



U.S. Department of Justice

Environment and Natural Resources Division

RLL:DAJ
90-6-2-63c

David A. Jarvis
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Denver, Colorado 80202

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May 5, 2005



via FedEx Mail

Diana R. Delaney, Chief Deputy Clerk
Snake River Basin Adjudication
DISTRICT COURT
253 Third Ave., North
Twin Falls, Idaho 83303-2707

Re: SRBA Case No. 39576
Subcase Nos. 45-12477, *et al.*

Dear Ms. Delaney:

Enclosed for filing are the original and 29 copies of the following document in the above mentioned subcase:

1. **MOTION FOR I.C. § 42-1411A HEARING**

Thank you for your time and attention in this matter.

Sincerely,

David A. Jarvis
Paralegal

Enclosures

Names of Parties Filing Document:

UNITED STATES OF AMERICA

Attorneys' Names and Addresses:

KELLY A. JOHNSON
Acting Assistant Attorney General
Environment and Natural Resources Division

R. LEE LEININGER
Attorney, Department of Justice
General Litigation Section
Environment and Natural Resources Division
999 18th St., Ste. 945NT
Denver, CO 80202
(303) 312-7322

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

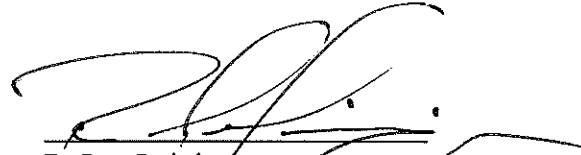
In Re SRBA	)	Subcase Nos.: 45-12477, et al. ¹
	)	
Case No. 39576	)	MOTION FOR I.C. § 42-1411A HEARING
_____	)	

The United States moves for an evidentiary hearing pursuant to I. C. § 42-1411A for the subcases listed on the attached Exhibit 1. The United States submits this request consistent with the Special Master's Order Setting Deadlines, subcases 45-12477 *et al.*, at 1 (dated April 7, 2005). The United States requests that the Special Master schedule the hearing no sooner than

¹See attached Exhibit 1 for complete list of subcases.

60 days from the present to allow the U.S. Bureau of Land Management water rights specialist adequate time to compose and submit an affidavit attesting to the elements claimed for these water rights based upon federal law.

Respectfully submitted this 5th day of May, 2005.



R. Lee Leininger
Attorney
U.S. Department of Justice

CERTIFICATE OF SERVICE

I certify that on May 5, 2005, a true and correct copy of the United States' **MOTION FOR 42-1411A HEARING** was served via first class mail to the following persons:

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

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711- 4447

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

Travis Lee Thompson
Barker, Rosholt & Simpson, LLP
113 Main Avenue West, Ste. 303
Twin Falls, ID 83301

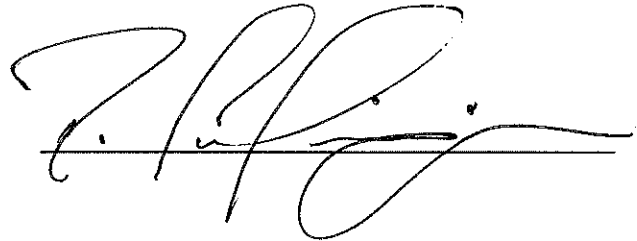


Exhibit 1

List of Subcases

45-12477
45-12479
45-12481
45-12483
45-12497
45-12541
45-12543
45-12545
45-12658
45-12693
45-12695
45-12699
45-12701
45-12703
45-12705
45-12707
45-12709
45-12711
45-12713
45-12715
45-12726
45-12728
45-12730
45-12784
45-12785
45-12789
45-12791
45-12798
45-12817
45-12818



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May 5, 2005

via FedEx Mail

Diana R. Delaney, Chief Deputy Clerk
Snake River Basin Adjudication
DISTRICT COURT
253 Third Ave., North
Twin Falls, Idaho 83303-2707

Re: SRBA Case No. 39576
Subcase Nos. 45-12541, 45-12543, 45-12545, 45-12658, 45-12728, and 45-12730.

Dear Ms. Delaney:

Enclosed for filing are the original and 5 copies of the following document in the above mentioned subcase:

1. **MOTION FOR SPECIAL MASTER'S REPORTS AND RECOMMENDATIONS**

Thank you for your time and attention in this matter.

Sincerely,

David A. Jarvis
Paralegal

Enclosures

Names of Parties Filing Document:

UNITED STATES OF AMERICA

Attorneys' Names and Addresses:

KELLY A. JOHNSON
Acting Assistant Attorney General
Environment and Natural Resources Division

R. LEE LEININGER
Attorney, U.S. Dept. of Justice
General Litigation Section
Environment and Natural Resources Division
999 18th St., Ste. 945NT
Denver, CO 80202
Ph.: (303) 312-7322 FAX: (303) 312-7379

**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: 45-12541, 45-12543,
	)	45-12545, 45-12658, 45-12728, and 45-12730
	)	
Case No. 39576	)	MOTION FOR SPECIAL MASTER'S
	)	REPORTS AND RECOMMENDATIONS
	)	
_____	)	

The United States moves for a Special Master's Report and Recommendation (SMRR) for each of the above referenced subcases as shown on the attached Exhibit 1; proposed partial decrees. As grounds for this motion the United States states the following.

These claims were filed on behalf of the U.S. Bureau of Land Management (BLM) for the purpose of stockwatering at a spring source on federal land. The State of Idaho objected to these

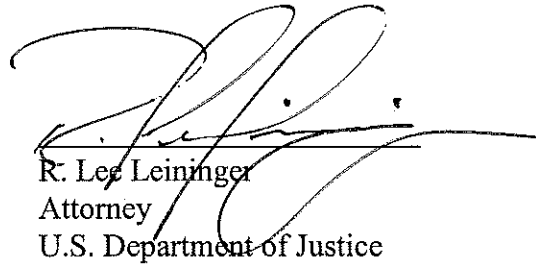
claims on July 2, 1998. A stipulation resolving the State's objections was filed on March 11, 2003. The State was subsequently dismissed as a party on April 21, 2003.

These claims are also subject to a pending motion to file a late objection submitted by the Pickett Ranch & Sheep Company ("Pickett Ranch"), by and through its attorney of record, Travis Thompson. Prior to a ruling on the motion to file late objection, the United States, Pickett Ranch and various other parties entered into a Stipulation on August 29, 2002, in which the United States agreed to certain provisions regarding the use and administration of this and other rights to stockwater on the federal lands. Therefore, the United States agrees, in these subcases, that a reference to the Stipulation in the decree of these water rights is appropriate because it will place water users on notice of the existence of the agreement.

Following a status conference for these claims, the Court set a deadline for the submission of Standard Forms No. 5 *Amended Claim for Domestic & Stockwater Rights* (SF5). *See Order Setting Deadlines*, subcases 45-12477 *et al.*, at 1 (dated April 7, 2005). The United States understands, however, that an SF5 is the procedural mechanism for amending claims where objections have been lodged. In this case, the State of Idaho has withdrawn and Pickett Ranch, although having a pending motion to file late objections, is not an objector. Furthermore, the United States is not amending its claim and is merely deleting the state law "dual-based" portion of the claim on the attached proposed partial decrees and adding a reference to the parties' Stipulation. Because there are no objectors and the proposed change in the claims does not go to the requisite elements of the water rights, the United States believes a motion for a SMRR is the proper means of resolving this matter.

Mr. Thompson was contacted and does not oppose this motion or the form and content of the attached proposed partial decrees.¹ The United States respectfully asks that the Court enter a Special Master's Report and Recommendation for each of the referenced subcases as proposed on the draft partial decrees following the evidentiary hearings required under I.C. § 42-1411A.

Respectfully submitted this 5th day of May, 2005.



R. Lee Leininger
Attorney
U.S. Department of Justice

¹ The United States notes that the Order Setting Deadlines requires Pickett Ranch to file SF5s. Counsel for the United States and Mr. Thompson agree that this motion should accomplish the same objective of resolving the disputes between the parties. For the above stated reasons, the United States respectfully asks that the Court accept this motion in lieu of the submission of SF5s.

CERTIFICATE OF SERVICE

I certify that on May 5th, 2005, a true and correct copy of the United States' **MOTION FOR SPECIAL MASTER'S REPORTS AND RECOMMENDATIONS, RE: Subcase 45-12477 et al.; Exhibit 1** was served via first class mail to the following persons:

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

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4447

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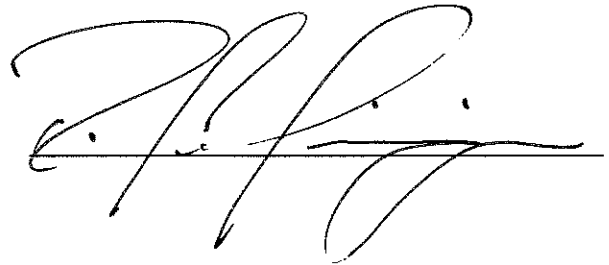
A handwritten signature in black ink, appearing to read 'T. L. Thompson', written over a horizontal line.

EXHIBIT 1

PROPOSED PARTIAL DECREES RE: Subcase 45-12541, et al.

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)
) PROPOSED
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) WATER RIGHT 45-12541
)

NAME & ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE ID 83709-1657

SOURCE: SPRING TRIBUTARY: BLUE HILL CREEK

QUANTITY: 0.02 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT
EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: ~~01/01/1973~~ 04/17/1926

* 4/17/1926 CLAIMED UNDER FEDERAL RESERVED WATER RIGHT. *
*
* THIS WATER RIGHT IS ~~ALSO~~ CLAIMED BASED ON FEDERAL LAW *
* WITH AN APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN *
* EXECUTIVE ORDER SIGNED THE SAME DATE AND KNOWN AS PUBLIC *
* WATER RESERVE 107. *

POINT OF DIVERSION:
T16S R22E S22 SWSWSE Within CASSIA County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
STOCKWATER 01-01 12-31 0.02 CFS

PLACE OF USE: STOCKWATER
T16S R22E S22 SWSE Within CASSIA County

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER
RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF
HISTORICAL BENEFICIAL USE.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE
DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER
RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO
LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).
THE OPERATION, USE, AND ADMINISTRATION OF THIS WATER RIGHT IS ALSO SUBJECT TO
THE TERMS AND CONDITIONS OF THE STIPULATION AND JOINT MOTION FOR ORDER
APPROVING STIPULATION ENTERED INTO ON AUGUST 29, 2002 BETWEEN THE UNITED
STATES OF AMERICA AND PICKETT RANCH & SHEEP COMPANY FILED IN THE OFFICE OF THE
CASSIA COUNTY RECORDER AND RECORDED ON JUNE 6, 2003 AS INSTRUMENT NO: 289179.

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)
) PROPOSED
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) WATER RIGHT 45-12543
)

NAME & ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE ID 83709-1657

SOURCE: SPRING TRIBUTARY: BLUE HILL CREEK

QUANTITY: 0.02 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT
EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: ~~01/01/1873~~ 04/17/1926

* 4/17/1926 CLAIMED UNDER FEDERAL RESERVED WATER RIGHT. *
* *
* THIS WATER RIGHT IS ~~also~~ CLAIMED BASED ON FEDERAL LAW *
* WITH AN APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN *
* EXECUTIVE ORDER SIGNED THE SAME DATE AND KNOWN AS PUBLIC *
* WATER RESERVE 107. *

POINT OF DIVERSION:
T16S R22E S22 NESESW Within CASSIA County
PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
STOCKWATER 01-01 12-31 0.02 CFS
PLACE OF USE: STOCKWATER
T16S R22E S22 SESW Within CASSIA County

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER
RIGHT:
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF
HISTORICAL BENEFICIAL USE.
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE
DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER
RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO
LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).
THE OPERATION, USE, AND ADMINISTRATION OF THIS WATER RIGHT IS ALSO SUBJECT TO
THE TERMS AND CONDITIONS OF THE STIPULATION AND JOINT MOTION FOR ORDER
APPROVING STIPULATION ENTERED INTO ON AUGUST 29, 2002 BETWEEN THE UNITED
STATES OF AMERICA AND PICKETT RANCH & SHEEP COMPANY FILED IN THE OFFICE OF THE
CASSIA COUNTY RECORDER AND RECORDED ON JUNE 6, 2003 AS INSTRUMENT NO: 289179.

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)
) PROPOSED
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) WATER RIGHT 45-12545
)

NAME & ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE ID 83709-1657

SOURCE: SPRING TRIBUTARY: BLUE HILL CREEK

QUANTITY: 0.02 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT
EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: ~~01/01/1973~~ 04/17/1926

* 4/17/1926 CLAIMED UNDER FEDERAL RESERVED WATER RIGHT. *
*
* THIS WATER RIGHT IS ~~also~~ CLAIMED BASED ON FEDERAL LAW *
* WITH AN APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN *
* EXECUTIVE ORDER SIGNED THE SAME DATE AND KNOWN AS PUBLIC *
* WATER RESERVE 107. *

POINT OF DIVERSION:
T16S R22E S22 NESWSW Within CASSIA County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
STOCKWATER 01-01 12-31 0.02 CFS

PLACE OF USE: STOCKWATER
T16S R22E S22 SWSW Within CASSIA County

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER
RIGHT:
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF
HISTORICAL BENEFICIAL USE.
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE
DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER
RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO
LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).
THE OPERATION, USE, AND ADMINISTRATION OF THIS WATER RIGHT IS ALSO SUBJECT TO
THE TERMS AND CONDITIONS OF THE STIPULATION AND JOINT MOTION FOR ORDER
APPROVING STIPULATION ENTERED INTO ON AUGUST 29, 2002 BETWEEN THE UNITED
STATES OF AMERICA AND PICKETT RANCH & SHEEP COMPANY FILED IN THE OFFICE OF THE
CASSIA COUNTY RECORDER AND RECORDED ON JUNE 6, 2003 AS INSTRUMENT NO: 289179.

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)
) **PROPOSED**
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) WATER RIGHT 45-12658
)

NAME & ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE ID 83709-1657

SOURCE: SPRING TRIBUTARY: BLUE HILL CREEK

QUANTITY: 0.02 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT
EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: ~~01/01/1873~~ 04/17/1926

* 4/17/1926 CLAIMED UNDER FEDERAL RESERVED WATER RIGHT. *
* *
* THIS WATER RIGHT IS ~~ALSO~~ CLAIMED BASED ON FEDERAL LAW *
* WITH AN APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN *
* EXECUTIVE ORDER SIGNED THE SAME DATE AND KNOWN AS PUBLIC *
* WATER RESERVE 107. *

POINT OF DIVERSION:
T16S R22E S28 SESENW Within CASSIA County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
STOCKWATER 01-01 12-31 0.02 CFS

PLACE OF USE: STOCKWATER
T16S R22E S28 SENW Within CASSIA County

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER
RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF
HISTORICAL BENEFICIAL USE.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE
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THE OPERATION, USE, AND ADMINISTRATION OF THIS WATER RIGHT IS ALSO SUBJECT TO
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
) PROPOSED
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) WATER RIGHT 45-12728
)

NAME & ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE ID 83709-1657

SOURCE: SPRING TRIBUTARY: SPRING CREEK

QUANTITY: 0.02 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT
EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: ~~01/01/1873~~ 04/17/1926

* 4/17/1926 CLAIMED UNDER FEDERAL RESERVED WATER RIGHT. *
* *
* THIS WATER RIGHT IS ~~also~~ CLAIMED BASED ON FEDERAL LAW *
* WITH AN APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN *
* EXECUTIVE ORDER SIGNED THE SAME DATE AND KNOWN AS PUBLIC *
* WATER RESERVE 107. *

POINT OF DIVERSION:
T15S R22E S33 SESWNE Within CASSIA County

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
STOCKWATER 01-01 12-31 0.02 CFS

PLACE OF USE: STOCKWATER
T15S R22E S33 SWNE Within CASSIA County

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER
RIGHT:

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

In Re SRBA)
) PROPOSED
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) WATER RIGHT 45-12730
)

NAME & ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE ID 83709-1657

SOURCE: SPRING TRIBUTARY: EMERY CREEK

QUANTITY: 0.02 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT
EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: ~~01/01/1873~~ 04/17/1926

* 4/17/1926 CLAIMED UNDER FEDERAL RESERVED WATER RIGHT. *
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* WITH AN APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN *
* EXECUTIVE ORDER SIGNED THE SAME DATE AND KNOWN AS PUBLIC *
* WATER RESERVE 107. *

POINT OF DIVERSION:
T16S R22E S09 SWNWNE Within CASSIA County
PURPOSE AND
PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
STOCKWATER 01-01 12-31 0.02 CFS
PLACE OF USE: STOCKWATER
T16S R22E S09 NWNE Within CASSIA County

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER
RIGHT:
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