

**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. Consolidated Subcase Number: 75-13316
Ident. Number: 81-10625
(Insert water right number)

**STANDARD FORM 1
OBJECTION**

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: State of Idaho, Department of Lands
Address: 700 W. Jefferson, Room 210
P.O. Box 44449
Boise, Idaho 83711-4449
Daytime Phone: (208) 334-2400

Name and Address of Attorney, if any:

Attorney Name: ALAN G. LANCE
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
DAVID J. BARBER
Deputy Attorney General
Attorney Address: Office of the Attorney General
700 W. Jefferson, Room 210
P.O. Box 44449
Boise, ID 83711-4449
Attorney Phone No. (208) 334-2400
Idaho State Bar # 2597

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

Name: United States of America, on behalf of the USDA Forest Service
Address: 550 W. Fort Street, MSC 33
Boise, ID 83724

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. ☐ **Date of Priority**
Should be: _____
3. ☐ **Source of Water**
Should be: _____
- 4a. ☒ **Location of point of diversion**
Should be: Not Applicable. Claimant has included one quantification reference point in the description of this element. This reference point should not be described here. Rather such a point, if applicable at all, should be included in the description of the quantity element.
- 4b. ☐ **Description of diversion works: Instream Flow**
Should be: _____
5. ☒ **Quantity claimed**
Should be: "The minimum amount necessary to fulfill the purposes of the Wild and Scenic Rivers Act." *Potlatch Corp. v. United States*, 134 Idaho 912, 916 (2000). The claimant has not demonstrated that the amounts claimed are the minimum amounts necessary to fulfill the purposes for the designation of this river reach as a part of the Wild and Scenic Rivers System for the period of the year stated therein.
6. ☐ **Total consumptive use claimed for present and future use is:**
Should be: _____
7. ☒ **Present and future uses to which the water is or will be used**
Should be: The purpose of use must be determined in accordance with the Wild and Scenic Rivers Act that designated this river segment as a part of the Wild and Scenic Rivers System.

8. ☒ **Attach the legal description of the reservation, and maps showing the existing and proposed place of use.**

Should be: The channel of the Middle Fork of the Clearwater River as depicted on the map designated as Attachment A.

9. ☒ **Remarks**

Should be: None.

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):

4a. Location of point of diversion

The inclusion of one quantification reference point in this element is improper because this water right describes an instream flow that does not include any points of diversion. The claimant describes the amounts claimed at the location designated as a reference point. Thus, this reference point is a part of the description of the quantity element. While it is necessary for the instream flow to be measured at some point, the claimant provides no explanation for the choice of the specific point included in its claim.

5. Quantity claimed

The Wild and Scenic Rivers Act designated the Middle Fork of the Clearwater River as a part of the Wild and Scenic Rivers System.

The amounts stated in the table for the designated periods do not have any apparent relationship to the purposes of the Wild and Scenic Rivers Act. Nor is there any evidence that the amounts stated are the minimum amount necessary to achieve the purposes of the Wild and Scenic Rivers Act.

7. Present and future uses to which the water is or will be used

The present and future purposes of use are limited to purposes for designation of the Middle Fork of the Clearwater River in the Wild and Scenic Rivers Act.

8. Attach the legal description of the reservation, and maps showing the existing and proposed place of use

The place of use described in Attachment A to the Amended Notice of Claim is ambiguous. Attachment A is a map showing the drainage basin of the Middle Fork of the Clearwater River with the channel of the Middle Fork of the Clearwater River appearing in bold. The place of use should be limited to the channel of the Middle Fork of the Clearwater River. The place of use should not extend to the drainage basins tributary to the Middle Fork of the Clearwater River.

9. **Remarks**

The document entitled "Quantification Proceedings—General Notice of United State's Claims" contains a section entitled "General Remarks for All United States Claims," hereinafter the "General Remarks." The General Remarks restate certain legal allegations of the United States. None of the statements in the General Remarks constitute a remark that is appropriate for inclusion in any partial decree relating to these claims because the statements do not constitute "matters as are necessary for definition of the right, for clarification of any element of a right, or for administration of the right by the director." Idaho Code § 42-1409(1)(I).

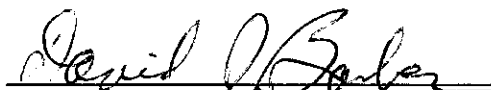
F. **VERIFICATION (Must be Completed)**

State of Idaho)
) ss.
County of Ada)

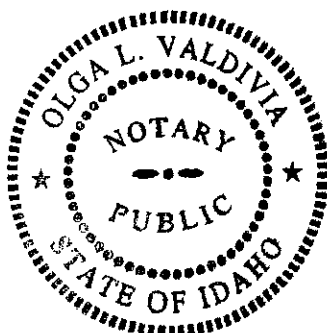
DAVID J. BARBER, Deputy Attorney General, duly sworn, upon oath, deposes and says:

That the State of Idaho, Department of Lands, in its proprietary capacity is filing this objection and that I am a Deputy Attorney General authorized to represent the State of Idaho, Department of Lands which is a party/claimant in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

ALAN G. LANCE
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
DAVID J. BARBER
Deputy Attorney General


By Attorney signing in representative capacity

Subscribed and sworn to before me on: May 10, 2002
(Insert Date)




Notary Public for IDAHO
Residing at: BOISE, ID
My commission expires: 2-8-06

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 May 10, 2002, I caused the original and the copies of this objection, including all attachments, to be served on the following persons by the method designated:

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

HAND DELIVERED
BY COURIER

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

United States of America,
on behalf of the USDA Forest Service
550 W. Fort Street, MSC 33
Boise, ID 83724

U.S. MAIL

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

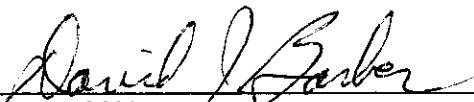
STATEHOUSE MAIL

Chief of Natural Resource Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

(not applicable)

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

U.S. MAIL



Signature of Objector or attorney
Mailing on Objector's behalf