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APR 29 2019

DEPARTMENT OF
WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re CSRBA

A. Subcase No. 95-7106

Case No. 49576

STANDARD FORM 1
OBJECTION

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: State of Idaho
Address: P.O. Box 83720
Boise, ID 83720-0010
Phone: 208-334-2400

Attorney Name: LAWRENCE G. WASDEN
Attorney General
Darrell G. Early
Deputy Attorney General
Chief, Natural Resources Division
Shantel M. Chapple Knowlton
(ISB # 9759)
Deputy Attorney General
Attorney Address: P.O. Box 83720
Boise, Idaho 83720-0010
Attorney Phone No.: Telephone: (208) 334-4124

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: ANDREW BARRY
NANCY BARRY
Address: 5591 W RACQUET RD
RATHDRUM ID 83858

D. I object to the following elements as recommended in the Director's Report.
(Please check the appropriate box(es)).

1. ☐ **Name and Address**

Should be:

2. ☐ **Source**

Should be:

3. ☐ **Quantity**

Should be:

4. ☐ **Priority Date**

Should be:

5. ☐ **Point of Diversion**

Should be:

6. ☐ **Instream Flow Beginning and Ending Point**

Should be:

7. ☐ **Purpose(s) of Use**

Should be:

8. ☐ **Period of Year**

Should be:

9. ☐ **Place of Use**

Should be:

10. ☒ **General Provision** ☒ Individual Water Right ☐ All Water Rights

☐ Should not be recommended.

☒ This general provision was not recommended but should be recommended as described below.

Should be: SEE BELOW

☐ General provision was recommended but should be modified as described below.

Should be:

11. ☐ **I object** because the recommendation contains an accomplished transfer under Idaho Code § 42-1425 resulting in injury to my water right(s) and/or enlargement of the original right.

12. ☐ **I object because:**

- ☐ This water right should not exist.
- ☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S):

Box 10, Remarks: This water right was decreed in the Final Decree issued in *In the Matter of the General Determination of the Rights to the Use of the Surface Waters of Twin Lakes, Including Tributaries and Outlets*, Civil Case No. 32572, 1st Jud. Dist. Idaho, Kootenai County (April 19, 1989) [hereinafter *Twin Lakes Adjudication*]. The following remark, adapted from Conclusion of Law No. 14, included in the Final Decree in the *Twin Lakes* adjudication is necessary for the administration of this water right:

When seepage and evaporation losses from Twin Lakes exceed the total natural tributary inflow to Twin Lakes, no water will be released from the lakes to satisfy this water right and other downstream water rights, with the exception of Water Right no. 95-0734.

Conclusion of Law No. 14 is attached hereto as Attachment A.

A case is currently pending before the Idaho Supreme Court challenging the Idaho Department of Water Resources' ("IDWR's") interpretation of the *Twin Lakes Adjudication* Final Decree, including Conclusion of Law No. 14. See *Sylte v. Idaho Dep't of Water Res.*, Idaho Supreme Court Case No. 46062. The State's objection is based on the IDWR's current interpretation and application of the *Twin Lakes Adjudication* Final Decree. The State may seek to alter its objection or to file late objections to other water rights decreed in the *Twin Lakes Adjudication*, should the Idaho Supreme Court overturn the Department's decision and adopt an interpretation significantly different than that currently applied.

(Signature of person filing objection)



(Attorney signing in representative capacity)

INSTRUCTIONS FOR MAILING

You must mail the Objection to the Clerk of the Court. Fax filings will not be accepted. You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on April 26, 2019, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

CLERK OF THE DISTRICT COURT
COEUR D' ALENE -SPOKANE RIVER BASIN ADJUDICATION
253 THIRD AVENUE NORTH
P.O. BOX 2707
TWIN FALLS, ID 83303- 2707

2. One copy to the claimant of the water right at the following address:

ANDREW BARRY
NANCY BARRY
5591 W RACQUET RD
RATHDRUM ID 83858

3. Copies to

IDWR DOCUMENT DEPOSITORY
PO BOX 83720
BOISE, ID 83720-0098

UNITED STATES DEPT. OF JUSTICE
ENVIRONMENT & NATURAL
RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724



Signature of Objector or attorney mailing on
Objector's behalf

ATTACHMENT A

Conclusion of Law No. 14, excerpted from the *Final Decree, In the Matter of the General Determination of the Rights to the Use of the Surface Waters of Twin Lakes, Including Tributaries and Outlets*, Civil Case No. 32572, 1st Jud. Dist. Idaho, Kootenai County (April 19, 1989). A copy of the full Final Decree and incorporated documents is available at https://idwr.idaho.gov/apps/ExtSearch/RelatedDocsWaterDistrictyearwithyear.asp?water_dist_no=95C&wateryear=.

14. When seepage and evaporation losses from Twin Lakes exceed the total natural tributary inflow to Twin Lakes, no water will be released from the lakes to satisfy downstream water rights, with the exception of Water Right No. 95-0734. When this occurs, Water Right No. 95-0734 and water rights that divert from Twin Lakes and from the tributaries to Twin Lakes may divert the natural flow, but not the stored waters, on the basis of water right priority.