

COPY

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 Number: 67-00226
(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: State of Idaho,
Department of Lands
Address: 954 W. Jefferson
P. O. Box 83720
Boise, Idaho 83720-0050
Daytime Phone: (208) 334-0200

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 I. STANISH (ISB # 7310)
Deputy Attorney General
Attorney Address: Office of the Attorney General
Joe R. Williams Bldg.
700 W. State St., 2nd Floor
P.O. Box 44449
Boise, ID 83711-4449
Attorney Phone No. (208) 334-2400

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

Name: Pine Creek Property Owners Irr Assn
c/o Pearl J Ketz
Address: PO Box 190
Cambridge, ID 83610

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: State of Idaho, Department of Lands, 954 West Jefferson St., P. O. Box 8372, Boise, ID 83720-0050 should be added as a joint owner of the water right for the point of diversion and for that portion of the place of use owned by the State of Idaho, Department of Lands, hereinafter "IDL."
2. ☐ **Source**
Should be: _____
3. ☐ **Quantity**
Should be: _____
4. ☐ **Priority Date**
Should be: _____
5. ☒ **Point of Diversion**
Should be: IDL owns the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of section 36, T16N, R04W, B.M.. The claimant has no authorization to claim these lands as a point of diversion for this water right. These lands should either be deleted from this water right or be included in a water right under joint ownership with IDL.
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: IDL owns the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of section 36, T16N, R04W, B.M.. The claimant has no authorization to claim these lands as a portion of its place of use for this water right. These lands should either be deleted from

this water right or be included in a water right under joint ownership with IDL.

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 claimant has no authorization to claim these state lands as a point of diversion or place of use of this water right. On March 28, 1901, the State of Idaho acquired section 36, T16N, R04W, B.M.. The priority date claimed for this water right is May 1, 1902. Idaho law has long provided that a water right can not be initiated in trespass. *Bassett v. Swensen*, 51 Idaho 256 (1931).

IDL proposes that the water right be split. The first water right that includes the state lands should have joint ownership under the claimant and IDL. A remark should be included indicating that ownership is subject to a private agreement executed between the claimant and IDL. The second water right that includes only the private lands should have the claimant as the sole owner. Because one of the points of diversion under this second water right would be located on state lands, a remark should be included indicating that the water right is subject to a private agreement executed between the claimant and IDL.

Attached hereto is a map that shows the land owned by IDL and the water right claimed by the claimant.

F.

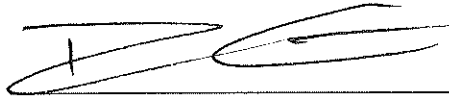
VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

DAVID I. STANISH, Deputy Attorney General, duly sworn, upon oath, deposes and says:

That the State of Idaho, Department of Lands, in its proprietary capacity is filing this objection and that I am a Deputy Attorney General authorized to represent the State of Idaho, Department of Lands, which is a party/claimant in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

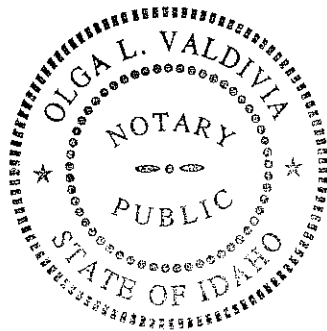
LAWRENCE G. WASDEN
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
DAVID I. STANISH
Deputy Attorney General

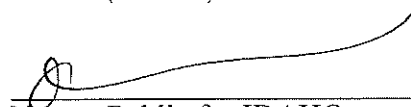


By Attorney signing in representative capacity

Subscribed and sworn to before me on: August 21, 2007

(Insert Date)




Notary Public for IDAHO

Residing at: BOISE, ID

My commission expires: 2/8/2012

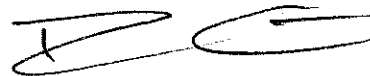
INSTRUCTIONS FOR MAILING

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 August 21, 2007 I caused the original and the copies of this objection, including all attachments, to be served on the following persons by the method designated:

1. Original to:
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
Twin Falls, Idaho 83303
FEDERAL EXPRESS
2. One copy to the owner of the water right at the following address:
Pine Creek Property Owners Irr Assn
c/o Pearl J Ketz
PO Box 190
Cambridge, ID 83610
U.S. MAIL
3. Copies to:
State of Idaho,
Department of Lands
954 W. Jefferson
P. O. Box 83720
Boise, ID 83720-0050
STATEHOUSE MAIL
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098
STATEHOUSE MAIL
United States Department of Justice
Environment & Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724
U.S. MAIL
Chief of Natural Resource Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449
(not applicable)



Signature of Objector or attorney
Mailing on Objector's behalf

