

Name of Party Serving Document:

UNITED STATES OF AMERICA

Attorneys' Names and Addresses:

THOMAS L. SANSONETTI
Assistant Attorney General
United States Department of Justice
Environment and Natural Resources Division

DAVID L. NEGRI
United States Department of Justice
Environment and Natural Resources Division
General Litigation Section
550 West Fort Street, MSC 033
Boise, Idaho 83724
(208) 331-5943; facsimile (208) 387-0842
ISB# 6697

**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

) Subcases 47-16433, *et al.*
) See Attachment A
)
) **RESPONSE BRIEF IN OPPOSITION**
) **TO CHALLENGE TO SPECIAL**
) **MASTER'S DECISION ON MOTION**
) **TO ALTER OR AMEND**
)
)

I. INTRODUCTION

The only issue before the Court in this Challenge is whether the Special Master properly denied the motions to file late objections of Bruce and Jared Bedke. The Special Master, relying on well-established precedent of this Court and the Idaho Supreme Court, properly rejected the Bedkes' assertion that they were confused by the SRBA's bifurcation of small domestic and stockwater claims as a basis for relief. The Special Master also properly rejected the Bedkes' assertion that they did not understand that the United States' stockwater claims might be included in the IDWR Director's Report because the Bedkes were provided notice informing them of such possibility and because their own stockwater claims, located on federal land, were included in the Report.

The decision of the Special Master is supported by the facts in evidence, is consistent with Idaho law, and must be affirmed.

II. STATEMENT OF FACTS AND PROCEDURAL HISTORY

The United States of America ("United States"), acting through the United States Department of Agriculture, Forest Service ("Forest Service"), filed the water right claims underlying these subcases ("United States' Claims" or "Claims"). The Claims were filed on National Forest System land for stockwater purposes, and were reported by the Idaho Department of Water Resources ("IDWR") in its "Director's Report For Domestic and Stockwater For Reporting Area 12 (Basin 47)" on August 7, 1998 ("Basin 47 Director's Report" or "Director's Report"). Objections to claims in the Director's Report were due in court on February 12, 1999.

See Exhibit A.¹ No timely objections were filed to the Claims.

Several parties did file motions to file late objections to the United States Claims: Scott Bedke on April 28, 1999, Bruce and Jared Bedke on June 4, 1999, and Gary and Michael Poulton on June 7, 1999. The motions of Scott Bedke, Gary Poulton, and Michael Poulton were resolved by the "Global Stockwater Settlement"² filed in the SRBA on August 29, 2002. The motions of Bruce and Jared Bedke, challengers in the instant case ("Bedkes"), remained outstanding.

On July 3, 2003, the Special Master issued an Order denying the Bedkes' motions to file late objections. In his Order, the Special Master relied upon the Idaho Supreme Court's reasoning in *L.U. Ranching Co. v. United States*, 138 Idaho 606, 67 P.3d 85 (2003), and concluded that the Bedkes had failed to show good cause for not filing objections in a timely manner. *Order Vacating Stays and Order Denying Motions to File Late Objections* (July 3, 2003), at 5-6.

On January 7, 2004, the Special Master entered his *Order Denying the Bedkes' Motion to Reconsider*, finding that "the Bedkes cannot reasonably argue that the bifurcated process of reporting *de minimis* and *de maximus* stockwater claims somehow avoids the requirement to file timely objections." *Order Denying the Bedkes' Motion to Reconsider* (January 7, 2004), at 2. The Special Master concluded that the SRBA court has fully reviewed this issue in prior subcases wherein the court found:

¹ All of the exhibits attached to this Brief were previously filed with the Special Master and are part of the court record in these subcases or are matters of record in the SRBA Court. The United States is attaching these documents for the convenience of the Court.

² *Stipulation and Joint Motion For Order Approving Stipulation*, subcase numbers 37-02809 *et al.*, between the United States and 45 private parties, attached as Exhibit J.

At a minimum if there is uncertainty over the reporting of claims in light of the novel manner in which they were claimed, the onus should have been on the allottee to resolve any uncertainties as how the claims would be reported.

Id. at 3 (quoting *Order on Motion for Reconsideration*, subcases 65-07267. *et al.* (July 27, 2001),

at 12. Based on this precedent, the Special Master specifically concluded that:

The Bedkes have not shown why *LU Ranching* is not dispositive of their motions to file late objections. As in that case, the Bedkes were aware of the commencement of the SRBA, they knew their claims and the claims of others would be adjudicated and they received notice of the filing of the *Director's Report for Domestic and Stockwater, Reporting Area 12 (IDWR Basin 47)* [F]ive of Bruce Bedke's stockwater claims on federal land (47-14923A, B, C, D and E) were, in fact, included in the same *Director's Report* that reported the 26 Forest Service claims at issue here [footnote omitted].

Id. at 3.

On January 12, 2004, the Special Master issued his Report and Recommendations in these subcases. On February 27, 2004, the Bedkes filed a Motion to Alter or Amend, raising only one issue: Whether their motions to file late objections were properly denied. The Special Master denied this Motion to Alter or Amend, finding that:

The United States was correct when it pointed out that the Bedkes raised the same arguments in their *Motion to Alter or Amend* that have already been rejected twice by the Special Master. Whatever uncertainties may have arisen as a result of IDWR's bifurcated reporting process did not excuse the Bedkes from filing timely objections to the United States' conflicting stockwater claims.

Order Denying Motion to Alter or Amend (October 6, 2004), at 5.

This Notice of Challenge was lodged on October 18, 2004.

III. STANDARD OF REVIEW

The district court is required to adopt a special master's findings of fact unless clearly erroneous. *E.g.*, *Memorandum Decision and Order on Challenge*, subcase no. 65-05663B (May

9, 2002) (“*Wood v. Troutt*”), at 5. Although conclusions of law of a special master are not binding on the district court, they are expected to be persuasive. *North Snake Ground Water Dist. v. Gisler*, 40 P.3d 105, 107, (Id. 2002); *Wood v. Troutt*. at 7.

IV. SUMMARY OF THE ARGUMENT

The Bedkes’ motions to file late objection were properly denied by the Special Master. As the Special Master found, the Bedkes cannot establish that good cause supports their failure to timely file since they received notice that claims of the United States might be included in the Director’s Report. Their failure to timely file objections was willful, the United States and other parties to the SRBA will be prejudiced if the late objections are allowed, and the Bedkes have not demonstrated a meritorious defense.

It is well settled that issues cannot be raised at challenge that were not raised at the alter or amend stage. Because the only issue raised by the Bedkes’ Motion to Alter or Amend was whether the Special Master erred in denying their motions to file late objections, they are barred from now arguing that the Special Masters’ recommendations of the United States’ Water Right Claims are contrary to state law. Thus, the sole issue before this Court is whether the Special Master’s denial of Bedkes’ motions should be affirmed.

Even assuming *arguendo* that the Special Master’s Recommendations were properly contested at the alter or amend stage, the record in this case establishes that the United States’ Claims should be decreed. The evidence before the Court related to the Claims, the Director’s Report issued by IDWR, supports the Special Master’s Report and Recommendations, and the SRBA Court has already decreed to the United States thousands of similar stockwater rights on National Forest System lands. Under Idaho law, the facts set forth in the Director’s Report must

be accepted unless contrary evidence is present or the Director's Report is clearly erroneous on its face. Because neither of these exceptions are present, these Claims should be decreed as recommended by the Special Master.

V. ARGUMENT

A. **The Special Master's Denial of the Bedkes' Motions to File Late Objections Was Appropriate and His Report and Recommendations Should Not Be Altered.**

1. The Claims and Issuance of the Director's Report.

The United States filed numerous *de minimis* stock water claims for water sources located on National Forest System lands within Basin 47, including the Claims at issue. All of these claims were reported out in the Basin 47 Director's Report on August 7, 1998. The Bedkes state in their late objection motions that the United States' Claims were for "water that [they] had claimed." *See* Exhibits B and C. As described in more detail below, stockwater claims by Bruce Bedke were also included in the Basin 47 Director's Report, including claims for many of the same water sources underlying the United States' Claims.

The Bedkes received notice of this report through the *Notice of Filing Director's Report for Reporting Area 12 (IDWR BASIN 47)*.³ That Notice stated that IDWR provided individual reports "to all claimants of small domestic and stock water rights in your area."⁴ The Notice

³ See *Affidavit of Service: Notice of Filing Director's Report for Reporting Area 12 (IDWR BASIN 47) Small Domestic and Stock Water Rights* (hereinafter "Affidavit") attached as Exhibit D.

⁴ See *Notice of Filing Director's Report for Reporting Area 12 (IDWR Basin 47)* (hereinafter "Notice") attached as Exhibit A.

informed Bedkes that the complete Director's Report contained recommendations for both the claimant and "all other recommended domestic and stock water right(s) in your area." The United States is identified as one of the "other" claimants in the Snake River Basin Adjudication ("SRBA"). Specifically, the instructions provide:

Note that you have 180 days in which to file any objection to our recommendation and to review the domestic and stock water rights of other claimants, including those of the United States.

The Notice further informs claimants where they could review the Director's Report if they were unsure of what claims were being reported. Specifically, the Notice provides that:

If you want to review someone else's water right you need to look at the complete Director's Report, which is available at the SRBA courthouse in Twin Falls and the locations listed on the third page of this notice.

The Notice also provided specific instructions for claimants seeking to object to any water right claim, including those filed by the United States. The instructions state:

What do I do if I disagree with a recommendation or a federal water right claim?

If you disagree with any element of the recommendation for your water right or anyone else's water right and want to be heard in court, file an objection with the SRBA Court. Objections must be made on the standard objection form available from any IDWR office or from the SRBA Court. Your objection must be received by the SRBA Court on or before February 12, 1999.

Finally, the Notice informed the Bedkes of what they had to do to participate in any proceedings involving someone else's water right claim:

What do I do if I want to participate in the court case on someone else's water right?

If you want to be involved in the court case on any water right in the Director's Report, you must file either an objection or a response by the dates listed above.

See Exhibit A.

It is undisputed that Bruce Bedke received this Notice. In addition, the representations of the Bedkes make clear that Bruce Bedke's son, Jared Bedke, was aware of the Notice.⁵

Despite this Notice, the Bedkes failed to file objections to the United States' Claims in Basin 47 by the filing deadline of February 12, 1999. After review of the Director's Report, the United States filed timely objections to the Bedkes' claims in Basin 47 on February 12, 1999.⁶

In addition to the information contained in the Notice, the Bedkes received other information which would have reasonably informed any interested party that federal claims might be included in the Basin 47 Director's Report. The Bedkes appeared in the SRBA Court at an April 7, 1999, Initial Hearing concerning Scott Bedke's late objections to United States'

⁵ The Affidavit provides that Bruce Bedke was served a copy of the Notice. Ex. D at p.19. The Affidavit does not state that Jared Bedke was served with a copy of the Notice. Jared Bedke is the son of Bruce Bedke. Jared Bedke was present at both the April 7, 1999 Initial Hearing regarding United States' claims in Basin 45 and at the June 7, 1999 hearing on the parties' Joint Motion Re: IDWR Reporting of Claims in Basin 45. At the June hearing, Jared Bedke stated that he "intends to be the successor in interest of Bruce Bedke." June 7, 1999 Transcript, attached as Ex. G, at pp. 80 -82.

The late objection motion filed by Jared Bedke represents that he had claims filed in the SRBA and that the United States Claims were for "water that I had claimed." At the time of his late objection motion Jared Bedke had no claims in the SRBA, but it is clear from the above that he considered that his father's claims were also his claims. He has been intimately involved in the prosecution of his father's claims and the transcripts related to these subcases demonstrate that he has taken the lead in arguing in support of such claims. Because he has clearly represented to the Court that he believes his father's claims to be his own, it is reasonable to assume that he was informed of the status of such claims and that he took reasonable steps to prosecute such claims, including review of the Notice and the Director's Report. In addition, because he was not a SRBA claimant at the time of the Basin 47 Director's Report, IDWR was under no obligation to provide him with notice of the Director's Report. See I.C. § 42-1411(6).

⁶ The United States included with its objections an Attachment that provided a named description of the claimed sources along with both the United States' and claimants competing claim numbers. See Exhibit E attached hereto.

stockwater claims in Basin 45. They specifically attended that hearing to request that their names be added to Scott Bedke's objections and were present with a group of people that represented to this Court that their names had been inadvertently omitted from Scott Bedke's objections.⁷ These facts demonstrate that the Bedkes were aware that federal claims located in their grazing allotments were being reported out and that it was necessary to file objections to contest these claims.

In addition, Jared Bedke stated to this Court that in March of 1999 "we were informed that—if we don't object to the federal government's water rights, their claims will be decreed as a matter of course."⁸ In sum, in addition to the Notice received in August of 1998, the Bedkes' admissions in Court demonstrate that they were aware in March or April of 1999 at the absolute latest of the need to file objections to the United States' Claims.

On June 4, 1999, 112 days after the objection deadline, and two months after their appearances in the SRBA Court, the Bedkes filed motions to file late objections to the same 26 United States' stockwater claims in Basin 47 which Scott Bedke had previously objected to.⁹ As the basis for their late filing, Jared Bedke and Bruce Bedke copied the exact language used in Scott Bedke's motion, filed on April 28, 1999, over a month earlier.¹⁰ Their stated reasons for

⁷ See Transcript of April 7, 1999, Initial Hearing on United States claims in Basin 45, at pp. 64, 75-83, 92-98, attached as Exhibit F.

⁸ See Exhibit G, June 7, 1999 Transcript at p. 83 – 84.

⁹ Copies are attached as Exhibits B and C.

¹⁰ Scott Bedke's motion is attached as Exhibit H.

filing the late objections was that after following the status of their claims on the internet, they only “recently became aware” of the United States claims.¹¹

2. The Bedkes Received Notice of the Director’s Report and Took No Action to Investigate Other Claims.

As the facts set forth above demonstrate, the Bedkes should have been aware of the United States’ Claims in August, 1998, when the relevant Director’s Report was issued. The Notice clearly identified the United States as a claimant and provided specific instructions for reviewing claims and filing objections. The Notice also set forth deadlines for filing objections. Notwithstanding the clear instructions in the Notice of Filing, the Bedkes apparently failed to conduct any investigation into whether the United States had filed claims on National Forest System lands and whether those claims had been reported out. They offer no reason for their failure to undertake the same investigation that all other claimants in the SRBA, including the United States, have had to undertake in making timely objections.

3. SRBA standard for late objections.

In an appeal from an interlocutory order of the SRBA Court, the Idaho Supreme Court has held that the deadlines provided by A.O.1 must be strictly construed. In upholding a denial of a request to file late responses, the Court stated:

A.O.1 § 4b provides an *absolute* rule for responses: “The objection or response must be *received* by the court by the deadline specified.” . . . By the plain language of the SRBA rules, the Irrigators’ response was untimely and the special master correctly denied the motion to file the response.

¹¹ *Id.* They further stated that they were filing their objections so that the United States’ claims would not be partially decreed “as a matter of course”.

State v. United States, 134 Idaho 106, 996 P. 2d 806, 809 (2000) (emphasis in original). In the underlying decision, the SRBA Court held that objections and responses had to be filed within the applicable time limits or they could not be considered. *Order Accepting, In Part, and Denying, in Part, Special Master's Report and Recommendation*, subcase no. 36-15452 (October 10, 1997), at 3.

The SRBA Court subsequently held that motions to file late objections are subject to the “good cause” standard of IRCP 55. *Order on Motion to Set Aside Partial Decrees and File Late Objections*, subcase nos. 65-07267 *et al.* (January 31, 2001) (“*A.L. Cattle Initial Order*”), at 7. This standard takes into account 1) whether the default was willful; 2) whether setting aside the judgment would prejudice the opponent; and 3) whether a meritorious position has been presented. *Id.*

a. The default was willful.

The Bedkes argue throughout their *Opening Brief In Support of Notice of Challenge of Special Masters Report and Recommendation* (“*Brief*”) that their failure to file timely objections was caused by their “confusion,” allegedly brought about by IDWR’s bifurcation of domestic and stockwater claims from irrigation and other claims in the SRBA claims reporting process. *E.g., Brief* at 5-7. As shown below, this argument has been rejected by the SRBA Court and the Idaho Supreme Court. Further, given the facts of this case, it is clear that the failure of the Bedkes to timely object to the United States’ Claims, rather than being excusable, was in fact willful.

In *L.U. Ranching Co. v. United States*, 138 Idaho 606, 67 P.3d 85 (2003), the Idaho Supreme Court rejected the appellant’s arguments that improper notice excused its failure to

RESPONSE BRIEF IN OPPOSITION TO CHALLENGE TO SPECIAL MASTER’S DECISION ON MOTION TO
ALTER OR AMEND – Subcase nos. 47-16433, *et al.* – Page 11

properly contest federal stockwater claims.¹² The Court's analysis is as applicable to the Bedkes as it was to L.U. Ranching:

[T]here is no doubt that LU Ranching was aware of the commencement of the SRBA and aware that action concerning its claimed rights and the rights of others in the region would be adjudicated. It received notice of the Director's report, the nature of that report, its location, and the way to access the report, as well as the offer of technical assistance if necessary. . . . The method of notice given was reasonably calculated to give LU Ranching and all other claimants the information to pursue and protect their rights. In fact, LU Ranching found the information when it examined the Director's report.

67 P.3d at 89.

The Supreme Court affirmed the SRBA Court's holding that LU's failure to timely object was not how a reasonably prudent person under the circumstance should have acted, and rejected LU's claims of excusable neglect and mistake. 87 P.3d at 90.

Similarly, the SRBA Court has rejected claims that the SRBA bifurcation process somehow absolves a party from following SRBA deadlines. In the *A.L. Cattle* subcases, Presiding Judge Burdick ruled that simply alleging that the bifurcation process caused confusion is insufficient. *A.L. Cattle Initial Order* at 12. On reconsideration, the Court held that "at a minimum, A. L. Cattle or any other grazing allottee should have reviewed the small domestic and stockwater director's report for the existence of *de minimis* claims." *Order on Motion For Reconsideration*, In Re SRBA, Case No. 39576, subcase nos. 65-07267 *et al.* (July 27, 2001) ("*A.L. Cattle Reconsideration Order*") at 9 (emphasis added).

¹² The Court also rejected a constitutional challenge to the notice provisions of the SRBA.

In the instant case, the Bedkes' failure to file timely objections to the United States' stockwater claims is best analyzed by considering that the Basin 47 Director's Report included numerous stockwater claims by Bruce Bedke. These include claims for the same sources underlying the United States' Claims. Specifically, the following stockwater claims made by Bruce Bedke were included in the Report:

47-14923A: stockwater claims for Cherry Creek, Piney Creek, and Goose Creek.

47-14923B: stockwater claims for Thoroughbred Creek, East Fork Thoroughbred Creek, West Fork Thoroughbred Creek, and Goose Creek.

47-14923C: stockwater claims for Humphrey Creek, Little Piney Creek, South Fork Little Piney Creek, and Goose Creek.

47-14923D: stockwater claim for Goose Creek.

47-14923E: stockwater claims for Humphrey Spring, Little Willow Spring, Right Hand Fork Spring, Thoroughbred Pond Springs, Thoroughbred Spring #1, Thoroughbred Spring #2, Whitey Davis Spring, WPA Spring, and two additional unnamed springs.

These claims by the Bedkes include many of the water sources claimed by the United States in the Water Right Claims at issue. *See, e.g.*, 47-16433 (Thoroughbred Creek), 47-16438 and 47-16444 (Goose Creek), 47-16445 (Humphrey Creek), 47-16446 (Little Piney Creek), 47-16441 (Thoroughbred Pond Spring), 47-16460 (Humphrey Spring). The Bedke claims and the United States' Claims were both included in the same report – the Basin 47 Director's Report. *See* Exhibit I, pp. C-214 and C-215, pp. C-242, C-243, and C-244.

It is simply unreasonable to give any credence to the Bedkes' allegation that they were confused as to when the United States' Claims would be reported. The Bedkes' own claims to the same water sources claimed by the United States were contained in the Director's Report.

The Bedkes further argue that they were advised by IDWR that they would not have to object to claims in the Director's Report because, if two claims were "in conflict," then both would be reported to the SRBA Court as one claim. *Brief* at 6. There are several problems with this argument.

First, in the six years since the United States' Claims were reported, the Bedkes have presented only unsworn statements to support their assertion that some unnamed person at IDWR gave them unreliable advice. These unsworn statements are hearsay and should not be given any consideration by this Court.¹³

Second, the facts of this case rebut any assertion that the Bedkes could reasonably believe that all claims of the United States would be combined with their claims. It would be one thing if

¹³ Any factual assertions made by the Bedkes should not be considered by the Court in support of the Bedkes' arguments because they were never properly sworn. *See, e.g.*, IRE 603 (proper oath or affirmation required for testimony), I.C. § 51-109 (oath or affirmation requires a certification by notary public); *Evans v. Twin Falls County*, 796 P.2d 87 (1990) (written statements not subscribed and sworn to as an oath or affirmation by notary public are not under oath as required). In addition, because the Bedkes are representing themselves in this matter, their unsupported assertions, made either orally in court or in their written filings, should be treated the same as any assertions made by an attorney which lack supporting evidence, *i.e.*, they should be ignored.

However, statements made by the Bedkes in court may be relied upon by the United States under the doctrine of judicial admissions. A statement made by a party or attorney in the course of judicial proceedings can be used by the opposing party to establish facts. *Strouse v. K-Tek, Inc.*, 930 P.2d 1361, 1363 (Idaho App. 1997). Judicial admissions may be considered without admission into evidence, and a party making such an admission may not controvert the statement on appeal. *Griff, Inc. v. Curry Bean Co., Inc.*, 63 P.3d 441, 447 (Idaho 2003).

the Bedkes had no claims of their own reported in the Director's Report. However, the Director's Reports in fact described the Bedke claims without any mention of the United States as a joint owner. The inclusion of these claims without the United States listed as a co-owner would put any reasonable party on notice that claims may not have been combined, particularly where the party knew, as the Bedkes did in this case, that the United States was filing stockwater claims on federal land. Assuming for the sake of argument that erroneous advice was provided by IDWR, given the facts surrounding this case it was unreasonable for the Bedkes to fail to make further investigation upon the receipt of the Director's Report. *See Order Denying Motion For Late Objection*, subcase nos. 65-02949A and B (November 6, 2001), at p. 3 ("Regardless of whether [movant] had been given erroneous information by IDWR . . . it would have been reasonable for [movant] to make further inquiry at that time.").

Third, any assumption that federal and private claims would necessarily be reported as a combined right was unreasonable in light of the Bedkes' knowledge that federal stockwater rights had been reported separately from private rights in Basin 45. *See, infra*, at pp. 8-9. Despite this knowledge, the Bedkes delayed for several additional months before filing their late objection motions.

Indeed, this additional delay further demonstrates that the Bedkes' failure to timely object was willful in this case. They have presented absolutely no argument to excuse the delay from April 7, 1999, the date of their appearance in the Basin 45 subcases,¹⁴ to June 4, 1999, the date they finally filed their late objection motions in the subcases at issue. The only reasonable

¹⁴ As noted above, Jared Bedke further admitted in Court that he was informed in March of 1999 that he needed to object to federal claims or they would proceed to decree.

assumption to draw from this timeline is that the Bedkes willfully ignored the SRBA's rules and deadlines.

b. The United States and other parties would be prejudiced by granting of the motions.

In the *A.L. Cattle* subcases, the Court denied motions to set aside partial decrees but remanded late objection motions to the Special Master. *A.L. Cattle Initial Order* at 15. Because the *A.L. Cattle* subcases ultimately were resolved as part of the *Global Stockwater Settlement*, a final determination of the late objection motions at issue in those subcases never occurred. However, in another series of SRBA federal stockwater subcases, Special Master Cushman held that a motion to file late objections to federal stockwater claims must be denied where the claims would have proceeded to partial decrees but for the pending late objection motion. *Order Granting Motions to file in Late Objections [in three subcases] and Report and Recommendation That Motions to File Late Objections in Remaining Subcases be Denied*, subcase nos. 51-02283, *et seq.* (March 13, 2002). Special Master Cushman reasoned that to allow a late objection in such circumstances would unduly prejudice the water right claimant.

The prejudice to the United States and other parties in the instant subcases is substantially more compelling. These subcases were resolved as part of the *Global Stockwater Settlement* with all late objectors other than the Bedkes. Thousands of other stockwater subcases were similarly settled as part of the *Global Stockwater Settlement*. Paragraph 9 of the *Settlement* provides that, if the water rights of the settling parties (including the United States) are not decreed consistent with the settlement terms, the Settlement is "null and void and shall have no effect." Thus, to allow the Bedkes to proceed with their late objections at this stage could

impact thousands of stockwater subcases, prejudicing the United States and dozens of additional parties. *See Global Stockwater Settlement* (§ 9, Attachment 1, and Exhibits A – G), attached as Exhibit J.

c. A meritorious defense has not been established.

In the *AL Cattle* subcases, AL Cattle argued that the United States could not hold stockwater rights because the cattle drinking the water were owned by a third party. The SRBA Court held that such an allegation is not specific enough to satisfy the pleading requirements for a meritorious defense. *AL Cattle Reconsideration Order* at 14-15. The Bedkes' allegations in their Brief are identical to those made by AL Cattle – that the United States has not beneficially used water because it does not own the livestock drinking the water.¹⁵

In addition, as noted in section C below, the United States is entitled to the *prima facie* presumption of the Director's Report. The *AL Cattle* orders make clear that the allegations made by the Bedkes are not enough to rebut this presumption. Accordingly, the Bedkes have not established a meritorious defense.

d. Conclusion.

In sum, because the Bedkes' failure to file objections in a timely fashion was willful, the United States and other parties will be prejudiced by allowing the objections, and the Bedkes have not established a meritorious defense, the Special Master appropriately denied their late objection motions.

¹⁵ As with other factual assertions made by the Bedkes, the allegation that the United States does not own livestock is unsupported by evidence properly admitted. Such assertions should not be considered by this Court.

B. The Bedkes are barred from arguing that the Special Masters' recommendation of the United States' Water Right Claims is contrary to state law because they failed to raise such argument in their Motion to Alter or Amend.

A.O.1 explicitly provides that a party can only take part in a Challenge if it has filed a Motion to Alter or Amend. A.O.1 § 13. Similarly, a party should not be allowed to raise issues at Challenge that were not raised in the Motion to Alter or Amend. Because the Challenge is to the Special Master's ruling on the Motion to Alter or Amend, *see* A.O.1 § 13, it would make no sense to allow issues on Challenge not raised at the alter or amend stage.

In these subcases, the only issue contested by the Bedkes' Motion to Alter or Amend was the denial of their late objection motions. Accordingly, they should not now be allowed to argue that the recommendation of the United States' Claims by the Special Master is contrary to law.¹⁶

C. Even assuming that the Bedkes' challenge to the Special Masters' Recommendations is properly before this Court, the Recommendations conform to state law.

1. The Court must accept the facts as established in the Director's Reports.

¹⁶ As a necessary part of their argument in support of their late objection motions, the Bedkes did argue in their Motion to Alter or Amend that they had established a meritorious defense, but such argument is distinct from the challenge to the Special Master's recommendation they now attempt to raise.

The only evidence before the Court related to the elements of the Water Right Claims is the Director's Report.¹⁷ The Idaho legislature has mandated that a director's report constitutes *prima facie* evidence of the elements of a water right. I.C. § 42-1411(4) provides as follows:

Upon filing with the court, the director's report, except for the explanatory material referred to in subsection (1) of this section, shall constitute *prima facie* evidence of the nature and extent of the water rights acquired under state law.

Section 42-1411(4) creates an evidentiary presumption which has been upheld by the Idaho Supreme court as a permissible exercise of legislative authority. *State v. Higginson*, 128 Idaho 246, 256, 912 P.2d 614, 624 (1995). "Unless that evidentiary presumption is overcome by the evidence or the application of that presumption is clearly erroneous on its face, the facts set forth in the Director's report are established." *Higginson*, 128 Idaho at 256, 912 P.2d at 624.

In issuing his Report and Recommendations, the Special Master implicitly accepted the presumption created by the Director's Report. His recommendations as to the elements of the United States' Claims must be adopted by the District Court unless they are clearly erroneous. *See, e.g., Wood v. Troutt*, at p. 5.¹⁸

In these subcases, there is simply no evidence contrary to the Director's Report. The assertions of the Bedkes concerning the facts underlying these subcases are unsubstantiated and

¹⁷ The United States is relying upon oral statements made by the Claimants as well as documentary evidence to rebut the Bedkes' assertions that good cause exists for filing of late claims. This evidence, however, has no relevance to the United States' Claims and is only pertinent to the good cause issue.

¹⁸ The only discrepancy between the Special Master's Recommendation of the elements of the Water Right Claims and the Director's Report is the priority dates. These dates were recommended more junior than those in the Director's Report pursuant to the terms of the *Global Stockwater Settlement*.

should not be considered by this Court. As such, it is quite clear that the Director's Report have not been "overcome by the evidence."

Moreover, the SRBA Court has decreed to the United States at least 8,780 stockwater rights on National Forest System lands, similar to those at issue in these subcases. For instance, at least 308 such stockwater rights have been decreed in Basin 47, at least 225 such rights in Basin 45, and at least 1,173 such rights in Basin 34. *See, e.g.*, 47-14998, 34-10954, 45-11979; *see also Global Stockwater Settlement*, Exhibits A, B, and C (lists of federal stockwater subcases, many of which have since proceeded to decree). In almost all of these subcases, the only evidence before the Court was the director's report. In addition, the SRBA Court has explicitly rejected challenges to United States' stockwater claims in 18 subcases because the objector had not offered evidence to rebut the presumptions of the director's reports. *Order on Motion to Alter or Amend; Order on Summary Judgment; and Order on Motion to Withdraw Admissions*, subcases nos. 57-11124 *et al.* (March 24, 1997), at 21. In light of this authority, it is clear that the application of the director's report presumption is not clearly erroneous on its face.

Applying these principles to this case, it is clear that the evidentiary presumption created by the Director's Report has not been overcome by any evidence of record. Nor have the Bedkes shown that the application of that presumption in this case is clearly erroneous on its face. Accordingly, the facts at issue in these subcases have been established by the Director's Report. *Higginson*, 128 Idaho at 256, 912 P.2d at 624, *see also McCray v. Rosenkrance*, 20 P.3d 693, 698 (Idaho 2001) ("[T]he Director's Report is prima facie evidence and the facts contained therein are presumed to be correct until such time as a water claimant produces sufficient evidence to rebut the presumption.") (*quoting State v. Hagerman Water Right Owners, Inc.*, 130

Idaho 736, 745, 947 P.2d 409, 418 (1997)).¹⁹ In such a case, state law supports the issuance of water right decrees.

2. The Court has the authority to apply the law to the facts established in the Director's Report.

In accordance with the decision in *Higginson*, the Court has the authority to apply the law to the facts established in the Director's Report. The *Higginson* Court accepted the evidentiary presumption created by section 42-1411(4) as a valid exercise of legislative authority. However, the Court invalidated the provision in section 42-1411(4) that "unobjected to portions of the director's report shall be decreed as reported." *Higginson*, 128 Idaho at 258-59, 912 P.2d at 626-27. The Court found that this portion of section 42-1411(4) "remove[d] the authority of the courts to apply the facts to the law and render a conclusion." *Higginson*, 128 Idaho at 258, 912 P.2d at 626. I.R.C.P. 55 "retains in the district court the inherent power to apply law to facts and render a decision." *Id.* Likewise, the stricken provision ran afoul of the Idaho Constitution because it "strip[ped] the district court of the ability to review the contents of the Director's report and apply the law to the facts as established in that report." *Id.*

Therefore, *Higginson* mandates the following process in these subcases: 1) the Court must accept the facts as established by the Director's Report, and 2) the Court may then apply the

¹⁹Additional support for this conclusion is found in Idaho law on default judgments. The *Higginson* Court held that the default provisions of I.R.C.P. 55 establish the procedure to be followed in the SRBA where no objection to a director's report has been raised. *Higginson*, 128 Idaho at 258, 912 P.2d at 626. Rule 55 "does not permit the court to ignore the long-established precept that on default all well pleaded factual allegations in the complaint are deemed admitted." *Cement Masons'-Employers' Trust v. Davis*, 107 Idaho 1131, 1132-33, 695 P.2d 1270, 1271-72 (Ct. App. 1985) (citing Wright & Miller, *Federal Practice and Procedure*, § 2688, p. 444 (2d ed. 1983)).

law to such facts in reaching a decision.²⁰ The Court's task is to "review the contents of the Director's report and apply the law to the facts *as established in that report*." *Higginson*, 128 Idaho at 259, 912 P.2d at 627 (emphasis added).

3. The SRBA Court's treatment of federal stockwater claims demonstrates that applicable law supports the Special Master's recommendation.

a. The United States has received numerous stockwater decrees in the SRBA.

As noted above, thousands of stockwater claims have been decreed to the United States on National Forest System lands. In so doing, the SRBA Court has implicitly recognized that state law supports such decrees.

b. SRBA decisions demonstrate that the United States should be decreed rights as recommended by the Special Master.

As emphasized above, it has been a fundamental practice of the SRBA Court that where there is no evidence to rebut the director's report, cases have proceeded to decree as reported. This principle has been applied consistently and, in the few instances where addressed in contested cases, the Court has ordered that such rights should be decreed as reported.

As noted above, Special Master Haemmerle explicitly rejected challenges to United States' stockwater claims in 18 subcases because the objector had not offered evidence to rebut the presumptions of the relevant director's report. *See Order on Motion to Alter or Amend; Order on Summary Judgment; and Order on Motion to Withdraw Admissions*, subcases nos. 57-

²⁰ *Higginson* does not in any way mandate that the Court engage in any legal review of unobjected to director's reports; it merely preserves the discretion of the Court to do so. The vast majority of unobjected to claims in the SRBA proceed routinely to decree.

11124 *et al.* (March 24, 1997), at 21. This Order was adopted by the SRBA District Court, which then issued partial decrees to the United States. *See, e.g., Order of Partial Decree For Water Right 57-11124* (November 26, 1997) (adopting findings of fact and conclusions of law of Special Master's Report and Recommendation.).²¹

Further, the *AL Cattle* decisions support the issuance of partial decrees to the United States in these subcases. The SRBA Court held that the mere fact that the United States does not own cattle does not defeat a stockwater right. *AL Cattle Initial Order* at 15. Accordingly, the Bedkes' unsupported assertion in that regard, even if proven, cannot provide any basis for rejection of the Special Master's recommendations.

VI. CONCLUSION

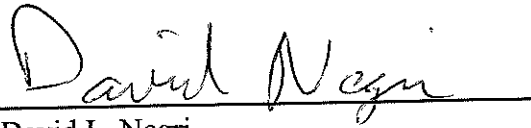
Because the Bedkes have failed to establish good cause for their late filing of objections and because state law supports the issuance of decrees for the Water Right Claims in these subcases, the Bedkes' Challenge should be denied.

²¹ This principle was reinforced in an opinion which resolved objections by the State of Idaho to priority dates claimed by the United States for stockwatering rights. *See Order Denying Challenges and Adopting Special Master's Reports and Recommendations*, Subcase Nos. 57-04028 *et al.* (September 30, 1998), at p. 7 ("*Stockwater Order*"). The State of Idaho argued that the United States' priority date could not precede June 28, 1934, the date of passage of the Taylor Grazing Act. *Stockwater Order* at 7. The SRBA Court, in adopting and incorporating the opinion of the Special Master, held that where there was no dispute of fact or law as to the priority date, the Court would not inquire further. *Stockwater Order* at 10 (adopting and incorporating Special Master's decision); *Order Denying Motion to Alter or Amend (Amended Order on State's Motion For Summary Judgment)*, Subcase No. 72-15929C (April 10, 1998) at 12.

It should be noted that in this case the director's report was being challenged by another party. Nevertheless, the Court decreed the right as reported in the director's report to the extent it was not being challenged.

DATED this 11 day of January, 2005.

UNITED STATES OF AMERICA

A handwritten signature in dark ink, reading "David L. Negri", is written over a horizontal line.

David L. Negri
United States Department of Justice
Environment and Natural Resources Division
General Litigation Section
550 West Fort Street, MSC 033
Boise, Idaho 83724
(208) 331-5943
Counsel for the United States of America

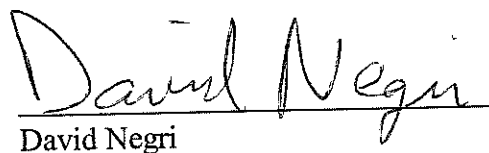
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of January, 2005, I served a true and correct copy of the foregoing RESPONSE BRIEF IN OPPOSITION TO CHALLENGE TO SPECIAL MASTER'S DECISION ON MOTION TO ALTER OR AMEND by depositing a copy thereof in the U.S. mail, postage prepaid, or by other service where indicated, upon the following:

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

Bruce Byron Bedke
in care of: 42 East Basin Road
United States Post Office
Oakley, Idaho 83346

Jared K. Bedke
in care of: 69 West Basin Road
United States Post Office
Oakley, Idaho 83346


David Negri

Attachment A

47-16433
47-16434
47-16435
47-16437
47-16438
47-16440
47-16441
47-16442
47-16443
47-16444
47-16445
47-16446
47-16447
47-16448
47-16449
47-16458
47-16459
47-16460
47-16461
47-16463
47-16464
47-16465
47-16466
47-16470
47-16471
47-16474

EXHIBIT A



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

AUGUST 7, 1998

RE: Domestic and/or Stockwater Rights in Reporting Area 12, Basin 47
Snake River Basin Adjudication (SRBA)

Dear Water Right Claimant(s):

Please find enclosed the Idaho Department of Water Resources recommendations for your domestic and/or stockwater water right(s) in basin 47 (the area of Salmon Falls Creek and the South Hills to the Snake River). We have also enclosed instructions for reviewing (1) your recommended water right(s), and (2) other recommended domestic and stockwater right(s) in your area. Water rights for irrigation and other purposes in basin 47 will be recommended in a later process.

Note that you have 180 days in which to file any objection to our recommendation and to review the domestic and stockwater water rights of other claimants, including those of the United States. Information on the other water rights can be found at the county courthouses in Twin Falls, Burley, and Murphy, and at all of the Idaho Department of Water Resources offices (see addresses in enclosure).

If the Court does not receive an objection from you about our recommendation, and no other party objects to your water right, your water right will be decreed later this year as recommended. You will receive your decree from the SRBA Court.

Completion of the SRBA is important for the future of water management in Idaho. We invite you to contact our regional offices with any questions that you have about your water right(s) or this adjudication process.

Sincerely,

Karl J. Dreher
Director

Enclosures

NOTICE OF FILING
DIRECTOR'S REPORT FOR REPORTING AREA 12 (IDWR BASIN 47)
SMALL DOMESTIC AND STOCK WATER RIGHTS

INTRODUCTION

This is the Idaho Department of Water Resources' (IDWR) Director's Report for your small domestic and/or stock water right claimed in the Snake River Basin Adjudication (SRBA). The quantity allowed for each small domestic or stock water right is up to 13,000 gallons per day. An additional Director's Report for irrigation and all other state law based claims in your reporting area will be filed with the court at a later date.

IDWR is providing individual reports like this one to all claimants of small domestic and stock water rights in your area. A complete copy of the Director's Report, listing all of these small domestic and stock water rights claimed under both state and federal law, is available at the SRBA courthouse in Twin Falls and the locations listed on the third page of this notice. Copies of the report can be made, but you may be charged for copying and mailing.

The following instructions and definitions are designed to help you understand this report.

INSTRUCTIONS FOR REVIEWING YOUR OWN WATER RIGHT

The description of your right which is enclosed is only the Director's recommendation to the SRBA Court on your water right. The Court will decide how it will decree your water right. You are free to agree or disagree with the Director's recommendation. If you agree with the Director's recommendation you do not need to do anything, pending further notice as described below. If you disagree with the Director's recommendation, you need to file an objection as described below.

INSTRUCTIONS FOR REVIEWING THE WATER RIGHTS OF OTHERS

The complete Director's Report contains recommendations to the SRBA Court on your water right and all other small domestic and stock water rights in your area. The Court will decide how it will decree all water rights. The Director's recommendations in the full report are listed in two sections of the report:

- 1) **List of Recommended Water Rights** -- Water right recommendations are listed alphabetically by source and then chronologically by priority date within each source.
- 2) **List of Claims Recommended to Be Disallowed** -- Water rights recommended to be disallowed are listed numerically by water right number. A short statement of the reason for IDWR's recommendation for disallowance is provided.

Also included in the complete Director's Report are descriptions of the United States' claims for domestic and stock water rights under federal law. The Director does not investigate these claims and makes no recommendation whether they should be granted or not. Sometimes the United States claims one right under both federal and state law. These are called "dual based" claims.

If you want to review someone else's water right you need to look at the complete Director's Report, which is available at the SRBA courthouse in Twin Falls and the locations listed on the third page of this notice. Copies of the report can be made, but you may be charged for copying and mailing.

INSTRUCTIONS FOR TAKING A WATER RIGHT CLAIM TO COURT

What do I do if I disagree with a recommendation or a federal water right claim?

If you disagree with any element of the recommendation for your water right or anyone else's water right and want to be heard in court, file an objection with the SRBA Court. Objections must be made on the standard objection form available from any IDWR office or from the SRBA Court.

Your objection must be received by the SRBA Court on or before **February 12, 1999**.

What do I do if someone else objects to my water right recommendation?

If someone files an objection to your water right, or anyone else's water right, you may file a response to that objection. Responses to objections must be made on the standard response form available from any IDWR office or from the SRBA Court.

Your response must be received by the SRBA Court on or before **April 16, 1999**.

What do I do if I want to participate in the court case on someone else's water right?

If you want to be involved in the court case on any water right in the Director's Report, you must file either an objection or a response by the dates listed above.

What happens if there are no objections to a water right?

After the deadline for filing objections, IDWR will file a list of all water right recommendations with no objections. The SRBA Court will hear the uncontested recommendations on **April 16, 1999, at 10:00 A.M.** at the SRBA Courthouse. Partial decrees will be issued following this hearing.

How will I know about the proceedings on water right recommendations to which objections were filed?

A notice will be mailed to you for court dates on your water right or for those where you filed an objection or a response. You will not receive notice of court dates on any other water right recommendations. (See Note on following page.)

Note: The SRBA Court publishes a monthly Docket Sheet listing all objections and responses filed. It does not list court dates for individual water right cases, but provides general information helpful to all participants in the SRBA.

The Docket Sheet is available at your county courthouse and all IDWR offices, or you may subscribe by contacting the SRBA Court or IDWR. The annual subscription fee is \$7.50.

CHANGES OF ADDRESS OR OWNERSHIP DURING THE SRBA COURT CASE

You must contact your regional IDWR office with your address change or if the ownership of your water right changes. Failure to notify IDWR may result in the loss of your water rights.

ADDITIONAL INFORMATION

If you have questions about the SRBA, public information brochures are available at any IDWR office. Maps and aerial photography of this reporting area, as well as assistance in using the maps and the photography, are available at the IDWR Southern Region office in Twin Falls. You are also welcome to call IDWR at any of its offices or the SRBA Court. You may also want to consider contacting an attorney to assist you.

**Snake River Basin Adjudication
District Court**
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707
(208) 736-3011

Idaho Department of Water Resources
1301 North Orchard
P.O. Box 83720
Boise, Idaho 83720-0098
(208) 327-7906
(800) 451-4129

**Idaho Department of Water Resources
Western Region**
2735 Airport Way
Boise, Idaho 83705-5082
(208) 334-2190

**Idaho Department of Water Resources
Northern Region**
1910 Northwest Blvd., Suite 210
Coeur d'Alene, ID 83814-2615
(208) 765-1450

**Idaho Department of Water Resources
Southern Region**
1341 Fillmore, Suite 200
Twin Falls, Idaho 83301-3380
(208) 736-3033

**Idaho Department of Water Resources
Eastern Region**
900 North Skyline, Suite A
Idaho Falls, Idaho 83402-3653
(208) 525-7161

Cassia County Courthouse
1459 Overland Ave.
Burley, ID 83318

Owyhee County Courthouse
Highway 78
Murphy, ID 83650

DEFINITIONS OF THE ELEMENTS OF YOUR WATER RIGHT

RIGHT NUMBER: Your water right is identified by a number assigned by IDWR. The first two digits identify IDWR's administrative basin number; for example, 43, 45 or 47.

NAME AND ADDRESS: Your name and address should appear here. IDWR will use the most recent name and address in their records for the water right.

SOURCE: The name and/or type of the source where you divert your water. For example: "groundwater," "unnamed spring," "Common Creek."

QUANTITY: The amount of water recommended in either cubic feet per second (cfs) and/or the volume of water in acre feet per year (AFY). Each of these small domestic and/or stock water claims is not to exceed 13,000 gallons per day.

PRIORITY DATE: The date used to determine the priority of your right in relation to other rights using water from the same source.

POINT OF DIVERSION: The legal location where you divert water from its source; generally described as 1/4 1/4 sections down to a 40-acre tract, or smaller. Other legal descriptions that might be used are: government lots, block, subdivision, parcel numbers, townsite names, mining claim information, homestead entry surveys and other survey information.

Legal locations for instream flow claims are marked with a beginning point and an ending point.

PURPOSE OF USE: This report only deals with claims for small domestic and/or stock water uses, such as yours.

"Domestic right" means a right to the use of water for homes, organization camps, public campgrounds, livestock, and for any other purpose in connection with these uses, including irrigation of up to one-half acre of land.

"Stock water right" means a right to the use of water solely for livestock or wildlife.

PERIOD OF USE: The period of time during the year when you can use the water for your right.

PLACE OF USE: The legal location where you use your water right; generally described as 1/4 1/4 sections down to a 40-acre tract. Other legal descriptions that might be used are: government lots, block, subdivision, parcel numbers, townsite names, mining claim information, homestead entry surveys and other survey information.

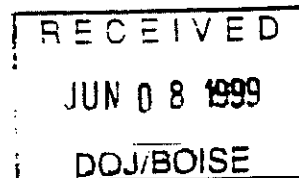
BASIS OF CLAIM: The method that was used to establish your claim. Examples include prior decree, posted notice, beneficial use (historical) method, license, permit.

DUAL BASED CLAIMS: In some cases, the federal government has claimed one right under two theories: a state basis and a federal law basis. Both theories will be reported on one form for that single water right. In most cases, the priority dates are different and will be listed separately. The federal law basis is separately indicated in a box such as this:

```
*****
*                                     *
*                                     *
*                                     *
*****
```

IDWR does not investigate or make recommendations regarding federal law based claims.

EXHIBIT B



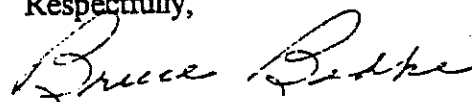
To the Honorable Judge Wood:

At this time I am filing a motion to file a late objection. I only recently became aware that the United States had filed claims to water that I had claimed. I have been following the status of my claims through the Internet, and was not aware of the Government's conflicting claims due to the extreme number of government filings and the fact that all claims are listed by subcase rather than a legal description. I am filing my objection now so that the govt. claims will not show up as unobjected to and be partially decreed as a matter of course.

I am objecting to the following subcases:

47-16433	47-16441	47-16447	47-16461	47-16471
47-16434	47-16442	47-16448	47-16463	47-16474
47-16435	47-16443	47-16449	47-16464	
47-16437	47-16444	47-16458	47-16465	
47-16438	47-16445	47-16459	47-16466	
47-16440	47-16446	47-16460	47-16470	

Respectfully,


Bruce Bedke

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

A. Subcase SEE ATTACHMENT
(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: BRUCE BEAKE
Address: 42 E BASIN RD
OAKLEY ID, 83346
Daytime Phone: (209) 862-3697

Name & Address of Attorney, if any:

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: USFS
Address: 550 W FORT STREET MSC 033
BOISE, ID 83724

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ Name and Address
Should be: _____
2. ☐ Source
Should be: _____
3. ☐ Quantity
Should be: _____
4. ☐ Priority Date
Should be: _____
5. ☐ Point(s) of Diversion
Should be: _____
6. ☐ Instream Flow Description
Should be: _____
7. ☐ Purpose(s) of Use
Should be: _____
8. ☐ Period of Year
Should be: _____
9. ☐ Place of Use
Should be: _____

11. I object because:

☒ This water right should not exist.

☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S):

This water is on my allotment. My cattle put the water to beneficial use. The water should be decreed to the owner of the livestock. (IDAHO CODE 42-114)

F.

VERIFICATION (Must be Completed)

State of Idaho

County of Twin Falls)ss.

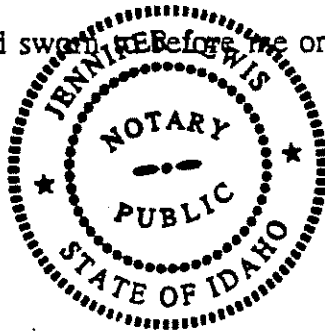
Bruce Bedke, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Bruce Bedke
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on:



June 4, 1999

J. Lewis
Notary Public for SRBA

Residing at: Twin Falls, Idaho

My Commission Expires: 11-5-2004

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G.

CERTIFICATE OF MAILING

I certify that on June 4, 1999, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

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

2. One copy to the claimant of the water right at the following address:

Name: _____

Address: _____

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724



Signature of Objector or attorney mailing on Objector's behalf

Exhibit

47-16433
47-16434
47-16435
47-16437
47-16438
47-16440
47-16441
47-16442
47-16443
47-16444
47-16445
47-16446
47-16447
47-16448
47-16449
47-16458
47-16459
47-16460
47-16461
47-16463
47-16464
47-16465
47-16466
47-16470
47-16471
47-16474

EXHIBIT C

RECEIVED

JUN 07 1999

DOJ/DOJSE

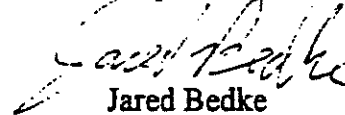
To the Honorable Judge Wood:

At this time I am filing a motion to file a late objection. I only recently became aware that the United States had filed claims to water that I had claimed. I have been following the status of my claims through the Internet, and was not aware of the Government's conflicting claims due to the extreme number of government filings and the fact that all claims are listed by subcase rather than a legal description. I am filing my objection now so that the govt. claims will not show up as unobjected to and be partially decreed as a matter of course.

I am objecting to the following subcases:

47-16433	47-16441	47-16447	47-16461	47-16471
47-16434	47-16442	47-16448	47-16463	47-16474
47-16435	47-16443	47-16449	47-16464	
47-16437	47-16444	47-16458	47-16465	
47-16438	47-16445	47-16459	47-16466	
47-16440	47-16446	47-16460	47-16470	

Respectfully,


Jared Bedke

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

A. Subcase SEE ATTACHMENT
(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: JARED BECKE

Address: 42 E BASIN RD

OAKLEY ID, 833-16

Daytime Phone: (208) 862-3677

Name & Address of Attorney, if any:

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: USFS

Address: 550 W FORT STREET MSC. 033

BOISE, ID 83724

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ Name and Address
Should be: _____
2. ☐ Source
Should be: _____
3. ☐ Quantity
Should be: _____
4. ☐ Priority Date
Should be: _____
5. ☐ Point(s) of Diversion
Should be: _____
6. ☐ Instream Flow Description
Should be: _____
7. ☐ Purpose(s) of Use
Should be: _____
8. ☐ Period of Year
Should be: _____
9. ☐ Place of Use
Should be: _____

11. I object because:

☒ This water right should not exist.

☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S):

These claims are in our allotment and are put to beneficial use by our cattle. The water should be decreed to the owners of the cattle as per IDAHO CODE 42-114

F.

VERIFICATION (Must be Completed)

State of Idaho)

County of Twin Falls)ss.

Jared Bedke, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Jared Bedke
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: June 4, 1999



111
Notary Public for SRBA
Residing at: Twin Falls County
My Commission Expires: 11-5-2004

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G.

CERTIFICATE OF MAILING

I certify that on _____, 199____, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

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

2. One copy to the claimant of the water right at the following address:

Name: _____

Address: _____

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Signature of Objector or attorney mailing on Objector's behalf

Exhibit

47-16433
47-16434
47-16435
47-16437
47-16438
47-16440
47-16441
47-16442
47-16443
47-16444
47-16445
47-16446
47-16447
47-16448
47-16449
47-16458
47-16459
47-16460
47-16461
47-16463
47-16464
47-16465
47-16466
47-16470
47-16471
47-16474

EXHIBIT D

RECEIVED
SEP 02 1996
DOJ/BOISE

ALAN G. LANCE
Attorney General
State of Idaho

CLIVE J. STRONG
Chief, Natural Resources Division

JOHN M. MARSHALL
Deputy Attorney General
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098
Telephone: (208)327-7900
Fax: (208)327-5400

FILE COP

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)

AFFIDAVIT OF SERVICE:
NOTICE OF DIRECTOR'S REPORT
FOR DOMESTIC AND STOCKWATER
FOR REPORTING AREA 12 (IDWR BASIN 47)

STATE OF IDAHO)
) ss.
County of Ada)

I, Donald V. Shaff, being first duly sworn on oath, depose and state as follows:

1. I am the Technical Section Manager for Adjudication Bureau of the Idaho Department of Water Resources (IDWR). I am authorized by the Director to make this affidavit pursuant to Idaho Code § 42-1701(3). I make this affidavit pursuant to the requirements of Idaho Code § 42-1411(7). The following actions were taken under my direction by IDWR.

AFFIDAVIT OF SERVICE: NOTICE OF FILING DIRECTOR'S REPORT FOR DOMESTIC AND STOCKWATER FOR REPORTING AREA 12, Page 1

Exhibit D

2. A Notice of Director's Report for Reporting Area 12 for Domestic and Stock Water was prepared by IDWR pursuant to Idaho Code § 42-1411(6) and orders of this Court, a copy of which is attached as Exhibit 1. In this affidavit I will refer to this document as the "Notice."

3. The original Director's Report for Domestic and Stockwater for Reporting Area 12, including claims for domestic and stockwater under federal law, was filed by IDWR with the SRBA District Court on August 14, 1998.

4. The Notice and IDWR's individual recommendation for each claimant's domestic and stockwater water right(s), were served on each of the persons on the Affidavit of Mailing, attached as Exhibit 2 and incorporated by this reference, by deposit into the U.S. Mail prior to 5:00 p.m., on August 13, 1998. Except for the United States, the Affidavit of Mailing lists the name and last known address of all domestic and stockwater claimants or their attorneys, if any, whose rights are recommended in the Director's Report for Domestic and Stockwater for Reporting Area 12 as of the mailing date.

5. The Notice and a complete copy of the Director's Report for Domestic and Stockwater for Reporting Area 12 were mailed to IDWR's Northern, Eastern, and Southern Regional Offices by deposit with the United Parcel Service prior to 5:00 p.m. on August 13, 1998.

6. The Notice and a complete copy of the Director's Report for Domestic and Stockwater for Reporting Area 12 were hand-delivered by IDWR personnel to IDWR's Western Regional Office on August 13, 1998.

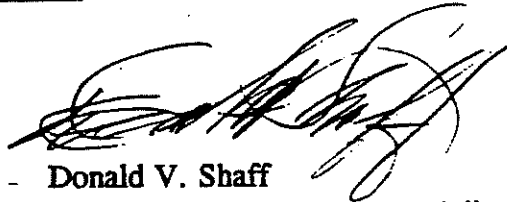
7. The Notice and a complete copy of the Director's Report for Domestic and Stockwater for Reporting Area 12 were hand-delivered by IDWR personnel to the Cassia and Owyhee County Courthouses on August 13, 1998.

9. The Notice and a complete copy of the Director's Report for Domestic and Stockwater for Reporting Area 12 were hand-delivered by IDWR personnel on August 13, 1998 to:

U.S. Department of Justice
Environment and Natural Resources Division
550 West Fort Street, MSC Box 033
Boise, ID 83706

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

DATED this 28th day of August, 1998.



Donald V. Shaff
Technical Section Manager, Adjudication Bureau
Idaho Department of Water Resources

SUBSCRIBED AND SWORN before me this 28th day of August, 1998.



NOTARY PUBLIC FOR IDAHO
Residing at: Boise, Idaho
My commission expires: 11-14-1998

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of August, 1998, I served a true and correct copy of this affidavit of service on the following persons by mailing in the U.S. Mail, with correct postage affixed thereto.

U.S. Department of Justice
Environment and Natural Resources Division
550 West Fort Street
Box 033
Boise, ID 83706

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

Deane M Smith

NOTICE OF FILING
DIRECTOR'S REPORT FOR REPORTING AREA-12 (IDWR BASIN 47)
SMALL DOMESTIC AND STOCK WATER RIGHTS

INTRODUCTION

This is the Idaho Department of Water Resources' (IDWR) Director's Report for your small domestic and/or stock water right claimed in the Snake River Basin Adjudication (SRBA). The quantity allowed for each small domestic or stock water right is up to 13,000 gallons per day. An additional Director's Report for irrigation and all other state law based claims in your reporting area will be filed with the court at a later date.

IDWR is providing individual reports like this one to all claimants of small domestic and stock water rights in your area. A complete copy of the Director's Report, listing all of these small domestic and stock water rights claimed under both state and federal law, is available at the SRBA courthouse in Twin Falls and the locations listed on the third page of this notice. Copies of the report can be made, but you may be charged for copying and mailing.

The following instructions and definitions are designed to help you understand this report.

INSTRUCTIONS FOR REVIEWING YOUR OWN WATER RIGHT

The description of your right which is enclosed is only the Director's recommendation to the SRBA Court on your water right. The Court will decide how it will decree your water right. You are free to agree or disagree with the Director's recommendation. If you agree with the Director's recommendation you do not need to do anything, pending further notice as described below. If you disagree with the Director's recommendation, you need to file an objection as described below.

INSTRUCTIONS FOR REVIEWING THE WATER RIGHTS OF OTHERS

The complete Director's Report contains recommendations to the SRBA Court on your water right and all other small domestic and stock water rights in your area. The Court will decide how it will decree all water rights. The Director's recommendations in the full report are listed in two sections of the report:

- 1) **List of Recommended Water Rights** -- Water right recommendations are listed alphabetically by source and then chronologically by priority date within each source.
- 2) **List of Claims Recommended to Be Disallowed** -- Water rights recommended to be disallowed are listed numerically by water right number. A short statement of the reason for IDWR's recommendation for disallowance is provided.

Also included in the complete Director's Report are descriptions of the United States' claims for domestic and stock water rights under federal law. The Director does not investigate these claims and makes no recommendation whether they should be granted or not. Sometimes the United States claims one right under both federal and state law. These are called "dual based" claims.

If you want to review someone else's water right you need to look at the complete Director's Report, which is available at the SRBA courthouse in Twin Falls and the locations listed on the third page of this notice. Copies of the report can be made, but you may be charged for copying and mailing.

INSTRUCTIONS FOR TAKING A WATER RIGHT CLAIM TO COURT

What do I do if I disagree with a recommendation or a federal water right claim?

If you disagree with any element of the recommendation for your water right or anyone else's water right and want to be heard in court, file an objection with the SRBA Court. Objections must be made on the standard objection form available from any IDWR office or from the SRBA Court.

Your objection must be received by the SRBA Court on or before February 12, 1999.

What do I do if someone else objects to my water right recommendation?

If someone files an objection to your water right, or anyone else's water right, you may file a response to that objection. Responses to objections must be made on the standard response form available from any IDWR office or from the SRBA Court.

Your response must be received by the SRBA Court on or before April 16, 1999.

What do I do if I want to participate in the court case on someone else's water right?

If you want to be involved in the court case on any water right in the Director's Report, you must file either an objection or a response by the dates listed above.

What happens if there are no objections to a water right?

After the deadline for filing objections, IDWR will file a list of all water right recommendations with no objections. The SRBA Court will hear the uncontested recommendations on April 16, 1999, at 10:00 A.M. at the SRBA Courthouse. Partial decrees will be issued following this hearing.

How will I know about the proceedings on water right recommendations to which objections were filed?

A notice will be mailed to you for court dates on your water right or for those where you filed an objection or a response. You will not receive notice of court dates on any other water right recommendations. (See Note on following page.)

Note: SRBA Court publishes a monthly Docket Sheet listing all objections and responses filed. It does not list court dates for individual water right cases, but provides general information helpful to all participants in the SRBA.

The Docket Sheet is available at your county courthouse and all IDWR offices; or you may subscribe by contacting the SRBA Court or IDWR. The annual subscription fee is \$7.50.

CHANGES OF ADDRESS OR OWNERSHIP DURING THE SRBA COURT CASE

You must contact your regional IDWR office with your address change or if the ownership of your water right changes. Failure to notify IDWR may result in the loss of your water rights.

ADDITIONAL INFORMATION

If you have questions about the SRBA, public information brochures are available at any IDWR office. Maps and aerial photography of this reporting area, as well as assistance in using the maps and the photography, are available at the IDWR Southern Region office in Twin Falls. You are also welcome to call IDWR at any of its offices or the SRBA Court. You may also want to consider contacting an attorney to assist you.

Snake River Basin Adjudication

District Court

253 Third Avenue North.

P.O. Box 2707

Twin Falls, Idaho 83303-2707

(208) 736-3011

Idaho Department of Water Resources

1301 North Orchard

P.O. Box 83720

Boise, Idaho 83720-0098

(208) 327-7906

(800) 451-4129

Idaho Department of Water Resources

Western Region

2735 Airport Way

Boise, Idaho 83705-5082

(208) 334-2190

Idaho Department of Water Resources

Northern Region

1910 Northwest Blvd., Suite 210

Coeur d'Alene, ID 83814-2615

(208) 765-1450

Idaho Department of Water Resources

Southern Region

1341 Fillmore, Suite 200

Twin Falls, Idaho 83301-3380

(208) 736-3033

Idaho Department of Water Resources

Eastern Region

900 North Skyline, Suite A

Idaho Falls, Idaho 83402-3653

(208) 525-7161

Cassia County Courthouse

1459 Overland Ave.

Burley, ID 83318

Owyhee County Courthouse

Highway 78

Murphy, ID 83650

DEFINITIONS OF THE ELEMENTS OF YOUR WATER RIGHT

RIGHT NUMBER: Your water right is identified by a number assigned by IDWR. The first two digits identify IDWR's administrative basin number; for example, 43, 45 or 47.

NAME AND ADDRESS: Your name and address should appear here. IDWR will use the most recent name and address in their records for the water right.

SOURCE: The name and/or type of the source where you divert your water. For example: "groundwater," "unnamed spring," "Common Creek."

QUANTITY: The amount of water recommended in either cubic feet per second (cfs) and/or the volume of water in acre feet per year (AFY). Each of these small domestic and/or stock water claims is not to exceed 13,000 gallons per day.

PRIORITY DATE: The date used to determine the priority of your right in relation to other rights using water from the same source.

POINT OF DIVERSION: The legal location where you divert water from its source; generally described as 1/4 1/4 sections down to a 40-acre tract, or smaller. Other legal descriptions that might be used are: government lots, block, subdivision, parcel numbers, townsite names, mining claim information, homestead entry surveys and other survey information.

Legal locations for instream flow claims are marked with a beginning point and an ending point.

PURPOSE OF USE: This report only deals with claims for small domestic and/or stock water uses, such as yours.

"Domestic right" means a right to the use of water for homes, organization camps, public campgrounds, livestock, and for any other purpose in connection with these uses, including irrigation of up to one-half acre of land.

"Stock water right" means a right to the use of water solely for livestock or wildlife.

PERIOD OF USE: The period of time during the year when you can use the water for your right.

PLACE OF USE: The legal location where you use your water right; generally described as 1/4 1/4 sections down to a 40-acre tract. Other legal descriptions that might be used are: government lots, block, subdivision, parcel numbers, townsite names, mining claim information, homestead entry surveys and other survey information.

BASIS OF CLAIM: The method that was used to establish your claim. Examples include prior decree, posted notice, beneficial use (historical) method, license, permit.

DUAL BASED CLAIMS: In some cases, the federal government has claimed one right under two theories: a state basis and a federal law basis. Both theories will be reported on one form for that single water right. In most cases, the priority dates are different and will be listed separately. The federal law basis is separately indicated in a box such as this:

```
*****
*                                     *
*                                     *
*                                     *
*****
```

IDWR does not investigate or make recommendations regarding federal law based claims.

NOTICE OF DIRECTOR'S REPORT
AFFIDAVIT OF SERVICE, EXHIBI
DATE MAILED: 08/12/1998

DATE: 08/07/98

PAGE: 19

CLAIM NO.	NAME AND ADDRESS	CLAIM NO.	NAME AND ADDRESS
47-11271	ROBERT E BEAN RT 2 KIMBERLY ID 83341	47-12568	STEVE BEAN RT 1 FILER ID 83328
47-11962	FREDA K BEARD RT 2 BOX 306 GEM STREET KIMBERLY ID 83341	47-11963	FREDA K BEARD RT 2 BOX 306 GEM STREET KIMBERLY ID 83341
47-11964	JOSEPH W BEARD RT 2 BOX 231 FILER ID 83328	47-11962	RICHARD A BEARD RT 2 BOX 306 GEM STREET KIMBERLY ID 83341
47-11963	RICHARD A BEARD RT 2 BOX 306 GEM STREET KIMBERLY ID 83341	47-14885	STUART M BEARUP 3686 SHERMAN ST TWIN FALLS ID 83301
47-10619	DEBRA BEASLEY FILER ID 83328	47-10738	REVA S BEAVER RT 4 BOX 7497 TWIN FALLS ID 83301
47-13006	KAREN BECKER RT 3 BOX 6450 TWIN FALLS ID 83301	47-10568	ROBERT J BECKER RT 2 BOX 108 BUHL ID 83316
47-10568	VIRGINIA L BECKER RT 2 BOX 108 BUHL ID 83316	47-13006	DAVID W BECKER JR RT 3 BOX 6450 TWIN FALLS ID 83301
47-14923B	BRUCE BEDKE BASIN RD 42 E 1975 S OAKLEY ID 83346	47-14923C	BRUCE BEDKE BASIN RD 42 E 1975 S OAKLEY ID 83346
47-14923E	BRUCE BEDKE BASIN RD 42 E 1975 S OAKLEY ID 83346	47-14923A	BRUCE BEDKE BASIN RD 42 E 1975 S OAKLEY ID 83346
47-14923D	BRUCE BEDKE BASIN RD 42 E 1975 S OAKLEY ID 83346	47-14923D	RAY C BEDKE PO BOX 283 OAKLEY ID 83346
47-14923B	RAY C BEDKE PO BOX 283 OAKLEY ID 83346	47-14923C	RAY C BEDKE PO BOX 283 OAKLEY ID 83346

CLAIM NO. NAME AND ADDRESS

CLAIM NO. NAME AND ADDRESS

47-14923E RAY C BEDKE
PO BOX 283
OAKLEY ID 8334647-14923A RAY C BEDKE
PO BOX 283
OAKLEY ID 8334647-12364 RAY L BEDWELL
RT 3 BOX 292
BUHL ID 8331647-12367 RAY L BEDWELL
RT 3 BOX 292
BUHL ID 8331647-14917 DANIEL T BEEM
863 ROSE STREET N
TWIN FALLS ID 8330147-11871 HARRY BEEM
PO BOX 54
BUHL ID 8331647-11871 OSA BEEM
PO BOX 54
BUHL ID 8331647-13783 COLLINS L BEERY
2360 BOWLIN LANE
TWIN FALLS ID 8330147-13075 MARY VENITA BEGLAN
426 FALLS AVE W
TWIN FALLS ID 8330147-13907 MICHAEL J BEGLAN
1396 MOUNTAIN VIEW DR
BUHL ID 8331647-13907 MONICA A BEGLAN
1396 MOUNTAIN VIEW DR
BUHL ID 8331647-13329 BETH BELL
2913 E 3600 N TRLR 142
TWIN FALLS ID 83301-808647-10845 DEAN BELL
RT 1 BOX 72
BUHL ID 8331647-12447 DWIGHT D BELL
751 2ND AVE N
TWIN FALLS ID 8330147-10845 FRANCES BELL
RT 1 BOX 72
BUHL ID 8331647-14162 LYNN BELL
RT 2
KIMBERLY ID 8334147-12447 MYRNA R BELL
751 2ND AVE N
TWIN FALLS ID 8330147-14162 WILLIAM L BELL
RT 2
KIMBERLY ID 8334147-11839 BELL RAPIDS MUTUAL IRRIGATION CO
388 E 5900 N
HAGERMAN ID 8333247-12767 LOGAN M BELLVILLE
C/O HERMAN F SIEVERS
RT 2 BOX 255
KIMBERLY ID 8334147-10722 MARY BELVEAL
803 FALLS AVE W
TWIN FALLS ID 8330147-10722 WALTER D BELVEAL
803 FALLS AVE W
TWIN FALLS ID 8330147-14369 GARY S BENEDIX
RT 2
FILER ID 8332847-14369 VICKI J BENEDIX
RT 2
FILER ID 8332847-13282 ERNEST A BENGOCHEA
3621 NORTH 2600 EAST
TWIN FALLS ID 8330147-12543 JOSE A BENGOCHEA
RT 4
TWIN FALLS ID 83301

CLAIM NO. NAME AND ADDRESS

CLAIM NO. NAME AND ADDRESS

47-16387 MARY POTUCEK

3775 N 800 E
BUHL ID 83316

47-16386 MARY POTUCEK

3775 N 800 E
BUHL ID 8331647-14923B GARY RUSSEL POULTON
BASIN RD
42 E 1975 S
OAKLEY ID 8334647-14923A GARY RUSSEL POULTON
BASIN RD
42 E 1975 S
OAKLEY ID 8334647-14923D GARY RUSSEL POULTON
BASIN RD
42 E 1975 S
OAKLEY ID 8334647-14923C GARY RUSSEL POULTON
BASIN RD
42 E 1975 S
OAKLEY ID 8334647-14923E GARY RUSSEL POULTON
BASIN RD
42 E 1975 S
OAKLEY ID 8334647-11758 POVERTY FLATS
C/O KEVIN STANGER
RT 1 BOX 382
HANSEN ID 8333447-11759 POVERTY FLATS
C/O KEVIN STANGER
RT 1 BOX 382
HANSEN ID 8333447-14410 POWELL FARM CORPORATION
W 115 18TH
SPOKANE WA 9920347-12649 BARBARA POWERS
1732 8TH AVE E
TWIN FALLS ID 8330147-12649 ROBERT F POWERS
1732 8TH AVE E
TWIN FALLS ID 8330147-13878 PRACTICAL BUILDING CO
2677 EAST PARLEYS WAY
SALT LAKE CITY UT 8410947-15246 JAMES A PRATHER
4375 N 2300 E
FILER ID 8332847-15246 PAMELA S PRATHER
4375 N 2300 E
FILER ID 8332847-13982 BEN J PRATT
RT 1
KIMBERLY ID 8334147-13513 DONA M PRATT
3707 N 2710 E
TWIN FALLS ID 8330147-13982 JANE W PRATT
RT 1
KIMBERLY ID 8334147-13269 HENRY PRATT ESTATE
C/O PAUL M BEEKS
PO BOX 508
TWIN FALLS ID 83303-050847-13513 L GLEN PRATT JR
3707 N 2710 E
TWIN FALLS ID 8330147-10610 ALICE M PRESCOTT
RT 3 BOX 6342
TWIN FALLS ID 8330147-11317 EVERETT I PRESCOTT
RT 1
KIMBERLY ID 83341

CLAIM NO.	NAME AND ADDRESS	CLAIM NO.	NAME AND ADDRESS
47-11318	EVERETT I PRESCOTT RT 1 KIMBERLY ID 83341	47-13932	GLEN PRESCOTT RT 2 BOX 293 KIMBERLY ID 83341
47-13932	JEAN PRESCOTT RT 2 BOX 293 KIMBERLY ID 83341	47-11317	LOLA PRESCOTT RT 1 KIMBERLY ID 83341
47-11318	LOLA PRESCOTT RT 1 KIMBERLY ID 83341	47-10610	MARVIN L PRESCOTT RT 3 BOX 6342 TWIN FALLS ID 83301
47-13170	EMILIA PRESNELL 3651A E 3200 N HANSEN ID 83334	47-11743	KAY PRESNELL RR 2 KIMBERLY ID 83341
47-11743	RAYMOND PRESNELL RR 2 KIMBERLY ID 83341	47-13170	ROBERT D PRESNELL 3651A E 3200 N HANSEN ID 83334
47-14499	JOE PRETL 871 E 3400 N CASTLEFORD ID 83321-9704	47-12778	LEONARD PRETL 701 12TH AVE N BUHL ID 83316
47-12778	MILDRED PRETL 701 12TH AVE N BUHL ID 83316	47-14499	MILDRED PRETL 871 E 3400 N CASTLEFORD ID 83321-9704
47-13761	MELINDA LEE PRIDE 2310 NW HIGHLAND DR CORVALLIS OR 97330	47-14849	CLARA PRINGLE C/O STEVE OSTRANDER RT 1 BX 427 HANSEN ID 83334
47-11945	P H PRINGLE 914 HANKINS BLVD TWIN FALLS ID 83301	47-11946	P H PRINGLE 914 HANKINS BLVD TWIN FALLS ID 83301
47-13332	PORTER H PRINGLE RT 3 BOX 6252 TWIN FALLS ID 83301	47-14849	PORTER J PRINGLE C/O STEVE OSTRANDER RT 1 BX 427 HANSEN ID 83334
47-13957	PRISTINE SPRINGS INC 201 WARM CREEK RD JEROME ID 83338	47-13478	MARVIN C PROBASCO RT 4 BOX 403 BUHL ID 83316
47-14258	JAYNE T PROBST 1995 E 2500 N TWIN FALLS ID 83301	47-14196	JAYNE TEWS PROBST RT 1 TWIN FALLS ID 83301

EXHIBIT E

Attached List

<u>PRIVATE CLAIM NO.</u>	<u>SOURCE</u>	<u>UNITED STATES CLAIM NO.</u>
47-14923B	Thoroughbred Creek	47-16433
47-14923B	Thoroughbred Creek, East Fork	47-16470
47-14923B	Thoroughbred Creek, West Fork	47-16448
47-14923C	Little Piney Creek	47-16446
47-14923C	Little Piney Creek, South Fork	47-16447
47-14923C	Humphrey Creek	47-16445
47-14923D	Goose Creek	47-16444
47-14923E	WPA Spring	47-16465
47-14923E	Little Willow Spring	47-16464
47-14923E	Thoroughbred Pond Springs	47-16441
47-14923E	Thoroughbred Spring #1	47-16461
47-14923E	Thoroughbred Spring #2	47-16463
47-14923E	Whitey Davis Spring	47-16466
47-14923E	Humphrey Spring	47-16460
47-14923E	Right Hand Fork Spring	47-16459

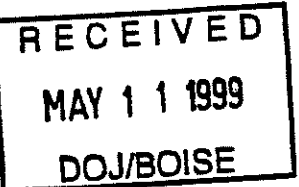
EXHIBIT F

1 IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
2 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

3 *****

4 In Re SRBA) REPORTER'S TRANSCRIPT
5 Case No. 39576) Basin 45 Subcases
6 _____)

7
8 *****



9
10 D-a-t-e: Wednesday, April 7, 1999

11
12 T-i-m-e: 9:00 A.M.

13
14 P-l-a-c-e: Cassia County Courthouse, Burley, Idaho

15
16 B-e-f-o-r-e: TERRENCE A. DOLAN, Special Master

17
18 H-e-a-r-i-n-g: Initial Hearings

19
20 *****

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

Page:

HEARING RE 45-10458 and 10473		3
HEARING RE 45-10426, 11112 and 11113		13
HEARING RE 45-11978		17
HEARING RE 45-4050, 10332, 10505 and 10506		33
HEARING RE 45-10505 and 10506		58
HEARING RE 45-02769, 12468, et al		64
HEARING RE 45-02810		89
HEARING RE 43-04236		104

REPORTER'S CERTIFICATE		129
------------------------	-------	-----

1 COUNTY COMMISSIONERS CONFERENCE ROOM, CASSIA
2 COUNTY COURTHOUSE, Burley, Idaho, Wednesday,
3 April 7, 1999, 9:00 A.M.
4 *****
5 THE COURT: Good morning, ladies and
6 gentlemen, counsel. We're now on the record.
7 This is the SRBA court sitting in Burley, Idaho.
8 It's April 7, 1999. We're here to consider two
9 subcases in basin 45. And those two are 10458 and
10 10473.
11 Present in court this morning, we have
12 Larry Brown representing the United States Bureau of
13 Land Management. And we also have the claimant.
14 Let's see, it's Mr. Whiteley?
15 MR. WHITELEY: Right.
16 THE COURT: Do I have that right?
17 MR. WHITELEY: Uh-huh.
18 THE COURT: And is it Joseph Whiteley?
19 MR. WHITELEY: No, it's Robert Whiteley.
20 THE COURT: Oh, Robert. Okay. Who is
21 Joseph?
22 MR. WHITELEY: Joseph is my uncle who was the
23 previous permittee of this allotment. I'm president of
24 Shoulder 3 Ranches Incorporated.
25 THE COURT: Good. But the claimant is the

Page 3

1 Shoulder 3 Ranches Incorporated?
2 MR. WHITELEY: Right.
3 THE COURT: Okay. Mr. Brown, I understand
4 you have some agreement or understanding between you
5 and the claimant.
6 MR. BROWN: Well, we don't have an
7 understanding yet, Your Honor. But we do need a little
8 more time to gather some GPS data on one ground water
9 source. And Mr. Whiteley asked if he could check with
10 his uncle to find out about a priority date on his
11 spring that he claimed on Bureau of Land Management
12 property.
13 So we're requesting a 45-day continuance for us
14 to gather the data and find out about the priority
15 date, conduct further negotiations. If we can't reach
16 a resolution, we can get back with the court on the
17 phone, I think, or appear before you in Twin Falls, or
18 your choice.
19 THE COURT: Mr. Whiteley, do you believe
20 the two questions involve priority date and the
21 location?
22 MR. WHITELEY: Right.
23 THE COURT: The location of the spring?
24 MR. WHITELEY: Yeah. Our filing --
25 MR. BROWN: Location of a well (inaudible).

Page 4

1 MR. WHITELEY: Yeah, our Oblong Spring (sic),
2 my original filing -- or my uncle's original filing was
3 in a 10-acre plot just south of the one that had not
4 been plotted.
5 THE COURT: So depending on where it is, it
6 may or may not be on --
7 MR. WHITELEY: I'm sure it's the same source
8 of water that we're both -- we're just within a 10-acre
9 distance of one another on our claim.
10 THE COURT: So it might be on the
11 corporation land or on the BLM land?
12 MR. WHITELEY: (Inaudible).
13 MR. BROWN: It will be on BLM land.
14 MR. WHITELEY: But as far as just what will be
15 claimed and where it was and what the BLM claims it
16 was, I'm sure that's the same source of water we're
17 talking about. So I don't know who needs to amend
18 their claim, whether it would be mine or the BLM's. I
19 don't know how involved that is or --
20 THE COURT: Do you think all of this can
21 get resolved in 45 days?
22 MR. WHITELEY: Oh, I would think so.
23 THE COURT: So you don't have any problems
24 with the United States' suggestion of a 45-day
25 continuance?

Page 5

1 MR. WHITELEY: No. I can find out as far as
2 the priority date is concerned. And as far as the
3 location is concerned --
4 MR. BROWN: I think we'll have to do a GPS
5 satellite. I'm not sure at this point.
6 MR. WHITELEY: It is. And I guess it's their
7 plotting expertise against our plotting expertise.
8 THE COURT: GROUGPS.
9 MR. WHITELEY: (Inaudible).
10 THE COURT: Well, Mr. Brown, what should we
11 do in 45 days?
12 MR. BROWN: I think we should have another
13 initial hearing in 45 days. If we aren't able to reach
14 an agreement on these particular subcases, then we
15 should probably set a trial date, or at least get
16 together and see if we can talk about it one more
17 time.
18 I don't want to put Mr. Whiteley through any
19 extra expense if he doesn't need to be. Since it's a
20 corporation, he'll have to be represented by an
21 attorney in that court proceeding. So if we can reach
22 an agreement, so much the better. If we can't, then we
23 should proceed to trial on it.
24 THE COURT: Mr. Whiteley, where do you
25 live?

Page 6

1 MR. WHITELEY: Oakley.
2 THE COURT: you want to do the initial
3 hearing over the phone?
4 MR. WHITELEY: That would be fine.
5 THE COURT: Do you think -- would that be
6 enough for you? What I'm thinking about is saving you
7 having to travel to Twin Falls --
8 MR. WHITELEY: Yeah.
9 THE COURT: -- or here.
10 MR. WHITELEY: That would be fine.
11 THE COURT: Since you've already had the
12 chance to do most of your talking here, you probably
13 are going to end up both walking the ground with a GPS
14 in your hands.
15 MR. WHITELEY: Probably.
16 MR. BROWN: Well, we'll see if --
17 MR. WHITELEY: If it's already been done.
18 MR. BROWN: If it's already been done. I
19 understand that the Idaho Department of Water Resources
20 has GPS data on the ground water (inaudible).
21 MR. WHITELEY: Yeah. On the other subcase,
22 which is the 10458, that data has been collected. But
23 I have not been able to receive that. I've requested
24 it from the department of water resources.
25 MR. BROWN: Roxanne has to make a contact

Page 7

1 with the person.
2 THE COURT: Oh, she doesn't have the data
3 with her?
4 MR. BROWN: No. She was unaware of -- I
5 can't remember the man's name.
6 MR. WHITELEY: Gary Funderburg from the
7 department of water resources.
8 MR. BROWN: Gary Funderburg worked with
9 Mr. Whiteley.
10 THE COURT: Were you there when he did the
11 GPS?
12 MR. WHITELEY: I was with him.
13 THE COURT: Okay. So I guess the only
14 question after we get the GPS data is whether you
15 believe it or not.
16 MR. WHITELEY: True.
17 THE COURT: So you might want to think
18 about borrowing somebody else's GPS and go and
19 double-check it.
20 Good. Well, that sounds like we can do this
21 initial hearing continuance for 45 days.
22 Is there any particular day of the week that's
23 good for you?
24 MR. WHITELEY: Just about (inaudible) time.
25 MR. BROWN: As long as it isn't set for a

Page 8

1 time that you folks have already scheduled initial
2 hearing in another place in the state, I'd be happy to
3 appear by phone.
4 THE COURT: We're thinking of the first
5 three weeks in August.
6 MR. BROWN: Oh, okay. Really. Thank you.
7 THE COURT: You'll be on vacation. If
8 we're going to do it over the phone, then I can be in
9 Twin Falls. We can set it real easily.
10 MR. BROWN: That would be fine,
11 Your Honor. Just send out a scheduling order for us so
12 that we know what day and time you pick, and let us
13 both meet you on the phone.
14 THE COURT: What we'll do is once I get
15 back to the office we'll check our calendar and make
16 sure we can set a firm date. And then we'll send a
17 notice out in writing, the actual date and time.
18 Then, Mr. Brown, you'll set up the telephone
19 call?
20 MR. BROWN: I will set up a telephone
21 conference. And this time I will try to figure out how
22 to get more than three people on the conference. Thus
23 far, I've been unsuccessful. Technologically
24 challenged, you might say.
25 THE COURT: Well, it would be you and the

Pa

1 State -- or IDWR --
2 MR. BROWN: I'll try to get myself, IDWR
3 and Mr. Whiteley and the court.
4 THE COURT: Do you have your telephone
5 number handy that you can give to Mr. --
6 MR. WHITELEY: I think this is it here.
7 MR. BROWN: Good. I have it.
8 THE COURT: Good. Is there anything else,
9 then, we need to consider, Mr. Brown?
10 MR. BROWN: I don't think so, Your Honor.
11 MR. WHITELEY: I don't think so either.
12 MR. BROWN: If we're able to reach a
13 resolution, we'll send you SF5s well before we have to
14 do this initial hearing.
15 THE COURT: The SF5 is a statement that
16 you've settled all the elements and we don't need to do
17 this hearing. If you sign that, then we don't have to
18 do that telephone hearing.
19 But if you can't reach an agreement, then during
20 the telephone conference what I want to do is talk
21 about what we need further maybe to settle the case; or
22 if it can't be settled, then when you think you might
23 be ready to go to trial. And at that point you're
24 going to have to start thinking about who is your
25 attorney who will be representing the corporation;

Pa

1 and -
2 MR. WHITELEY:
3 THE COURT: - we'll try to work with you
4 on those dates to make it worth your while and not
5 hurry it too much, but at the same time not delay this
6 whole thing.
7 MR. WHITELEY: Okay.
8 THE COURT: So we'll notify you in
9 writing. Unless there's something further you have,
10 we'll go off the hearing - or off the record.
11 MR. WHITELEY: Not on this case.
12 THE COURT: Do you have anything - well,
13 we've got two subcases. Anything further in either one
14 of those?
15 MR. WHITELEY: Just the other one, if we find
16 where that location is, what - if it deems it's on BLM
17 property, I can handle that, that well.
18 MR. BROWN: Well, then you and I have to
19 talk again. I'm not sure exactly what's going on
20 there. In that same area we have a well where the
21 Elwood Canal Company (sic) has appropriated - again,
22 we'll confirm that; but we're not sure if that's the
23 same well. So we need to get that data very soon.
24 VOICE: Is that on Goose Creek or
25 Capper Creek (sic)?

Page 11

1 MR. BROWN: I don't have a clue
2 (inaudible).
3 VOICE: I've been confused about
4 (inaudible). I don't have that information in the
5 file.
6 VOICE: There's like six different
7 (inaudible) wells involved on both creeks (inaudible).
8 MR. BROWN: I'm hoping that this is not the
9 one that if it is on your own private property -
10 MR. WHITELEY: Oh, I'm probably the one
11 (inaudible). I know which one -
12 MR. BROWN: Okay. We just have to make
13 sure we're not getting into someone else's water right
14 with this one. So we would like to be careful about
15 it.
16 THE COURT: Well, Mr. Brown, just for the
17 record, we're going to continue the initial hearing on
18 both of these.
19 MR. BROWN: That's correct, Your Honor.
20 THE COURT: Okay.
21 MR. BROWN: Hopefully we'll reach a
22 resolution on both of them within 45 days.
23 THE COURT: Okay.
24 MR. BROWN: And if not, we'll have the
25 initial hearing and keep you informed.

Page 12

1 THE COURT: Good. Well, if there's nothing
2 further, we'll go off the record. Thank you,
3 folks.
4 MR. BROWN: Thank you.
5 (DISCUSSION HAD OFF THE RECORD)
6 THE COURT: Again, good morning, counsel.
7 We're now on the record.
8 We're here at the Burley Courthouse and doing
9 initial hearings in three subcases in basin 45 -
10 10426, 11112, and 11113. The claimant in all three is
11 Six S Ranch Incorporated.
12 Representing the Six S Ranch, claimant, is
13 Norm Semanko. And representing the objector, the BLM,
14 at least on one of these subcases is Larry Brown.
15 MR. BROWN: That was 11112 that the BLM
16 objected to.
17 THE COURT: Just one.
18 MR. BROWN: -And the reason we wanted to go
19 on the record is for the court to set a deadline for
20 submitting SF5s and a settlement document with the
21 court for 30 days from today.
22 THE COURT: Do you think an SF5 can be
23 filed in 11112?
24 MR. BROWN: I do, Your Honor.
25 THE COURT: Only? Now, that's the only one

Page 1.

1 you're talking about.
2 MR. BROWN: That's the only one we're
3 talking about.
4 THE COURT: So an SF5 due in 30 days, by
5 sundown in 30 days.
6 How about the other two? Mr. Semanko, do -
7 MR. SEMANKO: Frankly, we haven't had a
8 chance to talk with the department at length about
9 those. And the BLM is not a party. So we're
10 (inaudible) back on the record -
11 THE COURT: Okay.
12 MR. SEMANKO: But we concur with the United
13 States' (inaudible) 11112.
14 THE COURT: Okay. And then do you want to
15 go off the record now and then come back on on the
16 remaining two this morning?
17 MR. SEMANKO: That would be great.
18 THE COURT: Okay. Well, if there's nothing
19 further in 11112, the BLM objector claim, then we'll go
20 off the record. Thank you.
21 (DISCUSSION HAD OFF THE RECORD)
22 THE COURT: Good morning, counsel. We're
23 now back on the record. The SRBA court sitting in
24 Burley, Idaho.
25 And we went off the record. And, let's see,

Page 1

1 11112 in basin 45, that was agreed to by the objector
2 and the claimant. So we've left to consider 10426
3 and 11113.
4 Representing Six S Ranch Incorporated is
5 Norm Semanko.
6 And, Mr. Semanko, I understand you have an
7 agreement with IDWR?
8 MR. SEMANKO: We do. Which would you like to
9 take up first?
10 THE COURT: 10426, please.
11 MR. SEMANKO: In 10426 we've just executed a
12 Standard Form 5 to correct the place of use from
13 (inaudible). The objection is in (inaudible) has been
14 filed. And that will be filed -- right?
15 MS. BROWN: 10426?
16 MR. SEMANKO: Yes.
17 MS. BROWN: That will be filed within a
18 (inaudible).
19 MR. SEMANKO: Is there anything further on
20 that?
21 THE COURT: Well, unless you have
22 something, Miss Brown?
23 MS. BROWN: No, Your Honor.
24 MR. SEMANKO: In 45-11113 the claimant/
25 objector would like to withdraw the objection to

Page 15

1 quantity. After further review of the matter and
2 discussion with the department, we would like to do
3 that and have it decreed as recommended by the
4 department. This would withdraw the objection and
5 render it unobjected to.
6 THE COURT: Was that your only objection?
7 Quantity?
8 MR. SEMANKO: Yes.
9 THE COURT: And you want that a matter of
10 record and --
11 MR. SEMANKO: We would like that on the
12 record. If we need to file something, that will be
13 fine. But if it's on the record, that would be even
14 better.
15 THE COURT: No, I think as counsel of
16 record you can certainly make a withdrawal upon the
17 record as we're reporting it now.
18 In that case, then, what I'll do is submit my
19 report and recommendation to the judge that he decree
20 it as recommended.
21 MR. SEMANKO: All right. That's all I have.
22 THE COURT: Anything further on those two?
23 MR. SEMANKO: No.
24 THE COURT: Miss Brown, anything further
25 from IDWR?

Page 16

1 MR. BROWN: No, Your Honor.
2 THE COURT: In that case we'll go off the
3 record. Thank you, counsel.
4 (DISCUSSION HAD OFF THE RECORD)
5 THE COURT: Good morning, counsel, ladies
6 and gentlemen. We're back on the record. This is the
7 SRBA court sitting in Burley, Idaho. It's April 7,
8 1999.
9 And we're here to consider an initial hearing,
10 one water right, in basin 45. The number is 11978.
11 And our records show the claimant is the United States
12 Forest Service.
13 Representing the Forest Service here is
14 Randy Bramer. And we have a number of other folks in
15 the courtroom today.
16 And, Mr. Bramer, would you explain the status of
17 the case for the record and why these other people are
18 here concerned about this particular 11978?
19 MR. BRAMER: Thank you, Your Honor. I will
20 attempt to explain where the Forest Service is on this
21 claim. And then I will try to assist the parties and
22 explain why they're here. And (inaudible). It would
23 be very worthwhile.
24 Your Honor, I'm Randy Bramer. I'm here on behalf
25 of United States Department of Agriculture

Page

1 Forest Service. I'm also a special assistant U.S.
2 attorney which allowed me to appear in this court.
3 We filed a claim, a de minimis stock water claim
4 with a claim number 45-11978. That claim was
5 disallowed on February 27th, 1988, I believe is the
6 department of water resources director's report date.
7 We have met with the department of water
8 resources, filed an objection to that disallowance. We
9 have met with the department of water resources
10 concerning our objection. And we have reached a
11 settlement with them to resolve that objection.
12 THE COURT: Was the claim recommended
13 disallowed?
14 MR. BRAMER: The claim was recommended to
15 disallowed.
16 THE COURT: And then you filed your
17 objection. So it hasn't been decreed disallowed.
18 MR. BRAMER: No.
19 THE COURT: Okay.
20 MR. BRAMER: We filed an objection. And we
21 now have met with the department; and we have entered
22 into -- we are prepared to enter into an agreement
23 which we can sign at the conclusion of this hearing
24 which would resolve that objection.
25 THE COURT: Okay.

Page

1 MR. BRAMER: The department has — let me
2 step back. In addition to claim, 45-11978, several
3 other parties also filed claims with different claim
4 numbers to the same water source and the same water
5 use, I believe. Those claims were not — those claims
6 also were disallowed; but it does not appear that they
7 were disallowed under the claim number for which they
8 were filed.

9 In other words, Mr. Luther Gardner, for example,
10 had filed a claim and received a claim number for
11 that. And he claimed (inaudible) for it out under the
12 number of his claim, but rather all these additional
13 claimants were reported out under the Forest Service's
14 number, 45-11978.

15 THE COURT: Do you know Mr. Gardner's claim
16 number?

17 MR. BRAMER: I do not.

18 VOICE: Yeah, we have several claim
19 numbers. It's not just one particular water source
20 from my understanding. I've got the original claims
21 right here. I can give you all the numbers.

22 THE COURT: Well, maybe we can get that a
23 little later. But we are talking about one water
24 source? You're thinking there's multiple water
25 sources.

Page 19

1 VOICE: I'm not talking about one water
2 source. I'm talking about several water sources on a
3 grazing allotment.

4 THE COURT: So from your viewpoint IDWR
5 made the mistake of reporting them under one water
6 right; and there should be multiple water rights?

7 VOICE: I'm not sure what the
8 department of water resources has been doing. I don't
9 know.

10 THE COURT: And it's your — and, let's
11 see, for the record, you're Mr. Robert Whiteley —

12 MR. WHITELEY: Yes.

13 THE COURT: — representing Shoulder 3
14 Ranches.

15 MR. WHITELEY: Yes.

16 THE COURT: By the way, we sometimes say
17 things like that. I'm looking you in the eye, and I
18 know who I'm talking with. But I have to speak for the
19 record because we don't have television cameras.

20 But you're saying that you filed a water right —
21 or Shoulder 3 filed a water right to one particular
22 water right; and do you know if that happens to be
23 identical to the Forest Service's claim?

24 MR. WHITELEY: I don't know. I'm assuming
25 that the water right that we're talking about is

Page 20

1 included — of the water rights that we've filed a
2 claim up — in addition to many others.

3 THE COURT: What's the status of your
4 claim, the one you filed?

5 MR. WHITELEY: I don't know.

6 THE COURT: Do you know if it's been
7 recommended for disallowal or —

8 MR. WHITELEY: I'm assuming it has been
9 recommended for disallowal. I don't know.

10 THE COURT: Well, assuming —

11 MR. WHITELEY: I have in my hands the original
12 claims; and there are different numbers from what was
13 listed on this subcase list for this initial hearing.

14 My question is: What has happened to these
15 claims?

16 MS. BROWN: We were talking about it in the
17 department. We can certainly get an answer for
18 Mr. Whiteley as to what has happened to the claims that
19 he claimed under his water right, under a particular
20 water right number. It seems to me that there is some
21 confusion here.

22 MR. BRAMER: If I may, Your Honor?

23 THE COURT: Go ahead.

24 MR. BRAMER: I would suggest that we enter
25 into the record this director's report page which may

Page 21

1 clarify some of the verbal discussions we're having
2 here concerning who has — under this number, whose
3 name is listed and exactly what the situation is.

4 THE COURT: Please, sir. And we want to
5 make sure we get copies for everybody here who wants
6 one.

7 MR. BRAMER: And, Your Honor, I believe the
8 United States' position here would be that since each
9 of these individuals filed claims with an individual
10 claim number that any action taken on that claim number
11 should have been reported out under that claim number
12 so they would have received notice concerning their
13 claims, rather than combining them under the claim
14 number of the United States as to this particular water
15 use.

16 How the court wishes to proceed, the
17 United States is certainly open to any ideas; but we do
18 want to make sure that the gentlemen who have filed
19 these other claims and have not received notice have an
20 adequate opportunity to receive notice.

21 THE COURT: Well, how about this,
22 Mr. Bramer? What I'd like to do is go ahead and file
23 your SF5; and we'll put that in the record. But I'll
24 have to withhold acting on that until we sort out,
25 because obviously we don't want to do something in your

Page 22

1 case that obviously disadvantage or may or may not
2 disadvantage these other people. Maybe their other
3 rights are unrelated to yours. In that case, then
4 you're done. But if they are related to it, then we're
5 just going to have to step back here a little bit and
6 reexamine these kind of as a package.

7 Because nobody is going to lose their water right
8 by default. We're not here to screw you over. You're
9 going to be treated fairly. One way or another you're
10 going to get a fair hearing.

11 And I guess what I'm saying is we can go around
12 the block to the left or we can go around the block to
13 the right; but we still get to the same point.

14 Everybody's claim is treated fairly.

15 So, Mr. Bramer, if we could, just go ahead and
16 file your SF5 in yours.

17 And, Miss Brown, if you could -- I guess we're
18 going to have to get a report from you or something
19 after you look at all of their claims to find out what
20 the statuses are, and to find out if they really are
21 the same.

22 If they're not, if all of these other people that
23 are claimants -- that would be Shoulder 3 Ranches,
24 Keith Warr, Eugene Layton, Bill Matthews, and
25 Luther Gardner. I think those are all of the names.

Page 23

1 If all of those are unrelated to the Forest Service,
2 then we're done with the Forest Service's claim under
3 11978. And then we'll have to act on all of these
4 other claims separate.

5 But if they are overlapping, if they are related,
6 then we're probably going to have to set further
7 proceedings on these.

8 MS. BROWN: Well, (inaudible) looking at
9 that, then, Your Honor, is that if the other five
10 parties are unrelated to this particular water right,
11 they have not filed an objection to the fact that their
12 water rights have been disallowed. So I'm wondering
13 just how to proceed in terms of logistics.

14 THE COURT: Sure. If they mistakenly or
15 otherwise didn't file objections to their right being
16 recommended, my guess is it's because there was some
17 confusion. They didn't know whose claim was whose
18 here.

19 So the court isn't going to -- even assuming that
20 the court has already entered partial decrees
21 disallowing those water rights, then the first thing
22 I'll do is recommend to Judge Wood that he set those
23 aside. In other words, we go back --

24 MS. BROWN: And unscramble them.

25 THE COURT: -- we'll go back to first base

Page 24

1 and we start over again and treat everybody the way
2 they want to be treated -- fairly.

3 MS. BROWN: Could I propose to the court
4 that I file a report both with the court and with
5 copies to the other parties involved?

6 THE COURT: All of the claimants as well as
7 the Forest Service?

8 MS. BROWN: Uh-huh.

9 THE COURT: How long would it take you to
10 get that report out? Today is Wednesday.

11 MS. BROWN: I would think --

12 VOICE: (Inaudible).

13 THE COURT: I don't mean to rush you.

14 MS. BROWN: Yes, you did. I would say by
15 the end of next week I could comfortably get this out.
16 It shouldn't be that difficult to unscramble.

17 THE COURT: Let's see. What should we call
18 that? A special report or supplemental report to the
19 court?

20 MS. BROWN: Probably would call it
21 (inaudible).

22 THE COURT: Let's call it a supplemental
23 report to the court concerning claims which may be
24 related to 11978 or something like that. That will get
25 us the package to put it under.

Page

1 But now, at least for now we'll take all of these
2 people and list them as parties to 11978. And my guess
3 is, for you folks who have an interest in this thing,
4 my guess is the Forest Service didn't want this to
5 happen this way. And sometimes these proceedings just
6 happen this way.

7 So that's why I think Mr. Bramer was -- you may
8 not have heard him, but I heard him suggesting that we
9 handle these as a package and treat everybody fairly.
10 He's not going to try to run anything under the table.

11 MR. BRAMER: Your Honor, so I'm clear on
12 this. Will the director's -- will we have a
13 supplemental director's report page provided to each of
14 these individuals --

15 THE COURT: Yes.

16 MR. BRAMER: -- with their claim number and
17 IDWR's action on their claim number so they know what
18 is being done with their claims?

19 THE COURT: Yeah. Well, what I had in mind
20 is a report under subcase 11978 that would include
21 reports on all of their claims and then each one of
22 their claims listed and then the status of each one of
23 their claims and how it may or may not be related.

24 Now, what I'm doing essentially is relying on my
25 independent expert here to get me all of the facts and

Page

1 to give that information out to these other people.
2 MR. BRAMER: If I may ask, Mr. Gardner or
3 (inaudible), are you guys tracking what the judge is
4 saying here and (inaudible) what we're talking about?
5 You will have another shot to look at this and make
6 your decisions, make (inaudible) about what we're
7 talking about.
8 VOICE: (Inaudible).
9 VOICE: (Inaudible).
10 MS. BROWN: (Inaudible) if all of the
11 parties involved that are here today would check with
12 me and make sure I have their correct mailing addresses
13 and phone numbers before you leave, it will make it a
14 lot easier.
15 THE COURT: And what we might want to do,
16 Miss Brown, before we leave this kind of an unofficial
17 exhibit, I guess we'll call it, here, but if you can
18 photocopy this and give it to everybody. This is the
19 one that Randy Bramer just gave to me. If we can
20 photocopy it and then give it to everybody so we know
21 all the players.
22 MS. BROWN: (Inaudible).
23 MR. BRAMER: Your Honor, we're just talking
24 about one claim here; and that is 11978?
25 THE COURT: Yes.

Page 27

1 MR. BRAMER: I have one other question, and
2 I don't know if anybody else here maybe can answer it.
3 I believe we have three permittees here that are
4 affected that are on that list under 11978 as reported
5 on the director's report page. There are two
6 additional individuals listed on here.
7 And if I may, Your Honor, look at that sheet I
8 provided to the court a minute ago?
9 MS. BROWN: It's being copied right now.
10 MR. BRAMER: We don't know what the status
11 of those other two people are. I believe this is
12 D. Layton.
13 VOICE: I've managed that permitted
14 property (inaudible) and acquired -- he is my wife's
15 grandfather.
16 MR. BRAMER: Okay.
17 VOICE: And Bill Matthews, I bought
18 his. (Inaudible) I own Bill Matthews (inaudible). I
19 acquired those grazing rights (inaudible).
20 MR. BRAMER: Okay. What about Keith Warr?
21 VOICE: (Inaudible) is also, they're
22 mine. I acquired those rights several years ago, too.
23 THE COURT: What's your name, sir?
24 MR. GARDNER: Luther Gardner.
25 VOICE: These four rights (inaudible).

Page 28

1 THE COURT: Oh, okay. So we want to make
2 sure. You substituted for Keith Warr? So
3 Eugene Layton goes under -- what we don't want to do is
4 send mail to somebody who is deceased.
5 VOICE: These guys are out of the
6 picture, yeah. So it's just us three now.
7 THE COURT: Oh. Well, that makes it easy.
8 VOICE: (Inaudible).
9 MS. BROWN: Gene Matthews?
10 VOICE: Eugene Matthews.
11 MS. BROWN: Okay. So you, these
12 (inaudible).
13 VOICE: Bill Matthews and
14 Eugene Layton.
15 MR. BRAMER: Thank you, Your Honor.
16 THE COURT: Let's see. Mr. Matthews, you
17 took over for Bill Matthews and who else?
18 VOICE: Eugene Layton.
19 THE COURT: Oh, okay.
20 MS. BROWN: (Inaudible).
21 THE COURT: That makes it easier. We've
22 got the whole package right here.
23 MR. BRAMER: One further comment here on the
24 record, Your Honor. I've had the opportunity to meet
25 with these gentlemen (inaudible). Some of our staff

Page 29

1 has talked to Mr. Bedke before for the first time this
2 morning.
3 We will be trying to set up a meeting with them
4 to engage in settlement negotiations sometime here in
5 the immediate future to hear their concerns and to
6 determine where to go from here. We just want the
7 court to know that we have talked to them. At least
8 we'll make some attempt to see if we can resolve
9 these. (Inaudible) mention to the court (inaudible)
10 back there.
11 THE COURT: It's wonderful if you want to
12 talk.
13 For you folks who may not have worked with the
14 court on some of these subcases before, here today
15 with -- this as an initial hearing; and it's a chance
16 to just talk about your claims and figure out where we
17 go. What is it going to take to resolve these water
18 rights?
19 And part of that is a chance for the court to
20 take a look at your case and figure out what do you
21 need. Do you need us to help you with discovery, to
22 exchange information? Do you need us to order
23 mandatory settlement conferences? And that's where we
24 can order that you appear at a settlement conference.
25 And sometimes it's with a special master, another

Page 30

Page 27 - Page 30

1 special master who won't be hearing your case, to
2 moderate it to help settle it.
3 But in this case here it sounds like Mr. Bramer
4 is willing to meet with you. And he hasn't suggested
5 that we need a special master to help you out. So
6 whatever your preference is, we can accommodate you.
7 We're trying to resolve these water right claims as
8 fairly as we can to everybody, and give everybody a
9 chance to save money and time.

10 But if it has to go to trial, we'll accommodate
11 you there, too. We'll set them for trial, and we'll
12 give you a full chance to present your cases.

13 So, Mr. Bramer, is there anything else we need to
14 do on 11978?

15 MR. BRAMER: I have nothing further,
16 Your Honor, except to thank Mr. Gardner and
17 Mr. Matthews, as well as Mr. Whiteley, for
18 participating in this and not having any of the prior
19 notice of the issues that would come up. I think it's
20 useful to have them here and to address these issues.

21 THE COURT: Sure. But right now I guess
22 what we're doing is we're vacating the initial
23 hearing. We're going to take a step back, get this
24 sorted out; and then once we get Miss Brown's report,
25 then we'll go forward and probably set another initial

Page 31

1 until 1 or 2 o'clock today, 1:30, to address those
2 issues at the same time. I think there's some concern
3 with claims that were filed and not reported out.

4 Now that the department is going to proceed on
5 those three gentlemen and have agreed to meet, we have
6 a case record of all (inaudible). In fact we have a
7 proposal there. As soon as the other parties are in
8 front of the court at this point on those other claims,
9 it may be useful to have (inaudible) here and give them
10 an opportunity to talk about the claims that were not
11 reported out.

12 THE COURT: If you folks are willing to do
13 that, stay around and talk, we can accommodate you. I
14 can leave the room, or we can maybe find another room
15 in the building if you want to talk. Whatever your
16 preference is.

17 Well, counsel, in hopes that there's nothing
18 else, then we'll go off the record. Thank you.

19 (DISCUSSION HAD OFF THE RECORD)

20 THE COURT: Good afternoon, counsel, ladies
21 and gentlemen. We're now on the record.

22 This is the SRBA court sitting in Burley, Idaho.
23 My name is Terry Dolan, special master for the SRBA.

24 We're here to consider four subcases in
25 basin 45. The four subcases are 4050, 10332, 10505,

Page

1 hearing and, okay, now we know who is on first and
2 third, where do we go from here.
3 But if any of you have any questions, you know,
4 you know the major players here. Ask the questions
5 now. And if Miss Brown has any information in her
6 files, IDWR has been more than willing to share their
7 information with everybody. They're public records.
8 You own them. So if you want to take a look at
9 anything, she can give you the copies. And she might
10 even be willing to meet with you or maybe somebody else
11 from IDWR's southern office.

12 Because one of the things obviously, Mr. Whiteley
13 pointed out, what are we talking about? One spring?
14 Two springs? Where is it? That's the first thing, I
15 think, I'd want to know is are we talking about the
16 same thing.

17 So if there's -- do you have any questions about
18 what's happened this morning or where we go from here?

19 VOICE: No.

20 THE COURT: Good. Mr. Bramer?

21 MR. BRAMER: Nothing further, Your Honor. I
22 believe that there are some ownership issues that will
23 come up here -- Mr. Bedke's hearing on claims that were
24 made that were not reported out. It may be appropriate
25 for these gentlemen that are going to be able to stay

Page 32

1 and 10506.

2 And the record shows that the claimants are the
3 BLM and the Forest Service. And they're represented by
4 Larry Brown and Randy Bramer. And we have some
5 objectors -- Bruce Bedke, Ray Bedke, Gary R. Poulton,
6 and, let's see, that's Winston Whiteley --

7 VOICE: Winslow Whiteley.

8 THE COURT: Winslow Whiteley.

9 MR. BRAMER: Your Honor, if I may, this is
10 Randy Bramer for the record. I don't believe we are
11 claimants in these cases.

12 THE COURT: Oh, you're not?

13 MR. BRAMER: No, we're not.

14 VOICE: I don't believe the BLM is
15 either, Your Honor. I think --

16 THE COURT: Who are the claimants then?

17 VOICE: Bruce Bedke is the claimant in
18 45-1050 and the 10506. The other two cases you named
19 I'm not aware of.

20 THE COURT: Let's see. 10332, we show the
21 claimant is, right, Winslow Whiteley. But then there's
22 also or Ray Bedke, or Gary Russell Poulton, or
23 Bruce Bedke. None of them relate to each other.

24 VOICE: Correct. As I understand it,
25 their objecting to the place.

Page

1 THE COURT: We're not according to this.
 2 This is an amended notice aim. It shows up here
 3 in the part for claimant Whiteley, Bedke, Poulton, and
 4 Bedke. So we got four different people claiming the
 5 same water rights.
 6 Miss Brown.
 7 MS. BROWN: Yes. These are the Bedkes
 8 (inaudible) water right claim was disallowed in favor
 9 of a licensed right and in the name of the Forest
 10 Service.
 11 THE COURT: Oh, this is one of those we
 12 talked about --
 13 MS. BROWN: 10332.
 14 THE COURT: Is this one we were talking
 15 about earlier this morning?
 16 MS. BROWN: No, it's not.
 17 THE COURT: It had to do with 11978?
 18 MS. BROWN: That's a different (inaudible).
 19 THE COURT: Oh.
 20 MS. BROWN: This is a claim to a, to a
 21 (inaudible) the department felt was already under
 22 license to the Forest Service, 45-07446.
 23 MR. BRAMER: Your Honor, may I clarify for
 24 the record?
 25 THE COURT: Please.

Page 35

1 MR. BRAMER: Subcase 45-10332, which the
 2 court correctly referred to in the director's report,
 3 is an objection by a party to four other parties, not
 4 including the Forest Service. That is the objection
 5 that's in front of the court on that case.
 6 Mrs. Brown's reference is to another water right
 7 that the Forest Service filed for a similar source, I'm
 8 not sure if it's identical, which no objection was
 9 filed to. And we have agreed on resolving that other
 10 Forest Service water right.
 11 There's not an objection, and the Forest Service
 12 is not a party to these cases. The objection is rather
 13 to the disallowance of claim by a private party to a
 14 private party.
 15 THE COURT: But you're saying Whiteley,
 16 Bedkes and Poulton are not claimants to 10332?
 17 MR. BRAMER: I believe, Your Honor, that the
 18 claim -- does that look right to you?
 19 VOICE: I could look it over --
 20 MS. BROWN: (Inaudible).
 21 MR. BRAMER: This is, Your Honor, this is
 22 the claim that we had, the domestic and stock water
 23 objection which lists it as this court indicated
 24 earlier.
 25 VOICE: (Inaudible) Owens Corral, we

Page 36

1 know what that's at. It's Owens Corral Springs. And
 2 I'm not why it was set out without the others. So
 3 I'm really confused myself.
 4 MR. BRAMER: The objection to the claim, I
 5 believe, by -- the objector in this case, I believe, is
 6 listed as Ray Bedke. And I believe his objection is to
 7 the claimant of the water right as Ray C. Bedke,
 8 Winslow Whiteley, Gary Russell Poulton and
 9 Bruce Bedke. And they're objecting to disallowance of
 10 that claim.
 11 The Forest Service claim is not at issue in this
 12 proceeding at this time. And if the court would like,
 13 we can make copies of this domestic and stock water
 14 objection so the folks that are present have a copy of
 15 that, if they would like that.
 16 THE COURT: Do we have a copy of the
 17 objection in the court file?
 18 MR. BRAMER: Your Honor, I don't know.
 19 THE COURT: Yes, we've got an objection for
 20 (inaudible). Now, this is for 10332.
 21 VOICE: (Inaudible) like I say,
 22 Your Honor, (inaudible) I know the location; but I'm
 23 not sure quite --
 24 MR. BRAMER: Yes, why don't you make us
 25 (inaudible) first of all, make a copy of the

Page 37

1 United States -- (inaudible) Ray filed the objection.
 2 VOICE: (Inaudible).
 3 MR. BRAMER: Well, Ray filed the objection.
 4 And I believe, for the record, Mr. Ray Bedke is
 5 deceased.
 6 For the record, Your Honor, Mrs. Bruce Bedke --
 7 can we have the record show, the recording -- has just
 8 indicated that Winslow Whiteley is also deceased. And
 9 I believe he has been succeeded in his interest by
 10 Robert Whiteley.
 11 VOICE: Your Honor, I'm not sure that
 12 it's in order at this time; but I would like to put my
 13 son on as well as myself. Is that possible?
 14 THE COURT: Well, anyone who has filed an
 15 objection in this case is a party.
 16 VOICE: Yes.
 17 THE COURT: And anybody who wants to file
 18 an objection after it's initially filed then has to
 19 file a motion to file a late objection. And then that
 20 has to go to a hearing on whether that late objection
 21 is going to be allowed or not.
 22 VOICE: Mr. Bedke, were you asking
 23 (inaudible) --
 24 VOICE: Yes.
 25 THE COURT: As a claimant.

Page 3

1 VOICE: I want him, I want him
2 alongside my name in () should expire for some
3 reason or other. He can, you know, he is familiar with
4 it.
5 THE COURT: Well, we could file -- I guess
6 IDWR -- what you do is file -- what is the form
7 number? Do you have --
8 MS. BROWN: (Inaudible) enter an affidavit
9 of.
10 VOICE: Okay.
11 THE COURT: But now this 10332 has been
12 recommended for disallowal?
13 MS. BROWN: Yes, Your Honor, it's
14 recommended in favor of 45-07446.
15 VOICE: 45 what?
16 MS. BROWN: 45-07446.
17 THE COURT: Everybody get that? Subcase
18 No. 45-07446. And that's recommended and claimed by
19 the Forest Service?
20 MS. BROWN: That's correct, Your Honor.
21 THE COURT: Have all these four water
22 rights that we're now considering, are all four of
23 those recommended for disallowal?
24 VOICE: No, Your Honor. 10505 and
25 10506 are claims made by Mrs. Bedke which BLM filed

Page 39

1 objections on.
2 THE COURT: Okay.
3 VOICE: To Bruce Bedke.
4 THE COURT: What about 4050?
5 VOICE: I have no knowledge of that
6 particular claim or particular claimant.
7 VOICE: (Inaudible).
8 THE COURT: The only thing we have in 4050,
9 we have an objection filed by Bruce Bedke. And in
10 Mr. Bedke's objection, he says that Bruce Bedke is the
11 claimant. That's listed in the director's report.
12 VOICE: (Inaudible). I really couldn't
13 find it, sir. I don't know what --
14 THE COURT: We don't have a copy of the
15 claim in the file. All we have is a copy of the notice
16 that we sent out of the hearing. But then the
17 objection filed by Bruce Bedke --
18 VOICE: (Inaudible) I'm sure I can
19 enlighten (inaudible).
20 VOICE: I wonder if those were filed by
21 Ray Bedke (inaudible).
22 MS. BROWN: Your Honor, could I see a copy
23 of the (inaudible).
24 THE COURT: In 4050?
25 We can go off the record now if we need to take a

Page 40

1 look these records.
2 DISCUSSION HAD OFF THE RECORD)
3 THE COURT: Back on the record. We're
4 going to take these one at a time. And that is
5 45-05050 -- 04050, sorry. And we've got a little
6 confusion here.
7 4050 looks like it was claimed by Bruce Bedke and
8 then objected to by Bruce Bedke. And it doesn't appear
9 the United States is a party to that subcase.
10 And Mr. Bedke doesn't have his records here. He
11 doesn't show that he was a claimant on that or not. So
12 we're going to have to set that one off.
13 Do you folks need to have --
14 VOICE: (Inaudible).
15 THE COURT: -- additional time to take a
16 look at this or --
17 VOICE: Perhaps. I guess we ought to
18 investigate it.
19 THE COURT: -- Miss Brown, you said that you
20 don't have that 40505 file here.
21 MS. BROWN: I'd be glad to call Mr. Bedke
22 and see what (inaudible).
23 THE COURT: Okay.
24 MS. BROWN: Once he has his records and I
25 have the department's records in front of me, we can

Page

1 (inaudible).
2 THE COURT: Well, how about this? Could
3 you submit a report to the court, say, within 30 days
4 of what you find and then what your discussion with
5 Mr. Bedke?
6 MS. BROWN: I certainly could do that, or
7 would a Standard Form 5 (inaudible).
8 THE COURT: Oh, sure. The reason I'm
9 saying instead of report within 30 days, that's kind of
10 a deadline to do something. But an SF5, that takes
11 care of the lawsuit altogether, the subcase claim
12 altogether.
13 Do you have Mr. Bedke's address and phone
14 number?
15 MS. BROWN: I'll be checking with him
16 (inaudible).
17 THE COURT: Okay. And you might want to
18 check your records, Mr. McCanlin (sic), and let us know
19 what you find out. But that's on 4050.
20 Now let's go to the next one, 10332. And that's
21 one where we have the multiple claimants; and we show
22 it objected to by Ray Bedke. And I think we've been
23 told that Ray Bedke is now deceased.
24 VOICE: Yes.
25 THE COURT: It has nothing to do with the

Pag

1 SRBA? We didn't drive him to his grave?
2 VOICE: Maybe think it had a lot to
3 do with it. (Inaudible).
4 VOICE: Extenuating circumstances there
5 (inaudible).
6 THE COURT: But who is the successor in
7 interest to Ray Bedke?
8 VOICE: Scott Bedke.
9 VOICE: Scott Bedke.
10 THE COURT: So now we have Scott Bedke as
11 the person who is objecting to the claim filed by
12 Winslow Whiteley, Ray Bedke, Gary Poulton and
13 Bruce Bedke.
14 Where are we on this one now? This is 10332.
15 VOICE: That doesn't make sense,
16 Your Honor. Here Ray is supporting the objections.
17 The particular claim should be (inaudible) BLM
18 Forest Service claim. The BLM Forest Service has filed
19 (inaudible) and therefore should not hold a claim for
20 stock water. That doesn't, I think (inaudible) with
21 Ray's objection to Ray, Winslow, Gary Russell Poulton
22 and Bruce Bedke's claim. That doesn't, that doesn't
23 seem right.
24 THE COURT: Well, Mr. Bedke, take a look at
25 the notice of claim to water right; and you'll see who

Page 43

1 the claimants are.
2 MS. BROWN: (Inaudible) confusion because
3 this water right claim number was reported as
4 45-07446.
5 VOICE: This is the same one.
6 VOICE: This is generally the one we
7 (inaudible) this is a similar type situation.
8 VOICE: You said this was --
9 MS. BROWN: This was reported as water
10 right No. 45-7446 which is (inaudible) U.S.
11 Forest Service for this particular pipeline. The
12 department's understanding of this water right claim
13 was for the pipeline that runs along Owens Corral
14 Spring.
15 VOICE: And that's the same -- 07446
16 was (inaudible).
17 MS. BROWN: (Inaudible).
18 VOICE: So he had to object on the fact
19 that the license was in the Forest Service name is not
20 correct. That should have been in the four claimants'
21 names rather than the USDA Forest Service and BLM.
22 THE COURT: Where is 7446? What's the
23 status of that one?
24 MR. BRAMER: My understanding, Your Honor,
25 is that an SF5 was filed with this court on Monday. We

Page 44

1 were the y objecting party to that claim.
2 THE JRT: And it looks like we've --
3 April 5th the Standard Form 5 was filed. And that
4 indicates 7446 has been settled; and it's in the USDA
5 Forest Service. And when an SF5 like this is filed, it
6 indicates to us everybody is in agreement; there's no
7 problem; we can go ahead and issue a partial decree.
8 But it sounds like we're back in the same
9 situation we had earlier this morning. We've got this
10 filed; but it sounds like until we get it straightened
11 out with 10332, maybe we're going to have to hear both
12 of them together.
13 VOICE: Correct. They are on the same
14 spring. And that's where (inaudible).
15 THE COURT: And, Mr. Bedke, you think we
16 can -- the best thing would be to hold these two
17 together to consider the two of them together?
18 VOICE: I (inaudible) yes. I would
19 think so.
20 THE COURT: Mr. Bramer?
21 MR. BRAMER: Well, Your Honor, I guess there
22 was no objection filed to the Forest Service claim.
23 And if this court is to entertain an objection,
24 wouldn't the court have a late objection filed to a
25 claim that we submitted an SF5 on?

Page 45

1 THE COURT: Our records show that 7446 was
2 claimed by the Forest Service and was objected to by
3 the Forest Service. And the Forest Service has filed
4 an SF5.
5 VOICE: Your Honor, now (inaudible),
6 these other numbers here, can we -- this is also going
7 to be subcase 45-02789. They're all the same place.
8 THE COURT: That was 45-02 --
9 VOICE: 02789.
10 THE COURT: -- 789.
11 MS. BROWN: Okay. Now (inaudible) forest
12 land on Owens Corral Creek. The one we're talking
13 about (inaudible) pipeline only.
14 VOICE: Well, in our (inaudible) we
15 filed on the ponds, collector boxes, pipelines, troughs
16 and (inaudible).
17 MS. BROWN: From Owens Corral Spring.
18 VOICE: They're the same with different
19 names. Creek and spring, it would be the same.
20 (Inaudible) it interchange the creek, and the other
21 time it interchanges the spring. This is the way the
22 USDA -- the United States acting through the BLM
23 (inaudible) Forest Service. It's not listed here.
24 They filed on Owens Corral Creek. And we filed on the
25 Owens Corral Spring. And so you've got what seems to

Page 46

1 be two different names, but the same place.
 2 MS. BROWN: y. And what you're telling
 3 me is that some of these co-owners or cooperatives
 4 (inaudible) Owens Corral Creek.
 5 VOICE: Owens Corral Spring would be
 6 the head where we trap the collection boxes and the
 7 (inaudible) and also surface water that doesn't get
 8 into the head (inaudible). But these descriptions
 9 would show that we're tracking it down through its
 10 course as well as the, where the (inaudible) and the
 11 collection box. You aren't going to get all the water
 12 in the pipeline, so -
 13 THE COURT: Miss Brown, do you know the
 14 status of 02789?
 15 VOICE: It should be (inaudible) right
 16 now. Because Scott Bedke has filed an objection to
 17 it.
 18 MS. BROWN: I'll have to look at that.
 19 THE COURT: And who is the claimant of
 20 that -
 21 VOICE: The United States acting
 22 through -
 23 THE COURT: 02789?
 24 VOICE: Yes.
 25 VOICE: There's no private objection to

Page 47

1 that claim.
 2 THE COURT: No private objection, but has
 3 it been decreed, partially decreed?
 4 (Inaudible).
 5 VOICE: There is too a private
 6 objection (inaudible).
 7 THE COURT: We're just looking at our
 8 calendar here. 02789, that was set for hearing at
 9 2 o'clock in another batch.
 10 VOICE: Oh, okay.
 11 THE COURT: 02789 (inaudible). But you
 12 think these three water rights, 10332, 02789 and 07446,
 13 they're all to the same water right?
 14 VOICE: Correct.
 15 MS. BROWN: Your Honor, I believe that the
 16 Forest Service filed individual claims to individual
 17 water rights (inaudible). And this here, what the
 18 Bedkes intended to do was to file for all of those
 19 (inaudible) under one claim.
 20 VOICE: It goes back to what I tried to
 21 bring up earlier and yesterday, is that - and one of
 22 the same points that Mr. Whiteley brought up this
 23 morning, is that we filed under the old method, you
 24 know, led through the process by IDWR. And then that
 25 method was changed.

Page 48

1 A so when the Forest Service filed, they filed
 2 on ea e separately, a separate claim, rather than
 3 have - and I don't know if that's called de minimis or
 4 non-de minimis. But whatever they did, we did the
 5 other one. And so therefore they were all set - you
 6 know, they were all set aside. And I think these all
 7 add to the confusion that we're experiencing right
 8 now.
 9 MS. BROWN: This particular water right is
 10 marked set aside. And this particular water right was
 11 recommended as (inaudible) in the Forest Service under
 12 their pipeline.
 13 VOICE: Correct.
 14 MS. BROWN: (Inaudible).
 15 VOICE: All of ours were set aside.
 16 All the private ones were, but the Forest Service's
 17 were put on the director's reports. And so that's
 18 where our objection kinda comes in. Because ours are
 19 still out there in the ozone somewhere to be included
 20 on a subsequent director's report, we were told, when
 21 they were going to handle the irrigation cases.
 22 MS. BROWN: In this particular case,
 23 Your Honor, 45-10332 was recommended in this director
 24 report. It did not (inaudible) to be reported later.
 25 THE COURT: How was it recommended?

Page

1 MS. BROWN: It was recommended as 45-7446
 2 (inaudible).
 3 THE COURT: But 10332 was recommended for
 4 disallowal because it was recommended under 7446.
 5 MS. BROWN: Yes.
 6 THE COURT: Okay.
 7 MS. BROWN: And (inaudible) four claims on
 8 this claim (inaudible) pipelines and Forest Service as
 9 (inaudible).
 10 THE COURT: Mr. Bramer, do you want to add
 11 something?
 12 MR. BRAMER: Your Honor, we filed a claim.
 13 We filed an objection. We worked with the department.
 14 We filed an SF5. Normally that would resolve this
 15 matter.
 16 However, I think given the confusion that these
 17 folks have had with their water rights in the
 18 South Hills, Mr. Bedke, Mr. Whiteley, you're going to
 19 hear over and over again there's a great deal of
 20 confusion. I think in all fairness to them, even
 21 though we've jumped through all the technical hoops in
 22 this court and should have our water right decreed,
 23 that I'm more than willing, if they would like to file
 24 a late objection and make the objection to our claims
 25 so we can sit down and work through this, that would

Pag

1 give them a full and fair opportunity to make the
2 objection. I think there's confusion here. And
3 rather than drawing a technical line of the law and
4 saying you should decree this right to us, I think in
5 all fairness to the claimants we should give them an
6 opportunity to come in and make an objection here if
7 that's what they like to do.
8 THE COURT: I think it's a very generous
9 offer of yours. But do you want all three of these
10 handled together?
11 MR. BRAMER: We only --
12 THE COURT: Or is there a fourth one?
13 MR. BRAMER: I think our only one is 07446
14 involved here. I think there's a pipeline with a bunch
15 of other points.
16 THE COURT: But I heard --
17 MR. BRAMER: We only have one claim at
18 issue.
19 THE COURT: But I heard that 2789 and 10332
20 are to parts of that.
21 MS. BROWN: Your Honor, it's very difficult
22 for the department to tell because the way that these
23 claims were made, the claims were in specific
24 (inaudible). I understand that (inaudible) Bedkes are
25 (inaudible). That is not what they thought they were

Page 51

1 asking (inaudible) at the time they made the claim.
2 I'd like some time with them to figure out
3 exactly what it is they intended to claim and make sure
4 that we have that on paper correctly. So far, I'm not
5 impressed that the department had all of the
6 information it needed to be making its recommendation.
7 THE COURT: Well, how about this? As the
8 independent expert to the court, again, could you
9 submit a supplemental report to the court on all water
10 rights related and objections and claims related to
11 7446?
12 MS. BROWN: This year, Your Honor? Yes, I
13 can do that. It will take some time.
14 THE COURT: Like, say, Sunday morning?
15 MS. BROWN: Sure.
16 MR. BRAMER: Your Honor, we would, on behalf
17 of the Forest Service, we would ask that the court hold
18 the SF5 and not decree that right until we make sure
19 everybody has had a full and fair opportunity to file
20 any objection they want to.
21 THE COURT: And I think you're being more
22 than fair in offering that. We'll take the 7446
23 Standard Form 5 -- this sounds more like the military
24 every day, all of these initials and numbers. But
25 this, the SF5 that settles 7446, the Forest Service

Page 52

1 says the done with the case; and normally we would
2 take this I'd recommend that the court decree the
3 water right.
4 But Mr. Bramer has offered to hold up on that.
5 We'll take it and put it in the file, but treat three
6 of these water rights -- 10332, 2789 and 7446, handle
7 it as a package until we can figure out what we're
8 talking about here. So you folks are going to get a
9 chance to air your complaints or your claims or your
10 objections, whatever they happen to be. And then we'll
11 get that --
12 VOICE: 2789 is not a Forest Service
13 right. That's BLM land.
14 THE COURT: Yes. But it's somehow tied
15 into this. That's why I guess I wanted --
16 MS. BROWN: (Inaudible).
17 VOICE: The Forest Service line or the
18 BLM line is just right there along the corrals. It's
19 really quite close. Let's put it that way. So the
20 upper end is in the Forest Service reach. The lower
21 end is in the BLM reach. We filed on the entire
22 reach. The Forest Service filed on the upper reach.
23 The BLM filed on the lower reach.
24 So in this case 02789 is a BLM filing to the
25 lower reach. 07446 would be the forest filing to the

Page 53

1 upper reach. Yet they're all in conflict with ours of
2 the entire reach, if that makes sense.
3 MR. BRAMER: I can only represent the
4 Forest Service here. We're comfortable waiting and
5 letting him to look at that and figure out the best way
6 to go. I don't know what you want to do on --
7 VOICE: There are already objections
8 filed to 2789; is that correct?
9 VOICE: (Inaudible).
10 VOICE: Yeah, there are late
11 objections. And they are filed by Mr. Scott Bedke, I
12 believe. And we were going to discuss that one this
13 morning. So there's no reason to hold that one up as
14 far as the BLM is concerned. Because it's a different
15 water right. And there have been no SF5 filed on that
16 one.
17 THE COURT: But I think the report that,
18 the supplemental report I was asking of IDWR is going
19 to inevitably involve that. Because it relates to
20 objections that have already been filed.
21 VOICE: Yes. But Scott Bedke and his
22 (inaudible) objectors -- and I was intending to try and
23 resolve those with Mr. Bedke today one at a time.
24 THE COURT: Oh, if you can, oh, that would
25 be great.

Page 54

1 VOICE: Your Honor, we were told by the
2 court clerk over there we all didn't have to file
3 an additional late objection if we were all
4 co-claimants in the same case, i.e., Winslow
5 (inaudible), Gary Russell and Bruce Bedke sought to
6 file. As long as we didn't have a different objection,
7 we would all have a seat at the same table. That's
8 what the court clerk told us as recently as last week.
9 So that's what we were going on. That's why we
10 didn't file a late objection. If we still can, we
11 would like to --
12 VOICE: Which court clerk were you
13 (inaudible).
14 VOICE: Diana Delaney.
15 THE COURT: Well, the fact that you're
16 already a party to the lawsuit doesn't -- let's forget
17 about the motions to file late objections for now.
18 Now, depending on how IDWR finds their report and --
19 reports back to us, at that point we may have to tell
20 you, okay, now here's how we're going to have to get
21 you postured to become the correct claimants,
22 objectors, or whatever your status may be.
23 VOICE: Correct.
24 THE COURT: --As a practical matter, you may
25 turn out to be a co-claimant.

Page 55

1 VOICE: Right.
2 THE COURT: You know, we're talking about
3 the same thing. It's just a matter of plugging in the
4 right words.
5 How long would it take you to get a report in?
6 MS. BROWN: I would like to ask the court
7 to (inaudible) return that report the first week of
8 May.
9 THE COURT: Let's see. So if we say 30
10 days? Okay.
11 Okay. Anything further on those --
12 VOICE: (Inaudible).
13 THE COURT: Yeah, those -- well, let's see,
14 we've already taken care of -- so 4050 is not involved
15 in these three as far as we know.
16 MS. BROWN: Your Honor, I said 4050 is
17 being (inaudible) objection by Mr. Bedke for his own
18 private property.
19 THE COURT: But that's not involved in
20 these three that we're --
21 MS. BROWN: No.
22 VOICE: No.
23 THE COURT: Okay.
24 VOICE: Not that we're aware of.
25 THE COURT: Okay. But the 4050, that's the

Page 56

1 one we're going to -- did we set a deadline on that
2 one?
3 MS. BROWN: (Inaudible).
4 THE COURT: A deadline for an SF5?
5 MS. BROWN: Right. I think that would be
6 appropriate.
7 THE COURT: SF5 in 04050, an SF5 within 30
8 days?
9 MS. BROWN: Yes.
10 THE CLERK: Or a report.
11 THE COURT: Or a report. I think you know
12 who is running the show here.
13 VOICE: (Inaudible).
14 THE COURT: By the way, does everybody know
15 my lovely assistant, Debbie Lash? She's the one who
16 tells me to do all these things. If you want to know
17 where the paperwork is, don't call me. Call her.
18 Okay. Anything further on those four water
19 rights?
20 In that case, we'll go off the record. Thank
21 you, folks.
22 (DISCUSSION HAD OFF THE RECORD)
23 THE COURT: Counsel, ladies and gentlemen,
24 we're now back on the record. And we've separated out
25 two subcases in basin 45 for separate consideration

Page 57

1 because of various reasons. And those two are 45-10501
2 and 10506. The claimant in that case is the Bureau of
3 Land Management. And the objector is -- no, do I have
4 that right?
5 VOICE: The claimant in that case is
6 Mr. Bruce Bedke. And the objector is the United States
7 Department of Interior, Bureau of Land Management.
8 THE COURT: Okay. I had it close. Now,
9 you've had a chance to talk with Mr. Bedke about his
10 claim and your objection.
11 Do you have anything you wanted to put on the
12 record here or --
13 MR. BROWN: Yes, Your Honor. For the
14 United States, Larry Brown representing the Department
15 of Interior.
16 We've discussed the issues with Mr. Bedke. And
17 we would like to postpone for 60 days, at which time we
18 will report to the court by phone or however the court
19 chooses. And then if not (inaudible) after that
20 (inaudible).
21 THE COURT: So it's kind of like what we
22 did this morning -- just set it off, the initial
23 hearing, and do it by phone --
24 MR. BROWN: What we would like, Your Honor
25 is an opportunity to report to the court on the status

Page 58

1 of these discussions between Mr. Bedke and the
2 United States, and then set an initial hearing, if
3 necessary, after we report.
4 THE COURT: You plan on a written report?
5 MR. BROWN: However you choose,
6 Your Honor. We can contact you by phone, or we can
7 submit a written report. A written report would
8 probably be easier. That way, we could copy the IDWR.
9 THE COURT: Now, a written report by
10 Mr. Bedke. Which Mr. Bedke? Bruce Bedke.
11 MR. BROWN: It would be a joint report
12 between the United States and (inaudible).
13 VOICES: (Inaudible).
14 MR. BROWN: Your Honor, it would be a joint
15 report signed by both Mr. Bedke and myself as a
16 representative of the United States.
17 THE COURT: And that will be a written
18 report on the status of your negotiations?
19 MR. BROWN: That's correct, Your Honor, and
20 either requesting an initial hearing or a submittal of
21 settlement documents, whichever, or perhaps even
22 (inaudible) of the cases and issues (inaudible).
23 THE COURT: If you have just the two and
24 you submit your written report and you're essentially
25 saying we can't settle it, let me suggest you put in

Page 59

1 your report that here's the dates we think we can go to
2 trial and here's -- so, in other words, you might be
3 able to save one of the steps down that road.
4 MR. BROWN: Yes, Your Honor.
5 THE COURT: Another hearing.
6 MR. BROWN: We'll consider that in our
7 discussions down the road here a little bit
8 (inaudible).
9 THE COURT: Well, with a little luck,
10 you'll be able to just file an SF5 and we'll be done
11 with it. And you can go about your business, and Larry
12 will get back to his golf game.
13 VOICE: With a little luck, maybe I can
14 retire.
15 THE COURT: No such luck. Okay. Is there
16 anything further on 10505 and 10506?
17 MR. BROWN: Not from the United States,
18 Your Honor.
19 THE COURT: Mr. Bedke, do you agree with
20 that summary and the plan?
21 VOICE: I agree with his summary,
22 yeah. I understand these dates will be given to me as
23 well. I mean if anything, any of these dates that the
24 court will decide on will be forwarded to me.
25 THE COURT: Oh, yeah. Like any lawsuit --

Page 60

1 VOICE: All right.
2 THE JRT: -- all the parties to the
3 lawsuit get written copies of everything.
4 VOICE: All right. Fine. Fine. I
5 can't expect more than that.
6 THE COURT: And what I'll do is just send
7 out an order postponing the initial hearing for 60
8 days; and I'll set a particular date that you have to
9 file a written, a joint written report on the status of
10 the negotiations.
11 MR. BROWN: I do have one question for
12 Mr. Bedke on the record.
13 Is your ranching operation incorporated, sir?
14 VOICE: No. Not at this time.
15 MR. BROWN: Not at this time. Very well.
16 VOICE: It may be, though, by the time
17 the 60 days rolls by.
18 VOICE: What importance does that
19 have?
20 MR. BROWN: It would make a difference on
21 whether you had to be represented by counsel or you can
22 represent yourself.
23 VOICE: If I'm an L.L.C., I don't need
24 representation. Is that true?
25 MR. BROWN: I'm not sure about the laws of

Page 61

1 the State of Idaho. I'm not --
2 VOICE: (Inaudible).
3 VOICE: An individual has --
4 VOICE: As an individual, I'll still be
5 a claimant. Is that the way it works?
6 MR. BROWN: I'm not sure. I believe that
7 that's true, but --
8 THE COURT: An individual can represent
9 themselves, yes.
10 VOICE: Okay. I guess until it's
11 closed, who knows. I guess we'll go that way.
12 THE COURT: Sure. You might become a
13 nonprofit corporation, too.
14 VOICE: That's true. It is. It is.
15 MS. BROWN: (Inaudible).
16 THE COURT: Or a charitable corporation, if
17 you like.
18 VOICE: (Inaudible) if we may.
19 THE COURT: Well, if there's nothing
20 further, Mr. Bedke or Mr. Brown, we'll go off the
21 record.
22 MR. BROWN: Thank you, Your Honor.
23 THE COURT: Thank you.
24 (DISCUSSION HAD OFF THE RECORD)
25 THE COURT: We're back on the record now.

Page 62

1 This is the SRBA court sitting in Burley, Idaho. I'm
2 Terry Dolan, special n for reporting area 45.
3 This afternoon we're considering 157 subcases in
4 this next batch. It's an initial hearing. The
5 subcases -- and I'll just give you the one instead of
6 reading 157 numbers, 45-02769 and others.
7 In court this morning, this afternoon, we have
8 Scott Bedke. And I understand we're going to have
9 multiple parties in here. So Scott Bedke and others as
10 the objectors. And we have representing the
11 Forest Service, one of the claimants to some of these,
12 Randy Bramer. We also have Peter Ampe representing the
13 State of Idaho.
14 And, Mr. Ampe, your role is as an objector?
15 MR. AMPE: Yes, Your Honor. The State has
16 objected to (inaudible) of those rights listed on
17 (inaudible).
18 THE COURT: Okay. Then we also have
19 Larry Brown representing the BLM. They're a claimant
20 to some of these as well.
21 Do we have all the players listed here now? Did
22 I miss anybody?
23 Well, Mr. Bramer, I think you had a plan of how
24 we could address all of these.
25 MR. BRAMER: Yes. Thank you, Your Honor.

Page 63

1 My name is Randy Bramer. I regret to inform this court
2 that, notwithstanding my best attempts, after six years
3 I've finally appeared in a subcase hearing where an
4 objection has been filed.
5 However, I hope that we can resolve this through
6 negotiation. We're taking the necessary steps to do
7 that. We had fairly critical conversations with
8 Mr. Bedke today, and we will plan on moving forward to
9 discuss negotiations as well as pursue a litigation
10 track.
11 There are 48 objections. We're providing a list
12 to the court of objections Mr. Bedke filed to
13 Forest Service claims. It is my understanding that
14 these objections were largely to claimed -- or to
15 sources of water on a grazing allotment that Mr. Bedke
16 has a permit on, a permittee on and has in 1989 filed
17 claims for. Those claims were filed in Mr. Bedke's
18 name, I believe, as well as three other individuals and
19 have not yet been reported out by the department.
20 In discussions with Mr. Bedke, we determined that
21 if the court were to proceed on our objections today
22 without having the original claims by Mr. Bedke
23 reported out we would be placed in a position of having
24 litigation on his objections to our claims at this
25 point in time and then, in turn, having additional

Page 64

1 litig in the year 2000 concerning our objections
2 to Mr. Bedke's claims. And rather than undertake that
3 effort which we both believe would be duplicative, we
4 agreed that we would propose to the court through the
5 filing of a joint motion that the court hold a hearing
6 to determine if the department of water resources could
7 report out those claims filed in 1989 by Mr. Bedke and
8 the three other individuals. Once those are reported
9 out, at that time we feel we could move forward with
10 this case; and it would be a much more efficient
11 procedure.
12 Mr. Bedke, does that accurately --
13 VOICE: Yeah, that's it.
14 THE COURT: How long will it be before you
15 file your motion?
16 MR. BRAMER: I could have that to the court,
17 if Mr. Bedke is available -- I know it's that time of
18 the year when things are getting busy; but I could have
19 somebody draft it within a week and fax it down to
20 you. Probably if you give us 10 days, that would be
21 sufficient.
22 VOICE: That would be fine.
23 MR. BRAMER: You'll probably have to submit
24 it to the other folks (inaudible).
25 VOICE: Right.

Page

1 MR. BRAMER: Your Honor, why don't you give
2 us 14 days. That will give Mr. Bedke some time to --
3 and we will include in that list, Your Honor, a list of
4 the affected case numbers.
5 One other point of clarification for the record,
6 Your Honor, is I'm accounting for 48 Forest Service
7 claims that are objected to by Mr. Bedke, 12 objections
8 by Mr. Bedke to BLM claims; and if Mr. Ampe is correct
9 and there's only six BLM-State of Idaho objections, we
10 are somehow coming up with roughly somewhat in excess
11 of 90 other claims on Exhibit A which aren't
12 addressed.
13 So -- if we could go off the record for a
14 second?
15 (DISCUSSION HAD OFF THE RECORD)
16 THE COURT: Okay. We're now back on the
17 record.
18 Mr. Ampe, do you have anything you wanted to --
19 MR. AMPE: Yes, Your Honor. I didn't
20 realize that we had skipped the 1:45 hearing and moved
21 it all to the 2 o'clock, so my statement that there
22 were six cases where the State objected is incorrect.
23 There are substantially more than six cases. And I'm
24 not even going to try to give you an estimate. This is
25 the one I'm thinking of that was our (inaudible)

Page

1 Mr. Bramer to make sure we can figure out which goes to
2 these.
3 THE COURT: It looks like maybe 50
4 different subcases?
5 MR. AMPE: It could be.
6 THE COURT: And the first one is 45-12468,
7 according to this one list that we got here.
8 MR. AMPE: Yes.
9 THE COURT: Okay. Good. Now, are you --
10 do your -- that's the ones that you objected to.
11 Do they involve Mr. Bedke's claims that have not
12 been reported yet?
13 MR. AMPE: I don't think so. I think you
14 would have to ask Mr. Bedke that. There's also an
15 overlap here. We have no knowledge of his claim,
16 (inaudible) object to claims (inaudible) have no reason
17 to --
18 THE COURT: Your understanding is the State
19 only objected to BLM claims?
20 MR. AMPE: Correct.
21 THE COURT: Okay. So it sounds like you
22 wouldn't be involved in the joint motion that
23 Mr. Bramer talked about.
24 MR. AMPE: No, only because we're roped
25 into the same initial hearing.

Page 67

1 THE COURT: Okay. By the way, if anybody
2 hasn't met Peter Ampe, he represents the State of
3 Idaho.
4 Mr. Bramer, anything further?
5 VOICE: Have you received the State's
6 attorney's claim?
7 THE COURT: Oh, Peter Ampe? Did I say
8 Anderson or Ampe? (Inaudible).
9 THE COURT: A-m-p-e.
10 VOICES: (Inaudible).
11 MR. BRAMER: Your Honor, I don't think we
12 have anything more on behalf of the Forest Service.
13 Mr. Bedke, is there anything else you want to
14 raise to the court on our particular objections?
15 VOICE: No.
16 THE COURT: Okay. Thank you.
17 VOICE: We have similar objections on
18 other filings that follow the same type of format.
19 Ours are not with the Forest Service. It would be just
20 with the BLM on cases that they filed that we weren't
21 aware that ours was set aside at the time. So they
22 made the director's report and ours didn't.
23 So we prepared a late, motion to file a late
24 objection. And I've got all the subcases listed on
25 this motion to file a late objection. They fall under

Page 68

1 the same scenario. At this time I'd like to move
2 that we make some sort of a filing to bring ours onto
3 the table so we don't have to go through a double -- I
4 would have to file an objection --
5 MS. BROWN: (Inaudible).
6 VOICE: I don't have to, you know, we
7 don't have to file a late objection to theirs and then
8 they file an objection to ours when ours make the
9 subsequent director's report.
10 Does that make sense?
11 THE COURT: Well, you're essentially
12 planning to file a similar joint motion to ask the
13 State to be ordered -- IDWR, that is, to be ordered to
14 report out early your claims for stock water rights?
15 VOICE: Correct.
16 THE COURT: And you would be joining, I
17 suppose, with Mr. Brown --
18 VOICE: I haven't discussed this with
19 Mr. Brown because this little parlay went on while we
20 were out discussing another case.
21 THE COURT: Okay.
22 MR. BROWN: And, Your Honor, Mr. Whiteley,
23 Mr. Gardner and Mr. Matthews that were here this
24 morning are in the exact same position.
25 THE COURT: So you would include their

Page 65

1 claims on your joint motion with the Forest Service?
2 SCOTT BEDKE: See, everybody in that, the
3 Oakley area filed in 1989 under the old or non de
4 minimis format. And then when the adjudication was
5 bifurcated in '97 and they changed to a de minimis
6 method, and that's, therein lies the rub.
7 So they will have the same problem in the Oakley
8 Valley allotment, those gentlemen that were here this
9 morning, that we just tried to solve with our joint
10 motion that they, that share it on his other allotment
11 will need to do on the BLM.
12 THE COURT: Our deputy clerk reminded me I
13 should have everybody say your name first before you
14 speak, so when we listen to the tape recorder we can
15 tell who it was.
16 VOICE: That was Scott Bedke.
17 THE COURT: Okay. Thank you, Mr. Bedke.
18 But those people you mentioned in Oakley, are those to
19 the Forest Service claims, or Forest Service and BLM?
20 VOICE: (Inaudible) possibly both,
21 possibly both.
22 THE COURT: Mr. Bramer, is there a way to
23 work them in there, too?
24 MR. BRAMER: Your Honor, I think what we
25 want to do is figure out what -- what I would propose

Page 7

Page 67 - Page 7

1 to do is file a motion with this court suggesting that
2 any of the basin 45 claims that were filed in 1989
3 under whatever names, assuming the four parties, that
4 the department has indicated to me would be reported
5 out in a supplemental -- an irrigation and other
6 reports in December, 2000, that those claims be
7 investigated; the department provide a report to this
8 court as to when those could be reported out, or have
9 them reported out. I think that would --

10 VOICE: Well, it would catch us; but
11 you're going to have the same argument. You're going
12 to have the same problem with Mr. Gardner, Mr. Whiteley
13 and Mr. Matthews.

14 VOICE: Because they all fall from the
15 same basin 45.

16 MR. BRAMER: So they filed claims in 1989 as
17 well.

18 VOICE: Yes. So I would say that your
19 joint motion should say that all of, everything, all
20 stock water claims that were made in basin 45 that
21 haven't been reported ought to be reported.

22 MR. BRAMER: Well, I'll sit down and look at
23 that, Your Honor. If we could do it that way -- and
24 Mr. Brown has to address the BLM claims rather than the
25 Forest Service. Certainly with respect to Forest

Page 71

1 Service, I don't have a problem with that.
2 Again, these are going to come out and be
3 reported out later is my understanding. So I think we
4 can work with it. We will sit down and talk with these
5 folks. If we do not reach some sort of clear
6 resolution on a joint motion, what would happen is
7 we'll get on the phone with you. I think, as far as
8 the Forest Service claims, we can work this out
9 (inaudible) the court 14 days.

10 THE COURT: Maybe just to get a handle on
11 it, maybe we'll need to separate it out by
12 Forest Service; and then maybe something separate can
13 be worked for the BLM? I'm not sure --

14 MR. BRAMER: And it would be (inaudible).

15 MR. BROWN: If I could address the BLM
16 beneficial use claims, I have no problem at all with
17 what these folks are discussing with the BLM.

18 THE COURT: Good.

19 MR. BROWN: There are six licenses that
20 need to be addressed, though. And Mr. Bedke has
21 objected to all six of those licenses. And we could
22 bifurcate six objections and six claims from this
23 entire process and handle them separately and quickly.

24 VOICE: (Inaudible) at the same time
25 there will be some other licensed cases that I will be

Page 72

1 objecting to as well.

2 MR. BROWN: Again, Your Honor; I would
3 object to any further objections on those licenses.

4 There has been plenty of time. But if they wish to
5 submit a motion, we can argue that to the court.

6 THE COURT: Miss Brown, you might want to
7 let your boss know what may be coming down the line
8 here -- a hearing on whether IDWR should be ordered to
9 submit --

10 MS. BROWN: We've had discussions with
11 Mr. Bramer (inaudible).

12 THE COURT: Okay. But no decision is going
13 to be made without a hearing and we get a chance to
14 hear from your counsel of how we should do this, what
15 the most efficient way to do this without disrupting
16 your entire operation. Because my guess is there's
17 some other claimants in this SRBA that will be a little
18 mad if their dismissed had to be set aside just to do
19 these. We're trying to balance 150,000 claimants here,
20 and so somebody gets squeezed.

21 MS. BROWN: Maybe the department
22 (inaudible) that the water rights that are reported
23 (inaudible) and that the water rights and objections
24 before the court now may have nothing to do with
25 whatever we intend to report in the future. The water

Page 71

1 right either (inaudible).

2 THE COURT: Well, one of the things I was
3 thinking about talking about at the hearing would be
4 can we determine these without waiting for you to
5 report out. And Mr. Bramer indicated that they're not
6 absolutely sure whether the Forest Service claims are
7 identical to Mr. Bedke's claims or whether they really
8 are separate. And until we get the report out, we
9 won't know that. So that's the reason that we almost,
10 from their position, they almost have to be reported
11 out -- to find out if there is any difference.

12 So, Mr. Ampe, do you have anything further on the
13 State's position?

14 MR. AMPE: No, Your Honor.

15 THE COURT: Mr. Brown?

16 MR. BROWN: No, Your Honor. (Inaudible)
17 bifurcate on the licensed rights and beneficial use
18 claims and see what the court is going to (inaudible).

19 THE COURT: Well, can you prepare a joint
20 motion asking the court to order IDWR to supplemental
21 report out --

22 MR. BROWN: I'll join with the
23 Forest Service motion, the joint motion that they had
24 with the prior claims.

25 THE COURT: Then will that have a list that

Page 72

1 will say Forest Service on the list and BLM on
2 another?
3 MR. BROWN: Certainly (inaudible).
4 THE COURT: And if you might also mention
5 in your joint motion of what your position is, maybe in
6 a footnote --
7 MR. BROWN: I'll do a separate motion for
8 these six licenses.
9 THE COURT: -- for these six -- okay. Can
10 you do that within -- Mr. Bramer was brave. He said he
11 could do it in 14 days.
12 MR. BROWN: I'll join with the Forest
13 Service on whatever they do. (Inaudible), I'll just be
14 a second part on that motion. And for the six licensed
15 rights, I'll try to have those done within seven days.
16 MS. POULTON: Your Honor, Your Honor --
17 THE COURT: If you would identify yourself,
18 please.
19 MS. POULTON: Kathy Poulton. We are going to
20 object to those licenses as well as the way that
21 that -- and these should have our name on those
22 (inaudible).
23 Is there some way that we can do that?
24 THE COURT: Well, one way to join --
25 MS. POULTON: We can copy -- he basically

Page 75

1 objected for all of us. And we need to get our names
2 on there. Because our names were on the original
3 objections to begin with and never got recorded on this
4 second batch.
5 THE COURT: Sure. Well, Mrs. Poulton, any
6 time any party to the SRBA wants to join in a subcase,
7 if the objection period has run, then your remedy is to
8 file a motion to file a late objection.
9 MS. POULTON: Is (inaudible).
10 THE COURT: Yes. Any time you can file
11 a -- now, that motion to file a late objection has to
12 be set for a hearing. And then the court has to decide
13 whether you're allowed to file that late objection. If
14 you are, then the court will take your late objection
15 and consider you a party to the subcases.
16 MS. POULTON: So how do we get on that? We
17 have to file a motion; and then you set a date; is that
18 how --
19 THE COURT: Yes. Unless all the parties
20 agree to it.
21 MS. POULTON: Pardon?
22 THE COURT: For instance, if you were to
23 file a motion to file a late objection and all the
24 parties to the subcase agree to it, say, sure, come on
25 in, then we wouldn't have to set it for a hearing. But

Page 76

1 if there if you don't file a joint motion letting
2 us know everybody is in agreement, then we have to
3 set it for hearing and give everybody a chance to say
4 no, they shouldn't come in; or if they do come in,
5 their role should be limited somehow.
6 MS. POULTON: Is that (inaudible).
7 THE COURT: With the SRBA court. I
8 think -- do we have -- do we have a standard form for
9 motion to file a late objection? Is that an SF4? 3?
10 2? Oh, we don't have it. Okay. Sorry. I'm thinking
11 of a late claim.
12 MS. POULTON: I'd like to (inaudible) right
13 now (inaudible).
14 THE COURT: Well, do you have a list of all
15 of the subcases that you want to --
16 THE CLERK: You're going to have to list
17 out the subcases on there.
18 THE COURT: You see, you can't just say I
19 want to object. You have to say I object to these
20 water rights. And if you can (inaudible) who the
21 claimants are and --
22 VOICE: (Inaudible).
23 THE CLERK: Yes, I can take it today, if
24 you want to file one. It has to be notarized. Is
25 there's a verification page on the back?

Page 7.

1 THE COURT: I'll bet you have a notary here
2 in the courthouse, don't you?
3 MS. POULTON: (Inaudible).
4 THE CLERK: Miss Poulton, you have to file
5 the objections with that motion.
6 MS. POULTON: (Inaudible).
7 THE CLERK: No, the objection itself.
8 You're going to have to also do an objection with the
9 motion in each subcase.
10 MS. POULTON: (Inaudible).
11 THE CLERK: And I don't have -- there's a
12 standard form for the objection.
13 VOICE: (Inaudible).
14 THE COURT: Oh, good. Miss Poulton, the
15 purpose of that attaching your objection is to say --
16 so we know what you're objecting to.
17 VOICES: (Inaudible).
18 THE COURT: Miss Poulton, there is one
19 other possibility. I'm not sure -- and this is the
20 kind of stuff you'd want to talk to an attorney about.
21 Sometimes when you're not involved in somebody else's
22 subcase, you can move to intervene and become a party
23 to that subcase. But then the question is, well, what
24 is your role as an intervenor. My guess is you want to
25 file an objection because you want to be a claimant, so

Page 7

Page 75 - Page 7

1 your role would go beyond an intervenor.
 2 MS. POULTON: ght. What's happening is our
 3 name was left off. The whole deal has to do with all
 4 of these (inaudible).
 5 THE COURT: Sure.
 6 MR. POULTON: Not (inaudible) we were not
 7 there to sign the paper, thinking that we were all
 8 together (inaudible).
 9 THE COURT: Well, I can't give you legal
 10 advice. And it sounds like these things are getting
 11 complicated enough to where you might want to consider
 12 at least talking with a water law attorney.
 13 But at least for now if you file a motion to file
 14 late objection, that's probably your best way to get
 15 into this and be named as a claimant. Because you're
 16 saying you're objecting to who the claimant is or who
 17 the owner is? That's one element of a water right, who
 18 the owner is. Priority date and all of those elements
 19 of a water right. But my guess is you're objecting to
 20 ownership; is that right?
 21 MS. POULTON: (Inaudible).
 22 THE COURT: Okay. But attaching your
 23 objection tells us exactly what you're objecting to.
 24 Now, anything further? Mr. Bramer, are you
 25 already done?

Page 79

1 MR. BRAMER: I have nothing further,
 2 Your Honor.
 3 THE COURT: Mr. Brown, you're already
 4 finished?
 5 MR. BROWN: I am as far as with this
 6 particular group of subcases.
 7 THE COURT: Mr. Ampe, aren't you going to
 8 say something more?
 9 MR. AMPE: No, Your Honor. I think we're
 10 okay. (Inaudible) my confusion was apparently you
 11 originally had some cases set at 1:45 with a list. Now
 12 those subcases are also a list for the 2 o'clock. So
 13 it looks like we'll just have one hearing (inaudible).
 14 THE CLERK: That was the motions to file
 15 the late objections before we knew that they were
 16 granted.
 17 MR. AMPE: All right. Got it straightened
 18 out.
 19 THE COURT: Now, Mr. Bedke or Mr. Bedke or
 20 Mrs. Bedke, anybody else? Anything further on these
 21 batches?
 22 SCOTT BEDKE: Well, just would reiterate that
 23 maybe that if --
 24 THE COURT: This is Scott Bedke.
 25 SCOTT BEDKE: This is Scott Bedke. If the,

Page 80

1 if original claims had not been set aside, then the
 2 Poulton and the other Bedkes would have been
 3 Bruce Bedke, et al, would have been -- you know, these
 4 licenses would have shown, you know, there was a claim
 5 on those licenses as well, these six.
 6 VOICE: With the BLM.
 7 THE COURT: Well, the basis for BLM's claim
 8 is the fact that they have a license already issued by
 9 the State of Idaho.
 10 VOICE: Okay.
 11 THE COURT: And your claims are based on
 12 beneficial use?
 13 VOICE: Correct. But we understand
 14 that the SRBA expresses over all previous decrees
 15 and/or anything.
 16 THE COURT: Oh, sure. But what I'm saying
 17 is there's a difference between your claim as a
 18 beneficial use and their claim based on a license.
 19 MARTI BEDKE: May I --
 20 THE COURT: Yes.
 21 VOICE: This is Marti Bedke.
 22 THE COURT: Marti Bedke, good.
 23 MARTI BEDKE: The confusion, I think, here is
 24 where they were granted the license evidently, we did
 25 not have the opportunity to object to those before the

Page

1 grantor because we had not received any of this
 2 information. So there was no objection made when the
 3 license had already been granted to the BLM.
 4 THE COURT: When were the licenses issued?
 5 MR. BROWN: (Inaudible) object during the
 6 administrative part of the process. The United States
 7 made an application for a permit, and the license was
 8 granted. And so we have a licensed right. And, of
 9 course, we served those in the SRBA (inaudible).
 10 THE COURT: Sure. What they're saying is a
 11 licensed right was issued outside of the SRBA.
 12 JARED BEDKE: Mr. Dolan, this is
 13 Jared Bedke. The problem we have is these establish a
 14 use for stock water. And if the water dating back to
 15 whenever, priority date, was already prior
 16 appropriated, then the license should not have been
 17 issued in the first place because the water has already
 18 been fully adjudicated.
 19 THE COURT: Sure. Now we're getting to the
 20 substance of the argument.
 21 JARED BEDKE: Correct.
 22 THE COURT: So which (inaudible) we'll do
 23 that right now.
 24 JARED BEDKE: All right.
 25 THE COURT: So hush up.

Pag

1 MR. BRAMER: Your Honor, I'll be happy to
 2 report that we have nothing further on this matter.
 3 THE COURT: Anything further from anybody
 4 else?
 5 VOICE: On behalf of the Bedkes, we're
 6 done.
 7 MARTI BEDKE: Another point of
 8 clarification. Just sitting in this room, it is, I
 9 guess, quite ironic that we are paying, we are paying
 10 the Forest Service attorney, the BLM attorney, the
 11 State's attorney --
 12 VOICE: And him.
 13 MARTI BEDKE: -- and you; and perhaps if we
 14 have to get litigation, then we also have to singly pay
 15 for our own attorney to fight ourselves, which is quite
 16 ironic.
 17 THE COURT: Well, if you -- and, of course,
 18 this gets into a debate about why do you do general
 19 adjudications. Some states like Wyoming -- that's
 20 where I began my water law work.
 21 The State of Idaho filed a general adjudication
 22 of the Big Horn River. And the biggest reason Idaho --
 23 or the state of Wyoming filed that proceeding was to
 24 give some certainty to water rights. Because every
 25 time the state of Wyoming would go to the state of

Page 83

1 Nebraska and say you can't take any more water out of
 2 this state because we're not getting enough, the state
 3 of Nebraska would say you don't even know what your own
 4 water rights are. You got paper water rights coming
 5 out your ears; but we don't know whether they're valid
 6 or not. Plus you got a tribe sitting in the middle of
 7 your state that has some claim to water rights. You
 8 don't know anything about your water rights.
 9 And it was true. The same thing is here in
 10 Idaho. You have to get some certainty to your water
 11 rights. We've had these adjudications here and there.
 12 And the problem is those adjudications only bind those
 13 parties. They don't bind the rest of the state. So we
 14 don't know with any certainty what the water rights are
 15 in this state.
 16 And a general adjudication is to nail that down.
 17 That's the reason we're doing this. And that certainty
 18 is going to make your property go up in value.
 19 MARTI BEDKE: If we're still there after we
 20 (inaudible).
 21 VOICE: (Inaudible).
 22 THE COURT: Well, the point that
 23 Judge Hurlbutt has made in this case from the very
 24 beginning is you don't have to have a lawyer.
 25 VOICE: But you tell us every time we

Page 84

1 turn around are you, are you, you need, you need.
 2 THE COURT: Well, what I'm saying is
 3 consider talking with an attorney. Because these are
 4 very complicated matters. They're not simple. But now
 5 already today we've talked to how many people who did
 6 not have an attorney, and they've done very well.
 7 The point is whoever has a water right in this
 8 state has got to take an active role in this SRBA to
 9 come forth and tell us what their water right is, to
 10 prove it up, and to give us some documentation. If
 11 nothing else, we're opening everybody's eyes in this
 12 state.
 13 Because you saw what happened down in
 14 Glens Ferry. We've got a manufacturer down there that
 15 says I'm not getting enough water; and I'm going to
 16 move my plant out of this town if I don't get more
 17 water. You can imagine what that -- when we start
 18 shutting down farms around here. People have got to
 19 realize water is important. You've got to take it
 20 seriously. Without water, your land is worthless.
 21 And once you have that certainty of your water
 22 right, your land, your crops, your loans you're going
 23 to get in the future are going to be more assured.
 24 You're going to have a better chance of selling your
 25 farm, for instance, when you want to move to Florida.

Page 85

1 MARTI BEDKE: No, we have a better chance
 2 (inaudible).
 3 VOICE: Your Honor, is this on the
 4 record?
 5 THE COURT: Yes.
 6 VOICE: I'll (inaudible)
 7 THE COURT: We can go off the record if you
 8 want to say something off the record.
 9 VOICE: Well, I was just curious -- I
 10 have certain thoughts that I'm curious to know about.
 11 And I guess it bothers me that the government is not an
 12 entity, it's not a business. Why are they entitled to
 13 hold property rights?
 14 I'm bothered by the process that they were able
 15 to file in the beginning here. It upsets me that they
 16 were able to file. I don't mind them objecting to my
 17 filing. But as a filer, as somebody that filed on
 18 these water rights, that bothers me. Because they're
 19 not an entity. It's not a business.
 20 If they're going to treat the government as a
 21 business, we call that socialism. It doesn't work in
 22 our country any better than it does anywhere else.
 23 THE COURT: Well, my guess is that the
 24 argument that the United States is going to be
 25 making -- and I don't mean to second-guess them here.

Page 86

1 Randy, jump in when you want.
 2 But the United States represents the ownership,
 3 for instance, of land, of wildlife. They have water
 4 right claims. They have a lot of things in this state
 5 that they have to protect because they represent
 6 America as opposed to Idaho.
 7 For instance, when you kill a deer in this state,
 8 you may think it's your deer. But that deer was taken
 9 from wildlife that are considered sometimes owned by
 10 the State of Idaho; sometimes the claim is made that
 11 they belong to the United States of America. All of
 12 the citizens own those things.
 13 VOICE: I understand that. But as a
 14 prior-appropriation doctrine here, our water law was
 15 based on the mining claims, first-in-time
 16 first-in-right. And I guess inasmuch as they cannot
 17 put it to beneficial use, I'm bothered by the whole
 18 process.
 19 THE COURT: Well, there are some claims
 20 made by the United States, like they make a claim on
 21 behalf of the tribe. And the tribe claims they own the
 22 water right before the white man even showed up. How
 23 would you explain that?
 24 The United States' claims, they're based on the
 25 fact that they owned the land before the State of Idaho

Page 87

1 was even created. So they have a duty, a trust
 2 responsibility to protect those rights owned by the
 3 people of the United States of America. Their role is
 4 a little bit larger then. If they didn't protect those
 5 rights, that would be even more sad.
 6 MR. BRAMER: If I may, Your Honor --
 7 THE COURT: Mr. Bramer.
 8 MR. BRAMER: I'm going to suggest that we
 9 are going to try to arrange a meeting with Mr. Bedke
 10 and the other Bedkes, several of the people in this
 11 room. I would be happy to sit down and discuss
 12 (inaudible) that issue. But it is God-awful hot in
 13 here. I think we've already gone through our matters
 14 today; and I think in the interest of all of the
 15 parties if we can proceed -- we have one more matter
 16 before the court with respect to Mr. Ampe and Mr. Brown
 17 on the state claims that have not yet been addressed --
 18 Is that correct?
 19 MR. AMPE: Yes.
 20 VOICE: (Inaudible).
 21 MR. AMPE: I believe it would take 30
 22 seconds.
 23 THE COURT: Okay. We'll go off the record
 24 now.
 25 (DISCUSSION HAD OFF THE RECORD)

Page 88

1 MR. AMPE: On this one, Your Honor --
 2 THE COURT: Well, Peter, let me get through
 3 an introduction here a second. We're back on the
 4 record now. This is the SRBA sitting in Burley -- are
 5 we still in Burley -- Burley, Idaho.
 6 It concerns water right No. 02810. Now, the
 7 claimant is Bruce Bedke as I understand it. Mr. Ampe,
 8 you represent the State of Idaho. I assume you're an
 9 objector?
 10 MR. AMPE: No, Your Honor. I think this
 11 is maybe another one where Mr. Bedke may have a claim
 12 that wasn't reported. 45-2810 as reported was claimed
 13 by the State and BLM jointly for a project which covers
 14 both state and BLM land.
 15 The department of water resources then split the
 16 right into an A and a B, giving part A and apparently
 17 (inaudible) portion to BLM; part B simply disappeared.
 18 So the purpose of the State's objection was just to
 19 make sure that the B portion here is somewhere along
 20 the line.
 21 THE COURT: Will the State be the owner of
 22 the B portion?
 23 MR. AMPE: Yes.
 24 THE COURT: And the BLM is the A portion.
 25 MR. AMPE: I believe so. I'm not sure of

Page

1 the A and the B, exactly what was (inaudible).
 2 MS. BROWN: (Inaudible).
 3 MR. AMPE: BLM will get B. The State
 4 would be the other portion.
 5 THE COURT: Oh, Mr. Brown. We're just
 6 talking about 02810.
 7 MR. BROWN: Yeah.
 8 THE COURT: You represent the Bureau of
 9 Land Management. Peter Ampe here represents the
 10 State.
 11 He was just saying the right has been split into
 12 A and B. The A portion is going to be owned by the
 13 State of Idaho, and the B portion is going to be owned
 14 by BLM. And I assumed that the Bedkes are going to be
 15 filing a claim not on the State portion, but only -- or
 16 on both portions.
 17 MR. AMPE: Well, it's up to them.
 18 VOICE: (Inaudible).
 19 VOICE: Where is this located?
 20 VOICE: This is one of our set-aside
 21 filings. I believe it's in Worthington Creek.
 22 VOICE: This is the (inaudible) creek
 23 property. This is one of the --
 24 VOICES: (Inaudible).
 25 MR. AMPE: Yes, Worthington Springs?

Pag

1 Yeah.

2 THE COURT: L. ee, I just got a
3 correction on that for the second time. The A portion
4 will be the BLM. The B portion will be the State of
5 Idaho.

6 VOICE: Okay.

7 THE COURT: But now, Mr. Ampe, how do we
8 resolve this? How do we get from here to there?

9 MR. AMPE: Well, it depends on -- I was
10 going to work with Mr. Bedke. As far as the State and
11 the BLM, we can just simply file an SF5 between the two
12 of us. There's no real dispute between the two of us.
13 That should be split with, in the individual portions.
14 (Inaudible) with the State's portion (inaudible).

15 MR. BROWN: Is there a pending objection in
16 the file for this particular water right?

17 THE COURT: Unfortunately we don't have the
18 file here.

19 THE CLERK: And I don't show an A and B.

20 MR. AMPE: Yes.

21 MR. BROWN: Yes.

22 MR. AMPE: Because the 2810 was
23 recommended as disallowed because it was split into A
24 and B. So I filed the objection and asked for the
25 disallowal of the 2810 until we can get apparently the

Page 91

1 B back (inaudible). I did not file an objection to
2 2810A which was, of course --

3 THE CLERK: A and B was not reported to the
4 court. A was.

5 MR. AMPE: A was. B was not. And so I
6 didn't --

7 THE CLERK: As unobjected to.

8 MR. BROWN: As far as I know, this
9 particular water right has no pending objection.

10 MR. AMPE: Correct. The State did not
11 object --

12 MR. BROWN: There's nothing in my file.

13 THE CLERK: In the A.

14 MR. BROWN: In the A.

15 THE COURT: Well, without our file here, we
16 show that Bruce Bedke is a party to the case. So that
17 must mean you guys included --

18 JARED BEDKE: As we understand it, somehow
19 our filing -- I'm Jared Bedke.

20 THE COURT: Thank you.

21 JARED BEDKE: Somehow our filing got lumped
22 in with all of theirs when it went to the DWR. So
23 that's how come our name shows up along theirs. They
24 took all the filings on that particular source and
25 lumped them in as one filing. And they left the

Page 92

1 State's on off in the original filing.

2 So it nd of a misnomer for us, too. Because
3 we didn't -- we don't have -- we didn't -- how can I
4 put this? We don't have a separate filing registered
5 so far. But it will be because it was set aside as per
6 we discussed on the previous cases.

7 THE COURT: So 2810 is somewhere, you
8 claimed it.

9 BRUCE BEDKE: That is correct.

10 THE COURT: And it's going to be part of
11 that supplemental report if we can get it out early.

12 BRUCE BEDKE: That's correct. This is
13 Bruce Bedke. And we made several filings on May 24th
14 of 1989 that were never given to the director. And
15 it's my contention here that they should have gotten it
16 in order to have had equal footing here on these
17 cases. There's several of them that went that way,
18 that same direction.

19 VOICES: (Inaudible).

20 BRUCE BEDKE: Whether or not we can get it to
21 the table with them, I guess, basically.

22 THE COURT: Well, according to our records,
23 you're at the table now.

24 BRUCE BEDKE: Sure. Sure, on this particular
25 one.

Page 9

1 THE COURT: So you're a party to 28010.

2 BRUCE BEDKE: Yeah, yes.

3 THE COURT: Well, counsel, Mr. Ampe, do you
4 want to -- do we need more time to report this out
5 or -- Miss Bedke.

6 MARTI BEDKE: This is Marti Bedke. The thing
7 we don't understand here on these filings now is when
8 previously our section 45 that we were going to do the
9 supplemental with the attorney from the forest,
10 Randy Beamer, Mr. Beamer --

11 VOICE: Bramer.

12 MARTI BEDKE: -- Bramer and Mr. Brown on the
13 BLM filings, we're going to work that out among us?
14 That is on a different allotment and section. This is
15 in a different area. This is strictly with the BLM.

16 VOICE: It's all in basin 45.

17 MARTI BEDKE: It's all basin 45, okay, okay.

18 VOICE: The problem we had is this was
19 one of our only filings that was included on the
20 current director's report because it was lumped in and
21 compiled with the State's and BLM's and the Department
22 of Lands, et cetera.

23 THE COURT: So this has been reported out
24 on the director's report. We can hopefully resolve
25 this thing here real soon.

Page 9

Page 91 - Page 9

1 VOICE: Possibly.
2 THE COURT: you need additional time
3 to --
4 MR. AMPE: Sure, why don't you do that.
5 And we'll sit down and talk with the Bedkes. This is
6 kind of -- this is the first I've heard about their
7 filing on it. So seeing as how it (inaudible) State
8 portion of it.
9 THE COURT: Mr. Brown?
10 MR. BROWN: I'm trying to get the facts of
11 this thing straight, Your Honor.
12 THE COURT: I'll look at it.
13 MR. BROWN: (Inaudible).
14 THE COURT: We'll go off the record just
15 for a few minutes.
16 (DISCUSSION HAD OFF THE RECORD)
17 THE COURT: We're back on the record.
18 Mr. Brown, do you have something to offer?
19 MR. BROWN: Okay. This is Larry Brown for
20 the United States, U.S. Department of Interior, Bureau
21 of Land Management. And I've been researching the
22 facts on this. And I think this is the way that it
23 went.
24 Mr. Bedke made a filing that was numbered
25 45-10492 for this particular source.

Page 95

1 THE COURT: What's the number again?
2 MR. BROWN: 10492. Now, the United States
3 and the State also made claims on this. Now, those
4 claims were based on what's called a D permit. And
5 that permit is allowed under Idaho Code 42-501. And
6 that part of the code states that the United States
7 doesn't need to own cattle to have this kind of a
8 permit. All right.
9 THE COURT: All right.
10 MR. BROWN: So eventually the State's and
11 the BLM's were reported out under 02810A and 02810B.
12 And then Mr. Bedke's claim was also changed to 02810.
13 Is that correct, Fred? Okay. Fred says yes.
14 Okay.
15 And now Mr. Bedke's filing was disallowed. The
16 State's --
17 THE COURT: Just back up a second. You
18 said Bruce Bedke's claim was reported by IDWR under
19 water right No. --
20 MR. BROWN: 10492.
21 THE COURT: 10492.
22 MR. BROWN: Okay. Now, and to begin with,
23 the BLM's claim was disallowed; and the State's claim
24 was disallowed. Now, the BLM objected to 2810A. And
25 the State objected to 2810B because they were

Page 96

1 dis ved. Mr. Bedke objected to 10492 because it wa
2 dis ed.
3 Now, because of BLM's objection, 2810A was
4 eventually reported. 2810B, the State's right, was not
5 reported. And the State and the United States would
6 like to settle that part of the objection.
7 And Mr. Bedke is saying that he filed an
8 objection; and he is a party to this case even though
9 he made his objection to 10492. And in my opinion he
10 made the objection to the wrong claim number, so it's
11 not an objection at all. He should have made it to
12 2810A and/or B. But on --
13 VOICE: I'd like (inaudible).
14 MR. BROWN: Okay. So, anyway, the State
15 and the BLM agreed to split the claim because the point
16 of diversion is on the State; and there are places of
17 use on the State and on BLM under the D permit. So --
18 THE COURT: Under the D permit?
19 MR. BROWN: Under the D permit, under 42 -
20 under Idaho Code 42-501.
21 THE COURT: You're not talking about
22 splitting the D part?
23 MR. BROWN: No. No. All I'm saying is
24 that's the type of permit that it is.
25 And the basis of Mr. Bedke's objection is,

1 correct me if I am wrong, is that since the
2 United States and the State don't own cattle, we can't
3 have this. And we're saying that under this statute,
4 yes, we can. And it's a joint project. And these
5 water rights belong to both the State and the BLM under
6 the split right that we've agreed to.
7 Is that basically it? Is that right, Fred? Was
8 it clear? Okay.
9 So here we are with the State and the BLM willing
10 to settle. But then we have an objector who has
11 objected to the wrong number, but an objector
12 nonetheless.
13 MR. AMPE: Well, Mr. Bedke is not entirely
14 sure whether he has, runs the cattle on the State lands
15 because it's the typical kind of messy pattern.
16 Surprisingly there's no quarter quarter sections to
17 delineate it.
18 THE COURT: Well, is this section 36 land?
19 Is that why the State owns it?
20 MR. AMPE: Maybe --
21 THE COURT: Oh, that's right. You've got
22 two sections.
23 MR. AMPE: Yeah, I've got 16 and 36.
24 Yes. It is section 16; but that by itself does not
25 answer the question as there's been various trades or

1 in lieu of such things to take care of. The State
2 doesn't (inaudible) 16 and
3 So we'll have to get out and check whether or not
4 they actually have a lease with the Department of
5 Lands. They're not entirely sure. I need to
6 double-check with the Department of Lands to see what
7 their records show. It could be that between
8 Department of Lands and the Bedkes there's not an issue
9 because you don't run the cattle on the state land.
10 And so even though the water comes from there, if
11 it's piped off you'll still have a right to use it; but
12 the water rights are at (inaudible), yes.
13 BRUCE BEDKE: This is Bruce Bedke. Not
14 knowing where these state lands are, we can't say
15 that.
16 MR. AMPE: Right.
17 VOICE: We don't know geographically if
18 that's --
19 MR. AMPE: Of course. As I said, we're
20 going to take a look and make sure (inaudible).
21 THE COURT: Do we need some additional time
22 here --
23 MR. AMPE: Yes, Your Honor.
24 THE COURT: -- to explore this?
25 MR. AMPE: Yes, Your Honor.

Page 99

1 THE COURT: Mr. Brown, do you agree with
2 additional time?
3 MR. BROWN: That's fine with me,
4 Your Honor.
5 THE COURT: Okay. How much more time --
6 MR. BROWN: It only took me a half hour
7 just to figure out the facts there. We need a little
8 more time to --
9 THE COURT: Thank you for the advice.
10 MR. BROWN: Fred knew the facts. I
11 didn't.
12 THE COURT: So how about an SF5 or a report
13 within -- how many days?
14 VOICE: 30?
15 JARED BEDKE: Your Honor, Jared Bedke here.
16 How will the SF5 address our claim if we find out we
17 have some?
18 THE COURT: Well, the SF5 can only be
19 filled out when you're in agreement with everything.
20 MR. BROWN: Well, only if he's a proper
21 objector, Your Honor. You have to decide that.
22 THE COURT: That's true. That's the other
23 issue.
24 But my guess is if Mr. Ampe decides to file an
25 SF5, it will probably be with your concurrence saying

Page 100

1 yes, we're in agreement with this. Otherwise an SF5
2 really shouldn't be filed because there remains other
3 parties maybe to the case that haven't signed off on
4 it.
5 VOICES: (Inaudible).
6 THE COURT: When someone gets this split
7 business straight, if there is an A and a B, you may
8 say to the State yeah, we're in agreement; we're done
9 with them; now our battle is with Mr. Brown and the
10 United States on the B portion.
11 MR. BROWN: Not a problem with us,
12 Your Honor.
13 THE COURT: On the other hand, you might
14 agree with the United States.
15 VOICE: But they can do that in all
16 fairness -- you handed me the statute, Your Honor. And
17 I would like to read it. Maybe you can interpret it
18 for me.
19 It says, "The Bureau of Land Management of the
20 Department of Interior of the United States may
21 appropriate for the purpose of watering livestock any
22 waters not otherwise appropriated."
23 I guess our claim is based on the fact that these
24 are appropriated waters by virtue of my claim. And so
25 when he tells me that they have a right to these

Page 101

1 waters, I question that.
2 MR. BROWN: But that wasn't the basis for
3 your objection, Mr. Bedke. The basis for your
4 objection was that the BLM wasn't allowed to own a
5 water right.
6 VOICE: By this statute, as I read it,
7 that's exactly what it says. The water has already
8 been appropriated.
9 MR. BROWN: But your claim was disallowed.
10 Your beneficial use claim was disallowed. So --
11 VOICE: That's the rub perhaps. And
12 I'm not sure that that's my fault. I'm not sure that
13 that's your fault:
14 MR. BROWN: We didn't do anything, just
15 lodged our claims.
16 VOICE: I question the IDWR's validity
17 here in arbitrarily setting them aside.
18 THE COURT: Well, that was based on their
19 preliminary look at things. So no decisions have been
20 made yet. Like, for instance, I could file a claim on
21 this one, too.
22 VOICE: Sure, sure.
23 THE COURT: So then we've got three
24 claimants for the same thing, four claimants. But, you
25 know, then it still has to go through court to

Page 102

1 determine who has the valid claim.
2 VOICE: I rstand that. But --
3 VOICE: How we became a party to this
4 particular objection is still a mystery to us.
5 THE COURT: Sure.
6 VOICE: So we'll try to get that worked
7 out, and then get together with our Standard Form 5 as
8 we discussed earlier and either decide if we're clear
9 with both, or clear with one, or --
10 THE COURT: Sure. It sounds like you need
11 to find out where the fence is:
12 VOICE: Yeah.
13 VOICE: Yeah.
14 THE COURT: And if it doesn't fit, you move
15 the fence, right?
16 VOICE: Have in the past.
17 THE COURT: Well, is there anything further
18 we need to consider on this one? I'll send out an
19 order setting it for an SF5 with everybody's signature
20 or a report on the status of negotiations within
21 30 days.
22 VOICE: Yes. Do you have a subdivision
23 on that? Do you have a legal on it in any way?
24 VOICE: I don't have one that I'm aware
25 of.

Page 103

1 THE COURT: Okay. We'll go off the record
2 now. Thank you.
3 (DISCUSSION HAD OFF THE RECORD)
4 THE COURT: Good afternoon, counsel, ladies
5 and gentlemen. We're now on the record. And we're in
6 Burley. It's, what, April 7th, 1999.
7 And the case before us now, the claimant is
8 listed as John A. Pierce --
9 MR. PIERCE: Yes, correct.
10 THE COURT: And the basin number is, it's
11 43, is that correct, or is it 45?
12 THE CLERK: 43.
13 THE COURT: Okay. Basin 43-04236. And
14 it's here on a motion to set aside a partial decree
15 entered by Judge Hurlbutt. Let's see, that was entered
16 back in 1998. Let's see.
17 Are you Mr. Pierce?
18 MR. PIERCE: Yes.
19 THE COURT: Are you representing yourself?
20 MR. PIERCE: Yes.
21 THE COURT: Okay. And also present, we've
22 got Larry Brown representing the United States.
23 MR. BROWN: Bureau of Land Management,
24 Your Honor.
25 THE COURT: Are you a party to the

Page 104

1 law ?
2 BROWN: Not yet.
3 THE COURT: Do we have anybody else here
4 appearing in the case with an interest?
5 MR. BROWN: Steve, do I need to appear for
6 the United States Forest Service?
7 VOICE: Randy mentioned to me out in
8 the hall as we discussed this. I can have --
9 (inaudible) we need to get a legal determination of who
10 the party is. But if it's just an agency discussion,
11 which I think is what we want to do, I can take part
12 there. If you are all right with that.
13 MR. BROWN: I feel that's fine. And I am
14 not here representing the Forest Service in this
15 particular case. The United States Department of
16 Interior Bureau of Land Management has no interest at
17 all. So I'm here to listen to see how this may affect
18 the United States.
19 THE COURT: But the Forest Service may be a
20 party.
21 MR. BROWN: The Forest Service may be. Th
22 BLM may be. We'll see.
23 THE COURT: Now, we've got the
24 introductions out of the way. Mr. Pierce, go ahead.
25 You can be a lawyer now.

Page

1 MR. PIERCE: I sold my ranch to --
2 VOICE: Skarr Cattle Company (sic).
3 MR. PIERCE: We call it Arimo, and it's
4 Chris Robinson out of Salt Lake City.
5 THE COURT: Oh, Arimo. You're down near
6 Malta?
7 MR. PIERCE: Yes. That's where I live.
8 THE COURT: Okay. Sure, I'm familiar with
9 that area.
10 MR. PIERCE: And I still have an equity in
11 the operation.
12 THE COURT: Oh, you sold it under
13 contract?
14 MR. PIERCE: Yes.
15 THE COURT: Okay.
16 MR. PIERCE: And my position is I want to
17 stand on the original cooperative agreement which I'll
18 leave a copy with you --
19 THE COURT: Sure.
20 MR. PIERCE: -- signed by the forest
21 supervisor. And in this agreement it said Mr. Pierce
22 will file on behalf of the water.
23 THE COURT: Okay.
24 MR. PIERCE: The spring flows unevenly
25 during the spring, summer, also from year to year. So

Page

1 that's the reason it was divided on a half and half
2 deal. I got my half because I did a lot of work and
3 developed the system.
4 THE COURT: Have you got some kind of a
5 diversion works there to split it up?
6 MR. PIERCE: A pipeline.
7 THE COURT: Oh.
8 MR. PIERCE: No, we don't split the water.
9 We use it -- as the cattle are over in this end, we use
10 all the water over there, Forest and private.
11 THE COURT: Uh-huh.
12 MR. PIERCE: And when they're this other
13 way, we use, we do the same thing. So I think it will
14 help you if you look at this agreement. It was 1967.
15 And that's when I started on this development program.
16 Fred Baugh (sic), the range manager, the range,
17 head ranger in this Twin Falls office worked very close
18 with us in developing this. We also developed a -- as
19 this went on, got started, we developed a resource
20 management program. And as we would -- that's a
21 checkerboard landownership pattern out in that
22 country.
23 THE COURT: Sure.
24 MR. PIERCE: And we would like to, like I
25 said, stand on this agreement here that you read

Page 107

1 entered in '57 -- '67.
2 THE COURT: Well, what you want the court
3 to do is to set aside the decree that disallowed the
4 water right. This order, by the way, it has four
5 different water rights listed on it.
6 But you're only asking for 4236 to be set aside?
7 Mr. Pierce, did you want to look at this?
8 MR. PIERCE: Yes.
9 VOICE: It's the only one that was
10 disallowed.
11 THE COURT: Let's see.
12 VOICE: That we have record of.
13 THE COURT: Here it says the above water
14 rights, it is ordered that these four water rights
15 decreed disallowed --
16 MR. BROWN: All four of them?
17 THE COURT: Yeah.
18 MR. PIERCE: I don't know what they are.
19 THE COURT: We can give you a copy of this
20 to take with you, if you want.
21 MR. PIERCE: The numbers, how would I find
22 out from the numbers what they are?
23 MS. BROWN: This is what came (inaudible).
24 MR. PIERCE: Now, there's miles of pipeline
25 (inaudible). It also services wildlife, lots of

Page 108

1 wildlife -- deer, birds.
2 THE COURT: Let's see, we've got Mr. --
3 no, this is Z Bar Cattle Company's objection to 4236,
4 the one case we're talking about today.
5 MR. PIERCE: -- Uh-huh.
6 THE COURT: And that's, this is the court
7 record.
8 VOICE: Yeah, I've got a copy of that
9 right here.
10 THE COURT: And let's see, we only show it
11 to this one. And here, you're saying -- let's see,
12 okay, needs to be split. Looks like he injected about
13 everything in sight here. If in doubt, object to it.
14 And that's --
15 VOICE: This shows the point of
16 diversion and the point of use.
17 THE COURT: Oh, from that one single water
18 right?
19 VOICE: Uh-huh.
20 THE COURT: Yeah, this copy here, this was
21 included in the file. And then it looks like there
22 were four water rights.
23 This is the only one you're concerned with? Or
24 are you concerned with --
25 VOICE: Well, if the others was

Page 109

1 disallowed, we'd be concerned about them also. But I
2 didn't have any record that anything else had been
3 disallowed.
4 THE COURT: Do you know if these four, or
5 the other three water rights affect your land?
6 VOICE: I don't know offhand what they
7 are. No, I don't.
8 THE COURT: Yeah, this shows a copy was
9 mailed to these people July of '98.
10 VOICE: Who are the people?
11 VOICE: It's got Natural Resources
12 Division, Department of Justice, John A. Pierce,
13 Raymond and Wilma Johnson, Robert and
14 Margaret Robinson.
15 THE COURT: Who are they?
16 VOICE: The only one I know here is
17 John Pierce. This Raymond and Wilma Johnson is in
18 Burley. Robert and Margaret Robinson is in Oakley.
19 THE COURT: Well, maybe they could be --
20 THE CLERK: It could be that there were
21 multiple owners, multiple subcases and multiple owners;
22 and Amy just did one for all four of them.
23 THE COURT: Well, that could be. Maybe
24 these other people own those other water rights. The
25 only one you have anything to do with is this 4236.

Page 110

1 That could be. We don't have the files with us on
2 those other water right. —
3 VOICE: I would presume that they might
4 have something to do with the other people. Because
5 this 4236 was the only one that I was aware that had
6 been disallowed. Maybe this pertains to these other
7 people. That could be.

8 THE COURT: We're going to have to look
9 into that.

10 VOICE: Because here's another water
11 right number that we used in conjunction with this
12 here. They're totally different numbers.

13 THE COURT: Your list of water rights on
14 the range don't show these other rights, the numbers?

15 VOICE: Not that — I would have — I
16 haven't got the other water rights here to see if they
17 do. But I doubt if they do.

18 THE COURT: Okay. Well, for now, we can at
19 least take care of — we'll make you a copy of this to
20 take with you.

21 VOICE: Okay.

22 THE COURT: And when we get back to the
23 office, we'll check to see if Mr. Pierce, Mr. and
24 Mrs. Pierce are involved with these others. If they're
25 not, then that will be the end of that. If they are,

Page 111

1 then we're going to have to reschedule something.

2 MR. PIERCE: I don't think we would be.

3 THE COURT: Okay. But in the meantime we
4 can deal with at least 4236.

5 VOICE: What we would like to have, I
6 mean — I'm Douglas Freestone. I'm the — what's that
7 big high-powered word? Authorized to meet you,
8 registered agent for Arimo Corporation and Z Bar Cattle
9 Company in Idaho.

10 THE COURT: Well, let's see. But at least
11 for purposes today you're representing Z Bar Cattle
12 Company?

13 MR. FREESTONE: Yes.

14 THE COURT: And it's Douglas Freestone.

15 MR. FREESTONE: Freestone.

16 THE COURT: F-r-e-e —

17 MR. FREESTONE: And I'm the R.A. registered in
18 Idaho, the registered agent. And I think, other than
19 the motion to set aside the partial decree, we would
20 like to more follow this here as the turmoils when we
21 filed this, we didn't know all of the circumstances
22 that was involved. We would like to have a month's
23 extension for the Forest Service to go over these
24 things and to work through these here is what we would
25 like to do to get the things right. Because there's

Page 112

1 quit — it involved with it.

2 THE COURT: Well, there's a couple steps we
3 can go through here. You've got a motion to set aside
4 the partial decree. You're asking that — the court
5 entered this one here, the presiding judge —

6 MR. FREESTONE: Uh-huh.

7 THE COURT: So I can't set it aside. All I
8 can do is recommend to the judge that it be set aside.
9 And if he does that, then the case comes back to me.

10 Then we can start talking about all these other
11 things.

12 MR. BROWN: Your Honor, may I make a
13 suggestion on how we could resolve this without having
14 to set any partial decrees aside? Because I don't
15 think we want to do that.

16 Well, what I'm suggesting is that we stay any
17 decision by the court for 30 days on the motion to set
18 aside the partial decree while the Forest Service and
19 the BLM, if necessary, and the Z Bar Ranch and
20 Mr. Pierce discuss how their water right can be
21 properly described by splitting it off from the
22 Forest Service right and making an A and a B right,
23 therein the A right belonging to Z Bar Ranch and
24 Mr. Pierce and describing their places of use, point of
25 diversion on the United States Forest Service, and

Page

1 places of use that are on private land that come from
2 that pipeline.

3 And if necessary, the BLM could be involved in
4 this, too. But I'm not so sure that the BLM needs to
5 be at this point until I get together with these folks
6 or Fred gets together with these folks — Fred Price is
7 the BLM water right specialist — and see if it affects
8 the pipeline that runs across the BLM property.

9 MR. PIERCE: The thing, the thing that I'm
10 worried about if you end up with the court decreeing,
11 issuing the decree to A, B, or C, then somewhere down
12 the road when you get short of water in their operation
13 maybe B would probably have a right to demand their
14 share of the water.

15 MR. BROWN: I think we could work that out
16 as being an equal priority —

17 MR. PIERCE: And we wouldn't want to get
18 caught up in that kind of a thing.

19 MR. BROWN: I think we can work it out as
20 being an equal priority date.

21 VOICE: That's what the agreement
22 says.

23 VOICE: You can't keep (inaudible)
24 because the flow varies from year to year and time of
25 year.

Page

1 THE COURT: But the only use is livestock
2 watering.
3 MR. PIERCE: Yes, and wildlife.
4 THE COURT: Okay. Oh, you water wildlife
5 up there?
6 MR. PIERCE: Huh?
7 THE COURT: You started to say -- do you
8 water wild animals?
9 MR. PIERCE: Yes.
10 THE COURT: Good.
11 MR. PIERCE: Birds.
12 THE COURT: Good. We (inaudible) today.
13 MR. BROWN: Would you folks agree with a
14 30-day stay so that we can talk it over and try to get
15 something worked out with the Forest Service that
16 comports with this agreement that Mr. Pierce had with
17 the Forest Service?
18 MR. PIERCE: That's right. That would be
19 all right with us as long as we're on record that we've
20 been here and protested --
21 VOICE: That would be fine.
22 MR. BROWN: Yes, Your Honor.
23 THE COURT: Let's see now.
24 MR. BROWN: If it's picked up, it is on the
25 record. So I --

Page 115

1 THE COURT: Who filed the motion to set
2 aside the partial decree?
3 MR. BROWN: I believe it was Mr. Pierce.
4 VOICE: No. Chris Robinson. Z Bar
5 Cattle Company.
6 MR. BROWN: Okay.
7 VOICE: This is a copy of what you had
8 in one of your folders you was showing me.
9 THE COURT: Well, the only -- let's see.
10 VOICE: He is the president of Z Bar
11 Cattle Company.
12 THE COURT: Oh, here's what's odd. We've
13 got an objection to a water right; but then we've got
14 it scheduled and motion to set aside partial decree. I
15 guess the court deemed this to be a motion to set aside
16 a partial decree. Yup, that's what we did. The court
17 will consider the objection to be a motion to modify
18 the partial decree.
19 VOICE: Oh, you did a good job writing
20 that out.
21 VOICE: But you wrote it.
22 THE COURT: Oh, I did. No wonder it's so
23 good.
24 MR. BROWN: I misspoke. It was Z Bar
25 Cattle Company that filed the motion to set aside the

Page 116

1 partial (e.
2 THE URT: Okay. So, Mr. Pierce, you're
3 the claimant; but now they're the person who moved to
4 set aside the partial decree.
5 MR. PIERCE: So that's a privilege they
6 have?
7 THE COURT: Yeah. Now, what we want to --
8 MR. PIERCE: I don't necessarily agree with
9 some of it.
10 THE COURT: Oh. Well, let's see, you say
11 you still -- you're carrying the paper on it, aren't
12 you?
13 MR. PIERCE: Yes.
14 THE COURT: Well, one thing we did just the
15 other day where we had somebody buying the land and
16 then somebody carrying the paper, we ended up listing
17 both entities as owners. And that's one way to protect
18 you in case you have to take the land back when they
19 default, if they default on the loan. Sorry.
20 MR. PIERCE: Would you like me to -- you're
21 running short of time. Would you like me to prepare a
22 written statement and give to you?
23 THE COURT: No. No, we don't need that
24 now. What I was thinking about, they filed a motion to
25 set aside the partial decree -- or the objection. But

Page 117

1 there's two things we need to do here. We need you to
2 file a change of ownership. And the change of
3 ownership would show it from you and your wife to them
4 and you and your wife.
5 MR. PIERCE: That change of ownership would
6 occur when the final settlement is made.
7 THE COURT: Oh, no, I'm thinking of a
8 change of ownership just for IDWR purposes.
9 THE CLERK: Just the water right.
10 THE COURT: Yeah, just the water right
11 only, not the land. So if we do that --
12 MR. PIERCE: We think that the water right
13 has value just the same as land. The bank will value
14 the water right as well as your land.
15 THE COURT: Sure. You could sell them
16 separately. I assume you didn't do that here, though.
17 MR. PIERCE: No. All I want to do is just
18 go back to this original cooperative agreement signed
19 by the Forest Service and me. And that's where I
20 stand.
21 THE COURT: Well, it sounds like that's
22 what Mr. Brown is proposing, that we can work out a
23 deal that will accomplish that very same thing. But in
24 the meantime, we can show the ownership in the buyer
25 and the seller's names. That way, you get notice of

Page 118

1 everything; and they get notice of everything.
 2 MR. PIERCE: Would it be a divided right
 3 then?
 4 THE COURT: No, no, no. No, joint
 5 ownership.
 6 MR. PIERCE: Okay.
 7 THE COURT: It's like you and I own a car
 8 together. We're not dividing the car. Both of us own
 9 the car together. And then once they pay off the note
 10 to you, then they're the sole owner of the --
 11 MR. PIERCE: There's no problem with that
 12 part of it.
 13 VOICE: Let's see. Maybe this motion
 14 to set aside the partial decree was the wrong wording
 15 to put in this. And I'm saying that when we seen that
 16 this here was disallowed, water resources told me you
 17 need to file an objection to set aside the partial
 18 decree to get yours back.
 19 THE COURT: Well, you came close.
 20 VOICE: Do you see what I mean?
 21 THE COURT: Sure. We knew what you wanted
 22 to do.
 23 VOICE: Yes.
 24 THE COURT: And that's why we deemed it to
 25 be --

Page 119

1 VOICE: Yeah, I'm saying --
 2 THE COURT: -- a motion --
 3 VOICE: I'm saying it wants to be split
 4 off as a partial decree. I think it should more go
 5 this route here, even though, sure, we have petitioned
 6 the court for what it says here.
 7 THE COURT: Well, the point is we've kind
 8 of put the case on hold --
 9 VOICE: Right.
 10 THE COURT: -- until we can get this
 11 worked out.
 12 VOICE: Uh-huh.
 13 THE COURT: You know, if people come in
 14 here and file anything with us, if we know what they
 15 really want to do, they may have put the wrong words on
 16 it; and we will help them and get accomplished what
 17 they want to do. You know, we're not asking everybody
 18 to be a lawyer in this case. There's just not enough
 19 lawyers in the state to represent 180,000 people.
 20 VOICE: Because Jack and I is in
 21 agreement; but Jack, what he means is he is not for
 22 this to set aside a partial decree, right?
 23 MR. PIERCE: No.
 24 VOICE: So we are in agreement, you
 25 know, as to the --

Page 120

1 7 COURT: Well, if it comes down to it,
 2 maybe has to be set aside. Maybe that can be done,
 3 too. But the point is we'll put that set-aside motion
 4 on hold. And then if you can work this other thing
 5 out, then we'll, I guess, you would be withdrawing your
 6 motion to set aside or motion to --
 7 VOICE: Yes. We like to work with
 8 these people, you know, to get this line, this
 9 straightened out. But it was the only way we could
 10 start.
 11 THE COURT: Sure.
 12 MR. BROWN: Steve, is it going to take us
 13 just 30 days to work this out?
 14 VOICE: I believe we can do it in 30
 15 days.
 16 MR. BROWN: Are you going to be able to
 17 meet with these folks over in this part of the
 18 country?
 19 VOICE: The district ranger will be
 20 heavily involved with this.
 21 MR. BROWN: Okay.
 22 VOICE: And if we hit any stalemates,
 23 we'll certainly inform you. But I think we'll be able
 24 to deal with it.
 25 MR. BROWN: Okay.

Page 1

1 MR. PETERSON: This is Pete Peterson. Do I
 2 understand that the form of it to be used will be the
 3 SF5 like you previously talked about?
 4 VOICE: Sure.
 5 MR. PETERSON: Is that the document that you
 6 would use?
 7 VOICE: Probably.
 8 MR. BROWN: It will be something like
 9 that. I would suspect it will be an SF5 amended claim
 10 type of form since we'll be adding places of use that
 11 weren't previously on the decree. And there will be a
 12 certain amount of time for objection among those,
 13 but --
 14 THE COURT: Yeah, if there's a change in
 15 the water right, we may have to do a, well, it's called
 16 a notice on the docket sheet. And we have to let
 17 everybody know that the water right is being changed a
 18 little bit, and then leave it up to the public to file
 19 objections to it. And if they don't, then it goes
 20 through. But if they do object, then we hold a hearing
 21 on the objection.
 22 MR. PIERCE: This right that's referred to
 23 here, we have evidence, kept evidence on the
 24 advertising of the right in the paper. It has been
 25 advertised and provided opportunity for protest.

Page 1

1 THE COURT: Oh -- as this an expansion
2 claim, an enlargement claim
3 MR. PIERCE: No, it's not an extension.
4 It's just this original --
5 THE COURT: Oh, when it was --
6 MR. PIERCE: -- when it was filed. The
7 regular agreement with the Forest Service and this
8 cooperative agreement was that we could file on half of
9 the water.
10 THE COURT: Okay.
11 MR. PIERCE: Which we did.
12 THE COURT: Good.
13 MR. PIERCE: Then it was went through the
14 regular procedures of water filing, advertised and
15 published in the paper.
16 THE COURT: Well, what I'll do is I'll send
17 an order out staying the proceedings on this for
18 60 days to give you a chance to talk with the
19 Forest Service and the BLM, or whoever may be involved
20 in the case, and IDWR. And then we can get this worked
21 out.
22 If you can't work out something, then we may be
23 back here again to restart this motion for set aside.
24 But either way, you're going to get copies; and you'll
25 know what's going on. There won't be any surprises.

Page 123

1 Now, what I was getting at is if you file with
2 IDWR the change-of-ownership form, that will on their
3 records as well as ours, it will then list you as a
4 claimant as well as them as the claimant. So what we
5 want to do is make sure everybody has everybody else's
6 address here.
7 VOICE: I just gave them the notice of,
8 notice-of-change-of-ownership form, Your Honor, that
9 they can fill out and give to IDWR (inaudible).
10 THE COURT: Okay. Yeah, Mr. Pierce, what I
11 would recommend you do, then, is fill out that
12 change-of-ownership form and then list the current
13 owners as the Z Bar Cattle Company and you and your
14 wife.
15 MR. PIERCE: Well, we haven't changed
16 ownership yet.
17 THE COURT: No. But the water right, it's
18 not technically changed; but you want them to be
19 notified of all of this, don't you?
20 MR. PIERCE: Notified, yes. Is that all we
21 can do today?
22 VOICE: Well, if Mr. Pierce isn't
23 comfortable with that, Your Honor, you can just add
24 Z Bar Ranch to the service list.
25 THE COURT: As a party?

Page 124

1 VOICE: As a party, yes.
2 MR. PIERCE: My contract is with
3 Chris Robinson.
4 THE CLERK: I can put them in as a
5 respondent or a claimant or an objector, one or the
6 other.
7 MR. PIERCE: Do you want to give them
8 Chris Robinson's address?
9 THE COURT: Let's see. Chris Robinson
10 is --
11 THE CLERK: Chris Robinson is a party,
12 isn't he?
13 THE COURT: Did you sell to Z Bar Cattle
14 Company or to Chris Robinson?
15 MR. PIERCE: No, I sold to Chris Robinson.
16 THE COURT: Personally.
17 MR. PIERCE: Then you established the Z Bar
18 Cattle Company.
19 VOICE: We established the Z Bar Cattle
20 Company.
21 THE COURT: Okay. Well, let's do this.
22 We'll continue on our records and show Chris Robinson
23 as a party, and then I guess what you can -- you
24 receive mail from Mr. Robinson, or do we have to mail
25 it to you at the ranch?

Page 125

1 VOICE: It could be either way. It
2 wouldn't matter. These copies here, I got these
3 actually from Jack here because they came to him. Even
4 though we filed the protest, there was nothing that
5 came to our company in Salt Lake or me at Malta.
6 THE COURT: Who is Jack?
7 VOICE: John.
8 THE COURT: Oh, you're John.
9 MR. PIERCE: Either one works.
10 THE COURT: Well, let's do this then.
11 We'll put Chris Robinson, Z Bar Cattle Company as one
12 address. And then we'll put Mr. and Mrs. Pierce, is
13 it?
14 MR. PIERCE: Yes. John Pierce.
15 THE COURT: Okay. We can send them out to
16 both.
17 MR. PIERCE: But I hope you'll have time to
18 read this cooperative agreement.
19 THE COURT: Do you want to leave that with
20 me now?
21 MR. PIERCE: Yes.
22 THE COURT: Well, should we make copies of
23 these for the other parties? Because they're going the
24 need to look at these, too.
25 MR. PIERCE: Anybody that (inaudible).

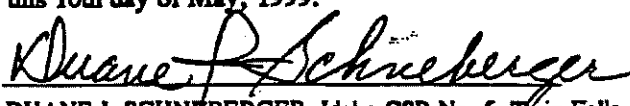
Page 126

1 VOICE: BLM would like a copy.
2 MR. PIERCE: want to hang on to the
3 original. That's an original.
4 VOICE: (Inaudible).
5 MR. PIERCE: Okay.
6 VOICE: That will be the court's copy,
7 if you want to leave that with the court.
8 THE COURT: Oh, Mr. Pierce, what's your
9 mailing address? Here, we just say John Pierce, Malta,
10 Idaho.
11 MR. PIERCE: Malta, Idaho, Pierce Lane,
12 83342.
13 THE COURT: Pierce Lane?
14 MR. PIERCE: Yes.
15 THE COURT: Do you have a road named after
16 you?
17 MR. PIERCE: Sure. (Inaudible).
18 THE COURT: You're the only one I know that
19 has a street named after him.
20 VOICE: Oh, thank you. (Inaudible).
21 VOICE: I saw it on the way in.
22 THE COURT: There's enough of them there.
23 VOICE: (Inaudible) Z Bar Cattle
24 Company, or is that another -
25 VOICE: Z Bar Cattle Company is a

Page 127

1 corporation.
2 VOICE: Corporation, yeah.
3 MR. PIERCE: Handled by Chris Robinson. Am
4 I right?
5 VOICE: Is a corporation. Okay.
6 THE COURT: Larry, is there anything we
7 need to put on the record any further?
8 MR. BROWN: Not that I'm aware of,
9 Your Honor.
10 THE COURT: Mr. and Mrs. Pierce, is there
11 anything you wanted to add to the record while we're
12 tape recording?
13 MR. PIERCE: Well, I think this is
14 adequate. I think we've given you enough information
15 there that will help you understand.
16 THE COURT: Good. Mr. Freestone, do you
17 have anything to add?
18 MR. FREESTONE: No.
19 THE COURT: Good. We'll go off the
20 record.
21 (PROCEEDINGS ADJOURNED)
22
23
24
25

Page 128

1 TRANSCRIBER'S CERTIFICATE
2
3 STATE IDAHO)
4 County of Twin Falls)
5
6
7 I, DUANE J. SCHNEBERGER, duly appointed,
8 qualified and acting official reporter of the Fifth
9 Judicial District of the State of Idaho, DO HEREBY
10 CERTIFY that the foregoing constitutes a complete
11 transcription of the requested portion of the
12 proceedings in the foregoing matter from electronic
13 recording tapes, to the best of my ability, said
14 transcript consisting of pages 1 through 128,
15 inclusive.
16 IN WITNESS WHEREOF, I have hereunto set my h
17 this 10th day of May, 1999.
18 
19
20 DUANE J. SCHNEBERGER, Idaho CSR No. 5, Twin Falls, I
21
22
23
24
25

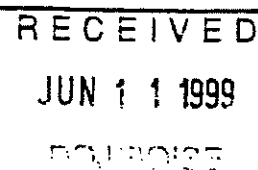
Page

EXHIBIT G

1 IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
2 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

3 *****

4 In Re SRBA) REPORTER'S TRANSCRIPT
5 Case No. 39576) Subcase No. 45-02769,
6 _____) et al



10 *****

11 D-a-t-e: Monday, June 7, 1999

12
13 T-i-m-e: 2:00 P.M.

14
15 P-l-a-c-e: SRBA Courthouse, Twin Falls, Idaho

16
17 B-e-f-o-r-e: TERRENCE DOLAN, Special Master

18
19 H-e-a-r-i-n-g: Joint Motion for Meeting with IDWR;
20 Motions to File Late Objection

21
22
23 *****

I N D E X

Page:

JOINT MOTION FOR MEETING WITH IDWR

Summary by Mr. Spencer (IDWR)	6
Argument by Mr. Bramer (U.S.)	12
Argument by Mr. Semanko (S. Bedke)	15
Comments by Ms. Brown (IDWR)	37
Argument by Mr. Semanko (S. Bedke)	37
Comments by Mr. Tuthill (IDWR)	44
Argument by Mr. Bramer (U.S.)	46
Argument by Mr. Semanko (S. Bedke)	58
Argument by Mr. Bramer (U.S.)	67

MOTIONS TO FILE LATE OBJECTIONS

Argument by Bruce Bedke--(Pro Se)	78
Argument by Jared Bedke (Pro Se)	80
Argument by Michael Poulton (Pro Se)	87
General Discussion	95
Argument by Mr. Brown (U.S.)	99
Argument by Mr. Bramer (U.S.)	104
Argument by Mr. Semanko (S. Bedke)	109
Argument by Mr. Brown (U.S.)	120
Argument by Mr. Bramer (U.S.)	122
General Discussion	124
Argument by Bruce Bedke (Pro Se)	126
Argument by Jared Bedke (Pro Se)	127
Argument by Michael Poulton (Pro Se)	129
General Discussion	130

REPORTER'S CERTIFICATE	140
------------------------	-----

1 COURTROOM OF T. STRICT COURT, SNAKE RIVER
2 BASIN ADJUDICATION COURTHOUSE, 253 Third
3 Avenue North, Twin Falls, Idaho, Monday,
4 June 7, 1999, 2:00 P.M.

5 *****

6 THE COURT: Counsel, ladies and gentlemen,
7 we're now on the record. This is the date and time set
8 for a motion to file late objection and a joint motion
9 for meeting with IDWR in Subcase -- I'll just start
10 with the one subcase number -- 45-02769 and a whole
11 bunch of others.

12 In court this afternoon we have Larry Brown and
13 Randall Bramer. And one or the other or both will be
14 speaking for the United States' position. And we've
15 got Norman Semanko, counsel for Scott Bedke.

16 Mr. Semanko, will you be speaking for anyone
17 else?

18 MR. SEMANKO: Not today, Your Honor.

19 THE COURT: Okay. Now, we have some other
20 parties in the courtroom today. I'd appreciate it if
21 you could introduce yourselves and whether you're
22 representing yourself or whether you have an attorney
23 represent you.

24 JARED BEDKE: I'm Jared Bedke. I'm
25 representing myself.

Page 3

1 BRUCE BEDKE: My name is Bruce Bedke. I'm
2 the father of Jared, and I'm representing myself as
3 well.

4 THE COURT: Thank you. Let's see, do we
5 have Gary Poulton?

6 G. POULTON: Yes.

7 THE COURT: Oh, Mr. Poulton.

8 G. POULTON: Gary Poulton, representing
9 myself.

10 THE COURT: Good. And Michael Poulton?

11 M. POULTON: Yes.

12 THE COURT: You'll be speaking for
13 yourself, Mr. Poulton?

14 M. POULTON: Yes, sir.

15 THE COURT: Okay. And on the telephone,
16 for the record, we have, attorney for IDWR,
17 Nick Spencer. And also on the phone we have
18 Dave Tuthill, adjudication bureau chief for IDWR, and
19 Roxanne Brown, senior water right agent.

20 If anyone says anything for the record today, I'd
21 appreciate it if you could introduce yourself since we
22 have so many different parties and people. And if we
23 have to do a transcript of this, it will be helpful if
24 you say: My name is Jones, and here's what I want to
25 say. That way -- it's almost impossible to do a

Page 4

1 transcript without that kind of introduction.

2 Let's see. Mr. Spencer, I think you wanted to
3 have the court address the joint motion for meeting
4 with IDWR first because Mr. Tuthill had some other
5 matters to take care of this afternoon?

6 MR. SPENCER: That is correct, Your Honor.
7 Mr. Tuthill has another meeting at 2:30.

8 And I believe that with the number of parties
9 present and the number of objections at issue, I
10 anticipate probably oral argument on the hearing on the
11 motions for late objections will probably take a
12 reasonable amount of time. I believe, on the other
13 hand, that we can address the joint motion for order
14 for hearing probably in just a very few minutes; and so
15 I would request that we take that motion up first.

16 THE COURT: Do you have any preference on
17 how we handle that joint motion?

18 MR. SPENCER: Well, Your Honor, I would
19 suggest, if the other parties and counsel are okay with
20 this, that I can probably give the court what I hope --
21 will be a brief summation of where we are regarding the
22 issues that were raised by the joint motion.

23 THE COURT: Counsel, do you think that
24 would be all right?

25 MR. SEMANKO: I don't mind a summary from

Page:

1 counsel as long as we get to argue the motion.

2 THE COURT: For the record, the court was
3 given a copy of a letter addressed to Randall Bramer
4 dated May 6, 1999 signed by Dave Tuthill.

5 Does everybody have a copy of that?

6 MR. BRAMER: Your Honor, we do. Is this
7 microphone going through to the microphonic
8 participants?

9 MR. SPENCER: Yes. It's going through well.
10 Thank you.

11 MR. BRAMER: We have no objection to a brief
12 summary by the department. We did receive that letter,
13 Your Honor.

14 THE COURT: And for those in the audience
15 who didn't get a copy of this, we can run off copies so
16 you can take it with you home, if you want to. We want
17 to make sure everybody has copies of all the
18 documentation that the court has to take a look at so
19 there won't be any surprises.

20 Okay, Mr. Spencer. If you want to present your
21 summary.

22 MR. SPENCER: All right. Thank you,
23 Your Honor.

24 I'm glad you brought up the May 6th letter by
25 Mr. Tuthill, which the letter crossed in the mail but

Page

1 was in response to the issues raised () joint
 2 motion. And based upon that letter IDWR, the
 3 Forest Service, BLM, and counsel for Mr. Bedke met on
 4 the 3rd of June to discuss those issues. In that
 5 letter, if you note, Mr. Tuthill laid out three reasons
 6 why IDWR would oppose any request for the court to
 7 enter an order directing IDWR to investigate and
 8 recommend Mr. Bedke's claims out of order.

9 In a nutshell the three reasons that Mr. Tuthill
 10 identifies in that letter essentially are, one, that
 11 the effort involved in investigating and recommending
 12 those claims out of order would in effect blow IDWR's
 13 present investigation and reporting plan out of the
 14 water. And parenthetically in that regard I would note
 15 that the investigation and reporting schedules and time
 16 lines were developed by IDWR in conjunction with and
 17 with the approval of the court; and that messing with
 18 those schedules now would impact not only the
 19 department's work plan and workload, but also that of
 20 the SRBA court.

21 The second reason identified by Mr. Tuthill was
 22 that he did not see that there was any urgency in
 23 addressing these water right claims out of their given
 24 order.

25 And the third reason, and the one I believe most

Page 7

1 important to me as a lawyer, is that grave
 2 constitutional concerns arise as to whether the SRBA
 3 court has jurisdiction to order the department to
 4 investigate and recommend water rights outside of
 5 IDWR's own investigation and reporting schedule.

6 And so with those reasons on the table, the
 7 department really did not want to go forward to have to
 8 address these. And the United States Forest Service,
 9 the BLM and legal counsel for Mr. Bedke showed, I
 10 thought, great sensitivity to those concerns.

11 We had a meeting, then, last week to discuss the
 12 issues. And in preparation for that meeting,
 13 Roxanne Brown prepared a report to show the extent of
 14 the overlap between the Forest Service and Mr. Bedke's
 15 claims. She subsequently has put together a similar
 16 report showing the extent of overlap between the BLM
 17 and Mr. Bedke's claims.

18 The report showed for the Forest Service that
 19 there are four complex private claims that have been
 20 filed by Goose Creek Cattle and Horse Association and
 21 by Pickett Ranch and Sheep Company which overlap
 22 completely or partially on about 50 Forest Service and
 23 12 BLM claims. But the report shows that there are 21
 24 Forest Service claims and, I believe also now, 8 BLM
 25 claims that have been objected to by Mr. Bedke, but

Page 8

1 that have no overl g claims by him.

2 THE COURT: When you say "Mr. Bedke," does
 3 that mean Scott Bedke?

4 MR. SPENCER: Roxanne, can you address that?

5 MS. BROWN: This is Roxanne Brown,
 6 Your Honor. In fact it becomes a little scrambled.

7 The objections are placed by Mr. Scott Bedke.

8 The rights that show overlap are in the names of

9 private parties, although I don't believe that

10 Mr. Scott Bedke is a claimant to any of those

11 overlapping claims.

12 MR. SPENCER: Those claims, Your Honor, were
 13 filed in the name of Goose Creek Cattle and Horse
 14 Association and Pickett Ranch and Sheep Company.

15 MS. BROWN: I do have the names of the
 16 private parties, Your Honor, if you'd like me to recite
 17 them for the record.

18 THE COURT: Please.

19 MS. BROWN: The claimants of record are
 20 Ray Bedke who, I understand, is now deceased;

21 Gary Russell Poulton; Winslow Whiteley; Bruce Bedke;
 22 R. O. Jones; Don Bedke; and Matthews Brothers.

23 MR. SPENCER: And at our meeting last week,
 24 Your Honor, there was discussion. Apparently there
 25 have been some additional changes in the configuration

Page 9

1 of these two organizations. And I believe Mr. Semanko
 2 would be able to give the court an update of who the
 3 claimants are at this point.

4 THE COURT: Okay. Go ahead. But whenever
 5 you address "Bedke," I'd appreciate it if you know the
 6 person's first name to use that to avoid confusion.

7 And the same thing with the Poultons, too.

8 MR. SPENCER: Well, anyway, Your Honor, just
 9 to complete the summary, a verbal agreement, to my
 10 understanding, was reached at the meeting last week
 11 regarding how to move forward on claims and yet, on the
 12 other hand, meet the needs of the department and all
 13 the parties.

14 And regarding the 21 non-overlapping
 15 Forest Service claims and the 8 non-overlapping BLM
 16 claims, it appears that the objections to those claims
 17 basically raise a legal issue as to the legitimacy, if
 18 you will, of the federal ownership of those water
 19 rights. To the participants in the meeting, that was a
 20 pretty clean issue that could be addressed now without
 21 the need of the department moving forward to
 22 investigate and recommend the private claims.

23 On the other hand, the participants at the
 24 meeting felt that it would be necessary for the
 25 department to complete its investigation and

Page 10

1 recommendation of the overlapping claims so that the
2 court basically had the universe of overlapping claims
3 before it before it addressed the ownership issues
4 arising out of that situation.

5 And so it is my understanding that the
6 Forest Service, the BLM, and Mr. Semanko are all in
7 agreement that we can presently move forward to address
8 the issues raised in the non-overlapping claims, but
9 that the issues raised by the objections to the
10 overlapping claims, that those overlapping claims,
11 those objections will be stayed pending the
12 department's investigation and recommendation of the
13 private-party rights as part of its basin 45 report,
14 which I understand is presently scheduled to be filed
15 with the court at some point next year.

16 So that, Your Honor, in a nutshell, is my
17 understanding as to where we are at this time.

18 THE COURT: From your position,
19 Mr. Spencer, you think the non-overlapping claims can
20 be dealt with now without waiting for the director's
21 report for basin 45?

22 MR. SPENCER: I believe so, Your Honor.

23 THE COURT: Okay. And it's only the
24 overlapping claims where we should consider them all
25 together after the director's report for basin 45

Page 11

1 was; we have not defined that legal issue clearly
2 at this point. As this court may remember, the same
3 issue of United States' ownership was in fact raised
4 before Judge Hurlbutt back in 1994 when he concluded
5 that it was a factually-dependent issue. And so before
6 we will come to this court and say we have a clear
7 issue, we would like to formulate that issue and work
8 with Mr. Semanko, if he's representing Mr. Bedke and
9 the claimants, to make sure we know exactly what issue
10 we're talking about here.

11 But to the extent that Mr. Spencer has
12 represented that we would agree to a stay at this point
13 on those claims that the claimants have competing
14 claims, we would agree to do that consistent with the
15 position we took with this court the last time we were
16 before it with these claimants. But we would, however,
17 recommend that on those claims where there's not a
18 competing claim, but merely an objection, there's no
19 reason for the court to wait on those; and we could
20 move forward.

21 We would further suggest, Your Honor, with
22 respect to that group of claims, that the court set a
23 date for a scheduling conference, and that perhaps we
24 can get together with the claimants and their attorneys
25 and work with them on a schedule that would be mutually

Pag

1 irrigation water rights are filed?

2 MR. SPENCER: That is correct, Your Honor.

3 THE COURT: Okay. Who is next?

4 MR. BRAMER: If I may, Your Honor?

5 THE COURT: Do you want to use the
6 microphone there or --

7 MR. BRAMER: That's fine.

8 THE COURT: Okay.

9 MR. BRAMER: I've been sitting in a vehicle
10 for too long. Your Honor, may it please the court, my
11 name is Randy Bramer. I'm here on behalf of the
12 United States.

13 Generally we agree with Mr. Spencer's comments
14 here. And I just want to take exception with one of
15 those comments, and that was his comments that there
16 were 21 Forest Service claims and 8 BLM claims that
17 raise a legal issue as to legitimacy of water, and that
18 that was a pretty clear issue.

19 Our discussions last Thursday accumulated in a
20 concern that the unopposed claims should move forward.
21 And we agree that they should since there isn't a
22 competing claim. It would make no sense to stay those
23 claims at this point, unlike the other claims before
24 the court filed by Mr. Bedke.

25 However, we did not discuss what that legal issue

Page 12

1 agreeable to both parties, and present that to the
2 court and hopefully minimize the amount of time the
3 court has to spend on this matter. I think we can
4 probably agree to a schedule, and then have the court
5 review that and ask us any questions.

6 That's all I have, Your Honor.

7 THE COURT: Mr. Bramer, when you say "a
8 competing claim," do you mean an overlapping claim?

9 MR. BRAMER: These are claims, Your Honor,
10 where Mr. Bedke and, I believe, three other parties
11 have filed a claim in 1989 that directly overlap with a
12 claim that the Forest Service or the BLM has filed.
13 These are what were identified in the documents
14 prepared by Miss Brown both for the BLM and for the
15 Forest Service.

16 There are, I believe, 21 Forest Service claims
17 and 8 BLM claims where Mr. Bedke, who filed objection
18 back in July, filed an objection but it does not appear
19 filed a competing claim to those sources, but rather
20 merely filed an objection. Those are the ones we're
21 talking about moving forward on.

22 THE COURT: Okay. Good. Thank you.

23 MR. BRAMER: Thank you, Your Honor.

24 MR. SPENCER: Your Honor, this is
25 Nick Spencer. And I apologize. I believe I misspoke.

Pag

1 When I said that the issue was I was
2 referencing only the fact that it does not appear at
3 this time that there is any necessity for further
4 investigation or recommendation by IDWR; that this is
5 basically a legal issue. It may well be a fact-
6 dependent legal issue, but that there is not any
7 preliminary additional work that the department would
8 need do before we could go forward and frame the
9 issue.

10 I did not in any way intend to suggest that the
11 issue was simple. I expect it will turn out to be
12 quite complex. But nonetheless it's one that, to my
13 understanding, we are in agreement we can presently
14 move forward to address.

15 THE COURT: Thank you, Mr. Spencer. Let's
16 see. Mr. Semanko.

17 MR. BRAMER: Norm Semanko, Your Honor, for
18 Scott Bedke, objector in this matter and claimant of
19 other water rights.

20 I wanted to first give the court and the parties
21 some background on my involvement, because there's some
22 confusion as to who I'm representing and who I'm not
23 representing; and I want the record to be very clear
24 about that. And then I'd like to address the motion
25 that has been made, the joint motion by Mr. Bedke and

Page 15

1 than a de minimis amount.

2 On the other hand, with the United States claims,
3 to the extent I can fairly characterize those, they
4 have been filed as de minimis claims. They are not for
5 the larger amounts of water. They may cover the same
6 sources as the private claimants claim; but they're
7 broken out much more specifically by source. And so
8 you have the smaller amounts on each specific source.

9 And as I think you'll hear from the folks
10 involved in filing the late objections later, it was
11 fully expected by the private parties that the private
12 claims and the United States claims, to the extent they
13 conflicted, would be reported together, considered
14 together, and resolved together. That has not
15 happened.

16 And I think the best characterization I've heard
17 of it to date, and I'm glad Mr. Tuthill is on the
18 phone, was at our meeting last week where Mr. Tuthill
19 said: When we bifurcated the adjudication and
20 Judge Hurlbutt agreed to doing that, we recognized that
21 there were going to be potentially some problems with
22 doing that; and that when we got to those problems we
23 would figure out a way to resolve them, recognizing
24 that the speed that we gained by resolving the majority
25 of the domestic and stock water claims made it worth

Page 17

1 the United States, including discussion of the meeting
2 that we had with the United States and the department,
3 and more importantly the discussion that I've had with
4 my client and others since that meeting.

5 First of all, Scott Bedke asked me to get
6 involved in these matters a short time ago. At that
7 time there was a draft motion, a joint motion that had
8 been prepared by the United States for Mr. Bedke's
9 review. And he was generally in agreement that we
10 should bring the issue before the court with regard to
11 the fact that some of the basin 45 stock water claims
12 are before us and others, which are actually competing
13 claims, are not before us. And it perhaps is worth the
14 court's time to talk about that a little bit.

15 The way the basin 45 and a number of the basin 47
16 stock water claims were prepared by the private parties
17 was they looked at it as an allotment. They didn't
18 look at it merely as a source. They looked at all the
19 sources within the allotment; and they attempted with
20 as few claims as possible to claim all the waters in
21 the allotment, the grazing allotment that they thought
22 they had used and relied upon.

23 So their claims are much more comprehensive, the
24 private claims that is, than the United States claims.
25 You'll see claims for 5 cfs or 2 cfs, certainly more

Page 16

1 going through that little bit of pain.

2 Well, we're in that little bit of pain right
3 now. These private folks, unbeknownst to them, the
4 United States claims have gone forward. They've been
5 reported. Some of them perhaps have even been
6 decreed.

7 The private claims in the meantime have -- I
8 don't want to say languished, but they haven't been
9 reported yet. And the reason is obvious to those that
10 have been involved in the adjudication. Those are not
11 de minimis claims. The United States' are de minimis
12 claims. But they are directly competing claims.

13 The adjudication in Idaho seems to be about a lot
14 of things, but it certainly should be about what an
15 adjudication is supposed to be about, and that is
16 resolving competing claims to the same waters.

17 THE COURT: Mr. Semanko, the U.S. claims
18 were reported by IDWR first because they were
19 de minimis?

20 MR. SEMANKO: That's my understanding,
21 Your Honor.

22 THE COURT: In other words, if they had
23 been claimed for a larger amount, they would have been
24 reported at the same time as your client's claims.

25 MR. SEMANKO: That's my understanding,

Page 18

1 Your Honor.

2 THE COURT: Okay.

3 MR. SEMANKO: And as I was saying, an
4 adjudication should at least be about resolving
5 contested claims to the same water at the same time and
6 the same place with the same procedure and the same
7 laws and the same facts. And right now we don't have
8 that process.

9 And so my goal in representing Scott Bedke and
10 asking along with Randy Bramer for a meeting with the
11 department to discuss this last week was: Okay,
12 department, if we can't change your reporting schedule
13 to bring the private claims in tomorrow with the U.S.
14 claims, what can we do. One option that had been
15 thrown out was let's stay the claims that have been
16 objected to that the United States has claimed and let
17 the basin 45 private claims catch up with those. And
18 that's an option that appeals to us.

19 I asked at the meeting, though -- and this is
20 where post-meeting matters come in. I asked at the
21 meeting to the department and the others: Are there
22 other options that we haven't discussed? It was the
23 first question asked at the meeting.

24 And it occurred to me in meeting with my clients
25 the next day or later in the week, perhaps last Friday,

Page 19

1 that there is another option that at least should be
2 discussed and considered. And that is recommitting all
3 of the United States claims that are conflicting, and I
4 mean conflicting with private claims that have been
5 filed, back to the department.

6 They should all be reported perhaps together so
7 that we don't have the mess, the parade, the circus
8 that we're going to have later this afternoon and that
9 we're going to have, frankly, next month and perhaps
10 longer with private parties coming in and suddenly
11 discovering that not only were their claims not
12 reported with the United States' claims, but the United
13 States' claims are out in front, have not been objected
14 to because, frankly, people did not have reasonable
15 notice -- and we'll have a discussion about that, I'm
16 sure, later. But the United States' claims had been
17 reported, and that the private claims were set back.

18 These folks have been told, as you'll hear from
19 them, that they didn't need to worry about it. As long
20 as they just waited for their private claim to be
21 recommended, the issue as to whether the United States
22 owns it or the private party owns it would be resolved
23 at that time; and they need not worry about it.

24 And they are finding out now, and we're finding
25 out on behalf of Scott Bedke, that that's simply not

Page 20

1 the ca Every water right stands on its own, I've
2 been told several times in the last week. And if these
3 folks aren't here to contest the ownership and the fact
4 that the United States has claimed water rights in the
5 adjudication, they're going to have lost a substantial
6 part in this process.

7 The point is: We can wait until the private
8 claims are reported to handle these all together or, I
9 think more comprehensively and more reasonably,
10 recommit the whole thing back to the department. This
11 thing has been one of the messes that we knew might
12 happen when we bifurcated the process. And it is just
13 not fair the way that it has created itself.

14 Now, what am I getting at by saying it would be
15 better to recommit perhaps than staying the cases? The
16 analysis that Roxanne Brown did is very helpful for
17 us. And we don't quite agree with it in looking at it
18 because we think that there are conflicting claims
19 where perhaps they, the department, did not identify
20 conflicting claims. And more importantly, these folks,
21 and certainly my client, intended to file on all water
22 in their allotment. And if they didn't do that, they
23 will be filing claims to make sure they cover all
24 waters within that allotment.

25 So simply saying some look to be conflicting and

Page 19

1 some don't, I don't think is -- and try to split them
2 at this point isn't going to get us where we need to
3 be. They will all in one form or another be contested
4 if they are stock water sources within the private
5 grazing allotment on federal land.

6 THE COURT: Well, Mr. Semanko, the court --
7 and I think you've been provided with copies of this,
8 the two partial summaries of claims in basin 45. One
9 of them dated June 7th, 1999 is the caption BLM and
10 private parties. And the one dated June 3, 1999 is
11 captioned U.S. Forest Service, USFS, and private
12 parties.

13 And what you're saying is you don't agree with
14 this summary as to what is overlapping and what's not
15 overlapping, or conflicting or non-conflicting.

16 MR. SEMANKO: I don't want to misrepresent to
17 the court what occurred at our meeting last week. I
18 think I was the first one to suggest that if there are
19 truly not overlapping claims, that maybe they need to
20 be treated separately.

21 What I told the parties at the meeting was,
22 though, that I needed to go back and consult with my
23 clients and see if these truly were non-contested; and
24 even if they were, if they simply missed them and would
25 mean to file on them but didn't do that, and as perhaps

Page 20

1 as de minimis claims this time so(on't have the
2 procedural problem we had before. But in meeting with
3 the clients after that meeting with the department and
4 the federal government, it is clear that they meant to
5 file on all the water within the grazing allotment.

6 So some of these may end up still being
7 uncontested; but the majority of them, if they're
8 waters within that grazing allotment, the clients meant
9 to either have filed on and don't agree with the
10 department's interpretation or they will file late
11 claims, or attempt to file late claims to cover the
12 sources that are in their allotment that they didn't
13 file on previously.

14 And I may be mischaracterizing that. I don't
15 know if someone else, Jared or someone, may want to
16 address that when they argue on their motion.

17 But I have not had time at all to look at the BLM
18 report. It just arrived as I came out the door. And I
19 appreciate the department putting it together; but I
20 haven't had time to review it, let alone go over it
21 with my clients.

22 So I think it's fair to say that if the water
23 source is in the grazing allotment and is used for
24 stock water purposes, our client, our client and I'm
25 sure the others, intended to file on it. And if they

Page 23

1 did not, they will. If they did and don't agree with
2 the department's interpretation, we'll try to make it
3 clear where we think there is an overlap where maybe
4 the department didn't identify one.

5 THE COURT: Well, Mr. Semanko, the claims
6 reported by Miss Brown in these two summaries, are all
7 of them, all of those claims within allotments either
8 on BLM or on Forest Service land?

9 MR. SEMANKO: I can't speak to the BLM
10 because we haven't had time to look at it. But I might
11 ask — if I could have a moment to confer?

12 THE COURT: Well, what I'm getting at is:
13 If there are claims outside of the BLM-Forest Service,
14 then obviously those could be treated separately. And
15 then we're only talking about the ones on federal land,
16 I think is what Mr. Bedke and some of the people have
17 called it, without breaking down whether it's
18 Forest Service or BLM.

19 MR. SEMANKO: Well, I think for us to be
20 interested in it, it has to be a federal claim that's
21 in our grazing allotment. So if that helps you. If
22 there are, for some reason, objections that don't
23 involve the grazing allotments that we're interested
24 in, I imagine we wouldn't care about those. But that
25 has not been shown to me with any particularity that I

Page 24

1 could say: Yes is water right and this water
2 right, we simply don't care about.

3 I guess what I'm saying is we just got this
4 report last week. I've just started talking about it
5 with our clients and looking at maps, haven't had time
6 to even look at the BLM one.

7 And I think this is added reason why the whole
8 thing should be sent back. What you've got — and what
9 I was starting to say is that Roxanne Brown's report is
10 very helpful to identify where there's an overlap
11 between the claims that Scott Bedke has objected to and
12 the claims of the United States.

13 But what it doesn't tell you and what you're
14 going to find if you don't consider the recommitment
15 issue is that this report does not address the people
16 who will come in later as they find out that: Hey, my
17 claim hasn't been reported yet; but the United States
18 has. I thought we were going to resolve these
19 together.

20 They're going to come into this court and they're
21 going to say: I want to file a late objection. I want
22 to overturn decrees, because I was told by the
23 department at some level that these would be resolved
24 together; and they're not. They're not being resolved
25 together. Mine hasn't even been reported yet.

Page 25

1 This report does not tell you where there is an
2 overlap between the 500 claims that the United States
3 has filed in basin 45 and the private claims that have
4 been filed in basin 45. That would be a very
5 meaningful report. Then you would know where there are
6 truly conflicting claims and the ones that would need
7 to be resolved together either through a stay or
8 through a re-reporting of all the stock water claims
9 together.

10 But this process has become so convoluted and so
11 difficult even for the diligent stockwater man to
12 understand. And that's who is here before you today.
13 There are neighbors that are just beginning to
14 understand this process and the fact that when I didn't
15 get something in the mail a year ago, when I got
16 something in the mail a year ago and it didn't identify
17 my stock water claims, they thought that meant that the
18 issue was going to be resolved later.

19 And I would be remiss if I didn't give to the
20 court — my client asked me to do that; and I'll
21 provide a copy to counsel — a copy of a letter to
22 Scott Bedke from Don Shaff, the manager for the
23 adjudication section, which is dated June 29th, 1998.
24 And what this letter does is it clearly sets forth to
25 Scott, in response to his inquiries about where are my

Page 26

1 basin 45 and 47 claims; he began to understand that
2 the United States' claims had been reported. This is
3 the type of notice and information that should have
4 went to all the claimants of stock water that are
5 private parties.

6 It very clearly says: We thought that this
7 process would work; we found out it was more
8 complicated; that the United States' claims got
9 recommended first; and yours would get recommended
10 later. He says: Figuratively speaking, the department
11 used a rake for the D&S claims, but will use a scraper
12 to get to the remaining claims of all kinds for the
13 second report in a basin.

14 So it was made clear to Scott at that time, but
15 to no one else, that these things were on a bifurcated
16 track. No one else reasonably even knew that the
17 United States claims were out in front and that the
18 private claims were still sitting back there. They
19 knew their claims hadn't been reported.

20 Meeting a couple weeks ago with one of the, with
21 some of the private claimants, it was characterized to
22 me -- and I had to spend a half an hour explaining to
23 this gentleman that his claim had not been lost by the
24 department; it simply hadn't been reported yet.
25 Because when he heard the U.S. claims had been reported

Page 27

1 for the cows that he had grazing on the federal land,
2 he couldn't believe that his hadn't been lost. It must
3 have been lost. Why would they report the United
4 States' claim and not his.

5 So I think we've got a problem that is much more
6 significant and much bigger than simply the issue of
7 should Scott Bedke's private claims be reported out
8 under some kind of order that demands the department to
9 do that. I think we've got -- to the extent there are
10 overlapping claims of private parties and the
11 United States, BLM and Forest Service in basin 45 and
12 probably basin 47 and they're on separate tracks, it's
13 one of the messes or whatever the word was that
14 Dave Tuthill used at the meeting last week that we need
15 to figure out a way to get around.

16 And at this point I'm thinking that perhaps the
17 best way to do it is to recommit the whole mess back to
18 the department to be re-reported when the basin 45 and
19 basin 47 irrigation and other reports get issued, which
20 our claimants, well, our client's claims and other
21 people's here claims and the people who aren't here and
22 barely know about these claims are included, that's
23 when the United States' claims should have been
24 reported. And maybe we're too far down the track
25 procedurally to get it fixed that way; but that would

Page 28

1 be the preferred option.

2 After that, certainly staying the U.S. objected
3 to claims so that we could have them on par with the
4 private claims when they get reported makes a lot of
5 sense.

6 The other thing I need to address, a question was
7 left unanswered at the meeting last week as to whether
8 my client would be willing to have the unobjected -- or
9 the uncontested or not overlapping claims litigated
10 separately on this big legal question. That big legal
11 question will be before the court when the conflicting
12 claims are against each other. And it doesn't make a
13 lot of sense -- maybe it did to a lawyer at a meeting;
14 but to my client it doesn't make a lot of sense to
15 litigate that legal issue in a vacuum first and then
16 come back and have to litigate it again and pay for
17 that twice so -- to the extent there even are any that
18 are not overlapping when we get done looking at the
19 issue.

20 But that's where we're at. I guess what I'm
21 struggling with is we filed a motion that I think was a
22 good motion because it brought the issue before the
23 court; but the relief we're asking for arguably there,
24 we're not asking for anymore. That is to order the
25 department to issue the basin 45 report for the private

Page

1 claimants right now.

2 I think we're struggling with what is the best
3 way to resolve this procedurally. And I have two in
4 mind. One is to recommit the federal claims to be
5 re-reported with the private claims. And the second
6 one would be to stay all of the United States claims
7 until we sort this out and figure out where the truly
8 contested claims are, and resolve the matter that way.

9 I've taken much more time than I intended. And
10 let me provide, if I can approach, a copy of the letter
11 to Scott Bedke from Don Shaff. And I'll provide a copy
12 to counsel.

13 THE COURT: Please. But I have a couple
14 questions when you're done.

15 Mr. Spencer, Mr. Semanko handed me a letter from
16 Don Shaff addressed to Scott Bedke dated June 29,
17 1998. And I'll ask Mr. Semanko to mail a copy of that
18 to you.

19 MR. SPENCER: All right. Thank you,
20 Your Honor.

21 MR. SEMANKO: Your Honor, before you ask a
22 question, I'll be remiss if I forget something. I
23 think Nick Spencer characterized the claims, some of
24 the claims that have been filed as being filed in the
25 name of an association. And that's a neat way to

Page

1 collectively refer to this group of p
2 But the claims were actually filed by four
3 individual people. They weren't filed by this grazing
4 association. So I wanted to clarify that. And those
5 are listed in the basin 45 report for the
6 Forest Service that Roxanne Brown prepared. And we had
7 a discussion about that.

8 But you can see clearly on the printouts that the
9 names of Winslow Whiteley -- whose interests, by the
10 way, have been purchased by Carl Bedke. And Carl will
11 be filing a change of ownership form shortly. He is
12 now Winslow Whiteley. Gary Poulton, of course, is
13 here. Ray Bedke is deceased and now Scott. And we're
14 trying to figure out whether and how to file a change
15 of ownership to reflect that. And then, of course,
16 Bruce Bedke is here with his son Jared.

17 So just to clarify who the actual interested
18 parties are --

19 THE COURT: Does the grazing association
20 have any legal standing?

21 MR. SEMANKO: How do you mean?

22 THE COURT: Is it properly incorporated, or
23 is it just a we happen to call ourselves the North 45?

24 MR. SEMANKO: I'm not aware, Your Honor. And
25 in looking at the client responding that they are

Page 31

1 not one of those iations.

2 THE COURT: Okay. Now, the two questions I
3 have are -- you're saying that if all of the claims
4 summarized by Miss Brown -- and we need to thank her
5 for helping doing this, to help us focus here.

6 But in those two reports of BLM and
7 Forest Service claims, assuming they are all within
8 allotments, either BLM or Forest Service allotments,
9 you're saying your clients intended to object to every
10 one of those --

11 MR. SEMANKO: That's correct, Your Honor.

12 THE COURT: -- because they were within
13 allotments in which your clients may have some
14 interests as permittees?

15 MR. SEMANKO: For one of two reasons. One is
16 because they claimed or intended to claim the water if
17 it's actually used by stock. If they don't use it -- I
18 shouldn't say that. If they don't think it's a source
19 that they use, it's probably because they think it
20 doesn't exist or it's never been sufficient to be. And
21 they would still want to object to that to try to get
22 the facts before the court as to, you know, is there
23 really a stock water right there.

24 So if it's within those boundaries, certainly
25 they mean to take it as an issue. And it would be more

Page 33

1 incorporated, there are some incorporations that are
2 involved with the grazing rights; but this is not one
3 of them.

4 And more importantly, it's a moot issue because
5 the claims have not been filed in the name of any
6 association. So they won't be representing the
7 claims. It will be the private parties, the four
8 parties.

9 And just to let you know on those particular
10 claims, the four parties, Scott Bedke has already filed
11 late objections on the ones that we're going to be
12 talking about later. Bruce Bedke is trying to. Carl
13 would like to; but I've just been retained by him; and
14 we're deciding how to get him involved, if at all.
15 Well, not if at all, but how to get him involved. And
16 then, of course, the others, Poultons are here, too.

17 So those people are all represented here in subcases
18 that already exist because of Scott's objections, so --

19 THE COURT: So we won't be seeing anybody
20 coming in representing the grazing association?

21 MR. SEMANKO: Not that grazing association
22 that I'm aware of, no. There may be another
23 association out there that I'm not aware of filing. I
24 know there have been some claims filed in the
25 adjudication in the name of associations; but this is

Page 32

1 neatly framed if all the private claims were before
2 us. But they do intend to be involved in anything
3 that's within their grazing allotment, certainly. And
4 there's more than one grazing allotment out there as
5 you'll find out as we go through the late objection
6 motions, I think.

7 THE COURT: The other question I had was:
8 You know, you can't speak for all of the people because
9 you only represent Scott Bedke at this time; but did
10 Scott Bedke anticipate that even though his -- I'm
11 sorry, even though the Forest Service claims were
12 reported out, that his would be considered
13 simultaneously with them?

14 MR. SEMANKO: At what point in time?

15 THE COURT: Well, for instance, he may
16 have -- did he think that mine are reported out now;
17 that's fine; but nothing needs to be done on them until
18 the Forest Service and BLM claims are -- or until his
19 own are reported out; and then they'll be considered
20 together by the court? Or did he think that they could
21 be considered separately? We could adjudicate BLM and
22 Forest Service claims separately from those water
23 rights.

24 MR. SEMANKO: The expectation was that they
25 were inextricably entwined and that they would be

Page 34

1 adjudicated together.

2 Now, I wasn't present during the portion of, I
3 believe, the April 7th hearing where it was discussed
4 before the court by Mr. Bedke and by counsel for the
5 Forest Service; but my understanding of that discussion
6 was that we would figure out a way to make sure that
7 they were considered together, at least the Scott Bedke
8 objections and the Forest Service claims. Now, I don't
9 know about BLM; but -- and that's what led to the
10 crafting of the joint motion to try to get the
11 department's attention about potentially filing a
12 supplemental report to include Mr. Bedke's.

13 So I think, and Scott can correct me if I'm
14 wrong, it's always been his understanding and intention
15 that they needed to be considered together. Because
16 that's what an adjudication is about -- that the water
17 rights that are competing would be considered
18 together. You got common facts; you got common
19 questions of law. And that was certainly the
20 expectation.

21 Now, whether that has to actually happen or not,
22 I suppose, is up to the court. With the current
23 posture we have, I don't think it was the department's
24 intent -- and I'd be happy to hear from them. But I
25 don't think it was the department's intent to issue

Page 35

1 competing claims separately. That happened as a matter
2 of fact because we bifurcated each of the basins.

3 But I think in Mr. Shaff's letter it even says
4 basically that we thought that this wasn't going to be
5 a problem. And it turned out to be a huge problem
6 because we used a rake, and now we're going to have to
7 use a scraper later to get the rest of them in.

8 But it doesn't deal with the procedural issue of
9 what do you do now that they aren't grouped together.
10 Do you stay them? Do you issue a supplemental report?
11 Do you recommit all of them that are conflicting back
12 to the department and have them reinvestigate?

13 The other issue I've got that's a major concern,
14 my understanding of the adjudication and the
15 bifurcation process is that domestic and stock water
16 claims, the small ones, the de minimis ones are not
17 field tested. They're not investigated. They're not
18 really looked at. They're investigated, but not out in
19 the field. While the large claims, the irrigation and
20 other claims, which these private claimants are now
21 lumped into, they will be investigated.

22 And what sense does it make to go out and
23 investigate the private parties' claims when you
24 haven't looked at the United States' claims? They
25 involve the same water holes, the same springs, the

Page 36

1 same thing. Another argument to recommit. They
2 should all be looked at together and determined whether
3 they should be recommended or not.

4 THE COURT: Is there a chance that the
5 parties could agree on what can be separated out and
6 what can't be, what's an overlapping or conflicting
7 claim?

8 MR. SEMANKO: Yeah.

9 THE COURT: You said that there was a
10 possibility that there may be some of those.

11 MR. SEMANKO: Yeah, we can do that. It would
12 take us some time to sit down and figure out which ones
13 are conflicting and which ones are not.

14 MS. BROWN: Your Honor, if I may clarify --
15 this is Roxanne Brown.

16 THE COURT: Go ahead, Miss Brown.

17 MS. BROWN: One of the problems that arises
18 when you're looking at if they have been recommended
19 and comparing them to claims that haven't been
20 recommended -- and it shows up in the two reports that
21 I summarized for the court and for others. One of the
22 problems that arises is that it's very difficult to see
23 from a claim a precise overlap. A claimant may call a
24 source by a different name. A claimant may decide that
25 the source is in a slightly different location. And

Page

1 the only evidence that the department has to go on to
2 find overlap is to compare the claims, which I did in
3 the summary.

4 I agree with Mr. Semanko. After talking to his
5 client and to others who are seeking to be late
6 objectors, I agree that the folks involved seem to have
7 intended to claim many of the sources that the federal
8 government had claimed. However, the claims are
9 different.

10 That kind of information comes out of
11 investigation. To investigate to that extent and come
12 up with a list of things that can move ahead and things
13 that can't, that level of investigation would result in
14 a recommendation of all of the claims involved. In
15 other words, we would be right back to where we started
16 questioning whether or not the department should move
17 outside of its recommended dates. That level of
18 investigation truly deciding and precisely what is
19 overlapping, the level of investigation involved with
20 that is a whole, it's a whole deal more complicated
21 than the summary I've provided.

22 THE COURT: Well, Miss Brown, if
23 Norm Semanko's preferred recommendation is that all of
24 them be recommitted to IDWR, would that require the
25 same level of re-investigation? In other words, you

Page

1 wouldn't report them out together - ou would
2 report them together, but in the normal course of your
3 director's report in 2000.

4 MS. BROWN: Well, if I understand it,
5 Your Honor, there's no reason to recommit all of those,
6 the ones we have recommended because the claims in the
7 names of the private parties, whether they're
8 overlapping or not, we would recommend those also in
9 that it is the department's policy, when there are two
10 conflicting claims as to the ownership of water rights,
11 we recommend both of them so that the court may decide
12 the issue of ownership.

13 THE COURT: From your view, then, it
14 doesn't make any sense to recommit these Forest
15 Service-BLM claims for re-investigation or for further
16 investigation.

17 MS. BROWN: I don't believe, Your Honor,
18 that the Forest Service or BLM claims need to be
19 reinvestigated. I believe that those recommendations
20 should stand as we have presented them. Perhaps it
21 does make sense to stay at this time the proceedings on
22 those so that the others can be allowed to catch up.

23 MR. SEMANKO: I'm going to have to object,
24 Your Honor. This is getting into legal argument.

25 And I was remiss in not stating that I did talk

Page 39

1 doesn't really ma

2 What I'm saying, though, is that there is a
3 fundamental fairness problem with the claims having
4 already been reported for the United States and not for
5 the private parties. And it's quite up to the court, I
6 think, as to whether they want to hear additional late-
7 claim or late-objection motions which will no doubt
8 come before the court, and no doubt motions to set
9 aside partial decrees, which will be fun to do -- the
10 United States writes great briefs, and we'll have great
11 arguments over good cause and all those kinds of
12 things -- where the other choice is to recommit the
13 whole matter back, understanding and recognizing that
14 the reason for granting the late objections is the very
15 reason that the thing should be remanded.

16 Nobody knew what was going on. It's a mess. It
17 was bifurcated without regard necessarily to how it
18 would have caused the problem. And once the problem
19 was discovered, we have to rectify it by putting them
20 all on the same procedural track. That involves
21 recommendation, objection, and resolution of subcases
22 in my mind.

23 And I am frankly upset that when we had the
24 meeting last week this issue was not brought to the
25 fore. And other reasons that I don't need to discuss

Page 41

1 about this with Mr. Anderson, the attorney for the
2 department, on Friday. And he told me that they would
3 not have any problem with recommitting. He's not going
4 to take a position on it. But he didn't have any
5 problem with the cases, the claims being remanded to
6 the department so they could be reported later.

7 And I'm not suggesting that the United States
8 claims necessarily need to be investigated any
9 further. Because they are de minimis, and I expect
10 they'll be treated just like all de minimis claims.

11 What I'm saying is that where there's a claim
12 No. 1 filed by a private party and a claim No. 2 filed
13 by the United States, where the claim No. 1 is not a
14 de minimis claim, it will be investigated. It's my
15 understanding there will be a claim verification
16 report. There will be facts that we can have brought
17 before the court without having to do a supplemental
18 report on what the facts were. And in resolving No. 1
19 and No. 2 at the same time, that would be very helpful
20 to have.

21 That's all I'm suggesting, is that whatever
22 factual inquiry goes into the second report for
23 basin 45, it will be very helpful for resolving the
24 claims that have already been recommended. So whether
25 that's done through a stay or through a re-reporting

Page 40

1 right now after the meeting is why I'm further
2 distressed that we didn't discuss that as a potential
3 solution to this problem.

4 And I'll leave it at that. If you have any other
5 questions, I'll be happy to answer them. I know the
6 United States is itching to respond to my proposal.

7 THE COURT: No, I didn't have any further
8 questions. But in the meantime -- thank you,
9 Mr. Semanko -- we have some other people representing
10 themselves who may want to address the matter.

11 In no particular order, just the way they're
12 listed here, Mr. Poulton, do you have anything to add?
13 Michael Poulton?

14 M. POULTON: Not, not right now.

15 THE COURT: Okay. Mr. Poulton has nothing
16 further.

17 Now, Gary Russell Poulton?

18 G. POULTON: Not at the present time,
19 Your Honor.

20 THE COURT: Let's see. Next would be
21 Jared Bedke. Anything you wanted to add?

22 JARED BEDKE: No, sir, Your Honor.

23 THE COURT: How about Bruce Bedke?

24 BRUCE BEDKE: I'll defer to later. Thank
25 you.

Page 42

1 THE COURT: /s. Thank you. Is there
2 anyone else here who wanted to speak on the motions
3 before we go back to hear from the United States?
4 MR. TUTHILL: Your Honor, this is
5 Dave Tuthill. Could I say some words, please?
6 THE COURT: Well, let's see, Mr. Tuthill,
7 we're going to have to kind of walk carefully here.
8 AO1 and rules of civil procedure prevent any sort of
9 testimony by telephone. I suppose you'd be free to
10 make a statement in support of the letter you sent.
11 MR. TUTHILL: This would be in the form of
12 just an administrative consideration relative to how
13 we're looking at our process on this, Your Honor.
14 THE COURT: Oh, from a pure administrative
15 matter.
16 MR. TUTHILL: That's the way I'm looking at
17 it.
18 THE COURT: Does counsel have any objection
19 to that sort of statement?
20 MR. SEMANKO: No.
21 MR. BRAMER: No objection, Your Honor.
22 THE COURT: Nothing from the United States
23 or from Mr. Semanko.
24 Any of the private parties have any objection to
25 Mr. Tuthill making a statement here?

Page 43

1 (NO RESPONSE)
2 THE COURT: No objection. Go ahead,
3 Mr. Tuthill. We're glad to hear from you.
4 MR. TUTHILL: Thank you, Your Honor. As
5 Norm Semanko said, we anticipated as we bifurcated this
6 process that there would be some problem areas that
7 could arise. And I can say that in the bifurcation
8 process in most basins it's worked quite well. We have
9 found here in basin 45 and perhaps basin 47 that
10 there's a concern.
11 Initially -- and I did speak with Mr. Scott Bedke
12 some time ago where he raised the objection to the
13 Forest Service rights. And he actually filed the late
14 motion which I spoke in behalf of when it came before
15 the court. Because from our perspective, I had
16 mentioned to him that it would be very appropriate to
17 look at both the Forest Service rights and his claims
18 in one forum.
19 So from my standpoint from the git-go in this
20 situation where we've reported some of the claims, the
21 Forest Service claims, and where other claims that
22 might be overlapping and influencing those in some way
23 have not been reported, from my standpoint it's been
24 very appropriate to stay the action in the earlier ones
25 waiting for the others to catch up.

Page 44

1 Mr. Semanko suggested another alternative
2 today that, on the remand, that from my standpoint
3 sounds like a reasonable alternative. Mr. Semanko
4 questioned why we didn't discuss it last week. I don't
5 know that it really came up then in our discussion. I
6 think that's been new since then.
7 So from my standpoint, from the department's
8 perspective, either a stay for the Forest Service,
9 action on the Forest Service claims or a remand of some
10 kind back to the department would be fine and very
11 appropriate to allow a review of both of the rights at
12 once. And when I say "a review," it's a review by the
13 parties of both of the rights at once as they go
14 through the objection period. So we would have no
15 problem with that, Your Honor.
16 THE COURT: Well, Mr. Tuthill, I know that
17 you made some gargantuan efforts here to move this SRBA
18 along; and I know you're looking for ways to help
19 matters proceed. And I don't think for a minute that
20 your idea of reporting these separately had any
21 nefarious purposes; and I don't think any of the
22 parties here are suggesting that. I think just that
23 the choice was made back in the old days, and we've had
24 some unintended consequences here. And I guess now the
25 question is how do we resolve these differences of

Page 4

1 opinions of how we can best proceed.
2 And I appreciate your comments. Anything
3 further, Mr. Tuthill?
4 MR. TUTHILL: No. Thank you, Your Honor.
5 THE COURT: Thank you. Mr. Bramer or
6 Mr. Brown.
7 MR. BRAMER: Thank you, Your Honor. Just a
8 quick question for Mr. Tuthill.
9 I have in front of me a June 29th, 1998 letter by
10 Mr. Shaff. And Mr. Tuthill had referred to
11 conversations with Mr. Bedke, Scott Bedke, that is.
12 Mr. Tuthill, at any time when you talked to
13 Scott Bedke did he mention the name of any of the other
14 claimants to these water rights in either basin 45 or
15 47 who had similar concerns?
16 MR. SEMANKO: I'm going to object. It's -- I
17 didn't know he was on the stand.
18 THE COURT: Let's see. Mr. Bramer, I know
19 you're in a tough spot being a lawyer --
20 MR. BRAMER: Your Honor, if I may. My
21 bottom line point is this: This letter -- you asked a
22 question did Mr. Bedke expect to come in to this
23 courtroom with these claims all being handled
24 together. Certainly as of June 29th, 1998, after
25 talking with the department, he must have had some

Page 4

1 concerns.

2 If you look at the late objection, it's
3 Scott Bedke, and Scott Bedke only, filed. He's the
4 sole signatory to that objection, not the four people
5 that filed the original claims in 1989. It was on
6 July 13th, 1998, approximately two weeks after this
7 letter, which would suggest, Your Honor, the parties
8 came in here fully aware of what was at issue.

9 Second, Your Honor, I am -- how do I put this?
10 Mr. Semanko is outraged? I am outraged and
11 embarrassed.

12 We joined in this motion to try to be fair to
13 Mr. Bedke to get his claims in front of this court. My
14 understanding was the position we were taking is that
15 the department should take these claims and report them
16 out. That was my understanding and the position we
17 were taking.

18 We went into a meeting. I was informed: No; if
19 it's going to be a problem for the department, we
20 rather stay the litigation. --

21 We would just as soon of moved forward and not
22 dealt with that issue at all; taken our claims, taken
23 our objection and gone forward with what we had when we
24 were here on April 7th. Rather, we went out of our way
25 to assist the claimants in getting a fair hearing by

Page 47

1 is opening the door to everybody to just ignore the
2 court procedures that this court and the statutes set
3 years ago. And quite frankly I am sitting here just
4 amazed that I'm put into this position.

5 --I tried to be fair. I tried to give Mr. Bedke
6 his best shot. We're going to argue the late
7 objections.

8 But now I have an attorney in here arguing start
9 from scratch; start all over again. It is unfair. It
10 ignores the court procedures. It is unfair to every
11 other claimant who has been in this adjudication since
12 this thing was started. We have court procedures. We
13 have plain English notices. We have had nobody telling
14 us why they didn't understand.

15 Why is this so convoluted? Did people not get
16 notice? Did people not read notice?

17 Clearly Mr. Scott Bedke got it. He knew enough
18 to go down to IDWR and say report my claims out. They
19 said no. He came into the hearing. He understood.
20 Mr. Bramer, I don't think I'm being treated fairly; my
21 claims haven't been reported out.

22 Mr. Bedke, fine; let's take it to the court;
23 maybe -- and this is what I thought we were going to do
24 here today. The court would order the department to
25 comply with its statutory obligations to report out the

Page 49

1 reporting out his claims, coming to this court with a
2 motion to ask the department to report those claims
3 out.

4 And what am I hearing today for the first time
5 from Mr. Semanko? Take the whole thing back; let us
6 file objections. First, let us file claims, claims to
7 sources that were filed 10 years ago by the same
8 claimants who are going to come into this adjudication
9 and come into these subcase hearings and say, and I
10 quote, we've been on this land since 1889; we know it
11 better than the Forest Service; but, however, we have
12 overlooked a bunch of sources; we have no reason for
13 saying why we did that; but rather we want to come in
14 now; and we want you to allow us to file these late
15 claims; and we also want you to file late objections.
16 And they're nine months late; we know that, Your Honor;
17 plus there's a bunch coming because we didn't know
18 because of this convoluted process.

19 What is convoluted here? Has anybody stood up
20 and said they didn't get the director's report? Has
21 anybody stood up and said they didn't read the section
22 that said what if I disagree with this water right?
23 Has anybody given us any reason for not filing late
24 objections? Why didn't they file these claims?

25 The fact is you recommit this, what you're doing

Page 48

1 claims and move these cases along.

2 Rather, now we're going to sit in a stay. But
3 not only are we going to sit in a stay, the attorney,
4 Mr. Semanko, wants to open the whole thing up to allow
5 everybody who, quote, forgot, for some reason don't
6 know, as is evidenced by the Poultons objections,
7 please find enclosed our motions for late objections
8 with no reason stated, no basis stated, nothing.
9 Simply put, Your Honor: We forgot; it was convoluted;
10 we didn't understand. No affidavits. Nothing to say
11 we were told we had to file these; we didn't; here's
12 why.

13 Your Honor, I would suggest right now -- I'm not
14 even going to reserve judgment on this recommitment
15 procedure. First time I heard it today. But I do know
16 one thing. It looks like a thinly veiled attempt to
17 allow people who failed to do their homework,
18 investigate their claims, to file against us even
19 though they've had 10 years.

20 It's been 10 years since those claims were
21 filed. And in 10 years they haven't discovered these
22 errors. Not until the department two days ago hands us
23 this list are all of a sudden people going: Oh, we
24 meant to file on everything; we might have missed
25 something. It has been nine months, Your Honor, on

Page 50

1 these objections. No one said why they haven't filed.
2 Mr. Bedke did file. And if you ask Mr. Bedke, my
3 guess is, Mr. Scott Bedke, he will say: I filed these
4 objections because my claims weren't reported out; and
5 I felt it was necessary to protect my rights.

6 And quite frankly, Your Honor, given the
7 communication that's occurred in the Valley, I think
8 there were probably discussions about that. And I
9 can't say to this court whether a conscious decision
10 was not made to file objections.

11 And I do not oppose late objections or late
12 claims where there is good cause for those being
13 filed. I do, however, oppose throwing out the court
14 procedures and starting from scratch simply because
15 people come in and make the mere allegation it was
16 really convoluted and complex.

17 Your Honor, please remember that people have a
18 duty to comply with the court's rules. Pro se
19 certainly shouldn't know the law. This is not the
20 law. This is a notice that was either received or not
21 received. It was either read or it was not read. A
22 decision was made to file an objection or to not file
23 an objection. A decision was made to file a claim or
24 not to file a claim.

25 Only now are these issues coming up. Only now

Page 51

1 that we've put this issue in front of the court are we
2 confronting the situation.

3 Your Honor, I apologize. I should have never
4 joined in the motion. I should have sat back and
5 said: Mr. Bedke, this is your concern; I'm sorry; we
6 don't need to be involved in this; if the department
7 doesn't want to do it, we don't want to get into a
8 fight with them about someone else's rights.

9 I have nothing further, Your Honor.

10 THE COURT: Well, Mr. Bramer, if you'd take
11 a couple minutes and few deep breaths here, let me ask
12 you some questions. When you agreed and joined in the
13 motion, it was your understanding that the court might,
14 could, possibly would order IDWR to report out
15 Mr. Bedke's claims early; and then this matter would be
16 resolved?

17 MR. BRAMER: Your Honor, my thought and my
18 discussions with Mr. Bedke led me to conclude that we
19 both were in agreement that the ideal situation would
20 be for this court to order the department of water
21 resources to report out his claims in a two-to-
22 three-month period so that his claims and our claims
23 were handled by this court jointly; and we would not
24 have to go through two pieces of separate litigation
25 over the same piece of water.

Page 52

1 THE COURT: Did it occur to you that
2 another option might be just simply staying the federal
3 claims until we could consider federal claims along
4 with Mr. Bedke's?

5 MR. BRAMER: Your Honor, certainly that was
6 one option. But since we were before the court at this
7 point in time, we had a subcase, the court was hearing
8 this matter, it seemed more appropriate to move
9 forward, particularly given the schedules the court has
10 set.

11 THE COURT: Sure. And I agree that
12 obviously we want to move these cases forward. And
13 Judge Hurlbutt traditionally always thought that a stay
14 was the worst thing we could do in this case. We've
15 got to get it done. And I agree with that.

16 You started off, though, you were going to ask
17 Mr. Tuthill a question. And my concern now, not your
18 question, but the fact that you're asking a question as
19 if Mr. Tuthill were a witness. And he wasn't giving
20 testimony today.

21 Would you prefer to ask that question directly of
22 Mr. Bedke at this time, or —

23 MR. BRAMER: Your Honor, I don't. If the
24 court wishes to go through examination at this point,
25 it can. I do not believe that is necessary. I believe

Page 5

1 what is necessary for this court to decide is how to
2 move forward on these particular claims.

3 Now, I believe we have taken a good-faith step to
4 help this process by conceding that we would not
5 pressure this court into ordering the department to
6 report those claims out. That was a step, I thought,
7 we took as a good-faith showing that we'll put these
8 off until they're reported so everybody can have their
9 claims up.

10 Now what I'm hearing is we're not only going to
11 file all these late objections, but we're going to file
12 a bunch of late claims; and we want you to pull
13 everything back so the doors are wide open to do that
14 without showing any cause whatsoever.

15 THE COURT: And I appreciate your concern.
16 Obviously the court can't turn a blind eye to the fact
17 that a lot of proceedings have gone by; and we can't
18 just say let's go back to zero. We've wasted too much
19 time and money. We're going to have to go forward from
20 here.

21 But now the question is how do we best go forward
22 from here and solve everyone's concern about due
23 process and at the same time be fair to everybody,
24 including the United States. You put a mountain of
25 effort into getting these claims resolved. And you

Page 5

1 made good-faith efforts here, and I ap[er] you for
2 that.

3 But let me ask you more of a generic question.
4 When the decision was made to report out de minimis
5 stock grazing water rights early and then report out
6 the -- and I like to call them de maximus, because I
7 don't know if anybody can define de minimis for me, to
8 differentiate between those two. Did it occur to you
9 or any of the parties you had discussions with that
10 these types of problems might occur?

11 MR. BRAMER: Your Honor, I don't believe --
12 we've been in this litigation now for six years. We've
13 not run into this situation before other than one or
14 two smaller claims.

15 The issue here is simply what I believe that
16 Mr. Bedke and the other three signers to the original
17 claims did is they bundled all these stock water claims
18 together onto one form and in several forms. These are
19 all de minimis stockwatering sources.

20 What we did is took each source where there were
21 cows drinking on the allotment and filed for that. It
22 was the classic de minimis domestic stock water claim.
23 There will be no Forest Service non-de minimis claim if
24 anybody goes back and looks at this.

25 It will be exactly what the department has

Page 55

1 name or their names reported already or reported
2 later, they're really all the same.

3 MR. BRAMER: They're all -- well, to the
4 extent they're all the same claims with the same source
5 is claimed with our overlapping claims.

6 What I am hearing now is since the department
7 investigated the claims filed in 1989 and looked for
8 overlapping sources, they may have found some that the
9 claimants missed. So now the claimants are saying:
10 Well, we're going to go in and file on those, too.

11 The fact is, Your Honor, that at some point you
12 have to hold people to a reasonable duty to investigate
13 and know the facts of their claim whether they're
14 lawyers or pro se.

15 And, again, what we are going to hear when
16 they're in court with you arguing priority date is: We
17 know this better than the government; we know this land
18 better than the government; we've been here for a
19 hundred years. In the same breath what they're saying
20 to you today is: Oh, we missed those even though we
21 know the land that well; so let us file these late
22 claims.

23 THE COURT: Anything further?

24 MR. BRAMER: Nothing further, Your Honor.

25 THE COURT: Good. Well, counsel, let's --

Page 57

1 contemplated. There's a source. We have our cattle
2 drinking out of it. It's a de minimis amount. It's
3 less than 13,000 gallons a day.

4 I think what you'll find what the department will
5 do if they report these claims out for the private
6 parties as they were filed in 1989 is they will break
7 them out into individual de minimis claims for the
8 competing sources. And they will be de minimis claims.
9 Again, 13,000 gallons a day is a lot of water for cows
10 on the allotment.

11 I don't believe there's any, quote,
12 non-de minimis claims here. I believe it was simply
13 the claimants, in a good-faith effort to comply with
14 the statute in 1989, thought they could group a whole
15 bunch of these together, which they did, de minimis
16 claims, and added them all up. And they were treated
17 as non-de minimis claims.

18 A rational or reasonable mistake. I think
19 they've said that we followed direction given to them
20 by IDWR. Probably true. I have no reason to think
21 they weren't doing that.

22 But the fact is there are no non-de minimis
23 claims here. These are stockwatering claims to small
24 sources of water.

25 THE COURT: So if they're reported in your

Page 56

1 I think that wraps up the joint motion for meeting with
2 IDWR. I'll take the matter under advisement and issue
3 a decision here in due course.

4 And I think I've got this right. This was the
5 joint motion for meeting with IDWR that actually has
6 turned into a motion for an early reporting out or
7 resolution -- I'm not sure how to phrase this. I just
8 want to make sure I've got my handle on this thing
9 right.

10 MR. SEMANKO: Your Honor, I've not filed any
11 motion to date asking that this be remanded. I
12 suggested that as an alternative.

13 I guess the strange procedural posture we're in
14 is that the motion that was jointly filed suggested a
15 certain type of procedure, that is, let's order the
16 department -- or you order the department, the court
17 order the department to issue a supplemental report.

18 It became clear to us in the response letter that
19 Randy Bramer shared with me the department did not want
20 to do that. And so then we still got the problem, but
21 we don't have a solution.

22 So I asked again at the meeting last week what
23 possible solutions are there. The stay one came up,
24 but the other one did not.

25 And the reason I'm upset about it is because I

Page 58

1 understand the departn. and the United States have
2 talked about the possibility of remanding. Now, maybe
3 that's not the case. But that's what I was told on
4 Friday. And I'm upset because the meeting we had on
5 Wednesday or Thursday or whenever it was, that wasn't
6 even discussed as a potential solution.

7 But when I talked about it with Peter Anderson on
8 Friday, it seemed to the department to not be a
9 terribly troublesome way to go. And certainly
10 Mr. Tuthill seemed to have just said that that wouldn't
11 be a problematic way to go.

12 So I have not filed a motion to say that that's
13 the way we should go. But what I'm saying is what you
14 can predict to have happen is that people will file
15 late objections. As they find out not only that their
16 claim wasn't reported, but that the United States
17 claims for the same water were reported, it is natural;
18 it is normal; and they will file motions for late
19 objections. They should be resolved on the standard of
20 good cause and whether they were within the standards
21 of the rule.

22 THE COURT: Well, Mr. Semanko, everyone was
23 required to file a claim for stock water by a certain
24 deadline. And if they've chosen not to file a claim
25 for that water right, why would they have a right now

Page 59

1 to come in and file a late claim?

2 MR. SEMANKO: Okay. Now, Mr. Bramer made a
3 lot of a small point I made; and that is that if we
4 find out -- and I didn't say we have found out. If we
5 find out that we didn't file on things that we intended
6 to file, we may file a late claim.

7 What I am more likely to find and what my client
8 is telling me and his neighbors are telling me is that
9 maybe Roxanne Brown's report is not -- and I think
10 Roxanne said this herself -- is not exactly on all
11 squares, all fours with the claims that we've filed.
12 In other words, maybe the source that she identified as
13 being in the southeast, we think it's in the
14 southwest. It wouldn't show up as an overlap; but in
15 true, true, truth, it is an overlap. We just had
16 different quarters identified.

17 And so those kinds of things are the things that
18 I think we need to identify to find out if they're
19 really overlapping or not. And the point I was getting
20 at is if you're going to trificate the process and say
21 okay, there are U.S. ones that we think can go forward
22 while the other ones are stayed, I'm saying it's not as
23 neat and tidy as Miss Brown's report. We need to look
24 at it further to decide whether the ones that she says
25 are not in conflict really are not in conflict. That's

Page 60

1 what as trying to say.

2 And in the unlikely event that we haven't claimed
3 on what we intended, there's always the opportunity --
4 and I don't think we said we'd do it without having to
5 go through the process -- ask the court leave to file a
6 late motion or a late claim. I never said, I don't
7 think, that we would be able to do a free pass and not
8 have to meet the standard. So to the extent that was
9 what was interpreted, that's certainly not what I
10 meant.

11 THE COURT: Well, are you really saying
12 your clients may seek to file motions to amend their
13 claims as opposed to a late claim?

14 MR. SEMANKO: That could happen, too,
15 Your Honor. If we meet with the department further and
16 decide that it's really in the southwest and not the
17 southeast or something, we may amend it. But at this
18 point it's much too early. We just started looking at
19 the Forest Service report. The BLM report, we just got
20 minutes ago. So there are all kinds of possible
21 scenarios.

22 But we feel fairly confident with the
23 comprehensive claims that we have filed that we've
24 covered what we intended to cover. If we find some
25 mistakes with that, it isn't unusual to amend claims

Page

1 even after a trial has happened if there are some
2 mistakes. Maybe we don't agree with the department on
3 whether it's in the southwest or the southeast. We
4 wouldn't know that because our claims haven't been
5 reported yet.

6 THE COURT: Well, Mr. Semanko, I hope you
7 can appreciate the U.S.'s position that --

8 MR. SEMANKO: Well, I understand the United
9 States' position. I would be very upset, too, if water
10 rights that I had filed that I don't have to give one
11 shred of proof as to whether they exist or not, they're
12 recommended by the department for whatever reason and
13 nobody objected because they didn't know about it, that
14 those people would sooner or later find out and try to
15 upset the apple cart, I'd be upset, too, because I have
16 a lot of easy partial decrees that maybe aren't so easy
17 anymore, while the private claimants are going through
18 a living hell. Theirs haven't been reported. They're
19 going to have to provide proof. They're going to be
20 inspected.

21 I'd be upset, too, if I was the United States,
22 because they have a much easier walk through this
23 process than the private claimants have had to date.

24 THE COURT: Well, Mr. Semanko --

25 MR. SEMANKO: They need to be on the same

Page

1 par. That's all we're asking.

2 THE COURT: Sure. And I appreciate that.

3 But I think Mr. Bramer's point was we can't just ignore
4 the fact that we've already gone through years of this
5 already; and we can't start at zero again. That
6 doesn't make sense.

7 MR. SEMANKO: Well, I agree with regard to
8 late claims it should be a very strict scrutiny if
9 anybody does need to file late claims.

10 With regard to the objections, I have to take
11 issue with what Mr. Bramer said. If Bruce Bedke
12 received a notice that his domestic water right on his
13 farm had been reported, that does not give him notice,
14 especially if his claims for the water on the
15 United States property were not -- or on the grazing
16 allotment were not reported, that doesn't give him
17 notice that, oh, hey, the United States' claims on that
18 same water that I didn't get reported on were filed.

19 So I cannot agree with the United States that
20 getting a piece of paper with regard to a water right
21 that has nothing to do with the federal claims gives
22 these folks notice or gave them notice last year that,
23 hey, the federal claims have been reported. Yours
24 haven't, but theirs have.

25 The only thing that approaches that is the letter

Page 63

1 able to get their objections in against the

2 United States claims. They know the United States will
3 object to theirs.

4 THE COURT: Sure. Well, and I'll give
5 Mr. Bramer a chance to respond to this dialogue here.

6 But just to put you on notice, I don't intend to
7 erase the entire board. We're not going to start over
8 again from scratch. We can't ignore the fact that a
9 lot of procedures have gone through, and a lot of money
10 and time has been spent by a lot of people.

11 What I'm looking for is a solution from here
12 forward. And I can't ignore the fact that the
13 United States has spent thousands of hours and I don't
14 know how much money of the taxpayers money to protect
15 their claims. We just can't ignore that and start from
16 zero.

17 So if anybody comes in and files a late claim
18 that they didn't file before, that's going to be a very
19 heavy burden. Now, amending your claims, that may be a
20 different story. I mean that's a different burden
21 altogether, and that will be entertained more
22 seriously. But a late claim altogether where you're
23 just coming out of the blue, that one is going to be
24 treated very harshly and looked at very closely.

25 MR. SEMANKO: I think we understand that,

Page 65

1 that Scott Bedke got in response to numerous
2 inquiries. The others did not get that letter. They
3 didn't get an explanation. It wasn't in the director's
4 report explaining, oh, by the way, we've bifurcated
5 this; and that means that theirs got reported and yours
6 didn't.

7 If they would have known that, if they had known
8 that for a second that the United States claims had
9 been reported, they would have objected. Why are they
10 here? Why are they spending money? They would have
11 objected in a second. They didn't know it.

12 And the United States can argue to the nth degree
13 that they should have known and all these things. But
14 they simply didn't know, and they couldn't reasonably
15 have known. They know, and that's why they're here
16 today.

17 And what I'm saying is they'll continue to come.
18 And if we can address each late objection without
19 getting a one-inch response that I didn't even get a
20 copy of, by the way, then that's great. But if we have
21 to go through this, all I'm suggesting is that it may
22 be a cleaner and easier process to simply remand the
23 whole thing back, recognizing we made a mistake, a huge
24 due process question, and have it remanded. But either
25 one at the end of the day works for the people that are

Page 64

1 Your Honor; and we --

2 THE COURT: But now what I don't want to do
3 is get into this business about is it a recommittal, is
4 it a remand, is it a stay. You know, maybe the
5 solution I'll come up with -- I don't know what I'll
6 call it; but what I have in mind is some way to handle
7 these together so everyone is treated fairly. But I'm
8 not going to waste a lot of time and money on this
9 either.

10 MR. SEMANKO: I appreciate that, Your Honor.
11 And our intent today was simply to let you know that
12 there are other procedural concerns out there than
13 merely the fact that the words good cause weren't
14 written on a letter to the court. There are a lot of
15 other procedural concerns; and we just wanted to bring
16 those to the court's attention. And we trust you to
17 resolve it the correct way.

18 Thank you.

19 THE COURT: I appreciate it. Thank you.
20 Mr. Bramer, did you want to respond to this?

21 MR. BRAMER: Just a couple brief comments,
22 Your Honor.

23 THE COURT: And then we'll move on to the
24 next motion. We'll take a short break here after
25 Mr. Bramer's comments. And then we'll talk about the

Page 66

1 motion to file late objection, if we need to address
2 that separately.

3 MR. BRAMER: Thank you, Your Honor. First
4 of all, I just want to make clear to this court
5 Mr. Semanko seems to suggest the Forest Service is
6 receiving water rights or making claims; there's no
7 water there. Yet in the same breath he's telling us
8 his clients want to come in and file claims on those
9 same sources.

10 I can assure this court we have field
11 verification for each of these sources. We take it
12 quite seriously, every claim we've filed in this court,
13 and are willing to stand by those.

14 Secondly, Your Honor, Mr. Semanko has been in
15 this court for six years as has the firm of Rosholt,
16 Robertson and Tucker. And no one has come before this
17 court before today and challenged on due process
18 grounds and notice provisions of this statute.

19 First and second round notice had been argued in
20 the beginning of this case. It is the procedure
21 adopted by the court. It is a procedure followed for
22 six years. It is a procedure followed through several
23 thousand notices to people.

24 Yet today we are to disregard that on due process
25 grounds because, simply because they got a piece of

Page 67

1 paper, they didn't understand they had to file an
2 objection even though that piece of paper said that.
3 Your Honor, I would suggest this challenge should have
4 been before this court a long time ago if those
5 provisions are insufficient.

6 Finally, Your Honor, to address your question how
7 should we proceed. Stay the competing claims; allow
8 the claimants who made the claims in 1989 that are
9 overlapping with the Forest Service in basin 45 to
10 fight the competing claim battle when the director's
11 report comes out.

12 On those non-overlapping claims, set a scheduling
13 conference. Let's get a scheduling order. Let's get a
14 discovery schedule. Let's get a briefing schedule, a
15 motion schedule; and let's move this along.

16 At this point in time I don't see that any of the
17 things I am doing to help people try to get their day
18 in court are doing anything but backfiring. And with
19 all due respect, Your Honor, I think that's the best
20 way to go.

21 Thank you.

22 THE COURT: Well, Mr. Bramer, when you say
23 the non-overlapping ones, go ahead and set schedules
24 and move forward with them, you would define those
25 non-overlapping as Miss Brown has identified?

Page 68

1 BRAMER: I would ask this court to
2 define those as Miss Brown has identified, but that we
3 would like to have approximately 30 days to check. And
4 we would like the court to request IDWR to make sure
5 that those are in fact non-overlapping claims.

6 Outside of three days ago, we did not know there
7 were such claims. So we would want to make sure that
8 those in fact are what Miss Brown purports them to be.
9 And no disparaging of Miss Brown, but I think there was
10 a limited amount of time to undertake this exercise.
11 And I think that's something we want to be sure about
12 before we move forward on those claims.

13 THE COURT: Do you think 30 days would be
14 sufficient for you and Mr. Semanko and maybe some of
15 the parties to work to identify non-overlapping ones?

16 Because I think, my guess is -- if there's not
17 overlapping on these claims, my guess is everyone in
18 the courtroom here would agree that we can move forward
19 and get them out of the way. Then we're only talking
20 about the nuts of the case, the real hard ones.

21 MR. BRAMER: Your Honor, I think it's
22 largely -- we, Mr. Semanko and I, can discuss this
23 matter; but I think it's largely in the hands of the
24 department of water resources and how they're
25 interpreting the claims that are before them. And

Page

1 that's why I've suggested it should go back to
2 Miss Brown to have her double-check her calculations.

3 Certainly Mr. Semanko and I can discuss the
4 matter. But I think the bottom line is what the
5 department finds and what the department recommends to
6 this court. And that is what has prima facie evidence
7 in this court, not what Mr. Semanko and I may want to
8 agree to, which this court can appreciate we sometimes
9 differ with the department.

10 THE COURT: Miss Brown, are you still
11 there?

12 MS. BROWN: Yes, Your Honor, I am. I have
13 to say I'm a little confused.

14 I'm holding in my hand a memo that I sent
15 Jamie Gough April 16th, 1999. Actually it's a memo to
16 me. I misspoke.

17 She says, "Roxanne, could you please provide
18 copies of the claims which were filed by the following
19 individuals in basin 45 but were not reported out. The
20 claims could be filed under any of the following
21 names. We don't know for sure," et cetera. She
22 provided the name of Scott Bedke; Bruce Bedke; Bedke
23 Family Limited, Partnership; Bud Bedke; Ray Bedke; Wil
24 Cup; Eric Bedke; Mark Poulton; Gary Poulton; Winslow
25 Whiteley; Wild Rose; Goose Creek; and Shoulder 3

Page

1 Ranches.

2 In response to this request from the
3 Forest Service, April 16th, 1999, and within a day or
4 two of this request, I not only provided what they had
5 asked for, but I also provided a copy of the
6 attachment 1 that you see attached to the report
7 entitled partial summary of claims in basin 45, U.S.
8 Forest Service and private parties.

9 THE COURT: So, Miss Brown, you think that
10 further, your further investigation wouldn't change
11 your investigation at this time.

12 MS. BROWN: No, sir. I did this
13 investigation nearly three months ago. And I took a
14 considerable time to get it as accurate as possible.

15 THE COURT: Anything further, Miss Brown?

16 MS. BROWN: No, Your Honor, not at this
17 time.

18 THE COURT: Mr. Tuthill, do you have
19 anything to add before you run away and do your other
20 duties?

21 MR. TUTHILL: No, Your Honor. Thanks for the
22 chance for input.

23 THE COURT: I appreciate your taking time
24 to meet with us.

25 And, Miss Brown, we thank you, too.

Page 71

1 MR. SPENCER: Your Honor, this is
2 Nick Spencer. I do have a point of clarification.

3 THE COURT: Go ahead.

4 MR. SPENCER: I understand that you are now
5 planning on taking the motion under advisement. I
6 walked into court this afternoon fat, dumb and happy
7 thinking that we were all on the same page as to how we
8 were going to proceed. And apparently now we are not
9 necessarily all in agreement as to how we are going to
10 resolve this situation.

11 And so if you are taking under advisement the
12 motion that was before you and that you will be
13 considering a number of different options, I am
14 concerned that it be clear that to my understanding the
15 option of ordering the department to recommend these
16 rights out of order is not an option that the parties
17 are any longer considering. If in fact that is an
18 option still on the table, which option you are going
19 to consider, I would ask you to take note that the
20 motion requested a hearing for the purpose of
21 determining whether or not the department would be
22 ordered to prepare a special director's report outside
23 of the normal order.

24 And I would request that if that is an option
25 being considered that it be kept in mind that all that

Page 72

1 has been asked for at point is a hearing. That is
2 very important because if you do determine to hold a
3 hearing to decide whether or not to enter an order
4 directing the department to prepare this report, then
5 on behalf of the department I will be filing a notice
6 of special appearance to come in and to actively oppose
7 any efforts to get such an order entered because it
8 does have, from the department's point of view, very,
9 very grave separation-of-powers concerns which
10 ultimately, I believe, will only be resolved by the
11 Idaho Supreme Court.

12 So I simply want to make it clear at this point
13 that the department is not anticipating that you would
14 at this juncture enter an order directing the
15 department to recommend these water rights out of
16 order.

17 THE COURT: Well, I appreciate your
18 comments; but, Mr. Spencer, what I didn't have in
19 mind — I can't speak for the parties. But as I heard
20 them, I don't think anybody was pushing that point of
21 having you report them out of sequence early. I think
22 that was, if not a conceded point, at least one that
23 they agreed in principle would cause more problems than
24 it would solve; and it wouldn't get us from here to
25 there.

Page 73

1 MR. SPENCER: That was my understanding, too,
2 Your Honor. I simply wanted to get that clarified on
3 the record.

4 THE COURT: Yes. I don't intend to order
5 IDWR to report these out early. I know the problems
6 you have down there. And without conceding any one of
7 your arguments in particular, I guess I'll just say
8 that I don't see where that's going to help the parties
9 or the court.

10 MR. SPENCER: All right. Thank you very
11 much, Your Honor.

12 THE COURT: Anything further, Mr. Spencer?

13 MR. SPENCER: No, I have nothing further,
14 Your Honor.

15 THE COURT: Mr. Bramer, anything further?

16 MR. BRAMER: Your Honor, I have nothing
17 further. Thank you.

18 THE COURT: Mr. Semanko?

19 MR. SEMANKO: No. I agree with your
20 assessment. We're not asking for the department to be
21 ordered to issue these out of order. All I did was
22 suggest another alternative that was agreeable to the
23 parties. I didn't mean to bring us to square one. I
24 don't think either of us has argued for that.

25 THE COURT: Now, Mr. Michael Poulton,

Page 74

1 anything further, sir?
 2 M. POULTON: Can I clarify, Your Honor? Do
 3 you mean on this motion or on their --
 4 THE COURT: On this motion here.
 5 M. POULTON: No.
 6 THE COURT: Nothing further. Let's see.
 7 Gary Russell Poulton?
 8 G. POULTON: No.
 9 THE COURT: Nothing from Mr. Gary Russell
 10 Poulton.
 11 Jared Bedke, anything further?
 12 JARED BEDKE: Nothing further, Your Honor.
 13 THE COURT: And, Bruce Bedke, anything
 14 further?
 15 BRUCE BEDKE: Not on this particular motion,
 16 no.
 17 THE COURT: Okay. We'll take a five-minute
 18 break now and come back on the motion to file late
 19 objection. Thank you, counsel.
 20 (RECESS)
 21 THE COURT: Counsel, ladies and gentlemen,
 22 we're now back on the record.
 23 Mr. Spencer, are you still with us?
 24 MR. SPENCER: Yes, Your Honor. As a
 25 nonparty, the department takes no position on these

Page 75

1 motions; however, we would like to continue just for
 2 purposes of monitoring.
 3 And I might also mention that in addition to
 4 Miss Brown and myself, Mr. Fred Price of the Bureau of
 5 Land Management who has been here for a while on other
 6 business has just joined us and also would simply like
 7 to listen in to the proceedings.
 8 THE COURT: Well, good. Welcome,
 9 Mr. Price.
 10 MR. PRICE: Thank you, Your Honor.
 11 THE COURT: What are you doing down at the
 12 lion's den?
 13 MR. PRICE: Working on your deadlines.
 14 THE COURT: Good. Glad to hear you're
 15 getting work done.
 16 Well, counsel, we took the adjournment after we
 17 considered the earlier -- and I think we called it a
 18 joint motion for a meeting. But at this time we're
 19 going to be hearing the -- let's see. These are
 20 motions to file late objections. And they've been
 21 filed by Bruce and Jared Bedke and by Michael and
 22 Gary Poulton.
 23 And I kind of packaged the two of them together,
 24 the Bedkes and the Poultons motions, but I'm not sure
 25 if they're going to be argued as four separate motions

Page 76

1 or whether we're going to argue them as the Bedke
 2 motion and the Poulton motion. I don't know what your
 3 preference is.
 4 Mr. Bruce and Jared Bedke, do you have any
 5 preference?
 6 BRUCE BEDKE: Yes. I'm going to defer most
 7 of this -- I've got a couple of things here I want to
 8 bring up; and then I'm going to defer most of it to
 9 Jared. And we'd like to -- I'll let him go first.
 10 Are we ready?
 11 THE COURT: Okay. Good. Well, hold on a
 12 second now. Let's see.
 13 Michael and Gary Poulton, how will you be
 14 presenting your motions? Separately?
 15 M. POULTON: Probably I'll probably be doing
 16 most of the speaking.
 17 THE COURT: Okay. Now, let's see.
 18 Mr. Brown, you're going to be speaking for the
 19 United States?
 20 MR. BROWN: Partially, Your Honor. I'll
 21 defer to Mr. Bramer on some of the things that he wants
 22 to address.
 23 THE COURT: Okay. Good. Well, let's see.
 24 Mr. Bedke, since it's your motion, I'd appreciate
 25 it if you could -- it would be helpful if you took the

Page

1 podium just so we can hear you. We don't want to miss
 2 anything you have to say. And basically -- oh, and if
 3 you'd state your full name and then begin your
 4 argument. But for the record if you could tell us
 5 exactly why you want the court to grant the motions,
 6 that's what we're talking about here today.
 7 BRUCE BEDKE: Okay, Your Honor. I'm going to
 8 defer that part of it to my son Jared.
 9 There was just two things that came up in our
 10 previous meeting here that I wanted to set straight.
 11 It seems a little bit, maybe trite at this point; but
 12 it does concern me.
 13 Whoever talked over the telecom was referring to
 14 the Forest Service rights. But they referred to
 15 Scott Bedke's claim. I'd like to correct that. I
 16 don't think they have any more rights than Scott does
 17 at this point.
 18 And also it came up as a source -- some of these
 19 water sources were bantered back and forth and
 20 considered. It was not our intent to overlook any of
 21 these sources. And we've kind of reviewed that a
 22 little bit. But I didn't make that statement at the
 23 time; but I'd like to let you know that our intent was
 24 to cover all of these resources.
 25 THE COURT: Well, Mr. Bedke, that's an

Page

1 interesting point when you say the difference between a right
2 and a claim. And that always has kind of rankled me,
3 too. Because if somebody files a claim to a water
4 right, some people call it a water right even though
5 it's only a claim until it's adjudicated by the court.
6 So that's an important distinction. You're right.
7 Technically all of these are claims until the court
8 decrees them. Good point.

9 BRUCE BEDKE: That's been my understanding.
10 Maybe while I'm here I'll go ahead with my, whatever I
11 have here.

12 I'm always at the discretion of a definition.
13 When they talk about de minimis and non-de minimis,
14 you've referred to it as max de minimis, these are
15 claims that kind of go over the top of my head.

16 We're claiming waters on streams from an upper
17 reach to a lower reach. And sometimes it was my
18 intent -- and, of course, I didn't bring my tabulations
19 with me; but I think that if it got into one of these
20 other nomenclatures, whatever I intended to do was to
21 file on these reaches of these streams.

22 The IDWR, when they tabulated it, called it
23 either de minimis or non-de minimis, whichever was to
24 my disadvantage, it seemed like. And so I want to make
25 that distinction as well. I didn't, I don't know the

Page 79

1 the time, which we have been in 1989. Right here I
2 have the instructions for filing a notice of a claim to
3 a water right acquired under state law in the general
4 adjudication of rights to the use of water from the
5 Snake River Basin Water System. These are revised in
6 May of 1988.

7 If you go inside, you'll see a little table here
8 that tells you how to file. And this is how we went
9 over to the IDWR and we filed on these. What it says
10 is for 901 to a thousand head of cattle, horses or
11 mules, you would file on .23 cfs.

12 We are running 2,000 head out there in common.
13 So we filed on .5 cfs. That is why it did not make the
14 de minimis claim. This was the old format as I just
15 said.

16 We filed under the original format, and they
17 didn't -- they weren't considered with the de minimis
18 when the bifurcation went through. That is why the
19 discrepancy as to are they all de minimis, or are some
20 of them, you know, in a large reach. And like dad
21 says, when we went down there we were told to file on
22 the entire drainage system. We were told to file on
23 the head waters of the creek, all tributaries of the
24 creek, and the bottom of the creek itself in one
25 filing. Because otherwise you were going to look at a

Page 81

1 difference between the two as such other than that the
2 water that I filed on was water that I have been
3 using.

4 -- I would -- let's see. Some of these claims, I
5 guess, that fall into these overlapping categories seem
6 to fall right on section lines or quarter section
7 lines. When I filed on this water, the IDWR advised me
8 to file on every 20 -- on the subdivision of every
9 20 acres. Now, later on I understand their advice
10 changed to 40 acres. So there can be some
11 discrepancies there as to the subdivisions, or the
12 legal subdivisions of these little springs or water
13 seeps that come up.

14 So I'm going to defer, then, to Jared if he's got
15 anything.

16 Thank you.

17 THE COURT: Well, thank you, Mr. Bedke.

18 JARED BEDKE: Jared Bedke. We were informed
19 in 1987 that all water rights in the Snake River Basin
20 had to be filed on for the new adjudication due to the
21 court case to determine that. And we did so on
22 May 24th, 1989. I'll state right now that I intend to
23 be the successor in interest of Bruce Bedke, so that is
24 why I'm taking this position at this time.

25 We filed according to the directions set forth at

Page 80

1 tremendous number of filings. We followed the
2 instructions at the time, as I said.

3 THE COURT: Mr. Bedke, did the instructions
4 make any distinction between de minimis and
5 non-de minimis?

6 JARED BEDKE: No, Your Honor. They just say
7 for this many head of stock, you'll file on this much
8 water.

9 THE COURT: Do you remember when you first
10 heard that phrase, de minimis?

11 JARED BEDKE: Yeah. De minimis came -- I
12 heard about it the first time in March of this year.

13 And that was in a discussion with Scott Bedke. He said
14 the IDWR had made that distinction to him, I guess.

15 THE COURT: Go ahead.

16 JARED BEDKE: We went to the IDWR and they
17 assured us that our filings, since they were made in
18 this previous format, would be issued and submitted,
19 you know, recommended with the -- in a subsequent
20 director's report when the irrigation claims for
21 basin 45 are issued. I understand that will be
22 sometime in December of 2000, around that area.

23 The federal government's claims, however, to the
24 same waters were filed under the new format that was
25 changed in '94, I believe, 1994. They switched to a

Page 82

1 different format. They included, and I feel that
2 this does not give me an equal footing with the federal
3 government at this time. Because as I understand it,
4 now -- after March of this year, we were informed
5 that -- if we don't object to the federal government's
6 water rights, their claims will be decreed as a matter
7 of course. In essence, they will be rubber stamped if
8 no objections show up to that.

9 At that time we went over to the IDWR and we
10 talked with Doug Jones. And we said: Give me a
11 printout of all the water claims in these sections.
12 And so we took the section list from there, and we
13 filed this motion to late object on that.

14 The stock water is vital to any cattle
15 operation. Our intent was to file on all the water
16 sources located within our allotment boundaries to
17 secure those rights at our priority date and for our
18 cattle.

19 We were assured last year when we went down with
20 the IDWR that the way it would be handled was the
21 conflicting claims would show up, Your Honor; and that
22 the conflicting claim alone would be enough to get it
23 before the court system; that our objections weren't
24 really necessary at that time.

25 We later found out that in the bifurcation our

Page 83

1 claims didn't make the current director's report. That
2 is why, when we found this out in March of this year,
3 we immediately set out to file late objections. And
4 that's why we filed them on April 22nd, I believe, of
5 1999.

6 One of the government's claims was that they were
7 all de minimis, and that the government filed
8 de minimisly. The United States, as I understand it,
9 waited until after the bifurcation date so they would,
10 of course, file de minimisly because that's the way the
11 new format was.

12 And that's about all I have to say, except that
13 there is -- we do have a method for filing late
14 objections. That's why we're here today. I understand
15 there have been several granted in the past. And there
16 probably will be several granted in the future.

17 Our position basically to object to theirs is
18 that we own the stock out there, Your Honor. Under
19 Idaho law it says that the water rights probably should
20 be decreed to the stockmen or the owner of the stock.
21 At least that's the way I understand the law at the
22 time. Like I say, once again, they're our cattle.
23 It's our allotment.

24 And they are fully in conflict as far as I know.
25 If you grant them the water right under the basis of

Page 84

1 our case, then I don't see how you can grant them to
2 us under the basis of our cattle. So as I see it,
3 they're very conflicting at that time.

4 And that's one more -- I'd just like to reiterate
5 that last year we were assured that our conflicting
6 claims would be enough to get us here, and that we
7 didn't have to object. But this spring I found out
8 that we had to object. And so that's why we made the
9 motions at that time. And I would also like to state
10 that I'm objecting to all the motions, all 196 subcases
11 here -- or water filings, I guess I should say, that
12 you sent out with the district court to us at the
13 notice.

14 Any questions, Your Honor?

15 THE COURT: Well, all of the 196 in the
16 list you just held up, those are all claimed by the
17 United States?

18 JARED BEDKE: Yes, sir.

19 THE COURT: And you're --

20 JARED BEDKE: They are on our allotments.

21 THE COURT: They're on your allotments.

22 JARED BEDKE: Correct.

23 THE COURT: But, let's see, and none of
24 them are off of the allotments, are they?

25 JARED BEDKE: Not that I'm aware of, no.

Page 85

1 THE COURT: And the basis of your objection
2 is the fact that you claimed that you own the water
3 right as opposed to the United States rather than
4 claiming that the United States just cannot have a
5 water right in the State of Idaho.

6 JARED BEDKE: Correct.

7 THE COURT: Some people have said that.

8 JARED BEDKE: No, sir. Under --

9 THE COURT: That I don't claim the water,
10 but I just don't want the United States to own the
11 water.

12 JARED BEDKE: Correct. Under the D permits,
13 they can file and obtain a license for water for the
14 stockwatering as I understand through reading state
15 law. But their beneficial-use claims are in dispute
16 because we're the one that are putting them to
17 beneficial use. So we feel like the water should be
18 decreed in our name and not theirs.

19 THE COURT: But you're claiming it because
20 you put that 196 claims to beneficial use.

21 JARED BEDKE: Correct.

22 THE COURT: Okay.

23 JARED BEDKE: And those will be reported out
24 in December of 2000 as I understand from the IDWR.

25 THE COURT: Off the record here. Away from

Page 86

1 this just for a minute, still on the record.

2 Mr. Spencer, is that still going to be reported in
3 December of 2000; or has that changed?

4 MR. SPENCER: Your Honor, I don't believe
5 there have been any recent changes in the schedule; and
6 I don't have a copy of the schedule in front of me.
7 But December, 2000 does sound correct.

8 THE COURT: Okay. Well, anything further,
9 Mr. Bedke? Or Mr. Bedke?

10 JARED BEDKE: Not at this time, Your Honor.

11 THE COURT: Thank you. Shall we go right
12 to the Poultons motion, or do you want to -- does the
13 United States prefer to speak to this motion, or handle
14 them together? How do you prefer?

15 MR. BROWN: Your Honor, the motions are so
16 similar; and my arguments are the same. There's no
17 reason to respond to their arguments as of yet. Let's
18 go on to the Poulton.

19 THE COURT: Okay. Let's see, Mr. Michael
20 Poulton, do you want to speak first, or Gary Poulton?

21 M. POULTON: Okay. I'm Michael Poulton,
22 Gary's son. And he was one of the original claimants
23 in 1989 when we supposedly thought we had filed for the
24 water, for these water rights. And then the, you know,
25 the IDWR, they took us through the process and

Page 87

1 everything else; said that we were, you know, right up
2 in line; and then they come and they changed the rules
3 on us. And then, see, we don't even make the
4 director's report or anything else.

5 And so, like I say, I think if anybody's at fault
6 for us not making the director's report, it's the
7 IDWR. It is my personal opinion on it. We weren't
8 notified. We didn't know.

9 And the Forest Service and BLM, we asked their
10 employees, because they were all out there horseback
11 and flying around, asked them what they were doing, if
12 they were filing for water rights or what they were
13 doing. And they said, they assured us: Oh, no, that's
14 all been taken care of; you know, you guys beat us to
15 the punch and everything else. And come to find out,
16 they filed on them; and we didn't even get a chance to
17 object to them.

18 So I don't say that we're ignorant or anything.
19 I'm just saying I don't think we got even invited to
20 the game by any means by the Forest Service, BLM or the
21 Idaho Department of Water Resources.

22 And that's about all I have to say about that. I
23 mean I can't quote laws and everything else; but I'm
24 just saying we flat got screwed on the deal.

25 THE COURT: Well, Mr. Poulton, Mr. Bedke

Page 88

1 suggested that when the rules were changed on how to
2 file the water right claims the United States filed
3 under de minimis, whereas in the earlier rules you were
4 required to file by stream reaches, I think, or by --
5 it turned out to be larger amounts of water.

6 M. POULTON: Yeah, correct.

7 THE COURT: Are you satisfied that you're
8 really filing for the same water rights? It's just
9 that how they were filed was the problem?

10 M. POULTON: Well, I don't think we -- yeah,
11 yeah. That's what I'm saying, yeah.

12 THE COURT: So, in other words, you weren't
13 playing by the same rules as the United States?

14 M. POULTON: Well, no, I'm not saying it
15 wasn't the same rules. I'm just saying we weren't
16 notified of the rules. They changed the rules from the
17 1989 when we thought we were, you know, we were ahead
18 of them on this, on this water, on claiming this
19 water. And then they changed the rules on us. And we
20 were not notified of that by any means.

21 THE COURT: Are any of the claims that you
22 and your father have filed on, are they the same 196
23 that the Bedkes just spoke of?

24 M. POULTON: Well, they'll be a lot of the
25 same ones. We don't have a full 196; but there's a lot

Page 89

1 of the same ones that they have. Because they have a
2 different -- they have two allotments, and we just have
3 one. So we just have the one, the claims that are on
4 the allotment that we run cattle with them on.

5 THE COURT: But in the Bedke's original
6 motion, they stated they had -- they wanted to file
7 late objections to 163 claims. And I think that's been
8 amended to 196 now.

9 You in your original motion said you wanted to
10 file late objections to 157. And those are the same
11 ones that were filed on by the Bedkes.

12 M. POULTON: Correct.

13 THE COURT: Does your number still stay the
14 same or -- is there a way we can nail these numbers
15 down, which ones they are?

16 M. POULTON: I, not without getting my list
17 out. There's no way -- we'd have to go through it and,
18 you know, see which ones go on which allotment.

19 THE COURT: Okay. Is there any way that
20 you'd be able to do that in a reasonable time -- to
21 identify the specific ones that you want to file late
22 objections to?

23 M. POULTON: Yeah. I could probably do that
24 in a reasonable time. I'm talking like a day, or two
25 or three days, a week. 10 days. 10 days would be a

Page 90

1 lot better. I mean --

2 THE COURT: I know this may sound
3 nitpicking, but when a court enters an order usually
4 you say you enter the order in these following
5 subcases, and you specifically name subcases. You
6 can't just say, well, 157. You have to be pretty
7 specific.

8 I'm not asking that you have to do that now. But
9 I was just hoping you might be able to do that in a
10 reasonable time.

11 JARED BEDKE: I believe this would be the
12 list that he objected to. Excuse me, Your Honor. This
13 is Jared Bedke.

14 I believe I have a copy of the list that Michael
15 and Mike -- or Gary R. Poulton objected to. And it
16 would be for the 163 claims that dad and I objected to
17 originally that was amended to 196.

18 MR. BRAMER: Your Honor? Your Honor, may I
19 make a point of clarification?

20 THE COURT: Go ahead, Mr. Bramer. You can
21 speak at the microphone there, if you like, if you'll
22 just pull it towards you.

23 MR. BRAMER: I'm going to get some numbers
24 out of that table. I'm sorry.

25 I think for the purpose of making sure the

Page 91

1 parties are all operating from the same playing table
2 here, the Exhibit A that was utilized at the April 7th
3 hearing that I believe the Poultons and the Bedkes
4 attached to their motions for late objection was the
5 same Exhibit A that was attached to this court's order
6 setting that hearing.

7 And if this court recalls, during the course of
8 that hearing we determined that about 97 of those case
9 numbers were State of Idaho objections to BLM. Those
10 were separate and distinct from the objections
11 Mr. Bedke had filed, of which there were 48 to
12 Forest Service and 12 to BLM. The State of Idaho in
13 basin 45 filed an objection to every BLM water right.

14 I don't believe that it is the intent of these
15 claimants to object to every BLM water right in
16 basin 45. Rather, I believe it is their intent to
17 object to those water rights that overlap with the
18 allotments where they have their cattle.

19 So the list that we're talking about, the 196,
20 the 157, are numbers that I think we need to reevaluate
21 if their intent is to claim water on the allotments
22 where they're using cattle.

23 THE COURT: So the other ones, you said the
24 State ones, so those are actually on state land.

25 MR. BRAMER: No. It was the State of Idaho

Page 92

1 came. That hearing, and for some reason the court
2 joined the State of Idaho's objections in basin 45 into
3 the same proceedings as Mr. Bedke's objections to the
4 Forest Service and the BLM. At the end, during that
5 hearing one of the first things that came out is 97 of
6 the claim numbers on attachment A to the court's
7 number -- or court order represented objections by the
8 State of Idaho to the BLM that were irrelevant to the
9 proceedings involving the Bedkes, the Poultons, the
10 other parties to the proceeding that day.

11 Okay. So those, I don't believe -- and Mr. Bedke
12 and Mr. Poulton can correct me here. I don't believe
13 they're intending to object to water sources off of the
14 allotment where they don't have cattle. If that is
15 their intention, that's the statement on the record;
16 and I want to make sure that people understand that
17 list was taken from the court and is far broader than
18 just the allotment they're using their cattle on.

19 THE COURT: Okay. I appreciate it,
20 Mr. Bramer.

21 Mr. Poulton, do you agree with that -- that we
22 need to work on these lists a little bit better here so
23 we can define which are the claims on your allotments
24 that you use only?

25 And I don't mean to -- that may sound like a

Page 91

1 trick question. I'm not trying to trick you here. I'm
2 just trying to nail these numbers down.
3 M. POULTON: Yeah. Yes. I think we ought
4 to do that, yeah.

5 THE COURT: How long do you think it will
6 take for you to come up with a firm list of the water
7 rights that are on your allotments only. When I say
8 "yours," I mean the allotments that you and your
9 father have with Forest Service or BLM.

10 M. POULTON: I don't know. 10 days?

11 THE COURT: Okay. Do you have anything
12 further, Mr. Poulton?

13 M. POULTON: Not at this time, I don't
14 think.

15 THE COURT: Does your father want to say
16 anything here?

17 G. POULTON: I'm Gary R. Poulton. And I
18 think all of my objections have pretty well been
19 discussed, so I won't take any more time of the
20 court's. Thank you.

21 THE COURT: Mr. Poulton, if you're a
22 lawyer, you wouldn't make much money talking like
23 that. You need to straighten this out a little bit
24 more.

25 G. POULTON: I've been down that road

Page 92

1 before.

2 THE COURT: I appreciate your brevity.

3 Well, let's back up just for a minute to Mr. Bedke.

4 Do you agree that we need to refine your list as
5 well to exclude non-allotment claim numbers?

6 JARED BEDKE: In poring over these,

7 Your Honor -- Jared Bedke again. In poring over these
8 196 numbers, I found that most of them were ones that I
9 did want to object to. I can't say all of them.

10 Because what I did is I compared the master list to the
11 ones that I wanted to object to, rather than the ones I
12 wanted to object to to the master list. I can do that
13 quickly and get back to you on those, I suppose.

14 THE COURT: Well, if you or Mr. Poulton
15 both could do the same thing to refine your lists,
16 because there's no sense either you or the
17 United States or anyone else arguing about these if we
18 don't have to. In other words, if the water right is
19 off of the allotments that you have with the
20 Forest Service or the BLM, there's no sense arguing
21 about it, I don't think.

22 Mr. Bedke.

23 BRUCE BEDKE: Your Honor, this is Bruce Bedke
24 here now. We have entered into a joint grazing
25 agreement with the BLM and the Forest. Now, I don't

Page 95

1 know how I can explain this other than to just get
2 started on it, I guess.

3 I have what's called a private allotment that I
4 have interjected into the grazing system. Now, it's my
5 understanding here that if I don't file on a water
6 right, for example, that's on the Poulton allotment in
7 another area that if somebody objected to my cattle
8 watering at that facility, there is a possibility that
9 I could be denied that water for those cattle when they
10 were in another area. So that was one of the reasons
11 why we filed on all of the water so that I could at
12 least insure myself or secure some semblance of a water
13 right.

14 Now, the State of Idaho in their statutes have
15 assured me that I do have certain in-stream water uses
16 here. And it also states that it's not necessary for
17 me to file a claim. I may do so if I wish to, but it's
18 not necessary. But in order for security to go forward
19 on this, we were advised that we should make these
20 claims.

21 And that's one of the reasons why some of these
22 claims would overlap maybe with Poultons or would
23 overlap with some of the other units, for example.
24 Because we're claiming this water under a joint grazing
25 agreement.

Page 96

1 Now, a lot of my claim here, Jared and my claims
2 here, are indeed in a different allotment; and perhaps
3 we can sort that out at a later date. We can at least
4 define what Poultons and I use as opposed to what I use
5 with someone else, for example.

6 THE COURT: Well, Mr. Bedke, my
7 understanding was that you're filing a late objection
8 to Forest Service-BLM claims because you are claiming
9 that same water right.

10 BRUCE BEDKE: That's right.

11 THE COURT: But now you're saying you may
12 claim water rights beyond your allotments in someone
13 else's allotments?

14 BRUCE BEDKE: No, no, I'm not claiming that
15 at all. But I am claiming BLM rights and Forest rights
16 that were filed in my adjudicated allotments, yes.

17 JARED BEDKE: Just what you said, Your Honor,
18 yes.

19 THE COURT: Okay. Anything further from
20 the Poultons or the Bedkes? Nothing further.

21 Mr. Brown.

22 MARTI BEDKE: May I say something? I am
23 Marti Bedke with the Bruce and Jared Bedke. I think a
24 point of clarification here.

25 Bruce, Jared and I are the only ones here that

Page 97

1 are involved in two different grazing allotments. We
2 are in on the west side of Goose Creek which is BLM and
3 Forest. And that allotment is used in conjunction with
4 each other.

5 We also have BLM filings in basin 45 which is of
6 a BLM allotment that we run with other permittees in.
7 We have filed on all those in-stream water rights.

8 So our filings will extend to many more than what
9 we are here with Gary and Mike Poulton, Scott Bedke and
10 Carl Bedke. Because we also run in the allotment in
11 basin 45 which is only BLM; and the other permittees
12 are Matthews Brothers, R. O. Jones and Donald Bedke. I
13 felt like this was a point of clarification that needed
14 to be said at this time.

15 THE COURT: Well, Miss Bedke, where you
16 share the allotment with others, are your names
17 appearing on the document as an allottees? Permittees,
18 I should say.

19 MARTI BEDKE: We are all individual
20 permittees that run cattle in the grazing allotment.

21 THE COURT: So that the allotment has
22 multiple permittees and you have a right to be there,
23 in other words.

24 MARTI BEDKE: Yes, yes. So we are in two
25 different allotments with two different groups of

Page 98

1 permittees. One, we run with these folks on the west
2 side of Goose Creek. The other allotment is with
3 different folks who are not here today on the east side
4 of Goose Creek.

5 THE COURT: Okay. The reason I was
6 bringing up that --

7 MARTI BEDKE: So does that help you?

8 THE COURT: Yes. What I wanted to make
9 sure was that you weren't claiming water rights on
10 allotments that you don't have a right to be there.

11 MARTI BEDKE: I understood that. That's why
12 I wanted to make the point of clarification.

13 THE COURT: I appreciate it. Thank you.

14 MARTI BEDKE: Okay. Thank you.

15 THE COURT: Now, Mr. Brown, do you want to
16 speak for the United States' position or --

17 MR. BROWN: Just briefly, Your Honor.
18 First of all, I don't find any evidence that
19 Jared Bedke or Michael Poulton are claimants in the
20 SRBA. I was informed by IDWR that they couldn't find
21 any record of them being claimants. And it's my
22 understanding that they need to be claimants in order
23 to file objections.

24 THE COURT: You're saying that was
25 Jared Bedke --

Page 99

1 MR. BROWN: And Michael Poulton.

2 THE COURT: Just those two?

3 MR. BROWN: Yes. I understand that
4 Bruce Bedke and Gary Russell Poulton are claimants in
5 the SRBA. Therefore they can file objections.

6 Second, I think all of the late objections are
7 time barred, Your Honor. I believe that there's a
8 statute of limitation contained in the statute.

9 The statute itself says that any claimant who
10 desires to object to a water right shall file an
11 objection with the district court within the time
12 specified and notice of filing of the director's
13 report. "Shall file" means exactly that. It doesn't
14 say may file. It doesn't say -- it doesn't give any
15 discretion for the court to consider a late filing
16 unless there's a timely motion for enlargement of
17 time.

18 Or a potential objector could show equitable
19 tolling. That means they didn't get notice.

20 But here it's clear that both of the claimants
21 who have filed late objections -- both of the proper
22 claimants who have filed motions to file late
23 objections did get notice that there was a publication
24 of a director's report. And they also knew where to go
25 to look at the director's report.

Page 100

1 So I don't see any equitable tolling of that
2 statute of limitation. So nine months and four days
3 later they come in and file a motion for leave from
4 this court to file a late objection. It's simply not
5 proper. It's time barred. And it should be denied on
6 that basis.

7 Second, I think there's only one way now that a
8 potential objector could file a motion for leave to
9 file a late objection. And that's under IRCP 60(b).

10 I believe Judge Hurlbutt back in 1995 said that
11 this court established IRCP 55(c) and 60(b) as the test
12 in determining whether to allow a party to file late
13 objections or responses who had not done so by
14 August 18th, 1995. And then he goes on to say that
15 IRCP 55(c) and 60(b) does not govern late objections or
16 responses filed after August 18th, 1995.

17 IRCP 55(c) concerns default judgments. Here, the
18 parties have defaulted to nothing. This is an in rem
19 proceeding. It's a recommendation by an administrative
20 organization of the State of Idaho.

21 By filing an objection, what one does is file a
22 petition for judicial review of a decision by an
23 administrative agency. If they don't file that within
24 a certain period of time, it's time barred. So that is
25 the initiation of a case or controversy when someone

Page 101

1 files an objection.

2 There's only one way to get relief from that
3 proceeding, and that is through IRCP 60(b). IRCP 60(b)
4 says you have to file a motion for relief from the
5 proceeding not more than six months after the judgment,
6 order or proceeding was entered or taken.

7 Well, on January 3rd six months expired. On
8 April 7th motions to file late objections were filed.
9 They're untimely, and the motion should be denied. And
10 that requirement is mandatory.

11 And if you'll look at GORDON v. GORDON at
12 118 Idaho 804, you'll see that the Idaho Supreme Court
13 says that that's mandatory. If you don't file your
14 motion in a timely manner, no relief. So on that basis
15 alone, all of the motions to file late objections in
16 this proceeding have to be denied.

17 Third, if this court decides to allow the parties
18 to file a late motion, then it has to be considered
19 under the criteria set forth in rule 60(b). In other
20 words, the movants have to allege facts in their motion
21 that show a meritorious position that goes beyond the
22 mere notice requirements that would have been
23 sufficient if it were pleaded in a timely manner.

24 That's lacking in their objections. It's lacking
25 in their motions.

Page 102

1 Second, they have to provide a sufficient reason
2 for this court to allow a late filing of objections.
3 What are those sufficient reasons? Mistake,
4 inadvertence, surprise, or excusable neglect.
5 They haven't pleaded nor have they proved any of
6 that. Nor can they prove it. We haven't seen any
7 affidavits showing any excusable neglect, inadvertence
8 or anything else. All I've heard today is hearsay; and
9 the court is not allowed to consider hearsay as
10 evidence.

11 Merely seeking relief from the time constraints
12 that are contained in the statutes and rules of civil
13 procedure does not constitute excusable neglect. Nor
14 is discovery of new legal issues, nor is a mistake of
15 law a sufficient ground. So they have no reason for
16 this court to grant them the relief they request. So
17 on that basis, the motion should be denied.

18 Last, Bruce Bedke filed motions to file late
19 objections on three cases that have already gone to
20 partial decree. So if the court considers the motions
21 for all of the other subcases, on a partial decree you
22 have to go to 60(b).

23 And as I previously said, there's no grounds to
24 set aside a partial decree. And that argument is
25 contained in my memorandum in opposition.

Page 103

1 Further, he made objections for four claims where
2 I believe they were BLM, the BLM objections. And there
3 were already Standard Forms 5 filed with this court
4 resolving those objections. At that point the
5 proceeding was at an end.

6 So should the court allow the proceeding to take
7 a back step so someone else can make an objection to a
8 case that's already been resolved? The answer, of
9 course, is no, not unless they bring a proper motion
10 under rule 60(b). It's untimely, and there aren't
11 sufficient grounds to do that.

12 Unless the court has any questions, I don't think
13 I have anything further.

14 THE COURT: Mr. Bramer.

15 MR. BRAMER: Thank you, Your Honor.
16 Your Honor, I just will keep my remarks brief. Most
17 people are wondering if an attorney can undertake such
18 an activity.

19 Your Honor, let's talk about what we have before
20 us and what we don't have before us. We do not have an
21 allegation that the persons filing the late objection
22 did not receive a copy -- or the notice of the
23 director's report that was sent out on March 2nd,
24 1998.

25 We do not have an allegation that they failed to

Page 104

1 read that director's report which is contained as
2 Exhibit 1 to our filing which provides under
3 instruction for taking a water right claim to court,
4 what do I -- and I quote, "What do I do if I disagree
5 with a recommendation or a federal water right claim?
6 If you disagree with any element of the recommendation
7 for your water right or anyone else's water right and
8 want to be heard in court, file an objection with the
9 SRBA court. Your objection must be received by the
10 SRBA court on or before July 3rd, 1998."

11 We do not have anyone suggesting they did not
12 receive this information. We do not have anyone
13 suggesting why they failed to comply with this
14 procedure. We do not in any of the pleadings here have
15 any reason stated why objections were not filed.

16 If you look at Mr. Poulton's motion for late
17 objection, and I quote, and this is the language
18 supporting their motion for a late objection, "We,
19 Michael A. Poulton, Gary R. Poulton, are filing the
20 motion to the SRBA to file late objections in the
21 above-listed subcases." Signed. There is no reason
22 given for their failure to comply with notice which no
23 one is contending they did not receive.

24 Mr. Bedke says our claims aren't reported so
25 we're on an unfair playing field; the federal

Page 105

1 government shouldn't go forward with this; distinguish
2 between filing a claim to a water right and filing an
3 objection to a water right.

4 This notice makes it very clear. If you don't
5 agree with someone else receiving a water right, you
6 are supposed to object. Yet we have no reasons given
7 for that failure to comply. Combine that with the fact
8 that one of these claimants, Mr. Bedke, undertook
9 diligently to figure out why his claims weren't
10 reporting; and when he determined they weren't
11 reported, he in fact filed an objection on July 17th,
12 1998.

13 THE COURT: Was that Jared Bedke?

14 MR. BRAMER: That was Scott Bedke. He knew
15 his claims weren't going to be reported out. He filed
16 an objection. He filed a motion for a late objection
17 which was granted. Even then no one else took any
18 steps to file objections.

19 Your Honor may realize the United States in six
20 years of this litigation has opposed few, if any,
21 motions for late claims or objections. The problem we
22 have here, Your Honor, is a total lack of any factual
23 foundation that would give this court the grounds to
24 grant these objections. It simply isn't there.

25 If you were to grant these objections,

Page 106

1 essentially what you're saying is just come in and file
 2 them; we don't have to give you any information. And
 3 we have serious concerns that should this court do that
 4 we're going to be in a situation where we're going to
 5 see lots of people sitting back and waiting and
 6 saying: I'll jump in if and when the time is
 7 appropriate, if and when people get money for a lawyer,
 8 if and when we get organized to fight these battles.
 9 Not -- no, I think Jared Bedke said he was not
 10 notified of the rules being changed. The rules he's
 11 referring to is how you claim a de minimis stock water
 12 right. Whether it's a 40-acre parcel or a 20-acre
 13 parcel, it does not change. The rules on filing an
 14 objection has never changed. They have been the same.
 15 They have been in these notice of director's reports
 16 that go out to everybody. Again, there's no allegation
 17 of not knowing that.
 18 I think it's important, Your Honor, that people,
 19 if they miss court deadlines, need to come into the
 20 court and explain why they failed to comply with those
 21 court deadlines, and in this particular case why they
 22 failed to file objections. Again, as Mr. Brown has
 23 emphasized, excusable neglect, failure to get notice,
 24 we didn't receive the director's report notice, I
 25 didn't know that because I didn't see that language

Page 107

1 because I never got that notice.
 2 We're not hearing any of that. We simply have
 3 nothing to base these claims of a late objection on.
 4 That's what the record shows, Your Honor.
 5 We have real concerns that this court needs to
 6 have standards to allow people to understand when and
 7 how they file these. As Mr. Semanko has agreed
 8 earlier, he doesn't intend to file late claims without
 9 a basis for showing them, without good cause.
 10 We have none of that here. We simply have
 11 nothing in the record, so to speak, to support these
 12 objections.
 13 Your Honor, I have nothing further.
 14 THE COURT: Mr. Bramer, you said the rules
 15 for filing claims have changed?
 16 MR. BRAMER: No, the rules -- IDWR's
 17 interpretation of how you filed claims seemed to have
 18 varied between 1987 and 1993 and up until 1996 actually
 19 where there were differences in how they wanted people
 20 to report claims.
 21 I think part of the problem with these claimants
 22 is they thought they could put all their claims on one
 23 claim form and that would be sufficient. The
 24 Forest Service in fact, when we filed in 1993, would
 25 have loved to have put all of those claims on one claim

Page 108

1 form. It would have been immensely easier. The
 2 department told us that was unacceptable. I'm assuming
 3 their confusion relates to that particular issue.
 4 But that does not go to objections. Objections
 5 are separate and distinct from claims. That is why
 6 there is a separate statement in here, why there are
 7 separate instructions, why there is in fact a separate
 8 procedure.
 9 THE COURT: So the rules for filing an
 10 objection have not changed.
 11 MR. BRAMER: To my knowledge, Your Honor,
 12 they have been the same since the adjudication
 13 commenced.
 14 THE COURT: Okay. Anything further?
 15 MR. BRAMER: Nothing further, Your Honor.
 16 THE COURT: Okay. Mr. -- oh, Mr. Semanko,
 17 you had something to say here?
 18 MR. SEMANKO: I'd like to --
 19 THE COURT: As a party?
 20 MR. SEMANKO: I'd like to respond on behalf
 21 of Scott Bedke who is a party to these subcases.
 22 Scott Bedke did not receive a copy of the
 23 memorandum in opposition and therefore had no
 24 opportunity to file a memorandum in reply to the
 25 opposition, which the rules clearly contemplate under

Page 110

1 rule 6(f). I don't know that this opposition was even
 2 timely filed as a matter of fact. And if it wasn't, I
 3 certainly would move to have it stricken.
 4 But in responding to it, which Scott certainly
 5 would have if he had time to respond to it in a proper
 6 manner, 42-1412(1) is not jurisdictional, that is, for
 7 filing objections. Administrative Order 1 clearly
 8 contemplates that late objections can be filed. I
 9 believe it's rule 14 -- I'm sorry, rule 12 deals with
 10 late objections. Let me make sure I've got the right
 11 rule, Your Honor. Too many letters and not enough
 12 numbers.
 13 It's rule 10, procedure for water rights where an
 14 objection has been filed. And if you flip to page 17,
 15 (j), when a motion to file late objection is filed to a
 16 previously unobjected to recommendation or abstract.
 17 So it clearly contemplates in AO1 that there's a
 18 process to deal with late objections. The argument
 19 that you can't even file a late objection simply can't
 20 be given much credence.
 21 THE COURT: What page were you quoting
 22 from, Mr. Semanko? From AO1, rule 10, page --
 23 MR. SEMANKO: Page 17, rule 10(j), I believe,
 24 amended 10-16-97, Administrative Order 1, which I
 25 believe was the last amendment.

Page 111

1 THE COURT: Okay. Thank you.

2 MR. SEMANKO: That's just on the first

3 point.

4 The second point, I have not heard before reading

5 this response, this opposition that you had to file

6 your motion to file late objection within six months of

7 the closing period for filing objections to a

8 director's report. In other words, a director's report

9 is akin to a partial decree; and therefore your relief

10 is under rule 60(b), strictly the six-month period

11 applies; and you can't file any late objections even if

12 it hasn't been decreed yet because six months have run

13 since the end of the objection period. That's, that's

14 what I take this argument to be.

15 This is not the Administrative Procedures Act.

16 This is the adjudication. And the statutes are

17 different. We have an APA in title 67; and the

18 adjudication is not included in that.

19 This is not a case where we had an opportunity to

20 have a hearing in front of the department and present

21 evidence, and that is on judicial review to the court.

22 That is not the proceeding that we're in. So to say

23 that this is a judicial review of an administrative

24 decision, I think, is not accurate. This is not an

25 Administrative Procedures Act appeal on judicial review

Page 111

1 under title 67 of Idaho Code.

2 THE COURT: Are you suggesting that

3 rule 60(a) applies?

4 MR. SEMANKO: No, Your Honor.

5 THE COURT: As opposed to rule 60(b)? Or

6 what does apply here?

7 MR. SEMANKO: Your Honor, the standard that

8 applies is good cause. And until the time that there's

9 a partial decree issued -- and there are other

10 equitable and legal deadlines, I think. You can't

11 file, I don't think, a late objection after a trial has

12 occurred. That's something that you can't do. You

13 can't even move to intervene after a trial has already

14 occurred. So there are some limitations.

15 But certainly where the case has not been decreed

16 yet, there's been no trial held, these people have

17 filed their objections in as timely a manner as they

18 possibly could. To say that these folks have laid back

19 and said, well, I don't know if I need to object to the

20 United States or not, I'll wait until I get an

21 attorney, or -- they didn't know. They did not know.

22 And I don't know which courtroom Mr. Bramer was

23 in today. I heard lots of reasons from these folks as

24 to why they didn't object. They didn't know that the

25 United States had -- not only that they had filed,

Page 112

1 maybe they knew that they didn't know they had

2 been recommended by the department. Because their

3 claims for the same water were not recommended.

4 How in the world did they know, should they have

5 known that the United States' claims had been

6 recommended? It doesn't say that in the notice. And

7 I'm not challenging the adequacy of the notice. What

8 I'm saying is there are going to be occurrences,

9 because of the bifurcation, where the notice is not

10 adequate. And this is one of those cases.

11 My water right is not in there. Another water

12 right just like mine for the same source shouldn't be

13 in there either. And if it is in there, nobody told me

14 it was. When they did tell me, when I did find out, I

15 filed an objection in a timely manner. So that's what

16 these folks have done.

17 To say that they're not entitled to relief under

18 the rules if you do apply the good-cause standard, the

19 United States may not like the meritorious defense

20 that's been alleged in the objections that are attached

21 to the motions. But there certainly are statutes,

22 there are theories that have realization in the law

23 that are recognized by this court. And to say that

24 those aren't meritorious defenses simply because

25 they're in shorthand and refer to statutes -- no

Page 113

1 beneficial use, disallowal of a claim by the

2 department. I don't ever see anything more than no

3 beneficial use found, no lawful appropriation found.

4 Why isn't that a sufficient meritorious defense for a

5 claimant or an objector to allege in an objection?

6 No beneficial use by the United States. I made

7 the beneficial use. That certainly should be a

8 meritorious defense.

9 The issue about whether or not they've got good

10 cause under rule 60(b) also involves an inquiry into

11 whether there was a mistake, inadvertence, surprise,

12 excusable neglect, there's some other ones in the

13 statute that the response by the United States fails to

14 mention like newly discovered evidence,

15 misrepresentation or other misconduct of an adverse

16 party.

17 And I'm not saying that what the department has

18 done with bifurcation arises to the level of

19 misrepresentation; but these folks certainly were going

20 down the wrong track -- these objectors, I mean -- in

21 thinking that these would all be considered together,

22 they'd all be recommended together, they'd all be

23 resolved together; and then they find out later that

24 that's not this case; that the United States' claims

25 have gone off on their own track; and these claims are

Page 114

1 to be reported later. It is simply not equitable; it's
 2 not fair to not let these folks come in.
 3 You know, it was sad enough when I got here today
 4 knowing that the United States had filed claims wanting
 5 the water that should be decreed to the private
 6 claimants; but that's a debatable proposition that the
 7 court needs to resolve, whether the water right should
 8 be decreed to the United States or to the private
 9 claimant in a truly contested claim. But what I did
 10 not know fully until a little while ago was that the
 11 United States, the full brunt of the United States in a
 12 one-inch brief would be offered up in opposition to the
 13 private claimants even having the opportunity to make
 14 the argument to the court that these rights should not
 15 be decreed to the United States. They should be
 16 decreed instead to the private claimants.
 17 And it is, to me, it's a sad thing that they're
 18 here arguing with such clamor and such vigor that these
 19 folks shouldn't be able to get in. They have filed the
 20 motions. They have stated the reasons why to this
 21 court; and they certainly, in our estimation, should be
 22 allowed to be brought in.
 23 One more thing I'd like to mention. There's
 24 reference in this brief to the SMITH SPRINGS decision
 25 where certain irrigation districts and canal companies

Page 115

1 were not allowed to file late objections -- or I should
 2 say late responses. That was with regard to one of the
 3 test basins. There was a statutory window that was
 4 opened up which Judge Hurlbutt said governed whether
 5 you could come in late or not.
 6 We missed that. I was the attorney in that. We
 7 missed that deadline. The court said we couldn't get
 8 in, and that rule 55(c) and 60(b) don't apply to late
 9 objections. He was referring to, and I'm sure
 10 Your Honor was referring to because he wrote the
 11 initial decision, to those test basins and to that
 12 statutory window that was opened in those cases.
 13 To say that no late objections or responses can
 14 be filed in the adjudication regardless of whether good
 15 cause can be demonstrated, I don't think that's how far
 16 the court was trying to reach in that SMITH SPRINGS
 17 decision. So that's certainly buried in this brief;
 18 and I wanted to at least put it in the right context --
 19 that it was in a test basin, and it was after the
 20 statutory window was opened up to allow people to file
 21 late objections and responses. And people that didn't
 22 take advantage of that, the court said we're not going
 23 to let you in. This has been going on too long in the
 24 test basins.
 25 I appreciate your indulgence in letting me

Page 116

1 response for my client.
 2 THE COURT: I thought you were going to say
 3 you agree with my reasoning in SMITH SPRINGS.
 4 MR. SEMANKO: Well, I'll let you know after
 5 the Supreme Court decides.
 6 THE COURT: Well, Mr. Semanko, one
 7 question. Did you say that your client at least, and
 8 probably the other objectors, didn't know the U.S.'s
 9 water right claims had been recommended?
 10 MR. SEMANKO: I thought that's what these
 11 folks had said today, is that they didn't know at the
 12 time of the director's report was filed, at the time
 13 the director's report was filed they didn't know that
 14 they had been recommended, not that they hadn't been
 15 claimed. If I said that, I misspoke. They knew they
 16 had been claimed. They didn't know they had been
 17 recommended.
 18 THE COURT: Are you saying you didn't know
 19 that the claims as recommended were the same as your
 20 client's claims?
 21 MR. SEMANKO: That's not what I'm saying,
 22 Your Honor. I'm talking about excusable neglect, about
 23 inadvertence.
 24 They get the notice in the mail. It says this
 25 basin has been filed. And they say: Well, I got my

Page 11

1 domestic for my house, my ranch; where is the rest of
 2 the claims I filed. They go down to the department and
 3 the department tells them don't worry about it; yours
 4 are going to be reported later.
 5 They don't have any idea what happened with the
 6 United States claims. They assumed, because they're
 7 the same water rights that are being claimed -- as
 8 Mr. Bramer says, it's the same water; two different
 9 people are filing on it -- that they were all going to
 10 be reported at the same time. Then they find out later
 11 that it was only theirs that got left behind on the
 12 same water. The United States' ones went forward. And
 13 whether anybody wants to believe that or not, that's
 14 why these people are here late -- because they found
 15 out about it late.
 16 THE COURT: Well, because your client's
 17 water right claims weren't reported, they had
 18 reasonable belief that the U.S. claims had not been
 19 reported; and therefore they're excused from filing an
 20 objection?
 21 MR. SEMANKO: They were led to believe that
 22 all of these were going to be considered together.
 23 Logic follows that if theirs are reported, the United
 24 States' will be reported, too. If theirs aren't
 25 reported, the United States' weren't reported either.

Page 118

1 They worried about -- they looked at -- ever
 2 they received the notice for -- they didn't receive the
 3 notice because they filed claims that the federal
 4 government also filed. They received the notice
 5 because of something that had nothing to do with the
 6 federal claims. It was perhaps a domestic on their
 7 farm or something, or on their ranch.
 8 So when they don't get notice that their rights
 9 have been reported, why in the world would they think
 10 the United States', for the same water, had been
 11 reported? Why is it reasonable to expect someone to
 12 think that's true?

13 And it's certainly excusable for them to think
 14 that if theirs hadn't been reported the United States'
 15 hadn't been reported either. So to say that there's no
 16 argument of any of the standards in rule 60(b) being
 17 met, I think, is saying a little much. There certainly
 18 is reason to find some good cause under rule 60(b).

19 The other thing, I'm sorry, I wanted to clarify
 20 and perhaps they want to respond, but I think the two
 21 that hadn't been claimants are claimants in the
 22 adjudication. And they'll probably want to address
 23 that.

24 THE COURT: Well, thank you, Mr. Semanko.
 25 Well, because Mr. Semanko kind of was out of

Page 119

sequence here, I'd allow the United States to respond
 to that, if you'd like.

MR. BROWN: Well, I'd love to, Your Honor.

First of all, I don't believe I ever said that a
 claimant can never file a late objection. I did say
 that he can't file a late objection unless he shows
 equitable tolling of the statute. An equitable tolling
 would be something like I didn't get notice.

But it's clear that they did get notice. And
 they got -- they received a copy of the notice of the
 director's report for reporting areas 7 and 10. And
 that's Exhibit 1, page 6 of attachment 1 to the United
 States' memorandum in opposition.

And what does it say on the first page of the
 exhibit? On page 6 it says "instructions for reviewing
 the water rights of others." And it tells you where it
 is and what to do. And the United States' water rights
 were contained in those. And the parties had ample
 opportunity to go down and have a look at the
 director's report, look at the United States' claims,
 and file timely objections or a motion for enlargement
 of time to file objections.

There's simply no excuse for not doing that,
 languishing on your rights and sitting back and
 leisurely deciding to file it nine months and four days

Page 120

1 later.

2 THE COURT: So what the claimants received
 3 was notice that a director's report was filed; but they
 4 would then have had to go down to look at the
 5 director's report at the county offices, I suppose.

6 MR. BROWN: Just like everyone else in the
 7 state who is a claimant in this. If the United States
 8 received that same kind of notice, we would be held to
 9 that same standard. We receive that same kind of
 10 notice, only we request that a copy of the director's
 11 report be given to the United States so that we can
 12 look.

13 In fact, I don't think this court has ever
 14 granted a motion that the United States has brought for
 15 leave to file late objections, ever, even though it was
 16 just three days one time and maybe five days extension
 17 of time in another case. I can't think of one time
 18 that the United States was given that kind of
 19 consideration.

20 And it should be an evenhanded administration of
 21 the law. And if you allow these folks to file late
 22 objections nine months and four days after it was due,
 23 then that's not an evenhanded administration of the
 24 law.

25 The notice itself contains the same language as

Page 121

1 the statute does. It says your objection must be
 2 received by the SRBA court on or before July the 3rd,
 3 1998.

4 The statute says you shall file. That's
 5 mandatory language, Your Honor. If they don't follow
 6 that, then it's time barred.

7 It's the same thing as all of the cases that I
 8 cited. Those cases read exactly the same as the
 9 statute of limitation in the SRBA's statute. And those
 10 courts held that it was a statute of limitation. And
 11 even if something was filed two days after that ran,
 12 the parties were time barred. And it's a good deal
 13 more Draconian than this court has been.

14 THE COURT: Mr. Bramer.

15 MR. BRAMER: Your Honor, the allegation --
 16 Mr. Semanko says there's numerous reasons why they
 17 didn't file objections. As far as I can hear today,
 18 there's one reason. They didn't understand they have
 19 to.

20 Now, I direct this court's attention to Exhibit 1
 21 marked as attachment 1, page 7, just above the section
 22 that I read earlier. "What do I do if I agree with a
 23 recommendation or a federal water right claim?" And
 24 let's start with the fact that Mr. Semanko provided us
 25 earlier -- we knew the federal government was filing

Page 122

1 claims, which made sense. It's their land. They're
2 permittees. They work with the Forest Service or the
3 BLM.
4 It says in the second full paragraph on that
5 page, and I quote, if you want to review someone else's
6 water right, you need to look at the complete
7 director's report which is available at the SRBA
8 Courthouse in Twin Falls and the locations listed on
9 the third page of this notice. It's clearly stated
10 there.

11 And, Your Honor, I would ask the court to step
12 back. We've not been in front of the court on this
13 issue before. We have been through tens of thousands
14 of water rights. We have not had this argument
15 before. And in fact Mr. Scott Bedke read this notice,
16 went in and filed his objections, complied with the
17 procedures because he was concerned that his claims had
18 not been reported out. Yet now we have another group
19 of people coming in and saying I didn't get any
20 notice.

21 I think this is as much notice as you can give;
22 and this is what we've worked on for six years. It
23 tells you what to look at and if you have any
24 questions.

25 What would I suggest is reasonable? If they were

Page 123

1 concerned their rights hadn't been reported, they
2 should have went down and looked at the director's
3 report to make sure no one else's rights were
4 reported. And they should have filed an objection.
5 They simply didn't. They're not offering any
6 reason other than I think the reason we're hearing is
7 we don't understand this paper. I'm not quite sure
8 what they don't understand; but, Your Honor, I don't
9 think that's sufficient.

10 Thank you, Your Honor.

11 THE COURT: Thank you, Mr. Bramer.

12 MR. SPENCER: Your Honor, this is
13 Nick Spencer. At this point I would like to clarify a
14 minor matter for the record.

15 THE COURT: Please do. Then we'll hear
16 back from the Poultons and the Bedkes and wrap this
17 up.

18 MR. SPENCER: All right. Thank you,
19 Your Honor.

20 In his opening argument Mr. Brown stated that
21 Mr. Jared Bedke and Mr. Michael Poulton were not
22 claimants in the SRBA.

23 It's come to my attention that Mr. Brown likely
24 received that information through a request of the
25 department and Miss Brown. At the time that Miss Brown

Page 124

1 received that request, she checked and did not find any
2 listings for Messrs. Bedke and Poulton.
3 She has subsequently done additional checking and
4 found that in fact they have filed claims for domestic
5 rights, and therefore the information that the
6 department provided to Mr. Brown was erroneous.
7 Mr. Jared Bedke and Mr. Michael Poulton are in truth
8 claimants to the SRBA.

9 THE COURT: Anything further, Mr. Spencer?

10 MR. SPENCER: That is all, Your Honor.

11 THE COURT: Thank you.

12 MR. BROWN: Your Honor, then on the record

13 I apologize for making that assertion. I was
14 misinformed, and I withdraw that portion of the brief.

15 MR. SPENCER: And, Your Honor, I apologize
16 that we provided incomplete information to Mr. Brown.

17 THE COURT: Will the United States be
18 asking for attorney fees?

19 MR. BROWN: No, Your Honor.

20 THE COURT: Well, Mr. Poulton and
21 Mr. Bedke, normally the people who file the motion
22 argue first; and then the people who oppose it speak
23 once; and then you get a chance to respond. And we're
24 at that point now. So you get your last chance to
25 address the court on your motions. So whoever wants to

Page 125

1 speak.

2 BRUCE BEDKE: I'm going to let Jared wrap
3 this up. But I had one little -- this is Bruce Bedke
4 here. Throughout Mr. Bramer's comments here he kept
5 referring to water rights. I don't know. Maybe I'm
6 kind of hard headed. But he doesn't have any water
7 rights yet, and neither do I. That's what I'm arguing
8 for here in my behalf at least.

9 In effect that IDWR changed their format is the
10 reason that we had to come back in and file for our
11 late objections. We've already reviewed that. I don't
12 know that I need to spend any more time on it.

13 One of the things that I want to say is that when
14 the SRBA was started here in the late Eighties it was
15 my understanding that we would get down to arguing or
16 debating on who belonged to the water or who the water
17 belonged to. I guess I'm a little bit confused here or
18 upset with the court because it seems like Mr. Bramer
19 and Mr. Brown don't have any intentions on giving me my
20 day in court; but they're arguing the chicanery of the
21 law here. And I'm bothered by that. I don't have that
22 expertise at my disposal; but my feelings still don't
23 go away.

24 And with that having said, I'll defer here to
25 Jared.

Page 126

1 THE COURT: Jared Bedke, P.
 2 JARED BEDKE: This is Jared Bedke. As far as
 3 a meritorious position, I think we very well stated
 4 that in our objection as well as our letter. The
 5 objection itself says that there's a priority date
 6 discrepancy. We don't feel like the Forest Service or
 7 the BLM should have a priority date, you know, in the
 8 early -- in the late 1800s. I mean that's just, that's
 9 just not an issue.

10 The beneficial use. They're claiming a
 11 beneficial use should be theirs due to our stock.
 12 We're saying no. We should get the beneficial use.
 13 That's our meritorious claim. This is our water
 14 rights, not theirs.

15 Now, the reason that we didn't go and file a late
 16 objection is when we went to the IDWR last March or
 17 May, I believe it was, we were told: No, your
 18 conflicting claims will be enough to spark a conflict
 19 and show up in court. You do not have to object to
 20 theirs; they do not have to object to yours. A
 21 conflicting claim would be enough.

22 That was my understanding that I came away from
 23 the meeting with. We did not then file our late
 24 objections. As soon as we found out they were
 25 necessary, we went to the court -- or we went to the

Page 127

1 IDWR. We asked for those water right numbers, and we
 2 did file late objections to them.

3 Also, if you look at the printout of the SRBA
 4 when the director's report is issued, it is not issued
 5 on legal descriptions. It is issued on water right
 6 numbers or persons claiming. It's listed in
 7 alphabetical order or in water right number.

8 Now, just the fact that -- the water right number
 9 itself does not tell me where they are at. So I have
 10 to go to the IDWR and seek redress for that and say
 11 which water filings are on these sections. I just
 12 don't have the manpower to pore through a thousand or
 13 1500 claims to water rights and look at each one of the
 14 legal descriptions to see if it falls in my deal.

15 But when I was told I had to object, I did just
 16 that. I went to the IDWR, Doug Jones, and said:
 17 Mr. Jones, please give me all the water right filings
 18 in these sections.

19 And, you know, that was the first I had heard of
 20 it in March. And we did immediately. Once I heard
 21 this -- dad and I heard about this on Thursday. And
 22 Friday we were in the IDWR office over here in Twin.
 23 And so that -- and that is about all I have to do.

24 If there are any questions, I'll be glad to
 25 answer them.

Page 128

1 THE COURT: Mr. Poulton.

2 M. POULTON: Well, we're pretty much in the
 3 same way that Bruce and Jared did. We all put in our
 4 objections the same day.

5 But I have a question. You say there's been tens
 6 and thousands of decrees already settled already? Is
 7 that what you said earlier, Mr. Bramer?

8 MR. BRAMER: Yes. And the Forest Service
 9 has had over 3,000 partial decrees issued to it to
 10 date.

11 M. POULTON: Okay. How many of them were
 12 objected to?

13 MR. BRAMER: I can't say off the top of my
 14 head. We've resolved every objection, every objection
 15 to date. We have not received that many objections.

16 M. POULTON: Okay. Why do you think that
 17 is?

18 MR. BRAMER: Your Honor --

19 M. POULTON: I'm just curious. You don't
 20 have to answer --

21 MR. BRAMER: Why do you think we received
 22 few objections? Because in most cases -- or in all
 23 cases we sat down with the people making the objections
 24 and addressed their concerns and negotiated
 25 settlements, to address both their concerns and our

Page 129

1 concerns and were able to mutually resolve those.

2 And that's what we had hoped to do in these cases
 3 prior to being here in court in front of the judge.

4 And, again, I would invite the parties for us to start
 5 those discussions again because I think it would be
 6 useful. I think we'll be engaged in more and more of
 7 these litigations and arguments which -- until we've
 8 made a decision that we cannot agree with each other
 9 and it's impassable, what we're going to do is engage
 10 in this sort of legal practice.

11 M. POULTON: Well, that kinda doesn't really
 12 clarify things for me. I don't know. I guess my
 13 opinion is everybody else was just like us, and they
 14 didn't know any different. Forest Service went and
 15 filed on it, and that was that.

16 But I don't have anything more to say. Jared and
 17 Bruce pretty much covered everything that I have to
 18 say.

19 THE COURT: I see Mrs. Poulton's hand in
 20 the back. In you would step to the podium, please.

21 K. POULTON: I'm Kathy Poulton.

22 THE COURT: What's your relationship to
 23 the --

24 K. POULTON: I'm the wife of Mike Poulton
 25 and the mother of Michael Poulton. They are two

Page 130

1 different people, by the

2 The reason that — when we went in at the last
3 court hearing, I believe that was April 7th, we went in
4 and we were going to make our late objections. And I
5 think those are the ones that these attorneys have, and
6 they sent us copies. And they were upset because we
7 did not write reasons on that particular objection.

8 We were told at that court hearing by, I think we
9 talked to the lady who is sitting in the front of this
10 courtroom. We also talked to another lady that was
11 there. We talked to you, Judge. And we were led to
12 believe that we did not have to put significant reasons
13 on that objection at that time. That objection would
14 lead us to a court hearing where we could present our
15 objections at that new court date.

16 So that is why we did not put significant reasons
17 on that objection. And I specifically asked the ladies
18 that were helping me: Do I need to put more reasons
19 down here other than this statement?

20 And they said: We think this is all you need to
21 get us to a new court hearing. And that's the reason
22 there were no objections put down.

23 Now, we were trusting the court to give us the
24 proper instructions. And it appears that our trust has
25 been misled or misused or what have you. Because these

Page 131

1 two attorneys over here sat here and turned it back in
2 our face.

3 So I just wanted to clarify that for the court.

4 THE COURT: Okay. Thank you. Anything
5 further from the Poultons or the Bedkes?

6 (NO RESPONSE)

7 THE COURT: What I'll do is take the matter
8 under advisement and issue a ruling in due course.

9 But in the meantime what I'd like to do —

10 Mr. Semanko, you mentioned that you just saw the United
11 States' memo — I'd like to give you an additional
12 10 days to file any written memo that you or — and the
13 same thing goes for the Bedkes and the Poultons, too.
14 If you want to submit anything in writing in response
15 to that, I suppose I can leave that open. But mainly
16 because you didn't get a copy of that, Mr. Semanko,
17 I'll leave that open for 10 days.

18 I'd also like to leave an additional 10 days for
19 the parties to better define their water right numbers,
20 the specific list of numbers that you want to file
21 these objections to. I know the first list was kind of
22 a rough out-of-the-gate reaction. But there might be
23 some you can eliminate from that; and it will make your
24 cases and the United States' position a little clearer
25 if we can better defined that. Because as I mentioned

Page 132

1 before. I don't want to argue about subcases we don't
2 need to waste time on here. So if you can get that to
3 me within 10 days, I would appreciate it.

4 And all you have to do is simply call it
5 amendment, maybe you can call it an amendment
6 attachment to your motion to better define — whatever
7 you want to call it, but just so you get it to me.
8 Make sure you send a copy of that to all of the other
9 parties including Mr. Semanko, and make sure you send a
10 copy of that to the attorneys for the United States,
11 and then finally a copy to Mr. Spencer for IDWR.

12 JARED BEDKE: May I get Mr. Spencer's
13 address? Or is it on the back of the objection forms?
14 Would it go to the same —

15 THE COURT: Yes, it should be the same,
16 IDWR address.

17 MR. SEMANKO: Your Honor, can I ask? If you
18 think it's necessary, I certainly would like to have an
19 opportunity, and again only if you think it's
20 necessary, to respond to the conflicting-not
21 conflicting report, the BLM and the Forest Service
22 report to the extent we think maybe we did claim for
23 something that she didn't, that Roxanne thinks we
24 didn't claim for.

25 Is that helpful to you if not now, maybe later

Page 1:

1 depending on the ruling of the first motion? Because I
2 think from talking during the break and things that a
3 lot of what we were talking about before may not
4 necessarily be a late claim or even an amended claim,
5 but we just disagree on whether it's conflicting or
6 not. And so — because of the difference on legal
7 descriptions and things like that. So if at some point
8 it's helpful for us to give our response to that list
9 or a view on that list, you know, we'd certainly like
10 to have an opportunity to do that.

11 THE COURT: And that would be the, in
12 effect, response to Miss Brown's partial summary of
13 claims?

14 MR. SEMANKO: For the Forest Service and the
15 BLM. If you think that's helpful. And it doesn't
16 necessarily need to be now. If because of your ruling
17 that would make sense to have that, I'm saying. I
18 don't want to waste resources I don't need to. But if
19 that's helpful at some point, I think it needs to
20 be — the attachments need to be clarified. Those
21 lists probably will need a clarification, too.

22 THE COURT: If you can, I'd certainly
23 appreciate that.

24 MR. BRAMER: Your Honor, we'd be willing to
25 work jointly with Mr. Semanko on that process. Because

Page 13

Page 131 - Page 13

1 I think in some sidebar conversations v
2 Mr. Scott Bedke there was some issues he raised that he
3 had some problems with; and we found at least one thing
4 that we had some problems with. And I think jointly
5 working on that, we can try to get IDWR a list, try to
6 reach agreement with them on exactly where their claims
7 are. To the extent we can, that will at least narrow
8 the focus of the court and it knows what they're
9 dealing with.

10 THE COURT: Certainly. I appreciate that
11 offer. Anything you can do to help me get a better
12 record to Judge Wood both to be fair to Judge Wood and
13 to give him something to start with, but also to be
14 fair to yourselves and to the United States. Because
15 the last thing you want me to do is babble on about the
16 wrong subcases or to miss the issues altogether. I'm
17 going to need a little help getting a decision out on
18 this one; so anything you can do to help, I'd certainly
19 appreciate it. The better record you give me, the
20 better decision I'll get and the better recommendation
21 I'll give to Judge Wood.

22 Well, counsel, is there anything further we need
23 to consider? And when I say "counsel," I mean this
24 Bedkes and the Poultons too.

25 JARED BEDKE: Just one more thing. When --

Page 135

1 THE COURT: Your name, please.

2 JARED BEDKE: When the department told us how
3 to file in 1989, they took us by the hand -- this is
4 Jared Bedke, by the way, yes. They took us by the hand
5 and they told us how to file according to the
6 instructions at the time. As far as we knew, there was
7 never any difference in the way everybody else had to
8 file. We found out last spring that the process was
9 bifurcated; and part of that, now all filings came
10 under a de minimis way of filing rather than over the
11 entire reach.

12 I just wanted to further clarify that to the
13 court.

14 THE COURT: Sure. And the fact you brought
15 up that point reminded me of something I probably need
16 to say on the record. I don't for a minute think that
17 this bifurcated system of reporting de minimis,
18 de maximus, whatever we want to call it, however that
19 decision was made, was intended to deprive anyone of a
20 water right. I don't think for a minute that there was
21 any nefarious purpose here. The fact that the
22 United States filed in a different format than what the
23 private claimants, I don't think there was anything
24 intentional there.

25 A lot of people argued early on that we shouldn't

Page 136

1 have this split water reporting where you have a
2 smaller water right reported separately from an
3 irrigation and other water rights. Well, those
4 arguments have already been made; and the decision was
5 made. Now we're just trying to live with it.

6 But the important thing that Judge-Hurlbutt and
7 Judge Wood at this time are always saying to us is
8 we've got to do the right thing; we've got to report
9 these water rights fairly; and we've got to do it in
10 the way you should expect the court to report them,
11 fair and just. And that's what we intend to do.

12 JARED BEDKE: I don't mean to assert the fact
13 that there's any underhandedness going on. All I'm
14 saying is that through this, as they admit, certain
15 problems will arise; and this is a major problem to us
16 that has arisen.

17 THE COURT: My guess is no one saw this
18 problem coming. It's kind of like one of those freight
19 trains in the middle of the night that hits you when
20 you're walking down the trestles. It gets you from
21 behind.

22 BRUCE BEDKE: Your Honor, when we filed on
23 these, I think the IDWR did a lot of this grouping
24 together that they had referred to earlier. I was
25 very -- I can show you my receipt. I made something

Page 137

1 like 60 different filings.

2 So my filings were not grouped together by any
3 means. It cost me a little over \$600 for my filings.
4 And so they were all separated out. If there was any
5 collecting done, it was done with the IDWR, you see.

6 So I want to make that clear.

7 THE COURT: Sure. And I think you heard
8 from Mr. Tuthill, and you may have heard me say this,
9 too, that what -- the reason IDWR chose to bifurcate
10 these was to do it in a timely manner. Because the
11 other choice was to wait until all of the irrigation
12 claims were done, then reporting them; and that would
13 have delayed everything until 2000 instead of the
14 little progress we've been able to make in basin 45 so
15 far.

16 So several of us may regret that decision, but
17 others of us think it was a good decision. And it
18 helped us get through some of these subcases.

19 Well, counsel, enough for preaching. Is there
20 anything further in the court?

21 MR. BRAMER: We have nothing further,
22 Your Honor.

23 MR. SEMANKO: No. Thank you, Your Honor.

24 THE COURT: Okay. Nothing further here.

25 Mr. Spencer, anything at your end?

Page 138

1 MR. SPENCER: , nothing further here,
2 Your Honor.
3 THE COURT: Thank you for joining us. I
4 appreciate it. And thank you, everybody.
5 (PROCEEDINGS ADJOURNED)
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 139

1 TRANSCRIBER'S CERTIFICATE

2 STATE OF IDAHO)
3)
4 County of Twin Falls)
5
6

7 I, DUANE J. SCHNEBERGER, duly appointed,
8 qualified and acting official reporter of the Fifth
9 Judicial District of the State of Idaho, DO HEREBY
10 CERTIFY that the foregoing constitutes a complete
11 transcription of the requested portion of the
12 proceedings in the foregoing matter from electronic
13 recording tapes, to the best of my ability, said
14 transcript consisting of pages 1 through 139,
15 inclusive.

16 IN WITNESS WHEREOF, I have hereunto set my hand
17 this 10th day of June, 1999.
18
19

20 DUANE J. SCHNEBERGER, Idaho CSR No. 5, Twin Falls, ID
21
22
23
24
25

Page 140

EXHIBIT H

RECEIVED

MAY 03 1999

DOJ/BOISE

To the HONORABLE JUDGE WOOD:

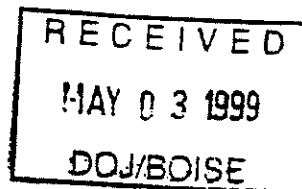
At this time I am filing a motion to file a ~~47~~ objection. I only recently became aware that the U had filed ~~conflicting~~ claims to water that I had claimed. I have been following the status of my c through the INTERNET, and was not aware of the conflicting claims due to the fact that all claim are listed by subcase rather than a legal description. I am filing my objection now so that the govt. c will not show up as unobjected and be partially ok. AS A MATTER OF COURSE.

I am objecting to the following subcases:

47-16433	47-16446	47-16444	47-16461
47-16470	47-16447	47-16464	47-16463
47-16448	47-16445	47-16441	47-16466
		47-16965	47-16466
			47-16445

Respectfully,

Scott Bedne



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

A Subcase

See attachment
(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Scott C. Bedke

Address: 630 N. Center
Oakley, Idaho 83346

Daytime Phone: 862-3619

Name & Address of Attorney, if any:

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: USFS

Address: 550 W. Fort Street MSC 033
Boise, Idaho 83724

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ Name and Address

Should be: _____

2. ☐ Source

Should be: _____

3. ☐ Quantity

Should be: _____

4. ☐ Priority Date

Should be: _____

5. ☐ Point(s) of Diversion

Should be: _____

6. ☐ Instream Flow Description

Should be: _____

7. ☐ Purpose(s) of Use

Should be: _____

8. ☐ Period of Year

Should be: _____

9. ☐ Place of Use

Should be: _____

11. I object because:

☒ This water right should not exist.

☐ This water right was not recommended, but should be recommended with the elements described above.

E REASONS SUPPORTING OBJECTION(S): These claims are in our
grazing allotment. Our cattle put this water to
beneficial use and the water should be decreed
to the owners of the livestock as per
Idaho Code 42-114.

E

VERIFICATION (Must be Completed)

State of Idaho)
)ss.

County of Twin Falls

Scott C. Bedke, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Scott C. Bedke
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: April 28, 1999



Ami Alberdi
Notary Public for State of Idaho
Residing at: Twin Falls
My Commission Expires: 11/5/2004

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. FAX filings will not be accepted. You must also send a copy to all the parties listed below in the Certificate of Mailing.

G.

CERTIFICATE OF MAILING

I certify that on 4-28, 1999, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

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

2. One copy to the claimant of the water right at the following address:

Name: _____

Address: _____

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Scott C. Bedn

Signature of Objector or attorney
mailing on Objector's behalf

Attached List

<u>PRIVATE CLAIM NO.</u>	<u>SOURCE</u>	<u>UNITED STATES CLAIM NO.</u>
47-14923B	Thoroughbred Creek	47-16433
47-14923B	Thoroughbred Creek, East Fork	47-16470
47-14923B	Thoroughbred Creek, West Fork	47-16448
47-14923C	Little Piney Creek	47-16446
47-14923C	Little Piney Creek, South Fork	47-16447
47-14923C	Humphrey Creek	47-16445
47-14923D	Goose Creek	47-16444
47-14923E	WPA Spring	47-16465
47-14923E	Little Willow Spring	47-16464
47-14923E	Thoroughbred Pond Springs	47-16441
47-14923E	Thoroughbred Spring #1	47-16461
47-14923E	Thoroughbred Spring #2	47-16463
47-14923E	Whitey Davis Spring	47-16466
47-14923E	Humphrey Spring	47-16460
47-14923E	Right Hand Fork Spring	47-16459

EXHIBIT I

RIGHT NUMBER	NAME	PRIORITY DATE	SOURCE OF WATER	TRIBUTARY TO	PAGE NUMBER
	HIHATH, JERRY L				
47-14904	SPARKS, CARLA SPARKS, RAYMOND S	07/03/1978	GROUNDWATER		A-3922
47-14905	GRIFF, EUGENE GRIFF, RICHARD GRIFF, RONALD	01/01/1971	GROUNDWATER		A-3167
47-14906	GRIFF, EUGENE GRIFF, RICHARD GRIFF, RONALD	01/01/1971	GROUNDWATER		A-3168
47-14907	GRIFF, JACKIE GRIFF, RICHARD	01/01/1949	GROUNDWATER		A-2155
47-14908	GRIFF, JANIE GRIFF, RONALD	01/01/1949	GROUNDWATER		A-2156
47-14910	HERITAGE ALLIANCE CHURCH	06/07/1935	GROUNDWATER		A-1477
47-14912	POE, LESLIE D	11/30/1978	GROUNDWATER		A-3974
47-14913	ELENOR BABCOCK TRUST ELIZABETH BERRY TRUST	10/01/1925	GROUNDWATER		A-1084
47-14914	STOKER, JEFF STOKER, ROSEMARY	07/07/1976	GROUNDWATER		A-3658
47-14915	PARSONS, ROGER W PARSONS, TERRI L	01/01/1930	GROUNDWATER		A-1267
47-14916	STOVER, CLARA STOVER, ED	02/12/1965	GROUNDWATER		A-2874
47-14917	BEEM, DANIEL T	01/01/1963	GROUNDWATER		A-2765
47-14918	GOFF, FORREST	07/01/1945	GROUNDWATER		A-1943
47-14920	BURGESS, DEANNA F BURGESS, WALTER E	07/14/1948	GROUNDWATER		A-2107
47-14921	BRAGG, PAUL	04/25/1966	GROUNDWATER		A-2947
47-14922	NEILL, MONA RAE NEILL, RICK DEAN	03/01/1976	GROUNDWATER		A-3623
47-14923A	BEDKE, BRUCE BEDKE, RAY C POULTON, GARY RUSSEL WHITELEY, WINSLOW B	04/01/1872	CHERRY CREEK PINEY CREEK	PINEY CREEK GOOSE CREEK	A-117 A-4806
47-14923B	BEDKE, BRUCE BEDKE, RAY C	04/01/1872	THOROUGHbred CREEK THOROUGHbred CREEK, EAST FORK THOROUGHbred CREEK	GOOSE CREEK	A-5581 A-5584

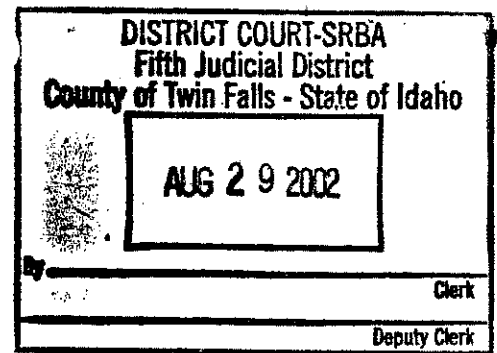
RIGHT N R	NAME	PRIORITY DATE	SOURCE OF WATER	TRIBUTARY TO	PAGE NUMBER
	POULTON, GARY RUSSEL WHITELEY, WINSLOW B		THOROUGHbred CREEK, WEST FORK THOROUGHbred CREEK		A-5587
47-14923C	BEDKE, BRUCE BEDKE, RAY C POULTON, GARY RUSSEL WHITELEY, WINSLOW B	04/01/1872	HUMPHREY CREEK LITTLE PINEY CREEK LITTLE PINEY CREEK, SOUTH FORK	LITTLE PINEY CREEK, SOUTH FORK GOOSE CREEK LITTLE PINEY CREEK	A-4663 A-4719 A-4722
47-14923D	BEDKE, BRUCE BEDKE, RAY C POULTON, GARY RUSSEL WHITELEY, WINSLOW B	04/01/1872	GOOSE CREEK	GOOSE CREEK RESERVOIR	A-255
47-14923E	BEDKE, BRUCE BEDKE, RAY C POULTON, GARY RUSSEL WHITELEY, WINSLOW B	04/01/1872	HUMPHREY SPRING LITTLE WILLOW SPRING RIGHT HAND FORK SPRING SPRING SPRINGS THOROUGHbred POND SPRINGS THOROUGHbred SPRING #1 THOROUGHbred SPRING #2 WHITEY DAVIS SPRING WPA SPRING	SINKS SINKS SINKS SINKS SINKS SINKS SINKS SINKS SINKS SINKS	A-4667 A-4727 A-4892 A-5181 A-5530 A-5591 A-5594 A-5596 A-5818 A-5839
47-25	BURKS, CECELIA BURKS JR, DOUGLAS	02/26/1968	GROUNDWATER		A-3020
47-14926	SMITH, DOLL C SMITH, MATT H	12/31/1966	GROUNDWATER		A-2971
47-14927	WOOD, IRVING G	06/06/1952	GROUNDWATER		A-2321
47-14928	SNYDER, ERMA SNYDER, K W	11/30/1976	GROUNDWATER		A-3701
47-14930	ASLETT, DALE ASLETT, HAZEL	10/20/1956	GROUNDWATER		A-2497
47-14931	MAY, GLENDA	04/23/1962	GROUNDWATER		A-2724
47-14932	LONG, GRACE LONG, JACK	06/20/1974	GROUNDWATER		A-3454
47-14933	MYERS, BARBARA MYERS, ROBERT	06/20/1974	GROUNDWATER		A-3455
47-14934	IDAHO STATE HISTORICAL SOCIETY	06/01/1984	GROUNDWATER		A-4428
47-14935	MARTIN, ANNA M MARTIN, MARK W	03/01/1928	GROUNDWATER		A-1174
47-14936	BICKELHAUPT, HARVEY	12/31/1932	GROUNDWATER		A-1400
47-14938	HEDBERG, JANA	03/01/1981	GROUNDWATER		A-4251

RIGHT NUMBER	NAME	PRIORITY DATE	SOURCE OF WATER	TRIBUTARY TO	PAGE NUMBER
47-16414	HAFLIGER, ANTIONETTE HAFLIGER, HENRY	11/01/1988	GROUNDWATER		A-4584
47-16415	CHILDS, JAMES R CHILDS, SHAWNA	10/30/1985	GROUNDWATER		A-4480
47-16416	RUGG, JOHN JAY	05/15/1920	GROUNDWATER		A-906
47-16417	FAR AWAY FARMS, DBA ORMONDE, ANTONIO ORMONDE, LENA SOUSA, MANUEL A	12/31/1950	GROUNDWATER		A-2277
47-16418	FEATHERSTON, LARRY	06/15/1993	GROUNDWATER		A-4591
47-16419	CRAWFORD, CHARLES D CRAWFORD, SHIRLEY	02/07/1994	GROUNDWATER		A-4595
47-16420	DOBLE JR, HENRY P	12/14/1972	GROUNDWATER		A-3297
47-16421	DOBLE JR, HENRY P	01/01/1980	GROUNDWATER		A-4125
47-16422	LINCOLN, PATRICIA A LINCOLN, WILLIAM D	04/05/1977	GROUNDWATER		A-3756
47-16423	CHANDLER, THOMAS L	07/01/1992	GROUNDWATER		A-4590
47-16424	LEE, AVA LEE, KEITH	03/13/1997	GROUNDWATER		A-4601
47-16425	LEHMANN, STANLEY	09/22/1966	GROUNDWATER		A-2958
47-16426	WEBB, PAMALA	12/20/1994	GROUNDWATER		A-4597
47-16427	DEJESUS, HELEN DEJESUS, JOHN	01/01/1976	GROUNDWATER		A-3614
47-16428	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	SPRING	SINKS	A-5388
47-16429	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	BURNT CREEK	DRY COTTONWOOD CREEK	A-93
47-16430	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	SPRING	SINKS	A-5389
47-16431	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	FS SPRING	F S SPRING CREEK	A-253
47-16432	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	LITTLE GOOSE CREEK	LITTLE GOOSE CREEK	A-4715
47-16433	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	THOROUGHbred CREEK	GOOSE CREEK	A-5583
47-16434	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	SPRING	LITTLE PINEY CREEK	A-511
47-16435	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	SPRING	LITTLE PINEY CREEK	A-5110

RIGHT #	NAME	PRIORITY DATE	SOURCE OF WATER	TRIBUTARY TO	PAGE NUMBER
47-16436	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	PORT SPRING	LITTLE GOOSE CREEK	A-4879
47-16437	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	SPRING	SINKS	A-5390
47-16438	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	GOOSE CREEK	SNAKE RIVER	A-257
47-16439	AMERICA ACTING THROUGH, UNITED STATES OF	06/01/1875	FRAHM SPRING	BEAR HOLLOW	A-250
47-16440	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	EAST GOOSE CREEK SPRING	GOOSE CREEK	A-232
47-16441	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	THOROUGHbred POND SPRING	SINKS	A-5590
47-16442	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	SHIP CORRAL SPRING	PINEY CREEK	A-4966
47-16443	AMERICA ACTING THROUGH, UNITED STATES OF	06/01/1875	SPRING	SINKS	A-5412
47-16444	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	GOOSE CREEK	SNAKE RIVER	A-259
47-16445	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	HUMPHREY CREEK	LITTLE PINY CREEK	A-4665
47-16446	AMERICA ACTING THROUGH, UNITED STATES OF	06/01/1875	LITTLE PINY CREEK	GOOSE CREEK	A-4721
47-16447	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	PINEY CREEK	GOOSE CREEK	A-4808
47-16448	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	THOROUGHbred CREEK, WEST FORK	THOROUGHbred CREEK	A-5589
47-16449	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	RUBY GULCH	GOOSE CREEK	A-4924
47-16451	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	JONES SPRING	JONES CREEK	A-4689
47-16452	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	SPRING	SINKS	A-5391
47-16453	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	PLEASANT SPRING	ELISON HOLE CREEK	A-4815
47-16454	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	LITTLE PINY SPRING	SINKS	A-4725
47-16455	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	WINECUP SPRING	WINECUP CREEK	A-5833
47-16456	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	SPRING	SINKS	A-5392
47-16457	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	BEER MUG SPRING	WINECUP CREEK	A-39
47-16458	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	RATTLESNAKE SPRING	SINKS	A-4884
47-16459	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	RIGHT HAND FORK SPRING	SINKS	A-4894
47-16460	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	HUMPHREY SPRING	LITTLE PINY CREEK	A-4666
47-16461	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	THOROUGHbred SPRING NUMBER 1	THOROUGHbred CREEK	A-5598
47-16462	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	BURN SPRING	PINEY CREEK	A-92
47-16463	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	THOROUGHbred SPRING NUMBER 2	THOROUGHbred CREEK	A-5599

RIGHT NUMBER	NAME	PRIORITY DATE	SOURCE OF WATER	TRIBUTARY TO	PAGE NUMBER
47-16464	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	LITTLE WILLOW SPRING	PINEY CREEK	A-4726
47-16465	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	WPA SPRING	CHERRY CREEK	A-5838
47-16466	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	WHITEY DAVIS SPRING	SINKS	A-5820
47-16467	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	SPRING	SINKS	A-5393
47-16468	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	SPRING	SINKS	A-5394
47-16469	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	BEAR HOLLOW	GOOSE CREEK	A-37
47-16470	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	THOROUGHbred CREEK, EAST FORK	THOROUGHbred CREEK	A-5586
47-16471	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	SPRING	HUMPHREY CREEK	A-5105
47-16472	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	UNNAMED STREAM	LITTLE GOOSE CREEK	A-5703
47-16473	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	SPRING	SINKS	A-5395
47-16474	AMERICA ACTING THROUGH, UNITED STATES OF	05/01/1875	INDIAN CAMP SPRING	GOOSE CREEK	A-4669
47-16475	ROACH, JOHN E	08/11/1994	GROUNDWATER		A-4596
47-16476	DEVIL CREEK RANCH, INC	12/01/1960	SPRING	DEVIL CREEK	A-5
47-16477	AMERICA ACTING THROUGH, UNITED STATES OF	01/01/1875	SPRING	BROWNS CREEK	A-5021
47-16478	AMERICA ACTING THROUGH, UNITED STATES OF	01/01/1875	SPRING	CORRAL CREEK	A-5054
47-16479	AMERICA ACTING THROUGH, UNITED STATES OF	07/01/1964	UNNAMED STREAM	CHINA CREEK	A-5665
47-16480	AMERICA ACTING THROUGH, UNITED STATES OF	06/01/1966	POND	CORRAL CREEK	A-4820
47-16481	AMERICA ACTING THROUGH, UNITED STATES OF	01/01/1875	SPRING	CORRAL CREEK	A-5055
47-16482	AMERICA ACTING THROUGH, UNITED STATES OF	01/01/1875	SPRING	SINKS	A-5231
47-16483	AMERICA ACTING THROUGH, UNITED STATES OF	01/01/1875	SPRING	SINKS	A-5232
47-16484	AMERICA ACTING THROUGH, UNITED STATES OF	01/01/1875	SPRING	SINKS	A-5233
47-16485	AMERICA ACTING THROUGH, UNITED STATES OF	01/01/1875	SPRING	SINKS	A-5234
47-16486	AMERICA ACTING THROUGH, UNITED STATES OF	01/01/1875	SPRING	SINKS	A-5235
47-16487	AMERICA ACTING THROUGH, UNITED STATES OF	01/01/1875	SPRING	SINKS	A-5236
47-16488	AMERICA ACTING THROUGH, UNITED STATES OF	01/01/1875	SPRING	SINKS	A-5237
47-16489	AMERICA ACTING THROUGH, UNITED STATES OF	01/01/1875	SPRING	SINKS	A-52
47-16490	AMERICA ACTING THROUGH, UNITED STATES OF	01/01/1875	SPRING	SINKS	A-5239

EXHIBIT J



Names of Parties Serving Document:

UNITED STATES OF AMERICA

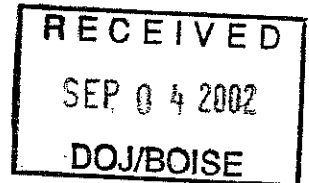
SEE ATTACHMENT #1

Attorneys' Names and Addresses:

THOMAS L. SANSONETTI
United States Department of Justice
Assistant Attorney General
Environment and Natural Resources Division

NORMAN M. SEMANKO
TRAVIS L. THOMPSON
Barker Rosholt & Simpson LLP
205 N. 10th Street, Suite 520
P.O. Box 2139
Boise, Idaho 83701-2139
(208) 336-0700
ISB # 4761 (NMS)
ISB # 6168 (TLT)

DAVID L. NEGRI
LARRY A. BROWN
United States Department of Justice
Environment and Natural Resources Division
General Litigation Section
550 West Fort Street, MSC 033
Boise, Idaho 83724
(208) 331-5943



**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: See Exhibit A, B, C,
	)	and E
	)	
Case No. 39576	)	STIPULATION AND JOINT MOTION
	)	FOR ORDER APPROVING
	)	STIPULATION

DESCRIPTIVE SUMMARY

This document is the Stipulation and Joint Motion for Order Approving Stipulation, filed by the United States of America ("United States") and the private parties listed on Attachment #1 ("Private Parties").

STIPULATION

The United States and the Private Parties (collectively "Parties"), by and through their respective undersigned counsel, hereby stipulate and agree as follows as to the water right numbers listed on Exhibits A, B, C, D, E, and F, and the water right claims to be filed in the grazing allotments listed on Exhibit G (individually, "Water Right" or, collectively, "Water Rights"):

1. WITHDRAWAL OF OBJECTIONS AND RESPONSES BY PRIVATE PARTIES.

The Private Parties agree to dismiss with prejudice their objections and responses to the Water Rights listed on Exhibit A. The Parties agree and stipulate that the elements of each Water Right listed on Exhibit A should be decreed as described in Section 5, below.

The Private Parties agree to dismiss with prejudice their objections and responses to the Water Rights listed on Exhibit B, and to withdraw any motions or court filings which attempt to set aside partial decrees for stockwater rights held by the United States, as listed in Exhibit C. The Private Parties further agree that they will not challenge any other partial decree issued to the United States in the SRBA for stockwater purposes.

2. WITHDRAWAL OF OBJECTIONS BY UNITED STATES. The United States agrees to dismiss with prejudice its objections to the Water Rights listed on Exhibit E. The Parties agree and stipulate that the elements of each Water Right listed on Exhibit E should be decreed as described in Section 5, below.

3. CLAIMS NOT YET REPORTED. The Parties have a number of pending stockwater claims that have not yet been reported by IDWR ("unreported claims"). Such unreported claims

are listed on Exhibits D and F. The Parties agree and stipulate that the elements of the unreported claims should be decreed as described in Section 5, below. The Parties agree that they will not file objections or responses to the entry of partial decrees for the claims listed on Exhibit D and F if the elements of such claims conform to the provisions described in this Stipulation.

4. CLAIMS NOT YET FILED. The Private Parties have a number of stockwater claims that have not yet been filed with IDWR ("unfiled claims"). The name of the claimant and the grazing allotments in which these unfiled claims are located are listed on Exhibit G. Notwithstanding the provisions of Section 8 below, the Parties agree that they will not oppose the filing of the claims so long as they are made by the claimants and within the allotments identified in Exhibit G. Moreover, although the United States retains the right to file objections to individual elements of the claimed water right in order to ensure compliance with this Stipulation and to ensure consistency with the overlapping or competing claims of the United States, it will not object to the claims on the basis that they contain points of diversion or places of use on federal lands and it will not object to the priority date or the purpose of use so long as those elements conform to the provisions described in this Stipulation. In addition, the Parties agree that such claims shall be filed no later than December 31, 2002, and that in no event shall any stockwater claims be filed in the SRBA on the federal lands underlying the grazing allotments listed on Exhibit G after such date except by agreement between the United States and any affected Private Parties.

5. WATER RIGHT DESCRIPTIONS. The Parties agree and stipulate that the water right claims listed on Exhibits A, D, E, and F, and the water right claims to be filed pursuant to Section 4 above, shall be decreed consistent with the following:

A. Priority Dates.

- i. Claims for which the United States has not yet received a partial decree. If the United States has not yet received a partial decree for a water right claim, the following shall apply. For claims on lands administered by the Bureau of Land Management, the United States shall receive a water right with a priority date which is the later of a) the claimed priority date or b) June 28, 1934. For claims on lands administered by the Forest Service, the United States shall receive a water right with a priority date which is the later of a) the claimed priority date or b) the date of the federal reservation of such lands. On Forest Service lands, the federal reservation date for claims on what is presently the Sawtooth National Forest is June 12, 1905, and the federal reservation date for claims on what is presently the Nez Perce National Forest is May 10, 1906. The overlapping or competing claims of the Private Parties shall have a priority date that is one-day senior to the United States' priority date, unless the Private Parties can provide a patent or deed for their "base property," as such term is defined in 36 C.F.R. § 222.1 and 43 C.F.R. § 4100.0-5, that precedes this date, in which case the Private Parties shall receive a priority date that is this more senior date.
- ii. Claims for which the United States has received a partial decree for an undeveloped source. If the United States has received a partial decree for a water

right claim and the source is undeveloped (*i.e.*, instream or an undeveloped spring), the Private Parties' water rights shall be decreed as described in the last sentence of section 5A(i) above.

iii. Claims for which the United States has received a partial decree for a developed source. If the United States has received a partial decree for a water right claim and the source is developed, the overlapping or competing claims of the Private Parties shall have a priority date that is one-day junior to that of the United States' priority date as described in the decree. However, if the Private Parties can provide 1) evidence of stockwatering use of the water source preceding the priority date of the United States' decree, and 2) a patent or deed for their "base property," as such term is defined in 36 C.F.R. § 222.1 and 43 C.F.R. § 4100.0-5, that is at least as senior as the water use date, the Private Parties' priority date shall be the water use date. Moreover, if the priority date of the United States' decree is based on beneficial use and such date significantly predates the date of the development, the overlapping or competing claims of the Private Parties shall have a priority date that is one-day senior to that of the United States' priority date.

iv. Claims for which the United States has a Public Water Reserve 107 reservation. If the United States has a claim or a decree for a spring under Public Water Reserve 107 ("PWR 107"), the overlapping or competing claims of the Private Parties shall have a priority date that is one-day junior to that of the United States' priority date, unless the Private Parties can provide 1) evidence of

stockwatering use of the water source preceding the United States' priority date, and 2) complete chain-of- title documentation for their "base property," as such term is defined in 36 C.F.R. § 222.1 and 43 C.F.R. § 4100.0-5, that is at least as senior as the water use date, in which case the Private Parties' priority date shall be the water use date.

- B. Purpose and Place of Use of Water Rights. The Parties agree that the purpose of use of the Water Rights listed on Exhibit E and Exhibit F, and the water right claims to be filed pursuant to Section 4 above, is only for the watering of livestock lawfully within a permitted federal grazing allotment and that the number of livestock within the allotment shall not exceed the amount authorized by a federal grazing permit. The Parties agree that the purpose of use of the state-law based Water Rights listed on Exhibits A, C and D is only for the watering of livestock lawfully within a permitted federal grazing allotment. The Parties further agree that the place of use of the state-law based Water Rights listed on Exhibits A, C, D, E and F, and the water right claims to be filed pursuant to Section 4 above, shall remain *in situ*.

6. CONFORMING DOCUMENTS. The Parties agree that they will execute and file any necessary documents with the SRBA Court and IDWR to conform the elements of the claims listed on Exhibits A, D, E, and F, and the water right claims to be filed pursuant to Section 4 above, to the provisions described in this Stipulation.

7. GRAZING PERMITS AND MANAGEMENT OF FEDERAL LANDS. The Parties agree that the Water Rights listed on Exhibits A, C, D, E and F, and the water right claims to be

filed pursuant to Section 4 above, shall not alter the rights of a permittee under a valid grazing permit nor impede the authority of the United States to manage federal lands.

8. NO FURTHER CLAIMS. The Private Parties agree that they will not file additional claims in the SRBA for water rights where the place of use or point of diversion is located on federal lands and the United States agrees that it will not file additional claims in the SRBA for water rights where the place of use or point of diversion is located on federal lands underlying the federal Grazing Allotments on which any of the Private Parties are grazing permittees, except by agreement between the United States and any affected Private Parties. This paragraph shall not affect or apply to any claims already filed in the SRBA by any Party as of the effective date of this Stipulation, nor shall it apply to the claims to be filed pursuant to Section 4 above.

9. APPROVAL OF STIPULATION AND ISSUANCE OF PARTIAL AND FINAL DECREES BY COURT. The Parties agree to support the Joint Motion for Order Approving Stipulation set forth below. If for any reason the Court does not approve the Stipulation and issue partial and final decrees for any of the Water Rights on the attached Exhibits pursuant to the terms of this Stipulation, this Stipulation is null and void and shall have no effect, and the Parties shall proceed with a determination of their water rights and/or objections under applicable law.

10. STIPULATION NOT TO BE USED AGAINST THE PARTIES. The Parties agree that this Stipulation has been entered into based upon good faith negotiations for the purpose of resolving legal disputes, including pending litigation, by compromise and settlement and that nothing in this Stipulation, or any offers or compromises made in the course of negotiating this Stipulation, shall be construed as admissions against interest or tendered or used as evidence to

show the validity or invalidity of any water right claims made by the Parties, or as an admission or concession of wrongdoing or liability, or shall be used in any manner by any party in the SRBA in any future proceedings in the SRBA, in any appellate proceedings concerning the SRBA, or in any other proceeding, other than those seeking approval of this Stipulation by the SRBA Court, for interpretation or enforcement of this Stipulation, or for a purpose contemplated by Idaho Rule of Evidence 408.

11. RESERVATIONS. The Parties agree that this Stipulation has been entered into based upon good faith negotiations for the purpose of resolving legal disputes, including pending litigation, by compromise and settlement and that nothing herein shall be construed as precedent in any other proceeding or context. Nothing in this Stipulation shall be construed to deprive any federal official of authority to revise, amend, or promulgate regulations. Nothing in this Stipulation shall be construed to commit any federal official to expend funds not appropriated by Congress.

12. VOLUNTARY EXECUTION. This Stipulation was entered into and executed voluntarily by the Parties in good faith, and without any fraud, misunderstanding, overreaching, misrepresentation, duress, or undue influence.

13. BINDING EFFECT. This Stipulation shall be binding on any and all successors, assigns, heirs, executors, and administrators of each of the Parties.

14. COSTS AND ATTORNEY FEES. Each Party shall bear their own costs and attorney fees.

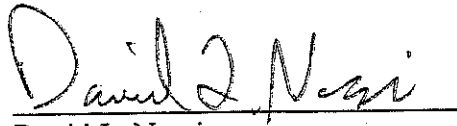
15. EFFECTIVE DATE. This Stipulation shall become effective upon execution by all of the Parties.

JOINT MOTION FOR ORDER APPROVING STIPULATION

The United States and the Private Parties request the Court to approve the foregoing Stipulation. The Order sought by this motion is fully in accordance with Idaho law. Such an Order would serve not only to facilitate the settlement between the United States and the Private Parties, thus streamlining the process, but would very likely have the effect of encouraging future settlements in the SRBA. The provisions of Idaho Rule of Evidence 408, as well as the policy underlying that rule and the policy of the SRBA Court, are directed at furthering the strong public policy favoring out-of-court settlement of disputes over litigation.

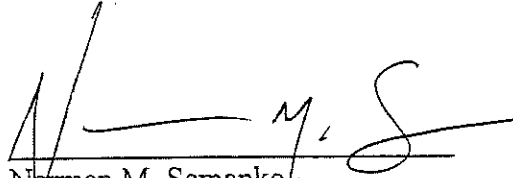
Wherefore, the United States and the Private Parties respectfully request that this Court grant this motion in all respects. The United States and the Private Parties further request oral argument and expedited consideration of this matter.

DATED this 28th day of August, 2002.



David L. Negri
Larry A. Brown
United States Department of Justice

Attorneys for the United States of America



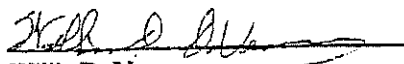
Norman M. Semanko
Travis L. Thompson
Barker, Rosholt & Simpson LLP

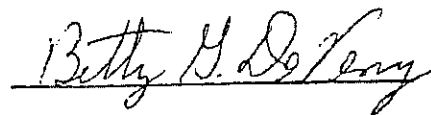
Attorneys for the following Parties:

Western Stockgrowers Association et al.
Broken Diamond Ranch
Brown, Birchie
Brown, Wallace
Butler, Raymond
Crockett, David
Kinsey Family LLP
Kunkel, Tom
Mathers Ranch
Tugaw Ranches
Williams, Inc.
Williams Properties LLC
William J & Thomas Williams

A.L. Cattle, Inc.
Bedke Family Limited Partnership
Bedke, Scott
Bedke, Karl U.
Bedke, Ray C.
Bowen, Todd
Branch, Weldon
Crater Butte Cattle Association
Diamond A Livestock, Inc.
DeVeney, Willis
DeVeney, Betty
Eckhardt Family Limited Partnership
Eckhardt, James
Eckhardt, Nellie
Faulkner Land & Livestock Company
Flying Triangle Inc.

Gardner, Luther
Lawrence Ranch Inc.
Lawrence, Ron
Layton, Eugene
Mathews, Bill J.
Mathews, Eugene
Pickett Ranch and Sheep Company
Poulton, Michael
Poulton, Gary
Richfield Cattle Association
Shingle Creek LLC
Shoulder Three Ranches Inc.
Tugaw, Joe
Warr, Keith
Whiteley, Winslow
Winecup, Inc.


Willis DeVeny


Betty DeVeny

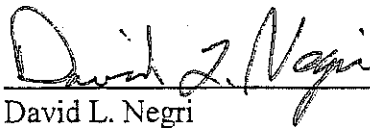
STIPULATION AND JOINT MOTION FOR ORDER APPROVING STIPULATION - Page 11

** TOTAL PAGE.03 **

State of Idaho)
) ss.
County of Ada)

DAVID L. NEGRI, duly sworn, upon oath, deposes and says:

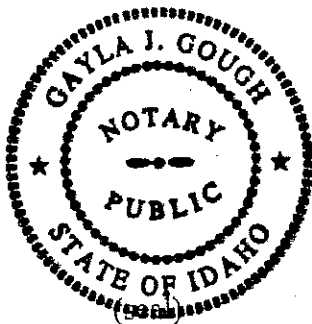
That I am the party filing this Stipulation, and/or that I am the attorney for the party, and that I have read this Stipulation, know its contents and believe that the statements are true to the best of my knowledge.

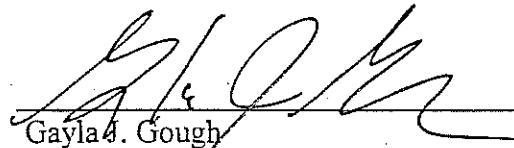


David L. Negri
United States Department of Justice
Environment and Natural Resources Division
General Litigation Section
550 West Fort Street, MSC 033
Boise, Idaho 83724
(208) 331-5943

Counsel for the United States of America

Subscribed and sworn before me on: Aug 28, 2002





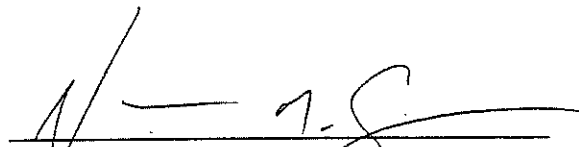
Notary Public for: Idaho
Residing at: Kuna, Idaho
Commission expires: 11-17-2004

State of Idaho)
) ss.
County of Ada)

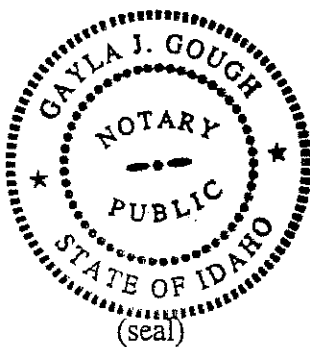
NORMAN M. SEMANKO, duly sworn, upon oath, deposes and says:

That I am the party filing this Stipulation, and/or that I am the attorney for the party, and that I have read this Stipulation, know its contents and believe that the statements are true to the best of my knowledge.

Dated 8/28/02


Norman M. Semanko, Esq.
Barker Rosholt & Simpson LLP
205 N. 10th Street, Suite 520
P.O. Box 2139
Boise, Idaho 83701-2139
Counsel for the Private Parties

Subscribed and sworn before me on: Aug 28, 2002



GAYLA J. GOUGH
(name of notary)
Notary Public for: Idaho
Residing at: KUNA IDAHO
Commission expires: 11-17-2004

State of Idaho)
) ss.
County of Idaho)

WILLIS DEVENY and BETTY DEVENY, duly sworn, upon oath, deposes and says:

That we are the parties filing this Stipulation, and that we have read this Stipulation, know its contents and believe that the statements are true to the best of our knowledge.

Dated Aug 27 2002

Willis E. DeVeney
Willis DeVeney
P.O. Box 1160
Riggins, Idaho 83549

Subscribed and sworn before me on: Aug 27 2002

Dolina C. Gill
(name of notary)

Notary Public for:

Idaho

Residing at:

Riggins

Commission expires:

1-18-2006

DOLINA C. GILL
(seal) NOTARY PUBLIC
STATE OF IDAHO

Betty H. DeVeney
Betty DeVeney
P.O. Box 1160
Riggins, Idaho 83549

Subscribed and sworn before me on: Aug 27, 2002

Dolina C. Gill
(name of notary)

Notary Public for:

Idaho

Residing at:

Riggins

Commission expires:

1-18-2006

DOLINA C. GILL
NOTARY PUBLIC
STATE OF IDAHO

(seal)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of August, 2002, I served a true and correct copy of the foregoing **STIPULATION AND JOINT MOTION FOR ORDER APPROVING STIPULATION**, by depositing a copy thereof in the U.S. mail, postage prepaid, or by other service where indicated, upon the following:

Original to:

BY OVERNIGHT DELIVERY:

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 Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

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

BY HAND DELIVERY:

Norman M. Semanko, Esq.
Travis L. Thompson
Barker Rosholt & Simpson LLP
205 N. 10th Street, Suite 520
P.O. Box 2139
Boise, Idaho 83701-2139

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

David J. Barber, Deputy Attorney General
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

Willis & Betty DeVeny
P.O. Box 1160
Riggins, Idaho 83549



David Negri

Attachment 1
Claimants/Objectors/Respondents

Western Stockgrowers Association et al.
Broken Diamond Ranch
Brown, Birchie
Brown, Wallace
Butler, Raymond
Crockett, David
Kinsey Family LLP
Kunkel, Tom
Mathers Ranch
Tugaw Ranches
Williams, Inc.
Williams Properties LLC
William J & Thomas Williams

Richfield Cattle Association
Shingle Creek LLC
Shoulder Three Ranches Inc.
Tugaw, Joe
Warr, Keith
Whiteley, Winslow
Winecup, Inc.

A.L. Cattle, Inc.
Bedke Family Limited Partnership
Bedke, Scott
Bedke, Karl U.
Bedke, Ray C.
Bowen, Todd
Branch, Weldon
Crater Butte Cattle Association
DeVeny, Willis
DeVeny, Betty
Diamond A Livestock, Inc.
Eckhardt Family Limited Partnership
Eckhardt, James
Eckhardt, Nellie
Faulkner Land & Livestock Company
Flying Triangle Inc.
Gardner, Luther
Lawrence Ranch Inc.
Lawrence, Ron
Layton, Eugene
Mathews, Bill J.
Mathews, Eugene
Pickett Ranch and Sheep Company
Poulton, Michael
Poulton, Gary

EXHIBIT A
U.S. Claims on Permittees' Allotments

BASIN 37

37-02809 BLM	37-02955 BLM	37-03058 BLM	37-04211 BLM
37-02811 BLM	37-02937 BLM	37-03059 BLM	37-04212 BLM
37-02813 BLM	37-02942 BLM	37-03065 BLM	37-04213 BLM
37-02817 BLM	37-02945 BLM	37-03084 BLM	37-04215 BLM
37-02821 BLM	37-02949 BLM	37-03085 BLM	37-04219 BLM
37-02830 BLM	37-02950 BLM	37-03086 BLM	37-04220 BLM
37-02836 BLM	37-02951 BLM	37-03111 BLM	37-04221 BLM
37-02836 BLM	37-02954 BLM	37-03113 BLM	37-04223 BLM
37-02837 BLM	37-02956 BLM	37-03118 BLM	37-04224 BLM
37-02848 BLM	37-02959 BLM	37-03119 BLM	37-07128 BLM
37-02851 BLM	37-02959 BLM	37-03122 BLM	37-07128 BLM
37-02852 BLM	37-02966 BLM	37-03123 BLM	37-07129 BLM
37-02856 BLM	37-02968 BLM	37-03123 BLM	37-07131 BLM
37-02867 BLM	37-02975 BLM	37-03124 BLM	37-07132 BLM
37-02872 BLM	37-02976 BLM	37-03125 BLM	37-07317 BLM
37-02884 BLM	37-02977 BLM	37-03127 BLM	37-07969 BLM
37-02885 BLM	37-02979 BLM	37-03128 BLM	37-07982 BLM
37-02886 BLM	37-02980 BLM	37-03129 BLM	37-08017 BLM
37-02887 BLM	37-02981 BLM	37-03129 BLM	37-08018 BLM
37-02896 BLM	37-02994 BLM	37-03133 BLM	37-08019 BLM
37-02914 BLM	37-03000 BLM	37-03134 BLM	37-08020 BLM
37-02915 BLM	37-03002 BLM	37-03134 BLM	37-08022 BLM
37-02917 BLM	37-03003 BLM	37-03147 BLM	37-08023 BLM
37-02918 BLM	37-03004 BLM	37-03159 BLM	37-08024 BLM
37-02919 BLM	37-03005 BLM	37-04177 BLM	37-08052 BLM
37-02920 BLM	37-03006 BLM	37-04178 BLM	37-08187 BLM
37-02921 BLM	37-03007 BLM	37-04180 BLM	37-08188 BLM
37-02922 BLM	37-03008 BLM	37-04181 BLM	37-08191 BLM
37-02922 BLM	37-03009 BLM	37-04181 BLM	37-08242 BLM
37-02923 BLM	37-03010 BLM	37-04182 BLM	37-08243 BLM
37-02924 BLM	37-03011 BLM	37-04183 BLM	37-08311 BLM
37-02928 BLM	37-03013 BLM	37-04195 BLM	37-08319 BLM
37-02928 BLM	37-03015 BLM	37-04196 BLM	37-10209 BLM
37-02929 BLM	37-03023 BLM	37-04200 BLM	37-14397 BLM
37-02930 BLM	37-03024 BLM	37-04201 BLM	37-14398 BLM
37-02934 BLM	37-03027 BLM	37-04202 BLM	37-14417 BLM
37-02935 BLM	37-03037 BLM	37-04206 BLM	37-14418 BLM
37-02936 BLM	37-03038 BLM	37-04207 BLM	37-14419 BLM
	37-03044 BLM	37-04209 BLM	37-14422 BLM
	37-03055 BLM	37-04210 BLM	37-14423 BLM

EXHIBIT A
U.S. Claims on Permittees' Allotments

37-14425 BLM	37-17332 BLM	37-17760 BLM	37-18225 BLM
37-14426 BLM	37-17396 BLM	37-17979 BLM	37-18226 BLM
37-14427 BLM	37-17616 BLM	37-17984 BLM	37-18228 BLM
37-14428 BLM	37-17618 BLM	37-18006 BLM	37-18230 BLM
37-14429 BLM	37-17621 BLM	37-18008 BLM	37-18260 BLM
37-14430 BLM	37-17622 BLM	37-18009 BLM	37-18261 BLM
37-14431 BLM	37-17623 BLM	37-18017 BLM	37-18262 BLM
37-14432 BLM	37-17633 BLM	37-18020 BLM	37-18302 BLM
37-14433 BLM	37-17639 BLM	37-18022 BLM	37-18303 BLM
37-14434 BLM	37-17640 BLM	37-18024 BLM	37-18334 BLM
37-14435 BLM	37-17643 BLM	37-18025 BLM	37-18349 BLM
37-14436 BLM	37-17655 BLM	37-18026 BLM	37-18355 BLM
37-14437 BLM	37-17656 BLM	37-18027 BLM	37-18357 BLM
37-14443 BLM	37-17657 BLM	37-18047 BLM	37-18358 BLM
37-14445 BLM	37-17659 BLM	37-18049 BLM	37-18359 BLM
37-14447 BLM	37-17660 BLM	37-18050 BLM	37-18360 BLM
37-14449 BLM	37-17672 BLM	37-18051 BLM	37-18460 BLM
37-14454 BLM	37-17673 BLM	37-18062 BLM	37-18461 BLM
37-14455 BLM	37-17676 BLM	37-18069 BLM	37-18462 BLM
37-14456 BLM	37-17677 BLM	37-18071 BLM	37-18463 BLM
37-14457 BLM	37-17679 BLM	37-18072 BLM	37-18464 BLM
37-14458 BLM	37-17680 BLM	37-18083 BLM	37-18480 BLM
37-14460 BLM	37-17681 BLM	37-18084 BLM	37-18483 BLM
37-14461 BLM	37-17684 BLM	37-18085 BLM	37-18485 BLM
37-14466 BLM	37-17687 BLM	37-18086 BLM	37-18486 BLM
37-15169 BLM	37-17688 BLM	37-18087 BLM	37-18487 BLM
37-15186 BLM	37-17692 BLM	37-18088 BLM	37-18488 BLM
37-16481 BLM	37-17693 BLM	37-18091 BLM	37-18489 BLM
37-16557 BLM	37-17694 BLM	37-18092 BLM	37-18490 BLM
37-16894 BLM	37-17696 BLM	37-18093 BLM	37-18491 BLM
37-17222 BLM	37-17702 BLM	37-18102 BLM	37-18492 BLM
37-17223 BLM	37-17703 BLM	37-18103 BLM	37-18512 BLM
37-17225 BLM	37-17704 BLM	37-18117 BLM	37-18513 BLM
37-17226 BLM	37-17705 BLM	37-18119 BLM	37-18516 BLM
37-17286 BLM	37-17706 BLM	37-18129 BLM	37-18518 BLM
37-17326 BLM	37-17717 BLM	37-18135 BLM	37-18519 BLM
37-17327 BLM	37-17720 BLM	37-18136 BLM	37-18522 BLM
37-17329 BLM	37-17739 BLM	37-18191 BLM	37-18525 BLM
37-17330 BLM	37-17740 BLM	37-18192 BLM	37-18527 BLM
37-17331 BLM	37-17742 BLM	37-18193 BLM	37-18529 BLM

EXHIBIT A
U.S. Claims on Permittees' Allotments

37-18532 BLM	37-18711 BLM	37-18835 BLM	37-19165 BLM
37-18533 BLM	37-18712 BLM	37-18840 BLM	37-19167 BLM
37-18534 BLM	37-18713 BLM	37-18845 BLM	37-19185 BLM
37-18535 BLM	37-18716 BLM	37-18847 BLM	37-19187 BLM
37-18536 BLM	37-18718 BLM	37-18850 BLM	37-19205 BLM
37-18536 BLM	37-18719 BLM	37-18853 BLM	37-19208 BLM
37-18543 BLM	37-18721 BLM	37-18856 BLM	37-19210 BLM
37-18545 BLM	37-18734 BLM	37-18859 BLM	37-19215 BLM
37-18547 BLM	37-18734 BLM	37-18860 BLM	37-19267 BLM
37-18551 BLM	37-18743 BLM	37-18868 BLM	37-19325 BLM
37-18552 BLM	37-18743 BLM	37-18873 BLM	37-19401 BLM
37-18553 BLM	37-18744 BLM	37-18875 BLM	37-19409 BLM
37-18563 BLM	37-18744 BLM	37-18882 BLM	37-19416 BLM
37-18565 BLM	37-18745 BLM	37-18883 BLM	37-19417 BLM
37-18571 BLM	37-18745 BLM	37-18884 BLM	37-19445 BLM
37-18572 BLM	37-18745 BLM	37-18885 BLM	37-19452 BLM
37-18574 BLM	37-18746 BLM	37-18886 BLM	37-19456 BLM
37-18575 BLM	37-18746 BLM	37-18888 BLM	37-19458 BLM
37-18576 BLM	37-18747 BLM	37-18889 BLM	37-19460 BLM
37-18577 BLM	37-18747 BLM	37-18890 BLM	37-19461 BLM
37-18578 BLM	37-18763 BLM	37-18897 BLM	37-19462 BLM
37-18579 BLM	37-18763 BLM	37-18900 BLM	37-19478 BLM
37-18580 BLM	37-18765 BLM	37-18901 BLM	37-19488 BLM
37-18588 BLM	37-18766 BLM	37-18902 BLM	37-19489 BLM
37-18590 BLM	37-18786 BLM	37-18905 BLM	37-19490 BLM
37-18594 BLM	37-18787 BLM	37-18907 BLM	37-19497 BLM
37-18595 BLM	37-18789 BLM	37-18909 BLM	37-19498 BLM
37-18604 BLM	37-18790 BLM	37-18911 BLM	37-19499 BLM
37-18609 BLM	37-18791 BLM	37-18912 BLM	37-19515 BLM
37-18613 BLM	37-18792 BLM	37-18946 BLM	37-19518 BLM
37-18614 BLM	37-18806 BLM	37-18946 BLM	37-19519 BLM
37-18629 BLM	37-18814 BLM	37-18962 BLM	37-19520 BLM
37-18630 BLM	37-18818 BLM	37-18967 BLM	37-19521 BLM
37-18631 BLM	37-18822 BLM	37-18968 BLM	37-19524 BLM
37-18635 BLM	37-18824 BLM	37-18969 BLM	37-19525 BLM
37-18645 BLM	37-18826 BLM	37-18969 BLM	37-19530 BLM
37-18656 BLM	37-18826 BLM	37-18974 BLM	37-19531 BLM
37-18658 BLM	37-18827 BLM	37-19090 BLM	37-19532 BLM
37-18698 BLM	37-18827 BLM	37-19107 BLM	37-19533 BLM
37-18702 BLM	37-18833 BLM	37-19164 BLM	37-19534 BLM

EXHIBIT A
U.S. Claims on Permittees' Allotments

37-19535 BLM	37-20230 BLM	45-12083 USFS	45-12545 BLM
37-19536 BLM	37-20231 BLM	45-12084 USFS	45-12549 BLM
37-19538 BLM	37-20233 BLM	45-12085 USFS	45-12550 BLM
37-19539 BLM	37-20234 BLM	45-12086 USFS	45-12551 BLM
37-19540 BLM	37-20235 BLM	45-12087 USFS	45-12557 BLM
37-19547 BLM	37-20236 BLM	45-12088 USFS	45-12560 BLM
37-19590 BLM	37-20237 BLM	45-12089 USFS	45-12613 BLM
37-19597 BLM	37-20252 BLM	45-12090 USFS	45-12654 BLM
37-19600 BLM	37-20259 BLM	45-12091 USFS	45-12656 BLM
37-19616 BLM	37-20261 BLM	45-12092 USFS	45-12658 BLM
37-19629 BLM		45-12093 USFS	45-12672 BLM
37-19637 BLM	<u>BASIN 45</u>	45-12094 USFS	45-12675 BLM
37-19638 BLM		45-12096 USFS	45-12676 BLM
37-19639 BLM	45-02769 BLM	45-12097 USFS	45-12677 BLM
37-19640 BLM	45-02778 BLM	45-12098 USFS	45-12678 BLM
37-19642 BLM	45-02789 BLM	45-12099 USFS	45-12682 BLM
37-19644 BLM	45-02817 BLM	45-12101 USFS	45-12690 BLM
37-19645 BLM	45-02819 BLM	45-12105 USFS	45-12728 BLM
37-19646 BLM	45-02823 BLM	45-12106 USFS	45-12730 BLM
37-19649 BLM	45-07343 BLM	45-12107 USFS	45-12779 BLM
37-19650 BLM	45-07488 BLM	45-12108 USFS	45-12795 BLM
37-19651 BLM	45-07505 BLM	45-12109 USFS	45-12813 BLM
37-19652 BLM	45-07601 BLM	45-12111 USFS	45-12816 BLM
37-19670 BLM	45-07611 BLM	45-12112 USFS	45-12827 BLM
37-20046 BLM	45-11978 USFS	45-12113 USFS	45-12838 USFS
37-20047 BLM	45-12050 USFS	45-12114 USFS	45-12842 USFS
37-20050 BLM	45-12053 USFS	45-12116 USFS	45-12855 USFS
37-20051 BLM	45-12055 USFS	45-12127 USFS	45-12866 USFS
37-20097 BLM	45-12056 USFS	45-12162 USFS	45-12869 USFS
37-20148 BLM	45-12058 USFS	45-12218 USFS	45-12871 USFS
37-20188 BLM	45-12060 USFS	45-12243 USFS	
37-20189 BLM	45-12061 USFS	45-12280 USFS	<u>BASIN 47</u>
37-20191 BLM	45-12073 USFS	45-12468 BLM	
37-20192 BLM	45-12074 USFS	45-12511 BLM	47-08043 BLM
37-20207 BLM	45-12075 USFS	45-12521 BLM	47-14994 USFS
37-20209 BLM	45-12076 USFS	45-12524 BLM	47-14995 USFS
37-20212 BLM	45-12079 USFS	45-12525 BLM	47-14997 USFS
37-20220 BLM	45-12080 USFS	45-12526 BLM	47-14999 USFS
37-20221 BLM	45-12081 USFS	45-12541 BLM	47-15001 USFS
37-20224 BLM	45-12082 USFS	45-12543 BLM	47-15002 USFS

EXHIBIT A
U.S. Claims on Permittees' Allotments

47-15004 USFS	47-15132 USFS	47-16438 USFS	47-16692 USFS
47-15005 USFS	47-15135 USFS	47-16440 USFS	47-16693 USFS
47-15010 USFS	47-15136 USFS	47-16441 USFS	47-16694 USFS
47-15028 USFS	47-15137 USFS	47-16442 USFS	47-16702 USFS
47-15031 USFS	47-15138 USFS	47-16443 USFS	47-16704 USFS
47-15033 USFS	47-15139 USFS	47-16444 USFS	47-16710 USFS
47-15035 USFS	47-15140 USFS	47-16445 USFS	47-16721 USFS
47-15037 USFS	47-15142 USFS	47-16446 USFS	47-16722 USFS
47-15038 USFS	47-15143 USFS	47-16447 USFS	47-16923 BLM
47-15045 USFS	47-15144 USFS	47-16448 USFS	
47-15048 USFS	47-15146 USFS	47-16449 USFS	<u>BASIN 67</u>
47-15051 USFS	47-15147 USFS	47-16458 USFS	
47-15052 USFS	47-15148 USFS	47-16459 USFS	67-07076 BLM
47-15054 USFS	47-15149 USFS	47-16460 USFS	67-07080 BLM
47-15055 USFS	47-15151 USFS	47-16461 USFS	67-07086 BLM
47-15056 USFS	47-15152 USFS	47-16463 USFS	67-07091 BLM
47-15058 USFS	47-15153 USFS	47-16464 USFS	67-07095 BLM
47-15060 USFS	47-15155 USFS	47-16465 USFS	67-07097 BLM
47-15061 USFS	47-15164 USFS	47-16466 USFS	67-07100 BLM
47-15062 USFS	47-15177 USFS	47-16470 USFS	67-07179 BLM
47-15063 USFS	47-15178 USFS	47-16471 USFS	67-07643 BLM
47-15075 USFS	47-15179 USFS	47-16474 USFS	67-07644 BLM
47-15077 USFS	47-15195 USFS	47-16648 USFS	67-07645 BLM
47-15082 USFS	47-15196 USFS	47-16649 USFS	67-07646 BLM
47-15083 USFS	47-15197 USFS	47-16651 USFS	67-07647 BLM
47-15086 USFS	47-15199 USFS	47-16652 USFS	67-07649 BLM
47-15090 USFS	47-15200 USFS	47-16655 USFS	67-07660 BLM
47-15091 USFS	47-15204 USFS	47-16663 USFS	67-07672 BLM
47-15092 USFS	47-15205 USFS	47-16664 USFS	67-12378 BLM
47-15093 USFS	47-16132 BLM	47-16665 USFS	67-12579 BLM
47-15095 USFS	47-16292 BLM	47-16666 USFS	67-12646 BLM
47-15106 USFS	47-16293 BLM	47-16677 USFS	67-12648 BLM
47-15107 USFS	47-16300 BLM	47-16678 USFS	67-12649 BLM
47-15108 USFS	47-16321 BLM	47-16679 USFS	67-12651 BLM
47-15109 USFS	47-16322 BLM	47-16680 USFS	67-12660 BLM
47-15110 USFS	47-16429 USFS	47-16683 USFS	67-12661 BLM
47-15117 USFS	47-16433 USFS	47-16684 USFS	67-12698 BLM
47-15119 USFS	47-16434 USFS	47-16686 USFS	67-12699 BLM
47-15128 USFS	47-16435 USFS	47-16687 USFS	67-12700 BLM
47-15131 USFS	47-16437 USFS	47-16688 USFS	67-12701 BLM

EXHIBIT A
U.S. Claims on Permittees' Allotments

67-12702 BLM	67-13061 BLM	78-04247 USFS
67-12708 BLM	67-13062 BLM	78-04249 USFS
67-12717 BLM	67-13064 BLM	78-10491 USFS
67-12718 BLM	67-13067 BLM	78-10624 USFS
67-12719 BLM	67-13068 BLM	78-10626 USFS
67-12721 BLM	67-13079 BLM	78-10627 USFS
67-12724 BLM	67-13092 BLM	78-10628 USFS
67-12781 BLM	67-13187 BLM	78-10629 USFS
67-12798 BLM	67-13188 BLM	78-10630 USFS
67-12801 BLM	67-13192 BLM	78-10631 USFS
67-12802 BLM	67-13193 BLM	78-10632 USFS
67-12807 BLM	67-13194 BLM	78-10636 USFS
67-12844 BLM	67-13196 BLM	78-10637 USFS
67-12846 BLM	67-13336 BLM	78-10638 USFS
67-12848 BLM	67-14224 BLM	78-10648 USFS
67-12849 BLM		78-10650 USFS
67-12895 BLM	<u>BASIN 69</u>	78-10651 USFS
67-12896 BLM		78-10652 USFS
67-12908 BLM	69-10473 BLM	78-10653 USFS
67-12936 BLM		78-10654 USFS
67-12937 BLM	<u>BASIN 78</u>	78-10655 USFS
67-12938 BLM		78-10656 USFS
67-12980 BLM	78-04197 USFS	78-12003 USFS
67-12985 BLM	78-04203 USFS	78-12007 USFS
67-12986 BLM	78-04205 USFS	78-12008 USFS
67-12987 BLM	78-04206 USFS	78-12009 USFS
67-12988 BLM	78-04208 USFS	78-12010 USFS
67-12989 BLM	78-04209 USFS	78-12018 USFS
67-13028 BLM	78-04210 USFS	
67-13030 BLM	78-04211 USFS	
67-13031 BLM	78-04212 USFS	
67-13032 BLM	78-04214 USFS	
67-13033 BLM	78-04216 USFS	
67-13035 BLM	78-04218 USFS	
67-13036 BLM	78-04219 USFS	
67-13037 BLM	78-04224 USFS	
67-13038 BLM	78-04225 USFS	
67-13040 BLM	78-04234 USFS	
67-13041 BLM	78-04238 USFS	
67-13054 BLM	78-04239 USFS	

EXHIBIT B
Non-Permittee Objections

<u>B32</u>	33-10864	33-10971	37-02961	37-03072	37-07703
32-04005	33-10865	33-10972	37-02964	37-03073	37-07704
32-04015	33-10866	33-10973	37-02967	37-03074	37-07705
32-04028	33-10867	33-10974	37-02969	37-03077	37-07706
32-04029	33-10868	33-10975	37-02970	37-03078	37-07831
32-11250	33-10869	33-10976	37-02971	37-03079	37-07886
	33-10870	33-10977	37-02973	37-03080	37-07887
<u>B33</u>	33-10871	33-10978	37-02982	37-03083	37-07888
33-07085	33-10873	33-10979	37-02984	37-03087	37-07930
33-07149	33-10930		37-02986	37-03092	37-07960
33-07150	33-10931	<u>B37</u>	37-02988	37-03098	37-07962
33-07157	33-10932	37-02818	37-02989	37-03099	37-07964
33-07166	33-10942	37-02831	37-02995	37-03102	37-07965
33-07168	33-10943	37-02832	37-02996	37-03103	37-07967
33-07222	33-10944	37-02845	37-02997	37-03104	37-07973
33-07223	33-10945	37-02868	37-02999	37-03105	37-07976
33-07224	33-10946	37-02871	37-03001	37-03106	37-07977
33-07225	33-10948	37-02874	37-03012	37-03108	37-07978
33-10841	33-10949	37-02888	37-03014	37-03110	37-07979
33-10842	33-10950	37-02892	37-03016	37-03112	37-07980
33-10843	33-10951	37-02893	37-03021	37-03114	37-07981
33-10844	33-10952	37-02894	37-03029	37-03120	37-07983
33-10845	33-10953	37-02900	37-03030	37-03135	37-08016
33-10846	33-10954	37-02901	37-03033	37-03136	37-08025
33-10847	33-10955	37-02903	37-03034	37-03138	37-08040
33-10848	33-10956	37-02907	37-03035	37-03149	37-08041
33-10849	33-10957	37-02909	37-03036	37-03150	37-08043
33-10850	33-10958	37-02910	37-03040	37-03153	37-08044
33-10851	33-10959	37-02911	37-03041	37-03154	37-08045
33-10852	33-10960	37-02912	37-03042	37-04259	37-08047
33-10853	33-10961	37-02936	37-03046	37-04260	37-08048
33-10854	33-10962	37-02940	37-03047	37-04388	37-08050
33-10856	33-10963	37-02943	37-03048	37-07133	37-08051
33-10857	33-10964	37-02944	37-03049	37-07134	37-08053
33-10858	33-10965	37-02946	37-03050	37-07135	37-08155
33-10859	33-10966	37-02947	37-03052	37-07144	37-08156
33-10860	33-10967	37-02952	37-03060	37-07145	37-08161
33-10861	33-10968	37-02957	37-03061	37-07186	37-08167
33-10862	33-10969	37-02958	37-03062	37-07187	37-08185
33-10863	33-10970	37-02960	37-03066	37-07188	37-08186

EXHIBIT B
Non-Permittee Objections

37-08190	37-13456	37-13554	37-13600	37-13654	37-13722
37-08229	37-13462	37-13555	37-13601	37-13656	37-13723
37-08231	37-13463	37-13560	37-13602	37-13658	37-13724
37-08232	37-13470	37-13561	37-13603	37-13659	37-13726
37-08233	37-13471	37-13562	37-13604	37-13661	37-13727
37-08234	37-13475	37-13563	37-13605	37-13662	37-13728
37-08236	37-13480	37-13564	37-13606	37-13663	37-13729
37-08237	37-13481	37-13565	37-13607	37-13666	37-13730
37-08239	37-13484	37-13566	37-13608	37-13667	37-13731
37-08240	37-13485	37-13567	37-13609	37-13668	37-13732
37-08244	37-13486	37-13568	37-13610	37-13669	37-13733
37-08245	37-13487	37-13569	37-13611	37-13670	37-13734
37-08247	37-13488	37-13571	37-13612	37-13671	37-13735
37-08290	37-13489	37-13572	37-13613	37-13672	37-13737
37-08300	37-13490	37-13573	37-13614	37-13673	37-13738
37-08312	37-13491	37-13574	37-13615	37-13674	37-13739
37-08313	37-13492	37-13575	37-13616	37-13677	37-13767
37-08314	37-13493	37-13576	37-13618	37-13678	37-13768
37-08315	37-13494	37-13577	37-13620	37-13679	37-14288
37-08316	37-13495	37-13578	37-13621	37-13680	37-14303
37-08317	37-13496	37-13579	37-13622	37-13681	37-14304
37-08318	37-13498	37-13580	37-13623	37-13683	37-14305
37-08320	37-13499	37-13581	37-13629	37-13684	37-14306
37-08321	37-13500	37-13582	37-13630	37-13685	37-14307
37-08524	37-13501	37-13583	37-13631	37-13687	37-14308
37-12192	37-13503	37-13584	37-13632	37-13688	37-14309
37-13430	37-13513	37-13586	37-13633	37-13689	37-14310
37-13431	37-13514	37-13587	37-13634	37-13690	37-14311
37-13432	37-13520	37-13588	37-13635	37-13691	37-14312
37-13433	37-13521	37-13589	37-13636	37-13692	37-14313
37-13434	37-13524	37-13590	37-13637	37-13694	37-14314
37-13441	37-13532	37-13591	37-13638	37-13695	37-14315
37-13443	37-13543	37-13592	37-13639	37-13703	37-14346
37-13445	37-13544	37-13593	37-13641	37-13704	37-14348
37-13448	37-13546	37-13594	37-13642	37-13706	37-14349
37-13449	37-13547	37-13595	37-13644	37-13707	37-14351
37-13451	37-13549	37-13596	37-13645	37-13708	37-14352
37-13453	37-13550	37-13597	37-13646	37-13713	37-14353
37-13454	37-13551	37-13598	37-13647	37-13714	37-14355
37-13455	37-13552	37-13599	37-13653	37-13721	37-14357

EXHIBIT B
Non-Permittee Objections

37-14358	37-14404	37-14522	37-14618	37-14886	37-15010
37-14359	37-14405	37-14524	37-14620	37-14888	37-15011
37-14360	37-14406	37-14526	37-14623	37-14889	37-15013
37-14362	37-14407	37-14530	37-14624	37-14890	37-15014
37-14363	37-14408	37-14531	37-14625	37-14895	37-15015
37-14364	37-14409	37-14532	37-14626	37-14896	37-15020
37-14365	37-14411	37-14534	37-14631	37-14898	37-15023
37-14366	37-14412	37-14535	37-14636	37-14900	37-15025
37-14367	37-14413	37-14539	37-14657	37-14902	37-15026
37-14368	37-14414	37-14540	37-14658	37-14903	37-15029
37-14369	37-14415	37-14541	37-14661	37-14904	37-15031
37-14370	37-14438	37-14543	37-14662	37-14905	37-15032
37-14371	37-14440	37-14544	37-14663	37-14906	37-15034
37-14372	37-14441	37-14545	37-14664	37-14907	37-15035
37-14373	37-14442	37-14550	37-14666	37-14911	37-15055
37-14374	37-14467	37-14558	37-14677	37-14912	37-15056
37-14376	37-14468	37-14559	37-14681	37-14914	37-15063
37-14377	37-14469	37-14560	37-14735	37-14915	37-15064
37-14379	37-14470	37-14562	37-14736	37-14916	37-15065
37-14380	37-14471	37-14563	37-14737	37-14917	37-15066
37-14381	37-14472	37-14565	37-14738	37-14919	37-15071
37-14382	37-14487	37-14567	37-14739	37-14923	37-15072
37-14383	37-14490	37-14568	37-14742	37-14924	37-15079
37-14384	37-14491	37-14570	37-14744	37-14925	37-15086
37-14385	37-14493	37-14572	37-14745	37-14926	37-15089
37-14386	37-14494	37-14573	37-14746	37-14927	37-15114
37-14387	37-14495	37-14575	37-14747	37-14929	37-15115
37-14388	37-14496	37-14576	37-14748	37-14937	37-15141
37-14389	37-14497	37-14578	37-14749	37-14940	37-15143
37-14390	37-14498	37-14579	37-14750	37-14941	37-15145
37-14391	37-14501	37-14606	37-14751	37-14942	37-15166
37-14392	37-14502	37-14609	37-14752	37-14968	37-15206
37-14393	37-14503	37-14610	37-14766	37-14973	37-15210
37-14395	37-14505	37-14611	37-14779	37-14974	37-15211
37-14396	37-14507	37-14612	37-14781	37-14976	37-15212
37-14399	37-14508	37-14613	37-14864	37-14985	37-15217
37-14400	37-14510	37-14614	37-14874	37-14993	37-15220
37-14401	37-14511	37-14615	37-14876	37-14999	37-15226
37-14402	37-14512	37-14616	37-14880	37-15008	37-15229
37-14403	37-14520	37-14617	37-14885	37-15009	37-15239

EXHIBIT B
Non-Permittee Objections

37-15240	37-15473	37-15638	37-15723	37-15861	37-15953
37-15243	37-15474	37-15640	37-15724	37-15862	37-15954
37-15244	37-15477	37-15641	37-15725	37-15863	37-15955
37-15279	37-15478	37-15643	37-15727	37-15868	37-15956
37-15281	37-15479	37-15644	37-15728	37-15869	37-15960
37-15282	37-15494	37-15645	37-15730	37-15870	37-15961
37-15283	37-15498	37-15646	37-15731	37-15872	37-15964
37-15284	37-15505	37-15647	37-15734	37-15873	37-15965
37-15303	37-15523	37-15649	37-15735	37-15876	37-15967
37-15304	37-15524	37-15652	37-15736	37-15877	37-15968
37-15305	37-15588	37-15654	37-15737	37-15878	37-15969
37-15306	37-15589	37-15655	37-15738	37-15879	37-15970
37-15307	37-15590	37-15661	37-15739	37-15880	37-15975
37-15326	37-15591	37-15662	37-15740	37-15881	37-15983
37-15327	37-15592	37-15663	37-15745	37-15883	37-15984
37-15328	37-15593	37-15673	37-15748	37-15884	37-15987
37-15329	37-15594	37-15674	37-15750	37-15886	37-15994
37-15330	37-15599	37-15675	37-15752	37-15887	37-15996
37-15331	37-15600	37-15677	37-15753	37-15888	37-16000
37-15333	37-15602	37-15679	37-15761	37-15889	37-16002
37-15337	37-15605	37-15680	37-15762	37-15891	37-16004
37-15341	37-15606	37-15681	37-15763	37-15892	37-16006
37-15363	37-15607	37-15684	37-15764	37-15893	37-16009
37-15366	37-15608	37-15685	37-15765	37-15895	37-16010
37-15367	37-15610	37-15687	37-15769	37-15896	37-16012
37-15368	37-15612	37-15688	37-15771	37-15897	37-16034
37-15386	37-15613	37-15690	37-15772	37-15898	37-16035
37-15430	37-15614	37-15691	37-15773	37-15899	37-16036
37-15433	37-15616	37-15692	37-15777	37-15905	37-16037
37-15436	37-15619	37-15694	37-15778	37-15910	37-16038
37-15438	37-15622	37-15696	37-15780	37-15911	37-16039
37-15442	37-15623	37-15701	37-15781	37-15914	37-16040
37-15443	37-15624	37-15711	37-15782	37-15916	37-16041
37-15460	37-15625	37-15712	37-15783	37-15918	37-16042
37-15461	37-15627	37-15713	37-15792	37-15928	37-16043
37-15463	37-15630	37-15714	37-15795	37-15934	37-16044
37-15465	37-15631	37-15716	37-15803	37-15939	37-16045
37-15466	37-15633	37-15718	37-15858	37-15946	37-16046
37-15467	37-15635	37-15721	37-15859	37-15950	37-16047
37-15470	37-15636	37-15722	37-15860	37-15952	37-16048

EXHIBIT B
Non-Permittee Objections

37-16049	37-16099	37-16462	37-16629	37-16833	37-16961
37-16050	37-16106	37-16478	37-16631	37-16859	37-16975
37-16051	37-16110	37-16479	37-16639	37-16863	37-16982
37-16052	37-16113	37-16482	37-16641	37-16864	37-16992
37-16053	37-16118	37-16485	37-16651	37-16873	37-16996
37-16054	37-16124	37-16487	37-16657	37-16874	37-16998
37-16055	37-16128	37-16488	37-16659	37-16875	37-17000
37-16056	37-16130	37-16489	37-16669	37-16879	37-17038
37-16057	37-16131	37-16490	37-16671	37-16884	37-17039
37-16058	37-16132	37-16494	37-16673	37-16887	37-17048
37-16059	37-16136	37-16495	37-16675	37-16890	37-17049
37-16060	37-16137	37-16498	37-16677	37-16892	37-17050
37-16061	37-16140	37-16506	37-16679	37-16893	37-17051
37-16062	37-16142	37-16512	37-16681	37-16898	37-17073
37-16063	37-16143	37-16520	37-16685	37-16899	37-17074
37-16064	37-16144	37-16521	37-16697	37-16900	37-17075
37-16065	37-16159	37-16522	37-16701	37-16905	37-17077
37-16066	37-16162	37-16526	37-16703	37-16906	37-17089
37-16067	37-16167	37-16540	37-16705	37-16907	37-17095
37-16068	37-16169	37-16541	37-16735	37-16908	37-17096
37-16070	37-16174	37-16542	37-16739	37-16909	37-17098
37-16071	37-16175	37-16543	37-16741	37-16911	37-17104
37-16072	37-16176	37-16544	37-16753	37-16914	37-17106
37-16073	37-16193	37-16545	37-16755	37-16915	37-17110
37-16074	37-16228	37-16546	37-16757	37-16916	37-17115
37-16075	37-16235	37-16559	37-16759	37-16921	37-17117
37-16076	37-16240	37-16565	37-16763	37-16922	37-17120
37-16077	37-16241	37-16567	37-16765	37-16923	37-17121
37-16078	37-16242	37-16569	37-16769	37-16924	37-17128
37-16080	37-16243	37-16571	37-16781	37-16925	37-17129
37-16081	37-16246	37-16577	37-16791	37-16945	37-17132
37-16083	37-16250	37-16579	37-16799	37-16946	37-17133
37-16084	37-16297	37-16593	37-16805	37-16947	37-17136
37-16088	37-16340	37-16599	37-16807	37-16949	37-17137
37-16089	37-16388	37-16603	37-16809	37-16950	37-17138
37-16090	37-16389	37-16605	37-16811	37-16951	37-17139
37-16091	37-16392	37-16607	37-16813	37-16952	37-17140
37-16092	37-16427	37-16611	37-16825	37-16953	37-17142
37-16093	37-16451	37-16615	37-16827	37-16958	37-17143
37-16097	37-16452	37-16627	37-16829	37-16959	37-17145

EXHIBIT B
Non-Permittee Objections

37-17146	37-17247	37-17406	37-17453	37-17539	37-17630
37-17147	37-17258	37-17407	37-17454	37-17542	37-17632
37-17149	37-17287	37-17408	37-17455	37-17543	37-17637
37-17150	37-17289	37-17410	37-17456	37-17544	37-17646
37-17151	37-17291	37-17411	37-17457	37-17545	37-17648
37-17152	37-17292	37-17412	37-17458	37-17549	37-17649
37-17153	37-17293	37-17413	37-17459	37-17551	37-17661
37-17154	37-17295	37-17414	37-17460	37-17566	37-17663
37-17155	37-17299	37-17415	37-17461	37-17568	37-17665
37-17157	37-17301	37-17416	37-17463	37-17570	37-17666
37-17161	37-17302	37-17417	37-17464	37-17571	37-17668
37-17162	37-17313	37-17418	37-17465	37-17573	37-17669
37-17163	37-17314	37-17419	37-17466	37-17574	37-17670
37-17164	37-17315	37-17420	37-17467	37-17575	37-17675
37-17165	37-17316	37-17421	37-17469	37-17576	37-17707
37-17166	37-17322	37-17422	37-17473	37-17577	37-17708
37-17167	37-17325	37-17423	37-17476	37-17578	37-17710
37-17168	37-17333	37-17424	37-17477	37-17579	37-17711
37-17173	37-17335	37-17427	37-17478	37-17580	37-17726
37-17174	37-17336	37-17428	37-17481	37-17582	37-17748
37-17178	37-17338	37-17429	37-17485	37-17583	37-17752
37-17179	37-17339	37-17430	37-17486	37-17584	37-17754
37-17180	37-17341	37-17431	37-17488	37-17587	37-17755
37-17181	37-17343	37-17432	37-17494	37-17588	37-17756
37-17183	37-17346	37-17433	37-17501	37-17591	37-17757
37-17184	37-17349	37-17434	37-17506	37-17594	37-17765
37-17192	37-17350	37-17436	37-17507	37-17597	37-17766
37-17194	37-17351	37-17438	37-17510	37-17598	37-17767
37-17196	37-17352	37-17439	37-17511	37-17601	37-17768
37-17197	37-17354	37-17440	37-17514	37-17602	37-17770
37-17198	37-17355	37-17441	37-17516	37-17603	37-17771
37-17208	37-17356	37-17442	37-17518	37-17604	37-17774
37-17209	37-17357	37-17443	37-17521	37-17609	37-17776
37-17210	37-17358	37-17444	37-17522	37-17610	37-17778
37-17217	37-17359	37-17445	37-17524	37-17615	37-17779
37-17218	37-17373	37-17446	37-17525	37-17624	37-17780
37-17220	37-17391	37-17447	37-17530	37-17626	37-17795
37-17221	37-17397	37-17448	37-17533	37-17627	37-17796
37-17244	37-17402	37-17450	37-17534	37-17628	37-17805
37-17245	37-17405	37-17451	37-17538	37-17629	37-17807

EXHIBIT B
Non-Permittee Objections

37-17808	37-17866	37-17942	37-18447	37-19172	37-19302
37-17809	37-17867	37-17943	37-18449	37-19175	37-19303
37-17810	37-17868	37-17944	37-18458	37-19176	37-19304
37-17811	37-17870	37-17945	37-18459	37-19177	37-19307
37-17813	37-17873	37-17946	37-18466	37-19178	37-19308
37-17818	37-17874	37-17947	37-18476	37-19182	37-19309
37-17819	37-17875	37-17948	37-18477	37-19183	37-19310
37-17824	37-17876	37-17949	37-18479	37-19184	37-19311
37-17825	37-17877	37-17950	37-18481	37-19193	37-19312
37-17826	37-17878	37-17954	37-18496	37-19194	37-19313
37-17827	37-17881	37-17955	37-18498	37-19242	37-19314
37-17829	37-17882	37-17956	37-18501	37-19246	37-19318
37-17836	37-17884	37-17958	37-18502	37-19252	37-19319
37-17837	37-17885	37-17960	37-18505	37-19256	37-19320
37-17838	37-17891	37-17961	37-18592	37-19259	37-19321
37-17839	37-17893	37-17962	37-18593	37-19275	37-19322
37-17840	37-17895	37-17963	37-18605	37-19276	37-19323
37-17841	37-17897	37-17965	37-18608	37-19277	37-19324
37-17843	37-17904	37-17967	37-18619	37-19278	37-19355
37-17844	37-17908	37-17968	37-18621	37-19279	37-19359
37-17845	37-17909	37-17969	37-18622	37-19280	37-19360
37-17846	37-17911	37-17970	37-18637	37-19281	37-19364
37-17847	37-17912	37-17973	37-18639	37-19282	37-19365
37-17848	37-17921	37-17980	37-18640	37-19283	37-19366
37-17849	37-17922	37-17990	37-18642	37-19284	37-19367
37-17850	37-17923	37-17993	37-18643	37-19285	37-19368
37-17851	37-17924	37-17999	37-18644	37-19286	37-19380
37-17852	37-17925	37-18096	37-18646	37-19287	37-19382
37-17853	37-17926	37-18141	37-18647	37-19288	37-19386
37-17854	37-17927	37-18142	37-18648	37-19290	37-19392
37-17855	37-17928	37-18143	37-18650	37-19291	37-19394
37-17856	37-17929	37-18144	37-18652	37-19292	37-19395
37-17857	37-17931	37-18155	37-18653	37-19293	37-19396
37-17858	37-17932	37-18284	37-18654	37-19294	37-19397
37-17860	37-17933	37-18387	37-18655	37-19296	37-19400
37-17861	37-17934	37-18388	37-19114	37-19297	37-19406
37-17862	37-17937	37-18420	37-19161	37-19298	37-19407
37-17863	37-17938	37-18432	37-19162	37-19299	37-19412
37-17864	37-17939	37-18435	37-19170	37-19300	37-19413
37-17865	37-17941	37-18446	37-19171	37-19301	37-19414

EXHIBIT B
Non-Permittee Objections

37-19415	37-19580	37-19871	37-19925	37-19971	37-20011
37-19418	37-19582	37-19872	37-19929	37-19972	37-20012
37-19419	37-19584	37-19874	37-19930	37-19973	37-20013
37-19420	37-19595	37-19875	37-19931	37-19974	37-20014
37-19422	37-19602	37-19877	37-19932	37-19975	37-20015
37-19423	37-19605	37-19889	37-19936	37-19976	37-20016
37-19424	37-19607	37-19890	37-19937	37-19977	37-20017
37-19425	37-19612	37-19891	37-19938	37-19978	37-20018
37-19426	37-19617	37-19892	37-19939	37-19979	37-20019
37-19427	37-19621	37-19893	37-19940	37-19980	37-20020
37-19430	37-19643	37-19894	37-19941	37-19981	37-20021
37-19431	37-19677	37-19895	37-19942	37-19982	37-20022
37-19432	37-19678	37-19896	37-19943	37-19983	37-20023
37-19434	37-19679	37-19897	37-19944	37-19984	37-20024
37-19437	37-19680	37-19898	37-19945	37-19985	37-20025
37-19463	37-19681	37-19899	37-19946	37-19986	37-20026
37-19464	37-19683	37-19900	37-19947	37-19987	37-20027
37-19465	37-19685	37-19901	37-19948	37-19988	37-20028
37-19466	37-19687	37-19902	37-19949	37-19989	37-20030
37-19471	37-19689	37-19903	37-19950	37-19990	37-20031
37-19472	37-19690	37-19904	37-19951	37-19991	37-20032
37-19473	37-19849	37-19906	37-19952	37-19992	37-20033
37-19474	37-19850	37-19907	37-19953	37-19993	37-20034
37-19475	37-19852	37-19908	37-19954	37-19994	37-20042
37-19477	37-19853	37-19909	37-19955	37-19995	37-20044
37-19502	37-19854	37-19910	37-19956	37-19996	37-20045
37-19503	37-19857	37-19911	37-19957	37-19997	37-20048
37-19504	37-19858	37-19912	37-19958	37-19998	37-20049
37-19526	37-19859	37-19913	37-19959	37-19999	37-20052
37-19527	37-19860	37-19914	37-19960	37-20000	37-20061
37-19528	37-19861	37-19915	37-19961	37-20001	37-20063
37-19550	37-19862	37-19916	37-19962	37-20002	37-20066
37-19551	37-19863	37-19917	37-19963	37-20003	37-20072
37-19552	37-19864	37-19918	37-19964	37-20004	37-20073
37-19553	37-19865	37-19919	37-19965	37-20005	37-20074
37-19573	37-19866	37-19920	37-19966	37-20006	37-20076
37-19574	37-19867	37-19921	37-19967	37-20007	37-20078
37-19575	37-19868	37-19922	37-19968	37-20008	37-20079
37-19576	37-19869	37-19923	37-19969	37-20009	37-20081
37-19578	37-19870	37-19924	37-19970	37-20010	37-20085

EXHIBIT B
Non-Permittee Objections

37-20086	37-20176	67-02418	67-04403	67-07092	67-11782
37-20087	37-20177	67-02419	67-04404	67-07093	67-11783
37-20088	37-20178	67-02420	67-04406	67-07094	67-11785
37-20090	37-20179	67-02423	67-04407	67-07096	67-11786
37-20098	37-20182	67-02424	67-04408	67-07098	67-11787
37-20100	37-20183	67-02426	67-04427	67-07099	67-11788
37-20101	37-20186	67-04350	67-04428	67-07121	67-11790
37-20104	37-20193	67-04351	67-04429	67-07176	67-11791
37-20105	37-20195	67-04356	67-04431	67-07218	67-11792
37-20110	37-20196	67-04357	67-04432	67-07246	67-11793
37-20111	37-20197	67-04358	67-04439	67-07262	67-11794
37-20112	37-20198	67-04359	67-04440	67-07267	67-11795
37-20113	37-20199	67-04363	67-04441	67-07268	67-11797
37-20115	37-20203	67-04365	67-04442	67-07269	67-11799
37-20116	37-20204	67-04366	67-04443A	67-07270	67-11800
37-20119	37-20205	67-04371	67-04446	67-07552	67-11801
37-20120	37-20206	67-04372	67-04447	67-07613	67-11802
37-20122	37-20218	67-04373	67-04476	67-07616	67-11803
37-20123	37-20227	67-04374	67-04477	67-07640	67-11804
37-20131	37-20228	67-04375	67-04481	67-07641	67-11805
37-20133	37-20247	67-04377	67-04482	67-07642	67-11806
37-20134	37-20249	67-04378	67-04502	67-07652	67-11807
37-20138	37-20250	67-04379	67-04505	67-07657	67-11808
37-20141	37-20251	67-04380	67-04506	67-07658	67-11811
37-20142	37-20253	67-04381	67-04507	67-07659	67-11812
37-20143	37-20257	67-04383	67-04521	67-07661	67-11815
37-20144	37-20258	67-04385	67-04526	67-07662	67-11816
37-20145	37-20262	67-04386	67-04528	67-07663	67-11817
37-20147	37-20263	67-04388	67-04582	67-07664	67-11818
37-20149		67-04389	67-04583	67-07665	67-11819
37-20150	<u>B41</u>	67-04390	67-07077	67-07670	67-11820
37-20152	41-10228	67-04391	67-07078	67-07675	67-11821
37-20156		67-04393	67-07079	67-07682	67-11822
37-20157	<u>B67</u>	67-04394	67-07081	67-07683	67-11823
37-20158	67-02387	67-04395	67-07082	67-07719	67-11824
37-20163	67-02388	67-04396	67-07083	67-07743	67-11825
37-20164	67-02414	67-04398	67-07084	67-07745	67-11826
37-20165	67-02415	67-04399	67-07085	67-07832	67-11827
37-20173	67-02416	67-04400	67-07087	67-11780	67-11829
37-20174	67-02417	67-04401	67-07090	67-11781	67-11830

EXHIBIT B
Non-Permittee Objections

67-11831	67-11883	67-11937	67-11980	67-12024	67-12073
67-11832	67-11884	67-11938	67-11982	67-12025	67-12074
67-11833	67-11885	67-11939	67-11983	67-12026	67-12075
67-11834	67-11886	67-11940	67-11984	67-12027	67-12076
67-11835	67-11887	67-11941	67-11985	67-12028	67-12077
67-11836	67-11888	67-11942	67-11986	67-12029	67-12078
67-11837	67-11890	67-11943	67-11987	67-12034	67-12079
67-11838	67-11891	67-11944	67-11988	67-12035	67-12080
67-11839	67-11892	67-11945	67-11989	67-12037	67-12081
67-11841	67-11893	67-11946	67-11990	67-12038	67-12082
67-11842	67-11894	67-11947	67-11991	67-12039	67-12083
67-11843	67-11895	67-11948	67-11992	67-12040	67-12084
67-11844	67-11897	67-11950	67-11993	67-12041	67-12086
67-11845	67-11898	67-11951	67-11994	67-12042	67-12088
67-11846	67-11900	67-11952	67-11995	67-12043	67-12090
67-11847	67-11903	67-11953	67-11996	67-12044	67-12091
67-11848	67-11905	67-11954	67-11997	67-12045	67-12092
67-11849	67-11906	67-11955	67-11998	67-12046	67-12093
67-11852	67-11907	67-11956	67-12001	67-12047	67-12094
67-11853	67-11908	67-11957	67-12003	67-12048	67-12095
67-11854	67-11909	67-11958	67-12004	67-12050	67-12096
67-11855	67-11910	67-11959	67-12005	67-12051	67-12097
67-11856	67-11911	67-11960	67-12006	67-12054	67-12098
67-11857	67-11912	67-11961	67-12007	67-12055	67-12099
67-11858	67-11913	67-11962	67-12008	67-12056	67-12100
67-11860	67-11914	67-11963	67-12009	67-12058	67-12101
67-11861	67-11915	67-11965	67-12010	67-12059	67-12102
67-11862	67-11916	67-11966	67-12011	67-12060	67-12103
67-11863	67-11917	67-11967	67-12012	67-12061	67-12104
67-11864	67-11924	67-11968	67-12013	67-12062	67-12105
67-11865	67-11926	67-11969	67-12014	67-12063	67-12106
67-11866	67-11927	67-11970	67-12015	67-12064	67-12107
67-11867	67-11928	67-11971	67-12016	67-12065	67-12112
67-11868	67-11929	67-11972	67-12017	67-12066	67-12113
67-11869	67-11930	67-11973	67-12018	67-12067	67-12114
67-11870	67-11931	67-11974	67-12019	67-12068	67-12115
67-11871	67-11933	67-11975	67-12020	67-12069	67-12117
67-11872	67-11934	67-11976	67-12021	67-12070	67-12119
67-11879	67-11935	67-11978	67-12022	67-12071	67-12121
67-11881	67-11936	67-11979	67-12023	67-12072	67-12122

EXHIBIT B
Non-Permittee Objections

67-12123	67-12396	67-12462	67-12518	67-12580	67-12640
67-12124	67-12397	67-12463	67-12519	67-12581	67-12641
67-12125	67-12398	67-12464	67-12523	67-12582	67-12642
67-12126	67-12399	67-12465	67-12527	67-12583	67-12647
67-12127	67-12400	67-12466	67-12529	67-12584	67-12653
67-12128	67-12401	67-12469	67-12531	67-12585	67-12654
67-12130	67-12403	67-12470	67-12532	67-12586	67-12655
67-12131	67-12404	67-12474	67-12533	67-12587	67-12656
67-12132	67-12405	67-12475	67-12534	67-12588	67-12657
67-12343	67-12406	67-12476	67-12535	67-12589	67-12658
67-12344	67-12407	67-12478	67-12537	67-12590	67-12659
67-12346	67-12408	67-12479	67-12540	67-12591	67-12662
67-12348	67-12409	67-12480	67-12541	67-12592	67-12664
67-12352	67-12411	67-12481	67-12544	67-12593	67-12666
67-12356	67-12412	67-12483	67-12545	67-12595	67-12668
67-12359	67-12413	67-12484	67-12546	67-12596	67-12669
67-12361	67-12414	67-12485	67-12547	67-12599	67-12671
67-12362	67-12415	67-12486	67-12548	67-12601	67-12673
67-12364	67-12416	67-12487	67-12552	67-12602	67-12675
67-12365	67-12418	67-12492	67-12553	67-12605	67-12677
67-12367	67-12419	67-12495	67-12554	67-12608	67-12678
67-12368	67-12420	67-12496	67-12555	67-12609	67-12683
67-12369	67-12421	67-12497	67-12556	67-12610	67-12685
67-12370	67-12427	67-12498	67-12557	67-12611	67-12686
67-12371	67-12429	67-12499	67-12558	67-12613	67-12687
67-12372	67-12431	67-12500	67-12559	67-12614	67-12688
67-12373	67-12433	67-12501	67-12560	67-12616	67-12689
67-12374	67-12435	67-12502	67-12561	67-12618	67-12691
67-12375	67-12437	67-12503	67-12562	67-12620	67-12693
67-12376	67-12443	67-12504	67-12563	67-12623	67-12695
67-12377	67-12445	67-12505	67-12564	67-12624	67-12697
67-12379	67-12447	67-12506	67-12565	67-12631	67-12703
67-12380	67-12450	67-12507	67-12566	67-12632	67-12704
67-12381	67-12455	67-12508	67-12568	67-12633	67-12705
67-12382	67-12456	67-12509	67-12572	67-12634	67-12706
67-12386	67-12457	67-12510	67-12574	67-12635	67-12707
67-12388	67-12458	67-12511	67-12575	67-12636	67-12709
67-12392	67-12459	67-12512	67-12576	67-12637	67-12710
67-12393	67-12460	67-12516	67-12577	67-12638	67-12713
67-12395	67-12461	67-12517	67-12578	67-12639	67-12714

EXHIBIT B
Non-Permittee Objections

67-12715	67-12785	67-12905	67-13014	67-13115	67-13264
67-12716	67-12786	67-12913	67-13015	67-13119	67-13269
67-12720	67-12790	67-12917	67-13016	67-13120	67-13270
67-12727	67-12792	67-12920	67-13017	67-13121	67-13273
67-12729	67-12794	67-12924	67-13019	67-13123	67-13275
67-12734	67-12796	67-12928	67-13020	67-13124	67-13277
67-12736	67-12799	67-12929	67-13024	67-13125	67-13278
67-12738	67-12809	67-12930	67-13026	67-13126	67-13281
67-12740	67-12810	67-12939	67-13027	67-13128	67-13282
67-12741	67-12811	67-12940	67-13029	67-13136	67-13284
67-12742	67-12815	67-12942	67-13042	67-13137	67-13285
67-12743	67-12817	67-12949	67-13044	67-13140	67-13286
67-12744	67-12819	67-12952	67-13045	67-13141	67-13287
67-12745	67-12826	67-12954	67-13046	67-13142	67-13288
67-12746	67-12828	67-12955	67-13047	67-13147	67-13289
67-12747	67-12830	67-12956	67-13050	67-13148	67-13292
67-12748	67-12840	67-12957	67-13055	67-13150	67-13293
67-12749	67-12841	67-12958	67-13056	67-13153	67-13295
67-12750	67-12850	67-12959	67-13058	67-13154	67-13296
67-12751	67-12851	67-12960	67-13069	67-13159	67-13298
67-12752	67-12852	67-12968	67-13070	67-13168	67-13299
67-12753	67-12853	67-12969	67-13071	67-13174	67-13300
67-12754	67-12855	67-12973	67-13072	67-13180	67-13301
67-12759	67-12864	67-12974	67-13077	67-13181	67-13302
67-12761	67-12865	67-12977	67-13078	67-13183	67-13303
67-12763	67-12869	67-12978	67-13080	67-13184	67-13304
67-12765	67-12870	67-12979	67-13082	67-13185	67-13306
67-12766	67-12872	67-12981	67-13084	67-13226	67-13307
67-12768	67-12873	67-12982	67-13085	67-13231	67-13310
67-12769	67-12874	67-12984	67-13086	67-13232	67-13311
67-12771	67-12876	67-12990	67-13089	67-13233	67-13316
67-12772	67-12885	67-12991	67-13094	67-13234	67-13323
67-12775	67-12886	67-12998	67-13095	67-13235	67-13324
67-12776	67-12888	67-12999	67-13096	67-13239	67-13327
67-12777	67-12889	67-13001	67-13097	67-13245	67-13328
67-12779	67-12890	67-13006	67-13098	67-13247	67-13330
67-12780	67-12892	67-13008	67-13100	67-13257	67-13334
67-12782	67-12893	67-13009	67-13101	67-13258	67-13339
67-12783	67-12899	67-13010	67-13107	67-13261	67-13505
67-12784	67-12900	67-13013	67-13114	67-13263	67-13506

EXHIBIT B
Non-Permittee Objections

67-13508	67-14200	69-04041	69-04093	69-10128	69-10175
67-14130	67-14201	69-04042	69-04094	69-10131	69-10176
67-14138	67-14202	69-04043	69-04097	69-10132	69-10177
67-14139	67-14203	69-04044	69-04098	69-10133	69-10178
67-14141	67-14204	69-04045	69-04101	69-10134	69-10179
67-14163	67-14205	69-04046	69-07014	69-10135	69-10180
67-14164	67-14206	69-04047	69-07015	69-10136	69-10181
67-14165	67-14207	69-04048	69-07051	69-10137	69-10182
67-14166	67-14208	69-04049	69-07061	69-10138	69-10183
67-14167	67-14209	69-04050	69-07067	69-10139	69-10184
67-14168	67-14210	69-04052	69-07068	69-10140	69-10185
67-14169	67-14211	69-04053	69-07069	69-10141	69-10186
67-14170	67-14212	69-04054	69-07076	69-10143	69-10187
67-14171	67-14213	69-04055	69-10099	69-10144	69-10188
67-14172	67-14214	69-04056	69-10100	69-10145	69-10189
67-14173	67-14215	69-04057	69-10101	69-10146	69-10190
67-14174	67-14216	69-04059	69-10102	69-10147	69-10191
67-14175	67-14217	69-04060	69-10104	69-10148	69-10192
67-14176	67-14218	69-04061	69-10105	69-10149	69-10193
67-14177	67-14219	69-04062	69-10106	69-10150	69-10194
67-14178	67-14220	69-04063	69-10107	69-10151	69-10195
67-14179	67-14223	69-04064	69-10108	69-10152	69-10196
67-14180	67-14225	69-04065	69-10109	69-10153	69-10197
67-14181	67-14231	69-04067	69-10110	69-10154	69-10198
67-14182	67-14232	69-04068	69-10111	69-10156	69-10199
67-14183		69-04069	69-10112	69-10157	69-10200
67-14184		69-04071	69-10113	69-10159	69-10201
67-14185	B69	69-04073	69-10114	69-10160	69-10202
67-14186	69-04028	69-04074	69-10115	69-10162	69-10203
67-14187	69-04029	69-04075	69-10116	69-10163	69-10204
67-14188	69-04030	69-04076	69-10117	69-10164	69-10205
67-14189	69-04031	69-04077	69-10118	69-10165	69-10207
67-14190	69-04032	69-04078	69-10120	69-10166	69-10208
67-14191	69-04034	69-04082	69-10121	69-10167	69-10209
67-14192	69-04035	69-04083	69-10122	69-10168	69-10210
67-14193	69-04036	69-04084	69-10123	69-10169	69-10211
67-14194	69-04037	69-04087	69-10124	69-10170	69-10212
67-14195	69-04038	69-04088	69-10125	69-10171	69-10213
67-14196	69-04039	69-04089	69-10126	69-10172	69-10214
67-14197	69-04040	69-04090	69-10127	69-10173	69-10215

EXHIBIT B
Non-Permittee Objections

69-10217	69-10259	69-10454	69-10511	69-10617	69-10721
69-10218	69-10261	69-10455	69-10512	69-10618	69-10722
69-10219	69-10262	69-10456	69-10513	69-10620	69-10724
69-10220	69-10263	69-10457	69-10514	69-10629	69-10725
69-10221	69-10264	69-10458	69-10515	69-10630	69-10726
69-10223	69-10266	69-10459	69-10516	69-10631	69-10727
69-10224	69-10267	69-10460	69-10517	69-10633	69-10728
69-10225	69-10268	69-10461	69-10518	69-10634	69-10730
69-10226	69-10269	69-10462	69-10519	69-10636	69-10733
69-10228	69-10270	69-10463	69-10520	69-10637	69-10736
69-10229	69-10271	69-10464	69-10521	69-10638	69-10737
69-10230	69-10272	69-10465	69-10522	69-10639	69-10738
69-10231	69-10273	69-10466	69-10523	69-10647	69-10742
69-10232	69-10274	69-10474	69-10524	69-10648	69-10743
69-10233	69-10275	69-10476	69-10525	69-10649	69-10746
69-10234	69-10276	69-10477	69-10526	69-10650	69-10747
69-10235	69-10412	69-10484	69-10527	69-10657	69-10749
69-10236	69-10414	69-10485	69-10528	69-10658	69-10750
69-10237	69-10429	69-10486	69-10529	69-10659	69-10751
69-10238	69-10430	69-10487	69-10531	69-10660	69-11404
69-10239	69-10431	69-10488	69-10533	69-10663	69-11411
69-10240	69-10432	69-10489	69-10537	69-10678	69-11413
69-10241	69-10433	69-10490	69-10539	69-10684	69-11414
69-10242	69-10434	69-10491	69-10541	69-10686	69-11415
69-10243	69-10435	69-10492	69-10546	69-10687	69-11418
69-10244	69-10436	69-10493	69-10547	69-10688	69-11420
69-10245	69-10437	69-10494	69-10548	69-10689	69-11421
69-10246	69-10438	69-10495	69-10549	69-10691	69-11422
69-10247	69-10439	69-10496	69-10554	69-10692	69-11424
69-10248	69-10441	69-10497	69-10556	69-10694	69-11425
69-10249	69-10443	69-10498	69-10566	69-10695	69-11426
69-10250	69-10444	69-10501	69-10570	69-10696	69-11427
69-10251	69-10445	69-10502	69-10572	69-10697	69-11428
69-10252	69-10446	69-10503	69-10574	69-10698	69-11429
69-10253	69-10447	69-10504	69-10576	69-10701	69-11430
69-10254	69-10448	69-10505	69-10578	69-10713	69-11433
69-10255	69-10450	69-10506	69-10581	69-10715	69-11434
69-10256	69-10451	69-10508	69-10608	69-10716	69-11435
69-10257	69-10452	69-10509	69-10610	69-10717	69-11436
69-10258	69-10453	69-10510	69-10616	69-10719	69-11437

EXHIBIT B
Non-Permittee Objections

69-11438	77-07290	77-10178	77-10302	77-10626	77-10934
69-11439	77-10138	77-10179	77-10304	77-10627	77-10997
69-11440	77-10139	77-10180	77-10305	77-10628	77-11001
69-11441	77-10140	77-10181	77-10309	77-10629	77-11002
69-11442	77-10141	77-10182	77-10313	77-10633	77-11003
69-11443	77-10142	77-10185	77-10314	77-10635	77-11004
69-11444	77-10143	77-10186	77-10315	77-10636	77-11005
69-11445	77-10145	77-10187	77-10317	77-10637	77-11006
69-11446	77-10146	77-10189	77-10319	77-10638	77-11007
69-11447	77-10147	77-10190	77-10320	77-10639	77-11008
69-11448	77-10148	77-10191	77-10321	77-10640	77-11009
69-11449	77-10149	77-10193	77-10322	77-10641	77-11010
69-11450	77-10150	77-10195	77-10323	77-10868	77-11012
69-11451	77-10151	77-10196	77-10324	77-10869	77-11013
69-11452	77-10152	77-10197	77-10325	77-10870	77-11014
69-11453	77-10153	77-10198	77-10326	77-10888	77-11015
69-11454	77-10154	77-10199	77-10327	77-10890	77-11016
69-11455	77-10155	77-10200	77-10328	77-10891	77-11017
69-11456	77-10156	77-10201	77-10329	77-10892	77-11018
69-11457	77-10157	77-10202	77-10330	77-10893	77-11020
69-11458	77-10158	77-10203	77-10331	77-10894	77-11021
69-11459	77-10159	77-10204	77-10333	77-10895	77-11022
69-11460	77-10160	77-10205	77-10334	77-10898	77-11023
69-11461	77-10161	77-10206	77-10338	77-10901	77-11027
69-11462	77-10162	77-10207	77-10340	77-10907	77-11028
69-11463	77-10163	77-10208	77-10341	77-10915	77-11029
69-11464	77-10164	77-10262	77-10342	77-10916	77-11030
	77-10165	77-10279	77-10350	77-10917	77-11031
B77	77-10166	77-10283	77-10351	77-10919	77-11032
77-04094	77-10167	77-10285	77-10352	77-10920	77-11033
77-04096	77-10168	77-10286	77-10353	77-10921	77-11034
77-04098	77-10169	77-10287	77-10356	77-10922	77-11038
77-04099	77-10170	77-10289	77-10357	77-10925	77-11041
77-04106	77-10171	77-10290	77-10616	77-10926	77-11046
77-04109	77-10172	77-10291	77-10617	77-10928	77-11047
77-04112	77-10173	77-10292	77-10618	77-10929	77-11048
77-04113	77-10174	77-10293	77-10619	77-10930	77-11049
77-04192	77-10175	77-10295	77-10620	77-10931	77-11050
77-07139	77-10176	77-10296	77-10621	77-10932	77-11059
77-07196	77-10177	77-10297	77-10625	77-10933	77-11061

EXHIBIT B
Non-Permittee Objections

77-11062	77-11130	77-11212	77-11292	77-11372	77-11454
77-11063	77-11132	77-11214	77-11294	77-11374	77-11456
77-11065	77-11134	77-11216	77-11296	77-11376	77-11457
77-11069	77-11136	77-11218	77-11298	77-11378	77-11458
77-11070	77-11138	77-11220	77-11300	77-11380	77-11459
77-11071	77-11140	77-11222	77-11302	77-11382	77-11462
77-11072	77-11142	77-11224	77-11304	77-11384	77-11464
77-11073	77-11144	77-11226	77-11306	77-11386	77-11465
77-11075	77-11146	77-11228	77-11308	77-11388	77-11466
77-11076	77-11148	77-11230	77-11310	77-11390	77-11472
77-11077	77-11150	77-11232	77-11312	77-11392	77-11474
77-11078	77-11152	77-11234	77-11314	77-11394	77-11476
77-11079	77-11154	77-11236	77-11316	77-11396	77-11478
77-11080	77-11156	77-11238	77-11318	77-11398	77-11480
77-11081	77-11158	77-11240	77-11320	77-11400	77-11482
77-11082	77-11160	77-11242	77-11322	77-11402	77-11484
77-11083	77-11162	77-11244	77-11324	77-11404	77-11486
77-11084	77-11164	77-11246	77-11326	77-11406	77-11488
77-11086	77-11166	77-11248	77-11328	77-11408	77-11490
77-11088	77-11168	77-11250	77-11330	77-11410	77-11492
77-11090	77-11170	77-11252	77-11332	77-11412	77-11494
77-11092	77-11172	77-11254	77-11334	77-11414	77-11496
77-11094	77-11174	77-11256	77-11336	77-11416	77-11498
77-11096	77-11176	77-11258	77-11338	77-11418	77-11500
77-11098	77-11178	77-11260	77-11340	77-11420	77-11501
77-11100	77-11180	77-11262	77-11342	77-11422	77-11502
77-11102	77-11182	77-11264	77-11344	77-11424	77-11503
77-11104	77-11186	77-11266	77-11346	77-11426	77-11504
77-11106	77-11188	77-11268	77-11348	77-11428	77-11505
77-11108	77-11190	77-11270	77-11350	77-11430	77-11506
77-11110	77-11192	77-11272	77-11352	77-11432	77-11507
77-11112	77-11194	77-11274	77-11354	77-11434	77-11508
77-11114	77-11196	77-11276	77-11356	77-11436	77-11510
77-11116	77-11198	77-11278	77-11358	77-11438	77-13863
77-11118	77-11200	77-11280	77-11360	77-11440	77-13864
77-11120	77-11202	77-11282	77-11362	77-11442	77-13865
77-11122	77-11204	77-11284	77-11364	77-11444	77-13866
77-11124	77-11206	77-11286	77-11366	77-11446	77-13867
77-11126	77-11208	77-11288	77-11368	77-11448	77-13868
77-11128	77-11210	77-11290	77-11370	77-11450	77-13870

EXHIBIT B
Non-Permittee Objections

77-13872	77-13934	78-10389	78-10437	78-10492	78-10539
77-13873	77-13935	78-10390	78-10438	78-10494	78-10540
77-13874	77-13936	78-10391	78-10439	78-10495	78-10541
77-13876	77-14136	78-10392	78-10440	78-10496	78-10542
77-13877		78-10393	78-10441	78-10497	78-10543
77-13879	B78	78-10394	78-10442	78-10499	78-10569
77-13880	78-04145	78-10395	78-10443	78-10500	78-10576
77-13882	78-04146	78-10396	78-10444	78-10501	78-10619
77-13883	78-04147	78-10397	78-10446	78-10502	78-10620
77-13884	78-04150	78-10398	78-10447	78-10503	78-10621
77-13885	78-04153	78-10399	78-10448	78-10504	78-10622
77-13886	78-04155	78-10400	78-10449	78-10505	78-10661
77-13887	78-04156	78-10401	78-10452	78-10506	78-10779
77-13888	78-04178	78-10402	78-10453	78-10510	78-10780
77-13889	78-04179	78-10404	78-10454	78-10511	78-10784
77-13890	78-04180	78-10405	78-10455	78-10512	78-10785
77-13891	78-04182	78-10406	78-10456	78-10514	78-10792
77-13892	78-04183	78-10407	78-10457	78-10515	78-10793
77-13893	78-04189	78-10408	78-10458	78-10516	78-10794
77-13894	78-04192	78-10409	78-10459	78-10517	78-10795
77-13895	78-04227	78-10412	78-10461	78-10518	78-10797
77-13896	78-04228	78-10414	78-10462	78-10520	78-10798
77-13897	78-04230	78-10415	78-10463	78-10521	78-10799
77-13898	78-04231	78-10416	78-10464	78-10522	78-10800
77-13899	78-04240	78-10417	78-10466	78-10523	78-10801
77-13900	78-04242	78-10418	78-10467	78-10524	78-10802
77-13901	78-04245	78-10419	78-10469	78-10525	78-10803
77-13902	78-04273	78-10420	78-10472	78-10526	78-10804
77-13903	78-04274	78-10421	78-10476	78-10527	78-10805
77-13904	78-04278	78-10422	78-10477	78-10528	78-10806
77-13905	78-04326	78-10423	78-10478	78-10529	78-10807
77-13906	78-04368	78-10424	78-10479	78-10530	78-10809
77-13907	78-04370	78-10425	78-10481	78-10531	78-10810
77-13908	78-04371	78-10426	78-10482	78-10532	78-10811
77-13909	78-10381	78-10427	78-10483	78-10533	78-10812
77-13910	78-10383	78-10428	78-10484	78-10534	78-10813
77-13911	78-10385	78-10429	78-10485	78-10535	78-10814
77-13912	78-10386	78-10430	78-10487	78-10536	78-10815
77-13914	78-10387	78-10431	78-10489	78-10537	78-10816
77-13933	78-10388	78-10432	78-10490	78-10538	78-10817

EXHIBIT B
Non-Permittee Objections

78-10818	78-10868	78-10915	78-11008	78-11992	79-04164
78-10819	78-10869	78-10918	78-11010	78-11998	79-04165
78-10820	78-10870	78-10922	78-11014	78-11999	79-04166
78-10822	78-10871	78-10924	78-11016	78-12017	79-04168
78-10823	78-10872	78-10926	78-11018	78-12019	79-04169
78-10824	78-10873	78-10928	78-11020	78-12020	79-04170
78-10825	78-10874	78-10930	78-11024	78-12021	79-04172
78-10827	78-10875	78-10932	78-11026	78-12022	79-04174
78-10828	78-10876	78-10934	78-11028	78-12023	79-04175
78-10829	78-10878	78-10938	78-11030	78-12024	79-04178
78-10830	78-10879	78-10940	78-11032	78-12025	79-04179
78-10831	78-10880	78-10942	78-11034	78-12026	79-04180
78-10834	78-10881	78-10944	78-11036	78-12027	79-04181
78-10835	78-10882	78-10945	78-11038	78-12028	79-04182
78-10839	78-10883	78-10948	78-11040	78-12029	79-04183
78-10840	78-10884	78-10950	78-11048	78-12030	79-04185
78-10841	78-10885	78-10952	78-11050	78-12032	79-04186
78-10842	78-10886	78-10954	78-11058	78-12103	79-04187
78-10843	78-10887	78-10956	78-11060		79-04190
78-10844	78-10889	78-10958	78-11062	<u>B79</u>	79-04191
78-10845	78-10890	78-10960	78-11064	79-02100	79-04192
78-10846	78-10891	78-10964	78-11068	79-02101	79-04193
78-10848	78-10892	78-10968	78-11074	79-02102	79-04194
78-10849	78-10893	78-10972	78-11076	79-02103	79-04195
78-10850	78-10894	78-10974	78-11078	79-04133	79-04196
78-10851	78-10895	78-10976	78-11080	79-04134	79-04198
78-10852	78-10896	78-10978	78-11086	79-04138	79-04201
78-10853	78-10897	78-10980	78-11090	79-04139	79-04202
78-10854	78-10898	78-10982	78-11092	79-04141	79-04203
78-10855	78-10899	78-10984	78-11093	79-04143	79-04204
78-10856	78-10900	78-10986	78-11094	79-04144	79-04205
78-10857	78-10901	78-10988	78-11977	79-04147	79-04206
78-10858	78-10902	78-10990	78-11978	79-04149	79-04207
78-10859	78-10904	78-10992	78-11979	79-04155	79-04208
78-10862	78-10905	78-10994	78-11981	79-04156	79-04211
78-10863	78-10906	78-10996	78-11982	79-04157	79-04212
78-10864	78-10908	78-11000	78-11983	79-04159	79-04213
78-10865	78-10910	78-11002	78-11985	79-04160	79-04215
78-10866	78-10912	78-11004	78-11988	79-04162	79-04216
78-10867	78-10913	78-11006	78-11990	79-04163	79-04217

EXHIBIT B
Non-Permittee Objections

79-04219	79-04313	79-04359	79-10483	79-10524	79-10624
79-04229	79-04315	79-04360	79-10484	79-10528	79-10625
79-04230	79-04316	79-04361	79-10485	79-10529	79-10627
79-04231	79-04317	79-04362	79-10486	79-10530	79-10629
79-04232	79-04318	79-04363	79-10487	79-10531	79-10651
79-04234	79-04319	79-04365	79-10488	79-10537	79-10652
79-04235	79-04321	79-04366	79-10489	79-10538	79-10653
79-04236	79-04322	79-04378	79-10490	79-10539	79-10654
79-04237	79-04324	79-04379	79-10491	79-10540	79-10655
79-04238	79-04325	79-04380	79-10492	79-10542	79-10657
79-04239	79-04327	79-04381	79-10493	79-10543	79-10658
79-04240	79-04328	79-04382	79-10494	79-10544	79-10659
79-04243	79-04329	79-04413	79-10495	79-10545	79-10660
79-04244	79-04330	79-04414	79-10497	79-10546	79-10661
79-04272	79-04332	79-04415	79-10498	79-10547	79-10662
79-04274	79-04333	79-04417	79-10499	79-10548	79-10663
79-04275	79-04334	79-04421	79-10500	79-10549	79-10664
79-04276	79-04335	79-07146	79-10501	79-10550	79-10665
79-04277	79-04336	79-07148	79-10502	79-10551	79-10666
79-04278	79-04337	79-10438	79-10503	79-10552	79-10667
79-04279	79-04338	79-10439	79-10504	79-10553	79-10668
79-04280	79-04339	79-10440	79-10505	79-10554	79-10669
79-04281	79-04340	79-10441	79-10506	79-10555	79-10670
79-04282	79-04341	79-10442	79-10507	79-10556	79-10671
79-04283	79-04342	79-10443	79-10508	79-10557	79-10672
79-04291	79-04343	79-10444	79-10509	79-10558	79-10673
79-04292	79-04344	79-10445	79-10510	79-10559	79-10674
79-04294	79-04345	79-10446	79-10511	79-10563	79-10677
79-04296	79-04346	79-10447	79-10512	79-10568	79-10678
79-04297	79-04347	79-10448	79-10513	79-10569	79-10679
79-04298	79-04348	79-10449	79-10514	79-10571	79-10680
79-04299	79-04350	79-10450	79-10515	79-10572	79-10683
79-04301	79-04351	79-10451	79-10516	79-10573	79-10684
79-04302	79-04352	79-10452	79-10517	79-10575	79-10692
79-04303	79-04353	79-10454	79-10518	79-10577	79-10695
79-04305	79-04354	79-10455	79-10519	79-10609	79-10700
79-04306	79-04355	79-10456	79-10520	79-10611	79-10701
79-04308	79-04356	79-10457	79-10521	79-10612	79-10702
79-04309	79-04357	79-10458	79-10522	79-10613	79-10703
79-04310	79-04358	79-10459	79-10523	79-10618	79-10704

EXHIBIT B
Non-Permittee Objections

79-10705	79-11018	79-11070	79-11115	79-11189	79-11256
79-10706	79-11019	79-11071	79-11120	79-11190	79-11257
79-10707	79-11020	79-11072	79-11122	79-11191	79-11258
79-10708	79-11021	79-11073	79-11125	79-11193	79-11259
79-10714	79-11022	79-11074	79-11135	79-11195	79-11260
79-10715	79-11023	79-11075	79-11138	79-11196	79-11261
79-10716	79-11024	79-11076	79-11139	79-11199	79-11262
79-10719	79-11025	79-11077	79-11140	79-11200	79-11263
79-10720	79-11026	79-11078	79-11143	79-11201	79-11265
79-10722	79-11027	79-11079	79-11144	79-11202	79-11266
79-10985	79-11028	79-11080	79-11148	79-11203	79-11267
79-10986	79-11030	79-11081	79-11150	79-11204	79-11269
79-10987	79-11032	79-11082	79-11151	79-11205	79-11270
79-10988	79-11033	79-11083	79-11152	79-11207	79-11271
79-10989	79-11034	79-11086	79-11153	79-11208	79-11272
79-10991	79-11035	79-11087	79-11154	79-11209	79-11273
79-10992	79-11037	79-11088	79-11155	79-11211	79-11274
79-10993	79-11039	79-11089	79-11156	79-11212	79-11275
79-10994	79-11040	79-11090	79-11157	79-11213	79-11276
79-10995	79-11041	79-11091	79-11158	79-11216	79-11277
79-10996	79-11042	79-11092	79-11160	79-11217	79-11278
79-10997	79-11043	79-11093	79-11163	79-11221	79-11279
79-10998	79-11044	79-11094	79-11164	79-11223	79-11280
79-10999	79-11047	79-11095	79-11165	79-11224	79-11281
79-11000	79-11048	79-11096	79-11167	79-11225	79-11282
79-11001	79-11049	79-11097	79-11168	79-11226	79-11283
79-11002	79-11050	79-11098	79-11169	79-11227	79-11284
79-11003	79-11051	79-11099	79-11170	79-11231	79-11285
79-11004	79-11052	79-11100	79-11172	79-11239	79-11286
79-11006	79-11053	79-11101	79-11178	79-11240	79-11287
79-11007	79-11054	79-11102	79-11179	79-11241	79-11288
79-11008	79-11055	79-11104	79-11180	79-11242	79-11291
79-11009	79-11056	79-11105	79-11181	79-11243	79-11295
79-11011	79-11059	79-11106	79-11182	79-11244	79-11299
79-11012	79-11061	79-11107	79-11183	79-11245	79-11303
79-11013	79-11062	79-11108	79-11184	79-11246	79-11304
79-11014	79-11063	79-11109	79-11185	79-11247	79-11307
79-11015	79-11064	79-11110	79-11186	79-11248	79-11310
79-11016	79-11065	79-11111	79-11187	79-11249	79-11311
79-11017	79-11067	79-11114	79-11188	79-11250	79-11312

EXHIBIT B
Non-Permittee Objections

79-11313	79-11370	79-11442	79-11496	79-11547	79-11590
79-11314	79-11372	79-11444	79-11497	79-11548	79-11591
79-11315	79-11373	79-11445	79-11498	79-11549	79-11592
79-11316	79-11374	79-11446	79-11501	79-11550	79-11593
79-11317	79-11376	79-11447	79-11502	79-11551	79-11598
79-11318	79-11377	79-11448	79-11503	79-11552	79-11600
79-11319	79-11378	79-11449	79-11504	79-11553	79-11601
79-11320	79-11379	79-11450	79-11506	79-11554	79-11603
79-11321	79-11380	79-11451	79-11507	79-11555	79-11605
79-11322	79-11383	79-11452	79-11508	79-11556	79-11608
79-11323	79-11385	79-11453	79-11509	79-11557	79-11610
79-11324	79-11386	79-11454	79-11510	79-11558	79-11612
79-11325	79-11387	79-11455	79-11511	79-11560	79-11614
79-11326	79-11388	79-11456	79-11512	79-11561	79-11616
79-11327	79-11389	79-11457	79-11513	79-11562	79-11618
79-11328	79-11391	79-11458	79-11516	79-11563	79-11620
79-11331	79-11405	79-11459	79-11517	79-11564	79-11622
79-11332	79-11408	79-11466	79-11518	79-11565	79-11624
79-11334	79-11409	79-11467	79-11521	79-11566	79-11626
79-11337	79-11410	79-11468	79-11523	79-11567	79-11628
79-11338	79-11412	79-11469	79-11524	79-11568	79-11630
79-11339	79-11414	79-11471	79-11525	79-11569	79-11632
79-11340	79-11419	79-11473	79-11527	79-11571	79-11634
79-11341	79-11420	79-11475	79-11528	79-11572	79-11636
79-11342	79-11421	79-11476	79-11529	79-11573	79-11638
79-11345	79-11422	79-11477	79-11531	79-11574	79-11640
79-11346	79-11423	79-11480	79-11532	79-11575	79-11642
79-11348	79-11424	79-11481	79-11533	79-11576	79-11644
79-11351	79-11425	79-11482	79-11534	79-11577	79-11648
79-11352	79-11427	79-11483	79-11535	79-11578	79-11650
79-11354	79-11428	79-11485	79-11536	79-11579	79-11652
79-11356	79-11429	79-11487	79-11537	79-11580	79-11654
79-11357	79-11430	79-11488	79-11538	79-11581	79-11656
79-11358	79-11431	79-11489	79-11539	79-11582	79-11658
79-11363	79-11432	79-11490	79-11540	79-11583	79-11661
79-11364	79-11434	79-11491	79-11541	79-11584	79-11662
79-11365	79-11436	79-11492	79-11542	79-11585	79-11664
79-11367	79-11439	79-11493	79-11543	79-11586	79-11666
79-11368	79-11440	79-11494	79-11544	79-11587	79-11667
79-11369	79-11441	79-11495	79-11545	79-11589	79-11668

EXHIBIT B
Non-Permittee Objections

79-11669	79-11744	79-13652	81-10359	81-11822	82-10291
79-11670	79-11745	79-13653	81-10367	81-11823	82-10292
79-11671	79-11746	79-13654	81-10368	81-11824	82-10293
79-11673	79-11749	79-13655	81-10369	81-11825	82-10294
79-11677	79-11751	79-13656	81-10370	81-11826	82-10295
79-11678	79-11753	79-13657	81-10372	81-11827	82-10296
79-11679	79-11754	79-13658	81-10373	81-11828	82-10297
79-11681	79-11755	79-13659	81-10374	81-11829	82-10298
79-11683	79-11756	79-13660	81-10375	81-11830	82-10299
79-11685	79-11760	79-13661	81-10376	81-11831	82-10300
79-11689	79-11761	79-13663	81-10377	81-11835	82-10301
79-11691	79-11762	79-13664	81-10378	81-11836	82-10303
79-11693	79-11763	79-13667	81-10379	81-11837	82-10304
79-11694	79-11764	79-13679	81-10380	81-11838	82-10305
79-11696	79-11767	79-13681	81-10381	81-11840	82-10306
79-11698	79-11768	79-13682	81-10382	81-11841	82-10307
79-11700	79-11770	79-13683	81-10388	81-11842	82-10308
79-11702	79-11771	79-13684	81-10390	81-11843	82-10309
79-11704	79-11772	79-13685	81-10392	81-11844	82-10310
79-11706	79-11773	79-13686	81-10411	81-11847	82-10311
79-11707	79-11774	79-13687	81-10413	81-11848	82-10312
79-11708	79-11779	79-13688	81-10417	81-11849	82-10313
79-11709	79-11780	79-13689	81-10447	81-11850	82-10314
79-11711	79-11782	79-13691	81-10448	81-11851	82-10315
79-11712	79-11783	79-13692	81-10451	81-11853	82-10316
79-11714	79-11784	79-13693	81-10453		82-10317
79-11716	79-13634	79-13694	81-10457	<u>B82</u>	82-10319
79-11718	79-13635	79-13695	81-10458	82-04059	82-10326
79-11720	79-13636		81-10459	82-04065	82-10347
79-11722	79-13637	<u>B81</u>	81-10524	82-04066	82-10355
79-11724	79-13639	81-10340	81-11810	82-04069	82-10358
79-11726	79-13640	81-10341	81-11811	82-04070	82-10359
79-11728	79-13641	81-10342	81-11812	82-04071	82-10366
79-11730	79-13644	81-10343	81-11813	82-04073	82-10367
79-11734	79-13645	81-10346	81-11814	82-04075	82-10369
79-11736	79-13646	81-10347	81-11815	82-10277	82-10370
79-11737	79-13647	81-10350	81-11816	82-10287	82-10371
79-11738	79-13648	81-10351	81-11817	82-10288	82-10372
79-11741	79-13649	81-10355	81-11818	82-10289	82-10373
79-11742	79-13651	81-10356	81-11821	82-10290	82-10374

EXHIBIT B
Non-Permittee Objections

82-10375	82-10433	82-10528	82-10571	82-10612	82-10653
82-10377	82-10434	82-10529	82-10572	82-10614	82-10654
82-10378	82-10436	82-10530	82-10573	82-10615	82-10655
82-10379	82-10437	82-10531	82-10574	82-10616	82-10656
82-10381	82-10438	82-10532	82-10575	82-10617	82-10657
82-10383	82-10439	82-10533	82-10576	82-10618	82-10658
82-10384	82-10440	82-10537	82-10577	82-10619	82-10659
82-10385	82-10441	82-10538	82-10578	82-10620	82-10660
82-10386	82-10442	82-10539	82-10579	82-10621	82-10661
82-10387	82-10443	82-10540	82-10580	82-10622	82-10662
82-10391	82-10447	82-10541	82-10581	82-10623	82-10663
82-10392	82-10448	82-10542	82-10582	82-10624	82-10664
82-10393	82-10449	82-10543	82-10583	82-10625	82-10665
82-10395	82-10450	82-10544	82-10584	82-10626	82-10666
82-10396	82-10452	82-10545	82-10585	82-10627	82-10667
82-10397	82-10453	82-10546	82-10586	82-10628	82-10668
82-10400	82-10454	82-10547	82-10587	82-10629	82-10669
82-10401	82-10455	82-10548	82-10589	82-10630	82-10670
82-10402	82-10456	82-10549	82-10590	82-10631	82-10671
82-10403	82-10457	82-10550	82-10591	82-10632	82-10672
82-10406	82-10459	82-10551	82-10592	82-10633	82-10674
82-10410	82-10460	82-10552	82-10593	82-10634	82-10675
82-10411	82-10461	82-10553	82-10594	82-10635	82-10676
82-10412	82-10462	82-10554	82-10595	82-10636	82-10677
82-10414	82-10468	82-10555	82-10596	82-10637	82-10678
82-10415	82-10469	82-10556	82-10597	82-10638	82-10679
82-10417	82-10470	82-10557	82-10598	82-10639	82-10680
82-10419	82-10471	82-10558	82-10599	82-10640	82-10681
82-10420	82-10472	82-10559	82-10600	82-10641	82-10682
82-10421	82-10473	82-10560	82-10601	82-10642	82-10683
82-10422	82-10474	82-10561	82-10602	82-10643	82-10684
82-10423	82-10475	82-10562	82-10603	82-10644	82-10685
82-10424	82-10476	82-10563	82-10604	82-10645	82-10686
82-10425	82-10477	82-10564	82-10605	82-10646	82-10687
82-10426	82-10478	82-10565	82-10606	82-10647	82-10688
82-10428	82-10479	82-10566	82-10607	82-10648	82-10689
82-10429	82-10480	82-10567	82-10608	82-10649	82-10690
82-10430	82-10481	82-10568	82-10609	82-10650	82-10691
82-10431	82-10482	82-10569	82-10610	82-10651	82-10692
82-10432	82-10527	82-10570	82-10611	82-10652	82-10693

EXHIBIT B
Non-Permittee Objections

82-10694	82-10740	82-10782	82-10825	82-10865	82-10905
82-10695	82-10741	82-10783	82-10826	82-10866	82-10906
82-10696	82-10742	82-10784	82-10827	82-10867	82-10907
82-10697	82-10743	82-10785	82-10828	82-10868	82-10908
82-10698	82-10744	82-10786	82-10829	82-10869	82-10909
82-10699	82-10745	82-10787	82-10830	82-10870	82-10910
82-10700	82-10746	82-10788	82-10831	82-10871	82-10911
82-10701	82-10747	82-10789	82-10832	82-10872	82-10912
82-10702	82-10748	82-10792	82-10833	82-10873	82-10913
82-10703	82-10749	82-10793	82-10834	82-10874	82-10914
82-10704	82-10750	82-10794	82-10835	82-10875	82-10915
82-10705	82-10751	82-10795	82-10836	82-10876	82-10916
82-10707	82-10752	82-10796	82-10837	82-10877	82-10917
82-10708	82-10753	82-10798	82-10838	82-10878	82-10918
82-10709	82-10754	82-10799	82-10839	82-10879	82-10919
82-10710	82-10755	82-10800	82-10840	82-10880	82-10920
82-10711	82-10756	82-10801	82-10841	82-10881	82-10923
82-10713	82-10757	82-10802	82-10842	82-10882	82-10924
82-10714	82-10758	82-10803	82-10843	82-10883	82-10925
82-10715	82-10759	82-10804	82-10844	82-10884	82-10926
82-10716	82-10760	82-10805	82-10845	82-10885	82-10927
82-10717	82-10761	82-10806	82-10846	82-10886	82-10928
82-10718	82-10762	82-10807	82-10847	82-10887	82-10929
82-10719	82-10764	82-10808	82-10848	82-10888	82-10930
82-10720	82-10765	82-10809	82-10849	82-10889	82-10931
82-10722	82-10766	82-10810	82-10850	82-10890	82-10932
82-10723	82-10767	82-10811	82-10851	82-10891	82-10933
82-10726	82-10768	82-10812	82-10852	82-10892	82-10934
82-10727	82-10769	82-10813	82-10853	82-10893	82-10935
82-10729	82-10770	82-10814	82-10854	82-10894	82-10936
82-10730	82-10771	82-10815	82-10855	82-10895	82-10937
82-10731	82-10772	82-10816	82-10856	82-10896	82-10938
82-10732	82-10773	82-10817	82-10857	82-10897	82-10939
82-10733	82-10774	82-10818	82-10858	82-10898	82-10940
82-10734	82-10775	82-10819	82-10859	82-10899	82-10941
82-10735	82-10776	82-10820	82-10860	82-10900	82-10942
82-10736	82-10778	82-10821	82-10861	82-10901	82-11979
82-10737	82-10779	82-10822	82-10862	82-10902	82-11980
82-10738	82-10780	82-10823	82-10863	82-10903	82-11981
82-10739	82-10781	82-10824	82-10864	82-10904	82-11982

EXHIBIT B
Non-Permittee Objections

82-11983	83-10198	83-10336	83-10418	83-10518	83-10604
82-11984	83-10202	83-10338	83-10420	83-10520	83-10606
82-11985	83-10210	83-10340	83-10422	83-10522	83-10608
82-11986	83-10211	83-10342	83-10424	83-10524	83-10610
82-11987	83-10214	83-10344	83-10426	83-10526	83-10612
82-11988	83-10226	83-10346	83-10428	83-10528	83-10614
82-11990	83-10266	83-10348	83-10430	83-10530	83-10616
82-11991	83-10268	83-10350	83-10432	83-10532	83-10618
82-11992	83-10270	83-10352	83-10434	83-10534	83-10620
82-11993	83-10272	83-10354	83-10436	83-10536	83-10622
82-11994	83-10274	83-10356	83-10438	83-10538	83-10624
82-11995	83-10276	83-10358	83-10440	83-10540	83-10626
82-11996	83-10278	83-10360	83-10442	83-10542	83-10628
82-11997	83-10280	83-10364	83-10448	83-10544	83-10630
82-11998	83-10282	83-10366	83-10452	83-10546	83-10632
82-12000	83-10284	83-10368	83-10454	83-10548	83-10634
82-12001	83-10286	83-10370	83-10458	83-10550	83-10636
82-12002	83-10288	83-10372	83-10460	83-10552	83-10638
82-12004	83-10290	83-10374	83-10462	83-10554	83-10640
82-12006	83-10292	83-10376	83-10464	83-10556	83-10642
	83-10294	83-10378	83-10466	83-10558	83-10644
B83	83-10296	83-10380	83-10472	83-10560	83-10646
83-04045	83-10298	83-10382	83-10474	83-10562	83-10648
83-04049	83-10300	83-10384	83-10476	83-10564	83-10650
83-04051	83-10304	83-10386	83-10482	83-10566	83-10652
83-04059	83-10306	83-10388	83-10484	83-10568	83-10654
83-10155	83-10308	83-10390	83-10486	83-10570	83-10656
83-10156	83-10310	83-10392	83-10488	83-10572	83-10658
83-10157	83-10312	83-10394	83-10490	83-10574	83-10662
83-10158	83-10314	83-10396	83-10492	83-10576	83-10664
83-10159	83-10316	83-10398	83-10494	83-10578	83-10666
83-10167	83-10318	83-10400	83-10496	83-10580	83-10668
83-10169	83-10320	83-10402	83-10498	83-10584	83-10670
83-10181	83-10322	83-10404	83-10502	83-10586	83-10672
83-10182	83-10324	83-10406	83-10506	83-10590	83-10674
83-10188	83-10326	83-10408	83-10508	83-10592	83-10676
83-10189	83-10328	83-10410	83-10510	83-10594	83-10680
83-10194	83-10330	83-10412	83-10512	83-10596	83-10682
83-10195	83-10332	83-10414	83-10514	83-10598	83-10684
83-10196	83-10334	83-10416	83-10516	83-10600	83-10686

EXHIBIT B
Non-Permittee Objections

83-10688	83-10770	84-10872	84-11986	84-12029	85-11826
83-10690	83-10773	84-10873	84-11988	84-12030	85-11827
83-10694	83-10774	84-11910	84-11989	84-12031	85-11828
83-10696	83-10775	84-11911	84-11990	84-12032	85-11829
83-10698	83-10776	84-11912	84-11991	84-12033	85-11831
83-10700	83-10777	84-11913	84-11992	84-12034	85-11832
83-10702	83-10778	84-11914	84-11993	84-12035	85-11834
83-10704	83-10779	84-11915	84-11994	84-12036	85-11835
83-10706	83-10780	84-11920	84-11995	84-12037	85-11836
83-10708	83-10781	84-11922	84-11996	84-12038	85-11837
83-10710	83-10782	84-11923	84-11997	84-12040	85-11838
83-10712	83-10783	84-11924	84-11998	84-12043	85-11839
83-10714	83-10784	84-11925	84-11999	84-12044	85-11840
83-10716	83-10785	84-11928	84-12000	84-12045	85-11841
83-10718	83-11879	84-11934	84-12001	84-12046	85-11842
83-10720	83-11903	84-11936	84-12002	84-12047	85-11845
83-10722	83-11904	84-11938	84-12003	84-12048	85-11846
83-10724	83-11907	84-11940	84-12004	84-12049	85-11847
83-10726	83-11909	84-11942	84-12005	84-12050	85-11849
83-10728	83-11910	84-11944	84-12006	84-12051	85-11851
83-10730	83-11911	84-11946	84-12007	84-12052	85-11852
83-10732	83-11912	84-11948	84-12008	84-12053	85-11853
83-10734	83-11913	84-11952	84-12009	84-12057	85-11854
83-10736	83-11915	84-11954	84-12010	84-12061	85-11855
83-10738	83-11916	84-11956	84-12011	84-12063	85-11856
83-10740	83-11917	84-11958	84-12012		85-11857
83-10742	83-11919	84-11971	84-12013	<u>B85</u>	85-11858
83-10744	83-11920	84-11972	84-12015	85-11812	85-11859
83-10746	83-11921	84-11973	84-12016	85-11813	85-11860
83-10748		84-11974	84-12017	85-11814	85-11861
83-10750	<u>B84</u>	84-11976	84-12018	85-11815	85-11862
83-10752	84-10862	84-11977	84-12019	85-11816	85-11863
83-10754	84-10863	84-11978	84-12020	85-11817	85-11864
83-10756	84-10864	84-11979	84-12021	85-11818	85-11865
83-10758	84-10865	84-11980	84-12022	85-11820	85-11866
83-10760	84-10867	84-11981	84-12024	85-11821	85-11867
83-10762	84-10868	84-11982	84-12025	85-11822	85-11868
83-10764	84-10869	84-11983	84-12026	85-11823	85-11869
83-10766	84-10870	84-11984	84-12027	85-11824	85-11870
83-10768	84-10871	84-11985	84-12028	85-11825	85-11871

EXHIBIT B
Non-Permittee Objections

85-11872	85-11964	85-12006	85-12050	85-12109	85-12162
85-11873	85-11965	85-12007	85-12051	85-12110	85-12164
85-11874	85-11966	85-12008	85-12052	85-12111	85-12165
85-11875	85-11967	85-12009	85-12055	85-12112	85-12167
85-11876	85-11968	85-12010	85-12056	85-12113	85-12168
85-11877	85-11969	85-12011	85-12057	85-12114	85-12169
85-11878	85-11970	85-12012	85-12058	85-12115	85-12170
85-11879	85-11971	85-12013	85-12059	85-12117	85-12171
85-11880	85-11972	85-12014	85-12060	85-12118	85-12172
85-11881	85-11973	85-12015	85-12061	85-12119	85-12173
85-11882	85-11974	85-12016	85-12064	85-12120	85-12174
85-11883	85-11975	85-12017	85-12065	85-12126	85-12175
85-11884	85-11976	85-12018	85-12066	85-12127	85-12176
85-11885	85-11977	85-12020	85-12067	85-12128	85-12177
85-11886	85-11978	85-12021	85-12068	85-12129	85-12178
85-11920	85-11979	85-12022	85-12069	85-12130	85-12180
85-11924	85-11980	85-12023	85-12070	85-12131	85-12181
85-11928	85-11982	85-12024	85-12071	85-12132	85-12182
85-11930	85-11983	85-12025	85-12072	85-12133	85-15209
85-11932	85-11984	85-12026	85-12074	85-12134	85-15210
85-11934	85-11985	85-12027	85-12075	85-12135	85-15211
85-11936	85-11986	85-12028	85-12076	85-12137	85-15212
85-11938	85-11987	85-12029	85-12077	85-12138	85-15213
85-11940	85-11988	85-12030	85-12078	85-12141	85-15214
85-11942	85-11989	85-12031	85-12085	85-12143	85-15215
85-11944	85-11990	85-12032	85-12086	85-12145	85-15216
85-11946	85-11991	85-12033	85-12087	85-12146	85-15217
85-11950	85-11992	85-12034	85-12088	85-12147	85-15218
85-11951	85-11993	85-12035	85-12089	85-12148	85-15219
85-11952	85-11994	85-12036	85-12091	85-12149	85-15220
85-11953	85-11995	85-12037	85-12094	85-12150	85-15221
85-11954	85-11996	85-12038	85-12096	85-12152	85-15222
85-11955	85-11997	85-12040	85-12097	85-12153	85-15223
85-11956	85-11998	85-12041	85-12101	85-12154	85-15224
85-11957	85-11999	85-12042	85-12102	85-12155	85-15225
85-11958	85-12000	85-12043	85-12103	85-12156	85-15226
85-11959	85-12001	85-12045	85-12104	85-12157	85-15227
85-11960	85-12002	85-12046	85-12105	85-12158	85-15228
85-11962	85-12003	85-12047	85-12106	85-12160	85-15229
85-11963	85-12004	85-12049	85-12107	85-12161	85-15230

EXHIBIT B
Non-Permittee Objections

85-15231	86-10742	86-10856
85-15232	86-10743	86-10858
85-15233	86-10744	86-10859
85-15234	86-10745	86-10860
85-15235	86-10746	86-11784
85-15236	86-10747	86-11785
85-15237	86-10748	86-11786
85-15238	86-10750	86-11787
85-15239	86-10756	86-11788
85-15240	86-10757	86-11790
85-15241	86-10758	
85-15242	86-10759	
85-15244	86-10760	
85-15245	86-10761	
85-15246	86-10762	
85-15247	86-10763	
85-15248	86-10807	
85-15249	86-10808	
85-15250	86-10810	
85-15251	86-10815	
85-15252	86-10816	
85-15253	86-10822	
85-15254	86-10823	
85-15255	86-10824	
85-15256	86-10825	
85-15258	86-10826	
85-15259	86-10827	
85-15260	86-10828	
85-15261	86-10829	
85-15264	86-10831	
85-15265	86-10832	
85-15266	86-10833	
85-15267	86-10834	
	86-10841	
<u>B86</u>	86-10843	
86-04096	86-10850	
86-04097	86-10851	
86-04099	86-10852	
86-04100	86-10854	
86-04106	86-10855	

EXHIBIT C
Permittees' Set-Aside Motions Pending

45-02800 BLM	45-12277 USFS	47-15014 USFS
45-02804 BLM	45-12281 USFS	47-15016 USFS
45-02805 BLM	45-12282 USFS	47-15017 USFS
45-04134 BLM	45-12283 USFS	47-15018 USFS
45-04136 BLM	45-12284 USFS	47-15021 USFS
45-12069 USFS	45-12285 USFS	47-15022 USFS
45-12110 USFS	45-12286 USFS	47-15029 USFS
45-12118 USFS	45-12287 USFS	47-15030 USFS
45-12119 USFS	45-12288 USFS	47-15036 USFS
45-12129 USFS	45-12292 USFS	47-16670 USFS
45-12131 USFS	45-12293 USFS	47-16689 USFS
45-12176 USFS	45-12294 USFS	47-16690 USFS
45-12177 USFS	45-12295 USFS	47-16691 USFS
45-12178 USFS	45-12296 USFS	47-16712 USFS
45-12179 USFS	45-12297 USFS	47-16723 USFS
45-12182 USFS	45-12298 USFS	
45-12220 USFS	45-12299 USFS	
45-12221 USFS	45-12300 USFS	
45-12222 USFS	45-12668 BLM	
45-12224 USFS	45-12805 BLM	
45-12226 USFS	45-12844 USFS	
45-12227 USFS	45-12852 USFS	
45-12230 USFS	45-12853 USFS	
45-12231 USFS	45-12854 USFS	
45-12232 USFS	45-12858 USFS	
45-12237 USFS	45-12859 USFS	
45-12238 USFS	45-12862 USFS	
45-12245 USFS	45-12868 USFS	
45-12246 USFS	47-02594 BLM	
45-12247 USFS	47-02632 BLM	
45-12256 USFS	47-07596 USFS	
45-12263 USFS	47-07597 USFS	
45-12264 USFS	47-07598 USFS	
45-12267 USFS	47-07602 USFS	
45-12269 USFS	47-08030 USFS	
45-12270 USFS	47-08051 USFS	
45-12271 USFS	47-14996 USFS	
45-12273 USFS	47-14998 USFS	
45-12274 USFS	47-15012 USFS	
45-12275 USFS	47-15013 USFS	

EXHIBIT D
U.S. Unreported Claims

37-20293 BLM
37-20294 BLM
37-20295 BLM
37-20302 BLM
37-20305 BLM
37-20306 BLM
37-20308 BLM
37-20309 BLM
37-20310 BLM
37-20311 BLM
37-20312 BLM
37-20313 BLM

45-07387 USFS
45-07388 USFS
45-07390 USFS
45-07396 USFS
45-07569 USFS
45-07593 USFS
45-12920 BLM
45-12921 BLM
45-12922 BLM
45-12923 BLM
45-12924 BLM
45-12926 BLM
45-13483 BLM
45-12484 BLM

47-00060B BLM

EXHIBIT E
Permittees' Reported Claims

37-10606 Faulkner Land and Livestock Company, Diamond A Livestock Inc.

45-10332 Winslow Whiteley, Bruce Bedke, Gary Russel Poulton, Ray C. Bedke

47-14923A Winslow Whiteley, Bruce Bedke, Gary Russel Poulton, Ray C. Bedke

47-14923B Winslow Whiteley, Bruce Bedke, Gary Russel Poulton, Ray C. Bedke

47-14923C Winslow Whiteley, Bruce Bedke, Gary Russel Poulton, Ray C. Bedke

47-14923D Winslow Whiteley, Bruce Bedke, Gary Russel Poulton, Ray C. Bedke

47-14923E Winslow Whiteley, Bruce Bedke, Gary Russel Poulton, Ray C. Bedke

47-14945 Pickett Ranch and Sheep Company

47-12383 Western Stockgrowers Association et al.

47-16728 Western Stockgrowers Association et al.

47-16729 Western Stockgrowers Association et al.

47-16730 Western Stockgrowers Association et al.

47-16731 Western Stockgrowers Association et al.

47-16732 Western Stockgrowers Association et al.

47-16733 Western Stockgrowers Association et al.

47-16734 Western Stockgrowers Association et al.

47-16735 Western Stockgrowers Association et al.

47-16736 Western Stockgrowers Association et al.

47-16737 Western Stockgrowers Association et al.

47-16738 Western Stockgrowers Association et al.

47-16739 Western Stockgrowers Association et al.

47-16740 Western Stockgrowers Association et al.

47-16741 Western Stockgrowers Association et al.

47-16742 Western Stockgrowers Association et al.

47-16743 Western Stockgrowers Association et al.

47-16744 Western Stockgrowers Association et al.

47-16745 Western Stockgrowers Association et al.

47-16746 Western Stockgrowers Association et al.

47-16747 Western Stockgrowers Association et al.

47-16748 Western Stockgrowers Association et al.

47-16749 Western Stockgrowers Association et al.

47-16750 Western Stockgrowers Association et al.

47-16752 Western Stockgrowers Association et al.

47-16753 Western Stockgrowers Association et al.

EXHIBIT E
Permittees' Reported Claims

67-11043 James Eckhardt
67-11045 James Eckhardt
67-11059 James Eckhardt

67-14083 Weldon Branch

69-10049 Lawrence Ranch Inc.

78-10002 Lester Lowe/Todd Bowen

78-10338 Shingle Creek LLC
78-10339 Shingle Creek LLC
78-10340 Shingle Creek LLC

EXHIBIT F
Permittees' Unreported Claims

Bedke

<u>Basin Number</u>	<u>Sequence Number</u>
45	634
45	678
45	4050
45	10325
45	10327
45	10329
45	10330
45	10331
45	10332
45	10333
45	10334
45	10335
45	10336
45	10492
45	10500
45	10505
45	10507
45	10508
45	10784
45	10791
45	10792
45	10793
45	10794
45	12765
45	12766
45	12767
45	12891
45	12910
47	14924

Branch

<u>Basin Number</u>	<u>Sequence Number</u>
67	7302

Faulkner Land and Livestock

<u>Basin Number</u>	<u>Sequence Number</u>
37	10597
63	15055

EXHIBIT F
Permittees' Unreported Claims

Flying Triangle

<u>Basin Number</u>	<u>Sequence Number</u>
37	20404
37	20453
37	20454
37	20455
37	20456
37	20457
37	20458
37	20459
37	20460
37	20461
37	20462
37	20463
37	20465
37	20466
37	20467
37	20468
37	20469
37	20470
37	20471
37	20472
37	20474
37	20475
37	20476
37	20477
37	20478
37	20479
37	20480
37	20481
37	20482
37	20483
37	20484
37	20485
37	20486
37	20487
37	20488
37	20489

EXHIBIT F
Permittees' Unreported Claims

Picket Ranch & Sheep Co.

<u>Basin Number</u>	<u>Sequence Number</u>
45	2766
45	10832
45	10833
45	10834
45	10835
45	10836
45	12446
45	12894
45	14945
47	10835

Poulton

<u>Basin Number</u>	<u>Sequence Number</u>
45	152
45	10325
45	10327
45	10329
45	10330
45	10331
45	10334
45	10335
45	10336
45	10338
45	12747
45	12893
47	14924
63	31225

Shingle Creek LLC

<u>Basin Number</u>	<u>Sequence Number</u>
78	12109
78	12110
78	12111
78	12112
78	12113
78	12114
78	12115
78	12116

EXHIBIT F
Permittees' Unreported Claims

Shoulder 3 Ranch

<u>Basin Number</u>	<u>Sequence Number</u>
45	152
45	7335
45	10352
45	10353
45	10354
45	10355
45	10356
45	10357
45	10358
45	10359
45	10454
45	10471
45	10474
45	12751
45	13488

Tugaw

<u>Basin Number</u>	<u>Sequence Number</u>
45	12586
45	12588
45	12896
45	12897
45	12898
45	12899
45	12900
45	12901
45	12902
45	12903
45	12904
45	12905

EXHIBIT F
Permittees' Unreported Claims

Whiteley

<u>Basin Number</u>	<u>Sequence Number</u>	<u>Split Suffix</u>
45	77	W
45	78	P
45	79	Q
45	2263	
45	2309	
45	2444	
45	2547	
45	2656	
45	10325	
45	10327	
45	10329	
45	10330	
45	10331	
45	10335	
45	10336	
45	10414	
45	10467	
45	10474	
47	14924	

Winecup Inc.

<u>Basin Number</u>	<u>Sequence Number</u>
45	10333
45	10334
45	13494

EXHIBIT G
Permittees' Claims Yet to be Filed

Claimant

Allotment/Source

A.L. Cattle

Willow Ridge AMP (Dry Creek Pasture, George Way Pasture,
Power Line Pasture)
sources: the following creeks: Willow, Jakes, Coonrod, George
Way, Four Mile, Succor, and Rock.

Sheep Creek Allotment
source: South Fork Sheep Creek

Tommy Carr Allotment
source: one spring

Flying Triangle

Notch Butte Allotment