

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	)	Case No. 36-04169 -0001
from the Snake River Basin	)	
Water System	)	
The State of Idaho, <u>ex rel.</u>	)	
R. Keith Higginson in his	)	
official capacity as Director	)	
of the Idaho Department of	)	RESPONSE TO OBJECTION
Water Resources,	)	
	)	
Petitioner,	)	36-04169 -0001/
	)	93-08-0311
vs.	)	
	)	
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)

2. Person who filed objection:

Name: EUGENE & SHIRLEY HRUZA
Address: PO BOX 66
MINIDOKA ID 83343

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 44449
BOISE, ID 83711-4449

Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

5. |☒| Points of Diversion: I respond to the objection concerning the legal description of the point(s) of diversion.
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.
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.
14. |☒| Other: I respond to the objection concerning:
ALL GENERAL PROVISIONS

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection item 5, and all allegations of the objection regarding this item, IDWR responds as follows: There is an error in the description of the point of diversion of this right in the director's report. The recommendation should be corrected as shown in the attachment entitled "Recommended Water Rights Acquired Under State Law".

In response to Statement of the Objection item 8, and all allegations of the objection regarding this item, IDWR responds as follows: Idaho Code Sec. 42-1411(2)(g) requires the director to determine the period of use of each water right acquired under state law that is recommended in the director's report. IDWR has developed irrigation season of use standards for various climatic areas throughout the state based on a 75% chance of a 24 degree fahrenheit frost. The period of the year during which this water right may be used is consistent with the standard irrigation season of use for the area in which the place of use of this water right is located. Water may be used for irrigation outside the standard season of use, subject to the conditions set forth in general provision 12b of the director's report.

In response to Statement of the Objection item 10 and all allegations of the objection regarding this item, IDWR responds as follows: Idaho Code Sec. 42-1411(2)(i) requires the director to determine the annual volume of consumptive use for each water right acquired under state law and recommended in the director's report. IDWR has developed uniform standards of consumptive use for various climatic areas throughout the state, based upon the definition of consumptive use contained in Idaho Code Sec. 42-1401A(2), which is the maximum volume of water consumed by "the most water consumptive crop that can be grown in the area during the period of year when water is used for irrigation." The consumptive use recommended for this water right is based upon the maximum volume of water consumed by the most water consumptive crop (pasture) that can be grown in the area during the irrigation season. The amount recommended for this water right is in the same proportion as the amount claimed. Idaho Code Sec. 42-1401A(2) provides that the quantification of consumptive use "is included as a rebuttable presumption in a decree only for the purpose of transfers pursuant to section 42-222, Idaho Code." Therefore, the consumptive use recommended for this water right is included solely for use in future transfer proceedings, and not as a limitation on the quantity of water that the claimant may divert pursuant to this recommended

(Over)

right.

In response to that portion of the objection that states the changes sought in the director's report, wherein the claimant seeks deletion of the diversion volume, IDWR responds as follows: Idaho Code section 42-1411 requires IDWR to determine the amount of water that may be diverted pursuant to a water right appropriated under state law, and further provides that IDWR shall determine "such other matters as are necessary to define the right". Idaho Code section 42-1412(9) further provides that the court's decree shall include matters necessary for the efficient administration of water rights. Because a right to groundwater is a right to draw from a source measured and described in terms of volume, the quantification of diversion volume for groundwater rights is necessary both to define the right and for administration of the right.

In response to Statement of the Objection item 11, and all allegations of the objection regarding this item, there is an error in the remarks in the description of this water right in the director's report. The recommendation should be corrected as shown in the attachment entitled "Recommended Water Rights Acquired Under State Law."

In further response to Statement of the Objection item 11, IDWR responds that it has authority pursuant to Idaho Code Sec. 42-1411(2)(j) to include in its recommendations of water rights acquired under state law and recommended in the director's report "such other matters as are necessary to define the right." The remarks objected to are necessary to adequately describe and define this water right.

In response to Statement of the Objection item 14, and all allegations of the objection regarding this item, IDWR responds as follows: The objection refers to all General Provisions without stating a reason for the objection. IDWR denies this portion of the objection.

CHANGES TO THE DIRECTOR'S REPORT

See attached List of 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:

	No. of Pages
Notice of Claim No. A36-04169	3
Recommended Water Rights Acquired under State Law	1

(Over)

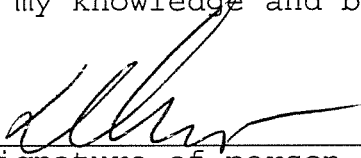
VERIFICATION (Must be Completed)

State of IDAHO

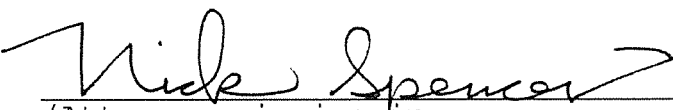
County of ADA

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.

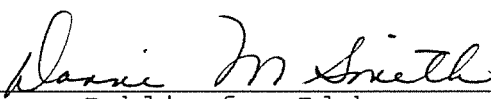


Signature of person filing response

By: 

(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 31st day of August,
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 31st day of AUGUST, 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:

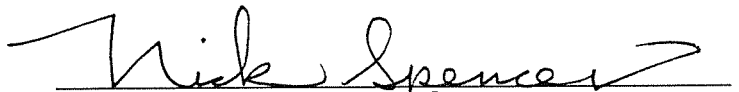
See No. 3

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: EUGENE & SHIRLEY HRUZA
Address: PO BOX 66
MINIDOKA ID 83343

4. One copy to:

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



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: A36-04169
Date Received: 10/04/1988
Receipt No: 5002747
Received By: AD

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: EUGENE HRUZA 208-531-5543
Address: P.O. BOX 66
MINIDOKA, ID 83343

OR
Name: SHIRLEY HRUZA 208-531-5543
Address: P.O. BOX 66
MINIDOKA, ID 83343

2. Date of Priority: MAR 15, 1963

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
08S	26E	15	NE	SW	NE		BLAINE

5. Description of diverting works:
16" WELL WITH 150 H.P. TURBINE PUMP DELIVERING TO SPRINKERS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	3.900		

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

8. Total consumptive use is 255.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
08S	26E	15	NE		NE		IRR	20.0
			SE		NE		IRR	5.0
			NE		NW		IRR	15.0
			NW		NW		IRR	35.0
			SW		NW		IRR	5.0
			SE		NW		IRR	5.0
							Section Acres	85.0
							Total Acres	85.0

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:
NONE

14. Remarks:
THIS CLAIM IS FOR THE EXPANDED ACRES DEVELOPED IN ADDITION TO
THOSE LICENSED UNDER A36-02068.

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 X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: See Map A36-02068

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): Ernest J. Hays Date: 10-4-88
Date: _____

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 4th day
of Oct 19 88 Alfred J. Merritt
Notary Public

Seal

Residing at Kimberly, ID.
My Commission Expires 6/30/92

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

36-04169	SHIRLEY HRUZA EUGENE HRUZA PO BOX 66 MINIDOKA ID 83343	03/15/1963	IRRIGATION	04-01 10-31	1.12 224.0	CFS AFY
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					1.12 224.0 168.0	CFS AFY AFY
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POINT OF DIVERSION:
T08S R26E S15
PLACE OF USE: IRRIGATION

T08S R26E S15	NENE 13.0 SENE 5.0 SENE 2.0	56.0 ACRES TOTAL	NENW 15.0 NWNW 21.0
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REMARKS: RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
PURSUANT TO IDAHO CODE 42-1416A-
RIGHT NO. 36-02068 IS ALSO DIVERTED THROUGH POINT OF DIVERSION
DESCRIBED ABOVE, AND THE TOTAL COMBINED RATE OF DIVERSION OF
THESE RIGHTS IS LIMITED TO 3.90 CFS.