

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.

CIVIL CASE NUMBER: 39576

Ident. Number: A55-10135
Date Received: 12/19/1989
Receipt No: W002040
Received By: LCW

Department of Water Resources
Watershed Management

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: JOYCE LIVESTOCK CO. 208-834-2237
Address: C/O PAUL NETTLETON
MURPHY, ID 83650
2. Date of Priority: APR 01, 1865
3. Source: JORDAN CR. Trib. to: OWYHEE RIVER
4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
04S	03W	19	SW	NW			OWYHEE
			NW	SE			OWYHEE
		30	NE	SE			OWYHEE
		31	SW	SW			OWYHEE
		32	NW	NW			OWYHEE
			NE	SE			OWYHEE
05S	03W	4	SW	SW			OWYHEE
		5	NE	NE			OWYHEE
			NW	NE			OWYHEE
		8	NW	NE			OWYHEE
		9	SW	NW			OWYHEE
			NW	SW			OWYHEE
		16	SW	NW			OWYHEE
		17	NE	SE			OWYHEE
			SW	SE			OWYHEE
		18	NW	SW			OWYHEE
			SW	SW			OWYHEE
			NW	SE			OWYHEE
			SW	SE			OWYHEE
		19	SW	NW			OWYHEE
			NE	SW			OWYHEE
			NW	SW			OWYHEE
			NE	SE			OWYHEE
			NW	SE			OWYHEE

4. Point of Diversion: Continued

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
05S	03W	20	NW	NE			OWYHEE
			NE	NW			OWYHEE
			SW	NW			OWYHEE
	04W	1	SE	NE			OWYHEE
			SW	SE			OWYHEE
		12	SE	NW			OWYHEE
			SW	SW			OWYHEE
		13	NW	NE			OWYHEE
			SE	NE			OWYHEE
			NE	SE			OWYHEE
		24	SE	NE			OWYHEE

5. Description of diverting works:
INSTREAM STOCKWATERING

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
STOCKWATER	01/01	12/31	0.230		

7. Total Quantity Appropriated is:
0.230 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is

Acre Feet Per Annum.

9. Non-irrigation uses:
S/1000 HD CATTLE

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
04S	03W	19	SW	NW		STOCK	
			SE	NW		STOCK	
			SE	SW		STOCK	
			NW	SE		STOCK	
			SW	SE		STOCK	
		30	NW	NE		STOCK	
			NE	NW		STOCK	
			SW	NW		STOCK	
			SE	NW		STOCK	
			NW	SW		STOCK	
			NE	SE		STOCK	
			SW	SE		STOCK	
			SE	SE		STOCK	
		31	NE	NE		STOCK	

10. Place of Use: Continued

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres			
04S	03W	31	NW		NE		STOCK				
			SE		NE		STOCK				
			NE		NW		STOCK				
			NW		NW		STOCK				
			SW		NW		STOCK				
			SE		NW		STOCK				
			NE		SW		STOCK				
			NW		SW		STOCK				
			SW		SW		STOCK				
			SE		SW		STOCK				
			NE		SE		STOCK				
			NW		SE		STOCK				
			SW		SE		STOCK				
			SE		SE		STOCK				
			32	NW		NW		STOCK			
				SW		NW		STOCK			
		NE			SW		STOCK				
		NW			SW		STOCK				
		SW			SW		STOCK				
		SE			SW		STOCK				
		NE			SE		STOCK				
		NW			SE		STOCK				
		SW			SE		STOCK				
		05S		03W	4	NW		SW		STOCK	
						SW		SW		STOCK	
				5	NE		NE		STOCK		
					NW		NE		STOCK		
					NE		NW		STOCK		
					NW		NW		STOCK		
					NE		SW		STOCK		
			SW			SW		STOCK			
			SE			SW		STOCK			
NE			SE			STOCK					
NW			SE			STOCK					
6	NE				NE		STOCK				
	NW				NE		STOCK				
	SW				NE		STOCK				
	SE				NE		STOCK				
	SW				NW		STOCK				
	SE		NW		STOCK						
	SE		SW		STOCK						
	NE		SE		STOCK						
	NW		SE		STOCK						
	SW		SE		STOCK						
	SE		SE		STOCK						

10. Place of Use: Continued

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
05S	03W	7	NE		NE		STOCK	
			SW		NE		STOCK	
			SE		NE		STOCK	
			NW		NW		STOCK	
			NE		SW		STOCK	
			SW		SW		STOCK	
			SE		SW		STOCK	
		8	NE		SE		STOCK	
			NW		NE		STOCK	
			SE		NE		STOCK	
			NE		NW		STOCK	
			SW		NW		STOCK	
			SE		NW		STOCK	
			NE		SW		STOCK	
			NW		SW		STOCK	
			SW		SW		STOCK	
			SE		SW		STOCK	
			NE		SE		STOCK	
			NW		SE		STOCK	
		9	SW		NW		STOCK	
			NW		SW		STOCK	
		16	SW		NW		STOCK	
		17	NW		NE		STOCK	
			SW		NE		STOCK	
			SE		NE		STOCK	
			NE		NW		STOCK	
			NW		NW		STOCK	
			SW		NW		STOCK	
			SE		NW		STOCK	
			NW		SW		STOCK	
			SW		SW		STOCK	
			SE		SW		STOCK	
			NE		SE		STOCK	
			NW		SE		STOCK	
		18	SW		SE		STOCK	
			NW		NW		STOCK	
			SW		NW		STOCK	
			NE		SW		STOCK	
			NW		SW		STOCK	
			SW		SW		STOCK	
			SE		SW		STOCK	
			NE		SE		STOCK	
			NW		SE		STOCK	
			SW		SE		STOCK	
			SE		SE		STOCK	

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
05S	03W	19	NE	NE		STOCK	
			NW	NE		STOCK	
			SW	NE		STOCK	
			SE	NE		STOCK	
			NE	NW		STOCK	
			NW	NW		STOCK	
			SW	NW		STOCK	
			SE	NW		STOCK	
			NE	SW		STOCK	
			NW	SW		STOCK	
			SE	SW		STOCK	
			NE	SE		STOCK	
			NW	SE		STOCK	
			SW	SE		STOCK	
			SE	SE		STOCK	
		20	NW	NE		STOCK	
			NE	NW		STOCK	
			SW	NW		STOCK	
	04W	1	SE	NE		STOCK	
			SW	SE		STOCK	
			SE	SE		STOCK	
		12	SW	NE		STOCK	
			SE	NW		STOCK	
			NE	SW		STOCK	
			SW	SW		STOCK	
			NE	SE		STOCK	
			NW	SE		STOCK	
			SW	SE		STOCK	
			SE	SE		STOCK	
		13	NE	NE		STOCK	
			NW	NE		STOCK	
			SE	NE		STOCK	
			NE	SE		STOCK	
		24	SE	NE		STOCK	

11. Place of use in counties: OWYHEE

12. Do you own the property listed above as place of use? NO

13. Other Water Rights Used:
NONE

14. Remarks:
I AM A HOLDER OF BLM GRAZING RIGHTS.

15. Basis of Claim: BENEFICIAL USE

A55-10135

Page

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Date: 03/20/89

MICROFILMED

SEP 29 1992

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am owner of _____ Title

Joyce Livestock Co. Organization, that I have signed the foregoing document in the space below as _____ Title

Joyce Livestock Co. Organization and that the statements contained in the foregoing document are true and correct.

Saul Mitchell Signature of Authorized Agent

owner, Joyce Livestock Co. Title and Organization

4-21-89 Date

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 21 day
of April 19 89

Linda Werner
Notary Public

Seal

Residing at Linda A. Werner
Residing at Boise, Idaho
My Commission Expires December 8, 1991

A55-10135 1

\$25

1. Joyce Livestock Co.

2. Apr. 1, 1865

3. Jordan Cr.

trib. Owyhee River

4. 5S 4W 1 SE NE
SW SE

→ Headwaters of
Jordan Creek.

12 SE NW

SW SW

13 NW NE

SE NE

NE SE

24 SE NE

5S 3W

4 SW SW

5 NW NE

NE NE

8 NW NE

9 SW NW

NW SW

16 SW NW

17 NE SE

SW SE

18 NW SW

SW SW

NW SE

SW SE

19 SW NW

NW SW

NE SW

NW SE

NE SE

20 SW NW

NE NW

NW NE

4S 3W

19 SW NW

NW SE

30 NE SE

31 SW SW

32 NW NW

RECEIVED

APR 28 1865

Department of Water Resources
Yreka Regional Office

MICROFILMED

SEP 29 1992

5. IN STREAM STOCK

6. STOCK 1-1 to 12-31 (1000 head)

7.

8.

9. IN STREAM FLOW

10. 5S 4W 1 SE NE

SW SE

SE SE

12 SE NW

SW NE

NE SW

SW SW

NW SE

NE SE

SW SE

SE SE

13 NW NE

NE NE

SE NE

NE SE

24 SE NE

5S 3W 4 SW SW

NW SW

5 NW NW

NE NW

NW NE

NE NE

NW SE

NE SE

NE SW

SW SW

SE SW

6 SW NW

SE NW

NW NE

NE NE

SW NE

SE NE

SE SW

NW SE

NE SE

SW SE

5S 3W

7

NW NW

NE NE

SW NE

SE NE

NE SW

SW SW

SE SW

NE SE

8

NE NW

SW NW

SE NW

NW NE

SE NE

NW SW

NE SW

SW SW

SE SW

NW SE

NE SE

9

SW NW

NW SW

16

SW NW

17

NW NW

NE NW

SW NW

SE NW

NW NE

SW NE

SE NE

NW SW

SW SW

SE SW

NW SE

NE SE

SW SE

MICROFILMED

SEP 29 1992

10. (CONT)

5S 3W 18 NWNW

SW NW

NW SW

NE SW

SW SW

SE SW

NW SE

NE SE

SW SE

SE SE

19 NW NW

NE NW

SW NW

SE NW

NW NE

NE NE

SW NE

SE NE

NW SW

NE SW

SE SW

NW SE

NE SE

SW SE

SE SE

20 NE NW

SW NW

NW NE

4S 3W

19 SW NW

SE NW

SE SW

NW SE

SW SE

30 NE NW

SW NW

SE NW

NW NE

NW SW

NE SE

SW SE

SE SE

4S 3W 31

NW NW

NE NW

SW NW

SE NW

NW NE

NE NE

SE NE

NW SW

NE SW

~~SW~~ SW

SE SW

NW SE

NE SE

SW SE

SE SE

32

NW NW

SW NW

NW SW

NE SW

SW SW

SE SW

NW SE

NE SE

SW SE

MICROFILMED

SEP 29 1992

11. OWYHEE

12. NO I AM HOLDER OF BLM GRAZING RIGHTS

13.

14.

15. BENEFICIAL USE

MICROFILMED

SEP 29 1992

AJ0749NP
No. R55-10135

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

DATE: 07/09/97
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	JOYCE LIVESTOCK CO C/O PAUL NETTLETON MURPHY ID 83650 (208) 834-2237	04/01/1865	STOCKWATER	01-01 12-31	0.02 CFS	
TOTAL DIVERSION:					0.02 CFS	

Water Source: JORDAN CREEK

Tributary to: OWYHEE RIVER

Stage: BENEFICIAL USE

Point(s) of Beginning Stream Reach: T05S R03W S19

SENWSW

OWYHEE County

Point(s) of Ending Stream Reach: T04S R03W S31

SWNWNW

OWYHEE County

Place of use Legal Description for: STOCKWATER

NE												NW												SW												SE																															
				NENE				NWNE				SWNE				SENE				NENW				NWNW				SWNW				SESW				NESW				NWSW				SWSW				SESW				NESE				NWSE				SWSE				SESE			
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	Lt	Ac	Lt	Ac	:																								
04S	03W	31	:											:			S		S		S				:			S						:			S		S				:																								
05S	03W	6	:					S		S		S		:											:			S						:			S						:																								
05S	03W	7	:			S				S				:										:			S						:			S						:																									
05S	03W	8	:											:										:									:									:																									
05S	03W	17	:											:			S		S					:			S						:									:																									
05S	03W	18	:											:										:									:									:																									
05S	03W	19	:			S		S		S				:					S					:			S		S				:									:																									

POU County: OWYHEE

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):

A55-10135 A55-11176 A55-11177 R55-11176 R55-11385

Other Water Rights Listing Overlapping Place(s) of Use:

57-10485 A55-10204 A55-10233 A57-10485 R55-10233

Conditions of Approval:

- 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 ALLOTMENT 0570
BLM ALLOTMENT 0569
STOCKWATER 1000 RANGE CATTLE

Dates: Exam Made Date: Verified Date: Objection Filed Date:

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

AJ0749NP
No. R55-10135

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

DATE: 07/09/97
PAGE: 2

=====

Comments: Date: 01/15/1992 User-ID: WHITE Subject: LAND OWNERSHIP
I AM A HOLDER OF BLM GRAZING RIGHTS.

Date: 07/14/1995 User-ID: RMCCARTH Subject: CORRECTION
ADDED CONDITION L12

Date: 04/03/1997 User-ID: STK-DSHA Subject: D&S STK-BLM 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.

Date: 06/30/1997 User-ID: MSCHULTE Subject: DIVERSION RATE
THE DIVERSION RATE WAS REDUCED TO .02 CFS TO COMPLY WITH BASIN
WIDE ISSUE NO. 12.

Date: 07/09/1997 User-ID: MSCHULTE Subject: RECOMMENDED PLACE OF USE
THE RECOMMENDED PLACE OF USE RELATES ONLY TO THE SOURCE CLAIMED,
JORDAN CREEK. IT IS SUBSTANTIALLY DIFFERENT THAN THE PLACE OF USE
CLAIMED.

Audit: 07/09/97 MSCHULTE

OPTION: MATCH USES

ADJUDICATION CLAIM NUMBER: R55-10135

PAGE: 1

A. ROOT WATER RIGHT NUMBERS: A55-10135
R55-10135

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/USE/ACRES	WR #/USE/ACRES	LANDSAT DATA
04S	03W	31	NW	NW		JOYCE LIVESTOCK CO	R55-10135 /04/	- / /	
			NW	NW		JOYCE LIVESTOCK CO	A55-10135 /04/	- / /	
			NW	NW		AMERICA ACTING THROUGH, UNITEDA55-11385	/04/	- / /	
			NW	NW		AMERICA ACTING THROUGH, UNITEDR55-11385	/04/	- / /	
<i>Overlap Jordan Creek 1874</i>									
04S	03W	31	SW	NW		JOYCE LIVESTOCK CO	R55-10135 /04/	- / /	
			SW	NW		JOYCE LIVESTOCK CO	A55-10135 /04/	- / /	
			SW	NW		AMERICA ACTING THROUGH, UNITEDR55-11385	/04/	- / /	
04S	03W	31	SE	NW		JOYCE LIVESTOCK CO	R55-10135 /04/	- / /	
			SE	NW		JOYCE LIVESTOCK CO	A55-10135 /04/	- / /	
			SE	NW		AMERICA ACTING THROUGH, UNITEDR55-11385	/04/	- / /	
04S	03W	31	NE	SW		JOYCE LIVESTOCK CO	R55-10135 /04/	- / /	
			NE	SW		JOYCE LIVESTOCK CO	A55-10135 /04/	- / /	
			NE	SW		AMERICA ACTING THROUGH, UNITEDR55-11385	/04/	- / /	
04S	03W	31	NW	SE		JOYCE LIVESTOCK CO	R55-10135 /04/	- / /	
			NW	SE		JOYCE LIVESTOCK CO	A55-10135 /04/	- / /	
			NW	SE		AMERICA ACTING THROUGH, UNITEDR55-11385	/04/	- / /	
04S	03W	31	SW	SE		JOYCE LIVESTOCK CO	R55-10135 /04/	- / /	
			SW	SE		JOYCE LIVESTOCK CO	A55-10135 /04/	- / /	
			SW	SE	4	AMERICA ACTING THROUGH, UNITEDR55-11385	/04/	- / /	
			SW	SE	4	AMERICA ACTING THROUGH, UNITEDR55-12458	/04/	- / /	
<i>different source (Unnamed Stream)</i>									
05S	03W	6	NW	NE		JOYCE LIVESTOCK CO	R55-10135 /04/	- / /	
			NW	NE		JOYCE LIVESTOCK CO	A55-10135 /04/	- / /	
			NW	NE	12	AMERICA ACTING THROUGH, UNITEDR55-11385	/04/	- / /	
05S	03W	6	SW	NE		JOYCE LIVESTOCK CO	R55-10135 /04/	- / /	
			SW	NE		JOYCE LIVESTOCK CO	A55-10135 /04/	- / /	
			SW	NE		AMERICA ACTING THROUGH, UNITEDA55-11385	/04/	- / /	
			SW	NE		AMERICA ACTING THROUGH, UNITEDA55-12463	/04/	- / /	
			SW	NE		AMERICA ACTING THROUGH, UNITEDR55-11385	/04/	- / /	
			SW	NE		AMERICA ACTING THROUGH, UNITEDR55-12463	/04/	- / /	
<i>Overlap Unnamed Stream</i>									
05S	03W	6	SE	NE		JOYCE LIVESTOCK CO	R55-10135 /04/	- / /	
			SE	NE		JOYCE LIVESTOCK CO	A55-10135 /04/	- / /	
05S	03W	6	NE	SE		JOYCE LIVESTOCK CO	R55-10135 /04/	- / /	
			NE	SE		JOYCE LIVESTOCK CO	A55-10135 /04/	- / /	

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/USE/ACRES	WR #/USE/ACRES	LANDSAT DATA
			NE	SE		AMERICA ACTING THROUGH, UNITEDA55-12452	/04/		
			NE	SE		AMERICA ACTING THROUGH, UNITEDR55-12452	/04/		
<i>overlap Jordan Creek - 1874</i>									
05S	03W	6	SE	SE		JOYCE LIVESTOCK CO	R55-10135 /04/	-	/ /
			SE	SE		JOYCE LIVESTOCK CO	A55-10135 /04/	-	/ /
			SE	SE		AMERICA ACTING THROUGH, UNITEDA55-12452	/04/	-	/ /
			SE	SE		AMERICA ACTING THROUGH, UNITEDA55-12459	/04/	-	/ /
			SE	SE		AMERICA ACTING THROUGH, UNITEDR55-12452	/04/	-	/ /
			SE	SE		AMERICA ACTING THROUGH, UNITEDR55-12459	/04/	-	/ /
05S	03W	7	NE	NE		JOYCE LIVESTOCK CO	R55-10135 /04/	-	/ /
			NE	NE		JOYCE LIVESTOCK CO	A55-10135 /04/	-	/ /
			NE	NE	8	AMERICA ACTING THROUGH, UNITEDR55-12452	/04/	-	/ /
05S	03W	7	SE	NE		JOYCE LIVESTOCK CO	R55-10135 /04/	-	/ /
			SE	NE		JOYCE LIVESTOCK CO	A55-10135 /04/	-	/ /
			SE	NE		JOYCE LIVESTOCK CO	A55-10233 /04/	-	/ /
			SE	NE		JOYCE LIVESTOCK CO	R55-10233 /04/	-	/ /
			SE	NE		AMERICA ACTING THROUGH, UNITEDA55-12284	/04/	-	/ /
			SE	NE		AMERICA ACTING THROUGH, UNITEDR55-12284	/04/	-	/ /
			SE	NE	13	AMERICA ACTING THROUGH, UNITEDR55-12452	/04/	-	/ /
<i>no overlap, different source</i>									
<i>no overlap - unnamed stream</i>									
05S	03W	7	NE	SE		JOYCE LIVESTOCK CO	R55-10135 /04/	-	/ /
			NE	SE		JOYCE LIVESTOCK CO	A55-10135 /04/	-	/ /
05S	03W	8	NW	SW		JOYCE LIVESTOCK CO	R55-10135 /04/	-	/ /
			NW	SW		JOYCE LIVESTOCK CO	A55-10135 /04/	-	/ /
			NW	SW	13	AMERICA ACTING THROUGH, UNITEDR55-11061	/04/	-	/ /
<i>overlap Jordan Creek - 1874</i>									
05S	03W	8	SW	SW		JOYCE LIVESTOCK CO	R55-10135 /04/	-	/ /
			SW	SW		JOYCE LIVESTOCK CO	A55-10135 /04/	-	/ /
			SW	SW		AMERICA ACTING THROUGH, UNITEDR55-11061	/04/	-	/ /
05S	03W	17	NW	NW		JOYCE LIVESTOCK CO	R55-10135 /04/	-	/ /
			NW	NW		JOYCE LIVESTOCK CO	A55-10135 /04/	-	/ /
			NW	NW		AMERICA ACTING THROUGH, UNITEDA55-11061	/04/	-	/ /
			NW	NW		AMERICA ACTING THROUGH, UNITEDR55-11061	/04/	-	/ /
05S	03W	17	SW	NW		JOYCE LIVESTOCK CO	R55-10135 /04/	-	/ /
			SW	NW		JOYCE LIVESTOCK CO	A55-10135 /04/	-	/ /
05S	03W	17	NW	SW		JOYCE LIVESTOCK CO	R55-10135 /04/	-	/ /
			NW	SW		JOYCE LIVESTOCK CO	A55-10135 /04/	-	/ /
05S	03W	17	SW	SW		JOYCE LIVESTOCK CO	R55-10135 /04/	-	/ /
			SW	SW		JOYCE LIVESTOCK CO	A55-10135 /04/	-	/ /

OPTION: MATCH USES

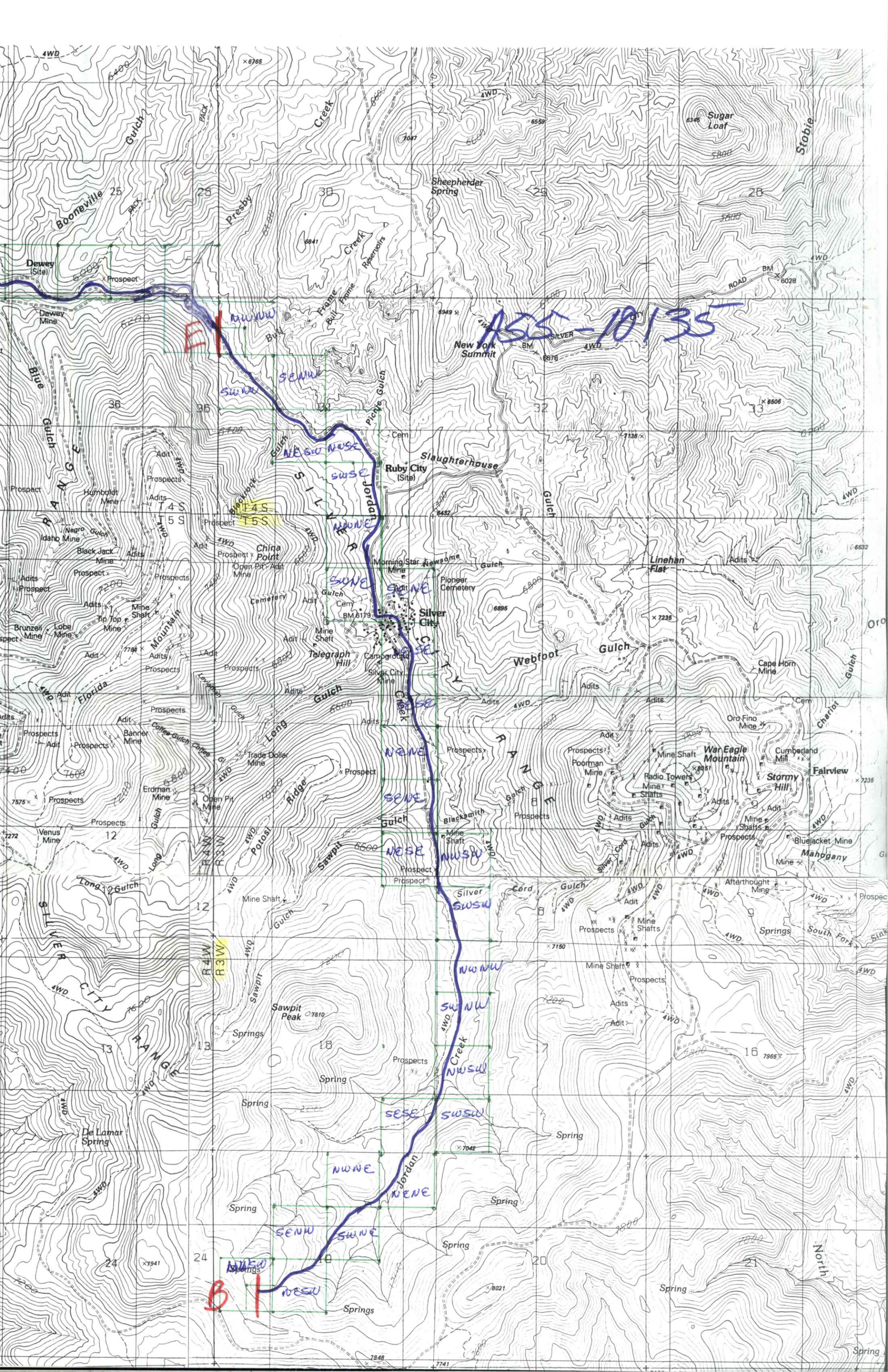
ADJUDICATION CLAIM NUMBER: R55-10135

PAGE: 3

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/USE/ACRES	WR #/USE/ACRES	LANDSAT DATA
05S	03W	18	SE	SE		JOYCE LIVESTOCK CO	R55-10135 /04/	- / /	
			SE	SE		JOYCE LIVESTOCK CO	A55-10135 /04/	- / /	
05S	03W	19	NE	NE		JOYCE LIVESTOCK CO	R55-10135 /04/	- / /	
			NE	NE		JOYCE LIVESTOCK CO	A55-10135 /04/	- / /	
05S	03W	19	NW	NE		JOYCE LIVESTOCK CO	R55-10135 /04/	- / /	
			NW	NE		JOYCE LIVESTOCK CO	A55-10135 /04/	- / /	
05S	03W	19	SW	NE		JOYCE LIVESTOCK CO	R55-10135 /04/	- / /	
			SW	NE		JOYCE LIVESTOCK CO	A55-10135 /04/	- / /	
			SW	NE		AMERICA ACTING THROUGH, UNITEDA55-11061	/04/ ↑	- / /	
05S	03W	19	SE	NW		JOYCE LIVESTOCK CO	R55-10135 /04/	- / /	
			SE	NW		JOYCE LIVESTOCK CO	A55-10135 /04/	- / /	
			SE	NW		AMERICA ACTING THROUGH, UNITEDA55-11061	/04/ ↗	- / /	
05S	03W	19	NE	SW		JOYCE LIVESTOCK CO	R55-10135 /04/	- / /	
			NE	SW		JOYCE LIVESTOCK CO	A55-10135 /04/	- / /	
			NE	SW		AMERICA ACTING THROUGH, UNITEDA55-11061	/04/ ↑	- / /	
05S	03W	19	NW	SW		JOYCE LIVESTOCK CO	R55-10135 /04/	- / /	
			NW	SW		JOYCE LIVESTOCK CO	A55-10135 /04/	- / /	
			NW	SW		AMERICA ACTING THROUGH, UNITEDA55-11176	/04/	- / /	
			NW	SW		AMERICA ACTING THROUGH, UNITEDA55-11177	/04/	- / /	
			NW	SW		AMERICA ACTING THROUGH, UNITEDR55-11176	/04/	- / /	
TOTAL ACRES							R55-10135		

POU COUNTY: OWYHEE

} no overlap - spring



OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	JOYCE LIVESTOCK CO C/O PAUL NETTLETON MURPHY ID 83650 (208) 834-2237	04/01/1865	STOCKWATER	01-01 12-31	0.23 CFS	0.02
					TOTAL DIVERSION:	0.23 CFS 0.02

Water Source: JORDAN CREEK

Tributary to: OWYHEE RIVER

Stage: BENEFICIAL USE

Point(s) of Diversion:

Point(s) of Diversion	Section	SWNW	NWSE	OWYHEE County
T04S R03W S19	SWNW	NWSE	OWYHEE County	
S30	NESE		OWYHEE County	
S31	SWSW		OWYHEE County	
S32	NWNW	NESE	OWYHEE County	
T05S R03W S04	SWSW		OWYHEE County	
S05	NENE	NWNE	OWYHEE County	
S08	NWNE		OWYHEE County	
S09	SWNW	NWSW	OWYHEE County	
S16	SWNW		OWYHEE County	
S17	NESE	SWSE	OWYHEE County	
S18	NWSW	SWSW	OWYHEE County	
S19	SWNW	NESE	OWYHEE County	
S19	NWSE		OWYHEE County	
S20	NWNE	NENW	OWYHEE County	
R04W S01	SENE	SWSE	OWYHEE County	
S12	SENE	SWSW	OWYHEE County	
S13	NWNE	SENE	OWYHEE County	
S24	SENE		OWYHEE County	

B = 55, 3W, S19, SENWSW
E = 45, 3W, S31, SWWNW

SE NWSW = B

SWSE NESE

Several BLM
Overlaps

Place of use Legal Description for: STOCKWATER

NE				NW				SW				SE			
T	R	S		T	R	S		T	R	S		T	R	S	
04S	03W	19													
04S	03W	30													
04S	03W	31													
04S	03W	32													
05S	03W	4													
05S	03W	5													
05S	03W	6													
05S	03W	7													
05S	03W	8													
05S	03W	9													
05S	03W	16													
05S	03W	17													
05S	03W	18													
05S	03W	19													
05S	03W	20													
05S	04W	1													
05S	04W	12													

POD's & POA's recommended are the only ones on Jordan Creek that fit the intention of the claim

DATE: 04/04/97
PAGE: 16

			NE				NW				SW				SE					
T	R	S	NENE	Lt Ac	NNNE	SWNE	SENE	Lt Ac	NENW	NNNW	SNWN	SENW	NESW	NWSW	SSSW	SESW	NESE	NWSE	SWSE	SESE
			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	Lt Ac	Lt Ac
05S-04W-13	:	:	S		S		S		:	:	:	:	:	:	:	:	S		:	:
05S-04W-24	:	:	S		S		S		:	:	:	:	:	:	:	:	:	:	:	:

Other Rights: ~~NONE~~

R57-10201	R57-10598	A55-10135	A55-10148	A55-11061 X A55-11593	X A55-11594	A55-12454	R55-11061	R55-11593
R55-12454	R55-12455	R55-12456	R57-10201	R57-10598				

57-10485 A55-04151 A55-10204 A55-10233 A57-10485 R55-10233

N12 - 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.

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.

Dates: Exam Made Date: *Kang* Verified Date: Objection Filed Date:

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

Comments: Date: 01/15/1992 User-ID: WHITE Subject: LAND OWNERSHIP
I AM A HOLDER OF BLM GRAZING RIGHTS.

Date: 07/14/1995 User-ID: RMCCARTH Subject: CORRECTION
ADDED CONDITION L12

Date: 04/03/1997 User-ID: STK-DSHA Subject: D&S STK-BLM UPDATE
USE-NOT-IRRIGATION FIELD TEXT DELETED AND MADE EXP REMARK.
CONDITION CODES N11 AND N13 ADDED IF NOT ALREADY PART OF RECORD.

Add Comment

AJ5809NP
No. R55-10135

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 04/04/97
PAGE: 17

=====

Comments: Date: 04/03/1997 User-ID: STK-DSHA Subject: D&S STK-BLM UPDATE
ANY GEN REMARK CHANGED TO EXP REMARK. IF BLM/USFS, DELETED L12.

Audit: 01/15/92 WHITE 11/17/92 MCCARTHY 03/30/95 POST-STD 07/14/95 RMCCARTH
04/03/97 STK-DSHA

AJ5809NP
No. R55-10135

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 10/11/95
PAGE: 3

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	JOYCE LIVESTOCK CO C/O PAUL NETTLETON MURPHY ID 83650 (208) 834-2237	04/01/1865	STOCKWATER	01-01 12-31	0.23 CFS	
TOTAL DIVERSION:					0.23 CFS	

Water Source: JORDAN CREEK

Tributary to: OWYHEE RIVER

Stage: BENEFICIAL USE

Point(s) of Diversion:	T04S R03W S19	SWNW	NWSE	OWYHEE County
	S30	NESE		OWYHEE County
	S31	SWSW		OWYHEE County
	S32	NWNW	NESE	OWYHEE County
	T05S R03W S04	SWSW		OWYHEE County
	S05	NENE	NWNE	OWYHEE County
	S08	NWNE		OWYHEE County
	S09	SWNW	NWSW	OWYHEE County
	S16	SWNW		OWYHEE County
	S17	NESE	SWSE	OWYHEE County
	S18	NWSW	SWSW	OWYHEE County
	S19	SWNW	NESW	OWYHEE County
	S19	NWSE		OWYHEE County
	S20	NWNE	NENW	OWYHEE County
	R04W S01	SENE	SWSE	OWYHEE County
	S12	SENW	SWSW	OWYHEE County
	S13	NWNE	SENE	OWYHEE County
	S24	SENE		OWYHEE County

Place of use Legal Description for: STOCKWATER

				NE				NW				SW				SE									
				NENE	NWNE	SWNE	SENE					NENW	NWNW	SWNW	SENW					NESE	NWSE	SWSE	SESE		
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:
04S	03W	19	:											S	S	:							S	S	:
04S	03W	30	:			S				S				S	S	:			S			S	S	S	:
04S	03W	31	:	S		S				S		S		S	S	:	S		S		S	S	S	S	:
04S	03W	32	:									S		S		:	S		S		S	S	S		:
05S	03W	4	:													:			S						:
05S	03W	5	:	S		S				S		S				:	S				S				:
05S	03W	6	:	S		S		S						S		:					S		S		:
05S	03W	7	:	S				S				S				:	S				S				:
05S	03W	8	:			S				S				S		:	S		S		S				:
05S	03W	9	:									S				:			S						:
05S	03W	16	:									S				:									:
05S	03W	17	:			S		S		S		S		S		:			S		S		S		:
05S	03W	18	:									S		S		:	S		S		S		S		:
05S	03W	19	:	S		S		S		S		S		S		:	S		S		S		S		:
05S	03W	20	:			S						S				:									:
05S	04W	1	:					S								:						S	S		:
05S	04W	12	:					S						S		:	S				S	S	S	S	:

MURPHY-LINE
SEP 24 1996

AJ5809NP
No. R55-10135

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 10/11/95
PAGE: 4

Place of use Legal Description for: STOCKWATER

				NE				NW				SW				SE							
				NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:
05S	04W	13	:	S		S		S		:				:									:
05S	04W	24	:					S		:				:					S				:

POU County: OWYHEE

Non-Irrigation Uses: STOCKWATER 1000 HEAD CATTLE

Other Rights: NONE

Conditions of Approval:

- L12 - 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.

Remarks: BLM ALLOTMENT 0570
BLM ALLOTMENT 0569

Dates: Exam Made Date: Verified Date:

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

Comments: Date: 01/15/1992 User-ID: WHITE Subject: LAND OWNERSHIP
I AM A HOLDER OF BLM GRAZING RIGHTS.

Date: 07/14/1995 User-ID: RMCCARTH Subject: CORRECTION
ADDED CONDITION L12

Audit: 01/15/92 WHITE 11/17/92 MCCARTHY 03/30/95 POST-STD 07/14/95 RMCCARTH

RECORDED
SEP 24 1995

JUL-12-1995
0223

1

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
55-10135	JOYCE LIVESTOCK CO C/O PAUL NETTLETON MURPHY ID 83650	04/01/1865	STOCKWATER	01-01 12-31	0.23	CFS BENEFICIAL USE
				TOTAL QUANTITY:	0.23	CFS
	NON-IRRIGATION USES:					
	<u>STOCKWATER 1000 HEAD CATTLE</u>					
	<u>8/1000 HP CATTLE</u>					
	SOURCE: JORDAN CREEK		TRIBUTARY: OWYHEE RIVER			
	<u>JORDAN CR</u>		<u>OWYHEE RIVER</u>			
	POINT OF DIVERSION:					
	T04S R03W S19		SWNW			
			NWSE			
	S30		NESE			
	S31		SWSW			
	S32		NWNW			
			NESE			
T05S	S04		SWSW			
	S05		NENE			
			NWNE			
	S08		NWNE			
	S09		SWNW			
			NWSW			
	S16		SWNW			
	S17		NESE			
			SWSE			
	S18		NWSW			
			SWSW			
			NWSE			
			SWSE			
	S19		SWNW			
			NESW			
			NWSW			
			NESE			
			NWSE			
	S20		NWNE			
			NENW			
			SWNW			
R04W	S01		SENE			
			SWSE			
	S12		SENW			
			SWSW			
	S13		NWNE			
			SENE			

RECORDED
JUL 24 1995

JUL-12-1995
0224

2

55-10135 CONTINUED

	S24	NESE				
	PLACE OF USE: STOCKWATER	SENE				
	T04S R03W S19	SWNW	SENW	SESW	NWSE	SWSE
	S30	NWNE	NENW	SWNW	SENW	NWSW
		NESE	SWSE	SESE		
	S31	NENE	NWNE	SENE	NENW	NWNW
		SWNW	SENW	NESW	NWSW	SWSW
		SESW	NESE	NWSE	SWSE	SESE
	S32	NWNW	SWNW	NESW	NWSW	SWSW
		SESW	NESE	NWSE	SWSE	
	T05S R03W S04	NWSW	SWSW			
	S05	NENE	NWNE	NENW	NWNW	NESW
		SWSW	SESW	NESE	NWSE	
	S06	NENE	NWNE	SWNE	SENE	SWNW
		SENW	SESW	NESE	NWSE	SWSE
		SESE				
	S07	NENE	SWNE	SENE	NWNW	NESW
		SWSW	SESW	NESE		
	S08	NWNE	SENE	NENW	SWNW	SENW
		NESW	NWSW	SWSW	SESW	NESE
		NWSE				
	S09	SWNW	NWSW			
	S16	SWNW				
	S17	NWNE	SWNE	SENE	NENW	NWNW
		SWNW	SENW	NWSW	SWSW	SESW
		NESE	NWSE	SWSE		
	S18	NWNW	SWNW	NESW	NWSW	SWSW
		SESW	NESE	NWSE	SWSE	SESE
	S19	NENE	NWNE	SWNE	SENE	NENW
		NWNW	SWNW	SENW	NESW	NWSW
		SESW	NESE	NWSE	SWSE	SESE
	S20	NWNE	NENW	SWNW		
	R04W S01	SENE	SWSE	SESE		
	S12	SWNE	SENW	NESW	SWSW	NESE
		NWSE	SWSE	SESE		
	S13	NENE	NWNE	SENE	NESE	
	S24	SENE				

REMARKS: BLM ALLOTMENT 0570
BLM ALLOTMENT 0569

added Cond. L12 R11F 7-14-95

RECORDED
SEP 24 1996

ROP

UNITED STATES OF AMERICA

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

RECEIVED

NOV 27 1998

MAIL
Department of Water Resources
Acquisition Bureau
21774

PAUL F. HOLLEMAN
Attorney, Department of Justice
Environment & Natural Resources Division
General Litigation Section
P.O. Box 663
Washington, D.C. 20044-0663
(202) 305-0494

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. 55-10135
)
)
) **Notice of Compliance**
)
Case No. 39576)
-----)

NOTICE OF COMPLIANCE

Pursuant to this Court's Order of October 19, 1998 ("Decision Granting Motion to Dismiss" in subcases 55-10135, 55-11061, 55-11385, and 55-12452), in which the United States was ordered to provide a proposed recommendation for 55-10135, we are submitting this Proposed Recommendation that omits the public domain from the places of use claimed by Joyce Livestock Company.

Respectfully submitted this 18th day of November, 1998.

UNITED STATES OF AMERICA

By: 
PAUL F. HOLLEMAN
Attorney, Department of Justice

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

Right Number: 55-10135

Name and Address: JOYCE LIVESTOCK CO
C/O PAUL NETTLETON
MURPHY, ID 83650

Source: JORDAN CREEK Tributary: OWYHEE RIVER

Quantity: .02 CFS

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

Priority Date: 04-01-1865

Diversion Point:	~~T04S R03W S31~~	~~SWNNW~~	~~(Instream Ending Point)~~
	~~T05S R03W S19~~	~~SENWSW~~	~~(Instream Beginning Point)~~
	<u>T05S R03W S07</u>	<u>SENESE</u>	<u>(Instream Beginning Point)</u>
	<u>S07</u>	<u>SESENE</u>	<u>(Instream Ending Point)</u>
	<u>S17</u>	<u>NWSWNW</u>	<u>(Instream Ending Point)</u>
	<u>S19</u>	<u>SENWNE</u>	<u>(Instream Beginning Point)</u>

Within Owyhee County

The points of diversion described do not include federal public land.

Purpose and			
Period of Use:	Purpose of Use	Period of Use	Quantity
	Stockwater	01-01 TO 12-31	.02 CFS
Place of Use:	Stockwater	Within Owyhee County	
	~~T04S R03W S31~~	~~SWNW~~	~~SENW~~
		~~SWSE~~	~~NWNW~~
		~~NECW~~	~~NWSE~~
	~~T05S R03W S06~~	~~SWNE~~	~~SENE~~
		~~SESE~~	~~NWNE~~
		~~NESE~~	
	S07	NENE	SENE
		NESE	
	S08	NWSW	SWSW
	S17	NWNW	SWNW
		NWSW	SWSW
	S18	SESE	
	S19	SENW	NWNE
		NENE	SWNE
		NWSW	NESW

The places of use described do not include federal public land.

Other Provisions Necessary for Definition / Administration of this Water Right:

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

Explanatory Material: Basis of Claim - Beneficial Use

~~BLM ALLOTMENT 0570~~

~~BLM ALLOTMENT 0569~~

STOCKWATER 1000 RANGE CATTLE

CERTIFICATE OF SERVICE

I certify that on November 18, 1998, I served a true and correct copy of the foregoing NOTICE OF COMPLIANCE AND PROPOSED RECOMMENDATION upon the following individuals, as indicated:

Department of Justice
c/o Adjudication Team
550 West Fort Street,
MSC 033
Boise, ID 83724

VIA FAX

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

VIA U.S. MAIL,
POSTAGE PREPAID

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

VIA U.S. MAIL,
POSTAGE PREPAID

Richard L. Harris
Attorney at Law
1023 Arthur Street
Caldwell, ID 83605

VIA FEDERAL EXPRESS

Paula Clinedinst
Paula Clinedinst



U.S. Department of Justice

Environment and Natural Resources Division

90-6-2-63c

General Litigation Section
P.O. Box 663
Washington, DC 20044-0663

Telephone (202) 305-0504
Facsimile (202) 305-0506

November 18, 1998

Special Master Fritz X. Haemmerle
Snake River Basin Adjudication
253 Third Avenue North
Twin Falls, ID 83303

Re: In Re SRBA, Subcase Number 55-10135

Dear Special Master Haemmerle,

Please find enclosed a Proposed Recommendation for water right 55-10135, submitted pursuant to your Order of October 19, 1998 ("Decision Granting Motion to Dismiss" in subcases 55-10135, 55-11061, 55-11385, and 55-12452). This recommendation deletes all public land from Joyce Livestock Company's claim as it was originally reported in the Director's Report.

Sincerely,

Paul F. Holleman
Department of Justice
Environment & Natural
Resources Division
General Litigation Section
P.O. Box 663
Washington, D.C. 20044-0663

(202) 305-0494

Enclosure

cc: Richard Harris

RECEIVED

OCT 22 1998

Department of Water Resources

1998 OCT 19 PM 4: 15

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED 198

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: 55-10135, 55-11061,
) 55-11385, and 55-12452

)
) DECISION GRANTING
) MOTION TO DISMISS

I. PROCEDURAL AND FACTUAL BACKGROUND

1. In water right numbers 55-11061, 55-11385, and 55-12452, Joyce Livestock Company (Joyce) filed objections to claims made by the Bureau of Land Management (BLM). In water right number 55-10135, the United States filed an objection to a claim made by Joyce.

2. All the subcases were consolidated for purposes of summary judgment. *See Order Consolidating Subcases for Summary Judgment* (July 16, 1998). In that order, a discovery deadline of September 1, 1998, was set. On August 5, 1998, the United States served a discovery request on Joyce. Joyce did not respond to the discovery request. Because the United States could not reach Joyce despite repeated attempts to ascertain why the discovery request had not been answered, it was the United States that sought leave of the court to extend the discovery deadline.

3. The discovery deadline was extended to October 1, 1998. *See Pretrial Order* (August 27, 1998). In that Order, the court advised both parties as follows: "The court shall not entertain any further motions to continue discovery past the above mentioned dates."

4. The United States continued in extreme good faith to pursue discovery from Joyce. The United States sent Joyce two letters reminding Joyce of the pending discovery requests. Counsel for Joyce denies ever seeing the letters. On September 16, 1998, counsel for the United States made a telephone call to Joyce's counsel regarding the discovery request. At that time, Joyce was advised of the late discovery. The parties set-up a telephone conference call for September 21,

1998, at 10:00 a.m. to discuss discovery. Counsel for the United States called at the designated time. At that time, counsel for Joyce was unavailable. Another conference call was set-up for the same date at 1:30 p.m. Again, counsel for Joyce was not available. Counsel for Joyce never followed-up with the United States on the discovery requests.

5. The second discovery deadline of October 1, 1998, expired without any compliance by Joyce to the United States' discovery request.

6. The court takes judicial notice of the record in subcase numbers 57-11112 *et al.* In those subcases, Joyce failed to reply in a timely fashion to discovery requests. Because of the failure to comply, admissions sought by the United States in those subcases were deemed admitted. During the *Motion to File Late Objections* for the subcases currently before the court, counsel for the United States reiterated this court's prior admonition to Joyce in 57-11112 *et al* of the importance of being timely.

II. STANDARD OF REVIEW

This is a motion to dismiss for failure to comply with discovery pursuant to I.R.C.P. 37. Prior to dismissing a claim or defense under Rule 37, the record must reveal a clear record of delay and that lesser sanctions would be ineffective. *Ashby v. Western Council*, 117 Idaho 684, 436-437, 791 P.2d 434 (1990). Additionally, the court must find an aggravating factor such as: (1) delay resulting from intentional conduct of the non-complying party; (2) delay caused by the party personally; or (3) delay causing prejudice to the opposing party. *Id.* If the court dismisses the claim or defense, then specific findings shall be entered. *Id.*

III. DECISION

A. THERE IS A CLEAR RECORD OF DELAY

The court finds a clear record of delay. Numerous deadlines came and went without Joyce complying with discovery. This is true even though the United States made numerous good faith attempts to complete discovery. In fact, it was the United States which sought an extension of the first discovery deadline due to Joyce's failure to respond.

B. LESSER SANCTIONS WOULD BE INEFFECTIVE

The court has repeatedly admonished Joyce for being untimely. For example, in water rights 57-11112 *et al.*, the court ordered that a request for admission filed by the United States be deemed admitted because of Joyce's failure to respond to the request in a timely fashion. Based on the

pattern of conduct by Joyce in those subcases, and based on the fact that Joyce entered these subcase on a *Motion to File Late Objections*, Joyce was reminded of the importance of being timely.

Despite previous sanctions and the prior admonition by this court to Joyce to proceed in a timely fashion, two separate discovery deadlines were not met. In order to consider lesser sanctions such as another admonition to Joyce to be timely, the court would have to continue discovery for a third time so that the United States would not be prejudiced by Joyce's failure to comply with its discovery request. The court would have to continue discovery even though the second pretrial order expressly warned both parties that the court would not consider any continuances past October 1, 1998. See *Pretrial Order* (August 27, 1998).

C. DELAY WOULD RESULT IN PREJUDICE TO THE UNITED STATES

The delay in responding to discovery would prejudice the United States. Again, as stated in the *Pretrial Order* (August 27, 1998), the court set a deadline to respond to discovery and a deadline to file dispositive motions. In that Order, as previously indicated, the parties were advised that this was the last extension of the deadlines previously set in July, 1998. As promised, this court is not going to extend discovery deadlines. Since the court will not extend the deadlines, the United States cannot obtain its discovery and cannot file a dispositive motion as a result of Joyce's complete failure to respond. Accordingly, the United States has been prejudiced by the delay.

IV. CONCLUSION

This court takes no pleasure in granting this motion. However, every opportunity has been extended to Joyce. Two discovery deadlines were given, and both deadlines were ignored. The United States made every diligent attempt to accommodate Joyce in attempting to resolve these discovery problems. The United States went so far as to file the first extension of discovery on Joyce's behalf. Any accommodation for Joyce's tardiness would necessitate this court extending for a third time the discovery and dispositive motion deadlines; an extension this court fairly promised would not be allowed.

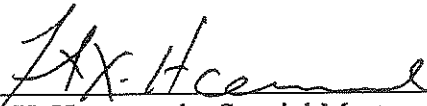
Having found that there has been a pattern of delay, that lesser sanctions are not appropriate, and that the United States has been prejudiced, now therefore

IT IS HEREBY ORDERED that the *Motion to Dismiss* is **GRANTED**. Joyce's objections in water rights 55-11061, 55-11385, and 55-12452 are **DISMISSED**. The objection filed by the United States in 55-10135 is **GRANTED** as to those places of use claimed on the public domain.

The United States shall provide a proposed recommendation for 55-10135 omitting the public domain from the place of use claimed by Joyce.

IT IS SO ORDERED.

DATED October 19, 1998.



Fritz X. Haemmerle, Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

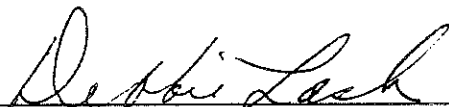
I certify that a true and correct copy of the DECISION GRANTING MOTION TO DISMISS was mailed on October 20, 1998, with sufficient first-class postage to the following:

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, Idaho 83720-0098

Richard Harris
P O Box 1438
Caldwell, Idaho 83606


Deputy Clerk

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 55-10135

(Insert water right number)

DOMESTIC AND
STOCK WATER RIGHT
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: United States of America acting through the Department of Interior,
Bureau of Land Management, Idaho State Office

Address: 1387 South Vinnell Way
Boise, Idaho 83709-1657

Daytime Phone: see below

Name & Address of Attorney, if any:

R. Lee Leininger, 202 305-0242

Paul F. Holleman, 202 305-0494 and

William M. Ferry, 202 334-1911

United States Department of Justice

Environment and Natural Resource Division

General Litigation Section

550 West Fort Street, MSC 033

Boise, Idaho 83724

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

Name: Joyce Livestock Co.

Address: Murphy, Idaho 83650

Name: C/O Paul Nettleton

Address:

Name: Address:

Name: Address:

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: See attached
5. ☒ **Point(s) of Diversion**
Should be: See attached
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: See attached

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):

The United States of America, through the Bureau of Land Management, is the owner of the land upon which use is claimed. The claimant does not have a valid water right with the elements claimed.

RECEIVED
JUN 10 1983
BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C.

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

DATE: JUL-30-1997
PAGE: A-364

RIGHTS FROM: SOURCE: JORDAN CREEK TRIBUTARY: OWYHEE RIVER

RIGHT NUMBER: 55-10135

NAME & ADDRESS: JOYCE LIVESTOCK CO
C/O PAUL NETTLETON
MURPHY ID 83650

SOURCE: JORDAN CREEK TRIBUTARY: OWYHEE RIVER

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 04/01/1865

POINT OF DIVERSION: T05S R03W S19 *BLM Land*
T04S R03W S31 SE4SW (INSTREAM BEGINNING POINT) WITHIN OWYHEE COUNTY
S4NWNW (INSTREAM ENDING POINT)

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

PLACE OF USE:	STOCKWATER	WITHIN OWYHEE COUNTY	<i>BLM Land</i>		
T04S R03W S31	<u>NWNW</u>	<u>SWNW</u>	<u>SE4W</u>	<u>NESW</u>	
	<u>NWSE</u>	<u>SWSE</u>			
T05S R03W S06	<u>NWNE</u>	<u>SWNE</u>	<u>SENE</u>	<u>NESE</u>	
	<u>SESE</u>				
S07	<u>SENE</u>	<u>SENE</u>	<u>NESE</u>		
S08	<u>NWSW</u>	<u>SWSW</u>			
S17	<u>SWNW</u>	<u>SWNW</u>	<u>NWSW</u>	<u>SWSW</u>	
S18	<u>SESE</u>				
S19	<u>NESE</u>	<u>NWNE</u>	<u>SWNE</u>	<u>SE4W</u>	
	<u>NESW</u>	<u>NWSW</u>			

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - BENEFICIAL USE
BLM ALLOTMENT 0570 *This claim does not plot in 0570.*
BLM ALLOTMENT 0569
STOCKWATER 1000 RANGE CATTLE

F.

VERIFICATION (Must be Completed)

State of Idaho)

)ss.

County of Ada)

Gary Madenford for

Jay Carlson, BLM Area Manager, duly sworn, upon oath, deposes and says:

(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Gary A Madenford
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: 12-4-97

Jacqueline L. Ripley
Notary Public for Idaho
Residing at: Boise
My Commission Expires: 4-7-1999

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 Dec 5, 1997, 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
PO Box 2707
Twin Falls, ID 83303-2707

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

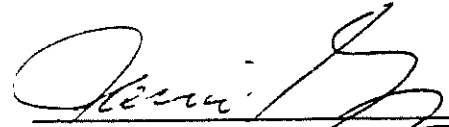
Name: <u>Joyce Livestock Co.</u>	Address: <u>Murphy, Idaho 83650</u>
Name: <u>C/O Paul Nettleton</u>	Address:
Name:	Address:
Name:	Address:

3. Copies to:

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

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

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



Signature of Objector or attorney
mailing on Objector's behalf



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. BOX 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 3, 1997

Lee Leininger
P. Fritz Holleman
Dept. of Justice
General Litigation Section
Environmental and Natural Resources Division
P.O. Box 663
Washington, D.C. 20044-0663

BY FAX

Dear Mssrs. Holleman and Leininger:

This letter is the response to your request for a written summary of the Department's current policy for recommending competing claims. The Department arrived at this new point after considering many possible alternatives and receiving input from several parties, including the United States. As you are aware, after Special Master Haemmerle issued the Order on Second Summary Judgment in the Joyce Livestock subcases, the Department initiated a re-evaluation of its policy for recommending water rights to the landowner when the landowner and a third party such as a lessee file competing claims to the same water right.

The Department's policy at the time it published the first five Director's Reports was to recommend the water right to the landowner and recommend the court disallow the competing claim. At the monthly informational conference on May 20, 1997, the SRBA District Court expressed strong concerns over the Department's policy in this regard. Both the Department and the court found the chief deficiency with the Department's policy was that it did not include a detailed investigation into the possibility of lesser estate owners having valid water rights on another person's land. In fact, the Department has expended very little of its resources investigating the legitimacy of either competing claim. Along the way, given the adjudication scheme of the SRBA, the Department's recommendation created an unfair advantage for landowner-claimants because their water right recommendations carried *prima facie* weight despite the lack of investigation. The Department explored alternatives with the potential to remedy this problem that also would not become a large drain on Department resources.

With these goals in mind, the Department currently is expecting to apply a new procedure when publishing Director's Reports in upcoming reporting areas. The new procedure works for *de minimis* claims as follows: If competing claims are identical with respect to every element except ownership, the Department will recommend one right identifying both competing claimants as potential owners. If a claimant files a claim where no other claims assert identical elements, the

Department normally will consider and recommend the claim independent of any other claim or claimant. This way the Department may avoid making possibly arbitrary judgments as to whether two claims are for the same water right. However, the Department will consider evidence in its possession that may indicate that claims truly are to the same water right. For example, if the United States, acting through the Bureau of Land Management, files a claim for a stock water right licensed in the name of the BLM, and a private individual files a claim to the same license, the Department may recommend the court disallow the private claim, because the license identifies the appropriator. Aggrieved parties still may work out ownership issues through the objection process, but by applying the additional evidence, the Department is spared endorsing multiple claims from one beneficial use in those situations where the Department does have sufficient information to identify when claims represent a single beneficial use.

Where claims assert some non-*de minimis* use, such as irrigation or power production, the Department may perform a more considered investigation into ownership. Because of the smaller number of these claims and the larger quantities diverted, there is greater justification for the expense. Generally, better records exist detailing the historical use of these lands, which allows the Department to make more accurate and complete recommendations.

The Department expects this new policy to produce generally more fair litigation, with each party subject to identical standards of proof before the court, which will proceed in a manner consistent with a common quiet title action. Also, the Department can produce such recommendations without excessively depleting its resources. In Reporting Area Six, (Basins 51, 55 and 61) the Department anticipates about 500 of such potentially competing claims, most of which are small domestic and stock water claims. The long term impact of this policy should be minimal. All of the other basins appear to contain significantly fewer competing claims. This means that once the small domestic and stock claims in Reporting Area 6 are completed, the new policy will have diminishing impact over the course of the SRBA.

By recommending water rights to lesser estate owners, the Department gives greater recognition to what has been long-standing law in Idaho - that lesser estate owners may hold title to water rights independent of the title to the appurtenant real estate, even in the cases of lessees and licensees on the federal public lands. The Department, however, will not prevent any potential theory of water right ownership available to the landowner-claimant. This procedure also does not appear to contravene any of the Department's obligations under Idaho Code Title 42.

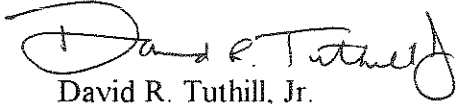
Although your suggestion to delay reporting these competing rights holds some appeal, the Department will not pursue that option at this time. After careful consideration, I do not believe that such a delay is in the best interests of the Department. One important reason with going forward with the domestic and stock water right Director's Report in Reporting Area 6 is that it allows the Department to spread out its future work load. Because the Western Region office is already committed to a reporting schedule, a delay now only will add work on top of the projects scheduled later. The Western Region office is already operating at its resource limit, and will be while producing the following non-*de minimis* report.

You should be aware that you will have an opportunity to construct pre-negotiation

settlements with claimants during the 120 day objection period after publication of the Director's Report recommendations. During this period, claimants may withdraw claims or change the listed owner to "United States," whatever your settlement entails. Regardless of how much time you have to reach these settlements, however, there could be potential hold-out claimants that will litigate the ownership issue.

As always, comments or suggestions on this process or any IDWR action may be directed to myself or Peter Anderson, at (208) 327-7929 and (208) 327-7975 respectively. Because the Department is working to meet established deadlines for the completion of the domestic and stock water recommendations for Reporting Area 6, you should submit your comments or suggestions prior to July 12, 1997 or as soon as otherwise possible. I hope this satisfies your request for a written statement.

Sincerely,

A handwritten signature in dark ink, appearing to read "David R. Tuthill, Jr.", with a stylized flourish at the end.

David R. Tuthill, Jr.
IDWR Adjudication Bureau Chief

cc: Bill Ferry
Randy Bramer



U.S. Department of Justice

Environment and Natural Resources Division

PFH
90-6-2-63C

Fritz Holleman
General Litigation Section
P.O. Box 663
Washington, DC 20044-0663

Telephone (202) 305-0494
Facsimile (202) 305-0506

July 31, 1997

Dave Tuthill *DM*
Adjudication Bureau Chief
Idaho Department of Water Resources
1301 N. Orchard Street,
P.O. Box 83720
Boise, Idaho 83720-0098

RECEIVED

AUG 05 1997

Re: IDWR Stockwater Policy Change

Department of Water Resources

Dear Mr. Tuthill:

Thank you for your letter of July 3rd. It is helpful for us to see IDWR's new policy for reporting ownership of water rights claimed in the SRBA in writing.

We were disappointed to learn that IDWR will not postpone its recommendations for competing claims to stockwater in Reporting Area 6. We think that we could have successfully settled many disputes regarding ownership of stockwater rights in Reporting Area 6 if IDWR had been willing to wait a few months before implementing its new policy. We believe that IDWR's new policy will result in many more contested subcases and accordingly much more work for the parties in the SRBA, the Court and IDWR.

We still question the need for a new policy. You cite Special Master Haemmerle's decision in the Joyce Livestock cases and Idaho's "long-standing law - that lesser estate owners may hold title to water rights," as the reasons for the change in policy. Neither reason is persuasive. There is nothing in Special Master Haemmerle's decisions that is inconsistent with the old policy that gave the benefit of the doubt to the landowner. Nor is there any Idaho law which recognizes that a mere grazing permittee, having nothing more than license to use federal public land for some limited purpose, may initiate a water right on that land.

The old policy of recommending the water right to the owner of the land as opposed to a non-landowner claiming a competing right was well defended in the recent 706 report produced by your

agency. In those few instances where someone other than the landowner is the proper owner of the water right, the prima facie presumption established by the director's report could have been easily overcome. In short, we feel the old policy was well grounded in the law, and was an efficient and fair method of reporting.

As we have explained in the past, we have a number of concerns with your new policy. First, we read Idaho Code Title 42 to require IDWR to investigate all of the claims made in the SRBA. This includes some analysis of ownership for the water rights claimed and analysis of the claimed priority dates. IDWR appears to recognize these obligations as your July 3rd letter explains that the agency will conduct an investigation of ownership for non-de minimis uses such as irrigation and power production. The statutes give IDWR no basis for conducting a less thorough investigation regarding ownership of de minimis water rights. The reasons given in your letter, that such investigations would be expensive and time consuming, are not exceptions to the obligations set forth by the legislature in Title 42. The proposed new policy of reporting water rights with more than one owner seems an abrogation of the duties imposed by Title 42.

More troubling, however, is your selective application of Special Master Haemmerle's decisions in the Joyce Livestock subcases. You cite his decision as the basis for the new policy, but fail to explain how that decision in anyway supports the new policy. In fact, your new policy appears contrary to the Special Master's ruling that stockwater rights used on the federal public land are appurtenant to the federal public land. Such rights cannot pass under the general appurtenance clause of a deed conveying private property. Special Master Haemmerle concluded that unless specifically described in a conveying document, the earliest priority date any rancher can claim to stockwater on the federal public land is the date that he or she began using the particular stockwater source. See e.g., In Re SRBA Subcase Nos. 57-04028 et.al., Findings of Fact and Conclusions of Law, July 24, 1997, at 3-5.

In the adjudication of the test basins, we have yet to encounter a rancher with a clear chain of title to stockwater rights initiated by a predecessor in interest on the federal public land. Any claim to stockwater with a priority date more than thirty or forty years old is suspect under the Special Master's ruling and should not be recommended by IDWR.

The policy regarding what is and what is not a competing claim is also troubling. Under the new policy, IDWR will recognize two claims as competing claims only where every element, including priority date, is exactly the same. IDWR is

on record in the Joyce Livestock subcases as agreeing with the United States' that there cannot be more than one water right for the same beneficial use. To be consistent, IDWR should acknowledge that any two water rights claimed to serve the same stock are in direct competition, regardless of the claimed priority date. Where both the United States and a private rancher have claimed a stockwater right from the same source to serve the same cattle, there can be only one water right. Under Title 42, IDWR is charged with making an initial determination regarding to whom that right should be issued. The investigations conducted by IDWR should at a minimum identify water rights that are claimed from the same source for the same beneficial use.

Thank you again for putting the new policy in writing and for this opportunity to comment.

Sincerely,

A handwritten signature in cursive script, appearing to read "Fritz Holleman", followed by a long horizontal line extending to the right.

Fritz Holleman
Lee Leininger
Attorneys, USDOJ
Environment and Natural Resources
Division