



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

May 12, 2009

David J. Barber
Deputy Attorney General
Office of the Attorney General
P.O. Box 44449
Boise, ID 83711-4449

Sent via Statehouse Mail

RE: Subcase Nos. 27-12000, 27-12004, 27-12005, 27-12009 & 27-11016

Dear David:

I am enclosing SF5s and a *Stipulation to Resolve Objection* for the above-referenced subcases. Please review the documents, and if they are acceptable to you, please sign on the indicated signature lines, initial the recommendations and return the original documents to me. I will obtain the remaining signatures and file them with the SRBA Court.

If you should have any questions or comments, please feel free to contact me at 287-4815.

Sincerely,

A handwritten signature in cursive script that reads "Ray Williams".

Ray Williams
Paralegal

Enclosures

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. 27-12009
	)	
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that this water right should be disallowed. The parties and IDWR have further indicated their concurrence by initialing the attached page.

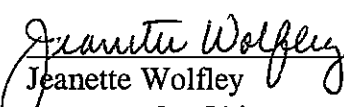
CLAIMANT:

Preston R. Allen & Sons Partnership

OBJECTOR:

Shoshone-Bannock Tribes

 4/20/09
By: _____ Date
Title: Partner

 4/16/09
Jeanette Wolfley Date
Attorney for Objector

RESPONDENT:

State of Idaho

David J. Barber Date
Attorney for Respondent

IDWR Concurrence:

Michael Holliday Date
Senior Water Resource Agent

Garrick L. Baxter Date
Deputy Attorney General
Attorney for IDWR

IDAHO DEPARTMENT OF WATER RESOURCES
CLAIMS / RIGHTS NOT RECOMMENDED

<u>W.R. NUMBER</u>	<u>NAME AND ADDRESS</u>	<u>CLAIM DISPOSITION</u>	<u>REASON</u>
27-12009	PRESTON R ALLEN & SONS PARTNERSHIP 1744 CEDAR VIEW RD SODA SPRINGS ID 83276	Disallowed	Recommended as Right No. 27-12004.

ka

jm

CERTIFICATE OF MAILING

I certify that on _____, 2009, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

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. Copies to:

SHOSHONE-BANNOCK TRIBES
Represented by:
JEANETTE WOLFLEY
SPECIAL COUNSEL
SHOSHONE-BANNOCK TRIBE
202 N. ARTHUR
POCATELLO, ID 83202

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV. CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
P.O. BOX 44449
BOISE, ID 83711-4449

DIRECTOR OF IDWR
P.O. BOX 83720
BOISE, ID 83720-0098

PRESTON R. ALLEN & SONS
PARTNERSHIP
1744 CEDAR VIEW RD.
SODA SPRINGS, ID 83276

Signature of person or attorney mailing the form

**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. 27-12000
	)	
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

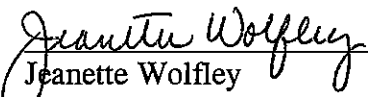
CLAIMANT:

Preston R. Allen & Sons Partnership

OBJECTOR:

Shoshone-Bannock Tribes

 4-20-09
By: _____ Date
Title: Partner

 4/16/09
Jeanette Wolfley Date
Attorney for Objector

RESPONDENT:

State of Idaho

David J. Barber Date
Attorney for Respondent

IDWR Concurrence:

Michael Holliday Date
Senior Water Resource Agent

Garrick L. Baxter Date
Deputy Attorney General
Attorney for IDWR

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

RIGHT NUMBER: 27-12000

NAME AND ADDRESS:

PRESTON R ALLEN & SONS
PARTNERSHIP
1744 CEDAR VIEW RD
SODA SPRINGS ID 83276

SOURCE:

Source:

BLACKFOOT RIVER

Tributary:

SNAKE RIVER

QUANTITY:

0.040 CFS

9.170 AFY

The rights listed below are limited to a total combined annual diversion volume of 9.17 af for stockwater. Combined Right Nos.: 27-11016, 27-12000, and 27-12004.

PRIORITY DATE:

08/02/1891

POINT OF DIVERSION:

T07S R43E S26 SWNESE
Within CARIBOU County

T07S R43E S26 SWNESE
Within CARIBOU County

~~T07S R43E S26 SENESE~~
~~Within CARIBOU County~~

PURPOSE AND
PERIOD OF USE:

Purpose of use:

Period of use:

Quantity:

STOCKWATER

01/01 12/31

0.040 CFS 9.17 AFY

~~07/02-04/14~~

ka

jm

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

PLACE OF USE: STOCKWATER within CARIBOU County
T07S R43E S26 SWSW
T07S R43E S26 SESW
T07S R43E S26 NESE
T07S R43E S26 SWSE
T07S R43E S26 SESE
T07S R43E S35 NWNE
T07S R43E S35 SWNE
T07S R43E S35 NENW
T07S R43E S35 SENW
T07S R43E S35 NESW
T07S R43E S35 SESW
T07S R43E S35 NWSE

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

This right is a split from former right 27-11018.

Stockwater use is for 500 single range cows Nov 16th to April 30th (3.06 AF) and 500 pairs from May 1st to Nov 15th (6.11AF).

Ka

gm

CERTIFICATE OF MAILING

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JEANETTE WOLFLEY
SPECIAL COUNSEL
SHOSHONE-BANNOCK TRIBE
202 N. ARTHUR
POCATELLO, ID 83202

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV. CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
P.O. BOX 44449
BOISE, ID 83711-4449

DIRECTOR OF IDWR
P.O. BOX 83720
BOISE, ID 83720-0098

PRESTON R. ALLEN & SONS
PARTNERSHIP
1744 CEDAR VIEW RD.
SODA SPRINGS, ID 83276

Signature of person or attorney mailing the form

**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. 27-12005
	)	
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

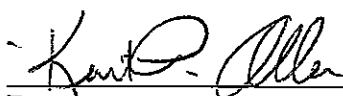
The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialing each of the attached pages.

CLAIMANT:

Preston R. Allen & Sons Partnership

OBJECTOR:

Shoshone-Bannock Tribes

 4-20-09
By: _____ Date
Title: Partner

 4/16/09
Jeanette Wolfley Date
Attorney for Objector

RESPONDENT:

State of Idaho

David J. Barber Date
Attorney for Respondent

IDWR Concurrence:

Michael Holliday Date
Senior Water Resource Agent

Garrick L. Baxter Date
Deputy Attorney General
Attorney for IDWR

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

RIGHT NUMBER: 27-12005

NAME AND ADDRESS:

PRESTON R ALLEN & SONS
PARTNERSHIP
1744 CEDAR VIEW RD
SODA SPRINGS ID 83276

SOURCE:

Source:
SLUG CREEK

Tributary:

BLACKFOOT RIVER

QUANTITY:

0.020 CFS
9.170 AFY

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

Right Nos. 27-12003 and 27-12005 are limited to a total combined annual diversion volume of 9.17 AF for stockwater.

PRIORITY DATE: 04/01/1885

POINT OF DIVERSION:

T07S R43E S34 NWSWSE End of Stream Flow
Within CARIBOU County

T07S R43E S34 SESWSE Begin of Stream Flow
Within CARIBOU County

T08S R43E S2 NWSWNW End of Stream Flow
Within CARIBOU County

T08S R43E S13 SESWSW Begin of Stream Flow
Within CARIBOU County

PURPOSE AND
PERIOD OF USE:

Purpose of use:

Period of use:

Quantity:

STOCKWATER

01/01 12/31

0.020 CFS 9.17 AFY

Ka

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

PLACE OF USE: STOCKWATER within CARIBOU County

T07S R43E S34 SWSE
T08S R43E S02 SWNW
T08S R43E S02 SENW
T08S R43E S02 NESW
T08S R43E S02 SESW
T08S R43E S02 SWSE
T08S R43E S11 NWNE
T08S R43E S11 SWNE
T08S R43E S11 NENW
T08S R43E S11 SENW
T08S R43E S11 NESW
T08S R43E S11 NESE
T08S R43E S11 NWSE
T08S R43E S11 SWSE
T08S R43E S11 SESE
T08S R43E S13 SWNW
T08S R43E S13 NWSW
T08S R43E S13 SWSW
T08S R43E S14 NWNE
T08S R43E S14 SWNE
T08S R43E S14 SENE
T08S R43E S14 NESE

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

Stockwater use is for 500 single range cows Nov 16th to April 30th (3.06 AF) and 500 pairs from May 1st to Nov 15th (6.11AF).

Ka

gm

CERTIFICATE OF MAILING

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SPECIAL COUNSEL
SHOSHONE-BANNOCK TRIBE
202 N. ARTHUR
POCATELLO, ID 83202

STATE OF IDAHO
Represented by:
NATURAL RESOURCES DIV. CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
P.O. BOX 44449
BOISE, ID 83711-4449

DIRECTOR OF IDWR
P.O. BOX 83720
BOISE, ID 83720-0098

PRESTON R. ALLEN & SONS
PARTNERSHIP
1744 CEDAR VIEW RD.
SODA SPRINGS, ID 83276

Signature of person or attorney mailing the form

In Re SRBA	)	Subcase No. 27-12004
	)	
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

1

RESPONDENT:

State of Idaho

David J. Barber Date
Attorney for Respondent

IDWR Concurrence:

Michael Holliday Date
Senior Water Resource Agent

Garrick L. Baxter Date
Deputy Attorney General
Attorney for IDWR

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

RIGHT NUMBER: 27-12004

NAME AND ADDRESS:

PRESTON R ALLEN & SONS
PARTNERSHIP
1744 CEDAR VIEW RD
SODA SPRINGS ID 83276

SOURCE:

Source:
BLACKFOOT RIVER

Tributary:

SNAKE RIVER

QUANTITY:

0.020 CFS
9.170 AFY

The rights listed below are limited to a total combined annual diversion volume of 9.17 af for stockwater. Combined Right Nos.: 27-11016, 27-12000, and 27-12004.

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

PRIORITY DATE:

04/01/1885

POINT OF DIVERSION:

T07S R43E S26 NENESE Begin of Stream Flow
Within CARIBOU County

~~T07S R43E S26 SENESE Begin of Stream Flow~~
~~Within CARIBOU County~~

T07S R43E S34 NWESW End of Stream Flow
Within CARIBOU County

~~T07S R43E S34 SWESW End of Stream Flow~~
~~Within CARIBOU County~~

PURPOSE AND
PERIOD OF USE:

Purpose of use:

Period of use:

Quantity:

STOCKWATER

01/01 12/31

0.020 CFS

9.17 AFY

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

PLACE OF USE: STOCKWATER within CARIBOU County

T07S R43E S26 NESE

T07S R43E S26 SWSE

T07S R43E S26 SESE

T07S R43E S34 SENE

T07S R43E S34 NESW

T07S R43E S34 NESE

T07S R43E S34 NWSE

~~T07S R43E S34 SWSE~~

T07S R43E S35 NWNE

T07S R43E S35 NENW

T07S R43E S35 SWNW

T07S R43E S35 SENW

T07S R43E S35 NWSW

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

Stockwater use is for 500 single range cows Nov 16th to April 30th (3.06 AF) and 500 pairs from May 1st to Nov 15th (6.11AF).

KQ

jm

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SHOSHONE-BANNOCK TRIBE
202 N. ARTHUR
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STATE OF IDAHO

Represented by:
NATURAL RESOURCES DIV. CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
P.O. BOX 44449
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DIRECTOR OF IDWR
P.O. BOX 83720
BOISE, ID 83720-0098

PRESTON R. ALLEN & SONS
PARTNERSHIP
1744 CEDAR VIEW RD.
SODA SPRINGS, ID 83276

Signature of person or attorney mailing the form

**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. 27-11016

Case No. 39576

**STIPULATION TO RESOLVE
OBJECTIONS**

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The claimant and IDWR agree and stipulate that the elements of this water right should be described per the attached and that this stipulation resolves the objections to the quantity of the stockwater component of this water right. **The parties and IDWR acknowledge that the objections to the Director's Report filed by the Shoshone-Bannock Tribe and the Bureau of Indian Affairs concerning an annual irrigation diversion volume are still outstanding.** The parties and IDWR have further indicated their concurrence by initialing the attached page.

CLAIMANT:

Preston R. Allen & Sons Partnership

By: Kent P. Allen 4-20-09
Date
Title: Partner

OBJECTORS:

Peter C. Monson, USDOJ Date
Attorney for BIA

Jeannette Wolfley 4/16/09
Jeannette Wolfley Date
Attorney for Shoshone-Bannock Tribes

RESPONDENT:

David J. Barber Date
Attorney for State of Idaho

Jerry R. Rigby 5-1-09
Jerry R. Rigby Date
Attorney for Committee of Nine

IDWR Concurrence:

Michael Holliday Date
Senior Water Resource Agent

Garrick L. Baxter Date
Deputy Attorney General
Attorney for IDWR

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

RIGHT NUMBER: 27-11016

NAME AND ADDRESS: PRESTON R ALLEN & SONS PARTNERSHIP
1744 CEDAR VIEW RD
SODA SPRINGS ID 83276

SOURCE: BLACKFOOT RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 27.200 CFS

The rights listed below are limited to a total combined diversion rate of 27.2 cfs. Combined Right Nos.: 27-11016, 27-12027 and 27-10096.

The rights listed below are limited to a total combined annual diversion volume of 9.17 af for stockwater. Combined Right Nos.: 27-11016, 27-12000, and 27-12004.

PRIORITY DATE: 11/01/1886

POINT OF
DIVERSION:

T07S R43E S26 SWNESE Within CARIBOU County

T07S R43E S26 SWNESE Within CARIBOU County

~~T07S R43E S26 SENESE Within CARIBOU County~~

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE:	PERIOD OF USE:	QUANTITY:
IRRIGATION	04/15 07/01	27.200 CFS
STOCKWATER	04/15 07/01	0.040 CFS
		<u>2.400 AFY</u>

PLACE OF USE: IRRIGATION in CARIBOU County

T07S R43E S26	SWSW	28.00	T07S R43E S26	SESW	17.00
T07S R43E S26	NESE	0.60	T07S R43E S26	SWSE	31.00
T07S R43E S26	SESE	11.00	T07S R43E S27	SWNE	8.00
T07S R43E S27	SENW	2.00	T07S R43E S27	NESW	7.00
T07S R43E S27	SWSW	4.50	T07S R43E S27	SESW	37.00
T07S R43E S27	NESE	2.40	T07S R43E S27	NWSE	13.00
T07S R43E S27	SWSE	24.00	T07S R43E S27	SESE	39.00
T07S R43E S34	NENE	40.00	T07S R43E S34	NWNE	40.00
T07S R43E S34	SWNE	40.00	T07S R43E S34	SENE	39.00
T07S R43E S34	NENW	40.00	T07S R43E S34	NWNW	31.00
T07S R43E S34	SENW	40.00	T07S R43E S34	NESW	30.00
T07S R43E S34	NESE	15.00	T07S R43E S34	NWSE	20.00

Stipulation

27-11016

1

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

T07S R43E S34	SWSE	19.00	T07S R43E S34	SESE	40.00
T07S R43E S35	NWNE	20.00	T07S R43E S35	SWNE	25.00
T07S R43E S35	NENW	22.00	T07S R43E S35	NWNW	27.00

T07S R43E S35	SWNW	19.00	T07S R43E S35	SENW	37.00
T07S R43E S35	NESW	40.00	T07S R43E S35	NWSW	32.00
T07S R43E S35	SWSW	40.00	T07S R43E S35	SESW	34.00
T07S R43E S35	NWSE	23.00	T07S R43E S35	SWSE	15.00
T08S R43E S02 Lot 3	NENW	6.50	T08S R43E S02 Lot 4	NWNW	35.00
T08S R43E S03 Lot 1	NENE	27.00			

STOCKWATER same as IRRIGATION

1021 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 1021 acres in a single irrigation season. Combined Right Nos.: 27-11016, 27-12027, and 27-10096.

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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

This right is a combination of old Right Nos. 27-32, 27-42, 27-43 and 27-44.

Stockwater use is for 500 cow/calf pairs.

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

KC
JRL

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SPECIAL COUNSEL
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POCATELLO, ID 83202

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Represented by:
NATURAL RESOURCES DIV. CHIEF
STATE OF IDAHO
ATTORNEY GENERAL'S OFFICE
P.O. BOX 44449
BOISE, ID 83711-4449

UNITED STATES OF AMERICA

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724

COMMITTEE OF NINE

Represented by:
BARKER, RSHOLT & SIMPSON LLP
113 MAIN AVE W, STE 303
P.O. BOX 485
TWIN FALLS, ID 83303-0485

COMMITTEE OF NINE

Represented by:
RAY W. RIGBY
25 N 2ND E
P.O. BOX 250
REXBURG, ID 83440-0250

PRESTON R. ALLEN & SONS
PARTNERSHIP
2601 E 300 S
DECLO, ID 83323

DIRECTOR OF IDWR
P.O. BOX 83720
BOISE, ID 83720-0098

Signature of person or attorney mailing the form