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DEPARTMENT OF
NATURAL RESOURCES

U.S. Department of Justice

Environment and Natural Resources Division

PCM:DAJ

90-6-2-63

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March 21, 2007

via FedEx Mail

Diana R. Delaney, Chief Deputy Clerk
Snake River Basin Adjudication
DISTRICT COURT
253 Third Ave., North
Twin Falls, Idaho 83303-2707

Re: SRBA Case No. 39576
Subcase No. 27-10028

Dear Ms. Delaney:

Enclosed for filing is the following original document in the above mentioned subcase:

1. **STANDARD FORM 1 OBJECTION**

Thank you for your time and attention in this matter.

Sincerely,

David A. Jarvis
Paralegal

Enclosures

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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 27-10028

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: United States of America

Address: c/o Bureau of Indian Affairs, U.S. Department of the Interior, Pacific Northwest Region
911 NE 11th Ave, Portland, OR 97232-4169

Daytime Phone: 503.231.6927

Name & Address of Attorney, if any:

Peter C. Monson, U.S. Dept. of Justice ENRD

1961 Stout Street, 8th Floor

Denver, CO 80294

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

Name: Bonnie P Gardner and Leon J Gardner

Address: 469 E 400 N 469 E 400 N

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: _____
2. ☐ **Source**
Should be: _____
3. ☒ **Quantity** Must include the total annual volume of diversion, as
Should be: necessary for the proper administration of the water right.
4. ☐ **Priority Date**
Should be: _____
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: _____
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): _____

See Attachment

ATTACHMENT

E. REASON SUPPORTING OBJECTION(S):

ELEMENT 3. QUANTITY. In order to administer all surface and groundwater rights on the Blackfoot River, it is necessary for the total annual volume of diversion to be decreed with respect to each and every water right in Basin 27. The Director's report recommends the total annual diversion volume for some, but not all, water rights. This water right is one of those where this necessary element is omitted. Tribal water rights are defined by the total annual diversion volume. See, e.g., Tribal Water Right No. 27-11375.ii. The Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin, (August 2, 1995), contains a provision whereby, the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation and the United States agree to effectively subordinate the exercise of tribal water right No. 27-11375 to certain private surface water rights in the Blackfoot River. See water right No. 27-11375.x.d. The subordination provision was based upon an estimate that the total annual diversion volume of these water rights would not exceed 45,000 acre-feet per year (AFY) in total annual diversion volume. Thus, in order to comply with the above-referenced Decree of this Court, to administer all water rights in the basin and to comply with Idaho water law, it is necessary that all water right decrees issued by the Court in this basin must include a total annual diversion volume measured in acre-feet per year (AFY).

The Idaho Department of Water Resources has reported to the Court on a general methodology to estimate annual volumes of water required at field headgates throughout the state of Idaho. See "Report Regarding Development of Standards for Annual Volume of Irrigation Requirements at the Field Headgate" (August 1, 1996). Maps of Basin 27 identify that field headgate requirements are 4.0 acre-feet per acre in the lower reaches of the watershed and 3.5 acre-feet per acre in the upper watershed. The Technical Team (state, federal and tribal representatives) utilized in the final negotiations for the Partial Final Consent Decree for the Fort Hall Indian Water Rights Agreement estimated an average conveyance efficiency of 66 percent for the overall basin. Applying this efficiency to the field headgate diversion volumes noted above, results in river diversion volumes of 6.0 acre-feet per acre and 5.3 acre-feet per acre in the lower and upper areas, respectively, of Basin 27. These figures should be applied to derive the total annual volume for this water right.

F.

VERIFICATION

State of Colorado)
)ss.
County of Denver)

United States of America, duly sworn, upon oath, deposes and says:

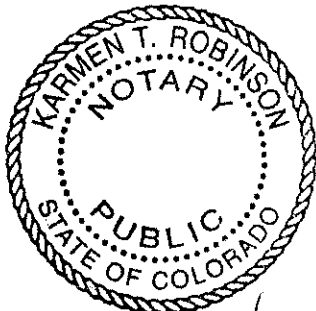
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on :

March 21, 2007



My Commission Expires 3/25/09

Notary Public for Colorado

Residing at: Denver, Colorado

My Commission Expires: 3/25/09

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 21, 2007, 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
Twin Falls, ID 83301

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

Name:	<u>Bonnie P Gardner</u>	and	<u>Leon J Gardner</u>
Address:	<u>469 E 400 N</u>		<u>469 E 400 N</u>
	<u>Blackfoot, ID 83221</u>		

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 and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724



Signature of objector or attorney
mailing on Objector's behalf