

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. 36-15458 -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.)

36-15458 -0001/
93-08-0573

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: GREG & CRISTI HEINS
Address: RT 3 BOX 225
RUPERT ID 83350

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:

3c. ☒ The total quantity of water reserved for each
and every purpose, including all present and
future uses.

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.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection item 3c., and all
allegations of the objection regarding that item, IDWR responds
as follows: Since this water right is not a federal reserved
water right, this objection item is inapplicable and the
claimant's assertion of it is in error. Because the claimant is
objecting to the recommended diversion rate and diversion volume,
IDWR believes that the claimant intended to identify objection
items 3 and 3a. instead of 3c. as the basis of the objection.
IDWR therefore responds as follows to those objection items, and
all allegations of the objection regarding those items: This
water right is based on beneficial use as an expansion of a

licensed right recommended pursuant to Idaho Code Section 42-1416. The expansion, in effect, adds 3.0 acres to the permissible place of use of the licensed right. Although the claimant claimed a diversion rate of 0.02 cfs per acre for the three expansion acres, the license upon which the expansion is based establishes a diversion rate of 0.0158 cfs per acre for the total number of acres irrigated under the two rights.

Responding to the claimant's objection to diversion volume, and all allegations regarding that objection, IDWR responds as follows: The recommended diversion volume for the three expansion acres is 4.0 AFY per acre, the same per acre volume that was claimed.

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

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)

No. of
Pages

Notice of Claim No. A36-15458

5

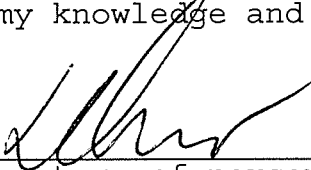
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

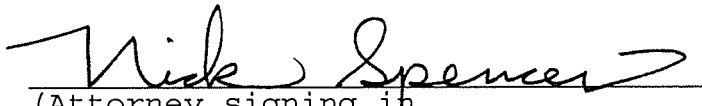
David B. Shaw, being first duly sworn, upon oath, deposes and says:

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.



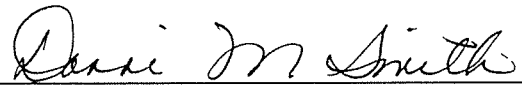
Signature of person filing response

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

(Over)

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:

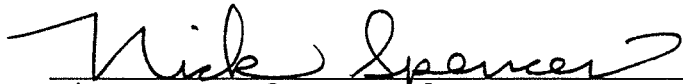
See No. 3

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: GREG & CRISTI HEINS
Address: RT 3 BOX 225
RUPERT ID 83350

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 A36-15458
Date Received 10-7-92
Receipt Number C025699

RECEIVED

OCT 07 1992

Department of Water Resources

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Greg & Cristi Heins Phone (208) 531-5952
Mailing Address Rt 3, Box 225 Rupert, ID Zip 83350
2. Date of Priority (Only one (1) per claim) 1978 (photo date)
3. Source of water supply (a) ground water
which is tributary to (b) _____
4. a. Location of existing point of diversion is: Township 7 S. Range 25 E. Section 34,
SE 1/4 of NE 1/4 of NE 1/4, Govt. Lot, _____ B.M., County of Minidoka
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. 20" well hole, 312' deep
with 17' of casing; Worthington pump, 190 H.P. motor,
10" mainline and 8-4" wheelines

MICROFILMED
FEB 09 1993

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For irrigation purposes from Mar 15 to Nov 15 amount .06 or 12 ac feet

For stockwater purposes from year to around use amount .06 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) .06 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 9 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) stockwater up to 300 head of 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	25E	34	40	40	39	39													158

Total number of acres irrigated 158

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 X 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. 36-02678 None ()

14. Remarks: This second presumption expansion claim is for expansion of right 36-02678, & claims addition acres, but the diversion rate has not increased.

Although the license show water for only 155 acres, there has always been 158 acres irrigated. This error was a result of an error in the measurement of the lands being irrigated. Therefore, water spread occurred at the time the permit was obtained. 1978 aerial photo was the oldest photo our ASCS had which shows the additional irrigated acres. Enclosed 1978 photo is certified by Minidoka ASCS Director.

Last Name

Ident No.

Copies: White-State, Yellow-Claimant

LEINC

Scale: 2 inches equals 1 mile

Twp 7S Rng 25E NE $\frac{1}{4}$ Sec. 34

[illegible]

Microfilm
FEB 09 1993

Last Name

Hein S

Ident No.

Copies: White-State, Yellow-Claimant

Greg & Cristi Heins
Rt 3 Box 225
Rupert, ID 83350
(208) 531-5952

7S 25E

700 E.

26 27
33 34

A
142.5

E535
(76E)
71537

71657
B
7.3

C
6.7

*Carried
Plate taken in 1978
James Schulte
CED
9-18-92*

E524
(227E)

80.0 (39.0)

77.8
77.8

(79E)

27 26
34 35

800 E.

51.8

80.2

E536
(79E)

48.1

15. Basis of Claim (check one) Beneficial Use ☒ Posted Notice ☐ License ☒ Permit ☐
Decree 36-02678
If applicable provide IDWR Water Right Number 36-02678
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) [Signature] Date 10-3-92
[Signature] Date 10-3-92

For Organizations: I do solemnly swear or affirm that I am _____ Title _____ of _____, that I have signed the foregoing document in the space below as _____ of _____ and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____
Title and Organization _____ Date _____

State of Idaho/or _____)
County of Minidoka) SS.

Subscribed and sworn (or affirmed) before me this 5th day of October 19 92

SEAL

Notary Public [Signature]
Residing at [Signature]
My Commission Expires 12-3-92

Please Print Name

17. Notice of Appearance:
Notice is hereby given that I, _____ 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 _____
Address _____
Date _____

MICROFILMED
FEB 09 1993

Last Name Heins Ident. Number _____

Copies White-State, Yellow-Claimant