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DEPARTMENT OF  
WATER RESOURCES

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Counsel for the United States of America

**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: 51-13089, 51-13090,  
) 51-13091, 51-13092, 51-13093, 51-13094,  
) 51-13095, 51-13096, 51-13097, 55-13897,  
) 55-13898, 55-13899, 55-13900, 55-13901,  
) 55-13902, 55-13903  
)  
)  
) **AFFIDAVIT OF THOMAS J. "TJ"**  
) **CLIFFORD**

STATE OF IDAHO )  
)  
) ss:  
COUNTY OF ADA )

COMES NOW, Thomas J. "TJ" Clifford, after being duly sworn before an officer authorized to administer oaths, swears and declares as follows:

**I. Introduction.**

**1. Current position and duties.** My name is Thomas J. "TJ" Clifford. I am an employee of the United States, Department of Interior, Bureau of Land Management (BLM). The following statements are based upon my personal knowledge, expertise in my field and review of BLM's claims. My present position is that of Assistant Manager of the Bruneau Field Office of BLM. I have been in this position since November 2014 and my primary duties as Assistant Manager include project management, personnel management, contract project inspection, tracking budget, and accomplishing assigned targets. As Assistant Manager, I am responsible for ensuring that the office is successfully accomplishing the strategy developed by the executive leadership team.

**2. Experience in recreation management and as Outdoor Recreation Planner with BLM.** I have held positions with responsibility for recreation related activities with BLM for over four years, including as Outdoor Recreation Planner in the Boise District Office of BLM from June 2010 to November 2014. As an Outdoor Recreation Planner for BLM, I had responsibility for Wilderness, Wild and Scenic River, and travel management. This position entailed developing activity plans for Wilderness areas, Wild and Scenic Rivers, and the designation of a transportation network for BLM-managed lands within Owyhee County. This position required that I be familiar with and understand laws pertaining to Wilderness, Wild and Scenic Rivers, and policies guiding comprehensive travel management.

**3. Experience in recreation management with Forest Service.** I previously worked with the Forest Service, as a Recreation Staff Officer and including approximately six years as Supervisory Natural Resource Specialist in the Emmett Ranger District. This position was responsible for managing recreation and boating activities within the Payette River System, classified as a High Impact Recreation Area due to the large number of visitors (over 40,000 boaters per year) who use the area. I managed the staff responsible for all facilities, facility maintenance, safety, and visitor satisfaction within the Payette River System. I have also served as Forest Hydrologist and Watershed Program Manager for the Boise National Forest. I have a total of fourteen years of experience with the Forest Service in various positions as hydrologist, manager and resource specialist.

**4. Education.** I have a Bachelor of Science degree in Watershed Management, with a minor in Wildlife and Fisheries Science from the University of Arizona (1995). I also completed the Executive Leadership Program, U.S.D.A. Graduate School, National Training program in 2004. My Curriculum Vitae is attached hereto as Attachment A.

**5. Involvement with these subcases.** As part of my responsibilities as Outdoor Recreation Planner for the Boise District Office of BLM, I assisted in the preparing of the Notices of Claim that were filed for the 16 Wild and Scenic Rivers in the Owyhee Canyonlands area of southwestern Idaho within Basins 51 and 55 (Owyhee Wild and Scenic Rivers) and assigned Subcase Nos. 55-13089, 51-13090, 51-13091, 51-13092, 51-13093, 51-13094, 51-13095, 51-13096, 51-13097, 55-13897, 55-13898, 55-13899, 55-13900, 55-13901, 55-13902, 55-13903 (Owyhee Wild and Scenic Rivers claims). I participated in the quantification of the Owyhee Wild and Scenic Rivers claims and in the negotiations that culminated in execution of the Stipulation

and Joint Motion for Order Approving Stipulation (Stipulation) and the agreement by the parties to the proposed Partial Decrees attached as Attachments 1 – 16 to that Stipulation (Partial Decrees).

**6. Purpose of Affidavit.** I have prepared this Affidavit at the request of counsel to address the manner in which BLM identified the streamflows necessary to protect the outstandingly remarkable recreation values of the Owyhee Wild and Scenic Rivers and how the quantities of water to be adjudicated pursuant to the Partial Decrees protect the recreational values of the rivers.

## **II. Identification of Streamflows Necessary to Protect Recreation Values.**

**7. Determination that recreation is outstandingly remarkable value of the Owyhee Wild and Scenic Rivers.** To be included in the national Wild and Scenic Rivers Act System, a river must “possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values.” 16 U.S.C. § 1271, Wild and Scenic Rivers Act of 1968, Pub. L. 90-542, 82 Stat. 906, Oct. 2, 1968 (codified as amended at 16 U.S.C. §§ 1271, *et seq.*). The Omnibus Public Land Management Act of 2009 amended the Wild and Scenic Rivers Act by designating 16 new river reaches in Owyhee County as components of the national Wild and Scenic Rivers System. Omnibus Public Land Management Act of 2009 (Owyhee WSR Designation Act), Pub. L. 111-11, 123 Stat. 991, §§ 1501 – 1508, Mar. 30, 2009 (codified as amended at 16 U.S.C. §§ 1271 – 1287). The Owyhee WSR Designation Act does not state the outstandingly remarkable values of the Owyhee Wild and Scenic Rivers. However, the *Owyhee Canyonlands Wilderness and Wild & Scenic Rivers Final Management Plan and Environmental Assessment* (Record of Decision signed 04/10/2015) identifies the outstandingly remarkable values of the Owyhee Wild and Scenic Rivers to include fisheries and recreational values for all

16 of the rivers, with the exception of Wickahoney Creek, for which recreation is not an outstandingly remarkable value. BLM therefore quantified the Owyhee Wild and Scenic Rivers water rights based on BLM's calculation of the flows necessary to protect the water-dependent outstandingly remarkable fisheries and recreational values of the Owyhee Wild and Scenic Rivers. This Affidavit addresses BLM's identification of the streamflows necessary to protect the outstandingly remarkable recreation values of the Owyhee Wild and Scenic Rivers (excluding Wickahoney Creek, for which recreation is not an outstandingly remarkable value).

**8. Quantification of streamflows necessary to protect recreational boating opportunities.** BLM's quantification of the streamflows necessary to protect the recreational values of the Owyhee Wild and Scenic Rivers was based on protecting the recreational boating opportunities of the designated rivers (other than Wickahoney Creek, for which recreation is not an outstandingly remarkable value). BLM's quantification of these recreation flows was based on the following methodology.

**9. Size of craft.** The size of craft was an important consideration in identifying the streamflows necessary to protect recreational values on each of the Owyhee Wild and Scenic Rivers since boating opportunities for a given craft size generally require different flows. Large crafts include rafts (and some catarafts) that are 12-14 feet in length and greater than 36 inches in width. Small crafts include inflatable and hard shell kayaks, stand-up paddle boards, canoes, and pack rafts. Small crafts are usually under 12 feet and less than 36 inches wide. Although catarafts are commonly less than 12 feet in length, they are not normally less than 36 inches. Canoes, both tandem and solo, are an exception, since they may exceed 12 feet in length but are less than 36 inches wide. For the purposes of this analysis, canoes were considered to be part of the small craft category.

**10. Identification of streamflows that provide various boating opportunities.**

Boaters have documented recreational use to these rivers for over 30 years, but the streamflows associated with their trips were not typically recorded. BLM did locate two valuable sources for information on the streamflows that provide boating opportunities on the Owyhee Wild and Scenic Rivers. Grant Amaral, who gained expertise as a BLM river ranger working on these rivers for several years, published a book in 1990 that includes references to streamflows that provide various boating opportunities (Amaral 1990). In addition, BLM's current Wild and Scenic Rivers ranger who oversees the river program for the Owyhee Wild and Scenic Rivers, Evan Worthington, identified minimum boatable streamflows for each of the Owyhee Wild and Scenic Rivers. Mr. Worthington's identification of these streamflows is based on his experiences managing and floating these Wild and Scenic Rivers over nine years in varying weather conditions and streamflows, as well as in crafts of varying size and type. Mr. Worthington also worked with the United States Geological Survey (USGS) on the joint BLM - USGS project to better develop the hydrologic characteristics of these Owyhee Wild and Scenic Rivers, including collection of streamflow data in 2012. Mr. Worthington has continued work with the USGS in collecting streamflow data on these rivers in all years subsequent to 2012. Based on the information provided by Mr. Amaral's 1990 publication and Mr. Worthington's familiarity on these rivers, the recreational boating season was defined for each of the rivers and minimum boatable streamflows were identified during these floating seasons on each of the rivers. The identification of streamflows that provide various boating opportunities in Mr. Amaral's 1990 publication, and the flows identified by Mr. Worthington, are by reference to flows at gages other than the quantification sites for the Owyhee Wild and Scenic Rivers. It was therefore necessary to develop

correlations between the referenced gages and the quantification sites as described in section 11 below.

**11. Correlation of streamflows at referenced gages to flows at Owyhee Wild and Scenic Rivers quantification sites.**

As noted above, in 2012, BLM and USGS undertook a project to better develop the hydrologic characteristics of these Owyhee Wild and Scenic Rivers. As part of this project, BLM and USGS personnel collected streamflow data at numerous sites on the Owyhee Wild and Scenic Rivers. By collecting this data, BLM and USGS were able to gain a greater understanding of the relationships between streamflows recorded at the existing USGS stream gages (Rome, Oregon, Hot Springs, Idaho, and Rowland or Jarbidge, Nevada) and streamflows at the Owyhee Wild and Scenic Rivers quantification sites. In October 2012, USGS provided a provisional report to the BLM describing the annual hydrograph for each of the Owyhee Wild and Scenic Rivers. The BLM then combined information from the provisional report and the measured USGS streamflows, with professional observations by Mr. Worthington and other seasonally hired river rangers, to correlate the streamflows from historically-referenced, off-site gages, with flows at the Owyhee Wild and Scenic Rivers quantification sites. This correlation guided BLM in determining the streamflows necessary to support boating opportunities for each stream segment as addressed in section 12 below.

**12. Determination of streamflows necessary to protect recreation values of Owyhee Wild and Scenic Rivers.** In identifying the streamflow necessary to provide recreational boating opportunities on each of the Owyhee Wild and Scenic Rivers, BLM took into consideration a variety of factors, including: (1) the correlation from the boated section to the referenced gage located some distance up or downstream, (2) the appropriate or dominant boat

size for the segment, (3) the class of rapids in the boated section, (4) the amount and type of riparian vegetation, (5) canyon width, (6) season of year, and (7) location and access to put-ins. The streamflow necessary to protect boating opportunities on each river segment was identified by considering the published and expert data concerning boatable flows and actual streamflows observed during float trips, and then weighing the relationships among the above factors based on the professional judgment of the BLM's recreation experts. The recreational floating season was individually defined for each river and recreational flows were identified during these floating seasons on each of the rivers. BLM determined that 80% exceedance flows would provide sufficient water to preserve general recreational opportunities for the period of the year outside of the recreational boating season. As discussed in the Affidavit of Fredric W. Price being filed concurrently herewith, in integrating the aquatic habitat maintenance flows and the recreation flows into water rights claims, BLM selected the base flow component as the higher of the fish habitat base flow and the recreation flow for each semi-monthly period. The identified recreation flows were higher than the (20% exceedance) aquatic habitat maintenance flow in 24 out of 360 semi-monthly periods encompassed by the 15 claims for which recreation is an outstandingly remarkable value (all the Owyhee Wild and Scenic Rivers except Wickahoney Creek). Those selected semi-monthly flows are set forth in Section 3.a.(1) of the Partial Decrees.

**13. Water right described in Partial Decrees protects recreational values.** Based on the above-described analyses, my professional experience in recreation management and outdoor recreation planning, and my personal familiarity with the Owyhee Wild and Scenic Rivers, I conclude that the semi-monthly flows identified in the Partial Decrees (*i.e.*, the base flow component described at Section 3.a.(1) of the Partial Decrees), taking into account the small depletions likely to occur under the subordinations provided for in Section 10.b. of the Partial

Decrees (as addressed in the Affidavit of Fredric W. Price), provide a sufficient variety, frequency and quantity of flows to protect the outstandingly remarkable recreation values of the Owyhee Wild and Scenic Rivers (other than Wickahoney Creek, for which recreation is not an outstandingly remarkable value).

14. **References relied upon.** In analyzing the streamflows necessary to protect the outstandingly remarkable recreation values of the Owyhee Wild and Scenic Rivers, and in preparing this Affidavit, I relied upon the following references:

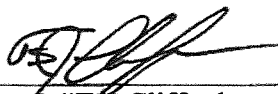
Amaral, Grant. 1990. *Idaho - the Whitewater State: A Guidebook*. Garden Valley, ID: Watershed Books. 315 pp.

Bureau of Land Management (BLM). 2011. *Owyhee, Bruneau, and Jarbidge Rivers Boating Guide*. U.S. Department of the Interior. Bureau of Land Management, Boise District, Boise, ID. 69 pp.

Worthington, Evan. 2012. Conversation with TJ Clifford on October 29, 2012. Evan's estimates of minimum boatable streamflows for each WSR segment are based on his experiences while floating the subject WSR segments for several years in varying weather conditions and streamflows, as well as in crafts of varying size and type.

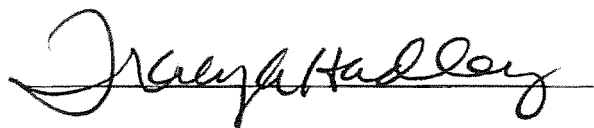
15. Further your affiant sayeth naught.

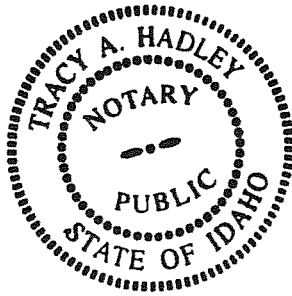
Dated this 30<sup>th</sup> day of August, 2016

  
\_\_\_\_\_  
Thomas J. "TJ" Clifford

Subscribed and sworn to before me this 30<sup>th</sup> day of August, 2016.

Witnessed by my hand and official seal.





Notary Public in and for the State of Idaho

Residing at: MERIDIAN ID

My Commission Expires: 8/22/21

### CERTIFICATE OF SERVICE

I certify that on August 30, 2016, I served a true and correct copy of the foregoing **AFFIDAVIT OF THOMAS J. "TJ" CLIFFORD; SUBCASE NUMBERS: 51-13089, 51-13090, 51-13091, 51-13092, 51-13093, 51-13094, 51-13095, 51-13096, 51-13097, 55-13897, 55-13898, 55-13899, 55-13900, 55-13901, 55-13902, 55-13903, together with ATTACHMENT A** 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  
550 West Fort Street, MSC 033  
Boise, ID 83724

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

Chief, Natural Resources Division  
Office of the Attorney General  
P.O. Box 83720  
Boise, ID 83720-0010

  
Signature of Person Serving Documents

SEP 06 2016

DEPARTMENT OF  
WATER RESOURCES

ATTACHMENT A  
TO AFFIDAVIT OF THOMAS J. ("TJ") CLIFFORD  
CURRICULUM VITAE

**T. J. CLIFFORD**

3948 S. DEVELOPMENT AVE.  
BOISE, ID 83705

(208) 384-3341

TCLIFFORD@BLM.GOV**Relevant Experience**

- Developed a Wilderness Management Plan for the Boise District Office to manage wilderness areas designated in the 2009 Omnibus Public Lands Management Act as the Outdoor Recreation Planner.
- Responsible for public scoping, route evaluation, and development of Travel Management Plans on BLM lands in Owyhee County also identified within the 2009 Omnibus Public Lands Management Act.
- Recreation Staff Officer on the Boise National Forest managing the budget, forest-wide surveys, and forest/district priorities for the recreation and recreation facility program areas.
- Provide leadership, supervision, and guidance to a staff of 6-7 permanent and up to 12 seasonal employees in the areas of facilities, recreation, special uses, lands, GIS, wildlife, fisheries, and watershed programs.
- Managed the facilities, boating, and other recreation opportunities on the Payette River System and 18 campgrounds on the Emmett Ranger District.
- Watershed & Soils Program Manager for the Boise National Forest managing the budget for the watershed and soils program to distribute funding for Forest and District programs and projects. Served as the Forest Service Capital City Hydrologist for Idaho.
- Completed initial streamflow modeling for the 16 wild and scenic river segments within the Owyhee Canyonlands. Coordinated with the USGS to draft, finalize, and continue an agreement that collects streamflow information for 12 of the 16 WSR segments and provides a peer-reviewed report to support instream water right claims filed by the BLM in 2012.

**Professional History**

|                                                                                                                                  |                     |
|----------------------------------------------------------------------------------------------------------------------------------|---------------------|
| <u>Assistant Manager</u><br>Bruneau Field Office, USDI, BLM, Boise, ID                                                           | Nov 2014 – Present  |
| <u>Outdoor Recreation Planner</u><br>Boise District Office, USDI, BLM, Boise, ID                                                 | Jun 2010 – Nov 2014 |
| <u>Supervisory Natural Resource Specialist</u><br>Emmett Ranger District, USFS - Emmett, ID                                      | Oct 2004 – Jun 2010 |
| <u>Forest Hydrologist and Watershed Program Manager</u><br>Boise National Forest, USFS - Boise, ID                               | Aug 2004 – Oct 2004 |
| <u>Acting Lowman District Ranger</u><br>Boise National Forest, USFS - Lowman, ID                                                 | Apr 2004 – Aug 2004 |
| <u>Forest Practices Act Coordinator</u><br>Idaho Department of Environmental Quality, Boise, ID                                  | Feb 2004 – Apr 2004 |
| <u>Forest Hydrologist and Watershed Program Manager</u><br>Boise National Forest, USFS - Boise, ID                               | 1999 – Feb 2004     |
| <u>Agency Coordinator &amp; Liaison</u><br>Forest Service, Fish & Wildlife Service, Federal Highway Administration – Atlanta, ID | October 2003        |
| <u>District Hydrologist</u><br>Emmett Ranger District, USFS - Emmett, ID                                                         | 1997 – 1999         |
| <u>District Hydrologist</u><br>Lowman Ranger District, USFS - Lowman, ID                                                         | 1996 – 1997         |
| <u>District Hydrologist Technician</u><br>Lowman Ranger District, USFS - Lowman, ID                                              | 1994 – 1996         |

# T.J. CLIFFORD

## **Education**

- 1995      B.S. Watershed Management, Minor Wildlife & Fisheries Science  
University of Arizona - Tucson, AZ
- 2004      Executive Leadership Program  
USDA Graduate School, National Training – Washington D.C.