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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

Case No. 39576

)
) Subcase Numbers: 37-20289 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, except as follows.

a. **37-20292:** This claim to a playa (i.e. waterhole) describes land (T02N, R19E, S04, SWSWSW) that has always been in federal ownership. This claim was investigated in the field by BLM personnel on May 23, 1997 who verified the existence of the playa. During my review of the claim file for preparation of this affidavit, I noticed a

discrepancy between the field investigation photo and aerial photography for this area, in that there is no playa in this location on the aerial photography. I was able to match up the field investigation photo to a playa of the same dimension, shape and character located nearby within the SWSWSE, S04, T02N, R19E. There is a typographical error in legal land description in the Notice of Claim for 37-20292 which carried over into IDWR's Director's Report recommendation /abstract. I did not catch the typographical error in POD & POU contained in the field investigation when the Notice of Claim was completed (signed) on April 15, 2002.

With regard to the actual location of the playa intended by 37-20292 within SWSWSE, S04, T02N, R19E, this land left federal ownership pursuant to Stockraising Homestead (Blackfoot #038387) Patent #974138 issued to Worley N. Head on February 8, 1926. This land was reacquired by the United States on July 22, 1992 pursuant to Corporation Warranty Deed #343152 from Highland Part and Parcels, Inc.

b. 37-20497, 37-20514, 37-20515, 37-20517, 37-20518, 37-20519, 37-20520, 37-20521, 37-20527, 37-20529, 37-20530, 37-20532, 37-20534 and 37-20537: These claims describe the location of the spring or waterhole to be within Boundary Enlargement of the Craters of the Moon National Monument made pursuant to Presidential Proclamation 7373 of November 9, 2000. Pursuant to the language of this proclamation, it appears that PWR-107 reservations are not affected by the proclamation (see pg 2, paragraphs 4, 8, 10 and 11).

Attachment 2 to this affidavit is a true and correct copy of an official business record of the Bureau of Land Management obtained by me from serial case file #IDI-012279 of Proclamation 7373 as published in the Federal Register, Vol 65, No. 221, dated

November 15, 2000.

c. **37-20509:** This claim resides on land (T02S, R22E, S36, SWSW) which left federal ownership pursuant to a State Grant dated October 16, 1913. The land described in this claim was reacquired from the State of Idaho by BLM pursuant to Deed No. 12647 (Wendell Phase I Land Exchange) dated October 2, 1991.

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 dated February 20, 2007 from the Basin 37 Irrigation & Other Claims Director's Report, Part III, except as follows.

a. **37-20292:** As noted in paragraph 7.a. above, the Point of Diversion (SWSWSW, S04, T02N, R43E) contains a typographical error and should be described as SWSESW, S04, T02N, R43E; and the Place of Use (SWSW, S04, T02N, R43E) should be described as SESW, S04, T02N, R43E.

b. **37-20505:** The POD described under this claim is recommended/abstracted as T02S, R22E, S34, NWSWNE and the POU as the SWNE. This location has been surveyed into government lots and therefore would be more accurately described as Lot 1 (NWSWNE) for the POD and Lot 1 (SWNE) for the POUs.

c. **37-20506:** The POD described under this claim is recommended/abstracted as T02S, R22E, S34, SESWNE and the POU as the SWNE. This location has been surveyed into government lots and therefore would be more accurately described as Lot 2 (SESWNE) for the POD and Lot 2 (SWNE) for the POUs.

d. **37-20509:** The POD described under this claim is recommended/abstracted as T02S, R22E, S36, SWSWSW and the POU as the SWSW. This location has been surveyed into government lots and therefore would be more accurately described as Lot 2 (SWSWSW) for the POD and Lot 2 (SWSW) for the POUs.

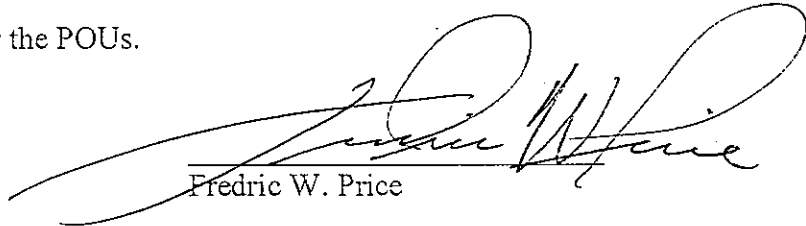
e. **37-20520:** The POD is correctly described as Lot 5 (NWSW), S30, T02S, R23E, however the POUs contain a typographical error in that the lot designation is missing.

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 dated February 20, 2007 from the Basin 37 Irrigation & Other Claims Director's Report, Part III, except as noted in paragraph 10 above. The quantity for a federal reservation based upon either Public Water Reserve 107 should be: 0.02 cfs for springs, not to exceed 13,000 gpd; and capacity of waterholes in acre-feet per year (≤ 14.5 AFY), not to exceed 13,000 gpd. BLM prefers to receive a partial decree under the Federal Reserve basis, except as follows.

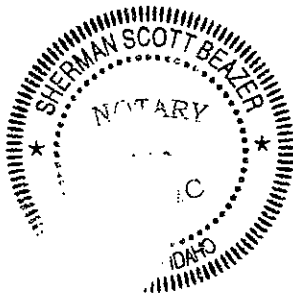
a. **37-20292:** As noted in paragraphs 7. a. and 10. a. above, the POD & POU contain a typographical error in legal land description and should be described within SWSESW, S04, T02N, R43E. Paragraph 7. a. identifies that the land identified in 37-

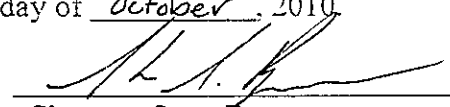
20292 left federal ownership (02-08-1926) prior to the establishment of PWR-107 (04-17-1926) and was not reconveyed to the U.S. until July 22, 1992, BLM would prefer to receive a partial decree pursuant to the state basis. From review of patent records, it appears that February 8, 1926 would form the basis for a priority date under state law.

b. **37-20509:** Paragraph 7. c. above identifies that the land identified in 37-20509 left federal ownership (10-16-1913) prior to the establishment of PWR-107 (04-17-1926) and was not reconveyed to the U.S. until October 2, 1991, BLM would prefer to receive a partial decree pursuant to the state basis. Paragraph 10. d. identifies that the POD would be more accurately described as Lot 2 (SWSWSW), S36, T02S, R22E for the POD and Lot 2 (SWSW) for the POUs.


Fredric W. Price

Subscribed and sworn to before me this 15th day of October, 2010.
Witnessed by my hand and official seal.




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 Oct. 15, 2010, I served a true and correct copy of the foregoing **AFFIDAVIT OF FREDRIC W. PRICE; SUBCASE NUMBER: 37-20289 et al., together with Attachment 1** by placing the document in the United States Mail in Boise, Idaho, postage paid, and addressed as follows:

Original to:

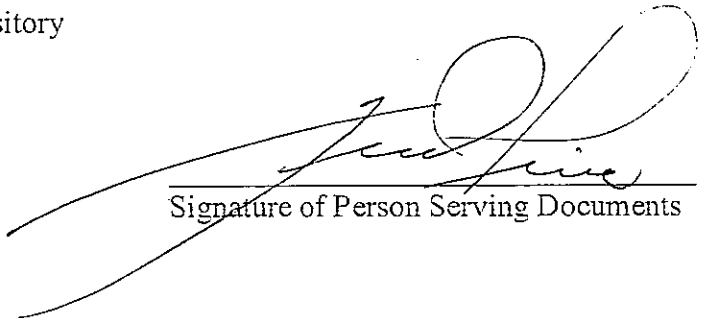
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

Copies to:

U.S. Department of Justice
Environment and Natural Resources Division
Natural Resources Section
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

37-20289
37-20290
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ATTACHMENT 2



Wednesday,
November 15, 2000

Part VII

The President

Proclamation 7373—Boundary
Enlargement of the Craters of the Moon
National Monument
Proclamation 7374—Vernilion Cliffs
National Monument
Proclamation 7375—Veterans Day, 2000

Federal Register

Presidential Documents

Vol. 65, No. 221

Wednesday, November 13, 2000

Title 3—

Proclamation 7373 of November 9, 2000

The President

Boundary Enlargement of the Craters of the Moon National Monument

By the President of the United States of America

A Proclamation

The Craters of the Moon National Monument was established on May 2, 1924 (Presidential Proclamation 1694), for the purpose of protecting the unusual landscape of the Craters of the Moon lava field. This "lunar" landscape was thought to resemble that of the Moon and was described in the Proclamation as "weird and scenic landscape peculiar to itself." The unusual scientific value of the expanded monument is the great diversity of exquisitely preserved volcanic features within a relatively small area. The expanded monument includes almost all the features of basaltic volcanism, including the craters, cones, lava flows, caves, and fissures of the 65-mile-long Great Rift, a geological feature that is comparable to the great rift zones of Iceland and Hawaii. It comprises the most diverse and geologically recent part of the lava terrain that covers the southern Snake River Plain, a broad lava plain made up of innumerable basalt lava flows that erupted during the past 5 million years.

Since 1924, the monument has been expanded and boundary adjustments made through four presidential proclamations issued pursuant to the Antiquities Act (34 Stat. 225, 16 U.S.C. 431). Presidential Proclamation 1843 of July 23, 1928, expanded the monument to include certain springs for water supply and additional features of scientific interest. Presidential Proclamation 1916 of July 9, 1930, Presidential Proclamation 2499 of July 16, 1941, and Presidential Proclamation 3506 of November 19, 1962, made further adjustments to the boundaries. In 1996, a minor boundary adjustment was made by section 205 of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104-333, 110 Stat. 4093, 4106).

This Proclamation enlarges the boundary to assure protection of the entire Great Rift volcanic zone and associated lava features, all objects of scientific interest. The Craters of the Moon, Open Crack, Kings Bowl, and Wapi crack sets and the associated Craters of the Moon, Kings Bowl, and Wapi lava fields constitute this volcanic rift zone system. Craters of the Moon is the largest basaltic volcanic field of dominantly Holocene age (less than 10,000 years old) in the conterminous United States. Each of the past eruptive episodes lasted up to several hundred years in duration and was separated from other eruptive episodes by quiet periods of several hundred years to about 3,000 years. The first eruptive episode began about 15,000 years ago and the latest ended about 2,100 years ago.

Craters of the Moon holds the most diverse and youngest part of the lava terrain that covers the southern Snake River Plain of Idaho, a broad plain made up of innumerable basalt lava flows during the past 5 million years. The most recent eruptions at the Craters of the Moon took place about 2,100 years ago and were likely witnessed by the Shoshone people, whose legend speaks of a serpent on a mountain who, angered by lightning, coiled around and squeezed the mountain until the rocks crumbled and melted, fire shot from cracks, and liquid rock flowed from the fissures as the mountain exploded. The volcanic field now lies dormant in the latest of a series of quiet periods that separate the eight eruptive episodes

to mineral and geothermal leasing, other than by exchange that furthers the protective purposes of the monument. For the purpose of protecting the objects identified above, the Secretary shall prohibit all motorized and mechanized vehicle use off road, except for emergency or authorized administrative purposes.

Lands and interests in lands within the proposed monument not owned by the United States shall be reserved as a part of the monument upon acquisition of title thereto by the United States.

The Secretary of the Interior shall prepare a transportation plan that addresses the actions, including road closures or travel restrictions, necessary to protect the objects identified in this proclamation.

The Secretary of the Interior shall manage the area being added to the monument through the Bureau of Land Management and the National Park Service, pursuant to legal authorities, to implement the purposes of this proclamation. The National Park Service and the Bureau of Land Management shall manage the monument cooperatively and shall prepare an agreement to share, consistent with applicable laws, whatever resources are necessary to manage properly the monument; however, the National Park Service shall have primary management authority over the portion of the monument that includes the exposed lava flows, and shall manage the area under the same laws and regulations that apply to the current monument. The Bureau of Land Management shall have primary management authority over the remaining portion of the monument, as indicated on the map entitled, "Craters of the Moon National Monument Boundary Enlargement."

Wilderness Study Areas included in the monument will continue to be managed under section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701-1782).

The establishment of this monument is subject to valid existing rights.

Nothing in this proclamation shall be deemed to enlarge or diminish the jurisdiction of the State of Idaho with respect to fish and wildlife management.

This proclamation does not reserve water as a matter of Federal law. Nothing in this reservation shall be construed as a relinquishment or reduction of any water use or rights reserved or appropriated by the United States on or before the date of this proclamation. The Secretary shall work with appropriate State authorities to ensure that water resources needed for monument purposes are available.

Nothing in this proclamation shall be deemed to enlarge or diminish the rights of any Indian tribe.

Laws, regulations, and policies followed by the Bureau of Land Management in issuing and administering grazing permits or leases on all lands under its jurisdiction shall continue to apply with regard to the lands in the monument administered by the Bureau of Land Management.

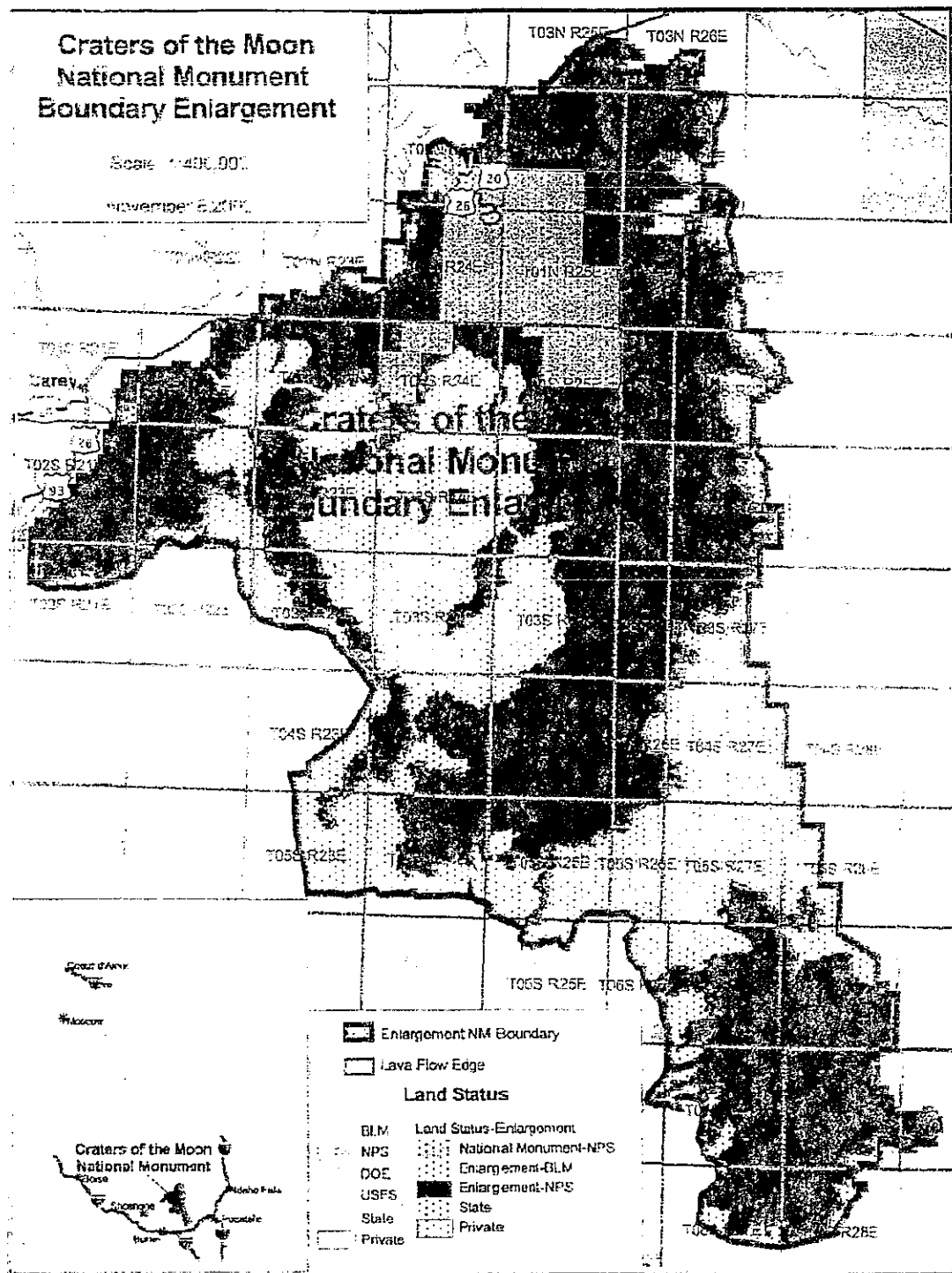
Nothing in this proclamation shall be deemed to revoke any existing withdrawal, reservation, or appropriation; however, the national monument shall be the dominant reservation.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of November, in the year of our Lord two thousand, and of the Independence of the United States of America the two hundred and twenty-fifth.

William J. Clinton

Billing code 3195-01-P



(FR Doc. 00-29452)
Filed 11-14-00; 9:40 am)
Billing code 3105-01-C