

Department of Water Resources

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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

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 *AG 5-19958*
(RESERVED..... 1926-04-17)
AGENCY NUMBER: 6501480403
BLM NUMBER: 6501480403
BASIS OF CLAIM: BENEFICIAL USE
(SUBSEQUENT FEDERAL RESERVE)
BASIN NUMBER: 65

SOURCE

TRIBUTARY TO

UNNAMED SPRING

BIG WILLOW CREEK

DESCRIPTION OF DIVERSION WORKS

INSTREAM

PURPOSE OF USE	DIVERSION RATE	DIVERSION VOLUME	PERIOD OF USE FROM	TO
STOCKWATER	0.090	0.00	0101	1231
DOMESTIC	0.020	0.00	0101	1231
WILDLIFE	0.090	0.00	0101	1231
TOTAL:	0.110 CFS	0.00 AF		

NON-IRRIGATION USES

400 RANGE CATTLE, DOMESTIC

				POINT OF DIVERSION			
TWP	RNG	SEC	TRACT1	TRACT2	TRACT3	LOT	COUNTY
09N	01W	28	SE	NE	SE	00	GEM

PLACE OF USE

							IRRIGATED	
TWP	RNG	SEC	TRACT1	TRACT2	LOT	COUNTY	OWNED	ACRES
09N	01W	28	NE	SE	00	GEM	YES	0.0

MICROFILMED

AUG 05 1994

BLM NUMBER: 6501480403

PAGE: 2

09N 01W 28 NE SE 00 GEM 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. R65-19958

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

DATE: 02/26/98
PAGE: 1

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

Water Source: SPRING

Tributary to: BIG WILLOW CREEK

Stage: BENEFICIAL USE

Point(s) of Diversion:

T09N R01W S28

SENESE

GEM 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	:
---	---	---	:	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	:
09N	01W	28	:																	S		:

POU County: GEM

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 = 6501480403
STOCKWATER, 400 RANGE CATTLE

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

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

AJ0749NP
No. R65-19958

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

DATE: 02/26/98
PAGE: 2

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Comments: Date: 01/13/1998 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. R65-19958

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 02/17/98
PAGE: 115

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

Water Source: SPRING

Tributary to: BIG WILLOW CREEK

Stage: ~~BENEFICIAL USE~~

Point(s) of Diversion:

T09N R01W S28

SENESE

GEM County

Place of use Legal Description for: STOCKWATER

NE				NW				SW				SE											
T	R	S		NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:
				Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac	
09N	01W	28	:					:					:					:	S				:

POU County: GEM

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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N13 - THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
- GALLONS PER DAY.

Remarks: EXP BLM RECORD ID = 6501480403

→ 400 RANGE CATTLE, DOMESTIC

Dates: Exam Made Date:

Verified Date:

Objection Filed Date:

Misc: Water District Number:

Field Inspection Flag:

Presumption Flag:

AJ5809NP
No. R65-19958

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 02/17/98
PAGE: 116

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Comments: Date: 01/13/1998 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: 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

AMENDED NOTICE of CLAIM for
Water Right number

Case No 3957

65-19958 (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

6501480403

Stg StFed:

J X

SOURCE

Source	Tributary
UNNAMED SPRING	BIG WILLOW 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.

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

POINT of
DIVERSION

Township	Range	Section	T1	T2	T3	LOT	B/E	within the	County of
09N	01W	28	SE	NE	SE			45	GEM

PURPOSE
and
PERIOD
OF USE

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

CONSUMPTIVE
USE

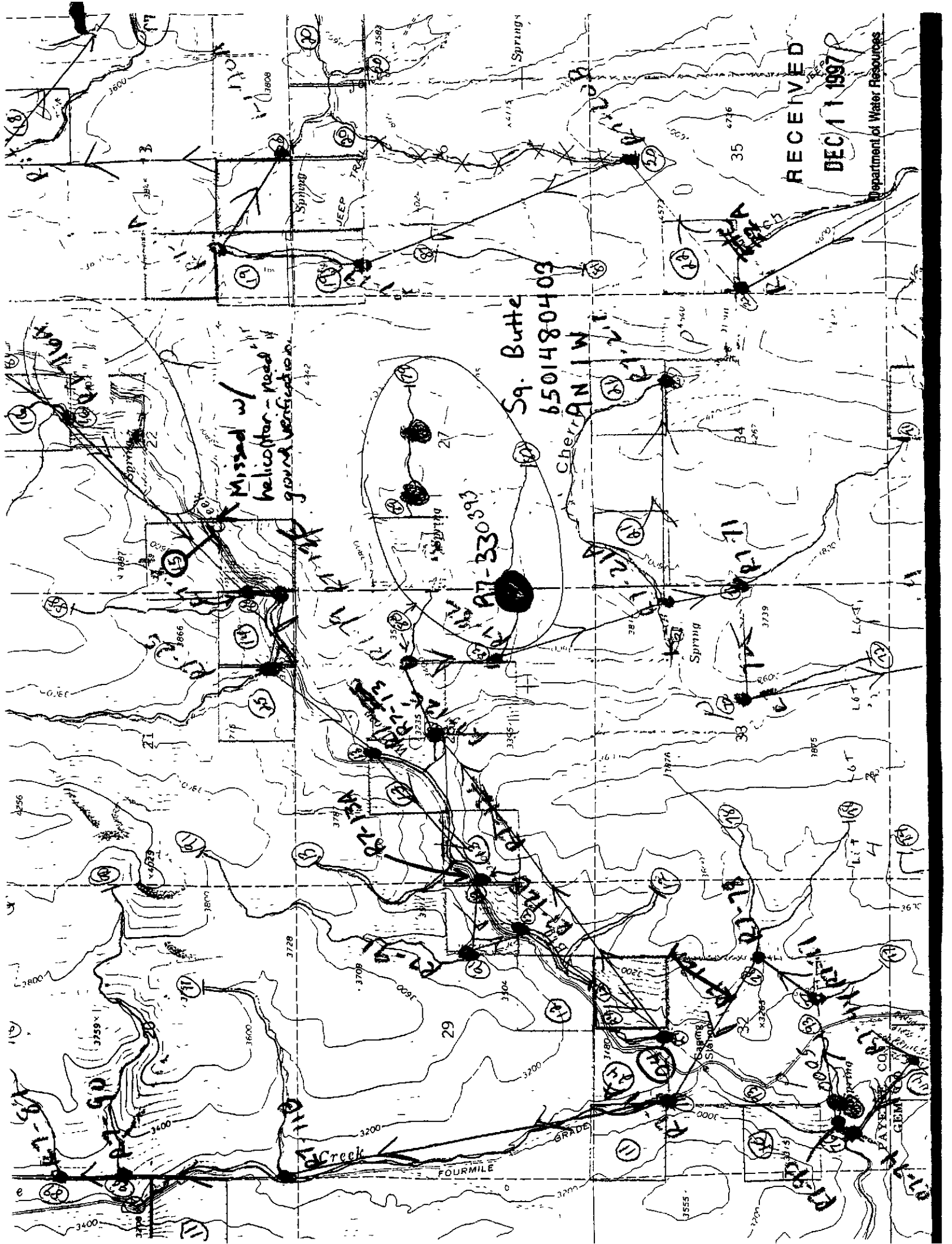
de minimis stockwater use DATE 06-Feb-98 7 11 AM

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	01W	28	NE	SE		45	GEM



RECEIVED

DEC 11 1997

Department of Water Resources

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
(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.

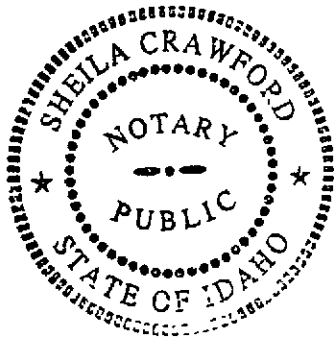
ALAN G. LANCE
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
PETER J. AMPE
Deputy Attorney General

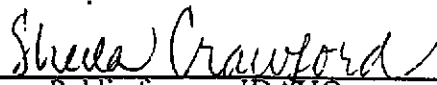


By Attorney signing in representative capacity

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
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65-19855	65-20063
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65-19886	65-20069
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