

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 27-2050

(Insert water right number
From the Objection Form)

**STANDARD FORM 2
RESPONSE TO OBJECTION**

Please **print or type** the following information:

B.

NAME AND ADDRESS OF PERSON RESPONDING

Name: Zach C. Miller, Davis Graham & Stubbs LLP

Address: 1500 17th Street, Suite 500

Denver, CO 80202

Daytime Phone: 303-892-7391

Name & Address of Attorney, if any:

Same

(Attorneys for claimant)

C.

**NAME AND ADDRESS OF PERSON WHO FILED THE OBJECTION TO
WHICH YOU ARE RESPONDING**

Name: Shoshone-Bannock Tribes

Address: P.O. Box 306

Fort Hall, ID 83203

D. I am responding to the objections to the following elements. (Please check the appropriate box(es)).

1. ☐ Name and Address
2. ☐ Source
3. ☒ Quantity
4. ☐ Priority Date
5. ☐ Point(s) of Diversion
6. ☐ Instream Flow Description
7. ☐ Purpose(s) of Use
8. ☒ Period of Year
9. ☐ Place of Use

(SEE ATTACHMENT FOR RESPONSE)

11. Recommendation

- ☐ This water right should not exist.
- ☐ This water right was not recommended, but should be recommended with the elements described above.

E. VERIFICATION (Must be Completed)

State of COLORADO
City +) ss.
County of DENVER)

ZACH C MILLER, duly sworn, upon oath, deposes and says:
(Name of person filing response)

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

(Signature of person filing response)

Zach C. Miller

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: 5-19-06



Notary Public for STATE OF COLORADO

Residing at:

My Commission Expires: 5-27-08

INSTRUCTIONS FOR MAILING

You must mail the response, including all attachments, 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.

F.

CERTIFICATE OF MAILING

I certify that on May 19, 2006, 199 , I mailed the original and copies of this response, 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

(VIA FEDERAL EXPRESS)

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

Name: Nu-West Industries, Inc., c/o Dan Kline

Address: 3010 Conda Road, Soda Springs, ID 83276

3. One copy to the party who filed the objection at the following address:

Name: Shoshone-Bannock Tribes

Address: P.O. Box 306, Fort Hall, ID 83203

4. Copies to:

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

United States Department of Justice
Environment & Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

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

Jeannette Wolfley
202 N. Arthur
Pocatello, ID 83204

Zach C. Miller
Your signature or signature of attorney
mailing on your behalf

ATTACHMENT

Objector Shoshone-Bannock Tribes object that (1) a total annual volumetric limit should be imposed on this right, and (2) the period of use should terminate every year on July 1. Claimant replies as follows:

(1) Period of Year. As indicated in the Notice of Error-Reply filed by Nu-West Industries, Inc. ("Nu-West") in this matter on July 28, 2005, stockwatering in fact has occurred under this right from May 15 through November 15. Therefore, the latter date, and not July 1, should be used to define the period of use for this right.

(2) Annual Volumetric Unit. As indicated in Nu-West's July 28, 2005 Notice of Error-Reply, Nu-West concurs that the rate of 0.02 cfs should be used to calculate the limit for instream stockwatering along the length of Dry Valley Creek from May 15 through November 15, for 400 head range pair of cattle per year.