

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. 36-11145 -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,

36-11145 -0001/
93-08-0476

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: FLYING TRIANGLE INC
Address: RT 1 BOX 180
HAGERMAN ID 83332

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.
7. ☒ Purposes of Use: I respond to the objection concerning the purpose(s) of use.
14. ☒ Other: I respond to the objection concerning:
NON-IRRIGATION USES.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection items 3, 3.a, 7 and 14, and all allegations of the objection regarding these items, IDWR responds as follows: Water for irrigation use was neither claimed nor recommended for this right; the portion of the objection asserting a need for water for irrigation appears to be in error. To the extent that the objector is now asserting a claim to water for irrigation as part of this right, the objector improperly seeks to use the objection process to amend the notice of claim. A claimant must obtain leave of court to

amend a notice of 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 of court is granted, IDWR can investigate the amended claim and make an appropriate recommendation to the court.

IDWR further responds that this right was claimed based on beneficial use. IDWR recommended non-irrigation uses and an amount of water for the non-irrigation uses to the extent that IDWR staff was able to confirm beneficial use. IDWR lacks sufficient information to support a finding of beneficial use of a greater amount of water and for use of water for the non-irrigation uses that were claimed and not recommended.

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. A36-11145

4

(Over)

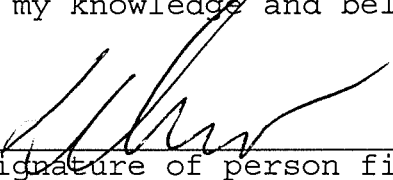
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

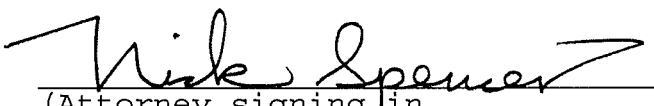
David B. Shaw, being first duly sworn, upon oath, deposes and says:

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.



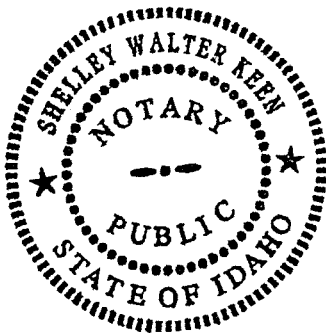
Signature of person filing response

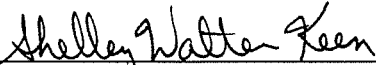
By:



(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 9th day of September,
1993.





Notary Public for Idaho
Residing at: Boise, Idaho
My Commission expires: July 31, 1997

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 K SIMPSON
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: 39356

Ident. Number A36-11145

Date Received _____

Receipt Number 5006619 *scu*

RECEIVED

MAR 01 1989

Department of Water Resources
Southern Region Office

NOTICE OF CLAIM

TO A

WATER RIGHT

ACQUIRED UNDER STATE LAW

RECEIVED

SEP 1 1988

Department of Water Resources
Southern Region Office

Please type or print clearly

1. Name of Claimant (s) FLYING TRIANGLE, INC. Phone (208) 837-4926Mailing Address RT. #1 BOX 180, Hagerman ID Zip 833322. Date of Priority (Only one (1) per claim) 04-21-19583. Source of water supply (a) Groundwater

which is tributary to (b) _____

4. a. Location of existing point of diversion is: Township 7S Range 13E Section 26,
1/4 of NE 1/4 of SE 1/4, Govt. Lot, 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.WELL IS 91' DEEP AND 6" IN DIAMETER.

MICROFILMED

FEB 07 1993

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For _____ purposes from _____ to _____ amount _____ or _____

For DOMESTIC purposes from 01-01 to 12-31 amount .5 or _____

For STOCK WATER purposes from 01-01 to 12-31 amount .5 or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) .5 (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.) FOUR HOUSEHOLDS; STOCK WATER: 5000 SHEEP and 500 CATTLE

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	
7S	13E	26																D/S	

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 XXX No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

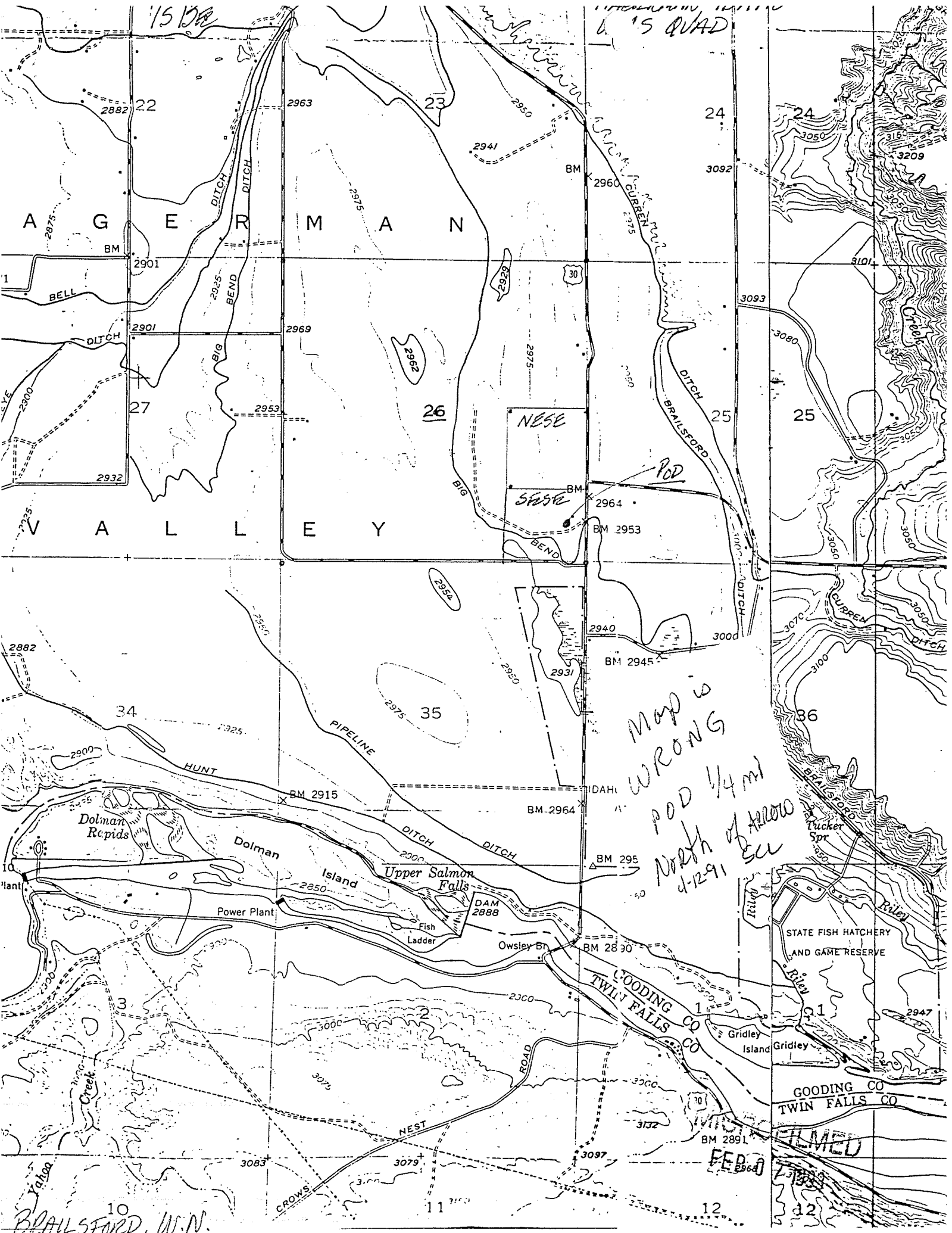
13. Describe any other water rights used at the same place and for the same purposes as described above.
_____ or None ()

14. Remarks:

MICROFILMED
FEB 07 1993

Last Name BRAILSFORD Ident No. _____

Copies: White -State, Yellow-Claimant



10
BRAILSFORD, W.N.

15. Basis of Claim (check one) ☒ Special Use XXX Posted Notice ☐ Lease Permit
Decree
If applicable provide IDWR Water Right Number
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 Secretary Title
of Flying Triangle, Inc. Organization, that I have signed the foregoing
document in the space below as Secretary Title of Flying Triangle, Inc. Organization
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent W. H. Brailsford
Title and Organization Secretary, Flying Triangle, Inc. Date 9-1-88

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

Subscribed and sworn (or affirmed) before me this 1st day of September 19 88

SEAL

Notary Public Sherry L. Coel
Residing at Twin Falls, Idaho
My Commission Expires 3/19/92

Please Print Name

17. Notice of Appearance:
Notice is hereby given that I, Terry T. Uhling 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 Terry T. Uhling
Address P.O. Box 1906, Twin Falls, ID 83303-1906
Date 9-1-88

MICROFILMED
FEB 07 1993

Last Name BRAILSFORD Ident. Number

Copies White-State, Yellow-Claimant