

Movant's Name:

UNITED STATES OF AMERICA

Attorneys' Names and Addresses:

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

R. LEE LEININGER
WILLIAM M. FERRY
Attorneys, Department of Justice
General Litigation Section
Environment and Natural Resources Division
P.O. Box 663
Washington, D.C. 20044-0663
(202) 305-0242

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 Nos.: 34-12546A, 34-12547A,)
34-12549A, 34-12554A, 34-13347,)

Case No. 39576)

) Affidavit of James Muhn
)
)

James Muhn, being first duly sworn upon oath, state as follows:

1. I am currently employed as the Land Law Historian, Division of Applied Resource Services, Service Center, Bureau of Land Management (BLM), Denver, Colorado. I have served in the capacity as Land Law Historian for over 13 years.

2. As part of my assigned duties and responsibilities, I research various aspects of public land and Indian land policy. This has resulted in my publishing a history of the Bureau of Land Management, as well as writing on subjects such as Federal grazing policy, the administration of the public land settlement laws, national forest policy, and other related matters.

3. I have given depositions and/or trial testimony as an expert in public land policy history and history of the American West for a number of lawsuits involving the United States, these include the following: *Frank Etcitty, et al. v. United States, et al.* (1985 and 1995); *Blatchford v. Winans* (1986); *Red Lake and Minnesota Chippewa v. United States* (1988); *State of North Dakota v. Secretary of the Interior Lujan* (1989 and 1990); and Idaho Snake River Basin Water Rights Adjudication (1996). I also provided testimony for Crook County, Wyoming in 1993.

4. As part of my assigned duties for this project, I wrote a brief history of the development of the livestock industry for each of the adjudication basins from the earliest beginnings to the passage of the Taylor Grazing Act in 1934. From the information presented, the date or dates for the water right filings in each basin were then determined.

5. In writing about each basin, a variety of source materials were relied upon. This included general studies on the history of the livestock industry in Idaho and the Pacific Northwest, as well as state and local histories. Primary source materials were relied upon whenever possible. Such sources included early Idaho newspapers, land and survey records of the old General land Office, U.S. Census data, and reminiscences of settlers, ranchers, and others.

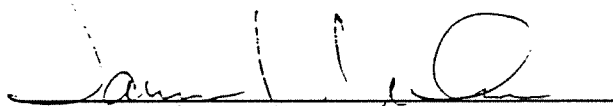
6. In determining water right appropriation dates, it was decided that the dates would be, useless circumstances dictated otherwise, on a basinwide basis. Therefore, a conservative approach was adopted in assigning dates. Rather than attempting to pick dates based on when the first settlers and domestic livestock entered a

basin, it was decided to select a date when it was certain that livestock use in an area had become established.

7. Two histories were prepared for Basin 34 to establish the priority date. Both studies concluded that livestock were located throughout Basin 34 no later than January 1, 1884. Copies of both studies are attached as Exhibits B and C.

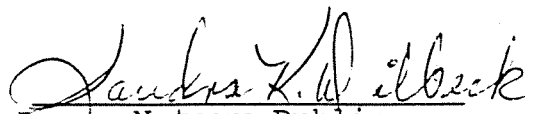
I declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge, information, and belief.

Dated: September 26, 1996


James Muhn, BLM
Land Law Historian

State of Colorado
County of Jefferson

Subscribed and sworn to before me by James Muhn this 26th day of September, 1996.


Notary Public

My commission expires August 31, 2000

Residing at 35 Yarrow Lake Road, PO Box 202

EXHIBIT 2

HISTORY OF LIVESTOCK USE IN IDAHO SNAKE RIVER BASIN No. 34

Prepared By

James Muhn
Land Law Historian

U.S. Department of the Interior
Bureau of Land Management
Service Center
Division of Resource Services
Denver, Colorado

June 1992

Basin 34 is the Big Lost River drainage. From its source in the Pioneer Mountains, the Big Lost flows northeast until its juncture with Thousand Springs Creek. There the river turns and winds its way south between the Pioneer and Lost River mountain ranges. It leaves this valley and curves around the Lost River Mountains to the northeast. Then it suddenly disappears underground at the Big Lost Sinks.¹

The first Euro-Americans to travel through Basin 34 were probably fur trappers and traders. It is known that these men and their families trapped and hunted in this region. The river was discovered in 1820 by Thyery Goddin, and became known to mountain men as Goddin's River. The area appears to have been frequented well into the 1860s.² The Hudson's Bay Company may

¹That portion of the Basin 34 embraced by the U.S. Department of Energy's Idaho National Engineering Laboratory also includes lower portions of the Little Lost River and Birch Creek drainages. However, since the Department of Justice and the State of Idaho reached tentative agreement to this Federal reservation's water rights, discussion of those areas is taken up in the appropriate drainage reports.

²Little research was done in regard to the fur trade era in Basin 36. See David J. Wishart, The Fur Trade of the American West, 1807-1840: A Geographical Synthesis (Lincoln: University of Nebraska Press, 1979), pp. 123, 135, 144; Paul C. Phillip, The Fur Trade, With concluding chapters by J. W. Smurr, 2 vols. (Norman: University of Oklahoma Press, 1961), II: 445; M. D. Beal, A History of Southeastern Idaho (Caldwell, Idaho: The Caxton Printers, 1942), p. 195; Francis Haines, Jr., "The Lost River of John Day," Idaho Yesterdays (Winter 1958-1959): 7-8; and George W. Goodhart, Trails of Early Idaho: The Pioneer Life of George W. Goodhart. As Told to Abraham C. Anderson (Caldwell, Idaho: Caxton Printers, 1940), passim.

have also sent pack trains between Fort Hall and Fort Boise through the southern end of the basin near present-day Arco.³

Emigrants on their way to the Oregon Country were the next whites to pass through the Basin. The main Oregon Trail went along the south side of the Snake River. Charles S. Walgamott in his reminiscences, however, noted the existence of a dim trail from Fort Hall to the sinks of Big Lost River.⁴ The route may have been used as early as 1852 and was soon after included in emigrant guides for the Oregon Country.⁵

In 1862 Tim Goodale took a group of gold seekers to the Salmon River mines by this route. The trail followed two different routes across the barren and arid expanse between the Snake and Big Lost rivers. From Big Lost River, the trail turned east and went across Big Camas Prairie to the Boise Basin.⁶ Goodale's Cutoff, as it came to be called, then became a popular

³In their study of the Oregon Trail, Daniel Hutchison and Larry Jones cite a diary account that they say talks about the Oregon Trail route that paralleled the north side of the Snake River from American Falls to Thousand Springs. The account, however, is clearly about Goodale's Cutoff. That trail went north from Fort Hall to Big Lost River, then west across Big Camas Prairie to the Boise River Basin. See Daniel J. Hutchison and Larry R. Jones, Emigrant Trails of Southern Idaho (Advance Copy) (Boise, Idaho: U.S. Department of the Interior, Bureau of Land Management, 1989), p. 174.

⁴See Charles S. Walgamott, Reminiscences of Early Days: A Series of Historical Sketches and Happenings in the Early Days of Snake River Valley, 2 vols. (Privately published, 1926 and 1927), I: 107.

⁵Hutchison and Jones, Emigrant Trails of Southern Idaho, p. 132.

⁶Ibid., pp. 132-146.

route for stagecoaches traveling between the Snake River and the mining towns to the east and north.⁷

Livestock interests began to herd animals along the Goodale route through the Big Lost River Basin as early as 1869. In that year John F. Bishop and Richard Reynolds trailed a band of sheep from Oregon to Montana through the southern end of the Basin. After reaching the Big Lost River sinks, the sheepherders left the trail. They made their way to Birch Creek, then crossed over into Montana by way of Bannock Pass.⁸

The trail followed by Bishop and Reynolds soon became the most popular route for sheep headed eastward to Montana or Wyoming.⁹ Thousands of sheep traveled the route each year.¹⁰

⁷Ibid., pp. 142-146; Margaret Brackebusch, "Brief History of Lost River Valley," Undergraduate term paper, University of Idaho, 1968, pp. 1-2; Barzilla W. Clark, Bonneville County in the Making (Idaho Falls, Idaho: Privately published, 1941), p. 131; Ethel M. Ackerman, "Big Lost River and Old Arco," Snake River Echoes: Upper Snake River Valley Historical Society Quarterly 5 (Number 4, 1976), p. 77; Georgia P. Olsen, Mackay's Yesterdays (Arco, Idaho: Arco Advertiser, 1978), p. 29; and C. N. Tetter, "Four Years of My Life or Adventures in the Far West: May 14, 1862-December 13, 1865," Thirteenth Biennial Report of the Board of Trustees of the State Historical Society of Idaho, for the Years 1931-1932 (Boise, Idaho: State Historical Society of Idaho, 1932), p. 50.

⁸Edward N. Wentworth, America's Sheep Trails: History, Personalities (Ames: The Iowa State College Press, 1948), p. 263.

⁹Ibid., pp. 260 (map), 275, 288, and 291; and Clarence Gordon, "Report on Cattle, Sheep, and Swine, Supplementary to Enumeration of Live Stock on Farms in 1880," In Tenth U.S. Census: Reports on Agricultural Production, Vol. III, U.S. Department of the Interior, Bureau of Census (Washington, D.C.: U.S. Government Printing Office, 1883), p. 1099; Hartman K. Evans, "Sheep Trailing from Oregon to Wyoming," Mississippi Valley Historical Review 28 (March 1942): 587; C. A. Bottolfsen, Little Bits of Lost River History As Published in the Arco

In 1883 and 1884 Mrs. Jennie Ferris remembered seeing "great droves" of sheep pass through the area. One flock, she said, had 20,000 sheep.¹¹ In 1884 it was reported that the trail through Idaho was clogged with sheep moving eastward.¹² The construction of the Oregon Short Line Railroad into southern Idaho in 1882-1883 reduced the number of livestock moving along the trail.¹³ Sheepmen, however, continued to use the route as late as 1898.¹⁴

Cattle and horse herds going eastward also used the route through the Big Lost River Basin. This activity started as early as 1877.¹⁵

Advertiser Under the Title of Do You Remember When: A Brief Chronology of Events from 1877 to 1901 (Arco, Idaho: Privately published, 1926), p. 4; and The Idaho Tri-Weekly Statesman, 22 September 1883, p. 3, c. 1.

¹⁰J. Orin Oliphant, On the Cattle Ranges of the Oregon Country (Seattle: University of Washington Press, 1968), pp. 178-179; and "Excerpts from the Cheyenne Daily Leader," in Wyoming Cattle Trails: History of the Oregon-Raised Herds to Mid-Western Markets, pp. 339 and 343, John K. Rollinson, edited by E. A. Brininstool (Caldwell, Idaho: The Caxton Printers, 1948).

¹¹Bottolfsen, Little Bits of Lost River History, p. 4.

¹²Oliphant, On the Cattle Ranges of the Oregon Country, p. 178.

¹³Ibid., p. 179.

¹⁴O. E. Forsling, "Sheep to Cheyenne," Idaho Yesterdays 8 (Summer 1964): 26-29; and Edward N. Wentworth, "Eastward Sheep Drives from California and Oregon," Mississippi Valley Historical Review 28 (March 1942): 528-529.

¹⁵Oliphant, On the Cattle Ranges of the Oregon Country, pp. 160, 163-164, 167, 169-173, and 177-178.

Many cattle herds averaged 2,000 head, with some being as large as 5,000 in number.¹⁶ Mrs. Ferris said it was not uncommon in mid-1880s for herds of 500 to 600 head of cattle or horses to pass by.¹⁷ The trailing of cattle and horses to Montana and Wyoming, however, came largely to an end with the completion the Oregon Short Line Railroad in the mid-1880s.¹⁸

Those who trailed sheep and cattle along the route came to see the Big Lost River Basin as a welcome site. The stretch of trail from Little Wood River to Big Lost River was rough. One trail herder described the route as the "extremely difficult for cattle, as it was strewn for the most part with lava rocks partly covered with lava ash and hidden in sagebrush."¹⁹ This made the going slow. To make matters worse, grass along that stretch was poor and little water was to be found. At Big Lost River sheepherders and cowboys found "ample water" and better grazing.²⁰

This trail-driving activity made stockraisers familiar with the advantages of the Big Lost River Valley. Permanent ranchers, however, did not start to locate there until after the Bannock

¹⁶Rollinson, Wyoming Cattle Trails, p. 22; and Clark, Bonneville County in the Making, p. 124.

¹⁷Bottolfsen, Little Bits of Lost River History, p. 4.

¹⁸Oliphant, On the Cattle Ranges of the Oregon Country, pp. 178-179.

¹⁹Rollinson, Wyoming Cattle Trails, p. 94.

²⁰Ibid., p. 96; and Evans, "Sheep Trailing from Oregon to Wyoming," p. 587.

Indian War of 1878.²¹ One local historian says there were a few settlers on Big Lost River before 1878, however, other evidence supports the contention that settlement did not begin until 1878 or 1879.²² One of the first settlers was Dan Richardson, who

²¹One local historian claims that Sam Blackburn and E. P. Challis, who headquartered near present Challis, grazed cattle in the Thousand Springs Valley as early as 1876. Another historian says the herds of Alvay Challis and his partners, who also operated in the Challis area, grazed the same area in 1879. See Clinton Olmstead, "Historical Review of Central Idaho," Mackay Miner, 15 October 1931, p. 1; and George E. Shoup, History of Lemhi County (Boise, Idaho: Idaho State Library, 1969), p. 32.

²²Local historian Georgia Olsen claims that John Lehman and a man known only as Schwab settled on Big Lost River 12 miles above present Mackay in 1867. She also says a few other settlers came in the mid-1870s. Geo. A. McLeod says that there were scattered settlements along the Big Lost River prior to 1878. Local historian A. C. Bottolfsen, however, states that the first settlers came in 1878 or 1879. While much of the upper Big Lost River Valley was not opened to entry until the 1890s, the earliest settlement claim recorded in the General Land Office's tract books is 1879. The first water right claims were also filed that year and the stage station at old Arco was also opened. Furthermore, Clarence Gordon, a special agent with the U.S. Census Bureau in 1880, notes in his study of Idaho's livestock industry that this region "was almost untried up to 1880." George Shoup claims that the first rancher was a man named McKim. General Land Office records show that McKim did not settle in the basin until December 1880. From all this evidence, the researcher is of the opinion that stockmen did not begin to settle the Basin until 1878-1879. See Olsen, Mackay's Yesterdays, p. 8-9, 12, 16, and 103; Geo. A. McLeod, History of Alturas and Blaine Counties, Third edition (Hailey, Idaho: The Hailey Times, 1950), p. 39; Gordon, "Report on Cattle, Sheep, and Swine," p. 1094; C. A. Bottolfsen, "Lost River Valley from 1879 to 1923," n.p., Lost River Valley--History, Vertical Files, Idaho State Historical Society, Boise, Idaho [Hereafter cited as ISHS, Boise]; Bottolfsen, Little Bits of Lost River History, p. 2-3; Floyd R. Barber and Dan W. Martin, Idaho in the Pacific Northwest (Caldwell, Idaho: The Caxton Printers, 1956), pp. 105; Federal Writers' Project, The Idaho Encyclopedia (Caldwell, Idaho: The Caxton Printers, 1938), p. 248; U.S. Department of the Interior, Bureau of Land Management, Tract Books, Washington Office Set, Idaho Series, Vol. 31: 85-120 and 205-228; Ibid., Vol. 32: 1-12, 73-96, and 133-204; and Ibid., Vol. 33: 25-36, 49-72.

filed the Basin's first water right in 1879. His ranch was at the north end of the Basin along Thousand Springs Creek.²³

Most of the early settlers, however, located farther down the Big Lost River Valley. The earliest known settler in the southern valley was A. N. Anderson who came in April 1879.²⁴ The stage station at Arco was founded the same year.²⁵ The area, however, remained largely unsettled, and one traveler in 1880 referred to the area as being a wilderness.²⁶

By 1883 enough ranchers had located in the southern valley to prompt the General Land Office into surveying the southern part of the Basin. When the deputy surveyor who surveyed the area in 1884 returned, the Idaho Tri-Weekly Statesman quoted him as being "agreeably surprised at finding so large an area of good arable land and so large an expanse of grazing land." There was excellent wild hay and the winters were mild. The surveyor expressed no doubt that the area would become a "first-class agricultural region."²⁷

²³Other settlers who are said to have filed at this time are Steve Navarre, C. C. Davidson, and William Goodman. See Bottolfsen, Little Bits of Lost River History, p. 2-3; Olsen, Mackay's Yesterdays, p. 9.

²⁴Beal, History of Southeastern Idaho, p. 195; and USDI, BLM, Tract Books, Washington Set, Idaho, Vol. 33, pp. 169-180.

²⁵The first Arco was about 5 miles south of the present town. Lalia Boone, Idaho Place Names: A Geographical Dictionary (Moscow: University of Idaho Press, 1988), p. 10.

²⁶Beal, History of Southeastern Idaho, p. 195.

²⁷The Idaho Tri-Weekly Statesman, 22 September 1883, p. 3, c. 1.

Advertising of the Basin's agricultural and grazing opportunities and the discovery of valuable copper deposits prompted a minor land rush into the Big Lost River Valley.²⁸ In the mid-1880s lands along the river from present MacKay to Arco were quickly taken up. Most of the new settlers took up ranching, but a few began irrigated farms.²⁹ The stockmen cut wild hay on the bottomlands and used the adjacent foothills and mountains as a grazing common.³⁰

By 1889 the Territorial Governor reported that large herds of cattle, sheep, and horses grazed "the unoccupied valley lands and on the mountain slopes of Big Lost River."³¹ The following winter was one the harshest in Idaho's history. Thousands of animals on the open range died. Ranchers along the Big Lost

²⁸Merle W. Wells, Gold Camps & Silver Cities: Nineteenth Century Mining in Central and Southern Idaho, Second edition, Idaho Department of Lands, Bureau of Mines and Geology, Bulletin No. 22 (1983): 124-125.

²⁹Federal Writers' Project, The Idaho Encyclopedia, p. 248; Bottolfsen, "Lost River Valley," n.p.; Bottolfsen, Little Bits of Lost River History, p. 3; Wentworth, America's Sheep Trails, pp. 291-292; Brackebusch, "Brief History of Lost River," p. 6; Olmstead, "Historical Review of Central Idaho," p. 1; J. D. Martin, "With the Lost River Pioneers," p. 10, Lost River Valley-History, Vertical Files, ISHS, Boise; USDI, BLM, Tract Books, Washington Set, Idaho, Vol. 31: 85-120 and 205-228; Ibid., Vol. 32: 1-12, 73-96, and 133-204; and Ibid., Vol. 33: 25-36, 49-72.

³⁰USDI, BLM, Cadastral Survey Field Notes, Township 4 North, Range 26 East, Boise Meridian, Vol. 53, p. 177; and Ibid., T. 9 N., R. 22 W., Vol. 98, pp. 583-584.

³¹U.S. Department of the Interior, Report of the Governor Idaho Made to the Secretary of the Interior for Fiscal Year Ending June 30, 1889 (Washington, D.C.: U.S. Government Printing Office, 1889), pp. 27-28.

suffered huge losses. The magnitude of the disaster is illustrated by Morgan McKimm. He had been offered \$90,000 for his cattle herd in 1889, the next spring he was practically broke.³²

The winter of 1889-1890 proved only a temporary setback. The livestock industry in the Big Lost River Basin quickly rebounded. Winter feed was now put up for animals. Many herds of cattle, however, were replaced by sheep.³³

In the early 1900s the open public range available to stockraisers in the Big Lost Valley began to diminish. First came the creation of national forests. In November 1906 the mountainous areas to the east and west of Big Lost River Valley were withdrawn as national forests.³⁴ Free grazing within the

³²Beal, A History of Southeastern Idaho, p. 195; Oliphant, On the Cattle Ranges of the Oregon Country, pp. 283-285; Olmstead, "Historical Review of Central Idaho," p. 1; and E. F. Rinehart, "The Idaho Range: Past and Present," M.S. thesis, University of Idaho, 1932, p. 16.

³³Sheep first arrived in the Big Lost River Valley in 1883. Wentworth, America's Sheep Trails, pp. 292-293; and Oliphant, On the Cattle Ranges of the Oregon Country, pp. 286-287.

³⁴The first national forest, then known as forest reserves, was the Lemhi Forest Reserve created by President Theodore Roosevelt on November 5, 1906. This withdrawal embraced the Lost River Range east of the Big Lost River Valley. The day after the Lemhi reserve was created, the Sawtooth Forest Reserve was expanded to include the mountains on the west of the Big Lost Valley. See President Proclamation, November 5, 1906, (34 Stat. 3248 and map); and Presidential Proclamation of November 6, 1906, (34 Stat. 3260-61 and map).

new national forests was prohibited and only those who obtained permits from the U.S. Forest Service could graze there.³⁵

Then came large-scale irrigation projects under the authority of the Carey Land Act. Reservoirs were constructed and the south end of the Basin was divided into irrigated farms.³⁶ At about the same time, a rush of dry-land farmers also entered the region.³⁷

All of this forced ranchers in the Basin to crowd their animals on the remaining unappropriated and unreserved public domain. The resulting conditions led to conflicts between cattle and sheep interests. Both groups organized in an effort to protect and further their interests, but the range continued to be overgrazed.³⁸

To facilitate the movement of livestock through the Basin, the Department of the Interior in 1919 withdrew certain public lands for use as stock driveways. Section 10 of the Stock Raising Homestead Act of December 19, 1916, permitted the Secretary of the Interior "to withdrawal from entry [public]

³⁵See William D. Rowley, U.S. Forest Service Grazing and Rangelands: A History (College Station: Texas A&M University Press, 1985), pp. 55-95.

³⁶Olsen, Mackay's Yesterdays, pp. 91-97; and Mikel H. Williams, The History of Development and Current Status of the Carey Act in Idaho (Boise: Idaho Department of Reclamation, 1971), pp. 18-20.

³⁷USDI, BLM, Tract Books, Washington Set, Idaho, Vol. 31: 85-120 and 205-228; Ibid., Vol. 32: 1-12, 73-96, and 133-204; and Ibid., Vol. 33: 25-36, 49-72.

³⁸Olsen, Mackay's Yesterdays, pp. 127-130.

lands necessary to insure access by the public to reserved watering places and needed for the use of stock to summer and winter ranges or to shipping points, and certain limitations are prescribed for the driveways which may be withdrawn thereunder."³⁹

On July 3, 1919, a network of driveways were established in the Basin. They led to summer grazing grounds in the national forest, connected with other nearby valleys, and went to the railroad stockyards at Mackay and Arco.⁴⁰

In the early 1930s stockmen in Custer County petitioned Congress to withdraw the unappropriated and unreserved public lands in the county and provide for the lease and regulation of those lands for grazing purposes. The legislation did pass.⁴¹ However, in 1934 Congress enacted the Taylor Grazing Act. The era of free and unrestricted grazing on the unappropriated and unreserved public domain came to an end. On November 3, 1936, the Secretary of the Interior included the public lands in Basin

³⁹U.S.Department of the Interior, General Land Office, Annual Report of the Commissioner of the General Land Office for the Fiscal Year Ending, June 30, 1917 (Washington, D.C.: U.S. Government Printing Office, 1917), p. 16.

⁴⁰Stock Driveway Withdrawal No. 86 (Idaho No. 4), 3 July 1919, Records Relating to Stock Driveway Withdrawals, 1916-1959, Record Group 49, Records of the Bureau of Land Management, National Archives, Washington, D.C.

⁴¹James Muhn, "The Mizpah-Pumpkin Creek Grazing District: Its History and Influence on the Enactment of a Public Lands Grazing Policy, 1926-1934," M.A. thesis, Montana State University, 1987, p. 93, fn 20.

34 in Idaho Grazing Districts Number 3 and 4. These lands are now administered by the Bureau of Land Management.⁴²

CONCLUSION

The first livestock to be trailed through the Basin came with Oregon Country emigrants using Goodale's Cutoff in the 1850s. In 1869 livestock being moved eastward from California and the Pacific Northwest to Montana and Wyoming began to pass through. This activity would bring thousands of cattle and sheep into the Basin over the next three decades.

This trailing of livestock was restricted to the lower reaches of the Big Lost River. Seasonal grazing in the northern Basin did not begin until the late 1870s.

No permanent settlers established themselves until 1878 or 1879. These first ranchers were few in number until mining and other factors caused a settlement boom in the mid-1880s. Cattle, horses, and sheep quickly spread throughout the Big Lost Valley. By the late 1880s the public range within the Basin was crowded

⁴²A grazing district for this region had been recommended by a committee of Idaho stockgrowers soon after passage of the Taylor Grazing Act. The law's limitation on including only 80 million acres of unappropriated and unreserved public land within grazing districts, however, prevented the Division of Grazing (Later named the Grazing Service) from creating a district until the act was amended in 1936 to allow for 142 million acres. Prior to the establishment of the district, however, grazing on these public lands would have been administered by the General Land Office under Section 15 of the Taylor Grazing Act. Basin 34 was included in two grazing districts--Numbers 3 and 4. The dividing line between the districts is Butte and Custer county line. See U.S. Department of the Interior, Division of Grazing, The Grazing Service Bulletin 1 (March 1936): 3 and map; Ibid., 1 (January 1937): 5 and map; and James Muhn and Hanson R. Stuart, Opportunity and Challenge: The Story of BLM (Washington, D.C.: U.S. Printing Office, 1988), pp. 37-41.

and the situation would only worsen until passage of the Taylor
Grazing Act in 1934.

HISTORY OF EARLY LIVESTOCK USE IN
IDAHO SNAKE RIVER BASIN NO. 34

REVISED REPORT

(ATTORNEY WORK PRODUCT)

PREPARED FOR THE
U.S. DEPARTMENT OF JUSTICE

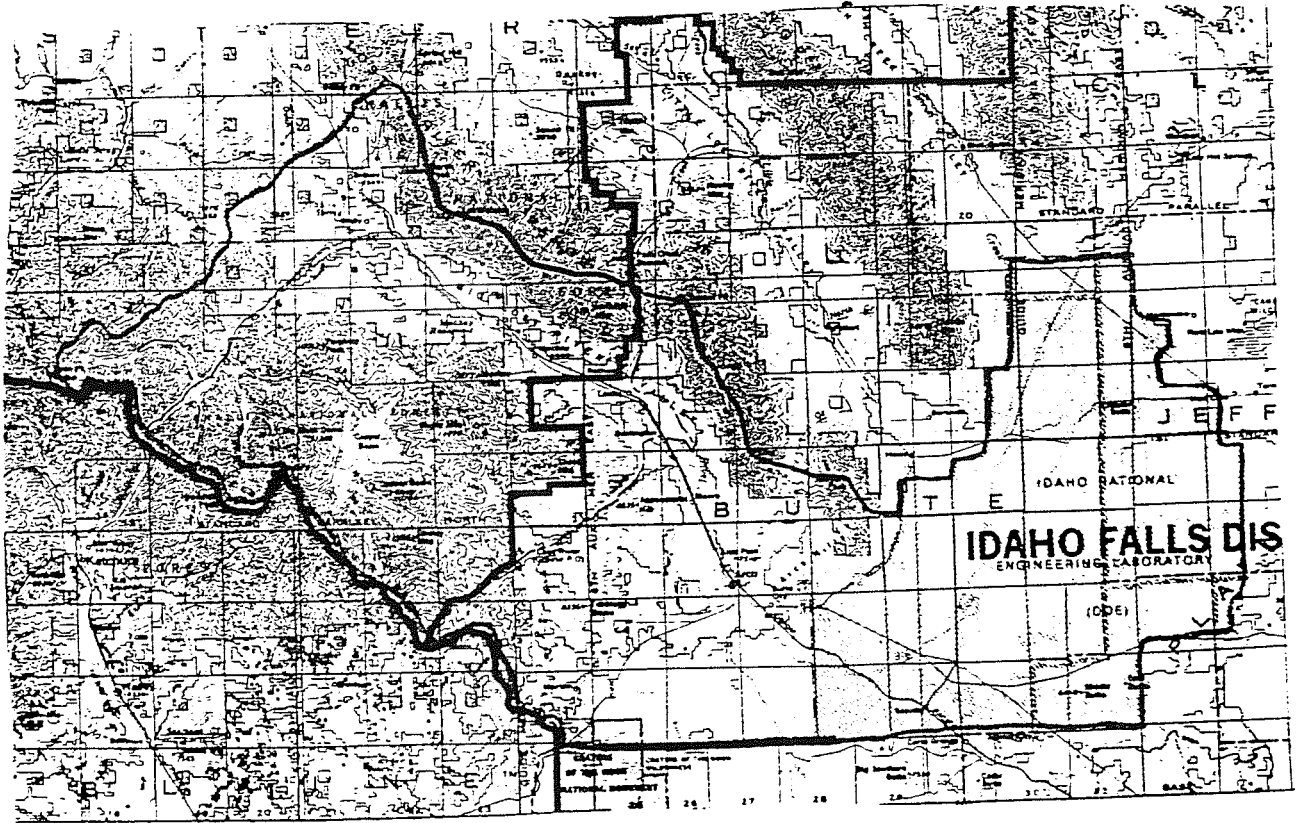
BY

JAMES MUHN
LAND LAW HISTORIAN

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
SERVICE CENTER
DIVISION OF RESOURCE SERVICES
DENVER, COLORADO

MARCH 1993

BASIN 34 MAP



Basin 34 is the Big Lost River drainage. From its source in the Pioneer Mountains, the Big Lost flows northeast until its juncture with Thousand Springs Creek. There the river turns and winds its way south between the Pioneer and Lost River mountain ranges. It leaves this valley and curves around the Lost River Mountains to the northeast. Then it suddenly disappears underground at the Big Lost Sinks.¹

The first Euro-Americans to travel through Basin 34 were probably fur trappers and traders. It is known that these men and their families trapped and hunted in this region. The river was discovered in 1820 by Antoine Godin and became known to mountain men as Godin's or Goddin's River. The area appears to have been frequented well into the 1860s.² The Hudson's Bay Company may have also sent

¹That portion of the Basin 34 embraced by the U.S. Department of Energy's Idaho National Engineering Laboratory also includes the lower stretch of Birch Creek (Basin 32). However, since the Department of Justice and the State of Idaho reached tentative agreement to this Federal reservation's water rights, discussion of that area is taken up in the appropriate report for Basin 32.

²Little research was done in regard to the fur trade era in Basin 34. See David J. Wishart, The Fur Trade of the American West, 1807-1840: A Geographical Synthesis (Lincoln: University of Nebraska Press, 1979), pp. 123, 135, and 144; Paul C. Phillip, The Fur Trade, with concluding chapters by J. W. Smurr, 2 vols. (Norman: University of Oklahoma Press, 1961), Vol. II, p. 445; M. D. Beal, A History of Southeastern Idaho (Caldwell, Idaho: The Caxton Printers, 1942), p. 195; Lalia Boone, Idaho Place Names: A Geographical Dictionary (Moscow: University of Idaho Press, 1988), p. 156; Francis Haines, Jr., "The Lost River of John Day," Idaho Yesterdays (Winter 1958-1959), pp. 7-8; and George W. Goodhart, Trails of Early Idaho: The Pioneer

pack trains between Fort Hall and Fort Boise through the southern end of the basin near present-day Arco.³

Emigrants on their way to the Oregon Country were the next whites to pass through the Basin. The main Oregon Trail went along the south side of the Snake River. Charles S. Walgamott in his reminiscences, however, noted the existence of a dim trail from Fort Hall to the sinks of Big Lost River.⁴ The route may have been used as early as 1852 and was soon after included in emigrant guides for the Oregon Country.⁵

In 1862 Tim Goodale took a group of gold seekers to the Salmon River mines by this route. The trail followed two different routes across the barren and arid expanse between the Snake and Big Lost rivers. From Big Lost River, the trail turned east and went across Big Camas Prairie to the

Life of George W. Goodhart. As Told to Abraham C. Anderson (Caldwell, Idaho: Caxton Printers, 1940), passim.

³In their study of the Oregon Trail, Daniel Hutchison and Larry Jones cite a diary account that they say talks about the Oregon Trail route that paralleled the north side of the Snake River from American Falls to Thousand Springs. The account, however, is clearly about Goodale's Cutoff. That trail went north from Fort Hall to Big Lost River, then west across Big Camas Prairie to the Boise River valley. See Daniel J. Hutchison and Larry R. Jones, Emigrant Trails of Southern Idaho (Advance Copy) (Boise, Idaho: U.S. Department of the Interior, Bureau of Land Management, 1989), p. 174.

⁴See Charles S. Walgamott, Reminiscences of Early Days: A Series of Historical Sketches and Happenings in the Early Days of Snake River Valley, 2 vols. (n.p., 1926 and 1927), Vol. I, p. 107.

⁵Hutchison and Jones, Emigrant Trails of Southern Idaho, p. 132.

Boise River valley.⁶ Goodale's Cutoff, as it came to be called, became a popular route for stagecoaches traveling between the Snake River and the mining towns to the east and north.⁷

Livestock interests began to herd animals along the Goodale route through the Big Lost River basin as early as 1869. In that year John F. Bishop and Richard Reynolds trailed a band of sheep from Oregon to Montana through the southern end of the Basin. After reaching the Big Lost River sinks, the sheepherders left the trail. They made their way to Birch Creek, then crossed over into Montana by way of Bannock Pass.⁸

The trail followed by Bishop and Reynolds soon became the most popular route for sheep headed eastward to Montana

⁶Ibid., pp. 132-146.

⁷Ibid., pp. 142-146; Margaret Brackebusch, "Brief History of Lost River Valley," Undergraduate term paper, University of Idaho, 1968, pp. 1-2; Barzilla W. Clark, Bonneville County in the Making (n.p., 1941), p. 131; Ethel M. Ackerman, "Big Lost River and Old Arco," Snake River Echoes: Upper Snake River Valley Historical Society Quarterly 5 (Number 4, 1976), p. 77; Georgia P. Olsen, Mackay's Yesterdays (Arco, Idaho: Arco Advertiser, 1978), p. 29; and C. N. Tetter, "Four Years of My Life or Adventures in the Far West: May 14, 1862-December 13, 1865," Thirteenth Biennial Report of the Board of Trustees of the State Historical Society of Idaho, for the Years 1931-1932 (Boise, Idaho: State Historical Society of Idaho, 1932), p. 50.

⁸Edward N. Wentworth, America's Sheep Trails: History, Personalities (Ames: The Iowa State College Press, 1948), p. 263.

or Wyoming.⁹ Thousands of sheep traveled the route each year.¹⁰ Mrs. Jennie Ferris remembered seeing "great droves" of sheep pass through the area in 1883 and 1884. One flock, she said, had 20,000 sheep.¹¹ In 1884 it was reported that the trail through Idaho was clogged with sheep moving eastward.¹² The construction of the Oregon Short Line Railroad into southern Idaho in 1882-1883 reduced the number of livestock moving along the trail.¹³ Sheepmen, however, continued to use the route as late as 1902.¹⁴

⁹Ibid., pp. 260 (map), 275, 288, and 291; and Clarence Gordon, "Report on Cattle, Sheep, and Swine, Supplementary to Enumeration of Live Stock on Farms in 1880," in Tenth U.S. Census: Reports on Agricultural Production, Vol. III, pp. 1094-1101, by U.S. Department of the Interior, Bureau of Census (Washington, D.C.: U.S. Government Printing Office, 1883), p. 1099; Hartman K. Evans, "Sheep Trailing from Oregon to Wyoming," Mississippi Valley Historical Review 28 (March 1942), p. 587; C. A. Bottolfsen, Little Bits of Lost River History As Published in the Arco Advertiser Under the Title of Do You Remember When: A Brief Chronology of Events from 1877 to 1901 (n.p., 1926), p. 4; and Idaho Tri-Weekly Statesman (Boise, Idaho), 22 September 1883, p. 3, c. 1.

¹⁰J. Orin Oliphant, On the Cattle Ranges of the Oregon Country (Seattle: University of Washington Press, 1968), pp. 178-179; and "Excerpts from the Cheyenne Daily Leader," in Wyoming Cattle Trails: History of the Oregon-Raised Herds to Mid-Western Markets, John K. Rollinson, edited by E. A. Brininstool (Caldwell, Idaho: The Caxton Printers, 1948), p. 343.

¹¹Bottolfsen, Little Bits of Lost River History, p. 4.

¹²Oliphant, On the Cattle Ranges of the Oregon Country, p. 178.

¹³Ibid., p. 179.

¹⁴O. E. Forsling, "Sheep to Cheyenne," Idaho Yesterdays 8 (Summer 1964), pp. 26-29; Wentworth, America's Sheep Trails, p. 277; and Edward N. Wentworth, "Eastward Sheep Drives from California and Oregon," Mississippi Valley Historical Review 28 (March 1942), pp. 528-529.

Cattle and horse herds going eastward also used the route through the Big Lost River basin. This activity started as early as 1877.¹⁵

Many cattle herds averaged 2,000 head, with some being as large as 5,000 in number.¹⁶ Mrs. Ferris said it was not uncommon in mid-1880s for herds of 500 to 600 head of cattle or horses to pass by.¹⁷ The trailing of cattle and horses to Montana and Wyoming, however, largely came to an end with the completion of the Oregon Short Line Railroad in the mid-1880s.¹⁸

Those who trailed sheep and cattle along the route came to see the Big Lost River basin as a welcome site. The stretch of trail from Little Wood River to Big Lost River was rough. One trail herder described the route as "extremely difficult for cattle, as it was strewn for the most part with lava rocks partly covered with lava ash and hidden in sagebrush."¹⁹ This made the going slow. To make matters worse, grass along that stretch was poor and little

¹⁵Oliphant, On the Cattle Ranges of the Oregon Country, pp. 160, 163-164, 167, 169-173, and 177-178.

¹⁶Rollinson, Wyoming Cattle Trails, p. 22; and Clark, Bonneville County in the Making, p. 124.

¹⁷Bottolfsen, Little Bits of Lost River History, p. 4.

¹⁸Oliphant, On the Cattle Ranges of the Oregon Country, pp. 178-179.

¹⁹Rollinson, Wyoming Cattle Trails, p. 94.

water was to be found. At Big Lost River, sheepherders and cowboys found "ample water" and better grazing.²⁰

As early as 1877 the agricultural and ranching attributes of the Big Lost River valley were being touted. One writer told of the valley's large agriculture area and of how the bench lands were "rich in grass."²¹ Stockraisers were starting to graze their herds along the Big Lost River in the late 1870s. One local historian says that this practice began as early as 1876 when Sam Blackburn and E. P. Challis, who headquartered near present-day Challis, grazed cattle in the Thousand Springs valley.²² Another historian says this first herd did not come until 1879.²³

Permanent ranchers also came to the area in the late 1870s. There is a claim that John Lehman and a man named Schwab settled north of present-day Mackay as early as 1861.²⁴ Another source states that there were scattered

²⁰Ibid., p. 96; Evans, "Sheep Trailing from Oregon to Wyoming," p. 587; and Idaho Tri-Weekly Statesman, 22 September 1883, p. 3, c. 1.

²¹Idaho Weekly Avalanche (Silver City, Idaho), 17 March 1877, p. 1, c. 3.

²²George E. Shoup, History of Lemhi County (Boise, Idaho: Idaho State Library, 1969), p. 32.

²³Clinton Olmstead, "Historical Review of Central Idaho," Mackay Miner (Mackay, Idaho), 15 October 1931, p. 1.

²⁴Olsen, Mackay's Yesterdays, pp. 8 and 16; and Bob Johnson, "1861 Lost River Cabin Endures Onslaughts of Weather, Time," Idaho Daily Statesman (Boise, Idaho), 28 November 1971, p. 5B.

settlements along the river prior to 1878.²⁵ However, the Big Lost River area's most prominent historian, C. A. Bottolfsen, places the first settlement at 1878 or 1879, the later date, 1879, being supported by available General Land Office records.²⁶

In March 1879 it was reported that 200 men and 9 families were wintering at Challis, Round Valley, and Big Lost River.²⁷ One of the settlers on Big Lost River was Dan Richardson, who filed the Basin's first water right in 1879. His ranch was at the north end of the Basin along Thousand Springs Creek.²⁸ At the southern end of the valley, a man

²⁵Geo. A. McLeod, History of Alturas and Blaine Counties, Third edition (Hailey, Idaho: The Hailey Times, 1950), p. 39.

²⁶C. A. Bottolfsen, "Lost River Valley from 1879 to 1923," n.p., Lost River Valley--History File, Vertical Files, Idaho State Historical Society, Boise, Idaho (hereafter cited as ISHS, Boise); C. A. Bottolfsen, "Lost River Drew First Settlers in '78," Idaho State Journal (Boise, Idaho), 16 March 1962, p. 10; Bottolfsen, Little Bits of Lost River History, p. 2-3; and Tract Books, Washington Office Set, Idaho Series, Vol. 31, pp. 85-120 and 205-228, Vol. 32, pp. 1-12, 73-96 and 133-204, and Vol. 33, pp. 25-36 and 49-72, , U.S. Department of the Interior, Bureau of Land Management, Service Center, Denver, Colorado (hereafter cited as Tract Books).

²⁷Idaho Tri-Weekly Statesman, 18 March 1879, p. 4, c. 1.

²⁸Local historians generally call Richardson the first settler and date his settlement to either 1878 or 1879. He is also said to be the first water rights claimant. Georgia Olsen says Richardson's water right dates to 1875, implying a similar date for settlement. A nearby newspaper in 1879 does make reference, when describing a route to Challis, to "Richardson's old ranch on Big Lost [R]iver." There is no mention of when the ranch was located or abandoned, nor where his new ranch was established. See Bottolfsen, "Lost River Valley from 1879 to 1923," n.p; Bottolfsen, "Lost River Drew First Settlers in '78," p. 10; Bottolfsen, Little Bits of Lost River History, pp. 2-3; Olsen, Mackay's

named Andrew N. Anderson settled in April 1879.²⁹ The stage station at Arco was also established.³⁰ Other settlers who are said to have filed at this time are Steve Navarre, C. C. Davidson, and William Goodman.³¹

Although many of the first settlers undoubtedly had small herds of cattle and horses with them, local historian George E. Shoup says that the first "rancher" along the Big Lost River was a man named McKim.³² Morgan McKim³³ made settlement in December 1880.³⁴ Earlier that year, McKim reported that he had 350 cattle and 10 horses.³⁵

Yesterdays, pp. 8-9; The Yankee Fork Herald (Bonanza, Idaho), 11 September 1879, p. 2, c. 1.

²⁹Bottolfsen, "Lost River Valley from 1879 to 1923," n.p; Beal, History of Southeastern Idaho, p. 195; and Tract Books, Vol. 33, pp. 169-180.

³⁰The first Arco was about 5 miles south of the present town. See Boone, Idaho Place Names, p. 10; and Bottolfsen, "Lost River Valley from 1879 to 1923," n.p.

³¹Bottolfsen, "Lost River Drew First Settlers in '78," p. 10; Bottolfsen, Little Bits of Lost River History, p. 2-3; and Olsen, Mackay's Yesterdays, p. 9.

³²Shoup, History of Lemhi County, p. 16.

³³Also spelled as "McKimm" in some histories.

³⁴Tract Books, Vol. 32, pp. 73-84.

³⁵U.S. Department of the Interior, Census Bureau, Tenth Census, Idaho Territory, Schedule 2: Productions in Agriculture, Round Valley, Lemhi County, Supervisor's District No. 1, Enumeration District No. 21, p. 5, U.S. Census Microfilm Series, Idaho State Historical Society, Boise, Idaho.

By 1883 enough ranchers had located in the southern valley to prompt the General Land Office into surveying the southern part of the Basin. When the deputy surveyor who surveyed the area in 1883 returned, the Idaho Tri-Weekly Statesman of Boise quoted him as being "agreeably surprised at finding so large an area of good arable land and so large an expanse of grazing land." There was excellent wild hay and the winters were mild. The surveyor expressed no doubt that the area would become a "first-class agricultural region."³⁶ A source in another newspaper was confident that Lost River would "boom next season."³⁷

Advertising of the Basin's agricultural and grazing opportunities and the discovery of valuable copper deposits prompted a minor land rush into the Big Lost River valley.³⁸ In the mid-1880s, lands along the river from present-day MacKay to Arco were quickly taken up, despite efforts by some ranchers to keep newcomers out.³⁹ The area around

³⁶The Idaho Tri-Weekly Statesman, 22 September 1883, p. 3, c. 1.

³⁷The Blackfoot Register (Blackfoot, Idaho), 8 December 1883, p. 3, c. 3.

³⁸Merle W. Wells, Gold Camps & Silver Cities: Nineteenth Century Mining in Central and Southern Idaho, Second edition, Idaho Department of Lands, Bureau of Mines and Geology, Bulletin No. 22 (1983), pp. 124-125.

³⁹Federal Writers' Project, The Idaho Encyclopedia (Caldwell, Idaho: The Caxton Printers, 1938), p. 248; Bottolfson, "Lost River Valley," n.p.; Bottolfson, Little Bits of Lost River History, p. 3; Wentworth, America's Sheep Trails, pp. 291-292; Brackebusch, "Brief

Thousand Springs was also "rapidly settling up with stock men and ranchers."⁴⁰ The stockmen cut wild hay on the bottomlands and used the adjacent foothills and mountains as a grazing common.⁴¹ It was reported in 1885 that 15,000 to 18,000 cattle grazed Custer County.⁴²

By 1889 the Territorial Governor reported that large herds of cattle, sheep, and horses grazed "the unoccupied valley lands and on the mountain slopes of Big Lost River."⁴³ The following winter was one the harshest in Idaho's history. Thousands of animals on the open range died. Ranchers along the Big Lost suffered huge losses.⁴⁴

History of Lost River," p. 6; Olmstead, "Historical Review of Central Idaho," p. 1; J. D. Martin, "With the Lost River Pioneers," p. 10, Lost River Valley History File, Vertical Files, ISHS, Boise; Tract Books, Vol. 31, pp. 85-120 and 205-228, Vol. 32, pp. 1-12, 73-96 and 133-204, and Vol. 33, pp. 25-36 and 49-72; and Byron D. Lusk, "Golden Cattle Kingdoms of Idaho," M.S. thesis, Utah State University, 1978, p. 217.

⁴⁰[Anonymous] History of Idaho Territory Showing Its Resources and Advantages (San Francisco, California: Wallace E. Elliott & Co., 1884), p. 253.

⁴¹Cadastral Survey Field Notes, Boise Principal Meridian, Vol. 53, p. 177, and Vol. 98, pp. 583-584, U.S. Department of the Interior, Bureau of Land Management, Service Center, Denver, Colorado.

⁴²The Idaho Register (Idaho Falls, Idaho), n.d. April 1885, p. 2, c. 2.

⁴³U.S. Department of the Interior, Report of the Governor Idaho Made to the Secretary of the Interior for Fiscal Year Ending June 30, 1889 (Washington, D.C.: U.S. Government Printing Office, 1889), pp. 27-28.

⁴⁴Beal, A History of Southeastern Idaho, p. 195; Oliphant, On the Cattle Ranges of the Oregon Country, pp. 283-285; Olmstead, "Historical Review of Central Idaho," p. 1; E. F. Rinehart, "The Idaho Range: Past

The following spring, a judge passed through the Big Lost River valley on his way to Challis. The stench from the dead livestock was so bad that the judge issued an order to officers to do whatever was necessary to have the "carcasses burned or buried."⁴⁵ The magnitude of the disaster is also illustrated by the situation of Morgan McKimm. He had been offered \$90,000 for his cattle herd in 1889; the next spring, he was practically broke.⁴⁶

The winter of 1889-1890 proved only a temporary setback. The livestock industry in the Big Lost River basin quickly rebounded. Winter feed was now put up for animals. Many herds of cattle, however, were replaced by sheep.⁴⁷

In the early 1900s the open public range available to stockraisers in the Big Lost River valley began to diminish. First came the creation of national forests. In November 1906, the mountainous areas to the east and west of Big Lost

and Present," M.S. thesis, University of Idaho, 1932, p. 16; and USDI, Census Office, Report on the Statistics of Agriculture in the United States at the Eleventh Census: 1890 (Washington, D.C.: U.S. Government Printing Office, 1895), pp. 243 and 282.

⁴⁵Quoted in Rinehart, "The Idaho Range," p. 16.

⁴⁶Ibid.

⁴⁷Sheep first arrived in the Big Lost River valley in 1883. Wentworth, America's Sheep Trails, pp. 292-293; Oliphant, On the Cattle Ranges of the Oregon Country, pp. 286-287; and USDI, Census Office, Agriculture, Part I: Farms, Live Stock and Animal Products, in Census Reports (Washington, D.C.: U.S. Government Printing Office, 1902), Vol. 5, pp. 428-431.

River valley were withdrawn as national forests.⁴⁸ Free grazing within the new national forests was prohibited and only those who obtained permits from the U.S. Forest Service could graze there.⁴⁹

Then came large-scale irrigation projects under the authority of the Carey Land Act. Reservoirs were constructed and the south end of the Basin was divided into irrigated farms.⁵⁰ At about the same time, a rush of dry-land farmers also entered the region.⁵¹

All of this forced ranchers in the Basin to crowd their animals on the remaining unappropriated and unreserved public domain. The resulting conditions led to conflicts between cattle and sheep interests. Both groups organized

⁴⁸The first national forest in the Basin, the Lemhi Forest Reserve, embraced the Lost River Range east of the Big Lost River valley. The Sawtooth Forest Reserve was expanded to include the mountains on the west of the Big Lost River valley. See Presidential Proclamation of November 5, 1906 (34 Stat. 3248); and Presidential Proclamation of November 6, 1906 (34 Stat. 3260).

⁴⁹William D. Rowley, U.S. Forest Service Grazing and Rangelands: A History (College Station, Texas: Texas A&M University Press, 1985), pp. 55-95.

⁵⁰Olsen, Mackay's Yesterdays, pp. 91-97; and Mikel H. Williams, The History of Development and Current Status of the Carey Act in Idaho (Boise: Idaho Department of Reclamation, 1971), pp. 18-20.

⁵¹Tract Books, Vol. 31, pp. 85-120 and 205-228, Vol. 32, pp. 1-12, 73-96 and 133-204, and Vol. 33, pp. 25-36 and 49-72.

in an effort to protect and further their interests, but the range continued to be overgrazed.⁵²

To facilitate the movement of livestock through the Basin, the Department of the Interior in 1919 withdrew certain public lands for use as stock driveways. Section 10 of the Stock Raising Homestead Act of December 19, 1916, permitted the Secretary of the Interior "to withdraw from entry [public] lands necessary to insure access by the public to reserved watering places and needed for use in the movement of stock to summer and winter ranges or to shipping points."⁵³

On July 3, 1919, a network of driveways was established in the Basin. They led to summer grazing grounds in the national forest, connected with other nearby valleys, and went to the railroad stockyards at Mackay and Arco.⁵⁴

In the early 1930s, Custer County stockraisers petitioned Congress to withdraw the unappropriated and unreserved public lands in the county and provide for the

⁵²Olsen, Mackay's Yesterdays, pp. 127-130.

⁵³U.S. Department of the Interior, General Land Office, Annual Report of the Commissioner of the General Land Office for the Fiscal Year Ending June 30, 1917 (Washington, D.C.: U.S. Government Printing Office, 1917), p. 16.

⁵⁴Stock Driveway Withdrawal No. 86 (Idaho No. 4), 3 July 1919, Records Relating to Stock Driveway Withdrawals, 1916-1959, Record Group 49, Records of the Bureau of Land Management, National Archives, Washington, D.C.

lease and regulation of those lands for grazing purposes. A bill to do that was introduced but it did not pass.⁵⁵ In 1934, however, Congress did enact the Taylor Grazing Act. The era of free and unrestricted grazing on the unappropriated and unreserved public domain came to an end. On November 3, 1936, the Secretary of the Interior included the public lands in Basin 34 in Idaho Grazing Districts Number 3 and 4. These lands are now administered by the Bureau of Land Management.⁵⁶

WATER RIGHTS APPROPRIATION DATE AND RATIONALE

This is one of the three "test" basins for which reports were completed in June 1992. The water rights appropriation date selected and presented to the State of

⁵⁵James Muhn, "The Mizpah-Pumpkin Creek Grazing District: Its History and Influence on the Enactment of a Public Lands Grazing Policy, 1926-1934," M.A. thesis, Montana State University, 1987, p. 93 (footnote 20).

⁵⁶A grazing district for this region had been recommended by a committee of Idaho stockraisers soon after passage of the Taylor Grazing Act. The law's limitation on including only 80 million acres of unappropriated and unreserved public land within grazing districts, however, prevented the Division of Grazing (Later named the Grazing Service) from creating a district until the act was amended in 1936 to allow for 142 million acres. Basin 34 was included in two grazing districts--Numbers 3 and 4. The dividing line between the districts is the Butte and Custer county line. See U.S. Department of the Interior, Division of Grazing, The Grazing Service Bulletin 1 (March 1936), p. 3 and map; *Ibid.*, 1 (January 1937), p. 5 and map; and James Muhn and Hanson R. Stuart, Opportunity and Challenge: The Story of BLM (Washington, D.C.: U.S. Government Printing Office, 1988), pp. 37-41 and 48-49.

Idaho, was 1884. New historical information, as well as a reconsideration of the evidence previously presented, has led to a new date of 1879 being selected for Basin 34.

By 1879 livestock were being grazed in areas where public lands administered by the Bureau of Land Management are located. In the north, many of the cattle came from ranches located near present-day Challis. In the south, tens of thousands of Pacific Northwest cattle and sheep on their way to Montana and Wyoming passed along the lower stretches of the Big Lost River. More important, settlers had begun to establish ranches in many parts of the Basin.

RÉSUMÉ

James Allan Muhn
Land Law Historian
U.S. Department of the Interior
Bureau of Land Management
National Applied Resource Sciences Center (RS-150C)
Denver Federal Center, Building 50
P.O. Box 25047
Denver, Colorado 80225-0047

Telephone: (303) 236-6645

EDUCATION

Western State College	Gunnison, Colorado	B.A.
History,	1975	
Montana State University	Bozeman, Montana	M.A.
History,	1987	

PROFESSIONAL EXPERIENCE

Land Law Historian U.S. Department of the Interior Bureau of Land Management Service Center Denver, Colorado	May 1986 - Present
Land Law Historian U.S. Department of the Interior Bureau of Land Management Montana State Office Billings, Montana	March 1982 - May 1986
Research Assistant Montana State University Department of History Bozeman, Montana	January - March 1982
Teaching Assistant Montana State University Department of History Bozeman, Montana	September - December 1981

Historian U.S. Department of the Interior Bureau of Land Management Montana State Office Billings, Montana	July 1978 - Sept. 1981
Historian (Temporary) U.S. Department of the Interior National Park Service Denver Service Center Denver, Colorado	February - July 1978
Historical Consultant Lakewood, Colorado	August 1977 - Feb. 1978
Park Technician/ Cultural Resource Specialist (Temporary) U.S. Department of the Interior National Park Service Rocky Mountain Region Denver, Colorado	February 1977 - July 1977
Social Studies Teacher Holly High School Holly, Colorado	August 1976 - Feb. 1977
Park Technician/ Cultural Resources Specialist (Temporary) U.S. Department of the Interior National Park Service Rocky Mountain Region Denver, Colorado	June - August 1976

HISTORICAL EXPERTISE

I have researched and written on the administration of the public lands by the federal government. Among the public land matters dealt with are the administration of the settlement laws, timber laws, mining laws, coal land laws, mineral leasing laws, railroad land grants and rights-of-way, state land grants, land scrip, land classification, national forest policy, grazing policy, withdrawals, irrigation, private land claims, and acquired lands and minerals.

I have also researched and written on Indian policy matters, this work has included Indian occupation and settlement of

public lands, Indian allotments made on public lands and reservations, Indian land cessions, disposal of ceded Indian lands, and annuity payments to individual Indians.

In addition, I have done considerable cultural resource management work.

AWARDS

- 1996--Sustained Superior Achievement Award, Bureau of Land Management
- 1995--Quality Increase Award, Bureau of Land Management
- 1994--Performance Award, Bureau of Land Management
- 1993--Sustained Superior Achievement Award, Bureau of Land Management
- 1989--Sustained Superior Achievement Award, Bureau of Land Management
- 1989--Public Service Certificate of Appreciation, Bureau of Land Management
- 1988--Special Act Service Award, Bureau of Land Management
- 1985--Special Achievement Award, Bureau of Land Management
- 1984--Quality Increase Award, Bureau of Land Management
- 1981--Unit Citation, U.S. Department of the Interior.
- 1981--Special Achievement Award, Bureau of Land Management
- 1981--"Distinguished Teacher" Award, Western Heritage Center, Billings, Montana

I have also received numerous letters of commendation from the U.S. Department of Justice, the U.S. Forest Service, and the State of New Mexico.

PROFESSIONAL ORGANIZATIONS

Western History Association
Forest History Society
Agricultural History Society
Mining History Association

VIDEO PRESENTATION

"Fractured Patterns: A History of the Bureau of Land Management," Bureau of Land Management, Phoenix, Arizona, 1986 [A two part video history which I co-wrote and co-narrated].

LECTURES AND CLASSES TAUGHT

"Women and the Homesteading Experience." Bureau of Land Management, National Applied Resource Sciences Center, Denver, Colorado: August 1996

"Public Lands, Records, and History: Records Useful in Documenting the History of the Public Domain." National Archives, Rocky Mountain Region, Denver, Colorado: June 1996

"Public Lands, Records, and History: Records Useful in Documenting the History of the Public Domain." National Archives, Rocky Mountain Region, Denver, Colorado: January 1996

"Women and the Homesteading Experience." Bureau of Land Management, Albuquerque District Office, Albuquerque, New Mexico: May 1995

"Public Lands, Records, and History: Records Useful in Documenting the History of the Public Domain." National Archives, Rocky Mountain Region, Denver, Colorado: April 1995

"Women and the Homesteading Experience." Bureau of Land Management, Wyoming State Office, Cheyenne, Wyoming: March 1995

"Public Lands, Records, and History: Records Useful in Documenting the History of the Public Domain." National Archives, Rocky Mountain Region, Denver, Colorado: November 1994

"Public Lands, Records, and History: Records Useful in Documenting the History of the Public Domain." Bureau of Land Management, Montana State Office, Billings, Montana: October 1994

"Stand by Your Land: Women and Homesteading." Bureau of Land Management, Montana State Office, Billings, Montana: October 1994

History of the Public Land Policies. Presented to People's Republic of China, Land Surveying and Planning Institute at Bureau of Land Management, Service Center, Denver, Colorado: July 1994

"Public Lands, Records, and History: Records Useful in Documenting the History of the Public Domain." National Archives, Rocky Mountain Region, Denver, Colorado: May 1994

History of the Public Land Policies. Bureau of Land Management, Grand Junction District Office, Grand Junction, Colorado: March 1994

"Stand by Your Land: Women and Homesteading." National Archives, Rocky Mountain Regional Branch, Denver, Colorado: November 1993

History of the Public Land Policies, Bureau of Land Management, San Juan Resource Area Office, Durango, Colorado: November 1993

"Public Lands, Records, and History: Records Useful in Documenting the History of the Public Domain." Fort Lewis College, Durango, Colorado: November 1993

"Stand by Your Land: Women and Homesteading." Fort Lewis College, Durango, Colorado: November 1993

"The Public Land Policies and the Environment," Fort Lewis College, Colorado: November 1993

"Stand by Your Land: Women and Homesteading." Bureau of Land Management, Service Center, Denver, Colorado: October 1993

History of the Public Lands Prior to 1946. Bureau of Land Management, Eastern States Office, Springfield, Virginia: June 1993

"Public Lands, Records, and History: Records Useful in Documenting the History of the Public Domain." Regional Conference, Association for Northern California Records and Research Annual Conference. California State University, Chico, California: March 1993

History of the Public Lands Prior to 1946. Bureau of Land Management, Idaho State Office, Boise, Idaho: 1992

History of the Public Land Policies, Employee Excellence Seminar, Bureau of Land Management, Nevada State Office, Reno, Nevada: 1991

History of the Public Land Policies, Employee Excellence Seminar, Bureau of Land Management, Arizona State Office, Phoenix, Arizona: 1990

History of the Public Land Policies, Employee Excellence Seminar, Bureau of Land Management, Colorado State Office, Denver, Colorado: 1990, 1991, 1992, 1993

History of the Public Land Policies, Employee Excellence Seminar, Bureau of Land Management, Service Center, Denver, Colorado: 1989

History of the Public Land Policies, Bureau of Land Management, New Mexico State Office, Santa Fe, New Mexico: 1989

Use and Interpretation of Public Land Records, Bureau of Land Management, Service Center, Denver, Colorado: 1987

History of the Public Land Policies, Bureau of Land Management, Phoenix Training Center, Phoenix, Arizona: 1986

History of the Public Land Policies, Bureau of Land Management, Montana State Office, Billings, Montana: 1982, 1983, 1984, 1985, and 1986

Use and Interpretation of Public Land Records, Bureau of Land Management, Montana State Office, Billings, Montana: 1982, 1983, 1984, 1985, and 1986

Montana History, Eastern Montana College and Western Heritage Center, Continuing Education Program, Billings, Montana: January-March, 1981

PROFESSIONAL PAPERS

"Ranchers, Range Cons, and the Range: Range Management in the Bureau of Land Management, 1946-1996," Society for Range Management, Rapid City, South Dakota: Forthcoming (February 1997).

"Bringing Order to the Chaos: The Mizpah-Pumpkin Creek Grazing Reserve and the Passage of the Taylor Grazing Act, 1926-1934," Western Lands: Rocks, Rails, and Ranching Symposium, American Heritage Center, University of Wyoming, Laramie, Wyoming: Forthcoming (September 1996)

Moderator. "Women and Homesteading Session." Montana History Conference, Red Lodge, Montana: October 1994

"Stand by Your Land: Women and the Homesteading Experience." Montana History Conference, Red Lodge, Montana: October 1994

"Stand by Your Land: Women and Homesteading." Colorado Corral of Westerners, Denver, Colorado: March 1994

"Stand by Your Land: Women and Homesteading." Museum of Western Colorado, Grand Junction, Colorado: March 1994

"Women and the Homestead Act: Land Department Administration of a Perplexing Question, 1863-1934." Western History Association Conference, Tulsa, Oklahoma: October 1993

"Stand by Your Land: Women and Homesteading." Interior Museum Lecture Series, U.S. Department of the Interior, Washington, D.C.: August 1993

Commentator. "Owning the Terrain: Women, Land and Law." Fourth Conference of the Coalition for Western Women's History. University of Nebraska, Lincoln, Nebraska: July 1992

"Early Forest Conservation In Colorado, 1875-1894." Colorado Forestry Association, Boulder, Colorado: January 1992

"The First Forest Reserves in Colorado: The Role of State Forestry Advocates, 1884-1893." Society of American Foresters. Colorado-Wyoming Chapter, Denver, Colorado: December 1991

"Early Administration of the Forest Reserve Act: Interior Department and General Land Office Policies, 1891-1897." National Forest History and Interpretation Symposium/Workshop, Missoula, Montana: June 1991

"Researching the Management of Natural Resources: A Panel Discussion." National Forest History and Interpretation Symposium/Workshop, Missoula, Montana: June 1991

Moderator. "National Forest Resources Session." National Forest History and Interpretation Symposium/Workshop, Missoula, Montana: June 1991

"History of Reserving Minerals to the United States: The Concept of Split-Estate." Colorado Landmen's Association, Denver, Colorado: 1989

"Public Land Policy and Public Land Records: Historical Sites Associated with Settlement and Development of the Public Lands and the Understanding and Researching of Their Past." Bureau of Land Management Cultural Resource Workshop, Phoenix, Arizona: 1987

Moderator and Commentator. "The Taylor Grazing Act: A Perspective After 50 Years." Montana History Conference, Lewistown, Montana: October 1984

Use and Interpretation of Public Land Records, Western Heritage Center, Billings, Montana: 1983

"Settlement and Agricultural Development Along the Middle Yellowstone River Valley: 1875-1925." Yellowstone Historical Conference, Billings, Montana: 1982

"Bureau of Land Management Land Records and Their Value for Historical Research." Montana History Conference, Helena, Montana: October 1982

SELECTED PUBLICATIONS AND REPORTS

"A History of Public Water Reserve Policy: With Special Reference with Public Water Reserve No. 107, 1912-1950," Draft Report, Bureau of Land Management, NARSC, Denver, Colorado, 1996.

"Women and the Homestead Act: Land Department Administration of a Legal Imbroglia, 1863-1934" Western Legal History 7 (Summer/Fall 1994): 283-307.

"Federal Land--Western Anger: The Sagebrush Rebellion Environmental Politics"--Book Review in Utah Historical Quarterly 62 (Spring 1994): 193-194.

"Idaho Snake River Basin Histories on Beneficial Use of Water Sources on Public Lands by Livestock Interests (Series of 39 reports)," Bureau of Land Management, Service Center, Denver, Colorado, 1993.

Early Administration of the Forest Reserve Act: Interior Department and General Land Office Policies, 1891-1897." In The Origins of the National Forests: A Centennial Symposium, pp. 259-275. Edited by Harold K. Stein. Durham, NC: Forest History Society, 1992.

"A Historical Examination of the Little Missouri River," Bureau of Land Management, Service Center, Denver, Colorado, 1990.

"Surveying the Little Missouri River in North Dakota: Public Land Surveys and the Meandering of Nonnavigable Streams," Bureau of Land Management, Service Center, Denver, Colorado, 1990.

"Land Consolidation Under the Act of March 3, 1921, and the Ownership of Lands Withdrawn by Public Land Order 2198," Bureau of Land Management, Service Center, Denver, Colorado, 1990.

Opportunity and Challenge: The Story of BLM (Co-author), U.S. Government Printing Office, Washington, D.C., 1988.

"Homesteading the High Desert"--Book Review in Utah Historical Quarterly, Vol. 56 (Spring 1988).

"The Blackfeet Cession of 1896: An Historical Evaluation of the Title Status and Petroleum Mineral Rights," Bureau of Land Management, Service Center, Denver, Colorado, 1987.

"The Mizpah-Pumpkin Creek Grazing District: Its History and Influence on the Enactment of a Public Grazing Policy, 1926-1934," M.A. Thesis, Montana State University, Bozeman, Montana, 1987.

"Report on the Office of Indian Affairs' General Regulations Governing the Distribution of Annuities and Per Capita Payments." Bureau of Land Management, Service Center, Denver, Colorado, 1987.

"Indian Settlement on the Public Domain and Its Administration by the General Land Office--Preliminary Draft," Bureau of Land Management, Service Center, Denver, Colorado, 1986.

"The Allotment of Lands to the Navajo Indians in the New Mexico Checkerboard Area' and the Policy of Reserving Minerals in Those Allotments to the United States: An Historical Examination--Preliminary Draft," Bureau of Land Management, Service Center, Denver, Colorado, 1986.

"Navigability of the Little Missouri River: A Reexamination--Preliminary Report," Bureau of Land Management, Montana State Office, Billings, Montana, 1984.

"Investigation of Railroad Rights-of-Way Abandoned by the Chicago, Milwaukee, St. Paul, and Pacific Railroad Company in Montana and the Dakotas," Bureau of Land Management, Montana State Office, Billings, Montana, 1984.

Historic Resource Study: Sleeping Bear Dunes National Lakeshore, National Park Service, Omaha, Nebraska, 1984.

"The Fort Keogh Livestock and Range Experiment Station's Military Reservation Status," Bureau of Land Management, Montana State Office, Billings, Montana, 1982.

"A Guide to Understanding the Tract Books at the Montana State Office: Draft," Bureau of Land Management, Montana State Office, Billings, Montana, 1982.

"A Guide to Describing Historic Buildings Commonly Found on Land Administered by the Bureau of Land Management in Montana, North Dakota & South Dakota," Bureau of Land Management, Montana State Office, Billings, Montana, 1981.

"A History of Southeastern Montana," Bureau of Land Management, Montana State Office, Billings, Montana, 1981.

"A Bibliography of Historical Sources Concerned with Southeastern Montana," Bureau of Land Management, Montana State Office, Billings, Montana, 1981.

"Montana Homestead Days Are Over," The Steward, April 1980.

"The Sagebrush Rebellion: An Old Issue With A New Name," The Steward, February 1980.

"What Style Is It?"--Book review in Association of Preservation Technology, Vol. 10 (1978).

"Army Left Mark on Yellowstone," Yellowstone Explorer, August 1977.

"Grand Hotel (Old Faithful Inn)," Yellowstone Explorer, July 1977.

I have also written numerous papers under 20 pages in length on various aspects of public land policy.

PUBLICATIONS, REPORTS, AND PAPERS IN PROGRESS

"The Alaskan Fire Control Service: Conservation within the General Land Office, 1939-1946."

"The Pacific Forest Reserve: The Reports and Photographs of General Land Office Special Agent Cyrus Mosier, 1892."

MAJOR LITIGATIONS FOR WHICH HISTORICAL SUPPORT HAS BEEN GIVEN

In the Matter of the Application of the United States for Reserved Water Rights in the State of Colorado [Reserved water rights in national forests], 1989-1990.

State of North Dakota v. Secretary of the Interior Lujan [Navigability of Little Missouri River], 1988-1990.

Red Lake and Minnesota Chippewa v. United States [Indian annuity payments and General Land Office administration of ceded agricultural and timber lands], 1987-1989.

Devils Lake Sioux Tribe v. North Dakota, et al. [Boundary dispute], 1987, 1991-1994.

Blatchford v. Winans (State of New Mexico) [Status of former executive order Indian reservation adjacent to Navajo Reservation in New Mexico], 1986.

Crow Tribe v. State of Montana [Tribe not subject to state mineral tax], 1984.

Frank Etcitty, et al. v. United States, et al. [Federal mineral rights reserved in patents issued to Navajo Indians on executive order reservation and public lands in New Mexico], 1985-Present.

State of North Dakota v. Secretary of Agriculture Block [Navigability of Little Missouri River], 1982-1983.

Pueblo Santo Domingo v. United States [Aboriginal title claim], 1990-1991.

Dann v. United States [Aboriginal grazing rights], 1991.

Idaho Snake River Basin Water Rights Adjudication, 1992-Present.

DATE: NOV-17-1992
PAGE: A-1187

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
34-12546	US DEPT OF INTERIOR BUREAU OF LAND MANAGEMENT IDAHO STATE OFFICE 3380 AMERICANA TERRACE BOISE ID 83706	01/01/1884	STOCKWATER	01-01 12-31	.01	CFS BENEFICIAL USE
	SOURCE: SPRING					
	TRIBUTARY: WILLOW CREEK					
	NON-IRRIGATION-USES: STOCKWATER, 234 RANGE CATTLE POINT OF DIVERSION: 110W R22E S20 PLACE OF USE: STOCKWATER				.01	CFS
	REMARKS: THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING ALLOTMENT SHALL BE LIMITED TO THE QUANTITY OF WATER BENEFICIALLY USED BY THE NUMBER OF STOCK WITHIN THE ALLOTMENT. BLM RECORD ID = 3404582942					
34-12547	US DEPT OF INTERIOR BUREAU OF LAND MANAGEMENT IDAHO STATE OFFICE 3380 AMERICANA TERRACE BOISE ID 83706	01/01/1884	STOCKWATER	01-01 12-31	.01	CFS BENEFICIAL USE
	SOURCE: SPRING					
	TRIBUTARY: WILLOW CREEK					
	NON-IRRIGATION-USES: STOCKWATER, 234 RANGE CATTLE POINT OF DIVERSION: 110W R22E S17 PLACE OF USE: STOCKWATER				.01	CFS
	REMARKS: THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING ALLOTMENT SHALL BE LIMITED TO THE QUANTITY OF WATER BENEFICIALLY USED BY THE NUMBER OF STOCK WITHIN THE ALLOTMENT. BLM RECORD ID = 3404582943					

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: NOV-17-1992
PAGE: A-1188

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: SPRING						
TRIBUTARY: WILLOW CREEK						

34-12549 US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
3180 AMERICANA TERRACE
BOISE ID 83706

01/01/1884 STOCKWATER 01-01 12-31

.01 CFS BENEFICIAL USE

NON-IRRIGATION-USES:

STOCKWATER, 234 RANGE CATTLE

POINT OF DIVERSION:

T10N R22E S17

PLACE OF USE: STOCKWATER

NESE

TOTAL QUANTITY:

.01 CFS

REMARKS:

THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING ALLOTMENT SHALL BE LIMITED TO THE QUANTITY OF WATER BENEFICIALLY USED BY THE NUMBER OF STOCK WITHIN THE ALLOTMENT.

BLM RECORD ID = 3404582945

34-12550 US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
3180 AMERICANA TERRACE
BOISE ID 83706

01/01/1884 STOCKWATER 01-01 12-31

.01 CFS BENEFICIAL USE

NON-IRRIGATION-USES:

STOCKWATER, 234 RANGE CATTLE

POINT OF DIVERSION:

T10N R22E S17

PLACE OF USE: STOCKWATER

NESE

TOTAL QUANTITY:

.01 CFS

REMARKS:

THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING ALLOTMENT SHALL BE LIMITED TO THE QUANTITY OF WATER BENEFICIALLY USED BY THE NUMBER OF STOCK WITHIN THE ALLOTMENT.

BLM RECORD ID = 3404582946

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: NOV-17-1992
PAGE: A-1189

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
-----------------	----------------	------------------	----------------	--------------------------	---------------------	----------------

SOURCE: SPRING

TRIBUTARY: WILLOW CREEK

34-12554

US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706

01/01/1884 STOCKWATER

01-01 12-31

.01 CFS BENEFICIAL USE

NON-IRRIGATION-USES:

STOCKWATER, 234 RANGE CATTLE

POINT OF DIVERSION:

T10N R22E S17

NURCHE

PLACE OF USE: STOCKWATER

T10N R22E S17

NENE

REMARKS: THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING
ALLOTMENT SHALL BE LIMITED TO THE QUANTITY OF WATER BENEFICIALLY
USED BY THE NUMBER OF STOCK WITHIN THE ALLOTMENT.
BLM RECORD ID = 3404582950

TOTAL QUANTITY:

.01 CFS

34-12556

US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706

01/01/1884 STOCKWATER

01-01 12-31

.01 CFS BENEFICIAL USE

NON-IRRIGATION-USES:

STOCKWATER, 240 RANGE CATTLE

POINT OF DIVERSION:

T10N R22E S18

SENNWE

PLACE OF USE: STOCKWATER

T10N R22E S18

NUNE

REMARKS: THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING
ALLOTMENT SHALL BE LIMITED TO THE QUANTITY OF WATER BENEFICIALLY
USED BY THE NUMBER OF STOCK WITHIN THE ALLOTMENT.
BLM RECORD ID = 3404582952

TOTAL QUANTITY:

.01 CFS

RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: WILLOW CREEK						
TRIBUTARY: SINKS						
34-13347	US DEPT OF INTERIOR BUREAU OF LAND MANAGEMENT IDAHO STATE OFFICE 3380 AMERICANA TERRACE BOISE ID 83706	01/01/1804	STOCKWATER	01-01 12-31	.01	CFS BENEFICIAL USE
NON-IRRIGATION-USES: STOCKWATER, 23 1/4 RANGE CATTLE					TOTAL QUANTITY:	.01 CFS
POINT OF DIVERSION:		HEHESE (D) SEHWHH (E)				
PLACE OF USE: STOCKWATER		HEHHH SESW		NWSE		
TOWN R22E S05 T10N R22E S32		HEHESE (D) SEHWHH (E)		NWSE		
REMARKS: THIS RIGHT AND OTHER RIGHTS COMMON TO THE SAME GRAZING ALLOTMENT SHALL BE LIMITED TO THE QUANTITY OF WATER BENEFICIALLY USED BY THE NUMBER OF STOCK WITHIN THE ALLOTMENT.						
BLM RECORD ID = 3404583745						

IDAHO DEPARTMENT OF WATER RESOURCES
ABSTRACTED CLAIMS TO WATER RIGHTS BASED UPON FEDERAL LAWDATE: NOV-17-1992
PAGE: A-466

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: SPRING						
TRIBUTARY: WILLOW CREEK						
34-12554A	US DEPT OF INTERIOR BUREAU OF LAND MANAGEMENT IDAHO STATE OFFICE 3380 AMERICANA TERRACE BOISE ID 83706	04/17/1926	STOCKWATER	01-01 12-31	.01	CFS RESERVED
NON-IRRIGATION-USES: 234 RANGE CATTLE						
POINT OF DIVERSION: 110N R22E S17						
PLACE OF USE: STOCKWATER						
T10N R22E S17						
REMARKS: BLM RECORD ID = 3404582950						
FIRST DATE OF BENEFICIAL USE - 1884; WATER ALSO FEDERALLY RESERVE						
BY EXECUTIVE ORDER DATED APRIL 17, 1926, PWR NO. 107						
TOTAL QUANTITY: .01 CFS						
34-12555A	US DEPT OF INTERIOR BUREAU OF LAND MANAGEMENT IDAHO STATE OFFICE 3380 AMERICANA TERRACE BOISE ID 83706	04/17/1926	STOCKWATER	01-01 12-31	.01	CFS RESERVED
NON-IRRIGATION-USES: 234 RANGE CATTLE						
POINT OF DIVERSION: 110N R22E S18						
PLACE OF USE: STOCKWATER						
T10N R22E S18						
REMARKS: BLM RECORD ID = 3404582951						
FIRST DATE OF BENEFICIAL USE - 1884; WATER ALSO FEDERALLY RESERVE						
BY EXECUTIVE ORDER DATED APRIL 17, 1926, PWR NO. 107						
TOTAL QUANTITY: .01 CFS						

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	)	STANDARD FORM 5
	)	
	)	
Case No. 39576	)	SUBCASE NO: 34-12546A
	)	
	)	
	)	PROPOSED ELEMENTS OF A
_____	)	WATER RIGHT

This form is used to report the proposed elements of one federal reserved water right or one water right acquired under state law. Submission of this form will not result in the automatic issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; and they have been served with sufficient process, according to the law, and have appeared, prosecuted and defended their positions with regard to this water right dispute.

Instructions For Use

A copy of this water right as recommended in the director's report shall be submitted with this form. A statement shall accompany each element of a water right.

Elements where there has been no objection should be listed exactly as they appear in the director's report. The statement as to an uncontested element shall state "as recommended in the director's report."

Contested elements that are the result of an objection filed with the court shall be accompanied by a statement fully describing all facts, documents, expert opinions and law which support the element of the water right (attach additional pages if necessary).

1. The name and address of the claimant is:

US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706-2500

Required Statement: As recommended in the director's report.

2. The source of the water is:

Source: Spring Tributary: Willow Creek

Required Statement: As recommended in the director's report.

3. The quantity of water used in cubic feet per second or the quantity of water stored in acre-feet per year is:

.01 CFS

Required Statement: As recommended in the director's report.

4. The priority date is: 04/17/1926

Required statement: As recommended in the director's report.

5. The legal description of the point(s) of diversion is; if claim is for instream flow, then a legal description of the beginning and ending points of the claimed instream flow:

POINT OF DIVERSION: T10N R22E S20 NWSENE

Required Statement: As recommended in the director's report.

6. The purpose of use is:

Stockwater

Required statement: As recommended in the director's report.

7. The period of the year when the water is to be used is:

01-01 to 12-31

Required Statement: As recommended in the director's report.

8. The legal description of the place of use or of the reservation is:

T10N R22E S20 SENE

Required Statement: As recommended in director's report.

9. The annual volume of consumptive use is: De Minimus

Required Statement: As recommended in the director's report, except that the term "de minimus" has been added. The director's report does not state a consumptive use volume.

10. Other matters necessary to define this water right. Not applicable.

These matters are necessary because: Not applicable.

These matters do not fall within the 9 elements listed above because: Not applicable.

BLM Record ID = 3404582942

First date of beneficial use - 1884; water also federally reserved by executive order dated April 17, 1926, PWR NO. 107.

-

Signatures and Address of the Parties and their Attorney of Record

I have read this form and know its contents and that the statements are true to the best of my knowledge and belief.

Name: Margery Fulton Smith
Address: Star Route
City/State/Zip: Mackay, ID 83251
Attorney of Record:

Margery Fulton Smith 8/22/95
Party's Signature Date

Attorney's Signature Date

Name: United States through
Address: Dept. of Justice for BLM
601 Pennsylvania Ave NW
City/State: Washington, D.C. 20004
Attorney of Record: R. Lee Leininger/
Daria Zane
William M. Ferry

William M. Ferry 8/22/95
Attorney's Signature Date

Court Representative (if necessary)

Date

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
--------------	----------------	---------------	----------------	-----------------------	------------------	----------------

SOURCE: SPRING

TRIBUTARY: WILLOW CREEK

34-12546A	US DEPT OF INTERIOR BUREAU OF LAND MANAGEMENT IDAHO STATE OFFICE 3300 AMERICAN TERRACE BOISE ID 83706	04/17/1926	STOCKWATER	01-01 12-31	.01	CFS RESERVED
-----------	---	------------	------------	-------------	-----	--------------

NON-IRRIGATION-USES:
234 RANGE CATTLE
POINT OF DIVERSION:
T10N R22E S20
PLACE OF USE: STOCKWATER

TOTAL QUANTITY: .01 CFS

REMARKS: BLM RECORD ID = 3404582942
FIRST DATE OF BENEFICIAL USE - 1884; WATER ALSO FEDERALLY RESERVE
BY EXECUTIVE ORDER DATED APRIL 17, 1926, PUR NO. 107

SENE

34-12547A	US DEPT OF INTERIOR BUREAU OF LAND MANAGEMENT IDAHO STATE OFFICE 3300 AMERICAN TERRACE BOISE ID 83706	04/17/1926	STOCKWATER	01-01 12-31	.01	CFS RESERVED
-----------	---	------------	------------	-------------	-----	--------------

NON-IRRIGATION-USES:
234 RANGE CATTLE
POINT OF DIVERSION:
T10N R22E S17
PLACE OF USE: STOCKWATER

TOTAL QUANTITY: .01 CFS

REMARKS: BLM RECORD ID = 3404582943
FIRST DATE OF BENEFICIAL USE - 1884; WATER ALSO FEDERALLY RESERVE
BY EXECUTIVE ORDER DATED APRIL 17, 1926, PUR NO. 107

T10N R22E S17

SUSE

Margery Smith

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	)	STANDARD FORM 5
	)	
	)	
Case No. 39576	)	SUBCASE NO: 34-12554A
	)	
	)	
	)	PROPOSED ELEMENTS OF A
	)	WATER RIGHT

This form is used to report the proposed elements of one federal reserved water right or one water right acquired under state law. Submission of this form will not result in the automatic issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; and they have been served with sufficient process, according to the law, and have appeared, prosecuted and defended their positions with regard to this water right dispute.

Instructions For Use

A copy of this water right as recommended in the director's report shall be submitted with this form. A statement shall accompany **each** element of a water right.

Elements where there has been no objection should be listed exactly as they appear in the director's report. The statement as to an uncontested element shall state "as recommended in the director's report."

Contested elements that are the result of an objection filed with the court shall be accompanied by a statement fully describing all facts, documents, expert opinions and law which support the element of the water right (attach additional pages if necessary).

1. The name and address of the claimant is:

US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706-2500

Required statement: As recommended in the director's report.

2. The source of the water is:

Source: Spring Tributary: Willow Creek

Required statement: As recommended in the director's report.

3. The quantity of water used in cubic feet per second or the quantity of water stored in acre-feet per year is:

.01 CFS

Required statement: As recommended in the director's report.

4. The priority date is: 01/01/1884

Required statement: As recommended in the director's report.

5. The legal description of the point(s) of diversion is; if claim is for instream flow, then a legal description of the beginning and ending points of the claimed instream flow:

POINT OF DIVERSION: T10N R22E S17 NWNENE

Required statement: As recommended in the director's report.

6. The purpose of use is:

Stockwater

Required statement: As recommended in the director's report.

7. The period of the year when the water is to be used is:

01-01 to 12-31

Required statement: As recommended in the director's report.

8. The legal description of the place of use or of the reservation is:

T10N R22E S17 NENE

Required statement: As recommended in director's report.

9. The annual volume of consumptive use is: De Minimus

Required Statement: As recommended in the director's report, except the term "de minimus" has been added to more accurately describe the consumptive use.

10. Other matters necessary to define this water right. Not applicable.

These matters are necessary because: Not applicable.

These matters do not fall within the 9 elements listed above because: Not applicable.

BLM Record ID = 3404582950

First date of beneficial use - 1884; water also federally reserved by executive order dated April 17, 1926, PWR NO 107

Signatures and Address of the Parties and their Attorney of Record

I have read this form and know its contents and that the statements are true to the best of my knowledge and belief.

Name: Margery Fulton Smith
Address: Star Route
City/State/Zip: Mackay, ID 83251
Attorney of Record:

Margery Fulton Smith 8/22/95
Party's Signature Date

Attorney's Signature Date

Name: United States through
Address: Dept. of Justice for BLM
601 Pennsylvania Ave NW
City/State: Washington, D.C. 20004
Attorney of Record: R. Lee Leininger/
Daria Zane
William M. Ferry

William M. Ferry 8/22/95
Attorney's Signature Date

Court Representative (if necessary)

Date

IDAHO DEPARTMENT OF WATER RESOURCES
ABSTRACTED CLAIMS TO WATER RIGHTS BASED UPON FEDERAL LAWDATE: NOV-17-1992
PAGE: A-466

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: SPRING						
TRIBUTARY: WILLOW CREEK						
34-12554A	US DEPT OF INTERIOR BUREAU OF LAND MANAGEMENT IDAHO STATE OFFICE 3380 AMERICANA TERRACE BOISE ID 83706	04/17/1926	STOCKWATER	01-01 12-31	.01 CFS	RESERVED
NON-IRRIGATION-USES: 234 RANGE CATTLE						
POINT OF DIVERSION: T10N R22E S17						
PLACE OF USE: STOCKWATER						
T10N R22E S17						
REMARKS: BLM RECORD ID = 3404582950						
FIRST DATE OF BENEFICIAL USE - 1884; WATER ALSO FEDERALLY RESERVE						
BY EXECUTIVE ORDER DATED APRIL 17, 1926, PUR NO. 107						
TOTAL QUANTITY: .01 CFS						
34-12555A	US DEPT OF INTERIOR BUREAU OF LAND MANAGEMENT IDAHO STATE OFFICE 3380 AMERICANA TERRACE BOISE ID 83706	04/17/1926	STOCKWATER	01-01 12-31	.01 CFS	RESERVED
NON-IRRIGATION-USES: 234 RANGE CATTLE						
POINT OF DIVERSION: T10N R22E S18						
PLACE OF USE: STOCKWATER						
T10N R22E S18						
REMARKS: BLM RECORD ID = 3404582951						
FIRST DATE OF BENEFICIAL USE - 1884; WATER ALSO FEDERALLY RESERVE						
BY EXECUTIVE ORDER DATED APRIL 17, 1926, PUR NO. 107						
TOTAL QUANTITY: .01 CFS						

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

EXHIBIT 8

In Re SRBA

RESPONSE TO:

Case No. 39576

United States First set of Interrogatories,
Requests for Production of Documents

Subcase Nos' 34-12514, 34-12546, 34-12547,
34-12549, 34-12549, 34-12554, 34-13347

INTERROGATORIES, REQUESTS FOR ADMISSIONS AND REQUESTS FOR PRODUCTION

Interrogatory No. 1: *As to each water right in the above-referenced subcases identify individually each element of the United States claims to stock water rights to which you object, and*

a) state the basis for your objections, including each fact upon which you rely:

34-12514, 34-12546, 34-12547, 34-12549, 34-12554, 34-13347.

I object to the United States trying to claim an 1884 priority date, just as I would object to any other individual or entity who made unsubstantiated, unrecorded, and undocumented claims. Certainly if I made those claims to attempt to fraudulently get an earlier priority date, I would be laughed out of court. I would hope that in our society the same laws apply to the government that apply to its citizens.

Interrogatory No. 2: *As to each water right in the above-referenced subcases, do you contend that the United States should not be decreed a right? In answering this interrogatory, (a) state the basis for your contention, including each fact upon which you rely:*

No, I do not contend that the United States should not be decreed a right. I agree that in some cases a right is very much necessary, provided that they abide by the same state water laws that that apply to the rest of us. This includes documentation showing beneficial use and development plus paying the proper filing fees just as you or I would have to do.

Interrogatory No. 3: *As to each water right in the above-referenced subcases, do you contend that you should be decreed the water right claimed? In answering this interrogatory,*

a) state the basis for your contention, including each fact upon which you rely:

As to subcases No. 34-12514, 34-12546, 34-12547, 34-12549, 34-12554, I do not believe I should be decreed the right. I believe the right should be decreed to the holders of the respective grazing permits who have factual evidence and records of beneficial use for the above mentioned subcases.

As to subcase No. 34-13347, I do not believe I should be decreed the right. There is already an existing right No. 34-00057 owned by Dickey Livestock Inc. of Star Route, Mackay, Idaho 83251 that is provably prior to the United States claim to this water source.

Interrogatory No. 4: *Do you contend that your water rights will be affected by the decree of the above referenced water rights to the United States?*

a) Identify each water right that you contend will be affected should the United States be decreed water right in these subcases, including the location, purpose of use and priority date of such rights and how they will be affected.

As to subcase No. 34-13347 this claim could adversely affect an existing right (34-00057) owned by Dickey Livestock Inc. of Star Route, Mackay, Idaho 83251. The purpose is Irrigation and the priority date

is 6-1-1887. If the United States were allowed their phony 1884 priority date certainly the potential exists for them to adversely affect this valid existing right.

Interrogatory No. 5: Do you contend that you or an interest of yours are licensed or otherwise possess permission to graze livestock on the federal lands where the United States claims to water in these subcases are located?

(a) Identify each allotment in which you are permitted to graze livestock on the federal lands where the claimed water source in the subcase is located:

As to subcase No 34-12514, No neither me nor an interest of mine possess permits to graze livestock on federal lands where this claim is located.

As to subcases No. 34-12546, 34-12547, 34-12549, 34-12554, 34-13347, yes an interest of mine (Dickey Livestock Inc.) is permitted to graze livestock on the Willow Creek (or Dickey) Allotment, which includes the federal lands where these subcases are located. Enclosed is a copy of this permit.

Interrogatory No 6: When do you contend that individuals, other than Native Americans, first settled in the Thousand Springs Creek drainage area? In answering this interrogatory,

(a) State the basis for your contention, including each fact upon which you rely:

I have no idea.

Interrogatory No 7: Who do you contend were the first permanent settlers, other than native Americans, in the Thousand Springs Creek drainage area? In answering this interrogatory,

(a) Identify the names of such individuals, the location of their settlement, the names of any lineal descendants, the date upon which they settled,;

(b) State the basis for your contention, including each fact upon which you rely;

I don't know.

Interrogatory No. 8: As to the individuals identified in response to Interrogatory No. 7,

(a) Do you contend that the first settlers, other than native Americans, in the Thousand Springs Creek drainage area possessed or owned livestock?

Unless they came by spaceship I can safely assume that most of them at least had a saddle horse.

Interrogatory No. 9: If your answer to Interrogatory No. 8 is affirmative, identify, by individual and/or family the kinds of livestock, e.g., cattle, sheep, and estimate the number of livestock.

I ain't got a clue, nor do you.

Interrogatory No. 10: *Of the livestock identified in response to Interrogatory No. 8, did the livestock graze at or near the claimed water sources in the above referenced subcases?*

We can only speculate.

Interrogatory No. 11: *Do you contend that other entities, businesses, or individuals, besides permanent settlers, owned or controlled livestock grazing at or near the claimed water sources in the above referenced subcases prior to 1887?*

- (a) *Identify the entities, businesses or individuals, and the date upon which their livestock grazed at or near the claimed water sources in the above referenced subcases;*
- (b) *State the bases for your contention, including each fact upon which you rely;*

One would assume there were at least some that did.

Interrogatory No. 12: *Do you contend that there were ever trail drives in or through the area of Thousand Springs Creek drainage area with herds of livestock not belonging to permanent settlers?*

- (a) *Identify the entities, businesses or individuals, and the dates in which the trail drives occurred;*
- (b) *State the basis for your contention, including each fact upon which you rely;*

In all likelihood some livestock were, and still are driven through this area.

Interrogatory No. 13: *Identify all predecessors in interest, i.e. persons or entities with possessory interests, to your claim of property ownership in the Thousand Springs Creek drainage area.*

I'm sorry I am currently in interior Alaska and do not have this information available to me, nor do I access to legions of taxpayer paid experts to research it for me. If necessary I would be happy to get this information and provide it to you upon my return to Idaho in mid October.

Interrogatory No. 14: *Have you or your predecessors in interest, had exclusive use of the public lands at or near the water sources claimed in the above referenced subcases for stock grazing purposes?*

To my knowledge since the Taylor Grazing Act went into effect the licensed permittees on any given identified range have had near exclusive use of those lands for stock grazing purposes only. The reason for establishing a permit (or license) in the first place was to protect the rights of the first beneficial users under the "first in time, first in right" concept that the west was settled under.

Interrogatory No. 15: *If your answer to interrogatory no. 14 is affirmative, identify the predecessors in interest with exclusive use, and the periods in which their exclusive use existed.*

This information should be readily available to you as well as to me from the Bureau of Land Management. Their records should include the names, periods of use, permitted numbers and type, of livestock that were licensed on any given range.

Interrogatory No. 16: *If your answer to Interrogatory No. 14 is negative, identify all individuals or entities who have used the public lands at or near the water sources claimed for stock grazing purposes and the periods in which their use existed.*

I don't know, but this information should be available at the government department of redundancy bureau.

Interrogatory No. 17: *Please identify each and every person who was consulted or contributed to responses to these discovery requests.*

(a) *As to each person identified, state the nature of their role in responding to these discovery requests and the specific discovery request to which they contributed.*

As I said I am currently at a mining camp in Central, Alaska with very little time, money or human resources at my discretion so I consulted no one nor did anyone else contribute to my responses to these discovery requests.

Interrogatory No. 18: *Please identify each person whom you expect to call as an expert witness, whether during your direct or rebuttal case relating to the above referenced subcases. As to each person identified;*

- (a) *Provide a summary of their qualifications;*
- (b) *State the subject matter on which the expert is expected to testify; and*
- (c) *State the substance of the facts and opinions to which the expert (s) is expected to testify.*

Wiley F Smith, Star Route, Mackay, Idaho 83251. Extensive knowledge of the custom, culture, and history of the Thousand Springs Crick (Chilly Sloughs) area.

Interrogatory No. 19: *Please identify all witnesses not identified in response to Interrogatory No. 17 that you expect to have testify at any hearings relating to these subcases.*

None

Interrogatory No. 20: *Please identify each person with information or knowledge concerning the claims of the United States in the above-referenced subcases, or your objections thereto, and the claims of the United States generally in Basin 34. For each person identified;*

- (a) *State the facts or other information known to the person; and*
- (b) *Identify all documents relating to that person*

I have to assume there are hundreds of persons and thousands of pages of documents that could apply here so I reserve the option to consult with the deputy assistant associate director of the Department of Redundancy Department Bureau chief. He (she) should have this information.

Interrogatory No.21: *Identify all documents relating to your objection, including documents obtained from the Bureau of Land Management or other government offices.*

Copy of Term Grazing Permit from the Bureau of Land Management.

REQUESTS FOR ADMISSIONS

Request for Admission No. 1: *As to each water right in the above-referenced subcases, admit that the only element of the United States' claims to which you object is priority date.*

I admit this is the main element.

Request for Admission No.2: *Admit that the United States is and has been the beneficial user of the above referenced water rights.*

I believe that the Grazing Permittes more accurately describes the actual beneficial users in the above referenced subcases, since to my knowledge the United States Government did not own the livestock that were beneficially using the water. At least not yet.

Request for Admission No.3: *Admit that your water rights will not be adversely affected by the decree of the above- referenced water rights to the United States.*

With regard to subcases No's. 34-12514, 34-12546, 34-12547, 34-12549, 34-12554, I admit that the water rights of an interest of mine (Dickey Livestock Inc.) will probably not be adversely affected (Although their grazing rights eventually may be affected by not applying the water rights to the grazing permit).

With regard to subcase No. 34-13347, I will not admit that a decree owned by Dickey Livestock Inc. may not adversely affected by granting the United States an earlier priority date.

Request for Admission No.4: *Admit that individuals, other than native Americans, first settled in the Thousand Springs Crick drainage area prior to 1884.*

They probably did.

Request for Admission No. 5: Admit that individuals, other than native Americans, grazed cattle, at or near the water sources claimed in the above-referenced subcases prior to 1884.

They probably did.

Request for Admission No. 6: Admit that trail drives occurred in or through the area of Thousand Springs Crick drainage area prior to 1884 with herds of livestock not belonging to permanent settlers.

There probably were.

Request for admission No. 7: Admit that you and your predecessors in interest have not had exclusive use of the public lands where the water rights in the above-referenced subcases are located for the purpose of stock grazing since 1884.

The respective permittees (predecessors in interest) on the various allotments involved have in fact had exclusive licensed or permitted use of the public lands where the water rights for the above mentioned subcases are located for the purpose of grazing livestock for most of that time.

REQUEST FOR PRODUCTION OF DOCUMENTS

Request for Production No. 1: Please produce each document identified in your responses to the foregoing interrogatories or requests for admissions.

None

Request for production No. 2: Please produce all permits, licenses, or other documents that grant you permission to graze stock on the federal public land.

Enclosed is a copy of the term grazing permit for Dickey Livestock Inc.

Request for Production No. 3: Produce all exhibits you propose to use in your direct and or rebuttal cases.

None

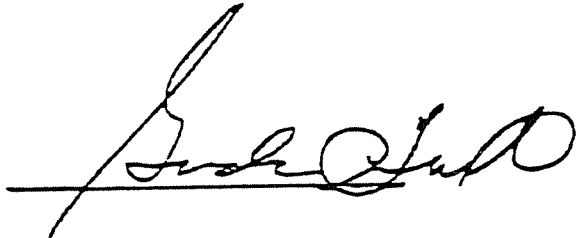
Request for Production No. 4: *Produce any and all documents relating to your objections obtained from the BLM or other government offices.*

As I said I received this request in Alaska where I don't have access to even my records so I am at this time very "document disadvantaged"

Request for Production No. 5: *Produce any and all documents reviewed, relied upon or referred to in responding to these discovery requests.*

None

Dated this 15 day of AUGUST, 1996

A handwritten signature in cursive script, appearing to read "Gordon Fulton", written over a horizontal line.

Gordon Fulton

Star Route

Mackay, Idaho

83251

Gordon Fulton
Star Route
Mackay, Idaho 83251

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

In Re SREA

Case No. 39576

) Subcase Nos. 34-12514, 34-12546, 34-12547, 34-12549,
) 34-12554, 34-13347,
) MOTION TO REQUEST REVISED SCHEDULING
) ORDER

DESCRIPTIVE SUMMARY

This is Gordon Fulton motion to request the court to consider rescheduling the trial dates and deadlines in relation to the above listed subcases. Reason being that Gordon Fulton is Mining in Alaska and will not be back in Idaho until after October 20th, 1996.

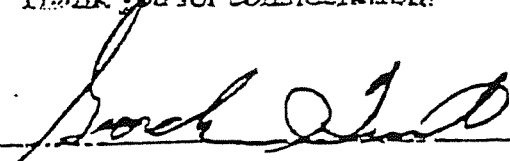
MOTION

Gordon Fulton hereby respectfully request that the Court extend the pretrial and trial dates on the above listed subcases.

DISCUSSION

I, Gordon Fulton am operating my mine in Alaska as I have done for the last 20 years. I do not plan to shut down and do fall cleanup and be back in Idaho before October 20th, 1996.

Thank you for consideration.

 8-15-96

Gordon Fulton,

Date

Star Route

Mackay, Idaho 83251

15
I hereby certify that on the 15 day of Aug, 1996,

I mailed a copy of this motion to the SRBA Court to:

United States Department of Justice
Environment and Natural Resources Division
550 West Fort St. Box 33
Boise, Idaho 83724

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

Signed

Gordon Fulton
Gordon Fulton

Date 8-15-96

Star Route

Mackay, Idaho 83251

Form 4(30-2a
(September 1987)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

GRAZING PERMIT

DICKEY LIVESTOCK

GORDON FULTON
STAR ROUTE
MACKAY, ID 83251

STATE ID
OFFICE 045
OPERATOR NUMBER 114321
REFERENCE CODE 03
DATE PRINTED 04/27/95
TERM 03/01/1994 TO 02/23/2004

BUREAU OF LAND MANAGEMENT
CHALLIS R.A.
P.O. BOX 430
SALMON, ID 83467



THIS GRAZING PERMIT IS OFFERED TO YOU BASED ON YOUR RECOGNIZED GRAZING
REFERENCE ON THE PUBLIC LANDS AND/OR OTHER LANDS ADMINISTERED BY THE BLM.
YOU ARE AUTHORIZED TO MAKE GRAZING USE TO THE EXTENT OF YOUR ACTIVE GRAZING
REFERENCE AS SHOWN BELOW UPON YOUR ACCEPTANCE OF THE TERMS AND CONDITIONS
INCORPORATED HEREIN AND YOUR PAYMENT OF GRAZING FEES.

LOT	LIVESTOCK	GRAZING PERIOD	TYPE	AUM'S
---	NUMBER KIND	BEGIN END	ZFL USE	-----
702 DICKEY	108 CATTLE	05/18 05/31	100 ACTIVE	50
	106 CATTLE	06/01 09/30	52 ACTIVE	225
709 WILDHORSE	326 CATTLE	05/18 06/10	100 ACTIVE	279
	326 CATTLE	10/01 10/10	100 ACTIVE	107

TERMS AND CONDITIONS:

THIS PERMIT INCORPORATES ALL TERMS AND CONDITIONS OF THE DICKEY AND
WILDHORSE ALLOTMENT MANAGEMENT PLANS.

AS PROVIDED IN THE CODE OF FEDERAL REGULATIONS (CFR) 4130.6-2(d), YOU
ARE HEREBY REQUIRED TO SUBMIT A CERTIFIED ACTUAL USE REPORT WITHIN 15
DAYS AFTER COMPLETION OF YOUR ANNUAL GRAZING USE. FAILURE TO COMPLY
COULD RESULT IN THE CANCELLATION OF YOUR PERMIT IN WHOLE OR PART.

IT IS THE DUTY OF PERSONS AND AGENCIES TO CONTROL NOXIOUS WEEDS WITHIN
THE STATE OF IDAHO. CHAPTER 24, TITLE 22, IDAHO CODE NOXIOUS WEEDS,
22-2471.

PAYMENT BY VISA OR MASTERCARD IS ACCEPTED. PLEASE PHONE 208-756-5400
BETWEEN THE HOURS OF 7:45 A.M. AND 4:15 P.M. TO MAKE YOUR PAYMENT BY
PHONE.

**COPY FOR YOUR
INFORMATION**
DICKEY
LIVESTOCK