

Names of Parties Filing Document:

UNITED STATES OF AMERICA

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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 Numbers: **47-16044 et al.**
) See Attachment 1
)
)
) **AFFIDAVIT OF**
) **ERIC V. MAYES**
)

STATE OF IDAHO)
) ss:
COUNTY OF CASSIA)

I, Eric V. Mayes, being of lawful age, and having first been duly sworn, state the
following:

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1. My name is Eric V. Mayes. I graduated from Oregon State University in March, 2002, with a Bachelor of Science degree in Geography. Since October of 2002, my position has been that of Natural Resource Specialist (Water Rights) for the United States, Department of Interior, Bureau of Land Management (hereinafter "BLM") in the Burley Field Office.

2. As part of my assigned duties and responsibilities, I am responsible for the activities concerning water right claims made by the United States of America on behalf of BLM for the Burley Field Office. 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"). I have performed many field investigations for the purpose of filing water right claims, objections, and responses. While performing my duties, I extensively use claim files, range improvement project files, water rights inventory records, field investigation records, Master Title Plats (hereinafter "MTP"), Historical Indexes (hereinafter "HI"), USGS topographic maps, water rights databases, and Geographic Information Systems (hereinafter "GIS") technology to analyze all aspects of water rights claims involving federal and private claims. I have also extensively used the Idaho Department of Water Resources (hereinafter "IDWR") website database and Internet Mapping Service. Using these tools, I have collected, compiled, and analyzed data to research hundreds of water rights claims filed with the State of Idaho and the SRBA.

3. At the request of counsel for the United States, I have reviewed the official business records of BLM and IDWR for the subcases listed on Attachment 1 for SRBA claims made by the United States of America on behalf of the BLM, and have reached the determinations described herein.

4. A Master Title Plat 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 is an official business record of the United States that maintains a time line of events occurring on United States' property.

5. Based upon a review of BLM's SRBA water right claim files and IDWR's Director's Report recommendations/abstracts, the subcases listed on Attachment 1 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 based on beneficial use with a priority date of June 28, 1934. The 1934 date was reached through settlement with the State of Idaho.

6. I have reviewed the official business records of BLM and compared the subcases listed on Attachment 1 to BLM's MTPs and HIs. I was able to determine that the subcases listed on Attachment 1 are located on unreserved federal public domain as of April 17, 1926; and this land currently remains under Department of Interior administration, except where noted below.

a. The following is a summary of land acquisitions associated with certain subcases listed on Attachment 1.

i. **Subcase 47-16062:** United States Homestead Entry Patent, number 1041748, was issued to Raymond A. Dahlquist on November 7, 1930, pursuant to the Act of May 20, 1862. Subsequently, the United States reacquired this land pursuant to Warranty Deed, number 1176574, from Dan J. Cavanagh on February

15, 1957. The United States assigned Serial Case File Number I-04894 to this action. The priority date for this subcase should be November 7, 1930. Also, see paragraph 10.a. below.

ii. Subcases 47-16082, 47-16084, and 47-16086: United States Cash Entry Patent, number 278, was issued to Dick Tisdale on December 16, 1895, pursuant to the Act of April 24, 1820. Subsequently, the United States reacquired this land pursuant to Warranty Deed, number 964333, from Ralph F. and Hazel A. Schnell on November 30, 1989. The United States assigned Serial Case File Number IDI-27298 to this action. The priority date for these subcases should be December 16, 1895. Also, see paragraph 10.b. below.

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

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

9. Based upon field verifications and my review of the field investigation documents, the sources of water are springs located at the claimed Points of Diversion and Places of Use.

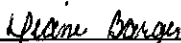
10. I have reviewed the official business records of BLM for each of the subcases subject to this affidavit for a federal reserved water right pursuant to PWR 107. The elements of the claimed water rights have been verified through examination of claim files and physical field investigations and are correctly described in the abstract/recommendation of the claims reported by IDWR. The quantity for a federal reservation based upon PWR 107 was stipulated to be 0.02 cubic feet per second, not to exceed 13,000 gallons per day, except where noted below:

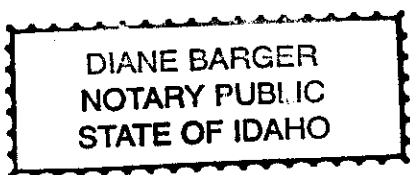
a. **Subcase 47-16062:** The Point of Diversion is described in IDWR's Director's Report recommendation/abstract as SENENE, S06, T. 15 S., R. 17 E. This parcel is actually a government surveyed lot and therefore would be more accurately described as Lot 1 (SENENE), S06, T. 15 S., R. 17 E. Similarly, the Place of Use would be more accurately described as Lot 1 (NENE). In accordance with paragraph 6.a.i. above, this subcase should also be decreed with a state basis and a November 7, 1930 priority date.

b. **Subcases 47-16082, 47-16084, and 47-16086:** In accordance with paragraph 6.a.ii. above, these subcases should be decreed with a state basis and a December 16, 1895 priority date.


Eric V. Mayes

Subscribed and sworn to before me this 10th day of March, 2004.
Witnessed by my hand and official seal.





Notary Public in and for the State of Idaho

Residing at: Idaho, Id

My Commission Expires: 11-7-06

CERTIFICATE OF SERVICE

I certify that on March 11, 2004, I served a true and correct copy of the foregoing **AFFIDAVIT OF ERIC V. MAYES; SUBCASE NUMBERS: 47-16044 et al., together with Attachment 1** by placing the documents in the United States Mail in Burley, 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

Basin 47
47-16044
47-16056
47-16062
47-16078
47-16082
47-16084
47-16086
47-16114
47-16116
47-16118
47-16132
47-16148
47-16150
47-16245
47-16247
47-16259
47-16261
47-16263
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