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MAY 20 2003

Department of Water Resources

**Names of Parties Filing Document:**

UNITED STATES OF AMERICA

**Attorneys' Names and Addresses:**

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

In Re SRBA

Case No. 39576

) Subcase Number(s): 37-14346 et al.  
) see ATTACHMENT 1  
)  
)  
)  
)  
)

**AMENDED AFFIDAVIT  
OF LISA A. JARO**

STATE OF IDAHO )

COUNTY OF LINCOLN )

ss.

I Lisa A. Jaro, being of lawful age, and having first been duly sworn, do depose and state:

1. My name is Lisa A. Jaro. I am a graduate of the University of Idaho. I received a Bachelor of Science degree in Technology of Agricultural Science in 2002. I am an employee of the U.S., Department of Interior, Bureau of Land Management. The following statements are based upon my personal knowledge. My present position is that of Natural Resource Specialist

(Water Rights) for the United States, Department of Interior, Bureau of Land Management (hereinafter "BLM"), Upper Snake River District, Shoshone Field Office, located in Shoshone, Idaho. I have extensive knowledge of, and experience with, the official business records of BLM associated with its water right claim filings in the Snake River Basin Adjudication (hereinafter "SRBA"), including but not limited to: BLM water right claim files; BLM water right field investigations; Master Title Plats (hereinafter "MTP"); Historical Indexes (hereinafter "HI"); and Control Document Index cards (hereinafter "CDI cards"). Since April 2000, I have been dealing with water rights, and I have: investigated hundreds of claims; collected, compiled and analyzed factual information and evidence for over a thousand water right claims; reviewed and analyzed official business records associated with water rights that are maintained by BLM, the Idaho Department of Water Resources (hereinafter "IDWR"), several Idaho Counties, and various federal agencies.

2. As part of my assigned duties and responsibilities since January 2003, I am responsible for coordinating the activities of BLM with the SRBA for the Shoshone Field Office of the Upper Snake River District (hereinafter "USRD"), and individually responsible for handling the water right claims made by the United States of America on behalf of BLM for the Shoshone Field Office within the USRD.

3. At the request of counsel for the United States, I am amending my previous affidavit to make certain corrections. This amended affidavit shall supercede and replace my previous affidavit in its entirety. The following is a summary of the important changes:

- a. Two subcase numbers were mistakenly included on Attachment 1 to my previous affidavit and have been removed from this affidavit: 37-16632 and 37-17349.

b. Four subcase numbers were mistakenly omitted from Attachment 1 to my previous affidavit and have been added to this affidavit: 37-16349, 37-16665, 37-16667, and 37-16669. I have researched these additional subcases and they are properly presented within this affidavit.

c. This amended affidavit corrects my previous affidavit to properly reference Attachment 1 throughout this amended affidavit.

4. At the request of counsel for the United States, I have reviewed the official business records of BLM that comprise the SRBA Water Right Claim files for the SRBA subcases listed on Attachment 1. The subcases shown in Attachment 1 are BLM water right claims to natural playa lakes (i.e. waterholes) and naturally-occurring free-flowing springs.

5. The Master Title Plats 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." I have reviewed these records and determined that the federal public domain containing the water sources asserted in SRBA claims listed on Attachment 1 were located on unreserved federal public domain as of April 17, 1926; and this land currently remains under Department of Interior administration, except as follows. The following is a summary of land acquisitions associated with certain captioned subcases.

a. **Subcase 37-15032:**

United States Homestead Entry Patent (HE Pat) 852960 was issued to Fred Lee on 3/3/1922. The United States assigned serial numbers H-021291 and

H-022039 to the entry applications that led to this patent. Subsequently, the United States reacquired this land pursuant to Corporation Warranty Deed from John Brown Incorporated on 3/12/1965. The United States assigned serial number I-014651 to this action.

b. **Subcases 37-18897 and 37-18902:**

United States Homestead Entry Patent (HE Pat) 573165 was issued to Levi G. Metcalf Jr. on 3/20/1917. The United States assigned serial numbers H-010285 and H-017714 to the entry applications that led to this patent. Subsequently, the United States reacquired this land pursuant to Corporation Warranty Deed from Struthers Incorporated on 10/19/1977. The United States assigned serial number I-12533 to this action.

c. **Subcase 37-19621:**

Land left federal ownership pursuant to State Grant, Act of Congress on 7/3/1890. It was reconveyed to the United States by a land exchange on 10/2/1991.

d. **Subcase 37-20044:**

United States Stock Raising Homestead Entry Patent (SRHE Pat) 974138 was issued to Worley N. Head on 2/8/1926. The United States assigned serial numbers BL-038387 to the entry that led to this patent. Subsequently, the United States reacquired this land pursuant to Corporation Warranty Deed from Highland Part & Parcels, Incorporated on 7/22/1992. The United States assigned Registration Opening Order number IDI-28601 to this action.

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e. **Subcase 37-20045:**

United States Homestead Entry Patent (HE Pat) 840926 was issued to Samuel T. Werry on 1/4/1922. The United States assigned serial numbers H-023550 and H-024419 to the entry applications that led to this patent. Subsequently, the United States reacquired this land pursuant to Corporation Warranty Deed from Highland Part & Parcels, Incorporated on 7/22/1992. The United States assigned Registration Opening Order number IDI-28601 to this action.

f. **Subcase 37-20199:**

Land left federal ownership pursuant to State Grant, Act of Congress 7/3/1890. An Act of Congress on 1/25/1927 extended the Act of 7/3/1890 to include Mineral lands, subject to prior rights. The United States reacquired this property pursuant to private Withdraw on 9/27/1962, and was officially restored to the United States on 6/10/1963.

g. **Subcase 37-20207:**

United States Homestead Entry Patent (HE Pat) 646564 was issued to Lee C. Swingle on 8/24/1918. The United States assigned serial number H-015332 and H-018638 to the entry applications that led to this patent. Subsequently, the United States reacquired this land pursuant to Warranty Deed from Faulkner Land and Livestock on 11/7/1991. The United States assigned serial number IDI-27542 to this action.

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**h. Subcases 37-20231 and 37-20235:**

The United States Railroad Indemnity Selection Patent (RRIS Pat) 493368 was issued to Thorn Creek Cattle Association on 7/17/1911. The United States assigned serial number H-010156 to the entry that led to this patent. The RRIS Pat was relinquished on 5/1/1912. Subsequently, the United States reacquired this land pursuant to Warranty Deed from Thorn Creek Cattle Association on 9/23/1983. The United States assigned serial number I-19367 to this action.

**i. Subcases: 37-20233 and 37-20234:**

The United States Railroad Lieu Selection Patent (RRLS Pat) 919118 was issued to Lillie B. Wing on 10/4/1923. The United States assigned serial number H-019797 to the entry that led to this patent. Subsequently, the United States reacquired this land pursuant to warranty deed from Thorn Creek Cattle Association on 9/23/1983. The United States assigned serial number I-19367 to this action.

**6.** The claimed water sources described by the subcases listed on Attachment 1 were confirmed by field investigation.

**a. Subcase 37-20119:**

The tributary described in the Director's Report is listed as Magic Reservoir. BLM objected to this claim to make the tributary description consistent with IDWR data entry standards. According to those standards, man-made structures are not to be used as tributary names. Investigation of the claim has determined that the tributary would be better described as "Big Wood River."

7. Based upon the field verification and my review of the field investigation documents, the source of water for the subcases listed on Attachment 1 is a natural playa lake (i.e. waterhole) or a free-flowing spring located at the claimed Point of Diversion and Place(s) of Use, except as follows.

a. **Subcase 37-20041:**

BLM objected to the Point of Diversion (hereinafter "POD") and the Place of Use (hereinafter "POU") description that was recommended in the Director's Report. The Notice of Claim submitted to IDWR correctly described the claim, but BLM provided an incorrect map with the notice. The POD was recommended as NWSENW, S27, T03N, R19E, but should be described in the NWSWNW. See attachments to BLM's Standard Form 1 Objection. The POU was recommended as SENW, S27, T03N, R19E, but should be described in the SWNW. See attachments to BLM's Standard Form 1 Objection.

b. **Subcase 37-20192:**

BLM objected to the Point of Diversion and the Place of Use description that was recommended in the Director's Report. The POD was recommended as SWNENE, S33, T04S, R13E, but should be described in the SWSWNW. See attachments to BLM's Standard Form 1 Objection. The POU was recommended as NENE, S33, T04S, R13E, but should be described in the SWNW. See attachments to BLM's Standard Form 1 Objection.

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8. Based upon the field verification and my review of the field investigation documents for the subcases listed on Attachment 1, there is sufficient water present at the sources described by these subcases for consumptive use by livestock.

Dated this 15 day of May, 2003

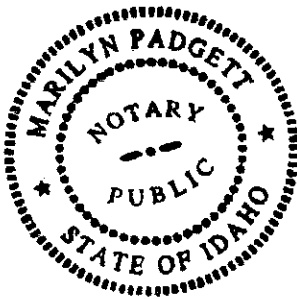
Lisa A. Jaro  
Lisa A. Jaro

On this 15 day of May 2003, before me Marilyn Padgett, a notary public, personally appeared Lisa A. Jaro, personally known to me to be the person whose name is subscribed to this instrument, and acknowledged that she executed the same.

Marilyn Padgett  
Notary Public in and for the State of Idaho

Residing at: Shoshone, ID

My Commission Expires: 7-1-06



### CERTIFICATE OF SERVICE

I certify that on May 15<sup>th</sup>, 2003, I served a true and correct copy of foregoing **AMENDED AFFIDAVIT OF LISA A. JARO; SUBCASE NUMBER(S): 37-14346 et al., together with ATTACHMENT 1** upon the following individuals by placing the document in the United States Mail in Shoshone, 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

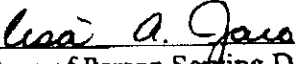
2. Copy to:

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

Norman M. Semanko  
Travis L. Thompson  
Barker, Rosholt & Simpson, LLP  
P.O. Box 2139  
Boise, Idaho 83701-2139

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

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

  
\_\_\_\_\_  
Signature of Person Serving Document

# ATTACHMENT 1

## NATURAL PLAYA LAKES

|          |          |          |          |          |
|----------|----------|----------|----------|----------|
| 37-20162 | 37-20165 | 37-20167 | 37-20169 | 37-20212 |
| 37-20163 | 37-20166 | 37-20168 | 37-20211 | 37-20259 |
| 37-20164 |          |          |          |          |

## FREE FLOWING SPRINGS

|          |          |          |          |          |
|----------|----------|----------|----------|----------|
| 37-14346 | 37-15728 | 37-16599 | 37-16721 | 37-17002 |
| 37-14353 | 37-15753 | 37-16603 | 37-16735 | 37-17302 |
| 37-14355 | 37-15914 | 37-16605 | 37-16737 | 37-17473 |
| 37-14520 | 37-15916 | 37-16607 | 37-16739 | 37-17494 |
| 37-14560 | 37-16097 | 37-16611 | 37-16741 | 37-17501 |
| 37-14573 | 37-16099 | 37-16615 | 37-16753 | 37-17522 |
| 37-14592 | 37-16118 | 37-16621 | 37-16755 | 37-17525 |
| 37-14594 | 37-16132 | 37-16623 | 37-16757 | 37-17618 |
| 37-14606 | 37-16140 | 37-16627 | 37-16759 | 37-17640 |
| 37-14618 | 37-16159 | 37-16629 | 37-16763 | 37-17688 |
| 37-14641 | 37-16162 | 37-16631 | 37-16765 | 37-17717 |
| 37-14643 | 37-16167 | 37-16633 | 37-16769 | 37-17774 |
| 37-14658 | 37-16250 | 37-16635 | 37-16781 | 37-17776 |
| 37-14687 | 37-16286 | 37-16637 | 37-16791 | 37-17858 |
| 37-14692 | 37-16300 | 37-16639 | 37-16799 | 37-17939 |
| 37-14709 | 37-16306 | 37-16641 | 37-16805 | 37-18200 |
| 37-14713 | 37-16315 | 37-16645 | 37-16807 | 37-18216 |
| 37-14718 | 37-16323 | 37-16651 | 37-16809 | 37-18226 |
| 37-14721 | 37-16345 | 37-16653 | 37-16811 | 37-18228 |
| 37-14876 | 37-16347 | 37-16655 | 37-16813 | 37-18349 |
| 37-14886 | 37-16349 | 37-16657 | 37-16825 | 37-18435 |
| 37-14900 | 37-16431 | 37-16659 | 37-16827 | 37-18498 |
| 37-14943 | 37-16434 | 37-16665 | 37-16829 | 37-18519 |
| 37-14962 | 37-16436 | 37-16667 | 37-16833 | 37-18648 |
| 37-15020 | 37-16438 | 37-16669 | 37-16835 | 37-18650 |
| 37-15023 | 37-16440 | 37-16671 | 37-16837 | 37-18845 |
| 37-15026 | 37-16442 | 37-16673 | 37-16839 | 37-18897 |
| 37-15032 | 37-16508 | 37-16675 | 37-16843 | 37-18902 |
| 37-15301 | 37-16557 | 37-16677 | 37-16845 | 37-18905 |
| 37-15333 | 37-16559 | 37-16679 | 37-16847 | 37-18907 |
| 37-15430 | 37-16565 | 37-16681 | 37-16849 | 37-19242 |
| 37-15443 | 37-16569 | 37-16685 | 37-16859 | 37-19246 |
| 37-15463 | 37-16571 | 37-16697 | 37-16992 | 37-19252 |
| 37-15474 | 37-16577 | 37-16701 | 37-16996 | 37-19256 |
| 37-15701 | 37-16579 | 37-16703 | 37-16998 | 37-19313 |
| 37-15714 | 37-16593 | 37-16705 | 37-17000 | 37-19314 |

**ATTACHMENT 1 continued**

|          |          |          |
|----------|----------|----------|
| 37-19407 | 37-20072 | 37-20189 |
| 37-19409 | 37-20073 | 37-20191 |
| 37-19580 | 37-20074 | 37-20192 |
| 37-19582 | 37-20076 | 37-20193 |
| 37-19584 | 37-20078 | 37-20195 |
| 37-19590 | 37-20079 | 37-20196 |
| 37-19595 | 37-20081 | 37-20197 |
| 37-19605 | 37-20085 | 37-20198 |
| 37-19612 | 37-20086 | 37-20199 |
| 37-19617 | 37-20087 | 37-20203 |
| 37-19621 | 37-20088 | 37-20204 |
| 37-20030 | 37-20090 | 37-20205 |
| 37-20031 | 37-20097 | 37-20206 |
| 37-20032 | 37-20098 | 37-20207 |
| 37-20033 | 37-20100 | 37-20208 |
| 37-20034 | 37-20101 | 37-20209 |
| 37-20035 | 37-20104 | 37-20218 |
| 37-20036 | 37-20105 | 37-20220 |
| 37-20037 | 37-20110 | 37-20221 |
| 37-20038 | 37-20111 | 37-20222 |
| 37-20039 | 37-20112 | 37-20223 |
| 37-20040 | 37-20113 | 37-20224 |
| 37-20041 | 37-20115 | 37-20227 |
| 37-20042 | 37-20116 | 37-20228 |
| 37-20043 | 37-20119 | 37-20230 |
| 37-20044 | 37-20120 | 37-20231 |
| 37-20045 | 37-20122 | 37-20233 |
| 37-20046 | 37-20123 | 37-20234 |
| 37-20047 | 37-20131 | 37-20235 |
| 37-20048 | 37-20133 | 37-20236 |
| 37-20049 | 37-20134 | 37-20237 |
| 37-20050 | 37-20138 | 37-20241 |
| 37-20051 | 37-20173 | 37-20242 |
| 37-20052 | 37-20174 | 37-20243 |
| 37-20053 | 37-20176 | 37-20247 |
| 37-20055 | 37-20177 |          |
| 37-20058 | 37-20178 |          |
| 37-20059 | 37-20179 |          |
| 37-20061 | 37-20182 |          |
| 37-20063 | 37-20183 |          |
| 37-20064 | 37-20186 |          |
| 37-20066 | 37-20188 |          |