

94-03-0052

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MAR 18 1994

Department of Water Resources
Adjudication Bureau

Fifth Judicial District
County of Twin Falls - State of Idaho

MAR 15 1994

By

Clerk

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

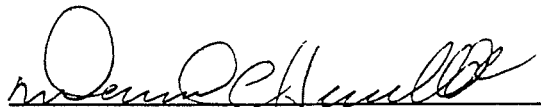
) SUBCASE 36-07460B

) ORDER GRANTING MOTION TO
) FILE LATE OBJECTION

A hearing on the *Motion to File Late Objection* filed in the above subcase by Kevin Trainor on behalf of Michael & Katherine Branchflower was held on March 15, 1994. There was no opposition to the motion.

IT IS ORDERED the *Motion to File Late Objection* is GRANTED. The Objection shall be deemed to be filed as of March 15, 1994. Responses to the Objections are due on or before 5 p.m. on May 16, 1994.

DATED March 15, 1994.



DANIEL C. HURLBUTT, JR.

Presiding Judge

Snake River Basin Adjudication

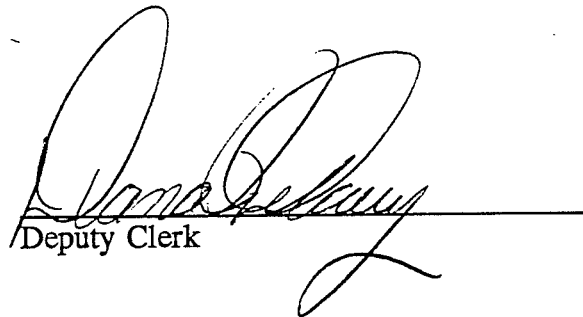
CERTIFICATE OF MAILING

I certify that a true and correct copy of the **ORDER GRANTING MOTION TO FILE LATE OBJECTION** was mailed on March 16, 1994, with sufficient first-class postage to the following:

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

The United States Department of Justice
Environment and Natural Resources Division
550 West Fort Street, Box 33
Boise, ID 83724

Kevin Trainor
P.O. Box 33
Twin Falls, ID 83303-0083


Deputy Clerk

Voluntary
Declaratory Judgment

MAR 18 1994

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MAY 04 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

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

Case No. 36-07460B
(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 - 1

By filing an objection form, you are certifying that the 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: Michael G. Branchflower
Katherine L. Branchflower
Address: P.O. Box 392
Wendell, Idaho 83355

Briefly describe your interest in this water right:

I own the water right.

2. Owner of the water right:

Name: Michael G. Branchflower
Katherine L. Branchflower
Address: P.O. Box 392
Wendell, Idaho 83355

3. If this objection is filed by an attorney:

Attorney Name: KEVIN F. TRAINOR
Attorney Address: Stephan Kvanvig Greenwood Stone & Trainor
P.O. Box 83
Twin Falls ID 83303-0083
Attorney Phone No.: (208) 733-2721

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: The Director's Report, General Provision No. 4 insofar as it attempts to restrict our right to maintain historic pumping levels for this water right.
- _____
- _____
- _____

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.

8. This is a license with a priority date of 1974 which was issued with a period of use from March 15 through November 15.
11. This right is not combined with water from the North Side Canal Company.
- _____

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.

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. _____

VERIFICATION (Must be Completed)

State of IDAHO

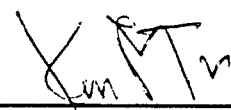
County of JEROME

MICHAEL G. BRANCHFLOWER, 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.


Signature of person filing objection

By:


(Attorney signing in
representative capacity)

199 3 Subscribed and sworn to before me this 30th day of April.


Notary Public for IDAHO
Residing at: TWIN FALLS
My Commission expires: 2/9/98

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 30th day of SEP 1993, 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: MICHAEL G. & KATHERINE L. BRANCHFLOWER

Owner's address: P.O. BOX 392

WENDELL ID 83355

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



Signature of Objector or attorney
mailing on Objector's behalf

(53)

NORWOOD SUBDIVISION/RUBY SPRINGS WATER COMPANY
RESPONSE TO OBJECTION
CASE NO. 39576
March 15, 1994

RECEIVED

MAR 18 1994

Department of Water Resources
Adjudication Bureau

INDEX OF CONTENTS

1. Cover letter - 2 pages
2. Standard Form 2, Response to Objection
including 5 typed pages.
3. Appendix Section
 - A. Ruby Springs Water Company letter
December 13, 1993, 13 pages.
 - B. Jim Norwood Statement, 1 page
 - C. Health Department Notice of Violation
to Ronald Adams, 3 pages.
 - D. Engineer Report, Ruby Springs Water
System. Cover page and page 11.

RUBY SPRINGS WATER COMPANY
2638 Access Road North
Hagerman, Idaho 83332
March 15, 1994

RECEIVED

MAR 18 1994

Daniel C. Hurlbutt, Jr.
Presiding Judge
Snake River Basin Adjudication

Department of Water Resources
Adjudication Bureau

Re: Response to Objections
Case No. 39576
Water Right No. 36-07092A
Water Right No. 36-15240

Your Honor:

Please find enclosed our Standard Form 2, RESPONSE TO OBJECTIONS; for our objection to Standard Form 1 OBJECTION for water right NO. 36-07092A. We did not receive a Standard Form 1 objecting to water right No. 36-15240 from Mr. Adams. On Standard Form 4, MOTION TO FILE A LATE NOTICE OF CLAIM, Mr. Adams claims on Page 2 is "the water right number I want to file a late notice of claim for is 36-15240".

In the packet we received there was a Standard Form 1, OBJECTION for water right No. 36-07092A, but none for water right No. 36-15240. The instructions on standard Form 1 OBJECTIONS, clearly states "only one party/claimant may object to one water right per objection form. Water right No. 36-15240 is for domestic water and as such appears that Mr. Adams has not objected for domestic water from Ruby Springs.

Mr. Adams referenced to the next paragraph asking for "the documents I am providing are; (has a hand written statement) "Please see attachment list." We never received a list in the packet he sent us. As a result we cannot tell if some parts, documents, or forms are missing.

There are numerous Exhibits that are not referenced in any objections on any of Mr. Adams' written statements. The purpose is only of personal interpretation and we will not discuss them.

Daniel C. Hurlbutt, Jr.
Case No. 39576

Page 2.

During the late filing hearing, January 18, 1994, we did express six (6) reasons why we did not think this study should be continued. They are:

1. Ronald A. Adams does not own any Ruby Springs water on the lands in question; he has never owned any water, and was never intended to.
2. The lands in question have never had irrigation or domestic water on them from Ruby Springs.
3. The Ruby Springs water collection system, head-box, water transportation pipelines, and water distribution system belongs to Norwood Sub-division/Ruby Springs Water Company and we will not allow Mr. Adams to use our system.
4. The capacity of our water system is approximately .6 CFS. The Division of Water Resources recommendation to the court for the 22 lots in Ruby Springs Water Company is .58 CFS.
5. In 1989 professional engineer, Craig Smith, measured Ruby Springs flow to be approximately 300 gal/min. The spring flow has decreased since 1988. There is no extra water.
6. Mr. Adams does not own water easements nor right-of-ways from Ruby Springs to the lands in question and is not likely to obtain any.

During the January 18 hearing, Mr. Adams did offer to give the court additional information. As I recall he did deliver a packet to Judge Hurlbutt. We have not received a copy of this packet nor have we been privileged to see it. If there is anything that we disagree with we will not be prepared to respond.

Mr. Adams' objection packet contained a letter that we responded to your court with a letter dated December 13, 1993. In as much as his letter is part of his filing, we are attaching our response again. **Appendix A.**