

DEPARTMENT OF  
WATER RESOURCES

1. My present position is that of Water Rights Specialist for the United States, Department of Interior, Bureau of Land Management (hereinafter "BLM"), Idaho State office. My current responsibilities include coordinating the BLM's efforts for the Snake River Basin Adjudication (hereinafter "SRBA") in Idaho. In that capacity, I provide guidance and technical support to the State Director, Field Office Managers, and technical specialists in BLM field offices, particularly those specialists working in water rights and related issues. I develop agency policy on water issues and in other programs affected by water rights, such as the range management and realty programs. I also review, interpret and analyze water rights claims for preparing opinions, recommendations, objections and other SRBA documents to the Department of Justice.

2. I have been employed by the BLM since 1982 in the following positions:

a. Eleven and a half years in various positions within the Rangeland Firefighting Program at the BLM, Shoshone Field Office. I spent 12 months working on that office's water rights team to develop and create 5,500 BLM claims;

b. Since August of 1993 as a Water Rights Specialist in the BLM, State Office;

3. My experience with water rights is as follows:

a. My eleven and a half years in BLM's fire program required that I have the ability to understand and interpret maps, legal land descriptions, and Range Improvement Project Files. I was routinely required to: travel to remote fire locations with just a map; map the position and extent of fires for which I was responsible; locate, construct and maintain range improvements (including but not limited to: spring developments, pipelines and fences), and to supplement the range improvement project files. I taught several

courses to new employees in interpreting maps and BLM Master Title Plats, as well as, in the use of a compass. In my work with the BLM, I have been responsible for tasks requiring an ability to interpret: maps, legal land descriptions, and water claims, including the preparation, mapping and review of 5,500 SRBA water right claims for BLM. I have reviewed hundreds of Range Improvement Project Files for the purpose of locating the project, to determine when it was constructed, whether it was completed, whether it is still functional, to identify candidates for filing SRBA water claims, and to capture certain types of projects into the Geographic Information System (i.e. computer mapping system).

b. As a Water Rights Specialist in the BLM State Office, it is my responsibility to provide guidance and direction to Idaho BLM offices in all matters relating to water rights, and make recommendations to the Department of Justice. My experience with water rights in my present position is as follows. I develop policy for BLM across several programs to deal with water issues, such as the range management and realty programs. I have reviewed tens of thousands of legal land descriptions represented in Points of Diversion (hereinafter "POD") and Places of Use (hereinafter "POU") that were published in SRBA Director's Reports to determine land ownership by comparing those land descriptions to BLM's Master Title Plats and Historical Indexes. I have reviewed hundreds of deeds to determine who owned what land descriptions. I've determined the changes needed to over a thousand water right descriptions for use with the SRBA Standard Form 5 (hereinafter "SF-5") to resolve objections involving the BLM. I have extensive knowledge of, and experience with, the official business records of BLM and the Idaho Department of Water Resources (hereinafter "IDWR"), including but not limited to: BLM water right claim files, BLM field investigations, Master Title Plats, Historical

Indexes, Control Document Indexes (hereinafter "CDI"), Tract Books, IDWR Adjudication Files, and IDWR Water Right Files. I provide advice, guidance and direction to BLM field office personnel as to investigating and preparing claims, how to interpret water rights and how they relate to other water rights. For hundreds of subcases, I have made determinations whether multiple claims exist for the same source and what the nature of their relationship is to each other. I have reviewed hundreds of Range Improvement Project Files for the purpose of locating the project, to determine when it was constructed, whether it was completed, if it is still functional, who contributed to the construction and in what amounts, and to determine whether water is present and in what amounts. I developed the investigative criteria to be used for BLM field offices to investigate water sources for claims preparation and for objection purposes. I have reviewed thousands of BLM claim files and field investigations conducted by BLM. I have also performed investigations of water rights in the field. I routinely provide technical assistance, reports, recommendations and opinions to the Department of Justice concerning all the above matters.

4. At the request of counsel for the United States, I have reviewed the official business records of BLM and IDWR regarding the captioned subcase for an SRBA claim made by the United States of America on behalf of the BLM, and have reached the determinations described herein.

5. The Master Title Plat (hereinafter "MTP") is an official business record of BLM. The MTP is the United States' official Record of Title. It is a graphic display of township survey data, and is drafted from information abstracted, compiled, and composed from the latest approved

U.S. Government Survey Plats, survey field notes, and protraction diagrams. It describes the locations of United States property, aliquot parcels, and government surveyed "lots."

The Historical Index (hereinafter "HI") is an official business record of the United States that maintains a time line of events occurring on United States' property.

6. Based upon a review of BLM's SRBA water right claim file and IDWR's abstract/recommendation, the captioned subcase is a BLM "dual" claim based upon state and federal law. The federal claim basis is claimed pursuant to Executive Order 5389 dated July 7, 1930 and known as the Medicinal Springs Public Water Reserve. The state basis is based on beneficial use and the 09-19-1926 priority is the date water was diverted from the source.

7. I have reviewed the official business records of BLM and compared the captioned subcase to BLM's MTPs and HIs. I was able to determine that the above captioned subcase is located on unreserved federal public domain as of July 7, 1930; and this land currently remains under Department of Interior administration.

8. The water source described by the captioned subcase was confirmed by field investigation.

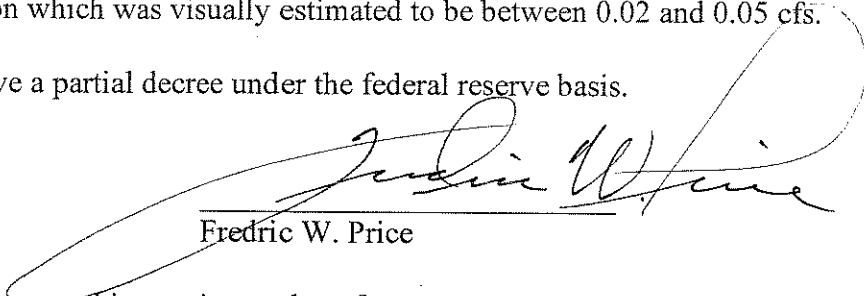
9. Based upon the field verification and my review of the field investigation and claim file documents for the captioned subcase, there is sufficient surface water at this site for use under the Medicinal Hot Springs reservation (E.O. 5389).

10. Based upon the field verification and my review of the field investigation and claim file documents, the source of water for the captioned subcase is a hot spring located at the Point of Diversion (hereinafter "POD") and Place of Use (hereinafter "POU") described in the SF-5 that was filed with the court on October 15, 2007.

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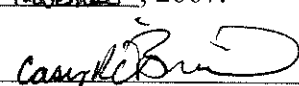
11. I have reviewed the official business records of BLM for the captioned subcase for a federal reserved water right pursuant to Executive Order 5389 and known as the Medicinal Springs Public Water Reserve. The elements of the claimed water rights have been verified through examination of the claim file and physical field investigation and is correctly described in the SF-5 that was filed with the court on October 15, 2007. The quantity for a federal reservation pursuant to the Medicinal Springs Public Water Reserve is based on the available flows estimated at the time of field verification which was visually estimated to be between 0.02 and 0.05 cfs.

BLM prefers to receive a partial decree under the federal reserve basis.

  
Fredric W. Price

Subscribed and sworn to before me this 14 day of November, 2007.  
Witnessed by my hand and official seal.



  
Casey R. O'Brien  
Notary Public in and for the State of Idaho  
Residing at: Nampa, Idaho  
My Commission Expires: 10-31-2009

### CERTIFICATE OF SERVICE

I certify that on Nov. 14, 2007, I served a true and correct copy of the foregoing **AFFIDAVIT OF FREDRIC W. PRICE; SUBCASE NUMBER: 74-15514** by placing the document in the United States Mail in Boise, Idaho, postage paid, and addressed as follows:

Original to:

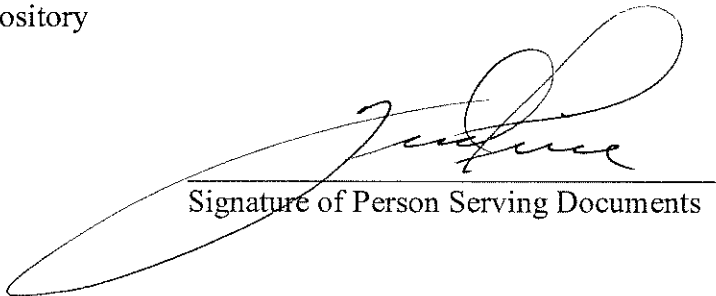
Clerk of the District Court  
Snake River Basin Adjudication  
253 Third Avenue North  
P.O. Box 2707  
Twin Falls, ID 83303-2707

Copies to:

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

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

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



Signature of Person Serving Documents

ATTACHMENT 1

Executive Order 5389

Dated 07-07-1930

EXECUTIVE ORDER

Withdrawal of Public Lands Containing Medicinal Springs  
United States

Under authority of the act of Congress approved June 25, 1910 (36 Stat. 847), as amended by the act of August 24, 1912 (37 Stat. 497), it is hereby ordered that every smallest legal subdivision of the public land surveys which is vacant unappropriated unsurveyed public land and contains a hot spring, or a spring the waters of which possess curative properties, and all land within one-quarter of a mile of every such spring located on unsurveyed public land, exclusive of Alaska, be, and the same is hereby, withdrawn from settlement, location, sale, or entry, and reserved for lease under the provisions of the act of March 3, 1925 (43 Stat. 1133), subject to valid existing rights.

This order shall remain in full force and effect unless and until revoked by the President or by act of Congress.

HERBERT HOOVER

The White House,  
July 7, 1930.

(No. 5389)