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DEPARTMENT OF
WATER RESOURCES

Names of Parties Filing Document:

UNITED STATES OF AMERICA

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

In Re SRBA	)	
	)	Subcase Number: 73-12091 et. al.
Case No. 39576	)	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 a BLM "dual" claim based upon state and federal law. The state basis is based on beneficial use with a priority date of June 28, 1934. The 1934 date under state law was reached through settlement with the State of Idaho.

a. **PWR-107 ONLY:** For water right claims 73-12091, 73-12097, 73-12098, 73-12099, and 73-12100, 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").

b. **PWR-107 & PWR-47:** For water right claims 73-12092, 73-12093, 73-12094, 73-12095, and 73-12096, the federal claim basis asserts two separate federal reservations made pursuant to: an Executive Order dated April 17, 1926 and known as Public Water Reserve 107 (hereinafter "PWR 107"); and an Executive Order dated April 7,

1917 and known as Public Water Reserve 47 (hereinafter "PWR 47").

c. Attachment 2 to this affidavit is a true and correct copy of PWR 47 made personally by me from official business records of the United States which are located in my office.

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 7, 1917; 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 25, 2007 for the Basin 73 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 47 and 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 25, 2007 for the Basin 73 Irrigation & Other Claims Director's Report.

A quantity of 0.02 cfs, not to exceed 13,000 gpd, for stockwatering purposes is sufficient to satisfy the federal reservations based upon Public Water Reserve 47 or 107.

a. For water right claims 73-12091, 73-12097, 73-12098, 73-12099, and 73-12100, BLM prefers to receive partial decrees under the federal reserve basis made pursuant to PWR-107.

b. For water right claims 73-12092, 73-12093, 73-12094, 73-12095, and 73-12096, BLM prefers to receive partial decrees under the **senior** federal reserve basis made pursuant to PWR-47.

Fredric W. Price

Subscribed and sworn to before me this 12th day of February, 2010.
Witnessed by my hand and official seal.

SHERMAN SCOTT BEAZER NOTARY PUBLIC STATE OF IDAHO

Sherman Scott Beazer

Notary Public in and for the State of Idaho
Residing at: Boise, Idaho
My Commission Expires: 12-10-2015

CERTIFICATE OF SERVICE

I certify that on Feb. 12, 2010, I served a true and correct copy of the foregoing **AFFIDAVIT OF FREDRIC W. PRICE; SUBCASE NUMBER: 73-12091, 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

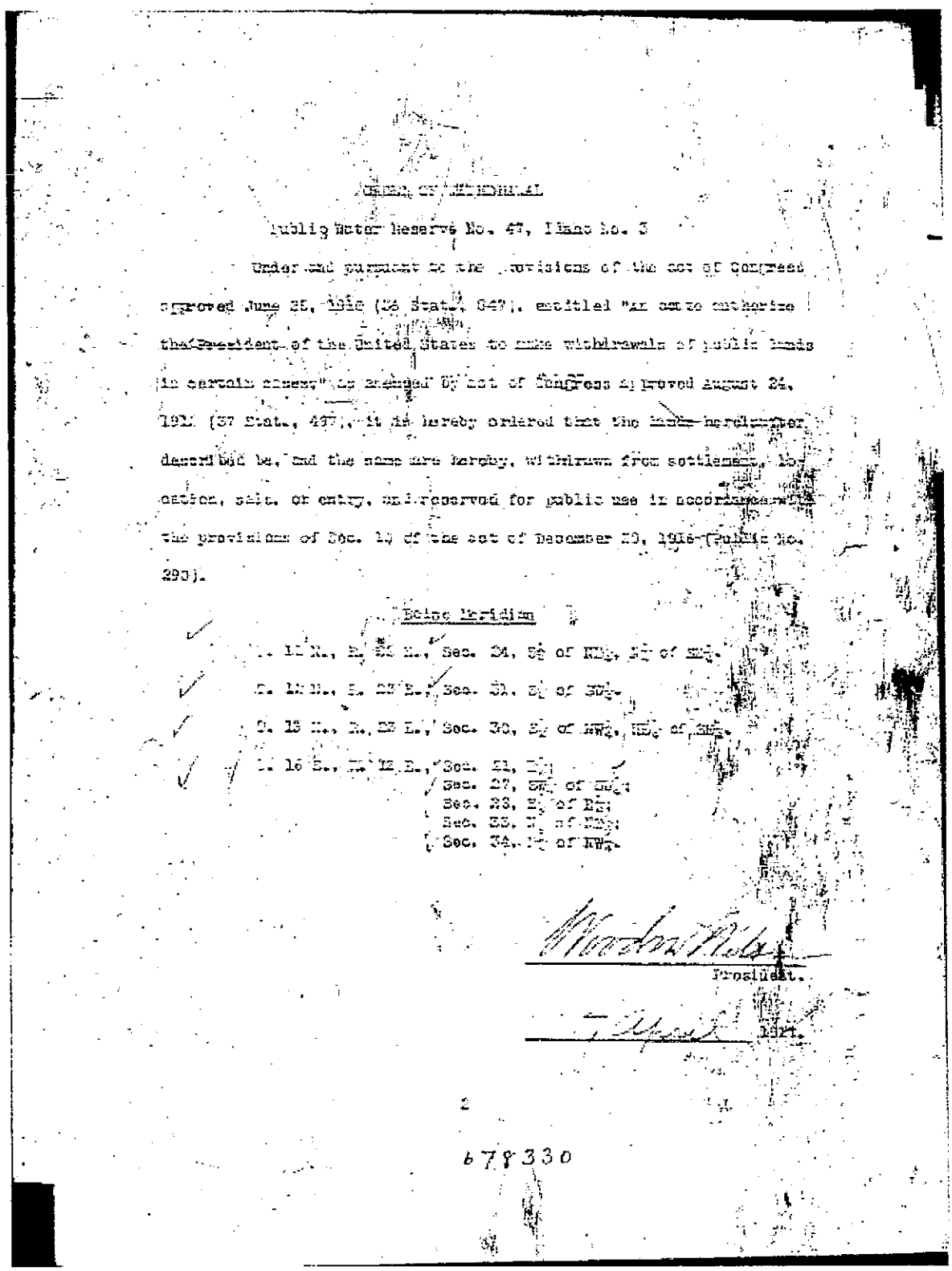
IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

Signature of Person Serving Documents

ATTACHMENT 1

73-12091
73-12092
73-12093
73-12094
73-12095
73-12096
73-12097
73-12098
73-12099
73-12100

ATTACHMENT 2



Public Water Reserve No. 47, Idaho No. 3

Under and pursuant to the provisions of the act of Congress approved June 25, 1910 (36 Stat., 847), entitled "An act to authorize the President of the United States to make withdrawals of public lands in certain cases," as amended by act of Congress approved August 24, 1912 (37 Stat., 497), it is hereby ordered that the lands hereinafter described be, and the same are hereby, withdrawn from settlement, location, sale, or entry, and reserved for public use in accordance with the provisions of Sec. 10 of the act of December 29, 1916 (Public No. 293).

Boise Meridian

1. 11 N., R. 22 E., Sec. 34, S½ of NE¼, S½ of SW¼.
2. 12 N., R. 22 E., Sec. 3, E½ of SW¼.
3. 13 N., R. 22 E., Sec. 30, S½ of NW¼, NE¼ of SW¼.
4. 16 S., R. 18 E., Sec. 21, E½;
   Sec. 27, SW¼ of SW¼;
   Sec. 28, E½ of E½;
   Sec. 33, E½ of NE¼;
   Sec. 34, N½ of NW¼.

Woodrow Wilson

President.

February 1, 1921.

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