

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

In Re the General Adjudication)
of the Rights to the Use of Water)
from the Snake River Basin)
Water System)
_____)

Case No. 34-02568 -0001

The State of Idaho, ex rel.)
R. Keith Higginson in his)
official capacity as Director)
of the Idaho Department of)
Water Resources,)

RESPONSE TO OBJECTION

Petitioner,)

vs.)

The United States; the State)
of Idaho; and all Claimants to)
the use of water from the Snake)
River Basin Water System,)

Respondents.)
_____)

I. GENERAL INFORMATION

1. Person responding to objection:

Name: R. KEITH HIGGINSON, DIRECTOR

Address: IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449

Briefly describe your interest in this water right:

IDWR is required to file a response to an objection to part
I of the director's report pursuant to I.C. section 42-1412(2).

(Over)

2. Person who filed objection:

Name: CAROLYN SMITH
Address: MT BORAH RANCH
STAR RT
MACKAY ID 83251

3. If this response is filed by an attorney:

Attorney Name(s): A LYNNE KROGH-HAMPE
Attorney Address: DEPUTY ATTORNEY GENERAL(S)
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449
Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

1. ☒ Name and Address: I respond to the objection concerning the name and/or address of the owner of the water right.
2. ☒ Source: I respond to the objection concerning the source of water.
3. ☒ Quantity: I respond to the objection concerning:
 - 3a. ☒ The total quantity of water used in cubic feet per second.
 - 3b. ☒ The total quantity of water stored in acre feet per year.
 - 3c. ☒ The total quantity of water reserved for each and every purpose, including all present and future uses.
4. ☒ Priority Date: I respond to the objection concerning the priority date.
5. ☒ Points of Diversion: I respond to the objection concerning the legal description of the point(s) of diversion.

6. |☒| Instream Flow: I respond to the objection concerning the legal description of the beginning and ending points of the instream flow.
7. |☒| Purposes of Use: I respond to the objection concerning the purpose(s) of use.
8. |☒| Period of Year: I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.
9. |☒| Place of Use: I respond to the objection concerning:
- 9a. |☒| The legal description of the place of use.
- 9b. |☒| The number of irrigated acres within each forty (40) acre subdivision.
10. |☒| Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.
11. |☒| Remarks: I respond to the objection concerning the "remarks" listed with the water right.
12. |☒| Water Right Recommendation: I respond to the objection concerning:
- 12a. |☒| This water right being recommended at all.
14. |☒| Other: I respond to the objection concerning:

CLAIM TO WATER RIGHT BASED ON RESERVATION UNDER
FEDERAL LAW.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection items 1, 2, 3, 3.a, 3.b, 3.c, 4, 5, 6, 7, 8, 9, 9.a, 9.b, 10, 11, 12.a, and 14, and all allegations of the objection regarding these items, IDWR responds as follows.

The water right number stated in the caption of the objection is incorrect. The objection number and objection sub-case number should be changed to 34-02568-0001.

This right is based upon a license issued by IDWR pursuant to Idaho Code section 42-501. The right was claimed and is recommended based solely upon appropriation under state law, not

(Over)

based upon reservation under federal law. IDWR denies the objection and any allegations of the objection not expressly admitted herein.

IDWR offers the following further information regarding claims of the United States to water from this spring for stockwater use.

The United States submitted a number of claims which stated on a single claim form that the claimed water right was both appropriated under state law and reserved under federal law. IDWR is required to include a recommendation for claims to water rights appropriated under state law in Part I of the director's report, and to prepare an abstract of claims to water rights reserved under federal law in Part II of the director's report. The United State's claim no. 34-12514, to water from the same spring as this right, was such a claim.

To meet the requirements of the statute, IDWR prepared a recommendation, no. 34-12514, which IDWR recommended for disallowal on the basis that it was duplicative of this right, and to which recommendation the United States has filed an objection. IDWR also prepared an abstract, no. 34-12514A, to which the objector has filed an objection.

CHANGES TO THE DIRECTOR'S REPORT

The director proposes no changes to the description of this claim in the Director's Report.

☒ Check here if you are submitting documents. Please list each document by the title and number of pages. You may use additional pages if necessary:

	No. of Pages
Notice of Claim No. A34-02568	2

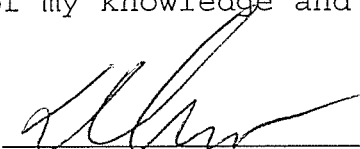
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

David B. Shaw, being first duly sworn, upon oath, deposes and says:

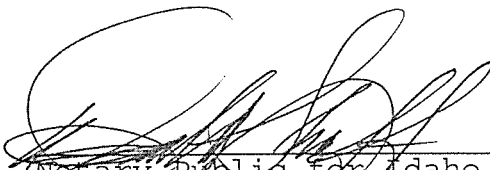
That R. Keith Higginson, in his official capacity as director of the Idaho Department of Water Resources, is a party to this proceeding, as defined by I.C. 42-1401A(1) and (7); that I am the Adjudication Bureau Chief for IDWR and am authorized by R. Keith Higginson, in his official capacity as director of IDWR, to verify this response; and that I have read the foregoing response, know its contents and that the statements contained therein are true to the best of my knowledge and belief.



Signature of person filing response

By: A. Lynne Kohn-Hampe
(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 18 day of July,
1993.



Notary Public for Idaho
Residing at: BOISE ID
My Commission expires: JUNE 10, 1994

(Over)

CERTIFICATE OF MAILING

I hereby certify that on the 19th day of July, 1993, I mailed the original and copies of the foregoing response, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepared and addressed as follows:

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

2. One copy to the owner of the water right, and you must fill in the following information:

Name: US DEPT OF JUSTICE
Address: K JACK HAUGRUD & DARIA J ZANE
550 W FORT ST
BOX 33
BOISE ID 83734

3. One copy to the party who filed the objection, or if represented by an attorney, to their attorney; and you must fill in the following information:

Name: CAROLYN SMITH
Address: MT BORAH RANCH
STAR RT
MACKAY ID 83251

A. Lorne Kozh-Hampe
Signature of Respondent or attorney
mailing on Respondent's behalf

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

CIVIL CASE NUMBER: 39576

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER
FROM THE SNAKE RIVER BASIN WATER SYSTEM

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

U.S. DEPT. OF INTERIOR
BUREAU OF LAND MGMT.
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706
TELEPHONE: 208-334-1401

PRIORITY DATE: 1950-04-28
IDWR WATER RIGHT NO. 3402568
BLM NUMBER: 3404588054
BASIS OF CLAIM: BENEFICIAL USE
BASIN NO.: 34

SOURCE				TRIBUTARY TO			
-----				-----			
SPRING				SUMMIT CREEK			
DESCRIPTION OF DIVERSION WORKS							

SPRING							
PURPOSE OF USE		DIVERSION RATE		DIVERSION VOLUME		PERIOD OF USE	
-----		-----		-----		FROM TO	
STOCKWATER		0.010		0.00		0101 1231	
TOTAL:		0.010 CFS		0.00 AF			
NON-IRRIGATION USES							

LIVESTOCK							
POINT OF DIVERSION							
TWP	RNG	SEC	TRACT1	TRACT2	TRACT3	LOT	COUNTY
---	---	---	-----	-----	-----	---	-----
11N	21E	35		SE	NE	00	CUSTER
PLACE OF USE							
TWP	RNG	SEC	TRACT1	TRACT2	LOT	COUNTY	OWNED
---	---	---	-----	-----	---	-----	-----
11N	21E	35	SE	NE	00	CUSTER	
							IRRIGATED ACRES

							0.0
TOTAL ACRES IRRIGATED:							0.0
TOTAL CONSUMPTIVE USE IS: DE MINIMUS ACRE FEET PER ANNUM							

BLM NUMBER: 3404588054

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OTHER WATER RIGHTS

NONE

REMARKS

PREVIOUSLY FILED WITH THE IDAHO DEPARTMENT OF WATER RESOURCES

