

**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

Subcases 55-02414, 55-07319, 55-07383,
55-07410, 55-07413, and 55-07420

Case No. 39576

**AFFIDAVIT OF TIM LOWRY IN
SUPPORT OF LU RANCHING'S
OPPOSITION TO UNITED STATES'
MOTION FOR SUMMARY JUDGMENT**

I, Tim Lowry, declare and affirm under penalty of perjury as follows:

1. I am the vice-president of L.U. Ranching Co., a family corporation which holds a grazing preference and grazing permits for the Cliffs Allotment, which is the claimed place of use for the water rights claimed in subcase 55-13450.

2. The claimed places of use for subcase 55-13450 and the United States' claimed places of use for Subcases 55-02414, 55-07319, 55-07383, 55-07410, 55-07413, and 55-07420 overlap.

3. All of the places of use claimed by the United States are reservoir and spring locations within the Cliffs Allotment that have been historically used by L.U. Ranching and the two other preference holders, the Jeff Anderson Estate, Inc. and Michael Stanford, and their respective predecessors in interest. This use by L.U. Ranching, the Jeff Anderson Estate, and Michael Stanford and their predecessors includes use of the sources for stockwatering both before and after the places of use were further developed.

4. Most if not all of the places of use claimed by the United States are places of use that would have provided livestock water since the first grazing occurred in the area including during the many years prior to the dates that the spring and reservoir sites were developed. These sources historically were used by L.U. Ranching, the Jeff Anderson Estate, Inc., Michael Stanford and their predecessors and continue to be used by these preference holders today.

5. I am personally involved in the operation of L.U. Ranching and have been in a position since approximately 1984 to personally observe the use of the water sources now being

claimed by the United States. In all of that time, neither the United States nor the Bureau of Land Management ("BLM") have put any of the claimed waters to beneficial use or used the claimed waters for the watering of livestock.

6. My knowledge regarding the use of the water sources on the Cliffs Allotment actually pre-dates the 1980s and goes back to the mid-1960s when we were using a neighboring allotment. At no time have I heard of or witnessed the use of water within the Cliffs Allotment by the United States or the BLM for stockwatering. To the best of my information and belief, at no time has the United States or the BLM owned livestock or used the waters within the Cliffs Allotment for the watering of livestock.

7. My understanding is that the United States is basing its claims on licenses issued to it. At no time prior to this adjudication was I personally aware that the United States had applied for or had been issued licenses for the water sources that are now claimed by the United States in these subcases.

8. I received no notice of the United States' applications for licenses or of applications for the appropriation of these waters. Had I received such notice, I would have protested the applications.

9. To the best of my knowledge and belief, most if not all the United States' license applications were for the appropriation of water that had already been appropriated by L.U. Ranching, the Jeff Anderson Estate, Inc., Michael Stanford and their predecessors in interest prior to the dates of the applications.

I do hereby affirm and declare under penalty of perjury that the contents of this affidavit are true and correct.

DATED: 6/23/05

Tim Lowry
Tim Lowry

Subscribed and sworn to before me

on 6.23.05
Notary Public for Malheur County
Residing at Jordan Valley Or 97710
My Commission Expires 11.4.06

