

5-31
Rec'd 6/3/94 - Atty Gen. Office

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. 27-11560

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

STANDARD FORM 1

OBJECTION

94-06-0126

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:** Fort Hall Water Users Association

Name: C/O Floyd Johnson, President

Address: 13562 West Tyhee Rd.

Pocatello, Idaho 83202

Phone: Work: 237-3420 Home: 237-3420

Briefly describe your interest in this water right: Have received irrigation
water from this source for 85 years. Have paid the pro rata share
for construction and O & M. Have contracts with the U.S. for the delivery
of 3.5 acre feet of water and have had our land encumbered to the U.S.
to guarantee payment and delivery.

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.

2. **Owner of the water right. You must identify the owner exactly as it appears in the Director's Report:** Water right held by the United States for use on Non-Indian

Name: lands on the Fort Hall irrigation project & for the Bureau
of Indian Affairs.

Address: Fort Hall Agency

Fort Hall, Idaho

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 attachments

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 Bannock

Floyd Johnson, 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.

Floyd Johnson
Signature of party/claimant filing objection

By: _____
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: MAY 31, 1994
(Insert Date)

Emilie A. Brecken
Notary Public for IDAHO
Residing at: PO BOX 100
My Commission expires: NOTARY COMMISSION
EXPIRES 3-5-98

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 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: _____

Owner's address: _____

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

Lloyd Johnson
Signature of party/claimant or attorney

ATTACHMENT BELONGING TO 3a:

LAND BASE & WATER ALLOCATION'S ORIGINAL FORT HALL
IRRIGATION PROJECT COMPARED TO THE
1990 FORT HALL AGREEMENT.

INDIAN
33,259 ac =72%

LAND BASE TOTAL
46,480 ac

NON INDIAN
13,221 ac =28%

BLACKFOOT RESERVIOR
&
GRAY'S LAKE STORAGE
RIGHTS TOTAL
448,000 AC FT.

INDIAN
original
322,560 ac ft. =72%

1990
422,500 ac ft. =94%

DIFFERENCE = +99,940 ac ft.

NON INDIAN
original
125,440 ac ft. =28%

1990
25,500 ac ft. =6%

DIFFERENCE = -99,940 ac ft.

SNAKE RIVER
&
SAND CREEK TOTAL

90 DAY RUN AT 600 CFS = 108,000 ac ft.

INDIAN
original
77,760 ac ft. =72%

1990
61,560 ac ft. =57%

DIFFERENCE = -16,200 ac ft.

NON INDIAN
original
30,240 ac ft. =28%

1990
46,440 ac ft. =43%

DIFFERENCE = +16,200 ac ft.

TOTAL
DIFFERENCE AS RESULT

OF 1990 AGREEMENT = +83,740 ac ft.

DIFFERENCE = -83,740 ac ft.

ATTACHMENT BELONGING TO 3a PART 2

Prior to the proposed 1990 Fort Hall water agreement, each irrigable acre in the project received it's proportionate share of available water from the Snake River & Sand Creek sources. Our share, based on the original Fort Hall project agreement, was 28%. The new 1990 water right gives us 43%. This is an over allocation of 15% which we object to. We suggest an adjustment back to the original entitlement of 28%.

ATTACHMENT BELONGING TO 9b

We object to the reduction in irrigable acreage of approximately 10%. The method by which this was achieved was despicable. Never in the history of the project has the state of Idaho used their law of "use it or lose it". The State Water Board even had the audacity to select a five year period "after the fact" rather announcing their intention in advance. They even declared the acreage in canals & ditches as non-beneficial. Their methods of determining beneficial use changed from farm to farm. One farmer would have all of his canals, corrals, equipment sheds, and storage areas declared non-irrigable while his neighbor would lose none. The acreage reduction for non-beneficial use was unfair and very inconsistent. This fact can be easily verified. Since 1894 when the first federal law was enacted concerning the project the irrigable acreage has changed several times even as late as 1961. The designation however has always been done by the Federal Government with the consent of the landowner and in a fair and equitable manner and never has this been done by the state of Idaho.

ATTACHMENT BELONGING TO 10.

The project was created by Federal Law with the approval of the State. The last Federal Act (1961) Public Law 87-154 provided for the designation of irrigable lands and the amount of irrigation water to be delivered and consumptive use was not part of this act.

ATTACHMENT BELONGING TO 11.

Public Law 87-154 did not place limits on the diversion rate nor the volume. The irrigable acreage for each tract was listed and approved. The 12,667.2 acreage figure reflects a 10% reduction in total project irrigable acreage and the state has even excluded acreage in canals and ditches over our objections. When asked concerning this exclusion Mr. Fenton of the B.I.A. said "If you don't like it sue us."

ATTACHMENT BELONGING TO 12.

The Water Right #01-10248 changes completely the 100 year history of Federal Law as it relates to the original Fort Hall Project and creates very difficult management problems which will cause unnecessary increases in O & M costs. The most important aspect of this change will be the creation again of Indian Vs. Non Indian. The old project rule was each and every land owner, Indian and Non Indian, was treated equally. We ask that this water right and the 1990 Fort Hall Water Agreement not be considered at all.