

Names of Parties Filing Document:

UNITED STATES OF AMERICA

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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:
) 45-12511, 45-12513, 45-12619, 45-12640,
) 45-12644, and 45-12687
)
) **AFFIDAVIT OF**
) **FREDRIC W. PRICE**

STATE OF IDAHO)
)
COUNTY OF ADA) ss:

I Fredric W. Price, being of lawful age, and having first been duly sworn, state the following:

1. 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
Page 1 -AFFIDAVIT OF FREDRIC W. PRICE; Subcase Numbers: 45-12511, 45-12513, 45-12619, 45-12640,
45-12644, and 45-12687

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;

b. Since August of 1993 as a Water Rights Specialist in the BLM, State Office;

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, 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. 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, whether it is still functional, to identify candidates for filing SRBA water claims, and to capture certain types of projects into the Geographic Information System (i.e. computer mapping system).

b. As a Water Rights Specialist in 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 reviewed 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 to determine land ownership by comparing those land descriptions to BLM's Master Title Plats and Historical Indexes. I have reviewed hundreds of deeds to determine who owned what land descriptions. I've determined the changes needed to over a thousand water right descriptions for use with the SRBA Standard Form 5 (hereinafter "SF-5") to resolve objections involving the BLM. I have extensive knowledge of, and experience with, the official business records of BLM and the Idaho Department of Water Resources (hereinafter "IDWR"), including but not limited to: BLM water right claim files, BLM field investigations, Master Title Plats, Historical Indexes, Control Document Indexes (hereinafter "CDI"), Tract Books, IDWR Adjudication Files, and IDWR Water Right Files. 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 hundreds of subcases, 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 BLM claim files and field investigations conducted by BLM. I have also performed investigations of water rights in the field. I routinely provide technical assistance, reports, recommendations and opinions to the Department of Justice concerning all the above matters.

4. At the request of counsel for the United States, I have reviewed the official business records of BLM and IDWR for the above captioned subcases for SRBA claims made by the United States of America on behalf of the BLM, and have reached the determinations described herein.

5. The Master Title Plat (hereinafter "MTP") is an official business record of BLM. The MTP is the United States' official Record of Title. It is a graphic display of township survey data, and is drafted from information abstracted, compiled, and composed from the latest approved U.S. Government Survey Plats, survey field notes, and protraction diagrams. It describes the locations of United States property, aliquot parcels, and government surveyed "lots."

The Historical Index (hereinafter "HI") is an official business record of the United States

that maintains a time line of events occurring on United States' property.

6. Based upon a review of BLM's SRBA water right claim files and IDWR's abstract/recommendations, the above captioned subcases are BLM "dual" claims based upon state and federal law. The federal claim basis is claimed pursuant to an Executive Order, dated April 17, 1926, and known as Public Water Reserve 107 (hereinafter "PWR 107"). The state basis is based on beneficial use with a priority date of June 28, 1934. The 1934 date was reached through settlement with the State of Idaho.

7. I have reviewed the official business records of BLM and compared the above captioned subcases to BLM's MTPs and HIs. I was able to determine that the above captioned subcases are located on unreserved federal public domain as of April 17, 1926; and this land currently remains under Department of Interior administration.

a. The following is a summary of land acquisitions associated with certain above captioned subcases.

i. **Subcase 45-12511:** This claim describes land that was subject to the PWR 107 reservation on 04-17-1926. Subsequently, the United States issued a Stock Raising Homestead Entry (SRHE) Patent number 1109660 to the Heirs of Cyrus W. Rose on 11-22-1940. The United States reacquired this land pursuant to Warranty Deed 31152 from Glen and Hazel Briggs on 06-01-1966.

BLM should be awarded a 06-28-1934 priority date under the state law basis.

8. The water sources described by the above captioned subcases were confirmed by field investigation.

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

documents for each of the above captioned subcases, there is sufficient surface water at these sites for consumptive use by livestock.

10. Based upon the field verification and my review of the field investigation documents, the source of water for each of the above captioned subcases is a spring located at the recommended/abstracted Point of Diversion (hereinafter "POD") and Place of Use (hereinafter "POU").

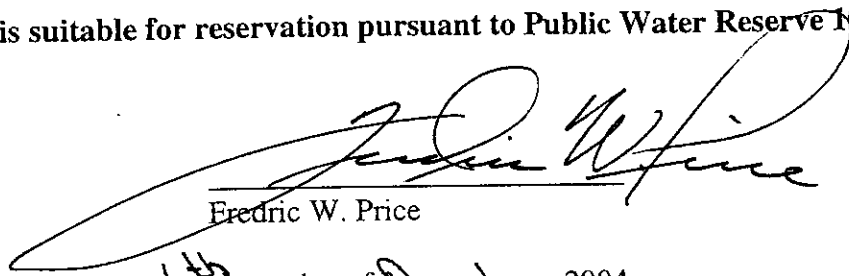
11. I have reviewed the official business records of BLM for each of the above captioned subcases for a federal reserved water right pursuant to PWR 107. The elements of the claimed water rights have been verified through examination of claim files and physical field investigations and are correctly described in the abstract/recommendation of the claims reported by IDWR, except where noted below. The quantity for a federal reservation based upon Public Water Reserve 107 should be 0.02 cfs, not to exceed 13,000 gpd.

a. **Subcases 45-12513, 45-12619, 45-12644, and 45-12687:** The State of Idaho objected to these subcases. In order for these rights to comport with the settlement reached with the State of Idaho on our priority date under a state law basis, SF-5s were filed with the court on 10-15-04 to change the state based priority to 06-28-1934. The SF-5s preserve the "dual" based nature of the claims and do not elect a basis. This was done so that BLM could obtain IDWR's concurrence on the SF-5s for the state based portion, as IDWR could not sign onto an SF-5 for a water right based solely upon federal law. **BLM would prefer the federal basis go to decree.**

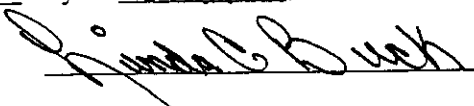
b. **Subcase 45-12511:** The State of Idaho withdrew its objection to priority date in this subcase. As **BLM wishes to pursue a 06-28-1934 priority date under state law**, this state-based priority is consistent with the settlement reached with the State of

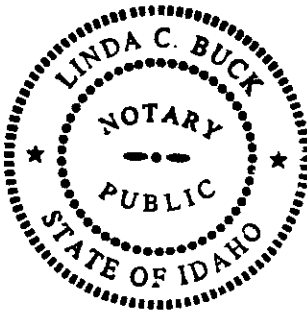
Idaho. There is a pending Motion for Leave to File Late Objection by Joe Tugaw in this subcase which can be withdrawn or dismissed as issuance of a partial decree as described herein is consistent with the settlement reached in this subcase (see Exhibit A of Stipulation filed 08-29-02).

c. **Subcase 45-12640:** The State of Idaho withdrew its objection in this subcase. **This claim is suitable for reservation pursuant to Public Water Reserve 107.**


Fredric W. Price

Subscribed and sworn to before me this 16th day of December, 2004.
Witnessed by my hand and official seal.


Notary Public in and for the State of Idaho
Residing at: Mountain Home, ID
My Commission Expires: 12/21/05



CERTIFICATE OF SERVICE

I certify that on Dec 6, 2004, I served a true and correct copy of the foregoing **AFFIDAVIT OF FREDRIC W. PRICE; SUBCASE NUMBERS: 45-12511, 45-12513, 45-12619, 45-12640, 45-12644, and 45-12687** by placing the document in the United States Mail in Boise, Idaho, postage paid, and addressed as follows, as well as, by facsimile:

Original to:

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

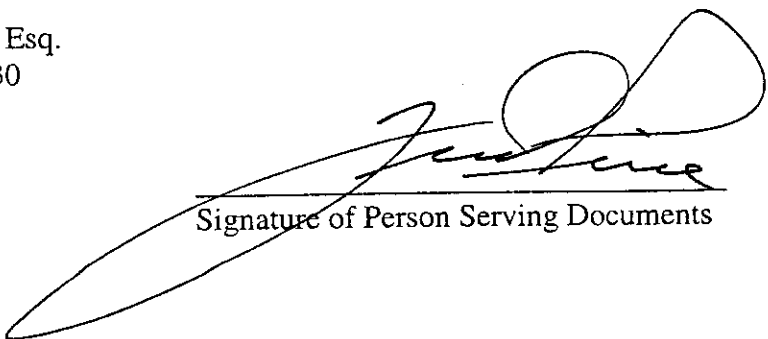
Copies to:

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Signature of Person Serving Documents