

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. 36-08051 -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,

36-08051 -0001/
93-08-0414

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: JOHN D BRUNE
Address: 2463 E 1200 S
HAZELTON ID 83335

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

3. ☒ Quantity: I respond to the objection concerning:
- 3a. ☒ The total quantity of water used in cubic feet per second.
9. ☒ Place of Use: I respond to the objection concerning:
- 9a. ☒ The legal description of the place of use.
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.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection items 3 and 3.a, and all allegations of the objection regarding those items, IDWR responds as follows: This right was claimed based on a permit for which a license has been issued by IDWR. The diversion rate and diversion volume recommended are the same as stated on the license. The claimant is not entitled to an amount greater than

licensed.

In response to Statement of the Objection 9 and 9.a, and all allegations of the objection regarding those items, IDWR responds as follows: There is an error in the description of the place of use 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." The corrected recommendation shows the place of use as licensed by IDWR.

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 3 acre feet per acre. This is the maximum volume of water consumed by the most water consumptive crop (pasture) that can be grown in the area during the irrigation season. 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 right.

In response to Statement of the Objection item 11, and all allegations of the objection regarding this item, IDWR responds as follows: 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." The corrections are consistent with the corrections in the place of use.

(Over)

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. A36-08051	2
Recommended Water Rights Acquired Under State Law	1

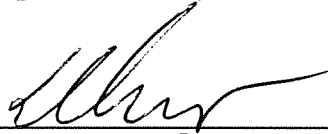
VERIFICATION (Must be Completed)

State of IDAHO

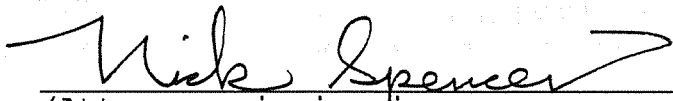
County of ADA

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

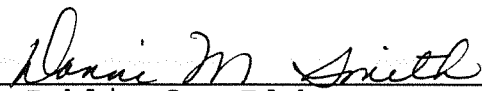
That R. Keith Higginson, in his official capacity as director of the Idaho Department of Water Resources, is a party to this proceeding, as defined by I.C. 42-1401A(1) and (7); that I am the Adjudication Bureau Chief for IDWR and am authorized by R. Keith Higginson, in his official capacity as director 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: JOHN D BRUNE
Address: 2463 E 1200 S
HAZELTON ID 83335

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: A36-08051
Date Received: 1/19/1989
Receipt No: S006085
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: JOHN BRUNE 208-829-5457
Address: 2463E 1200S
HAZELTON, ID 83335-0000
2. Date of Priority: JAN 20, 1982
3. Source: WASTE WATER Trib. to: MILNER-GOODING CANAL
4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
10S	21E	18	SW	SW	SW	4	JEROME
		19	NE	NE	NE		JEROME

5. Description of diverting works:
POND, PUMP, SPRINKLERS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.480		96.00

7. Total Quantity Appropriated is:
0.480 C.F.S. (and/or) 96.00 A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
10S	21E	19	NE	NE		IRR	19.0
			SE	NE		IRR	5.0
Section Acres							24.0

A36-08051

Page 1

Date: 01/19/89

MICROFILMED

FEB 09 1993

10. Place of Use: Continued

Total Acres 24.0

11. Place of use in counties: JEROME

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

13. Other Water Rights Used:
NORTHSIDE CANAL WATER

14. Remarks:

15. Basis of Claim: LICENSE

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/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): John D. Bruner Date: Jan 19, 1989

Date: _____

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 19th day

of January 19 89

Mary A. Baldwin
Notary Public

Seal

Residing at Gooding ID

My Commission Expires 10/16/1992

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: AUG-29-1993
PAGE: A-1

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: WASTE WATER						
36-08051	JOHN BRUNE 2463 E 1200 S HAZELTON ID 83335	01/20/1982	IRRIGATION	04-01 10-31	.48 CFS 96.00 AFY	LICENSE
POINT OF DIVERSION:						
T10S R21E S18 LOT 4 (SESWSW)						
S19 NENENE						
PLACE OF USE: IRRIGATION						
T10S R21E S19						
NENE 36-019.0						
NENW 3-0						
		SENE 8-05 0				
		NENW 15-0				

REMARKS: 24.0 77.0 ACRES TOTAL
USE OF THIS RIGHT IS COMBINED WITH WATER FROM
NORTH SIDE PUMPING CO.
RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO
IDAHO CODE 42-1416A-

THIS RIGHT REMAINS SUBJECT TO THE RIGHT OF THE ORIGINAL
APPROPRIATOR, IN GOOD FAITH AND IN COMPLIANCE WITH STATE LAWS
GOVERNING CHANGES IN USE AND/OR EXPANSION OF WATER RIGHTS, TO
CEASE WASTING WATER, TO CHANGE THE PLACE OR MANNER OF WASTING IT,
OR TO RECAPTURE IT.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 24 ACRES WITHIN THE
PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

USE OF THIS RIGHT WITH RIGHT NO. 36-04137 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 0.89 CFS, A TOTAL COMBINED
ANNUAL CONSUMPTIVE USE VOLUME OF 231 AF, AND TO THE IRRIGATION
OF A COMBINED TOTAL OF 77 ACRES IN A SINGLE IRRIGATION SEASON.

RIGHT NO. 36-04137 IS ALSO DIVERTED THROUGH POINT OF
DIVERSION DESCRIBED ABOVE-AS LOCATED IN TWP. 10S, RGE. 21E.
SEC. 19 LOT 4 SESWSW.