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Department of Water Resources  
Adjudication Bureau

City of Burley,  
PARSONS, SMITH, STONE & FLETCHER  
137 West 13th Street  
P.O. Box 910  
Burley, Idaho 83318  
(208) 678-8382  
Attorneys for City of Burley

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

)  
) 36-04080  
) MOTION TO FILE LATE  
) OBJECTION AND LATE  
) RESPONSE

DESCRIPTIVE SUMMARY

The City of Burley files this motion for an Order  
Authorizing the filing of an Objection to the Water Right  
recommended in the Director's Report and to file a Late Response  
on the City of Burley Municipal Rights in Basin 36 as evidenced  
by number 36-04080.

MOTION

COMES NOW, The City of Burley and moves for an Order allowing the City of Burley to file an Objection and a Response to Objection, which Objection and Response will be utilized in the adjudication of all of the water rights of the City of Burely when the Report of the Director is filed on the remaining claims of the City located in Basin 45.

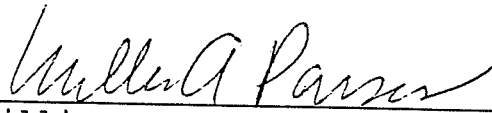
This motion is based upon the grounds and for the reasons that the City of Burley is a municipal corporation located in the Counties of Cassia and Minidoka. A portion of the City of Burley is located in one Basin (36) and a portion of the City is located in the other Basin (45). This Objection and Response, copies of which are attached to this Motion, are needed to be part of the record when the remaining water rights are adjudicated.

The City of Burley is informed and believes in support of the motion that the Idaho Department of Water Resources has no objection to the late filings and in fact a representative of the State indicated at a status conference that the State probably would have no objection in view of the fact that other water rights of the City of Burley must likewise be adjudicated and no prejudice results.

The City of Burley further states that the reason of the late Objection and the Response thereto is that it was more appropriate to make such Objection and Response once the matter got into the subcase for appropriate rulings in connection with other of City of Burley water rights.

1 DATED this 21st day of March, 1994.

2 PARSONS, SMITH, STONE & FLETCHER

3 

4 William A. Parsons  
5 Attorneys for Movant  
6 137 West 13th Street  
7 P. O. Box 910  
8 Burley, Idaho 83318

9 CERTIFICATE OF MAILING

10 I hereby certify that on the 21st day of March, 1994, I  
11 served a copy of the foregoing Motion For Stay upon the  
12 following:

13 Josephine P. Beeman  
14 Moffatt, Thomas, Barrett, Rock & Fields  
15 Box 829  
16 Boise, Idaho 83701

17 Clive Strong  
18 Chief, Natural Resources Division  
19 Office of the Attorney General  
20 State of Idaho  
21 P.O. Box 44449  
22 Boise, Idaho 83711-4449

23 Leif Johnson  
24 United States Department of Justice  
25 Environment and Natural Resources Division  
26 550 West Fort Street, Box 33  
Boise, Idaho 83724-4378

by depositing a copy thereof in the United States mail, postage  
prepaid, in an envelope addressed to the above named persons at

1 the above addresses, their last known address.

2 PARSONS, SMITH, STONE & FLETCHER

3 

4 William A. Parsons  
5 Attorneys for City of Burley  
6 137 West 13th Street  
7 P. O. Box 910  
8 Burley, Idaho 83318  
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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 the General Adjudication of Rights )  
to the Use of Water from the Snake River )  
Basin Water System )

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

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. )

Water Right No. 36-04080

(The water right number you are objecting to must be inserted here)

STANDARD FORM 1

OBJECTION

INSTRUCTIONS

This form must be used to file an objection to a water right recommended in the director's report. *Only one party/claimant may object to one water right per objection form.* 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. If you do, the text must be on the front and back of each page exactly as it appears here. The objection must be received by the court on or before the deadline specified in the Notice of Filing the Director's Report that IDWR mailed to you. Follow the Instructions for Mailing this objection (Page 6) or the court will not accept it for filing. This form has been adopted by the court in *SRBA Administrative Order 1* (amended June 21, 1993), Section 4, which may be consulted for further information.

Any party filing 25 or more objections must make an appointment with the Clerk of the SRBA Court.

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 is not filed for any improper purpose, such as to harass, cause unnecessary delay or needlessly increase the cost of litigation.

## I. GENERAL INFORMATION

Please fill in the following information:

1. *Party/Claimant objecting:*

Name: City of Burley  
Address: P O Box 910  
Burley, Idaho 83318  
Phone: Work: 208-678-8382 Home: \_\_\_\_\_

Briefly describe your interest in this water right: City of Burley  
has the above water right.

If this objection is *filed by an attorney*:

Attorney Name: William A. Parsons  
Attorney Address: P O Box 910  
Burley, Idaho 83318  
Attorney Phone No.: 208-678-8382

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

2. *Owner of the water right. You must identify the owner exactly as it appears in the Director's Report:*

Name: City of Burley  
Address: Box 1090  
Burley, Idaho 83318

## 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.
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 Report of the Director in that it does  
not take into account all of the water rights of the City  
located in Basin 36 and 45.
- 
- 

### 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.

See reason number 14 above as all of the water rights of  
the City are not being considered

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### 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 Report should be changed when all other water rights of  
the City are adjudicated.

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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 Cassia

William A. Parsons, being first duly sworn, upon oath, deposes and says:  
(Name of party/claimant filing objection)

That I am the party/claimant filing this objection (as listed on Page 2, Section 1, "Party/Claimant Objecting"), as defined by I.C. § 42-1401A(1) and (7), and I have read this objection, know its contents and that the statements are true to the best of my knowledge and belief.

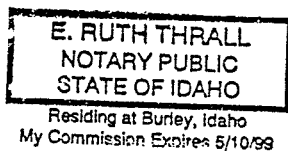
CITY OF BURLEY

Signature of party/claimant filing objection

By: *William A. Parsons*  
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: March 11, 1994  
(Insert Date)

*E. Ruth Thrall*  
Notary Public for \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_



## 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 all of the parties listed below in the Certificate of Mailing.

*You must sign the Certificate of Mailing to show that you followed these steps.*

### CERTIFICATE OF MAILING

I certify that on Mar. 11, 1994, I mailed the original and copies of this objection, including all attachments, to the following persons by mailing the original and/or 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: City of Burley  
P O Box 1090  
Owner's address: Burley, Idaho 83318

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 party/claimant or attorney

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 )

Water Right No. 36-04080  
(The water right number you are responding to must be inserted)

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

STANDARD FORM 2

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. )

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 all objections filed against one water right, using one response form. If you choose this option, 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. If you do, the text must be on the front and back of each page exactly as it appears here. The response must be received by the court on or before the deadline specified in the Notice of Filing the Director's Report that IDWR mailed to you. Follow the Instructions for Mailing this response (Page 5), or the court will not accept it for filing.

This form has been adopted by the court in *SRBA Administrative Order 1* (amended June 21, 1993), Section 4, which may be consulted for further information.

Any party filing 25 or more responses must make an appointment with the Clerk of the SRBA Court.

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 needlessly increase the cost of litigation.

## I. GENERAL INFORMATION

Please fill in the following information:

1. *Party/Claimant responding to objection:*

Name: City of Burley  
Address: P O Box 910  
Burley, Idaho 83318  
Phone: Work: 208-678-8382 Home: \_\_\_\_\_

Briefly describe your interest in this water right:

City of Burley is Claimant on 36-04080.  
\_\_\_\_\_  
\_\_\_\_\_

If this response is *filed by an attorney*:

Attorney Name: William A. Parsons  
PARSONS, SMITH, STONE & FLETCHER  
Attorney Address: P O Box 910  
Burley, Idaho 83318  
\_\_\_\_\_

Attorney Phone No.: 208-678-8382

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

2. *Party/Claimant who filed objection:*

Name: U. S. Department of Justice Env't. & Natural Resources  
Division  
Address: 550 West Fort Street, Box 33  
Boise, Idaho 83724  
\_\_\_\_\_

## 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.
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.

The consumptive use does not take into account the entire City of Burley which is located in Basin 36 and 45. The information in the Remarks section and the Consumptive Use paragraphs are inaccurate.

### 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 needs to be changed to reflect the consumptive use and the amount thereof consistent with all of the water rights in the City of Burley located in both basins.

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:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

VERIFICATION (Must be Completed)

State of Idaho

County of Cassia

William A. Parsons, being first duly sworn, upon oath, deposes and says:  
(Name of party/claimant filing response)

That I am the person or entity filing this response (as listed on Page 2, Section 1, "Person responding to objection"), as defined by I.C. § 42-1401A(1) and (7), and I have read this response, know its contents and that the statements are true to the best of my knowledge and belief.

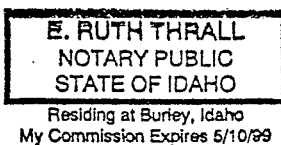
CITY OF BURLEY

Signature of party/claimant filing response

By: [Signature]  
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: March 10, 1994  
(Insert Date)

[Signature]  
Notary Public for \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_



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 all of the parties listed below in the Certificate of Mailing

*You must sign the Certificate of Mailing to show that you followed these steps.*

## CERTIFICATE OF MAILING

I hereby certify that on the 11 day of March, 1994, I mailed the original and copies of this response, including all attachments, to the following persons by mailing the original and/or 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: City of Burley  
Address: P O Box 1090  
Burley, Idaho 83318

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: The parties listed in 4 and 5.  
Address: \_\_\_\_\_  
\_\_\_\_\_

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

  
\_\_\_\_\_  
Signature of party/claimant or attorney

LARRY ECHOHAWK  
Attorney General

CLIVE J. STRONG  
Deputy Attorney General  
Chief, Natural Resources Division

NICHOLAS B. SPENCER  
DANIEL L. STECKEL  
Deputy Attorneys General  
P.O. Box 44449  
Boise, Idaho 83711-4449  
Telephone: (208) 327-7920  
FAX: (208) 327-7866

ATTORNEYS FOR PETITIONER  
IDAHO DEPARTMENT OF WATER RESOURCES

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     | ) | Subcase No. 36-04080   |
|                | ) |                        |
| Case No. 39576 | ) | IDWR'S REPLY TO MOTION |
|                | ) | FOR STAY               |

Descriptive Summary

This document constitutes IDWR's reply to the motion of the City of Burley seeking an order staying all proceedings on subcase number 36-04080 until the remaining claims of the City of Burley are recommended in the director's report for Basin 45 and those recommended rights are at issue. IDWR does not oppose the motion.

Reply to Motion for Stay

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

Resources (IDWR) does not oppose the entry of the stay of proceedings in Subcase No. 36-04080 requested by the claimant City of Burley in its Motion for Stay, dated March 11, 1994.

DATED this 23<sup>RD</sup> day of March, 1994.

  
NICHOLAS B. SPENCER  
Deputy Attorney General

Certificate of Service

I hereby certify that on the 23<sup>RD</sup> day of March, 1994, I served true and correct copies of the foregoing IDWR'S REPLY TO MOTION FOR STAY by depositing the same in the United States Mail, first class postage prepaid, to the following persons at the addresses listed below:

William A. Parsons, Esq.  
PARSONS, SMITH, STONE & FLETCHER  
Attorneys for the City of Burley  
P.O. Box 910  
Burley, Idaho 83318

Josephine P. Beeman, Esq.  
MOFFATT, THOMAS, BARRETT, ROCK & FIELDS  
Attorneys for the City of Pocatello  
P.O. Box 829  
Boise, Idaho 83701-0829

Leif Johnson  
Trial Counsel  
United States Department of Justice  
Environment and Natural Resources Division  
550 West Fort Street, Box 33  
Boise, Idaho 83724-4378

  
NICHOLAS B. SPENCER  
Deputy Attorney General