

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. 34-04142 -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: US BUREAU OF LAND MGMT
Address: IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706-2544

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

4. |X| Priority Date: I respond to the objection concerning the priority date.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection item 4, and all allegations of the objection regarding this item, IDWR responds as follows.

The priority date recommended is the same as the priority date claimed. The United States improperly seeks to use the objection process to amend its notice of claim. IDWR believes that a claimant must obtain leave of court to amend a notice of claim after the director's report is filed, just as a party must obtain leave of court to file a late claim after the director's report is filed.

If leave to amend is granted, IDWR further responds as follows. The priority date recommended is the same as the priority date shown on the statutory claim filed with IDWR by the United States pursuant to Idaho Code section 42-242 et seq. In addition, rights to the use of surface water from the Big Lost River and tributaries were adjudicated in Utah Construction Co. v. Abbott, Equity No. 222 (D.E.Id. 1923); the source of water for this right was adjudicated in that case; and the United States was a party to that case. The United States is therefore

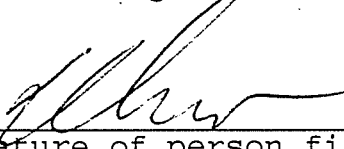
VERIFICATION (Must be Completed)

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. Lyane Kroph-Namyze
(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 9 day of July,
1993.



Notary Public for Idaho
Residing at: 13615E ID
My Commission expires: June 10, 1994

precluded by the doctrine of res judicata from asserting a beneficial use priority prior to the determination of rights in that case. IDWR denies the objection and any allegations of the objection not expressly admitted herein.

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. A34-04142	3

(Over)

CERTIFICATE OF MAILING

I hereby certify that on the 9th 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:

See No. 3

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

A. Lynne Kogel-Hansen
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: 1934-06-28
IDWR WATER RIGHT NO. 3404142
BLM NUMBER: 3403488107
BASIS OF CLAIM: BENEFICIAL USE
BASIN NO.: 34

SOURCE	TRIBUTARY TO
-----	-----
WADDUPS CANYON	SINKS

DESCRIPTION OF DIVERSION WORKS

INSTREAM STOCKWATERING

PURPOSE OF USE	DIVERSION RATE	DIVERSION VOLUME	PERIOD OF USE FROM	TO
-----	-----	-----	-----	-----
STOCKWATER	0.200	0.00	0510	0710
WILDLIFE	0.010	0.00	0101	1231
TOTAL:	0.210 CFS	0.00 AF		

NON-IRRIGATION USES

900 RANGE CATTLE, 50 ANTELOPE, 30 DEER, 15 ELK, GROUSE

POINT OF DIVERSION							
TWP	RNG	SEC	TRACT1	TRACT2	TRACT3	LOT	COUNTY
---	---	---	-----	-----	-----	---	-----
05N	24E	14		NE	NW	00	CUSTER
05N	24E	14		NE	SE	00	CUSTER
05N	24E	14		NE	SW	00	CUSTER
05N	24E	14		NW	NW	00	CUSTER
05N	24E	14		SW	NW	00	CUSTER
05N	24E	14		NW	SE	00	CUSTER
05N	24E	14		SW	SE	00	CUSTER
05N	24E	14		SE	NE	00	CUSTER
05N	24E	14		SE	SW	00	CUSTER
05N	24E	14		SW	NE	00	CUSTER
05N	24E	14		NW	SW	00	CUSTER

05N	24E	14	SE	SE	00	CUSTER
05N	24E	15	NE	NE	00	CUSTER
05N	24E	23	NE	NE	00	CUSTER
05N	24E	23	NE	SE	00	CUSTER
05N	24E	23	NW	NE	00	CUSTER
05N	24E	23	NW	SE	00	CUSTER
05N	24E	23	SE	NE	00	CUSTER
05N	24E	25	NE	NW	00	CUSTER
05N	24E	25	NE	SE	00	CUSTER
05N	24E	23	SW	NE	00	CUSTER
05N	24E	25	NW	NE	00	CUSTER
05N	24E	24	NE	NW	00	CUSTER
05N	24E	25	NW	SE	00	CUSTER
05N	24E	24	NW	SE	00	CUSTER
05N	24E	25	SE	SE	00	CUSTER
05N	24E	24	SE	NW	00	CUSTER
05N	24E	25	SW	NE	00	CUSTER
05N	24E	24	SW	NE	00	CUSTER
05N	25E	30	SW	SW	00	CUSTER
05N	24E	24	SW	SE	00	CUSTER
05N	25E	31	NW	NW	00	CUSTER
05N	24E	23	SE	SE	00	CUSTER
05N	24E	24	NE	SW	00	CUSTER
05N	24E	24	NW	SW	00	CUSTER
05N	24E	24	SE	SW	00	CUSTER
05N	24E	24	SW	NW	00	CUSTER
05N	24E	24	SW	SW	00	CUSTER
05N	24E	23	SW	SE	00	CUSTER

PLACE OF USE

TWP	RNG	SEC	TRACT1	TRACT2	LOT	COUNTY	OWNED	IRRIGATED ACRES
---	---	---	-----	-----	---	-----	-----	-----
05N	24E	14	NE	SW	00	CUSTER		0.0
05N	24E	14	NW	NW	00	CUSTER		0.0
05N	24E	14	NW	SE	00	CUSTER		0.0
05N	24E	14	NE	SE	00	CUSTER		0.0
05N	24E	14	SE	NE	00	CUSTER		0.0
05N	24E	14	SE	SE	00	CUSTER		0.0
05N	24E	14	SE	SW	00	CUSTER		0.0
05N	24E	14	SW	NE	00	CUSTER		0.0
05N	24E	14	NE	NW	00	CUSTER		0.0
05N	24E	14	SW	NW	00	CUSTER		0.0
05N	24E	24	SE	NW	00	CUSTER		0.0
05N	24E	15	NE	NE	00	CUSTER		0.0
05N	24E	24	SE	SW	00	CUSTER		0.0
05N	24E	23	NE	SE	00	CUSTER		0.0
05N	24E	24	SW	NE	00	CUSTER		0.0
05N	24E	23	NW	SE	00	CUSTER		0.0
05N	24E	24	SW	NW	00	CUSTER		0.0
05N	24E	23	SE	SE	00	CUSTER		0.0
05N	24E	24	SW	SE	00	CUSTER		0.0
05N	24E	23	SW	SE	00	CUSTER		0.0

BLM NUMBER: 3403488107

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05N	24E	24	SW	SW	00	CUSTER	0.0
05N	24E	24	NE	SW	00	CUSTER	0.0
05N	24E	25	NE	NW	00	CUSTER	0.0
05N	24E	24	NW	SW	00	CUSTER	0.0
05N	24E	25	NE	SE	00	CUSTER	0.0
05N	24E	23	NW	NE	00	CUSTER	0.0
05N	24E	25	NW	NE	00	CUSTER	0.0
05N	24E	23	SW	NE	00	CUSTER	0.0
05N	24E	24	NW	SE	00	CUSTER	0.0
05N	24E	23	NE	NE	00	CUSTER	0.0
05N	24E	23	SE	NE	00	CUSTER	0.0
05N	24E	24	NE	NW	00	CUSTER	0.0
05N	24E	25	NW	SE	00	CUSTER	0.0
05N	24E	25	SE	SE	00	CUSTER	0.0
05N	24E	25	SW	NE	00	CUSTER	0.0
05N	25E	30	SW	SW	00	CUSTER	0.0
05N	25E	31	NW	NW	00	CUSTER	0.0
05N	24E	14	SW	SE	00	CUSTER	0.0
05N	24E	14	NW	SW	00	CUSTER	0.0

TOTAL ACRES IRRIGATED: 0.0

TOTAL CONSUMPTIVE USE IS: DE MINIMUS ACRE FEET PER ANNUM

OTHER WATER RIGHTS

NONE

REMARKS

PREVIOUSLY FILED WITH THE IDAHO DEPARTMENT OF WATER RESOURCES

