

39576
[34-04182]/
94-02-0040

279
RECEIVED
FEB 22 1994
Department of Water Resources
Adjudication Bureau

Rt. 1 Box 30 E
Mackay, ID 83251
February 4, 1994

Judge Daniel C. Hurlbutt, Jr.
Snake River Basin Adjudication
253 Third Avenue North
Box 2707
Twin Falls, Idaho 83303-2707

Your Honor:

We request leave to file a late objection on water claim 34-04182.

We have just become aware that the BLM has filed this claim, and we object to it for the following reasons: the point of diversion and place of use both contain legal descriptions that include our private property; the BLM confused cattle allotments and claimed water for 668 cows instead of our 48; the IDWR recommended this same unnamed spring to us with an earlier priority; this water is pertinent to our property and enters our property in its natural channel.

We would appreciate your interest and consideration in reviewing this late objection.

Respectfully yours,

Lynette B Asay
Lynette B. Asay
Reed Z Asay
Reed Z Asay

RECEIVED

FEB 22 1984

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

In Re the General Adjudication
of Rights to the Use of Water
from the Snake River Basin
Water System

Case No. 34-04182
(You must insert the
water right number you
are objecting to)

The State of Idaho, ex rel.
R. Keith Higginson in his
official capacity as Director
of the Idaho Department of
Water Resources,

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.

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in the Director's Report. You may object to one water right per objection form. The water right number you are objecting to must be indicated above in the blank space following "Case No." To object to more than one water right, you must file a separate objection form for each. 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 objection by the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

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

(Over)

objection 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 objecting:

Name: Lynette B. Asay

Address: Rt 1 Box 30 E
Mackay, ID 83251

Briefly describe your interest in this water right:

Claim 34-04182 claims our private
property as part of the place of use
and point of diversion. Amount of water
is excessive for 48 cattle, and IDWR
recommended the license 34-02253A
with an earlier priority for this same unnamed
spring to us.

2. Owner of the water right:

Name: (Claimant) US Dept of Interior BLM

Address: Idaho State Office 3380 Americana Terrace
Boise, ID 83706

3. If this objection 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.

II. STATEMENT OF THE OBJECTION

Please check each "box" which states your objection to the recommendation in the Director's Report.

1. ☒ Name and Address: I object to the name and/or address of the owner of the water right.
2. ☒ Source: I object to the source of water.
3. ☒ Quantity: I object to:
 - 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 object to the priority date.
5. ☒ Points of Diversion: I object to the legal description of the point(s) of diversion.
6. ☒ Instream Flow: I object to the legal description of the beginning and ending points of the instream flow.
7. ☒ Purpose(s) of Use: I object to the purpose(s) of use.
8. ☒ Period of Year: I object to the period of year when water is used or is necessary for the purpose stated.
9. ☒ Place of Use: I object to:
 - 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 object to the annual volume of consumptive use.
11. ☒ Remarks: I object to the "remarks" listed with the water right.

(Over)

12. ☒ Water Right Recommendation: I object to:
- a. ☒ this water right being recommended at all; or
- b. ☐ this water right not being recommended.
13. ☐ Description of Reservation: I object to the legal description of the reservation.
14. ☐ Other: I object to: _____
- _____
- _____
- _____
- _____

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.

Reasons on page 7

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 Director's Report should be changed to

disallow water claim 34-04182.

Please note: You should attach copies of documents which support your objection. 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. _____

Document #1 Copy of BLM claim 34-04182

Document #2 Copy of water claim 34-02253A

VERIFICATION (Must be Completed)

State of IDAHO

County of CUSTER

Lynette B. Asay, being first duly
(Name of person filing objection)
sworn, upon oath, deposes and says:

That I am the person or entity filing this objection, 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 objection, know its contents and that the statements contained therein are true to the best of my knowledge and belief.

Lynette B. Asay
Signature of person filing objection

By: _____
(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 17th day of Feb.,
1999.

Charlotte J. Wall
Notary Public for Idaho
Residing at: Maskrey
My Commission expires 12-18-99



INSTRUCTIONS FOR MAILING

You must mail the objection, 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, if other than yourself; 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.

CERTIFICATE OF MAILING

I hereby certify that on the 17 day of Feb, 1994, I mailed the original and copies of the foregoing objection, 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:

Owner name: (Claimant) US Dept. of Interior BLM

Owner's address: Idaho State Office 3380 Americana Terrace
Boise, ID 83706

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
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, Idaho 83734

Lynette B. Roay
Signature of Objector or attorney
mailing on Objector's behalf

Statement of the Objection
Reasons Supporting Each Box Checked

#1 I object to the United States of America, acting through the BLM, claiming this water which has been recommended with an earlier priority date.

#2 The source of this water rises on the US Forest, crosses the BLM and the diversion occurs on our private property from the original channel.

#3a The BLM has an error as to the amount of water that they can beneficially use. We believe that since we already have a claim on this stream, there is no need for the BLM to acquire a separate right for our cattle allotment of 48 cows--they already have access to it. They also have access to springs located on our property that is contiguous to the BLM allotment.

#4 I object to the priority date 06/26/1930. ILWR recommended 34-2253A to us with a priority date of 01/20/1927.

#5 The legal description of the point of diversion is incorrect. 17 R25E S22 SWSW is our deeded property.

#6 The legal description of the ending point of the instream flow is 17 R25E S22 SWSW (Lot 4). It is private deeded property.

#7 (See #3 above).

#8 The period of use is listed as 01-01 11-31. The water doesn't usually run the year around.

#9a The legal description of the place of use is incorrect. 17 R25E S22 SWSW (Lot 4) and 3E25W (Lot 3) are our private property.

#10 The amount of water on claim 34-0418 is 9.15 cfs. The cattle allotment is for 48 head of our cows.

#11 The remarks listed with the water right indicate that the grazing allotment should be limited to the quantity of water beneficially used by the number of stock within the allotment. The BLM erred and mixed up our allotment of 48 cows with another that had 668.

#12a We object to this water right being recommended at all. We believe there is enough water available without the US of America, acting through the BLM, claiming a state water right.

List of Documents 34-04182

- Document #1, US DEPT OF INTERIOR, BLM water claim 34-04182, 1 p.
Document #2, Lynette B. Asay, Reed Z Asay water claim 34-02253A
1 page.
Document #3, Statement from BLM indicating livestock number, 1p.
Document #4, Tax notice for deeded property. 1 page.

Supports Boxes

1, 2a, 3, 4, 5,
6, 7, 8, 9a, 11, 12

A05856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: NOV-17-1992
PAGE: A-1280RIGHT
NUMBER

NAME & ADDRESS

PRIORITY
DATEPURPOSE OF USE
FROM TOMAXIMUM
QUANTITY

BASIS OF CLAIM

SOURCE: UNNAMED STREAM

TRIBUTARY: SINKS

34-04182

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

.16 CFS

BENEFICIAL USE

NON-IRRIGATION-USES:

STOCKWATER, 668 RANGE CATTLE; WILDLIFE, VARIABLE AMOUNT
POINT OF DIVERSION:

T07N R25E S22

NENW (B)
SESW (E)

PLACE OF USE: STOCKWATER

T07N R25E S22

NENW

SESW

NESW

NWSW

TOTAL QUANTITY:

.16 CFS

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 = 3403488147

AJ5856NP

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

DATE: NOV-3-1993
PAGE: A-2

RIGHT NUMBER	NAME & ADDRESS	PRIORITY	PURPOSE OF USE	PERIOD OF USE		MAXIMUM QUANTITY	BASIS OF CLAIM
		DATE		FROM	TO		
		SOURCE: UNNAMED STREAM		TRIBUTARY: SINKS			
34-02253A	LYNETTE B ASAY REED Z ASAY PO BOX 415 MACKAY ID 83251	01/20/1927	IRRIGATION	05-01	10-15	2.00	CFS LICENSE
TOTAL QUANTITY:						2.00	CFS

POINT OF DIVERSION:
TOTN R25E S21 LOT 1 (SESESE)
S22 LOT 4 (NMSWSW)

PLACE OF USE: IRRIGATION

TOTN R25E S21	Lot 1	(SESESE)	7.0			
S27		NENW	3.0	NANW	24.0	
S28		NENE	30.0	SENE	21.0	
				SWNW	7.0	
						SENE 1.0

REMARKS:
93.0 ACRES TOTAL
RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
PURSUANT TO IDAHO CODE 42-1416A.
RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO
IDAHO CODE 42-1416A.
RIGHT NO. 34-13410 IS ALSO DIVERTED THROUGH POINTS OF
DIVERSION DESCRIBED ABOVE.
THE UNNAMED STREAM IS KNOWN LOCALLY AS CROWS NEST SPRINGS.
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 50 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
USE OF THIS RIGHT WITH RIGHT NO. 34-13410 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 3.72 CFS, AND TO THE IRRIGATION
OF A COMBINED TOTAL OF 93 ACRES IN A SINGLE IRRIGATION SEASON.
USE OF THIS RIGHT WITH RIGHT NO. 34-00044 AND OTHER RIGHTS
LISTED THEREIN IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF
12.33 CFS, A TOTAL COMBINED ANNUAL CONSUMPTIVE USE VOLUME OF 735
AF, AND TO THE IRRIGATION OF A COMBINED TOTAL OF 294 ACRES IN A
SINGLE IRRIGATION SEASON.
THIS RIGHT AND RIGHT NO. 34-02253B ARE LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 2.00 CFS.

Document #3
Boxes 3a, 10, 11

MAKE REMITTANCE TO: US DEPT. OF THE INTERIOR-BLM. PLEASE RETURN THE TOP PORTION OF THIS NOTICE WITH YOUR PAYMENT, AND KEEP THE BOTTOM PORTION. THIS NOTICE SHOWS THE AMOUNT DUE IN GRAZING FEES FOR LIVESTOCK GRAZING USE OFFERED TO YOU. YOUR CANCELED CHECK IS YOUR RECEIPT. A SERVICE CHARGE OF \$10.00 WILL BE MADE FOR EACH APPLICATION REQUIRING A REPLACEMENT OR SUPPLEMENTAL BILL.

check to us,
207.36

BILL NUMBER: G11438850 ASAY, REED Z.

ALLOT	LIVESTOCK	BEGIN	END	T	AUM	FEE	
PASTURE	NUMBER K	PERIOD	PERIOD	XPL U	AUM'S	AMOUNT	
05780 ASAY	46 C	05/11/93	07/20/93	98 A	180	\$1.66	\$280.68
						=====	
SUBTOTAL						\$280.68	
SERVICE CHARGE						\$10.00	
TOTAL DUE						\$290.68	

TERMS AND CONDITIONS:

PAYMENT BY VISA OR MASTERCARD IS ACCEPTED. PLEASE PHONE 208-756-5445 BETWEEN THE HOURS OF 7:45 A.M. AND 4:15 P.M. TO MAKE YOUR PAYMENT BY PHONE.

AS PROVIDED IN THE CODE OF FEDERAL REGULATIONS (CFR) 4130.6-2(D), YOU ARE HEREBY REQUIRED TO SUBMIT A CERTIFIED ACTUAL USE REPORT WITHIN 15 DAYS AFTER COMPLETION OF YOUR ANNUAL GRAZING USE. FAILURE TO COMPLY COULD RESULT IN THE CANCELLATION OF YOUR PERMIT IN WHOLE OR PART.

YEAR TO DATE AUTHORIZED			AUTHORIZED					
ALLOT	PREF	NOT	ACTIVE	MONITOR	FL USE	ECU	TRAIL	TRAP
-----	-----	-----	-----	-----	-----	-----	-----	-----
-----	-----	-----	-----	-----	-----	-----	-----	-----

63.36
Mark Johnson
refunded.
144.00

Document # 4

Supports Boxes 5, 4, 9a

TAX NOTICE AND RECEIPT

TAXING DISTRICT

RATE

AMOUNT

DATE

KEEP TOP PORTION FOR YOUR RECORDS
PLEASE READ REVERSE SIDE
1993 YOUR CANCELLED CHECK IS YOUR RECEIPT

MARKET VALUE	TAX CODE AREA	PARCEL NUMBER	BILL NUMBER
--------------	---------------	---------------	-------------

L 7629	33-00	RP07N25E220001A	4511
--------	-------	-----------------	------

LOTS 1,2,3,4
E2NE4, NE4SE4
SEC 22 T7N R25E

STATE	COUNTY	SCHOOL #	AMOUNT
STATE	COUNTY	SCHOOL #182	20.90
S. C. AMBULAN			42.20
L. R. HOSP			2.73
MACKAY LIBRAR			12.48
LOST RIVER HW			3.26
SO. CUSTER FI			7.24
			7.62

305.170 ASAY, REED
TOT ACRES PO BOX 415
DELINQUENT YEAR MACKAY, ID 83251

TOTAL .012642100 96.48

RECEIPT NOT VALID UNTIL CHECK CLEARS
THANK YOU

FOR PROPER CREDIT THIS STUB MUST BE RETURNED WITH THE 2ND PAYMENT.
ASAY, REED 1993
PO BOX 415 4511

2ND INSTALLMENT

48.24

PEN.

INT.

2nd

COST

TOT.

RP07N25E220001A
33-00

Personal checks are subject to bank clearance.
MAKE PERSONAL CHECKS PAYABLE TO

CUSTER COUNTY TAX COLLECTOR
P.O. BOX 350
CHALLIS, IDAHO 83226

DELINQUENT IF NOT PAID ON OR BEFORE
DATE PAID JUNE 20, 1994
PAID BY CHECK #
CASH

TAX	96
PEN.	
INT.	
TOT	
1ST INST	
TAX	
PEN.	
INT.	
TOT	
2ND INSTALL	
TAX	48
PEN.	
INT.	
TOT	