

34-00012

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: 39356
Ident. Number A34-00012 20/A34-00012
Date Received 2-19-91
Receipt Number E015704

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

- Name of Claimant (s) Big Lost River Irrigation District Phone (208) 588-2231
Mailing Address P.O. BOX 205 Mackay, Idaho Zip 83251
- Date of Priority (Only one (1) per claim) 2/7/1916
- Source of water supply (a) Big Lost River
which is tributary to (b) _____
- a. Location of existing point of diversion is: Township 7N Range 23EBM Section 12,
_____ 1/4 of _____ 1/4 of _____ 1/4, Govt. Lot, _____ B.M., County of Custer
Additional points of diversion if any: _____
b. If instream flow, beginning point of claimed instream flow is:
Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,
Govt. Lot _____ B.M., County of _____
ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,
Govt. Lot _____ B.M., County of _____
- Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.
Mackay Reservoir-ASSV/Burnett/Beck/McGown/Darlington/Harris-Vaught/Lower Burnett/Sharp/
Swauger/B & J/Moore/Westside west/westside east/U.C. (Blaine)/Arco/Middle/Eastside/
Island/Miller/McLoughlin/Munsey/3 & 1 canals.

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from 5/1 to 10/15 amount 1000 or _____
For Storage purposes from 10/16 to 4/30 amount _____ or _____
For _____ purposes from _____ to _____ amount _____ or _____
For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 1000 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	

Total number of acres irrigated _____

11. In which county (ies) are lands listed above as place of use located? Butte & Custer

12. Do you own the property listed above as place of use? Yes _____ No xxx
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
_____ or None ()

14. Remarks:

Big lost River Irrigation District is a conveyance system who owns these
and the right to store in the Mackay reservoir, for delivery to valley members.

Last Name _____ Ident No. _____

Copies: White -State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____
Decree _____
If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

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

Signature of Claimant (s) _____ Date _____
_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____

~~Assistant Secretary-Treasurer (office mgr)~~

of _____ Big Lost River Irrigation District _____, that I have signed the foregoing
document in the space below as _____ Office Manager _____ of _____ Big Lost River Irrig. Dist. _____
Organization Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent *Rita M. Hendry*

Title and Organization Office Mgr. Big Lost River Irrig. Dist. Date _____

State of Idaho/or _____)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 19 day of Feb. 19 91

SEAL

Notary Public *Ernest Carlson*

Residing at *Idaho Falls, ID*

My Commission Expires 6-14-1994

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

Last Name _____ Ident. Number _____

Copies White-State, Yellow-Claimant

012
Verified 11-8-91

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: R34-00012
Date Received: 2/19/1990
Receipt No: E015704
Received By: _____

COPY FOR
YOUR FILES

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

COPY FOR
YOUR FILES

1. Name: BIG LOST RIVER IRRIGATION DISTRICT
Address: PO BOX 205
MACKAY ID 83251

2. Date of Priority: FEB 7, 1916

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

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
03N	26E	1	NE	NE	SW	R	BUTTE
		12	NE	NW	SE	R	BUTTE
04N	26E	26	NW	NW	NW	R	BUTTE
05N	26E	4	NW	SE	SE	R	BUTTE
06N	24E	1	NE	NE	SW	R	CUSTER
	25E	6	SW	NE	SE	R	CUSTER
		10	NE	NE	SW	R	CUSTER
		11	SW	SE	SW	R	CUSTER
		14	SE	NW	SE	R	CUSTER
		24	NW	NW	NE	R	CUSTER
	26E	32	NW	SE	NW	R	CUSTER
07N	23E	12		SE	NW		CUSTER
			NW	NW	SE	R	CUSTER
	24E	18	SE	SW	NE	R	CUSTER
		20	SW	NE	SW	R	CUSTER
		33	NW	SW	NE	R	CUSTER
		34	SE	NW	NW	R	CUSTER

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION STORAGE	01/01	12/31			17182.00

R34-00012

Page 1

Date: 11/06/91

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6. Water is used for the following purposes: Continued

Purpose	From	To	C.F.S (and/or)	A.F.A.
IRRIGATION FROM STORAGE	05/01	10/15		17182.00

7. Total Quantity Appropriated is:
C.F.S. (and/or) 17182.00 A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
----------	-------	---------	------------	-----	-----	-------

11. Place of use in counties:

12. Do you own the property listed above as place of use? NO

13. Other Water Rights Used:

14. Remarks:

USE OF THIS RIGHT WITH RIGHT NOS. 34-10873, 34-02507 AND 34-00013 IS LIMITED TO THE IRRIGATION OF 32,000 ACRES WITHIN THE PLACE OF USE DESCRIBED IN RIGHT NO. 34-10873 IN A SINGLE IRRIGATION SEASON.

WATER IS DELIVERED THROUGH THE ANGELO, ARCO, B & J, BECK, BURNETT, DARLINGTON, EASTSIDE, HARRIS-VAUGHT, ISLAND, LOWER BURNETT, MC GOWN, MC LOUGHLIN, MIDDLE, MILLER, MOORE, MUNSEY, SHARP, STREETER, SUTTER, SWAUGER, VANOUS, WESTSIDE AND 3 IN 1 DITCHES OR CANALS.

POINTS OF REDIVERSION FROM THE BIG LOST RIVER.

WATER STORED PURSUANT TO THIS RIGHT IS USED IN COMBINATION WITH WATER DIVERTED UNDER OTHER RIGHTS. THE TOTAL COMBINED CONSUMPTIVE USE AMOUNT FOR THE USE OF THE OTHER RIGHTS WITH STORED WATER IS SHOWN IN THE OTHER RIGHTS.

A VOLUME OF WATER IN ADDITION TO THE VOLUME DESCRIBED ABOVE FOR STORAGE PURPOSES MAY BE STORED IN A SINGLE YEAR IF: A) THE ADDITIONAL VOLUME IS STORED USING THE STORAGE CAPACITY OF THE FACILITY DESCRIBED ABOVE, AND B) ALL WATER RIGHTS EXISTING AT THE TIME OF STORAGE (INCLUDING WATER RIGHTS WITH JUNIOR PRIORITY AND OTHER RIGHTS FOR STORAGE PURPOSES) THAT ARE WITHIN THEIR PERIOD OF USE ARE SATISFIED.

RIGHT NOS. 34-10873 AND 34-02507 ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

15. Basis of Claim: DECREED

Case Number:

R34-00012

Page

2

Date: 11/06/91

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Court :

Decree date: / /

UTAH CONSTRUCTION COMP.

Decree Plaintiff

vs JOHN ABBOTT, ET AL
Decree Defendant

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

11:06:35
10/30/91

PAGE: 12
QUICKLOOK INFORMATION

CLAIM NUMBER: A34-0001220

WR ELEMENT	FIELD EXAM Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	VERIFIED BY CODE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE			<i>In Office</i>	<i>N</i>	<i>6</i>	<i>CA 11-6-91</i>	<i>CA 11-7-91</i>	<i>CA 11-8-91</i>
POINT OF DIV	<i>Y</i>			<i>Y</i>	<i>146</i>			
SOURCE				<i>N</i>	<i>146</i>			
PLACE OF USE	<i>-</i>			<i>Y</i>	<i>546</i>			
DIV. AMOUNT CFS/VOLUME	<i>Y</i>			<i>Y</i>	<i>6</i>			
CONSUMPTIVE USE	<i>-</i>			<i>N</i>	<i>6</i>			
PURPOSES	<i>Y</i>			<i>Y</i>	<i>6</i>			
PERIOD OF USE	<i>Y</i>			<i>Y</i>	<i>6</i>			
BASIS OF CLAIM	<i>Y</i>			<i>N</i>	<i>6</i>			
REMARKS	<i>Y</i>			<i>Added Standard</i>				

"VERIFIED BY" CODES

TOPO MAP/ORTHO-PQ = 1
ASCS MAP = 2
WATERMASTER RECORDS = 3
NAPP PHOTOS = 4
FIELD EXAM = 5
OTHER (SEE REMARKS) = 6

THESE CODES ARE USED TO INDICATE HOW THE FIELD EXAMINER VERIFIED THE INFORMATION
USED FOR THIS FIELD EXAMINATION. INDICATED ARE ALL CODES WHICH APPLY.

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

11:06:35
10/30/91

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A34-0001220

LAST: BIG LOST RIVER IRRIGATION DISTRICT FIRST:
ADDRESS: P.O. BOX 205 STATE: ID ZIP: 83251
CITY: MACKAY
PHONE NUMBER: 208-000-0000

OWNER CODE: C

FIELD EXAM REQUIRED?

DATABASE FIELD
EXAMINER

VERIFICATION REQUIRED DUE TO REMARKS?

Y

CLAIM REMARKS:

BIG LOST RIVER IRRIGATION DISTRICT IS A CONVEYANCE SYSTEM WHO OWNS THESE AND THE RIGHT TO STORE IN THE MACKAY RESERVOIR, FOR DELIVERY TO VALLEY MEMBERS.
ITEM 5.
MACKAY RESERVOIR-ASSV/BURNETT/BECK/MCGOWN/DARLINGTON/HARRIS-VAUGHT/LOWER BURNETT/SHARP/SWAUGER/B & J/MOORE/WESTSIDE WEST/WESTSIDE EAST/U.C. (BLAINE)/ARCO/MIDDLE/EASTSIDE/ISLAND/MILLER/MCLOUGHLIN/MUNSEY/3 & 1 CANALS.

FIELD EXAMINATION INFORMATION

CONTACT PERSON:

Rita Lundy

PHONE NUMBER: () 588-2231

DATE OF FIELD EXAM: / /

APPOINTMENT MADE: Y () N ()

TIME: : A () P ()

ACCOMPANIED BY:

PHONE NUMBER: () -

RELATIONSHIP TO CLAIMANT:

DIRECTIONS TO PROPERTY / REMARKS:

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A. AJ CLAIM: # A34-00012Z0 PRIORITY DATE: 02-07-1916 STAGE: D

B. WR RECORD: # 34-00012 PRIORITY DATE: 02-07-1916 STAGE: D

C. FIELD EXAM REQUIRED? DATABASE N FIELD EXAMINER N

DUE TO PRIORITY DATE DISCREPANCY? (Y/N)

ARE THERE OBVIOUS REASONS TO QUESTION THE PRIORITY DATE CLAIMED? Y() N(X)
IF YES EXPLAIN.

REMARKS: Date claimed matches Decree

RECOMMENDED PRIORITY DATE:
02-07-1916

REVIEWED BY CA DATE 11-6-91

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A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A34-0001220	07N	23E	12		SW	NW		CUSTER

OTHER AJ CLAIMS WITH SAME AJ POD

A PREFIX	R PREFIX	WR RECORDS IN SAME 40 ACRE TRACT	NONE
A34-0081820	NONE		
A34-1087320			
A34-0081120			
A34-0081720			
A34-1093520			

SOURCE: BIG LOST RIVER

TRIB: SINKS

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
34-00012	07N	23E	12		SE	NW		CUSTER
34-00012	06N	25E	14		NW	NE		CUSTER
34-00012	04N	26E	26		NW	NW		CUSTER

OTHER WR RECORDS WITH SAME WR POD

AJ CLAIMS IN SAME 40 ACRE TRACT

A PREFIX	R PREFIX
34-00010	A34-10244
34-00011	A34-02491A
34-00013	A34-02491B
34-00001	A34-02386
34-00003B	A34-00330J
34-00023	A34-02491G
34-00037	A34-02125A
34-00043	A34-02491C
34-00075	A34-02491E
34-00089	A34-02491F
34-00106	A34-00396D
34-00107	
34-00108	
34-00109	
34-00178	
34-00179	
34-00187	
34-00188	
34-00195B	
34-00196B	
34-00201	
34-00207	
34-00239	
34-00240B	
34-00257	
34-00262B	

34-00263
34-00306
34-00313
34-00330A
34-00330B
34-00396B
34-00396D
34-00396E
34-00396F
34-00418B
34-00419
34-00437
34-00446B
34-00521
34-00722
34-00796
34-02266A
34-02266B
34-02386
34-02491
34-07145
34-07233
34-00172A
34-00172B
34-00446A
L34-07138

SOURCE: BIG LOST RIVER

TRIB: SINKS

C. FIELD EXAM REQUIRED?	DUE TO POD DISCREPANCY? DUE TO SOURCE DISCREPANCY?	(Y/N)	DATABASE Y N	FIELD EXAMINER
				<u>Y</u> CT

REMARKS:

0.0 W29 places dam in SE NW

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RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:
TWP. RGE. SEC.

1/4 1/4 1/4 LOT

COUNTY

7N 23E 12

SE NW

Custer

SOURCE: BIG LOST RIVER

TRIB: SINKS

REVIEWED BY: CF DATE: 11-6-91

Points of Rediversion

Co.	Location				Canal or Ditch
Butte	3N 26E	1	NE NE SW		Miller
"		12	NE NW SE		McLaughlin
"	4N 26E	26	NW NW NW		Arao, Mausey, Middle
"	5N 26E	4	NW SE SE		Moore, Eastside, Island, Westside
Custer	6N 24E	1	NE NE SW		Vanous
"	25E	6	SW NE SE		Sutter
"		10	NE NE SW		Angelo
"		11	SW SE SW		Beck, McGowan
"		14	SE NW SE		3 in 1
"		24	NW NW NE		Lower Burnett
"	26E 32		NW SE NW		B&J
"	23E 12		NW NW SE		Sharp
"	24E 18		SE SW NE		Streeter
"		20	SW NE SW		Swager
"		33	NW SW NE		Darlington
"		34	SE NW NW		Burnett, Harris - Vaught

A. AJ CLAIMED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
A34-0001220 IRRIGATION	FROM 05-01 TO 10-15	1000.000 CFS
A34-0001220 IRRIGATION FROM STORAGE	FROM 10-16 TO 04-30	1000.000 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		1000.000 CFS

B. WR RECORDED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
34-00012 IRRIGATION	FROM 05-01 TO 10-15	1000.000 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		1000.000 CFS

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

	FIELD EXAMINER
DUE TO WATER-USE DISCREPANCY? (Y/N)	Y
DUE TO DIVERSION RATE DISCREPANCY? (Y/N)	Y
DUE TO PERIOD FROM/TO DISCREPANCY? (Y/N)	Y

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?
RECOMMEND TO WR STANDARDS OR OTHER?

Y() N(X)
Y(X) N() Explain in remarks, below.

REMARKS:

Irrigation (01) 5-1 to 10-15 Not recommended
Irrigation Storage (02) 1-1 to 12-31 recommended
Irrigation from Storage (03) 5-1 to 10-15 recommended

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS? Y (X) N ()

AJ TOTAL CLAIMED DIVERSION RATE: 1000.000 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 1000.000 CFS

*** IF NO or IF STATUTORY CLAIM or BENEFICIAL USE then flow measurement required. ***
** If an amount smaller than the original diversion rate is **
** claimed and an exam is NOT required, explain in remarks. **

FLOW MEASUREMENT REQUIRED?

DUE TO STAGE OR DIVERSION RATE DISCREPANCY? (Y/N) N FIELD EXAMINER

B. FLOW MEASUREMENT

MEASUREMENT METHOD P.A., SEE ATTACHED CALCULATIONS.

C. ARE OTHER WATER RIGHTS USED? Y (X) N () IF YES COMPLETE OVERLAP REVIEW.

OTHER RIGHTS LISTED IN CLAIM:

NO CLAIMS FOUND WITH SAME POU AND IRRIGATION USAGE

NO RIGHTS WITH SAME POU BUT NOT USED FOR IRRIGATION

D. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE
ACRES _____ x 0.02 CFS/ACRE = _____ CFS
(Taken from p/u review)

1b. CALCULATIONS

DOES AMOUNT CLAIMED EXCEED 0.02 CFS/ACRE? Y() N()

N.A.

*** IF YES ADDITIONAL WATER USE FORM FILED AND ATTACHED? Y() N() ***

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = _____ AF/A

ACRES _____ x CONSUMPTIVE VOL. AF/A FOR AREA _____ =

TOTAL CONSUMPTIVE USE _____ AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = _____ AF/A

ACRES _____ x DIVERSION VOL. AF/A FOR AREA _____ =

TOTAL DIVERSION VOLUME _____ AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y() N()

REMARKS: (Include limitations on CONSUMPTIVE USE for combined rights.)

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RECOMMENDATIONS:

REC.
PURPOSES

REC. PERIOD
FROM TO

REC. DIV
RATE CFS

REC. DIV
VOL. AF/A

REC. CONS.
USE

DATABASE EXAMINER

DATABASE EXAMINER

DATABASE EXAMINER

10
remarks

Irrigation Storage (02)

1-1 12-31

10,205

Int. from Storage (03)

5-1 10-15

10,205

TOTAL FOR THIS RIGHT

10,205

REVIEWED BY:

CA

DATE:

11-6-91

A diversion rate will not be recommended

A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP
FORFEIT/ABANDON
ADDITIONAL DIV. AMOUNT

ACCEPTED
AS CLAIMED
(X)
(X)
(X)
(X)
NEEDS
REVIEW
()
()
()
()

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 34-00012
TOTAL DIVERSION RATE OF WR SPLITS
DATABASE
1000.000
EXAMINER
1000
CFS

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
34-00012	A34-0001220	1000.000	-	-	34-00012	1000.000
34-00012	A34-0001221	9999999.999	-	-	34-00012	1000.000
34-00010	A34-1087321	9999999.999	-	-	34-00010	1000.000
34-00012	A34-1087321	9999999.999	-	-	34-00012	1000.000
34-00012	A34-1093521	9999999.999	-	-	34-00012	1000.000

TOTAL CFS 40000999.996

1000.000

DIVERSION RATE REVIEW

DO THE SUM CFS RATE OF THE SPLITS EQUAL THE ROOT RIGHT CFS RATE? (Y/N)
IF NO, is the written review sheet attached? (Y/N)

DATABASE
N
FIELD
EXAMINER
Y

REMARKS:

Limit to 32,000 cfs. described p.04 in 34-10873
water is delivered through ---
points of rediversion from Big Lost River
Consumptive use described in direct flow rights - remark
Additional volume - remark
F05 34-10873 Y 34-02507

AUTHENTICATION:

SIGNATURE:

Arthur Fritzsche

DATE:

11-6-91

NAME OF FIELD EXAMINER:

Porter Fritzsche

TITLE:

SR. U.S. Agent

Big Lost River Irrigation District - Mackay Res.

Reservoir Capacity = 43,851 AF *

34-02507 = 6,000 AF

37,851 AF

WR #	Div. Rate	Priority	Source	Calc. Vol.
34-00010	1000 cfs	5-3-1905	B. L. R.	17,205 AF
34-00011	200 cfs	10-2-1905	B. L. R.	3,441 AF
34-00012	<u>1000 cfs</u>	2-7-1916	B. L. R.	17,205 AF
	2200 cfs			

$$\frac{1000}{2200} \times 37,851 \text{ AF} = 17,205 \text{ AF}$$

$$\frac{200}{2200} \times 37,851 \text{ AF} = 3,441 \text{ AF}$$

A34-10873 combines 34-00010 and 34-00011

$$17,205 \text{ AF} + 3,441 \text{ AF} = 20,646 \text{ AF}$$

$$34-10873 = 20,646 \text{ AF} \quad 10-2-1905$$

$$34-00012 = 17,205 \text{ AF} \quad 2-7-1916$$

$$34-02507 = \underline{6,000} \text{ AF} \quad 9-2-1959$$

$$\text{Capacity} = 43,851 \text{ AF}$$

* Capacity represents a gage reading of 66.12 ft
 The stated capacity of 44,505 AF. 66.60 ft
 which is 0.48 ft. over the crest of the spillway.

CLAIMANT'S NAME: Big Lost River Irrigation District DATE: 9-5-91COUNTY: Custer & ButteEMPLOYEE: Carter Fritschle

"Telcon" with Doug Rosenkrance in reference to what elevation is necessary to consider Mackay Reservoir "full". The reservoir reached an elevation of 66.12 ft. on the "wire weight" which appeared to place the water surface even with the crest of the spillway. The irrigation district concluded that the reservoir should be considered "full" at this elevation. The 66.12 ft. gauge reading is equal to 43,851 A.F. To reach the stated capacity of 44,505 A.F. requires a gauge reading of 66.60 ft, or approximately 6 in. above the crest of the spillway.

Big Lost River Irrigation District

P. O. Box 205
MACKAY, ID 83251

September 26, 1990

RECEIVED

SEP 27 1990

Department of Water Resources
Eastern District Office

Mr. Harold Jones
State of Idaho
Dept. Water Resources
150 Shoup Ave
Idaho Falls, Id. 83401

Dear Skip:

All of our water rights, as noted below, are appurtenant to those lands that comprise the Big Lost River Irrigation District:

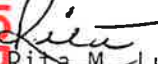
6/1/1880	34-00818	
6/30/1881	34-00811	
6/1/1888	34-00810	
6/1/1896	34-00814	} A34-10935
6/1/1896	34-0819	
3/1/1902	34-00817B	
5/23/1905	34-00010	} A34-10873
7/31/1905	34-00013	
10-2/1905	34-00011	
2/7/1916	34-00012	
9/2/1959	34-02507	

The map and exclusions are not complete yet, can you please advise what my final deadline would be for these documents?.

Also Skip, have the forms been completed for all of the above? In your note (copy attached) you mention 1200 CFS-according to the attached copies it comes to 8,315 .1 CFS that we are filing on.

Thanks for your help Skip-appreciate it.

Yours truly,


Rita M. Lundy

Assistant Secretary-treasurer

DEC 09 1992
MICROFILMED

Big Lost River Irrigation District

P. O. Box 205
MACKAY, ID 83251

November 1, 1991

RECEIVED
NOV 04 1991

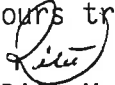
Department of Water Resources

Mr. Carter Fritschle
I.D.W.R.
Statehouse Mail
Boise, Id. 83720

Dear Carter:

Please be advised that the Big Lost River Irrigation District wishes to claim approximately 32,000 acres on the map and claims filed for the Mackay Reservoir.

Yours truly,


Rita M. Lundy
Assistant Secretary-treasurer

MICROFILMED
DEC 09 1992

RESPONSE TO NOTICE OF ERROR
IN THE SNAKE RIVER BASIN ADJUDICATION

Water Right No: 34-00012, 34-00013, 34-02507, 34-10873 & 34-10452

Contact Date: 5-20-92

IDWR Contact Person: (print and sign) Carter Fritschle Carter Fritschle

Claimant Contact Person Randall C. Budge

Others Present _____

Contact By: (Give Date) _____

Meeting (location): _____

Phone Call _____

Letter (attach letter) 5-20-92

I. Changes to be made to proposed recommendation: No changes

II. Explanation of reasons for recommendation: The "Notice of Error" was not filed by the claimant of the water rights referenced above. The error correction procedure is intended to allow claimants to correct errors found in the way their rights are proposed to be recommended. Objections to the way rights belonging to others are recommended may be filed after the Director's Report is filed with the court. See the back of this form for ~~for~~ additional information on filing an objection with the court.

III. Other: Right 34-10452 is for the Big Lost River Cemetery District, not the Big Lost River Irrigation District.

IDWR USE ONLY	
Date	Initials
Date Entered	
Verified	

MICROFILMED

DEC 09 1992

**IF YOU STILL DISAGREE WITH THE WAY IDWR PLANS TO
RECOMMEND YOUR WATER RIGHT CLAIM TO THE DISTRICT COURT,
YOU WILL NEED TO FILE AN OBJECTION WITH THE COURT.**

You have received a copy from IDWR of the Director's proposed recommendation of your water right claim and have filed a Notice of Error with IDWR. The reverse side of this form is a memo of IDWR's response to the Notice of Error form that you filled out and sent to IDWR.

The Director's Report for your area will be filed with the SRBA court at some later time. The report will list your claim to a water right as recommended by the Director with any changes made as a result of your Notice of Error. If you still disagree with the Director's recommendation of your water right, you are entitled to have the SRBA court determine your water right. In order to bring this matter before the court, you must file an objection with the court. You can file your objection only after the Director's Report for your area is filed with the SRBA court. You will receive a notice in the mail when the Director's Report is filed. The notice will include a copy of your right as it is recommended in the report. The notice will also inform you how to file your objection and the date by which your objection must be filed.

RECEIVED
JUL 1 1988

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
GARY L. COOPER
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL*
JOHN B. INGELSTROM
DANIEL C. GREEN
REED W. LARSEN
BRENT O. ROCHE
FRED J. LEWIS
KIRK B. HADLEY
MITCHELL W. BROWN
ERIC S. HUNN

*ALSO MEMBER ILLINOIS BAR

LAW OFFICES OF
RACINE, OLSON, NYE, COOPER & BUDGE
CHARTERED
CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE
AREA CODE 208
232-6101

TELEX
208-232-6109

March 18, 1992

RECEIVED
MAR 19 1992

Department of Water Resources

Idaho Department of Water Resources
SRBA Adjudication Division
Statehouse Mail
Boise, Idaho 83720

Re: SRBA Adjudication
Civil Case No. 39576

Dear Sir:

Enclosed for filing in the above-captioned matter you will find NOTICE OF ERROR on behalf of District 34 Water Resource Users, Inc.

Sincerely,

Randy Budge
RR

RANDALL C. BUDGE

RCB:rr

Enclosure

MICROFILMED
DEC 09 1992

Randall C. Budge
RACINE, OLSON, NYE, COOPER &
BUDGE, CHARTERED
P.O. Box 1391; 201 E. Center
Pocatello, Idaho 83204-1391
Telephone: (208) 232-6101

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) Civil Case No. 39576
OF RIGHTS TO THE USE OF WATER FROM)
THE SNAKE RIVER BASIN WATER SYSTEM.)
_____)

NOTICE OF ERROR

TO: IDAHO DEPARTMENT OF WATER RESOURCES
Statehouse Mail
Boise, Idaho 83720-9000

FROM: DISTRICT 34 WATER RESOURCE USERS, INC.
c/o Art Quist, President
Rt. 1, Box 205
Arco, Idaho 83213

1. WATER RIGHT NUMBER: ✓A34-10873
✓A34-00012
✓A34-00013
✓A34-10452
✓A34-02507

2. NAME: Big Lost River Irrigation District
P.O. Box 205
Mackay, Idaho 83251

WEEKDAY TELEPHONE NUMBERS:

District 34 Water Resource Users, Inc.:
Art Quist, President - 527-3107
Gerry Nelson, Vice-President - 588-3110
Mitch Sorenson, Secretary - 527-3271

3. DESCRIBE THE PORTION OF PROPOSED RECOMMENDATION WITH WHICH YOU DISAGREE:

Nature, type and place of use of the proposed right.

4. DESCRIBE THE CHANGES YOU WISH TO HAVE MADE IN THE PROPOSED RECOMMENDATION:

The rights claimed by Big Lost River Irrigation District should be clearly identified as storage water rights entitling the district to store the water claimed in Mackay Reservoir.

The recommended rights should further reflect that the District's rights to store water in Mackay Reservoir are held in trust for, dedicated and set apart to the water users who own land within the District to which such water is appurtenant. See I.C. § 43-316.

Additionally, the recommended right should also reflect that the water users within the District to which said storage water is appurtenant, own and hold the right to use the storage water and apply it to beneficial use upon their lands and as such are the beneficial owners of the storage water.

5. DESCRIBE HOW YOU DISAGREE WITH THE PROPOSED RECOMMENDATION:

See changes recommended in number 4 above.

The District only has the right to store the water claimed in the Mackay Reservoir and holds it "in trust" for the owners of the lands to which the water is appurtenant. Throughout the history of the District, landowners within the District, not the District itself, solely and exclusively apply storage water to beneficial use upon their lands and as such are the beneficial owners.

The District owns none of the lands described as the place of use, nor has the District ever applied any storage water to beneficial use, nor sold or exchanged such water or received any proceeds therefrom. The landowners have always applied storage water to beneficial use in accordance with their rights and received the proceeds from all sales, exchanges or lease of such storage water within the District. The landowners own the right to the beneficial use of the storage water which is a valuable property right.

During the time period within which SRBA claims were required to be filed with IDWR, the District notified each landowner

within the District that owned and used storage water that they need not file claims on their respective storage water rights as the District intended to do so for all landowners in a single SRBA filing. Additionally, the District assessed and collected from each landowner the \$1 per acre filing fee based upon the number of acres irrigated by each landowner from their storage water.

Accordingly, as requested above, the recommended right for the District should accurately reflect that the District has the right to store the water in the Mackay Reservoir, that the storage water is held by the District in trust for and set aside for the benefit of the landowners who have the right to the beneficial use of the water on their lands within the District to which storage water is appurtenant.

6. DATE: March 18th, 1992.

RACINE, OLSON, NYE, COOPER &
BUDGE, CHARTERED

By Randall C. Budge
RANDALL C. BUDGE
Attorney for Applicant

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 18th day of March, 1992, I mailed a true and complete copy of the foregoing document, postage prepaid, to the following:

Idaho Department of Water Resources
Statehouse Mail
Boise, Idaho 83720-9000

District 34 Water Resource Users Assn.
c/o Art Quist
Rt. 1, Box 205
Arco, Idaho 83213

Randall C. Budge
RANDALL C. BUDGE



State of Idaho

DEPARTMENT OF WATER RESOURCES

150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 - (208) 525-7161

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

May 20, 1992

Randall C. Budge
P.O. Box 1391
Pocatello, Idaho 83204

RE: Snake River Basin Adjudication (SRBA)
Butte and Custer Counties #34-00012, 34-00013, 34-02507,
34-10873 and 34-10452

Dear Mr. Budge:

The Department has reviewed the Notice of Error that you submitted on the proposed recommendations of the water rights referenced above. The enclosed form, "Response to Notice of Error in the Snake River Basin Adjudication", explains why the Department is unable to make the changes that you requested.

Please note the information printed on the back of the response form. If you have any questions, you may contact me at 1-800-451-4129.

Sincerely,

Carter Fritschle
Sr. Water Resource Agent
Adjudication Bureau

CF:cf:east

Enclosures:

Response to Notice of Error in the
Snake River Basin Adjudication

MICROFILMED
DEC 09 1992

October 2, 1991 AT

10:15 a.m.

OCT - 3 1991

James C. Herndon
JAMES C. HERNDON
District Judge

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BUTTE

YOUNG HARVEY WALKER,

Plaintiff,

vs.

BIG LOST RIVER IRRIGATION
DISTRICT, RICHARD E. REYNOLDS,
LEWIS ROTHWELL, JAMES CLYDE
LAMBERT, BYRON R. PEHRSON, and
GERALD STEWART,

Defendants.

Case No. 14-90

MEMORANDUM DECISION

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

I. INTRODUCTION

Plaintiff Young Harvey Walker (Walker) asks this court to issue an alternate writ of mandate and compel the defendant Big Lost River Irrigation District (BLRID) to divert and deliver certain Mackay Reservoir storage waters to the Arco canal for delivery beyond the BLRID boundary to Walker's Butte city property.

Walker contends that his irrigation waters, including flowage rights from the Big Lost River and storage rights from the Mackay Reservoir, have by historic practice and agreement between the parties and their predecessors always being delivered to the BLRID boundary so that Walker could rotate the irrigation waters between his property within and lands without the boundaries of the district.

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APR 19 1994

BLRID counters that the use of storage waters has always belonged to the BLRID for use within the boundaries of the district and BLRID has no authority to transport them beyond district lines.

Pursuant to stipulation, the court dismissed individual defendants Richard E. Reynolds, Lewis Rothwell, James Clyde Lambert, Byron R. Pehrson and Gerald Stewart.

This case was tried before the court, without a jury, on April 19, 1991, May 9, 1991 and May 10, 1991.

On the basis of the testimony of the witnesses, the exhibits introduced and admitted into evidence, and the record, the court makes the following Findings of Fact and Conclusions of Law:

II. FINDINGS OF FACT

1. Walker, a long-time resident of Butte County, Idaho, owns the following property involved in this matter: 397.3 acres located in Sections 6, 7 and 8, Township 3 North, Range 27 East, B.M., commonly known as the "Home place", and 321.1 acres directly to the east of the first parcel in Sections 3, 4 and 9 of Township 3, North, Range 27 East, B.M., commonly known as the "Butte City place". The Walker properties are located just east of the city of Arco, in the southeast corner of the BLRID. In that area, the district boundary generally runs north and south and divides the Walker property with the "Home place" lined just west of the boundary within the district, and the "Butte City place" just outside the district boundary to the east.

2. Defendant BLRID is an irrigation district duly organized and existing under the laws of the State of Idaho, pursuant to

Idaho Code (I.C.) § 43-304, et seq. The BLRID organized in its present form on July 9, 1920 and was affirmed by court decree on February 24, 1921. The lands within the BLRID are located in the counties of Custer and Butte, State of Idaho. Its principal place of business is Mackay, Idaho.

3. BLRID is the record owner of the Mackay Dam and Reservoir facility and a system of canals used to divert, transport and ~~deliver water diverted under various individually owned water~~ rights, both for surface waters in Big Lost River and its tributaries and groundwater from various wells, in addition to stored water. BLRID's system of canals and laterals is used, and has been used for many years, to transport both groundwater diverted from wells and surface water from the Big Lost River as well as the storage water from the reservoir to locations within and without the BLRID boundaries. One of the canals owned at least in part by the BLRID, but maintained and operated by it is commonly known as the Arco Canal. About one-half of the Arco Canal is inside the district and one-half is outside the district and what is commonly known as the "Arco Tract" area.

4. The Arco Tract association was formed in 1944 and maintained the Arco Canal outside the district until it was taken over by the BLRID in about 1955.

5. The BLRID lands are within the counties of Butte and Custer, State of Idaho, and are irrigated from Big Lost River and its tributaries rising in the Lemhi National Forest in Custer County, Idaho and flowing in a general southeasterly direction

MEMORANDUM DECISION,
FINDINGS OF FACT AND CONCLUSIONS OF LAW.

3

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APR 19 1994

through Custer County and Butte County, and from groundwater.

6. By a Decree dated March 15, 1923 entered by the United States District Court in and for the District of Idaho, Eastern Division, in The Utah Construction Company v. John F. Abbot, et al, the rights to the use of waters of the Big Lost River and its tributaries were adjudicated. In the Abbott Decree of March 15, 1923, Utah Construction Company was granted the right to divert at ~~its points of diversions described in the Decree and to impound at~~ its reservoir (known as the Mackay Reservoir) or in part to divert and in part to impound at said reservoir all of the waters of Big Lost River and its tributaries to the extent of Two-Thousand Three-Hundred (2,300) cubic feet per second of time according to the dates of priority set forth in said Decree, and the water stored in said reservoir to be thereafter released from said reservoir at the pleasure of The Utah Construction Company through the gates of the Mackay Reservoir Dam and thence down the natural channel of Big Lost River for use at its diversion into the Blaine Canal or the Arco Canal, or at such other points of diversion which The Utah Construction Company may establish, for irrigation and other beneficial uses.

7. The Abbott Decree describes the lands of The Utah Construction Company to which said water rights of The Utah Construction Company shall be appurtenant, and such other lands as The Utah Construction Company or its successors may thereafter by sale, rental or distribution, dedicate thereto the use of such waters for irrigation. Said Decree further established the water

MEMORANDUM DECISION,
FINDINGS OF FACT AND CONCLUSIONS OF LAW,

rights of the individual landowners within the BLRID to use water from Big Lost River.

8. By 1936, the BLRID and the said Utah Construction Company had determined that for more efficient use of the waters of the Big Lost River drainage and for the best interest of all concerned that the BLRID should purchase the assets of the Utah Construction Company.

~~9. On April 1, 1935 the Board of Directors of BLRID adopted~~
a resolution by which it approved a general Plan of Operations and the sale of bonds of the district and to use the funds obtained from said bonds for the purchase of the storage, flood water and natural flow rights in Big Lost River and its tributaries, the Mackay Dam and storage reservoir, the Carey Act Project and a main diversion canal known as the Blaine Canal, belonging to The Utah Construction Company, and all other irrigation works and holdings of said company in Butte and Custer Counties, Idaho.

10. Meanwhile, certain lands had been excluded from the BLRID and certain lands had been annexed, including the certain lands that were bonded and excluding certain lands that were not bonded in connection with the assessment and apportion of benefits pertaining to the BLRID's purchase of the Utah Construction Company assets and construction of the Mackay Reservoir. The District Court of the Sixth Judicial District (now the Seventh Judicial District) of the State of Idaho, in and for the County of Custer, approved the project, including the construction of the dam, storage of water, and annexed an exclusion of lands, by its

MEMORANDUM DECISION,
FINDINGS OF FACT AND CONCLUSIONS OF LAW,

5

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APR 19 1994

judgment and decree entered on January 25, 1936.

11. Pursuant to the 1936 Decree and a plan of operation adopted by the BLRID, acquired certain lands, ditchworks, and the Mackay Dam along with certain water rights appurtenant to private owned lands within The Utah Construction Company's Carey Act Project the BLRID then liquidated the real property, abandoned all canals and distributing systems of The Utah Construction Company ~~below the point on the Blaine Canal known as the Bifurcation Works~~ except for a portion known as the Lower Blaine Canal and the Arco Canal. Shortly after the 1936 litigation, the BLRID disposed its property and since then owns no land upon which water could be beneficially used. Thus, the BLRID has never officially held rights to any storage water (either stored run-off from the non-irrigation season or waters described as "surplus" flow rights). Nor has the district ever sold or leased any storage water or received any proceeds therefrom. When lands within the district are sold to which storage water is appurtenant, the storage water is transferred to the new owner and remains with the land. It has been a regular practice for the members or water users in the BLRID to sell or lease their storage water and individually receive any proceeds. The BLRID stores the water in the Mackay Reservoir but holds it in trust for the benefit of and delivery to the land owners who own the storage water for irrigation purposes.

12. The transfer of the water rights from the Utah Construction Company to the BLRID was approved by the Department of Reclamation, State of Idaho, Transfer No. 808, for use on lands

within the BLRID on May 14, 1953.

13. Walker's lands straddle the BLRID boundary.

A. The following lands are within the district: On

December 19, 1973, Walker received a gift deed to an undivided one-half interest in the E $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 6, Township 3 North, Range 27 East of the Boise Meridian, Butte County, Idaho from his mother Goldie Y. Walker, and thereafter he purchased the other

~~undivided one-half interest in said property. On April 6, 1991,~~

Walker received a Personal Representative's Deed to the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, Lot 2 (NW $\frac{1}{4}$ of the NE $\frac{1}{4}$), E $\frac{1}{4}$ of the SW $\frac{1}{4}$, and the W $\frac{1}{4}$ of the SE $\frac{1}{4}$ in Section 6; the N $\frac{1}{2}$ of the NE $\frac{1}{4}$ in Section 7 and the N $\frac{1}{4}$ of the NW $\frac{1}{4}$ in Section 8, all in Township 3 North, Range 27 East of the Boise Meridian, Butte County, Idaho. These lands were conveyed from the Estate of Walker's mother Goldie Y. Walker. These lands are shown on Assessment Roll No. 29 of the district, and have certain decreed natural flow rights appurtenant to said lands and have an allocation for stored water.

B. The following lands are outside the district: On

December 19, 1973 Walker received a gift deed from his mother Goldie Y. Walker to a fraction of the S $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 3, W $\frac{1}{4}$ of the SW $\frac{1}{4}$, a fraction of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ and a fraction of the S $\frac{1}{4}$ of the SE $\frac{1}{4}$ in Section 4, all in Township 3 North, Range 27 East of the Boise Meridian, Butte County, Idaho. He also is the owner of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ and the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 9, Township 3 North, Range 27, East of the Boise Meridian. All of these parcels were previously owned by Harvey K. Walker,

MEMORANDUM DECISION,
FINDINGS OF FACT AND CONCLUSIONS OF LAW,

plaintiff's father, and George Walker, plaintiff's grandfather.

14. Prior to 1978, the Walker property was flood irrigated. Since 1978 the property has entirely been sprinkler irrigated, excepting a small part of the "Butte City place" property which remains flood irrigated. In 1978, approximately \$110,000.00 was expended to purchase and install a large and expensive sprinkler system which consists of 8 wheel lines at "Butte City" and 5 wheel lines at the "Home place", which have since been used to irrigate the properties. The source of water consists of certain decreed rights in the Big Lost River, storage water from Mackay Reservoir and ground water from a well drilled in 1961 and operated since that time on the "Home place". With the exception of the well used to irrigate on the "Home place", all other water is delivered to the property by the BLRID via the Arco Canal.

15. Walker's water rights are summarized in Exhibit 7 and consist of decreed rights in the Big Lost River with priority dates ranging from 1885 to 1892, storage water in the Mackay Reservoir and a licensed well with a priority date of October 1, 1961. (Exhibits 7, B, C, D) The district's records are consistent regarding the priority date and quantities of Walker's decreed and storage water delivered by the district via the Arco Canal. (Exhibits 10, W, X, Y, Z, R. Lundy)

16. Walker owns 527 inches of decreed water rights in the Big Lost River with priority dates ranging from 5/1/1885 to 5/1/1892. Two hundred eighty-two (282) miner's inches of these decrees were originally appurtenant to the "Butte City place" property. The

delivery of these decreed water rights has been reflected or charged by the district against an account identified as Number 1144A. A total of 245 inches of water was originally decreed appurtenant to the "Home place" with delivery of such waters reflected or charged by the BLRID against accounts identified as Numbers 8 and 29. These decreed rights are identified as follows, to-wit:

BUTTE CITY PLACE/ACCOUNT NO. 1144A:

<u>Priority Date</u>	<u>Inches</u>
5/1/1885	32
10/2/1885	40
5/1/1887	80
6/1/1887	70
5/1/1892	60

"HOME" PLACE/ACCOUNT NOS. 8 AND 29:

5/1/1885	5
10/1/1885	140
5/1/1887	80
5/1/1892	<u>20</u>

<u>Total</u>	<u>527</u>
--------------	------------

17. All of Walker's water rights have been applied to beneficial use during the irrigation season on all of his lands, both the "Home place" inside the district and the "Butte City place" outside the district. The decreed and storage waters, originally appurtenant to the "Home place", is at times rotated and applied to beneficial use on the "Butte City place" and at times the water originally decreed appurtenant to the "Butte City place" is rotated and applied to beneficial use on the "Home place". (Witnesses H. Walker, A. Quist, D. McDonald, R. Helderman, C.

MEMORANDUM DECISION,
FINDINGS OF FACT AND CONCLUSIONS OF LAW,

Peterson, B. Morgan, H. Lengel, D. Storer)

18. Additionally, based upon a full Mackay Reservoir, Walker has available 15,596 miner's inches of storage water in Mackay Reservoir, which was originally decreed appurtenant to the "Home place". Delivery by the district is reflected in Accounts Nos. 8 and 29.

19. All assessments by the District to Walker for operation, maintenance and other charges under the various accounts have been paid in full by Walker.

20. Walker follows an irrigation practice which began in the mid-1940's with his father and has been followed each and every year since Walker took over the family farm operation in 1972. As a regular and customary irrigation practice Walker combines the decreed water rights and storage water and rotates between the "Home place" and the "Butte City place" as needed for the crops. This practice was adopted and followed because of the small amount of water available most years for the Walker properties. The larger stream of water reduces evaporation and shrinking and results in a more efficient use of water.

21. After the well was drilled on the "Home place" in 1961, ground water from the well was used to supplement the decreed and storage water in dry years as a regular part of the rotation.

22. On February 7, 1944, Articles of Incorporation were filed on behalf of Arco Tract Association, Inc., a non-profit irrigation company under the laws of the State of Idaho. George E. Walker, plaintiff's grandfather subscribed to 185 shares of said

corporation.

23. On June 5, 1946, Water License No. 19501 was issued by the State Reclamation Engineer of the State of Idaho, to the Arco Tract Association granting it the right to use 16.3 second feet of water with a priority date of May 8, 1944. This water license is a flood water right entitling the Arco Tract Association to use that water when it is available during the spring runoff. A portion of the water under this license was made appurtenant to the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ and the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ in Section 9, Township 3 North, Range 27 East of the Boise Meridian located outside the BLRID boundaries and now owned by Walker.

24. On March 4, 1944, the BLRID entered into an agreement with Arco Tract Association, Inc. whereby the district granted Arco Tract Association, Inc. permission to enlarge the district's Arco Canal to increase its capacity above the 3,500 miner's inches the BLRID needed to convey water from the Big Lost River to the stockholders of the Arco Tract Association, Inc. for use on their lands outside the BLRID. The agreement also provided the payment of all operation and maintenance charges and ditchriders' charges of the district as levied and assessed from season to season, according to the acreage served by the Arco Tract Association, Inc.

25. All of Walker's lands located outside the BLRID boundaries received natural flow water rights appurtenant to those lands through the Arco Canal pursuant to the Arco Tract Association Agreement. In addition to the licensed rights, held by the Arco Tract Association, certain earlier decreed flowage rights from Big

MEMORANDUM DECISION,
FINDINGS OF FACT AND CONCLUSIONS OF LAW.

11

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APR 19 1994

Lost River have been transferred to a portion of Walker's lands and are being transported through the Arco Canal.

26. On July 6, 1956, the BLRID directors and members and officers of the Arco Tract Association, Inc. met formally to discuss certain long standing troubles that had occurred between the district and the association, primarily relating to the assessments of the BLRID against the Arco Tract Association, Inc. Plaintiff's father, Harvey Walker, was present at that meeting as one of the representatives of the Arco Tract Association, Inc. Also present was O.T. Jones who received water for a tract of land outside of the boundaries of the district through the Arco Canal, but was not a member of the Arco Tract Association. They discussed the possible annexation to the BLRID of the lands within the Arco Tract Association. It was then explained that the storage water of the district had been allocated to specific land within the district and no new lands coming into the district would be able to receive such stored water.

27. The BLRID by-laws provide for the diversion and distribution of storage and natural flow rights within the district and charges the board of directors with the supervision of the distribution of water to the consumers. The by-laws further provide that storage waters in the Mackay Reservoir are to be distributed to those lands whose owners participated in the bond issue approved by the January 25, 1936 judgment and decree.

28. Thus, the directors of the BLRID at one time formulated a policy that all stored water would be used on lands within the

district. However, this policy was not always followed.

29. The BLRID's plan of operation also provides that stored water in the Mackay Reservoir not used during an irrigation season is carried over for use in the next year and apportioned in the next irrigation season to all lands to which stored water has been made appurtenant. In addition, the BLRID recorded "surplus" water.

30. "Surplus" water is defined as decreed waters that were available for use pursuant to a decree, but were not used upon the property which the waters were decreed. The BLRID then would note the availability of the water and its non use by the decreed right user and credit the "surplus" or unused waters to the water users account. The waters not used then would be either used by someone else within the system or stored. Surplus waters are in addition to the stored waters which were accumulated during the non-irrigation times of the year.

31. During the years 1987, 1988, 1989 and 1990, the Mackay Reservoir did not fill to its storage capacity and during these years the landowners within the district did not have sufficient water during each irrigation season to complete the irrigation of their crops.

32. Although the Agreement between the BLRID and the Arco Tract Association, Inc. has not been rescinded or terminated, the individuals receiving their water through the Arco Canal for use on lands outside the district have since approximately 1973 paid their proportionate toll charges directly to the BLRID and not through the Association.

MEMORANDUM DECISION,
FINDINGS OF FACT AND CONCLUSIONS OF LAW

13
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APR 19 1994

33. In 1982 and for several years prior thereto, landowners receiving water under the agreement between the district and the Arco Tract Association paid the ditchriders hired by the district for the distribution of the water after it left the boundaries of the district. This practice was terminated after 1982.

34. The evidence establishes that the BLRID, through its directors and ditchriders, had actual knowledge that Walker combined and rotated his water rights between his "Home place" and the "Butte City place". Art Quist, who served as director on the district board from 1960 to 1977 and held various offices including chairman, testified that he and other board members were aware of Walker's irrigation practices resulting in storage water being used upon his property outside of the district. Additionally, five different ditch riders employed by the district over the period 1983 through 1988 all knew that Walker customarily combined and rotated his water including the storage water. Walker's water was routinely delivered for use outside the district on his "Butte City place" lands. Each testified that to the extent that decreed and/or storage water was available under Walker's accounts, based upon the water conditions, it was delivered when and where Walker requested. Roy Helderman (Ditch rider 1983, 1984) indicated that he was taught by Cloy Olson, his predecessor and ditch rider for many years; and, further that it had been the practice at time to deliver Walker's storage water to the "Butte City place" property as requested. Ditch rider Cal Peterson (1985, 1986) indicated that he had raised a question about whether or not Walker's storage

water should be delivered to his "Butte City place" property since it was outside the district. In response he was instructed by the BLRID director Willard Bell to deliver the storage water as Walker requested. Additionally, he testified that the watermaster in 1985, Mr. Gabbert, and the watermaster in 1986, Doug Rosenkrance, also were aware that Walker's storage water was being delivered outside the district and had accompanied him along the Arco Canal on occasion and actually observed that Walker's storage water was being delivered to Butte City. The 1988 ditch rider, Brent Morgan, also testified he checked with the watermaster Doug Rosenkrance, who again authorized him to deliver Walker's storage water outside the district. Harvey Lengle, who was a ditch rider during half of 1986 and all of 1987, not only obtained approval from watermaster Doug Rosenkrance, but also discussed the matter with the district's ditch rider supervisor, George Gilbert, who informed him that it was acceptable to deliver Walker's storage water outside the district as had been the historic practice. Ditch rider Doug Storer (1987, 1988) also testified concerning his rotation and delivery of Walker's storage water outside the district, indicating that the practice of combining and rotating decreed and storage water rights resulting in use of the same on lands other than to which they were originally decreed was a common practice throughout the district. Several of these ditch riders also testified that in their opinion no harm or injury was caused to anyone by reason of Walker's water practices and that the practice of combining and rotating water promoted conservation and efficient irrigation

MEMORANDUM DECISION,
FINDINGS OF FACT AND CONCLUSIONS OF LAW

15

MICROFILMED
APR 18 1994

practices.

35. The court also finds from the evidence that storage water was delivered to Walker's "Butte City place" property and charged against the "Home place" accounts 8 and 29 for the BLRID's bookkeeping and accounting purposes. Prior to 1982 the separate ledger cards were maintained for Account No. 1144A entitled "Arco Tract" and Accounts 8 and 29 entitled "Arco Canal". After 1982, all of the account numbers were reflected on a single ledger card entitled "Arco Canal". However, the ditch riders' records, Exhibit 11, for 1989, do not show any account number to which water was charged throughout the irrigation season. In the years 1979, 1980, and 1981, there were numerous weekly periods that the Arco Tract ledger reflected actual deliveries of storage water charged to Account No. 8 when no water was being used under Account 29 under the "Arco Canal" ("Home place") ledger card. That is, storage water was being delivered to "Butte City place" at times when no decreed water was available.

36. Neither the Bylaws of the district, Exhibit 14, the plan of operation, Exhibit 15, nor the 1936 Judgment and Decree, or Findings of Fact and Conclusions of Law, Exhibits D and C, pertaining to the assessment and apportionment of benefits, expressly preclude the delivery of storage water outside of the district, except for non-payment of assessments. Notwithstanding, it is implicit from a review of these documents that it was originally intended that storage water from the Mackay Reservoir would be used within the boundaries of the district on lands that

were bonded to pay for the reservoir. It appears to have been the district policy that storage water would only be used in the district boundary. (Exhibits N. R. R. Lundy) However, any such policy has not been historically policed or enforced by the district. Until recently the boundaries of the District have not been significant to the District. The BLRID lacks an accurate map of property within the district, and has not maintained a list of property owners or a complete legal description of BLRID lands. (Cross-Examination of Board Members L. Rothwell, G. Stewart, E. Goff, R. Reynolds)

37. The testimony is undisputed that other members of the district have combined and rotated their decreed and storage water as a result of their irrigation practices and used their storage waters to irrigate lands outside the district boundaries. For approximately 30 years, Robert Thornton has used storage water on 40 acres of land excluded from the district. Herman Aikele has a 30-acre parcel outside of the district boundaries on which he has rotated and used his storage water since the 1960's. Additionally, during the last three years, he has purchased storage water which has been transferred and applied to use on other land outside of the district. Director Gerald Stewart has used his storage water to irrigate 3 acres which is outside the district. Additionally, his son Craig Stewart, as a part of his rotation practices, has used his storage waters to irrigate 110 acres outside of the district over the past 14 years.

38. It has never been the policy or practice of the district

to refuse the delivery of decreed water to lands outside of the district, except if assessments are unpaid. There has been no failure or refusal by the District to deliver Walker's decreed water rights to Walker's irrigated land pursuant to his requests at the "Home place" and "Butte City". The district has no jurisdiction nor authority over the delivery of decreed water which is controlled by the Idaho Department of Water Resources; more specifically the watermaster elected or appointed for the water district.

39. In 1990, the present district board adopted and began efforts to enforce several new policies, including the policy against delivery storage water outside of the district. Exhibit 22. In March of 1990, a notice or letter concerning these policies was sent to each water user in the district, including Walker.

40. During the winter of 1989/1990 and continuing through the 1990 irrigation season the Big Lost River Valley suffered from drought and shortage of flow waters for irrigation. At the beginning of the 1990 irrigation season, the district refused to deliver any storage water to Walker (or to any other user outside the district) to his "Butte City place" property in an effort to enforce its policy against delivering storage water outside of the district. Upon receiving notice of this refusal, Walker attempted to lease from Joe Johnson a well about 1/2 mile away and exchange his storage water with this well water so it could be utilized to irrigate his hay crop at Butte City. As required by the district, Walker applied to the Idaho Department of Water Resources to

transfer the water. After numerous protests were filed, the transfer application was withdrawn by Walker. Accordingly, as it was dry year making the decreed rights largely unavailable, Walker had no water available to irrigate his crops at Butte City. Consequently, he lost his entire first crop of hay on 47.5 acres.

41. Walker and the BLRID had no written agreement for the transportation of irrigation waters. Walker relied on the written agreement between the old Arco Canal Association and the custom in use that had developed over the years whereby the district would deliver Walker's decreed waters together with storage waters, to the head gate situated near the BLRID boundary on the Arco Tract Canal. Walker (and his predecessors in interest) and the BLRID knew that Walker commingled and rotated all of his decreed waters for both parcels and at times used all the waters on the "Butte City place" property. He paid all his assessments as required to the BLRID. The BLRID and Walker in effect had an applied agreement whereby they would deliver Walker's water as the directed and he would pay his ditch and acreage assessments.

42. The BLRID knew that Walker rotated his water within or without the district and it continued to deliver the water at Walker's direction. Walker reasonably relied upon the delivery of his irrigation water and when the BLRID refused to delivery it, Walker was unable in 1990 to grow a full crop.

43. Based on an average yield of 2-1/2 tons per acre, Walker lost a total of 118.75 tons of first crop hay. The going price of hay in 1990 ranged from \$75 to \$95 per ton. Walker estimates his

MEMORANDUM DECISION,
FINDINGS OF FACT AND CONCLUSIONS OF LAW

19
MICROFILMED
APR 19 1994

production costs at \$20.00 per ton.

44. After this suit was filed the Court issued an injunction and writ of mandate compelling the delivery of storage water, the district began delivering storage water to "Butte City place" on or about July 20, 1990, enabling Walker to raise a normal second crop of hay. The District questioned if Walker would have had sufficient storage water available for two crops. However, based upon the testimony of Rita Lundy and her review of the water available in Walker's water accounts at the end of August (Exhibits X and W) Walker had 3647 inches of water available under Accounts 8 and 29, which would have been sufficient to raise a normal first crop of hay in addition to the second crop, had the district not deprived him of the use of storage water at "Butte City place" early in the irrigation season. Furthermore, had Walker run short of water he could have purchased additional storage water as he did in prior years. Additional water was available as indicated by the Directors, some of whom purchased additional water in 1990.

45. In November of 1987, the State of Idaho commenced general adjudication of all water rights, both surface and ground in the entire Snake River Basin, which includes the Big Lost River drainage. The case is entitled "In Re the General Adjudication of rights to the Use of Water from the Snake River Basin Water System" (SRBA), and has been assigned Civil No. 39576 in the Fifth Judicial District for the State of Idaho, in and for the County of Twin Falls. The Idaho Department of Water Resources pursuant to the provisions of Chapter 14, Title 42, Idaho Code, which governs

general adjudications, has been taking claims for all water rights within the various basins deemed to be tributary to the Snake River Water System, including the Big Lost River drainage, designated as Basin No. 34. Any dispute between the parties concerning the expansion of and/or the place of use of any of Walker's water rights as claimed by his SRBA filings is not properly before this Court because jurisdiction lies with Judge Hurlbutt in the Sixth District.

III. CONCLUSIONS OF LAW

1. This action between Walker and the BLRID is to resolve a controversy over the delivery of irrigation water. Jurisdiction exists over the parties in the subject matter of this action and venue is proper in Butte County, Idaho.

2. However, the court specifically limits this decision to the resolution of the claims raised by the parties on the delivery of the water only and does not address any water right claims. All claims and controversies concerning claims to ground water, surface water, storage water, changes of the place of use, and transfers, fall within the jurisdiction either with the IDWR or within the Snake River Adjudication with jurisdiction and venue in the Fifth Judicial District Court for Twin Falls County, and this court has no jurisdiction to adjudicate those matters.

3. The validity or invalidity of the water rights referred to herein and every element and aspect thereof are matters which are the subject of a pending adjudication proceedings under Chapter 14, Title 42, Idaho Code, which was filed in the Fifth Judicial

MEMORANDUM DECISION,
FINDINGS OF FACT AND CONCLUSIONS OF LAW

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District Court for Twin Falls County, Case No. 39576, and in which plaintiffs have filed notices of claim for each of said water rights. This court will not attempt to determine the validity or invalidity of any water rights or any element or aspect of any such water right claimed by plaintiffs or either of them, whether it be change of use, place of use, expansion of use, or otherwise.

4. The BLRID has no authority or jurisdiction over the delivery of decreed water rights (by statute, exclusively controlled by the State of Idaho, Department of Water Resources) except in the event of non payment of assessments for the maintenance and costs of the delivery system.

5. Walker is the sole and lawful owner of certain irrigated real property which is the subject matter of this action and consists of 397.3 acres located in Sections 6, 7 and 8, Township 3 North, Range 27 East, B.M., commonly known as the "Home place", and 321.1 acres located directly to the east in Sections 3, 4 and 9 of Township 3 North, Range 27 East, B.M., commonly known as the "Butte City" place, all in Butte County, Idaho, as described more specifically in Exhibit 7. In the area of Walker's property, the District boundary runs generally north and south and divides the Walker property with the "Home Place" place lying just west of the boundary within the district and the "Butte City place" lying just east of the boundary outside of the district, as illustrated in the maps, Exhibits 1 and 2.

6. Walker owns a total of 527 inches of decreed water rights in the Big Lost River, with priority dates ranging from May 1, 1885

to May 1, 1892, a licensed well with a priority date of October 1, 1961, and 15,467.5 inches of storage water at the Mackay Reservoir.

7. Walker's decreed and storage water rights since the early 1940's and his well water since 1961, have been combined, rotated, and applied to beneficial use for irrigation purposes on his "Home place" within the district, and the "Butte City place" outside of the district, all with the knowledge of the district and without objection by the BLRID, prior to 1990.

8. In accordance with Idaho Code §§ 42-1416 and 1416A, Walker has validly applied all of his described waters to beneficial use and on all of his irrigated lands as described above and as set forth in his SRBA claims, Exhibit 6, and is entitled to do so.

9. Without the combined and rotating of the decreed, storage and well waters between the "Butte City place" property and the "Home place" Walker would not have had sufficient waters to irrigate his lands beneficially and grow either alfalfa or grain crops.

10. The historic practice of combining and rotating decreed water, storage water and well water within the district is lawful and proper and results in conservation and the efficient use of water in accordance with Idaho law and state water policy.

11. The right to store water within the Mackay Reservoir on the BLRID is held by BLRID for the benefit of lands within the BLRID to which said stored water has been apportioned by the

MEMORANDUM DECISION,
FINDINGS OF FACT AND CONCLUSIONS OF LAW

MICROFILMED 23
APR 19 1994

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district, and said stored water is needed for the proper irrigation of the lands within the district.

12. The title to the water rights held by the BLRID is vested in the district and held by the district in trust for, and dedicated and set apart to, the use on lands within the district to which said storage water has been apportioned for irrigation purposes.

13. It is the responsibility and obligation of the watermaster of the water district to insure that each decreed right is delivered to the appropriate point of diversion, and the watermaster is not the agent of the irrigation district. The BLRID maintains and controls the delivery system.

14. The BLRID and Walker established an implied contract whereby the BLRID would deliver decreed water and storage water to Walker for use on his lands both inside and outside of the district. The contracts fit into the rotation practice -- a customary practice in the area -- and was not detrimental to the landowners within the district.

15. The district is estopped from interfering with or preventing the delivery of storage water beyond its boundary to Walker for use at his "Butte City place" property. The doctrine of quasi-estoppel applies to this case based upon the affirmance and acquiescence by the district in delivering and permitting the delivery and use of Walker's storage water outside of the district at "Butte City place" since the early 1940's and the reasonable reliance thereon by Walker in the development and operation of his

farm. Given the capital expenditures for installing, operating and maintaining an expensive irrigation system, it would be unconscionable and ruinous to Walker's farming operation and cause irreparable harm to allow the district to completely alter its prior course of conduct and now begin to enforce a policy which effectively deprives Walker of the use of his storage water rights, by reason of which the doctrine of quasi-estoppel clearly applies.

16. Though the district may at one time have had a right to refuse the delivery of storage water for use outside of the district, and could enforce such a policy with respect to new deliveries outside the district, it clearly is also barred by the doctrines of waiver and laches from now enforcing such a policy against Walker. The doctrines of estoppel, waiver and laches would also apply to others who have likewise made use of their storage water outside the district for many years without objection and preclude the district from depriving them of the delivery of their storage water rights for use consistent with their historic practices.

17. The district's refusal to deliver Walker's storage water for use at "Butte City place" wrongfully and unlawfully interfered with Walker's use and enjoyment of his decreed and storage water rights and the District's contractual obligation to deliver the same, all contrary to the well-established historic practice of delivery and use. As a direct and proximate result of depriving Walker of the use of his storage water at "Butte City place" in the 1990 irrigation season, Walker lost his first crop of hay and was

MEMORANDUM DECISION,
FINDINGS OF FACT AND CONCLUSIONS OF LAW

25
MICROFILMED
APR 19 1994

damaged in the amount of \$8906.25.

18. The Restraining Order and Writ of Mandate previously issued herein are made permanent. The BLRID is directed to deliver Walker's decreed and storage water to his "Home place" place and the "Butte City place" property in accordance with Walker's historic practices described above and is restrained from interfering with the delivery and use of such water.

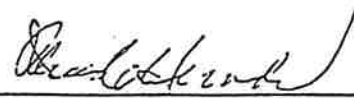
19. Walker prevailed in this litigation and is entitled to his costs. However, the court concludes that no statutory nor contract provision provides for attorney fees to be assessed as costs and therefore awards no attorney fees. The court specifically finds that the action was not brought nor defended frivolously.

IV. JUDGMENT

THEREFORE, judgment is hereby entered in favor of Walker and against BLRID. Plaintiff's counsel should prepare a proposed judgment and circulate it to defendants' counsel for approval as to form.

IT IS SO ORDERED.

DATED this 2nd day of October, 1991.



JAMES C. HERNDON
District Judge

cc: ✓ Randall C. Budge, Esq. and Louis F. Racine, Jr., Esq., P.O.Box
1391; Pocatello, Idaho 83405-1391
Roger D. Ling, Esq., P.O. Box 396, Rupert, Idaho 83350

MEMORANDUM DECISION,
FINDINGS OF FACT AND CONCLUSIONS OF LAW

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.

Case No. 34-00012
34-00013
34-10873
34-02507

(You must insert the
water right number you
are objecting to)

OBJECTION

RECEIVED

MAR 01 1993

Department of Water Resources
Adjudication Bureau

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in the Director's Report. You may object to one water right per objection form. The water right number you are objecting to must be indicated above in the blank space following "Case No." 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, as long as it is identical to the court's form. You must file your objection by the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

Any party physically filing 25 (twenty-five) or more objections must make an appointment with the Clerk of the Adjudication Court and arrange for an appointment to file multiple objections.

(Over)

OBJECTION - 1

MICROFILMED

APR 19 1994

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 that it is not filed for any improper purpose, such as to harass, cause unnecessary delay or needless increase in the cost of litigation.

POOR ORIGINAL

I. GENERAL INFORMATION

Please fill in the following information:

1. Person objecting:

Name:

Carl Thomas Quist

Address:

Rt. 1. Box 203

Cerro Gordo 83213

Briefly describe your interest in this water right:

I have a storage allocation in the
Wacky reservoir. As owner of that right
I am the only one that can put this
storage water to a beneficial use as supplemented
to my various decreed waters according to the
priority date & amount allotted each on my
license.

2. Owner of the water right:

Name:

Big Lost River Dr. Dis. "Holder In Trust"

Address:

Wacky Gordo 83251

3. 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.

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.



POOR ORIGINAL

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.

9. see attached
12. see attached
13. see attached - District owns none of the lands described
14. see attached ^{as place of use}

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 attached

Please note: You should attach copies of documents which support your objection. Note on each document the "box number" it supports.

POOR ORIGINAL

- ☒ 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. (1) Records supporting lack of checked (2) changes to Director's Report. (3) objections to Director's report. (4) one copy of Price objection 1936, Paragraphs 1-5. (5) scale used to determine storage account for lack of record. (6) court approval. (7) check chart plan of distribution of reservoir water.
- VERIFICATION (Must be completed)

State of IDAHO

County of BUTTE

ARTHUR W. QUIST, being first duly
(Name of person filing objection)
sworn, upon oath, deposes and says:

That I am the person or entity filing this objection, that I am a water claimant or party in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and that I have read the foregoing objection, know its contents and that the statements contained therein are true to the best of my knowledge and belief.

Arthur W. Quist
Signature of person filing objection

By: _____
(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 24th day of FEB,
1993.

Walter Hansen
Notary Public for State of ID
Residing at: ARCO, ID
My Commission expires: 2-27-97

POOR ORIGINAL

MICROFILMED
APR 19 1994

POOR ORIGINAL

9. a.

12.

13.

Reasons supporting each checked

9. a. The Dr. Sis does not own any of the lands listed or described.

12. Water right recommendation:
this water right should be a limited right
for storage purposes only.

13. I object to the legal description:
this description includes approximately
10,000 acres, whereas the originally apportioned
benefits

POOR ORIGINAL

POOR ORIGINAL

Changes to the Directors Report

This water right should be a limited right for storing water only, water to be held in trust for the individual landowners, to put to beneficial use as a supplemented right to the different Decrees and dates of priority, and in the various amounts as allotted and approved by the 6th Judicial Court of Idaho in 1936.

See attached scales as used. Also runs
proper description of plan.

POOR ORIGINAL
MICROFILMED

APR 19 1994

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14.1 Objections to the directors recommendations in regards to Big Lost River Dis. Water rights 34-00012, 34-00013, 34-02507, 34-10873. These rights should be a limited right to store water only. And held in trust for individual landowners to put to beneficial use on their lands as supplemental water to individuals decrees and dates of priority as related and approved by the 6th Judicial Court of Idaho January 25th 1936 Judge R. Stevens Dis Judge.

14.2 Big Lost River Dis. does not have the necessary elements for a full decree. They do not own any of the lands described as place of use. They have not put any water to beneficial use on any land.

The landowners own and hold the right to apply the storage water to beneficial use upon their private lands. and have historically used and is a permanent. as such are the beneficial owners.

POOR ORIGINAL

FRIDAY, MAY 3, 1935.

INSURANCE
FIRE & AUTOMOBILE
—Also—
SURETY BONDS
I. W. BOYER

evening. Briefly, this is the
of what will happen and no
other entertainment will be

DOL EXERCISES START SUNDAY

Continued from page 1)
Lafferty, Wendell Hansen,
Richards, Lola Walte, Elaine
on, Regina Hejtrpanik and,
Quist.
th grade—Lucille Alkele, Elma
Gladys Andreason, Evelyn
er, Anna Belle Larson, Ellza
lanke, Marine Maynard, Reva
Helen Paulsen, Mary Quist,
McCorla, Farrell Rich, Wallace
Carl Sedgwick, Jack Thurs
ews, Rothwell, Robert Long,
Larson, Russel Tippets and
Christensen.

Legal Notices

ICE OF SPECIAL ELECTION LOST RIVER IRRIGATION DISTRICT

ICE IS HEREBY GIVEN, that
ial election will be held in the
lost River Irrigation District,
and Custer Counties, Idaho, in
veral election precincts therein
y 18th, 1935, at which election
will be submitted to the qualified
s of said Irrigation District for
approval or rejection, the ques
whether or not the general ne
coupon bonds of said Irriga
District, in the sum of \$238,500.00
be authorized for the purpose of
using the storage, flood water
natural flow rights on Big Lost
and its tributaries, the Mackay
and storage reservoir, the Canal
Project and a main diversion canal
as the Blaine Canal, belonging
s Utah Construction Company, and
all other irrigation works and
s of said company in Butte and
Counties, Idaho, for the sum
\$90.00, and also for the purpose
purchasing certain water rights
tenant to privately owned lands
said Carey Act Project, and
cessary, the purchasing of the
to which such water rights are
tenant, as an incident thereto,
the sum of \$60,000.00, and for the
se of the necessary expenses to
curred in connection with said
election and the issuance and
of said bonds. In the sum of
00, or so much thereof as may
necessary for said purposes; said
shall be payable as to principal
interest and at such times as may
etermined by the Board of Direct
said District, in accordance with
ws of the State of Idaho; all
nt to the Resolution, deciding
and said Resolution, deciding

POOR ORIGINAL

THE ARCO

REPUBLICAN IN POLITICS, OPTIMISTIC IN DIS

VOL. XXVII, NO. 11 Central Idaho's Best Advertising Medium ARCO, BUTTE COUNTY, IDA

OUTLINE OF PLANS FOR THE DISTRICT

Big Lost River Irrigation
District Set-Up For Bond
Election on May 18th

As promised in last week's issue
of The Advertiser the Board of Di
rectors of the Big Lost River Irriga
tion District met early this week and
approved its proposed set-up of
lands, water rights; costs per acre,
and other data about the water users
and land owners desire to be in
formed prior to the voting of the
district's \$238,500.00 bond issue which
is set for May 18th. A cast amount
of data has been assembled by the
board the past few months. This
data has consisted of a soil survey
of the lands within the district,
segregation of the number of inches
of water decreed with their various
dates of priority, the quantitles of
water delivered to each date of
priority during the past five years,
the descriptions of lands with the
names of the land owners in both
counties, etc. This data has been
prepared, classified, and analyzed
by President Pearson of the Board,
J. Ray Weber, Engineer for the Dis
trict, Roy W. Thompson, Water
Commissioner, and George L. Am
brose, secretary. It has required a
longer time than at first thought to
get this data ready. It has been pre
pared with care, and is now avail
able in the office of the board for
the people who are interested. It
is not possible to set up all this
data in full, nor with exactness at
(Continued on page 4)

Recover Stolen

LEGION & AUXILIARY MOTHER'S PROGRAM

To Be Held in the Masonic Temple
at Arco Next Sunday, Starting
at 2:00 P. M. Sharp

Grover Williams Post No. 5 and
the American Legion Auxiliary are
cooperating in the presentation of
a Mother's Day program to be given
in the Masonic Temple Sunday af
ternoon at 2:00 P. M. It is the desire
of these two organizations that the
public feel welcome to attend the
exercises. Especially, do the Legion
and the Auxiliary members antici
pate a good representation of
mothers at the services held in their
honor.

The following numbers constitute
the program:

Invocation.....Mrs. R. L. Sutcliffe
Pledge to the Flag.....Audience
Male Quartet....."Just Before the
Battle Mother"
Address.....Department Commander
C. A. Bottolfsen.

(Continued on page 8)

Baccalaureate Services Last Sun.

Baccalaureate services for the
Senior class of the Arco high school
were held in the L. D. S. church last
Sunday evening. A capacity audience
attended the services for the largest
class to graduate from the Arco high
school. Reverend H. D. Simpson of
Arco delivered the baccalaureate
sermon to the graduates. He chose
as his subject, "Open Doors."
Rev. Simpson gave a masterful
discourse on the subject. In the

JAMES P. HANEY DIED AT MOORE

Funeral Services Held Tue
day and Buried in Lost
River Cemetery

Funeral services for James P.
Haney of Moore were held at the
L. D. S. church in Moore at 2:00
p. m. Tuesday afternoon. At this time
relatives and friends from all par
ts of this section of Idaho met to pay
their last respects to one of Lo
st River's esteemed citizens. The in
pressive services were attended by
a huge gathering of Lost river peo
ple, and the many beautiful floral
contributions were silent but force
ful reminders of the high esteem in
which the deceased was held.

Mr. Haney passed away at his
home in Moore on Sunday, May 1.
He had suffered from an illness of
about eight months duration. The
following numbers were effectively
rendered at the services:

Quartet "Sometime We'll Under
stand" by Mr. Freckleton, Bisho
King, Mr. Knighton and Mr. Bowden
Prayer, Kenneth Burt; sermon, C. F.
Jeppesen; solo, "Face to Face"
Harry DeRyke; obituary, Mark King
quartet, "Oh My Father"; benedic
tion, C. D. Johnson, Jr.

Pallbearers were: T. C. Young,
Leland Wagner, Frank Hannl, Reu
ben Hannl, Mark Hannl, and Han
Bjorn. Flowers were in charge of
Mrs. T. C. Waddoups, Mrs. Leon
King, Mrs. Evelyn Pearson, Mrs.
Amy Beverland, Mrs. Barbara Judd,
Mrs. O. Haney, Mrs. Clara Hawkin
(Continued on page 8)

Checked Over

POOR ORIGINAL

signation, removal or otherwise, shall be filled by appointment by the Secretary of the Interior and the appointee shall hold office until the next regular election, when successors shall be elected.

(Sgd) F. R. CARPENTER,
Director of Grazing.

OUTLINE OF PLANS FOR THE DISTRICT

(Continued from page 1)

This time on account of its voluminous character. A brief statement of the proposed set-up, as approved by the board of directors is as follows:

Outline of Principles and Plan of Irrigation District Set-Up.

I. It is conceded that there is not enough water to serve every acre in the district with a full water right. Therefore, the best lands will be served with supplemental water, but without interference with present decrees. In order to get at the matter, soil survey was made by the district classifying each forty of all the lands in the district boundaries, and covering a total acreage of 44,696 acres. Of this total acreage, 27,641 acres came within the classification of the better class lands. The difference of 17,055 acres were found to be undesirable because of poor soil, or on account of not being served with water from a ditch, or were rough pasture lands, and willow lands, etc.

II. Of the above 27,641 acres, 6,354 acres were eliminated because they were either abandoned, the improvements moved away, or the lands found spotted, found not feasible to serve with water, or from various other causes, leaving a balance of 21,287 acres of approved lands of good quality to be served with stored water. The process of elimination was based upon the proposition of preference being given to those persons who have stayed on their lands during these lean, dry years, and who have starved and struggled to keep their homes.

The present decreed rights prior to, and including May, 1884, were considered to have an adequate supply of water at the present time, and were not to be supplemented with stored water. They comprise 3,183 acres within the district.

III. Lands without a decreed water right were eliminated by the foregoing process. The lands approved were Class A lands, with some sort of decreed right, which lands, when served with water, should produce maximum crops, the most efficiently from the standpoint of high duty of water and classification of soil.

IV. The next step was to determine the number of days each of these lands was served under the present decree over an average of five years past. The stored water was then distributed pro-rata by these lands in proportion to the days that

they were short of water during the irrigation season of 123 days. The amount of stored water to be delivered to the various decrees as a supplemental right will increase on a graduated scale with the date of priority so that the later rights will receive the most water per acre and will, as a consequence, be charged accordingly.

V. The cost of retiring the bonds will be divided into two divisions:-

(1) Basic assessment covering all the lands benefited indirectly and, (2) A direct charge on acre feet of water delivered. It has been determined that approximately 30,000 acres will be benefited whether served with supplemental water or not. And this acreage will be separated into four brackets:- (1) Includes all those water rights prior to June 1884, basic charge of \$5.00 per acre, and no further charge. (2) From June 1884 up to 1885, inclusive, basic charge \$4.00 per acre. (3) From 1886 to 1890, inclusive, basic charge \$3.00 per acre. (4) From 1891, and subsequently, basic charge \$2.00 per acre. The reasons for the basic charge, include all benefits accruing, such as privilege of rotation of water, using the Mackay reservoir to store water, and probable return of the "sub," and indirect benefits by reason of improved conditions, water savings, etc. The basic charge is not per year, but over a thirty-three year period, payable in small installments each year of sufficient amount to retire principal and interest of the bond. The total amount of money accounted for by reason of the basic assessment is \$91,276 or an average of \$3.00 per acre. The balance of \$147,244.00 needed to retire the bond, issue is to be borne on a pro-rata charge on these decreed rights on approved Class A lands, which are to be served with stored water as a supplemental water right in proportion to the amount of water delivered to each farm. This figure the cost per acre varies from \$2.76 to a maximum cost of \$10.75 per acre over a period of thirty-three years. The total cost including the basic charge will range, therefore, from a minimum of \$5.00 per acre to a maximum of \$12.75 per acre, or an average of \$8.75 per acre for stored water, spread out over a period of thirty-three years, which is less than originally planned by the board.

VI. The bond loan as approved by the R. F. C. is for \$238,500.00 which is to be expended, if voted, as follows:- \$175,000.00 to purchase all the holdings of every kind and character of the Utah Construction Company on Big Lost river, including water rights, storage reservoir near Mackay, Carey Act project in entirety near Arco; \$60,000.00 to purchase privately owned lands on said project; and \$3500.00 for attorney fees and other expenses connected with the bond issue.

VII. The Carey Act project of the Utah Construction Company

near Arco is to be abandoned, and the waters transferred to productive lands within the valley proper.

VIII. The decreed rights of the water users are not to be disturbed and their water is to be delivered to them in accordance with their respective priorities. Stored water will be available for use this year on the lands within the valley proper if the bond issue carries, and deliveries will be made proportionately to those entitled in proportion to the amount of stored water available and without regard to priority. Legal Matters as to Voting, Hours in Which Polls Will Be Open, Etc.

I. As to those who are entitled to vote, the statute limits such voters to those who are land owners in fee simple. Both the husband and wife can vote where the land owned is community property. The right to vote does not depend on ownership of a water right. The statute refers to "land owners" and anyone who owns a city lot, or other real estate, is entitled to vote. Those who are in possession of land purchased under a contract in which deed is not issued, and there is a balance due on the contract, are not entitled to vote. Of course, a person to be a qualified voter must be, first: In addition to being a land owner, over the age of twenty-one years, a resident of the State of Idaho six months, and of the district for thirty days, each voter is required to sign an elector's oath which states that he is a qualified elector and is also a land owner. No registration of voters is required. Second: The election date is May 18th, and the polls will be open from 8:00 a. m. to 7:00 p. m. The various voting precincts and places where the election will be held are as noted in the advertised notice in this paper.

Public Meetings

In view of the valley-wide interest in this matter, the Board of Directors of this district has decided to hold some small group meetings in the following places and on the followings dates:

Arco, Arco Grange Hall, Saturday evening, May 11th, Moore, Moore school house, Monday evening, May 13th, at 8:00 p. m. Mackay, Stacy's hall, Tuesday evening, May 14th, at 8:00 p. m. Leslie, L. D. S. church, Wednesday evening, May 15th, at 8:00 p. m.

At the above times and places, the board will explain in detail all matters, and answer all questions pertaining to the bond issue.

GEORGE L. AMBROSE,
Secretary.



SUM

POOR ORIGINAL

(1) Up to and including May, 1884, basic charge of \$5.00 per acre and no more.

(2) June 1884, \$6.76 per acre; July 1884, \$7.54 per acre; August 1884, \$7.84 per acre; September 1884, \$7.90 per acre, October 1884, \$8.86 per acre, June 1885, \$10.25 per acre, Balance of 1885, \$11.03 per acre, 1886 \$11.11 per acre; 1887 \$12.07 per acre, 1888, \$12.25 per acre, 1889, \$12.55 per acre, 1890, \$12.79 per acre, 1891, \$11.79 per acre, 1892, \$11.91 per acre, 1893, \$11.91 per acre, 1894, \$12.09 per acre, 1895, \$12.39 per acre, 1896, \$12.39 per acre, 1897, \$12.57 per acre, 1898, \$12.63 per acre, 1899, \$12.63 per acre, 1900, \$12.75 per acre, after 1900, \$12.75 per acre, said charges to include basic charges as stated in the above paragraphs.

From the foregoing it was determined that the average cost will be approximately \$8.75 per acre, exclusive of any interest charges.

Storage benefits from the reservoir were set up on a scale to equalize as near as possible the water available to users of early and late decreed rights. This scale was:

<u>Decreed Priority</u>	<u>Acre Feet Storage</u>	<u>Inches per Approved Acre</u>
Before June, 1884	None	None
June, 1884	.46	11.5
July, 1884	.59	14.75
August, 1884	.64	16
Sept., 1884	.65	16.25
Oct., 1884	.81	20.25
June, 1885	1.04	26
Bal. 1885	1.17	29.25
1886	1.35	33.75
1887	1.51	37.75
1888	1.54	38.5
1889	1.59	39.75
1890	1.63	40.75
1891	1.63	40.75
1892	1.65	41.25
1893	1.65	41.25
1894	1.68	42
1895	1.73	43.25
1896	1.73	43.25
1897	1.76	44
1898	1.77	44.25
1899	1.77	44.25
1900 and subsequent years	1.79	44.75

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APR 19 1994

POOR ORIGINAL

The firm of Irvine, Skeen, and Thurman, Attorneys at Law, Salt Lake City, acted as counsel to pass upon and approve all proceedings of the District for complying with the conditions of the loan.

After approval by the Reconstruction Finance Corporation, the District Court, on January 25, 1936, determined that the proceedings taken by the Big Lost River Irrigation District were "in all respects proper and legal, in accordance with the laws of the State of Idaho, and were legal, valid, and binding upon said District and upon all the lands included therein and affected thereby."

Sec. XXVIII

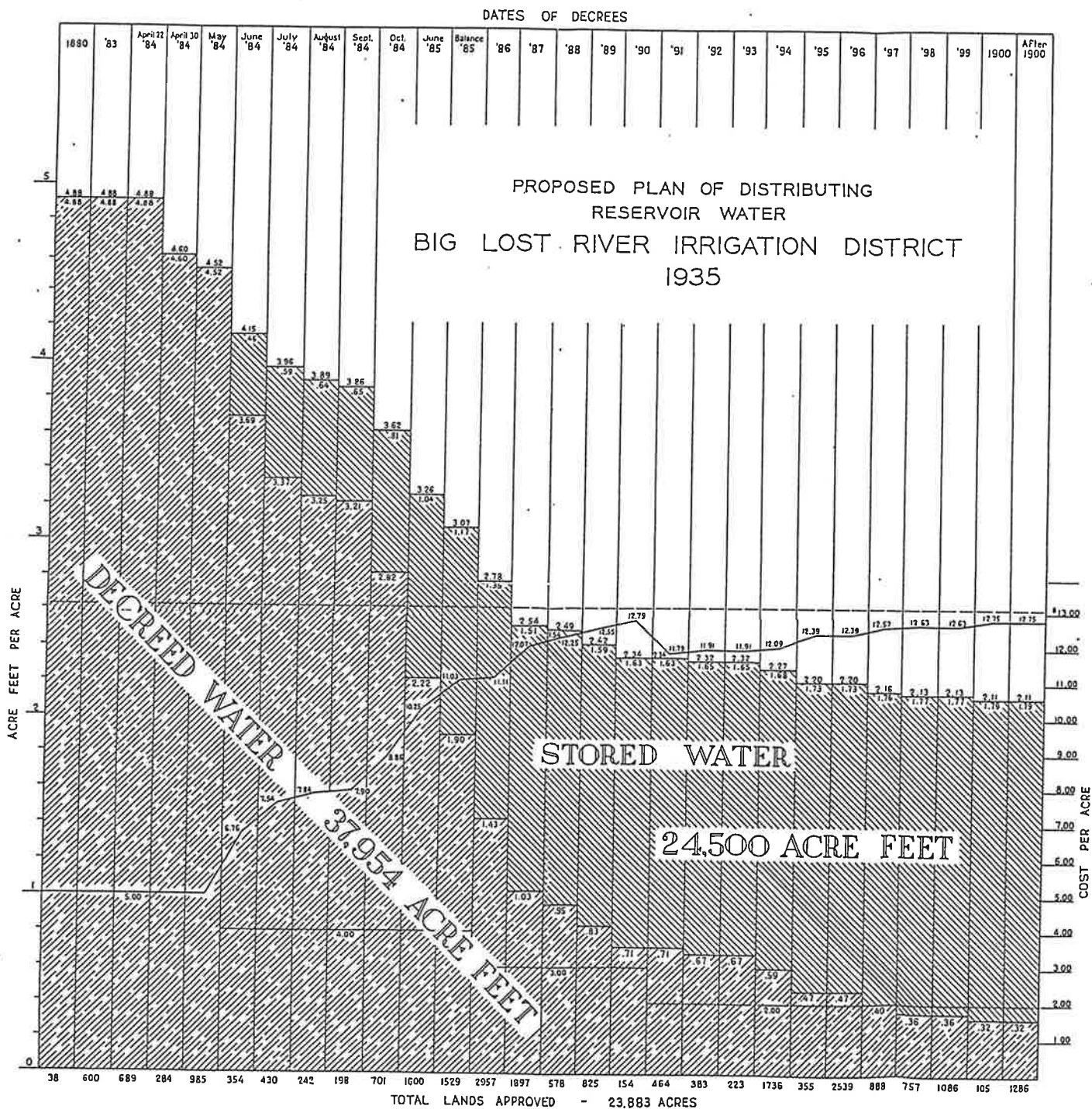
In 1952 a proposal for raising the dam for additional storage was brought up by some of the water users in the district. A bond election was held on July 2, 1952, with a total of 524 votes, 294 "yes" and 230 "no". This was less than the required two-thirds majority.

Another election was held on May 12, 1953; this time 780 votes were cast, with 468 "yes" and 312 "no", and the proposal was again defeated.

On April 13, 1954, a third election was held. This time, 817 votes were cast, with 548 "yes" and 269 "no". Bonds were purchased by the Idaho First National Bank at Boise, and work of raising the dam was completed. However, due to complications in the condemnation for right-of-way, and a suit for damages filed by Leland Zollinger, an injunction was issued by the court to prohibit the use of this raise in the dam until this suit is settled.

POOR ORIGINAL

POOR ORIGINAL



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APR 19 1994

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 the owner of the water right, if other than yourself; to the Office of the Attorney General, State of Idaho; and to the United States Department of Justice, as set out below in the Certificate of Mailing. Finally, you must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I hereby certify that on the _____ day of _____, 199____, I mailed the original and copies of the foregoing objection, 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:

Owner name:

Big Lost River Irr. Dist. (Reliance Trust)

Owner's address:

Wachay Falls 83251

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

Arthur M. Priest
Signature of Objector or attorney
mailing on Objector's behalf



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 the Rights to the Use of Water)
from the Snake River Basin)
Water System)
_____)

Case No. 34-00012 -0003

The State of Idaho, ex rel.)
R. Keith Higginson in his)
official capacity as Director)
of the Idaho Department of)
Water Resources,)

RESPONSE TO OBJECTION

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.)
_____)

I. GENERAL INFORMATION

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).

(Over)

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APR 19 1994

2. Person who filed objection:

Name: ARTHUR W QUIST
Address: RT 1 BOX 203
ARCO ID 83213

3. If this response is filed by an attorney:

Attorney Name(s): A. LYNNE KROGH-HAMPE
Attorney Address: DEPUTY ATTORNEY GENERAL(S)
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449

Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

9. ☒ Place of Use: I respond to the objection concerning:
- 9a. ☒ The legal description of the place of use.
12. ☒ Water Right Recommendation: I respond to the objection concerning:
13. ☒ Description of Reservation: I respond to the objection concerning the legal description of the reservation.
14. ☒ Other: I respond to the objection concerning:

ASSERTION THAT IRRIGATION DISTRICT RIGHTS ARE LIMITED TO STORE WATER AND HOLD IT IN TRUST FOR DISTRICT MEMBERS TO PUT TO BENEFICIAL USE; THAT IRRIGATION DISTRICT DOES NOT OWN LANDS DESCRIBED AS PLACE OF USE AND DOES NOT PUT WATER TO BENEFICIAL USE.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection items 9 and 9.a and all allegations of the objection regarding these items, IDWR responds as follows.

IDWR lacks sufficient information to form a belief as to whether any of the lands within the recommended place of use are owned by the Big Lost River Irrigation District, and therefore denies that none of the lands within the recommended place of use are owned by the district; in addition, IDWR denies that ownership of the recommended place of use by the district is relevant to the nature or extent of the contested water right. IDWR therefore denies this portion of the objection and all allegations regarding this portion of the objection not expressly admitted herein.

In response to Statement of the Objection item 12 and all allegations of the objection regarding this item, IDWR responds as follows.

This water right is recommended to the Big Lost River Irrigation District for water stored in Mackay Reservoir by the district, and delivered by the district for use by district members. IDWR is informed and believes that the objector is a district member and is entitled to receive a certain portion of the water stored by the district. In related objection sub-case nos. 34-12431-0001 and 34-12432-0001, the objector objects to the recommendation of disallowal of the objector's claims, which assert claims to water stored in Mackay Reservoir for use on the objector's lands.

The objector apparently contends that the description of the district's right should be limited to describing the storage of water, and that the ultimate use of the stored water by district members should be described in separate water rights in the names of the district members.

This water right was decreed to the Utah Construction Co. in *Utah Construction Co. v. Abbott*, Equity No. 222 (D.E.Id. 1923), and was subsequently conveyed to the district. As provided by Idaho Code section 43-316, legal title to the water right is vested in the district, and is held by the district in trust for the purposes and uses set forth in title 43 of the Idaho Code.

The claim to water stored by the district, and delivered by the district for use by district members, is therefore properly recommended to the district. A complete description of the right must include not only the diversion of water to storage, but also the ultimate use of the stored water. The rights of the district members to use of water stored by the district are not based on a

(Over)

MICROFILMED

APR 19 1994

separate appropriation of water; rather, the rights of the district members are in the nature of a contractual right to delivery of a portion of the water diverted by the district pursuant to the district's water right. IDWR therefore denies this portion of the objection and all allegations regarding this portion of the objection not expressly admitted herein.

In response to Statement of the Objection item 13 and all allegations of the objection regarding this item, IDWR responds as follows.

The recommended place of use is consistent with what IDWR is informed and believes to be the area within the boundaries of the Big Lost River Irrigation District, which include roughly 50,000 acres of land. Recommendation of the place of use consistent with the boundaries of the district is based upon Idaho Code section 42-219. The current actual irrigated acreage within the recommended place of use is approximately 32,000 acres. IDWR is informed and therefore believes that the district was created in 1935, and that the actual irrigated acreage in 1935 was approximately 24,000 acres. This expansion in acres irrigated with stored water is recommended pursuant to Idaho Code sections 42-222, 42-1416A, and/or 42-1416. IDWR therefore denies this portion of the objection and all allegations regarding this portion of the objection not expressly admitted herein.

In response to Statement of the Objection item 14 and all allegations of the objection regarding this item, IDWR responds as follows.

IDWR incorporates by reference its response to Statement of the Objection items 9, 9.a and 12.

IDWR admits that beneficial use is a necessary element of a water right based on appropriation; however, since beneficial use of water diverted pursuant to this right by district members is imputed to the district, IDWR denies that this element is absent. IDWR therefore denies this portion of the objection and all allegations regarding this portion of the objection not expressly admitted herein.

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

The notice of claim is attached to IDWR's response
to Objection No. 34-00012-0001

(Over)

77 8 1074

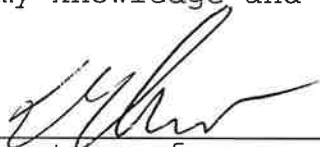
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

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

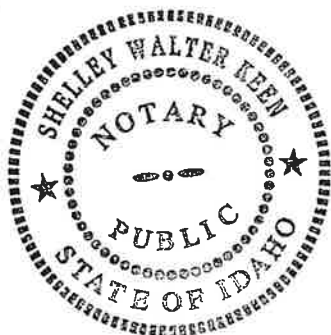
That R. Keith Higginson, in his official capacity as director of the Idaho Department of Water Resources, is a party to this proceeding, as defined by I.C. 42-1401A(1) and (7); that I am the Adjudication Bureau Chief for IDWR and am authorized by R. Keith Higginson, in his official capacity as director 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: A. Lynne Krogh-Hampse
(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 2nd day of July, June,
1993. 



Shelley Walter Keen
Notary Public for Idaho
Residing at: Boise, ID
My Commission expires: July 31, 1997

CERTIFICATE OF MAILING

I hereby certify that on the 6th day of June, 1993, 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 prepared 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

Name: BIG LOST RIVER IRRIGATION DIST
Address: PO BOX 205
MACKAY ID 83251

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:

Name: ARTHUR W QUIST
Address: RT 1 BOX 203
ARCO ID 83213

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 Kogel-Hampe
Signature of Respondent or attorney
mailing on Respondent's behalf

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.

Case No. 34-00012
(You must insert the
water right number you
are objecting to)

OBJECTION

RECEIVED

FEB 26 1993

Department of Water Resources

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in the Director's Report. You may object to one water right per objection form. The water right number you are objecting to must be indicated above in the blank space following "Case No." 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, as long as it is identical to the court's form. You must file your objection by the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

Any party physically filing 25 (twenty-five) or more objections must make an appointment with the Clerk of the Adjudication Court and arrange for an appointment to file multiple objections.

(Over)

OBJECTION - 1

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APR 19 1994

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 that it is not filed for any improper purpose, such as to harass, cause unnecessary delay or needless increase in the cost of litigation.

I. GENERAL INFORMATION

Please fill in the following information:

1. Person objecting:

Name: United States of America
Bureau of Land Management
Address: U.S. Department of Interior
Idaho State Office
3380 Americana Terrace
Boise, Idaho 83706-2544

Briefly describe your interest in this water right:

The United States, through the Bureau of Land
Management (BLM), has a license from IDWR for the
water claimed.

2. Owner of the water right:

Name: Claimant: Big Lost River Irrigation Dist
Address: P.O. Box 205
Mackay, ID 83251

3. If this objection is filed by an attorney:

Attorney Name: K. Jack Haugrud
Daria J. Zane

Attorney Address: U.S. Department of Justice
550 West Fort Street
P.O. Box 33
Boise, Idaho 83734

Attorney Phone No.: 202-272-4134/8351

If filed by an attorney, notice of pending court proceedings will be sent to the attorney only.

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 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.

(Over)

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APR 19 1994

12. ☒ Water Right Recommendation: I object:

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.

The United States of America, acting through the BLM, objects to this water right recommendation because the claimant is a private individual claiming a water right on public domain lands. The BLM, on behalf of the United States, has managed and controlled this property for the beneficial use of the American public. The claimant has no property interest in the claimed water rights or any other water right appurtenant to federally owned lands. The United States objects to all aspects of the right because of these facts, including the recommended name and address, source, quantity, priority date, points of diversion, purpose of use, period of use, place of use, and consumptive use. BLM also objects to the recommendation in its entirety because the claimant has not been the exclusive beneficial user of this water given that other members of the public have had access to this land and water source. See Objection page 7.

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.

The Director's Report should be changed to recommend disallowance of this claim.

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. Director's Report copy

of private claim (1), Map of private claims at Moore

Diversion (1), Director's Report copy of impacted BLM
claims (2), ~~Map of private claims at Moore~~
Map of four impacted BLM claims(1).

VERIFICATION (Must be Completed)

State of Idaho

County of Bonneville

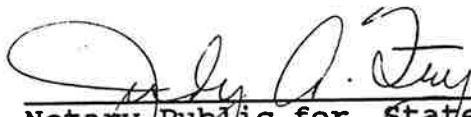
Lloyd H Ferguson, District Manager, being first duly
(Name of person filing objection)
sworn, upon oath, deposes and says:

That I am the person or entity filing this objection, that I am a water claimant or party in this proceeding, as defined by I. C. § 42-1401A(1) and (7), and that I have read the foregoing objection, know its contents and that the statements contained therein are true to the best of my knowledge and belief.


Signature of person filing objection

By: _____
(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 15th day of February,
1993.


Notary Public for State of Idaho
Residing at: Bonneville County
My Commission expires: 12/12/94

(Over)

10-8 10 103

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 the owner of the water right, if other than yourself; to the Office of the Attorney General, State of Idaho; and to the United States Department of Justice, as set out below in the Certificate of Mailing. Finally, you must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I hereby certify that on the 26 day of Feb., 1993, I ~~mailed~~^{filed} the original and ~~copies~~^{certified} of the foregoing objection, 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:

Owner name:	<u>Claimant: Big Lost River Irrigation Dist</u>
Owner's address:	<u>P.O. Box 205</u>
	<u>Mackay, ID 83251</u>

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 Resources Division
550 West Fort Street, Box 33
Boise, Idaho 83734



Signature of Objector or attorney
mailing on Objector's behalf

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: MAY-27-1992
PAGE: A-775

POOR ORIGINAL

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: BIG LOST RIVER						
TRIBUTARY: SINKS						
34-00012	BIG LOST RIVER IRRIGATION DISTRICT PO BOX 205 MACKAY ID 83251	02/07/1916	IRRIGATION STORAGE	01-01 12-31	17205.0	AFY DECREED
			IRRIGATION FROM STORAGE	05-01 10-15	17205.0	AFY
			TOTAL QUANTITY:		17205.0	AFY

POINT OF DIVERSION:

T07N R23E S12
 T03N R26E S01
 T04N R26E S26
 T05N R26E S04
 T06N R24E S01
 R25E S06 *Pvt*
 S10 *Pvt*
 S11 *Pvt*
 S14
 S24
 R26E S32
 T07N R23E S12
 R24E S18
 S20
 S33
 S34

SENW (R)
 NENESW (R)
 NENUSE (R)
 NNNW (R)
 NUSE (R)
 NUSE (R)
 NENESW (R)
 NNESE (R)
 NENESW (R)
 SNESEW (R)
 SNESEW (R)
 SNESEW (R)
 NNNW (R)
 NUSEW (R)
 NNNW (R)
 NUSEW (R)
 SENE (R)
 SNESEW (R)
 NUSEW (R)
 SENEW (R)

PLACE OF USE: IRRIGATION STORAGE

SAME AS OTHER USE

PLACE OF USE: IRRIGATION FROM STORAGE

SAME AS OTHER USE

REMARKS: USE OF THIS RIGHT WITH RIGHT NOS. 34-00013, 34-02507 AND 34-10873 IS LIMITED TO THE IRRIGATION OF 32,000 ACRES WITHIN THE PLACE OF USE DESCRIBED IN RIGHT NO. 34-10873 IN A SINGLE IRRIGATION SEASON.

POINT OF DIVERSION IN SENW SEC 12, TWP 7N, RGE 23E IS MACKAY DAM. WATER IS DELIVERED THROUGH THE ANGELO, ARCO, B & J, BECK/MC GOWAN, BURNETT, DARLINGTON, EASTSIDE, HARRIS-VAUGHT, ISLAND, LOWER BURNETT, MC LOUGHLIN, MIDDLE, MILLER, MOORE, MUNSEY, SHARP, STREETER, SUTTER, SWAUGER, VANOUS, WESTSIDE AND 3 IN 1 DITCHES OR CANALS; ALL ARE POINTS OF REDIVERSION FROM THE BIG LOST RIVER.

THE AMOUNT OF WATER REDIVERTED FROM THE BIG LOST RIVER SHALL BE REDUCED WHEN NECESSARY TO PREVENT INJURY TO APPROPRIATORS OF WATER DOWNSTREAM FROM THE POINT OF REDIVERSION.

A VOLUME OF WATER IN ADDITION TO THE VOLUME DESCRIBED ABOVE FOR

MICROFILMED

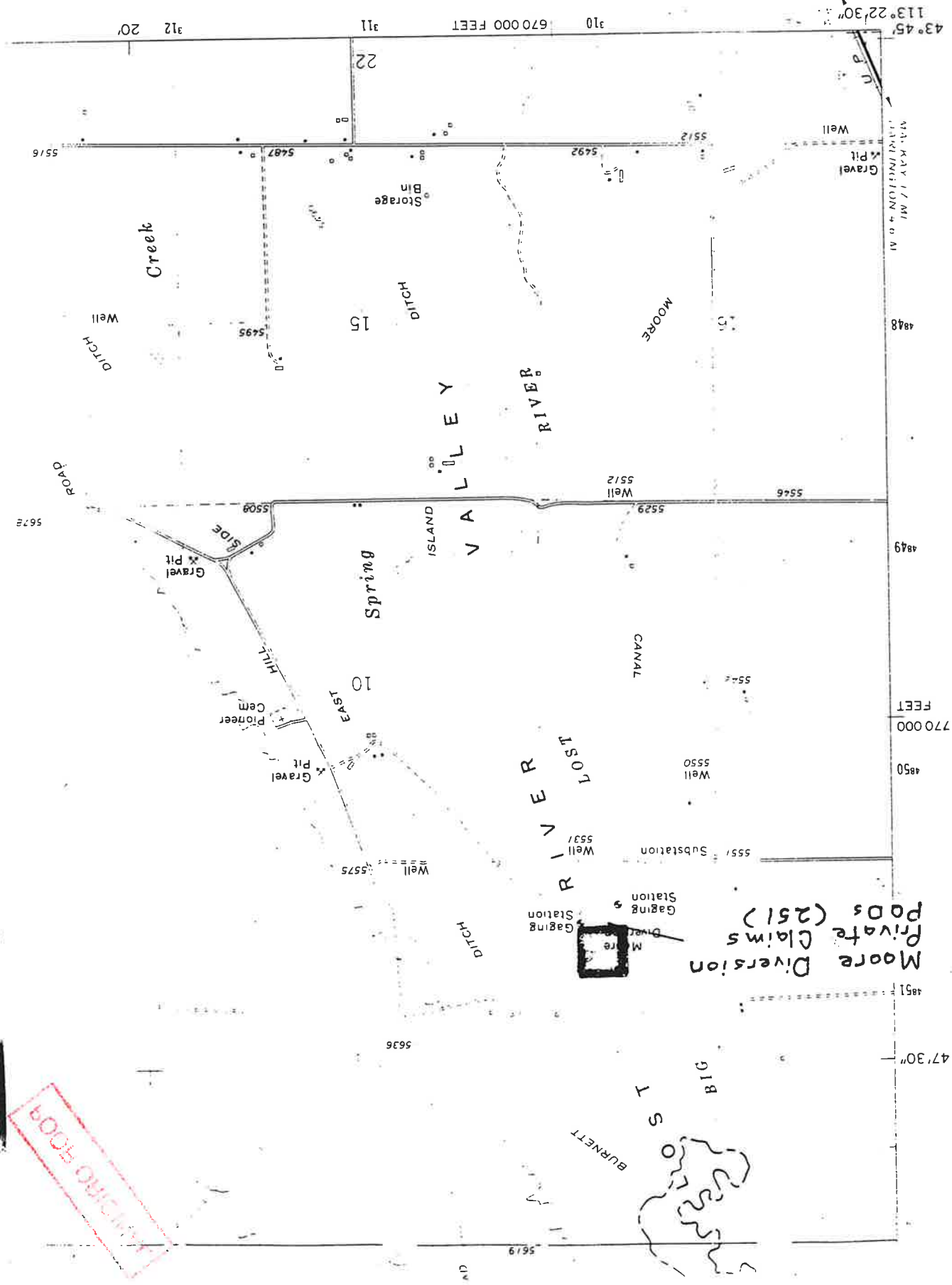
APR 19 1994

RAMSHORN CANYON, IDAHO

Control by USGS and USCGS
 Topography by photogrammetric methods from aerial
 photographs taken 1967. Field checked 1969
 Polyconic projection, 1927 North American datum
 10,000-foot grid based on Idaho coordinate system,
 central zone
 1000-meter Universal Transverse Mercator grid ticks,
 1000 12 shown in blue

APPENDIX HILL
 3271 Hill NW

Mapped, edited, and published by the Geological Survey



Moore Division
 Private Claims
 Pools (251)

RAMSHORN CANYON

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: NOV-17-1992
PAGE: A-34

RIGHT NUMBER NAME & ADDRESS PRIORITY DATE PURPOSE OF USE PERIOD OF USE FROM TO MAXIMUM QUANTITY BASIS OF CLAIM

SOURCE: BIG LOST RIVER TRIBUTARY: SINKS

34-04190 US DEPT OF INTERIOR 06/28/1934 STOCKWATER 01-01 12-31 .23 CFS BENEFICIAL USE

BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706

TOTAL QUANTITY: .23 CFS

NON-IRRIGATION-USES:
STOCKWATER, 1000 RANGE CATTLE; WILDLIFE, VARIABLE AMOUNT

POINT OF DIVERSION:

T02N R27E S01 LOT 1 (NENE) (B)
T03N R27E S20 SENE (B)
T02N R28E S01 NESE (E)
T03N R27E S35 SESE (E)

PLACE OF USE: STOCKWATER

T02N R27E S01	Lot 1 (NENE)	SENE	SWSW	SESW
R28E	NESW	NWSW	SWSE	
	NESE	NWSE		
	SESE			
S02		SESW		
S03		SWSW	SESW	NWSW
S04		SWNE	SESE	
		NESE	SWNW	
S05		SWNE	SENE	SWNW
		SESW	NESE	
S06	Lot 1 (NENE)	Lot 2 (NENE)	Lot 3 (NENE)	Lot 5 (SWNW)
	SESW			
S09	NENE	NWNE	NENW	NWNW
S10	NENE	SWNE	SENE	NWNW
S11	NENE	SESW	NWSE	
	SWNW	NENW		
S12	NUNE			
T03N R27E S20	SENE	NWSW	SWSW	SESW
S21	SWNW	SWSE	SESE	
	NESE	NWSW	SWSW	SESW
S22	NESW	NWSW	NENW	
S26	SWNE	SENE		
S27	NESE	NWSE		
S28	NWNE	NENW	SWNW	SESW
S35	NWNW	NWSE	SWSE	SESE
	NESW			

REMARKS: THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING
ALLOTMENT SHALL BE LIMITED TO THE QUANTITY OF WATER BENEFICIALLY

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APR 19 1994

POOR ORIGINAL

AJ5856NP

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: NOV-17-1992
PAGE: A-36

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
-----------------	----------------	------------------	----------------	--------------------------	---------------------	----------------

SOURCE: BIG LOST RIVER

TRIBUTARY: SINKS

34-04040	US DEPT OF INTERIOR BUREAU OF LAND MANAGEMENT IDAHO STATE OFFICE 3380 AMERICANA TERRACE BOISE ID 83706	04/01/1958	WILDLIFE STORAGE	01-01 12-31	243.0	AFY
			STOCKWATER FROM STORAGE	01-01 12-31	20.1	AFY
			STOCKWATER STORAGE	01-01 12-31	243.0	AFY
			WILDLIFE FROM STORAGE	01-01 12-31	7.2	AFY
			DIVERSION TO STORAGE	01-01 12-31	.44	CFS
			TOTAL QUANTITY:		.44	CFS
					243.0	AFY

NON-IRRIGATION-USES:

STOCKWATER, 2000 RANGE CATTLE; WILDLIFE, VARIABLE AMOUNT

POINT OF DIVERSION:

T02N R28E S11 NW/4SE

PLACE OF USE: WILDLIFE STORAGE

SAME AS OTHER USE

PLACE OF USE: STOCKWATER FROM STORAGE

T02N R28E S11	NESE	NWSE	SESE
S13	NW/4	NW/4	NW/4
S14	NW/4	SWNE	SENE
	NW/4	NW/4	SWSW
	NESE	NWSE	SWSE
S15	NESE	SESE	
S23	NW/4	SWNE	NW/4
S24	SWNE	SENE	NW/4
	NW/4	SWSW	NW/4
	SESW	NESE	NW/4
	SESE		
S25	NW/4	NW/4	SWNE
	NW/4	SWNE	NW/4
	SESW		

PLACE OF USE: STOCKWATER STORAGE

SAME AS OTHER USE

PLACE OF USE: WILDLIFE FROM STORAGE

SAME AS OTHER USE

PLACE OF USE: DIVERSION TO STORAGE

SAME AS OTHER USE

REMARKS:

THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING
ALLOTMENT SHALL BE LIMITED TO THE QUANTITY OF WATER BENEFICIALLY
USED BY THE NUMBER OF STOCK WITHIN THE ALLOTMENT.

BLM RECORD ID = 3403488096

FOOD

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 the Rights to the Use of Water
from the Snake River Basin
Water System

Case No. 34-00012 -0001

The State of Idaho, ex rel.
R. Keith Higginson in his
official capacity as Director
of the Idaho Department of
Water Resources,

RESPONSE TO OBJECTION

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.

I. GENERAL INFORMATION

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).

(Over)

V18 13 139

2. Person who filed objection:

Name: YOUNG HARVEY WALKER
Address: RT 1 BOX 200
ARCO ID 83213

3. If this response is filed by an attorney:

Attorney Name(s): A. LYNNE KROGH-HAMPE
Attorney Address: DEPUTY ATTORNEY GENERAL(S)
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449
Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

12. ☒ Water Right Recommendation: I respond to the objection concerning:
- 12a. ☒ This water right being recommended at all.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection items 12 and 12.a and all allegations of the objection regarding these items, IDWR responds as follows.

This water right is recommended to the Big Lost River Irrigation District for water stored in Mackay Reservoir by the district, and delivered by the district for use by district members. IDWR is informed and believes that the objector is a district member and is entitled to receive a certain portion of the water stored by the district. In this objection, the objector objects to recommendation of this water right at all. In related objection sub-case nos. 34-10943-0001, 34-10944-0001, 34-10945-0001 and 34-10946-0001, the objector objects to the recommendation of disallowal of the objector's claims, which assert claims to water stored in Mackay Reservoir for use on the objector's lands.

The objector apparently asserts, although the objections fail to so state, that rights to store water in Mackay Reservoir and to use the stored water should not be recommended in the name

of the district, but should instead be recommended in the names of the district members who are entitled to distribution of the stored water.

This water right was decreed to the Utah Construction Co. in Utah Construction Co. v. Abbott, Equity No. 222 (D.E.Id. 1923), and was subsequently conveyed to the district. As provided by Idaho Code section 43-316, and as found by Judge Herndon in Young Harvey Walker v. Big Lost River Irrigation District, Butte County Civil Case No. 14-90, legal title to the water right is vested in the district, and is held by the district in trust for the purposes and uses set forth in title 43 of the Idaho Code. The claim to water stored by the district and delivered by the district for use by district members is therefore properly recommended to the district. IDWR denies the objection and all allegations of the objection not expressly admitted herein.

For the further information of the court, IDWR in addition responds as follows. Although item 9 as to place of use is not marked on the objection, the district court's decision in Young Harvey Walker v. Big Lost River Irrigation District held that the district is estopped to deny that Walker may use stored water delivered by the district to Walker on certain lands owned by Walker outside the district boundaries. The district did not claim, and IDWR did not recommend, Walker's lands located outside the district as part of the place of use of this right. The district court decision has been appealed; briefing and oral argument have been completed and a decision is pending.

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:

Notice of Claim No. A34-00012

No. of
Pages

3

(Over)

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APR 19 1994

21 7 8 1993

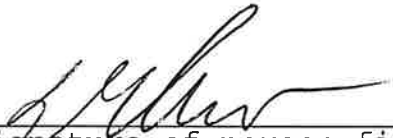
VERIFICATION (Must be Completed)

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.

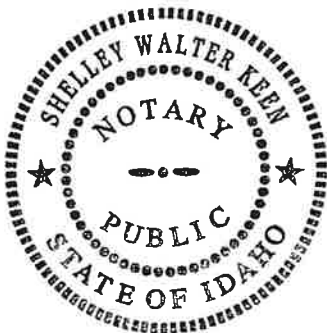


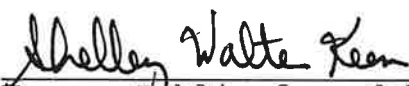
Signature of person filing response

By: 

(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 2nd day of June,
1993.





Notary Public for Idaho
Residing at: Boise, ID
My Commission expires: July 31, 1997

CERTIFICATE OF MAILING

I hereby certify that on the 16th day of June, 1993, 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 prepared 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:

Name: BIG LOST RIVER IRRIGATION DISTRICT
Address: PO BOX 205
MACKAY ID 83251

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:

Name: YOUNG HARVEY WALKER
Address: RT 1 BOX 200
ARCO ID 83213

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 Kogh-Hampe
Signature of Respondent or attorney
mailing on Respondent's behalf

RECEIVED

AUG 04 1993

Department of Water Resources
Adjudication Bureau

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

Case No. 34-00012

The State of Idaho, ex rel.
R. Keith Higginson in his
official capacity as Director
of the Idaho Department of
Water Resources,

OBJECTION

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.

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in the Director's Report. You may object to one water right per objection form. The water right number you are objecting to must be indicated above in the blank space following "Case No." 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, as long as it is identical to the court's form. You must file your objection by the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

MICROFILMED

APR 19 1994

Any party physically filing 25 (twenty-five) or more objections must make an appointment with the Clerk of the Adjudication Court and arrange for an appointment to file multiple objections.

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 that it is not filed for any improper purpose, such as to harass, cause unnecessary delay or needless increase in the cost of litigation.

I. GENERAL INFORMATION

Please fill in the following information:

1. Person objecting:

Name: Jay V. Jensen

Address: Route 1, Box 112-A
Moore, Idaho 83255

Briefly describe your interest in this water right: Jensens
hold natural flow Water Right No. 34-0852C for water
from Big Lost River. Storage water collected in the
Mackay Reservoir has historically been allocated by
Big Lost River Irrigation District to this natural
flow right and such storage allocation is very
valuable for the proper irrigation of Jensens' farm.

2. Owner of the water right:

Name: Big Lost River Irrigation District
Address: 101 South Main Avenue
Mackay, Idaho 83251

3. If this objection is filed by an attorney:

Attorney Name: Kent W. Foster

Attorney Address: P.O. Box 50130
Idaho Falls, Idaho 83405

Attorney Phone No.: (208) 523-0620

If filed by an attorney, notice of pending court proceedings will be sent to the attorney only.

RECEIVED

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.

9(a)--The place of use shown in the above-numbered water right for storage water is not consistent with the place of use shown for Jensens' natural flow right No. 34-0852C even though historically the storage water has been used on the same land as the natural flow water.

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.

Jensens seek to have the Director's Report changed to make the places of use for the above-described storage right to be modified to include all of the land to which the Jensens' natural flow right No. 34-0852C is appurtenant.

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. _____

Affidavits of Jay V. Jensen and Rodney W. Smith.

VERIFICATION (Must be Completed)

State of IDAHO
County of Bonneville

Jay V. Jensen, being first duly sworn,
(Name of person filing objection)

upon oath, deposes and says:

That I am the person or entity filing this objection, that I am a water claimant or party in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and that I have read the foregoing objection, know its contents and that the statements contained therein are true to the best of my knowledge and belief.

Signature of person filing objection

By: _____

(Attorney signing in
representative capacity)

Subscribed and sworn to before me this _____ day of July,
1993.

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission Expires: _____

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 the owner of the water right, if other than yourself; to the Office of the Attorney General, State of Idaho; and to the United States Department of Justice, as set out below in the Certificate of Mailing. Finally, you must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I hereby certify that on the _____ day of July, 1993, I mailed the original and copies of the foregoing objection, 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:

Owner name: Jay V. Jensen
Owner's address: Route 1, Box 112-A
Moore, Idaho 83255

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 Objector or attorney
mailing on Objector's behalf

67351/srs

RECEIVED COPY

AUG 09 1993

Department of Water Resources
Eastern District Office

RECEIVED

AUG 04 1993

Department of Water Resources
Adjudication Bureau

Kent W. Foster, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO
330 Shoup Avenue
P.O. Box 50130
Idaho Falls, Idaho 83405

Attorneys for Jay V. and Deann Jensen

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 Drainage)
Basin Water System)

Case No. 39576

The State of Idaho, ex rel.)
R. Keith Higginson in his)
official capacity as director)
of the Idaho Department of)
Water Resources,)

MOTION FOR LEAVE TO FILE
LATE OBJECTION

Petitioner,)

vs.)

United States; State of Idaho;)
and all unknown claimants to)
the use of water from the)
Snake River Drainage Basin)
Water System,)

Respondents.)

Jay V. and Deann Jensen, husband and wife, of Route 1, Box
112-A, Moore, Idaho 83255, by and through Kent W. Foster of

MICROFILMED

APR 19 1994

Holden, Kidwell, Hahn & Crapo, hereby move this court for leave to file a late objection to the Director's Report, Part I for Basin 34 (Big Lost River Basin). This motion is filed on the grounds and the for the reasons stated in the attached affidavits in support hereof of Jay V. Jensen and Rodney W. Smith.

Proposed late objection forms have also been prepared, attached hereto, and are submitted herewith.

DATED this 30th day of July, 1993.



Kent W. Foster
HOLDEN, KIDWELL, HAHN & CRAPO

CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, resident of and with my office in Idaho Falls, Idaho; that I served a copy of the following described pleading or document on the attorneys listed below by hand delivering or by mailing, with the correct postage thereon, a true and correct copy thereof on this 26th day of July, 1993.

Document Served:

MOTION FOR LEAVE TO FILE
LATE OBJECTION

Attorneys Served:

David B. Shaw, Chief
Adjudication Bureau
IDAHO DEPT. OF WATER RESOURCES
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720

(6 COPIES)

Clive Strong
Office of the Idaho
Attorney General
Room 210, Statehouse
Boise, Idaho 83720

(1 COPY)

Peter G. Monson
Indian Resources Section
ENVIRONMENT & NATURAL
RESOURCES DIVISION
P.O. Box 44378
Washington, DC 20026-4378

(1 COPY)

Court Certificate of Mailing
(Attached)



Kent W. Foster
HOLDEN, KIDWELL, HAHN & CRAPO

#3354.00
0747m/srs

COURT CERTIFICATE OF MAILING AS OF 7/6/93

James Annest
Law Office of James Annest
1742 Overland Avenue
Burley, ID 83318

Cliff S. Bentz
Yturri, Rose, Burnham,
Bentz & Helfrich
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AUG 04 1993

Department of Water Resources
Adjudication Bureau

Attorneys for Jay V. and Deann Jensen

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 Drainage)
Basin Water System)

Case No. 39576

The State of Idaho, ex rel.)
R. Keith Higginson in his)
official capacity as director)
of the Idaho Department of)
Water Resources,)

AFFIDAVIT OF JAY V. JENSEN
IN SUPPORT OF MOTION FOR LEAVE
TO FILE LATE OBJECTION

Petitioner,)

vs.)

United States; State of Idaho;)
and all unknown claimants to)
the use of water from the)
Snake River Drainage Basin)
Water System,)

Respondents.)

STATE OF IDAHO)
County of Bonneville) ss.

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APR 19 1994

JAY V. JENSEN, being first duly sworn upon his oath,
deposes and states:

1. Affiant and his wife are the record owners of a farm in Butte County, Idaho, with some 315 irrigated acres, situate in Sections 13 and 24 of Township 3 North, Range 26 East of the Boise Meridian. The farm is irrigated by means of a combination of water rights, including groundwater rights, Nos. 34-07055 and 34-10923, a waste water right, No. 34-07116, and a natural flow right, No. 34-0852C.

2. Right No. 34-0842C has been recommended in the Director's Report, Part I, for Basin 34 (Big Lost River Basin), in the Snake River Basin Adjudication proceeding, at page A-436 thereof in the amount of 3.2 cfs of the waters of Big Lost River with a priority of June 1, 1894, for the irrigation of 285 acres in Sections 13 and 24 of Township 3 North, Range 26 East. (Being a portion of the 315 acres referred to in paragraph 1 above).

3. Historically, a portion of the water stored in the Mackay Reservoir each year has been allocated by Big Lost River Irrigation District to Right No. 34-0852C and has been used upon and for the benefit of the same land to which Right No. 34-0852C is appurtenant. Since affiant acquired this farm, he has used such allocated storage for the benefit of his farm

APR 19 1994

whenever and to the extent such storage has been available, and such storage water has proved to be very beneficial and valuable for the proper operation of said farm.

4. Affiant has been informed that he needed to file nothing or take any other action with respect to the storage water which has been used on his farm; that all necessary filing had been taken care of by the Big Lost River Irrigation District. Affiant understood and believed that his proportionate share of the water stored in Mackay Reservoir was allocated by the Big Lost River Irrigation District to Right No. 34-0852C, and indeed, that is the manner in which such storage water has always been administered and delivered in affiant's personal experience until the irrigation season of 1993. After affiant's crops were planted, and the irrigation season began in 1993, affiant was advised by representatives of Big Lost River Irrigation District that only 40 acres of his farm lie within the formal boundaries of Big Lost River Irrigation District and, therefore, the District would no longer permit delivery of storage water to and for the use and benefit of affiant's farm, except for that particular 40 acres of his farm lying within the boundaries of the District. As affiant understands the position of the District, the District will prevent him from receiving more than 40/285 (approximately

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APR 19 1994

14%) of the storage water allocated to Right No. 34-0852C or the amount of storage that can be used on the 40 acres of his farm that is within the boundaries of the District. Even if the District permitted the use of as much of the storage water as could possibly be used on the 40 acres, it would not be possible for affiant to receive and use the entire 1993 allocation of storage water. Nor is it possible for water to be conveyed through affiant's farm irrigation system in any manner to isolate the particular 40 acres so that none of the storage water goes to any other portion of affiant's farm.

5. Affiant has viewed this position of the District as totally inconsistent with the historical facts and the exercise of common sense. He has met with the board several times to try to understand the reasoning and what might be done to correct the situation. Finally, only several days ago, it was pointed out to affiant that the legal reason the District cannot permit use of the storage water, except on the 40 acres, is that the Director's Report includes within the place of use for the storage rights held by the District, only that particular 40 acres of his farm. Affiant has been advised that the only way to rectify the mistake that is so obvious to him is to object to the place of use shown in the Director's Report for the storage rights claimed by the District and to ask the

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APR 19 1994

court to add to that place of use the remainder of affiant's farm which has historically benefited from the use of the storage water allocated to his Water Right No. 34-0852C. Affiant realizes that the deadline for filing objections has passed, but affiant was unaware that there was even any problem until well into this 1993 irrigation season, and after the deadline for filing objections had come and gone. Even after learning that the District would not deliver the storage water as it had historically done, it has taken affiant some time and effort to understand the reason and what might be done to remedy the problem. Affiant therefore has determined to petition this court to exercise its equitable powers and permit affiant to file a late objection to the place of use shown on the storage rights in the name of the Big Lost River Irrigation District, which appear to be Rights Nos. 34-00012, 34-00013, 34-02507, and 34-10873, or one or more of them, so that the place of use for such storage rights is consistent with the place of use for affiant's natural flow right, No. 34-0852C.

6. On information and belief, affiant alleges that there will be no harm or prejudice to anyone if such leave to file late objections is granted. There are many pending objections to the Director's Report, all of which need to be resolved, and any added burden created by the allowance of affiant's proposed

late objection would be de minimus, while permission granted to
affiant's request would allow justice to be served.

DATED this 22 day of July, 1993.

Jay V. Jensen
JAY V. JENSEN

SUBSCRIBED and sworn to before me this 22 day of
July, 1993.

(SEAL)

Rudolph R. Bailey
Notary Public for Idaho
Residing at Arco, Idaho
My Commission Expires: 4-21-1999

CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, resident of and with my office in Idaho Falls, Idaho; that I served a copy of the following described pleading or document on the attorneys listed below by hand delivering or by mailing, with the correct postage thereon, a true and correct copy thereof on this 27th day of July, 1993.

Document Served:

AFFIDAVIT OF JAY V. JENSEN
IN SUPPORT OF MOTION FOR LEAVE
TO FILE LATE OBJECTION

Attorneys Served:

David B. Shaw, Chief
Adjudication Bureau
IDAHO DEPT. OF WATER RESOURCES
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720

(6 COPIES)

Clive Strong
Office of the Idaho
Attorney General
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Boise, Idaho 83720

(1 COPY)

Peter G. Monson
Indian Resources Section
ENVIRONMENT & NATURAL
RESOURCES DIVISION
P.O. Box 44378
Washington, DC 20026-4378

(1 COPY)

Court Certificate of Mailing
(Attached)



Kent W. Foster
HOLDEN, KIDWELL, HAHN & CRAPO

#3354.00
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Department of Water Resources
Adjudication Bureau

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Attorneys for Jay V. and DeAnn Jensen

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 Drainage)
Basin Water System)
_____)

Case No. 39576

The State of Idaho, ex rel.)
R. Keith Higginson in his)
official capacity as director)
of the Idaho Department of)
Water Resources,)
_____)

AFFIDAVIT OF
RODNEY W. SMITH

Petitioner,)
_____)

vs.)
_____)

United States; State of Idaho;)
and all unknown claimants to)
the use of water from the)
Snake River Drainage Basin)
Water System,)
_____)

Respondents.)
_____)

STATE OF IDAHO)
County of Bonneville) ss.
_____)

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APR 19 1994

RODNEY W. SMITH, being first duly sworn upon his oath,
deposes and states:

1. Affiant currently resides at 2532 West ¹²⁵⁴⁰~~1040~~ South,
Riverton, Utah 84065, and his home telephone number is
(801) 254-0244.

2. Affiant is the former owner and operator of a farm in
Butte County, Idaho, containing some 315 acres of irrigated
land located in Sections 13 and 24 of Township 3 North, Range
26 E.B.M., which is now owned and operated by Jay V. and DeAnn
Jensen.

3. Affiant owned and operated said farm during the
irrigation seasons of 1974 through 1985. Affiant recalls that
one of the water rights appurtenant to much of this farm was a
decreed right to waters of Big Lost River in the amount of 3.2
cfs with a priority of June 1, 1894, and which is identified as
Right No. 34-0852C.

4. In connection with the above-referenced decreed water
right, a certain amount of storage water from Mackay Reservoir
was also allocated each irrigation season by Big Lost River
Irrigation District for use upon the same land where water
diverted pursuant to the decreed right was used. The amount of
such storage so allocated each year was approximately 7,500
"inches" (Big Lost River Irrigation District never quantified
the storage in acre-feet, but rather in 24-hour miner's

inches). This storage water was delivered each year in addition to water diverted pursuant to the decreed right, and was used by affiant in the irrigation of his entire farm, not just a 40 acre parcel, except for the first two years, 1974 and 1975, when no storage water was used because it was not needed by affiant.

DATED this 27th day of July, 1993.



RODNEY W. SMITH

SUBSCRIBED and sworn to before me this 27th day of July, 1993.



Notary Public for Idaho
Residing at _____
My Commission Expires: _____

(SEAL)



CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, resident of and with my office in Idaho Falls, Idaho; that I served a copy of the following described pleading, or document on the attorneys listed below by hand delivering or by mailing, with the correct postage thereon, a true and correct copy thereof on this 27th day of July, 1993.

Document Served:

AFFIDAVIT OF
RODNEY W. SMITH

Attorneys Served:

David B. Shaw, Chief
Adjudication Bureau
IDAHO DEPT. OF WATER RESOURCES
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720

(6 COPIES)

Clive Strong
Office of the Idaho
Attorney General
Room 210, Statehouse
Boise, Idaho 83720

(1 COPY)

Peter G. Monson
Indian Resources Section
ENVIRONMENT & NATURAL
RESOURCES DIVISION
P.O. Box 44378
Washington, DC 20026-4378

(1 COPY)

Court Certificate of Mailing
(Attached)



Kent W. Foster
HOLDEN, KIDWELL, HAHN & CRAPO

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Department of Water Resources
Adjudication Bureau

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)

Case No. 34-00012

The State of Idaho, ex rel.)
R. Keith Higginson in his)
official capacity as Director)
of the Idaho Department of)
Water Resources,)

RESPONSE TO OBJECTION

I. GENERAL INFORMATION

1. Person responding to objection:

Name: Big Lost River Irrigation District
Address: P.O. Box 205
Mackay, Idaho 83251

Briefly describe your interest in this water right:

This water right was decreed to The Utah Construction Company in Utah Construction Co. v. Abbott, Equity No. 222, D.E. Id. 1923, and was subsequently transferred to BLRID for use on lands within the district as provided by §43-316, Idaho Code.

2. Person who filed objection:

Name: Arthur W. Quist
Address: Route 1, Box 203
Arco, Idaho 83213

3. If this response is filed by an attorney:

Attorney Name: Roger D. Ling
Attorney Address: P.O. Box 396
Rupert, Idaho 83350
Attorney Phone No.: (208) 436-4717

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MAY 10 1990

II. STATEMENT OF THE RESPONSE

Please check each "box" which identifies your response.

1. ☐ Name and Address: I respond to the objection concerning the name and/or address of the owner of the water right.
2. ☐ Source: I respond to the objection concerning the source of water.
3. ☐ Quantity: I respond to the objection concerning:
 - 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 respond to the objection concerning the priority date.
5. ☐ Points of Diversion: I respond to the objection concerning the legal description of the point(s) of diversion.
6. ☐ Instream Flow: I respond to the objection concerning the legal description of the beginning and ending points of the instream flow.
7. ☐ Purpose(s) of Use: I respond to the objection concerning the purpose(s) of use.
8. ☐ Period of Year: I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.
9. ☒ Place of Use: I respond to the objection concerning:
 - 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 respond to the objection

11. concerning the annual volume of consumptive use.
Remarks: I respond to the objection concerning the "remarks" listed with the water right.
12. x Water Right Recommendation: I respond to the objection concerning:
- a. x this water right being recommended at all;
 or
- b. this water right not being recommended.
13. x Description of Reservation: I respond to the objection concerning the legal description of the reservation.
14. x Other: I respond to the objection concerning:

REASONS SUPPORTING EACH BOX CHECKED

See Exhibit "A" attached hereto and made a part hereof as though fully set forth herein.

CHANGES TO THE DIRECTOR'S REPORT

No changes as they may relate to this water right and objection to which this response is filed.

Please note that you should attach copies of documents which support your response. 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

STATE OF IDAHO

County of Minidoka

Roger D. Ling, being first duly sworn, upon oath, deposes and says:

That I am the person or entity filing this response, that I am a water claimant or party in this proceeding, as defined by I.C., §42-1401A(1) and (7), 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.

Big Lost River Irrigation Dist.
Signature of person filing
response

By:

Roger D. Ling

SUBSCRIBED AND SWORN to before me this 22nd day of June, 1993.

Rene A. Hamm
Notary Public for Idaho
Residing at: Burley, ID
My Commission Expires: 9-13-97

CERTIFICATE OF MAILING

I hereby certify that on the 22nd day of June, 1993, 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:

Name: Big Lost River Irrigation District
Address: P.O. Box 205
Mackay, Idaho 83251

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:

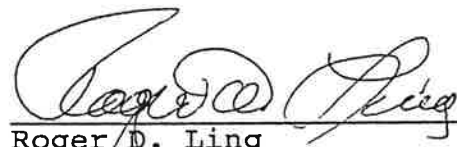
Name: Arthur W. Quist
Address: Route 1, Box 203
Arco, Idaho 83213

4. One copy to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

5. One copy to:

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



Roger D. Ling
Attorney for Respondent

VNS 10 10

EXHIBIT "A"

To Response to Objection, Case No. 34-00012

REASONS SUPPORTING EACH BOX CHECKED

Paragraph 9(a) of Objection:

The legal description of the place of use found in the Director's Report shows the lands that have been included within Big Lost River Irrigation District. All of the water rights of the Irrigation District are held for use on lands within the District, including the objector's lands, to the extent his lands are located within the Irrigation District. The Irrigation District is not required to own the lands that are included within the District to hold a water right for those lands.

Paragraph 12 of Objection:

It is impossible to determine the nature of this objection, that is, whether or not Mr. Quist objects to the water right being recommended or objects to some other water right not being recommended. One of the reasons supporting this objection was stated to be that it is a limited right for storage purposes only. However, any water right for storage purposes must show the place of use, as the Director's Report has done and is consistent with the claim of Big Lost River Irrigation District. Big Lost River Irrigation District holds title to this water right pursuant to Section 43-316, Idaho Code. The objector, as an owner of land within the irrigation district, acquires the right to use water from the irrigation district on those lands but does not acquire the rights of an appropriator, but only the rights of a user or consumer as distributee of water under §§ 4 and 5 of Article 15 of the Constitution of the State of Idaho. See Nampa and Meridian Irrigation Dist. v. Barclay, 56 Idaho 13, 47 P.2d 916 (1935); Jensen v. Boise-Kuna Irrigation District, 75 Idaho 133, 269 P.2d 755 (1954).

Paragraph 13 of Objection:

There is no reserved water right claimed and there is no basis for this objection.

Paragraph 14 of Objection:

As there is no specific statement as to the objection under this objection number, it is impossible to respond. However, the reasons for checking this objection appear to be some question as to the place of use. It is admitted

that for the purposes of paying off the bonds used to purchase the storage rights, storage water was apportioned to particular lands within the District. However, that indebtedness has been paid by the Irrigation District. Storage water is allowed to be transferred within the District to lands that were not originally apportioned storage water, or for the purposes of increasing the storage water deliverable to lands. There is no basis for this objection. Storage water of the Irrigation District is held for the benefit of the lands within the District and such storage water is appurtenant to those lands as a supplemental water supply, and distribution of the storage water to lands within the District is under the control of the Irrigation District, and not the individuals except as to their rights as landowners owning lands within the Irrigation District.

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JUN 22 1993

Department of Water Resources
Adjudication Bureau

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)

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R. Keith Higginson in his)
official capacity as Director)
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RESPONSE TO OBJECTION

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2. Person who filed objection:

Name: United States of America
Bureau of Land Management

Address: U.S. Department of Interior
Idaho State Office
3380 Americana Terrace
Boise, Idaho 83706

3. If this response is filed by an attorney:

Attorney Name: Roger D. Ling
Attorney Address: P.O. Box 396
Rupert, Idaho 83350
Attorney Phone No.: (208) 436-4717

RESPONSE TO OBJECTION - 1

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II. STATEMENT OF THE RESPONSE

Please check each "box" which identifies your response.

1. ☐ Name and Address: I respond to the objection concerning the name and/or address of the owner of the water right.
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3. ☒ Quantity: I respond to the objection concerning:
 - 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 respond to the objection concerning the priority date.
5. ☐ Points of Diversion: I respond to the objection concerning the legal description of the point(s) of diversion.
6. ☐ Instream Flow: I respond to the objection concerning the legal description of the beginning and ending points of the instream flow.
7. ☐ Purpose(s) of Use: I respond to the objection concerning the purpose(s) of use.
8. ☐ Period of Year: I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.
9. ☐ Place of Use: I respond to the objection concerning:
 - a. ☐ the legal description of the place of use; or
 - b. ☐ the number of irrigated acres within each forty (40) acre subdivision.

10. x Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.
11. Remarks: I respond to the objection concerning the "remarks" listed with the water right.
12. x Water Right Recommendation: I respond to the objection concerning:
- a. x this water right being recommended at all;
or
- b. this water right not being recommended.
13. Description of Reservation: I respond to the objection concerning the legal description of the reservation.
14. Other: I respond to the objection concerning:

REASONS SUPPORTING EACH BOX CHECKED

See Exhibit "A" attached hereto and made a part hereof as though fully set forth herein.

CHANGES TO THE DIRECTOR'S REPORT

No changes as they may relate to this water right and objection to which this response is filed.

Please note that you should attach copies of documents which support your response. 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

STATE OF IDAHO

County of Minidoka

Roger D. Ling, being first duly sworn, upon oath, deposes and says:

That I am the person or entity filing this response, that I am a water claimant or party in this proceeding, as defined by I.C., §42-1401A(1) and (7), 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.

Big Lost River Irrigation Dist.
Signature of person filing
response

By: Roger D. Ling
Roger D. Ling

SUBSCRIBED AND SWORN to before me this 22nd day of June, 1993.

Rene A. Hamer
Notary Public for Idaho
Residing at: Burley, ID
My Commission Expires: 9-13-97

CERTIFICATE OF MAILING

I hereby certify that on the 22nd day of June, 1993, 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:

Name: Big Lost River Irrigation District
Address: P.O. Box 205
Mackay, Idaho 83251

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:

Name: United States of America
Bureau of Land Management

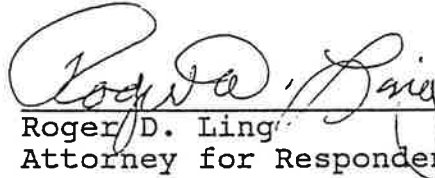
Address: U.S. Department of Interior
Idaho State Office
3380 Americana Terrace
Boise, Idaho 83706-2544

4. One copy to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

5. One copy to:

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



Roger D. Ling
Attorney for Respondent

EXHIBIT "A"

To Response to Objection, Case No. 34-00012

REASONS SUPPORTING EACH BOX CHECKED

Response to Paragraph 3(a):

There is no basis given for this Objection. This water right is for water storage, and is measured by acre-feet, and not cubic feet per second.

Response to Paragraph 3(b)

There is no basis for this Objection. The water is stored on lands owned by Big Lost River Irrigation District. The water stored is necessary for the irrigation of lands within the irrigation district.

Response to Paragraph 4:

There is no basis given for this Objection. This is a decreed right that was transferred to Big Lost River Irrigation District, and there is no dispute as to the priority date of that decreed right for the purposes of storing water for use on lands within Big Lost River Irrigation District.

Response to Paragraph 10:

There is no basis by which the objector supports this Objection. The annual volume of consumptive use is based upon the crops grown in this area that are irrigated with the water stored under this right.

Response to Paragraph 12(a):

Objector has submitted no basis upon which this water right should not have been recommended by the Director in the Director's Report. These waters are waters of the State of Idaho and do not belong to the United States of America. The lands upon which the water is stored are owned by Big Lost River Irrigation District. The fact that any of the water stored under this right arises on lands owned by the United States does not alter the fact that the waters belong to the State of Idaho and are subject to appropriation by the claimant for a beneficial use. The allegation that Big Lost River Irrigation District is not the exclusive beneficial user of the water requires further explanation, as it is impossible to determine what water is being referred to. Claimant denies that this objector has

stated any basis upon which claimant's water right should not be recommended to be included in the Director's Report.

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

Case No. 34-00012
(You must insert the
water right number you
are objecting to)

The State of Idaho, ex rel.
R. Keith Higginson in his
official capacity as Director
of the Idaho Department of
Water Resources,

OBJECTION

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.

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in the Director's Report. You may object to one water right per objection form. The water right number you are objecting to must be indicated above in the blank space following "Case No." 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, as long as it is identical to the court's form. You must file your objection by the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

Any party physically filing 25 (twenty-five) or more objections must make an appointment with the Clerk of the Adjudication Court and arrange for an appointment to file multiple objections.

(Over)

OBJECTION - 1

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V.B. 1773

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 that it is not filed for any improper purpose, such as to harass, cause unnecessary delay or needless increase in the cost of litigation.

I. GENERAL INFORMATION

Please fill in the following information:

1. Person objecting:

Name: Young Harvey Walker

Address: Rt. 1 Box 200

Arco, Idaho 83213

Briefly describe your interest in this water right:

District Court of the Seventh

Judicial District In and For

the County of Butte

Case No. 14-90

2. Owner of the water right:

Name: Big Lost River Irrigation District

Address: P.O. Box 205

Mackay, Idaho 83251

3. 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.

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.

(Over)

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.

12-A District Court Seventh Judicial District of the

State of Idaho County of Butte Case # 14-90

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.

MEMORANDUM Decision

CASE # 14-90

Bottle County

26 Pages

VERIFICATION (Must be Completed)

State of Idaho

County of Bottle

Young H. Walker, being first duly
(Name of person filing objection)
sworn, upon oath, deposes and says:

That I am the person or entity filing this objection, that I am a water claimant or party in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and that I have read the foregoing objection, know its contents and that the statements contained therein are true to the best of my knowledge and belief.

Young H. Walker
Signature of person filing objection

By: _____
(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 22nd day of Feb,
1993.

[Signature]
Notary Public for State of Idaho
Residing at: Arco, ID
My Commission expires: 8-20-93

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 the owner of the water right, if other than yourself; to the Office of the Attorney General, State of Idaho; and to the United States Department of Justice, as set out below in the Certificate of Mailing. Finally, you must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I hereby certify that on the 24 day of FEBRUARY, 1993, I mailed the original and copies of the foregoing objection, 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:

Owner name:

Owner's address:

Big Lost River Irrigation District
P.O. Box 205
Mackay Idaho 83251

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

Young H. Waller
Signature of Objector or attorney
mailing on Objector's behalf

RECEIVED

JUN 2 2 1993

Department of Water Resources
Adjudication Bureau

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)

Case No. 34-00012

The State of Idaho, ex rel.)
R. Keith Higginson in his)
official capacity as Director)
of the Idaho Department of)
Water Resources,)

RESPONSE TO OBJECTION

I. GENERAL INFORMATION

1. Person responding to objection:

Name: Big Lost River Irrigation District
Address: P.O. Box 205
Mackay, Idaho 83251

Briefly describe your interest in this water right:

This water right was decreed to The Utah Construction Company in Utah Construction Co. v. Abbott, Equity No. 222, D.E. Id. 1923, and was subsequently transferred to BLRID for use on lands within the district as provided by §43-316, Idaho Code.

2. Person who filed objection:

Name: Young Harvey Walker
Address: Route 1, Box 200
Arco, Idaho 83213

3. If this response is filed by an attorney:

Attorney Name: Roger D. Ling
Attorney Address: P.O. Box 396
Rupert, Idaho 83350
Attorney Phone No.: (208) 436-4717

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VER 1.1.00

II. STATEMENT OF THE RESPONSE

Please check each "box" which identifies your response.

1. ☒ Name and Address: I respond to the objection concerning the name and/or address of the owner of the water right.
2. ☐ Source: I respond to the objection concerning the source of water.
3. ☐ Quantity: I respond to the objection concerning:
 - 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 respond to the objection concerning the priority date.
5. ☐ Points of Diversion: I respond to the objection concerning the legal description of the point(s) of diversion.
6. ☐ Instream Flow: I respond to the objection concerning the legal description of the beginning and ending points of the instream flow.
7. ☐ Purpose(s) of Use: I respond to the objection concerning the purpose(s) of use.
8. ☐ Period of Year: I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.
9. ☐ Place of Use: I respond to the objection concerning:
 - 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 respond to the objection concerning the annual volume of consumptive use.

11. Remarks: I respond to the objection concerning the "remarks" listed with the water right.
12. x Water Right Recommendation: I respond to the objection concerning:
- a. x this water right being recommended at all;
or
- b. this water right not being recommended.
13. Description of Reservation: I respond to the objection concerning the legal description of the reservation.
14. Other: I respond to the objection concerning:

REASONS SUPPORTING EACH BOX CHECKED

See Exhibit "A" attached hereto and made a part hereof as though fully set forth herein.

CHANGES TO THE DIRECTOR'S REPORT

No changes as they may relate to this water right and objection to which this response is filed.

Please note that you should attach copies of documents which support your response. 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

STATE OF IDAHO

County of Minidoka

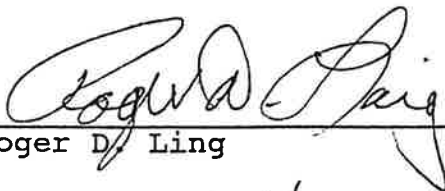
Roger D. Ling, being first duly sworn, upon oath, deposes and says:

That I am the person or entity filing this response, that I am a water claimant or party in this proceeding, as defined by I.C., § 42-1401A(1) and (7), 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.

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APR 19 1994

Big Lost River Irrigation Dist.
Signature of person filing
response

By: 
Roger D. Ling

SUBSCRIBED AND SWORN to before me this 22nd day of June,
1993.


Notary Public for Idaho
Residing at: Burley, ID
My Commission Expires: 9-13-99

CERTIFICATE OF MAILING

I hereby certify that on the 22nd day of June, 1993, 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:

Name: Big Lost River Irrigation District
Address: P.O. Box 205
Mackay, Idaho 83251

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:

Name: Young Harvey Walker
Address: Route 1, Box 200
Arco, Idaho 83213

4. One copy to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

5. One copy to:

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



Roger D. Ling
Attorney for Respondent

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APR 19 1994

912 11 1994

EXHIBIT "A"

To Response to Objection, Case No. 34-00012

REASONS SUPPORTING EACH BOX CHECKED

Paragraph 1 of Objection:

Although this paragraph was not marked, the objector Young Harvey Walker appears to object to the Director's Report which shows that this water right is owned by Big Lost River Irrigation District. This water right was clearly purchased and transferred to Big Lost River Irrigation District and is held by Big Lost River Irrigation District as provided by §43-316, Idaho Code. Objector, as a landowner within Big Lost River Irrigation District, may have the right to use water from Big Lost River Irrigation District, but is not the owner of the appropriation and has not acquired the rights of an appropriator, but only rights of a user or consumer as distributee of water under §§ 4 and 5 of Article 15 of the Constitution of the State of Idaho. See Nampa and Meridian Irrigation Dist. v. Barclay, 56 Idaho 13, 47 P.2d 916 (1935); Jensen v. Boise-Kuna Irrigation Dist., 75 Idaho 133, 269 P.2d 755 (1954).

Paragraph 12(a) of Objection:

There is insufficient basis within the Objection to determine a reason for said Objection. Objector relies upon purported findings of fact and conclusions of law in the case of Young Harvey Walker v. Big Lost River Irrigation Dist., Case No. 14-90 filed in the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Butte. The Judgment in this case was reversed by the Supreme Court of the State of Idaho filed June 16, 1993. As there is no basis for the Objection, the Objection should be overruled and denied in all respects.

MYLES E. FLINT
Acting Assistant Attorney General
Environment and Natural Resources Division

K. JACK HAUGRUD
DARIA J. ZANE
Attorneys, Department of Justice
General Litigation Section
Environment and Natural Resources Division
P.O. Box 663
Washington, D.C. 20044-0663
(202) 272-4134
(202) 272-8351

RECEIVED

JUN 21 1993

Department of Water Resources
Adjudication Bureau

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,)

v.)

The United States;)
the State of Idaho;)
and all claimants to the use)
of water from the Snake River)
Basin Water System,)

Respondents.)

Sub-Case No.
34-00012

UNITED STATES' NOTICE
OF WITHDRAWAL OF OBJECTION

The United States hereby withdraws its objection to
water right number 34-00012. The United States has no objection
to the specific elements of this water right being decreed as
recommended in the Director's Report for this Reporting Area.

MICROFILMED

APR 19 1994

Respectfully submitted June 18, 1993.


K. Jack Haugrud
Daria J. Zane
Attorneys, Department of Justice
Environment and Natural Resources
Division
General Litigation Section
P.O. Box 663
Washington, D.C. 20044-0663
(202) 272-4134

CERTIFICATE OF SERVICE

I certify that on June 18, 1993, I caused the foregoing Notice to be mailed to the following persons, postage prepaid and addressed as follows:

1. Original to:

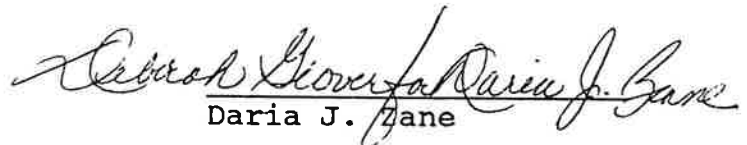
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

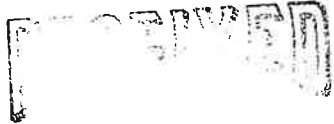
2. One copy to the claimant of the water right:

Big Lost River Irrigation District
P.O. Box 205
Mackay, Idaho 83251

3. One Copy to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 4449
Boise, Idaho 83711-4449


Daria J. Zane



AUG 15 1994

Department of Water Resources
Eastern District Office

8-10-94 Per Q. Seifert,
changed only

SIMMS & STEIN, P.A.
102 Aspen Lakes Drive
P.O. Box 280
Hailey, ID 83333
(208) 788-9145

34-02277,
✓ -10490,
✓ -12431 and
✓ 12432
08-10-94
S. Shuman

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

Case No. 39576

)
)
) NOTICE OF APPEARANCE
)
)

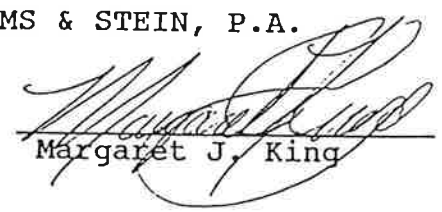
COMES NOW the firm of Simms & Stein, P.A., and hereby
enters an appearance for ARTHUR W. QUIST, subcase numbers attached.

All further pleadings, notices, and correspondence of any
kind filed hereafter in this matter should be sent to Simms &
Stein, P.A., P.O. Box 280, Hailey, Idaho 83333.

DATED this 26 day of May, 1994.

SIMMS & STEIN, P.A.

By:


Margaret J. King

ARTHUR W. QUIST

SUBCASE NUMBERS:

34 00012

34 00013

~~34 02277~~✓

34 02507

~~34 10490~~✓

34 10873

34 12388

~~34 12431~~✓

~~34 12432~~✓

CERTIFICATE OF MAILING

The undersigned certifies that on the 26 day of May, 1994, a true and correct copy of the above and foregoing Notice of Appearance was served on the following persons by depositing true and correct copies thereof in the United States Mail, first class postage prepaid, or personally delivering the same, addressed as follows:

Clerk of the SRBA Court (original)
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

Chief, Natural Resources Division (1)
Office of Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

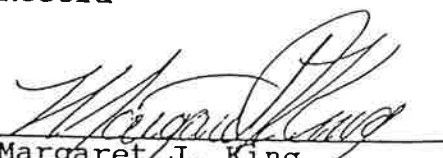
The United States Department of Justice (1)
Environment and Natural Resources Division
550 West Fort Street, Box 33
Boise, ID 83734

Big Lost River Irrigation District
Roger D. Ling, Attorney of Record
P.O. Box 396
Rupert, ID 83350

Jay V. Jensen
Kent W. Foster, Attorney of Record
P.O. Box 50130
Idaho Falls, ID 83405

Young Harvey Walker
Randall C. Budge, Attorney of Record
P.O. Box 1391
Pocatello, ID 83201-1391

Big Lost River Water Users Association
William R. Hollifield, Attorney of Record
P.O. Box 66
Twin Falls, ID 83303


Margaret J. King