

COPY

RECEIVED

APR 3 2006

DEPARTMENT OF
WATER RESOURCES

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: 27-07329
Case No. 39576) (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: State of Idaho
Address: 700 W. Jefferson, Room 210
P.O. Box 44449
Boise, Idaho 83711-4449
Phone: Work: (208) 334-2400 Home: N/A

Name and Address of Attorney, if any:
Attorney Name: LAWRENCE G. WASDEN
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
DAVID J. BARBER
Deputy Attorney General
Attorney Address: Office of the Attorney General
700 W. Jefferson, Room 210
P.O. Box 44449
Boise, ID 83711-4449
Attorney Phone No. (208) 334-2400
Idaho State Bar # 2597

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

Name & Address of Attorney, if any:
Jeanette Wolfley
202 N. Arthur
Pocatello, ID 83204

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
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 Idaho)
) ss.
County of Ada)

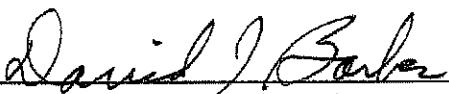
DAVID J. BARBER, Deputy Attorney General, being first duly sworn, upon oath, deposes and says:

That the State of Idaho is the party/claimant filing this response as defined by I.C. §§ 42-1401A(1) and (6), that I am a Deputy Attorney General authorized to represent the State of Idaho and that I have read this response, know its contents and that the statements are true to the best of my knowledge and belief.

LAWRENCE G. WASDEN
Attorney General

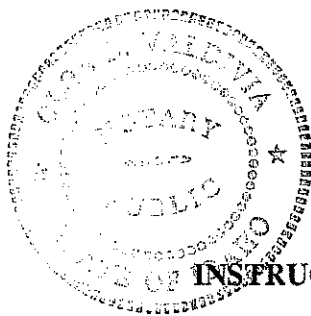
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

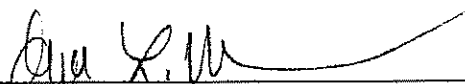
DAVID J. BARBER
Deputy Attorney General


By Attorney signing in representative capacity

Subscribed and sworn to before me on this 31st day of March, 2006

(Insert Date)




Notary Public for IDAHO
Residing at: BOISE, ID
My commission expires: 2/8/2012

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.

G.

CERTIFICATE OF MAILING

I certify that on this 31st day of March, 2006, I caused to be served the original and copies of this response to the following persons by the indicated methods:

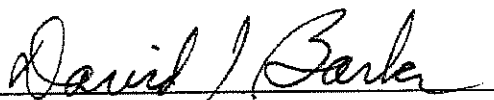
1. Original to: Clerk of the District Court U. S. MAIL
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707
2. One copy to the claimant of the water right at the following addresses:

Claimant Name: City of Blackfoot U. S. MAIL
Address: 157 N Broadway
Blackfoot, ID 83221
3. One copy to the party who filed the objection at the following address:

Name: Shoshone-Bannock Tribes U. S. MAIL
Jeanette Wolfley
Address: 202 N. Arthur
Pocatello, ID 83204
4. Copies to: IDWR Document Depository STATEHOUSE
PO Box 83720 MAIL
Boise, ID 83720-0098

United States Department of Justice U. S. MAIL
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, Idaho 83724

Chief of Natural Resource Division (not applicable)
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449


Signature of party claimant or attorney

RECEIVED

MAR 20 2006

DEPARTMENT OF
WATER RESOURCES

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 27-7329
(Insert water right number)

STANDARD FORM 1
OBJECTION

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

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: City of Blackfoot
Attention Ron Harwell
Public Works Director
Address: 157 N. Broadway
Blackfoot, ID 83221
Daytime Phone: 208-785-8600
Email: ron@cityblackfoot.org

Name & Address of Attorney, if any:

Christopher H. Meyer
Givens Pursley LLP
601 W. Bannock St.
P.O. Box 2720
Boise, ID 83701
Daytime Phone: 208-388-1236
Facsimile: 208-388-1300
Email: chris Meyer@givenspursley.com

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

Name: City of Blackfoot
Address: 157 N. Broadway
Blackfoot, ID 83221

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: City of Blackfoot
157 N. Broadway
Blackfoot, ID 83221

2. ☐ **Source**

Should be: Groundwater

3. ☐ **Quantity**

Should be: 3.99 cfs (no annual volume)

4. ☐ **Priority Date**

Should be: 10/19/1982

5. ☒ **Point(s) of Diversion**

Should be:

POD Description	Common name
T3S R35E §4 SENESW	Well #6
T3S R35E §4 SWNWNE Lot 2	Well #8
T3S R35E §3 NWSWNE	Well #7
T3S R35E §2 SENWNW	Well #5
T3S R35E §10 NWNNWNW	Well #4
T3S R35E §3 SWNESE	Well #3
T2S R35E §35 NENWNE	Well #9
T3S R35E §10 NESWNE	Well #10
T2S R35E §30 SESWSW	Well #11

6. ☐ **Instream Flow Description**

Should be: _____

7. ☐ **Purpose(s) of Use**

Should be: Municipal

8. ☐ **Period of Year**

Should be: 1/1 to 12/31

9. ☒ **Place of Use**

Should be: Place of use is within the service area of the City of Blackfoot municipal water supply system, including areas outside the city limits, as provided for under Idaho law.

11. **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):

The City acknowledges that Water Right Nos. 27-4084 and 27-7329 overlap. Accordingly, Water Right No. 27-4084 should be decreed in full (5.57 cfs with 09-27-1921 priority) and Water Right No. 27-7329 should be disallowed. In the alternative, if Water Right No. 27-7329 is decreed in full (3.99 cfs with 10-19-1982 priority), Water Right No. 27-4084 should be decreed for 1.58 cfs with 09-27-1921 priority reflecting retention of any capacity associated with the original Well #2 for future need purposes by way of accomplished transfer.

This is a municipal water right. Under Idaho law, municipal water rights held by municipal providers for reasonably anticipated future needs are deemed to be beneficially used. No annual volume limit should be included for a municipal water right.

To the extent any quantity of water under this right is not currently being diverted, such portion of the original right has been transferred by accomplished transfer to beneficial use for future need purposes.

The City operates an integrated delivery system in which each well serves as an alternative point of diversion for every other well. This is reflected in prior approved Transfer Nos. 5787 and 68933. Accordingly, we have listed each of the PODs associated with those transfers. Those transfers inadvertently listed the Lansing Street Well instead of Well #9. This error has been corrected here. The City also has a pending application to add Well #12 (T2S R35E §35, SESE). If appropriate, that POD should be added as well.

We believe it would be helpful to clarify and expressly put the public on notice that the place of use includes areas outside of the city limits.

Regarding municipal water rights, please note in particular the following guidance documents: Operations Division Administrator's Memorandum from A. Kenneth Dunn to District Engineers dated April 7, 1975; Memorandum from Phil Rassier to Dave Tuthill dated May 7, 1979; Administrator's Memorandum, from Norman Young to Regional Offices and Water Allocation Section dated November 5, 1979; Memorandum from L. Glen Saxton to Water Allocation Bureau, Adjudication Bureau, and Regional Offices dated March 18, 1998; Letter from Karl J. Dreher to Christopher H. Meyer dated June 14, 1999.

F. VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

Christopher H. Meyer, 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 responding 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)

Christopher H. Meyer

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: March 16, 2006

Katrina Thomas

Notary Public for Idaho

Residing at: Bow, ID

My Commission Expires: 4-10-06



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 16, 2006, I mailed the original and copies of this response, including all attachments, to the following persons:

1. Original (via overnight mail) 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: City of Blackfoot
Attention Ron Harwell
Public Works Director
Address: 157 N. Broadway
Blackfoot, ID 83221

3. Copies to:

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

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

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



Christopher H. Meyer
Attorney for Objector/Claimant