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JUL 27 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

Case No. 39576

A. Subcase 31-12491
(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: United States of America acting through the Department of Interior,
Bureau of Land Management, Idaho State Office

Address: 1387 South Vinnell Way
Boise, Idaho 83709-1657

Daytime Phone: (208) 373-3831

Name & Address of Attorney, if any:

David L. Negri (208) 334-1936 phone, (208) 334-1414 fax
United States Department of Justice
Environment and Natural Resource Division
Natural Resources Section
550 West Fort Street, MSC 033
Boise, Idaho 83724

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

Name: Hagenbarth Land Idaho LP

Address: PO Box 1128
Dillon, MT 59725-1128

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(s) of Diversion**
Should be:
6. ☐ **Instream Flow Description**
Should be:
7. ☐ **Purpose(s) of Use**
Should be:
8. ☐ **Period of Year**
Should be:
9. ☒ **Place of Use**
Should be: See attached.
10. **I object 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):

Within the stream reach claimed is a stockpond that has not been authorized by BLM. There is no evidence that the claimant, or his predecessors, satisfied the test for a valid appropriation of water for a water development on BLM land. This claim should specifically exclude the stockpond.

It is a prohibited act to install range improvements without authorization (43 CFR § 4140.1(b)(2)). Unauthorized use of federal land is a prohibited act (43 CFR §2808.10(a)). A water right cannot be established in trespass (See e.g., *In RE General Determination of*

Rights to Use of Surface and Ground Waters of Payette River, 107 Idaho 221, 687 P.2d 1348, 1353 (1984); citing, *Lemmon v. Hardy*, 95 Idaho 778, 519 P.2d 1168 (1974); *Jones v. McIntire*, 60 Idaho 338, 91 P.2d 373 (1939); *Bachman v. Reynolds Irrigation Dist.*, 56 Idaho 507, 55 P.2d 1314 (1936); *Short v. Praisewater*, 35 Idaho 691, 208 P. 844 (1922); *Rabido v. Furey*, 33 Idaho 56, 190 P. 73 (1920); *Bassett v. Swenson*, 51 Idaho 256, 5 P.2d 722 (1931)).

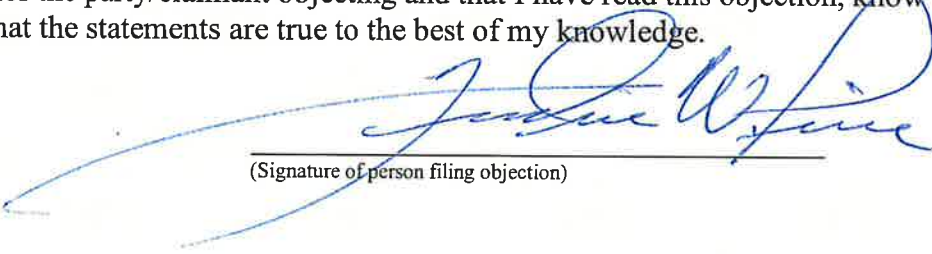
F.

VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of ADA)

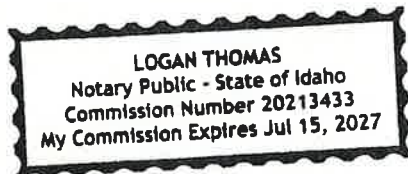
Fredric W. Price, Water Rights Specialist, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

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.

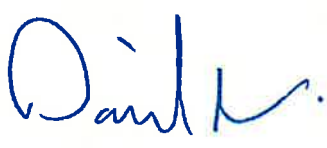

(Signature of person filing objection)

Subscribed and sworn to before me on: July 25, 2022


Logan Thomas



Notary Public for Idaho
Residing at: Boise
My Commission Expires: 7/15/2027


(Attorney signing in representative capacity)

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 July 25, 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
P.O. Box 2707
Twin Falls, ID 83303-2707

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

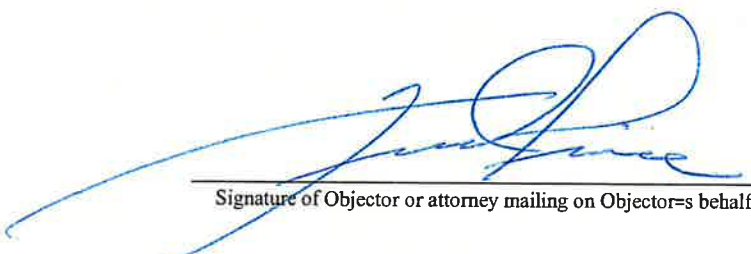
Name: Hagenbarth Land Idaho LP
Address: PO Box 1128
Dillon, MT 59725-1128

3. Copies to:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

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

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



Signature of Objector or attorney mailing on Objector=s behalf

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

RIGHT NUMBER: 31-12491

NAME AND ADDRESS: HAGENBARTH LAND IDAHO LP
PO BOX 1128
DILLON MT 59725-1128

SOURCE: MILES CREEK

TRIBUTARY: CROOKED CREEK

QUANTITY: 0.020 CFS

The quantity of water under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 07/01/1944

POINT OF DIVERSION: T13N R38E S35 SWSW Begin of Stream Flow Within CLARK County
T13N R38E S35 SWSW End of Stream Flow Within CLARK County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

STOCKWATER

05/15 11/15

0.020 CFS

The period of use under this water right is limited to the period of use authorized by the United States for grazing on Federal land as described in the applicable grazing permit, annual operating instructions, and other controlling documents.

Stockwater use is for the in-stream watering of livestock.

PLACE OF USE:

STOCKWATER in CLARK County

T13N R38E S35 SWSW

This right is appurtenant to the base property described below: T13N, R38E, S36, S4SW4.

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. Idaho Code § 42-1412(6).

The quantity of water decreed for this water right is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Parcel No. RP12N38E211000.