

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. 36-07167

(The water right number you are responding to must be inserted)

The State of Idaho, ex rel. Keith R.)
Higgenson in his official capacity as)
Director of the Idaho Department of)
Water Resources,)

**STANDARD FORM 2
RESPONSE TO OBJECTION**

Petitioner,)

RECEIVED

vs.)

SEP 15 1993

The United States; the State of Idaho; and)
all Claimants to the Use of Water from the)
Snake River Basin Water System,)

Department of Water Resources
Adjudication Bureau

Respondents.)

36-07167 -0001
36-07167 -0002/
93-08-0335

INSTRUCTIONS

This form must be used to file a response to any objection filed against a water right recommended in a Director's Report. You may respond to all objections filed against one water right, using one response form. If you choose this option, your response should cover every issue raised in the objections. To respond to objections filed against more than one water right, you must file a separate response form for each water right. Forms may be obtained from the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you do, the text must be on the front and back of each page exactly as it appears here. The response must be **received** by the court on or before the deadline specified in the Notice of Filing the Director's Report that IDWR mailed you. Following the Instructions for Mailing this response (Page 5), or the court will not accept it for filing.

This form has been adopted by the court in **SRBA Administrative Order 1** (amended June 21, 1993), Section 4, which may be consulted for further information.

Any party filing 25 or more responses must make an appointment with the Clerk of the SRBA Court.

By filing a response form, you are certifying that the response is well-grounded in fact; is warranted by existing law or a good-faith argument for extension, modification or reversal of existing law; and that is not filed for any improper purpose, such as to harass, cause unnecessary delay or needlessly increase the cost of litigation.

I. GENERAL INFORMATION

Please fill in the following information:

1. *Party/Claimant responding to objection:*

Name: Idaho Department of Fish and Game

Address: PO Box 25, Boise, ID 83707

Phone: Work: _____ Home: _____

Briefly describe your interest in this water right:

IDFG has several water rights arising from Niagara Springs that may be affected
by the determination of this water right.

If this response is *filed by an attorney*:

Attorney Name: Stephen V. Goddard

Attorney Address: PO Box 25

Boise, ID 83707

Attorney Phone No.: (208) 334-3715

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

2. *Party/Claimant who filed objection:*

Name: Rim View Trout Idaho Power Company

Address: 1301 Vista Avenue PO Box 70

Boise, ID 83705 Boise, ID 83707

II. STATEMENT OF PURPOSE

Please check each "box" which identifies your response.

1. **Name and Address:** 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: General Provision Nos. 5 & 7
-
-
-

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.

See attached page.

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.

None.

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 (Must be Completed)

State of IDAHO

County of ADA

STEPHEN GODDARD, being first duly sworn, upon oath, deposes and says:
(Name of party/claimant filing response)

That I am the person or entity filing this response (as listed on Page 2, Section 1, "Person responding to objection"), as defined by I.C. §42-1401A(1) and (7), and I have read this response, know its contents, and that the statements are true to the best of my knowledge and belief.

Signature of party/claimant filing response

BY: Stephen Goddard
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: Aug 30 1993
(Insert Date)

Larry L. Venbohn
Notary Public for Idaho
Residing at: Emmett, ID
My Commission expires: 8-15-99

INSTRUCTIONS FOR MAILING

You must mail the response, including all attachments, to the Clerk of the Court. **FAX filings will not be accepted by the Clerk of the Court.** You must also send a copy of the parties listed below in the Certificate of Mailing.

You must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I hereby certify that on the 30th day of AUGUST, 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
PO Box 2707
Twin Falls, ID 83303-2707

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

Name: Rim View Trout Company
Address: 1301 Vista Avenue
Boise, ID 83705

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: William F. Ringert James C. Tucker
Address: PO Box 2773 PO Box 2139
Boise, ID 83701 Boise, ID 83701

4. One copy to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

5. One copy to:

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


Signature of party/claimant or attorney

REASONS SUPPORTING EACH BOX CHECKED

RESPONSE TO RIM VIEW TROUT COMPANY AND IDAHO POWER COMPANY
OBJECTIONS TO 36-07167

11. IDFG believes it is within the authority of the director to place conditions upon the issuance of water right licenses. The Supreme Court decision in *Shokal v. Dunn*, 109 Idaho 330, 340, 341 (1985) stated ". . . the Director had the authority to consider whether the design of any particular facility will meet all environmental requirements." Further, the court stated ". . . Water Resources is precluded from issuing a permit for a water appropriation project which when completed would violate the water quality standards of the Department of Health and Welfare." The court goes on to say, ". . . Water Resources should condition the issuance of a permit on a showing by the applicant that a proposed facility will meet the mandatory water quality standards."

Idaho Code §42-141(2) provides that the director's recommendation shall include "such other matters as are necessary to define the right." The volume of the facility correctly describes the current use of water used for the claimed purpose of fish propagation. Description of the current use is necessary to define the right and prevent future expansions in use of the right. IDFG does not agree with claimant's position that an expansion of use resulting from an increase in facilities volume is covered by the terms of the original water right claim. IDFG believes an increase in facilities volume does constitute an expansion of use.

IDFG believes it is appropriate for the director to have the authority to require measuring devices and control works for diversions of surface or groundwater resources.

14. IDFG does not concur with the claimant's position to delete General Provision 5 and hold the director's report in abeyance until an investigation of the connection between surface and groundwater in the Snake River Plain aquifer can be completed. This would unnecessarily delay the adjudication proceedings. As an alternative, if the claimant's objection is granted, IDFG believes the court should instruct IDWR to immediately stop accepting any new applications for permits to appropriate water, amendments to existing applications, or changes to permitted, licensed, or decreed water rights until such time as the above-referenced investigation can be completed and the impacts of existing uses can be assessed.

IDFG believes the objection filed by Idaho Power Company should be dismissed because they did not object to any specific recommendation(s) or cite any specific errors in the director's report. If this objection is not dismissed, then IDFG believes the court should consolidate all the objections relating to claims for water arising from Niagara Springs into a single subcase and determine them at the same time.

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. 36-07167 -0001

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

RESPONSE TO OBJECTION

vs.)

36-07167 -0001/
93-08-0336

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: IDAHO POWER CO
Address: PO BOX 70
BOISE ID 83707-0070

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

14. Other: I respond to the objection concerning:

PENDING SUB-CASE REGARDING NIAGARA SPRINGS
BETWEEN RIM VIEW TROUT COMPANY AND THE IDAHO
DEPARTMENT OF FISH AND GAME.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection item 14 and all allegations of the objection regarding this item, IDWR responds as follows:

The objection fails to allege any errors in the director's report or any portions of the director's report that should be changed, and therefore should be dismissed.

In the alternative, IDWR responds as follows: Idaho Power Company, Rim View Trout Company, and the Idaho Department of Fish and Game are the only claimants of rights to water from Niagara Springs; each of IDWR's recommendations of claims to water from Niagara Springs are contested by one or more of these three claimants; the use of water from Niagara Springs is a source of long-standing dispute among these three claimants; and Idaho Power Company has made the same objection to each right recommended to Rim View Trout Company and the Idaho Department of

Fish and Game. If this objection is not dismissed, then IDWR concurs that all issues as to the description of the water rights from Niagara Springs raised by the objections should be determined at the same time, by consolidation into a single sub-case.

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. A36-07167	4

(Over)

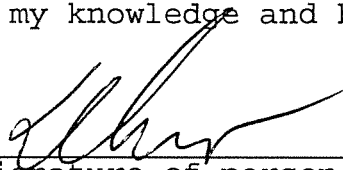
VERIFICATION (Must be Completed)

State of IDAHO

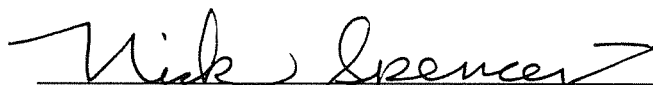
County of ADA

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.

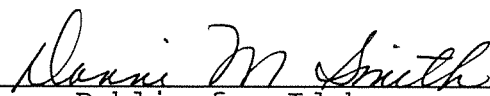


Signature of person filing response

By: 

(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 30th day of August,
1993.



Notary Public for Idaho
Residing at: _____
My Commission, as Notary Public
Danni Smith, Boise, Idaho
My Commission Expires December 5, 1994

CERTIFICATE OF MAILING

I hereby certify that on the 30TH 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:

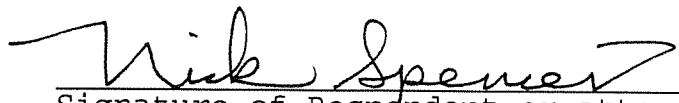
Name: WILLIAM F RINGERT
Address: PO BOX 2773
BOISE ID 83705

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: JAMES C TUCKER
Address: PO BOX 2139
BOISE ID 83701-2139

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 A36-07167
Date Received 9-1-88
Receipt Number C002454

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

RECEIVED

SEP 01 1988

Department of Water Resources

Please type or print clearly

1. Name of Claimant (s) Rim View Trout Company Phone (208) 344-7321
Mailing Address 1301 Vista Avenue, Boise, Idaho Zip 83705

2. Date of Priority (Only one (1) per claim) March 18, 1971

3. Source of water supply (a) Niagara Springs
which is tributary to (b) Snake River

4. a. Location of existing point of diversion is: Township 9S Range 15E Section 10,
NE 1/4 of NE 1/4 of _____ 1/4, Govt. Lot, 1 B.M., County of Gooding

Additional points of diversion if any: _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,
Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well.

Concrete Headworks and Flumes, Dirt and rock canal and pipes

MICROFILMED

JAN 28 1993

6. Water is claimed for the following purposes:

(both dates are inclusive) (cfs) (acre feet)

For Fish propagation purposes from Jan 1 to Dec 31 amount 50.0 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 50.0 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) Fish propagation - See remarks below

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals	
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4		
9S	15E	10	GL _H 1	GL _H 2	GL _H 10	GL _H 9														

Total number of acres irrigated _____

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

12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.

Claim No. 36-4032 and License No. 33448/36-2680 are owned by Rim View Trout Co. and are used at the same place but for separate use from 36-7167 herein described.

14. Remarks:

Item 9 above-Some of the raceways shown on the drawing included in the beneficial use file have been and are being divided and changed in dimensions and location for a more efficient use of the water. However, these changes will not exceed the 16 acre ft. of facility volume as shown on the license

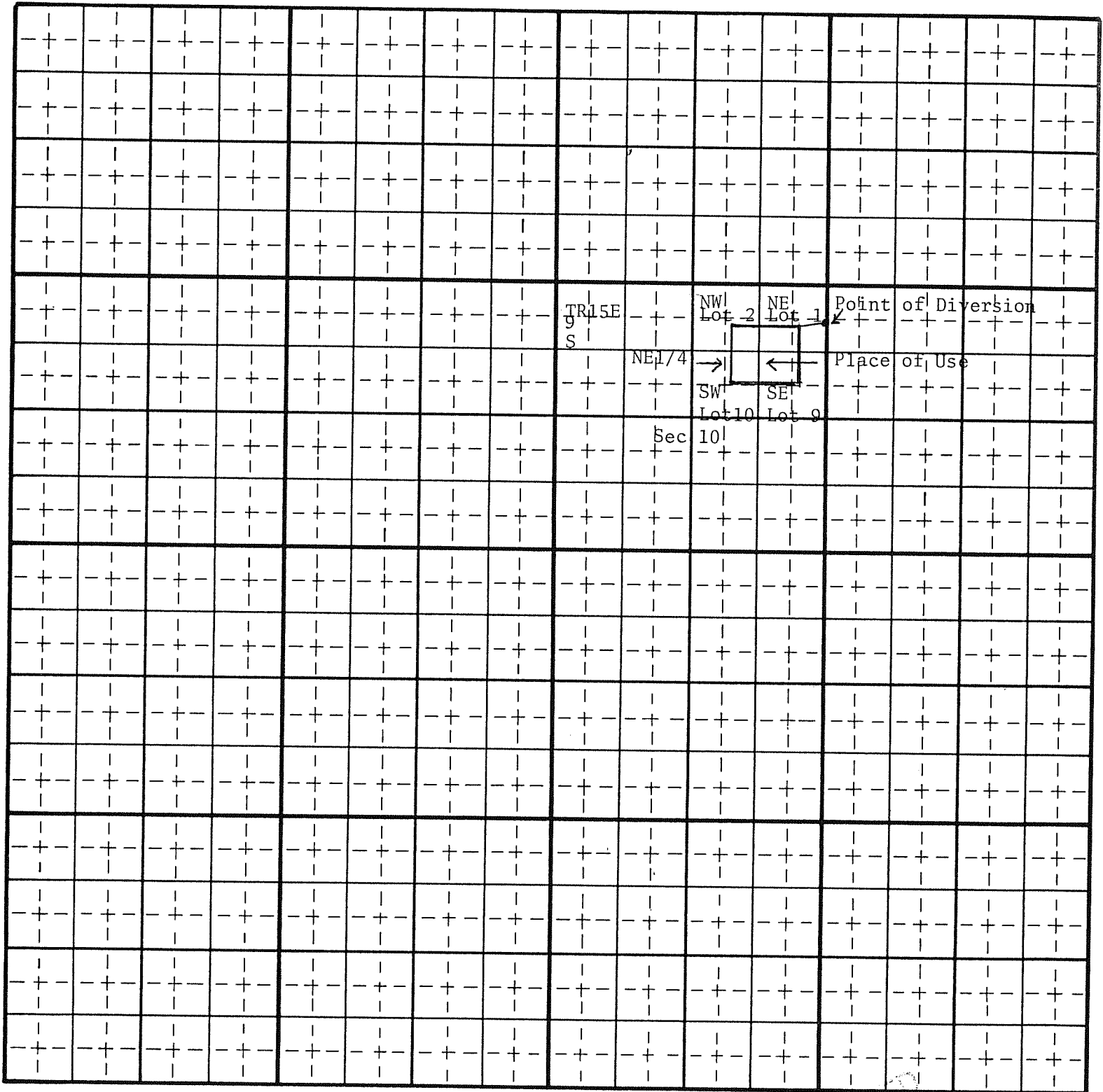
MICROFILMED
JAN 28 1993

Last Name _____ Ident No. _____

Copies: White -State, Yellow-Claimant

Map of Project: show clearly the place of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile



MICROFILMED
JAN 28 1974

Last Name _____ Ident No. _____

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Official Use Posted Notice License Permit
Decree
If applicable provide IDWR Water Right Number 36-7167
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

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 do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.
Signature of Claimant (s) _____ Date _____
_____ Date _____

For Organizations: I do solemnly swear or affirm that I am President Title _____
of Rim View Trout Company Organization _____, that I have signed the foregoing
document in the space below as President Title _____ of Rim View Trout Company Organization _____
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent *Edna Hardy*
Title and Organization President, Rim View Trout Company Date September 1, 1988

State of Idaho/or Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 1st day of September 1988
SEAL Notary Public *Mary Anne Johnson*
Residing at *Boise, Idaho*
My Commission Expires *1-11-92*

Please Print Name
17. Notice of Appearance:
Notice is hereby given that I, *W. F. RINGERT* will be acting as attorney at law on behalf of the claimant signing 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 *W. F. Ringert*
Address *Box 2773, Boise, ID. 83701*
Date *9-1-88*

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. 36-07167 -0002

(Sub-case no. incorrectly
stated on objection as 36-01767)

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,)

36-07167 -0002/
93-08-0337

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: RIM VIEW TROUT CO
Address: 1301 VISTA AVE
BOISE ID 83705

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

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:
- 12b. || This water right not being recommended.
14. || Other: I respond to the objection concerning:
GENERAL PROVISIONS 5 & 7

REASONS SUPPORTING EACH BOX CHECKED

There is an error in the sub-case number shown on the objection. The number of the contested water right is 36-07167; the objection sub-case number should therefore be changed to 36-07167-0002.

In response to Statement of the Objection item 11, and all allegations of the objection regarding this item, IDWR responds as follows:

This right is based on a license issued by IDWR. The remarks regarding return flows and measuring devices were included in the license as issued by IDWR. Issuance of the license was a final administrative action by IDWR and the claimant is bound by the terms of the license. Ada County Civil No. 94822 is currently pending, in regard to enforcement of an order of IDWR to install and maintain a measuring device on the claimant's diversion system.

Idaho Code section 42-1411(2) provides that the director's recommendation shall include "such other matters as are necessary to define the right." The facility volume correctly describes the current use of water diverted for fish propagation purposes. Description of the current use is necessary to define the right and to prevent future expansions in use of the right.

In response to Statement of the Objection item 12.b, and all allegations of the objection regarding this item, IDWR responds as follows:

This item appears to have been checked in error. The purpose of this item is to object to a recommendation of disallowal by IDWR, and this claim was not recommended to be disallowed.

In response to Statement of the Objection item 14 and all allegations of the objection regarding this item, IDWR responds as follows.

IDWR denies this portion of the objection.

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:

(Over)

No. of
Pages

The notice of claim is attached to IDWR's response
to Objection No. 36-07167-0001

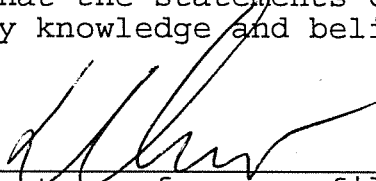
VERIFICATION (Must be Completed)

State of IDAHO

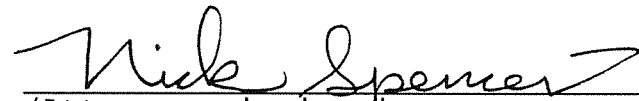
County of ADA

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.

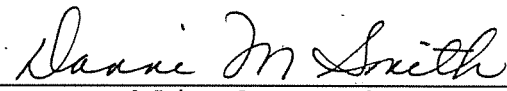


Signature of person filing response

By: 

(Attorney signing in representative capacity)

Subscribed and sworn to before me this 30th 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

(Over)

CERTIFICATE OF MAILING

I hereby certify that on the 30TH 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:

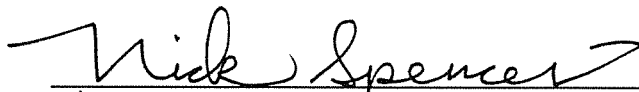
See No. 3

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: WILLIAM F RINGERT
Address: PO BOX 2773
BOISE ID 83701

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 the Rights to the Use of Water)
from the Snake River Basin)
Water System)

Case No. 36-07172 -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.)

36-07172 -0001/
93-08-0338

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: BOB PORTER
Address: FRED SURBAUGH
562 D SHOUP AVE W
TWIN FALLS ID 83301

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.
9. Place of Use: I respond to the objection concerning:
- 9a. The legal description of the place of 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 MATTERS RAISED IN THE CLAIMANTS' ANSWER,
AFFIRMATIVE DEFENSES, AND PRAYER FOR RELIEF.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection item 1, and all allegations regarding this item, IDWR responds as follows: No notice of change of ownership has been filed with IDWR by the owner of the right as required by Idaho Code Sec. 42-1409(7). IDWR therefore lacks sufficient information to form a belief as

to the truth of the matter asserted. Upon the filing of a notice of change of ownership, IDWR will correct the name and address of the owner of this water right accordingly. The claimant may also need to file a Standard Form 3 with the SRBA Court.

In response to Statement of the Objection 9 and 9.a, and all allegations of the objection regarding those items, IDWR responds that the recommended water right accurately describes the place of use of the right.

In response to Statement of the Objection item 11, and all allegations of the objection regarding that item, IDWR responds that there is an error in the remarks in the description of the conveyance losses associated with 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 this objection item, 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 remaining 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 that item, see attached "IDWR's Response to Answer Affirmative Defenses and Prayer for Relief of Claimant".

In response to the sentence listed in Changes to the Director's Report, whereby the claimant attempts to "reserve the right to claim all purposes of use and quantities of use as shown by the evidence at trial," IDWR responds as follows: Insofar as this purported reservation of rights may constitute an attempt to reserve the right to amend at trial the claimant's notice of claim, the claimant improperly seeks to use the objection process to amend the claim. A claimant must obtain leave of the court to amend a claim just as a party must obtain leave of the court to file a late claim after the director's report is filed.

CHANGES TO THE DIRECTOR'S REPORT

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

(Over)

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. A36-07172	4
IDWR's Response to Answer, Affirmative Defenses and Prayer for Relief of Claimant	4
Recommended Water Rights Acquired under State Law	1

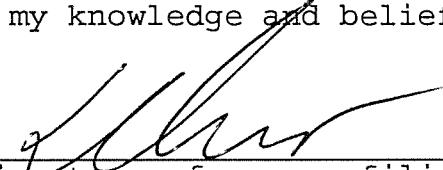
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

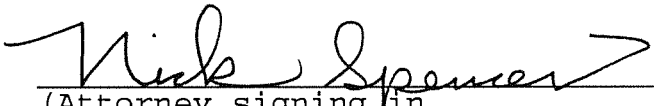
David B. Shaw, being first duly sworn, upon oath, deposes and says:

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.



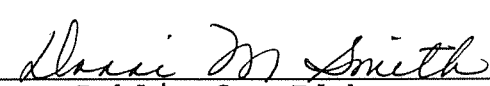
Signature of person filing response

By:



(Attorney signing in representative capacity)

Subscribed and sworn to before me this 10th day of September, 1993.



Notary Public for Idaho

Residing at: _____

My Commission expires: _____

Danni Smith, Notary Public
Residing at Boise, Idaho
My Commission Expires December 5, 1994

(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:

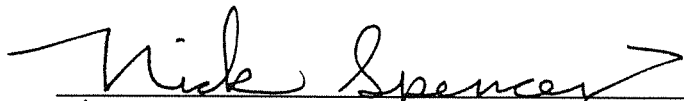
See No. 3

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: HEPWORTH NUNGESTER & LEZAMIZ
Address: PARTICK D BROWN
& PENELOPE PARKER
PO BOX 389
TWIN FALLS ID 83303

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