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MAY 21 2008

DEPARTMENT OF
WATER RESOURCES

Names of Parties Filing Document:

UNITED STATES OF AMERICA

Attorneys' Names and Addresses:

RONALD J. TENPAS
Acting Assistant Attorney General
Environment and Natural Resources Division

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Trial Attorney, U.S. Dept. of Justice
Natural Resources Section
Environment and Natural Resources Division
550 West Fort Street, MSC 033
Boise, Idaho 83724
Ph.: (303) 312-7322 FAX: (303) 312-7379

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

In Re SRBA

Case No. 39576

)
) Subcase Numbers: 75-12504 et. al.
) see Attachment 1
)
)

) **AFFIDAVIT OF**
) **FREDRIC W. PRICE**
)

STATE OF IDAHO)

)
) ss:
COUNTY OF ADA)

I Fredric W. Price, being of lawful age, and having first been duly sworn, do depose and
state:

1. My name is Fredric W. Price. I am an employee of the United States, Department
of Interior, Bureau of Land Management. The following statements are based upon my personal

knowledge. 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 right 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. Water Rights Specialist at the BLM, State Office in Boise, Idaho since August of 1993.

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), prepare as-built drawings, 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 at the BLM State Office, it is my responsibility to provide guidance and direction to Idaho BLM offices in all matters relating to water rights. I am also responsible for making recommendations to the Department of Justice and provide technical support on matter involving the SRBA. 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 used these resources to determine the ownership history for thousands of legal land descriptions. I provide training to BLM employees in how to read and interpret 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 for thousands of water right descriptions

for use within settlement documents (such as 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 water right field investigations, Master Title Plats, Historical Indexes, Control Document Indexes (hereinafter "CDI"), Tract Books, Serialized Case Recordation Files, Cadastral Survey Plats, Mining Claim Files, Grazing Allotment Files, Grazing Operator Files, 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 of 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 subcases for an SRBA claims 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 files and IDWR's abstract/recommendations, the captioned subcases are BLM "dual" claims based upon state and federal law. The federal claim basis is claimed pursuant to an Executive Order, dated April 17, 1926, and known as Public Water Reserve 107 (hereinafter "PWR 107"). The state basis is based on beneficial use with a priority date of June 28, 1934. The 1934 date was reached through settlement with the State of Idaho.

7. I have reviewed the official business records of BLM and compared the captioned subcases to BLM's MTPs and HIs. I was able to determine that the above captioned subcases are located on unreserved federal public domain as of April 17, 1926; and this land currently remains under Department of Interior administration.

8. The water sources described by the captioned subcases were confirmed by field investigation.

9. Based upon the field verifications and my review of the field investigation and claim file documents for the captioned subcases, there is sufficient surface water at these sites for

consumptive use by livestock.

10. Based upon the field verifications and my review of the field investigations and claim file documents, the source of water for the captioned subcases are springs or waterholes located at the Points of Diversion (hereinafter "POD") and Places of Use (hereinafter "POU") described in the Director's Report recommendations/abstracts issued January 8, 2007 for the Basin 75 Irrigation & Other Claims Director's Report.

11. I have reviewed the official business records of BLM for the captioned subcases for a federal reserved water right pursuant to PWR 107. The elements of the claimed water rights have been verified through examination of the claim file and physical field investigation and are correctly described in the Director's Report recommendations/abstracts issued January 8, 2007 for the Basin 75 Irrigation & Other Claims Director's Report, except as follows. The quantity for a federal reservation based upon Public Water Reserve 107 should be 0.02 cfs, not to exceed 13,000 gpd. BLM prefers to receive a partial decree under the Federal Reserve basis.

a. **75-14394:** The place of use description for this claim in the Director's Report recommendation/abstract contains a typographical error in section. The section should be described as claimed in section 21 (see Attachment 2). Since this claim is to a spring, the place of use and point of diversion should be described at the same location. The place of

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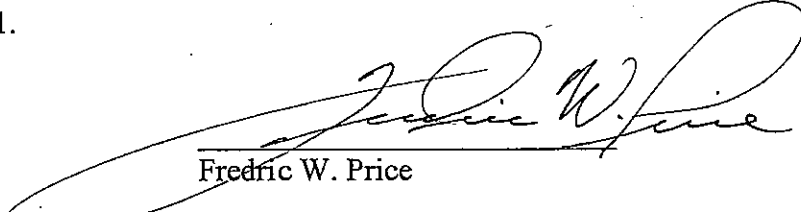
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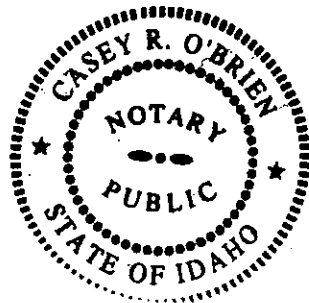
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use should be described consistent with the claimed and recommended/abstracted point of diversion in section 21.


Fredric W. Price

Subscribed and sworn to before me this 20th day of MAY, 2008.
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 May 20, 2008, I served a true and correct copy of the foregoing **AFFIDAVIT OF FREDRIC W. PRICE; SUBCASE NUMBER: 75-12504 et. al., together with Attachments 1 and 2** by placing the document in the United States Mail in Boise, Idaho, postage paid, and addressed as follows:

Original to:

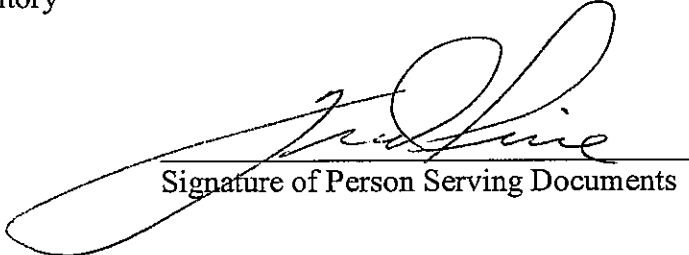
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

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

75-12504
75-12516
75-13042
75-14386
75-14390
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75-14429
75-14430

ATTACHMENT 2

Director's Report/Abstract

01/09/2007

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

RIGHT NUMBER: 75-14394

NAME AND ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE ID 83709-1657

SOURCE: SPRING

TRIBUTARY: SINKS

QUANTITY: 0.020 CFS

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

PRIORITY DATE: 06/28/1934

* 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.

POINT OF DIVERGENCE: T17N R20E S21 SESW Within LEMHI County

PURPOSE AND PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: STOCKWATER in LEMHI County
T17N R20E S20 SESW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

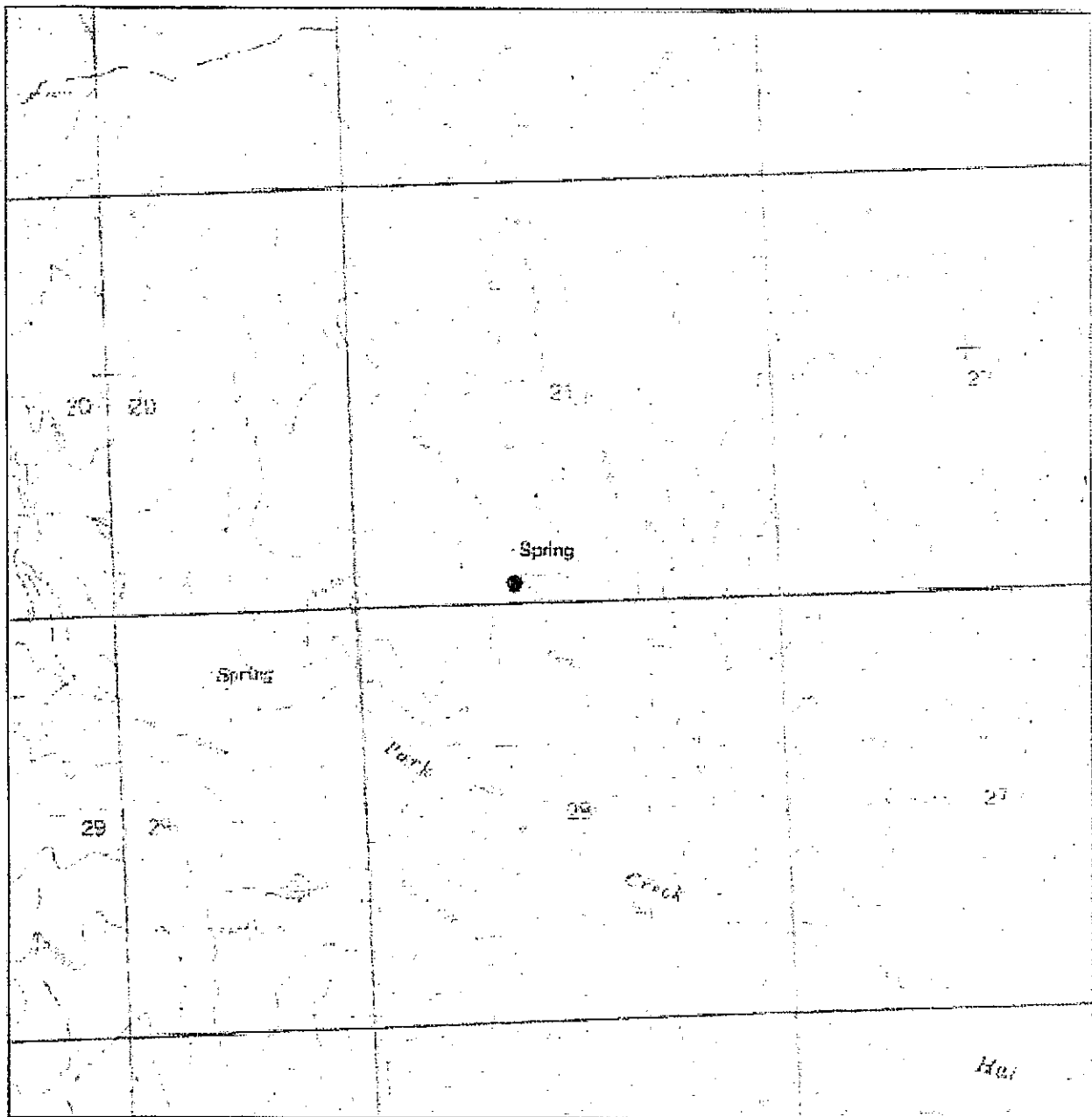
This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

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 ID NC. 7504638137

Notice of Claim

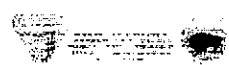
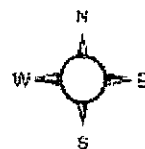
☐ PPD? ☐ PD? ☐ Adm? ☐ Prob? ☐ IN THE DISTRICT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS																					
In Re SRBA	NCAF																				
Case No. 39576	NOTICE of CLAIM for Water Right number: 75-14394 75-14394 (IDWR number)																				
NAME and ADDRESS	United States of America acting through Bureau of Land Management Idaho State Office 1387 South Vinnell Way Boise, ID 83709 - 1657																				
	Other Right and date: 4/17/1926																				
SOURCE:	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Source</td> <td style="width: 50%;">Tributary</td> </tr> <tr> <td>SPRING</td> <td>SINKS</td> </tr> </table>	Source	Tributary	SPRING	SINKS																
Source	Tributary																				
SPRING	SINKS																				
QUANTITY:	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%; text-align: center;">0.02</td> <td style="width: 20%; text-align: center;">CFS</td> <td style="width: 20%; text-align: center;">or VOLUME:</td> <td style="width: 20%;"></td> <td style="width: 20%; text-align: center;">Acre Feet</td> </tr> </table>	0.02	CFS	or VOLUME:		Acre Feet															
0.02	CFS	or VOLUME:		Acre Feet																	
	<i>The quantity of water under this right for stockwater shall not exceed 13,000 gallons per day.</i>																				
PRIORITY DATE:	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%; text-align: center;">06/28/1934</td> <td style="width: 60%;">Diversion Means: UNDEVELOPED SPRING</td> </tr> </table>	06/28/1934	Diversion Means: UNDEVELOPED SPRING																		
06/28/1934	Diversion Means: UNDEVELOPED SPRING																				
REMARKS:	Also reserved pursuant to Federal law ☒ 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.																				
POINT of DIVERSION:	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th>Twship</th> <th>Range</th> <th>Section</th> <th>T1</th> <th>T2</th> <th>T3</th> <th>LOT</th> <th>R/E</th> <th>within the</th> <th>County of</th> </tr> <tr> <td>17N</td> <td>20E</td> <td>21</td> <td>SE</td> <td>SW</td> <td></td> <td></td> <td></td> <td>59</td> <td>LEMHI</td> </tr> </table>	Twship	Range	Section	T1	T2	T3	LOT	R/E	within the	County of	17N	20E	21	SE	SW				59	LEMHI
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17N	20E	21	SE	SW				59	LEMHI												
PURPOSE and PERIOD OF USE:	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th>Purpose of Use</th> <th>Period of Use (from - to):</th> <th>Rate in CFS</th> <th>Volume in AcFt</th> </tr> <tr> <td>04</td> <td>0101 - 1231</td> <td>0.02</td> <td></td> </tr> </table>	Purpose of Use	Period of Use (from - to):	Rate in CFS	Volume in AcFt	04	0101 - 1231	0.02													
Purpose of Use	Period of Use (from - to):	Rate in CFS	Volume in AcFt																		
04	0101 - 1231	0.02																			
CONSUMPTIVE USE:	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">de minimis</td> <td style="width: 50%;">stockwater</td> </tr> </table>	de minimis	stockwater																		
de minimis	stockwater																				
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:	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th>Water Use</th> <th>Tw</th> <th>Rge</th> <th>Sec</th> <th>T1</th> <th>T2</th> <th>LOT</th> <th>Acres</th> <th>within the</th> <th>County of</th> </tr> <tr> <td>04</td> <td>17N</td> <td>20E</td> <td>21</td> <td>SE</td> <td>SW</td> <td></td> <td></td> <td>59</td> <td>LEMHI</td> </tr> </table>	Water Use	Tw	Rge	Sec	T1	T2	LOT	Acres	within the	County of	04	17N	20E	21	SE	SW			59	LEMHI
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04	17N	20E	21	SE	SW			59	LEMHI												



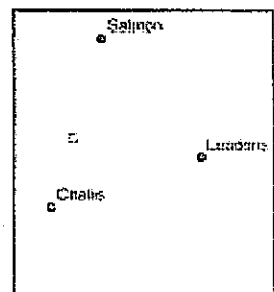
Legend

	PRIVATE
	BLM
	USFS
	STATE

730408 R137
undeveloped spring
T17N R20E S21 SESW
 Date of map 2006-09-08
 scale = 1:20,000

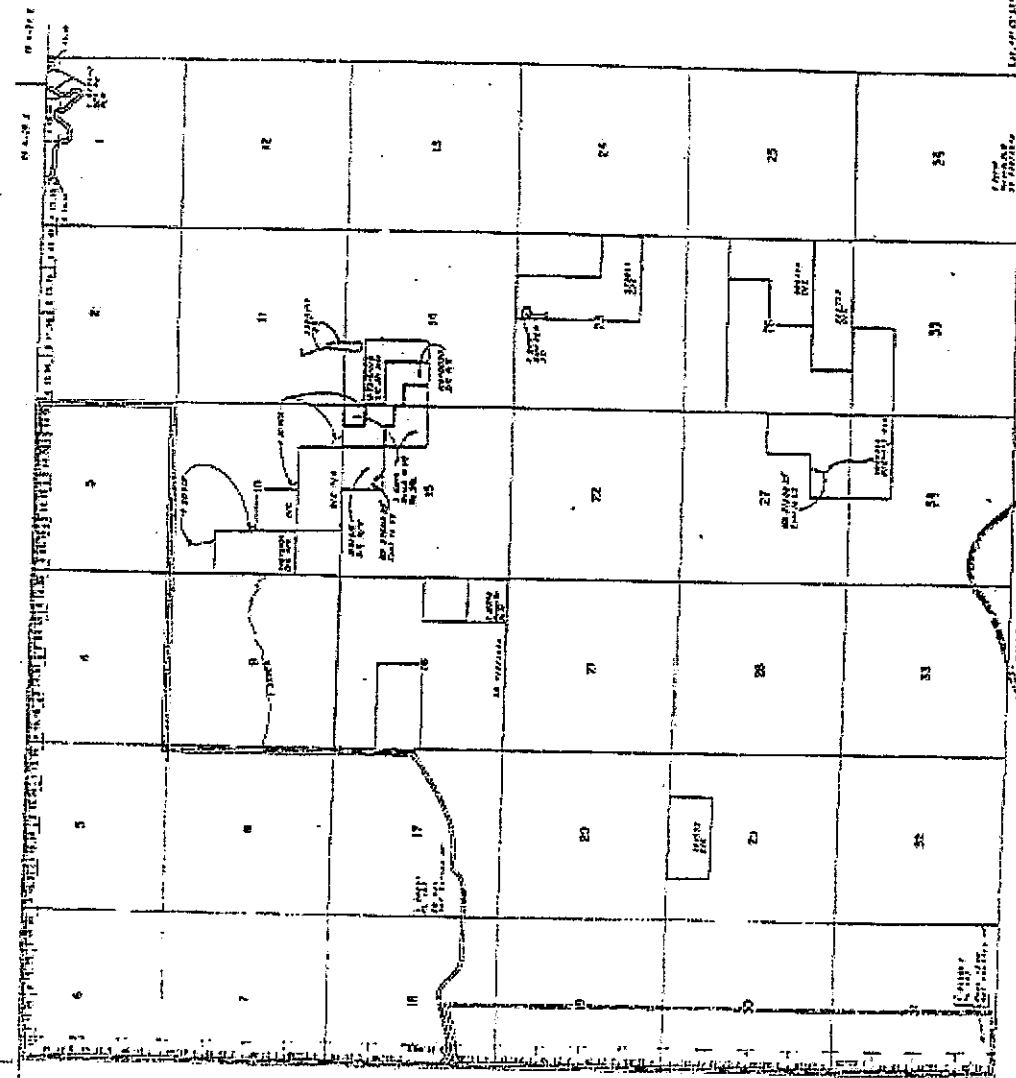


0 0.25 0.5 1 Miles



TOWNSHIP 17 NORTH RANGE 20 EAST OF THE BOISE MERIDIAN, IDAHO

Scale 1:62,500



LEWIS COUNTY

LEWIS COUNTY

LEWIS COUNTY

LEWIS COUNTY

LEWIS COUNTY

LEWIS COUNTY

LEWIS COUNTY

STATUS OF PUBLIC DOMAIN
LAND AND MINERAL INTERESTS

MT PLAT

SECTION	OWNER	ACRES	REMARKS
1			
2			
3			
4			
5			
6			
7			
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9			
10			
11	J. H. HARRIS	100	
12	J. H. HARRIS	100	
13	J. H. HARRIS	100	
14	J. H. HARRIS	100	
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36	J. H. HARRIS	100	

FOR THE STATE OF IDAHO
COUNTY OF LEWIS
I, J. H. HARRIS, do hereby certify that the above is a true and correct copy of the original record of the same as the same appears in the records of the County of Lewis, State of Idaho.

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WATER RIGHT CLAIM VERIFICATION

STATE OF IDAHO)
) ss:
COUNTY OF ADA)

DEC 17 2006
DEPARTMENT OF
WATER RESOURCES

CLAIMANT VERIFICATION:

Water Right Number: 75- (7504688137)

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

For Organizations:

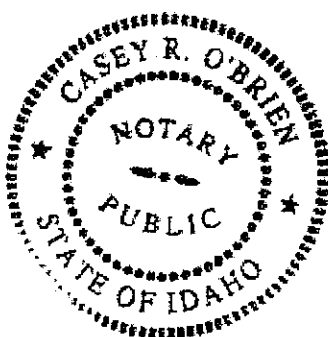
I do solemnly swear and affirm that I am Fredric W. Price, Water Rights Specialist of United States of America, acting through U.S.D.I., BLM, that I have signed the foregoing documents in the space below as Water Rights Specialist of United States of America, acting through U.S.D.I., BLM and that the statements contained in the foregoing documents are true and correct.

Signature of Authorized Agent *Fredric W. Price* for
the United States of America, acting through U.S.D.I., BLM

NOTARY:

Subscribed and sworn to before me on this 6th day of December, 2006.

Seal



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