

FILED
10/16/97

**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 No. 01-00263
	)	
Case No. 39576	)	STANDARD FORM 2
	)	<u>RESPONSE TO OBJECTION</u>
	)	
_____	)	

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

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: A & B Irrigation District	Name: Falls Irrigation District
Address: P. O. Box 675	Address: 310 Valdez Street
Rupert, Idaho 83350-0675	American Falls, Idaho 83211
Daytime Phone (208) 436-3152	Daytime Phone (208) 226-5227

Name: Burley Irrigation District
Address: 246 East 100 South
Burley, Idaho 83318
Daytime Phone (208) 678-2511

Name & Address of Attorney, if any:
Attorney Name: Roger D. Ling
Ling, Robinson & Walker
Address: P. O. Box 396
Rupert, Idaho 83350
Phone Number: (208) 436-4717
Facsimile Number: (208) 436-6804

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

Name: New Lavaside
Address: 66 E River Road
Blackfoot, Idaho 83221

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

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

Roger D. Ling, duly sworn, upon oath, deposes and says:

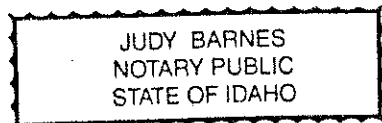
(Name of person filing response)

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 that the statements are true to the best of my knowledge and belief.

(Signature of person filing response)

Roger D. Ling
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: December 7, 2006.



Judy Barnes
Notary Public for the State of Idaho
Residing at: Rupert, Idaho
My Commission expires: 02-12-2011

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 parties listed below in the Certificate of Mailing.

F. CERTIFICATE OF MAILING

I hereby certify that on December 7th, 2006, 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
P. O. Box 2707
Twin Falls, Idaho 83303-2707

← Addendum: I certify that the
original was hand-delivered to
the SRBA clerk on Dec. 8, 2006

Judith Draynes

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

Name: New Lavaside
Address: 66 E River Road
Blackfoot, Idaho 83221

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

Name: New Lavaside
Address: 66 E River Road
Blackfoot, Idaho 83221

4. Copies to:

IDWR Document Depository
P. O. Box 83720
Boise, Idaho 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, Idaho 83711-4449

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

Jerry R. Rigby
Rigby, Thatcher, Andrus, et al.
P. O. Box 250
Rexburg, Idaho 83440-0250

Judith Draynes
Your signature or signature of attorney mailing on your behalf

ATTACHMENT TO RESPONSE

Explanation:

This water right should be decreed as previously decreed and recommended, showing the acres irrigated when the right was acquired.

2. Source

There is no basis in fact or law to add the language requested by the Objector that would purportedly bifurcate and somehow change the source designation of individual ground water rights held by “shareholders” or “interest holders” whoever they may be, of the Objector. Licensed and decreed ground water rights held by individuals that may be located within the Objector’s service area and that identify a specific source, i.e., ground water, cannot be changed by an objection to the above-referenced surface water right held by the Objector, nor may they claim an interest in project water of Objector.

In addition, the source for this surface water claim has been previously determined by a prior decree and cannot be changed by way of an objection in the SRBA.

4. Priority Date

With respect to the priority date, there is no basis in fact or law to add the language requested by the Objector that would purportedly change the priority date for licensed or decreed ground water rights held by individual “shareholders” or “interest holders” of the Objector.

9. Place of Use

There is no basis in fact or law to include the remark that would purportedly change or expand the place of use of this previously decreed surface water right, or the place of use identified in licensed or decreed ground water rights held by individual “shareholders” or “interest holders”, whomever they may be, of the Objector. In addition, there is no basis in fact or law for the “separate stream” provision sought by the Objector.

10. Other – Claimant’s Proposed General Provisions

Although the Objections do not request any general provisions, to the extent the Objectors’ seek to have any of the references in their Objections incorporated into the partial decree as “general provisions,” Respondents disagree for the reasons identified above.