

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

JUN 28 2006

By _____ Clerk
_____ Deputy Clerk

2006 MAY 26 PM 1:43

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 22-2303B

Case No. 39576

(Insert Water Right Number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: BYU Idaho

Address: 244 Physical Plant

Rexburg, ID 83460

Daytime Phone: 208-709-0445

Name and Address of Attorney, if any:

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

Name: BYU Idaho

Address: 244 Physical Plant

Rexburg, ID 83460

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: Ground water and water resulting from irrigation under the irrigation works of Claimant and/or Rexburg Irrigation Canal Company and Fremont Madison Irrigation District and being recovered for further use on lands to which the shares of said Canal Company or storage water of said Irrigation District are appurtenant.
3. ☐ **Quantity**
Should be: _____
4. ☒ **Priority Date**
Should be: A note to priority date should allow 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: A note should allow that the place of use can be within the service area of the above described Canal Company or Irrigation District, even though this particular water is used on the lands described in the license by agreement with Canal Company and/or the Irrigation District. 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 OBJECTION(S): See Attachment "A"

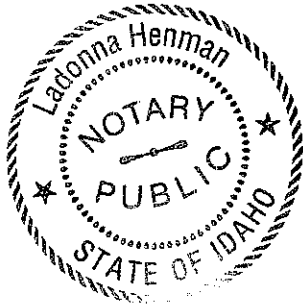
Also the following: Water diverted from this point of diversion is also groundwater resulting from irrigation under the irrigation works of Claimant, the above described canal company and/or irrigation district and is recovered by Claimant on its own behalf or on said company/irrigation district's behalf for further use on Claimant's lands under the irrigation works of Claimant and/or the irrigation entities within which Claimant's lands are located and appurtenant. This recaptured project water shall be administered separately from all other water rights within its particular basin and the Snake River basin. As to this water right with a source being groundwater and not recaptured project water, the other matters set forth in the recommendation are appropriate.

F. VERIFICATION (must be completed)

STATE OF IDAHO,)
 ss
County of Fremont)

BYU Idaho, 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 objections, know its contents and believe that the statements are true to the best of my knowledge.



[Signature] for BYU-I
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn before me on: May 25, 2006

Ladonna Henman
Notary Public for Idaho
Residing at Rigby
My Commission Expires: 6-1-2011

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the court. **FAX filing 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 ___, 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:

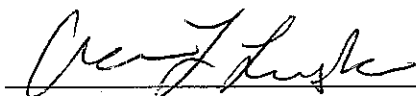
BYU Idaho
244 Physical Plant
Rexburg, ID 83460

3. Copies to:

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

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

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

 for Byu-I
Signator of objector or attorney
mailing on Objector's behalf

ATTACHMENT "A"

REASONS SUPPORTING OBJECTIONS

2. Source: The excavation and opening of this well and withdrawal of water therefrom by Claimant 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 under the irrigation works of the Claimant and/or the irrigation entity within which Claimant's lands are located. Therefore two sources of water exits for this well: (a) the groundwater source under the license, and (b) the source which is separate and distinct from the groundwater source diverted under the license but is diverted from this well and requires no license. It is necessary to identify both sources so that in the administration of this water right, it will be recognized that the water diverted from this well is groundwater to which Claimant is entitled to divert under its license and is also the diversion of groundwater resulting from irrigation under the irrigation works of Claimant and/or any and all irrigation entities within which Claimant's lands are located, and for which no license is required.
4. Priority Date: Under the license, the priority date should be the date as recommended by the Director, to the extent water is being diverted under the license, whether or not the groundwater resulted from irrigation under the irrigation works of Claimant and/or of the irrigation entity within which Claimant's lands are located. As for the groundwater being recovered under this well which resulted from irrigation under the irrigation works of Claimant and/or all irrigation entities within which Claimant's lands 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 the irrigation entities within which Claimant's lands are located and appurtenant, and said irrigation entity or entities are entitled to the use of said project water by itself or by its shareholders (electors) until the project water leaves the project.
9. Place of Use: As this is project water, as well as groundwater originally appropriated for all lands within the irrigation entities' projects, it is appurtenant to all irrigated acres to which shares of stock or storage water rights of the irrigation entities within which Claimant's lands are located and appurtenant. However, by agreement with the said irrigation entities, Claimant has been authorized to use the project water on the same lands as those described in Claimant's license and those recommended by the Director's report.
- 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 under the irrigation works of Claimant and/or irrigation entities within which Claimant's lands 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. To the extent water is diverted under this right that is not recaptured project water, such water right may be administered conjunctively. 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.