

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. 34-04149 -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. ☒ 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. A34-04149

2

(Over)

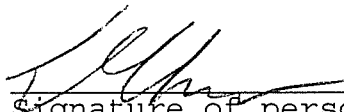
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

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

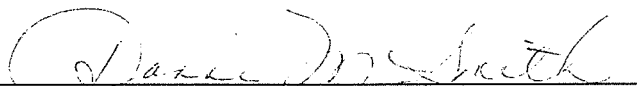
That R. Keith Higginson, in his official capacity as director of the Idaho Department of Water Resources, is a party to this proceeding, as defined by I.C. 42-1401A(1) and (7); that I am the Adjudication Bureau Chief for IDWR and am authorized by R. Keith Higginson, in his official capacity as director 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: A. Lynne Krogh-Hampe
(Attorney signing in
representative capacity)

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



Notary Public for Idaho

Residing at: _____

My Commission expires: _____

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

N. Lynne Krogh-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. 3404149
BLM NUMBER: 3403488114
BASIS OF CLAIM: BENEFICIAL USE
BASIN NO.: 34

SOURCE	TRIBUTARY TO
-----	-----
UNNAMED STREAM	SINKS

DESCRIPTION OF DIVERSION WORKS

INSTREAM STOCKWATERING

PURPOSE OF USE	DIVERSION RATE	DIVERSION VOLUME	PERIOD OF USE FROM	TO
-----	-----	-----	----	-----
STOCKWATER	0.050	0.00	0501	0731
WILDLIFE	0.010	0.00	0101	1231
TOTAL:	0.060 CFS	0.00 AF		

NON-IRRIGATION USES

150 RANGE CATTLE, 30 ANTELOPE, 20 DEER, 5 ELK, GROUSE

POINT OF DIVERSION							
TWP	RNG	SEC	TRACT1	TRACT2	TRACT3	LOT	COUNTY
---	---	---	-----	-----	-----	---	-----
04N	25E	02		SE	NE	00	BUTTE
04N	25E	01		NE	SW	00	BUTTE
04N	25E	01		SW	NW	00	BUTTE
04N	25E	01		SW	SE	00	BUTTE
04N	25E	02		NW	SE	00	BUTTE
04N	25E	01		SE	SW	00	BUTTE
04N	25E	02		SW	NE	00	BUTTE
04N	25E	12		NE	NE	01	BUTTE
04N	25E	12		NW	NE	00	BUTTE
04N	26E	06		SE	SW	00	BUTTE
04N	26E	06		SW	SW	07	BUTTE

04N 25E 01

NW SW 00 BUTTE

PLACE OF USE

TWP	RNG	SEC	TRACT1	TRACT2	LOT	COUNTY	OWNED	IRRIGATED ACRES
04N	25E	01	SE	SW	00	BUTTE		0.0
04N	25E	01	SW	SE	00	BUTTE		0.0
04N	25E	02	NW	SE	00	BUTTE		0.0
04N	25E	02	SE	NE	00	BUTTE		0.0
04N	25E	02	SW	NE	00	BUTTE		0.0
04N	25E	12	NE	NE	01	BUTTE		0.0
04N	25E	12	NW	NE	00	BUTTE		0.0
04N	26E	06	SE	SW	00	BUTTE		0.0
04N	26E	06	SW	SW	07	BUTTE		0.0
04N	25E	01	NE	SW	00	BUTTE		0.0
04N	25E	01	NW	SW	00	BUTTE		0.0
04N	25E	01	SW	NW	00	BUTTE		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

