

02/22/2005

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 34-13676

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

SOURCE: SPRING

TRIBUTARY: SINKS

QUANTITY: 0.020 CFS

Use of this right with Right No.34-7231 is limited to a total combined diversion rate of .02 cfs and 13,000 gallons per day.

PRIORITY DATE: 06/28/1934

* 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:

T07N R23E S18 NESWNE Within CUSTER County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: STOCKWATER Within CUSTER County

T07N R23e S18 SWNE

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

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. Section 42-1412(6), Idaho Code.

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

EXPLANATORY MATERIAL: Beneficial Use

BLM Ident. 3404589500



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 1, 2004

David J. Barber, Esq.
State of Idaho Office of the Attorney General
P.O. Box 82720
Boise, ID 83720-0010

RE: Request for Status of Claims with the Idaho Department of Water Resources
Listed on Attachment I

Dear David:

You have requested information regarding the status of the claims on Attachment I. We anticipate that these claims will be included in the Director's Report of Late Claims, scheduled to be reported in February or March, 2005.

Sincerely,

David R. Tuthill, Jr., Ph.D., P.E.
Adjudication Bureau Chief

Enclosure: Attachment 1



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

August 3, 2004

VIA STATEHOUSE MAIL

Mr. David R. Tuthill *DR*
Idaho Department of Water Resources
1301 N. Orchard Street
Boise, ID 83706

Re: Request for Status of Claims with the Idaho Department of Water
Resources Listed on Attachment I.

Dear David:

On February 8, 2002, the United States filed in Basin 34 twenty-nine Motions to File Late Claims based on PWR 107 and on state law. The District Court granted these motions on July 12, 2002. Since that date these claims have been listed on the SRBA Subcase Summary Report as "Late Claim Pending IDWR Investigation." Please advise me when you anticipate filing a Director's Report for these claims. I would appreciate a written response.

Sincerely,

A handwritten signature in cursive script, reading "David J. Barber".

DAVID J. BARBER
Deputy Attorney General

DJB/ov

ATTACHMENT I

34-13676	34-13682	34-13687	34-13693	34-13698	34-13703
34-13677	34-13683	34-13689	34-13694	34-13699	34-13704
34-13678	34-13684	34-13690	34-13695	34-13700	34-13705
34-13679	34-13685	34-13691	34-13696	34-13701	34-13706
34-13681	34-13686	34-13692	34-13697	34-13702	

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

In Re SRBA PPD?: ☐ PD?: ☐ Adm?: ☐ Prob?: ☐

Case No. 39576

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

AMENDED NOTICE of CLAIM for Water Right number: 3413676 (IDWR number)
 BLMIDENT: 3404589500 Stg: J StFed: X
 WATER FEDERALLY RESERVED, SEE REMARKS

SOURCE: Source SPRING Tributary SINKS

QUANTITY: 0.02 CFS or VOLUME: Acre Feet

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

PRIORITY DATE: 06/28/1934 Diversion Means: UNDEVELOPED SPRING

REMARKS: Also reserved pursuant to Federal law
 PURSUANT TO EXECUTIVE ORDER DATED 4/17/1926 AND KNOWN AS PWR 107.
 ASSOCIATED WITH 34-07231.

POINT of DIVERSION: Township 07N Range 23E Section 18 T1 NE T2 SW T3 NE B/E within the County of CUSTER

PURPOSE and PERIOD OF USE: Purpose of Use 04 Period of Use (from - to): 0101 1231 Rate in CFS 0.02 or Volume in AcFt

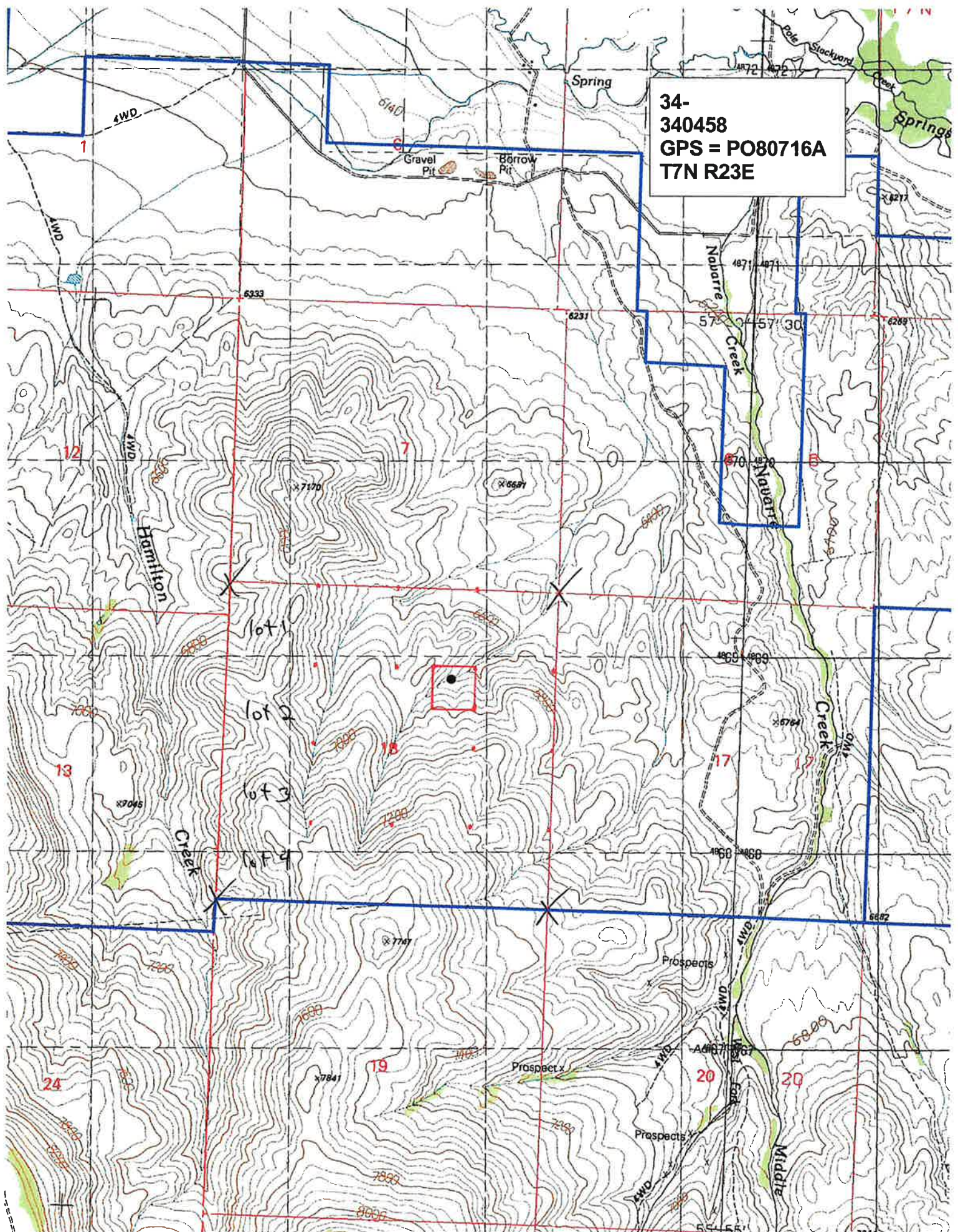
CONSUMPTIVE USE: de minimis stockwater DATE: 09-Jan-02

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 04 Twn 07N Rge 23E Sec 18 T1 SW T2 NE LOT within the County of CUSTER

RECEIVED

DEC 03 2002

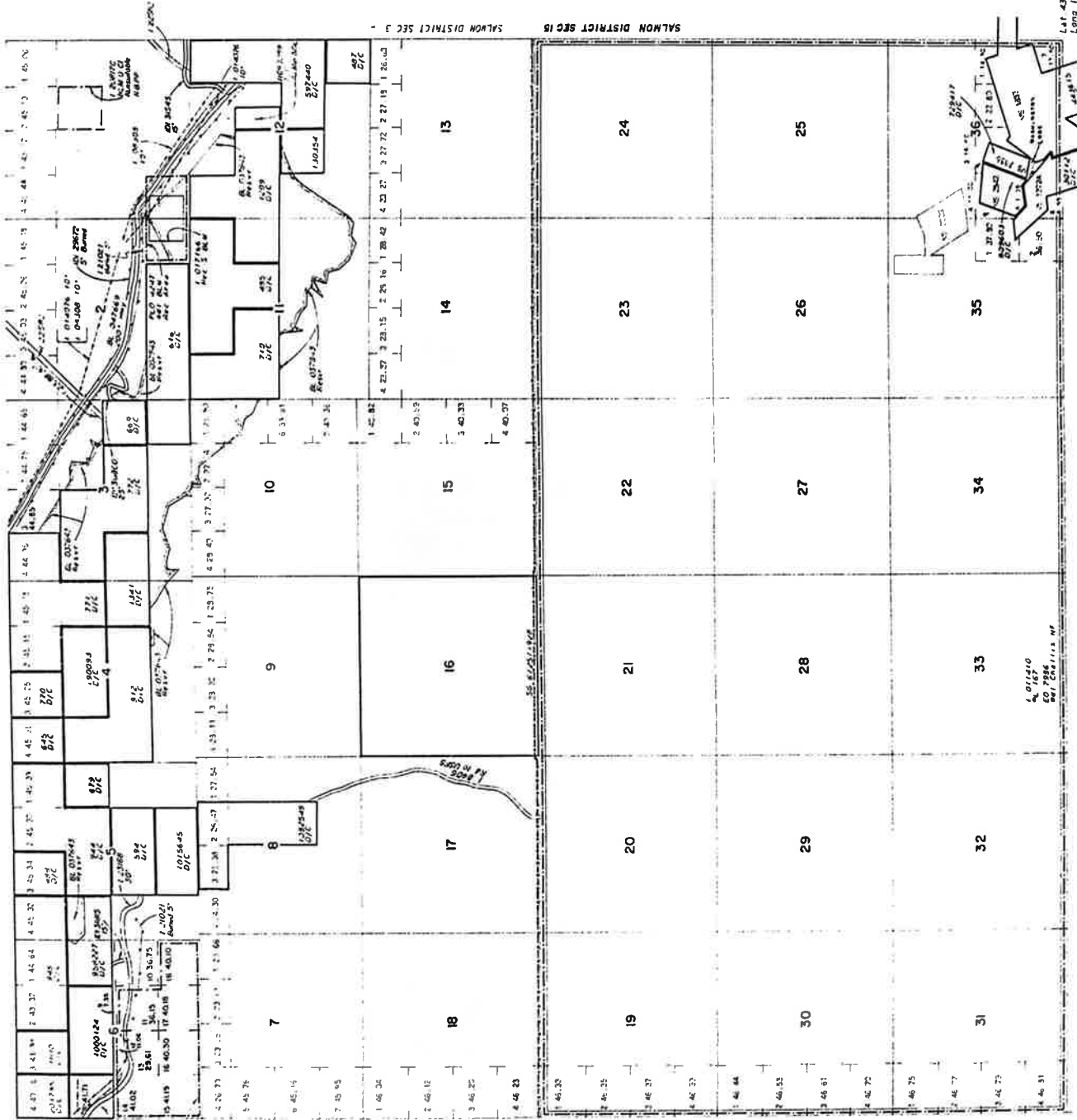


TOWNSHIP 7 NORTH RANGE 23 EAST OF THE BOISE MERIDIAN, IDAHO

CUSTER COUNTY 037

STATUS OF PUBLIC DOMAIN
LAND AND MINERAL TITLES

MT PLAT



INDEX TO SEGREGATED TRACTS		
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2	7	23
3	7	23
4	7	23
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1.011410 Det PL 161 (Act of Cong 7/23/1955)
completed 11/15/1962. All of surface right by
USFS

1.2854 BLM O.C. Mail Use

Custer County, Sept from Approp and NE, DE,
14, B, PS
Further Sept from Approp, under general mining laws
Black Friday, Dec. 5,
Sec. 11, SE 1/4 SE 1/4

FOR ORDERS EFFECTING DISPOSAL OR USE OF
UNIDENTIFIED LANDS REFER TO INDEX OF
MISCELLANEOUS DOCUMENTS.

CURRENT TO	CURRENT TO
USE PLATS	

Base Mer
T. 7N
R. 23E

THE NOTATION SHOWN ON WITHDRAWALS REPRESENT THE LAST
ACTION TAKEN BUT MAY NOT BE THE EFFECTIVE DATE. SEE
THE HISTORICAL INDEX FOR THE DATE OF THE ORIGINAL WITH-
DRAWAL ORDER

SCALE in Chains
0 10 20 30 40 50 60 70 80 90

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JUL 16 2002

2002 JUL 12 PM 3:46

Department of Water Resources

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA

Case No. 39576

) Subcase Numbers: See Attached Exhibit A
)
) **ORDER DENYING STATE OF**
) **IDAHO'S MOTION FOR AN ORDER**
) **DENYING LEAVE TO FILE LATE**
) **NOTICES OF CLAIM IN BASIN 34**
)
) **AND GRANTING UNITED STATES'**
) **MOTIONS TO FILE LATE NOTICE OF**
) **CLAIM**

The United States filed Motions to File Late Notice of Claim in each of the above-referenced subcases. The State of Idaho filed a Motion for an Order Denying Leave to File Late Notice of Claim in Basin 34 and Requiring a Status Report and a Brief in Support of Motion Re Stock Watering Claims in the above-captioned subcases. The United States filed a Memorandum in Opposition to the State of Idaho's Motion. Oral argument was heard by the Court on June 18, 2002. Having reviewed the record herein and hearing the argument of counsel, and the Court being fully informed, it is hereby

ORDERED that the State of Idaho's Motion for an Order Denying Leave to File Late Notice of Claim is **DENIED**.

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PAGE 1 - **ORDER DENYING STATE OF IDAHO'S MOTION FOR AN ORDER DENYING LEAVE
TO FILE LATE NOTICES OF CLAIM IN BASIN 34 AND REQUIRING A STATUS
REPORT AND GRANTING UNITED STATES' MOTIONS TO FILE LATE NOTICE OF
CLAIM**

IT IS FURTHER ORDERED that the United States' Motions to File Late Notice of Claim are GRANTED.

DATED this 12th day of July, 2002.



Roger S. Burdick
Presiding Judge
Snake River Basin Adjudication

Submitted by:



Larry A. Brown
Of Attorneys for the United States

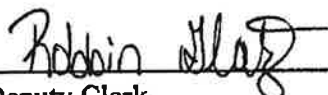
CERTIFICATE OF SERVICE

I certify that on July 12, 2002, I served a true and correct copy of the foregoing **ORDER DENYING STATE OF IDAHO'S MOTION FOR AN ORDER DENYING LEAVE TO FILE LATE NOTICES OF CLAIM IN BASIN 34 AND REQUIRING A STATUS REPORT AND GRANTING UNITED STATES' MOTION TO FILE LATE NOTICES OF CLAIM** by placing the documents in the United States Mail in Twin Falls, Idaho, postage paid, and addressed as follows:

U.S. Department of Justice
General Litigation Section
Environment and Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724

Mr. David J. Barber
Deputy Attorney General
Office of the Attorney General
Natural Resources Division
State of Idaho
P.O. Box 44449
Boise, ID 83720-0098

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



Deputy Clerk

EXHIBIT A

Subcase Numbers:

34-13676
34-13677
34-13678
34-13679
34-13681
34-13682
34-13683
34-13684
34-13685
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34-13705
34-13706

RECEIVED

FEB 11 2002

Department of Water Resources

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

In Re SRBA	)	SUBCASE NO: <u>34-13676</u>
	)	(Insert Water Right Number)
	)	
Case No. 39576	)	STANDARD FORM 4
	)	
	)	MOTION TO FILE:
	)	☒ LATE NOTICE OF CLAIM
	)	☐ AMENDED NOTICE OF CLAIM

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a separate form for each late or amended Notice of Claim.

This form has been adopted by the court in *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

☒ I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

My name is: United States of America, acting through the
Department of Interior,
Bureau of Land Management,
Idaho State Office

My address is: 1387 South Vinnell Way
Boise, Idaho 83709-1657

My phone number is: Work: (208) 373-4000 Home: same

I am an attorney representing:
United States of America, acting through the
Department of Interior,
Bureau of Land Management,
Idaho State Office

My name is: Larry A. Brown

My address is: U.S., Department of Justice
Environment and Natural Resources Division
General Litigation Section
550 West Fort Street, MSC 033
Boise, Idaho 83724

My phone number is: (202) 305-0435
(202) 305-0274 Fax

MOTION TO FILE A LATE NOTICE OF CLAIM

- ☒ I did not file a Notice of Claim to the use of water in the SRBA because:
Recent field investigations and/or review of BLM documentation revealed a need
to make this additional claim.
- ☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or
stock watering use. I desire to reinstate my Notice of Claim for domestic or
stockwatering use.
- ☒ I am providing legal and factual documentation for my claimed use of water. You must
describe these documents and attach a readable copy. (You do not need to fill this out if
you are reinstating a Notice of Claim for domestic or stock watering use, but you **must**
attach a copy of your Notice of Claim.)
See attached notice of claim and supporting self-explanatory documentation.

I have attached:

- ☒ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$_____.
n/a
- ☐ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a Notice of Claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources (IDWR) in the amount of \$_____.
n/a

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on May 21, 2002, 1:30 pm.
(Insert Date and Time)

at the SRBA Courthouse, 253 Third Avenue North, Twin Falls, Idaho.

VERIFICATION (Must be completed)

State of Idaho

County of Ada

Gary A. Madenford, Water Rights Team Leader, being first duly sworn, upon

(Insert name of person filing form)

oath, deposes and says:

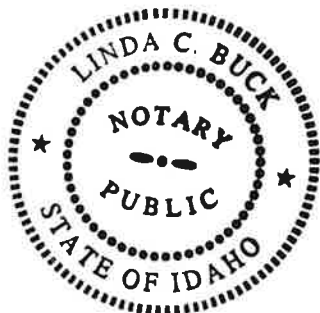
That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Gary A. Masteyard
Signature of person filing motion


Attorney signing in representative capacity

STATE OF IDAHO)
) ss:
COUNTY OF ADA)

Subscribed and sworn to before me on this 31st day of January 2002



Seal

Shirley C. Buck
Notary Public in and for the State of : Idaho

Date: January 31, 2002

Residing at: Mountain Home, Idaho

My Commission Expires: December 21, 2005

INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court. **FAX filings will not be accepted by the SRBA Clerk of the Court.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on Feb. 8, 2002 I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

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. Copies to:

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

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

United States, Department of Justice
Environment and Natural Resources Division
General Litigation Section
550 West Fort Street, MSC 033
Boise, Idaho 83724

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or Special Master, you must serve a copy on all parties to that subcase.



Signature of person or attorney mailing the form

Water Right Number 34-13676

Signature:

(a.) By signing below, I acknowledge that I have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I do ___ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments 3

I do solemnly swear or affirm that I am the Water Rights Team Leader
Title
of the United States of America, acting through U.S.D.I., BLM, that I have signed the foregoing documents in the space below as Water Rights Team Leader of the United States of
Title
America, acting through U.S.D.I., BLM, and that the statements contained in the foregoing documents are true and correct.

Signature of Authorized Agent

Gary A. Wardenford

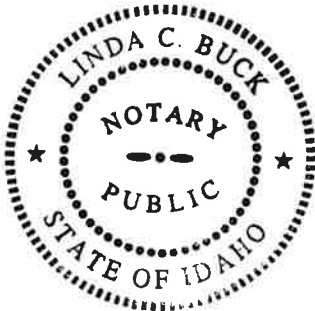
for the United States of America, acting through U.S.D.I., BLM

January 31, 2002

Date

STATE OF IDAHO)
) ss:
COUNTY OF ADA)

Subscribed and sworn to before me on this 31st day of January 2002



Seal

Linda C. Buck

Notary Public in and for the State of : Idaho

Date: January 31, 2002

Residing at: Mountain Home, Idaho

My Commission Expires: December 21, 2005

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

In Re SRBA PPD?: ☐ PD?: ☐ Adm?: ☐ Prob?: ☐

Case No. 39576

AMENDED NOTICE of CLAIM for
 Water Right number:

3413676 (IDWR number)

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

BLMIDENT: 3404589500 Stg: J StFed: X

NAME and ADDRESS:

Other Right and date:

WATER FEDERALLY
 RESERVED, SEE
 REMARKS

SOURCE:

Source Tributary

SPRING SINKS

QUANTITY: 0.02 CFS or VOLUME: Acre Feet

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

PRIORITY DATE: 06/28/1934 Diversion Means: UNDEVELOPED SPRING

REMARKS:

Also reserved pursuant to Federal law

PURSUANT TO EXECUTIVE ORDER DATED 4/17/1926 AND KNOWN AS PWR 107.
 ASSOCIATED WITH 34-07231.

POINT of DIVERSION:

Twntship	Range	Section	T1	T2	T3	LOT	B/E	within the	County of
07N	23E	18	NE	SW	NE			37	CUSTER

PURPOSE and PERIOD OF USE:

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

CONSUMPTIVE USE:

de minimis stockwater

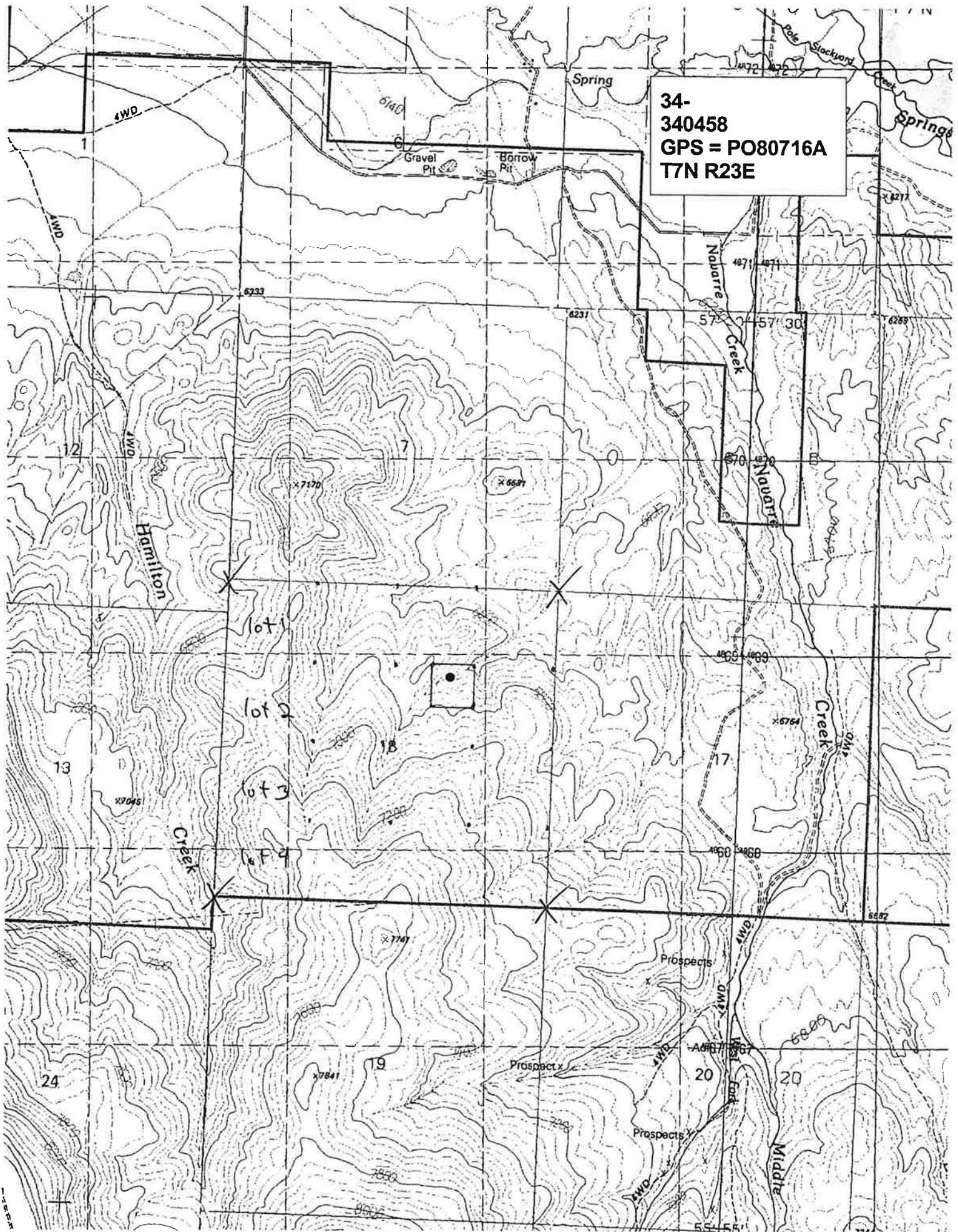
DATE: 09-Jan-02

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	Twnt	Rge	Sec	T1	T2	LOT	within the	County of
04	07N	23E	18	SW	NE		37	CUSTER



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)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 34-07231

1998 MAR 20 AM 11:43

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

SOURCE: NAVARRE SPRING TRIBUTARY: WARM SPRINGS CREEK

QUANTITY: 0.05 CFS
0.2 AFY

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

PRIORITY DATE: 07/30/1979

POINT OF DIVERSION: T07N R23E S18 NENE Within CUSTER County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	STOCKWATER	04-15 07-05	0.03 CFS
			0.2 AFY
	WILDLIFE	01-01 12-31	0.02 CFS
			0.2 AFY

PLACE OF USE: STOCKWATER Within CUSTER County
T07N R23E S18 NENE

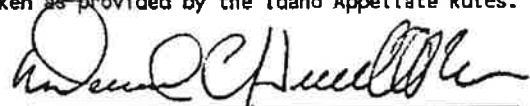
Place of use for WILDLIFE is same as STOCKWATER

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.

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.



DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication

*Per Casey O'Brien TC 1/24/03
claim 34-13676 is for same
source as PD 34-7231.
34-7231 will be corrected by
thereof*