

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

CIVIL CASE NUMBER: 39576

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

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

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

PRIORITY DATE: 1876-01-01
(RESERVED..... 1926-04-17)
AGENCY NUMBER: 7404680713
BLM NUMBER: 7404680713
BASIS OF CLAIM: BENEFICIAL USE
(SUBSEQUENT FEDERAL RESERVE)
BASIN NUMBER: 74 - 12432

SOURCE

TRIBUTARY TO

SPRING

FLUME CREEK

DESCRIPTION OF DIVERSION WORKS

UNDEVELOPED SPRING

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

NON-IRRIGATION USES

STOCKWATER, 285 RANGE CATTLE; WILDLIFE VAR. AMT.

TWP	RNG	SEC	TRACT1	TRACT2	TRACT3	LOT	COUNTY
19N	25E	09	SE	NE	SW	00	LEMHI

PLACE OF USE

TWP	RNG	SEC	TRACT1	TRACT2	LOT	COUNTY	IRRIGATED OWNED	ACRES
19N	25E	09	NE	SW	00	LEMHI	YES	0.0
19N	25E	09	NE	SW	00	LEMHI	YES	0.0

TOTAL ACRES IRRIGATED: 0.0

MICROFILM

APR 18 1994

TOTAL CONSUMPTIVE USE IS: DE MINIMUS ACRE FEET PER ANNUM

OTHER WATER RIGHTS

WATER FEDERALLY RESERVED, SEE REMARKS

REMARKS

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

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

In Re SRBA

Case No. 39576

AMENDED NOTICE of CLAIM for
Water Right number:

7412432 (IDWR number)

United States of America acting through
Bureau of Land Management

BLMIDENT:

Stg: StFed:

7404680713

J

X

NAME and
ADDRESS:

Idaho State Office
1387 South Vinnell Way
Boise, ID 83709 - 1657

therRight and date:

WATER FEDERALLY
RESERVED, SEE
REMARKS

4/17/1926

SOURCE:

Source

Tributary

SPRING

FLUME CREEK

QUANTITY:

0.02

CFS

or VOLUME:

0

Acre Feet

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

PRIORITY DATE:

1/1/1876

iversion Means: UNDEVELOPED SPRING

REMARKS:

Also reserved pursuant to Federal law

POINT of
DIVERSION:

Twtnship	Range	Section	T1	T2	T3	LOT	B/E	within the	County of
19N	25E	9	SE	NE	SW	0		59	LEMHI

PURPOSE
and
PERIOD
OF USE:

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

CONSUMPTIVE
USE:

de minimis stockwater use

DATE: 20-Aug-98

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

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

PLACE
of USE:

Water Use	Twtn	Rge	Sec	T1	T2	LOT	within the County o
04	19N	25E	9	NE	SW	0	59 LEMHI

RECEIVED

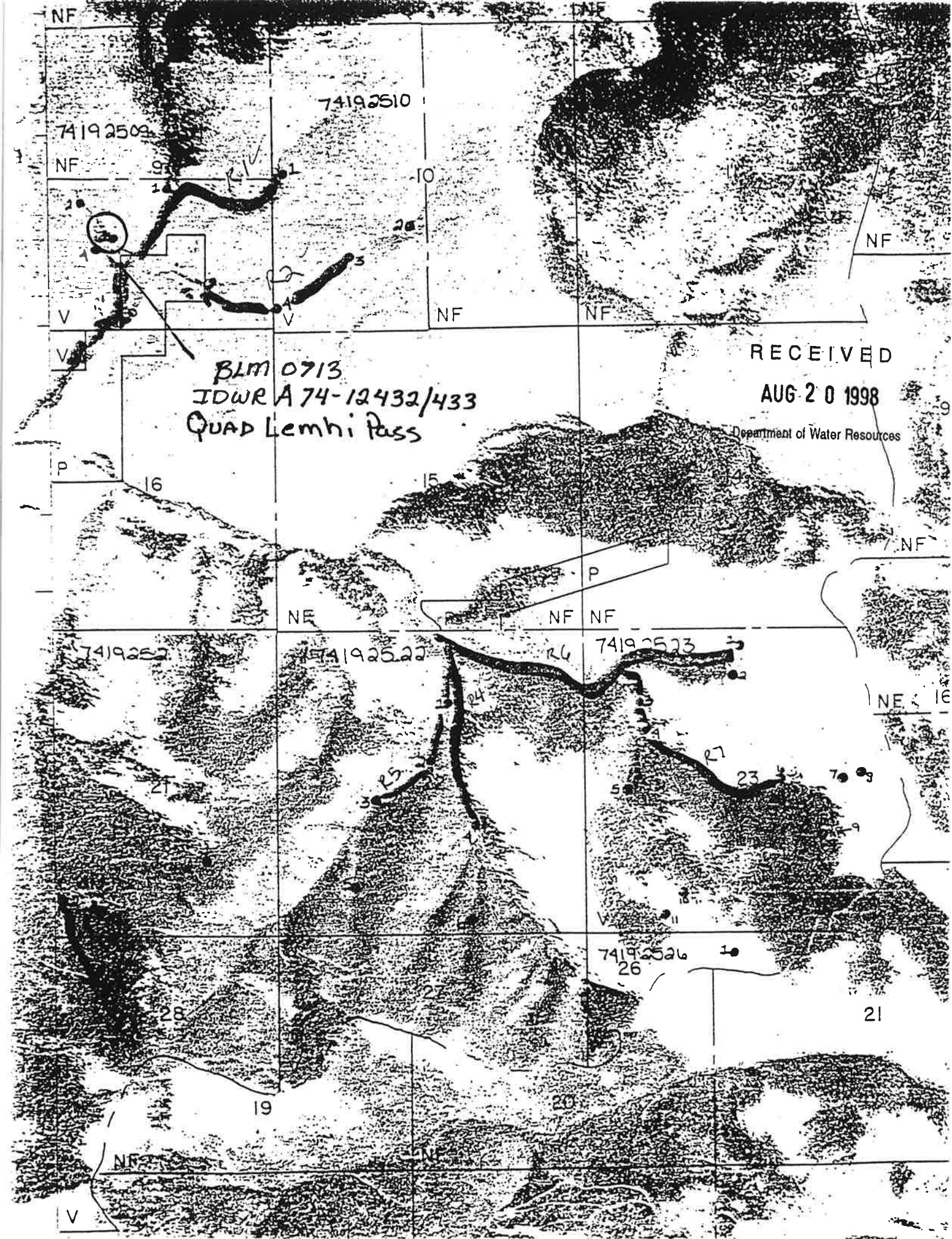
AUG 20 1998

Department of Water Resources

BLM 0713
IDWR A 74-12432/433
QUAD Lemhi Pass

RECEIVED
AUG 20 1998

Department of Water Resources



OCT-13-1998
0311

1

RIGHT NUMBER: 74-12432

NAME AND ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
USDI BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE ID 83709-1657
83709

SOURCE: SPRING TRIBUTARY: FLUME CREEK

QUANTITY: 0.02 CFS
01/01 12/31

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 01/01/1876

* 4/17/1926 CLAIMED UNDER FEDERAL RESERVED WATER RIGHT. *
* * * * *
* THIS WATER RIGHT IS ALSO CLAIMED BASED ON FEDERAL LAW *
* WITH AN APRIL 17, 1926, DATE OF PRIORITY PURSUANT TO AN *
* EXECUTIVE ORDER SIGNED THE SAME DATE AND KNOWN AS PUBLIC *
* WATER RESERVE 107. *

POINT OF DIVERSION: T19N R25E S09 SENESW Within LEMHI County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	STOCKWATER	01-01 12-31	0.02 CFS
			01/01 12/31
	WIKOVLIFE	01/01 12/31	01/01 12/31

PLACE OF USE: STOCKWATER Within LEMHI County
T19N R25E S09 NESW

WIKOVLIFE Within LEMHI County
T19N R25E S09 NESW

Joel B...
10/30/98

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

OCT-13-1998
0312

2

74-12432 CONTINUED

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - BENEFICIAL USE
BLM RECORD ID = 7404680713
STOCKWATER, 285 RANGE CATTLE; WILDLIFE VAR. AMT.

74-12396	74-12532	74-12704	74-12834
74-12400	74-12534	74-12708	74-12838
74-12402	74-12536	74-12714	74-12842
74-12404	74-12540	74-12718	74-12850
74-12410	74-12542	74-12722	74-12852
74-12412	74-12546	74-12724	74-12858
74-12414	74-12548	74-12726	74-12862
74-12420	74-12550	74-12728	74-12870
74-12422	74-12554	74-12730	74-12872
74-12424	74-12556	74-12732	74-12874
74-12426	74-12566	74-12734	74-12876
74-12428	74-12574	74-12736	74-12884
74-12430	74-12578	74-12738	74-12904
74-12432	74-12584	74-12740	74-12920
74-12436	74-12586	74-12742	74-12922
74-12444	74-12588	74-12744	74-12924
74-12446	74-12590	74-12746	74-12936
74-12448	74-12598	74-12748	74-12938
74-12450	74-12600	74-12750	74-12940
74-12452	74-12604	74-12752	74-12944
74-12454	74-12608	74-12756	74-12948
74-12458	74-12610	74-12758	74-12952
74-12466	74-12612	74-12760	74-12954
74-12468	74-12622	74-12762	74-12956
74-12472	74-12626	74-12764	74-12978
74-12474	74-12628	74-12766	74-12980
74-12478	74-12630	74-12768	74-12982
74-12480	74-12632	74-12770	74-12984
74-12482	74-12634	74-12772	74-12986
74-12486	74-12636	74-12774	74-12992
74-12490	74-12638	74-12776	74-13018
74-12492	74-12648	74-12778	74-13020
74-12494	74-12650	74-12780	74-13022
74-12496	74-12652	74-12786	74-13026
74-12498	74-12654	74-12792	74-13034
74-12502	74-12656	74-12794	74-13036
74-12504	74-12658	74-12798	74-13068
74-12506	74-12662	74-12800	74-13072
74-12510	74-12666	74-12802	74-13090
74-12512	74-12668	74-12806	74-13094
74-12514	74-12682	74-12812	74-13100
74-12516	74-12690	74-12822	74-13102
74-12518	74-12692	74-12824	74-13104
74-12520	74-12694	74-12826	74-13106
74-12526	74-12696	74-12828	74-13108
74-12530	74-12700	74-12830	74-13112

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

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

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

1. ☐ Name and Address
Should be: _____

2. ☐ Source
Should be: _____

3. ☐ Quantity
Should be: _____

4. ☒ Priority Date
Should be: If this water right exists, the State Law based portion of this right should have a priority date no earlier than June 28, 1934.

5. ☐ Points of Diversion
Should be: _____

6. ☐ Instream Flow Description
Should be: _____

7. ☐ Purpose(s) of Use
Should be: _____

8. ☐ Period of Year
Should be: _____

9. ☐ Place of Use
Should be: _____

11. I object because:

- ☒ This water right should not exist.
☐ This water right was not recommended, but should be recommended with the elements described above.

Subscribed and sworn to before me on: February 22, 1999
(Insert Date)


Notary Public for IDAHO
Residing at: BOISE, ID
My commission expires: 5/24/2003

INSTRUCTIONS FOR MAILING

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

G. CERTIFICATE OF MAILING

I certify that on February 22, 1999, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

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

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

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

3. Copies to:

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

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



Signature of party claimant or attorney

74-12396	74-12532	74-12704	74-12834
74-12400	74-12534	74-12708	74-12838
74-12402	74-12536	74-12714	74-12842
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74-12530	74-12700	74-12830	74-13112

MAR 22 1999

Department of Water Resources
Eastern Region

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

In Re SRBA)
)
)
)
 Case No. 39576)
)
)
)
)
)

A. Subcase See Attached List
(Insert water right number)

**DOMESTIC AND
STOCK WATER RIGHT
OBJECTION**

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

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

Name and Address of Attorney, if any:

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

Attorney Address: Office of the Attorney General
700 W. Jefferson, Room 210
P.O. Box 44449
Boise, ID 83711-4449

Attorney Phone No. (208) 334-2400

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7. ☐ Purpose(s) of Use
Should be: _____
8. ☐ Period of Year
Should be: _____
9. ☐ Place of Use
Should be: _____

11. I object because:

- ☒ This water right should not exist.
☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S): To the extent this water right is claimed pursuant to state law, Claimant's assertions that Congress gave permission to private parties to operate on the public domain and that Congress passed various acts ensuring that water sources on the public domain were not monopolized does not provide a basis for a water right under state law. Alternatively, the United States has failed to establish any legal and/or factual basis for any claimed priority date for stockwater purposes with a date prior to the enactment of the Taylor Grazing Act, June 28, 1934.

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

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

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

F. VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

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

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

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


By Attorney signing in representative capacity

Subscribed and sworn to before me on: February 22, 1999
(Insert Date)


Notary Public for IDAHO
Residing at: BOISE, ID
My commission expires: 5/24/2003

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1387 S. Vinnell Way
Boise, Idaho 83709-1657

3. Copies to:

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

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


Signature of party claimant or attorney