

DEC 17 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

Case No. 34-00012
(Insert the Case No.
from the Objection
you are responding to)

RESPONSE TO OBJECTION

34-00012 -0004/
93-12-0258

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: Big Lost River Irrigation District

Address: P.O. Box 205
Mackay, Idaho 83251

Briefly describe your interest in this water right:

Big Lost River Irrigation District is a duly organized irrigation district which holds all water rights for the storage of water in the Mackay Dam owned by Big Lost River Irrigation District, which water is to be used for the irrigation of lands in the irrigation district.

2. Party/Claimant who filed objection:

Name: Jay V. Jensen

Address: Route 1, Box 112-A
Moore, Idaho 83255

3. If this response is filed by an attorney:

Attorney Name: Roger D. Ling

Attorney Address: Ling, Nielsen & Robinson
P.O. Box 396
Rupert, Idaho 83350

Attorney Phone No.: (208) 436-4717

II. STATEMENT OF THE RESPONSE

9. ☒ Place of Use: I respond to the objection concerning:

a. ☒ The legal description of the place of use.

REASONS SUPPORTING EACH BOX CHECKED

In response to the statements of the Objections items 9 and 9a, and all allegations of the objections regarding these items, Big Lost River Irrigation District responds as follows: The water rights of the claimant were obtained for the irrigation of lands within the irrigation district, and the water rights are held in trust for the benefit of those lands within the irrigation district. In the Director's Report, IDWR recommended the place of use of this right based on the legal description of the lands within the irrigation district. Except for forty (40) acres of the objector's lands, all of the objector's lands are located outside the boundaries of the irrigation district. These lands have paid no part of the construction costs paid by lands within the district for the water right held by the irrigation district. No petition for annexation of these lands has been submitted to the irrigation district, and no order of annexation has at any time been issued by the irrigation district to include any part of the objector's lands that were not originally included in the irrigation district. It would be unlawful for the irrigation district to deliver water under its water rights to lands that are not within the irrigation district, to the injury of all lands within the district to which said water rights are appurtenant. Storage water of the irrigation district is not connected in any way with any natural flow right that the

objector may have, and the irrigation district has no control over where said natural flow rights may be used by the objector.

VERIFICATION (Must be Completed)

STATE OF IDAHO)
) ss.
County of Minidoka)

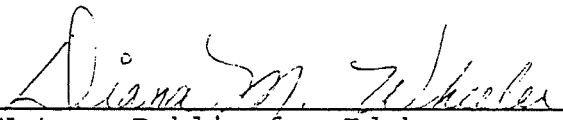
ROGER D. LING, being first duly sworn, upon oath, deposes and says:

That I am the attorney for Big Lost River Irrigation District, the entity filing this response, that said irrigation district is a party in this proceeding as defined by I.C., §42-1401A(1) and (7), and 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.



Roger D. Ling
Attorney for Big Lost River
Irrigation District

Subscribed and sworn to before me this 15th day of December, 1993.



Diana M. Wheeler
Notary Public for Idaho
Residing at: Declo, Idaho
My Comm. Expires: 8/18/94

CERTIFICATE OF MAILING

I hereby certify that on the 15th day of December, 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 party who filed the objection, or if represented by an attorney, to their attorney; and you must fill in the following information:

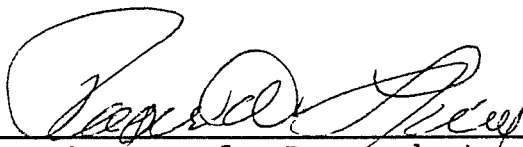
Name: Kent W. Foster
Address: P.O. Box 50130
Idaho Falls, Idaho 83405

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
Environmental and Natural Resource Division
550 West Fort Street, Box 33
Boise, Idaho 83724



Signature of Respondent or
attorney mailing on Respondent's
behalf