

RECEIVED

JUN 13 1996

Department of Water Resources
Adjudication Bureau

RECEIVED

JUN 17 1996

OFFICE OF THE
ATTORNEY GENERAL

LOIS J. SCHIFFER
Assistant Attorney General
Environment and Natural Resources Division

DARIA J. ZANE
R. LEE LEININGER
PAUL F. HOLLEMAN
WILLIAM FERRY
Attorneys, Department of Justice
General Litigation Section
Environment and Natural Resources Division
P.O. Box 663
Washington, D.C. 20044-0663
(202) 305-0471, (202) 305-0242, (202) 305-0494

6-12

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. 57-11124 et. al.
	)	
Case No. 39576	)	United States' Report Regarding
	)	Apparently Conflicting Claims.
	)	

DESCRIPTIVE SUMMARY

This is the United State's report regarding apparently conflicting claims to stockwater among the SRBA subcases consolidated under SRBA subcase no. 57-11124. This report is submitted pursuant to the Special Master's May 10, 1996 Trial Scheduling Order and the June 4, 1996 Order Granting Motion for Additional Time.

REPORT

Attached to this report as Appendix A is a list identifying apparently conflicting claims among those SRBA subcases consolidated by the Special Master's May 29, 1996 consolidation order. Appendix A is organized according to BLM claims to stockwater. Under the identified BLM claims is a list of apparently conflicting private claims.

Very few of the subcases included in the May 29, 1996 consolidation order are in direct and obvious conflict with another subcase. The Idaho Department of Water Resources (IDWR) did not generally recommend that a water right from the same source and with the same place of use be decreed to more than one person. Where parties made obviously overlapping claims, IDWR recommended that the claim be decreed to the owner of the land for the claimed place of use in accordance with Idaho Attorney General Opinion 88-6. Accordingly, IDWR disallowed most private claims to stockwater on the federal public land where the United States filed a competing claim.

In many instances, a private party asserting a claim to stockwater on the federal public land did not object to IDWR's disallowance of their claims. This appears to be the case with respect to many of the disallowed claims filed by the private parties participating in 57-11124 et. al. which otherwise would have been in direct conflict with BLM claims. As a result, there is no issue with respect to those disallowed claims before the Court.

The subcases identified in Appendix A as apparently overlapping claims are those for which the potential overlap is less obvious. They share the same purpose of use and at least one claimed place of use.

Appendix A is only a tentative list. The information regarding the location of the private claims was taken from the Idaho Department of Water Resources Director's Report for Basin 57. Because the legal descriptions in that report, however,

describe 40 acre tracts, and not precise locations of water sources, it was impossible to tell whether parties are claiming distinct sources within a 40 acre tract or are merely claiming the same source under a different name. The water rights identified in Appendix A may not be presumed to be in direct conflict until the precise locations of the stockwater rights claimed by the BLM and by the private parties are compared by those individuals on both sides who have been to the water sources and have on the ground knowledge of the 40 acre tracts in question.

Although all of the subcases identified in Appendix A are included in the Special Master's May 29, 1996 Order Consolidating Subcases, not all of the subcases in the consolidation order appear in Appendix A. Of those consolidated cases that are not included in Appendix A, some are not included because they do not appear to be in direct conflict with any other claim to water in Basin 57. Other subcases are not on Appendix A because although they do appear to be in conflict with another Basin 57 subcase, the conflicting subcase is not on the Court's consolidation order.

The United States has prepared a list of all BLM claims that are not currently among the consolidated cases, but which do appear to conflict with at least one of the private claims included in the consolidation order. The United States will forward this list to counsel for the private parties in these consolidated cases, and will try to reach an agreement regarding

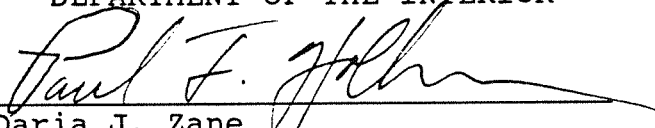
whether these additional cases should also be consolidated. If consolidation of these additional cases appears appropriate, the United States will file its motion for consolidation prior to the July 1, 1996 filing date established by the Trial Scheduling Order.

Respectfully submitted this 7th day of June, 1996.

UNITED STATES OF AMERICA
ON BEHALF OF
BUREAU OF LAND MANAGEMENT
DEPARTMENT OF THE INTERIOR

OF COUNSEL:

John Hockberger
Office of the Solicitor
Department of the Interior
Boise, Idaho 83702


Daria J. Zane
R. Lee Leininger
Paul F. Holleman
William Ferry
Attorneys, Department of Justice
Environment and Natural Resources
Division

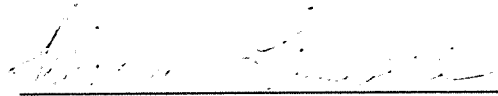
CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of June, 1996, I caused a true and correct copy of the United States' **Motion for Additional Time** to be served by United States mail, postage prepaid, on the following persons:

Special Master Fritz X Hammerle
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, Idaho 83303-2707
Also by **FAX: 208-736-2121**

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

Richard L. Harris
P.O. Box 1438
Caldwell, Idaho
83606-1438
Also by **FAX: 208-459-1300**



FELECIA LESESNE

1. BLM Claim Nos.:
 - 57-01051 Granite Spring to Babbington Creek
 - 57-01053 Salmon Corral Spring to Salmon Creek
 - 57-01057 Dixon Spring to Murphy Creek
 - 57-01059 Salix Spring to Murphy Creek
 - 57-01060 Coal Spring to Cottle Creek
 - 57-01062 Farrot Spring to Farrot Creek
 - 57-07168 Dead Cow Spring to Sinks
 - 57-11067 Macks Creek, S.F. to Macks Creek
 - 57-11162 Macks Creek, S.F. to Macks Creek
 - 57-11164 Reynolds Creek to Snake River
 - 57-11166 Salmon Creek to Reynolds Creek
 - 57-11350 Babbington Creek to Reynolds Creek
 - 57-11351 Cottle Creek to Macks Creek

Apparently overlapping private claim:

 - a. 57-10930A Bass/Junayo/Orndorff/Reuck
2. BLM Claim Nos.:
 - 57-02372 Wilson Corral Spring to Wilson Creek
 - 57-02468 Afterthought Spring to Wilson Creek
 - 57-11138 Wilson Creek to Reynolds Creek

Apparently overlapping private claim:

 - a. 57-10930C Bass/Junayo/Orndorff/Reuck
3. BLM Claim Nos.:
 - 57-11124 Horse Ranch Creek to Sinker Creek, N.F.
 - 57-11125 Gray Eagle Creek to Horse Ranch Creek
 - 57-11126 Cosmopolitan Creek to Horse Ranch Creek
 - 57-11127 Sinker Creek, N.F. to Sinker Creek
 - 57-11128 Stobie Gulch to Sinker Creek
 - 57-11129 Sinker Creek to Snake River
 - 57-11130 Scotch Bob Creek to Sinker Creek
 - 57-11131 Sinker Creek, S.F. to Sinker Creek
 - 57-11132 Oro Fino Gulch to Sinker Creek, S.F.
 - 57-11133 Pedracini Fork to Sinker Creek, S.F.
 - 57-11342 Sinker Creek, N.F. to Sinker Creek
 - 57-11343 Horse Ranch Creek to Sinker Creek, N.F.
 - 57-11344 Sinker Creek, S.F. to Sinker Creek
 - 57-11345 Sinker Creek, S.F. to Sinker Creek
 - 57-11346 Sinker Creek, S.F. to Sinker Creek

Apparently overlapping private claim:

 - a. 57-10770 Joyce Livestock Co.
4. BLM Claim Nos.:
 - 57-11134 Rabbit Creek to Snake River

Apparently overlapping private claim:

 - a. 57-10586 Joyce Livestock Co.
5. BLM Claim Nos.:
 - 57-11147 Sage Hen Gulch to Succor Creek

Apparently overlapping private claim:

 - a. 57-10917 Blackstock/Chipmunk/Johnstone
6. BLM Claim Nos.:
 - 57-11148 Succor Creek to Snake River

Apparently overlapping private claim:

 - a. 57-10916 Chipmunk Grazing Assoc.
 - b. 57-10917 Blackstock/Chipmunk/Johnstone
7. BLM Claim Nos.:
 - 57-11149 Reynolds Creek, E.F. to Reynolds Creek
 - 57-11156 Peters Gulch to Reynolds Creek
 - 57-11157 Reynolds Creek, E.F. to Reynolds Creek
 - 57-11158 Reynolds Creek to Snake River

Apparently overlapping private claim:

 - a. 57-10924 Chipmunk/Jaca
8. BLM Claim Nos.:
 - 57-11170 Little McBride Creek to McBride Creek

Apparently overlapping private claim:

 - a. 57-10660 Chipmunk Grazing Assoc.
 - b. 57-10917 Blackstock/Chipmunk/Johnstone
9. BLM Claim Nos.:
 - 57-11173 Salmon Creek to Reynolds Creek

Apparently overlapping private claim:

 - a. 57-10919B Brandau/Chipmunk/Malmberg
10. BLM Claim Nos.:
 - 57-11176 Squaw Creek, E.F. to Squaw Creek

Apparently overlapping private claim:

 - a. 57-10919A Brandau/Chipmunk/Malmberg
 - b. 57-10919B Brandau/Chipmunk/Malmberg

11. BLM Claim Nos.:

57-11179 Squaw Creek to Snake River

Apparently overlapping private claim:

- a. 57-10947 Chipmunk Grazing Assoc.

12. BLM Claim Nos.:

57-11181 Jump Creek to Snake River

57-11183 Jump Creek to Snake River

Apparently overlapping private claim:

- a. 57-10921 Chipmunk Grazing Assoc.

13. BLM Claim Nos.:

57-11319 Jump Creek to Snake River

Apparently overlapping private claim:

- a. 57-10921 Chipmunk Grazing Assoc.
- b. 57-10923 Blackstock/Chipmunk

14. BLM Claim Nos.:

57-11334 Bates Creek to Pickett Creek

Apparently overlapping private claim:

- a. 57-10598 Joyce Livestock Co.

15. BLM Claim Nos.:

57-11341 Sinker Creek, N.E. to Sinker Creek

Apparently overlapping private claim:

- a. 57-04028 Joyce Livestock Co.
- b. 57-10770 Joyce Livestock Co.