



United States Department of the Interior

FISH AND WILDLIFE SERVICE
911 NE 11th Avenue
Portland, Oregon 97232-4181



In Reply Refer to:
FWS/R1

12/7/2023

Memorandum

RECEIVED

DEC 08 2023

DEPARTMENT OF
WATER RESOURCES

To: Mathew Weaver, Director
Idaho Department of Water Resources
Idaho Water Center
322 East Front Street Suite 648
Boise, ID 83702-7371

From: Rachel Esralew
Supervisor, Regional Water Rights Manager, Water Resources Branch
U.S. Fish and Wildlife Service

Re: **United States on behalf of U.S. Fish and Wildlife Service submission of 13 Notices of Claim under the Bear River Basin Adjudication within Idaho Department of Water Resources Administrative Basin 11**

The United States on behalf of the U.S. Fish and Wildlife Service (Service) is submitting 13 Notices of Claim under the Bear River Basin Adjudication (BRBA) that represent claimed water use at the Bear Lake National Wildlife Refuge (Refuge) within Idaho Department of Water Resources (IDWR) Administrative Basin 11.

A table showing a summary of all 13 claim packages is included. (Table 1, below). The Service requests confirmation of receipt of all 13 claims by IDWR in writing. Names of new claims are referred to by the Refuge management unit name. The Claim Package Number is marked on each envelope containing all documentation associated with the claim.

As an agent of the Service, I am the signatory on Item 15 of each Notice of Claim. Under Item 16 of each Notice of Claim, a separate document is included in the Claim Package documenting Notice of Appearance (Entry of Appearance) of individuals from the U.S. Department of Justice (U.S. DOJ) on behalf of the United States.

Idaho Code § 42-1414 requires each person who files a Notice of Claim to pay a filing fee. However, the United States does not have the authority to pay state filing fees for the BRBA. Congress enacted the McCarran Amendment, 43 U.S.C. § 666, to allow the joinder of the United States in state general stream adjudications. Under the U.S. Supreme Court's decision in *United States v. Idaho*, 508 U.S. 1 (1993), the McCarran Amendment does not waive the United States' sovereign immunity from general stream adjudication fees.

REGION 1

COLUMBIA-PACIFIC NORTHWEST

WASHINGTON, OREGON, IDAHO, PACIFIC
ISLANDS

REGION 8

PACIFIC SOUTHWEST

CALIFORNIA, NEVADA, OREGON (KLAMATH
BASIN)

Table 1. List of Claim Packages included in the United States Submission of Notice of Claim under the Bear River Basin Adjudication

Claim Package Number	Claim Name or Water Right Number	Water Source	Period of Use	Amount	POU Acres	Priority Date
1	11-104	Thomas Fork	Year-round	13 cfs	840	5/15/1880
2	11-238	Bloomington Creek	May 1st to June 25th	0.15 cfs	14	5/1/1900
3	11-4268	Bear River	April 15th to October 15th	2.22 cfs	130	6/1/1969
4	11-80	Paris Creek	Year-round	0.38 cfs	41.4	5/1/1878
5	11-81	Paris Creek	Year-round	0.42 cfs	41.4	5/1/1878
6	11-82	Paris Creek	Year-round	8.41 cfs	369	5/1/1879
7	11-83	Paris Creek	Year-round	0.4 cfs	23.5	5/1/1879
8	Alder Unit	Runoff	September 16 to April 30	952 acre-feet	750	1/1/1963
9	Dingle Unit	Runoff	October 1 to April 14	1,108 acre-feet	1260	1/1/1968
10	Rainbow Sub-Unit	Runoff	Year-round	532 acre-feet	420	1/1/1968
11	Rainbow Unit	Runoff	Year-round	1864 acre-feet	1410	1/1/1968
12	Salt Meadow Unit	Runoff	October 1 to April 14	186 acre-feet	230	1/1/1968
13	Thomas Fork Unit	Runoff	Year-round	360 acre-feet	840	10/25/1955

A separate email will be sent to idwrinfo@idwr.idaho.gov to confirm submission of this package. Please contact me or the U.S. DOJ attorneys listed in the Entry of Appearance with any questions.

Sincerely,



Rachel Esralew Water Resources Branch Chief - Supervisory Hydrologist
U.S. Fish and Wildlife Service
Columbia Pacific Northwest and Pacific Southwest Region
911 NE 11th Avenue
Portland, OR 97232-4171

CC:

Michael Jeletic (Service)
R. Lee Leininger (U.S. DOJ)
Katherine Laubach (U.S. DOJ)
Mark Widerschein (U.S. DOJ)

Attachments:

13 Claim Packages described in Table 1, subsequent documentation on attachments is described in each Notice of Claim Form.