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Names of Parties Filing Document:

UNITED STATES OF AMERICA

Attorneys' Names and Addresses:

THOMAS L. SANSONETTI
Assistant Attorney General
Environment and Natural Resources Division

R. LEE LEININGER
Attorney, U.S. Dept. of Justice
General Litigation Section
Environment and Natural Resources Division
550 West Fort Street, MSC 033
Boise, Idaho 83724
Ph.: (303) 312-7322 FAX: (303) 312-7379

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

In Re SRBA	)	Subcase Numbers: 67-12815, 67-12872,
	)	67-12917, 67-13072, 67-13261, 67-13281,
Case No. 39576	)	67-13281, and 69-10743
	)	
	)	**AFFIDAVIT OF FREDRIC W. PRICE**
	)	
	)	

State of Idaho)
) ss.
County of Ada)

I Fredric W. Price, being of lawful age, and having first been duly sworn, state the following:

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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 develop agency policy 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 by comparing those land descriptions to BLM's Master Title Plats and Historical Indexes. 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 BLM claim files and field investigations conducted by BLM. I have also performed investigations of water rights in

the field.

– I routinely provide technical assistance, reports, recommendations and opinions to the Department of Justice concerning all the above matters.

4. I have extensive knowledge of, and experience with, the official business records of BLM associated with its water right claim filings in the SRBA, including but not limited to: BLM water right claim files, BLM water right field investigations, Master Title Plats, Historical Indexes, and Control Document Indexes (hereinafter "CDI").

5. The Master Title Plat (hereinafter "MTP") is an official business record of BLM. The MTP is the United States' official Record of Title. It is a graphic display of township survey data, and is 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."

The Historical Index (hereinafter "HI") is an official business record of the United States that maintains a time line of events occurring on United States' property.

6. Based upon a review of BLM's SRBA water right claim files and IDWR's Director's Report recommendations, the captioned subcases are BLM "dual" claims based upon state and federal law. The federal claim basis is claimed pursuant to an Executive Order, dated April 17, 1926, and known as Public Water Reserve 107 (hereinafter "PWR 107"). The state basis is a beneficial use basis with a priority date of June 28, 1934. The 1934 date was reached through settlement with the State of Idaho.

7. At the request of counsel for the United States, I have reviewed the official business records of the BLM and Idaho Department of Water Resources (hereinafter "IDWR") for the

captioned subcases, and verified that:

a. Upon review of BLM's MTPs and HIs, I was able to determine that the captioned subcases were located on unreserved federal public domain lands as of April 17, 1926, and these lands currently remain under Department of Interior administration, except where noted below.

b. From review of BLM's water right claim files, I was able to determine that: the water sources claimed by the captioned subcases were confirmed by a physical field investigation; the location (Point of Diversion and Place of Use) of the sources is accurate; the source of water is a spring or waterhole; and the presence of water in quantities sufficient for consumption by livestock.

8. At the request of counsel for the United States, I was asked to determine whether there are any prior water rights asserted by non-federal entities to the sources associated with the captioned subcases. I researched each Point of Diversion described in each of the captioned subcases using information available on IDWR's internet web site. The web site allows searches of active water right records maintained by IDWR, including both claims filed in the SRBA and administrative filings (i.e. applications, permits and licenses not filed in the SRBA). My research revealed that there were no non-federal entities who have made claims to the water sources claimed by the captioned subcases.

9. At the request of counsel for the United States, I was asked to determine whether there were any attempts to homestead or otherwise acquire fee title to the lands described by the Points of Diversion identified in the captioned subcases. The official business records of BLM that I reviewed were the BLM SRBA claim files, MTPs and HIs. Based upon my review, I was able to

determine that there were no attempts to homestead or otherwise acquire fee title to the lands described by Points of Diversion indentified in the captioned subcases, except where noted below. The homestead entries identified below were intitiated under the authority of several different homestead acts. Each homestead entry failed and was subsequently canceled or relinquished, except where noted below.

		ENTRY TYPE	SERIAL NO.	DATE INITIATED	DATE FAILED
a.	**67-12872**	HE	B 017862	02-25-1916	07-14-1916 relinquished
		HE	B 019480	08-23-1917	03-20-1923 canceled
		HE	B 026870	06-17-1923	08-15-1925 relinquished
		SRHE	BL 044336	11-14-1930	01-19-1937 canceled

There was no active homestead entry on 04-17-1926.

b.	**67-13072**	State Grant	Act of Cong	07-03-1890	still owned by State of ID

My research has revealed that the earliest record of existence of BLM's use of water in a trough on BLM from this spring on State Land is 08-04-1974.

c.	**67-13261**	HE Patent	478565	06-15-1915	n/a
		PX WD to BLM	IDI-27420	05-20-1993	n/a

This land was private fee owned land on 04-17-1926. BLM reacquired this property pursuant to a private exchange (PX) and Warranty Deed (WD) to BLM that was accepted on 10-01-1993.

d.	**67-13281**	HE	B 017232	03-09-1915	07-11-1916 relinquished
		HE	B 019465	07-11-1916	06-09-1917 relinquished
		HE patent	893756	01-24-1923	n/a
		PX WD to BLM	IDI-23538	10-10-1990	n/a

This land was private fee owned land on 04-17-1926. BLM reacquired this property pursuant to a private exchange (PX) and Warranty Deed (WD) to BLM on 10-10-1990.

e.	**67-13282**	HE	B 017232	03-09-1915	07-11-1916 relinquished
		HE	B019465	07-11-1916	06-09-1917 relinquished
		HE Patent	893756	01-24-1923	n/a
		PX WD to BLM	IDI-23538	10-10-1990	n/a

This land was private fee owned land on 04-17-1926. BLM reacquired this property pursuant to a private exchange and Warranty Deed to BLM that was accepted on 10-12-1990. This waterhole has been developed and the earliest record of the development

that I can find is from 1981.

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f. **67-10743** State Grant Act of Cong 07-03-1890 n/a
SX WD to BLM IDI-27201 11-30-1992 n/a

This land was owned by the State of Idaho on 04-17-1926. BLM reacquired this property pursuant to an exchange with the State of Idaho on 11-30-1992.

Fredric W. Price

Subscribed and sworn to before me this 31st day of July, 2003.
Witnessed by my hand and official seal.

Notary Public for State of Idaho
Residing at: Nampa, Idaho
My Commission Expires: 12-22-05

LINDA C. BUCK NOTARY PUBLIC STATE OF IDAHO

CERTIFICATE OF SERVICE

I certify that on 7-31, 2003, I served a true and correct copy of foregoing **AFFIDAVIT OF FREDRIC W. PRICE; SUBCASE NO: 67-12815, 67-12872, 67-12917, 67-13072, 67-13261, 67-13281, 67-13281, and 69-10743** 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

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 44449
Boise, ID 83720-0098

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

Signature of attorney serving document