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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)

A. Subcase 27-12027

(Insert water right number)

Case No. 39576)

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: Preston R Allen & Sons

Address: 2601 E 300 S

Declo ID 83323

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** Reduce due to overlapping transfers. Must include the total annual volume of diversion, as necessary for the proper administration of the water right.
Should be: _____
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: Reduced due to overlapping transfers. _____
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. REASON 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.

In addition, the quantity of use should be reduced to account for overlapping transfers from the same tract of land. See element 9, below.

ELEMENT 9. PLACE OF USE. The transfer of surface water rights from a specific tract of land (Tract) to new places of use requires that the nature and extent of the surface water irrigation, before transfer, be accurately determined and mapped. Use should be identified on an appropriate aerial photograph (Administrator's Memorandum, Transfer Processing No. 9, August 7, 1984) so that an accurate number for the acres irrigated per 40-acres can be determined. It is not appropriate to use the recently expanded groundwater irrigated acreage base as the estimate of irrigation at the time of transfer. It is also not correct to allow multiple transfers to occur from the same tract of land which allows far greater quantities of use and irrigated acreage to be utilized for new irrigation development in the basin. This results in injury to the other water users in the lower Blackfoot River basin.

Specifically, the tract of land is located in: SE1/4 of Section 23; the NW1/4, the SW1/4, the W1/2NE1/4, and the W1/2SE1/4 of Section 24; the NE1/4 of Section 26; and the N1/2NW1/4 and SW1/4NW1/4 of Section 25, T2S, R36E. Associated recommended water rights are 27-12064, 27-4S, 27-29B, 27-29C, 27-12027, and 27-12028. The key transfer numbers are 2964, 3434, 3752 and 2933.

The transfer documents establish that the tract of land was irrigated from groundwater at the time of each noted transfer. There is no documentation in the record that establishes the acreage irrigated from surface water. A 1960 aerial photograph documents that only 359 acres of land was irrigated from surface water for the whole tract. Supporting information for Transfers 2933 and 2946 establishes that the southern part of the tract consisted of sand dunes and was not irrigated from surface water. This is verified by the 1960 aerial photography. At 50 acres per cubic foot per second (cfs) of water, the peak diversion rate should have been set at 7.18 cfs.

The water rights transferred from this Tract are for a cumulative peak diversion rate of 12.1 cfs serving 855 acres of land. The associated recommended water rights for the noted four key transfer areas are for 12.1 cfs to irrigate 848.6 acres of land. This takes into account Transfer 1962 which serves part of the transferred-to service areas associated with the noted six recommended water rights.

The history of surface water irrigation and transfers of water rights from this Tract needs to be completed and the recommended water rights adjusted based on the findings. Evidence establishes that 359 acres of land (7.18 cfs) were irrigated from surface water on this tract before water rights were transferred. The transfers allowed the quantity of use and irrigated acreage base to be substantially increased. The proper pre-transfer quantity and place of use base needs to be established and adjustments made to the noted six (6) recommended water rights.

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)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

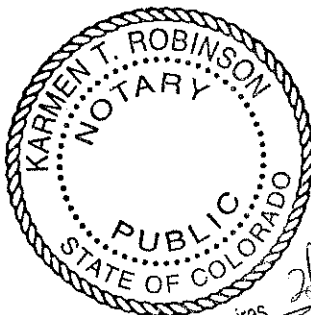
March 9, 2006

Notary Public for

Residing at:

My Commission Expires:

Colorado
Denver, Colorado
3/25/09



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: Preston R Allen & Sons

Address: 2601 E 300 S

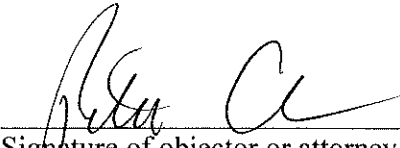
Declo ID 83323

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