

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 37-21341  
Date Received: 8/26/2004  
Receipt No:  
Received By:

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

CURTIS DARRELL BARKER Phone: (208)775-3534  
PO BOX 163  
INKOM ID 83245

2. Date of Priority: 08/01/1882

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 |
|----------|-------|---------|-----------------------|--------|------|
| 02N      | 18E   | 36      | SW NW                 | BLAINE |      |
| 02N      | 18E   | 16      | SW NE                 | BLAINE |      |

5. Description of diverting works:

BIG WOOD RIVER CANAL, DITCH, HEADGATE

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S. | (or) A.F.A |
|------------|-------|-------|--------|------------|
| IRRIGATION | 05/01 | 10/01 | 0.09   |            |

7. Total Quantity Appropriated is:  
0.09 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 |
|----------|-------|---------|------------|-----|---------------|-------|
| 01N      | 19E   | 6       | SW         | SW  | IRRIGATION    | 5     |
|          |       |         |            |     | Section Acres | 5     |
|          |       |         |            |     | Total Acres   | 5     |

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used: '

14. Remarks:

PROPERTY IS ALSO KNOWN AS LOT 2, BARKER SUBDIVISION.

This right is a split from former right 37-481A.

15. Basis of Claim: Decreed



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

August 26, 2004

CURTIS DARRELL BARKER  
PO BOX 163  
INKOM ID 83245

RE: SRBA Claim(s) 37-481A, 37-482F, 37-483A, 37-11961

Dear Mr. Barker:

Pursuant to the notification that you own a portion of the property to which the above referenced adjudication claims are appurtenant, the department has split the original claims. Your portions have been numbered 37-21341, 37-21343, 37-21345 and 37-21347.

Enclosed please find your copies of the computer-generated claims. Review these documents and should you have any questions or corrections, please contact this office.

Sincerely,

Trish Fawcett  
Technical Records Specialist

Enc.

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

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

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

| Water<br>Right No(s). | Adjudication<br>Claim No(s). | Split              | Water<br>Right No(s). | Adjudication<br>Claim No(s). | Split |
|-----------------------|------------------------------|--------------------|-----------------------|------------------------------|-------|
| 37.483A               |                              | 5/17 <sup>th</sup> |                       |                              |       |
| 37.482F               |                              | 5/17               |                       |                              |       |
| 37.11961              |                              | 5/17               |                       |                              |       |
| 37.481A               |                              | 5/17               |                       |                              |       |
|                       |                              |                    |                       |                              |       |

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

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):  
**PLAT OF PROPERTY** or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

**OR**

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former  
Owner/Claimant(s)

ESTATE OF EVALYN V. BARKER

4. New Owner/Claimant(s)

Cliff Patrick Barker, P.O. Box 284, Bellevue,  
Idaho 83313

Curtis Darrell Barker

Name Connector (Check one): ☐ and, ☐ or, ☐ and/or

New Mailing Address

P.O. Box 163

City, State and ZIP Code

INCOM, Id. 83245

New Telephone Number

208) 775-3534

5. Date you acquired the property

12-16-1998

**RECEIVED**

**AUG 11 2004**

Department of Water Resources  
 Southern Region

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

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

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

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

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

**For Office Use Only**

Received by \_\_\_\_\_ Date \_\_\_\_\_ Fee \_\_\_\_\_  
 Received by \_\_\_\_\_ Date \_\_\_\_\_ Receipt No. \_\_\_\_\_  
 Processed by \_\_\_\_\_ AJ Date \_\_\_\_\_ WR \_\_\_\_\_ Date \_\_\_\_\_

422116

Corr deed

BLAINE CO REQUEST

OE Smith &

Beeks

98DEC 18 PM 2 49

MARY G. BECK, CLERK

FEE \$

3.00

# CORRECTION DEED OF DISTRIBUTION

THIS DEED is made by E. PATRICK BARKER, as Personal Representative of the Estate of EVALYN V. BARKER, Deceased, Grantor, to CURTIS DARRELL BARKER, Grantee, whose address is PO BOX 163, INKOM ID 83245.

The Grantor is the Personal Representative of the Estate, filed as Case No. SP 98-1696 in BLAINE County, Idaho.

The Grantee is entitled to distribution of the described real property.

In distribution of the decedent's Estate, the Grantor conveys and releases to the Grantee the following described real property:

Lot 2 in Barker Subdivision, Blaine County, Idaho, containing 5.04 acres,

with all appurtenances.

Dated 12-16, 1998.

RECEIVED

AUG 11 2004

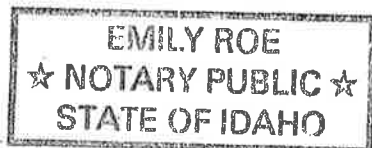
Department of Water Resources  
Southern Region

*E. Patrick Barker*

E. PATRICK BARKER  
Personal Representative of the  
Estate of EVALYN V. BARKER,  
Deceased

STATE OF IDAHO )  
County of Twin Falls. )

On December, 1998, before me, a Notary Public in and for said State, personally appeared E. PATRICK BARKER, known or identified to me to be the person whose name is subscribed to the within instrument as Personal Representative of the Estate of EVALYN V. BARKER, Deceased, and acknowledged to me that he executed it as Personal Representative of the Estate.



*Emily Roe*

Notary Public for Idaho  
Commission Expires: 8/6/99

Smith, Beeks & Hodges  
Attorneys At Law  
210 Sixth Avenue East  
Post Office Box 508  
Twin Falls, Idaho 83303-0508

"COPY"

11/29/2006

NOTICE OF ERROR  
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

**YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: 12/15/2006**

Water right number: 37-21341

CURTIS DARRELL BARKER

PO BOX 163

INKOM ID 83245

Telephone Number: (208)775-3534

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

2. Describe the changes you wish to make in the proposed recommendation:

3. Give a brief explanation as to why you disagree with these portions:

☒ I AGREE with this proposed recommendation: no changes need to be made.

DATE:

12/5/2006

SIGNATURE:

Curtis D. Barker

Please print your name:

Curtis D. Barker

IDWR Regional Office, 322 E Front St  
PO Box 83720, Boise, ID 83720-0098, 2082874800

SCANNED

DEC 11 2006

11/28/2006

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

RIGHT NUMBER: 37-21341

NAME AND ADDRESS: CURTIS DARRELL BARKER  
PO BOX 163  
INKOM ID 83245

SOURCE: BIG WOOD RIVER

TRIBUTARY: MALAD RIVER

QUANTITY: 0.090 CFS

PRIORITY DATE: 08/01/1882

POINT OF DIVERSION:

T02N R18E S36 SWNW Within BLAINE County

Water diverted from Headgate #45 delivered through District.

PURPOSE AND  
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/15 10/31

0.090 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T01N R19E S06 Lot 7 SWSW 5.00

5 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 5 acres in a single irrigation season. Combined Right Nos.: 37-21341, 37-21343, 37-21345, and 37-21347.

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

This right is a split from former right 37-481A.

Property is also known as lot 2, Barker Subdivision.



# Idaho Department of Water Resources

SRBA Recommendation:  
37-21341, 37-21343  
37-21345, 37-21347

## Legend

-  Place of Use
-  Townships
-  PLS Sections
-  Quarter Quarters



Blaine County  
IDWR Basin 37



0 0.2 0.4 Miles

Prepared by N. Erickson  
On Tuesday, November 28, 2006  
2004 Aerial Photography

## **Memo to File**

February 17, 2005

File nos. 37-21340, 37-21341, 37-21342, 37-21343, 37-21344, 37-21345, 37-21346, 37-21347

On 8/11/2004 I received an owner change request from Curtis Darrell (Mick) Barker indicating a 5/17ths split of rights 37-481A, 37-482F, 37-483F and 37-11961. Proof of ownership was a "Correction Deed of Distribution" dated 12/16/1998, which deeded him Lot 2, Barker Subdivision, containing 5.04 acres. I split the rights as requested and sent confirmation copies to the parties involved.

On 10/4/2004, Patrick Barker (personal representative of the estate of Evalyn Barker) came into the office and told me I had not split the claims the way he wanted them split. He explained that his mother had owned the property and after she died, each of her three children got one lot and one lot was sold to Benson. He gave me a Water Right Sale Agreement he had with the Bensons dated 4/3/04. He said he intended to form a ditch company and his brother (Curtis Darrell Barker) had opted out. Patrick's intent was to divide the remaining rights, after the sale to Benson, into 3 equal parts, a third going to each sibling. He wanted me to recalculate the splits based on the amount of water left after the sale to Benson. His biggest concern was 37-483A. He kept mentioning .41 cfs. I believe that's how much he wanted Curtis Darrell to have although there was no documentation in support of that.

After he left, I reviewed all the documents and recalculated the splits as requested. There was very little difference in the amounts I originally calculated and the way he wanted it done. With the deed of distribution predating the Benson agreement, I did not feel I could make any adjustments to my original calculations.

*grish*

Patrick Barker 788-2755

All claims are for 17ac. Owner change from Curtis Darrell asked for 5/17 which I gave.

37-481A .32 17ac  
Benson .02  
 $.30 \div 3 = .1$

-21340 Estate + Benson  
-21341 Curtis Darrell  
 $\frac{.32}{17} \times 5 = .094$  Rounded to .09

37-11961 .22 17ac  
Benson .04  
 $.18 \div 3 = .06$

-21346 Estate + Benson  
-21347 Curtis Darrell  
 $\frac{.22}{17} \times 5 = .064$  rounded to .06

37-482F .32 17ac  
Benson .04  
 $.28 \div 3 = .093$

-21342 - Estate + Benson  
-21343 - Curtis Darrell  
 $\frac{.32}{17} \times 5 = .094$  rounded to .09

37-483A 1.58 17ac  
Benson .1896  
 $1.3904 \div 3 = .46$

-21344 - Estate + Benson  
-21345 - Curtis Darrell  
 $\frac{1.58}{17} \times 5 = .46$

Is there a written agreement about how much water should go to each lot and/or sibling.

RECEIVED

OCT 04 2004

Department of Water Resources  
Southern Region

Water Right Sale Agreement      April 3, 2004

1. The Sellers (heirs) at law or devisees of Evalyn V. Barker, deceased, subject to the administration of the estate of said decedent in Blaine County, Probate Case No. SP 98-1696 wherein E. Patrick Barker is the appointed Personal Representative of said estate transfer and convey the following water rights, or parts thereof, to the Buyers, K.C. and Becky Benson as follows:

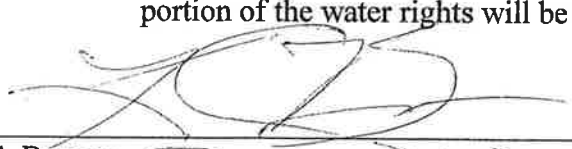
- Water right No. 37-11943 for domestic use is transferred and conveyed in its entirety. A portion of the following irrigation water rights are transferred and conveyed as follows:

1. 37-481A      .02 cfs      (1882)
2. 37-11961    .04 cfs      (1883)
3. 37-482F      .04 cfs      (1884)
- \* 4. 37-483A    1.896 cfs    (1902)

- The above listed water rights, or parts thereof, are appurtenant to the above-described property (Lot 4, Barker Sub. S.W. ¼ Section 6, T 1 N., R. 19 E., B.M., Blaine County, 5.18 acres).
- The Seller also does not transfer or convey, but instead reserves and retains the remaining portions of the following irrigation water rights:

1. 37-481A    .30 cfs      (1882)
2. 37-11961   .18 cfs      (1883)
3. 37-482F    .28 cfs      (1884)
4. 37-483A    1.3904 cfs   (1902)

- These water rights will remain appurtenant to the Seller's property (lots, 1, 2 and 3 of Barker Subdivision.
- The Buyer covenants to not transfer the portions of irrigation water rights (37-481A, 37-11961, and 37-482F) off of the above-described property (Lot 4, Barker Sub. S.W. ¼ Section 6, T 1 N., R. 19 E., B.M., Blaine County, 5.18 acres) for any purpose. This covenant shall run with the land. The irrigation water rights have been claimed in the Snake River Basin Adjudication (SRBA) but have not yet been reviewed by the Idaho Department of Water Resources (IDWR) or the SRBA District Court as of the date of this sale. The Seller does not warrant or guaranty that the water rights will be decreed by the Court as claimed. In the event the water rights are decreed for an amount less than that claimed, the Buyer's portion of the water rights will be reduced proportionally.

  
K. C. Benson

  
Becky R. Benson

  
Pat Barker

4/3/04  
4/3/04