

OWNER CODE NAME & ADDRESS PRIORITY DATE WATER USE USE PERIOD FROM TO DIVERSION RATE DIVERSION VOLUME

C UNITED STATES OF AMERICA ACTING THROUGH 01/01/1879 STOCKWATER 01-01 12-31 0.02 CFS

TOTAL DIVERSION: 0.02 CFS

Water Source: SPRING Tributary to: CLOVER CREEK Stage: BENEFICIAL USE

Point(s) of Diversion: T04S R13E S33 SWNE GOODING County

Place of use Legal Description for: STOCKWATER

NE NW SE : NENE NWNE SWNE SENE : NENW NWNW SWNW SENW : NESW NWSW SWSW SESW : NESE NWSE SWSE SESE :

T R S : Lt Ac Lt Ac Lt Ac Lt Ac : Lt Ac Lt Ac Lt Ac Lt Ac : Lt Ac Lt Ac Lt Ac Lt Ac : Lt Ac Lt Ac Lt Ac Lt Ac :

04S 13E 33 : S : : : : : : : : : : : :

POU County: GOODING

Other Rights: WATER FEDERALLY RESERVED, SEE REMARKS

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):

A37-18095 A37-18096 A37-18097 A37-19488 A37-20192 R37-20192

Conditions of Approval:

- D01 - *****
- * 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. *
 - *****
- N11 - THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
- DETERMINATION OF HISTORICAL BENEFICIAL USE.
- N13 - THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
- GALLONS PER DAY.

Remarks: EXP BLM RECORD ID = 3705680766

STOCKWATER, 1500 RANGE CATTLE, 5300 RANGE SHEEP. WILDLIFE VAR AMT

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

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

Rem pole
cond pole

Same as per TOP maps submitted

10-6-98

1-14-99
DE Low ✓

AJ5809NP
No. R37-18096

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 08/28/98
PAGE: 54

=====

Comments: Date: 08/26/1998 User-ID: AJU5-DJO Subject: AJU5 STOCK ONLY UPDATE
USE-NOT-IRRIGATION FIELD TEXT DELETED AND MADE EXP REMARK.
CONDITION CODES N11 AND N13 ADDED IF NOT ALREADY PART OF RECORD.
ANY GEN REMARK CHANGED TO EXP REMARK. IF BLM/USFS, DELETED L12.

Audit: 08/13/98 AJCTR 08/25/98 AJU5-DJO

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. 3957

AMENDED NOTICE of CLAIM for
Water Right number:

3718096 (IDWR number)

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

BLMIDENT:

Stg: StFed:

3705680766

J

X

NAME and
ADDRESS:

WATER FEDERALLY
RESERVED, SEE
REMARKS

4/17/1926

SOURCE:

Source	Tributary
SPRING	CLOVER 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:

1/1/1879

Diversion 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
04S	13E	33	SW	NE	NE	0		47	GOODING

PURPOSE
and
PERIOD
OF USE:

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

CONSUMPTIVE
USE:

de minimis stockwater use

DATE: 30-Jul-98 2:12 PM

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

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

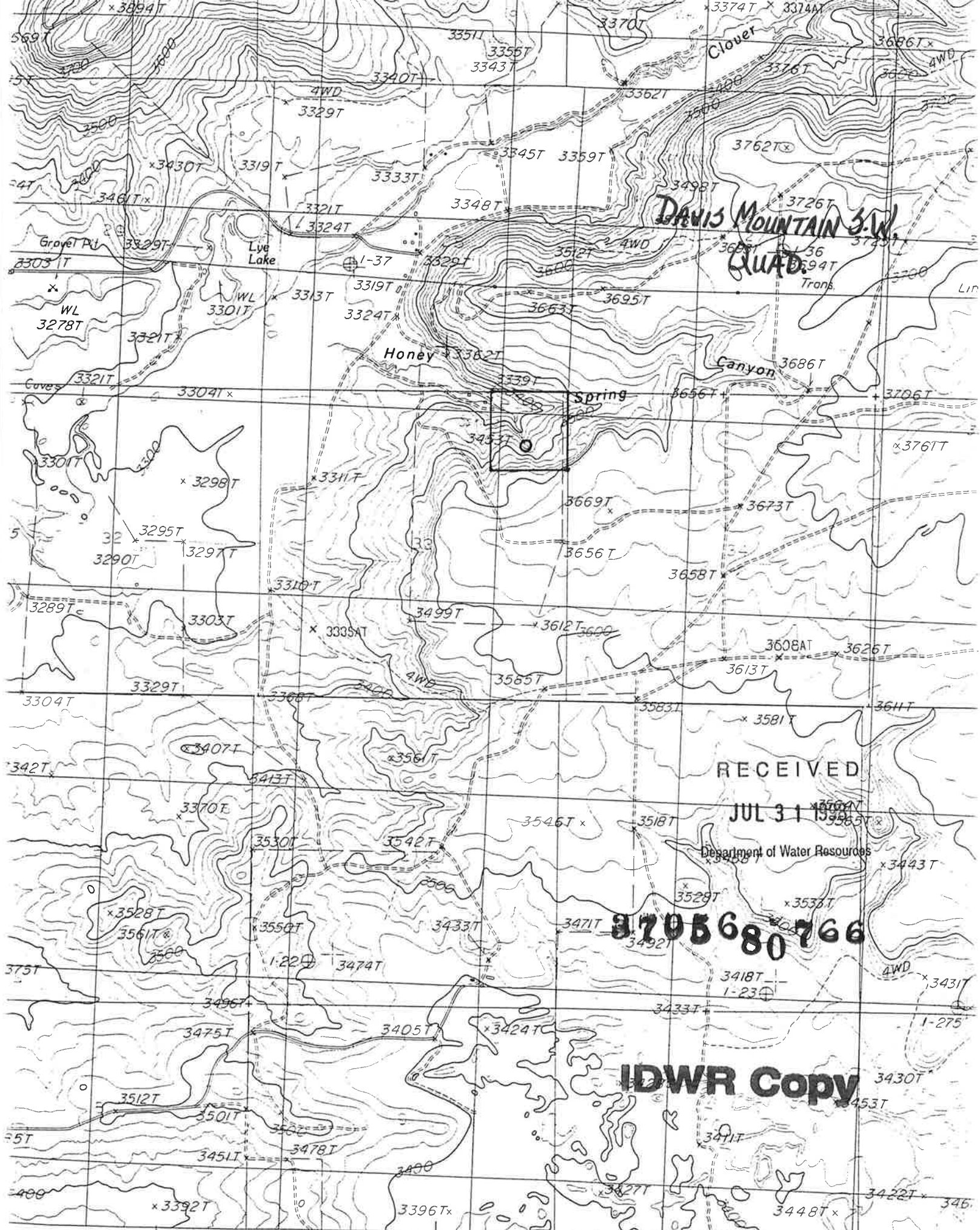
PLACE
of USE:

Water Use	Twtn	Rge	Sec	T1	T2	LOT	within the	County of
04	04S	13E	33	NE	NE	0	47	GOODING

RECEIVED

JUL 31 1998

Department of Water Resources



RECEIVED
JUL 31 1955

Department of Water Resources

3705680766

IDWR Copy

SCALE 1:24,000

INTERIOR-GEOLOGICAL SURVEY, RESTON, VA

AJ5808NP
(00-26)

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT

02/18/99 13:22:39

Page 1

Water Right Number - R37-18096

Prefix Translation: RESEARCH

Old (D) Number - 00000

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

*** C - CURRENT OWNER ***

AMERICA ACTING THROUGH

UNITED STATES OF

1 - USDI BUREAU OF LAND MANAGEMENT

2 - IDAHO STATE OFFICE

3 - 1387 S VINNELL WAY

City- BOISE

State- ID Zip- 837091657

Phone - 208-373-4000

*** K - ALSO KNOWN AS ***

BLM

1 -

2 -

3 -

City- X

State- ID Zip- 0

Phone -

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

+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
SPRING CLOVER CREEK

+ - - - - Point of Diversion - - - - - +
TwN Rng Sec Tract Lot RFlg County Diversion Name
04S 13E 33 SW NE NE (47) GOODING

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
04 - STOCKWATER 01/01 12/31 0.020

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
0.020 0.0

+ - - - - Place of Use - - - - - +
TwN Rng Sec Tract Lot Acres Code Description County
04S 13E 33 NE NE 04 STOCKWATER (47) GOODING

+ - - Diversion Means - UNDEVELOPED SPRING

+ - - Non-Irrigation Use -

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

+ - - - - Remarks - - - - - +

GEN RECOMMENDED AS RIGHT NO. 37-20192.

EXP BLM RECORD ID = 3705680766

STOCKWATER, 1500 RANGE CATTLE, 5300 RANGE SHEEP. WILDLIFE VAR AMT

Water right number - R37-18096

Prefix Translation: RESEARCH

+ - - - - Old Water Right Numbers - - - - - +

+ - - - - Old Water Right Numbers - - - - - +
No Old Water Right Numbers found.

+ - - - - Conditions of Approval - - - - - +

~~D01 - *****
- * 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. *
- *****
N11 - THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
- DETERMINATION OF HISTORICAL BENEFICIAL USE.
N13 - THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
- GALLONS PER DAY.
P06 - RECOMMENDED AS RIGHT NO. _____: This is included for a
- claim that is PROPOSED to be disallowed because the right claimed
- is recommended pursuant to another right. The remark indicates
- the water right number of the OTHER right that is proposed to be
- recommended. If you are not mailed a notice of the recommendation
- of the OTHER right, then the OTHER right is recommended in
- another claimant's name.~~

+ - - - - Decree Plaintiff - - - + + - - - - Decree Defendant - - - + + - Decree Date - +
00/00/0000

+ - - Audit Fields - 08/13/98 AJCTR 08/25/98 AJU5-DJO 01/15/99 VHANCOCK

+ - - - - -Comments- - - - - +

Date: 08/26/1998 User Id: AJU5-DJO Subject: AJU5 STOCK ONLY UPDATE
USE-NOT-IRRIGATION FIELD TEXT DELETED AND MADE EXP REMARK. CONDITION CODES N11 AND N13 ADDED IF NOT ALREADY PART OF RECORD.
ANY GEN REMARK CHANGED TO EXP REMARK. IF BLM/USFS, DELETED L12.
Date: 01/15/1999 User Id: VHANCOCK Subject: DISALLOWAL
MAPS SUBMITTED 7-31-98 SHOW SAME SPRING AS 37-20192

+ - - - - Adjudication Rights Dates and Flags Area - - - - - +

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 00/00/0000	Old Judicial District	-
Claim Received Date	- 07/31/1998	Last Amended Date	- 00/00/0000	Temporary Right	- P
Proof Due Date	- 00/00/0000	Proof Made Date	- 00/00/0000	Water District	-
Licensed Date	- 00/00/0000	Receipt Number	- X111111	Federal/State Indicator	- S
		POU Ownership Flag	- Y	Presumption Flag	-
		Name Connector	-	Notice of Error Flag	-

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

2004 NOV 5 PM 4 01

**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	)	SPECIAL MASTER'S REPORT AND
	)	RECOMMENDATION; FINDINGS OF
Case No. 39576	)	FACT AND CONCLUSIONS OF LAW
	)	
_____	)	WATER RIGHT NO.: 37-18096

I. PROCEDURAL BACKGROUND

A claim was filed by the United States Bureau of Land Management for the above listed water right. The United States originally claimed this right under both state law and as a federal reservation. The state-based portion of this right was investigated by the Idaho Department of Water Resources ("IDWR") and reported in a *Director's Report*. IDWR did not investigate the federal reservation theory because that is based on federal law. I.C. § 42-1411A.

An *Objection* was filed by the United States Bureau of Land Management on September 10, 1999. *Responses* were filed by Pickett Ranch & Sheep Co., Joe Tugaw, Jared Bedke, Bruce Bedke, Scott Bedke, Karl Bedke, Joyce Livestock Company, Jerry Hoagland, Michael Poulton, Gary Poulton, Western Stockgrowers Association, Flying Triangle, Inc., Willis Deveny, Luther Gardner, Eugene Matthews, Shoulders 3 Ranches and A L Cattle Inc.

The *Responses* were withdrawn on August 29, 2002 with a *Notice of Withdrawal of Objections and Responses* (August 29, 2002). The *Objection* was resolved with the filing of a *Standard Form 5/Amended Claim* on June 8, 2004. An evidentiary hearing was held on October 5, 2004. At the hearing, the United States Bureau of Land Management withdrew the state basis for this claim and opted to pursue this right solely under a federal reservation pursuant to Public Water Reserve 107 ("PWR 107"). Therefore, this claim is now an uncontested claim based on federal law and may proceed under I.C. § 42-1411A. The United States BLM submitted an

II. STANDARD OF REVIEW

A. Federal Reserve Water Rights

A state has plenary control of water located within its territory. *Kansas v. Colorado*, 206 U.S. 46 (1907). A claim to a federal reserve water right is an exception to a state's plenary control of water. *United States v. Rio Grande Dam and Irrigation Co.*, 174 U.S. 690 (1899). Reserved water rights may be express or implied. *United States v. New Mexico*, 438 U.S. 696 (1978). An express reservation of water is created by the explicit language in the act creating the reservation. *Id.* An implied reserved water right must be based on a reservation of land. *Arizona v. California*, 373 U.S. 546 (1963), and may be granted if the following three criteria are satisfied:

- (1) An implied reservation of water exists only if necessary to fulfill the primary, not the secondary, purpose for which the reservation of land was created, *United States v. New Mexico*, 438 U.S. at 702
- (2) Without water, the purposes of the reservation must be entirely defeated, *Id.*; and
- (3) The water claimed must be the minimum amount necessary to achieve the purposes of the reservation, *Id.* at 700.

B. Federal Reserved Rights Under Public Water Reserve 107

The United States Bureau of Land Management filed this claim for stockwatering based on alternative legal theories of beneficial use (pursuant to state law) and on the executive order Public Water Reserve 107 (April 17, 1926) (pursuant to federal law). The claim at issue is for a stockwater claim not to exceed 13,000 gallons per day.

The issue of whether PWR 107 created a valid basis for a federal reserved water right was previously designated in the SRBA as Basin-Wide Issue 9. **Order Designating Basin Wide Issue No. 9** (March 8, 1996). Judge Daniel C. Hurlbutt, Jr. held that PWR 107 did not create an express or implied reservation of water by the United States. *Memorandum Decision and Order Re: Basin Wide Issue*, (Subcase No. 91-00009, December 9, 1996) That decision was appealed to the Idaho Supreme Court. The Supreme Court reversed, holding that PWR 107 did create a valid basis for a federal reserved stock water right. *U.S. v. Idaho*, 131 Idaho 468, 959 P.2d 449 (1998) Although the opinion states that "PWR 107 evidences an *express* intention by Congress that reserves a water right in the United States." *Id.* at 471, 959 P.2d at 452 (emphasis added) the

parties and the SRBA District Court understand the holding as determining that PWR 107 creates an implied federal reserved water right. *Memorandum Decision and Order on Challenge*, at 3, fn.1 (Dec. 28, 2001).

After the Supreme Court held that PWR 107 did create a valid basis for a federal reserve stockwater right, the SRBA District Court took up the scope of water rights pursuant to PWR 107. The issue was whether PWR 107 creates a federal reserved water right if the spring or waterhole is tributary to a perennial stream or river and whether PWR 107 creates a federal reserved water right if the spring or waterhole is tributary to an intermittent stream or river or flows for any distance in a defined stream channel. The SRBA District Court held that “nothing in the language of PWR 107 . . . suggest[s] that such withdrawals were . . . limited to non-tributary springs and water holes.” *Memorandum Decision and Order on Challenge* at 19 (December 28, 2001).

The *Memorandum Decision and Order on Challenge* also held that PWR 107 does not create a basis for rights based on stream segments which are not “springs” or “water holes.” *Id.* at 22. The place of use for the water right is within the boundaries of the 40-acre section withdrawn. Water flowing from the spring or water hole outside the boundaries of the withdrawn land does not create another land withdrawal or accompanying reserved water right.

C. Uncontested Claims Based on Federal Law

Idaho Code Title 42 sets forth the SRBA procedures for both state-based and federal-based water right claims in the Snake River Basin Adjudication. Claims which are brought pursuant to Idaho state law are investigated by the Idaho Department of Water Resources (IDWR) which recommends the elements in a *Director's Report*. Claims which are brought pursuant to federal law are not investigated by IDWR, and IDWR does not make any recommendation for federal-based claims. Instead, the claimed elements are placed on the docket sheet and reported along with the *Director's Report*.

The statutory provisions for federal-law claims are found in I.C. § 42-1411A. The statute takes into account the absence of an independent investigation into federal-law claims and requires a hearing for uncontested claims. I.C. § 42-1411A(14). Since no independent review is conducted of federal-law claims, the claimant bears the burden of going forward and the burden of persuasion.

Each claimant of a water right established under federal law has the ultimate burden of persuasion for each element of a water right. Since no independent review of the notice of claim has occurred as provided for water rights acquired

under state law in a director's report, a claimant of a water right established under federal law has the burden of going forward with the evidence to establish a *prima facie* case for the water right established under federal law. All such proceedings shall be governed by the Idaho Rules of Civil Procedure and Idaho Rules of Evidence.

I.C. § 42-1411A(12).

D. Hearing Requirement and Affidavits

The hearings on these claims relied on sworn affidavits rather than on live testimony. This court has previously held that introduction of sworn affidavits complies with the hearing requirement. *Order Accepting in Part, and Denying in Part, Special Master's Report and Recommendation* (Subcase 36-15452, Oct. 10, 1997) (hereafter "Smith Springs") *overruled on other grounds, In Re SRBA Case No. 39576* (Minidoka Wildlife Refuge), 134 Idaho 106, 996 P.2d 806 (2000). The SRBA District Court has approved many *Special Master's Reports and Recommendations* for federal-based claims based on sworn affidavits rather than live testimony. The affidavits submitted by the United States meet the hearing requirement in I.C. § 42-1411A(14).

E. Quantum of Proof is "Substantial Evidence"

In *Smith Springs*, the Court concluded that in default-type proceedings, "substantial evidence" must support each element of the claim. The analogy to default proceedings is appropriate for uncontested federal reserve rights. A claimant has the burden of proof and burden of persuasion for each element and must provide "substantial evidence" of each element.

III. FINDINGS OF FACT ON ELEMENTS

A. Ownership of the Water Right

The claim asserts that the owner of this water right is the United States Bureau of Land Management. The record contains the following evidence regarding ownership:

I have reviewed the official business records of BLM and compared the above captioned subcase to BLM's MTPs and HIs. I was able to determine that the above captioned subcase is located on unreserved federal public domain as of April 17, 1926; and this land currently remains under Department of Interior administration.

Affidavit of Frederic W. Price at 4, ¶ 6.

There are no remaining objections to the claim of ownership by the U.S. Bureau of Land Management. There is "substantial evidence" that the United States is the owner of this right.

B. Priority Date

This water right was claimed based on PWR 107 with a priority date of April 17, 1926. That is the day an executive order known as Public Water Reserve 107 was signed by the President of the United States. There is "substantial evidence" that the priority date is April 17, 1926.

C. Source

The claim asserts a source for this water right. The record contains the following information regarding source:

The claimed water source described by the above captioned subcase was confirmed by field investigation

Affidavit of Frederic W. Price at 4, ¶8. In addition, IDWR investigated the source element for this right under the state basis and submitted a *Director's Report* with a specific source determined for this water right. There is "substantial evidence" of the source for this right.

D. Quantity

The quantity claimed for this water right is 13,000 gallons or less per day. The *Affidavit of Frederic W. Price* states, "Based upon the field verification and my review of the field investigation documents for the above captioned subcase, there is sufficient water at this site for consumptive use by livestock." *Affidavit of Frederic W. Price*, at 4, ¶9. In addition, IDWR investigated the quantity element for this right and submitted a *Director's Report* with a specific quantity determined for this water right. There is "substantial evidence" of the quantity for this right.

E. Point of Diversion

This claim asserted a point of diversion that was expressed with a legal description. In addition, IDWR investigated the point of diversion element for this right under the state basis and submitted a *Director's Report*. The *Director's Report* for this right contained a determination of the claimed point of diversion. There is "substantial evidence" of the point of diversion for this right.

F. Purpose of Use

The claimed purpose of use for this right is "stockwater." The United States asserted that "Based upon the field verification and my review of the field investigation documents for the above captioned subcase, there is sufficient water at this site for consumptive use by livestock."

Affidavit of Frederic W. Price, p. 4 , ¶9. There is "substantial evidence" that the purpose of use is "stockwater."

G. Period of Use

The claimed period of use for this right is January first to December 31st of each year. The United States did not assert that this claim had been used for stockwatering, merely that "there is sufficient water at this site for consumptive use by livestock." However, this claim is not now based on beneficial use, but on a federal reservation under PWR 107. The purpose of PWR 107 was to reserve land to avoid monopolization of the springs or water holes.

IDWR also investigated the period of use element and submitted a *Director's Report* with a determination that period of use was year round. There is substantial evidence of the period of use for this water right.

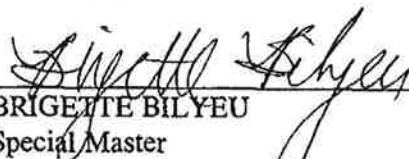
H. Place of Use

This claim asserted a place of use that was described by a legal description. In addition, IDWR did investigate this right under a state basis. The *Director's Report* for this right concluded that the claimed place of use was correct. There is "substantial evidence" of the claimed place of use.

IV. CONCLUSION

Therefore, based on the file for this subcase and the record contained therein, IT IS RECOMMENDED that this water right be decreed with the elements set forth in the attached *Special Master's Recommendation for Partial Decree*.

DATED: November 5, 2004


BRIGETTE BILYEU

Special Master

Snake River Basin Adjudication

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO

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

FILED
2004 NOV 5 PM 4 01

In Re SRBA
Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 37-18096

NAME AND ADDRESS: USDI BLM
IDAHO STATE OFFICE
1387 S VINNELL WAY
BOISE, ID 83709-1657

SOURCE: SPRING TRIBUTARY: CLOVER CREEK

QUANTITY: 0.02 CFS

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

PRIORITY DATE: 04/17/1926

* THIS WATER RIGHT IS ISSUED 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: T04S R13E S33 SWNE NE Within Gooding County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Stockwater	01-01 TO 12-31	0.02 CFS

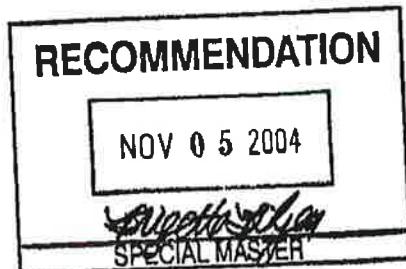
PLACE OF USE: Stockwater Within Gooding County
T04S R13E S33 NENE

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

2004 NOV 5 PM 4 01

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)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

Water Right(s): 37-18096

On November 05, 2004, Special Master BRIGETTE BILYEU issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION shall constitute a waiver of the right to challenge it before the Presiding Judge.

DATED November 05, 2004.


JANET CONNELL
Deputy Clerk

NOTICE OF ISSUANCE

PAGE 1
11/05/04

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

2004 NOV 5 PM 4 01

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)
_____)

CERTIFICATE OF MAILING

Water Right(s): 37-18096

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed on November 05, 2004, with sufficient first-class postage prepaid to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

USDI BLM

Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724


JANET CONNELL
Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
11/05/04