



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

CIVIL CASE NUMBER: 39576

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER
FROM THE SNAKE RIVER BASIN WATER SYSTEM

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

A57-02362

U.S. DEPT. OF INTERIOR
BUREAU OF LAND MGMT.
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706
TELEPHONE: 208-334-1401

PRIORITY DATE: 1942-01-24
IDWR WATER RIGHT NO. 5702362
BLM NUMBER: 5701588020
BASIS OF CLAIM: LICENSE
BASIN NO.: 57

SOURCE	TRIBUTARY TO
-----	-----
SPRING	SQUAW CREEK

DESCRIPTION OF DIVERSION WORKS

HEADBOX, PIPELINE, TROUGH

PURPOSE OF USE	DIVERSION RATE	DIVERSION VOLUME	PERIOD OF USE FROM	TO
-----	-----	-----	-----	-----
STOCKWATER	0.040	1.10	0101	1231
WILDLIFE	0.040	1.10	0101	1231
TOTAL:	0.040 CFS	1.10 AF		

NON-IRRIGATION USES

S/150 RANGE CATTLE (INCLUDES WILD HORSES/VAR AMT) W/VAR AMT

POINT OF DIVERSION							
TWP	RNG	SEC	TRACT1	TRACT2	TRACT3	LOT	COUNTY
---	---	---	-----	-----	-----	---	-----
01N	04W	15		NE	SE	0	OWYHEE

PLACE OF USE							OWNED	IRRIGATED ACRES
TWP	RNG	SEC	TRACT1	TRACT2	LOT	COUNTY	-----	-----
---	---	---	-----	-----	---	-----	-----	-----
01N	04W	15	NE	SE	0	OWYHEE		0.0
01N	04W	15	NE	SE	0	OWYHEE		0.0

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TOTAL ACRES IRRIGATED 0.0

BLM NUMBER: 5701588020

PAGE 2

TOTAL CONSUMPTIVE USE IS: DE MINIMUS ACRE FEET PER ANNUM

OTHER WATER RIGHTS

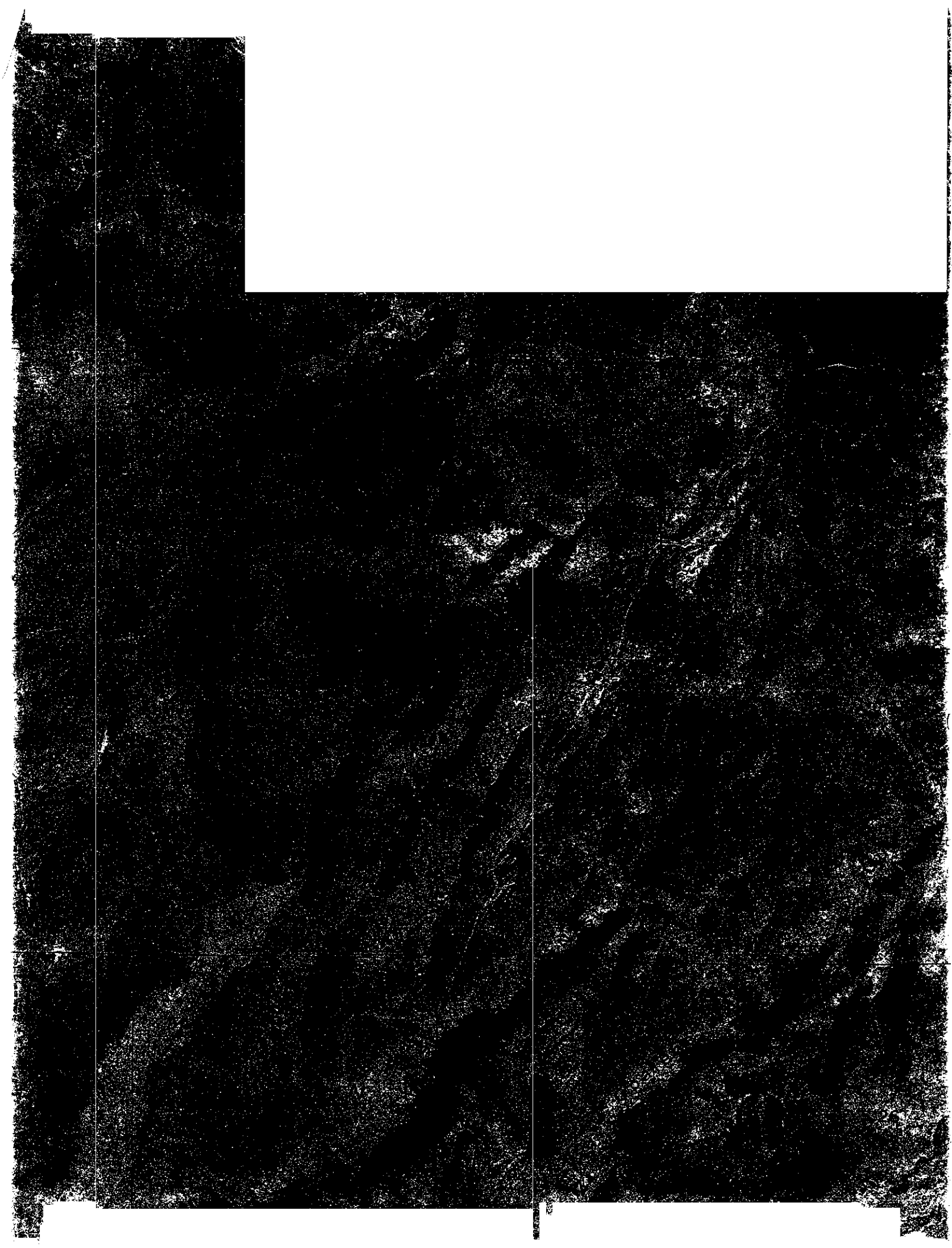
LICENSE 57-7346 PD: 3/4/83

REMARKS

PREVIOUSLY FILED WITH THE IDAHO DEPARTMENT OF WATER RESOURCES

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OCT 07 1992



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

In Re the General Adjudication
of Rights to the Use of Water
from the Snake River Basin
Water System

The State of Idaho, ex rel.
R. Keith Higginson in his
official capacity as Director
of the Idaho Department of
Water Resources,

Petitioner,

vs.

The United States; the State
of Idaho; and all Claimants to
the use of water from the Snake
River Basin Water System,

Respondents.

Case No. 57-02362
(You must insert the
water right number you
are objecting to)

OBJECTION

RECEIVED

FEB 26 1993

Department of Water Resources
Adjudication Bureau

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in the Director's Report. You may object to one water right per objection form. The water right number you are objecting to must be indicated above in the blank space following "Case No." To object to more than one water right, you must file a separate objection form for each. Forms may be obtained from the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form, as long as it is identical to the court's form. You must file your objection by the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

Any party physically filing 25 (twenty-five) or more objections must make an appointment with the Clerk of the Adjudication Court and arrange for an appointment to file multiple objections.

(Over)

By filing an objection form, you are certifying that the objection is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and that it is not filed for any improper purpose, such as to harass, cause unnecessary delay or needless increase in the cost of litigation.

I. GENERAL INFORMATION

Please fill in the following information:

1. Person objecting: United States of America
Bureau of Land Management
Name: U.S. Department of the Interior
Address: 3380 Americana Terrace
Boise, Idaho 83706

Briefly describe your interest in this water right:

The United States, through the Bureau of
Land Management, has a valid water right
which requires specific corrections or
additions to the previous filing.

2. Owner of the water right: United States of America
U.S. Department of Interior
Name: Bureau of Land Management
Address: 3380 Americana Terrace
Boise, Idaho 83706

3. If this objection is filed by an attorney:
Attorney Name: K. Jack Haugrud
Daria J. Zane
Attorney Address: U. S. Department of Justice
500 West Fort Street
P.O. Box 33
Boise, Idaho 83734
Attorney Phone No.: 202-272-4134/8351

If filed by an attorney, notice of pending court proceedings will be sent to the attorney only.

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II. STATEMENT OF THE OBJECTION

Please check each "box" which states your objection to the recommendation in the Director's Report.

1. ☐ Name and Address: I object to the name and/or address of the owner of the water right.
2. ☐ Source: I object to the source of water.
3. ☐ Quantity: I object to:
 - a. ☐ the total quantity of water used in cubic feet per second; or
 - b. ☐ the total quantity of water stored in acre-feet per year; or
 - c. ☐ the total quantity of water reserved for each and every purpose, including all present and future uses.
4. ☐ Priority Date: I object to the priority date.
5. ☒ Points of Diversion: I object to the legal description of the point(s) of diversion.
6. ☐ Instream Flow: I object to the legal description of the beginning and ending points of the instream flow.
7. ☐ Purpose(s) of Use: I object to the purpose(s) of use.
8. ☐ Period of Year: I object to the period of year when water is used or is necessary for the purpose stated.
9. ☒ Place of Use: I object to:
 - a. ☐ the legal description of the place of use; or
 - b. ☐ the number of irrigated acres within each forty (40) acre subdivision.
10. ☐ Consumptive Use: I object to the annual volume of consumptive use.
11. ☐ Remarks: I object to the "remarks" listed with the water right.

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(Over)

12. ☐ Water Right Recommendation: I object to:
- a. ☐ this water right being recommended at all; or
- b. ☐ this water right not being recommended.
13. ☐ Description of Reservation: I object to the legal description of the reservation.
14. ☐ Other: I object to: _____
- _____
- _____
- _____
- _____

REASONS SUPPORTING EACH BOX CHECKED

In the space following, you must state the reason(s) by number for each box checked. You may use additional pages if necessary.

The United States of America, acting through the Bureau of
Land Management, has a valid water right. This claim as it
appears in the Directors Report contains errors or is
incomplete and requires amendment.

CHANGES TO THE DIRECTOR'S REPORT

Specifically describe how you want the Director's Report to be changed. You may use additional pages if necessary.

The Directors report should be changed to recommend
allowance of this claim incorporating the corrections or
additions specified in the attachment.

Please note: You should attach copies of documents which support your objection. Note on each document the "box number" it supports.

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☒ Check here if you are submitting documents. Please list each document by the title and number of pages. You may use additional pages if necessary. _____

1. List of changes required to correct this claim.

2. Copy of USDI claim from the Directors report.

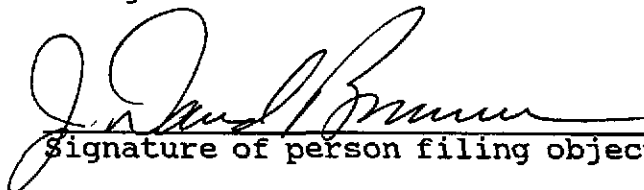
VERIFICATION (Must be Completed)

State of Idaho

County of Ada

J. DAVID BRUNNER, BOISE DISTRICT MANAGER, being first duly
(Name of person filing objection)
sworn, upon oath, deposes and says:

That I am the person or entity filing this objection, that I am a water claimant or party in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and that I have read the foregoing objection, know its contents and that the statements contained therein are true to the best of my knowledge and belief.


Signature of person filing objection

By: _____

(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 23 day of Feb.,
1993.

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APR 17 1993


Notary Public for Ada County
Residing at: Boise, Idaho
My Commission expires: April 26, 1997

INSTRUCTIONS FOR MAILING

You must mail the objection, including all attachments, to the Clerk of the Court. FAX filings will not be accepted by the Clerk of the Court. You must also send a copy to the owner of the water right, if other than yourself; to the Office of the Attorney General, State of Idaho; and to the United States Department of Justice, as set out below in the Certificate of Mailing. Finally, you must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I hereby certify that on the 26 day of February, 1993, I ^{mailed} the original and copies of the foregoing objection, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepaid and addressed as follows:

1. Original to:

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

2. One copy to the owner of the water right, and you must fill in the following information:

Owner name: US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
Owner's address: 3380 AMERICANA TERRACE
BOISE IDAHO 83706

3. One copy to:

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

4. One copy to:

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, Idaho 83734


Signature of Objector of attorney
mailing on Objector's behalf

FILED
MAR 02 1993

ATTACHMENT 1

CLAIM NUMBER: 57-02362

POINT OF DIVERSION:

CHANGE: T01N R04W S15 NESE

TO: T01N R04W S15 SENE

PLACE OF USE:

CHANGE: T01N R04W S15 NESE

TO: T01N R04W S15 SENE

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MAR 02 1998

IDAHO DEPARTMENT OF WATER RESOURCES
 RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

 DATE: OCT-13-1992
 PAGE: A-1341

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
	SOURCE: SPRING		TRIBUTARY: SQUAW CREEK			
57-02362	US DEPT OF INTERIOR BUREAU OF LAND MANAGEMENT IDAHO STATE OFFICE 3380 AMERICANA TERRACE BOISE ID 83706	01/24/1942	STOCKWATER	01-01 12-31	.01	CFS LICENSE
	NON-IRRIGATION-USES: STOCKWATER, 150 RANGE CATTLE & HORSES; WILDLIFE, VARIABLE AMOUNT					
	POINT OF DIVERSION: T01N R04W S15	NESE				
	PLACE OF USE: STOCKWATER					
	T01N R04W S15	NESE				
	REMARKS: THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING ALLOTMENT SHALL BE LIMITED TO THE QUANTITY OF WATER BENEFICIALLY USED BY THE NUMBER OF STOCK WITHIN THE ALLOTMENT. BLM RECORD ID = 5701588020					
57-02364	US DEPT OF INTERIOR BUREAU OF LAND MANAGEMENT IDAHO STATE OFFICE 3380 AMERICANA TERRACE BOISE ID 83706	01/24/1942	STOCKWATER	01-01 12-31	.01	CFS LICENSE
	NON-IRRIGATION-USES: STOCKWATER, 150 RANGE CATTLE & HORSES; WILDLIFE, VARIABLE AMOUNT					
	POINT OF DIVERSION: T01N R04W S28	SESW				
	PLACE OF USE: STOCKWATER					
	T01N R04W S28	SESW				
	REMARKS: THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING ALLOTMENT SHALL BE LIMITED TO THE QUANTITY OF WATER BENEFICIALLY USED BY THE NUMBER OF STOCK WITHIN THE ALLOTMENT. BLM RECORD ID = 5701588022					

BASIN 57
OBJECTION FILE
~~CONFIDENTIAL~~ AGENT NOTES

RECEIVED

JAN 25 1996

Department of Water Resources

CLAIM NO.: 57-02362

PARTIES:

☐ Individual vs Individual	☐ BLM vs Individual
☐ Individual vs Department	☒ BLM vs Department
☐ Individual vs BLM	☐ General Provisions

SUMMARY OF OBJECTION:

Legal descriptions of point of
diversion & place of use.

AGENTS RESPONSE:

☐ NO RESPONSE

Recommended as claimed -
claimed as licensed - No change
made to legals.

No claims on file with the
p/d shown on attachment 1.

AGENT:

Kay Wheeler

DATE:

3-15-93

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MAR 12 1993

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
57-02362	01N	04W	15		NE	SE		OWYHEE

OTHER AJ CLAIMS WITH SAME AJ POD

A PREFIX R PREFIX
57-07346 NONE
57-11310
~~A57-02362~~
~~A57-07346~~
~~A57-11310~~

WR RECORDS IN SAME 40 ACRE TRACT

57-07346

SOURCE: SPRING

TRIB: SQUAW CREEK

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
57-02362	01N	04W	15		NE	SE		OWYHEE

OTHER WR RECORDS WITH SAME WR POD

57-07346

AJ CLAIMS IN SAME 40 ACRE TRACT

A PREFIX R PREFIX

~~57-07346~~ NONE
~~57-11310~~
~~A57-02362~~
~~A57-07346~~
~~A57-11310~~

SOURCE: SPRING

TRIB:

C. FIELD EXAM REQUIRED?

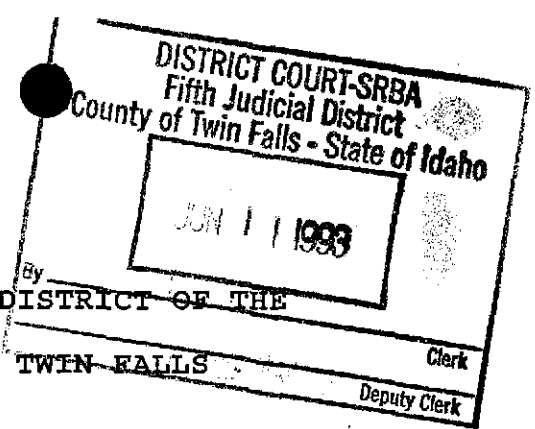
DUE TO POD DISCREPANCY? (Y/N)
DUE TO SOURCE DISCREPANCY? (Y/N)

DATABASE
Y
Y

FIELD
EXAMINER

57-07346: recommended BLM license for "Rats Nest Sp."
57-11310: Fed. land claim for "Rats Nest Sp."

No overlap at new location.



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

In Re the General Adjudication
of the Rights to the Use of Water
from the Snake River Basin
Water System

Case No. 57-02362 -0001

The State of Idaho, ex rel.
R. Keith Higginson in his
official capacity as Director
of the Idaho Department of
Water Resources,

RESPONSE TO OBJECTION

Petitioner,

vs.

The United States; the State
of Idaho; and all Claimants to
the use of water from the Snake
River Basin Water System,

Respondents.

I. GENERAL INFORMATION

1. Person responding to objection:

Name: R. KEITH HIGGINSON, DIRECTOR

Address: IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449

Briefly describe your interest in this water right:

IDWR is required to file a response to an objection to part
I of the director's report pursuant to I.C. section 42-1412(2).

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(Over)

2. Person who filed objection:

Name: US BUREAU OF LAND MANAGEMENT
Address: IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706-2544

3. If this response is filed by an attorney:

Attorney Name(s): DANIEL L. STECKEL

Attorney Address: DEPUTY ATTORNEY GENERAL(S)
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449

Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

5. ☒ Points of Diversion: I respond to the objection concerning the legal description of the points(s) of diversion.
9. ☒ Place of Use: I respond to the objection concerning:

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection items 5 and 9 and all allegations of the objection regarding these items IDWR responds as follows: The point of diversion and place of use were recommended as claimed by the United States and as licensed by IDWR. The United States improperly seeks to use the objection process to amend its notice of claim. IDWR believes that a claimant must obtain leave of the court to amend a claim after the director's report is filed, just as a party must obtain leave of the court to file a late claim after the director's report is filed. Once leave of court is granted, IDWR can investigate the amended claim and make an appropriate recommendation to the court. IDWR lacks sufficient information to form a belief as to the truth of the matter asserted and therefore denies the objection and all allegations of the objection.

CHANGES TO THE DIRECTOR'S REPORT

The director proposes no changes to the description of this claim in the Director's Report.

☒ Check here if you are submitting documents. Please list each document by the title and number of pages. You may use additional pages if necessary:

No. of
Pages

Notice of Claim No. A57-02362

2

RECEIVED

NOV 14 1957

(Over)

VERIFICATION (Must be Completed)

State of IDAHO

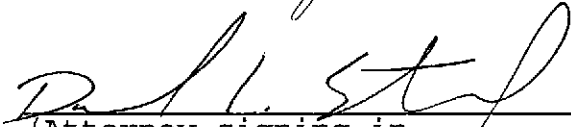
County of ADA

Donald V. Shaff, being first duly sworn, upon oath, deposes and says:

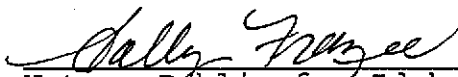
That R. Keith Higginson, in his official capacity as director of the Idaho Department of Water Resources, is a party to this proceeding, as defined by I.C. 42-1401A(1) and (7); that I am the Adjudication Section Manager for IDWR and am authorized by R. Keith Higginson, in his official capacity as director of IDWR, to verify this response; and that I have read the foregoing response, know its contents and that the statements contained therein are true to the best of my knowledge and belief.


Signature of person filing response

By:


(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 11th day of June,
1993.


Notary Public for Idaho
Residing at: Boise
My Commission expires: 11-14-1998

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MAR 02 1998

CERTIFICATE OF MAILING

I hereby certify that on the 11th day of June, 1993, I mailed the original and copies of the foregoing response, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepared and addressed as follows:

1. Original to:

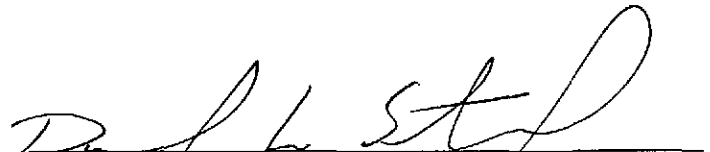
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

2. One copy to the owner of the water right, and you must fill in the following information:

See No. 3

3. One copy to the party who filed the objection, or if represented by an attorney, to their attorney; and you must fill in the following information:

Name: US DEPT OF JUSTICE
Address: K JACK HAUGRUD & DARIA J ZANE
550 W FORT ST
BOX 33
BOISE ID 83734



Signature of Respondent or attorney
mailing on Respondent's behalf

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MAR 02 1998

IN Re SRBA
Case No. 39576

SUBCASE NO: 57-02362

PROPOSED ELEMENTS OF A WATER RIGHT

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; and they have been served with sufficient process, according to the law, and have appeared, prosecuted and defended their positions with regard to this water right dispute.

Contested elements that are the result of an objection filed with the court shall be accompanied by a statement fully describing all facts, documents, expert opinions and law which support the element of the water right (attach additional pages if necessary).

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1. The name and address of the claimant is:

U. S. Department of Interior
Bureau of Land Management
Idaho State Office
3380 Americana Terrace
Boise, ID 83706

Required Statement: AS RECOMMENDED IN THE DIRECTOR'S REPORT

2. The source of water is: Lower Rats Nest Spring;
Tributary: Squaw Creek

Required Statement: The element as recommended originally was incorrect. The change reflects as accurate description of the element. IDWR had previously reviewed this change and recommended it.

3. The quantity of water used in cubic feet per second or the quantity of water stored in acre-feet per year is:

.01 CFS

Required Statement: AS RECOMMENDED IN THE DIRECTOR'S REPORT

4. The priority date is: 01/24/42

Required Statement: AS RECOMMENDED IN THE DIRECTOR'S REPORT

5. The legal description of point(s) of diversion is; if the claim is for an instream flow, then a legal description of the beginning and ending points of the claimed instream flow:

T01N R04W S15 SENE

Required Statement: The element as recommended originally was incorrect. The change reflects an accurate description of the element. IDWR had previously reviewed this change and recommended it.

6. The purpose of use is: Stockwater, Wildlife

Required Statement: The provisions "150 range cattle & horses" and "variable amount" are not necessary to define the right.

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7. The period of year when the water is to be used is:

01/01 - 12/31

Required Statement: AS RECOMMENDED IN THE DIRECTOR'S REPORT

8. The legal description of the place of use or of the reservation is:

Stockwater
T01N R04W S15 SENE

All POU's are located in Owyhee County.

Required Statement: The element as recommended originally was incorrect. The change reflects an accurate description of the element. IDWR had previously reviewed this change and recommended it.

9. The annual volume of consumptive use is: De Minimis

Required Statement: This accurately describes this element of the water right.

10. Other matters necessary to define this water right:

These matters are necessary because: The remark as originally recommended in the Director's Report is not necessary for the right.

These matters do not fall within the 9 elements listed above because:

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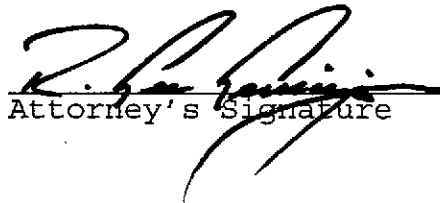
Signature and Address of Parties and their Attorney of Record
(attach additional page if necessary)

I have read this form and know its contents and that the
statements are true to the best of my knowledge and belief.

Name of Objector:

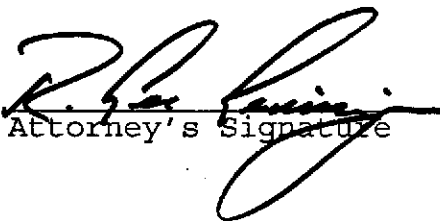
Name: United States through
Dept. of Justice for BLM
Address: 601 Pennsylvania Ave., NW
City/State: Washington, DC 20004
Attorney of Record: R. Lee Leininger\Daria Zane\William Ferry

Signature Date

 1/2/96
Attorney's Signature Date

Name of Claimant:

Name: United States through
Dept. of Justice for BLM
Address: 601 Pennsylvania Ave., NW
City/State: Washington, DC 20004
Attorney of Record: R. Lee Leininger\Daria Zane\William Ferry

 1/2/96
Attorney's Signature Date

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MAR 02 1998

IDAHO DEPARTMENT OF WATER RESOURCES
 RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

 DATE: OCT-13-1992
 PAGE: A-1341

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: SPRING		TRIBUTARY: SQUAW CREEK				
57-02362	US DEPT OF INTERIOR BUREAU OF LAND MANAGEMENT IDAHO STATE OFFICE 3380 AMERICANA TERRACE BOISE ID 83706	01/24/1942	STOCKWATER	01-01 12-31	.01	CFS LICENSE
TOTAL QUANTITY:					.01	CFS
NON-IRRIGATION-USES: STOCKWATER, 150 RANGE CATTLE & HORSES; WILDLIFE, VARIABLE AMOUNT POINT OF DIVERSION: T01N R04W S15 NESE PLACE OF USE: STOCKWATER T01N R04W S15 NESE REMARKS: THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING ALLOTMENT SHALL BE LIMITED TO THE QUANTITY OF WATER BENEFICIALLY USED BY THE NUMBER OF STOCK WITHIN THE ALLOTMENT. BLM RECORD ID = 5701588020						
57-02364	US DEPT OF INTERIOR BUREAU OF LAND MANAGEMENT IDAHO STATE OFFICE 3380 AMERICANA TERRACE BOISE ID 83706	01/24/1942	STOCKWATER	01-01 12-31	.01	CFS LICENSE
TOTAL QUANTITY:					.01	CFS
NON-IRRIGATION-USES: STOCKWATER, 150 RANGE CATTLE & HORSES; WILDLIFE, VARIABLE AMOUNT POINT OF DIVERSION: T01N R04W S28 SESW PLACE OF USE: STOCKWATER T01N R04W S28 SESW REMARKS: THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING ALLOTMENT SHALL BE LIMITED TO THE QUANTITY OF WATER BENEFICIALLY USED BY THE NUMBER OF STOCK WITHIN THE ALLOTMENT. BLM RECORD ID = 5701588022						

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MAR 02 1998

INSTRUCTIONS FOR MAILING

You must mail the form, including all attachments, to the Clerk of the SRBA Court and to the parties identified in the Certificate of Mailing. **FAX filings will not be accepted by the SRBA Clerk of the Court.**

You must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I certify that on January 18, 1996, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

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

2. Copies to:

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

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

Paula Ann Smith
Signature of person or attorney
mailing the form

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MAR 02 1998

ALAN G. LANCE
Attorney General
State of Idaho

RICHARD B. BURLEIGH
Deputy Attorney General
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098
Telephone: (208) 327-7900
FAX: (208) 327-7866

Attorney for IDWR

COPY

MAR 16 AM 11:30

DISTRICT COURT - IDAHO
TWIN FALLS COUNTY
FILED

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 No. 57-02362
	)	
	)	IDWR REPORT RE: REVIEW
Case No. 39576	)	OF STANDARD FORM 5
	)	
	)	

DESCRIPTIVE SUMMARY

IDWR submits this report to inform the Court and the parties that IDWR has reviewed the Standard Form 5 submitted by the parties in this subcase and that the Director has chosen not to sign the Standard Form 5.

DISCUSSION

The Director did not sign the Standard Form 5 for the reasons set forth below:

1. The description of the elements of the water right in the Standard Form 5 are not correct as stated below:

- [] Name and Address
- [] Source
- [] Quantity
- [] Priority Date

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☐ Point of Diversion

☒ Purpose of Use

Although no objection was filed to the description of the purpose of use of this water right in the director's report, the Standard Form 5 seeks to change the description of the purpose of use in two ways.

First, the Standard Form 5 seeks to change the purpose of use from "STOCKWATER" to "STOCKWATER" and "WILDLIFE". Claim No. A57-02362 is a claim based on Idaho Code §42-501. I.C. §42-501 provides for livestock use only; wildlife use cannot be included as a purpose of use for an appropriation under Idaho Code §42-501.

Second, the Standard Form 5 omits the further description of non-irrigation use. IDWR included in its recommendation a further description of non-irrigation uses that states: "STOCKWATER, 150 RANGE CATTLE AND HORSES; WILDLIFE, VARIABLE AMOUNT". This language was included pursuant to Idaho Code §42-1411(2)(f), which provides for IDWR to determine the purpose(s) of use of a water right to the extent the director deems appropriate to define and administer the water right, and 42-1411(2)(j), which further provides for IDWR to include such other matters as the director deems appropriate to define and administer the water right. IDWR recognizes that wildlife preservation is an appropriate use of public lands, and to the extent the United States has a right to water for stockwatering purposes, wildlife might also drink from the source. This language recognizes wildlife use as incidental to stockwater use but does not recognize wildlife as a purpose of use of the water right independent from

stockwater use.

Further description of stockwater uses by the type and number of head is also provided. This description of non-irrigation uses defines the water right with sufficient specificity to prevent future expansions in use that would enlarge the water right and cause injury to other water rights. This is particularly true for stockwater rights because a reasonable rate of flow (cfs) for such rights is capable of producing an annual diversion volume that is significantly in excess of the volume of water required for drinking by the stock for which the water was appropriated.

The omission of the further description of non-irrigation uses from Standard Form 5s for water rights acquired under state law by the United States for stockwater purposes is currently the subject of further proceedings in Reporting Area 1, Basin 34, Subcase No. 34-04179.

☐ Period of Use

☐ Place of Use

☐ Consumptive Use

☒ Other Matters Necessary to Define or Administer the Right

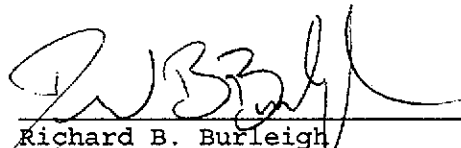
The Standard Form 5 omits the following statement, "THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING ALLOTMENT SHALL BE LIMITED TO THE QUANTITY OF WATER BENEFICIALLY USED BY THE NUMBER OF STOCK WITHIN THE ALLOTMENT." This statement is necessary to limit the use of this water right in combination with other rights claimed and recommended for the same use. In the case of BLM stockwater rights, combined use occurs where the BLM claims a separate right to each of a number of water sources, each for use

by the full number of cattle on the allotment. Each right is quantified based on the total use for the allotment, to allow the grazing permittee to take the full amount of water needed from any combination of the sources within the allotment. Since each right is quantified based on the total use within the allotment, the combined use must also be limited to that same total, thereby avoiding the misconception that the rights are additive.

2. The Standard Form 5 was not signed by the Director for other reasons as stated below:

☐ Federal Reserved Water Right

☐ Other



Richard B. Burleigh
Deputy Attorney General
Idaho Department of Water Resources

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CERTIFICATE OF MAILING

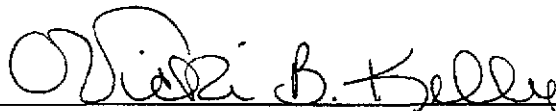
I certify that on February 15, 1996, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

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

2. Copies to:

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



Signature of person or attorney
mailing the form

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Movant's Name:**UNITED STATES OF AMERICA****Attorneys' Names and Addresses:**

LOIS J. SCHIFFER
Assistant Attorney General
Environment and Natural Resources Division

DARIA J. ZANE
R. LEE LEININGER
Attorneys, Department of Justice
General Litigation Section
Environment and Natural Resources Division
P.O. Box 663
Washington, D.C. 20044-0663
(202) 272-8351, (202) 272-4692

**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.: See Attached
	)	List
	)	
	)	NOTICE OF FILING
Case No. 39576	)	
	)	

Descriptive Summary

This is the United States notice of filing Standard Forms No. 5 for the attached list of Bureau of Land Management (BLM) objections to BLM claims in SRBA sub-basin number 57.

Notice

The United States hereby provides notice that Standard Forms No. 5 to resolve objections to the Director's recommendations for the attached list of claims in basin 57 were

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submitted to the Court on January 19, 1995. A package containing the Standard Forms No. 5 was sent by over-night courier to the Court on January 18, 1995.

The United States identified one hundred and twelve (112) subcases in which the United States by and through the BLM is the only party. The Standard Form Fives to resolve ninety of these subcases were submitted on January 19, 1995. Due to the extended furlough period of federal workers and inclement weather in the Washington, D.C. area, the BLM and attorneys at the Department of Justice were unable to finalize the remaining Standard Form Fives to resolve BLM objections to BLM claims. SF5s for these claims will be submitted in the near future.

The United States is also sending copies of the submitted SF5s to the Idaho Department of Water Resources. Accompanying the copies of the SF5 are one-page sheets asking that IDWR concur with the elements of the water right as described on the SF5s. This procedure is consistent with the Court's indications that parties are the appropriate persons to sign the agreements. See, July 18, 1995 transcript at 50-51.

If IDWR does not concur, the sheet asks that the Department state the elements of the water right with which it does not agree, any changes it would recommend to the elements and the reasons for its proposed changes. It is requested that this sheet be filed with the Court and a copy sent to the United States.

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The letter of concurrence will allow the Court to identify elements of the water right which the Department finds at issue. The Court may then determine what further action, if any, is necessary, e.g., a settlement conference, briefing or hearing.

We have discussed this procedure with IDWR and IDWR finds it acceptable.

By way of further explanation, the United States made changes to certain elements in the SF5s from the elements recommended in the Director's Report. Legal locations were changed to correct typographical errors or misidentified places of use or points of diversion. These errors were discussed with IDWR previously. There should be no disagreement as to these changes.

In addition, element number 9 on annual volume of consumptive use is now described as "de minimis". The United States discussed this description with IDWR and IDWR concurs with this change.

Additional changes were made to element numbers 6 and 10. The United States did not include the number of cattle as recommended in the Director's Report under element number 6 and did not include the remark attached to BLM stockwatering rights, under element 10. The United States met with IDWR to attempt to resolve the dispute regarding the elements necessary to define and administer a stockwater right on Thursday, January 18, 1996. The meeting did not result in an agreement. The United States

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respectfully requests that the Court schedule hearings for the final determination of these water rights, if necessary.

Respectfully submitted this 19 day of ~~December~~,
January
 1998.


 R. Lee Leiminger
 Daria J. Zane
 Attorneys, Department of
 Justice
 General Litigation Section
 Environment and Natural
 Resources Division

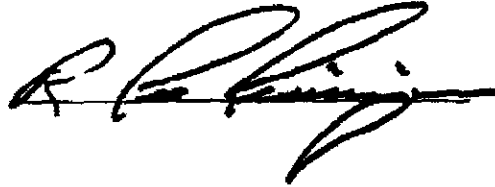
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CERTIFICATE OF SERVICE

I certify that on the 14 day of January, 1996, I served a true and correct copy of the Notice of Filing in Basin 57 by facsimile transmission upon the following individuals:

Richard Burleigh/ A. Lynne Krogh
Deputy Attorneys General
Idaho Department of Water Resources
1301 N. Orchard St.
Boise, Idaho 83702

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



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List of Subcases

57-02362	57-11013A	57-11379
57-02365A	57-11048	57-11380
57-02379	57-11049A	57-11382
57-02380	57-11078A	57-11385
57-02382	57-11085	57-11398
57-02407	57-11085A	57-11399
57-02419	57-11108	57-11422
57-02423	57-11150	57-11424
57-02429		57-11449
57-07056	57-11154	57-11450
57-07298	57-11155	57-11452
57-07335	57-11171	57-11453
57-07417	57-11195	57-11454
57-07431	57-11201	57-11463
57-07442	57-11246	57-11464
57-10960	57-11284	57-11465
57-10960A	57-11286	57-11469
57-10977	57-11287	57-11471
57-10977A	57-11304	57-11473
57-10980	57-11317A	57-11475
57-10980A	57-11331	57-11476
57-10981	57-11333	57-11477
57-10981A	57-11335	57-11480
57-10984	57-11337	57-11482
57-10984A	57-11360	57-11483
57-10985	57-11367	57-11484
57-10985A	57-11375	57-11486
57-10994	57-11376	57-11487
57-10994A	57-11377	57-11488
		57-11489
		57-11490
		57-11494

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UNITED STATES
DEPARTMENT OF JUSTICE

ENVIRONMENT AND NATURAL
RESOURCES DIVISION
GENERAL LITIGATION SECTION



MAILING ADDRESS

P.O. Box 663

WASHINGTON, D.C. 20044-0663

OVERNIGHT & COURIER DELIVERY

Room 854

601 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004

FAX NUMBERS

(202) 305-0506 (8TH FLOOR - PRIMARY)

(202) 305-0267 (8TH FLOOR)

(202) 305-0274 (5TH FLOOR)

(Please Call 202-305-0503 to Confirm Receipt)

TO: SRBA Court FAX#: (202) 736-2121
EDWR, Mr. Richard Burleigh 327-7866
Idaho A.G.'s office 334-2690

FROM: Lee Heiniger

DATE: 1/19, 1996

NUMBER OF PAGES (including cover sheet): 7

COMMENTS:

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Department of Water Resources

1996 FEB 28 PM 4:56

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED _____

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.: See Attached Exhibit A
	)	
Case No. 39576	)	ORDER ON STATUS CONFERENCE
	)	
_____	)	

On February 27, 1996 at 9:00 a.m. and on February 28, 1996 at 11:30 a.m., the court held Status Conferences in the aforementioned cases. Lee Leininger and Fritz Holleman appeared by telephone on behalf of the United States. Richard Burleigh was present for the Idaho Department of Water Resources. The purpose of the hearing was to discuss the status of various *Standard Forms 5 (SF5s)* pending before the court. Having discussed the status of those pending *SF5s* with the parties, IT IS HEREBY ORDERED as follows:

1. The United States shall prepare a report due March 7, 1996 at 5:00 p.m. establishing which dual based claims exist in relation to the aforementioned subcases before the court. Once the court has had an opportunity to review that report, the court will order consolidation of those companion cases.
2. Summary Judgment Motions and briefs shall be filed with the court by April 16, 1996 by 5:00 p.m.

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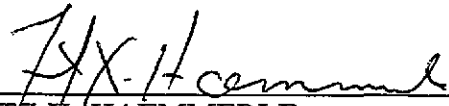
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3. The court will hear the Summary Judgment Motion on April 23, 1996 at 1:30 p.m. The United States may appear by telephone if it so chooses.

DATED February 28, 1996.



FRITZ X. HAEMMERLE
Special Master, Reporting Area 2
Snake River Basin Adjudication

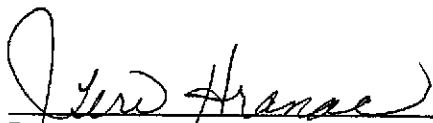
CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER ON STATUS CONFERENCE was mailed on February 28, 1996, with sufficient first-class postage to the following:

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

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

Director of IDWR
P.O. Box 83720
Boise, ID 83720-0098



Deputy Clerk

Exhibit A

Subcase Nos:

57-02362	57-11335
57-02365A	57-11337
57-02379	57-11360
57-02380	57-11367
57-02382	57-11375
57-02407	57-11376
57-02419	57-11377
57-02423	57-11379
57-02429	57-11380
57-07056	57-11382
57-07298	57-11385
57-07335	57-11398
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57-11246	
57-11284	
57-11286	

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JAN 29 1996

Department of Water Resources

57-02362

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DISTRICT COURT - SRBA
TWIN FALLS CO. IDAHO

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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

Subcase Nos.: See Attached Exhibit A

Case No. 39576

ORDER APPOINTING EXPERT
WITNESS PURSUANT TO I.R.E. 706
and ORDER SETTING HEARING ON
STANDARD FORMS 5

On January 22, 1996, the court received various *Standard Forms 5* in the subcases described in Exhibit A attached hereto. Having reviewed the *Standard Forms 5* the court has various concerns outlined as follows:

1. Whether the purpose of use can include a specific number of stock; and
2. Whether the annual volume of consumptive use can be described as "de minimis".

Pursuant to I.R.E. 706, the court appoints the Idaho Department of Water Resources (IDWR) as an expert **factual** witness to address whether it is possible to describe the annual volume of consumptive use for stockwater claims in any manner other than "de minimis". IDWR is directed to determine whether it is possible to describe an actual volume for annual consumptive use for stockwater claims.

In order to determine the applicability of these provisions, the court sets out the following schedule:

February 16, 1996 5:00 p.m.

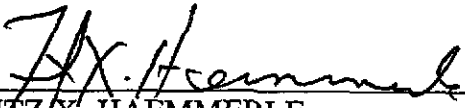
Report from IDWR shall be filed with the court pursuant to I.R.E. 706. A copy of the report shall be sent to the United States at their Boise service address.

March 1, 1996 5:00 p.m. Briefs due.

March 11, 1996 2:00 p.m. Hearing on proposed *Standard Forms 5*.

IT IS SO ORDERED.

DATED January 25, 1996.


FRITZ X. HAEMMERLE
Special Master, Reporting Area 2
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the **ORDER SETTING HEARING ON STANDARD FORMS 5** was mailed on January 25, 1996, with sufficient first-class postage to the following:

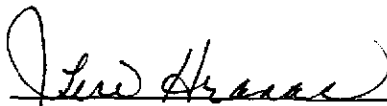
Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, ID 83711-4449

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

Director of IDWR
P.O. Box 83720
Boise, ID 83720-0098

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Deputy Clerk

Subcase Nos:

57-02362	57-11335
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57-11304	
57-11317A	
57-11331	
57-11333	

(Order Setting SF5 Hearing)
Page 3 1/25/96

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Exhibit A

Subcase Nos:

57-02362	57-11335
57-02365A	57-11337
57-02379	57-11360
57-02380	57-11367
57-02382	57-11375
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57-11331	
57-11333	

(Order Setting SF5 Hearing)

Page 3 1/25/96

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MAR 2 1996

Movant's Name:

UNITED STATES OF AMERICA

Attorneys' Names and Addresses:

LOIS J. SCHIFFER
Assistant Attorney General
Environment and Natural Resources Division

DARIA J. ZANE
R. LEE LEININGER
WILLIAM M. FERRY
PAUL F. HOLLEMAN
Attorneys, Department of Justice
General Litigation Section
Environment and Natural Resources Division
P.O. Box 663
Washington, D.C. 20044-0663
(202) 272-8351, (202) 272-4692

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. See Attached List
	)	
Case No. 39576	)	STIPULATION TO RESET HEARING
	)	SCHEDULED BEFORE A SPECIAL
	)	MASTER AND MOTION TO CONTINUE
	)	RELATED BRIEFING AND REQUEST FOR
	)	EXPEDITED CONSIDERATION THEREOF
	)	

DESCRIPTIVE SUMMARY

This is a Stipulation by the United States on behalf of the Bureau of Land Management to reset a scheduled hearing on Standard Forms 5 for those subcases listed in Attachment A and motion to continue the deadline for briefing of certain issues related to those subcases.

Stipulation to Reset Hearing
and Motion to Continue Briefing

DISCUSSION

Pursuant to SRBA Administrative Order No. 8, the United States submits this stipulation to reset the hearing presently scheduled before the Special Master in basin 57 on March 11, 1996. The United States requests that the Court enter an order resetting the hearing on Standard Forms 5 for those subcases listed in Attachment A to May 8, 1996 at 9:00 a.m. in the Snake River Basin Adjudication (SRBA) Courthouse in Twin Falls, Idaho.¹ Further, the United States requests that the Court continue the March 1, 1996 date for submission of briefs related to these subcases to April 29, 1996, ten days prior to the reset hearing. Due to the impending deadline currently set for briefing, the United States requests expedited consideration of its request for a continuance.

The United States is the only party to the subcases listed in Attachment A. On January 22, 1996, the United States submitted Standard Forms 5 for these subcases to resolve the U.S. objections. Shortly thereafter, the Special Master for Basin 57 ordered a report from the Idaho Department of Water Resources addressing two issues on the content of the stipulated elements in the SF5s; whether the purpose of use can include a specific number of stock and whether the annual volume of consumptive use can be described as "de minimis"? See, Order Appointing Expert

¹ As required by A.O. No. 8, the United States contacted the clerk of the SRBA Court, Teri Hranac, and obtained the alternative date and time for this hearing.

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Witness Pursuant to I.R.E. 706 and Order Setting Hearing on
Standard Forms 5, January 26, 1996.

In addition to these issues, IDWR did not concur with various elements of the water rights as stipulated to in the Standard Forms 5 for the attached list of subcases. IDWR disputes the United States' exclusion of remarks regarding combined usage, the inclusion of wildlife in the described purpose of use, and other issues. See generally, IDWR's Report, Re: Review of Standard Form 5, February 15, 1996 (submitted for most subcases on Attachment A).

On February 14, 1996, the United States filed it's Motion to Designate Basin-Wide Issue No. 12 ("Motion"). This Motion is set for hearing on March 27, 1996. The Motion directly raises the fore-mentioned issues relating to the form and content of the stockwater rights on Attachment A. Resolution of Basin-Wide Issue No. 12 is likely to result in a decision resolving questions on how the parties will define annual volume of consumptive use, the propriety of a combined usage remark, inclusion of number of cattle in a decree, wildlife as a purpose of use and the proper definition of de minimis.²

Because all of these issues are presently before the judge awaiting basin-wide designation and/or the Idaho State Legislature awaiting resolution, resetting the briefing and

² In addition, Senate Bill 1980 which is presently pending before the Idaho State Legislature is likely to affect the definition of annual volume of consumptive use.

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Stipulation to Reset Hearing
and Motion to Continue Briefing

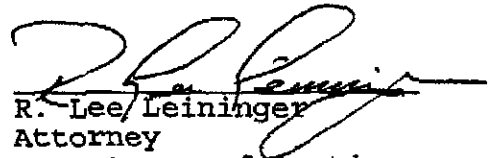
MAR 02 1996

hearing dates will promote judicial economy and minimize the burden on the United States and the Department. The stipulated reset date will allow the Court sufficient time to rule on the United States' motion for basin-wide issue on the form and content of stockwatering decrees. Should the Court deny the motion to designate basin-wide issue no. 12, the Special Master may proceed with the reset hearing and briefing dates for these subcases.

CONCLUSION

For the foregoing reasons the United States requests this Court reset the hearing date on the Standard Forms 5 listed on attachment A to May 8, 1996 at 9:00 a.m., and continue the filing deadline for briefs pursuant to the Special Master's January 26, 1996 order to April 29, 1996. Furthermore, the United States respectfully requests expedited consideration of its request for continuing the date for submission of briefs.

Respectfully submitted this 22nd day of February, 1996.


R. Lee Leininger
Attorney
Department of Justice
General Litigation Section

CERTIFICATE OF SERVICE

I certify that on the 22nd day of February, 1996, I served a true and correct copy of the United States' Stipulation to Reset Hearing Scheduled and Motion to Continue Related Briefing by facsimile transmission upon the following individuals:

Richard Burleigh/ A. Lynne Krogh
Deputy Attorneys General
Idaho Department of Water Resources
1301 N. Orchard St.
Boise, Idaho 83702
Fax No. 208-327-7866

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 4449
Boise, ID 83711
Fax No. 208-334-2530



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MAR 12 1996

Stipulation to Reset Hearing
and Motion to Continue Briefing

ATTACHMENT A
List of Subcases

57-02362	57-11013A	57-11379
57-02365A	57-11048	57-11380
57-02379	57-11049A	57-11382
57-02380	57-11078A	57-11385
57-02382	57-11085	57-11398
57-02407	57-11085A	57-11399
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57-10994A	57-11377	57-11488
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		57-11490
		57-11494

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MAR 02 1998

**Stipulation to Reset Hearing
and Motion to Continue Briefing**

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Department of Water Resources
Adjudication Bureau

1996 FEB 23 PM 3:11

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHOFILED 1996 FEB 23

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

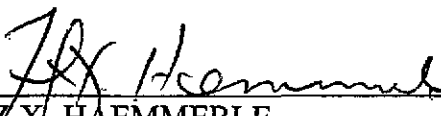
In Re SRBA	)	Subcase Nos.: See Attached Exhibit A
	)	
Case No. 39576	)	ORDER DENYING STIPULATION TO
	)	RESET HEARING

On February 22, 1996, the United States Bureau of Land Management filed a *Stipulation to Reset Hearing Scheduled Before a Special Master and Motion to Continue Related Briefing and Request for Expedited Consideration Thereof (Stipulation)*. Having reviewed the *Stipulation* the court **denies** the motion. However, the court shall extend the period to file briefing to March 8, 1996 by 5:00 p.m.

Having reviewed the *Stipulation* the court notes that there are other possible issues that require resolution prior to accepting the *Standard Forms 5* currently before the court. Therefore, the United States is ordered to submit by 5:00 p.m. on Monday, February 26, 1996, a comprehensive list of any and all issues that require resolution prior to accepting the *Standard Forms 5*. The court shall hear a Status Conference on February 27, 1996 at 9:00 a.m. to consider the list of issues by the United States and to consider whether or not to extend the hearing and briefing dates in the aforementioned subcases.

IT IS SO ORDERED.

DATED February 23, 1996.


FRITZ X. HAEMMERLE
Special Master, Reporting Area 2
Snake River Basin Adjudication

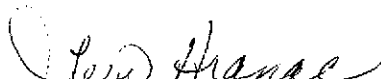
CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER DENYING STIPULATION was mailed on February 23, 1996, with sufficient first-class postage to the following:

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

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

Director of IDWR
P.O. Box 83720
Boise, ID 83720-0098


Deputy Clerk

RESET HEARING

MICROFILMED

MAR 02 1998

Exhibit A

Subcase Nos:

57-02362	57-11335
57-02365A	57-11337
57-02379	57-11360
57-02380	57-11367
57-02382	57-11375
57-02407	57-11376
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57-11317A	
57-11331	
57-11333	

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MAR 02 1998

Movant's Name:

UNITED STATES OF AMERICA

Attorneys' Names and Addresses:

LOIS J. SCHIFFER
Assistant Attorney General
Environment and Natural Resources Division

DARIA J. ZANE
R. LEE LEININGER
PAUL F. HOLLEMAN
WILLIAM M. FERRY
Attorneys, Department of Justice
General Litigation Section
Environment and Natural Resources Division
P.O. Box 663
Washington, D.C. 20044-0663
(202) 305-0242

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.: See Attached Exhibit A
	)	
Case No. 39576	)	LIST OF ISSUES REGARDING FORM AND
	)	CONTENT OF STOCKWATERING RIGHTS
	)	

DESCRIPTIVE SUMMARY

This is the United States' list of issues regarding the form and content of stockwatering rights and decrees.

DISCUSSION

Pursuant to the Special Master of Basin 57's February 23, 1996 Order Denying Stipulation to Reset Hearing, the United States submits the following list on the issues that require resolution regarding the Standard Forms 5 for the above referenced subcases:

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1. What constitutes a de minimis stockwater right and may the annual consumptive volume for such rights be described as "de minimis"?

Lyons

2. Is a remark on combined usage necessary for the definition or administration of a de minimis water right and, if so, where should the remark appear in the decree?¹

3. Is it necessary to include a number of head of cattle to describe or administer a de minimis water right and, if so, where should the remark appear in the decree?

4. Should the quantity ^{inserted} used in cubic feet per second for a de minimis water right be based on a 24-hour rate, a two-hour rate or a set constant based on a 13,000 gallons per day flow rate?

for dependent methodology

5. Does a claim to water for stockwatering purposes include use for wildlife? - semantics

different from including wildlife as a purpose of use

¹ IDWR's "combined use" statement appears in remarks to the Director's recommendations for state-law based stockwater claims on the public lands. The remark states:

This right and other rights common to the same grazing allotment shall be limited to the quantity of water beneficially used by the number of stock within the allotment.

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MAR 02 1998

These issues are identical to the sub-issues raised in the United States' Motion to Designate Basin-Wide Issue No. 12, filed February 14, 1996. In that motion, the United States argued that the sub-issues are broadly significant and appropriate for basin-wide designation because they affect numerous active subcases across the test basins. Equally important, the United States noted that IDWR is proposing changes in the form and content of its recommendations to all claims for stockwater rights in the test basins. See Amended Director's Reports for Reporting Areas 1, 2, and 3. Thus, these issues affect the above referenced rights and all claims to stockwater rights by the BLM in basin 57.

The United States filed a motion to designate the stockwatering form and content issues as a basin-wide issue to expedite the resolution of this matter. Basin-wide issue procedures appear to be the most efficient and effective means to answer the various questions on form and content, quickly and decisively. A basin-wide decision would be law of the case that may be applied to the large number of stockwatering claims by private parties and the United States in basin 57 and throughout the adjudication.

While the United States feels that for reasons of judicial economy it is appropriate to address these issues in a basin-wide setting, the issues may be comprehensively briefed before the Special Master in basin 57. However, because a number of the form and content issues are currently pending before the

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MAR 02 1998

Special Master in basin 34, the United States is concerned about duplicative litigation and the possibility of inconsistent decisions in basins 34 and 57. This concern may be ameliorated by consolidation of subcases regarding stockwatering claims in basins 34 and 57 for the purpose of ruling on form and content issues. Administrative Order No. 1, subparagraph 9, allows for the consolidation of issues "in any proceeding in the adjudication ...[with] any other matter at issue in the adjudication."

A second potential means of resolving these issues across the test basins in an efficient and expedient manner is to await the designation of basin-wide issue number 12 following the March 27 hearing on the United States' motion. The basin-wide issue may then be referenced to the Special Master in basin 57 for judicial determination. The Special Master may consider consolidation of subcases as necessary.

The United States believes that resolution of the sub-issues identified supra, will resolve all form and content issues regarding stockwatering rights. Should the Special Master order that all the identified form and content issues be addressed in briefing on the above referenced subcases, the United States will respectfully request an extension on the current March 8 filing deadline. The United States anticipates extensive briefing to comprehensively address all of these issues, and will require more time in which to do so.

CONCLUSION

The United States has identified a comprehensive list of issues for the resolution of the above referenced subcases and respectfully requests that the Court establish procedures for the efficient and expedited resolution of these issues.

Respectfully submitted this 20th day of February, 1996.


R. Lee Leininger
Attorney
General Litigation Sec.
U.S. Dept. of Justice

CERTIFICATE OF SERVICE

I certify that on the ___ day of February, 1996, I served a true and correct copy of the United States' List of Issues Regarding Form and Content of Stockwatering Rights by facsimile transmission upon the following individual:

Richard Burleigh/ A. Lynne Krogh
Deputy Attorneys General
Idaho Department of Water Resources
1301 N. Orchard St.
Boise, Idaho 83702
fax: 208-327-7866



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MAR 02 1996

List of Subcases

57-02362	57-11013A	57-11379
57-02365A	57-11048	57-11380
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		57-11494

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MAR 02 1998

UNITED STATES
DEPARTMENT OF JUSTICE

ENVIRONMENT AND NATURAL
RESOURCES DIVISION
GENERAL LITIGATION SECTION



MAILING ADDRESS

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WASHINGTON, D.C. 20004

FAX NUMBERS

(202) 305-0506 (8TH FLOOR - PRIMARY)

(202) 305-0267 (8TH FLOOR)

(202) 305-0274 (5TH FLOOR)

(Please Call 202-305-0503 to Confirm Receipt)

TO: SRBA COURT FAX#: 208 736-2121
IDWR: ATTN: RICHARD 327-7866
BURLEIGH

FROM: Lee Leining

DATE: 2/26, 1996

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DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED _____

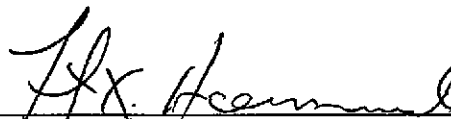
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	Subcase Nos.: See Attached Exhibit A
	)	
Case No. 39576	)	ORDER VACATING STATUS
	)	CONFERENCE
_____	)	

On January 26, 1996, this court issued its *Order Appoint Expert Witness Pursuant to I.R.E. 706 and Order Setting Hearing on Standard Forms 5*, which set a hearing for March 11, 1996 at 2:00 p.m. Subsequently, on February 28, 1996, this court issued its *Order on Status Conference*, which set new filing deadlines and hearing dates for the above subcases.

Therefore, IT IS ORDERED that the Status Conference previously set for March 11, 1996 at 2:00 p.m. is **vacated**. All deadlines and dates set forth in the *Order on Status Conference* shall remain in force and effect.

DATED March 7, 1996.



FRITZ X. HAEMMERLE
Special Master, Reporting Area 2
Snake River Basin Adjudication

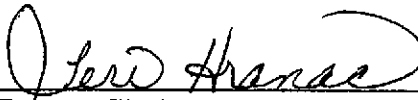
CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER VACATING STATUS CONFERENCE was mailed on March 7, 1996, with sufficient first-class postage to the following:

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

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

Director of IDWR
P.O. Box 83720
Boise, ID 83720-0098



Deputy Clerk

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MAR 8 2 1996

Exhibit A

Subcase Nos:

57-02362	57-11335
57-02365A	57-11337
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Department of Water Resources

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

In Re SRBA

Case No. 39576

) Subcase Nos.: See Attached Exhibit A
)
)
)
)

ORDER APPOINTING EXPERT
PURSUANT TO I.R.E. 706

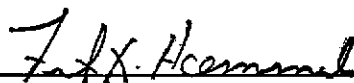
On February 26, 1996, the United States, pursuant to an order of this court, submitted a list of issues regarding form and content of stockwatering rights. A prior order issued pursuant to I.R.E. 706 addressed some of the issues outlined by the United States. That prior order is hereby expanded to address the following issues:

1. Is a remark on combined usage necessary for definition or administration of a *de minimis* water right, and if so, where should the remarks appear in the decree?
2. Should the quantity used in cfs for a *de minimis* water right be based on a 24-hour rate, a 2-hour rate or set constant based on a 13,000 gallons per minute flow rate?

To the extent possible, the Idaho Department of Water Resources shall submit a factual report on these issues. To the extent the report addresses pure legal issues, the court shall on its own motion strike those portions of the report. The report is due by March 18, 1996 at 5:00 p.m. IDWR shall make this report available to the United States.

IT IS SO ORDERED.

DATED February 29, 1996.


FRITZ X. HAEMMERLE
Special Master, Reporting Area 2
Snake River Basin Adjudication

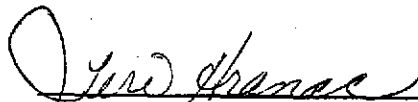
CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER APPOINTING EXPERT PURSUANT TO I.R.E. 706 was mailed on February 29, 1996, with sufficient first-class postage to the following:

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

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

Director of IDWR
P.O. Box 83720
Boise, ID 83720-0098


Deputy Clerk

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MAR 02 1998

Exhibit A

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MAR 9 2 1998

MAR 13 AM 7:58

DISTRICT COURT-SRBA
TWIN FALLS, IDAHO

ELEMENTS OF STOCKWATER RIGHTS (2nd)

COPY

In Re SRBA

Twin Falls County Civil Case No. 39576

Sub-Case No.: See Attached Exhibit A

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources

Karl J. Dreher, Director

David B. Shaw, Adjudication Bureau Chief

March 18, 1996

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MAR 02 1998

The Director of the Idaho Department of Water Resources (IDWR) submits this second report regarding elements of stockwater rights in response to the request of the Special Master, pursuant to Idaho Code §42-1412(4) and the court's I.R.E. 706 Order Appointing Expert. This report was prepared by Karl J. Dreher, Director, and David B. Shaw, the Adjudication Bureau Chief for IDWR. Mr. Shaw is the director's designee who will be available at the hearing in this subcase.

A. COMBINED USE LIMITATION

IDWR included a limitation in the recommendation of each BLM stockwater right that multiple rights for the same allotment are limited to the quantity beneficially used by the number of stock in the allotment. This limitation was included pursuant to Idaho Code §42-1411(2)(f), which provides for IDWR to determine the purpose(s) of use of a water right to the extent the director deems appropriate to define and administer the water right, and 42-1411(2)(k), which further provides for IDWR to include such other matters as the director deems appropriate to define and administer the water right. Such a limitation is appropriate and necessary for the reasons set forth in IDWR'S Report Re: Elements of Small Stockwater Rights (IDWR's First Report), at pages 19-20, which was previously filed in these subcases.

As to where the limitation should appear in the decree, the decree would sufficiently define the water right if the limitation were included anywhere in the description of the water right. If the limitation is to be included under a particular element in the description of the water right, the language may most appropriately be

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included under the quantity element, because this limitation serves to limit the total quantity of the combined water rights. It could also appropriately be included under the purpose of use element, since it also limits the total use of the combined water rights.

B. QUANTITY IN CFS

The United States' phrases the question as:

Should the quantity used in cfs for a *de minimus* water right be based on a 24-hour rate, a 2-hour rate, or set constant based on a 13,000 gallons per day flow rate?

The United States' question misses the point. The quantity used in cfs for any water right is the actual, historical, and beneficial diversion rate. Thus, if the claimant's actual historical diversion rate is 0.20 cfs, and that diversion rate is reasonable for the actual, historical uses for which water was appropriated, then the diversion rate for that right is 0.20 cfs.

As explained in IDWR's previous report, with respect to its investigation and recommendation of claims to small domestic and stockwater rights, IDWR uses the "two-hour method" described in the report for the purpose of determining whether a claimed diversion rate is reasonable for the claimed purposes of use. Thus, where a claimant claims a stockwater right for 350 head of cattle, then a claimed diversion rate of up to 0.08 cfs would be reasonable, because it would provide the volume of water required by the cattle (12 gallons per day per head), it would provide that

volume in a reasonable period of time, and it would allow for reasonable conveyance losses.

The United States' question suggests that a "24-hour rate" would be a reasonable alternative. To the extent that this is the actual, historical, and beneficial diversion rate for the United States' water rights, then this is the diversion rate that the United States should claim and that the court should decree. However, a "24-hour rate" would not provide a workable standard for IDWR's evaluation of a claimed diversion rate for small domestic and stockwater rights. The minimum diversion rate which, if diverted continuously, would provide the required diversion volume would not be a sufficient diversion rate for many small domestic and stockwater uses. This minimum diversion rate does not allow for delivery of the necessary diversion volume in a reasonable period of time, nor does it allow for reasonable conveyance losses. IDWR's First Report, pp. 12-13, also pp. 2-12.

The United States' question also suggests that a "set constant based on a 13,000 gallons per day flow rate" would be a reasonable alternative. IDWR is unable to determine what the United States intends by this other than the 24-hour alternative already discussed above. IDWR can report further once the proposed method of quantification is identified.

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MAR 02 1998

ELEMENTS OF STOCKWATER RIGHTS (2nd)

State of Idaho)
) ss.
County of Ada)

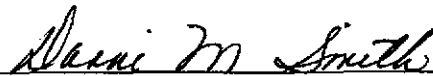
David B. Shaw, being first duly sworn, upon oath, deposes and says:

That I am the Adjudication Bureau Chief for IDWR, that I have read the foregoing report, know its contents, and that the statements contained therein are true to the best of my knowledge and belief.



David B. Shaw

Subscribed and sworn to before me this 15th day of March, 1996.



Notary Public for Idaho

Residing at: BOISE ID

My commission expires: 12/5/2000

Certificate of Mailing

I certify that on the 15th day of February, 1996, I mailed copies of the foregoing document, including all attachments, with sufficient first class postage, to the following:

U.S. Dept. of Justice
Env't & Natural Resources Div.
550 West Fort St., Box 33
Boise, ID 83724



A. Lynne Krogh

MICROFILMED

MAR 8 2 1998

Exhibit A

Subcase Nos:

57-02362	57-11335
57-02365A	57-11337
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57-07298	57-11385
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57-07417	57-11399
57-07431	57-11422
57-07442	57-11424
57-10960	57-11449
57-10960A	57-11450
57-10977	57-11452
57-10977A	57-11453
57-10980	57-11454
57-10980A	57-11463
57-10981	57-11464
57-10981A	57-11465
57-10984	57-11469
57-10984A	57-11471
57-10985	57-11473
57-10985A	57-11475
57-10994	57-11476
57-10994A	57-11477
57-11013A	57-11480
57-11048	57-11482
57-11049A	57-11483
57-11078A	57-11484
57-11085	57-11486
57-11085A	57-11487
57-11108	57-11488
57-11150	57-11489
57-11154	57-11490
57-11155	57-11494
57-11171	
57-11195	
57-11201	
57-11246	
57-11284	
57-11286	
57-11287	
57-11304	
57-11317A	
57-11331	
57-11333	

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Department of Water Resources

1996 APR 18 PM 12:07

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED _____

**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

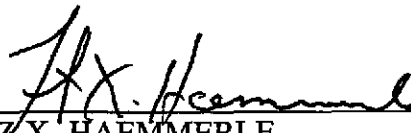
) Subcases: See Exhibit A
)
)
)
)
)

**ORDER VACATING SUMMARY
JUDGMENT HEARING**

The summary judgment hearing is currently scheduled for the above referenced subcases on April 23, 1996 at 1:30 p.m. Most of the issues to be addressed in that summary judgment are addressed under issues outlined under Basin-Wide Issue 12. Basin-Wide Issue 12 is set to be heard on May 15, 1996. Because a resolution of the issues in Basin-Wide Issue 12 will address the issues set forth in the summary judgment currently scheduled for April 23, 1996, the court hereby vacates that summary judgment hearing.

IT IS SO ORDERED.

DATED April 17, 1996.


FRITZ X. HAEMMERLE
Special Master, Reporting Area 2
Snake River Basin Adjudication

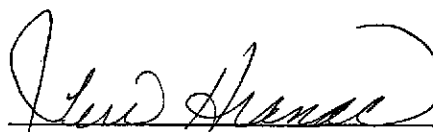
CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER VACATING SUMMARY JUDGMENT HEARING was mailed on April ~~17~~¹⁸, 1996, with sufficient first-class postage to the following:

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

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

Director of IDWR
P.O. Box 83720
Boise, ID 83720-0098



Deputy Clerk

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EXHIBIT A

Subcase Nos:

57-02362	57-11335
57-02365A	57-11337
57-02379	57-11360
57-02380	57-11367
57-02382	57-11375
57-02407	57-11376
57-02419	57-11377
57-02423	57-11379
57-02429	57-11380
57-07056	57-11382
57-07298	57-11385
57-07335	57-11398
57-07417	57-11399
57-07431	57-11422
57-07442	57-11424
57-10960	57-11449
57-10960A	57-11450
57-10977	57-11452
57-10977A	57-11453
57-10980	57-11454
57-10980A	57-11463
57-10981	57-11464
57-10981A	57-11465
57-10984	57-11469
57-10984A	57-11471
57-10985	57-11473
57-10985A	57-11475
57-10994	57-11476
57-10994A	57-11477
57-11013A	57-11480
57-11048	57-11482
57-11049A	57-11483
57-11078A	57-11484
57-11085	57-11486
57-11085A	57-11487
57-11108	57-11488
57-11150	57-11489
57-11154	57-11490
57-11155	57-11494
57-11171	
57-11195	
57-11201	
57-11246	
57-11284	
57-11286	
57-11287	
57-11304	
57-11317A	
57-11331	
57-11333	

ALAN G. LANCE
Attorney General
State of Idaho

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

A. LYNNE KROGH
RICHARD B. BURLEIGH
Deputy Attorneys General
Idaho Department of Water Resources
P.O. Box 44449
Boise, ID 83711-4449
Telephone: (208) 327-7920
Fax: (208) 327-7866

** a copy of front
page put in each
sub-case file.
original document
in BW 12.*

518196

16

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	)	Sub-case No.: See Attached Exhibit A
	)	
Case No. 39576	)	IDWR'S REPORT RE: ELEMENTS OF
	)	SMALL STOCKWATER RIGHTS
_____	)	

DESCRIPTIVE SUMMARY

This document is IDWR's report regarding the elements of small stockwater rights submitted pursuant to Idaho Code §42-1412(4) at the request of the Special Master.

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Department of Water Resources

DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
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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	)	PRELIMINARY SPECIAL
	)	MASTER'S REPORT
Case No. 39576	)	
	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW FOR
	)	
	)	WATER RIGHT 57-02362

FINDINGS OF FACT

A notice of claim was filed for this water right pursuant to I.C. § 42-1409 (1990). The Director of the State of Idaho Department of Water Resources (IDWR) examined the water system for Reporting Area 2 and investigated and abstracted the notice of claim for Reporting Area 2 (Basin 57), which includes portions of Owyhee County, State of Idaho. The *Director's Report for Reporting Area 2 (Director's Report)* contained a recommendation or abstract for the elements of this water right.

An objection to the *Director's Report* for water right 57-02362 was filed on February 26, 1993, by the United States Bureau of Land Management. A response was filed on June 11, 1993, by the State of Idaho Department of Water Resources. Subcase 57-02362 involves a stock water and/or wildlife claim filed by the United States Bureau of Land Management (BLM). A *Standard Form 5 - Stipulated Elements of a Water Right* was filed on January 22, 1996. The only signatory to the *Standard Form 5* is the claimant/objector, the United States Bureau of Land Management. The Idaho Department of Water Resources did not concur in the *Standard Form 5* and filed its *IDWR Report Re: Review of Standard Form 5*.

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MAR 02 1996

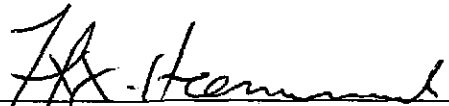
Because of the failure of IDWR to sign the *Standard Form 5* the United States filed a *Motion to Designate Basin Wide Issue 12* (BWI). The purpose of BWI 12 was to resolve all disputes the United States had with IDWR involving stock water rights. Subsequently, Special Master Haemmerle entered his opinion on BWI 12. The Special Master incorporates that decision by reference.

CONCLUSIONS OF LAW

Under *SRBA Administrative Order 1*, a Special Master is required to make a recommendation to the Presiding Judge as to whether and how a water right should be decreed.

Consistent with the recommendation of the *Second Amended Special Master's Recommendation Re: Basin Wide Issue 12* (Aug. 12, 1996) and with these findings and as a matter of law the Special Master recommends water right 57-02362 as listed on the attached *Preliminary Special Master's Recommendation* for Partial Decree.

DATED September 26, 1996.



FRITZ X. HAEMMERLE
Special Master, Reporting Area 2
Snake River Basin Adjudication

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)
)
)
)
)
)

PRELIMINARY

SPECIAL MASTER'S RECOMMENDATION FOR

PARTIAL DECREE FOR

Water Right 57-02362

1996 SEP 26 PM 4:34

DISTRICT COURT-SRBA
TWIN FALLS CO, IDAHO
FILED *df*

NAME & ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706

SOURCE: LOWER RATS NEST SPRING TRIBUTARY: SQUAW CREEK

QUANTITY: 0.01 CFS

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

PRIORITY DATE: 01/24/1942

POINT OF DIVERSION: T01N R04W S15 SENE Within Owyhee County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	STOCKWATER	01-01 12-31	0.01 CFS

PLACE OF USE: STOCKWATER Within Owyhee County
T01N R04W S15 SENE

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.

DATED: **SEP 26 1996**

Fritz X. Haemmerle
FRITZ/X. HAEMMERLE
Special Master
Snake River Basin Adjudication

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MAR 02 1998

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Department of Water Resources

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

In Re SRBA)

Case No. 39576)
_____))

NOTICE OF ISSUANCE OF
PRELIMINARY SPECIAL MASTER'S
REPORT AND RECOMMENDATION

Water Right(s): 57-02362

On September 26, 1996, Special Master FRITZ X HAEMMERLE issued a PRELIMINARY SPECIAL MASTER'S REPORT and a PRELIMINARY SPECIAL MASTER'S RECOMMENDATION pursuant to SRBA Administrative Order 1 sections 11 (e) and (f).

These documents are served only on parties to the subcase. They are not served on the Presiding Judge. Parties to this subcase may file a Motion for Reconsideration or a Motion to Correct Clerical Errors with the Special Master, but must do so before October 10, 1996.

DATED September 26, 1996.

Debbie Lash

DEBBIE LASH
Deputy Clerk

1996 SEP 26 PM 4:34

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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)
_____)

CERTIFICATE OF MAILING

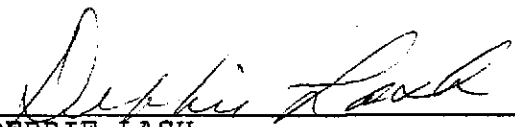
Water Right(s): 57-02362

CERTIFICATE OF MAILING

I certify that a true and correct copy of PRELIMINARY SPECIAL MASTER'S REPORT, PRELIMINARY SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF PRELIMINARY SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on September 26, 1996, with sufficient first-class postage prepaid to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

K. JACK HAUGRUD
U.S. DEPARTMENT OF JUSTICE
550 WEST FORT STREET, MSC 033
BOISE, ID 83724-0663



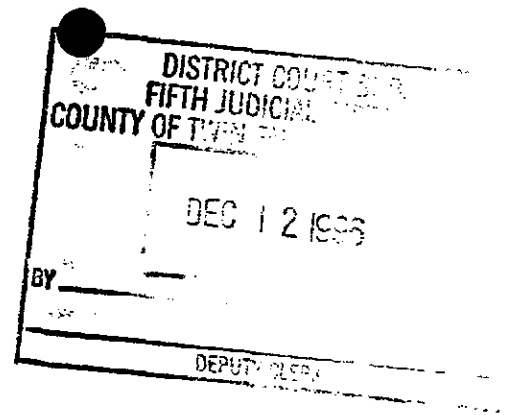
DEBBIE LASH
Deputy Clerk

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MAR 02 1998

CERTIFICATE OF MAILING

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

In Re SRBA

Case No. 39576

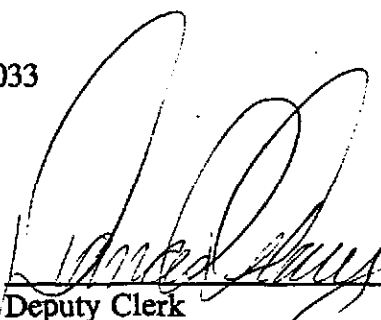
CERTIFICATE OF MAILING

For Water Right 57-02362

I certify that a true and correct copy of the *Order of Partial Decree for Water Right 57-02362 and Partial Decree Pursuant to I.R.C.P. 54(b) for Water Right 57-02362* was mailed on December 12, 1996 with sufficient first-class postage prepaid to the following:

Director of IDWR
P.O. Box 83720
Boise, ID 83720-0098

U.S. Department of Justice
Environment &
Natural Resources Div
550 West Fort Street, MSC 033
Boise, ID 83724

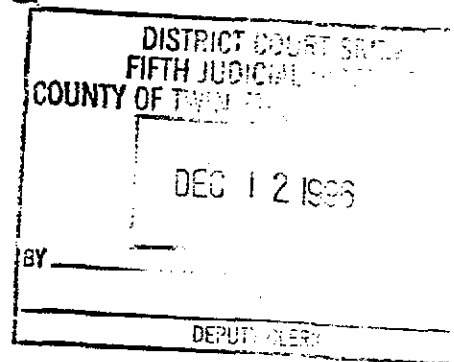

Deputy Clerk

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MAR 02 1996

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Department of Water Resources



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

) ORDER OF PARTIAL DECREE

) For Water Right 57-02362

On October 23, 1996, a *Special Master's Report and Recommendation* was filed for the above water right. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 14a, this court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 57-02362 be decreed as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED December 12, 1996.


DANIEL C. HURLBUTT, JR.
Presiding Judge
Snake River Basin Adjudication

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DEC 2 1996

CLAIM NO. A57-02362

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
CLAIM VERIFICATION EXAM SHEET
FOR PREVIOUSLY RECORDED BLM RIGHTS

1. ☐ No Overlap with Claim by Private Individual - OWNERSHIP
☒ Overlaps with Claim by Private Individual
Claim No(s). 57-10946 - different source, no overlap
☐ Private claimant notification letter sent - Date _____
☒ Overlapping Federal Claim
Claim No(s). 57-07346, A57-11310
2. ☒ No Change - DATE OF PRIORITY - Claim matches existing license or decree
☐ Change - Claim does not match existing license or decree
Priority date, per IDWR records, is _____.
3. ☒ No Change - SOURCE BLM added title.
☐ Source, per IDWR records, is _____.
4. ☒ No Change - POINT OF DIVERSION - Claim matches existing license or decree
☐ Point of diversion has changed - Map attached.
Twp _____, Rge _____, Sec _____, _____ 1/4, _____ 1/4, _____ 1/4
How was this verified? _____
5. N/A
6. ☐ No Change - WATER USES
☒ Uses, per IDWR records: No Wildlife on License
Use Stockwater From 1-1 To 12-31 Amount 0.01 cfs _____ af
Use _____ From _____ To _____ Amount _____ cfs _____ af
7. ☐ No Change - TOTAL RATE AND VOLUME
☒ Total rate and volume, per IDWR records: 0.01 cfs _____ afa
8. N/A
9. ☒ No Change - NON-IRRIGATION USES: Completed on claim
☐ Incomplete on claim - Per IDWR records:
Domestic - No. of homes _____ Stockwater - No. of head _____
other: _____

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10. ☒ No Change - PLACE OF USE
☐ Place of Use has changed as shown - Map attached
Use Twp. Rge. Sec. 1/4, 1/4,

How was this verified? previous license

Remarks: (Comments pertinent to review)

Condition: L12

Review Completed by:

Kay Walker
signature

Date:

9-24-92

Water Right Number - 57-02362

Prefix Translation: WATER RIGHT

Old (D) Number - D0101

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***
US DEPT OF INTERIOR1 - BUREAU OF LAND MANAGEMENT
2 - IDAHO STATE OFFICE
3 - 3380 AMERICANA TERRACE
City- BOISE State- ID Zip- 83706
Phone -+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - +
01/24/1942 14 WESTERN L - LICENSE+ - - - - Source - - - - - + + - - - - - Tributary - - - - - +
SPRING+ - - - - Point of Diversion - - - - - +
TwN Rng Sec Tract Lot RFlg County Stream Index (Blank if no Index Code)

01N 04W 15 NE SE (73) OWYHEE

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
04 - STOCKWATER 01/01 12/31 0.010+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - +
0.010+ - - - - Place of Use - - - - - +
TwN Rng Sec Tract Lot Acres Code Description County
01N 04W 15 NE SE 04 STOCKWATER (73) OWYHEE

+ - - Diversion Means -

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use -

+ - - - - Remarks - - - - - +
No Remarks found.+ - - - - Old Water Right Numbers - - - - - +
No Old Water Right Numbers found.+ - - - - Conditions of Approval - - - - - +
No Conditions of Approval found.+ - Decree Plaintiff - - - + + - - - Decree Defendant - - - + + - Decree Date - +
00/00/0000MICROFILMED
OCT 07 1992

Proof Due Date	- 00/00/0000	Field Exam Made	- 00/00/0000	Field Exam Fee	-
Approved/Denied	- 00/00/0000	Protested Date	- 00/00/0000	Swan Falls	-
Proof Made Date	- 00/00/0000	Hearing Date	- 00/00/0000	Temporary Right	- P
Exam to S.O. Date	- 00/00/0000	Verified Date	- 12/31/1984	DLE/Carey Act	-
Order Show Cause	- 00/00/0000	Receipt Number	-	Water District	-
Licensed Date	- 08/31/1981	Appl Received	- 00/00/0000	Transfer/Amended	-
Decree Date	- 00/00/0000	Presumption Flag	-		

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OCT 07 1992

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

CIVIL CASE NUMBER: 39576

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER
FROM THE SNAKE RIVER BASIN WATER SYSTEM

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

U.S. DEPT. OF INTERIOR
BUREAU OF LAND MGMT.
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706
TELEPHONE: 208-334-1401

A57-02362

PRIORITY DATE: 1942-01-24
IDWR WATER RIGHT NO. 5702362
BLM NUMBER: 5701588020
BASIS OF CLAIM: LICENSE
BASIN NO.: 57

SOURCE	TRIBUTARY TO
SPRING	SQUAW CREEK

DESCRIPTION OF DIVERSION WORKS

HEADBOX, PIPELINE, TROUGH

PURPOSE OF USE	DIVERSION RATE	DIVERSION VOLUME	PERIOD OF USE FROM	TO
STOCKWATER	0.040	1.10	0101	1231
WILDLIFE	0.040	1.10	0101	1231
TOTAL:	0.040 CFS	1.10 AF		

NON-IRRIGATION USES

3/150 RANGE CATTLE (INCLUDES WILD HORSES/VAR AMT) W/VAR AMT

POINT OF DIVERSION							
TWP	RNG	SEC	TRACT1	TRACT2	TRACT3	LOT	COUNTY
01N	04W	15		NE	SE	0	OWYHEE

PLACE OF USE							OWNED	IRRIGATED ACRES
TWP	RNG	SEC	TRACT1	TRACT2	LOT	COUNTY		
01N	04W	15	NE	SE	0	OWYHEE		0.0
01N	04W	15	NE	SE	0	OWYHEE		0.0

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TOTAL ACRES IRRIGATED 0.7 1992 0.0

BLM NUMBER: 5701508020

PAGE 2

TOTAL CONSUMPTIVE USE IS: DE MINIMUS ACRE FEET PER ANNUM

OTHER WATER RIGHTS

LICENSE 57-7346 PD: 3/4/83

REMARKS

PREVIOUSLY FILED WITH THE IDAHO DEPARTMENT OF WATER RESOURCES

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OCT 07 1992