

5-16
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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	)	Subcase No. 34-00676A
	)	
Case No. 39576	)	RESPONSE TO OBJECTION
	)	

I. GENERAL INFORMATION

1. Person responding to objection: 95-05-0041

Name: R. KEITH HIGGINSON, DIRECTOR

Address: IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449

Briefly describe your interest in this water right:

IDWR is required to file a response to an objection to part
I of the director's report pursuant to I.C. section 42-1412(2).

2. Person who filed objection:

Name: MARCELLE J. AND RAYMOND E. BRIGHT
AND JOHN P DEMOREST

Address: 1822 20TH ST.
SAN FRANCISCO, CA 94107

(Over)

3. If this response is filed by an attorney:

Attorney Name(s): A. LYNNE KROGH

Attorney Address: DEPUTY ATTORNEY GENERAL
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 83720
BOISE, ID 83720-0098

Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

1. ☒ Name and Address: I respond to the objection concerning the name and/or address of the owner of the water right.

3. ☒ Quantity: I respond to the objection concerning:

3a. ☒ the total quantity of water used in cubic feet per second.

12. ☒ Water right recommendation: I respond to the objection concerning:

12b. ☒ This water right not being recommended.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection item 1, and all allegations regarding this item, IDWR responds as follows: No notice of change of ownership has been filed with IDWR by the owner of the water right as required by Idaho Code §42-1409(7). IDWR therefore lacks sufficient information to form a belief as to the truth of the matter asserted. Upon the filing of a notice of change of ownership, IDWR will correct the name and address of the owners of this water right accordingly. This, however, may not change the records of the SRBA Court. The Court has developed its "Standard Form 3" to be used for reporting matters such as address changes and changes in ownership. The claimant may need to file this form with the SRBA Court.

In response to Statement of the Objection items 3, 3.a, 12 and 12.b, and all allegations of the objection regarding those items, IDWR responds as follows: IDWR recommended that the use of water for irrigation under this right had been forfeited due to non-use, pursuant to Idaho Code §42-222. This recommendation was based on a field investigation, dated May 3, 1991, which showed mature sagebrush at the claimed place of use, which is inconsistent with the recent use of water for irrigation. In addition, aerial photography taken in 1974, 1986, and 1987 does not indicate irrigation of this land. The claimant has not provided information sufficient to establish a defense to forfeiture.

IDWR further responds that the water right was recommended based on the claim submitted by the objector, and subsequent examination of that claim. To the extent the claimant asserts that there is an error in the description of water right no. 34-10635 in the director's report, the claimant must seek leave of the court to file a late objection to that water right.

(Over)

CHANGES TO THE DIRECTOR'S REPORT

The director proposes no changes to the description of this claim in the Director's Report.

☒ 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:

	No. of Pages
notice of claim A34-00676A	4

VERIFICATION (Must be Completed)

State of IDAHO
County of ADA

David B. Shaw, being first duly sworn, upon oath, deposes and says:

That R. Keith Higginson, in his official capacity as director of the Idaho Department of Water Resources, is a party to this proceeding, as defined by I.C. §42-1401A(1) and (7); that I am the Adjudication Bureau Chief for IDWR and am authorized by R. Keith Higginson, in his official capacity as director of IDWR, to verify this response; and that I have read the foregoing response, know its contents and that the statements contained therein are true to the best of my knowledge and belief.



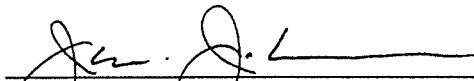
Signature of person filing response

By:



(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 16TH day of MAY,
1995.



Notary Public for Idaho

Residing at: Boise, ID

My Commission expires: 1-1-2000

(Over)

CERTIFICATE OF MAILING

I hereby certify that on the 16th day of May, 1995, I mailed the original and copies of the foregoing response, 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:

See No. 3

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:

Ray W. Rigby
Gregory W. Moeller
P.O. Box 250
Rexburg, ID 83440

4. One copy to:

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, Idaho 83734

A. Lynne Krog
Signature of person filing response
or attorney mailing on Respondent's
behalf

210⁰⁰

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.

CIVIL CASE NUMBER: 39576

Ident. Number: A34-00676A
Date Received: 12/28/1989
Receipt No: 1-10-90
Received By: EO 11597/90

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

- | | | |
|----------|--------------------|--------------|
| 1. Name: | ROXANNE R. HALE | 208-588-2610 |
| Address: | STAR ROUTE | |
| | MACKAY, ID | 83251 |
| AND/OR | | |
| Name: | DELVIN A. HALE | 208-588-2610 |
| Address: | STAR ROUTE | |
| | MACKAY, ID | 83251 |
| AND/OR | | |
| Name: | MARCELLE J. BRIGHT | 208-588-2610 |
| Address: | STAR ROUTE | |
| | MACKAY, ID | 83251 |
| AND/OR | | |
| Name: | RAYMOND E. BRIGHT | 208-588-2610 |
| Address: | STAR ROUTE | |
| | MACKAY, ID | 83251 |

2. Date of Priority: OCT 03, 1917

3. Source: BIG LOST RIVER Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
08N	21E	15	SW	NW			CUSTER

5. Description of diverting works:
OPEN DITCHES FOR FLOOD IRRIGATION.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.800		

7. Total Quantity Appropriated is:
0.800 C.F.S. (and/or) A.F.A.

MICROFILM
NOV 23 1990

8. Total consumptive use is 400.0 Acre Feet Per Annum.

9. Non-irrigation uses:
INCIDENTIAL STOCKWATER FOR 440 CATTLE, 12 HORSES.

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
08N	22E	4	SW	SW		IRR	20.0
			SE	SW		IRR	40.0
			SW	SE		IRR	40.0
						Section Acres	100.0
		9	NW	NE		IRR	40.0
			NE	NW		IRR	20.0
						Section Acres	60.0
						Total Acres	160.0

11. Place of use in counties: CUSTER

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
A34-10694

14. Remarks:

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date: 10/21/1925

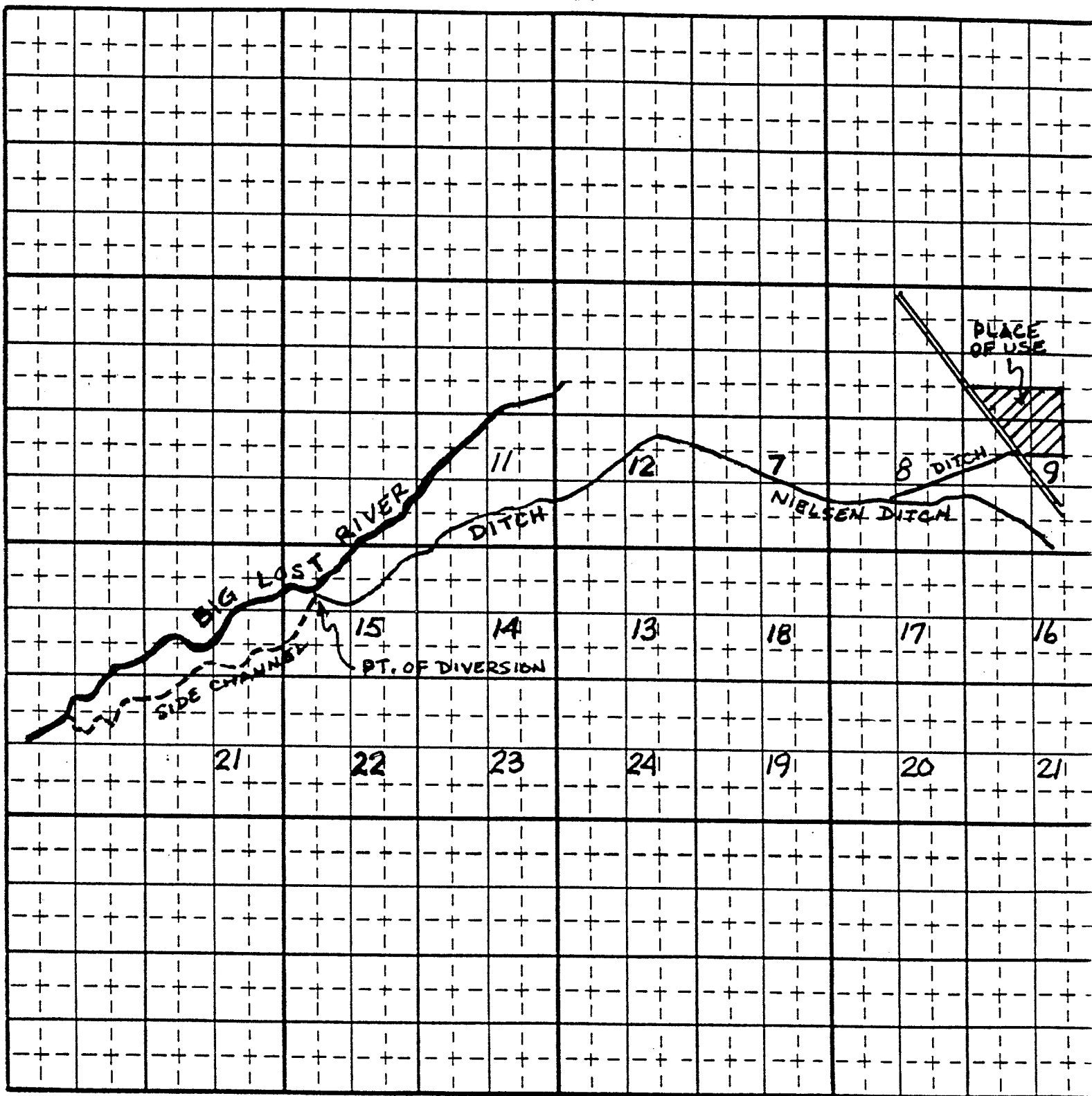
UTAH CONSTRUCTION CO.
Decree Plaintiff

vs JOHN F. ABBOTT, ET AL
Decree Defendant

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 1 inch equals 1 mile

T 8 N



R 21 E

R 22 E

MICROFILMED

NOV 23 1992

Last Name _____ Ident No. _____

Copies: White-State, Yellow-Claimant

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Delm-Hall Date: 1/10/90

Date: _____

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 10th day
of Jan 19 90 Betty J. Thompson
Notary Public

Seal

Residing at BETTY J. THOMPSON, NOTARY PUBLIC
RESIDING AT IDAHO FALLS, IDAHO
My Commission Expires 6-30-94