

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 22-13479

(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: DKJ Farms C/O Dallan Jeppesen

Address: 665 Centennial Loop

Rexburg, ID 83440

Daytime Phone: (208) 356-7433

Name & Address of Attorney, if any:

Jerry R. Rigby

P.O. Box 250

Rexburg, ID 83440

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

Name: George Brown

Address: 1439 Cambridge Drive

Idaho Falls, Idaho 83401

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 Madison)

Danica Pappas, duly sworn, upon oath, deposes and says:
(Name of person filing response)

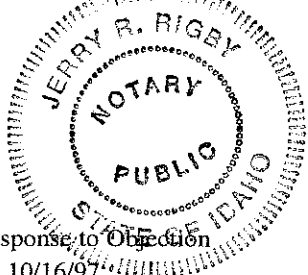
That I am the party/claimant filing this response as defined by I. C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant responding and that I have read this response, know its contents and believe that the statements are true to the best of my knowledge.

Danica Pappas
(Signature of person filing response)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

August 2 - 2007
[Signature]
Notary Public for Idaho
Residing at: Rexburg
My Commission Expires: 11/09/11



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.

F. CERTIFICATE OF MAILING

I certify that on Aug 2, 2007, 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
PO Box 2707
Twin Falls, ID 83303-2707

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

Name: DKJ Farms
Address: 665 Centennial Loop, Rexburg, Idaho 83440

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

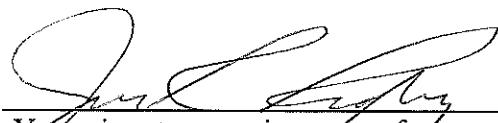
Name: George Brown
Address: 1439 Cambridge Dr., Idaho Falls, ID 83401

4. 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



Your signature or signature of attorney
mailing on your behalf

Remarks

An objection to DKJ Farms' water rights based on the Stream Channel Alteration Act is erroneous because the Stream Channel Alteration Act is inapplicable to existing and vested water rights. The said Act is not allowed to "impair, diminish, control or divest any existing or vested water rights acquired under the laws of the state of Idaho." Further, the said Act shall not be construed to "interfere with the diversion of water from streams under existing or vested water right or water right permit for irrigation, domestic, commercial, or other uses as recognized and provided for by Idaho water laws." Idaho Code § 42-3806.

DKJ Farms has vested water rights in the following rights: 22-00594, 22-00265E, and 22-13479. They acquired these rights under the law of the state of Idaho by diverting the water, putting it to beneficial use, and filing the proper applications or statutory claims. Further, they have properly claimed these rights in the Snake River Basin Adjudication, leading to their present recommendations by the Director of the Idaho Department of Water Resources.

Mr. Brown has asked the court to deny these water rights by virtue of the Stream Channel Alteration Act. To do so would negate the very law he invokes because it would interfere with the diversion of water under a vested water right for the use of irrigation. Also, denying these water rights would impair, diminish, control, and divest existing and vested water rights.

Denying these rights by the authority of the Stream Channel Alteration Act would clearly violate Idaho Code § 42-3806 by interfering with and divesting existing and vested water rights. The said Act cannot be used in such a way because it is inapplicable to such rights.