

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

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JUL-09-1999

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MAY 25 2000
Department of Water Resources
Southern Region

Movant: State of Idaho

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Attorney General

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Chief, Natural Resources Division

PETER J. AMPE
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P.O. Box 44449
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72-12169

**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. 72-12169

Case No. 39576)

MOTION TO AMEND OBJECTION

COMES NOW the State of Idaho and respectfully requests the Special Master to allow the State of Idaho to amend its Objections filed in this Subcase and accept the Amended Objection attached hereto for filing.

AS GROUND IN SUPPORT: The State of Idaho states as follows.

1. The procedural and factual history of this Subcase is contained in the *Memorandum Decision and Order on Challenge*, Subcase Nos. 32-11171 (March 31, 2000) at 2-3.

2. As stipulated to as part of the *Challenge* and as Ordered by the Court, the Special Master is directed to grant leave to the State of Idaho to amend its objection to this water right. *Memorandum Decision and Order on Challenge*, Subcase Nos. 32-11171 (March 31, 2000) at 5.

3. The State of Idaho does **not** request hearing on this motion.

DATED this 15th day of May 2000.

ALAN G. LANCE
Attorney General



PETER J. AMPE
Deputy Attorney General
Natural Resources Division

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of May, 2000, I caused to be served a true and correct copy of the foregoing MOTION TO AMEND OBJECTION to the following addressees by the method indicated:

Larry A. Brown
United States Department of Justice
Environment & Natural Resources Div.
550 West Fort Street, MSC 033
Boise, ID 83724

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile: _____
- ☐ Statehouse Mail

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

- ☐ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Federal Express
- ☐ Facsimile: _____
- ☒ Statehouse Mail



PETER J. AMPE
Deputy Attorney General
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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	)		
	)	A.	Subcase 72-12169
	)		(Insert water right number)
Case No. 39576	)		(Amended)
	)		DOMESTIC AND
	)		STOCK WATER RIGHT
	)		OBJECTION
_____	)		

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: State of Idaho
Address: 700 W. Jefferson, Room 210
P.O. Box 44449
Boise, Idaho 83711-4449
Phone: Work: (208) 334-2400 Home: N/A

Name and Address of Attorney, if any:

Attorney Name:	ALAN G. LANCE Attorney General CLIVE J. STRONG Deputy Attorney General Chief, Natural Resources Division PETER J. AMPE Deputy Attorney General
Attorney Address:	Office of the Attorney General 700 W. Jefferson, Room 210 P.O. Box 44449 Boise, ID 83711-4449
Attorney Phone No.	(208) 334-2400

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: United States of America Acting Through
Address: USDI Bureau of Land Management
1387 S. Vinnell Way
Boise, Idaho 83709-1657

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☐ **Quantity**
Should be: _____
4. ☒ **Priority Date**
Should be: If this water right exists, the State Law based portion of this right should have a priority date no earlier than June 28, 1934.
5. ☐ **Points of Diversion**
Should be: _____
6. ☐ **Instream Flow Description**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: _____
11. **I object because:**
 - ☒ This water right should not exist.
 - ☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S): The United States has failed to establish any legal and/or factual basis for any claimed priority date for stockwater purposes with a date prior to the enactment of the Taylor Grazing Act, June 28, 1934.

Even if PWR 107 created a federal reserved water right, the United States, or any subdivision thereof, has not complied with the requirements of PWR 107 and/or the United States' and/or its subdivisions' own rules and regulations in regards to this claim. Therefore, no water right can be granted based upon PWR 107.

The State further objects to this claim as to any part based on federal law as the claimed source is declared tributary to a flowing stream and so cannot be based upon the executive order known as Public Water Reserve 107 (April 17, 1926).

The State reserves the right to amend this objection as to any part of this claim based on federal law, based on the final decision reached in Basin-Wide Issue #9 (PWR 107) (Idaho Supreme Court No. 23587 and/or any subsequent proceedings).

F. VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

Peter J. Ampe, Deputy Attorney General, being first duly sworn, upon oath, deposes and says:

That the State of Idaho, in both its sovereign and proprietary capacity, and pursuant to I.C. § 42-1411A(16) is filing this objection and that I am a Deputy Attorney General authorized to represent the State of Idaho, which is a party/claimant in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and I have read this objection, know its contents and that the statements are true to the best of my knowledge and belief.

ALAN G. LANCE
Attorney General
CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division
PETER J. AMPE
Deputy Attorney General



By Attorney signing in representative capacity



Subscribed and sworn to before me on: May 15, 2000

(Insert Date)

Kelly R. Jennings
Notary Public for IDAHO
Residing at: BOISE, ID
My commission expires: May 29, 2003

INSTRUCTIONS FOR MAILING

You must mail the objection to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

" I certify that on May 15, 2000, I mailed the original and copies of this objection, including all attachments, to the following persons:

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. One copy to the owner of the water right at the following address:

United States of America Acting Through
USDI Bureau of Land Management
1387 S. Vinnell Way
Boise, Idaho 83709-1657

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, Idaho 83724

[Signature]
Signature of party claimant or attorney

**IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)**

4-16-97

Water Source:	SPRING	Tributary to:	SPUD CREEK	Stage:	BENEFICIAL USE
Point(s) of diversion:	T11N R18E S32		SESNSE		CUSTER County

[illegible]

Other Rights: WATER FEDERALLY RESERVED, SEE REMARKS

Remarks: EXP BLM RECORD ID = 72045802D3
ALSO RECOMMENDED AS RIGHT NO. 72-07156.
STOCKWATER, 201 RANGE CATTLE

Dates:	Exam Made Date:	Verified Date:	Objection Filed Date:

Misc: Water District Number: Field Inspection Flag: Presumption Flag:

APR-10-1997
0013

1

RIGHT NUMBER: 72-12169

NAME AND ADDRESS:

UNITED STATES OF AMERICA ACTING THROUGH
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE ID 83709

SOURCE:

SPRING

TRIBUTARY: SPUR CREEK

QUANTITY:

0101 CFS

PRIORITY DATE:

01/01/1979

POINT OF DIVERSION:

711M R18E S32

SESWNE

Within CUSTER County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
STOCKWATER
WILDLIFE

PERIOD OF USE
01/01 12/31
01/01 12/31

QUANTITY
0101 CFS
0101 CFS

PLACE OF USE:

STOCKWATER
711M R18E S32

Within CUSTER County
SWNE

WILDLIFE
711M R18E S32

Within CUSTER County
SWNE

OTHER MATTERS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

Also BLM RECORD ID = 7204580203
RECOMMENDED AS RIGHT NO. 72-07156.
BLM RECORD ID # 7204580203
RESERVED / EXCLUSIVE ORDER DATED APR 17, 1926 PWR NO. 107

EXPLANATORY MATERIAL:

BASIS OF CLAIM - DISALLOWED
~~BENEFICIAL USE~~

corrected RB

MAR 03 1997

Department of Water Resources

In Re SRBA

Case No. 39576

AMENDED NOTICE of CLAIM
for Water Right number:

A72-12169

A72-12170

NAME and
ADDRESS:United States of America acting through
Bureau of Land Management
Idaho State Office
1387 South Vinnell Way
Boise, ID 83709 - 1657

BLMIDENT:

7204580203

SOURCE:

Source	Tributary
SPRING	SPUD Creek

QUANTITY:

0.02	CFS	or VOLUME:	0	Acre Fee
------	-----	------------	---	----------

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

PRIORITY DATE:

1/1/1879

POINT of
DIVERSION:

Twtnship	Range	Section	T1	T2	T3	LOT	within the	County of
11N	18E	32	SE	SW	NE			CUSTER

PURPOSE
and
PERIOD
OF USE:

Purpose of Use	Period of Use (from - to):	Rate in CFS	or	Volume in Ac
04	0101	1231	0.02	0
16	0101	1231	0.01	0

CONSUMPTIVE
USE:

de minimis stockwater use

DATE:

01-Mar-97 2:42 PM

OTHER PROVISIONS NECESSARY FOR DEFINITION or ADMINISTRATION OF THIS WATER RIGHT:

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

PLACE
of USE:

Water Use	Twtn	Rge	Sec	T1	T2	LOT	within the	County of
16	11N	18E	32	SW	NE	0		CUSTER
04	11N	18E	32	SW	NE	0		CUSTER
16	11N	18E	32	SW	NE	0		CUSTER



A7212169

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

CIVIL CASE NUMBER: 39576

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER
FROM THE SNAKE RIVER BASIN WATER SYSTEM

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE AND FEDERAL LAW

U.S. DEPT. OF INTERIOR
BUREAU OF LAND MGMT.
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706
TELEPHONE: 208-334-1401

PRIORITY DATE: 1879-01-01
(RESERVED..... 1926-04-17)
AGENCY NUMBER: 7204580203
BLM NUMBER: 7204580203
BASIS OF CLAIM: BENEFICIAL USE
(SUBSEQUENT FEDERAL RESERVE)
BASIN NUMBER: 72

SOURCE	TRIBUTARY TO
----- SPRING	----- SPUD CREEK

DESCRIPTION OF DIVERSION WORKS

UNDEVELOPED SPRING

PURPOSE OF USE	DIVERSION RATE	DIVERSION VOLUME	PERIOD OF USE FROM	TO
-----	-----	-----	-----	-----
STOCKWATER	0.010	0.00	0101	1231
WILDLIFE	0.010	0.00	0101	1231
TOTAL:	0.010 CFS	0.00 AF		

NON-IRRIGATION USES

STOCKWATER, 201 RANGE CATTLE; WILDLIFE VAR. AMT.

POINT OF DIVERSION							
TWP	RNG	SEC	TRACT1	TRACT2	TRACT3	LOT	COUNTY
-----	-----	-----	-----	-----	-----	-----	-----
11N	18E	32	SE	SW	NE	00	CUSTER

PLACE OF USE							IRRIGATED OWNED	ACRES
TWP	RNG	SEC	TRACT1	TRACT2	LOT	COUNTY		
-----	-----	-----	-----	-----	-----	-----	-----	-----
11N	18E	32	SW	NE	00	CUSTER	YES	0.0
11N	18E	32	SW	NE	00	CUSTER	YES	0.0

TOTAL ACRES IRRIGATED: 0.0

NOV 7 1994

TOTAL CONSUMPTIVE USE IS: DE MINIMUS ACRE FEET PER ANNUM

OTHER WATER RIGHTS

WATER FEDERALLY RESERVED, SEE REMARKS

REMARKS

RESERVED - EXECUTIVE ORDER DATED APR 17, 1926 PWR NO. 107

03-01-1963
PUB. & C. 107

AJ0743NP
(00-124)

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT
(REGIONAL)

02/11/94 15:14:21
Page 1

82-1194

Water Right Number - R72-12169

Prefix Translation: RESEARCH

Old (D) Number -

+ - - - - Last Name - - - - + - - - - First Name - - - - + - - - - Address - - - - +

*** A - ATTORNEY ***

HAUGRUD, JACK OR G GARVER OR D ZANE

1 - US DEPT OF JUSTICE
2 - ENV & NR DIV GEN LIT SEC
3 - PO BOX 663
City- WASHINGTON
Phone - 202-272-4134
State- DC Zip- 200440663

*** C - CURRENT OWNER ***
US DEPT OF INTERIOR

1 - BUREAU OF LAND MANAGEMENT
2 - IDAHO STATE OFFICE
3 - 3380 AMERICANA TERRACE
City- BOISE
Phone - 208-334-1401
State- ID Zip- 83706

*** K - ALSO KNOWN AS ***
BLM

1 -
2 -
3 -
City- X
Phone -
State- ID Zip- 0

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - +
01/01/1879 17 SOUTHERN 1 - DISALLOWED

+ - - - - Source - - - - + + - - - - - Tributary - - - - + + - - - - -
SPRING SPUD CREEL

+ - - - - Point of Diversion - - - - + + - - - - -
Twn Rng Sec Tract Lot Rflg County
11N 18E 32 SE SW NE (37) CUSTER

+ - - - - Water Use - - - - + + - - - - -
Code Description Period From Period To Diversion Rate Diversion Volume
04 - STOCKWATER 01/01 12/31 D.010
16 - WILDLIFE 01/01 12/31 0.010

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.010 0.0

+ - - - - Place of Use - - - - + + - - - - -
Twn Rng Sec Tract Lot Acres Code Description County
11N 18E 32 SW NE 04 STOCKWATER (37) CUSTER
11N 18E 32 SW NE 16 WILDLIFE (37) CUSTER

Total Acres:

- - - Diversion Means - SPRING

NOV 17 1994
MICROFILMED

82-1194

Prefix Translation: RESEARCH

+ - Other Rights for Same Use - WATER FEDERALLY RESERVED, SEE REMARKS

BLM RECORD ID = 7204580203
RECOMMENDED AS RIGHT NO. 72-07156.

No Old Water Right Numbers Found

Conditions of Approval

RECOMMENDED AS RIGHT NO. _____: This is included for a claim that is PROPOSED to be disallowed because the right claimed is recommended pursuant to another right. The remark indicates the water right number of the OTHER right that is proposed to be recommended. If you are not mailed a notice of the recommendation of the OTHER right, then the OTHER right is recommended in another claimant's name.

Decree Dat
00/00/0000

- - -Comments- -
No Comments Found

- +
02/11/94 FRAZEE

[illegible]

MICROFILMED
NOV 9 1984

OLD (D) NUMBER -

[illegible]

+	-	-	-	OTHER RIGHTS FOR SAME USE - WATER FEDERALLY RESERVED	SEE REMARKS

