

5-27

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. 01-10248
(The water right number you are objecting to must be inserted here)

STANDARD FORM 1

OBJECTION

94-06-0002

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 I* (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: Weiser Irrigation District 6

Address: 124 East Main
Weiser, Idaho 83672

Phone: Work: 549-1792 Home:

Briefly describe your interest in this water right: Weiser Irrigation
District has a 1910 and a 1970 pumping right from the Snake River
which is subject to minimum flow levels in the river. The Indian's
claims are inflated as ^{to} the amount of beneficial use and priority
dates of use.

If this objection is *filed by an attorney*:

Attorney Name: Lary C. Walker

Attorney Address: 232 E. Main
Weiser, Idaho 83672

Attorney Phone No.: 208-549-0390

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: Fort Hall Indian Reservation

Address:

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: _____

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 Attached Sheet

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 Washington

Larry C. Walker, 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.

Signature of party/claimant filing objection

By: Larry C. Walker
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: June 1, 1994
(Insert Date)

Larry C. Walker
Notary Public for Idaho
Residing at: Weiser ID
My Commission expires: 02/14/2000

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 June 1, 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:

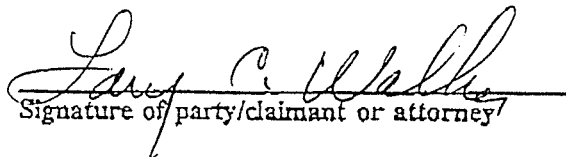
Owner name: Shoshone-Bannock Tribe-Fort Hall
Owner's address: Candy L. Jackson
P.O. Box 306
Fort Hall, ID 83203

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

Weiser Irrigation District registers the objections to the boxes numbered as follows:

1. It is unclear whether the individual indian land owners own the property or the Fort Hall Indian Reservation owns the land, and the objection is made on the basis that the water rights cannot belong to both parties duplicating those rights, and, secondly, the place of use does not identify the users names.

2. Weiser Irrigation District objects to this quantity of water being taken out of the Snake River, affecting the down stream users.

3. Objection is made to the quantity of water combined with the priority rights as there was not 13,630 acres irrigated as of 1891.

4. The priority date of December 14, 1891, is not established by actual use at that location as of that priority date.

7. The only objection to purpose of use is as the same relates to the priority date there's no evidence that water from the Snake River was put on this land with a priority date of 1891.

9. There's no basis for a showing that the water was used on this 13,630 acres as of 1891.

10. Consumptive use. Weiser Irrigation District has a 1910 and a 1970 pumping right out of the Weiser River but are subject to being cut off if the minimum flow goes below a certain designated amount at the Weiser bridge. If the Fort Hall agreement affords the indians a greater water right with earlier priorities than actually exists, such would have an adverse effect on the stream flow at Weiser jeopardizing the water rights of Weiser Irrigation District. Both water rights of Weiser Irrigation District are filed with the water department pursuant to certificates of water rights, the 1970 right being listed under Weiser Irrigation District, and the 1910 right being listed under Weiser Ditch and Irrigating Company now merged into Weiser Irrigation District.

WEISER IRRIGATION DITCH.

Beginning at a point whence the southeast corner of Section 29 in Township 11 North of Range 5 West of Boise Meridian in Idaho, in Washington County, State of Idaho, thence East 660 feet; thence east 5250 ft; thence North 660 feet; thence east 660 feet intersecting east line of Sec. 28 at a point 660 feet North of Southeast corner of said Section; thence south 660 feet to the corners of Sections 27, 28, 33 and 34; thence East 1320 feet; thence South 660 feet; thence East 1320 ft; thence South 660 ft; thence East 660 ft;

thence South 1320 ft; thence east 660 ft; thence south 660 ft; thence east 1320 ft. to a point when the east quarter-corner of Sec. 34 bears north 660 ft; thence south 660 ft; thence east 2640 ft; thence south 660 ft; thence east 660 ft; thence south 660 ft. to a point whence south quarter-corner of Sec. 35 bears west 660 ft; thence west 3300 to the southeast corner of Section 34; thence north 660 ft; thence west 660 ft; thence north 660 ft; thence west 1320 ft; thence north 660 ft; thence west 660 ft; thence north 1320 ft; thence west 660 ft; thence north 660 ft; thence west 1980 ft. to a point whence the northeast corner of Section 33 bears north 1320 ft; thence North 660 ft; thence west 5280 ft; to a point when the northeast corner of Section 32 bears north 660 ft; thence south 660 ft. to the north line of Park St. in the City of Weiser; thence west 450 ft. to the center line of Walnut St; thence south 433 feet to the center line of Liberty St; thence West 660 ft. to the center line of Elm St; thence south 660 ft. to the center line of Main Street; thence west to the center of Monroe Creek; thence along the center of the channel of Monroe Creek to the center of Commercial St; thence west to the center of intersection of Walker St; thence south along center line of Walker St; to the North line of O S L Ry. right-of-way; thence southeasterly along north line of right-of-way to Weiser River; thence down along right bank of Weiser River to its west mouth at Snake River; thence down along the north bank of Snake River to point at center line on south side of Lot 3, Section 19, Township 11 North Range 6 West of Boise Meridian; thence north 197 feet to north line of Section 19 in said Township and Range; thence east 660 ft; thence north 660 ft; thence east 1320 ft; thence north 660 ft; thence east 1320 ft. to west line of section 17 same township and range; thence north 660 ft; thence east 660 ft; thence north 660 ft; thence east 1320 ft; thence north 660 ft; thence west 660 ft; thence north 1980 ft. to the west line of said section 17; thence east 1320 ft; thence south 1320 ft; thence east 660 ft; thence south 660 ft; thence east 1320 ft; thence north 660 ft; thence east 396 ft; thence north 660 ft; thence east 1320 ft; thence south 660 ft; thence east 660 ft; to east line of section 16 same township and range; thence east 3960 ft; thence south 660 ft; thence east 1980 ft; thence south 1320 ft; thence east 1320 ft; thence south 660 ft; thence east 660 ft; thence south 1320 ft; to south line of Section 14; thence east 660 ft; same township and range; thence east 1320 ft; thence south 660 ft; thence south 1980 ft; thence east 660 ft; to east line of Section 23, same Township and Range; thence south 660 ft; thence east 3300 ft; thence south 2640 ft; thence east 660 ft; thence south 1320 ft; thence east 1320 ft to east line of section 25 same township and range; thence south 660 ft; thence east 3300 ft; thence south 660 ft; thence east 5280 ft; thence north 660 ft; thence east 1980 ft; to east line of section 29 same township and range; thence south 1320 ft; thence west 660 ft; thence south 1320 ft. to the place of beginning.

Also, 120 acres of land lying outside of said district and along the line of and below the old Haven-Durbin-Jeffrey Ditch.