

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. 34-04154 -0002

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: YOUNG HARVEY WALKER
Address: RT 1 BOX 200
ARCO ID 83213

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.
9. |☒| Place of Use: I respond to the objection concerning:
12. |☒| Water Right Recommendation: I respond to the objection concerning:
- 12a. |☒| This water right being recommended at all.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection items 4, 9, 12 and 12.a, and all allegations of the objection regarding these items, IDWR responds as follows.

The director's report recommends certain rights to the objector as shown in the director's report.

IDWR conducts a limited investigation of small domestic and stockwater claims (as defined by Idaho Code section 42-111). IDWR generally does not field examine small D&S claims; IDWR's recommendations of small stockwater claims to the U.S. Bureau of Land Management established by beneficial use in Basin 34 were based on maps and other documentation provided by BLM.

IDWR generally does not require proof of priority date for

small D&S claims based on beneficial use. The recommended priority date is the priority date claimed and the priority date stated on the statutory claim previously filed with IDWR by the United States pursuant to Idaho Code section 42-242 et seq.

There is an error in the description of the point of diversion and place of use of this right. The recommendation should be corrected should be corrected as shown in the attachment entitled "Recommended Water Rights Acquired Under State Law." This right is an instream stockwater right; these changes will clarify that the stream segment includes two forks at the headwaters of the stream that were claimed by the United States, and will delete a segment that is a physical diversion rather than a natural stream.

The burden rests with the United States to prove the right, and on the objector to prove the objection, in accordance with these parties' respective burdens of proof.

CHANGES TO THE DIRECTOR'S REPORT

See attached List of Recommended Water Rights Acquired under State Law.

☒ 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

The notice of claim is attached to IDWR's response
to Objection No. 34-04154-0001
Recommended Water Rights Acquired Under State Law, No.
34-04154

1

(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: D. Lynne Kough-Hansen
(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 19th 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 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: YOUNG HARVEY WALKER
Address: RT 1 BOX 200
ARCO ID 83213

A. Lyane Krogh-Hawye
Signature of Respondent or attorney
mailing on Respondent's behalf

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
	SOURCE: BRIER CANYON CREEK			TRIBUTARY: SINKS		
34-04154	US DEPT OF INTERIOR BUREAU OF LAND MANAGEMENT IDAHO STATE OFFICE 3380 AMERICANA TERRACE BOISE ID 83706	06/28/1934	STOCKWATER	01-01 12-31	.05	CFS BENEFICIAL USE
	NON-IRRIGATION-USES:				.05	CFS
	STOCKWATER, 115 RANGE CATTLE; WILDLIFE, VARIABLE AMOUNT					
	POINT OF DIVERSION:					
	T05N R27E S26	NWNENW (B)				
	S27	NWNENE (E)				
		SWNENE (E)				
		NWSW (E)				
	PLACE OF USE: STOCKWATER					
	T05N R27E S26	NENW	NWNW			
	S27	NENE	NWNE	SWNE		NESW
		SESW	NWSE			
	S34	NENW	SENW	NWSW		
	REMARKS:					
	THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING					
	ALLOTMENT SHALL BE LIMITED TO THE QUANTITY OF WATER BENEFICIALLY					
	USED BY THE NUMBER OF STOCK WITHIN THE ALLOTMENT.					
	BLM RECORD ID = 3403488119					

