

RECEIVED
OCT 15 2011
DEPARTMENT OF
WATER RESOURCES

In Re SRBA)
)
) A. Subcase Number: 75-11212
 Case No. 39576) (Insert water right number)
)
)
)
)
)
)
)

**STANDARD FORM 1
OBJECTION**

B. NAME AND ADDRESS OF PERSON OBJECTING

Name and Address of Attorney, if any:

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

Name: UNITED STATES OF AMERICA (U.S.D.A - Forest Service)
Address: 324 25th Street
Ogden, Utah 84401

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☒ **Name of Claimant and Address:**
Should be: None
2. ☒ **Date of Priority:**
Should be: None
3. ☒ **Source of water supply:**
Should be: None
- 4a. ☒ **Location of Point of Diversion:**
Should be: None
- 4b. ☒ **Location of Place of Use:**
Should be: None
- 4c. ☒ **Description of existing diversion:**
Should be: None
5. ☒ **Total Quantity Claimed:**
Should be: None
6. ☒ **Total Consumptive Use Claimed for Present and Future Use Is:**
Should be: None
7. ☒ **Present and future uses to which the water is or will be used:**
Should be: None
8. ☒ **Attach the legal description of the reservation, and maps showing the existing and proposed place of use:**
Should be: None
9. ☒ **Remarks:**
Should be: None.

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):

First, the United States does not possess a federal reserved water right for the secondary uses claimed. The U.S. Supreme Court addressed in *United States v. New Mexico*, 438 U.S. 696, 98 S.Ct. 3012, 57 L.Ed.2d 1052 (1978), the scope of the federal reserved water right created when the United States withdraws land from the public domain and reserves it for a National Forest. The Court stated:

Each time this Court has applied the 'implied-reservation-of-water doctrine,' it has carefully examined both the asserted water right and the specific purposes for which the land was reserved, and concluded that without the water the purposes of the reservation would be entirely defeated.

438 U.S. at 700; 98 S.Ct. at 3014; 57 L.Ed.2d at 1057 (Footnote omitted). The Court further stated:

The legislative debates surrounding the Organic Administration Act of 1897 and its predecessor bills demonstrate that Congress intended national forests to be reserved for only two purposes—'[t]o conserve the water flows, and to furnish a continuous supply of timber for the people.' . . . National forests were not to be reserved for aesthetic, environmental, recreational, or wildlife-preservation purposes.

438 U.S. at 707-708; 98 S.Ct. at 3017-3018; 57 L.Ed.2d at 1061-1062 (Footnote and citations omitted). The use of irrigation water as described in the notice of claim is not within the scope of the reserved water rights doctrine as applied to the lands administered by the U.S. Forest Service.

Second, the federal reservation doctrine does not apply to reacquired lands. Here, the point of diversion and place of use are located on reacquired lands. This fact is established by the following documents: (Exhibit 1) Master Title Plat for Township 25 North, Range 21 East, B.M.; (Exhibit 2) Historical Index for Township 25 North, Range 21 East, B.M., which consists of three pages; (Exhibit 3) Warranty deed dated October 15, 1969; (Exhibit 4) Public Land Order No. 5230. Exhibit 1 shows that the United States Forest Service (USFS) Administrative site is located within private land described as Homestead Entry Survey No. 95. Exhibits 2 and 3 show that the USFS reacquired from the North Fork Lumber Company a twelve acre parcel within Homestead Entry

Survey No. 95. Exhibit 4 shows that Public Land Order No. 5230 withdrew the same parcel described in the warranty deed as a USFS administrative site on July 14, 1972.

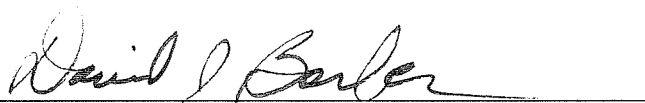
F. VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

DAVID J. BARBER, Deputy Attorney General, duly sworn, upon oath, deposes and says:

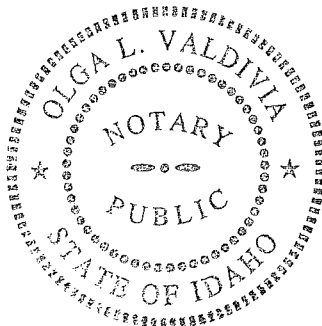
That the State of Idaho in its proprietary capacity is filing this objection and that I am a Deputy Attorney General authorized to represent the State of Idaho which is a party/claimant in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and I have read this objection, know its contents and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

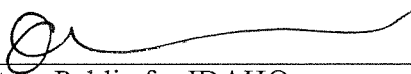
LAWRENCE G. WASDEN
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
DAVID J. BARBER
Deputy Attorney General



By Attorney signing in representative capacity

Subscribed and sworn to before me on: Oct. 12, 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 October 12, 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
P.O. Box 2707
Twin Falls, Idaho 83303-2707

FEDERAL EXPRESS

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

UNITED STATES OF AMERICA
U.S.D.A - Forest Service
324 25th Street
Ogden, Utah 84401

U.S. MAIL

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, Idaho 83720-0098

STATEHOUSE MAIL

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

(not applicable)

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

U.S. MAIL


Signature of Objector or attorney
Mailing on Objector's behalf

Protraction Diagram No 30 approved 09/21/1966

LEHIGH COUNTY 059
IDRHO FALLS DISTRICT

26 N-20 E

25 N - 21 E

26 N-22 E

MT PLAT

[illegible]

All Tp included in Wdl Salmon NF EO 06/26/1908

All Tp included in IDI 07082 Det PL 167 (Act of Cong 07/23/1955) completed 04/23/1964. All NF surface Mgmt by USFS

IDI 32642 QCD from USFS

Sec 15: M&B 0.18 acres

!DI 32808 QCD from USFS All Min

Sec 15: M&B 0.95 acres

IDI 34264 QCD from USFS

Sec 15: M&E 0.862 acres

FOR ORDERS EFFECTING DISPOSAL OR USE OF
UNIDENTIFIED LAND REFER TO INDEX OF
MISCELLANEOUS DOCUMENTS

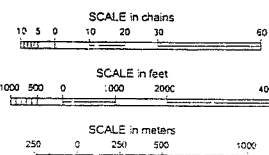
FILE REF: ID080250N0210EaMT0000a.dwg	
CONVERTED TIFF: 06/08/2005	BY: LFM
LAST UPDATED: 05/12/2006	BY: ST
QA/QC #1: EG 05/12/2006	QA/QC #2: DWS05052006
POSTED TO PUBLIC RECORDS: BY:	MAY 18 2006
PUBLIC LAND SURVEY SYSTEM (PLSS)	
BLM GCSB ACQUIRED:	N/A
OTHER:	N/A
PROJECTED COORDINATE SYSTEM:	UTM ZONE 12N, NAD 1983
NOTES:	
USE PLATS:	

Boise Mar.
T. 25 N
R. 21 E

CERTIFIED
to be a true copy of a document on
file in the Idaho State Office

OCT 02 2007
BUREAU OF LAND MANAGEMENT

U.S. Bureau of Land Management - Idaho State Office
1387 S. Vinnell Way Boise, Idaho 83709
(208) 373-4000



DISCLAIMER:

This plat is only a graphic display of the Bureau of Land Management's (BLM) Record of Title and township survey data. Records hereon do not reflect title changes which may have been affected by lateral movements of river or other bodies of water. Refer to cadastral surveys for official information.

The notation shown on withdrawals represent the last action taken, but may not be the effective date. See the historical index for the date of original withdrawal order.

No warranty is made by the Bureau of Land Management. The accuracy, reliability, or completeness of these data for individual use or aggregate use with other data is not guaranteed.

EXHIBIT

Abilities:

UNSURVEYED TOWNSHIP 25 NORTH RANGE 21 EAST OF THE BOISE MERIDIAN, IDAHO

SECTION	SUBDIVISION												ACRES	KIND OF ENTRY OR PURPOSE OF ORDER	SERIAL FILE OR ORDER NUMBER	DATE OF ACTION	DATE POSTED	REMARKS E.G. DATE CLOSED, TERMINATED, REJECTED OR RESCINDED	
	NE			NW			SW			SE									
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE							
	FOR ORDERS EFFECTING DISPOSAL OR USE OF UNIDENTIFIED LANDS WITHDRAWN FOR CLASSIFICATION, MINERALS, WATER, AND/OR OTHER PUBLIC PURPOSES AND INDIAN TREATIES, REFER TO INDEX OF MISCELLANEOUS DOCUMENTS																		
32					X	X								80.000	TC	L 513	04/29/1890		Canc 12/08/1896
16															All				
36															All	SG	Act of Cong	07/03/1890	Title to State to vest on approval of Survey, Subj to prior rights
14												MS 1134	4.879	ME Pat	26978	05/16/1896		MC 427	
4												MS 1120	477.756	ME Pat	27168	06/18/1896		MC 425	
13																			
14																			
15												MS 1133	116.531	ME Pat	27169	06/18/1896		MC 426	
29												MS 1309	20.661	ME Pat	32390	04/18/1900		MC 482; Located by protraction from 25N 27E; Part Acq 09/28/1999	
8																			
16																			
17																			
21												MS 1480	176.099	ME Pat	34309	08/02/1901		MC 501	
21																			
22												MS 1498	57.933	ME Pat	35008	02/04/1902		MC 502	
32												MS 1617	20.661	ME Pat	35959	10/17/1902		MC 517	
	ENTIRE TOWNSHIP											5N 27E		Proc Wdl Lemhi Forest Res		11/05/1906		Chg to Lemhi NF Act 03/04/1907; Trfd EO 841 06/26/1908	
9												M&B		SO Wdl USFS Adm S		01/21/1908		Hughes Creek Rgr Sta; Protraction locates land in Secs 16 & 21	
	ENTIRE TOWNSHIP											17N 20E		EO Trf Lemhi NF Proc 11/05/1906					
														to Salmon NF	841	06/26/1908			
												M&B	51.000	HE	H 06436	06/09/1910		Relq 09/23/1912	
												M&B	22.970	HE	H 010693	01/17/1912		Relq 04/19/1913	
1												HES 54	84.880	HE Pat	288307	08/19/1912		H 06518	
												M&B	51.000	HE	H 012041	09/23/1912		Relq 06/19/1916	
21												HES 61 Trs A,B	74.140	HE Pat	332406	05/10/1913		H 06540	
21																			
28												HES 55	37.560	HE Pat	336068	05/22/1913		H 06615	
10																			
11																			
14																			
15												HES 58	82.790	HE Pat	358554	10/08/1913		H 06541	
14																			
15												HES 69	73.230	HE Pat	398936	04/17/1914		H 08813	
15																			
22												HES 95	157.660	HE Pat	417265	06/24/1914		H 06683, H 09132	
												M&B	29.590	HE	H 017046	03/11/1915		Relq 04/21/1919	
33												HES 93	89.610	HE Pat	522236	03/30/1916		H 05833; Part Recon 11/22/1977	
33												HES 92	14.950	HE Pat	522237	03/30/1916		H 05875; Part Recon 11/22/1977	
28																			
29												HES 89 Trs A,B	79.000	HE Pat	522238	03/30/1916		H 08838	
28																			
33												HES 285	86.800	HE Pat	597273	08/14/1917		H 06492	
												M&B	51.480	HE	H 022571	09/14/1917		Relq 08/12/1918	
16												All							
36												All; 7S 42E	1,280.00	IL Base	16	03/27/1918			
19												HES 277	29.670	HE Pat	645192	08/21/1918		H 010692	
1																			
2																			
11												HES 286	96.050	HE Pat	645193	08/21/1918		H 010870	

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BUREAU OF LAND MANAGEMENT

WARRANTY DEED

THIS INSTRUMENT, made this 12th day of October,

1969, between NORTH FORK LUMBER COMPANY, INC., an Idaho Corporation, GRANTOR
of North Fork, Idaho and the UNITED STATES OF AMERICA, and its assigns, GRANTEE.

WITNESSETH: That the said Grantor, for and in consideration of the
exchange therefor of not exceeding an equal value of National Forest land
as authorized by the act of March 20, 1922 (42 Stat. 465), as amended, do
by these presents grant, bargain, sell, convey and confirm unto the said
Grantee and its assigns forever, all the certain lot, piece or parcel of
land situate, lying and being in Lemhi County, State of Idaho, and
described as follows:

A fraction of HES No. 95 located in unsurveyed Section
15, Township 25 North, Range 21 East, Boise Meridian,
Idaho, more particularly described by a metes and
bounds description as follows:

Beginning at corner No. 11 of HES No. 95, thence
South 48° 14' West 253.8 feet on a line between
the Dale tract and HES No. 95 to a point, thence
South 43° 15' West 495.7 feet on a line between the
Dale tract and HES No. 95 to a point, thence North
54° 49' West 279.0 feet on a line between the Dale
tract and HES No. 95 to the right-of-way line of
the Sawtooth Park FHP 30 C2 E3 F2 highway survey,
thence North along said right-of-way for a distance
of 1,705.1 feet, more or less, thence South 39° 39'
East, 357.0 feet, more or less, to a point on the
boundary line of HES No. 95, thence South 42° 15'
West 880.0 feet, more or less, to corner No. 11 of
HES No. 95, the place of beginning, containing 12
acres, more or less.

Checked up to page, 7
described, and found correct.
purchased, and found correct.

TOGETHER with all and singular the tenements, hereditaments, and
appurtenances thereunto belonging, or in any wise appertaining, and the
reversion and reversions, remainder and remainders, rents, issues and
profits thereof.

TO HAVE AND TO HOLD all and singular the above mentioned and described
premises, together with the appurtenances, unto the said Grantee and to its
successors and assigns forever, and the said Grantor and its successors and
assigns, the said premises in the quiet and peaceable possession of the said
Grantee, its successors and assigns against the Grantor and its assigns and
against all and every person and persons whomsoever lawfully claimed or to
claim the same, and shall and will WARRANT and by these presents forever
DEFEND.

The acquiring agency is the U.S. Department of Agriculture, Forest
Service.

EXHIBIT

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IN WITNESS WHEREOF, the Grantor has executed this conveyance the day and year first above written.

NORTH FORK LUMBER COMPANY, INC.

By

Title

President

ATTEST:

Mary Ellen Lynch
Secretary
Title

ACKNOWLEDGEMENT

STATE OF IDAHO

County of Lemhi

ss.

On this 15th day of October, 1969, before me, the

undersigned, a notary public, in and for said County and State, personally

appeared N. A. Lynch and Mary Ellen Lynch,

known to me to be President and Secretary,

respectively of the NORTH FORK LUMBER COMPANY, INC. and acknowledged the

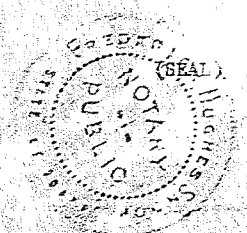
said instrument to be the free and voluntary act and deed of said corporation,

for the uses and purposes therein mentioned, and on oath stated that they

were authorized to execute said instrument, and that the seal affixed is

the corporate seal of said corporation.

WITNESS the hand and notarial seal the day and year last above written.



Notary Public for the State of Idaho

Residing in Salmon

112832

My commission expires: 10-1-71

State of Idaho }
County of Lemhi } ss.

Recorded at the request of

United States Forest Service

October 16th 19 69

at 25 minutes past 2 o'clock

P. M. in File _____ of _____

Deed Records of Lemhi
County, Idaho

Eleanor Aldous

County Recorder

By Opal Reddington
Deputy

Fee: \$2.00 Paid

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OCT 20 2007

BUREAU OF LAND MANAGEMENT

INDEXED

[Public Land Order 5230]

[Idaho 4476]

IDAHO

Withdrawal for National Forest
Administrative Site

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws, 30 U.S.C., Ch. 2, but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

SALMON NATIONAL FOREST

BOISE MERIDIAN

Hughes Creek Administrative Site

T. 25 N., R. 21 E.,

Secs. 15 and 22 (unsurveyed).

A fraction of HES No. 95 more particularly described by metes and bounds as follows:

Beginning at Corner No. 11 of HES No. 95, thence S. 48°14' W., 253.8 feet to a point, thence S. 43°15' W., 495.7 feet to a point, thence N. 54°49' W., 279.0 feet to the right-of-way line of the Sawtooth Park FHP 30 C2 E3 P2 highway survey, thence north along said right-of-way for a distance of 1,705.1 feet, more or less, thence S. 39°39' E., 377.0 feet, more or less to a point on the boundary line of HES No. 95, thence S. 42°15' W., 830.0 feet, more or less, to Corner No. 11 of HES No. 95, the place of beginning.

The area described contains approximately 12 acres in Lemhi County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRISON LOESCH,

Assistant Secretary of the Interior.

JULY 14, 1972.

[FR Doc. 72-11230 Filed 7-20-72; 8:46 am]

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OCT 2 2007

BUREAU OF LAND MANAGEMENT

Published 37 FR # 141, Page 14570
7/31/1972, FR Doc 72-11230

EXHIBIT

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