

Water Supply Bank No. _____

Water Right No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE
WATER SUPPLY BANK

Name of Seller/Lessor _____ D. Steve Benson Phone 208-548-2331

Post office address 2785 Benson Road, Rockland ID 83271

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

a. Decree No. 41-4030 Decreed to D. Steve Benson
(Name)

in case of _____ vs _____

dated 5/01/2001 in SRBA Court county of Twin Falls
(Name of court)

b. License No. _____ Issued by the Idaho Department of Water Resources.

c. Permit No. _____ Issued by the Idaho Department of Water Resources.

2. Source of water Fall Creek tributary to "nake River

3. Date of priority 4/1/1924

4. Water is used for the following purposes:

amount 2.00 cfs for Irrigation purposes from 3/15 to 11/15

amount _____ for _____ purposes from _____ to _____

amount _____ for _____ purposes from _____ to _____
(month/day — both dates inclusive)

5. Total amount of water under right: a. 2.00 cubic feet per second
&/or

b. _____ acre feet per annum

6. Location of point of diversion is NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 29

Township 9S Range 29E, B.M. in Power County

Additional points of diversion, if any _____

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OCT 12 2002

7. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
9S	29E	28							3.5		3.5	25.4							32.4
9S	29E	29	13.0	9.1		26.0									27.0				75.1

Total number of acres to be irrigated 107.5

B. DESCRIPTION OF PORTION OF RIGHT FOR SALE OR LEASE (If the entire right is for sale or lease, omit part B.)

1. Amount of water: a. _____ cubic feet per second

&/or

b. _____ acre feet per annum

2. Point of diversion _____ ¼ _____ ¼, Section _____ Township _____

Range _____, B.M., _____ County

Additional points _____

3. Place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total number of acres to be irrigated _____

C. ADDITIONAL INFORMATION ABOUT RIGHT, OR PORTION THEREOF, FOR SALE OR LEASE

1. Explain how the seller/lessor acquired the right, or portion thereof, and attach a copy of the deed to the land to which it is appurtenant or other evidence of ownership of the right.

Partial decree acquired in SRBA. Deed to land attached

2. Describe the frequency of water use under the right, or portion thereof, during the past 5 years. Attach water-master records, pumping power bills, or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture:

Water use has occurred each year during the last 5 years using sprinklers and
portable propane pump. There is no watermaster. SF 5 was negotiated after
IDWR review December 2000.

3. Describe the relative availability of water to fill the right, or portion thereof. Attach evidence to support the availability:

There is always ample flow in Fall Creek at the point of diversion.
Water is utilized upstream in fish facilities.

4. Describe any other water rights with the same purpose and place of use as the right, or portion thereof. Will the present place of use continue to receive water from any source? If so, describe.

NO other water rights are appurtenant. Present place of use will not be irrigated.

5. If the water right is a permit, describe the work accomplished toward developing the right.

6. If the right to the use of the water or the use of the diversion works or irrigation system is represented by shares of stock in a company or corporation, or if such works or system is owned or managed by an irrigation district, a written consent of the sale or lease must be attached. N/A

7. If the right is included in an ongoing adjudication, a copy of the claim must be provided with this application.

See attached printout

8. Draw a map indicating the point(s) of diversion and place of use of the right, or portion thereof. Show clearly the land involved by section, township and range.

SEE ATTACHED AERIAL PHOTO

A blank sheet of graph paper featuring a uniform grid of squares. The grid consists of 10 columns and 10 rows, creating a total of 100 small square units. The lines are thin and black, set against a white background. There are no margins, text, or other markings on the page.

SCALE: 2 inches equal 1 mile. Draw plan in ink.

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997 3 2 2002

9. Remarks _____

D. SALE/LEASE AGREEMENT

- 1. The water right, or portion thereof, described above is offered to the Idaho Water Resource Board:**

 For sale

X For lease for period from _____ to Dec 31, 2007
(year) (year)

_____ As a gift to the State of Idaho.

2. The minimum payment acceptable to the Seller/Lessor is: (Include the method of determining the minimum payment)

Standard Current Rate

- 3. Payment contingent on subsequent sale or leasing of this right, or portion thereof, is:**

 X Acceptable Not Acceptable

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer the sale or lease of this right to the Idaho Water Resource Board.

7-11-02 
(Date) (Signature of applicant)

(Date)

(Signature of applicant)

FOR DEPARTMENT USE ONLY

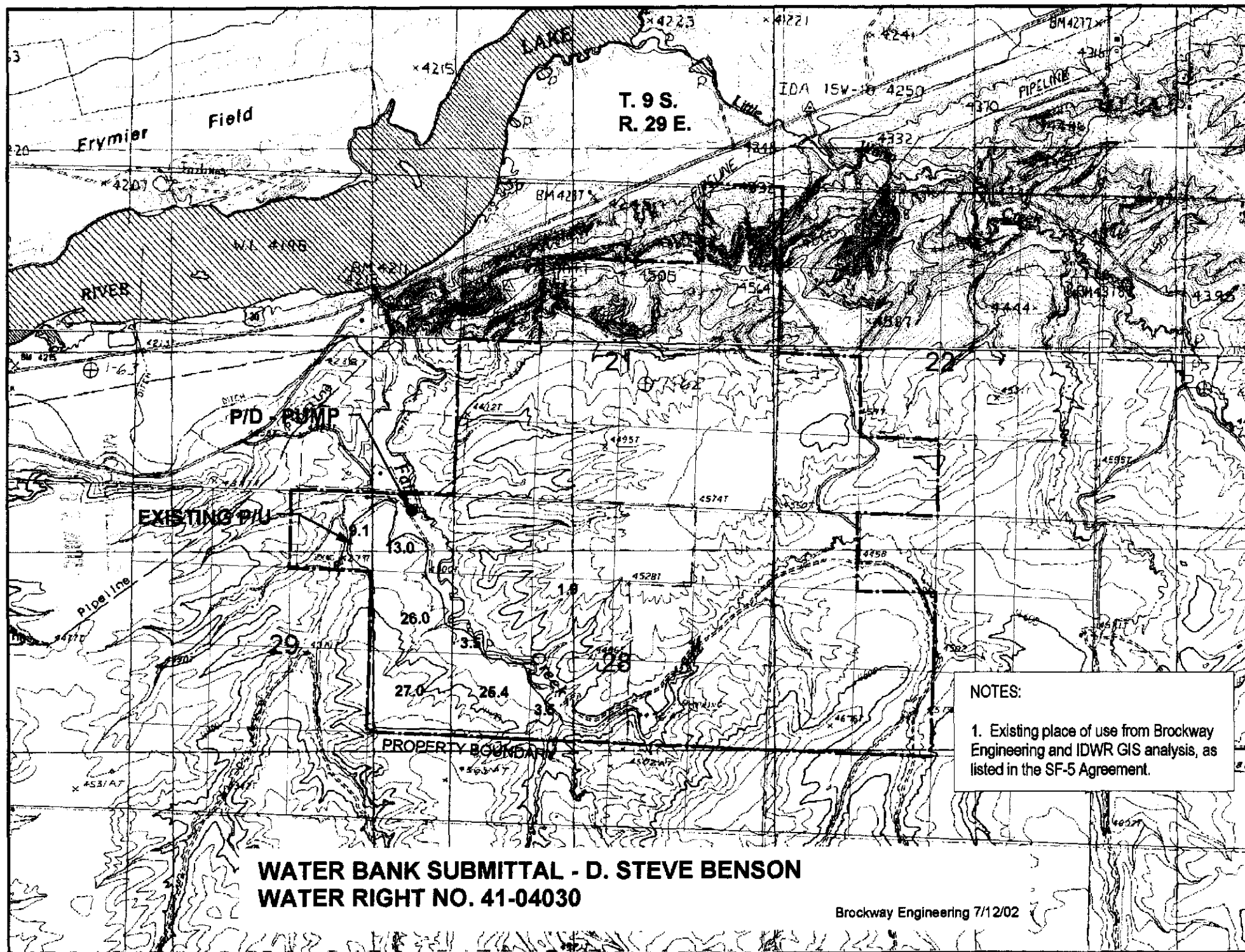
Received by Date Preliminary check by

Watermaster recommendation requested on _____ Received _____

Recommended for _____ approval _____ denial by _____

MI5 HQ: LRG

2007-02-28



WATER BANK SUBMITTAL - D. STEVE BENSON
WATER RIGHT NO. 41-04030

Brockway Engineering 7/12/02

NOTES:

1. Existing place of use from Brockway Engineering and IDWR GIS analysis, as listed in the SF-5 Agreement.

RECEIVED

MAY -3 2001

Department of Water Resources

2001 MAY -1 AM 8:

DISTRICT COURT-SR
TWIN FALLS CO., IDA
FILED

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

ORDER OF PARTIAL DECREE

Case No. 39576

For Water Right 41-04030

On March 27, 2001, a *Special Master's Report and Recommendation* was filed for the above water right. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 41-04030 is hereby **decreed** as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED MAY 01 2001.



ROGER BURDICK
Presiding Judge of the
Snake River Basin Adjudication

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)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 41-04030

2001 MAY -1 PM 1:36
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: D STEVE BENSON
2785 BENSON RD
ROCKLAND, ID 83271

SOURCE: FALL CREEK

TRIBUTARY: SNAKE RIVER

RECEIVED

QUANTITY: 2.00 CFS

PRIORITY DATE: 04/01/1924

MAY -3 2001

POINT OF DIVERSION: T09S R29E S29

NWNE

Within Power County

Department of Water Resources

PURPOSE AND

PERIOD OF USE: PURPOSE OF USE
Irrigation

PERIOD OF USE
04-01 TO 10-31

QUANTITY
2.00 CFS

PLACE OF USE:

Irrigation

T09S R29E S28

SWNW 3.5

Within Power County

NESW 3.5

NWSW 25.4

S29

NENE 13.0

NWNE 9.1

SENE 26.0

NESE 27.0

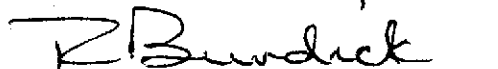
107.5 Acres Total

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

RECEIVED

MAY -3 2001

Department of Water Resources

2001 MAY 01 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

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

CERTIFICATE OF MAILING

Water Right(s): 41-04030

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 41-04030 was mailed
on May 01, 2001, with sufficient first-class postage prepaid
to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

D STEVE BENSON
DON BENSON
Represented by:
CHESTNUT, AMY D
P O BOX 1906
TWIN FALLS, ID 83303-1906
Phone: 208-734-0700

DIANA DELANEY
Chief Deputy Clerk

MICROFILMED

MAR 05 2003

CERTIFICATE OF MAILING

PAGE 1
05/01/01

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)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 41-04030

2001 MAR 27 PM 3:11

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED *[Signature]*

NAME AND ADDRESS: D STEVE BENSON
2785 BENSON RD
ROCKLAND, ID 83271

SOURCE: FALL CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 2.00 CFS

PRIORITY DATE: 04/01/1924

POINT OF DIVERSION: T09S R29E S29 NWNENE Within Power County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	2.00 CFS

PLACE OF USE:	Irrigation		Within Power County
	T09S R29E S28	SWNW 3.5	NESW 3.5
		NWSW 25.4	
	S29	NENE 13.0	NWNE 9.1
		SENE 26.0	NESE 27.0
	107.5 Acres Total		

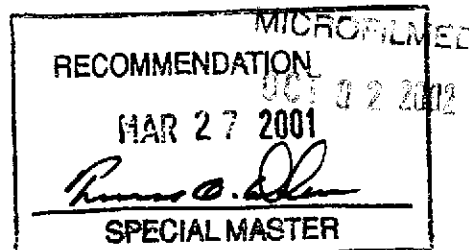
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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. I.C. SECTION 42-1412(6).

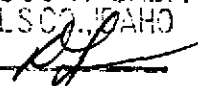
RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication



2001 MAR 27 PM 3:11

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED 

**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

Subcase 41-04030

Case No. 39576

SPECIAL MASTER REPORT

Findings of Fact

Don and Steve Benson filed a *Notice of Claim to a Water Right* on March 27, 1990, claiming 2 cfs from Fall Creek for irrigation of 118 acres from March 15 to November 15 with a priority date of June 1, 1930, based on beneficial use. The Director of the Idaho Department of Water Resources filed his *Director's Reports for Irrigation and Other, Reporting Area 7, IDWR Basin 41*, on November 2, 1999. He recommended the claim to Don Benson for 1.06 cfs to irrigate 101 acres from April 1 to October 31 with a priority date of April 1, 1924.

D. Steve Benson and Don Benson both filed *Objections* on December 28, 1999, objecting to quantity and place of use. IDWR filed a *Notice of Completed Administrative Proceedings* on June 23, 2000, substituting D. Steve Benson, 2785 Benson Road, Rockland, Idaho 83271, as the claimant. On October 30, 2000, counsel for the claimant and IDWR filed a *Standard Form 5* agreeing to 2 cfs to irrigate 107.5 acres from April 1 to October 31 with a priority date of April 1, 1924.

Conclusions of Law

D. Steve Benson is entitled to a partial decree adjudicating a water right under claim 41-04030 as described in the *Standard Form 5* and the *Special Master Recommendation for Partial Decree for Water Right 41-04030*.

DATED March 27, 2001.


TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

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OCT 02 2002

2001 MAR 27 PM 3:12

DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
FILED *[Signature]*

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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 41-04030

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on March 27, 2001, with sufficient first-class postage prepaid to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

D STEVE BENSON
Represented by:
CHESTNUT, AMY D
P O BOX 1906
TWIN FALLS, ID 83303-1906
Phone: 208-734-0700

DON BENSON
Represented by:
NORMAN M. SEMANKO
ATTORNEY AT LAW
410 S ORCHARD, STE 144
BOISE, ID 83705
Phone: 208-344-6690

CERTIFICATE OF MAILING

MICROFILMED

OCT 22 2002

[Signature] PAGE 1
DEBBIE LASH 03/27/01
Deputy Clerk

DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO

In Re SRBA
Case No. 39576

Water Right(s): 41-04030

PAGE 1
03/27/01



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 21, 2003

D. Steve Benson
2785 Benson Road
Rockland, ID 83271

RE: 41-04030 - TERMINATION OF LEASE TO THE WATER SUPPLY BANK

Dear Mr. Benson:

I have reviewed your letter dated February 12, 2003 in which you advise that you wish to withdraw the above referenced water right from the water supply bank. Since the right has not been rented, please consider that the right is released from the water supply bank as of the date of this letter.

If you have questions, feel free to contact me at (208) 327-7955.

Sincerely,



L. GLEN SAXTON, P.E.
Chief, Water Allocation Bureau

c: IDWR - S. Regional Office
✓ 41-04030

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MAR 06 2003

FEB 20 2003

Department of Water Resources

February 12, 2003

L. Glen Saxton, P.E.
Chief, Water Allocation Bureau
State Of Idaho
Department of Water Resources
1301 North Orchard Street
Boise, Idaho 83706

Re: Withdrawal of Lease Water Right No. 41-04030 From the Water Supply Bank

Dear Mr. Glen Saxton:

I wish to terminate my lease to the Water Supply Bank, effective immediately. If you have any questions, please feel free to contact me at 208-548-2330.

Sincerely,



D. Steve Benson

C: Charles E. Brockway

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MAR 06 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

August 22, 2002

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

Aberdeen-American Falls Ground Water District
c/o Jenny Ruff
P.O. Box 70
American Falls, ID 83211

RE: APPLICATION TO RENT WATER RIGHT NO. 41-4030

Dear Ms. Ruff:

I have reviewed your letter dated August 16, 2002 in which you ask several questions relative to the operation of the Water Supply Bank ("bank") and have resubmitted application to rent water right no. 41-4030 from the bank.

The **water supply bank** deals with natural flow water rights, such as water right no. 41-4030 that has been accepted (leased) to the bank. **Rental pools** operated by local committees on the Upper Snake River, the Boise River and the Payette River deal with stored water.

Water rights can be taken into the bank without regard to priority. Section 42-1762(2), Idaho Code, allows decreed, licensed and permitted rights to be put into the bank. The effect of putting them into the bank is to make them available for use by others, prevents their use by the holder of the right while in the bank, and protects against forfeiture of the right.

A right does not have to be "in priority" to be accepted into and to remain in the bank. Likewise, a right rented from the bank may not always be "in priority." The person renting a right would only be able to divert water and/or get credit for water under a right when the right is "in priority." "In priority" means that there is enough water available in the source of supply to provide water to rights with earlier priorities than the right sought for rental from the bank. My letter of July 26, 2002, should be read as advising you that because the priority of water right no. 41-4030 is not and has not been in priority, rental of the right will not result in any credit for mitigation of other uses.

The 1900 priority rights for the Twin Falls and North Side Canal Companies have only been partially filled since the first week of July this year. The recently issued partial decrees indicate that water right 41-4030 is to be administered with rights from the Snake River. Thus, right 41-4030 would not receive water until the water supply on Fall Creek and the Snake River is adequate to fill water rights that have a 1924 priority. Since the Twin Falls and North Side Canal Companies have not been receiving a full

supply of water under their 1900 priorities, the companies have been augmenting their water supply with stored water.

The department has had little experience with water supply bank rentals in the Upper Snake because of the availability of water in the rental pool there. The rental pool fee in Water District 01 above Milner is \$2.95 per acre-foot and below Milner is \$10.50 per acre-foot. Water in the bank rents for \$11 per acre-foot this year in the Boise area. Ten dollars (\$10) of this rental fee is paid to the owner of the water right and one dollar (\$1) goes to the Department for administrative costs associated with operation of the bank.

I will maintain the application on file with the Department in case a water right becomes available that can be rented from the bank for mitigation purposes sought by your ground water district.

If you have additional questions, please feel free to contact me.

Sincerely,



L. GLEN SAXTON, P.E.
Chief, Water Allocation Bureau

c: IDWR – Regional Office
Norman C. Young
Tim Luke
✓41-4030

RECEIVED

AUG 19 2002

Department of Water Resources

American Falls Aberdeen Area
Ground Water District
514 Tyhee Ave.
P.O. Box 70
American Falls, ID 83211
(208)226-5914
(208)226-1253 fax

American Falls Aberdeen Area Ground Water District

August 16, 2002

I.D.W.R.
L. Glen Saxton
1301 North Orchard Street
Boise, ID 83706

Dear Glen:

Enclosed please find another application to rent water from the water supply bank. I am re-submitting my application with different terminology.

In response to your letter dated July 26, 2002, why was this water right allowed to be put into the water bank in the first place if the Canal Companies have first right to it. I understand that the Canal Companies are receiving their full amount of water. If they are not receiving the full amount, why aren't they putting a call on this water right? If you could please provide some information as to these facts, I would appreciate it.

You had also stated that "water right no. 41-4030 cannot be used to mitigate earlier priority surface water use". There must be some uses that this water right can be rented for since it was allowed to be put into the water bank. Could you please provide me with a list of these uses?

Also, I would like to question the \$11.00 per acre-foot rental fee that you stated in your letter. It was my understanding that the rental fee was \$2.95 plus administration fees. I would like to know the breakdown of the current \$11.00 fee and where that money would go. Thank you in advance for your prompt reply.

Sincerely,



Jenny Ruff
Office Manager

enc.

cc: Tim Luke

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MAR 16 2003

Before the Idaho Water Resource Board

**APPLICATION TO RENT WATER
FROM THE WATER SUPPLY BANK**

Applicant American Falls Aberdeen Ground Water District Phone (208) 226-5914
Address P.O. Box 70
City American Falls State ID Zip Code 83211

A. DESCRIPTION OF WATER SOUGHT FOR RENTAL

1. Source of water 41-4030 Fall Creek
which is tributary to Snake River
2. Maximum volume of water sought 848.8952 AF.
3. Maximum rate of diversion 2.0 cfs.

B. DESCRIPTION OF USE PROPOSED

1. Nature of use A.F.A.G.W.D. Replacement Water
2. Location of point of diversion 1/4 1/4, Section ,
Township , Range , B.M. County.
3. Season of use: From to .
4. Description of diverting works:
Pump HP Lift Pump type .
Canal name, if appropriate .
5. Place of use:
 - a. If water is for irrigation, describe the number of acres to be irrigated by
40-acre tract, section, township and range.

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MAR 18 2003

b. If water is not for irrigation, describe the nature of the intended use and the place of use.

Replacement water

6. Describe any other water rights used for the same purposes as rental water sought under this application.

7. Who owns the property at the point of diversion?

D. Steve Benson

8. Who owns the property at the place of use?

9. Are you seeking a rental for more than one (1) year? Yes

If so, how many years? 2

10. Remarks: _____

Date

Signature of Applicant

FOR DEPARTMENT USE ONLY

Received by 124 Date 8-19-02 Time _____

Published in _____ Pub. dates _____

Protests filed by _____

Hearing held by _____

Action recommended _____

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MAR 18 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

July 26, 2002

Aberdeen - American Falls Ground Water District
c/o Jenny Ruff
P.O. Box 70
American Falls, ID 83211

RE: APPLICATION TO RENT WATER RIGHT NO. 41-4030

Dear Ms. Ruff:

Returned is the Application to Rent Water From the Water Supply Bank ("bank") that you submitted to the Department by FAX on July 24, 2002 on behalf of the Aberdeen - American Falls Ground Water District ("district"). The purpose of the proposed rental appears to be to mitigate surface water depletions of the Twin Falls Canal Company and the North Side Canal Company ("companies") attributable to ground water users in Basin 35.

The source of water for right no. 41-4030, that the district seeks to rent, is Fall Creek tributary to the Snake River and the priority of use is April 1, 1924. This priority is junior to most of the rights of the companies and should not be receiving water, if more senior surface water rights from the same or tributary source are not being filled. Hence, if the use described above is the intent of the district, water right no. 41-4030 cannot be used to mitigate earlier priority surface water use.

As general information related to potential future rentals by the district, the rental fee for 2002, is \$11 per acre-foot.

If you have questions, please feel free to contact me.

Sincerely,

L. GLEN SAXTON, P.E.
Chief, Water Allocation Bureau

Encl: 1

c: IDWR - Regional Office
Tim Luke
41-4030

MICROFILMED

OCT 8 2 2002



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

July 16, 2002

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

Charles E. Brockway
2016 N. Washington St.
Suite 4
Twin Falls, ID 83301

**RE: APPLICATION TO LEASE WATER RIGHT NO. 41-04030 TO THE WATER
SUPPLY BANK**

Dear Dr. Brockway:

The department has reviewed the Application to Sell or Lease a Water Right to the Water Supply Bank that you submitted to this office in the name of D. Steve Benson. Please consider that the water right is accepted into the bank.

Several items to keep in mind in connection with the lease of the right to the bank are as follows:

1. There is no rental payment to the owner of the water right if the right or a part thereof is not rented from the bank.
2. While a right is in the bank, the owner of the right may not use the right even if the right is not rented.
3. A right accepted into the bank stays in the bank until the Board releases it or until the lease term expires.
4. While a water right is in the bank, forfeiture provisions are stayed.

If you have questions, please feel free to contact me.

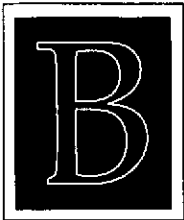
Sincerely,

L. GLEN SAXTON, P.E.
Chief, Water Allocation Bureau

c: Allen Merritt - IDWR
41-04030

MICROFILMED

OCT 6 2 2002



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

RECEIVED

JUL 15 2002

Department of Water Resources

July 12, 2002

Mr. Glen Saxton
Idaho Department of Water Resources
1301 North Orchard
Boise, ID 83706

Subject: Water Bank Submittal Water Right 41-04030

Dear Glen:

Enclosed is an application to lease water right 41-04030 to the Water Supply Bank. This water right is a surface water right from Fall Creek for 107.5 acres as described in the attached Special Master Report based on the SRBA form SF-5.

Also attached is a copy of the USGS 7.5' Quad showing the place of use and point of diversion for the water right.

Please call if you have questions.

Sincerely,



Charles E. Brockway P.E., PhD.

Enclosure:

cc: S. Benson

CHARLES E.
BROCKWAY,
PH.D., P.E.

CHARLES G.
BROCKWAY,
PH.D., P.E.

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506

MICROFILMED

OCT 8 2 2002

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Southern Region

1041 Blue Lakes Blvd. N.
Twin Falls, Idaho 83301
(208) 734-3578

JULY 15 1983

DON BENSON
STAN BENSON
216 POLK
AMERICAN FALLS ID 83271

RE: Claim No. 41-4030

Dear Claimant:

The Department of Water Resources has completed the advertising of your claim to a water right, and no further action is authorized under Section 42-243 and 42-244, IDAHO CODE. Your claim will be retained in our files and will be available at any time for use by you or the court.

The filing and advertising of the claim does not confirm the water right claimed, but will serve to record and preserve the information and the evidence which you included in your claim.

If, at a later date, you find that you have additional information or supporting evidence that you would like to have included with the claim, you may have that information or evidence added at any time. Please refer to the claim identification number when corresponding with this office.

We are enclosing a copy of your claim for your records. If you have questions, or if this office may be of further assistance, please feel free to contact us.

Yours truly,


ALLEN D. MERRITT
Senior Water Resource Analyst

Enclosure

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
CLAIM TO A WATER RIGHT



Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that Don Benson &/or Stan Benson
(Name of Claimant)
216 Polk, American Falls, ID 83271 Telephone No. 226-2390
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use) 1930

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
Fall Creek tributary to Snake River

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

	(cfs, af)	(Domestic, Irrigation, Stock, Etc.)	(Both dates inclusive)	
			(Mo., Day)	(Mo., Day)
Quantity	<u>2.00 cfs</u>	Use <u>Irrigation</u>	Period of Use From <u>May 1</u>	To <u>Sep 30</u>
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To

(4) 2.00 cfs TOTAL QUANTITY USED.
(cfs, af)

(5) A) Point of diversion: (Location of point where water is diverted from its source)
NE 1/4 NE 1/4, Sec. 29 Twp. 9S Rge. 29E B.M., County of Power
Additional points of diversion:

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Check dam & ditch, flume, gravity system; replaced by pump & pond in stream bed in early 1970's.

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

T	R	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
9S	29E	29	10	11	12	25									39				87
		28										32							32

No. of acres 118

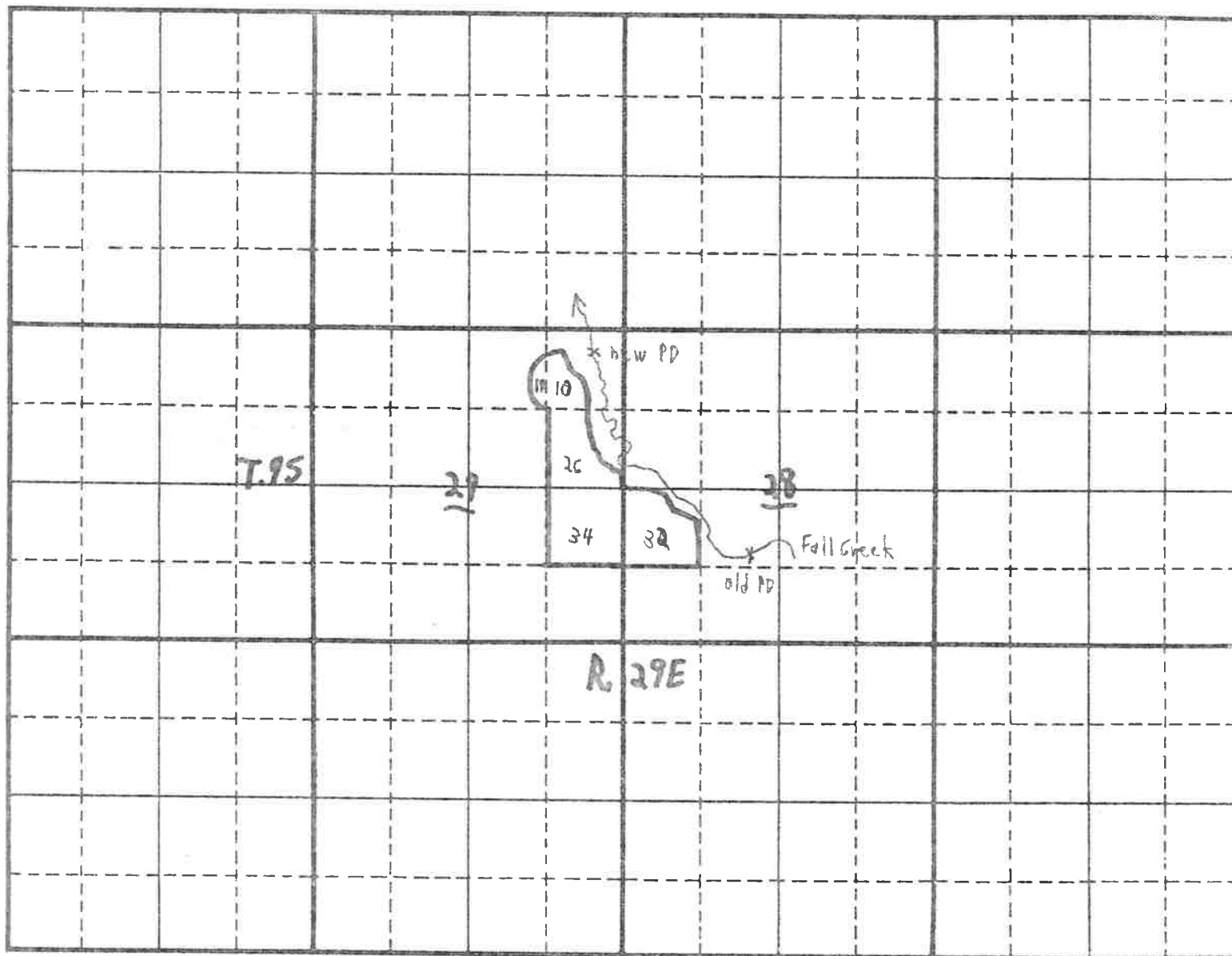
B) If water is used for other than irrigation, fully describe that use, being as specific as possible:

NOTE: Include here the type and number of stock watered:

(7) If you are claiming water as a member of an organization, list name of organization:

41-4030

(8) Remarks _____



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Twin Falls) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 4th day of May, 1983.

Loren O. Halverson
(Claimant)
Loren O. Halverson
Notary Public
Residing at Twin Falls, ID

My commission expires Life

FOR DEPARTMENT USE ONLY

Received by JF Stanton Date 5-4-83 Exception filed by: _____ Date _____
Prelim. check by IB Date 5-10-83 Forwarded to claimant by: _____
\$30.00 fee received by JF Date 5-4-83 \$273.00
Published in Power County Press Osborn L.O.H. 7/13/83
Dates 6/29 & 7/6/83

19 20
30 29

21
29 28

22.3

29.9

16.3

53.5

13.6

H
23.5

30 29
31 32

29 28
32 33

E
79.3

D
109.8

J
47.1

I
46.0

31 32
6 5

32 33
5 4

K
136.8



State of Idaho

COPY

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

NOVEMBER 16, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

D STEVE BENSON
4025 GEORGES ROAD
AMERICAN FALLS ID 83211

**RE: TERMINATION OF LEASE TO THE WATER SUPPLY BANK – WATER
RIGHT NO(S). 41-4030.**

Dear Mr. Benson:

Idaho Department of Water Resources ("department") records show that the above referenced water right(s) has been leased through October 31, 2005 to the Water Supply Bank ("bank"). This letter is notice that the right will be considered released from the bank unless you advise the department, in writing, within thirty (30) days of the date of this letter that you want to extend the period of the lease.

If you would like the right(s) to remain leased to the bank, please specify the date to which you want the lease extended. The right(s) will remain in the bank for the specified period unless released earlier by the Water Resource Board or until the lessor submits a request to the department in writing to release the right(s) from the bank.

Please consider that the five (5) year period of nonuse related to forfeiture of a water right shall begin to accrue upon release of the right from the bank or shall continue to accrue if a period of nonuse occurred prior to the lease date of the right to the bank. If a written request is not received within thirty (30) days, the right(s) will be considered released from the bank as of **December 31, 2005**.

If you have questions, feel free to contact me directly at (208) 287-4946.

Sincerely,

for: Cynthia Bridge Clark
Water Allocation Bureau

c: Allen Merritt - IDWR - Southern Office

41-4030



State of Idaho

COPY

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

JULY 20, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

D STEVE BENSON
4025 GEORGES ROAD
AMERICAN FALLS ID 83211

RE: APPLICATION TO LEASE PART OF WATER RIGHT NO. 41- 4030

Dear Mr. Benson:

The Department of Water Resources ("department") has completed its review of the Applications to Sell or Lease Water Right(s) to the Water Supply Bank ("bank"). Please consider that the offered water right(s) are accepted into the bank, as of May 26, 2005

WATER SUPPLY BANK LEASE CONDITIONS OF ACCEPTANCE

1. Portions of the above referenced water right is leased to the bank as follows:

Right No.	Acres (ac)	Diversion Rate (cubic ft per sec., cfs)
41-4030	86 ac	1.6 cfs

2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the owner of the right may not use the right even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Section 42-351, Idaho Code, for illegal diversion and use of water, and may include civil penalties pursuant to Section 42-1701B, Idaho Code.
4. A right accepted into the bank stays in the bank until the Board releases it, the lease term expires, or upon request from the lessor to change the term of the lease.

41-4030

5. While a water right is in the bank, forfeiture provisions are stayed.
6. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other department application process.
7. The water rights referenced above will be rented from the bank at the current rental rate as specified by the lessor.
8. In accordance with Sections 42-248 and 42-1409(6), Idaho Code, all owners of water rights are required to notify the department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.
9. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
10. Upon acceptance of a water right into the Board's water supply bank, the owner of the right may withdraw the right within thirty (30) days of acceptance into the bank if the owner does not agree with the conditions of acceptance.

The right(s) will remain in the bank until October 31, 2005 unless the right is released earlier by the Board, or upon request by the lessor. To change the term of the lease or to release the right from the bank, the lessor must submit a request in writing to the department.

If you have questions, please feel free to contact me.

Sincerely,



for Cynthia Bridge Clark
Water Allocation Bureau

c: Allen Merritt - IDWR Southern Regional Office
Daren Nelson - Brockway Engineering

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 41-4030

WATER RIGHT NUMBER: 41-4030

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	D STEVE BENSON 4025 GEORGES RD AMERICAN FALLS, ID 83211 (208)548-2330
Directors Report Owner	DON BENSON 1233 IDANHA AMERICAN FALLS, ID 83271 (208)548-2330

Keep $\frac{3.5}{107.5} \times 2.00 = 0.07 \text{ cfs}$

Lease $\frac{104}{107.5} \times 2.00 = 1.93 \text{ cfs}$

Priority Date: 04/01/1924

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
FALL CREEK	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/01	10/31	2.000 CFS	
	<u>Total Diversion:</u>		2.000 CFS	

Location of Point(s) of Diversion

FALL CREEK	NW1/4NE1/4NE1/4	Sec. 29, Twp 09S, Rge 29E, B.M.
POWER County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
09S	29E	28	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
									3.5		3.5		25.4						32.4
09S	29E	29	13.0	9.1		26.0									27.0				75.1

Total Acres: 107.5

Conditions of Approval:

1. C18 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.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 41-4030

Comments:

1. SCLELLAN 5/29/1999 RECOMMENDATION

Comment: THIS IS A PERMISSABLE PLACE OF USE OF 101 ACRES BUT IS LIMITED TO THE ACTUAL IRRIGATION OF 53 ACRES BASED ON THE DUTY OF 1 INCH/AC.

2. SCLELLAN 10/26/1999 COPIED FROM REMARKS

Comment: THIS RIGHT IS LIMITED TO THE IRRIGATION OF 53.0 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON. CHANGE OF NAME/ADDRESS UNDOCUMENTED REQUEST BY THIRD PARTY (BROCKWAY) IS NOT EFFECTIVE CHANGE OF RECORD. RECOMMENDATION FULL 101

3. AJU10-DJ 10/29/1999 AJU10 CONDITION UPDATE

Comment: CONDITION CODE(S) C18 ADDED IF NOT ALREADY PART OF RECORD THRU AJU10.

4. TFAWCETT 6/1/2000 NAME CHANGE

Comment: OWNERSHIP CHANGED DON BENSON TO D STEVE BENSON PER 1409(6) AND GRANT DEED REC'D 4/4/2000.

Dates and Other Information:

Licensed Date:

Decreed Date: 5/1/2001

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

State or Federal: S

Owner Name Connector: OR

Water District Number:

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Decree Defendant:

Decree Plaintiff:

Civil Case Number: 39576

Judicial District: FIFTH

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False

Combined Use Limits:SubCase:

SubCase Number: 41-4030

Class: 2

SF5 Filed Date: 10/30/2000

Special Master Recom Signed Date: 3/27/2001

Attorney Assigned: NICHOLAS B SPENCER

Adjudication Agent:

Basis of Claim:

Date Filed: 12/28/1999 Objection Status: Active

Date Filed: 12/28/1999 Objection Status: Active

Water Supply Bank: