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Department of Water Resources

Names of Parties Filing Document:

UNITED STATES OF AMERICA

GLEN R. KUNAU

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 Number: 43-10459
	)
	) STIPULATION TO RESOLVE
Case No. 39576	) UNITED STATES' OBJECTION
_____	)

The United States of America and Glen R. Kunau (hereinafter "Claimant") agree and stipulate to resolve the United States Department of the Interior, Bureau of Land Management (hereinafter "BLM") objection to the above-captioned Subcase as follows:

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STIPULATION

WHEREAS, the United States recognizes the significant role of the livestock industry in the settlement, history and culture of Idaho; and,

WHEREAS, the United States and the Claimant recognize the importance of the stockwater right at issue in this subcase to the livestock industry in Idaho and the BLM grazing program; and,

WHEREAS, the United States and the Claimant wish to resolve the objection regarding ownership of this stockwater right without further litigation, expense and delay;

Therefore, the Claimant and the United States of America stipulate and agree as follows:

1. Pursuant to I.R.C.P. 41(a)(1)(ii), the parties agree and stipulate to delete the following places of use, with prejudice, as identified and described in the Director's Report recommendation of water right claim number 43-10459 filed by the Claimant:

**T.10S., R.26E., Section 13, SESW
T.10S., R.26E., Section 14, SWSW
T.10S., R.26E., Section 14, NESE
T.10S., R.26E., Section 14, NWSE
T.10S., R.26E., Section 15, SESE
T.10S., R.26E., Section 24, NENW
T.10S., R.26E., Section 25, NWNW**

The parties agree and stipulate that any amended Director's Report recommendation, partial decree, or final decree for water right claim number 43-10459 shall not contain places of use located on lands owned by the United States. A Standard Form 5 for the water right claim number 43-10459 sets forth the description of the water right as agreed by the parties. All decrees, whether partial or final, should describe the water right as shown in the Standard Form 5.

2. The parties agree that the United States is the sole owner of water right claim number 43-13121. For this water right, the purpose of use is the watering of livestock owned by persons holding BLM-issued grazing permits. The stockwater purpose of use for water right claim number 43-13121 shall not be changed so long as a valid BLM-issued grazing permit exists for the land on which this water right is located.

3. The BLM recognizes that the point of diversion for water right claim number 43-13121 is on private land owned by the Claimant. The parties agree and stipulate that in the event the Claimant's grazing permit expires, is not renewed, or is terminated according to its terms; or BLM determines pursuant to decision by its authorized officer that this water development is no longer needed, then the BLM agrees to allow water used on federal public land under water right claim number 43-13121 to be transferred from federal public land to private land pursuant to I.C. § 42-222. The Claimant shall not assume title to any PODs or POUs which describe federal public land pursuant to the transfer. All costs incurred for seeking such transfer shall be borne by the Claimant. Any portion of water right claim number 43-13121 not transferred to private land in accordance with this provision shall be deemed forfeited.

4. Nothing in this stipulation shall prevent the BLM from administering the use of a grazing allotment and its associated water rights in accordance with applicable law, including taking such administrative actions as changing the boundaries of grazing allotments or modifying or terminating BLM-issued grazing permits.

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5. This stipulation has been reached through good faith negotiations for the purpose of resolving legal disputes, including pending litigation. The parties agree that no offers and/or compromises made in the course thereof shall be construed as admissions against interest. This stipulation does not create a precedent for settlement of any other disputes or objections.

6. All parties agree to bear their own costs and attorney fees.

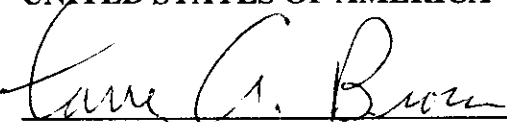
Respectfully submitted:

CLAIMANT:
GLEN R. KUNAU


Glen R. Kunau

DATED: August 6, 2002

OBJECTOR:
UNITED STATES OF AMERICA


Larry A. Brown
Of Attorneys for the United States

DATED: Aug. 8, 2002

CERTIFICATE OF SERVICE

I certify that on Aug 8, 2002, I served a true and correct copy of fore-going **STIPULATION TO RESOLVE UNITED STATES' OBJECTION; SUBCASE NUMBER 43-10459** 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:

Idaho Department of Water Resources
Adjudication Bureau
1301 North Orchard Street
Boise, Idaho 83706

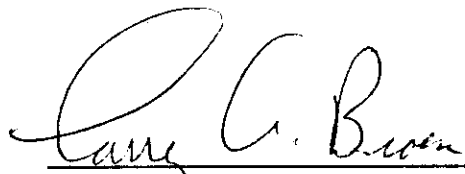
Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, Idaho 83711-4449

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P. O. Box 83720
Boise, Idaho 83720-0098

3. Copies to all parties to the subcase (insert names and addresses):

U.S., Department of Justice
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