

Brian Carpenter and Theresa Carpenter

559 Highway 28

Salmon, Idaho 83404

Telephone: (208) 580-8380

Self-Represented for Plaintiff/Defendants Carpenter

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls-State of Idaho

SEP 5 2025

By

Clerk
Deputy Clerk

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

BRIAN CARPENTER AND THERESA
CARPENTER

Plaintiff,

v.

ROCKIE WALKER AND LEANNE
WALKER, husband and wife, AND
JOSHUA A. MCINTOSH

Defendants

IN RE: SRBA Case No. 39576

MEMORANDUM IN SUPPORT OF
AMENDED MOTION TO FILE A CLAIM
OF FRAUD AND REQUEST FOR RELIEF

I. INTRODUCTION

Objectors Brian and Theresa Carpenter object to Rockie Walker's 2011 water right application (SRBA Subcase 39576) on grounds of fraud, misrepresentation, and reliance on the illegal Lemhi River L-8 Diversion Lateral Water Users Association (LWUA). Pursuant to SRBA procedures (Idaho Code § 42-1412; SRBA Admin. Order 1), this memorandum supports our objection, showing the claim is invalid due to unauthorized ditch changes (§ 42-1207), lack of

consent in LWUA formation (§ 42-1301), and concealment of historic ditches to enable illegal sewer systems. We request denial of the claim or subordination to our senior right (74-733G, 1893 priority).

II. FACTUAL BACKGROUND

1. Objectors' Right: 74-733G (5.01 acres, L-8 diversion, historic use via three unburied ditches).
2. Walker's Application (2011): Claims rights tied to L-8 but conceals changes (buried ditches post-2004 to hide illegal sewer—Exhibit E-2).
3. LWUA (formed 2023): Invalid—Objectors never consented (minutes: Exhibits 1-3 show no participation). Relies on illegal Southwest Ditch (post-2004, no permission—§ 42-1207; photos: 2004 Goodman Photo Exhibit F1-F3, 2006 IDPH, 1994 USGS—Exhibit B2-B4). Violates DEQ Rules (58.01.03.17/37.03.09(d)—Exhibit D). IDWR Letter (June 16, 2023—Exhibit D) defers disputes, implying invalidity.
4. Fraud: "Coup" to disenfranchise—buried historic ditches conceal sewer, forcing reliance on illegal ditch (causing E. coli, arrests in CR30-25-0405). Related: CV30-23-0114; Supreme Ct. 53153-2025.

III. LEGAL ARGUMENT

1. **Fraud/Misrepresentation Invalidates Claim (§ 42-1411):** Walker's application omits unauthorized changes (buried ditches)—fraudulent (IDWR Director's Report objections require full disclosure; see "Understanding the Snake River Basin Adjudication" PDF). Deny per § 42-1412 (court resolves disputes on evidence).
2. **LWUA Illegal (§ 42-1301):** No voluntary consent—cannot bind or support Walker's claim (South Valley v. IDWR, 170 Idaho 379 (2024)). Bylaws supersede § 42-1102 unlawfully.
3. **Unauthorized Ditch Changes (§ 42-1207):** Southwest Ditch illegal (photos prove non-historic)—no valid diversion for claim. Restore at Walker's expense.
4. **Public Policy/Subordination:** Claim perpetuates harm (E. coli, disability ignored)—subordinate to senior rights (§ 42-106).

IV. CONCLUSION

Deny Walker's claim; award costs. Oral argument requested at Sept. 16, 2025 hearing.

DATED: August 31, 2025

The image shows two handwritten signatures in black ink. The signature on the left is 'Brian Carpenter' and the signature on the right is 'Theresa Carpenter'. Both signatures are written in a cursive, flowing style.

Brian Carpenter Pro Se and Theresa Carpenter Pro Se

Attached Exhibits:

1. Exhibits 1A, 1B, 1C: LWUA Minutes/Bylaws 2-22-2023
2. Exhibits 2A, 2B: Meeting minutes 6-14-2023
3. Exhibits 3: Meeting minutes 3-20-2025
4. Exhibits F1-F3: Goodman Photo signed and dated copy from Lemhi Building Department.
5. Exhibit B2-B4: 1994 USGS Self-authenticating.
6. Exhibit E2: Walker 1987 sewer application From IDPH file
7. Exhibit D: DEQ Letter/ Email. Self-authenticating.
8. Exhibit 5: IDWR Formal Complaint Aug 31, 2025

First Annual Water Meeting

February 22, 2023

District 74 - Lemhi River LB Diversion Lateral Water Users Association

The meeting was called to order at 6:00 pm at the Salmon Public Library on February 22, 2023. Those in attendance were: Dave Say, Amy Say, Josh McIntosh, Rebecca Adams, Rockie Walker, LeeAnn Walker and Rick Pruett. Association members Brian & Theresa Carpenter did not attend.

All members signed in, first order of business was to elect a board, this being the initial meeting of this association. Amy Say nominated Josh. He declined the nomination as he is not a full time resident, yet. Rockie nominated Rick Pruett for Chairman, Amy seconded, motioned passed. LeeAnn nominated Amy Say as Secretary/treasurer, Rockie seconded, motioned passed. Josh nominated Dave Say for the lateral ditch manager, Rockie seconded, motion passed. Both Dave and Amy waived compensation for 2023.

Bylaws were established and accepted by all in attendance. Copies will be forwarded to the association.

Budget was discussed and \$1200.00 is the figure it was agreed to start with. This is to cover the replacement of the head gate, that will need to be replaced in the near future.

Assessment share for each property owner:

Pruett -	\$243.24
Adams.	48.60
McIntosh	227.04
Carpenter	210.84
Walker	194.64
Say	275.64
Total Assessment	\$1200.00

Rick and Amy will open an account at the Eastern Idaho Credit Union for this association. All assessments must be paid in full by April 1 to receive allotted water.

Josh shared a hand drawn map that he received from the IDWR that shows the main ditch as we know it running behind our houses parallel to the river.

Ditch Maintenance - the association will work together to clear the diversion of all debris the Weekend of March 24, 25, 26. Josh has a backhoe and Rick has a dump truck, the cost to cover will be for their fuel. It was noted that Josh, Becky and Rick received no water last year.

Water schedule rotation starting Apr 1 - McIntosh 3 days on, Adams 1 day on, Pruett, 2 days on, Carpenter 4 days on, Walker 3 days on, Say 1 day on, so forth. Calendar sent to all association members.

Chairman Pruett adjourned meeting at 7:15 pm.

Exhibit 1A: Minutes 2-22-2023

**BY-LAWS
of the Lemhi River
B74 LB DIVERSION LATERAL WATER USERS ASSOCIATION
Salmon, Idaho**

ARTICLE I

NAME, PURPOSE, AND MEMBERS

Section 1. The name of the association is LB DIVERSION Lateral Water Users Association. This is a not for profit association formed pursuant to Idaho Code Title 42 Chapter 13.

Section 2. The Association is formed to facilitate equitable delivery of privately held water rights in a common conveyance ditch from the Lemhi River with point of diversion at NWSE Diversion #1, Section 30, Township 21N, Range 23E, more commonly known as L-8. (see map, Attachment A).

Section 3. The Association, through assessments of member water users, shall provide for shared expenses of ditch maintenance and other costs related to the diversion of irrigation water in Idaho.

Section 4. Association members are those water users holding the attached water rights (Attachment B).

ARTICLE II

ANNUAL MEETING, OFFICERS, VOTING AND ASSESSMENTS

Section 1. A meeting of water users will be held in March of each year, at a date to be determined annually, for the purpose of approving a budget and electing officers and a lateral manager.

Section 2. The officers shall be Chairman, and Secretary/Treasurer. These officers will comprise the Board of Directors.

A Lateral Manager will be elected by the board to supervise distribution of water from the shared ditch.

Section 3. Voting shall be in accordance with the provisions of I.C. § 42-1301. A majority vote will be required to pass a motion.

Section 4. Assessments shall be on a pro-rata basis according to water right rate of flow, as provided in I.C. § 42-1303.

ARTICLE III

POWERS AND DUTIES OF OFFICERS AND DIRECTORS

Section 1. The Board of Directors is authorized to hire contractors to repair or clean the ditch(es), construct check dams at the river diversion or complete any necessary maintenance, repair or installation of diversion works, control structures or measuring devices.

Section 2. The Secretary/Treasurer shall prepare assessments as soon as practicable after the annual budget is adopted. The Lateral Manager shall collect the budget and the Treasurer

Exhibit 1B: Bylaws page 1

shall deposit all funds in a bank account established in the name of the Association.
Signatories on the account shall be the Chairman and the Secretary/Treasurer.
Section 3. All spending decisions must be approved by an adopted motion.

ARTICLE IV

RULES AND REGULATIONS FOR THE DISTRIBUTION OF WATER

Section 1. The only water rights eligible for delivery are those rights identified by records of the water users in the Association.

Section 2. No water user shall be entitled to receive water whenever their assessment remains unpaid after May 1 of each year. I.C. § 42-1305

Section 3. The Lateral Manager shall make the best effort to ensure that each water user receives a fair share of water according to the recorded rights, and shall perform the duties as required by these by-laws, I.C. § 42-907 and I.C. § 42-910.

Section 4. All water must be beneficially used.

Section 5. Water delivery problems shall be referred to the Directors and will be resolved by discussion and consensus of users.

Section 6. Ditch maintenance needs shall be evaluated annually. Ditches will be cleaned from the diversion to the fish screen by all parties on the ditch. All other ditch maintenance on water user property is the responsibility of the property owner. (IC 42-1202)

If the property owner does not clear their own ditch, the association will hire outside help and the property owner shall be responsible solely for the cost. If there is interference with water delivery (IC 18-4310) any person having control or charge of the said ditch, who shall willfully neglect or refuse to deliver water as provided in chapter 9, of title 42, or person or persons who shall prevent or interfere with the proper delivery of water to the person or persons having a right thereto, shall be guilty of a misdemeanor; and the owner or owners of such ditch, canal or conduit shall be liable in damages to the person or persons deprived of the use of water to which they were entitled as provided in said chapter 9.

Section 7. Any person or persons, who shall willfully or wantonly waste any of the waters of any stream, the waters of which are used for irrigation, to the detriment of any claimant of such water for irrigation purposes, by diverting the same for an unnecessary use or purpose, or by allowing such water to waste by running into depressions or dry channels so that the same cannot be used for irrigation, nor reach the original channel of the stream from which it has been diverted, are guilty of a misdemeanor. (IC18-4302)

ARTICLE V

GENERAL PROVISIONS

Section 1. These by-laws may be altered, amended or repealed at any annual meeting or at a special meeting called for that purpose.

ADOPTED: February 22, 2023

AMEND:

Exhibit 1C: Bylaws page 2

Special Water Meeting

June 14, 2023

B74 L8 Diversion Lateral water Users Association

Meeting called to order by Chairman Rick Pruett at 8:02 pm

in attendance - Amy Say, Dave Say, Rick Pruett, Joe Adams, Becky Adams, Josh McIntosh, David Graybill WD170 Watermaster, Rocky Walker, LeeAnn Walker

Minutes from Feb 22 read, Josh motion to approve, Becky seconded, motion passed

To be in accordance with IDWR 42-1301, we need to elect a vice-chairman. Amy nominated Joe, he accepted. Rick called for other nominees 3 times, no other nominees. Joe elected by acclamation, all present voted aye.

Updates to the bylaws adopted on February 22, 2023 :

~~Under Article I section 1, added B74 to name of association~~

Under Article II, section 2, Inclusion of vice-chairman

Under Article IV, section 1, B74 L8 Diversion Lateral Water Users Association. Each water user is responsible for irrigating their property out of the main right of way (ROW) delivery ditch at their point of use (POU). The main ROW delivery ditch originally ran to the south of all properties, parallel to the Lemhi River, starting at the L8 Diversion. (Attachment C and C1 historical hand drawn map from IDWR) Today, the main ROW delivery ditch starts at the L8 diversion and runs south of the Say and Walker property, North of the Carpenter house (ditch re-routed from south of the house to north of the house by previous owner, Greg Painter to accommodate new home. Attachment D, D1 and D2) and South of the McIntosh property, at the SW corner of McIntosh it turns due north to service Adams and Pruett. This is the only ROW delivery ditch that services all properties in the B74 L8 Diversion Lateral Water Users Association. Any changes to the ROW delivery ditch must be approved by the B74 L8 Diversion Lateral Water Users Association. Head gates to be located at the POU to accommodate all property owners.

Section 3, If any water user disputes the amount of water they receive from the ROW delivery ditch they can, at their own expense, install a measuring device at their POU.

Section 6 All liability to property and property damage falls solely on the owner of said property. The B74 L8 Diversion Lateral Water Users Association is not liable for any damages to private property.

Rockie motioned to accept additions to bylaws, Josh seconded, motioned passed, vote was unanimous.

Dave Graybill stated that a lateral association is not required to send minutes to the State.

Exhibit 2A: Minutes 6-14-2023

Becky suggested payment of secretarial supplies for Amy, Rick stated that the fees can be deducted from the associations checking account.

Dave suggested scheduled maintenance of the flume to be completed before April of 2024. Currently there is as much water flowing underneath it as there is flowing through it. Flume will be removed in the fall and reset before April 2024. Dave Say will level it this year and Dave Graybill will out to set the measurements.

Chairman Pruett adjourned meeting at 6:39pm

Exhibit 2B: page 2 Minutes 6-14-2023

Water Meeting

March 20, 2025

B74 L8 Diversion Lateral Water users Association

Meeting Called to order by Chairman Rick Pruett at 4:07 pm

In attendance - Amy Say, Dave Say, Rockie Walker, Leeann Walker, Rick Pruett, Sandy Pruett
Beckie Adams, Joe Adams, Josh McIntosh, Rachel McIntosh.

Minutes from March 22, 2024 read, Rockie motioned to approve minutes as read, Leeann 2nd,
Motion passed, unanimous.

Rick suggested that due to current ongoing litigation, we retain current officers. Leeann
motioned to retain current officers, Beckie 2nd, motion passed, unanimous.

Assessment fess suspended this year as no funds were used last year.

Treasurer's report - Opening balance - \$1121.65		
Salaries	200.00	Ck1002 Amy & Dave
Postage/EIN/Spls.	43.85	CK1002 Amy
Deposit	1200.00	Assessment fees
Interest	.10	
Ending Balance	\$2121.75	

Dave and Amy have declined salaries for 2025.

Rockie said we might want to replace the weir, once the litigation is over. Dave brought up
that F & G have completed their survey and environmental study and will be replacing
the fish screen some time this year. There will be no charge to the association and it will not
affect our water flow.

The diversion requires cleaning, there is a tree that needs to be removed. Work date TBD.
Association members are responsible for cleaning their own ditches.

Bylaws stand as is due to ongoing litigation. Rockie shared the high water rights from the
newspaper, the L8 association is listed at 3CFS total.

Meeting adjourned @ 4:20 pm

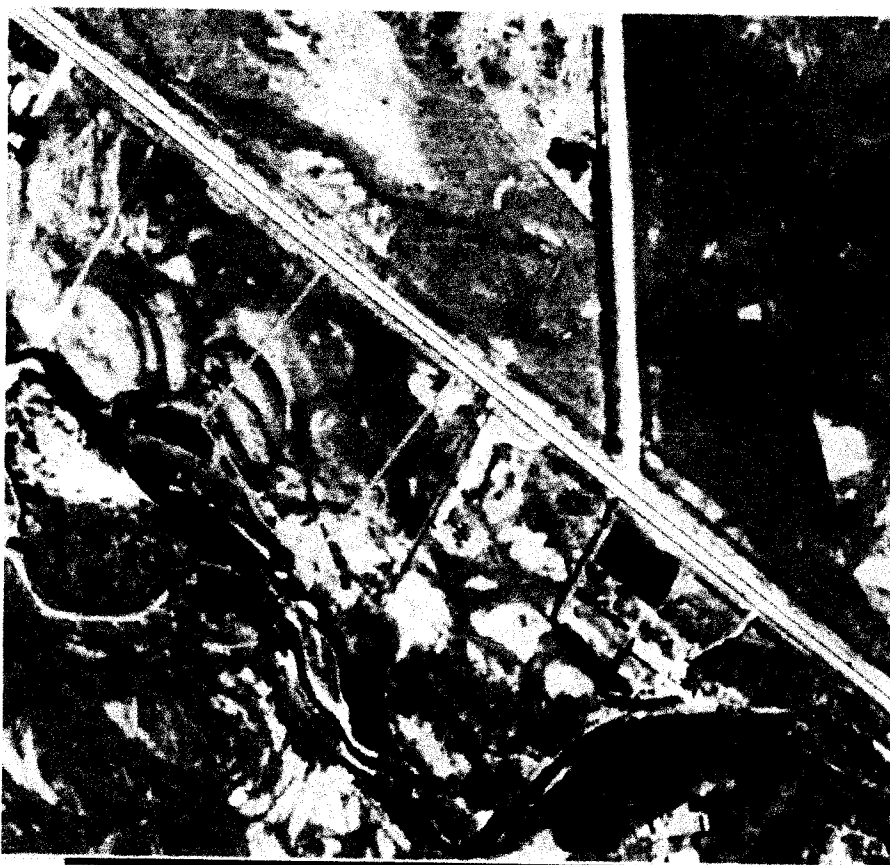
Exhibit 3: Minutes 3-20-2025



Exhibit F1: 2004 Photo showing no Southwest Ditch.



Exhibit F3: 2004 Photo showing no Southwest Ditch existed.



Attachment C-104
USGS 1994 Image

— HWY 28
□ POU 74-733G

Exhibit B2: 1994 USGS



Exhibit B3: Showing the 1946 ditch crossing onto Carpenter property. Also, showing the Lower pasture ditch crossing onto Carpenter property. The Southwest ditch does not exist as it is 120 South of the Lower pasture Ditch. The Lower pasture ditch goes into Carpenter mid field as floodwater. There is no continuous Southwest ditch.

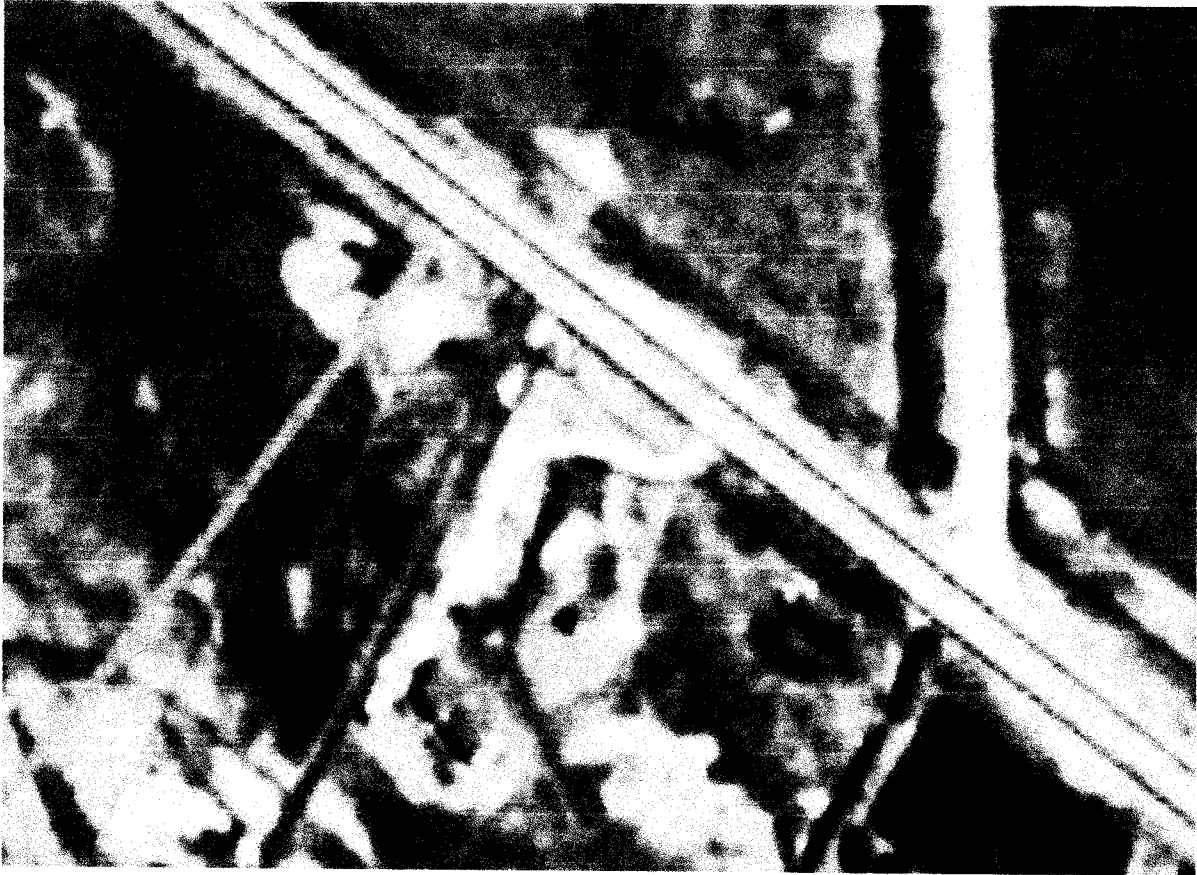


Exhibit B4: Showing the Highway Ditch now buried and using the North ditch that runs just north of Walkers home in lieu of Highway Ditch to irrigate 4 lower gradient water right holders, Carpenter, McIntosh, Adams and Pruitt until berm was built on September 22, 2022.

DISTRICT VII SEWAGE PERMIT APPLICATION

Permit no: 47-87 Fee Paid 50⁰⁰ Date 9/28/87
 Name Rockie Walker Phone _____
 Current mailing address P.O. Box 1424 Salmon
 Legal description: Township 21N Range 21E Section 1/4 Section _____
 Subdivision name _____ Lot _____ Block _____
 Directions to property 5 1/2 miles S on Hwy 28 -

1. Lot size 8.25 acres
2. Water supply: Public _____ Private X
3. Potential number of bedrooms 3
4. Septic tank size 1000 gallons.
5. Soil texture type Silt loam to silty clay loam to 6'
6. Application rate 4 GPD/ft²
7. Drainfield disposal area 625 sq. ft.
8. Type of drainfield proposed: Trench X, Bed _____, Pit _____, Modified _____
9. Excavation dimensions 3 line 69' long 3' wide interconnected
10. Depth to highest seasonal subwater: 0.6 ft. 11. Depth to solid rock unk ft.
12. Proposed depth of drainfield disposal system 1' deep ft.
13. Distance from drainfield to nearest: A) River or lake 300'. B) Canal or ditch 50'. C) Water line 25'. D) Property line 5'. E) Neighbor's well 100'. F) Proposed properties well 100'. G) Dwelling 10'
14. Who is excavating and installing system _____
15. Make a proposed plot plan showing location and distances between each of the following: House, well, waterlines, septic tank, drainfield, canals or ditches, lakes or streams.

Proposed	Actual
	<p style="font-size: 1.2em; font-family: cursive;">See Attached Self-inspect - AS per Idaho Falls okay</p>

APPROVED WITH THE FOLLOWING CONDITIONS:

1. Applicant accepts responsibility for all information provided and agrees to install system in compliance with "Idaho's Rules and Regulations for Individual Sewerage Disposal Systems," as specified on the permit. Any changes to this permit must be approved prior to excavation.
2. Permit is valid for only one year or must be renewed.
3. A four foot (4') separation must be maintained between highest subwater or bedrock and drainfield bottom.
4. Other: Installer submit this office prior to installation - Test hole review - ground water on 7'

Rockie Walker
APPLICANTS SIGNATURE

Steve Adams
ENVIRONMENTAL SIGNATURE

Inspection date 1/10 Approved X Disapproved _____ By Steve Adams
 Approval based on plans submitted by licensed installer home owner
 Remarks: _____

Exhibit E2

1/30/25, 5:22 PM

Gmail - Ditch and separation distances



b carpe <briantofixit@gmail.com>

Ditch and separation distances

1 message

Carlin Feistharmel <Carlin.Feistharmel@deq.idaho.gov>
To: "briantofixit@gmail.com" <briantofixit@gmail.com>

Thu, Jan 30, 2025 at 4:40 PM

Brian,

Based on the pictures that you have submitted and the conversation that we had on the phone, there is currently a dry ditch that is not used for irrigation purposes. If the ditch in the photos were to be used for irrigation purposes the septic pumps, sewer line and domestic well would not meet the required minimum separation distances to surface water per the Idaho Rules. The minimum separation distance by rule are as follows:

Domestic Well IDAPA 37.03.02.0

- 50ft. from permanent (more than six months) or intermittent (more than two months) surface water
- 25ft. from Canals, irrigation ditches or laterals, & other temporary (less than two months) surface water

Septic pump station and sewer line IDAPA 34.03.02.0

- 25ft. from temporary surface water

Currently the domestic well appears to be within 10-feet of the ditch and the septic pumps are within 15-20 of the ditch.

Furthermore, in reviewing the water rights for your property and the neighboring properties, all the properties share a permitted point of diversion that is located approximately 0.3 miles to the southeast of your residence. There is no permitted point of diversion located on your property. Creating a point of diversion on your property without being permitted by the Idaho Department of Water Resources would not be allowed.

I hope that this answers your questions and let me know if there is anything further that I can assist you with.



Carlin Feistharmel, P.E. | Regional Engineering Manager

Idaho Department of Environmental Quality

900 N. Skyline Dr. Suite B, Idaho Falls ID 83402

Office | (208) 326-2652

Email: Carlin.Feistharmel@deq.idaho.gov

<https://mail.google.com/mail/u/0/?ik=763cd2b020&view=pt&search=all&permuted=thread-f1822719157360161148%7Cmsg-f1822719157360161148A>

Google is not responsible for the content of any linked content. Google is not responsible for the content of any linked content. Google is not responsible for the content of any linked content.

1/30/25, 5:22 PM

Gmail - Ditch and separation distances

Exhibit D

IDWR COMPLAINT MAILED 8-31-2025 Exhibit: 5

Brian Carpenter and Theresa Carpenter

559 Highway 28

Salmon, Idaho 83467

Telephone: (208) 580-8380

briantofixit@gmail.com (<mailto:briantofixit@gmail.com>)

August 31, 2025

Idaho Department of Water Resources

Attn: Compliance & Enforcement Section / Water Distribution Manager

322 E. Front Street, Suite 560

Boise, ID 83702

Via Email: idwrinfo@idwr.idaho.gov ; northerninfo@idwr.idaho.gov Re: Formal Complaint Regarding Illegal Formation and Operations of the Lemhi River L-8 Diversion Lateral Water Users Association (LWUA); Request for Investigation, Enforcement, and Invalidation Under Idaho Code §§ 42-1301, 42-1207, and Related Statutes; Attachment to Resubmitted Complaint Dated August 16, 2025 Dear IDWR Compliance & Enforcement Team, This letter serves as a formal complaint against the Lemhi River L-8 Diversion Lateral Water Users Association (LWUA), alleging its illegal formation, operations, and enforcement actions that violate Idaho water law. It is submitted as an attachment and supplement to my resubmitted complaint dated August 16, 2025 (originally filed June 18, 2023, as "B74 L8 Lateral IDWR COMPLAINT"), which detailed initial disputes over water distribution at the L-8 diversion. Pursuant to IDWR's authority under Idaho Code Title 42 (e.g., §§ 42-1301 et seq. for lateral associations, § 42-1207 for unauthorized ditch changes), and your June 16, 2023 response letter (attached as Exhibit 4, acknowledging disputes may require court resolution but implying IDWR oversight), I request an immediate investigation, enforcement action, and declaration that the LWUA is invalid as to my water right (74-733G). This includes halting any LWUA enforcement, restoring unauthorized ditch changes at the offenders' expense, and referring violations to appropriate authorities (e.g., DEQ for environmental rules).

I. Background and Parties Involved

Complainants: Brian Carpenter (disabled) and Theresa Carpenter, owners of property at 559 Highway 28, Salmon, ID 83467, with 1893-priority water right 74-733G (5.01 acres, shared L-8 diversion).

- 1) Respondents: LWUA (formed Feb. 22, 2023); members including Rockie Walker, Leanne Walker, Joshua A. McIntosh, David Say, et al. (see LWUA bylaws/minutes, Exhibits 1-3).
- 2) Related Proceedings: Lemhi County Case CV30-23-0114 (civil dispute over ditch maintenance); CR30-25-0405 (my criminal charges under § 18-4310 stemming from LWUA enforcement); SRBA Case No. 39576 (Walker's 2011 water right application, alleged fraud); Idaho Supreme Court Docket No. 53153-2025 (writ/appeal challenging LWUA-based orders).

II. Allegations of Illegality

The LWUA is invalid and its actions unenforceable due to non-consent, fraudulent formation, and reliance on an illegal/non-historic ditch. This constitutes a "coup d'état" to disenfranchise my water right by concealing buried ditches and an illegal sewer system, violating multiple statutes.

1) Lack of Voluntary Consent (Idaho Code § 42-1301):

- a) § 42-1301 allows formation "by agreement among water right holders sharing a diversion." Membership and bylaws require voluntary consent.
- b) I never consented, attended meetings, or voted (confirmed by LWUA minutes: Feb. 22, 2023; June 14, 2023; March 22, 2024; March 20, 2025—Exhibits 1-3; no Carpenter listed). LWUA bylaws (Exhibit: L-8 Bylaws) purport to bind all users (Art. I §4) and defer maintenance (Art. IV §6), but cannot supersede state law or apply to non-members (South Valley Ground Water Dist. v. IDWR, 170 Idaho 379, 511 P.3d 248 (2024)—associations bound by statutes, cannot alter rights without consent).
- c) Result: LWUA invalid as to me; cannot enforce maintenance or costs. Your June 16, 2023 letter (Exhibit 4) notes LWUA elected a manager but defers disputes—please invalidate to prevent further abuse.

2) Reliance on Illegal/Non-Historic Southwest Ditch (Idaho Code § 42-1207):

- a) § 42-1207 requires written consent/no injury for ditch changes; unauthorized must be restored at changer's expense.

- b) Southwest Ditch constructed illegally ~2007 without permission (post my water right appropriation). Evidence: 2004 Goodman Photo (Exhibit: 2004 Goodman Photo signed/close-up— no ditch); 2006 IDPH Photo (Exhibit: 2006 IDPH file photo showing no ditch); 1994 USGS Photos (Exhibits: 1994 - Copy, Copy (2), Zoomed in, full—show three unburied historic ditches entering my property, no Southwest Ditch).
 - c) Violates DEQ Rules 58.01.03.17 (50-foot setbacks for sewage/wells/ditches) and 37.03.09(d) (well standards to prevent contamination)—DEQ Letter (Exhibit: DEQ Letter) confirms issues.
 - d) "Coups": Buried historic ditches conceal Walker's illegal sewer (Exhibit: 1987 Walker sewer application Exhibit E2), enabling McIntosh's permit and LWUA formation to force maintenance on invalid ditch.
 - e) Result: No valid easement (§ 42-1102); LWUA cannot enforce (IDWR guidance in PDFs like "Idaho Law On Lateral Ditch Water Users' Association"—associations invalid on illegal infrastructure).
- 3) **Additional Violations and Harm:**
- a) Supersedes § 42-1102 (protects my easement rights; cannot force maintenance on disabled non-consenter).
 - b) Caused my false arrest (CR30-25-0405) and health risks (E. coli from contamination).
 - c) Fraud in Walker's 2011 SRBA application (Case 39576)—concealed changes to avoid inspection.

III. Requested Relief

1. Investigate LWUA formation/operations; declare invalid as to my right (74-733G).
2. Enforce § 42-1207: Order restoration of unauthorized changes (buried ditches) at Walker's/McIntosh's expense.
3. Halt LWUA enforcement; refer DEQ violations.
4. Appoint neutral lateral manager if needed (§ 42-1308), per your June 16, 2023 letter.
5. Provide written response within 30 days.

This supplements our August 16, 2025 complaint—please consolidate. Enclosed exhibits are authenticated per I.R.E. 901/902 (affidavit attached). Contact me for questions.

Sincerely,

Brian Carpenter N/A EXHIBIT 5

Theresa Carpenter N/A EXHIBIT 5

Enclosures:

- 1) Resubmitted Complaint (August 16, 2025).
- 2) Exhibits 1-3: LWUA Minutes/Bylaws.
- 3) Exhibit 4: IDWR Letter (June 16, 2023)
- 4) Photos/Exhibits F1-F3: 2004 Goodman signed copy. (Attached in August 16, 2025 Complaint).
- 5) Exhibit J-J1 2006 IDPH sewer inspection file. (Attached in August 16, 2025 Complaint).
- 6) Exhibit B2-B4: 1994 USGS self-authenticating. (Attached in August 16, 2025 Complaint).
- 7) Exhibit D: DEQ Letter/ Email. (Attached in August 16, 2025 Complaint).
- 8) Exhibit E2: Copy from East Idaho Public Health (Attached in August 16, 2025 Complaint).
- 9) Affidavit of Authentication (below)

Declaration of Authentication

I, Brian Carpenter, declare under penalty of perjury (Idaho Code § 9-1406) that the foregoing is true and exhibits are authentic copies (I.R.E. 901(b)(1)/902(4)).

N/A EXHIBIT 5 N/A EXHIBIT 5
/s/ Brian Carpenter /s/ Theresa Carpenter

Dated: August 31, 2025

IDWR COMPLAINT MAILED 8-31-2025 Exhibit: 5

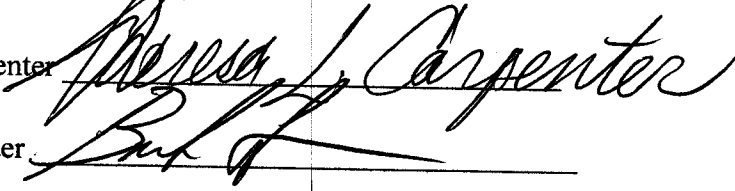
CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing document to be served upon the following persons as set forth below.

DATED this 31st day of August 2025.

Theresa Carpenter

Brian Carpenter



Thomas J. Budge, Esq. RACINE OLSON,
Elisheva M. Patterson
201 E. Center St. P.O. Box 1391
Pocatello, Idaho 83204
tj@racineolson.com
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