

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 63-00166B

(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Pioneer Irrigation District

Address: PO Box 426

Caldwell Idaho 83606

Daytime Phone: (208) 459-3617

Name & Address of Attorney, if any:

Scott L. Campbell

Moffatt Thomas Barrett Rock & Fields

PO Box 829, Boise, Idaho 83701

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

Name: Franklin Ditch Co.

Address: c/o Helen I. Larson

8500 Joplin Rd., Caldwell Idaho 83605

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**
Should be: _____
4. ☒ **Priority Date**
Should be: _____
5. ☒ **Point(s) of Diversion**
Should be: _____
6. ☐ **Instream Flow Description**
Should be: _____
7. ☒ **Purpose(s) of Use**
Should be: _____
8. ☒ **Period of Year**
Should be: _____
9. ☒ **Place of Use**
Should be: _____

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):

This water right should be recommended as No. 63-00166A, as claimed by Pioneer Irrigation District, based upon historic diversion, delivery, and use by the Pioneer Irrigation District through its system of canals and laterals. A true and correct copy of the claim is attached hereto as Attachment 1.

F.

VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

Scott L. Campbell, 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 objection, know its contents and believe that the statements are true to the best of my knowledge.

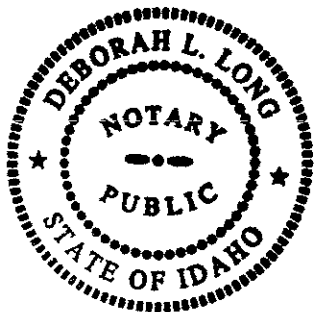
(Signature of person filing objection)

Scott L. Campbell
(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

Deborah Long 6/19/07

Deborah Long
Notary Public for Idaho
Residing at: Boise
My Commission Expires: 10/10/07



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 June 19, 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
PO Box 2707
Twin Falls, ID 83303-2707

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

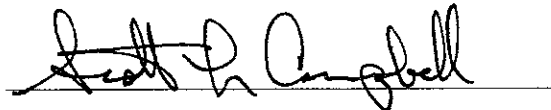
Name: Franklin Ditch Co.
Address: c/o Helen I. Larson
8500 Joplin Rd., Caldwell Idaho 83605

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



mailing on Objector's behalf

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number A63-00166

Date Received

Receipt Number

AMENDED
NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED
FEB 08 2000
WATER RESOURCES
WESTERN REGION

Please type or print clearly

1. Name of Claimant (s) Pioneer Irrigation District Phone (208) 459-3617

Mailing Address P.O. Box 426, Caldwell, Idaho Zip 83605

2. Date of Priority (Only one (1) per claim) July 3, 1866

3. Source of water supply (a) Boise River
which is tributary to (b) Snake River

4. a. Location of existing point of diversion is: Township 4 N. Range 2 W. Section 24
1/4 of N.E. 1/4 of N.E. 1/4, Govt. Lot, B.M., County of Canyon

Additional points of diversion if any: See Attachment A

b. If instream flow, beginning point of claimed instream flow is:

Township Range Section , 1/4 of 1/4 of 1/4,

Govt. Lot B.M., County of

ending point is: Township Range Section , 1/4 of 1/4 of

1/4, Govt. Lot B.M., County of

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well Concrete diversion dam in Boise River
to headgate and Caldwell Highline Canal to lateral ditches.

6 Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For irrigation purposes from 3/15 to 11/15 amount 15.40 or _____
For _____ purposes from _____ to _____ amount _____ or _____
For _____ purposes from _____ to _____ amount _____ or _____
For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 15.40 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. Description of place of use:

a. If water is for Irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

IWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
			Lands within the boundaries of the Pioneer Irrigation District																

Total number of acres irrigated 34,047.16

11. In which county (ies) are lands listed above as place of use located? Ada/Canyon

12. Do you own the property listed above as place of use? Yes _____ No x
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.

or None ()

14. Remarks: Pioneer Irrigation District provides water delivery to the privately owned lands within its service area. Claim to this water right is based upon an agreement Attachment B hereto) between the Franklin Ditch Company and the Idaho and Oregon Land Improvement Company, the predecessor in interest to Pioneer Irrigation District. The claim is also based upon the historic use and practice which has existed since the date of that agreement.

Last Name Pioneer Ident No. A63-00166

ATTACHMENT ONE

T. 3 N., R. 1 E., Section 23,
S.W. 1/4 of N.W. 1/4.

This "point of diversion" is a concrete diversion structure with flashboards which regulates the flow of the south and north channels of the Boise River. It is located at the east end of Eagle Island and permits diversion of sufficient amounts of water down the south channel of the Boise River to permit Pioneer Irrigation District to divert its water into the Phyllis and Caldwell Highline canals.

1350
Franklin Ditch Co.

To

Idaho & Oregon Land Imp. Co.

This agreement made this second day of October A. D. 1883, by and between the Franklin Ditch Company a corporation, organized under the laws of Idaho Territory the party of the first part and the Idaho & Oregon Land Improvement Company, a corporation organized under the laws of the State of Colorado, the party of the second part,

Witnesseth: Whereas the party of the first part is the claimant of and in possession of a certain Water Right and irrigating ditch taking water out of Boise River or its Sloughs, on the south side of the River, on the farm of William Frost, about Seven or Eight miles above the town of Middleton in Ada County, Idaho Territory by means of a ditch and through the sloughs of said River for the irrigation of the lands of the Shareholders of said company; and whereas said party of the second part desires to acquire said Water right and ditch and to enlarge and extend the same for the irrigation of lands below those now covered by it.

Now, therefore, said party of the first part acting by and through its board of Trustees, for and in consideration of the conveyance of thirteen hundred and fifty inches of Water by said party of the second part, to said party of the first part; or to such persons being its shareholders, as it may designate, in such several shares as it may designate, covenants and agrees to convey to said party of the second part all its said Water Right and ditches at any time on or before the first day of May 1884, upon the performance by said party of the second part, of its covenants and agreements as herein after contained and the execution and delivery of the deeds as hereinafter mentioned.

EXHIBIT "A"

It is understood and agreed that said conveyance or conveyances shall be sufficient to vest the first thirteen hundred and fifty inches of water carried by said ditch and to convey the same, appurtenant to said lands in such severall interests as may be designated by the party of the first part, free and clear of all expenses costs and charges for the construction, repair, and maintenance of said ditch forever. That said ditch/^{water}shall only be appurtenant to and shall only be used upon the lands now owned, entered, occupied or claimed by the shareholders of the party of the first part, but may be taken at any time or place by said shareholders, their successors or assigns for that purpose, but when not desired for that purpose, shall not be taken from said ditch.

The party of the second part is to have the necessary right of way for said ditch over the lands of the shareholders of the party of the first part, without charge therefor.

The party of the second part is to have immediate possession of the premises, but if this agreement is not duly executed and delivered by the party of the second part, on or before the first day of November next, such possession shall be surrendered and all work and improvements forfeited.

The Expense of all conveyances shall be borne equally by the parties hereto.

Time is the essence of this agreement and if said party of the second part shall fail or omit to enlarge said ditch or to convey said water as aforesaid, on or before said first day of May next, or shall be unable on said day to furnish and supply said thirteen hundred and fifty inches of water on said day or when required thereafter, there and in that case the party of the first part shall be released from all obligations to make its said conveyance and the said party of the second part shall forfeit

And in consideration of the foregoing agreement said party of the second part, acting by and through its corporate officers thereunto duly authorized by its Board of Trustees, Covenants and agrees to and with said party of the first part that it will, before the first day of May next, enlarge said ditch from the point where the water is taken from Boise River to where the line of the ditch crosses what is known as Mason Creek, and will on or before said day convey by good and sufficient deed of conveyance, to the said party of the first part, or at the option of the said party of the first part, to such persons as the party of the first part may designate, they being shareholders of the party of the first part, and as appurtenant to the lands now owned, entered occupied or claimed by the said shareholders, one thousand three hundred and fifty (1350) Statutory inches of Water, to be taken by the party of the first part, or its said shareholders or their grantees from the ditch of the party of the second part, or from any slough along the line of said ditch, at such point or points, as said party of the first part or said shareholders, or their grantees, may from time to time prefer, and said party of the second part further covenants and agrees, to leave at all times at least three hundred and fifty (350) inches of water in what is known as the outside or South Slough, into which the ditch of the party of the first part now empties near the Bluff, and not less than Eight hundred (800) inches of water in what is known as the Back Slough that leaves the main slough about twenty feet above the head gate of the party of the first part, said slough water being for the use of said shareholders and their grantees, over and above thirteen hundred and fifty inches to be taken from the ditch as aforesaid. Said party of the second part further agrees to bridge all public roads crossed by said ditch and to bridge at least three private roads or trails, sufficient to cross cattle and stock at points to be designated by the party of the first part.

all rights under this agreement and all work and improvements on said premises and all claim thereto shall upon demand quit and surrender the premises to the party of the first part or its assigns.

In Witness Whereof, said party of the first part has by resolution of its board of Trustees, caused this agreement to be signed by its Trustees and sealed with their private seals said company having no corporate seal, and said party of the second part has by resolution of its Board of Trustees caused this agreement to be subscribed by its President and Secretary and its corporate seal to be hereunto affixed.

In Duplicate

Thomas Wheatley (Seal)

G. W. Wootan (Seal)
his

Robert I White (Seal)
mark

Trustees Franklin Ditch Company
A. Caldwell, Pres. I & O.L.I.Co.

Attest (Seal)

H. C. Wallace, Secretary

Territory of Idaho)
County of Ada) ss

On this 2nd day of October A. D. 1883, personally appeared, before me M. R. Jenkins, a Justice of the Peace, in and for said Ada County, Thomas Wheatley, G. W. Wootan and Robert White, whose names are subscribed to the annexed instrument as parties thereto, personally known to me to be the same persons described in and who executed the said annexed instrument as parties thereto, who each of them acknowledged to me that they each of them respectively, executed the same freely and voluntarily and for the uses and purposes therein mentioned.

Franklin Ditch Co.

To

Idaho & Oregon Land Imp Co.

This agreement made this second day of October A.D.

1883, by and between the Franklin Ditch Company, a corporation, organized under the laws of Idaho Territory the party of the first part and the Idaho & Oregon Land Improvement Company, a corporation organized under the laws of the State of Colorado, the party of the second part,

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Now therefore, said party of the first part acting by and through its Board of Trustees, for and in consideration of the conveyance of thirteen hundred and fifty inches of water by said party of the second part, to said party of the first part, or to such persons being its shareholders, as it may designate, in such several shares as it may designate, covenants and agrees to convey to said party of the second part all its said Water Right and ditches at any time on or before the first day of May, 1884, upon the performance by said second party, of its covenants and agreements as herein after contained and the execution and delivery of the deeds as hereinafter mentioned.

And in consideration of the foregoing agreement said party of the second part, acting by and through its corporate officers thereunto duly authorized by its Board of Trustees, Covenants and agrees to and with said party of the first part that it will, before the first day of May next, enlarge said ditch from the point where the water is taken from Boise River to where the line of the ditch crosses what is known as Mason Creek, and will on or before said day convey by good and sufficient deed of conveyance, to the said party of the first part, or at the option of the said party of the first part, to such persons as the party of the first part may designate, they being shareholders of the party of the first part, and as appurtenant to the lands now owned, entered occupied or claimed by the said shareholders, one thousand three hundred and fifty (1350) Statutory inches of water to be taken by the party of the first part, or its said shareholders or their grantees from the ditch of the party of the second part, or from any slough along the line of said ditch, at such point or points, as said party of the first part or said shareholders, or their grantees, may from time to time prefer, and said party of the second part further covenants and agrees to leave at all times at least three hundred and fifty (350) inches of water in what is known as the outside or South Slough, into which the ditch of the party of the first part now empties near the Bluff, and not less than Eight Hundred (800) inches of water in what is known as the Back Slough that leaves the main slough about twenty feet above the head gate of the party of the first part, said slough water being for the use of said shareholders and their grantees, over and above the thirteen hundred and fifty inches to be taken from the ditch as aforesaid.

Said party of the second part further agrees to bridge all public roads crossed by said ditch and to bridge at least three private roads or trails, sufficient to cross cattle and stock at points to be designated by the party of the first part.

It is understood and agreed that said conveyance or conveyances shall be sufficient to vest the first thirteen hundred and fifty inches of water carried by said ditch and to convey the same, appurtenant to said lands in such severall interests as may be designated by the party of the first part, free and clear of all expenses costs and charges, for the construction, repair, and maintenance of said ditch forever. That said ditch water shall only be appurtenant to and shall only be used upon the lands now owned, entered, occupied or claimed by the shareholders of the party of the first part, but not be taken at any time or place by said shareholders, their successors or assigns for that purpose, but when not desired for that purpose shall not be taken from said ditch.

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The party of the second part is to have immediate possession of the premises, but if this agreement is not duly executed and delivered by the party of the second part, on or before the first day of November next, such possession shall be surrendered and all work and improvements forfeited.

The expense of all conveyances shall be borne equally by the parties hereto.

Time is the essence of this agreement and if said party of the second part shall fail or omit to enlarge said ditch or convey said water as aforesaid, on or before said first day of May next, or shall be unable on said day to furnish and supply said thirteen hundred and fifty inches of water on said day or when required thereafter, there and in that case the party of the first part shall be released from all obligations to make its said conveyance and the said party of the second part shall forfeit all rights under this agreement and all work and improvements on said premises and all claim thereto shall upon demand quit and surrender the premises to the party of the first part or its assigns.

In Witness Whereof, said party of the first part has by resolution of its board of Trustees caused this agreement to be signed by its Trustees and sealed with their private seals said company having no corporate seal, and said party of the second part has by resolution of its Board of Trustees caused this agreement to be subscribed by its President and Secretary and its corporate seal to be hereunto affixed.

In Duplicate

Thomas Wheatley (Seal)

G. W. Wootan (Seal)

his
Robert X White (Seal)
mark

Trustees Franklin Ditch Company,

A Caldwell,

Pres. I & O L I Co.

Attest (Seal)

H C Wallace, Secretary.

Territory of Idaho } ss
County of Ada }

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In Witness Whereof, I have hereunto set my hand and affixed my seal the day and year in this certificate first above written.

M R Jenkins,

Justice of the Peace.

Territory Of Idaho }
County of Alturas } ss

On the 27th day of October one thousand ei
hundred and eighty three, personally appeared me, C B Fox a
Notary Public in and for the County of Alturas, A. Caldwell, President
and H. C. Wallace, Secretary of the Idaho & Oregon Land Improvement
Company, a corporation and whose names --- subscribed to the an-
nexed instrument as parties thereto personally known to me to be the
same persons described in and who executed the said annexed instrumen
as parties thereto as President and Secretary of said Company, who
duly acknowledged to me that they executed the same freely and vol-
untarily and for the purposes and uses therein mentioned.

In Witness Whereof I have hereunto set my hand and affixed
my official seal the day and year in this certificate first above
written.

C. B. Fox,

(Seal)

Notary Public

C and B

B1 P296

Recorded at the request of Thomas Wheatley Dec. 3rd 1883 at
10 o'clock A.M.

Compared

Indexed.

B. S. Prickett,

Recorder

May 29, 1940

STATEMENT BY TURNER AND WELSH

Franklin Ditch Company contract

Agreement between that company and Idaho and Oregon Land Improvement Company, dated October 2, 1883, covers 1350 inches of water, but Turner thinks there are now 2150 inches involved.

In the Stewart decree the Franklin Ditch Company has the following rights:

Right No. 34, 6/1/66 770 inches

Right No. 77, 10/29/80 1380 inches.

We should investigate as to how the water above the 1350 inches was taken over by P. I. D.

The majority of Franklin water is all taken out of Highline canal north of Franklin road. Nine points of diversion above Franklin road to the headgate and six below.

John says Franklin rights are cut the same as other rights, except that when the latest Franklin right would be entitled to be cut entirely off P.I.D. continues to deliver to Franklin the same percentage as to its other users. This has been the practice for a number of years. But he is not sure P.I.D. would be required to do that under its Franklin contract.

Welsh says there is a possibility that when this agreement was made the Franklin water was the only water in the ditch and the only water referred to.

At the time P.I.D. transferred right No. 90 from Highline to Phyllis there was a hearing before the State Engineer. Walter Griffiths represented Highline users and Welsh thinks there is considerable testimony in that file as to these rights. Right No. 90 was decreed to P.I.D. for Highline canal and that right was later than the date of this contract and had a priority of 1884.

W. T. CALLOWAY
R. A. COWDEN
WILLIAM S. FLORA
S. L. BALL
A. K. STEUNENBERG,
Treasurer

Pioneer Irrigation District
Canyon and Ada Counties. Principal Office, Caldwell, Idaho
H. M. HEDGES, - - SECRETARY AND SUPERINTENDENT

Phyllis Canal, 35 m.
crossing 33,400 Ac.
Caldwell High Line
miles long, cover
Acres
Cost of System, \$
Owned and operated
mors.

Office of the Pioneer Irrigation District

Caldwell Ida Apr 26th 1905

We the undersigned constituting a majority of the Board of Directors of the Pioneer Irrigation District do hereby call a special meeting of the Board of Directors for the purpose of considering the advisability of bearing a part of the expense of defending the water right of the Franklin Ditch Co.

25th
April 26th 1905.

The time of special meeting is set for 4 P.M.

N. S. Dike
W. T. Callaway
L. E. Grunnet

Aug. 7, 1926

We the directors of the Franklin Ditch Company agree to assume the responsibility for damages that may be incurred by the requested number of inches of water turned from the High Line Ditch into the south slough under the contract of the Franklin Ditch Company with Idaho and Oregon Land Imp Co

Pott. M. White (Pres)

J. T. Bales

Walter Thomas