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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	)	Subcase Numbers: 65-19812 et. al.
	)	see attached list
Case No. 39576	)	
	)	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, do depose and state:

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1. My name is Fredric W. Price. 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 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. I was required to determine how many claims were being made to the same source of water as a part of my duties.;

b. Water Rights Specialist at the BLM, State Office in Boise, Idaho since 1993;

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 water right claim descriptions to determine how many claims were asserted to the same source of water.

b. As a Water Rights Specialist at 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 compared 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 against BLM's Master Title Plats and Historical Indexes to determine land ownership, and whether withdrawals or other land actions have taken place. I have reviewed hundreds of deeds to determine who owned what land descriptions.

- I have determined what changes needed to be made to achieve settlement for over a thousand water right descriptions, and prepared 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 thousands, 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 field investigations conducted by BLM. I have also performed investigations of water rights in the field.
- I have reviewed thousands of official business records of the State of Idaho,

Department of Water Resources (hereinafter "IDWR") to determine if there are more than one claim to the same source of water.

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

4. Attachment 1 is a list of the scheduled subcases taken from the court's scheduling orders.

5. All of the subcases identified on Attachment 1 are "dual" claims based upon state and federal law. The federal basis was claimed pursuant to an Executive Order dated April 17, 1926 and known as Public Water Reserve 107 (hereinafter "PWR 107"). The state law basis asserts a June 28, 1934 priority date. I verified the claim basis by reviewing BLM claim files and IDWR Director's Report recommendations for each subcase number.

6. At the request of counsel, I was asked to determine whether there were any claims asserted by non-federal entities to the sources described in Attachment 1. I researched each Point of Diversion using IDWR's web based data system and was able to determine that there are no non-federal entities who have claimed the sources described within the subcases identified on Attachment 1. My research would have revealed any claims on record with IDWR, including claims filed in the SRBA and "administratively" (i.e. applications, permits and licenses not filed in the SRBA).

7. I used the SRBA Court's web based data system to determine whether there were any objections or responses filed by any other parties besides the State of Idaho. This research revealed there are no other parties to the subcases identified on Attachment 1, now that A.L. Cattle has withdrawn their Motions for Leave to File Late Objections.

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8. At the request of counsel for the United States, I have reviewed the official business records of BLM, for the subcases listed on Attachment 1. The official records reviewed were the BLM Water Right Claim file, BLM's Master Title Plats, and BLM's Historical Indexes. I have reached the determinations described below.

a. The Master Title Plats are official business records of the United States that identify United States' property and its status. I have reviewed these records. Based upon this review I have determined that the federal public domain containing the water sources asserted in subcase numbers 65-19826, 65-19909, 65-19911, 65-19913, 65-19915, 65-19917, 65-19958, 65-20129, and 65-22175 are located on unreserved federal public domain as of April 17, 1926; and this land currently remains under Department of Interior administration.

The Historical Indexes are official business records of the United States that maintain a timeline of events occurring on United States' property. I have reviewed these records for the above described subcase and have determined that there has been no attempt by private parties to homestead or otherwise acquire the land described by the Points of Diversion in these subcases.

b. The Master Title Plats are official business records of the United States that identify United States' property and its status. I have reviewed these records. Based upon this review I have determined that the federal public domain containing the water sources asserted in subcase numbers 65-19812, 65-19814, 65-19816, 65-19822, 65-19824, 65-19956, and 65-19964 are located within a Stock Driveway Withdrawal created pursuant to a Secretarial Order dated May 17, 1918; and this land currently remains under Department of Interior administration. With regard to subcase 65-19964, the land describing its Point of Diversion was removed from the withdrawal pursuant to a Partial Revocation

noticed in the Federal Register on July 25, 1983. 48 FR 143.

The Historical Indexes are official business records of the United States that maintain a timeline of events occurring on United States' property. I have reviewed these records for the above described subcase and have determined that there has been no attempt by private parties to homestead or otherwise acquire the land described by the Points of Diversion in these subcases.

c. The Master Title Plats are official business records of the United States that identify United States' property and its status. I have reviewed these records. Based upon this review I have determined that the federal public domain containing the water source asserted in subcase number 65-19960 is located on unreserved federal public domain as of April 17, 1926; and this land currently remains under Department of Interior administration.

The Historical Indexes are official business records of the United States that maintain a timeline of events occurring on United States' property. I have reviewed these records for the above described subcase and have determined that there has been several attempts (see below) by private parties to homestead or otherwise acquire the legal land description described by the Point of Diversion in subcase number 65-19960, but they all failed.

i. Five homestead entries were initiated under the authority different homestead acts. The provisions of such homesteads were effectively repealed in 1934 by the Taylor Grazing Act, and repealed in actuality by FLPMA in 1976. Each homestead entry associated with the public domain described in subcase 65-19960 was subsequently canceled or relinquished. The following is a summary of each attempt at homesteading:

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1. Homestead Entry pursuant to the Acts of June 17, 1910 and March 4, 1915, B-020022, filed by John Craig on August 23, 1917 and relinquished on August 6, 1921.
2. Stock Raising Homestead Entry, B-025974, filed by John Murray on August 6, 1921 and canceled on August 11, 1923.
3. Stock Raising Homestead Entry, B-026962, filed by John Schultz on September 7, 1923 and relinquished on April 1, 1927.
4. Stock Raising Homestead Entry, BL-042568, filed by William Williams on April 2, 1927 and relinquished on May 20, 1932.
5. Stock Raising Homestead Entry, BL-047255, filed by James Smith on May 31, 1934 and canceled on May 8, 1940.

d. The Master Title Plats are official business records of the United States that identify United States' property and its status. I have reviewed these records. Based upon this review I have determined that the federal public domain containing the water source asserted in subcase number 65-19962 is located on unreserved federal public domain as of April 17, 1926; and this land currently remains under Department of Interior administration.

The Historical Indexes are official business records of the United States that maintain a timeline of events occurring on United States' property. I have reviewed these records for the above described subcase and have determined that there has been several attempts (see below) by private parties to homestead or otherwise acquire the legal land description described by the Point of Diversion in subcase number 65-19962, but they all failed.

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i. Four homestead entries were initiated under the authority different homestead acts. The provisions of such homesteads were effectively repealed in 1934 by the Taylor Grazing Act, and repealed in actuality by FLPMA in 1976. Each homestead entry associated with the public domain described in subcase 65-19962 was subsequently canceled or relinquished. The following is a summary of each attempt at homesteading:

1. Stock Raising Homestead Entry, B-020135, filed by John Craig on October 12, 1920 and relinquished on August 6, 1921.
2. Stock Raising Homestead Entry, B-025974, filed by John Murray on August 6, 1921 and canceled on August 11, 1923.
3. Stock Raising Homestead Entry, B-026962, filed by John Schultz on September 7, 1923 and relinquished on April 1, 1927.
4. Stock Raising Homestead Entry, BL-042568, filed by William Williams on April 2, 1927 and relinquished on May 20, 1932.

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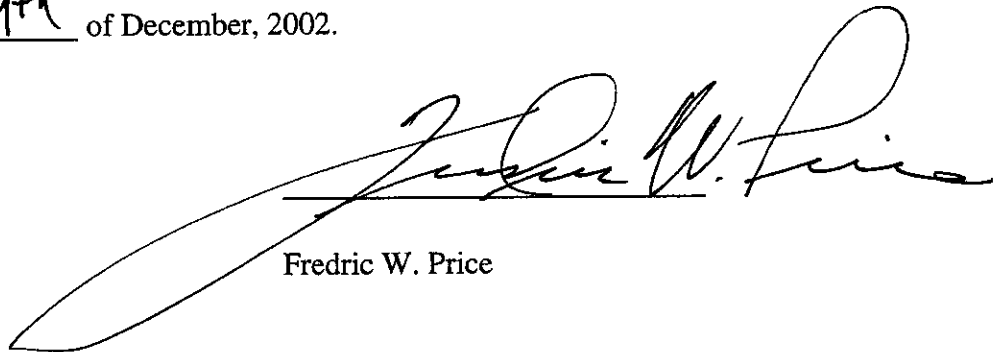
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5. Stock Raising Homestead Entry, BL-047255, filed by James Smith on May 31, 1934
and canceled on May 8, 1940.

Dated this 9th of December, 2002.

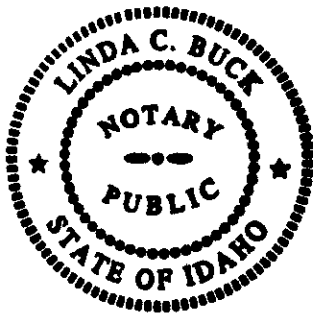


Fredric W. Price

Subscribed and sworn to before me this 9th day of December, 2002.

Witnessed by my hand and official seal.

seal




Notary Public for State of Idaho
Residing at: Mountain Home, Id
My Commission Expires: 12-21-05

CERTIFICATE OF SERVICE

I certify that on 12-9, 2002, I served a true and correct copy of foregoing **AFFIDAVIT OF FREDRIC W. PRICE; SUBCASE NUMBER: 65-19812 et. al., together with Attachment 1** 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:

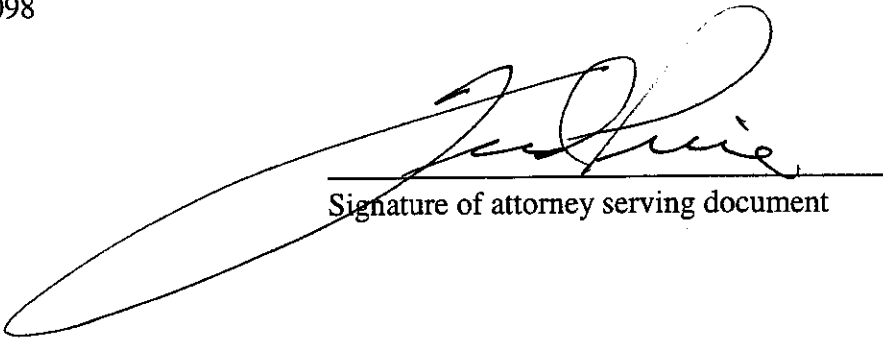
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, Idaho 83303-2707

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

ATTACHMENT 1

65-19812
65-19814
65-19816
65-19822
65-19824
65-19826

65-19909
65-19911
65-19913
65-19915
65-19917

65-19956
65-19958
65-19960
65-19962
65-19964

65-20164

65-22175