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JUN 29 2022

**DEPARTMENT OF
WATER RESOURCES**

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

In Re SRBA

A. Subcase 57-12068

(Insert water right number)

Case No. 39576

**STANDARD FORM 1
OBJECTION**

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Mary Louise Mansisidor

Address: 3644 Market Road

Homedale, ID 83628

Daytime Phone: (208) 337-4195

Name & Address of Attorney, if any:

Debra L. Bismann

3016 Caldwell, Blvd.

Nampa, ID 83651

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Cegnar Land LLC

Address: 1208 Sheffield Pl.

Lexington, KY 40509

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☐ **Quantity**
Should be: _____
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Point of Diversion**
Should be: _____
6. ☐ **Instream Flow Beginning and Ending Point**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: _____
10. ☒ **I objection because**
☒ This water right Should not exist.

☐ This water right was not recommended, but Should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S): See, attached.

F. VERIFICATION (must be completed)

State of Idaho)

)ss.

County of Canyon)

Mary Louise Mansisidor, duly sworn, upon oath, deposes and says:

(Name of Person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

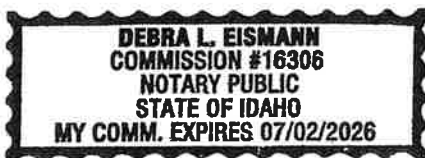
Mary Louise Mansisidor

(Signature of person filing objection)

Debra L. Eismann

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: June 27, 2022



Debra L. Eismann

Notary Public for State of Idaho

Residing at: Nampa, ID

My Commission Expires: 07/02/2026

INSTRUCTIONS FOR MAILING

You must mail the Objection to the Clerk of the court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on June 27, 2022, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

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

Name: Robert J. Tunison
Address: P.O. Box 26
Caldwell, ID 83606-0026

3. Copies to:

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

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 83720
Boise, ID 83720-0010

Reba L. Fyfe
Signature of Objector or attorney
mailing on Objector's behalf

Subcase / Claim No: 57-12068

In Re SRBA

Twin Falls County Civil Case No. 39575

**ATTACHMENT TO STANDARD FORM 1 OBJECTION
OBJECTION TO DIRECTOR'S REPORT**

DEFINITIONS: When used in this objection, the terms following shall have the meanings following:

- “claimant” means Cegnar Land LLC, an Idaho limited liability company, formed on September 21, 2020.
- “objector” means Mary Louise Mansisidor. Mrs. Mansisidor owns water right 57-2055 with a priority date of October 10, 1903 which allows diversion for irrigation from Jump Creek of 7.000 cfs.
- “director” means Gary Spackman, the director of the Idaho Department of Water Resources.
- “director’s report” means the Director’s Report of Deferred *De Minimis* Domestic And/Or Stock Water Use dated April 18, 2022.
- “parcel” or “real property” means Owyhee County, Idaho more specifically described as: Township 3N, Range 5W, Section 34, NENW and SENW.

OBJECTIONS TO DIRECTOR'S REPORT: This objection is made on the grounds following:

1. **Claimant.** Idaho Code 42-1411(2) requires the director to determine certain elements one of which is (a) the name and address of the claimant. The director’s report identifies the applicant as Cegnar Land LLC and does not include the address of the claimant.

The Notice of Claim to a Water Right filed on April 19, 2021, signed under oath, states that in paragraph 1, the claimant is Cegnar Land LLC and that in paragraph 11, the claimant “own[s] the property listed above as place of use.”

Idaho Code 42-1401A (1) defines claimant as “any person asserting ownership of rights to the use of water within the state of Idaho or on whose behalf ownership of rights to the use of water is asserted.” Idaho Code 42-1401A (7) does not include a limited liability company in the definition of “person”.

On page 3 of the director’s report, the director states, “According to the Owyhee County property records Ronald Cegnar owns the parcel.” Based on the director’s report, the claimant is not the owner of the real property¹. There is no showing that the claimant has an interest in the real property.

2. **Quantity of water.** Idaho Code 42-1411(2)(c) requires the director to include in the director’s report, “[T]he quantity of water used describing the rate of water diversion or, in the case of an instream flow right, the rate of water in cubic feet per second or annual volume of diversion of water for use or storage in acre-feet per year as necessary for the property administration of the water right.”

The director’s report states, “The quantity claimed is for 0.05 cfs and the director’s recommended diversion rate is 0.02 cfs. According to the Instructions for Filing a Notice of Claim to a Water Right (pursuant to 42-1409 I.C.), the recommended diversion rate of 0.02 cfs would sustain 26 to 50 head of cattle.

The Notice of Claim to a Water Right filed on April 19, 2021, states that in paragraph 13, The claimant makes the statement that, “From 1967 to the present, Jump Creek has been used to water 80-100 cow calf pairs continuously.”

The above statement is not true on the points following: The original owner, Lewis Cegnar, died in 1987. After the death of Mr. Cegnar, there were no cattle on the property for a significant period of time until the property was rented for pasture.

¹I.C. §42-1411(5) Idaho Code entitled, “Report of the director” provides that, “Since the director’s report is prima facie evidence of the nature and extent of the water rights acquired under state law, a claimant of a water right acquired under state law has the burden of going forward with the evidence to establish any element of a water right that is in addition to or inconsistent with the description in a director’s report.”

To the best of the objector's knowledge, the claimant or any predecessor has never pastured 80-100 cow calf pairs on the property; and would estimate no more than 30-50 cow calf pairs have been pastured at any one time. The property is non-irrigable and cannot support 80-100 cow calf pairs.

3. **Priority date.** Idaho Code 42-1411(2)(c) requires the director to include the priority date in the director's report. The director's report states that, "The claimed priority date is September 8, 1967" based on the deed provided by the claimant. The deed referred to a Warranty Deed from Canfield Investment, Co., grantor, to Lewis W. Cegnar and Ethel A. Cegnar, grantee, signed on September 8, 1967 and not recorded until October 16, 1985. The report goes on to state that, "Item 13 in the claim states that Lewis and Ethel immediately began raising cattle and using Jump Creek water." The claimant has no direct knowledge of this alleged fact. In 1967.

There are three ground water permits for stock water which are identified as 57-10354 (Domestic use with a priority date of 12/31/1925); 57-10355 (Stock water use with a priority date of 5/31/1940); and 57-10356 (Domestic use with a priority date of 12/31/44). Historically, groundwater from these water permits were used for stock water.

Idaho Code section 42-113(1) entitled, "In-Stream and other water use for livestock" provides, "A permit may be issued, but shall not be required for appropriation of water for the in-stream watering of livestock." (Emphasis added). This code section further defines "instream watering of livestock" as "the drinking of water by livestock directly from a natural stream, without the use of any constructed physical diversion works."

Over the years, whatever cattle have been pastured on the real property have naturally used water from Jump Creek. The continuation of the historical use for in-stream watering of livestock does not require that a permit be issued.

4. **Point of Diversion.** Idaho Code section 42-1411(2)(c) does not require the director's report to include a section on the point of diversion. In the director's report, it describes the claimed points of diversion for instream stock water use as beginning at Township 3N, Range 5W, Section 34 SENW and ending at Township 3N, Range 5W, Section 34, NENW.

Subparagraph (3) of Idaho Code section 42-113 specifically promotes the watering of livestock away from streams and riparian areas and would allow the claimant to divert the water for livestock use away from the stream or riparian area.

This is exactly the concern of the objector that if a permit is granted, that such use will not remain as an instream use for stock water but will be expanded to divert water out of Jump Creek and pump water to a different location to water cattle or to ultimately go beyond stock water use and be used for irrigation.

5. **Additional reasonable conditions.** Idaho Code section 42-1411(2)(j) sets forth another element to be included in the director's report as the director deems appropriate and proper, to define and administer the water rights acquired which is: "Such remarks and other matters as are necessary for definition of the right, for clarification of any element of a right, or for administration of the right by the director."

Idaho Code section 42-113(1) provides that:

In the consideration of applications for permits to appropriate water for other purposes, the director of the department of water resources shall impose such reasonable conditions as are necessary to protect prior downstream water rights for in-stream livestock use, and in the administration of the water rights on any stream, the director, and the district court where applicable, shall recognize and protect water rights for in-stream livestock use, according to priority, as they do water rights for other purposes.

(Emphasis added).

The objector is an owner with prior downstream water rights. The director's report does not include any reasonable conditions to protect the prior downstream water rights. If a permit is granted, then such permit should include restrictions to protect the objector's water right which include, but are not limited to, not allowing the claimant to divert water out of Jump Creek and pump water to a different location.