

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. 36-10174 -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,

36-10174 -0001/
93-08-0438

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 A SANDERS FAMILY LTD PARTNERSHIP
Address: 2107 HOOVER DR
SANTA CLARA CA 95051

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.
4. ☒ Priority Date: I respond to the objection concerning the priority date.
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.
11. ☒ Remarks: I respond to the objection concerning the "remarks" listed with the water right.
14. ☒ Other: I respond to the objection concerning:
QUANTITY

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection items 3, 3.a., 11, and 14, and all allegations of the objection regarding these items, IDWR responds as follows: The claimant filed three claims, nos. 36-02382, 36-07016, and 36-10174, to rights diverted from the same well to use on the same 377 acres. Right no. 36-02382 is based on a license issued by IDWR. The licensing field exam conducted in 1962 measured the capacity of the diversion system as 4.85 cfs, and this right was licensed, claimed, and recommended for 4.85 cfs. The issuance of the license was a final administrative determination of the amount of water appropriated from this well in 1962, and the claimant is bound by that determination. In 1968, after enactment of the mandatory permit statute for appropriation of groundwater, the claimant filed application for permit no. 36-07016, seeking to appropriate an additional .50 cfs from this well. The licensing field exam conducted in 1973 confirmed that the system had the capacity to divert the additional .50 cfs, and that the additional .50 cfs had been diverted and used for the purposes described in the permit. This right was licensed for .50 cfs, and was claimed and recommended for .50 cfs. Appropriation for any additional diversion rate can be made only in accordance with the statutory permit and license procedure. Right no. 36-10174 is an expansion of the first two rights pursuant to Idaho Code Section 42-1416(2) which confirms the right to use the licensed diversion rate for the irrigation of lands in addition to the number of acres licensed under the first two rights. That section does not allow appropriation of a diversion rate in addition to the diversion rate licensed under the first two rights.

In response to Statement of Objection item 4, IDWR responds as follows: The 1968 priority date recommended for this right is based on information provided to IDWR by the claimant that the claimed expansion was not completed until 1968. Information currently available to IDWR does not support recommendation of an earlier priority date. Because this right is an expansion of right nos. 36-02382 and 36-07106, the priority date of this right cannot be the same as, or earlier, than the priority date of these rights.

In response to Statement of the Objection item 8, and all

(Over)

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's irrigation season of use standards have evolved over time as better technical information has become available. A necessary consequence of this is that, depending on when a particular license was issued, water rights in the same area have been licensed inconsistently, some licenses being issued with different lengths of season listed and some being issued with no season of use listed. To remedy this problem 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. The director's report does not prohibit pre-season or post-season irrigation; subject to the conditions set forth in general provision 12b of the director's report, water may be used for irrigation outside the standard season of use.

In further response to this objection item, IDWR responds that it recommended a longer season of use than claimed based on the above standards. By now seeking a yet longer season of use, the claimant improperly seeks to use the objection process to amend the notice of claim. A claimant must obtain leave of the court to amend a claim after the director's report is filed, just as a party must obtain leave of court to file a late claim after the director's report is filed. Once leave to amend is granted, IDWR can investigate the amended claim and make an appropriate recommendation to the court.

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.
Page:

Notice of Claim No. A36-10174

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(Over)

RESPONSE TO OBJECTION NO. 36-10174 -0001 - PAGE 5

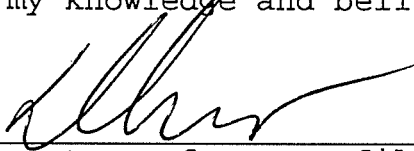
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

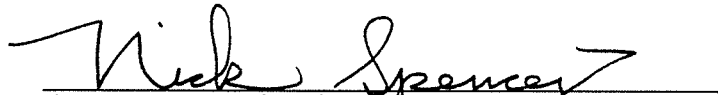
David B. Shaw, being first duly sworn, upon oath, deposes and says:

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.

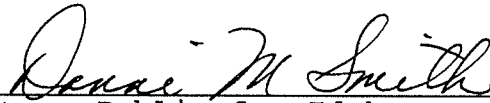


Signature of person filing response

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

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:

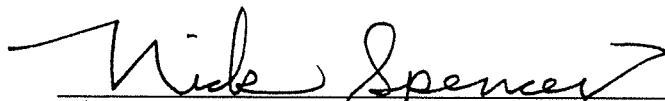
See No. 3

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 A SANDERS FAMILY LTD PARTNERSHIP
Address: 2107 HOOVER DR
SANTA CLARA CA 95051

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: A36-10174
Date Received: 7/07/1988
Receipt No: 5000781
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: LENARD J. THOMPSON
Address: 771 EASTLAND DRIVE SOUTH
TWIN FALLS, ID 83301

208-734-8128

AND/OR
Name: IONE THOMPSON
Address: 771 EASTLAND DRIVE SOUTH
TWIN FALLS, ID 83301

208-734-8128

2. Date of Priority: APR 15, 1964

3. Source: GROUNDWATER

Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07S	21E	27	SE	SW			LINCOLN

5. Description of diverting works:
20" X 500' WELL, 350 HP MOTOR, 75 HP BOOSTER, GRAVITY & SPRINKLER

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/15	10/15	1.040		

7. Total Quantity Appropriated is:
1.040 C.F.S. (and/or) 208.00 A.F.A.

8. Total consumptive use is 156.0 Acre Feet Per Annum.

9. Non-irrigation uses:

A36-10174

Page 1

Date: 07/07/88

MICROFILMED
FEB 07 1993

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
07S	21E	27	NW	NW		IRR	11.0
			NW	SE		IRR	9.0
			SW	SE		IRR	32.0
						Section Acres	52.0
						Total Acres	52.0

11. Place of use in counties: LINCOLN

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

13. Other Water Rights Used:
NONE

14. Remarks:
LAND DESCRIBED IS CLAIMED AS AN EXPANSION OF LIC. 36-2382 UNDER
SEC. 42-1416 IDAHO CODE. EXPANSION OCCURRED SOMETIME BETWEEN
ISSUANCE OF LICENSE AND MY PURCHASE OF THE FARM IN 1967.
I ENLARGED THE PUMP FROM 300 TO 350 HP, AND ADDED THE BOOSTER
PUMP TO FACILITATE INSTALLATION OF SPRINKLERS ON PART OF THE FARM

15. Basis of Claim: BENEFICIAL USE

MICROFILMED
FEB 07 1993

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: _____

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): Lenard J. Thompson Date: 7-7-88

Date: _____

State of Idaho)
County of Butte) SS.

Subscribed and sworn (or affirmed) before me this 7th day

of July 19 88

Mary A. Baldwin
Notary Public

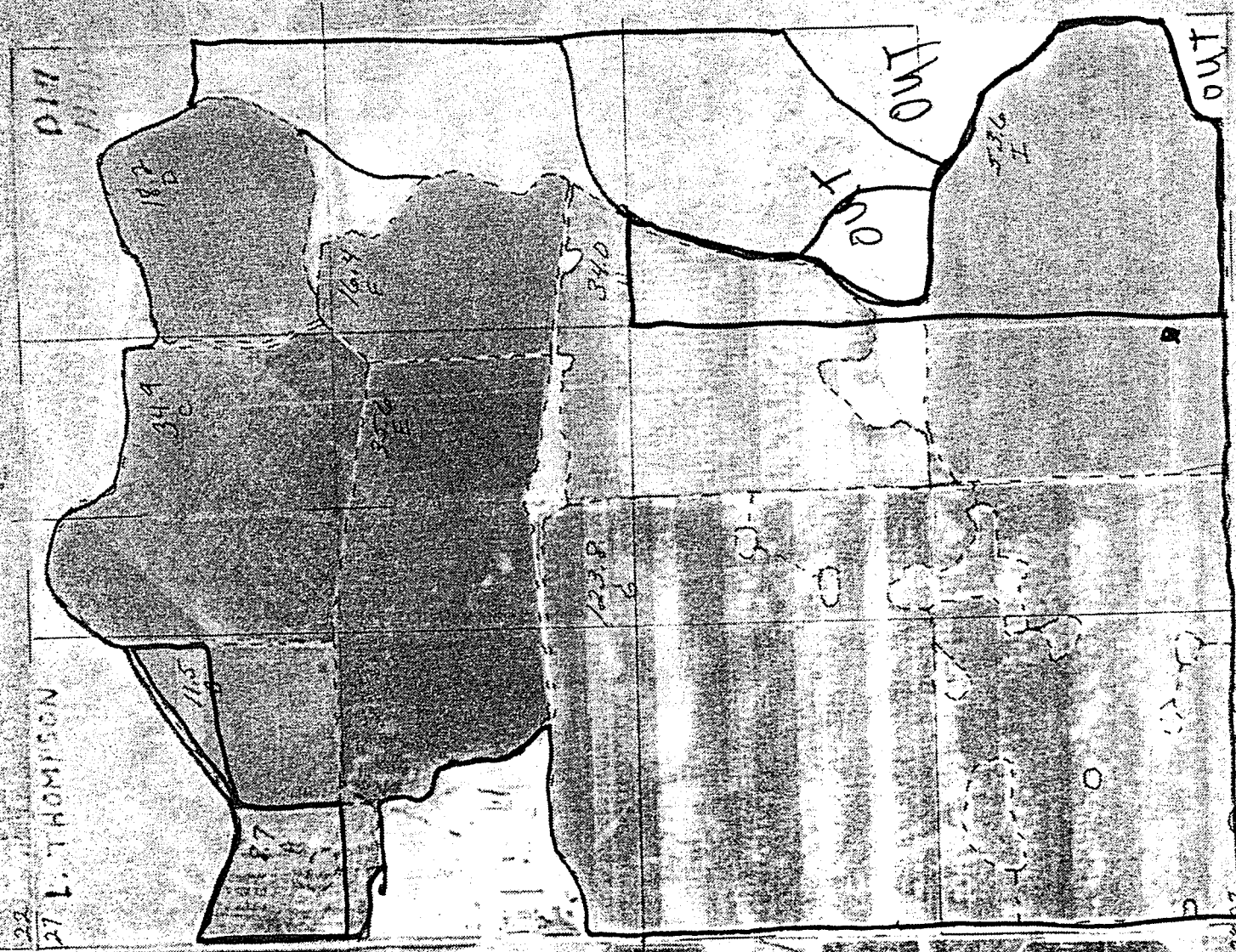
Seal

Residing at Gooding, Idaho
My Commission Expires 10-16-1992

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34	3.5

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28	27	L. THOMSON
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