

RECEIVED
JAN 18 2008
DEPARTMENT OF
WATER RESOURCES

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)

A. Subcase 37-04392
(Insert water right number)

Case No. 39576)

**STANDARD FORM 2
RESPONSE TO OBJECTION**

Please print or type the following information:

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: United States of America acting through the Department of Interior,
Bureau of Land Management, Idaho State Office

Address: 1387 South Vinnell Way
Boise, Idaho 83709-1657

Daytime Phone: see below

Name & Address of Attorney, if any:

Larry A. Brown (202) 305-0435 phone, (202) 305-0274 fax
United States Department of Justice
Environment and Natural Resource Division
General Litigation Section
550 West Fort Street, MSC 033
Boise, Idaho 83724

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

Name: Lava Lake Land & Livestock, LLC
Address: P.O. Box 2249; Hailey, Idaho 83333

Name: Charles L. Honsinger (attorney for objector)
Address: P.O. Box 2773; Boise, Idaho 83701

Name: _____
Address: _____ ;

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 See attached.

11. **Recommendation:**

- ☐ This water right should not exist.
- ☐ This water right was not recommended, but should be recommended with the elements described above.

REASONS SUPPORTING RESPONSE:

Claimant's objection seeks to add a place of use on federal public land in trespass that was neither claimed nor recommended (2 ac, NWSW, S33, T03N, R23E). Claim should not include federal public land.

E

VERIFICATION (Must be Completed)

State of Idaho)

) ss.

County of ADA)

Fredric W. Price, Water Rights Specialist, duly sworn, upon oath, deposes and says:
(Name of person filing response)

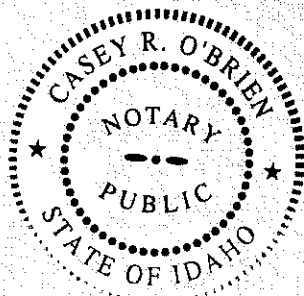
That I am the party/claimant filing this response, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant responding and that I have read this response) know its contents and believe that the statements are true to the best of my knowledge.

Fredric W. Price
(Signature of person filing response)

Larry A. Brown
(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

Jan 06
December 15, 2008



Casey R. O'Brien

Notary Public for State of Idaho

Residing at: Nampa, ID.

My Commission Expires: 10-31-2009

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 Jan 15, 2008, 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
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

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

Lava Lake Land & Livestock, LLC
P.O. Box 2249; Hailey, Idaho 83333

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

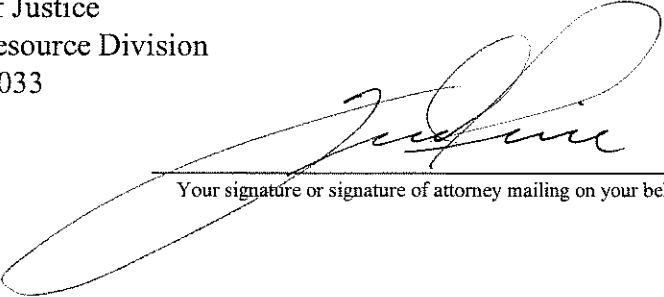
Lava Lake Land & Livestock, LLC
P.O. Box 2249; Hailey, Idaho 83333
Charles L. Honsinger (attorney for objector)
P.O. Box 2773; Boise, Idaho 83701

4. Copies to:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. 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


Your signature or signature of attorney mailing on your behalf

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-4392

NAME AND ADDRESS: LAVA LAKE LAND & LIVESTOCK LLC
PO BOX 2249
HAILEY ID 83333

SOURCE: FISH CREEK

TRIBUTARY: LITTLE WOOD RIVER

QUANTITY: 0.800 CFS

PRIORITY DATE: 12/31/1926

POINT OF

DIVERSION: T03N R23E S33 SWSNW Within BLAINE County

PURPOSE AND

PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	04/15 10/31	0.800 CFS
PLACE OF USE:	<u>IRRIGATION in BLAINE County</u>		
	T03N R23E S32 SENE 2.80	T03N R23E S32 NESE	32.00
	T03N R23E S32 NWSE 2.00	T03N R23E S32 SESE	1.00
	T03N R23E S33 SWNW 2.20		

40 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
JUN 30 1964
Department of Interior Resources
Southern District Office

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that **Biskay Land & Livestock Co., Inc.**

(Name of Claimant)

2400 Cherry Lane, Boise, Idaho

83705

Telephone No. 344-2443

(Mailing Address)

(Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- (1) Date of priority: (When was the water first applied to a beneficial use) 1913

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

- (2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
Middle Fork Fish Creek tributary to Fish Creek

- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

(cfs. af)		(Domestic, Irrigation, Stock, Etc.)		(Both dates inclusive)	
				(Mo., Day)	(Mo., Day)
Quantity	.8	Use	irrigation	Period of Use From May 1	To Oct. 15
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To

- (4) TOTAL QUANTITY USED.

- (5) A) Point of diversion: (Location of point where water is diverted from its source)

Tip of SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 33 Twp. 3N Rge. 23E B.M., County of Blaine

Additional points of diversion: out of main stream by sprinkler pump

NE 1/4 SE 1/4 Sec 32 Twp. 3N Rge. 23E

- B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities; be as specific as possible. Describe any changes in the system and give the date of the change.

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

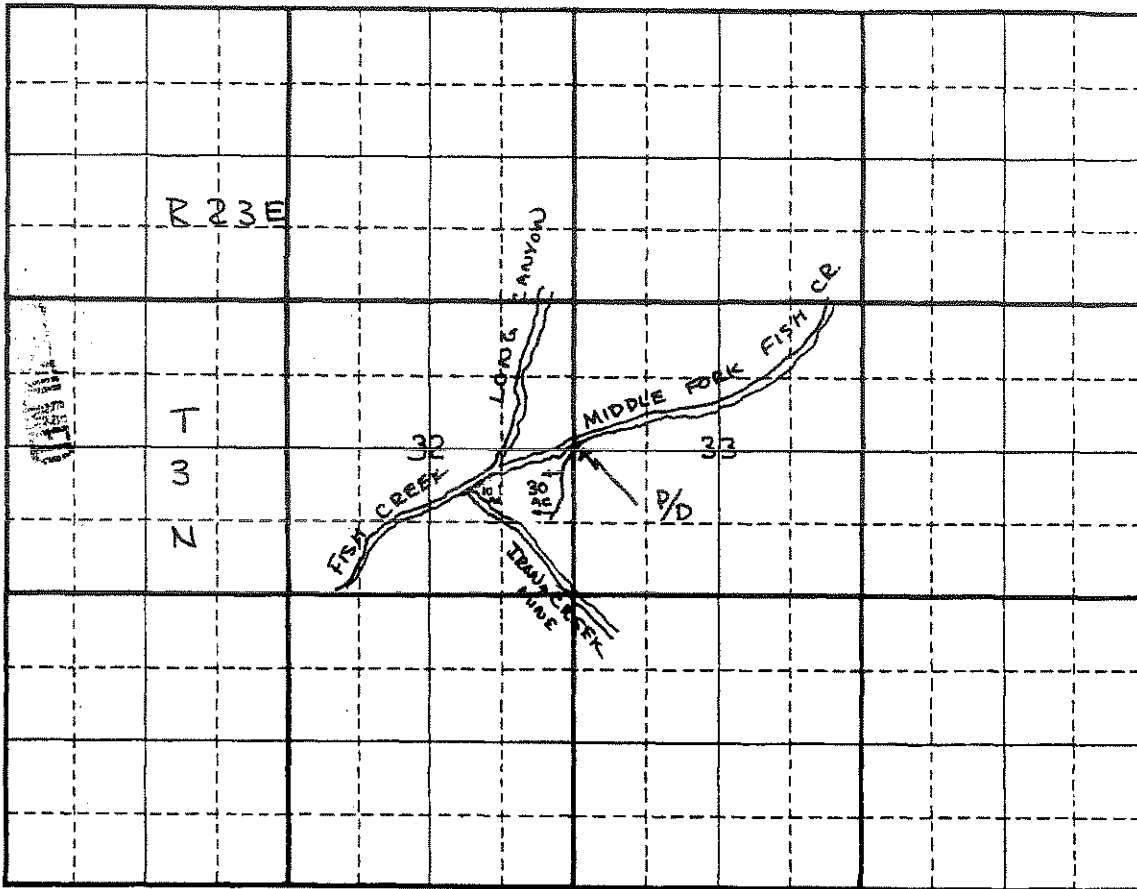
No. of acres 40

- B) If water is used for other than irrigation, fully describe that use, being as specific as possible: stock watering out of stream

NOTE: Include here the type and number of stock watered: 2000 sheep, 200 cattle

- (7) If you are claiming water as a member of an organization, list name of organization:

(8) Remarks _____



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)

County of BLAINE) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 28TH day of JUNE

19 83

K. A. Crenshaw
(Claimant) (president)

Jim Johnson
Notary Public
Residing at BOISE IDAHO

My commission expires LIFE

6-30-83
FOR DEPARTMENT USE ONLY

Received by Jim Date 6-28-83 Exception filed by: _____ Forwarded to _____ Date _____
Prelim. check by Jim Date 6-28-83 \$30.00 fee received by T. Date 6/29/83 claimant by: _____
Published in Wood River Journal
Dates 7/1 + 7/8/83

37-04392
Lava Lake Land & Livestock LLC

POU on BLM:

-Claimants objection seeks to add place of use location T03N R23 S33 NWSW 2.00 acres which is BLM land and is not authorized.

