

**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

Water Right No. 34-12388

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.

RESPONSE TO OBJECTION

I. GENERAL INFORMATION

Please fill in the following information:

1. *Party/Claimant responding to objection:*

Name: R. KEITH HIGGINSON, Director

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

Phone: (208) 327-7910

Briefly describe your interest in this water right:

IDWR is a party to each sub-case in the SRBA pursuant to subsection 2.0 of SRBA Administrative Order No. 1, and has an interest in ensuring that all water right claims in the SRBA are accurately determined, as noted in Idaho Department of Water Resources v. United States, 122 Idaho 116, 832 P.2d 289, 295 (1992)

If this response is *filed by an attorney*:

Attorney Name: DAVID J. BARBER

Attorney Address: DEPUTY ATTORNEY(S) GENERAL
P.O. BOX 44449
BOISE, ID 83711-4449

Attorney Phone No.: (208) 334-2400

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

2. *Party/Claimant who filed objection:*

Name: ARTHUR D. QUIST

Address: RT. 1, BOX 203
ARCO, IDAHO 83213

II. STATEMENT OF THE RESPONSE

Please check each "box" which identifies your response.

1. ☒ *Name and Source*: I respond to the objection concerning the name and/or address of the owner of the water right.
2. ☒ *Source*: I respond to the objection concerning the source of water.
3. ☒ *Quantity*: I respond to the objection concerning:
 - 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 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:
- 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 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:
- a. ☒ this water right being recommended at all; or
 - b. ☐ this water right not being recommended.
13. ☐ *Description of Reservation*: I respond to the objection concerning the legal description of the reservation.
14. ☒ *Other*: I respond to the objection concerning various General Provisions.

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.

In response to Statement of Objection items 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 14, the director responds as follows: The substance of these objections relate to Public Water Reserve No. 107. The Craters of the Moon National Monument was not reserved from the public domain by operation of the executive order regarding PWR No. 107. Consequently, these allegations are irrelevant to the reserved water rights at the Craters of the Moon National Monument.

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 IDWR proposes no changes to the description of the reserved water right based on this objection. The director does propose some changes to this water right because of other objections. Attachment I is a description of this water right with these additions.

Please note that you should attach copies of documents which support your response. Note on each document the "box number" it supports.

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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.

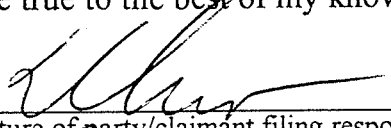
Attachment I: A revised Description of Water Right No. 34-12388.

VERIFICATION (Must be Completed)

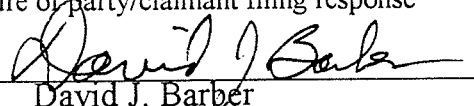
State of Idaho }
County of Ada } ss

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 in 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.

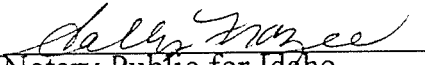


Signature of party/claimant filing response

By: 

David J. Barber
Deputy Attorney General
Natural Resources Division

Subscribed and sworn to before me this 16th day of July, 1993.



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

CERTIFICATE OF MAILING

I hereby certify that on the 16th day of July, 1993, I mailed the original and copies of this response, including all attachments, to the following persons by mailing the original and/or 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

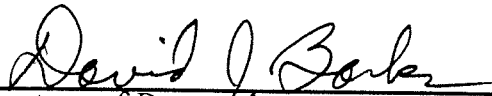
(BY HAND DELIVERY)

2. One copy to the owner of the water right, and you must fill in the following information:

Name: U.S. DEPT. OF JUSTICE
Address: PETER C. MONSON
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: ARTHUR W. QUIST
Address: RT. 1, BOX 203
ARCO, IDAHO 83213



Signature of Respondent or attorney
mailing on Respondent's behalf

BASIS OF CLAIM

54.5	AFY
54.5	AFY
54.5	AFY
54.5	AFY
19.9	AFY

FIRE SUPPRESSION. EXISTING WATER RIGHTS WILL NOT BE DIMINISHED.

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
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SOURCE: SURFACE WATER, ALL
TRIBUTARY: SINKS

34-12388

UNITED STATES AMERICA, ACTING THROUGH
NATIONAL PARK SERVICE
PACIFIC NORTHWEST REG. OFFICE
83 S KING ST STE 212
SEATTLE WA 98121

07/09/1930 DOMESTIC
IRRIGATION
COMMERCIAL

01-01 12-31
01-01 12-31
01-01 12-31
54.5 AFY
54.5 AFY
54.5 AFY
54.5 AFY
19.9 AFY

RESERVED

NON-IRRIGATION-USES:

MONUMENT COMMERCIAL USE, MONUMENT DOMESTIC USE

POINT OF DIVERSION:

TO2N R24E S28 LOT 1 (NENE)

PLACE OF USE: DOMESTIC

WITHIN CRATERS OF THE MOON NATIONAL MONUMENT

PLACE OF USE: IRRIGATION

SAME AS OTHER USE

PLACE OF USE: COMMERCIAL

SAME AS OTHER USE

REMARKS:

SEE WATER RIGHTS AGREEMENT BETWEEN THE STATE OF IDAHO AND THE
UNITED STATES FOR THE CRATERS OF THE MOON NATIONAL MONUMENT
SIGNED MAY 14, 1992 (AGREEMENT).

SOURCES FOR THIS RIGHT ARE ALL SURFACE WATER AND GROUNDWATER
SOURCES ARISING ON, OCCURRING ON, OR UNDER AREA C AS SHOWN ON
ATTACHMENT I OF THE AGREEMENT.

POINTS OF DIVERSION MAY BE ANY POINT WITHIN AREA C AS SHOWN
ON ATTACHMENT I OF THE AGREEMENT.

PLACE OF USE MAY BE ANY PLACE WITHIN THE BOUNDARIES OF THE
MONUMENT.

THE QUANTITY CONSUMED FOR FIRE SUPPRESSION IS NOT LIMITED
BY THIS RIGHT OR THE AGREEMENT.

USE OF THIS RIGHT AND RIGHT NOS. 34-12383, 34-12385 AND
36-15345 IS FOR A TOTAL COMBINED DIVERSION VOLUME OF 54.5 AFY AND
A TOTAL COMBINED CONSUMPTIVE USE VOLUME OF 19.9 AFY.

BASIS OF RIGHT IS THE RESERVATION MADE UNDER PROCLAMATION
NO. 1916.

THE SURFACE WATER WITHIN THE BOUNDARIES OF THE MONUMENT AND PERCHED GROUND
WATER UNDERLYING THE MONUMENT SHALL BE TREATED AS A SELF-CONTAINED WATER SYSTEM
THE USE OF WATER FOR FIRE SUPPRESSION BENEFITS THE PUBLIC. WATER DIVERTED FOR FIRE SUPPRESSION MAY BE TAKEN
RANDOMLY, WITHOUT A DEFINITION OF THE SPECIFIC ELEMENTS OF A RECORDABLE WATER RIGHT, AND IF SO DIVERTED FOR
FIRE SUPPRESSION, EXISTING WATER RIGHTS WILL NOT BE DIMINISHED.

