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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 SRBA

Case No. 39576

A. Subcase 27-49

(Insert water right number)

STANDARD FORM 1  
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: United States of America

Address: c/o Bureau of Indian Affairs, U. S. Department of the Interior, Pacific Northwest Region  
911 NE 11th Ave, Portland Or 97232-4169

Daytime Phone: 503.231.6927

Name & Address of Attorney, if any:  
Peter C. Monson, U.S. Dept. of Justice ENRD

999 18th Street - Suite 945

Denver, CO 80202-2439

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

Name: J Frank Scarborough

Address: 14027 Memorial Dr #440

Houston TX 77079

**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** Must include the total annual volume of diversion, as  
Should be: necessary for the proper administration of the water right. \_\_\_\_\_
4. ☐ **Priority Date**  
Should be: \_\_\_\_\_
5. ☐ **Point of Diversion**  
Should be: \_\_\_\_\_
6. ☐ **Instream Flow Beginning and Ending Point**  
Should be: \_\_\_\_\_
7. ☐ **Purpose(s) of Use**  
Should be: \_\_\_\_\_
8. ☐ **Period of Year**  
Should be: \_\_\_\_\_
9. ☐ **Place of Use**  
Should be: \_\_\_\_\_
10. ☒ **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 OBJECTIONS(S):** \_\_\_\_\_

See Attachment \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## ATTACHMENT

### E. REASONS SUPPORTING OBJECTIONS

ELEMENT 3. QUANTITY. In order to administer all surface and groundwater rights on the Blackfoot River, it is necessary for the total annual volume of diversion to be decreed with respect to each and every water right in Basin 27. The Director's report recommends the total annual diversion volume for some, but not all, water rights. This water right is one of those where this necessary element is omitted. Tribal water rights are defined by the total annual diversion volume. See, e.g., Tribal Water Right No. 27-11375.ii. The Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin, (August 2, 1995), contains a provision whereby, the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation and the United States agree to effectively subordinate the exercise of tribal water right No. 27-11375 to certain private surface water rights in the Blackfoot River. See water right No. 27-11375.x.d. The subordination provision was based upon an estimate that the total annual diversion volume of these water rights would not exceed 45,000 acre-feet per year (AFY) in total annual diversion volume. Thus, in order to comply with the above-referenced Decree of this Court, to administer all water rights in the basin and to comply with Idaho water law, it is necessary that all water right decrees issued by the Court in this basin must include a total annual diversion volume measured in acre-feet per year (AFY).

The Idaho Department of Water Resources has reported to the Court on a general methodology to estimate annual volumes of water required at field headgates throughout the state of Idaho. See "Report Regarding Development of Standards for Annual Volume of Irrigation Requirements at the Field Headgate" (August 1, 1996). Maps of Basin 27 identify that field headgate requirements are 4.0 acre-feet per acre in the lower reaches of the watershed and 3.5 acre-feet per acre in the upper watershed. The Technical Team (state, federal and tribal representatives) utilized in the final negotiations for the Partial Final Consent Decree for the Fort Hall Indian Water Rights Agreement estimated an average conveyance efficiency of 66 percent for the overall basin. Applying this efficiency to the field headgate diversion volumes noted above, results in river diversion volumes of 6.0 acre-feet per acre and 5.3 acre-feet per acre in the lower and upper areas, respectively, of Basin 27. These figures should be applied to derive the total annual volume for this water right.

ELEMENT 10. WATER RIGHT SHOULD NOT EXIST. This claim was evaluated utilizing photo-interpretation of aerial photography for the 1980, 1987 and 1992 time periods. In addition, two aerial surveillance flights by small plane were completed in 1999 and a ground survey was conducted in 1997.

This historic tract of land is idle. The ditch was inoperable as shown on 1980, 1987 and 1992 aerial imagery. The ditch was broken during all of those years as well as during the two over flights in 1999 and the ground survey in 1997. The ditch is broken in the NENWNW Section 34, Township 75, Range 43E.

The tract has not been irrigated for over 27 years. This land should be forfeited for consistent non-use with the rest of the original claim that was recommended as being forfeited by the IDWR.

F.

**VERIFICATION (must be completed)**

State of Colorado )  
 )ss.  
County of Denver )

United States of America, duly sworn, upon oath, deposes and says:  
(Name of person filing objection)

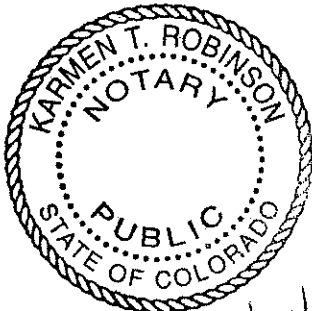
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)

[Signature]  
(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

March 9, 2006



My Commission Expires 3/25/09

[Signature]  
Notary Public for Colorado  
Residing at: Denver, Colorado  
My Commission Expires: 3/25/09

## 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 March 9, 2006, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District court  
Snake River Basin Adjudication  
253 Third Avenue North  
PO Box 2707  
Twin Falls, ID 83303-2707

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

Name: J Frank Scarborough  
Address: 14027 Memorial Dr #440  
Houston TX 77079

3. Copies to:

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

United States Department of Justice  
Environment & Nat'l Resources Div  
550 W Fort Street, MSC 033  
Boise, ID 83724

Chief, Natural Resources Division  
Office of Attorney General  
PO Box 44449  
Boise, ID 83711-4449

  
\_\_\_\_\_  
Signature of objector or attorney  
mailing on Objector's behalf