

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. 34-00788
(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

34-00788 -0001/
93-03-0241

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: George L. Wheeler
 Address: Box 79
Moore Idaho 83255
 Briefly describe your interest in this water right:
this claim is in error as there
is a prior right that supercedes
it in all respects -
2. Person who filed objection:
 Name: U.S. Bureau of Land Management
 Address: Idaho State Office
3380 Americana Terrace
Boise Idaho 83706-2544
 If this response is filed by an attorney:
 Attorney Name: K. Deck Healy
David J. Zane
 Attorney Address: U.S. Dept. of Justice
550 West Fort Street
P.O. Box 33
Boise Idaho 83734
 Attorney Phone No.: 202-272-4134/8351
3. If this response is filed by an attorney:
 Attorney Name:
 Attorney Address:
 Attorney Phone No.:

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

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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: 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 we use as stated on this property since 06/01/1894

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.

of this objection By B.L.M. the Director's Report should show A. disallowance

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: *Director's Report*

of private claims. A Reports of B.L.M. claims -

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VERIFICATION (Must be Completed)

State of Idaho

County of Butte

George L. 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.

George L. 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. Haddouss
Notary Public for Idaho
Residing at: Moose
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 15 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: George L. Wheeler

Address: Box 88

Moore Idaho
83255

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 Americana Terrace
Boise Idaho

83706-2547

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

George L. Wheeler
Signature of Respondent or attorney
mailing on Respondent's behalf

RIGHT
NUMBER

NAME & ADDRESS

PRIORITY
DATE

PURPOSE OF USE
FROM TO

MAXIMUM
QUANTITY

BASIS OF CLAIM

SOURCE: BIG LOST RIVER

TRIBUTARY: SINKS

34-00788

GEORGE L WHEELER
RT 1 BOX 89
MOORE ID 83255

06/01/1894 IRRIGATION

05-01 10-15

3.2

CFS

DECREED

POINT OF DIVERSION:
TOSM R26E S04

MUSESE

TOTAL QUANTITY:

3.2

CFS

PLACE OF USE: IRRIGATION

TOSM R26E S27

MENE 11.0

MUNE 36.0

SMNE 34.0

SENE 3.0

REMARKS:

WATER DELIVERED THROUGH ISLAND CANAL.

USE OF THIS RIGHT WITH RIGHT NO. 34-02353 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 3.28 CFS, A TOTAL COMBINED
ANNUAL CONSUMPTIVE USE VOLUME OF 210 AF, AND TO THE IRRIGATION
OF A COMBINED TOTAL OF 84 ACRES IN A SINGLE IRRIGATION SEASON.
0.80 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF THIS RIGHT.
WATER DELIVERED THROUGH MOORE DIVERSION, WESTSIDE CANAL.
0.19 CFS OF RIGHT NO. 34-02353 IS LIMITED TO USE FOR CONVEYANCE
LOSSES IN DELIVERY OF THIS RIGHT AND RIGHT NO. 34-02353.

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 C

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	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
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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
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TOTAL QUANTITY: .23 CFS

NON-IRRIGATION-USES:
STOCKWATER, 1000 RANGE CATTLE; WILDLIFE, VARIABLE AMOUNT

POINT OF DIVERSION:

102N R27E S01	LOT 1 (NENE)	(8)
103N R27E S20	SENE	(8)
102N R28E S01	NESE	(E)
103N R27E S35	SESE	(E)

PLACE OF USE: STOCKWATER

102N R27E S01	Lot 1 (NENE)	SENE	SMSU	SESW
R28E	NESE	NMSU	SWSE	
S02	SESE	SESE		
S03	SMSU	SESW		NMSU
S04	SWNE	SWNW		
S05	NESE	NMSE		
	SWNE	SENE	Lot 4 (NMNW)	SWNW
S06	SESW	NESE		
	Lot 1 (NENE)	Lot 2 (NMNE)	Lot 3 (NMNW)	Lot 5 (SWNW)
S09	SESW			
S10	NENE	NMNE		NMNU
S11	NENE	SWNE		NMNU
	SWNW	SESW		
S12	NMNE	NMNU		
103N R27E S20	SENE	NMSU	SMSU	SESW
S21	SWNW	SWSE		
S22	NESE	NMSU	SESE	SESW
S26	NMSU	SWNW		
S27	SWNE	SENE	NMNU	SESW
	NESE	NMSE		
S28	NMNE	NMNU		
S35	NMNU	SWNW	SWSE	SESW
	SESW	SWSE		

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

SOURCE: BIG LOST RIVER

TRIBUTARY: SINKS

34-04040 US DEPT OF INTERIOR 04/01/1958 WILDLIFE 01-01 12-31 243.0 AFY BENEFICIAL USE
BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706

STORAGE 01-01 12-31 243.0 AFY
STOCKWATER FROM 01-01 12-31 20.1 AFY
STOCKWATER 01-01 12-31 243.0 AFY
STORAGE 01-01 12-31 7.2 AFY
WILDLIFE FROM 01-01 12-31 .44 CFS
STORAGE 01-01 12-31 .44 CFS
DIVERSION TO 01-01 12-31 .44 CFS
STORAGE 01-01 12-31 .44 CFS
TOTAL QUANTITY: 243.0 AFY

NON-IRRIGATION-USES:

STOCKWATER, 2000 RANGE CATTLE, WILDLIFE, VARIABLE AMOUNT

POINT OF DIVERSION:

102N R2BE S11

NWSE

PLACE OF USE: WILDLIFE STORAGE

SAME AS OTHER USE

PLACE OF USE: STOCKWATER FROM STORAGE

102N R2BE S11

NESE

S13

NWSE

S14

NWSE

NWSE

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REMARKS: THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING
ALLOTMENT SHALL BE LIMITED TO THE QUANTITY OF WATER BENEFICIALLY
USED BY THE NUMBER OF STOCK WITHIN THE ALLOTMENT.
BLM RECORD ID = 3403488096

Shelley C