

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: 77-11084 et. al.
) See Attachment 1
)
)
) **AFFIDAVIT OF**
) **CRAIG A. JOHNSON**
)

STATE OF IDAHO)
)
COUNTY OF IDAHO)

ss:

I Craig A. Johnson, being of lawful age, and having first been duly sworn, state the
following:

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1. My present position is that of Fisheries Biologist for the United States, Department of Interior, Bureau of Land Management (hereinafter "BLM"), Upper Columbia-Salmon Clearwater District (UCSCD), Cottonwood Field Office, located in Cottonwood, Idaho. My education includes a B.S. degree (wildlife and fisheries) from Oregon State University and a M.S. degree (range resources) from University of Idaho. I have been employed by BLM in Idaho, as a Fisheries Biologist since 1979, as a Range Conservationist since 1976, and as a Range Technician since 1973. Since 1991, I have been the Water Rights Coordinator for the Cottonwood 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 Cottonwood 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 filed 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.

I have reviewed numerous 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 numerous deeds to determine who owned what land descriptions. I've determined the changes needed to many water right descriptions for use with the SRBA Standard Form 5 (hereinafter "SF-5") to resolve objections involving the BLM. I have extensive knowledge of, and experience with, the official business records of BLM and the Idaho Department of Water Resources (hereinafter "IDWR"), including but not limited to: BLM water right claim files, BLM field investigations, Master Title Plats, Historical Indexes, Control Document Indexes (hereinafter "CDI"), Tract Books, IDWR Adjudication Files, and IDWR Water Right Files. 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 many 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.

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. 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.

5. Based upon a review of BLM's SRBA water right claim files and IDWR's abstract/recommendations, 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.

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 the field verification and my review of the field investigation documents, the source of water for each of the subcases listed on Attachment 1 is a spring or waterhole located at the claimed Point of Diversion (hereinafter "POD") and Place of Use (hereinafter "POU").

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, except where noted below. The quantity for a federal reservation based upon Public Water Reserve 107 was stipulated to be 0.02 cfs, not to exceed 13,000 gpd.

11. 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 in the subcases listed on Attachment 1. 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 subcases identified in Attachment 1, except where noted below. The homestead entries identified below were initiated under the authority of several different homestead acts. The provisions of such homestead acts were effectively repealed in 1934 by the Taylor Grazing Act, and repealed in actuality in 1976 by the Federal Land Policy and Management Act (FLPMA). Each homestead entry listed below failed and was subsequently canceled or relinquished.

a. The following table identifies all failed attempts to homestead.

Case Type	Serial No	Initiated	Closed	Subcase
SRHE	BL-047560	12-19-1934	12-19-1934	77-11448
SRHE	BL-047266	03-19-1936	01-28-1942	79-11432

b. No failed homestead entries were active on 04-17-1926.

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12. At the request of counsel for the United States, I was asked to determine whether there were any senior water right claims asserted by non-federal entities to the sources associated with the subcases listed on Attachment 1. I researched each Point of Diversion described within the subcases listed on Attachment 1 using the information available on the IDWR internet web site. My research would have revealed any active claims on record with IDWR, including claims filed in the SRBA and administrative filings (i.e. applications, permits and licenses not filed in the SRBA). I was able to determine that there were no non-federal entities who have claimed the sources described by the subcases listed on Attachment 1.

Craig A. Johnson
Craig A. Johnson

Subscribed and sworn to before me this 20th day of April, 2004.
Witnessed by my hand and official seal.

Connie J. Schumacher

CONNIE J. SCHUMACHER
NOTARY PUBLIC STATE OF IDAHO

Notary Public in and for the State of Idaho
Residing at: Cottonwood, ID
My Commission Expires: 8-4-2009

CERTIFICATE OF SERVICE

I certify that on April 20, 2004, I served a true and correct copy of the foregoing **AFFIDAVIT OF CRAIG A. JOHNSON; SUBCASE NUMBERS: 77-11084 et. al., together with Attachment 1** by placing the documents in the United States Mail in Cottonwood, Idaho, postage paid, and addressed as follows:

Original to:

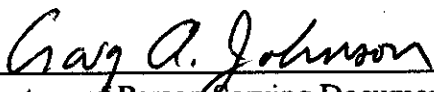
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

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 77					
77-11084	77-11168	77-11256	77-11336	77-11418	77-11507
77-11086	77-11170	77-11258	77-11338	77-11420	77-11508
77-11088	77-11172	77-11260	77-11340	77-11422	77-11510
77-11090	77-11174	77-11262	77-11342	77-11424	77-13933
77-11092	77-11176	77-11264	77-11344	77-11426	
77-11094	77-11178	77-11266	77-11346	77-11428	
77-11096	77-11180	77-11268	77-11348	77-11430	
77-11098	77-11182	77-11270	77-11350	77-11432	
77-11100	77-11186	77-11272	77-11352	77-11434	
77-11102	77-11188	77-11274	77-11354	77-11436	
77-11104	77-11190	77-11276	77-11356	77-11438	
77-11106	77-11192	77-11278	77-11358	77-11440	
77-11108	77-11194	77-11280	77-11362	77-11442	
77-11110	77-11196	77-11282	77-11364	77-11444	
77-11112	77-11198	77-11284	77-11366	77-11446	
77-11114	77-11202	77-11286	77-11368	77-11448	
77-11116	77-11204	77-11288	77-11370	77-11450	
77-11118	77-11206	77-11290	77-11372	77-11454	
77-11120	77-11208	77-11292	77-11374	77-11456	
77-11122	77-11210	77-11294	77-11376	77-11457	
77-11124	77-11212	77-11296	77-11378	77-11458	
77-11126	77-11214	77-11298	77-11380	77-11462	
77-11128	77-11216	77-11300	77-11382	77-11465	
77-11130	77-11218	77-11302	77-11384	77-11466	
77-11132	77-11220	77-11304	77-11386	77-11472	
77-11134	77-11222	77-11306	77-11388	77-11474	
77-11136	77-11224	77-11308	77-11390	77-11476	
77-11138	77-11226	77-11310	77-11392	77-11478	
77-11140	77-11228	77-11312	77-11394	77-11482	
77-11142	77-11232	77-11314	77-11396	77-11484	
77-11146	77-11234	77-11316	77-11398	77-11486	
77-11148	77-11236	77-11318	77-11400	77-11490	
77-11150	77-11238	77-11320	77-11402	77-11492	
77-11152	77-11242	77-11322	77-11404	77-11494	
77-11154	77-11244	77-11324	77-11406	77-11496	
77-11156	77-11246	77-11326	77-11408	77-11498	
77-11160	77-11248	77-11328	77-11410	77-11502	
77-11162	77-11250	77-11330	77-11412	77-11503	
77-11164	77-11252	77-11332	77-11414	77-11505	
77-11166	77-11254	77-11334	77-11416	77-11506	