

(4)

3-17

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. 34-00270
(Insert the Case No.
from the Objection
you are responding to)

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.)

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

Respondents.)

RECEIVED

MAR 17 1993

Department of Water Resources
Adjudication Bureau

34-00270-0001
93-03-0232

INSTRUCTIONS

This form must be used to file a response to any objection filed against a water right recommended in a Director's Report. You may respond to objections filed against one water right, using one response form. The water right number listed as the "Case No." on the Objection you are responding to must be inserted above as the "Case No." If you choose to file one form to respond to all objections filed against the same water right, your response should cover every issue raised in the objections.

To respond to objections filed against more than one water right, you must file a separate response form for each water right. Forms may be obtained from the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form, as long as it is identical to the court's form. You must file your response by the deadline shown in the notice that IDWR mailed to you. The response must be received by the court on or before the deadline specified. Instructions for filing this response are found at Page 5, and must be strictly followed.

(Over)

RESPONSE TO OBJECTION - 1

Any party physically filing 25 (twenty-five) or more responses must make an appointment with the Clerk of the Adjudication Court and arrange for an appointment to file multiple objections.

By filing a response form, you are certifying that the response is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and that it is not filed for any improper purpose, such as to harass, cause unnecessary delay or needless increase in the cost of litigation.

I. GENERAL INFORMATION

Please fill in the following information:

1. Person responding to objection:

Name: E. Alvin Wheeler Gay D. Wheeler
Address: Box 915
Moore Idaho, 83255

Briefly describe your interest in this water right:

This claim is in Error AS there
is A prior Right that Supersedes
it in All Respects

2. Person who filed objection:

Name: U.S. Dept of Interior B.L.M.
Idaho State office
Address: 3380 Americana terrace
Boise Idaho 83255

3. If this response is filed by an attorney:

Attorney Name: K. Jack Hauge
Attorney Address: Daria J. Hauge
U.S. Dept of Justice
550 West Fort Street
P.O. Box 33
Attorney Phone No.: Boise Idaho 83734

If filed by an attorney, notice of pending court proceedings will be sent to the attorney only.

II. STATEMENT OF THE RESPONSE

Please check each "box" which identifies your response.

1. ☐ Name and Address: I respond to the objection concerning the name and/or address of the owner of the water right.
2. ☐ Source: I respond to the objection concerning the source of water.
3. ☒ Quantity: I respond to the objection concerning:
 - a. ☐ the total quantity of water used in cubic feet per second; or
 - b. ☒ the total quantity of water stored in acre-feet per year; or
 - c. ☐ the total quantity of water reserved for each and every purpose, including all present and future uses.
4. ☒ Priority Date: I respond to the objection concerning the priority date.
5. ☐ Points of Diversion: I respond to the objection concerning the legal description of the point(s) of diversion.
6. ☐ Instream Flow: I respond to the objection concerning the legal description of the beginning and ending points of the instream flow.
7. ☐ Purpose(s) of Use: I respond to the objection concerning the purpose(s) of use.
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.
9. ☐ Place of Use: I respond to the objection concerning:
 - a. ☐ the legal description of the place of use; or
 - b. ☐ the number of irrigated acres within each forty (40) acre subdivision.
10. ☒ Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.

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11. ☐ Remarks: I respond to the objection concerning the "remarks" listed with the water right.
12. ☒ Water Right Recommendation: I respond to the objection concerning:
- a. ☐ this water right being recommended at all; or
- b. ☐ this water right not being recommended.
13. ☐ Description of Reservation: I respond to the objection concerning the legal description of the reservation.
14. ☐ Other: I respond to the objection concerning: _____
- _____
- _____
- _____

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.

this total objection is in Error as this
water has been filed on and in use as stated on
this property since 06/01/1900

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.

the directors Report should show A disallowance
of this objection By B.L.M.

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: Directors Report
of private & B.L.M. Claims -

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VERIFICATION (Must be Completed)

State of Idaho

County of Butte

G. Alvin Wheeler Hay D. Wheeler, being first duly
(Name of person filing response)
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.

G. Alvin Wheeler Hay D. Wheeler
Signature of person filing response

By:

(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 13 day of March,
1993.

Karen A. Haddoups
Notary Public for Idaho
Residing at: More
My Commission expires: Apr 30, 1993

INSTRUCTIONS FOR MAILING

You must mail the response, including all attachments, to the Clerk of the Court. FAX filings will not be accepted by the Clerk of the Court. You must also send a copy to the owner of the water right you responded to, if other than yourself; to the party who filed the objection to which you are responding, if different from the owner of the water right; to the office of the Attorney General, State of Idaho; and to the United States Department of Justice, as set out below in the Certificate of Mailing. Finally, you must sign the Certificate of Mailing to show that you followed these steps.

(Over)

CERTIFICATE OF MAILING

I hereby certify that on the 15th day of March, 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: E. Alvin Wheeler Gay D. Wheeler

Address: Box 915
More Idaho

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: U.S.A. Bureau of Land Management

Address: U.S. Dept of Interior
3380 Americana terrace
Boise, Idaho
83706-2544

4. One copy to:

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

5. One copy to:

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

E. Alvin Wheeler

Signature of Respondent or attorney
mailing on Respondent's behalf

EXHIBIT 'A'

REASONS: THE CLAIMANT OBJECTS TO THIS WATER RIGHT RECOMMENDATION BECAUSE THE CLAIMANT HAS AN EARLIER PRIORITY DATE AND HAS USED THE WATER RIGHT EXCLUSIVELY SINCE THE WATER RIGHT WAS ESTABLISHED. THE CLAIMANT FOR THESE REASONS OBJECTS TO THE WATER RIGHT IN ITS ENTIRETY, INCLUDING THE NAME OF THE OWNER, SOURCE, PRIORITY DATE, PLACE OF USE, POINT OF DIVERSION/QUANTITY, AND PERIOD OF USE.

BASIS OF CLAIM

TRIBUTARY: SINKS

DECREED

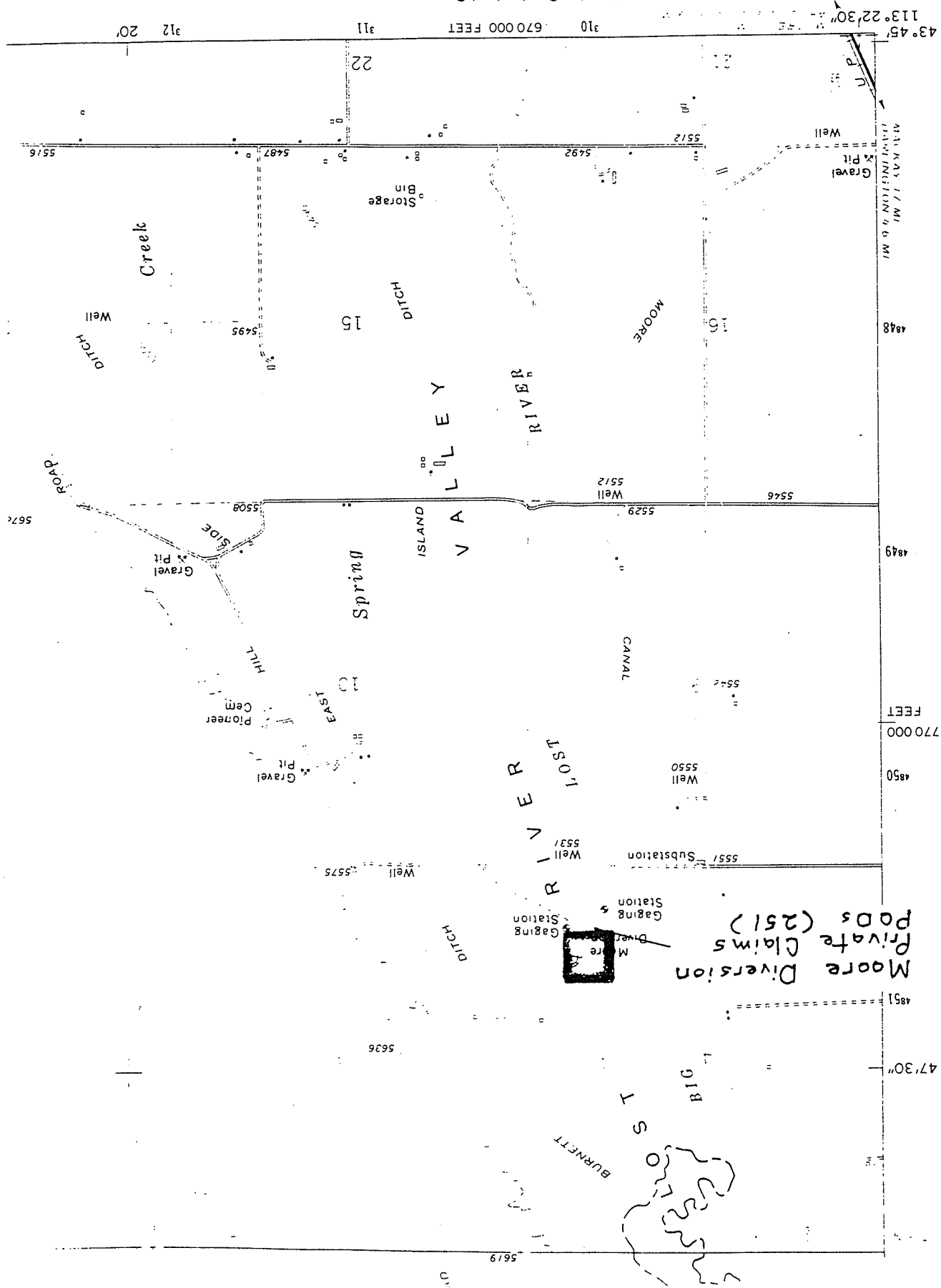
CFS

NYSE 32.0

0001

Mapped, edited, and published by the Geological Survey

(APPENDIX HILL)
3371 III NW



BASIS OF CLAIM

TRIBUTARY: SINKS

BOISE ID 83706

TOTAL QUANTITY:

PLACE OF USE: STOCKWATER FROM STORAGE

525

ESMh

MS3M

BLM RECORD ID = 3403488096

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: NOV-17-1992
PAGE: A-34

34-04190

US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706

06/28/1934 STOCKWATER

01-01 12-31

.23

CFS

BENEFICIAL USE

SOURCE: BIG LOST RIVER

TRIBUTARY: SINKS

RIGHT
NUMBER

NAME & ADDRESS

PRIORITY
DATE

PURPOSE OF USE
FROM TO

MAXIMUM
QUANTITY

BASIS OF CLAIM

NON-IRRIGATION-USES:

STOCKWATER, 1000 RANGE CATTLE; WILDLIFE, VARIABLE AMOUNT

TOTAL QUANTITY:

.23

CFS

POINT OF DIVERSION:

102N R27E S01 LOT 1 (NENE) (B)
103N R27E S20 SENE (B)
102N R28E S01 NESE (E)
103N R27E S35 SESE (E)
PLACE OF USE: STOCKWATER

102N R27E S01 Lot 1 (NENE)

SENE

NESE

SWSW

SESW

S02

SESE

SWSW

SESW

S03

SESE

SWSW

SESW

S04

SESE

SWSW

SESW

S05

SESE

SWSW

SESW

S06

SESE

SWSW

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S07

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S08

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S09

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SWSW

SESW

S10

SESE

SWSW

SESW

S11

SESE

SWSW

SESW

S12

SESE

SWSW

SESW

S13

SESE

SWSW

SESW

REMARKS: THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING
ALLOTMENT SHALL BE LIMITED TO THE QUANTITY OF WATER BENEFICIALLY