

LING & ROBINSON
ATTORNEYS AT LAW
RUPERT, IDAHO 83350-0396

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RECEIVED
AUG 13 2002
Department of Water Resources

Roger D. Ling, ISB No. 1018
Jason D. Walker, ISB No. 5790
LING & ROBINSON
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Rupert, Idaho 83350
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Attorneys for Objectors,
Ted Higley and Betty Ann Higley

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 No. 43-00099C
	)	
Case No. 39576,	)	MOTION FOR LEAVE TO FILE
	)	<u>AMENDED OBJECTION</u>
	)	
	)	

COME NOW Ted Higley and Betty Ann Higley, objectors herein, by and through their attorney, and moves the Court pursuant to Rule 1a of A.O.1 and Rule 15(a) of the Idaho Rules of Civil Procedure for leave to file an Amended Objection, a copy of which is attached hereto and made a part hereof, on the grounds and for the reasons that the Amended Objection more clearly defines the issues raised by the original Objection. The Court has not yet entered a Trial Schedule Order.

ORAL ARGUMENT IS REQUESTED.

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3 DATED this 8th day of August, 2002.

4 LING & ROBINSON

5
6 By: Jason D. Walker
7 Jason D. Walker
8 Attorneys for Objectors
9 Ted Higley and Betty Ann Higley

10 CERTIFICATE OF MAILING

11 I certify that on this 12th day of August, 2002, I caused
12 to be served a true and correct copy of the foregoing *Motion for
Leave to File Amended Objection* to the following:

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

15 Peter J. Ampe, Deputy Attorney Gen'l
16 Office of the Attorney General
P. O. Box 83720
Boise, Idaho 83720-0010

17 United States Department of Justice
18 Environment & Natural Resource Division
550 West Fort Street, MSC 033
19 Boise, Idaho 83734

20 Terry T. Uhling, Esq.
21 Attorney at Law
P. O. Box 27
22 One Capitol Center
Boise, ID 83707

23 by depositing copies thereof in the United States mail, postage
24 prepaid, in envelopes addressed to said parties at the foregoing
25 addresses.

26 Jason D. Walker
27 Jason D. Walker

**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

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A. Subcase No. 43-00099C

**STANDARD FORM 1
* * AMENDED * *
OBJECTION**

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Ted Higley and Betty Higley

Address: P. O. Box 57
Malta, Idaho 83342

Daytime Phone (208) 645-2444

Name & Address of Attorney, if any:
ROGER D. LING and JASON D. WALKER
LING & ROBINSON
615 H Street, P. O. Box 396
Rupert, Idaho 83350

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

Name: J. R. Simplot Co.

Address: P. O. Box 27
Boise, Idaho 83707

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: 1.7187 cfs
4. ☐ **Priority Date**
Should be: _____
5. ☒ **Point(s) of Diversion**
Should be: Township 13 South, Range 26 East Boise Meridian, NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 14; and Township 13 South, Range 26 East Boise Meridian, SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 14; all in Cassia County, Idaho, due to nonparticipation and construction
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: _____
11. **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):** The entire right is not held by J. R. Simplot Co. There was no express reservation of the water rights when the property to which the water was appurtenant was conveyed. In addition, Higley is entitled to the water rights by adverse possession, and rights claimed by others to the water have been given up by waiver, estoppel, and/or forfeiture, if in fact a reservation was made. Further, the objectors will be adversely affected by this Recommendation.

VERIFICATION (Must be Completed)

State of Idaho)

County of Minidoka)

Jason D. Walker, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

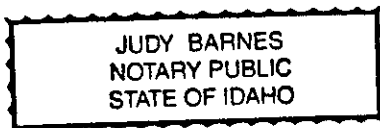
That I am the party/claimant filing this amended objection, as defined by I.C. § 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this amended objection, know its contents and believe that the statements are true to the best of my knowledge.

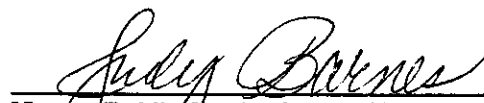
Signature of person filing amended objection



Attorney signing in representative capacity

Subscribed and sworn to before me on: August 12, 2002





Notary Public for the State of Idaho
Residing at: Rupert, Idaho
My Commission expires: 02/12/2005

INSTRUCTION FOR MAILING

You must mail the amended 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.

CERTIFICATE OF MAILING

I certify that on August 12, 2002, I mailed the original and copies of this amended 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, Idaho 83303-2707

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

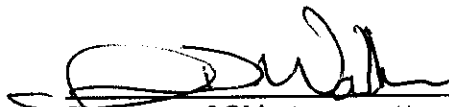
Name: J. R. Simplot Co.
c/o Terry Uhling
Address: P. O. Box 27
Boise, Idaho 83707-0027

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 44449
Boise, Idaho 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 033
Boise, Idaho 83734



Signature of Objectors or attorney
mailing on Objectors' behalf