

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 <u>21-2156</u> (Insert water right number) STANDARD FORM 1 OBJECTION
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Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Fremont Madison Irrigation District

Address: P.O. Box 15, St. Anthony Idaho Idaho 83445

Daytime Phone (208)624-3381

Name & Address of Attorney, if any:

Jerry R. Rigby
Box 250 Rexburg Idaho 83440

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

Name: United States of America acting through Regional Director PN Region
Bureau of Reclamation

Address: 1150 N. Curtis Rd, Ste 100
Boise, ID 83706-1234

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: Add: Fremont-Madison Irrigation District, P.O. Box 15, St. Anthony, Idaho 83445
2. ☒ **Source**
Should be: In addition to present language: Ground Water resulting from irrigation of water under the irrigation works of Fremont-Madison Irrigation District (and/or Canal Companies and Irrigation Districts which by contract carry Fremont-Madison Irrigation District's water to its electors) and its electors and being recovered for further use on lands within Fremont-Madison Irrigation District's boundaries and to which the rights of Fremont-Madison Irrigation District's electors' are appurtenant.
3. ☒ **Quantity**
Should be: Total reservoir capacity is 135,000 A.F. when filled to Elevation 6303 and measured at the upstream face of the dam.
4. ☒ **Priority Date**
Should be: 45,000 A.F. should be March 29, 1921; 69,000 A.F. should be March 14, 1935. Furthermore, a note to priority date should provide that the priority date only applies in the event it is shown that water is being diverted that is not recaptured project water.
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: In addition to conditions of approval: The lands within the Fremont-Madison Irrigation District should also allow that the place of use of the recaptured project water can be within the service area of Fremont

Madison Irrigation District and its contracting irrigation entities. There should be no other limitation as to the place of use.

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.

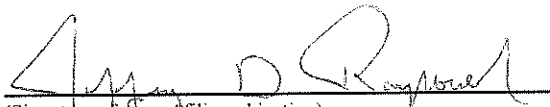
E. **REASONS SUPPORTING OBJECTIONS(S):** The issue of ownership is presently before the Supreme Court of Idaho. The priority dates have been recognized through actual practice and administered as such by the Idaho Department of Water Resources, Water District 01 and the Bureau of Reclamation. See Also Attachment A.

F. **VERIFICATION** (must be completed)

State of Idaho)
)ss.
County of Madison)

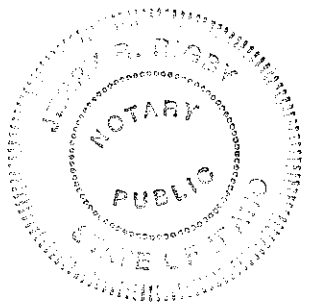
Jeffery D. Raybould, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

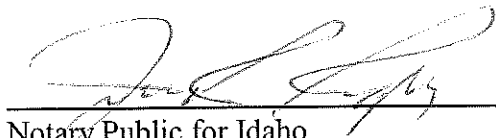
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1404A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.


(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: May 26, 2006




Notary Public for Idaho
Residing at: Rexburg
My Commission Expires: 11/09/11

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 May 26, 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
P.O. Box 2707
Twin Falls, ID 83303-2707

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

Name: United States of America acting through Regional Director PN Region Bureau of Reclamation
Address: 1150 N. Curtis Rd, Ste 100
Boise, ID 83706-1234

3. Copies to:

IDWR Document Depository
P.O. 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
P.O. Box 44449
Boise, ID 83711-4449



Signature of objector or attorney
mailing on Objector's behalf

ATTACHMENT "A"

REASONS SUPPORTING OBJECTIONS

2. Source: The excavation and opening of wells and withdrawal of water therefrom by Fremont Madison Irrigation District ("F/M"), its electors and/or shareholders or interest holders of canal companies or irrigation districts ("irrigation entities") which by contract carry F/M storage water was, among other things, to improve and preserve the utility of lands by draining them and for the withdrawal of water for the purpose of recovering groundwater resulting from irrigation of storage water under the irrigation works of irrigation entities which have contracted with Fremont Madison Irrigation District to carry its storage water to its electors lands lying within the boundaries of F/M and said irrigation entities. Therefore, two sources of water exits for these wells: (a) the groundwater source under a particular well's license, and (b) the source which is separate and distinct from the groundwater source diverted under the license but is diverted from these wells and requires no license. It is necessary to identify this second source within the right of F/M, the irrigation entities and the wells so that in the administration of this water right, it will be recognized that the water diverted from said wells is groundwater to which said well owners are entitled to divert under not only their licenses but also the diversion of groundwater resulting from irrigation of storage water under the irrigation works of irrigation entities within which lands of Fremont Madison Irrigation District's electors are located, and for which no license is required.
4. Priority Date: As for the groundwater being recovered under wells which resulted from irrigation of storage water under the irrigation works of F/M, said irrigation entities or their electors and shareholders within which lands shareholders or interest holders of said irrigation entities are located and appurtenant, there is no priority date, as the recovery of water resulting from irrigation within a project is a part of the original water supply diverted. This groundwater is part of the project water of F/M and its electors as well as said irrigation entities and their shareholders or interest holders within which said lands are located and appurtenant, and F/M, irrigation entities and their electors, shareholders or interest holders are entitled to the use of said project water until the project water leaves the project.
9. Place of Use: As this is storage water originally appropriated for all lands within the boundary of F/M, it is appurtenant to all irrigated acres to which electors of F/M and shares of stock (or other interest) of said irrigation entities and

their shareholders within which lands said interest holders are located and appurtenant. However, by agreement with its electors and said irrigation entities' shareholders or interest holders, said electors, interest holders or shareholders have been authorized to use the storage project water on the same lands as those described herein as the lands of F/M and irrigation entities.

10. Other Matters Necessary for Definition of Administration of this Water Right:

It should be noted in the definition or administration of this water right, that to the extent water is being diverted and that said water is the recovery of groundwater resulting from irrigation of storage water under the irrigation works of F/M, said irrigation entities and their electors and shareholders within which lands said interests are located and appurtenant, such recovery of groundwater shall be administered separately from all other water rights in the Snake River basin, as such rights are not a connected source of water in the Snake River basin. There should also be no reference to remarks limiting the combined use of this right and Basin 01 rights, except as to the acres within the project to which these rights are appurtenant.