right above described will hereafter be diverted from Big Wood River, with point of diversion located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13, Township 1 North, Range 18 East, B.M.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the Department of Reclamation of the State of Idaho to be hereunto affixed, at Boise, Idaho, this 13th day of March, A. D. 1946.

MARK R. KILP

State Reclamation Engineer

FILED

DATE 2-27-03

SCANNED

NOV 24 2006

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

CERTIFICATE OF CHANGE OF POINT OF DIVERSION OF DECREED WATER RIGHT

No. 184

THIS IS TO CERTIFY THAT UPPER WOOD RIVER WATER-USERS ASSOCIATION, of Hailley, Idaho, is the owner of and using a certain water right, bearing date of priority of September 1, 1920, for 18 cubic feet per second of the waters of Big Wood River, County of Blaine, State of Idaho, decreed to said Upper Wood River Water-Users Association, by decree of Judge H. F. Ensign, of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Lincoln, in the case of

UPPER BIG WOOD RIVER WATER-USERS ASSOCIATION, et al.,

Plaintiffs,

vs.

S. H. CHAPMAN, WATERMASTER,

Defendant

said decree bearing date of August 28, 1922, and being appurtenant to lands in the Upper Big Wood River Valley, as evidenced by shares in said Association.

That the said decree has been entered in the records of the Department of Reclamation of the State of Idaho, in Volume 5 of Decrees, at Page 282.

That now, upon the application of the Upper Big Wood River Water-Users Association for a Certificate of Change in Point of Diversion, made before the State Reclamation Engineer of the State of Idaho, and said application having been granted, the right to change such point of diversion is hereby confirmed.

That said change in point of diversion shall not modify in effect said decree, water right, or place of use. Said water to be limited at any time to an amount actually needed and beneficially used for such purposes, and shall not exceed the following amount, to-wit:

18 cubic feet per second of the waters of Big Wood River, with priority of September 1, 1920.

That said water right is appurtenant to lands in the Upper Big Wood River Valley, as evidenced by shares in said Association.

That the water right above described has heretofore been diverted from Big Wood River, with point of diversion located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 13, Township 1 North, Range 18 East, B.M.

That the water right above described will hereafter be diverted from Big Wood River, with point of diversion located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 12, Township 1 North, Range 18 East, B.M.

IN WITNESS WHEREOF, I have hereto set my hand and caused the official seal of the Department of Reclamation of the State of Idaho to be hereunto affixed, at Boise, Idaho, this 13th day of March, A. D. 1946.

MARK R. RULF

State Reclamation Engineer

FILED

DATE 2-27-03

SCANNED

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Saved Water in Bypass Area

7/31/2002 by ADM

Water Right Records

SRBA Records

Chapman Decree 8/28/1922 (Bypass)

	Inches	cfs	
37-892	561.6	11.232	UBWRWUA
37-894B	159.2	3.184	Sprenger Land Inv Inc
37-894A	179.2	3.584	Big Wood Canal Co

900	18
-----	----

37-895	900	18	Big Wood Canal Co. (Winter Water)
--------	-----	----	--------------------------------------

	Inches	cfs	
NOT CLAIMED	561.6	11.232	UBWRWUA
37-892A	159.2	3.184	David Sellgren
37-11394	84.6	1.692	Spring of Gladness Ranch
37-893A	84.6	1.692	William Serbine
NOT CLAIMED	10	0.2	Koenig & Grabher

900	18
-----	----

NOT CLAIMED	900	18
-------------	-----	----

Coffin Decree 7/18/1941 (Extension Bypass)

37-891A	525	10.5	UBWRWUA
37-891B	75	1.5	George Allred
37-891C	300	6	Baseline Canal Co

900	18
-----	----

NOT CLAIMED	525	10.5	UBWRWUA
NOT CLAIMED	75	1.5	JRJ Inc
37-891B	300	6	Baseline Canal Co

900	18
-----	----

Coffin Decree 12/31/942 (Dragline Ditch)

37-890	300	6	UBWRWUA
--------	-----	---	---------

300	6
-----	---

NOT CLAIMED	300	6	UBWRWUA
-------------	-----	---	---------

300	6
-----	---

***7/16/2002 Watermaster indicates Dragline ditch has been filled in so no developed water delivered.

NOV 24 2006
SCANNED

ATTACHMENT D

RECEIVED

JAN 16 1986

Department of Water Resources

Memorandum

Date: 1/14/86

From: Allen Merritt

To: File 37-0892

Subject: Review of rts 37-0892, 37-0893, 37-0894
37-0895 & 37-0876 for verification
of data base.

In reviewing the Upper Big Wood River Water Users' Assn. et. al. vs. Chapman dated 8/28/1922 it appears that by the construction of the 'Baseline By-pass' canal 18 cfs of saved water was awarded to the plaintiffs as follows:

During Irrig. Season

37-0892	11,232 cfs	Upper Big Wood River Water Users' Assn.
37-0893	3,492 cfs	Mutual Wood River Users' Assn.
37-0894	<u>3,276 cfs</u>	Big Wood River Canal Co.
	18,000 cfs	

During Non-Irrig. Season

37-0895	18,000 cfs	Big Wood Canal Co. for storage in Mica Res.
---------	------------	---

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MICROFILMED

DATE 2-27-03 APR 6 2004

On 6/27/1925 in decree of Big Wood Canal Co. vs. Chapman 37-0893 was re-
SCANNED
NOV 24 2006 37-0876,

In 1946 Trans 184 was granted in the Name of the Upper Wood River Water Users Assn. to change P/D for 18 cfs (37-0892, 37-0893, 37-0894) In a phone conversation with Reid Newby the watermaster on 1/13/86 Reid indicated that the 18 cfs is presently being delivered to various users above Magic. Reid indicated that he recalls the Big Wood Canal Co. rt. (37-0894) was traded to the UBWRWUA for maintenance of the by-pass which would allow the continued use of the winter right (37-0895). He indicated that the Mutual Wood River Users' Assn. is no longer in existence with their rt. (37-0893) being used by the UBWRWUA.

In 1971 Trans. 1750 was granted on 37-0892 allowing Sprenger Land Invest. Co. to move 3,184 cfs upstream. A review of 1985 watermaster records indicate that the 18 cfs under 37-0892 (37-0893 & 37-0894 not listed) are delivered as follows:

River Rock Ltd.	3,184 cfs	3,184
Owen Simpson	0.200 cfs	
William Shorbine	1,692 cfs	
Spring of Gladness	1,692 cfs	
UBWRWUA	11,232	

PROFILED
DATE 2-27-03

MICROFILMED
NOV 15 2004
37-0892

SCANNED
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It appears that Jim Stanton's memo regarding Trans. 184, dated 9/16/83 is incorrect.

I propose to code the entire 18 cfs in 37-0892 and have 37-0893, 37-0894, and 37-0876 refer to 37-0892. Rt. 37-0895 will remain unchanged.

PROFILED
DATE 2-27-03

SCANNED
NOV 24 2006

MICROFILMED
APR 06 2007

AFFIDAVIT OF WILLIAM SHERBINE

STATE OF IDAHO)
) ss:
COUNTY OF _____)

I, William Sherbine, after first being duly sworn upon oath, states as follows:

1. I have lived in the Bellevue area and been acquainted with the existence and operation of the Baseline Bypass and Extension Bypass Canals since _____, have been a shareholder in the Upper Wood River Water Users Association (UWRWUA) for _____ years, and have been the chairman of UWRWUA for _____ years.

2. The UWRWUA holds rights No. 37-891A, 37-891C and 37-892 for the benefit of its shareholders. Shareholders use saved water to "firm up" water supplies for land receiving water under natural flow water rights from Big Wood River and tributaries.

3. Some of the shareholders receive their portion of the saved water through the Baseline Bypass Canal and/or the Extension Bypass Canal. Other shareholders divert their portion of the saved water through other diversions from Big Wood River and tributaries above Magic Reservoir. Some of the saved water is used at and upstream from Ketchum.

4. The Baseline Bypass Canal and Extension Bypass Canals were operated in 1987 and every year prior to 1987 of which the affiant has knowledge and saved water has been used by shareholders during those years. Water is diverted into the Baseline Bypass Canal each summer when the flow of the river drops so that the entire flow can be carried in the canal. Diversions continue in the canal for the remainder of the irrigation season as long as the canal can carry the entire flow of the river.

5. The operation of the Baseline Bypass and Extension Bypass Canals and the diversion of saved water is coordinated with the Water District 37 Watermaster. UWRWUA shareholders have been allowed to rotate saved water with other shareholders and to move the point of diversion and place of use as they determine necessary within

the Big Wood River basin upstream from Magic Reservoir without the requirement of processing a transfer under Section 42-222, Idaho Code.

6. The UWRWUA maintains and operates the Baseline Bypass Canal and Extension Bypass Canal to carry Big Wood River flows to achieve water savings as provided in "Upper Big Wood River Water Users' Association, et al v. S. H. Chapman," August 28, 1922 and "Tom Hughes, et al v Mans H. Coffin," July 18, 1941. Shareholders are assessed each year for the cost of maintenance of the canals and water district assessments.

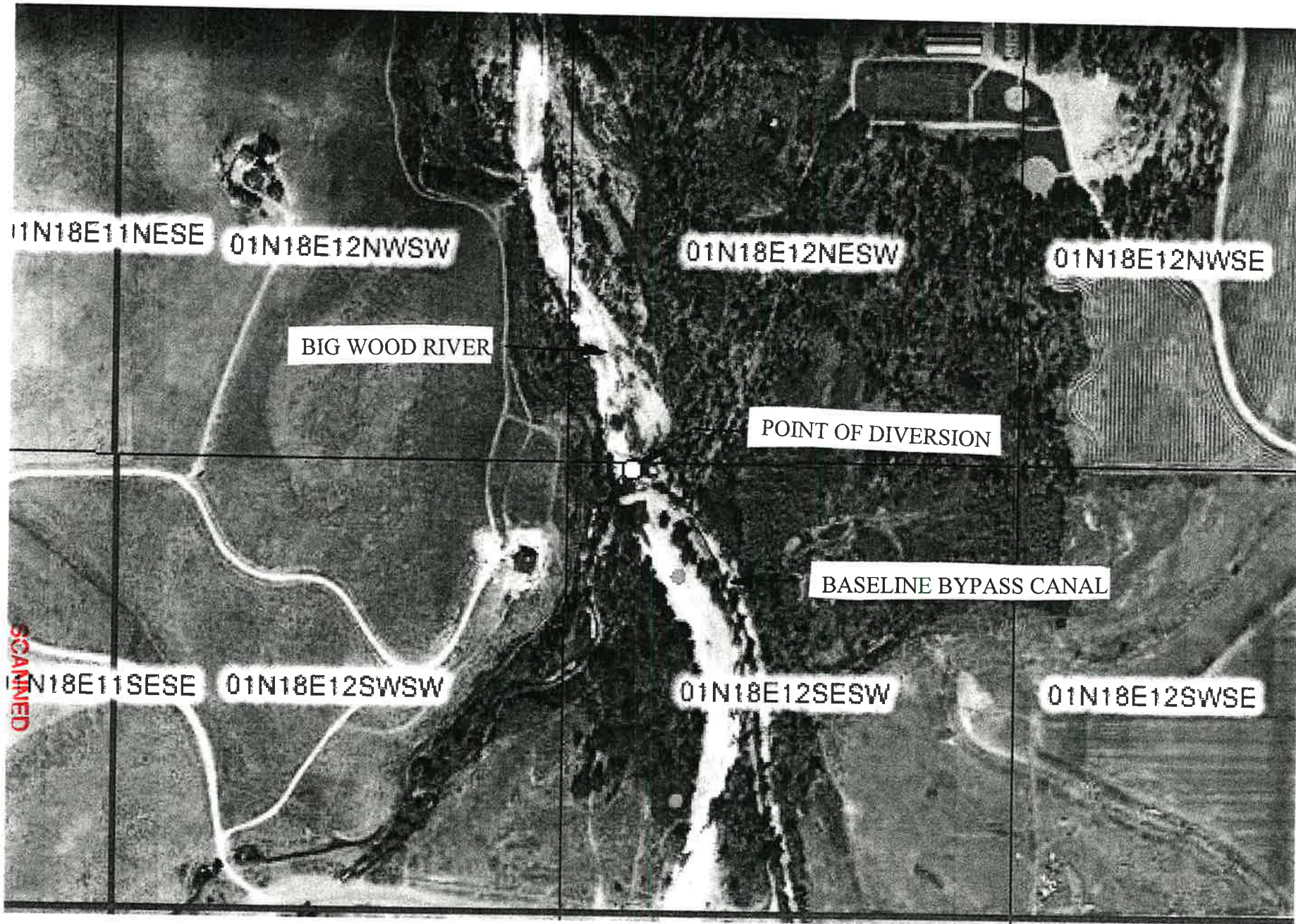
FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this _____ day of November 2006.

WILLIAM SHERBINE

SUBSCRIBED AND SWORN to before me this _____ day of November 2006.

Notary Public in and for the State of Idaho
Residing at: _____
My Commission Expires: _____



WATER DISTRICT #37 & 37-M
DAILY DISCHARGE IN SECOND FEET OF BASELINE CANAL #55-C FOR THE YEAR ENDING SEPTEMBER 30, 1987

DAY	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER
1		52	97	48	24	6
2		52	88	46	21	6
3		42	89	51	20	6
4		35	86	46	19	7
5		48	85	42	16	7
6		61	89	41	15	7
7	35	72	89	33	13	6
8	42	82	50	30	11	6
9	40	78	109	28	10	6
10	39	80	97	30	10	6
11	46	79	89	33	12	6
12	48	78	80	28	16	6
13	45	76	64	26	20	6
14	45	83	118	27	22	6
15	48	85	111	34	21	6
16	54	83	104	30	10	7
17	57	65	72	37	6	7
18	50	59	63	68	6	7
19	38	61	53	73	6	7
20	31	72	56	60	6	7
21	38	72	55	56	6	7
22	41	50	51	71	6	7
23	38	74	45	73	6	6
24	35	98	35	61	7	6
25	38	121	33	50	8	6
26	44	126	33	42	7	6
27	50	123	34	35	7	8
28	56	124	38	35	7	9
29	59	121	45	37	6	9
30	55	114	48	34	6	9
31		109		30	6	
24 HOUR CFS	1072	2474	2106	1335	356	201
MEAN	44.7	79.8	70.2	43.0	11.0	7.0
ACRE FEET	2144	4948	4212	2670	712	402
TOTAL 24 HOUR CFS	7,544.0		YEARLY MEAN		43.0	
TOTAL NO. OF DAYS	177		YEARLY ACRE FEET		15,088.0	

13140455

WATER DISTRICT 37 & 37-M

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CANAL NAME BASELINE STATION NUMBER 55-C YEAR 1988

=====

DAILY DISCHARGE IN SECOND FEET

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DATE	APRIL	MAY	JUNE	JULY	AUG.	SEPT.	DATE
1		47.00	67.00	30.00		DRY	1
2		42.00	68.00	24.00			2
3		29.00	63.00	20.00	9.00		3
4		23.00	91.00	30.00	8.00		4
5	25.00	19.00	142.00	25.00	7.50		5
6	25.00	37.00	128.00	23.00	7.00		6
7	29.00	44.00	91.00	23.00	8.00		7
8	33.00	36.00	74.00	23.00	8.50		8
9	32.00	34.00	66.00	24.00	8.50		9
10	31.00	31.00	79.00	23.00	5.20		10
11	32.00	30.00	78.00	24.00	4.90		11
12	38.00	42.00	75.00	19.00	5.60		12
13	70.00	76.00	70.00	16.00	6.00		13
14	61.00	83.00	69.00	13.00	4.90		14
15	68.00	82.00	70.00	16.00	2.80		15
16	69.00	42.00	72.00	14.00	1.40		16
17	72.00	37.00	69.00	6.00	DRY		17
18	70.00	30.00	68.00	4.00			18
19	49.00	35.00	66.00	12.00			19
20	61.00	42.00	63.00	12.00			20
21	60.00	56.00	58.00	12.00			21
22	40.00	73.00	54.00	10.00		6.00	22
23	33.00	77.00	44.00	8.00		6.00	23
24	26.00	73.00	40.00	7.00		8.00	24
25	28.00	80.00	47.00	5.00		9.00	25
26	42.00	75.00	44.00	3.00		9.00	26
27	37.00	75.00	40.00	3.00		10.00	27
28	34.00	66.00	31.00	3.00		12.00	28
29	35.00	75.00	44.00	2.00		12.00	29
30	24.00	75.00	40.00	1.00		9.00	30
31		71.00		1.00			31

=====

TOTAL 1124.00 1637.00 2011.00 436.00 87.30 81.00

YEARLY C.F.S. 5376.30

YEARLY ACRE FEET 10663.35

TOTAL NUMBER OF DAYS 143.00

YEARLY MEAN 37.60

**ATTACHMENT i. LIST OF CLAIMS FOR UPPER WOOD RIVER
WATER USERS ASSOCIATION SHAREHOLDERS IN 1987
IDENTIFYING PLACES OF USE AND POINTS OF DIVERSION/RE-
DIVERSION FOR SAVED WATER FOR THAT YEAR.**

Share Holder (1987)	Share Holder (Present)	Number of Shares	Claims (1) 37 -()	Acres
Arkoosh, Michael	_____	390	Delinquent in 1987- dropped from rolls.	_____
Barker, Curtis	Barker, Patrick	1552	21341, 21587	10
Beck, Thomas	Beck, Thomas	148.5	11566	97
Board, Mill and Sunset Ranch	Board, Mill and Sunset Ranch	200	2055	80
Reinheimer Ranch (Bowcutt, Myrle)	Idaho Found. Parks and Land	240	457B	107
Brown, John	Brown Ranch, Inc.	4287	203	570
Cal-Pacifico	Rosekrans, Kate (Duininck)	350	20936, 20944, 21229, 21230	90
Chapman, John	Rinker, Harry	1050	833T	274.6
Campagna, John	Dropped/ Relinquished.	200	No rights identified.	_____
Clark, Gary	Unpaid on shareholder list.	40	20587, 20588	5
Cropper, David	Cropper, David	60	577BS, 21956	24
Disbennett, Otis	Brown Ranch, Inc.	200	886L	3.2
Divine, Muriel	Eccles, Spencer	100	886K	1
Drexler, John	Knight, Mary Ann	416	4D, 21130, 21131	67.9
Drussel, Harold	Sherbine, Rocky	2488	11773	137
Eakin, James	Eakin, James (Estate)	790	111, 665L, 21806	217
Eccles, Spencer	Eccles, Spencer	980	917	675

Ernie, Arthur	Dropped/ Relinquished.	200	No rights located.	—
Gardner, Robert	Gardner, Robert	1010	115B, 665H, 666F, 667K, 11671	1065.5
Hellyer, Kenneth	Eakin, James (Estate)	610	4341	30
Hillside Ranch (William Norris)	Dropped/ Relinquished	440	577AK	40
J R J Development	M V Properties	455	26	427
Jefferson, Ray	Eakin, James (Estate)	60	111, 665L, 21806 (Eakin Property)	
Kerr Land & Livestock	Silver Springs Ranch (O'Gara)	690	113C	918
Knott, Dave	Sherbine, Rocky	640	115D (Rocky Sherbine property)	197
Justus, Don	Justus, Don	170	155 (Sheri and Grant Stevens listed as claimants.)	60
Lewis, Leroy	Lewis, Leroy	90	311	44
McGonigal, John	Spring of Gladness Ranch	375	104	163
Mizer, Dale	Mizer, Dale	240	912 (Claim may need to be filed.)	120
Molyneux, A. W.	Molyneux, John	3463.5	20570	591
Nisson, Warren	Dropped/ Relinquished	6	90C (Silver Ck)	74.9
Quigley Canyon Ranch	Rinker, Harry	429	905, 2784A (Right 905 not claimed on behalf of Quigley Canyon Ranch because it was sold in mid-1980's. Right 2784A from Quigley Creek covers place of use.)	154 (based upon 2784A)
Quesnell, Edmund	Dropped/ Relinquished. Sub-divided	780	429A, 429B	48.8
Red Top Meadows (Linman, Inc.)	The Meadows	260	48A	80
Rinker, Harry	Rinker, Harry	951	113K	141
Schodde, Walter	O'Connor, Gerry	260	2207A, 21473, 21793, 21794	108
Schoessler,	Sherbine,	389	436C	198

Carl	William			
Sherbine, William	Sherbine, William	410.5	468, 21457E	476
Spaulding Estate	Cove Ranch, Redstone	6210	481B	1572
Stewart, Craig (George)		75	2083, 20832 (Claims are for gw for land formerly owned by Craig Stewart).	18
Sweet, John	Eakin, James (Estate)	625	111, 665L, 21806 (Eakin Property)	
Sun Valley Co.	Sun Valley Co.	2827	415	516.3
Van der Muelen, Pete	Van der Muelen, Pete (Glendale Farms LLC)	293	29	392
Weyyakin Partners	Weyyakin Partners	630	289	65.9
Wise, George & Kathleen	Wise, George & Kathleen	225	579	6
Wood River Ranch	Wood River Ranch	663	63B, 11811, 11816, 11821	883
Yanke, Sheldon (Y 3 Ranch)	Yanke, Sheldon (Y 3 Ranch)	200	1231	280

(1) Not a comprehensive list of claims filed by each of the shareholders. The claims listed identify the points of diversion/re-diversion and places of use available to the shareholder to beneficially use the saved water.

04/15/2013

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

RIGHT NUMBER: 37-892

NAME AND ADDRESS: UPPER WOOD RIVER WATER USERS ASSN INC
153 BASELINE RD
BELLEVUE ID 83313

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER
TRAIL CREEK TRIBUTARY: BIG WOOD RIVER
WARM SPRINGS CREEK TRIBUTARY: BIG WOOD RIVER
EAST FORK WOOD RIVER TRIBUTARY: BIG WOOD RIVER

QUANTITY: 11.232 CFS

PRIORITY DATE: 09/01/1920

Pursuant to a call in times of scarcity, this right is senior to all other rights that did not result from developed/saved water in the Big Wood River, as established by and subject to the provisions included within In Re Upper Big Wood River Water Users Assn, et. al., plaintiff vs. S. H. Chapman, Watermaster, Defendant in the District Court of Lincoln County dated 8/28/1922.

POINT OF
DIVERSION:

T01N R18E S1 NENWSW Within BLAINE County
T01N R18E S2 SWNE Lot 1 Within BLAINE County
T01N R18E S12 NENWSW Within BLAINE County
T01N R18E S12 NWSESW Within BLAINE County
T01N R18E S12 NWSESW Within BLAINE County
T01N R18E S25 NWSW Within BLAINE County
T01N R18E S25 NESWSW Within BLAINE County
T01N R18E S35 SESE Within BLAINE County
T02N R18E S26 NWSW Within BLAINE County
T02N R18E S26 NESWSW Lot 1 Within BLAINE County
T02N R18E S26 SWSE Within BLAINE County
T02N R18E S36 NESWNW Lot 3 Within BLAINE County
T03N R18E S20 SWNW Within BLAINE County
T04N R17E S30 SESE Within BLAINE County
T04N R17E S31 NWNE Within BLAINE County
T04N R18E S5 NENW Lot 3 Within BLAINE County
T04N R18E S7 SWSE Within BLAINE County
T04N R19E S28 NWSW Within BLAINE County
T04N R19E S29 SESW Within BLAINE County
T04N R19E S29 NESE Within BLAINE County
T04N R19E S29 SWSE Within BLAINE County
T05N R18E S32 NESE Within BLAINE County
T01S R18E S2 SWNE Lot 2 Within BLAINE County
T01S R18E S2 NESESE Within BLAINE County
T01S R18E S19 NWNENE Within BLAINE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/15 10/31

11.232 CFS

PLACE OF USE:

7366 ACRES TOTAL

The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.

This right is limited to the irrigation of 7366 acres within the boundary of the Upper Wood River Water Users Association.

Right Nos. 37-891A and 37-892 are limited to the irrigation of a combined total of 7366 acres in a single irrigation season.

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Water under this right is deliverable or may be initiated at the time when the Big Wood River near the Glendale Bridge is dammed and all flow of the river can be conveyed into the Bypass canal heading within the NW1/4SE1/4SW1/4 Section 12, T1N, R18E. The amount of water deliverable under this right is proportionate to the prorata share of senior priority water (prior to 6/15/1883) deliverable in the Baseline Bypass and Extension Bypass system. This right is curtailed when all priority rights through the Baseline Bypass and Extension Bypass system are futile or not called for during the irrigation season.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

This water right is used to replace other surface water source rights held by shareholders and curtailed by priority. This right is limited to the terms and conditions related to the places of use described on the share holders water rights.

The points of diversion and place of use of this right overlap points of diversion and places of use of other water rights held by the member shareholders of the corporation that owns this right. Transfers of either this right or the underlying shareholder rights are subject to the provisions and limitations of Idaho Code Secs. 42-108 and 42-222.

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

In Re SRBA

Case No. 39576

) **Subcase No.: 37-892**

) **(Formerly Disallowed)**

) **STANDARD FORM 5**

) **STIPULATED ELEMENTS OF A**
) **WATER RIGHT**

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT/OBJECTOR:

Upper Wood River Water
Users Association, Inc.

OBJECTOR:

Brown Ranch, Inc.

Scott L. Campbell
Attorney for Upper Wood River
Water Users Association, Inc.

Date

Josephine P. Beeman
Attorney for Brown Ranch, Inc.

Date

IDWR CONCURRENCE:

Doug Jones 2/21/13
Doug Jones Date
Technical Engineer

IDWR CONCURRENCE:

Nicholas B. Spencer Date
Deputy Attorney General
Attorney for IDWR

01/18/2013

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

RIGHT NUMBER: 37-892

NAME AND ADDRESS: UPPER WOOD RIVER WATER USERS ASSN INC
153 BASELINE RD
BELLEVUE ID 83313

SOURCE: BIG WOOD RIVER
TRAIL CREEK
WARM SPRINGS CREEK
EAST FORK WOOD RIVER

TRIBUTARY: MALAD RIVER
TRIBUTARY: BIG WOOD RIVER
TRIBUTARY: BIG WOOD RIVER
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QUANTITY: 11.232 CFS

PRIORITY DATE: 09/01/1920

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T01N R18E S25 NWSESW Within BLAINE County
T01N R18E S25 NESWSW Within BLAINE County
T01N R18E S35 SESE Within BLAINE County
T02N R18E S26 NWSW Within BLAINE County
T02N R18E S26 NESWSW Lot 1 Within BLAINE County
T02N R18E S26 SWSE Within BLAINE County
T02N R18E S36 NESWNW Lot 3 Within BLAINE County
T03N R18E S6 NENE Lot 1 Within BLAINE County
T03N R18E S20 SWNW Within BLAINE County
T04N R17E S30 SESE Within BLAINE County
T04N R17E S31 NWNE Within BLAINE County
T04N R18E S5 NENW Lot 3 Within BLAINE County
T04N R18E S7 SWSE Within BLAINE County
T04N R18E S29 SWNWSW Within BLAINE County
T04N R19E S28 NWSW Within BLAINE County
T04N R19E S29 SESE Within BLAINE County
T04N R19E S29 NESE Within BLAINE County
T04N R19E S29 SWSE Within BLAINE County
T05N R18E S32 NESE Within BLAINE County
T01S R18E S2 SWNE Lot 2 Within BLAINE County
T01S R18E S2 NESESE Within BLAINE County
T01S R18E S19 NWNENE Within BLAINE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/15 10/31

11.232 CFS

PLACE OF USE:

7366 ACRES TOTAL

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Right Nos. 37-891A and 37-892 are limited to the irrigation of a combined total of 7366 acres in a single irrigation season

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

Water under this right is deliverable or may be initiated at the time when the Big Wood River near the Glendale Bridge is dammed and all flow of the river can be conveyed into the Bypass canal heading within the NW1/4SE1/4SW1/4 Section 12, T1N, R18E. The amount of water deliverable under this right is proportionate to the prorata share of senior priority water (prior to 6/15/1883) deliverable in the Baseline Bypass and Extension Bypass system. This right is curtailed when all priority rights through the Baseline Bypass and Extension Bypass system are futile or not called for during the irrigation season.

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

The points of diversion and place of use of this right overlap points of diversion and places of use of other water rights held by the member shareholders of the corporation that owns this right. Transfers of either this right or the underlying shareholder rights are subject to the provisions and limitations of Idaho Code Secs. 42-108 and 42-222.

This water right is used to replace other surface water source rights held by shareholders and curtailed by priority. This right is limited to the terms and conditions related to the places of use described on the share holders water rights.





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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

RECEIVED

FEB 18 2003

Department of Water Resources
Southern Region

RECEIVED

AUG - 7 2002

Department of Water Resources

August 6, 2002

Lee Peterson
Watermaster District 37
PO Box P
Shoshone, ID 83352

SUBJECT: "Saved Water" rights on Big Wood River involving Baseline Bypass and Extension Bypass Canals

Dear Lee:

Thank you for meeting with Bill Sherbine, Bill Yager, Tim Luke and me on July 16th to discuss the issues involving "saved water" that was decreed years ago as a result of development of the "Baseline Bypass" and "Extension Bypass" canals. As promised, this letter is in response to the July 16th meeting and subsequent discussions and is intended to augment or clarify past instructions provided by the department to you as watermaster for delivery of these "saved water" rights.

This same subject was addressed in a memo dated 8/20/1992 to you from Tim Luke thru Gary Spackman and in a letter dated 7/24/1994 to Dave Sellgren from Tim Luke. From the discussion on July 16th, it appears there is general agreement when the "saved water" becomes good (deliverable); however, there is not agreement as to when the "save water" is to be curtailed or trimmed back relative to delivery of senior priority rights through the Baseline Bypass and Extension Bypass canals.

This letter provides some explanation and analysis concerning the Chapman and Coffin decree "saved water" rights. Attached to this letter is an Outline of Watermaster Instructions concerning distribution of these rights.

Initiation of "saved water":

As documented in the 1992 memo, it has been the practice that when the flow of the Big Wood River at the head of the Baseline Bypass canal has diminished so that **all** of the flow can be safely diverted into the Baseline Bypass canal then the river is considered separated. At this time the Chapman decree "saved water" is understood to be deliverable. Similarly the Coffin decree "saved water" is deliverable when the 6/15/1883 priority water rights are completely curtailed under a priority call. This latter interpretation is based on the Coffin decree findings and descriptions of the historic methods of distributing "saved water" from

conversations with you and your deputy, Otis (Tinker) Disbennett. The Coffin decree of 7/18/1941 says: *"It being difficult accurately to fix the time when the flow of the river above and into the Dry Beds becomes an independent source of supply non-tributary to the stream below the Dry Beds, during the existence of prior rights diverted in the Dry Beds the time during any irrigation season when the right herein adjudicated becomes effective shall be deemed to be when water rights in said stream with priority of June 15, 1883 are shut off;...."* This statement supports the practice for initiation of delivery of the Coffin decree "saved water" rights but it has not generally been the element to make the Chapman decree "saved water" rights deliverable. Logically, the Chapman decree "saved water" is only good when water is flowing through the Baseline Bypass canal to make delivery of rights in the "dry beds" or below. Chapman decree "saved water" rights should continue to be initiated upon separation of the river as described above.

It is our understanding from our meeting on July 16 that the June 15, 1883 priority rights were fully curtailed just within the previous day or two of our visit. We agreed that the Coffin decree "saved water" rights were on and that the Chapman "saved rights" had been on since the time that the entire flow of the river was dammed and turned into the Baseline Bypass canal near the Glendale Bridge. We noted also that a significant portion of the flow in the Baseline Bypass continued past the canal heading for the Extension Bypass and was returning to the river (lower portion of the dry beds). We understand that this lower reach of the Baseline Bypass canal that runs westerly toward the river (lower portion of the dry beds) is frequently dammed off and all of the flow is put into the Extension Bypass canal. The lower reach of the Baseline Bypass canal apparently had not been dammed off yet because there was more flow available at this point than could be placed entirely in the Extension Bypass canal. The additional flow returning to the river was being used to satisfy some of the rights senior to 6/15/1883 at Canal 61 and the Wood River Ranches' diversion. I understand from recent discussion with you that the lower reach of the Baseline Bypass canal may soon be dammed off if not already.

Curtailment of "saved water":

The more difficult issue to address is when to curtail delivery of the "saved water".

The Coffin decree findings states that: *"Nothing in these findings or in this decree is intended to impair or affect said priorities through Canal No. 61."* The Coffin decree findings list rights ranging from 7/10/1880 to 10/28/1886 totaling 39.7 cfs at Canal 61. Those senior to 6/15/1883 total 30.2 cfs with priorities ranging from 7/10/1880 to 5/15/1883 at Canal No. 61. The Coffin decree findings also indicate that the capacity of the Extension Bypass is 35 cfs. These Coffin decree findings have been the basis for the 8/20/1992 memo statement that; *"We interpret this language to mean that the Stewart rights (Those at Canal No. 61) with priority dates before June 15, 1883 must be delivered before any "saved water" (By-pass or Extension By-pass) can be allocated."* And *"However, we do wish to make clear that none of the saved rights should be delivered when the senior priority Stewart rights (i.e.; prior to 6/15/1883) can not be delivered."* These instructions still appear to be valid regarding the Coffin decreed "saved water" rights. In other words, the

Coffin decree "saved water" should be curtailed when any of the Canal 61 rights below the Extension Bypass prior to 6/15/1883 are called for and cannot be fully delivered. The capacity of Extension Bypass canal and the amount of water called for at this location are factors that should also be considered when delivering the 18 cfs of the Coffin decreed "saved water" rights. For example, if the capacity or the amount called for at Canal 61 is less than the sum of the priority rights that can be delivered to it then the remaining flow within the Bypass Extension should accrue toward the 18 cfs of "saved water" but delivery of the Coffin "saved water" must be limited to 18 cfs.

As for the Chapman decree "saved water" rights, the statement in the 7/24/1994 letter to Sellgren also appears valid which states: *"The Chapman decree does not specifically state when the 18 cfs is not deliverable, or whether any of the 18 cfs is cut back according to the diminishing flow of the river that is turned into the Bypass."* Logically, if you take the negative of the statement above then "saved water" is **not** good when water is **not** flowing through the Baseline Bypass canal to make delivery of rights in the "dry beds" or below. It is not reasonable to conclude that the most senior rights should be continuously cut in order to deliver "saved water" with a 1920 priority. Similarly, it is not reasonable to conclude that all "saved water" should be continuously cut in order to deliver senior priority rights that may have been cut absent the construction of the "bypass" system. Noting that the Chapman decree is not clear, it appears most appropriate that full delivery of the 18 cfs Chapman "saved water" can only be made to the extent that such savings exist by use of the Baseline Bypass canal in fully delivering the senior priority rights, including those senior rights at Canal No. 61 as well as senior rights delivered to several other diversions on the Baseline Bypass and Extension Bypass canals. Since the Chapman decree lacks clear direction concerning any potential curtailment or reduction of the Chapman "saved water" rights, IDWR believes that an equitable approach for distribution of this "saved water" and the most senior priority rights must be established when flows in the Baseline Bypass are inadequate to provide delivery of water to rights with priorities senior to 6/15/1883. IDWR believes the most equitable approach of distribution during these critical river stages is to proportionately reduce delivery of both the Chapman decree "saved water" and water rights senior to 6/15/1883. IDWR therefore directs the watermaster to proportionately reduce delivery as outlined below.

As we understand your records indicate that in addition to the Canal 61 rights, there is a total of 25.94 cfs of water rights with priorities senior to 6/15/1883 diverted through the Baseline Bypass and Extension Bypass system (including the Baseline Canal, Dittoe Ditch, McGonigle Ditch and the Brown/Blincoe/Wood River Ranches diversions and below). The sum of all the priority rights prior to 6/15/1883 below the heading of the Baseline Bypass is 58.84 cfs. In periods of extreme drought it is known there are times when the most senior priority water rights along the Baseline Bypass/Extension Bypass system and Canal 61 are either partially filled or cannot be satisfied even after turning all the remaining flow of the Baseline Bypass into the Extension Bypass. As stated above the Chapman decree "saved water" rights should be diminished any time the flow at the head of the Baseline Bypass is less than required to fill these senior priority rights off of the Baseline Bypass and Extension Bypass system. For example, if the rights senior to 6/15/1883 which are delivered in the

Baseline Bypass and Extension Bypass system are diminished by 5 cfs then it is equitable that the Chapman decree "saved water" be diminished or curtailed by 8% (5 / 58.84).

Delivery of "saved water" during non-irrigation season

In reading the Chapman decree there appears to be some provision for "winter saved water". This letter is not intended to provide direction for delivery of this water. If called for by the Big Wood Canal Company the department will provide further direction to you if requested after further study of this issue.

Other Issues:

Equally important to the issue of initiating and/or curtailing the "saved water" is how to deliver it to the proper users. As the decrees and your records indicate the largest portion of the "saved water" is in the name of the Upper Big Wood River Water Users Assn. (UBWRWUA). Please note that review of our records finds that UBWRWUA has failed to file claims in the Snake River Basin Adjudication. It is understood that this entity is a shareholder type organization that distributes their water based on shares in the association to their shareholders up and down the Big Wood River. I've been told that in the past UBWRWUA has annually provided a list to the watermaster so that distribution can be made. I understand that the latest list of shareholders was provided by the UBWRWUA in 1994. I understand that updates have been requested by you but have not been provided. You indicate your inspection of the 1994 list reveals numerous holdings are by either people that have died or by people with numerous diversions and you do not currently know where to deliver all of the water. During the July 16th meeting it was evident a dispute exists on whose responsibility (watermaster or association) it is to keep track of the UBWRWUA's shares and where it is to be delivered.

It is a reasonable expectation that it is the responsibility of the UBWRWUA to annually report to the watermaster where it's rights are to be delivered identifying the number of inches at the headgates of its shareholders. If they fail to do so, then the watermaster should refuse delivery. Once identified, the shareholders should then call for water when it is available. If not called for the watermaster should not deliver the water.

In the past it may have been the practice to rotate blocks of shares though the Big Wood River system above Magic Reservoir. This practice appears inconsistent with the local public interest and statutes requiring transfers. This practice should not continue unless the Department or the SRBA court provides further approval or direction.

These shares cannot be "wild cards" allowed to move at will. The 1969 transfer act requires processing of an application for transfer if a change in use is made of these rights. These rights are not grandfathered from this requirement anymore than any other right existing before 1969. The UBWRWUA should at least annually, but actually anytime a change is made in shareholders, notify the watermaster of the change. If any change of shareholders or change by shareholder results in a change in element of the right [point of

diversion, place of use, nature of use, etc.] an application for transfer is to be filed by the association. The watermaster should not distribute such changes without an approved transfer. Although filing of an SRBA claim at this point in time is not a prerequisite for delivery of the rights, SRBA claims need to be filed to tie down the elements of the "saved water" rights that may be owned by the association. The claims should reflect use in 1987 and if any changes have been made since 1987 appropriate transfers should be considered.

Hopefully this letter provides sufficient direction for your delivery. I expect that these issues may be taken up for further determination by the SRBA court as that process continues. The direction provided under this letter and attached outline should be followed until further direction is provided by the Department or upon further determination by the SRBA court. If you have questions please feel free to contact this office.

Sincerely,



Allen Merritt, PE
Southern Region Manager

Attachment

CC: William Sherbine, 153 Baseline Rd, Bellevue, ID 83313
Harold Drussell, 152 Baseline Rd, Bellevue, ID 83313
Tim Luke and Norm Young – IDWR State Office
Doug Jones – IDWR SRBA
Jo Beeman – 409 W. Jefferson St, Boise, ID 83702

Outline Of Watermaster Instructions
Delivery of "Saved Water" from use of Baseline Bypass and Extension
Bypass Canals
Chapman and Coffin Decrees

1. Initiate Delivery of Chapman decree "Saved Water"

Delivery initiated at time when Big Wood River near Glendale Bridge is dammed and all flow of water from river can be conveyed to the Baseline Bypass canal.

2. Initiate Delivery of Coffin decree "Saved Water"

Delivery initiated when Big Wood River priority rights of 6/15/1883 are cut or not deliverable due to insufficient water supply in Big Wood River system. This priority cut occurs after the flow of the river is dammed at Glendale Bridge and the river is turned into the Baseline Bypass. If this cut is made and a portion of the remaining flow in the lower reach of the Baseline Bypass cannot be turned into the Extension Bypass due to insufficient carrying capacity of the Extension Bypass canal, then remaining flow shall be delivered past the heading of the Extension Bypass to the river for delivery of senior rights at Canal No. 61 or the Wood River Ranches diversion.

3. Curtail Delivery of Coffin decree "Saved Water"

The Coffin "saved water" should be curtailed when rights below the heading to the Extension Bypass that are senior to 6/15/1883 can not be fully delivered. (Normally after lower reach of Baseline Bypass is dammed and all remaining Baseline Bypass water is turned into the heading of the Extension Bypass.)

4. Reduction of Chapman decree "Saved Water"

Delivery of the Chapman "saved water" should be based on the prorata share of senior priority water (prior to 6/15/1883) deliverable in the Baseline Bypass and Extension Bypass system. (For example if 20 cfs out of the 58.84 cfs is delivered (34%) then 6.12 cfs of the 18 cfs of "saved water" could be delivered.) *Proportionate reduction of priority rights along the Baseline Bypass and Extension Bypass system should be done in accordance with priority dates (i.e., reduce most junior rights first).*

5. Curtail Delivery of Chapman decree "Saved Water"

Delivery of Chapman "saved water" should be curtailed when delivery of all priority rights through the Baseline Bypass canal is futile (See Item 6 below) or not called for during the irrigation season. *Note: This is not intended to include "Winter saved water" decreed to Big Wood Canal Company under right 37-895.*

6. Futile Call Determination: Baseline Bypass Saved Water Rights & Senior Priority Rights

The watermaster should follow the direction provided by the letter dated July 11, 2002 from Norm Young of IDWR to Lee Peterson, Water District 37 watermaster, when considering

or making a futile call determination.

7. Delivery of "Saved Water" to Holders of Chapman and Coffin Decreed Rights

For the "saved water" rights held by the Upper Big Wood River Water Users Association (UBWRWUA), the UBWRWUA must provide to the watermaster an updated list of shareholders names, amount of shares held by each shareholder and locations of points of diversions where shares are to be delivered. Until an updated list is received from the UBWRWUA the watermaster will deliver any "saved water" decreed to the UBWRWUA based on the last updated list that is on record at the water district office. "Saved water" shall be delivered only to those shareholders that are valid water users as per the water district records. For this purpose, a valid water right user shall be any individual or organization that also holds other valid water rights in the district subject to delivery and assessment by the watermaster. The watermaster will deliver the "saved water" to the normal points of diversion that are associated with these valid water right users. Other decreed rights in the Chapman and Coffin decrees should be delivered based on ownership of those rights as reflected by IDWR water right records and the watermaster's records.

8. Rotation of "Saved Water"

Rotation of blocks of "saved water", particularly rotation of blocks under the UBWRWUA rights should not continue unless IDWR or the SRBA court provides approval or direction. IDWR may authorize the watermaster to rotate portions of the "saved water" if the UBWRWUA provides the information as outlined in item 7 above and if the UBWRWUA provides the watermaster with a proposed rotation scheme. Any new rotation scheme must be approved either in a new permanent transfer or temporary drought transfer. Any rotation scheme will be subject to review and approval by both IDWR and the watermaster.

BEEMAN & ASSOCIATES, P.C.

Counselors and Attorneys at Law
409 West Jefferson Street
Boise, Idaho 83702-6049

Josephine P. Beeman
jo.beeman@beemanlaw.com

Phone (208) 331-0950
Fax (208) 331-0954
office@beemanlaw.com

RECEIVED

MAR 10 2008

DEPT. OF WATER RESOURCES
SOUTHERN REGION

March 6, 2008

Doug Jones
IDWR Southern
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380

Re: *Affidavit of Lee Peterson in Support of Amended Notice of Claim for 37-892*

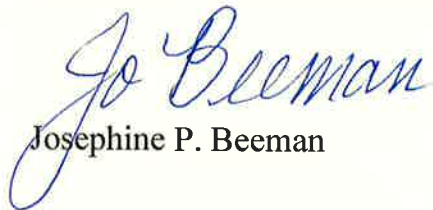
Dear Doug:

Enclosed is the Affidavit of Lee Peterson in support of Upper Wood River Water Users Association's Amended Notice of Claim to a Water Right for 37-892.

Please contact me if you have any questions.

Sincerely,

BEEMAN & ASSOCIATES, P.C.



Josephine P. Beeman

Enclosure

cc: Kristy Molyneux (w/ enc)
William Sherbine (w/ enc)
Grace Eakin (w/ enc)
Dan Brown
Norm Young

AFFIDAVIT OF LEE R. PETERSON

STATE OF IDAHO)
) ss:
COUNTY OF BLAINE)

I, Lee R. Peterson, after being duly sworn upon oath, states as follows:

1. I served as the elected and appointed state watermaster for Water District 37 (Big Wood River and Tributaries) and Water District 37M (Little Wood River, Silver Creek and Tributaries) from January 1991 through October 2003.
2. My duty as watermaster was to distribute water during times of scarcity in accordance with the priorities of the decreed, licensed and permitted rights established for these streams. A time of scarcity exists each irrigation season (April 1 through October 31) anytime the available flow in a stream reach is not sufficient to satisfy all demands for water made in accordance with valid existing rights.
3. The following tasks were accomplished each year, with the assistance and direction of Idaho Department of Water Resources ("IDWR") staff, to satisfy my water distribution duties:
 - a. Maintain an updated list of all valid rights for each stream reach under my jurisdiction arrayed by priority date, ownership and point of diversion.
 - b. Review and revise procedures and protocols used to distribute natural flow in accordance with priority and to deliver other water, such as saved or stored water, to those having a right to its use. The term "saved water" used in this affidavit refers to water identified for diversion in accordance with a court decree recognizing the flow developed or saved by a project constructed, maintained and operated by the holder of the decreed right.
 - c. Prepare annual reports of water deliveries to each diversion and water right owner.

- d. Prepare annual reports assessing the cost of operating the water district prorated in accordance with deliveries to each water right owner.
4. The following tasks were accomplished, under the direction of IDWR staff, on a daily basis during times of scarcity:
 - a. Determination of the "priority call (or cut) date" existing for that day based upon stream flows and water demands. The priority call date is the priority of the oldest water right(s) for which the water supply is not sufficient to provide all of the flow required to fill that right(s) on that date. The priority call date for each day of the irrigation season is reported in the watermaster's annual report.
 - b. Adjustment of diversions to distribute water to rights in priority calling for water and to distribute stored, saved or other supplies of water legally available to water right owners at the diversion. Each day, I informed the deputy watermasters of the priority call date then in effect. The deputy watermasters, under my supervision, made necessary flow adjustments, usually on a schedule that allowed each diversion to be visited every second day, except Sundays.
 - c. Preparation of daily records documenting the flow rate at each diversion and the nature of the flow being diverted (natural flow, stored water or saved water.) The daily diversion information was entered on a printed form, termed a "delivery ticket" supplied by the Water District to be completed in the field by the deputy watermasters and filed each week with the watermaster's office. Information from the delivery tickets provided the basis for preparing the annual water distribution reports and the annual assessments to collect water district expenses.
5. Each and every year that I served as watermaster, Right No. 37-892 held by the Upper Wood River Water Users Association ("UWRWUA") recognizing water saved by construction, maintenance and operation of the Baseline Bypass Canal was included in the list of valid water rights. I always recognized that water was to be distributed to the holders of this right, without regard for priority call date, anytime the conditions set forth in the decree establishing this right were met. Based upon my review of the Water District records, Mr. Reid Newby, the watermaster preceding me, likewise included

right No. 37-892 in the list of valid rights to receive water during the years he served as watermaster.

6. A procedure for determining the amount of water credited to Right No. 37-892 was in effect each year that I served as watermaster. From time-to-time, the UWRWUA officers provided to the Water District an updated list of shareholders in good standing and eligible to receive water in accordance with their respective shares.
7. The procedure I used from 1991 to 2001 to distribute water under Right No. 37-892 determined the volume of water that could be distributed based upon the number of shares held by an UWRWUA shareholder. Shareholders, using UWRWUA's rotation procedure, were distributed water, within the parameters of right No. 37-892, in amounts large enough to beneficially use at their respective places of use. I understand that this procedure was a longstanding practice used by earlier watermasters, including Reid Newby. At the direction of IDWR staff, the procedure for distributing saved water was revised in 2002 to define the continuous flow rate available to each shareholder during the time that the entire flow of the river was in the Baseline Bypass Canal. This procedure in some cases prevented a shareholder from using saved water because the flow rate attributable to a small number of shares is not large enough to be delivered and used without rotating with other holders of saved water.
8. Every year that I was watermaster, the entire flow of the Big Wood River was diverted into the Baseline Bypass Canal at the diversion facility located just upstream of the Glendale Bridge when the river flow could be accommodated by the canal. The date that this condition occurred and the number of days that it existed varied from year to year depending upon stream flows and irrigation water demands.
9. The amount of saved water per UWRWUA share is larger during years of low stream flow and high irrigation water demand because the entire flow of the river can be put into the Baseline Bypass Canal early in the irrigation season (i.e., early June during some years). It is during such years that the saved water is of most value to the shareholders. On years of high stream flow and limited irrigation water demand, the river cannot be contained in the Baseline Bypass Canal until later in the season and the volume of water accumulated per share of UWRWUA is less than for a low runoff year. On such years, the shareholders have a reduced need for the saved water and some shareholders may not call for it.

10. Each and every year that I was watermaster, UWRWUA shareholders contacted me and/or the deputy watermaster to call for delivery of saved water accumulated under Right No. 37-892 in accordance with the shares at their disposal and deliveries of save water were made each and every year. Saved water was delivered at the diversion facility requested by the shareholder. Saved water was distributed to some shareholders using canals diverting from the Baseline Bypass Canal and saved water was distributed to other diversions from Big Wood River and tributaries at various locations above Magic Reservoir.
11. Because the delivery ticket form used by the deputy watermaster for the reach of Wood River above Magic Reservoir did not have a specific column for noting distribution of saved water, all diversions were typically coded as natural flow. For this reason, the deputy watermaster rarely, if ever, noted that all or part of the water being diverted for a specific time period at any diversion was saved water even during times that saved water was being diverted and used.
12. I have reviewed hydrographs prepared by ERO Resources Corporation comparing flow rates available for diversion under the prevailing priority call date to the recorded rate of diversion for that date for a number of the diversions through which UWRWUA shareholders diverted saved water. Some of the hydrographs show periods during the peak of the irrigation season that the recorded diversion rate exceeds the rate authorized under the rights in priority at that diversion for the prevailing priority call date recorded in the watermaster's annual report. It is my understanding that the excess diversion rate at such times is attributable to the diversion of saved water even though the delivery ticket filled out for that date does not identify the excess diversion as such for the reasons described above.
13. During the irrigation season while the river is under watermaster regulation, all water diverted at each diversion is measured, reported and included in the determination of the Water District's annual assessment. Thus, to the extent that saved water was diverted, but not specifically identified as such, the amount of such saved water diversion would have been included within the assessment made to the water right owners using the diversion.
14. As watermaster, I distributed water to recorded water rights including those listed in the Frost Decree. I recognized diversion and use of water for stock watering purposes as an authorized use within this decree's provision allowing rights to be used for "irrigation and other

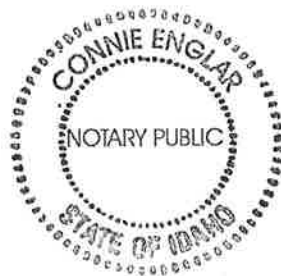
purposes." Accordingly, I routinely distributed water for stock watering purposes as an incidental use of water diverted for irrigation purposes and occasionally as a sole purpose of use during the irrigation season. At the end of the irrigation season when the daily regulation of the river ended, the deputy watermasters left the head gates unlocked to allow water to be diverted for stock watering purposes before and after the irrigation season. Throughout my term as watermaster, I routinely observed water being diverted for this purpose in various canals, including the Baseline, District and Glendale canals, each fall until freezing conditions prevented delivery (usually in mid-to-late November) and in the early spring after ice left the canals (usually early-to-mid March) prior to the irrigation season and resumption of daily water master regulation. I understand this to be a longstanding practice predating my tenure as watermaster.

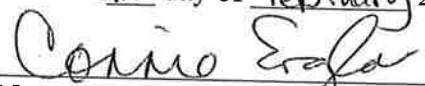
FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 25 day of February 2008.

Lee R. Peterson

SUBSCRIBED AND SWORN to before me this 26th day of February 2008.




Notary Public in and for the State of Idaho
Residing at: Twin Falls County
My Commission Expires: Dec 11, 2012

BEEMAN & ASSOCIATES, P.C.

Counselors and Attorneys at Law
409 West Jefferson Street
Boise, Idaho 83702-6049

Josephine P. Beeman
jo.beeman@beemanlaw.com

Phone (208) 331-0950
Fax (208) 331-0954
office@beemanlaw.com

August 3, 2007

RECEIVED

AUG 9 2007

DEPT. OF WATER RESOURCES
SOUTHERN REGION

Allen Merritt, P.E.
Doug Jones
IDWR Southern
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380

Re: *Amended Notice of Claim for 37-892*

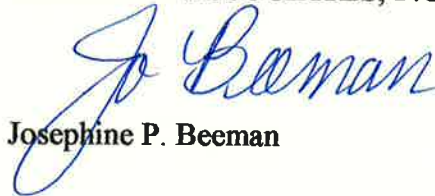
Dear Allen and Doug:

Enclosed is the Upper Wood River Water Users Association's Amended Notice of Claim to a Water Right for 37-892.

Please contact me if you have any questions.

Sincerely,

BEEMAN & ASSOCIATES, P.C.



Josephine P. Beeman

JPB:ja
Enclosure
Z:\3057\8062
cc w/enc: Kristy Molyneux
William Sherbine
Grace Eakin
Dan Brown
Norm Young

SCANNED

JUN 29 2012

Beeman & Associates, P.C.
409 W. Jefferson Street
Boise, ID 83702



RECEIVED

AUG 06 2007

DEPT. OF WATER RESOURCES
SOUTHERN REGION

Allen Merritt, P.E.
Doug Jones
IDWR Southern
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380





State of Idaho

COPY

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200 • Twin Falls, Idaho 83301-3380

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Web Site: www.idwr.idaho.gov

SOUTHERN REGION

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Interim Director

February 1, 2007

Josephine Beeman
Beeman & Associates, P.C.
409 W. Jefferson St
Boise, ID 83702

RE: NOE for Recommendations for 37-891A, 37-891C and 37-892

Dear Jo:

Our office has received your "Notice of Error" for the above listed recommendations in the name of Upper Wood River Water Users Association, Inc.

The Department currently lacks sufficient information to recommend the rights, but looks forward to working with you during the objection period.

We based our denial of the recommendations on our understanding the watermaster does not bill or deliver water to the Upper Wood River Water Users Association, Inc. Further the claims do not provide sufficient detail as to what acres or points of diversion are to be included in the claims other than by vague reference to what shareholders may have. We have no map of any purported service area for the Upper Wood River Water Users Association, Inc. Additionally ownership of what is claimed under 37-891C appears to be in dispute since others have claimed it.

Respectfully,

Allen Merritt, PE
Southern Region Manager

**NOTICE OF ERROR
REPLY**

Water Right No.: 37-892

Upper Wood River Water Users Association, Inc.
153 Baseline Rd
Bellevue, Idaho 83313
Telephone: 208-731-5114

RECEIVED
JAN 29 2007
DEPT. OF WATER RESOURCES
SOUTHERN REGION

RECEIVED
JAN 23 2007
DEPARTMENT OF
WATER RESOURCES

1. Describe the portion of the proposed recommendation with which you disagree (e.g., priority date, period of use, source):
Disallowal of claim ("no lawful appropriation shown; insufficient evidence of delivery of the water right")
2. Describe the changes you wish to make in the proposed recommendation:
Claim 37-892 should have been recommended as claimed.
3. Give a brief explanation as to why you disagree with these portions.

(A) This right has been used. The claim is supported by the following IDWR/ Water District 37 records:

1. The Water District 37 decree book for the Big Wood River above Magic Reservoir ("decree book") shows that IDWR and Water District 37 recognized the water rights decreed in the Chapman and Coffin decrees.
2. Internal delivery records, based on the decree book, recognize the split between UWRWUA and private users. The UWRWUA claims are consistent with this recognized split.
3. Water District 37 delivery records have evidence of UWRWUA individual shareholders, showing updates to the shareholder list.
4. Preliminary review of the 1985-1989 bound water master records for Water District 37 show routine delivery of these saved water rights, including delivery to UWRWUA shareholders.
5. 2002-2005 water master records for Water District 37 have a supplemental sheet documenting delivery of saved water.

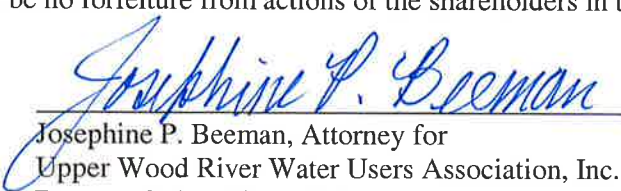
(B) Even if the right had not been used, it is an independent source not subject to forfeiture.

The source of the water right is water savings from constructing, maintaining and operating the Baseline Bypass Canal to circumvent a losing reach of the Big Wood River downstream from Bellevue. The saved water was originally part of the Big Wood water system that was lost, not due to diversion, and is added back into the Big Wood water system; the saved water has a priority independent of the Big Wood water system.

(C) Even if the right were subject to forfeiture, the Peiper decision precludes forfeiture.

Even if the right were subject to forfeiture, Water District 37 documents and attachments to the SRBA claim demonstrate that the bypass canal is used in accordance with the decree to generate the saved water. In accordance with the Peiper decision (Aberdeen-Springfield Canal Co. v. Peiper, 133 Idaho 82), because it is beyond the control of the UWRWUA whether the saved water is used, there can be no forfeiture from actions of the shareholders in the UWRWUA.

DATE: January 19, 2007


Josephine P. Beeman, Attorney for
Upper Wood River Water Users Association, Inc.
Beeman & Associates, P.C.
409 W. Jefferson Street
Boise, ID 83702 208-331-0950

SCANNED
JAN 23 2007

12/19/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-892

NAME AND ADDRESS: UPPER WOOD RIVER WATER USERS ASSOCIATION, INC.
153 BASELINE RD
BELLEVUE ID 83313

DISALLOWED

SOURCE: BIG WOOD RIVER

TRIBUTARY: MALAD RIVER

QUANTITY: 11.232 CFS

PRIORITY DATE: 09/01/1920

POINT OF DIVERSION:

T01N R18E S12 SESW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/15 10/31

11.232 CFS

PLACE OF USE:

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

Insufficient evidence of delivery of the water right

No lawful appropriation shown.

EXPLANATORY MATERIAL: BASIS OF CLAIM -

No lawful appropriation shown: There are a number of circumstances in which a claim is proposed to be disallowed on this basis. This is most commonly included for a claim based on beneficial use or posted notice that is proposed to be disallowed because the right claimed is not within an exception to the mandatory permit statute, and beneficial use of water prior to the mandatory permit statute was not confirmed. This is also included where a claim is proposed to be disallowed because the claim is to water that is not public water subject to appropriation. This is also included where a right was determined not to exist in a prior adjudication.

The claimed portion of 37-892 does not match Watermaster records.