

In Re the General Adjudication)
of the Rights to the Use of Water)
from the Snake River Basin)
Water System)

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

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).

RESPONSE TO OBJECTION NO. 34-07088 -0001 - PAGE 1

2. Person who filed objection:

Name: JOHN POWERS
Address: PO BOX 493
MACKAY ID 83251

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

3. ☒ Quantity: I respond to the objection concerning:
- 3a. ☒ The total quantity of water used in cubic feet per second.
4. ☒ Priority Date: I respond to the objection concerning the priority date.
9. ☒ Place of Use: I respond to the objection concerning:
- 9a. ☒ The legal description of the place of use.
14. ☒ Other: I respond to the objection concerning:
RESTRICTION OF AMOUNT AND PLACE OF USE

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection items 3, 3.a, 4, 9, 9.a, and 14, and all allegations of the objection regarding these items, IDWR responds as follows.

The five miner's inches (.1 cfs) decreed to the claimant's predecessor in interest is recommended in the director's report as water right no. 34-00959, which includes irrigation of the same acres recommended under this right, and to which no objection has

been filed. This right is based upon a license issued by IDWR; the priority date, amount, and place of use are recommended the same as claimed and the same as set forth on the license.

The total combined rate of diversion recommended for this right and the other right used in combination with this right is .20 cfs for the irrigation of 9.5 acres, which is a per acre rate of diversion of approximately .02 cfs per acre. Pursuant to Idaho Code section 42-220, IDWR may not recommend an amount greater than .02 cfs per acre unless a greater amount is shown to be necessary. The claimant has not provided information to show that a total combined diversion rate greater than the recommended rate is necessary for irrigation of the recommended place of use.

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. A34-07088	4

(Over)

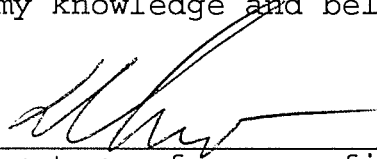
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

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

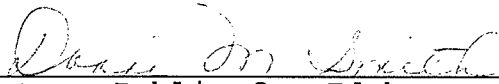
That R. Keith Higginson, in his official capacity as director of the Idaho Department of Water Resources, is a party to this proceeding, as defined by I.C. 42-1401A(1) and (7); that I am the Adjudication Bureau Chief for IDWR and am authorized by R. Keith Higginson, in his official capacity as director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

Subscribed and sworn to before me this 8th 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 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: JOHN POWERS
Address: PO BOX 493
MACKAY ID 83251

4. One copy to:

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

A. Lynne Kogh-Hampse
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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A34-07088
Date Received: 2/8/1991
Receipt No: E015667/90
Received By: SE

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: JOHN L. POWERS 208-588-3358
Address: P.O. BOX 493
MACKAY, ID 83251

2. Date of Priority: DEC 22, 1974

3. Source: SPRING Trib. to: WARM SPRINGS CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
07N	24E	32	NW NW NE	2	CUSTER

5. Description of diverting works:
SMALL DIVERSION DAM TO DITCHES FOR FLOOD IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	10/31	0.200		

7. Total Quantity Appropriated is:
0.200 C.F.S. (and/or) 28.50 A.F.A.

8. Total consumptive use is 23.8 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
07N	24E	29	SE SE		IRR	5.0

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	5.0
		32	NE	NE	1	IRR 2.5
			NW	NE	2	IRR 2.0
					Section Acres	4.5
					Total Acres	9.5

11. Place of use in counties: CUSTER

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
34-02417

14. Remarks:

ANY DEVELOPMENT OF THE SPRING AREA MUST NOT DISTURB THE CLAY BARRIER SEPARATING THE APPLICANT'S SPRING FROM THE CITY'S SPRING. THE DEPTH & DIMENSIONS OF THE SPRING EXCAVATION EXISTING ON THE DAY OF THE HEARING ON 2/17/82 SHALL NOT BE INCREASED BY MORE THAN 6 INCHES AT ANY PT. OR IN OVERALL LATERAL DIMENSION. PERMANENT MONUMENTS SHALL BE PLACED TO REFERENCE THE LATERAL BOUNDARIES & DEPTH OF THE EXISTING EXCAVATION. IDWR SHALL APPROVE THE CONSTRUCTION & LOCATION FOR THE MONUMENTS PRIOR TO THEIR INSTALLATION & MEASURE & DOCUMENT THEIR LOCATION & ELEVATION WITH RESPECT TO THE SPRING EXCAVATION. THE COST OF MONUMENT CONSTRUCTION SHALL BE SHARED EQUALLY BY THE PARTIES. CLEANING MAY BE ACCOMPLISHED BY ANY OF THE METHODS OUTLINED BY THE APPLICANT AT THE HEARING INCLUDING BACKHOE, SHOVEL OR HYDRAULIC PUMP METHODS. IF MECHANICALLY OR HYDRAULICALLY POWERED EQUIP. IS USED TO CLEAN THE SPRING EXCAVATION, THE APPLICANT SHALL NOTIFY IDWR 5 DAYS IN ADVANCE OF THE WORK BEING DONE SO THAT A SUPERVISOR CAN BE PROVIDED BY IDWR; OR IDWR, AT THE DIRECTOR'S OPTION, MAY DESIGNATE A QUALIFIED SUPR. TO BE PRESENT WHILE CLEANING WORK IS DONE. THE COST OF SAID SUPERVISION SHALL BE SHARED EQUALLY BY APPLICANT & PROTESTANT. CLEANING WITH HAND TOOLS SHALL NOT REQUIRE PRIOR NOTICE NOR DIRECT SUPERVISION DURING THE CLEANING PROCESS, BUT THE PROTESTANT MAY REQUEST THAT AN INSPECTION BE MADE AFTER THE WORK IS DONE. THE INSPECTION WILL BE MADE EITHER BY IDWR OR A QUALIFIED INSPECTOR SELECTED BY IDWR, BUT PAID JOINTLY BY THE APPLICANT & PROTESTANT. NO CLEANING IS AUTHORIZED IF THE FLOW FROM THE SPRING IS .20 CFS OR GREATER & MUST BE DISCONTINUED WHEN THE FLOW FROM THE SPRING

14. Remarks: Continued

EXCEEDS THAT AMT. A RETAINING WALL MAY BE CONSTRUCTED AROUND THE SPRING EXCAVATION. PLANS FOR A RETAINING WALL MUST BE APPROVED BY IDWR PRIOR TO ITS CONSTRUCTION. A MEASURING DEVICE OF A TYPE ACCEPTABLE TO IDWR SHALL BE INSTALLED & MAINTAINED ON THE SPRING OUTFLOW CHANNEL, UPSTREAM FROM ITS CONFLUENCE WITH WARM SPRINGS CREEK. THE DIRECTOR OF IDWR RETAINS JURISDICTION OF THIS PERMIT. FAILURE TO ADHERE TO THE COND. OF APPROVAL SHALL CONSTITUTE CAUSE FOR THE DIRECTOR TO VOID THE PERMIT. PRIOR TO DIVERSION & USE OF WATER UNDER THIS PERMIT, THE PERMIT HOLDER SHALL INSTALL A MEASURING DEVICE ACCEPTABLE TO THE DIRECTOR.

15. Basis of Claim: PERMIT

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): John L. Powers Date: 2-8-91
Date: _____

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 8th day

of Feb 19 91

Betty J. Thompson
Notary Public

Seal

Residing at Betty J. Thompson, Notary Public
My Commission Expires RESIDING AT 17 AND FALLS, IDAHO
MY COMMISSION EXPIRES: 6-30-94

2 acres PD.
A34-10758
Needs to pay for
7.5 acres
85750

A34-7088

T7N
R
2
4
E L3

A34-10758

A-36
J.L. POWERS

L2 Grazing L1

28
32 33

Powers
34-7088

