

RECEIVED

JUN 28 1993

Department of Water Resources  
Adjudication Bureau

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  
(Insert the Case No.  
from the Objection  
you are responding to)

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. )

INSTRUCTIONS

This form must be used to file a response to any objection filed against a water right recommended in a Director's Report. You may respond to objections filed against one water right, using one response form. The water right number listed as the "Case No." on the Objection you are responding to must be inserted above as the "Case No." If you choose to file one form to respond to all objections filed against the same water right, your response should cover every issue raised in the objections.

To respond to objections filed against more than one water right, you must file a separate response form for each water right. Forms may be obtained from the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form, as long as it is identical to the court's form. You must file your response by the deadline shown in the notice that IDWR mailed to you. The response must be received by the court on or before the deadline specified. Instructions for filing this response are found at Page 5, and must be strictly followed.

(Over)

Any party physically filing 25 (twenty-five) or more responses must make an appointment with the Clerk of the Adjudication Court and arrange for an appointment to file multiple objections.

By filing a response form, you are certifying that the response is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and that it is not filed for any improper purpose, such as to harass, cause unnecessary delay or needless increase in the cost of litigation.

#### 1. GENERAL INFORMATION

Please fill in the following information:

1. Person responding to objection:

Name:

Herb Whitworth

Address:

Star Route

Maday, Idaho 83251

Briefly describe your interest in this water right:

Owner of this Water Right

2. Person who filed objection:

Name:

U.S. Bureau of Land Management

Address:

Idaho State Office

3380 Americana Terrace

Boise, Idaho 83706-2544

3. If this response is filed by an attorney:

Attorney Name:

Attorney Address:

Attorney Phone No.:

If filed by an attorney, notice of pending court proceedings will be sent to the attorney only.

## II. STATEMENT OF THE RESPONSE

Please check each "box" which identifies your response.

1. ☒ Name and Address: I respond to the objection concerning the name and/or address of the owner of the water right.
2. ☐ Source: I respond to the objection concerning the source of water.
3. ☒ Quantity: I respond to the objection concerning:
  - a. ☒ the total quantity of water used in cubic feet per second; or
  - b. ☐ the total quantity of water stored in acre-feet per year; or
  - c. ☒ the total quantity of water reserved for each and every purpose, including all present and future uses.
4. ☒ Priority Date: I respond to the objection concerning the priority date.
5. ☐ Points of Diversion: I respond to the objection concerning the legal description of the point(s) of diversion.
6. ☐ Instream Flow: I respond to the objection concerning the legal description of the beginning and ending points of the instream flow.
7. ☒ Purpose(s) of Use: I respond to the objection concerning the purpose(s) of use.
8. ☒ Period of Year: I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.
9. ☒ Place of Use: I respond to the objection concerning:
  - a. ☒ the legal description of the place of use; or
  - b. ☒ the number of irrigated acres within each forty (40) acre subdivision.
10. ☒ Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.

(Over)

11. ☒ Remarks: I respond to the objection concerning the "remarks" listed with the water right.

12. ☒ Water Right Recommendation: I respond to the objection concerning:

- a. ☒ this water right being recommended at all; or  
b. ☐ this water right not being recommended.

13. ☐ Description of Reservation: I respond to the objection concerning the legal description of the reservation.

14. ☐ Other: I respond to the objection concerning:

**REASONS SUPPORTING EACH BOX CHECKED**

In the space following, you must state the reason(s), by number, for each box checked. You may use additional pages if necessary.

Please Refer to Document - 1

**CHANGES TO THE DIRECTOR'S REPORT**

Specifically describe how you want the Director's Report to be changed. You may use additional pages if necessary.

I feel this claim should be approved as

Claimed in: In Re the General Hydrolocation of

Rights to the use of Water from the Snake River Basin Water System.

Please note that you should attach copies of documents which support your response. Note on each document the "box number" it supports.

☒ 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:

Reasons Supporting each Box checked - 1

VERIFICATION (Must be Completed)

State of Idaho

County of Custer

Herb Whitworth, being first duly  
(Name of person filing response)  
sworn, upon oath, deposes and says:

That I am the person or entity filing this response, that I am a water claimant or party in this proceeding, as defined by I.C. § 42-1401A(1) and (7), 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.

Herb Whitworth  
Signature of person filing response

By: \_\_\_\_\_  
(Attorney signing in  
representative capacity)

Subscribed and sworn to before me this 25 day of June,  
199 3.

James D. McKelvey  
Notary Public for CLUSTER CO, ID  
Residing at: MACKAY  
My Commission expires: 5-31-94

INSTRUCTIONS FOR MAILING

You must mail the response, including all attachments, to the Clerk of the Court. **FAX filings will not be accepted by the Clerk of the Court.** You must also send a copy to the owner of the water right you responded to, if other than yourself; to the party who filed the objection to which you are responding, if different from the owner of the water right; to the office of the Attorney General, State of Idaho; and to the United States Department of Justice, as set out below in the Certificate of Mailing. Finally, you must sign the Certificate of Mailing to show that you followed these steps.

(Over)

**CERTIFICATE OF MAILING**

I hereby certify that on the 24<sup>th</sup> day of June, 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 prepaid 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:
 

Herb Whitworth  
Address: Star Route  
MacKay, Idaho 83351

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: U.S. Dept of Justice  
Address: Jack Hargrud & Darryl Zandt  
550 W Fort St  
Box 33  
Boise, Idaho 83734

4. One copy to:
 

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

5. One copy to:

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

Herb Whitworth  
Signature of Respondent or attorney  
mailing on Respondent's behalf

## Document # F

Reasons Supporting each Box Checked

In Response to the Statement of the Objection items 1, 3, 3.A, 3.C, 4, 7, 8, 9, 9.A, 9.B, 10, 11, 12, and 12.A and all allegations of the Objection regarding those Items, Herb Whitworth responds as follows.

This Beneficial use Water Right has been Scrutinized by the I.D.W.R. and included in the Adjudications Directors Report. This Water has been used on this property since the Decree date. This Water right has no adverse effect on the B.L.M.'s ground or proposed Water rights. Up to the BLM's objection there has never been any other conflicts with this Water right. Thus, I feel the BLM has no just cause in their objection to this right.

## Document # .

Reasons Supporting each Box Checked

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