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Department of Water Resources

Names of Parties Serving Document:

UNITED STATES OF AMERICA

Attorneys' Names and Addresses:

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

LARRY A. BROWN
Attorney, 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	)	Subcase Numbers: 55-10135, 55-11061,
	)	55-11385 and 55-12452
Case No. 39576	)	
	)	UNITED STATES' TRIAL
	)	MEMORANDUM

I. INTRODUCTION.

The United States Department of the Interior, Bureau of Land Management (hereinafter "BLM") is the claimant of Water Right Numbers 55-11061, 55-11385, and 55-12452. Joyce Livestock Co., Ltd. (hereinafter "Joyce") filed late objections to the BLM's water right claims contending that because the United States does not own livestock that consume stockwater from the

sources claimed, the United States did not perfect a state-law based beneficial use stockwater right on the sources claimed; thus the water rights are owned by Joyce, not the United States. However, the BLM has satisfied the requirements for a valid appropriation of livestock water under Idaho law, and is therefore entitled to partial decrees for Water Right Numbers 55-11061, 55-11385, and 55-12452, with a June 28, 1934 priority dates.

Joyce is the claimant of Water Right Number 55-10135. The BLM filed a timely objection to Water Right Claim Number 55-10135 because Joyce described points of diversion and places of use located on property owned by the United States and managed by the BLM, and Joyce could not support its claimed priority date. Joyce's priority date of June 1, 1898 cannot be supported because there is no documentary evidence that water rights located on United States property were appropriated as of that date and subsequently transferred to Joyce. To the extent water consumed by Joyce's livestock on public land is already appropriated by the BLM for consumption by permitted livestock, Joyce's water right should be limited to avoid an allocation of water in excess of the quantity actually used.

II. PROCEDURAL POSTURE.

1. The BLM filed Notices of Claim to a Water Right for 55-11061, 55-11385, and 55-12452 for in-stream livestock watering from Jordan Creek.
2. On January 19, 1989, Joyce filed a Notice of Claim to a Water Right Acquired Under State Law for Water Right Claim Number 55-10135.

3. On July 31, 1997, the Idaho Department of Water Resources (hereinafter "IDWR") filed a Director's Report recommending Water Right Claims 55-10135, 55-11061, 55-11385 and 55-12452.

4. On December 3, 1997, the State of Idaho filed objections to Water Right Claims 55-11061, 55-11385 and 55-12452 alleging the priority date should be no earlier than June 28, 2002.

5. On December 5, 1997, the BLM filed a timely objection to Water Right Claim 55-10135 objecting to points of diversion and places of use on land owned by the United States, and priority date.

6. On May 6, 1998, over opposition by the United States, Special Master Haemmerle allowed Joyce to file late objections to Water Right Claims 55-11061, 55-11385, and 55-12452 alleging that Joyce was the beneficial user of the water and therefore the owner of the water rights.

7. On July 16, 1998, the Special Master entered an order consolidating Subcase Numbers 55-10135, 55-11061, 55-11385 and 55-12452.

8. On October 15, 1998, Joyce filed Motions for Partial Summary Judgment in Subcase Numbers 55-10135, 55-11061, 55-11385 and 55-12452.

9. On March 2, 1999, Joyce filed an Amended Motion for Partial Summary Judgment in Subcase Number 55-10135.

10. On April 28, 2000, the BLM and the State of Idaho filed a Stipulation in Subcase Numbers 55-11061, 55-11385 and 55-12452 agreeing that the claims should be decreed with a priority date not earlier than June 28, 1934.

11. On May 9, 2000, the Special Master entered an Order Dismissing the States of Idaho's Objections.

12. On December 27, 2000, the United States filed a Motion to Stay Subcases Pending Completion of Litigation in Subcases with Similar Issue of Law and Fact, or in the Alternative, Motion to Consolidate in several subcases, including Subcase Numbers 55-10135, 55-11061, 55-11385 and 55-12452.

13. On January 25, 2001, the District Court entered an Order Granting the United States' Motion to Withdraw Motion to Stay.

14. On September 28, 2001, the Special Master entered an Order Granting Motions to File Amended Notices of Claim in Subcase Numbers 55-11061, 55-11385 and 55-12452 recommending the amended claims as filed with a priority date of June 28, 1934.

15. On December 4, 2001, the Special Master entered an Order Granting Motion to File Amended Notice of Claim in Subcase Numbers 55-10135 allowing Joyce to amend its claim changing, among other things, the priority date to June 1, 1898.

16. On March 8, 2002, Joyce filed a Motion for Summary Judgment.

17. On March 21, 2002, the BLM filed a Memorandum in Opposition to Joyce's Motion for Summary Judgment.

18. On March 22, 2002, a hearing was held on Joyce's Motion for Summary Judgment.

19. On March 29, 2002, Joyce filed a Reply Brief to the BLM's Memorandum in Opposition to Joyce's Motion for Summary Judgment.

20. On July 23, 2002, The Special Master entered an Order denying Joyce's Motion for Summary Judgment.

III. ARGUMENT.

A. Subcase Numbers 55-11061, 55-11385 and 55-12452.

The United States incorporates by reference the arguments in the United States' Memorandum in Opposition to Joyce Livestock Co.'s Motion for Summary Judgment, In Re SRBA, Case No. 39576, Subcase Numbers 55-10135, et al.

As more fully set forth in that Memorandum, Water Right Claims 55-11061, 55-11385, and 55-12452 are the BLM's Snake River Basin Adjudication (hereinafter "SRBA") claims for in-stream livestock watering from Jordan Creek. All places of use are located on public land¹ owned by the United States and managed by the BLM for, among other things, domestic livestock grazing under the provisions of the Taylor Grazing Act of 1934 (hereinafter "Taylor Grazing Act") (codified at 43 U.S.C. §§ 315-316). The general area where the claims are located is within a grazing allotment designated by the BLM as the Silver City Grazing Allotment, Allotment Number 0569 (hereinafter "Allotment"). The BLM asserts that its priority date is June 28, 1934.²

¹In this memorandum, the term "public lands" means "any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership . . ." 43 U.S.C. § 1702(e). Historically, the term "public lands" can also mean lands owned by the United States within the several States "subject to sale or other disposal under general laws." Barker v. Harvey, 181 U.S. 481, 490 (1901) (quoting Newhall v. Sanger, 92 U.S. 761, 763 (1875)).

² On "June 28, 1934, President Franklin Roosevelt signed the Taylor Grazing Act into law." Public Lands Council v. Babbitt, 529 U.S. 728, 733 (2000).

Pursuant to the Taylor Grazing Act, the BLM issues permits to qualified applicants to use public lands in Idaho for livestock grazing. 43 U.S.C. § 315b; Public Lands Council, 529 U.S. at 735.³

Without water available for livestock consumption, there would be no livestock grazing on public lands.

BLM's management of grazing on public lands is a beneficial use of water sufficient to support a livestock watering right. State of Nevada v. Morros, 766 P.2d 263 (Nevada 1988); United States v. Morrell, 331 F.2d 498, 501 (10th Cir.), *cert denied*, Chourmos v. U.S., 379 U.S. 879 (1964)

(management, based on administration of grazing permits issued to livestock owners, is a use of public lands "for the benefit of the United States."). The United States satisfies the requirements of Idaho law by diverting the water from Jordan Creek through the statutory process of providing access to the water for use by permitted livestock for beneficial purposes. Hidden Springs Trout Ranch, Inc. v. Hagerman Water Users, Inc., 101 Idaho 677, 679-680, 619 P.2d 1130, 1132-1133 (Idaho 1980) ("The test of a valid appropriation of water is its diversion from the natural source and its application to a beneficial use. . . ."); Lemmon v. Hardy, 95 Idaho 778, 781, 519 P.2d 1168, 1171 (Idaho 1974)

³ "As grazing allocations were determined, the Department would issue a permit measuring grazing privileges in terms of 'animal unit months' (AUMs), i.e., the right to obtain the forage needed to sustain one cow (or five sheep) for one month. Permits were valid for up to 10 years and usually renewed as suggested by the Act. See 43 U.S.C. § 315b; Public Land Law Review Commission, One third of the Nation's Land 109 (1970). But the conditions placed on permits reflected the leasehold nature of grazing privileges; consistent with the fact that Congress had made the Secretary the landlord of the public range and basically made the grant of grazing privileges discretionary. The grazing regulations in effect from 1938 to the present day made clear that the Department retained the power to modify, fail to renew, or cancel a permit or lease for various reasons."

(claimant must also have a possessory interest⁴ in the land designated as a place of use). Furthermore, Idaho statutes, and IDWR's interpretation of Idaho statutes, confirm the BLM's status as a valid appropriator of water, even though BLM does not own the livestock that actually drink the water. I.C. § 42-501; I.C. § 42-503, Idaho Op. Atty. Gen. No 88-6, 1988 WL 385554 (Idaho A.G.), p. 4.

C. Subcase Number 55-10135.

The United States incorporates by reference the arguments in the United States' Memorandum in Opposition to Joyce Livestock Co.'s Motion for Summary Judgment, In Re SRBA, Case No. 39576, Subcase Numbers 55-10135, et al.

As more fully set forth in that Memorandum, Joyce is an entity authorized by the BLM to use public land for livestock grazing under the provisions of the Taylor Grazing Act. BLM issues annual grazing permits to Joyce to use the Allotment for domestic livestock grazing.⁵ Joyce filed a Notice of Claim to a Water Right Acquired Under State Law for Water Right Claim Number 55-10135. A majority of the places of use are located on public land within the Allotment boundary. Joyce asserts that the priority date is June 1, 1898. Order Granting Motion to File Amended Notice of Claim, In Re SRBA, Case No. 39576, Subcase 55-10135 dated December 4, 2001. For the places of use on

⁴ A "possessory interest" is a right to exert control over certain land to the exclusion of others, coupled with an intent to exercise that right. RESTATEMENT OF PROPERTY (FIRST) § 7 (1936).

⁵ "*Grazing permit* means a document authorizing use of the public lands within an established grazing district. Grazing permits specify all authorized use including livestock grazing, suspended use, and conservation use. Permits specify the total number of AUMs apportioned, the area authorized for grazing use, or both." 43 C.F.R. 4100.0-5 (italics in original). "*Animal unit month (AUM)* means the amount of forage necessary for the sustenance of one cow or its equivalent for a period of 1 month." 43 C.F.R. 4100.0-5 (italics in original).

public land within the Allotment boundary, Joyce and the United States have claims with identical places of use and purpose of use, and the water is used for the same beneficial purpose, *i.e.*, providing water to permitted domestic livestock.

Joyce is not entitled to its claimed priority date because there is no evidence that water rights located on United States' property were appropriated and transferred to Joyce. Olson v. Idaho Department of Water Resources, 105 Idaho 98, 100-101, 666 P.2d 188, 190-191 (Idaho 1983)(citing I.C. §§ 9-503⁶ and 9-505⁷); 2 C. KINNEY, IRRIGATION AND WATER RIGHTS §§ 787, 997, 999 (2nd Ed. 1912). If the Special Master were to recognize water rights owned by two separate claimants that allocate water for consumption by the same domestic livestock, Joyce's right would have to be limited so that it would not be "in excess of the amount actually" used for the beneficial purpose of providing water to permitted domestic livestock. I.C. § 42-1402; Poole v. Olaveson, 82 Idaho 496,

⁶ 9-503. TRANSFERS OF REAL PROPERTY TO BE IN WRITING. - - No estate or interest in real property . . . can be created, granted, assigned, surrendered, or declared, otherwise than by operation of law, or a conveyance or other instrument in writing, subscribed by the party creating, granting, assigning, surrendering or declaring the same, or by his lawful agent thereunto authorized by writing.

⁷ 9-905. CERTAIN AGREEMENTS TO BE IN WRITING. - - In the following cases the agreement is invalid, unless the same or some note or memorandum thereof, be in writing and subscribed by the party charged, or by his agent. . . .

5. An agreement for the . . . sale, of real property, or of an interest therein, and such agreement, if made by an agent of the party sought to be charged, is invalid, unless the authority of the agent be in writing, subscribed by the party sought to be charged.

502, 356 P.2d 61, 65 (Idaho 1960). Thus, I.C. § 42-1402; Olaveson, 82 Idaho at 502, 356 P.2d at 65.

IV. STATEMENT OF UNDISPUTED FACTS.

1. In 1993, BLM filed verified claims for Water Right Numbers 55-11061, 55-11385 and 55-12452. U.S. Trial Exhibit (hereinafter "Exhibit") 3. In 2001, BLM filed verified amended claims, and Amended Director's Reports were produced by the Idaho Department of Water Resources (hereinafter "IDWR"): Exhibits 6 & 7: All of the Points of Diversion and Places of Use are located on public lands within the Allotment boundary. Exhibit 8, Bates Stamp Number (hereinafter "BSN") 004480 and 004774. BLM's claimed priority date is June 28, 1934. Exhibit 6. The purpose of use is to provide water to domestic livestock owned by holders of grazing permits issued by the BLM to qualified applicants under the provisions of the Taylor Grazing Act. Exhibit 21, p. 3.

2. Joyce filed a claim for Water Right Number 55-10135, and IDWR produced a Director's Report for the claim. Exhibit 4, BSN 004848. Joyce's claim contains Points of Diversion and Places of Use on public land identical to BLM's claims within the Allotment boundary. Exhibit 8, BSN 004480 and 004774. Joyce's claimed priority date is June 1, 1898. Order Granting Motion to File Amended Notice of Claim, In Re SRBA, Case No. 39576, Subcase 55-10135 dated December 4, 2001. For public land Points of Diversion and Places of Use, Joyce's claim overlaps with, and directly competes with, BLM's claims. Exhibit 8, BSN 004480 and 004774.

3. The BLM manages 11,142,021 acres of public land in Idaho primarily as rangeland. Exhibit 2, BSN 002062. In fiscal year 2000, the BLM sold 1,323,215 animal unit months of forage under

1,962 grazing permits in Idaho. Exhibit 2, BSN 002137. In fiscal year 2000, the BLM collected \$1,499,342 in grazing fees from grazing permittees in Idaho, including grazing fees collected from Joyce. Exhibit 2, BSN 002197. Joyce pays annual grazing fees, and grazing fees have been regularly paid by Joyce, and Joyce's predecessors, since 1935. Deposition of Paul Nettleton (hereinafter "Nettleton Depo"), p. 52, lines 7-16; p. 54, lines 19-25; p. 59, lines 17-23. Joyce deducts grazing fees as business expenses on income tax returns. Nettleton Depo., p. 59, lines 22-24.

4. Exhibit 1 is Joyce's chain of title to its base property.⁸ On June 28, 1934, a portion of Joyce's current base property was owned by Joyce Brothers Livestock Company, a corporation. Compare Exhibit 1, BSN 100128-100130 to Exhibit 1, BSN 100168-100171; *see generally* Appendix 1. On March 25, 1935, Joyce Brothers Livestock Company conveyed this portion of Joyce's current property to Hubert Nettleton. Exhibit 1, BSN 100131-100133. On April 2, 1940, Hubert Nettleton conveyed this property to J.H. Nettleton. Exhibit 1, BSN 100134-100135. On December 15, 1943, J.H. Nettleton conveyed this property to H.E. and Emeline A. Nettleton. Exhibit BSN 100136-100137. On December 9, 1965, Emeline A. Nettleton conveyed this property to H.E. and Helen A. Nettleton. BSN 100139. On August 24, 1985, Helen A. Nettleton conveyed this property to the present owner, Joyce Livestock Company, a limited partnership. Exhibit 1, BSN 100168-100171.

⁸ "Base property means: (1) Land that has the capability to produce crops or forage than can be used to support authorized livestock for a specified period of the year, or (2) water that is suitable for consumption by livestock and is available and accessible, to the authorized livestock when the public lands are used for livestock grazing." 43 C.F.R. § 4100.0-5(*italics in original*).

5. On June 28, 1934, James Joyce was the owner of another portion of Joyce's current property. Compare Exhibit 1, BSN 100032-100033 to Exhibit 1, BSN 100073-100076. There is no real property conveyance from James Joyce to Joyce Brothers Livestock Company in the chain of title. Exhibit 1. However, James Joyce was a shareholder, director, and officer of Joyce Brothers Livestock Company. Exhibit 6, pp. 11-14. On March 31, 1939, Joyce Brothers Livestock Company conveyed the property to Hubert E. Nettleton and Emeline A. Nettleton. Exhibit 1, BSN 100038-100042. On December 9, 1965, Emeline A. Nettleton conveyed the property to H.E. and Helen A. Nettleton. BSN 100139. On August 24, 1985, Helen A. Nettleton conveyed the property to Joyce Livestock Company, a limited partnership. Exhibit 1, BSN 100168-100171.

6. On June 28, 1934, the remainder of Joyce's current base property was owned by John T. and Myrtle Shea. Compare Exhibit 1, BSN 100273-100276, BSN 100245-100248, BSN 100218-100220, BSN 100198-100202, BSN 100221-100222, BSN 100223⁹ to Exhibit 1, BSN 100280-100281; *see generally* Appendix 1. Mr. Shea "owned and operated a cow outfit in the Sinker Creek and Jordan Crk. watershed beginning in 1928 until . . . [selling] out in 1938." Exhibit 65, BSN 000660. Augustin Salove leased the Shea property for several years. Exhibit 75, BSN 002825. On September 24, 1951, John T. Shea and Myrtle Shea conveyed the base property to J.H. Nettleton and Joyce Livestock Company. Exhibit 1, BSN 100224-100225. In 1951, the BLM deducted 486 animal unit months from the Salove qualifications for grazing use of public lands, transferred 243 animal unit months to Joyce Livestock, transferred 243 animal unit months to J.J. Nettleton, and closed the

⁹ John T. Shea was in possession of the homestead entry in 1926. Exhibit 9.

John T. Shea case file. Exhibit 75, BSN 002825. On October 31, 1976, J.H. and Edith Nettleton conveyed the property to Joyce Livestock Company, a co-partnership. Exhibit 1, BSN 100196-100197. On August 24, 1985, Joyce Livestock Company, a general partnership conveyed the property to Joyce Livestock Company, a limited partnership. Exhibit 1, BSN 100232-10233.

7. There is no document of conveyance in Joyce's chain of title that contains any specific or express description of any water rights located on the public lands within the Allotment boundary. *See generally* Exhibit.

8. The documents of conveyance contain an "appurtenance clause" that purports to convey appurtenances to real property. *See generally* Exhibit 1. Paul Nettleton is a general partner of Joyce Livestock Company, a limited partnership. Nettleton Depo., p. 17, lines 21-25 and p. 18, line 1. Mr. Nettleton is not aware of any documents in Joyce's chain of title that specifically describe water rights located on public land. Nettleton Depo., p. 14, lines 2-9.

9. The warranty deed conveying property from Helen Nettleton to Joyce does not contain any description of water rights. Exhibit 1, BSN 100073-100076. The warranty deed contains a provision that states, "TO HAVE AND TO HOLD The said premises, with their appurtenances unto the said grantee . . . forever." Exhibit 1, BSN 100075.

10. The warranty deed conveying property from Joyce Livestock Company, a general partnership, to Joyce Livestock Company, a limited partnership, does not contain any description of water rights. Exhibit 1, BSN 100117-100118. The warranty deed contains a provision that states,

"TO HAVE AND TO HOLD The said premises, with their appurtenances unto the said grantee . . . forever." Exhibit 1, BSN 100118.

11. Mr. Nettleton contends that water rights were conveyed to Joyce through general appurtenance clauses. Nettleton Depo., p. 14, lines 10-25 and p. 15, lines 1-7; Nettleton Depo, p. 41, lines 22-25. Mr. Nettleton contends he intended to transfer water rights on public land when the base property was transferred from Joyce Livestock Company, a general partnership, to Joyce Livestock Company, a limited partnership. Nettleton Depo., p. 14, line 16 through p. 18, line 25. There was never an express agreement between the parties to the warranty deeds conveying property to Joyce Livestock Company, a limited partnership, to transfer the water rights at issue. Nettleton Depo., p. 18, lines 6-20.

12. Gene Lewis was employed by John T. Shea as a cowboy in 1933 and 1934. Deposition of Gene Lewis (hereinafter "Lewis Depo."), p. 8, lines 17-25 and p. 9, lines 1-9; Lewis Depo., p. 12, lines 23-25 and p. 12, lines 23-25. Cattle, sheep, and horses owned by many individuals and entities used the relevant public lands for grazing purposes in 1933 and 1934. Lewis Depo., pp. 10-12 and pp. 14-15. There was no attempt by any user of the public lands to exclude others from using the relevant public lands for grazing or livestock watering purposes. Lewis Depo., p. 15, lines 8-25.

13. On April 26, 1935, John T. Shea filed an Application for Grazing Permit with the United States Department of the Interior, Division of Grazing Control. Exhibit 87. Mr. Shea did not own or control any source of water supply needed or used for livestock purposes on public lands. Exhibit 87, BSN 002307. Mr. Shea requested to establish a priority for grazing use of some of the public land

described as places of use in 55-10135. Exhibit 87, BSN 002306 (compare legal descriptions of base property to Exhibit 8, 004480 and 004774). Mr. Shea stated that "[t]he Range herein applied for is land that I have had almost exclusive use of, for range, for the past 10 years, excepting, of course, a few straggling from other herds & other ranges and probably 100 head of range horses." Exhibit 87, BSN 002309. Mr. Shea stated that he "acquired the holdings shown on the place (excepting the homestead & mining claims) from the Stanfield Sheep Co., who over grazed the land and went broke - this, of course, forced other stock off the range, which accounts for the facts which I have stated." Exhibit 87, BSN 002309. The Department of the Interior, Division of Grazing awarded Mr. Shea 243 animal unit months based upon priority established by ownership of land known as the "Pedricini place" and based upon credit awarded for 346.74 acres of mining claims for which no priority was awarded because there was no dependency on public land. Exhibit 80.

14. On June 8, 1935, J. H. Nettleton filed an Application for Grazing Permit with the United States Department of the Interior, Division of Grazing Control. Exhibit 86. Mr. Nettleton did not own or control any source of water supply from Jordan Creek needed or used for livestock purposes on public lands. Exhibit 86, BSN 002615; Exhibit 84, BSN 002600. Mr. Nettleton did not try to establish a priority on any public land described as places of use in 55-10135. Exhibit 84, BSN 002599; Exhibit 86, BSN 002614 (compare legal descriptions of base property to Exhibit 8, 004480 and 004774).

15. On June 12, 1935, Joyce Brothers Livestock Company, by Anna Joyce, filed an Application for Grazing Permit with the United States Department of the Interior, Division of Grazing.

Exhibit 85. Joyce Brothers Livestock Company did not own or control any source of water supply from Jordan Creek needed or used for livestock purposes on public lands. Exhibit 85, BSN 1151 and 1306. Joyce Brothers Livestock Company stated that “[m]ost of the above mentioned streams, as well as those shown on the accompanying (sic) maps, are open for the free use of watering of stock and all are open at convenient places along the ranches.” Exhibit 85, BSN 1306. Joyce Brothers Livestock Company did not try to establish a priority on any land described as places of use in 55-10135. Exhibit 85, BSN 001152 (compare legal descriptions of base property to Exhibit 8, 004480 and 004774).

16. Joyce purchased base property and grazing preferences from other livestock operators in order to establish the current grazing preference for the Allotment. Exhibit 23. There is no evidence in any files maintained by the BLM that Joyce, or any of Joyce’s predecessors in interest to Joyce’s grazing preference for the Allotment, ever offered water rights as base property to establish a grazing preference. Exhibits 23 through 88.

V. STATEMENT OF DISPUTED FACTS.

1. Owners of base property did not convey water rights located on public lands when conveying base property.
2. Permittees did not convey water rights located on public land when grazing preferences transferred from one permittee to another.
3. Original applicants for grazing permits did not own water rights on public land.

VI. RELIEF PRAYED FOR.

1. Special Master's Reports and Recommendations for Water Right Numbers 55-11061, 55-11385, and 55-12452, as recommended by IDWR.
2. A Special Masters' Report and Recommendation for Water Right Number 55-10135 with a priority date of August 24, 1985, and limiting the use of the water right in accordance with I.C. § 42-1402.

VII. STIPULATIONS.

The United States requests a stipulation that Exhibits 1 through 88 be admitted without objection or argument.

VIII. AGREED STATEMENT.

Presentation of a part of the action upon an agreed statement of facts is feasible and desired.

DATED this 26th day of November 2002.

UNITED STATES OF AMERICA



Larry A. Brown
Of Attorneys for the United States

CERTIFICATE OF SERVICE

I certify that on Nov. 26, 2002, I served a true and correct copy of the foregoing **UNITED STATES' TRIAL MEMORANDUM; SUBCASE NUMBERS 55-10135, 55-11061, 55-11385, and 55-12452** upon the following individuals by placing the document in the United States Mail in Washington D.C., postage paid, and addressed as follows:

Original to:

Clerk of the Court
Snake River Basin Adjudication
253 3rd Avenue North
Twin Falls, ID 83301

*by Fed Ex
js*

Copies to:

U.S. Department of Justice
General Litigation Section
Environment and Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724

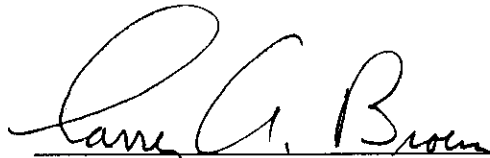
Mr. Richard L. Harris
Attorney at Law
1023 Arthur Street
Caldwell, ID 83605

Mr. Craig A. Pridgen
Mr. Anthony Francois
Attorneys at Law
McQuaid, Metzler, Bedford & Van Zandt, LLP
221 Main Street, 16th Floor
San Francisco, CA 94105

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js*

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
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