

APR 19 2010

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

**A. Subcase 27-02069**

# STANDARD FORM 1 OBJECTION

Page 1

**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: \_\_\_\_\_
2. ☐ **Source**  
Should be: \_\_\_\_\_
3. ☒ **Quantity** Must include the total annual volume of diversion, as  
Should be: necessary for the proper administration of the water right.
4. ☐ **Priority Date**  
Should be: \_\_\_\_\_
5. ☐ **Point of Diversion**  
Should be: \_\_\_\_\_
6. ☐ **Instream Flow Beginning and Ending Point**  
Should be: \_\_\_\_\_
7. ☐ **Purpose(s) of Use**  
Should be: \_\_\_\_\_
8. ☐ **Period of Year**  
Should be: \_\_\_\_\_
9. ☒ **Place of Use**  
Should be: Must include reference to attached Water Right Agreement.
10. ☐ **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 OBJECTIONS(S):** \_\_\_\_\_

See Attachments

F.

VERIFICATION

State of Colorado )

)ss.

County of Denver )

United States of America, duly sworn, upon oath, deposes and says:

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

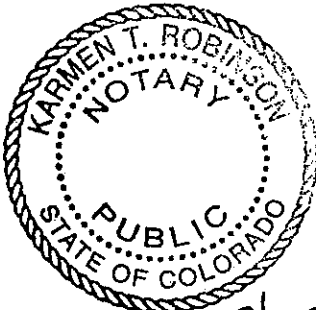
(Signature of person filing objection)

Peter C. Warner  
(Attorney signing in representative capacity)

Subscribed and sworn to before me on :

April 15, 2010

Karmen T. Robinson  
Notary Public for the State of Colorado  
Residing at: Denver, CO  
My Commission Expires: March 25, 2013



My Commission Expires

3/25/13

## ATTACHMENT

### E. REASON SUPPORTING OBJECTION(S):

ELEMENT 3. QUANTITY. In order to administer all surface and groundwater rights on the Blackfoot River, it is necessary for the total annual volume of diversion to be decreed with respect to each and every water right in Basin 27. The Director's report recommends the total annual diversion volume for some, but not all, water rights. This water right is one of those where this necessary element is omitted. Tribal water rights are defined by the total annual diversion volume. *See, e.g.,* Tribal Water Right No. 27-1 1375.ii. The Partial Final Consent Decree Determining the Rights of the Shoshone-Bannock Tribes to the Use of Water in the Upper Snake River Basin, (August 2, 1995), contains a provision whereby, the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation and the United States agree to effectively subordinate the exercise of tribal water right No. 27-11375 to certain private surface water rights in the Blackfoot River. *See* water right No. 27-1 1375.x.d. The subordination provision was based upon an estimate that the total annual diversion volume of these water rights would not exceed 45,000 acre-feet per year (AFY) in total annual diversion volume. Thus, in order to comply with the above-referenced Decree of this Court, to administer all water rights in the basin and to comply with Idaho water law, it is necessary that all water right decrees issued by the Court in this basin must include a total annual diversion volume measured in acre-feet per year (AFY).

The Idaho Department of Water Resources has reported to the Court on a general methodology to estimate annual volumes of water required at field headgates throughout the state of Idaho. *See* "Report Regarding Development of Standards for Annual Volume of Irrigation Requirements at the Field Headgate" (August 1, 1996). Maps of Basin 27 identify that field headgate requirements are 4.0 acre-feet per acre in the lower reaches of the watershed and 3.5 acre-feet per acre in the upper watershed. The Technical Team (state, federal and tribal representatives) utilized in the final negotiations for the Partial Final Consent Decree for the Fort Hall Indian Water Rights Agreement estimated an average conveyance efficiency of 66 percent for the overall basin. Applying this efficiency to the field headgate diversion volumes noted above, results in river diversion volumes of 6.0 acre-feet per acre and 5.3 acre-feet per acre in the lower and upper areas, respectively, of Basin 27. These figures should be applied to derive the total annual volume for this water right.

ELEMENT 9. PLACE OF USE. *See* attached Water Right Agreement.

**Instrument # 184971**

CARIBOU COUNTY

4-2-2010 12:18:46 No. of Pages: 2

Recorded for: BAKER & HARRIS

VEDA MASCARENAS

Ex-Officio Recorder Deputy

Index to: WATER RIGHTS

Fee: 6.00

**WATER RIGHT AGREEMENT**

This Agreement is to be effective upon the date of execution, by and between Dennis M. Lake, the "Claimant", and the United States Department of Justice.

**WITNESSETH:**

1. Lake is the owner of the NE1/4 SW1/4; SE1/4 SW1/4; SW1/4 SE1/4 and SE1/4 SE1/4 of Section 9, Township 6 South, Range 42 East, Caribou County, Idaho; and
2. Lake is the owner of water right 27-2069 which is appurtenant to a portion of the above described property; and
3. Certain issues have been raised in the Snake River Basin Adjudication between the parties pertaining to said water right; and
4. The parties have reached an agreement with respect to said issues.

**IT IS THEREFORE Stipulated as follows:**

1. The parties acknowledge the current source of water right 27-2069 is from a spring which enters the Claimant's property, and sinks back into the ground before ever reaching a waterway as such.
2. The parties agree this water right, from these sources, may never be conveyed, sold, transferred or used other than in the place of use described in this water right.

**CLAIMANT**

Dennis M. Lake  
Dennis M. Lake

State of Idaho )

) ss:

County of Bingham )

On this 14<sup>th</sup> day of October, 2009, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared Dennis M. Lake, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first above written.



L. A. Sykes

Notary Public for Idaho

Residing at Blackfoot

My Commission Expires 5-21-2014

UNITED STATES OF AMERICA

By: Peter C. Monson

Peter C. Monson

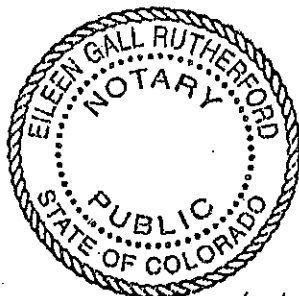
STATE OF COLORADO )

) ss:

County of DENVER )

On this 25<sup>TH</sup> day of SEPTEMBER, 2009, before me, the undersigned, a Notary Public in and for the said State, personally appeared Peter C. Monson, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same as the attorney for United States of America.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first above written.



My Commission Expires 8/27/2012

Eileen Gall Rutherford

Notary Public

Residing at: 1961 STOUT STREET, 8<sup>TH</sup> FLOOR

My Commission Expires 8/27/2012

## 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 April 15, 2010, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court  
Snake River Basin Adjudication  
253 Third Avenue North  
Twin Falls, ID 83301

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

Name: Dennis M. Lake  
Address: 830 Taber Road  
Blackfoot, ID 83221

3. Copies to:

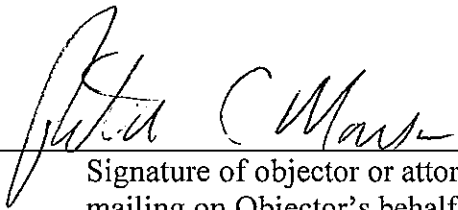
IDWR Document Depository  
P.O. Box 83720  
Boise, ID 83720-0098

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

Dwight E. Baker  
Baker & Harris  
266 W. Bridge St.  
Blackfoot, ID 83221

Jeanette Wolfley  
Special Counsel  
Shoshone-Bannock Tribes  
202 N. Arthur  
Pocatello, ID 83202

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

  
\_\_\_\_\_  
Signature of objector or attorney  
mailing on Objector's behalf