

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. 36-15450 -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,

36-15450 -0001/
93-08-0571

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 FISH & WILDLIFE SERVICE
Address: DIV OF ENGINEERING
911 NE 11TH AVE
PORTLAND OR 97232-4181

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

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.
14. ☒ Other: I respond to the objection concerning:
GENERAL PROVISIONS 1B AND 7

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection item 8 and all allegations of the objection regarding this item IDWR responds as follows: IDWR admits that the recommendation should be changed as shown in the attachment entitled "Recommended Water Rights Acquired Under State Law." IDWR 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 item 14 and all allegations of the objection regarding this item IDWR responds as follows: IDWR denies this portion of the objection and all allegations regarding this portion of the objection.

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. A36-15450

7

Recommended Water Rights Acquired Under State Law

1

(Over)

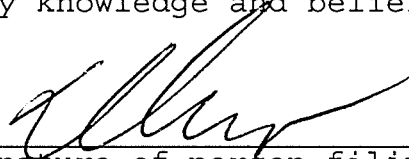
VERIFICATION (Must be Completed)

State of IDAHO

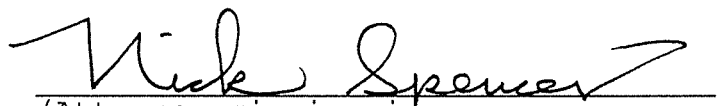
County of ADA

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

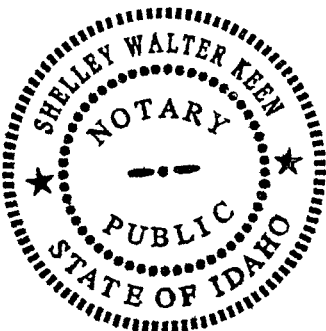
That R. Keith Higginson, in his official capacity as director of the Idaho Department of Water Resources, is a party to this proceeding, as defined by I.C. 42-1401A(1) and (7); that I am the Adjudication Bureau Chief for IDWR and am authorized by R. Keith Higginson, in his official capacity as director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

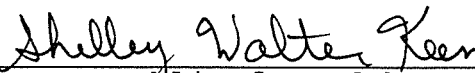


Signature of person filing response

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: US DEPT OF JUSTICE
Address: ENVT & NAT RESOURCES DIV
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

Ident. Number: A36-15450
Date Received: _____
Receipt No.: _____
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: **United States of America** Phone: **503-231-6145**
(Fish and Wildlife Service)
Address: **911 NE 11th Avenue**
Portland, OR 97232-4181
2. Date of Priority: January 1, 1939
3. Source: Spring (No. 16, aka: Len Lewis Spring) Trib. to: Riley Creek
4. Point of Diversion:
Township 8S Range 14E Section 6, SE 1/4 of SW 1/4, of NE 1/4, B.M.,
County of Gooding
Additional Points of Diversion None
5. Description of diverting works: An earthen ditch channels water through a concrete flume. Water is then commingled with water from other sources, collected at a concrete screening structure, and conveyed via 24"- and 36"-diameter pipes to fish facilities. The existing diversion from the ditch was constructed about 1982, replacing the previous structure.
6. Water is claimed for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
Fish Propagation	Apr.15	Oct.15	8.0		
Fish Propagation	Oct.15	Apr.15	24.0		
7. Total Quantity Claimed is:
24.0 C.F.S. (and/or) _____ A.F.A.
8. Total consumptive use claimed is None Acre Feet Per Annum.

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United States of America
Fish and Wildlife Service
FEB 5 1993

9. Non-irrigation uses: Currently 103 concrete raceways and 66 rearing tanks with a capacity totalling approximately 256,000 cubic feet.

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
8S	14E	6			H	

Water use is within those portions of Section 6, Township 8 South, Range 14 East B.M. comprising the Hagerman National Fish Hatchery and the Hagerman Field Station.

11. Place of use, county(ies): Gooding Total Number of Acres Irrigated None

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

13. Other Water Rights Used: 36-0128, 36-0129, 36-0130, 36-0131, 36-0132, 36-2308, and 7 beneficial use claims.

14. Remarks: The beneficial use claims for Hagerman National Fish Hatchery and Hagerman Field Station clarify and update beneficial use claims 36-4069, 36-4252, and 36-4253.

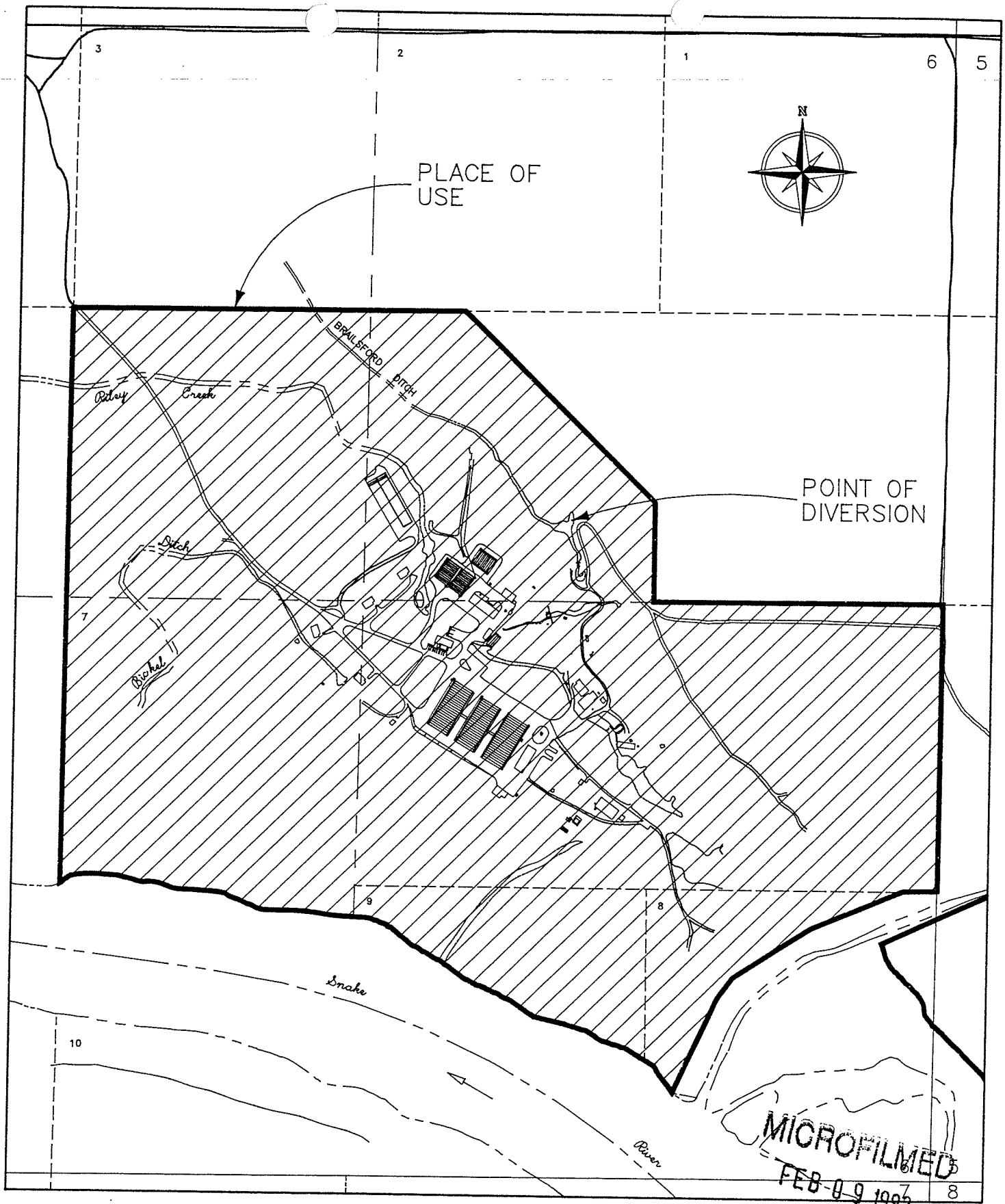
Water is commingled before the mixing chamber with flows covered under beneficial use claims for Spring No. 15 and portions of flow from decreed water right no. 36-0132 and from Main Springs, Springs No. 13 and 14.

15. Basis of Claim (Check one) Beneficial Use X Posted Notice _____
License _____ Permit _____ Decree _____

If applicable provide IDWR Water Right Number See Remarks
Court _____ Case Number _____ Decree Date _____

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FEB 09 1993

R14E



WATER RIGHT CLAIM FOR SPRING 16



SCALE IN FEET

RECEIVED

AUG 31 1992

Verification of FWS Claims:

Department of Water Resources

As the Director of Region 1 of the United States Fish and Wildlife Service, I verify under penalty of perjury under the laws of the United States of America that the statements made in this document and the claims filed herewith on behalf of the USDI-Fish and Wildlife Service are true and correct.

Executed on _____

Marvin L. Plenert

Marvin L. Plenert
Regional Director
U.S. Fish and Wildlife Service
U.S. Department of the Interior
1002 N.E. Holladay Street
Portland, Oregon 97232-4181

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FEB 09 1993

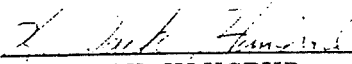
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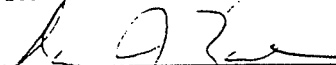
AUG 31 1992

Department of Water Resources

Notice of Appearance:

Notice is hereby given that K. Jack Haugrud, Daria J. Zane, and Geoffrey Garver will be acting as attorneys of record 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 them at the address listed below.

Signature 
K. JACK HAUGRUD

Signature 
DARIA J. ZANE

Signature 
GEOFFREY GARVER

Address: U.S. Department of Justice
Environment Div., General Litigation Section
P.O. Box 663
Washington, D.C. 20004-0663

Date: August 31, 1992

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FEB 09 1993

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)
_____)

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

Plaintiff,)

v.)

the United States;)
the State of Idaho;)
and all claimants to the use)
of water from the Snake River)
Basin Water System,)
_____)

Defendants.)
-----)

RECEIVED

AUG 31 1992

Case No. 39576 Department of Water Resources

GENERAL NOTICE OF UNITED
STATES' CLAIMS TO WATER
ACQUIRED UNDER STATE AND
FEDERAL LAW IN REPORTING
AREA 03 (IDWR ADMININSTRATIVE
BASIN 36)

General Remarks for All United States Claims

1. The claims filed with this notice are submitted by the United States on behalf of the United States Department of Interior--Fish and Wildlife Service (FWS), the United States Department of the Interior--Bureau of Reclamation, the United States Department of the Interior--Bureau of Land Management (BLM), and the United States Department of the Army--Corps of Engineers for Reporting Area 03.

2. The claims filed on behalf of the U.S. Bureau of Reclamation are minor revisions to claims filed earlier with the Idaho Department of Water Resources. These revised claims amend and supplement the claims filed earlier.

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3. The claims filed on behalf of the U.S. Army Corps of Engineers involve state water rights acquired through purchase. To avoid any future misunderstanding, it should be noted that the use and control of water in connection with projects operated by the U.S. Army Corps of Engineers do not in general involve water rights or water rights claims. Because these projects were authorized through an assertion of the federal government's Commerce Clause power under the United States Constitution, they do not ordinarily involve water rights that are subject to this adjudication. By filing these state-law claims in Reporting Area 03, the United States does not intend to waive any right, power or authority it may have under federal law or the United States Constitution.

4. By filing these claims, the United States does not waive its right to defer adjudication of de minimus claims as authorized by Court Order dated January 17, 1989.

5. By filing these claims, the United States does not waive its rights to file additional federal claims based on the reserved rights doctrine as authorized by the Court or to file information on the use of water as a matter of comity and policy.

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FEB 09 1993

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: SEP-9-1993
PAGE: A-1

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: LEN LEWIS SPRING TRIBUTARY: RILEY CREEK						
36-15450	US DEPT OF INTERIOR FISH & WILDLIFE SERVICE REG 1 ATTN DIVISION OF ENGINEERING 911 NE 11TH AVE PORTLAND OR 97232-4181	01/01/1950	FISH PROPAGATION	03-15 11-15 04 10 11-16 03-14 10 04	8.00 CFS	BENEFICIAL USE
UNITED STATES OF AMERICA ACTING THROUGH US DEPT OF INTERIOR FISH & WILDLIFE SERVICE 911 NE 11TH AVENUE PORTLAND OR 97232-4181						
NON-IRRIGATION-USES:					21.2	CFS
FISH PROP., 103 RACEWAYS, 66 TANKS, WITH CAP. OF 252,000 CU. FT.						
POINT OF DIVERSION:						
T08S R14E S06 SESWNE						
PLACE OF USE: FISH PROPAGATION						
T08S R14E S06 SWNE NWSE						
PLACE OF USE: FISH PROPAGATION						
SAME AS OTHER USE						
REMARKS: FACILITY VOLUME 43,275 CU.FT.						
USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A						
TOTAL COMBINED FACILITY VOLUME OF 252,000 CU.FT.						
COMBINED RIGHT NOS.: 36-00128, 36-00130, 36-00132, 36-15444, 36-15446, 36-15448, 36-15449 & 36-15451						