

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. 34-00382
(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,)

RECEIVED

vs.)

MAR 17 1993

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

Department of Water Resources
Adjudication Bureau

Respondents.)

34-00382-0001
93-03-0237

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)

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: G. Allen 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 thata Supersedes
it IN ALL respects

2. Person who filed objection:

Name: U. S. Dept of Interior B. L. M.
Address: Idaho State Office
3380 Americana Terrace
Boise Idaho

3. If this response is filed by an attorney:

Attorney Name: K. Jack Haugrud
Attorney Address: Derid J. Zane
U.S. Dept of Justice
50 West 2nd Street
Attorney Phone No.: Boise Idaho 83734
202 - 272-4134 / 8331

83706 = 2544
Mr. Haugrud is
U.S. Attorney.
Mr. Wheeler is
PRO se per
3-17-93
call

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

RESPONSE TO OBJECTION - 2

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.

(Over)

11. ☐ Remarks: respond to the objection listed with the water right. concerning the

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 06/01/1886

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 R.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 Claims. And Reports of B.M. Claims

VERIFICATION (Must be Completed)

State of Idaho

County of Butte

G. Ahin Wheeler Gay 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. Ahin Wheeler Gay 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 of Haddrops
Notary Public for Idaho
Residing at: Moore
My Commission expires: April 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 Box 815
Address: Boise 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. Bureau of Land Management
Address: U.S. Dept of Interior
3380 Amerind Terrace
Boise, Idaho 83706-2544

4. One copy to:

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

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.

Exhibit B

34-00382		G. ALVIN WHEELER		06/01/1886		IRRIGATION		05-01 10-15		1.24		CFS		DECREED	
		GAY D. WHEELER													
		BOX 915													
		MOORE ID 83255													
		POINT OF DIVERSION:										TOTAL QUANTITY:		1.24 CFS	
		TOSN R26E S04													
		PLACE OF USE: IRRIGATION													
				MUSESE											
		TOSN R26E S27													
		135.0 ACRES TOTAL													
				NESW 36.0				SWSW 29.0				SESW 38.0		NWSE 32.0	
		REMARKS: RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO													
		IDAHO CODE 42-1416A.													
		WATER DELIVERED THROUGH ISLAND DITCH.													
		USE OF THIS RIGHT WITH RIGHTS NUMBERED 34-00270 AND													
		34-00383B IS LIMITED TO A TOTAL COMBINED ANNUAL CONSUMPTIVE USE													
		VOLUME OF 337.5 AF AND TO THE IRRIGATION OF A COMBINED TOTAL OF													
		135 ACRES IN A SINGLE IRRIGATION SEASON.													

AJ5856NP

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

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

RIGHT
NUMBER

NAME & ADDRESS

PRIORITY
DATE

PURPOSE OF USE
FROM TO

MAXIMUM
QUANTITY

BASIS OF CLAIM

SOURCE: BIG LOST RIVER

TRIBUTARY: SINKS

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

NON-IRRIGATION-USES:

TOTAL QUANTITY:

.23 CFS

POINT OF DIVERSION: STOCKWATER, 1000 RANGE CATTLE; WILDLIFE, VARIABLE AMOUNT

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)
R28E NESE

SENE

NHSM

SESM

S02

SESE

NHSM

SESM

SESM

S03

SESE

NHSM

SESM

SESM

S04

SESE

NHSM

SESM

SESM

S05

SESE

NHSM

SESM

SESM

S06

SESE

NHSM

SESM

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S09

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S26

SESE

NHSM

SESM

SESM

S27

SESE

NHSM

SESM

SESM

S28

SESE

NHSM

SESM

SESM

S35

SESE

NHSM

SESM

SESM

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

