

**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. Subcase Number: 72-10969
(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

COPY

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

Name: United States of America
USDA Forest Service
Address: 550 W. Fort Street, MSC 033
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. ☐ **Source**
Should be: _____
3. ☐ **Quantity**
Should be: _____
4. ☒ **Priority Date**
Should be: April 10, 1928
5. ☐ **Point(s) of Diversion**
Should be: _____
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: limited to Lot 7 NWSE, Lot 7 SWSE, Lot 8 NESW of section 25, Twp. 11 North, Rge. 16 East, B.M.
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):

4. **Priority Date**

The United States added the point of diversion (Lot 7 SENE of section 26 of Twp. 11 North, Rge. 16 East, B.M) and a portion of the place of use (Lot 7 NWSE, Lot 7 SWSE, and Lot 8 NESW of section 25, Twp. 11 North, Rge. 16 East, B.M.) to the Challis National Forest by the Act of April 10, 1928, ch. 340, 45 Stat. 415-416. A copy is attached as Exhibit A.

9. **Place of Use**

The United States added the point of diversion (Lot 7 SENE of section 26 of Twp. 11 North, Rge. 16 East, B.M) and a portion of the place of use (Lot 7 NWSE, Lot 7 SWSE, and Lot 8 NESW of section 25, Twp. 11 North, Rge. 16 East, B.M.) to the Challis National Forest by the Act of April 10, 1928, ch. 340, 45 Stat. 415-416. The United States issued a patent for Lot 6 SESE of section 25, Twp. 11 North, Rge. 16 East, B.M. under the Homestead Act of May 20, 1862, ch. 75, 12 Stat. 392, to Charles W. Small on or about March 7, 1914. Later the United States reacquired said Lot 6. The federal reserved water rights doctrine does not recognize a federal reserved water right for such reacquired land. Any water right appurtenant to this real property must be developed and confirmed in accordance with state law. A copy of this patent is attached as Exhibit B.

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F.

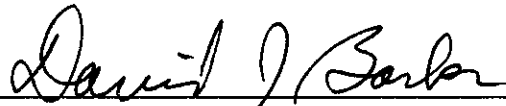
VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

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

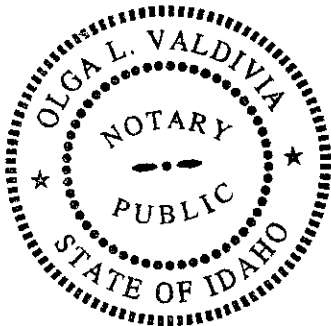
That the State of Idaho, Department of Lands, in its proprietary capacity is filing this objection and that I am a Deputy Attorney General authorized to represent the State of Idaho, Department of Lands which is a party/claimant in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and I have 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: 10-28-02
(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 October 28, 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

U.S. Mail

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

United States of America
USDA Forest Service
550 W. Fort Street, MSC 033
Boise, ID 83724

U.S. MAIL

3. Copies to:

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

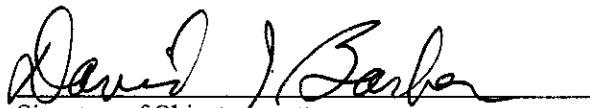
STATEHOUSE MAIL

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 W. Fort Street, MSC 033
Boise, ID 83724

U.S. MAIL


Signature of Objector or attorney

CHAP. 338.—An Act To add certain lands to the Idaho National Forest, Idaho.

April 10, 1928.
[H. R. 142.]
[Public, No. 251.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following described areas be, and the same are hereby, included in and made a part of the Idaho National Forest, subject to all prior adverse rights; and the said lands shall hereafter be subject to all laws affecting national forests: All of the eastern two-thirds of townships 24 and 25 north, range 4 east, all of townships 24 north, ranges 5 and 6 east, except sections 7 to 10 inclusive, 15 to 22 inclusive, and 27 to 34 inclusive of township 24 north, range 5 east, and all of townships 25 north, ranges 5 and 6 east, which are not already embraced in the Nezperce National Forest; all Boise meridian.

Approved, April 10, 1928.

Idaho National
Forest.
Lands added to.

Description.

CHAP. 339.—An Act To add certain lands to the Challis and Sawtooth National Forests, Idaho.

April 10, 1928.
[H. R. 144.]
[Public, No. 252.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subject to any valid existing claim or entry, all lands of the United States within the areas hereafter described be, and the same are hereby, added to and made parts of the Challis and Sawtooth National Forests, Idaho, to be hereafter administered under the laws and regulations relating to the national forests; and the provisions of the Act approved March 20, 1922 (Forty-second Statutes, page 465), as amended, are hereby extended and made applicable to all other lands within said described areas:

West half section 6, west half section 8, west half section 17, west half section 20, township 8 north, range 14 east, Boise meridian; sections 1, 12, 13, 24, and 25, township 9 north, range 13 east, Boise meridian; west half section 7, west half section 18, west half section 19, west half section 30, west half section 31, township 9 north, range 14 east, Boise meridian; sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 23, and 24, township 10 north, range 12 east (unsurveyed), Boise meridian; section 1, east half section 2, west half section 6, section 7, east half section 11, sections 12, 13, 14, 18, and 19, west half northwest quarter, and south half section 20, south half southwest quarter, south half southeast quarter section 21, sections 23, 24, 25, and 26, south half northeast quarter, northwest quarter, south half section 27, sections 28, 29, 35, and 36, township 10 north, range 13 east, Boise meridian; lot 2 section 25, lots 4 and 5, northeast quarter southeast quarter, south half southeast quarter section 35, lots 1, 4, and 5, northeast quarter northeast quarter, south half northeast quarter, south half section 36, township 11 north, range 13 east, Boise meridian; lots 5, 6, 8, 12, and 13, south half southeast quarter section 30, lots 1, 2, 3, and 4, east half northwest quarter, east half southwest quarter, east half section 31, township 11 north, range 14 east, Boise meridian.

Approved, April 10, 1928.

Description.

Challis and Saw-
tooth National Forests,
Idaho.
Lands added to.
Vol. 42, p. 465.

CHAP. 340.—An Act To provide for addition of certain land to the Challis National Forest.

April 10, 1928.
[H. R. 6056.]
[Public, No. 253.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following-described lands are hereby added to the Challis National Forest, Idaho, subject to any valid existing claim or entry, and made subject to all laws made applicable to national forests:

Challis National For-
est, Idaho.
Lands added to.

Description.

All unreserved lands lying south of Salmon River in townships 10 and 11 north, range 16 east, Boise meridian.

Township 10 north, range 17 east, Boise meridian: Sections 1, 2, 3, 4, 5, 6, 10, 11, 12, 15, and 22; west half section 23; sections 26, 27, and 34; west half section 35.

Township 10 north, range 18 east, Boise meridian: South half section 4; sections 5, 6, 7, 8, 9, and 10; west half section 15; sections 16, 17, 18, 20, and 21.

Township 9 north, range 17 east, Boise meridian: Sections 3, 17, 20; south half section 23; sections 24, 25, and 26; east half section 27; sections 29, 32, 33, 34, 35, and 36.

Township 9 north, range 18 east, Boise meridian: Sections 17 to 36, inclusive.

Township 9 north, range 19 east, Boise meridian: Sections 21, and 28 to 33, inclusive.

Township 8 north, range 17 east, Boise meridian: Sections 4, 5, 8, and 9.

Township 8 north, range 18 east, Boise meridian: Sections 1 to 5, inclusive.

Township 8 north, range 19 east, Boise meridian: Section 6.

Approved, April 10, 1928.

April 10, 1928.
[H. R. 9137.]
[Public, No. 234.]

CHAP. 341.—An Act Granting the consent of Congress to the highway department of the State of Tennessee to construct, maintain, and operate a bridge across the Cumberland River on the projected State highway between Lebanon and Hartsville and Gallatin near Hunters Point, in Wilson and Trousdale Counties, Tennessee.

Cumberland River.
Tennessee may
bridge, in Wilson and
Trousdale Counties.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby granted to the highway department of the State of Tennessee to construct, maintain, and operate a bridge and approaches thereto across the Cumberland River at a point suitable to the interests of navigation, on the projected State highway between Lebanon and Hartsville and Gallatin near Hunters Point in Wilson and Trousdale Counties, in the State of Tennessee, in accordance with the provisions of the Act entitled "An Act to regulate the construction of bridges over navigable waters," approved March 23, 1906, and subject to the conditions and limitations contained in this Act.

Construction.
Vol. 34, p. 84.

Rates of toll applied
to operation, sinking
fund, etc.

SEC. 2. If tolls are charged for the use of such bridge, the rates of toll shall be so adjusted as to provide a fund sufficient to pay the reasonable cost of maintaining, repairing, and operating the bridge and its approaches under economical management, and to provide a sinking fund which, together with the sinking fund created from the tolls from other bridges authorized by the law of the State of Tennessee which provides for the construction of the bridge to be built under this Act, shall be sufficient to amortize the bonds issued under such Act, as soon as possible under reasonable charges, but within a period of not to exceed twenty-five years from the completion thereof. After a sinking fund sufficient for such amortization shall have been so provided, such bridge shall thereafter be maintained and operated free of tolls, or the rates of toll shall thereafter be so adjusted as to provide a fund of not to exceed the amount necessary for the proper maintenance, repair, and operation of the bridge and its approaches under economical management. An accurate record of the costs of the bridge and its approaches, the expenditures for maintaining, repairing, and operating the same, and of

Maintenance as free
bridge, etc., after amor-
tizing costs, etc.

Record of expendi-
tures and receipts.

The United States of America,

To all to whom these presents shall come, Greeting:

WHEREAS, a Certificate of the Register of the Land Office at ~~Hailey~~, Idaho, has been deposited in the General Land Office, whereby it appears that, pursuant to the Act of Congress of May 20, 1862, "To Secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of **Charles M. Small** has been established and duly consummated, in conformity to law, for the Lot six of Section twenty-five in Township eleven north of Range sixteen east and the Lots seven, eight, and nine of Section thirty in Township eleven north of ~~Range seventeen east of~~ the Boise Meridian, Idaho, containing one hundred fourteen acres,

according to the Official Plat of the Survey of the said Land, returned to the GENERAL LAND OFFICE by the Surveyor-General:

NOW KNOW YE, That there is, therefore, granted by the UNITED STATES unto the said claimant the tract of Land above described: TO HAVE AND TO HOLD the said tract of Land, with the appurtenances thereof, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I, Woodrow Wilson

President of the United States of America, have caused these letters to be made

Patent, and the seal of the General Land Office to be hereunto affixed.

GIVEN under my hand, at the City of Washington, the SEVENTH

(SEAL)

day of MARCH In the year of our Lord one thousand

nine hundred and FOURTEEN and of the Independence of the

United States the one hundred and THIRTY-EIGHTH.

By the President:

Woodrow Wilson

By

M. O. LeRoy Secretary

L. L. C. Lamar
Recorder of the General Land Office.