

1995 MAR 17 PM 12:34
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

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COPY

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. 34-10694
	)	
Case No. 39576	)	RESPONSE TO OBJECTION
	)	

I. GENERAL INFORMATION

95-03-0035

1. Person responding to objection:

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)

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 and 3.a, and all allegations of the objection regarding those items, IDWR responds as follows: (1) it recommended the amount of water it determined was being beneficially used; (2) the claimant is not entitled to any amount greater than that which is beneficially used (Idaho Code §42-104 and §42-1402).

In response to Statement of the Objection item 4, and all allegations of the objection regarding this item, IDWR responds that it recommended this element of the water right as claimed. The claim was based on two rights, nos. 34-00675 and 34-00677 which were originally decreed in the case of Utah Construction Co. v. Abbott Equity No. 222 (D.E.Id.1923). The claimed priority date was 10-03-1912, the priority date found on right 34-00675. By now seeking a priority date for a claim based solely on 34-00677 the claimant now seeks to claim this as a separate water right for which a separate claim and additional filing fee is required. The claimant thus improperly seeks to use the objection process to file a late claim. A claimant must obtain leave of the court to file a claim after a director's report is filed. Once leave of the court is granted, IDWR can investigate the additional claim and make an appropriate recommendation to the court.

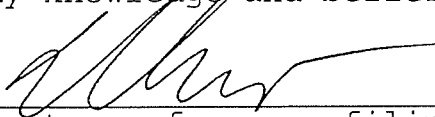
In response to Statement of the Objection items 7, 11, 12, and 12.b, and all allegations of the objection regarding these items, IDWR responds as follows: IDWR recommended that the use of water for irrigation under this right had been forfeited due to non-use, pursuant to Idaho Code §42-222. This recommendation
(Over)

VERIFICATION (Must be Completed)

State of IDAHO
County of ADA

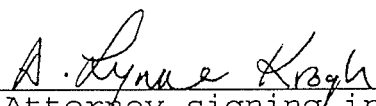
David B. Shaw, being first duly sworn, upon oath, deposes and says:

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.



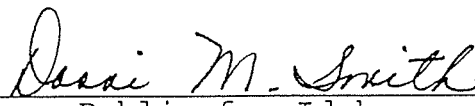
Signature of person filing response

By:



(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 17th day of MARCH,
1995.



Notary Public for Idaho

Residing at: Boise Idaho

My Commission expires: 12/5/2000

(Over)