

OFFICE OF THE
ATTORNEY GENERAL

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I. BACKGROUND

The United States filed timely claims for these water rights. The United States and all four objectors reached an agreement regarding all elements of these rights. Standard Form No. 5's were submitted to the Court. In its report on Standard Form No. 5's, IDWR asserted that it disagreed with its own recommended priority date. IDWR explained that it had determined that because these claims were within the geographic area adjudicated under the *Utah Construction* decree, and because the United States was allegedly subject to and bound by that decree, the United States was not entitled to a priority date earlier than the date of that decree.

On June 27, 1996, the United States filed the res judicata effect of the *Utah Construction* decree. No opposition to that motion was filed.

The Court heard oral argument of this issue on July 24, 1996. At the hearing, the Court requested supplemental briefing on the issues relating to collateral estoppel and jurisdiction be filed on August 30, 1996. This motion is submitted relating to that summary judgment motion and supplemental briefing.

II. ARGUMENT

The United States is entitled to a water right' decree for the priority date claimed. The United States is not precluded by the *Utah Construction* decree from asserting and obtaining water rights with priority dates earlier than the date of that decree, March 16, 1923. The reasons supporting the United States' position are set forth in the Motion for Summary Judgment and Memorandum in Support of Summary Judgment and

Appendices filed this date in Subcase Nos. 34-11645, et al., a copy of which is attached and incorporated herein.¹

III. CONCLUSION

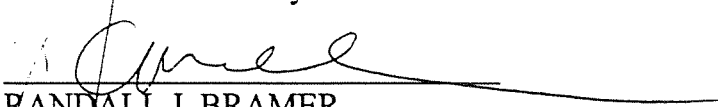
WHEREFORE, for the foregoing reasons, the United States respectfully requests that summary judgment be granted.

¹ The appendices have not been included in the original or service copies except the service copy on Mr. Fulton and Mr. Whitworth. Mr. Roche and Mr. Smith have been previously served.

Respectfully submitted,

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

BETTY H. RICHARDSON
United States Attorney



RANDALL J. BRAMER
Special Assistant United States Attorney
U. S. Department of Justice
380 E. Parkcenter Blvd., Suite 330
Boise, ID 83706
(208) 387-0835

BRUCE BERNARD
Attorney, General Litigation Section
Environment and Natural Resources Div.
U. S. Department of Justice
999 - 18th Street, Suite 945
Denver, CO 80202

DATED this 22 day of August, 1996

CERTIFICATE OF MAILING

I hereby certify that on this 21st day of August, 1996, I served a true and correct copy of the foregoing **United States' Motion for Summary Judgment on Priority Date** in subcase nos. 34-11583, 34-11581, 34-11582 and 34-11568 by placing in the United States mail, postage prepaid to the following parties:

1. Original to:

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

2. Copies to:

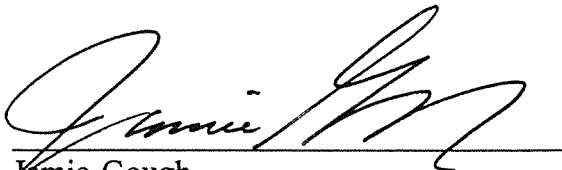
Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

Gordon Fulton
Star Route
Mackay, ID 83251

Vernon Roche
Star Route
Mackay, ID 83251

Wiley Smith
Star Route
Mackay, ID 83251

Herb Whitworth
Star Route
Mackay, ID 83251



Jamie Gough
Document Center Manager
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