

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  | ) | Case No. 34-04145 -0001 |
| from the Snake River Basin         | ) |                         |
| Water System                       | ) |                         |
| <hr/>                              |   |                         |
| The State of Idaho, <u>ex rel.</u> | ) |                         |
| R. Keith Higginson in his          | ) |                         |
| official capacity as Director      | ) |                         |
| of the Idaho Department of         | ) | RESPONSE TO OBJECTION   |
| Water Resources,                   | ) |                         |
|                                    | ) |                         |
| 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.                       | ) |                         |
| <hr/>                              |   |                         |

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. ☒ 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

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. A34-04145

2

(Over)

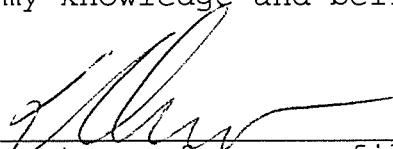
VERIFICATION (Must be Completed)

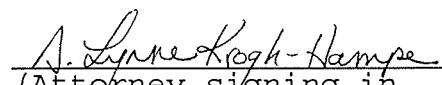
State of IDAHO

County of ADA

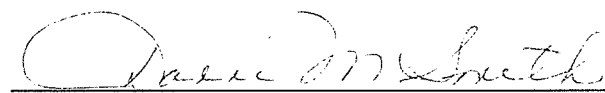
David B. Shaw, being first duly sworn, upon oath, deposes and says:

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:   
\_\_\_\_\_  
(Attorney signing in  
representative capacity)

Subscribed and sworn to before me this 9<sup>th</sup> day of July,  
1993.

  
\_\_\_\_\_  
Notary Public for Idaho  
Residing at: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

**Danni Smith, Notary Public**  
Residing at Boise, Idaho  
My Commission Expires December 5, 1994

CERTIFICATE OF MAILING

I hereby certify that on the 9<sup>th</sup> 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-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: 1934-06-28  
IDWR WATER RIGHT NO. 3404145  
BLM NUMBER: 3403488110  
BASIS OF CLAIM: BENEFICIAL USE  
BASIN NO.: 34

| SOURCE             | TRIBUTARY TO |
|--------------------|--------------|
| -----              | -----        |
| SHEEP CANYON CREEK | SINKS        |

DESCRIPTION OF DIVERSION WORKS  
-----  
INSTREAM STOCK WATERING.

| PURPOSE OF USE | DIVERSION<br>RATE | DIVERSION<br>VOLUME | PERIOD OF USE<br>FROM | TO    |
|----------------|-------------------|---------------------|-----------------------|-------|
| -----          | -----             | -----               | -----                 | ----- |
| STOCKWATER     | 0.050             | 0.00                | 0501                  | 1030  |
| WILDLIFE       | 0.010             | 0.00                | 0101                  | 1231  |
| TOTAL:         | 0.050 CFS         | 0.00 AF             |                       |       |

NON-IRRIGATION USES  
-----  
145 RANGE CATTLE, 20 ANTELOPE, 30 DEER, 5 ELK, GROUSE

| POINT OF DIVERSION |     |     |        |        |        |     |        |
|--------------------|-----|-----|--------|--------|--------|-----|--------|
| TWP                | RNG | SEC | TRACT1 | TRACT2 | TRACT3 | LOT | COUNTY |
| ---                | --- | --- | -----  | -----  | -----  | --- | -----  |
| 06N                | 25E | 31  |        | NW     | NE     | 00  | CUSTER |
| 06N                | 25E | 31  |        | NW     | NW     | 01  | CUSTER |
| 06N                | 25E | 28  |        | SW     | NW     | 00  | CUSTER |
| 06N                | 25E | 31  |        | NW     | SW     | 03  | CUSTER |
| 06N                | 25E | 29  |        | NE     | SW     | 00  | CUSTER |
| 06N                | 25E | 31  |        | SE     | NW     | 00  | CUSTER |
| 06N                | 25E | 29  |        | NW     | SW     | 00  | CUSTER |
| 06N                | 25E | 31  |        | SW     | NW     | 02  | CUSTER |
| 06N                | 25E | 29  |        | SW     | NE     | 00  | CUSTER |
| 06N                | 25E | 29  |        | SE     | NW     | 00  | CUSTER |
| 06N                | 25E | 29  |        | SW     | SW     | 00  | CUSTER |



|     |     |    |    |    |    |        |
|-----|-----|----|----|----|----|--------|
| 06N | 25E | 31 | NE | NE | 00 | CUSTER |
| 06N | 25E | 30 | SE | SE | 00 | CUSTER |
| 06N | 25E | 28 | SW | NE | 00 | CUSTER |
| 06N | 25E | 29 | NW | NE | 00 | CUSTER |
| 06N | 25E | 28 | SE | NW | 00 | CUSTER |
| 06N | 25E | 31 | NE | NW | 00 | CUSTER |
| 06N | 25E | 29 | NE | NE | 00 | CUSTER |

## PLACE OF USE

| TWP | RNG | SEC | TRACT1 | TRACT2 | LOT | COUNTY | OWNED | IRRIGATED<br>ACRES |
|-----|-----|-----|--------|--------|-----|--------|-------|--------------------|
| 06N | 25E | 28  | SW     | NW     | 00  | CUSTER |       | 0.0                |
| 06N | 25E | 29  | NE     | NE     | 00  | CUSTER |       | 0.0                |
| 06N | 25E | 29  | NE     | SW     | 00  | CUSTER |       | 0.0                |
| 06N | 25E | 29  | NW     | NE     | 00  | CUSTER |       | 0.0                |
| 06N | 25E | 29  | SW     | SW     | 00  | CUSTER |       | 0.0                |
| 06N | 25E | 31  | NE     | NW     | 00  | CUSTER |       | 0.0                |
| 06N | 25E | 28  | SW     | NE     | 00  | CUSTER |       | 0.0                |
| 06N | 25E | 30  | SE     | SE     | 00  | CUSTER |       | 0.0                |
| 06N | 25E | 31  | NE     | NE     | 00  | CUSTER |       | 0.0                |
| 06N | 25E | 29  | SW     | NE     | 00  | CUSTER |       | 0.0                |
| 06N | 25E | 31  | NW     | NE     | 00  | CUSTER |       | 0.0                |
| 06N | 25E | 31  | NW     | NW     | 01  | CUSTER |       | 0.0                |
| 06N | 25E | 31  | NW     | SW     | 03  | CUSTER |       | 0.0                |
| 06N | 25E | 28  | SE     | NW     | 00  | CUSTER |       | 0.0                |
| 06N | 25E | 31  | SW     | NW     | 02  | CUSTER |       | 0.0                |
| 06N | 25E | 29  | NW     | SW     | 00  | CUSTER |       | 0.0                |
| 06N | 25E | 29  | SE     | NW     | 00  | CUSTER |       | 0.0                |
| 06N | 25E | 31  | SE     | NW     | 00  | CUSTER |       | 0.0                |

TOTAL ACRES IRRIGATED: 0.0

TOTAL CONSUMPTIVE USE IS: DE MINIMUS ACRE FEET PER ANNUM

## OTHER WATER RIGHTS

-----  
NONE

## REMARKS

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PREVIOUSLY FILED WITH THE IDAHO DEPARTMENT OF WATER RESOURCES

