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AUG 30 1993

Department of Water Resources
Adjudication Bureau

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. 36-07138 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,)
_____)

36-07138 -0001/
93-08-0327

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. Party/Claimant responding to objection:

Name: Flat Top Sheep Company
Address: P.O. Box 88
Carey, Idaho 83320

Briefly describe your interest in this water right:

The claimant applied for and obtained a license for the diversion of water for stockwater, used in the watering of claimant's livestock, which enhances the claimant's ability to exercise its grazing privileges on federal lands.

If this response is filed by an attorney:

Attorney Name: Roger D. Ling
Attorney Address: P.O. Box 396
Rupert, Idaho 83350
Attorney Phone No.: (208) 436-4717

2. Party/Claimant who filed objection:

Name: United States of America
Bureau of Land Management
United States Department of the Interior
Address: 3380 Americana Terrace
Boise, Idaho 83706

II. STATEMENT OF THE RESPONSE

Please check each "box" which identifies your response.

1. x Name and Address: I respond to the objection concerning the name and/or address of the owner of the water right.

14. x Other: I respond to the objection concerning:

Flat Top Sheep Company claiming ownership of federal land on which the point of diversion and place of use lie for this water right claim.

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.

Boxes 1 and 14 were checked because this water right was obtained and is owned by Flat Top Sheep Company, whether or not Flat Top Sheep Company holds any ownership in the land upon which the well is located. Ownership of the land does not control the use of the water for livestock purposes. Claimant has access to the land under its grazing privileges, and so long as such privileges exist, claimant has the right to continue to divert water for the beneficial use shown in the license issued to claimant. Ownership of the land does not constitute ownership of the water right.

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.

7/12/83

RECEIVED

No changes to the Director's Report should be made.

Please note that you should attach copies of documents which support your response. 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:

VERIFICATION

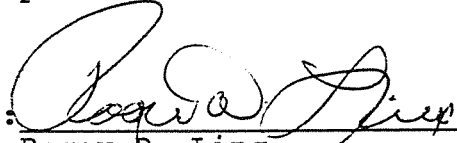
STATE OF IDAHO

County of Minidoka

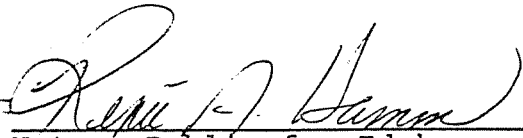
Roger D. Ling, being first duly sworn, upon oath, deposes and says:

That I am the person or entity filing this response, 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 response, know its contents and that the statements contained therein are true to the best of my knowledge and belief.

Flat Top Sheep Company
Signature of person filing response

By: 
Roger D. Ling

SUBSCRIBED AND SWORN to before me this 27th day of August, 1993.


Notary Public for Idaho
Residing at: Burley, Idaho
My Commission Expires: 9-13-97

CERTIFICATE OF MAILING

I hereby certify that on the 27th 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 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:

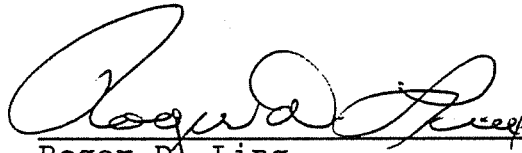
Name: Flat Top Sheep Company
Address: P.O. Box 88
Carey, Idaho 83320

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



Roger D. Ling
Attorney for Respondent

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. 36-07138 -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,)

36-07138 -0001/
93-08-0328

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: US BUREAU OF LAND MANAGEMENT
Address: DEPT OF INTERIOR
3380 AMERICANA TERRACE
BOISE ID 83706

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

1. ☒ Name and Address: I respond to the objection concerning the name and/or address of the owner of the water right.
14. ☒ Other: I respond to the objection concerning:
OWNERSHIP OF FEDERAL LAND

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection items 1 and 14, and all allegations of the objection regarding these items, IDWR responds as follows:

IDWR is informed and therefore believes that some or all of the lands upon which water is diverted, conveyed, or used pursuant to this right are owned by the United States, and that the claimant has a cooperative agreement with the United States regarding construction and maintenance of range improvements. The United States did not claim any rights to water from a well in Lot 7 (SWSW), Section 19, T05S, R24E. IDWR denies the objection and all 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. A36-07138

3

(Over)

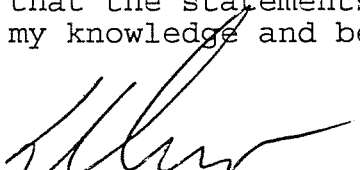
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

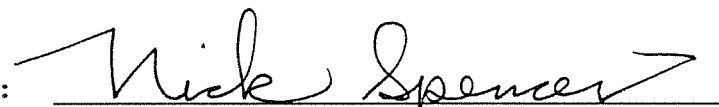
David B. Shaw, being first duly sworn, upon oath, deposes and says:

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.



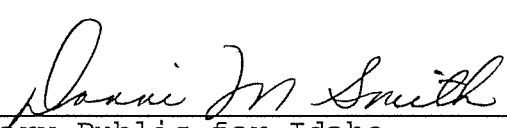
Signature of person filing response

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 M. 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:

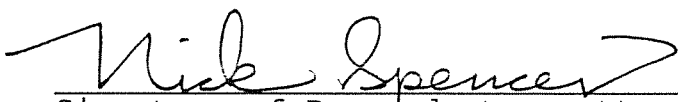
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

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

Name: ROGER D LING
Address: PO BOX 396
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 W FORT ST BOX 33
BOISE ID 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: A36-07138
Date Received: _____
Receipt No: _____
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: Flat Top Sheep Company Phone: 788-2850 or
Address: P.O. Box 88 726-7568
Carey, Idaho 83320
2. Date of Priority: September 24, 1970
3. Source: Groundwater Trib. to:
4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
5S	24E	19	SW	SW			Minidoka
5. Description of diversion works:
Well and pump
6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.
Stockwater	Jan. 1	Dec. 31	.03		
7. Total Quantity Claimed is:
.03 C.F.S. (and/or) (Acre Feet)
8. Total consumptive use claimed is:
94 Acre Feet Per Annum.
9. Non-irrigation uses:
Stockwater - 10,000 sheep
2,000 cattle
10. Description of place of use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
5S	24E	19	SW	SW		Stockwater	

11. In which county (ies) are lands listed above as place of use located?

Minidoka

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

13. Other water rights used at the same place and for the same purposes as describe above.

None

14. Remarks:

15. Basis of Claim: License

Water Right Number: 36-07138

16. Signature(s)

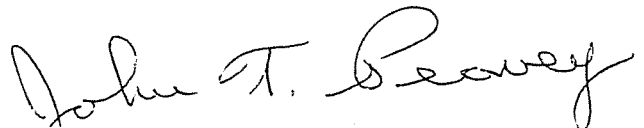
(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication."

(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 Claim 36-7021

For Organizations:

I do solemnly swear or affirm that I am President of Flat Top Sheep Company, that I have signed the foregoing document in the space below as President of Flat Top Sheep Company and that the statements contained in the foregoing document are true and correct.



John T. Peavey

President - Flat Top Sheep Company

J.P. 18
Dec 18, 1991

Date

State of Idaho)

County of MINIDOKA)

) ss.

Subscribed and sworn (or affirmed) before me this 18th day of ~~November~~, 1991.
DECEMBER

(SEAL)

Roger D. Ling
Notary Public for Idaho
Residing at: Rupert, Idaho
My Commission Expires: 10/30/92

17. Notice of Appearance:

Notice is hereby given that I, Roger D. Ling, will be acting as attorney at law on behalf of the claimant signing the above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature: Roger D. Ling
Address: P. O. Box 396, Rupert, ID 83350
Date: Dec 18, 1991