

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. 36-11114 -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.)

36-11114 -0001/
93-08-0472

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 RECLAMATION
Address: DEPT OF INTERIOR
1150 N CURTIS
BOISE ID 83706-1234

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

2. ☒ Source: I respond to the objection concerning the source of water.
3. ☒ Quantity: I respond to the objection concerning:
5. ☒ Points of Diversion: I respond to the objection concerning the legal description of the point(s) of diversion.
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.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection items 2 and 5 and all allegations of the objection regarding these items IDWR responds as follows: The United States seeks a description of elements of the right different than stated on their notice of claim. The United States improperly seeks to use the objection

process to amend its notice of claim. IDWR believes that 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 the court to file a late claim after the director's report is filed. If leave to amend the claim is granted, IDWR further responds as follows: The purported change in source and point of diversion occurred in 1990. Changes in use occurring after commencement of the SRBA cannot be claimed as an accomplished change pursuant to Idaho Code section 42-1416A. The changes sought may be accomplished only through the administrative procedures set forth in Idaho Code section 42-222. IDWR therefore denies this portion of the objection and all allegations regarding this portion of the objection not expressly admitted herein.

In response to Statement of the Objection items 9 and 9.a, and all allegations of the objection regarding these items, IDWR responds as follows: Information currently available to IDWR does not support the change in the description of the place of use sought by the claimant. IDWR therefore denies this portion of the objection.

In response to Statement of the Objection items 3 and 11, and all allegations of the objection regarding these items, IDWR responds as follows: As recommended, water right nos. 36-11114 and 36-11115 do not require a combined use limitation. The diversion rate recommended is the diversion rate claimed. The remarks correctly describe the current uses of water pursuant to this right as claimed by the United States and as confirmed by IDWR. This right is based on beneficial use and does not properly include uses to be made in the future. IDWR therefore 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)

Notice of Claim No. A36-11114

No. of
Pages

2

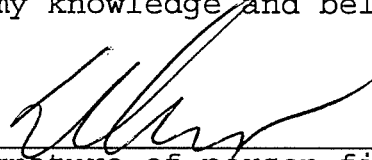
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

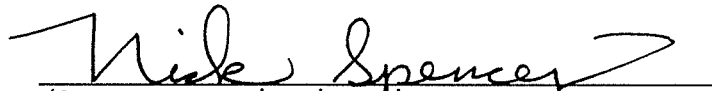
David B. Shaw, being first duly sworn, upon oath, deposes and says:

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.



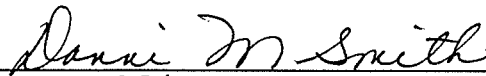
Signature of person filing response

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

(Over)

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: US DEPT OF JUSTICE
Address: ENVT & NAT RESOURCES
550 WEST FORT ST BOX 33
BOISE ID 83734



Signature of Respondent or attorney
mailing on Respondent's behalf

Post-It™ brand transmittal memo 7671		# of pages • 2
To <i>Allen Merritt</i>	From <i>Ed Thomas</i>	
Co. <i>EDWR</i>	Co. <i>USBR</i>	
Dept. <i>Twin Falls</i>	Phone # <i>1165</i>	
Fax # <i>736-3037</i>	Fax # <i>334-1154</i>	

N THE DISTRICT COURT OF THE FIFTH JUDIC
IN AND FOR THE COUNTY

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: A36-11114
Date Received: 3/01/1989
Receipt No: X111111
Received By: _____

NOTICE TO A WATER
ACQUIRED UNDER STATE LAW

Bureau of Reclamation

1. Name: UNITED STATES OF AMERICA, ACTING THROUGH 208-334-1165
Address: REGIONAL DIRECTOR, P.N. REGION
BUREAU OF RECLAMATION
BOX 043-550 WEST FORT STREET
BOISE, ID 83724

2. Date of Priority: JUN 15, 1909

3. Source: SPRING Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
09S	25E	1		7	MINIDOKA

5. Description of diverting works:
SPRING - MINIDOKA DAM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
DOMESTIC	01/01	12/31	0.040		

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

A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
DINESTUC

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
09S	25E	1			DOMEST	

A36-11114

Page 1

Date: 8/31/92-and.

MICROFILMED
FEB 07 1993

11. Place of use in counties: MINIDOKA

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

13. Other Water Rights Used:
NONE

14. Remarks:

DOMESTIC WATER SUPPLY FOR MINIDOKA DAM OFFICE/WAREHOUSE/POWER-
PLANT COMPOUND AND THE MINIDOKA NATIONAL WILDLIFE REFUGE HEADQUARTERS

15. Basis of Claim: BENEFICIAL USE

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Date: 8/31/92-amd.

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