

Department of Water Resources

1. My present position is that of Water Rights Specialist for the United States, Department of Interior, Bureau of Land Management (hereinafter “BLM”), Idaho State office. My current responsibilities include coordinating the BLM’s efforts for the Snake River Basin Adjudication (hereinafter “SRBA”) in Idaho. In that capacity, I provide guidance and technical support to the

State Director, Field Office Managers, and technical specialists in BLM field offices, particularly those specialists working in water rights and related issues. I assist in the development of agency policy in Idaho on water issues and in other programs affected by water rights, such as the range management and realty programs. I also review, interpret and analyze water rights claims for preparing opinions, recommendations, objections and other SRBA documents to the Department of Justice.

2. I have been employed by the BLM since 1982 in the following positions:

- a. Eleven and a half years in various positions within the Rangeland Firefighting Program at the BLM, Shoshone Field Office. I spent 12 months working on that office's water rights team to develop and create 5,500 BLM claims;
- b. Since August of 1993 as a Water Rights Specialist in the BLM, State Office;

3. My experience with water rights is as follows:

- a. My eleven and a half years in BLM's fire program required that I have the ability to understand and interpret maps, legal land descriptions, and Range Improvement Project Files. I was routinely required to:
  - travel to remote fire locations with just a map;
  - map the position and extent of fires for which I was responsible;
  - locate, construct and maintain range improvements (including but not limited to: spring developments, pipelines and fences), and to supplement the range improvement project files.
  - I taught several courses to new employees in interpreting maps and BLM Master Title Plats (hereinafter "MTP"), as well as, in the use of a compass.

- In my work with the BLM, I have been responsible for tasks requiring an ability to interpret: maps, legal land descriptions, and water claims, including the preparation, mapping and review of 5,500 SRBA water right claims for BLM.
- In my work with the BLM, I have reviewed hundreds of Range Improvement Project Files for the purpose of locating the project, to determine when it was constructed, whether it was completed, whether it is still functional, to identify candidates for filing SRBA water claims, and to capture certain types of projects into the Geographic Information Systems (i.e. computer mapping system).

b. As a Water Rights Specialist in the BLM State Office, it is my responsibility to provide guidance and direction to Idaho BLM offices in all matters relating to water rights, and make recommendations to the Department of Justice. My experience with water rights in my present position is as follows:

- I develop policy for BLM across several programs to deal with water issues, such as the range management and realty programs.
- -I have reviewed tens of thousands of legal land descriptions represented in Points of Diversion (hereinafter "POD") and Places of Use (hereinafter "POU") that were published in SRBA Director's Reports to determine land ownership. I have reviewed hundreds of deeds to determine who owned what land descriptions.
- I've prepared over a thousand revised water right descriptions for use with the SRBA Standard Form 5 (hereinafter "SF-5") to resolve objections involving the BLM.
- I provide advice, guidance and direction to BLM field office personnel as to investigating and preparing claims, how to interpret water rights and how they relate to other water rights.

- For hundreds of subcases, I have made determinations whether multiple claims exist for the same source and what the nature of their relationship is to each other.
- I have reviewed hundreds of Range Improvement Project Files for the purpose of locating the project, to determine when it was constructed, whether it was completed, if it is still functional, who contributed to the construction and in what amounts, and to determine whether water is present and in what amounts.
- I developed the investigative criteria to be used for BLM field offices to investigate water sources for claims preparation and for objection purposes. I have reviewed thousands of field investigations conducted by BLM. I have also performed investigations of water rights in the field.
- I have gained extensive experience with and knowledge of a wide range of government files, documents, records management, records retention, and archives since starting to work for BLM in 1982. I have reviewed, interpreted, and made determinations from the review of over a thousand Master Title Plats (hereinafter "MTP") and Historical Indexes (hereinafter "HI").
- I have reviewed, interpreted and made determinations from thousands of official business records of the State of Idaho that are maintained by the Idaho Department of Water Resources (hereinafter "IDWR") comprising water right files and adjudication files.
- I routinely provide technical assistance, reports, recommendations and opinions to the Department of Justice concerning all the above matters.

3. At the request of counsel for the United States, I have reviewed the official business records of BLM and the IDWR that are associated with, related to, or have a bearing upon the

SRBA water right claims represented by the captioned subcases and have made the following determinations.

4. All of the captioned subcases are “dual” claims based upon state and federal law. The federal basis was claimed pursuant to an Executive Order dated April 17, 1926 and known as Public Water Reserve 107 (hereinafter “PWR 107”). The state law basis asserts a June 28, 1934 priority date as a historic beneficial use. I verified the claim basis by reviewing BLM claim files and IDWR Director’s Report recommendations for each subcase number.

5. The captioned subcases are BLM water right claims to waterholes (i.e. natural playas). The source element for each of the captioned subcases is listed as “playa,” except as follows. I verified the nature of the source element for each of the captioned subcases by review of BLM’s claim files, field investigations, and the IDWR Director’s Report recommendations.

**a. Subcase 51-11950:**

The source of water under 51-11950 is described as Horse Lake. From my review of the BLM claim file and field investigation, Horse Lake is the name given to a large natural playa that resides within two forty acre tracts.

6. The Master Title Plats (hereinafter “MTP”) are official business records of the United States that identify United States’ property and its status. The MTP is the United States’ official Record of Title. It is a graphic display of township survey data, and are drafted from information abstracted, compiled, and composed from the latest approved U.S. Government Survey Plats, survey field notes, and protraction diagrams. It describes the locations of United States property, aliquot parcels, and government surveyed “lots.”

Historical Indexes (hereinafter “HI”) are official business records of the United States that maintain a timeline of events occurring on United States property.

I have reviewed the MTPs and HIs associated with the captioned subcases and have made the following determinations:

- a. The federal public domain containing the water sources asserted in the captioned subcases were located on unreserved federal public domain as of April 17, 1926; and this land currently remains under Department of Interior administration.
  - b. There has been no attempt by private parties to homestead or otherwise acquire the land described by the Points of Diversion in the captioned subcases.
7. The claimed water sources described by the captioned subcases were confirmed by field investigation.
8. Based upon the field verification and my review of the field investigation documents, the source of water for the captioned subcases is a waterhole (i.e. natural playa) located at the claimed Point of Diversion and Place(s) of Use.
9. Based upon the field verification and my review of the field investigation documents for the captioned subcases, there is sufficient water present at the sources described by these subcases for consumptive use by livestock.
10. At the request of counsel, I was asked to determine whether there were any claims asserted by non-federal entities to the sources described in the captioned subcases. I researched each Point of Diversion using IDWR's web based data system and was able to determine that there are no non-federal entities who have claimed the sources described within the captioned subcases, except as follows. My research would have revealed any claims on record with IDWR, including claims filed in the SRBA and "administratively" (i.e. applications, permits and licenses not filed in the SRBA).

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a. 51-11950:

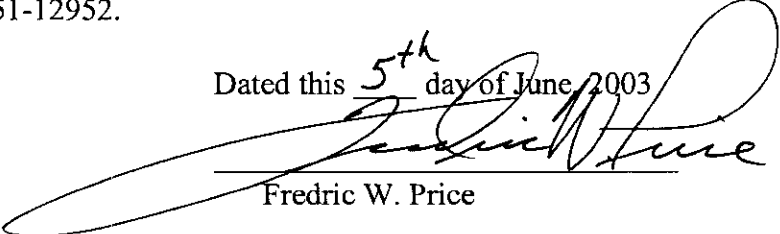
BLM water right claim 51-11950 is a claim to a waterhole named Horse Lake located in the NWNENE, Section 5, T.16S., R.10E.

Review of IDWR and SRBA Court records show that Brackett Livestock, Inc. received a partial decree on March 6, 2003 to Horse Lake located in the same forty acre tract under 51-12963 with a May 5, 1899 beneficial use priority date.

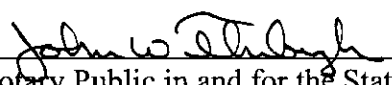
Brackett Livestock, Inc. also received a partial decree on March 6, 2003 to the portion of Horse Lake that resides within an adjoining forty acre tract (SESE, Section 32, T.15S., R.10E.) under 51-12962 with a January 1, 1871 beneficial use priority date.

Both Brackett Livestock, Inc. water rights, 51-12962 and 51-12963, are limited to a total combined diversion rate of 0.02 cfs. These two rights were created from an SF-5 (amended claim) that split subcase 51-12952.

Dated this 5<sup>th</sup> day of June 2003

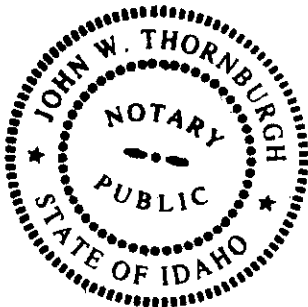
  
Fredric W. Price

On this 5<sup>TH</sup> day of June 2003, before me John W. Thornburgh notary public, personally appeared Fredric W. Price, personally known to me to be the person whose name is subscribed to this instrument, and acknowledged that he executed the same.

  
Notary Public in and for the State of Idaho

Residing at: Boise

My Commission Expires: 5/16/2009



## CERTIFICATE OF SERVICE

I certify that on June 5, 2003, I served a true and correct copy of foregoing **AFFIDAVIT OF FREDRIC W. PRICE; SUBCASE NUMBER(S): 51-11907, 51-11911, 51-11950, 51-11980, 51-12088, 51-12091, 51-12108, 51-12114, AND 51-12117** upon the following individuals by placing the document in the United States Mail in Boise, Idaho, postage paid, 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

- Hand delivered original to Special Master Cushman's office in Boise.  
- Faxed a copy to District Court in Twin Falls.

2. Copy to:

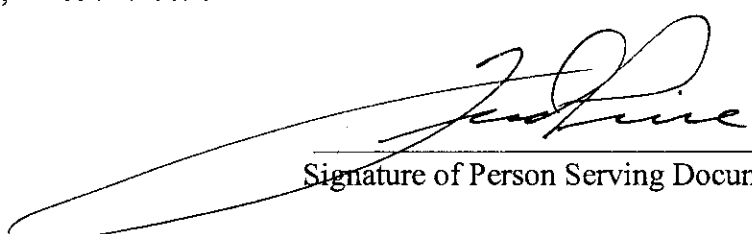
U.S. Department of Justice  
General Litigation Section  
Environment and Natural Resources Div  
550 West Fort Street, MSC 033  
Boise, ID 83724

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

- also by fax

IDWR Document Depository  
P.O. Box 83720  
Boise, ID 83720-0098

- also by fax

  
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Signature of Person Serving Document