

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. 36-13488 -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, )

36-13488 -0001/  
93-08-0499

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: 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

1. ☒ Name and Address: I respond to the objection concerning the name and/or address of the owner of the water right.
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 1 and 11 and all allegations of the objection regarding these items, IDWR responds as follows:

IDWR is informed and therefore believes that the lands upon which water is diverted and used pursuant to this right are owned by the United States, and that the claimant uses these lands with the permission of the U.S. The United States did not file a notice of claim for the uses made pursuant to this right; and federal ownership of these lands or agreements with the federal government as to use of these lands are not necessary to define the water right. IDWR denies the objection and any allegations of the objection not expressly admitted herein.

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. A36-13488

2

(Over)

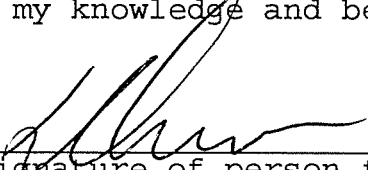
VERIFICATION (Must be Completed)

State of IDAHO

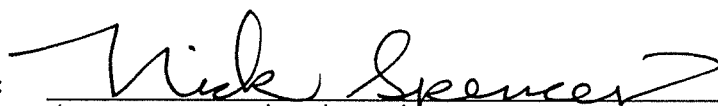
County of ADA

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

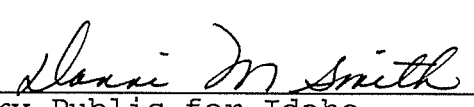
That R. Keith Higginson, in his official capacity as director of the Idaho Department of Water Resources, is a party to this proceeding, as defined by I.C. 42-1401A(1) and (7); that I am the Adjudication Bureau Chief for IDWR and am authorized by R. Keith Higginson, in his official capacity as director 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 23<sup>rd</sup> 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

CERTIFICATE OF MAILING

I hereby certify that on the 24<sup>th</sup> 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:

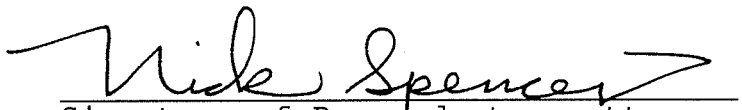
Clerk of the District Court  
Snake River Basin Adjudication  
253 Third Avenue North  
P.O. Box 2707  
Twin Falls, Idaho 83303-2707

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

Name: ROGER D LING  
Address: PO BOX 396  
RUPERT ID 83350

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 W FORT ST BOX 33  
BOISE ID 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

Identification No. A36-13488

Date Received \_\_\_\_\_

Receipt Number 5010048

NOTICE OF CLAIM  
TO A  
WATER RIGHT

RECEIVED

OCT 12 1989

ACQUIRED UNDER STATE LAW  
For Domestic and/or Stockwater Purposes  
Where Daily Use is less than 13,000 gallons per day.

Department of Water Resources  
Southern Region Office

Filing Fee \$25

Please type or print clearly

1. Name of Claimant (s) A&B Irrigation District Phone ( 208 ) 436-3152Mailing Address P.O. Box 675, Rupert, Idaho Zip 833502. Date of Priority (Only one per claim) 10-30-54 Month/Day/Year3. Source of water supply (Check one) ( ☒ ) Groundwater or Other ( ) (a) \_\_\_\_\_

Name or kind of source

which is tributary to (b) \_\_\_\_\_

4. Location of point of diversion is: Township \_\_\_\_\_ 8 S. Range \_\_\_\_\_ 24 E.

Section 21 , NW 1/4 of NW 1/4 of NW 1/4, Govt. Lot \_\_\_\_\_, BM.,County of Minidoka

Additional points of diversion if any: \_\_\_\_\_

5. Description of existing diversion works (Ditches, Wells, Pumps, Pipelines, Headgate 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. 3/4 H.P. Peerless submersible pump, depth of well 155.7'  
static water level 124.6', 7" casing, length 28'

6. Water is claimed for the following: (limited to Domestic and/or Stockwater only. See Instructions.)

|                                       | Month/Day                  | Month/Day       | (cfs)              |
|---------------------------------------|----------------------------|-----------------|--------------------|
| For <u>2 households</u> purposes from | <u>1-1</u>                 | to <u>12-31</u> | amount <u>0.08</u> |
|                                       | (Both dates are inclusive) |                 |                    |
| For <u>East Yard</u> purposes from    | <u>1-1</u>                 | to <u>12-31</u> | amount <u>0.04</u> |

7. Total quantity claimed 0.12 (cfs)8. Total consumptive use claimed is de minimus

9. Non-irrigation uses. Describe fully. (Domestic: give number of households served if single ownership; Stockwater: Type and Number of livestock) 2 households & East Yard

MICROFILMED  
FEB 15 1993

10. Place of use is: Township: 8 S. Range 24 E.

Section 21, NW 1/4 of NW 1/4, Govt. Lot \_\_\_\_\_, B.M.,

County of Minidoka for (Circle One) Domestic **Stock** **Domestic and Stock**

Additional places of use, if any \_\_\_\_\_

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

12. Do you own the property listed above as place of use? Yes \_\_\_\_\_ No X \*owned by Gov.

If your answer is No, describe in Remarks below the authority you have to claim this water right under jurisdiction

13. Describe any other water rights used at the same place and for the same purposes as described above. of A&B  
none

14. Remarks: \_\_\_\_\_

property owned by U.S. Bureau of Reclamation, operated by A&B

15. Basis of Claim (Circle One) Beneficial Use **Posted Notice** **License** **Permit** **Decree**

Court \_\_\_\_\_ Decree Date \_\_\_\_\_ Plaintiff vs Defendant \_\_\_\_\_

If applicable provide IDWR Water Right Number \_\_\_\_\_

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understood 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 0

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-Manager

of A&B Irrigation District, that I have signed the foregoing

document in the space below as Secretary-Manager of A&B Irrigation District

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Virgil D Temple Date 10-3-89

Title and Organization A&B Irrigation District

State of Idaho/or \_\_\_\_\_ )  
County of Minidoka ) SS.

Subscribed and sworn (or affirmed) before me this 3rd day of October 19 89

SEAL

Notary Public Logan A. King

Residing at Regent, Idaho

My Commission Expires 10/30/92

Last Name \_\_\_\_\_ Ident No. \_\_\_\_\_

Copies: White-State, Yellow-Claimant

RECEIVED

AUG 30 1993

Department of Water Resources  
Adjudication Bureau

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 )

Case No. 36-13488 0001

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

RESPONSE TO OBJECTION

36-13488 -0001/  
93-08-0500

Petitioner, )

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. Party/Claimant responding to objection:

Name: A & B Irrigation District  
Address: P.O. Box 675  
Rupert, Idaho 83350

Briefly describe your interest in this water right:

A & B Irrigation District, pursuant to a contract with the United States of America, Department of Interior, Bureau of Reclamation, operates, maintains and has in its possession the residential home for which the domestic use of water under the claim is used. It is necessary that this domestic use of water be confirmed in the SRBA, for the protection of the claimant.

If this response is filed by an attorney:

Attorney Name: Roger D. Ling  
Attorney Address: P.O. Box 396  
Rupert, Idaho 83350  
Attorney Phone No.: (208) 436-4717

2. Party/Claimant who filed objection:

Name: United States of America  
Bureau of Reclamation  
U.S. Department of Interior  
Address: 1150 N. Curtis  
Boise, Idaho 83706-1234

II. STATEMENT OF THE RESPONSE

Please check each "box" which identifies your response.

1. x Name and Address: I respond to the objection concerning the name and/or address of the owner of the water right.
11. x Remarks: I respond to the objection concerning the "remarks" listed with the water right.

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.

In response to Statement of the Objection, items 1 and 11, and all allegations of the Objection regarding these items, claimant responds as follows:

Pursuant to a duly executed contract between claimant and the United States, the lands upon which the residence is located and water is diverted and used is in the possession of the claimant, with a duty to operate and maintain these facilities for claimant's benefit. Because of the equitable interest in this property, including the well, claimant is entitled to have its right to continue to use said water for domestic uses duly confirmed in the SRBA. The United States did not file a claim to this water right and is not entitled to have the water right decreed to it merely because it has legal title to the land. Claimant has no objections to the inclusion in the

remarks to this right that the interest of the United States in this water right is controlled by Contract No. 14-06-100-2368 between the United States and claimant, and such contract should be confirmed by this court. Sovereign immunity of the United States for the purposes of adjudicating, confirming, validating and decreeing the contractual rights of A & B Irrigation District are provided by 43 U.S.C. 390 uu, Public Law 97-293 - Oct. 12, 1982.

#### 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.

No change is necessary, but claimant has no objections to the confirmation of the contract no. 14-06-100-2368 now existing between the United States and A & B Irrigation District to further define the respective rights of the parties.

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

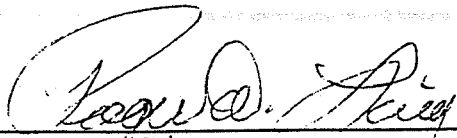
STATE OF IDAHO

County of Minidoka

Roger D. Ling, being first duly sworn, upon oath, deposes and says:

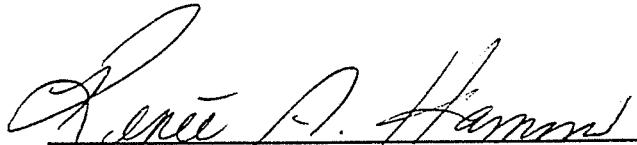
That I am the person or entity filing this response, that I am a water claimant or party in this proceeding, as defined by I.C., §42-1401A(1) and (7), and that I have read the foregoing response, know its contents and that the statements contained therein are true to the best of my knowledge and belief.

A & B Irrigation District  
Signature of person filing  
response

By:   
Roger D. Ling  
Attorney for Respondent

SUBSCRIBED AND SWORN to before me this 27th day of August,  
1993.

(SEAL)

  
Notary Public for Idaho  
Residing at: Burley, Idaho  
My Commission Expires: 9-13-97

CERTIFICATE OF MAILING

I hereby certify that on the 27th 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 prepaid 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:

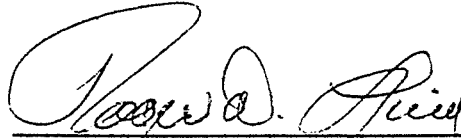
Name: A & B Irrigation District  
Address: P.O. Box 673  
Rupert, Idaho 83350

3. One copy to:

Chief, Natural Resources Division  
Office of the Attorney General  
State of Idaho  
P.O. Box 44449  
Boise, Idaho 83711-4449

4. One copy to:

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

A handwritten signature in cursive script, appearing to read "Roger D. Ling", written over a horizontal line.

Roger D. Ling  
Attorney for Respondent