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Department of Water Resource
Eastern Region

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Idaho Department of Water Resources
Eastern Region
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To Whom It May Concern:

Our property address is 2973 E, Highway 36, Preston, Idaho. Our property contains the source for Water Hollow water rights #13-7634. Upon purchasing our property, we noted a small irrigation ditch of approximately 12 inches in width. It had been accessed by use of a footpath approximately 18 to 24 inches in width. It had been maintained with a hand shovel. Water rights totaled 0.08 CFS belonging to Mr. and Mrs. Robert Boyack. Approximately a year after we purchased our property, without prior consent or knowledge, the footpath was widened to approximately 10 feet in width and began being maintained with a backhoe. During this time, our driveway was damaged by the backhoe use and made impassable to such a degree that we could not access our property even in a 4-wheel drive vehicle. We were forced to hire an excavation company and repair the damage at our own expense. Also during this time, along the ditch, gates that we had erected to contain livestock were left open repeatedly and ultimately destroyed in our absence.

In March of 2013, we discovered the water ditch access path had been widened from approximately 10 feet in width to approximately 28 feet in places. In addition to this, banks along the hillside of the ditch were cut at a 90-degree angle, approximately 15 feet high. The damage was done by Mr. Robert Boyack, with no prior consent, knowledge or discussion with the property owners. In an effort to remedy this, your office was called on May 6, 2013 and we spoke to Dennis regarding the damage and the frequency of access. We were told by Dennis that our call would be responded to, however no contact was received. Therefore, we called your office on May 18, 2013 and spoke with Blake. It was explained to your him that the Boyack's access this area multiple times per day, and at times, after dark, even when no water is being diverted. Per the advice of Blake, we are filing an official complaint regarding this abuse of water rights.

We are aware of the Boyack application to change the water rights from Water Hollow with application #78526. As you can imagine we are concerned for increased damages that may result from additional diversions of this water right

and subsequent "need" for further widening of the access path and incursion of our property. We are under the belief after reading Idaho Statute, Title 42-1102, Irrigation and Drainage—Water, Rights and Reclamation, Chapter 11, that the right of way is limited to "*...such width of land or along the banks of the ditch, canal or conduit as is necessary to properly do the work of cleaning. But no greater width of land along the banks of the canal or ditch than is absolutely necessary.*"

We fully understand the Boyack's right to access their water ditch. However, we would ask that you please come and review what is occurring to our property currently and the impending erosion from the massive cuts along the steep hillside caused by his recent work.

We appreciate your time in reviewing our problem. We request your assistance in resolution of this ongoing issue.



Allen and Amy Cain