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Department of Water Resources

Names of Parties Filing Document:

UNITED STATES OF AMERICA

WALTER JEAN LOVINGFOSS
DELIA L. LOVINGFOSS

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

Case No. 39576

) Subcase Numbers: 43-00307, 43-02487B,
) 43-02551, 43-10233, 43-10363, and
) 43-10799

) **STIPULATION TO RESOLVE UNITED
STATES' OBJECTIONS**

The United States of America and Walter Jean and Delia L. Lovingfoss (hereinafter
"Claimants") agree and stipulate to resolve United States Department of the Interior, Bureau of Land
Management (hereinafter "BLM") objections to the above-captioned Subcases as follows:

STIPULATION

1. Pursuant to Idaho R. Civ. P. 41(a)(1)(ii), the Claimants agree and stipulate to dismiss, with prejudice, the following place of use, as identified and described in the Director's Report recommendation of water right numbers 43-00307, 43-10363, and 43-10799 filed by Claimants:

T.12S., R.27E., Section 31, NWNE (10.0 acres)

The parties agree and stipulate that any amended Director's Report recommendation, partial decree, or final decree for water right numbers 43-00307, 43-10363, and 43-10799, shall not contain the above-described place of use.

2. Pursuant to Idaho R. Civ. P. 41(a)(1)(ii), the Claimants agree and stipulate to dismiss, with prejudice, three (3) acres from the following place of use, as identified and described in the Director's Report recommendation of water right numbers 43-02487B, 43-02551, and 43-10233 filed by Claimants:

T.12S., R.27E., Section 31, NWNE

3. In accordance with the Cooperative Wildlife Habitat-Farming Development Agreement between the Idaho Department of Fish and Game, the BLM, and the Claimants, dated May 1, 2002 (hereinafter "Cooperative Agreement"), the parties agree and stipulate to "split" water right numbers 43-02487B, 43-02551, and 43-10233 into two new claims. The Claimants shall hold title to private land places of use. The United States shall hold sole title to the following federal public land place of use:

T.12S., R.27E., Section 31, NWNE (7.0 Acres)

4. The water right numbers created by the "splits" are as follows:

<u>ORIGINAL CLAIMS</u>	<u>PRIVATE SPLIT</u>	<u>BLM SPLIT</u>
43-02487B	43-13237	43-13238
43-02551	43-13239	43-13240
43-10233	43-13241	43-13242

The parties agree and stipulate that any amended Director's Report recommendation, partial decree, or final decree for water right numbers 43-13237, 43-13239, and 43-13241 shall not contain places of use located on federal public land.

5. The parties agree that nothing in this stipulation forecloses future administrative or judicial action by the United States in relief of, or as a consequence of, the unauthorized use of federal public lands, including, but not limited to, actions for past rent, rehabilitation of used land, or trespass.

6. If the Cooperative Agreement expires and is not renewed, or is terminated according to its terms, the Claimants agree to initiate a transfer pursuant to I.C. 42 §222 to move acres describing federal public land in water right numbers 43-1323, 43-13240, and 43-13242 to privately owned lands. The application for transfer shall be filed within 60 days of the date the Cooperative Agreement expires, or is terminated according to its terms. The United States agrees and stipulates to cooperate in the transfer. The Claimants agree that upon successful application for water right transfer pursuant to I.C. 42-222, the Claimants shall not assume title to any places of use describing federal public land. Water rights associated with the Cooperative Agreement, or portions thereof, not transferred off of federal public land shall be deemed forfeited. The United States shall be released and held harmless from loss, injury, damage and/or reduction in value of water rights should the Cooperative Agreement

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expire, not be renewed, be terminated according to its terms, or IDWR not allow transfer of water right, or portion thereof, and is forfeited.

7. Nothing in this stipulation shall prevent the BLM from administering the use of federal public land and its associated water rights in accordance with applicable law, including modifying or terminating land use authorizations.

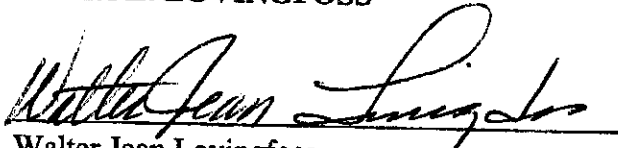
8. This stipulation has been reached through good faith negotiations for the purpose of resolving legal disputes, including pending litigation. The parties agree that no offers and/or compromises made in the course thereof shall be construed as admissions against interest. This stipulation does not create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

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

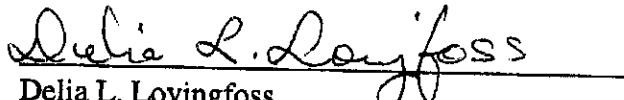
CLAIMANTS:

WALTER JEAN LOVINGFOSS

DELIA L. LOVINGFOSS


Walter Jean Lovingfoss

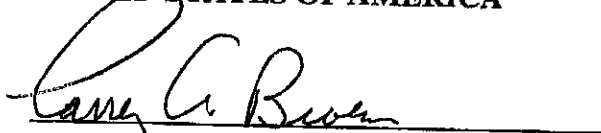
DATED: 8-12-02


Delia L. Lovingfoss

DATED: 8-12-02

OBJECTOR:

UNITED STATES OF AMERICA


Larry A. Brown
Of Attorneys for the United States

DATED: 8/14/02

CERTIFICATE OF SERVICE

I certify that on Aug. 14, 2002, I served a true and correct copy of fore-going **STIPULATION TO RESOLVE UNITED STATES' OBJECTIONS; SUBCASE NUMBERS 43-00307, 43-02487B, 43-02551, 43-10233, 43-10363, and 43-10799** upon the following individuals by placing the document in the United States Mail in Washington, D.C., 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

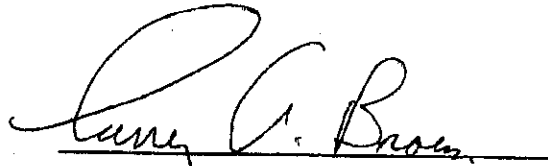
Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, Idaho 83711-4449

IDWR Document Depository
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
Environment and Natural Resources Division
General Litigation Section
550 West Fort Street, MSC 033
Boise, Idaho 83724

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Larry A. Brown