

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 Rights to the Use of Water)
from the Snake River Basin)
Water System)

Case No. 34-04190
(You must insert the
water right number you
are objecting to)

The State of Idaho, ex rel.)
R. Keith Higginson in his)
official capacity as Director)
of the Idaho Department of)
Water Resources,)

OBJECTION

RECEIVED

MAR 16 1993

Department of Water Resources
Adjudication Bureau

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.

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in the Director's Report. You may object to one water right per objection form. The water right number you are objecting to must be indicated above in the blank space following "Case No." To object to more than one water right, you must file a separate objection form for each. Forms may be obtained from the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form, as long as it is identical to the court's form. You must file your objection by the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

Any party physically filing 25 (twenty-five) or more objections must make an appointment with the Clerk of the Adjudication Court and arrange for an appointment to file multiple objections.

(Over)

OBJECTION - 1

By filing an objection form, you are certifying that the objection is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and that it is not filed for any improper purpose, such as to harass, cause unnecessary delay or needless increase in the cost of litigation.

I. GENERAL INFORMATION

Please fill in the following information:

1. Person objecting

Name: DALE SMITH

Address: RT # 1 Box 22

Moore, Idaho 83255 - 9704

Briefly describe your interest in this water right:

This claim is in error as there is a
prior right that supersedes it in all
respects.

2. Owner of the water right:

Name: U.S. Dept. of Interior, B.L.M.

Address: Idaho State Office
3380 Americana Terrace
Boise, Idaho 83706

3. If this objection is filed by an attorney:

Attorney Name: _____

Attorney Address: _____

Attorney Phone No.: _____

If filed by an attorney, notice of pending court proceedings will be sent to the attorney only.

II. STATEMENT OF THE OBJECTION

please check each "box" which states your objection to the recommendation in the Director's Report.

1. ☒ Name and Address: I object to the name and/or address of the owner of the water right.
2. ☒ Source: I object to the source of water.
3. ☒ Quantity: I object to:
 - a. ☒ the total quantity of water used in cubic feet per second; or
 - b. ☐ the total quantity of water stored in acre-feet per year; or
 - c. ☒ the total quantity of water reserved for each and every purpose, including all present and future uses.
4. ☒ Priority Date: I object to the priority date.
5. ☒ Points of Diversion: I object to the legal description of the point(s) of diversion.
6. ☐ Instream Flow: I object to the legal description of the beginning and ending points of the instream flow.
7. ☒ Purpose(s) of Use: I object to the purpose(s) of use.
8. ☐ Period of Year: I object to the period of year when water is used or is necessary for the purpose stated.
9. ☒ Place of Use: I object to:
 - a. ☐ the legal description of the place of use; or
 - b. ☐ the number of irrigated acres within each forty (40) acre subdivision.
10. ☐ Consumptive Use: I object to the annual volume of consumptive use.
11. ☐ Remarks: I object to the "remarks" listed with the water right.

(Over)

12. ☒ Water Right Recommendation: I object to:
- a. ☒ this water right being recommended at all; or
- b. ☐ this water right not being recommended.
13. ☐ Description of Reservation: I object to the legal description of the reservation.
14. ☒ Other: I object to: The historical source of water
to fill the purpose of this claim is rising ground-
water.

REASONS SUPPORTING EACH BOX CHECKED

In the space following, you must state the reason(s) by number for each box checked. You may use additional pages if necessary.

Please refer to exhibit A -attached.

CHANGES TO THE DIRECTOR'S REPORT

Specifically describe how you want the Director's Report to be changed. You may use additional pages if necessary.

The Director's report should be changed to recommend
disallowance of this claim.

Please note: You should attach copies of documents which support your objection. Note on each document the "box number" it supports.

☒ 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. _____

Exhibit A- one page. Exhibit B- ^{Four}~~one~~ pages Exhibit C-
one page.

VERIFICATION (Must be Completed)

State of Idaho

County of Butte

DALE SMITH, being first duly
(Name of person filing objection)
sworn, upon oath, deposes and says:

That I am the person or entity filing this objection, that I am a water claimant or party in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and that I have read the foregoing objection, know its contents and that the statements contained therein are true to the best of my knowledge and belief.

Dale Smith
Signature of person filing objection

By: _____
(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 12th day of March,
1993.

Wm. J. [Signature]
Notary Public for Butte Co. Idaho
Residing at: Butte, Idaho
My Commission expires: 1996

(Over)

INSTRUCTIONS FOR MAILING

You must mail the objection, including all attachments, to the Clerk of the Court. FAX filings will not be accepted by the Clerk of the Court. You must also send a copy to the owner of the water right, if other than yourself; to the Office of the Attorney General, State of Idaho; and to the United States Department of Justice, as set out below in the Certificate of Mailing. Finally, you must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I hereby certify that on the 13 day of March, 1993, I mailed the original and copies of the foregoing objection, 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:

Owner name:

United States of America

Owner's address:

Bureau of Land Management
U.S. Dept. of Interior, Idaho State Office
3380 Americana Terrace
Boise, Idaho 83706-2544

3. One copy to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

4. One copy to:

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, Idaho 83734

Dale Smith
Signature of Objector or attorney
mailing on Objector's behalf

EXHIBIT 'A'

REASONS: THE CLAIMANT OBJECTS TO THIS WATER RIGHT RECOMMENDATION BECAUSE THE CLAIMANT HAS AN EARLIER PRIORITY DATE AND HAS USED THE WATER RIGHT EXCLUSIVELY SINCE THE WATER RIGHT WAS ESTABLISHED. THE CLAIMANT FOR THESE REASONS OBJECTS TO THE WATER RIGHT IN ITS ENTIRETY, INCLUDING THE NAME OF THE OWNER, SOURCE, PRIORITY DATE, PLACE OF USE, POINT OF DIVERSION/QUANTITY, AND PERIOD OF USE.

EXHIBIT B

RIGHT NUMBER	NAME & ADDRESS	PRIORITY		PERIOD OF USE		MAXIMUM QUANTITY	BASIS OF CLAIM
		DATE	PURPOSE OF USE	FROM	TO		

SOURCE: BIG LOST RIVER
TRIBUTARY: SINKS

34-00312B ESTATE OF CHESTER E. HARPER 05/31/1894 IRRIGATION 05-01 10-15 .06 CFS DECREED
C/O SHERLENE TRAUGHER
RT. 1 BOX 475
ARCO ID B3213

POINT OF DIVERSION:
T05N R26E S04
PLACE OF USE: IRRIGATION
MUSESE
TOTAL QUANTITY:
CONSUMPTIVE USE: .06 CFS
3.7 AFT

T05N R26E S33
1.5 ACRES TOTAL
REMARKS: WATER DELIVERED THROUGH THE MOORE DIVERSION, WESTSIDE DITCH.

34-00555 DALE SMITH 05/31/1894 IRRIGATION 05-01 10-15 1.4 CFS DECREED
RT. 1, BOX 22
MOORE ID B3255

POINT OF DIVERSION:
T05N R26E S04
PLACE OF USE: IRRIGATION
MUSESE
TOTAL QUANTITY: 1.4 CFS

T05N R26E S33
66.0 ACRES TOTAL
SWNE 37.0
MWSE 29.0

REMARKS: WATER DELIVERED THROUGH MOORE DIVERSION, WESTSIDE DITCH.
USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 4.08 CFS, A TOTAL COMBINED ANNUAL
CONSUMPTIVE USE VOLUME OF 165 AF, AND TO THE IRRIGATION OF A
COMBINED TOTAL OF 66 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 34-00117E, 34-00641, 34-10234 AND 34-02404.
0.35 CFS OF RIGHT NO. 34-10234, IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF RIGHT NOS. 34-00117E, 34-00641, 34-00555
AND 34-10234.
A DIVERSION RATE OF 0.038 CFS PER ACRE AT THE FIELD HEADGATE
IS RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.

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: BIG LOST RIVER TRIBUTARY: SINKS

34-00117E DALE SMITH 06/01/1884 IRRIGATION 05-01 10-15 .4 CFS DECREED

RT. 1, BOX 22
MOORE ID 83255

POINT OF DIVERSION:
PLACE OF USE: IRRIGATION

NWSESE

T05N R26E S33 SWNE 37.0 NWSE 29.0

66.0 ACRES TOTAL

REMARKS: WATER DELIVERED THROUGH MOORE DIVERSION, WESTSIDE DITCH.
USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 4.08 CFS, A TOTAL COMBINED ANNUAL
CONSUMPTIVE USE VOLUME OF 165 AF, AND TO THE IRRIGATION OF A
COMBINED TOTAL OF 66 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 34-00555, 34-00641, 34-10234 AND 34-02404.
0.35 CFS OF RIGHT NO. 34-10234 IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF RIGHT NOS. 34-00117E, 34-00641, 34-00555
AND 34-10234.

A DIVERSION RATE OF 0.038 CFS PER ACRE AT THE FIELD HEADGATE
IS RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.

TOTAL QUANTITY: .4 CFS

E X H I B I T B

EXHIBIT B

RIGHT NUMBER	NAME & ADDRESS	PRIORITY	PERIOD OF USE		MAXIMUM QUANTITY	BASIS OF CLAIM
		DATE	PURPOSE OF USE	FROM TO		

34-007478 JESSIE P. NEITZER 09/01/1901 IRRIGATION 05-01 10-15 .2 CFS DECREED
JACOB NEITZER
P.O. BOX 575
ARCO ID 83213

POINT OF DIVERSION: TOTAL QUANTITY: .2 CFS
104N R26E S26
PLACE OF USE: IRRIGATION MANNUM CONSUMPTIVE USE: 15.0 AFY

104N R26E S35 MUSE 6.0
6.0 ACRES TOTAL
REMARKS: WATER IS DELIVERED THROUGH MUNSEY DITCH.
0.03 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF THIS RIGHT.

34-10234 DALE SMITH 09/01/1901 IRRIGATION 05-01 10-15 1.16 CFS DECREED
RT 1 BOX 22
MOORE ID 83255

POINT OF DIVERSION: TOTAL QUANTITY: 1.16 CFS
105N R26E S04 MUSESE
PLACE OF USE: IRRIGATION

105N R26E S33 MUSE 37.0 MUSE 29.0
66.0 ACRES TOTAL
REMARKS: WATER DELIVERED THROUGH MOORE DIVERSION, WESTSIDE DITCH.
USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 4.08 CFS, A TOTAL COMBINED ANNUAL
CONSUMPTIVE USE VOLUME OF 165 AF, AND TO THE IRRIGATION OF A
COMBINED TOTAL OF 66 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 34-00555, 34-00641, 34-00117E AND 34-02404.
0.35 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE LOSSES
IN DELIVERY OF THIS RIGHT AND RIGHT NOS. 34-00117E, 34-00641
AND 34-00555.

THIS RIGHT IS A COMBINATION OF OLD RIGHT NOS. 34-00118B AND
34-00642.
A DIVERSION RATE OF 0.038 CFS PER ACRE AT THE FIELD HEADGATE
IS RECOMMENDED FOR THE PLACE OF USE DESCRIBED ABOVE.

EXHIBIT C

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: NOV-17-1992
PAGE: A-34

RIGHT
NUMBER

NAME & ADDRESS

PRIORITY
DATE

PURPOSE OF USE
FROM TO

MAXIMUM
QUANTITY

BASIS OF CLAIM

SOURCE: BIG LOSI RIVER

TRIBUTARY: SINKS

34-04190

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

.23

CFS

BENEFICIAL USE

NON-IRRIGATION USES:

STOCKWATER, 1000 RANGE CATTLE; WILDLIFE, VARIABLE AMOUNT

TOTAL QUANTITY:

.23

CFS

POINT OF DIVERSION:

102N R27E S01 LOT 1 (MENE) (B)

103N R27E S20 SESE (B)

102N R28E S01 MESE (E)

103N R27E S35 SESE (E)

PLACE OF USE: STOCKWATER

102N R27E S01 LOT 1 (MENE)

R28E MESE

S02 SESE

S03 SWSW

S04 SWSW

S05 SWSW

S06 SWSW

S09 SWSW

S10 SWSW

S11 SWSW

S12 SWSW

103N R27E S20 SWSW

S21 SWSW

S22 SWSW

S26 SWSW

S27 SWSW

S28 SWSW

S35 SWSW

SESE

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REMARKS: THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING

ALLOTMENT SHALL BE LIMITED TO THE QUANTITY OF WATER BENEFICIALLY

AJ5056NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: NOV-17-1992
PAGE: A-36

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: BIG LOST RIVER						
TRIBUTARY: SINKS						

34-04040	US DEPT OF INTERIOR BUREAU OF LAND MANAGEMENT IDAHO STATE OFFICE 3380 AMERICANA TERRACE BOISE ID 83706	04/01/1958	WILDLIFE STORAGE	01-01 12-31	243.0	AFY
			STOCKWATER FROM	01-01 12-31	20.1	AFY
			STOCKWATER	01-01 12-31	243.0	AFY
			STOCKWATER	01-01 12-31	7.2	AFY
			WILDLIFE FROM	01-01 12-31	.44	CFS
			STORAGE			
			DIVERSION TO	01-01 12-31		
			STORAGE			
			TOTAL QUANTITY:		.44	CFS
					243.0	AFY

NON-IRRIGATION-USES:

STOCKWATER, 2000 RANGE CATTLE; WILDLIFE, VARIABLE AMOUNT

POINT OF DIVERSION:

102N R28E S11

NWNWSE

PLACE OF USE: WILDLIFE STORAGE

SAME AS OTHER USE

PLACE OF USE: STOCKWATER FROM STORAGE

102N R28E S11

S13

S14

S15

S23

S24

S25

NESE

NWNW

S13

S14

NWNE

SESW

NESE

NWNE

S23

S24

SESW

SESE

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NWNW

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PLACE OF USE: STOCKWATER STORAGE

SAME AS OTHER USE

PLACE OF USE: WILDLIFE FROM STORAGE

SAME AS OTHER USE

PLACE OF USE: DIVERSION TO STORAGE

SAME AS OTHER USE

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 = 3403488096