

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     | ) | Case Nos. 34-04190 | -0001                 |
| of the Rights to the Use of Water) | ) | 34-04190           | -0002, 34-04190 -0003 |
| from the Snake River Basin         | ) | 34-04190           | -0004, 34-04190 -0005 |
| Water System                       | ) | 34-04190           | -0007, 34-04190 -0008 |
|                                    | ) | 34-04190           | -0009, 34-04190 -0010 |
|                                    | ) | 34-04190           | -0011, 34-04190 -0012 |
| The State of Idaho, <u>ex rel.</u> | ) | 34-04190           | -0013, 34-04190 -0014 |
| R. Keith Higginson in his          | ) | 34-04190           | -0015, 34-04190 -0016 |
| official capacity as Director      | ) | 34-04190           | -0017, 34-04190 -0018 |
| of the Idaho Department of         | ) | 34-04190           | -0019, 34-04190 -0020 |
| Water Resources,                   | ) | 34-04190           | -0021, 34-04190 -0022 |
|                                    | ) | 34-04190           | -0023, 34-04190 -0024 |
| Petitioner,                        | ) | 34-04190           | -0025, 34-04190 -0026 |
|                                    | ) | 34-04190           | -0027, 34-04190 -0028 |
| vs.                                | ) | 34-04190           | -0029, 34-04190 -0031 |
|                                    | ) | 34-04190           | -0032, 34-04190 -0033 |
| The United States; the State       | ) | 34-04190           | -0034, 34-04190 -0035 |
| of Idaho; and all Claimants to     | ) | 34-04190           | -0036, 34-04190 -0037 |
| the use of water from the Snake    | ) | 34-04190           | -0038, 34-04190 -0039 |
| River Basin Water System,          | ) | 34-04190           | -0040, 34-04190 -0041 |
|                                    | ) | 34-04190           | -0042, 34-04190 -0043 |
| Respondents.                       | ) | 34-04190           | -0044, 34-04190 -0045 |
|                                    | ) | 34-04190           | -0046, 34-04190 -0047 |

RESPONSE TO OBJECTIONS

I. GENERAL INFORMATION

1. Person responding to objections:

Name: R. KEITH HIGGINSON, DIRECTOR

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

(Over)

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. § 42-1412(2).

2. Persons who filed objections:

See Attachment A

3. If this response is filed by an attorney:

Attorney Name: 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 address.
2. ☒ Source: I respond to the objection concerning the source.
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. ☒ Purpose(s) 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.
13. ☒ Description of Reservation: I respond to the objection concerning the legal description of the reservation.
14. ☒ Other: I respond to the objection concerning:

ASSERTION THAT SOURCE OF WATER IS RISING GROUNDWATER;  
OBJECTION TO BLM CLAIMING WATER RIGHTS BASED ON RESERVA-  
TION UNDER FEDERAL LAW.

**REASONS SUPPORTING EACH BOX CHECKED**

In response to Statement of the Objections items 1, 2, 3, 3.a, 3.b, 3.c, 4, 5, 6, 7, 8, 9, 9.a, 9.b, 10, 11, 12, 12.a, 13, and 14, and all allegations of the objections regarding these items, IDWR responds as follows.

Each of the objectors has recommended rights to water from the Big Lost River, as shown in the director's report, except for objectors Doug or Vickie Hendricks. No claims were filed and no rights were recommended in the name of either of these two persons.

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 is informed and believes that the place of use is lands within the boundaries of the Idaho National Engineering Laboratory, and under the jurisdiction of the U.S. Department of Energy. The priority date recommended is subsequent to the date of the decree in Utah Construction Co. v. Abbott, Equity

(Over)

No. 222 (D.E.Id. 1923). The right was claimed and is recommended as a beneficial use appropriation under state law, not as a right reserved under federal law.

The burden rests with the United States to prove the right, and on the objectors to prove their objections, in accordance with the parties' respective burdens of proof.

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

The notice of claim is attached to IDWR's response to  
Objection No. 34-04190 -0006  
Attachment A

3

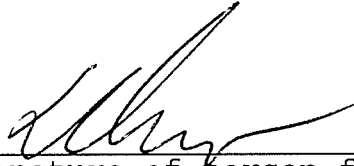
VERIFICATION (Must be Completed)

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 I 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. Lyane Krogh-Sampson  
(Attorney signing in  
representative capacity)

Subscribed and sworn to before me this 15<sup>th</sup> day of July,  
1993.

Sally Wagner  
Notary Public for Idaho  
Residing at: Boise ID  
My Commission expires: 11-14-1998

(Over)

CERTIFICATE OF MAILING

I hereby certify that on the 16<sup>th</sup> day of April, 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 prepaid 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: ENVT & NAT RESOURCES DIV  
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:

See Attachment A

A. Lynne Kersh-Hausse  
Signature of Respondent or attorney  
mailing on Respondent's behalf

34-04190 -0001  
Name: REUBEN H & MARJORIE  
BABCOCK  
Address: RT 1 BOX 14  
MOORE ID 83255

34-04190 -0002  
Name: R WANDA SMITH  
Address: 138 N WATER  
BOX 827  
ARCO ID 83213

34-04190 -0003  
Name: ROBERT D WADDOUPS  
Address: BOX 42  
MOORE ID 83255

34-04190 -0004  
Name: DALE SMITH  
Address: RT 1 BOX 22  
MOORE ID 832559704

34-04190 -0005  
Name: LAWRENCE BABCOCK TRUSTEE  
Address: RT 1 BOX 66  
MOORE ID 83255

34-04190 -0007  
Name: DONALD S HYMAS  
Address: BOX 26  
MOORE ID 83255

34-04190 -0008  
Name: J DOYLE JENSEN  
Address: RT 1 BOX 43  
MOORE ID 83255

34-04190 -0009  
Name: FRED & MARY ANN BURT  
Address: BOX 628  
MOORE ID 83255

34-04190 -0010  
Name: LLOYD A BINGHAM  
Address: RT 1 BOX 21  
MOORE ID 83255

34-04190 -0011  
Name: KARALEE W & DEAN ANDERSEN  
Address: RT 1 BOX 40  
MOORE ID 83255

34-04190 -0012  
Name: GAVEN C & C G KNIGHTON  
Address: RT 1 BOX 115B  
MOORE ID 83255

34-04190 -0013  
Name: JIM & LINDA SCOUTEN  
Address: RT 1 BOX 128  
MOORE ID 83255

34-04190 -0014  
Name: ALBERT C BABCOCK  
Address: RT 1 BOX 76  
MOORE ID 83255

34-04190 -0015  
Name: ANTHONY E MADSEN  
Address: RT 1 BOX 446  
ARCO ID 83213

34-04190 -0016  
Name: JAY F & SUSAN PEARSON  
Address: RT 1 BOX 47  
MOORE ID 83255

34-04190 -0017  
Name: HERMAN AIKELE  
Address: RT 1 BOX 61  
MOORE ID 83255

34-04190 -0018  
Name: RANDAL & SANDRA DAMIANA  
Address: RT 1 BOX 113A  
MOORE ID 83255

34-04190 -0019  
Name: RANDAL & SANDRA DAMIANA  
Address: RT 1 BOX 113A  
MOORE ID 83255

34-04190 -0020  
Name: FRED DUNDAS  
Address: MOORE ID 83255

34-04190 -0021  
Name: JACK & LOIS WALKER  
Address: RT 1 BOX 119  
MOORE ID 83255

34-04190 -0022  
Name: LARMAN D ANDERSEN  
Address: RT 1 BOX 52  
MOORE ID 83255

34-04190 -0023  
Name: DOUG OR VICKIE HENDRICKS  
Address: MOORE ID 83255

34-04190 -0024  
Name: RICHARD E REYNOLDS  
Address: BOX 73  
MOORE ID 83255

34-04190 -0025  
Name: GLENN T GUTHRIE  
Address: BOX 319  
ARCO ID 83213

34-04190 -0026  
Name: DR JACK SOWARDS  
Address: BOX 100  
ARCO ID 832130100

34-04190 -0027  
Name: SETH E BEAL  
Address: BOX 46B  
MOORE ID 83255

34-04190 -0028  
Name: ROBERT L & JOSEPHINE  
SPRAKER  
Address: RT 1 BOX 438  
ARCO ID 83213

34-04190 -0029  
Name: LEANNE & WADE WADDOUPS  
Address: RT 1 BOX 20  
MOORE ID 83255

34-04190 -0031  
Name: G CRAIG & JACKIE STEWART  
Address: RT 1 BOX 58B  
MOORE ID 83255

34-04190 -0032  
Name: GERTRUDE & ALVIN J ROESSNER  
Address: RT 1 BOX 247  
ARCO ID 83213

34-04190 -0033  
Name: NED R & REVA W WALKER  
Address: PO BOX 32  
ARCO ID 83213

34-04190 -0034  
Name: JAMES E MATHEWS  
Address: C/O ERVIN MATHEWS  
PO BOX 553  
ARCO ID 83213

34-04190 -0035  
Name: NORA TECHICK  
Address: RT 1 BOX 30  
MOORE ID 83255

34-04190 -0036  
Name: MARSHAL TODD PERKES  
Address: RT 1 BOX 69  
MOORE ID 83255

34-04190 -0037  
Name: LEAH NATION  
Address: RT 1 BOX 114  
MOORE ID 83255

34-04190 -0038  
Name: JOEL S ANDERSEN  
Address: RT 1 BOX 49  
MOORE ID 83255

34-04190 -0039  
Name: SETH E & SHELLEY BEAL  
Address: BOX 46B  
MOORE ID 83255

34-04190 -0040  
Name: RAYMOND W NOBLE  
Address: RT 1 BOX 33  
MOORE ID 83255

34-04190 -0041  
Name: THORA & RICHARD E BEAL  
Address: BOX 31  
MOORE ID 83255

34-04190 -0042  
Name: THOMAS PERKES  
Address: RT 1 BOX 50A  
MOORE ID 83255

34-04190 -0043

Name: JACK A JENSEN

Address: RT 1 BOX 32  
MOORE ID 83255

34-04190 -0044

Name: BILLY L HARALSON

Address: RT 1 BOX 450  
ARCO ID 83213

34-04190 -0045

Name: GERALD J & RELLEA STEWART

Address: RT 1 BOX 59  
MOORE ID 83255

34-04190 -0046

Name: LEO M & BONNIE N JENSEN

Address: RT 1 BOX 58A  
MOORE ID 83255

34-04190 -0047

Name: JAY A & JEAN P  
ANDERSEN

Address: RT 1 BOX 41  
MOORE ID 83255

