

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 the Rights to the Use of Water
from the Snake River Basin
Water System

Case No. 34-10167 -0002

The State of Idaho, ex rel.
R. Keith Higginson in his
official capacity as Director
of the Idaho Department of
Water Resources,

RESPONSE TO OBJECTION

Petitioner,

vs.

The United States; the State
of Idaho; and all Claimants to
the use of water from the Snake
River Basin Water System,

Respondents.

I. GENERAL INFORMATION

1. Person responding to objection:

Name: R. KEITH HIGGINSON, DIRECTOR

Address: IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449

Briefly describe your interest in this water right:

IDWR is required to file a response to an objection to part
I of the director's report pursuant to I.C. section 42-1412(2).

(Over)

In response to Statement of the Objection item 4 and all allegations of the objection regarding these items, IDWR responds as follows.

The source of this right is Thousand Springs Creek. Rights to the use of surface water from the Big Lost River and tributaries, including Thousand Springs Creek, were adjudicated in Utah Construction Co. v. Abbott, Equity No. 222 (D.E. Id. 1923). The objector claimed and was recommended various rights that were decreed in that case. The objector in addition claims this right, which was not decreed in that case, with a priority predating the decree. The objector is precluded by the doctrine of res judicata from asserting a pre-decree priority for this right. The priority date recommended is based on the documents submitted by the objector which support a finding of beneficial use of water pursuant to this right in 1937. IDWR denies the objection and all allegations of the objection not expressly admitted herein.

REASONS SUPPORTING EACH BOX CHECKED

4. ☒ Priority Date: I respond to the objection concerning the priority date.

II. STATEMENT OF THE RESPONSE

Attorney Name(s) : A. LYNNE KROGH-HAMPE
Attorney Address: DEPUTY ATTORNEY GENERAL(S)
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449
Attorney Phone No.: (208) 327-7900

3. If this response is filed by an attorney:

2. Person who filed objection:

CHANGES TO THE DIRECTOR'S REPORT

The director proposes no changes to the description of this claim in the Director's Report.

☐ Check here if you are submitting documents. Please list each document by the title and number of pages. You may use additional pages if necessary:

No. of
Pages

The notice of claim is attached to IDWR's response to Objection No. 34-10167-0001

(Over)



Notary Public for Idaho
Residing at: Boise Idaho
My Commission expires: 6/28/1999

Subscribed and sworn to before me this 21st day of July, 1993.

By: A. Keith Higginson
(Attorney signing in
representative capacity)

Signature of person filing response

That R. Keith Higginson, in his official capacity as director of the Idaho Department of Water Resources, is a party to this proceeding, as defined by I.C. 42-1401A(1) and (7); that I am the Adjudication Bureau Chief for IDWR and am authorized by R. Keith Higginson, in his official capacity as director of IDWR, to verify this response; and that I have read the foregoing response, know its contents and that the statements contained therein are true to the best of my knowledge and belief.

David B. Shaw, being first duly sworn, upon oath, deposes and says:

State of IDAHO
County of ADA

VERIFICATION (Must be Completed)

CERTIFICATE OF MAILING

I hereby certify that on the 21st day of July, 1993, I mailed the original and copies of the foregoing response, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepared and addressed as follows:

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 owner of the water right, and you must fill in the following information:

See No. 3

3. One copy to the party who filed the objection, or if represented by an attorney, to their attorney; and you must fill in the following information:

Name: HERB WHITWORTH
Address: STAR ROUTE
MACKAY ID 83251

4. One copy to:

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, Idaho 83734

A. Lynne Krogh-Hampe
Signature of Respondent or attorney
mailing on Respondent's behalf

