

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	)	Subcase Numbers: 32-10744 et. al.
	)	See Attachment 1
	)	
Case No. 39576	)	AFFIDAVIT OF
	)	ALAN R. BITTNER
_____	)	

STATE OF IDAHO	)	
	)	ss:
COUNTY OF LEMHI	)	

I Alan R. Bittner, being first duly sworn, do depose and state:

1. My name is Alan R. Bittner. I am a graduate of Cornerstone University in Grand Rapids, Michigan. I received a Bachelor of Arts degree in Biology in 1989. I am currently employed by the United States, Department of the Interior, Bureau of Land Management (BLM),

as a Natural Resource Specialist for the Salmon Field Office, Upper Columbia Salmon Clearwater District (hereinafter "UCSC") of the Bureau of Land Management (hereinafter "BLM"). located in Salmon, 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 (SRBA). This knowledge and experience includes, but is 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"). In the 6 years that I have been dealing with water rights, I have: investigated thousands of claims; collected, compiled and analyzed factual information and evidence for thousands of water right claims; and reviewed and analyzed countless numbers of official business records associated with water rights and 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, I am responsible for coordinating the activities of BLM within the SRBA for the Challis Field Office and the Salmon Field Office, and individually responsible for handling the water right claims made by the United States of America on behalf of BLM for the Challis and Salmon Field Offices within the UCSC District.

3. 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.

4. 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 in paragraph 7.

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.

5. 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 that have made claims to the water sources claimed by the captioned subcases.

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6. 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 identified in the captioned subcases.

7. The following subcases are located on BLM land known as the Kaufman Guard Station with a legal land description of the SW ¼ of Section 35, Township 11 North, Range 29 East. This 160 acre tract was withdrawn to US Forest Service (hereinafter "FS") administration by Department of Interior secretary order dated 11/14/1908. The title of the land was not transferred to the Forest Service, only the administration of the buildings. Any structures erected on the site are FS property. Currently, there is a historic FS guard station building and both the BLM and the FS use the site.

a. 32-10744, 32-10748, 32-10752, 32-10754, 32-10756, 32-10758, and 32-10760.

8. I have reviewed the BLM official business records for each of the subcases subject to this affidavit for a federal reserved water right pursuant to PWR 107. The elements of the claimed water rights have been verified through examination of claim files and physical field investigations and are correctly described in the abstract/recommendation of the claims issued by IDWR, except where noted below. The quantity for a federal reservation based upon Public Water Reserve 107 was stipulated to be 0.02 cfs. The quantity element for each of the above captioned subcases should be 0.02 cfs.

a. One of the subcases identified in Attachment 1 describes a stockwater claim to a stream and should not contain a federal reservation pursuant to PWR 107.

1. **32-11098:** This subcase is a claim to instream stockwatering from an Unnamed Stream that was objected to by the State of Idaho. The parties can submit an SF-5 to remove the erroneous federal reserve component and change the priority date to 06-28-1934.

b. For the following subcases, based upon my review and independent verification, certain elements of the claim are not described correctly in IDWR's abstract/recommendation of the claim. The BLM has objected to the incorrect abstracting/reporting of these elements. Those elements should be altered as described below:

1. **Subcase 32-10798:** Upon closer inspection of the BLM Claim File and its respective map it was discovered the POD and POU location would be more accurately described as **Range 29 East**. *See Attachment 2.*

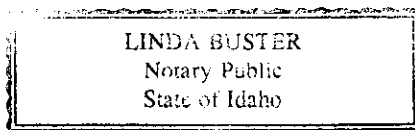
2. **Subcase 32-11122:** Upon closer inspection of the BLM Claim File and its respective map it was discovered that the POD and POU location would be more accurately described as SE ¼ SE ¼. *See Attachment 3.*

Dated this 12 day of November, 2003

Alan R. Bittner

Alan R. Bittner

On this 12 day of November, 2003, before me Linda Buster, a notary public, personally appeared Alan R. Bittner, personally known to me to be the person whose name is subscribed to this instrument, and acknowledged that he executed the same.



Linda Buster

Notary Public for the State of Idaho

Residing at: Salmon, Idaho

My Commission Expires: 8-22-06

CERTIFICATE OF SERVICE

I certify that on November 13, 2003, I served a true and correct copy of the foregoing **AFFIDAVIT OF ALAN R. BITTNER; SUBCASE NUMBER: 32-10744 et. al., together with Attachment 1-3** upon the following individuals by placing the documents in the United States Mail in Salmon, Idaho, postage paid, and addressed as follows:

Original to:

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

Copies to:

U.S. Department of Justice
General Litigation Section
Environment and Natural Resources Division
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 83711-4449

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



Signature of Person Serving Documents

Attachment 1

32-10744	32-10820	32-10942
32-10748	32-10822	32-10944
32-10752	32-10828	32-10946
32-10754	32-10830	32-10954
32-10756	32-10836	32-10958
32-10758	32-10844	32-10960
32-10760	32-10846	32-10970
32-10762	32-10848	32-10972
32-10764	32-10852	32-10978
32-10766	32-10854	32-10980
32-10768	32-10856	32-10990
32-10770	32-10862	32-10992
32-10772	32-10868	32-10994
32-10774	32-10870	32-10996
32-10776	32-10876	32-10998
32-10778	32-10878	32-11002
32-10782	32-10880	32-11018
32-10784	32-10884	32-11030
32-10786	32-10886	32-11040
32-10788	32-10888	32-11042
32-10790	32-10894	32-11044
32-10794	32-10896	32-11046
32-10798	32-10898	32-11048
32-10800	32-10900	32-11050
32-10802	32-10902	32-11068
32-10804	32-10906	32-11070
32-10806	32-10910	32-11072
32-10814	32-10936	32-11074
32-10818	32-10940	32-11098
		32-11122

Attachment 2

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: FEB-2-1998
PAGE: A-553

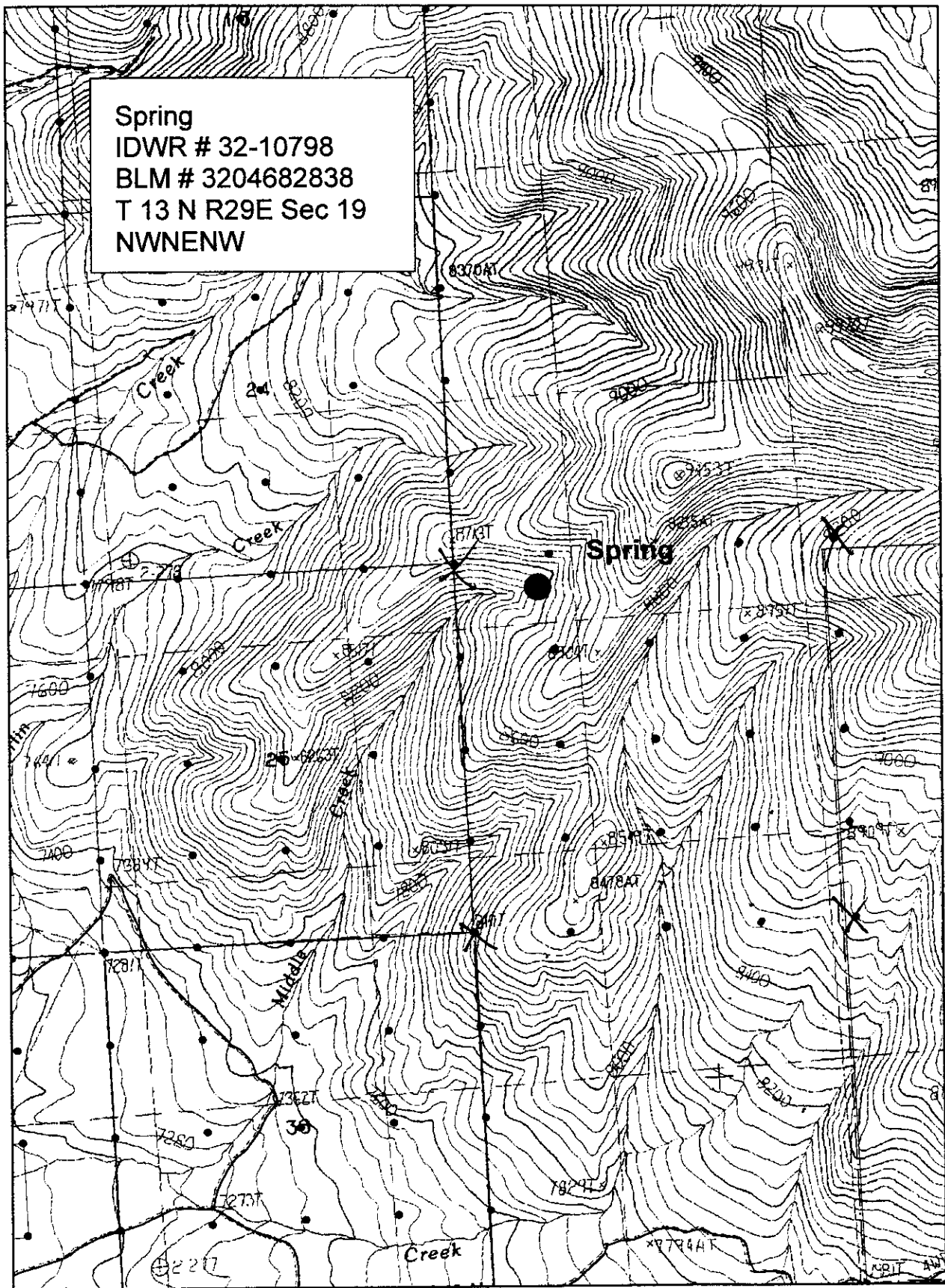
RIGHTS FROM: SOURCE: SPRING TRIBUTARY: UNNAMED STREAM

RIGHT NUMBER: 32-10798
NAME & ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE ID 83709-1657
SOURCE: SPRING TRIBUTARY: UNNAMED STREAM
QUANTITY: 0.02 CFS
THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.
PRIORITY DATE: 01/01/1880

* 4/17/1926 CLAIMED UNDER FEDERAL RESERVED WATER RIGHT. *
* *
* THIS WATER RIGHT IS ALSO CLAIMED BASED ON FEDERAL LAW *
* WITH AN APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN *
* EXECUTIVE ORDER SIGNED THE SAME DATE AND KNOWN AS PUBLIC *
* WATER RESERVE 107. *

POINT OF DIVERSION: T13N ~~R200~~ S19 NWNEW Within LEMHI County
PURPOSE AND R29E
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
STOCKWATER 01-01 12-31 0.02 CFS
PLACE OF USE: STOCKWATER Within LEMHI County
T13N ~~R200~~ S19 NENW
R29E
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.
EXPLANATORY MATERIAL: BASIS OF CLAIM - BENEFICIAL USE
BLM RECORD ID = 3204682838
STOCKWATER 975 RANGE CATTLE, 15 HORSES; WILDLIFE VAR. AMT.

Spring
IDWR # 32-10798
BLM # 3204682838
T 13 N R29E Sec 19
NWNENW



Attachment 3

RIGHTS FROM: SOURCE: SPRING TRIBUTARY: BIRCH CREEK

RIGHT NUMBER: 32-11122
NAME & ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE ID 83709-1657
SOURCE: SPRING TRIBUTARY: BIRCH CREEK
QUANTITY: 0.03 CFS
PRIORITY DATE: 01/01/1880
POINT OF DIVERSION: T11N R28E S23 ~~NESE~~ SESE Within LEMHI County
PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
STOCKWATER	07-01 12-15	0.02 CFS
STOCKWATER	07-01 12-15	0.02 CFS
WILDLIFE	01-01 12-31	0.01 CFS
WILDLIFE	01-01 12-31	0.01 CFS

PLACE OF USE: STOCKWATER Within LEMHI County
T11N R28E S23 ~~NESE~~ SESE
STOCKWATER
SAME AS OTHER USE
Place of use for WILDLIFE is same as STOCKWATER
Place of use for WILDLIFE is same as STOCKWATER
EXPLANATORY MATERIAL: BASIS OF CLAIM - BENEFICIAL USE
BLM RECORD ID = 3204808047

Spring
IDWR # 32-11122
BLM # 3204808047
T 11 N R28 E Sec 23
NWSESE

