

61

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

94-06-0133

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: Don and Carol McFarland, Husband and Wife

Address: P.O. Box 268

Eden, ID 83325-0268

Phone: Work 825-5258 Home:

Briefly describe your interest in this water right: This objecting
party owns lands and water rights downstream of the proposed
point of diversion and place of use which will be adversely
affected by the Director's Proposed Water Right Recommendation.

If this objection is *filed by an attorney:*

Attorney Name: J. Walter Sinclair

Attorney Address: Benoit, Alexander, Sinclair, Harwood & High

PO Box 366, Twin Falls, Idaho 83303-0366

Attorney Phone No.: (208) 733-5463

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: Shoshone - Bannock Tribes of the Fort Hall Indian
Reservation

Address: c/o United States Department of Interior, Bureau
of Indian Affairs
911 N.E. 11th Avenue
Portland, OR 97232

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 Exhibit "A" attached hereto.

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.

See Exhibit "A" attached hereto.

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 Twin Falls

Don McFarland, 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.

Don McFarland

Signature of party/claimant filing objection

By: _____

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: _____

5-31-94

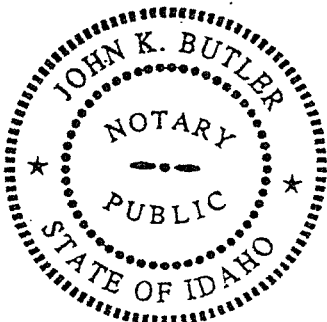
(Insert Date)

[Signature]

Notary Public for Idaho

Residing at: Twin Falls

My Commission expires: 5-26-2000



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 Tribes of the Fort Hall Indian Reservation
c/o United States Department of Interior, Bureau of Indian
Owner's address: Affairs
911 N.E. 11th Avenue
Portland, OR 97232

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

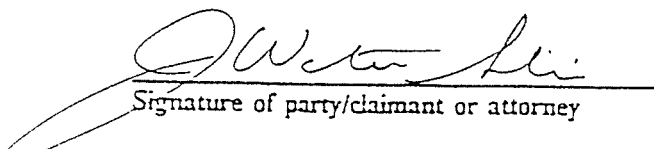

Signature of party/claimant or attorney

EXHIBIT "A"

REASON FOR OBJECTIONS

OBJECTION NUMBER

3. This objecting party is informed and believes that the quantity of water allocated is more than reasonably necessary for the stated purpose and will adversely affect the downstream water rights of this objecting party.

4. This party is informed and believes that the stated priority date is incorrect. The claimants have failed to perfect priority waters to the land and water described and has failed to put the water to beneficial use for the period required by law.

7. This party is informed and believes that the purpose of use, is not a purpose to which the water has been or will be used by the claimant in the past, present, or in the future. This objecting party is further informed and believes that federal law as to limitations on purposes for which federal reserve rights may be used has yet to be developed. Further, that the claimant has failed to put the water to beneficial use. The proposed use will adversely affect the downstream water rights of this objecting party.

8. This party is informed and believes that the stated period of use is not reasonable nor necessary by reason of, but not limited to conditions of the area of use and that it is in excess of the period in use required and will adversely affect the objecting party's downstream water rights. This claimant is being permitted a longer period of use than has been recommended for the downstream water right holders.

9. This party is informed and believes that the place of use is in excess of that where the water is consumptively used and that the place of use is in excess of the claimed right, if any, previously established. This objecting party is informed and believes that federal law as to limitations on the place of use is yet to be developed. The proposed place of use, will adversely affect the downstream water rights of this objecting party.

10. This party is informed and believes that the proposed consumptive use of the claimant is in excess of that which is reasonable and necessary for the stated purpose. Further, proposed annual volume of consumptive use will adversely affect the downstream water rights of this objecting party.

11. The remarks contained within the Director's Report, fail to describe or indicate what effect, if any, the proposed recommendation would have upon the downstream water rights of this objecting party or others.

12. This objecting party is informed and believes that the proposed water right recommendation, seriously and adversely affect the downstream water rights of this objecting party and others. Further, the proposed water right recommendation, fails to consider or take into account the effect of the recommendation upon the downstream water right claimants.