

RECEIVED

DEC 23 2002

Department of Water Resources

**Names of Parties Filing Document:**

UNITED STATES OF AMERICA

**Attorneys' Names and Addresses:**

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

LARRY A. BROWN  
U.S. Dept. of Justice  
General Litigation Section  
Environment and Natural Resources Division  
550 West Fort Street, MSC 033  
Boise, Idaho 83724  
Ph.: (202) 305-0435 FAX: (202) 305-0274

**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

\_\_\_\_\_  
STATE OF IDAHO

COUNTY OF BANNOCK )

) Subcase No(s): 29-12655  
)  
) **AFFIDAVIT OF**  
) **SAMUEL G. HOGANDER**  
)  
)  
)  
)

) ss:

I, Samuel G. Hogander , being first duly sworn, do depose and state:

1. My name is Samuel G. Hogander. I am currently employed by the United States, Department of the Interior, Bureau of Land Management (BLM), as a Wildlife Biologist for the

Pocatello Field Office, Upper Snake River District (USRD) located in Pocatello, 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). In the 15 years that I have been dealing with water rights, I have: investigated claims; collected, compiled and analyzed factual information and evidence for water right claims; and reviewed and analyzed numerous of official business records associated with water rights and maintained by BLM and the Idaho Department of Water Resources (IDWR).

2. As part of my assigned duties and responsibilities, I am responsible for handling the water right claims made by the United States of America on behalf of BLM for the Pocatello Field Office within the USRD.

3. The subcase, 29-12655, identified in this document is a "dual" claim 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 source element for this subcase identifies a spring. I verified the claim basis and the source element by reviewing the BLM claim files and IDWR Director's Report recommendations for this subcase number. The dates for filing of documents with the court were determined from the SRBA Court's website by running an IWATRS Report for Subcase Summary.

4. At the request of counsel, I was asked to determine whether there were any claims asserted by non-federal entities to the source associated with this subcase. I researched the 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 source described within the identified subcase. 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).

5. 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 and/or BLM. This research revealed no other parties to this subcase.

6. At the request of counsel for the United States, I have reviewed the official business records of BLM that comprise the SRBA Water Right Claim file for the above captioned SRBA claim made by the United States of America on behalf of the BLM and have reached the determinations described below:

a. The Master Title Plats (hereinafter "MTPs") are official business records of the United States that identify United States' property and its status. I have reviewed these records and determined that the federal public domain containing the water source asserted in subcase number 29-12655 is located on unreserved federal public domain as of April 17, 1926; and this land currently remains under Department of Interior administration.

b. 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 and determined that the federal public domain containing the water source asserted in subcase number 29-12655 was never associated with any homestead entries initiated under authority of Federal law. The provisions for such homesteads were effectively repealed by FLPMA.

c. Based upon the field verification and my review of the field investigation documents, the source of water for this claim is a spring located at the claimed Point of Diversion and Place of Use.

e. Based upon the field verification and my review of the field investigation

documents, there is sufficient surface water at this site for consumptive use by livestock.

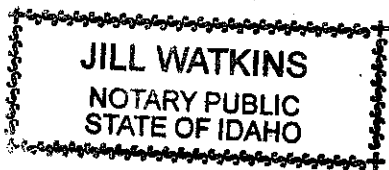
7. With regard to water right claim number 29-12655, the above statements are true. In reviewing the claim against BLM's MTPs, I discovered that the Point of Diversion (hereinafter "POD") and the Place of Use (hereinafter "POU") described in the Director's Report recommendation for this right is improperly described as the NWNW, Section 20, T. 6S., R. 36E., BM. According to the MTP, the NWNW is a government surveyed lot and should be described as Lot 4 (NWNW).

Dated this 13<sup>th</sup> day of December, 2002

Samuel G. Hogander  
Samuel G. Hogander

Subscribed and sworn to before me this 13 day of December, 2002.

Witnessed by my hand and official seal.



Jill Watkins  
Notary Public for the State of Idaho  
Residing at: Pocatello ID  
My Commission Expires: 11-2-2004

### CERTIFICATE OF SERVICE

I certify that on December 20, 2002, I served a true and correct copy of the foregoing **AFFIDAVIT OF SAMUEL G. HOGANDER; SUBCASE NUMBER: 29-12655** by placing the documents in the United States Mail in Boise, Idaho, postage paid, and addressed as follows:

Original to:

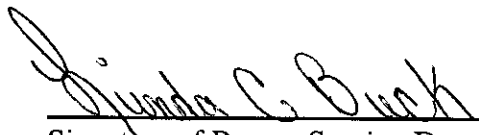
Clerk of the Court  
Snake River Basin Adjudication  
P.O. Box 2707  
Twin Falls, ID 83303-2707

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 83720-0098

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

  
\_\_\_\_\_  
Signature of Person Serving Document