

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. 36-04075 -0001

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.)

36-04075 -0001/
93-08-0304

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)

There is an error in the description of the water right in the director's report. This right is based on beneficial use, and the beneficial use of this right is irrigation of 360 acres. At a diversion rate of .02 cfs per acre, the total diversion rate

REASONS SUPPORTING EACH BOX CHECKED

7. ☒ Purposes of Use: I respond to the objection concerning the purpose(s) of use.
9. ☒ Place of Use: I respond to the objection concerning: 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.

II. STATEMENT OF THE RESPONSE

2. Person who filed objection:
Name: US DEPT OF JUSTICE
Address: ENVT & NAT RESOURCES DIV
550 WEST FORT ST BOX 33
BOISE ID 83734
3. If this response is filed by an attorney:
Attorney Name(s): NICHOLAS B. SPENCER
Attorney Address: DEPUTY ATTORNEY GENERAL(S)
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 4449
BOISE, ID 83711-4449
Attorney Phone No.: (208) 327-7900

for this right should be 7.20 cfs. The recommendation should be corrected as shown in the attached "Recommended Water Rights Acquired Under State Law."

In response to Statement of the Objection item 7 and all allegations of the objection regarding this item, IDWR responds as follows.

Municipalities use water for a variety of purposes under the general label of "municipal use". Municipalities may provide water to their residents for a variety of purposes, which include for example indoor and outdoor residential use, commercial and industrial use, agricultural uses such as stockwater and irrigation, and may use water for public purposes such as recreation, aesthetics and fire protection. Because the uses of water by municipalities are varied, and because the laws of the state of Idaho make special provisions as to the powers and duties of municipalities, the purpose of use of water rights held by municipalities for use within the municipal boundaries are described generally as "municipal." This right is used entirely for domestic and/or agricultural irrigation.

IDWR denies this portion of the objection; IDWR denies, or lacks sufficient information to form a belief as to the truth of the matter asserted and therefore denies, all allegations of the objection not expressly admitted herein.

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

The legal description of the place of use is properly stated as lands within the city limits of Rupert, and this is consistent with the manner in which IDWR generally recommends municipal rights that do not include a service area outside the municipal boundaries. Statement of the number of irrigated acres within each forty (40) acre tract is not necessary for rights for municipal purposes.

This right does "overlap" water rights of the Minidoka Irrigation District. The remark that "use of this right is combined with water from the Minidoka Irrigation District" is included to indicate that lands within the city limits of Rupert are also within the service area of the district, with the result that water is available for domestic and/or agricultural irrigation from more than one water supplier.

IDWR denies this portion of the objection and all allegations regarding this portion of the objection not expressly admitted herein.

In response to Statement of the Objection item 10 and all allegations of the objection regarding these items, IDWR responds as follows.

(Over)

No. of
Pages
7
2
Notice of Claim No. A36-04075
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:

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

CHANGES TO THE DIRECTOR'S REPORT

The most accurate method to determine the consumptive use of this municipal right is based on the consumptive use volume for irrigation. IDWR denies this portion of the objection. In response to Statement of the Objection item 11 and all allegations of the objection regarding this item, IDWR responds as follows. General provision 15 of the director's report limits the combined diversion rate, annual diversion volume, and annual consumptive use volume for use of more than one right for irrigation of the same lands. IDWR denies this portion of the objection and all allegations regarding this portion of the objection not expressly admitted herein.

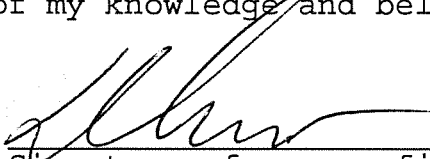
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

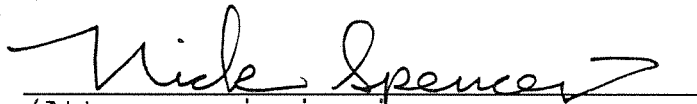
David B. Shaw, being first duly sworn, upon oath, deposes and says:

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.



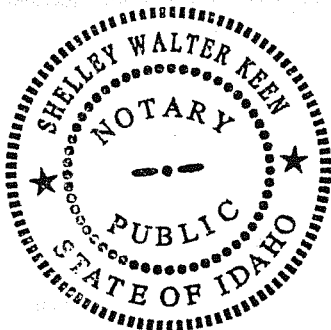
Signature of person filing response

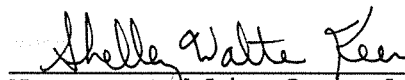
By:



(Attorney signing in representative capacity)

Subscribed and sworn to before me this 9th day of September, 1993.




Notary Public for Idaho
Residing at: Bose, Idaho
My Commission expires: July 31, 1997

(Over)

CERTIFICATE OF MAILING

I hereby certify that on the 10th day of September, 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: CITY OF RUPERT
Address: PO BOX 426
RUPERT ID 83350

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: US DEPT OF JUSTICE
Address: ENVT & NAT RESOURCES DIV
550 WEST FORT ST BOX 33
BOISE ID 83734

Mark Spencer
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: A36-04075
Date Received: 8/03/1989
Receipt No: 5008908
Received By: AD

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: CITY OF RUPERT
Address: P.O. BOX 426
RUPERT, ID

83350

208-436-4900
RECEIVED

AUG 21 1989

Department of Water Resources
Southern Region Office

2. Date of Priority: APR 01, 1940

3. Source: GROUNDWATER

Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
09S	24E	20		NW	NE		MINIDOKA
				SE	NE		MINIDOKA
				SE	SW		MINIDOKA
				NW	SE		MINIDOKA
				SW	SE		MINIDOKA
				SE	SE		MINIDOKA
		21		SW	NW		MINIDOKA
		28		NW	NW		MINIDOKA
				SW	NW		MINIDOKA
		29		NE	NE		MINIDOKA
				NW	NE		MINIDOKA
				SW	NE		MINIDOKA
				SE	NE		MINIDOKA
				NE	NW		MINIDOKA
				SE	NW		MINIDOKA
				NE	SE		MINIDOKA
				NW	SE		MINIDOKA
				SE	SE		MINIDOKA

5. Description of diverting works:
44 WELLS & PUMPS TO GRAVITY IRRIG. SYSTEM

A36-04075

Page 1

Date: 08/03/89

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6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	10/31	33.000		

7. Total Quantity Appropriated is:
33.000 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is 3150.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres			
09S	24E	20	NW		NE		IRR	20.0			
			SW		NE		IRR	25.0			
			SE		NE		IRR	20.0			
			NE		NW		IRR	15.0			
			SE		NW		IRR	30.0			
			NE		SW		IRR	20.0			
			NW		SW		IRR	5.0			
			SW		SW		IRR	25.0			
			NE		SE		IRR	25.0			
			NW		SE		IRR	40.0			
			SW		SE		IRR	40.0			
			SE		SE		IRR	40.0			
										Section Acres	305.0
				21	SW		NW		IRR	40.0	
					SE		NW		IRR	25.0	
					NW		SW		IRR	15.0	
SW		SW				IRR	40.0				
							Section Acres	120.0			
	28	NW		NW		IRR	40.0				
		SW		NW		IRR	40.0				
		NW		SW		IRR	13.0				
		SW		SW		IRR	17.0				
							Section Acres	110.0			
	29	NE		NE		IRR	40.0				
		NW		NE		IRR	40.0				
		SW		NE		IRR	40.0				
		SE		NE		IRR	40.0				

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
09S	24E	29	NE	NW		IRR	40.0
			NW	NW		IRR	35.0
			SE	NW		IRR	40.0
			NE	SW		IRR	40.0
			SW	SW		IRR	15.0
			SE	SW		IRR	35.0
			NE	SE		IRR	25.0
			NW	SE		IRR	40.0
			SW	SE		IRR	30.0
			SE	SE		IRR	25.0
						Section Acres	485.0
		32	NE	NE		IRR	18.0
			NW	NW		IRR	12.0
						Section Acres	30.0
						Total Acres	1050.0

11. Place of use in counties: MINIDOKA

12. Do you own the property listed above as place of use? NO

13. Other Water Rights Used:

SHARES IN MINIDOKA IRRIG. DIST. & PRIVATE WATER RIGHTS

14. Remarks:

THE LANDS SERVED UNDER THIS SYSTEM IS PRIVATELY OWNED LAND THAT THE CITY SUPPLIES WATER TO FOR IRRIGATION.

T9S, R24E, SECTION	NUMBER OF PUMPS
20 NWNE	1
SENE	1
SESW	4
NWSE	5
SWSE	2
SESE	1
21 SWNW	4
28 NWNW	1
SWNW	1
29 NENE	3
NWNE	2
SWNE	3
SENE	1

14. Remarks: Continued

NENW	2
SENW	1
NESE	4
NWSE	6
SESE	1

TOTAL	44 PUMPS

15. Basis of Claim: STATUTORY CLAIM

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 Organizations:

I do solemnly swear or affirm that I am _____ Mayor _____ Title _____ of
City of Rupert _____, that I have signed the foregoing
Organization
document in the space below as _____ Mayor _____ Title _____ of
City of Rupert _____ and that the statements contained in the
Organization
foregoing document are true and correct.

W.F. "Bill" Whitton
Signature of Authorized Agent

Mayor - City of Rupert
Title and Organization

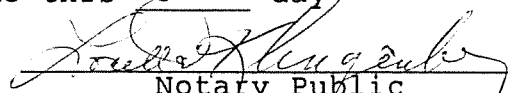
City of Rupert
Date

8-3-89

State of Idaho)
County of Minidoka) SS.

Subscribed and sworn (or affirmed) before me this 3 day
of August 19 89

Seal


Notary Public

Residing at Rupert, ID

My Commission Expires 2-11-92

CITY OF RUPERT

P.O. Box 426

Rupert, Idaho 83350

Phone (208) 436-9608

-IRRIGATION- CITY PUMPS

<u>NAME</u>	<u>LOCATION</u>
PUMP # 1	SECTION 29 SESE
PUMP # 2	SECTION 29 NESE
PUMP # 3	SECTION 29 NWSE
PUMP # 4	SECTION 29 NWSE
PUMP # 5	SECTION 29 NWSE
PUMP # 6	SECTION 29 NESE
PUMP # 7	SECTION 29 NESE
PUMP # 8	SECTION 29 NWSE
PUMP # 9	SECTION 29 NWSE
PUMP # 10	SECTION 29 NWSE
PUMP # 11	SECTION 29 NESE
PUMP # 12	SECTION 29 SENE
PUMP # 13	SECTION 29 SWNE
PUMP # 14	SECTION 28 NENE
PUMP # 15	SECTION 28 SWNW
PUMP # 16	SECTION 28 NWNW
PUMP # 17	SECTION 29 SWNE
PUMP # 18	SECTION 29 SENE
PUMP # 19	SECTION 29 NWNE
PUMP # 20	SECTION 29 SWNE
PUMP # 21	SECTION 29 NENW
PUMP # 22	SECTION 29 NWNE
PUMP # 23	SECTION 29 NENW
PUMP # 24	SECTION 28 NENE

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CITY OF RUPERT

P.O. Box 426

Rupert, Idaho 83350

Phone (208) 436-9608

-IRRIGATION- CITY PUMPS cont.

<u>NAME</u>	<u>LOCATION</u>
PUMP # 25	SECTION 28 NENE
PUMP # 26	SECTION 20 SWSE
PUMP # 27	SECTION 20 SWSE
PUMP # 28	SECTION 20 SESW
PUMP # 29	SECTION 20 SESW
PUMP # 30	SECTION 20 SESW
PUMP # 31	SECTION 20 NESW
PUMP # 32	SECTION 20 SESE
PUMP # 33	SECTION 20 NESE
PUMP # 34	SECTION 20 NWSE
PUMP # 35	SECTION 20 NWSE
PUMP # 36	SECTION 20 SENE
PUMP # 37	SECTION 21 SWNW
PUMP # 38	SECTION 21 SWNW
PUMP # 39	SECTION 21 SWNW
PUMP # 40	SECTION 21 SWNW
PUMP # 41	SECTION 20 NWNE
PUMP # 42	SECTION 20 NWSE
PUMP # 43	SECTION 20 NWSE
Pump # 44	section 20 SESE

MICROFILMED

FEB 05 1993

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

DATE: SEP-9-1993
PAGE: A-1

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

36-04075	CITY OF RUPERT PO BOX 426 RUPERT ID 83350	12/31/1955	MUNICIPAL	04-01 10-31	33-00 7.20	CFS BENEFICIAL USE
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NON-IRRIGATION-USES:
MUNICIPAL/CITY OF RUPERT
POINT OF DIVERSION:
T09S R24E S20

TOTAL QUANTITY: 33-00 CFS
7.20

S21	SENWNE
	SESENE
	NESESW
	SWSESW
	SESESW
	NENWSE
	SWNWSE
	SENWSE
	SWSE
	SESWSE
	NESESE
	SWSWNW
	SESENW
	SWNNW
	SWSWNW
	NENENE
	NWNE
	SENENE
	NWNE
	SWNE
	NWSWNE
	SWSWNE
	SWSENE
	NENENW
	SWNENW
	NWSENW
	NENENE
	NENWSE
	SWNWSE
	SENWSE
	SENWSE
	NWSESE
	SESESE

PLACE OF USE: MUNICIPAL
REMARKS: USE OF THIS RIGHT IS COMBINED WITH WATER FROM
MINIDOKA IRRIGATION DIST.

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

36-04075 CONTINUED

2 POINTS OF DIVERSION LOCATED IN NESESW, S20, T09S, R24E.
 2 POINTS OF DIVERSION LOCATED IN SENWSE, S29, T09S, R24E.
 2 POINTS OF DIVERSION LOCATED IN SENWSE, S29, T09S, R24E.
 PLACE OF USE IS LANDS WITHIN CITY LIMITS OF RUPERT, IDAHO.
 USE OF THIS RIGHT WITH RIGHT NO. 36-07863 IS LIMITED TO A TOTAL
 COMBINED DIVERSION RATE OF 36.83 CFS AND TO A TOTAL COMBINED
 ANNUAL CONSUMPTIVE USE VOLUME OF 1080 AF.