

RECEIVED
OCT 15 2007
DEPARTMENT OF
WATER RESOURCES

In Re SRBA)
) A. Subcase Number: 75-14449
) (Insert water right number)
Case No. 39576)
)
)
)
)
)

**STANDARD FORM 1
OBJECTION**

B. NAME AND ADDRESS OF PERSON OBJECTING

Name and Address of Attorney, if any:

Attorney Name: LAWRENCE G. WARDEN
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
DAVID J. BARBER (ISB # 2597)
Deputy Attorney General

Attorney Address: Office of the Attorney General
JRW Building, Second Floor
700 West State Street
P.O. Box 44449
Boise, Idaho 83711-4449

Attorney Phone No. (208) 334-2400

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):

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.

F.

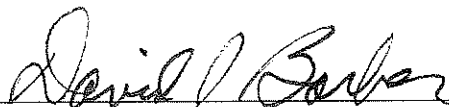
VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

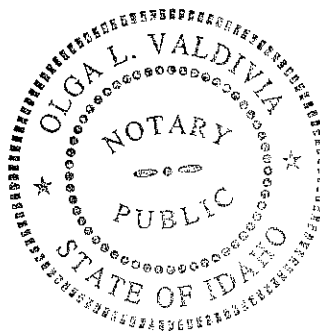
DAVID J. BARBER, Deputy Attorney General, duly sworn, upon oath, deposes and says:

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

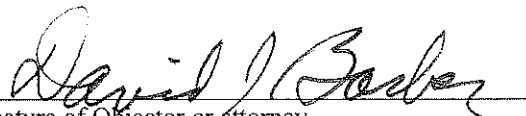
STATEHOUSE MAIL

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