

[illegible]

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 AND FEDERAL LAW

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

PRIORITY DATE: 1874-01-01 *AL65-19814*  
(RESERVED..... 1926-04-17)  
AGENCY NUMBER: 6501480290  
BLM NUMBER: 6501480290  
BASIS OF CLAIM: BENEFICIAL USE  
(SUBSEQUENT FEDERAL RESERVE)  
BASIN NUMBER: 65

| SOURCE         | TRIBUTARY TO |
|----------------|--------------|
| -----          | -----        |
| UNNAMED SPRING | DRY CREEK    |

DESCRIPTION OF DIVERSION WORKS  
-----  
INSTREAM

| PURPOSE OF USE | DIVERSION<br>RATE | DIVERSION<br>VOLUME | PERIOD OF USE<br>FROM | TO    |
|----------------|-------------------|---------------------|-----------------------|-------|
| -----          | -----             | -----               | -----                 | ----- |
| STOCKWATER     | 0.280             | 0.00                | 0101                  | 1231  |
| DOMESTIC       | 0.020             | 0.00                | 0101                  | 1231  |
| WILDLIFE       | 0.280             | 0.00                | 0101                  | 1231  |
| TOTAL:         | 0.300 CFS         | 0.00 AF             |                       |       |

NON-IRRIGATION USES  
-----  
375 RANGE CATTLE, 5000 SHEEP, DOMESTIC

|     |     |     |        | POINT OF DIVERSION |        |     |         |
|-----|-----|-----|--------|--------------------|--------|-----|---------|
| TWP | RNG | SEC | TRACT1 | TRACT2             | TRACT3 | LOT | COUNTY  |
| --- | --- | --- | ---    | ---                | ---    | --- | -----   |
| 09N | 02W | 13  | SW     | NW                 | NW     | 00  | PAYETTE |
| 09N | 02W | 13  |        | NW                 | NW     | 00  | PAYETTE |

| PLACE OF USE |     |     |        |        |     |         | IRRIGATED |       |
|--------------|-----|-----|--------|--------|-----|---------|-----------|-------|
| TWP          | RNG | SEC | TRACT1 | TRACT2 | LOT | COUNTY  | OWNED     | ACRES |
| ---          | --- | --- | ---    | ---    | --- | -----   | -----     | ----- |
| 09N          | 02W | 13  | NW     | NW     | 00  | PAYETTE | YES       | 0.0   |

MICROFILMED  
AUG 04 1994

BLM NUMBER: 6501480290

PAGE: 2

09N 02W 13 NW NW 00 PAYETTE YES 0.0

TOTAL ACRES IRRIGATED: 0.0

TOTAL CONSUMPTIVE USE IS: DE MINIMUS ACRE FEET PER ANNUM

OTHER WATER RIGHTS

-----  
WATER FEDERALLY RESERVED, SEE REMARKS

REMARKS

-----  
RESERVED - EXECUTIVE ORDER DATED APR 17, 1926 PWR NO. 107

AJ0749NP  
No. R65-19814

IDAHO DEPARTMENT OF WATER RESOURCES  
ADJUDICATION CLAIM PROFILE REPORT  
(REGIONAL)

DATE: 02/26/98  
PAGE: 1

| OWNER<br>CODE    | NAME & ADDRESS                                                                                                                                                | PRIORITY<br>DATE | WATER USE  | USE PERIOD<br>FROM TO | DIVERSION<br>RATE | DIVERSION<br>VOLUME |
|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------------|-----------------------|-------------------|---------------------|
| C                | UNITED STATES OF AMERICA ACTING THROUGH<br>USDI BUREAU OF LAND MANAGEMENT<br>IDAHO STATE OFFICE<br>1387 S VINNELL WAY<br>BOISE ID 837091657<br>(208) 373-4000 | 01/01/1874       | STOCKWATER | 01-01 12-31           | 0.02 CFS          |                     |
| TOTAL DIVERSION: |                                                                                                                                                               |                  |            |                       | 0.02 CFS          |                     |

Water Source: SPRING

Tributary to: DRY CREEK

Stage: BENEFICIAL USE

Point(s) of Diversion:

T09N R02W S13

SNNWNW

PAYETTE County

Place of use Legal Description for: STOCKWATER

|     |     |    |   | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    |   |
|-----|-----|----|---|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|---|
| T   | R   | S  | : | Lt | Ac | Lt | Ac | Lt | Ac | Lt | Ac | Lt | Ac | Lt | Ac | Lt | Ac | Lt | Ac | : |
| 09N | 02W | 13 | : |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | : |
|     |     |    | : |    |    |    |    |    |    | S  |    |    |    |    |    |    |    |    |    | : |

POU County: PAYETTE

Conditions of Approval:

- D01 - \*\*\*\*\*  
- \* 4/17/1926 CLAIMED UNDER FEDERAL RESERVED WATER RIGHT. \*  
- \* \*  
- \* THIS WATER RIGHT IS ALSO CLAIMED BASED ON FEDERAL LAW \*  
- \* WITH AN APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN \*  
- \* EXECUTIVE ORDER SIGNED THE SAME DATE AND KNOWN AS PUBLIC \*  
- \* WATER RESERVE 107. \*  
- \*\*\*\*\*  
N11 - THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A  
- DETERMINATION OF HISTORICAL BENEFICIAL USE.  
N13 - THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000  
- GALLONS PER DAY.

Remarks: EXP BLM RECORD ID = 6501480290  
STOCKWATER, 375 RANGE CATTLE, 5000 SHEEP

Dates: Exam Made Date: Verified Date: 02/26/1998 Objection Filed Date:

Misc: Water District Number: Field Inspection Flag:  
Presumption Flag:

AJ0749NP  
No. R65-19814

IDAHO DEPARTMENT OF WATER RESOURCES  
ADJUDICATION CLAIM PROFILE REPORT  
(REGIONAL)

DATE: 02/26/98  
PAGE: 2

=====

Comments: Date: 01/12/1998 User-ID: AJU5-JSH Subject: AJU5 STOCK ONLY UPDATE  
USE-NOT-IRRIGATION FIELD TEXT DELETED AND MADE EXP REMARK.  
CONDITION CODES N11 AND N13 ADDED IF NOT ALREADY PART OF RECORD.  
ANY GEN REMARK CHANGED TO EXP REMARK. IF BLM/USFS, DELETED L12.

Audit: 02/26/98 SBOCK

AJ5809NP  
No. R65-19814

IDAHO DEPARTMENT OF WATER RESOURCES  
ADJUDICATION CLAIM PROFILE REPORT

DATE: 02/17/98  
PAGE: 113

| OWNER<br>CODE | NAME & ADDRESS                                                                                                                                                | PRIORITY<br>DATE | WATER USE  | USE PERIOD<br>FROM TO | DIVERSION<br>RATE | DIVERSION<br>VOLUME |
|---------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|------------|-----------------------|-------------------|---------------------|
| C             | UNITED STATES OF AMERICA ACTING THROUGH<br>USDI BUREAU OF LAND MANAGEMENT<br>IDAHO STATE OFFICE<br>1387 S VINNELL WAY<br>BOISE ID 837091657<br>(208) 373-4000 | 01/01/1874       | STOCKWATER | 01-01 12-31           | 0.02 CFS          |                     |
|               |                                                                                                                                                               |                  |            | TOTAL DIVERSION:      | 0.02 CFS          |                     |

Water Source: SPRING

Tributary to: DRY CREEK

Stage: BENEFICIAL USE

Point(s) of Diversion:

T09N R02W S13

SWNNW

PAYETTE County

Place of use Legal Description for: STOCKWATER

| NE  |     |    |         | NW    |       |       |         | SW    |       |       |         | SE    |       |       |         |       |       |       |
|-----|-----|----|---------|-------|-------|-------|---------|-------|-------|-------|---------|-------|-------|-------|---------|-------|-------|-------|
| T   | R   | S  | : Lt Ac | Lt Ac | Lt Ac | Lt Ac | : Lt Ac | Lt Ac | Lt Ac | Lt Ac | : Lt Ac | Lt Ac | Lt Ac | Lt Ac | : Lt Ac | Lt Ac | Lt Ac | Lt Ac |
| 09N | 02W | 13 | :       |       |       |       | :       | S     |       |       | :       |       |       |       | :       |       |       |       |

POU County: PAYETTE

Other Rights: ~~WATER FEDERALLY RESERVED, SEE REMARKS~~

Conditions of Approval:

- D01 - \*\*\*\*\*  
- \* 4/17/1926 CLAIMED UNDER FEDERAL RESERVED WATER RIGHT. \*  
- \* \* \* \*  
- \* THIS WATER RIGHT IS ALSO CLAIMED BASED ON FEDERAL LAW \*  
- \* WITH AN APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN \*  
- \* EXECUTIVE ORDER SIGNED THE SAME DATE AND KNOWN AS PUBLIC \*  
- \* WATER RESERVE 107. \*  
- \*\*\*\*\*  
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- DETERMINATION OF HISTORICAL BENEFICIAL USE.  
N13 - THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000  
- GALLONS PER DAY.

Remarks: EXP BLM RECORD ID = 6501480290

→ 375 RANGE CATTLE, 5000 SHEEP, DOMESTIC

Dates: Exam Made Date:

Verified Date:

Objection Filed Date:

Misc: Water District Number:

Field Inspection Flag:

Presumption Flag:

AJ5809NP  
No. R65-19814

IDAHO DEPARTMENT OF WATER RESOURCES  
ADJUDICATION CLAIM PROFILE REPORT

DATE: 02/17/98  
PAGE: 114

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Comments: Date: 01/12/1998 User-ID: AJU5-JSH Subject: AJU5 STOCK ONLY UPDATE  
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ANY GEN REMARK CHANGED TO EXP REMARK. IF BLM/USFS, DELETED L12.

Audit: 01/10/98 AJCTR 01/12/98 AJU5-JSH

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

In Re SRBA

Case No. 3957

AMENDED NOTICE of CLAIM for  
Water Right number

65-19814

(IDWR number)

NAME and  
ADDRESS

United States of America acting through  
Bureau of Land Management  
Idaho State Office  
1387 South Vinnell Way  
Boise, ID 83709 - 1657

BLMIDENT:

6501480290

Stg:

J

StFed

X

SOURCE

| Source | Tributary |
|--------|-----------|
| SPRING | DRY CREEK |

QUANTITY

0.02 CFS or VOLUME: 0 Acre Feet

The quantity of water under this right for stockwater shall not exceed 13,000 gallons per day

PRIORITY DATE

1/1/1874

Diversion Means

UNDEVELOPED SPRING

REMARKS  
POINT of  
DIVERSION

Also reserved pursuant to EO 4/17/26, PWR 107

| Township | Range | Section | T1 | T2 | T3 | LOT | B/E | within the | County of |
|----------|-------|---------|----|----|----|-----|-----|------------|-----------|
| 09N      | 02W   | 13      | SW | NW | NW |     |     | 75         | PAYETTE   |

PURPOSE  
and  
PERIOD  
OF USE

| Purpose of Use | Period of Use (from - to): | Rate in CFS | Volume in AcFt |
|----------------|----------------------------|-------------|----------------|
| 04             | 0101                       | 1231        | 0 02           |

CONSUMPTIVE  
USE

de minimis

stockwater use

DATE

06-Feb-98 7 10 AM

OTHER PROVISIONS NECESSARY FOR DEFINITION or ADMINISTRATION OF THIS WATER RIGHT

The quantity of water decreed for this water right for stockwater use is not a  
determination of historical beneficial use.

PLACE  
of USE

| Water Use | Twn | Rge | Sec | T1 | T2 | LOT | within the County of |
|-----------|-----|-----|-----|----|----|-----|----------------------|
| 04        | 09N | 02W | 13  | NW | NW |     | 75 PAYETTE           |

DEC 11 1997

Department of Water Resources

## HOG COVE BUTTE QUADRANGLE

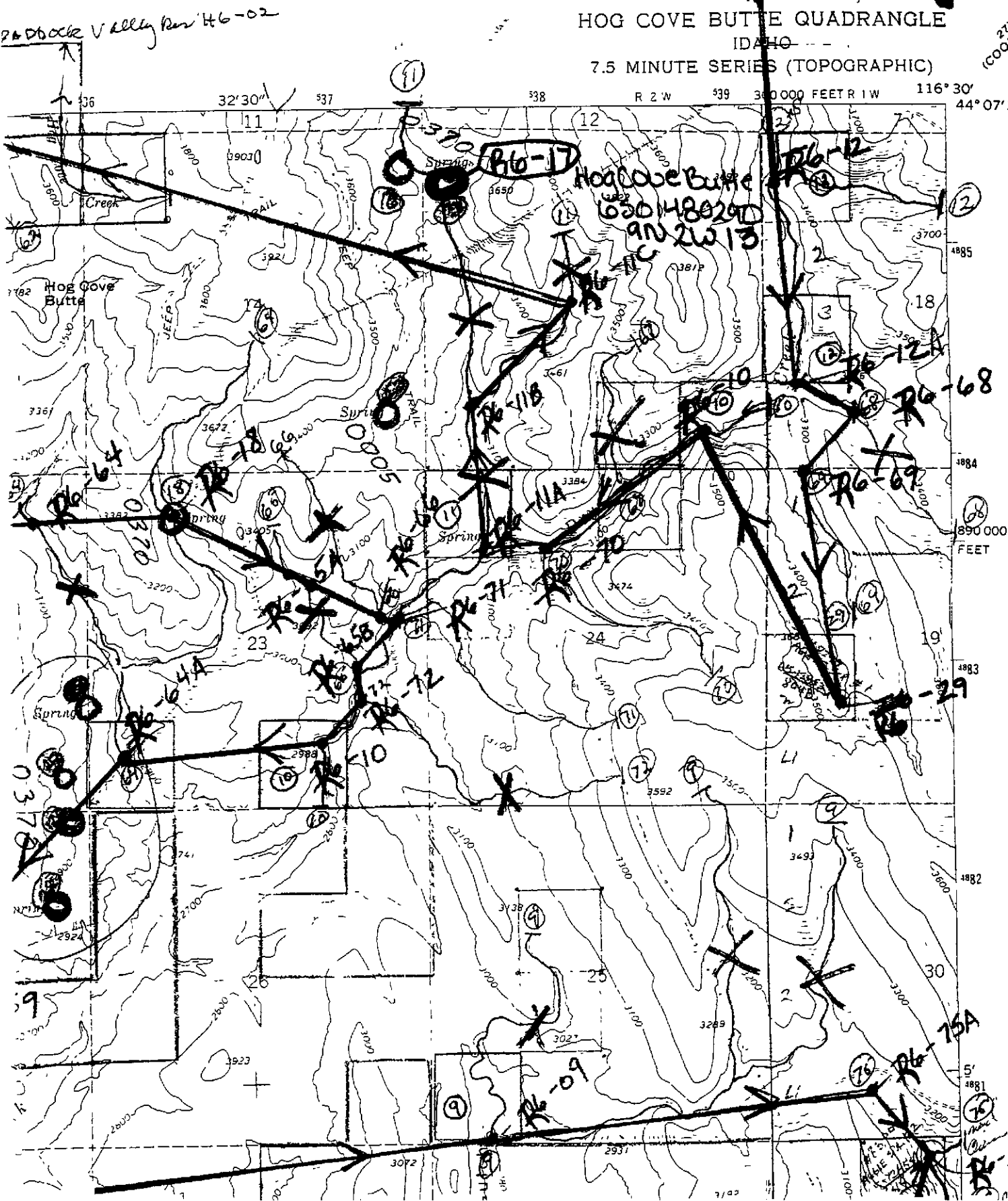
# START

7.5 MINUTE SERIES (TOPOGRAPHIC)

R 2 W 539 300 000 FEET R 1 W

116° 30' 3  
44° 07' 30"

3956



RECEIVED

AUG 05 1998

Department of Water Resources  
Adjudication Bureau

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

In Re SRBA )  
Case No. 39576 )  
\_\_\_\_\_ )  
A. Subcase See Attached List 65-19736<sup>+</sup>  
(Insert water right number)  
  
DOMESTIC AND  
STOCK WATER RIGHT  
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: State of Idaho  
Address: 700 W. Jefferson, Room 210  
P.O. Box 44449  
Boise, Idaho 83711-4449  
Phone: Work: (208) 334-2400 Home: N/A

Name and Address of Attorney, if any:

Attorney Name: ALAN G. LANCE  
Attorney General  
CLIVE J. STRONG  
Deputy Attorney General  
Chief, Natural Resources Division  
PETER J. AMPE  
Deputy Attorney General  
Attorney Address: Office of the Attorney General  
700 W. Jefferson, Room 210  
P.O. Box 44449  
Boise, ID 83711-4449  
Attorney Phone No. (208) 334-2400

COPY

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

Name: United States of America Acting Through  
Address: USDI Bureau of Land Management  
1387 S. Vinnell Way  
Boise, Idaho 83709-1657

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

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

11. **I object because:**

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

E. **REASONS SUPPORTING OBJECTION(S):** This water right is claimed solely pursuant to state law. Claimant's assertions that Congress gave permission to private parties to operate on the public domain and that Congress passed various acts insuring that water sources on the public domain were not monopolized does not provide a basis for a water right under state law. Alternatively, the United States has failed to establish any legal and/or factual basis for any claimed priority date for stockwater purposes with a date prior to the enactment of the Taylor Grazing Act, June 28, 1934.

The State further objects to this claim as to any part based on federal law as the claimed source is declared tributary to a flowing stream and so cannot be based upon the executive order known as Public Water Reserve 107 (April 17, 1926).

The State reserves the right to amend this objection as to any part of this claim based on federal law, based on the final decision reached in Basin-Wide Issue #9 (PWR 107) (Idaho Supreme Court No. 23587).

F. **VERIFICATION (Must be Completed)**

State of Idaho )  
                  ) ss.  
County of Ada)

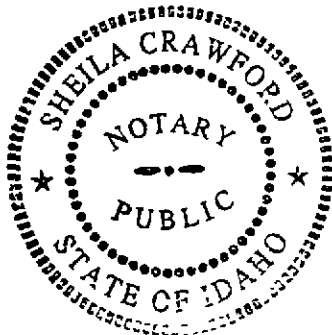
Peter J. Ampe, Deputy Attorney General, being first duly sworn, upon oath, deposes and says:

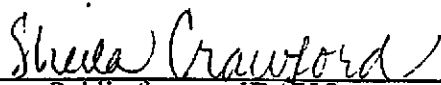
That the State of Idaho, in both its sovereign and proprietary capacity, pursuant to I.C. § 42-1411A(16) is filing this objection and that I am a Deputy Attorney General authorized to represent the State of Idaho, which is a party/claimant in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and I have read this objection, know its contents and that the statements are true to the best of my knowledge and belief.

ALAN G. LANCE  
Attorney General  
CLIVE J. STRONG  
Deputy Attorney General  
Chief, Natural Resources Division  
PETER J. AMPE  
Deputy Attorney General

  
By Attorney signing in representative capacity

Subscribed and sworn to before me on: August 4, 1998  
(Insert Date)



  
Notary Public for IDAHO  
Residing at: BOISE, ID  
My commission expires: May 9, 2002

## INSTRUCTIONS FOR MAILING

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

### G. CERTIFICATE OF MAILING

I certify that on August 4, 1998, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

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

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

United States of America Acting Through  
USDI Bureau of Land Management  
1387 S. Vinnell Way  
Boise, Idaho 83709-1657

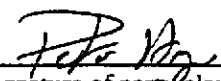
3. Copies to:

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

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

(not applicable)

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

  
\_\_\_\_\_  
Signature of party/claimant or attorney

|          |          |
|----------|----------|
| 65-19736 | 65-20025 |
| 65-19738 | 65-20027 |
| 65-19742 | 65-20029 |
| 65-19744 | 65-20031 |
| 65-19746 | 65-20033 |
| 65-19748 | 65-20035 |
| 65-19750 | 65-20037 |
| 65-19810 | 65-20039 |
| 65-19812 | 65-20041 |
| 65-19814 | 65-20043 |
| 65-19816 | 65-20045 |
| 65-19818 | 65-20047 |
| 65-19820 | 65-20049 |
| 65-19822 | 65-20051 |
| 65-19824 | 65-20053 |
| 65-19826 | 65-20055 |
| 65-19840 | 65-20057 |
| 65-19851 | 65-20059 |
| 65-19853 | 65-20061 |
| 65-19855 | 65-20063 |
| 65-19857 | 65-20065 |
| 65-19859 | 65-20067 |
| 65-19886 | 65-20069 |
| 65-19888 | 65-20071 |
| 65-19890 | 65-20114 |
| 65-19909 | 65-20116 |
| 65-19911 | 65-20119 |
| 65-19913 | 65-20129 |
| 65-19915 | 65-20134 |
| 65-19917 | 65-20135 |
| 65-19944 | 65-20142 |
| 65-19946 | 65-20152 |
| 65-19948 | 65-22175 |
| 65-19950 |          |
| 65-19952 |          |
| 65-19954 |          |
| 65-19956 |          |
| 65-19958 |          |
| 65-19960 |          |
| 65-19962 |          |
| 65-19964 |          |
| 65-19994 |          |
| 65-20017 |          |
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| 65-20021 |          |
| 65-20023 |          |